



**Second Five-Year Review Report  
for  
Tippecanoe Sanitary Landfill  
City of Lafayette  
Tippecanoe County, Indiana**

**2010**

**Prepared by:**

Indiana Department of Environmental Management  
For  
U.S. Environmental Protection Agency  
Region 5

Approved by:

Date:

Bruce H Palin

Bruce H Palin, Assistant Commissioner  
Office of Land Quality  
IDEM

9/3/2010

Approved by:

Date:

Richard C Karl

Richard C. Karl, Director  
Superfund Division  
Region 5

9-21-10

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**Tippecanoe Sanitary Landfill  
Tippecanoe County, Indiana  
Second Five-Year Review**

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## **List of Acronyms**

<b>ARARs</b>	Applicable or Relevant and Appropriate Requirements
<b>CD</b>	Consent Decree
<b>CERCLA</b>	Comprehensive Environmental Response, Compensation, and Liability Act
<b>CFR</b>	Code of Federal Regulations
<b>EPA</b>	United States Environmental Protection Agency
<b>ESD</b>	Explanation of Significant Differences
<b>GP</b>	Gas Probe
<b>IC</b>	Institutional Control
<b>IDEM</b>	Indiana Department of Environmental Management
<b>KERAMIDA</b>	KERAMIDA Inc.
<b>LES</b>	Leachate Extraction System
<b>LRW</b>	Leachate Recovery Well
<b>LSTS</b>	Leachate Storage Tank System
<b>MCL</b>	Maximum Contaminant Level
<b>MEW</b>	Methane Extraction Well
<b>MES</b>	Methane Extraction System
<b>MMS</b>	Methane Monitoring System
<b>MSL</b>	Mean Sea Level
<b>NCP</b>	National Contingency Plan
<b>NPDES</b>	National Pollutant Discharge Elimination System
<b>NPL</b>	National Priorities List
<b>O&amp;M</b>	Operation and Maintenance
<b>PCB</b>	Polychlorinated Biphenyl
<b>PCOR</b>	Preliminary Close-Out Report
<b>PM</b>	Project Manager

**List of Acronyms (continued)**

<b>POC</b>	Point-of-Compliance
<b>POTW</b>	Publicly Owned Treatment Works
<b>PRP</b>	Potentially Responsible Party
<b>RA</b>	Remedial Action
<b>RAOs</b>	Remedial Action Objectives
<b>RD</b>	Remedial Design
<b>RI/FS</b>	Remedial Investigation/Feasibility Study
<b>ROD</b>	Record of Decision
<b>SVOC</b>	Semi-Volatile Organic Compound
<b>TDS</b>	Total Dissolved Solids
<b>TERF Board</b>	Tippecanoe County Local Environmental Response Financing Board
<b>TSL</b>	Tippecanoe Sanitary Landfill
<b>VOC</b>	Volatile Organic Compound

## Executive Summary

The remedy for the Tippecanoe Sanitary Landfill (TSL) Superfund Site, as described in the September 1997 Record of Decision (ROD), consists of the following components: a sanitary landfill cover for the waste disposal area; a fence that surrounds, at a minimum, the waste disposal area and the barrier cover; leachate extraction and treatment with off-site disposal of residues; a gas extraction and monitoring system; a groundwater remediation program, if one would be needed because the source control measures (cover, gas control, and leachate extraction) were insufficient to prevent unacceptable contamination of off-site groundwater; deed restrictions, including provisions for the protection of the remedial actions taken and the prohibition of wells on the Site to be used for a water supply; and Site monitoring and maintenance of all remedial action components.

Remedy implementation activities began in April 2000. The construction of the landfill cover was completed in July 2001, while the construction of the levee, access roads, and surface water management systems were completed in August 2001. In September 2001, the methane extraction system began operating, monitoring began in the methane monitoring system, and the Preliminary Close-Out Report was issued. In October 2001, the construction of the perimeter security fence was completed. The leachate extraction and storage tank systems began operating in January 2002. The Final Pre-Certification Inspection Report was submitted in January 2002 and approved in November 2002. The Final Operation and Maintenance (O&M) Plan was submitted in May 2002 and approved in November 2002. O&M and monitoring activities of all remedy components (groundwater monitoring, cover inspections, etc.) began in January 2002. In October 2003, additional passive methane extraction wells equipped with landfill gas solar vent flares were installed and made operational. In late 2006 and early 2007, pumping systems were added and made operational in five non-pumping wells.

An Explanation of Significant Differences (ESD) was issued in September 2001 for two significant changes in order to complete construction of the final remedy. First, the available method for leachate disposal was changed from conveyance to a Publicly Owned Treatment Works to on-site storage and transportation via semi-tanker to an off-site licensed waste treatment facility. Second, due to the discovery of landfill waste encroaching on the landfill property boundary, additional land from adjacent properties was purchased in order to properly extend the landfill cap to incorporate these waste areas and to provide for the construction of adequate flood protection for the extended cap.

The assessment performed to fulfill the requirements of this five-year review demonstrated that the remedy was implemented in accordance with the requirements of the ROD and the ESD. The remedy is functioning as designed. Based upon the available data, the TSL Site is in substantial compliance with all Applicable or Relevant and Appropriate Requirements (ARARs). Leachate level exceedances have occurred in various pumping and non-pumping wells; adjustments and repairs or replacements and expansions of pumping systems have been made, as needed, to bring leachate levels in these wells into compliance. Repairs and complete replacement of the effluent piping at the Leachate Storage Tank System (LSTS) were completed following two leachate releases. A subsurface investigation with temporary groundwater pumping was also completed and showed that the groundwater surrounding the LSTS has not been adversely impacted by the leachate releases. Methane level exceedances have occurred at infrequent intervals around the Site.

All exceedances have been rectified as soon as possible with most exceedances being rectified within a two (2) to thirty-six (36) hour time interval.

Quarterly groundwater monitoring results, collected since before the start-up of the remedy, show decreasing concentration trends in a number of leachate indicators including chloride, total dissolved solids, anions, and alkali and alkaline earth metals. The decreasing trends are predominantly observed in point-of-compliance monitoring wells and off-site monitoring wells, indicating the positive effects of the remedy. Similarly, decreases in the number of exceedances of Maximum Contaminant Levels (MCLs) and Secondary MCLs have also been observed. Off-site groundwater has not exceeded health-based standards since routine groundwater monitoring was instituted.

The assessment of this five-year review for the Tippecanoe Sanitary Landfill Site found that the remedy is protective of human health and the environment in the short term and is expected to be protective in the long term. The remedy is effective and the impact of leachate on groundwater has continued to decrease. The Site is in substantial compliance with landfill gas/methane ARARs due to continuous monitoring and adjustments to the methane extraction system. Off-site methane alarm systems are maintained and functioning properly. Any potential threats have been addressed. Institutional controls required by the ROD remain in place and are effective.



## Five-Year Review Summary Form

SITE IDENTIFICATION		
<b>Site name (from WasteLAN):</b> Tippecanoe Sanitary Landfill, Inc.		
<b>EPA ID (from WasteLAN):</b> IND980997639		
<b>Region:</b> 5	<b>State:</b> IN	<b>City/County:</b> City of Lafayette/Tippecanoe County
SITE STATUS		
<b>NPL status:</b> <input checked="" type="checkbox"/> Final <input type="checkbox"/> Deleted <input type="checkbox"/> Other (specify)		
<b>Remediation status (choose all that apply):</b> <input type="checkbox"/> Under Construction <input checked="" type="checkbox"/> Operating <input type="checkbox"/> Complete		
<b>Multiple OUs?*</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NC	<b>Construction completion date:</b> September 27, 2001	
<b>Has site been put into reuse?</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
REVIEW STATUS		
<b>Lead agency:</b> <input type="checkbox"/> EPA <input checked="" type="checkbox"/> State <input type="checkbox"/> Tribe <input type="checkbox"/> Other Federal Agency		
<b>Author name:</b> Kevin D. Herron		
<b>Author title:</b> Project Manager	<b>Author affiliation:</b> Indiana Department of Environmental Management (IDEM)	
<b>Review period:**</b> July 2009 to September 2010		
<b>Date(s) of site inspection:</b> March 30, 2010		
<b>Type of review:</b> <input checked="" type="checkbox"/> Post-SARA <input type="checkbox"/> Pre-SARA <input type="checkbox"/> NPL-Removal only <input type="checkbox"/> Non-NPL Remedial Action Site <input type="checkbox"/> NPL State/Tribe-lead <input type="checkbox"/> Regional Discretion)		
<b>Review number:</b> <input type="checkbox"/> (first) <input checked="" type="checkbox"/> 2 (second) <input type="checkbox"/> 3 (third) <input type="checkbox"/> Other (specify)		
<b>Triggering action:</b> <input type="checkbox"/> Actual RA On-Site Construction at OU # ____ <input type="checkbox"/> Actual RA Start at OU# <input type="checkbox"/> Construction Completion <input checked="" type="checkbox"/> Previous Five-Year Review Report <input type="checkbox"/> Other (specify)		
<b>Triggering action date (from WasteLAN):</b> September 30, 2005		
<b>Due date (five years after triggering action date):</b> September 30, 2010		

\* "OU" refers to operable unit.

\*\* Review period should correspond to the actual start and end dates of the Five-Year Review in WasteLAN.

**Five-Year Review Summary Form  
(continued)**

<p><b>Issues:</b> No issues that affect protectiveness were identified during this review.</p>
<p><b>Recommendations and Follow-Up Actions:</b> None.</p>
<p><b>Protectiveness Statement:</b> The assessment of this five-year review for the Tippecanoe Sanitary Landfill Site found that the remedy is protective of human health and the environment in the short term and is expected to be protective in the long term. The remedy is effective and that the impact of leachate on groundwater has continued to decrease. The Site is in substantial compliance with landfill gas/methane ARARs due to continuous monitoring and adjustments to the methane extraction system. Off-site methane alarm systems are maintained and functioning properly. Any potential threats have been addressed. Institutional controls required by the ROD remain in place and are effective.</p>
<p><b>Other Comments:</b> None</p>
<p><b>CERCLIS Data:</b> <b>Date of last Regional Review of Human Exposure Indicator:</b> 08/12/2010 <b>Human Exposure Survey Status:</b> Current Human Exposure Controlled and Protective Remedy in Place (PRIP) <b>Date of last Regional Review of Groundwater Migration Indicator:</b> 08/12/2010 <b>Groundwater Migration Survey Status:</b> Contaminated Groundwater Migration Under Control <b>Ready for Reuse Determination Status:</b> Site-Wide Ready for Anticipated Use 09/28/2009</p>

**Second Five-Year Review Report  
Tippecanoe Sanitary Landfill Site  
City of Lafayette  
Tippecanoe County, Indiana**

**I. Introduction**

The purpose of the five-year review is to determine whether the remedy at a site is protective of human health and the environment. The methods, findings, and conclusions of reviews are documented in five-year review reports. In addition, five-year review reports identify issues found during the review, if any, and identify recommendations to address them.

The Indiana Department of Environmental Management (IDEM) is preparing this five-year review report on behalf of the United States Environmental Protection Agency (EPA), pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) §121 and the National Contingency Plan (NCP). CERCLA §121 states:

*"If the President selects a remedial action that results in any hazardous substances, pollutants, or contaminants remaining at the site, the President shall review such remedial action no less often than each five years after the initiation of such remedial action to assure that human health and the environment are being protected by the remedial action being implemented. In addition, if upon such review it is the judgment of the President that action is appropriate at such site in accordance with section [104] or [106], the President shall take or require such action. The President shall report to the Congress a list of facilities for which such review is required, the results of all such reviews, and any actions taken as a result of such reviews."*

EPA interpreted this requirement further in the NCP; 40 CFR §300.430(f)(4)(ii) states:

*"If a remedial action is selected that results in hazardous substances, pollutants, or contaminants remaining at the site above levels that allow for unlimited use and unrestricted exposure, the lead agency shall review such action no less often than every five years after the initiation of the selected remedial action."*

IDEM conducted the five-year review of the remedy implemented at the Tippecanoe Sanitary Landfill (TSL) Superfund Site in Lafayette, Tippecanoe County, Indiana ("the Site"). This review was conducted by the IDEM Project Manager (PM) for the entire TSL Site from July 2009 to September 2010. The potentially responsible parties' (PRPs') Consultant, KERAMIDA Inc. (KERAMIDA), was consulted to provide assistance in support of the review. This report documents the results of the review.

This is the second five-year review for the TSL Site. The triggering action for this statutory review is the signature date of the previous five-year review, which was completed in September 2005. This statutory five-year review is required due to the fact that hazardous substances, pollutants, or contaminants remain at the Site above levels that allow for unlimited use and unrestricted exposure.

## II. Site Chronology

**Table 1 – Chronology of Site Events**

Event	Date
The Indiana State Board of Health issued an operating permit	April 12, 1971
Landfill operations began	June 1971
Landfill operational	1971-1978
Renewal of the landfill operating permit was denied	February 1, 1978
An Agreed Order allowed the landfill to operate until August 1, 1979	February 1978
Landfill submitted a renewal application	October 1979
Landfill granted a two-year renewal of its operating permit	February 27, 1981
Consent Decree (CD) was filed to cease landfill operations and require closure	November 11, 1988
TSL Site proposed for the National Priorities List (NPL)	June 24, 1988
Administrative Order on Consent for Remedial Investigation/Feasibility Study (RI/FS)	March 8, 1990
TSL Site finalized on the NPL	August 30, 1990
Approval of the (RI/FS)	July 1997
Proposed Plan public meeting held	August 6, 1997
Record of Decision (ROD) issued	September 30, 1997
CD for Remedial Design (RD) and Remedial Action (RA)	March 31, 1998
Approval of the RD Work Plan	April 16, 1999
Initiation of preliminary RA activities	April 10, 2000
Conditional approval of the RD and initiation of the RA	June 22, 2000
Approval of the Explanation of Significant Differences (ESD) and the Preliminary Close-Out Report (PCOR)	September 27, 2001
RA construction completed and initiation of Operation and Maintenance (O&M) activities	January 2002
Approval of the Final Pre-Certification Inspection Report	November 2002
Approval of the Final O&M Plan	November 2002
Initial five-year review site inspection	May 11, 2005
First Five-Year Review completed	September 30, 2005
Approval of quarterly groundwater monitoring changing to semi-annually	January 16, 2008
Approval of leachate compliance level changes in six leachate pumping wells	August 31, 2006 and July 23, 2008
Approval of leachate pumping well vault modifications	October 7, 2008
Site Wide Ready for Anticipated Use attained	September 28, 2009
Second five-year review site inspection	March 30, 2010

### **III. Background**

#### **Physical Characteristics**

The TSL Site is approximately 80 acres in size and is located in Lafayette, Tippecanoe County, Indiana. The Site is an inactive landfill that includes a wetland. The Site lies within the common floodplain of the Wabash River, which is located within 1.5 miles north and west of the Site and flows to the south, and Wildcat Creek, which flows toward the north approximately 600 feet northeast of the landfill.

#### **Land and Resource Use**

The TSL Site is located in a mixed residential/commercial/industrial/agricultural area north to northeast of downtown Lafayette. The Site is bordered on the west by North 9<sup>th</sup> Street, CSX Railroad, and businesses, on the north and east by wooded and agricultural land with scattered residences, and on the south by a former quarry including woods, a wetland, and a lake. A Site Location Map depicting the Site's location as well as topographical and surrounding area features is included as Figure 1. Municipal water was extended to the area surrounding the Site prior to the discovery of any groundwater contamination. No drinking water wells exist within a one-mile radius of the Site.

#### **History of Contamination**

In 1971, Tippecanoe County, Purdue University, and the Cities of West Lafayette and Lafayette decided that there should be one landfill in the county that local residents, commercial entities, and industry could use for the disposal of non-hazardous wastes. TSL was privately formed and reached an agreement with the Tippecanoe County Board of Commissioners in June 1971 for the operation of a landfill. TSL first leased the property at the Site for the landfill in June 1971. The Indiana State Board of Health issued an operating permit on April 12, 1971, and landfill operations began in June 1971. Renewal of the landfill operating permit was denied on February 1, 1978. Sporadic daily cover, unsatisfactory cover material, possible acceptance of hazardous wastes by the landfill, and poor geologic conditions were cited as reasons for denial of the permit. An Agreed Order allowed the landfill to operate until August 1, 1979. In October 1979, TSL submitted a renewal application and on February 27, 1981, TSL was granted a two-year renewal of its operating permit. On February 16, 1983, renewal of TSL's operating permit was again denied because the landfill was not operating in accordance with permit stipulations. TSL appealed the denial. On November 29, 1988, a Consent Decree was filed in the Tippecanoe Circuit Court that stipulated that solid waste could not be accepted at the TSL Site after October 1, 1989. The CD also outlined landfill closure requirements.

The wastes received for disposal at the Site were primarily solid wastes generated by local residents, businesses, and industries. An industrial sludge went to the Site for a number of years in the 1970s, but this practice was discontinued when a sludge sample was found to contain elevated levels of polychlorinated biphenyls (PCBs). During the last year or more of operation, some out-of-state wastes were deposited at the Site. Estimates indicate that 3.4 million cubic yards of solid waste were disposed in the landfill over approximately 59 acres. The landfill closed before the

anticipated final elevations were reached. An acceptable final cover was never installed over all of the landfill after the landfill stopped accepting wastes.

### **Initial Response**

On June 24, 1988, EPA proposed the Site for inclusion on the National Priorities List. On March 8, 1990, EPA, IDEM, and ten of the parties who had been named PRPs for the Site agreed to an Administrative Order on Consent that required the PRPs to (1) fully determine the nature and extent of the potential threat to the public health, welfare, or the environment caused by any release or threatened release of hazardous substances, pollutants, or contaminants from or at the facility by conducting a remedial investigation and (2) to determine and evaluate alternatives for remedial action to prevent, mitigate, or otherwise remedy any release or threatened release of hazardous substances, pollutants, or contaminants from or at the facility by conducting a feasibility study. The Site was finalized on the NPL on August 30, 1990. The RI/FS work began on March 8, 1990, and continued through the publication of the final report in 1996. ENSR Consulting and Engineering and KERAMIDA primarily conducted the work. Final acceptance of the RI/FS occurred in July 1997. IDEM concurred with the ROD signed by EPA on September 30, 1997.

### **Basis for Taking Action**

#### Contaminants

Hazardous substances have been released at the Site. The following contaminants, some of which are hazardous, were identified at the Site in the following media:

#### Surface Water

Alkalinity  
Aluminum  
Calcium  
Iron  
Manganese  
Nitrate  
Potassium  
Sodium  
Total Dissolved Solids

#### Surface Soil/Bottom Sediment

Acetone  
Benzo(a)pyrene  
Benzo(b)fluoranthene  
Crysene  
Ethylbenzene  
Fluoranthene  
Phenanthrene  
Pyrene  
Xylenes  
Metals

#### Landfill Gas

Ethylbenzene  
Methane  
Tetrachloroethene  
Toluene  
Xylenes  
1,2-Dichloroethylene

## Contaminants (continued)

### **Leachate**

Acetone  
Aluminum  
Alkalinity  
Ammonia  
Arsenic  
Benzene  
Calcium  
Chloride  
Ethylbenzene  
Ethylmethylbenzene Isomer  
Ethyl Methacrylate  
Iron  
Magnesium  
Manganese  
Methylethylbenzene Isomer  
Nickel  
Nitrogen  
Potassium  
Sodium  
Tetrahydrofuran  
Toluene  
Trimethyl Silanol  
PCBs  
Vinyl Chloride  
Xylenes  
2-Butanone  
2,4-Dimethyl-3Pentanone

### **Groundwater**

Acetone  
Aluminum  
Antimony  
Arsenic  
Barium  
Benzo(a)pyrene  
Calcium  
Carbon Disulfide  
Chloride  
Chromium  
Dieldrin  
Iron  
Lead  
Manganese  
Nitrate  
Semi-Volatile Organic Compounds (SVOCs)  
Sodium  
Sulfate  
Thallium  
Total Dissolved Solids  
1,1-dichloroethane  
4,6-dinitro-2-methylphenol

## RI Phase Activities

During the RI phase of activities at the Site, the nature and extent of contamination at TSL were investigated through source characterization and sampling and analysis of potentially affected media. Source characterization involved a review of existing waste disposal information, landfill cover investigations, landfill gas sampling, methane surveys and investigations, and landfill leachate sampling. Potentially affected media sampled and analyzed included surface soil/bottom sediment, groundwater, surface water, and air.

Review of all available information indicated that by far the predominant waste type disposed at TSL was municipal solid waste generated by local residents, businesses, and industries. A limited quantity of PCB-containing sludge had been reported to have been received at the landfill for disposal. A mixture of soil and trash had been found exposed along the toe of the north and south portions of the landfill, in the northeast portion of the landfill, and near the midpoint of the southeast waste boundary. Various seep and pooled surface water areas had been found across the landfill. Most of the landfill had been covered with greater than 2 feet of low-permeability silty

clay material. Slopes on the top of the landfill, in the landfill yard area, and along the northwest facility boundary were less than the minimum required by then-current Indiana solid waste regulations. The frequency of erosion gullies was low, but more had been observed in the southeast portion of the landfill than in other areas.

Results of the landfill gas sampling and methane surveys indicated that no adverse health effects were expected from exposure to compounds within the gases. However, elevated methane readings had been recorded outside the facility boundary adjacent to the northwest side of the landfill.

A baseline human health risk assessment and ecological screening was performed to characterize potential risks to human health and the environment from the TSL Site. Since the TSL Site is a former municipal landfill, EPA's presumptive remedies guidance for CERCLA municipal landfill sites was used, with the concurrence of EPA Region 5, to define the media to be addressed in the risk assessment. Under the presumptive remedy guidance, the risk assessment portion of the RI was used to address those exposure pathways that occur outside the source areas. Therefore, the risk assessment focused on groundwater and surface water exposures. The presumptive remedies, namely completion of the landfill cap and leachate recovery, were presumed to control the landfill's future impact on groundwater and surface water and, as a result, the landfill's impact on groundwater and surface water was expected to diminish over the exposure period considered. The mitigating effect of the presumptive remedies was not included in conducting the baseline risk assessment, resulting in an overestimation of future risk following implementation of the remedy. The baseline ecological screening focused on assessing the surface water in the seasonal pond area on the Site. Exposure to groundwater was found to be associated with significant human health risks, due to exceedances of EPA's risk management criteria for each exposure pathway, under both the central tendency case and the reasonable maximum exposure scenarios. However, there was no significant potential risk to the environment from surface water.

Based on the results of the RI study, remedial action objectives (RAOs) were developed for four environmental media of possible concern: landfill contents, leachate, landfill gas, and groundwater. The RAOs at the Site were based on the use of engineering controls (i.e., containment for source control) applying EPA's Presumptive Remedy Guidance for Municipal Landfills (OSWER Directive No. 9355.0-49FS).

#### **IV. Remedial Action**

##### **Remedy Selection**

EPA issued a ROD for the TSL Site on September 30, 1997. The major components of the selected remedy discussed in the ROD were:

- A sanitary landfill cover for the waste disposal area;
- A fence that surrounds, at a minimum, the waste disposal area and the barrier cover;
- Leachate extraction and treatment, either by transfer to the local publicly owned treatment works (POTW) for treatment (if the POTW can accept the leachate) or on-site treatment and



discharge to Wildcat Creek or the Wabash River, with this discharge meeting National Pollutant Discharge Elimination System (NPDES) permit requirements and with proper disposal of the treatment residues;

- A gas extraction system;
- A contingent groundwater remediation component that will be implemented if either source control and natural attenuation are determined to not be reducing the down-gradient groundwater contamination to acceptable levels within the specified time frame or if human health is being threatened by water being extracted from down-gradient water supply wells;
- On-site groundwater treatment, if groundwater remediation is implemented, to produce an effluent meeting NPDES permit requirements that will be discharged to surface water with the treatment residues being properly disposed of off-site;
- Deed restrictions, including provisions for the protection of the remedial actions taken and the prohibition of wells on the Site to be used for a water supply; and
- Site monitoring and maintenance of all RA components.

### **Remedy Implementation**

On March 31, 1998, IDEM signed a CD with the PRPs for the implementation of RD and RA activities for the Site. The CD was entered in the U.S. District Court in Indianapolis on August 10, 1998. The PRPs were also required to institute quarterly groundwater monitoring of the existing groundwater monitoring network to track potential off-site migration of contaminants during the RD/RA process. The PRPs implemented this requirement immediately. The groundwater monitoring network was expanded as part of the RD/RA to improve monitoring of groundwater in the vicinity of the landfill. The ROD indicates that a groundwater remediation program will be instituted upon discovery that groundwater contamination levels exceed acceptable groundwater contamination standards for human health exposure off-site. As will be discussed further in Section VI, implementation of the landfill cap and leachate collection system has been proven to be functioning as intended, and off-site groundwater has not exceeded health-based standards; therefore the contingent groundwater remediation component of the ROD has not been needed to be implemented, to date.

On April 16, 1999, IDEM approved the RD Work Plan for the Site. On April 10, 2000, IDEM granted the PRPs permission to initiate preliminary construction activities (i.e., perimeter tree and brush removal and Site grubbing) necessary to prepare the Site for RA commencement. On June 22, 2000, IDEM gave conditional approval of the RD, excluding the Leachate Extraction System (LES) and the O&M Plan. These portions were excluded pending the resolution of a dispute for disposal of the leachate generated at the landfill at the local POTW as presented in the ROD-selected remedy. This dispute was resolved by the issuance of an ESD, as discussed below.

An ESD was issued on September 27, 2001, for two significant changes in order to complete construction of the final remedy. First, the available method for leachate disposal was changed

from conveyance to a POTW to on-site storage and transportation via semi-tanker to an off-site licensed waste treatment facility. Second, due to the discovery of landfill waste encroaching on the landfill property boundary, additional land from adjacent properties was purchased in order to properly extend the landfill cap to incorporate these waste areas and to provide for the construction of adequate flood protection for the extended cap.

Remedy implementation activities began in April 2000. The construction of the landfill cover was completed in July 2001. Construction of the levee, access roads, and surface water management systems was completed in August 2001. In September 2001, the methane extraction system (MES) began operating, the methane monitoring system (MMS) commenced, and the PCOR was issued. The construction of the perimeter security fence was completed in October 2001. Leachate extraction and storage tank systems began operating in January 2002. The Final Pre-Certification Inspection Report as required in the CD was submitted in January 2002, revised in July 2002, and approved in November 2002. The Final O&M Plan was submitted in May 2002 and approved in November 2002. O&M and monitoring activities of all remedy components (groundwater monitoring, landfill cover inspections and maintenance, leachate monitoring and extraction, landfill gas monitoring and control, etc.) began in January 2002.

While vapor intrusion has not specifically been investigated, the Agencies do not believe that vapor intrusion is likely. The Agencies believe that the current systems in place at the Site are adequately monitoring the potential for off-site migration of landfill gas and methane. All buildings that are immediately adjacent to the landfill have methane alarm systems installed that are regularly inspected and maintained. The perimeter point-of-compliance (POC) landfill gas monitoring probes are regularly checked for landfill gas and methane. The landfill gas extraction system is closely monitored and adjusted as needed to maintain compliance at the POC landfill gas monitoring probes, mainly along the western property boundary. In addition, the landfill gas monitoring probes located along the northwestern corner of the property, and nearest any residential properties, have never experienced any measurable concentrations of landfill gas or methane. Thus, the Agencies have concluded that the potential for vapor intrusion is unlikely.

### **Institutional Controls**

Institutional Controls (ICs) are required to ensure the protectiveness of the remedy. ICs are non-engineered instruments, such as administrative and/or legal controls, that help minimize the potential for exposure to contamination and protect the integrity of the remedy. Compliance with ICs is required to assure long-term protectiveness for any areas which do not allow for unlimited use or unrestricted exposure (UU/UE).

The following table summarizes institutional controls for areas that do not support UU/UE at the Site:

**Table 2 – Institutional Controls Summary Table**

<b>Media, Engineered Controls, &amp; Areas that Do Not Support UU/UE Based on Current Conditions</b>	<b>IC Objective in Decision Document</b>	<b>Title of IC Instrument Implemented</b>	<b>Required as part of the remedy?</b>
Tippecanoe Sanitary Landfill – Landfill Cover	Restrictions have been recorded for the property to limit future Site use and development and to notify any potential purchasers of the prior use of the property. The restrictions ensure the integrity of the remedy.	Declaration of Restrictions and Covenants Upon Real Estate	Yes
Groundwater	Restrictions on the installation of drinking water wells on the landfill property and, if necessary, on off-site areas impacted by the Site.	Declaration of Restrictions and Covenants Upon Real Estate. Off-site areas to which groundwater contamination had migrated at the time of the ROD have been acquired by the TERF Board and wells have been closed; off-site groundwater has not exceeded health-based standards since routine monitoring was initiated.	Yes

Current Conditions, ICs and Follow-Up Actions

The remedial action objectives at the Site were based on the use of engineering controls (i.e., containment) for source control applying EPA’s Presumptive Remedy Guidance for Municipal Landfills (OSWER Directive No. 9355.0-49FS). The ROD required that restrictions be placed on the Site property to limit future Site use and development and to notify any potential purchasers of the prior use of the property as a landfill. The ROD also called for restrictions on groundwater extraction on off-site areas for the period of time that the groundwater remained contaminated at unacceptable levels.

On November 6, 1998, a Notice of Entry of Consent Decree and Declaration of Restrictions and Covenants Upon Real Estate was recorded in the Tippecanoe County Recorder’s Office by the then-current owners of the Site property as part of a settlement of a CERCLA action brought by the State of Indiana. The restrictions are intended to ensure the integrity of the waste containment system by restricting future building on the waste disposal area and/or other uses of the Site that might damage the remedial components. Restrictions on the installation of wells on the landfill property are in place. Fencing is installed around the capped area to physically limit access to the Site.

On May 1, 2000, the Site was conveyed to the Tippecanoe County Local Environmental Response Financing Board (TERF Board), a board comprising governmental entities which had arranged for disposal of wastes at the Site. The TERF Board has entered a Consent Decree with the State of Indiana pursuant to which it agreed to construct and maintain the remedy at the Site. The TERF Board has since acquired adjacent areas to which groundwater contamination had migrated, and has closed the wells there. Groundwater at these off-site areas has not exceeded health-based standards since routine groundwater monitoring was initiated. No change in land use or ownership has occurred nor is planned at the TSL Site.

### Current Conditions

Subsequent to the 2005 Five-Year Review, an IC investigation/study was conducted. EPA has evaluated the IC documentation and determined that the ICs required by the ROD are in place and effective. In addition, because the Site and areas that originally showed groundwater contamination are now owned by the TERF Board, it can be anticipated that these areas will not be subject to prohibited uses. Off-site groundwater has not exceeded health-based standards since routine groundwater monitoring was initiated. A copy of the Declaration of Restrictions and Covenants can be found in Appendix 1. A copy of the Annual Certification of Remedy Components which documents that the Site is in compliance with all applicable aspects of the Consent Decree to date can be found in Appendix 2. A copy of the Certificate of Representation, Warranties, and Covenants signed by the TERF Board on April 20, 2010, verifying that the appropriate land warranties and restrictions have been fulfilled can also be found in Appendix 2.

### Current Compliance

Based on the Site inspection, monitoring data, and communication with O&M personnel, no inappropriate land or groundwater use was observed. The Declaration of Restrictions and Covenants is currently in place and effective. EPA is not aware of Site or media uses which are inconsistent with the stated objectives of the ICs and cleanup goals. Access to the Site is further restricted by fencing.

### Long-Term Stewardship

Long-term protectiveness at the Site requires continued compliance with use restrictions to assure that the remedy continues to function as intended.

### **System Operations/Operation and Maintenance**

The PRPs are required to perform groundwater monitoring on a quarterly basis for the first three years, semi-annual sampling for the next two years, and annual sampling thereafter. Adjustments in the groundwater monitoring schedule will be based on the analytical and trend analysis results and recommendations presented in annual groundwater monitoring reports and as approved by IDEM. Institutional controls and an O&M Plan were implemented to assure protection of the selected remedy, groundwater, and human health and the environment. The PRPs are responsible for the institutional controls and O&M. Institutional controls included appropriate deed restrictions. O&M includes a perimeter security fence at the Site.

In accordance with the Final O&M Plan, the consultant for the PRPs (KERAMIDA) prepares and submits status reports to IDEM that document and evaluate O&M and monitoring activities. These reports are prepared to evaluate the attainment of compliance with performance standards associated with the LES, Leachate Storage Tank System (LSTS), MES, MMS, groundwater and surface water monitoring, and general items such as the landfill cap, drainage system, roadways, fencing, signs, gates, levee, and wetlands. An analysis of the annual expenditures is compared to the estimated post-closure care costs documented in the Final O&M Plan.

Operation and Maintenance Cost

Financial Assurance for the annual O&M costs for the selected remedy was estimated for Year 4 (2005) through Year 9 (2009) at approximately \$2,709,383. Actual O&M costs for this same timeframe totaled \$2,973,000. Estimated and actual O&M costs for Year 4 through Year 9 are detailed in Table 3 below. All incurred costs include all operations, equipment replacement and repairs, construction tasks, leachate disposal, supplemental propane/natural gas, groundwater monitoring, and so forth.

Major items of note include costs associated with leachate treatment and disposal, supplemental gas usage for MES, and LES/LSTS/MES upgrades and repairs. Leachate disposal costs were estimated at approximately \$518,400 per year for Years 4 & 5 and \$275,650 per year for Years 6, 7 & 8. Approximately \$136,675 has been spent in total in Year 4 through Year 8 because of lower than model-predicted leachate recovery rates. Supplemental propane costs were estimated at \$8,100 per year. Approximately \$399,400 has been spent in total for Year 4 through Year 8 because of the need to operate the MES nearly continuously. Remediation upgrades and repairs to the LES, LSTS and MES were implemented at a cost of approximately \$560,100 for Year 4 through Year 8. KERAMIDA will continue to review and evaluate options to reduce O&M costs. The O&M costs and the overall costs for the major components are summarized in Tables 3 and 4.

**Table 3 - Estimated and Actual Annual O&M Cost Breakdown**

<b>Year</b>	<b>Estimated Costs</b>	<b>Actual Costs</b>
4 (2005)	\$734,731	\$620,000
5 (2006)	\$734,731	\$458,000
6 (2007)	\$413,547	\$691,000
7 (2008)	\$413,547	\$713,000
8 (2009)	\$413,547	\$491,000
<b>Total</b>	<b>\$2,709,383</b>	<b>\$2,973,000</b>

**Table 4 - Estimated and Actual Overall Costs for Major Components and 5-Year Total Cost (2005-2009)**

<b>Item Description</b>	<b>Estimated Cost</b>	<b>Actual Cost</b>
Leachate Treatment and Disposal	\$1,865,625	\$136,675
MES Supplemental Fuel	\$40,500	\$399,400
LES/LSTS/MES/MMS Activities	--	\$560,100
<b>O&amp;M Total Cost for Last 5 Years</b>	<b>\$2,709,383</b>	<b>\$2,973,000</b>

## V. Progress Since the Last Five-Year Review

The First Five-Year Review Report was completed for the TSL Site on September 30, 2005, and concluded that the implemented remedy was protective of human health and the environment in the short term. The 2005 Five-Year Review concluded that:

*“The impact of leachate on groundwater has greatly decreased. The Site is in substantial compliance with landfill gas/methane ARARs due to continuous monitoring and adjustments to the methane extraction system. Off-site-methane alarm systems are maintained and functioning properly. Any potential threats have been addressed. Institutional controls required by the ROD appear to be in place. However, to be protective in the long term, the institutional controls must be evaluated for effectiveness and enforceability.”*

Three issues were identified in the 2005 Five-Year Review and recommendations were made for follow-up action. These issues, as well as the follow-up actions that have been taken, are itemized in the following table:

**Table 5 – Status of Issues Identified in Previous Five-Year Review**

<b>Issues from Previous Review</b>	<b>Recommendations/ Follow-up Actions</b>	<b>Party Responsible</b>	<b>Action Taken and Outcome</b>	<b>Date of Action</b>
Several leachate recovery wells and piezometers have periodically had difficulty meeting the required leachate elevation due to occasional pump failures, improper wiring, faulty instrument control panels, and silting of wells.	Complete repairs to leachate recovery system and assure continuous operation.	PRPs	Investigations were conducted of various pumping systems that could be installed in the piezometers (non-pumping wells) that were not attaining leachate level compliance. New pumping systems were subsequently installed in the non-attaining piezometers, as well as in the original pumping wells to replace the existing pumping systems.	2007 through 2009
Methane level exceedances above the 5% methane compliance limit have occurred at infrequent intervals at various gas probes for the Site property boundary since O&M activities began, particularly gas monitoring probe 1 (GP-1M).	Upgrade methane extraction system to improve and maintain compliance (i.e., gas probe GP-1M) and reduce manual adjustments, supplemental fuel use, and daily monitoring.	PRPs	An underground natural gas service line to the active portion of the MES was established in January and February 2006. The MES became fully operational using natural gas in March 2006.	March 2006
Analysis of deed restrictions' enforceability is required.	Complete an IC study by analyzing deed restrictions' enforceability.	EPA	An IC study was completed and it was determined that the ICs required by the ROD are in place and effective.	September 28, 2009

## **VI. Five-Year Review Process**

### **Administrative Components**

The five-year review team was led by Kevin Herron of IDEM, currently assigned as the State PM for the TSL Site. Members of the five-year review team included Linda Kern, Remedial Project Manager with EPA, and Brian Wagner, Field Engineer with IDEM. Doug Zabornick and Robert Fedorchak with KERAMIDA, the PRPs' consultant, also assisted in the Five-Year Review process for this Site.

The review consisted of a Site inspection and review of relevant documents. The completed five-year review report will be available in the Site information repository located at the Tippecanoe County Public Library at 627 South Street, Lafayette, Indiana.

In July 2009, the review team established and followed the review schedule as follows:

- Document Review;
- Data Review;
- Community Involvement via quarterly open hearings held by the TERF Board;
- Press Release;
- Site Inspection; and
- Five-Year Review Report Development and Review

### **Community Notification and Involvement**

The public was notified of the five-year review on March 27, 2010, in a newspaper public notice in the Lafayette Journal & Courier. A copy of the notice is included in Appendix 4. No members of the public expressed an interest in or commented during the five-year review process.

### **Document and Data Review**

The following documents were reviewed during the five-year review process: RI/FS; ROD; ESD; PCOR; Final Pre-Certification Inspection Report; Final O&M Plan; semi-annual and annual O&M Reports; quarterly and annual Groundwater and Surface Water Monitoring Reports; and various correspondence.

### **Landfill Cap/Levee/Perimeter Fencing Performance**

The landfill cap and levee have remained in good condition with minimal erosion since O&M activities began, in spite of several major rain events that resulted in flooding that surrounded the levee. All areas of erosion were repaired and seeded per the design specifications. The holes of burrowing mammals were repaired and reseeded and areas of thinning grass were also reseeded to fully establish the required vegetative cover. Fencing has remained in good order, some minor repairs to have been completed, and all signs have remained properly posted and found to be legible.

### Leachate Recovery, Monitoring, and Performance

Overall, leachate recovery is functioning at rates lower than those predicted by the model in the original design of the system. Typically, lower leachate recovery rates than predicted by models are common. The lower leachate recovery rates are likely the result of the actual permeability of the waste being lower throughout the landfill than the conservative value used in the model.

Approximately 1,364,697 gallons of leachate have been removed from the landfill since the start-up of the LES in January 2002. Leachate levels in the majority of the landfill's pumping and non-pumping wells have maintained substantial compliance with the required elevation of 526 feet mean sea level (MSL). The primary reasons the remaining wells have not met the required leachate elevation have been occasional pump failures, frozen piping, improper wiring, faulty instrument control panels, and silting of wells. Measures to resolve pump function issues with the manufacturer had been ongoing since the beginning of O&M activities. In 2006, investigations were conducted of various pumping systems, including systems currently being used at TSL, that could be installed in the piezometers (non-pumping wells) that were not attaining leachate level compliance. Electric submersible pumps were selected based on their ease of installation and maintenance, programmable features and low cost. The new pumping systems were subsequently installed in the non-attaining piezometers and, starting in 2007 through 2009, they were also installed in the original pumping wells to replace the existing pumping systems. Compliance level changes based on landfill bottom elevation data from individual leachate pumping wells were made at leachate recovery well LRW-8 and piezometer P-H in August 2006 and at LRW-12, LRW-14, P-B and P-E in July 2008. KERAMIDA continues to make repairs and adjustments to the pumping wells in order to obtain optimal leachate recovery rates, as well as maintain the required leachate elevation of 526 feet MSL.

In March 2007, the LSTS effluent piping from all three leachate storage tanks to the leachate transfer pump and loading arm was removed and replaced with a hose that can be temporarily connected from any tank to the transfer pump using quick disconnect fittings during load-out events. This was completed to alleviate leaking issues that had occurred at various times in these lines since start-up, with the latest happening in March 2007. In early 2008, the LSTS influent PVC double-contained piping from the toe of the landfill into all three tanks was replaced with double-contained HDPE piping. This was completed to alleviate interior PVC pipe leaking issues that have occurred at various times since startup, with the latest happening in January 2008. Starting in October 2008, site-wide leachate pumping well vault modifications were made to the vaults and piping between them and the wells. This was completed because the piping configuration historically had promoted cold temperature problems.

In December 2005, leachate from the LSTS effluent piping had spilled onto the concrete pad supporting the LSTS. Spill pads were placed around the LSTS concrete pad where leachate was overflowing onto the ground surface. Spreading of leachate on the ground surface was not evident. Spilled leachate contained on LSTS concrete pad was pumped back into a storage tank of the LSTS. Three temporary sumps were installed around the northwest, southwest and southeast corners of the concrete pad and leachate was found in two of the sumps. These temporary sumps are checked and contents pumped back into the LSTS on a periodic basis. Approximately 18,200 gallons of leachate had been released.



In March 2007, both the leachate effluent pipe and its containment pipe cracked and leachate spilled onto and off of the concrete pad supporting the LSTS. Pumping from the LES was immediately stopped, spill pads were placed around the LSTS concrete pad where leachate was overflowing onto the ground surface, and leachate was funneled using the spill pads into the leachate loading pad sump. Spreading of leachate on the ground surface was not evident. Approximately 12,000 gallons of leachate was released. Over 2,200 gallons of fluids were recovered from the temporary sumps. A subsurface investigation was conducted to determine what effects, if any, the leachate release had in the subsurface environment. Groundwater samples were collected from three borings placed adjacent to the LSTS pad where the release occurred. The soil column was continuously logged. Downgradient monitoring well MW-14AR was also sampled. The results of the investigation were as follows:

- Neither leachate discoloration nor odors were observed in the soil column or groundwater in any of the borings.
- Alkalinity, chloride, and total dissolved solids concentrations in a boring near the southwest temporary sump versus downgradient well MW-14AR indicated a potential for leachate impact in a small area.
- No impacts to MW-14AR were observed.

To prevent an impact to groundwater from the accidental release of leachate, a four-inch diameter pumping well, PW-1, was installed in the upper aquifer zone at Leachate Boring LB-1. Approximately 30,000-gallons of groundwater was pumped from the well from May through early June 2007.

#### Methane Recovery, Monitoring, and Performance

Overall, methane levels have decreased significantly since initial monitoring events in October 2001 indicated high methane levels at various points. The MES has steadily removed and contained landfill gas and methane in the landfill as monitored in POC gas probe (GP) clusters 1 through 11 of the MMS and has flared an estimated 516.6 tons of methane since start-up in October 2001. Approximately 1,340.3 tons of propane/natural gas has also been flared since start-up. Balancing of the MES has been conducted routinely to maximize the removal of methane from areas of the landfill that are monitored by GP clusters 1 through 11. Balancing is also conducted to minimize supplemental gas usage. Methane level exceedances above the five percent (5%) methane compliance limit at various gas probes for the Site property boundary have occurred at infrequent intervals since O&M activities began. All exceedances have been rectified as soon as possible with most exceedances being rectified within two (2) to thirty-six (36) hours. All exceedances are documented and formally reported to IDEM as required. In response to the high usage and cost of propane for supplemental gas, Vectren Energy Delivery established an underground natural gas service line to the active portion of the MES in January and February 2006. The MES became fully operational using natural gas in March 2006. KERAMIDA continues to make all necessary adjustments to the active MES in an attempt to decrease natural gas usage and operational time, while maintaining methane concentrations below 5% in POC GP clusters 1 through 11.

Historical methane exceedances in GP-15S, 22S, 23S, 24S, and 25S during 2001-2003 indicated the need to develop options to reduce methane concentrations at the property lines. A design (MES/MMS Remedial Upgrade) was developed and approved by IDEM and 12 new shallow gas

probes (GP-27 through GP-38) and eight passive methane extraction wells (MEW-11 through MEW-18) equipped with landfill gas solar vent flares were installed and made operational/functional in October 2003 (see Figure 2). Methane levels in these gas probes have been below the 5% methane limit from 2005 through 2009. It should be noted that during a large portion of the monitoring events conducted during this timeframe, methane levels could not be collected from gas probes 16S through 38S because of high water levels within or surrounding them.

The passive portion of the MES has been operating continuously since the summer of 2001. Various passive landfill gas vent flares have required repairs and/or replacement to bring them back into compliance. It was noted in 2007 that various flares that had historically burned were no longer burning due to lower methane concentrations and airflows. In February 2008, the low production of methane and lack of burning methane at various flares was investigated. Based on the investigation, it was determined that all 35 flares needed cleaning of bird debris, and flame arrestors were replaced. Settling had also occurred at various points that likely damaged the connection between some wells and their associated flares. The below-grade connections to various wells were either partially clogged or broken. To resolve this problem, wells were retrofitted with new above-ground piping connections from the wellhead to the flare. The result was increased airflow from the wells to the flares, and this was confirmed by measured increases in methane concentrations and resumed sparking and burning methane at various flares.

Gas alarms located in the Site office trailer, in the Wildcat Creek Solid Waste Conservation District Office, and in two nearby residences have been monitored in accordance with the Methane Monitoring Plan since O&M activities began. There have been no indications of any alarms being triggered. Minor repairs have been performed and the gas alarm in the TSL trailer was replaced in 2008.

Based on all of the above information, the MES is considered to be in substantial compliance with landfill gas/methane applicable or relevant and appropriate requirements (ARARs).

#### Groundwater Monitoring

Groundwater samples were collected quarterly until the end of 2007 and are presently collected semi-annually. An evaluation of groundwater data from 2003 to 2006 was presented in the groundwater review report dated October 22, 2007. The review was based on several scientific aspects:

- The stability of the aquifer system (groundwater flow direction, vertical and horizontal gradients, and seasonal water level fluctuations);
- Constituents and characteristics associated with landfills;
- Groundwater concentration trends; and
- Groundwater chemical data with respect to drinking water standards.

The review determined reductions in groundwater sampling frequency and test parameters could be implemented without compromise to the purpose of the sampling and analysis plan, which is to monitor groundwater impacts at the Site, evaluate the efficacy of the remedial action, and assess the need for contingency plans to protect human health and the environment. The current sampling and analysis plan, approved by IDEM on January 26, 2008, includes the following requirements:

Constituents to be Analyzed Semi-Annually:

aluminum, total and dissolved  
alkalinity, bicarbonate  
arsenic, total and dissolved  
barium, total and dissolved  
beryllium, total and dissolved  
cadmium, total and dissolved  
calcium, total and dissolved  
chloride  
conductivity  
copper, total and dissolved  
fluoride  
heptachlor  
iron, total and dissolved  
lead, total  
manganese, total and dissolved  
nitrogen-nitrate  
pH  
potassium, total and dissolved  
sodium, total and dissolved  
sulfate  
total dissolved solids  
zinc, total and dissolved

The above constituents will be analyzed and water levels measured in all 36 wells semi-annually, once in the late spring/early summer, and once in the late fall/early winter.

Constituents to be Analyzed Annually in POC Wells:

VOCs  
SVOCs  
Pesticides

The above constituents will be analyzed once annually concurrent with the late spring/early summer semi-annual sampling event.

As part of this five-year review, a similar review of the groundwater database has been conducted, including data collected since the last five-year review report.

Figure 3 depicts the Site and existing monitoring well network. Groundwater flow direction, horizontal and vertical gradients, and seasonal water level fluctuations have been documented in a continuing series of quarterly and annual groundwater monitoring reports submitted to IDEM. The reports document that the patterns of groundwater flow have remained similar over the five-year-review period. Groundwater has consistently flowed in an overall westerly direction with radial flow to the northwest and southwest off the western flank of the landfill. With respect to hydraulic gradients, there have been two noteworthy changes in the groundwater flow system pre- and post-remedy implementation. First, there has been a flattening of the gradient of the lower aquifer

resulting in a reduced seepage velocity and, therefore, reduced leachate migration. Second, there has been a decrease in the range of vertical gradients expressed between the upper and lower aquifers in the monitored area resulting in a reduced potential for vertical movement of leachate between the upper and lower aquifers. The apparent stability of these aquifer characteristics over time indicates the remedy (landfill cap and leachate collection system) has affected the landfill in the predicted and desired manner.

Table 6 provides a summary of concentration trends determined by Mann-Kendall statistics using all low-flow sample data collected since the first quarter of 2003, when low-flow was first initiated, through the spring of 2009. It summarizes trends both by individual well and by individual constituent. The 36 wells are differentiated into the three well types: background wells (7 wells), point-of-compliance wells (14 wells), and off-site wells (15 wells). As seen in the summary table below, the predominant concentration trends are “no trends.”

**Table 6 - Groundwater Trend Analysis Summary**

<b>Well Type</b>	<b>Percent Decreasing Trends</b>	<b>Percent Increasing Trends</b>	<b>Percent No Trends</b>
Background	4%	7%	89%
POC	10%	2%	88%
Off-site	13%	3%	84%

The decreasing trends are associated with typical leachate analytes such as chloride, total dissolved solids (TDS), anions, and alkali and alkaline earth metals. The percentage of wells with decreasing trends increases on the landfill and downgradient of the landfill, indicating the remedy’s effectiveness in reducing leachate impact to groundwater.

Arsenic, as has been historically documented in the previous reports, is the constituent meriting the most concern. It is detected above its Maximum Contaminant Level (MCL) more than any other constituent. Arsenic concentrations essentially exhibit no trends with the exception of one decreasing dissolved arsenic trend in one off-site well and one increasing total arsenic trend in one POC well. The percentage occurrence of dissolved arsenic concentrations above the MCL has decreased over time from a high of 45% of samples in 2004 to 11% of samples in 2007. During the most recent sampling event in the spring of 2009, 13% of the samples were above the MCL, indicating that the percentage occurrence of total arsenic concentrations above the MCL has remained relatively stable in recent years. The reduction in the percentage of MCL exceedances for dissolved arsenic over time suggests the positive effects of the remedy. Arsenic does naturally occur in groundwater in many areas of Indiana.

### **Site Inspections**

At a minimum, bi-annual inspections of the Site are conducted by IDEM staff. The most recent inspection was conducted on March 30, 2010, by the IDEM PM and Field Engineer. The purpose of the inspections was to assess the protectiveness of the remedy. During the inspection it was noted that the landfill cover is well vegetated, and the perimeter fencing and all roadways were in good condition. Photographs documenting conditions at the Site are included in Appendix 3.

## **Interviews**

Interviews were not conducted as part of the five-year review. There is an office on the Site that is manned four to five days per week and open to the public. The TERF Board's environmental consultant has a field technician at the landfill four to five days per week, depending on maintenance and repair activities scheduled for the week, and the landfill office is open to the public during the times when technicians are present at the Site. Questions concerning the landfill are either answered directly or referred to IDEM staff or the consultant's main office for a response. Neither IDEM nor EPA has received inquiries since the 2005 Five-Year Review was completed. IDEM received one inquiry from a local reporter following the March 27, 2010, public notice announcing the start of this five-year review.

## **VII. Technical Assessment**

### **Question A: Is the remedy functioning as intended by the decision documents?**

Yes. A review of the available information indicates that the remedial measures currently in place are functioning as intended by the decision documents. The review of site-specific documentation, O&M data, and the results of the Site inspection all indicate that the remedy is providing adequate protection of public health and the environment by eliminating potential exposure pathways at the Site as identified in the remedial action objectives established for the Site. The Site security fence is intact and in good condition. In addition, based on a review of the existing institutional controls for the Site, there appears to be compliance with the stated objectives of the Environmental Restrictive Covenant currently in place at the Site.

### **Question B: Are the exposure assumptions, toxicity data, cleanup levels, and remedial action objectives used at the time of the remedy selection still valid?**

Yes. The exposure assumptions, toxicity data, and remedial action objectives used at the time of the remedy selection are still valid and have been addressed by the cleanup. There have been no changes in conditions at the Site that would affect the protectiveness of the remedy.

### **Question C: Has any other information come to light that could call into question the protectiveness of the remedy?**

No. There is no new information to suggest that the selected remedial measures currently in place are not protective. There have been no changes in the physical conditions of the Site, and no new exposure pathways or receptors have been identified that would call into question the protectiveness of the remedy.

## **Technical Assessment Summary**

According to the documentation reviewed and the Site inspection, the remedy is functioning as designed. There have been no changes in conditions at the Site that would affect the protectiveness of the remedy. There is no other information that calls into question the protectiveness of the remedy.

## **VIII. Issues**

No issues were identified that affect protectiveness of the remedy.

## **IX. Recommendations and Follow-Up Actions**

Since no issues were identified that affect the protectiveness of the remedy, there are no corresponding recommendations and follow-up actions that need to be tracked.

The following issues and recommendations were identified during this review, but do not affect the protectiveness of the remedy:

- The PRPs should continue operation and maintenance of the remedy components with oversight by IDEM.
- IDEM should continue bi-annual inspections, at a minimum, of the Site.

## **X. Protectiveness Statement**

The assessment of this five-year review for the Tippecanoe Sanitary Landfill Site found that the remedy is protective of human health and the environment in the short term and is expected to be protective in the long term. The remedy is effective and the impact of leachate on groundwater has continued to decrease. The Site is in substantial compliance with landfill gas/methane ARARs due to continuous monitoring and adjustments to the methane extraction system. Off-site methane alarm systems are maintained and functioning properly. Any potential threats have been addressed. Institutional controls required by the ROD remain in place and are effective.

## **XI. Next Review**

The next five-year review for the Site will be completed within five years from the signature date of this review.

# Figures

In accordance with the Final O&M Plan, the consultant for the PRPs (KERAMIDA) prepares and submits status reports to IDEM that document and evaluate O&M and monitoring activities. These reports are prepared to evaluate the attainment of compliance with performance standards associated with the LES, Leachate Storage Tank System (LSTS), MES, MMS, groundwater and surface water monitoring, and general items such as the landfill cap, drainage system, roadways, fencing, signs, gates, levee, and wetlands. An analysis of the annual expenditures is compared to the estimated post-closure care costs documented in the Final O&M Plan.

### Operation and Maintenance Cost

Financial Assurance for the annual O&M costs for the selected remedy was estimated for Year 4 (2005) through Year 9 (2009) at approximately \$2,709,383. Actual O&M costs for this same timeframe totaled \$2,973,000. Estimated and actual O&M costs for Year 4 through Year 9 are detailed in Table 3 below. All incurred costs include all operations, equipment replacement and repairs, construction tasks, leachate disposal, supplemental propane/natural gas, groundwater monitoring, and so forth.

Major items of note include costs associated with leachate treatment and disposal, supplemental gas usage for MES, and LES/LSTS/MES upgrades and repairs. Leachate disposal costs were estimated at approximately \$518,400 per year for Years 4 & 5 and \$275,650 per year for Years 6, 7 & 8. Approximately \$136,675 has been spent in total in Year 4 through Year 8 because of lower than model-predicted leachate recovery rates. Supplemental propane costs were estimated at \$8,100 per year. Approximately \$399,400 has been spent in total for Year 4 through Year 8 because of the need to operate the MES nearly continuously. Remediation upgrades and repairs to the LES, LSTS and MES were implemented at a cost of approximately \$560,100 for Year 4 through Year 8. KERAMIDA will continue to review and evaluate options to reduce O&M costs. The O&M costs and the overall costs for the major components are summarized in Tables 3 and 4.

**Table 3 - Estimated and Actual Annual O&M Cost Breakdown**

Year	Estimated Costs	Actual Costs
4 (2005)	\$734,731	\$620,000
5 (2006)	\$734,731	\$458,000
6 (2007)	\$413,547	\$691,000
7 (2008)	\$413,547	\$713,000
8 (2009)	\$413,547	\$491,000
<b>Total</b>	<b>\$2,709,383</b>	<b>\$2,973,000</b>

**Table 4 - Estimated and Actual Overall Costs for Major Components and 5-Year Total Cost (2005-2009)**

Item Description	Estimated Cost	Actual Cost
Leachate Treatment and Disposal	\$1,865,625	\$136,675
MES Supplemental Fuel	\$40,500	\$399,400
LES/LSTS/MES/MMS Activities	--	\$560,100
<b>O&amp;M Total Cost for Last 5 Years</b>	<b>\$2,709,383</b>	<b>\$2,973,000</b>



## V. Progress Since the Last Five-Year Review

The First Five-Year Review Report was completed for the TSL Site on September 30, 2005, and concluded that the implemented remedy was protective of human health and the environment in the short term. The 2005 Five-Year Review concluded that:

*“The impact of leachate on groundwater has greatly decreased. The Site is in substantial compliance with landfill gas/methane ARARs due to continuous monitoring and adjustments to the methane extraction system. Off-site-methane alarm systems are maintained and functioning properly. Any potential threats have been addressed. Institutional controls required by the ROD appear to be in place. However, to be protective in the long term, the institutional controls must be evaluated for effectiveness and enforceability.”*

Three issues were identified in the 2005 Five-Year Review and recommendations were made for follow-up action. These issues, as well as the follow-up actions that have been taken, are itemized in the following table:

**Table 5 – Status of Issues Identified in Previous Five-Year Review**

Issues from Previous Review	Recommendations/ Follow-up Actions	Party Responsible	Action Taken and Outcome	Date of Action
Several leachate recovery wells and piezometers have periodically had difficulty meeting the required leachate elevation due to occasional pump failures, improper wiring, faulty instrument control panels, and silting of wells.	Complete repairs to leachate recovery system and assure continuous operation.	PRPs	Investigations were conducted of various pumping systems that could be installed in the piezometers (non-pumping wells) that were not attaining leachate level compliance. New pumping systems were subsequently installed in the non-attaining piezometers, as well as in the original pumping wells to replace the existing pumping systems.	2007 through 2009
Methane level exceedances above the 5% methane compliance limit have occurred at infrequent intervals at various gas probes for the Site property boundary since O&M activities began, particularly gas monitoring probe 1 (GP-1M).	Upgrade methane extraction system to improve and maintain compliance (i.e., gas probe GP-1M) and reduce manual adjustments, supplemental fuel use, and daily monitoring.	PRPs	An underground natural gas service line to the active portion of the MES was established in January and February 2006. The MES became fully operational using natural gas in March 2006.	March 2006
Analysis of deed restrictions' enforceability is required.	Complete an IC study by analyzing deed restrictions' enforceability.	EPA	An IC study was completed and it was determined that the ICs required by the ROD are in place and effective.	September 28, 2009

## **VI. Five-Year Review Process**

### **Administrative Components**

The five-year review team was led by Kevin Herron of IDEM, currently assigned as the State PM for the TSL Site. Members of the five-year review team included Linda Kern, Remedial Project Manager with EPA, and Brian Wagner, Field Engineer with IDEM. Doug Zabornick and Robert Fedorchak with KERAMIDA, the PRPs' consultant, also assisted in the Five-Year Review process for this Site.

The review consisted of a Site inspection and review of relevant documents. The completed five-year review report will be available in the Site information repository located at the Tippecanoe County Public Library at 627 South Street, Lafayette, Indiana.

In July 2009, the review team established and followed the review schedule as follows:

- Document Review;
- Data Review;
- Community Involvement via quarterly open hearings held by the TERF Board;
- Press Release;
- Site Inspection; and
- Five-Year Review Report Development and Review

### **Community Notification and Involvement**

The public was notified of the five-year review on March 27, 2010, in a newspaper public notice in the Lafayette Journal & Courier. A copy of the notice is included in Appendix 4. No members of the public expressed an interest in or commented during the five-year review process.

### **Document and Data Review**

The following documents were reviewed during the five-year review process: RI/FS; ROD; ESD; PCOR; Final Pre-Certification Inspection Report; Final O&M Plan; semi-annual and annual O&M Reports; quarterly and annual Groundwater and Surface Water Monitoring Reports; and various correspondence.

### **Landfill Cap/Levee/Perimeter Fencing Performance**

The landfill cap and levee have remained in good condition with minimal erosion since O&M activities began, in spite of several major rain events that resulted in flooding that surrounded the levee. All areas of erosion were repaired and seeded per the design specifications. The holes of burrowing mammals were repaired and reseeded and areas of thinning grass were also reseeded to fully establish the required vegetative cover. Fencing has remained in good order, some minor repairs to have been completed, and all signs have remained properly posted and found to be legible.

### Leachate Recovery, Monitoring, and Performance

Overall, leachate recovery is functioning at rates lower than those predicted by the model in the original design of the system. Typically, lower leachate recovery rates than predicted by models are common. The lower leachate recovery rates are likely the result of the actual permeability of the waste being lower throughout the landfill than the conservative value used in the model.

Approximately 1,364,697 gallons of leachate have been removed from the landfill since the start-up of the LES in January 2002. Leachate levels in the majority of the landfill's pumping and non-pumping wells have maintained substantial compliance with the required elevation of 526 feet mean sea level (MSL). The primary reasons the remaining wells have not met the required leachate elevation have been occasional pump failures, frozen piping, improper wiring, faulty instrument control panels, and silting of wells. Measures to resolve pump function issues with the manufacturer had been ongoing since the beginning of O&M activities. In 2006, investigations were conducted of various pumping systems, including systems currently being used at TSL, that could be installed in the piezometers (non-pumping wells) that were not attaining leachate level compliance. Electric submersible pumps were selected based on their ease of installation and maintenance, programmable features and low cost. The new pumping systems were subsequently installed in the non-attaining piezometers and, starting in 2007 through 2009, they were also installed in the original pumping wells to replace the existing pumping systems. Compliance level changes based on landfill bottom elevation data from individual leachate pumping wells were made at leachate recovery well LRW-8 and piezometer P-H in August 2006 and at LRW-12, LRW-14, P-B and P-E in July 2008. KERAMIDA continues to make repairs and adjustments to the pumping wells in order to obtain optimal leachate recovery rates, as well as maintain the required leachate elevation of 526 feet MSL.

In March 2007, the LSTS effluent piping from all three leachate storage tanks to the leachate transfer pump and loading arm was removed and replaced with a hose that can be temporarily connected from any tank to the transfer pump using quick disconnect fittings during load-out events. This was completed to alleviate leaking issues that had occurred at various times in these lines since startup, with the latest happening in March 2007. In early 2008, the LSTS influent PVC double-contained piping from the toe of the landfill into all three tanks was replaced with double-contained HDPE piping. This was completed to alleviate interior PVC pipe leaking issues that have occurred at various times since startup, with the latest happening in January 2008. Starting in October 2008, site-wide leachate pumping well vault modifications were made to the vaults and piping between them and the wells. This was completed because the piping configuration historically had promoted cold temperature problems.

In December 2005, leachate from the LSTS effluent piping had spilled onto the concrete pad supporting the LSTS. Spill pads were placed around the LSTS concrete pad where leachate was overflowing onto the ground surface. Spreading of leachate on the ground surface was not evident. Spilled leachate contained on LSTS concrete pad was pumped back into a storage tank of the LSTS. Three temporary sumps were installed around the northwest, southwest and southeast corners of the concrete pad and leachate was found in two of the sumps. These temporary sumps are checked and contents pumped back into the LSTS on a periodic basis. Approximately 18,200 gallons of leachate had been released.

In March 2007, both the leachate effluent pipe and its containment pipe cracked and leachate spilled onto and off of the concrete pad supporting the LSTS. Pumping from the LES was immediately stopped, spill pads were placed around the LSTS concrete pad where leachate was overflowing onto the ground surface, and leachate was funneled using the spill pads into the leachate loading pad sump. Spreading of leachate on the ground surface was not evident. Approximately 12,000 gallons of leachate was released. Over 2,200 gallons of fluids were recovered from the temporary sumps. A subsurface investigation was conducted to determine what effects, if any, the leachate release had in the subsurface environment. Groundwater samples were collected from three borings placed adjacent to the LSTS pad where the release occurred. The soil column was continuously logged. Downgradient monitoring well MW-14AR was also sampled. The results of the investigation were as follows:

- Neither leachate discoloration nor odors were observed in the soil column or groundwater in any of the borings.
- Alkalinity, chloride, and total dissolved solids concentrations in a boring near the southwest temporary sump versus downgradient well MW-14AR indicated a potential for leachate impact in a small area.
- No impacts to MW-14AR were observed.

To prevent an impact to groundwater from the accidental release of leachate, a four-inch diameter pumping well, PW-1, was installed in the upper aquifer zone at Leachate Boring LB-1. Approximately 30,000-gallons of groundwater was pumped from the well from May through early June 2007.

#### Methane Recovery, Monitoring, and Performance

Overall, methane levels have decreased significantly since initial monitoring events in October 2001 indicated high methane levels at various points. The MES has steadily removed and contained landfill gas and methane in the landfill as monitored in POC gas probe (GP) clusters 1 through 11 of the MMS and has flared an estimated 516.6 tons of methane since start-up in October 2001. Approximately 1,340.3 tons of propane/natural gas has also been flared since start-up. Balancing of the MES has been conducted routinely to maximize the removal of methane from areas of the landfill that are monitored by GP clusters 1 through 11. Balancing is also conducted to minimize supplemental gas usage. Methane level exceedances above the five percent (5%) methane compliance limit at various gas probes for the Site property boundary have occurred at infrequent intervals since O&M activities began. All exceedances have been rectified as soon as possible with most exceedances being rectified within two (2) to thirty-six (36) hours. All exceedances are documented and formally reported to IDEM as required. In response to the high usage and cost of propane for supplemental gas, Vectren Energy Delivery established an underground natural gas service line to the active portion of the MES in January and February 2006. The MES became fully operational using natural gas in March 2006. KERAMIDA continues to make all necessary adjustments to the active MES in an attempt to decrease natural gas usage and operational time, while maintaining methane concentrations below 5% in POC GP clusters 1 through 11.

Historical methane exceedances in GP-15S, 22S, 23S, 24S, and 25S during 2001-2003 indicated the need to develop options to reduce methane concentrations at the property lines. A design (MES/MMS Remedial Upgrade) was developed and approved by IDEM and 12 new shallow gas

probes (GP-27 through GP-38) and eight passive methane extraction wells (MEW-11 through MEW-18) equipped with landfill gas solar vent flares were installed and made operational/functional in October 2003 (see Figure 2). Methane levels in these gas probes have been below the 5% methane limit from 2005 through 2009. It should be noted that during a large portion of the monitoring events conducted during this timeframe, methane levels could not be collected from gas probes 16S through 38S because of high water levels within or surrounding them.

The passive portion of the MES has been operating continuously since the summer of 2001. Various passive landfill gas vent flares have required repairs and/or replacement to bring them back into compliance. It was noted in 2007 that various flares that had historically burned were no longer burning due to lower methane concentrations and airflows. In February 2008, the low production of methane and lack of burning methane at various flares was investigated. Based on the investigation, it was determined that all 35 flares needed cleaning of bird debris, and flame arrestors were replaced. Settling had also occurred at various points that likely damaged the connection between some wells and their associated flares. The below-grade connections to various wells were either partially clogged or broken. To resolve this problem, wells were retrofitted with new above-ground piping connections from the wellhead to the flare. The result was increased airflow from the wells to the flares, and this was confirmed by measured increases in methane concentrations and resumed sparking and burning methane at various flares.

Gas alarms located in the Site office trailer, in the Wildcat Creek Solid Waste Conservation District Office, and in two nearby residences have been monitored in accordance with the Methane Monitoring Plan since O&M activities began. There have been no indications of any alarms being triggered. Minor repairs have been performed and the gas alarm in the TSL trailer was replaced in 2008.

Based on all of the above information, the MES is considered to be in substantial compliance with landfill gas/methane applicable or relevant and appropriate requirements (ARARs).

#### Groundwater Monitoring

Groundwater samples were collected quarterly until the end of 2007 and are presently collected semi-annually. An evaluation of groundwater data from 2003 to 2006 was presented in the groundwater review report dated October 22, 2007. The review was based on several scientific aspects:

- The stability of the aquifer system (groundwater flow direction, vertical and horizontal gradients, and seasonal water level fluctuations);
- Constituents and characteristics associated with landfills;
- Groundwater concentration trends; and
- Groundwater chemical data with respect to drinking water standards.

The review determined reductions in groundwater sampling frequency and test parameters could be implemented without compromise to the purpose of the sampling and analysis plan, which is to monitor groundwater impacts at the Site, evaluate the efficacy of the remedial action, and assess the need for contingency plans to protect human health and the environment. The current sampling and analysis plan, approved by IDEM on January 26, 2008, includes the following requirements:

Constituents to be Analyzed Semi-Annually:

aluminum, total and dissolved  
alkalinity, bicarbonate  
arsenic, total and dissolved  
barium, total and dissolved  
beryllium, total and dissolved  
cadmium, total and dissolved  
calcium, total and dissolved  
chloride  
conductivity  
copper, total and dissolved  
fluoride  
heptachlor  
iron, total and dissolved  
lead, total  
manganese, total and dissolved  
nitrogen-nitrate  
pH  
potassium, total and dissolved  
sodium, total and dissolved  
sulfate  
total dissolved solids  
zinc, total and dissolved

The above constituents will be analyzed and water levels measured in all 36 wells semi-annually, once in the late spring/early summer, and once in the late fall/early winter.

Constituents to be Analyzed Annually in POC Wells:

VOCs  
SVOCs  
Pesticides

The above constituents will be analyzed once annually concurrent with the late spring/early summer semi-annual sampling event.

As part of this five-year review, a similar review of the groundwater database has been conducted, including data collected since the last five-year review report.

Figure 3 depicts the Site and existing monitoring well network. Groundwater flow direction, horizontal and vertical gradients, and seasonal water level fluctuations have been documented in a continuing series of quarterly and annual groundwater monitoring reports submitted to IDEM. The reports document that the patterns of groundwater flow have remained similar over the five-year-review period. Groundwater has consistently flowed in an overall westerly direction with radial flow to the northwest and southwest off the western flank of the landfill. With respect to hydraulic gradients, there have been two noteworthy changes in the groundwater flow system pre- and post-remedy implementation. First, there has been a flattening of the gradient of the lower aquifer

resulting in a reduced seepage velocity and, therefore, reduced leachate migration. Second, there has been a decrease in the range of vertical gradients expressed between the upper and lower aquifers in the monitored area resulting in a reduced potential for vertical movement of leachate between the upper and lower aquifers. The apparent stability of these aquifer characteristics over time indicates the remedy (landfill cap and leachate collection system) has affected the landfill in the predicted and desired manner.

Table 6 provides a summary of concentration trends determined by Mann-Kendall statistics using all low-flow sample data collected since the first quarter of 2003, when low-flow was first initiated, through the spring of 2009. It summarizes trends both by individual well and by individual constituent. The 36 wells are differentiated into the three well types: background wells (7 wells), point-of-compliance wells (14 wells), and off-site wells (15 wells). As seen in the summary table below, the predominant concentration trends are “no trends.”

**Table 6 - Groundwater Trend Analysis Summary**

Well Type	Percent Decreasing Trends	Percent Increasing Trends	Percent No Trends
Background	4%	7%	89%
POC	10%	2%	88%
Off-site	13%	3%	84%

The decreasing trends are associated with typical leachate analytes such as chloride, total dissolved solids (TDS), anions, and alkali and alkaline earth metals. The percentage of wells with decreasing trends increases on the landfill and downgradient of the landfill, indicating the remedy’s effectiveness in reducing leachate impact to groundwater.

Arsenic, as has been historically documented in the previous reports, is the constituent meriting the most concern. It is detected above its Maximum Contaminant Level (MCL) more than any other constituent. Arsenic concentrations essentially exhibit no trends with the exception of one decreasing dissolved arsenic trend in one off-site well and one increasing total arsenic trend in one POC well. The percentage occurrence of dissolved arsenic concentrations above the MCL has decreased over time from a high of 45% of samples in 2004 to 11% of samples in 2007. During the most recent sampling event in the spring of 2009, 13% of the samples were above the MCL, indicating that the percentage occurrence of total arsenic concentrations above the MCL has remained relatively stable in recent years. The reduction in the percentage of MCL exceedances for dissolved arsenic over time suggests the positive effects of the remedy. Arsenic does naturally occur in groundwater in many areas of Indiana.

### Site Inspections

At a minimum, bi-annual inspections of the Site are conducted by IDEM staff. The most recent inspection was conducted on March 30, 2010, by the IDEM PM and Field Engineer. The purpose of the inspections was to assess the protectiveness of the remedy. During the inspection it was noted that the landfill cover is well vegetated, and the perimeter fencing and all roadways were in good condition. Photographs documenting conditions at the Site are included in Appendix 3.

## **Interviews**

Interviews were not conducted as part of the five-year review. There is an office on the Site that is manned four to five days per week and open to the public. The TERF Board's environmental consultant has a field technician at the landfill four to five days per week, depending on maintenance and repair activities scheduled for the week, and the landfill office is open to the public during the times when technicians are present at the Site. Questions concerning the landfill are either answered directly or referred to IDEM staff or the consultant's main office for a response. Neither IDEM nor EPA has received inquiries since the 2005 Five-Year Review was completed. IDEM received one inquiry from a local reporter following the March 27, 2010, public notice announcing the start of this five-year review.

## **VII. Technical Assessment**

### **Question A: Is the remedy functioning as intended by the decision documents?**

Yes. A review of the available information indicates that the remedial measures currently in place are functioning as intended by the decision documents. The review of site-specific documentation, O&M data, and the results of the Site inspection all indicate that the remedy is providing adequate protection of public health and the environment by eliminating potential exposure pathways at the Site as identified in the remedial action objectives established for the Site. The Site security fence is intact and in good condition. In addition, based on a review of the existing institutional controls for the Site, there appears to be compliance with the stated objectives of the Environmental Restrictive Covenant currently in place at the Site.

### **Question B: Are the exposure assumptions, toxicity data, cleanup levels, and remedial action objectives used at the time of the remedy selection still valid?**

Yes. The exposure assumptions, toxicity data, and remedial action objectives used at the time of the remedy selection are still valid and have been addressed by the cleanup. There have been no changes in conditions at the Site that would affect the protectiveness of the remedy.

### **Question C: Has any other information come to light that could call into question the protectiveness of the remedy?**

No. There is no new information to suggest that the selected remedial measures currently in place are not protective. There have been no changes in the physical conditions of the Site, and no new exposure pathways or receptors have been identified that would call into question the protectiveness of the remedy.

## **Technical Assessment Summary**

According to the documentation reviewed and the Site inspection, the remedy is functioning as designed. There have been no changes in conditions at the Site that would affect the protectiveness of the remedy. There is no other information that calls into question the protectiveness of the remedy.



### **VIII. Issues**

No issues were identified that affect protectiveness of the remedy.

### **IX. Recommendations and Follow-Up Actions**

Since no issues were identified that affect the protectiveness of the remedy, there are no corresponding recommendations and follow-up actions that need to be tracked.

The following issues and recommendations were identified during this review, but do not affect the protectiveness of the remedy:

- The PRPs should continue operation and maintenance of the remedy components with oversight by IDEM.
- IDEM should continue bi-annual inspections, at a minimum, of the Site.

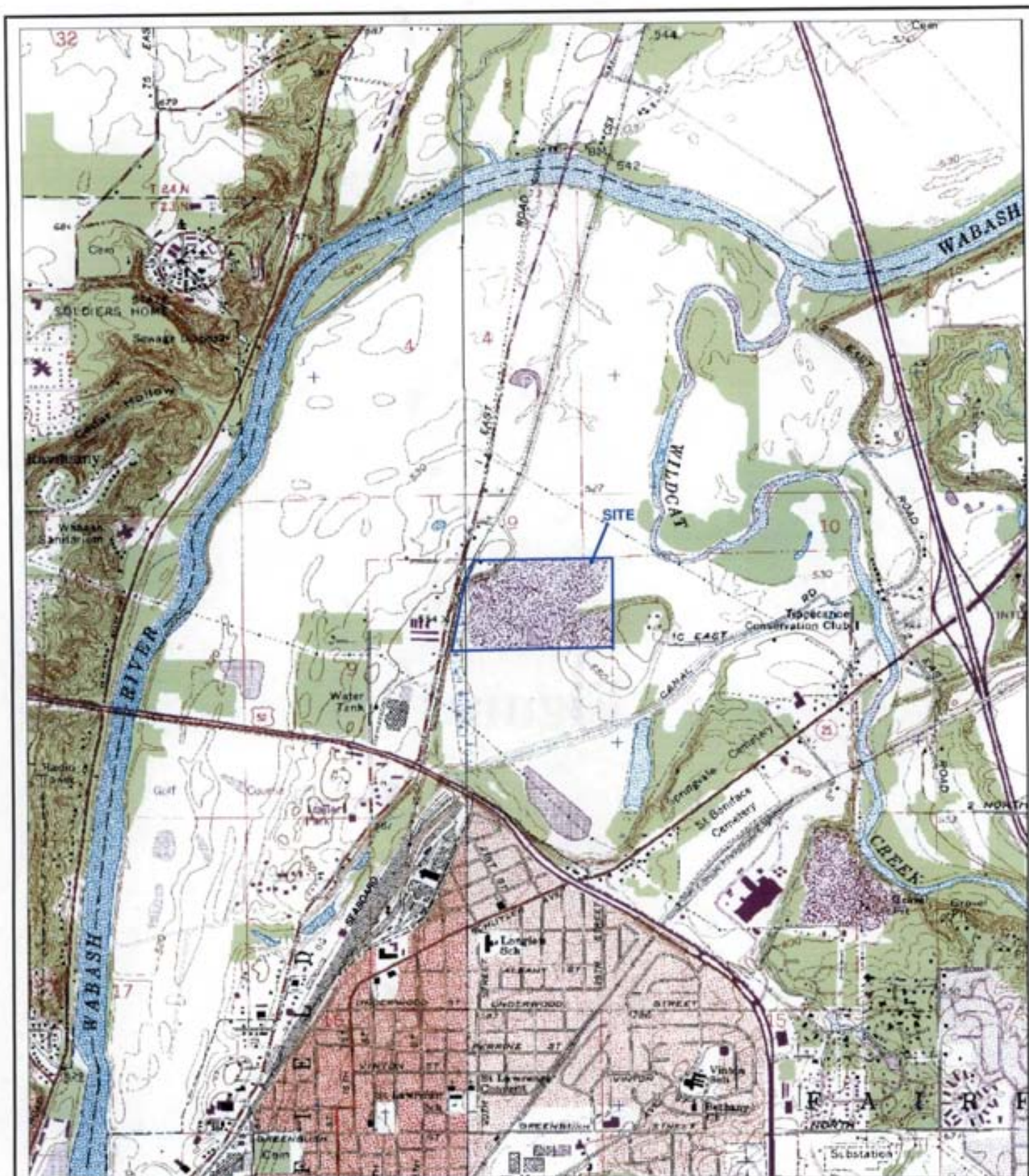
### **X. Protectiveness Statement**

The assessment of this five-year review for the Tippecanoe Sanitary Landfill Site found that the remedy is protective of human health and the environment in the short term and is expected to be protective in the long term. The remedy is effective and the impact of leachate on groundwater has continued to decrease. The Site is in substantial compliance with landfill gas/methane ARARs due to continuous monitoring and adjustments to the methane extraction system. Off-site methane alarm systems are maintained and functioning properly. Any potential threats have been addressed. Institutional controls required by the ROD remain in place and are effective.

### **XI. Next Review**

The next five-year review for the Site will be completed within five years from the signature date of this review.

# Figures



KERAMIDA Environmental, Inc.  
 330 North College Avenue  
 Indianapolis, Indiana 46202  
 (317) 685-6600  
 (317) 685-6610 FAX

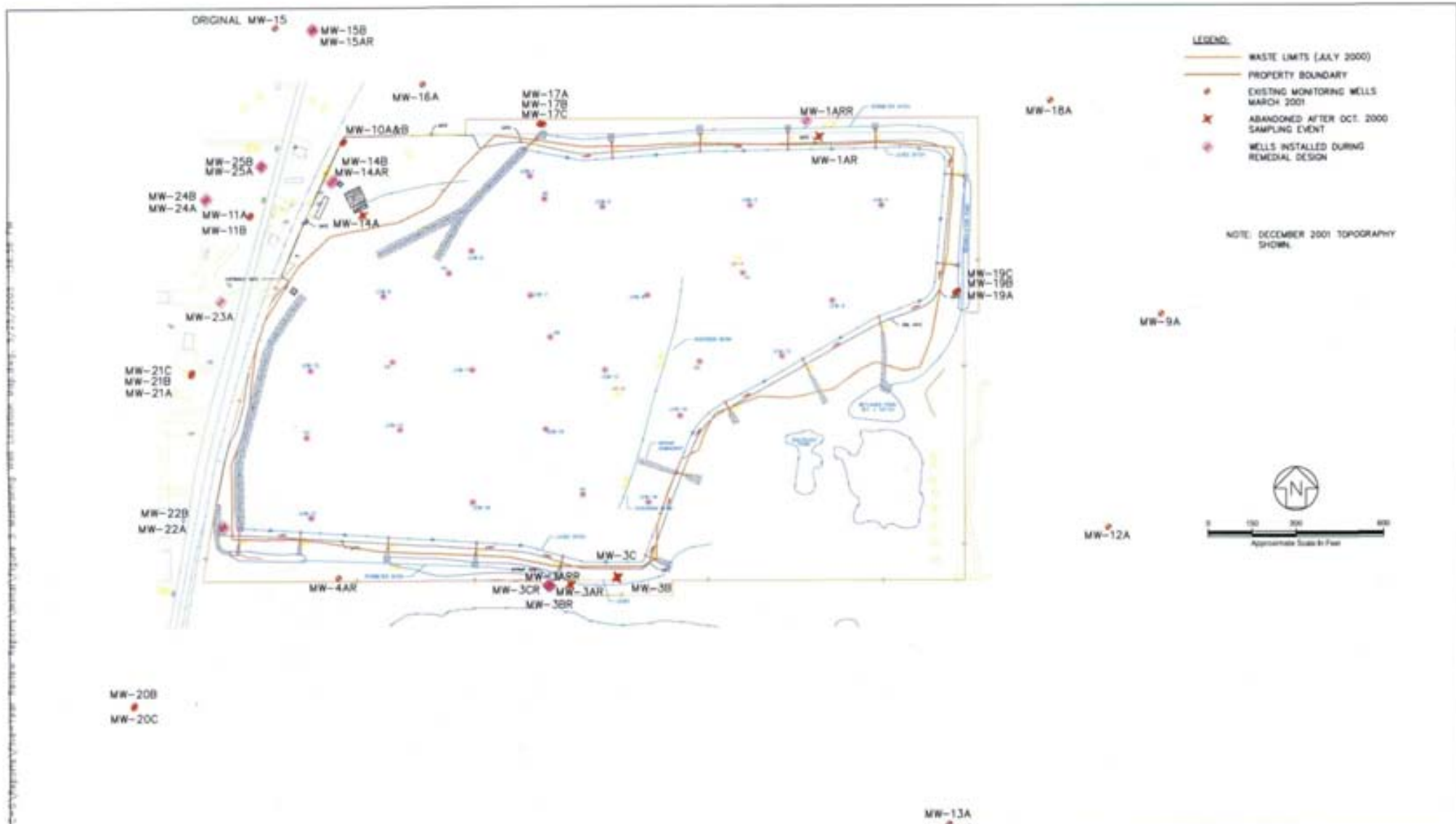


**Figure 1**  
 Site Location Map  
 Tiptecanoe Sanitary Landfill Superfund Site  
 2801 North 9th Street  
 Lafayette, Tiptecanoe County, Indiana

Prepared by: CKRSF  
 Approved by: RSF  
 Date: 3/14/2005  
 Scale: 1"-2000'  
 KEI Number: 2601C








- LEGEND:**
- WASTE LIMITS (JULY 2000)
  - PROPERTY BOUNDARY
  - EXISTING MONITORING WELLS MARCH 2001
  - ✕ ABANDONED AFTER OCT. 2000 SAMPLING EVENT
  - WELLS INSTALLED DURING REMEDIAL DESIGN

NOTE: DECEMBER 2001 TOPOGRAPHY SHOWN.



	<b>Project:</b> Tippesaw Sanitary Landfill Superfund Site 2801 North 9th Street Lafayette, Tippesaw County, Indiana		<b>Figure 3</b>  Monitoring Well Location Map
	Scale: 1" = 300'	Drawn By: SMT	
	Project Number: 2601C	Approved By: RSF	
	Date: Dec. 23, 2002	Revised: May 5, 2005	

## **Appendix 1**

# **Institutional Control Documentation**

# INVOICE



STALLARD & SCHUH, INC.  
301 COLUMBIA STREET  
P.O. BOX 929  
LAFAYETTE IN 47902-0929  
(765) 423-1642

INVOICE NUMBER: 002115A-IN

INVOICE DATE: 05/10/05

CUSTOMER NO.: 0005050

LLC

STUART & BRANIGIN  
PO Box 1010  
300 Main Street, Suite 800  
LAFAYETTE, IN 47902

Attn: Marianne Owen

DESCRIPTION	AMOUNT
TITLE INSURANCE UPDATE	100.00

REFERENCE  
NAME(S)

None

Tippecanoe County Local Environmental Response Financing  
Board

PROPERTY

Pt Longlois Res Twp 23N R4W  
North Ninth Street Road  
Lafayette, IN 47905

THANK YOU FOR CHOOSING STALLARD & SCHUH

AMOUNT DUE

100.00

AMERICAN LAND TITLE ASSOCIATION  
OWNER'S POLICY  
(10-17-92)

Policy No. 72106- 793319

CHICAGO TITLE INSURANCE COMPANY

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, CHICAGO TITLE INSURANCE COMPANY, a Missouri corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
2. Any defect in or lien or encumbrance on the title;
3. Unmarketability of the title;
4. Lack of a right of access to and from the land.

The Company will also pay the costs, attorneys' fees and expenses incurred in defense of the title, as insured, but only to the extent provided in the Conditions and Stipulations.

*In Witness Whereof*, CHICAGO TITLE INSURANCE COMPANY has caused this policy to be signed and sealed as of Date of Policy shown in Schedule A, the policy to become valid when countersigned by an authorized signatory.

CHICAGO TITLE INSURANCE COMPANY

By:



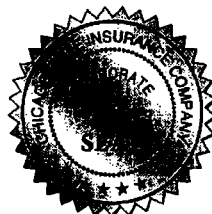
President

By:

ATTEST



Secretary





## EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.  
  
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (i) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
  - (ii) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (a) to timely record the instrument of transfer; or
    - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

**ENDORSEMENT**

RE: Tippecanoe County Local Environmental Response Financing Board

FILE NO.: 200002115

Attached to and a part of Owner's Policy 72106-793319

Issued by

**CHICAGO TITLE INSURANCE COMPANY**

**Effective Date is hereby amended to read as follows:**

May 2, 2005, at 8:00AM

**Schedule A is hereby amended to include the following:**

Parcel III:

A non-exclusive grant of easement as set forth in that certain Easement Agreement dated October 2, 2001, recorded January 9, 2002, as Document Number 020009956, by and between Dorothy E. Rafferty, Clark William Rafferty and Emily Sue Miller., as owners; and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

Parcel IV:

A non-exclusive grant of easement as set forth in that certain Easement Agreement dated September 17, 2001, recorded January 9, 2002, as Document Number 02000996, by and between Fairfield Builders Supply Corp., as owner; and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

Parcel V:

A non-exclusive grant of easement as set forth in that certain Easement Agreement dated December 18, 2001, recorded January 9, 2002, as Document Number 02000997, by and between The Trustees of Purdue University, as owner; and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

PARCEL VI:

A non-exclusive grant of easement as set forth in that certain Easement Agreement (Monitoring Well No. 11) dated December 18, 2001, recorded January 9, 2002, as Document Number 02000998, re-recorded January 17, 2002, as Document Number 02001967, by and between The Board of Commissioners of Tippecanoe County, as Owner; and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

PARCEL VII:

A non-exclusive grant of easement as set forth in that certain Easement Agreement (Monitoring Well No. 24) dated December 18, 2001, recorded January 9, 2002, as Document Number 02000999, re-recorded January 17, 2002, as Document Number 02001968, by and between The Board of Commissioners of Tippecanoe County, as Owner; and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

PARCEL VIII:

A non-exclusive grant of easement as set forth in that certain Easement Agreement (Monitoring Well No. 23) dated December 18, 2001, recorded January 9, 2002, as Document Number 02001000, re-recorded January 17, 2002, as Document Number 02001969, by and between The Board of Commissioners of Tippecanoe County, as Owner' and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

**Schedule B, Item 6, is hereby amended to read as follows:**

6. Taxes for the year 2004, due and payable May and November 2005, and all subsequent taxes, not yet due and payable. (NOTE: At effective date, subject property was not assessed for taxation.)

**Schedule B is hereby amended to include the following:**

15. Terms and provisions of grants of easement set forth in Schedule A as Parcels III, IV, V, VI, VII, and VIII.

(END OF ENDORSEMENT)

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

Signed this 9th day of May, 2005

Prepared by: llc

Countersigned: STALLARD & SCHUH, INC.  
301 Columbia Street  
Lafayette, IN 47901

By: Linda L. Copas  
Linda L. Copas  
Authorized Signatory

## Chicago Title Insurance Company

### OWNER'S POLICY

#### SCHEDULE A

<b>File Number:</b>	<b>Date of Policy:</b>	<b>Amount of Insurance:</b>	<b>Policy Number:</b>
200002115	May 2, 2000	\$100,000.00	O106793319

1. Name of Insured:

**Tippecanoe County Local Environmental Response Financing Board**

2. The estate or interest referred to herein is at Date of Policy vested in:

**Tippecanoe County Local Environmental Response Financing Board**


3. The estate or interest in the land described in this Schedule and which is encumbered by the insured mortgage is:

**Fee simple**

4. The land referred to in this policy is situated in the County of **Tippecanoe**, State of **Indiana**, and is described as follows:

**SEE ATTACHED EXHIBIT A**

Countersigned: **Stallard & Schuh, Inc**  
301 Columbia  
Lafayette, IN 47901  
(765) 423-1642

By:   
**Linda L. Copas**  
Authorized Officer or Agent

ALTA Owner's Policy 1987 (Amended 10/17/92)

This Policy is invalid unless the cover sheet and Schedules A and B are attached.

## Chicago Title Insurance Company

### OWNER'S POLICY

~ Continuation ~

#### EXHIBIT A

##### PARCEL I

A part of the reservation of the two elder children of Peter Longlois, in Township Twenty-three (23) North, Range Four (4) West, and described as follows: Beginning at a stone in the north line of said Reservation placed equi-distant from the North East and North West corners of said Reservation; thence running South on the line dividing the shares of Peter Longlois and Elizabeth Allen, ninety-one (91) poles; thence west two hundred and twenty-seven & 60/100 (227.60) poles, to the West line of said Reservation; thence North with said West line thirty & 92/100 (30.92) poles to Justice's corner; thence East, with Justice's line, seventy-two & 56/100 (72.56) poles, to the center of road leading from Lafayette to Davis Ferry; thence with said road North 10 ½ degrees East, nineteen & 28/100 (19.28) poles; thence North 18 degrees East, forty-three & 12/100 (43.12) poles, to the north line of said Reservation; thence East with said North line, one hundred and thirty-eight & 20/100 (138.20) poles, to the place of beginning, containing one hundred (100) acres, more or less.

EXCEPT the right of way of the C.I. & L. Railroad and except a school lot conveyed to the Trustee of Fairfield Township by deed executed February 17, 1862, and recorded in Deed Record 172, Page 186.

ALSO EXCEPT fourteen (14) acres heretofore sold to Herman Bilisma and wife, lying west of said railroad as recorded in Deed Record 122, Page 145.

EXCEPTING ALSO the tract heretofore conveyed to the Union Sandstone Brick Company which deed is recorded in Deed Record 120, Page 461.

EXCEPTING ALSO, beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

##### PARCEL II

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range Four (4) West, described as follows: Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from

ALTA Owner's Policy 1987 (Amended 10/17/92)

This Policy is invalid unless the cover sheet and Schedules A and B are attached.

## Chicago Title Insurance Company

### OWNER'S POLICY

~ Continuation ~

the northeastern corner of the West half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

EXCEPTING a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows: Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

ALTA Owner's Policy 1987 (Amended 10/17/92)

This Policy is invalid unless the cover sheet and Schedules A and B are attached.

## Chicago Title Insurance Company

### OWNER'S POLICY

#### SCHEDULE B

**File Number:**

200002115

**Date of Policy:**

May 2, 2000

**Policy Number:**

O106793319

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Rights or claims of parties in possession not shown by the public records.
2. Any encroachments, easements, overlaps, boundary line disputes, or other matters, which would be disclosed by an accurate survey or inspection of the premises.
3. Easements, liens, or encumbrances or claims thereof, not shown by the public records.
4. Any lien, or right to a lien, for services, labor, or materials heretofore or hereafter furnished, imposed by law and now shown by the public records.
5. Taxes or special assessments, which are not shown as existing liens by public records.
6. Taxes for the year 2000, due and payable May and November 2001, and all subsequent taxes, not yet due and payable.
7. The acreage indicated in the legal description is for the sole purpose of identifying the said tract and should not be construed as insuring the quantity of land.
8. Rights of way for drainage tiles, ditches, laterals, and feeders, if any.
9. Rights of the Public, the State of Indiana, and County of Tippecanoe, and the municipality in and to that part of the premises taken or used for road purposes.
10. Right of Way for the railroad (CSX Transportation, Inc.)
11. Easement in favor of General Telephone Co. of Indiana dated July 21, 1952, recorded July 28, 1952, Deed Record 232, Page 505.
12. Real Estate Lease dated January 16, 1976, recorded May 29, 1987, Document Number 87-08210 by and between Archie E. Gilmore, Lessor and Tippecanoe Sanitary Landfill, Inc., an Indiana

ALTA Owner's Policy 1987 (Amended 10/17/92)

This Policy is invalid unless the cover sheet and Schedules A and B are attached.

## Chicago Title Insurance Company

### OWNER'S POLICY

~ Continuation ~

Corporation, Lessee.

13. Terms and provisions of Notice of Entry of Consent Decree and Declaration of Restrictions and Covenants dated November 2, 1998, recorded November 6, 1998, Document Number 9830064, by John D. and Linda S. Gilmore, Owners.
14. Easement for the construction and maintenance of utilities service dated May 10, 1990, recorded May 16, 1990, Document Number 90-06405, John D. Gilmore and Linda S. Gilmore, Grantors and City of Lafayette, Indiana, Grantee.

ALTA Owner's Policy 1987 (Amended 10/17/92)

This Policy is invalid unless the cover sheet and Schedules A and B are attached.



## Chicago Title Insurance Company

### OWNER'S POLICY

**File Number:**

200002115

**Date of Policy:**

May 2, 2000

**Policy Number:**

O106793319

### NOTICE TO POLICYHOLDERS

We are here to serve you...

As our policyholder, your satisfaction is very important to us. If you have a question about your policy, need assistance with a problem, or have a claim, you should first contact your insurance agent, Stallard & Schuh, Inc., at (765) 423-1642. You may also contact your Underwriter as shown on the Owners' Policy Cover at Item 17. Should you have a valid claim, we fully expect to provide a fair settlement in a timely fashion

Should you feel you are not being treated fairly with respect to a claim, you may contact the Indiana Department of Insurance with an

Public Information / Market Conduct  
Indiana Department of Insurance  
311 West Washington Street, Suite 300  
Indianapolis, IN 46204-2787  
Phone (317) 232 - 2395 or 800-722-4461

ALTA Owner's Policy 1987 (Amended 10/17/92)

This Policy is invalid unless the cover sheet and Schedules A and B are attached.

## CONDITIONS AND STIPULATIONS

### 1. DEFINITION OF TERMS

The following terms when used in this policy mean:

(a) "insured": the insured named in Schedule A, and, subject to any rights or defenses the Company would have had against the named insured, those who succeed to the interest of the named insured by operation of law as distinguished from purchase including, but not limited to, heirs, distributees, devisees, survivors, personal representatives, next of kin, or corporate or fiduciary successors.

(b) "insured claimant": an insured claiming loss or damage.

(c) "knowledge" or "known": actual knowledge, not constructive knowledge or notice which may be imputed to an insured by reason of the public records as defined in this policy or any other records which impart constructive notice of matters affecting the land.

(d) "land": the land described or referred to in Schedule A, and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule A, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but nothing herein shall modify or limit the extent to which a right of access to and from the land is insured by this policy.

(e) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.

(f) "public records": records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge. With respect to Section 1(a)(iv) of the Exclusions From Coverage, "public records" shall also include environmental protection liens filed in the records of the clerk of the United States district court for the district in which the land is located.

(g) "unmarketability of the title": an alleged or apparent matter affecting the title to the land, not excluded or excepted from coverage, which would entitle a purchaser of the estate or interest described in Schedule A to be released from the obligation to purchase by virtue of a contractual condition requiring the delivery of marketable title.

### 2. CONTINUATION OF INSURANCE AFTER CONVEYANCE OF TITLE

The coverage of this policy shall continue in force as of Date of Policy in favor of an insured only so long as the insured retains an estate or interest in the land, or holds an indebtedness secured by a purchase money mortgage given by a purchaser from the insured, or only so long as the insured shall have liability by reason of covenants of warranty made by the insured in any transfer or conveyance of the estate or interest. This policy shall not continue in force in favor of any purchaser from the insured of either (i) an estate or interest in the land, or (ii) an indebtedness secured by a purchase money mortgage given to the insured.

### 3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 4(a) below, (ii) in case knowledge shall come to an insured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as insured, and which might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if title to the estate or interest, as insured, is rejected as unmarketable. If prompt notice shall not be given to the Company, then as to the insured all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any insured under this policy unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

### 4. DEFENSE AND PROSECUTION OF ACTIONS; DUTY OF INSURED CLAIMANT TO COOPERATE

(a) Upon written request by the insured and subject to the options contained in Section 6 of these Conditions and Stipulations, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an insured in litigation in which any third party asserts a claim adverse to the title or interest as insured, but only as to those stated causes of action alleging a defect, lien or encumbrance or other matter insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the insured to object for reasonable cause) to represent the insured as to those stated causes of action and shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs or expenses incurred by the insured in the defense of those causes of action which allege matters not insured against by this policy.

(b) The Company shall have the right, at its own cost, to institute and prosecute any action or proceeding or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest, as insured, or to prevent or reduce loss or damage to the insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this policy. If the Company shall exercise its rights under this paragraph, it shall do so diligently.

(c) Whenever the Company shall have brought an action or interposed a defense as required or permitted by the provisions of this policy, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

(d) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding, the insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of the insured for this purpose. Whenever requested by the Company, the insured, at the Company's expense, shall give the Company all reasonable aid (i) in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest as insured. If the Company is prejudiced by the failure of the insured to furnish the required cooperation, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

### 5. PROOF OF LOSS OR DAMAGE

In addition to and after the notices required under Section 3 of these Conditions and Stipulations have been provided the Company, a proof of loss or damage signed and sworn to by the insured claimant shall be furnished to the Company within 90 days after the insured claimant shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the defect in, or lien or encumbrance on the title, or other matter insured against by this policy which constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the insured claimant to provide the required proof of loss or damage, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such proof of loss or damage.

In addition, the insured claimant may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Policy, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the insured claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the insured claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the insured claimant to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in this paragraph shall terminate any liability of the Company under this policy as to that claim.

### 6. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY

In case of a claim under this policy, the Company shall have the following additional options:

#### (a) To Pay or Tender Payment of the Amount of Insurance.

To pay or tender payment of the amount of insurance under this policy together with any costs, attorneys' fees and expenses incurred by the insured claimant, which were authorized by the Company, up to the time of payment or tender of payment and which the Company is obligated to pay.

Upon the exercise by the Company of this option, all liability and obligations to the insured under this policy, other than to make the payment required, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, and the policy shall be surrendered to the Company for cancellation.

#### (b) To Pay or Otherwise Settle With Parties Other than the Insured or With the Insured Claimant.

(i) to pay or otherwise settle with other parties for or in the name of an insured claimant any claim insured against under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay; or

(ii) to pay or otherwise settle with the insured claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in paragraphs (b)(i) or (ii), the Company's obligations to the insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute or continue any litigation.

## 7. DETERMINATION, EXTENT OF LIABILITY AND COINSURANCE

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the insured claimant who has suffered loss or damage by reason of matters insured against by this policy and only to the extent herein described.

(a) The liability of the Company under this policy shall not exceed the least of

(i) the Amount of Insurance stated in Schedule A; or,  
(ii) the difference between the value of the insured estate or interest as insured and the value of the insured estate or interest subject to the defect, lien or encumbrance insured against by this policy.

(b) In the event the Amount of Insurance stated in Schedule A at the Date of Policy is less than 80 percent of the value of the insured estate or interest or the full consideration paid for the land, whichever is less, or if subsequent to the Date of Policy an improvement is erected on the land which increases the value of the insured estate or interest by at least 20 percent over the Amount of Insurance stated in Schedule A, then this Policy is subject to the following:

(i) where no subsequent improvement has been made, as to any partial loss, the Company shall only pay the loss pro rata in the proportion that the amount of Insurance at Date of Policy bears to the total value of the insured estate or interest at Date of Policy; or

(ii) where a subsequent improvement has been made, as to any partial loss, the Company shall only pay the loss pro rata in the proportion that 120 percent of the Amount of Insurance stated in Schedule A bears to the sum of the Amount of Insurance stated in Schedule A and the amount expended for the improvement.

The provisions of this paragraph shall not apply to costs, attorneys' fees and expenses for which the Company is liable under this policy, and shall only apply to that portion of any loss which exceeds, in the aggregate, 10 percent of the Amount of Insurance stated in Schedule A.

(c) The Company will pay on y those costs, attorneys' fees and expenses incurred in accordance with Section 4 of these Conditions and Stipulations.

## 8. APPORTIONMENT

If the land described in Schedule A consists of two or more parcels which are not used as a single site, and a loss is established affecting one or more of the parcels but not all, the loss shall be computed and settled on a pro rata basis as if the amount of insurance under this policy was divided pro rata as to the value on Date of Policy of each separate parcel to the whole, exclusive of any improvements made subsequent to Date of Policy, unless a liability or value has otherwise been agreed upon as to each parcel by the Company and the insured at the time of the issuance of this policy and shown by an express statement or by an endorsement attached to this policy.

## 9. LIMITATION OF LIABILITY

(a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the land, or cures the claim of unmarketability of title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title as insured.

(c) The Company shall not be liable for loss or damage to any insured for liability voluntarily assumed by the insured in settling any claim or suit without the prior written consent of the Company.

## 10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY

All payments under this policy, except payments made for costs, attorneys' fees and expenses, shall reduce the amount of the insurance pro tanto.

## 11. LIABILITY NONCUMULATIVE

It is expressly understood that the amount of insurance under this policy shall be reduced by any amount the Company may pay under any policy insuring a mortgage to which exception is taken in Schedule B or to which the insured has agreed, assumed, or taken subject, or which is hereafter executed by an insured and which is a charge or lien on the estate or interest described or referred to in Schedule A, and the amount so paid shall be deemed a payment under this policy to the insured owner.

## 12. PAYMENT OF LOSS

(a) No payment shall be made without producing this policy for endorsement of the payment unless the policy has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.

(b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within 30 days thereafter.

## 13. SUBROGATION UPON PAYMENT OR SETTLEMENT

### (a) The Company's Right of Subrogation.

Whenever the Company shall have settled and paid a claim under this policy, all right of subrogation shall vest in the Company unaffected by any act of the insured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the insured claimant would have had against any person or property in respect to the claim had this policy not been issued. If requested by the Company, the insured claimant shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The insured claimant shall permit the Company to sue, compromise or settle in the name of the insured claimant and to use the name of the insured claimant in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the insured claimant, the Company shall be subrogated to these rights and remedies in the proportion which the Company's payment bears to the whole amount of the loss.

If loss should result from any act of the insured claimant, as stated above, that act shall not void this policy, but the Company, in that event, shall be required to pay only that part of any losses insured against by this policy which shall exceed the amount, if any, lost to the Company by reason of the impairment by the insured claimant of the Company's right of subrogation.

### (b) The Company's Rights Against Non-insured Obligors.

The Company's right of subrogation against non-insured obligors shall exist and shall include, without limitation, the rights of the insured to indemnities, guaranties, other policies of insurance or bonds, notwithstanding any terms or conditions contained in those instruments which provide for subrogation rights by reason of this policy.

## 14. ARBITRATION

Unless prohibited by applicable law, either the Company or the insured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the insured arising out of or relating to this policy, any service of the Company in connection with its issuance or the breach of a policy provision or other obligation. All arbitrable matters when the Amount of Insurance is \$1,000,000 or less shall be arbitrated at the option of either the Company or the insured. All arbitrable matters when the Amount of Insurance is in excess of \$1,000,000 shall be arbitrated only when agreed to by both the Company and the insured. Arbitration pursuant to this policy and under the Rules in effect on the date the demand for arbitration is made or, at the option of the insured, the Rules in effect at Date of Policy shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permit a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

A copy of the Rules may be obtained from the Company upon request.

## 15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT

(a) This policy together with all endorsements, if any, attached hereto by the Company is the entire policy and contract between the insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage, whether or not based on negligence, and which arises out of the status of the title to the estate or interest covered hereby or by any action asserting such claim, shall be restricted to this policy.

(c) No amendment of or endorsement to this policy can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

## 16. SEVERABILITY

In the event any provision of the policy is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision and all other provisions shall remain in full force and effect.

## 17. NOTICES, WHERE SENT

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this policy and shall be addressed to the Company at the issuing office or to:

Chicago Title Insurance Company  
Claims Department  
171 North Clark Street  
Chicago, Illinois 60601-3294

Key No. 106-06400-004-2

**WARRANTY DEED**

THIS INDENTURE WITNESSETH THAT:

**JOHN D. GILMORE** and **LINDA S. GILMORE**, husband and wife (collectively, the "Grantor"), CONVEY AND WARRANT TO **TIPPECANOE COUNTY LOCAL ENVIRONMENTAL RESPONSE FINANCING BOARD** (the "Grantee"), for and in consideration of ten dollars (\$10.00), and other good and sufficient consideration, receipt of which is hereby acknowledged, the real estate located in Tippecanoe County, Indiana, commonly known as \_\_\_\_\_ North Ninth Street, Lafayette, Indiana, and being more particularly described as follows:

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range Four (4) West, described as follows:

Beginning at a stone in the North line of said Reservation placed equidistant from the Northeast and Northwest corner of said Reservation; thence running South on a line dividing the share of Peter Longlois and Elizabeth Allen ninety-one (91) poles; thence West two hundred twenty seven and 60/100 (227.60) poles to the West line of said Reservation; thence North with said West line thirty and 92/100 (30.92) poles to Justice's Corner; thence East with Justice's line seventy-two and 56/100th (72.56) poles to the center of the road leading from Lafayette to Davis Ferry; thence with said Road North ten and one-half (10 1/2) degrees East nineteen and 28/100 (19.28) poles; thence North eighteen (18) degrees East forty-three and 12/100 (43.12) poles to the North line of said Reservation; thence East with said North line one hundred thirty-eight and 20/100 (138.20) poles to the place of beginning containing one hundred (100) acres, more or less.

EXCEPT the right of way of C I & L Railroad and except a school lot conveyed to the Trustee of Fairfield Township by deed executed February 17, 1862 and recorded in Deed Record 172, Page 186.

EXCEPTING ALSO, fourteen (14) acres heretofore sold to Herman Bilsma and wife lying West of said Railroad as recorded in Deed Record 122, Page 145.

EXCEPTING ALSO, the tract heretofore conveyed to the Union Sandstone Brick Company which deed is recorded in Deed Record 120, Page 461.

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER.

MAY 01 2000

  
CLERK OF TIPPECANOE CO. IN

EXCEPTING ALSO a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

EXCEPTING ALSO, beginning at a point on the northern line of the West Half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West Half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West Half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West Half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

The land hereby described contains seventy-six and fifty-seven hundredths (76.57) acres, more or less.

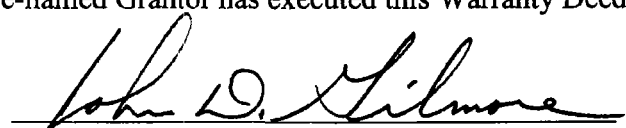
(the 'Real Estate').


Subject to easements and restrictions of record.

Subject also to the property taxes for 1999, payable in 2000, and all subsequent taxes.

Subject also to the terms and provisions of Notice of Entry of Consent Decree and Declaration of Restrictions and Covenants, dated November 2, 1998, recorded November 6, 1998, in the Office of the Recorder of Tippecanoe County, Indiana, as Document Number 9830064, by John D. and Linda S. Gilmore, Owners.

180 IN WITNESS WHEREOF, the above-named Grantor has executed this Warranty Deed on this day of May, 2000.

  
\_\_\_\_\_  
John D. Gilmore

  
\_\_\_\_\_  
Linda S. Gilmore

**ACKNOWLEDGMENT**

STATE OF INDIANA )  
 ) SS:  
TIPPECANOE COUNTY )

Before me, the undersigned, a Notary Public, in and for said State and County, personally appeared **JOHN D. GILMORE AND LINDA S. GILMORE**, husband and wife, and acknowledged the execution of the foregoing Warranty Deed and swore to the statements contained therein.

WITNESS my hand and seal this 18<sup>th</sup> day of May, 2000.



BECKY MAURER  
Resident of Montgomery County, IN  
Commission Expires April 26, 2001

*[Signature]*  
\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed Name

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

County of Residence:  
\_\_\_\_\_

This instrument was prepared by: Marianne Mitten Owen, Esquire, of the firm of Stuart & Branigin, The Life Building, 300 Main Street, Suite 800, Lafayette, Indiana 47902-1010. Telephone: (765) 423-1561; Facsimile: (765) 742-8175; E-mail: mmo@stuartlaw.com

Mail Tax Statements To:  
TIPPECANOE COUNTY LOCAL ENVIRONMENTAL RESPONSE FINANCING BOARD  
c/o TIPPECANOE COUNTY AUDITOR  
20 N. THIRD ST.  
LAFAYETTE, IN 47901

Key No. 106-06400-004-2

**WARRANTY DEED**

THIS INDENTURE WITNESSETH THAT:

**JOHN D. GILMORE** and **LINDA S. GILMORE**, husband and wife (collectively, the "Grantor"), **CONVEY AND WARRANT TO TIPPECANOE COUNTY LOCAL ENVIRONMENTAL RESPONSE FINANCING BOARD** (the "Grantee"), for and in consideration of ten dollars (\$10.00), and other good and sufficient consideration, receipt of which is hereby acknowledged, the real estate located in Tippecanoe County, Indiana, commonly known as \_\_\_\_\_ North Ninth Street, Lafayette, Indiana, and being more particularly described as follows:

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range Four (4) West, described as follows:

Beginning at a point on the northern line of the West Half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West Half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West Half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West Half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

(the "Real Estate").

Subject to easements and restrictions of record.

Subject also to the property taxes for 1999, payable in 2000, and all subsequent taxes.

IN WITNESS WHEREOF, the above-named Grantor has executed this Warranty Deed on this 1st day of May, 2000.

  
John D. Gilmore

  
Linda S. Gilmore

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER.

MAY 01 2000

  
AUDITOR OF TIPPECANOE CO. KP



**ACKNOWLEDGMENT**

STATE OF INDIANA )  
 ) SS:  
TIPPECANOE COUNTY )

Before me, the undersigned, a Notary Public, in and for said State and County, personally appeared **JOHN D. GILMORE AND LINDA S. GILMORE**, husband and wife, and acknowledged the execution of the foregoing Warranty Deed and swore to the statements contained therein.

WITNESS my hand and seal this 18<sup>th</sup> day of May, 2000.



**BECKY MAURER**  
Resident of Montgomery County, IN  
Commission Expires April 26, 2001

[Signature]  
\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed Name

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

County of Residence: \_\_\_\_\_

This instrument was prepared by: Marianne Mitten Owen, Esquire, of the firm of Stuart & Branigin, The Life Building, 300 Main Street, Suite 800, Lafayette, Indiana 47902-1010. Telephone: (765) 423-1561; Facsimile: (765) 742-8175; E-mail: mmo@stuartlaw.com

Mail Tax Statements To:  
TIPPECANOE COUNTY LOCAL ENVIRONMENTAL RESPONSE FINANCING BOARD  
c/o TIPPECANOE COUNTY AUDITOR  
20 N. Third Street  
LAFAYETTE, IN 47901

# INVOICE



STALLARD & SCHUH, INC.  
301 COLUMBIA STREET  
P.O. BOX 929  
LAFAYETTE IN 47902-0929  
(765) 423-1642

INVOICE NUMBER: 006171A-IN

INVOICE DATE: 05/10/05

CUSTOMER NO.: 0005050

LLC

STUART & BRANIGIN  
PO Box 1010  
300 Main Street, Suite 800  
LAFAYETTE, IN 47902

Attn: Marianne Owen

DESCRIPTION	AMOUNT
TITLE INSURANCE UPDATE	100.00

REFERENCE  
NAME (S)

None

Tippecanoe County Local Environmental Response Financing  
Board

PROPERTY

Sec 9 Twp 23N R4W 1.154A & .288A  
North Ninth Street Road  
Lafayette, IN 47905

THANK YOU FOR CHOOSING STALLARD & SCHUH

AMOUNT DUE

100.00

# OWNER'S POLICY OF TITLE INSURANCE

Issued by **Lawyers Title Insurance Corporation**

POLICY NUMBER



*Lawyers Title Insurance Corporation is a member of the LandAmerica family of title insurance underwriters.*

A 75-2389466.

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, LAWYERS TITLE INSURANCE CORPORATION, a Virginia corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

- 1 Title to the estate or interest described in Schedule A being vested other than as stated therein;
- 2 Any defect in or lien or encumbrance on the title;
- 3 Unmarketability of the title;
- 4 Lack of a right of access to and from the land.

The Company will also pay the costs, attorneys' fees and expenses incurred in defense of the title, as insured, but only to the extent provided in the Conditions and Stipulations.

IN WITNESS WHEREOF, LAWYERS TITLE INSURANCE CORPORATION has caused its corporate name and seal to be hereunto affixed by its duly authorized officers, the Policy to become valid when countersigned by an authorized officer or agent of the Company.

**LAWYERS TITLE INSURANCE CORPORATION**

Attest:

  
Secretary



By:

  
President

## EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Eights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the Insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (a) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
  - (b) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (i) to timely record the instrument of transfer; or
    - (ii) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

## CONDITIONS AND STIPULATIONS

### DEFINITION OF TERMS.

Following terms when used in this policy mean:

"insured": the insured named in Schedule A, and, subject to any rights the Company would have had against the named insured, those who the interest of the named insured by operation of law as distinguished as including, but not limited to, heirs, distributees, devisees, survivors, representatives, next of kin, or corporate or fiduciary successors.

"insured claimant": an insured claiming loss or damage.

"knowledge" or "known": actual knowledge, not constructive knowledge which may be imputed to an insured by reason of the public records as to this policy or any other records which impart constructive notice of affecting the land.

"land": the land described or referred to in Schedule A, and interests affixed thereto which by law constitute real property. The terms do not include any property beyond the lines of the area described or to in Schedule A, nor any right, title, interest, estate or easement in streets, roads, avenues, alleys, lanes, ways or waterways, but nothing shall modify or limit the extent to which a right of access to and from the insured by this policy.

"mortgage": mortgage, deed of trust, trust deed, or other security instrument.

"public records": records established under state statutes at Date of Policy or the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge. With respect to Section 3 of the Exclusions From Coverage, "public records" shall also include judgment liens filed in the records of the clerk of the United States court for the district in which the land is located.

"unmarketability of the title": an alleged or apparent matter affecting the land, not excluded or excepted from coverage, which would entitle a purchaser of the estate or interest described in Schedule A to be released from obligation to purchase by virtue of a contractual condition requiring the delivery of marketable title.

### CONTINUATION OF INSURANCE AFTER CONVEYANCE OF TITLE.

The coverage of this policy shall continue in force as of Date of Policy in force of an insured only so long as the insured retains an estate or interest in the land or holds an indebtedness secured by a purchase money mortgage given by the insured or purchaser from the insured, or only so long as the insured shall have liability by reason of covenants of warranty made by the insured in any transfer or conveyance of the estate or interest. This policy shall not continue in force in favor of any purchaser from the insured of either (i) an estate or interest in the land, or (ii) an indebtedness secured by a purchase money mortgage given to the insured.

### NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT.

The insured shall notify the Company promptly in writing (i) in case of any claim as set forth in Section 4(a) below, (ii) in case knowledge shall come to an insured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as insured, and which might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if title to the estate or interest, as insured, is rejected as unmarketable. If prompt notice shall not be given to the Company, then as to the insured all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any insured under this policy unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

### DEFENSE AND PROSECUTION OF ACTIONS; DUTY OF INSURED CLAIMANT TO COOPERATE.

(a) Upon written request by the insured and subject to the options contained in Section 6 of these Conditions and Stipulations, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an insured in litigation in which any third party asserts a claim adverse to the title or interest as insured, but only as to those stated causes of action alleging a defect, lien or encumbrance or other matter insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the insured to object for reasonable cause) to represent the insured as to those stated causes of action and shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs or expenses incurred by the insured in the defense of those causes of action which allege matters not insured by this policy.

(b) The Company shall have the right, at its own cost, to institute and prosecute any action or proceeding or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest, as insured, or to prevent or reduce loss or damage to the insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this policy. If the Company shall exercise its rights under this paragraph, it shall do so diligently.

(c) Whenever the Company shall have brought an action or interposed a defense as required or permitted by the provisions of this policy, the Company may pursue any litigation to final determination by a court of competent jurisdiction

and expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

(d) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding, the insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of the insured for this purpose. Whenever requested by the Company, the insured, at the Company's expense, shall give the Company all reasonable aid (i) in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest as insured. If the Company is prejudiced by the failure of the insured to furnish the required cooperation, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

### 5. PROOF OF LOSS OR DAMAGE.

In addition to and after the notices required under Section 3 of these Conditions and Stipulations have been provided the Company, a proof of loss or damage signed and sworn to by the insured claimant shall be furnished to the Company within 90 days after the insured claimant shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the defect in, or lien or encumbrance on the title, or other matter insured against by this policy which constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the insured claimant to provide the required proof of loss or damage, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such proof of loss or damage.

In addition, the insured claimant may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Policy, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the insured claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the insured claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the insured claimant to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in this paragraph shall terminate any liability of the Company under this policy as to that claim.

### 6. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY.

In case of a claim under this policy, the Company shall have the following additional options:

#### (a) To Pay or Tender Payment of the Amount of Insurance.

To pay or tender payment of the amount of insurance under this policy together with any costs, attorneys' fees and expenses incurred by the insured claimant, which were authorized by the Company, up to the time of payment or tender of payment and which the Company is obligated to pay.

Upon the exercise by the Company of this option, all liability and obligations to the insured under this policy, other than to make the payment required, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, and the policy shall be surrendered to the Company for cancellation.

#### (b) To Pay or Otherwise Settle With Parties Other than the Insured or With the Insured Claimant.

(i) to pay or otherwise settle with other parties for or in the name of an insured claimant any claim insured against under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay; or

(ii) to pay or otherwise settle with the insured claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in paragraphs (b)(i) or (ii), the Company's obligations to the insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute or continue any litigation.

**ENDORSEMENT**

RE: Tippecanoe County Local Environmental Response Financing Board

FILE NO.: 200006171

Attached to and a part of Owner's Policy A75-2389466

Issued by

**LAWYERS TITLE INSURANCE CORPORATION**

**Effective Date is hereby amended to read as follows:**

May 2, 2005, at 8:00AM

**Schedule A is hereby amended to include the following:**

Parcel III:

A non-exclusive grant of easement as set forth in that certain Easement Agreement dated October 2, 2001, recorded January 9, 2002, as Document Number 020009956, by and between Dorothy E. Rafferty, Clark William Rafferty and Emily Sue Miller, as owners; and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

Parcel IV:

A non-exclusive grant of easement as set forth in that certain Easement Agreement dated September 17, 2001, recorded January 9, 2002, as Document Number 02000996, by and between Fairfield Builders Supply Corp., as owner; and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

Parcel V:

A non-exclusive grant of easement as set forth in that certain Easement Agreement dated December 18, 2001, recorded January 9, 2002, as Document Number 02000997, by and between The Trustees of Purdue University, as owner; and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

PARCEL VI:

A non-exclusive grant of easement as set forth in that certain Easement Agreement (Monitoring Well No. 11) dated December 18, 2001, recorded January 9, 2002, as Document Number 02000998, re-recorded January 17, 2002, as Document Number 02001967, by and between The Board of Commissioners of Tippecanoe County, as Owner; and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

PARCEL VII:

A non-exclusive grant of easement as set forth in that certain Easement Agreement (Monitoring Well No. 24) dated December 18, 2001, recorded January 9, 2002, as Document Number 02000999, re-recorded January 17, 2002, as Document Number 02001968, by and between The Board of Commissioners of Tippecanoe County, as Owner; and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

PARCEL VIII:

A non-exclusive grant of easement as set forth in that certain Easement Agreement (Monitoring Well No. 23) dated December 18, 2001, recorded January 9, 2002, as Document Number 02001000, re-recorded January 17, 2002, as Document Number 02001969, by and between The Board of Commissioners of Tippecanoe County, as Owner' and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

**Schedule B, Item 6, is hereby amended to read as follows:**

6. Taxes for the year 2004, due and payable May and November 2005, and all subsequent taxes, not yet due and payable. (NOTE: At effective date, subject property was not assessed for taxation.)

**Schedule B is hereby amended to include the following:**

11. Terms and provisions of grants of easement set forth in Schedule A as Parcels III, IV, V, VI, VII, and VIII.

(END OF ENDORSEMENT)

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

Signed this 9th day of May, 2005

Prepared by: llc

Countersigned: STALLARD & SCHUH, INC.  
301 Columbia Street  
Lafayette, IN 47901

By: Linda L. Copas  
Linda L. Copas  
Authorized Signatory

**Lawyers Title Insurance Corporation**

**OWNER'S POLICY**

**SCHEDULE A**

<b>File Number:</b>	<b>Date of Policy:</b>	<b>Amount of Insurance:</b>	<b>Policy Number:</b>
200006171	October 18, 2000	\$6,000.00	OA752389466

1. Name of Insured:  
**Tippecanoe County Local Environmental Response Financing Board**
2. The estate or interest referred to herein is at Date of Policy vested in:  
**Tippecanoe County Local Environmental Response Financing Board**
3. The estate or interest in the land described in this Schedule and which is encumbered by the insured mortgage is:  
**Fee simple**
4. The land referred to in this policy is situated in the County of **Tippecanoe**, State of **Indiana**, and is described as follows:

**SEE ATTACHED EXHIBIT A**

Countersigned: **Stallard & Schuh, Inc**  
301 Columbia  
Lafayette, IN 47901  
(765) 423-1642

By: *Linda L. Copas*  
**Linda L. Copas**  
Authorized Officer or Agent

ALTA Owner's Policy 1987 (Amended 10/17/92)

This Policy is invalid unless the cover sheet and Schedules A and B are attached.

## Lawyers Title Insurance Corporation

### OWNER'S POLICY

~ Continuation ~

#### EXHIBIT A

##### PARCEL I:

A strip of land 40 feet wide in part of Section 9, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows: Commencing at the northeast corner of property conveyed to John D. and Linda S. Gilmore in Deed Record 82, Page 1868, as recorded in the Tippecanoe County Recorder's Office, said corner being the northeast corner of the west half of Longlois Reserve; thence along the north line of said Reserve South 88°-59'-25" West 443.72 feet to its intersection with the line between Sections 9 and 10, said point being the Point of Beginning of the herein-described strip; thence continuing South 88°-59'-25" West along the north line 1256.28 feet; thence North 01°-00'-35" West perpendicular to said north line 40.00 feet; thence North 88°-59'-25" East parallel with said north line 1256.28 feet to said line between Sections 9 and 10; thence South 01°-00'-35" East along said Section line 40.00 feet to the Point of Beginning, containing 1.154 acres more or less.

##### PARCEL II:

A strip of land 10 feet wide in part of Section 9, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows: Commencing at the northeast corner of property conveyed to John D. and Linda S. Gilmore in Deed Record 82, Page 1868, as recorded in the Tippecanoe County Recorder's Office, said corner being the northeast corner of the west half of Longlois Reserve; thence North 89°-01'-29" East 30.00 feet; thence North 00°-58'-31" East 40.02 feet; thence South 88°-59'-25" West parallel with the north line of said Reserve 473.74 feet to the line between Sections 9 and 10, said point being the Point of Beginning of the herein described strip; thence continuing South 88°-59'-25" West parallel with said north line 1256.28 feet; thence North 01°-00'-35" West perpendicular to said north line 10.00 feet; thence North 88°-59'-25" East parallel with said north line 1256.28 feet to said line between Sections 9 and 10; South 01°-00'-35" East along said Section line 10.00 feet to the Point of Beginning, containing 0.288 acres, more or less.

ALTA Owner's Policy 1987 (Amended 10/17/92)

This Policy is invalid unless the cover sheet and Schedules A and B are attached.



## Lawyers Title Insurance Corporation

### OWNER'S POLICY

#### SCHEDULE B

**File Number:**

200006171

**Date of Policy:**

October 18, 2000

**Policy Number:**

OA752389466

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Rights or claims of parties in possession not shown by the public records.
2. Any encroachments, easements, overlaps, boundary line disputes, or other matters, which would be disclosed by an accurate survey or inspection of the premises.
3. Easements, liens, or encumbrances or claims thereof, not shown by the public records.
4. Any lien, or right to a lien, for services, labor, or materials heretofore or hereafter furnished, imposed by law and now shown by the public records.
5. Taxes or special assessments, which are not shown as existing liens by public records.
6. Taxes for the year 2000, due and payable May and November 2001, and all subsequent taxes, not yet due and payable.
7. The acreage indicated in the legal description is for the sole purpose of identifying the said tract and should not be construed as insuring the quantity of land.
8. Rights of way for drainage tiles, ditches, laterals, and feeders, if any.
9. Electric Pole Line Easement dated November 25, 1952, recorded November 29, 1952, as Deed Record 234, Page 59, from Iva Hazel Higman McCoy and William Edward McCoy, as Grantors; to Public Service Company of Indiana, Inc., as Grantee. NOTE: Not specific as to location.

ALTA Owner's Policy 1987 (Amended 10/17/92)

This Policy is invalid unless the cover sheet and Schedules A and B are attached.

## **Lawyers Title Insurance Corporation**

### **OWNER'S POLICY**

**~ Continuation ~**

10. Agreement for Water &/or Sewerage Service and Waiver of Right to Object to Annexation dated August 5, 1992, recorded August 5, 1992, as Document Number 92-17145, from Hazel I. McCoy to City of Lafayette.

ALTA Owner's Policy 1987 (Amended 10/17/92)

This Policy is invalid unless the cover sheet and Schedules A and B are attached.

## Lawyers Title Insurance Corporation

### OWNER'S POLICY

**File Number:**

200006171

**Date of Policy:**

October 18, 2000

**Policy Number:**

OA752389466

#### NOTICE TO POLICYHOLDERS

We are here to serve you...

As our policyholder, your satisfaction is very important to us. If you have a question about your policy, need assistance with a problem, or have a claim, you should first contact your insurance agent, Stallard & Schuh, Inc., at (765) 423-1642. You may also contact your Underwriter as shown on the Owners' Policy Cover at Item 17. Should you have a valid claim, we fully expect to provide a fair settlement in a timely fashion

Should you feel you are not being treated fairly with respect to a claim, you may contact the Indiana Department of Insurance with an

Public Information / Market Conduct  
Indiana Department of Insurance  
311 West Washington Street, Suite 300  
Indianapolis, IN 46204- 2787  
Phone (317) 232 - 2395 or 800-722-4461

ALTA Owner's Policy 1987 (Amended 10/17/92)

This Policy is invalid unless the cover sheet and Schedules A and B are attached.

## CONDITIONS AND STIPULATIONS

(Continued)

### 7. DETERMINATION, EXTENT OF LIABILITY AND COINSURANCE.

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the insured claimant who has suffered loss or damage by reason of matters insured against by this policy and only to the extent herein described.

(a) The liability of the Company under this policy shall not exceed the least of:

(i) the Amount of Insurance stated in Schedule A; or,

(ii) the difference between the value of the insured estate or interest as insured and the value of the insured estate or interest subject to the defect, lien or encumbrance insured against by this policy.

(b) In the event the Amount of Insurance stated in Schedule A at the Date of Policy is less than 80 percent of the value of the insured estate or interest or the full consideration paid for the land, whichever is less, or if subsequent to the Date of Policy an improvement is erected on the land which increases the value of the insured estate or interest by at least 20 percent over the Amount of Insurance stated in Schedule A, then this Policy is subject to the following:

(i) where no subsequent improvement has been made, as to any partial loss, the Company shall only pay the loss pro rata in the proportion that the amount of insurance at Date of Policy bears to the total value of the insured estate or interest at Date of Policy; or

(ii) where a subsequent improvement has been made, as to any partial loss, the Company shall only pay the loss pro rata in the proportion that 120 percent of the Amount of Insurance stated in Schedule A bears to the sum of the Amount of Insurance stated in Schedule A and the amount expended for the improvement.

The provisions of this paragraph shall not apply to costs, attorneys' fees and expenses for which the Company is liable under this policy, and shall only apply to that portion of any loss which exceeds, in the aggregate, 10 percent of the Amount of Insurance stated in Schedule A.

(c) The Company will pay only those costs, attorneys' fees and expenses incurred in accordance with Section 4 of these Conditions and Stipulations.

### 8. APPORTIONMENT.

If the land described in Schedule A consists of two or more parcels which are not used as a single site, and a loss is established affecting one or more of the parcels but not all, the loss shall be computed and settled on a pro rata basis as if the amount of insurance under this policy was divided pro rata as to the value on Date of Policy of each separate parcel to the whole, exclusive of any improvements made subsequent to Date of Policy, unless a liability or value has otherwise been agreed upon as to each parcel by the Company and the insured at the time of the issuance of this policy and shown by an express statement or by an endorsement attached to this policy.

### 9. LIMITATION OF LIABILITY.

(a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the land, or cures the claim of unmarketability of title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title as insured.

(c) The Company shall not be liable for loss or damage to any insured for liability voluntarily assumed by the insured in settling any claim or suit without the prior written consent of the Company.

### 10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY.

All payments under this policy, except payments made for costs, attorneys' fees and expenses, shall reduce the amount of the insurance pro tanto.

### 11. LIABILITY NONCUMULATIVE.

It is expressly understood that the amount of insurance under this policy shall be reduced by any amount the Company may pay under any policy insuring a mortgage to which exception is taken in Schedule B or to which the insured has agreed, assumed, or taken subject, or which is hereafter executed by an insured and which is a charge or lien on the estate or interest described or referred to in Schedule A, and the amount so paid shall be deemed a payment under this policy to the insured owner.

### 12. PAYMENT OF LOSS.

(a) No payment shall be made without producing this policy for endorsement of the payment unless the policy has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.

(b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within 30 days thereafter.

### 13. SUBROGATION UPON PAYMENT OR SETTLEMENT.

#### (a) The Company's Right of Subrogation.

Whenever the Company shall have settled and paid a claim under this policy, all right of subrogation shall vest in the Company unaffected by any act of the insured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the insured claimant would have had against any person or property in respect to the claim had this policy not been issued. If requested by the Company, the insured claimant shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The insured claimant shall permit the Company to sue, compromise or settle in the name of the insured claimant and to use the name of the insured claimant in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the insured claimant, the Company shall be subrogated to these rights and remedies in the proportion which the Company's payment bears to the whole amount of the loss.

If loss should result from any act of the insured claimant, as stated above, that act shall not void this policy, but the Company, in that event, shall be required to pay only that part of any losses insured against by this policy which shall exceed the amount, if any, lost to the Company by reason of the impairment by the insured claimant of the Company's right of subrogation.

#### (b) The Company's Rights Against Non-insured Obligors.

The Company's right of subrogation against non-insured obligors shall exist and shall include, without limitation, the rights of the insured to indemnities, guaranties, other policies of insurance or bonds, notwithstanding any terms or conditions contained in those instruments which provide for subrogation rights by reason of this policy.

### 14. ARBITRATION.

Unless prohibited by applicable law, either the Company or the insured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the insured arising out of or relating to this policy, any service of the Company in connection with its issuance or the breach of a policy provision or other obligation. All arbitrable matters when the Amount of insurance is \$1,000,000 or less shall be arbitrated at the option of either the Company or the insured. All arbitrable matters when the Amount of insurance is in excess of \$1,000,000 shall be arbitrated only when agreed to by both the Company and the insured. Arbitration pursuant to this policy and under the Rules in effect on the date the demand for arbitration is made or, at the option of the insured, the Rules in effect at Date of Policy shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permit a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

A copy of the Rules may be obtained from the Company upon request.

### 15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT.

(a) This policy together with all endorsements, if any, attached hereto by the Company is the entire policy and contract between the insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage, whether or not based on negligence, and which arises out of the status of the title to the estate or interest covered hereby or by any action asserting such claim, shall be restricted to this policy.

(c) No amendment of or endorsement to this policy can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

### 16. SEVERABILITY.

In the event any provision of the policy is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision and all other provisions shall remain in full force and effect.

### 17. NOTICES WHERE SENT.

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this policy and shall be addressed to: Consumer Affairs Department, P.O. Box 27567, Richmond, Virginia 23261-7567.

## OWNER'S POLICY OF TITLE INSURANCE

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American Land Title Association (10/17/92)

Issued by

**Lawyers Title  
Insurance Corporation**

**Lawyers Title Insurance Corporation**  
is a member of the LandAmerica family of title insurance  
underwriters.

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LandAmerica Financial Group, Inc.  
101 Gateway Centre Parkway  
Richmond, Virginia 23235-5153  
[www.landam.com](http://www.landam.com)

Form B 1190-74B

## THANK YOU.

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Title insurance provides for the protection of your real estate investment. We suggest you keep this policy in a safe place where it can be readily available for future reference.

If you have questions about title insurance or the coverage provided by this policy, contact the office that issued this policy, or you may call or write:

Lawyers Title Insurance Corporation  
Consumer Affairs  
P.O. Box 27567  
Richmond, Virginia 23261-7567  
telephone, toll free: 800 446-7086  
web: [www.landam.com](http://www.landam.com)

We thank you for choosing to do business with Lawyers Title Insurance Corporation, and look forward to meeting your future title insurance needs.

**Lawyers Title Insurance Corporation**  
is a member of the LandAmerica family of title insurance  
underwriters.

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00023155 10/18/2000 09:26am BK: PG: 1  
PAM BERGLUND, TIPPECANOE COUNTY RECORDER

Key # 106-04600-0049  
to 106-06400-0042

### WARRANTY DEED

THIS INDENTURE WITNESSETH THAT:

CLARK WILLIAM RAFFERTY and EMILY SUE MILLER, as tenants in common, and DOROTHY E. RAFFERTY, as holder of a life estate (hereinafter collectively referred to as "GRANTORS"), CONVEY AND WARRANT TO TIPPECANOE COUNTY ENVIRONMENTAL RESPONSE FINANCING BOARD (hereinafter referred to as "GRANTEES"), for and in consideration of Ten Dollars (\$10.00), and other good and sufficient consideration, receipt of which is hereby acknowledged, the following described real estate, located in Tippecanoe County, Indiana:

A strip of land 40 feet wide in part of Section 9, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Deed Record 82, Page 1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence along the North Line of said Reserve South 88°59'25" West 443.72 feet to its intersection with the line between Sections 9 and 10, said point being the Point of Beginning of the herein-described strip; thence continuing South 88°59'25" West along said North Line 1256.28 feet; thence North 01°00'35" West perpendicular to said North Line 40.00 feet; thence North 88°59'25" East parallel with said North Line 1256.28 feet to said line between Sections 9 and 10; thence South 01°00'35" East along said section line 40.00 feet to the Point of Beginning, containing 1.154 acres, more or less.

ALSO,

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER.

OCT 18 2000

  
AUDITOR OF TIPPECANOE CO. KP

A strip of land 10 feet wide in part of Section 9, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Deed Record 82, Page 1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence North 89°01'29" East 30.00 feet; thence North 0°58'31" West 40.02 feet; thence South 88°59'25" West parallel with the North Line of said Reserve 473.74 feet to the line between Sections 9 and 10, said point being the Point of Beginning of the herein-described strip; thence continuing South 88°59'25" West parallel with said North Line 1256.28 feet; thence North 01°00'35" West perpendicular to said North Line 10.00 feet; thence North 88°59'25" East parallel with said North Line 1256.28 feet to said line between Sections 9 and 10; South 01°00'35" East along said section line 10.00 feet to the Point of Beginning, containing 0.288 acres, more or less.

(hereinafter collectively referred to as "Transferred Tract").

Subject to any and all easements, agreements and restrictions of record.

Subject to all real estate taxes due and payable and all subsequent taxes.

The following statement is for clarification only and is not intended by Grantors as a deed restriction:

This conveyance of the Transferred Tract is a transfer of a tract between adjoining lots pursuant to Exemption "E" of the definition of "Subdivision" as found in Section 2.2 of the Unified Subdivision Ordinance of Tippecanoe County. This conveyance involves the transfer of the Transfer Tract from an existing lot (Key No. 106-04600-0049; recorded in Cause No. 79C01-9210-ES-119; hereinafter referred to as "Lot A") to a separate but adjoining tract (Key No. 106-06400-0042; recorded in Document No. 00009113+00009114), more particularly described as follows:

#### PARCEL I

A part of the reservation of the two elder children of Peter Longlois, in Township Twenty-three (23) North, Range Four (4) West, and described as follows: Beginning at a stone in the north line of said Reservation placed equi-distant from the North East and North West corners of said Reservation; thence running South on the line dividing the shares of Peter Longlois and Elizabeth Allen, ninety-one

(91) poles; thence west two hundred and twenty-seven & 60/100 (227.60) poles, to the West line of said Reservation; thence North with said West line thirty & 92/100 (30.92) poles to Justice's corner; thence East, with Justice's line, seventy-two & 56/100 (72.56) poles, to the center of road leading from Lafayette to Davis Ferry; thence with said road North 10 ½ degrees East, nineteen & 28/100 (19.28) poles; thence North 18 degrees East, forty-three & 12/100 (43.12) poles, to the north line of said Reservation; thence East with said North line, one hundred and thirty-eight & 20/100 (138.20) poles, to the place of beginning, containing one hundred (100) acres, more or less.

EXCEPT the right of way of the C.I. & L. Railroad and except a school lot conveyed to the Trustee of Fairfield Township by deed executed February 17, 1862, and recorded in Deed Record 172, Page 186.

ALSO EXCEPT fourteen (14) acres heretofore sold to Herman Bilisma and wife, lying west of said railroad as recorded in Deed Record 122, Page 145.

EXCEPTING ALSO the tract heretofore conveyed to the Union Sandstone Brick Company which deed is recorded in Deed Record 120, Page 461.

EXCEPTING ALSO: Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.



## PARCEL II

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range Four (4) West, described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South  $89^{\circ} 53' 00''$  West, 1,524.34 feet from the northeastern corner of the West half of Longlois Reserve; thence South  $53^{\circ} 43' 30''$  West, 287.85 feet; thence South  $47^{\circ} 50' 30''$  West, 152.49 feet; thence South  $78^{\circ} 17' 30''$  West, 314.12 feet; thence South  $47^{\circ} 36' 30''$  West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North  $67^{\circ} 48' 36''$  West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of  $6^{\circ} 03' 14''$ , a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West half of said Longlois Reserve; thence North  $89^{\circ} 53' 00''$  East along the northern line of the West half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

EXCEPTING a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows:

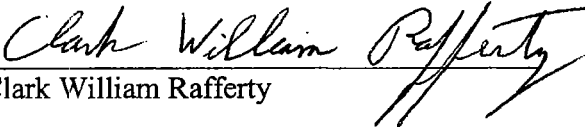
Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South  $89^{\circ} 53' 00''$  West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South  $27^{\circ} 40' 00''$  West, 104.64 feet; thence North  $75^{\circ} 18' 00''$  West, 5.38 feet; thence South  $59^{\circ} 42' 00''$  West, 10.76 feet; thence South  $14^{\circ} 42' 00''$  West 21.75 feet; thence North  $76^{\circ} 17' 00''$  West, 116.55 feet; thence North  $6^{\circ} 24' 00''$  East, 90.32 feet to the northern

line of the West half of Longlois Reserve; thence North 89°53'00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

(hereinafter referred to as "Lot B").

The Transferred Tract and Lot B are to be included in Auditor's Key No. 106-06400-0042. This conveyance is being made with the understanding that the Transferred Tract is to attach to Lot B and is to create no additional building site. However, the existing principal use building site of Tract A with Key No. 106-04600-0049 is to be located on the acreage of that tract that remains after said conveyance.

IN WITNESS WHEREOF, the above-named GRANTORS have executed this Warranty Deed on this 16 day of OCTOBER, 2000.

  
Clark William Rafferty

  
Emily Sue Miller

  
Dorothy E. Rafferty

ACKNOWLEDGMENT

STATE OF INDIANA     )  
  ) SS:  
TIPPECANOE COUNTY    )

Before me, the undersigned, a Notary Public, in and for said State and County, personally appeared Clark William Rafferty and Emily Sue Miller, as tenants in common, and Dorothy E. Rafferty, as holder of a life estate, and acknowledged the execution of the foregoing Warranty Deed and swore to the statements contained therein.

WITNESS my hand and seal this 16<sup>th</sup> day of October, 2000.

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

\_\_\_\_\_  
Printed Name

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

County of Residence: \_\_\_\_\_



**BECKY MAURER**  
Resident of Montgomery County, IN  
Commission Expires April 26, 2001

This Instrument was Prepared By: Marianne Mitten Owen, Esquire, of the firm of Stuart & Branigin, The Life Building, 300 Main Street, Suite 800, Lafayette, Indiana 47901. Telephone: (765) 423-1561; Facsimile: (765) 742-8175; E-Mail: [mmo@stuartlaw.com](mailto:mmo@stuartlaw.com)

Mail Tax Statements To:

Tippecanoe County Environmental Response Financing Board  
c/o Tippecanoe County Auditor  
Tippecanoe County Office Building  
20 North Third Street  
Lafayette, IN 47901

241794.2

# INVOICE



STALLARD & SCHUH, INC.  
301 COLUMBIA STREET  
P.O. BOX 929  
LAFAYETTE IN 47902-0929  
(765) 423-1642

INVOICE NUMBER: 06146A-IN

INVOICE DATE: 05/10/05

CUSTOMER NO.: 0005050

LLC

STUART & BRANIGIN  
PO Box 1010  
300 Main Street, Suite 800  
LAFAYETTE, IN 47902

Attn: Marianne Owen

DESCRIPTION	AMOUNT
TITLE INSURANCE UPDATE	100.00

REFERENCE  
NAME (S)

None

Tippecanoe County Local Environmental Response Finance  
Board

PROPERTY

Pt Longlois Res & Sec 10-23-4  
North Ninth Street Road  
Lafayette, IN 47905

THANK YOU FOR CHOOSING STALLARD & SCHUH

AMOUNT DUE

100.00

**ENDORSEMENT**

RE: Tippecanoe County Local Environmental Response Financing Board

FILE NO.: 200006146

Attached to and a part of Owner's Policy OA75-406359

Issued by

**LAWYERS TITLE INSURANCE CORPORATION**

**Effective Date is hereby amended to read as follows:**

May 2, 2005, at 8:00AM

**Schedule A is hereby amended to include the following:**

Parcel VII:

A non-exclusive grant of easement as set forth in that certain Easement Agreement dated October 2, 2001, recorded January 9, 2002, as Document Number 020009956, by and between Dorothy E. Rafferty, Clark William Rafferty and Emily Sue Miller, as owners; and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

Parcel VIII:

A non-exclusive grant of easement as set forth in that certain Easement Agreement dated September 17, 2001, recorded January 9, 2002, as Document Number 02000996, by and between Fairfield Builders Supply Corp., as owner; and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

Parcel IX:

A non-exclusive grant of easement as set forth in that certain Easement Agreement dated December 18, 2001, recorded January 9, 2002, as Document Number 02000997, by and between The Trustees of Purdue University, as owner; and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

PARCEL X:

A non-exclusive grant of easement as set forth in that certain Easement Agreement (Monitoring Well No. 11) dated December 18, 2001, recorded January 9, 2002, as Document Number 02000998, re-recorded January 17, 2002, as Document Number 02001967, by and between The Board of Commissioners of Tippecanoe County, as Owner; and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

PARCEL XI:

A non-exclusive grant of easement as set forth in that certain Easement Agreement (Monitoring Well No. 24) dated December 13, 2001, recorded January 9, 2002, as Document Number 02000999, re-recorded January 17, 2002, as Document Number 02001968, by and between The Board of Commissioners of Tippecanoe County, as Owner; and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

PARCEL XII:

A non-exclusive grant of easement as set forth in that certain Easement Agreement (Monitoring Well No. 23) dated December 13, 2001, recorded January 9, 2002, as Document Number 02001000, re-recorded January 17, 2002, as Document Number 02001969, by and between The Board of Commissioners of Tippecanoe County, as Owner and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

**Schedule B, Item 6, is hereby amended to read as follows:**

6. Taxes for the year 2004, due and payable May and November 2005, and all subsequent taxes, not yet due and payable. (NOTE: At effective date, subject property was not assessed for taxation.)

**Schedule B is hereby amended to include the following:**

10. Terms and provisions of grants of easement set forth in Schedule A as Parcels VI, VII, VIII, IX, X, XI and XII.

(END OF ENDORSEMENT)

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

Signed this 9th day of May, 2005

Prepared by: llc

Countersigned: STALLARD & SCHUH, INC.  
301 Columbia Street  
Lafayette, IN 47901


By: Linda L. Copas  
Linda L. Copas  
Authorized Signatory

**ACKNOWLEDGMENT OF LEASE TERMINATION**

THIS INDENTURE WITNESSETH that Vulcan Construction Materials, LP, a Delaware limited partnership, does hereby release all of the rights, title and interest granted to it by way of a Lease evidenced by that certain Memorandum of Lease dated August 31, 1995, recorded August 31, 1995, as Document Number 9514806, by and between Fairfield Builders Supply Corp., Inc. as Lessor, and Vulcan Materials Company as Lessee, an Amendment to Lease Agreement dated November 26, 1997, recorded January 14, 1998, as Document Number 9800904, and an Assignment of Lease effective December 31, 1999, recorded June 28, 2000 as Document Number 00013654 by and between Vulcan Materials Company, a New Jersey corporation, as Assignor, and Vulcan Construction Materials, LP, a Delaware limited partnership, as Assignee (collectively, the "Lease"). The Lease concerns the real estate more particularly described in Exhibit A. It is acknowledged that Vulcan Material Company and Vulcan Construction Materials, LP remain obligated to complete the reclamation process in accordance with the terms of the Lease.

VULCAN CONSTRUCTION MATERIALS, LP,  
a Delaware limited partnership

By: Vulcan Materials Company  
Its: General Partner

By:   
William F. Denson, III, Senior Vice  
President-General Counsel and Secretary

STATE OF ALABAMA     )  
                                  ) SS:  
JEFFERSON COUNTY    )

Before me, a Notary Public in and for said County and State, personally appeared WILLIAM F. DENSON, III, the Senior Vice President-General Counsel and Secretary of Vulcan Materials Company, the General Partner of Vulcan Construction Materials, LP, who acknowledged the execution of the foregoing Acknowledgment of Lease Termination for and on behalf of said limited partnership.

WITNESS my hand and Notarial Seal this 23<sup>rd</sup> day of October, 2000.

Vanessa L. Duke

Notary Public

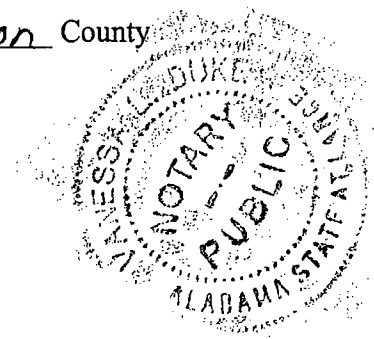
Vanessa L. Duke

Printed Name

My Commission Expires:

July 2, 2003

A resident of Jefferson County



This instrument prepared by:

Robert S. Laszynski of  
LASZYNSKI & MOORE  
P. O. Box 848  
Lafayette, Indiana 47902 .  
(765) 423-5626

AND

Marianne Mitten Owen of  
STUART & BRANIGIN  
P. O. Box 1010  
Lafayette, Indiana 47902-1010  
(765) 423-1561



**EXHIBIT A**

(See Attached)

NOTE: THE TRACT NUMBERS USED IN THE FOLLOWING DESCRIPTION REFER TO THE SURVEY OF THE PREMISES AND CERTAIN ADJOINING PROPERTY MADE BY VESTER & ASSOCIATES, INC., CERTIFIED ON AUGUST 11, 1995.

LEGAL DESCRIPTION OF TRACT 2

A part of the west half of the Longlois Reserve, Township Twenty-three (23) North, Range Four (4) West, Fairfield Township, Tippecanoe County, Indiana, being depicted on a plat of survey by Vester and Associates, Inc., Job No. E-95076, being more completely described as follows, to wit:

Commencing at the northwest corner of the east half of the Longlois Reserve, said point being marked by a stone; thence along the west line of said east half, South 0° 09' 21" East a distance of 1502.65 feet to the intersection of the north line of the former Relief Jackson property; thence along the east line of said west half, South 0° 09' 21" East, a distance of 1217.06 feet to a concrete post on the north line of the Wabash and Erie Canal; thence along said north line, South 71° 33' 02" West, a distance of 1591.77 feet to a 3/4" rebar; thence South 6° 16' 38" East, a distance of 875.72 feet to a 3/4" rebar; thence South 22° 30' 00" West, a distance of 66.34 feet to a 3/4" rebar on the northeasterly right-of-way of U.S. Highway 52; thence along said right-of-way the following four (4) courses; (1) thence northwesterly along a non-tangent curve, (said curve being concave southwesterly, having a radius of 2591.83 feet, a chord length of 18.82 feet, and a chord bearing of North 42° 53' 31" West) an arc distance of 18.82 feet; (2) thence North 59° 24' 50" West, a distance of 587.40 feet to a concrete right-of-way marker; (3) thence North 57° 53' 07" West, a distance of 443.71 feet to a concrete right-of-way marker; (4) thence North 63° 11' 20" West, a distance of 133.93 feet to a 3/4" rebar; thence North 72° 57' 56" East, a distance of 281.00 feet to a 3/4" rebar; thence North 64° 00' 00" East, a distance of 96.36 feet to a 3/4" rebar; thence North 0° 00' 00" East, a distance of 1901.07 feet to a rebar on the north line of said Relief Jackson property; thence along said north line, North 89° 31' 28" East, a distance of 2092.99 feet to the point of beginning, containing 85.487 acres

## LEGAL DESCRIPTION OF TRACT 3

A part of the Longlois Reserve, Township Twenty-three (23) North, Range Four (4) West, Fairfield Township, Tippecanoe County, Indiana, being depicted on a plat of survey by Vester and Associates, Inc., Job No. E-95076, being more completely described as follows, to wit:

Commencing at the northwest corner of the east half of the Longlois Reserve, said point being marked by a stone; thence along the west line of said east half, South 0° 09' 21" East a distance of 2828.51 feet to south line of the Wabash and Erie Canal, said point being the point of beginning of the herein described tract, and being marked by a 3/4" rebar with an aluminum cap stamped "Vester & Assoc.", hereinafter referred to as a capped rebar; thence along the south line of said Canal, North 71° 10' 08" East a distance of 392.09 feet to an iron pipe at the northwesterly corner of the Springvale Cemetery; thence along the westerly boundary of said Cemetery, South 10° 35' 51" East a distance of 1465.06 feet to an iron pipe; thence continuing along said boundary, South 29° 59' 56" West, a distance of 205.43 feet to an iron pipe on the west line of the east half of the Longlois Reserve; thence along said west line, North 0° 02' 25" West, a distance of 295.91 feet; thence South 51' 04" West, a distance of 334.81 feet; thence North 0° 00' 51" West, a distance of 326.30 feet to the south line of the overhead electric transmission line easement; thence along said easement line, North 47° 35' 15" West, a distance of 1487.09 feet to the south line of the Wabash and Erie Canal; thence along said Canal, North 72° 03' 34" East, a distance of 1127.66 feet to a capped rebar; thence continuing along said south line, North 68° 23' 23" East a distance of 386.39 feet to the point of beginning, containing 37.941 acres.

## LEGAL DESCRIPTION OF GAP AREA

A part of the Longlois Reserve, Township Twenty-three (23) North, Range Four (4) West, Fairfield Township, Tippecanoe County, Indiana, being depicted on a plat of survey by Vester and Associates, Inc., Job No. E-95076, being more completely described as follows, to wit:

Commencing at the northwest corner of the east half of the Longlois Reserve, said point being marked by a stone; thence along the west line of said east half, South 0° 09' 21" East a distance of 2828.51 feet to south line of the Wabash and Erie Canal, said point being marked by a 3/4" rebar with an aluminum cap stamped "Vester & Assoc."; thence along the south line of said Canal, North 71° 10' 08" East a distance of 354.26 feet to the point of beginning of the herein described tract; thence continuing along said line, North 71° 10' 08" East a distance of

37.83 feet to an iron pipe at the northwesterly corner of the Springvale Cemetery; thence along the westerly boundary of said Cemetery, South 10° 35' 51" West a distance of 1465.06 feet to an iron pipe; thence North 9° 17' 34" East a distance of 1446.85 feet to the point of beginning, containing 0.554 acres.

#### LEGAL DESCRIPTION OF TRACT 4

A part of the Longlois Reserve, Township Twenty-three (23) North, Range Four (4) West, Fairfield Township, Tippecanoe County, Indiana, being depicted on a plat of survey by Vester and Associates, Inc., Job No. E-95076, being more completely described as follows, to wit:

Commencing at the northwest corner of the east half of Longlois Reserve, said point being marked by a stone; thence along the west line of said east half, South 0° 09' 21" East, a distance of 1468.17 feet to the point of beginning of the herein described tract; thence North 89° 37' 47" East, a distance of 1704.63 feet to the west line of the Hilt property as described in Deed Record MF73-3508, recorded in the Office of the Tippecanoe County Recorder, said point being marked by a 3/4" rebar with an aluminum cap stamped "Vester & Assoc.", hereinafter referred to as a capped rebar; thence along said west line, South 1° 30' 14" East, a distance of 122.80 feet to an iron pipe on the southern line of the Wabash and Erie Canal; thence along the southern line of said Canal the following seven (7) courses; (1) thence South 53° 20' 46" West, a distance of 232.29 feet to an iron pipe; (2) thence South 40° 11' 30" West, a distance of 681.91 feet to an iron pipe; (3) thence South 49° 18' 40" West, a distance of 378.72 feet to an iron pipe; (4) thence South 62° 48' 01" West, a distance of 471.57 feet to an iron pipe at the northwesterly corner of the Springvale Cemetery; (5) thence South 71° 10' 08" West, a distance of 392.09 feet to a capped rebar on the west line of the east half of said reserve; (6) thence South 68° 38' 23" West, a distance of 386.39 feet to a capped rebar; (7) thence South 72° 03' 34" West, a distance of 1196.02 feet to a capped rebar; thence North 6° 16' 38" West, a distance of 114.88 feet to a capped rebar; thence North 71° 33' 02" East, a distance of 1591.77 feet to a concrete post of the west line of the east half of said reserve; thence along said west line, North 0° 09' 21" West, a distance of 1251.54 feet to the point of beginning, containing 38.236 acres.

#### LEGAL DESCRIPTION OF TRACT 5

A part of the east half of the Longlois Reserve, Township Twenty-three (23) North, Range Four (4) West, Fairfield Township, Tippecanoe County, Indiana, being depicted on a plat of survey by Vester and Associates, Inc., Job No. E-95076, being more completely described as follows, to wit:

Commencing at the northwest corner of the east half of Longlois Reserve, said point being marked by a stone; thence along the north line of said reserve, North 89° 37' 47" East, a distance of 1338.81 feet to the point of beginning of the herein described tract; thence continuing along said line, North 89° 37' 47" East distance of 849.85 feet to an iron pipe at the southeast corner of the northwest fractional quarter of Section 10-23-4; thence continuing along the north line of said reserve, North 89° 25' 25" East, a distance of 1493.71 feet to the northeast corner of said reserve; thence along the east line of said reserve, South 0° 07' 19" East, a distance of 643.66 feet to an iron pipe on the north line of the Wabash and Erie Canal; thence along said north line, South 66° 53' 39" West, a distance of 2147.29 feet to a 3/4" rebar with an aluminum cap stamped "Vester & Assoc." on the west line of the Hilt property as described in Deed Record MF 73-3508, in the Office of the Tippecanoe County Recorder; thence South 89° 37' 47" West, a distance of 365.82 feet; thence North 0° 09' 21" West, a distance of 1468.17 feet to the point of beginning, containing 60.234 acres.

#### LEGAL DESCRIPTION OF TRACT 6

A part of the east half of the Longlois Reserve, Township Twenty-three (23) North, Range Four (4) West, Fairfield Township, Tippecanoe County, Indiana, being depicted on a plat of survey by Vester and Associates, Inc., Job No. E-95076, being more completely described as follows, to wit:

Commencing at the northwest corner of the east half of Longlois Reserve, said point being marked by a stone; thence along the west line of said reserve, South 0° 09' 21" East a distance of 753.67 feet to the point of beginning of the herein described tract, said point being marked by a 3/4" rebar with an aluminum cap stamped "Vester & Assoc.", hereinafter referred to as a capped rebar; thence North 60° 26' 32" East, a distance of 283.38 feet to a capped rebar; thence North 86° 44' 07" East, a distance of 385.84 feet to a capped rebar; thence North 73° 19' 20" East, a distance of 147.00 feet to a capped rebar; thence South 89° 58' 24" East, a distance of 282.53 feet to a capped rebar; thence South 2° 06' 24" East, a distance of 79.43 feet to a capped rebar; thence South 80° 37' 40" West, a distance of 121.23 feet to a capped rebar; thence South 1° 11' 25" West, a distance of 258.23 feet to a capped rebar; thence South 7° 19' 45" East, a distance of 152.03 feet to a capped rebar; thence South 4° 40' 03" West, a distance of 130.90 feet to a capped rebar; thence South 21° 40' 56" West, a distance of 295.31 feet to a capped rebar on the north line of a 38.235 acre tract described in Record 87-16500, recorded in the Office of the Tippecanoe County Recorder; thence along said north line, South 89° 37' 47" West, a distance of 830.72 feet to the west line of the east half of said reserve; thence along said west line, North 0° 09' 21" West, a distance of 714.50 feet to the point of beginning, containing 18.353 acres.

## LEGAL DESCRIPTION OF TRACT 7

A part of the east half of the Longlois Reserve, Township Twenty-three (23) North, Range Four (4) West, Fairfield Township, Tippecanoe County, Indiana, being depicted on a plat of survey by Vester and Associates, Inc., Job No. E-95076, being more completely described as follows, to wit:

Beginning the northwest corner of the east half of Longlois Reserve, said point being marked by a stone; thence along the north line of said reserve, North 89° 37' 47" East, a distance of 1338.81 feet; thence South 0° 09' 21" East, a distance of 1468.17 feet; thence South 89° 37' 47" West, a distance of 508.09 feet to a 3/4" rebar with an aluminum cap stamped "Vester & Assoc.", hereinafter referred to as a capped rebar; thence North 21° 40' 56" East, a distance of 295.31 feet to a capped rebar; thence North 4° 40' 03" East, a distance of 130.90 feet to a capped rebar; thence North 7° 19' 45" West, a distance of 152.03 feet to a capped rebar; thence North 1° 11' 25" East, a distance of 258.23 feet to a capped rebar; thence North 80° 37' 40" East, a distance of 121.23 feet to a capped rebar; thence North 2° 06' 24" West, a distance of 79.43 feet to a capped rebar; thence North 89° 58' 24" West, a distance of 282.53 feet to a capped rebar; thence South 73° 19' 20" West, a distance of 147.00 feet to a capped rebar; thence South 86° 44' 07" West, a distance of 385.84 feet to a capped rebar; thence South 60° 26' 32" West, a distance of 283.38 feet to a capped rebar on the west line of the east half of said reserve; thence along said line, North 0° 09' 21" West a distance of 753.67 feet to the point of beginning, containing 26.770 acres.

LEGAL DESCRIPTION OF TRACT 8  
(per Record 89-12883)

A part of the northwest fractional quarter of Section Ten (10), Township Twenty-three (23) North, Range Four (4) West, Fairfield Township, Tippecanoe County, Indiana, being more completely described as follows, to wit:

Beginning at the northwest corner of the northwest fractional quarter of Section 10-23-4, said corner being marked by a 3/4" X 30" reinforcing rod with an aluminum cap stamped "VESTER & ASSOC. INC./PATRICK CUNNINGHAM RLS S0332" hereinafter referred to as a standard survey marker; thence North 89° 56' 35" East along the north line of said fractional quarter section a distance of 1253.42 feet to the approximate center line of Wildcat Creek; thence along said approximate center line the following eight (8) courses; 1) South 48° 58' 06" East a distance of 19.22 feet, 2) South 9° 21' 48" East a distance of 166.63 feet, 3) South 32° 12' 25" West a distance of 381.53 feet, 4) South 1° 30' 46" East a distance of 268.76 feet,

5) South 42° 35' 36" East a distance of 322.08 feet, 6) South 86° 56' 01" East a distance of 496.06 feet, 7) North 70° 00' 36" East a distance of 587.32 feet, 8) North 47° 07' 44" East a distance of 393.19 feet to the east line of said fractional quarter section; thence South 1° 14' 11" West along said east line a distance of 464.61 feet to the southeast corner of said fractional quarter section, said corner being marked by an iron pipe; thence South 89° 37' 47" West along the south line of said fractional quarter section a distance of 2188.66 feet to the northwest corner of the east half of Longlois Reserve, said corner being marked by a stone; thence South 89° 41' 39" West along the south line of said fractional quarter section a distance of 444.27 feet to the southwest corner of said fractional quarter section, said corner being marked by a standard survey marker; thence North 0° 30' 35" West along the west line of said fractional quarter section a distance of 1043.67 feet to the point of beginning, containing 31.915 acres.

LEGAL DESCRIPTION OF TRACT 9  
(per Record 90-12883)

A part of the southwest quarter of Section Three (3), Township Twenty-three (23) North, Range Four (4) West, Fairfield Township, Tippecanoe County, Indiana, being more completely described as follows, to wit:

Beginning at the southwest corner of the southwest quarter of Section 3-23-4, said corner being marked by 3/4" X 30" reinforcing rod with an aluminum cap stamped "VESTER & ASSOC. INC./PATRICK CUNNINGHAM RLS SO332"; thence North 0° 30' 35" West along the west line of said quarter section a distance of 572.23 feet to the northwest corner of a tract of land described as being 35 acres off of the south side of said quarter section; thence North 89° 56' 35" East along the north line of said 35 acre tract being parallel with the south line of said quarter section a distance of 1207.30 feet to the approximate center line of Wildcat Creek; thence along said approximate center line the following three (3) courses; 1) South 15° 34' 41" West a distance of 337.59 feet, 2) South 14° 02' 06" East a distance of 162.71 feet, 3) South 48° 58' 06" East a distance of 135.75 feet to the south line of said quarter section; thence South 89° 56' 35" West along said south line a distance of 1253.42 feet to the point of beginning, containing 15.230 acres.

LEGAL DESCRIPTION OF TRACT 10  
(per Record 89-12883)

Twenty (20) acres off of the west end of Lot Numbered Twelve (12) in the partition of the estate of Isaac N. Higman, located in a part of the southwest quarter of Section Three (3),

Township Twenty-three (23) North, Range Four (4) West, Fairfield Township, Tippecanoe County, Indiana, being more completely described as follows, to wit:

Commencing at the southwest corner of the southwest quarter of Section 3-23-4, said corner being marked by a 3/4" X 30" reinforcing rod with an aluminum cap stamped "VESTER & ASSOC. INC./PATRICK CUNNINGHAM RLS S0332" hereinafter referred to as a standard survey marker; thence North 0° 30' 35" West along the west line of said quarter section a distance of 572.23 feet to the northwest corner of a tract of land described as being 35 acres off of the south side of said quarter section, said corner being the point of beginning of the herein described tract; thence North 0° 30' 35" West along said west line a distance of 693.00 feet to the northwest corner of Lot Numbered Twelve (12) in the partition of the estate of Isaac N. Higman, said corner being marked by a standard survey marker; thence North 89° 56' 35" East along the north line of said lot being parallel with the south line of said quarter section a distance of 1257.18 feet thence South 0° 30' 35" East parallel with said west line a distance of 693.00 feet to the north line of said 35 acre tract; thence South 89° 56' 35" West along said north line being parallel with the south line of said quarter section a distance of 1257.18 feet to the point of beginning, containing 20.000 acres.

LEGAL DESCRIPTION OF TRACT 11  
(per Record 89-12883)

A part of Lot Numbered Twelve (12) in the partition of the estate of Isaac N. Higman, located in a part of the southwest quarter of Section Three (3), Township Twenty-Three (23) North, Range Four (4) West, Fairfield Township, Tippecanoe County, Indiana, being more completely described as follows, to wit:

Commencing at the southwest corner of the southwest quarter of Section 3-23-4, said corner being marked by a 3/4" X 30" reinforcing rod with an aluminum cap stamped "VESTER & ASSOC. INC./PATRICK CUNNINGHAM RLS S0332" hereinafter referred to as a standard survey marker; thence North 0° 30' 35" West along the west line of said quarter section a distance of 1265.23 feet to the northwest corner of Lot Numbered Twelve (12) in the partition of the estate of Isaac N. Higman, said corner being marked by a standard survey marker; thence North 89° 56' 35" East along the north line of said lot being parallel with the south line of said quarter section a distance of 1257.18 feet to the point of beginning of the herein described tract; thence North 89° 56' 35" East along said north line a distance of 122.82 feet to the approximate center line of Wildcat Creek; thence South 13° 30' 35" West along said approximate center line a distance of 506.98 feet; thence North 0° 30' 35" West parallel with said west line a distance of 492.85 feet to the point of beginning, containing 0.695 acre.



## LEGAL DESCRIPTION OF TRACT 12

A part of the northeast fractional quarter of Section 10 (10), Township Twenty-three (23) North, Range Four (4) West, Dearfield Township, Tippecanoe County, Indiana, being depicted on a plat of survey by Vester and Associates, Inc., Job No. E-95076, and being more completely described as follows, to wit:

Commencing at the northwest corner of the east half of the Longlois Reserve, said point being marked by a stone; thence along the north line of said reserve, North 8° 37' 47" East, a distance of 2188.66 feet to an iron pipe at the southeast corner of the northwest fractional quarter of Section 10-23-4 said point being the point of beginning of the herein described tract; thence along the west line of the northeast fractional quarter of said section, North 01° 14' 11" East a distance of 1030.00 feet to the northwest corner of said northeast fractional quarter; thence along the north line of said northeast fractional quarter, North 89° 56' 35" East a distance of 1422.47 feet to the approximate center line of the Wildcat Creek; thence along said approximate center line the following three (3) courses; thence South 13° 28' 19" East a distance of 214.86 feet; thence South 02° 33' 58" East a distance of 580.62 feet; thence South 06° 30' 55" East a distance of 173.21 feet to the south line of a 61.80 acre tract described in Deed Record 2, page 583, recorded in the Office of the Tippecanoe County Recorder; thence along said south line, South 89° 25' 25" West a distance of 46.88 feet; thence South 00° 07' 19" East a distance of 54.60 feet to the northeast corner of the Longlois Reserve; thence along the north line of said reserve, South 89° 25' 25" West a distance of 1493.71 feet to the point of beginning, containing 35.033 acres.

## LEGAL DESCRIPTION OF ACCESS PARCEL

A strip of land in part of the west half of Longlois Reserve, Township Twenty-three (23) North, Range Four (4) West, Dearfield Township, Tippecanoe County, Indiana, being Sixty (60) feet in even width, Thirty (30) feet on both sides of the following described center line, being depicted on a plat of survey by Vester and Associates, Inc., Job No. E-95076, the center line being more completely described as follows, to wit:

Commencing at the intersection of the south line of the Ash and Erie Canal, and the west line of the east half of the Longlois Reserve, said point being marked by a 3/4" rebar with an aluminum cap stamped "Vester & Assoc."; thence along the west line of the east half of the Longlois Reserve, South 0° 02' 25" East, a distance of 1787.33 feet; thence South 84° 51' 04" West a distance of 112.79 feet to the point of beginning of the herein described easement center line; thence South 0° 00' 26" East a distance of 411.38 feet; thence South 25° 38' 26" East a distance of 126.22 feet to the northwesterly right-of-way of Indiana State Highway 25, said point being the point of termination.

MATTERS AFFECTING POSSESSORY RIGHTS

Vulcan's exclusive right of possession shall be subject to:

Existing electric power line and gas line easements,

The road running along the southerly boundary line of Tract 5.

# INVOICE



STALLARD & SCHUH, INC.  
301 COLUMBIA STREET  
P.O. BOX 929  
LAFAYETTE IN 47902-0929  
(765) 423-1642

INVOICE NUMBER: 005043B-IN

INVOICE DATE: 05/10/05

CUSTOMER NO.: 0005050

LLC

STUART & BRANIGIN  
PO Box 1010  
300 Main Street, Suite 800  
LAFAYETTE, IN 47902

Attn: Marianne Owen

DESCRIPTION	AMOUNT
TITLE INSURANCE UPDATE	100.00

REFERENCE  
NAME (S)

None

Tippecanoe County Local Environmental Response Financing  
Board

PROPERTY

Pt Longlois Reserve Twp 23N R4 W .36A  
North Ninth Street Road  
Lafayette, IN 47905

THANK YOU FOR CHOOSING STALLARD & SCHUH

AMOUNT DUE

100.00

# OWNER'S POLICY OF TITLE INSURANCE

Issued by **Lawyers Title Insurance Corporation**

POLICY NUMBER



*Lawyers Title Insurance Corporation is a member of the LandAmerica family of title insurance underwriters.*

A 75-2389465

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, LAWYERS TITLE INSURANCE CORPORATION, a Virginia corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
2. Any defect in or lien or encumbrance on the title;
3. Unmarketability of the title;
4. Lack of a right of access to and from the land.

The Company will also pay the costs, attorneys' fees and expenses incurred in defense of the title, as insured, but only to the extent provided in the Conditions and Stipulations.

IN WITNESS WHEREOF, LAWYERS TITLE INSURANCE CORPORATION has caused its corporate name and seal to be hereunto affixed by its duly authorized officers, the Policy to become valid when countersigned by an authorized officer or agent of the Company.

LAWYERS TITLE INSURANCE CORPORATION

Attest:

  
Secretary



By:

  
President

## EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.  
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the Insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (a) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
  - (b) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (i) to timely record the instrument of transfer; or
    - (ii) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

## CONDITIONS AND STIPULATIONS

### 1. DEFINITION OF TERMS.

The following terms when used in this policy mean:

(a) "insured": the insured named in Schedule A, and, subject to any rights or defenses the Company would have had against the named insured, those who succeed to the interest of the named insured by operation of law as distinguished from purchase including, but not limited to, heirs, distributees, devisees, survivors, personal representatives, next of kin, or corporate or fiduciary successors.

(b) "insured claimant": an insured claiming loss or damage.

(c) "knowledge" or "known": actual knowledge, not constructive knowledge or notice which may be imputed to an insured by reason of the public records as defined in this policy or any other records which impart constructive notice of matters affecting the land.

(d) "land": the land described or referred to in Schedule A, and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule A, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but nothing herein shall modify or limit the extent to which a right of access to and from the land is insured by this policy.

(e) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.

(f) "public records": records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge. With respect to Section 1(a)(iv) of the Exclusions From Coverage, "public records" shall also include environmental protection liens filed in the records of the clerk of the United States district court for the district in which the land is located.

(g) "unmarketability of the title": an alleged or apparent matter affecting the title to the land, not excluded or excepted from coverage, which would entitle a purchaser of the estate or interest described in Schedule A to be released from the obligation to purchase by virtue of a contractual condition requiring the delivery of marketable title.

### 2. CONTINUATION OF INSURANCE AFTER CONVEYANCE OF TITLE.

The coverage of this policy shall continue in force as of Date of Policy in favor of an insured only so long as the insured retains an estate or interest in the land, or holds an indebtedness secured by a purchase money mortgage given by a purchaser from the insured, or only so long as the insured shall have liability by reason of covenants of warranty made by the insured in any transfer or conveyance of the estate or interest. This policy shall not continue in force in favor of any purchaser from the insured of either (i) an estate or interest in the land, or (ii) an indebtedness secured by a purchase money mortgage given to the insured.

### 3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT.

The insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 4(a) below, (ii) in case knowledge shall come to an insured of the reversion of any claim of title or interest which is adverse to the title to the estate or interest, as insured, and which might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if title to the estate or interest, as insured, is rejected as unmarketable. If prompt notice shall not be given to the Company, then as to the insured all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any insured under this policy unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

### 4. DEFENSE AND PROSECUTION OF ACTIONS; DUTY OF INSURED CLAIMANT TO COOPERATE.

(a) Upon written request by the insured and subject to the options contained in Section 6 of these Conditions and Stipulations, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an insured in litigation in which any third party asserts a claim adverse to the title or interest as insured, but only as to those stated causes of action alleging a defect, lien or encumbrance or other matter insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the insured to object for reasonable cause) to represent the insured as to those stated causes of action and shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs or expenses incurred by the insured in the defense of those causes of action which allege matters not insured by this policy.

(b) The Company shall have the right, at its own cost, to institute and prosecute any action or proceeding or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest, as insured, or to prevent or reduce loss or damage to the insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this policy. If the Company shall exercise its rights under this paragraph, it shall do so diligently.

(c) Whenever the Company shall have brought an action or interposed a defense as required or permitted by the provisions of this policy, the Company may pursue any litigation to final determination by a court of competent jurisdiction

and expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

(d) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding, the insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of the insured for this purpose. Whenever requested by the Company, the insured, at the Company's expense, shall give the Company all reasonable aid (i) in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest as insured. If the Company is prejudiced by the failure of the insured to furnish the required cooperation, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

### 5. PROOF OF LOSS OR DAMAGE.

In addition to and after the notices required under Section 3 of these Conditions and Stipulations have been provided the Company, a proof of loss or damage signed and sworn to by the insured claimant shall be furnished to the Company within 90 days after the insured claimant shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the defect in, or lien or encumbrance on the title, or other matter insured against by this policy which constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the insured claimant to provide the required proof of loss or damage, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such proof of loss or damage.

In addition, the insured claimant may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Policy, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the insured claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the insured claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the insured claimant to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in this paragraph shall terminate any liability of the Company under this policy as to that claim.

### 6. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY.

In case of a claim under this policy, the Company shall have the following additional options:

#### (a) To Pay or Tender Payment of the Amount of Insurance.

To pay or tender payment of the amount of insurance under this policy together with any costs, attorneys' fees and expenses incurred by the insured claimant, which were authorized by the Company, up to the time of payment or tender of payment and which the Company is obligated to pay.

Upon the exercise by the Company of this option, all liability and obligations to the insured under this policy, other than to make the payment required, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, and the policy shall be surrendered to the Company for cancellation.

#### (b) To Pay or Otherwise Settle With Parties Other than the Insured or With the Insured Claimant.

(i) to pay or otherwise settle with other parties for or in the name of an insured claimant any claim insured against under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay; or

(ii) to pay or otherwise settle with the insured claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in paragraphs (b)(i) or (ii), the Company's obligations to the insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute or continue any litigation.

**ENDORSEMENT**

RE: TIPPECANOE COUNTY LOCAL ENVIRONMENTAL RESPONSE  
FINANCING BOARD

FILE NO.: 200005043

Attached to and a part of Owner's Policy A75-2389465:

Issued by

**LAWYERS TITLE INSURANCE CORPORATION**

**Effective Date is hereby amended to read as follows:**

May 2, 2005, at 8:00AM

**Schedule A is hereby amended to include the following:**

Parcel III:

A non-exclusive grant of easement as set forth in that certain Easement Agreement dated October 2, 2001, recorded January 9, 2002, as Document Number 020009956, by and between Dorothy E. Rafferty, Clark William Rafferty and Emily Sue Miller., as owners; and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

Parcel IV:

A non-exclusive grant of easement as set forth in that certain Easement Agreement dated September 17, 2001, recorded January 9, 2002, as Document Number 02000996, by and between Fairfield Builders Supply Corp., as owner; and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

Parcel V:

A non-exclusive grant of easement as set forth in that certain Easement Agreement dated December 18, 2001, recorded January 9, 2002, as Document Number 02000997, by and between The Trustees of Purdue University, as owner; and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

PARCEL VI:

A non-exclusive grant of easement as set forth in that certain Easement Agreement (Monitoring Well No. 11) dated December 18, 2001, recorded January 9, 2002, as Document Number 02000998, re-recorded January 17, 2002, as Document Number 02001967, by and between The Board of Commissioners of Tippecanoe County, as Owner; and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

PARCEL VII:

A non-exclusive grant of easement as set forth in that certain Easement Agreement (Monitoring Well No. 24) dated December 18, 2001, recorded January 9, 2002, as Document Number 02000999, re-recorded January 17, 2002, as Document Number 02001968, by and between The Board of Commissioners of Tippecanoe County, as Owner; and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

PARCEL VIII:

A non-exclusive grant of easement as set forth in that certain Easement Agreement (Monitoring Well No. 23) dated December 18, 2001, recorded January 9, 2002, as Document Number 02001000, re-recorded January 17, 2002, as Document Number 02001969, by and between The Board of Commissioners of Tippecanoe County, as Owner' and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

**Schedule B, Item 6, is hereby amended to read as follows:**

5. Taxes for the year 2004, due and payable May and November 2005, and all subsequent taxes, not yet due and payable. (NOTE: A: effective date, subject property was not assessed for taxation.

**Schedule B is hereby amended to include the following:**

12. Terms and provisions of grants of easement set forth in Schedule A as Parcels III, IV, V, VI, VII, and VIII.

(END OF ENDORSEMENT)

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

Signed this 9th day of May, 2005

Countersigned: STALLARD & SCHUH, INC.  
301 Columbia Street  
Lafayette, IN 47901

Prepared by: llc

By: Linda L. Copas  
Linda L. Copas  
Authorized Signatory

**Lawyers Title Insurance Corporation**

**OWNER'S POLICY**

**SCHEDULE A**

<b>File Number:</b>	<b>Date of Policy:</b>	<b>Amount of Insurance:</b>	<b>Policy Number:</b>
200005043	May 19, 2000	\$113,000.00	OA752389465

1. Name of Insured:

**Tippecanoe County Local Environmental Response Financing Board**

2. The estate or interest referred to herein is at Date of Policy vested in:

**Tippecanoe County Local Environmental Response Financing Board**

3. The estate or interest in the land described in this Schedule and which is encumbered by the insured mortgage is:

**Fee simple**

4. The land referred to in this policy is situated in the County of **Tippecanoe**, State of **Indiana**, and is described as follows:

**SEE ATTACHED EXHIBIT A**

Countersigned: **Stallard & Schuh, Inc**  
301 Columbia  
Lafayette, IN 47901  
(765) 423-1642

By: *Linda L. Copas*  
**Linda L. Copas**  
Authorized Officer or Agent

ALTA Owner's Policy 1987 (Amended 10/17/92)

This Policy is invalid unless the cover sheet and Schedules A and B are attached.



## Lawyers Title Insurance Corporation

### OWNER'S POLICY

~ Continuation ~

#### EXHIBIT A

##### PARCEL I:

A part of the west half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, described as follows: Beginning at a point on the northern line of the west half of Longlois Reserve, said point being located South 89°-53'-00" West 1865.30 feet from the northeastern corner of the west half of Longlois Reserve; thence South 27°-40'-00" West 104.64 feet; thence North 75°-18'-00" West 5.38 feet; thence South 59°-42'-00" West 10.76 feet; thence South 14°-42'-00" West 21.75 feet; thence North 76°-17'-00" West 116.55 feet; thence North 06°-24'-00" East 90.32 feet to the northern line of the west half of Longlois Reserve; thence North 89°-53'-00" East along the northern line of the west half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

##### PARCEL II

An easement for ingress and egress described as follows: An easement and right of way of sufficient width to permit passage of motor vehicles for access to the above described 0.36 of an acre tract from North Ninth Street Road, or such other public dedicated road the Grantor, or its successors in title, may from time to time determine.

(Said easement as set forth in that certain Executor's Deed dated August 24, 1979, recorded September 7, 1979, as Deed Record 79, Page 3864, from John D. Gilmore, as Executor of the Estate of Archie E. Gilmore, deceased, as Grantor; to Donal R. Chambers and D. Jane Chambers, husband and wife, as Grantees.)

ALTA Owner's Policy 1987 (Amended 10/17/92)

This Policy is invalid unless the cover sheet and Schedules A and B are attached.

## Lawyers Title Insurance Corporation

### OWNER'S POLICY

#### SCHEDULE B

**File Number:**  
200005043

**Date of Policy:**  
May 19, 2000

**Policy Number:**  
OA752389465

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Rights or claims of parties in possession not shown by the public records.
2. Any encroachments, easements, overlaps, boundary line disputes, or other matters, which would be disclosed by an accurate survey or inspection of the premises.
3. Easements, liens, or encumbrances or claims thereof, not shown by the public records.
4. Any lien, or right to a lien, for services, labor, or materials heretofore or hereafter furnished, imposed by law and now shown by the public records.
5. Taxes or special assessments, which are not shown as existing liens by public records.
6. Taxes for the year 2000, due and payable May and November 2001, and all subsequent taxes, not yet due and payable.
7. The acreage indicated in the legal description is for the sole purpose of identifying the said tract and should not be construed as insuring the quantity of land.
8. Rights of way for drainage tiles, ditches, laterals, and feeders, if any.
9. Possible rights of way for CSX Transportation (Railroad) along entire westerly side of subject property.
10. Term and provisions of a Grant of Easement as set forth in Schedule A, Parcel II.

ALTA Owner's Policy 1987 (Amended 10/17/92)

This Policy is invalid unless the cover sheet and Schedules A and B are attached.

## **Lawyers Title Insurance Corporation**

### **OWNER'S POLICY**

**~ Continuation ~**

11. Grant of Easement for telephone transmission lines and incidental purposes dated July 21, 1952, recorded July 28, 1952, as Deed Record 232, Page 505, from Archie Gilmore and Pauline Gilmore, as Grantors; to General Telephone Company of Indiana, as Grantee. (NOTE: Not specific as to location.)

ALTA Owner's Policy 1987 (Amended 10/17/92)

This Policy is invalid unless the cover sheet and Schedules A and B are attached.

## Lawyers Title Insurance Corporation

### OWNER'S POLICY

**File Number:**  
200005043

**Date of Policy:**  
May 19, 2000

**Policy Number:**  
OA752389465

#### NOTICE TO POLICYHOLDERS

We are here to serve you...

As our policyholder, your satisfaction is very important to us. If you have a question about your policy, need assistance with a problem, or have a claim, you should first contact your insurance agent, Stallard & Schuh, Inc., at (765) 423-1642. You may also contact your Underwriter as shown on the Owners' Policy Cover at Item 17. Should you have a valid claim, we fully expect to provide a fair settlement in a timely fashion

Should you feel you are not being treated fairly with respect to a claim, you may contact the Indiana Department of Insurance with an

Public Information / Market Conduct  
Indiana Department of Insurance  
311 West Washington Street, Suite 300  
Indianapolis, IN 46204- 2787  
Phone (317) 232 - 2395 or 800-722-4461

ALTA Owner's Policy 1987 (Amended 10/17/92)

This Policy is invalid unless the cover sheet and Schedules A and B are attached.

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER.

MAY 19 2000

00010482 05/19/2000 02:21pm BK: PG: 1  
PAM BERGLUND, TIPPECANOE COUNTY RECORDER

  
AUDITOR OF TIPPECANOE CO.

Key No. 106-06400-026-2

**WARRANTY DEED**

THIS INDENTURE WITNESSETH THAT:

**WAYNE EUGENE CHAMBERS and TAMRYN CHAMBERS**, husband and wife (collectively, the "Grantor"), CONVEY AND WARRANT TO **TIPPECANOE COUNTY LOCAL ENVIRONMENTAL RESPONSE FINANCING BOARD** (the "Grantee"), for and in consideration of ten dollars (\$10.00), and other good and sufficient consideration, receipt of which is hereby acknowledged, the real estate located in Tippecanoe County, Indiana, commonly known as 2831 North Ninth Street, Lafayette, Indiana, and being more particularly described as follows:

A part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89°-53'-00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27°-40'-00" West, 104.64 feet; thence North 75°-18'-00" West, 5.38 feet; thence South 59°-42'-00" West, 10.76 feet; thence South 14°-42'-00" West 21.75 feet; thence North 76°-17'-00" West, 116.55 feet; thence North 06°-24'-00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89°-53'-00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

ALSO, an easement for ingress and egress described as follows: An easement and right of way of sufficient width to permit passage of motor vehicles for access to the above described 0.36 of an acre tract from North Ninth Street Road, or such other public dedicated road the Grantor, or its successors in title, may from time to time determine.

(Said easement as set forth in that certain Executor's Deed dated August 24, 1979, recorded September 7, 1979, as Deed Record 79, Page 3864, from John D. Gilmore, as Executor of the Estate

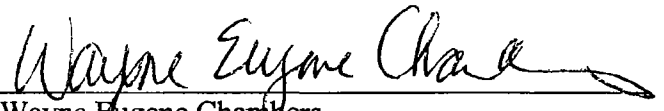
of Archie E. Gilmore, deceased, as Grantor; to Donal R. Chambers and D. Jane Chambers, husband and wife, as Grantees.)

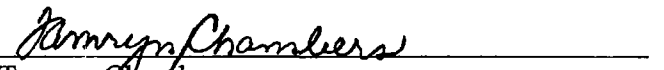
(the "Real Estate").

Subject to easements and restrictions of record.

Subject also to the property taxes for 1999, payable in 2000, and all subsequent taxes.

IN WITNESS WHEREOF, the above-named Grantor has executed this Warranty Deed on this 19 day of May, 2000.

  
\_\_\_\_\_  
Wayne Eugene Chambers

  
\_\_\_\_\_  
Tamryn Chambers

**ACKNOWLEDGMENT**

STATE OF INDIANA        )  
                                  ) SS:  
TIPPECANOE COUNTY    )

Before me, the undersigned, a Notary Public, in and for said State and County, personally appeared **WAYNE EUGENE CHAMBERS** and **TAMRYN CHAMBERS**, husband and wife, and acknowledged the execution of the foregoing Warranty Deed and swore to the statements contained therein.

WITNESS my hand and seal this 19 day of May, 2000.



BECKY MAURER  
Resident of Montgomery County, IN  
Commission Expires April 26, 2001

[Signature]  
Notary Public

\_\_\_\_\_  
Printed Name

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

County of Residence:  
\_\_\_\_\_

This instrument was prepared by: Marianne Mitten Owen, Esquire, of the firm of Stuart & Branigin, The Life Building, 300 Main Street, Suite 800, Lafayette, Indiana 47902-1010. Telephone: (765) 423-1561; Facsimile: (765) 742-8175; E-mail: mmo@stuartlaw.com

Mail Tax Statements To:

TIPPECANOE COUNTY LOCAL ENVIRONMENTAL  
RESPONSE FINANCING BOARD

c/o TIPPECANOE COUNTY AUDITOR  
20 N. 3RD STREET  
LAFAYETTE, IN 47901

230643.1

TSL (Dominant Estate):  
Parcel A: Key No.: 106-06400-0042

Last Recorded Transfers:  
a. Date: May 1, 2000 (Doc. No.: 00009113)  
b. Date: October 5, 2000 (Doc. No.: 00022155)  
c. Date: October 24, 2000 (Doc. No.: 0023555)

Parcel B: Key No.: 106-06400-0416  
Last Recorded Transfer:  
Date: May 1, 2000  
Document Number: 2000-9113

Parcel C: Key No.: 106-06400-0262  
Last Recorded Transfer:  
Date: May 19, 2000  
Document Number: 00010482

Adjacent Property (Servient Estate):  
Key Nos.: 106-04300-0052, 106-04600-0049  
Last Recorded Transfer:  
Date: December 17, 1998  
Document Number: 9834586

**EASEMENT AGREEMENT**

THIS EASEMENT AND ACCESS AGREEMENT (the "Easement" or "Agreement") is made and entered into as of the 2nd day of October, 2001, by DOROTHY E. RAFFERTY, CLARK WILLIAM RAFFERTY AND EMILY SUE MILLER (the "Owners"), and TIPPECANOE COUNTY LOCAL ENVIRONMENTAL RESPONSE FINANCE BOARD (the "TERF Board").

WITNESSETH:

WHEREAS, the TERF Board owns certain property located along North Ninth Street, in Lafayette, Tippecanoe County, Indiana which is more particularly described in Exhibit A (the "TSL"), and which was previously owned and operated as the Tippecanoe County Sanitary Landfill.

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER

JAN 09 2002

  
AUDITOR OF TIPPECANOE CO.



WHEREAS, the Owners own certain property adjacent to the TSL which is more particularly described in Exhibit B (the "Adjacent Property").

WHEREAS, the TSL is subject to the terms and provisions of a Notice of Entry of Consent Decree and Declaration of Restrictions and Covenants, dated November 2, 1998, recorded November 6, 1998, in the Office of the Recorder of Tippecanoe County, Indiana, as Document Number 9830064, by John D. and Linda S. Gilmore, Owners (the "Consent Decree").

WHEREAS, the TERF Board, its officers, directors, agents, representatives, overseers, employees, and contractors, and their successors and assigns (collectively, the "TERF Board"), are performing the various obligations required under the Consent Decree in connection with the closure of the TSL pursuant to the Consent Decree which include but are not limited to construction, maintenance, inspection, repair and replacement of certain monitoring facilities, lines, and systems (collectively, the "Obligations").

WHEREAS, to perform certain of the Obligations under the terms and conditions of the Consent Decree, it is necessary for the TERF Board to enter into a portion of the Owners property adjacent to or surrounding the TSL which is more particularly shown in the drawing attached as Exhibit C (the "Temporary Easement"), and

WHEREAS, the Owners desire to grant to the TERF Board an easement over across and through the Adjacent Property for the purpose of performing the Obligations pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owners and the TERF Board hereby agree as follows:

1. Easement. The Owners hereby grant to the TERF Board, its employees, representatives, contractors, agents, overseers, guests, and their successors and assigns (collectively, "Grantees"), a TEMPORARY EASEMENT over, across, under and through the Temporary Easement to perform the Obligations (including, without limitation, to install, lay, use, maintain, inspect, repair and replace monitoring facilities, lines and systems) over, across, under and through the Temporary Easement. The Owners consent to and authorize the Grantees to enter the Adjacent Property in order to commence and conduct its Obligations under the Consent Decree (including, without limitation, drilling, boring, excavation, sampling and other subsurface activity) on the Temporary Easement.

This Grant also includes the right of ingress and egress at reasonable times upon such Adjacent Property for all purposes incidental to this Easement (including, without limitation, construction, inspection, maintenance, repair, and replacement). This Grant includes the right to spray, trim, remove any trees or other growth which may from time to time interfere or threaten to interfere with the exercise of this right granted by this Easement. It is expressly understood and agreed that no buildings, roadways, drives or other structures will be placed over or upon such Temporary Easement by Owners without the express written consent of the TERF Board.

The Grantees, at their own expense, shall be responsible for the construction, maintenance, inspection, repair and replacement of any and all facilities, lines and systems required as a part of the Obligations (including, without limitation, monitoring facilities, lines, and systems) over, across, under and through the Temporary Easement granted herein (hereinafter collectively referred to as "Grantees' Work"). Upon completion of any construction or subsequent inspection, maintenance, repair or replacement, Grantees shall restore the Temporary Easement, and grade, seed and mulch the same, closing all excavations with proper backfill and compaction, and replacing, with similar quality or better, all drive-ways, public roadways, parking areas, entrances, tiling, drainage systems, utilities, and other appurtenances on, under, through, or over the Temporary Easement owned or used by Owners, at no expense to the Owners. If Grantees' Work should require any permits or approvals from any governmental agency, Grantees shall obtain any and all permits and approvals at no expense to the Owners.

2. **Term.** This Easement shall terminate upon the completion of the terms and conditions of the Consent Decree. This Grant of Easement shall automatically extend for successive periods of ten years or until such time as the Indiana Department of Environmental Management, or its successor entity, determines that regulated or hazardous substances at the TSL no longer present an unacceptable risk to the public health, safety, or welfare or to the environment.

3. **Exclusivity.** This is a non-exclusive Grant of Easement, and the Owners herein reserve the right to grant similar easements to parties other than the Grantees.

The Grantees may assign this Easement or any rights thereunder to third parties.

4. **Ownership.** The undersigned Owners do hereby certify that they are the fee simple owner of said Adjacent Property and that no other persons or parties have any interest whatsoever in the title to the aforementioned Adjacent Property, and that it has the full and exclusive right to grant this Easement. The Owners reserve unto itself the ownership of said Adjacent Property, and the full and unrestricted use thereof insofar as the same does not and will not conflict with the use of the same as herein granted unto the Grantees.

5. **Cooperation.** The Owners will cooperate fully with the Grantees and will take all reasonable action necessary to allow the Grantees to complete the Obligations in the most expeditious manner possible.

6. **Notice and Disclosure.** Prior to the performance of the Obligations, the Grantees will notify the Owners of the area or areas upon which the Obligations will be conducted and will procure the services of Indiana Underground to locate subsurface utilities at or near the designated areas. The Grantees will further request and the Owners will provide the Grantees with the identity, description and location of all known subsurface facilities and obstructions at or under the designated areas. The Grantees shall have no responsibility or liability to the Owner for damages to any subsurface facilities or obstructions in the designated areas which were known by the Owners but not accurately identified, disclosed or located by the Owner.

7. Indemnification. The Grantees agree to indemnify, defend, and hold harmless Owners for any and all claims, obligations and liabilities and all costs, expenses and attorney's fees incurred, based upon or arising out of any obligation, liability, loss, damage or expense, or whatever kind or nature, contingent or otherwise, known or unknown, incurred under, or imposed by, any provision of Federal, state or local law or regulation, or common law, pertaining to health, safety or environmental protection and arising out of any act or omission by the Grantees in connection with the Construction Project on the Temporary Easement; provided, however, the above-indemnity by the Grantees shall only apply to the extent such damages are caused by the negligence or willful misconduct of the Grantees.

8. Miscellaneous:

a. Notice. Any notice, request, instruction or other document required or permitted to be given under this Agreement by a party to the Agreement will be in writing and be deemed to have been given when (i) received, if delivered and given in person, (ii) on the date of transmission if sent by telex, telecopy, or other wire transmission (provided that a copy of such transmission is simultaneously sent in a manner provided in clause (iii)), or (iii) deposited with the United States mail, postage prepaid, certified and return receipt requested, and addressed to the Seller or the Buyer, as the case may be, at the address set forth below:

Grantees: Tippecanoe County Local Environmental Response Finance Board  
c/o Anthony S. Benton, Esquire  
STUART & BRANIGIN  
P.O. Box 1010, Lafayette, IN 47902-1010

Owners: Dorothy E. Rafferty, Clark William and Emily Sue Rafferty  
%Dorothy E. Rafferty  
1310 S. 28<sup>th</sup> Street  
Lafayette, IN 47905

or such other individual, entity, or address as a party may designate for itself by notice given as provided above.

b. Governing Law. This Agreement will be construed under and in accordance with the laws of the State of Indiana.

c. Binding Effect. This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns; provided, however, that no assignment or other transfer will be made without the prior written approval of each of the parties to this Agreement.

d. Severability. If any one or more of the provisions of this Agreement, for any reason, is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or

unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

e. Entire Agreement. This Agreement constitutes the sole, only and entire understanding and agreement of the parties hereto in respect to the transaction contemplated by this Agreement. This Agreement supersedes any prior understandings, arrangements, or written or oral agreements relating to the contemplated transaction. This Agreement is not intended to confer upon any other person any rights or remedies. This Agreement may be amended or modified, and any of the terms of this Agreement may be waived, only by a written instrument duly executed by or on behalf of Seller and Buyer.

f. Timeliness. With regard to the dates and time periods set forth or referenced in this Agreement, time is of the essence of this Agreement.

g. Attorneys Fees. In the event either party will be compelled to employ an attorney to enforce the provisions of this contract, the parties agree that the non-defaulting party will be entitled to all of his legal costs and expenses, including reasonable attorney fees, incurred thereby.

IN WITNESS WHEREOF, the TERF Board and Owners have executed this Dedication of Easement this 2nd day of October, 2001.

TERF BOARD:

TIPPECANOE COUNTY LOCAL ENVIRONMENTAL  
RESPONSE FINANCE BOARD

By: Dave Heath  
Dave Heath, Chair

ATTEST:

By: John Knochel  
John Knochel, Secretary

OWNERS:

Dorothy E. Rafferty  
Dorothy E. Rafferty

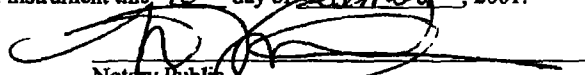
Clark William Rafferty  
Clark William Rafferty

Emily Sue (Rafferty) Miller  
Emily Sue Rafferty Miller

STATE OF INDIANA )  
 ) SS:  
COUNTY OF TIPPECANOE )

Before me, the undersigned, a Notary Public for Tippecanoe County in the State of Indiana, personally appeared the Tippecanoe County Local Environmental Response Finance Board by Dave Heath and John Knochel, its Chair and Secretary respectively who on behalf of such Board acknowledged the execution of this instrument this 19<sup>th</sup> day of December, 2001.

(SEAL)

  
Notary Public

Printed Name

County of Residence: \_\_\_\_\_

My commission expires: \_\_\_\_\_




Marianne M. Owen, Notary Public  
Tippecanoe County, IN  
Commission Exp. Dec. 7, 2007

STATE OF INDIANA )  
 ) SS:  
COUNTY OF TIPPECANOE )

Before me, the undersigned, a Notary Public for Tippecanoe County in the State of Indiana, personally appeared Dorothy E. Rafferty, Clark William Rafferty and Emily Sue Rafferty and who on behalf of such acknowledges the execution of this instrument this 2 day of October, 2001.

(SEAL)

  
Notary Public  
JEFFERY L. HELMERICK  
Printed Name

County of Residence: TIPPECANOE

My commission expires: 6-6-09

This instrument was prepared by: Marianne Mitten Owen, Esquire, of the firm of Stuart & Branigin, The Life Building, 300 Main Street, Suite 800, Lafayette, Indiana 47902-1010. Telephone: (765) 423-1561; Facsimile: (765) 742-8175; E-mail: mmo@stuartlaw.com

**EXHIBIT A**

**Legal Description of Tippecanoe County Sanitary Landfill**

(See attached)

**Parcel A**

(Doc. No. 00009113 Gilmore)

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range 4 (4) West, described as follows:

Beginning at a stone in the North line of said Reservation placed equidistant from the Northeast and Northwest corner of said Reservation; thence running South on a line dividing the share of Peter Longlois and Elizabeth Allen ninety-one (91) poles; thence West two hundred twenty seven and 60/100 (227.60) poles to the West line of said Reservation; thence North with said West line thirty and 92/100 (30.92) poles to Justice's Corner; thence East with Justice's line seventy-two and 56/100th (72.56) poles to the center of the road leading from Lafayette to Davis Ferry; thence with said Road North ten and one-half (10 ½) degrees East nineteen and 28/100 (19.28) poles; thence North eighteen (18) degrees East forty-three and 12/100 (43.12) poles to the North line of said Reservation; thence East with said North line one hundred thirty-eight and 20/100 (138.20) poles to the place of beginning containing one hundred (100) acres, more or less.

EXCEPT the right of way of C I & L Railroad and except a school lot conveyed to the Trustee of Fairfield Township by deed executed February 17, 1862 and recorded in Deed Record 172, Page 186.

EXCEPTING ALSO, fourteen (14) acres heretofore sole to Herman Bilisma and wife lying West of said Railroad as recorded in Deed Record 122, Page 145.

EXCEPTING ALSO, the tract heretofore conveyed to the Union Sandstone Brick Company which deed is recorded in Deed Record 120, Page 461.

EXCEPTING ALSO a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

EXCEPTING ALSO, beginning at a point on the northern line of the West Half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West Half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West Half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West Half of said Longlois Reserve; 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

The land hereby described contains seventy-six and fifty-seven hundredths (76.57) acres, more or less.

ALSO,

(Doc. No. 00022155 Fairfield Builders Supply Corp.)

A strip of land 40 feet wide in part of Section 10, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Beginning at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence along the North Line of said Reserve South 88°59'25" West 443.72 feet to its intersection with the line between Sections 9 and 10; thence North 01°00'35" West along said section line 40.00 feet; thence North 88°59'25" East parallel with said North Line 473.74 feet; thence South 0°58'31" East 40.02 feet to the North Line of said Reserve; thence South 89°01'29" West along said North Line 30.00 feet to the Point of Beginning, containing 0.435 acres, more or less.

ALSO,

A strip of land 30 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Beginning at the Northeast corner of the West Half of Longlois Reserve, said corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence North 89°01'29" East 30.00 feet; thence South 0°58'31" East parallel with the east line of said Gilmore property 600.00 feet; thence South 89°01'29" West 30.00 feet to said east line; thence North 0°58'31" West along said east line 600.00 feet to the Point of Beginning, containing 0.413 acres, more or less.



ALSO,

A strip of land 40 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said Corner also being the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence along said Gilmore property the following two courses:

1. South 0°58'31" East 1501.50 feet;
2. South 88°59'26" West 1000.00 feet to the Point of Beginning of the herein-described strip;

thence South 01°00'34" East perpendicular to the south line of said Gilmore property 40.00 feet; thence South 88°59'26" West parallel with said south line 500.00 feet; thence North 01°00'34" West perpendicular to said south line 40.00 feet to the south line of said Gilmore property; thence North 88°59'26" East along said South line 500.00 feet to the Point of Beginning, containing 0.459 acres, more or less.

ALSO,

A strip of land 10 and 20 feet wide in part of Section 10, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence North 89°01'29" East 30.00 feet to the Point of Beginning of the herein-described strip; thence North 0°58'31" West 40.02 feet; thence South 88°59'25" West parallel with the North Line of said Reserve 473.74 feet to the line between Sections 9 and 10; thence North 01°00'35" West along said section line 10.00 feet; thence North 88°59'25" East parallel with said North Line 493.75 feet; thence South 0°58'31" East 50.03 feet to the North Line of said Reserve; thence South 89°01'29" West along said North Line 20.00 feet to the Point of Beginning, containing 0.132 acres, more or less.

ALSO,

A strip of land 20 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence North 89°01'29" East 30.00 feet to the Point of Beginning of the herein-described strip; thence continuing North 89°01'29" East 20.00 feet; thence South 0°58'31" East parallel with the east line of said Gilmore property 600.00 feet; thence South 89°01'29" West 20.00 feet; thence North 0°58'31" West parallel with said east line 600.00 feet to the Point of Beginning, containing 0.275 acres, more or less.

ALSO

A strip of land 10 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said Corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence along said Gilmore property the following two courses:

1. South 0°58'31" East 1501.50 feet;
2. South 88°59'26" West 1000.00 feet;

thence South 01°00'34" East perpendicular to the south line of said Gilmore property 40.00 feet to the Point of Beginning of the herein-described strip; thence continuing South 01°00'34" East 10.00 feet; thence South 88°59'26" West parallel with said south line 500.00 feet; thence North 01°00'34" West perpendicular to said south line 10.00 feet; thence North 88°59'26" East parallel with said south line 500.00 feet to the Point of Beginning, containing 0.115 acres, more or less.

ALSO,

(Doc. No. 00023555 Rafferty)

A strip of land 40 feet wide in part of Section 9, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Deed Record 82, Page 1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence along the North Line of said Reserve South 88°59'25" West 443.72 feet to its intersection with the line between Sections 9 and 10, said point being the Point of Beginning of the herein-described strip;

thence continuing South 88°59'25" West along said North Line 1256.28 feet; thence North 01°00'35" West perpendicular to said North Line 40.00 feet; thence North 88°59'25" East parallel with said North Line 1256.28 feet to said line between Sections 9 and 10; thence South 01°00'35" East along said section line 40.00 feet to the Point of Beginning, containing 1.154 acres, more or less.

ALSO,

A strip of land 10 feet wide in part of Section 9, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Deed Record 82, Page 1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence North 89°01'29" East 30.00 feet; thence North 0°58'31" West: 40.02 feet; thence South 88°59'25" West parallel with the North Line of said Reserve 473.74 feet to the line between Sections 9 and 10, said point being the Point of Beginning of the herein-described strip; thence continuing South 88°59'25" West parallel with said North Line 1256.28 feet; thence North 01°00'35" West perpendicular to said North Line 10.00 feet; thence North 88°59'25" East parallel with said North Line 1256.28 feet to said line between Sections 9 and 10; South 01°00'35" East along said section line 10.00 feet to the Point of Beginning, containing 0.288 acres, more or less.

**Parcel B**

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range Four (4) West, described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

EXCEPTING a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

### Parcel C

A part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89°-53'-00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27°-40'-00" West, 104.64 feet; thence North 75°-18'-00" West, 5.38 feet; thence South 59°-42'-00" West, 10.76 feet; thence South 14°-42'-00" West 21.75 feet; thence North 76°-17'-00" West, 116.55 feet; thence North 06°-24'-00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89°-53'-00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

ALSO, an easement for ingress and egress described as follows: An easement and right of way of sufficient width to permit passage of motor vehicles for access to the above described 0.36 of an acre tract from North Ninth Street Road, or such other public dedicated road the Grantor, or its successors in title, may from time to time determine.

(Said easement as set forth in that certain Executor's Deed dated August 24, 1979, recorded September 7, 1979, as Deed Record 79, Page 3864, from John D. Gilmore, as Executor of the Estate of Archie E. Gilmore, deceased, as Grantor; to Donal R. Chambers and D. Jane Chambers, husband and wife, as Grantees.)

**EXHIBIT B**

**Legal Description of Adjacent Property**

(See attached)

**MONITORING WELL 16**

**MONITORING WELL EASEMENT**

A part of the Northeast Fractional Quarter of Section 9, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, being more particularly described as follows:

A 25.00-foot radius circle for a monitoring well easement whose center point is located at the Point of Terminus of the following 3 courses:

1. Commencing at a Berntsen A1NB monument found per Tippecanoe County Surveyor Section Corner ties at the Southeast Corner of said Northeast Fractional Quarter;
2. South 88°59'25" West along the South Line of said Northeast Fractional Quarter, said line being also the North Line of Longlois Reserve, 1368.76 feet;
3. North 11°53'28" West 175.17 feet to the Point of Terminus.

**MONITORING WELL ACCESS EASEMENT**

A part of the Northeast Fractional Quarter of Section 9, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, being more particularly described as follows:

A strip of land 12.00 feet wide, measured 6.00 feet on each side of the following-described centerline: Commencing at a Berntsen A1NB monument found per Tippecanoe County Surveyor Section Corner ties at the Southeast Corner of said Northeast Fractional Quarter; thence South 88°59'25" West along the South Line of said Northeast Fractional Quarter, said line being also the North Line of Longlois Reserve, 1368.76 feet to the Point of Beginning of the herein-described centerline; thence North 11°53'28" West 150.17 feet to the Point of Terminus.

Side lines are to be shortened or extended to meet at angle points.

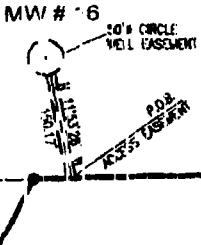
**EXHIBIT C**

**Drawing of Adjacent Property Highlighting Area of Temporary Easement**

(See attached.)



D.E. HOFFERTY LIFE ESTATE  
DOC. NO. 78-001-9210-ES119



S 88°50'25" W  
1368.78'

SE COR., NE FR. QTR.  
SECTION 9-23-4  
AT&M MONUMENT  
FOUND

TIPPECANOE SANITARY LANDFILL

NORTH LINE OF LONGLOIS RESERVE



1 Inch = 200 Feet

John E. Fisher & Associates, P.C.  
Land Surveyors and Engineers  
1528 Main Street  
Lafayette, Indiana 47911-1810

# MONITORING WELL # 16

## WELL AND ACCESS EASEMENT EXHIBIT

### TIPPECANOE SANITARY LANDFILL

12/21/00  
DRAWN BY RSP  
CHECK BY \_\_\_\_\_  
SHEET 6 OF 12  
COMM. NO. 00.15.2.T

TSL (Dominant Estate):

Parcel A: Key No.: 106-06400-0042

Last Recorded Transfers:

- a. Date: May 1, 2000 (Doc. No.: 00009113)
- b. Date: October 5, 2000 (Doc. No.: 00022155)
- c. Date: October 24, 2000 (Doc. No.: 00235555)

Parcel B: Key No.: 106-06400-0416

Last Recorded Transfer:

Date: May 1, 2000  
Document Number: 2000-9113

Parcel C: Key No.: 106-06400-0262

Last Recorded Transfer:

Date: May 19, 2000  
Document Number: 00010482

Adjacent Property (Servient Estate):

Key Nos.: 106-04700-0500, 106-06400-0097,  
106-06300-0010, 106-06400-0086

Last Recorded Transfer:

Date: September 15, 1989  
Document Number: 89-12883

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER.

JAN 09 2002

  
AUDITOR OF TIPPECANOE CO.

**EASEMENT AGREEMENT**

THIS EASEMENT AND ACCESS AGREEMENT (the "Easement" or "Agreement") is made and entered into as of the 17<sup>th</sup> day of September, 2001, by FAIRFIELD BUILDERS SUPPLY CORP., (the "Owner"), and TIPPECANOE COUNTY LOCAL ENVIRONMENTAL RESPONSE FINANCE BOARD (the "TERF Board").

WITNESSETH:

WHEREAS, the TERF Board owns certain property located along North Ninth Street, in Lafayette, Tippecanoe County, Indiana which is more particularly described in Exhibit A (the "TSL"), and which was previously owned and operated as the Tippecanoe County Sanitary Landfill.

WHEREAS, the Owner owns certain property adjacent to the TSL which is more particularly described in Exhibit B (the "Adjacent Property").

WHEREAS, the TSL is subject to the terms and provisions of a Notice of Entry of Consent Decree and Declaration of Restrictions and Covenants, dated November 2, 1998, recorded November 6, 1998, in the Office of the Recorder of Tippecanoe County, Indiana, as Document Number 9830064, by John D. and Linda S. Gilmore, Owners (the "Consent Decree").

WHEREAS, the TERF Board, its officers, directors, agents, representatives, overseers, employees, and contractors, and their successors and assigns (collectively, the "TERF Board"), are performing the various obligations required under the Consent Decree in connection with the closure of the TSL pursuant to the Consent Decree which include but are not limited to construction, maintenance, inspection, repair and replacement of certain monitoring facilities, lines, and systems (collectively, the "Obligations").

WHEREAS, to perform certain of the Obligations under the terms and conditions of the Consent Decree, it is necessary for the TERF Board to enter into a portion of the Owner's property adjacent to or surrounding the TSL which is more particularly shown in the drawing attached as Exhibit C (the "Temporary Easement"), and

WHEREAS, the Owner desires to grant to the TERF Board an easement over across and through the Adjacent Property for the purpose of performing the Obligations pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner and the TERF Board hereby agree as follows:

1. Easement. The Owner hereby grants to the TERF Board, its employees, representatives, contractors, agents, overseers, guests, and their successors and assigns (collectively, "Grantees"), a TEMPORARY EASEMENT over, across, under and through the Temporary Easement to perform the Obligations (including, without limitation, to install, lay, use, maintain, inspect, repair and replace monitoring facilities, lines and systems) over, across, under and through the Temporary Easement. The Owner consents to and authorizes the Grantees to enter the Adjacent Property in order to commence and conduct its Obligations under the Consent Decree (including, without limitation, drilling, boring, excavation, sampling and other subsurface activity) on the Temporary Easement.

This Grant also includes the right of ingress and egress at reasonable times upon such Adjacent Property for all purposes incidental to this Easement (including, without limitation, construction, inspection, maintenance, repair, and replacement). Owner reserves the right to modify the location of the access easement as it, in its sole discretion, deems necessary for Owner's use and development of the Adjacent Property. This Grant includes the right to spray, trim, remove any trees or other growth which may from time to time interfere or threaten to interfere with the exercise of this right granted by this Easement. It is expressly understood and agreed that no buildings, roadways, drives or other structures will be placed over or upon such

Temporary Easement by Owner without the express written consent of the TERF Board, which consent shall not be unreasonably withheld.

The Grantees, at their own expense, shall be responsible for the construction, maintenance, inspection, repair and replacement of any and all facilities, lines and systems required as a part of the Obligations (including, without limitation, monitoring facilities, lines, and systems) over, across, under and through the Temporary Easement granted herein (hereinafter collectively referred to as "Grantees' Work"). Upon completion of any construction or subsequent inspection, maintenance, repair or replacement, Grantees shall restore the Temporary Easement, and grade, seed and mulch the same, closing all excavations with proper backfill and compaction, and replacing, with similar quality or better, all drive-ways, public roadways, parking areas, entrances, tiling, drainage systems, utilities, and other appurtenances on, under, through, or over the Temporary Easement owned or used by Owner, at no expense to the Owner. If Grantees' Work should require any permits or approvals from any governmental agency, Grantees shall obtain any and all permits and approvals at no expense to the Owner.

2. Term. This Easement shall terminate upon the completion of the terms and conditions of the Consent Decree. This Grant of Easement shall automatically extend for successive periods of ten years or until such time as the Indiana Department of Environmental Management, or its successor entity, determines that regulated or hazardous substances at the TSL no longer present an unacceptable risk to the public health, safety, or welfare or to the environment. Upon termination of this Easement, Grantees shall remove all facilities, lines and systems and Grantees shall restore the Temporary Easement, and grade, seed and mulch the same, closing all excavations with proper backfill and compaction, and replacing, with similar quality or better, all drive-ways, public roadways, parking areas, entrances, tiling, drainage systems, utilities, and other appurtenances on, under, through, or over the Temporary Easement owned or used by Owner, at no expense to the Owner.

3. Exclusivity. This is a non-exclusive Grant of Easement, and the Owner herein reserves the right to grant similar easements to parties other than the Grantees.

The Grantees may assign this Easement or any rights thereunder to third parties.

4. Ownership. The undersigned Owner does hereby certify that it is the fee simple owner of said Adjacent Property and that no other persons or parties have any interest whatsoever in the title to the aforementioned Adjacent Property, and that it has the full and exclusive right to grant this Easement. The Owner reserves unto itself the ownership of said Adjacent Property, and the full and unrestricted use thereof insofar as the same does not and will not conflict with the use of the same as herein granted unto the Grantees.

5. Cooperation. The Owner will cooperate fully with the Grantees and will take all reasonable action necessary to allow the Grantees to complete the Obligations in the most expeditious manner possible.

6. Notice and Disclosure. Prior to the performance of the Obligations, the Grantees will notify the Owner of the area or areas upon which the Obligations will be conducted and will procure the services of Indiana Underground to locate subsurface utilities at or near the designated areas. The Grantees will further request and the Owner will provide the Grantees with the identity, description and location of all known subsurface facilities and obstructions at or under the designated areas. The Grantees shall have no responsibility or liability to the Owner for damages to any subsurface facilities or obstructions in the designated areas which were known by the Owner but not accurately identified, disclosed or located by the Owner.

7. Indemnification. The Grantees agree to indemnify, defend, and hold harmless Owner for any and all claims, obligations and liabilities and all costs, expenses and attorney's fees incurred, based upon or arising out of any obligation, liability, loss, damage or expense, of whatever kind or nature, contingent or otherwise, known or unknown, incurred under, or imposed by, any provision of Federal, state or local law or regulation, or common law, pertaining to health, safety or environmental protection and arising out of any act or omission by the Grantees in connection with the Grantee's Work on the Temporary Easement; provided, however, the above-indemnity by the Grantees shall only apply to the extent such damages are caused by the negligence or willful misconduct of the Grantees.

8. Miscellaneous:

a. Notice. Any notice, request, instruction or other document required or permitted to be given under this Agreement by a party to the Agreement will be in writing and be deemed to have been given when (i) received, if delivered and given in person, (ii) on the date of transmission if sent by telex, telecopy, or other wire transmission (provided that a copy of such transmission is simultaneously sent in a manner provided in clause (iii)), or (iii) deposited with the United States mail, postage prepaid, certified and return receipt requested, and addressed to the Seller or the Buyer, as the case may be, at the address set forth below:

Grantees: Tippecanoe County Local Environmental Response Finance Board  
c/o Anthony S. Benton, Esquire  
STUART & BRANIGIN  
P.O. Box 1010, Lafayette, IN 47902-1010

Owner: Fairfield Builders Supply Corp.  
P.O. Box 4427  
Lafayette, IN 47903

or such other individual, entity, or address as a party may designate for itself by notice given as provided above.

b. Governing Law. This Agreement will be construed under and in accordance with the laws of the State of Indiana.

c. Binding Effect. This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns; provided, however, that no assignment or other transfer will be made without the prior written approval of each of the parties to this Agreement.

d. Severability. If any one or more of the provisions of this Agreement, for any reason, is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

e. Entire Agreement. This Agreement constitutes the sole, only and entire understanding and agreement of the parties hereto in respect to the transaction contemplated by this Agreement. This Agreement supersedes any prior understandings, arrangements, or written or oral agreements relating to the contemplated transaction. This Agreement is not intended to confer upon any other person any rights or remedies. This Agreement may be amended or modified, and any of the terms of this Agreement may be waived, only by a written instrument duly executed by or on behalf of Seller and Buyer.

f. Timeliness. With regard to the dates and time periods set forth or referenced in this Agreement, time is of the essence of this Agreement.

g. Attorneys Fees. In the event either party will be compelled to employ an attorney to enforce the provisions of this contract, the parties agree that the non-defaulting party will be entitled to all of his legal costs and expenses, including reasonable attorney fees, incurred thereby.

IN WITNESS WHEREOF, the TERF Board and Owner have executed this Dedication of Easement this 17<sup>th</sup> day of September, 2001.

TERF BOARD:

TIPPECANOE COUNTY LOCAL ENVIRONMENTAL  
RESPONSE FINANCE BOARD

By:

Dave Heath  
Dave Heath, Chair

ATTEST:

By:

John Knochel  
John Knochel, Secretary

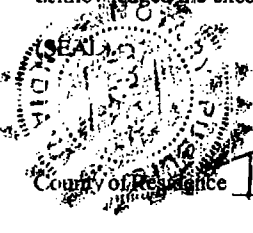
CWNER:

FAIRFIELD BUILDERS SUPPLY CORP.  
an Indiana corporation

By: Fairfield Builders Supply Corp.  
Name: J. Bradley Coffen J. Bradley Coffen  
Title: Vice President

STATE OF INDIANA )  
 ) SS:  
COUNTY OF TIPPECANOE )

Before me, the undersigned, a Notary Public for Tippecanoe County in the State of Indiana, personally appeared the Fairfield Builders Supply Corp. J. Bradley Coffen, its Vice President and Dave Heath and John Knochel, its Chair and Secretary, respectively, who on behalf of such Board Corporation acknowledged the execution of this instrument this 17<sup>th</sup> day of September, 2001.



Megan S. Winger  
Notary Public  
Megan S. Winger  
Printed Name

County of Residence: Tippecanoe My commission expires: 3-18-09

STATE OF INDIANA )  
 ) SS:  
COUNTY OF TIPPECANOE )

Before me, the undersigned, a Notary Public for Tippecanoe County in the State of Indiana, personally appeared the Tippecanoe County Local Environmental Response Financing Board by Dave Heath and John Knochel, its Chair and Secretary, respectively, who on behalf of Fairfield Builders Supply Corp., an Indiana corporation, acknowledged the execution of this instrument this 18<sup>th</sup> day of December, 2001.



Marianne M. Owen  
Notary Public  
Marianne M. Owen  
Printed Name

County of Residence: \_\_\_\_\_ My commission expires: \_\_\_\_\_

This instrument was prepared by: Marianne Mitten Owen, Esquire, of the firm of Stuart & Branigin, The Life Building, 300 Main Street, Suite 800, Lafayette, Indiana 47902-1010. Telephone: (765) 423-1561; Facsimile: (765) 742-8175; E-mail: mmo@stuartlaw.com

**EXHIBIT A**

**Legal Description of Tippecanoe County Sanitary Landfill**

(See attached)



**Parcel A**

(Doc. No. 00009113 Gilmore)

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range 4 (4) West, described as follows:

Beginning at a stone in the North line of said Reservation placed equidistant from the Northeast and Northwest corner of said Reservation; thence running South on a line dividing the share of Peter Longlois and Elizabeth Allen ninety-one (91) poles; thence West two hundred twenty seven and 60/100 (227.60) poles to the West line of said Reservation; thence North with said West line thirty and 92/100 (30.92) poles to Justice's Corner; thence East with Justice's line seventy-two and 56/100th (72.56) poles to the center of the road leading from Lafayette to Davis Ferry; thence with said Road North ten and one-half (10 ½) degrees East nineteen and 28/100 (19.28) poles; thence North eighteen (18) degrees East forty-three and 12/100 (43.12) poles to the North line of said Reservation; thence East with said North line one hundred thirty-eight and 20/100 (138.20) poles to the place of beginning containing one hundred (100) acres, more or less.

EXCEPT the right of way of C I & L Railroad and except a school lot conveyed to the Trustee of Fairfield Township by deed executed February 17, 1862 and recorded in Deed Record 172, Page 186.

EXCEPTING ALSO, fourteen (14) acres heretofore sole to Herman Bilisma and wife lying West of said Railroad as recorded in Deed Record 122, Page 145.

EXCEPTING ALSO, the tract heretofore conveyed to the Union Sandstone Brick Company which deed is recorded in Deed Record 120, Page 461.

EXCEPTING ALSO a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

EXCEPTING ALSO, beginning at a point on the northern line of the West Half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West Half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West Half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West Half of said Longlois Reserve; 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

The land hereby described contains seventy-six and fifty-seven hundredths (76.57) acres, more or less.

ALSO,

(Doc. No. 00022155 Fairfield Builders Supply Corp.)

A strip of land 40 feet wide in part of Section 10, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Beginning at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence along the North Line of said Reserve South 88°59'25" West 443.72 feet to its intersection with the line between Sections 9 and 10; thence North 01°00'35" West along said section line 40.00 feet; thence North 88°59'25" East parallel with said North Line 473.74 feet; thence South 0°58'31" East 40.02 feet to the North Line of said Reserve; thence South 89°01'29" West along said North Line 30.00 feet to the Point of Beginning, containing 0.435 acres, more or less.

ALSO,

A strip of land 30 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Beginning at the Northeast corner of the West Half of Longlois Reserve, said corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence North 89°01'29" East 30.00 feet; thence South 0°58'31" East parallel with the east line of said Gilmore property 600.00 feet; thence South 89°01'29" West 30.00 feet to said east line; thence North 0°58'31" West along said east line 600.00 feet to the Point of Beginning, containing 0.413 acres, more or less.

ALSO,

A strip of land 40 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said Corner also being the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence along said Gilmore property the following two courses:

1. South 0°58'31" East 1501.50 feet;
2. South 88°59'26" West 1000.00 feet to the Point of Beginning of the herein-described strip;

thence South 01°00'34" East perpendicular to the south line of said Gilmore property 40.00 feet; thence South 88°59'26" West parallel with said south line 500.00 feet; thence North 01°00'34" West perpendicular to said south line 40.00 feet to the south line of said Gilmore property; thence North 88°59'26" East along said South line 500.00 feet to the Point of Beginning, containing 0.459 acres, more or less.

ALSO,

A strip of land 10 and 20 feet wide in part of Section 10, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence North 89°01'29" East 30.00 feet to the Point of Beginning of the herein-described strip; thence North 0°58'31" West 40.02 feet; thence South 88°59'25" West parallel with the North Line of said Reserve 473.74 feet to the line between Sections 9 and 10; thence North 01°00'35" West along said section line 10.00 feet; thence North 88°59'25" East parallel with said North Line 493.75 feet; thence South 0°58'31" East 50.03 feet to the North Line of said Reserve; thence South 89°01'29" West along said North Line 20.00 feet to the Point of Beginning, containing 0.132 acres, more or less.

ALSO,

A strip of land 20 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence North 89°01'29" East 30.00 feet to the Point of Beginning of the herein-described strip; thence continuing North 89°01'29" East 20.00 feet; thence South 0°58'31" East parallel with the east line of said Gilmore property 600.00 feet; thence South 89°01'29" West 20.00 feet; thence North 0°58'31" West parallel with said east line 600.00 feet to the Point of Beginning, containing 0.275 acres, more or less.

ALSO

A strip of land 10 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said Corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence along said Gilmore property the following two courses:

1. South 0°58'31" East 1501.50 feet;
2. South 88°59'26" West 1000.00 feet;

thence South 01°00'34" East perpendicular to the south line of said Gilmore property 40.00 feet to the Point of Beginning of the herein-described strip; thence continuing South 01°00'34" East 10.00 feet; thence South 88°59'26" West parallel with said south line 500.00 feet; thence North 01°00'34" West perpendicular to said south line 10.00 feet; thence North 88°59'26" East parallel with said south line 500.00 feet to the Point of Beginning, containing 0.115 acres, more or less.

ALSO,

(Doc. No. 00023555 Rafferty)

A strip of land 40 feet wide in part of Section 9, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Deed Record 82, Page 1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence along the North Line of said Reserve South 88°59'25" West 443.72 feet to its intersection with the line between Sections 9 and 10, said point being the Point of Beginning of the herein-described strip;

thence continuing South 88°59'25" West along said North Line 1256.28 feet; thence North 01°00'35" West perpendicular to said North Line 40.00 feet; thence North 88°59'25" East parallel with said North Line 1256.28 feet to said line between Sections 9 and 10; thence South 01°00'35" East along said section line 40.00 feet to the Point of Beginning, containing 1.154 acres, more or less.

ALSO,

A strip of land 10 feet wide in part of Section 9, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Deed Record 82, Page 1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence North 89°01'29" East 30.00 feet; thence North 0°58'31" West 40.02 feet; thence South 88°59'25" West parallel with the North Line of said Reserve 473.74 feet to the line between Sections 9 and 10, said point being the Point of Beginning of the herein-described strip; thence continuing South 88°59'25" West parallel with said North Line 1256.28 feet; thence North 01°00'35" West perpendicular to said North Line 10.00 feet; thence North 88°59'25" East parallel with said North Line 1256.28 feet to said line between Sections 9 and 10; South 01°00'35" East along said section line 10.00 feet to the Point of Beginning, containing 0.288 acres, more or less.

**Parcel B**

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range Four (4) West, described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

EXCEPTING a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

**Parcel C**

A part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89°-53'-00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27°-40'-00" West, 104.64 feet; thence North 75°-18'-00" West, 5.38 feet; thence South 59°-42'-00" West, 10.76 feet; thence South 14°-42'-00" West 21.75 feet; thence North 76°-17'-00" West, 116.55 feet; thence North 06°-24'-00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89°-53'-00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

ALSO, an easement for ingress and egress described as follows: An easement and right of way of sufficient width to permit passage of motor vehicles for access to the above described 0.36 of an acre tract from North Ninth Street Road, or such other public dedicated road the Grantor, or its successors in title, may from time to time determine.

(Said easement as set forth in that certain Executor's Deed dated August 24, 1979, recorded September 7, 1979, as Deed Record 79, Page 3864, from John D. Gilmore, as Executor of the Estate of Archie E. Gilmore, deceased, as Grantor; to Donal R. Chambers and D. Jane Chambers, husband and wife, as Grantees.)

**EXHIBIT B**

**Legal Description of Adjacent Property**

(See attached)



**MONITORING WELL 9**

**MONITORING WELL EASEMENT**

A part of Longlois Reserve, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, being more particularly described as follows:

A 25.00-foot radius circle for a monitoring well easement whose center point is located at the Point of Terminus of the following 9 courses:

1. Commencing at a Berntsen A1NB monument found per Tippecanoe County Surveyor Section Corner ties at the Southwest Corner of the Northwest Fractional Quarter of Section 10, Township 23 North, Range 4 West, said point being also on the North Line of Longlois Reserve;
2. North 88°59'25" East along the North Line of said Longlois Reserve 443.72 feet;
3. South 0°58'31" East 704.96 feet;
4. South 79°30'08" East 42.87 feet;
5. North 58°55'49" East 217.29 feet;
6. North 82°03'16" East 186.53 feet;
7. North 87°50'54" East 218.86 feet;
8. North 77°31'06" East 30.14 feet;
9. South 12°28'54" East 34.93 feet to the Point of Terminus.

**MONITORING WELL ACCESS EASEMENT**

A part of Longlois Reserve, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, being more particularly described as follows:

A strip of land 12.00 feet wide, measured 6.00 feet on each side of the following-described centerline: Commencing at a Berntsen A1NB monument found per Tippecanoe County Surveyor Section Corner ties at the Southwest Corner of the Northwest Fractional Quarter of Section 10, Township 23 North, Range 4 West, said point being also on the North Line of Longlois Reserve; thence North 88°59'25" East along the North Line of said Longlois Reserve 443.72 feet; thence South 0°58'31" East 704.96 feet to the Point of Beginning of the herein-described centerline; thence South 79°30'08" East 42.87 feet; thence North 58°55'49" East 217.29 feet; thence North 82°03'16" East 186.53 feet; thence North 87°50'54" East 218.86 feet; thence North 77°31'06" East 30.14 feet; thence South 12°28'54" East 9.93 feet to the Point of Terminus.

Side lines are to be shortened or extended to meet at angle points.

**MONITORING WELL 12**

**MONITORING WELL EASEMENT**

A part of Longlois Reserve, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, being more particularly described as follows:

A 25.00-foot radius circle for a monitoring well easement whose center point is located at the Point of Terminus of the following 5 courses:

1. Commencing at a Berntsen A1NB monument found per Tippecanoe County Surveyor Section Corner ties at the Southwest Corner of the Northwest Fractional Quarter of Section 10, Township 23 North, Range 3 West, said point being also on the North Line of Longlois Reserve;
2. North 88°59'25" East along the North Line of said Longlois Reserve 443.72 feet;
3. South 0°58'31" East 1491.81 feet;
4. South 89°08'51" East 448.47 feet;
5. North 11°29'15" East 184.35 feet to the Point of Terminus.

**MONITORING WELL ACCESS EASEMENT**

A part of Longlois Reserve, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, being more particularly described as follows:

A strip of land 12.00 feet wide, measured 6.00 feet on each side of the following-described centerline: Commencing at a Berntsen A1NB monument found per Tippecanoe County Surveyor Section Corner ties at the Southwest Corner of the Northwest Fractional Quarter of Section 10, Township 23 North, Range 4 West, said point being also on the North Line of Longlois Reserve; thence North 88°59'25" East along the North Line of said Longlois Reserve 443.72 feet; thence South 0°58'31" East 1491.81 feet to the Point of Beginning of the herein-described centerline; thence South 89°08'51" East 448.47 feet; thence North 11°29'15" East 159.35 feet to the Point of Terminus.

Side lines are to be shortened or extended to meet at angle points.

**MONITORING WELL 13**

**MONITORING WELL EASEMENT**

A part of Longlois Reserve, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, being more particularly described as follows:

A 25.00-foot radius circle for a monitoring well easement whose center point is located at the Point of Terminus of the following 10 courses:

1. Commencing at a Berntsen A1NB monument found per Tippecanoe County Surveyor Section Corner ties at the Southwest Corner of the Northwest Fractional Quarter of Section 10, Township 23 North, Range 4 West, said point being also on the North Line of Longlois Reserve;
2. North 88°59'25" East along the North Line of said Longlois Reserve 443.72 feet;
3. South 0°58'31" East 1491.81 feet;
4. South 89°08'51" East 448.47 feet;
5. South 4°15'53" West 76.31 feet;
6. South 13°24'00" West 107.37 feet;
7. South 9°35'10" West 94.85 feet;
8. South 4°29'38" West 97.14 feet;
9. South 5°10'39" West 485.42 feet;
10. North 84°49'21" West 393.95 feet to the Point of Terminus.

**MONITORING WELL ACCESS EASEMENT**

A part of Longlois Reserve, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, being more particularly described as follows:

A strip of land 12.00 feet wide, measured 6.00 feet on each side of the following-described centerline: Commencing at a Berntsen A1NB monument found per Tippecanoe County Surveyor Section Corner ties at the Southwest Corner of the Northwest Fractional Quarter of Section 10, Township 23 North, Range 4 West, said point being also on the North Line of Longlois Reserve; thence North 88°59'25" East along the North Line of said Longlois Reserve 443.72 feet; thence South 0°58'31" East 1491.81 feet to the Point of Beginning of the herein-described centerline; thence South 89°08'51" East 448.47 feet; thence South 4°15'53" West 76.31 feet; thence South 13°24'00" West 107.37 feet; thence South 9°35'10" West 94.85 feet; thence South 4°29'38" West 97.14 feet; thence South 5°10'39" West 485.42 feet; thence North 84°49'21" West 393.95 feet to the Point of Terminus.

Side lines are to be shortened or extended to meet at angle points.

**MONITORING WELL 18**

**MONITORING WELL EASEMENT**

A part of the Northwest Fractional Quarter of Section 10, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, being more particularly described as follows:

A 25.00-foot radius circle for a monitoring well easement whose center point is located at the Point of Terminus of the following 3 courses:

1. Commencing at a Berntsen A1NB monument found per Tippecanoe County Surveyor Section Corner ties at the Southwest Corner of said Northwest Fractional Quarter;
2. North 88°59'25" East along the South Line of said Northwest Fractional Quarter, said line being also the North Line of Longlois Reserve, 739.38 feet;
3. North 1°00'35" West 105.68 feet to the Point of Terminus.

**MONITORING WELL ACCESS EASEMENT**

A part of the Northwest Fractional Quarter of Section 10, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, being more particularly described as follows:

A strip of land 12.00 feet wide, measured 6.00 feet on each side of the following-described centerline: Commencing at a Berntsen A1NB monument found per Tippecanoe County Surveyor Section Corner ties at the Southwest Corner of said Northwest Fractional Quarter; thence North 88°59'25" East along the South Line of said Northwest Fractional Quarter, said line being also the North Line of Longlois Reserve, 443.72 feet to the Point of Beginning of the herein-described centerline; thence continuing North 88°59'25" East 295.66 feet; thence North 1°00'35" West 80.68 feet to the Point of Terminus.

Side lines are to be shortened or extended to meet at angle points.

---

**EXHIBIT C**

**Drawing of Adjacent Property Highlighting Area of Temporary Easement**

(See attached.)

FAIRFIELD BUILDERS SUPPLY CORP.  
DOC. NO. 89-12883

SW COR. NW FR. QTR.  
SECTION 10-23-4  
A1NB MONUMENT  
FOUND

443.72'  
NORTH LINE OF LONGLOIS RESERVE

S 00°58'31" E  
704.95'

S 70°30'08" E 42.87'  
N 85°25'00" E 217.25'  
JOB ACCESS EASEMENT

N 82°01'16" E 186.53'

N 87°50'54" E 218.86'

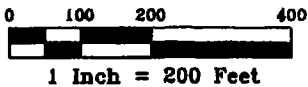
N 77°31'08" E 30.14'

MW # 9  
50' RADIUS  
WELL EASEMENT

S 12°28'11" E  
134.80'

TIPPECANOE SANITARY LANDFILL

FAIRFIELD BUILDERS SUPPLY CORP.  
DOC. NO. 89-12883



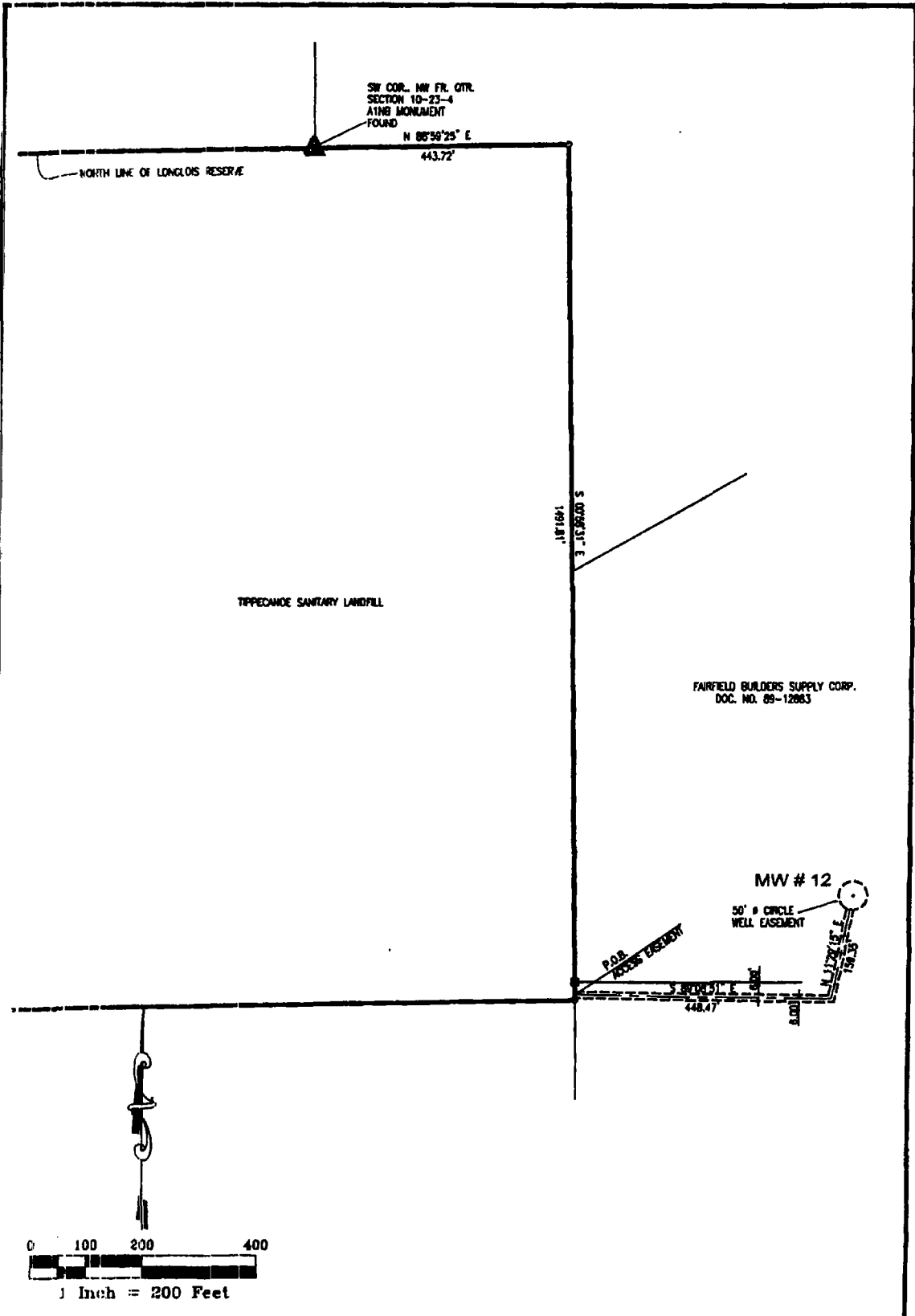
John E. Fisher & Associates, P.C.  
Land Surveyors and Engineers  
1526 Main Street  
Lafayette, Indiana 47901-1810

# MONITORING WELL # 9

## WELL AND ACCESS EASEMENT EXHIBIT

### TIPPECANOE SANITARY LANDFILL

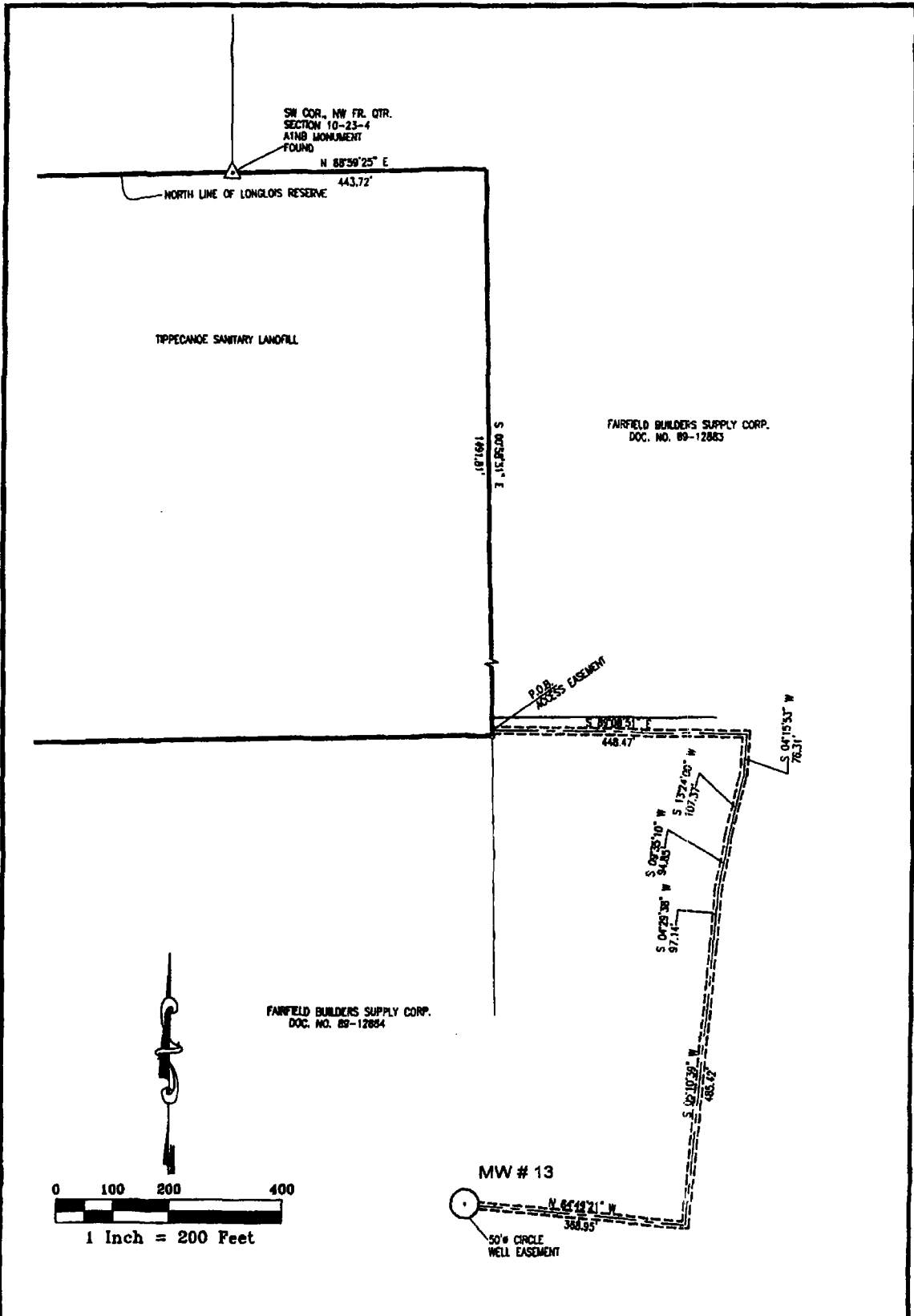
12/21/00  
DRAWN BY RSP  
CHECK BY  
SHEET 1 OF 12  
COM. NO. 00.15.2.T



John E. Fisher & Associates, P.C.  
Land Surveyors and Engineers  
1516 Main Street  
Lafayette, Indiana 47901-1810

**MONITORING WELL # 12**  
**WELL AND ACCESS EASEMENT EXHIBIT**  
**TIPPECANOE SANITARY LANDFILL**

12/21/00  
DRAWN BY: RSP  
CHECK BY: \_\_\_\_\_  
SHEET 3 OF 12  
CIVIL NO. 00.15.2 T

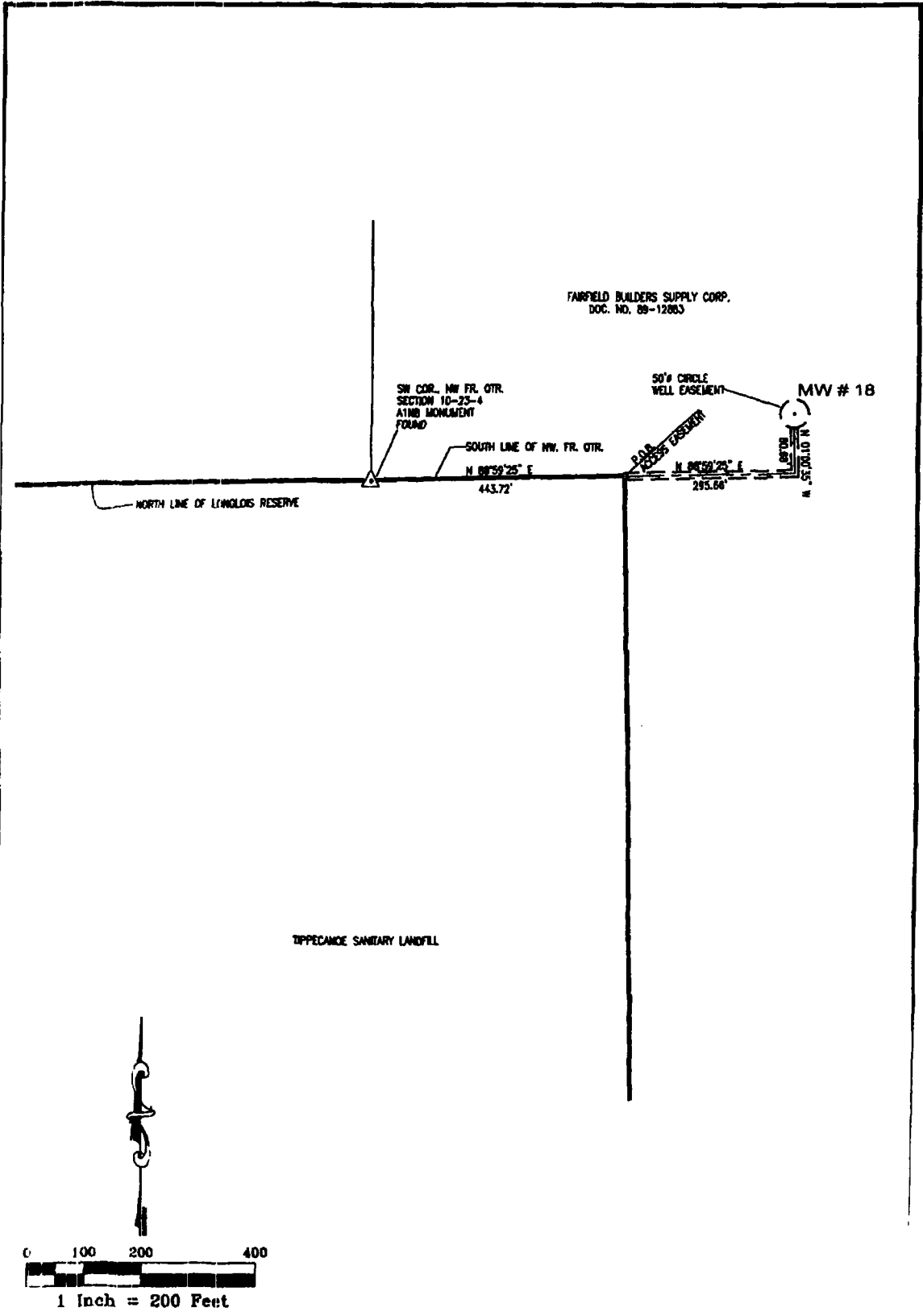


John E. Fisher & Associates, P.C.  
Land Surveyors and Engineers  
1526 Main Street  
Lafayette, Indiana 47901-1810

**MONITORING WELL # 13**  
WELL AND ACCESS EASEMENT EXHIBIT  
TIPPECANOE SANITARY LANDFILL

DATE 12/21/00  
DRAWN BY RSP  
CHECK BY \_\_\_\_\_  
SHEET 4 OF 12  
CONTRACT NO. 00.15.2.T





John C. Tisher & Associates, P.C.  
 Land Surveyors and Engineers  
 1526 Main Street  
 Lafayette, Indiana 47901-1810

**MONITORING WELL # 18**  
**WELL AND ACCESS EASEMENT EXHIBIT**  
**TIPPECANOE SANITARY LANDFILL**

12/21/00  
 DRAWN BY RSP  
 CHECK BY \_\_\_\_\_  
 SHEET 7 OF 12  
 COMM. NO. 00, 15, 2, T

TSL (Dominant Estate):

Parcel A: Key Number: 106-06400-0042  
Last Recorded Transfers:  
a. Date: May 1, 2000  
Document Number: 00009113  
b. Date: October 5, 2000  
Document Number: 00022155  
c. Date: October 24, 2000  
Document Number: 0023555

Parcel B: Key Number: 106-06400-0416  
Last Recorded Transfer:  
Date: May 1, 2000  
Document Number: 2000-9113

Parcel C: Key Number: 106-06400-0262  
Last Recorded Transfer:  
Date: May 19, 2000  
Document Number: 00010482

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER

JAN 09 2002

  
AUDITOR OF TIPPECANOE CO.

Adjacent Property (Servient Estate):  
Key Numbers: 106-06400-0053, 106-06400-0064  
Last Recorded Transfer:  
Date: January 26, 1989  
Document Number: 89-01121

**EASEMENT AGREEMENT**

THIS EASEMENT AND ACCESS AGREEMENT (the "Easement" or "Agreement") is made and entered into as of the 10<sup>th</sup> day of December, 2001, by THE TRUSTEES OF PURDUE UNIVERSITY (the "Owner"), and TIPPECANOE COUNTY LOCAL ENVIRONMENTAL RESPONSE FINANCE BOARD (the "TERF Board").

WITNESSETH:

WHEREAS, the TERF Board owns certain property located along North Ninth Street, in Lafayette, Tippecanoe County, Indiana which is more particularly described in Exhibit A (the "TSL"), and which was previously owned and operated as the Tippecanoe County Sanitary Landfill.

WHEREAS, the Owner owns certain property adjacent to the TSL which is more particularly described in Exhibit B (the "Adjacent Property").

WHEREAS, the TSL is subject to the terms and provisions of a Notice of Entry of Consent Decree and Declaration of Restrictions and Covenants, dated November 2, 1998, recorded November 6, 1998, in the Office of the Recorder of Tippecanoe County, Indiana, as Document Number 9830064, by John D. and Linda S. Gilmore, Owners (the "Consent Decree").

WHEREAS, the TERF Board, its officers, directors, agents, representatives, overseers, employees, and contractors, and their successors and assigns (collectively, the "TERF Board"), are performing the various obligations required under the Consent Decree in connection with the closure of the TSL pursuant to the Consent Decree which include but are not limited to construction, maintenance, inspection, repair and replacement of certain monitoring facilities, lines, and systems (collectively, the "Obligations").

WHEREAS, to perform certain of the Obligations under the terms and conditions of the Consent Decree, it is necessary for the TERF Board to enter into a portion of the Owner's property adjacent to or surrounding the TSL which is more particularly shown in the drawing attached as Exhibit C (the "Temporary Easement"), and

WHEREAS, the Owner desires to grant to the TERF Board an easement over across and through the Adjacent Property for the purpose of performing the Obligations pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner and the TERF Board hereby agree as follows:

1. Easement. The Owner hereby grants to the TERF Board, its employees, representatives, contractors, agents, overseers, guests, and their successors and assigns (collectively, "Grantees"), a TEMPORARY EASEMENT over, across, under and through the Temporary Easement to perform the Obligations (including, without limitation, to install, lay, use, maintain, inspect, repair and replace monitoring facilities, lines and systems) over, across, under and through the Temporary Easement. The Owner consents to and authorizes the Grantees to enter the Adjacent Property in order to commence and conduct its Obligations under the Consent Decree (including, without limitation, drilling, boring, excavation, sampling and other sub-surface activity) on the Temporary Easement.

This Grant also includes the right of ingress and egress at reasonable times upon such Adjacent Property for all purposes incidental to this Easement (including, without limitation, construction, inspection, maintenance, repair, and replacement). This Grant includes the right to spray, trim, remove any trees or other growth which may from time to time interfere or threaten to interfere with the exercise of this right granted by this Easement. It is expressly understood and agreed that no buildings, roadways, drives or other structures will be placed over or upon such Temporary Easement by Owner without the express written consent of the TERF Board.

The Grantees, at their own expense, shall be responsible for the construction, maintenance, inspection, repair and replacement of any and all facilities, lines and systems required as a part of the Obligations (including, without limitation, monitoring facilities, lines, and systems) over, across, under and through the Temporary Easement granted herein (hereinafter collectively referred to as "Grantees' Work"). Upon completion of any construction or subsequent inspection, maintenance, repair or replacement, Grantees shall restore the Temporary Easement, and grade, seed and mulch the same, closing all excavations with proper backfill and compaction, and replacing, with similar quality or better, all drive-ways, public roadways, parking areas, entrances, tiling, drainage systems, utilities, and other appurtenances on, under, through, or over the Temporary Easement owned or used by Owner, at no expense to the Owner. If Grantees' Work should require any permits or approvals from any governmental agency, Grantees shall obtain any and all permits and approvals at no expense to the Owner.

2. Term. This Easement shall terminate upon the completion of the terms and conditions of the Consent Decree. This Grant of Easement shall automatically extend for successive periods of ten years or until such time as the Indiana Department of Environmental Management, or its successor entity, determines that regulated or hazardous substances at the TSL no longer present an unacceptable risk to the public health, safety, or welfare or to the environment.

3. Exclusivity. This is a non-exclusive Grant of Easement, and the Owner herein reserves the right to grant similar easements to parties other than the Grantees.

The Grantees may assign this Easement or any rights thereunder to third parties.

4. Ownership. The undersigned Owner does hereby certify that it is the fee simple owner of said Adjacent Property and that no other persons or parties have any interest whatsoever in the title to the aforementioned Adjacent Property, and that it has the full and exclusive right to grant this Easement. The Owner reserves unto itself the ownership of said Adjacent Property, and the full and unrestricted use thereof insofar as the same does not and will not conflict with the use of the same as herein granted unto the Grantees.

5. Cooperation. The Owner will cooperate fully with the Grantees and will take all reasonable action necessary to allow the Grantees to complete the Obligations in the most expeditious manner possible.

6. Notice and Disclosure. Prior to the performance of the Obligations, the Grantees will notify the Owner of the area or areas upon which the Obligations will be conducted and will procure the services of Indiana Underground to locate subsurface utilities at or near the designated areas. The Grantees will further request and the Owner will provide the Grantees with the identity, description and location of all known subsurface facilities and obstructions at or under the designated areas. The Grantees shall have no responsibility or liability to the Owner for damages to any subsurface facilities or obstructions in the designated areas which were known by the Owner but not accurately identified, disclosed or located by the Owner.

7. Indemnification. The Grantees agree to indemnify, defend, and hold harmless Owner for any and all claims, obligations and liabilities and all costs, expenses and attorney's fees incurred, based upon or arising out of any obligation, liability, loss, damage or expense, or whatever kind or nature, contingent or otherwise, known or unknown, incurred under, or imposed by, any provision of Federal, state or local law or regulation, or common law, pertaining to health, safety or environmental protection and arising out of any act or omission by the Grantees in connection with the Construction Project on the Temporary Easement; provided, however, the above-indemnity by the Grantees shall only apply to the extent such damages are caused by the negligence or willful misconduct of the Grantees.

8. Miscellaneous:

a. Notice. Any notice, request, instruction or other document required or permitted to be given under this Agreement by a party to the Agreement will be in writing and be deemed to have been given when (i) received, if delivered and given in person, (ii) on the date of transmission if sent by telex, telecopy, or other wire transmission (provided that a copy of such transmission is simultaneously sent in a manner provided in clause (iii)), or (iii) deposited with the United States mail, postage prepaid, certified and return receipt requested, and addressed to the Seller or the Buyer, as the case may be, at the address set forth below:

Grantees. Tippecanoe County Local Environmental Response Finance Board  
c/o Anthony S. Benton, Esquire  
STUART & BRANIGIN  
P.O. Box 1010, Lafayette, IN 47902-1010

Owner: The Trustees of Purdue University  
Hovde Hall  
Purdue University  
West Lafayette, IN 47907

or such other individual, entity, or address as a party may designate for itself by notice given as provided above.

b. Governing Law. This Agreement will be construed under and in accordance with the laws of the State of Indiana.

c. Binding Effect. This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns; provided, however, that no assignment or other transfer will be made without the prior written approval of each of the parties to this Agreement.

d. Severability. If any one or more of the provisions of this Agreement, for any reason, is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

e. Entire Agreement. This Agreement constitutes the sole, only and entire understanding and agreement of the parties hereto in respect to the transaction contemplated by this Agreement. This Agreement supersedes any prior understandings, arrangements, or written or oral agreements relating to the contemplated transaction. This Agreement is not intended to confer upon any other person any rights or remedies. This Agreement may be amended or modified, and any of the terms of this Agreement may be waived, only by a written instrument duly executed by or on behalf of Seller and Buyer.

f. Timeliness. With regard to the dates and time periods set forth or referenced in this Agreement, time is of the essence of this Agreement.

g. Attorneys Fees. In the event either party will be compelled to employ an attorney to enforce the provisions of this contract, the parties agree that the non-defaulting party will be entitled to all of his legal costs and expenses, including reasonable attorney fees, incurred thereby.

IN WITNESS WHEREOF, the TERF Board and Owner have executed this Dedication of Easement this 19<sup>th</sup> day of December, 2001.

TERF BOARD:

TIPPECANOE COUNTY LOCAL ENVIRONMENTAL  
RESPONSE FINANCE BOARD

By: Dave Heath  
Dave Heath, Chair

ATTEST:

By: John Knochel  
John Knochel, Secretary

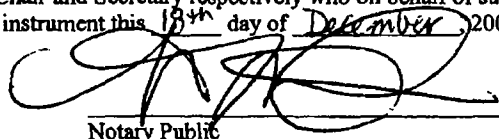
OWNER:

THE TRUSTEES OF PURDUE UNIVERSITY

By: Kenneth P. Burns  
Kenneth P. Burns, Executive Vice  
President and Treasurer

STATE OF INDIANA )  
 ) SS:  
COUNTY OF TIPPECANOE )

Before me, the undersigned, a Notary Public for Tippecanoe County in the State of Indiana, personally appeared the Tippecanoe County Local Environmental Response Finance Board by Dave Heath and John Knochel, its Chair and Secretary respectively who on behalf of such Board acknowledged the execution of this instrument this 18<sup>th</sup> day of December, 2001.

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

(SEAL)



Marianne M. Owen, Notary Public,  
Resident of Tippecanoe County, IN  
Commission Exp. Dec. 7, 2007

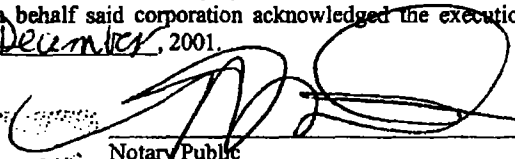
\_\_\_\_\_  
Printed Name

County of Residence: \_\_\_\_\_

My commission expires: \_\_\_\_\_

STATE OF INDIANA )  
 ) SS:  
COUNTY OF TIPPECANOE )

Before me, the undersigned, a Notary Public for Tippecanoe County in the State of Indiana, personally appeared The Trustees of Purdue University by Kenneth P. Burns, its Executive Vice President and Treasurer, who on behalf said corporation acknowledged the execution of this instrument this 18<sup>th</sup> day of December, 2001.

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

(SEAL)



Marianne M. Owen, Notary Public,  
Resident of Tippecanoe County, IN  
Commission Exp. Dec. 7, 2007

\_\_\_\_\_  
Printed Name

County of Residence: \_\_\_\_\_

My commission expires: \_\_\_\_\_

This instrument was prepared by: Marianne Mitten Owen, Esquire, of the firm of Stuart & Branigin, The Life Building, 300 Main Street, Suite 800, Lafayette, Indiana 47902-1010. Telephone: (765) 423-1561; Facsimile: (765) 742-8175; E-mail: mmo@stuartlaw.com

**EXHIBIT A**

**Legal Description of Tippecanoe County Sanitary Landfill**

(See attached)

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**Parcel A**

(Doc. No. 00009113 Gilmore)

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range 4 (4) West, described as follows:

Beginning at a stone in the North line of said Reservation placed equidistant from the Northeast and Northwest corner of said Reservation; thence running South on a line dividing the share of Peter Longlois and Elizabeth Allen ninety-one (91) poles; thence West two hundred twenty seven and 60/100 (227.60) poles to the West line of said Reservation; thence North with said West line thirty and 92/100 (30.92) poles to Justice's Corner; thence East with Justice's line seventy-two and 56/100th (72.56) poles to the center of the road leading from Lafayette to Davis Ferry; thence with said Road North ten and one-half (10 ½) degrees East: nineteen and 28/100 (19.28) poles; thence North eighteen (18) degrees East: forty-three and 12/100 (43.12) poles to the North line of said Reservation; thence East with said North line one hundred thirty-eight and 20/100 (138.20) poles to the place of beginning containing one hundred (100) acres, more or less.

EXCEPT the right of way of C I & L Railroad and except a school lot conveyed to the Trustee of Fairfield Township by deed executed February 17, 1862 and recorded in Deed Record 122, Page 186.

EXCEPTING ALSO, fourteen (14) acres heretofore sole to Herman Bilsma and wife lying West of said Railroad as recorded in Deed Record 122, Page 145.

EXCEPTING ALSO, the tract heretofore conveyed to the Union Sandstone Brick Company which deed is recorded in Deed Record 120, Page 461.

EXCEPTING ALSO a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows:

---

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

EXCEPTING ALSO, beginning at a point on the northern line of the West Half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West Half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West Half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West Half of said Longlois Reserve; 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

The land hereby described contains seventy-six and fifty-seven hundredths (76.57) acres, more or less.

(Doc. No. 00022155 Fairfield Builders Supply Corp.)

A strip of land 40 feet wide in part of Section 10, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Beginning at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office, said

---

corner being the Northeast Corner of the West Half of Longlois Reserve; thence along the North Line of said Reserve South 88°59'25" West 443.72 feet to its intersection with the line between Sections 9 and 10; thence North 01°00'35" West along said section line 40.00 feet; thence North 88°59'25" East parallel with said North Line 473.74 feet; thence South 0°58'31" East 40.02 feet to the North Line of said Reserve; thence South 89°01'29" West along said North Line 30.00 feet to the Point of Beginning, containing 0.435 acres, more or less.

ALSO,

A strip of land 30 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Beginning at the Northeast corner of the West Half of Longlois Reserve, said corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence North 89°01'29" East 30.00 feet; thence South 0°58'31" East parallel with the east line of said Gilmore property 600.00 feet; thence South 89°01'29" West 30.00 feet to said east line; thence North 0°58'31" West along said east line 600.00 feet to the Point of Beginning, containing 0.413 acres, more or less.

ALSO,

A strip of land 40 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said Corner also being the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence along said Gilmore property the following two courses:

1. South 0°58'31" East 1501.50 feet;
2. South 88°59'26" West 1000.00 feet to the Point of Beginning of the herein-described strip;

thence South 01°00'34" East perpendicular to the south line of said Gilmore property 40.00 feet; thence South 88°59'26" West parallel with said south line 500.00 feet; thence North 01°00'34" West perpendicular to said south line 40.00 feet to the south line of said Gilmore property; thence North 88°59'26" East along said South line 500.00 feet to the Point of Beginning, containing 0.459 acres, more or less.

ALSO,

A strip of land 10 and 20 feet wide in part of Section 10, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence North 89°01'29" East 30.00 feet to the Point of Beginning of the herein-described strip; thence North 0°58'31" West 40.02 feet; thence South 88°59'25" West parallel with the North Line of said Reserve 473.74 feet to the line between Sections 9 and 10; thence North 01°00'35" West along said section line 10.00 feet; thence North 88°59'25" East parallel with said North Line 493.75 feet; thence South 0°58'31" East 50.03 feet to the North Line of said Reserve; thence South 89°01'29" West along said North Line 20.00 feet to the Point of Beginning, containing 0.132 acres, more or less.

ALSO,

A strip of land 20 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence North 89°01'29" East 30.00 feet to the Point of Beginning of the herein-described strip; thence continuing North 89°01'29" East 20.00 feet; thence South 0°58'31" East parallel with the east line of said Gilmore property 600.00 feet; thence South 89°01'29" West 20.00 feet; thence North 0°58'31" West parallel with said east line 600.00 feet to the Point of Beginning, containing 0.275 acres, more or less.

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ALSO

A strip of land 10 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said Corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence along said Gilmore property the following two courses:

1. South 0°58'31" East 1501.50 feet;
2. South 88°59'26" West 1000.00 feet;

thence South 01°00'34" East perpendicular to the south line of said Gilmore property 40.00 feet to the Point of Beginning of the herein-described strip; thence continuing South 01°00'34" East 10.00 feet; thence South 88°59'26" West parallel with said south line 500.00 feet; thence North 01°00'34" West perpendicular to said south line 10.00 feet; thence North 88°59'26" East parallel with said south line 500.00 feet to the Point of Beginning, containing 0.115 acres, more or less.

(Doc. No. 00023555 Rafferty)

A strip of land 40 feet wide in part of Section 9, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Deed Record 82, Page 1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence along the North Line of said Reserve South 88°59'25" West 443.72 feet to its intersection with the line between Sections 9 and 10, said point being the Point of Beginning of the herein-described strip; thence continuing South 88°59'25" West along said North Line 256.28 feet; thence North 01°00'35" West perpendicular to

said North Line 40.00 feet; thence North 88°59'25" East parallel with said North Line 1256.28 feet to said line between Sections 9 and 10; thence South 01°00'35" East along said section line 40.00 feet to the Point of Beginning, containing 1.154 acres, more or less.

ALSO,

A strip of land 10 feet wide in part of Section 9, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Deed Record 82, Page 1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence North 89°01'29" East 30.00 feet; thence North 0°58'31" West 40.02 feet; thence South 88°59'25" West parallel with the North Line of said Reserve 473.74 feet to the line between Sections 9 and 10, said point being the Point of Beginning of the herein-described strip; thence continuing South 88°59'25" West parallel with said North Line 1256.28 feet; thence North 01°00'35" West perpendicular to said North Line 10.00 feet; thence North 88°59'25" East parallel with said North Line 1256.28 feet to said line between Sections 9 and 10; South 01°00'35" East along said section line 10.00 feet to the Point of Beginning, containing 0.288 acres, more or less.

**Parcel B**

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range Four (4) West, described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

EXCEPTING a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

**Parcel C**

A part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89°-53'-00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27°-40'-00" West, 104.64 feet; thence North 75°-18'-00" West, 5.38 feet; thence South 59°-42'-00" West, 10.76 feet; thence South 14°-42'-00" West 21.75 feet; thence North 76°-17'-00" West, 116.55 feet; thence North 06°-24'-00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89°-53'-00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

ALSO, an easement for ingress and egress described as follows: An easement and right of way of sufficient width to permit passage of motor vehicles for access to the above described 0.36 of an acre tract from North Ninth Street Road, or such other public dedicated road the Grantor, or its successors in title, may from time to time determine.

(Said easement as set forth in that certain Executor's Deed dated August 24, 1979, recorded September 7, 1979, as Deed Record 79, Page 3864, from John D. Gilmore, as Executor of the Estate of Archie E. Gilmore, deceased, as Grantor; to Donal R. Chambers and D. Jane Chambers, husband and wife, as Grantees.)



**EXHIBIT B**

**Legal Description of Adjacent Property**

(See attached)

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**MONITORING WELL 21**

**MONITORING WELL EASEMENT**

A part of Longlois Reserve, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, being more particularly described as follows:

A 25.00-foot radius circle for a monitoring well easement whose center point is located at the Point of Terminus of the following 5 courses:

1. Commencing at a Berntsen A1NB monument found per Tippecanoe County Surveyor Section Corner ties at the Southeast Corner of the Northeast Fractional Quarter of Section 9, Township 23 North, Range 4 West;
2. South 88°59'25" West along the South Line of said Northeast Fractional Quarter, said line being also the North Line of Longlois Reserve, 1863.02 feet to the centerline of North Ninth Street Road, said point being on a non-tangent curve to the left, having a central angle of 2°04'24" and a radius of 15,236.23 feet;
3. Southwesterly along said curve an arc distance 551.32 feet (said arc being subtended by a chord having a bearing of South 14°15'49" West and a length of 551.28 feet) to the point of compound curvature of a curve to the left, having a central angle of 1°33'34" and a radius of 11,089.67 feet;
4. Southwesterly along said curve an arc distance of 301.82 feet (said arc being subtended by a chord having a bearing of South 13°49'03" West and a length of 301.81 feet);
5. North 76°57'44" West 109.83 feet to the Point of Terminus.

**MONITORING WELL ACCESS EASEMENT**

A part of Longlois Reserve, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, being more particularly described as follows:

A strip of land 12.00 feet wide, measured 6.00 feet on each side of the following-described centerline: Commencing at a Berntsen A1NB monument found per Tippecanoe County Surveyor Section Corner ties at the Southeast Corner of the Northeast Fractional Quarter of Section 9, Township 23 North, Range 4 West; thence South 88°59'25" West along the South Line of said Northeast Fractional Quarter, said line being also the North Line of Longlois Reserve, 1863.02 feet to the centerline of North Ninth Street Road, said point being on a non-tangent curve to the left, having a central angle of 2°04'24" and a radius of 15,236.23 feet; thence Southwesterly along said curve an arc distance 551.32 feet (said arc being subtended by a chord having a bearing of South 14°15'49" West and a length of 551.28 feet) to the point of compound curvature of a curve to the left, having a central angle of 1°33'34" and a radius of 11,089.67 feet; thence Southwesterly along said curve an arc length of 301.82 feet (said arc being subtended by a chord having a bearing of South 13°49'03" West and a distance of 301.81 feet) to the Point of Beginning of the herein-described centerline; thence North 76°57'44" West 84.83 feet to the Point of Terminus.

Side lines are to be shortened or extended to meet at angle points.

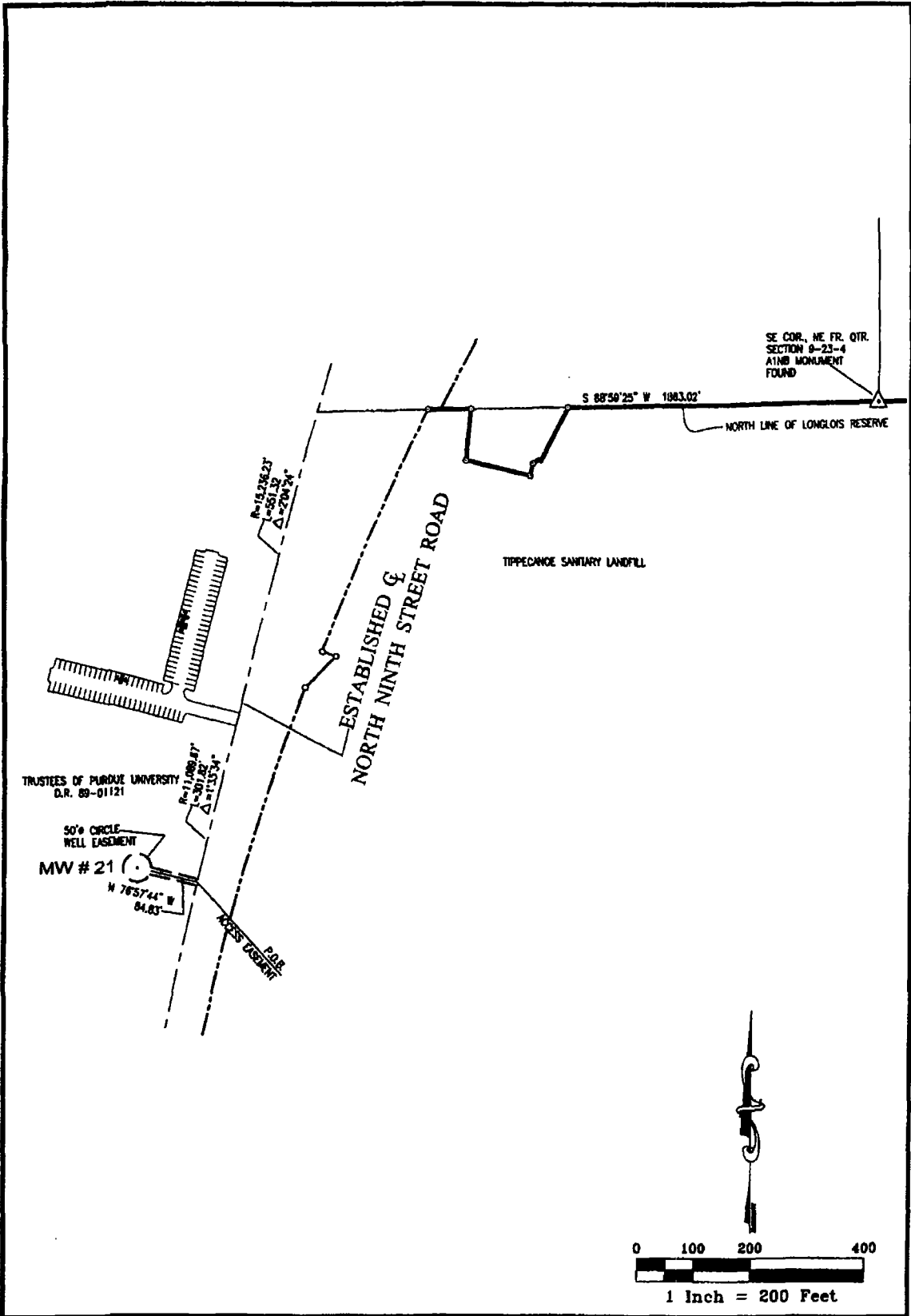
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**EXHIBIT C**

**Drawing of Adjacent Property Highlighting Area of Temporary Easement**

(See attached.)

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John E. Fisher & Associates, P.C.  
Land Surveyors and Engineers  
1526 Main Street  
Lafayette, Indiana 47901-1810

**MONITORING WELL # 21**  
WELL AND ACCESS EASEMENT EXHIBIT  
TIPPECANOE SANITARY LANDFILL

12/21/00  
DRAWN BY: RSP  
CHECK BY:  
SHEET 9 OF 12  
CONTRACT NO. 00.15.2.T

02000998 01/09/2002 11:42am BK: PG: 1  
PAM BERGLUND, TIPPECANOE COUNTY RECORDER

Re-Rec 02001967 01/17/2002 10:57am BK: PG: 1  
PAM BERGLUND, TIPPECANOE COUNTY RECORDER

TSL (Dominant Estate):

Parcel A:

Key Number: 106-06400-0042  
Last Recorded Transfers:  
a. Date: May 1, 2000  
Document Number: 00009113 ✓  
b. Date: October 5, 2000  
Document Number: 00022155 ✓  
c. Date: October 24, 2000  
Document Number: 0023555 ✓

Parcel B:

Key Number: 106-06400-0416  
Last Recorded Transfer:  
Date: May 1, 2000 0  
Document Number: 2000-9113

Parcel C:

Key Number: 106-06400-0262  
Last Recorded Transfer:  
Date: May 19, 2000  
Document Number: 00010482 ✓

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER.

*Robert A. Montez*  
AUDITOR OF TIPPECANOE CO.  
1-17-02 *up*

Adjacent Property (Servient Estate):

Key Number: 106-06400-0020  
Last Recorded Transfer:  
Date: ~~September 9, 1997~~ September 25, 1989  
Document Number: Parcelization 97-72, 89-13274 ✓  
Instrument No. 9718651 ✓

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER.

JAN 09 2002

*Robert A. Montez*  
AUDITOR OF TIPPECANOE CO.

**EASEMENT AGREEMENT**

(Monitoring Well No. 11)

THIS EASEMENT AND ACCESS AGREEMENT (the "Easement" or "Agreement") is made and entered into as of the 18<sup>th</sup> day of December, 2001, by THE BOARD OF COMMISSIONERS OF TIPPECANOE COUNTY (the "Owner"), and TIPPECANOE COUNTY LOCAL ENVIRONMENTAL RESPONSE FINANCE BOARD (the "TERF Board").

WITNESSETH:

WHEREAS, the TERF Board owns certain property located along North Ninth Street, in Lafayette, Tippecanoe County, Indiana which is more particularly described in Exhibit A (the "TSL"), and which was previously owned and operated as the Tippecanoe County Sanitary Landfill.

WHEREAS, the Owner owns certain property adjacent to the TSL which is more particularly described in Exhibit B (the "Adjacent Property").

WHEREAS, the TSL is subject to the terms and provisions of a Notice of Entry of Consent Decree and Declaration of Restrictions and Covenants, dated November 2, 1998, recorded November 6, 1998, in the Office of the Recorder of Tippecanoe County, Indiana, as Document Number 9830064, by John D. and Linda S. Gilmore, Owners (the "Consent Decree").

WHEREAS, the TERF Board, its officers, directors, agents, representatives, overseers, employees, and contractors, and their successors and assigns (collectively, the "TERF Board"), are performing the various obligations required under the Consent Decree in connection with the closure of the TSL pursuant to the Consent Decree which include but are not limited to construction, maintenance, inspection, repair and replacement of certain monitoring facilities, lines, and systems (collectively, the "Obligations").

WHEREAS, to perform certain of the Obligations under the terms and conditions of the Consent Decree, it is necessary for the TERF Board to enter into a portion of the Owner's property adjacent to or surrounding the TSL which is more particularly shown in the drawing attached as Exhibit C (the "Temporary Easement"), and

WHEREAS, the Owner desires to grant to the TERF Board an easement over across and through the Adjacent Property for the purpose of performing the Obligations pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner and the TERF Board hereby agree as follows:

1. Easement. The Owner hereby grants to the TERF Board, its employees, representatives, contractors, agents, overseers, guests, and their successors and assigns (collectively, "Grantees"), a TEMPORARY EASEMENT over, across, under and through the Temporary Easement to perform the Obligations (including, without limitation, to install, lay, use, maintain, inspect, repair and replace monitoring facilities, lines and systems) over, across, under and through the Temporary Easement. The Owner consents to and authorizes the Grantees to enter the Adjacent Property in order to commence and conduct its Obligations under the Consent Decree (including, without limitation, drilling, boring, excavation, sampling and other subsurface activity) on the Temporary Easement.

This Grant also includes the right of ingress and egress at reasonable times upon such Adjacent Property for all purposes incidental to this Easement (including, without limitation, construction, inspection, maintenance, repair, and replacement). This Grant includes the right to spray, trim, remove any trees or other growth which may from time to time interfere or threaten to interfere with the exercise of this right granted by this Easement. It is expressly understood and agreed that no buildings, roadways, drives or other structures will be placed over or upon such Temporary Easement by Owner without the express written consent of the TERF Board.

The Grantees, at their own expense, shall be responsible for the construction, maintenance, inspection, repair and replacement of any and all facilities, lines and systems required as a part of the Obligations (including, without limitation, monitoring facilities, lines, and systems) over, across, under and through the Temporary Easement granted herein (hereinafter collectively referred to as "Grantees' Work"). Upon completion of any construction or subsequent inspection, maintenance, repair or replacement, Grantees shall restore the Temporary Easement, and grade, seed and mulch the same, closing all excavations with proper backfill and compaction, and replacing, with similar quality or better, all drive-ways, public roadways, parking areas, entrances, tiling, drainage systems, utilities, and other appurtenances on, under, through, or over the Temporary Easement owned or used by Owner, at no expense to the Owner. If Grantees' Work should require any permits or approvals from any governmental agency, Grantees shall obtain any and all permits and approvals at no expense to the Owner.

2. Term. This Easement shall terminate upon the completion of the terms and conditions of the Consent Decree. This Grant of Easement shall automatically extend for successive periods of ten years or until such time as the Indiana Department of Environmental Management, or its successor entity, determines that regulated or hazardous substances at the TSL no longer present an unacceptable risk to the public health, safety, or welfare or to the environment.

3. Exclusivity. This is a non-exclusive Grant of Easement, and the Owner herein reserves the right to grant similar easements to parties other than the Grantees.

The Grantees may assign this Easement or any rights thereunder to third parties.

4. Ownership. The undersigned Owner does hereby certify that it is the fee simple owner of said Adjacent Property and that no other persons or parties have any interest whatsoever in the title to the aforementioned Adjacent Property, and that it has the full and exclusive right to grant this Easement. The Owner reserves unto itself the ownership of said Adjacent Property, and the full and unrestricted use thereof insofar as the same does not and will not conflict with the use of the same as herein granted unto the Grantees.

5. Cooperation. The Owner will cooperate fully with the Grantees and will take all reasonable action necessary to allow the Grantees to complete the Obligations in the most expeditious manner possible.

6. Notice and Disclosure. Prior to the performance of the Obligations, the Grantees will notify the Owner of the area or areas upon which the Obligations will be conducted and will procure the services of Indiana Underground to locate subsurface utilities at or near the designated areas. The Grantees will further request and the Owner will provide the Grantees with the identity, description and location of all known subsurface facilities and obstructions at or under the designated areas. The Grantees shall have no responsibility or liability to the Owner for damages to any subsurface facilities or obstructions in the designated areas which were known by the Owner but not accurately identified, disclosed or located by the Owner.

7. Indemnification. The Grantees agree to indemnify, defend, and hold harmless Owner for any and all claims, obligations and liabilities and all costs, expenses and attorney's fees incurred, based upon or arising out of any obligation, liability, loss, damage or expense, or whatever kind or nature, contingent or otherwise, known or unknown, incurred under, or imposed by, any provision of Federal, state or local law or regulation, or common law, pertaining to health, safety or environmental protection and arising out of any act or omission by the Grantees in connection with the Construction Project on the Temporary Easement; provided, however, the above-indemnity by the Grantees shall only apply to the extent such damages are caused by the negligence or willful misconduct of the Grantees.

8. Miscellaneous:

a. Notice. Any notice, request, instruction or other document required or permitted to be given under this Agreement by a party to the Agreement will be in writing and be deemed to have been given when (i) received, if delivered and given in person, (ii) on the date of transmission if sent by telex, telecopy, or other wire transmission (provided that a copy of such transmission is simultaneously sent in a manner provided in clause (iii)), or (iii) deposited with the United States mail, postage prepaid, certified and return receipt requested, and addressed to the Seller or the Buyer, as the case may be, at the address set forth below:

Grantees: Tippecanoe County Local Environmental Response Finance Board  
c/o Anthony S. Benton, Esquire  
STUART & BRANIGIN  
P.O. Box 1010, Lafayette, IN 47902-1010

Owner: Tippecanoe County Board of Commissioners  
20 North Third Street  
Lafayette, IN 47901

or such other individual, entity, or address as a party may designate for itself by notice given as provided above.

b. Governing Law. This Agreement will be construed under and in accordance with the laws of the State of Indiana.



c. Binding Effect. This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns; provided, however, that no assignment or other transfer will be made without the prior written approval of each of the parties to this Agreement.

d. Severability. If any one or more of the provisions of this Agreement, for any reason, is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

e. Entire Agreement. This Agreement constitutes the sole, only and entire understanding and agreement of the parties hereto in respect to the transaction contemplated by this Agreement. This Agreement supersedes any prior understandings, arrangements, or written or oral agreements relating to the contemplated transaction. This Agreement is not intended to confer upon any other person any rights or remedies. This Agreement may be amended or modified, and any of the terms of this Agreement may be waived, only by a written instrument duly executed by or on behalf of Seller and Buyer.

f. Timeliness. With regard to the dates and time periods set forth or referenced in this Agreement, time is of the essence of this Agreement.

g. Attorneys Fees. In the event either party will be compelled to employ an attorney to enforce the provisions of this contract, the parties agree that the non-defaulting party will be entitled to all of his legal costs and expenses, including reasonable attorney fees, incurred thereby.

IN WITNESS WHEREOF, the TERF Board and Owner have executed this Dedication of Easement this 18<sup>th</sup> day of December, 2001.

TERF BOARD:

TIPPECANOE COUNTY LOCAL ENVIRONMENTAL  
RESPONSE FINANCE BOARD

By: Dave Heath  
Dave Heath, Chair

ATTEST:

By: John Knochel  
John Knochel, Secretary



STATE OF INDIANA )  
 ) SS:  
COUNTY OF TIPPECANOE )

Before me, the undersigned, a Notary Public for Tippecanoe County in the State of Indiana, personally appeared the Board of Commissioners of Tippecanoe County by Ruth Shedd, its President, John Knochel, its Vice President, K. D. Benson, its Member, and Robert A. Plantenga, its Auditor, and who on behalf of the Board of Commissioners of Tippecanoe County such acknowledges the execution of this instrument this 18<sup>th</sup> day of December, 2001.

(SEAL)



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

Marianne M. Owen, Notary Public  
Resident of Tippecanoe County, IN  
Commission Exp. Dec. 7, 2007

\_\_\_\_\_  
Printed Name

County of Residence: \_\_\_\_\_

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

This instrument was prepared by: Marianne Mitten Owen, Esquire, of the firm of Stuart & Branigin, The Life Building, 300 Main Street, Suite 800, Lafayette, Indiana 47902-1010. Telephone: (765) 423-1561; Facsimile: (765) 742-8175; E-mail: mmo@stuartlaw.com

**EXHIBIT A**

**Legal Description of Tippecanoe County Sanitary Landfill**

(See attached)

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**Parcel A**

(Doc. No. 00009113 Gilmore)

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range 4 (4) West, described as follows:

Beginning at a stone in the North line of said Reservation placed equidistant from the Northeast and Northwest corner of said Reservation; thence running South on a line dividing the share of Peter Longlois and Elizabeth Allen ninety-one (91) poles; thence West two hundred twenty seven and 60/100 (227.60) poles to the West line of said Reservation; thence North with said West line thirty and 92/100 (30.92) poles to Justice's Corner; thence East with Justice's line seventy-two and 56/100th (72.56) poles to the center of the road leading from Lafayette to Davis Ferry; thence with said Road North ten and one-half (10 ½) degrees East nineteen and 28/100 (19.28) poles; thence North eighteen (18) degrees East forty-three and 12/100 (43.12) poles to the North line of said Reservation; thence East with said North line one hundred thirty-eight and 20/100 (138.20) poles to the place of beginning containing one hundred (100) acres, more or less.

EXCEPT the right of way of C I & L Railroad and except a school lot conveyed to the Trustee of Fairfield Township by deed executed February 17, 1862 and recorded in Deed Record 172, Page 186.

EXCEPTING ALSO, fourteen (14) acres heretofore sole to Herman Bilsma and wife lying West of said Railroad as recorded in Deed Record 122, Page 145.

EXCEPTING ALSO, the tract heretofore conveyed to the Union Sandstone Brick Company which deed is recorded in Deed Record 120, Page 461.

EXCEPTING ALSO a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows:

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Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

EXCEPTING ALSO, beginning at a point on the northern line of the West Half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West Half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West Half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West Half of said Longlois Reserve; 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

The land hereby described contains seventy-six and fifty-seven hundredths (76.57) acres, more or less.

(Doc. No. 00022155 Fairfield Builders Supply Corp.)

A strip of land 40 feet wide in part of Section 10, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Beginning at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office, said

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corner being the Northeast Corner of the West Half of Longlois Reserve; thence along the North Line of said Reserve South 88°59'25" West 443.72 feet to its intersection with the line between Sections 9 and 10; thence North 01°00'35" West along said section line 40.00 feet; thence North 88°59'25" East parallel with said North Line 473.74 feet; thence South 0°58'31" East 40.02 feet to the North Line of said Reserve; thence South 89°01'29" West along said North Line 30.00 feet to the Point of Beginning, containing 0.435 acres, more or less.

ALSO,

A strip of land 30 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Beginning at the Northeast corner of the West Half of Longlois Reserve, said corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence North 89°01'29" East 30.00 feet; thence South 0°58'31" East parallel with the east line of said Gilmore property 600.00 feet; thence South 89°01'29" West 30.00 feet to said east line; thence North 0°58'31" West along said east line 600.00 feet to the Point of Beginning, containing 0.413 acres, more or less.

ALSO,

A strip of land 40 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said Corner also being the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence along said Gilmore property the following two courses:

1. South 0°58'31" East 1501.50 feet;
2. South 88°59'25" West 1000.00 feet to the Point of Beginning of the herein-described strip;



thence South 01°00'34" East perpendicular to the south line of said Gilmore property 40.00 feet; thence South 88°59'26" West parallel with said south line 500.00 feet; thence North 01°00'34" West perpendicular to said south line 40.00 feet to the south line of said Gilmore property; thence North 88°59'26" East along said South line 500.00 feet to the Point of Beginning, containing 0.459 acres, more or less.

ALSO,

A strip of land 10 and 20 feet wide in part of Section 10, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence North 89°01'29" East 30.00 feet to the Point of Beginning of the herein-described strip; thence North 0°58'31" West 40.02 feet; thence South 88°59'25" West parallel with the North Line of said Reserve 473.74 feet to the line between Sections 9 and 10; thence North 01°00'35" West along said section line 10.00 feet; thence North 88°59'25" East parallel with said North Line 493.75 feet; thence South 0°58'31" East 50.03 feet to the North Line of said Reserve; thence South 89°01'29" West along said North Line 20.00 feet to the Point of Beginning, containing 0.132 acres, more or less.

ALSO,

A strip of land 20 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence North 89°01'29" East 30.00 feet to the Point of Beginning of the herein-described strip; thence continuing North 89°01'29" East 20.00 feet; thence South 0°58'31" East parallel with the east line of said Gilmore property 600.00 feet; thence South 89°01'29" West 20.00 feet; thence North 0°58'31" West parallel with said east line 600.00 feet to the Point of Beginning, containing 0.275 acres, more or less.

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ALSO

A strip of land 10 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said Corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence along said Gilmore property the following two courses:

1. South 0°58'31" East 1501.50 feet;
2. South 88°59'26" West 1000.00 feet;

thence South 01°00'34" East perpendicular to the south line of said Gilmore property 40.00 feet to the Point of Beginning of the herein-described strip; thence continuing South 01°00'34" East 10.00 feet; thence South 88°59'26" West parallel with said south line 500.00 feet; thence North 01°00'34" West perpendicular to said south line 10.00 feet; thence North 88°59'26" East parallel with said south line 500.00 feet to the Point of Beginning, containing 0.115 acres, more or less.

(Doc. No. 00023555 Rafferty)

A strip of land 40 feet wide in part of Section 9, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Deed Record 82, Page 1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence along the North Line of said Reserve South 88°59'25" West 443.72 feet to its intersection with the line between Sections 9 and 10, said point being the Point of Beginning of the herein-described strip; thence continuing South 88°59'25" West along said North Line 1256.28 feet; thence North 01°00'35" West perpendicular to

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said North Line 40.00 feet; thence North 88°59'25" East parallel with said North Line 1256.28 feet to said line between Sections 9 and 10; thence South 01°00'35" East along said section line 40.00 feet to the Point of Beginning, containing 1.154 acres, more or less.

ALSO,

A strip of land 10 feet wide in part of Section 9, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Deed Record 82, Page 1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence North 89°01'29" East 30.00 feet; thence North 0°58'31" West 40.02 feet; thence South 88°59'25" West parallel with the North Line of said Reserve 473.74 feet to the line between Sections 9 and 10, said point being the Point of Beginning of the herein-described strip; thence continuing South 88°59'25" West parallel with said North Line 1256.28 feet; thence North 01°00'35" West perpendicular to said North Line 10.00 feet; thence North 88°59'25" East parallel with said North Line 1256.28 feet to said line between Sections 9 and 10; South 01°00'35" East along said section line 10.00 feet to the Point of Beginning, containing 0.288 acres, more or less.

**Parcel B**

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range Four (4) West, described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

EXCEPTING a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

**Parcel C**

A part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89°-53'-00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27°-40'-00" West, 104.64 feet; thence North 75°-18'-00" West, 5.38 feet; thence South 59°-42'-00" West, 10.76 feet; thence South 14°-42'-00" West 21.75 feet; thence North 76°-17'-00" West, 116.55 feet; thence North 06°-24'-00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89°-53'-00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

ALSO, an easement for ingress and egress described as follows: An easement and right of way of sufficient width to permit passage of motor vehicles for access to the above described 0.36 of an acre tract from North Ninth Street Road, or such other public dedicated road the Grantor, or its successors in title, may from time to time determine.

(Said easement as set forth in that certain Executor's Deed dated August 24, 1979, recorded September 7, 1979, as Deed Record 79, Page 3864, from John D. Gilmore, as Executor of the Estate of Archie E. Gilmore, deceased, as Grantor; to Donal R. Chambers and D. Jane Chambers, husband and wife, as Grantees.)

**EXHIBIT B**

**Legal Description of Adjacent Property**

(See attached)

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**MONITORING WELL 11**

**MONITORING WELL EASEMENT**

A part of Longlois Reserve, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, being more particularly described as follows:

A 25.00-foot radius circle for a monitoring well easement whose center point is located at the Point of Terminus of the following 7 courses:

1. Commencing at a Berntsen A1NB monument found per Tippecanoe County Surveyor Section Corner ties at the Southeast Corner of the Northeast Fractional Quarter of Section 9, Township 23 North, Range 4 West;
2. South 88°59'25" West along the South Line of said Northeast Fractional Quarter, said line being also the North Line of Longlois Reserve, 1863.02 feet to the centerline of North Ninth Street Road, said point being on a non-tangent curve to the left, having a central angle of 2°04'24" and a radius of 15,236.23 feet;
3. Southwesterly along said curve an arc distance 551.32 feet (said arc being subtended by a chord having a bearing of South 14°15'49" West and a length of 551.28 feet), to the point of compound curvature of a curve to the left, having a central angle of 0°02'39" and a radius of 11,089.67 feet;
4. Southwesterly along said curve an arc distance 8.55 feet (said arc being subtended by a chord having a bearing of South 14°34'31" West and a length of 8.55 feet);
5. North 75°44'13" West 116.72 feet;
6. North 14°15'47" East 269.79 feet;
7. South 75°44'13" East 63.85 feet to the Point of Terminus.

**MONITORING WELL ACCESS EASEMENT**

A part of Longlois, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, being more particularly described as follows:

A strip of land 12.00 feet wide, measured 6.00 feet on each side of the following-described centerline: Commencing at a Berntsen A1NB monument found per Tippecanoe County Surveyor Section Corner ties at the Southeast Corner of the Northeast Fractional Quarter of Section 9, Township 23 North, Range 4 West; thence South 88°59'25" West along the South Line of said Northeast Fractional Quarter, said line being also the North Line of Longlois Reserve, 1863.02 feet to the centerline of North Ninth Street Road, said point being on a non-tangent curve to the left, having a central angle of 2°04'24" and a radius of 15,236.23 feet; thence Southwesterly along said curve an arc distance 551.32 feet (said arc being subtended by a chord having a bearing of South 14°15'49" West and a length of 551.28 feet), to the point of compound curvature of a curve to the left, having a central angle of 0°02'39" and a radius of 11,089.67 feet; thence Southwesterly along said curve an arc distance 8.55 feet (said arc being subtended by a chord having a bearing of South 14°34'31" West and a length of 8.55 feet) to the Point of Beginning of the herein-described centerline; thence North 75°44'13" West 116.72 feet; thence North 14°15'47" East 269.79 feet; thence South 75°44'13" East 38.85 feet to the Point of Terminus.

Side lines are to be shortened or extended to meet at angle points.

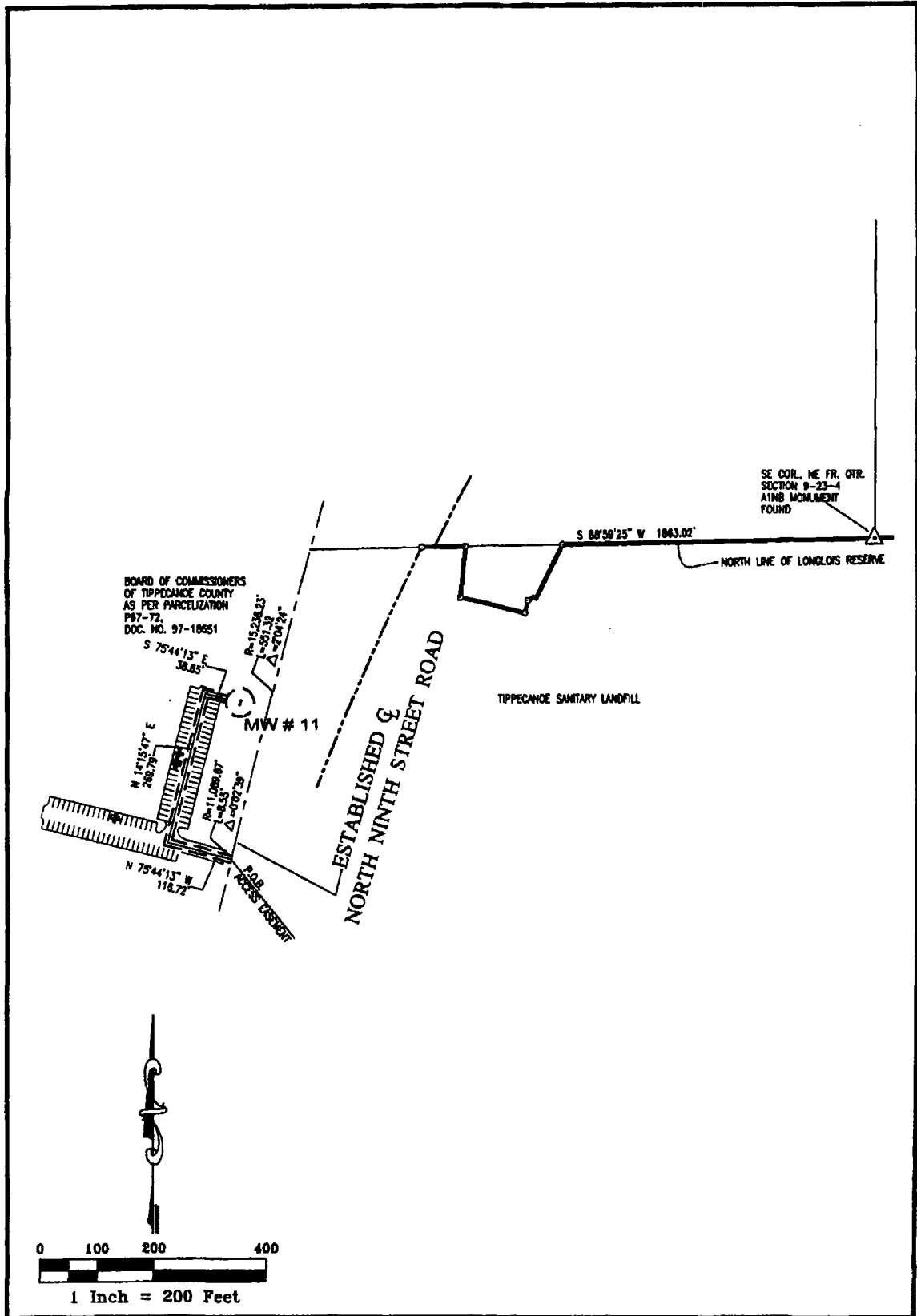
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**EXHIBIT C**

**Drawing of Adjacent Property Highlighting Area of Temporary Easement**

(See attached.)

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John E. Fisher & Associates, P.C.  
Land Surveyors and Engineers  
1526 Main Street  
Lafayette, Indiana 47901-1810

**MONITORING WELL # 11**  
WELL AND ACCESS EASEMENT EXHIBIT  
TIPPECANOE SANITARY LANDFILL

12/21/00  
DRAWN BY RSP  
CHECK BY  
SHEET 2 OF 12  
CONTRACT NO. 00.15.2T



TSL (Dominant Estate):

Parcel A:

Key Number: 106-06400-0042  
Last Recorded Transfers:  
a. Date: May 1, 2000  
Document Number: 00009113 ✓  
b. Date: October 5, 2000  
Document Number: 00022155 ✓  
c. Date: October 24, 2000  
Document Number: 0023555 ✓

Parcel B:

Key Number.: 106-06400-0416  
Last Recorded Transfer:  
Date: May 1, 2000 0  
Document Number: 2000-9113

Parcel C:

Key Number: 106-06400-0262  
Last Recorded Transfer:  
Date: May 19, 2000  
Document Number: 00010482 ✓

Adjacent Property (Servient Estate):

Key Number: 106-06400-0020  
Last Recorded Transfer:  
Date: September 9, 1997  
Document Number: Parcelization 97-72,  
Instrument No. 9718651 ✓

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER

JAN 09 2002

*Robert A. Hunter*  
AUDITOR OF TIPPECANOE CO. *of*

**EASEMENT AGREEMENT**  
(Monitoring Well No. 11)

THIS EASEMENT AND ACCESS AGREEMENT (the "Easement" or "Agreement") is made and entered into as of the 10<sup>th</sup> day of December, 2001, by THE BOARD OF COMMISSIONERS OF TIPPECANOE COUNTY (the "Owner"), and TIPPECANOE COUNTY LOCAL ENVIRONMENTAL RESPONSE FINANCE BOARD (the "TERF Board").

WITNESSETH:

WHEREAS, the TERF Board owns certain property located along North Ninth Street, in Lafayette, Tippecanoe County, Indiana which is more particularly described in Exhibit A (the "TSL"), and which was previously owned and operated as the Tippecanoe County Sanitary Landfill.

WHEREAS, the Owner owns certain property adjacent to the TSL which is more particularly described in Exhibit B (the "Adjacent Property").

WHEREAS, the TSL is subject to the terms and provisions of a Notice of Entry of Consent Decree and Declaration of Restrictions and Covenants, dated November 2, 1998, recorded November 6, 1998, in the Office of the Recorder of Tippecanoe County, Indiana, as Document Number 9830064, by John D. and Linda S. Gilmore, Owners (the "Consent Decree").

WHEREAS, the TERF Board, its officers, directors, agents, representatives, overseers, employees, and contractors, and their successors and assigns (collectively, the "TERF Board"), are performing the various obligations required under the Consent Decree in connection with the closure of the TSL pursuant to the Consent Decree which include but are not limited to construction, maintenance, inspection, repair and replacement of certain monitoring facilities, lines, and systems (collectively, the "Obligations").

WHEREAS, to perform certain of the Obligations under the terms and conditions of the Consent Decree, it is necessary for the TERF Board to enter into a portion of the Owner's property adjacent to or surrounding the TSL which is more particularly shown in the drawing attached as Exhibit C (the "Temporary Easement"), and

WHEREAS, the Owner desires to grant to the TERF Board an easement over across and through the Adjacent Property for the purpose of performing the Obligations pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner and the TERF Board hereby agree as follows:

1. **Easement.** The Owner hereby grants to the TERF Board, its employees, representatives, contractors, agents, overseers, guests, and their successors and assigns (collectively, "Grantees"), a TEMPORARY EASEMENT over, across, under and through the Temporary Easement to perform the Obligations (including, without limitation, to install, lay, use, maintain, inspect, repair and replace monitoring facilities, lines and systems) over, across, under and through the Temporary Easement. The Owner consents to and authorizes the Grantees to enter the Adjacent Property in order to commence and conduct its Obligations under the Consent Decree (including, without limitation, drilling, boring, excavation, sampling and other subsurface activity) on the Temporary Easement.

This Grant also includes the right of ingress and egress at reasonable times upon such Adjacent Property for all purposes incidental to this Easement (including, without limitation, construction, inspection, maintenance, repair, and replacement). This Grant includes the right to spray, trim, remove any trees or other growth which may from time to time interfere or threaten to interfere with the exercise of this right granted by this Easement. It is expressly understood and agreed that no buildings, roadways, drives or other structures will be placed over or upon such Temporary Easement by Owner without the express written consent of the TERF Board.

The Grantees, at their own expense, shall be responsible for the construction, maintenance, inspection, repair and replacement of any and all facilities, lines and systems required as a part of the Obligations (including, without limitation, monitoring facilities, lines, and systems) over, across, under and through the Temporary Easement granted herein (hereinafter collectively referred to as "Grantees' Work"). Upon completion of any construction or subsequent inspection, maintenance, repair or replacement, Grantees shall restore the Temporary Easement, and grade, seed and mulch the same, closing all excavations with proper backfill and compaction, and replacing, with similar quality or better, all drive-ways, public roadways, parking areas, entrances, tiling, drainage systems, utilities, and other appurtenances on, under, through, or over the Temporary Easement owned or used by Owner, at no expense to the Owner. If Grantees' Work should require any permits or approvals from any governmental agency, Grantees shall obtain any and all permits and approvals at no expense to the Owner.

2. Term. This Easement shall terminate upon the completion of the terms and conditions of the Consent Decree. This Grant of Easement shall automatically extend for successive periods of ten years or until such time as the Indiana Department of Environmental Management, or its successor entity, determines that regulated or hazardous substances at the TSL no longer present an unacceptable risk to the public health, safety, or welfare or to the environment.

3. Exclusivity. This is a non-exclusive Grant of Easement, and the Owner herein reserves the right to grant similar easements to parties other than the Grantees.

The Grantees may assign this Easement or any rights thereunder to third parties.

4. Ownership. The undersigned Owner does hereby certify that it is the fee simple owner of said Adjacent Property and that no other persons or parties have any interest whatsoever in the title to the aforementioned Adjacent Property, and that it has the full and exclusive right to grant this Easement. The Owner reserves unto itself the ownership of said Adjacent Property, and the full and unrestricted use thereof insofar as the same does not and will not conflict with the use of the same as herein granted unto the Grantees.

5. Cooperation. The Owner will cooperate fully with the Grantees and will take all reasonable action necessary to allow the Grantees to complete the Obligations in the most expeditious manner possible.

6. Notice and Disclosure. Prior to the performance of the Obligations, the Grantees will notify the Owner of the area or areas upon which the Obligations will be conducted and will procure the services of Indiana Underground to locate subsurface utilities at or near the designated areas. The Grantees will further request and the Owner will provide the Grantees with the identity, description and location of all known subsurface facilities and obstructions at or under the designated areas. The Grantees shall have no responsibility or liability to the Owner for damages to any subsurface facilities or obstructions in the designated areas which were known by the Owner but not accurately identified, disclosed or located by the Owner.

7. Indemnification. The Grantees agree to indemnify, defend, and hold harmless Owner for any and all claims, obligations and liabilities and all costs, expenses and attorney's fees incurred, based upon or arising out of any obligation, liability, loss, damage or expense, or whatever kind or nature, contingent or otherwise, known or unknown, incurred under, or imposed by, any provision of Federal, state or local law or regulation, or common law, pertaining to health, safety or environmental protection and arising out of any act or omission by the Grantees in connection with the Construction Project on the Temporary Easement; provided, however, the above-indemnity by the Grantees shall only apply to the extent such damages are caused by the negligence or willful misconduct of the Grantees.

8. Miscellaneous:

a. Notice. Any notice, request, instruction or other document required or permitted to be given under this Agreement by a party to the Agreement will be in writing and be deemed to have been given when (i) received, if delivered and given in person, (ii) on the date of transmission if sent by telex, telecopy, or other wire transmission (provided that a copy of such transmission is simultaneously sent in a manner provided in clause (iii)), or (iii) deposited with the United States mail, postage prepaid, certified and return receipt requested, and addressed to the Seller or the Buyer, as the case may be, at the address set forth below:

Grantees:      Tippecanoe County Local Environmental Response Finance Board  
                    c/o Anthony S. Benton, Esquire  
                    STUART & BRANIGIN  
                    P.O. Box 1010, Lafayette, IN 47902-1010

Owner:          Tippecanoe County Board of Commissioners  
                    20 North Third Street  
                    Lafayette, IN 47901

or such other individual, entity, or address as a party may designate for itself by notice given as provided above.

b. Governing Law. This Agreement will be construed under and in accordance with the laws of the State of Indiana.

c. Binding Effect. This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns; provided, however, that no assignment or other transfer will be made without the prior written approval of each of the parties to this Agreement.

d. Severability. If any one or more of the provisions of this Agreement, for any reason, is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

e. Entire Agreement. This Agreement constitutes the sole, only and entire understanding and agreement of the parties hereto in respect to the transaction contemplated by this Agreement. This Agreement supersedes any prior understandings, arrangements, or written or oral agreements relating to the contemplated transaction. This Agreement is not intended to confer upon any other person any rights or remedies. This Agreement may be amended or modified, and any of the terms of this Agreement may be waived, only by a written instrument duly executed by or on behalf of Seller and Buyer.

f. Timeliness. With regard to the dates and time periods set forth or referenced in this Agreement, time is of the essence of this Agreement.

g. Attorneys Fees. In the event either party will be compelled to employ an attorney to enforce the provisions of this contract, the parties agree that the non-defaulting party will be entitled to all of his legal costs and expenses, including reasonable attorney fees, incurred thereby.

IN WITNESS WHEREOF, the TERF Board and Owner have executed this Dedication of Easement this 12<sup>th</sup> day of December, 2001.

TERF BOARD:

TIPPECANOE COUNTY LOCAL ENVIRONMENTAL  
RESPONSE FINANCE BOARD

By: Dave Heath  
Dave Heath, Chair

ATTEST:

By: John Knochel  
John Knochel, Secretary



STATE OF INDIANA )  
 ) SS:  
COUNTY OF TIPPECANOE )

Before me, the undersigned, a Notary Public for Tippecanoe County in the State of Indiana, personally appeared the Board of Commissioners of Tippecanoe County by Ruth Shedd, its President, John Knochel, its Vice President, K. D. Benson, its Member, and Robert A. Plantenga, its Auditor, and who on behalf of the Board of Commissioners of Tippecanoe County such acknowledge the execution of this instrument this 18<sup>th</sup> day of December, 2001.

(SEAL)



*[Handwritten Signature]*

Notary Public

Marianne M. Owen, Notary Public  
Resident of Tippecanoe County, IN  
Commission exp. Dec. 7, 2007

Printed Name

County of Residence: \_\_\_\_\_

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

This instrument was prepared by: Marianne Mitten Owen, Esquire, of the firm of Stuart & Branigin, The Life Building, 300 Main Street, Suite 800, Lafayette, Indiana 47902-1010. Telephone: (765) 423-1561; Facsimile: (765) 742-8175; E-mail: mmo@stuartlaw.com

258538.1

**EXHIBIT A**

**Legal Description of Tippecanoe County Sanitary Landfill**

(See attached)

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**Parcel A**

(Doc. No. 00009113 Gilmore)

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range 4 (4) West, described as follows:

Beginning at a stone in the North line of said Reservation placed equidistant from the Northeast and Northwest corner of said Reservation; thence running South on a line dividing the share of Peter Longlois and Elizabeth Allen ninety-one (91) poles; thence West two hundred twenty seven and 60/100 (227.60) poles to the West line of said Reservation; thence North with said West line thirty and 92/100 (30.92) poles to Justice's Corner; thence East with Justice's line seventy-two and 56/100th (72.56) poles to the center of the road leading from Lafayette to Davis Ferry; thence with said Road North ten and one-half (10 ½) degrees East nineteen and 28/100 (19.28) poles; thence North eighteen (18) degrees East forty-three and 12/100 (43.12) poles to the North line of said Reservation; thence East with said North line one hundred thirty-eight and 20/100 (138.20) poles to the place of beginning containing one hundred (100) acres, more or less.

EXCEPT the right of way of C I & L Railroad and except a school lot conveyed to the Trustee of Fairfield Township by deed executed February 17, 1862 and recorded in Deed Record 172, Page 186.

EXCEPTING ALSO, fourteen (14) acres heretofore sole to Herman Bilsma and wife lying West of said Railroad as recorded in Deed Record 122, Page 145.

EXCEPTING ALSO, the tract heretofore conveyed to the Union Sandstone Brick Company which deed is recorded in Deed Record 120, Page 461.

EXCEPTING ALSO a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows:

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Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

EXCEPTING ALSO, beginning at a point on the northern line of the West Half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West Half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West Half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West Half of said Longlois Reserve; 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

The land hereby described contains seventy-six and fifty-seven hundredths (76.57) acres, more or less.

(Doc. No. 00022155 Fairfield Builders Supply Corp.)

A strip of land 40 feet wide in part of Section 10, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Beginning at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office, said

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corner being the Northeast Corner of the West Half of Longlois Reserve; thence along the North Line of said Reserve South 88°59'25" West 443.72 feet to its intersection with the line between Sections 9 and 10; thence North 01°00'35" West along said section line 40.00 feet; thence North 88°59'25" East parallel with said North Line 473.74 feet; thence South 0°58'31" East 40.02 feet to the North Line of said Reserve; thence South 89°01'29" West along said North Line 30.00 feet to the Point of Beginning, containing 0.435 acres, more or less.

ALSO,

A strip of land 30 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Beginning at the Northeast corner of the West Half of Longlois Reserve, said corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence North 89°01'29" East 30.00 feet; thence South 0°58'31" East parallel with the east line of said Gilmore property 600.00 feet; thence South 89°01'29" West 30.00 feet to said east line; thence North 0°58'31" West along said east line 600.00 feet to the Point of Beginning, containing 0.413 acres, more or less.

ALSO,

A strip of land 40 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said Corner also being the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence along said Gilmore property the following two courses:

1. South 0°58'31" East 1501.50 feet;
  2. South 88°59'26" West 1000.00 feet to the Point of Beginning of the herein-described strip;
-

thence South 01°00'34" East perpendicular to the south line of said Gilmore property 40.00 feet; thence South 88°59'26" West parallel with said south line 500.00 feet; thence North 01°00'34" West perpendicular to said south line 40.00 feet to the south line of said Gilmore property; thence North 88°59'26" East along said South line 500.00 feet to the Point of Beginning, containing 0.459 acres, more or less.

ALSO,

A strip of land 10 and 20 feet wide in part of Section 10, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence North 89°01'29" East 30.00 feet to the Point of Beginning of the herein-described strip; thence North 0°58'31" West 40.02 feet; thence South 88°59'25" West parallel with the North Line of said Reserve 473.74 feet to the line between Sections 9 and 10; thence North 01°00'35" West along said section line 10.00 feet; thence North 88°59'25" East parallel with said North Line 493.75 feet; thence South 0°58'31" East 50.03 feet to the North Line of said Reserve; thence South 89°01'29" West along said North Line 20.00 feet to the Point of Beginning, containing 0.132 acres, more or less.

ALSO,

A strip of land 20 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence North 89°01'29" East 30.00 feet to the Point of Beginning of the herein-described strip; thence continuing North 89°01'29" East 20.00 feet; thence South 0°58'31" East parallel with the east line of said Gilmore property 600.00 feet; thence South 89°01'29" West 20.00 feet; thence North 0°58'31" West parallel with said east line 600.00 feet to the Point of Beginning, containing 0.275 acres, more or less.

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ALSO

A strip of land 10 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said Corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence along said Gilmore property the following two courses:

1. South 0°58'31" East 1501.50 feet;
2. South 88°59'26" West 1000.00 feet;

thence South 01°00'34" East perpendicular to the south line of said Gilmore property 40.00 feet to the Point of Beginning of the herein-described strip; thence continuing South 01°00'34" East 10.00 feet; thence South 88°59'26" West parallel with said south line 500.00 feet; thence North 01°00'34" West perpendicular to said south line 10.00 feet; thence North 88°59'26" East parallel with said south line 500.00 feet to the Point of Beginning, containing 0.115 acres, more or less.

(Doc. No. 00023555; Rafferty)

A strip of land 40 feet wide in part of Section 9, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Deed Record 82, Page 1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence along the North Line of said Reserve South 88°59'25" West 443.72 feet to its intersection with the line between Sections 9 and 10, said point being the Point of Beginning of the herein-described strip; thence continuing South 88°59'25" West along said North Line 1256.28 feet; thence North 01°00'35" West perpendicular to

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said North Line 40.00 feet; thence North 88°59'25" East parallel with said North Line 1256.28 feet to said line between Sections 9 and 10; thence South 01°00'35" East along said section line 40.00 feet to the Point of Beginning, containing 1.154 acres, more or less.

ALSO,

A strip of land 10 feet wide in part of Section 9, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Deed Record 82, Page 1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence North 89°01'29" East 30.00 feet; thence North 0°58'31" West 40.02 feet; thence South 88°59'25" West parallel with the North Line of said Reserve 473.74 feet to the line between Sections 9 and 10, said point being the Point of Beginning of the herein-described strip; thence continuing South 88°59'25" West parallel with said North Line 1256.28 feet; thence North 01°00'35" West perpendicular to said North Line 10.00 feet; thence North 88°59'25" East parallel with said North Line 1256.28 feet to said line between Sections 9 and 10; South 01°00'35" East along said section line 10.00 feet to the Point of Beginning, containing 0.238 acres, more or less.

**Parcel B**

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range Four (4) West, described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

EXCEPTING a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

**Parcel C**

A part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89°-53'-00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27°-40'-00" West, 104.64 feet; thence North 75°-18'-00" West, 5.38 feet; thence South 59°-42'-00" West, 10.76 feet; thence South 14°-42'-00" West 21.75 feet; thence North 76°-17'-00" West, 116.55 feet; thence North 06°-24'-00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89°-53'-00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

ALSO, an easement for ingress and egress described as follows: An easement and right of way of sufficient width to permit passage of motor vehicles for access to the above described 0.36 of an acre tract from North Ninth Street Road, or such other public dedicated road the Grantor, or its successors in title, may from time to time determine.

(Said easement as set forth in that certain Executor's Deed dated August 24, 1979, recorded September 7, 1979, as Deed Record 79, Page 3864, from John D. Gilmore, as Executor of the Estate of Archie E. Gilmore, deceased, as Grantor; to Donal R. Chambers and D. Jane Chambers, husband and wife, as Grantees.)



**EXHIBIT B**

**Legal Description of Adjacent Property**

(See attached)

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**MONITORING WELL 11**

**MONITORING WELL EASEMENT**

A part of Longlois Reserve, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, being more particularly described as follows:

A 25.00-foot radius circle for a monitoring well easement whose center point is located at the Point of Terminus of the following 7 courses:

1. Commencing at a Berntsen A1NB monument found per Tippecanoe County Surveyor Section Corner ties at the Southeast Corner of the Northeast Fractional Quarter of Section 9, Township 23 North, Range 4 West;
2. South 88°59'25" West along the South Line of said Northeast Fractional Quarter, said line being also the North Line of Longlois Reserve, 1863.02 feet to the centerline of North Ninth Street Road, said point being on a non-tangent curve to the left, having a central angle of 2°04'24" and a radius of 15,236.23 feet;
3. Southwesterly along said curve an arc distance 551.32 feet (said arc being subtended by a chord having a bearing of South 14°15'49" West and a length of 551.28 feet), to the point of compound curvature of a curve to the left, having a central angle of 0°02'39" and a radius of 11,089.67 feet;
4. Southwesterly along said curve an arc distance 8.55 feet (said arc being subtended by a chord having a bearing of South 14°34'31" West and a length of 8.55 feet);
5. North 75°44'13" West 116.72 feet;
6. North 14°15'47" East 269.79 feet;
7. South 75°44'13" East 63.85 feet to the Point of Terminus.

**MONITORING WELL ACCESS EASEMENT**

A part of Longlois, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, being more particularly described as follows:

A strip of land 12.00 feet wide, measured 6.00 feet on each side of the following-described centerline: Commencing at a Berntsen A1NB monument found per Tippecanoe County Surveyor Section Corner ties at the Southeast Corner of the Northeast Fractional Quarter of Section 9, Township 23 North, Range 4 West; thence South 88°59'25" West along the South Line of said Northeast Fractional Quarter, said line being also the North Line of Longlois Reserve, 1863.02 feet to the centerline of North Ninth Street Road, said point being on a non-tangent curve to the left, having a central angle of 2°04'24" and a radius of 15,236.23 feet; thence Southwesterly along said curve an arc distance 551.32 feet (said arc being subtended by a chord having a bearing of South 14°15'49" West and a length of 551.28 feet), to the point of compound curvature of a curve to the left, having a central angle of 0°02'39" and a radius of 11,089.67 feet; thence Southwesterly along said curve an arc distance 8.55 feet (said arc being subtended by a chord having a bearing of South 14°34'31" West and a length of 8.55 feet) to the Point of Beginning of the herein-described centerline; thence North 75°44'13" West 116.72 feet; thence North 14°15'47" East 269.79 feet; thence South 75°44'13" East 38.85 feet to the Point of Terminus.

Side lines are to be shortened or extended to meet at angle points.

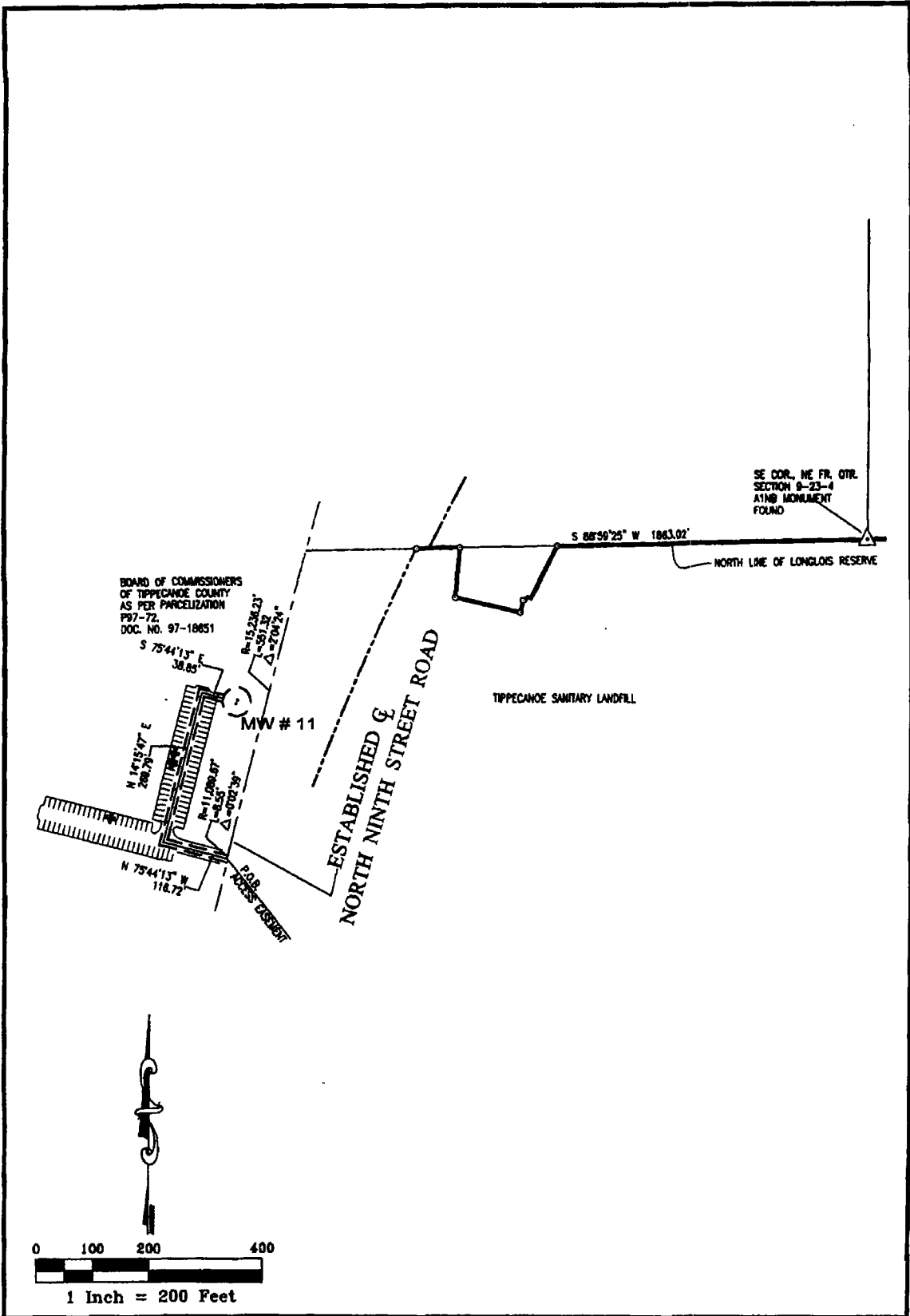
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**EXHIBIT C**

**Drawing of Adjacent Property Highlighting Area of Temporary Easement**

(See attached.)

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John E. Fisher & Associates, P.C.  
 Land Surveyors and Engineers  
 1526 Main Street  
 Lafayette, Indiana 47901-1810

**MONITORING WELL # 11**  
**WELL AND ACCESS EASEMENT EXHIBIT**  
**TIPPECANOE SANITARY LANDFILL**

12/21/00  
 DRAWN BY RSP  
 CHECK BY  
 SHEET 2 OF 12  
 COMM. NO. 00.15.2.T

Re-Rec 02001968 01/17/2002 10:57am BK: PG: 1  
PAM BERGLUND, TIPPECANOE COUNTY RECORDER

02000999 01/09/2002 11:42am BK: PG: 1  
PAM BERGLUND, TIPPECANOE COUNTY RECORDER

TSL (Dominant Estate):

Parcel A:

Key Number: 106-06400-0042

Last Recorded Transfers:

- a. Date: May 1, 2000  
Document Number: 00009113
- b. Date: October 5, 2000  
Document Number: 00022155
- c. Date: October 24, 2000  
Document Number: 0023555

Parcel B:

Key Number: 106-06400-0416

Last Recorded Transfer:

Date: May 1, 2000  
Document Number: 2000-9113

Parcel C:

Key Number: 106-06400-0262

Last Recorded Transfer:

Date: May 19, 2000  
Document Number: 00010482

Adjacent Property (Servient Estate):

Key Number: 106-06400-0020

Last Recorded Transfer:

Date: ~~September 9, 1997~~ September 25, 1989  
Document Number: Parcelization 97-72, 87-13274  
Instrument No. 97186514

**EASEMENT AGREEMENT**

(Monitoring Well No. 24)

THIS EASEMENT AND ACCESS AGREEMENT (the "Easement" or "Agreement") is made and entered into as of the 18<sup>th</sup> day of December, 2001, by THE BOARD OF COMMISSIONERS OF TIPPECANOE COUNTY (the "Owner"), and TIPPECANOE COUNTY LOCAL ENVIRONMENTAL RESPONSE FINANCE BOARD (the "TERF Board").

TIPPECANOE COUNTY RECORDER  
TIPPECANOE COUNTY RECORDER

*Pam Berglund*  
TIPPECANOE COUNTY RECORDER  
1-17-02 *wjz*

JULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER

JAN 09 2002

*Pam Berglund*  
TIPPECANOE COUNTY RECORDER

WITNESSETH:

WHEREAS, the TERF Board owns certain property located along North Ninth Street, in Lafayette, Tippecanoe County, Indiana which is more particularly described in Exhibit A (the "TSL"), and which was previously owned and operated as the Tippecanoe County Sanitary Landfill.

WHEREAS, the Owner owns certain property adjacent to the TSL which is more particularly described in Exhibit B (the "Adjacent Property").

WHEREAS, the TSL is subject to the terms and provisions of a Notice of Entry of Consent Decree and Declaration of Restrictions and Covenants, dated November 2, 1998, recorded November 6, 1998, in the Office of the Recorder of Tippecanoe County, Indiana, as Document Number 9830064, by John D. and Linda S. Gilmore, Owners (the "Consent Decree").

WHEREAS, the TERF Board, its officers, directors, agents, representatives, overseers, employees, and contractors, and their successors and assigns (collectively, the "TERF Board"), are performing the various obligations required under the Consent Decree in connection with the closure of the TSL pursuant to the Consent Decree which include but are not limited to construction, maintenance, inspection, repair and replacement of certain monitoring facilities, lines, and systems (collectively, the "Obligations").

WHEREAS, to perform certain of the Obligations under the terms and conditions of the Consent Decree, it is necessary for the TERF Board to enter into a portion of the Owner's property adjacent to or surrounding the TSL which is more particularly shown in the drawing attached as Exhibit C (the "Temporary Easement"), and

WHEREAS, the Owner desires to grant to the TERF Board an easement over across and through the Adjacent Property for the purpose of performing the Obligations pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner and the TERF Board hereby agree as follows:

1. Easement. The Owner hereby grants to the TERF Board, its employees, representatives, contractors, agents, overseers, guests, and their successors and assigns (collectively, "Grantees"), a TEMPORARY EASEMENT over, across, under and through the Temporary Easement to perform the Obligations (including, without limitation, to install, lay, use, maintain, inspect, repair and replace monitoring facilities, lines and systems) over, across, under and through the Temporary Easement. The Owner consents to and authorizes the Grantees to enter the Adjacent Property in order to commence and conduct its Obligations under the Consent Decree (including, without limitation, drilling, boring, excavation, sampling and other subsurface activity) on the Temporary Easement.

This Grant also includes the right of ingress and egress at reasonable times upon such Adjacent Property for all purposes incidental to this Easement (including, without limitation, construction, inspection, maintenance, repair, and replacement). This Grant includes the right to spray, trim, remove any trees or other growth which may from time to time interfere or threaten to interfere with the exercise of this right granted by this Easement. It is expressly understood and agreed that no buildings, roadways, drives or other structures will be placed over or upon such Temporary Easement by Owner without the express written consent of the TERF Board.

The Grantees, at their own expense, shall be responsible for the construction, maintenance, inspection, repair and replacement of any and all facilities, lines and systems required as a part of the Obligations (including, without limitation, monitoring facilities, lines, and systems) over, across, under and through the Temporary Easement granted herein (hereinafter collectively referred to as "Grantees' Work"). Upon completion of any construction or subsequent inspection, maintenance, repair or replacement, Grantees shall restore the Temporary Easement, and grade, seed and mulch the same, closing all excavations with proper backfill and compaction, and replacing, with similar quality or better, all drive-ways, public roadways, parking areas, entrances, tiling, drainage systems, utilities, and other appurtenances on, under, through, or over the Temporary Easement owned or used by Owner, at no expense to the Owner. If Grantees' Work should require any permits or approvals from any governmental agency, Grantees shall obtain any and all permits and approvals at no expense to the Owner.

2. Term. This Easement shall terminate upon the completion of the terms and conditions of the Consent Decree. This Grant of Easement shall automatically extend for successive periods of ten years or until such time as the Indiana Department of Environmental Management, or its successor entity, determines that regulated or hazardous substances at the TSL no longer present an unacceptable risk to the public health, safety, or welfare or to the environment.

3. Exclusivity. This is a non-exclusive Grant of Easement, and the Owner herein reserves the right to grant similar easements to parties other than the Grantees.

The Grantees may assign this Easement or any rights thereunder to third parties.

4. Ownership. The undersigned Owner does hereby certify that it is the fee simple owner of said Adjacent Property and that no other persons or parties have any interest whatsoever in the title to the aforementioned Adjacent Property, and that it has the full and exclusive right to grant this Easement. The Owner reserves unto itself the ownership of said Adjacent Property, and the full and unrestricted use thereof insofar as the same does not and will not conflict with the use of the same as herein granted unto the Grantees.

5. Cooperation. The Owner will cooperate fully with the Grantees and will take all reasonable action necessary to allow the Grantees to complete the Obligations in the most expeditious manner possible.

6. Notice and Disclosure. Prior to the performance of the Obligations, the Grantees will notify the Owner of the area or areas upon which the Obligations will be conducted and will procure the services of Indiana Underground to locate subsurface utilities at or near the designated areas. The Grantees will further request and the Owner will provide the Grantees with the identity, description and location of all known subsurface facilities and obstructions at or under the designated areas. The Grantees shall have no responsibility or liability to the Owner for damages to any subsurface facilities or obstructions in the designated areas which were known by the Owner but not accurately identified, disclosed or located by the Owner.

7. Indemnification. The Grantees agree to indemnify, defend, and hold harmless Owner for any and all claims, obligations and liabilities and all costs, expenses and attorney's fees incurred, based upon or arising out of any obligation, liability, loss, damage or expense, or whatever kind or nature, contingent or otherwise, known or unknown, incurred under, or imposed by, any provision of Federal, state or local law or regulation, or common law, pertaining to health, safety or environmental protection and arising out of any act or omission by the Grantees in connection with the Construction Project on the Temporary Easement; provided, however, the above-indemnity by the Grantees shall only apply to the extent such damages are caused by the negligence or willful misconduct of the Grantees.

8. Miscellaneous:

a. Notice. Any notice, request, instruction or other document required or permitted to be given under this Agreement by a party to the Agreement will be in writing and be deemed to have been given when (i) received, if delivered and given in person, (ii) on the date of transmission if sent by telex, telecopy, or other wire transmission (provided that a copy of such transmission is simultaneously sent in a manner provided in clause (iii)), or (iii) deposited with the United States mail, postage prepaid, certified and return receipt requested, and addressed to the Seller or the Buyer, as the case may be, at the address set forth below:

Grantees: Tippecanoe County Local Environmental Response Finance Board  
c/o Anthony S. Benton, Esquire  
STUART & BRANIGIN  
P.O. Box 1010, Lafayette, IN 47902-1010

Owner: Tippecanoe County Board of Commissioners  
20 North Third Street  
Lafayette, IN 47901

or such other individual, entity, or address as a party may designate for itself by notice given as provided above.

b. Governing Law. This Agreement will be construed under and in accordance with the laws of the State of Indiana.



c. Binding Effect. This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns; provided, however, that no assignment or other transfer will be made without the prior written approval of each of the parties to this Agreement.

d. Severability. If any one or more of the provisions of this Agreement, for any reason, is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

e. Entire Agreement. This Agreement constitutes the sole, only and entire understanding and agreement of the parties hereto in respect to the transaction contemplated by this Agreement. This Agreement supersedes any prior understandings, arrangements, or written or oral agreements relating to the contemplated transaction. This Agreement is not intended to confer upon any other person any rights or remedies. This Agreement may be amended or modified, and any of the terms of this Agreement may be waived, only by a written instrument duly executed by or on behalf of Seller and Buyer.

f. Timeiness. With regard to the dates and time periods set forth or referenced in this Agreement, time is of the essence of this Agreement.

g. Attorneys Fees. In the event either party will be compelled to employ an attorney to enforce the provisions of this contract, the parties agree that the non-defaulting party will be entitled to all of his legal costs and expenses, including reasonable attorney fees, incurred thereby.

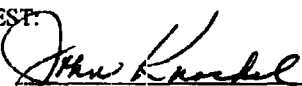
IN WITNESS WHEREOF, the TERF Board and Owner have executed this Dedication of Easement this 18<sup>th</sup> day of December, 2001.

TERF BOARD:

TIPPECANOE COUNTY LOCAL ENVIRONMENTAL  
RESPONSE FINANCE BOARD

By:   
Dave Heath, Chair

ATTEST:

By:   
John Knochel, Secretary

OWNER:

BOARD OF COMMISSIONERS OF TIPPECANOE COUNTY

By: Ruth E. Shedd  
Ruth Shedd, President


John Knochel  
John Knochel, Vice President

K. D. Benson  
K. D. Benson, Member

ATTEST: Robert A. Plantenga  
Robert A. Plantenga, Auditor

STATE OF INDIANA )  
 ) SS:  
COUNTY OF TIPPECANOE )

Before me, the undersigned, a Notary Public for Tippecanoe County in the State of Indiana, personally appeared the Tippecanoe County Local Environmental Response Finance Board by Dave Heath and John Knochel, its Chair and Secretary respectively who on behalf of such Board acknowledged the execution of this instrument this 18<sup>th</sup> day of December, 2001.

(SEAL)  Marianne M. Owen Notary Public  
Resident of Tippecanoe County, IN  
Commission Exp. Dec. 7, 2007  
[Signature]  
Printed Name

County of Residence: \_\_\_\_\_

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

STATE OF INDIANA )  
 ) SS:  
COUNTY OF TIPPECANOE )

Before me, the undersigned, a Notary Public for Tippecanoe County in the State of Indiana, personally appeared the Board of Commissioners of Tippecanoe County by Ruth Shedd, its President, John Knochel, its Vice President, K. D. Benson, its Member, and Robert A. Plantenga, its Auditor, and who on behalf of the Board of Commissioners of Tippecanoe County such acknowledges the execution of this instrument this 18<sup>th</sup> day of December, 2001.

(SEAL)



Marianne M. Owen, Notary Public  
Resident of Tippecanoe County, IN  
Commission Exp. Dec. 7, 2007

*[Handwritten Signature]*  
\_\_\_\_\_  
Notary Public

Printed Name

County of Residence: \_\_\_\_\_

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

This instrument was prepared by: Marianne Mitten Owen, Esquire, of the firm of Stuart & Branigin, The Life Building, 300 Main Street, Suite 800, Lafayette, Indiana 47902-1010. Telephone: (765) 423-1561; Facsimile: (765) 742-8175; E-mail: mmo@stuartlaw.com

**EXHIBIT A**

**Legal Description of Tippecanoe County Sanitary Landfill**

(See attached)

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**Parcel A**

(Doc. No. 00009113 Gilmore)

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range 4 (4) West, described as follows:

Beginning at a stone in the North line of said Reservation placed equidistant from the Northeast and Northwest corner of said Reservation; thence running South on a line dividing the share of Peter Longlois and Elizabeth Allen ninety-one (91) poles; thence West two hundred twenty seven and 60/100 (227.60) poles to the West line of said Reservation; thence North with said West line thirty and 92/100 (30.92) poles to Justice's Corner; thence East with Justice's line seventy-two and 56/100th (72.56) poles to the center of the road leading from Lafayette to Davis Ferry; thence with said Road North ten and one-half (10 ½) degrees East nineteen and 28/100 (19.28) poles; thence North eighteen (18) degrees East forty-three and 12/100 (43.12) poles to the North line of said Reservation; thence East with said North line one hundred thirty-eight and 20/100 (138.20) poles to the place of beginning containing one hundred (100) acres, more or less.

EXCEPT the right of way of C I & L Railroad and except a school lot conveyed to the Trustee of Fairfield Township by deed executed February 17, 1862 and recorded in Deed Record 172, Page 186.

EXCEPTING ALSO, fourteen (14) acres heretofore sole to Herman Bilisma and wife lying West of said Railroad as recorded in Deed Record 122, Page 145.

EXCEPTING ALSO, the tract heretofore conveyed to the Union Sandstone Brick Company which deed is recorded in Deed Record 120, Page 461.

EXCEPTING ALSO a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows:

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Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

EXCEPTING ALSO, beginning at a point on the northern line of the West Half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West Half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West Half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West Half of said Longlois Reserve; 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

The land hereby described contains seventy-six and fifty-seven hundredths (76.57) acres, more or less.

(Doc. No. 00022155 Fairfield Builders Supply Corp.)

A strip of land 40 feet wide in part of Section 10, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Beginning at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office, said

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corner being the Northeast Corner of the West Half of Longlois Reserve; thence along the North Line of said Reserve South 88°59'25" West 443.72 feet to its intersection with the line between Sections 9 and 10; thence North 01°00'35" West along said section line 40.00 feet; thence North 33°59'25" East parallel with said North Line 473.74 feet; thence South 0°58'31" East 40.02 feet to the North Line of said Reserve; thence South 89°01'29" West along said North Line 30.00 feet to the Point of Beginning, containing 0.435 acres, more or less.

ALSO,

A strip of land 30 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Beginning at the Northeast corner of the West Half of Longlois Reserve, said corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence North 89°01'29" East 30.00 feet; thence South 0°58'31" East parallel with the east line of said Gilmore property 600.00 feet; thence South 89°01'29" West 30.00 feet to said east line; thence North 0°58'31" West along said east line 600.00 feet to the Point of Beginning, containing 0.413 acres, more or less.

ALSO,

A strip of land 40 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said Corner also being the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence along said Gilmore property the following two courses:

1. South 0°58'31" East 1501.50 feet;
2. South 88°59'26" West 1000.00 feet to the Point of Beginning of the herein-described strip;

thence South 01°00'34" East perpendicular to the south line of said Gilmore property 40.00 feet; thence South 88°59'26" West parallel with said south line 500.00 feet; thence North 01°00'34" West perpendicular to said south line 40.00 feet to the south line of said Gilmore property; thence North 88°59'26" East along said South line 500.00 feet to the Point of Beginning, containing 0.459 acres, more or less.

ALSO,

A strip of land 10 and 20 feet wide in part of Section 10, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence North 89°01'29" East 30.00 feet to the Point of Beginning of the herein-described strip; thence North 0°58'31" West 40.02 feet; thence South 88°59'25" West parallel with the North Line of said Reserve 473.74 feet to the line between Sections 9 and 10; thence North 01°00'35" West along said section line 10.00 feet; thence North 88°59'25" East parallel with said North Line 493.75 feet; thence South 0°58'31" East 50.03 feet to the North Line of said Reserve; thence South 89°01'29" West along said North Line 20.00 feet to the Point of Beginning, containing 0.132 acres, more or less.

ALSO,

A strip of land 20 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence North 89°01'29" East 30.00 feet to the Point of Beginning of the herein-described strip; thence continuing North 89°01'29" East 20.00 feet; thence South 0°58'31" East parallel with the east line of said Gilmore property 600.00 feet; thence South 89°01'29" West 20.00 feet; thence North 0°58'31" West parallel with said east line 600.00 feet to the Point of Beginning, containing 0.275 acres, more or less.

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ALSO

A strip of land 10 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said Corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence along said Gilmore property the following two courses:

1. South 0°58'31" East 1501.50 feet;
2. South 88°59'26" West 1000.00 feet;

thence South 01°00'34" East perpendicular to the south line of said Gilmore property 40.00 feet to the Point of Beginning of the herein-described strip; thence continuing South 01°00'34" East 10.00 feet; thence South 88°59'26" West parallel with said south line 500.00 feet; thence North 01°00'34" West perpendicular to said south line 10.00 feet; thence North 88°59'26" East parallel with said south line 500.00 feet to the Point of Beginning, containing 0.115 acres, more or less.

(Doc. No. 00023555 Rafferty)

A strip of land 40 feet wide in part of Section 9, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Deed Record 82, Page 1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence along the North Line of said Reserve South 88°59'25" West 443.72 feet to its intersection with the line between Sections 9 and 10, said point being the Point of Beginning of the herein-described strip; thence continuing South 88°59'25" West along said North Line 1256.28 feet; thence North 01°00'35" West perpendicular to

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said North Line 40.00 feet; thence North 88°59'25" East parallel with said North Line 1256.28 feet to said line between Sections 9 and 10; thence South 01°00'35" East along said section line 40.00 feet to the Point of Beginning, containing 1.154 acres, more or less.

ALSO,

A strip of land 10 feet wide in part of Section 9, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Deed Record 82, Page 1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence North 89°01'29" East 30.00 feet; thence North 0°58'31" West 40.02 feet; thence South 88°59'25" West parallel with the North Line of said Reserve 473.74 feet to the line between Sections 9 and 10, said point being the Point of Beginning of the herein-described strip; thence continuing South 88°59'25" West parallel with said North Line 1256.28 feet; thence North 01°00'35" West perpendicular to said North Line 10.00 feet; thence North 88°59'25" East parallel with said North Line 1256.28 feet to said line between Sections 9 and 10; South 01°00'35" East along said section line 10.00 feet to the Point of Beginning, containing 0.288 acres, more or less.

**Parcel B**

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range Four (4) West, described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.37 feet, an arc distance of 462.25 feet to the northern line of the West half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

EXCEPTING a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

**Parcel C**

A part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89°-53'-00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27°-40'-00" West, 104.64 feet; thence North 75°-18'-00" West, 5.38 feet; thence South 59°-42'-00" West, 10.76 feet; thence South 14°-42'-00" West 21.75 feet; thence North 76°-17'-00" West, 116.55 feet; thence North 06°-24'-00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89°-53'-00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

ALSO, an easement for ingress and egress described as follows: An easement and right of way of sufficient width to permit passage of motor vehicles for access to the above described 0.36 of an acre tract from North Ninth Street Road, or such other public dedicated road the Grantor, or its successors in title, may from time to time determine.

(Said easement as set forth in that certain Executor's Deed dated August 24, 1979, recorded September 7, 1979, as Deed Record 79, Page 3864, from John D. Gilmore, as Executor of the Estate of Archie E. Gilmore, deceased, as Grantor; to Donal R. Chambers and D. Jane Chambers, husband and wife, as Grantees.)

**EXHIBIT B**

**Legal Description of Adjacent Property**

(See attached)

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MONITORING WELL 24

MONITORING WELL EASEMENT

A part of Longlois Reserve, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, being more particularly described as follows:

A 25.00-foot radius circle for a monitoring well easement whose center point is located at the Point of Terminus of the following 7 courses:

1. Commencing at a Berntsen A1NB monument found per Tippecanoe County Surveyor Section Corner ties at the Southeast Corner of the Northeast Fractional Quarter of Section 9, Township 23 North, Range 4 West;
2. South 88°59'25" West along the South Line of said Northeast Fractional Quarter, said line being also the North Line of Longlois Reserve, 1863.02 feet to the centerline of North Ninth Street Road, said point being on a non-tangent curve to the left, having a central angle of 2°04'24" and a radius of 15,236.23 feet;
3. Southwesterly along said curve an arc distance 551.32 feet (said arc being subtended by a chord having a bearing of South 14°15'49" West and a length of 551.28 feet), to the point of compound curvature of a curve to the left, having a central angle of 0°02'39" and a radius of 11,089.67 feet;
4. Southwesterly along said curve an arc distance 8.55 feet (said arc being subtended by a chord having a bearing of South 14°34'31" West and a length of 8.55 feet);
5. North 75°44'13" West 116.72 feet;
6. North 14°15'47" East 279.89 feet;
7. North 75°44'13" West 94.11 feet to the Point of Terminus.

MONITORING WELL ACCESS EASEMENT

A part of Longlois Reserve, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, being more particularly described as follows:

A strip of land 12.00 feet wide, measured 6.00 feet on each side of the following-described centerline: Commencing at a Berntsen A1NB monument found per Tippecanoe County Surveyor Section Corner ties at the Southeast Corner of the Northeast Fractional Quarter of Section 9, Township 23 North, Range 4 West; thence South 88°59'25" West along the South Line of said Northeast Fractional Quarter, said line being also the North Line of Longlois Reserve, 1863.02 feet to the centerline of North Ninth Street Road, said point being on a non-tangent curve to the left, having a central angle of 2°04'24" and a radius of 15,236.23 feet; thence Southwesterly along said curve an arc distance 551.32 feet (said arc being subtended by a chord having a bearing of South 14°15'49" West and a length of 551.28 feet) to the point of compound curvature of a curve to the left, having a central angle of 0°02'39" and a radius of 11,089.67 feet; thence Southwesterly along said curve an arc distance 8.55 feet (said arc being subtended by a chord having a bearing of South 14°34'31" West and a length of 8.55 feet) to the Point of Beginning of the herein-described centerline; thence North 75°44'13" West 116.72 feet; thence North 14°15'47" East 279.89 feet; thence North 75°44'13" West 69.11 feet to the Point of Terminus.

Side lines are to be shortened or extended to meet at angle points.

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**EXHIBIT C**

**Drawing of Adjacent Property Highlighting Area of Temporary Easement**

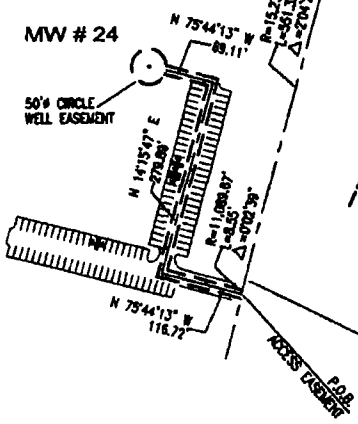
(See attached.)

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BOARD OF COMMISSIONERS  
OF TIPPECANOE COUNTY  
AS PER PARCELIZATION  
P97-72,  
DOC. NO. 97-10651

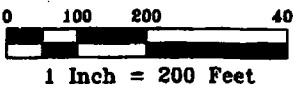
MW # 24

50' Ø CIRCLE  
WELL EASEMENT



ESTABLISHED &  
NORTH NINTH STREET ROAD

TIPPECANOE SANITARY LANDFILL



John E. Fisher & Associates, P.C.  
Land Surveyors and Engineers  
1526 Main Street  
Lafayette, Indiana 47901-1810

**MONITORING WELL # 24**  
WELL AND ACCESS EASEMENT EXHIBIT  
TIPPECANOE SANITARY LANDFILL

12/21/00  
DRAWN BY RSP  
CHECK BY  
SHEET 11 OF 12  
COMB. NO. 00.15.2.T



TSL (Dominant Estate):

Parcel A:

Key Number: 106-06400-0042

Last Recorded Transfers:

- a. Date: May 1, 2000  
Document Number: 00009113
- b. Date: October 5, 2000  
Document Number: 00022155
- c. Date: October 24, 2000  
Document Number: 0023555

Parcel B:

Key Number.: 106-06400-0416

Last Recorded Transfer:

Date: May 1, 2000  
Document Number: 2000-9113

Parcel C:

Key Number: 106-06400-0262

Last Recorded Transfer:

Date: May 19, 2000  
Document Number: 00010482

NOT ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER.

JAN 09 2002

*[Signature]*  
CLERK OF TIPPECANOE CO.

Adjacent Property (Servient Estate):

Key Number: 106-06400-0020

Last Recorded Transfer:

Date: September 9, 1997  
Document Number: Parcelization 97-72,  
Instrument No. 9718651

**EASEMENT AGREEMENT**

(Monitoring Well No. 24)

THIS EASEMENT AND ACCESS AGREEMENT (the "Easement" or "Agreement") is made and entered into as of the 18<sup>th</sup> day of December, 2001, by THE BOARD OF COMMISSIONERS OF TIPPECANOE COUNTY (the "Owner"), and TIPPECANOE COUNTY LOCAL ENVIRONMENTAL RESPONSE FINANCE BOARD (the "TERF Board").

WITNESSETH:

WHEREAS, the TERF Board owns certain property located along North Ninth Street, in Lafayette, Tippecanoe County, Indiana which is more particularly described in Exhibit A (the "TSL"), and which was previously owned and operated as the Tippecanoe County Sanitary Landfill.

WHEREAS, the Owner owns certain property adjacent to the TSL which is more particularly described in Exhibit B (the "Adjacent Property").

WHEREAS, the TSL is subject to the terms and provisions of a Notice of Entry of Consent Decree and Declaration of Restrictions and Covenants, dated November 2, 1998, recorded November 6, 1998, in the Office of the Recorder of Tippecanoe County, Indiana, as Document Number 9830064, by John D. and Linda S. Gilmore, Owners (the "Consent Decree").

WHEREAS, the TERF Board, its officers, directors, agents, representatives, overseers, employees, and contractors, and their successors and assigns (collectively, the "TERF Board"), are performing the various obligations required under the Consent Decree in connection with the closure of the TSL pursuant to the Consent Decree which include but are not limited to construction, maintenance, inspection, repair and replacement of certain monitoring facilities, lines, and systems (collectively, the "Obligations").

WHEREAS, to perform certain of the Obligations under the terms and conditions of the Consent Decree, it is necessary for the TERF Board to enter into a portion of the Owner's property adjacent to or surrounding the TSL which is more particularly shown in the drawing attached as Exhibit C (the "Temporary Easement"), and

WHEREAS, the Owner desires to grant to the TERF Board an easement over across and through the Adjacent Property for the purpose of performing the Obligations pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner and the TERF Board hereby agree as follows:

1. Easement. The Owner hereby grants to the TERF Board, its employees, representatives, contractors, agents, overseers, guests, and their successors and assigns (collectively, "Grantees"), a TEMPORARY EASEMENT over, across, under and through the Temporary Easement to perform the Obligations (including, without limitation, to install, lay, use, maintain, inspect, repair and replace monitoring facilities, lines and systems) over, across, under and through the Temporary Easement. The Owner consents to and authorizes the Grantees to enter the Adjacent Property in order to commence and conduct its Obligations under the Consent Decree (including, without limitation, drilling, boring, excavation, sampling and other subsurface activity) on the Temporary Easement.

This Grant also includes the right of ingress and egress at reasonable times upon such Adjacent Property for all purposes incidental to this Easement (including, without limitation, construction, inspection, maintenance, repair, and replacement). This Grant includes the right to spray, trim, remove any trees or other growth which may from time to time interfere or threaten to interfere with the exercise of this right granted by this Easement. It is expressly understood and agreed that no buildings, roadways, drives or other structures will be placed over or upon such Temporary Easement by Owner without the express written consent of the TERF Board.

The Grantees, at their own expense, shall be responsible for the construction, maintenance, inspection, repair and replacement of any and all facilities, lines and systems required as a part of the Obligations (including, without limitation, monitoring facilities, lines, and systems) over, across, under and through the Temporary Easement granted herein (hereinafter collectively referred to as "Grantees' Work"). Upon completion of any construction or subsequent inspection, maintenance, repair or replacement, Grantees shall restore the Temporary Easement, and grade, seed and mulch the same, closing all excavations with proper backfill and compaction, and replacing, with similar quality or better, all drive-ways, public roadways, parking areas, entrances, tiling, drainage systems, utilities, and other appurtenances on, under, through, or over the Temporary Easement owned or used by Owner, at no expense to the Owner. If Grantees' Work should require any permits or approvals from any governmental agency, Grantees shall obtain any and all permits and approvals at no expense to the Owner.

2. Term. This Easement shall terminate upon the completion of the terms and conditions of the Consent Decree. This Grant of Easement shall automatically extend for successive periods of ten years or until such time as the Indiana Department of Environmental Management, or its successor entity, determines that regulated or hazardous substances at the TSL no longer present an unacceptable risk to the public health, safety, or welfare or to the environment.

3. Exclusivity. This is a non-exclusive Grant of Easement, and the Owner herein reserves the right to grant similar easements to parties other than the Grantees.

The Grantees may assign this Easement or any rights thereunder to third parties.

4. Ownership. The undersigned Owner does hereby certify that it is the fee simple owner of said Adjacent Property and that no other persons or parties have any interest whatsoever in the title to the aforementioned Adjacent Property, and that it has the full and exclusive right to grant this Easement. The Owner reserves unto itself the ownership of said Adjacent Property, and the full and unrestricted use thereof insofar as the same does not and will not conflict with the use of the same as herein granted unto the Grantees.

5. Cooperation. The Owner will cooperate fully with the Grantees and will take all reasonable action necessary to allow the Grantees to complete the Obligations in the most expeditious manner possible.

6. Notice and Disclosure. Prior to the performance of the Obligations, the Grantees will notify the Owner of the area or areas upon which the Obligations will be conducted and will procure the services of Indiana Underground to locate subsurface utilities at or near the designated areas. The Grantees will further request and the Owner will provide the Grantees with the identity, description and location of all known subsurface facilities and obstructions at or under the designated areas. The Grantees shall have no responsibility or liability to the Owner for damages to any subsurface facilities or obstructions in the designated areas which were known by the Owner but not accurately identified, disclosed or located by the Owner.

7. Indemnification. The Grantees agree to indemnify, defend, and hold harmless Owner for any and all claims, obligations and liabilities and all costs, expenses and attorney's fees incurred, based upon or arising out of any obligation, liability, loss, damage or expense, or whatever kind or nature, contingent or otherwise, known or unknown, incurred under, or imposed by, any provision of Federal, state or local law or regulation, or common law, pertaining to health, safety or environmental protection and arising out of any act or omission by the Grantees in connection with the Construction Project on the Temporary Easement; provided, however, the above-indemnity by the Grantees shall only apply to the extent such damages are caused by the negligence or willful misconduct of the Grantees.

8. Miscellaneous:

a. Notice. Any notice, request, instruction or other document required or permitted to be given under this Agreement by a party to the Agreement will be in writing and be deemed to have been given when (i) received, if delivered and given in person, (ii) on the date of transmission if sent by telex, telecopy, or other wire transmission (provided that a copy of such transmission is simultaneously sent in a manner provided in clause (iii)), or (iii) deposited with the United States mail, postage prepaid, certified and return receipt requested, and addressed to the Seller or the Buyer, as the case may be, at the address set forth below:

Grantees: Tippecanoe County Local Environmental Response Finance Board  
c/o Anthony S. Benton, Esquire  
STUART & BRANIGIN  
P.O. Box 1010, Lafayette, IN 47902-1010

Owner: Tippecanoe County Board of Commissioners  
20 North Third Street  
Lafayette, IN 47901

or such other individual, entity, or address as a party may designate for itself by notice given as provided above.

b. Governing Law. This Agreement will be construed under and in accordance with the laws of the State of Indiana.

c. **Binding Effect.** This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns; provided, however, that no assignment or other transfer will be made without the prior written approval of each of the parties to this Agreement.

d. **Severability.** If any one or more of the provisions of this Agreement, for any reason, is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

e. **Entire Agreement.** This Agreement constitutes the sole, only and entire understanding and agreement of the parties hereto in respect to the transaction contemplated by this Agreement. This Agreement supersedes any prior understandings, arrangements, or written or oral agreements relating to the contemplated transaction. This Agreement is not intended to confer upon any other person any rights or remedies. This Agreement may be amended or modified, and any of the terms of this Agreement may be waived, only by a written instrument duly executed by or on behalf of Seller and Buyer.

f. **Timeliness.** With regard to the dates and time periods set forth or referenced in this Agreement, time is of the essence of this Agreement.

g. **Attorneys Fees.** In the event either party will be compelled to employ an attorney to enforce the provisions of this contract, the parties agree that the non-defaulting party will be entitled to all of his legal costs and expenses, including reasonable attorney fees, incurred thereby.

IN WITNESS WHEREOF, the TERF Board and Owner have executed this Dedication of Easement this 13<sup>th</sup> day of December, 2001.

TERF BOARD:

TIPPECANOE COUNTY LOCAL ENVIRONMENTAL  
RESPONSE FINANCE BOARD

By:

Dave Heath  
Dave Heath, Chair

ATTEST:

By:

John Knochel  
John Knochel, Secretary

OWNER:

BOARD OF COMMISSIONERS OF TIPPECANOE COUNTY

By: Ruth E. Shedd  
Ruth Shedd, President

John Knochel  
John Knochel, Vice President

K. D. Benson  
K. D. Benson, Member

ATTEST: Robert A. Plantenga  
Robert A. Plantenga, Auditor

STATE OF INDIANA )  
 ) SS:  
COUNTY OF TIPPECANOE )

Before me, the undersigned, a Notary Public for Tippecanoe County in the State of Indiana, personally appeared the Tippecanoe County Local Environmental Response Finance Board by Dave Heath and John Knochel, its Chair and Secretary respectively who on behalf of such Board acknowledged the execution of this instrument this 18<sup>th</sup> day of December, 2001.

(SEAL)



Marianne M. Owen, Notary Public  
Resident of Tippecanoe County, IN  
Commission Exp. Dec. 7, 2007

[Signature]

Notary Public

Printed Name

County of Residence: \_\_\_\_\_

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

STATE OF INDIANA )  
 ) SS:  
COUNTY OF TIPPECANOE )

Before me, the undersigned, a Notary Public for Tippecanoe County in the State of Indiana, personally appeared the Board of Commissioners of Tippecanoe County by Ruth Shedd, its President, John Knochel, its Vice President, K. D. Benson, its Member, and Robert A. Plantenga, its Auditor, and who on behalf of the Board of Commissioners of Tippecanoe County such acknowledges the execution of this instrument this 18<sup>th</sup> day of December, 2001.

(SEAL)



*[Handwritten Signature]*  
\_\_\_\_\_  
Notary Public

Marianne M. Owen, Notary Public  
Resident of Tippecanoe County, IN  
Commission Exp. Dec. 7, 2007  
\_\_\_\_\_  
Printed Name

County of Residence: \_\_\_\_\_

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

This instrument was prepared by: Marianne Mitten Owen, Esquire, of the firm of Stuart & Branigin, The Life Building, 300 Main Street, Suite 800, Lafayette, Indiana 47902-1010. Telephone: (765) 423-1561; Facsimile: (765) 742-8175; E-mail: mmo@stuartlaw.com

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**EXHIBIT A**

**Legal Description of Tippecanoe County Sanitary Landfill**

(See attached)

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**Parcel A**

(Doc. No. 00009113 Gilmore)

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range 4 (4) West, described as follows:

Beginning at a stone in the North line of said Reservation placed equidistant from the Northeast and Northwest corner of said Reservation; thence running South on a line dividing the share of Peter Longlois and Elizabeth Allen ninety-one (91) poles; thence West two hundred twenty seven and 60/100 (227.60) poles to the West line of said Reservation; thence North with said West line thirty and 92/100 (30.92) poles to Justice's Corner; thence East with Justice's line seventy-two and 56/100th (72.56) poles to the center of the road leading from Lafayette to Davis Ferry; thence with said Road North ten and one-half (10 ½) degrees East nineteen and 28/100 (19.28) poles; thence North eighteen (18) degrees East forty-three and 12/100 (43.12) poles to the North line of said Reservation; thence East with said North line one hundred thirty-eight and 20/100 (138.20) poles to the place of beginning containing one hundred (100) acres, more or less.

EXCEPT the right of way of C I & L Railroad and except a school lot conveyed to the Trustee of Fairfield Township by deed executed February 17, 1862 and recorded in Deed Record 172, Page 186.

EXCEPTING ALSO, fourteen (14) acres heretofore sole to Herman Bilsma and wife lying West of said Railroad as recorded in Deed Record 122, Page 145.

EXCEPTING ALSO, the tract heretofore conveyed to the Union Sandstone Brick Company which deed is recorded in Deed Record 120, Page 461.

EXCEPTING ALSO a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows:

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Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

EXCEPTING ALSO, beginning at a point on the northern line of the West Half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West Half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West Half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West Half of said Longlois Reserve; 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

The land hereby described contains seventy-six and fifty-seven hundredths (76.57) acres, more or less.

(Doc. No. 00022155 Fairfield Builders Supply Corp.)

A strip of land 40 feet wide in part of Section 10, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Beginning at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office, said

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corner being the Northeast Corner of the West Half of Longlois Reserve; thence along the North Line of said Reserve South 88°59'25" West 443.72 feet to its intersection with the line between Sections 9 and 10; thence North 01°00'35" West along said section line 40.00 feet; thence North 88°59'25" East parallel with said North Line 473.74 feet; thence South 0°58'31" East 40.02 feet to the North Line of said Reserve; thence South 89°01'29" West along said North Line 30.00 feet to the Point of Beginning, containing 0.435 acres, more or less.

ALSO,

A strip of land 30 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Beginning at the Northeast corner of the West Half of Longlois Reserve, said corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence North 89°01'29" East 30.00 feet; thence South 0°58'31" East parallel with the east line of said Gilmore property 600.00 feet; thence South 89°01'29" West 30.00 feet to said east line; thence North 0°58'31" West along said east line 600.00 feet to the Point of Beginning, containing 0.413 acres, more or less.

ALSO,

A strip of land 40 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said Corner also being the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence along said Gilmore property the following two courses:

1. South 0°58'31" East 1501.50 feet;
  2. South 88°59'26" West 1000.00 feet to the Point of Beginning of the herein-described strip;
-

thence South 01°00'34" East perpendicular to the south line of said Gilmore property 40.00 feet; thence South 88°59'26" West parallel with said south line 500.00 feet; thence North 01°00'34" West perpendicular to said south line 40.00 feet to the south line of said Gilmore property; thence North 88°59'26" East along said South line 500.00 feet to the Point of Beginning, containing 0.459 acres, more or less.

ALSO,

A strip of land 10 and 20 feet wide in part of Section 10, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence North 89°01'29" East 30.00 feet to the Point of Beginning of the herein-described strip; thence North 0°58'31" West 40.02 feet; thence South 88°59'25" West parallel with the North Line of said Reserve 473.74 feet to the line between Sections 9 and 10; thence North 01°00'35" West along said section line 10.00 feet; thence North 88°59'25" East parallel with said North Line 493.75 feet; thence South 0°58'31" East 50.03 feet to the North Line of said Reserve; thence South 89°01'29" West along said North Line 20.00 feet to the Point of Beginning, containing 0.132 acres, more or less.

ALSO,

A strip of land 20 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence North 89°01'29" East 30.00 feet to the Point of Beginning of the herein-described strip; thence continuing North 89°01'29" East 20.00 feet; thence South 0°58'31" East parallel with the east line of said Gilmore property 600.00 feet; thence South 89°01'29" West 20.00 feet; thence North 0°58'31" West parallel with said east line 600.00 feet to the Point of Beginning, containing 0.275 acres, more or less.

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ALSO

A strip of land 10 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said Corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence along said Gilmore property the following two courses:

1. South 0°58'31" East 1501.50 feet;
2. South 88°59'26" West 1000.00 feet;

thence South 01°00'34" East perpendicular to the south line of said Gilmore property 40.00 feet to the Point of Beginning of the herein-described strip; thence continuing South 01°00'34" East 10.00 feet; thence South 88°59'26" West parallel with said south line 500.00 feet; thence North 01°00'34" West perpendicular to said south line 10.00 feet; thence North 88°59'26" East parallel with said south line 500.00 feet to the Point of Beginning, containing 0.115 acres, more or less.

(Doc. No. 00023555 Rafferty)

A strip of land 40 feet wide in part of Section 9, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Deed Record 82, Page 1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence along the North Line of said Reserve South 88°59'25" West 443.72 feet to its intersection with the line between Sections 9 and 10, said point being the Point of Beginning of the herein-described strip; thence continuing South 88°59'25" West along said North Line 1256.28 feet; thence North 01°00'35" West perpendicular to

said North Line 40.00 feet; thence North 88°59'25" East parallel with said North Line 1256.28 feet to said line between Sections 9 and 10; thence South 01°00'35" East along said section line 40.00 feet to the Point of Beginning, containing 1.154 acres, more or less.

ALSO,

A strip of land 10 feet wide in part of Section 9, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Deed Record 82, Page 1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence North 89°01'29" East 30.00 feet; thence North 0°58'31" West 40.02 feet; thence South 88°59'25" West parallel with the North Line of said Reserve 473.74 feet to the line between Sections 9 and 10, said point being the Point of Beginning of the herein-described strip; thence continuing South 88°59'25" West parallel with said North Line 1256.28 feet; thence North 01°00'35" West perpendicular to said North Line 10.00 feet; thence North 88°59'25" East parallel with said North Line 1256.28 feet to said line between Sections 9 and 10; South 01°00'35" East along said section line 10.00 feet to the Point of Beginning, containing 0.288 acres, more or less.

**Parcel B**

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range Four (4) West, described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

EXCEPTING a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

**Parcel C**

A part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89°-53'-00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27°-40'-00" West, 104.64 feet; thence North 75°-18'-00" West, 5.38 feet; thence South 59°-42'-00" West, 10.76 feet; thence South 14°-42'-00" West 21.75 feet; thence North 76°-17'-00" West, 116.55 feet; thence North 06°-24'-00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89°-53'-00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

ALSO, an easement for ingress and egress described as follows: An easement and right of way of sufficient width to permit passage of motor vehicles for access to the above described 0.36 of an acre tract from North Ninth Street Road, or such other public dedicated road the Grantor, or its successors in title, may from time to time determine.

(Said easement as set forth in that certain Executor's Deed dated August 24, 1979, recorded September 7, 1979, as Deed Record 79, Page 3864, from John D. Gilmore, as Executor of the Estate of Archie E. Gilmore, deceased, as Grantor; to Donal R. Chambers and D. Jane Chambers, husband and wife, as Grantees.)



**EXHIBIT B**

**Legal Description of Adjacent Property**

(See attached)

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**MONITORING WELL 24**

**MONITORING WELL EASEMENT**

A part of Longlois Reserve, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, being more particularly described as follows:

A 25.00-foot radius circle for a monitoring well easement whose center point is located at the Point of Terminus of the following 7 courses:

1. Commencing at a Berntsen A1NB monument found per Tippecanoe County Surveyor Section Corner ties at the Southeast Corner of the Northeast Fractional Quarter of Section 9, Township 23 North, Range 4 West;
2. South 88°59'25" West along the South Line of said Northeast Fractional Quarter, said line being also the North Line of Longlois Reserve, 1863.02 feet to the centerline of North Ninth Street Road, said point being on a non-tangent curve to the left, having a central angle of 2°04'24" and a radius of 15,236.23 feet;
3. Southwesterly along said curve an arc distance 551.32 feet (said arc being subtended by a chord having a bearing of South 14°15'49" West and a length of 551.28 feet), to the point of compound curvature of a curve to the left, having a central angle of 0°02'39" and a radius of 11,089.67 feet;
4. Southwesterly along said curve an arc distance 8.55 feet (said arc being subtended by a chord having a bearing of South 14°34'31" West and a length of 8.55 feet);
5. North 75°44'13" West 116.72 feet;
6. North 14°15'47" East 279.89 feet;
7. North 75°44'13" West 94.11 feet to the Point of Terminus.

**MONITORING WELL ACCESS EASEMENT**

A part of Longlois Reserve, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, being more particularly described as follows:

A strip of land 12.00 feet wide, measured 6.00 feet on each side of the following-described centerline: Commencing at a Berntsen A1NB monument found per Tippecanoe County Surveyor Section Corner ties at the Southeast Corner of the Northeast Fractional Quarter of Section 9, Township 23 North, Range 4 West; thence South 88°59'25" West along the South Line of said Northeast Fractional Quarter, said line being also the North Line of Longlois Reserve, 1863.02 feet to the centerline of North Ninth Street Road, said point being on a non-tangent curve to the left, having a central angle of 2°04'24" and a radius of 15,236.23 feet; thence Southwesterly along said curve an arc distance 551.32 feet (said arc being subtended by a chord having a bearing of South 14°15'49" West and a length of 551.28 feet) to the point of compound curvature of a curve to the left, having a central angle of 0°02'39" and a radius of 11,089.67 feet; thence Southwesterly along said curve an arc distance 8.55 feet (said arc being subtended by a chord having a bearing of South 14°34'31" West and a length of 8.55 feet) to the Point of Beginning of the herein-described centerline; thence North 75°44'13" West 116.72 feet; thence North 14°15'47" East 279.89 feet; thence North 75°44'13" West 69.11 feet to the Point of Terminus.

Side lines are to be shortened or extended to meet at angle points.

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**EXHIBIT C**

**Drawing of Adjacent Property Highlighting Area of Temporary Easement**

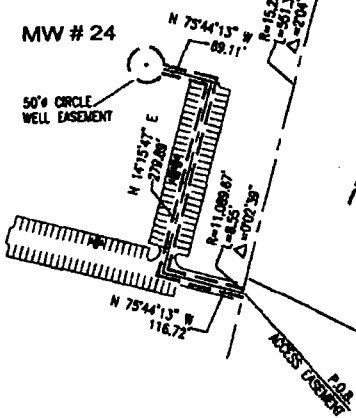
(See attached.)

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BOARD OF COMMISSIONERS  
OF TIPPECANOE COUNTY  
AS PER PARCELIZATION  
P87-72,  
DOC. NO. 97-18851

MW # 24

50' CIRCLE  
WELL EASEMENT



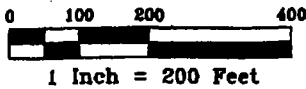
ESTABLISHED &  
NORTH NINTH STREET ROAD

TIPPECANOE SANITARY LANDFILL

SE COR., NE FR. QTR.  
SECTION 9-23-4  
AT&B MONUMENT  
FOUND

S 88°56'25" W 1883.02'

NORTH LINE OF LONGLOIS RESERVE



John E. Fisher & Associates, P.C.  
Land Surveyors and Engineers  
1526 Main Street  
Lafayette, Indiana 47901-1810

**MONITORING WELL # 24**  
WELL AND ACCESS EASEMENT EXHIBIT  
TIPPECANOE SANITARY LANDFILL

12/21/00  
DRAWN BY: RSP  
CHECK BY:  
SHEET 11 OF 12  
CONTRACT NO. 00.15.2.T

Re-Rec 02001969 01/17/2002 10:57am BK: PG: 1  
PAM BERGLUND, TIPPECANOE COUNTY RECORDER  
02001000 01/09/2002 11:42am BK: PG: 1  
PAM BERGLUND, TIPPECANOE COUNTY RECORDER

TSL (Dominant Estate):

Parcel A:

Key Number: 106-06400-0042  
Last Recorded Transfers:  
a. Date: May 1, 2000  
Document Number: 00009113  
b. Date: October 5, 2000  
Document Number: 00022155  
c. Date: October 24, 2000  
Document Number: 0023555

Parcel B:

Key Number.: 106-06400-0416  
Last Recorded Transfer:  
Date: May 1, 2000  
Document Number: 2000-9113

Parcel C:

Key Number: 106-06400-0262  
Last Recorded Transfer:  
Date: May 19, 2000  
Document Number: 00010482

Adjacent Property (Servient Estate):

Key Number: 106-06400-0020  
Last Recorded Transfer:  
Date: ~~September 9, 1999~~ September 25, 1989  
Document Number: Parcelization 97-72,  
Instrument No. 9718651- 89-132741

ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER.

*Robert A. Banting*  
AUCTIONEER OF TIPPECANOE CO.  
1-17-02 wjs

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER.

JAN 09 2002

*Robert A. Banting* of  
AUCTIONEER OF TIPPECANOE CO.

**EASEMENT AGREEMENT**

(Monitoring Well No. 23)

THIS EASEMENT AND ACCESS AGREEMENT (the "Easement" or "Agreement") is made and entered into as of the 18<sup>th</sup> day of December, 2001, by THE BOARD OF COMMISSIONERS OF TIPPECANOE COUNTY (the "Owner"), and TIPPECANOE COUNTY LOCAL ENVIRONMENTAL RESPONSE FINANCE BOARD (the "TERF Board").

WITNESSETH:

WHEREAS, the TERF Board owns certain property located along North Ninth Street, in Lafayette, Tippecanoe County, Indiana which is more particularly described in Exhibit A (the "TSL"), and which was previously owned and operated as the Tippecanoe County Sanitary Landfill.

WHEREAS, the Owner owns certain property adjacent to the TSL which is more particularly described in Exhibit B (the "Adjacent Property").

WHEREAS, the TSL is subject to the terms and provisions of a Notice of Entry of Consent Decree and Declaration of Restrictions and Covenants, dated November 2, 1998, recorded November 6, 1998, in the Office of the Recorder of Tippecanoe County, Indiana, as Document Number 9830064, by John D. and Linda S. Gilmore, Owners (the "Consent Decree").

WHEREAS, the TERF Board, its officers, directors, agents, representatives, overseers, employees, and contractors, and their successors and assigns (collectively, the "TERF Board"), are performing the various obligations required under the Consent Decree in connection with the closure of the TSL pursuant to the Consent Decree which include but are not limited to construction, maintenance, inspection, repair and replacement of certain monitoring facilities, lines, and systems (collectively, the "Obligations").

WHEREAS, to perform certain of the Obligations under the terms and conditions of the Consent Decree, it is necessary for the TERF Board to enter into a portion of the Owner's property adjacent to or surrounding the TSL which is more particularly shown in the drawing attached as Exhibit C (the "Temporary Easement"), and

WHEREAS, the Owner desires to grant to the TERF Board an easement over across and through the Adjacent Property for the purpose of performing the Obligations pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner and the TERF Board hereby agree as follows:

1. Easement. The Owner hereby grants to the TERF Board, its employees, representatives, contractors, agents, overseers, guests, and their successors and assigns (collectively, "Grantees"), a TEMPORARY EASEMENT over, across, under and through the Temporary Easement to perform the Obligations (including, without limitation, to install, lay, use, maintain, inspect, repair and replace monitoring facilities, lines and systems) over, across, under and through the Temporary Easement. The Owner consents to and authorizes the Grantees to enter the Adjacent Property in order to commence and conduct its Obligations under the Consent Decree (including, without limitation, drilling, boring, excavation, sampling and other subsurface activity) on the Temporary Easement.

This Grant also includes the right of ingress and egress at reasonable times upon such Adjacent Property for all purposes incidental to this Easement (including, without limitation, construction, inspection, maintenance, repair, and replacement). This Grant includes the right to spray, trim, remove any trees or other growth which may from time to time interfere or threaten to interfere with the exercise of this right granted by this Easement. It is expressly understood and agreed that no buildings, roadways, drives or other structures will be placed over or upon such Temporary Easement by Owner without the express written consent of the TERF Board.

The Grantees, at their own expense, shall be responsible for the construction, maintenance, inspection, repair and replacement of any and all facilities, lines and systems required as a part of the Obligations (including, without limitation, monitoring facilities, lines, and systems) over, across, under and through the Temporary Easement granted herein (hereinafter collectively referred to as "Grantees' Work"). Upon completion of any construction or subsequent inspection, maintenance, repair or replacement, Grantees shall restore the Temporary Easement, and grade, seed and mulch the same, closing all excavations with proper backfill and compaction, and replacing, with similar quality or better, all drive-ways, public roadways, parking areas, entrances, tiling, drainage systems, utilities, and other appurtenances on, under, through, or over the Temporary Easement owned or used by Owner, at no expense to the Owner. If Grantees' Work should require any permits or approvals from any governmental agency, Grantees shall obtain any and all permits and approvals at no expense to the Owner.

2. Term. This Easement shall terminate upon the completion of the terms and conditions of the Consent Decree. This Grant of Easement shall automatically extend for successive periods of ten years or until such time as the Indiana Department of Environmental Management, or its successor entity, determines that regulated or hazardous substances at the TSL no longer present an unacceptable risk to the public health, safety, or welfare or to the environment.

3. Exclusivity. This is a non-exclusive Grant of Easement, and the Owner herein reserves the right to grant similar easements to parties other than the Grantees.

The Grantees may assign this Easement or any rights thereunder to third parties.

4. Ownership. The undersigned Owner does hereby certify that it is the fee simple owner of said Adjacent Property and that no other persons or parties have any interest whatsoever in the title to the aforementioned Adjacent Property, and that it has the full and exclusive right to grant this Easement. The Owner reserves unto itself the ownership of said Adjacent Property, and the full and unrestricted use thereof insofar as the same does not and will not conflict with the use of the same as herein granted unto the Grantees.

5. Cooperation. The Owner will cooperate fully with the Grantees and will take all reasonable action necessary to allow the Grantees to complete the Obligations in the most expeditious manner possible.

6. **Notice and Disclosure.** Prior to the performance of the Obligations, the Grantees will notify the Owner of the area or areas upon which the Obligations will be conducted and will procure the services of Indiana Underground to locate subsurface utilities at or near the designated areas. The Grantees will further request and the Owner will provide the Grantees with the identity, description and location of all known subsurface facilities and obstructions at or under the designated areas. The Grantees shall have no responsibility or liability to the Owner for damages to any subsurface facilities or obstructions in the designated areas which were known by the Owner but not accurately identified, disclosed or located by the Owner.

7. **Indemnification.** The Grantees agree to indemnify, defend, and hold harmless Owner for any and all claims, obligations and liabilities and all costs, expenses and attorney's fees incurred, based upon or arising out of any obligation, liability, loss, damage or expense, or whatever kind or nature, contingent or otherwise, known or unknown, incurred under, or imposed by, any provision of Federal, state or local law or regulation, or common law, pertaining to health, safety or environmental protection and arising out of any act or omission by the Grantees in connection with the Construction Project on the Temporary Easement; provided, however, the above-indemnity by the Grantees shall only apply to the extent such damages are caused by the negligence or willful misconduct of the Grantees.

8. **Miscellaneous:**

a. **Notice.** Any notice, request, instruction or other document required or permitted to be given under this Agreement by a party to the Agreement will be in writing and be deemed to have been given when (i) received, if delivered and given in person, (ii) on the date of transmission if sent by telex, telecopy, or other wire transmission (provided that a copy of such transmission is simultaneously sent in a manner provided in clause (iii)), or (iii) deposited with the United States mail, postage prepaid, certified and return receipt requested, and addressed to the Seller or the Buyer, as the case may be, at the address set forth below:

Grantees: Tippecanoe County Local Environmental Response Finance Board  
c/o Anthony S. Benton, Esquire  
STUART & BRANIGIN  
P.O. Box 1010, Lafayette, IN 47902-1010

Owner: Tippecanoe County Board of Commissioners  
20 North Third Street  
Lafayette, IN 47901

or such other individual, entity, or address as a party may designate for itself by notice given as provided above.

b. **Governing Law.** This Agreement will be construed under and in accordance with the laws of the State of Indiana.



c. Binding Effect. This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns; provided, however, that no assignment or other transfer will be made without the prior written approval of each of the parties to this Agreement.

d. Severability. If any one or more of the provisions of this Agreement, for any reason, is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

e. Entire Agreement. This Agreement constitutes the sole, only and entire understanding and agreement of the parties hereto in respect to the transaction contemplated by this Agreement. This Agreement supersedes any prior understandings, arrangements, or written or oral agreements relating to the contemplated transaction. This Agreement is not intended to confer upon any other person any rights or remedies. This Agreement may be amended or modified, and any of the terms of this Agreement may be waived, only by a written instrument duly executed by or on behalf of Seller and Buyer.

f. Timeliness. With regard to the dates and time periods set forth or referenced in this Agreement, time is of the essence of this Agreement.

g. Attorneys Fees. In the event either party will be compelled to employ an attorney to enforce the provisions of this contract, the parties agree that the non-defaulting party will be entitled to all of his legal costs and expenses, including reasonable attorney fees, incurred thereby.

IN WITNESS WHEREOF, the TERF Board and Owner have executed this Dedication of Easement this 18<sup>th</sup> day of December, 2001.

TERF BOARD:

TIPPECANOE COUNTY LOCAL ENVIRONMENTAL  
RESPONSE FINANCE BOARD

By:

Dave Heath  
Dave Heath, Chair

ATTEST:

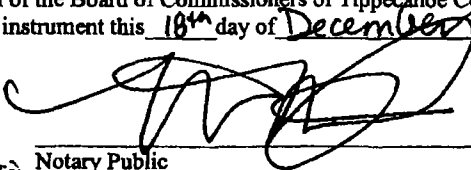
By:

John Knochel  
John Knochel, Secretary



STATE OF INDIANA )  
 ) SS:  
COUNTY OF TIPPECANOE )

Before me, the undersigned, a Notary Public for Tippecanoe County in the State of Indiana, personally appeared the Board of Commissioners of Tippecanoe County by Ruth Shedd, its President, John Knochel, its Vice President, K. D. Benson, its Member, and Robert A. Plantenga, its Auditor, and who on behalf of the Board of Commissioners of Tippecanoe County such acknowledges the execution of this instrument this 18<sup>th</sup> day of December, 2001.



Marianne M. Owen, Notary Public  
Resident of Tippecanoe County, IN  
Commission Exp. Dec. 7, 2007

Notary Public

Printed Name

County of Residence: \_\_\_\_\_

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

This instrument was prepared by: Marianne Mitten Owen, Esquire, of the firm of Stuart & Branigin, The Life Building, 300 Main Street, Suite 800, Lafayette, Indiana 47902-1010. Telephone: (765) 423-1561; Facsimile: (765) 742-8175; E-mail: mmo@stuartlaw.com

25MSB1.1

**EXHIBIT A**

**Legal Description of Tippecanoe County Sanitary Landfill**

(See attached)

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**Parcel A**

(Doc. No. 00009113 Gilmore)

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range 4 (4) West, described as follows:

Beginning at a stone in the North line of said Reservation placed equidistant from the Northeast and Northwest corner of said Reservation; thence running South on a line dividing the share of Peter Longlois and Elizabeth Allen ninety-one (91) poles; thence West two hundred twenty seven and 60/100 (227.60) poles to the West line of said Reservation; thence North with said West line thirty and 92/100 (30.92) poles to Justice's Corner; thence East with Justice's line seventy-two and 56/100th (72.56) poles to the center of the road leading from Lafayette to Davis Ferry; thence with said Road North ten and one-half (10 ½) degrees East nineteen and 28/100 (19.28) poles; thence North eighteen (18) degrees East forty-three and 12/100 (43.12) poles to the North line of said Reservation; thence East with said North line one hundred thirty-eight and 20/100 (138.20) poles to the place of beginning containing one hundred (100) acres, more or less.

EXCEPT the right of way of C I & L Railroad and except a school lot conveyed to the Trustee of Fairfield Township by deed executed February 17, 1862 and recorded in Deed Record 172, Page 186.

EXCEPTING ALSO, fourteen (14) acres heretofore sole to Herman Bilsma and wife lying West of said Railroad as recorded in Deed Record 122, Page 145.

EXCEPTING ALSO, the tract heretofore conveyed to the Union Sandstone Brick Company which deed is recorded in Deed Record 120, Page 461.

EXCEPTING ALSO a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows:

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Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

EXCEPTING ALSO, beginning at a point on the northern line of the West Half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West Half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West Half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West Half of said Longlois Reserve; 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

The land hereby described contains seventy-six and fifty-seven hundredths (76.57) acres, more or less.

(Doc. No. 00022155 Fairfield Builders Supply Corp.)

A strip of land 40 feet wide in part of Section 10, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Beginning at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office, said

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corner being the Northeast Corner of the West Half of Longlois Reserve; thence along the North Line of said Reserve South 88°59'25" West 443.72 feet to its intersection with the line between Sections 9 and 10; thence North 01°00'35" West along said section line 40.00 feet; thence North 88°59'25" East parallel with said North Line 473.74 feet; thence South 0°58'31" East 40.02 feet to the North Line of said Reserve; thence South 89°01'29" West along said North Line 30.00 feet to the Point of Beginning, containing 0.435 acres, more or less.

ALSO,

A strip of land 30 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Beginning at the Northeast corner of the West Half of Longlois Reserve, said corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence North 89°01'29" East 30.00 feet; thence South 0°58'31" East parallel with the east line of said Gilmore property 600.00 feet; thence South 89°01'29" West 30.00 feet to said east line; thence North 0°58'31" West along said east line 600.00 feet to the Point of Beginning, containing 0.413 acres, more or less.

ALSO,

A strip of land 40 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said Corner also being the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence along said Gilmore property the following two courses:

1. South 0°58'31" East 1501.50 feet;
  2. South 88°59'26" West 1000.00 feet to the Point of Beginning of the herein-described strip;
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thence South 01°00'34" East perpendicular to the south line of said Gilmore property 40.00 feet; thence South 88°59'26" West parallel with said south line 500.00 feet; thence North 01°00'34" West perpendicular to said south line 40.00 feet to the south line of said Gilmore property; thence North 88°59'26" East along said South line 500.00 feet to the Point of Beginning, containing 0.459 acres, more or less.

ALSO,

A strip of land 10 and 20 feet wide in part of Section 10, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence North 89°01'29" East 30.00 feet to the Point of Beginning of the herein-described strip; thence North 0°58'31" West 40.02 feet; thence South 88°59'25" West parallel with the North Line of said Reserve 473.74 feet to the line between Sections 9 and 10; thence North 01°00'35" West along said section line 10.00 feet; thence North 88°59'25" East parallel with said North Line 493.75 feet; thence South 0°58'31" East 50.03 feet to the North Line of said Reserve; thence South 89°01'29" West along said North Line 20.00 feet to the Point of Beginning, containing 0.132 acres, more or less.

ALSO,

A strip of land 20 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence North 89°01'29" East 30.00 feet to the Point of Beginning of the herein-described strip; thence continuing North 89°01'29" East 20.00 feet; thence South 0°58'31" East parallel with the east line of said Gilmore property 600.00 feet; thence South 89°01'29" West 20.00 feet; thence North 0°58'31" West parallel with said east line 600.00 feet to the Point of Beginning, containing 0.275 acres, more or less.

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ALSO

A strip of land 10 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said Corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence along said Gilmore property the following two courses:

1. South 0°58'31" East 1501.50 feet;
2. South 88°59'26" West 1000.00 feet;

thence South 01°00'34" East perpendicular to the south line of said Gilmore property 40.00 feet to the Point of Beginning of the herein-described strip; thence continuing South 01°00'34" East 10.00 feet; thence South 88°59'26" West parallel with said south line 500.00 feet; thence North 01°00'34" West perpendicular to said south line 10.00 feet; thence North 88°59'26" East parallel with said south line 500.00 feet to the Point of Beginning, containing 0.115 acres, more or less.

(Doc. No. 00023555 Rafferty)

A strip of land 40 feet wide in part of Section 9, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Deed Record 82, Page 1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence along the North Line of said Reserve South 88°59'25" West 443.72 feet to its intersection with the line between Sections 9 and 10, said point being the Point of Beginning of the herein-described strip; thence continuing South 88°59'25" West along said North Line 1256.28 feet; thence North 01°00'35" West perpendicular to

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said North Line 40.00 feet; thence North 88°59'25" East parallel with said North Line 1256.28 feet to said line between Sections 9 and 10; thence South 01°00'35" East along said section line 40.00 feet to the Point of Beginning, containing 1.154 acres, more or less.

ALSO,

A strip of land 10 feet wide in part of Section 9, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Deed Record 82, Page 1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence North 89°01'29" East 30.00 feet; thence North 0°58'31" West 40.02 feet; thence South 88°59'25" West parallel with the North Line of said Reserve 473.74 feet to the line between Sections 9 and 10, said point being the Point of Beginning of the herein-described strip; thence continuing South 88°59'25" West parallel with said North Line 1256.28 feet; thence North 01°00'35" West perpendicular to said North Line 10.00 feet; thence North 88°59'25" East parallel with said North Line 1256.28 feet to said line between Sections 9 and 10; South 01°00'35" East along said section line 10.00 feet to the Point of Beginning, containing 0.288 acres, more or less.

**Parcel B**

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range Four (4) West, described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

EXCEPTING a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

**Parcel C**

A part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89°-53'-00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27°-40'-00" West, 104.64 feet; thence North 75°-18'-00" West, 5.38 feet; thence South 59°-42'-00" West, 10.76 feet; thence South 14°-42'-00" West 21.75 feet; thence North 76°-17'-00" West, 116.55 feet; thence North 06°-24'-00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89°-53'-00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

ALSO, an easement for ingress and egress described as follows: An easement and right of way of sufficient width to permit passage of motor vehicles for access to the above described 0.36 of an acre tract from North Ninth Street Road, or such other public dedicated road the Grantor, or its successors in title, may from time to time determine.

(Said easement as set forth in that certain Executor's Deed dated August 24, 1979, recorded September 7, 1979, as Deed Record 79, Page 3864, from John D. Gilmore, as Executor of the Estate of Archie E. Gilmore, deceased, as Grantor; to Donal R. Chambers and D. Jane Chambers, husband and wife, as Grantees.)

**EXHIBIT B**

**Legal Description of Adjacent Property**

(See attached)

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**MONITORING WELL 23**

**MONITORING WELL EASEMENT**

A part of Longlois Reserve, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, being more particularly described as follows:

A 25.00-foot radius circle for a monitoring well easement whose center point is located at the Point of Terminus of the following 6 courses:

1. Commencing at a Berntsen A1NB monument found per Tippecanoe County Surveyor Section Corner ties at the Southeast Corner of the Northeast Fractional Quarter of Section 9, Township 23 North, Range 4 West;
2. South 88°59'25" West along the South Line of said Northeast Fractional Quarter, said line being also the North Line of Longlois Reserve, 1863.02 feet to the centerline of North Ninth Street Road, said point being on a non-tangent curve to the left, having a central angle of 2°04'24" and a radius of 15,236.23 feet;
3. Southwesterly along said curve an arc distance 551.32 feet (said arc being subtended by a chord having a bearing of South 14°15'49" West and a length of 551.28 feet) to the point of compound curvature of a curve to the left, having a central angle of 0°02'39" and a radius of 11,089.67 feet;
4. Southwesterly along said curve an arc distance 8.55 feet (said arc being subtended by a chord having a bearing of South 14°34'31" West and a length of 8.55 feet);
5. North 75°44'13" West 74.67 feet;
6. South 14°15'47" West 32.89 feet to the Point of Terminus.

**MONITORING WELL ACCESS EASEMENT**

A part of Longlois Reserve, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, being more particularly described as follows:

A strip of land 12.00 feet wide, measured 6.00 feet on each side of the following-described centerline: Commencing at a Berntsen A1NB monument found per Tippecanoe County Surveyor Section Corner ties at the Southeast Corner of the Northeast Fractional Quarter of Section 9, Township 23 North, Range 4 West; thence South 88°59'25" West along the South Line of said Northeast Fractional Quarter, said line being also the North Line of Longlois Reserve, 1863.02 feet to the centerline of North Ninth Street Road, said point being on a non-tangent curve to the left, having a central angle of 2°04'24" and a radius of 15,236.23 feet; thence Southwesterly along said curve an arc distance 551.32 feet (said arc being subtended by a chord having a bearing of South 14°15'49" West and a length of 551.28 feet) to the point of compound curvature of a curve to the left, having a central angle of 0°02'39" and a radius of 11,089.67 feet; thence Southwesterly along said curve an arc distance 8.55 feet (said arc being subtended by a chord having a bearing of South 14°34'31" West and a length of 8.55 feet) to the Point of Beginning of the herein-described centerline; thence North 75°44'13" West 74.67 feet; thence South 14°15'47" West 7.89 feet to the Point of Terminus.

Side lines are to be shortened or extended to meet at angle points.

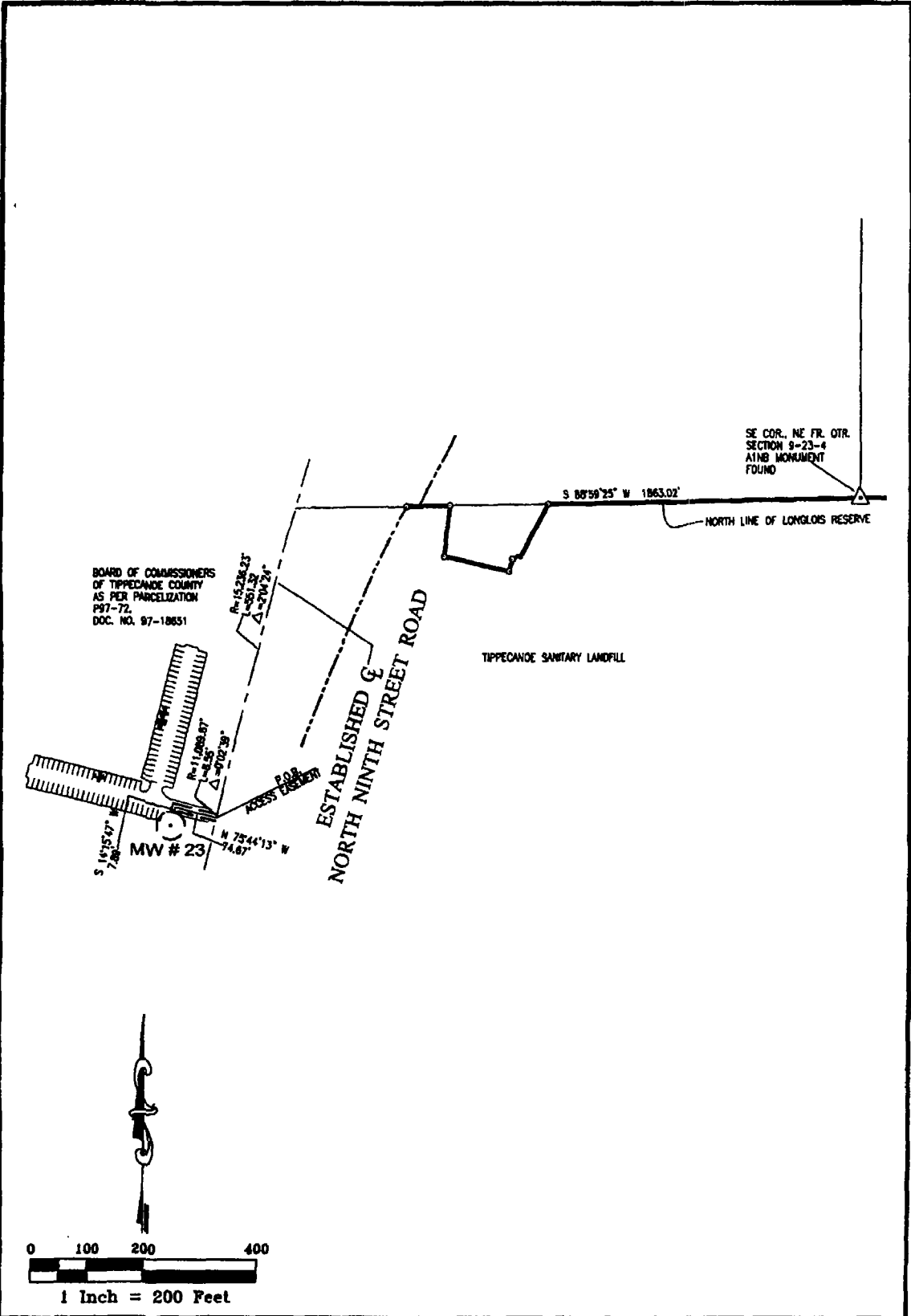
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**EXHIBIT C**

**Drawing of Adjacent Property Highlighting Area of Temporary Easement**

(See attached.)

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John E. Fisher & Associates, P.C.  
Land Surveyors and Engineers  
1526 Main Street  
Lafayette, Indiana 47901-1810

**MONITORING WELL # 23**  
WELL AND ACCESS EASEMENT EXHIBIT  
TIPPECANOE SANITARY LANDFILL

12/21/00  
DRAWN BY RSP  
CHECK BY  
SHEET 10 OF 12  
COMM. NO. 00.15.2.T



TSL (Dominant Estate):

Parcel A:

Key Number: 106-06400-0042  
Last Recorded Transfers:  
a. Date: May 1, 2000  
Document Number: 00009113  
b. Date: October 5, 2000  
Document Number: 00022155  
c. Date: October 24, 2000  
Document Number: 0023555

Parcel B:

Key Number.: 106-06400-0416  
Last Recorded Transfer:  
Date: May 1, 2000  
Document Number: 2000-9113

Parcel C:

Key Number: 106-06400-0262  
Last Recorded Transfer:  
Date: May 19, 2000  
Document Number: 00010482

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER

JAN 09 2002

  
AUDITOR OF TIPPECANOE CO.

Adjacent Property (Servient Estate):

Key Number: 106-06400-0020  
Last Recorded Transfer:  
Date: September 9, 1997  
Document Number: Parcelization 97-72,  
Instrument No. 9718651

**EASEMENT AGREEMENT**

(Monitoring Well No. 23)

THIS EASEMENT AND ACCESS AGREEMENT (the "Easement" or "Agreement") is made and entered into as of the 18<sup>th</sup> day of December, 2001, by THE BOARD OF COMMISSIONERS OF TIPPECANOE COUNTY (the "Owner"), and TIPPECANOE COUNTY LOCAL ENVIRONMENTAL RESPONSE FINANCE BOARD (the "TERF Board").

WITNESSETH:

WHEREAS, the TERF Board owns certain property located along North Ninth Street, in Lafayette, Tippecanoe County, Indiana which is more particularly described in Exhibit A (the "TSL"), and which was previously owned and operated as the Tippecanoe County Sanitary Landfill.

WHEREAS, the Owner owns certain property adjacent to the TSL which is more particularly described in Exhibit B (the "Adjacent Property").

WHEREAS, the TSL is subject to the terms and provisions of a Notice of Entry of Consent Decree and Declaration of Restrictions and Covenants, dated November 2, 1998, recorded November 6, 1998, in the Office of the Recorder of Tippecanoe County, Indiana, as Document Number 9830064, by John D. and Linda S. Gilmore, Owners (the "Consent Decree").

WHEREAS, the TERF Board, its officers, directors, agents, representatives, overseers, employees, and contractors, and their successors and assigns (collectively, the "TERF Board"), are performing the various obligations required under the Consent Decree in connection with the closure of the TSL pursuant to the Consent Decree which include but are not limited to construction, maintenance, inspection, repair and replacement of certain monitoring facilities, lines, and systems (collectively, the "Obligations").

WHEREAS, to perform certain of the Obligations under the terms and conditions of the Consent Decree, it is necessary for the TERF Board to enter into a portion of the Owner's property adjacent to or surrounding the TSL which is more particularly shown in the drawing attached as Exhibit C (the "Temporary Easement"), and

WHEREAS, the Owner desires to grant to the TERF Board an easement over across and through the Adjacent Property for the purpose of performing the Obligations pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner and the TERF Board hereby agree as follows:

1. Easement. The Owner hereby grants to the TERF Board, its employees, representatives, contractors, agents, overseers, guests, and their successors and assigns (collectively, "Grantees"), a TEMPORARY EASEMENT over, across, under and through the Temporary Easement to perform the Obligations (including, without limitation, to install, lay, use, maintain, inspect, repair and replace monitoring facilities, lines and systems) over, across, under and through the Temporary Easement. The Owner consents to and authorizes the Grantees to enter the Adjacent Property in order to commence and conduct its Obligations under the Consent Decree (including, without limitation, drilling, boring, excavation, sampling and other subsurface activity) on the Temporary Easement.

This Grant also includes the right of ingress and egress at reasonable times upon such Adjacent Property for all purposes incidental to this Easement (including, without limitation, construction, inspection, maintenance, repair, and replacement). This Grant includes the right to spray, trim, remove any trees or other growth which may from time to time interfere or threaten to interfere with the exercise of this right granted by this Easement. It is expressly understood and agreed that no buildings, roadways, drives or other structures will be placed over or upon such Temporary Easement by Owner without the express written consent of the TERF Board.

The Grantees, at their own expense, shall be responsible for the construction, maintenance, inspection, repair and replacement of any and all facilities, lines and systems required as a part of the Obligations (including, without limitation, monitoring facilities, lines, and systems) over, across, under and through the Temporary Easement granted herein (hereinafter collectively referred to as "Grantees' Work"). Upon completion of any construction or subsequent inspection, maintenance, repair or replacement, Grantees shall restore the Temporary Easement, and grade, seed and mulch the same, closing all excavations with proper backfill and compaction, and replacing, with similar quality or better, all drive-ways, public roadways, parking areas, entrances, tiling, drainage systems, utilities, and other appurtenances on, under, through, or over the Temporary Easement owned or used by Owner, at no expense to the Owner. If Grantees' Work should require any permits or approvals from any governmental agency, Grantees shall obtain any and all permits and approvals at no expense to the Owner.

2. Term. This Easement shall terminate upon the completion of the terms and conditions of the Consent Decree. This Grant of Easement shall automatically extend for successive periods of ten years or until such time as the Indiana Department of Environmental Management, or its successor entity, determines that regulated or hazardous substances at the TSL no longer present an unacceptable risk to the public health, safety, or welfare or to the environment.

3. Exclusivity. This is a non-exclusive Grant of Easement, and the Owner herein reserves the right to grant similar easements to parties other than the Grantees.

The Grantees may assign this Easement or any rights thereunder to third parties.

4. Ownership. The undersigned Owner does hereby certify that it is the fee simple owner of said Adjacent Property and that no other persons or parties have any interest whatsoever in the title to the aforementioned Adjacent Property, and that it has the full and exclusive right to grant this Easement. The Owner reserves unto itself the ownership of said Adjacent Property, and the full and unrestricted use thereof insofar as the same does not and will not conflict with the use of the same as herein granted unto the Grantees.

5. Cooperation. The Owner will cooperate fully with the Grantees and will take all reasonable action necessary to allow the Grantees to complete the Obligations in the most expeditious manner possible.

6. Notice and Disclosure. Prior to the performance of the Obligations, the Grantees will notify the Owner of the area or areas upon which the Obligations will be conducted and will procure the services of Indiana Underground to locate subsurface utilities at or near the designated areas. The Grantees will further request and the Owner will provide the Grantees with the identity, description and location of all known subsurface facilities and obstructions at or under the designated areas. The Grantees shall have no responsibility or liability to the Owner for damages to any subsurface facilities or obstructions in the designated areas which were known by the Owner but not accurately identified, disclosed or located by the Owner.

7. Indemnification. The Grantees agree to indemnify, defend, and hold harmless Owner for any and all claims, obligations and liabilities and all costs, expenses and attorney's fees incurred, based upon or arising out of any obligation, liability, loss, damage or expense, or whatever kind or nature, contingent or otherwise, known or unknown, incurred under, or imposed by, any provision of Federal, state or local law or regulation, or common law, pertaining to health, safety or environmental protection and arising out of any act or omission by the Grantees in connection with the Construction Project on the Temporary Easement; provided, however, the above-indemnity by the Grantees shall only apply to the extent such damages are caused by the negligence or willful misconduct of the Grantees.

8. Miscellaneous:

a. Notice. Any notice, request, instruction or other document required or permitted to be given under this Agreement by a party to the Agreement will be in writing and be deemed to have been given when (i) received, if delivered and given in person, (ii) on the date of transmission if sent by telex, telecopy, or other wire transmission (provided that a copy of such transmission is simultaneously sent in a manner provided in clause (iii)), or (iii) deposited with the United States mail, postage prepaid, certified and return receipt requested, and addressed to the Seller or the Buyer, as the case may be, at the address set forth below:

Grantees: Tippecanoe County Local Environmental Response Finance Board  
c/o Anthony S. Benton, Esquire  
STUART & BRANIGIN  
P.O. Box 1010, Lafayette, IN 47902-1010

Owner: Tippecanoe County Board of Commissioners  
20 North Third Street  
Lafayette, IN 47901

or such other individual, entity, or address as a party may designate for itself by notice given as provided above.

b. Governing Law. This Agreement will be construed under and in accordance with the laws of the State of Indiana.

c. Binding Effect. This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns; provided, however, that no assignment or other transfer will be made without the prior written approval of each of the parties to this Agreement.

d. Severability. If any one or more of the provisions of this Agreement, for any reason, is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

e. Entire Agreement. This Agreement constitutes the sole, only and entire understanding and agreement of the parties hereto in respect to the transaction contemplated by this Agreement. This Agreement supersedes any prior understandings, arrangements, or written or oral agreements relating to the contemplated transaction. This Agreement is not intended to confer upon any other person any rights or remedies. This Agreement may be amended or modified, and any of the terms of this Agreement may be waived, only by a written instrument duly executed by or on behalf of Seller and Buyer.

f. Timeliness. With regard to the dates and time periods set forth or referenced in this Agreement, time is of the essence of this Agreement.

g. Attorneys Fees. In the event either party will be compelled to employ an attorney to enforce the provisions of this contract, the parties agree that the non-defaulting party will be entitled to all of his legal costs and expenses, including reasonable attorney fees, incurred thereby.

IN WITNESS WHEREOF, the TERF Board and Owner have executed this Dedication of Easement this 13<sup>th</sup> day of December, 2001.

TERF BOARD: TIPPECANOE COUNTY LOCAL ENVIRONMENTAL  
RESPONSE FINANCE BOARD

By: Dave Heath  
Dave Heath, Chair

ATTEST:  
By: John Knochel  
John Knochel, Secretary

OWNER:

BOARD OF COMMISSIONERS OF TIPPECANOE COUNTY

By: Ruth E. Shedd  
Ruth Shedd, President

John Knochel  
John Knochel, Vice President

K.D. Benson  
K. D. Benson, Member

ATTEST: Robert A. Plantenga  
Robert A. Plantenga, Auditor

STATE OF INDIANA )  
 ) SS:  
COUNTY OF TIPPECANOE )

Before me, the undersigned, a Notary Public for Tippecanoe County in the State of Indiana, personally appeared the Tippecanoe County Local Environmental Response Finance Board by Dave Heath and John Knochel, its Chair and Secretary respectively who on behalf of such Board acknowledged the execution of this instrument this 18<sup>th</sup> day of December, 2001.

(SEAL)



Marianne M. Owen, Notary Public  
Resident of Tippecanoe County, IN  
Commission Exp. Dec. 7, 2007

[Signature]  
Notary Public

Printed Name

County of Residence: \_\_\_\_\_

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

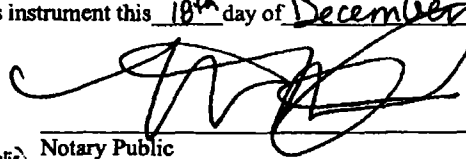
STATE OF INDIANA )  
 ) SS:  
COUNTY OF TIPPECANOE )

Before me, the undersigned, a Notary Public for Tippecanoe County in the State of Indiana, personally appeared the Board of Commissioners of Tippecanoe County by Ruth Shedd, its President, John Knochel, its Vice President, K. D. Benson, its Member, and Robert A. Plantenga, its Auditor, and who on behalf of the Board of Commissioners of Tippecanoe County such acknowledges the execution of this instrument this 18<sup>th</sup> day of December, 2001.

(SEAL)



Marianne M. Owen, Notary Public,  
Resident of Tippecanoe County, IN  
Commission Exp. Dec. 7, 2007

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

Printed Name

County of Residence: \_\_\_\_\_

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

This instrument was prepared by: Marianne Mitten Owen, Esquire, of the firm of Stuart & Brunigin, The Life Building, 300 Main Street, Suite 800, Lafayette, Indiana 47902-1010. Telephone: (765) 423-1561; Facsimile: (765) 742-8175; E-mail: [mmo@stuartlaw.com](mailto:mmo@stuartlaw.com)

258533.1

**EXHIBIT A**

**Legal Description of Tippecanoe County Sanitary Landfill**

(See attached)

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**Parcel A**

(Doc. No. 00009113 Gilmore)

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range 4 (4) West, described as follows:

Beginning at a stone in the North line of said Reservation placed equidistant from the Northeast and Northwest corner of said Reservation; thence running South on a line dividing the share of Peter Longlois and Elizabeth Allen ninety-one (91) poles; thence West two hundred twenty seven and 60/100 (227.60) poles to the West line of said Reservation; thence North with said West line thirty and 92/100 (30.92) poles to Justice's Corner; thence East with Justice's line seventy-two and 56/100th (72.56) poles to the center of the road leading from Lafayette to Davis Ferry; thence with said Road North ten and one-half (10 ½) degrees East nineteen and 28/100 (19.28) poles; thence North eighteen (18) degrees East forty-three and 12/100 (43.12) poles to the North line of said Reservation; thence East with said North line one hundred thirty-eight and 20/100 (138.20) poles to the place of beginning containing one hundred (100) acres, more or less.

EXCEPT the right of way of C I & L Railroad and except a school lot conveyed to the Trustee of Fairfield Township by deed executed February 17, 1862 and recorded in Deed Record 172, Page 186.

EXCEPTING ALSO, fourteen (14) acres heretofore sole to Herman Bilisma and wife lying West of said Railroad as recorded in Deed Record 122, Page 145.

EXCEPTING ALSO, the tract heretofore conveyed to the Union Sandstone Brick Company which deed is recorded in Deed Record 120, Page 461.

EXCEPTING ALSO a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows:

---

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

EXCEPTING ALSO, beginning at a point on the northern line of the West Half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West Half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West Half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West Half of said Longlois Reserve; 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

The land hereby described contains seventy-six and fifty-seven hundredths (76.57) acres, more or less.

(Doc. No. 00022155 Fairfield Builders Supply Corp.)

A strip of land 40 feet wide in part of Section 10, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Beginning at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office, said

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corner being the Northeast Corner of the West Half of Longlois Reserve; thence along the North Line of said Reserve South 88°59'25" West 443.72 feet to its intersection with the line between Sections 9 and 10; thence North 01°00'35" West along said section line 40.00 feet; thence North 88°59'25" East parallel with said North Line 473.74 feet; thence South 0°58'31" East 40.02 feet to the North Line of said Reserve; thence South 89°01'29" West along said North Line 30.00 feet to the Point of Beginning, containing 0.435 acres, more or less.

ALSO,

A strip of land 30 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Beginning at the Northeast corner of the West Half of Longlois Reserve, said corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence North 89°01'29" East 30.00 feet; thence South 0°58'31" East parallel with the east line of said Gilmore property 600.00 feet; thence South 89°01'29" West 30.00 feet to said east line; thence North 0°58'31" West along said east line 600.00 feet to the Point of Beginning, containing 0.413 acres, more or less.

ALSO,

A strip of land 40 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said Corner also being the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence along said Gilmore property the following two courses:

1. South 0°58'31" East 1501.50 feet;
  2. South 88°59'26" West 1000.00 feet to the Point of Beginning of the herein-described strip;
-

thence South 01°00'34" East perpendicular to the south line of said Gilmore property 40.00 feet; thence South 88°59'26" West parallel with said south line 500.00 feet; thence North 01°00'34" West perpendicular to said south line 40.00 feet to the south line of said Gilmore property; thence North 88°59'26" East along said South line 500.00 feet to the Point of Beginning, containing 0.459 acres, more or less.

ALSO,

A strip of land 10 and 20 feet wide in part of Section 10, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence North 89°01'29" East 30.00 feet to the Point of Beginning of the herein-described strip; thence North 0°58'31" West 40.02 feet; thence South 88°59'25" West parallel with the North Line of said Reserve 473.74 feet to the line between Sections 9 and 10; thence North 01°00'35" West along said section line 10.00 feet; thence North 88°59'25" East parallel with said North Line 493.75 feet; thence South 0°58'31" East 50.03 feet to the North Line of said Reserve; thence South 89°01'29" West along said North Line 20.00 feet to the Point of Beginning, containing 0.132 acres, more or less.

ALSO,

A strip of land 20 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence North 89°01'29" East 30.00 feet to the Point of Beginning of the herein-described strip; thence continuing North 89°01'29" East 20.00 feet; thence South 0°58'31" East parallel with the east line of said Gilmore property 600.00 feet; thence South 89°01'29" West 20.00 feet; thence North 0°58'31" West parallel with said east line 600.00 feet to the Point of Beginning, containing 0.275 acres, more or less.

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ALSO

A strip of land 10 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said Corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence along said Gilmore property the following two courses:

1. South 0°58'31" East 1501.50 feet;
2. South 88°59'26" West 1000.00 feet;

thence South 01°00'34" East perpendicular to the south line of said Gilmore property 40.00 feet to the Point of Beginning of the herein-described strip; thence continuing South 01°00'34" East 10.00 feet; thence South 88°59'26" West parallel with said south line 500.00 feet; thence North 01°00'34" West perpendicular to said south line 10.00 feet; thence North 88°59'26" East parallel with said south line 500.00 feet to the Point of Beginning, containing 0.115 acres, more or less.

(Doc No. 00023555 Rafferty)

A strip of land 40 feet wide in part of Section 9, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Deed Record 82, Page 1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence along the North Line of said Reserve South 88°59'25" West 443.72 feet to its intersection with the line between Sections 9 and 10, said point being the Point of Beginning of the herein-described strip; thence continuing South 88°59'25" West along said North Line 1256.28 feet; thence North 01°00'35" West perpendicular to

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said North Line 40.00 feet; thence North 88°59'25" East parallel with said North Line 1256.28 feet to said line between Sections 9 and 10; thence South 01°00'35" East along said section line 40.00 feet to the Point of Beginning, containing 1.154 acres, more or less.

ALSO,

A strip of land 10 feet wide in part of Section 9, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Deed Record 82, Page 1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence North 89°01'29" East 30.00 feet; thence North 0°58'31" West 40.02 feet; thence South 88°59'25" West parallel with the North Line of said Reserve 473.74 feet to the line between Sections 9 and 10, said point being the Point of Beginning of the herein-described strip; thence continuing South 88°59'25" West parallel with said North Line 1256.28 feet; thence North 01°00'35" West perpendicular to said North Line 10.00 feet; thence North 88°59'25" East parallel with said North Line 1256.28 feet to said line between Sections 9 and 10; South 01°00'35" East along said section line 10.00 feet to the Point of Beginning, containing 0.288 acres, more or less.

**Parcel B**

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range Four (4) West, described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

EXCEPTING a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

**Parcel C**

A part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89°-53'-00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27°-40'-00" West, 104.64 feet; thence North 75°-18'-00" West, 5.38 feet; thence South 59°-42'-00" West, 10.76 feet; thence South 14°-42'-00" West 21.75 feet; thence North 76°-17'-00" West, 116.55 feet; thence North 06°-24'-00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89°-53'-00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

ALSO, an easement for ingress and egress described as follows: An easement and right of way of sufficient width to permit passage of motor vehicles for access to the above described 0.36 of an acre tract from North Ninth Street Road, or such other public dedicated road the Grantor, or its successors in title, may from time to time determine.

(Said easement as set forth in that certain Executor's Deed dated August 24, 1979, recorded September 7, 1979, as Deed Record 79, Page 3864, from John D. Gilmore, as Executor of the Estate of Archie E. Gilmore, deceased, as Grantor; to Donal R. Chambers and D. Jane Chambers, husband and wife, as Grantees.)



**EXHIBIT B**

**Legal Description of Adjacent Property**

(See attached)

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MONITORING WELL 23

MONITORING WELL EASEMENT

A part of Longlois Reserve, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, being more particularly described as follows:

A 25.00-foot radius circle for a monitoring well easement whose center point is located at the Point of Terminus of the following 6 courses:

1. Commencing at a Berntsen A1NB monument found per Tippecanoe County Surveyor Section Corner ties at the Southeast Corner of the Northeast Fractional Quarter of Section 9, Township 23 North, Range 4 West;
2. South 88°59'25" West along the South Line of said Northeast Fractional Quarter, said line being also the North Line of Longlois Reserve, 1863.02 feet to the centerline of North Ninth Street Road, said point being on a non-tangent curve to the left, having a central angle of 2°04'24" and a radius of 15,236.23 feet;
3. Southwesterly along said curve an arc distance 551.32 feet (said arc being subtended by a chord having a bearing of South 14°15'49" West and a length of 551.28 feet) to the point of compound curvature of a curve to the left, having a central angle of 0°02'39" and a radius of 11,089.67 feet;
4. Southwesterly along said curve an arc distance 8.55 feet (said arc being subtended by a chord having a bearing of South 14°34'31" West and a length of 8.55 feet);
5. North 75°44'13" West 74.67 feet;
6. South 14°15'47" West 32.89 feet to the Point of Terminus.

MONITORING WELL ACCESS EASEMENT

A part of Longlois Reserve, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, being more particularly described as follows:

A strip of land 12.00 feet wide, measured 6.00 feet on each side of the following-described centerline: Commencing at a Berntsen A1NB monument found per Tippecanoe County Surveyor Section Corner ties at the Southeast Corner of the Northeast Fractional Quarter of Section 9, Township 23 North, Range 4 West; thence South 88°59'25" West along the South Line of said Northeast Fractional Quarter, said line being also the North Line of Longlois Reserve, 1863.02 feet to the centerline of North Ninth Street Road, said point being on a non-tangent curve to the left, having a central angle of 2°04'24" and a radius of 15,236.23 feet; thence Southwesterly along said curve an arc distance 551.32 feet (said arc being subtended by a chord having a bearing of South 14°15'49" West and a length of 551.28 feet) to the point of compound curvature of a curve to the left, having a central angle of 0°02'39" and a radius of 11,089.67 feet; thence Southwesterly along said curve an arc distance 8.55 feet (said arc being subtended by a chord having a bearing of South 14°34'31" West and a length of 8.55 feet) to the Point of Beginning of the herein-described centerline; thence North 75°44'13" West 74.67 feet; thence South 14°15'47" West 7.89 feet to the Point of Terminus.

Side lines are to be shortened or extended to meet at angle points.

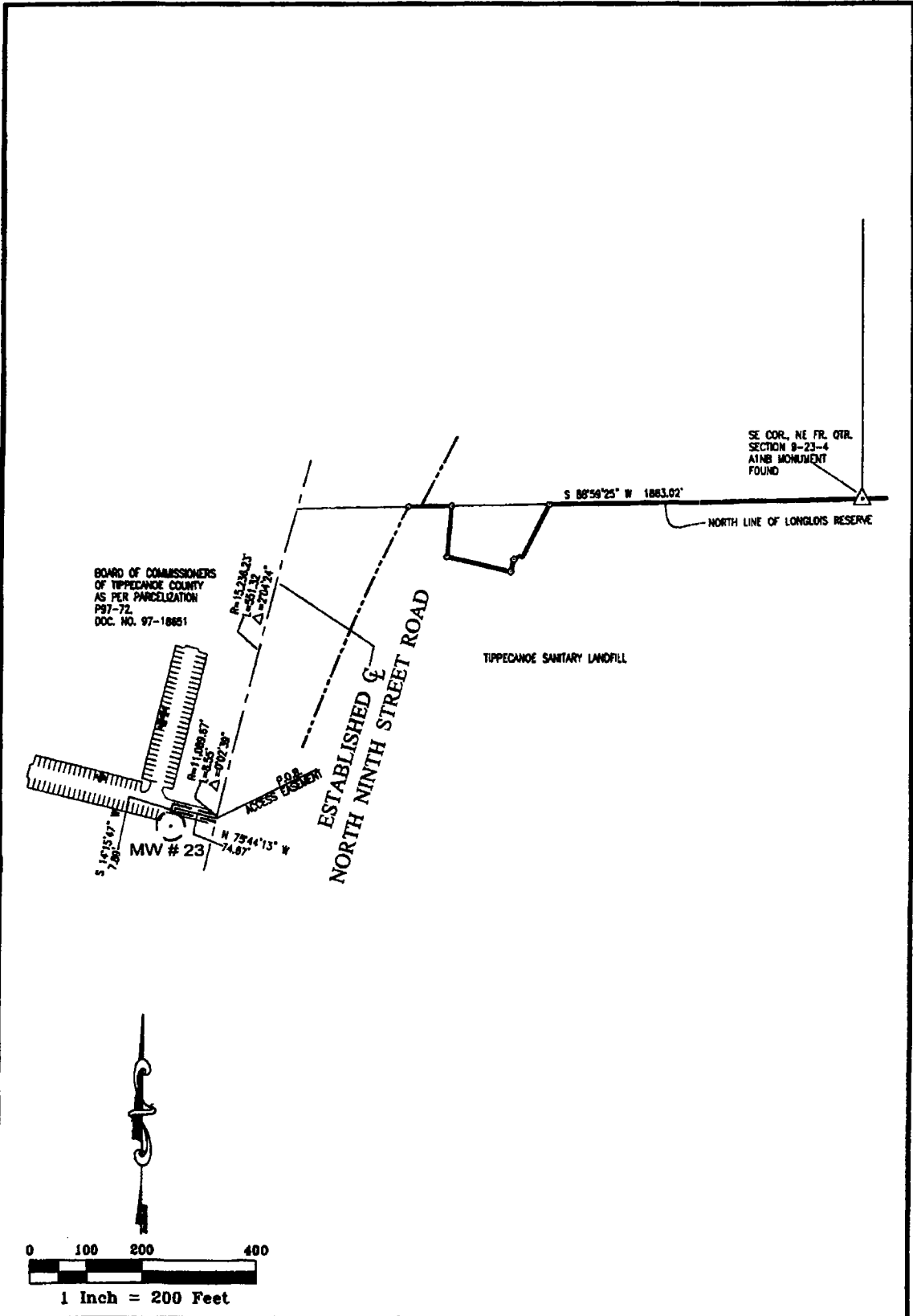
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**EXHIBIT C**

**Drawing of Adjacent Property Highlighting Area of Temporary Easement**

(See attached.)

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John E. Fisher & Associates, P.C.  
Land Surveyors and Engineers  
1526 Main Street  
Lafayette, Indiana 47901-1810

**MONITORING WELL # 23**  
WELL AND ACCESS EASEMENT EXHIBIT  
TIPPECANOE SANITARY LANDFILL

12/21/00  
DRAWN BY RSP  
CHECK BY  
SHEET 10 OF 12  
COMM. NO. 00.15.2T

# INVOICE



STALLARD & SCHUH, INC.  
301 COLUMBIA STREET  
P.O. BOX 929  
LAFAYETTE IN 47902-0929  
(765) 423-1642

INVOICE NUMBER: 002115B-IN

INVOICE DATE: 05/20/05

CUSTOMER NO.: 0005050

LLC

STUART & BRANIGIN  
PO Box 1010  
300 Main Street, Suite 800  
LAFAYETTE, IN 47902

Attn: M. Owen

DESCRIPTION	AMOUNT
RECORDING FEES Certified Copy of 9830064, Notice of Entry of Consent Decree and Declaration of Restrictions and Covenants upon Real Estate	10.00

REFERENCE  
NAME(S)

None

TERF

PROPERTY

Pt Longlois Reserve

THANK YOU FOR CHOOSING STALLARD & SCHUH

AMOUNT DUE

10.00

9830064 11/06/1998 09:10A 1 of 1  
Pamela K. Berglund, Tippecanoe County Recorder

106-0400042

**NOTICE OF ENTRY OF CONSENT DECREE AND  
DECLARATION OF RESTRICTIONS AND COVENANTS  
UPON REAL ESTATE**

THIS NOTICE OF ENTRY OF CONSENT DECREE (the "Notice") AND  
DECLARATION OF RESTRICTIONS AND COVENANTS UPON REAL ESTATE (the  
"Declaration") is made this 3rd day of November, 1998 by John D. and Linda S.  
Gilmore ("Owners"), and under the following circumstances:

**WITNESSETH:**

WHEREAS, Owners are the title holder of certain real property in Tippecanoe  
County, Indiana, the legal description of which is attached hereto as Exhibit "A" (the "Real  
Estate"); and

WHEREAS, on March 31, 1998, the State of Indiana and the Tippecanoe County  
Local Environmental Response Finance Board ("Settling Defendant") and Owners entered  
into a Consent Decree in State of Indiana v. Tippecanoe County Local Environmental  
Response Finance Board, et al, Civil No. 4:98CV0029 AS, in the United States District  
Court, Northern District of Indiana (the "Consent Decree"), which Consent Decree was duly  
entered and approved by the Honorable Allen Sharp, United States District Judge, on August  
13, 1998, the Notice of which is hereby given of record in the Office of the Recorder,  
Tippecanoe County, Indiana; and

WHEREAS, the purpose of the Consent Decree was to, inter alia, memorialize the  
agreements and undertakings with respect to certain environmental remedial design and  
remedial actions (collectively the "RD/RA") to be performed on property located in  
Tippecanoe County, Indiana, said property being defined as the "Site" pursuant to the  
Consent Decree; and

WHEREAS, the Consent Decree requires that Owner Defendants give the Notice and  
use their best efforts to have placed of record certain restrictions and covenants which will  
effect and protect the RD/RA to be performed on the Site; and

WHEREAS, the Real Estate owned by the Owners comprise a part of the Site; and

NOW, THEREFORE, in consideration of the foregoing, owners hereby declare and  
impress upon the Real Estate the following restrictions and covenants:

1. Owners shall use their best efforts to restrict use of and access to the Real  
Estate in such manner to ensure that:

A. There shall be no interference of any sort, by any person, with  
construction, operation, maintenance, monitoring, and efficacy of all

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER.

NOV 06 1998

*Becky H. Kitchell*  
AUDITOR OF TIPPECANOE CO. KP

components and structures and improvements resulting from or relating to the remedial actions implemented pursuant to this Consent Decree;

B. There shall be no operations on the Real Estate which extract, consume or otherwise use the groundwater underlying the Real Estate or adjoining property except as provided for in the course of carrying out the terms of this Consent Decree;

C. There shall be no agricultural, recreational, residential, commercial, or industrial use of the Real Estate including, but not limited to, any excavation, grading or other activity involving movement of soils at the Site, and any construction or placement of any residences, buildings, or structures -- fixtures or otherwise -- other than the purpose of implementing, monitoring, and maintaining the response action required by the Consent Decree; and

D. There shall be no construction, installation, or use of any buildings, wells, pipes, roads, ditches, or any other structures -- fixtures or otherwise -- on the Real Estate that may affect the construction, physical integrity, operation and maintenance, or efficacy of the Work (as that term is used in the Consent Decree) undertaken pursuant to the Consent Decree including without limitation the Facility's: security fence, landfill cap, groundwater monitoring systems, unless such construction, installation or use is approved in advance, in writing, by U.S. EPA, in consultation with the State.

2. Owners, their successors and assigns shall faithfully observe each of the restrictions and covenants stated herein.
3. The restrictions and covenants stated herein shall run with the Real Estate, and the conveyance of any interest therein, and are granted for the benefit of and shall be enforceable by U.S. EPA, the State of Indiana, the Settling Defendant, their successors and assigns.
4. If the Owners, their successors and assigns, at any time violate, threaten or attempt to violate, or fail to faithfully observe or perform each of the foregoing restrictions and covenants upon the Real Estate, it shall be lawful for U.S. EPA, the State of Indiana or the Settling Defendant, in addition to other remedies available under law or equity, to institute and prosecute appropriate proceedings, judicial or other, at law or in equity for the wrong done, threatened or attempted.
5. Any person, corporation, partnership or other entity, including Owners, who is the title owner of or controls the Real Estate which is subject to the restrictions and covenants hereof, may ask the State of Indiana for a determination that one or more of said restrictions and covenants is no longer required in order to prevent interference with construction, operation, maintenance, monitoring and efficacy of the RD/RA taken pursuant to the Consent Decree, or to protect human health and the







**EXHIBIT A**

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range Four (4) West, described as follows:

Beginning at a stone in the North line of said Reservation placed equidistant from the Northeast and Northwest corner of said Reservation; thence running South on a line dividing the share of Peter Longlois and Elizabeth Allen ninety-one (91) poles; thence West two hundred twenty seven and 60/100 (227.60) poles to the West line of said Reservation; thence North with said West line thirty and 92/100 (30.92) poles to Justice's Corner; thence East with Justice's line seventy-two and 56/100th (72.56) poles to the center of the road leading from Lafayette to Davis Ferry; thence with said Road North ten and one-half (10 1/2) degrees East nineteen and 28/100 (19.28) poles; thence North eighteen (18) degrees East forty-three and 12/100 (43.12) poles to the North line of said Reservation; thence East with said North line one hundred thirty-eight and 20/100 (138.20) poles to the place of beginning containing one hundred (100) acres, more or less.

EXCEPT the right of way of C I & L Railroad and except a school lot conveyed to the Trustee of Fairfield Township by deed executed February 17, 1862 and recorded in Deed Record 172, Page 186.

EXCEPTING ALSO, fourteen (14) acres heretofore sold to Herman Bilsma and wife lying West of said Railroad as recorded in Deed Record 122, Page 145.

EXCEPTING ALSO, the tract heretofore conveyed to the Union Sandstone Brick Company which deed is recorded in Deed Record 120, Page 461.

EXCEPTING ALSO, beginning at a point on the northern line of the West Half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West Half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West Half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West Half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

The land hereby described and burdened by this Declaration of Restrictions and Covenants Upon Real Estate containing seventy-six and fifty-seven hundredths (76.57) acres, more or less.

STATE OF INDIANA-TIPPECANOE COUNTY  
I hereby certify this is a true and complete  
copy of the 5 page document  
contained in record: 98-30064  
in this office.

Date certified 5-20, 2005

SEAL

Pamela K. Berglund by  
Recorder of Tippecanoe Co.

Alice M. Selvy, Deputy

00022135 10/05/2000 03:26pm BK: PG: 1  
PAK BERGLUND, TIPPECANOE COUNTY RECORDER

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER.

Key Nos: 106-04700-0500,  
106-06300-0010, and  
106-06400-0097  
to 106-06400-0042

OCT 05 2000

  
AUDITOR OF TIPPECANOE CO

**CORPORATE WARRANTY DEED**

THIS INDENTURE WITNESSETH THAT:

FAIRFIELD BUILDERS SUPPLY CORP., an Indiana corporation (hereinafter referred to as "GRANTOR"), CONVEYS AND WARRANTS TO TIPPECANOE COUNTY ENVIRONMENTAL RESPONSE FINANCING BOARD (hereinafter referred to as "GRANTEE"), for and in consideration of Ten Dollars (\$10.00), and other good and sufficient consideration, receipt of which is hereby acknowledged, the following described real estate, located in Tippecanoe County, Indiana:

A strip of land 40 feet wide in part of Section 10, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Beginning at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence along the North Line of said Reserve South 88°59'25" West 443.72 feet to its intersection with the line between Sections 9 and 10; thence North 01°00'35" West along said section line 40.00 feet; thence North 88°59'25" East parallel with said North Line 473.74 feet; thence South 0°58'31" East 40.02 feet to the North Line of said Reserve; thence South 89°01'29" West along said North Line 30.00 feet to the Point of Beginning, containing 0.435 acres, more or less.

ALSO,

A strip of land 30 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Beginning at the Northeast corner of the West Half of Longlois Reserve, said corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office, thence North 89°01'29" East 30.00 feet, thence South 0°58'31" East parallel with the east line of said Gilmore property 600.00 feet; thence South 89°01'29" West 30.00 feet to said east line; thence North 0°58'31" West along said east line 600.00 feet to the Point of Beginning, containing 0.413 acres, more or less.

ALSO,

A strip of land 40 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said Corner also being the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence along said Gilmore property the following two courses:

1. South 0°58'31" East 1501.50 feet;
2. South 88°59'26" West 1000.00 feet to the Point of Beginning of the herein-described strip;

thence South 01°00'34" East perpendicular to the south line of said Gilmore property 40.00 feet; thence South 88°59'26" West parallel with said south line 500.00 feet; thence North 01°00'34" West perpendicular to said south line 40.00 feet to the south line of said Gilmore property; thence North 88°59'26" East along said South line 500.00 feet to the Point of Beginning, containing 0.459 acres, more or less.

ALSO,

A strip of land 10 and 20 feet wide in part of Section 10, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence North 89°01'29" East 30.00 feet to the Point of Beginning of the herein-described strip; thence North 0°58'31" West 40.02 feet; thence South 88°59'25" West parallel with the North Line of said Reserve 473.74 feet to the line between Sections 9 and 10; thence North 01°00'35" West along said section line 10.00 feet; thence North 88°59'25" East parallel with said North Line 493.75 feet; thence South 0°58'31" East 50.03 feet to the North Line of said Reserve; thence South 89°01'29" West along said North Line 20.00 feet to the Point of Beginning, containing 0.132 acres, more or less.

ALSO,

A strip of land 20 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence North 89°01'29" East 30.00 feet to the Point of Beginning of the herein-described strip; thence continuing North 89°01'29" East 20.00 feet; thence South 0°58'31" East parallel with the east line of said Gilmore property 600.00 feet; thence South 89°01'29" West 20.00 feet; thence North 0°58'31" West parallel with said east line 600.00 feet to the Point of Beginning, containing 0.275 acres, more or less.

ALSO

A strip of land 10 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said Corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence along said Gilmore property the following two courses:

1. South 0°58'31" East 1501.50 feet;
2. South 88°59'26" West 1000.00 feet;

thence South 01°00'34" East perpendicular to the south line of said Gilmore property 40.00 feet to the Point of Beginning of the herein-described strip; thence continuing South 01°00'34" East 10.00 feet; thence South 88°59'26" West parallel with said south line 500.00 feet; thence North 01°00'34" West perpendicular to said south line 10.00 feet; thence North 88°59'26" East parallel with said south line 500.00 feet to the Point of Beginning, containing 0.115 acres, more or less.

(hereinafter collectively referred to as "Transferred Tract").

Subject to any and all easements, agreements and restrictions of record.

Subject to all real estate taxes due and payable and all subsequent taxes.

The following statement is for clarification only and is not intended by Grantors as a deed restriction:

This conveyance of the Transferred Tract is a transfer of a tract between adjoining lots pursuant to Exemption "E" of the definition of "Subdivision" as found in Section 2.2 of the Unified Subdivision Ordinance of Tippecanoe County. This conveyance involves the transfer of the Transfer Tract from an existing lot (Key Nos. 106-04700-

0500, 106-06400-0010 and 106-06400-0007, recorded in Document Nos. 89-12883 and 89-12884; hereinafter referred to as "Lot A") to a separate but adjoining tract (Key No. 106-06400-0042, recorded in Document No. ~~00001102~~ ~~00001107~~), more particularly described as follows:

PARCEL I

A part of the reservation of the two elder children of Peter Longlois, in Township Twenty-three (23) North, Range Four (4) West, and described as follows: Beginning at a stone in the north line of said Reservation placed equi-distant from the North East and North West corners of said Reservation; thence running South on the line dividing the shares of Peter Longlois and Elizabeth Allen, ninety-one (91) poles; thence west two hundred and twenty-seven & 60/100 (227.60) poles, to the West line of said Reservation; thence North with said West line thirty & 92/100 (30.92) poles to Justice's corner; thence East, with Justice's line, seventy-two & 56/100 (72.56) poles, to the center of road leading from Lafayette to Davis Ferry; thence with said road North 10 1/2 degrees East, nineteen & 28/100 (19.28) poles; thence North 18 degrees East, forty-three & 12/100 (43.12) poles, to the north line of said Reservation; thence East with said North line, one hundred and thirty-eight & 20/100 (138.20) poles, to the place of beginning, containing one hundred (100) acres, more or less.

EXCEPT the right of way of the C.I. & L. Railroad and except a school lot conveyed to the Trustee of Fairfield Township by deed executed February 17, 1862, and recorded in Deed Record 172, Page 186.

ALSO EXCEPT fourteen (14) acres heretofore sold to Herman Bilma and wife, lying west of said railroad as recorded in Deed Record 122, Page 145.

EXCEPTING ALSO the tract heretofore conveyed to the Union Sandstone Brick Company which deed is recorded in Deed Record 120, Page 461.

EXCEPTING ALSO: Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville

Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

#### PARCEL II

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range Four (4) West, described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

EXCEPTING a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet



from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern line of the West half of Longlois Reserve, thence North 89° 53' 00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

(hereinafter referred to as "Lot B").

The Transferred Tract and Lot B are to be included in Auditor's Key No. 106-06400-0042. This conveyance is being made with the understanding that the Transferred Tract is to attach to Lot B and is to create no additional building site. However, the existing principal use building site of Tract A with Key No. 106-04600-0049 is to be located on the acreage of that tract that remains after said conveyance.

Grantor certifies that there is no Indiana Gross Income Tax due by virtue of this transaction.

The undersigned person executing this Deed represents and certifies on behalf of the Grantor that the undersigned is a duly elected officer of the Grantor, and has been fully empowered by proper Resolution, or the By-Laws of the Grantor to execute and deliver this Deed; that the Grantor is a corporation in existence and in good standing in the State of its origin, and, where required, in the State where the subject real estate is situated; that Grantor has filed all corporate annual reports with the Secretary of State in the state of its origin, and, where required, in the State where the subject real estate is situated; that the Grantor has full corporate capacity to convey the real estate described; and that all necessary corporate action for the making of this conveyance has been duly taken.

IN WITNESS WHEREOF, the above-named Grantor, FAIRFIELD BUILDERS  
SUPPLY CORP., an Indiana corporation, has caused this Corporate Warranty Deed to be executed  
by its duly authorized officers and its corporate seal to be affixed, this 3<sup>rd</sup> day of October, 2000.

FAIRFIELD BUILDERS SUPPLY CORP.

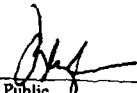
By: John D. Coffin, Pres.  
JOHN D. COFFIN, PRES.  
Its: PRESIDENT  
PRESIDENT

ACKNOWLEDGMENT

STATE OF INDIANA )  
 ) SS:  
TIPPECANOE COUNTY )

Before me, the undersigned, a Notary Public in and for said County and State, this 3<sup>rd</sup> day of October, 2000, personally appeared the within named FAIRFIELD BUILDERS SUPPLY CORP. by John O. Coffin its PRESIDENT, and acknowledged execution of the foregoing Corporate Warranty Deed and swore to the truth of the matters contained therein.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

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

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

County of Residence: \_\_\_\_\_



BECKY MAURER  
Resident of: Tippecanoe County, IN  
Commission Expires April 26, 2001

This Instrument was Prepared By: Marianne Mitten Owen, Esquire, of the firm of Stuart & Branigin, The Life Building, 300 Main Street, Suite 800, Lafayette, Indiana 47901. Telephone: (765) 423-1561; Facsimile: (765) 742-8175; E-Mail: mmo@stuartlaw.com

Mail Tax Statements To:

Tippecanoe County Environmental Response Financing Board  
c/o Tippecanoe County Auditor  
Tippecanoe County Office Building  
20 North Third Street  
Lafayette, IN 47901

**FILE COPY**

**STUART &  
BRANIGIN**<sub>LLP</sub>  
**L A W Y E R S**

Marianne Mitten Owen  
Direct (765) 428-7054  
E-mail [mmo@stuartlaw.com](mailto:mmo@stuartlaw.com)

[www.stuartlaw.com](http://www.stuartlaw.com)

May 23, 2005

**Via Fedex Next Day**

Mr. Doug Zabornick  
Keramida Environmental, Inc.  
330 N. College Ave.  
Indianapolis, IN 46202-3613

**Re: Tippecanoe County Local Environmental Response Financing Board**

Dear Doug:

Enclosed are copies of the following documents:

- 1) Stallard & Schuh invoice #002115A-IN for \$100;
- 2) Chicago Title Policy #72106-793319;
- 3) Warranty Deed from Gilmore to Tippecanoe County Local Environmental Response Financing Board recorded 05/01/00;
- 4) Stallard & Schuh invoice #006171A-IN for \$100;
- 5) Lawyers Title Policy #A75-2389466;
- 6) Warranty Deed from Rafferty to Tippecanoe County Local Environmental Response Financing Board recorded 10/18/00;
- 7) Stallard & Schuh invoice #006146A-IN for \$100;
- 8) Lawyers Title Endorsement to Owner's Policy #OA75-406359;
- 9) Acknowledgment of Lease Termination recorded 11/15/00;
- 10) Stallard & Schuh invoice #005043B-IN for \$100;
- 11) Lawyers Title Owner's Policy #A75-2389465;
- 12) Warranty Deed from Chambers to Tippecanoe County Local Environmental Response Financing Board recorded 05/19/00;
- 13) Easement Agreement between Rafferty and Tippecanoe County Local Environmental Response Financing Board recorded 01/09/02;
- 14) Easement Agreement between Fairfield Builders and Tippecanoe County Local Environmental Response Financing Board recorded 01/09/02;
- 15) Easement Agreement between Purdue and Tippecanoe County Local Environmental Response Financing Board recorded 01/09/02;
- 16) Easement Agreement (Well No. 11) between Commissioners and Tippecanoe County Local Environmental Response Financing Board re-recorded 01/17/02;

Reply to Lafayette Office

Mr. Doug Zagonick  
May 23, 2005  
Page 2

- 17) Easement Agreement (Well No. 11) between Commissioners and Tippecanoe County Local Environmental Response Financing Board recorded 01/09/02;
- 18) Agreement (Well No. 24) between Commissioners and Tippecanoe County Local Environmental Response Financing Board re-recorded 01/17/02;
- 19) Easement Agreement (Well No. 24) between Commissioners and Tippecanoe County Local Environmental Response Financing Board recorded 01/09/02;
- 20) Easement Agreement (Well No. 23) between Commissioners and Tippecanoe County Local Environmental Response Financing Board re-recorded 01/17/02;
- 21) Easement Agreement (Well No. 23) between Commissioners and Tippecanoe County Local Environmental Response Financing Board recorded 01/09/02.

Also enclosed are the originals of the following documents:

- 22) Stallard & Schuh invoice #002115B-IN for \$10;
- 23) Certified copy of Notice of Entry of Consent Decree and Declaration of Restrictions and Covenants Upon Real Estate.

These items are intended to satisfy the requirements of IC Study Report Items 2, 3 and 4.

Please note further that we are working with the title company for the removal of the reference to the Gilmore lease. The lease was to be delivered by the Gilmores' lawyer post-closing. However, both he and the title company did not remember until we requested this update.

Very truly yours,



Marianne Mitten Owen

MMO:sjc  
Enclosures  
Dictated but not read

## **Appendix 2**

# **Certification of Remedy Components**



401 North College Avenue  
Indianapolis, Indiana 46202  
(317) 685-6600 • Fax (317) 685-6610  
**1-800-508-8034**  
keramida@keramida.com • www.keramida.com

Direct Phone No.: 317/685-6626  
Direct E-mail: [dzabonick@keramida.com](mailto:dzabonick@keramida.com)

**VIA HAND DELIVERY**

July 20, 2010

Mr. Kevin Herron, Project Manager  
Office of Land Quality, Remediation Services Federal Programs Section  
Indiana Department of Environmental Management  
100 North Senate Avenue, P.O. Box 6015  
Indianapolis, Indiana 46206-6015

Re: Certification of Remedy Components  
Tippecanoe Sanitary Landfill (TSL) Superfund Site  
2801 North 9<sup>th</sup> Street, Lafayette, Indiana 46904

RECEIVED

JUL 20 2010

DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT  
OFFICE OF LAND QUALITY

Dear Mr. Herron:

KERAMIDA Inc., on behalf of the Tippecanoe County Local Environmental Response Fund (TERF) Board, is transmitting documentation that KERAMIDA certifies, based upon available data, Tippecanoe Sanitary Landfill is in compliance with all applicable aspects of the Consent Decree to date. Attached please find a letter dated April 20, 2010 to the Tippecanoe County Commissioner summarizing the completion of the major components of the remedy as set forth in the Record of Decision and incorporated into the March 31, 1998, Consent Decree. Also enclosed is a Certificate of Representation, Warranties, and Covenants signed by the TERF Board on April 20, 2010 verifying that the appropriate land warranties and restrictions have been fulfilled.

If you have any questions, please contact us at (317) 685-6600.

Sincerely,  
KERAMIDA Inc.

Douglas B. Zabonick, P.E.  
Assistant Project Coordinator for the Tippecanoe Sanitary Landfill Superfund Site

Enclosures

cc: John Knochel, Tippecanoe County Commissioner (w/enclosures)  
The Hon. Tony Roswarski, Mayor, City of Lafayette (w/o enclosures)  
The Hon. John Dennis, Mayor, City of West Lafayette (w/o enclosures)  
Tony Eenton, Esq., Stuart and Branigin (w/o enclosures)  
Lon Heide, TERF Board Member (w/o enclosures)  
Kevin Underwood, TERF Board Member (w/o enclosures)  
Tippecanoe County Surveyor (w/o enclosures)

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401 North College Avenue  
 Indianapolis, Indiana 46202  
 (317) 685-6600 • Fax (317) 685-6610  
**1-800-508-8034**

keramida@keramida.com • www.keramida.com

April 20, 2010

Mr. John Knochel  
 Tippecanoe County Commissioner  
 TERF Board Chairman  
 City of Lafayette  
 20 North 6<sup>th</sup> Street  
 Lafayette, IN 47901

Re: Certification of Remedy Components  
 Tippecanoe Sanitary Landfill Superfund Site  
 Lafayette, Indiana  
 Tippecanoe County  
 KERAMIDA Project No. 2601c-05

Dear Mr. Knochel:

KERAMIDA, Inc. conducted a file review of the project documents and records. The purpose of the file review was to verify that the major components of the selected remedy as set forth in the Record of Decision (ROD) and incorporated into the Consent Decree dated March 31, 1998 have been implemented as required. Table 1 provides the specific remedy components and a discussion of when these components were completed and conditions met.

<b>Table 1</b>		
<b>Specific Remedy Components and Conditions</b>		
<b>No.</b>	<b>Remedy Component</b>	<b>Condition Met</b>
1	Sanitary landfill cover for the waste disposal area (Construction of levee, access roads, drainage)	July 2001 August 2001
2	A fence that surrounds, at a minimum, the waste disposal area and the barrier cover	October 2001
3	Leachate extraction and treatment with off-site disposal of residue	January 2002 became operational
4	A gas extraction and monitoring system (additional methane wells and solar flares installed)	September 2001 became operational October 2003 became operational
5	A groundwater remediation program, if needed	Groundwater is monitored as required on a semi-annual basis

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Table 1 Specific Remedy Components and Conditions		
No.	Remedy Component	Condition Met
6	Deed restrictions, including provisions for the protection of the remedial actions taken and the prohibition of wells on the Site to be used for a water supply	May 1, 2000 Mr. and Mrs. Gilmore signed Warranty Deed to convey TERF title to property  Notice of Entry of Declaration of Restrictions and Covenants Upon Real Estate signed to prohibit wells for water supply signed November 2, 1998 by Mr. and Mrs. Gilmore  Miscellaneous warranty deeds for property purchased after the remedy  Miscellaneous grant of easements purchased  See Attachment 1 for documents
7	Site monitoring and maintenance of all remedial action components	Maintenance conducted as set forth in Operations and Maintenance manual; monitoring conducted as required for methane monitoring and groundwater

KERAMIDA certifies that, based upon available data, the Tippecanoe Sanitary Landfill site is in compliance with all applicable aspects of the Consent Decree to date.

Should you have any questions, please do not hesitate to contact Mr. Douglas B. Zabornick, P.E., at (317) 685-6626.

Sincerely,

KERAMIDA Environmental, Inc.



Douglas B. Zabornick, P.E.

Assistant Project Coordinator for

Tippecanoe Sanitary Landfill Superfund Site

Enclosures

cc: The Hon. Tony Roswarski, Mayor, City of Lafayette (w/enclosures)  
The Hon. John Dennis, Mayor, City of West Lafayette (w/enclosures)  
Mr. Kevin Underwood, TERF Board Member (w/enclosures)  
Mr. Lon Heide, TERF Board Member (w/enclosures)  
Steve Murray, Tippecanoe County Surveyor (w/enclosures)  
Tony Eenton, Esq., Stuart and Branigin (w/enclosures)

ATTACHMENT 1

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---

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00009113 05/01/2000 04:10pm BK: PG: 1  
PAM BERGLUND, TIPPECANOE COUNTY RECORDER

Key No. 106-06400-004-2

**WARRANTY DEED**

THIS INDENTURE WITNESSETH THAT:

**JOHN D. GILMORE and LINDA S. GILMORE**, husband and wife (collectively, the "Grantor"), **CONVEY AND WARRANT TO TIPPECANOE COUNTY LOCAL ENVIRONMENTAL RESPONSE FINANCING BOARD** (the "Grantee"), for and in consideration of ten dollars (\$10.00), and other good and sufficient consideration, receipt of which is hereby acknowledged, the real estate located in Tippecanoe County, Indiana, commonly known as \_\_\_\_\_ North Ninth Street, Lafayette, Indiana, and being more particularly described as follows:

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range Four (4) West, described as follows:

Beginning at a stone in the North line of said Reservation placed equidistant from the Northeast and Northwest corner of said Reservation; thence running South on a line dividing the share of Peter Longlois and Elizabeth Allen ninety-one (91) poles; thence West two hundred twenty seven and 60/100 (227.60) poles to the West line of said Reservation; thence North with said West line thirty and 92/100 (30.92) poles to Justice's Corner; thence East with Justice's line seventy-two and 56/100th (72.56) poles to the center of the road leading from Lafayette to Davis Ferry; thence with said Road North ten and one-half (10 1/2) degrees East nineteen and 28/100 (19.28) poles; thence North eighteen (18) degrees East forty-three and 12/100 (43.12) poles to the North line of said Reservation; thence East with said North line one hundred thirty-eight and 20/100 (138.20) poles to the place of beginning containing one hundred (100) acres, more or less.

EXCEPT the right of way of C I & L Railroad and except a school lot conveyed to the Trustee of Fairfield Township by deed executed February 17, 1862 and recorded in Deed Record 172, Page 186.

EXCEPTING ALSO, fourteen (14) acres heretofore sold to Herman Bilisma and wife lying West of said Railroad as recorded in Deed Record 122, Page 145.

EXCEPTING ALSO, the tract heretofore conveyed to the Union Sandstone Brick Company which deed is recorded in Deed Record 120, Page 461.

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER.

MAY 01 2000

*[Signature]*  
CLERK OF TIPPECANOE CO. I.A.

EXCEPTING ALSO a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

EXCEPTING ALSO, beginning at a point on the northern line of the West Half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West Half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West Half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West Half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

The land hereby described contains seventy-six and fifty-seven hundredths (76.57) acres, more or less.

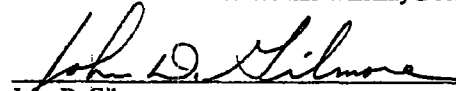
(the "Real Estate").


Subject to easements and restrictions of record.

Subject also to the property taxes for 1999, payable in 2000, and all subsequent taxes.

Subject also to the terms and provisions of Notice of Entry of Consent Decree and Declaration of Restrictions and Covenants, dated November 2, 1998, recorded November 6, 1998, in the Office of the Recorder of Tippecanoe County, Indiana, as Document Number 9830064, by John D. and Linda S. Gilmore, Owners.

IN WITNESS WHEREOF, the above-named Grantor has executed this Warranty Deed on this  
1<sup>st</sup> day of May, 2000.

  
John D. Gilmore

  
Linda S. Gilmore

**ACKNOWLEDGMENT**

STATE OF INDIANA )  
 ) SS:  
TIPPECANOE COUNTY )

Before me, the undersigned, a Notary Public, in and for said State and County, personally appeared **JOHN D. GILMORE AND LINDA S. GILMORE**, husband and wife, and acknowledged the execution of the foregoing Warranty Deed and swore to the statements contained therein.

WITNESS my hand and seal this 18<sup>th</sup> day of May, 2000.



**BECKY MAURER**  
Resident of Montgomery County, IN  
Commission Expires April 26, 2001

[Signature]  
Notary Public

\_\_\_\_\_  
Printed Name

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

County of Residence:  
\_\_\_\_\_

This instrument was prepared by: Marianne Mitten Owen, Esquire, of the firm of Stuart & Branigin, The Life Building, 300 Main Street, Suite 800, Lafayette, Indiana 47902-1010. Telephone: (765) 423-1561; Facsimile: (765) 742-8175; E-mail: [mmo@stuartlaw.com](mailto:mmo@stuartlaw.com)

Mail Tax Statements To:  
TIPPECANOE COUNTY LOCAL ENVIRONMENTAL RESPONSE FINANCING BOARD  
c/o TIPPECANOE COUNTY AUDITOR  
20 N. THIRD ST.  
LAFAYETTE, IN 47901

228869.2

00009114 05/01/2000 04:10pm BK: PG: 1  
PAM BERGLUND, TIPPECANOE COUNTY RECORDER

Key No. 106-06400-004-2

**WARRANTY DEED**

THIS INDENTURE WITNESSETH THAT:

**JOHN D. GILMORE and LINDA S. GILMORE**, husband and wife (collectively, the "Grantor"), **CONVEY AND WARRANT TO TIPPECANOE COUNTY LOCAL ENVIRONMENTAL RESPONSE FINANCING BOARD** (the "Grantee"), for and in consideration of ten dollars (\$10.00), and other good and sufficient consideration, receipt of which is hereby acknowledged, the real estate located in Tippecanoe County, Indiana, commonly known as \_\_\_\_\_ North Ninth Street, Lafayette, Indiana, and being more particularly described as follows:

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range Four (4) West, described as follows:


Beginning at a point on the northern line of the West Half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West Half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West Half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West Half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

(the "Real Estate").

Subject to easements and restrictions of record.

Subject also to the property taxes for 1999, payable in 2000, and all subsequent taxes.

IN WITNESS WHEREOF, the above-named Grantor has executed this Warranty Deed on this 1st day of May, 2000.

  
John D. Gilmore

  
Linda S. Gilmore

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER

MAY 01 2000

  
AUDITOR OF TIPPECANOE COUNTY

**ACKNOWLEDGMENT**

STATE OF INDIANA )  
 ) SS:  
TIPPECANOE COUNTY )

Before me, the undersigned, a Notary Public, in and for said State and County, personally appeared **JOHN D. GILMORE AND LINDA S. GILMORE**, husband and wife, and acknowledged the execution of the foregoing Warranty Deed and swore to the statements contained therein.

WITNESS my hand and seal this 18<sup>th</sup> day of May, 2000.



**BECKY MAURER**  
Resident of Montgomery County, IN  
Commission Expires April 26, 2001

[Signature]  
Notary Public

\_\_\_\_\_  
Printed Name

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

County of Residence: \_\_\_\_\_

This instrument was prepared by: Marianne Mitten Owen, Esquire, of the firm of Stuart & Branigin, The Life Building, 300 Main Street, Suite 800, Lafayette, Indiana 47902-1010. Telephone: (765) 423-1561; Facsimile: (765) 742-8175; E-mail: mmo@stuartlaw.com

Mail Tax Statements To:  
TIPPECANOE COUNTY LOCAL ENVIRONMENTAL RESPONSE FINANCING BOARD  
c/o TIPPECANOE COUNTY AUDITOR  
20 N. Third Street  
LAFAYETTE, IN 47901



9830064 11/06/1998 09:10A 1 of 1  
Pamela K. Berglund, Tippecanoe County Recorder

106-2400-0042

**NOTICE OF ENTRY OF CONSENT DECREE AND  
DECLARATION OF RESTRICTIONS AND COVENANTS  
UPON REAL ESTATE**

THIS NOTICE OF ENTRY OF CONSENT DECREE (the "Notice") AND  
DECLARATION OF RESTRICTIONS AND COVENANTS UPON REAL ESTATE (the  
"Declaration") is made this 2nd day of November, 1998 by John D. and Linda S.  
Gilmore ("Owners"), and under the following circumstances:

**WITNESSETH:**

WHEREAS, Owners are the title holder of certain real property in Tippecanoe  
County, Indiana, the legal description of which is attached hereto as Exhibit "A" (the "Real  
Estate"); and

WHEREAS, on March 31, 1998, the State of Indiana and the Tippecanoe County  
Local Environmental Response Finance Board ("Settling Defendant") and Owners entered  
into a Consent Decree in State of Indiana v. Tippecanoe County Local Environmental  
Response Finance Board, et al, Civil No. 4:98CV0029 AS, in the United States District  
Court, Northern District of Indiana (the "Consent Decree"), which Consent Decree was duly  
entered and approved by the Honorable Allen Sharp, United States District Judge, on August  
13, 1998, the Notice of which is hereby given of record in the Office of the Recorder,  
Tippecanoe County, Indiana; and

WHEREAS, the purpose of the Consent Decree was to, inter alia, memorialize the  
agreements and undertakings with respect to certain environmental remedial design and  
remedial actions (collectively the "RD/RA") to be performed on property located in  
Tippecanoe County, Indiana, said property being defined as the "Site" pursuant to the  
Consent Decree; and

WHEREAS, the Consent Decree requires that Owner Defendants give the Notice and  
use their best efforts to have placed of record certain restrictions and covenants which will  
effect and protect the RD/RA to be performed on the Site; and

WHEREAS, the Real Estate owned by the Owners comprise a part of the Site; and

NOW, THEREFORE, in consideration of the foregoing, owners hereby declare and  
impress upon the Real Estate the following restrictions and covenants:

1. Owners shall use their best efforts to restrict use of and access to the Real  
Estate in such manner to ensure that:
  - A. There shall be no interference of any sort, by any person, with  
construction, operation, maintenance, monitoring, and efficacy of all

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER.

NOV 06 1998

*Pamela K. Berglund*  
AUDITOR OF TIPPECANOE CO KP

components and structures and improvements resulting from or relating to the remedial actions implemented pursuant to this Consent Decree;

B. There shall be no operations on the Real Estate which extract, consume or otherwise use the groundwater underlying the Real Estate or adjoining property except as provided for in the course of carrying out the terms of this Consent Decree;

C. There shall be no agricultural, recreational, residential, commercial, or industrial use of the Real Estate including, but not limited to, any excavation, grading or other activity involving movement of soils at the Site, and any construction or placement of any residences, buildings, or structures -- fixtures or otherwise -- other than the purpose of implementing, monitoring, and maintaining the response action required by the Consent Decree; and

D. There shall be no construction, installation, or use of any buildings, wells, pipes, roads, ditches, or any other structures -- fixtures or otherwise -- on the Real Estate that may affect the construction, physical integrity, operation and maintenance, or efficacy of the Work (as that term is used in the Consent Decree) undertaken pursuant to the Consent Decree including without limitation the Facility's: security fence, landfill cap, groundwater monitoring systems, unless such construction, installation or use is approved in advance, in writing, by U.S. EPA, in consultation with the State.

2. Owners, their successors and assigns shall faithfully observe each of the restrictions and covenants stated herein.

3. The restrictions and covenants stated herein shall run with the Real Estate, and the conveyance of any interest therein, and are granted for the benefit of and shall be enforceable by U.S. EPA, the State of Indiana, the Settling Defendant, their successors and assigns.

4. If the Owners, their successors and assigns, at any time violate, threaten or attempt to violate, or fail to faithfully observe or perform each of the foregoing restrictions and covenants upon the Real Estate, it shall be lawful for U.S. EPA, the State of Indiana or the Settling Defendant, in addition to other remedies available under law or equity, to institute and prosecute appropriate proceedings, judicial or other, at law or in equity for the wrong done, threatened or attempted.

5. Any person, corporation, partnership or other entity, including Owners, who is the title owner of or controls the Real Estate which is subject to the restrictions and covenants hereof, may ask the State of Indiana for a determination that one or more of said restrictions and covenants is no longer required in order to prevent interference with construction, operation, maintenance, monitoring and efficacy of the RD/RA taken pursuant to the Consent Decree, or to protect human health and the





**EXHIBIT A**

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range Four (4) West, described as follows:

Beginning at a stone in the North line of said Reservation placed equidistant from the Northeast and Northwest corner of said Reservation; thence running South on a line dividing the share of Peter Longlois and Elizabeth Allen ninety-one (91) poles; thence West two hundred twenty seven and 60/100 (227.60) poles to the West line of said Reservation; thence North with said West line thirty and 92/100 (30.92) poles to Justice's Corner; thence East with Justice's line seventy-two and 56/100th (72.56) poles to the center of the road leading from Lafayette to Davis Ferry; thence with said Road North ten and one-half (10 1/2) degrees East nineteen and 28/100 (19.28) poles; thence North eighteen (18) degrees East forty-three and 12/100 (43.12) poles to the North line of said Reservation; thence East with said North line one hundred thirty-eight and 20/100 (138.20) poles to the place of beginning containing one hundred (100) acres, more or less.

EXCEPT the right of way of C I & L Railroad and except a school lot conveyed to the Trustee of Fairfield Township by deed executed February 17, 1862 and recorded in Deed Record 172, Page 186.

EXCEPTING ALSO, fourteen (14) acres heretofore sold to Herman Bilsma and wife lying West of said Railroad as recorded in Deed Record 122, Page 145.

EXCEPTING ALSO, the tract heretofore conveyed to the Union Sandstone Brick Company which deed is recorded in Deed Record 120, Page 461.

EXCEPTING ALSO, beginning at a point on the northern line of the West Half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West Half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West Half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West Half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

The land hereby described and burdened by this Declaration of Restrictions and Covenants Upon Real Estate containing seventy-six and fifty-seven hundredths (76.57) acres, more or less.

STATE OF INDIANA-TIPPECANOE COUNTY  
I hereby certify this is a true and complete  
copy of the 5 page document  
contained in record 98-30064  
in this office.

Date certified 5-20, 2005

SEAL

*Pamela K. Berglund* by  
Recorder of Tippecanoe Co.

*Alice M. Selby, Deputy*

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER.

MAY 19 2000

00010482 05/19/2000 02:21pm BK: PG: 1  
PAM BERGLUND, TIPPECANOE COUNTY RECORDER

*[Signature]*  
1 AUCTIONEER OF TIPPECANOE CO.

Key No. 106-06400-026-2

**WARRANTY DEED**

THIS INDENTURE WITNESSETH THAT:

**WAYNE EUGENE CHAMBERS and TAMRYN CHAMBERS**, husband and wife (collectively, the "Grantor"), **CONVEY AND WARRANT TO TIPPECANOE COUNTY LOCAL ENVIRONMENTAL RESPONSE FINANCING BOARD** (the "Grantee"), for and in consideration of ten dollars (\$10.00), and other good and sufficient consideration, receipt of which is hereby acknowledged, the real estate located in Tippecanoe County, Indiana, commonly known as 2831 North Ninth Street, Lafayette, Indiana, and being more particularly described as follows:

A part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89°-53'-00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27°-40'-00" West, 104.64 feet; thence North 75°-18'-00" West, 5.38 feet; thence South 59°-42'-00" West, 10.76 feet; thence South 14°-42'-00" West 21.75 feet; thence North 76°-17'-00" West, 116.55 feet; thence North 06°-24'-00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89°-53'-00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

ALSO, an easement for ingress and egress described as follows: An easement and right of way of sufficient width to permit passage of motor vehicles for access to the above described 0.36 of an acre tract from North Ninth Street Road, or such other public dedicated road the Grantor, or its successors in title, may from time to time determine.

(Said easement as set forth in that certain Executor's Deed dated August 24, 1979, recorded September 7, 1979, as Deed Record 79, Page 3864, from John D. Gilmore, as Executor of the Estate

of Archie E. Gilmore, deceased, as Grantor; to Donal R. Chambers and D. Jane Chambers, husband and wife, as Grantees.)

(the "Real Estate").

Subject to easements and restrictions of record.

Subject also to the property taxes for 1999, payable in 2000, and all subsequent taxes.

IN WITNESS WHEREOF, the above-named Grantor has executed this Warranty Deed on this 19 day of May, 2000.

Wayne Eugene Chambers  
Wayne Eugene Chambers

Tamryn Chambers  
Tamryn Chambers

**ACKNOWLEDGMENT**

STATE OF INDIANA     )  
  ) SS:  
TIPPECANOE COUNTY    )

Before me, the undersigned, a Notary Public, in and for said State and County, personally appeared **WAYNE EUGENE CHAMBERS** and **TAMRYN CHAMBERS**, husband and wife, and acknowledged the execution of the foregoing Warranty Deed and swore to the statements contained therein.



WITNESS my hand and seal this 19 day of May, 2000.



BECKY MAURER  
Resident of Montgomery County, IN  
Commission Expires April 26, 2001

[Signature]  
Notary Public

Printed Name

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

County of Residence:  
\_\_\_\_\_

This instrument was prepared by: Marianne Mitten Owen, Esquire, of the firm of Stuart & Branigin, The Life Building, 300 Main Street, Suite 800, Lafayette, Indiana 47902-1010. Telephone: (765) 423-1561; Facsimile: (765) 742-8175; E-mail: mmo@stuartlaw.com

Mail Tax Statements To:

TIPPECANOE COUNTY LOCAL ENVIRONMENTAL  
RESPONSE FINANCING BOARD

c/o TIPPECANOE COUNTY AUDITOR  
20 N. 3RD STREET  
LAFAYETTE, IN 47901

230643.1

00023155 10/18/2000 09:26am BK: PG: 1  
PAM BERGLUND, TIPPECANOE COUNTY RECORDER

Key # 106-04600-0049  
to 106-06400-0042

**WARRANTY DEED**

THIS INDENTURE WITNESSETH THAT:

CLARK WILLIAM RAFFERTY and EMILY SUE MILLER, as tenants in common, and DOROTHY E. RAFFERTY, as holder of a life estate (hereinafter collectively referred to as "GRANTORS"), CONVEY AND WARRANT TO TIPPECANOE COUNTY ENVIRONMENTAL RESPONSE FINANCING BOARD (hereinafter referred to as "GRANTEES"), for and in consideration of Ten Dollars (\$10.00), and other good and sufficient consideration, receipt of which is hereby acknowledged, the following described real estate, located in Tippecanoe County, Indiana:

A strip of land 40 feet wide in part of Section 9, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Deed Record 82, Page 1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence along the North Line of said Reserve South 88°59'25" West 443.72 feet to its intersection with the line between Sections 9 and 10, said point being the Point of Beginning of the herein-described strip; thence continuing South 88°59'25" West along said North Line 1256.28 feet; thence North 01°00'35" West perpendicular to said North Line 40.00 feet; thence North 88°59'25" East parallel with said North Line 1256.28 feet to said line between Sections 9 and 10; thence South 01°00'35" East along said section line 40.00 feet to the Point of Beginning, containing 1.154 acres, more or less.

ALSO,

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER.

OCT 18 2000

*Pam Berglund*  
ATTORNEY AT LAW  
KIP

A strip of land 10 feet wide in part of Section 9, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Deed Record 82, Page 1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence North 89°01'29" East 30.00 feet; thence North 0°58'31" West 40.02 feet; thence South 88°59'25" West parallel with the North Line of said Reserve 473.74 feet to the line between Sections 9 and 10, said point being the Point of Beginning of the herein-described strip; thence continuing South 88°59'25" West parallel with said North Line 1256.28 feet; thence North 01°00'35" West perpendicular to said North Line 10.00 feet; thence North 88°59'25" East parallel with said North Line 1256.28 feet to said line between Sections 9 and 10; South 01°00'35" East along said section line 10.00 feet to the Point of Beginning, containing 0.288 acres, more or less.

(hereinafter collectively referred to as "Transferred Tract").

Subject to any and all easements, agreements and restrictions of record.

Subject to all real estate taxes due and payable and all subsequent taxes.

The following statement is for clarification only and is not intended by Grantors as a deed restriction:

This conveyance of the Transferred Tract is a transfer of a tract between adjoining lots pursuant to Exemption "E" of the definition of "Subdivision" as found in Section 2.2 of the Unified Subdivision Ordinance of Tippecanoe County. This conveyance involves the transfer of the Transfer Tract from an existing lot (Key No. 106-04600-0049; recorded in Cause No. 79C01-9210-ES-119; hereinafter referred to as "Lot A") to a separate but adjoining tract (Key No. 106-06400-0042; recorded in Document No. ~~0009113~~ 0009114), more particularly described as follows:

#### PARCEL I

A part of the reservation of the two elder children of Peter Longlois, in Township Twenty-three (23) North, Range Four (4) West, and described as follows: Beginning at a stone in the north line of said Reservation placed equi-distant from the North East and North West corners of said Reservation; thence running South on the line dividing the shares of Peter Longlois and Elizabeth Allen, ninety-one

(91) poles; thence west two hundred and twenty-seven & 60/100 (227.60) poles, to the West line of said Reservation; thence North with said West line thirty & 92/100 (30.92) poles to Justice's corner; thence East, with Justice's line, seventy-two & 56/100 (72.56) poles, to the center of road leading from Lafayette to Davis Ferry; thence with said road North 10 ½ degrees East, nineteen & 28/100 (19.28) poles; thence North 18 degrees East, forty-three & 12/100 (43.12) poles, to the north line of said Reservation; thence East with said North line, one hundred and thirty-eight & 20/100 (138.20) poles, to the place of beginning, containing one hundred (100) acres, more or less.

EXCEPT the right of way of the C.I. & L. Railroad and except a school lot conveyed to the Trustee of Fairfield Township by deed executed February 17, 1862, and recorded in Deed Record 172, Page 186.

ALSO EXCEPT fourteen (14) acres heretofore sold to Herman Bilsma and wife, lying west of said railroad as recorded in Deed Record 122, Page 145.

EXCEPTING ALSO the tract heretofore conveyed to the Union Sandstone Brick Company which deed is recorded in Deed Record 120, Page 461.

EXCEPTING ALSO: Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

PARCEL II

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range Four (4) West, described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

EXCEPTING a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern

line of the West half of Longlois Reserve; thence North 89°53'00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

(hereinafter referred to as "Lot B").

The Transferred Tract and Lot B are to be included in Auditor's Key No. 106-06400-0042. This conveyance is being made with the understanding that the Transferred Tract is to attach to Lot B and is to create no additional building site. However, the existing principal use building site of Tract A with Key No. 106-04600-0049 is to be located on the acreage of that tract that remains after said conveyance.

IN WITNESS WHEREOF, the above-named GRANTORS have executed this

Warranty Deed on this 16 day of October, 2000.

Clark William Rafferty  
Clark William Rafferty

Emily Sue Miller  
Emily Sue Miller

Dorothy E. Rafferty  
Dorothy E. Rafferty

ACKNOWLEDGMENT

STATE OF INDIANA     )  
                                  ) SS:  
TIPPECANOE COUNTY    )

Before me, the undersigned, a Notary Public, in and for said State and County, personally appeared Clark William Rafferty and Emily Sue Miller, as tenants in common, and Dorothy E. Rafferty, as holder of a life estate, and acknowledged the execution of the foregoing Warranty Deed and swore to the statements contained therein.

WITNESS my hand and seal this 16<sup>th</sup> day of October, 2000.

[Signature]  
Notary Public

Printed Name \_\_\_\_\_

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

County of Residence: \_\_\_\_\_



**BECKY MAURER**  
Resident of Montgomery County, IN  
Commission Expires April 26, 2001

This Instrument was Prepared By: Marianne Mitten Owen, Esquire, of the firm of Stuart & Branigin, The Life Building, 300 Main Street, Suite 800, Lafayette, Indiana 47901. Telephone: (765) 423-1561; Facsimile: (765) 742-8175; E-Mail: [mmo@stuartlaw.com](mailto:mmo@stuartlaw.com)

**Mail Tax Statements To:**

Tippecanoe County Environmental Response Financing Board  
c/o Tippecanoe County Auditor  
Tippecanoe County Office Building  
20 North Third Street  
Lafayette, IN 47901

241794.2

Key No. 106-04600-0049 to 106-06400-004-2

00023555 10/24/2000 10:48am BK: PG: 1  
PAM BERGLUND, TIPPECANOE COUNTY RECORDER

STATE OF INDIANA )  
 ) SS:  
COUNTY OF TIPPECANOE )

**SCRIVENER'S ERROR AFFIDAVIT**

MARIANNE MITTEN OWEN, being first duly sworn upon her oath, deposes and says:

1. She is one of the attorneys for the Tippecanoe County Local Environmental Response Financing Board. She is admitted to practice law in the State of Indiana and is an associate with the law firm of STUART & BRANIGIN.

2. By the Warranty Deed from CLARK WILLIAM RAFFERTY and EMILY SUE MILLER, as tenants in common, and DOROTHY E. RAFFERTY, as holder of a life estate, dated October 16, 2000, which was recorded on 10-18-2000, as Document No. 000231551 in the Office of the Recorder of Tippecanoe County, Indiana (the "Deed"), the Tippecanoe County Local Environmental Response Financing Board took title to certain real estate in Tippecanoe County, Indiana. A copy of the Deed is attached as Exhibit A.

3. The attached Deed was prepared by the undersigned and the name of the Grantees in the Deed contained a scrivener's error.

4. The name of the Grantees under the Deed is more correctly described as "TIPPECANOE COUNTY LOCAL ENVIRONMENTAL RESPONSE FINANCING BOARD."

Further Affiant saith not.

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER.

OCT 24 2000

*Theresa O. Blumley*  
AUDITOR OF TIPPECANOE CO.



00022155 10/05/2000 03:26pm BK: PG: 1  
PAM BERGLUND, TIPPECANOE COUNTY RECORDER

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER.

Key Nos:106-04700-0500,  
106-06300-0010, and  
106-06400-0097  
to 106-06400-0042

OCT 05 2000

*[Signature]*  
AUDITOR OF TIPPECANOE CO. IN

**CORPORATE WARRANTY DEED**

THIS INDENTURE WITNESSETH THAT:

FAIRFIELD BUILDERS SUPPLY CORP., an Indiana corporation (hereinafter referred to as "GRANTOR"), CONVEYS AND WARRANTS TO TIPPECANOE COUNTY ENVIRONMENTAL RESPONSE FINANCING BOARD (hereinafter referred to as "GRANTEE"), for and in consideration of Ten Dollars (\$10.00), and other good and sufficient consideration, receipt of which is hereby acknowledged, the following described real estate, located in Tippecanoe County, Indiana:

A strip of land 40 feet wide in part of Section 10, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Beginning at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence along the North Line of said Reserve South 88°59'25" West 443.72 feet to its intersection with the line between Sections 9 and 10; thence North 01°00'35" West along said section line 40.00 feet; thence North 88°59'25" East parallel with said North Line 473.74 feet; thence South 0°58'31" East 40.02 feet to the North Line of said Reserve; thence South 89°01'29" West along said North Line 30.00 feet to the Point of Beginning, containing 0.435 acres, more or less.

ALSO,

A strip of land 30 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Beginning at the Northeast corner of the West Half of Longlois Reserve, said corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence North 89°01'29" East 30.00 feet; thence South 0°58'31" East parallel with the east line of said Gilmore property 600.00 feet; thence South 89°01'29" West 30.00 feet to said east line; thence North 0°58'31" West along said east line 600.00 feet to the Point of Beginning, containing 0.413 acres, more or less.

ALSO,

A strip of land 40 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said Corner also being the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence along said Gilmore property the following two courses:

1. South 0°58'31" East 1501.50 feet;
2. South 88°59'26" West 1000.00 feet to the Point of Beginning of the herein-described strip;

thence South 01°00'34" East perpendicular to the south line of said Gilmore property 40.00 feet; thence South 88°59'26" West parallel with said south line 500.00 feet; thence North 01°00'34" West perpendicular to said south line 40.00 feet to the south line of said Gilmore property; thence North 88°59'26" East along said South line 500.00 feet to the Point of Beginning, containing 0.459 acres, more or less.

ALSO,

A strip of land 10 and 20 feet wide in part of Section 10, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office, said corner being the Northeast Corner of the West Half of Longlois Reserve; thence North 89°01'29" East 30.00 feet to the Point of Beginning of the herein-described strip; thence North 0°58'31" West 40.02 feet; thence South 88°59'25" West parallel with the North Line of said Reserve 473.74 feet to the line between Sections 9 and 10; thence North 01°00'35" West along said section line 10.00 feet; thence North 88°59'25" East parallel with said North Line 493.75 feet; thence South 0°58'31" East 50.03 feet to the North Line of said Reserve; thence South 89°01'29" West along said North Line 20.00 feet to the Point of Beginning, containing 0.132 acres, more or less.

ALSO,

A strip of land 20 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence North 89°01'29" East 30.00 feet to the Point of Beginning of the herein-described strip; thence continuing North 89°01'29" East 20.00 feet; thence South 0°58'31" East parallel with the east line of said Gilmore property 600.00 feet; thence South 89°01'29" West 20.00 feet; thence North 0°58'31" West parallel with said east line 600.00 feet to the Point of Beginning, containing 0.275 acres, more or less.

ALSO

A strip of land 10 feet wide in Part of Longlois Reserve, Fairfield Township, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Northeast Corner of the West Half of Longlois Reserve, said Corner being also the northeast corner of property conveyed to John D. and Linda S. Gilmore in Document Number 82-1868 as recorded in the Tippecanoe County Recorder's Office; thence along said Gilmore property the following two courses:

1. South 0°58'31" East 1501.50 feet;
2. South 88°59'26" West 1000.00 feet;

thence South 01°00'34" East perpendicular to the south line of said Gilmore property 40.00 feet to the Point of Beginning of the herein-described strip; thence continuing South 01°00'34" East 10.00 feet; thence South 88°59'26" West parallel with said south line 500.00 feet; thence North 01°00'34" West perpendicular to said south line 10.00 feet; thence North 88°59'26" East parallel with said south line 500.00 feet to the Point of Beginning, containing 0.115 acres, more or less.

(hereinafter collectively referred to as "Transferred Tract").

Subject to any and all easements, agreements and restrictions of record.

Subject to all real estate taxes due and payable and all subsequent taxes.

The following statement is for clarification only and is not intended by Grantors as a deed restriction:

This conveyance of the Transferred Tract is a transfer of a tract between adjoining lots pursuant to Exemption "E" of the definition of "Subdivision" as found in Section 2.2 of the Unified Subdivision Ordinance of Tippecanoe County. This conveyance involves the transfer of the Transfer Tract from an existing lot (Key Nos. 106-04700-

0500, 106-06300-0010 and 106-06400-0097; recorded in Document Nos. 89-12883 and 89-12884; hereinafter referred to as "Lot A") to a separate but adjoining tract (Key No. 106-06400-0047; recorded in Document No. 00009113 + 00009114 ), more particularly described as follows:

PARCEL I

A part of the reservation of the two elder children of Peter Longlois, in Township Twenty-three (23) North, Range Four (4) West, and described as follows: Beginning at a stone in the north line of said Reservation placed equi-distant from the North East and North West corners of said Reservation; thence running South on the line dividing the shares of Peter Longlois and Elizabeth Allen, ninety-one (91) poles; thence west two hundred and twenty-seven & 60/100 (227.60) poles, to the West line of said Reservation; thence North with said West line thirty & 92/100 (30.92) poles to Justice's corner; thence East, with Justice's line, seventy-two & 56/100 (72.56) poles, to the center of road leading from Lafayette to Davis Ferry; thence with said road North 10 ½ degrees East, nineteen & 28/100 (19.28) poles; thence North 18 degrees East, forty-three & 12/100 (43.12) poles, to the north line of said Reservation; thence East with said North line, one hundred and thirty-eight & 20/100 (138.20) poles, to the place of beginning, containing one hundred (100) acres, more or less.

EXCEPT the right of way of the C.I. & L. Railroad and except a school lot conveyed to the Trustee of Fairfield Township by deed executed February 17, 1862, and recorded in Deed Record 172, Page 186.

ALSO EXCEPT fourteen (14) acres heretofore sold to Herman Bilsma and wife, lying west of said railroad as recorded in Deed Record 122, Page 145.

EXCEPTING ALSO the tract heretofore conveyed to the Union Sandstone Brick Company which deed is recorded in Deed Record 120, Page 461.

EXCEPTING ALSO: Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville

Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

PARCEL II

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range Four (4) West, described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

EXCEPTING a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet

from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

(hereinafter referred to as "Lot B").

The Transferred Tract and Lot B are to be included in Auditor's Key No. 106-06400-0042. This conveyance is being made with the understanding that the Transferred Tract is to attach to Lot B and is to create no additional building site. However, the existing principal use building site of Tract A with Key No. 106-04600-0049 is to be located on the acreage of that tract that remains after said conveyance.

Grantor certifies that there is no Indiana Gross Income Tax due by virtue of this transaction.

The undersigned person executing this Deed represents and certifies on behalf of the Grantor that the undersigned is a duly elected officer of the Grantor, and has been fully empowered by proper Resolution, or the By-Laws of the Grantor to execute and deliver this Deed; that the Grantor is a corporation in existence and in good standing in the State of its origin, and, where required, in the State where the subject real estate is situated; that Grantor has filed all corporate annual reports with the Secretary of State in the state of its origin, and, where required, in the State where the subject real estate is situated; that the Grantor has full corporate capacity to convey the real estate described; and that all necessary corporate action for the making of this conveyance has been duly taken.

IN WITNESS WHEREOF, the above-named Grantor, FAIRFIELD BUILDERS  
SUPPLY CORP., an Indiana corporation, has caused this Corporate Warranty Deed to be executed  
by its duly authorized officers and its corporate seal to be affixed, this 3<sup>rd</sup> day of October, 2000.

FAIRFIELD BUILDERS SUPPLY CORP.


By: John O. Coffin, Pres.  
JOHN O. COFFIN, PRES.  
Its: President  
PRESIDENT

ACKNOWLEDGMENT

STATE OF INDIANA )  
 ) SS:  
TIPPECANOE COUNTY )

Before me, the undersigned, a Notary Public in and for said County and State, this 3<sup>rd</sup> day of October, 2000, personally appeared the within named FAIRFIELD BUILDERS SUPPLY CORP., by John O. Coffin, its PRESIDENT, and acknowledged execution of the foregoing Corporate Warranty Deed and swore to the truth of the matters contained therein.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

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

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

County of Residence: \_\_\_\_\_



BECKY MAURER  
Resident of: Montgomery County, IN  
Commission Expires April 26, 2001

This Instrument was Prepared By: Marianne Mitten Owen, Esquire, of the firm of Stuart & Branigin, The Life Building, 300 Main Street, Suite 800, Lafayette, Indiana 47901. Telephone: (765) 423-1561; Facsimile: (765) 742-8175; E-Mail: mmo@stuartlaw.com

Mail Tax Statements To:

Tippecanoe County Environmental Response Financing Board  
c/o Tippecanoe County Auditor  
Tippecanoe County Office Building  
20 North Third Street  
Lafayette, IN 47901

241795.1



AMERICAN LAND TITLE ASSOCIATION  
OWNER'S POLICY  
(10-17-92)

Policy No. 72106- 793319

CHICAGO TITLE INSURANCE COMPANY

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, CHICAGO TITLE INSURANCE COMPANY, a Missouri corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

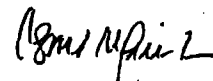
1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
2. Any defect in or lien or encumbrance on the title;
3. Unmarketability of the title;
4. Lack of a right of access to and from the land.

The Company will also pay the costs, attorneys' fees and expenses incurred in defense of the title, as insured, but only to the extent provided in the Conditions and Stipulations.

*In Witness Whereof*, CHICAGO TITLE INSURANCE COMPANY has caused this policy to be signed and sealed as of Date of Policy shown in Schedule A, the policy to become valid when countersigned by an authorized signatory.

CHICAGO TITLE INSURANCE COMPANY

By:



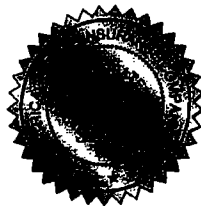
President

By:

ATTEST



Secretary



## EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (i) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
  - (ii) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (a) to timely record the instrument of transfer; or
    - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

**ENDORSEMENT**

RE: Tippecanoe County Local Environmental Response Financing Board

FILE NO.: 200002115

Attached to and a part of Owner's Policy 72106-793319

Issued by

**CHICAGO TITLE INSURANCE COMPANY**

**Effective Date is hereby amended to read as follows:**

May 2, 2005, at 8:00AM

**Schedule A is hereby amended to include the following:**

**Parcel III:**

A non-exclusive grant of easement as set forth in that certain Easement Agreement dated October 2, 2001, recorded January 9, 2002, as Document Number 020009956, by and between Dorothy E. Rafferty, Clark William Rafferty and Emily Sue Miller., as owners; and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

**Parcel IV:**

A non-exclusive grant of easement as set forth in that certain Easement Agreement dated September 17, 2001, recorded January 9, 2002, as Document Number 02000996, by and between Fairfield Builders Supply Corp., as owner; and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

**Parcel V:**

A non-exclusive grant of easement as set forth in that certain Easement Agreement dated December 18, 2001, recorded January 9, 2002, as Document Number 02000997, by and between The Trustees of Purdue University, as owner; and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

**PARCEL VI:**

A non-exclusive grant of easement as set forth in that certain Easement Agreement (Monitoring Well No. 11) dated December 18, 2001, recorded January 9, 2002, as Document Number 02000998, re-recorded January 17, 2002, as Document Number 02001967, by and between The Board of Commissioners of Tippecanoe County, as Owner; and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

**PARCEL VII:**

A non-exclusive grant of easement as set forth in that certain Easement Agreement (Monitoring Well No. 24) dated December 18, 2001, recorded January 9, 2002, as Document Number 02000999, re-recorded January 17, 2002, as Document Number 02001968, by and between The Board of Commissioners of Tippecanoe County, as Owner; and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

**PARCEL VIII:**

A non-exclusive grant of easement as set forth in that certain Easement Agreement (Monitoring Well No. 23) dated December 18, 2001, recorded January 9, 2002, as Document Number 02001000, re-recorded January 17, 2002, as Document Number 02001969, by and between The Board of Commissioners of Tippecanoe County, as Owner' and Tippecanoe County Local Environmental Response Finance Board, as TERF Board. (See attached copy.)

**Schedule B, Item 6, is hereby amended to read as follows:**

6 Taxes for the year 2004, due and payable May and November 2005, and all subsequent taxes, not yet due and payable. (NOTE: At effective date, subject property was not assessed for taxation.)

**Schedule B is hereby amended to include the following:**

15. Terms and provisions of grants of easement set forth in Schedule A as Parcels III, IV, V, VI, VII, and VIII.

(END OF ENDORSEMENT)

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

Signed this 9th day of May, 2005

Prepared by: llc

Countersigned: STALLARD & SCHUH, INC.  
301 Columbia Street  
Lafayette, IN 47901

By: Linda L. Copas  
Linda L. Copas  
Authorized Signatory

## Chicago Title Insurance Company

### OWNER'S POLICY

#### SCHEDULE A

<b>File Number:</b>	<b>Date of Policy:</b>	<b>Amount of Insurance:</b>	<b>Policy Number:</b>
200002115	May 2, 2000	\$100,000.00	O106793319

1. Name of Insured:  
**Tippecanoe County Local Environmental Response Financing Board**
2. The estate or interest referred to herein is at Date of Policy vested in:  
**Tippecanoe County Local Environmental Response Financing Board**
3. The estate or interest in the land described in this Schedule and which is encumbered by the insured mortgage is:  
**Fee simple**
4. The land referred to in this policy is situated in the County of **Tippecanoe**, State of **Indiana**, and is described as follows:

**SEE ATTACHED EXHIBIT A**

Countersigned: **Stallard & Schuh, Inc**  
301 Columbia  
Lafayette, IN 47901  
(765) 423-1642

By: *Linda L. Copas*  
**Linda L. Copas**  
Authorized Officer or Agent

ALTA Owner's Policy 1987 (Amended 10/17/92)

This Policy is invalid unless the cover sheet and Schedules A and B are attached.

## Chicago Title Insurance Company

### OWNER'S POLICY

~ Continuation ~

#### EXHIBIT A

##### PARCEL I

A part of the reservation of the two elder children of Peter Longlois, in Township Twenty-three (23) North, Range Four (4) West, and described as follows: Beginning at a stone in the north line of said Reservation placed equi-distant from the North East and North West corners of said Reservation; thence running South on the line dividing the shares of Peter Longlois and Elizabeth Allen, ninety-one (91) poles; thence west two hundred and twenty-seven & 60/100 (227.60) poles, to the West line of said Reservation; thence North with said West line thirty & 92/100 (30.92) poles to Justice's corner; thence East, with Justice's line, seventy-two & 56/100 (72.56) poles, to the center of road leading from Lafayette to Davis Ferry; thence with said road North 10 ½ degrees East, nineteen & 28/100 (19.28) poles; thence North 18 degrees East, forty-three & 12/100 (43.12) poles, to the north line of said Reservation; thence East with said North line, one hundred and thirty-eight & 20/100 (138.20) poles, to the place of beginning, containing one hundred (100) acres, more or less.

EXCEPT the right of way of the C.I.& L. Railroad and except a school lot conveyed to the Trustee of Fairfield Township by deed executed February 17, 1862, and recorded in Deed Record 172, Page 186.

ALSO EXCEPT fourteen (14) acres heretofore sold to Herman Bilisma and wife, lying west of said railroad as recorded in Deed Record 122, Page 145.

EXCEPTING ALSO the tract heretofore conveyed to the Union Sandstone Brick Company which deed is recorded in Deed Record 120, Page 461.

EXCEPTING ALSO, beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

##### PARCEL II

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range Four (4) West, described as follows: Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from

ALTA Owner's Policy 1987 (Amended 10/17/92)

This Policy is invalid unless the cover sheet and Schedules A and B are attached.

## Chicago Title Insurance Company

### OWNER'S POLICY

~ Continuation ~

the northeastern corner of the West half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

EXCEPTING a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows: Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

ALTA Owner's Policy 1987 (Amended 10/17/92)

This Policy is invalid unless the cover sheet and Schedules A and B are attached.

## Chicago Title Insurance Company

### OWNER'S POLICY

#### SCHEDULE B

**File Number:**

200002115

**Date of Policy:**

May 2, 2000

**Policy Number:**

O106793319

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Rights or claims of parties in possession not shown by the public records.
2. Any encroachments, easements, overlaps, boundary line disputes, or other matters, which would be disclosed by an accurate survey or inspection of the premises.
3. Easements, liens, or encumbrances or claims thereof, not shown by the public records.
4. Any lien, or right to a lien, for services, labor, or materials heretofore or hereafter furnished, imposed by law and now shown by the public records.
5. Taxes or special assessments, which are not shown as existing liens by public records.
6. Taxes for the year 2000, due and payable May and November 2001, and all subsequent taxes, not yet due and payable.
7. The acreage indicated in the legal description is for the sole purpose of identifying the said tract and should not be construed as insuring the quantity of land.
8. Rights of way for drainage tiles, ditches, laterals, and feeders, if any.
9. Rights of the Public, the State of Indiana, and County of Tippecanoe, and the municipality in and to that part of the premises taken or used for road purposes.
10. Right of Way for the railroad (CSX Transportation, Inc.)
11. Easement in favor of General Telephone Co. of Indiana dated July 21, 1952, recorded July 28, 1952, Deed Record 232, Page 505.
12. Real Estate Lease dated January 16, 1976, recorded May 29, 1987, Document Number 87-08210 by and between Archie E. Gilmore, Lessor and Tippecanoe Sanitary Landfill, Inc., an Indiana

ALTA Owner's Policy 1987 (Amended 10/17/92)

This Policy is invalid unless the cover sheet and Schedules A and B are attached.



## Chicago Title Insurance Company

### OWNER'S POLICY

~ Continuation ~

Corporation, Lessee.

13. Terms and provisions of Notice of Entry of Consent Decree and Declaration of Restrictions and Covenants dated November 2, 1998, recorded November 6, 1998, Document Number 9830064, by John D. and Linda S. Gilmore, Owners.
14. Easement for the construction and maintenance of utilities service dated May 10, 1990, recorded May 16, 1990, Document Number 90-06405, John D. Gilmore and Linda S. Gilmore, Grantors and City of Lafayette, Indiana, Grantee.

ALTA Owner's Policy 1987 (Amended 10/17/92)

This Policy is invalid unless the cover sheet and Schedules A and B are attached.

## Chicago Title Insurance Company

### OWNER'S POLICY

**File Number:**

200002115

**Date of Policy:**

May 2, 2000

**Policy Number:**

O106793319

#### NOTICE TO POLICYHOLDERS

We are here to serve you...

As our policyholder, your satisfaction is very important to us. If you have a question about your policy, need assistance with a problem, or have a claim, you should first contact your insurance agent, Stallard & Schuh, Inc., at (765) 423-1642. You may also contact your Underwriter as shown on the Owners' Policy Cover at Item 17. Should you have a valid claim, we fully expect to provide a fair settlement in a timely fashion

Should you feel you are not being treated fairly with respect to a claim, you may contact the Indiana Department of Insurance with an

Public Information / Market Conduct  
Indiana Department of Insurance  
311 West Washington Street, Suite 300  
Indianapolis, IN 46204- 2787  
Phone (317) 232 - 2395 or 800-722-4461

ALTA Owner's Policy 1987 (Amended 10/17/92)

This Policy is invalid unless the cover sheet and Schedules A and B are attached.

## CONDITIONS AND STIPULATIONS

### 1. DEFINITION OF TERMS

The following terms when used in this policy mean:

(a) "insured": the insured named in Schedule A, and, subject to any rights or defenses the Company would have had against the named insured, those who succeed to the interest of the named insured by operation of law as distinguished from purchase including, but not limited to, heirs, distributees, devisees, survivors, personal representatives, next of kin, or corporate or fiduciary successors.

(b) "insured claimant": an insured claiming loss or damage.

(c) "knowledge" or "known": actual knowledge, not constructive knowledge or notice which may be imputed to an insured by reason of the public records as defined in this policy or any other records which impart constructive notice of matters affecting the land.

(d) "land": the land described or referred to in Schedule A, and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule A, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but nothing herein shall modify or limit the extent to which a right of access to and from the land is insured by this policy.

(e) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.

(f) "public records": records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge. With respect to Section 1(a)(iv) of the Exclusions From Coverage, "public records" shall also include environmental protection liens filed in the records of the clerk of the United States district court for the district in which the land is located.

(g) "unmarketability of the title": an alleged or apparent matter affecting the title to the land, not excluded or excepted from coverage, which would entitle a purchaser of the estate or interest described in Schedule A to be released from the obligation to purchase by virtue of a contractual condition requiring the delivery of marketable title.

### 2. CONTINUATION OF INSURANCE AFTER CONVEYANCE OF TITLE

The coverage of this policy shall continue in force as of Date of Policy in favor of an insured only so long as the insured retains an estate or interest in the land, or holds an indebtedness secured by a purchase money mortgage given by a purchaser from the insured, or only so long as the insured shall have liability by reason of covenants of warranty made by the insured in any transfer or conveyance of the estate or interest. This policy shall not continue in force in favor of any purchaser from the insured of either (i) an estate or interest in the land, or (ii) an indebtedness secured by a purchase money mortgage given to the insured.

### 3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 4(a) below, (ii) in case knowledge shall come to an insured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as insured, and which might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if title to the estate or interest, as insured, is rejected as unmarketable. If prompt notice shall not be given to the Company, then as to the insured all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any insured under this policy unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

### 4. DEFENSE AND PROSECUTION OF ACTIONS; DUTY OF INSURED CLAIMANT TO COOPERATE

(a) Upon written request by the insured and subject to the options contained in Section 6 of these Conditions and Stipulations, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an insured in litigation in which any third party asserts a claim adverse to the title or interest as insured, but only as to those stated causes of action alleging a defect, lien or encumbrance or other matter insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the insured to object for reasonable cause) to represent the insured as to those stated causes of action and shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs or expenses incurred by the insured in the defense of those causes of action which allege matters not insured against by this policy.

(b) The Company shall have the right, at its own cost, to institute and prosecute any action or proceeding or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest, as insured, or to prevent or reduce loss or damage to the insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this policy. If the Company shall exercise its rights under this paragraph, it shall do so diligently.

(c) Whenever the Company shall have brought an action or interposed a defense as required or permitted by the provisions of this policy, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

(d) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding, the insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of the insured for this purpose. Whenever requested by the Company, the insured, at the Company's expense, shall give the Company all reasonable aid (i) in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest as insured. If the Company is prejudiced by the failure of the insured to furnish the required cooperation, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

### 5. PROOF OF LOSS OR DAMAGE

In addition to and after the notices required under Section 3 of these Conditions and Stipulations have been provided the Company, a proof of loss or damage signed and sworn to by the insured claimant shall be furnished to the Company within 90 days after the insured claimant shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the defect in, or lien or encumbrance on the title, or other matter insured against by this policy which constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the insured claimant to provide the required proof of loss or damage, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such proof of loss or damage.

In addition, the insured claimant may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Policy, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the insured claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the insured claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the insured claimant to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in this paragraph shall terminate any liability of the Company under this policy as to that claim.

### 6. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY

In case of a claim under this policy, the Company shall have the following additional options:

#### (a) To Pay or Tender Payment of the Amount of Insurance.

To pay or tender payment of the amount of insurance under this policy together with any costs, attorneys' fees and expenses incurred by the insured claimant, which were authorized by the Company, up to the time of payment or tender of payment and which the Company is obligated to pay.

Upon the exercise by the Company of this option, all liability and obligations to the insured under this policy, other than to make the payment required, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, and the policy shall be surrendered to the Company for cancellation.

#### (b) To Pay or Otherwise Settle With Parties Other than the Insured or With the Insured Claimant.

(i) to pay or otherwise settle with other parties for or in the name of an insured claimant any claim insured against under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay; or

(ii) to pay or otherwise settle with the insured claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in paragraphs (b)(i) or (ii), the Company's obligations to the insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute or continue any litigation.

## 7. DETERMINATION, EXTENT OF LIABILITY AND COINSURANCE

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the insured claimant who has suffered loss or damage by reason of matters insured against by this policy and only to the extent herein described.

(a) The liability of the Company under this policy shall not exceed the least of:

(i) the Amount of Insurance stated in Schedule A; or  
(ii) the difference between the value of the insured estate or interest as insured and the value of the insured estate or interest subject to the defect, lien or encumbrance insured against by this policy.

(b) In the event the Amount of Insurance stated in Schedule A at the Date of Policy is less than 80 percent of the value of the insured estate or interest or the full consideration paid for the land, whichever is less, or if subsequent to the Date of Policy an improvement is erected on the land which increases the value of the insured estate or interest by at least 20 percent over the Amount of Insurance stated in Schedule A, then this Policy is subject to the following:

(i) where no subsequent improvement has been made, as to any partial loss, the Company shall only pay the loss pro rata in the proportion that the amount of insurance at Date of Policy bears to the total value of the insured estate or interest at Date of Policy; or

(ii) where a subsequent improvement has been made, as to any partial loss, the Company shall only pay the loss pro rata in the proportion that 120 percent of the Amount of Insurance stated in Schedule A bears to the sum of the Amount of Insurance stated in Schedule A and the amount expended for the improvement.

The provisions of this paragraph shall not apply to costs, attorneys' fees and expenses for which the Company is liable under this policy, and shall only apply to that portion of any loss which exceeds, in the aggregate, 10 percent of the Amount of Insurance stated in Schedule A.

(c) The Company will pay only those costs, attorneys' fees and expenses incurred in accordance with Section 4 of these Conditions and Stipulations.

## 8. APPORTIONMENT

If the land described in Schedule A consists of two or more parcels which are not used as a single site, and a loss is established affecting one or more of the parcels but not all, the loss shall be computed and settled on a pro rata basis as if the amount of insurance under this policy was divided pro rata as to the value on Date of Policy of each separate parcel to the whole, exclusive of any improvements made subsequent to Date of Policy, unless a liability or value has otherwise been agreed upon as to each parcel by the Company and the insured at the time of the issuance of this policy and shown by an express statement or by an endorsement attached to this policy.

## 9. LIMITATION OF LIABILITY

(a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the land, or cures the claim of unmarketability of title, all as insured, in a reasonably diligent manner by any method including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title as insured.

(c) The Company shall not be liable for loss or damage to any insured for liability voluntarily assumed by the insured in settling any claim or suit without the prior written consent of the Company.

## 10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY

All payments under this policy, except payments made for costs, attorneys' fees and expenses, shall reduce the amount of the insurance pro tanto.

## 11. LIABILITY NONCUMULATIVE

It is expressly understood that the amount of insurance under this policy shall be reduced by any amount the Company may pay under any policy insuring a mortgage to which exception is taken in Schedule B or to which the insured has agreed, assumed, or taken subject, or which is hereafter executed by an insured and which is a charge or lien on the estate or interest described or referred to in Schedule A, and the amount so paid shall be deemed a payment under this policy to the insured owner.

## 12. PAYMENT OF LOSS

(a) No payment shall be made without producing this policy for endorsement of the payment unless this policy has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company

(b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within 30 days thereafter.

## 13. SUBROGATION UPON PAYMENT OR SETTLEMENT

### (a) The Company's Right of Subrogation.

Whenever the Company shall have settled and paid a claim under this policy, all right of subrogation shall vest in the Company unaffected by any act of the insured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the insured claimant would have had against any person or property in respect to the claim had this policy not been issued. If requested by the Company, the insured claimant shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The insured claimant shall permit the Company to sue, compromise or settle in the name of the insured claimant and to use the name of the insured claimant in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the insured claimant, the Company shall be subrogated to these rights and remedies in the proportion which the Company's payment bears to the whole amount of the loss.

If loss should result from any act of the insured claimant, as stated above, that act shall not void this policy, but the Company, in that event, shall be required to pay only that part of any losses insured against by this policy which shall exceed the amount, if any, lost to the Company by reason of the impairment by the insured claimant of the Company's right of subrogation.

### (b) The Company's Rights Against Non-insured Obligors.

The Company's right of subrogation against non-insured obligors shall exist and shall include, without limitation, the rights of the insured to indemnities, guaranties, other policies of insurance or bonds, notwithstanding any terms or conditions contained in those instruments which provide for subrogation rights by reason of this policy.

## 14. ARBITRATION

Unless prohibited by applicable law, either the Company or the insured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the insured arising out of or relating to this policy, any service of the Company in connection with its issuance or the breach of a policy provision or other obligation. All arbitrable matters when the Amount of Insurance is \$1,000,000 or less shall be arbitrated at the option of either the Company or the insured. All arbitrable matters when the Amount of Insurance is in excess of \$1,000,000 shall be arbitrated only when agreed to by both the Company and the insured. Arbitration pursuant to this policy and under the Rules in effect on the date the demand for arbitration is made or, at the option of the insured, the Rules in effect at Date of Policy shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permit a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

A copy of the Rules may be obtained from the Company upon request.

## 15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT

(a) This policy together with all endorsements, if any, attached hereto by the Company is the entire policy and contract between the insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage, whether or not based on negligence, and which arises out of the status of the title to the estate or interest covered hereby or by any action asserting such claim, shall be restricted to this policy.

(c) No amendment of or endorsement to this policy can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

## 16. SEVERABILITY

In the event any provision of the policy is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision and all other provisions shall remain in full force and effect.

## 17. NOTICES, WHERE SENT

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this policy and shall be addressed to the Company at the issuing office or to:

Chicago Title Insurance Company  
Claims Department  
171 North Clark Street  
Chicago, Illinois 60601-3294

CERTIFICATE OF REPRESENTATION, WARRANTIES, AND COVENANTS

TIPPECANOE COUNTY LOCAL ENVIRONMENTAL RESPONSE FINANCING BOARD (the "TERF Board"), a body corporate created and existing under the laws of the State of Indiana, hereby confirms, warrants, and/or certifies to the STATE OF INDIANA, THROUGH ITS DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, that:

(a) On May 1, 2000, John D. Gilmore and Linda S. Gilmore, husband and wife, conveyed to the TERF Board the title to certain real estate commonly known as the Tippecanoe County Landfill (the "Real Estate"), by Warranty Deed that was recorded in the Office of the Recorder of Tippecanoe County, Indiana, on May 1, 2000, as Instrument No. 00009113 (a copy of which is attached hereto as EXHIBIT A, and made a part hereof by this reference),

(b) To the best of its knowledge, without investigation, the TERF Board's title to the Real Estate is insured pursuant to Chicago Title Insurance Company Owner's Policy 72106-793319, dated May 2, 2005, countersigned by Stallard & Schuh, Inc., by Linda L. Copas, authorized signatory, on May 9, 2005;

(c) To the best of its knowledge, without further investigation, the Real Estate is subject to the terms and provisions of Notice of Entry of Consent Decree and Declaration of Restrictions and Covenants Upon Real Estate ("Declaration"), dated November 2, 1998, made by John D. Gilmore and Linda S. Gilmore, pertaining to the Real Estate, recorded in the Office of the Recorder of Tippecanoe County, Indiana, on November 6, 1998, as Instrument No. 9830064; and

(d) To the best of its knowledge, without further investigation, and in reliance on Certification made by Keramida Environmental, Inc., dated April 20, 2010, that as of the

date of this Certificate, the Real Estate is in compliance with the restrictions and covenants of the Declaration.


TERF Board's certification of representations and warranties contained herein shall remain in full force and effect for the maximum period provided by law, and be binding upon and enforceable upon the TERF Board, and its successors and assigns.

DATED this 20<sup>th</sup> day of April, 2010.

TERF BOARD:


TIPPECANOE COUNTY LOCAL  
ENVIRONMENTAL RESPONSE FINANCE  
BOARD

By:

  
\_\_\_\_\_  
John Knochel, Chairman

ATTEST:

By:

  
\_\_\_\_\_  
John Dennis, Secretary

00009113 05/01/2000 04:10pm BK: PG: 1  
PAM BERGLUND, TIPPECANOE COUNTY RECORDER

Key No. 106-06400-004-2

**WARRANTY DEED**

THIS INDENTURE WITNESSETH THAT:

**JOHN D. GILMORE and LINDA S. GILMORE**, husband and wife (collectively, the "Grantor"), CONVEY AND WARRANT TO **TIPPECANOE COUNTY LOCAL ENVIRONMENTAL RESPONSE FINANCING BOARD** (the "Grantee"), for and in consideration of ten dollars (\$10.00), and other good and sufficient consideration, receipt of which is hereby acknowledged, the real estate located in Tippecanoe County, Indiana, commonly known as \_\_\_\_\_ North Ninth Street, Lafayette, Indiana, and being more particularly described as follows:

A part of the Reservation of the two eldest children of Peter Longlois in Township Twenty-three (23) North, Range Four (4) West, described as follows:

Beginning at a stone in the North line of said Reservation placed equidistant from the Northeast and Northwest corner of said Reservation; thence running South on a line dividing the share of Peter Longlois and Elizabeth Allen ninety-one (91) poles; thence West two hundred twenty seven and 60/100 (227.60) poles to the West line of said Reservation; thence North with said West line thirty and 92/100 (30.92) poles to Justice's Corner; thence East with Justice's line seventy-two and 56/100th (72.56) poles to the center of the road leading from Lafayette to Davis Ferry; thence with said Road North ten and one-half (10 1/2) degrees East nineteen and 28/100 (19.28) poles; thence North eighteen (18) degrees East forty-three and 12/100 (43.12) poles to the North line of said Reservation; thence East with said North line one hundred thirty-eight and 20/100 (138.20) poles to the place of beginning containing one hundred (100) acres, more or less.

EXCEPT the right of way of C I & L Railroad and except a school lot conveyed to the Trustee of Fairfield Township by deed executed February 17, 1862 and recorded in Deed Record 172, Page 186.

EXCEPTING ALSO, fourteen (14) acres heretofore sold to Herman Bilsma and wife lying West of said Railroad as recorded in Deed Record 122, Page 145.

EXCEPTING ALSO, the tract heretofore conveyed to the Union Sandstone Brick Company which deed is recorded in Deed Record 120, Page 461.

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER.

MAY 01 2000

*Pam Berglund*  
CLERK OF TIPPECANOE CO. IN

EXCEPTING ALSO a part of the West half of Longlois Reserve, located in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County described as follows:

Beginning at a point on the northern line of the West half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,865.30 feet from the northeastern corner of the West half of Longlois Reserve; thence South 27° 40' 00" West, 104.64 feet; thence North 75° 18' 00" West, 5.38 feet; thence South 59° 42' 00" West, 10.76 feet; thence South 14° 42' 00" West 21.75 feet; thence North 76° 17' 00" West, 116.55 feet; thence North 6° 24' 00" East, 90.32 feet to the northern line of the West half of Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West half of Longlois Reserve, 171.75 feet to the point of beginning, containing 0.36 of an acre, more or less.

EXCEPTING ALSO, beginning at a point on the northern line of the West Half of Longlois Reserve, said point being located South 89° 53' 00" West, 1,524.34 feet from the northeastern corner of the West Half of Longlois Reserve; thence South 53° 43' 30" West, 287.85 feet; thence South 47° 50' 30" West, 152.49 feet; thence South 78° 17' 30" West, 314.12 feet; thence South 47° 36' 30" West, 141.17 feet to the eastern right of way line of the Chicago, Indianapolis, and Louisville Railroad; thence traversing the eastern right of way line of Chicago, Indianapolis, and Louisville Railroad the following two courses: North 67° 48' 36" West, 25.00 feet; thence northeasterly on a curve to the right having a central angle of 6° 03' 14", a radius of 4,374.87 feet, an arc distance of 462.25 feet to the northern line of the West Half of said Longlois Reserve; thence North 89° 53' 00" East along the northern line of the West Half of said Longlois Reserve, 589.60 feet to the point of beginning, containing 3.43 acres, more or less.

The land hereby described contains seventy-six and fifty-seven hundredths (76.57) acres, more or less.

(the "Real Estate").

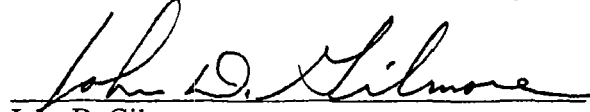
Subject to easements and restrictions of record.

Subject also to the property taxes for 1999, payable in 2000, and all subsequent taxes.

Subject also to the terms and provisions of Notice of Entry of Consent Decree and Declaration of Restrictions and Covenants, dated November 2, 1998, recorded November 6, 1998, in the Office of the Recorder of Tippecanoe County, Indiana, as Document Number 9830064, by John D. and Linda S. Gilmore, Owners.



IN WITNESS WHEREOF, the above-named Grantor has executed this Warranty Deed on this 15<sup>th</sup> day of May, 2000.

  
\_\_\_\_\_  
John D. Gilmore

  
\_\_\_\_\_  
Linda S. Gilmore

**ACKNOWLEDGMENT**

STATE OF INDIANA )  
 ) SS:  
TIPPECANOE COUNTY )

Before me, the undersigned, a Notary Public, in and for said State and County, personally appeared **JOHN D. GILMORE AND LINDA S. GILMORE**, husband and wife, and acknowledged the execution of the foregoing Warranty Deed and swore to the statements contained therein.

WITNESS my hand and seal this 1<sup>st</sup> day of May, 2000.



BECKY MAURER  
Resident of Montgomery County, IN  
Commission Expires April 26, 2001

[Signature]  
Notary Public

\_\_\_\_\_  
Printed Name

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

County of Residence:  
\_\_\_\_\_

This instrument was prepared by: Marianne Mitten Owen, Esquire, of the firm of Stuart & Branigin, The Life Building, 300 Main Street, Suite 800, Lafayette, Indiana 47902-1010. Telephone: (765) 423-1561; Facsimile: (765) 742-8175; E-mail: mmo@stuartlaw.com

Mail Tax Statements To:  
TIPPECANOE COUNTY LOCAL ENVIRONMENTAL RESPONSE FINANCING BOARD  
c/o TIPPECANOE COUNTY AUDITOR  
20 N. THIRD ST.  
LAFAYETTE, IN 47901

## **Appendix 3**

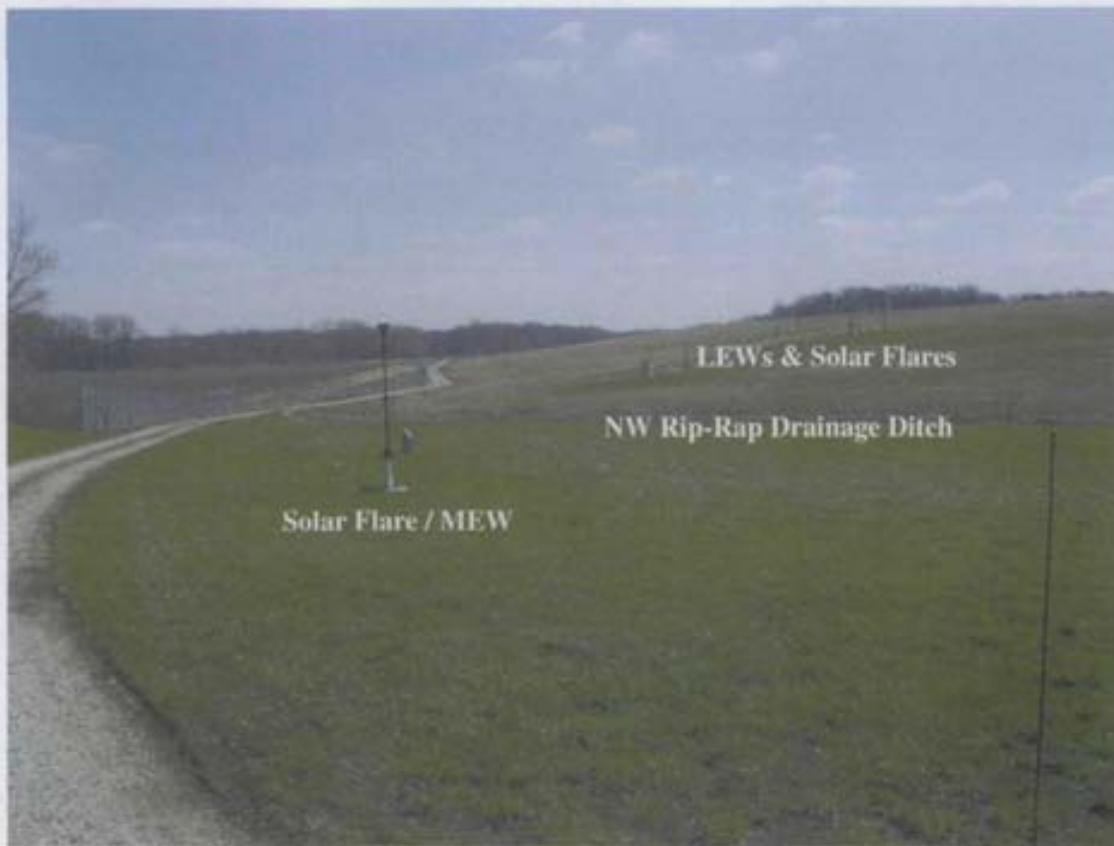
### **Photos Documenting Site Conditions**



Landfill cover with vegetation and extraction well facing south-southwest towards old stone quarry



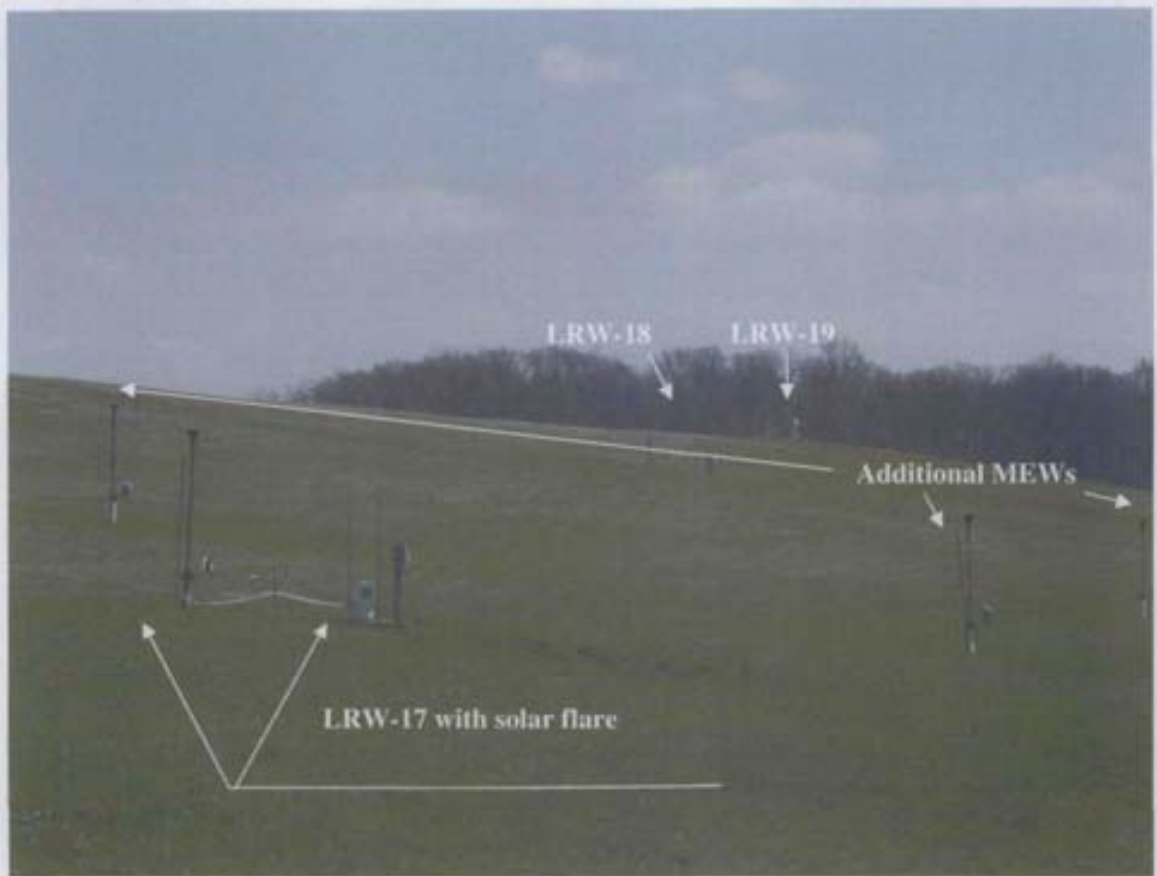
North landfill slope cover with vegetation from eastern top of landfill facing west



North landfill slope, perimeter roadway, security fence, landfill solar flare, and drainage ditches facing East



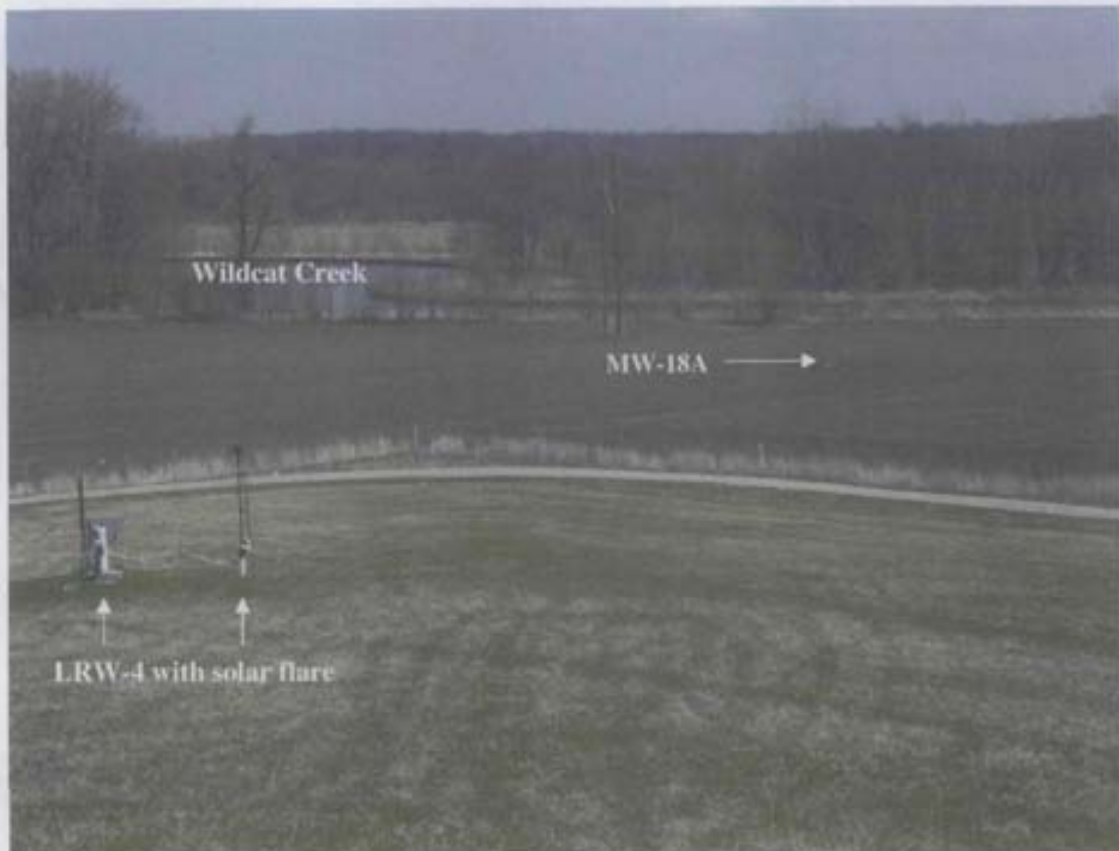
Leachate storage tanks and tanker truck loading area



LRW-17, 18, & 19 with solar flare and additional landfill gas solar vent flares (methane extraction wells) on southern landfill slope for methane control



Western landfill rip-rap drainage ditch and perimeter road facing north from southwest corner of landfill



Northeast corner of landfill showing LRW-4 with solar flare, perimeter road, MW-18A (in farm field), and Wildcat Creek in background



West perimeter road, drainage ditch, gas monitoring probes, methane extraction wells, and candlestick flare



Candlestick flare with leachate storage tanks in background



Close-up of LRW-19 and solar flare showing retrofitting with submersible pump and new piping, facing south toward Fairfield manufacturing's old stone quarry



**Appendix 4**  
**Public Notice**



## **EPA Begins Review of Tippecanoe Sanitary Landfill, Inc. Lafayette, Tippecanoe County, Indiana**

U.S. Environmental Protection Agency, in consultation with the Indiana Department of Environmental Management, is conducting a five-year review of the Tippecanoe Sanitary Landfill site. The Site is an inactive landfill that includes a wetland. The Site lies within the common floodplain of the Wabash River, which is located within 1.5 miles northwest of the site and flows to the south, and Wildcat Creek, which flows toward the north approximately 600 northeast of the landfill. The Superfund law requires regular checkups of sites that have been cleaned up - with waste managed on-site - to make sure the cleanup continues to protect people and the environment.

EPA's cleanup of the contamination at the site includes placement of a sanitary landfill cover for the waste disposal area; installation of a fence that surrounds the site; construction of a leachate extraction and treatment system; construction of a landfill gas extraction system; a contingent groundwater remediation component if either source control and natural attenuation are determined to not be reducing the down gradient groundwater contamination to acceptable levels; on-site groundwater treatment, if deemed necessary; implementation of deed restrictions including provisions for the protection of the remedial actions taken and the prohibition of wells on the site to be used for a water supply; and operation and maintenance of all remedy components. The review should be completed by the end of June 2010.

More information is available at the Tippecanoe County Public Library, 627 South Street, Lafayette, Ind. The five-year review is an opportunity for you to tell EPA about site condition and any concerns you have. You may contact:

**Janet Pope**  
Community Involvement Coordinator  
(312) 353-0628  
pope.janet@epa.gov

**Linda Kern**  
Remedial Project Manager  
(312) 886-7341  
kern.linda@epa.gov

**Kevin D. Herron**  
State Project Manager  
Indiana Department of Environmental Management  
(317) 234-0354  
kherron@idem.IN.gov

You may call EPA toll-free at 800-621-8431, 8:30 a.m. to 4:30 p.m., weekdays.

**EPA Region 5**  
77 W. Jackson Blvd.  
Chicago, IL 60604