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RECORDER

GRANT OF CONSERVATION EASEMENT

SAM ORLICH  
AUDITOR LAKE COUNTY

THIS GRANT OF CONSERVATION EASEMENT is made by and between Raymond and Annali McCloskey (hereinafter referred to as "Grantors") and the Shirley Heinz Environmental Fund, Inc., a State of Indiana, non-profit corporation (hereinafter referred to as "SHF").

WITNESS THAT:

WHEREAS, Grantors are owners of certain real property in Lake County, Indiana (described as Exhibit "A" attached hereto and referred to herein as the "Protected Property"); and

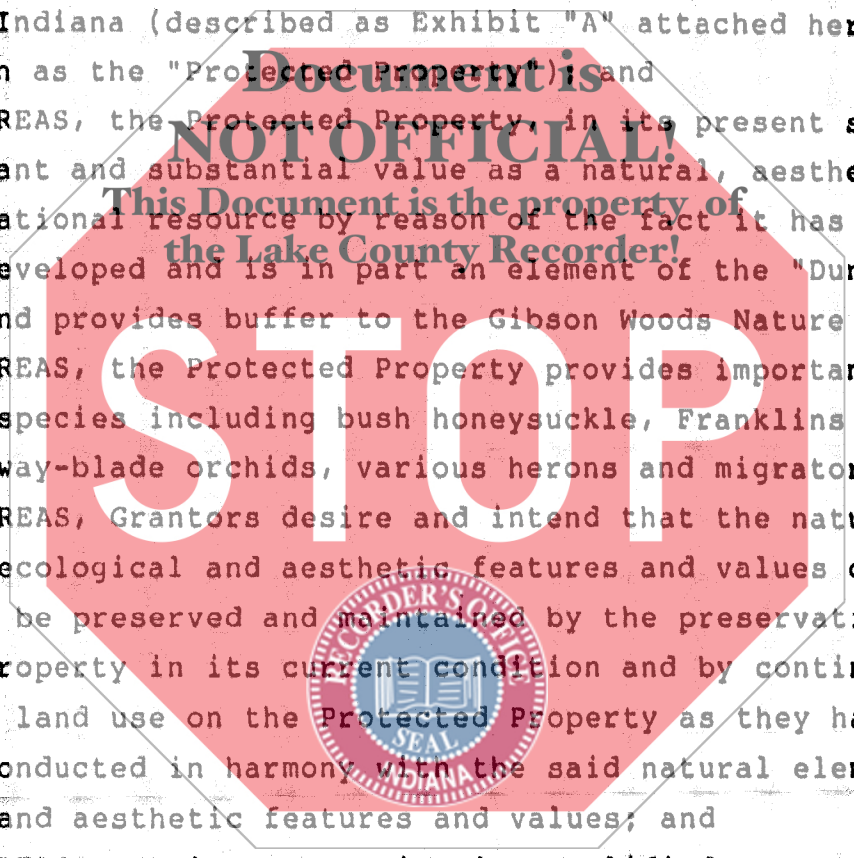
WHEREAS, the Protected Property, in its present state, has significant and substantial value as a natural, aesthetic, scientific, and educational resource by reason of the fact it has not been intensively developed and is in part an element of the "Dune and Swale" system and provides buffer to the Gibson Woods Nature Preserve; and

WHEREAS, the Protected Property provides important habitat for several species including bush honeysuckle, Franklins ground squirrel, purple tway-blade orchids, various herons and migratory song birds; and

WHEREAS, Grantors desire and intend that the natural elements and the ecological and aesthetic features and values of the Protected Property be preserved and maintained by the preservation of the Protected Property in its current condition and by continuation of patterns of land use on the Protected Property as they have been historically conducted in harmony with the said natural elements and ecological and aesthetic features and values; and

WHEREAS, SHF is an organization qualified to acquire and hold conservation easements under the provisions of Section 170(h)(h)(3) of the Internal Revenue Code, as that section may be amended from time to time, and the regulations promulgated thereunder and under the provisions of the laws of the State of Indiana; and

WHEREAS, The Grantors and SHF both desire, intend and have the common purpose of conserving and preserving in perpetuity the Protected Property as a "relatively natural habitat for fish, wildlife, or plants or similsr ecosystem," as the phrase is used in



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Terrence McCloskey  
6101 Kennedy Ave Chm. 46323

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Section 170(h)(4)(A)(ii) of the Internal Revenue Code, as that section may be amended from time to time, and in the regulations promulgated thereunder, by placing restrictions upon the use of the Protected Property, and by transferring from the Grantors to SHF through the creation of a conservation easement on, over and across the Protected Property affirmative rights to ensure the preservation of the natural elements and values of the Protected Property; and

WHEREAS, the terms and phrases "natural, ecological, scientific, aesthetic and educational value," "ecological and aesthetic features", "natural elements," and "natural characteristics" as used herein shall mean, without limiting the generality of those terms, the physical condition of the Protected Property at the time of the grant, as evidenced by reports, photographs, maps and scientific documentation possessed by the Grantors or SHF (now or in the future) which may include, but are not limited to, the following:

- a) the appropriate survey maps from the United States Geological Survey, showing property lines and other contiguous or nearby protected areas;
- b) a map of the area drawn to scale showing all existing man-made improvements or incursions (such as roads, buildings or fences), identification of vegetation, flora and fauna, land use history (including present uses and recent past disturbances), and distinct natural features;
- c) an aerial photograph of the Protected Property at an appropriate scale taken as close as possible to the date of donation;
- d) on site photographs taken from planned photo stations;
- e) an easement documentation report which shall include, among other things, an acknowledgement by the Grantors and SHF of conditions, background information, legal information, ecological features information, and land-use and man-made features information with respect to the Protected Property;

NOW, THEREFORE, the Grantors, for and in consideration of the facts above recited and of the mutual covenants, terms, conditions, and restrictions herein contained and as an absolute and unconditional gift do hereby give, grant, bargain, and convey to SHF, its successors and assigns, forever a Conservation Easement in perpetuity over the Protected Property consisting of the following:

- a. The right of SHF to enforce by proceedings at law or in equity the covenants hereinafter set forth. Nothing herein shall be construed to entitle SHF to institute any enforcement proceedings against the Grantors for any changes to the Protected Property due to causes beyond the Grantors' control, such as changes caused by fire, flood, storm, civil or military authorities undertaking emergency action or unauthorized wrongful acts of third parties.
- b. The right of SHF to enter the Protected Property, in a reasonable manner and at reasonable times, but always upon prior notice to the Grantors, for the purpose of inspection and to determine if the Grantors are in compliance with the covenants and purposes of this grant, and further to observe and study nature and make scientific and educational observations and studies in such a manner as will not disturb the quiet enjoyment of the Protected Property by the Grantors.

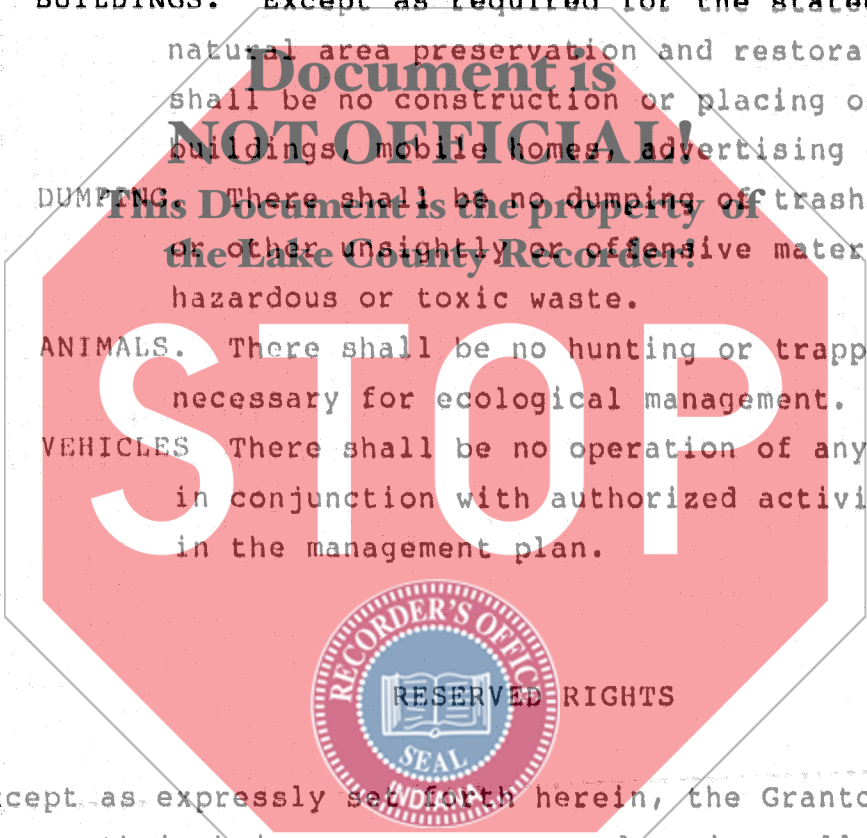
AND IN FURTHERANCE of the foregoing affirmative rights, the Grantors make the following covenant on behalf of themselves and their heirs, successors and assigns, which covenants shall run with and bind the Protected Property:

COVENANTS:

- a. USES. There shall be no commercial or industrial activity allowed; nor shall any right of passage across or upon the Protected Property be allowed or granted if that right of passage is used in conjunction with commercial or industrial activity; provided, however, that

the Grantors may use the Protected Property for any flora and fauna propagation and management, and support devices as required to maintain the natural quality of the Protected Property, and the associated natural area complex, specific provisions of which are included in the management agreement and those purposes are in accordance with the specific restrictions set out in the management plan.

- b. BUILDINGS. Except as required for the stated purposes of natural area preservation and restoration, there shall be no construction or placing of additional buildings, mobile homes, advertising or structures.
- c. DUMPING. There shall be no dumping of trash, ashes, garbage or other unsightly or offensive material, especially hazardous or toxic waste.
- d. ANIMALS. There shall be no hunting or trapping except as necessary for ecological management.
- e. VEHICLES. There shall be no operation of any vehicles except in conjunction with authorized activities set out in the management plan.



Except as expressly set forth herein, the Grantors reserve for themselves, their heirs, successors, and assigns all rights as owner of the Protected Property, including the right to use the property for all purposes not inconsistent with this grant.

Nothing herein shall be construed as affording the public access to any portion of the land subject to this Conservation Easement.

Nothing herein shall be construed as limiting the rights of the Grantors to sell, give, or otherwise convey the Protected Property or any portion or portions, provided that any conveyance is subject to the terms of this agreement.

GENERAL PROVISIONS

This Conservation Easement will run with and burden the Protected Property in perpetuity and shall bind the Grantors and their heirs, successors, and assigns. This Conservation Easement is fully valid and enforceable by any assignee of SHF, assigned in whole or part.

The Grantors hereby warrant and represent that the Grantors are seized of the Protected Property in fee simple and have good right to grant and convey this Conservation Easement, that the Protected Property is free and clear of any and all encumbrances, and that SHF and its successors and assigns shall have the use of and enjoy all the benefits derived from and arising out of this Conservation Easement.

The Grantors agree to pay any and all real property taxes and assessments levied by competent authority on the Protected Property, and to relieve SHF from any responsibility for maintaining the Protected Property.

The Grantors agree that the terms, conditions, restrictions, and purposes of this easement will be inserted in any subsequent conveyance of any interest in said property, and that the Grantors will notify SHF of any such conveyance in writing by certified mail within fifteen days after the conveyance.

All notices required in this Conservation Easement shall be sent by registered or certified mail to the following address or such address as may be hereafter specified in writing:

\_\_\_\_\_ Shirley Heinz Environmental Fund, Inc.  
\_\_\_\_\_ 444 Barker Road  
\_\_\_\_\_ Michigan City, Indiana 46360  
Attn: President and Executive Director

If any provisions of this Conservation Easement or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of the Conservation Easement and the application of such provisions to persons or circumstances other than those as to which it is found to be invalid shall not be affected thereby.

SHE may assign or transfer this Conservation Easement and the rights conveyed herein, provided that (1) SHE requires, as a condition of such transfer, that the original conservation purposes of this Conservation Easement continue to be carried out in perpetuity; and (2) any assignment is made only to an organization qualified to acquire and hold a conservation easement at the time of transfer under the provisions of Section 170(h)(3) of the Internal Revenue Code, as it may be amended from time to time, and any regulations promulgated thereunder.

SHE hereby covenants and agrees that if a subsequent unexpected change in the conditions of or surrounding the Protected Property makes impossible or impractical the continued use of the Protected Property for the conservation purposes described herein, and if the restrictions of this Conservation Easement are extinguished by judicial proceeding, then upon the sale, exchange or condemnation of the Protected Property, SHE will use its share of any and all proceeds (determined as set forth below) received from such sale, exchange or taking in a manner consistent with the conservation purposes of this Conservation Easement or for the protection of a "relatively natural habitat of fish, wildlife, or plants or similar ecosystem," as that phrase is used in Section 170(h)(4)(A)(ii), as it may be amended from time to time, and in regulations promulgated thereunder.

The Grantors agree that this donation of a perpetual Conservation Easement gives rise to a property right, immediately vested in SHE, with a fair market value that is at least equal to the proportionate value that the Conservation Easement, at the time of this gift, bears to the value of the Property as a whole at this time. The Grantors agree that this value is ninety percent ( 90 % ) of the total value of the Property. For purposes of these provisions, that proportionate value of the Conservation Easement







MANAGEMENT AGREEMENT FOR PERPETUAL STEWARDSHIP  
OF A CONSERVATION EASEMENT ON THE NATURAL AREAS AT 6101  
KENNEDY AVENUE, HAMMOND, INDIANA  
BETWEEN  
RAYMOND & ANNALI MCCLOSKEY  
AND  
SHIRLEY HEINZ ENVIRONMENTAL FUND

This agreement is binding on the heirs, assigns and successors of the Grantors and Grantee. Changes to this agreement may be made only with the agreement of both the Grantors and Grantee.

All management is to support the terms and provisions set forth in the GRANT OF CONSERVATION EASEMENT, to which this agreement is a part.

The tract upon which the Conservation Easement is granted has a history of human activity to prehistoric time. Native American artifacts have been found on this site and throughout the Gibson Woods Nature Preserve. These Native sites and artifacts are to be preserved and protected under this agreement and any academic research may be done only with joint approval of the Grantor and Grantee.

Post white man impact on this site began primarily after construction of the Michigan Central Rail Road, along the north property line of the site, in 1848. This site was part of an original railroad land grant. The area surrounding Gibson Woods became heavily developed and by 1950 was completely developed with housing to the south and industry to the north

During this time Gibson Woods was used by trespassers to hunt, trap, gather fruit, cut firewood, graze livestock, sand dig, dump garbage and juveniles dug forts. In spite of all this

disturbance, the area was never plowed and damage was intermittent enough to retain significant natural features. The high natural qualities within the Gibson Woods complex were recognized in a land inventory conducted by the Federal Coastal Zone Management Act in 1978.

The McCloskeys played the key role in the preservation of Gibson Woods by optioning a purchase agreement with the Michigan Central RR for most of the 138 acre parcel. This agreement gave The Nature Conservancy first option to purchase, which they exercised in 1979. The tract covered by this easement is a remnant of the original parcels.

The natural, topological and geographical significance of Gibson Woods arises from its formation by glacial forces over the last 25,000 years. These forces created a series of alternating linear beach ridges separated by parallel wetlands. This complex is referred to as Swell & Swale and is listed as Globally Significant by TNC.

Management of the Protected Property will be in accordance with the existing conditions of the site. Three distinct units on the Protected Property will be subject to different management criteria. They are:

Unit 1. The northern 1/2 of the property remaining its original topography and native species.

Disturbance within this unit has been primarily paths cut by ORV'S and remnants of dug forts. Within this unit, there shall be no disturbance to any natural feature, either flora or fauna. Species lists will be maintained, monitored and based upon transects.

The unit must have a burn plan.

Exotic plants must be eradicated and controlled.

Human access use is restricted to educational,

and scientific study and to preform the above management objectives.

Unit 2. This is the excavated pond/wetland. It approximates the boundary of a wetland which was filled in the 1940's, 50's and 60's. The fill was removed in 1983 and the water base enhanced by additional excavation. The purpose of the excavation was to provide open water habitat during the dry months of July and August when several Heron species are still rooking and feeding chicks and many other species feed on the aquatic bed.

This area will continue as open water habitat. Continued planting of native wetland species to enhance wildlife values will continue.

This unit will be closed to human activity during critical nesting times.

It may be used for educational and scientific research and data collection and species propogation.

Exotic species will be eliminated & controlled.

Revegetation of the shore line shall continue to use only locally gathered species.

Unit 3. Consists of the area south of the pond to the southern property boundary. This area was completely graded and filled in the early 1960's when a sewer line was installed along the public alley. It is currently used as a storage lot and has a stone covered surface of over about 50%. This area may be used for active conservation, restoration, maintenance and propogation of native species and habitat activities. These may include:

- Native plant seed nursery.
- Wildlife propogation and rehabilitation.
- Environmental and scientific study.

Storage of materials and supplies used in natural area management.

Placement of temporary structures as required for wildlife propagation and natural area management.

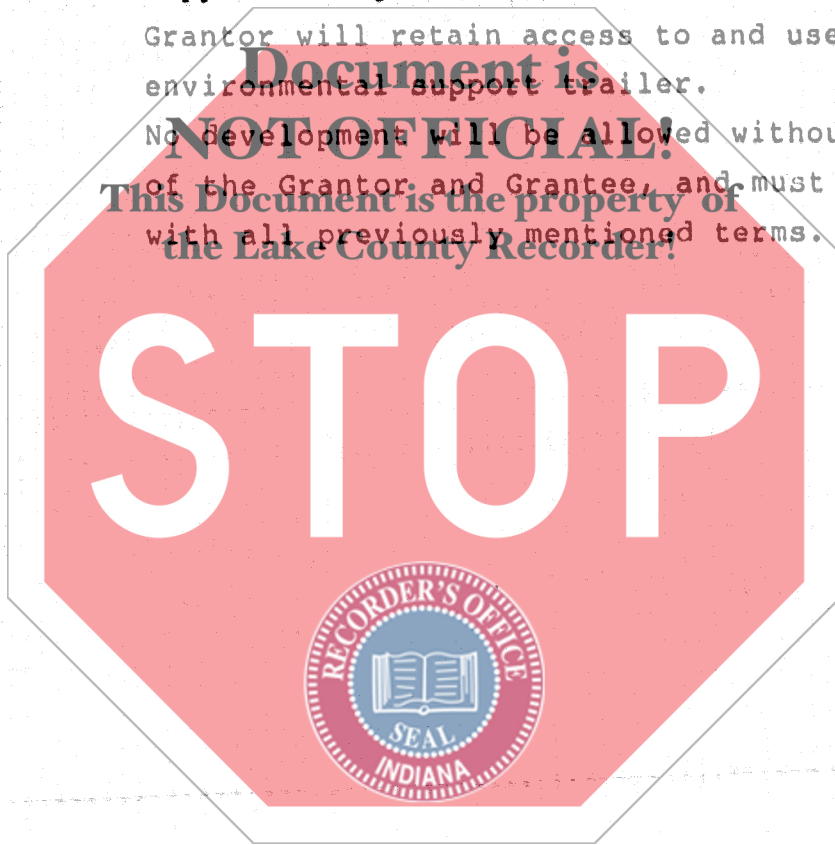
Restoration of graded areas may be made with agreement of Grantor and Grantee.

Exotic species will be removed and controlled.

Management of this unit must be compatible to and support management of units 1 and 2.

Grantor will retain access to and use of the environmental support trailer.

No development will be allowed without permission of the Grantor and Grantee, and must be compatible with all previously mentioned terms.



# Torrenga Engineering, Inc.

REGISTERED PROFESSIONAL ENGINEERS & LAND SURVEYORS

007 RIDGE ROAD  
MUNSTER, INDIANA 46321

ATTACHMENT A

Office (210) 836-8918

Fax (210) 836-1138

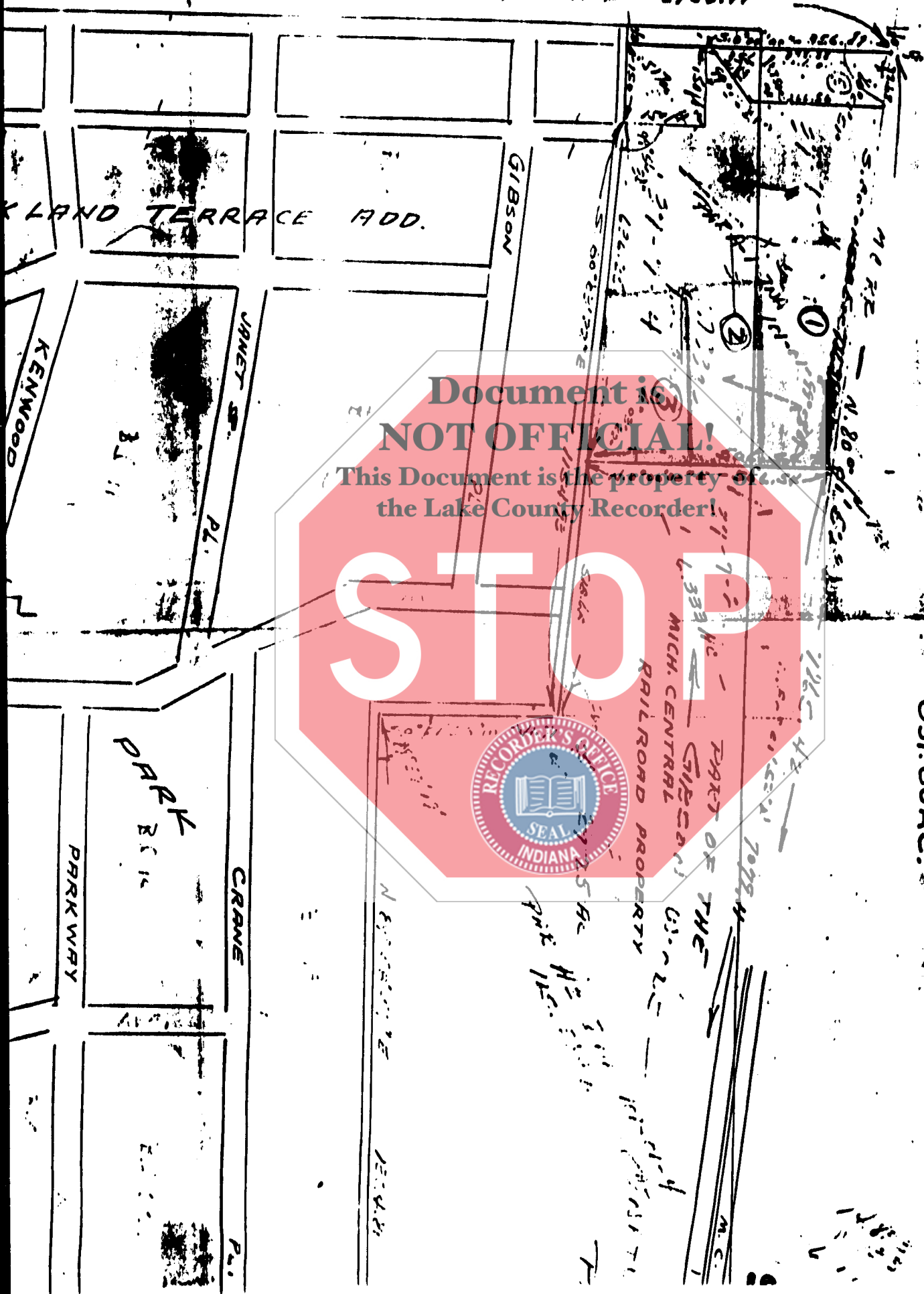
## EAST PART

DESCRIPTION: Part of the East Half of Section 4, Township 36 North, Range 9 West of the Second Principal Meridian, in the City of Hammond, Lake County, Indiana, being more particularly described as follows: Commencing at a point 40.00 feet East of the North-South centerline of said Section 4 and 2966.71 feet North of the Southwest corner of the Southeast Quarter of said Section 4; thence South 80° 01' 52" East, parallel with and 50.00 feet Southwardly, measured at right angles with the centerline of the Right of Way of the Michigan Central Railroad Company, a distance of 317.68 feet, to the point of beginning; thence continuing South 80° 01' 52" East, along previously described line, a distance of 468.63 feet; thence South 00° 00' 00" West, parallel with the East Right of Way line of Kennedy Avenue, a distance of 498.42 feet; thence North 80° 03' 22" West, a distance of 016.25 feet; thence North 00° 00' 00" East, parallel with said East Right of Way line of Kennedy Avenue, a distance of 328.60 feet; thence North 80° 01' 52" West, parallel with said centerline of the Michigan Central Railroad Company, a distance of 52.40 feet; thence North 00° 00' 00" East, parallel with said East Right of Way line of Kennedy Avenue, a distance of 170.00 feet, to the point of beginning, containing 4.893 acres, more or less, all in the City of Hammond, Lake County, Indiana.

Key# 37-7-4



ATTACHMENT B



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STOP



PART OF THE GIBSON MICH. CENTRAL RAILROAD PROPERTY

631.80 AC.

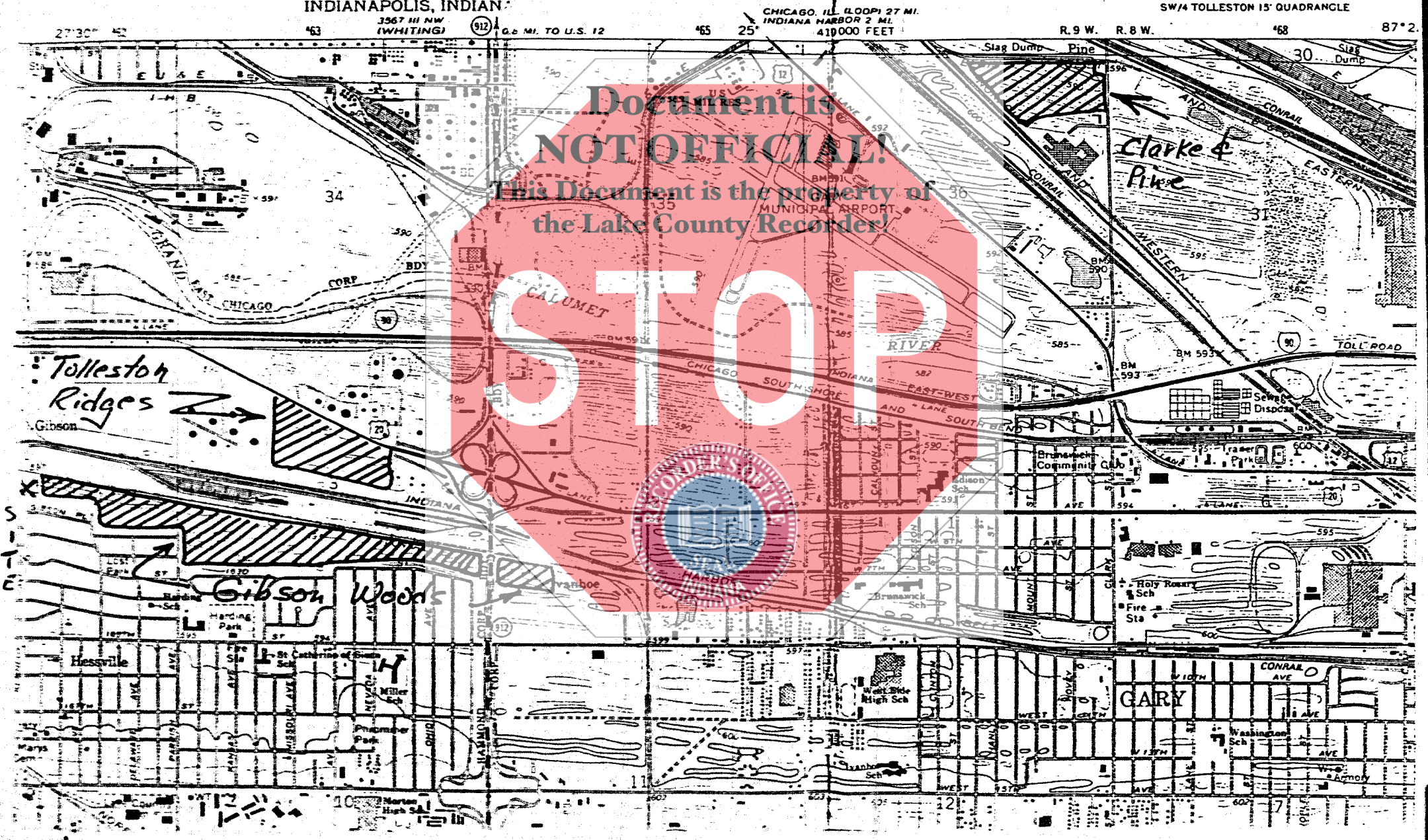
HAMMOND ACRES

Figure 3. U.S.G.S. Quadrangle locations

ATTACHMENT C

STATE OF INDIANA  
DEPARTMENT OF NATURAL RESOURCES  
INDIANAPOLIS, INDIANA

HIGHLAND QUADRANGLE  
INDIANA-LAKE CO.  
7.5 MINUTE SERIES (TOPOGRAPHIC)  
SW/4 TOLLESTON 15' QUADRANGLE



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