

## ENVIRONMENTAL NOTICE

**To be issued in lieu of Environmental Easement/Deed Restriction as referenced in DER-33**

**THIS ENVIRONMENTAL NOTICE** is made the 8<sup>th</sup> day of August 2013, by the New York State Department of Environmental Conservation (Department), having an office for the transaction of business at 625 Broadway, Albany, New York 12233.

**WHEREAS**, parcels of real property owned by the New York State Canal Corporation, a subsidiary of the New York State Thruway Authority and identified as Dredge Spoil Area 1, Dredge Spoil Area 2 and Dredge Spoil Area 3, proximate to the Utica Harbor Point MGP Site, an inactive hazardous waste disposal site. Dredge Spoil Areas 1, 2 and 3 are identified in the January 30, 2001 Settlement Agreement between the New York State Canal Corporation and Niagara Mohawk Power Corporation and also identified in the Department's March 2001 "Record of Decision, Niagara Mohawk Harbor Point Site, Operable Unit 3, Utica Harbor Sediments and Dredge Disposal Areas", These parcels are hereinafter referred to as "the Properties", located in the City of Utica, County of Oneida, State of New York, being more particularly described in Appendix "A", attached to this noticed and made a part hereof; and

**WHEREAS**, the Department approved a cleanup to address contamination disposed at the Property and such cleanup was conditioned upon certain limitations.

**NOW, THEREFORE**, the Department provides notice that:

**FIRST**, the Property subject to this Environmental Notice is as shown on a map attached to this Notice as Appendix "B" and made a part hereof.

**SECOND**, unless prior written approval by the Department or, if the Department shall no longer exist, any New York State agency or agencies subsequently created to protect the environment of the State and the health of the State's citizens, hereinafter referred to as "the Relevant Agency," is first obtained, where contamination remains at the Properties subject to the provisions of the Site Management Plan ("SMP"), there shall be no disturbance or excavation of the Properties which threatens the integrity of the engineering controls or which results or may result in a significantly increased threat of harm or damage at any site as a result of exposure to soils. A violation of this provision is a violation of 6 NYCRR 375-1.11(b)(2).

**THIRD**, no person shall disturb, remove, or otherwise interfere with the installation, use, operations, and maintenance of engineering controls required for the Remedy, including but not limited to those engineering controls described in the SMP, specifically the cover system, unless in each instance they first obtain a written waiver of such prohibition from the Department or Relevant Agency.

**FOURTH**, the remedy was designed to be protective for the following uses:

**Commercial as described in 6 NYCRR Part 375-1.8(g)(2)(iii) and Industrial as described in 6 NYCRR Part 375-1.8(g)(2)(iv).** Therefore, any use for purposes other than Commercial and Industrial without the express written waiver of such prohibition by the Relevant Agency may result in a significantly increased threat of harm or damage at any site.

**FIFTH**, no person shall use the groundwater underlying the Properties without treatment rendering it safe for drinking water or industrial purposes, as appropriate, unless the user first obtains permission to do so from the Department or Relevant Agency. Use of the groundwater without appropriate treatment may result in a significantly increased threat of harm or damage at any site.

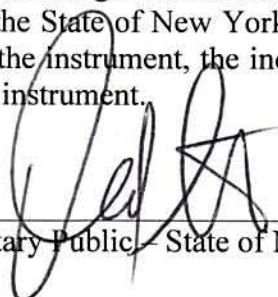
**SIXTH**, it is a violation of 6 NYCRR 375-1.11(b) to use the Properties in a manner inconsistent with this environmental notice.

**IN WITNESS WHEREOF**, the undersigned, acting by and through the Department of Environmental Conservation as Designee of the Commissioner, has executed this instrument the day written below.

By:   
Michael J. Ryan  
Assistant Director  
Division of Environmental Remediation

STATE OF NEW YORK     )  
  ) ss:  
COUNTY OF Albany     )

On the 8<sup>th</sup> day of August, in the year 2013, before me, the undersigned, personally appeared Michael J. Ryan, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as Designee of the Commissioner of the State of New York Department of Environmental Conservation, and that by his signature on the instrument, the individual, or the person upon behalf of which individual acted, executed the instrument.

  
Notary Public, State of New York

Environmental Notice

David J. Chiusano  
Notary Public, State of New York  
No. 01CH5032146  
Qualified in Schenectady County  
Commission Expires August 22, 2014

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**Appendix A**

**METES AND BOUNDS  
DESCRIPTION**



(Metes and Bound Descriptions of DSA 2 Property)

ALL THAT piece of property situate in the City of Utica, County of Oneida, State of New York and being more particularly bounded and described as follows:

BEGINNING AT A POINT on the low water line on the northerly bank of the Mohawk River, said point being approximately 1,835 feet southeasterly of the south gate of the Utica Terminal Lock; thence N38-29E through property of the People of the State of New York under the jurisdiction of the New York State Canal Corporation approximately 40 feet to a corner of the chain link fence surrounding the New York State Department of Transportation maintenance facility; thence N38-29E along said chain link fence and crossing the southerly line of Canal Parcel 1832A at about 15 feet, a total distance of 270.11 feet to another corner of the above mentioned chain link fence, said fence corner being 8 plus or minus feet distant southerly from an existing line of power poles and also being 120 feet distant southerly measured at right angles from Station 5440+79 of the centerline of the Improved Erie Canal; thence N54-14-30W through Canal Parcels 1832A, 1831A, 1830A, 1829A and 1828A and remaining 8 plus or minus feet distant southerly from said existing power line, 1,685.71 feet to a point on the northwesterly bounds of Canal Parcel 1828A; thence S31-18W along the said northwesterly bounds of Canal Parcel 1828A; passing through the most southwesterly corner of Canal Parcel 1828A at 199.5 feet, and also through other lands of the People of the State of New York under the jurisdiction of the New York State Canal Corporation, a total distance of 243 plus or minus feet to the low water line of the Mohawk River on the southeast (lower) approach wall to the Utica Terminal Lock; thence southeasterly along the said low water line of the Mohawk River as it winds and turns approximately 1,690 feet to the place of beginning, containing about 11.6 acres more or less.

All bearings referred to the True Meridian as shown on the above referenced Canal Parcel maps.

(Metes and Bound Descriptions of DSA 3 Property)

All that piece of property situate in the City of Utica, County of Oneida, State of New York and being more particularly bounded and described as follows;

BEGINNING AT A POINT on the low water line on the westerly bank of the Mohawk River at its intersection with the southerly bounds of Canal Parcel 6244; thence N66-16-15W along said southerly bounds of Canal Parcel 6244, 21 plus or minus feet to a point marked by an iron pipe; thence N66-16-15W continuing along said southerly bounds of Canal Parcel 6244, 627.35 feet to a point, said point being the most westerly corner of Canal Parcel 6244 and also being the most southerly corner of Canal Parcel 6243; thence continuing N66-16-15W along the southerly bounds of Canal Parcel 6243, 242.81 feet to a point, said point being the most southwesterly corner of Canal Parcel 6243; thence N23-39-00E along the westerly bounds of Canal Parcel 6243, 1,109.83 feet to a point, said point being the most northerly corner of Canal Parcel 6243; thence

S65-52E along the northeasterly bounds of Canal Parcel 6243, 144.86 feet to a point; thence S33-52E along the easterly bounds of Canal Parcels 6243 and 6244, 635.84 feet to a point marked by a 1" bolt and nut; thence continuing S33-52E along the easterly bounds of Canal Parcel 6244, 43 plus or minus feet to a point on the low water line on the westerly bank of the Mohawk River; thence southerly along said low water line of the Mohawk River 790 plus or minus feet to the point of beginning, containing 16.67 acres more or less.

All bearings referred to the True Meridian as shown on Canal Parcel Maps 6243 and 6244, filed in the Oneida County Clerks Map Room on May 21, 1974 under Barge Canal Contract 42.

SUBJECT TO the easement rights as shown and described on the abovementioned Canal Parcel Maps 6243 and 6244.

L. 2887 P. 353

DOTI-BARRETTA PROPERTIES, L.L.C.  
(reputed owner)

All that piece or parcel of property hereinafter designated as Parcel No. 6338 situate within the City of Utica, County of Oneida and State of New York, to be acquired in fee, bounded and described as follows:

Parcel No. 6338  
BEGINNING at a spindle located at the intersection of the southwesterly street boundary of Wells Avenue with the southeasterly street boundary of proposed Shippers Avenue; said point being North 74° 18' 00" East 570.09 feet distant, measured at right angles from the Terminal Canal centerline station 36 + 22.36; thence North 47° 41' 00" West, along the extension of the southwesterly boundary of Wells Avenue, a distance of 51.03 feet to an iron pin located on the northwesterly street boundary of proposed Shippers Avenue; thence North 30° 46' 00" East, along said northwesterly proposed street boundary of Shippers Avenue, a distance of 339.56 feet to a point; said point located at the most easterly corner of property of Conn Realty Corporation (reputed owner); thence North 59° 14' 00" West along the northeasterly property line of Conn Realty Corporation (reputed owner) a distance of 300.00 feet to a point; said point located at the northwesterly corner of property of Conn Realty Corporation (reputed owner) and being on the southeasterly boundary of proposed Mechanics Avenue; thence South 30° 46' 00" West, along said southeasterly boundary of proposed Mechanics Avenue, a distance of 304.29 feet to a rebar located on the northerly Blue Line of the Terminal Canal; said point being North 74° 18' 00" East 362.00 feet distant, measured at right angles from the Terminal Canal centerline station 33 + 37.29; thence North 45° 42' 00" West, along said northerly Blue Line of the Terminal Canal, a distance of 349.00 feet to a stone monument; said monument being North 74° 18' 00" East 187.50 feet distant, measured at right angles from the Terminal Canal centerline station 30 + 35.05; thence North 15° 42' 00" West, continuing along the northerly Blue Line of the Terminal Canal, a distance of 289.41 feet to an iron pin; said point being North 74° 18' 00" East 187.50 feet distant, measured at right angles from the Terminal Canal centerline station 27 + 45.64; thence North 30° 52' 00" East, along the division line between the herein described property on the southeast and the property of Niagara Mohawk Power Corporation (reputed owner) on the northwest, a distance of 126.00 feet to an iron pin located at an angle point in said division line; thence North 59° 08' 00" West, continuing along the last mentioned division line, a distance of 50.00 feet to an iron pin; said pin located at the intersection of the last mentioned division line with the division line between the herein described property on the southeast and the property of Niagara Mohawk Power Corporation (reputed owner) on the northwest; thence North 30° 52' 00" East, along the last mentioned division line, a distance of 434.51 feet to an iron pin located on the southerly Blue Line of the Re-located Mohawk River; said pin being North 74° 18' 00" East 560.15 feet distant, measured at right angles from the Terminal Canal centerline station 23 + 23.98; thence South 54° 12' 00" East, along said southerly Blue Line of the Re-located Mohawk River, a distance of 1,169.88 feet to an iron pin; said pin being North 74° 18' 00" East 1,288.41 feet distant, measured at right angles from the Terminal Canal centerline station 32 + 39.53; said pin also located at the intersection of the last mentioned Blue Line of the Re-located Mohawk River with the division line between the herein described property on the northwest and the property of New Penn Hospitality Association (reputed owner) on the southeast; thence South 30° 46' 00" West, along the last mentioned division line, a distance of 555.80 feet to an iron pipe; said pipe located at the most easterly corner of property of North Utica Dairy Corporation (reputed owner); thence North 47° 41' 00" West, along the northeasterly property line of lands of North Utica Dairy Corporation (reputed owner) a distance of 221.71 feet to a spindle located on the aforesaid southeasterly proposed street boundary of Shippers Avenue; thence South 30° 46' 00" West, along said southeasterly proposed street boundary of Shippers Avenue, a distance of 273.03 feet to the point of beginning, containing 715,461± sq. ft. or 16.425± acres, more or less.

Subject to municipal or public utility easements in existence or of record.  
Subject to the easement rights of others such as they exist to that portion of the premises lying within the westerly extension of Wells Avenue between the easterly and westerly boundaries of the formerly proposed Shippers Avenue.

All Bearings are true meridian per Terminal Contract 15.

The above mentioned Centerline of Terminal Canal is a portion of the Centerline of Terminal Canal, Terminal Contract No. 15, as shown on a plan on file at the Office of the New York State Canal Corporation, Albany, NY, and described as follows:

Beginning at Station 23 + 00.00; thence South 15°42'00" East to Station 37 + 00.00.

I HEREBY CERTIFY THAT THE PROPERTY DESCRIBED AND MAPPED ABOVE IS NECESSARY FOR THIS PROJECT AND THE ACQUISITION THEREOF IS RECOMMENDED.

Date May 19, 2005

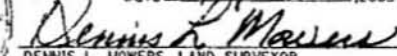
  
LAWRENCE J. FRAUE, P.E.  
DIRECTOR OF MAINTENANCE AND OPERATIONS  
N.Y.S. CANAL CORPORATION



Unauthorized alteration or addition to a survey map bearing a licensed land surveyor's seal is a violation of Section 1209, Subdivision 2, of the New York State Education Law.

I HEREBY CERTIFY THAT THIS IS AN ACCURATE DESCRIPTION AND MAP MADE FROM AN ACCURATE SURVEY, PREPARED UNDER MY DIRECTION.

Date May 18<sup>th</sup>, 2005

  
DENNIS L. MOWERS, LAND SURVEYOR  
P. L. S. LICENSE NO. 049369  
D. L. MOWERS LAND SURVEYORS AND ASSOCIATES



NEW YORK STATE CANAL CORPORATION  
DESCRIPTION AND MAP FOR THE ACQUISITION OF PROPERTY

NEW YORK STATE CANAL CORPORATION  
SYRACUSE DIVISION  
SECTION 4, UTICA  
ONEIDA COUNTY

Total Area = 715,461± square feet  
or 16.425± acres

Parcel No. 6338

DOTI-BARRETTA PROPERTIES, L.L.C.  
(Reputed Owner)

Description and map of property which the NYS Canal Corporation deems necessary to be acquired by appropriation in the name of the People of the State of New York in fee, for purposes connected with the Canal System of the State of New York, pursuant to Section 40 of the Canal Law, as amended, and the Eminent Domain Procedure Law.

There is excepted from this appropriation all the right, title and interest, if any, of the United States of America in or to said property.

Pursuant to Statutes set forth above and the authority delegated to me by official order of the New York State Canal Corporation, The above description and map are hereby officially approved; and said description and the original tracing of this map are hereby officially filed in the Office of the New York State Canal Corporation.

Date May 19<sup>th</sup>, 2005

  
WILLIAM SCHOLLHUBER, P.E.  
ACTING DIRECTOR  
N.Y.S. CANAL CORPORATION

NM - Utica Harbor Point MGP Site  
Site No. 633021  
City of Utica, County of Oneida, NY  
Tax Map: 306.20-1-11; 306.20-1-3;  
306.15-1-3, 4 & 5

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**APPENDIX B**  
**SITE PROPERTY MAP**







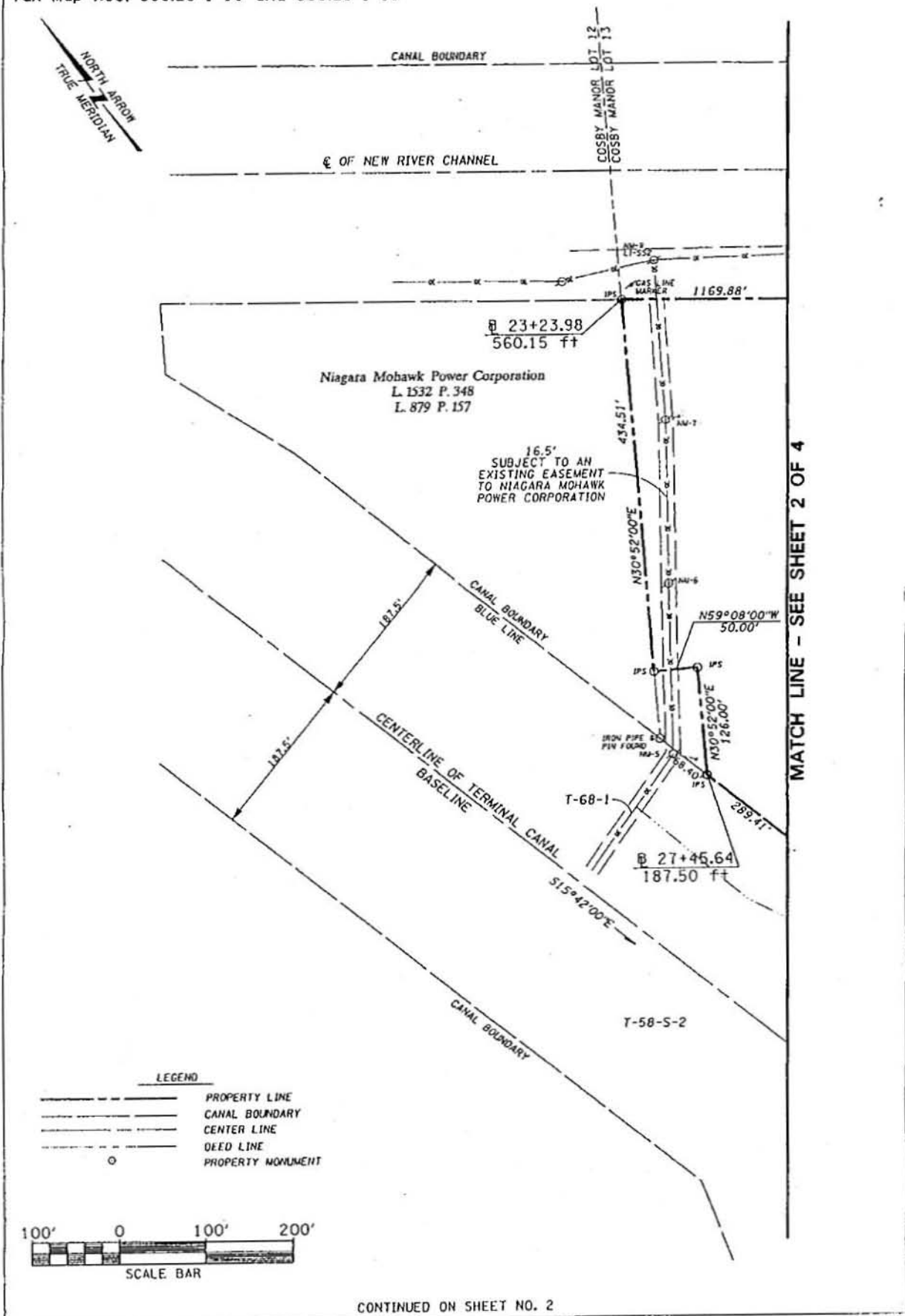
NYS CANAL CORPORATION  
SECTION 4, UTICA  
CONTRACT NO. T-15

PARCEL NO. 6338  
ONEIDA COUNTY

R-1  
SHEET 1 OF 4 SHEETS

APPROPRIATION MAP - FEE TAKING  
L. 2887 C.P. 353  
Tax Map Nos. 306.20-1-10 and 306.20-1-11

DOTI-BARRETTA PROPERTIES, L.L.C.  
(reputed owner)



MATCH LINE - SEE SHEET 2 OF 4

LEGEND

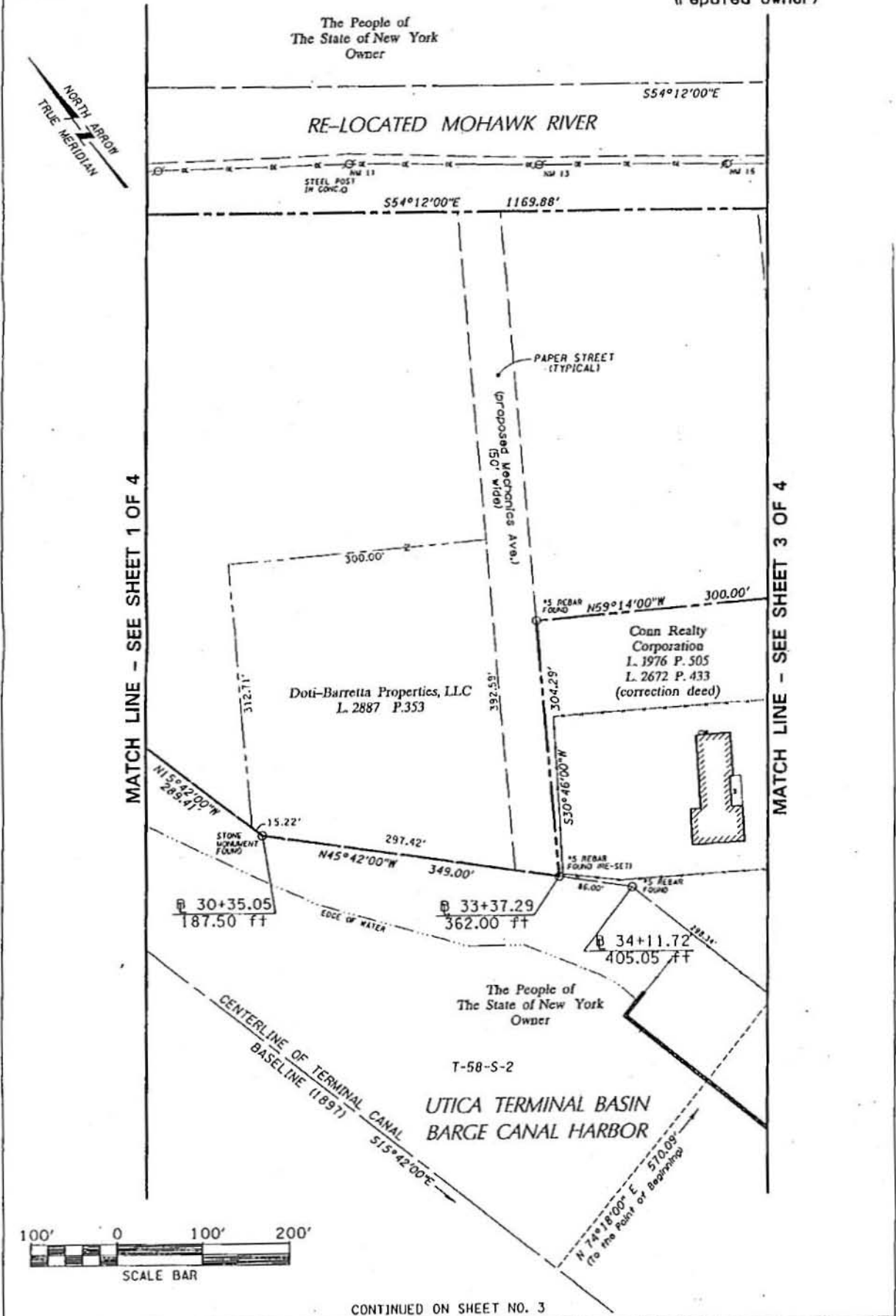
- PROPERTY LINE
- CANAL BOUNDARY
- CENTER LINE
- DEED LINE
- PROPERTY MONUMENT



CONTINUED ON SHEET NO. 2

L. 2887 P. 353

DOTI-BARRETTA PROPERTIES, L.L.C.  
(reputed owner)



DOTI-BARRETTA PROPERTIES, L.L.C.  
(reputed owner)

