

North Carolina Department of Environment
and Natural Resources

Division of Waste Management

Michael F. Easley, Governor
William G. Ross Jr., Secretary
Dexter R. Matthews, Director

COPY



September 26, 2002

The Kelly-Buck Company
2130 Superior Avenue, Suite 3A
Cleveland, Ohio 44114
Attention: Michael Lyden

Re: Notice of No Further Action
15A NCAC 2L .0115(h)
Risk-based Assessment and Corrective Action
for Petroleum Underground Storage Tanks

Former Copes Vulcan Facility
601 West Summit Avenue
Charlotte, Mecklenburg County
Incident No. 9109
Low Risk Classification

Dear Mr. Lyden:

The Underground Storage Tank (UST) Section, Division of Waste Management's Mooresville Regional Office has received both a Limited Site Assessment Report with Site Closure Request and a Notice of Residual Petroleum for the above-referenced Site. A review of the report shows that soil contamination does not exceed the lowest of the soil-to-groundwater or residential maximum soil contaminant concentrations and groundwater contamination meets the cleanup requirements for a low risk site. No further assessment or remedial actions are required at this time. However, please be advised that because groundwater contamination still exceeds the groundwater quality standards established in 15A NCAC 2L .0202, groundwater within the area of contamination or within the area where contamination is expected to migrate **is not suitable** for use as a water supply.

Pursuant to NCGS 143B-279.9 and 143B-279.11, you must file the approved Notice of Residual Petroleum (attached) with the Register of Deeds in the county in which the release is located and submit a certified copy to the UST Section within **30 days** of receipt of this letter. **This No Further Action Determination will not become valid until the UST Section receives a certified copy of the Notice of Residual Petroleum that is filed with the Register of Deeds and the public notice requirements outlined below are completed.**

919 North Main Street, Mooresville, North Carolina 28115
Phone: 704-663-1699 \ FAX: 704-663-6040 \ Internet: <http://ust.enr.state.nc.us/>

AN EQUAL OPPORTUNITY \ AFFIRMATIVE ACTION EMPLOYER - 50% RECYCLED / 10% POST CONSUMER PAPER

Public notice in accordance with 15A NCAC 2L .0115(k) is required as follows. Within **30 days** of receipt of this no further action letter, you must provide a copy of this letter to the following persons:

- Local health director;
- Chief administrative officer (i.e., Mayor, Chairman of the County Commissioners, County Manager, City Manager or other official of equal or similar position) of each political jurisdiction in which the contamination occurs;
- All property owners and occupants within or contiguous to the area containing contamination; and
- All property owners and occupants within or contiguous to the area where the contamination is expected to migrate.

Copies of this no further action letter must be sent to the persons listed above by certified mail. If it is impractical to provide this public notice by certified mail to the occupants of apartment buildings, condominiums, office buildings, etc., you may post a copy of this letter in a prominent place where the occupants are most likely to see it.

Within **60 days** of receiving this no further action letter, you must provide the UST Section's Mooresville Regional Office with proof of receipt of the copy of the letter or of refusal by the addressee to accept delivery of the copy of the letter. If a copy of the letter is posted, you must provide the UST Section with a description of the manner in which the letter was posted.

The UST Section's Mooresville Regional Office has the Limited Site Assessment Report with Site Closure Request along with other site information on file. All of the information concerning the site is available for public review. Interested parties may arrange to review this information by contacting the regional office as listed below. In addition, comments on the Limited Site Assessment Report with Site Closure Request may be submitted to the regional office.

NCDENR – UST Section
Mooresville Regional Office
919 North Main Street
Mooresville, North Carolina 28115
Attention: Amber Lindon

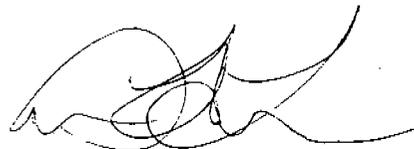
Pursuant to 15A NCAC 2L .0115(e), you have a continuing obligation to notify the UST Section of any changes that you know of or should know of, that might affect the level of risk assigned to the discharge or release. Such changes include, but are not limited to, changes in zoning of real property, use of real property or the use of groundwater that has been contaminated or is expected to be contaminated by the discharge or release, if such change could cause the UST Section to reclassify the risk. Please note that this responsibility not only pertains to changes involving the property on which the release occurred, but to changes involving the

surrounding properties as well.

Please be advised that should you decide to close any monitoring wells or injection wells used to investigate or remediate this incident, you should do so in accordance with 15A NCAC 2C .0113 and .0214, respectively. For guidance on closure of infiltration galleries, please contact The Division of Water Quality, Groundwater Section at the Mooresville Regional Office.

Should you have any questions concerning this letter, please contact me at (704) 663-1699.

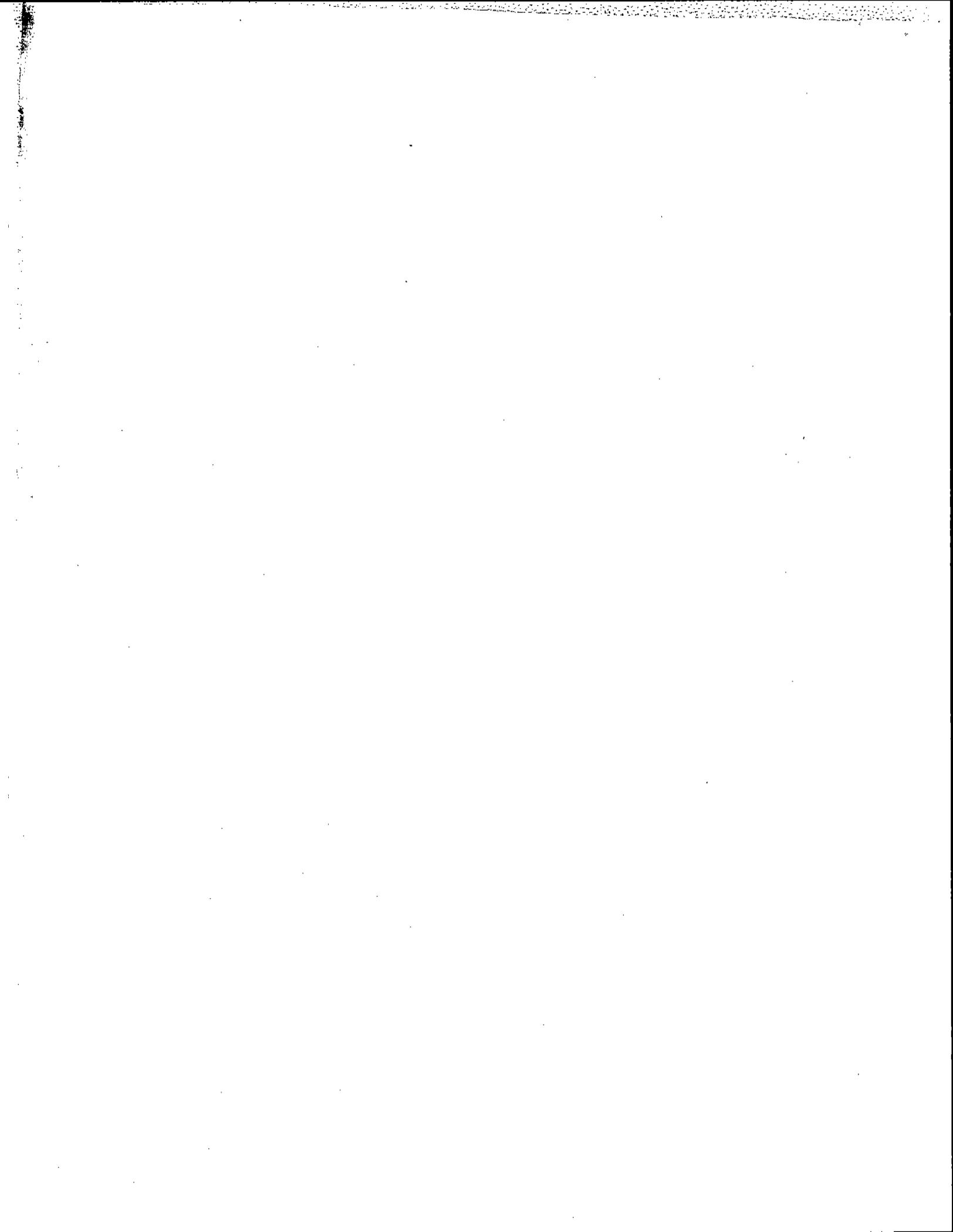
Sincerely,

A handwritten signature in black ink, appearing to read 'Amber R. Lindon', with a stylized flourish extending to the right.

Amber R. Lindon
Hydrogeological Technician II

Attachments: Notice of Residual Petroleum

cc: Central Office Files
Doug Mix – Electrolux North America



NOTICE OF RESIDUAL PETROLEUM

Former Copes-Vulcan Facility, 601 West Summit Avenue, Charlotte, Mecklenburg County, North Carolina

The property that is the subject of this Notice (hereinafter referred to as the "Site") contains residual petroleum and is an Underground Storage Tank (UST) incident under North Carolina's Statutes and Regulations, which consist of N.C.G.S. 143-215.94 and regulations adopted thereunder. This Notice is part of a remedial action for the Site that has been approved by the Secretary (or his/her delegate) of the North Carolina Department of Environment and Natural Resources (or its successor in function), as authorized by N.C.G.S. Section 143B-279.9 and 143B-279.11. The North Carolina Department of Environment and Natural Resources shall hereinafter be referred to as "DENR".

NOTICE

Petroleum product was released and/or discharged at the Site. **Petroleum constituents remain on the site, but are not a danger to public health and the environment, provided that the restrictions described herein, and any other measures required by DENR, are strictly complied with.** This "Notice of Residual Petroleum" is composed of a description of the property, the location of the residual petroleum and the land use restrictions on the Site. The Notice has been approved and notarized by DENR pursuant to N.C.G.S. Section 143B-279.11 and has/shall be recorded at the Mecklenburg County Register of Deeds' office Book , Page .

Electrolux Home Products, Inc. of Cleveland, Ohio is the owner in fee simple of the Site, which is located in the County of Mecklenburg, State of North Carolina, and is known and legally described as:

--- See Exhibit 1 ---

For protection of public health and the environment, Electrolux Home Products, Inc., hereby declares that all of the real property described above shall be held, sold and conveyed subject to the following perpetual land use restrictions, which shall run with the land; shall be binding on all parties having any right, title or interest in the above-described property or any part thereof, their heirs, successors and assigns; and shall, as provided in N.C.G.S. Section 143B-279.9, be enforceable without regard to lack of privity of estate or contract, lack of benefit to particular land, or lack of any property interest in particular land. These restrictions shall continue in perpetuity and cannot be amended or cancelled unless and until the Mecklenburg County Register of Deeds receives and records the written concurrence of the Secretary (or his/her delegate) of DENR (or its successor in function).

PERPETUAL LAND USE RESTRICTIONS

Groundwater: Groundwater from the site is prohibited from use as a water supply. Water supply wells of any kind shall not be installed or operated on the site.

ENFORCEMENT

The above land use restriction shall be enforced by any owner, operator, or other party responsible for the Site. The above land use restriction may also be enforced by DENR through the remedies provided in N.C.G.S. Chapter 143B, Article 7, Part 1 or by means of a civil action, and may also be enforced by any unit of local government having jurisdiction over any part of the Site. Any attempt to cancel this Notice without the approval of DENR (or its successor in function) shall be subject to enforcement by DENR to the full extent of the law. Failure by any party required or authorized to enforce any of the above restriction(s) shall in no event be deemed a waiver of the right to do so thereafter as to the same violation or as to one occurring prior or subsequent thereto.

Signed and Acknowledged
in the presence of both:

ELECTROLUX HOME PRODUCTS, INC.

Marcia Heffernan
Name: Marcia Heffernan

By: George C. Weigand
George C. Weigand
Senior Vice President and Chief Financial Officer

Marie Florek
Name: MARIE FLOREK

By: William G. E. Jacobs
William G. E. Jacobs
Assistant Secretary

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

On this 13th day of August, 2002 before me, a Notary Public, personally appeared George C. Weigand, the Senior Vice President and Chief Financial Officer, and William G. E. Jacobs, the Assistant Secretary, of ELECTROLUX HOME PRODUCTS, INC., a Delaware corporation, who are personally known to me to be such officers, and who are personally known to me to be the same persons who, being authorized to do so, executed the within instrument as such officers on behalf of said corporation, and such persons duly acknowledged the execution of the same to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Marianne C. Cowdin
Name: _____
Notary Public
My commission expires: _____

Marianne C. Cowdin
Notary Public, State of Ohio
My Commission Expires Feb. 2, 2005

"Approved for the purposes of N.C.G.S. 143B-279.11

Steven E. Bograd

Steven E. Bograd, P.G., Regional Supervisor
Mooreville Regional Office
UST Section
Division of Waste Management
Department of Environment and Natural Resources

NORTH CAROLINA

Iredell COUNTY

I, Lisa L. Murdock, a Notary Public of said County and State, do hereby certify that
Steven E. Bograd, Supervisor did personally appear and sign before me this the 25th day of
September, 2002

Lisa L. Murdock
Notary Public Signature

My commission expires June 8, 2003."



EXHIBIT 1

LEGAL DESCRIPTION

Being situated in the City of Charlotte, County of Mecklenburg, State of North Carolina and being more particularly described below:

TRACT 1

Being Lots 4, 5 and 6 as shown on map of the J. M. Jamison Estate property recorded in Map Book 332 at page 286 in the office of the Register of Deeds for Mecklenburg County, North Carolina.

Each of said lots fronting 50 feet on the southwesterly side of Dowd Road (now Summit Avenue) and extending back that width 195 feet. Being the same property conveyed to Whitin Machine Works by the following deeds recorded in the Mecklenburg Public Registry: Book 1119, page 446; Book 1112, page 326; and Book 1114, page 322.

TRACT 2

BEGINNING at an iron stake in the southwesterly margin of Dowd Road (now Summit Avenue) which is 175 feet distant measured along the said margin of Dowd Road in a northwesterly direction from the center line of Merriman Avenue, and runs thence S 56 deg. 30 min. W 405 feet to an iron stake in the northeasterly margin of Larch (formerly Walnut) Street; thence with the northeasterly margin of Larch Street N 33 deg. 30 min. W 226.62 feet to an iron stake; thence with the northwesterly terminus of Larch Street S 56 deg. 30 min. W 47.75 feet to an old iron stake; thence running in a general westerly direction, following the arc of a circular curve of 448.54 feet radius to the right 530.58 feet to an old iron stake; thence compounding by a curve to the right of radius 256.29 feet, 128.60 feet to an old iron stake; thence reversing by a curve to the left of radius 151.66 feet, 170.86 feet to an old iron stake, a corner of the property conveyed to Harold D. Dennis and wife by deed in Book 727, page 176 in the Mecklenburg County, N.C., Registry; thence N 2 deg. 35 min. E 240 feet to an iron in the center line of the southbound main line track of the Southern Railway Company; thence with the center line of said southbound track in a general easterly direction 993.1 feet to a nail in the southwesterly margin of Dowd Road; thence with the southwesterly margin of Dowd Road S 33 deg. 30 min. E 402.02 feet to the point or place of beginning, being the same property conveyed to Whitin Machine Works by deed of R. I. Dalton and wife, Edith G. Dalton, and William B. Hodge and wife, Jessie H. Hodge, dated March 20, 1944 and recorded in Book 1111 at page 186 in the Mecklenburg Public Registry.

TRACT 3

BEGINNING at an old iron in the northeasterly margin of Larch (formerly Walnut) Street which is 155 feet distant measured along the said margin of Larch Street in a northwesterly direction from the northwesterly margin of Merriman Avenue, said point of beginning being the southwesterly corner of the tract of land which was conveyed to Whitin Machine Works by R. I. Dalton and W. B. Hodge and their wives by deed recorded in Book 1111, pages 186 et seq., in the Mecklenburg County, N.C., Registry, and runs thence S 64 deg. 49 min. W 45.48 feet to the point of intersection of the southwesterly margin of Larch Street and the northwesterly margin of a ten-foot alleyway; thence with the northwesterly margin of the said ten-foot alleyway in a general southwesterly direction four courses as follows: (1) following the arc of a circular curve to the right with a radius of 643 feet, a distance of 231.4 feet to an iron; (2) S 81 deg. 08 min. W. 52.05 feet to an iron; (3) following the arc of a circular curve to the left with a radius of 1042.87 feet, a distance of 374.65 feet to an iron; (4) S 60 deg. 33 min. W. 52.63 feet to an iron stake in the northeasterly margin of Spruce Street; thence with the said margin of Spruce Street in a general northwesterly direction two courses; (1) following the arc of a circular curve to the left with a radius of 430 feet, a distance of 34 feet to an iron; (2) following the arc of a circular curve to the right with a radius of 305 feet, a distance of 190 feet to an iron; thence N 73 deg. 56 min. 18 sec. E 10 feet to an iron in the northeasterly margin of Spruce Street; thence with the said margin of Spruce Street in a general northwesterly direction two courses: (1) following the arc of a circular curve to the left with a radius of 377.78 feet, a distance of 289.23 feet to an iron; (2) following the arc of a circular curve to the left with a radius of 495 feet, a distance of 237.73 feet to an old iron, a corner of the City of Charlotte park property; thence with the line of said park property, N 0 deg. 34 min. W 382.97 feet to a nail in the center line of the southbound main line track of the Southern Railway Company; thence with the center line of said track, S 87 deg. 25 min. E 55 feet to a nail, thence S 2 deg. 30 min. 40 sec. W, passing the northwesterly corner of the tract of land which was conveyed to Harold D. Dennis by said Dalton and Hodge by deed recorded in Book 727, page 176 in said Registry, a total distance of 210.89 feet to an old iron; thence with two lines of the said Dennis tract in a general southeasterly direction: (1) following the arc of a circular curve to the left with a radius of 40 feet, a distance of 55.63 feet to an old iron; (2) following the arc of a circular curve to the left with a radius of 573.69 feet, a distance of 241.67 feet to an old iron; thence with another line of the said Dennis tract and passing its southeasterly corner and continuing with a line of the tract of land which was conveyed to Whitin Machine Works by the deed first above referred to, in an easterly and southeasterly direction, following the arc of a circular curve to the right with a radius of 151.66 feet, a distance of 196.76 feet to an old iron; thence with four lines of the said tract of land which was conveyed to Whitin Machine Works by the deed first above referred to: (1) in a southeasterly direction, following the arc of a circular curve to the left with a radius of 256.29 feet, a distance of 128.60 feet to an old iron; (2) in a general easterly direction, following the arc of a circular curve to the left with a radius of 448.54 feet, a distance of 530.58 feet to an old iron; (3) N 56 deg. 30 min. E 47.75 feet to an old iron; (4) S 33 deg. 30 min. E 226.62 feet to the point or place of beginning; together with the right to the use and

benefit, in common with such others as may have a like right, of the ten-foot alleyway first above referred to. Being the same property conveyed to Whitin Machine Works by deed of Abbott Realty Company dated September 24, 1945 and recorded in Book 1161 at page 115 of the Mecklenburg Public Registry.

TRACT 4

BEING all of Lot 24 in Block 22 as shown on a map of WILMORE, which map is recorded in Map Book 230 at Page 297 in the Mecklenburg County Public Registry, reference to which is hereby made for a more particular description.

TRACT 5

BEING all of Lot 25 in Block 22 as shown on a map of WILMORE, which map is recorded in Map Book 230 at Page 297 in the Mecklenburg County Public Registry, reference to which is hereby made for a more particular description.