

Department of Real Estate
101 County Office Bldg
542 Forbes
Pittsburgh, PA 15219

Receipt# Date Time
1735326 12/20/2010 04:00p

When recorded, return to:
Pietragallo Gordon Alfano Bosick & Raspanti, LLP
One Oxford Centre, 38th Floor
Pittsburgh, PA 15219
Attn: Timothy M. Hazel, Esq.

The County Parcel Identification No. of the Property is: 0171-M-00050-0000-00
GRANTOR: O'Hara Hospitality Park, L.P.
PROPERTY ADDRESS: 900 Freeport Road, Pittsburgh, Pennsylvania 15238,
O'Hara Township, Allegheny County

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 indicated later in this document, this Environmental Covenant has been approved by the Pennsylvania Department of Environmental Protection (Department).

1. **Property affected.** The property affected (Property) by this Environmental Covenant is located in O'Hara Township, Allegheny County.

The postal street address of the Property is: 900 Freeport Road, Pittsburgh, Pennsylvania 15238.

The latitude and longitude of the center of the Property affected by this Environmental Covenant is: Latitude 40.486389 degrees North; Longitude 79.882186 degrees West. The Property has been known by the following name(s): Portec Rail Products, Inc. facility.

The PA DEP Land Recycling Program ID is 5-2-833-2091.

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.

2. **Property Owner / GRANTOR / GRANTEE.** O'Hara Hospitality Park, L.P. is/are the owner(s) of the Property and the GRANTOR and GRANTEE of this Environmental Covenant.

3. The mailing address(es) of the owner(s) is/are: 2801 Freeport Road, Pittsburgh, PA 15238.

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

a. **Contamination.** Contamination of soil and groundwater at the Property is the result of historical industrial practices prior to the purchase of the Property

by Owner. Historically, the Property was used for manufacturing railroad maintenance equipment from approximately 1929 to 1989, when on-site manufacturing operations ceased. Historical manufacturing operations involved the use of paints, thinners, and degreasers. Wastes produced by manufacturing operations at the Property included xylene/paint liquid waste, paint sludge, phenol solutions, paint filters, and spent solvents. Investigations of potential soil contamination found no analytical results above medium-specific concentrations (MSCs). Groundwater associated with the Property has been designated as a nonuse aquifer. Although investigations of potential groundwater contamination found contamination including 1,1,1-TCA, 1,1-DCA, 1,2-DCA, 1,1-dichloroethene (DCE), and tetrachloroethene (PCE), no identified areas on-site exceed Nonuse Aquifer Nonresidential MSCs based on attainment monitoring results from 1996-1998.

b. Act 2 Administrative Record. Remediation work at the Property was initiated in 1988, prior to the effective date of the Pennsylvania Land Recycling and Environmental Remediation Standards Act (Act 2). Earth Sciences Consultants, Inc., on behalf of Portec Rail Products, Inc. submitted a Notice of Intent to Remediate (NIR) the Property to the Department on July 2, 1998. On June 25, 1998, the Notice of Intent to Remediate was published in *The Herald*. Municipal officials of O'Hara Township were notified of the NIR by certified mail on June 25, 1998. A Final Report - Statewide Health Standard was submitted to the Department in July 1998 and revised and resubmitted on November 13, 1998. On November 30, 1998, the Department approved the Final Report in accordance with Act 2 and concluded that the Final Report demonstrated attainment of the Non-Residential Statewide Health Standard for groundwater. The record of the Act 2 proceedings is located at the Department's Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222.

5. Activity & Use Limitations. The Property is subject to the following activity and use limitations, which the Owner and each subsequent owner of the Property shall abide by:

a. No person may install or use any well to withdraw groundwater at the Facility for any purposes unless and until such groundwater meets applicable Act 2 standards and written approval for such groundwater use is obtained from the Department. This restriction shall not preclude the extraction of groundwater for any necessary investigational or remedial activities approved by the Department.

b. No person may use or occupy any portion of the Facility, either temporarily or permanently, for any residential use, recreational area use, or any other residential-style facility use as defined in Section 103 of Act 2, without first obtaining the Department's 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 the end of every second January following the Department's approval of this Environmental Covenant, and within sixty days of any written request by the Department, the then current owner of the Property shall submit, to the Department, written documentation stating whether or not the activity and use limitations in this Environmental Covenant are being abided by. The Owner and each subsequent owner shall submit, to the Department, written documentation within sixty days of the transfer of the property and prior to proposed changes in use of the property, filing of applications for building permits for the property or proposals for any site work affecting the contamination on the property subject to this Environmental Covenant.

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

9. **Recording & Proof & Notification.** Within 30 days after the date of the Department's approval of this Environmental Covenant, the Owner shall file this Environmental Covenant with the Recorder of Deeds for Allegheny County, and send a file-stamped copy of this Environmental Covenant to the Department within 60 days of recording. Within that time period, the Owner also shall send a file-stamped copy to each of the following: O'Hara Township; Allegheny County; each person holding a recorded interest in the Property; and each person in possession of the Property.

10. **Termination or Modification.** This Environmental Covenant may only be terminated or modified in accordance with Section 9 of UECA, 27 Pa. C.S. § 6509.

11. **Department's address.** Communications with the Department regarding this Environmental Covenant shall be sent to:

Environmental Cleanup Program Manager
Pennsylvania Department of Environmental Protection
Southwest Regional Office
400 Waterfront Dr.
Pittsburgh, PA 15222

[Signature Page Follows]

[Remainder of Page Intentionally Left Blank]

[Signature Page to Environmental Covenant for 900 Freeport Road, Pittsburgh,
Pennsylvania 15238]

ACKNOWLEDGMENTS by Owner(s) and any Holder(s), in the following form:

O'HARA HOSPITALITY PARK, L.P.

By: KB Hospitality Management, Inc. (O'Hara), its
general partner

Date: 12/13/10

By: [Signature]
Name: JAMES W. KEATS
Title: President

APPROVED, by the Commonwealth of Pennsylvania,
Department of Environmental Protection

Date: 12/13/10

By: [Signature]
Name: David E. Clarke
Title: EPA Manager

[Acknowledgements - Environmental Covenant for 900 Freeport Road, Pittsburgh, Pennsylvania 15238]

COMMONWEALTH OF PENNSYLVANIA)
)
COUNTY OF Allegheny) SS:

On this 8th day of December, 2010, before me, the undersigned officer, personally appeared James N. Kratsa, 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.

Joy M. Noonan
Notary Public
COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Joy M. Noonan, Notary Public
Harmar Twp., Allegheny County
My Commission Expires Jan. 3, 2014
Member, Pennsylvania Association of Notaries

COMMONWEALTH OF PENNSYLVANIA)
)
COUNTY OF ALLEGHENY) SS:

On this 13th day of DECEMBER, 2010, before me, the undersigned officer, personally appeared David E. Eberle, who acknowledged himself/herself to be the Environmental Cleanup Manager of the Commonwealth of Pennsylvania, Department of Environmental Protection, Southwest Regional Office, 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.

Flora E. Wilson
Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Flora E. Wilson, Notary Public
City Of Pittsburgh, Allegheny County
My Commission Expires April 26, 2011
Member, Pennsylvania Association of Notaries

EXHIBIT A

DESCRIPTION OF PROPERTY

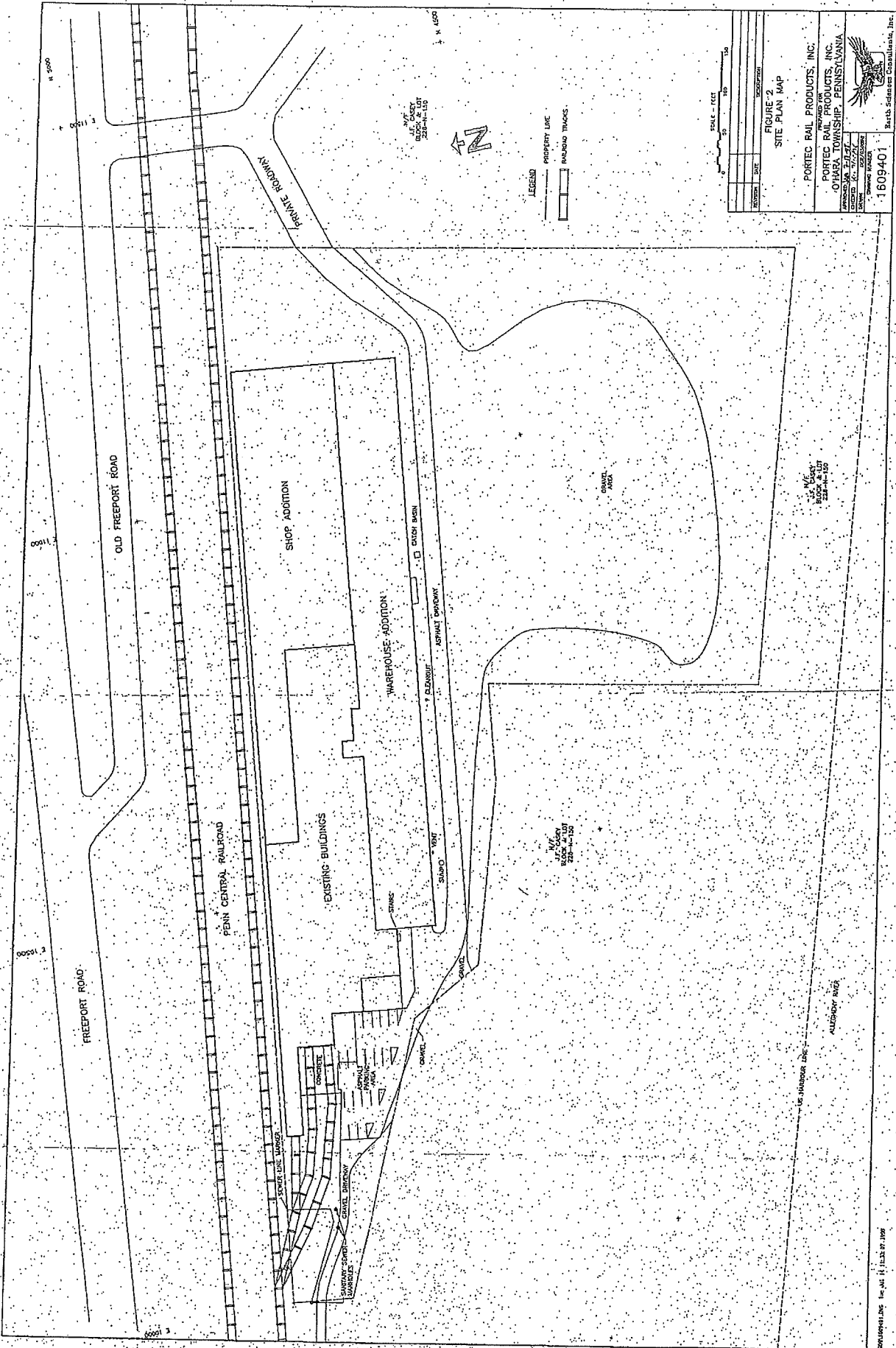
ALL that certain piece, parcel or lot of land lying and being situate in the Township of O'Hara, County of Allegheny and Commonwealth of Pennsylvania, bounded and described as follows, to-wit:

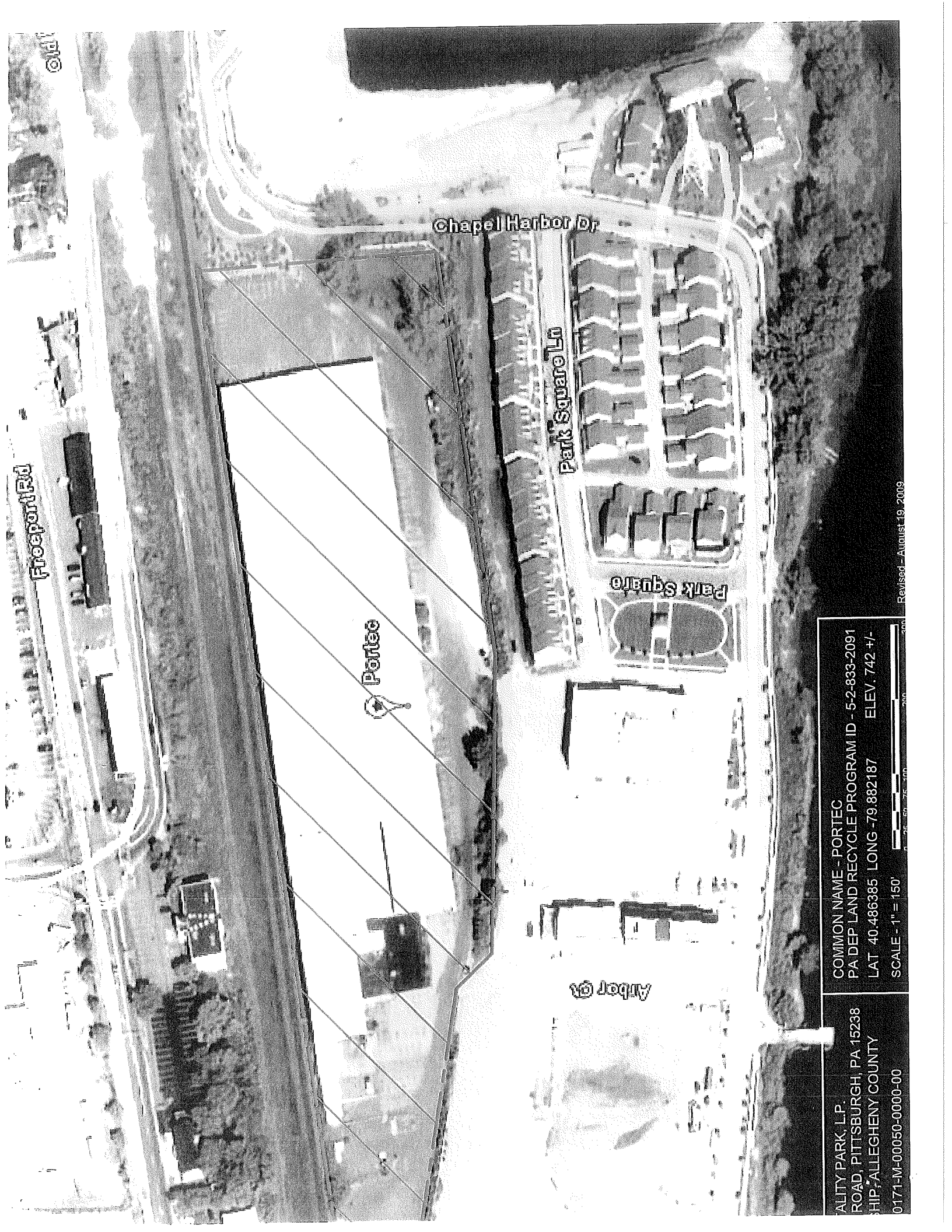
BEGINNING at a point common to the westerly side of Chapel Harbor Drive, a 50-foot wide public right of way, and the corner of Parcel H in the Revision No. 1, Chapel Harbor at the Water Plan of Lots (being a revision to the Chapel Harbor at the Water Plan of Lots, as recorded in Plan Book Volume 241, pages 37 and 38) as the same is recorded in Plan Book Volume 243, page 160 in the offices of the Allegheny County Department of Real Estate (the "Plan"); thence continuing along he said Chapel Harbor Drive North $00^{\circ} 35' 35''$ West a distance of 303.03 feet to an iron pin at the corner of the property herein described and property now or formerly of the Consolidated Rail Corporation; thence along the dividing line of property herein described and the said Consolidated Rail Corporation property South $84^{\circ} 13' 50''$ West for a distance of 1,324.06 feet to an iron pin at a corner common to the lot herein described and Parcel C of the Plan; thence continuing along the line of land of the parcel herein described and Parcel C the following courses and distances:

- (1) South $05^{\circ} 59' 22''$ East a distance of 74.34 feet;
- (2) South $78^{\circ} 41' 45''$ East a distance of 358.08 feet;
- (3) South $41^{\circ} 56' 44''$ East a distance of 100.18 feet;
- (4) South $85^{\circ} 20' 15''$ East a distance of 235.47 feet to a point along the dividing line of the property herein conveyed and Parcel B in the Plan; thence continuing along said dividing line South $84^{\circ} 07' 45''$ West a distance of 121.11 feet to the line dividing Parcel B and Parcel H in said Plan to a set concrete monument; thence continuing along the dividing line between the property herein conveyed and Parcel H North $84^{\circ} 07' 45''$ East a distance of 542.30 feet to a point, the place of beginning.

THE above described parcel is also known as Parcel I in the Revision No. 1, Chapel Harbor at the water Plan of Lots (being a revision to the Chapel Harbor at the Water Plan of Lots, as recorded in Plan Book Volume 241, pages 37 and 38) as the same is recorded in Plan Book Volume 243, page 160, as further revised by Revision No. 2 Chapel Harbor at the Water Plan of Lots, as the same is recorded at Plan Book Volume 243, page 161, in the offices of the Allegheny County Department of Real Estate.

EXHIBIT B





Chapel Harbor Dr

Park Square Ln

Park Square

Portec

Froepport Rd

COMMON NAME - PORTEC
PA DEP LAND RECYCLE PROGRAM ID - 5-2-833-2091
LAT 40.486385 LONG -79.882187 ELEV. 742 +/-

SCALE - 1" = 150'



ALITY PARK, L.P.
ROAD, PITTSBURGH, PA 15238
SHIP, ALLEGHENY COUNTY

0171-M-00050-0000-00

Revised - August 19, 2009

