Doc ID: 001486040039 Type: CRP
Recorded: 07/26/2010 at 01:21:41 PM
Fee Amt: $128.00 Page 1 of 39
Scotland County, NC
Debra H. Holcomb Register of Deeds
File# 2010-00001766
BK 1276 PG 40-78

Mail After Recording to:
Matthew F. Hanchey, Hunton & Williams LLP
P.O. Box 109, Raleigh, NC 27602

Property Owner: Marketta, LLC
Recorded in Book ____, Page ____
Associated plat recorded in Plat Book 11, **Page** 258
11 259

NOTICE OF BROWNFIELDS PROPERTY

This documentary component of a Notice of Brownfields Property ("Notice"), as well as the plat component, have been filed this ____ day of _____, 200__ by Marketta, LLC **(hereinafter "Prospective Developer").**

The Notice concerns contaminated property.

A copy of this Notice certified by the North Carolina Department of Environment and Natural Resources (hereinafter "DENR") is required to be filed in the Register of Deeds' Office in the county or counties in which the land is located, pursuant to North Carolina General Statutes (hereinafter "NCGS"), Section (hereinafter "§") 130A-310.35(b).

This Notice is required by NCGS § 130A-310.35(a), in order to reduce or eliminate the danger to public health or the environment posed by environmental contamination at a property (hereinafter the "Brownfields Property") being addressed under the Brownfields Property Reuse Act of 1997, NCGS § 130A, Article 9, Part 5 (hereinafter the "Act").

Pursuant to NCGS § 130A-310.35(b), the Prospective Developer must file a certified copy of this Notice within 15 days of Prospective Developer's receipt of DENR's approval of the Notice or Prospective Developer's entry into the Brownfields Agreement required by the Act, whichever is later. Pursuant to NCGS § 130A-310.35(c), the copy of the Notice certified by DENR must be recorded in the grantor index under the names of the owners of the land and, if Prospective Developer is not the owner, also under Prospective Developer's name.

The Brownfields Property is located at16900 North US Highway 15/401 Bypass in Laurinburg, Scotland County, North Carolina, and is 50.75 acres in size. Abbott Laboratories, Inc. formerly manufactured medical devices (e.g., anesthesia kits and specialty intravenous injection sets) at the Brownfields Property. Prospective Developer plans to use the Brownfields Property for industrial purposes, including light and heavy manufacturing. Currently an affiliate of Prospective Developer manufactures topical antimicrobial products there. Soil and groundwater at the site are contaminated with constituents of petroleum products and chlorinated solvents previously used at the site.

The Brownfields Agreement between Prospective Developer and DENR is attached hereto as Exhibit A. It sets forth the use that may be made of the Brownfields Property and the measures to be taken to protect public health and the environment, and is required by NCGS § 130A-310.32.

Attached hereto as **Exhibit B** is a reduction, to 8 1/2" x 11", of the survey plat required by NCGS § 130A-310.35(a). It is a plat of areas designated by DENR that has been prepared and certified by a professional land surveyor and that meets the requirements of NCGS § 47-30. That plat contains the following information required by NCGS § 130A-310.35(a):

(1) The location and dimensions of the areas of potential environmental concern with respect to permanently surveyed benchmarks.

(2) The type, location and quantity of regulated substances and contaminants known to exist on the Brownfields Property. The following tables also set forth the type and quantity of such substances:

Table A

Groundwater contaminants (in micrograms per liter, the equivalent of parts per billion), the standards for which are contained in Title 15A of the North Carolina Administrative Code, Subchapter 2L, Rule .0202 (effective January, 2010):

Groundwater Contaminant	Sample Location	Date of Max. Concentration Sampling	Max. Concentration above Std. (µg/L)	Date of Most Recent Sampling	Concentration at most Recent Sampling Event (µg/L)	Standard (µg/L)
Benzene	MW-104B	12/02/04	6.1 J	4/2009	<5	1
	FR-3D	12/07/00	2	4/2008	1.8	
	FR-6D	09/05/02	26	4/2008	<1	
	FR-7D	09/05/02	1.6	4/2008	<1	
	FR-9D	09/05/02	2.3	*	*	
	W-5s	10/03/00	60	*	*	
	W-5d	10/03/00	1.6	*	*	
	W-10d	10/03/00	3.2	*	*	
	W-11d	10/03/00	1.5	*	*	
	W-12s	10/03/00	4	*	*	
	W-12d	10/03/00	2.6	*	*	
2-Butanone	MW-100A	9/10/03	18,000	4/2009	4,500	4000
Chloroform	MW-100A	09/10/03	260	4/2009	<500	70
	MW-100B	09/10/03	340	4/2009	<500	
1,2-Dichloroethane	MW-100A	09/10/03	260	4/2009	<500	0.4
	MW-100B	06/07/05	340	4/2009	<500	
	MW-104A	06/08/05	3.1	4/2009	4.4	
	MW-100A	09/10/03	1,100	4/2009	730	

Groundwater Contaminant	Sample Location	Date of Max. Concentration Sampling	Max. Concentra-tion above Std. (µg/L)	Date of Most Recent Sampling	Concentration at most Recent Sampling Event (µg/L)	Standard (µg/L)
1,1-Dichloroethene	MW-100B	06/07/05	2,200	4/2009	640	7
	MW-101A	05/12/04	870	4/2009	420	
	MW-101B	12/19/05	1,300	4/2009	630	
	MW-101BDP	NA	NA	4/2009	640	
	MW-102B	12/02/04	170	4/2009	<500	
	MW-102C	12/02/04	82	4/2009	420	
	MW-103A	05/13/04	61	4/2009	19	
	MW-103B	05/13/04	110	4/2009	51	
	MW-103C	12/19/05	25	4/2009	<50	
	MW-104A	12/19/05	15	4/2009	8	
	MW-104B	NA	NA	4/2009	24	
	MW-104C	NA	NA	4/2009	8.9	
	MW-10B	NA	NA	4/2009	22	
	MW-10D	NA	NA	4/2009	24	
	MW-10DDP	NA	NA	4/2009	23	
cis-1,2-Dichloroethene	MW-100A	12/19/05	77,000	4/2009	50,000	70
	MW-100B	12/19/05	69,000	4/2009	56,000	
	MW-101A	12/19/05	4,400	4/2009	16,000	
	MW-101B	12/19/05	27,000	4/2009	32,000	
	MW-101BDP	NA	NA	4/2009	32,000	
	MW-102B	12/19/05	94	4/2009	2,600	
	MW-102C	12/19/05	300	4/2009	14,000	
	MW-103A	05/13/04	1,800	4/2009	130	
	MW-103B	12/02/04	990	4/2009	240	
	MW-103C	12/19/05	760	4/2009	620	
	MW-104A	12/19/05	890	4/2009	650	
	MW-104B	12/19/05	110	4/2009	190	
	MW-104C	NA	NA	4/2009	87	
	MW-10B	NA	NA	4/2009	120	
	MW-10D	NA	NA	4/2009	150	
	MW-10DDP	NA	NA	4/2009	140	
trans-1,2-Dichloroethene	MW-100A	12/19/05	1,800	4/2009	<500	100
	MW-100B	12/19/05	1,200	4/2009	<500	
	MW-100A	09/10/03	33,000	4/2009	1,300	
	MW-100B	06/07/05	75,000 J	4/2009	2,000	

Groundwater Contaminant	Sample Location	Date of Max. Concentration Sampling	Max. Concentration above Std. (µg/L)	Date of Most Recent Sampling	Concentration at most Recent Sampling Event (µg/L)	Standard (µg/L)
Methylene Chloride	MW-101A	05/12/04	7,700	4/2009	<250	5
	MW-101B	05/12/04	8,100	4/2009	940	
	MW-102A	05/12/04	100	4/2009	<1	
	MW-101BDP	NA	NA	4/2009	910	
	MW-102B	12/02/04	72	4/2009	<500	
	MW-103B	05/13/04	110	4/2009	<5	
Naphthalene	MW-100A	05/12/04	190	4/2009	<500	6
Tetrachloroethene	MW-100A	09/10/03	190	4/2009	<500	0.7
Tetrachloroethene	MW-101A	06/07/06	160 J	4/2009	<250	0.7
	MW-102B	NA	NA	4/2009	<500	
Toluene	MW-100A	09/10/03	11,000	4/2009	3,500	600
	MW-100B	05/12/04	5,400	4/2009	3,800	
	MW-101A	05/12/04	5,900	4/2009	1,600	
	MW-101B	05/12/04	3,900	4/2009	1,800	
1,1,1-Trichloroethane	MW-100A	09/10/03	10,000	4/2009	1,400	200
	MW-100B	05/12/04	4,100	4/2009	1,300	
	MW-101A	05/12/04	12,000	4/2009	4,300	
	MW-101B	05/12/04	7,500	4/2009	2,300	
	MW-101BDP	NA	NA	4/2009	2,300	
	MW-102B	05/12/04	290	4/2009	<500	
Trichloroethene	MW-100A	09/10/03	180,000	4/2009	620	3
	GP-6	09/10/02	21	*	*	
	MW-100B	05/12/04	98,000	4/2009	4,100	
	MW-101A	05/12/04	190,000	4/2009	41,000	
	MW-101B	05/12/04	130,000	4/2009	14,000	
	MW-102A	12/19/05	44	4/2009	7	
	MW-102B	05/12/04	11,000	4/2009	550	
	MW-102C	06/08/05	3,900	4/2009	6,900	
	MW-103A	12/02/04	100	4/2009	12	
	MW-103B	05/13/04	100	4/2009	31	
	MW-103C	12/19/05	57	4/2009	56	
	MW-104B	12/19/05	26	4/2009	22	
	MW-104C	12/02/04	12	4/2009	8.3	
	MW-10	NA	NA	4/2009	5.4	
	MW-10D	NA	NA	4/2009	6	

Groundwater Contaminant	Sample Location	Date of Max. Concentration Sampling	Max. Concentra-tion above Std. (µg/L)	Date of Most Recent Sampling	Concentration at most Recent Sampling Event (µg/L)	Standard (µg/L)
	MW-10DDP	NA	NA	4/2009	6.1	
	MW-19D	NA	NA	4/2009	12	
Vinyl Chloride	MW-100A	06/07/05	150	4/2009	<500	0.03
	FR-6D	09/10/03	3.5	*	*	
	MW-103A	05/13/04	61	4/2009	8	
	MW-103B	NA	NA	4/2009	11	
	MW-103C	NA	NA	4/2009	<50	
	MW-104A	06/08/05	2.9	4/2009	14	
	MW-10D	NA	NA	4/2009	2.8	
	MW-10DDP	NA	NA	4/2009	2.7	

J = estimated value NA = not available

* = Well sampled one time, was direct push well, or maximum occurred on occasion of most recent sampling.

Table B

Soil contaminants (in milligrams per kilogram, the equivalent of parts per million), the standards for which are derived using the Guidelines of the Inactive Hazardous Sites Branch of DENR's Superfund Section (effective January, 2010):

Soil Contaminant	Sample Location	Depth	Date of Max. Concentration Sampling	Maximum Concentration above Std. (mg/kg)	Standard (mg/kg)
Total Petroleum Hydrocarbons – Diesel Range	G-8d	7-8'	04/00	1,260	40
	G-8	7-8'	10/00	517	
	G-19d	7-8'	04/00	52.5	
	G-19	7-9'	10/00	194	
Trichloroethene	2	5-6'	09/00	0.102	0.053
	21	5-6'	09/00	20.2	
	26	5-6'	09/00	0.116 J	

J = Estimated Value

Attached hereto as **Exhibit C** is a legal description of the Brownfields Property that would be sufficient as a description of the property in an instrument of conveyance.

LAND USE RESTRICTIONS

NCGS 130A-310.35(a) also requires that the Notice identify any restrictions on the current and future use of the

Brownfields Property that are necessary or useful to maintain the level of protection appropriate for the designated current or future use of the Brownfields Property and that are designated in the Brownfields Agreement. **The restrictions shall remain in force in perpetuity unless canceled by the Secretary of DENR (or its successor in function), or his/her designee, after the hazards have been eliminated, pursuant to NCGS § 130A-310.35(e). All references to DENR shall be understood to include any successor in function. The restrictions are hereby imposed on the Brownfields Property, and are as follows:**

1. **No use may be made of the Brownfields Property other than for Industrial use, including Heavy and Light Manufacturing use. Moreover, those uses may only occur in compliance with the other Land Use Restrictions below. For purposes of this restriction, the following definitions apply:**

a. **"Industrial" refers to manufacturing, construction, transportation, utilities, wholesaling and warehousing.**

b. **"Heavy Manufacturing" refers to the assembly, fabrication or processing of goods and materials using processes that, while legally compliant, ordinarily have greater than average impacts on the environment, or have significant impacts on the use and enjoyment of adjacent property in terms of noise, smoke, fumes, odors, glare, or health and safety hazards, or that do not constitute light manufacturing; or any use where the area occupied by outdoor storage of goods and material used in the assembly, fabrication or processing exceeds 25 percent of the floor area of all buildings on the property.**

c. **"Light Manufacturing" refers to a use which involves the assembly, fabrication or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or property where such assembly, fabrication or processing takes place, where such processes are housed entirely within a building, and where the area occupied by the outdoor storage of goods and material used in such processes does not exceed twenty-five (25) percent of the floor area of all the buildings on the property. No process water or wastewater may be generated at a light manufacturing facility.**

2. **Surface water and underground water at the Brownfields Property may not be used for any purpose without the prior written approval of DENR.**

3. **No activities that encounter, expose, remove or use groundwater (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools, or construction or excavation activities that encounter or expose groundwater) may occur on the Brownfields Property without prior sampling and analysis of groundwater to the written satisfaction of DENR in any areas proposed for such activities, and submittal of the analytical results to DENR. If such results disclose to DENR contamination in excess of North Carolina's groundwater quality standards, the proposed activities may not occur without the prior written approval of DENR on such conditions as DENR imposes, including at a minimum compliance with plans and procedures, approved pursuant to applicable law, to protect public health and the environment during the proposed activities.**

4. **Soil within fifty (50) feet of the sample locations listed in subparagraph 8.b. above and under the footprint of the main manufacturing building and designated "Areas of Possible Soil Contamination," on the plat component of the Notice of Brownfields Property referenced in paragraph 21 below, may not be disturbed without a minimum of seven (7) business days advance written notice to DENR, unless DENR**

states otherwise in writing in advance. At the time such soil is exposed, DENR may inspect and sample, or require sampling of, the exposed soil for contaminants. If soil contamination is discovered that DENR determines would likely contaminate groundwater even if capped, or that may pose an imminent threat to public health or the environment if exposed, as much soil as DENR reasonably requires shall be removed and disposed of in accordance with applicable law, and any other actions that DENR reasonably requires to make the Brownfields Property suitable for the uses specified in this Agreement while fully protecting public health and the environment shall be taken. If soil contamination is discovered that DENR determines would not likely contaminate groundwater if capped, or likely pose an imminent threat to public health or the environment if exposed, as much soil as DENR reasonably requires shall be removed and disposed of in accordance with applicable law or capped to the written satisfaction of DENR.

5. No building may be constructed on the Brownfields Property until DENR has been consulted regarding the proximity of the planned building to the Brownfields Property 's volatile contaminant plume. If DENR determines that the footprint of the building would fall within one hundred (100) feet of said plume, it may not be constructed without a vapor barrier system and/or mechanical or passive vapor barrier mitigation system, or other vapor mitigation system approved in writing in advance by DENR. Within thirty (30) days following installation of the vapor mitigation system, DENR shall be provided certification of proper installation under seal of a professional engineer licensed in North Carolina, as well as photographs illustrating the installation and a brief narrative describing it. With DENR's prior written approval, additional investigation activities including, without limitation, soil gas samples, performed to DENR's written satisfaction, may be conducted, and installation of a mitigation system possibly excused, so long as the proponent makes an advance written commitment to install a mitigation system if DENR so requires based on review of a report DENR deems adequate of the investigation activities.

6. Landscaping and contours at the Brownfields Property may not be disturbed without the prior written approval of DENR, except for mowing and pruning of above-ground vegetation or replacement of plants at their previous locations.

7. No mining may be conducted on or under the Brownfields Property , including, without limitation, extraction of coal, oil, gas or any other minerals or non-mineral substances.

8. No basements may be constructed on the Brownfields Property unless they are, as determined in writing by DENR, vented in conformance with applicable building codes.

9. None of the contaminants known to be present in the environmental media at the Brownfields Property , including those listed in paragraph 8 of this Agreement, may be used or stored at the Brownfields Property without the prior written approval of DENR, except in *de minimis* amounts for cleaning and other routine housekeeping activities.

10. The Brownfields Property may not be used as a park or for sports of any kind, including, but not limited to, golf, football, soccer and baseball, without the prior written approval of DENR.

11. The Brownfields Property may not be used for agriculture, grazing, timbering or timber production.

12. The Brownfields Property may not be used as a playground, or for child care centers or schools.

13. The Brownfields Property may not be used for kennels, private animal pens or horse-riding.

14. If and when any DENR-approved monitoring well at the Property is damaged, the owner of the portion of the Brownfields Property containing the well shall be responsible for the well's repair to DENR's written satisfaction within a time period acceptable to DENR.

16. No party conducting environmental assessment or remediation at the Brownfields Property at the direction of, or pursuant to a permit or order issued by, DENR may be denied access to the Brownfields Property for purposes of conducting such assessment or remediation.

17. During January of each year after the year in which the Notice referenced below in paragraph 21 is recorded, the owner of any part of the Brownfields Property as of January 1st of that year shall submit a notarized Land Use Restrictions Update ("LURU") to DENR certifying that, as of said January 1st, the Notice of Brownfields Property containing these land use restrictions remains recorded at the Scotland County Register of Deeds office and the land use restrictions are being complied with, and stating:

a. the name, mailing address, telephone and facsimile numbers, and contact person's e-mail address of the owner submitting the LURU if said owner acquired any part of the Brownfields Property during the previous calendar year; and

b. the transferee's name, mailing address, telephone and facsimile numbers, and contact person's e-mail address, if said owner transferred any part of the Brownfields Property during the previous calendar year.

For purposes of the land use restrictions set forth above, the DENR point of contact shall be the DENR official referenced in paragraph .a. of Exhibit A hereto, at the address stated therein.

ENFORCEMENT

The above land use restrictions shall 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. The land use restrictions shall be enforced by any owner of the Brownfields Property. The land use restrictions may also be enforced by DENR through the remedies provided in NCGS 130A, Article 1, Part 2 or by means of a civil action; by any unit of local government having jurisdiction over any part of the Brownfields Property; and by any person eligible for liability protection under the Brownfields Property Reuse Act who will lose liability protection if the restrictions are violated. Any attempt to cancel any or all of this Notice without the approval of the Secretary of DENR (or its successor in function), or his/her delegate, 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 restrictions 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.

FUTURE SALES, LEASES, CONVEYANCES AND TRANSFERS

When any portion of the Brownfields Property is sold, leased, conveyed or transferred, pursuant to NCGS § 130A-310.35(d) the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that the Brownfields Property has been classified and, if appropriate, cleaned up as a brownfields property under the Brownfields Property Reuse Act.

IN WITNESS WHEREOF, Prospective Developer has caused this instrument to be duly executed this 14 day of July, 2010.

Marketta, LLC

By: _____

Name typed or printed:
Member/Manager

~~NORTH CAROLINA~~ OHIO
SUMMIT COUNTY

I, Amanda Kitzberger, a Notary Public of the county and state aforesaid, certify that Mark S. Lerner personally came before me this day and acknowledged that he/she is a Member of Marketta, LLC, a **[state of incorporation]** Ohio limited liability corporation, and its Manager, and that by authority duly given and as the act of the corporation, the foregoing Notice of Brownfields Property was signed in its name by him/her.

WITNESS my hand and official stamp or seal, this 14 day of July, 2010.

_____

Name typed or printed:
Notary Public

Amanda Kitzberger, Attorney at Law
Resident Summit County
Notary Public, State of Ohio
My Commission Has No Expiration Date
Sec 147.03 RC

My Commission expires: no expiration date

[Stamp/Seal]

****

APPROVAL AND CERTIFICATION OF NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

The foregoing Notice of Brownfields Property is hereby approved and certified.

North Carolina Department of Environment and Natural Resources

By: _____ July 1, 2010
Linda M. Culpepper — Date
Deputy Director, Division of Waste Management

****

CERTIFICATION OF REGISTER OF DEEDS

The foregoing documentary component of the Notice of Brownfields Property, and the associatcd plat, are certified to be duly recorded at the date and time, and in the Books and Pages, shown on the first page hereof.

Register of Deeds for _____County

By: _____ _____
Name typed or printed: _____ Date
Deputy/Assistant Register of Deeds

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

IN THE MATTER OF: Marketta, LLC

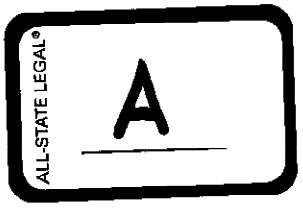
UNDER THE AUTHORITY OF THE	)	BROWNFIELDS AGREEMENT re:
BROWNFIELDS PROPERTY REUSE ACT	)	Former Abbott Laboratories Site
OF 1997, N.C.G.S. § 130A-310.30, et seq.	)	16900 North US Hwy 15/401 Bypass
Brownfields Project Number 07027-03-83	)	Laurinburg, Scotland County

I. INTRODUCTION

This Brownfields Agreement ("Agreement") is entered into by the North Carolina Department of Environment and Natural Resources ("DENR") and Marketta, LLC (collectively the "Parties") pursuant to the Brownfields Property Reuse Act of 1997, N.C.G.S. § 130A-310.30, et seq. (the "Act").

Marketta, LLC is a manager-managed limited liability company formed in Ohio and registered in North Carolina on August 19, 2005. The LLC's principal office is One GOJO Plaza, Suite 500, Akron, Ohio 44311. Its registered North Carolina agent is CT Corporation System, 150 Fayetteville St., Box 1011, Raleigh NC 27101. The proposed use of the property is for industrial use, including light and heavy manufacturing. The property consists of 50.75 acres, and is the site of a former Abbott Laboratories, Inc. facility that manufactured medical devices (e.g., anesthesia kits and specialty intravenous injection sets) from 1970 until June 2002. Since 2004, an affiliate of Marketta, LLC has manufactured topical antimicrobial products at the property. A map showing the location of the property which is the subject of this Agreement is attached hereto as Exhibit 1.

The Parties agree to undertake all actions required by the terms and conditions of this Agreement. The purpose of this Agreement is to settle and resolve, subject to reservations and limitations contained in Section VIII (Certification), Section IX (DENR's Covenant Not to Sue



and Reservation of Rights) and Section X (Prospective Developer's Covenant Not to Sue), the potential liability of Marketta, LLC for contaminants at the property which is the subject of this Agreement.

The Parties agree that Marketta, LLC's entry into this Agreement, and the actions undertaken by Marketta, LLC in accordance with the Agreement, do not constitute an admission of any liability by Marketta, LLC.

The resolution of this potential liability, in exchange for the benefit Marketta, LLC shall provide to DENR, is in the public interest.

II. DEFINITIONS

Unless otherwise expressly provided herein, terms used in this Agreement which are defined in the Act or elsewhere in N.C.G.S. 130A, Article 9 shall have the meaning assigned to them in those statutory provisions, including any amendments thereto.

1. "Property" shall mean the Brownfields Property which is the subject of this Agreement, and which is depicted in Exhibit 1 to the Agreement.

2. "Prospective Developer" shall mean Marketta, LLC.

III. STATEMENT OF FACTS

3. The Property comprises 50.75 acres. Prospective Developer has committed itself to redevelopment of the Property for no uses other than industrial (manufacturing) purposes, initially for the manufacture of topical antimicrobial products subject to the Federal Food, Drug and Cosmetic Act and regulated by the Food and Drug Administration.

4. The Property is bordered to the north by tracks of the northeast-southwest trending Laurinburg & Southern Railroad Co., Inc., across which lie a gas station, a wooded lot, a small warehouse and an agricultural field; to the south by Joy Street and U.S. Highway 401 Bypass,

across which lie agricultural fields, a wooded area and a retail shopping center; to the east by land occupied by a firm that operates a corrugated and specialty packaging business as Scotland Containers, Inc.; approximately 400 feet to the southeast by residential homes; and to the west by U.S. Highway 15-501, across which lie several industrial facilities, including one where Eaton Corporation manufactures golf equipment and a former vehicle maintenance shop.

5. Prospective Developer obtained or commissioned the following reports, referred to hereinafter as the "Environmental Reports," regarding the Property:

Title	Prepared by	Date of Report
Phase II Site Characterization Report, Petroleum Release, for Abbott Laboratories, Laurinburg, NC	Radian Engineering, Inc.	February 2001
Supplemental Investigation Report for the Source Area	Radian Engineering, Inc.	February 2001
Semi-Annual Groundwater Monitoring Report for Abbott Laboratories, Laurinburg, NC	URS Corporation	December 2001
Petroleum Release Semi-Annual Groundwater Monitoring Report, 2nd and 3rd Quarter, 2002	Matrix Environmental, Inc.	December 2002
Semi-Annual Groundwater Monitoring Report Petroleum Release for Abbott Laboratories, Laurinburg, NC	URS Corporation	June 2002
Comprehensive Site Assess, Groundwater Incident No. 518820 Abbott Laboratories, Laurinburg, NC	Matrix Environmental Southeast, Inc.	June 2003
Environmental Contamination, Assessment and Remediation Summary Report, Former Abbott Laboratories Facility, Laurinburg, NC	Environmental Resources Management, PC ("ERM")	July 13, 2003
Phase I Environmental Site Assessment, Former Abbott Laboratories, Laurinburg, NC	ERM	July 24, 2003
Phase II Assessment Report, Abbott Laboratories Facility, Laurinburg, NC	ERM	September 16, 2003
Geophysical Survey Report, Former Abbott Laboratories Facility, Laurinburg, NC	ERM	September 18, 2003

Title	Prepared by	Date of Report
Monitored Natural Attenuation Progress Report 1 – Corrective Action Plan Implementation, Groundwater Incident No. 518280, Former Abbott Laboratories Facility	Phoenix Environmental Associates, Inc.	July 2004
1st and 2nd Quarters 2004 Progress Report – Remedial Action Plan, Former Abbott Laboratories Facility	Matrix Environmental Southeast, Inc.	July 16, 2004
3rd and 4th Quarters 2004 Progress Report – Remedial Action Plan and Appendices, Former Abbott Laboratories Facility	Matrix Environmental Southeast, Inc.	January 31, 2005
1st and 2nd Quarters 2005 Progress Report – Remedial Action Plan and Appendices, Former Abbott Laboratories Facility, NO NCD 000 0040	Phoenix Environmental Associates, Inc.	August 2005
3rd and 4th Quarters 2005 Progress Report – Solvent Release Remediation, Former Abbott Laboratories Facility, NO NCD 000 0040	Phoenix Environmental Associates, Inc.	February 2006
1st and 2nd Quarters 2006 Progress Report – Solvent Release Remediation Case# NO NCD 000 0040	Phoenix Environmental Associates, Inc.	July 2006
Phase II Pre-Construction Report Addendum - HRC Treatment of Southern Boundary Plume Area, Solvent Release Remediation Case# NO NCD 000 0040	Phoenix Environmental Associates, Inc.	July 2006
3rd and 4th Quarters 2006 Progress Report – Solvent Release Remediation, Case# NO NCD 000 0040	Phoenix Environmental Associates, Inc.	January 2007
1st and 2nd Quarters 2007 Progress Report – Solvent Release Remediation Case# NO NCD 000 0040	Phoenix Environmental Associates, Inc.	July 2007
Monitored Natural Attenuation Progress Report 3, Corrective Action Plan Implementation, Groundwater Incident No. 518280	Phoenix Environmental Associates, Inc.	August 2007
3rd and 4th Quarters 2007 Progress Report – Solvent Release Remediation, Case# NO NCD 000 0040	Phoenix Environmental Associates, Inc.	January 2008
1st and 2nd Quarters 2008 Progress Report – Solvent Release Remediation Case# NO NCD 000 0040	Phoenix Environmental Associates, Inc.	July 2008
Monitored Natural Attenuation Progress	Phoenix Environmental	July 2008

Title	Prepared by	Date of Report
Report 4, Corrective Action Plan Implementation, Groundwater Incident No. 518280	Associates, Inc.	

6. For purposes of this Agreement, DENR relies on the following representations by Prospective Developer or the Environmental Reports as to use and ownership of the Property:

a. The Property was open space or in rural residential and farmland use until the Abbott Laboratories facility was constructed in 1969; it operated from 1970 until June 2002.

b. On September 30, 2003, Abbott Laboratories transferred the Property to the City of Laurinburg and the City of Laurinburg transferred it to Prospective Developer.

c. QualPak, LLC, an affiliate of Prospective Developer, has been manufacturing topical antimicrobial products at the Property since 2004.

7. The Environmental Reports reflect the following regarding environmental conditions at the Property:

a. From 1970 to 1976, a concrete-lined solvent containment pit approximately twenty (20) feet in diameter was in use. It was designed as an evaporation pit, prior to the promulgation of rules governing such activities under the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6901, *et seq*. The pit is the primary source of the Property's chlorinated solvent contamination. A solvent preparation room on the Property contains a floor trench where solvents were mixed; it drained into the containment pit, which also received condensate from nearby cooling towers.

b. Pursuant to the 1989 discovery of solvent pit contamination, the Property was designated a state Superfund site. DENR's Superfund Section assigned Number NONCD0000040 to the site.

c. Abbott Laboratories agreed to address the site's contamination pursuant to an Administrative Order on Consent it entered into on April 10, 1991 with DENR's Superfund Section.

d. In 1996, after excavation of the soil in the containment pit area down to the shallow water table (3-4 feet), remediation began on the source area utilizing a dual-phase extraction and groundwater pumping system.

e. On January 30, 2000, a fifteen hundred (1,500)-gallon release of #2 fuel oil from an aboveground storage tank occurred. Incident Number 21511 was assigned by DENR's Aquifer Protection Section.

8. The most recent environmental sampling at the Property reported in the Environmental Reports is dated July 2008. The following tables set forth, for contaminants present at the Property above unrestricted use standards, the maximum concentration found at each sample location and the applicable standard:

a. Groundwater contaminants (in micrograms per liter, the equivalent of parts per billion), the standards for which are contained in Title 15A of the North Carolina Administrative Code, Subchapter 2L, Rule .0202 (effective January, 2010):

Groundwater Contaminant	Sample Location	Date of Max. Concentration Sampling	Max. Concentra-tion above Std. (µg/L)	Date of Most Recent Sampling	Concentration at most Recent Sampling Event (µg/L)	Standard (µg/L)
Benzene	MW-104B	12/02/04	6.1 J	4/2009	<5	1
	FR-3D	12/07/00	2	4/2008	1.8	
	FR-6D	09/05/02	26	4/2008	<1	
	FR-7D	09/05/02	1.6	4/2008	<1	
	FR-9D	09/05/02	2.3	*	*	
	W-5s	10/03/00	60	*	*	
	W-5d	10/03/00	1.6	*	*	

Groundwater Contaminant	Sample Location	Date of Max. Concentration Sampling	Max. Concentra-tion above Std. (µg/L)	Date of Most Recent Sampling	Concentration at most Recent Sampling Event (µg/L)	Standard (µg/L)
	W-10d	10/03/00	3.2	*	*	
	W-11d	10/03/00	1.5	*	*	
	W-12s	10/03/00	4	*	*	
	W-12d	10/03/00	2.6	*	*	
2-Butanone	MW-100A	9/10/03	18,000	4/2009	4,500	4000
Chloroform	MW-100A	09/10/03	260	4/2009	<500	70
	MW-100B	09/10/03	340	4/2009	<500	
1,2-Dichloroethane	MW-100A	09/10/03	260	4/2009	<500	0.4
	MW-100B	06/07/05	340	4/2009	<500	
	MW-104A	06/08/05	3.1	4/2009	4.4	
1,1-Dichloroethene	MW-100A	09/10/03	1,100	4/2009	730	7
	MW-100B	06/07/05	2,200	4/2009	640	
	MW-101A	05/12/04	870	4/2009	420	
	MW-101B	12/19/05	1,300	4/2009	630	
	MW-101BDP	NA	NA	4/2009	640	
	MW-102B	12/02/04	170	4/2009	<500	
	MW-102C	12/02/04	82	4/2009	420	
	MW-103A	05/13/04	61	4/2009	19	
	MW-103B	05/13/04	110	4/2009	51	
	MW-103C	12/19/05	25	4/2009	<50	
	MW-104A	12/19/05	15	4/2009	8	
	MW-104B	NA	NA	4/2009	24	
	MW-104C	NA	NA	4/2009	8.9	
	MW-10B	NA	NA	4/2009	22	
	MW-10D	NA	NA	4/2009	24	
	MW-10DDP	NA	NA	4/2009	23	
cis-1,2-Dichloroethene	MW-100A	12/19/05	77,000	4/2009	50,000	70
	MW-100B	12/19/05	69,000	4/2009	56,000	
	MW-101A	12/19/05	4,400	4/2009	16,000	
	MW-101B	12/19/05	27,000	4/2009	32,000	
	MW-101BDP	NA	NA	4/2009	32,000	
	MW-102B	12/19/05	94	4/2009	2,600	
	MW-102C	12/19/05	300	4/2009	14,000	
	MW-103A	05/13/04	1,800	4/2009	130	

Groundwater Contaminant	Sample Location	Date of Max. Concentration Sampling	Max. Concentra-tion above Std. (µg/L)	Date of Most Recent Sampling	Concentration at most Recent Sampling Event (µg/L)	Standard (µg/L)
	MW-103B	12/02/04	990	4/2009	240	
	MW-103C	12/19/05	760	4/2009	620	
	MW-104A	12/19/05	890	4/2009	650	
	MW-104B	12/19/05	110	4/2009	190	
	MW-104C	NA	NA	4/2009	87	
	MW-10B	NA	NA	4/2009	120	
	MW-10D	NA	NA	4/2009	150	
	MW-10DDP	NA	NA	4/2009	140	
trans-1,2-Dichloroethene	MW-100A	12/19/05	1,800	4/2009	<500	100
	MW-100B	12/19/05	1,200	4/2009	<500	
Methylene Chloride	MW-100A	09/10/03	33,000	4/2009	1,300	5
	MW-100B	06/07/05	75,000 J	4/2009	2,000	
	MW-101A	05/12/04	7,700	4/2009	<250	
	MW-101B	05/12/04	8,100	4/2009	940	
	MW-102A	05/12/04	100	4/2009	<1	
	MW-101BDP	NA	NA	4/2009	910	
	MW-102B	12/02/04	72	4/2009	<500	
	MW-103B	05/13/04	110	4/2009	<5	
Naphthalene	MW-100A	05/12/04	190	4/2009	<500	6
Tetrachloroethene	MW-100A	09/10/03	190	4/2009	<500	0.7
Tetrachloroethene	MW-101A	06/07/06	160 J	4/2009	<250	0.7
	MW-102B	NA	NA	4/2009	<500	
Toluene	MW-100A	09/10/03	11,000	4/2009	3,500	600
	MW-100B	05/12/04	5,400	4/2009	3,800	
	MW-101A	05/12/04	5,900	4/2009	1,600	
	MW-101B	05/12/04	3,900	4/2009	1,800	
1,1,1-Trichloroethane	MW-100A	09/10/03	10,000	4/2009	1,400	200
	MW-100B	05/12/04	4,100	4/2009	1,300	
	MW-101A	05/12/04	12,000	4/2009	4,300	
	MW-101B	05/12/04	7,500	4/2009	2,300	
	MW-101BDP	NA	NA	4/2009	2,300	
	MW-102B	05/12/04	290	4/2009	<500	
	MW-100A	09/10/03	180,000	4/2009	620	
	GP-6	09/10/02	21	*	*	

Groundwater Contaminant	Sample Location	Date of Max. Concentration Sampling	Max. Concentra-tion above Std. (µg/L)	Date of Most Recent Sampling	Concentration at most Recent Sampling Event (µg/L)	Standard (µg/L)
Trichloroethene	MW-100B	05/12/04	98,000	4/2009	4,100	3
	MW-101A	05/12/04	190,000	4/2009	41,000	
	MW-101B	05/12/04	130,000	4/2009	14,000	
	MW-102A	12/19/05	44	4/2009	7	
	MW-102B	05/12/04	11,000	4/2009	550	
	MW-102C	06/08/05	3,900	4/2009	6,900	
	MW-103A	12/02/04	100	4/2009	12	
	MW-103B	05/13/04	100	4/2009	31	
	MW-103C	12/19/05	57	4/2009	56	
	MW-104B	12/19/05	26	4/2009	22	
	MW-104C	12/02/04	12	4/2009	8.3	
	MW-10	NA	NA	4/2009	5.4	
	MW-10D	NA	NA	4/2009	6	
	MW-10DDP	NA	NA	4/2009	6.1	
	MW-19D	NA	NA	4/2009	12	
Vinyl Chloride	MW-100A	06/07/05	150	4/2009	<500	0.03
	FR-6D	09/10/03	3.5	*	*	
	MW-103A	05/13/04	61	4/2009	8	
	MW-103B	NA	NA	4/2009	11	
	MW-103C	NA	NA	4/2009	<50	
	MW-104A	06/08/05	2.9	4/2009	14	
	MW-10D	NA	NA	4/2009	2.8	
	MW-10DDP	NA	NA	4/2009	2.7	

J = estimated value NA = not available

* = Well sampled one time, was direct push well, or maximum occurred on occasion of most recent sampling.

b. Soil contaminants (in milligrams per kilogram, the equivalent of parts per million), the standards for which are derived using the Guidelines of the Inactive Hazardous Sites Branch of DENR's Superfund Section (effective January, 2010):

Soil Contaminant	Sample Location	Depth	Date of Max. Concentration Sampling	Maximum Concentration above Std. (mg/kg)	Standard (mg/kg)
Total Petroleum Hydrocarbons – Diesel Range	G-8d	7-8'	04/00	1,260	40
	G-8	7-8'	10/00	517	
	G-19d	7-8'	04/00	52.5	
	G-19	7-9'	10/00	194	
Trichloroethene	2	5-6'	09/00	0.102	0.053
	21	5-6'	09/00	20.2	
	26	5-6'	09/00	0.116 J	
J = Estimated Value					

9. For purposes of this Agreement DENR relies on Prospective Developer's representations that Prospective Developer's involvement with the Property has been limited to indicating to DENR's Brownfields Program, prior to Prospective Developer's purchase of the Property, its desire to enter into a Brownfields Agreement regarding the Property; purchasing the Property on September 30, 2003; preparing and submitting to DENR a Brownfields Letter of Intent dated October 31, 2003 (and revising it on December 3, 2003); obtaining or commissioning the Environmental Reports; and utilizing the property to manufacture topical antimicrobial products since 2004 through its affiliate QualPak, LLC.

10. Prospective Developer has provided DENR with information, or sworn certifications regarding that information on which DENR relies for purposes of this Agreement, sufficient to demonstrate that:

a. Prospective Developer and any parent, subsidiary, or other affiliate has substantially complied with federal and state laws, regulations and rules for protection of the environment, and with the other agreements and requirements cited at N.C.G.S. § 130A-310.32(a)(1);

b. as a result of the implementation of this Agreement, the Property will be suitable for the uses specified in the Agreement while fully protecting public health and the environment;

c. Prospective Developer's reuse of the Property will produce a public benefit commensurate with the liability protection provided Prospective Developer hereunder;

d. Prospective Developer has or can obtain the financial, managerial and technical means to fully implement this Agreement and assure the safe use of the Property; and

e. Prospective Developer has complied with all applicable procedural requirements.

11. Prospective Developer has paid the $2,000 fee to seek a brownfields agreement required by N.C.G.S. § 130A-310.39(a)(1), and shall make a payment to DENR of $3,500 at the time Prospective Developer and DENR enter into this Agreement, defined for this purpose as occurring no later than the last day of the public comment period related to this Agreement. The Parties agree that the second payment shall constitute, within the meaning of N.C.G.S. § 130A-310.39(a)(2), the full cost to DENR and the North Carolina Department of Justice of all activities related to this Agreement.

IV. BENEFIT TO COMMUNITY

12. The redevelopment of the Property proposed herein would provide the following public benefits:

a. continued productive use of the Property;

b. retention of jobs;

c. tax revenue for affected jurisdictions;

d. additional manufacturing, and manufacturing space, in the area; and

e. "smart growth" through use of land in an already developed area, which avoids development of land beyond the urban fringe ("greenfields").

V. WORK TO BE PERFORMED

13. Prospective Developer shall not abandon any groundwater wells, injection wells, recovery wells, piezometers and other man-made points of groundwater access at the Property. It is expected that Abbott Laboratories will receive notification to abandon these wells when the remediation requirements overseen by the Superfund Section's Inactive Hazardous Sites Branch is completed.

14.a. Within sixty (60) days of the effective date of this agreement, a professional engineer licensed in North Carolina shall, on behalf of Prospective Developer, certify to DENR under seal that the mechanical ventilation with outdoor air in the main manufacturing building, as designated on the plat component of the Notice referenced in paragraph 21 below, is in compliance with the most current version of the Mechanical Ventilation section of the Ventilation chapter of the North Carolina State Building Code ("Code") or another standard approved in writing in advance by DENR.

b. Regarding each of the other buildings on the Property, as denominated on the plat component of the Notice referenced in paragraph 21 below, Prospective Developer shall, within thirty (30) days after the effective date of this Agreement, effect compliance with the process set forth in the preceding paragraph 14.a., or demonstrate to DENR's written satisfaction that compliance with the most current version of the Code is not necessary as:

i. the building lies at least one hundred (100) feet outside the horizontal extent of the volatile contaminant plume, and does not lie in the anticipated direction of the plume during monitored natural attenuation, or

ii. the owner of the portion of the Property containing the building(s) provides DENR site-specific risk assessment under DENR guidance, that establishes to DENR's satisfaction that current conditions are acceptable.

15. Based on the information in the Environmental Reports, and subject to imposition of and compliance with the Land Use Restrictions set forth below, and subject to Section IX of this Agreement (DENR's Covenant Not to Sue and Reservation of Rights), DENR is not requiring Prospective Developer to perform any active remediation at the Property.

16. By way of the Notice of Brownfields Property referenced below in paragraph **21** Prospective Developer shall impose the following Land Use Restrictions under the Act, running with the land, to make the Property suitable for the uses specified in this Agreement while fully protecting public health and the environment. All references to DENR shall be understood to include any successor in function.

a. No use may be made of the Property other than for Industrial use, including Heavy and Light Manufacturing use. Moreover, those uses may only occur in compliance with the other Land Use Restrictions below. For purposes of this restriction, the following definitions apply:

i. "Industrial" refers to manufacturing, construction, transportation, utilities, wholesaling and warehousing.

ii. "Heavy Manufacturing" refers to the assembly, fabrication or processing of goods and materials using processes that, while legally compliant, ordinarily have greater than average impacts on the environment, or have significant impacts on the use and enjoyment of adjacent property in terms of noise, smoke, fumes, odors, glare, or health and safety hazards, or that do not constitute light manufacturing; or any use where the area occupied

by outdoor storage of goods and material used in the assembly, fabrication or processing exceeds 25 percent of the floor area of all buildings on the property.

iii. "Light Manufacturing" refers to a use which involves the assembly, fabrication or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or property where such assembly, fabrication or processing takes place, where such processes are housed entirely within a building, and where the area occupied by the outdoor storage of goods and material used in such processes does not exceed twenty-five (25) percent of the floor area of all the buildings on the property. No process water or wastewater may be generated at a light manufacturing facility.

b. Surface water and underground water at the Property may not be used for any purpose without the prior written approval of DENR.

c. No activities that encounter, expose, remove or use groundwater (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools, or construction or excavation activities that encounter or expose groundwater) may occur on the Property without prior sampling and analysis of groundwater to the written satisfaction of DENR in any areas proposed for such activities, and submittal of the analytical results to DENR. If such results disclose to DENR contamination in excess of North Carolina's groundwater quality standards, the proposed activities may not occur without the prior written approval of DENR on such conditions as DENR imposes, including at a minimum compliance with plans and procedures, approved pursuant to applicable law, to protect public health and the environment during the proposed activities.

d. Soil within fifty (50) feet of the sample locations listed in subparagraph

8.b. above and under the footprint of the main manufacturing building and designated "Areas of Possible Soil Contamination," on the plat component of the Notice of Brownfields Property referenced in paragraph 21 below, may not be disturbed without a minimum of seven (7) business days advance written notice to DENR, unless DENR states otherwise in writing in advance. At the time such soil is exposed, DENR may inspect and sample, or require sampling of, the exposed soil for contaminants. If soil contamination is discovered that DENR determines would likely contaminate groundwater even if capped, or that may pose an imminent threat to public health or the environment if exposed, as much soil as DENR reasonably requires shall be removed and disposed of in accordance with applicable law, and any other actions that DENR reasonably requires to make the Property suitable for the uses specified in this Agreement while fully protecting public health and the environment shall be taken. If soil contamination is discovered that DENR determines would not likely contaminate groundwater if capped, or likely pose an imminent threat to public health or the environment if exposed, as much soil as DENR reasonably requires shall be removed and disposed of in accordance with applicable law or capped to the written satisfaction of DENR.

e. No building may be constructed on the Property until DENR has been consulted regarding the proximity of the planned building to the Property's volatile contaminant plume. If DENR determines that the footprint of the building would fall within one hundred (100) feet of said plume, it may not be constructed without a vapor barrier system and/or mechanical or passive vapor barrier mitigation system, or other vapor mitigation system approved in writing in advance by DENR. Within thirty (30) days following installation of the vapor mitigation system, DENR shall be provided certification of proper installation under seal of a professional engineer licensed in North Carolina, as well as photographs illustrating the

installation and a brief narrative describing it. With DENR's prior written approval, additional investigation activities including, without limitation, soil gas samples, performed to DENR's written satisfaction, may be conducted, and installation of a mitigation system possibly excused, so long as the proponent makes an advance written commitment to install a mitigation system if DENR so requires based on review of a report DENR deems adequate of the investigation activities.

f. Landscaping and contours at the Property may not be disturbed without the prior written approval of DENR, except for mowing and pruning of above-ground vegetation or replacement of plants at their previous locations.

g. No mining may be conducted on or under the Property, including, without limitation, extraction of coal, oil, gas or any other minerals or non-mineral substances.

h. No basements may be constructed on the Property unless they are, as determined in writing by DENR, vented in conformance with applicable building codes.

i. None of the contaminants known to be present in the environmental media at the Property, including those listed in paragraph 8 of this Agreement, may be used or stored at the Property without the prior written approval of DENR, except in *de minimis* amounts for cleaning and other routine housekeeping activities.

j. The Property may not be used as a park or for sports of any kind, including, but not limited to, golf, football, soccer and baseball, without the prior written approval of DENR.

k. The Property may not be used for agriculture, grazing, timbering or timber production.

l. The Property may not be used as a playground, or for child care centers or

schools.

m. The Property may not be used for kennels, private animal pens or horse-riding.

n. If and when any DENR-approved monitoring well at the Property is damaged, the owner of the portion of the Property containing the well shall be responsible for the well's repair to DENR's written satisfaction within a time period acceptable to DENR.

o. No party conducting environmental assessment or remediation at the Property at the direction of, or pursuant to a permit or order issued by, DENR may be denied access to the Property for purposes of conducting such assessment or remediation.

p. During January of each year after the year in which the Notice referenced below in paragraph 21 is recorded, the owner of any part of the Property as of January 1st of that year shall submit a notarized Land Use Restrictions Update ("LURU") to DENR certifying that, as of said January 1st, the Notice of Brownfields Property containing these land use restrictions remains recorded at the Scotland County Register of Deeds office and the land use restrictions are being complied with, and stating:

i. the name, mailing address, telephone and facsimile numbers, and contact person's e-mail address of the owner submitting the LURU if said owner acquired any part of the Property during the previous calendar year; and

ii. the transferee's name, mailing address, telephone and facsimile numbers, and contact person's e-mail address, if said owner transferred any part of the Property during the previous calendar year.

17. The desired result of the above Land Use Restrictions is to make the Property suitable for the uses specified in the Agreement while fully protecting public health and the

environment.

18. The guidelines, including parameters, principles and policies within which the desired results are to be accomplished are the Guidelines of the Inactive Hazardous Sites Branch of DENR's Superfund Section, as embodied in their most current version.

19. The consequences of achieving or not achieving the desired results will be that the uses to which the Property is put are or are not suitable for the Property while fully protecting public health and the environment.

VI. ACCESS/NOTICE TO SUCCESSORS IN INTEREST

20. In addition to providing access to the Property pursuant to subparagraph 16.n. above,, Prospective Developer shall provide to DENR, its authorized officers, employees, representatives, and all other persons performing response actions under DENR oversight, access at all reasonable times to other property controlled by Prospective Developer in connection with the performance or oversight of any response actions at the Property under applicable law. While Prospective Developer owns the Property, DENR shall provide reasonable notice to the Prospective Developer of the timing of any response actions to be undertaken by or under the oversight of DENR at the Property. Notwithstanding any provision of this Agreement, DENR retains all of its authorities and rights, including enforcement authorities related thereto, under the Act and any other applicable statute or regulation, including any amendments thereto.

21. DENR has approved, pursuant to N.C.G.S. § 130A-310.35, a Notice of Brownfields Property for the Property containing, inter alia, the Land Use Restrictions set forth in Section V (Work to Be Performed) of this Agreement and a survey plat of the Property. Pursuant to N.C.G.S. § 130A-310.35(b), within 15 days of the effective date of this Agreement Prospective Developer shall file the Notice of Brownfields Property in the Scotland County,

North Carolina register of deeds' office. Within three days thereafter, Prospective Developer shall furnish DENR a copy of the documentary component of the Notice containing a certification by the register of deeds as to the Book and Page numbers where both the documentary and plat components of the Notice are recorded, and a copy of the plat with notations indicating its recordation.

22. This Agreement shall be attached as Exhibit A to the Notice of Brownfields Property. Subsequent to recordation of said Notice, any deed or other instrument conveying an interest in the Property shall contain the following notice: "The property which is the subject of this instrument is subject to the Brownfields Agreement attached as Exhibit A to the Notice of Brownfields Property recorded in the Scotland County land records, Book ____, Page ____." A copy of any such instrument shall be sent to the persons listed in Section XV (Notices and Submissions), though financial figures related to the conveyance may be redacted.

23. The Prospective Developer shall ensure that a copy of this Agreement is provided to any current lessee or sublessee on the Property as of the effective date of this Agreement and shall ensure that any subsequent leases, subleases, assignments or transfers of the Property or an interest in the Property are consistent with this Section (Access/Notice To Successors In Interest), Section V (Work to be Performed) and Section XI (Parties Bound & Transfer/Assignment Notice) of this Agreement.

VII. DUE CARE/COOPERATION

24. The Prospective Developer shall exercise due care at the Property with respect to regulated substances and shall comply with all applicable local, State, and federal laws and regulations. The Prospective Developer agrees to cooperate fully with any remediation of the Property by DENR and further agrees not to interfere with any such remediation. In the event

the Prospective Developer becomes aware of any action or occurrence which causes or threatens a release of contaminants at or from the Property, the Prospective Developer shall immediately take all appropriate action to prevent, abate, or minimize such release or threat of release, and shall, in addition to complying with any applicable notification requirements under N.C.G.S. 130A-310.1 and 143-215.84, and Section 103 of CERCLA, 42 U.S.C. § 9603, or any other law, immediately notify DENR of such release or threatened release.

VIII. CERTIFICATION

25. By entering into this agreement, the Prospective Developer certifies that, without DENR approval, it will make no use of the Property other than that committed to in the Brownfields Letter of Intent dated October 21, 2003 by which it applied for this Agreement. That use is industrial/manufacturing. Prospective Developer also certifies that to the best of its knowledge and belief it has fully and accurately disclosed to DENR all information known to Prospective Developer and all information in the possession or control of its officers, directors, employees, contractors and agents which relates in any way to any regulated substances at the Property and to its qualification for this Agreement, including the requirement that it not have caused or contributed to the contamination at the Property.

IX. DENR'S COVENANT NOT TO SUE AND RESERVATION OF RIGHTS

26. Unless any of the following apply, Prospective Developer shall not be liable to DENR, and DENR covenants not to sue Prospective Developer, for remediation of the Property except as specified in this Agreement:

a. The Prospective Developer fails to comply with this Agreement.

b. The activities conducted on the Property by or under the control or direction

of the Prospective Developer increase the risk of harm to public health or the environment, in which case Prospective Developer shall be liable for remediation of the areas of the Property, remediation of which is required by this Agreement, to the extent necessary to eliminate such risk of harm to public health or the environment.

c. A Land Use Restriction set out in the Notice of Brownfields Property required under N.C.G.S. 130A-310.35 is violated while the Prospective Developer owns the Property, in which case the Prospective Developer shall be responsible for remediation of the Property to unrestricted use standards.

d. The Prospective Developer knowingly or recklessly provided false information that formed a basis for this Agreement or knowingly or recklessly offers false information to demonstrate compliance with this Agreement or fails to disclose relevant information about contamination at the Property.

e. New information indicates the existence of previously unreported contaminants or an area of previously unreported contamination on or associated with the Property that has not been remediated to unrestricted use standards, unless this Agreement is amended to include any previously unreported contaminants and any additional areas of contamination. If this Agreement sets maximum concentrations for contaminants, and new information indicates the existence of previously unreported areas of these contaminants, further remediation shall be required only if the areas of previously unreported contaminants raise the risk of the contamination to public health or the environment to a level less protective of public health and the environment than that required by this Agreement.

f. The level of risk to public health or the environment from contaminants is unacceptable at or in the vicinity of the Property due to changes in exposure conditions,

including (i) a change in land use that increases the probability of exposure to contaminants at or in the vicinity of the Property or (ii) the failure of remediation to mitigate risks to the extent required to make the Property fully protective of public health and the environment as planned in this Agreement.

g. The Department obtains new information about a contaminant associated with the Property or exposures at or around the Property that raises the risk to public health or the environment associated with the Property beyond an acceptable range and in a manner or to a degree not anticipated in this Agreement.

h. The Prospective Developer fails to file a timely and proper Notice of Brownfields Property under N.C.G.S. 130A-310.35.

26. Except as may be provided herein, DENR reserves its rights against Prospective Developer as to liabilities beyond the scope of the Act, including those regarding petroleum underground storage tanks pursuant to Part 2A, Article 21A of Chapter 143 of the General Statutes.

27. This Agreement does not waive any applicable requirement to obtain a permit, license or certification, or to comply with any and all other applicable law, including the North Carolina Environmental Policy Act, N.C.G.S. § 113A-1, et seq.

X. PROSPECTIVE DEVELOPER'S COVENANT NOT TO SUE

28. In consideration of DENR's Covenant Not To Sue in Section IX of this Agreement and in recognition of the absolute State immunity provided in N.C.G.S. § 130A-310.37(b), the Prospective Developer hereby covenants not to sue and not to assert any claims or causes of action against DENR, its authorized officers, employees, or representatives with respect to any action implementing the Act, including negotiating, entering, monitoring or

enforcing this Agreement or the above-referenced Notice of Brownfields Property.

XI. PARTIES BOUND & TRANSFER/ASSIGNMENT NOTICE

29. This Agreement shall apply to and be binding upon DENR, and on the Prospective Developer, its officers, directors, employees, and agents. Each Party's signatory to this Agreement represents that she or he is fully authorized to enter into the terms and conditions of this Agreement and to legally bind the Party for whom she or he signs.

30. No later than fourteen (14) days prior to any transfer or assignment by Prospective Developer of any interest in the Property, Prospective Developer shall provide in writing to DENR the transferee or assignee's name, mailing address, telephone and facsimile numbers, and e-mail address.

XII. DISCLAIMER

31. This Agreement in no way constitutes a finding by DENR as to the risks to public health and the environment which may be posed by regulated substances at the Property, a representation by DENR that the Property is fit for any particular purpose, nor a waiver of Prospective Developer's duty to seek applicable permits or of the provisions of N.C.G.S. § 130A-310.37.

32. Except for the Land Use Restrictions set forth in paragraph 16 above and N.C.G.S. § 130A-310.33(a)(1)-(5)'s provision of the Act's liability protection to certain persons to the same extent as to a prospective developer, no rights, benefits or obligations conferred or imposed upon Prospective Developer under this Agreement are conferred or imposed upon any other person.

XIII. DOCUMENT RETENTION

32. The Prospective Developer agrees to retain and make available to DENR all

business and operating records, contracts, site studies and investigations, and documents relating to operations at the Property, for ten years following the effective date of this Agreement, unless otherwise agreed to in writing by the Parties. At the end of ten years, the Prospective Developer shall notify DENR of the location of such documents and shall provide DENR with an opportunity to copy any documents at the expense of DENR.

XIV. PAYMENT OF ENFORCEMENT COSTS

33. If the Prospective Developer fails to comply with the terms of this Agreement, including, but not limited to, the provisions of Section V (Work to be Performed), it shall be liable for all litigation and other enforcement costs incurred by DENR to enforce this Agreement or otherwise obtain compliance.

XV. NOTICES AND SUBMISSIONS

34. Unless otherwise required by DENR or a Party notifies the other Party in writing of a change in contact information, all notices and submissions pursuant to this Agreement shall be sent by prepaid first class U.S. mail, as follows:

a. for DENR:

Samuel Watson
N.C. Division of Waste Management
Brownfields Program
401 Oberlin Road, Suite 150
Raleigh, NC 27605

b. for Prospective Developer:

Legal Counsel
Marketta, LLC
c/o GOJO Industries
One GOJO Plaza, Suite 500
Akron, OH 44311

Prospective Developer shall also send any and all notices and submissions this Agreement requires it to send, including without limitation its LURUs (see subparagraph 16.p.) to the chief public health and environmental officials of the county where the Property lies. Notices and submissions sent by prepaid first class U.S. mail shall be effective on the third day following postmarking. Notices and submissions sent by hand or by other means affording written evidence of date of receipt shall be effective on such date.

XVI. EFFECTIVE DATE

35. This Agreement shall become effective on the date the Prospective Developer signs it, after receiving it, signed, from DENR. Prospective Developer shall sign the Agreement within seven (7) days following such receipt.

XVII. TERMINATION OF CERTAIN PROVISIONS

36. If any Party believes that any or all of the obligations under Section VI (Access/Notice to Successors in Interest) are no longer necessary to ensure compliance with the requirements of the Agreement, that Party may request in writing that the other Party agree to terminate the provision(s) establishing such obligations; provided, however, that the provision(s) in question shall continue in force unless and until the Party requesting such termination receives written agreement from the other Party to terminate such provision(s).

XVIII. CONTRIBUTION PROTECTION

37. With regard to claims for contribution against Prospective Developer in relation to the subject matter of this Agreement, Prospective Developer is entitled to protection from such claims to the extent provided by N.C.G.S. § 130A-310.37(a)(5)-(6). The subject matter of this Agreement is all remediation taken or to be taken and response costs incurred or to be incurred

by DENR or any other person in relation to the Property.

38. The Prospective Developer agrees that, with respect to any suit or claim for contribution brought by it in relation to the subject matter of this Agreement, it will notify DENR in writing no later than 60 days prior to the initiation of such suit or claim.

39. The Prospective Developer also agrees that, with respect to any suit or claim for contribution brought against it in relation to the subject matter of this Agreement, it will notify DENR in writing within 10 days of service of the complaint on it.

XIX. PUBLIC COMMENT

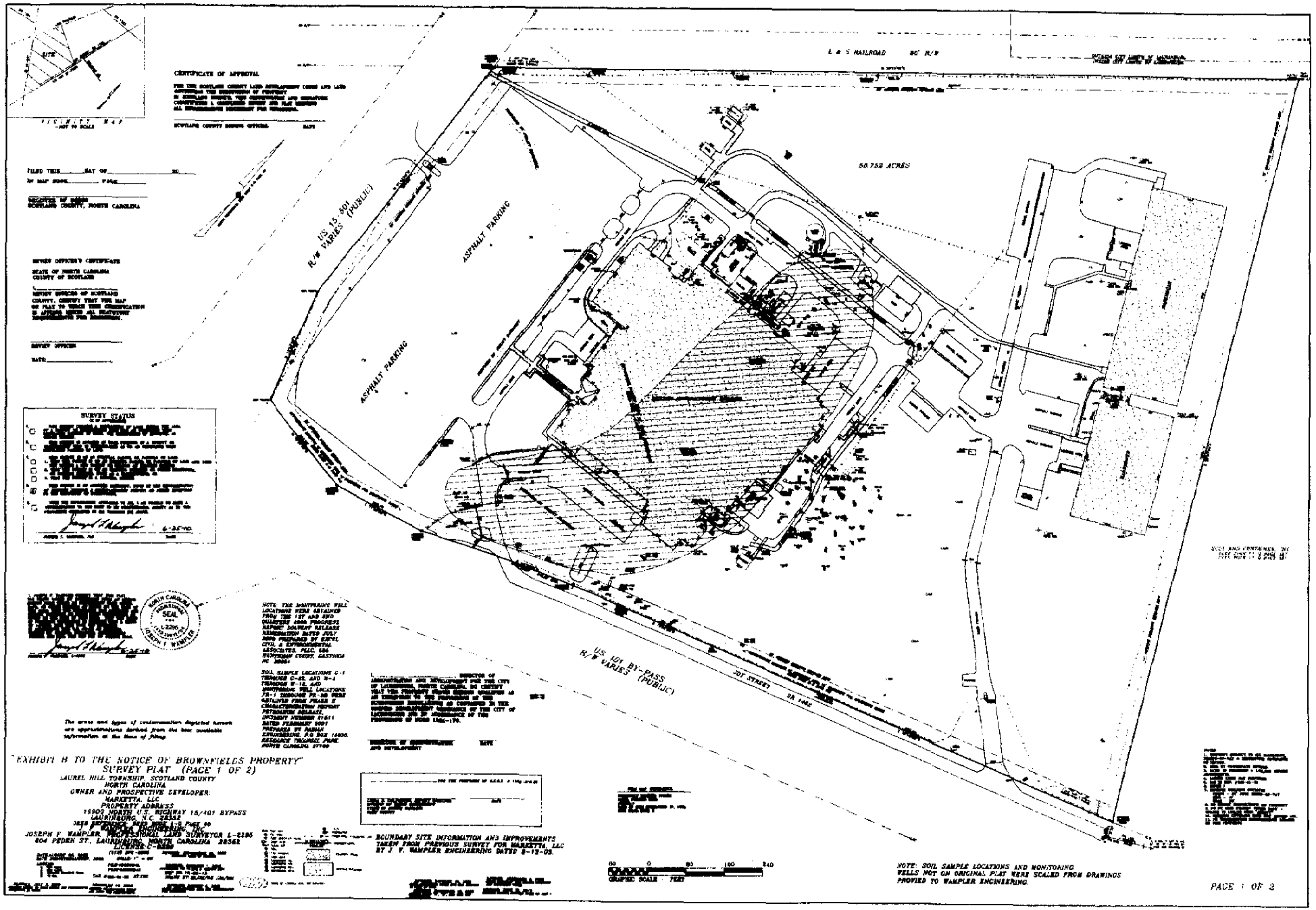
40. This Agreement shall be subject to a public comment period of at least 30 days starting the day after publication of the approved summary of the Notice of Intent to Redevelop a Brownfields Property required by N.C.G.S. § 130A-310.34 in the North Carolina Register, or the day after publication of the same in a newspaper of general circulation serving the area in which the Property is located, whichever occurs later. After expiration of that period, or following a public meeting if DENR holds one pursuant to N.C.G.S. § 130A-310.34(c), DENR may modify or withdraw its consent to this Agreement if comments received disclose facts or considerations which indicate that this Agreement is inappropriate, improper or inadequate.

IT IS SO AGREED:
NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

By: _____ July 1, 2010
Linda M. Culpepper — Date
Deputy Director, Division of Waste Management

IT IS SO AGREED:
MARKETTA, LLC

By: _____ July 14, 2010
Mark S. Lerner — Date
President/Manager



THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS

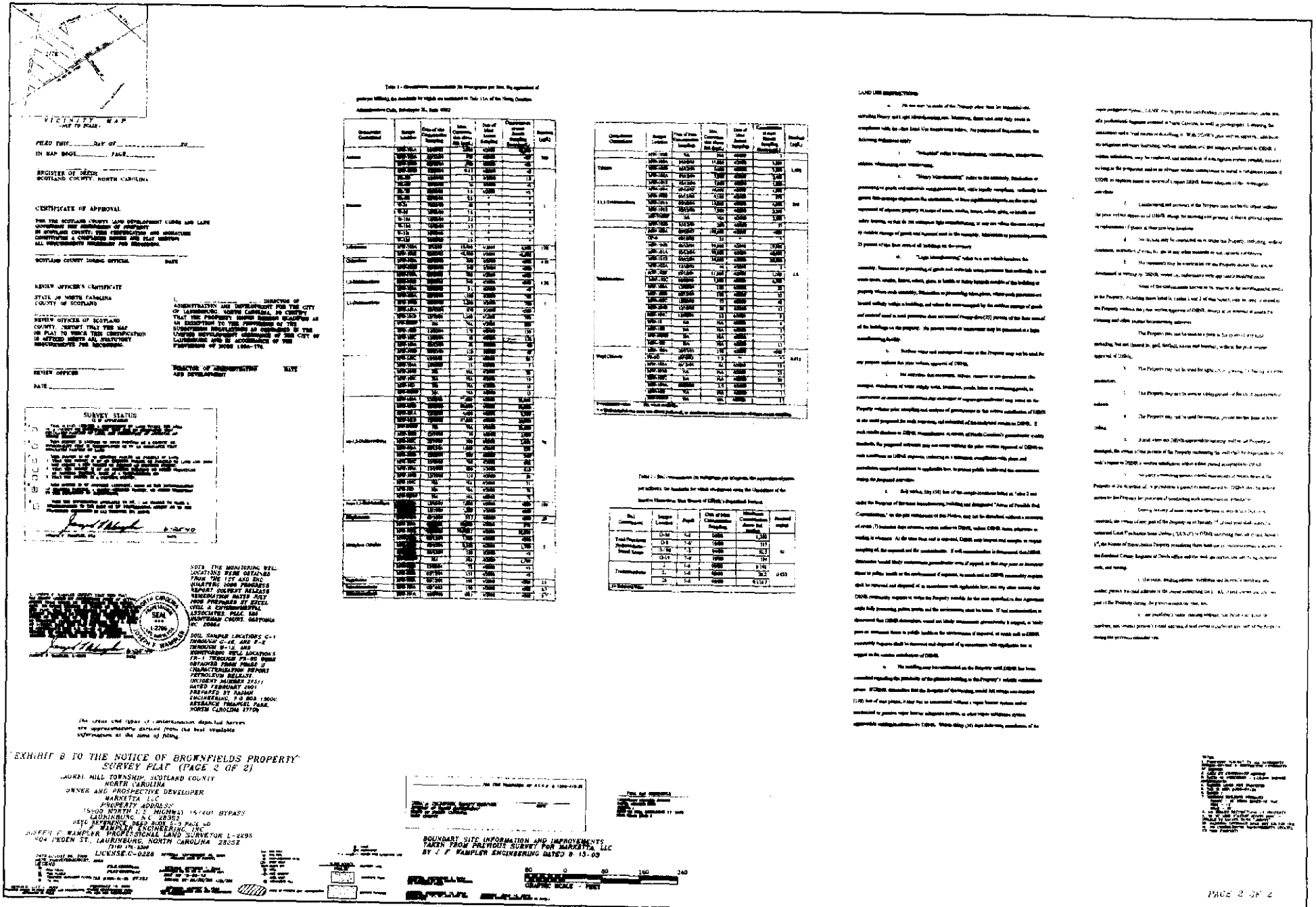


EXHIBIT B TO THE NOTICE OF BROWNFIELDS PROPERTY
SURVEY PLAT (PAGE 2 OF 2)
LAUREL HILL TOWNSHIP, SCOTLAND COUNTY
NORTH CAROLINA
OWNER AND PROSPECTIVE DEVELOPER
MARKETTA LLC
PROPERTY ADDRESS:
15500 NORTH U.S. HIGHWAY 15/401 BYPASS
LAURINBURG, N.C. 28352
DEED REFERENCE: DEED BOOK 5-3 PAGE 40
J. F. HAMPLER ENGINEERING, INC.
JOSEPH F. HAMPLER PROFESSIONAL LAND SURVEYOR L-2295
804 JEDEN ST., LAURINBURG, NORTH CAROLINA 28352
(910) 276-5300
LICENSE:C-0228

BOUNDARY SITE INFORMATION AND IMPROVEMENTS
TAKEN FROM PREVIOUS SURVEY FOR MARKETTA, LLC
BY J. F. HAMPLER ENGINEERING DATED 8-13-09

PAGE 2 OF 2

THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS

Exhibit C

LEGAL DESCRIPTION

BEGINNING at a concrete monument found at the intersection of the eastern right of way line of U.S. Highway 15-501 with the southern right of way line of the L & S Railroad; thence along the southern right of way line of the L & S Railroad, North 50 degrees 15 minutes 00 seconds East 1682.25 feet to an iron stake, said stake being the northwest corner of Scotland Container, Inc. (Deed Book 11-Q, Pages 327 and 331, Scotland County Registry); thence along the western line of Scotland Container, Inc. South 25 degrees 53 minutes 06 seconds East 1586.19 feet to a concrete monument found in the northern right of way line of U.S. Highway 401 By-Pass; thence along the northern right of way line of U.S. Highway 401 By-Pass, South 73 degrees 16 minutes 00 seconds West 907.60 feet to an iron stake and South 73 degrees 06 minutes 00 seconds West 204.45 feet to a concrete monument; thence continuing along the northern right of way line of U.S. Highway 401 By-Pass, along a curve to the left having a radius of 3713 feet, South 69 degrees 39 minutes 00 seconds West a chord distance of 446.90 feet to a concrete monument; thence continuing along the northern right of way line of U.S. Highway 401 By-Pass, South 77 degrees 26 minutes 00 seconds West 202.40 feet to a concrete monument, and North 78 degrees 57 minutes 00 seconds West 223.90 feet to an iron stake in the eastern right of way line of U.S. Highway 15-501; thence along the eastern right of way line of U.S. Highway 15-501 North 15 degrees 53 minutes 00 seconds West 244.75 feet to an iron stake and North 1 degree 43 minutes 00 seconds West 593.50 feet to a concrete monument, the point and place of BEGINNING, containing 50.752 acres, as shown on map entitled "Survey for Marketta, LLC" dated August 13, 2003, prepared by J.F. Wampler Engineering, Inc., and being a part of the real estate conveyed to Abbott Laboratories by deed recorded in Book 5-O, Page 60, Scotland County Registry.