



April 29, 2025

Glenn M. May, PG
New York State Department of Environmental Conservation
Region 9
Division of Environmental Remediation
270 Michigan Avenue
Buffalo, New York 14203-2915

Subject: **2024 Periodic Review Report
Booth Oil Site
76 Robinson Street
North Tonawanda, New York
NYSDEC Site No.: 932100**

Mr. May:

On behalf of the Booth Oil Site Administrative Group (BOSAG), TRC Engineers Inc. (TRC) presents this Periodic Review Report (PRR) summarizing the annual site inspections conducted in 2022, 2023, and 2024, at the Booth Oil Site located at 76 Robinson Street, North Tonawanda, New York 14120 (Site) (Figure 1). Inspections of the Site are performed to examine the condition of the cover system, an engineering control for the Site, and to meet the requirements of Regulation 6 NYCRR Part 375-1.8 established by the New York State Department of Environmental Conservation (NYSDEC). The following sections of this report discuss the observations and activities completed during the inspection events.

ANNUAL SITE INSPECTIONS

TRC personnel conducted visual inspections of the Site, including observations of surface conditions and surroundings, on August 15, 2022, November 1, 2023, and September 10, 2024. No significant signs of soil erosion were noted during any of the three inspections. A landscaping contractor also provided mowings four times in each of the three years. The vegetative cover appeared to be in satisfactory condition with sufficient growth across the Site. A summary of each inspection is included below.

August 15, 2022

On August 15, 2022, during the annual the Site inspection the drainage ditch area, which is located along the perimeter of the Site, was observed to be free of debris, and no evidence of petroleum (i.e., sheen, film, etc.) was noted. Four mowing events were conducted during the 2022 growing season. There were also no encroachments from neighboring properties observed at the time of the site inspection. Pad construction and framing of two storage buildings at the privately owned 76 Robinson address had begun and had continued through 2022. **Attachment 1** contains the Annual Remediation Site Inspection Form and Annual Site Inspection Photographic Log completed as part of the visit.

November 1, 2023

On November 1, 2023, the Site inspection was conducted and concluded that the drainage ditch area was observed to be dry and did not contain any debris or evidence of petroleum. Four mowing events were conducted during the 2023 growing season. Chain link fencing had been observed along the back portion of the 76 Robinson address as part of the continued construction activities. The Annual Remediation Site Inspection Form and Annual Site Inspection Photographic Log completed for the 2020 visit are included in **Attachment 2**. Encroachments from neighboring properties were not noted during this site inspection.

September 10, 2024

On September 10, 2024, the annual Site inspection was performed and did not identify any debris in the drainage ditch area or any encroachments from neighboring properties. Four mowing events were conducted during the 2024 growing season. Construction of the storage buildings at 76 Robinson Street appear to be complete as observed from outside only. An Annual Remediation Site Inspection Form and an Annual Site Inspection Photographic Log for the 2021 visit are provided in **Attachment 3**.

There consistently have been no signs of significant soil erosion during the 2022, 2023, and 2024 annual Site inspections, therefore additional soil erosion control measures are not required at this time.

Summary

Overall, the Site appeared well maintained during the three-year period of 2022, 2023 and 2024. The cover system, including vegetative cover and soil cap, have consistently appeared to be in satisfactory condition with no noticeable erosion. Site activities performed during this three-year period included the construction of two storage buildings located on the privately owned parcel at 76 Robinson Street, all work was planned and conducted by the parcel owner listed as 333, LLC. The parcel at 76 Robinson Street is also no longer accessible to perform annual lawn maintenance, chain link fencing encompasses the back portion, and two storage buildings dominate the rest of the lot. Building permit No. 75223-2021 filed for the work at 76 Robinson Street was submitted by the parcel owner 333, LLC and was obtained from the City of North Tonawanda, NY and is provided as **Attachment 4**. Also included in attachment 4 are the two deed restrictions referenced in Box 2 of the checklist, with sections highlighted indicating commercial as an acceptable site use. Lawn maintenance was performed during the three growing seasons at the 50 Robinson Street parcel, which is owned by ConRail/CSX.

TRC will continue to inspect the property on an annual basis to ensure the drainage ditches are clear of debris and that there is no evidence of disturbance to the soil cap.

This latest site inspection fulfills the requirements of 6NYCRR 375-1.8 established by the NYSDEC. The next PRR submission will occur in September of 2027; the report will also be a compilation of the three years leading up to that date as per NYSDEC PRR reduction letter dated November 1, 2012.

Please feel free to contact me by phone (518) 698-9591 or by email HMiller@TRCcompanies.com if you have any questions concerning this project.

Respectfully Submitted,
TRC Engineers, Inc.

Written/Submitted by:



Ashley Laughlin
Geologist/Environmental Scientist



Howard Miller
Senior Project Manager

Cc: William Parry, CSXT

Enclosures:

Figure 1 Site Location Map

Attachment 1 2022 Annual Remediation Site Inspection Form and Annual Site Inspection Photographic Log

Attachment 2 2023 Annual Remediation Site Inspection Form and Annual Site Inspection Photographic Log

Attachment 3 2024 Annual Remediation Site Inspection Form and Annual Site Inspection Photographic Log

Attachment 4 Building Permit No. 75223-2021 North Tonawanda, NY

Figure 1

Site Location Map

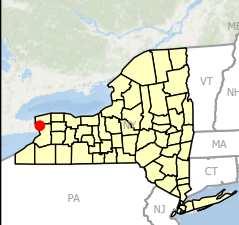
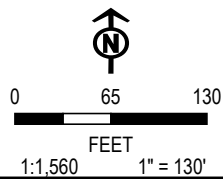
COORDINATE SYSTEM: NAD 1983 STATEPLANE NEW YORK WEST FIPS 3103 FEET; MAP ROTATION: 0
- SAVED BY: LILL ON 9/24/2024 10:50:58 AM; FILE PATH: T:\1-PROJECTS\CSX\192198 BOOTH\SITE\2-APRX\BOOTH\SITE\BOOTH\SITE\APRX LAYOUT NAME: FIG01 SITELOC PORTRAIT



NOTES:

1. LOCATIONS AND DIMENSIONS OF PHYSICAL FEATURES AND BOUNDARIES ARE APPROXIMATE.

BASE MAP: GOOGLE EARTH SERVICE LAYER DATED MAY, 2022
DATA SOURCES: TRC



PROJECT: **CSX TRANSPORTATION, INC.
BOOTH OIL SITE
50 ROBINSON STREET
NORTH TONAWANDA, NEW YORK**

TITLE: **SITE LOCATION MAP**

DRAWN BY: L. LILL PROJ. NO.: 492198.0000.0000

CHECKED BY: M. SCHAPPERT

APPROVED BY: H. MILLER

DATE: SEPTEMBER 2024

FIGURE 1



3 CORPORATE DRIVE
SUITE 202
CLIFTON PARK, NY 12065
PHONE: 518.348.1190

FILE: BOOTH\SITE

Attachment 1

2022 Annual Remediation Site Inspection Form and Annual Site Inspection Photographic Log

Annual Remediation Site Inspection Form


City/State: <u>TOWNHANA NY</u>		Photos Attached: <input type="checkbox"/>			
Project #: <u>9734605 CNV144610</u>		Site Map Attached: <input type="checkbox"/>			
CSXT Project Manager: <u>Bill Darcy</u>				Date: <u>8.15.22</u>	
Person Making Observations: <u>H. Millar (TCL)</u>					
Describe site & today's activities: <u>SITOMAIN TOWNHANA - VSOA</u>					
List contractor companies on-site: <u>NONE</u>				Use space below for notes regarding observations and/or corrective actions taken.	
Category	Observation	Condition(s) Acceptable?			(Adjust these columns to fit remaining page width)
		Y	N	N/A	
Safety	Was a safety briefing conducted?	X			
	Is there a HaSP on-site, if applicable?			X	
	Emergency number(s) posted & accurate, if applicable?			X	
	Fire extinguishers on-site and in good condition, if applicable?			X	
	First aid kit on-site and in good condition, if applicable?			X	
	Are walkways adequately cleared?			X	
	Holes and/or tripping hazards adequately eliminated?			X	
	Workers wearing appropriate PPE?	X			
	Are adequate work equipment red zones being maintained?		X		
Is track protection/clearances acceptable?			X		
Housekeeping	Is site adequately free of debris and/or trash?	X			
	Are equipment buildings on-site?		X		
	Are equipment buildings: Secure? Orderly? Pest-free?			X	
	Is vegetation adequately controlled?	X			
	Security features (fence/gate) adequately maintained?			X	
Monitoring Wells	Area around wells adequately maintained for access?			X	
	Are monitoring wells damaged or in need of repair?			X	
	Are monitoring wells adequately secured/locked?			X	
	Are wells adequately painted for safety and bollards maintained?			X	
	Are CSXT well tags applied?			X	
Waste	Are drums or containers on-site?		X		
	Are drums and/or containers in good condition?			X	
	Are drums adequately labeled?			X	
	Accumulation start date within acceptable limits?			X	
	Are drum lids and/or bungs adequately secured?			X	
	Other waste receptacles adequate and secure?			X	
Waterways	Are waterways/ditches near or adjacent to Site?	X			
	Is sheen or film present on surface water body?		X		
	Is sheen/film present in storm drains near remediation site?		X		
	If sheen/film present, has CSXT PM or PSCC been notified?			X	
	Has sheen been verified* as petroleum-based?			X	
	* (sampling or on-site verification)			X	
	Has this sheen previously been reported to applicable agencies?			X	
	Are adequate control measures in-place (booms, dams, etc.)?			X	



Photo 1

Facing NE at north drainage area.



Photo 2

View across east end of site at fiber line.



Photo 3

View of West end of site.



Photo 4

Facing East along Robinson street. View of construction on privately owned parcel at 76 Robinson Street.

Attachment 2

2023 Annual Remediation Site Inspection Form and Annual Site Inspection Photographic Log

Annual Remediation Site Inspection Form


City/State: <u>BRANDENBURG / NY</u>		Photos Attached <input type="checkbox"/>			
Project #: <u>9734605 ENV144610</u>		Site Map Attached <input type="checkbox"/>			
CSXT Project Manager: <u>Drill Pauley</u>				Date: <u>11.1.23</u>	
Person Making Observations: <u>H.W. Hor (TRC)</u>					
Describe site & today's activities: <u>VISUAL SITE OBSERVATIONS</u>					
List contractor companies on-site: <u>NONE</u>					
Category	Observation	Condition(s) Acceptable?			Use space below for notes regarding observations and/or corrective actions taken. (Adjust these columns to fit remaining page width)
		Y	N	N/A	
Safety	Was a safety briefing conducted?	X			
	Is there a HaSP on-site, if applicable?			X	
	Emergency number(s) posted & accurate, if applicable?			X	
	Fire extinguishers on-site and in good condition, if applicable?			X	
	First aid kit on-site and in good condition, if applicable?			X	
	Are walkways adequately cleared?			X	
	Holes and/or tripping hazards adequately eliminated?			X	
	Workers wearing appropriate PPE?	X			
	Are adequate work equipment red zones being maintained?			X	
	Is track protection/clearances acceptable?			X	
Housekeeping	Is site adequately free of debris and/or trash?	X			
	Are equipment buildings on-site?		X		
	Are equipment buildings: Secure? Orderly? Pest-free?			X	
	Is vegetation adequately controlled?	X			
	Security features (fence/gate) adequately maintained?			X	
Monitoring Wells	Area around wells adequately maintained for access?			X	
	Are monitoring wells damaged or in need of repair?			X	
	Are monitoring wells adequately secured/locked?			X	
	Are wells adequately painted for safety and bollards maintained?			X	
	Are CSXT well tags applied?			X	
Waste	Are drums or containers on-site?		X		
	Are drums and/or containers in good condition?			X	
	Are drums adequately labeled?			X	
	Accumulation start date within acceptable limits?			X	
	Are drum lids and/or bungs adequately secured?			X	
	Other waste receptacles adequate and secure?			X	
Waterways	Are waterways/ditches near or adjacent to Site?	X			
	Is sheen or film present on surface water body?		X		
	Is sheen/film present in storm drains near remediation site?		X		
	If sheen/film present, has CSXT PM or PSCC been notified?			X	
	Has sheen been verified* as petroleum-based?			X	
	* (sampling or on-site verification)			X	
	Has this sheen previously been reported to applicable agencies?			X	
	Are adequate control measures in-place (booms, dams, etc.)?			X	



Photo 1

Facing east across the site toward N Marion street.



Photo 2

View of site facing southwest towards Robinson street.



Photo 3

View from Robinson street northeast across site.



Photo 4

Facing south toward Robinson street.

Attachment 3

2024 Annual Remediation Site Inspection Form and Annual Site Inspection Photographic Log

Annual Remediation Site Inspection Form

City/State: <u>TONAWANDA NY</u>		Photos Attached: <input type="checkbox"/>		[CSX] How tomorrow moves	
Project #: <u>9734605</u>		Site Map Attached: <input type="checkbox"/>			
CSXT Project Manager: <u>BILL PARRY</u>		Person Making Observations: <u>HOLLER (TRC)</u>		Date: <u>9.10.24</u>	
Describe site & today's activities: <u>VISUAL SITE OBSERVATIONS</u>		Condition(s) Acceptable?		Use space below for notes regarding observations and/or corrective actions taken. (Adjust these columns to fit remaining page width)	
List contractor companies on-site: <u>NONE</u>					
Category	Observation	Y	N	N/A	
Safety	Was a safety briefing conducted?	X			
	Is there a HaSP on-site, if applicable?			X	
	Emergency number(s) posted & accurate, if applicable?			X	
	Fire extinguishers on-site and in good condition, if applicable?			X	
	First aid kit on-site and in good condition, if applicable?			X	
	Are walkways adequately cleared?			X	
	Holes and/or tripping hazards adequately eliminated?			X	
	Workers wearing appropriate PPE?	X			
	Are adequate work equipment red zones being maintained?			X	
	Is track protection/clearances acceptable?			X	
Housekeeping	Is site adequately free of debris and/or trash?	X			
	Are equipment buildings on-site?		X		
	Are equipment buildings: Secure? Orderly? Pest-free?			X	
	Is vegetation adequately controlled?	X			
	Security features (fence/gate) adequately maintained?			X	
Monitoring Wells	Area around wells adequately maintained for access?			X	
	Are monitoring wells damaged or in need of repair?			X	
	Are monitoring wells adequately secured/locked?			X	
	Are wells adequately painted for safety and bollards maintained?			X	
	Are CSXT well tags applied?			X	
Waste	Are drums or containers on-site?		X		
	Are drums and/or containers in good condition?			X	
	Are drums adequately labeled?			X	
	Accumulation start date within acceptable limits?			X	
	Are drum lids and/or bungs adequately secured?			X	
	Other waste receptacles adequate and secure?			X	
Waterways	Are waterways/ditches near or adjacent to Site?	X			
	Is sheen or film present on surface water body?		X		
	Is sheen/film present in storm drains near remediation site?		X		
	If sheen/film present, has CSXT PM or PSCC been notified?			X	
	Has sheen been verified* as petroleum-based?			X	
	* (sampling or on-site verification)			X	
	Has this sheen previously been reported to applicable agencies?			X	
	Are adequate control measures in-place (booms, dams, etc.)?			X	



Photo 1

View of drainage area
along track.



Photo 2

Facing Southwest
toward Robinson
Street.



Photo 3

Side view of storage building facing Robinson Street.



Photo 4

Front view of storage building at 76 Robinson Street.

Attachment 4

Building Permit No. 75223-2021 North Tonawanda, NY

695-8595 FAX: 695-8544

**BUILDING INSPECTOR'S OFFICE
CITY OF NORTH TONAWANDA, NY
BUILDING PERMIT**

Room B-8 City Hall

No. 75223 - 2021

THIS CERTIFIES THAT PERMISSION IS GRANTED TO : 333, LLC

MAILING ADDRESS : 391 River Rd

FOR WORK AT (SITE ADDRESS) : 76 Robinson St

TO PERFORM : Erect a 6900 square foot, 9 unit storage building & an 8500 square foot, 11 unit storage building per submitted drawings.
Plumbing & electrical by separate permits.

SBL # 182.17-1-5 Property Class: warehouse

Frontage: 0'

Depth: 0'

Zoning: M-1

Size of Building or Addition: Length:

Width:

Height:

Stories:

Contractor: MCW Construction Inc

Notify the Building Inspector when the following inspections are required

FOUNDATION
(Before concrete/backfill)

ROUGH FRAMING
(After Electrical Insp.)

INSULATION
(With vapor barrier)

FIRE SEPARATION
(BEFORE TAPING)

FINAL
(After electrical Insp.)

YOU ARE REQUIRED TO:

- * Comply with all New York State and Local laws governing construction in the City of North Tonawanda
- * Notify the electrical inspector for all electrical inspections @ 695-8595 ext. 4
- * Preserve the established house line
- * Arrange for construction debris removal (DO NOT PLACE AT CURB FOR CITY PICK UP)
- * Obtain a Certificate of Occupancy before occupying any new structure or addition
- * Install sidewalks in front of all premises to be constructed. Contact DPW @ 695-8585 for sidewalk and curb cut permits
- * **NOTIFY THE BUILDING DEPARTMENT WHEN WORK IS COMPLETED @ 695-8595**

Date: 5/11/2021

Fee Paid: \$680.00

Robert DePaolo, Building Inspector

This permit is void unless construction or moving is commenced within six months from date of this permit

THIS PERMIT MUST BE POSTED IN A CONSPICUOUS PLACE ON THE WORK SITE

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

Where To:

Donald D. Anderson
McGraw-Hill Construction, LLC
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) as
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 By: J. Randall Evans
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.

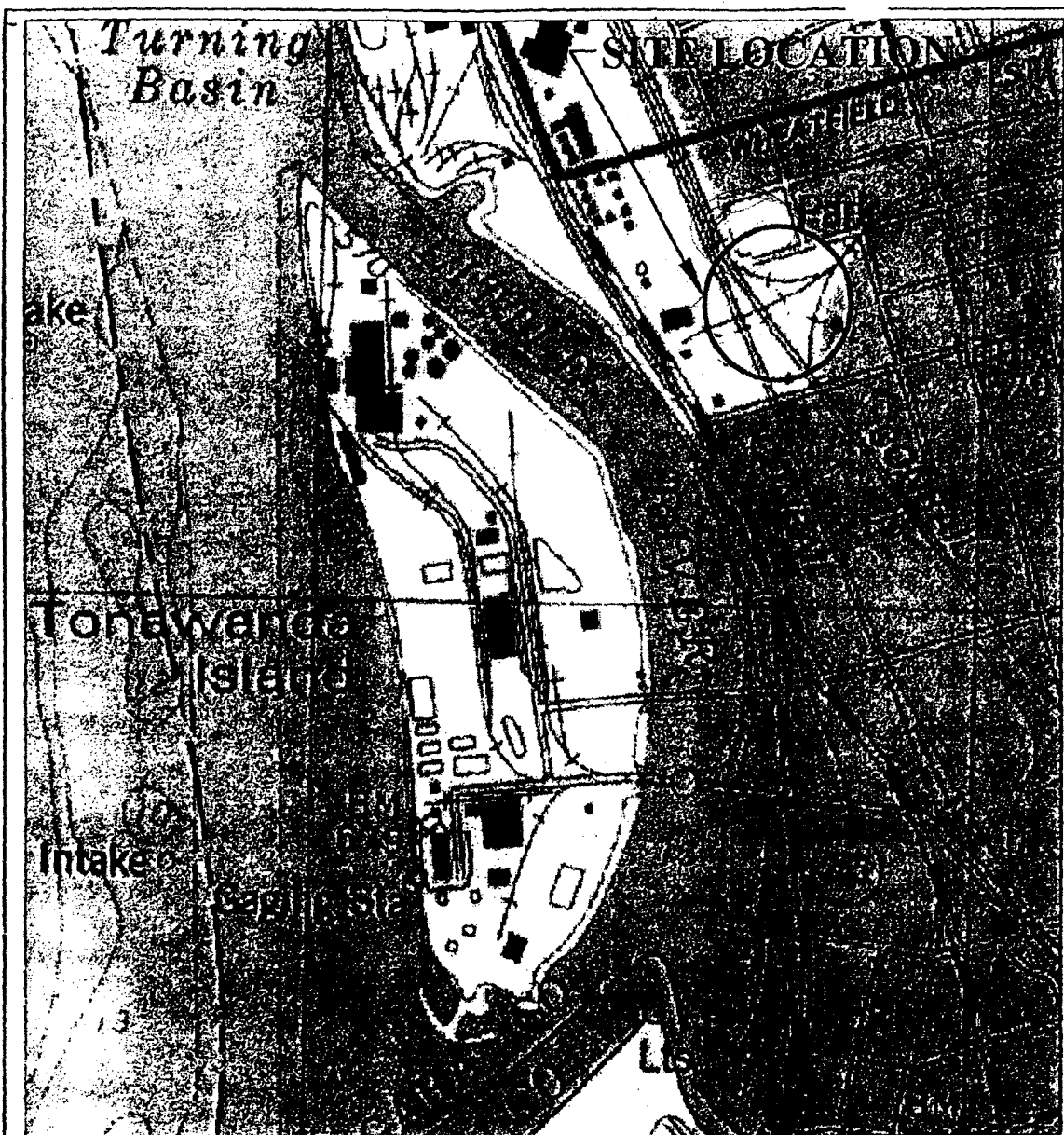
Betty D. Jones
BETTY D. JONES
Print Name
Notary Public, State and County aforesaid
Commission No.:
Commission Expires:



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

\\jac\3285\Declaration of Covenants & Restrictions.doc

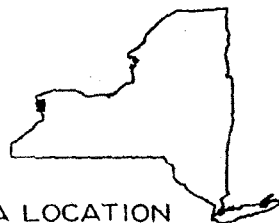


TONAWANDA WEST, N. Y.

NW 1/4 TONAWANDA 18' TRIANGLE
N4300-70752.57.5

1980

DMA 0770 IN SW-SERIES 4821



AREA LOCATION

BOOTH OIL

SITE No. 9-32-100

New York State Department of
Environmental Conservation



F.R.E.: site Location.org

DRAWING BY: J.C.

SITE LOCATION

DATE: 7/1/01

FIGURE 1

APPENDIX "B"

NIAGARA COUNTY - STATE OF NEW YORK
WAYNE F. JAGOW - NIAGARA COUNTY CLERK
P.O. BOX 461, LOCKPORT, NEW YORK 14095-0461



COUNTY CLERK'S RECORDING PAGE

THIS PAGE IS PART OF THE DOCUMENT - DO NOT DETACH



Recording:

Cover Page	8.00
Recording Fee	14.00
Cultural Ed	14.25
Records Management - Coun	1.00
Records Management - Stat	4.75

Sub Total: 42.00

RECEIPT NO. : 201058936

Clerk: TH
Instr #: 2010-16349
Rec Date: 10/05/2010 01:20:02 PM
Doc Grp: DEED
Descrip: MISCELLANEOUS
Num Pgs: 4

Total: 42.00
**** NOTICE: THIS IS NOT A BILL ****

Party1: BOOTH OIL COMPANY INC
Party2: BOOTH OIL COMPANY INC
Town: N/A

Record and Return To:

BLAIR & ROACH
2645 SHERIDAN DR.
TONAWANDA, NY 14150

Wayne F. Jagow, Niagara County Clerk

Clerk: TH

**DECLARATION OF COVENANTS AND RESTRICTIONS FOR THE BOOTH OIL
SITE PROPERTY**

THIS COVENANT, made the th~~20~~ day of September, 2010, by Booth Oil Company, Inc. ("BOCI"), a corporation organized and existing under the laws of the State of New York, owner of Property commonly known as 76 Robinson Street in the City of North Tonawanda, County of Niagara and State of New York (the "Booth Oil Site"),

WHEREAS, BOCI is the owner of Property situate in the City of North Tonawanda, County of Niagara and State of New York, being part of Lot No. 79, of the Mile Reserve and more particularly bounded and described in a deed dated January 4, 1960 and recorded in the Niagara County Clerk's Office on the 16th day of January in Liber 1421 at page 277 attached hereto at Appendix A and made a part hereof,

WHEREAS, the Booth Oil Site, designated Site # 9-32-100, by the New York State Department of Environmental Conservation is the subject of Order on Consent Index # B9-0214-96-03, and

WHEREAS, the Order on Consent requires that the property be subject to certain restrictive covenants,

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

First, the property subject to this Declaration of Covenants and Restrictions is shown on a map attached to this declaration at Appendix B and made a part hereof, and consists of Property described in the deed dated January 4, 1960 attached hereto at 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 not interfere with the cap covering the Property.

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 not use or allow 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 not interfere with the continuation in full force and effect of any institutional and engineering controls required under the Order on Consent and the maintenance of such controls.

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 Order on 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 HEREOF, the undersigned has executed this instrument the day written below.

Dated: September 30, 2010

Booth Oil Company, Inc.

By: 


Title: Treasurer

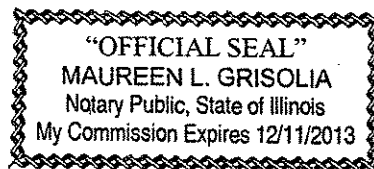
Printed Name: Joseph Chalhoub

State of Illinois)

County of Kane) ss:

On September 30, 2010, before me, the undersigned, personally appeared Joseph Chalhoub, the Treasurer of Booth Oil Company, Inc., 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.


Notary Public



18

2579
9440

This Indenture,

Made the 4th day of January, Nineteen Hundred and Sixty,
Between GEORGE T. BOOTH and GEORGE T. BOOTH, JR., co-partners doing business as George T. Booth & Son, with principal office and place of business at 76 Robinson Street in the City of North Tonawanda, County of Niagara and State of New York,

parties of the first part, and
GEORGE T. BOOTH & SON, INC., a corporation organized and existing under the laws of the State of New York, with its principal office and place of business at 76 Robinson Street in the City of North Tonawanda, County of Niagara and State of New York,

party of the second part,
Witnesseth that the parties of the first part, in consideration of One and more ----- Dollars (\$1.00 & more)

lawful money of the United States,
paid by the party of the second part, do hereby grant and release unto the party of the second part, its successors and assigns forever,
ALL THAT CERTAIN PIECE OR PARCEL OF LAND situated in the City of North Tonawanda, County of Niagara and State of New York, being part of Lot 79 of the Mile Reserve and more particularly bounded and described as follows: BEGINNING at a point in the northerly line of Robinson Street distant one hundred thirty-three (133) feet westerly as measured along said northerly line of Robinson Street from its intersection with the westerly Street line of Marion Street, (fifty feet wide)

(1) Thence westerly, along said northerly line of Robinson Street, one hundred seventy (170) feet;

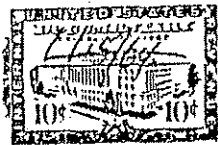
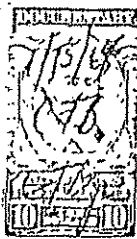
(2) Thence northerly, along a curve to the right having a radius of six hundred seventy-four and sixty-nine hundredths (674.69) feet, an arc distance of five hundred one and eighty-nine hundredths (501.89) feet to a point distant one hundred thirty-three (133) feet westerly, by rectangular measurement, from said westerly line of Marion Street;

(3) Thence southerly, parallel with said Marion Street and distant one hundred thirty-three (133) feet westerly therefrom, four hundred sixty (460) feet to the point or place of beginning, containing fifty-four thousand two hundred eighty-six (54,286) square feet, more or less.

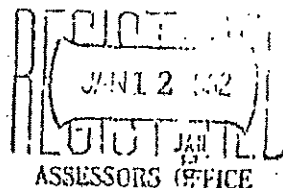
Being a part of the land and the premises conveyed by deed dated August 8, 1870, from David Robinson to The Suspension Bridge and Erie Junction Railroad Company recorded in Liber 124 at page 231 of Niagara County Deed records.

Also being the same premises conveyed to the parties of the first part herein by deed dated June 29, 1954 and recorded in Niagara County Clerk's Office June 30, 1954 in Liber 1142 of Deeds at page 41.

Subject to a certain bond and mortgage given to The Marine Trust Company of Western New York as continuing collateral security in the amount of \$33,000.00 dated June 29, 1954 and recorded in Niagara County Clerk's Office June 30, 1954 in Liber 914 of Mortgages at page 178.



CITY OF NORTH TONAWANDA



- 078 \$0004.00

PAID BY
NIAGARA COUNTY CLERK
DATE
AMOUNT



Enclosure 2
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Periodic Review Report Notice
Institutional and Engineering Controls Certification Form



Site Details

Box 1

Site No. 932100

Site Name Booth Oil Co.

Site Address: 76 Robinson Street Zip Code: 14210
City/Town: North Tonawanda
County: Niagara
Site Acreage: 2.500

Reporting Period: August 31, 2021 to August 31, 2024

- | | YES | NO |
|---|-------------------------------------|-------------------------------------|
| 1. Is the information above correct? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| If NO, include handwritten above or on a separate sheet. | | |
| 2. Has some or all of the site property been sold, subdivided, merged, or undergone a tax map amendment during this Reporting Period? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. Has there been any change of use at the site during this Reporting Period (see 6NYCRR 375-1.11(d))? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4. Have any federal, state, and/or local permits (e.g., building, discharge) been issued for or at the property during this Reporting Period? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| If you answered YES to questions 2 thru 4, include documentation or evidence that documentation has been previously submitted with this certification form.
<i>*Bldg permit included in report.</i> | | |
| 5. Is the site currently undergoing development? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Box 2

- | | YES | NO |
|---|-------------------------------------|--------------------------|
| 6. Is the current site use consistent with the use(s) listed below? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Industrial <i>*Commercial (Commercial as an option was left off checklist, it is being manually added here per NYSDEC for our purposes and will be added permanently by the department at a later date. It is an allowable site use as referenced in the deed restriction, included in report.)</i> | | |
| 7. Are all ICs in place and functioning as designed? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

IF THE ANSWER TO EITHER QUESTION 6 OR 7 IS NO, sign and date below and DO NOT COMPLETE THE REST OF THIS FORM. Otherwise continue.

A Corrective Measures Work Plan must be submitted along with this form to address these issues.

Signature of Owner, Remedial Party or Designated Representative

Date

Description of Institutional ControlsParcelOwnerInstitutional Control**182.17-1-5**

333,LLC-Mike Wachowicz

Building Use Restriction
Monitoring Plan
O&M Plan
Ground Water Use Restriction
Landuse Restriction
Soil Management Plan

Ground Water Use Restriction
Landuse Restriction
O&M Plan

Deed restrictions and a long-term monitoring program to address any residual contamination were required in accordance with the Amended Record of Decision (ROD) dated September 9, 2002. An Operation and Maintenance plan has been developed and implemented by CSX Transportation for the entire site which includes 76 Robinson. The required Deed Restriction has been filed with the Niagara County Clerk by the site owner or his representative on September 30, 2010 as Instr. #2010-16349

182.17-34.1

CSX Transportation Inc.

O&M Plan

Ground Water Use Restriction
Landuse Restriction
O&M Plan

Building Use Restriction
Soil Management Plan
Ground Water Use Restriction
Landuse Restriction
Building Use Restriction

The Con Rail property is part of the Booth Oil site and is currently listed on the Registry of Inactive Hazardous Waste Sites in New York as site #932100. A Declaration of Covenants and Restrictions was filed with the Niagara County Clerk's Office (L3245, P720) on August 5, 2003.

The property is an active railroad corridor. 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.

An Operation and Maintenance Plan has been developed and is implemented by CSX Transportation. The O&M Plan is in section 11.2 of the Remedial Action Completion Report; February 2004; rev. August 2004.

Box 4**Description of Engineering Controls**ParcelEngineering Control**182.17-1-5**

Cover System
Cover System

Contaminated areas were removed by excavating down to surveyed final excavation limits that were verified by confirmation soil samples that achieved the remedial cleanup goals.

Imported common fill was placed and compacted from the bottom of the excavated area to approximately 6 inches below the final surface grade. In addition, on-site excavated soil that was determined suitable for reuse as backfill was placed and compacted from the bottom of the excavated area to approximately 2 feet below the final surface grade.

Approximately 6 inches of imported topsoil were placed and graded at the surface to match the existing perimeter grades and to promote positive drainage.

Parcel

Engineering Control

The surface of the topsoil was hydroseeded with an approved seed/fertilizer/mulch mixture to promote vegetative growth.

182.17-34.1

Cover System

Cover System

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Approximately 6 inches of imported topsoil were placed and graded at the surface to match the existing perimeter grades and to promote positive drainage.

The surface of the topsoil was hydro-seeded with an approved seed/fertilizer/mulch mixture to promote vegetative growth.

Periodic Review Report (PRR) Certification Statements

1. I certify by checking "YES" below that:

- a) the Periodic Review report and all attachments were prepared under the direction of, and reviewed by, the party making the Engineering Control certification;
- b) to the best of my knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and the information presented is accurate and complete.

YES NO

☒ ☐

2. For each Engineering control listed in Box 4, I certify by checking "YES" below that all of the following statements are true:

- (a) The Engineering Control(s) employed at this site is unchanged since the date that the Control was put in-place, or was last approved by the Department;
- (b) nothing has occurred that would impair the ability of such Control, to protect public health and the environment;
- (c) access to the site will continue to be provided to the Department, to evaluate the remedy, including access to evaluate the continued maintenance of this Control;
- (d) nothing has occurred that would constitute a violation or failure to comply with the Site Management Plan for this Control; and
- (e) if a financial assurance mechanism is required by the oversight document for the site, the mechanism remains valid and sufficient for its intended purpose established in the document.

YES NO

☒ ☐

**IF THE ANSWER TO QUESTION 2 IS NO, sign and date below and
DO NOT COMPLETE THE REST OF THIS FORM. Otherwise continue.**

A Corrective Measures Work Plan must be submitted along with this form to address these issues.

Signature of Owner, Remedial Party or Designated Representative

Date

IC CERTIFICATIONS
SITE NO. 932100

Box 6

SITE OWNER OR DESIGNATED REPRESENTATIVE SIGNATURE

I certify that all information and statements in Boxes 1,2, and 3 are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.

I William Parry, CSX Sr. Mgr. Env. Rem. at CSXT, Northern HQ, One Bell Crossing, Selkirk NY 12158,
print name print business address

am certifying as Remedial Party (Owner or Remedial Party)

for the Site named in the Site Details Section of this form.

William Parry

Digitally signed by William Parry
Date: 2025.04.21 13:18:21 -04'00'

Signature of Owner, Remedial Party, or Designated Representative
Rendering Certification

Date

EC CERTIFICATIONS

Box 7

Qualified Environmental Professional Signature

I certify that all information in Boxes 4 and 5 are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.

I Jeffrey LaRock at TRC 3 Corporate Drive, Clifton Park, NY 12065,
print name print business address

am certifying as a Qualified Environmental Professional for the TRC Environmental Corporation
(Owner or Remedial Party)


Signature of Qualified Environmental Professional, for
the Owner or Remedial Party, Rendering Certification

Stamp
(Required for PE)

4-29-25
Date