



## DECLARATION OF RESTRICTIVE COVENANT

MDEQ Reference Number: RC-OWMRP-111-18-003

Facility MID Number: MID 005 356 696

MDEQ Approval Date: April 8, 2019

This Declaration of Restrictive Covenant (Restrictive Covenant) is made to protect public health, safety or welfare, or 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, 1994 PA 451, as amended (NREPA), MCL 324.101 *et seq.*, and the administrative rules promulgated pursuant to those Parts, Michigan Administrative Code (MAC) Rule (R) 299.1 *et seq.*, MAC R 299.9101 *et seq.* and MAC R 299.51001 *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 Restrictive Covenant is made by RACER Properties LLC, whose address is 500 Woodward Avenue, Suite 2650, Detroit, MI 48226, the Grantor and an entity wholly owned by the Revitalizing Auto Communities Environmental Response Trust (RACER Trust) and the current fee title holder of the Property, for the benefit of the Grantee, State of Michigan, Department of Environmental Quality (MDEQ), whose address is 525 West Allegan Street, P.O. Box 30473, Lansing, MI 48909-7973.

This Restrictive Covenant has been prepared and recorded to prevent damage to or disturbance of any component of the constructed remedy/corrective measures, to prohibit or restrict activities that could result in unacceptable exposure to environmental contamination and to provide notification of polychlorinated biphenyls (PCB) remediation waste present at the real property located at 77 West Center Street, Saginaw, MI 48602, Tax Parcel Identification Numbers: 19-2231-000(00) and 19-2232-000(00) legally described and illustrated in Exhibit 1 (Property or Site). Exhibit 1 also contains an illustration of the Property and adjoining RACER Trust properties for reference. Recording of this Restrictive Covenant is designed to prevent damage or disturbance to the soil caps, vegetative covers, light nonaqueous phase liquids (LNAPL) recovery system, monitoring wells and permanent markers; to restrict future use of the Property to nonresidential use as defined pursuant to Part 201 or passive recreational use and Low Occupancy use as defined pursuant to TSCA in Part 761.3 of Title 40 of the Code of Federal Regulations (40 CFR Part 761.3); to restrict exposures to groundwater and soil on the Property; and to require that any future work or other activities on the Property by or for the Owner be conducted in conformance with: i) applicable MDEQ soil relocation requirements including but not limited to Part 111, Subtitle C of RCRA, the administrative rules promulgated pursuant to Part 111, RCRA, TSCA, and all other relevant state and federal laws, including but not limited to MCL 324.20120c, and any related MDEQ guidance; and 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 (HAZWOPER), 29 CFR Part 1910.

The land and resource use restrictions contained in this Restrictive Covenant are based upon information available and the response activities and corrective actions approved by MDEQ 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 response activities or corrective actions; 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 Restrictive Covenant not being protective of public health, safety or welfare, or the environment. Additional restrictions may become necessary. Information pertaining to environmental conditions of the Property, response activities and corrective actions undertaken at the Property is on file with MDEQ, Remediation and Redevelopment Division, Saginaw Bay District Office.

Based on the results of Site investigations, the Property contains hazardous substances in soil and groundwater in excess of the concentrations developed as the unrestricted residential criteria and nonresidential or passive recreational concentrations developed as Site-specific criteria under Section 20120a(1)(a) and 20b of NREPA and approved by MDEQ, and above TSCA High Occupancy levels per 40 CFR Part 761.3. Exhibit 2 is a list of hazardous constituents in soil or groundwater at the Property above Site-specific nonresidential and Site-specific recreational cleanup criteria, which were developed pursuant to NREPA and approved by MDEQ, and TSCA criteria.

This 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 Restrictive Covenant shall be read to incorporate those amending, replacing or otherwise superseding laws, rules and regulations in place of those currently cited herein.

MDEQ recommends 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.

#### Summary of Response Activity/Corrective Measures

As a result of General Motors Corporation's manufacturing operations, which ended in 2007, hazardous substances were released at the Property and are present in the soil, groundwater and concrete at concentrations above unrestricted residential use criteria.

Response activities were undertaken to address the environmental contamination at the Property pursuant to the MDEQ, Michigan Attorney General's Office, General Motors Corporation and Waste Management Incorporated Consent Judgment dated March 16, 1998 (Case No. 98-22686-CE-2). The remedial investigation of soil, sediment, groundwater and surface water at the Property was conducted between 1994 and 2000, consistent with the MDEQ-approved Remedial Investigation/Feasibility Study (RI/FS) Work Plan, dated October 1997. The RI report was submitted in November 2000 and was approved by MDEQ in July 2001. A final FS report was submitted in July 2003 and was approved by MDEQ in November 2003. RCRA Corrective Action Environmental Indicator (EI) 750 (Migration of Contaminated Groundwater Under Control) and EI 725 (Current Human Exposures Under Control) were approved by United States Environmental

Protection Agency (USEPA) on September 15, 2006 and September 27, 2007, respectively. A Final Remedial Action Plan (RAP) was initially submitted in July 2008, modified in December 2008, and approved by MDEQ in February 2009 (December 2008 RAP). The December 2008 RAP identified remedial actions completed, on-going remedial and monitoring actions and proposed remedial actions. Remedial actions completed included: sewer cleaning and sleeving; PCB-impacted soil and floor removal; vegetative cover and/or soil caps to prevent exposure to impacted soil and waste; LNAPL removal; and termination of two Type III landfills (the Type III landfills include plant construction and demolition debris, and foundry sand waste). The Type III landfills were completed with a 2.5-foot-thick clayey cover that was vegetated to stabilize the cover and minimize erosion.

On-going remedial and monitoring actions as of the date of this Restrictive Covenant include monitoring and evaluation of LNAPL in the Southwest Plant LNAPL Area; monitoring and evaluation of LNAPL in the Quench Pit Area; and annual groundwater monitoring.

The following remedial actions have also been completed since the RAP:

- An assessment of the 1991 USEPA Preliminary Assessment and Visual Site Inspection (PA/VS) was completed in 2015. The PA/VS identified Solid Waste Management Units (SWMUs) and Areas of Concern (AOCs) at the Property. The 2015 assessment indicated that previous investigations at the Property adequately addressed all the identified SWMUs and AOCs except for AOCs 1 and 13. In 2015, additional investigation was completed to assess potential historic releases in AOCs 1 and 13. The findings of the investigation indicated no response activity is necessary at these AOCs in addition to the Property-wide restrictions included in this Restrictive Covenant.
- In accordance with the discussion in the RAP regarding storm sewers, all connections to the City storm sewer were bulkheaded as part of demolition activities from 2009 to 2011. In addition, the City has completed additional bulkheading and rerouting of sewers in 2015 to further isolate the Property from the City storm sewer.
- On May 8, 2015, RACER Trust requested a TSCA Coordinated Approval for a Risk-Based Disposal Work Plan for PCB-Impacted Material for the Site, which included the removal and disposal of PCB-impacted flooring and a small area of soil. Approvals of the Work Plan from MDEQ and USEPA were provided on March 31, 2016 and July 15, 2016, respectively. Between September and December 2016, approximately 1,012 tons of below TSCA-level PCB-impacted floor slab was removed, approximately 898 tons of TSCA-level PCB-impacted floor slab was removed, and approximately 233 tons of TSCA-level PCB-impacted soil was removed, all of which was disposed off-Site at approved landfills. In Spring and early Summer 2017, a 1-foot soil cover was placed over the entire floor slab, which completed implementation of the Work Plan.
- Lead-impacted soil in the Former Railyard Area that exceeds the Site-specific soil lead recreational and nonresidential direct contact criteria has been delineated and soil cover is in place as an exposure barrier over such soil.

Residual LNAPL, as defined in MDEQ's June 2014, Non-Aqueous Phase Liquid (NAPL) Characterization, Remediation, and Management for Petroleum Releases, RRD Resource Materials-25-2014-01, remains in place at the Property. The LNAPL exists below the ground surface at two areas, the Southwest Plant LNAPL Area (Residual LNAPL Area 1) at a depth of approximately 3 feet below ground surface (bgs) (or elevation of approximately 588.5 feet above mean sea level (AMSL) and the Quench Pit Area (Residual LNAPL Area 2), at a depth of approximately 2.5 bgs (or elevation of approximately 592 feet AMSL). The residual LNAPL areas are depicted in Exhibit 3. The residual LNAPL present in Residual LNAPL Area 1 is a viscous mixture of motor oil range petroleum and in Residual LNAPL Area 2 is a viscous, hydraulic oil

range petroleum. Contaminants present in these two areas were properly characterized, assessed and will remain in place at the Property. The restrictions provided for in this Restrictive Covenant serve to prevent exacerbation of and/or unacceptable exposure to hazardous substances as a result of conditions created by the presence of residual LNAPL.

Site investigations have identified the presence of a former fill area (Former Queen Street Dump Area) in the northeast portion of the Property. Municipal waste was reportedly dumped in this area prior to General Motors Corporation acquiring the property. There is no current evidence that suggests any General Motors Corporation waste was dumped in the area. Typically, an oil sheen was encountered at depths ranging from eight (8) to seventeen (17) feet bgs, which corresponds to slightly above the water table to the bottom of the oil sheen. Appropriate safety precautions should be taken for any intrusive activity in this area. The Former Queen Street Dump Area is identified in this Restrictive Covenant for informational purposes and its approximate location is illustrated in Exhibit 4.

Site investigations within the Saginaw River watershed have identified the presence of dioxins and furans in areas subject to flooding. These constituents were released at an off-Property, upstream source and were distributed with flood water from the Saginaw River and upstream tributaries. A limited number of samples from the Property were analyzed for these constituents but no concentrations in excess of Site-specific recreational criteria were identified; however, a significant portion of the Property is in the 100-year floodplain.

The following table lists the restrictions, prohibitions, notifications, requirements and limitations necessary for the Property.

Property Area / Exhibit	Exposure Pathway Addressed	Restrictions/Prohibitions/ Notifications/Requirements/ Limitations
Property-Wide / Exhibit 1	<ul style="list-style-type: none"> <li>• Land Use</li> <li>• Groundwater Use</li> <li>• Soil Vapor Intrusion</li> </ul>	<ul style="list-style-type: none"> <li>• Restricts land use to non-residential and passive recreational</li> <li>• Restricts installation or use of wells or other devices to withdraw groundwater</li> <li>• Require a soil vapor intrusion assessment and/or engineering controls prior to constructing or occupying any buildings or structures on-Site</li> <li>• Require soil management when conducting intrusive activities,</li> <li>• Require compliance with Due Care obligations</li> <li>• Require activities be completed in accordance with safety requirements as applicable</li> <li>• Prohibit activities that interfere with, damage or disturb remedy components, including but not limited to vegetation as applicable, soil covers, monitoring wells and permanent markers</li> <li>• Prohibits unacceptable human exposure to surface water and sediment</li> </ul>

Property Area / Exhibit	Exposure Pathway Addressed	Restrictions/Prohibitions/ Notifications/Requirements/ Limitations
Southwest Plant LNAPL Area (Residual LNAPL Area 1) Lead Impacted Soil Area / Exhibits 3, 9 and 10	<ul style="list-style-type: none"> <li>Direct Contact</li> </ul>	<ul style="list-style-type: none"> <li>Require soil cover</li> <li>Provide notice that residual LNAPL is present</li> <li>Prohibit intrusive activities</li> </ul>
Quench Pit LNAPL Area (Residual LNAPL Area 2) / Exhibits 3, 9, 10 and 11	<ul style="list-style-type: none"> <li>Direct Contact</li> </ul>	<ul style="list-style-type: none"> <li>Require cover</li> <li>Provide notice that residual LNAPL is present</li> <li>Prohibit intrusive activities</li> <li>Protect monitoring wells</li> </ul>
Former Queen Street Dump Area / Exhibit 4	<ul style="list-style-type: none"> <li>Not applicable</li> </ul>	<ul style="list-style-type: none"> <li>Provide notice that the area was formerly used as a dump and appropriate safety precautions should be taken for any intrusive activity</li> </ul>
Former SMI Plant Slab / Exhibits 6, 9 and 10	<ul style="list-style-type: none"> <li>Worker duration (TSCA Low Occupancy)</li> <li>Barrier for PCB-impacted concrete</li> </ul>	<ul style="list-style-type: none"> <li>Require soil cover</li> <li>Prohibit construction of any building or structure for human occupation</li> <li>Prohibit intrusive activities</li> <li>Provide notice per TSCA that PCB Remediation Waste is present</li> <li>Limit worker duration in area to 335 hours or less per calendar year</li> </ul>
127.7 Manhole Area / Exhibits 6, 9, and 10	<ul style="list-style-type: none"> <li>Direct Contact</li> <li>Worker duration (TSCA Low Occupancy)</li> </ul>	<ul style="list-style-type: none"> <li>Require soil cover</li> <li>Prohibit intrusive activities</li> <li>Provide notice per TSCA that PCB Remediation Waste is present</li> <li>Limit worker duration in area to 335 hours or less per calendar year</li> </ul>
Melting Department Area / Exhibits 6, 9, and 10	<ul style="list-style-type: none"> <li>Direct Contact</li> <li>Worker duration (TSCA Low Occupancy)</li> </ul>	<ul style="list-style-type: none"> <li>Require cover (cover consists of flowable concrete as of the date of this Restrictive Covenant)</li> <li>Prohibit intrusive activities</li> <li>Provide notice per TSCA that PCB Remediation Waste is present</li> <li>Limit worker duration in area to 335 hours or less per calendar year</li> </ul>
Former Railyard Area / Exhibits 9 and 10	<ul style="list-style-type: none"> <li>Direct Contact</li> </ul>	<ul style="list-style-type: none"> <li>Prohibit intrusive activities</li> <li>Require soil cover</li> </ul>
Type III Landfills / Exhibits 9 and 10	<ul style="list-style-type: none"> <li>Landfill closure requirement</li> </ul>	<ul style="list-style-type: none"> <li>Prohibit intrusive activities</li> <li>Require soil cover</li> <li>Require vegetative cover for erosion control</li> </ul>
Stormwater Pond / Exhibit 9	<ul style="list-style-type: none"> <li>Prevent sheen on water</li> </ul>	<ul style="list-style-type: none"> <li>Prohibit intrusive activities</li> </ul>
Storm Sewers / Exhibit 13	<ul style="list-style-type: none"> <li>Existing storm sewer system</li> </ul>	<ul style="list-style-type: none"> <li>Notice of the presence of sewer bulkheads</li> <li>Prohibit removing or damaging bulkheads</li> <li>Prohibit connections to inactive storm sewers</li> </ul>
On-Site Surface Water Bodies / Exhibit 14	<ul style="list-style-type: none"> <li>Direct contact<sup>1</sup></li> <li>Ingestion of fish</li> </ul>	<ul style="list-style-type: none"> <li>Prohibit swimming, wading, boating and fishing</li> </ul>

<sup>1</sup> There are no direct contact criteria exceedances found within on-site surface water bodies. This exposure pathway is listed as a precautionary measure

At the time this Restrictive Covenant was recorded, RACER Trust was working with MDEQ to obtain applicable completion approval pursuant to the requirements of Part 201 and/or a determination of Corrective Action Complete with Controls pursuant to Part 111.

### Definitions

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

"Grantor" shall mean RACER Properties LLC, an entity wholly-owned by RACER Trust and the title holder of the Property at the time this Restrictive Covenant was executed, or any future title holder of the Property or some relevant sub-portion of the Property.

"MDEQ" means the Michigan Department of Environmental Quality, 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) of the Property or any portion thereof, including any lessees and those persons or entities authorized to act on the title holder's behalf.

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

"TSCA" shall mean the Toxic Substances Control Act, as amended, 15 U.S.C. §2601 *et seq.*

"Property" shall mean the property legally described and illustrated in Exhibit 1.

"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, 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 3, Definitions, of NREPA, Part 111, Part 201, or the Part 111 and Part 201 Administrative Rules, or TSCA and 40 CFR Part 761, 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 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) MDEQ; (2) USEPA and (3) RACER Trust or its successors.

1. Land Use Prohibitions. The Owner shall prohibit all uses of the Property that are not compatible or consistent with the exposure assumptions for the Site-specific nonresidential cleanup criteria (see Nonresidential Use Risk Evaluation, Saginaw Malleable Industrial Land, Green Point Landfill and Peninsula Properties, ARCADIS, October 10, 2018, and Addendum 1 to the Nonresidential Use Risk Evaluation Report, Arcadis, February 15, 2019) or the exposure assumptions for the Site-specific recreational criteria (see Recreational Use Risk Evaluation, Saginaw Malleable Industrial Land, Green Point Landfill and Peninsula Properties, ARCADIS, September 18, 2017), both established pursuant to Section 324.20120b of NREPA and approved by MDEQ. Uses that are compatible with nonresidential and recreational cleanup criteria are generally described in Exhibit 5 (Description of Allowable Uses).

In addition, portions of the Property have PCB remediation waste present, as identified in Exhibit 6, and the Owner shall prohibit all uses of those portions of the Property not in accordance with requirements for Low Occupancy as defined in 40 CFR 761.3. As defined in 40 CFR 761.3 and Exhibit 5, Low Occupancy area means any area where bulk 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 must be less than 335 hours (an average of 6.7 hours per week). The Owner is required to apply to USEPA, under 40 CFR 761.61(a), 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 on portions of the Property as illustrated in Exhibit 6. Pursuant to the May 2015 Work Plan discussed above in the Summary of Response Activity/Corrective Measures section, PCB Remediation Waste is present at the Property including the concrete of the Former SMI Plant slab at concentrations up to 10 parts per million (ppm) and below portions of the slab at concentrations up to 1,700 ppm in the basement of the Melting Department Area and up to 470 ppm in grab sample of saturated soil in the I27.7 Manhole Area. Subsurface soil in the I27.7 Manhole Area that contains greater than 100 ppm PCBs has been covered with soil. Subsurface concrete in the Melting Department Area containing greater than 100 ppm PCBs is covered with flowable fill. Cover materials shall be maintained per 40 CFR Part 761.61(a)(8) and the provisions of this Restrictive Covenant.
3. Activities Prohibited. Owner shall prohibit activities on the Property that may damage or disturb any component of the constructed remedy or that may result in exposures to

hazardous substances above the Site-specific nonresidential or Site-specific recreational cleanup criteria, or activities that interfere with, disturb or damage any element of the corrective measures, including the 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. Installation or use of drinking water wells. There were no drinking water wells at the Property at the time this Restrictive Covenant was recorded.
- b. Installation or use of groundwater extraction wells or other devices for any purpose, except for wells and devices that are part of an MDEQ-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. There were no groundwater extraction wells or other devices at the Property at the time this Restrictive Covenant was recorded except for wells that are a part of an MDEQ approved response activity.
- c. Activities that would remove, cover, obscure or otherwise alter or interfere with the permanent markers to be placed at the Property at the locations identified in Exhibit 7.
- d. Any excavation or other intrusive activities in areas where intrusive activities are prohibited, including but not limited to removal, disturbing, damaging, interfering or otherwise negatively affecting the integrity, effectiveness and operation of the exposure barriers (concrete, soil or vegetative cover), or monitoring wells except if such activities are temporary (less than sixty (60) days in duration), are part of an MDEQ-approved response activity, are conducted in accordance with all applicable environmental laws, do not cause or result in a new release, exacerbation of any pre-existing environmental condition or any other violation of environmental laws, and are approved by RACER Trust in writing in advance, and repaired to at least the pre-disturbance condition within fourteen (14) days of work completion. The Owner will provide notice to MDEQ of any activities covered by this provision. Monitoring well locations are shown in Exhibit 8. Exhibit 8 shows the monitoring wells that existed at the Property at the time this Restrictive Covenant was recorded, with the exception of monitoring wells related to Residual LNAPL Area 2 and those wells are shown in Exhibit 11. Monitoring well number and locations could change over time. The areas where intrusive activities are prohibited are illustrated and described in Exhibit 9. The exposure barrier locations are shown and their respective reference elevations are identified in Exhibit 10. Residual LNAPL Area 2 and associated monitoring wells are identified in Exhibit 11.
- e. Construction of any building or structure for human occupation on the former SMI Plant Slab as illustrated and described in Exhibit 6 without prior written approval from MDEQ and RACER Trust.
- f. Except for the former parking lot shown on Exhibit 12, removal of any slabs, pavement or other impervious surface on the Property that is not required as part of the final remedy/corrective measures for the Property unless Owner takes

responsibility 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. Owner may remove the pavement from the former parking lot identified on Exhibit 12 only after obtaining approval in writing from MDEQ and RACER Trust.

- g. Removal of existing storm water inlet seals or the storm sewer bulkheads, or use of any sealed storm water inlets or inactive storm water sewer piping illustrated in Exhibit 13.
  - h. Construction, installation or maintenance of subsurface utilities, structures or other features (Subsurface Features), at the Property unless the activity is approved in writing in advance by MDEQ and RACER Trust, and such Subsurface Features incorporates, as necessary and applicable, engineering controls designed to provide adequate protection for construction or maintenance workers, to eliminate the potential for any unacceptable exposures and a preferential contaminant migration pathway for impacted subsurface water or vapor, or to eliminate the potential for the Subsurface Feature to release fluids that could infiltrate through the subsurface and exacerbate impacts to groundwater.
  - i. Construction or maintenance of any kind in on-Site surface water bodies and sediment, including but not limited to all ponds and ditches, at the Property unless the activity is approved in writing in advance by MDEQ and RACER Trust, and such activity in surface water bodies and sediment incorporates engineering controls designed to provide adequate protection for construction or maintenance workers, to eliminate the potential for any unacceptable exposures and a preferential contaminant migration pathway for surface water or sediment, or to otherwise prevent release of surface water or sediment off-Site.
  - j. Swimming, wading, boating or fishing in any on-Site surface water body, including but not limited to all ponds and ditches illustrated in Exhibit 14, but not including the Saginaw River and contiguous reaches. Owner's obligation shall be deemed complied with by posting and maintaining adequate signage prohibiting such activities. In addition, the Owner shall not allow, cause, or create any new connection that allows for flow of water between any on-Site surface water body and adjacent off-Site surface water bodies, including the Saginaw River and contiguous reaches, unless such a connection is first approved in writing by MDEQ and RACER Trust.
  - k. "Treatment", "storage", "disposal" or release of any Hazardous Substances, on, at or below the Property, in a manner that would require a permit under RCRA or Part 111 of NREPA, except pursuant to a plan, permit or license approved in writing by MDEQ or USEPA, pursuant to these statutory authorities.
4. Soil Vapor Management. The Owner shall prohibit the construction and/or occupancy of any building or 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 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 MDEQ for approval.

5. Contaminated Soil Management. If the Owner relocates or allows contaminated soils, media and/or debris to be relocated the Owner shall manage or require management of the contaminated soils, media and/or debris in accordance with the requirements of Part 111 and RCRA Subtitle C, the administrative rules promulgated pursuant to Part 111 and RCRA, TSCA, and all other relevant state and federal laws, including but not limited to MCL 324.20120c; this provision regarding contaminated soil management also applies in the event that the Owner elects to remove any slabs, pavement or other impervious surface on the Property that are not otherwise prohibited from being removed per this Restrictive Covenant.
6. Health and Safety Requirement. The Owner shall follow and require that all contractors follow appropriate Health and Safety requirements, including 29 CFR Part 1910 (again, HAZWOPER) if applicable, for excavation and other intrusive activities, and any other activities that could disturb materials in the areas identified in Exhibits 3, 4, 6, 8 and 9.
7. Access. The Owner shall grant to MDEQ, USEPA, RACER Trust and their representatives the right to enter the Property at reasonable times for the purpose of determining and monitoring compliance with this 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 Parts 111 and 201 and other applicable federal laws and regulations.
8. Transfer of Interest. The Owner shall provide notice to MDEQ, USEPA and RACER Trust at the addresses provided in Paragraph 9 of the Owner'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 Owner without adequate and complete provision for compliance with the terms and conditions of this Restrictive Covenant.

The Owner 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 DECLARATION OF RESTRICTIVE COVENANT DATED \_\_\_\_\_ [month, day, year], AND RECORDED WITH THE SAGINAW COUNTY REGISTER OF DEEDS, LIBER \_\_\_\_\_, PAGE \_\_\_\_\_.

A copy of this 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 Restrictive Covenant shall be made in writing and shall: include a statement that the notice is being made pursuant to the requirements of this Restrictive Covenant; include the Michigan Facility Identification Number: MID 005

356 696 and MDEQ Reference Number: RC-OWMRP-111-18-003; and be served either personally, or sent via first class mail, postage prepaid, as follows:

For MDEQ:

Remediation and Redevelopment Division Director  
Michigan Department of Environmental Quality  
P.O. Box 30426  
Lansing, MI 48909-7926

and

Hazardous Waste Section Manager  
Waste Management and Radiological Protection Division  
Michigan Department of Environmental Quality  
P.O. Box 30241  
Lansing, MI 48909-7741

For USEPA:

Director  
Land and Chemicals Division (DR-8J)  
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 RACER Trust:

General Counsel  
RACER Trust  
500 Woodward Avenue, Suite 2650  
Detroit, MI 48226

with a copy to:

Michigan Cleanup Manager  
RACER Trust  
500 Woodward Avenue, Suite 2650  
Detroit, MI 48226

and

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

10. Term. This Restrictive Covenant shall run with the Property, and shall be binding on the 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 Restrictive Covenant may be modified, released or rescinded only with the written approval of MDEQ, USEPA and RACER Trust.
11. Enforcement. Grantor is entitled to enforce the restrictions and covenants of this 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 MDEQ and USEPA are entitled to enforce the restrictions and covenants in this 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. Modification/Release/Rescission. Grantor or Owner may request in writing to MDEQ, USEPA and RACER Trust at the addresses provided in Paragraph 9, modifications to, or release or rescission of this Restrictive Covenant. This Restrictive Covenant may be modified, released or rescinded only with the written approval of MDEQ, USEPA and RACER Trust. Any approved modification to, or release or rescission of, this Restrictive Covenant shall be filed with the Saginaw County Register of Deeds by the Grantor or Owner and a certified copy of such modification or release or rescission returned to MDEQ, USEPA and RACER Trust at the addresses provided in Paragraph 9.
13. Severability. If any provision of this 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 Restrictive Covenant and all other provisions shall continue to remain in full force and effect.
14. Limitation on Liability. The liability of RACER Trust, RACER Properties LLC and the Administrative Trustee under this Restrictive Covenant is limited by the terms and conditions of the Settlement Agreement, which are incorporated herein by reference.
15. Authority to Execute Restrictive Covenant. The undersigned person executing this Restrictive Covenant represents and certifies that he or she represents the Owner and is duly authorized and has been empowered to execute and deliver this Restrictive Covenant.
16. Compliance with this Restrictive Covenant and Applicable Due Care Obligations. The Owner shall at all times comply with the conditions and restrictions of this Restrictive Covenant and the applicable Due Care obligations under Section 20107a of NREPA, MCL 324.20107a, under the applicable administrative rules including MAC R 299.51003, and under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9601 *et seq.* Owner agrees to maintain records of its activities to comply with this Restrictive Covenant and applicable Due Care obligations, and shall

timely supply copies of any records documenting such compliance upon request from MDEQ or RACER Trust.

17. Miscellaneous.

- a) Controlling Law. The interpretation and performance of this Restrictive Covenant shall be governed by the laws of the United States as to the obligations referred to in the Settlement Agreement and the laws and regulations 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 Restrictive Covenant are in addition to other rights and remedies that may be available, including, not limited to, administrative and judicial remedies under RCRA, CERCLA or Parts 111 and 201 of the NREPA.
- b) Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Restrictive Covenant shall be liberally construed to effect the purpose of this Restrictive Covenant, and the policy and purpose of RCRA and the land use restrictions and prospective use limitations required by Part 201. If any provision of this Restrictive Covenant is found to be ambiguous, an interpretation consistent with the purpose of this Restrictive Covenant that would render the provision valid shall be favored over any interpretation that would render it invalid.
- c) Entire Agreement. This Restrictive Covenant and its attachments and appendices supersedes all prior discussions, negotiations, understandings or agreements specifically relating to this Restrictive Covenant, all of which are merged herein.

[signature page follows]



LIST OF EXHIBITS

- 1 LEGAL DESCRIPTION AND ILLUSTRATION OF PROPERTY
  - 1A PROPERTY AND ADJOINING RACER TRUST PROPERTIES
  
- 2 HAZARDOUS SUBSTANCES ABOVE SITE-SPECIFIC NONRESIDENTIAL AND SITE-SPECIFIC RECREATIONAL CRITERIA IN SOIL AND GROUNDWATER
  
- 3 RESIDUAL LNAPL AREAS
  
- 4 FORMER QUEEN STREET DUMP AREA
  
- 5 DESCRIPTION OF ALLOWABLE USES
  
- 6 TSCA REMEDIATION WASTE / DESIGNATED LOW OCCUPANCY AREAS
  - 6A I27.7 AREA AND MELTING DEPARTMENT AREA
  
- 7 PERMANENT MARKERS
  
- 8 MONITORING WELLS
  
- 9 AREAS WHERE INTRUSIVE ACTIVITIES ARE PROHIBITED
  
- 10 EXPOSURE BARRIERS
  - 10A TERMINATED TYPE III LANDFILL AREA 1
  
  - 10B TERMINATED TYPE III LANDFILL AREA 2
  
  - 10C SOUTHWEST PLANT LNAPL AREA AND LEAD-IMPACTED SOIL AREA
  
  - 10D FORMER RAILYARD AREA
  
  - 10E SMI FORMER PLANT SLAB
  
- 11 RESIDUAL LNAPL AREA 2 MONITORING WELLS
  
- 12 FORMER PARKING LOT NORTH OF THE BUFFER BASIN
  
- 13 STORM SEWERS AND BULKHEADS
  
- 14 ON-SITE SURFACE WATER BODIES

## EXHIBIT 1

## LEGAL DESCRIPTION AND ILLUSTRATION OF PROPERTY

Land situated in the City of Saginaw, County of Saginaw, State of Michigan, more particularly described as follows, to wit:

Parcel 1: Tax ID 19-2231-000(00)

Part of Sections 34 and 35, Township 12 North, Range 4 East, viz: Beginning at a point on the Southeasterly line of Salt Street which is 23.88 feet Northeasterly of the Northeasterly line of vacated Sylvan Street; thence South 38 degrees 08 minutes 56 seconds East 183.21 feet; thence South 28 degrees 26 minutes 22 seconds East 207.15 feet; thence South 26 degrees 16 minutes 10 seconds East 71.79 feet; thence South 43 degrees 59 minutes 51 seconds East 226.76 feet; thence South 47 degrees 42 minutes 46 seconds East 158.71 feet; thence South 00 degrees 40 minutes 40 seconds West 159.80 feet; thence South 89 degrees 19 minutes 16 seconds East 8.85 feet; thence South 00 degrees 09 minutes 51 seconds West 80.90 feet; thence South 24 degrees 10 minutes 00 seconds East 89.80 feet; thence South 24 degrees 46 minutes 47 seconds East 365.55 feet; thence South 00 degrees 37 minutes 27 seconds West 1,023.19 feet; thence South 89 degrees 07 minutes 00 seconds East and parallel with the South line of said Section 35, 1,422.14 feet; thence South 01 degrees 30 minutes 00 seconds East and parallel with said Section line common to Sections 34 and 35 100.00 feet; thence South 89 degrees 07 minutes 00 seconds East to West Harbor Line; thence Northerly along said West Harbor Line 2,238.33 feet more or less, to the South line of West Center Street; thence Westerly along said street line to a point that is 769.15 feet Southeasterly of the intersection of the West line of vacated Queen Street and the South line of West Center Street; thence South 01 degrees 07 minutes 05 seconds West 454.47 feet; thence South 88 degrees 52 minutes 55 seconds West 275.10 feet; thence South 01 degrees 07 minutes 55 seconds West 468.89 feet; thence North 88 degrees 52 minutes 55 seconds West 118.90 feet; thence North 00 degrees 14 minutes 46 seconds East 91.14 feet; thence North 48 degrees 08 minutes 14 seconds West 424.72 feet; thence North 00 degrees 14 minutes 46 seconds East 338.85 feet; thence North 34 degrees 45 minutes 31 seconds East 399.19 feet; thence North 00 degrees 14 minutes 46 seconds East 449.90 feet to the South line of West Center Street; thence Westerly along said South line to the Southeasterly line of Salt Street; thence Southwesterly along said Southeasterly line to the middle of vacated rededicated Florence Street; thence Southeasterly along said centerline of Florence Street to a point which is perpendicular to a point on the South line of Florence Street 185.48 feet from the Southeasterly line of Salt Street; thence Southerly at right angles 193.55 feet; thence Westerly 163.10 feet to a point 100.97 feet Easterly of Salt Street and 106.00 feet Southerly at right angles to the original Southerly line of said Florence Street; thence Westerly 100.97 feet to a point on the Southeasterly line of Salt Street; thence Southwesterly along said street line to the point of beginning. Comprising 141.36 acres, more or less.

And also,

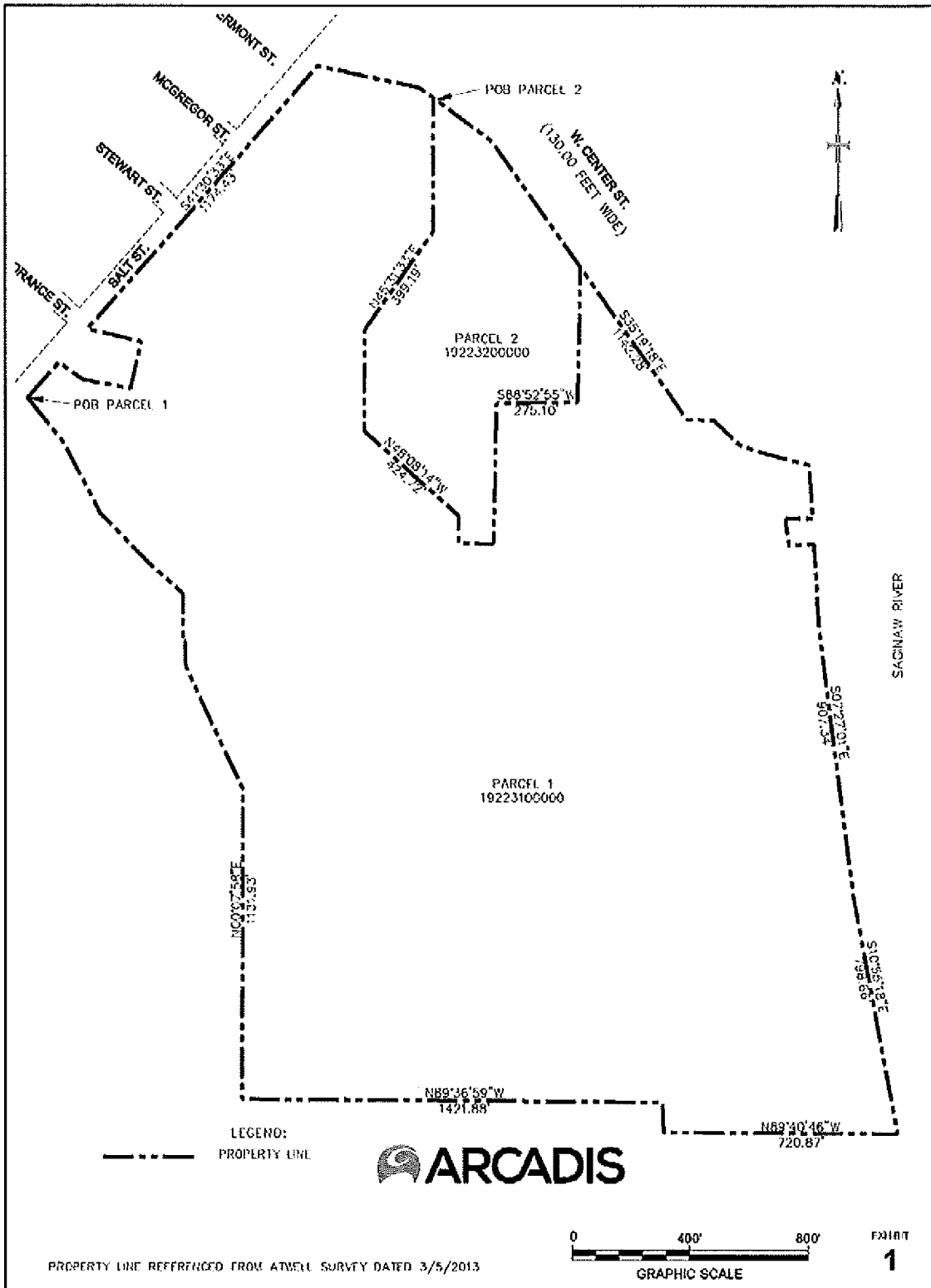
Parcel 2: Tax ID 19-2232-000(00)

A parcel of land in Section 35, Township 12 North, Range 4 East, viz: Beginning at the intersection of the West line of vacated Queen Street and the South line of West Center Street; thence Southeasterly along said South line of West Center Street 769.15 feet; thence South 01 degrees 07 minutes 05 seconds West 454.47 feet; thence South 88 degrees 52 minutes 55 seconds West 275.10 feet; thence South 01 degrees 07 minutes 55 seconds West 468.89 feet; thence North 88 degrees 52 minutes 55 seconds West 118.90 feet; thence North 00 degrees 14 minutes 46 seconds East 91.14 feet; thence North 48 degrees 08 minutes 14 seconds West 424.72 feet; thence North 00 degrees 14 minutes 46 seconds East 338.85 feet; thence North 34 degrees 45 minutes 31 seconds East 399.19 feet; thence North 00 degrees 14 minutes 46 seconds East 449.90 feet to the point of beginning. Comprising 14.14 acres, more or less.

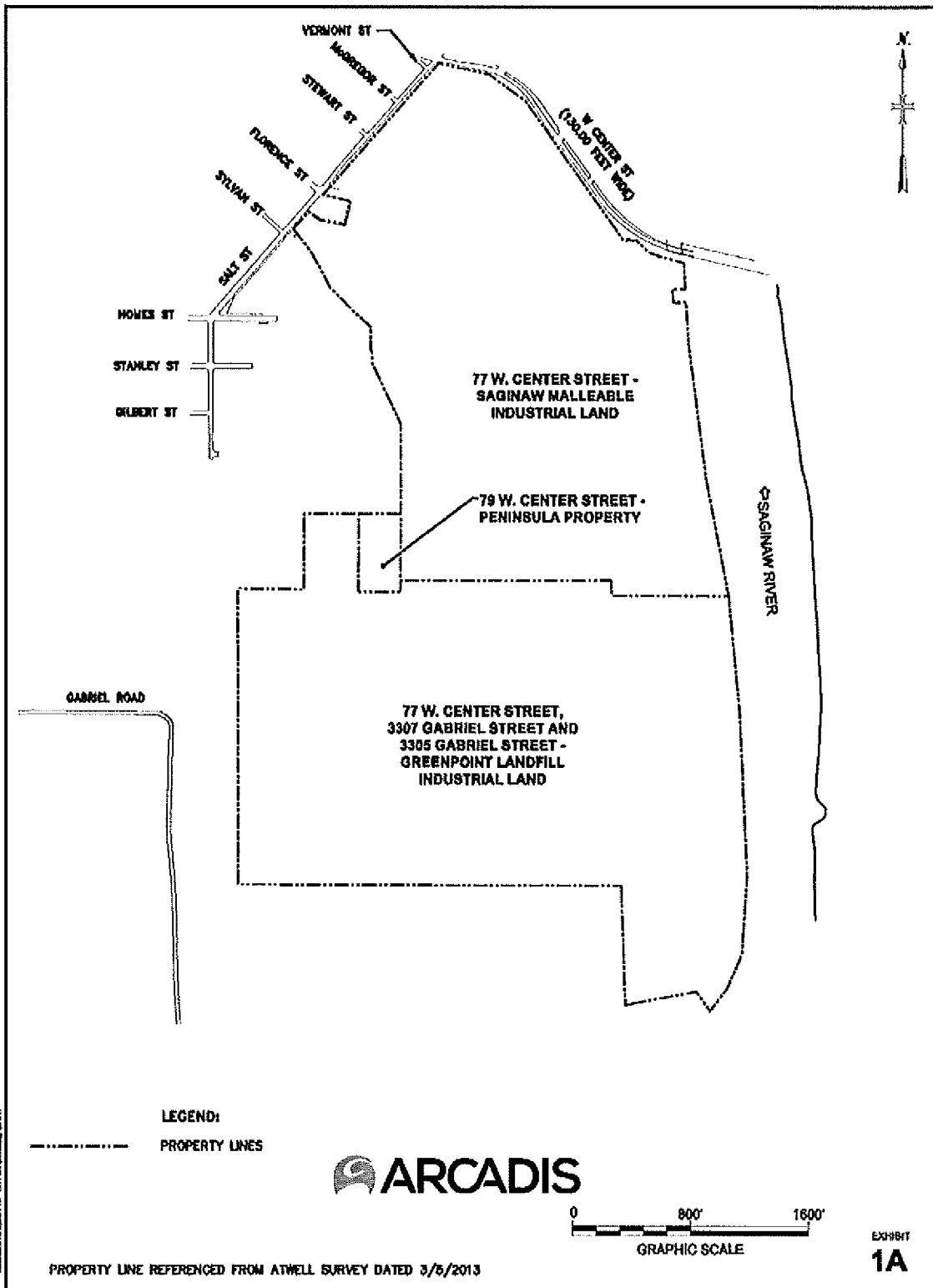
Subject to all recorded easements and rights-of-way.

Commonly known as: 77 West Center Street, Saginaw, MI 48602.

### ILLUSTRATION OF PROPERTY



### PROPERTY AND ADJOINING RACER TRUST PROPERTIES



**EXHIBIT 2****HAZARDOUS SUBSTANCES ABOVE SITE-SPECIFIC NONRESIDENTIAL AND SITE-SPECIFIC RECREATIONAL CRITERIA IN SOILS AND GROUNDWATER**

Media	Substance	Criteria Exceeded
Soil	Benzene	DWP, GSIP, VI, VSIC
	Chloromethane	VI
	cis-1,2-Dichloroethene	VI
	Ethylbenzene	DWP, GSIP, VI, VSIC
	Isopropyl benzene	VI
	Tetrachloroethene	DWP, VI
	Toluene	GSIP
	Trichloroethene	VI
	1,2,4-Trimethylbenzene	DWP, GSIP, VI
	1,3,5-Trimethylbenzene	DWP, GSIP, VI
	Vinyl Chloride	GSIP
	Total Xylenes	DWP, VI
	Benzidine	DWP
	Benzo(a)pyrene	DWP
	Carbazole	GSIP
	Dibenzofuran	GSIP
	Di-n-butyl phthalate	DWP, GSIP
	Fluoranthene	GSIP
	Fluorene	GSIP
	Hexachlorobenzene	VI
	2-Methylnaphthalene	DWP, GSIP, VI
	Naphthalene	GSIP, VI
	Phenanthrene	GSIP, VSIC
	Aluminum	DWP
	Antimony	DWP
	Arsenic	DWP, GSIP
	Cadmium	DWP
	Cobalt	DWP, GSIP
	Copper	DWP, DC, RDC
	Total Cyanide	GSIP, VI
	Iron	DWP
	Lead	DWP, DC, RDC
	Magnesium	DWP
	Mercury	DWP, GSIP, VI
	Nickel	DWP
	Selenium	DWP, GSIP
	Silver	GSIP
	Sodium	DWP
	Thallium	DWP
	Vanadium	DWP, DC, RDC
	Zinc	DWP
	PCBs (Total)	DWP, GSIP, VSIC, DC, TSCA, RDC, RSVIC
	Manganese	DWP, PSIC

**Soil**

DWP – Site-Specific Nonresidential Drinking Water Protection Criteria

GSIP – Groundwater Surface Water Interface Protection Criteria

VI – Site-Specific Vapor Intrusion Criteria

DC – Site-Specific Nonresidential Direct Contact

VSIC – Site-Specific Nonresidential Volatile Soil Inhalation Criteria

PSIC – Site-Specific Nonresidential Particulate Soil Inhalation Criteria

TSCA – Toxic Substance Control Act

RDC – Site-Specific Recreational Direct Contact

RVSIC – Site-Specific Recreational Volatile Soil Inhalation Criteria

Site-Specific Nonresidential (SSNR) criteria were developed based on the MDEQ Part 201 Generic Cleanup Criteria – Draft 2017 Nonresidential Soil Criteria, with the exception of VI criteria which are based on a Site-specific (SS) VI request and MDEQ SSVI Criteria Memo dated September 12, 2018. The GSIP are the MDEQ 2013 GSIP criteria. The final SS criteria and evaluation are reported in the Nonresidential Use Risk Evaluation Report, Arcadis, October 10, 2018 and Addendum 1 to the Nonresidential Use Risk Evaluation Report, Arcadis, February 15, 2019, and approved by MDEQ in a February 27, 2019 letter.

Recreational criteria were developed and reported in the Recreational Use Risk Evaluation Report, Arcadis, September 18, 2017 and approved by MDEQ in an October 31, 2017 letter.

Media	Substance	Criteria Exceeded
Groundwater	Cyanide (total)	GSI, VI
	Vinyl Chloride	DWC, GSI, VI
	Iron	DWC
	Naphthalene	GSI, VI
	Aluminum	DWC
	Beryllium	DWC
	Cadmium	GSI
	Chromium	DWC
	Copper	GSI
	Toluene	DWC, GSI
	Trichloroethene	DWC, VI
	Manganese	DWC, GSI
	Mercury	GSI
	Isopropyl benzene	GSI, VI
	1,1-Dichloroethene	DWC
	1,2,4-Trimethylbenzene	DWC, GSI, VI
	1,3,5-Trimethylbenzene	DWC, GSI, VI
	Benzene	DWC, GSI, VI
	Ethylbenzene	DWC, GSI, VI
	Xylenes (total)	DWC, GSI, VI
	Lead	DWC, GSI
	Antimony	DWC
	Fluoranthene	GSI
	cis-1,2-Dichloroethene	DWC, GSI, VI
	Chlorobenzene	DWC, GSI, VI
	Chrysene	DWC
	Arsenic	DWC, GSI
	Barium	DWC, GSI
	Benzo(a)pyrene	DWC, WS
	Benzo(b)fluoranthene	DWC, WS
Benzo(g,h,i)perylene	DWC, WS	

Media	Substance	Criteria Exceeded
Groundwater	Benzo(k)fluoranthene	DWC, WS
	Indeno(1,2,3-cd)pyrene	DWC, WS
	2,4-Dimethylphenol	DWC, GSI
	2-Methylnaphthalene	GSI
	Bis(2-Ethylhexyl)phthalate	DWC, GSI
	Nickel	DWC
	Phenol	DWC, GSI
	Phenanthrene	GSI, VI
	Perfluorooctanesulfonic acid (PFOS)	GSI
	Sodium	DWC
	Selenium	GSI
	Silver	GSI
	Thallium	DWC, GSI
	Ammonia Nitrogen	DWC
	Chloride	DWC
	Sulfate	DWC
	TDS	DWC
	PCBs (total)	DWC, GSI, VI
	Vanadium	DWC, GSI
Zinc	GSI	

**Groundwater**

GSI – Site-Specific Groundwater Surface Water Interface Criteria

DWC – Site-Specific Nonresidential Drinking Water Criteria

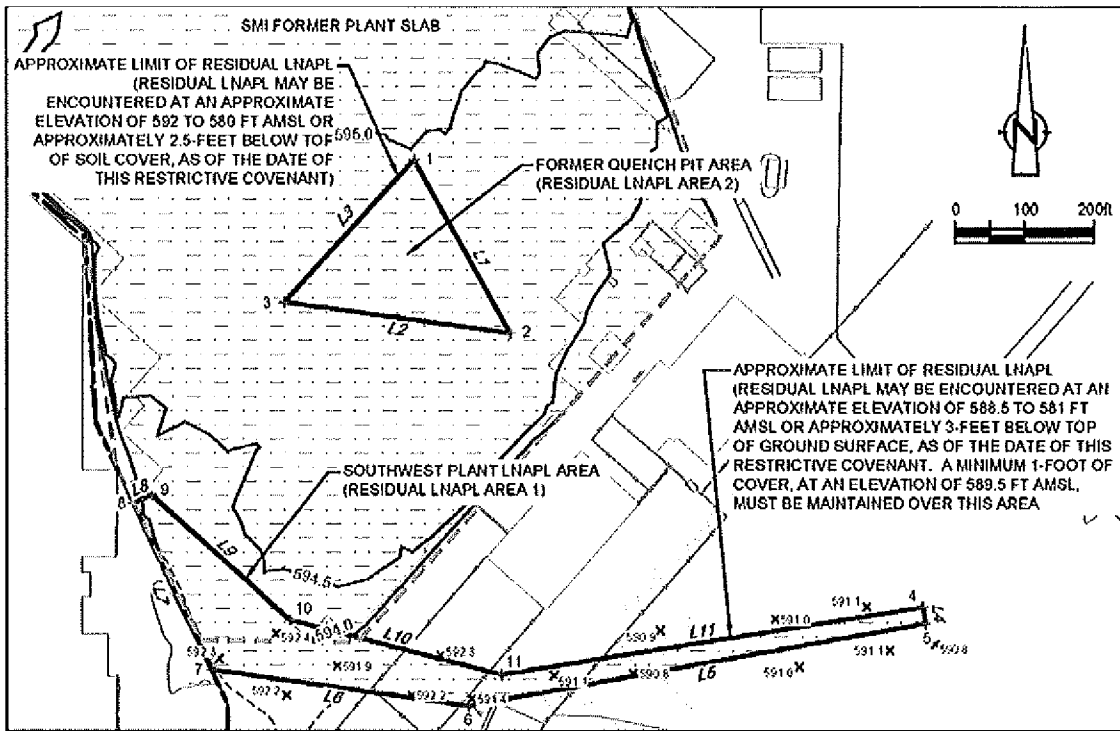
VI – Site-Specific Vapor Intrusion Criteria

WS – Site-Specific Water Solubility

Site-Specific Nonresidential (SSNR) criteria were developed based on the MDEQ Part 201 Generic Cleanup Criteria – Draft 2017 Nonresidential Groundwater Criteria, except for VI criteria which are based on a SSVI request and MDEQ SSVI Criteria Memo dated September 12, 2018, and the GSI criteria, which are the MDEQ Rule 57 criteria. The final SS criteria and evaluation are reported in the Nonresidential Use Risk Evaluation Report, Arcadis, October 10, 2018 and Addendum 1 to the Nonresidential Use Risk Evaluation Report, Arcadis, February 15, 2019, and approved by MDEQ in a February 27, 2019 letter.

### EXHIBIT 3

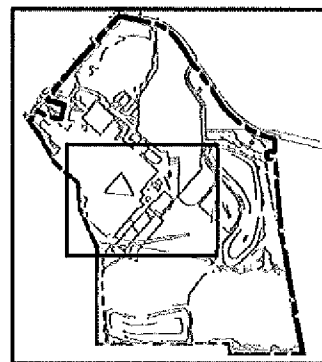
### RESIDUAL LNAPL AREAS



**LEGEND**

- 595.00 — APPROXIMATE TOP OF COVER ELEVATION (FT AMSL) (CONTOUR INTERVAL - 0.5 FEET)
- PCB REMEDIATION WASTE, LOW OCCUPANCY AREA AS DEFINED IN 40 CFR 761.61 INCLUDING A 1-FOOT SOIL COVER OVER CONCRETE IMPACTED WITH UP TO 10 PPM PCBs
- SOIL COVER
- X 592.5 GROUND SURFACE ELEVATION, AS OF THE DATE OF THIS RESTRICTIVE COVENANT

1	X=13227924.6814 , Y=692935.7407
L1	S 29°26'47 E @ 281.76
2	X=13228063.1966 , Y=692690.3795
L2	N 82°13'19 W @ 326.24
3	X=13227739.8544 , Y=692734.5329
L3	N 42°33'17 E @ 273.15
4	X=13228651.6848 , Y=692302.4754
L4	S 8°49'37 E @ 23.5
5	X=13228655.3007 , Y=692279.2541
L5	S 79°49'18 W @ 863.18
6	X=13228002.5575 , Y=692162.0631
L6	N 81°59'25 W @ 370.05
7	X=13227636.1207 , Y=692213.6266
L7	N 25°21'7 W @ 260.81
8	X=13227624.4468 , Y=692440.3214
L8	N 65°50'20 E @ 28.69
9	X=13227550.6259 , Y=692461.0653
L9	S 48°5'24 E @ 265.22
10	X=13227748.0035 , Y=692283.9071
L10	S 75°35'10 E @ 311.95
11	X=13228050.1312 , Y=692206.2583
L11	N 80°54'45" E @ 609.21



**KEY MAP**  
SCALE: 1" = 1600'

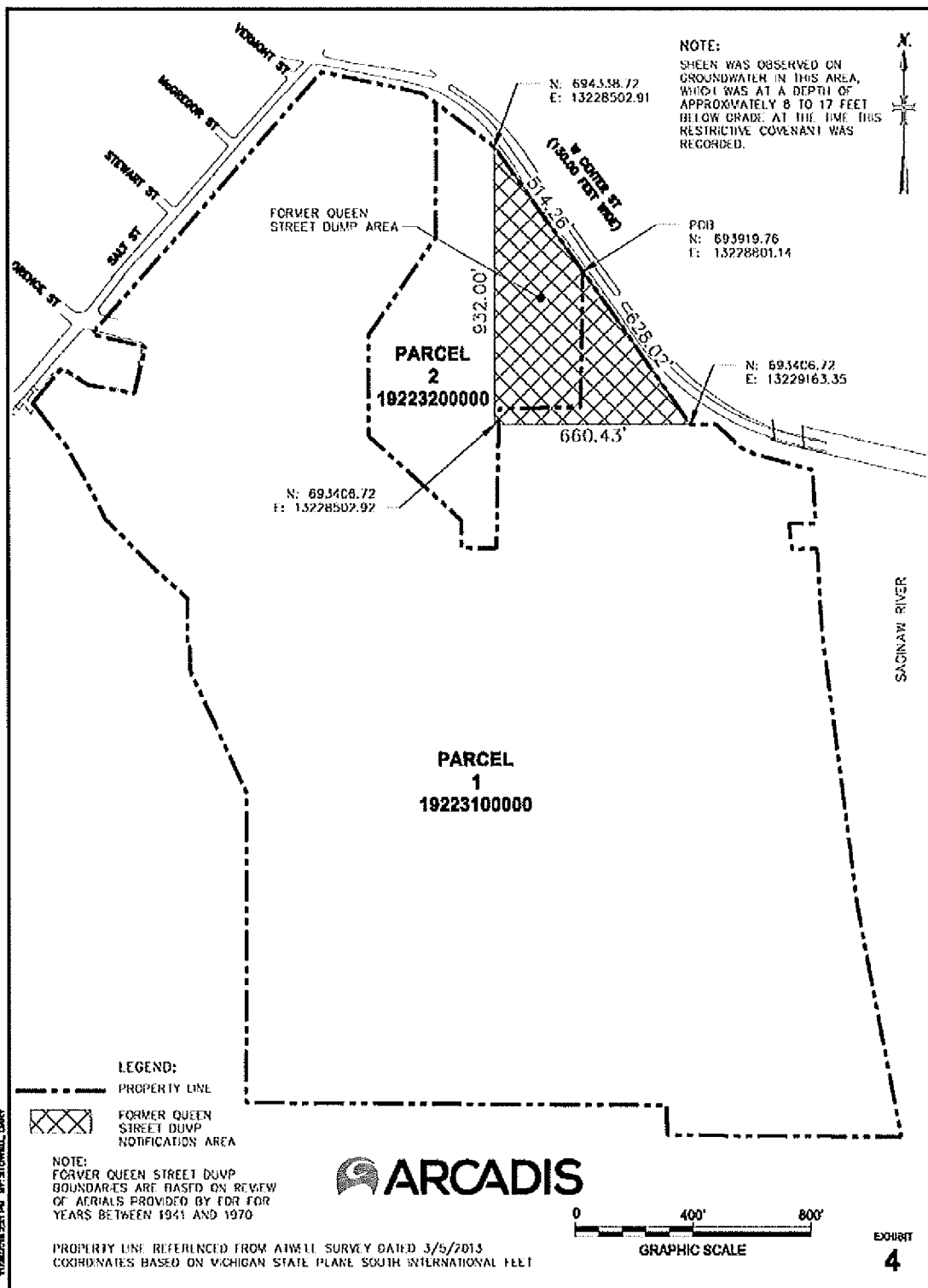
NOTE  
MICHIGAN SOUTH STATE PLANE COORDINATE SYSTEM  
NAD 83 - U.S. INTERNATIONAL FEET 1982/02



3

### EXHIBIT 4

### FORMER QUEEN STREET DUMP AREA



**EXHIBIT 5****DESCRIPTION OF ALLOWABLE USES**

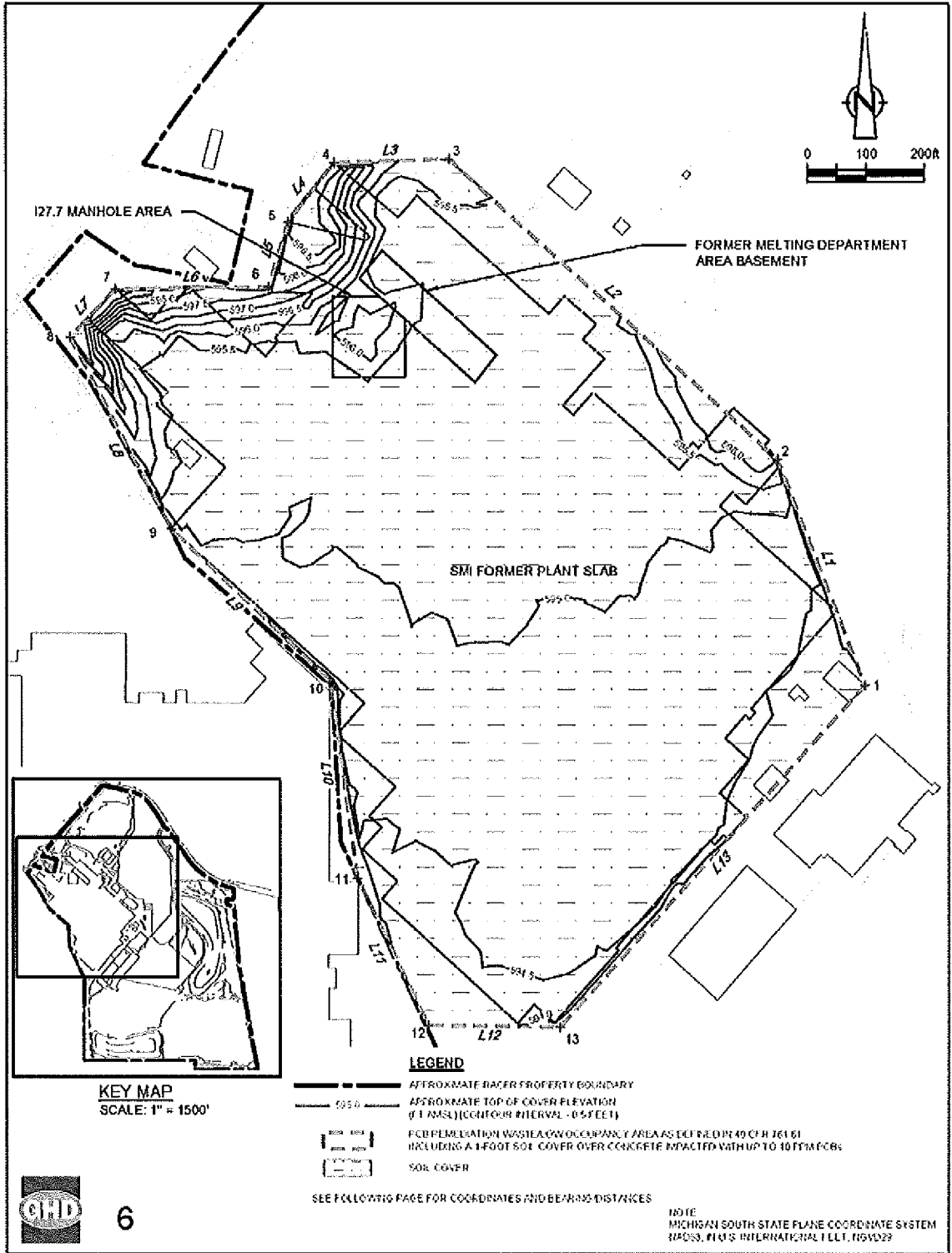
**Nonresidential Land Use:** This land use is characterized by any use which is not residential in nature and is primarily characterized by industrial and commercial uses but in this case also includes passive recreational use. Industrial uses typically involve manufacturing operations engaged in processing 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. Passive recreational uses include, but are not limited to, uses such as walking, hiking, bird watching, sledding, biking, nature observation, and picnicking on the Property, and fishing, canoeing and kayaking from the Property in the adjacent Saginaw River but not in on-Site Surface Water Bodies.

Any residential use is specifically prohibited from the nonresidential 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. Any uses which are 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, may not fit the nonresidential exposure assumptions. Residential or site specific environmental protection standards may need to be considered. 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 nonconforming use is also restricted per the prohibitions contained in this restrictive covenant.

**Low Occupancy Area:** As defined in 40 CFR 761.3, low occupancy area means any area where bulk 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 335 hours (an average of 6.7 hours per week). 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 6**

**TSCA REMEDIATION WASTE / DESIGNATED LOW OCCUPANCY AREAS**



1	X=13228363.57, Y=692827.17
L1	N21d28'48W @ 408.70
2	X=13228214.6919, Y=693207.7795
L2	N47d49'02W, @ 754.61
3	X=13227655.52, Y=693714.5
L3	S88d15'30W, @ 196.09
4	X=13227459.52, Y=693708.54
L4	S37d56'50W, @ 127.10
5	X=13227381.36, Y=693608.31
L5	S17d15'28W @ 114.11
6	X=13227347.5072, Y=693499.3381
L6	S89D10'40"W @ 260.21
7	X=13227087.3324, Y=693495.6046

L7	S43d47'12W @ 112.92
8	X=13227009.1925, Y=693414.0829
L8	S28d04'47E @ 365.81
9	X=13227181.38, Y=693091.33
L9	S46d02'43E @ 374.29
10	X=13227452.4329, Y=692833.2175
L10	S7d58'56E @ 334.58
11	X=13227498.896, Y=692501.8756
L11	S26d10'52E @ 274.86
12	X=13227620.1653, Y=692255.2180
L12	S89d20'44E @ 223.96
13	X=13227844.1093, Y=692252.6597
L13	N42d07'09E @ 774.53

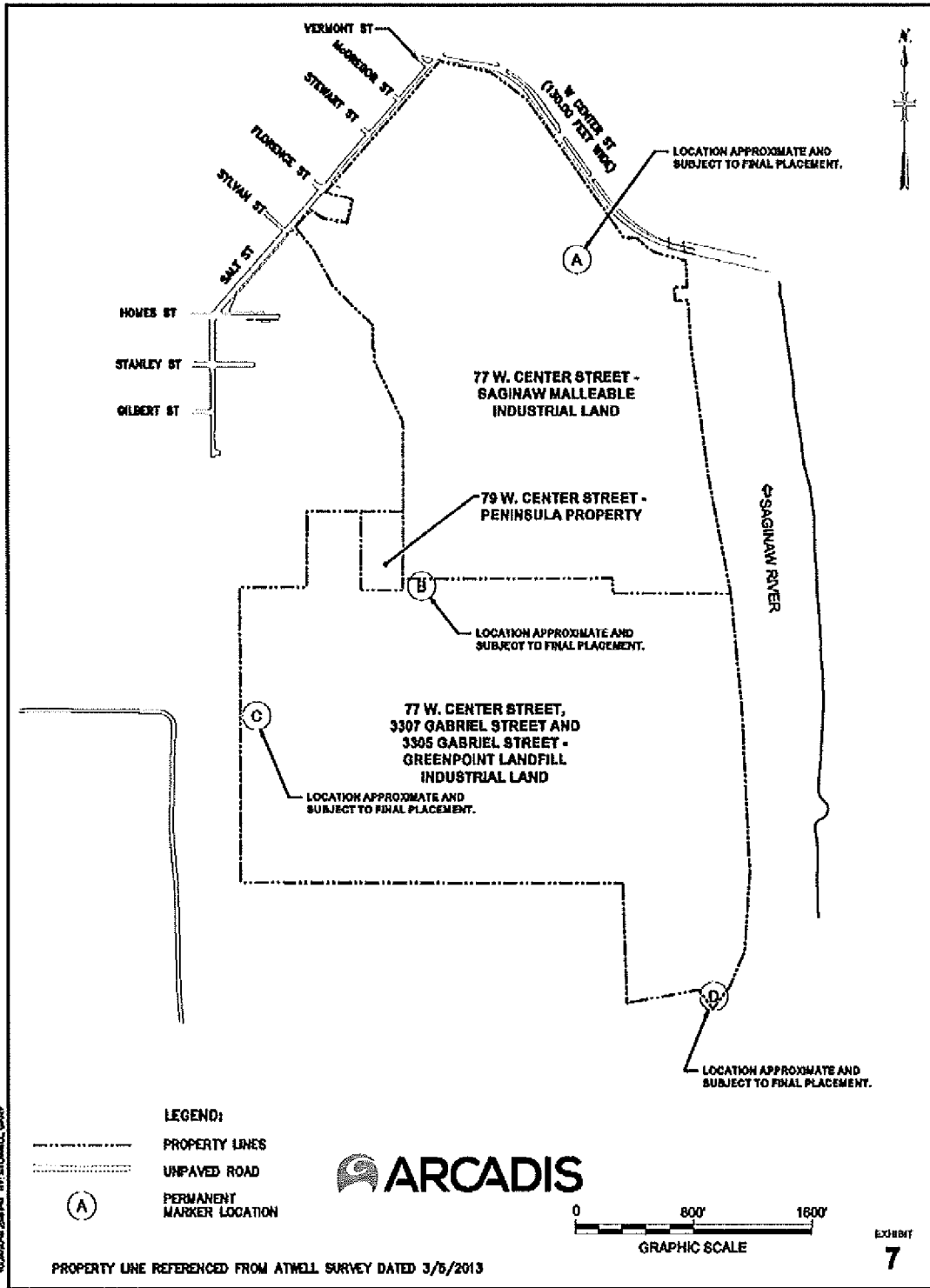


6

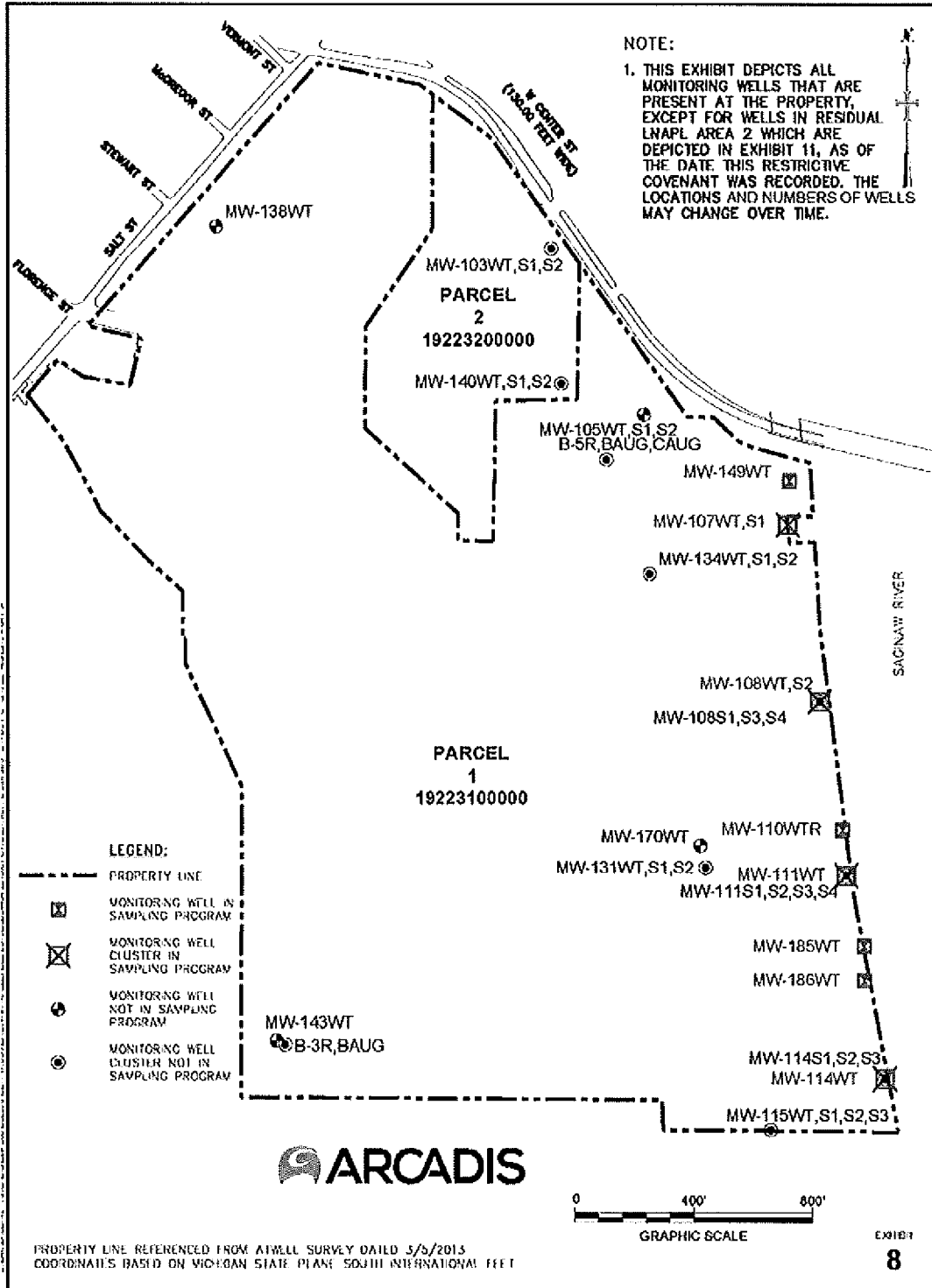
NOTE  
MICHIGAN SOUTH STATE PLANE COORDINATE SYSTEM  
NAD83, IN U.S. INTERNATIONAL FEET



# EXHIBIT 7 PERMANENT MARKERS



## EXHIBIT 8 MONITORING WELLS



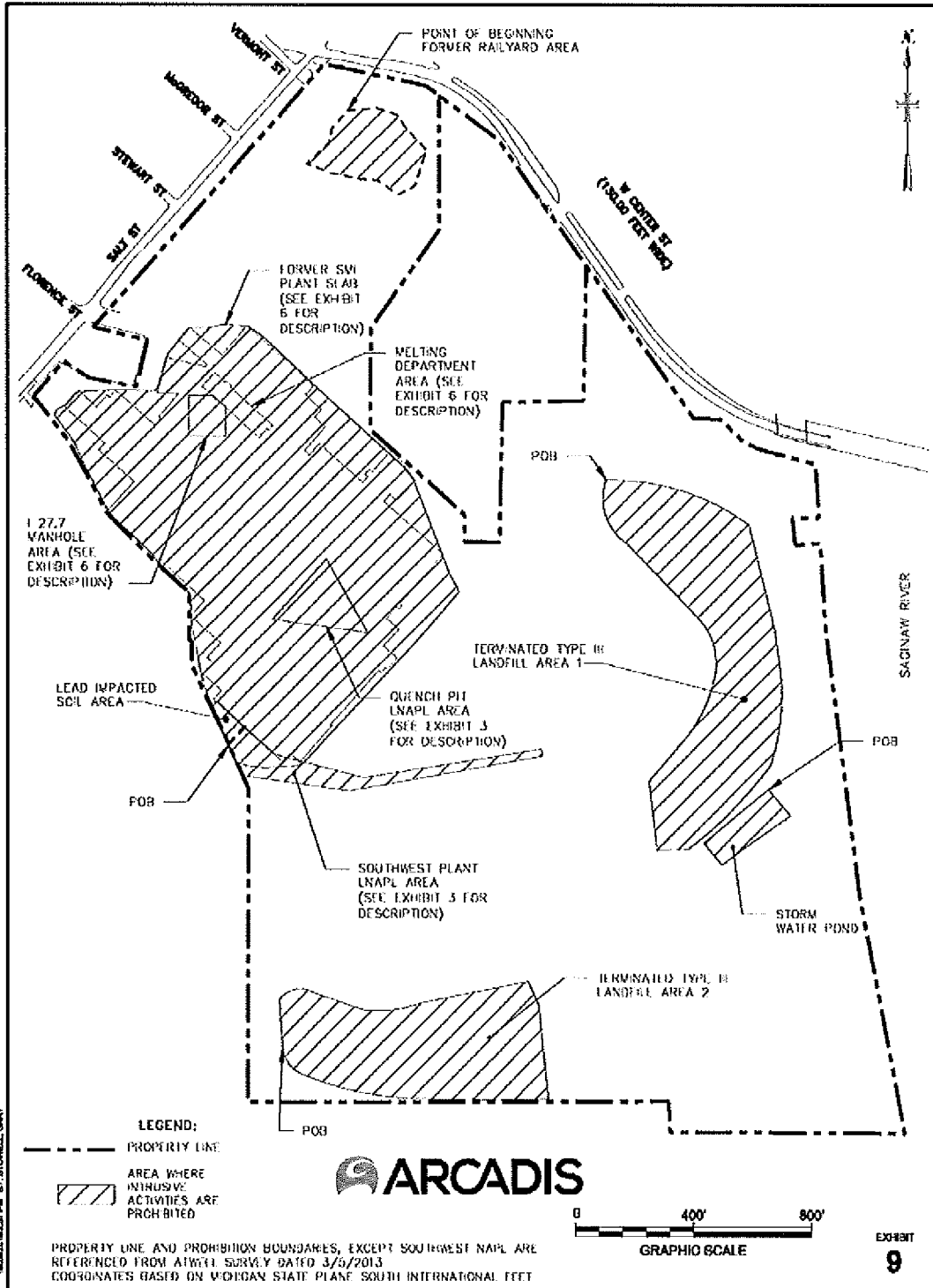
## MONITORING WELL LOCATIONS

Monitoring Well ID	X (Easting)	Y (Northing)
MW-108S1,S3,S4	13229608.46	692455.61
MW-111S1,S2,S3,S4	13229699.51	691875.06
MW-114S1,S2,S3	13229832.14	691198.01
QP-03	13227857.62	692780.63
QP-02	13227881.29	692813.24
QP-01	13227920.62	692844.91
QPTW-5	13227948.18	692855.21
QPTW-4	13227917.01	692880.67
QPTW-3	13227886.02	692825.09
QPTW-13	13228009.69	692719.43
QPTW-10	13227934.01	692789.47
QPTW-1	13227838.19	692761.40
MW-170WT	13229207.77	691974.17
B-5R,BAUG,CAUG	13228891.17	693263.93
MW-140WT,S1,S2	13228738.79	693517.47
MW-105WT,S1,S2	13229018.00	693414.40
MW-115WT,S1,S2,S3	13229445.58	691027.74
MW-131WT,S1,S2	13229225.09	691900.74
MW-134WT,S1,S2	13229036.75	692882.49
MW-103WT,S1,S2	13228705.07	693969.98
MW-138WT	13227572.96	694043.92
MW-143WT	13227777.37	691323.44
B-3R,BAUG	13227806.28	691310.74
MW-137WT	13227883.34	693497.35
MW-107WT,S1	13229500.00	693046.13
MW-108WT,S2	13229608.46	692455.61
MW-111WT	13229699.51	691875.06
MW-149WT	13229505.61	693192.73
MW-110WTR	13229685.93	692026.35
MW-185WT	13229761.09	691639.02
MW-186WT	13229762.21	691524.36
MW-114WT	13229832.14	691198.01

NOTE: MICHIGAN SOUTH STATE PLANE COORDINATE SYSTEM NAD83,  
IN U.S. INTERNATIONAL FEET.

**EXHIBIT 9**

**AREAS WHERE INTRUSIVE ACTIVITIES ARE PROHIBITED**



**Terminated Type III Landfill Area 1 (8.43± acres)**

Commencing to a found monument at the center-line intersections of Salt Road (66.00 feet wide) and Sylvan Road (60.00 feet wide) being part of Sections 34 & 35, T12N, R4E, and part of Sections 2 & 3, T11N, R4E, City of Saginaw, Saginaw County, Michigan; thence N41°13'20"E 53.66 feet along the center-line of said Salt Road; thence S48°46'40"E 33.00 feet perpendicular to said center-line of said Salt Road; thence N41°13'20"E 155.86 feet along the Southeasterly Right-of-Way line of said Salt Road; thence S56°24'15"E 100.97 feet; thence S79°30'05"E 162.10 feet; thence N13°24'11"E 160.56 feet; thence along the Southwesterly Right-of-Way line of vacated relocated Florence Street (66.00 feet wide) as recorded thereof in Uber 1269, Page 348 of Saginaw County Records, N76°42'45"W 186.19 feet to the said Southeasterly Right-of-Way line of said Salt Road, said point being S44°49'19"E 33.08 feet from a found monument at the center-line of said Salt Road; thence N41°13'20"E 2.12 feet along the Southeasterly Line of said Salt Road; thence N41°30'33"E 1174.43 feet continuing along said Southeasterly Right-of-Way line of said Salt Road to the Southwesterly Right-of-Way Line of West Center Street (130.00 feet wide) for the following three (3) courses: [1] S77°59'54"E 348.21 feet; [2] S53°41'09"E 303.68 feet, and [3] S3S°19'1B"E 1142.28 feet; thence S55°05'12"W 359.40 feet for a **PLACE OF BEGINNING**; thence 512.86 feet along the arc of a 802.12 foot radius non-tangential circular curve to the right, with a central angle of 36°38'01", having a chord which bears S72°52'53"E 504.17 feet; thence S13°54'57"E 359.78 feet; thence S07°48'12"E 136.65 feet; thence 321.82 feet along the arc of a 760.12 foot radius circular curve to the right, with a central angle of 24°15'30", having a chord which bears S05°30'50"W 319.42 feet; thence 399.01 feet along the arc of a 1346.75 foot radius non-tangential circular curve to the right, with a central angle of 16°58'32", having a chord which bears S44°47'51"W 397.55 feet; thence S88°00'02"W 104.33 feet; thence N06°52'30"W 231.51 feet; thence N40°18'53"E 161.58 feet; thence 234.69 feet along the arc of a 452.93 foot radius circular curve to the left, with a central angle of 29°41'19", having a chord which bears N28°34'44"E 232.07 feet; thence 245.08 feet along the arc of a 217.33 foot radius compound circular curve to the left, with a central angle of 64°36'38", having a chord which bears N14°10'33"W 232.30 feet; thence N43°56'39"W 333.68 feet; thence 243.78 feet along the arc of a 181.70 foot radius non-tangential circular curve to the right, with a central angle of 76°52'24", having a chord which bears N18°22'43"W 225.90 feet. Containing 8.43 acres of land, more or less subject to easements conditions restrictions and exceptions of record, if any.

**Terminated Type III Landfill Area 2 (6.54± acres)**

Commencing at the Northwest Corner of Section 2, being part of Sections 34 & 35, T12N, R4E, and part of Sections 2 & 3, T11N, R4E, City of Saginaw, Saginaw County, Michigan; thence N89°38'51"W 799.20 feet along the North line of said Section 2; thence N00°07'03"W 812.05 feet; thence S89°39'56"E 453.71 feet; thence N00°08'29"E 499.70 feet; thence S89°40'47"E 349.80 feet; thence S00°10'11"W 524.17 feet; thence S89°35'00"E 300.33 feet; thence N00°07'58"E 267.33 feet; thence S89°52'02"E 115.84 feet for a **PLACE OF BEGINNING**; thence N03°52'13"W 159.76 feet; thence 129.78 feet along the arc of a 90.37 foot radius circular curve to the right, with a central angle of 82°17'15", having a chord which bears N78°29'48"E 118.91 feet; thence S71°14'33"E 179.79 feet; thence 198.51 feet along the arc of a 426.93 foot radius circular curve to the left, with a central angle of 26°38'26H, having a chord which bears N82°49'14"E 196.72 feet; thence N79°01'57"E 368.24 feet; thence S24°05'45"E 86.39 feet; thence S05°50'34"E 313.09 feet; thence S86°14'54"W 214.08 feet; thence N89°54'42"W 198.43 feet; thence 418.80 feet along the arc of a 1777.25 foot radius circular curve to the right, with a central angle of 13°30'05", having a chord which bears N77°23'34"W 417.83 feet; thence 129.64 feet along the arc of a 112.69 foot radius circular curve to the right, with a central angle of 65°54'41", having a chord which bears N40°44'41"W 122.61 feet to the Place of Beginning. Containing 6.54 acres of land, more or less, subject to easements conditions, restrictions and exceptions of record, if any.

**Storm Water Pond (0.51± acres)**

Corner	Easting	Northing
Point of Beginning	13229417.08	692168.12
1	13229490.46	692080.07
2	13229259.03	691916.37

Corner	Easting	Northing
3	13229198.06	691988.62

Length	Bearing and Distance in Feet
L1	S 39°48'20 E @ 114.62
L2	S 54°43'39 W @ 283.47
L3	N 40°09'22 W @ 94.53
L4	N 50°39'45 E @ 283.18

NOTE: MICHIGAN SOUTH STATE PLANE COORDINATE SYSTEM NAD83,  
IN U.S. INTERNATIONAL FEET.

**Lead Impacted Soil Area (0.19± acres)**

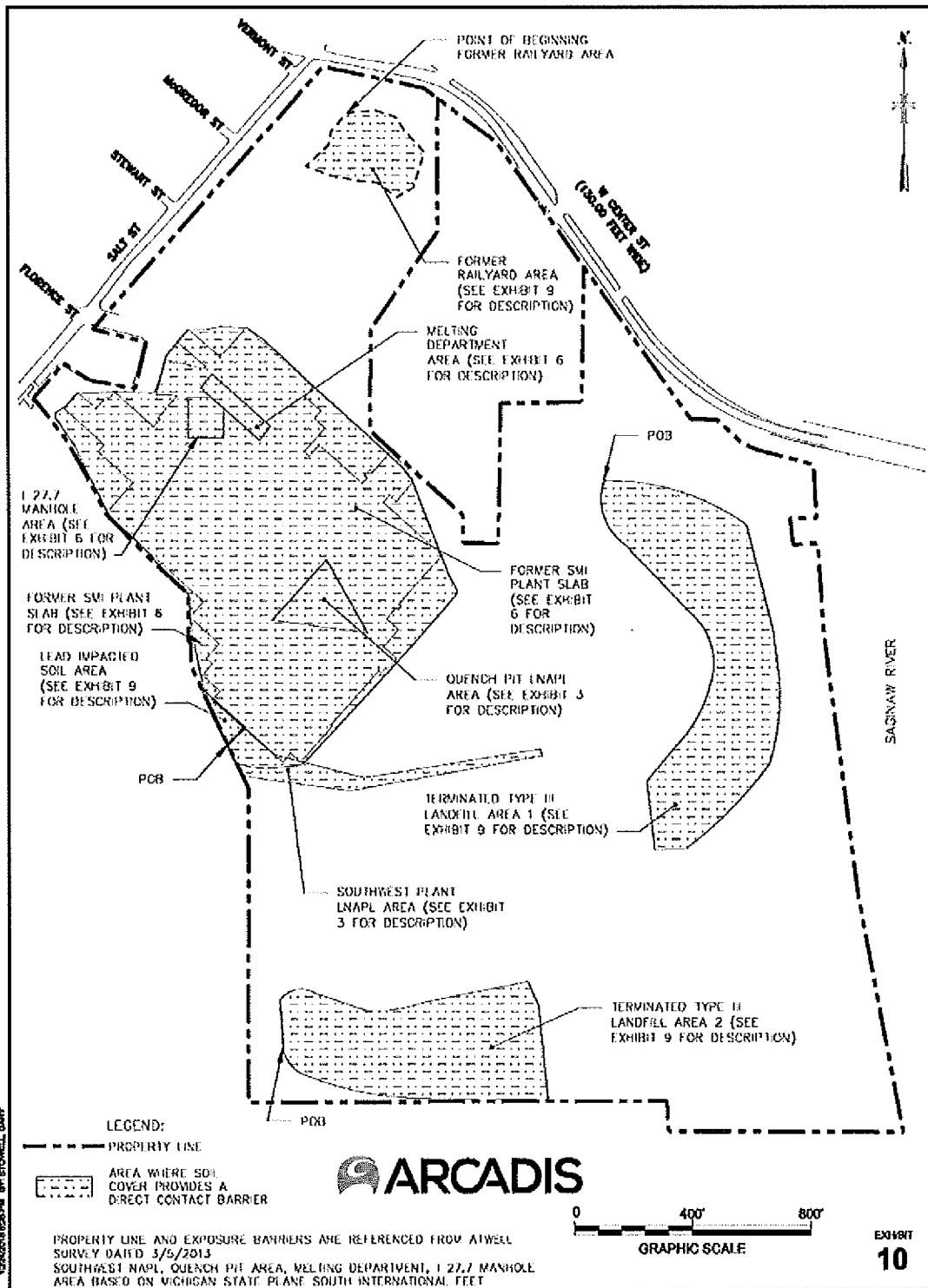
**PLACE OF BEGINNING** At coordinate N: 692317.54, E: 13227591.22 thence N2514'05"W 213.28 feet; thence S4830'33"E 200.73 feet; thence S4511'40"W 82.93 feet to Place of Beginning.

**Former Rallyard Area ( 1.62± acres)**

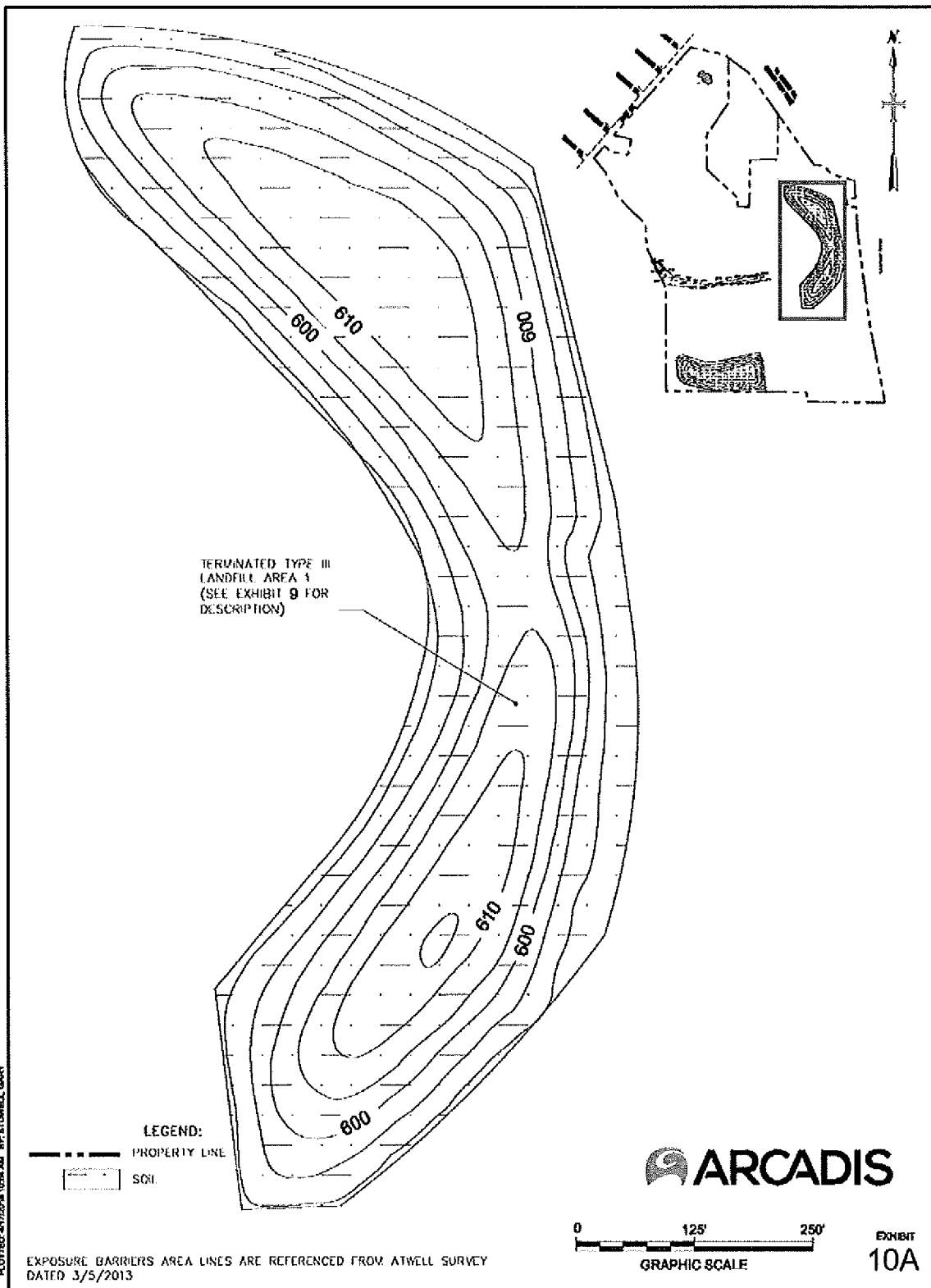
A parcel of land in the Northwest 1/ of Section 35, T. 12N, - R.04E., City of Saginaw, Saginaw County, Michigan, described as follows: To fix the point of beginning, commence at the Northeast corner of Lot 14, Block 40, Map of the Saginaw Improvement Company's Addition I to the City of Saginaw, according to the recorded plat thereof recorded in Liber 2 of plats, Page 22, Saginaw County Records; thence S 89°-35'05"E., on the South line of Holmes Street, 50.26; thence N. 00°-01'-41"W., 66.00 feet to a point on the North line of said Holmes Street; thence N. 89°-35'-05W., on said north line, 311.80 feet to the intersection of said North line and the Southeasterly line of Salt Street; thence N. 41°-23'-03"E., on said Southeasterly line, 2217.70 feet to the intersection of said Southeasterly line and the Southerly line of Vermont Street; thence S. 34° -43'-13"E., 163.95 feet to the point of beginning; thence N. 85° -53'-42"E., 99.05 feet; thence S. 72° -10'-52"E., 69.51 feet; thence S. 33° -41'-24"E., 57.95 feet; thence S. 43° -35'-35"E., 95.29 feet; thence S. 17° -09'-32" W., 126.91 feet; thence S. 62° -14'-29" W., 65.35 feet; thence N. 53° -50'-03" W., 82.85 feet; thence N. 85° -09'-19" W., 63.45 feet; thence N. 78° -23'-21" W., 102.76 feet; thence N 68° -17'-48" W., 81.05 feet; thence N. 47° -51'-39" E., 68.16 feet; thence N 46° -15'-16" E., 35.68 feet; thence N. 10° -25'-52" E., 47.55 feet; thence 41° -16'-23" E., 81.22 feet to the point of beginning.

**EXHIBIT 10**

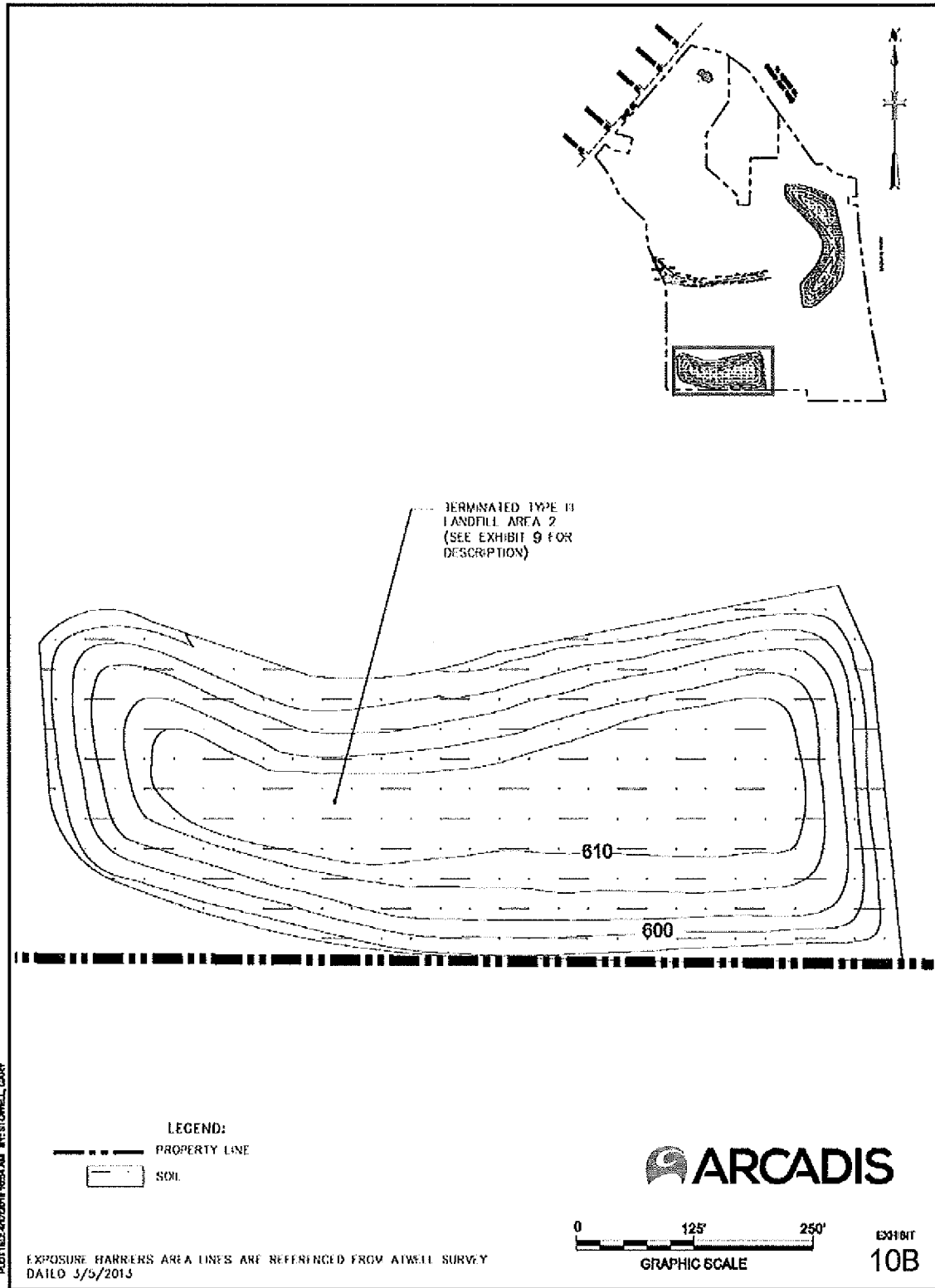
**EXPOSURE BARRIERS**



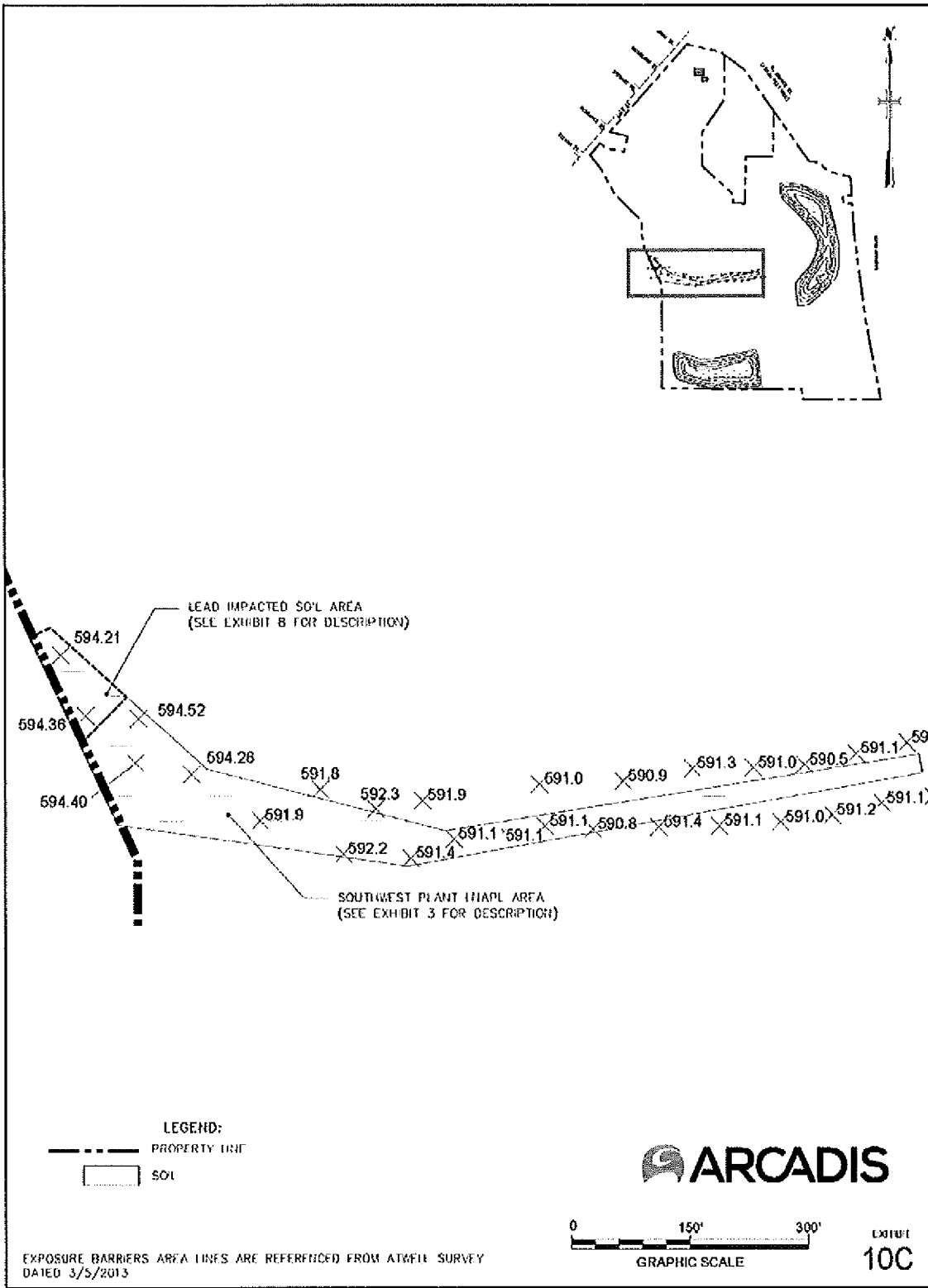
### TERMINATED TYPE III LANDFILL AREA 1



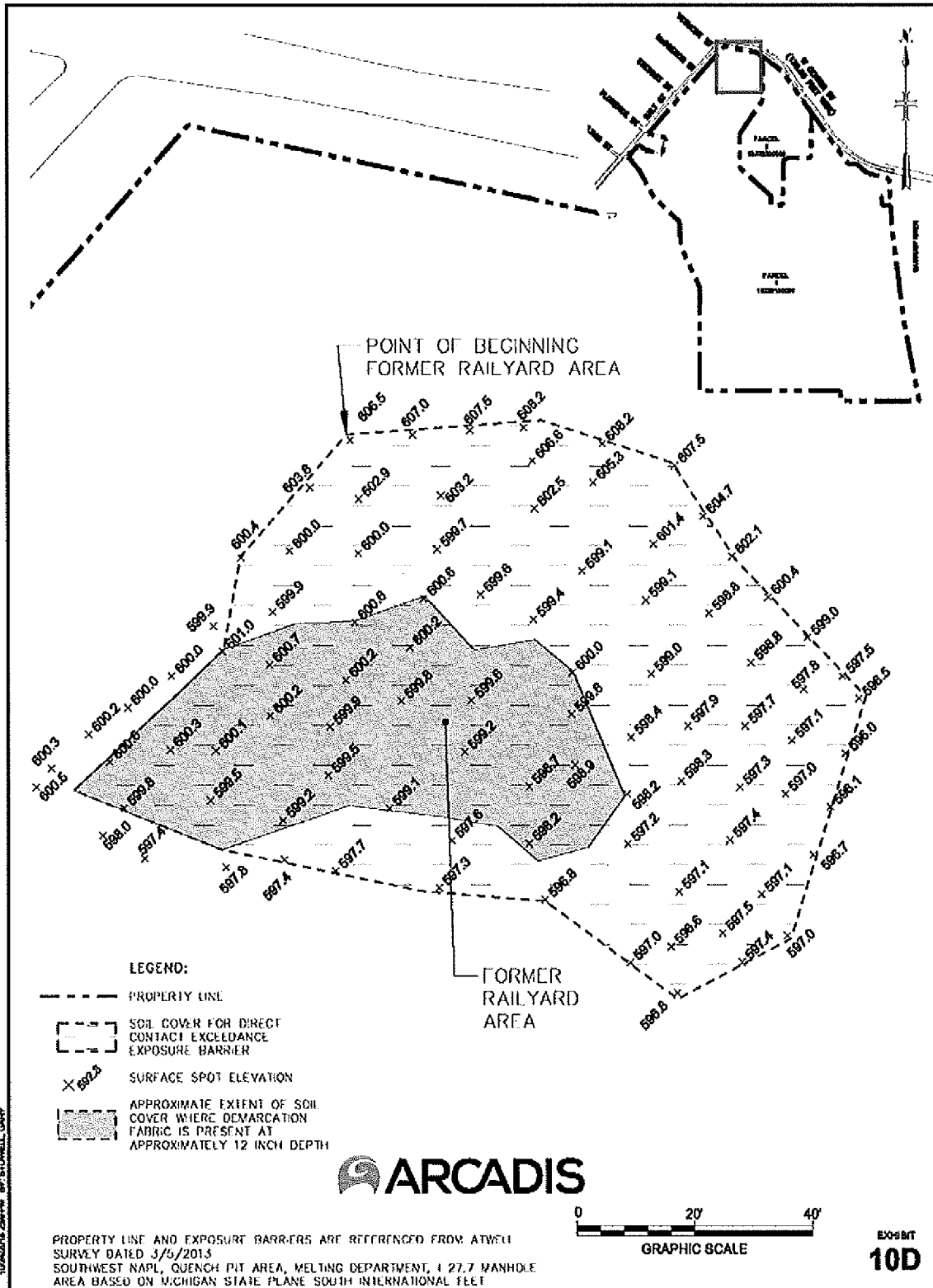
### TERMINATED TYPE III LANDFILL AREA 2



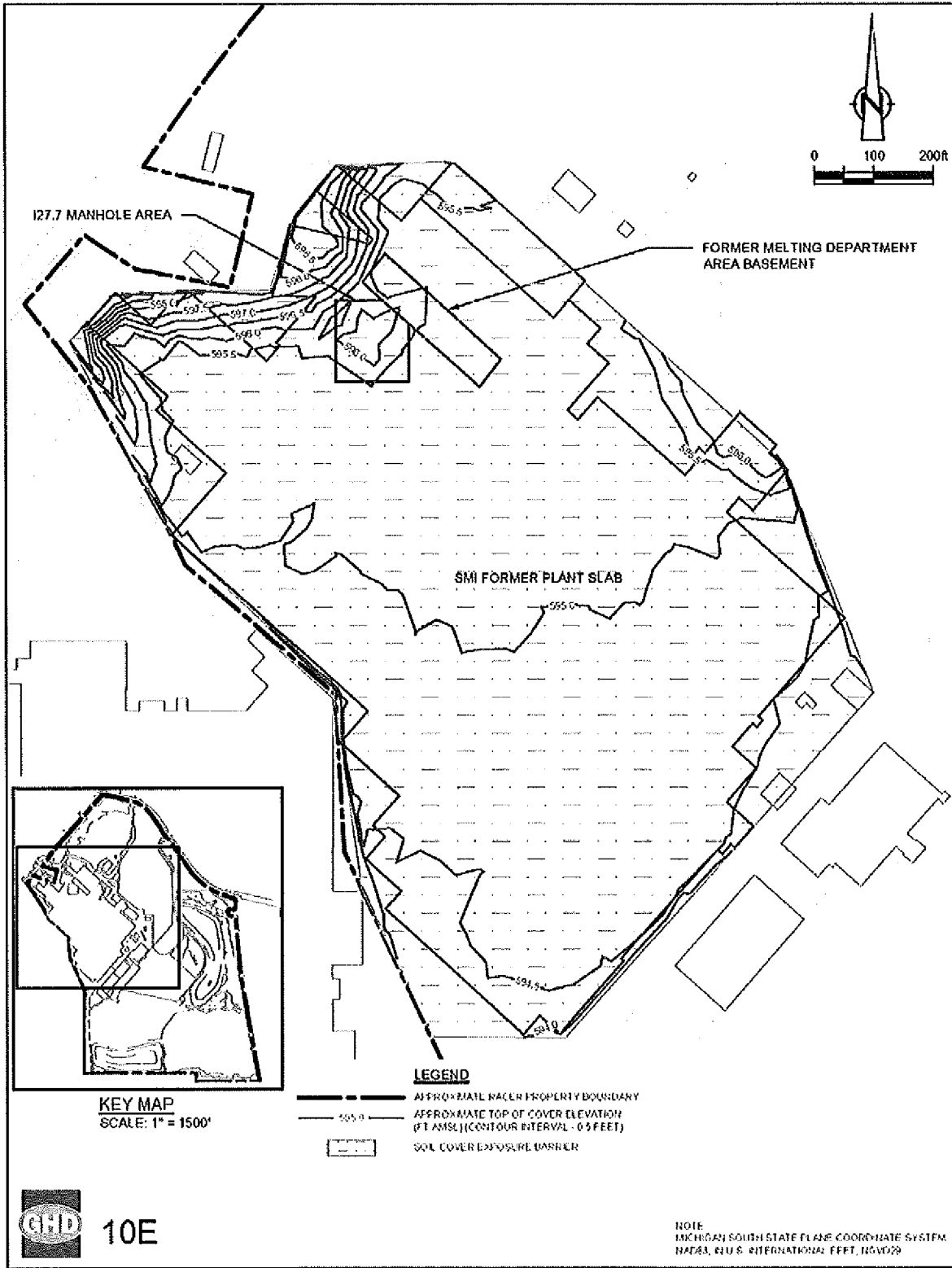
### SOUTHWEST PLANT LNAPL AREA AND LEAD-IMPACTED SOIL AREA



### FORMER RAILYARD AREA

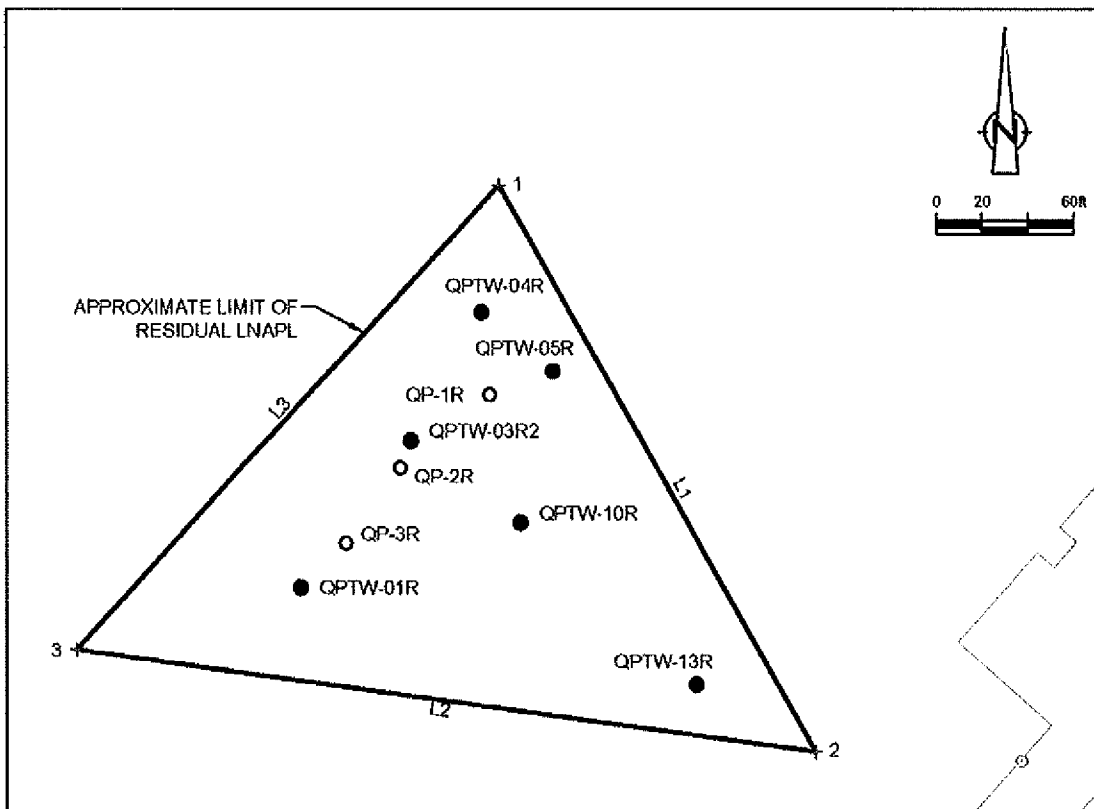


### SMI FORMER PLANT SLAB

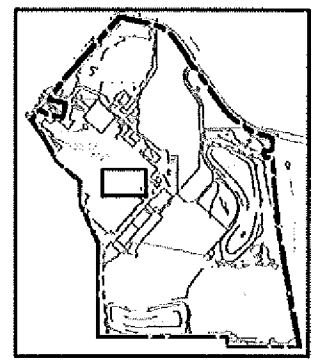


**EXHIBIT 11**

**RESIDUAL LNAPL AREA 2 MONITORING WELLS**



1	X = 13227924.6814, Y = 692935.7407
L1	S 29d28'47 E @ 281.76
2	X = 13228063.1966, Y = 692690.3795
L2	N 82d13'19 W @ 326.24
3	X = 13227739.9544, Y = 692734.5329
L3	N 42d33'17 E @ 273.15
QP-1R	X = 13227920.646, Y = 692844.908
QP-2R	X = 13227881.288, Y = 692813.244
QP-3R	X = 13227857.619, Y = 692780.627
QPTW-01R	X = 13227838.188, Y = 692761.397
QPTW-03R2	X = 13227886.022, Y = 692825.085
QPTW-04R	X = 13227917.006, Y = 692880.666
QPTW-05R	X = 13227948.176, Y = 692855.214
QPTW-10R	X = 13227934.012, Y = 692789.465
QPTW-13R	X = 13228011.225, Y = 692719.465



KEY MAP  
SCALE: 1" = 1500'

THIS EXHIBIT DEPICTS ALL MONITORING WELLS THAT ARE PRESENT IN THIS AREA AS OF THE DATE THIS RESTRICTIVE COVENANT WAS RECORDED. THE NUMBER OF WELLS MAY CHANGE OVER TIME.

**LEGEND**

- QPTW-01R ● MONITORING WELL
- QP-1R ○ RECOVERY POINT
- EDGE OF CONCRETE FLOOR SLAB

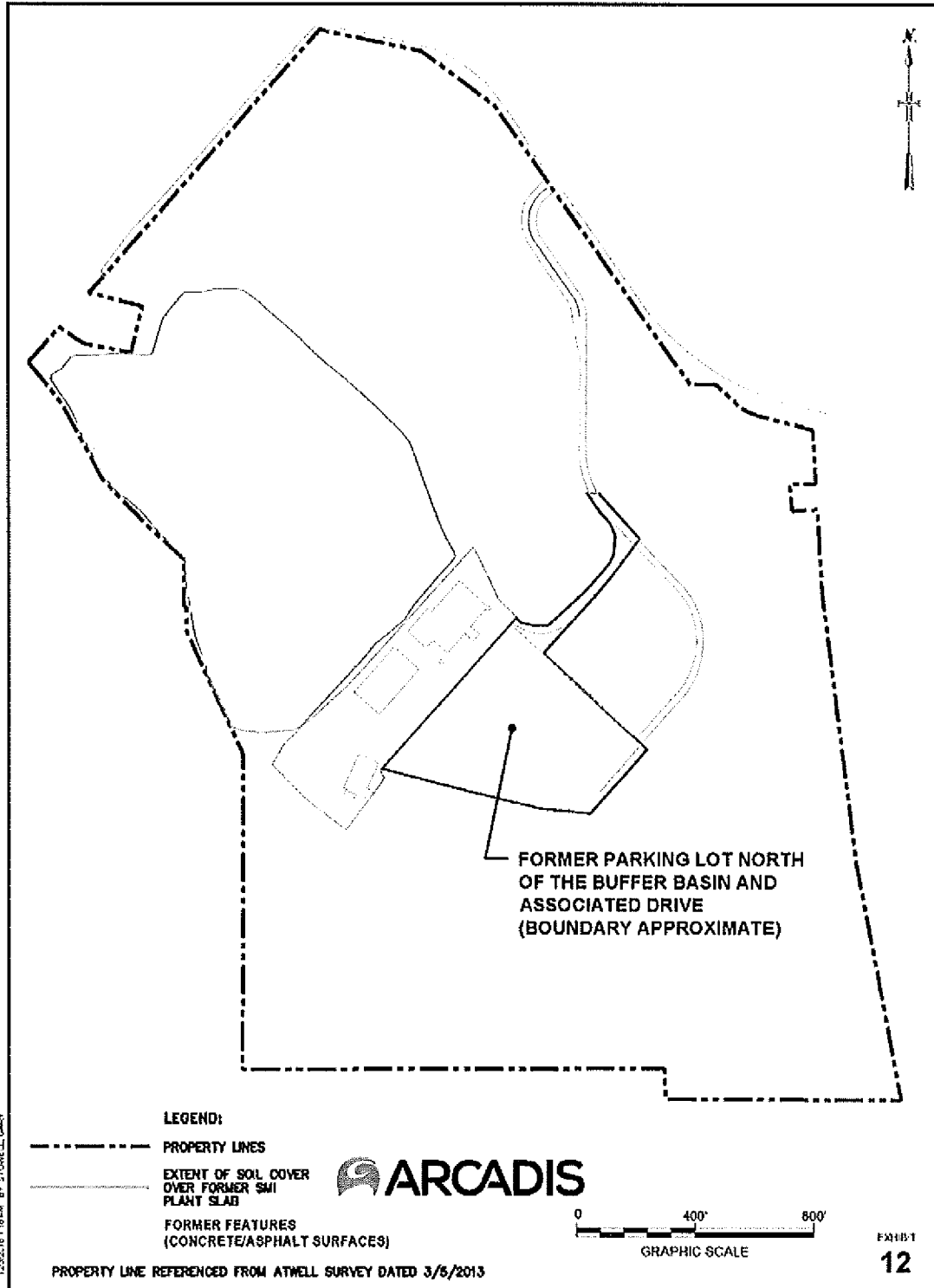
NOTE  
MICHIGAN SOUTH STATE PLANE COORDINATE SYSTEM  
1983, N U S INTERNATIONAL FEET



11

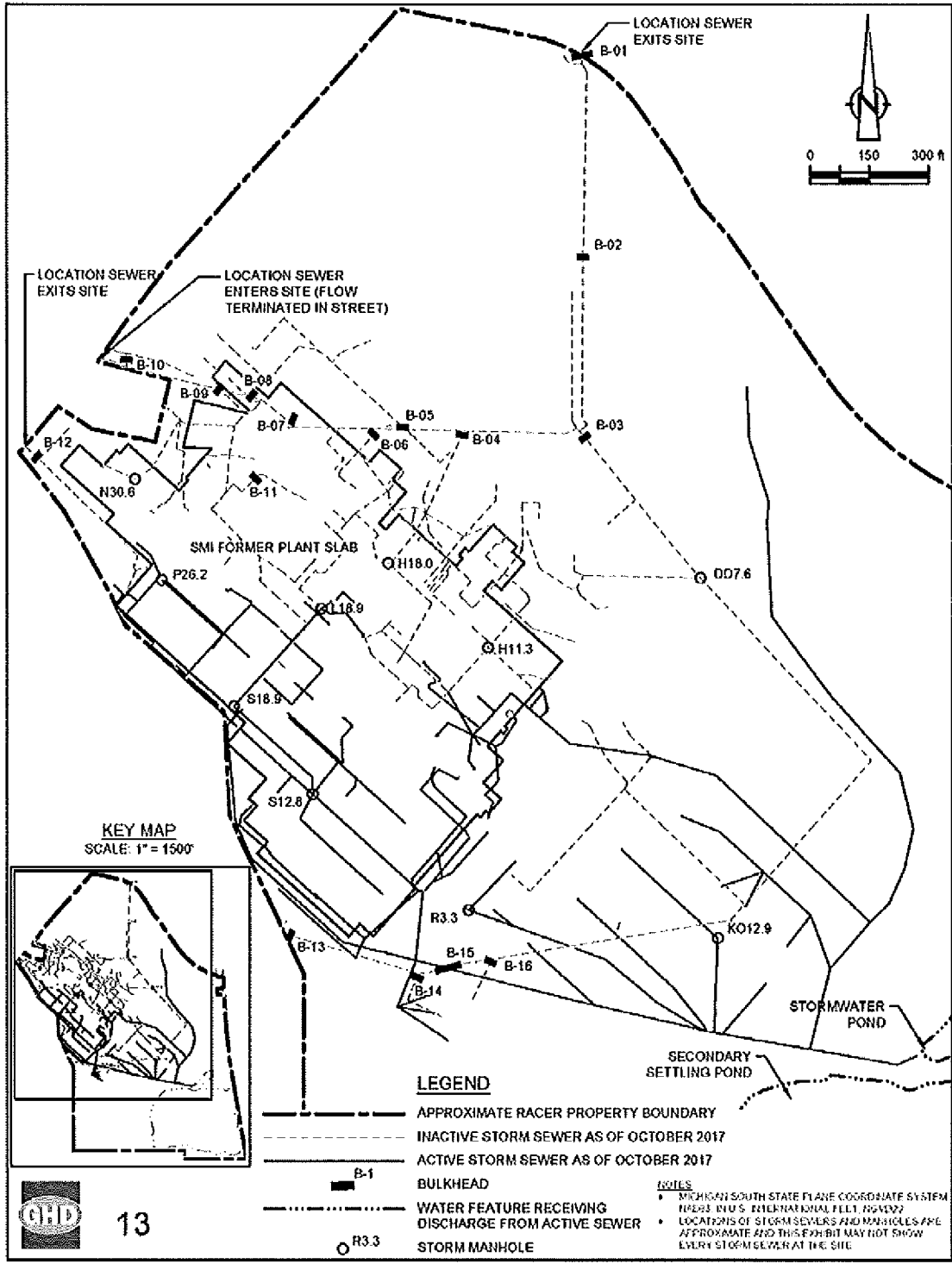
**EXHIBIT 12**

**FORMER PARKING LOT NORTH OF THE BUFFER BASIN**



**EXHIBIT 13**

**STORM SEWERS AND BULKHEADS**



**STORM SEWER BULKHEAD AND MANHOLE LOCATIONS**

Bulkhead	X (Easting)	Y (Northing)
B-01	13228366.48	694479.55
B-02	13228368.39	693970.60
B-03	13228372.81	693516.11
B-04	13228062.73	693521.31
B-05	13227910.61	693541.03
B-06	13227836.41	693523.54
B-07	13227631.89	693561.42
B-08	13227527.95	693621.31
B-09	13227441.93	693635.96
B-10	13227208.12	693710.82
B-11	13227536.80	693412.34
B-12	13226978.42	693465.98
B-13	13227624.33	692261.46
B-14	13227947.30	692156.30
B-15	13228026.80	692180.10
B-16	13228134.10	692195.66

Manhole	X (Easting)	Y (Northing)	Invert Elevation
DD7.6	13228669.11	693160.84	582.82
H11.3	13228127.08	692985.45	584.87
H18.0	13227872.30	693198.09	588.67
KO12.9	13228713.36	692255.17	586.93
L18.9	13227702.51	693083.64	585.83
N30.6	13227228.80	693409.85	589.98
P26.2	13227297.01	693155.75	591.70
R3.3	13228079.23	692324.99	582.00
S12.8	13227680.49	692616.23	582.22
S18.9	13227481.52	692838.09	583.58

NOTE:  
MICHIGAN SOUTH STATE PLANE COORDINATE SYSTEM NAD83,  
IN U.S. INTERNATIONAL FEET; NGVD29.

**EXHIBIT 14**

**ON-SITE SURFACE WATER BODIES**

