

OFFICE OF CLERK SUPERIOR COURT
CLINCH COUNTY, GEORGIA

After Recording Return to Mr. Robert Barrett

BWAY Corporation Filed for Record at 4:00 O'clock P M this1601 Valdosta Highway day of March 2019 Recorded inHomerville, GA 31634 Deed Book 8N Page 204-212March 20th 2019 Deputy Clerk

CROSS-REFERENCE: Deed Book:

Page:

Environmental Covenant

This instrument is an Environmental Covenant executed pursuant to the Georgia Uniform Environmental Covenants Act, OCGA § 44-16-1, *et seq.* This Environmental Covenant subjects the Property identified below to the activity and/or use limitations specified in this document. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded in accordance with OCGA § 44-16-8(a).

Fee Owner of Property/Grantor:

BWAY CORPORATION
375 Northridge Road, Suite 600
Atlanta, GA 30350

Grantee/Holder:

BWAY CORPORATION
375 Northridge Road, Suite 600
Atlanta, GA 30350

**Grantee/Entity with
express power to enforce:**

State of Georgia
Department of Natural Resources
Environmental Protection Division
2 Martin Luther King Jr. Drive, SE
Suite 1456 East Tower
Atlanta, GA 30334

FILE COPY**Parties with interest in the Property:** None**Property:**

The property subject to this Environmental Covenant is the BWAY Drum Site (tax parcel no. 063-026), located at the NW Quadrant, Intersection of Charlie Smith Road (a.k.a., Woodlake Road) and U.S. Highway 84 in Homerville, Clinch County, Georgia (hereinafter "Property"). This tract of land was conveyed on October 4, 1984 from Standard Container Company to Brockway Standard Inc. recorded in Deed Book 3-V, Page 42, Clinch County Records. The Property is located in Land Lot 496 of the 7th District of Clinch County, Georgia.

Effective September 14, 2001, Brockway Standard, Inc. merged with and into Brockway Standard (New Jersey), Inc.; and Brockway Standard (New Jersey), Inc. changed its name to "BWAY Manufacturing, Inc.". At that time Brockway Standard, Inc. and Brockway Standard (New Jersey), Inc. were direct subsidiaries of BWAY Corporation. On April 13, 2004 BWAY Manufacturing, Inc. merged with and into BWAY Corporation.

The property includes 29.55 acres. A complete legal description of the Property is attached as Exhibit A and a map of the Property is attached as Exhibit B.

Tax Parcel Number(s): 063 026 of Clinch County, Georgia

Name and Location of Administrative Records:

The corrective action at the Property that is the subject of this Environmental Covenant is described in the following document[s] (as same may be amended from time to time with written approval from EPD):

- Compliance Status Report, November 17, 2003.
- Excavation and Disposal of Buried Materials, October 16, 2003.
- Revised Compliance Status Report, February 11, 2005.
- Corrective Action Plan, March 2005.
- Corrective Action Progress Report, September 18, 2006.
- Revised Corrective Action Plan, September 18, 2006.
- Corrective Action Progress Report, September 18, 2006.
- Second Annual Corrective Action Progress Report, August 20, 2007.
- Magnesium Sulfate Injection Pilot Test Progress Report, April 30, 2008.
- Third Annual Corrective Action Progress Report, August 28, 2008.
- Annual Corrective Action Progress Report, September 4, 2009.
- First Semi-Annual Progress Report, January 22, 2012.
- Second Semi-Annual Progress Report, July 20, 2012.
- Third Semi-Annual Progress Report, January 17, 2013.
- Fourth Semi-Annual Progress Report, August 5, 2013.
- Fifth Semi-Annual Progress Report, January 22, 2014.
- Sixth Semi-Annual Progress Report, July 22, 2014.
- Seventh Semi-Annual Progress Report, January 22, 2015.
- Eighth Semi-Annual Progress Report, July 22, 2015.
- Ninth Semi-Annual Progress Report, January 29, 2016.
- Compliance Status Report, July 22, 2016.

These documents are available at the following locations in the files for HSI No. 10731:

Georgia Environmental Protection Division
Response and Remediation Program
2 MLK Jr. Drive, SE, Suite 1054 East Tower
Atlanta, GA 30334
M-F 8:00 AM to 4:30 PM excluding state holidays

Description of Contamination and Corrective Action:

Buried drums of what appeared to be paint wastes were discovered on the property in 2001. Subsequent to discovery, a magnetometer survey was conducted to delineate the approximate extent of buried materials. Waste characterization sampling and profiling was also conducted. The wastes were excavated and disposed of off-site in 2003. The excavated materials included solid and damaged drums of dry paint, paint residue, drum remnants, and soil. Approximately 1,700 tons of these materials were disposed of as non-hazardous waste. Approximately 10 tons were disposed of as hazardous waste. Analyses of confirmation soil samples collected after the completion of the waste removal and other soil samples collected at the site showed that soils at Property are in compliance with the Type 1 Residential Risk Reduction Standards for metals and volatile organic compounds. Ground water contamination with low concentrations of a limited number of volatile organic compounds is present at the Property.

This Property has been listed on the state's hazardous site inventory and has been designated as needing corrective action due to the presence of hazardous wastes, hazardous constituents, or hazardous substances regulated under state law. Contact the property owner or the Georgia Environmental Protection Division for further information concerning this Property. This notice is provided in compliance with the Georgia Hazardous Site Response Act.

This Declaration of Covenant is made pursuant to the Georgia Uniform Environmental Covenants Act, O.C.G.A. § 44-16-1 *et seq.* by BWAY Corporation, its successors and assigns and the State of Georgia, Department of Natural Resources, Environmental Protection Division (hereinafter "EPD"), its successors and assigns. This Environmental Covenant is required because a release of volatile organic compounds to ground water occurred on the Property. Certain volatile organic compounds are "regulated substances" as defined under the Georgia Hazardous Site Response Act, O.C.G.A. § 12-8-90 *et seq.*, and the rules promulgated thereunder (hereinafter "HSRA" and "Rules", respectively). The Corrective Action consists of institutional controls (prohibiting the use of ground water for drinking water) to protect human health and the environment.

Grantor, BWAY Corporation, hereby binds Grantor, its successors and assigns to the activity and use restriction(s) for the Property identified herein and grants such other rights under this Environmental Covenant in favor of EPD. EPD shall have full right of enforcement of the rights conveyed under this Environmental Covenant pursuant to HSRA, O.C.G.A. § 12-8-90 *et seq.*, and the rules promulgated thereunder. Failure to timely enforce compliance with this Environmental Covenant or the use or activity limitations contained herein by any person shall not bar subsequent enforcement by such person and shall not be deemed a waiver of the person's right to take action to enforce any non-compliance. Nothing in this Environmental Covenant shall restrict EPD from exercising any authority under applicable law.

BWAY Corporation makes the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, pursuant to O.C.G.A. § 44-16-5(a); is perpetual, unless modified or terminated pursuant to the terms of this Covenant pursuant to O.C.G.A. § 44-16-9 and 10; and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property (hereinafter "Owner"). Should a transfer or sale of the Property occur before such time as this Environmental Covenant has been amended or revoked then said Environmental Covenant shall be binding on the transferee(s) or purchaser(s).

The Environmental Covenant shall inure to the benefit of EPD, BWAY Corporation and their respective successors and assigns and shall be enforceable by the Director or his agents or assigns, BWAY Corporation or its successors and assigns, and other party(ies) as provided for in O.C.G.A. § 44-16-11 in a court of competent jurisdiction.

Activity and/or Use Limitation(s)

1. Registry. Pursuant to O.C.G.A. § 44-16-12, this Environmental Covenant and any amendment or termination thereof, may be contained in EPD's registry for environmental covenants.
2. Notice. The Owner of the Property must give thirty (30) day advance written notice to EPD of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Corrective Action. The

Owner of the Property must also give thirty (30) day advance written notice to EPD of the Owner's intent to change the use of the Property, apply for building permit(s), or propose any site work that would affect the Property.

3. Notice of Limitation in Future Conveyances. Each instrument hereafter conveying an interest in the Property subject to this Environmental Covenant shall contain a notice of the activity and use limitations set forth in this Environmental Covenant and shall provide the recorded location of the Environmental Covenant.
4. Monitoring. None required.
5. Periodic Reporting. Annually, by no later than January 31 following the effective date of this Environmental Covenant, the Owner shall submit to EPD an Annual Certification Report stating whether or not the activity and use limitations in this Environmental Covenant are being abided by.
6. Activity and Use Limitation(s). None.
7. Ground Water Limitation. The use or extraction of ground water beneath the Property for drinking water or for any other non-remedial purposes shall be prohibited.
8. Permanent Markers. Not required.
9. Right of Access. In addition to any rights already possessed by EPD and/or BWAY Corporation, the Owner shall allow authorized representatives of EPD and/or BWAY Corporation the right to enter the Property at reasonable times for the purpose of conducting the inspections necessary to determine compliance with this Environmental Covenant.
10. Recording of Environmental Covenant and Proof of Notification. Within thirty (30) days after the date of the Director's signature, the Owner shall file this Environmental Covenant with the Records of Deeds for each County in which the Property is located, and send a file stamped copy of this Environmental Covenant to EPD within thirty (30) days of recording. Within that time period, the Owner shall also send a file-stamped copy to each of the following: (1) each person holding a recorded interest in the Property subject to the covenant, (2) each person in possession of the real property subject to the covenant, (3) each municipality, county, consolidated government, or other unit of local government in which real property subject to the covenant is located, and (4) each owner in fee simple whose property abuts the property subject to the Environmental Covenant.
11. Termination or Modification. The Environmental Covenant shall remain in full force and effect in accordance with O.C.G.A. § 44-16-1 *et seq.*, unless and until the Director determines that the Property is in compliance with the Type 1, 2, 3, or 4 Risk Reduction Standards, as defined in Georgia Rules of Hazardous Site Response (Rules) Section 391-3-19-.07, whereupon the Environmental Covenant may be amended or revoked in accordance with Section 391-3-19-08(7) of the Rules and O.C.G.A. § 44-16-1 *et seq.*
12. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.
13. No EPD Interest in Property Created. This Environmental Covenant does not in any way create any interest by EPD in the Property that is subject to the Environmental Covenant. Furthermore, the act of approving this Environmental Covenant does not in any way create any interest by EPD in the Property in accordance with O.C.G.A. § 44-16-3(b).

Representations and Warranties.

Grantor hereby represents and warrants to the other signatories hereto:

- a) That the Grantor has the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder;
- b) That the Grantor is the sole owner of the Property and holds fee simple title which is free, clear and unencumbered;
- c) That the Grantor has identified all other parties that hold any interest (e.g., encumbrance) in the Property and notified such parties of the Grantor's intention to enter into this Environmental Covenant;
- d) That this Environmental Covenant will not materially violate, contravene, or constitute a material default under any other agreement, document or instrument to which Grantor is a party, by which Grantor may be bound or affected;
- e) That the Grantor has served each of the people or entities referenced in Activity 10 above with an identical copy of this Environmental Covenant in accordance with O.C.G.A. § 44-16-4(d).
- f) That this Environmental Covenant will not materially violate or contravene any zoning law or other law regulating use of the Property; and
- g) That this Environmental Covenant does not authorize a use of the Property that is otherwise prohibited by a recorded instrument that has priority over the Environmental Covenant.

Notices.

Any document or communication required to be sent pursuant to the terms of this Environmental Covenant shall be sent to the following persons:

Georgia Environmental Protection Division
Branch Chief
Land Protection Branch
2 Martin Luther King Jr. Drive SE
Suite 1054 East Tower
Atlanta, GA 30334

BWAY Corporation
8607 Roberts Drive
Atlanta, GA 30350

Grantor has caused this Environmental Covenant to be executed pursuant to The Georgia Uniform Environmental Covenants Act, on the 2nd day of January, 2019.

Signed, sealed, and delivered in the presence of:

Unofficial Witness (Signature)

Unofficial Witness Name (Print)

1247 King Springs CT SE

Unofficial Witness Address (Print)

For the Grantor:

Name of Grantor (Print)

Grantor's Authorized Representative (Signature)

Authorized Representative Name (Print)

CFD

(Seal)

Kathy A. Kilfara
Notary Public (Signature)

My Commission Expires: KATHY A KILFARA
Notary Public State of Georgia
Fulton County
My Commission Expires Aug 2, 2021

Signed, sealed, and delivered in the presence of:

Tamara C. Fischer
Unofficial Witness (Signature)

Tamara C. Fischer
Unofficial Witness Name (Print)

2 mlydr Dr Ste 1456
Atlanta GA 30334
Unofficial Witness Address (Print)

Sydney Brogden
Notary Public (Signature)

My Commission Expires: June 15, 2021

CFO
Title of Authorized Representative (Print)

Dated: 1/2/2019
(NOTARY SEAL)

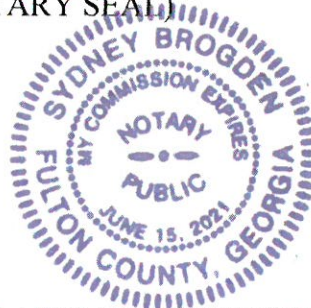
For the State of Georgia
Environmental Protection Division:

[Signature]
(Signature)

Richard E. Turner
Judson H. Turner
Director

(Seal)

Dated: 2/18/19
(NOTARY SEAL)



<SIGNATURE BLOCK FOR HOLDER OR OTHER APPLICABLE PARTIES>

Exhibit A
Legal Description

EXHIBIT A

DESCRIPTION OF LAND

Tract A (5.837 acres)

All that tract or parcel of land lying and being in Land Lots 496 and 497 of the 7th Land District, Clinch County, Georgia, and being more particularly described as follows:

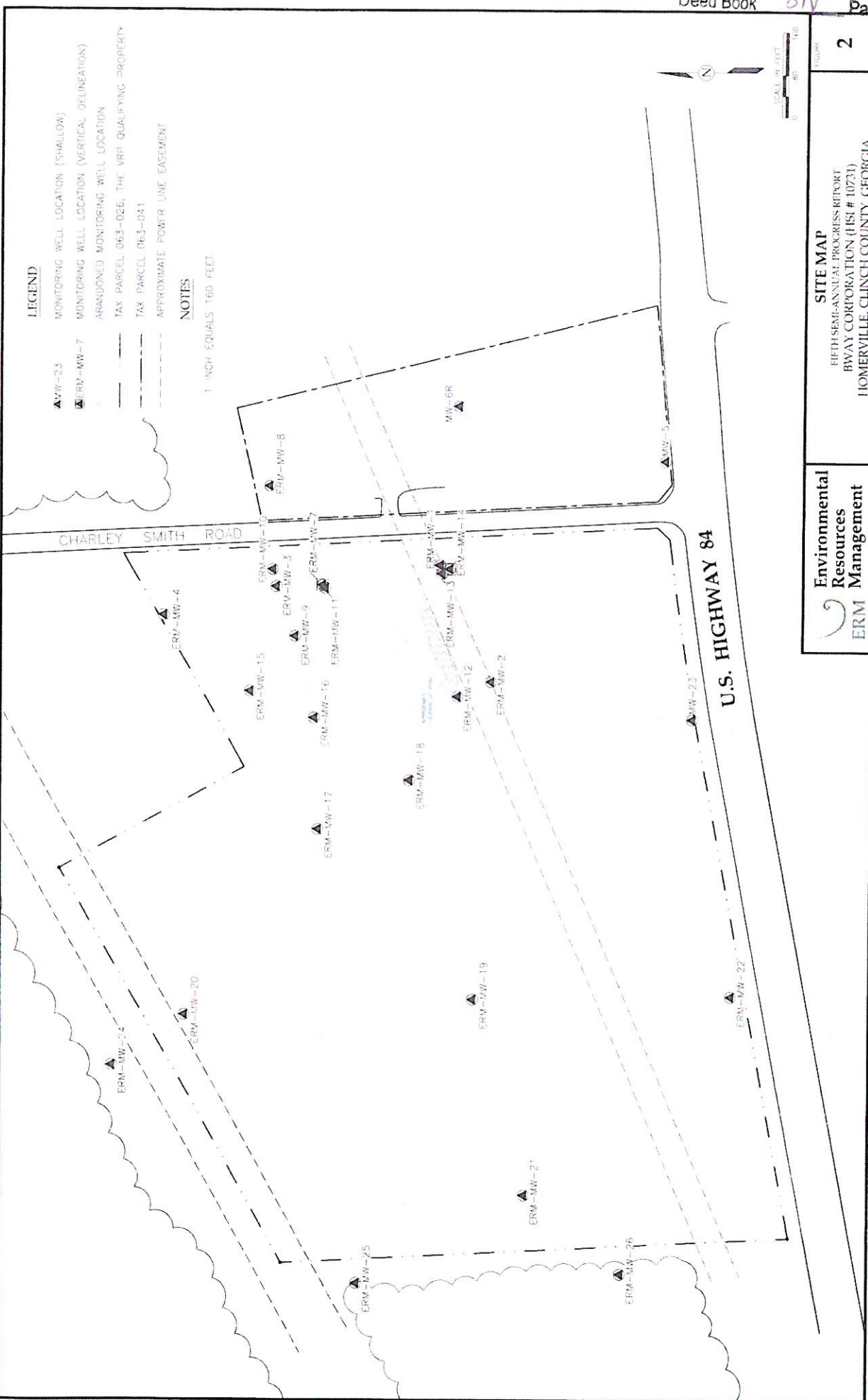
Begin at a point marking the Northeast intersection of the eastern right-of-way of Wood Lake Drive with the northern right-of-way of U.S. Hwy. 84 & Ga. Hwy. 38; thence proceed northeasterly along the northern right-of-way of said U.S. Hwy. 84 & Ga. Hwy. 38, along a certain curve to the right having a radius of 7726.36', an arc distance of 149.14' and a chord of 149.13', bearing North 84 degrees 38 minutes 08 seconds East to a point marking the point of tangency for said curve; thence proceed North 85 degrees 13 minutes 14 seconds East, along the northern right-of-way of said U.S. Hwy. 84 & Ga. Hwy. 38, a distance of 187.94' to a point; thence proceed North 14 degrees 11 minutes 34 seconds West, 796.72' to an iron rod; thence proceed South 77 degrees 17 minutes 35 seconds West, 135.07' to a concrete monument; thence proceed North 00 degrees 22 minutes 08 seconds East, 764.13' to an iron rod located in the centerline of a certain Georgia Power Company power line easement; thence proceed South 60 degrees 38 minutes 28 seconds West, along the centerline of said easement, a distance of 104.74' to an iron rod located at the eastern right-of-way of said Wood Lake Drive; thence proceed South 03 degrees 00 minutes 01 seconds East, along the eastern right-of-way of said Wood Lake Drive, a distance of 724.60' to a concrete monument; thence proceed South 02 degrees 59 minutes 27 seconds East, along the eastern right-of-way of said Wood Lake Drive, a distance of 762.49' back to the point of beginning for this subject tract. Said tract contains 5.837 acres and is now or formerly bounded on the East by Jason Bell and A.K. Sessoms Trust; on the North by International Paper Company; on the West by Wood Lake Drive; and on the South by U.S. Hwy. 84 & Ga. Hwy. 38. Said tract is subject to certain easements of record lying within.

Tract B (29.549 acres)

All that tract or parcel of land lying and being in Land Lots 496 and 497 of the 7th Land District, Clinch County, Georgia, and being more particularly described as follows:

Begin at a point marking the Northwest intersection of the northern right-of-way of U.S. Hwy. 84 & Ga. Hwy. 38 and the western right-of-way of Wood Lake Drive; thence proceed North 02 degrees 59 minutes 27 seconds West, along the western right-of-way of said Wood Lake Drive, a distance of 972.57' to a brass disk; thence proceed South 60 degrees 38 minutes 13 seconds West, 451.54' to a brass disk; thence proceed North 29 degrees 21 minutes 22 seconds West, 400.05' to a brass disk located at the centerline of a certain Georgia Power Company's power line easement; thence proceed South 60 degrees 38 minutes 08 seconds West, along the centerline of said easement, a distance of 844.05' to an iron rod; thence proceed South 02 degrees 59 minutes 35 seconds East, 942.60' to a point at the northern right-of-way of said U.S. Hwy. 84 & Ga. Hwy. 38; thence proceed North 79 degrees 14 minutes 16 seconds East, along the northern right-of-way of said U.S. Hwy. 84 & Ga. Hwy. 38, a distance of 987.84' to a point marking the point of curvature for a certain curve; from said point of curvature, proceed northeasterly along said curve to the right having a radius of 7736.30', an arc distance of 337.72', a chord distance of 337.69', a bearing of North 82 degrees 04 minutes 17 seconds East, to a point; thence proceed North 40 degrees 22 minutes 00 seconds East, along the mitered corner of said right-of-way, a distance of 33.65' back to the point of beginning for this subject tract. Said tract contains 29.549 acres and is bounded now or formerly on the East by Wood Lake Drive; on the North by Oglethorpe Power Corp. and International Paper Company; on the West by International Paper Company; and on the South by U.S. Hwy. 84 & Ga. Hwy. 38. Said tract is subject to certain easements of record lying within.

12102251e.DWG 11/15/13 SPV REV



Environmental Resources Management
ERM

SITE MAP
FIFTH SEMI-ANNUAL PROGRESS REPORT
BWAY CORPORATION (HSI # 10731)
HOMERVILLE, CLINCH COUNTY, GEORGIA