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**FIRST AMENDED AND RESTATED
DECLARATION OF RESTRICTIVE COVENANT**

EGLE Reference Number: RC-OWMRP-111-20-002
USEPA ID Number: MID 005 356 886
USEPA Approval Date: April 17, 2020

This First Amended and Restated Declaration of Restrictive Covenant (First Amended Restrictive Covenant) restates in its entirety and then selectively amends the original Declaration of Restrictive Covenant recorded on November 7, 2017 at Liber 51261 pages 771 through 808 (the "2017 Restrictive Covenant"). To the extent this First Amended Restrictive Covenant conflicts with the 2017 Restrictive Covenant, the terms of this First Amended Restrictive Covenant shall govern and control.

This First Amended Restrictive Covenant is made to protect public health, safety, welfare and the environment pursuant to the provisions of Part 111, Hazardous Waste Management, Michigan Compiled Laws (MCL) 324.11101, *et seq.* (Part 111) and the applicable Sections of Part 201, Environmental Remediation, MCL 324.20101, *et seq.* (Part 201) of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended, MCL 324.101, *et seq.*, and the administrative rules promulgated pursuant to those Parts, Michigan Administrative Code (MAC) R 299.9101 *et seq.* and MAC R 299.5101 *et seq.*, and the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6901 *et seq.* (collectively, RCRA), and the Toxic Substances Control Act, 15 U.S.C. §§ 2601 *et seq.* (TSCA).

This First Amended Restrictive Covenant is made by Proastio Properties, LLC, the Grantor, who is the current fee title holder of the Property, for the benefit of the Grantee, State of Michigan, Department of Environment, Great Lakes and Energy (EGLE), whose address is 525 West Allegan Street, P.O. Box 30473, Lansing, MI 48909-7973.

This First Amended Restrictive Covenant is made to prohibit or restrict activities that could result in unacceptable exposure to environmental contamination, to prevent damage to or disturbance of any component of the constructed remedy/corrective measures, to provide notification of the presence of residual light nonaqueous phase liquid (LNAPL) and to provide notification of the presence of polychlorinated biphenyls (PCB) remediation waste at a certain parcel of real property located in Pontiac, MI 48340, Tax Parcel 63-64-14-20-276-001 (commonly known as 501 North Glenwood), legally described in Exhibit 1 and illustrated in Exhibit 2 (Property or Site). The Property is part of the former General Motors Pontiac North Campus facility, MID 005 356 886, which has undergone or is undergoing RCRA Corrective Action. The Property was formerly

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owned by Revitalizing Auto Communities Environmental Response Trust (RACER Trust). Because of the former facility's long history of industrial use, and the industrial use of the surrounding property, recording this First Amended Restrictive Covenant is designed to: 1) prohibit or restrict activity that could result in unacceptable exposures to environmental contamination potentially located on the Property; 2) assure that the use of the Property is consistent with the surrounding industrial use, TSCA low occupancy requirements and nonresidential cleanup criteria established under MCL 324.20120a(1)(b); 3) prevent (i) interference with corrective measures being implemented on the Property, and (ii) exacerbation of current environmental conditions on the Property; 4) require Owner or tenant of the Property to assess the potential for vapor intrusion or install a vapor mitigation system prior to building any new structures; and 5) require any future work or other activities on the Property by or for Owner, to be conducted in conformance with: i) applicable EGLE soil relocation requirements including but not limited to MCL 324.20120c, any related administrative rules and EGLE guidance, and RCRA; ii) applicable due care obligations under MCL 324.20107a and associated administrative rules and guidance, as well as the Hazardous Waste Operations and Emergency Response Standard (or HAZWOPER), 29 Code of Federal Regulations (CFR) Part 1910; and iii) for PCB remediation wastes, a United States Environmental Protection Agency (USEPA) approval issued under 40 CFR §761.61.

The land and resource use restrictions contained in this First Amended Restrictive Covenant are based upon information available to, and the corrective actions approved by, USEPA and EGLE at the time this document was recorded. Failure of the corrective measures to achieve and maintain the cleanup criteria, exposure controls and requirements specified in the approved corrective action, future changes in the environmental condition of the Property or changes in the cleanup criteria developed under Parts 111 and 201 of NREPA, the discovery of environmental conditions at the Property that were not known at the time this document was recorded, or use of the Property in a manner inconsistent with the restrictions described herein - each may result in this First Amended Restrictive Covenant not being protective of public health, safety, and welfare, and the environment. Additional restrictions may become necessary. Information pertaining to the environmental conditions at the Property and any corrective measures undertaken at the Property is on file with the USEPA Region 5, Land, Chemicals and Redevelopment Division.

Based on the results of Site investigations, the Property contains hazardous substances in excess of the concentrations developed as the unrestricted residential criteria under Section 20120a(1)(a) or (17) of NREPA, and above TSCA High Occupancy levels per 40 CFR Part 761.61(a)(4)(i)(A). (Exhibit 3). USEPA and EGLE recommend that prospective purchasers or users of the Property undertake appropriate due diligence prior to acquiring or using this Property and undertake appropriate actions to comply with the requirements of Section 20107a of NREPA.

This First Amended Restrictive Covenant cites laws, rules and regulations in effect at the time it was recorded. To the extent those laws, rules or regulations are subsequently amended, replaced or otherwise superseded, this First Amended Restrictive Covenant shall be read to incorporate those amending, replacing or otherwise superseding laws, rules and regulations in place of those currently cited herein.

As of the date of this First Amended Restrictive Covenant, RACER Trust continues to perform activities in keeping with its goal to obtain from USEPA a formal RCRA "Corrective Action Complete with Controls" determination for the Property.

Summary of Corrective Measures

The Property was part of a larger automotive components manufacturing facility previously owned and operated by General Motors Corporation (GMC) (Larger Facility).

The Property encompasses three former operational buildings: Metal Pressing and Plating Operations (Plant 5/14/23), Final Vehicle Assembly (Plant 8) and Painting/Storage (ELPO Building). The Property also includes the existing Montcalm Substation, and a portion of the former railroad marshalling area. All of the buildings and structures were demolished to grade in the 1990s, except for the Montcalm Substation.

Since 1996, the Property has been the subject of ongoing soil, groundwater and light non-aqueous phase liquid (LNAPL) investigations as part of RCRA Corrective Action under the direction of USEPA. Hazardous substances including volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), polychlorinated biphenyls (PCBs) and metals have been detected in soil and groundwater in concentrations that exceed EGLE Part 201 Generic Cleanup Criteria and may pose unacceptable risk of exposure without proper controls on the Property (see Exhibit 3).

Various interim measures (IMs) have been undertaken on the Property including removal of hazardous substances in select areas. Former Plant 8 was demolished in 1997, at which point the basement was partially backfilled. During 2005 RCRA Facility Investigation (RFI) activities, PCBs at concentrations up to 250 parts per million (ppm) were detected in the backfill material in the eastern portion of the former Plant 8 basement. A USEPA approved risk-based cleanup was implemented (per TSCA) including the removal of material containing greater than 100 ppm PCBs below 2 feet below ground surface (bgs) and material containing greater than 50 ppm PCBs in the 0 to 2-foot bgs interval. A cap and fill material were installed over the remaining PCB-impacted soils.

In 2005 and 2006, PCB-impacted soil and backfill materials were removed from within the former Plant 6 and Plant 18 basements to facilitate redevelopment. These USEPA approved TSCA risk-based removals consisted of soil containing PCB concentrations at or less than 25 ppm being removed and placed in the western portion of the former Plant 8 basement. Additional soil containing up to 25 ppm PCBs was relocated from the Powertrain Lab area and also placed within the western portion of the former Plant 8 basement. The basement area was subsequently covered with soil containing less than 1 ppm PCBs, creating an above grade soil stockpile over the western portion of the former Plant 8 basement. The two feet of soil directly over the PCB-impacted material serves as a cap to prevent exposure to the material. In 2011, materials (less than 1 ppm PCBs) excavated to construct press pits at the adjacent GM LLC metal fabrication facility were relocated and added to the east end of the above grade soil stockpile.

Another IM implemented on the Property includes recovery of LNAPL (Residual LNAPL Area 2, former railroad marshalling area).

Definitions

"Agreement" shall mean the RCRA Section 3008(h) Performance-based Administrative Order on Consent, Docket Number RCRA-05-2011-0019 between USEPA and RACER Trust effective September 29, 2011.

"Grantee" shall mean EGLE, its respective successor entities and those persons or entities acting on its behalf.

"Grantor" shall mean Proastio Properties, LLC, the current title holder of the Property at the time this First Amended Restrictive Covenant was executed, or any future title holder of the Property or some relevant sub-portion of the Property.

"EGLE" means the Michigan Department of Environment, Great Lakes and Energy, its successor entities and those persons or entities acting on its behalf.

"NREPA" shall mean the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.101 *et seq.*

"Owner" means at any given time the then current fee title holder(s) and the holder(s) of the Property or any portion thereof, including any lessees (and ground lessees) and its successors or assigns and those persons or entities authorized to act on the title holder's behalf.

"Part 111" means Part 111, Hazardous Waste Management, of the NREPA in effect at the time of the recording of this First Amended Restrictive Covenant.

"Property" shall mean the property legal description which is set forth in Exhibit 1, and as illustrated in Exhibit 2, Illustration of Property.

"Settlement Agreement" shall mean the Environmental Response Trust Consent Decree and Settlement Agreement entered by the U.S. Bankruptcy Court for the Southern District of New York on March 29, 2011, in the case of *In re Motors Liquidation Company, etc. et al.*, Debtors, Case No. 09-50026 (REG), among the Debtors, the United States of America, certain states including the State of Michigan, the Saint Regis Mohawk Tribe, and EPLET, LLC, (not individually but solely in its representative capacity as Administrative Trustee of RACER Trust).

"Site" shall have the same meaning as "Property."

"USEPA" shall mean the United States Environmental Protection Agency, its successor entities and those persons or entities acting on its behalf.

All other terms used in this document which are defined in Part 111 of NREPA and the Part 111 Administrative Rules, or Part 201 of NREPA and the Part 201 Administrative Rules, solely to the extent not inconsistent with the definitions in Part 111 or the Part 111 Administrative Rules, shall

have the same meaning in this document as in those statutes and rules as on the date this First Amended Restrictive Covenant is made.

NOW THEREFORE,

Declaration of Land Use or Resource Use Restrictions

Grantor as current fee title holder of the Property, hereby declares and covenants that the Property shall be subject to those restrictions on use and resources described below, and intends that said restrictions and covenants shall run with the land, and may be enforced in perpetuity against the Owner by the following entities: (1) USEPA; (2) EGLE; and (3) RACER Trust.

1. **Land Use Prohibitions.** Owner shall prohibit all uses of the Property that are not compatible with or are inconsistent with the exposure assumptions for the nonresidential cleanup criteria established pursuant to MCL 324.20120a(1)(b) of NREPA. Uses that are compatible with the nonresidential cleanup criteria are generally described in Exhibit 4 (Description of Allowable Uses).

In addition, four areas of the Property have PCB remediation waste present and Owner shall prohibit all uses of those areas of the Property, as illustrated and described in Exhibit 5, not in accordance with requirements for Low Occupancy as defined in 40 CFR §761.3 and Exhibit 4. Owner is required to apply to USEPA under 40 CFR §761.61 for approval to change this Low Occupancy use restriction.

2. **Notification of PCB Remediation Waste.** Pursuant to the requirement of 40 CFR Part 761.61(a)(8)(i)(A) this provision provides notification that PCB remediation waste is present within four areas of the Property as illustrated and described in Exhibit 5.

Area 1 (Exhibit 5A) contains PCB remediation waste with concentrations from 1 ppm up to 25 ppm in soil from an approximate elevation of 969 to 957 feet above mean sea level (AMSL) within the western portion of the former Plant 8 basement. At the time this First Amended Restrictive Covenant was recorded Area 1 was covered with a potentially useable soil pile but the two feet of soil immediately above the PCB remediation waste must remain in place.

Area 2 (Exhibit 5B) contains PCB remediation waste with concentrations from 1 ppm up to 100 ppm in soil from an approximate elevation of 969 to 956 AMSL within the eastern portion of the former Plant 8 basement. The PCB remediation waste is covered with general fill material, a geotextile and twelve inches of granular fill, and this cover must remain in place.

Area 3 (Exhibit 5C) contains PCB remediation waste with concentrations from 1 ppm up to 11 ppm in soil from an approximate elevation of 963 to 945 feet AMSL [approximately five (5) to twenty-three (23) feet below ground surface (bgs) at the time this First Amended Restrictive Covenant was recorded]. It is noted that 190 ppm PCBs were detected in one

soil sample collected in 2006 at an approximate elevation of 954 feet AMSL [approximately twelve (12) feet bgs at the time this First Amended Restrictive Covenant was recorded), but PCBs were not detected above 11 ppm in samples collected nearby.

Area 4 (Exhibit 5D) contains PCB remediation waste with concentrations from 1 ppm up to 25 ppm in soil from an approximate elevation of 957 to 945 feet AMSL [approximately eight (8) to twenty (20) feet bgs at the time this Restrictive Covenant was recorded).

3. **Notification of Residual LNAPL.** This provision provides notification that residual LNAPL is present in two areas of the Property as illustrated and described in Exhibit 6.

Area 1 contains residual lubricating oil with weathered diesel fuel. Contaminants present in Area 1 were properly characterized and assessed, and will remain in place at the Property. The presence of residual LNAPL exists from an approximate elevation of 956 to 945 feet AMSL [approximately eleven (11) to twenty-two (22) feet bgs at the time this First Amended Restrictive Covenant was recorded].

Area 2 contains residual weathered diesel fuel and kerosene. Contaminants present in Area 2 were properly characterized and assessed, and will remain in place except for anticipated removal of a limited amount of LNAPL from this area through future skimming operations. The presence of residual LNAPL exists from an approximate elevation of 957 to 949 feet AMSL [approximately seven (7) to fifteen (15) feet bgs at the time this First Amended Restrictive Covenant was recorded].

4. **Activities Prohibited.** Owner shall prohibit activities on the Property that may result in exposures to hazardous substances above the nonresidential land use cleanup criteria or activities that interfere with, disturb or damage any element of the corrective measures, including the PCB Remediation Waste Area covers, performance of operation and maintenance activities, monitoring or other measures necessary to ensure the effectiveness and integrity of the completed remedial action. These prohibited activities include:

- a. *No drinking water wells* may be installed or used on the Property.
- b. *No groundwater extraction wells* may be installed or used on the Property, except for wells and devices that are part of an USEPA or EGLE approved response activity and for short-term dewatering for construction purposes, provided the dewatering, including management and disposal of the groundwater, is conducted in accordance with all applicable environmental laws and does not cause or result in a new release, exacerbation of any pre-existing environmental condition or any other violation of environmental laws.
- c. *No contaminated soils (if present) may be relocated* on the Property except as provided for under Part 201, Section 20120c, MCL 324.20120c, and for PCB remediation wastes, as allowed for under a USEPA approval issued under 40 CFR §761.61.

- d. ***Owner shall not "treat", "store", "dispose", or release any Hazardous Substances, on, at or below the Property in a manner that would require a permit under RCRA or Part 111, except pursuant to a plan, permit or license approved in advance by writing by USEPA or EGLE, pursuant to those statutory authorities.***
- e. ***If Owner elects to remove any slabs, pavement, or other impervious surface on the Property, Owner shall first obtain prior written approval from USEPA or EGLE as applicable, and from RACER Trust, and Owner shall be responsible for any and all obligations under environmental laws arising from any such removal, alteration or disturbance, whether or not caused by, arising from or related to, an environmental condition.***
- f. ***Owner shall manage contaminated soils (if present), media and/or debris (if present) and all other soils located on the Property whether encountered on the surface or during below grade work in accordance with the requirements of Part 111 and RCRA Subtitle C, the administrative rules or regulations promulgated pursuant to Part 111 and RCRA and all other relevant state and federal laws, including but not limited to MCL 324.20120c and 40 CFR Part 761; this provision regarding contaminated soil/media/debris management also applies in the event that the Owner elects to remove any slabs, pavement, or other impervious surface on the Property.***
- g. ***Owner shall prohibit construction and/or occupancy of any new buildings, structures, basements and/or additions to existing structures on the Property, unless such construction and/or occupancy incorporates engineering controls designed to eliminate the potential for subsurface vapor phase contaminants or hazardous substances to migrate into the new structure at concentrations greater than the appropriate concentrations protective of public health; or unless prior to construction and/or occupancy of any structure, an evaluation of the potential for any contaminants or hazardous substances to volatilize into indoor air assures the protection of persons who may be present in the buildings. Prior to the potential for any human exposures, documentation of compliance with the above requirements must be submitted to EGLE and USEPA for approval, and both this documentation of compliance and evidence of USEPA's or EGLE's written approval must be submitted to RACER Trust.***
- h. ***Owner shall not construct or install subsurface utilities, structures or other features (Subsurface Features), at the Property unless the construction is: 1) approved in writing in advance by USEPA or EGLE as applicable, and RACER Trust; and 2) such Subsurface Features incorporate engineering controls designed; i) to eliminate the potential for the Subsurface Features and/or the Subsurface Feature corridor to be a preferential contaminant migration pathway for impacted subsurface water or vapor; or ii) for the Subsurface Features to release fluids that could infiltrate through the subsurface and exacerbate impacts to groundwater.***

- i. *Owner will not remove, disturb, interfere with, or damage any monitoring wells, soil gas ports, LNAPL removal systems, or cover over the PCB remediation waste areas currently on the Property as identified in Exhibits 5 and 7, or that may be installed/present in the future pursuant to USEPA or EGLE approval, except if a plan for such activity is submitted to and approved by USEPA or EGLE as applicable, and RACER Trust in writing in advance. Owner will repair, relocate or replace as necessary any monitoring wells, soil gas ports, LNAPL recovery system components or PCB Remediation Area cover disturbed, damaged or destroyed by Owner.*
- j. *Owner will not perform any excavation or other intrusive activities, including but not limited to removal, disturbing, damaging, interfering, or otherwise negatively affecting the integrity, effectiveness, and operation of the exposure barriers (concrete, asphalt, and/or soil above the PCB remediation waste areas - Exhibit 5, and the residual LNAPL areas - Exhibit 6), except if: 1) a plan for such activity is submitted to and approved by USEPA or EGLE as applicable, and RACER Trust in writing in advance; and 2) such activity: i) is temporary (less than sixty (60) days in duration); ii) is conducted in accordance with all applicable environmental laws; and iii) does not cause or result in a new release, exacerbation of any pre-existing environmental condition, or any other violation of environmental laws; and iv) includes repairs to at least the pre-disturbance condition within fourteen (14) days of work completion.*
- k. *Owner shall not remove existing storm water inlet seals nor the storm sewer bulkheads and Owner shall not use any storm water inlets or subsurface storm water sewer piping illustrated in Exhibit 8.*

5. **Storm Water Management.** Prior to operating at the Property, Owner shall submit a Storm Water Management Plan, including a Storm Water Pollution Prevention Plan (Plan) to EGLE and RACER Trust, and obtain EGLE's and RACER Trust's approval of such Plan. The Plan shall address to EGLE's and RACER Trust's reasonable satisfaction the measures, safeguards, and/or engineering controls, operational controls, and release/spill contingency cleanup procedures to be undertaken and implemented by Owner to prevent and respond to the release of any petroleum-based substances, any hazardous substances and/or other pollutants from the materials and equipment brought onto and/or stored on the Property and/or operated by Owner on the Property, as applicable, into the storm water or that results in a sheen on the storm water that may infiltrate into the subsurface or runs or may run off of the Property.

After EGLE's and RACER Trust's approval of the Plan, the Plan shall be reviewed and updated by Owner upon a significant change in operations, a written request from EGLE or RACER Trust, or at a minimum, every year from the approval or re-approval date of the Plan.

6. **Compliance with this First Amended Restrictive Covenant and Applicable Due Care Obligations.** Owner shall at all times comply with the conditions and restrictions of this

First Amended Restrictive Covenant and the applicable due care obligations under Section 20107a of NREPA and the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 *et seq.* (CERCLA). Owner agrees to maintain records of its applicable due care activities and shall supply copies of any records documenting such compliance upon request from Grantor or any Agency.

7. **Access.** Owner shall grant to USEPA, EGLE and/or RACER Trust the right to enter the Property at reasonable times for the purpose of determining and monitoring compliance with this First Amended Restrictive Covenant, including the right to take samples, inspect the operation of corrective measures and inspect any records relating thereto, and to perform any actions necessary to maintain compliance with RCRA, TSCA, Parts 111 and 201 and other applicable federal laws and regulations.
8. **Transfer of Interest.** Grantor shall provide notice to USEPA, EGLE and RACER Trust (at the addresses provided in Section 9) of the Grantor's intent to transfer any interest in the Property, or any portion thereof, at least fourteen (14) business days prior to consummating the conveyance. A conveyance of title, easement, or other interest in the Property shall not be consummated by Grantor without adequate and complete provision for compliance with the terms and conditions of this First Amended Restrictive Covenant. Grantor shall include in any instrument conveying any interest in any portion of the Property, including, but not limited to, deeds, leases and mortgages, a notice which is in substantially the following form:

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO A FIRST AMENDED AND RESTATED DECLARATION OF RESTRICTIVE COVENANT DATED _____ [month, day, year], AND RECORDED WITH THE OAKLAND COUNTY REGISTER OF DEEDS, LIBER _____, PAGE _____.

(Note that the "transfer of interest" provisions in this Section 8 are not intended to and neither expand nor enlarge any property or transactional rights of any holder of any easement interest, which rights are solely defined by the terms of any such easement.)

A copy of this First Amended Restrictive Covenant shall be provided to all future owners, heirs, successors, lessees, easement holders, assigns and transferees by the person transferring the interest.

9. **Notices.** Any notice, demand, request, consent, approval or communication that is required to be made or obtained under this First Amended Restrictive Covenant shall be made in writing; include a statement that the notice is being made pursuant to the requirements of this First Amended Restrictive Covenant; include the Michigan Facility MID Number: MID 005 356 886 and EGLE Reference Number: RC-OWMRP-111-20-002, and shall be served either personally, or sent via first class mail, postage prepaid, as follows:

For RACER Trust:

Michigan Cleanup Manager
RACER Trust
1505 Woodward Avenue, Suite 200
Detroit, MI 48226

with a copy to

General Counsel
RACER Trust
P.O. Box 43859
Detroit, MI 48243

For USEPA:

Director
Land, Chemicals, and Redevelopment Division (L-17J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

with a copy to:

Office of Regional Counsel (C-14J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

For EGLE:

Hazardous Waste Section Director
Materials Management Division
Michigan Department of Environment, Great Lakes and Energy
P.O. Box 30473
Lansing, MI 48909-7973

10. **Term.** This First Amended Restrictive Covenant shall run with the Property and shall be binding on Owner, and all current and future successors, lessees, easement holders, their assigns and their authorized agents, employees or persons acting under their direction and control. This First Amended Restrictive Covenant may only be modified or rescinded with the written approval of USEPA or EGLE as applicable, and RACER Trust. Owner, USEPA, EGLE and/or RACER Trust each shall have the right as "claimants" under MCL 565.103 to record any notices required by MCL 565.103 to preserve and keep effective the restrictions of record herein.

11. **Enforcement.** Grantor and/or RACER Trust or its successors are entitled to enforce the restrictions and covenants of this First Amended Restrictive Covenant by specific performance or other legal action in a court of competent jurisdiction against subsequent Owners of all or part of the Property. Grantor, on behalf of itself, and its successors in title, intends and agrees that USEPA and EGLE are entitled to enforce the restrictions and covenants in this First Amended Restrictive Covenant by specific performance or other legal action in a court of competent jurisdiction against Grantor, as Owner, and thereafter against subsequent Owners of all or part of the Property. All remedies available hereunder shall be in addition to any and all other remedies at law or equity.
12. **Third Party Beneficiary.** Grantor, on behalf of itself and its successors and assigns, hereby agrees that the United States, acting by and through USEPA, its successors and assigns shall be a third party beneficiary (Third Party Beneficiary) of all the benefits and rights set out in the restrictions, covenants, easements, exceptions, notifications, conditions and agreements herein, and that the Third Party Beneficiary shall have the right to enforce the restrictions described herein as if it was a party hereto. No other rights in third parties are intended by this First Amended Restrictive Covenant, and no other person or entity shall have any rights or authorities hereunder to enforce these restrictions, terms, conditions or obligations beyond Grantor, EGLE, their successors and assigns and the Third Party Beneficiary.
13. **USEPA Entry and Access.** Nothing in this First Amended Restrictive Covenant shall limit or otherwise affect USEPA's right of entry and access or authority to undertake actions under RCRA, CERCLA or the National Contingency Plan (40 CFR Part 300), and any successor statutory or regulatory provisions or other state or federal law. Grantor consents to officers, employees, contractors, and authorized representatives of USEPA entering and having continued access to this Property for the purposes described in Section 7 (Access) of this First Amended Restrictive Covenant.
14. **Modification/ Release/Rescission.** Grantor or Owner may request in writing to USEPA or EGLE, as applicable, and RACER Trust at the addresses provided in Section 9, modifications to, or release or rescission of, this First Amended Restrictive Covenant. This First Amended Restrictive Covenant may be modified, released or rescinded only with the written approval of USEPA or EGLE, as applicable, and RACER Trust. Any approved modification to, or release or rescission of this First Amended Restrictive Covenant shall be filed with the appropriate Register of Deeds by the Grantor or Owner and a certified copy shall be returned to USEPA, EGLE and RACER Trust at the addresses provided Section 9.
15. **Severability.** If any provision of this First Amended Restrictive Covenant is held to be invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of any other provisions of this First Amended Restrictive Covenant and all other provisions shall continue to remain in full force and effect.

16. Limitation on Liability. RACER Trust's, RACER Properties LLC's and the Administrative Trustee's liability under this First Amended Restrictive Covenant is limited by the terms and conditions of the Settlement Agreement, which are incorporated herein by reference.
17. Authority to Execute First Amended Restrictive Covenant. The undersigned person executing this First Amended Restrictive Covenant represents and certifies that he or she is duly authorized and has been empowered to execute and deliver this First Amended Restrictive Covenant.
18. Miscellaneous.
 - a) Controlling Law. The interpretation and performance of this First Amended Restrictive Covenant shall be governed by the laws of the United States as to the obligations referred to in the Agreement and the laws of the State of Michigan for all other purposes hereunder (without reference to choice of laws principles thereof). The right to enforce the conditions and restrictions in this First Amended Restrictive Covenant are in addition to other rights and remedies that may be available, including, but not limited to, administrative and judicial remedies under CERCLA or Part 201.
 - b) Liberal Construction. Any general rule of construction to the contrary notwithstanding, this First Amended Restrictive Covenant shall be liberally construed to affect the purpose of this First Amended Restrictive Covenant, and the policy and purpose of RCRA, TSCA, and the land use restrictions and prospective use limitations required by Part 201. If any provision of this First Amended Restrictive Covenant is found to be ambiguous, an interpretation consistent with the purpose of this First Amended Restrictive Covenant that would render the provision valid shall be favored over any interpretation that would render it invalid.
 - c) Entire Agreement. This First Amended Restrictive Covenant and its attachments and appendices supersedes all prior discussions, negotiations, understandings, or agreements relating specifically to this First Amended Restrictive Covenant, all of which are merged herein.

[signature page follows]

LIST OF EXHIBITS

- 1 LEGAL DESCRIPTION OF PROPERTY**
- 2 ILLUSTRATION OF PROPERTY**
- 3 HAZARDOUS SUBSTANCES ABOVE CRITERIA IN SOIL AND GROUNDWATER**
- 4 DESCRIPTION OF ALLOWABLE USES**
- 5 PCB REMEDIATION WASTE / LOW OCCUPANCY AREAS**
 - 5A PCB REMEDIATION WASTE / LOW OCCUPANCY AREA 1**
 - 5B PCB REMEDIATION WASTE / LOW OCCUPANCY AREA 2**
 - 5C PCB REMEDIATION WASTE / LOW OCCUPANCY AREA 3**
 - 5D PCB REMEDIATION WASTE / LOW OCCUPANCY AREA 4**
- 6 RESIDUAL LNAPL AREAS**
- 7 MONITORING WELLS**
- 8 ABANDONED AND NOT-USEABLE STORM SEWER SYSTEM**

EXHIBIT 1**LEGAL DESCRIPTION OF PROPERTY**

All those tracts or parcels of land lying and being In the City of Pontiac, Oakland County, State of Michigan, and being more particularly described on as follows

Town 3 North, Range 10 East, Section 17, 20 & 21, Part of Southeast 1/4 of Section 17, Part of Northeast 1/4 Section 20 and Part of Northwest 1/4 Section 21, Beginning at point distant South 03 degrees 00 minutes 15 seconds East 40 01 feet and North 85 degrees 54 minutes 01 seconds East 20 91 feet and South 03 degrees 13 minutes 40 seconds East 1648 12 feet and North 87 degrees 01 minutes 32 seconds East 1235 81 feet and South 02 degrees 52 minutes 02 seconds East 715 61 feet and South 00 degree 23 minutes 00 seconds West 108 93 feet and South 00 degrees 23 minutes 00 seconds West 117 88 feet and South 02 degrees 52 minutes 02 seconds East 48 47 feet and South 04 degrees 44 minutes 21 seconds East 67 91 feet and South 04 degrees 44 minutes 21 seconds East 325 78 feet and South 02 degrees 52 minutes 02 seconds East 91 19 feet from East 1/4 corner of said Section 17, said corner also being the West 1/4 corner of Section 16 of said Town and Range, thence South 02 degree 52 minutes 02 seconds East 685 03 feet, thence South 87 degrees 17 minutes 10 seconds West 390 67 feet, thence North 02 degrees 42 minutes 50 seconds West 116 97 feet, thence South 87 degrees 17 minutes 10 seconds West 91 20 feet, thence North 02 degrees 42 minutes 50 seconds West 153 03 feet, thence South 87 degrees 17 minutes 10 seconds West 1788 80 feet, thence South 02 degrees 42 minutes 50 seconds East 741 12 feet, thence South 87 degrees 17 minutes 10 seconds West 244 44 feet, thence South 01 degrees 01 minutes 47 seconds West 66 80 feet, thence South 04 degrees 22 minutes 09 seconds East 614 15 feet, thence South 87 degree 40 minutes 44 seconds West 150 61 feet, thence North 03 degrees 05 minutes 31 seconds East 552 36 feet, thence along curve to left, radius 3844 83 feet, chord bears North 00 degrees 08 minutes 59 seconds East 405 25 feet, distant of 405 43 feet, thence North 02 degrees 47 minutes 39 seconds West 416 45 feet, thence North 02 degrees 44 minutes 27 seconds West 1351 72 feet, thence North 02 degrees 42 minutes 20 seconds West 629 41 feet, thence North 86 degrees 43 minutes 49 seconds East 66 67 feet, thence South 02 degrees 41 minutes 14 seconds East 1337 29 feet, thence South 02 degrees 05 minutes 33 seconds East 436 49 feet, thence North 86 degrees 42 minutes 58 seconds East 591 95 feet, thence North 02 degrees 49 minutes 13 seconds West 452 01 feet, thence South 87 degrees 01 minutes 12 seconds West 20 79 feet, thence North 02 degrees 37 minutes 33 seconds West 160 15 feet, thence North 88 degrees 25 minutes 59 seconds East 270 16 feet, thence South 02 degrees 54 minutes 19 seconds East 37 11 feet, thence North 87 degrees 12 minutes 55 seconds East 923 59 feet. thence South 02 degrees 47 minutes 05 seconds East 320 58 feet, thence North 87 degree 12 minutes 55 seconds East 749 45 feet to the point of beginning

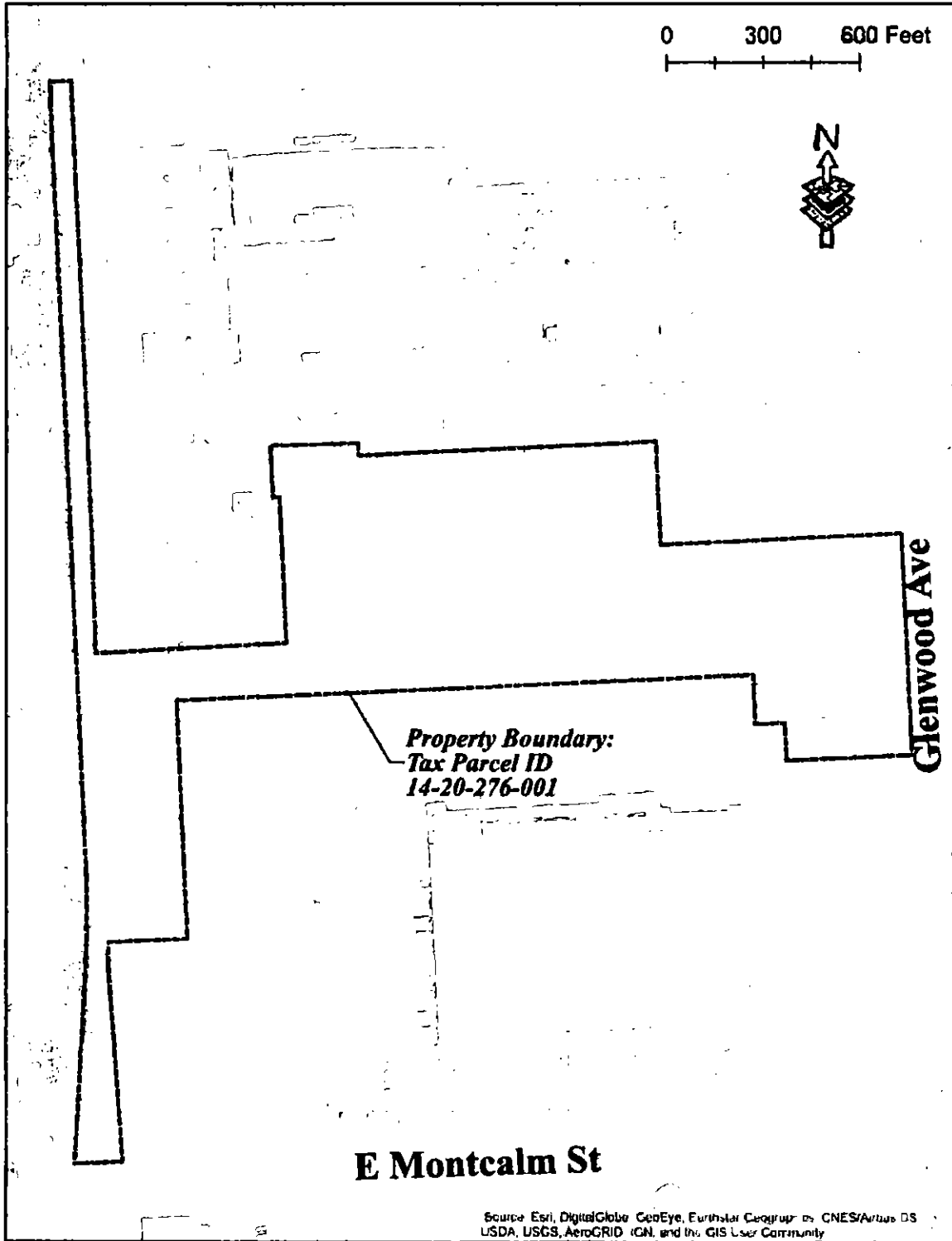
Containing 41 913 acres, more or less, and subject to any and all recorded easements and rights-of-way

Tax Parcel ID Number: 14-20-276-001

Commonly known as: 501 North Glenwood Avenue, Pontiac, Michigan 48340

EXHIBIT 2

ILLUSTRATION OF PROPERTY



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

EXHIBIT 3

HAZARDOUS SUBSTANCES ABOVE CRITERIA
IN SOIL AND GROUNDWATER

Media	Substance	Criteria Exceeded ⁽¹⁾
Soil	Polychlorinated biphenyls	NRDC
	Benzene	RDWP, NRDWP
	1,1-Dichloroethane	RDWP, GSIP
	1,2-Dichloroethane	RDWP, NRDWP
	1,1-Dichloroethene	RDWP, NRDWP
	Dichloromethane	RDWP, NRDWP
	Ethylbenzene	RDWP, NRDWP, GSIP
	Tetrachloroethene	RDWP, NRDWP, GSIP ¹⁾
	1,1,1-Trichloroethane	RDWP, NRDWP, GSIP
	Trichloroethene	RDWP, NRDWP
	Vinyl Chloride	RDWP, NRDWP
	Total Xylenes	RDWP, NRDWP, GSIP
	2-Methylnaphthalene	GSIP
	Fluoranthene	GSIP
	Fluorene	GSIP
	Phenanthrene	RDWP, GSIP
	Naphthalene	GSIP
	Antimony	RDWP, NRDWP
	Arsenic	SSBC, SDBL, RDWP, NRDWP, GSIP
	Barium	SSBC, SDBL
	Cadmium	SDBL
	Chromium	SSBC, RDWP, NRDWP
	Chromium VI (hexavalent)	GSIP
	Cobalt	SSBC, SDBL, RDWP, NRDWP, GSIP
	Copper	SDBL
	Lead	SSBC, SDBL, NRDC, RDWP, NRDWP
	Manganese	SSBC, SDBL, RDWP, NRDWP
	Mercury	SDBL, GSIP
	Nickel	SSBC, SDBL, RDWP, NRDWP
	Selenium	SDBL, RDWP, NRDWP, GSIP
	Silver	GSIP
	Vanadium	SSBC, RDWP
	Zinc	SSBC, SDBL

Media	Substance	Criteria Exceeded ⁽¹⁾
Groundwater	Polychlorinated biphenyls	GSI, RDW, NRDW
	Acetone	GSI, RDW, NRDW
	1,1-Dichloroethane	GSI, RDW
	1,2-Dichloroethane	RDW, NRDW
	1,1-Dichloroethene	RDW, NRDW
	cis-1,2-Dichloroethene	RDW, NRDW
	Dichloromethane	RDW, NRDW
	Tetrachloroethene	RDW, NRDW
	1,1,1-Trichloroethane	GSI, RDW, NRDW
	1,1,2-Trichloroethane	RDW, NRDW
	Trichloroethene	RDW, NRDW
	Vinyl Chloride	GSI, RDW, NRDW
	bis(2-Ethylhexyl)phthalate	GSI, RDW, NRDW
	Indeno(1,2,3-cd)pyrene	WS
	Pentachlorophenol	RDW, NRDW
	Phenanthrene	GSI
	Antimony	RDW, NRDW
	Arsenic	GSI, RDW, NRDW
	Barium	RDW, NRDW
	Chromium	RDW, NRDW
	Lead	RDW, NRDW
	Manganese	RDW, NRDW
	Mercury	GSI
	Nickel	RDW, NRDW
Selenium	GSI	
Silver	GSI	
Thallium	GSI, RDW, NRDW	
Vanadium	GSI, RDW, NRDW	

SOIL

NRDWP- Non-Residential Drinking Water Protection
RDWP – Residential Drinking Water Protection
GSIP – Groundwater Surface Water Interface Protection
NRDC – Non-Residential Direct Contact Criteria
RDC - Residential Direct Contact Criteria
SSBC - Site Specific Background Criteria
SDBL -Statewide Default Background Levels

GROUNDWATER

NRDW – Non-Residential Drinking Water Criteria
RDW – Residential Drinking Water Criteria
GSI – Groundwater Surface Water Interface Criteria

1 – The substances and exceedances listed in this exhibit are based on a comparison of the data for the Property to EGLE Part 201 Generic Cleanup Criteria – Non-Residential Soil and Groundwater Criteria, Table 1 and Table 2, dated December 30, 2013. However, it is noted that as of the date of this First Amended Restrictive Covenant, USEPA's authorization of the EGLE RCRA Program includes the September 28, 2012 Part Generic Cleanup Criteria.

EXHIBIT 4**DESCRIPTION OF ALLOWABLE USES**

Nonresidential Land Use: This land use is characterized by any use which is not residential in nature and is primarily characterized by industrial and commercial uses. Industrial uses typically involve manufacturing operations engaged in processing and manufacturing of materials or products. Other examples of industrial uses are utility companies, industrial research and development, and petroleum bulk storage. Commercial uses include any business or income-producing use such as commercial warehouses, lumber yards, retail gas stations, auto dealerships and service stations, as well as office buildings, banks, and medical/dental offices (not including hospitals). Commercial uses also include retail businesses whose principal activity is the sale of food or merchandise within an enclosed building and personal service establishments which perform services indoors such as health clubs, barber/beauty salons, photographic studios, etc.

Any residential use is specifically prohibited from the non-residential land use category. This would include the primary use of the Property for human habitation and includes structures such as single family dwellings, multiple family structures, mobile homes, condominiums, and apartment buildings. Residential use is also characterized by any use which is intended to house, educate, or provide care for children, the elderly, the infirm, or other sensitive populations, and therefore could include day care centers, educational facilities, hospitals, elder care facilities, and nursing homes. The use of any accessory building or portion of an existing building as a dwelling unit permitted for a proprietor or storekeeper and their families, located in the same building as their place of occupation, or for a watchman or caretaker is also prohibited. Any authority that allows for residential use of the Property as a legal non-conforming use is also restricted per the prohibitions contained in this amended restrictive covenant.

TSCA Low Occupancy Area: As defined in 40 CFR 761.3, low occupancy area means any area where PCB Remediation Waste has been disposed of on-site and where occupancy for any individual not wearing dermal and respiratory protection for a calendar year is: less than 840 hours (an average of 16.8 hours per week) for non-porous surfaces and less than 335 hours (an average of 6.7 hours per week) for bulk PCB Remediation Waste. Examples could include an electrical substation or a location in an industrial facility where a worker spends small amounts of time per week (such as an unoccupied area outside a building, an electrical equipment vault, or in the non-office space in a warehouse where occupancy is transitory).

EXHIBIT 5
 PCB REMEDIATION WASTE / LOW OCCUPANCY AREAS

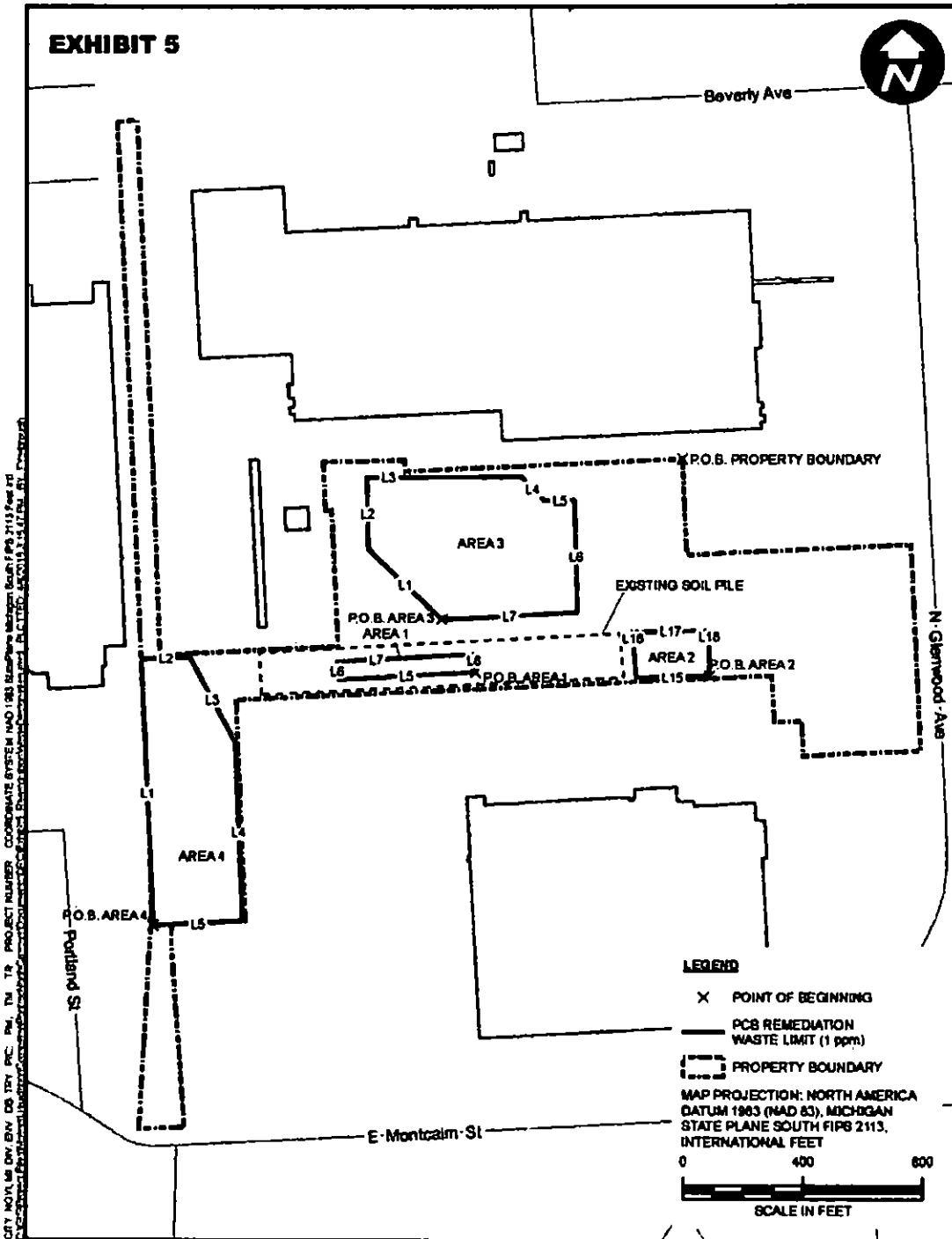
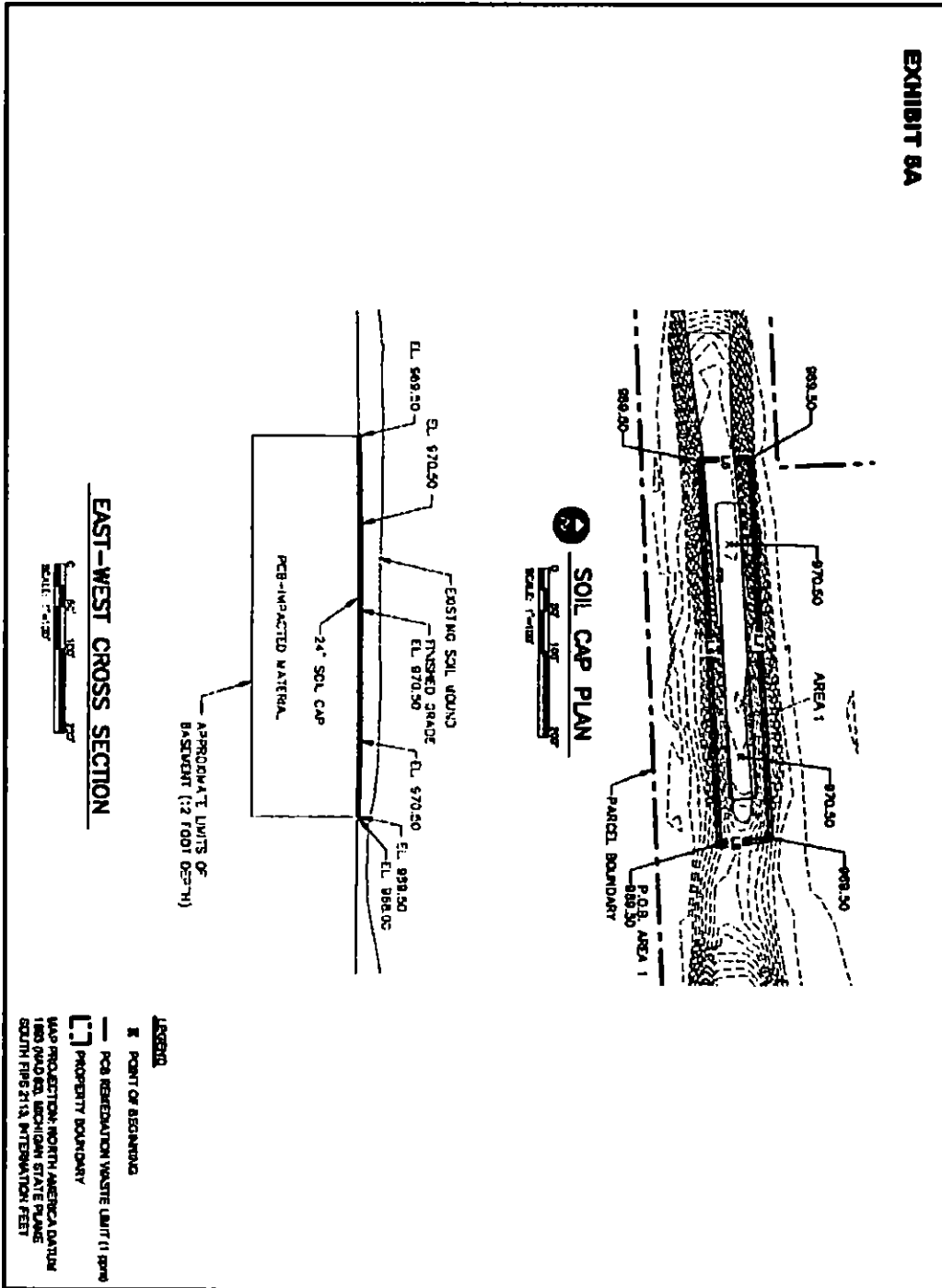


EXHIBIT 5A

PCB REMEDIATION WASTE / LOW OCCUPANCY AREA 1



PCB REMEDIATION WASTE / LOW OCCUPANCY AREA 1

P.O.B. AREA 1	EASTING 13412748.05	NORTHING 424705.76
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<u>Line ID</u>	<u>Bearing / Distance (ft)</u>
L5	S86° 57' 19.76" W 458.77
L6	N02° 01' 38.36" W 59.53
L7	N86° 45' 24.15" E 453.60
L8	S06° 54' 19.10" E 61.23

Coordinate System North America Datum 1983 (NAD 83), Michigan State Plane Michigan South FIPS 2113, International Feet

PCB REMEDIATION WASTE / LOW OCCUPANCY AREA 2

P.O.B. AREA 2	EASTING 13413522.65	NORTHING 424697.24
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<u>Line ID</u>	<u>Bearing / Distance (ft)</u>
L15	S88° 31' 25.60" W 242.64
L16	N04° 44' 06.73" W 153.06
L17	N88° 50' 13.35" E 255.25
L18	S00° 00' 00.00" E 151.47

Coordinate System North America Datum 1983 (NAD 83), Michigan State Plane Michigan South FIPS 2113, International Feet

PCB REMEDIATION WASTE / LOW OCCUPANCY AREA 3

P.O.B. AREA 3	EASTING 13412632.22	NORTHING 424883.83
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<u>Line ID</u>	<u>Bearing / Distance (ft)</u>
L1	N46° 13' 45.60" W 336.86
L2	N01° 28' 07.68" W 239.24
L3	N89° 39' 35.28" E 511.55
L4	S44° 27' 44.63" E 113.09
L5	N87° 39' 45.70" E 100.25
L6	S01° 33' 54.25" E 374.22
L7	S86° 53' 31.09" W 452.42

Coordinate System North America Datum 1983 (NAD 83), Michigan State Plane Michigan South FIPS 2113, International Feet

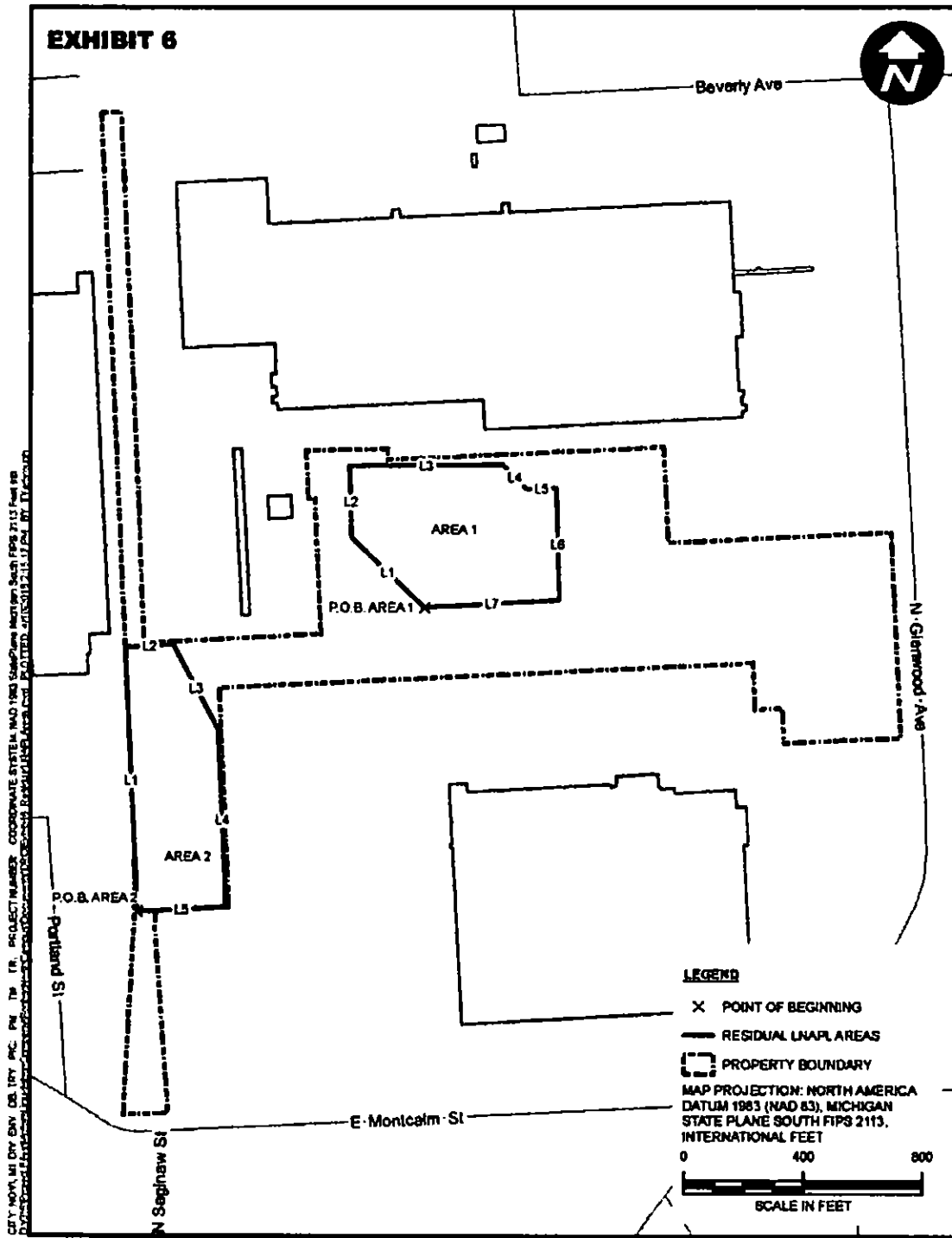
PCB REMEDIATION WASTE / LOW OCCUPANCY AREA 4

P.O.B. AREA 4	EASTING 13411677.09	NORTHING 423863.48
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<u>Line ID</u>	<u>Bearing / Distance (ft)</u>
L1	N02° 36' 13.98" W 888.40
L2	N87° 03' 51.58" E 159.65
L3	S28° 01' 46.85" E 321.89
L4	S02° 24' 00.77" E 597.25
L5	S87° 07' 56.49" W 295.73

Coordinate System North America Datum 1983 (NAD 83), Michigan State Plane Michigan South FIPS 2113, International Feet

EXHIBIT 6 RESIDUAL LNAPL AREAS



RESIDUAL LNAPL AREA 1

P.O.B. AREA 1	EASTING 13412632.22	NORTHING 424883.83
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<u>Line ID</u>	<u>Bearing / Distance (ft)</u>
L1	N46° 13' 45.60" W 336.86
L2	N01° 28' 07.68" W 239.24
L3	N89° 39' 35.28" E 511.55
L4	S44° 27' 44.63" E 113.09
L5	N87° 39' 45.70" E 100.25
L6	S01° 33' 54.25" E 374.22
L7	S86° 53' 31.09" W 452.42

Coordinate System North America Datum 1983 (NAD 83), Michigan State Plane Michigan South FIPS 2113, International Feet

RESIDUAL LNAPL AREA 2

P.O.B. AREA 2	EASTING 13411677.09	NORTHING 423863.48
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<u>Line ID</u>	<u>Bearing / Distance (ft)</u>
L1	N02° 36' 13.98" W 888.4
L2	N87° 03' 51.58" E 159.65
L3	S28° 01' 46.85" E 321.89
L4	S02° 24' 00.77" E 597.25
L5	S87° 07' 56.49" W 295.73

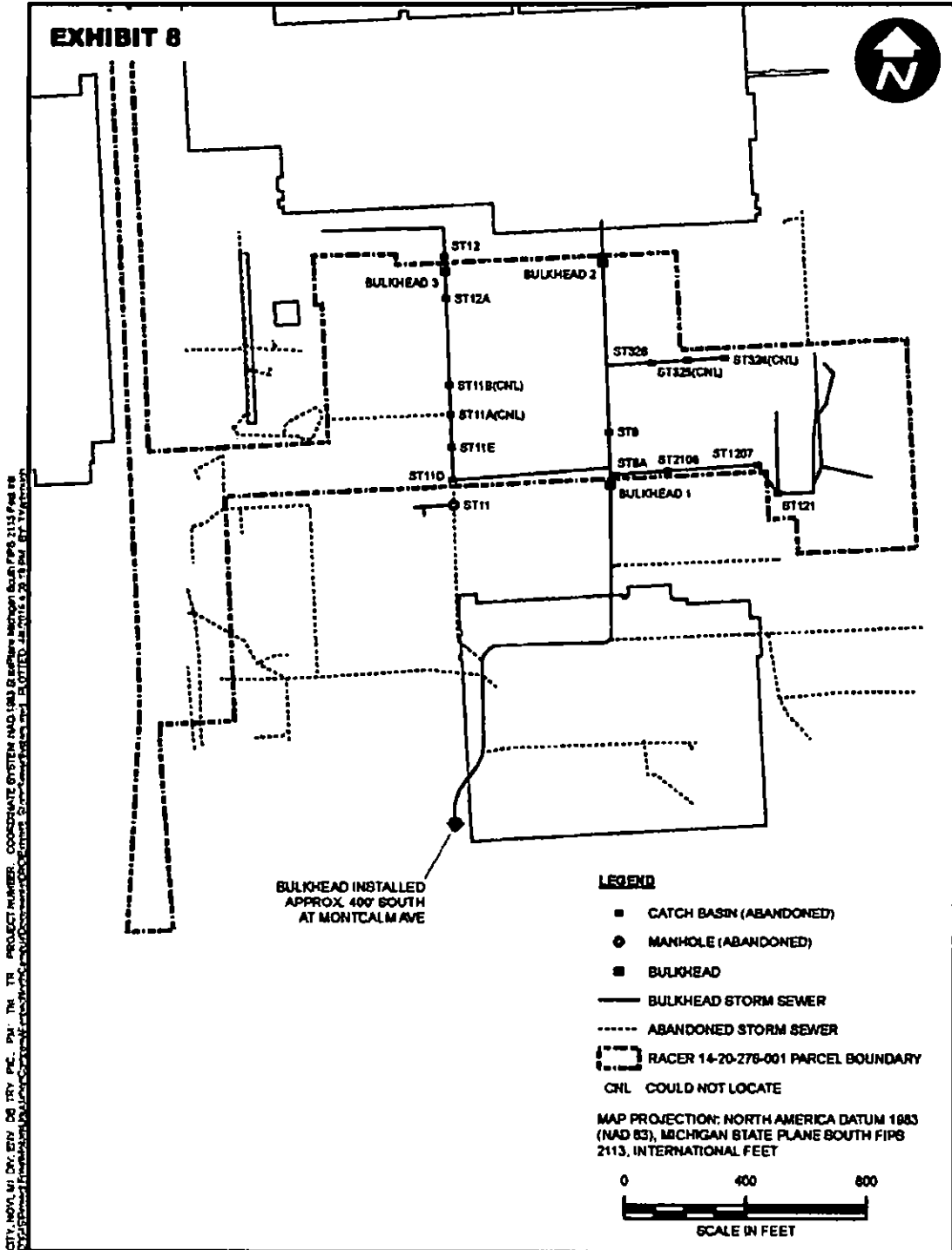
Coordinate System North America Datum 1983 (NAD 83), Michigan State Plane Michigan South FIPS 2113, International Feet

MONITORING WELLS

<u>WELL ID</u>	<u>EASTING (X)</u>	<u>NORTHING (Y)</u>
MWW10-03	13411665.82	424126.65
MWM2-22	13412704.63	425191.85
MWM2-28	13412680.95	425033.51
MWM2-37	13412884.06	425152.26
MWW10-04	13411666.89	424329.46
MWW1-04	13411677.80	423198.31
SB-08-14	13411805.87	424349.67

Coordinate System North America Datum 1983 (NAD 83), Michigan State Plane Michigan South FIPS 2113, International Feet

EXHIBIT 8
ABANDONED AND NOT-USEABLE STORM SEWER SYSTEM



ABANDONED AND NOT-USEABLE STORM SEWER SYSTEM

<u>BULKHEADS</u>	<u>EASTING (X)</u>	<u>NORTHING (Y)</u>
BULKHEAD 1	13413217.26	424654.22
BULKHEAD 2	13413193.02	425383.70
BULKHEAD 3	13412671.90	425355.87
 <u>CATCH BASINS/MANHOLES</u>		
ST11	13412700.63	424589.60
ST11A(CNL)	13412689.82	424887.84
ST11B(CNL)	13412686.15	424983.83
ST11D	13412698.12	424671.20
ST11E	13412693.97	424779.56
ST12	13412670.02	425405.03
ST1207	13413701.74	424721.77
ST121	13413770.68	424626.97
ST12A	13412675.29	425267.29
ST2106	13413407.54	424700.84
ST324(CNL)	13413594.62	425073.39
ST325(CNL)	13413471.48	425065.22
ST326	13413353.07	425057.35
ST8	13413212.60	424829.74
ST8A	13413233.24	424688.44

Coordinate System North America Datum 1983 (NAD 83), Michigan State Plane Michigan South FIPS 2113, International Feet