

DECLARATION
OF
RESTRICTIVE ENVIRONMENTAL
COVENANTS FOR PRESERVATION

This Declaration of Restrictive Environmental Covenants for Preservation (hereinafter the "Declaration") is made on the 15th day of January, 2014, by Bath Township (hereinafter the "Owner"), for itself and its successors and assigns.

RECITALS

WHEREAS, Owner owns real property located in Bath Township, Summit County, Ohio, known as the Bath Nature Preserve, as shown on the attached Exhibit "A" (hereinafter the "Property"); and

WHEREAS, Owner wishes to protect certain Wetlands (as defined below) located upon the Property in the area described in the legal description attached hereto as "Exhibit B" and further described in the drawing attached hereto as "Exhibit C"; the purpose of this Declaration is to mitigate for permitted impacts at another location to waters of the U. S. in accordance with the Department of the Army Permit 2001-00087, as verified by U. S. Army Corps of Engineers on 5 November, 2013.

WHEREAS, Owner desires to describe herein its agreements with respect to the wetlands and their protection and preservation.

NOW, THEREFORE, Owner hereby declares the following agreements, restrictions and covenants for the Property:

1. **DEFINITIONS**: As used in this Declaration, the following terms shall have the designated meanings:

- (a) **Owner**: This Property is owned by Bath Township whose address and place of business is located at:
3864 W. Bath Road
Bath, Ohio 44333
- (b) **Permittee**: Crowland LTD

- (c) Property: Owners Property consists of approximately ____ acre parcel as shown in Exhibit "A" attached hereto.
- (d) Wetlands: That certain area designated in Exhibits "B" and "C" attached hereto and known as the approximate 8.6 acres of Wetland.

2. PRESERVATION:

- (a) It is the Owner's responsibility to not undertake or permit any activity that would negatively affect the continued preservation of the Wetlands located on the Property within the area described in Exhibit B to ensure the Wetlands protection.
- (b) Owner shall not conduct any activity which prevents or interferes with the preservation of applicable water quality standards, except and to the extent any such activity is conducted in compliance with applicable law and/or regulation.
- (c) Owner shall not be required to restore the Wetlands in the event that nature or natural causes shall impact the Wetlands or destroy same.

3. AMENDMENT OR ELIMINATION OF THE DEED RESTRICTIONS: The deed restrictions in this Declaration will not be amended or eliminated without sixty (60) days prior written notice in accordance with Paragraph 8.

4. RESTRICTIONS:

- (a) The restrictions pertaining to the Wetlands only located on the Property and described by Exhibits "B" and "C" shall be perpetual deed restrictions for the purpose of preservation for the Wetlands and wildlife resources contained therein as depicted on Sheet 7 of 7 of Permit No. 2001-00087, as verified by U. S. Army Corps of Engineers on 5 November, 2013.
- (b) The deed restrictions contained herein pertain to the Department of the Army Permit No. 2001-00087, described above ("Permit").
- (c) The Wetlands and Property shall be subject to the restricted uses as identified in Special Condition 8 of the Permit as follows:

"The Permittee must ensure none of the following activities occur at the mitigation areas (as described in

Special Condition No. 6): filling, excavating, dredging, mining or drilling, use of ATVs or other recreational motorized vehicles, removal of topsoil, sand, gravel, rock, minerals, or other materials, nor any building of roads or change in topography of the land in any manner (with the exception of the maintenance of small foot trails), construction or placement of buildings, camping accommodations or mobile homes, fences, signs, billboards or other advertising material, or other structures (with the exception of the proposed boardwalk). There shall be no removal, destruction, or cutting of vegetation, spraying with herbicides, grazing of domestic animals, or disturbance or manipulation of the mitigation area without first obtaining Department of the Army authorization. Control of nuisance vegetation, or any other manipulation within the mitigation areas, shall only occur after Corps of Engineers concurrence that such management practices are necessary to ensure the long-term success of the mitigation program.”

- (d) Any notices required under the Permit shall be made to the U.S. Army Corps. of Engineers Regulatory Branch at the following address 1776 Niagara Street, Buffalo, NY 14207-3199. Attention: Chief, Monitoring & Enforcement Section.
- (e) The Wetlands area described herein is to be preserved and is not to be adversely impacted.

5. ACCESS: Owner hereby grants to the U. S. Army Corps of Engineers the right to inspect the Wetlands. The U. S. Army Corps of Engineers shall give the Owner at least ten (10) days prior written notice of its intent to inspect the Wetlands. Owner hereby grants to the U. S. Army Corps of Engineers the right to enter upon the Property for purpose of inspection of the Wetlands, subject to requirements for notice described above.

6. RECORDING: This Declaration shall be recorded in the Summit County Recorder's Office.

7. BINDING EFFECT: This Declaration shall be binding upon and shall inure to the benefit of, the parties hereto and their successors and assigns; provided, however, upon a sale of the Property, the owner of the Property, including without limitation the

Owner, shall be released from any and all liabilities and obligations under this Declaration which accrue from and after the date of sale so long as Owner shall provide any purchaser or successor notice substantially in the form following:

THE ABOVE-REFERENCED PROPERTY IS BEING CONVEYED TO GRANTEE SUBJECT TO THE FOLLOWING RESTRICTIVE COVENANTS, AND GRANTEE BY ITS ACCEPTANCE OF THIS DEED ACKNOWLEDGES AND AGREES THAT CERTAIN PORTIONS OF THE PROPERTY HAVE BEEN FOUND TO CONTAIN WATERS OF THE UNITED STATES, INCLUDING JURISDICTIONAL WETLANDS, AND GRANTEE FURTHER AGREES THAT IT SHALL NOT CONSTRUCT UPON, ALTER, FILL, DISCHARGE DREDGED OR FILL MATERIAL, OBSTRUCT, REMOVE OR IN ANY WAY INTERFERE WITH OR IMPACT SUCH WATERS OR WETLANDS LOCATED ON THE ABOVE DESCRIBED PROPERTY, OR CONDUCT ANY ACTIVITY WHICH PREVENTS OR INTERFERES WITH THE ATTAINMENT OR MAINTENANCE OF APPLICABLE WATER QUALITY STANDARDS, EXCEPT AND TO THE EXTENT ANY SUCH ACTIVITY IS CONDUCTED IN COMPLIANCE WITH APPLICABLE LAW AND/OR REGULATION. THE PRECEDING RESTRICTIVE COVENANTS (i) SHALL RUN WITH THE LAND, (ii) SHALL BE BINDING UPON THE GRANTEE AND GRANTEE'S HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS, AND (iii) SHALL INURE TO THE BENEFIT OF AND BE ENFORCEABLE BY ACTIONS AT LAW OR IN EQUITY BY THE GRANTOR OR GRANTOR'S SUCCESSORS IN TITLE OR INTERESTS OR THE APPROPRIATE GOVERNMENTAL AGENCY OR AGENCIES CHARGED WITH ENFORCEMENT OF THE LAW AND/OR REGULATIONS GOVERNING THE USE OF, OR ACTIVITIES CONDUCTED IN, AROUND, OR ADJACENT TO, WATERS OF THE UNITED STATES OR WETLANDS.

THE INTEREST CONVEYED HEREBY IS SUBJECT TO A DECLARATION OF RESTRICTIVE ENVIRONMENTAL COVENANTS FOR PRESERVATION, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE SUMMIT COUNTY RECORDER ON _____, 2014, AS AFN _____. THE DECLARATION OF RESTRICTIVE ENVIRONMENTAL COVENANTS FOR PRESERVATION CONTAIN THE FOLLOWING ACTIVITY AND USE LIMITATIONS IDENTIFIED IN SPECIAL CONDITION 8 OF THE ORIGINAL PERMIT ISSUED BY THE U.S. ARMY CORP. OF ENGINEERS AND VERIFIED 5 NOVEMBER, 2013.

The Owner, and its successors and assigns, shall only be obligated hereunder so long as it or they own fee simple title to the Property. This Declaration shall run with the land and shall be binding upon future owner(s) thereof.

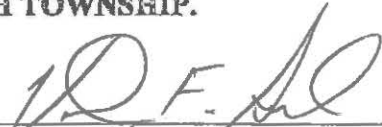
8. NOTICE: Any notice permitted or required to be given pursuant to the terms of this Declaration shall be deemed properly given if either hand delivered, or mailed by certified U.S. mail, return receipt requested, or sent by overnight courier requiring signature of receipt, to the following addresses:

IF TO THE OWNER: Bath Township
3864 W. Bath Rd.
Bath, Ohio 44333

A party hereto may change its address for purpose of Notice hereunder by giving written notice to the other party pursuant to requirements of this Section 8.

IN WITNESS WHEREOF, Bath Township by VITO F. SINOPOLI its ADMINISTRATOR has signed this Declaration on the 15th day of JANUARY, 2014.

BATH TOWNSHIP.

By: 
Print Name: VITO F. SINOPOLI
Print Title: ADMINISTRATOR

STATE OF OHIO)
) S.S.
COUNTY OF SUMMIT)

Before me, a notary public, in and for and personally appeared the above-mentioned BATH TOWNSHIP By VITO F. SENGOLT its ADMINISTRATOR, who acknowledged that he/she did sign the foregoing instrument and the same is his/her free act and deed and the free act and deed of Bath Township.

IN TESTIMONY WHEREOF, I have here unto set my hand and official seal at Bath Township, Ohio, this 15 day of January, 2014.

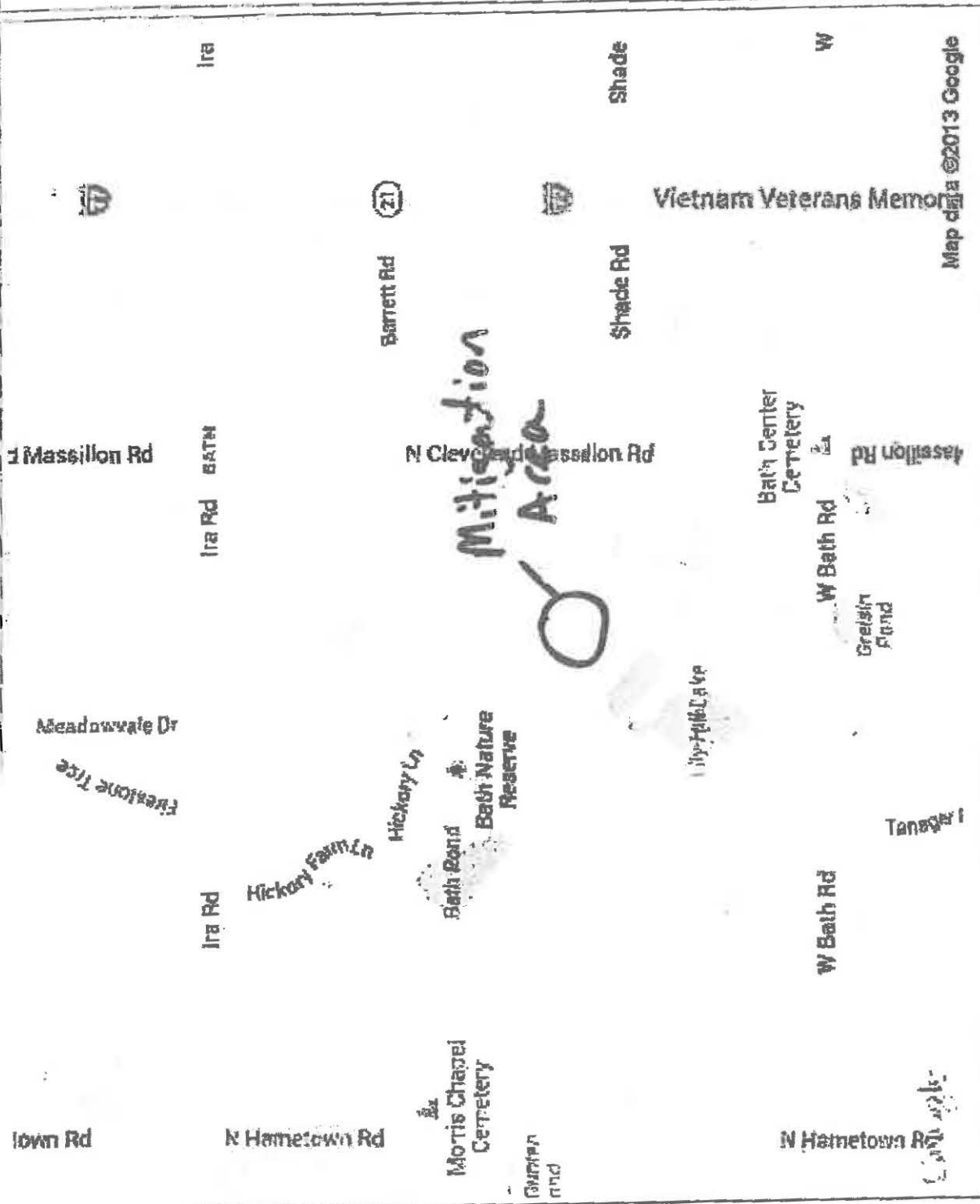


Notary Public

This Instrument Prepared By:
Joseph A. Balog, Esq.
6055 Rockside Woods Blvd., Suite 100
Independence, Ohio 44131
216-447-0070
jbalog@daladgroup.com

Hannah Krumheuer
Notary Public, State of Ohio
My Commission Expires 10/02/2017

EXHIBIT "A"
(Property Description)
(see attached)



Map data ©2013 Google



Tamarack Bog mitigation site



Date Printed: 10.07.2013 Map Scale: 1:27064



EXHIBIT "B"

(Preservation Area Legal Description)

(see attached)



DONALD G. BOHNING & ASSOCIATES, INC.

CIVIL ENGINEERING & SURVEYING

7979 HUB PARKWAY • VALLEY VIEW, OHIO 44125 • (216) 642-1130

FAX • (216) 642-1132

Tamarack Bog
Proposed Overall Wetlands
Preservation Area
DGB 4370

January, 2014

LEGAL DESCRIPTION

Situated in the Township of Bath, County of Summit, and State of Ohio, and known as being part of Original Bath Township Lot 36, and bounded and described as follows:

Beginning at an iron pin set at Ohio State Plane Coordinate North 551023.0292, East 2204441.9075 (NAD 83, 1986 adjustment);

Thence North 71 degrees 25 minutes 43 seconds East, 131.00 feet to a point, and the principal place of beginning of the area herein described;

Thence northwesterly along the arc of a curve deflecting to the left, 321.00 feet to a point, said arc having a radius of 135.00 feet, a central angle of 136 degrees 14 minutes 12 seconds, and a chord which bears North 68 degrees 40 minutes 01 second West, 250.55 feet;

Thence North 73 degrees 07 minutes 34 seconds West, 76.00 feet to a point;

Thence North 25 degrees 23 minutes 36 seconds West, 34.00 feet to a point;

Thence westerly along the arc of a curve deflecting to the left, 170.00 feet to a point, said arc having a radius of 75.00 feet, a central angle of 129 degrees 52 minutes 14 seconds, and a chord which bears South 89 degrees 47 minutes 00 seconds West, 135.87 feet;

Thence South 55 degrees 42 minutes 08 seconds West, 47.00 feet to a point;

Thence North 60 degrees 36 minutes 58 seconds West, 160.00 feet to a point;

Thence North 5 degrees 30 minutes 46 seconds East, 80.00 feet to a point;

Thence North 25 degrees 54 minutes 00 seconds West, 455.00 feet to a point;

Thence North 1 degree 09 minutes 18 seconds East, 144.00 feet to a point;

Thence South 77 degrees 39 minutes 11 seconds East, 210.00 feet to a point;

Thence North 72 degrees 46 minutes 51 seconds East, 77.00 feet to a point;

Thence North 87 degrees 24 minutes 36 seconds East, 195.00 feet to a point;

Thence South 74 degrees 02 minutes 48 seconds East, 52.00 feet to a point;

Thence North 70 degrees 06 minutes 12 seconds East, 20.00 feet to a point;



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Thence South 72 degrees 36 minutes 32 seconds East, 86.00 feet to a point;

Thence South 58 degrees 24 minutes 13 seconds East, 103.00 feet to a point;

Thence South 37 degrees 27 minutes 57 seconds East, 130.00 feet to a point;

Thence South 28 degrees 36 minutes 35 seconds East, 77.00 feet to a point;

Thence South 16 degrees 42 minutes 11 seconds East, 104.00 feet to a point;

Thence South 6 degrees 28 minutes 48 seconds West, 135.00 feet to a point;

Thence South 40 degrees 20 minutes 45 seconds East, 130.00 feet to a point;

Thence South 24 degrees 01 minute 21 seconds East, 112.00 feet to a point;

Thence South 14 degrees 31 minutes 06 seconds West, 139.00 feet to a point;

Thence South 59 degrees 50 minutes 46 seconds West, 46.00 feet to a point;

Thence North 76 degrees 57 minutes 52 seconds West, 43.00 feet to a point;

Thence North 51 degrees 44 minutes 44 seconds West, 42.00 feet to the principal place of beginning, and containing 11.65 acres of land as described by Donald G. Bohning & Associates, Inc. in January, 2014.

The basis of bearings for the above description is The Ohio State Plane Coordinate System, NAD 83 (1986).

Kenneth L. Bohning
Registered Surveyor No. 6720

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EXHIBIT "C"

(Wetlands Mitigation Area)

(See attached)



DATE	REVISIONS	BY

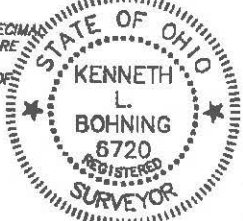
CONTROL DATUM:
 FROM OHIO DEPARTMENT OF TRANSPORTATION
 VIRTUAL REFERENCE STATION OBSERVATION
 (NAVD88) (NAD 83(86)) ON NOVEMBER 25, 2013

NOTE:
 1. "IR. PIN SET" INDICATES 5/8 DIAMETER BY 30" LONG
 REBAR WITH IDENTIFICATION "D.C. BOHNING ASSOC."

MAP OF TOPOGRAPHIC SURVEY MADE
 FOR AND AT THE INSTANCE OF
 CROWLAND DEVELOPMENT & DAVEY
 RESOURCE GROUP, A DIVISION OF DAVEY
 TREE EXPERT COMPANY

TAMARACK BOG
 BATH TOWNSHIP NATURE PRESERVE
 BEING PART OF BATH TOWNSHIP LOT 36
 NOW IN THE TOWNSHIP OF BATH
 SUMMIT COUNTY, OHIO

DISTANCES ARE GIVEN IN FEET AND DECIMAL
 PARTS THEREOF. SPOT ELEVATIONS ARE
 ALSO GIVEN IN FEET AND DECIMAL
 PARTS THEREOF WITH AN ACCURACY OF
 .00 FOR HARD SURFACES AND .0 FOR
 ALL OTHERS



K.L. Bohning
 KENNETH L. BOHNING
 REGISTERED SURVEYOR NO. 6720
 DATE: 11/14/13

DONALD G. BOHNING & ASSOCIATES, INC.
 CIVIL ENGINEERING & SURVEYING
 7979 HUB PARKWAY • VALLEY VIEW, OHIO 44125
 PHONE: (216) 842-1130 FAX: (216) 842-1132

SCALE 1" = 150'	DATE DEC., 2013	1 1
FILE NO. 4370-SV	ORDER NO. 4370	