
Site Management Plan Roblin Steel Site

**City of North Tonawanda,
Niagara County, New York**



March 2007

Amherst, New York

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SITE MANAGEMENT PLAN
ROBLIN STEEL SITE
CITY OF NORTH TONAWANDA
NIAGARA COUNTY, NEW YORK

Prepared for
City of North Tonawanda

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SECTION 1 - INSTITUTIONAL & ENGINEERING CONTROL PLAN

Section 1.0 - Site Overview

The Roblin Steel site was an inactive steel processing manufacturing facility in the City of North Tonawanda, Niagara County, NY. The site is bounded by East Avenue on the north, Oliver Street on the east, and Eighth Avenue on the south, and the Conrail-Erie Lackawanna railroad tracks on the west. One building, located on a 4.9-acre parcel adjacent to the northwest part of the site, represents an active facility occupied by Armstrong Pumps since 1985. In 1997, through tax delinquency, the City of North Tonawanda obtained the former Roblin Steel facility. A site location map is presented on Figure 1-1.

In 1998, Stearns & Wheler, LLC was contracted by the City of North Tonawanda, New York to provide engineering services and perform a Site Investigation/Remedial Alternatives Report (SI/RAR). The SI report and the preliminary RAR report were completed in 1999. In 2002, Stearns & Wheler developed a phased project approach for the site remediation based on the 1999 SI/RAR findings and earlier investigation completed in 1995 by the New York State Department of Environmental Conservation (NYSDEC).

Demolition of the site buildings and removal of asbestos containing materials was completed in 2003 under the Phase I Contract. Remediation of site contamination and concrete foundation demolition was completed as Phase II in 2005. Phase II work included concrete foundation and environmental remediation of the site as recommended in the Remedial Alternatives Report (RAR), Proposed Remedial Action Plan (PRAP) and NYSDEC Record of Decision (ROD). Phase II construction included remediation of the impacted soil, groundwater, and remediation of the former quench pond. A record plan of as-built conditions for the Roblin Steel Site is presented in Appendix B.

Section 1.1 - Description of Institutional and Engineering Controls

Institutional and engineering controls are required by the NYSDEC Record of Decision (ROD) dated February 2002 and included the environmental easement for future redevelopment and ownership of the site. The approved soils management plan addresses the excavation procedures for the of remaining soils during future redevelopment. The soil management plan includes soil

management, characterization and disposal of excavated soils in accordance with the applicable NYSDEC regulations. The soils management plan is presented in Section 2.

In addition, the ROD and environmental easement require the imposition of a deed restriction that requires compliance with the approved soils management plan and the future use of groundwater from the site. Deed restrictions are to be instituted that prohibit the installation of potable wells at the site. Any future use of groundwater at the site is prohibited. Annually, the future owners will be required to certify to the NYSDEC that the implemented remedy has been maintained in accordance with the soils management plan.

Section 1.2 - Site Environmental Easement

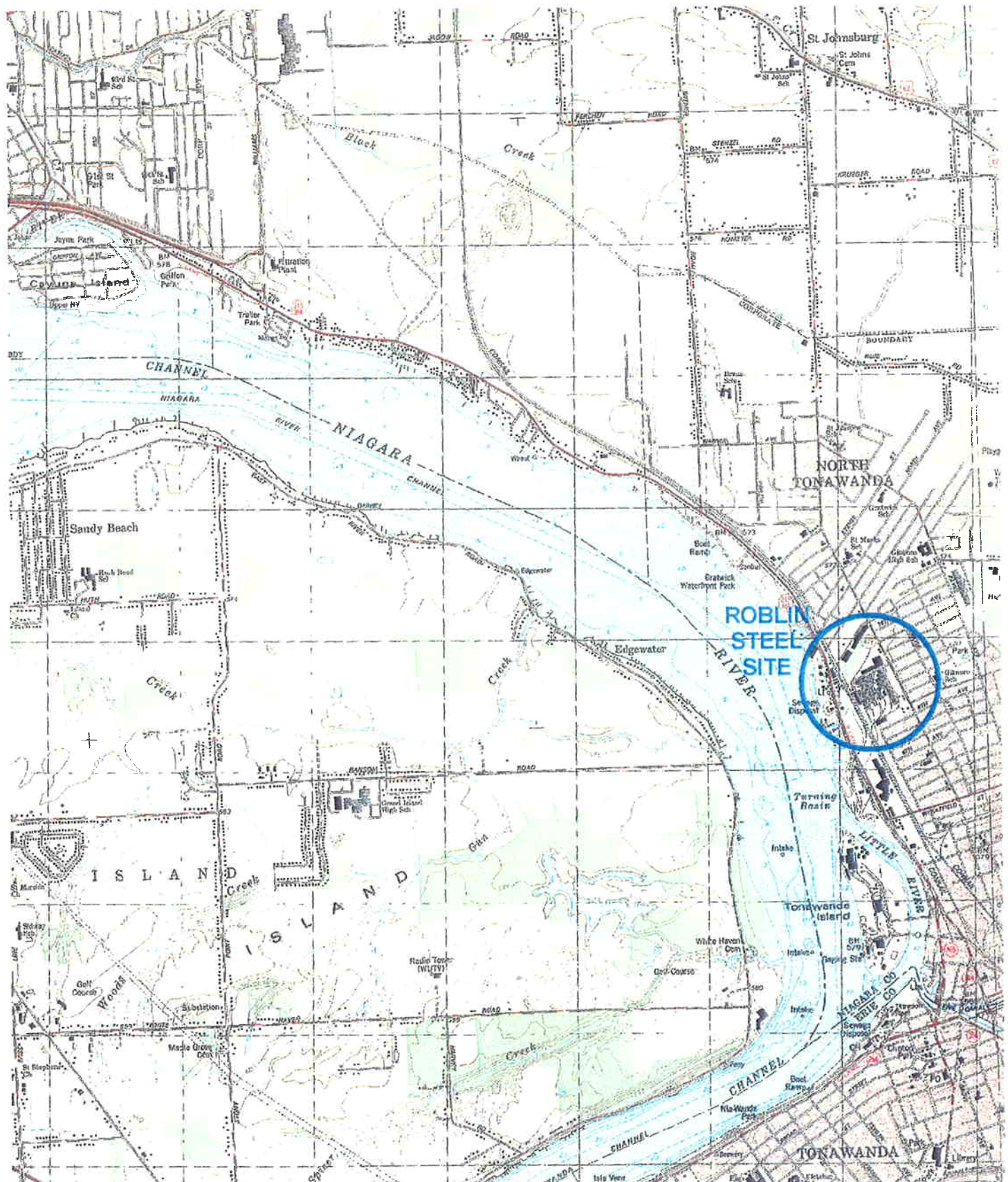
Potential/future property owners will be subject to the Site Environmental Easement. The following items have been included as part of the environmental easement which are presented in Appendix A.

- metes and bounds description of the site.
- updated title report.
- boundary survey dated January 16, 2006
- site environmental easement

Section 1.3 - Periodic Certification of Site Controls

The Owner shall complete and submit to the Department an annual report by January 15th of each year. Such annual report will contain certification that the institutional controls put in place, pursuant to Operation, Monitoring, and Maintenance Plan (OM&M), are still in place, have not been altered and are still effective; that the remedy and protective cover have been maintained; and that the conditions at the site are fully protective of public health and the environment. Inspection will be documented and a letter will be submitted to the NYSDEC. A sample certification letter has been included in Figure 1-2.

ROBLIN STEEL SITE
CITY OF NORTH TONAWANDA, NEW YORK
USGS QUAD: TONAWANDA WEST



5/31/01

Figure 1-1

Figure 1-2

SAMPLE

Date

Mr. Jeffery Konsella
New York Department of Environmental Conservation
270 Michigan Avenue
Buffalo, NY 14203-2999

Re: Roblin Steel Site

Dear Mr. Konsella:

ABC Company owns a parcel of land located at _____. The property listed is part of the former Roblin Steel Brownfield site. As required by the NYSDEC, ABC Company is submitting this certification letter to the NYSDEC. The approved Soil Management Plan requires this certification by January 15th of each year.

The institutional controls put in place pursuant to the operation, monitoring, and maintenance plan (OM&M), as they apply to the subject property held are still in place, have not been altered and are still effective. The remedy and the protective cover have been maintained, and conditions at the site are fully protective of public health and the environment.

Sincerely,

Land Owner

Property Manager

pc: Mr. Dale Marshall, P.E., City Engineer - City of North Tonawanda

SECTION 2 - SOIL MANAGEMENT PLAN

Section 2.0 - Soil Management Plan Objectives

The objective of this Soils Management Plan (SMP) is to set guidelines for management of soil material during any future activities which would breach the cover system at the site. This SMP addresses environmental concerns related to soil management and has been reviewed and approved by the New York State Department of Environmental Conservation (NYSDEC).

Section 2.1 - Nature and Extent of Contamination

Based on data obtained from previous investigations and the remediation completed at the site, a Remedial Closure Report for the Roblin Steel Site Remediation dated October 2005 was completed by Stearns & Wheler, LLC.

During the site investigation activities, six areas of impacted soil were identified. These six impacted soil areas were excavated, removed and disposed off-site during the site remediation. Impacted soils were sampled and categorized to preliminarily delineate the extent of the contamination and for waste characterization for off-site disposal. The impacted soils were excavated to a depth of 12-inches as defined in the NYSDEC issued Record of Decision.

Five impacted soil areas contained semi-volatile chemical compounds that included polycyclic aromatic hydrocarbons (PAHs) and metals. The removed impacted soils were confined to surficial soils. Any visual soil impacted as defined as darken, oily materials beyond the depth of the first 12-inches were also removed. The potential exposure pathways include inhalation, absorption, ingestion and contact. Health effects from exposure to these chemical compounds are skin and respiratory irritants.

The sixth impacted soil area contained poly chlorinated byphenyls (PCBs), which was excavated, removed and disposed off-site to a depth ranging from 12 to 18-inches. After excavation of the PCB impacted soils, confirmatory soil samples were collected to confirm no PCB impacted soils were present. The potential exposure pathways include inhalation, absorption, ingestion and contact. Health effects from exposure to these chemical compounds are eye, skin and acne form irritants.

The constituents of potential concern for soil consist primarily of PAHs, metals, and PCBs. Results of ground water sampling indicate that constituents in the soil/fill material have impacted ground water quality slightly with volatile organic compounds (VOCs). Groundwater in the southeast corner of the site has been impacted with low concentrations of chlorinated VOCs. Groundwater in this portion of the site presumably flows toward the combined sewer line that runs down the west side of Oliver Street at approximately the same elevation as the groundwater. Deed restrictions will be enacted by the City of North Tonawanda, which will prohibit the installation of potable wells on the property.

Section 2.2 - Contemplated Use

As part of the redevelopment project, the property has been identified for light industrial/commercial usage. Residential redevelopment will not be permitted. Deed restrictions will require compliance with the approved soil management plan. The future use of site groundwater will be prohibited.

Section 2.3 - Purpose and Description of Surface Cover System

The purpose of the surface cover system is to eliminate the potential for human contact with fill material and eliminate the potential for contaminated runoff from the property. The cover system that was used to fill the excavated impacted soil areas was 12-inches of crushed concrete that was recycled from demolished site concrete foundations. An additional 4-inches of topsoil was spread over the crushed concrete fill to provide vegetative soil cover.

Section 2.4 - Management of Soils/Fill and Long Term Maintenance

The purpose of this section is to provide environmental guidelines for management of subsurface soils/fill and the long-term maintenance of the cover system during any future intrusive work which breaches the cover system. The Soil Management Plan includes the following conditions:

- Any breach of the cover system, including for the purposes of construction or utilities work, must be replaced or repaired using an acceptable borrow source free of industrial and/or other potential sources of chemical or petroleum contamination. The repaired area must be covered with clean soil and reseeded or covered with impervious product such as concrete or asphalt, as described in Section 4, to prevent erosion in the future.

- The immediate work area that will be disturbed must be monitored for particulate air monitoring. Particulate concentrations should be monitored continuously at the upwind and downwind perimeters of the work area at temporary particulate monitoring stations. The particulate monitoring should be performed using real-time monitoring equipment capable of measuring particulate matter less than 10 micrometers in size (MIE DataRAM Aerosol Monitor) and capable of integrating over a period of 15 minutes (or less) for comparison to the airborne particulate action level.

If the downwind particulate level is 100 micrograms per cubic meter (mcg/m^3) greater than background (upwind perimeter) for the 15-minute period or if airborne dust is observed leaving the work area, then dust suppression techniques must be employed. Work may continue with dust suppression techniques provided that downwind particulate levels do not exceed $150 \text{ mcg}/\text{m}^3$ above the upwind level and provided that no visible dust is migrating from the work area.

If, after implementation of dust suppression techniques, downwind PM-10 particulate levels are greater than $150 \text{ mcg}/\text{m}^3$ above the upwind level, work must be stopped and a re-evaluation of activities initiated. Work can resume provided that dust suppression measures and other controls are successful in reducing the downwind PM-10 particulate concentration to within $150 \text{ mcg}/\text{m}^3$ of the upwind level and in preventing visible dust migration.

- Control of surface erosion and run-off of the entire property at all times, including during construction activities. This includes proper maintenance of the vegetative cover established on the property. Maintenance of the surface drainage system located at the north eastern corner of the site at Oliver Street and East Avenue will be required.
- Site soil that is excavated and is intended to be removed from the property must be managed, characterized, and properly disposed of in accordance with NYSDEC regulations and directives.
- Soil excavated at the site may be reused as backfill material on-site provided it contains no visual or olfactory evidence of contamination, and is placed beneath a cover system component of 12-inches of clean fill from an acceptable source area.

- Any off-site fill material brought to the site for filling and grading purposes shall be from an acceptable borrow source free of industrial and/or other potential sources of chemical or petroleum contamination.
- Prior to any construction activities, workers are to be notified of the site conditions with clear instructions regarding how the work is to proceed. Invasive work performed at the property will be performed in accordance with all applicable local, state, and federal regulations to protect worker health and safety.
- The Owner shall complete and submit to the Department an annual report by January 15th of each year. As presented in Section 1.3 – Periodic Certification of Site Controls, such an annual report will contain certification that the institutional controls put in place, pursuant to Operation, Monitoring, and Maintenance Plan (OM&M), are still in place, have not been altered and are still effective; that the remedy and protective cover have been maintained; and that the conditions at the site are fully protective of public health and the environment. Inspection will be documented and a letter will be submitted to the NYSDEC. A sample certification letter has been included in Figure 1-2.

Section 2.4.1 - Excavated and Stockpiled Soil/Fill Disposal

Every effort will be made to keep excavated soils on site. Soil/fill that is excavated as part of redevelopment that can not be used as fill below the cover system will be characterized prior to transportation off-site for disposal at a permitted facility. For excavated soil/fill with visual evidence of contamination (i.e., staining or elevated PID measurements), one composite sample and a duplicate sample will be collected for each 100 cubic yards of stockpiled soil/fill. For excavated soil/fill that does not exhibit visual evidence of contamination but must be sent for off-site disposal, one composite sample and a duplicate sample will be collected for 2000 cubic yards of stockpiled soil, and a minimum of 1 sample will be collected for volumes less than 2000 cubic yards.

The composite sample will be collected from five locations within each stockpile. A duplicate composite sample will also be collected. PID measurements will be recorded for each of the five individual locations. One grab sample will be collected from the individual location with the highest PID measurement. If none of the five individual sample locations exhibit PID readings, one location will be selected at random. The composite sample will be analyzed by a NYSDOH

ELAP-certified laboratory for pH (EPA Method 9045C), Target Compound List (TCL), semi volatile organic compounds (SVOCs), pesticides, and PCBs, and TAL metals. The grab sample will be analyzed for TCL VOCs.

Additional characterization sampling for off-site disposal may be required by the disposal facility. To potentially reduce off-site disposal requirements/costs, the owner or site developer may also choose to characterize each stockpile individually. If the analytical results indicate that concentrations exceed the standards for RCRA characteristics, the material will be considered a hazardous waste and must be properly disposed off-site at a permitted disposal facility within 90 days of excavation. If the analytical results indicate that the soil is not a hazardous waste, the material will be properly disposed off-site at a non-hazardous waste facility. Stockpiled soil cannot be transported on or off-site until the analytical results are received.

Section 2.4.2 - Subgrade Materials

Subgrade material used to backfill excavations or placed to increase site grades or elevation shall meet the following criteria.

- Subgrade material stockpiled on the surface for re-use must be placed on a liner material or other suitable surface to avoid the commingling of this material with clean topsoil or other surface materials. Stockpiled subgrade material should also be managed to prevent erosion and runoff of precipitation waters which may contact this material.
- Excavated on-site soil/fill which appears to be visually impacted shall be sampled and analyzed. If analytical results indicate that the contaminants, if any, are present at concentrations below the Soil Cleanup Objectives and Cleanup Levels (SCOCLs) as presented in Tables 2-1, 2-2, and 2-3, the soil/fill can be used as backfill on-site.
- Any off-site fill material brought to the site for filling and grading purposes shall be from an acceptable borrow source free of industrial and/or other potential sources of chemical or petroleum contamination.
- Off-site soils intended for use as site backfill cannot otherwise be defined as a solid waste in accordance with 6 NYCRR Part 360-1.2(a).

- If the contractor designates a source as "virgin" soil, it shall be further documented in writing to be native soil material from areas not having supported any known prior industrial or commercial development or agricultural use.
- Virgin soils should be subject to collection of one representative composite sample per source. The sample should be analyzed for TCL VOCs, SVOCs, pesticides, PCBs, arsenic, barium, cadmium, chromium, lead, mercury, selenium, and silver. The soil will be acceptable for use as backfill provided that all parameters meet the SCOCLs.
- Non-virgin soils will be tested via collection of one composite sample per 500 cubic yards of material from each source area. If more than 1,000 cubic yards of soil are borrowed from a given off-site non-virgin soil source area and both samples of the first 1,000 cubic yards meet SCOCLs, the sample collection frequency will be reduced to one composite for every 2,500 cubic yards of additional soils from the same source, up to 5,000 cubic yards. For borrow sources greater than 5,000 cubic yards, sampling frequency may be reduced to one sample per 5,000 cubic yards, provided all earlier samples met the SCOCLs.

Table 2-1
SEMI-VOLATILE ORGANIC COMPOUNDS

Compound	Soil Standard (mg/kg)
Naphthalene	500
Acenaphthylene	500
Acenaphthene	500
Fluorene	500
Phenanthrene	500
Anthracene	500
Fluoranthene	500
Pyrene	500
Benzo (a) anthracene	5.6
Chrysene	56
Benzo (b) fluoranthene	5.6
Benzo (k) fluoranthene	5.6
Benzo (a) pyrene	1
Indeno (1,2,3-c,d) pyrene	5.6
Dibenzo (a,h) anthracene	0.56
Benzo (g,h,i) perylene	500

Note: Standards based on Restricted Use Soil Cleanup Objectives for Commercial Use (NYSDEC, effective December 14, 2006)

Table 2-2
PCBs

Compound	Soil Standard (ug/kg)
Aroclor 1016	1,000
Aroclor 1221	1,000
Aroclor 1232	1,000
Aroclor 1242	1,000
Aroclor 1248	1,000
Aroclor 1254	1,000
Aroclor 1260	1,000

Note: Standards based on Determination of Soil Cleanup Objectives and Cleanup Levels (NYSDEC, January 1994)

Table 2-3
METALS

Compound	Soil Standard (mg/kg)
Aluminum	SB
Antimony	SB
Arsenic	16
Barium	400
Beryllium	590
Cadmium	9.3
Calcium	SB
Chromium	400
Cobalt	SB
Copper	270
Iron	SB
Lead	SB*
Magnesium	SB
Manganese	10,000
Mercury	2.8
Nickel	310
Potassium	SB
Selenium	1500
Silver	1500
Sodium	SB
Thallium	SB
Vanadium	SB
Zinc	10,000

*Note: Standards based on Determination of Soil Cleanup
(NYSDEC, effective December 14, 2006)*

**Background levels for lead vary widely*

SB = Site Background

SECTION 3 - MONITORING PLAN

Section 3.0 - Introduction

The Monitoring Plan will include the necessary actions required to ready and maintain the site and for monitoring once remedial construction is complete. The Monitoring Plan will be implemented once both remediation phases identified as Phases I and II are complete. This Monitoring Plan will include a description of a long term environmental monitoring program, very specific information on all of the equipment and materials used in any monitoring systems, contingencies for emergencies, and reporting requirements.

Section 3.1 - Monitoring Requirements

Annual monitoring will be performed on groundwater samples for a minimum period of 30 years or at reduced frequency and period as approved by NYSDEC. Groundwater monitoring will initially be conducted after the remediation has been completed and thereafter on an annual basis. Methods used will be consistent with NYSDEC requirements. The extent and frequency of the sampling and analysis will be evaluated with the NYSDEC after the first year and then every five years to determine if sampling points or analytes can be dropped from the monitoring program. The NYSDEC will be notified in advance of each sampling event and summary reports of the data will be submitted to NYSDEC for review. Annual summary reports will be submitted to the NYSDEC.

Section 3.2 - Groundwater Monitoring

The groundwater monitoring system will be maintained and sampled during the post-remediation period as described above. The extent and frequency of the sampling and analysis will be evaluated by NYSDEC periodically on an annual basis to determine if the sampling points or analytes should be changed. The NYSDEC will detail changes as appropriate after reviewing the annual summary reports. Groundwater levels will be measured at all monitoring wells at the site. The following are the proposed monitoring locations from which groundwater samples will be taken, unless otherwise revised by the NYSDEC based on the analytical results: groundwater monitoring wells are designated GW-3S, GW-3, GW-11S, GW-12S, and GW-18S.

The specific sampling protocol to be used, including sample preservation techniques, QA/QC objectives, a description of chain-of-custody documentation, and analytical parameters are included in the Field Sampling Plan as presented in Appendix B. Groundwater sampling field log is presented in Figure 3-1. The locations of the monitoring wells are presented in Figure 3-2.

Section 3.3 - Groundwater Contamination Contingency Plan

The remediation of the site should significantly reduce the possible contamination of the surface and groundwater in the immediate area. Continued monitoring of wells will facilitate determining whether any contaminants are migrating off site.

Annual VOCs monitoring will be continued on groundwater for a minimum of five years following site remediation. Yearly summary reports will be submitted to NYSDEC. Requirements for further analysis and reports to NYSDEC will be determined by the Department at the end of each five-year period. Requirements may be reduced or revised. If this sampling program determines that significant off-site migration of surface or groundwater contamination is occurring, then the potential threat to human health or the environment will be reassessed. Factors contributing to this reassessment include, but are not limited to:

1. Proximity of downgradient groundwater users.
2. Distance to environmentally sensitive surface waters or wetlands.
3. Evidence of environmental damage, including stressed vegetation, abnormal algal growth, and abnormally high number of fish deaths.
4. Deterioration of surface or groundwater quality.

If a potential threat is identified, then the following contingency plans can be implemented. According to the City of North Tonawanda, all downgradient water users are connected to the City water system. Subsequently, groundwater contamination issues associated with downgradient groundwater users are not a concern. However, if nearby groundwater monitoring wells are suspected to have been impacted, samples should be taken from the wells and analyzed for the same baseline parameters as the site monitoring wells. The recommended sampling and analytical methods will be followed. A written report should be submitted to the NYSDEC outlining the date, time, area sampled, type of sample, methods of sampling and analysis, the person who originated the concern for contamination, and any actions to be taken. If standards

are not exceeded, the analysis should be repeated on a periodic basis. If contaminant levels exceed the standards, the following procedures should be followed:

1. Verify the results in question by additional sampling and analysis within eight weeks of the receipt of the original data and prepare a Field Investigation Program (FIP). Submit all information to NYSDEC.
2. If the above items indicate the need for further investigation (i.e., Part 703 groundwater standards are exceeded, or elevations of parameters significantly above ambient groundwater quality, whichever is higher), then additional remedial action should commence.

FIGURE 3-1
STEARNS & WHEELER, LLC
GROUNDWATER FIELD SAMPLING RECORD

SITE _____ DATE _____

Samplers: _____ SAMPLE ID _____

Depth of well (from top of casing)..... _____

Initial static water level (from top of casing).... _____

Evacuation Method:

Well Volume Calculation

Submersible _____ Centrifugal _____

2in. casing: _____ ft. of water x .16 = _____ gallons

Airlift _____ Pos. Displ. _____

3in. casing: _____ ft. of water x .36 = _____ gallons

Bailer _____ >>> No. of bails _____

4in. casing: _____ ft. of water x .65 = _____ gallons

Volume of water removed _____ gals.

> 3 volumes: yes no

dry: yes no

Field Tests: Sample Temp: _____ C / F
 pH _____
 Eh _____
 Turbidity _____ NTU

Alkalinity (filtered) _____ ml _____ N acid
Alkalinity (unfiltered) _____ ml _____ N acid
Spec. Conductivity _____ umhos/cm

Sampling: _____ Time: _____

Sampling Method: Stainless Steel Bailer _____
 Teflon Bailer _____
 Pos. Disp. Pump _____
 Other _____

Analyses:
Baseline _____
Routine _____
Other: _____

Observations: _____

Weather/Temperature: _____

Physical Appearance and Odor of Sample: _____

Comments: _____

RAILROAD BEDS

GW-9

GW-8S
GW-8

GW-7S

GW-13

GW-6

ARMSTRONG
PUMPS
BLDG.

GW-3
GW-5S

GW-16

EAST AVENUE

GW-1

WIRE
MILL
BLDG.

GW-17S

GW-2 GW-2S

GW-14

ROLLING
MILL
BLDG.

GW-11S

10TH AVENUE

GW-3S
GW-3

GW-18S

GW-12S

OLIVER STREET

9TH AVENUE

GW-10

GW-4S GW-4

GW-5S

8TH AVENUE



LEGEND

GW-12S
⊕ MONITORING WELL



 **Stearns & Wheeler, LLC**
ENVIRONMENTAL ENGINEERS & SCIENTISTS
CAZENOVIA, NEW YORK

DATE: 12/05 JOB No.:20143

CITY OF NORTH TONAWANDA
ROBLIN STEEL SITE

FIGURE 3-2
MONITORING WELL LOCATIONS

SECTION 4 - OPERATIONS AND MAINTENANCE PLAN

Section 4.0 - Introduction

The Operations and Maintenance (O&M) Plan will include the necessary actions required to ready and maintain the site for maintenance once remedial construction is complete. The O&M Plan will be implemented once both remediation phases identified as Phases I and II are complete. This O&M Plan will include a description of all manuals from the equipment manufacturers, maintenance requirements, contingencies for emergencies, and reporting requirements.

Section 4.1 - Maintenance Requirements

Once the site has been remediated the City of North Tonawanda will be responsible for proper maintenance. The brownfield site will then be industrial zoned space readied for industrial development. Maintenance of the site is projected to continue for 30 years, but in time may be reduced with NYSDEC approval. Routine maintenance and inspection checks will be conducted on an annual basis. The post-remediation field inspection report as presented on Figure 4-1 should be completed each time the site inspection is performed. A record of the inspection should be maintained by the City. Once the site is developed, the future property owners will be responsible to maintain these requirements. An annual report will be filed with the NYSDEC that includes groundwater analytical test results, groundwater field sampling logs, and maintenance field inspection logs.

Section 4.1.1 - Drainage

The drainage ditches will be checked for failure or obstructions. They will be maintained free of obstructions, damaged or failed sections will be repaired, and sediment build-up removed. Areas on site, which are consistently eroded by drainage will be repaired, and riprap or erosion control blankets will be placed on them.

Section 4.1.2 - Cover and Vegetation

Maintenance will include, but will not be limited to:

1. Mowing the vegetation as required to maintain a healthy cover crop. In general, it is anticipated that mowing will be performed once in early fall (September) in order to discourage the growth of woody plants, but at the same time encourage wild bird activity in the spring and summer months.
2. Re-vegetating areas as needed; clearing of trees and brush at the boundary to limit infringement.
3. Repairing eroded or settled areas by adding soil and topsoil and then reseeding.

Section 4.1.3 - Access Control

Access control is to be maintained such that unauthorized entrance to the facility is prevented. This control will include repair or replacement of fences, gates and locks as needed. Access roads will be maintained and eroded areas will be repaired. Public access to the site will be limited to the area designated for future recreational usage.

Section 4.2 - Contingency Plans

The following contingency plans have been developed to address the potential problems associated with fires, vectors, dust, odor, adverse weather, accidents, illegal dumping, and groundwater contamination. It is anticipated that the potential for these problems will be minimal and use of the site will be limited. The intent of the contingency plan is to prepare for the worst-case scenario. A copy of this operations manual will be filed with the City Engineer such that it will be accessible to maintenance personnel.

Section 4.2.1 - Fire Contingency Plan

In the case of a fire, the City of North Tonawanda Fire Department should be contacted immediately. Table 4-1 lists the appropriate telephone number. The fire department has appropriate equipment and personnel to properly handle anticipated emergencies at the site. If

necessary, local municipality-owned equipment, such as backhoes and bulldozers, could be used in emergencies.

Fire equipment would enter the site by the main access/entrance road. All unauthorized persons will be kept clear of the fire area. The Twin City Ambulance first aid squad and DeGraff Memorial Hospital could be utilized if medical assistance were needed. Details of the fire should be maintained with the City of North Tonawanda, including the source of the fire and any accident report forms. Photographs may be obtained, if practical.

Table 4-1
EMERGENCY TELEPHONE NUMBERS

CONTACT	TELEPHONE #
Mayor's Office	(716) 695-8540
City Engineer's Office	(716) 695-8565
NYSDEC Region 9 Office	(716) 851-7220
New York State Department of Health	(716) 847-4500
Fire, Police, Injury Emergency	911
City of North Tonawanda Fire Department Headquarters	(716) 693-2201
DeGraff Memorial Hospital	(716) 694-4500
Twin City Ambulance	(716) 692-2100
City Police Department Headquarters	(716) 692-2121
State Police Department	(716) 941-9300

Section 4.2.2 - Dust Control Contingency Plan

The remediation of the site will include providing vegetation on the disturbed areas. After the vegetation has been established, problems of blowing dust should essentially be eliminated. During the initial growth of the vegetative cover or during excessively dry periods, there may be potential for dust problems to develop during high winds. If this should become a problem, which causes complaints or presents potential for erosion of the cover material, the area of concern will be wetted down as needed, with further placement of topsoil, and then seeded.

Section 4.3 - Severe Weather Conditions

The remediation of the site has been designed for adequate drainage and control of normal rain conditions. During severe weather conditions (intense rainstorm, hail, high winds, etc.), erosion

may cause deteriorate in localized areas. After the occurrence of a severe storm, an inspection of the site should be conducted to check for erosion. In the event that areas of excessive erosion are found, actions should be taken to repair and return the damaged portion to its proper state.

Section 4.4 - Accident Procedures

The remediation of the site should control access by unauthorized individuals. If an accident does occur, the following procedure should be followed:

1. Injury When Victim is Not Incapacitated. Authorized personnel who receive injuries that do not incapacitate them, such as minor burns, punctures and sprains, should be given first aid at the site when necessary. The victim should then be taken to the hospital emergency room for examination and treatment. The telephone number of DeGraff Memorial Hospital is included in Table 4-1. Unauthorized persons who receive injuries that are not incapacitating should not be given first aid at the site unless absolutely necessary for the well being of the victim. If possible, obtain all personal information about the victim for purposes of completing accident report forms. Instruct the individual to go to his or her doctor for examination and treatment and inform the police of the accident.
2. Serious Injury. First aid should be rendered only by individuals who have had first aid training, and they should give only that first aid which is necessary to prevent further harm to the accident victim. Seriously injured victims should not be moved unless they are endangered by their location.

Be certain to notify the police and to obtain personal information about the accident victims in order to complete accident reports.

3. Procedures After An Accident. Proper authorities should perform a complete investigation of the accident, including occurrences, which may have led up to the accident. The investigation should take place as soon as possible. All witnesses to the accident and persons involved in the accident should be interviewed.

After the facts about the accident have been compiled, a determination of probable cause(s) of the accident should be made and a report should be filed with the City of North Tonawanda and, if appropriate, with their insurance carrier.

After a thorough investigation and determination of the causes, corrective steps should be taken so that the same type of accident will not reoccur. Corrective steps may include, but are not limited to, instruction of authorized personnel to be certain that proper safety precautions are being taken, and the elimination or repair of unsafe conditions.

Section 4.5 - Illegal Dumping

There is potential for illegal dumping of wastes at the site, which may or may not be hazardous wastes. In the case that illegal dumping is observed to be taking place or has already taken place, the following procedures should be observed:

1. Whoever observes such dumping shall report the incident to the NYSDEC and the City of North Tonawanda. The observer should take all possible care to:
 - a. Avoid exposure to the material dumped.
 - b. Observe the following: where the material was dumped; by whom (make note of vehicle and individuals' identifying characteristics); how much was dumped; whether containers were dumped and whether they appear sound or leaking; what the material looked like; and whether any smells were noticed. Such observations should only be made with extreme caution and with the utmost regard for safety.
 - c. The observer should not try to detain the vehicle alone, but should immediately inform the Region 9 NYSDEC and, if possible, ask the driver of the vehicle to remain at the dumping point to ensure adequate vehicle identification. If the driver attempts to leave the dumping point, the observer should make note of any identifying information.
2. The representative for the City of North Tonawanda should:
 - a. Record all pertinent facts regarding the vehicle, including, but not limited to: name of hauler, license plate number, origin of the load (if known), any visible

evidence of the identity of the waste substance, quantity and state of substance (solid or liquid), and whether it is contained or loose.

- b. Maintain careful records of personal service and other costs incurred as a result of the dumping incident, including, but not limited to, security costs in isolating the area, costs of removal (by contract or otherwise) of the suspect material, costs of intermediate or ultimate treatment and/or disposal, and any other pertinent costs.
- c. Notify NYSDEC Regional Solid Waste Engineer.
- d. Notify the Mayor of the City of North Tonawanda.
- e. Where radioactive or hazardous waste is suspected, notify the New York State Department of Health.
- f. Have experienced professionals determine whether or not material is hazardous. If it is not hazardous, have the material removed to a permitted waste disposal facility. If material is positively identified as hazardous, arrange for disposition according to NYSDEC procedures and in strict conformance with the requirements of 6 NYCRR Part 370-375 Series. If known, the responsible party for dumping the waste should be notified and made responsible for cleanup.

Figure 4-1

**ROBLIN STEEL SITE
CITY OF NORTH TONAWANDA, NY
INSPECTION LOG SHEET**

Inspector (Print): _____

Inspector (Signature): _____

Date of Inspection: _____

1. Fencing, Gates, and Access

Fence Intact	_____
Gates Working	_____
Locks Operable	_____
Access Road Condition	_____

2. Waterways and Ditches

Signs of Erosion	_____
Blockage of Drainage Pathway	_____
Culverts Clear of Obstructions	_____
Ponded Water Areas	_____

3. Monitoring Wells - Well Casing, Cap, and Locks in Place and in Good Condition

4. Evidence of Vandalism/Site Usage by Others

Review by City Engineer: _____
Signature Date

Comments/Action Required:

APPENDICES



Stearns & Wheler, LLC
Environmental Engineers and Scientists

APPENDIX A

Site Environmental Easement

THIS INDENTURE made this ____ day of _____, 2005, between The City of North Tonawanda, having offices at City Hall, 216 Payne Avenue, North Tonawanda, NY 14120, (the "Grantor"), and The People of the State of New York (the "Grantee."), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner", or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233,

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties ("brownfield sites") that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment; and

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of environmental easements as an enforceable means of ensuring the performance of maintenance, monitoring or operation requirements and of ensuring the potential restriction of future uses of the land, when an environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to be effective, or which requires groundwater use restrictions; and

WHEREAS, the Legislature of the State of New York has declared that environmental easement shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law ("ECL") which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a brownfield site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and;

WHEREAS, Grantor, is the owner of real property located in the City of North Tonawanda, Niagara County, New York known and designated on the tax map of the _____ of _____ as _____, being the same as that Property conveyed to Grantor by deed on _____, and recorded in the Land Records of the Niagara County Clerk at _____ *(insert Liber and page or computerized system tracking/ identification number)*, comprised of approximately _____ acres, and hereinafter more fully described in Schedule A attached hereto and made a part hereof (the " Controlled Property"; and;

Attach an adequate legal description of the property subject to the easement, or reference a recorded map. If the easement is on only a part of a parcel of land which is not subdivided into encumbered and unencumbered portions, a legal description needs to be created by a survey bearing the seal and signature of a licensed land surveyor with reference to a metes and bounds description.

WHEREAS, the Commissioner does hereby acknowledge that the Department accepts this Environmental Easement in order to ensure the protection of human health and the environment

and to achieve the requirements for remediation established at this Controlled Property until such time as this Environmental Easement is extinguished pursuant to ECL Article 71, Title 36; and

NOW THEREFORE, in consideration of the covenants and mutual promises contained herein and the terms and conditions of State Assistance Contract Number C302568, Grantor grants, conveys and releases to Grantee a permanent Environmental Easement pursuant to Article 71, Title 36 of the ECL in, on, over, under, and upon the Controlled Property as more fully described herein ("Environmental Easement").

1. Purposes. The Parties acknowledge that the Purposes of this Environmental Easement are: to convey to Grantee real property rights and interests that will run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of this Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of maintenance, monitoring or operation requirements; and to ensure the potential restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional and Engineering Controls. The following controls apply to the use of the Controlled Property, run with the land are binding on the Grantor and the Grantor's successors and assigns, and are enforceable in law or equity against any owner of the Controlled Property, any lessees, and any person using the Controlled Property:

A. The Controlled Property may be used for commercial/industrial purposes (excluding uses for day care, child care, and medical care, unless such a use is approved in writing by the DEC and NYSDOH) as long as the following long-term engineering controls are employed:

- (I) Soils and fill materials encountered during any construction or development activity below the crushed concrete cover layer must be handled in accordance with provisions of the Roblin Steel site Soils Management Plan, which is contained in the approved Roblin Steel Site Management Plan, dated _____, Prior notification and prior approval of NYSDEC is required in accordance with the Site Management Plan for this Controlled Property. Excavated soil must be managed, characterized, and properly disposed of in accordance with NYSDEC regulations and directives.
- (ii) Should subsequent construction or development activities require the decommissioning (removal) of existing groundwater monitoring wells, the wells will be decommissioned in accordance with DEC guidance. Replacement monitoring wells may be required by the DEC. A written work plan for well decommissioning and replacement (if required) must be submitted to and approved by the DEC for any proposed well decommissioning.
- (iii) A long term ground water monitoring program is required per the approved Roblin Steel Operation, Maintenance, and Monitoring Plan, which is contained in the approved Roblin Steel Site Management Plan, dated _____ (also

found as Appendix D of the approved June 2003 Roblin Steel Remedial Design Site Work Plan). The City of North Tonawanda is required to conduct the periodic sampling, analysis, and reporting for the groundwater monitoring program.

- (iv) Future uses of site groundwater are prohibited unless authorized in writing by the DEC and NYSDOH.

B. The Controlled Property may not be used for a higher level of use such as residential use and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of Article 71, Title 36 of the ECL, the property deed and all subsequent instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

This property is subject to an environmental easement held by the New York State Department of Environmental Conservation pursuant of Title 36 to Article 71 of the Environmental Conservation Law.

D. Grantor covenants and agrees that this Environmental Easement shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

E. Grantor covenants and agrees that it shall annually submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury that the controls employed at the Controlled Property are unchanged from the previous certification or that any changes to the controls employed at the Controlled Property were approved by the NYSDEC, and that nothing has occurred that would impair the ability of such control to protect the public health and environment or constitute a violation or failure to comply with any Site Management Plan for such controls and giving access to such Controlled Property to evaluate continued maintenance of such controls.

3. Right to Enter and Inspect. Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor's Rights. Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Property, all rights as fee owner of the Controlled Property, including:

1. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement;

2. The right to give, sell, assign, or otherwise transfer the underlying fee interest to the Controlled Property by operation of law, by deed, or by indenture, subject and subordinate to this Environmental Easement;

5. Enforcement.

A. This environmental easement is enforceable in law or equity in perpetuity by Grantor, Grantee, or any affected local government, as defined in ECL Section 71-3603, against the owner of the Property, any lessees, and any person using the land. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel, or waiver. It is not a defense in any action to enforce this environmental easement that: it is not appurtenant to an interest in real property; it is not of a character that has been recognized traditionally at common law; it imposes a negative burden; it imposes affirmative obligations upon the owner of any interest in the burdened property; the benefit does not touch or concern real property; there is no privity of estate or of contract; or it imposes an unreasonable restraint on alienation.

B. If any person intentionally violates this environmental easement, the Grantee may revoke the Certificate of Completion provided under ECL Article 27, Title 14, or the Satisfactory Completion of Project provided under ECL Article 56, Title 5 with respect to the Controlled Property.

C. Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall set forth how Grantor can cure such breach or suspected breach and give Grantor a reasonable amount of time from the date of receipt of notice in which to cure. At the expiration of such period of time to cure, or any extensions granted by Grantee, the Grantee shall notify Grantor of any failure to adequately cure the breach or suspected breach. Grantor shall then have a reasonable amount of time from receipt of such notice to cure. At the expiration of said second period, Grantee may commence any proceedings and take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement in accordance with applicable law to require compliance with the terms of this Environmental Easement.

D. The failure of Grantee to enforce any of the terms contained herein shall not be deemed a waiver of any such term nor bar its enforcement rights in the event of a subsequent breach of or noncompliance with any of the terms of this Environmental easement.

6. Notice. Whenever notice to the State (other than the annual certification) or approval from the State is required, the Party providing such notice or seeking such approval shall address its correspondence to:

Division of Environmental Enforcement
Office of General Counsel
New York State Department of Environmental Conservation
625 Broadway
Albany New York 12233-5500

Such correspondence shall be delivered by hand, or by registered mail or by Certified mail and return receipt requested. The Parties may provide for other means of receiving and communicating notices and responses to requests for approval.

7. Recordation. Grantor shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.
8. Amendment. This environmental easement may be amended only by an amendment executed by the Commissioner of the New York State Department of Environmental Conservation and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.
9. Extinguishment. This environmental easement may be extinguished only by a release by the Commissioner of the New York State Department of Environmental Conservation and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.
10. Joint Obligation. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.
11. Costs and Liabilities. Grantor shall retain all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of adequate liability insurance coverage.
12. Taxes. Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority.
13. Successors. The term "Grantor", wherever used herein, shall include the persons and/or entities named at the beginning of this document, identified as "Grantor" and their personal representatives, heirs, successors, and assigns.
14. Compliance with Law. This Environmental easement shall not remove the necessity of Grantor to obtain any permit and/or approval from any governmental agency having jurisdiction over any activity conducted or to be conducted on the Controlled Property.

IN WITNESS WHEREOF, Grantor has caused this instrument to be signed in its name.

Grantor's Name

By: _____

Title: _____

Date: _____

**THIS ENVIRONMENTAL EASEMENT IS HEREBY
ACCEPTED BY THE PEOPLE OF THE STATE OF NEW
YORK, Acting By and Through the Department of
Environmental Conservation**

By: _____
Denise M. Sheehan, Acting Commissioner

Grantor's Acknowledgment

STATE OF NEW YORK)
) ss:

COUNTY OF)

On the _____ day of _____, in the year 200_, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public - State of New York

Grantee's Acknowledgment

STATE OF NEW YORK)
) ss:

COUNTY OF)

On the _____ day of _____, in the year 200_, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/ executed the same in his/her/ capacity as Commissioner of the State of New York Department of Environmental Conservation, and that by his/her/ signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public - State of New York

American Land Title Association

Commitment

ALTA Standard Form (1966)

 TICOR TITLE INSURANCE COMPANY*Providing Title Related Services Since 1847***COMMITMENT FOR TITLE INSURANCE**

TICOR TITLE INSURANCE COMPANY, a corporation of California, herein called the Company, for a valuable consideration, hereby commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest covered hereby in the land described or referred to in Schedule A, upon payment of the premiums and charges therefore; all subject to the provisions of Schedules A and B and to the Conditions and Stipulations which are hereby incorporated by reference and are made a part of the Commitment.

This Commitment shall be effective only when the identity of the proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A hereof by the Company, either at the time of the issuance of this Commitment or by subsequent endorsement.

This Commitment is preliminary to the issuance of such policy or policies of title insurance and all liability and obligations hereunder shall cease and terminate six (6) months after the effective date hereof or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue such policy or policies is not the fault of the Company.

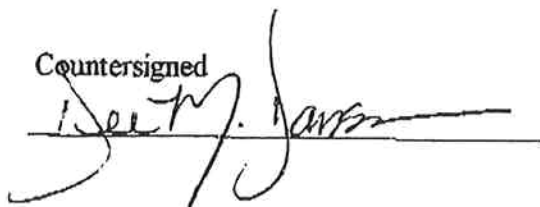
IN WITNESS WHEREOF, Ticor Title Insurance Company has caused this Commitment to be signed and sealed as of the effective date of Commitment shown in Schedule A, the Commitment to become valid when countersigned by an authorized signatory.

Issued By: RAPID TITLE SERVICES
2785 WEHRLE DRIVE
WILLIAMSVILLE, NY 14221
Tel (716) 681-4855 Fax (716) 635-4793

Ticor Title Insurance Company



Countersigned

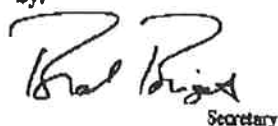
A handwritten signature in dark ink, appearing to be "Dee M. Jansen", written over a horizontal line.

By:

A handwritten signature in dark ink, appearing to be "Robert A. St. E.", written over a horizontal line.

President

By:

A handwritten signature in dark ink, appearing to be "Paul Briggs", written over a horizontal line.

Secretary

No: 26135

Issued By:

TICOR TITLE INSURANCE COMPANY**Schedule A****COMMITMENT FOR TITLE INSURANCE**No: **26135**

Effective Date: 02/01/2006

1. Policy or Policies to be issued:

OWNER'S POLICY ALTA OWNERS (10-17-92) \$35,000.00

Proposed Insured:

CITY OF NORTH TONAWANDA**LOAN POLICY ALTA LOAN (10-17-92)**

Proposed Insured:

2. The estate or interest in the land described or referred to herein and which is covered by this Commitment is:

FEE SIMPLE

and at the Effective Date of this Commitment is vested in:

Leslie J. Stolzenfels by Treasurer's Deed to The City of North Tonawanda dated December 16, 1997, recorded December 18, 1997 in Liber 2793 of Deeds at page 230 in the Niagara County Clerk's Office.

3. The land referred to in this Commitment is known as:

Address: 101 EAST AVENUE
City/Town: NORTH TONAWANDA
County: Niagara
State: NEW YORK
Lot No: 74 & 7
Subdivision:

Insured Owners/Borrowers: **CITY OF NORTH TONAWANDA**

Issued By:

TICOR TITLE INSURANCE COMPANY

Schedule A

COMMITMENT FOR TITLE INSURANCE

No: 26135

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of North Tonawanda, County of Niagara and State of New York, being part of Lots Nos. 74 and 75 of the Mile Reserve along the Niagara River, bounded and described as follows:

BEGINNING at the point of intersection of the north line of Tenth Avenue with the west line of Oliver Street, as a street 76 feet wide; running thence north along said line of Oliver Street 630 feet to the north line of Lot No. 6 in Block 25 as shown on map made for the North Tonawanda Land Company by Barrally and Snow and filed in the Niagara County Clerk's Office December 31, 1894; thence westerly along the north line of said Lot No. 6 and along a continuation westerly thereof 111 feet to the easterly line of the land conveyed by John J. Albright and Susan Fuller Albright, his wife to Buffalo Bolt Company by deed recorded in said Clerk's Office in Liber 250 of Deeds at page 452; thence northerly along the easterly line of the land so conveyed to Buffalo Bolt Company, as aforesaid, 32.75 feet; thence westerly and parallel with East Avenue 62 feet; thence northerly on a line parallel with Oliver Street 117.25 feet; thence continuing northerly on a line parallel with said west line of Oliver Street 14 feet; thence westerly on a line parallel with the north line of Tenth Avenue 488 feet; thence northerly parallel with said west line of Oliver Street 211 feet to a point at the perpendicular distance of 30 feet southerly from the southerly bounds of lands deeded by Martin Riesterer to Granger A. Hollister and George C. Hollister by deed recorded in said Clerk's Office in Liber 192 of Deeds at page 556; thence southwesterly parallel with said southerly bounds of said lands so deeded to Hollister Brothers, as aforesaid to the point of intersection with an arc having a radius of 200 feet and an arc length of 55.09 feet; running northeasterly from the northeast corner of lands conveyed by the City of North Tonawanda to Buffalo Bolt Company by deed recorded in said Clerk's Office in Liber 467 of Deeds at page 470; 355.5 feet record, 363.36 feet measured; thence along said arc southwesterly and southerly to a

point in the southerly line of East Avenue (since abandoned), said point being the northeasterly corner of lands so conveyed by the City of North Tonawanda to Buffalo Bolt Company, thence westerly along the northerly line of the land so conveyed by the City of North Tonawanda to Buffalo Bolt Company, as aforesaid, 3.80 feet to the northeasterly line of land conveyed by Buffalo Bolt Company to Erie Railroad Company by deed recorded in said Clerk's Office in Liber 988 of Deeds at page 410; thence southerly making an interior angle of $127^{\circ} 12' 3''$ with the preceding course, 27.82 feet; thence southeasterly along a curve to the left having a radius of 573.686 an arc distance of 140.96 feet to a point in the northeasterly right of way line of Erie Railroad Company; thence southerly along said right of way line 12.70 feet to the northeasterly corner of the land conveyed by Erie Railroad Company to Buffalo Bolt Company by deed recorded in said Clerk's Office in Liber 988 of Deeds at page 410; thence westerly along the northerly line of said land so conveyed by Erie Railroad Company to Buffalo Bolt Company, as aforesaid, 1 foot; thence southerly along the westerly line of the land so conveyed by Erie Railroad Company to Buffalo Bolt Company, as aforesaid, 1182.42 feet to its intersection with the northwesterly bounds of lands conveyed by Buffalo-Eclipse Corporation to J.C. Bevier, Inc. by deed recorded in said Clerk's Office in Liber 1255 of Deeds at page 337, being a point in said westerly line of the land so conveyed by Erie Railroad Company to Buffalo Bolt Company 222.68 feet northerly of a prolongation westerly of a line drawn parallel with and distant 3 feet southerly from the north line of Lot No. 17 in Block No. 14 as shown on a map of Ironton Addition made for George P. Smith and one by O. C. Gillett, C. E. and filed in said clerk's Office on April 27, 1891, thence following the northwesterly, northerly and northeasterly bounds of said premises so conveyed to J. C. Bevier, Inc. the following courses and distances; (1) northeasterly along a curved line having a radius of 290.33 feet an arc distance of 311.50 feet; (2) easterly along a line which is 1 foot north of the north face of a building erected at the

intersection of the south line of Ninth Avenue and the east line of Ironton Street (as said avenue and street are shown on the aforesaid map of Ironton Addition) 258.99 feet to a point 1 foot east of the east face of the said building; (3) southerly along a line which is 1 foot east of the east face of the said building 26.55 feet; (4) easterly parallel with the south line of aforesaid Ninth Avenue 10 feet; and (5) southerly along a line which is 11 feet east of the east face of the said building; 75 feet to the northerly line of an alley shown on said map of Ironton Addition as running in an easterly and westerly direction through Block 16 shown thereon and lying equidistant from Ninth and Eight Avenue; thence easterly along the northerly line of said alley 451.61 feet to the southeasterly corner of Lot No. 3, Block 16, as shown on said map of Ironton Addition; thence northerly along the easterly line of said Lot No. 3, Block 16, and a continuation thereof northerly in a straight line crossing Ninth Avenue 166.04 feet to the southwesterly corner of Lot No. 51, Block 17, as shown on said map of Ironton Addition; thence easterly along the northerly line of Ninth Avenue 30 feet to the southeasterly corner of said Lot No. 51, Block 17; thence northerly along the easterly line of said Lot No. 51, Block 17, crossing an alley 16 feet wide, in a straight line to the southeasterly corner of Lot No. 2 in said Block 17, continuing along the easterly line of said Lot No. 2, Block 17, and continuing northerly in a straight line across Tenth Avenue 282 feet to the northerly line of Tenth Avenue; thence easterly along the northerly line of Tenth Avenue 139 feet more or less to the point or place of beginning.

EXCEPTING THEREFROM, ALL THAT TRACT OR PARCEL OF LAND, situate in the City of North Tonawanda, County of Niagara and State of New York, being part of Lot No. 74 and 75 of the Mile Reserve along the Niagara River, bounded and described as follows:

BEGINNING at a point in a line drawn parallel with the south line of East Avenue as originally laid out (50 feet wide) and 14.0 feet

northerly therefrom as measured at right angles thereto, said beginning point being 411.0 feet westerly of the intersection of said parallel line with a continuation northerly of the westerly line of Oliver Street as presently laid out (76 feet wide) as measured along said parallel line; thence the following courses and distances:

1. Southeasterly and on a line drawn at right angles to East Avenue, 28.49 feet;
2. thence southwesterly; southerly and southeasterly on a line curving to the left, having a radius of 189.0 feet, the chord of same deflecting $31^{\circ} 16' 00''$ to the right of a continuation southerly of the last described course; an arc length of 145.68 feet;
3. thence southeasterly on a line deflecting $31^{\circ} 01' 45''$ to the left of a continuation southwesterly of the last described chord, 32.20 feet;
4. thence southeasterly on a line deflecting $8^{\circ} 44' 15''$ to the right of a continuation southeasterly of the last described course 20.0 feet;
5. thence southeasterly on a line drawn at right angles to East Avenue and deflecting $8^{\circ} 58' 30''$ to the left of a continuation southwesterly of the last described course, 203.60 feet;
6. thence southwesterly on a line forming an interior angle of $89^{\circ} 56' 10''$ with the last described course, 375.70 feet;
7. thence northwesterly on a line drawn at right angles to a continuation southwesterly of said south line of East Avenue as originally laid out (50 feet wide) and forming an interior angle of $90^{\circ} 03' 50''$ with the last described course, 139.29 feet;
8. thence northwesterly on a line deflecting 45° to the left of a continuation northwesterly of the last described course; 48.08 feet;
9. thence southwesterly on a line drawn parallel with said continuation southwesterly of said south line of East Avenue as originally laid out (50 feet wide) and deflecting

45° to the left of a continuation northwesterly of the last described course, 80.50 feet;

10. thence northwesterly on a line forming an interior angle of 94° 16' 55" with the last described course, 84.97 feet;
11. thence northwesterly on a line forming an interior angle of 178° 16' 25" with the last described course, 118.0 feet;
12. thence northeasterly on a curve to the right having a radius of 173.0 feet, concentric with the northwesterly line of lands conveyed to Roblin Industries, Inc. by deed recorded in the Niagara County Clerk's Office in Liber 1528 of Deeds, at page 567, and 27 feet southeasterly therefrom, the chord of said curve deflecting 54° 30' to the right of a continuation northwesterly of the last described course, an arc length of 47.50 feet to the intersection of said curved line with a continuation southwesterly of said line drawn parallel with the south line of East Avenue as originally laid out (50 feet wide) and 14.0 feet northerly therefrom as measured at right angles thereto;
13. thence northeasterly and along said continuation southwesterly of the aforementioned line drawn parallel with the south line of East Avenue as originally laid out (50 feet wide) and 14 feet northerly therefrom as measured at right angles thereto, 291.53 feet;
14. thence continuing northeasterly and along said line drawn parallel with the south line of East Avenue as originally laid out (50 feet wide) and 14 feet northerly therefrom as measured at right angles thereto, 250 feet to the point or place of beginning.

ALSO EXCEPTING THEREFROM, all that tract or parcel of land, situate in the City of North Tonawanda, County of Niagara and State of New York, being part of Lot No. 74 of the Mile Reserve along the Niagara River, bounded and described as follows:

BEGINNING at a point in the north line of East Avenue as originally laid out (50 feet wide) 661.0 feet westerly of the west line of Oliver Street as presently laid out (76 feet wide) as measured along said north line of East Avenue; thence the following courses and distances:

1. Northwesterly parallel with the aforesaid westerly line of Oliver Street 175.0 feet to a point at the perpendicular distance of 30 feet southerly from the southerly bounds of lands deeded by Martin Riesterer to Granger A. Hollister and George C. Hollister by deed recorded in the Niagara County Clerk's Office in Liber 192 of Deeds at page 556;
2. thence southwesterly on a line forming an interior angle of $58^{\circ} 19' 20''$ with the last described course, and parallel with said southerly bounds of said lands so deeded to Hollister Brothers, as aforesaid, 334.51 feet to a continuation southwesterly of said north line of East Avenue;
3. thence easterly on a line forming an interior angle of $31^{\circ} 32' 40''$ with the last described course and along said continuation southwesterly of said north line of East Avenue, 284.67 feet to the point or place of beginning.

Issued By:

TICOR TITLE INSURANCE COMPANY

Schedule B, Section 1

COMMITMENT FOR TITLE INSURANCENo: **26135****REQUIREMENTS**

Matters to be disposed of at or prior to closing:

- 1 Any taxes due within 60 days of closing to be held in Escrow by Title Company and disbursed when due.
- 2 Registry of Inactive Hazardous Waste is supplied for Information purposes only and will be removed upon issuance of final policy.
- 3 Judgments and liens listed in Schedule B to paid off and satisfied.

Issued By:

TICOR TITLE INSURANCE COMPANY

Schedule B, Exceptions

COMMITMENT FOR TITLE INSURANCE

No: 26136

EXCEPTIONS

The Owner's Policy will be subject to the mortgage, if any, shown on Schedule B, Section 1 hereof. Schedule B of the Policy or Policies to be issued will contain exceptions to the following matters unless they are taken care of to our satisfaction:

- 1 Any lease grant, exception or reservation of minerals or mineral rights appearing in the public records. This Corporation insures that the use of the land for residential one-to-four family dwelling purposes, is not, and will not be affected or impaired by reason of any lease, grant, exception or reservation of minerals or mineral rights appearing in the public records and this policy insures against damage to existing improvements, including, lawns, shrubbery and trees, resulting from the future exercise of any right to use the surface of the land for the extraction or development of the mineral rights so leased, granted, excepted or reserved. Nothing herein shall insure against loss or damage resulting from subsidence.
- 2 Mortgages returned herein. (none)
- 3 Any state of facts which an accurate survey might show.
- 4 Rights of tenants or parties in possession.
- 5 Compliance with Federal Truth in Lending Act.
- 6 Any state of facts an inspection of the premises would disclose.
- 7 Unpaid water bills, if any. (NOTE: proof will be required).
- 8 FOR INFORMATION ONLY: The proposed purchasers/mortgagors have been run for judgments and all other liens of record and two returns were found.
- 9 Any lease grant, exception or reservation of minerals or mineral rights appearing in the public records. This Corporation insures that the use of the land for residential one-to-four family dwelling purposes, is not, and will not be affected or impaired by reason of any lease, grant, exception or reservation of minerals or mineral rights appearing in the public records and this policy insures against damage to existing improvements, including, lawns, shrubbery and trees, resulting from the future exercise of any right to use the surface of the land for the extraction or development of the mineral rights so leased, granted, excepted or reserved. Nothing herein shall insure against loss or damage resulting from subsidence.
- 10 This corporation requires proof of payment of all taxes, sewer and water charges, a lien to date of closing. Current searches, receipts and/or attorney's guarantee.
- 11 Returns if any, of the title search examination from February 01, 2006 @ 8:59 am to the time of closing.
- 12 New York State Department of Environmental Conservation Division of Hazardous Waste Remediation has listed this property in the "Registry of Inactive Hazardous Waste Disposal Sites" filed October 4, 2003 in the Niagara County Clerk's Office.
- 13 As of February 1, 2006 unpaid Town and County taxes are a superior lien. This corporation requires proof of said taxes either being paid or escrowed. If said taxes are unpaid and not escrowed this corporation will require them to either be paid out of closing disbursements or held in our escrow.
- 14 If this premises is exempt from property taxes proof of the same is required.
- 15 Judgment, Plaintiff: Helen Walczak, vs. Defendant: City of North Tonawanda, in the amount of \$76,383.70, plus related costs and interest, if any, dated December 19, 1997, and recorded in December 19, 1997 in Index No: 85026 of the Niagara Land Records.
- 16 Judgment, Plaintiff: Oxhow Power Company of North Tonawanda, vs. Defendant: The City of North Tonawanda, in the amount of \$48,902.26, plus related costs and interest, if any, dated September 6, 1996, and recorded September 6, 1996 in Index No: 89297, of the Niagara County Land Records.

RAPID TITLE SERVICES

2785 WEHRLE DRIVE

WILLIAMSVILLE, NY 14221

Phone: (716) 681-4855

Fax: (716) 635-4793

BANKRUPTCY REPORT

NAME(S): **City of North Tonawanda**

**Please be advised that the above named person(s) has been run for
Bankruptcy filings and the following has been found.**

☒ **NONE FOUND.**

☐ **SEE ATTACHED**

RAPID TITLE SERVICES

2785 WEHRLE DRIVE
WILLIAMSVILLE, NY 14221
Phone: (716) 681-4855
Fax: (716) 635-4793

PATRIOT SEARCH

Title No: 26135

Date 2/9/2006

☒ **No Entities/Individuals were found matching the name listed below.**

☐ **The following Entities/Individuals were found matching the name listed below.**

City of North Tonawanda

Match Details:

Conditions and Stipulations

1. The term "mortgage," when used herein, shall include charge, mortgage, deed of trust, trust deed, or other security instrument.
2. If the proposed Insured has or acquires actual knowledge of any defect, lien, encumbrance, adverse claim or other matter affecting the estate or interest or mortgage thereon covered by this Commitment other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to the Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act of reliance hereon to the extent the Company is prejudiced by failure to disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the Company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company at its option may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability previously incurred pursuant to paragraph 3 of these Conditions and Stipulations.
3. Liability of the Company under this Commitment shall be only to the named proposed Insured and such parties included under the definition of Insured in the form of policy or policies committed for and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof, or (b) to eliminate exceptions shown in Schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by this Commitment. In no event shall such liability exceed the amount stated in Schedule A for the policy or policies committed for and such liability is subject to the insuring provisions committed for in favor of the proposed Insured which are hereby incorporated by reference and are made a part of this Commitment except as expressly modified herein.
4. Any action or actions or rights of action that the proposed Insured may have or may bring against the Company arising out of the status of the title to the estate or interest or status of the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this Commitment.

No: 26135

TICOR TITLE INSURANCE COMPANY

ALTA 10-17-92 OWNERS COVERAGE

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, TICOR TITLE INSURANCE COMPANY, a California Corporation (The Company), insures as of date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
2. Any defect in or lien or encumbrance on the title;
3. Unmarketability of the title;
4. Lack of a right of access to and from the land;
5. Any statutory lien for services, labor or materials furnished prior to the date hereof, and which has now gained or which may hereafter gain priority over the estate or interest of the insured as shown in Schedule A of the policy.

EXCLUSIONS FROM COVERAGE - OWNERS

The following matters will be expressly excluded from the coverage of the policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any Law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating prohibiting or relating to (i) the occupancy, use or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
 - (a) created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory lien for services, labor or material); or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage.
4. Any claim, which arises out of the transaction creating the interest of the mortgagee insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
 - (i) the transaction creating the interest of the insured mortgagee being deemed a fraudulent conveyance or fraudulent transfer; or
 - (ii) the subordination of the interest of the insured mortgagee as a result of the application of the doctrine of equitable subordination; or
 - (iii) The transaction creating the interest of the insured mortgagee being deemed a preferential transfer, except where the preferential transfer results from the failure:
 - (a) to timely record the instrument of transfer; or
 - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

SPECIAL NEW YORK COVERAGE - OWNERS

If the recording date of the instruments creating the insured interest is later than the policy date, such policy shall also cover intervening liens or encumbrances, except real estate taxes, assessments, water charges and sewer rents.

Provision is made in the rate manual of this company filed with the Superintendent of Insurance of the State of New York for continuation of liability to grantees of the insured in certain specific circumstances only. In no circumstance provided for in this sub-section shall this company be deemed to have insured the sufficiency of the instrument of conveyance or to have assumed any liability for the sufficiency of any proceedings after the date of this policy.

Fidelity National Financial Group of Companies' Privacy Statement
July 1, 2001

We recognize and respect the privacy expectations of today's consumers and the requirements of applicable federal and state privacy laws. We believe that making you aware of how we use your non-public personal information ("Personal Information"), and to whom it is disclosed, will form the basis for a relationship of trust between us and the public that we serve. This Privacy Statement provides that explanation. We reserve the right to change this Privacy Statement from time to time consistent with applicable privacy laws.

In the course of our business, we may collect Personal Information about you from the following sources:

- From applications or other forms we receive from you or your authorized representative;
- From your transactions with, or from the services being performed by, us, our affiliates, or others;
- From our internet web sites;
- From the public records maintained by governmental entities that we either obtain directly from those entities, or from our affiliates or others; and
- From consumer or other reporting agencies.

Our Policies Regarding the Protection of the Confidentiality and Security of Your Personal Information

We maintain physical, electronic and procedural safeguards to protect your Personal Information from unauthorized access or intrusion. We limit access to the Personal Information only to those employees who need such access in connection with providing products or services to you or for other legitimate business purposes.

Our Policies and Practices Regarding the Sharing of Your Personal Information

We may share your Personal Information with our affiliates, such as insurance companies, agents, and other real estate settlement service providers. We also may disclose your Personal Information:

- to agents, brokers or representatives to provide you with services you have requested;
- to third-party contractors or service providers who provide services or perform marketing or other functions on our behalf; and
- to others with whom we enter into joint marketing agreements for products or services that we believe you may find of interest.

In addition, we will disclose your Personal Information when you direct or give us permission, when we are required by law to do so, or when we suspect fraudulent or criminal activities. We also may disclose your Personal Information when otherwise permitted by applicable privacy laws such as, for example, when disclosure is needed to enforce our rights arising out of any agreement, transaction or relationship with you.

One of the important responsibilities of some of our affiliated companies is to record documents in the public domain. Such documents may contain your Personal Information.

Right to Access Your Personal Information and Ability To Correct Errors Or Request Changes Or Deletion

Certain states afford you the right to access your Personal Information and, under certain circumstances, to find out to whom your Personal Information has been disclosed. Also, certain states afford you the right to request correction, amendment or deletion of your Personal Information. We reserve the right, where permitted by law, to charge a reasonable fee to cover the costs incurred in responding to such requests.

All requests must be made in writing to the following address:

Privacy Compliance Officer
Fidelity National Financial, Inc.
601 Riverside Avenue, 12th Floor
Jacksonville, FL 32204

Multiple Products or Services

If we provide you with more than one financial product or service, you may receive more than one privacy notice from us. We apologize for any inconvenience this may cause you.

Title Affidavit

State of NEW YORK
County of Niagara

TITLE NO. 26135

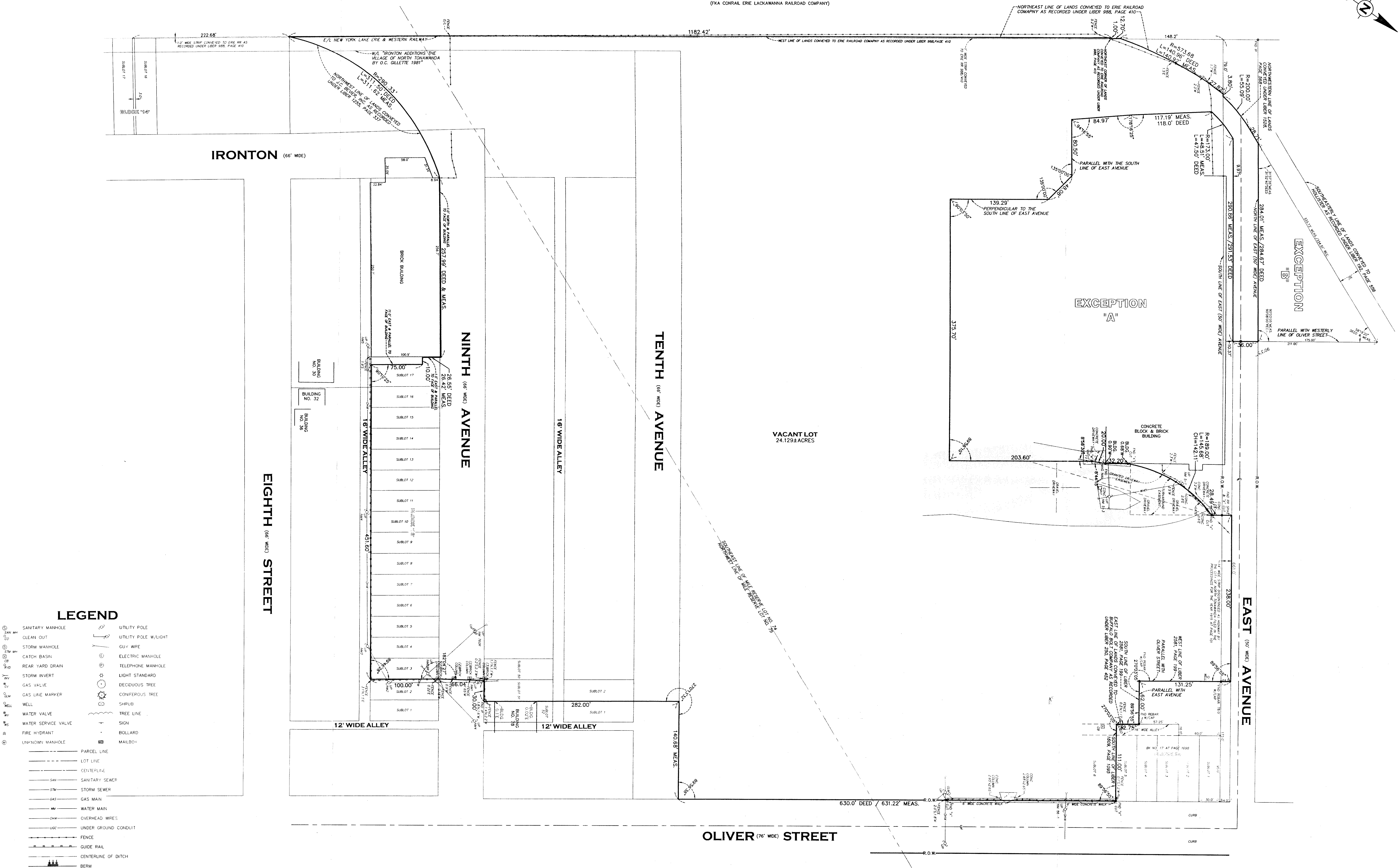
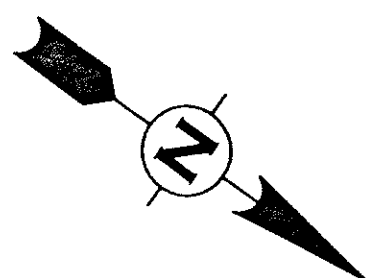
I/we Leslie J. Stotzenfels by Treasurer's Deed to The City of North Tonawanda dated December 16, 1997, recorded December 18, 1997 in Liber 2793 of Deeds at page 230 in the Niagara County Clerk's Office, being sworn, depose and say as follows:

1. That I am/we are the owner(s) of certain premises in the Town/City of NORTH TONAWANDA County of Niagara and State of NEW YORK, known as 101 EAST AVENUE and more particularly described in Titor TITLE INSURANCE COMPANY Commitment No., 26135.
2. I/we have owned the property now being sold or mortgaged by me/us continuously for years last past, and my/our enjoyment thereof has been peaceable and undisturbed and the title to said property has never been disputed or questioned to my/our knowledge, nor do I/we know of any facts by reason of which the title to, or possession of, said property might be disputed or questioned, or by reason of which any claim to any of said property might be asserted adversely against me/us. I/we know of no action or proceeding, including but not limited to bankruptcy, which is now pending against me/us in any State or Federal Court, nor do I/we know of any attachment, judgment, or other encumbrance which may now constitute a lien upon the above referenced premises. I/we know of no claims or pending claims against me/us which may be satisfied through a lien or attachment against the property.
3. That within the last days, including the date hereof, no person, firm or corporation has furnished any labor, services, or materials in connection with the construction or repair of any buildings or improvements and that I/we have not received any notice of intent to claim a lien from any real estate licensee on the herein described premises for which a mechanic's or materialmen's lien could be filed. (IF WORK HAS BEEN PERFORMED OR MATERIALS FURNISHED WITHIN THE LAST DAYS, CROSS OUT THIS PARAGRAPH AND ATTACH A COMPLETED MECHANICS' LIEN WAIVER FORM.)
4. That there are no present tenants, lessees or other parties in possession of said premises, except (if none, state none).
5. That I/we have examined a certain survey entitled, made by, Surveyor, dated that no exterior alterations or additions have been made to the buildings shown on said survey; that no additional buildings have been constructed on said premises since the date of said survey and that survey reflects the current status of the premises. A copy of said survey is hereto attached. IF SURVEY COVERAGE IS NOT DESIRED ON AN OWNER'S POLICY AND/OR COMMERCIAL LOAN POLICY, THIS PARAGRAPH NEED NOT BE COMPLETED.
6. That during the time of ownership of the premises above described, I/we have conveyed no portion of the premises nor done any act or allowed any act to be done which has changed or could change the boundaries of the premises.
7. That I/we have allowed no encroachments on the premises above described by any adjoining land owners nor have encroached upon any property of adjoining land owners.
8. That I/we have allowed no easements, rights of way, continuous driveway usage, drain, sewer, water, gas or oil pipeline or other rights of passage to others over the premises above described and have no knowledge of such adverse rights.
9. That I/we have no knowledge of any old highways, abandoned roads, lanes, cemetery or family burial grounds, springs, streams, rivers, ponds, or lakes bordering or running through said premises.
10. That I/we have no knowledge of any taxes or special assessments which are not shown as existing liens by the public records other than as shown in the above-numbered commitment.
11. That I/we have no knowledge of any violation of any covenants, restrictions, agreements, conditions or zoning ordinances affecting said premises.
12. That there are no unpaid assessments for common expenses or common charges assessed against the premises or the undersigned (IF APPLICABLE).
13. That the undersigned has fully complied with the requirements of any "Right of First Refusal" provisions contained in the Bylaws of the Association, and that any such "Right of First Refusal" has been effectively waived by the Association (IF APPLICABLE).
14. That I/we make this affidavit for the purpose of sale/lease of said premises, and/or for the purpose of inducing the granting of a mortgage on said premises, for the purpose of inducing Titor TITLE INSURANCE COMPANY to issue a policy (policies) of title insurance.

Subscribed and sworn to before me this
_____ day of _____

Notary Public / Commissioner of the Superior Court

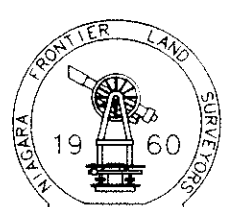
NEW YORK CENTRAL LLC
(FKA CONRAIL ERIE LACKAWANNA RAILROAD COMPANY)



LEGEND

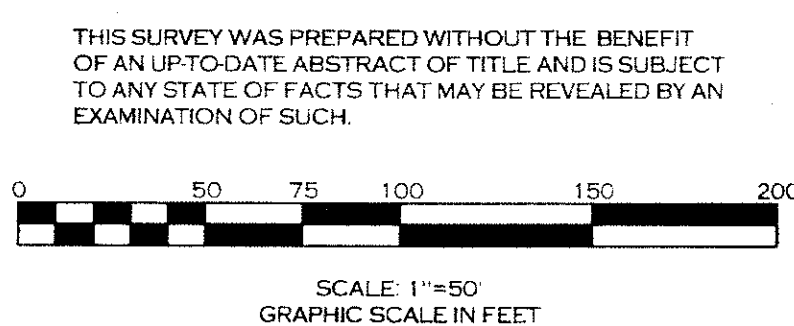
- SANITARY MANHOLE
- CLEAN OUT
- STORM MANHOLE
- CATCH BASIN
- REAR YARD DRAIN
- STORM INVERT
- GAS VALVE
- GAS LINE MARKER
- WELL
- WATER VALVE
- WATER SERVICE VALVE
- FIRE HYDRANT
- UNKNOWN MANHOLE
- UTILITY POLE
- UTILITY POLE W/ LIGHT
- GUY WIRE
- ELECTRIC MANHOLE
- TELEPHONE MANHOLE
- LIGHT STANDARD
- DECIDUOUS TREE
- CONIFEROUS TREE
- SHRUB
- TREE LINE
- SIGN
- BOLLARD
- MAILBOX
- PARCEL LINE
- LOT LINE
- CENTERLINE
- SANITARY SEWER
- STORM SEWER
- GAS MAIN
- WATER MAIN
- OVERHEAD WIRE
- UNDER GROUND CONDUIT
- FENCE
- GUIDE RAIL
- CENTERLINE OF DITCH
- BERM

DRAWING REVISIONS		
ITEM	DATE	DESCRIPTION



MEMBER OF
NEW YORK STATE ASSOCIATION OF
PROFESSIONAL LAND SURVEYORS

MEMBER OF
NEW YORK STATE ASSOCIATION OF
PROFESSIONAL LAND SURVEYORS



DESIGNED BY: _____

DRAWN BY: AJT

CHECKED BY: LPK

DATE: JANUARY 16, 2006

WARNING:
ALTERING THIS DOCUMENT IS IN VIOLATION OF
THE LAW EXCEPTING AS PROVIDED IN SECTION
7029, PART 2 OF THE NEW YORK STATE
EDUCATION LAW. © COPYRIGHT 2005
WM. SCHUTT & ASSOCIATES, P.C.

PART OF LOT 74 & 75 OF THE MILE RESERVE
CITY OF NORTH TONAWANDA
COUNTY OF NIAGARA, STATE OF NEW YORK

101 EAST AVENUE
BOUNDARY SURVEY

ENGINEERING
LAND SURVEYING
WM. SCHUTT & ASSOCIATES, P.C.

37 CENTRAL AVE
LANCASTER, NY 14086-2143
PH: 716-683-5981
FAX: 716-683-5210
WWW.WMSCHUTT.COM

REGISTERED PROFESSIONAL ENGINEER
SOCIETY OF PROFESSIONAL ENGINEERS

1

DRAWING SCALE: 1" = 50'

D/05278/02

WSA PROJECT NO. 05278

APPENDIX B

Field Sampling Plan

Field Sampling Plan (FSP)

**ROBLIN STEEL REMEDIAL
FIELD SAMPLING PLAN**

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1	Soil Sampling and Analysis
2	Groundwater Sampling and Analysis
3	Analytical QA/QC Requirements
4	Equipment for Groundwater Sampling
5	Equipment for Sampling Soils

ROBLIN STEEL SITE FIELD SAMPLING PLAN

1.0 SAMPLING OBJECTIVES

The objective of the field sampling plan is to provide required groundwater and soil sampling protocols and analytical testing methodologies. As stated in Section 2 - Soil Management Plan and under specific circumstances, excavated soil will require sampling and testing.

2.0 SAMPLE LOCATION AND FREQUENCY

Table 1 denotes sample identification numbers and location rationale. Table 2 summarizes the QA/QC protocols to be followed.

3.0 SAMPLE DESIGNATION

All sampling locations of a particular matrix type (groundwater, soil) will be given a unique sample designation. The sample designation consists of matrix type, location, site name, date and time of sampling. Sample matrices are identified by a short alphanumeric prefix to the sample location number. A list of prefixes for various matrices is shown below:

GW - Groundwater
SS - Soil

All sample bottles will be labeled individually. Each label will identify the site name, depth, matrix and sample location (i.e., MW-1, SS-1) and date and time of sample collection. Chain-of-custody forms and field log book entries should refer to each sample in the same manner. No two samples will carry the same sample designation.

4.0 SAMPLING EQUIPMENT AND PROCEDURES

Decontamination - The following materials and procedures should be used to decontaminate all equipment that will come in contact with sample media. Wherever possible, dedicated or disposable sampling equipment is used to eliminate the need for decontamination and further reduce the possibility of cross contamination between samples.

Materials:

- Five-gallon jug with pour spout, potable water source
- Five-gallon bucket - washtub
- Tall, kitchen-style garbage can lined with clean garbage bag - clean equipment holder/dryer
- Small Rubbermaid storage box - small parts washtub
- Alconox
- Bottle brushes - 24" or more
- Bristle scrub brush
- Pesticide-grade methanol or hexane
- Deionized water
- PVC gloves
- Nitrile gloves
- Tyvek suit
- Pipe wrench
- Paper towels
- Aluminum foil
- Goggles

To avoid being splashed during decontamination, the sampler shall wear a Tyvek suit, goggles and a pair of nitrile gloves over PVC gloves. Outer gloves must undergo decontamination procedures simultaneously with equipment.

Procedure:

1. Wash non-dedicated/disposable equipment in alconox and water; rinse and wipe dry.
2. Rinse with tap water; be sure to rinse hands (collect rinse solution in wash bucket).
3. Rinse with methanol or hexane and allow to air dry; rinse hands.
4. Rinse with deionized water; air dry.
5. Dispose of rinse water properly.

Groundwater Sampling by Bailer - Table 4 is a list of equipment needed for sampling monitoring wells using bailers. All the listed equipment may not be needed if the sampling effort is limited in scope, but the general procedures should be followed in all situations. The protocol is designed to provide representative samples while minimizing the chances for cross contamination between sampling points. Disposable or dedicated bailers should be used. In addition, sampling shall proceed from the least likely to the most likely contaminated locations.

Bailer Sampling Procedure

A. Preparation

1. Review sampling plan, project QAPP, and HSP.
2. Order sample bottles from laboratory.
3. Notify interested parties (regulators, client) of sampling event.
4. Receive bottles. Check for proper bottles and chain-of-custody information.
5. Attend pre-sampling meeting.
6. Assemble and check necessary equipment (personal protection equipment, rope, bailers, field instruments, notebook).

B. Sampling

1. Identify the well and record the location in the field book. If the well is poorly marked, remark protective cover using paint or indelible marker.
2. Clean and calibrate all meters, tools, equipment, etc. before use.
3. Put on a new pair of disposable PVC gloves.
4. Put on a pair of nitrile gloves.
5. Cut a slit in the center of the plastic sheet and slip it over the well, creating a clean surface onto which the sampling equipment can be positioned.
6. Do not kick, transfer, drop or in any way let soils or other materials fall onto this plastic sheet unless it comes from inside the well.
8. Clean the well cap with a clean towel, remove the well cap, and plug, placing both on the plastic sheet. Do not use petroleum products or aerosol lubricants to free.

9. Using an electric water level indicator, measure the depth to the water table to the nearest 0.01 foot. If free-phase product is present, use an oil-water interface probe or a clear bottom-valve bailer to determine the thickness of the free product. Record this information in the field book. No sampling will be required if free product is present.
10. Clean the well depth probe and rinse it with deionized water after use. Table 4 illustrates capacities of various diameter wells (2-inch wells = .164 gal/ft; 4-inch wells = .651 gal/ft).
11. Compute the volume of water in the well and record this volume in the field book.
12. Attach enough polypropylene rope to a bailer to reach the bottom of the well and lower the bailer slowly into the well, making certain to submerge it only far enough to fill it one-half full. The purpose of this is to recover any oil film if one is present on the water table.
13. Pull the bailer out of the well, keeping the polypropylene rope on the plastic sheet. Empty the groundwater from the bailer into a clean glass quart container and observe its appearance. Note: This sample will not undergo laboratory analysis and is collected to observe the physical appearance of the groundwater only.
14. Record the physical appearance of the groundwater in the field book.
15. Initiate bailing the well from the top of the water column, making certain to keep the polypropylene rope on the plastic sheet. All groundwater should be dumped from the bailer into a graduated pail to measure the quantity of water removed from the well. The purged water will be contained in 55-gallon drums.
16. Continue bailing the well until a sufficient volume of groundwater in the well has been removed or until the well is bailed dry. If the well appears to be going dry (small amount of water in the bailer), let the well recover and sample. Avoid letting the well go completely dry because cascading of the water into the well may alter analytical results, particularly volatiles. If the well is bailed dry, allow sufficient time for the well to recover before proceeding with Step 19. Record this information on the groundwater field sampling record.
17. Remove the sampling bottles from their transport containers and prepare the bottles for receiving samples. Inspect all labels to insure proper sample identification. Be sure labeling is complete before filling containers. Sample bottles should be kept cool with their caps on until they are ready to receive samples. Arrange the sampling containers to allow for

convenient filling. Always fill the containers for volatile organic compounds first. Filter appropriate samples.

18. Record time sampling begins, and note the interval between bailing (purging) and sampling. To ensure comparable samples, maintain same interval between well evacuation and sampling.
19. To minimize agitation of the water and obtain a sample fresh from the surrounding formation, initiate sampling by lowering the bailer slowly into the well, making certain to submerge it only far enough to fill it completely. Fill sample bottles and return each to its proper transport container. Keep samples on ice. If required, seal each container with chain-of-custody seals.
20. If the sample bottles cannot be filled quickly, keep them cool with the caps on until they are filled. The vials (3) labeled purgeable priority pollutant analysis should be filled from one bailer, then securely capped.
21. After the last sample has been collected, record the date and time and empty one bailer of water from the surface of the water in the well into a beaker and measure the record the pH, Eh, conductivity, turbidity, and temperature of the groundwater following the procedures outlined in the equipment operation manuals. Record this information in the field book or sampling sheet. The beaker must then be rinsed with distilled water prior to reuse.
22. Begin the chain-of-custody record. A separate entry is required for each well with the required analysis listed individually.
23. If a duplicate sample is required at a well, record in the field book or on the sampling sheet where the sample was collected, the date, and time. Do not record the location or time of duplicate collection on the chain of custody. It is appropriate to record the date, well number, and time of matrix spike and matrix spike duplicate samples on the chain of custody. These are internal lab QA/QC requirements.
24. Replace the well cap and lock the well protection assembly before leaving the well location.
25. Place the polypropylene rope and disposable bailer, gloves, rags and plastic sheeting into a plastic bag for disposal.

Soil Sampling - Table 5 is a list of equipment needed procedures for soil sampling. All the listed equipment may not be needed if the sampling effort is limited in scope, but the general procedures should be followed in all situations. The protocol is designed to provide representative samples while minimizing the chances for cross contamination between sampling points. If possible, sampling should proceed from the least likely to the most likely contaminated locations.

Soil Sampling Procedure

A. Preparation

1. Review sampling plan and project QAPP.
2. Order sample bottles from laboratory.
3. Notify interested parties (regulators, client) of sampling event.
4. Receive bottles. Check for proper bottles and chain-of-custody information.
5. Attend pre-sampling meeting.
6. Assemble and check necessary equipment (personal protection equipment, rope, bailers, field instruments, notebook).

B. Sampling

1. Grid the site map with number codes in two perpendicular directions. Mark the sampling locations with flags or stakes. Ensure equipment is decontaminated and calibrated.
2. Identify the sampling point and record the location in the field book.
3. Put on a new pair of disposable PVC gloves.
4. If an auger is used, turn it down to the required depth, collect all scrapings in a bucket for a composite. Augers tend to cross contaminate between depths.
5. If surface or shallow samples are taken, a stainless steel spatula or a shovel can be used.
6. If volatiles are the contaminant of concern, composite samples should not be collected. For volatile samples, quickly pack soil into vials, wipe the rim, screw the septum cap snug, and keep on ice.
7. Record PID readings at each location.
8. Decontaminate equipment before next sample site.

5.0 SAMPLE HANDLING AND ANALYSIS

The following sections describe what to do with samples once they have been collected. Examples of paperwork are attached for reference.

Packaging - Samples processed for ASP protocols must be packaged for shipment in accordance with current U.S. Department of Transportation (DOT) regulations. All required government and commercial carrier shipping papers must be filled out. Information can be obtained from the carrier (i.e., Federal Express) before field sampling begins. The following checklist should be followed regardless of transport method:

1. Samples will be transported in metal ice chests or sturdy plastic coolers (cardboard or styrofoam containers are unacceptable).
2. Remove previously used labels, tape and postage from cooler.
3. Coolers should have a permanent identification number affixed to the outside walls/lid.
4. Affix return address label to cooler.
5. Check to see that all sample bottles are tightly capped.
6. Be sure all bottle labels are completed.
7. While packing cooler, fill out chain-of-custody form.
8. Wrap sample bottles in bubble pack and place in cooler.
9. Pack bottles with extra bubble pack, vermiculite, or styrofoam "peanuts". Be sure to pack trip blank if applicable.
10. Keep samples refrigerated in cooler with bagged ice or frozen cold packs. Do not use ice for packing material; melting will cause bottle contact and possible breakage.
11. Separate sampler's copy of chain-of-custody and keep with field notes.
12. Tape paperwork (COC, manifest, return address) in zip-lock bag to inside cooler lid.
13. Close cooler and apply signed and dated custody seal in such a way that the seal must be broken to open cooler.
14. Securely close cooler lid with packing or duct tape. Be sure to tape latches and drain plugs in closed position.

Shipping - Because holding times are very important for accurate laboratory analyses, it is imperative that samples arrive at the lab as soon as possible following sampling. All samples must be hand delivered on the same day as sampling or sent via overnight mail. When using a commercial carrier, follow the steps below.

1. Securely package samples and complete paperwork.
2. Complete air bill for commercial carrier (air bills can be partially completed in office prior to sampling to avoid omissions in field). If necessary, insure packages.
3. Keep customer copy of air bill with field notes and chain-of-custody form.
4. When coolers have been released to transporter, call receiving laboratory and give information regarding samplers' names, method of shipment, cooler identification numbers, and expected time of arrival.
5. Call lab on day following shipment to be sure all samples arrived intact. If bottles are broken, locations can be determined from chain of custody and re- sampled.

TABLE 1
SOIL SAMPLING AND ANALYSIS

SAMPLE DESIGNATION	SAMPLE QUANTITY	SAMPLE TYPE ⁽³⁾	ANALYSIS^{(1) (2)}
Excavated Soil for Off-site Removal and Disposal <u>with</u> Visual Evidence of Contamination	1 composite sample for every 100 CY stockpiled (composite sample from 5 grabs)	Soil	pH (EPA Method 9045C), TCL SVOCs, pesticides, and PCBs, and TAL metals.
Excavated Soil for Off-site Removal and Disposal <u>with</u> Visual Evidence of Contamination	1 grab sample at highest PID reading from 5 composite sample locations	Soil	TCL VOCs
Excavated Soil for Off-site Removal and Disposal <u>without</u> Visual Evidence of Contamination	1 composite sample for every 2,000 CY stockpiled	Soil	pH (EPA Method 9045C), TCL SVOCs, pesticides, and PCBs, and TAL metals.
Virgin Soil for Subgrade Use	1 composite sample per source	Soil	TCL VOCs, SVOCs, pesticides, PCBs, arsenic, barium, cadmium, chromium, lead, mercury, selenium, and silver
Virgin Soil for Subgrade Use	1 composite sample for every 500 CY for the first 1,000 CY 1 composite sample for every 2,500 CY thereafter	Soil	TCL VOCs, SVOCs, pesticides, PCBs, arsenic, barium, cadmium, chromium, lead, mercury, selenium, and silver

- (1) Confirmatory soil analytical testing requires Laboratory Approval Program (NYSDOH-ELAP) certified laboratory in accordance with NYSDEC Analytical Services Protocol (ASP-Category B)
- (2) NYS Certified Laboratory, Standard TCL Services
- (3) All composite sampling represents sampling from 5 locations from the sampling media.
- (4) Analytical testing characterizing wastes for disposal will vary depending on the specific disposal facility.

TABLE 2
GROUNDWATER SAMPLING AND ANALYSIS

DESIGNATION	WELL DEPTH (FEET)	WELL SCREEN LENGTH	SAMPLE TYPE	ANALYSIS
Groundwater ^{(1) (2) (3)}				
GW-3S	40	10	Grab	TCL VOCs EPA Method 8260
GW-3	10	5	Grab	TCL VOCs EPA Method 8260
GW-11S	15	10	Grab	TCL VOCs EPA Method 8260
GW-12S	15	10	Grab	TCL VOCs EPA Method 8260
GW-18S	15	10	Grab	TCL VOCs EPA Method 8260

- (1) Groundwater sampling frequency will be on an annual basis as part of the site Operation and Maintenance. Sampling of groundwater will not take place until the site has been remediated.
- (2) Field parameters will be collected to include temperature, Dissolved Oxygen (DO), pH, and conductivity/Eh.
- (3) Groundwater analytical testing requires Laboratory Approval Program (NYSDOH-ELAP) certified laboratory in accordance with NYSDEC Analytical Services Protocol (ASP-Category B)

TABLE 3
ANALYTICAL QA/QC REQUIREMENTS

MATRIX	NO. OF SAMPLING POINTS	FIELD QC NO. OF SAMPLES	LAB QC NO. OF SAMPLES	ANALYSIS
Groundwater ⁽¹⁾	5	1 field duplicate	1 trip blank	ASP Category B TCL VOCs EPA Method 8260
Excavated Soil for off-site disposal ⁽¹⁾	1	1 field duplicate		pH (EPA Method 9045C), TCL SVOCs, pesticides, and PCBs, and TAL metals

- (1) Laboratory Approval Program (NYSDOH-ELAP) certified laboratory in accordance with NYSDEC Analytical Services Protocol (ASP-Category B)
(2) NYS Certified Laboratory, Standard TCL Services

TABLE 4

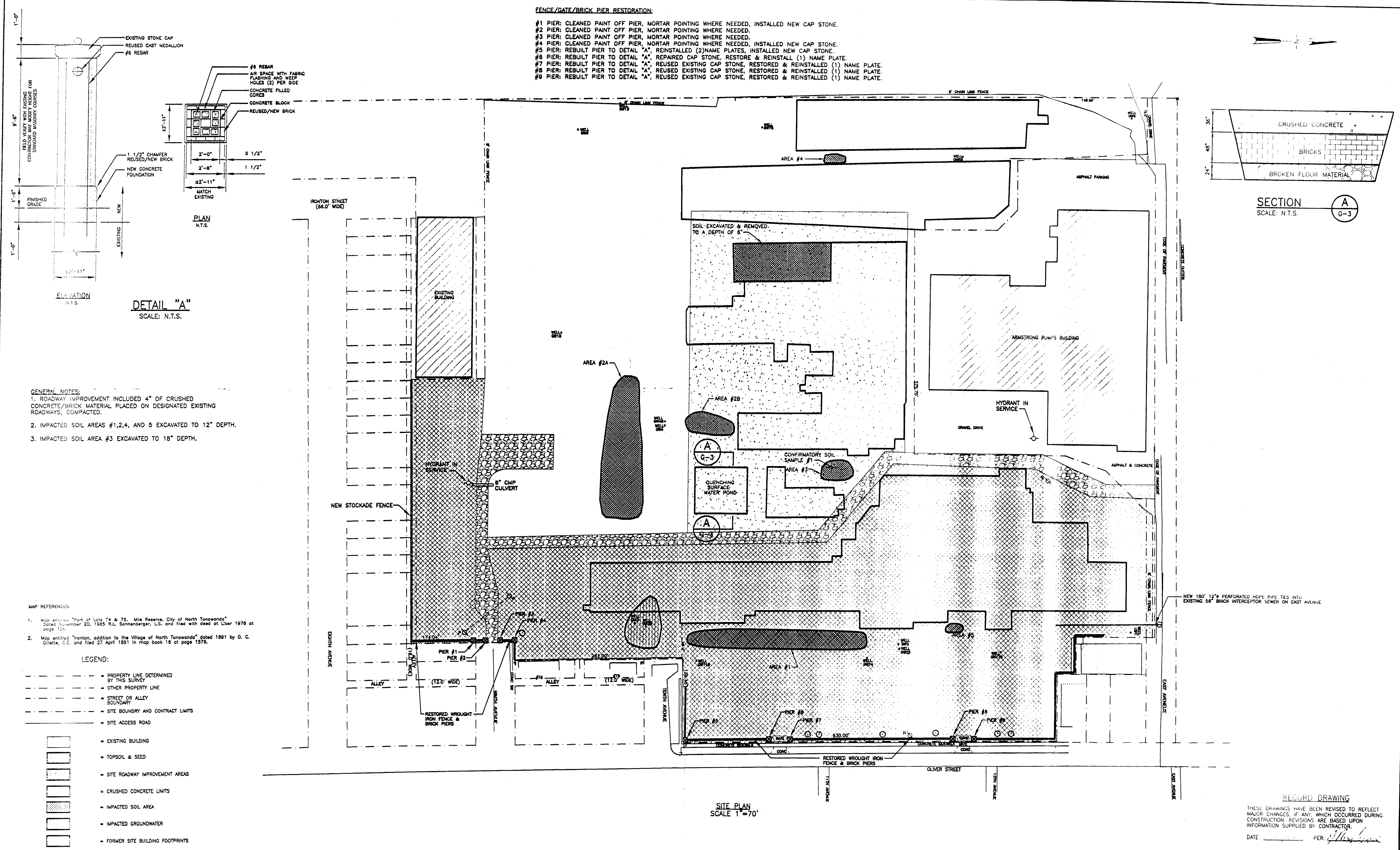
EQUIPMENT FOR GROUNDWATER SAMPLING

	Field notebook, pencil, ballpoint and marker
	Data sheets
	Micro-cassette recorder (for quick and creative note-taking)
	Spare micro-cassettes and batteries
	Map of well locations
	Keys for wells; graphite lubricate for locks
	Water level gauge and spare battery
	Tape measure
	Interface probe (for wells with pure product)
	Paper towels/rags/oil sorbent pads
	YSI and flow-through cell
	Spare batteries, if necessary
	Beakers, stirrers, wash bottle, Chem-wipes
	Nitrile gloves (size 9-10) and glove inserts (cold weather)
	Surgical gloves
	Rope (polypropylene)
	Clear plastic bailer (if you expect oil)
	Bailers and bottom emptying tubes
	Buckets (calibrated in gallons or liters)
	Containers for purged water
	Sponges
	Garbage bags
	Plastic sheet
	Stopwatch or watch that indicates seconds
	Chain-of-custody and other forms
	Sample containers (bring 20 percent more than needed), all sealed, clean, and labeled
	Trip blanks and spiked samples for volatile samples
	Filter apparatus, filters
	Chest or six-pack cooler, ice, and maximum/minimum thermometer

	Decontamination vessel
	Washwater (1-1/2 gallons per well)
	Alconox detergent solution
	Deionized water (1-1/2 gallons per well)
	Garden spray cans for wash fluids
	Tyvek suits
	Gloves, boots, respirator
	Raingear or warm clothing
	Camera and film
	Toolbox, including hacksaw
	Knife
	Pipe wrenches (at least two). What size might you need?
	Flashlight
	Calculator
	Bug off spray (contains volatile organics - beware!)
	Bolt cutters

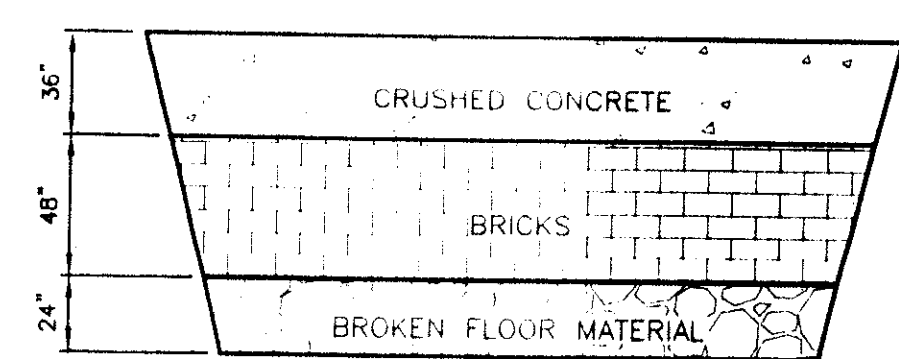
APPENDIX C

Roblin Steel Site Record Drawing



FENCE/GATE/BRICK PIER RESTORATION:

#1 PIER: CLEANED PAINT OFF PIER, MORTAR POINTING WHERE NEEDED, INSTALLED NEW CAP STONE.
#2 PIER: CLEANED PAINT OFF PIER, MORTAR POINTING WHERE NEEDED.
#3 PIER: CLEANED PAINT OFF PIER, MORTAR POINTING WHERE NEEDED.
#4 PIER: CLEANED PAINT OFF PIER, MORTAR POINTING WHERE NEEDED, INSTALLED NEW CAP STONE.
#5 PIER: REBUILT PIER TO DETAIL "A", REINSTALLED (2) NAME PLATES, INSTALLED NEW CAP STONE.
#6 PIER: REBUILT PIER TO DETAIL "A", REPAIRED CAP STONE, RESTORE & REINSTALL (1) NAME PLATE.
#7 PIER: REBUILT PIER TO DETAIL "A", REUSED EXISTING CAP STONE, RESTORED & REINSTALLED (1) NAME PLATE.
#8 PIER: REBUILT PIER TO DETAIL "A", REUSED EXISTING CAP STONE, RESTORED & REINSTALLED (1) NAME PLATE.
#9 PIER: REBUILT PIER TO DETAIL "A", REUSED EXISTING CAP STONE, RESTORED & REINSTALLED (1) NAME PLATE.



SECTION A
SCALE: N.T.S.

- GENERAL NOTES:**
- ROADWAY IMPROVEMENT INCLUDED 4" OF CRUSHED CONCRETE/BRICK MATERIAL PLACED ON DESIGNATED EXISTING ROADWAYS, COMPACTED.
 - IMPACTED SOIL AREAS #1,2,4, AND 5 EXCAVATED TO 12" DEPTH.
 - IMPACTED SOIL AREA #3 EXCAVATED TO 18" DEPTH.

- MAP REFERENCES:**
- Map entitled "Part of Lots 74 & 75, Mile Reserve, City of North Tonawanda" Dated November 20, 1965 R.L. Sonnenberger, L.S. and filed with deed at Uber 1976 at page 121.
 - Map entitled "Tranton, addition to the Village of North Tonawanda" dated 1891 by O. C. Gillette, C.E. and filed 27 April 1891 in map book 16 at page 1576.

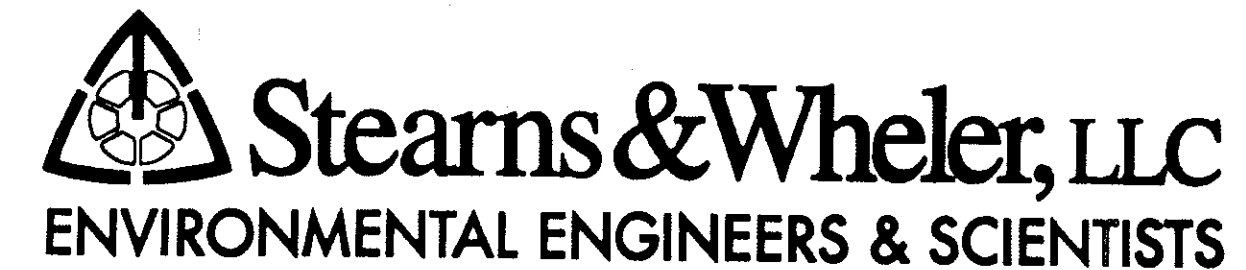
- LEGEND:**
- PROPERTY LINE DETERMINED BY THIS SURVEY
 - OTHER PROPERTY LINE
 - STREET OR ALLEY BOUNDARY
 - SITE BOUNDARY AND CONTRACT LIMITS
 - SITE ACCESS ROAD
 - EXISTING BUILDING
 - TOPSOIL & SEED
 - SITE ROADWAY IMPROVEMENT AREAS
 - CRUSHED CONCRETE LIMITS
 - IMPACTED SOIL AREA
 - IMPACTED GROUNDWATER
 - FORMER SITE BUILDING FOOTPRINTS

NOTES:

Underground facilities, structures, and utilities have been plotted from available surveys and records, and therefore their locations must be considered approximate only. There may be others, the existence of which is presently not known.

It is a violation of New York State Education Law for any person, unless acting under the direction of a licensed professional engineer, to alter an item on this drawing in any way. If an item is altered, the altering engineer shall affix to the item his/her seal and the notation "altered by" followed by his/her signature and the date.

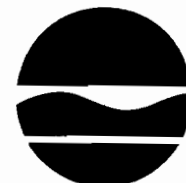
3	RECORD DRAWING																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																														
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CITY OF NORTH TONAWANDA			
ROBLIN STEEL REMEDIATION			
SITE RECORD DRAWING			
JOB NO.	20143	CONTRACT	2
SHEET			G-3

**New York State Department of Environmental Conservation
Division of Environmental Enforcement, 14th Floor**

625 Broadway, Albany, New York 12233-5500
Phone: (518) 402-9509 • FAX: (518) 402-9019
Website: www.dec.ny.gov



Alexander B. Grannis
Commissioner

June 26, 2007

Shawn Nickerson, Esq.
City Attorney
City of North Tonawanda
City Hall
216 Payne Avenue
North Tonawanda, N.Y. 14120-5489

RECEIVED

[Handwritten initials]

JUN 27 2007

NY DEC 14120-5489

✓ REC'D ENREL

Re: Project No: B00025-9
Contract No: C302568
Municipality: City of North Tonawanda
Name and address of site: Former Roblin Steel, 101 East Avenue

Dear Mr. Nickerson:

Enclosed please find an originally-executed environmental easement which was accepted yesterday by Commissioner Grannis. You must record and index this easement and survey in the office of the recording officer for Niagara County in the manner prescribed by Article 9 of the Real Property law and Article 71, Title 36 of the Environmental Conservation law. I am providing an executed TP 584.2 form with this letter.

Please return to me a copy of this easement, marked by the County Clerk with the date and location of its recording, along with the associated title policy insuring the State's interest in the real property. Please feel free to contact me if you need further assistance with this matter.

Very truly yours,

[Handwritten signature of Mary vonWergers]
Mary vonWergers

Enclosure: Environmental Easement
Survey
TP.584.2

cc: Sutton, Greg
Konsella, Jeff w/ hard copy ✓

EDMS # 267774

ENVIRONMENTAL EASEMENT

THIS INDENTURE made the 10th day of JULY, 2006, between The City of North Tonawanda, having offices at City Hall, 216 Payne Avenue, North Tonawanda, New York 14120, (the "Grantor"), and The People of the State of New York (the "Grantee"), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner", or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233,

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties ("brownfield sites") that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment; and

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of environmental easements as an enforceable means of ensuring the performance of maintenance, monitoring or operation requirements and of ensuring the potential restriction of future uses of the land, when and environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to be effective, or which requires groundwater use restrictions; and

WHEREAS, the Legislature of the State of New York has declared that environmental easement shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law ("ECL") which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a brownfield site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

WHEREAS, Grantor, is the owner of real property located in the City of North Tonawanda, Niagara County, New York known and designated on the tax map of the City of North Tonawanda as 181.12-1-14.11, being the same as that Property conveyed to Grantor by deed on December 18, 1997, and recorded in the Land Records of the Niagara County Clerk at Liber 2793 of Deeds at page 230, comprised of approximately 23.70 acres, and hereinafter more fully described in Schedule A attached hereto and made a part hereof (the "Controlled Property"); and

WHEREAS, the Commissioner does hereby acknowledge that the Department accepts this Environmental Easement in order to ensure the protection of human health and the environment and to achieve the requirements for remediation established at this Controlled Property until such time as this Environmental Easement is extinguished pursuant to ECL Article 71, Title 36; and

NOW THEREFORE, in consideration of the covenants and mutual promises contained herein and the terms and conditions of State Assistance Contract Number C302568, Grantor grants, conveys and releases to Grantee a permanent Environmental Easement pursuant to Article 71, Title 36 of the ECL in, on, over, under, and upon the Controlled Property as more fully described herein ("Environmental Easement").

1. Purposes. The Parties acknowledge that the Purposes of this Environmental Easement are: to convey to Grantee real property rights and interests that will run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of this Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of maintenance, monitoring or operation requirements; and to ensure the potential restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional and Engineering Controls. The following controls apply to the use of the Controlled Property, run with the land are binding on the Grantor and the Grantor's successors and assigns, and are enforceable in law or equity against any owner of the Controlled Property, and lessees, and any person using the Controlled Property:

A. The Controlled Property may be used for commercial/industrial purposes (excluding uses for day care, child care, and medical care, unless such a use is approved in writing by the DEC and NYSDOH) as long as the following long-term engineering controls are employed:

- (i) Soils and fill materials encountered during any construction or development activity below the crushed concrete cover layer must be handled in accordance with provisions of the Roblin Steel Site Soils Management Plan, dated February, 2006. Prior notification and prior approval of NYSDEC is required in accordance with the Site Management Plan for this Controlled Property. Excavated soil must be managed, characterized, and properly disposed of in accordance with NYSDEC regulations and directives.
- (ii) Should subsequent construction or development activities require the decommissioning (removal) of existing groundwater monitoring wells, the wells will be decommissioned in accordance with DEC guidance. Replacement monitoring wells may be required by the DEC. A written work plan for well decommissioning and replacement (if required) must be submitted to and approved by the DEC for any proposed well decommissioning.
- (iii) A long term ground water monitoring program is required per the approved Roblin Steel Operation, Maintenance, and Monitoring Plan, which is contained in the approved Roblin Steel Site Management Plan, dated February, 2006 (also found in Appendix D of the approved June, 2003 Roblin Steel Remedial Design Site Work Plan). The City of

North Tonawanda is required to conduct the periodic sampling, analysis, and reporting for the groundwater monitoring program.

- (iv) Future uses of site groundwater are prohibited unless authorized in writing by the DEC and NYSDOH.

B. The Controlled Property may not be used for a higher level of use such as residential use and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of Article 71, Title 36 of the ECL, the property deed and all subsequent instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

This property is subject to an environmental easement held by the New York State Department of Environmental Conservation pursuant of Title 36 to Article 71 of the Environmental Conservation Law.

D. Grantor covenants and agrees that this Environmental Easement shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

E. Grantor covenants and agrees that it shall annually submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury that the controls employed at the Controlled Property are unchanged from the previous certification or that any changes to the controls employed at the Controlled Property were approved by the NYSDEC, and that nothing has occurred that would impair the ability of such control to protect the public health and environment or constitute a violation or failure to comply with any Site Management Plan for such controls and giving access to such Controlled Property to evaluate continued maintenance.

3. Right to Enter and Inspect. Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor's Rights. Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Property, all rights as fee owner of the Controlled Property, including:

- 1. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement.;

2. The right to give, sell, assign, or otherwise transfer the underlying fee interest to the Controlled Property by operation of law, by deed, or by indenture, subject and subordinate to this Environmental Easement.

5. Enforcement.

A. This environmental easement is enforceable in law or equity in perpetuity by Grantor, Grantee, or any affected local government, as defined in ECL Section 71-3603, against the owner of the Property, any lessees, and any person using the land. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel, or waiver. It is not a defense in any action to enforce this environmental easement that: it is not appurtenant to an interest in real property; it is not of a character that has been recognized traditionally at common law; it imposes a negative burden; it imposes affirmative obligations upon the owner of any interest in the burdened property; the benefit does not touch or concern real property; there is in privity of estate or of contract; or it imposes and unreasonable restraint on alienation.

B. If any person intentionally violates this environmental easement, the Grantee may revoke the Certificate of Completion provided under ECL Article 27, Title 14, or the Satisfactory Completion of Project provided under ECL Article 56, Title 5 with respect to the Controlled Property.

C. Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall set forth how Grantor can secure such breach or suspected breach and give Grantor a reasonable amount of time from the date or receipt of notice in which to cure. At the expiration of such period of time to cure, or any extensions granted by Grantee, the Grantee shall notify Grantor of any failure to adequately cure the breach or suspected breach. Grantor shall then have a reasonable amount of time from receipt of such notice to cure. At the expiration of said second period, Grantee may commence any proceedings and take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement in accordance with applicable law to require compliance with the terms of this Environmental Easement.

D. The failure of Grantee to enforce any of the terms contained herein shall not be deemed a waiver of any such term nor bar its enforcement rights in the event of a subsequent breach of or noncompliance with any of the terms of this Environmental Easement.

6. Notice. Whenever notice to the State (other than the annual certification) or approval from the State is required, the Party providing such notice or seeking such approval shall address its correspondence to:

Division of Environmental Enforcement
Office of General Counsel
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-5500

Such correspondence shall be delivered by hand, or by registered mail or by Certified mail and return receipt requested. The Parties may provide for other means of receiving and communicating notices and responses to requests for approval.

7. Recordation. Grantor shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

8. Amendment. This environmental easement may be amended only by an amendment executed by the Commissioner of the New York State Department of Environmental Conservation and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

9. Extinguishment. This environmental easement may be extinguished only by a release by the Commissioner of the New York State Department of Environmental Conservation and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

10. Joint Obligation. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

11. Costs and Liabilities. Grantor shall retain all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of adequate liability insurance coverage.

12. Taxes. Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority.

13. Successors. The term "Grantor", wherever used herein, shall include the persons and/or entities named at the beginning of this document, identified as "Grantor" and their personal representatives, heirs, successors, and assigns.

14. Compliance with Law. This Environmental Easement shall not remove the necessity of Grantor to obtain any permit and/or approval from any governmental agency

having jurisdiction over any activity conducted or to be conducted on the Controlled Property.

IN WITNESS WHEREOF, Grantor has caused this instrument to be signed in its name.

City of North Tonawanda

By: Lawrence V. Soos

Title: Mayor

Date: 7/10/2006

**THIS ENVIRONMENTAL EASEMENT IS
HEREBY ACCEPTED BY THE PEOPLE OF
THE STATE OF NEW YORK, Acting By and
Through the Department of Environmental
Conservation**

By: Alexander B. Grannis

Alexander B. Grannis, Commissioner

Grantor's Acknowledgement

STATE OF NEW YORK)
) ss.:
COUNTY OF NIAGARA)

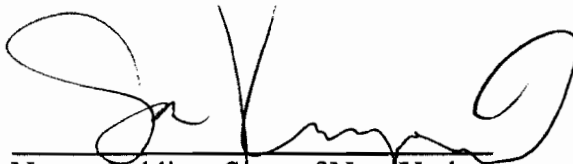
On the 10th day of ^{July}~~June~~, in the year 2006, before me, the undersigned, personally appeared Lawrence V. Soos, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Jeffrey N. Mis
Notary Public - State of New York
JEFFREY N. MIS
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN NIAGARA COUNTY
MY COMMISSION EXPIRES 10/31/09.

Grantee's Acknowledgement

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

On the 25th day of June, in the year 2007, before me, the undersigned, personally appeared Alexander B. Grenier, 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/she executed the same in his/her capacity as Commissioner of the State of New York Department of Environmental Conservation, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public – State of New York

SONIA L. KRUPPENBACHER
Notary Public, State of New York
No. 02KR6054736
Qualified in Columbia County
Commission Expires Feb. 12, 2013

SCHEDULE A

All that tract or parcel of land, situate in the City of North Tonawanda, County of Niagara and State of New York, being part of Lots Nos. 74 and 75 of the Mile Reserve along the Niagara River, bounded and described as follows:

BEGINNING at the point of intersection of the north line of Tenth Avenue with the west line of Oliver Street, as a street 76 feet wide; running thence north along said line of Oliver Street 630 feet to the north line of Lot No. 6 in Block 25 as shown on map made for the North Tonawanda Land Company by Barrally and Snow and filed in the Niagara County Clerk's Office December 31, 1894; thence westerly along the north line of said Lot No. 6 and along a continuation westerly thereof 111 feet to the easterly line of the land conveyed by John J. Albright and Susan Fuller Albright, his wife, to Buffalo Bolt Company by deed recorded in said Clerk's Office in Liber 250 of Deeds at page 452; thence northerly along the easterly line of the land so conveyed to Buffalo Bolt Company, as aforesaid, 32.75 feet; thence westerly and parallel with East Avenue 62 feet; thence northerly on a line parallel with Oliver Street 117.25 feet; thence continuing northerly on a line parallel with said west line of Oliver Street 14 feet; thence westerly on a line parallel with the north line of Tenth Avenue 488 feet; thence northerly parallel with said west line of Oliver Street 211 feet to a point at the perpendicular distance of 30 feet southerly from the southerly bounds of lands deeded by Martin Riesterer to Granger A. Hollister and George C. Hollister by deed recorded in said Clerk's Office in Liber 192 of Deeds at page 556; thence southwesterly parallel with said southerly bounds of said lands so deeded to Hollister Brothers, as aforesaid,

to the point of intersection with an arc having a radius of 200 feet and an arc length of 55.09 feet running northeasterly from the northeast corner of lands conveyed by the City of North Tonawanda to Buffalo Bolt Company by deed recorded in said Clerk's Office in Liber 467 of Deeds at page 470, 355.5 feet record, 363.36 feet measured; thence along said arc southwesterly and southerly to a point in the southerly line of East Avenue (since abandoned), said point being the northeasterly corner of the lands so conveyed by the City of North Tonawanda to Buffalo Bolt Company; thence westerly along the northerly line of the land so conveyed by the City of North Tonawanda to Buffalo Bolt Company, as aforesaid, 3.80 feet to the northeasterly line of the land conveyed by Buffalo Bolt Company to Erie Railroad Company by deed recorded in said Clerk's Office in Liber 988 of Deeds at page 410; thence southerly making an interior angle of 127° 12' 3" with the preceding course, 27.82 feet; thence southeasterly along a curve to the left having a radius of 573.686 feet an arc distance of 140.96 feet to a point in the northeasterly right of way line of Erie Railroad Company; thence southerly along said right of way line 12.70 feet to the northeasterly corner of the land conveyed by Erie Railroad Company to Buffalo Bolt Company by deed recorded in said Clerk's Office in Liber 988 of Deeds at page 410; thence westerly along the northerly line of said land so conveyed by Erie Railroad Company to Buffalo Bolt Company, as aforesaid, 1 foot; thence southerly along the westerly line of the land so conveyed by Erie Railroad Company to Buffalo Bolt Company, as aforesaid, 1182.42 feet to its intersection with the northwesterly bounds of lands conveyed by Buffalo-Eclipse Corporation to J. C. Bevier, Inc. by deed recorded in said Clerk's Office in Liber 1255 of Deeds at page 337, being a point in said westerly line of the land so conveyed by Erie Railroad Company to Buffalo Bolt Company 222.68 feet northerly of a prolongation westerly of a line drawn parallel with and distant 3 feet southerly from the north line of Lot No. 17 in Block No. 14 as shown on a map of Ironton Addition made for George P. Smith and one by O. C. Gillett, C. E. and filed in said Clerk's Office on April 27, 1891; thence following the northwesterly, northerly and northeasterly bounds of said premises so conveyed to J. C. Bevier, Inc. the following courses and distances; (1) northeasterly along a curved line having a radius of 290.33 feet an arc distance of 311.50 feet; (2) easterly along a line which is 1 foot north of the north face of a building erected at the intersection of the south line of Ninth Avenue and the

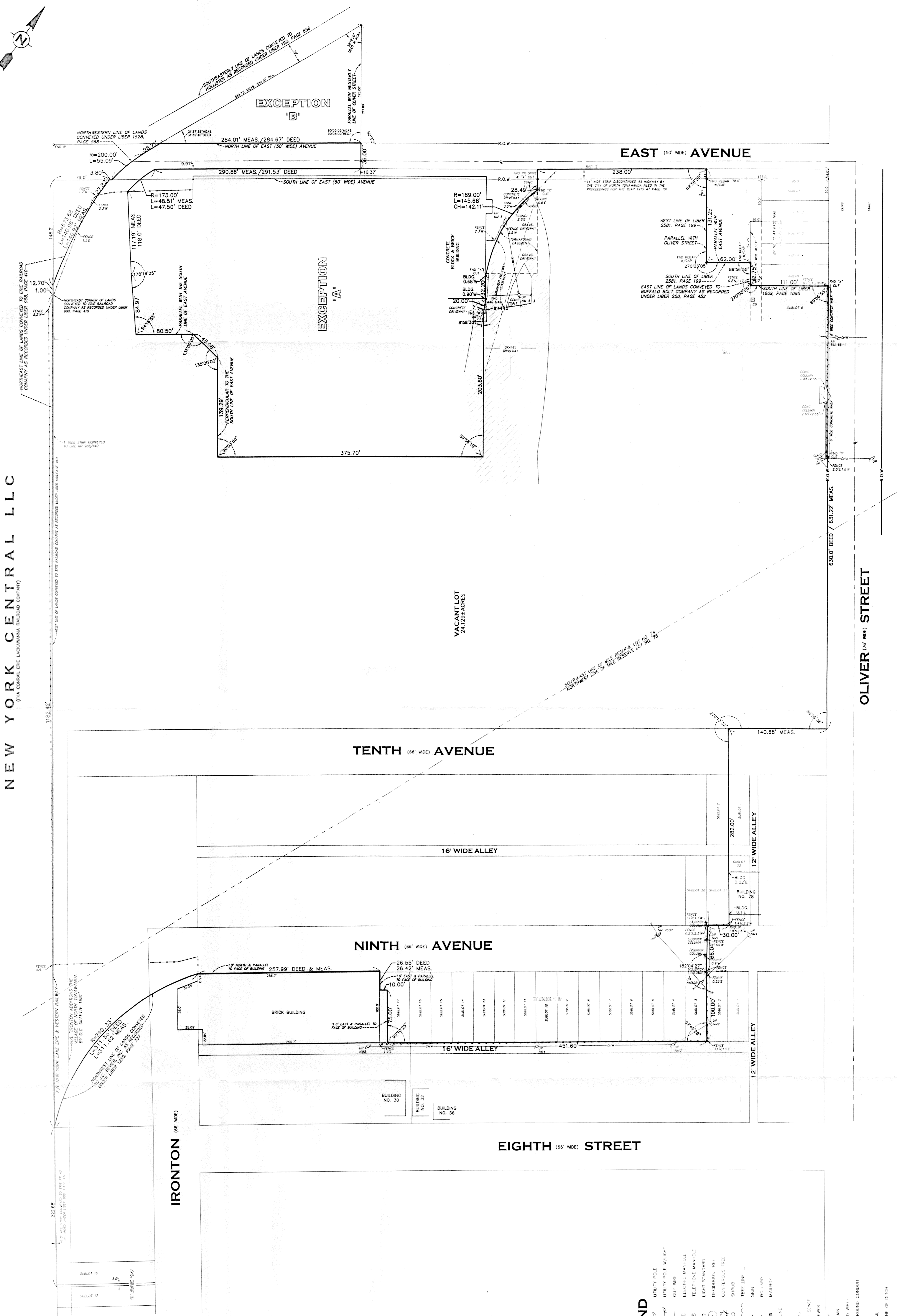
east line of Ironton Street (as said avenue and street are shown on the aforesaid map of Ironton Addition) 250.99 feet to a point 1 foot east of the east face of the said building; (3) southerly along a line which is 1 foot east of the east face of the said building 26.55 feet; (4) easterly parallel with the south line of aforesaid Ninth Avenue 10 feet; and (5) southerly along a line which is 11 feet east of the east face of the said building, 75 feet to the northerly line of an alley shown on said map of Ironton Addition as running in an easterly and westerly direction through Block 16 shown thereon and lying equi-distant from Ninth and Eighth Avenues; thence easterly along the northerly line of said alley 451.61 feet to the southeasterly corner of Lot No. 3, Block 16, as shown on said map of Ironton Addition; thence northerly along the easterly line of said Lot No. 3, Block 16, and a continuation thereof northerly in a straight line crossing Ninth Avenue 166.04 feet to the southwesterly corner of Lot No. 51, Block 17, as shown on said map of Ironton Addition; thence easterly along the northerly line of Ninth Avenue 30 feet to the south-easterly corner of said Lot No. 51, Block 17; thence northerly along the easterly line of said Lot No. 51, Block 17, crossing an alley 16 feet wide, in a straight line to the southeasterly corner of Lot No. 2 in said Block 17, continuing along the easterly line of said Lot No. 2, Block 17, and continuing northerly in a straight line across Tenth Avenue 282 feet to the northerly line of Tenth Avenue; thence easterly along the northerly line of Tenth Avenue 139 feet more or less to the point or place of beginning.

EXCEPTING THEREFROM, ALL THAT TRACT OR PARCEL OF LAND, situate in the City of North Tonawanda, County of Niagara and State of New York, being part of Lots Nos. 74 and 75 of the Mile Reserve along the Niagara River, bounded and described as follows:

BEGINNING at a point in a line drawn parallel with the south line of East Avenue as originally laid out (50 feet wide) and 14.0 feet northerly therefrom as measured at right angles thereto, said beginning point being 411.0 feet westerly of the intersection of said parallel line with a continuation northerly of the westerly line of Oliver Street as presently laid out (76 feet wide) as measured along said parallel line; thence the following courses and distances:

1. Southeasterly and on a line drawn at right angles to East Avenue, 28.49 feet;
2. thence southwesterly, southerly and southeasterly on a line curving to the left, having a radius of 189.0 feet, the chord of same deflecting $31^{\circ} 16' 00''$ to the right of a continuation southerly of the last described course, an arc length of 145.68 feet;
3. thence southeasterly on a line deflecting $31^{\circ} 01' 45''$ to the left of a continuation southwesterly of the last described chord, 32.20 feet;
4. thence southeasterly on a line deflecting $8^{\circ} 44' 15''$ to the right of a continuation southeasterly of the last described course 20.0 feet;
5. thence southeasterly on a line drawn at right angles to East Avenue and deflecting $8^{\circ} 58' 30''$ to the left of a continuation southwesterly of the last described course, 203.60 feet;
6. thence southwesterly on a line forming an interior angle of $89^{\circ} 56' 10''$ with the last described course, 375.70 feet;
7. thence northwesterly on a line drawn at right angles to a continuation southwesterly of said south line of East Avenue as originally laid out (50 feet wide) and forming an interior angle of $90^{\circ} 03' 50''$ with the last described course, 139.29 feet;
8. thence northwesterly on a line deflecting 45° to the left of a continuation northwesterly of the last described course, 48.08 feet;
9. thence southwesterly on a line drawn parallel with said continuation southwesterly of said south line of East Avenue as originally laid out (50 feet wide) and deflecting 45° to the left of a continuation northwesterly of the last described course, 80.50 feet;
10. thence northwesterly on a line forming an interior angle of $94^{\circ} 16' 55''$ with the last described course, 84.97 feet;

NEW YORK CENTRAL LLC
(BY CONFORM THE LACKAWANNA RAILROAD COMPANY)



LEGEND

- UTILITY POLE
- UTILITY POLE W/ LIGHT
- GUY WIRE
- STORM MANHOLE
- ELECTRIC MANHOLE
- CATCH BASIN
- REAR YARD DRAIN
- STORM INLET
- GAS VALVE
- GAS LINE MANHOLE
- WELL
- WATER VALVE
- WATER SERVICE VALVE
- FIRE HYDRANT
- UNKNOWN MANHOLE
- PARCEL LINE
- STORM SEWER
- GAS MAIN
- WATER MAIN
- OVERHEAD WIRE
- UNEQUIP GROUND CONDUIT
- FENCE
- GUIDE RAIL
- CENTRELINE OF DITCH
- RR

DRAWING REVISIONS

ITEM	DATE	DESCRIPTION



THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN INDEPENDENT EXAMINATION OF THE RECORDS OF THE SURVEYING OFFICE. THE SURVEYOR ASSUMES NO LIABILITY FOR ANY ERRORS OR OMISSIONS IN THE SURVEY. THE SURVEYOR'S OFFICE IS NOT RESPONSIBLE FOR ANY DAMAGE TO OR LOSS OF ANY PROPERTY OR PERSONS CAUSED BY THE USE OF THIS SURVEY.

DESIGNED BY: AJT
DRAWN BY: LFK
CHECKED BY: LFK
DATE: JANUARY 16, 2006
WARNING: THIS DOCUMENT IS IN VIOLATION OF THE LACKAWANNA RAILROAD COMPANY'S POLICY ON THE RELEASE OF INFORMATION. ANY RELEASE OF INFORMATION SHALL BE AT THE DISCRETION OF THE LACKAWANNA RAILROAD COMPANY.

PART OF LOT 74 & 75 OF THE MILE RESERVE
CITY OF NORTH TONAWANDA
COUNTY OF NIAGARA, STATE OF NEW YORK
101 EAST AVENUE
BOUNDARY SURVEY

ENGINEERING
LAND SURVEYING
W. SCHUTT & ASSOCIATES, P.C.
111 TIERCE STREET
LANCASTER, NY 14086-1413
WWW.WSCHUTT.COM
PHONE: 716.683.8888
FAX: 716.683.8889
DRAWING SCALE: 1" = 50'
D/06278/02
WSP PROJECT NO. 05978