



March 3, 2003

Vanasse Hangen Brustlin, Inc.

Ref: 06392.0095

Ms. Stacy Watson May
Legal Counsel
CSX Transportation, Inc.
Law Department
500 Water Street (J150)
Jacksonville, FL 32202

Re: KeySpan Energy, Newtown Station Site, Elmhurst, NY
Agreement No. NYC-042161

Dear Ms. May:

The following paragraphs summarize the environmental remediation work performed by KeySpan Energy (KSE) on CSXT property located between Milepost QVK-6.00 and QVK-7.00 in Elmhurst, New York. The work was performed under the above referenced Right-of-Entry Agreement between CSXT and KSE, effective as of April 2002.

Background

In August 2001, VHB collected soil samples from the CSXT property. Access Agreement No. NYC-041763 (Attachment A) granted KeySpan permission to enter CSXT property for the purpose of collecting these samples. VHB provided AMEC with a summary letter dated October 5, 2001 detailing these soil analytical results collected from the CSXT property adjacent to the KeySpan Energy- Newtown Station facility. The results of this investigation indicated elevated levels of semi-volatile organic compounds (SVOCs) and lead present in soil. These results prompted the excavation and removal of soil described below.

Remediation Summary

Refer to our correspondence dated October 5, 2001 for a summary of proposed remedial activities and cleanup goals.

Miller Environmental Group (MEG) was selected as the Contractor to perform the excavation and removal activities. VHB was present to provide oversight for the excavation, disposal, and site restoration activities.

CSXT and their representatives were notified by phone and in writing prior to the start of the work and as specified in the Access Agreement. CSXT and/or their representatives were not present during this work.

Figure 1 is a Site Locus Map. The CSXT property shown on Figure 2 was cleared and grubbed of vegetation on July 17, 2002. The property was cleared from the KSE fence line up to within 25 feet of the centerline along the railroad tracks from grid D9 north to grid L9. The excavation of lead and SVOC-impacted soil on the CSXT property began on July 31, 2002 and was completed on August 15, 2002.

The excavation activities on the CSXT property did not extend to areas within 25 feet of the centerline of the railroad tracks, as stated in the Right-of-Entry Agreement between CSX and KeySpan. The Agreement (NYC-042161) is included as Attachment B.

Excavation of soil with elevated concentrations of lead on the CSXT property began on July 30, 2002. Grid D9 on the CSXT side of the sheet piling was excavated to a depth of 12-14 feet below ground surface (bgs) on the east side of the grid and 2 feet bgs on the west side of the grid. The embankment of fill material was excavated until native tan sandy soil was encountered across the grid bottom. The east portion of this grid consisted of this fill material that had exceedances of lead and the west portion of the grid consisted of old railroad ballast and stone that had exceedances of SVOCs.

Railroad ballast extended the length of the work area along the CSX railroad shown on Figure 2 and is summarized in Table 1. VHB sampled the railroad bed ballast in order to determine if this material required excavation. The railroad ballast was found to contain elevated SVOC concentrations. Therefore, the ballast was removed based on visual assessment down to native tan sandy soil. Grid D9 was sampled on July 31, 2002 and is summarized in Table 2. Grid D9 hazardous soil (as determined by TCLP lead exceeding 5.0 mg/L) was stockpiled on KeySpan's property for shipment to Clean Earth of North Jersey in South Kearney, NJ.

The remaining grids on the CSX property (E9 through L9) were excavated and sampled between August 1 and August 5, 2002. The grids were cleared of all railroad ballast material and debris to an approximate depth of 2 - 3 bgs. The grids were excavated down to native tan sandy soil, screened with an X-Ray Fluorescence (XRF) Analyzer, and sampled by VHB for lead and SVOCs. Table 2 summarizes the laboratory results and Figure 3 shows the limits of the excavations, sample locations, and concentrations of lead remaining on site. Figure 3 also shows the locations of the RAO exceedances for lead.

Remediation work was substantially complete in August 2002. Approximately 2,500 tons of soil were removed and properly disposed off-site.

Lead Analytical Results

Three samples collected from soils that remain on site exceed the RAO Goal of 400 mg/kg on the CSX property. These samples were located on the western sidewall of grids G9, I9, and K9 with lead concentrations of 503, 740, and 713 mg/kg, respectively. VHB was not able to remove these exceedances (see Table 2 and Figure 3) because the western sidewall was at the 25-foot limit of the railroad tracks specified in the Access Agreement (see Appendix B).

All other lead results were detected below the RAO Goal of 400 mg/kg.



Ms. Stacy Watson May
Project No.: 06392.0095
March 3, 2003
Page 3

SVOC Analytical Results

All of the grids excavated on the CSX property had an exceedance of one or more SVOCs. The exceedances occurred with the following SVOCs: benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, dibenzo(a,h)anthracene, and indeno(1,2,3-cd)pyrene (see Table 2).

It should be noted that the railroad ballast was covering much of the CSX property. The railroad material was sampled by VHB on July 24, 2002 and is summarized in Table 1. Based on these results, VHB determined that this material required excavation. The western sidewalls that were sampled by VHB were composed of this ballast material and could not be excavated due to the 25-foot restriction. The western sidewalls have exceedances of SVOCs that are consistent with the railroad ballast material.

Aside from the western sidewalls, minor exceedances are present in the remaining samples presented in Table 2. Specifically, the list of SVOC exceedances is narrowed down to benzo(a)pyrene and dibenzo(a,h)anthracene along the eastern sidewalls and bottoms of the excavations. The southern sidewall in grid D9 and the northern sidewall of grid L9 both have an exceedance of benzo(a)pyrene.

Site Restoration

Approximately 2,380 cubic yards of clean backfill material were used in backfilling and grading the CSX property. The backfill was brought up to original grade and slightly sloped towards the drainage swale adjacent to the railroad tracks. The area was compacted with the bulldozer and front-end loader via back blading. The CSX property was then restored through hydro seeding on August 15, 2002. The chain link fence along the CSX/KSE properties was replaced. The fence included a 20-foot gate in grid L9 that can be used to access the CSX property in the future. In the area of grid D9 along the sheet piling, the fence was placed on the inboard side (KSE property) of the sheet piling for safety and security reasons.

If you have any questions or need more information please call me at 716-655-2734.

Very truly yours,

VANASSE HANGEN BRUSTLIN, INC.



Matthew J. Wawrowski, P.E.
Project Manager

cc. T. Bell, KSE
J. Giordano, KSE
K. Frantzen, VHB
B. Hanlon, VHB



Table 1
Summary of Railroad Ballast Material on CSX Property (2002)
KeySpan- Newtown Station
Queens, NY

| Sample Identification | RR Bed | Goal for Carcinogen | Goal for Noncarcinogen |
|----------------------------|------------------------------|---------------------------|--------------------------------|
| Date Sampled | 7/24/2002 | Cancer Risk Level (mg/kg) | Noncancer Hazard Level (mg/kg) |
| <u>Parameter</u> | <u>Concentration (mg/kg)</u> | | |
| <u>SVOC 8270</u> | | | |
| 2-Methylnaphthalene | 0.064 | NC | 1460 |
| Acenaphthene | 0.11 | NC | 2530 |
| Acenaphthylene | 1 | NC | 355 |
| Anthracene | 0.81 | NC | 10400 |
| Benzo(a)anthracene | 4.1 | 0.672 | 139 |
| Benzo(a)pyrene | 3.4 | 0.0672 | 139 |
| Benzo(b)fluoranthene | 4.2 | 0.672 | 139 |
| Benzo(g,h,i)perylene | 1.8 | NC | 139 |
| Benzo(k)fluoranthene | 3.5 | 6.72 | 139 |
| Bis(2-ethylhexyl)phthalate | 0.12 | 55.6 | 133 |
| Chrysene | 4.5 | 67.2 | 139 |
| Dibenzo(a,h)anthracene | 1.1 | 0.0742 | 139 |
| Dibenzofuran | 0.19 | NC | 16.8 |
| Fluoranthene | 9.1 | NC | 1680 |
| Fluorene | 0.35 | NC | 1680 |
| Indeno(1,2,3-cd)pyrene | 2.1 | 0.672 | 139 |
| Naphthalene | 0.079 | NC | 123 |
| Phenanthrene | 4.2 | NC | 139 |
| Pyrene | 6.3 | NC | 1260 |
| <u>Inorganics</u> | | | |
| Lead | 197 | VCA Goal: 400 | |

All results are in mg/kg.

Only detected results are presented in this table.

Samples in **bold** indicate an exceedance of the site-specific cleanup goal.

NC- Carcinogenic toxicity values (i.e. slope factors) not available or not applicable

Table 2
Summary of Off-Site CSX Closure Analytical Results (2002)
KeySpan- Newtown Station
Queens, NY

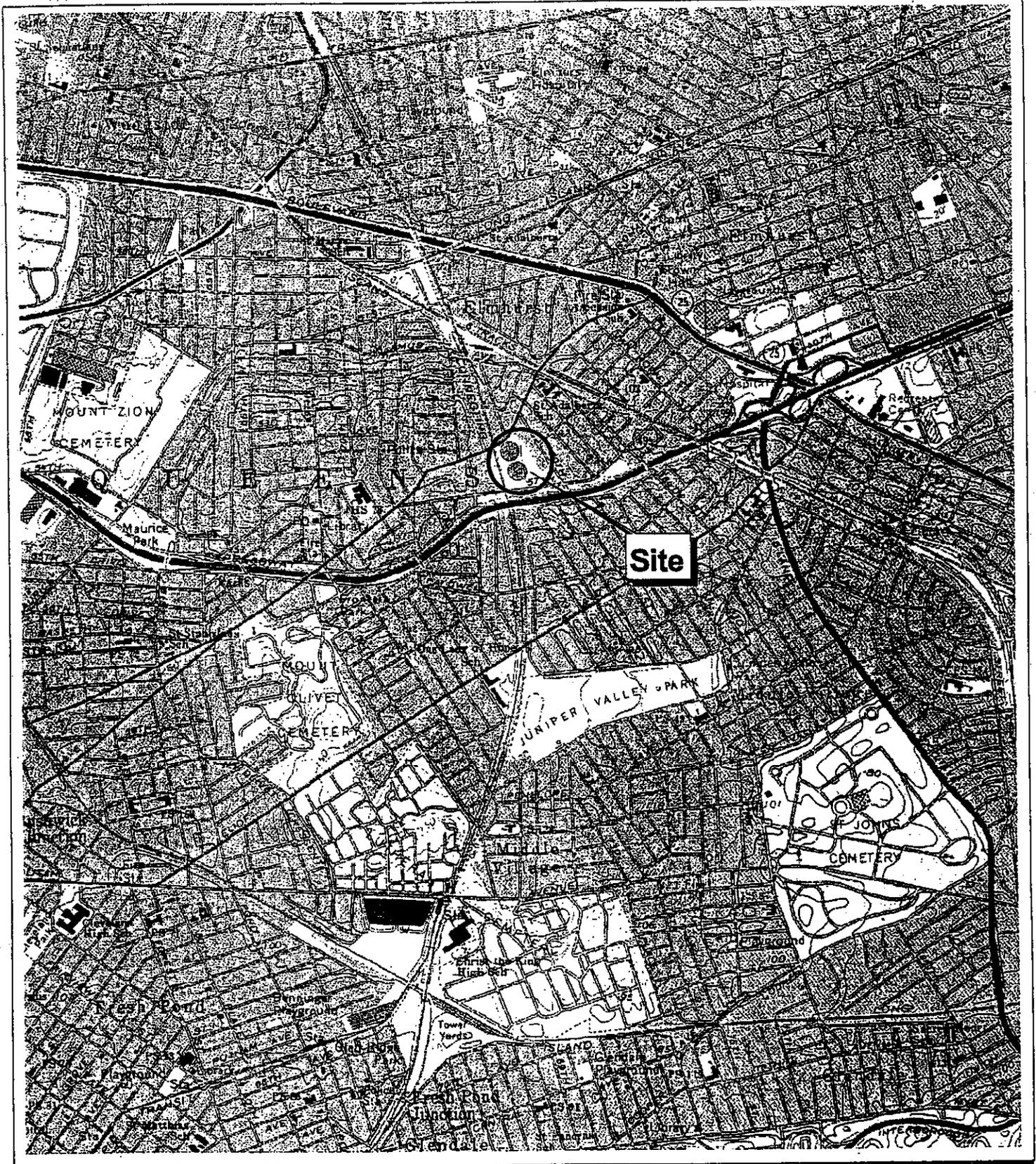
| Sample Identification | CSX D9 Bottom (10-12') | CSX D9 South (5-9') | CSX D9 West | CSX E9 Bottom | CSX E9 East | CSX E9 West | CSX F9 Bottom | CSX F9 East | CSX F9 West | CSX G9 Bottom | CSX G9 East | CSX G9 West | CSX H9 Bottom | CSX H9 East | CSX H9 West | Goal for Carcinogen Level (mg/kg) | Goal for Noncarcinogen Hazard Level (mg/kg) |
|----------------------------|------------------------------|---------------------|-------------|---------------|--------------|-------------|---------------|--------------|-------------|---------------|--------------|-------------|---------------|-------------|--------------|-----------------------------------|---|
| Parameter | Concentration (mg/kg) | | | | | | | | | | | | | | | | |
| SVOC 8270 | | | | | | | | | | | | | | | | | |
| 2-Methylnaphthalene | ND | ND | ND | ND | ND | ND | ND | 0.017 | ND | 0.022 | 0.076 | ND | 0.023 | ND | 0.18 | NC | 1460 |
| Acenaphthene | ND | ND | 0.058 | ND | ND | ND | ND | ND | 0.12 | ND | ND | 0.11 | ND | 0.15 | NC | 2530 | |
| Acenaphthylene | ND | ND | 0.76 | 0.11 | ND | 1.4 | 0.097 | ND | 2.1 | 0.045 | ND | 2.3 | 0.019 | 0.53 | NC | 355 | |
| Anthracene | 0.048 | ND | 0.5 | 0.11 | 0.82 | 0.11 | 0.11 | ND | 1.2 | 0.037 | ND | 1.3 | 0.021 | 0.64 | NC | 10400 | |
| Benzo(a)anthracene | 0.3 | 0.091 | 2.4 | 0.52 | 0.062 | 4.3 | 0.53 | 0.012 | 5.8 | 0.18 | 0.29 | 7.9 | 0.15 | 3.1 | 0.672 | 139 | |
| Benzo(a)pyrene | 0.26 | 0.088 | 2 | 0.43 | 0.054 | 3.7 | 0.44 | 0.012 | 4.9 | 0.17 | 0.27 | 6.1 | 0.15 | 0.22 | 2.6 | 0.0672 | 139 |
| Benzo(b)fluoranthene | 0.24 | 0.09 | 2.5 | 0.4 | 0.05 | 5.1 | 0.42 | 0.025 | 6.4 | 0.17 | 0.23 | 7 | 0.13 | 0.2 | 3 | 0.672 | 139 |
| Benzo(g,h,i)perylene | 0.15 | 0.058 | 0.86 | 0.2 | ND | 1.4 | 0.17 | 0.025 | 1.7 | 0.059 | 0.22 | 3.5 | 0.11 | 0.13 | 0.9 | NC | 139 |
| Benzo(k)fluoranthene | 0.3 | 0.067 | 2 | 0.51 | 0.049 | 3.1 | 0.48 | 0.018 | 5.3 | 0.2 | 0.33 | 6.5 | 0.14 | 0.24 | 3.1 | 6.72 | 139 |
| Bis(2-ethylhexyl)phthalate | 0.057 | ND | 0.093 | ND | ND | 0.14 | ND | 0.024 | 0.16 | 0.033 | ND | 0.15 | 0.02 | 0.25 | 0.25 | 55.6 | 133 |
| Butyl benzyl phthalate | ND | ND | ND | ND | ND | ND | ND | ND | ND | 0.011 | ND | ND | ND | 0.18 | 0.18 | | |
| Chrysene | 0.32 | 0.1 | 2.6 | 0.51 | 0.06 | 4.3 | 0.51 | 0.024 | 6.4 | 0.22 | 0.32 | 8.4 | 0.17 | 0.27 | 3.7 | 67.2 | 139 |
| Di-n-butyl phthalate | ND | ND | ND | ND | ND | ND | ND | 0.074 | ND | 0.12 | 0.056 | ND | 0.038 | ND | ND | NC | 546 |
| Dibenzo(a,h)anthracene | 0.053 | ND | 0.49 | 0.096 | ND | 0.86 | 0.088 | ND | 1 | 0.03 | 0.078 | 1.8 | 0.041 | 0.053 | 0.47 | 0.0742 | 139 |
| Dibenzofuran | ND | ND | 0.11 | ND | ND | 0.15 | ND | ND | 0.19 | ND | ND | 0.18 | ND | ND | 0.16 | NC | 1680 |
| Fluoranthene | 0.65 | 0.17 | 4.9 | 1.1 | 0.092 | 9.1 | 1.1 | 0.021 | 13 | 0.38 | 0.48 | 14 | 0.24 | 0.38 | 6.3 | NC | 1680 |
| Fluorene | ND | ND | 0.21 | ND | ND | 0.28 | ND | ND | 0.4 | 0.011 | 0.063 | 0.38 | ND | 0.23 | 0.23 | NC | 139 |
| Indeno(1,2,3-cd)pyrene | 0.15 | 0.05 | 0.98 | 0.21 | ND | 1.7 | 0.19 | ND | 2 | 0.063 | 0.2 | 3.9 | 0.1 | 0.13 | 0.99 | 0.672 | 123 |
| Naphthalene | ND | ND | ND | ND | ND | 0.11 | ND | 0.021 | 0.14 | 0.11 | 0.2 | 0.22 | 0.086 | 0.067 | 0.43 | NC | 139 |
| Phenanthrene | 0.36 | 0.061 | 2.7 | 0.71 | ND | 4.3 | 0.65 | ND | 5.7 | 0.17 | 0.2 | 6 | 0.12 | 0.19 | 4 | NC | 139 |
| Pyrene | 0.46 | 0.15 | 3.4 | 0.74 | 0.083 | 5.6 | 0.69 | 0.019 | 8.1 | 0.24 | 0.43 | 11 | 0.25 | 0.36 | 5.1 | NC | 1260 |
| Inorganics | | | | | | | | | | | | | | | | | |
| Lead | 121 | 46.1 | 179 | 72 | 67.2 | 128 | 369 | 118 | 239 | 88.6 | 373 | 503 | 191 | 214 | 387 | | VCA Goal: 400 |

All results in mg/kg
 ND- Not Detected above laboratory method detection limit
 NC- Carcinogenic toxicity values (i.e. slope factors) not available or not applicable
 Only detected results are presented in this table.
 Samples in **bold** indicate an exceedance of the site-specific cleanup goal.

Table 2 cont'd
 Summary of Off-Site CSX Closure Analytical Results (2002)
 KeySpan - Newtown Station
 Queens, NY

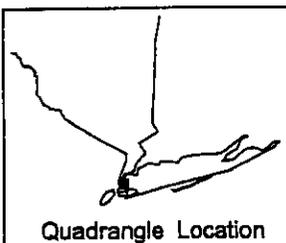
| Sample Identification | CSX I9 Bottom | CSX I9 East | CSX I9 West | CSX J9 Bottom | CSX J9 East | CSX J9 East (0-3') | CSX J9 West | CSX K9 Bottom | CSX K9 East | CSX K9 West | CSX L9 Bottom | CSX L9 East | CSX L9 West | CSX L9 North | Goal for Carcinogen Level (mg/kg) | Goal for Noncarcinogen Hazard Level (mg/kg) |
|----------------------------|------------------------------|-------------|-------------|---------------|-------------|--------------------|-------------|---------------|-------------|-------------|---------------|-------------|--------------|--------------|-----------------------------------|---|
| Parameter | Concentration (mg/kg) | | | | | | | | | | | | | | | |
| SVOC #270 | | | | | | | | | | | | | | | | |
| Acenaphthylene | 0.056 | ND | 1 | ND | 0.81 | ND | ND | 0.048 | ND | 1 | 0.078 | ND | ND | ND | NC | 355 |
| Anthracene | 0.15 | ND | 0.69 | ND | 0.64 | 0.091 | ND | 0.058 | ND | 0.66 | 0.098 | ND | 0.09 | 0.027 | NC | 10400 |
| Benzo(a)anthracene | 0.58 | 0.02 | 4.3 | 0.24 | 3.2 | 0.44 | 0.022 | 0.4 | 0.22 | 3.8 | 0.44 | 0.2 | 0.56 | 0.12 | 0.672 | 139 |
| Benzo(a)pyrene | 0.45 | 0.018 | 3.4 | 0.22 | 2.6 | 0.4 | 0.02 | 0.32 | 0.18 | 3.1 | 0.33 | 0.16 | 0.45 | 0.1 | 0.672 | 139 |
| Benzo(b)fluoranthene | 0.36 | 0.02 | 6.7 | 0.24 | 3.2 | 0.45 | 0.021 | 0.28 | 0.17 | 3.1 | 0.59 | 0.16 | 0.54 | 0.081 | 0.672 | 139 |
| Benzo(g,h,i)perylene | 0.29 | 0.014 | 2.1 | 0.16 | 1.3 | 0.15 | 0.014 | 0.19 | 0.1 | 1.7 | 0.15 | 0.081 | 0.2 | 0.049 | NC | 139 |
| Benzo(k)fluoranthene | 0.52 | 0.017 | 8.9 | 0.17 | 2.6 | 0.27 | 0.017 | 0.39 | 0.13 | 4.3 | ND | 0.12 | 0.4 | 0.12 | 55.6 | 133 |
| Bis(2-ethylhexyl)phthalate | ND | 0.027 | 0.45 | 0.1 | 0.28 | 0.089 | 0.023 | ND | 0.19 | 0.25 | 0.049 | ND | 0.14 | 0.049 | 67.2 | 139 |
| Chrysene | 0.59 | 0.022 | 4.8 | 0.27 | 3.7 | 0.44 | 0.025 | 0.41 | 0.21 | 4.2 | 0.45 | 0.21 | 0.61 | 0.12 | NC | 546 |
| Di-n-butyl phthalate | ND | 0.025 | ND | ND | ND | ND | 0.019 | ND | ND | ND | ND | ND | ND | 0.066 | NC | 139 |
| Dibenzo(a,h)anthracene | 0.12 | ND | 1 | 0.055 | 0.66 | 0.074 | ND | 0.085 | ND | 0.88 | 0.078 | ND | 0.096 | 0.023 | 0.0742 | 1680 |
| Fluoranthene | 1.4 | 0.038 | 9.8 | 0.41 | 7.4 | 0.88 | 0.039 | 0.79 | 0.43 | 7.8 | 1.1 | 0.42 | 1.2 | 0.26 | NC | 1680 |
| Fluorene | 0.14 | ND | 0.24 | ND | 0.22 | 0.045 | ND | ND | ND | ND | 0.063 | ND | ND | ND | NC | 1680 |
| Indeno(1,2,3-cd)pyrene | 0.27 | 0.012 | 2.2 | 0.15 | 1.4 | 0.16 | 0.013 | 0.2 | 0.094 | 1.9 | 0.17 | 0.081 | 0.22 | 0.05 | 0.672 | 139 |
| Naphthalene | ND | ND | ND | ND | ND | ND | ND | ND | ND | ND | ND | ND | 0.1 | ND | NC | 123 |
| Phenanthrene | 1.1 | 0.019 | 3.9 | 0.17 | 3.4 | 0.59 | 0.02 | 0.41 | 0.27 | 2.9 | 0.77 | 0.28 | 0.61 | 0.17 | NC | 139 |
| Pyrene | 0.98 | 0.034 | 6 | 0.38 | 4.6 | 0.65 | 0.033 | 0.62 | 0.38 | 5.4 | 0.73 | 0.37 | 0.81 | 0.19 | NC | 1260 |
| Inorganics | 79.1 | 58.1 | 740 | 121 | 561 | 202 | 164 | 218 | 142 | 713 | 131 | 100 | 348 | 160 | | VCA Goal: 400 |
| Lead | | | | | | | | | | | | | | | | |

All results in mg/kg
 ND- Not Detected above laboratory method detection limit
 NC- Carcinogenic toxicity values (i.e. slope factors) not available or not applicable
 Only detected results are presented in this table.
 Samples in **bold** indicate an exceedance of the site-specific cleanup goal.



Source: U.S.G.S Quadrangle Brooklyn, NY (1979)

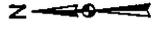
VHB Vanasse Hangen Brustlin, Inc.



1000 0 1000 Feet



Figure 1
Site Locus Map
Newtown Station/Elmhurst Holder Tank Site
Queens County, New York



LEGEND

Sheet Piling

EXCAVATION AREAS - AUGUST 2002

Area associated with hazardous soil content

Between 6-7' top excavation depth

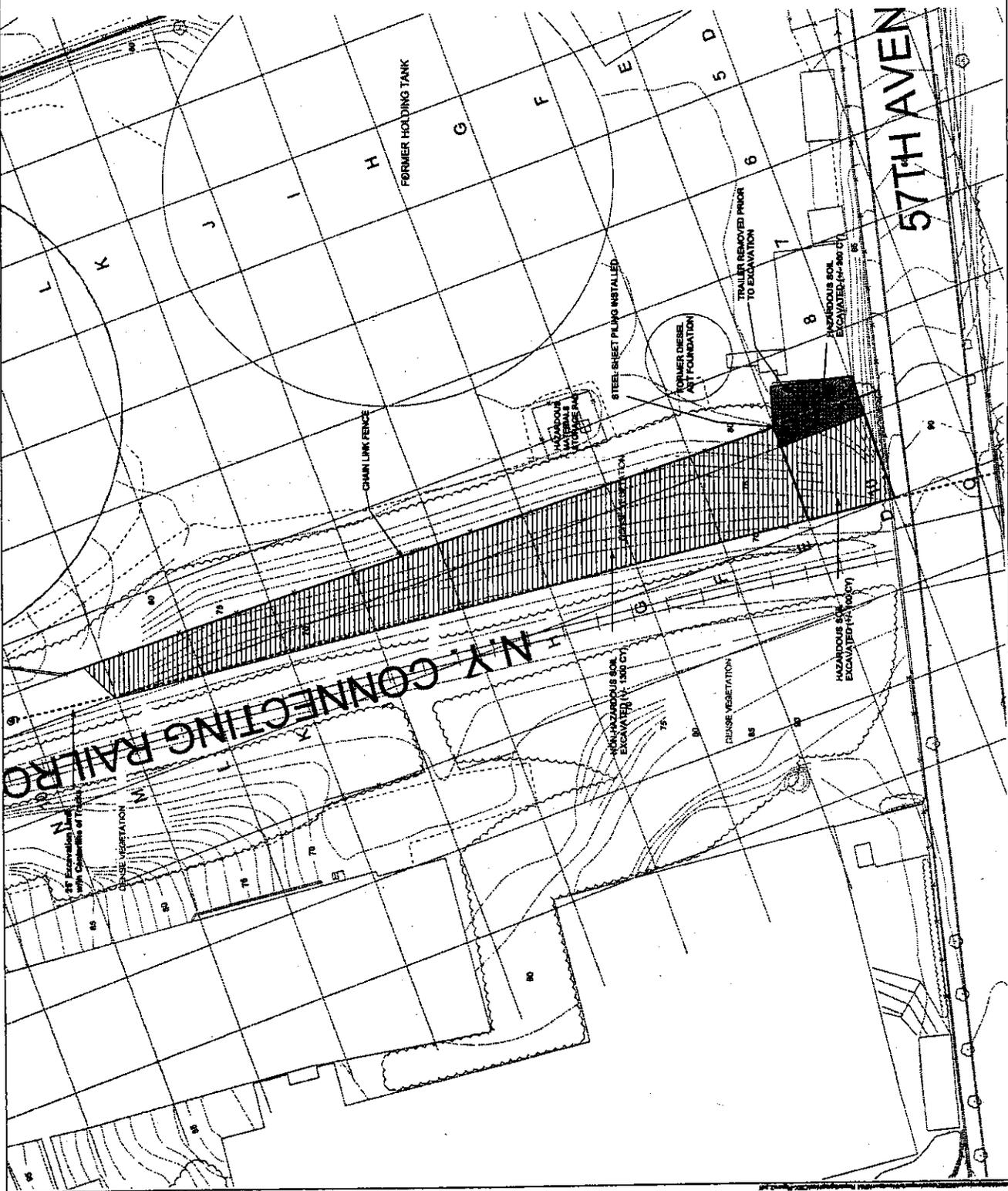
Between 8-11' top excavation depth

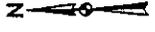


GENERAL NOTES:
1. THE VERTICAL DATUM HAS BEEN APPROXIMATED TO NAVD83 BY USING SPOT HEIGHTS ON AERIAL IMAGING PROVIDED BY PHOENIX, INC. 180 N. ROUTE 94, ROCKY HILL, CT 06067.
2. THIS SURVEY WAS CONDUCTED TO SUPPORT ENVIRONMENTAL MONITORING AND INVESTIGATION OF THE FORMER HOLDING TANK SITE PERFORMED UNDER A VCA WITH THE INYRS.
3. THE LOCATIONS OF EXISTING AND PROPOSED UTILITIES ARE SHOWN ON THIS PLAN AND HAVE NOT BEEN INDEPENDENTLY VERIFIED BY THE OWNER OR ITS REPRESENTATIVE. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES AND SHALL BE RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE OCCURRED BY THE CONTRACTOR'S FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UNDERGROUND UTILITIES.



| | |
|--|----------------|
| VHB Vanasse Hangen Brustlin, Inc. | |
| PLAN PREPARED FOR | KEYSPAN |
| NEWTOWN STATION/ELMHURST HOLDER TANK SITE NEWTOWN, NEW YORK | |
| EXCAVATION LIMITS ON CSX PROPERTY | |
| SCALE = | 1"=300' |
| DATE: NOVEMBER 2002 | FIGURE 2 |





LEGEND

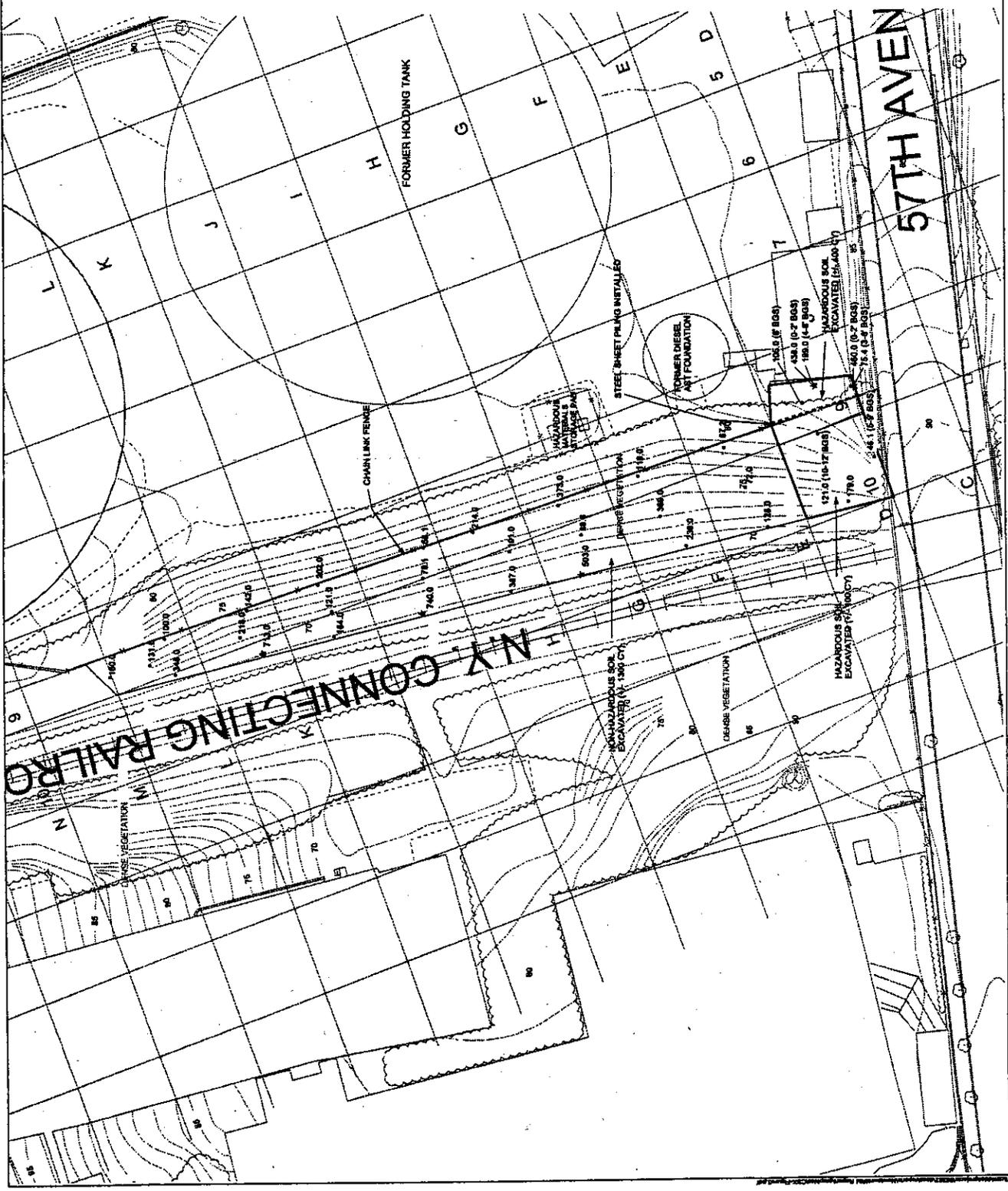
- Composite Soil Sample
- Open circle: Does not exceed RAO goal (40mg/kg)
- X: Exceeds RAO goal (Potentially)
- Dashed line: Sheet Piling
- Rectangle: Excavation Areas - August 2002
- Shaded area: Area associated with hazardous well content

GENERAL NOTES:
 1. THIS SURVEY WAS CONDUCTED TO SUPPORT ENVIRONMENTAL INVESTIGATION ACTIVITIES AT THE NEWTOWN STATION/ELMHURST HOLDER TANK SITE PERFORMED UNDER A TCA WITH THE RWBEC.
 2. THE SURVEY WAS CONDUCTED TO SUPPORT ENVIRONMENTAL INVESTIGATION ACTIVITIES AT THE NEWTOWN STATION/ELMHURST HOLDER TANK SITE PERFORMED UNDER A TCA WITH THE RWBEC.
 3. THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES ARE SHOWN IN AN APPROXIMATE MANNER ON THIS REPRESENTATIVE. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK, AND AGREE TO BE FULLY RESPONSIBLE FOR ANY DAMAGE TO EXISTING UTILITIES.
 4. ALL UNDERGROUND UTILITIES SHALL BE EXACTLY LOCATED AND PRESERVED ANY AND ALL UNDERGROUND UTILITIES.
 5. ALL SOIL SAMPLERS WERE COMPOSITE SAMPLERS REPRESENTING THE ENTIRE BOREWALL AND/OR BOTTOM.
 6. ALL RESULTS IN MGDG (PPM) EXCEPT FOR TCEP (MGL).
 7. ALL SAMPLERS TAKEN AT 4' DEEP EXCEPT WHERE INDICATED.



VHB Vanasse Hangen Brustlin, Inc.
 PLAN PREPARED FOR **KEYSPAN**
 NEWTOWN STATION/ELMHURST HOLDER TANK SITE
 NEWTOWN, NEW YORK
 LOCATIONS AND CONCENTRATIONS OF
 LEAD CLOSURE SAMPLES ON CSX PROPERTY
 SCALE = 1:300
 DATE: NOVEMBER 2002

FIGURE 3





Appendix A — Access Agreement

NYC-041763

FILE No.773 07/23 '01 09:36 ID:KEYSPAN LEGAL

FAX:516 545 5029

PAGE 2/ 8

CSXT Form 300778 - Page 1
Revised February 1999 @
Agreement Number NYC-041763

**RIGHT-OF-ENTRY:
Request for Access to CSX Transportation, Inc. Property
for Certain Environmental Investigatory Work**

This Right-of-Entry, made and effective as of June 22, 2001, responds to your request for access, application dated May 8, 2001, to conduct certain environmental investigatory work on the property of CSX TRANSPORTATION, INC., a Virginia corporation, as Operator for New York Central Lines LLC, a Delaware limited liability company, a wholly-owned subsidiary of Consolidated Rail Corporation, a Pennsylvania corporation, whose mailing address is 500 Water Street, Jacksonville, Florida 32202, hereinafter, jointly called "Railroad," at Elmhurst, Queens County, New York, as designated on the attached map or drawing (the "Property") (Exhibit A). The environmental investigatory work to be performed (the "Work") is part of an investigation of Newton/Elhurst Holder Site (the "Site") and is described in Exhibit B.

Railroad hereby grants to Keyspan Energy Delivery New York, a corporation of the State of New York, whose mailing address is 445 Broadhollow Rd., Melville, NY 11747, and its agents, employees, servants, and designated contractor(s) and subcontractor(s), hereinafter called "Licensee," the right and permission to enter upon Railroad property for the sole purpose of performing the Work described in Exhibit B at the Property designated in Exhibit A, which exhibits are incorporated into and made a part hereof by reference, subject to the following terms, conditions and provisions:

1. COST

a. Licensee shall pay to Railroad a one-time fee of TWO HUNDRED FIFTY AND 00/100 U.S. DOLLARS (\$250.00) to cover administration costs involved in the preparation and maintenance of this Right-of-Entry; a check for the fee shall be returned with this executed agreement. Licensee shall also reimburse Railroad for the actual cost of consultant services incurred in taking split samples, reviewing submitted documentation and verifying compliance with this Right-of-Entry.

b. All costs of the Work shall be borne solely by Licensee.

2. SCHEDULE; DURATION; SCOPE

a. The Work will begin on or around July 15, 2001.

b. Should additional work be required during the term of this Right-of-Entry, Licensee shall provide Railroad written notice and a detailed scope of work for the additional work at least thirty (30) days before Licensee proposes to commence such work.

c. Licensee shall not engage in the following activities without first obtaining separate written consent of Railroad:

CSXT Form 300778 -- Page 2
Revised February 1999
Agreement Number NYC-041763

i. enter upon any property (other than the Property) in which Railroad has an ownership or leasehold interest, regardless of the proximity of such property to the Property; or

ii. perform any work, or engage in any activity other than the Work, while on the Property, regardless of the closeness in nature of such work or activity to the Work.

d. This Right-of-Entry and the license granted herein does not constitute a grant of any permanent easement. Except as otherwise provided in Section 10 herein, this Right-of-Entry may be terminated at any time by either party giving thirty (30) days' written notice to the other for any reason whatsoever.

e. If not terminated earlier, this Right-of-Entry and the permission conferred shall terminate upon receipt by Railroad of Licensee's written notice of completion of the Work, unless extended in writing by Railroad.

3. PERFORMANCE STANDARDS

a. The Work shall be performed in a good and workmanlike manner consistent with the highest standard of care and practice of environmental professionals; in compliance with all federal, state and local laws, ordinances, rules and regulations, and administrative or judicial decisions and orders; in a manner so as not to disturb the occupancy, business or quiet enjoyment of any other tenants or licensees of Railroad's property; and in a manner so as to avoid harm to person(s) or property or delays to or interference with Railroad's operations.

b. All persons entering the Property pursuant to this Right-of-Entry shall wear safety glasses with side shields hard hats and steel-toed safety shoes, and shall abide by Railroad's Safety Rules and Procedures (Exhibit C) and any safety instructions given by Railroad.

c. Precautions must be taken by Licensee to avoid interference with or damage to Railroad's real and personal property, including but not limited to signal and communication facilities. No equipment of Licensee shall be placed or operated, no monitor or test well(s) shall be drilled or installed, and no Work shall be performed at a distance closer than twenty-five (25) feet from the centerline of any active Railroad track, without the express, prior approval of the Railroad shall furnish personnel, flagmen or watchmen which, in Railroad's sole opinion, may be necessary to protect Railroad's facilities and traffic during the performance of the Work by Licensee. Licensee shall reimburse Railroad for the actual cost of said service, including all applicable surcharges, promptly upon receipt of bill(s) therefor.

d. Drilling and all other equipment shall be moved across Railroad track(s) ONLY at a public crossing, unless Licensee has entered into Railroad's standard Private Road Crossing Agreement or has obtained special advance permission from the Railroad. Licensee agrees not to enter upon or foul track until given signal to do so by a flagman.

CSXT Form 300778 - Page 3
Revised February 1999 ø
Agreement Number NYC-041763

c. Licensee's equipment must stay clear of all wire lines at, over or near the Property, as well as any other utility or structure located thereon, including fiber optic lines.

f. Licensee expressly agrees to comply with the location, contact, excavation and protection regulations of the Occupational Safety and Health Act and state "One Call" - "Call Before You Dig" requirements. Licensee shall indemnify and hold Railroad harmless from any and all claims for damages to underground facilities of any entity or person caused by the performance of Work.

4. NOTICE; SPLIT SAMPLES

a. Licensee shall notify Railroad's , , and AMEC Earth and Environmental, Attn: ROE, 496 Osceola Avenue, Jacksonville Beach, FL 32250, at least ten (10) days before proceeding with any phase of the Work on the Property, and shall receive permission from them prior to entry or the start of any Work. Additionally, Licensee shall provide said Environmental Manager or his designee with forty-eight (48) hours notice of the actual commencement of the Work so that the Environmental Manager may arrange for the Railroad's own consultants to be present during the Work.

b. Licensee shall allow Railroad or its consultant to split samples.

5. DOCUMENTATION; CONFIDENTIALITY

a. Licensee shall provide, without charge to Railroad, by first class mail to the Environmental Manager at the address listed in Subsection 4a: (i) within five (5) days after the work is completed, copies of field notes and data relating to sample collection; (ii) within five (5) days of receipt, copies of results or reports of soil tests, well logs, and test results generated from the sampling and analysis of groundwater, sediment or soil, or from test or monitoring wells located on the Property, or any other reports relating to the Work; (iii) within five (5) days of receipt, copies of all correspondence from any government agency regarding the Work or in any other way relating to the Site; (iv) at least two (2) weeks before submission to any state or federal agency, the draft of any final report relating to the Work or the Site; and (v) no later than contemporaneously with submission to said agency, all final report relating to the Work or the Site.

b. Except as necessary to comply with applicable law or requirements of any governmental agency having jurisdiction over the Work, Licensee shall keep confidential all information relating to the Work, and provide on all correspondence regarding the investigation of the Property a "Confidentiality Clause," limiting disclosure of investigation, results and any report only to Licensee or Railroad. In addition, Licensee shall not disclose to any person or entity any information obtained in violation of the provisions of Section 2 hereof, without first obtaining the prior written consent of Railroad.

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FAX: 516 545 5029

PAGE 7/ 8

CSXT Form 300778 - Page 6
Revised February 1999 a
Agreement Number NYC-041763

b. Prior to commencement of occupation or use of the Property for the Work, Licensee shall procure (or shall cause its agent or contractor in charge of the Work to procure), and shall also maintain, or cause to be maintained, during continuance of this Right-of-Entry, at Licensee's sole cost and expense, Commercial General Liability (CGL) insurance, naming Licensee (and its agent or contractor as the case may be) as insured and Railroad as additional insured, covering Licensee's direct and assumed contractual (i.e., indemnification) liability under this Right-of-Entry, with coverage of not less than TWO MILLION AND 00/100 U.S. DOLLARS (\$2,000,000.00) Combined Single Limit per occurrence for bodily injury and property damage. If said policy does not automatically cover Licensee's contractual liability under this Right-of-Entry, a specific endorsement adding such coverage shall be purchased or caused to be purchased by Licensee, and indicated on the Certificate of Insurance.

c. In addition to the above-described CGL insurance, if (with the separate written consent of Railroad) Licensee will undertake, or cause to be undertaken, any construction or demolition activity within fifty (50) feet of any Railroad track or any Railroad bridge, trestle or tunnel, then Licensee shall also purchase, a policy of Railroad Protective Liability (RPL) insurance, naming Railroad as the insured, with coverage of not less than TWO MILLION AND 00/100 U.S. DOLLARS (\$2,000,000.00) Combined Single Limit per occurrence, with an aggregate of SIX MILLION AND 00/100 U.S. DOLLARS (\$6,000,000.00). Such policy must be written on ISO/RIMA form of Railroad Protective Insurance - Insurance Services Offices Form No. CG 00 35, including Pollution Exclusion Amendment CG 28 31. At Railroad's option, in lieu of purchasing RPL insurance (but not CGL insurance), Licensee may pay Railroad a Construction Risk Fee of ONE THOUSAND, FIVE HUNDRED AND 00/100 U.S. DOLLARS (\$1,500.00) and thereby be relieved of any obligation to purchase said RPL insurance for the benefit of Railroad, Licensee shall send Railroad its check for the above amount, payable to Railroad, with the return of the signed duplicate originals of this Right-of-Entry.

d. Licensee shall also carry, for the benefit of Licensee and its employees, Worker's Compensation Insurance as required by the state in which the Work is to be performed. This policy shall include Employer's Liability Insurance with a limit of not less than ONE MILLION AND 00/100 U.S. DOLLARS (\$1,000,000.00) per occurrence. Unless prohibited by law, such insurance shall waive subrogation against Railroad. Licensee shall also maintain Automobile Liability Insurance in an amount not less than ONE MILLION AND 00/100 U.S. DOLLARS (\$1,000,000.00) covering all owned, non-owned and hired vehicles.

e. If any insurance policy required under Section 9 hereof is written on a "claims made" basis instead of an "occurrence" basis, Licensee shall arrange for adequate time for reporting losses. Failure to arrange for adequate reporting time shall be at licensee's sole risk. Upon its execution of this Right-of-Entry, Licensee shall furnish Railroad with the original and two copies of any RPL policy along with Certificate(s) of Insurance naming Railroad as Certificate Holder, which shall specifically refer to this Right-of-Entry by date, name, and the location covered. Copies of Additional Insured and Waiver of Subrogation endorsements shall be attached to the Certificate(s). All policies obtained pursuant to this Section 9 shall contain a



Appendix B — Access Agreement # NYC-042161



Stacy Watson May
Counsel

Law Department
500 Water Street (J150)
Jacksonville, FL 32202
Direct Phone: (904) 359-1250
Direct Fax: (904) 245-2174
E-Mail: Stacy_WatsonMay@csx.com

April 4, 2002

By U.S. Mail

Mr. Joe Giordano
Legal Department
Keyspan Energy
175 East Old County Road
Hicksville, New York 11801

Re: ~~Keyspan Energy, Newtown Elmhurst Holder Site (the "Site")~~
~~Agreement No. NYC-042161 EPS -0115603~~

Dear Mr. Giordano:

~~Enclosed please find an Agreement that will permit access for remedial activities on Railroad property. CSXT will agree to allow the remedial activities on its property as long as CSXT and Keyspan Energy are able to enter into the appropriate agreement addressing the terms under which those activities will be conducted~~

~~Please be aware that before work is started it is your responsibility to schedule any work on CSXT property with the CSXT Engineering Department identified in paragraph 3.c., at least ten (10) days in advance of the date you desire to commence the project. No work is to be performed on Railroad property without the Engineering Department's authorization.~~

~~You must also contact AMEC Earth and Environmental, Inc. (615) 333-0630, before beginning any work.~~

~~The attached agreement covers only the Work specified within it. Any requests for changes or additions to the Work must be submitted to AMEC. Approval of such changes or additions, as well as an amendment of the Agreement, must be finalized before proceeding.~~

~~Please remember that you are required to submit a copy of the report(s) to AMEC prior to sending to the applicable government agency, as outlined in the agreement.~~

Mr. Joe Giordano

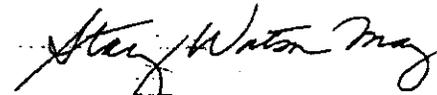
April 4, 2002

Page 2

~~If this Agreement is acceptable to you, please sign two originals and submit to me for execution by CSXT. Please include with your submission proof of insurance as required in Section 12 of the Agreement.~~

~~...Please contact me with any questions.~~

Sincerely,



~~Stacy Watson May~~

cc: Rick Adams (with enclosure)
Mark Adkins (with enclosure)
Matt Wawrowski (with enclosure)

**RIGHT-OF-ENTRY AGREEMENT for Certain Environmental Remedial Work:
Granting Right of Entry to Property Operated by CSX Transportation, Inc.**

~~This Right of Entry Agreement, made and effective as of April _____, 2002, responds, on behalf of CSX TRANSPORTATION, INC., a Virginia corporation, as Operator for New York Central Lines LLC, a Delaware limited liability company, a wholly-owned subsidiary of Consolidated Rail Corporation, a Pennsylvania corporation, hereinafter, jointly called "Railroad", to your request for access, application dated April 20, 2001 (Exhibit A), to conduct certain environmental remedial work on property located between Milepost QVK-6.00 and QVK-7.00 (former Conrail Line Code 30-4219) on the Albany Division, New York Terminal Subdivision (former Conrail-Freemont Industrial Track), as designated on the attached map or drawing (the "Property") (Exhibit B), which is adjacent to the Newtown Elmhurst Holder Site ("the Site"). The environmental remedial work to be performed on the Property is described in Exhibit C (the "Work") and is part of a Voluntary Cleanup Action of the Site, pursuant to a Voluntary Cleanup Agreement with the New York State Department of Environmental Conservation ("NYSDEC").~~

~~Railroad hereby grants to Keyspan Energy, a corporation of the State of New York, whose mailing address is 175 East Old Country Road, Hicksville, New York 11801, and its agents, employees, servants, and designated contractor(s) and subcontractor(s), hereinafter called "Licensee," the right and permission to enter upon Railroad property for the sole purpose of performing the Work described in Exhibit C at the Property designated in Exhibit B, which exhibits are incorporated into and made a part hereof by reference, subject to the following terms, conditions and provisions:~~

1. COST

~~a. Licensee shall pay to Railroad an annual fee of TWO HUNDRED FIFTY AND 00/100 U.S. DOLLARS (\$250.00) to cover administration costs involved in the preparation and maintenance of this Agreement, a check for the fee shall be returned with this executed agreement. Licensee shall also reimburse Railroad for the actual cost of consultant services incurred in taking split samples, reviewing submitted documentation and verifying compliance with this Agreement.~~

~~b. All costs of the Work shall be borne solely by Licensee.~~

~~c. The Fee shall be adjusted on an annual basis by the same percentage of increase or decrease as reflected in the "Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) (1982-84=100) specified for All Items - United States compiled by the Bureau of Labor Statistics of the United States Department of Labor" ("CPI"). In no event, however, shall the Fee be less than the Fee payable as of the effective date of this Agreement.~~

The Fee shall be increased or decreased in accordance with the following:

$$\frac{\text{Current Price Index}^*}{\text{Base Price Index}^{**}} \times \text{Fee} = \text{Adjusted Fee}$$

- * Effective CPI in the fourth month prior to the anniversary date of the fee.
** Effective CPI at the time of the effective date of the fee.

In the event the CPI is converted to a different standard reference base or otherwise revised or changed, the calculation of the percentage increase or decrease shall be made with the use of such conversion factor, formula or table for converting the CPI as may be published by the Bureau of Labor Statistics or, if said Bureau shall not publish the same, then as reasonably determined by Railroad.

2. SCHEDULE; DURATION; SCOPE

- a. The Work will begin on or around April __, 2002.
- b. ~~Only the Work described in Exhibit C is authorized by this agreement. Should additional work be required during the term of this Agreement, Licensee shall provide Railroad written notice and a detailed scope of work for the additional work at least thirty (30) days before Licensee proposes to commence such work. If the additional work is approved by Railroad, the parties shall amend this Agreement to allow such work.~~
- c. ~~Licensee shall maintain a copy of this Agreement, including all attachments, on the Property and have said Agreement available for review upon request by Railroad's employees or agents.~~
- d. ~~Licensee shall not engage in the following activities without first obtaining separate written consent of Railroad:~~
- i. ~~enter upon any property (other than the Property) in which Railroad has an ownership or leasehold interest, regardless of the proximity of such property to the Property; or~~
 - ii. ~~perform any work, or engage in any activity other than the Work, while on the Property, regardless of the closeness in nature of such work or activity to the Work.~~
- e. ~~This Agreement, and the license granted herein, does not constitute a grant of any permanent easement. Except as otherwise provided in Section 13 herein, this Agreement may be terminated at any time by either party giving thirty (30) days' written notice to the other for any reason whatsoever.~~

3. NOTICE; SPLIT SAMPLES

~~a. Licensee shall notify Railroad's Engineering Department and Railroad's Environmental Department as specified in this Section, at least ten (10) days before proceeding with any phase of the Work on the Property, and shall receive permission from them prior to entry or the start of any Work, including requests to conduct work within twenty-five (25) feet, as set forth in Section 5.e. Additionally, Licensee shall provide said Environmental Department or its designee with forty-eight (48) hours notice of the actual commencement of the Work so that the Environmental Department may arrange for the Railroad's own consultants to be present during the Work.~~

~~b. Licensee shall allow Railroad or its consultant to split samples.~~

c. Railroad's Engineering Department Contacts:

| | |
|------------------------------|--------------------------|
| Chief Regional Engineer | Roadmaster |
| D.J. Evers | Walter L. Cole |
| One Bell Crossing Road | 1080 Leggett Avenue Road |
| Selkirk, NY 12158 | Bronx, NY 10474 |
| (518) 767-6557 | (718) 579-1906 |
| 518-767-6359 fax | (518) 579-1914 fax |

d. Railroad's Environmental Department - Designee

AMEC Earth and Environmental
Attn: ROE
3800 Ezell Road
Suite 100
Nashville, TN 37211
(615) 333-0630
(615) 781-0655 Fax

~~e. Licensee shall promptly notify Railroad's Engineering Department, as specified in this Section, of any loss, damage, injury or death arising out of or in connection with Work performed under this Agreement.~~

4. PERFORMANCE STANDARDS

~~a. The Work shall be performed in a good and workmanlike manner consistent with the highest standard of care and practice of environmental professionals; in compliance with all federal, state and local laws, ordinances, rules and regulations, and administrative or judicial decisions and orders; in a manner so as not to disturb the occupancy, business or quiet enjoyment of any other tenants or licensees of Railroad's property; and in a manner so as to avoid harm to person(s) or property or delays to or interference with Railroad's operations.~~

b. ~~All persons entering the Property pursuant to this Agreement shall wear safety glasses with side shields, hard hats and steel-toed safety shoes, and shall abide by Railroad's Safety Rules and Procedures (Exhibit D) and any safety instructions given by Railroad.~~

c. ~~Precautions must be taken by Licensee to avoid interference with or damage to Railroad's real and personal property, including but not limited to signal and communication facilities.~~

d. ~~Drilling and all other equipment shall be moved across Railroad track(s) ONLY at a public crossing, unless Licensee has entered into Railroad's standard Private Road Crossing Agreement or has obtained special advance permission from the Engineering Department, as identified in Section 4. Licensee agrees not to enter upon or foul track until given signal to do so by a flagman.~~

e. ~~Licensee's equipment must stay clear of all wire lines at, over or near the Property, as well as any other utility or structure located thereon, including fiber optic lines.~~

f. ~~Licensee expressly agrees to comply with the location, contact, excavation and protection regulations of the Occupational Safety and Health Act and state "One Call" - "Call Before You Dig" requirements. Licensee shall indemnify and hold Railroad harmless from any and all claims for damages to underground facilities of any entity or person caused by the performance of Work.~~

5. ~~DESIGN & CONSTRUCTION PRINCIPLES~~

a. ~~All consents or approvals of Railroad of construction, alteration or clearance plans, if any, shall be secured, in writing, from Railroad's Engineering Department, unless otherwise provided herein or by separate written notice.~~

b. ~~Neither the approval by Railroad of any improvements or installations made by Licensee or Licensee's contractors, nor the failure of Railroad to object to any work done, any material used, or the method of construction or installation, shall be construed as an admission of responsibility by Railroad or as a waiver of any of Licensee's obligations under this Agreement.~~

c. ~~No equipment of Licensee shall be placed or operated, no monitor or test well(s) shall be drilled or installed, and no Work shall be performed at a distance closer than twenty-five (25) feet from the centerline of any active Railroad track, without the express, prior approval of the Railroad's Engineering Department, identified in Section 3.c. The notice periods of Section 3.a. also apply to this Subsection. Railroad shall furnish personnel, flagmen or watchmen which, in Railroad's sole opinion, may be necessary to protect Railroad's facilities and traffic during the performance of the Work by Licensee. Licensee shall reimburse Railroad for the actual cost of~~

~~said service, including all applicable surcharges, promptly upon receipt of bill(s) therefor. Railroad reserves the right to require an advance payment of these charges.~~

~~d. Licensee shall not temporarily block any sight view area of any rail/road crossing on the Property, by parking or allowing parking of motor vehicles or any other means, or erect any permanent structure(s) thereon nor allow any landscaping/vegetation to block said sight view.~~

~~e. All such installation and maintenance of any temporary or permanent structure shall be at Licensee's sole cost and expense and in a manner satisfactory to Railroad's Engineering Department, as identified in 3.c. Upon termination of this Agreement, if required by Railroad, Licensee shall remove such structures and restore the Property in a manner satisfactory to Railroad.~~

~~6. PERMITS, LICENSES & MARKING:~~

~~a. Licensee assumes sole responsibility to obtain any permit(s), license(s), or approval(s) required by any federal, state or local authority having jurisdiction over the Work, and any violations thereof, or for any costs or expenses of compliance or remediation resulting therefrom.~~

~~b. Licensee shall provide Railroad with copies of any permits or authorizations Licensee obtains in compliance with any laws, ordinances, codes or regulations applicable to the prevention or control of discharge of pollutants or contaminants into environment (land, water or air) in connection with Licensee's use of the Property. Licensee shall also promptly provide Railroad with a copy of any notice(s) served upon Licensee from/by any governmental authority claiming violations of any such law, ordinance, code or regulation, or requiring or calling attention to the need for any work, construction, alteration or installation on or in connection with the Property in order to comply with any such law, ordinance, code or regulation.~~

~~c. With respect to any subsurface installation, including but not limited to sheet piling, upon Railroad's property, Licensee, at its sole cost and expense, shall:~~

~~(1) Support track(s) and roadbed of Railroad, in a manner satisfactory to Railroad; and~~

~~(2) Backfill with satisfactory material and thoroughly tamp all trenches to prevent settling of surface of land and roadbed of Railroad.~~

~~d. After such installation, Licensee shall:~~

~~(1) Restore said track(s), roadbed and other disturbed property of Railroad, and~~

leave same in a condition satisfactory to Railroad; and

~~(2) Erect, maintain and periodically verify the accuracy of aboveground markers, indicating the location, depth and ownership of sheet piling or other facilities, in Licensee's standard form or in a form approved by Railroad.~~

7. DOCUMENTATION; CONFIDENTIALITY

a. ~~Licensee shall provide, without charge to Railroad, by first class mail to the Environmental Department at the address listed in Section 3.d.: (i) within five (5) days after the work is completed, copies of field notes and data relating to sample collection; (ii) within five (5) days of receipt, copies of results or reports of soil tests, well logs, and test results generated from the sampling and analysis of groundwater, sediment or soil, or from test or monitoring wells located on the Property, or any other reports relating to the Work; (iii) within five (5) days of receipt, copies of all correspondence from any government agency regarding the Work or in any other way relating to the Site; (iv) at least two (2) weeks before submission to any state or federal agency, the draft of any final report relating to the Work or the Site; and (v) no later than contemporaneously with submission to said agency, all final reports relating to the Work or the Site.~~

b. ~~Except as necessary to comply with applicable law or requirements of any governmental agency having jurisdiction over the Work, or the Voluntary Cleanup Agreement for this Site, Licensee shall not distribute information relating to the Work to any person or entity other than Licensee, Railroad or their contractors and agents.~~

8. MONITOR WELLS

a. ~~Any monitoring or test wells which Licensee installs must be constructed with high quality materials using methodologies to prevent groundwater cross-contamination. Such wells must be flush mounted and have watertight locking caps and/or located steel protective casings to insure well integrity. The wells must be installed in such a manner as not to pose a hazard or impediment to vehicular or pedestrian traffic on the Property or adjacent property.~~

b. ~~Wells must have identification tags to include, at a minimum, the following: well number; date installed; total depth of well; screened interval and by whom installed.~~

c. ~~If Railroad determines, in its sole but reasonably exercised discretion, that all or any monitoring or test wells, or the location(s) thereof, should be changed, altered or entirely removed, Licensee, as its sole risk, cost and expense, shall make such changes, alterations or removal, as the case may be, in a manner satisfactory to Railroad, and restore the Property affected to the condition which existed prior to commencement of the Work, within thirty (30) days of Railroad's request. If Licensee fails to make such changes, alterations, or removal and~~

restoration of the Property, Railroad may remove such wells and make such restoration at the sole risk, cost and expense of Licensee.

d. ~~If Licensee desires to revise, renew, relocate, or change in any manner all or any monitoring or test wells, or if Licensee is required to change or alter the same, plans therefor shall be submitted to and approved by the Environmental Department, before any such change is made, and the terms and conditions of this Agreement shall apply to the revised, renewed, changed or relocated wells.~~

e. ~~Upon expiration or termination of this Agreement, Licensee, at its sole cost, shall immediately abandon all wells in accordance with applicable state procedures, and restore the Property affected by the Work to a condition satisfactory to Railroad's Engineering Department. Licensee shall also furnish Railroad with documentation to the appropriate agency that well(s) have been properly closed. Such abandonment and restoration shall be deemed part of the Work and shall be governed by the terms of this Agreement.~~

9. OCCUPANTS

~~The permission herein granted is subject to all existing uses and occupancies of the Property heretofore granted by Railroad to third parties. Licensee acknowledges that in agreeing to this Agreement, Railroad acts on its own behalf only and has no authority to act, and does not claim to act, on behalf of any other entity or person with respect to any right any such other entity or person may have to object to this Agreement. Licensee shall secure the consent, and protect the facilities, of each such third party occupier of the Property and of any owner of any other recorded interest in the Property.~~

10. SAMPLING WASTES

~~Any waste materials, including without limitation purge waters or other investigation-derived waste, generated during performance of the Work shall be handled in accordance with federal, state and local laws and regulations and shall not be stored on Railroad property. In the event of leakage or spillage onto any Railroad property or any adjacent property of any investigation-derived waste or other solid or hazardous wastes, hazardous substances or hazardous materials as a result of the Work, Licensee shall immediately notify railroad and, at Licensee's sole expense, promptly clean the property (and any adjacent or nearby property to which such leakage or spillage may have spread) to the satisfaction of Railroad and any governmental agency having jurisdiction over the leakage or spillage. Should the leakage or spillage result in a fine, penalty, cost or charge being incurred by Railroad, Licensee shall promptly and fully reimburse and indemnify Railroad pursuant to Section 11 below.~~

11. INDEMNITY

1. ~~As an essential inducement to and consideration for Railroad granting its permission to undertake the Work on the Property, Licensee hereby assumes liability for, and~~

hereby agrees to pay, protect, defend (at trial and appellate levels and with attorneys, consultants and experts selected by Railroad), and save Railroad harmless from and against, and hereby indemnifies Railroad from and against any and all liens, damages (including any diminution in the value of the Property, any future reduction of the sales price of the Property, or any increased costs of construction, business or other activities conducted by Railroad on the Property), losses, liabilities (including, without limitation, any liabilities arising under any theory of strict liability), obligations, settlement payments, penalties, assessments, citations, directives, claims, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements and expenses of any kind or of any nature whatsoever (including, without limitation, reasonable attorneys', consultants' and experts' fees and disbursements actually incurred in investigating, defending, settling or prosecuting any claim, litigation or proceeding) (collectively "Costs") which may at any time be imposed upon, incurred by or asserted or awarded against Railroad or the Property, and arising directly or indirectly from or out of:

a. ~~loss of or damage to any real or personal property whatsoever and by whomsoever owned, including Railroad, Licensee and any other person, and the loss or interference with any use or service thereof, injury to or death of any person whomsoever, including employees and invitees of the parties hereto and their agent(s) and contractor(s) and all other persons, fines, penalties, costs, charges, expenses, or fees levied by any governmental agency against Railroad that arise as a result of the License granted herein, which are caused by or arise from the Work or from the presence of Licensee on any part or all of the Property or from the presence of any physical facility installed, used, maintained or removed as a part of the Work, regardless of any act or omission on the part of any other person, including Railroad, excepting gross negligence or willful acts of Railroad;~~

b. ~~administrative or judicial action to require more stringent cleanup of Site-related constituents on Railroad's property;~~

c. ~~subject to reasonable advance notice to Licensee and Licensee's reasonable opportunity to first take corrective or remedial action at Licensee's sole cost, Costs associated with the handling or disposition of contaminated soils or groundwater or controlling exposure of Railroad workers or other permitted users (such as employees of fiber optic cable owners or utility providers) to residual Site-related chemicals of concern during installation, maintenance, remediation or monitoring work on the Railroad's Property;~~

d. ~~the failure by Licensee to comply fully with the terms and conditions of this Agreement; or~~

e. ~~the enforcement of this Agreement.~~

12. INSURANCE

~~Prior to Railroad's execution of this Agreement, Licensee shall provide proof of the coverage required by this Section, and shall also maintain, or cause to be maintained, said coverage during continuance of this Agreement. Licensee shall maintain a copy of proof of coverage while on the Property and have said proof available for review upon request by Railroad's employees or agents.~~

~~a. Licensee shall cause its agent or contractor in charge of the Work to procure, and shall also maintain, or cause to be maintained, during continuance of this Agreement, at Licensee's sole cost and expense, Commercial General Liability (CGL) insurance, naming Licensee (and its agent or contractor as the case may be) as insured and Railroad as additional insured, covering Licensee's direct and assumed contractual (i.e., indemnification) liability under this Agreement, with coverage of not less than TWO MILLION AND 00/100 U.S. DOLLARS (\$2,000,000.00) Combined Single Limit per occurrence for bodily injury and property damage. If said policy does not automatically cover Licensee's contractual liability under this Agreement, a specific endorsement adding such coverage shall be purchased or caused to be purchased by Licensee, and indicated on the Certificate of Insurance.~~

~~b. In addition to the above described CGL insurance, if (with the separate written consent of Railroad) Licensee will undertake, or cause to be undertaken, any construction or demolition activity within fifty (50) feet of any Railroad track or any Railroad bridge, trestle or tunnel, then Licensee shall also purchase, a policy of Railroad Protective Liability (RPL) insurance, naming Railroad as the insured, with coverage of not less than FIVE MILLION AND 00/100 U.S. DOLLARS (\$5,000,000.00) Combined Single Limit per occurrence, with an aggregate of TEN MILLION AND 00/100 U.S. DOLLARS (\$10,000,000.00). Such policy must be written on ISO/RMA form of Railroad Protective Insurance - Insurance Services Offices Form No. CG 00 35, including Pollution Exclusion Amendment CG 28 31. Proof of such coverage shall be provided prior to commencement of Work within fifty (50) feet of the track..~~

~~e. Licensee shall also carry, for the benefit of Licensee and its employees, Worker's Compensation Insurance as required by the state in which the Work is to be performed. This policy shall include Employer's Liability Insurance with a limit of not less than ONE MILLION AND 00/100 U.S. DOLLARS (\$1,000,000.00) per occurrence. Unless prohibited by law, such insurance shall waive subrogation against Railroad. Licensee shall also maintain Automobile Liability Insurance in an amount not less than ONE MILLION AND 00/100 U.S. DOLLARS (\$1,000,000.00) covering all owned, non-owned and hired vehicles.~~

~~d. If any insurance policy required under Section 12 hereof is written on a "claims made" basis instead of an "occurrence" basis, Licensee shall arrange for adequate time for reporting losses. Failure to arrange for adequate reporting time shall be at licensee's sole risk. Upon its execution of this Agreement, Licensee shall furnish Railroad with the original and two copies of any RPL policy along with Certificate(s) of Insurance naming Railroad as Certificate Holder, which shall specifically refer to this Agreement by date, name, and the location covered.~~

~~Copies of Additional Insured and Waiver of Subrogation endorsements shall be attached to the Certificate(s). All policies obtained pursuant to this Section 12 shall contain a provision requiring that such policy cannot be canceled or altered without first providing Railroad with thirty (30) days advance written notice. Furnishing of insurance by Licensee shall not limit its liability under this Agreement, but shall be additional security therefor.~~

~~13. NO ASSIGNMENT, MODIFICATION, SURVIVAL~~

~~a. This Agreement and the license granted herein shall not be assigned by Licensee without Railroad's separate written consent.~~

~~b. Except as otherwise provided herein, this Agreement may be modified or amended only in a separate writing executed by both Railroad and Licensee.~~

~~e. The provisions of Sections 3, 6, 7 and 9 shall survive the expiration or any earlier termination of this Agreement.~~

If the provisions and terms of this Agreement are acceptable to Licensee, please have the appropriate official sign both copies in the space provided below, and then return both duplicate originals to the undersigned, together with all other documents or instruments required to be submitted to Railroad by the terms hereof. Your copy will be executed by the Railroad and returned.

Witness for Railroad: _____

~~CSX TRANSPORTATION, INC.~~

By: _____

Print/Type Name: _____

Print/Type Title: _____

Witness for Licensee: _____

~~KEYSPAN ENERGY~~

By: _____

Who, by the execution hereof, affirms that he/she has the authority to do so and to bind the Licensee to the terms and conditions of this Agreement.

Print/Type Name: _____

Print/Type Title: _____

Tax Identification Number: _____

Form: ENV-001 4-18-00

Application for Environmental Right-of-Entry

Project Owner Information: Check here if agreement should be mailed to this address

1. Complete Legal Name of applicant: ~~KEYSPAN ENERGY DENVER~~ KEYSPAN ENERGY DENVER NEW YC

2. Company Contact Name: JOE GIORDANO Title: LEGAL DEPARTMENT

3. Telephone: (516) 745-4740 Fax: 516-745-5029

4. Address: 175 EAST OLD COUNTY RD. CITY: HICKSVILLE State: NY Zip: 11801

5. Type of business: Corporation, (State of Incorporation: _____) Partnership, (Type and state of Partnership: _____) Individual, _____ Developer, _____ Municipality

Engineer/Consultant Information: _____ Check here if agreement should be mailed to this address

6. Company Name: VHB INC.

7. Company Contact Name: MATT HAWKOWSKI Title: SR. PROJECT ENG.

8. Telephone: (716) 655-2734 Fax: 716-655-2971

9. Address: 13470 BOND RD. CITY: CANTONVILLE State: NY Zip: 14037

Project Information: Application Date: 10/9/01

10. Your Reference No.: 06392, 00095

11. Location: NEWTOWN ELMHURST RAILROAD SITE
City: ELMHURST County: QUEENS State: NY

12. Field Measurement (REQUIRED): _____ feet (direction) from Railroad Milepost
_____ feet (direction) from Rd Xing: Rd Name DOTIANS

13. Project Description: NO MORE POSTS NEARLIABILITY OF SITE. AT SECTION OF TRACK UNDER WORK WILL OCCUR IS ON THE EAST SIDE OF TRACK BETWEEN SIDE AND GRAND AVE. WORK INVOLVED EXCAVATION, BACKFILL, AND SAMPLING

14. How close will the project be to the nearest track? 25 feet

15. Does work on CSXT right-of-way include:
soil borings? _____ monitoring wells? _____ remediation/construction?

16. What sampling work will be done on CSXT right-of-way? VERIFICATION SAMPLING IN COMPLETED EXCAVATIONS. ANALYSIS FOR LEAD AND SUDS

17. What is the source of contamination? LEAD BASED PAINT, HOLDERS

18. Is this request related to investigation of a State or Federal "Superfund" site? No Yes _____
If Yes, State or Federal Ref. No.: N/A
If No, Explain reason for the work: VOLUNTARY CLEANUP AGREEMENT (VCA) w/ NYSDOC

19. How did you verify that property and/or trackage is CSXT's? COMMUNICATIONS W/ CSX

20. Expected length of project (on CSXT R/W): begin date: 10/29/01 completion date: 11/23/01
Requested Expiration date of contract: 1/01 (allow for follow-up monitoring/work)

Railroad Use Only

21. Env. Project No.: ROE: KEYSpan Energy EPS: 0115603

22. Region: _____ Subdivision: _____

23. M.P.: V.S. Val. Map No.: VT115, V55 963

24. Agrmt. Term: Tenant et. will (can be cancelled on 30 days' notice) OR Specify Exp. date _____

25. File Review date: _____ Fees attached? Y N _____ Explain: _____

26. Comments: _____

27. Additional distribution: _____

28. Approved? Yes _____ No _____ By: _____

EXHIBIT A

Table - 2
Calculation of Restoration Goals
Future Child On-Site Resident - Soils
Newtown Station/Elmhurst Holder Tank Site

| Chemical | EPC (mg/kg) | Total Cancer Risk | Total Noncancer Hazard | Goals For Carcinogens Cancer Risk Level | | |
|--|-------------|-------------------|------------------------|---|----------|----------|
| | | | | 1.0E-06 | 1.0E-05 | 1.0E-04 |
| <i>Semi-volatile Organic Compounds</i> | | | | | | |
| 2,4-Dimethylphenol | 3.00E-02 | NC | 2.35E-08 | NC | NC | NC |
| 2-Methylnaphthalene | 1.40E+01 | NC | 9.58E-04 | NC | NC | NC |
| 2-Methylphenol | 2.00E-02 | NC | 5.27E-07 | NC | NC | NC |
| 4-Methylphenol | 6.50E-02 | NC | 2.04E-04 | NC | NC | NC |
| Acenaphthene | 4.70E+00 | NC | 1.86E-04 | NC | NC | NC |
| Acenaphthylene | 2.45E-01 | NC | 6.90E-05 | NC | NC | NC |
| Anthracene | 5.24E+00 | NC | 5.02E-05 | NC | NC | NC |
| Benzo(a)anthracene | 8.47E+00 | 1.26E-05 | 6.06E-03 | 6.72E-01 | 6.72E+00 | 6.72E+01 |
| Benzo(a)pyrene | 6.41E+00 | 9.54E-05 | 4.60E-03 | 6.72E-02 | 6.72E-01 | 6.72E+00 |
| Benzo(b)fluoranthene | 6.23E+00 | 8.27E-06 | 4.47E-03 | 6.72E-01 | 6.72E+00 | 6.72E+01 |
| Benzo(g,h,i)perylene | 1.48E+00 | NC | 1.06E-03 | NC | NC | NC |
| Benzo(k)fluoranthene | 4.74E+00 | 7.05E-07 | 3.40E-03 | 6.72E+00 | 6.72E+01 | 6.72E+02 |
| Benzoic acid | 1.80E-01 | NC | 6.89E-07 | NC | NC | NC |
| Benzyl alcohol | 5.40E-02 | NC | 1.33E-06 | NC | NC | NC |
| bis(2-Ethylhexyl)phthalate | 4.59E-01 | 8.26E-09 | 3.44E-04 | 5.56E+01 | 5.56E+02 | 5.56E+03 |
| Butylbenzylphthalate | 3.80E-01 | NC | 1.16E-05 | NC | NC | NC |
| Carbazole | 3.12E+00 | 1.19E-07 | NA | 2.63E+01 | 2.63E+02 | 2.63E+03 |
| Chrysene | 6.95E+00 | 1.03E-07 | 4.99E-03 | 6.72E+01 | 6.72E+02 | 6.72E+03 |
| Dibenzo(a,h)anthracene | 8.97E-01 | 1.21E-05 | 6.44E-04 | 7.42E-02 | 7.42E-01 | 7.42E+00 |
| Dibenzofuran | 2.90E+00 | NC | 1.72E-02 | NC | NC | NC |
| Diethylphthalate | 1.00E-02 | NC | 2.15E-08 | NC | NC | NC |
| Di-n-butylphthalate | 2.94E-01 | NC | 5.38E-05 | NC | NC | NC |
| Di-n-octylphthalate | 1.90E-01 | NC | 1.82E-04 | NC | NC | NC |
| Fluoranthene | 1.57E+01 | NC | 9.32E-04 | NC | NC | NC |
| Fluorene | 3.16E+00 | NC | 1.88E-04 | NC | NC | NC |
| Indeno(1,2,3-cd)pyrene | 2.08E+00 | 3.10E-06 | 1.49E-03 | 6.72E-01 | 6.72E+00 | 6.72E+01 |
| Isophorone | 9.00E-03 | 1.62E-11 | 4.98E-07 | 5.55E+02 | 5.55E+03 | 5.55E+04 |
| Naphthalene | 1.70E+00 | NC | 1.38E-03 | NC | NC | NC |
| Pentachlorophenol | 2.50E-01 | 4.42E-08 | 1.43E-04 | 5.66E+00 | 5.66E+01 | 5.66E+02 |
| Phenanthrene | 2.23E+01 | NC | 1.60E-02 | NC | NC | NC |
| Phenol | 3.80E-02 | NC | 1.26E-08 | NC | NC | NC |
| Pyrene | 9.53E+00 | NC | 7.55E-04 | NC | NC | NC |

NC: Carcinogenic toxicity values (i.e., slope factors) not available or not applicable.

NA: Noncarcinogenic toxicity values (i.e., reference doses) not available.

SVOCs cleanup goal:

7.19E+02 10.58%

7.61E+01

The sum of the cleanup levels for all SVOCs back-calculated from a 1E-06 risk level is 7.19E+02.

EXHIBIT A

The cPAHs are approximately 11% of this which obviously means the cPAH cleanup goals are generally lower than the other SVOCs which is to be expected.

If all SVOCs were present at a concentration corresponding to a $1E-6$ level, we still would not exceed the $1E-04$ risk level.

Therefore, a total cPAH value of 75 mg/kg is reasonable, however, the contribution of each cPAH to the total cPAH value would have to be approximately the same as it is in these calculations. The reason being b(a)p is considerably more potent than chrysene, and if b(a)p comprised the majority of the cPAH concentration, you could exceed the $1E-04$ risk level.

EXHIBIT A

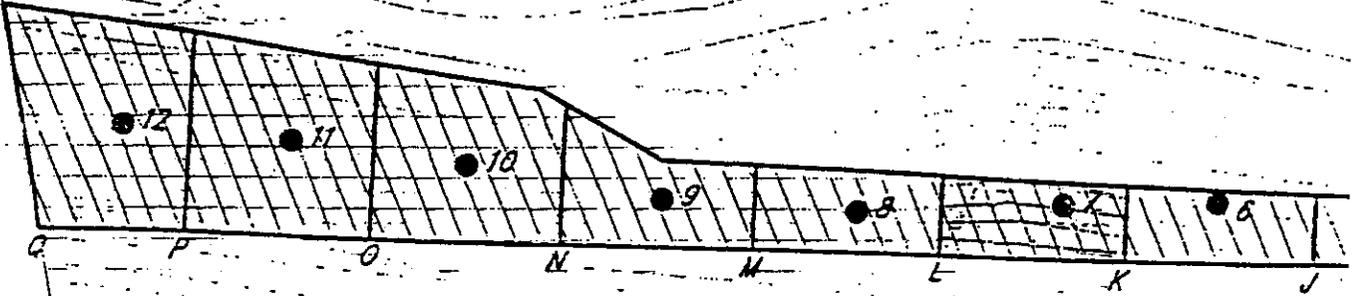
EXHIBIT B

MAP 1 of 2
page 2 of 2

KEYSPAN NEWTOWN/ELMHURST

80' R.P.W.

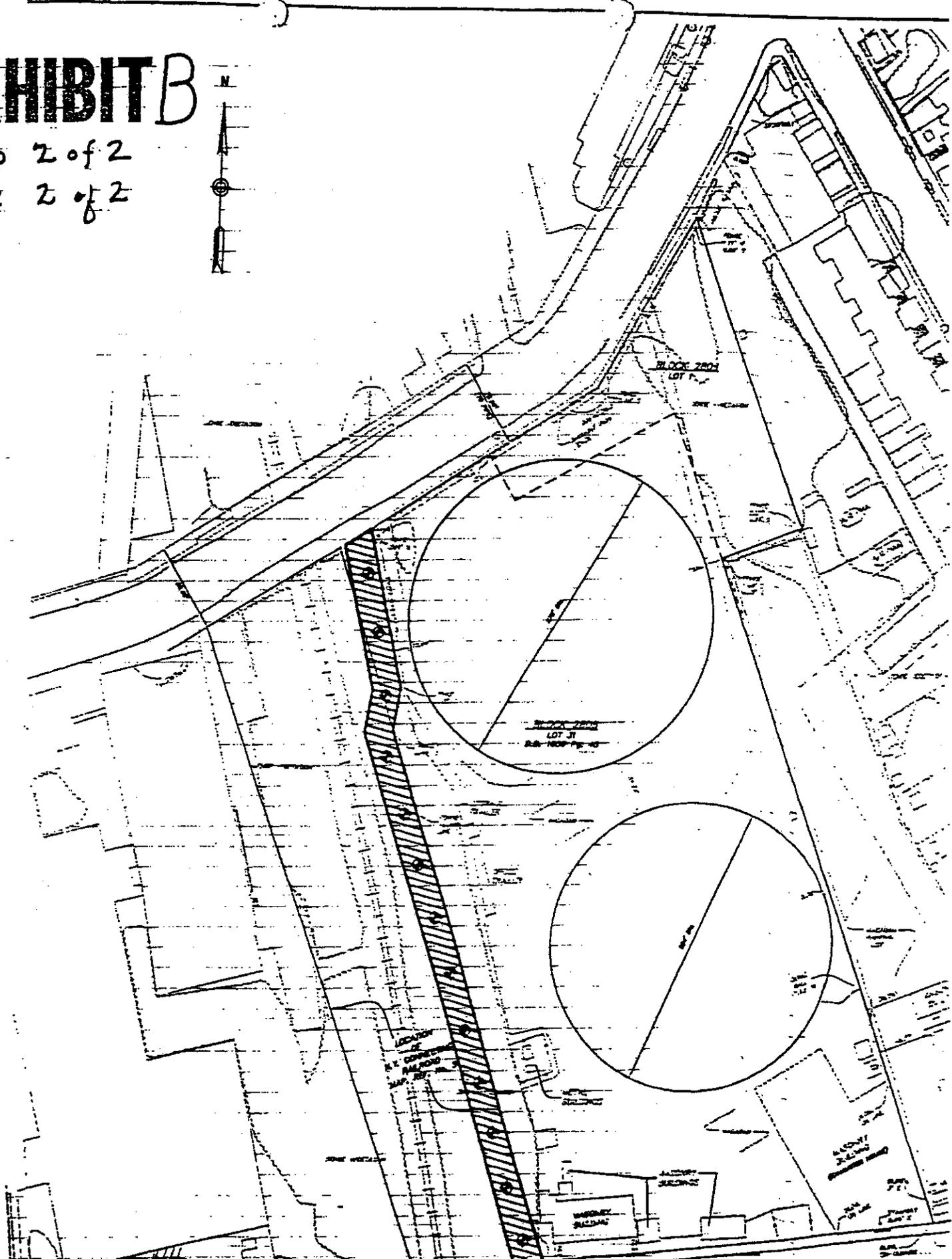
GRAND STREET



CSX TRACKS

EXHIBIT B

map 2 of 2
page 2 of 2



Project No.: 06392.00095
October 5, 2001
Page 3-

C. Conlon (KSE)
K. Frantzen (VHB)
B. Hanlon (VHB)

Enclosures

EXHIBIT C

EXHIBIT D

CSX TRANSPORTATION - ENVIRONMENTAL DEPARTMENT SAFETY RULES AND PROCEDURES WHILE ON CSXT PROPERTY

Effective January 1, 1996, "The CSX Safe Way," a manual containing CSX Transportation's (CSXT) General Safety Rules, mandatory Departmental Safety Rules, recommended Work Practices, and CSX Policies and Programs was revised. The following Rules, Practices, and Policies are excerpted for your guidance. While on CSXT property, all consultants, contractors and visitors must comply with these requirements.

GENERAL SAFETY RULES

1. Consultant/Contractor must ensure that:
 - a. "job briefings are conducted prior to work activity and subsequently when activity changes."
 - c. "co-workers are warned of unsafe acts and hazards."
 - e. "safety rules and all company policies that relate to our job tasks are complied with."
 - f. "our work place is drug and alcohol free."
 - g. "the behavior in our work place is civil and courteous."
 - h. "local, state and federal laws and regulations that relate to our job tasks are observed."
 - i. "oral and written report of accidents and injuries are made as soon as possible to the supervisor or employee in charge."
 3. "Do not attempt to mount, dismount, or cross over moving locomotives or cars."
 6. Consultant/Contractor "must be familiar with and wear approved personal protective equipment and clothing as required" and comply with applicable OSHA requirements.
 8. "Do not wear finger rings outside an office environment."
 16. "When working on or about tracks:
 - a. be alert for the movement of cars, locomotives, or equipment at any time, in either direction, on any track;
 - b. do not cross within 25 feet of the end of standing cars, equipment, or locomotives, except when proper protection is provided."
- Note: Proper Protection: Always ensure that a CSXT Flagman is present or the track is taken out of service by the proper CSXT authority, prior to starting any work on or about our tracks!
17. "Do not cross over coupled, moving freight cars."
 18. "Do not take refuge under any car, equipment or locomotive."
 20. "Do not go under any equipment unless proper protection is provided."

25. "Do not attempt to mount, dismount, or cross over moving equipment."
26. "Seat belts must be worn while operating or riding in motor vehicles that are equipped with them."
27. "Ensure that your work area and environment are clean and orderly, and protected from controllable hazards."

ENGINEERING AND MECHANICAL - DEPARTMENTAL SAFETY RULES
AND RECOMMENDED SAFE WORK PRACTICES

E/M-10 Hi-Rail Vehicles:

- a. "Occupy track only with proper authority."
 - b. "Stop on-track equipment when the operator's attention cannot be directed exclusively to controlling the movement."
- * "Be aware of the effects of the weather on starting and stopping hi-rail equipment."

E/M-12 Lifting and Carrying:

- a. "Use provided material handling and lifting devices when lifting heavy objects."
 - b. "Ensure walkways are free of slipping or tripping hazards before lifting or carrying material."
- * "Wear back support belts whenever you lift."
* "Designate one person to call signals when two or more people are lifting."

E/M-14 Motor Vehicles:

- b. "If two or more people are occupying the motor vehicle, designate one person to guide backing movements from the ground."
- c. "Apply the parking brake to a stationary vehicle if the engine must be left running in order to accomplish its intended task."

* "Whenever possible back into parking spaces."

E/M-16 Personal Protective Equipment:

- a. "Wear head protection provided by the company at all times while on duty, except when working in an office, when riding in a highway motor vehicle, or while in a designated lunch break area. Non-hardhat areas may be designated by local management."
- b. "Wear approved safety glasses with sideshields at all times while on duty, except when working in an office, while in a lunch area, or while in a locker room."

- c. "When working in areas where hearing protection may be required, have approved hearing protection devices available on your person, and wear them where required by posted notice or special instructions."
- d. "Wear hi-top (6-inch or more) safety-toe shoes with laces, oil-resistant soles, and a distinct separation between heel and sole when working outside of an office environment . . ."

ENGINEERING - DEPARTMENTAL SAFETY RULES
AND RECOMMENDED SAFE WORK PRACTICES

E-2 Excavations, Pits, and Manholes

- a. "Shore vertical excavations of four feet deep or more."
- b. "Call utility locators before you dig."
- c. "Protect all open holes and trenches with adequate barricades."

E-10 On or Around and Crossing Tracks

- b. "When observing passing trains or equipment, always look in the direction from which the train or equipment is coming."
- * "Use caution when working on or around and crossing tracks."
- * "Look in both directions when approaching or crossing tracks."
- * "Be alert for dragging bands, shifting loads, etc."

Please ensure that your employees (and all subcontractors), who are or will be working on or about CSX Transportation property, comply with these revised standards of safety conduct. If you have any questions, or need further clarification of anything listed above, please contact your project manager. If there's ever any doubt, the safe course must always be taken!

Remember: No job is so important, no service so urgent that we cannot take time to perform all work safely.

CSXT Environmental Department

*Recommended Safe Work Practice