

Appendix GG

Groundwater Monitoring Procedures

1.0 General

As part of the post-remedial monitoring program, BOSAG will routinely monitor the four newly installed groundwater monitoring wells (Appendices EE and FF) to evaluate the presence of nonaqueous phase liquids (NAPL) in the shallow (perched) water zone above the clay layer. This appendix describes the procedures to be employed in this monitoring.

2.0 Monitoring Program

After well development, the monitoring wells will be gauged to evaluate groundwater flow direction and assess for the presence of NAPL. The depth to groundwater and depth to bottom in the monitoring wells will be measured using an Interface Probe (IP). The IP detects water and NAPL to within 0.01 feet using a combination of electrical conductivity and optical sensors.

Groundwater elevations from the four monitoring wells will be used to construct a groundwater contour map and defined the local groundwater flow direction at the site. Any detections of NAPL will be recorded.

After the initial sampling round, the monitoring wells will be gauged quarterly for 3 years (i.e., 11 additional monitoring rounds). If no NAPL is detected in this monitoring, the program will be terminated at that time and the wells closed. If NAPL is detected, the need for and scope of further sampling will be evaluated with the New York State Department of Environmental Conservation (NYSDEC).

3.0 Monitoring Procedure

The steps for conducting the groundwater monitoring are as follows:

- Start at the upgradient well at the northeast corner of the site.
- Check the well, the lock, and the locking cap for damage or evidence of tampering. Record observations.
- Lay out polyethylene sheet around well for placement of and sampling equipment.
- Upon opening the well, use an organic vapor meter to measure airborne volatile organic compounds at the top of the well casing and record the reading in the field log book.
- Insert the IP into the well and measure depth to NAPL (if any), depth to groundwater, and total well depth and record the reading in the field log book.

- If measurable NAPL is detected, insert a clear polyethylene bailer into the well and withdraw a sample of the NAPL for inspection. Inspect the NAPL for color, viscosity, and other physical characteristics. Record the observations in the field log book.
- If used, return the bailer to the well and tie it off at a depth that suspends it above the water level). Close and lock the well.

4.0 Decontamination

The IP will be decontaminated before each use by wiping with a detergent solution. Once visibly cleaned by this method, the contact sections of the IP will be rinsed with methanol, rinsed with distilled water, and allowed to air dry.

5.0 Management of Investigation-Derived Waste

Investigation-derived waste (IDW) includes liquids and solids from decontamination, any withdrawn NAPL, spent personal protective equipment (PPE), and other disposable materials (e.g., polyethylene sheeting). Solid and liquid IDW will be segregated to the extent practicable and placed in individual 55-gallon drums staged on the concrete slab in the southeastern portion of the site. The drum contents will then be sampled and analyzed, as needed, to determine offsite disposal requirements. The IDW will be shipped for offsite disposal based on the results of characterization testing.

Appendix EE

New York Central Lines, LLC Restrictive Covenant

**DO NOT DETACH - THIS IS PAGE 1 OF
RECORDED DOCUMENT**

**NIAGARA COUNTY CLERK RECORDING PAGE
OFFICE OF THE CLERK COUNTY OF NIAGARA
WAYNE F. JAGOW, COUNTY CLERK
County Courthouse, 175 Hawley Street, P.O. Box 461, Lockport, NY 14095
Phone (716) 439-7027 Fax (716) 439-7066**

INSTRUMENT DATE _____

DOCUMENT TYPE Declaration of Covenants and Restrictions

Parties: (Print Names in Full)

1st Part

Consolidated Rail
Corporation

2nd Part

Town/City North Tonawanda

Mortgage To:

Donald D. Anderson
McGwire Woods, LLP
50 N. Laura St., Ste. 3300
Jacksonville, FL 32202

THIS SPACE RESERVED FOR COUNTY CLERK

MORTGAGE# _____

MORTGAGE AMOUNT _____

☐ One/two family ☐ Other

☐ Check if to be apportioned

DOCUMENT # 1006877
BOOK 3245 PAGE 720
NUMBER OF PAGES 54 DEEDS
RECORDED 08/05/2003 09:26:30 A.M.
RECEIPT # 20302 DOCUMENT TOTAL: \$42.00
PAID - COUNTY CLERK
WAYNE F. JAGOW

RECORDING TAX RECEIPT

ASIC \$ _____

ADDITIONAL \$ _____

SPECIAL \$ _____

TOTAL \$ _____

dated _____, 20____

State of New York) ss
 County of Niagara)

I do hereby certify that I have

 Received on the within Mortgage, being
 the amount of the Recording Tax

Imposed thereon & paid at recording.

**REAL ESTATE TRANSFER
 TAX**

\$ _____

____/____/____

NIAGARA COUNTY

Mortgage Tax Clerk of Niagara County

This sheet constitutes the Clerk's endorsement required by section 319 of the Real Property Law of the State of New York

DO NOT DETACH

Prepared by and return to:
Donald D. Anderson
McGuireWoods LLP
50 N. Laura St., Suite 3300
Jacksonville, FL 32202

DECLARATION OF COVENANTS AND RESTRICTIONS

THIS COVENANT is made the 28th day of July, 2003, by NEW YORK CENTRAL LINES, LLC, a Delaware Limited Liability Company and wholly-owned subsidiary of Consolidated Rail Corporation ("NYCLLC") and having an office for the transaction of business at 500 Water Street, Jacksonville, Florida,

WHEREAS, Booth Oil Site is the subject of a Order On Consent ("Consent") executed by Conrail as part of the New York State Department of Environmental Conservation's (the "Department's") Voluntary Cleanup Program, namely that parcel of real property located on 50 Robinson Street in the City of North Tonawanda, of Niagara County, State of New York, which is part of lands conveyed by Consolidated Rail Corporation to New York Central Lines, LLC by deed dated July 21, 1999 and recorded in the Niagara County Clerk's Office on July 21, 1999 in Library 2944, Page 1 and being more particularly described in Appendix "A," attached to this declaration and made a part hereof, and hereinafter referred to as the "Property"; and

WHEREAS, the Department approved a remedy to eliminate or mitigate all significant threats to the environment presented by the contamination disposed at the Property and such remedy requires that the Property be subject to restrictive covenants.

NOW, THEREFORE, NYCLLC, for itself and its successors and/or assigns, covenants that:

First, the Property subject to this Declaration of Covenants and Restrictions is as shown on a map attached to this declaration as Appendix "B" and made a part hereof, and consists of the metes and bounds as attached hereto as Appendix "A".

Second, unless prior written approval by the Department or, if the Department shall no longer exist, any New York State agency or agencies subsequently created to protect the environment of the State and the health of the State's citizens, hereinafter referred to as the "Relevant Agency," is first obtained, there shall be no construction, use or occupancy of the Property that results in the disturbance or excavation of the Property, which threatens the integrity of the soil cap, or which results in unacceptable human exposure to contaminated soils.

Third, the owner of the Property shall maintain the cap covering the Property by maintaining its grass cover or, after obtaining the written approval of the Relevant Agency, by capping the Property with another material.

Fourth, the owner of the Property shall prohibit the Property from ever being used for purposes other than for Manufacturing, Industrial, Light Industrial or Commercial purposes. Any other use may be allowed only upon demonstration to the satisfaction of the Relevant

Agency that any such proposed use will not pose a danger to public health, safety or the environment. Any approval granted by the Relevant Agency for the restricted uses shall be in writing, must contain reference to this instrument and shall be filed with the Niagara County Clerk's Office.

Fifth, the owner of the Property shall prohibit the use of the groundwater underlying the Property without treatment rendering it safe for drinking water or industrial purposes, as appropriate, unless the user first obtains permission to do so from the Relevant Agency.

Sixth, the owner of the Property shall continue in full force and effect any institutional and engineering controls required under the Consent and maintain such controls unless the owner first obtains permission to discontinue such controls from the Relevant Agency.

Seventh, this Declaration is and shall be deemed a covenant that shall run with the land and shall be binding upon all future owners of the Property, and shall provide that the owner and its successors and assigns consent to enforcement by the Relevant Agency of the prohibitions and restrictions that Paragraph XI of the Consent require to be recorded, and hereby covenant not to contest the authority of the Relevant Agency to seek enforcement.

Eighth, any deed of conveyance of the Property, or any portion thereof, shall recite, unless the Relevant Agency has consented to the termination of such covenants and restrictions, that said conveyance is subject to this Declaration of Covenants and Restrictions.

IN WITNESS WHEREOF, the undersigned has executed this instrument the day written below.

Dated: July 28, 2003

NEW YORK CENTRAL LINES LLC

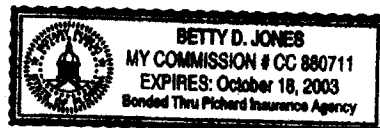
By: [Signature]
Title: VICE PRESIDENT

Printed Name: J. RANDALL EVANS

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 28th day of July, 2003 by J. RANDALL EVANS the VICE PRES of NEW YORK CENTRAL LINES LLC, a DELAWARE LIMITED LIABILITY Corporation, on behalf of the corporation. He/she [is personally known to me or] produced as identification.

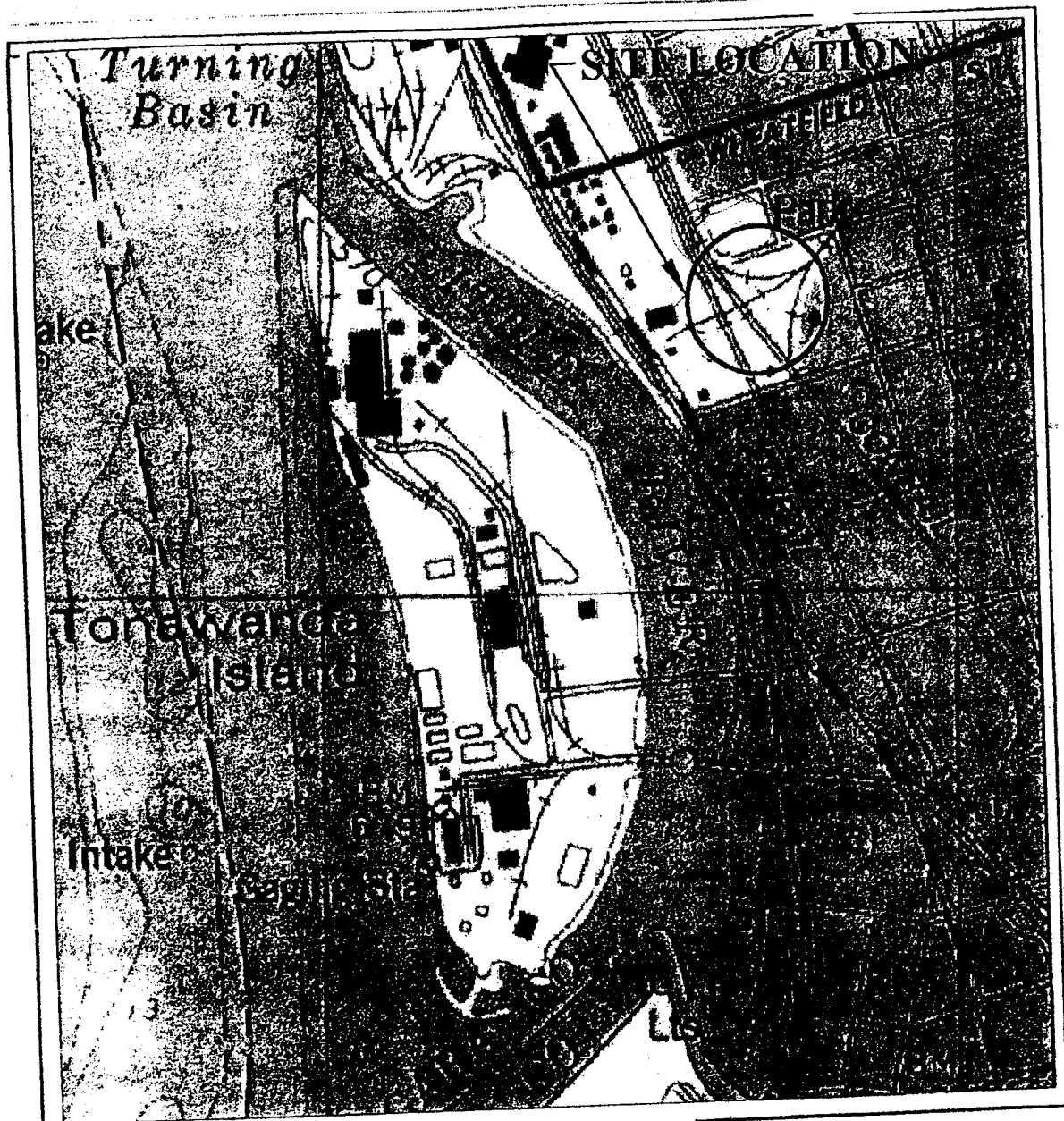
[Signature]
BETTY D. JONES
Print Name
Notary Public, State and County aforesaid
Commission No.:
Commission Expires:



APPENDIX "A"

2.48 Acres in Subdivision Lots 11, 12 & 13, commonly known as 50 Robinson Street, North Tonawanda, Niagara County, New York. SBL #182.17-1-34.1

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TONAWANDA WEST, N. Y.

SMALL TONAWANDA 10' TIDAL PANDER
N4300-77852.57.5

1980

UMA 0270 DI SW-SERIES 1921



BOOTH OIL	
SITE NO. 9-32-100	
New York State Department of Environmental Conservation	
FILE: 20a London.org	DRAWING BY: JCC
SITE LOCATION	
DATE: 7/1/91	FIGURE 1