



DOC# 1475599

Document Number DEED RESTRICTION

Declaration of Restriction

In Re:

*James E. Cherwinka Trust*

Parcel 1:

Part of the Northwest quarter (NW1/4) of the Northwest quarter (NW1/4) of Section twenty-five (25), Township twenty-nine (29) North, Range seven (7) East, in the City of Wausau, County of Marathon, State of Wisconsin, described as follows:

Beginning at a point on the South line of Wausau Avenue 227.75 feet West of the West line of Second Street; thence South perpendicular to the South line of Wausau Avenue, 70 feet; thence West, parallel with and 70 feet South of the South line of Wausau Avenue, 147.60 feet, more or less, to a point which is 15 feet Northwesterly of railroad siding track; thence Southwesterly on a curve parallel to and 15 feet distant Northwesterly from the center line of said railroad siding track, to a point 458 feet West of the West line of Second Street; thence North to the South line of Wausau

Avenue at a point which is 458 feet West of the West line of Second Street; thence East along the South line of Wausau Avenue 230.25 feet, more or less, to the point of beginning.

Parcel 2:

Part of the Northwest quarter (NW1/4) of the Northwest quarter (NW1/4) of Section twenty-five (25), Township twenty-nine (29) North, Range seven (7) East, in the City of Wausau, Marathon County, State of Wisconsin, described as follows:

Commencing at a point on the South line of Wausau Avenue, 227.75 feet West of the West line of Second Street; thence South perpendicular to South line of Wausau Avenue, 70 feet; thence West parallel with and 70 feet South of the South line of Wausau Avenue, 147.60 feet, more or less, to a point which is 15 feet NW'ly of railroad siding track, thence SW'ly on a curve parallel to and 15 feet NW'ly from the center line of said railroad siding track

*Michael J. Sydow*

Recording Area

Name and Return Address

*Parcel 25-  
enw*

James E. Cherwinka Trust  
c/o Attorney James E. Wiederhoeft  
Fowler and Wiederhoeft LLP  
702 North Blackhawk Avenue  
Madison, Wisconsin 53705-5326  
and  
Wausau Chemical Corp.  
2001 North River Drive  
Wausau, Wisconsin 54401

291-2907-252-0990 NW NW  
291-2907-252-0997 NW NW

Parcel Identification Numbers  
(PIN)

COPY



DOC# 1475599

to a point, said point being 131 feet South of the South line of Wausau Avenue; thence at an azimuth of 180°, 23.05 feet to a point, said point being the P.C. of a reverse curve to the right; thence SW'ly 224.05 feet along a curve having the following data, radius 675.11 feet, tangents 112.97 feet, I angle 19°, long chord 222.85 feet, curve length 224.05 feet, degree of curvature 8° 28.8'; to a point said point being the point of reverse curvature; thence SW'ly 166.90 feet along a curve to the left having the following data, radius 615.11 feet, tangents 120.77 feet, long chord 237.02 feet, curve length 238.5 feet, curvature 9° 18.6', I angle 22° 13' to a point, which point is the point of beginning of the excepted parcel hereafter described; thence at an azimuth of 87° 06' a distance of 273.95 feet to a point, said point being 50 feet perpendicular to and West of the center line of the main line track of the C. M. St. P. & P. R. R.; thence at an azimuth of 10° 40' a distance of 532.32 feet parallel with and 50 feet West of the center line of said railroad tracks to a point, said point being on the South line of Wausau Avenue and 155.60 feet West of the West line of Second Street; thence West along the South line of Wausau Avenue 72.15 feet to the point of beginning; excepting therefrom the following parcel; beginning at the point designated in the foregoing description as the point of beginning of the excepted parcel; thence N 83° 46' 30" E, 99.6 feet; thence NE'ly, parallel with the centerline of the railroad siding track of the Chicago, Milwaukee, St. Paul & Pacific Railroad, 181.1 feet; thence Northwesterly, at a right angle, 89.6 feet; thence SW'ly, along the East boundary of River Drive, and along the West line of the parcel conveyed in the foregoing description, 197 feet, more or less, to the point of beginning.

1309166

The above Parcels 1 and 2 are part of Parcel 1 of Certified Survey Map No. 12726 recorded in the office of the Register of Deeds for Marathon County, Wisconsin, in Volume 55 of Certified Survey Maps on page 44, a copy of which is attached hereto as Exhibit A. The above Parcels 1 and 2 are also identified as PIN 291-2907-252-0990.

And

*Wausau Chemical Corporation*

Part of the Northwest quarter (NW1/4) of the Northwest quarter (NW1/4) of Section twenty-five (25), Township twenty-nine (29) North, Range seven (7) East, in the City of Wausau, Marathon County, State of Wisconsin, designated as the excepted parcel, described as follows:

Commencing at a point on the South line of Wausau Avenue, 227.75 feet West of the West line of Second Street; thence South perpendicular to South line of Wausau Avenue, 70 feet; thence West parallel with and 70 feet South of the South line of Wausau Avenue, 147.60 feet, more or less, to a point which is 15 feet NW'ly of railroad siding track, thence SW'ly on a curve parallel to and 15 feet NW'ly from the center line of said railroad siding track to a point, said point being 131 feet South of the South line of Wausau Avenue; thence at an azimuth of 180°, 23.05 feet to a point, said point being the P.C. of a reverse curve to the right; thence SW'ly 224.05 feet along a curve having the following data, radius 675.11 feet, tangents 112.97 feet, I angle



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19°, long chord 222.85 feet, curve length 224.05 feet, degree of curvature 8° 28.8', to a point said point being the point of reverse curvature; thence SW'ly 166.90 feet along a curve to the left having the following data, radius 615.11 feet, tangents 120.77 feet, long chord 237.02 feet, curve length 238.5 feet, curvature 9° 18.6', I angle 22° 13' to a point, which point is the point of beginning of the excepted parcel hereafter described; thence at an azimuth of 87° 06' a distance of 273.95 feet to a point, said point being 50 feet perpendicular to and West of the center line of the main line track of the C. M. St. P. & P. R. R.; thence at an azimuth of 10° 40' a distance of 532.32 feet parallel with and 50 feet West of the center line of said railroad tracks to a point, said point being on the South line of Wausau Avenue and 155.60 feet West of the West line of Second Street; thence West along the South line of Wausau Avenue 72.15 feet to the point of beginning; excepting therefrom the following parcel; beginning at the point designated in the foregoing description as the point of beginning of the excepted parcel; thence N 83° 46' 30" E, 99.6 feet; thence NE'ly, parallel with the centerline of the railroad siding track of the Chicago, Milwaukee, St. Paul & Pacific Railroad, 181.1 feet; thence Northwesterly, at a right angle, 89.6 feet; thence SW'ly, along the East Boundary of River Drive, and along the West line of the parcel conveyed in the foregoing description, 197 feet, more or less, to the point of beginning.

The above description is a part of Parcel 1 of Certified Survey Map No. 12726 recorded in the office of the Register of Deeds for Marathon County, Wisconsin, in Volume 55 of Certified Survey Maps on page 44. See Exhibit A. This parcel is also identified as PIN 291-2907-252-0997.

STATE OF WISCONSIN                    )  
  )ss  
COUNTY OF MARATHON                )

**WHEREAS**, the James E. Cherwinka Trust and Wausau Chemical Corporation are the owners of the above-described property.

**WHEREAS**, James E. Cherwinka died on October 18, 2005. The James E. Cherwinka Trust is the successor in interest to James E. Cherwinka in connection with said above-described property.

**WHEREAS**, one or more historical tetrachloroethylene discharges have occurred on this property, and as of November 7, 2001, soil samples collected on this property contained tetrachloroethylene at concentrations of 1.0 mg/kg at grid point 19-4 at a depth of eight feet and 0.67 mg/kg at grid point 35-7 at a depth of four feet, trichloroethylene at a concentration of 0.43 mg/kg at grid point 35-7 at a depth of four feet and cis-1,2-dichloroethylene at a concentration of 0.13 mg/kg at grid point 35-7 at a depth of four feet, all as shown on Figure 1.

**WHEREAS**, the existing building and pavement on the property provide a partial barrier, minimizing infiltration, and the depth of the remaining contaminants prevents direct contact with the residual soil contamination.



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**WHEREAS**, sampling data on and about the property has demonstrated soil cleanup adequately protective of groundwater quality; however, residual soil contamination remains on the property.

**WHEREAS**, it is the desire and intention of the property owners to impose on the property restrictions that will make it unnecessary to conduct further soil remediation activities on the property at the present time.

**NOW THEREFORE**, the owners hereby declare that all of the property described above is held and shall be held, conveyed or encumbered, leased, rented, used, occupied and improved subject to the following limitation and restrictions:

1. Construction or installation of any water supply well on the property is prohibited pursuant to this deed restriction.
2. Plowing or cultivation of agricultural crops on the property is prohibited pursuant to this deed restriction.
3. The existing Wausau Chemical Corporation building shown on Exhibit B makes complete remediation of soils beneath the building impractical. If the existing building is removed or modified, the property owner shall conduct an investigation to determine the degree and extent of soil contamination beneath the building. To the extent that soil contamination is found at that time, the Wisconsin Department of Natural Resources shall be immediately notified and the soil contamination shall be managed in accordance with applicable statutes and rules. If currently inaccessible soil contamination near or beneath the building is excavated in the future, the soil must be sampled and analyzed, may be considered solid or hazardous waste if residual contamination remains and must be stored, treated and disposed in compliance with applicable statutes and rules.
4. The existing pavement forms a barrier that will be maintained in accordance with the maintenance plan entitled "Pavement Cover and Building Barrier Maintenance Plan, Wausau Chemical Corporation", dated October 17, 2006. The existing pavement will minimize the infiltration of water which prevents additional groundwater contamination. The existing pavement shall be maintained on the property in the locations shown on Exhibit B. Such existing pavement shall not be removed without the approval of the Wisconsin Department of Natural Resources.
5. If construction or installation of buildings, structures or other improvements occur on grid points 19-4 or 35-7 shown on Exhibit B, then the affected soils at grid points 19-4 or 35-7 shall be sampled and managed in accordance with applicable statutes and rules.
6. The property shall be used only for industrial purposes.

This restriction is hereby declared to be a covenant running with the land and shall be fully binding upon all persons acquiring the above-described property whether by descent, devise, purchase, or otherwise. This restriction inures to the benefit of and is enforceable by the Wisconsin Department of Natural Resources, its successors or assigns. The Department, its successors or assigns, may initiate proceedings at law or in equity against any person or persons



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who violate or are proposing to violate this covenant, to prevent the proposed violation or to recover damages for such violation.

Any person who is or becomes owner of the property described above may request that the Wisconsin Department of Natural Resources or its successor issue a determination that one or more of the restrictions set forth in this covenant is no longer required. Upon the receipt of such a request, the Wisconsin Department of Natural Resources shall determine whether or not the restrictions contained herein can be extinguished. If the Department determines that the restrictions can be extinguished, an affidavit, attached to a copy of the Department's written determination, may be recorded by the property owner or other interested party to give notice that this deed restriction, or portions of this deed restriction, are no longer binding.

By signing this document, Rhona Vogel asserts that he or she is duly authorized to sign this document as a Trustee of the James E. Cherwinka Trust.

IN WITNESS WHEREOF, the owner of the property has executed this Declaration of Restrictions, this 13 day of April, 2007.

Signature: Rhona Vogel  
Printed Name: Rhona Vogel  
Trustee, James E. Cherwinka Trust

Subscribed and sworn to before me  
this 13 day of April, 2007

Sydney Heck  
Notary Public, State of Wisconsin  
My commission expires 7/22/07

By signing this document, Jeff Cherwinka asserts that he or she is duly authorized to sign this document as an officer of Wausau Chemical Corporation.

IN WITNESS WHEREOF, the owner of the property has executed this Declaration of Restrictions, this 19 day of April, 2007.

Signature: Jeff Cherwinka  
Printed Name: Jeff Cherwinka  
Officer of Wausau Chemical Corporation



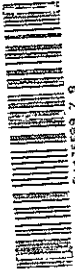
DOC# 1475599

Subscribed and sworn to before me  
this 28 day of April, 2007

John M Scott  
Notary Public, State of Wisconsin  
My commission 28-05-07

This document was drafted by Michael Best & Friedrich LLP and Conestoga-Rovers and Associates, Inc.

X:\CLIENTS\094167\0001\A1844250.1



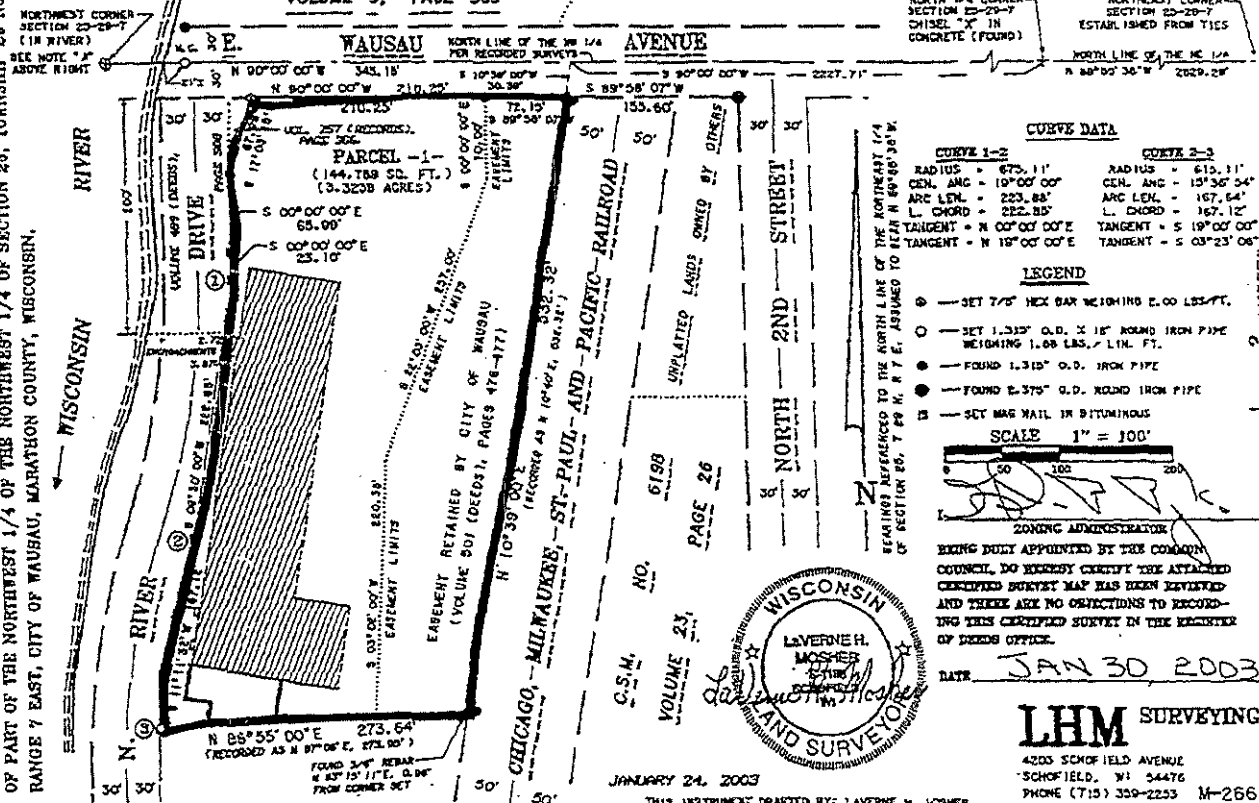
1475589

12726

MARATHON COUNTY CERTIFIED SURVEY MAP  
OF PART OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 25, TOWNSHIP 26 NORTH,  
RANGE 7 EAST, CITY OF WAUSAU, MARATHON COUNTY, WISCONSIN.

C.S.M. NO. 2525  
VOLUME 9, PAGE 309

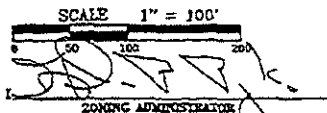
NOTE "A": NORTHWEST CORNER OF SECTION 25 LOCATED 414.8' WEST OF WEST RIGHT-OF-WAY OF RAILROAD ACCORDING TO CALL IN LEGAL DESCRIPTION IN VOLUME 236 (DEEDS), PAGE 416.



**CURVE DATA**

CURVE 1-2	CURVE 2-3
RADIUS = 675.11'	RADIUS = 615.11'
CEN. ANG. = 150°00'00"	CEN. ANG. = 153°36'04"
ARC LEN. = 233.88'	ARC LEN. = 167.64'
CHORD = 222.85'	CHORD = 167.12'
TANGENT = N 00°00'00"E	TANGENT = S 19°00'00"E
TANGENT = W 18°00'00"E	TANGENT = S 03°23'08"

- LEGEND**
- ⊙ — SET 7/8" HEX BAR WEIGHING 2.00 LBS. FT.
  - — SET 1.315" O.D. X 18" ROUND IRON PIPE WEIGHING 1.68 LBS. LIN. FT.
  - — FOUND 1.315" O.D. IRON PIPE
  - — FOUND 2.375" O.D. ROUND IRON PIPE
  - ⊞ — SET MRS NAIL IN BITUMINOUS



ZONING ADMINISTRATOR  
BEING DULY APPOINTED BY THE COMMON COUNCIL, DO HEREBY CERTIFY THE ATTACHED CERTIFIED SURVEY MAP HAS BEEN REVIEWED AND THERE ARE NO OBJECTIONS TO RECORDING THIS CERTIFIED SURVEY IN THE REGISTER OF DEEDS OFFICE.

DATE JAN 30 2003

C.S.M. NO. 2525  
VOLUME 9, PAGE 309

**WISCONSIN**  
LAVERNE H. MOSENER  
LAND SURVEYOR

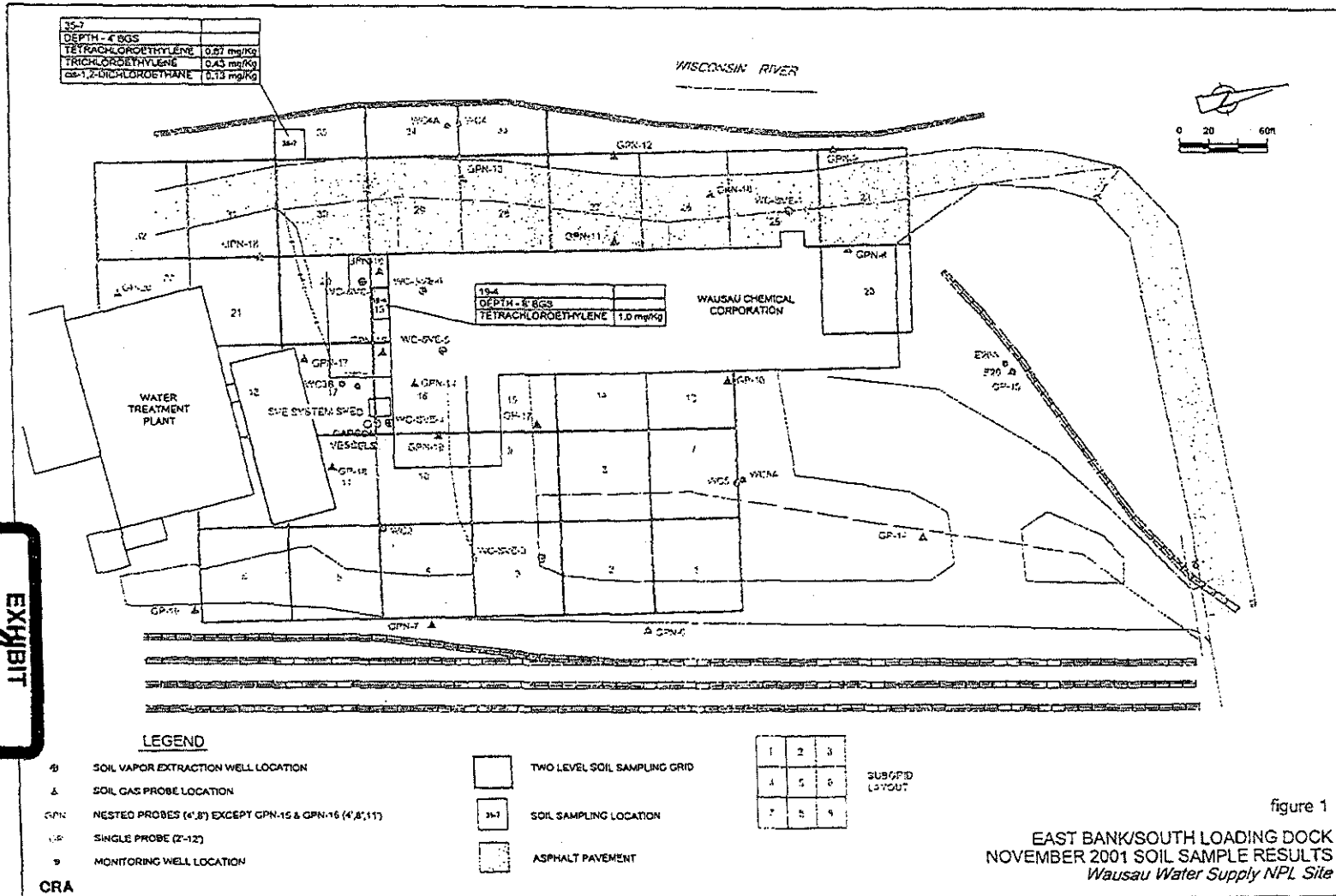
JANUARY 24, 2003  
THIS INSTRUMENT DRAFTED BY: LAVERNE H. MOSENER

**LHM SURVEYING**  
4203 SCHOFIELD AVENUE  
SCHOFIELD, WI 54476  
PHONE (715) 359-2255 M-2661



15-2	
DEPTH - 4' BGS	
TETRACHLOROETHYLENE	0.57 mg/Kg
TRICHLOROETHYLENE	0.43 mg/Kg
cis-1,2-DICHLOROETHANE	0.13 mg/Kg

19-4	
DEPTH - 6' BGS	
TETRACHLOROETHYLENE	1.0 mg/Kg



**LEGEND**

- ⊕ SOIL VAPOR EXTRACTION WELL LOCATION
- △ SOIL GAS PROBE LOCATION
- ⊙ NESTED PROBES (4'-8') EXCEPT GPN-15 & GPN-16 (4', 8', 11')
- SINGLE PROBE (2'-12')
- ⊙ MONITORING WELL LOCATION

- TWO LEVEL SOIL SAMPLING GRID
- ⊙ SOIL SAMPLING LOCATION
- ▨ ASPHALT PAVEMENT



SUBGRID LAYOUT

CRA

03978-20(M/SC01)GN-SP001 DEC 01/2005

figure 1

EAST BANK/SOUTH LOADING DOCK  
NOVEMBER 2001 SOIL SAMPLE RESULTS  
Wausau Water Supply NPL Site



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