



County Clerk's Recording Page

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Party 1:
FLUID HANDLING LLC

Party 2:
ITT INDUSTRIES INC

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Recording Fees:

RECORDING	\$75.00
COE CO \$1 RET	\$1.00
COE STATE \$14.25 GEN	\$14.25
COE STATE \$4.75 RM	\$4.75
MARKOFF FEE	\$0.50

Consideration Amount:	0.00
BASIC MT	\$0.00
SONYMA MT	\$0.00
ADDL MT/NFTA	\$0.00
SP MT/M-RAIL	\$0.00
NY STATE TT	\$0.00
ROAD FUND TT	\$0.00

Total: \$95.50

STATE OF NEW YORK
ERIE COUNTY CLERK'S OFFICE

WARNING – THIS SHEET CONSTITUTES THE CLERK'S ENDORSEMENT REQUIRED BY SECTION 319&316-a (5) OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK. DO NOT DETACH. THIS IS NOT A BILL.

Michael P. Kearns
Erie County Clerk

AMENDMENT OF DECLARATION OF COVENANTS AND RESTRICTIONS

THIS AMENDMENT OF DECLARATION OF COVENANTS AND RESTRICTIONS (the "Amendment") is made as of the 12 day of November, 2018, by Fluid Handling, LLC, a limited liability company organized and existing under the laws of the State of Delaware and having an office for the transaction of business at 175 Standard Parkway, Cheektowaga, New York 14227.

WHEREAS, the property formerly known as the "ITT Heat Transfer Site" which is located at 175 Standard Parkway, Cheektowaga, New York and which is more particularly described in Appendix A attached hereto and incorporated herein by reference (the "Property") is the subject of a Voluntary Agreement executed by the ITT Heat Transfer division of ITT Industries, Inc. (the "Former Owner") as part of the New York State Department of Environmental Conservation (the "Department") Voluntary Cleanup Program;

WHEREAS, the Former Owner, with the oversight of the Department, executed that certain Declaration of Covenants and Restrictions dated November 30, 2004 and recorded in the Erie County Clerk's Office on December 8, 2004 in Book 11087 of Deeds at Page 4013 which encumbers the Property and limits the permissible uses of the Property (the "Declaration");

WHEREAS, Fluid Handling, LLC is the current owner of the Property, which it acquired by that certain Deed dated October 27, 2011 and recorded in the Erie County Clerk's Office on January 31, 2012 in Book 11216 of Deeds at Page 6001;

WHEREAS, Fluid Handling, LLC also owns other land and improvements in the vicinity of the Property which is not encumbered by the Declaration (the "Adjacent Land");

WHEREAS, the Site Layout map which is attached to the Declaration as Appendix B is somewhat misleading and could lead to confusion that the Adjacent Land is encumbered by the Declaration; and

WHEREAS, it is the desire of Fluid Handling, LLC, with the concurrence of the Department, to clarify the Site Layout map so that it is clear that only the Property is encumbered by the Declaration; and

WHEREAS, this Amendment does not substantively change any of the requirements or commitments found in the Declaration or the effective date of the Declaration and this Amendment is being filed solely to clarify the Site Layout Map.

NOW, THEREFORE, Fluid Handling, LLC, for itself and its successors and/or assigns, states as follows:

The Property subject to the Declaration is described in Appendix A and shown only as hachured on the map attached to this Amendment as Appendix B. No other property is encumbered by the Declaration.

Attached as **Appendix C** to this Amendment is a letter from the Department evidencing the Department's concurrence with the foregoing.

IN WITNESS WHEREOF, the undersigned has executed this instrument.

Fluid Handling, LLC

By: Todd Boughsedge

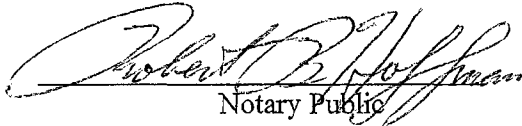
Name: Todd Boughsedge

Title: Sr. Director of operations

CERTIFICATE OF ACKNOWLEDGEMENT

STATE)
OF NEW YORK) SS.:
COUNTY OF)
ERIE

On the 12TH day of NOVEMBER in the year 2018 before me, the undersigned, personally appeared TODD ROUGHSEGE, personally known to who or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individuals acted, executed the instrument.


Notary Public

ROBERT B. HOFFMAN
NOTARY PUBLIC FOR
THE STATE OF NEW YORK
QUALIFIED IN NIAGARA
COUNTY REG NO. 01H06144733
MY COMMISSION EXPIRES , 2022
JUNE 02,

APPENDIX A

PARCEL 1

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Cheektowaga, County of Erie and State of New York, being part of Lot. No, 23, Township 11, Range 7 of the Holland Land Company's Survey, further described as part of the premises designated and subdivided on map filed in Erie County Clerk's Office under Cover of Maps No. 553, more particularly bounded and described as follows:

BEGINNING at a point in the easterly line of said Subdivision Tract distant southerly, at right angles, 20 feet from the southerly line of lands of the former Lehigh Valley Railroad Company, now Conrail; thence southerly along the easterly line of said Subdivision Tract 1354.22 feet to the northerly line of Wojcik Avenue as said line is extended easterly in a direct line; running thence westerly along the northerly line of Wojcik Avenue and said line extended and forming an interior angle of $90^{\circ} 35' 50''$ with the last described line 388.2 feet to the easterly line of Walkowiak Avenue; running then northerly along the easterly line of Walkowiak Avenue and said line extended northerly in a direct line and forming an interior angle of 90° with the last described line 1206.09 feet to a point therein 20.0 feet southerly at right angles from the southerly line of lands of Conrail (formerly the Lehigh Valley Railway Company); running thence easterly along a line drawn parallel with the southerly line of said railway company's land and forming an interior angle of $110^{\circ} 12' 10''$ with the last described line 428.70 feet to the point or place of beginning.

PARCEL 2

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Cheektowaga, County of Erie and State of New York, being part of Lots Nos. 15 and 23, Township 11, Range 7 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at the point or intersection of the northerly line of Wojcik Avenue, as described in deed to the Town of Cheektowaga recorded in Erie County Clerk's Office in Liber 1450 of Deeds at page 288, with the easterly line of the lands shown upon map filed in said Clerk's Office under Cover of Maps No. 553; running thence easterly along said northerly line of Wojcik Avenue 365.14 feet to the westerly line of lands conveyed to Niagara, Lockport & Ontario Power Company by deed recorded in said Clerk's Office in Liber 1392 of Deeds at page 474; running thence northerly along the westerly line of lands so conveyed to said power company and forming an interior angle of $93^{\circ} 43'$ with the last described line 271.80 feet to an angle therein; running thence northerly along the westerly line of lands so conveyed to said power company and forming an exterior angle of $184^{\circ} 55' 10''$ with the last described course 158.08 feet to the southerly line of lands conveyed to Buffalo General Electric Company by deed recorded in said Clerk's Office in Liber 1894 of Deeds at page 49; running thence westerly along the southerly line of lands so conveyed to Buffalo General Electric Company and forming an interior angle of 71° with the last described course 459.28 feet to the easterly line of the lands shown upon said map filed under Cover No. 553; running thence southerly along the easterly line

of the lands, shown upon said map and forming an interior angle of $110^{\circ} 48'$ with the last described line 1268.64 feet to the point or place of beginning.

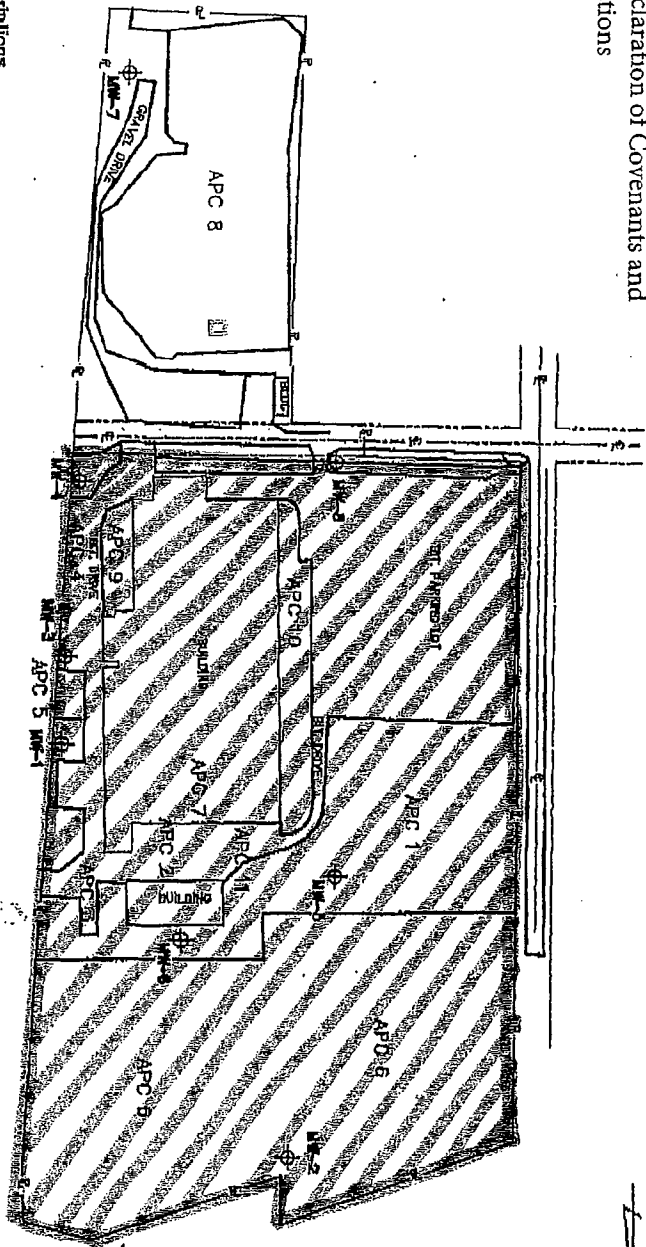
EXCEPTING THEREFROM a triangular parcel of land situate in the Town of Cheektowaga County of Erie and State of New York, being a part of Lots 15 and 23, Township 11, Range 7 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at the point of intersection of the southerly line of lands conveyed by Philip Stephan by executors to the Buffalo General Electric Company by deed dated June 16, 1926 and recorded in the Office of the Clerk of the County of Erie in Liber 1894 of Deeds at page 49 and the westerly line of lands conveyed by same grantors to the Niagara, Lockport and Ontario Power Company by deed dated January 15, 1917 and recorded in the Office of said Clerk in Liber 1392 of Deeds at page 474; thence southerly along the lands so conveyed to said Niagara, Lockport and Ontario Power Company, 73.47 feet to a point; thence westerly, and forming an exterior angle of $107^{\circ} 25'$ with the last described line 117.01 feet to a point on the southerly line of lands conveyed to the Buffalo General Electric Company as above mentioned at a point on said southerly line, 118.08 feet westerly measured along said southerly line from the point of beginning; thence easterly along the southerly line of lands so conveyed to said Buffalo General Electric Company, and forming an interior angle of $36^{\circ} 25'$ with the last described line 118.08 feet to the point of beginning.

APPENDIX B

Site Layout Map

Hachures indicate areas covered by the Declaration of Covenants and Restrictions



APC Descriptions

- APC 1 — The Recycling Area
- APC 2 — Pre-1982 Waste Disposal Practices
- APC 3 — Current Hazardous Waste Storage Area
- APC 4 — Post Hazardous Waste Storage Area
- APC 5 — Transformers
- APC 6 — Possible Former Landfilling Area
- APC 7 — Former Fuel Oil Storage Tank
- APC 8 — Standard Park Ball Field
- APC 9 — Drain Outside Loading Dock
- APC 10 — Roof Drain Adjacent to Vapor Degreaser Vents
- APC 11 — Catch Basin

LEGEND

⊕ — MONITORING WELL LOCATION
MW-4



<p>CLIENT/PROJECT</p> <p>ITT INDUSTRIES ITT HEAT TRANSFER FACILITY CHEEKTOWAGA, NEW YORK</p>		<p>DATE</p> <p>08/27/03</p>		<p>SCALE</p> <p>AS SHOWN</p>		<p>FILE NO.</p> <p>003-9280</p>		<p>FORM NO.</p> <p>003-9289</p>		<p>PROJ. NO.</p> <p>0039280A134</p>		<p>ISSUE</p> <p>B-1</p>	
<p>PROJECT/LOCATION</p> <p>ITT INDUSTRIES ITT HEAT TRANSFER FACILITY CHEEKTOWAGA, NEW YORK</p>		<p>DATE</p> <p>08/27/03</p>		<p>SCALE</p> <p>AS SHOWN</p>		<p>FILE NO.</p> <p>003-9280</p>		<p>FORM NO.</p> <p>003-9289</p>		<p>PROJ. NO.</p> <p>0039280A134</p>		<p>ISSUE</p> <p>B-1</p>	
<p>SITE LAYOUT AND AREAS OF POTENTIAL CONCERN (APCs) MAP</p>													

APPENDIX C

Department Letter

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of General Counsel, Region 9
270 Michigan Avenue, Buffalo, NY 14203-2915
P: (716) 851-7190 | F: (716) 851-7296
www.dec.ny.gov

July 30, 2018

David A. Linenbroker, Esq.
Husch Blackwell
190 Carondelet Plaza, Suite 600
St. Louis, Missouri 63105

Dear Mr. Linenbroker:

We are writing in response to your correspondence dated July 17, 2018, in which you requested confirmation that the Deed Restrictions, recorded in Erie County at Liber 11087 and Page 4013, do not restrict the use of the area where the "ballfields" are located, which your client is planning to sell.

We have reviewed the original deed for the property in which ITT Corporation sold the property to Fluid Handling, LLC, in a deed recorded in Erie County at Liber 11216 and Page 6001 ("Deed"). The Deed clearly involves six parcels. The Declaration of Covenants and Restrictions includes a legal description for "Parcel 1" and "Parcel 2", which match Parcel 1 and 2 in the Deed.

The Declaration of Covenants and Restrictions, does not include the legal description for Parcel 3. We matched the legal description for "Parcel 3" with the survey completed by Andrew L. Sonnenberger, dated December 23, 1966. Parcel 3 is where the ballfields are located. Therefore, based on the information included in the Declaration of Covenants and Restrictions, Parcel 3, was not intended to be restricted by the Declaration of Covenants and Restrictions. Therefore, it does not appear that your client has any obligation to report this sale to DEC.

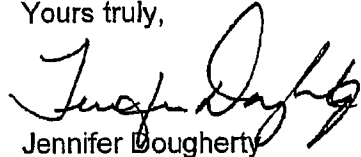
However, as you noted, there is a map attached to the Declaration of Covenants and Restrictions that includes illustrations of parcels, which are not included in the legal description. We recommend recording a revised map that includes only the parcels restricted by the Declaration of the Covenants and Restrictions, for clarification. No other changes to the Declaration of Covenants and Restrictions are authorized.



David A. Linenbroker, Esq.
July 30, 2018
Page 2

Please provide DEC with a copy of the recorded map for our records.

Yours truly,



Jennifer Dougherty
Assistant Regional Attorney

JD/pf

cc: Mr. Chad Staniszewski, Regional Remediation Engineer
Mr. Maurice Moore, Engineering Geologist
Mr. David Szymanski, Environmental Program Specialist