



JANICE JESCHKE BEALL
BEAVER COUNTY RECORDER OF DEEDS
810 Third Street, Beaver, PA 15009
Phone (724) 770-4560

RECORDING COVER/CERTIFICATION PAGE



Recording:

Cover Page	0.00
Recording Fee	13.00
Writ Tax	0.50
Record Improvement Fund	5.00
Additional Pages	18.00

INSTRUMENT #: 3533698

Receipt#: 2016901379
Clerk: GMP
Rec Date: 08/09/2016 11:13:57 AM
Doc Grp: RP
Descrip: ENVIRONMENTAL COVENANT LAW
Num Pgs: 14
Rec'd Frm: SARES/CM/INDUSTRIAL
WASTE/SARES

Total: 36.50
**** NOTICE: THIS IS NOT A BILL ****

Party1: INDUSTRIAL WASTES, LLC

Record and Return To:

STEVEN SARES
INDUSTRIAL WASTES, LLC
PO BOX 10086
TOLEDO, OH 43699 (MAIL)

I hereby CERTIFY that this document is recorded in the
Recorder of Deeds Office of Beaver County, Pennsylvania



Janice Jeschke Beall
Recorder of Deeds

PLEASE DO NOT DETACH
THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

NOTE: If document data differs from cover page sheet, document data always supersedes.
*COVER PAGE MAY NOT INCLUDE ALL DATA, PLEASE SEE INDEX AND DOCUMENT
FOR ANY ADDITIONAL INFORMATION

When recorded, return to:
Industrial Wastes, LLC
P.O. Box 10086
Toledo, Ohio 43699
Attention: Mr. Steven Sares

The County Parcel Identification Nos. of the Property are:

- 58-110-0106.000 (portion of)
- 58-110-0107.000 (portion of)
- 58-110-0108.000

GRANTOR: INDUSTRIAL WASTES, LLC

PROPERTY ADDRESS: 405 North State Line Road, Darlington Township, Beaver County, Pennsylvania 16115.

ENVIRONMENTAL COVENANT

This Environmental Covenant is executed pursuant to the Pennsylvania Uniform Environmental Covenants Act, Act No. 68 of 2007, 27 Pa. C.S. §§ 6501 – 6517 (UECA). This Environmental Covenant subjects the Property identified in Paragraph 1 to the activity and/or use limitations in this document. As provided in Section 5 of UECA 27 Pa. C.S. § 6505, this Environmental covenant runs with the land. As indicated later in this document, this Environmental Covenant has been approved by the U.S. Environmental Protection Agency (EPA or Agency).

1. **Property affected.** The property affected (Property) by this Environmental Covenant is located in Darlington Township, Beaver County, Pennsylvania 16115.

The latitude and longitude of the center of the Property is:

- 40.820458 latitude
- 80.510130 longitude

The Property has been known by the following name(s): The Property is part of the facility known as the Industrial Waste, Inc. Landfill (Facility). The Facility ID# is PAD000621839.

A complete description of the Property is attached to this Environmental Covenant as Exhibit "A". A map of the Property is attached to this Environmental Covenant as Exhibit "B". The Property comprises a portion of the 493-acre Industrial Waste, Inc. Landfill located at 405 North State-Line Road, Darlington Township, Beaver County, Pennsylvania 16115 (Facility). The Property consists of closed hazardous waste

sludge landfills and related infrastructure, located on approximately 45 acres (Landfill Area) and the immediate surrounding land (215.7 acres) which includes a buffer and support areas associated with post-closure care. The areas of the Facility located outside of the Landfill Area are undeveloped and were not used for landfilling or waste disposal activities.

2. **Property Owner / Grantor / Grantee.** Industrial Wastes, LLC is the owner of the Property and the GRANTOR and GRANTEE of this Environmental Covenant.

3. **The mailing address of the owner is:**

Industrial Wastes, LLC
P.O. Box 10086
Toledo, Ohio 43699
Attention: Mr. Steven Sares

4. **Description of Contamination & Remedy.**

Background -- From approximately 1969 to 1982, Industrial Wastes, Inc. (IWI) treated and disposed of waste from steel mills, primarily spent pickle liquors, within the Landfill Area. Waste from steel mill operations was treated in a batch neutralization process and then disposed into sludge ponds constructed on top of the underclay of an abandoned Mahoning coal strip mine cut. The sludge in the sludge ponds is estimated to average 50 to 70 feet in thickness

The Facility is subject to a Consent Order and Agreement, entered January 4, 1982 and amended January 7, 1986 (Consent Order), entered into by IWI and the Pennsylvania Department of Environmental Resources (PADER), subsequently renamed and referred to hereafter as, the Pennsylvania Department of Environmental Protection (PADEP). The Consent Order requires, among other things, closure of the process area and impoundments, and post-closure care of the Landfill Area. The required post-closure activities, including monitoring of the groundwater, maintenance of landfill caps, operation and maintenance of the leachate collection and treatment system, and an acknowledgement of hazardous waste disposal in the form of a deed notification, are ongoing pursuant to the 1986 Post-Closure Plan which was approved by PADEP pursuant to the Consent Order and is enforceable thereunder.

Groundwater at the Facility is monitored quarterly for indicator parameters and metals. The monitoring well network evaluates three water bearing zones at six locations, two up-gradient locations and four down-gradient locations. Three surface water points are also sampled quarterly with one up-gradient point and two down-gradient points.

Groundwater monitoring data show elevated levels of nitrate/nitrite, cadmium and manganese. Some nitrate/nitrite and cadmium concentrations are above the applicable

maximum contaminant levels (MCLs) promulgated at 40 C.F.R Part 141 pursuant to Section 1412 of the Safe Drinking Water Act, 42 U.S.C Section 300g-1, for drinking water. Manganese does not have an MCL, however, some manganese concentrations are above the Regional Screening Level for tap water. The elevated levels for the three contaminants are sporadic and are detected in both the up-gradient and down-gradient wells in similar concentrations, indicating that the contaminants may not be related to releases from the Landfill Area.

Leachate and groundwater collected through the collection network are treated and discharged to a tributary to State Line Creek under a National Pollutant Discharge Elimination System permit, NPDES Permit No. PA0093181.

On May 5, 2015, the EPA issued its Final Decision and Response to Comments with respect to the Facility (Final Decision). The Final Remedy for the Property as set forth in the Final Decision is:

- a) continued compliance with the terms and conditions of the Consent Order and the 1986 PADEP-approved Post-Closure Plan;
- b) submission to PADEP of an annual report which describes the post-closure and remedial actions taken during the preceding year, including a summary of all operation, maintenance and monitoring activities and results required by the 1986 Post-Closure Plan; a description of any releases that occurred and remedial actions taken, and a description of actions taken at nearby private properties; and,
- c) implementation of the land and groundwater use restrictions described in Paragraph 5, below, through the filing and recordation of an Environmental Covenant pursuant to UECA.

Administrative Record -- Records pertaining to the contamination and Final Decision are located or available through the Department, 400 Waterfront Drive, Pittsburgh, PA 15222 and EPA, Region III, 1650 Arch Street, Philadelphia, PA 19103.

5. **Activity and Use Limitations.** The Property is subject to the following activity and use limitations, which the then current owner of the Property, and its tenants, agents, employees and other persons under its control shall abide by:

- a) The Property shall not be used for residential purposes;
- b) Groundwater at the Property shall not be used for any purpose, including, but not limited to, use as a potable water source, other than to conduct the maintenance and monitoring activities required by PADEP and/or EPA;
- c) No new wells will be installed on the Property unless it is demonstrated to the PADEP that such wells are necessary to perform post closure activities and PADEP provides prior written approval to install such wells;

- d) The Property shall not be used in any way that will adversely affect or interfere with the integrity and protectiveness of the multi-layered covers over the landfills and the groundwater monitoring and leachate collection system and all associated pipes and wells unless it is demonstrated to the PADEP that such use will not pose a threat to human health or the environment and PADEP provides prior written approval for such disturbances; and,
- e) All earth moving activities within the Property, including excavation, drilling and construction activities, shall be conducted in a manner such that the activity will not pose a threat to human health and the environment or adversely affect or interfere with the 1986 Post-Closure Plan. No such activities shall take place at the Property unless the PADEP provides prior written approval.

6. **Notice of Limitations in Future Conveyances.** Each instrument hereafter conveying any interest in the Property subject to this Environmental Covenant shall contain a notice of the activity and use limitations set forth in this Environmental Covenant and shall provide the recorded location of this Environmental Covenant.

7. **Compliance Reporting.** By February 15th following the date of EPA's approval of this Environmental Covenant and every year thereafter, the then current owner of the Property shall submit, to the Department and the EPA, written documentation stating whether or not the activity and use limitations in this Environmental Covenant are being abided by. In addition, within 21 calendar days after: a) written request by the Department or EPA, b) transfer of title of the Property or of any part of the Property affected by this Environmental Covenant, c) noncompliance with paragraph 5 (Activity and Use Limitations), d) an application for a permit or other approval for any building or site work that could affect contamination on any part of the Property, the then current owner shall send a report to the Department, the EPA and any Holder. The report shall state whether or not there is compliance with paragraph 5. If there is noncompliance, the report shall state the actions that shall be taken to assure compliance.

8. **Access by the Department and by the EPA.** In addition to any rights already possessed by the Department and by the EPA, this Environmental Covenant grants to the Department and to the EPA a right of reasonable access of the Property in connection with implementation or enforcement of this Environmental Covenant.

9. **Recording and Notification of Recording.** Within 30 days after the date of the EPA's approval of this Environmental Covenant, Industrial Wastes, LLC shall file this Environmental Covenant with the Recorder of Deeds for each County in which the Property is located, and send a file-stamped copy of this Environmental Covenant to the EPA and the Department within 90 days of the EPA's approval of this Environmental Covenant. Within 90 days after this Environmental Covenant has been filed with the Recorder of Deeds, Industrial Wastes, LLC also shall send a file-stamped copy to each of the following: Darlington Township and Beaver County.

10. **Termination or Modification.**

(a) This Environmental Covenant runs with the land unless terminated or modified in accordance with 27 Pa. C.S. §§ 6509 or 6510, or in accordance with this paragraph. The then current owner of the Property shall provide EPA and the Department written notice of the pendency of any proceeding that could lead to a foreclosure as referred to in 27 Pa. C.S. § 6509(a)(4), within seven calendar days of the owner's receiving notice of the pendency of such proceeding.

(c) This Environmental Covenant shall terminate upon attainment, in accordance with 35 P.S. §§ 6026.101 – 6026.908, with an unrestricted use remediation standard for the above-described contamination at the Property. EPA must provide prior written approval before such termination becomes effective.

(d) In accordance with 27 Pa. C.S. § 6510(a)(3)(i), Grantor hereby waives the right to consent to any amendment or termination of the Environmental Covenant by consent; it being intended that any amendment to or termination of this Environmental Covenant by consent in accordance with this Paragraph requires only the following signatures on the instrument amending or terminating this Environmental Covenant: (i) the Holder at the time of such amendment or termination; (ii) the then current owner of the Property and (iii) EPA.

11. **The Department.**

(a) **Notification.** The then current owner shall provide the Department written notice of:

- (1) the pendency of any proceeding that could lead to a foreclosure as referred to in 27 Pa. C.S. § 6509(a)(4), within seven calendar days of the owner's receiving notice of the pendency of such proceeding;
- (2) any judicial action referred to in 27 Pa. C.S. § 6509(a)(5), within seven calendar days of the owner's receiving notice of such judicial action;
- (3) any judicial action referred to in 27 Pa. C.S. § 6509(b), within seven calendar days of the owner's receiving notice of such judicial action; and
- (4) termination or amendment of this Environmental Covenant pursuant to 27 Pa. C.S. § 6510, within seven calendar days of the owner's becoming aware of such termination or amendment.

(b) **Enforcement.** A civil action for injunctive or other equitable relief for violating this Environmental Covenant may be maintained by the Department.

Date: June 27, 2016

INDUSTRIAL WASTES, LLC, Grantee

By: [Signature]
Name: James Pagoaga
Title: President, Industrial Wastes, LLC

STATE OF OHIO)

COUNTY OF LUCAS) SS:

** James Pagoaga*

On this 27 day of June, 2016 before me, the undersigned officer, personally appeared * [Holder, Grantee] who acknowledged himself/herself to be the person whose name is subscribed to this Environmental Covenant, and acknowledged that s/he executed same for the purposes therein contained.

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



[Signature]
Notary Public
Cheryl A. Cantor
Expires: 11-11-18

APPROVED, by the United States Environmental Protection Agency

Date: 7.25.16

By: [Signature]

Name: John A. Armstead
Title: Director, Land and Chemicals Division
EPA Region 3

COMMONWEALTH OF PENNSYLVANIA)

COUNTY OF Philadelphia) SS:

On this 25 day of July, 2016, before me, the undersigned officer, personally appeared John A. Armstead who acknowledged himself to be the Director of the Land and Chemicals Division of the United States Environmental Protection Agency, whose name is subscribed to this Environmental Covenant, and acknowledged that s/he executed same for the purposes therein contained.



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

[Signature]
Notary Public

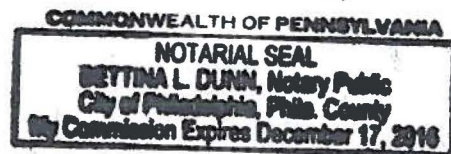


EXHIBIT A
DESCRIPTION OF PROPERTY



**DESCRIPTION OF
INDUSTRIAL WASTES, LLC, CONSERVATION EASEMENT
215.743 ACRES
TOWNSHIP OF DARLINGTON
BEAVER COUNTY, PENNSYLVANIA**

All that certain lot or parcel of land situate in the Township of Darlington, County of Beaver, Commonwealth of Pennsylvania, more particularly bounded and described as follows: Beginning at a Point of Reference, being the southwest corner of Parcel 1 of land of Industrial Wastes, LLC, per deed recorded November 27, 2007 as Document No. 3312698; thence along the westerly line of said Parcel 1, North 03°19'43" East, 2512.95' to the northwest corner thereof, for the True Point of Beginning; thence along the northerly line of said Parcel 1, South 87°19'31" East, 1371.98' to a point; thence through said Parcel 1 the following two courses, viz.; 1) South 37°39'01" East, 1203.37' to a point; 2) South 02°49'29" West, 1184.41' to a point on the northerly line of Parcel 2 of land of Industrial Wastes, LLC, per aforesaid deed recorded as Document No 3312698; thence through said Parcel 2 the following two courses, viz.; 1) South 02°49'29" West, 719.79' to a point; 2) North 87°39'09" West, 2183.09' to a point on the northerly line of the second parcel of land of Thomas W. McLaughlin, per deed recorded November 8, 2002 as Document No. 3145562; thence along said northerly line the following three courses, viz.; 1) North 38°16'05" West, 129.07' to a point; 2) South 73°13'55" West, 395.00' to a point; 3) South 30°28'55" West, 510.00' to a point on the northerly line of the first parcel of land of Thomas W. McLaughlin, per aforesaid deed recorded as Document No. 3145562; thence along said northerly line, North 85°01'05" West, 383.10' to a point on a line that is 16.50' easterly from and parallel with the centerline of North State Line Road; thence along said parallel line the following five courses; 1) North 10°16'05" West, 386.45' to a point; 2) North 15°51'20" West, 514.90' to a point; 3) North 11°01'40" East, 433.60' to a point; 4) North 03°16'40" East, 596.92' to a point; 5) North 02°13'15" East, 1002.73' to a point on the northerly line of Parcel 6 of land of Industrial Wastes, LLC, per aforesaid deed recorded as Document No. 3312698; thence along the northerly line of said Parcel 6, North 75°08'35" East, 1362.24' to the place of beginning.

Contains 9,397,752 Sq. Ft. or 215.743 Acres of land, more or less.

CIVIL & ENVIRONMENTAL CONSULTANTS, INC.

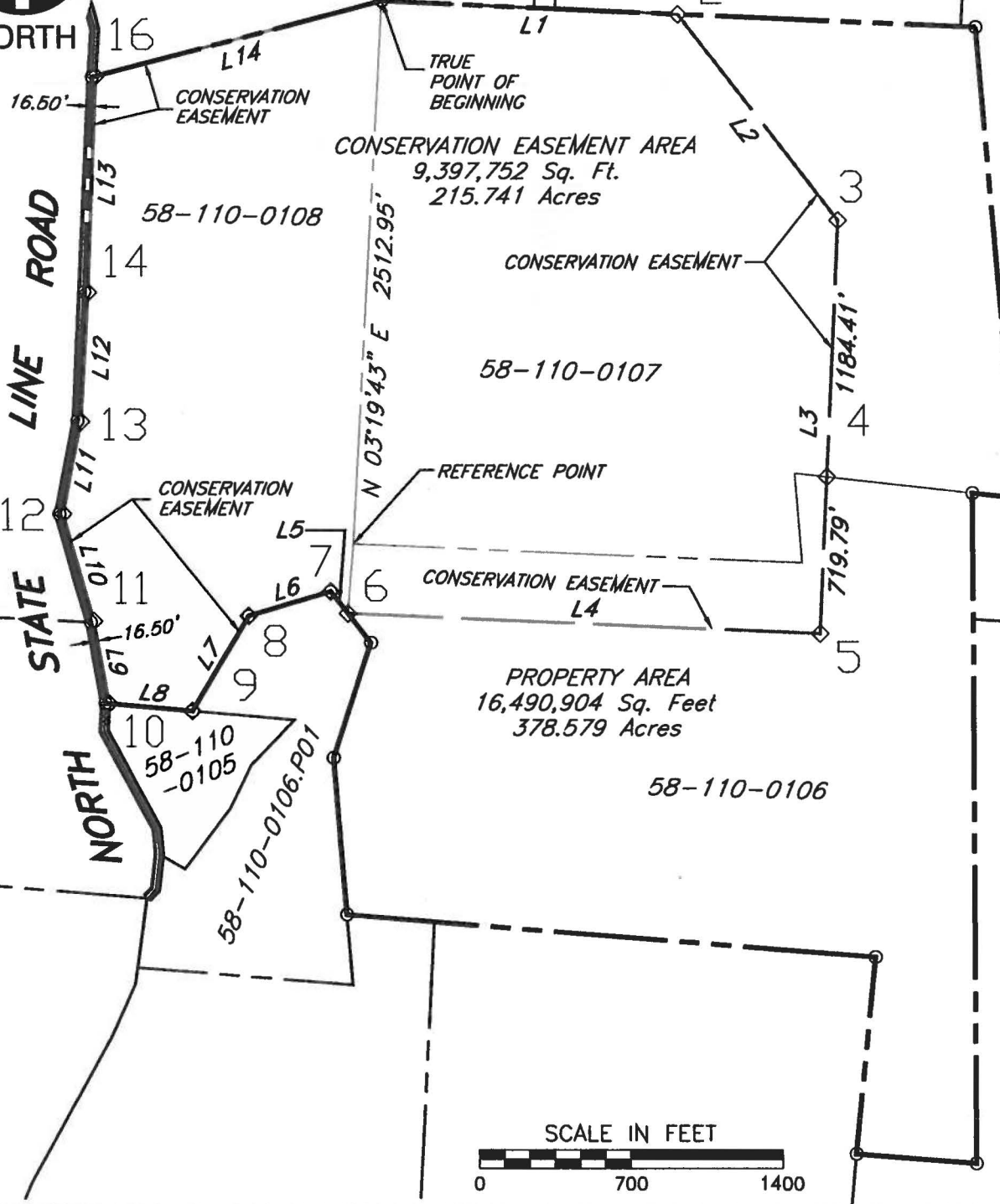
Donald G. Groesser
Professional Land Surveyor No. SU056966E

Date June 23, 2016

EXHIBIT B
MAP OF THE PROPERTY

SUBMITTAL & REVISION RECORD

NO	DATE	DESCRIPTION
1	07/13/16	PER EPA REVIEW COMMENTS



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Civil & Environmental Consultants, Inc.

333 Baldwin Road · Pittsburgh, PA 15205
 412-429-2324 · 800-365-2324
 www.cecinc.com

Industrial Waste, LLC

DARLINGTON TOWNSHIP
 BEAVER COUNTY, PENNSYLVANIA
 CONSERVATION EASEMENT EXHIBIT

DRAWN BY:	KJB	CHECKED BY:	DGG	APPROVED BY:	DGG	FIGURE NO.:
DATE:	06/22/16	DWG SCALE:	1"=700'	PROJECT NO:	161-355	1 of 3



SUBMITTAL & REVISION RECORD

NO	DATE	DESCRIPTION
1	07/13/16	PER EPA REVIEW COMMENTS

LINE	BEARING	DISTANCE
L1	S 87°19'31" E	1371.98'
L2	S 37°39'01" E	1203.37'
L3	S 02°40'29" W	1904.21'
L4	N 87°39'09" W	2183.09'
L5	N 38°16'05" W	129.07'
L6	S 73°13'55" W	395.00'
L7	S 30°28'55" W	510.00'
L8	N 85°01'05" W	383.10'
L9	N 10°16'05" W	386.45'
L10	N 15°51'20" W	514.90'
L11	N 11°01'40" E	433.60'
L12	N 03°16'40" E	596.92'
L13	N 02°13'15" E	1002.73'
L14	N 75°08'35" E	1362.24'

PARCEL 58-110-0107
 PER DOCUMENT 3312698 (PARCEL 1)
 RECORDED 11/27/2007
 MANORCARE HEALTH SERVICE, INC. TO
 INDUSTRIAL WASTES, LLC

PARCEL 58-110-0105
 PER DOCUMENT 3145562 (FIRST PARCEL)
 RECORDED 11/08/2002
 THOMAS W. MCLAUGHLIN, ET.UX. TO
 THOMAS W. MCLAUGHLIN

PARCEL 58-110-0106
 PER DOCUMENT 3312698 (PARCEL 2)
 RECORDED 11/27/2007
 MANORCARE HEALTH SERVICE, INC. TO
 INDUSTRIAL WASTES, LLC

PARCEL 58-110-0106.P01
 PER DOCUMENT 3145562 (SECOND PARCEL)
 RECORDED 11/08/2002
 THOMAS W. MCLAUGHLIN, ET.UX. TO
 THOMAS W. MCLAUGHLIN

PARCEL 58-110-0108
 PER DOCUMENT 3312698 (PARCEL 6)
 RECORDED 11/27/2007
 MANORCARE HEALTH SERVICE, INC. TO
 INDUSTRIAL WASTES, LLC



Civil & Environmental Consultants, Inc.

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Industrial Waste, LLC

DARLINGTON TOWNSHIP
 BEAVER COUNTY, PENNSYLVANIA
 CONSERVATION EASEMENT EXHIBIT

DRAWN BY:	KJB	CHECKED BY:	DGG	APPROVED BY:	DGG	FIGURE NO.:	2 of 3
DATE:	06/22/16	DWG SCALE:	1"=700'	PROJECT NO.:	161-355		

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SUBMITTAL & REVISION RECORD

NO	DATE	DESCRIPTION
△	07/13/16	PER EPA REVIEW COMMENTS

Point	STATE PLANE PA SOUTH ZONE		WGS 1984	
	Northing	Easting	Longitude	Latitude
1	554728.64	1204404.44	-80.5112692	40.8232886
2	554664.62	1205774.92	-80.5063125	40.8232304
3	553711.84	1206509.99	-80.503550	40.8206795
4	552528.72	1206454.72	-80.5036169	40.8174289
5	551809.71	1206421.13	-80.5036572	40.8154535
6	551899.13	1204239.88	-80.5115438	40.8155119
7	552000.46	1204159.94	-80.5118439	40.8157831
8	551886.51	1203781.74	-80.5131967	40.8154380
9	551446.99	1203523.03	-80.5140812	40.8142100
10	551480.26	1203141.38	-80.5154631	40.8142685
11	551860.53	1203072.49	-80.5157549	40.8153058
12	552355.84	1202931.82	-80.5163189	40.8166525
13	552781.43	1203014.76	-80.5160675	40.8178272
14	553377.37	1203048.88	-80.5160117	40.8194651
16	554379.35	1203087.74	-80.5159848	40.8222172

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Industrial Waste, LLC

DARLINGTON TOWNSHIP
 BEAVER COUNTY, PENNSYLVANIA
 CONSERVATION EASEMENT EXHIBIT

DRAWN BY:	KJB	CHECKED BY:	DGG	APPROVED BY:	DGG	FIGURE NO.:
DATE:	06/22/16	DWG SCALE:	1"=700'	PROJECT NO.:	161-355	3 of 3