

MONROE COUNTY CLERK'S OFFICE

THIS IS NOT A BILL. THIS IS YOUR RECEIPT

ROCHESTER, NY

Receipt # 404241

Index DEEDS

Book 10908 Page 553

No. Pages : 27

Instrument DECLARATION OF COVENANTS

Date : 08/05/2010

Time : 10:20:30AM

Control # 201008050230

TT # TT0000000208

Ref 1 #

Employee : RachelR

Return To:

HISCOCK AND BARCLAY LLP
100 CHESTNUT STREET
SUITE 2000
ROCHESTER, NY 14604-

ROCHESTER CITY OF

CSX TRANSPORTATION INC

COUNTY FEE NUMBER PAGES	\$	81.00
COUNTY FEE RECORDING	\$	8.00
COUNTY FEE TP584	\$	5.00
STATE FEE CULTURAL EDUCATION	\$	14.25
STATE FEE RECORDS MANAGEMENT	\$	4.75
STATE FEE TRANSFER TAX	\$	0.00

Total \$ 113.00

State of New York

MONROE COUNTY CLERK'S OFFICE

WARNING - THIS SHEET CONSTITUTES THE CLERKS
ENDORSEMENT, REQUIRED BY SECTION 317-a(5) &
SECTION 319 OF THE REAL PROPERTY LAW OF THE
STATE OF NEW YORK. DO NOT DETACH OR REMOVE.

CHERYL DINOLFO

MONROE COUNTY CLERK

TRANSFER AMT

TRANSFER AMT

\$1.00



DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS AND RESTRICTIONS ("Declaration") is made as of this 27th day of July, 2010, by the City of Rochester, with offices at 30 Church Street, Rochester, New York ("City").

WHEREAS, the City is the current record owner of a piece of real property in the vicinity of River Street, Rochester, Monroe County, New York located between Latta Road and 503 River Street, more commonly known as the "490 River Street Property," which real property was received by the City from Consolidated Rail Corporation in a deed recorded in the Monroe County Clerk's office on December 17, 1985, in Liber 6827 of Deeds, at Page 114 ("Deed"); and

WHEREAS, the 490 River Street Property is more particularly described in the metes and bounds description from the Deed which is attached as Exhibit A, and is more particularly depicted on the map attached as Exhibit B; and

WHEREAS, the Deed to the City conveyed the 490 River Street Property together with the appurtenances and all of the estate and rights in and to the described premises; and

WHEREAS, the aforementioned metes and bounds description conveyed title to land then or now under water extending approximately fifteen (15) to twenty (20) feet into the Genesee River from the now current mean high water line ("City's Under Water Lands"); and

WHEREAS, on or about December 23, 2001, a train operated by CSX Transportation, Inc. ("CSXT") derailed in the City of Rochester from a piece of railroad track adjoining the 490 River Street Property and released contaminants, including methylene chloride and acetone, into the environment ("Derailment"); and

WHEREAS, the City and CSXT have resolved the City's claims for damages resulting from the Derailment in the Settlement Agreement and Release, dated June 30, 2006 (the "Settlement Agreement"); and

MONROE COUNTY CLERK
300 ASG - 5 AM: 01: 20

RECORDED

WHEREAS, CSXT has undertaken the remediation of the soil and groundwater impacted by the Derailment, including the soil and groundwater at the 490 River Street Property; pursuant to a Voluntary Cleanup Agreement, Number B8-0608-0202, dated March 28, 2002, between CSXT and the New York State Department of Environmental Conservation ("Department") on behalf of the State ("VCA"); and

WHEREAS, CSXT has also undertaken a dredging remedial measure which removed from the Genesee River sediments containing methylene chloride and acetone, but which left in place certain sediments which contained methylene chloride in excess of the site-specific cleanup level established by the Department on the under water lands depicted in Exhibit C ("Controlled Property"), and which included a layer of rock being placed under water on the bank of the Genesee River in the Controlled Property to prevent inadvertent disturbance of sediments containing methylene chloride; and

WHEREAS, a copy of the map of the site subject to the VCA amended to show the relationship of the Controlled Property to the rest of the site is attached as Exhibit D; and

WHEREAS, the sediment in the Controlled Property is subject to the Sediment Management Plan approved by the Department, which Sediment Management Plan is attached as Exhibit E; and

WHEREAS, the Controlled Property extends onto the City's Under Water Lands as shown on the map attached as Exhibit F, and any disturbance of the sediments or the related layer of rock on the City's Under Water Lands within the Controlled Property is subject to the specific procedures of the Sediment Management Plan.

NOW, THEREFORE, in consideration of the covenants and mutual promises contained herein, and in the Settlement Agreement, the City, for itself and its successors and assigns, hereby declares that the 490 River Street Property shall be held, transferred, conveyed, leased,

occupied or otherwise disposed of and used subject to the following restrictive covenants, which shall run with the land and be binding on all heirs, successors, assigns, lessees, or other occupiers and users.

1. **Purposes.** The purpose of this Declaration is to create real property covenants and restrictions that will run with the 490 River Street Property in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of the portion of the Controlled Property on the City's Under Water Lands at a level that has been determined to be safe for a specific use while ensuring the performance of Department-approved Sediment Management Plan requirements, and to restrict future uses of the sediment within the Controlled Property from uses that are inconsistent with the above-stated purpose.

2. **Institutional and Engineering Controls.** The following covenants and restrictions apply to the use of the Controlled Property on the City's Under Water Lands, run with the 490 River Street Property, are binding on the City and the City's successors and assigns, and are enforceable in law or equity against any owner of the City's Under Water Lands, any lessees, and any person using the Controlled Property on the City's Under Water Lands:

A. All dredging, excavation or disturbing of the river bed and bank of the City's Under Water Lands within the Controlled Property conducted by the City or by its successors, assigns, lessees, or other occupiers or users shall be conducted in accordance with the terms and conditions of the Sediment Management Plan that is attached hereto as Exhibit E.

B. The engineering controls described in paragraph A above may not be discontinued, unless the Department or if the Department should no longer exist, the New York State agency or agencies subsequently created to protect the environment of the State and the health of the State's citizens (the "Relevant Agency") expressly waives in writing such requirement or requirements, without an amendment or extinguishment of this Declaration.

C. The City covenants and agrees that this Declaration shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to dredge, excavate, or otherwise disturb of the City's Under Water Lands within the Controlled Property.

D. The City acknowledges that, if CSXT fails to annually, or such time as the Department may allow, submit to the Department a written statement by a qualified person that the Department may find acceptable certifying under penalty of perjury that the institutional and engineering controls employed at the Controlled Property are unchanged from the previous certification or that any changes to the controls employed at the Controlled Property were approved by the Department, and that nothing has occurred that would impair the ability of such controls to protect the public health and environment or constitute a violation or failure to comply with the Sediment Management Plan for such controls and giving access to such Controlled Property to evaluate continued maintenance of such controls, then the City shall, as required by section 27-1318(c) of the Environmental Conservation Law, submit such written statement to the Department with respect to the City's Under Water Lands.

3. **Right to Enter and Inspect.** The City covenants and agrees to allow the Department, other representatives of the State, CSXT, the United States Army Corps of Engineers and the United States Coast Guard, and their authorized agents, to enter the 490 River Street Property and inspect the City's Under Water Lands within the Controlled Property in a reasonable manner and at reasonable times to verify compliance with this Declaration.

4. **The City's Reserved Rights.** This Declaration does not grant or convey to members of the general public any rights of ownership, entry or use of the City's Under Water Lands within the Controlled Property. This Declaration is created solely for the protection of the City's Under Water Lands and for the consideration and values set forth above. The City reserves for itself, its assigns, representatives, and successors in interest with respect to the City's Under Water Lands

within the Controlled Property, all rights as fee owner of the 490 River Street Property, including:

A. Use of the City's Under Water Lands within the Controlled Property for all purposes not inconsistent with, or limited by, the terms of this Declaration; and

B. The right to give, sell, assign, or otherwise transfer the underlying fee interest to all or a portion of the 490 River Street Property by operation of law, by deed, or by indenture, subject and subordinate to this Declaration.

5. **Amendment.** After recording, this Declaration may only be amended by a recorded document signed by the City, or its successors and assigns, and filed with the office of the recording officer for Monroe County, and only after thirty days notice of its intent to amend is given to the Department. Paragraphs 2 and 3 may not be amended without the prior permission of the Department or Relevant Agency.

6. **Enforcement.** The City acknowledges that the Department or Relevant Agency, the State, CSXT or any affected local government, shall each have a discretionary right to enforce this Declaration in a judicial action against any or all owners of the City's Under Water Lands that are within the Controlled Property, the City, and its successors, assigns, lessees, or other occupiers and users; provided, however, that no violation of this Declaration shall result in a forfeiture or reversion of title.

A. The City covenants and agrees that the covenants and restrictions of this Declaration shall be enforceable in law or equity in perpetuity against the owner of the City's Under Water Lands within the Controlled Property, its successors, assigns, lessees, or other occupiers and users, and any person using the City's Under Water Lands within the Controlled Property, and hereby covenants and agrees not to contest the standing of the Department or Relevant Agency, CSXT, the State, or any affected local government to seek enforcement.

B. The failure of the Department or Relevant Agency, CSXT, the State, or any affected local government to enforce any of the terms contained herein shall not be deemed a waiver of any such term nor bar its enforcement rights in the event of a subsequent breach of or noncompliance with any of the terms of this Declaration.

7. **Condemnation.** In the event any condemnation proceeding involving the 490 River Street Property or any portion of that property containing the Controlled Property is commenced, then the City is hereby relieved of any obligation to preserve or restrict such Controlled Property and this Declaration shall, without further action by the Department or Relevant Agency, or any other party, be automatically unenforceable against the owner of the City's Under Water Lands within the Controlled Property, any lessees, and any person using the Controlled Property.

8. **Separability Provision.** Should any separable part of this Declaration be held contrary to law, the remainder shall continue in full force and effect.

IN WITNESS WHEREOF, the City has duly executed this Declaration on the date written above.

IN THE PRESENCE OF:

^{CS} City of Rochester

By: _____

Thomas S. Richards
Corporation Counsel

STATE OF NEW YORK)

)ss.:

COUNTY OF MONROE)

On this 27th day of July in the year 2010, before me personally appeared **Thomas S. Richards** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed in 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 by half of which the individual acted, executed the instrument.

Bonnie K. De Carlo
NOTARY PUBLIC

EXHIBIT A

Metes and Bounds Description
of the 490 River Street Property
of the City of Rochester

ALL THAT CERTAIN piece or parcel of land, with the building and improvements thereon erected, situate in the City of Rochester, County of Monroe and State of New York, being more particularly bounded and described in accordance with a Plat of Survey prepared by William B. Gillette, Registered Land Surveyor No. 49364 of Passero Associates Architects-Engineers-Surveyors, dated June 21, 1985 and revised November 21, 1985; as follows:

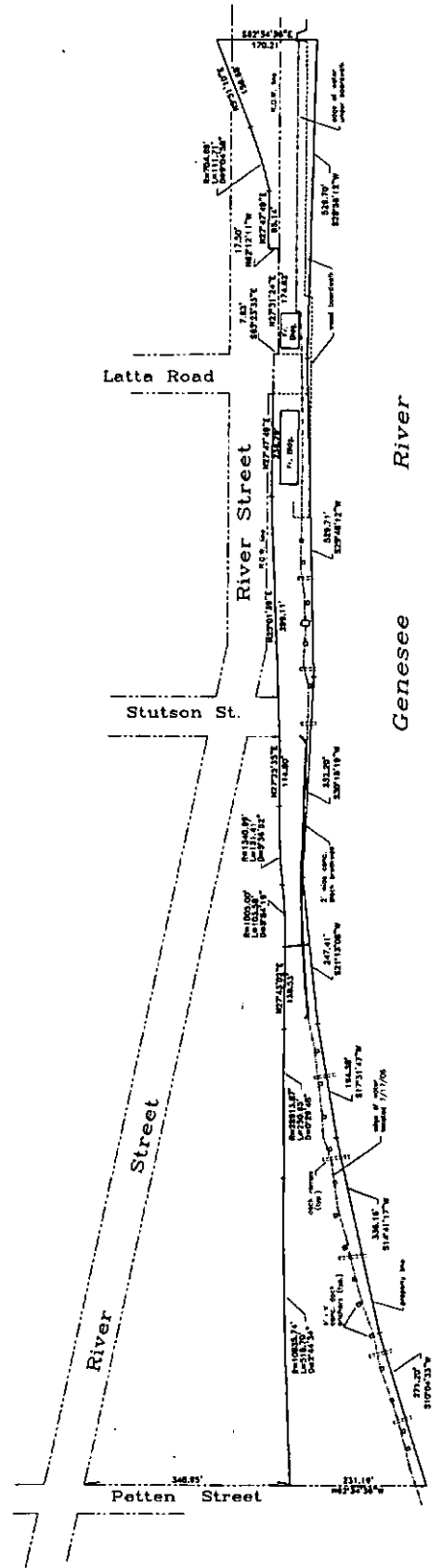
BEGINNING at a point on the easterly extension of the north right of way line of Petten Street (49.5 foot right of way), said point being 348.95 feet east of the intersection of the east right of way line of River Street (66 foot right of way) and the said north right of way line of Petten Street; thence (1) northeasterly along a curve to the right, having a radius of 10,835.74 feet and a central angle of $2^{\circ} 44' 34''$, an arc distance of 518.70 feet to a point of compound curvature; thence (2) continuing northeasterly along a curve to the right, having a radius of 28,913.87 feet and a central angle of $0^{\circ} 29' 48''$, an arc distance of 250.65 feet to a point of tangency; thence (3) North $27^{\circ} 43' 82''$ East, a distance of 138.53 feet to a point of curvature; thence (4) northeasterly along a curve to the left, having a radius of 1,005.00 feet and a central angle of $5^{\circ} 54' 19''$, an arc distance of 103.58 feet to a point of reverse curvature; thence (5) continuing northeasterly along a curve to the right, having a radius of 1,340.99 feet and a central angle of $5^{\circ} 36' 52''$, an arc distance of 131.41 feet to a point of tangency; thence (6) North $27^{\circ} 25' 35''$ East, a distance of 114.80 feet to a point on the south right of way line of Stutson Street (88 foot right of way); thence (7) North $25^{\circ} 01' 39''$ East, a distance of 399.11 feet to a point; thence (8) North $27^{\circ} 47' 49''$ East, a distance of 236.79 feet to a point; thence (9) South $63^{\circ} 23' 33''$ East, a distance of 7.83 feet to a point; thence (10) North $27^{\circ} 31' 24''$ East, a distance of 174.62 feet to a point; thence (11) North $62^{\circ} 12' 11''$ West, a distance of 17.50 feet to a point; thence (12) North $27^{\circ} 47' 49''$ East, a distance of 95.14 feet to a point of curvature; thence (13) northeasterly along a curve to the left, having a radius of 704.69 feet and a central angle of $9^{\circ} 04' 58''$, an arc distance of 111.71 feet to a point of tangency; thence (14) North $5^{\circ} 51' 10''$ East, a distance of 156.68 feet to the south property line of lands now or formerly owned by Joseph E. Testa per deed filed in Liber 6690, page 299; thence (15) South $62^{\circ} 34' 36''$ East, along the said south line of lands of Testa and the south line of lands now or formerly owned by Russell L. Clement per deed filed in Liber 3298, page 335, a distance of 170.21 feet to a point; thence (16) South $28^{\circ} 56' 12''$ West, a distance of 529.70 feet to an angle point; thence (17) South $25^{\circ} 46' 12''$ West, a distance of 529.71 feet to an angle point; thence (18) South $30^{\circ} 18' 19''$ West, a distance of 332.50 feet to an angle point; thence (19) South $21^{\circ} 13' 08''$ West, a distance of 247.41 feet to an angle point; thence (20) South $17^{\circ} 31' 47''$ West, a distance of 194.38 feet to an angle point; thence (21) South $14^{\circ} 41' 17''$ West, a distance of 336.16 feet to an angle point; thence (22) South $10^{\circ} 04' 33''$ West, a distance of 271.20 feet to a point on the easterly extension of the north right of way line of Petten Street thence (23) North $62^{\circ} 34' 36''$ West, along said extension of Petten Street a distance of 231.19 feet to the point or place of Beginning.

CONTAINING 4.884 acres, more or less.

Exhibit B

Map of City of Rochester's 490 River Street Property

(Attached)



NOTE:
 The purpose of this map is to show the width of water of the Genesee River in relation to the adjacent property line. All improvements on the property have been shown.

REFERENCES:
 * Lot 4827 of Genesee, page 154, Consolidated Map Corp., the City of Rochester
 * Map prepared by Plummer Associates dated 8/21/75 showing land to be acquired by the City of Rochester from Consolidated Map Corp.

DATE: 7/20/06
 DRAWN BY: JAL
 CHECKED BY: EAS
 SCALE: 1" = 100'

EDWIN A. SUMMERS
 LAND SURVEYOR
 1400 SHERBORN
 ROCHESTER, NY 14620
 (585) 586-1100



This map was made by Ed A. Summers, a duly licensed and registered surveyor, on April 17, 2006.

Edwin A. Summers, No. 1235

Map Showing
 490 River Street
 Situated in the City of Rochester
 Monroe County, New York State

Sheet 1 of 1

Exhibit C

Map of the Controlled Property

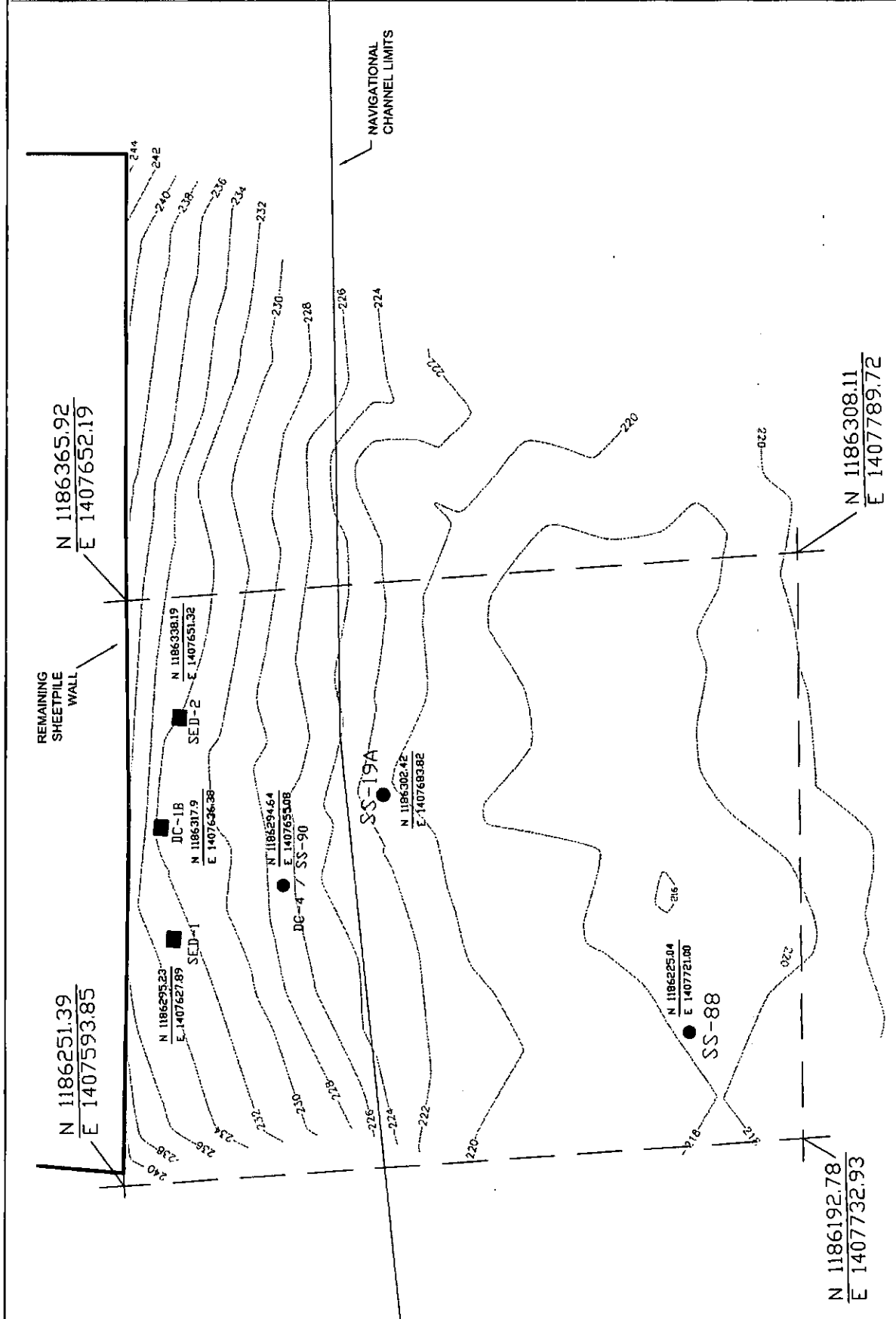
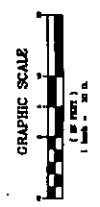
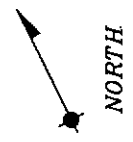
(Attached)

LEGEND:

- POST-DREDGING RIVER BOTTOM CONTOUR
- CSXT SEDIMENT SAMPLE LOCATION CONTAINING RESIDUAL METHYLENE CHLORIDE CONCENTRATIONS
- CITY SEDIMENT SAMPLE LOCATION CONTAINING RESIDUAL METHYLENE CHLORIDE CONCENTRATIONS

NOTES:

1. BATHYMETRIC SURVEY SERVICES WERE PROVIDED BY THE ASSOCIATES, CANTON, NY TO DOCUMENT AS-BUILT CONDITIONS.
2. THE EXISTING SHEET PILE WALL WAS LEFT IN PLACE AND CUT FLUSH WITH THE RIVER BED.
3. ORIGINAL BASE MAP PROVIDED BY LABELLA ASSOCIATES, PC, ROCHESTER, NY
4. RESIDUAL IS DEFINED IN THIS DRAWING AS: A SAMPLE LOCATION CONTAINING METHYLENE CHLORIDE CONCENTRATIONS GREATER THAN THE ESTABLISHED SOCS. SAMPLES WERE COLLECTED DURING THE POST DREDGING SAMPLING EVENT (APRIL 2005).



REMEDIAL ACTION WORK PLAN		CSXT GENESEE RIVER SITE	
PROJECT NO. 1186		PROJECT NO. 1186	
RESIDUAL SEDIMENT LOCATIONS		RESIDUAL SEDIMENT LOCATIONS	
DATE	BY	DATE	BY
11/11/05	PAH, RIZZARDI	11/11/05	PAH, RIZZARDI
11/11/05	PAH, RIZZARDI	11/11/05	PAH, RIZZARDI

DESIGNED BY: CSX TRANSPORTATION, INC.
 DESIGNED BY: MANAGER ENVIRONMENTAL EDUCATION
 500 WATER STREET, P-273
 JACKSONVILLE, FL 32202

DESIGNED BY: GATIN & ENVIRONMENTAL, INC.
 118 ONE BULLFINCH
 SUITE 207, RT 11805
 JACKSONVILLE, FL 32202

REMEDIAL ACTION WORK PLAN

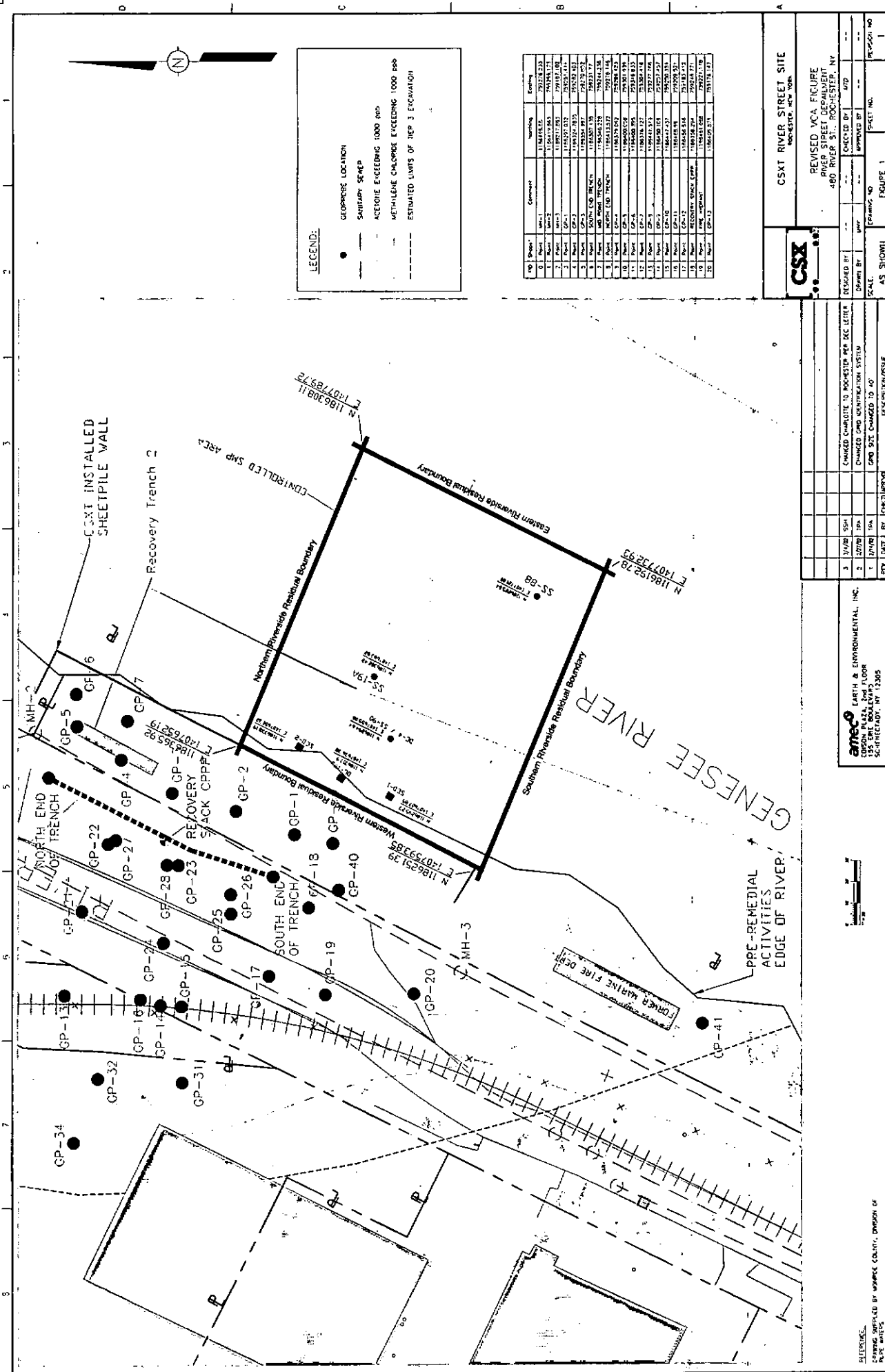


NO.	DATE	SUBJECT	BY	CHECKED	APPV.
1	09/18/05	WORKED POST DREDGING CONTOURS, ANALYZED TITLE BLOCK	PAH	PAH	PAH
2	11/11/05	WORKED LOGS TO SHOW RESIDUAL SAMPLE LOCATIONS	PAH	PAH	PAH
3	07/09/04	WORKED DRAWING TO INCLUDE CITY SAMPLES	PAH	PAH	PAH
4					
5					

Exhibit D

Map of Site subject to Voluntary Cleanup Agreement Number B8-0608-0202,
showing Controlled Property

(Attached)



LEGEND:

- GEOPROBE LOCATION
- SANITARY SEWER
- ACTUALLY EXCEEDING 1000 PPM
- METHYLENE CHLORIDE EXCEEDING 1000 PPM
- ESTIMATED LIMITS OF HEP 3 EXCAVATION

GP Probe #	Depth	Comment	Monitoring	Griding
1	1.0	GP-1	1186192.28	79212.83
2	1.0	GP-2	1186192.28	79212.83
3	1.0	GP-3	1186192.28	79212.83
4	1.0	GP-4	1186192.28	79212.83
5	1.0	GP-5	1186192.28	79212.83
6	1.0	GP-6	1186192.28	79212.83
7	1.0	GP-7	1186192.28	79212.83
8	1.0	GP-8	1186192.28	79212.83
9	1.0	GP-9	1186192.28	79212.83
10	1.0	GP-10	1186192.28	79212.83
11	1.0	GP-11	1186192.28	79212.83
12	1.0	GP-12	1186192.28	79212.83
13	1.0	GP-13	1186192.28	79212.83
14	1.0	GP-14	1186192.28	79212.83
15	1.0	GP-15	1186192.28	79212.83
16	1.0	GP-16	1186192.28	79212.83
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32	1.0	GP-32	1186192.28	79212.83
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35	1.0	GP-35	1186192.28	79212.83
36	1.0	GP-36	1186192.28	79212.83
37	1.0	GP-37	1186192.28	79212.83
38	1.0	GP-38	1186192.28	79212.83
39	1.0	GP-39	1186192.28	79212.83
40	1.0	GP-40	1186192.28	79212.83
41	1.0	GP-41	1186192.28	79212.83

CSX

CSXT RIVER STREET SITE
ROCHESTER, NEW YORK

REVISED MCA FIGURE
RIVER STREET REMEDIATION
480 RIVER ST., ROCHESTER, NY

DESIGNED BY: []
CHECKED BY: []
DATE: []

SCALE: []
SHEET NO. []

OFFICE: []
DRAWING NUMBER: 83454005
DATE: []

AMEC
EARTH & ENVIRONMENTAL, INC.
CORPORATE HEADQUARTERS
1000 W. WASHINGTON ST.
ANN ARBOR, MI 48106-1500



REVISIONS:
DRAWING SUPPLIED BY WYOMAC CONSULTING DIVISION OF
PUBLIC SERVICE

FILED: []
DATE: []

Exhibit E

Copy of the Sediment Management Plan

(Attached)

SEDIMENT MANAGEMENT PLAN
CSXT-River Street Derailment Project
Rochester, NY

1.0 INTRODUCTION AND BACKGROUND

This Sediment Management Plan (SMP) summarizes the site background; describes the historical field activities, the interim remedial measures (IRM), and subsequent monitoring events; and details the proposed institutional controls to address the residual impacts in the remaining sediment hot spots within the Genesee River from the December 23, 2001 derailment of a CSXT freight train in Rochester, New York.

This SMP is intended to provide guidance in the management of sediment containing methylene chloride and acetone above the site-specific cleanup levels of 773 ug/kg for acetone and 1,133 ug/kg for methylene chloride that may be disturbed in the unlikely circumstance that the United States Army Corp of Engineers (USACE) dredging limits are revised or if future development activities disturb river sediments within the interim remedial measure (IRM) dredging limits.

1.1 Site Description

The Site is located on River Street in the City of Rochester, County of Monroe, and State of New York. The derailment occurred along the CSXT railroad tracks adjacent to the Monroe County Public Boat Launch where the tracks make a westward change in direction. The site is located in an area comprised of mixed industrial/commercial properties with residences present to the west and south. The locations of the impacts within the Genesee River were generally located adjacent to the landside spill area extending from the shoreline to the approximate centerline of the river channel. **Figure 1** details the location of the Site.

1.2 Site History

On December 23, 2001 at 3:40 p.m., a CSXT train derailed in Rochester, New York, north of the Latta Road and River Street intersection. The train consisted of 43 cars (including two diesel locomotive engines) traveling north from Kodak Park towards the RG&E Russell Station when the accident occurred. The two engines and 28 additional cars derailed. A majority of the cars contained coal. However, two tank cars contained acetone and one contained methylene chloride. The tank cars derailed slightly northeast of the Tapecon, Inc. (Tapecon) manufacturing facility and approximately 100 feet to 150 feet west of the Genesee River. The area in which the acetone and methylene chloride was spilled is approximately one mile upstream from the mouth of the Genesee River. Approximately 14,000 gallons of acetone, 16,000 gallons of methylene chloride, and 3,000 gallons of diesel fuel were released into the environment.

SEDIMENT MANAGEMENT PLAN
CSXT-River Street Derailment Project
Rochester, NY

1.3 Previous Field Activities

1.3.1 Emergency Response Activities

Immediately following the derailment, emergency response activities commenced including fire suppression; diesel, coal, and plastic pellet cleanup; spill delineation and containment; continuous community air monitoring; and river water quality monitoring. For a complete description of the emergency response activities refer to the *River Street Derailment Interim Remedial Measure Report*, Shaw, March 10, 2003.

1.3.2 Sediment Investigation

Ten sampling events, identified chronologically as Phases, were conducted in the Genesee River to determine the extent of impacts to the sediments and monitor COC concentrations. Samples were collected from 79 locations throughout the course of the ten sampling Phases. In total, 370 samples were collected during these events to fully characterize the sediments adjacent to the landside of the derailment Site. Although sampling locations have varied during each sampling event, a number of the sampling locations remained consistent throughout the events to monitor for possible migration or natural attenuation.

For a complete discussion of sediment and surface water monitoring activities please refer to the *River Street Derailment Interim Remedial Measure Report*, Shaw, March 10, 2003; *Remedial Action Selection/Design Report*, AMEC, October, 2 2003 and *Dredging Interim Remedial Measure Summary Report*, AMEC, May 20, 2005.

1.3.3 Interim Remedial Measures

An IRM work plan for impacted sediment was developed and implemented in the summer of 2004. The primary objectives of the IRM were to:

- Protect human health and the environment.
- Remove sediments exceeding the site-specific cleanup levels of 1,133 micrograms per kilogram (ug/kg) for methylene chloride and 773 ug/kg for acetone.
- Minimize chemicals of concern migration caused by resuspension of impacted sediments.
- Remediate the navigational channel to at or below its maintenance dredging limits and to allow for open water or lake bottom disposal of maintenance

SEDIMENT MANAGEMENT PLAN
CSXT-River Street Derailment Project
Rochester, NY

dredging spoils from subsequent USACE maintenance dredging operations.

The IRM activities included the excavation, dewatering, stabilization and disposal of approximately 3,950 tons of the acetone and methylene chloride impacted sediments. The IRM activities were successful in removing the vast majority of impacted sediment from the river. For a complete discussion of the dredging IRM activities please refer to the *Dredging Interim Remedial Measure Summary Report*, AMEC, May 20, 2005.

1.3.4 Genesee River Water Quality Monitoring

River water quality monitoring was conducted on a regular basis following the derailment incident. A significant decrease in chemicals of concern (COC), methylene chloride and acetone, concentrations was evident during the first year. Since then the COC detection's have been either non-detect or extremely minimal. Including the last sampling event, completed in April 2005, analytical results for the last five events have been below the sample quantitation limit. This indicates that residual COCs in the sediment are not adversely affecting the water column above them.

2.0 NATURE AND EXTENT OF REMAINING RESIDUALS

A design quantity of 3,000 cubic yards (CY) of sediment was to be removed. Based on disposal certificates, project records indicate that 2,856 CY (3,950 tons) was actually removed. This is 95% of the project goal. As a result, a vast majority of impacted sediments from the bed and bank of the Genesee River were eliminated during the IRM. Factors that made the removal of all impacted sediment infeasible:

- Concerns with the stability of the sheet pile wall and shoreline prevented deeper excavations along the riverbank.
- The density of the deeper sediments within the riverbed made further removal at depth with the environmental clamshell dredge infeasible.
- Methylene chloride is the primary COC and it does not readily bind to sediment.

Based on initial IRM closure sediment sampling, two of the 10 closure sample locations exhibited concentrations that exceeded the site-specific cleanup levels of 773 ug/kg for acetone and 1,133 ug/kg for methylene chloride. Closure samples DC-4 and DC-8 were identified as being above the cleanup levels at 24,000 and 1,900 ug/kg methylene chloride, respectively. DC-4 is located outside the navigational limits and will not be

SEDIMENT MANAGEMENT PLAN
CSXT-River Street Derailment Project
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disturbed by current USACE maintenance dredging protocol. Also, DC-4 is at an elevation of 218.3 feet IGLD85 that is only 0.4 feet above the 217.9 feet IGLD85 target and within the specified +/- 0.5 foot construction tolerance. Closure sample DC-8 is located within the channel limits, but at a depth three feet below the USACE dredge elevation (221.3 feet IGLD85). Therefore, the residual methylene chloride contained in the sediment should not be disturbed by current USACE maintenance dredging protocol. Also, DC-8 exhibited a methylene chloride concentration that was within the same order of magnitude as the 1,133 ug/kg site-specific cleanup level.

Due to these two dredging closure sample locations having exhibited residual methylene chloride above the site-specific cleanup level, CSXT implemented additional monitoring in April 2005. Sediment samples were collected from a total of six locations: SS-19A, SS-15, SS-24, DC-4/SS-90, DC-8/SS-89, and SS-88. Samples DC-4/SS-90, SS-19A and SS-88 were identified as having elevated concentrations of methylene chloride. As stated above, DC-4/SS-90 is outside of the navigational channel limits. Its concentration of 2,400 ug/kg, was also a full order of ten magnitude lower than that detected in the October 2004 closure sample. Although sample SS-19A is within the navigational limits, like DC-8/SS-89, it is located below the USACE dredging limit (221.3 feet IGLD85) at an elevation of 220.7 feet IGLD85. Further, additional dredging in the vicinity of SS-19A is unlikely, as the area of SS-19A must be maintained at a 4H:1V slope to ensure upland stability of the riverbank. The sample collected at the two feet depth interval at SS-88 did not meet the 1,133 ug/kg site-specific cleanup level. However, the upper sample collected at SS-88, 0.5 feet below the sediment surface, met the level. The elevated sample from SS-88 is at an elevation of 217 feet IGLD85 which is 4.3 feet below the USACE maintenance dredge depth of 221.3 feet IGLD85.

Table 1 identifies the sample identification numbers and the corresponding historical analytical results of the locations that exhibited exceedances during the post dredging April 2005 monitoring event. **Figure 2** illustrates the locations of the exceedances and the Approximate Limits of IRM Dredging.

TABLE 1
Residual Methylene Chloride Analytical Results

Sample ID	June '04	October '04	April '05
SS-19A	10,000,000 E	NA	12,000,000
SS-88 - 2'	NA	8 U	52,000
DC-4/SS-90	NA	24,000	2,400

Methylene chloride cleanup criteria approved by the NYSDEC and the is 1,133 ug/kg
 E - Identifies the compound exceeded the instrument's calibration range
 U- Compound was analyzed for but not detected

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NA – Not Applicable
All units are in ug/kg (ppb)
All concentrations are from the top 1' of sediment (except as noted).

3.0 SEDIMENT MANAGEMENT PLAN

The dredging IRM removed the impacted sediments to the extent feasible, and in doing so, removed the vast majority of the impacted sediments. The residuals are limited in nature to hot spots within the Approximate Limits of IRM Dredging depicted in **Figure 2**. Moreover, the IRM was completed in such a manner that future activities conducted in the river should not be adversely affected by the residuals from the 2001 CSXT derailment. The remaining methylene chloride is not expected to be resuspended during USACE maintenance dredging activities (because the sediments are below the specified dredge depth of 221.3' IGLD85) and is not of sufficient quantity to be detectable in the Genesee River water column as demonstrated by the analytical results. However, if the USACE dredging limits are revised or if future development activities disturb river sediments within the Approximate Limits of IRM Dredging, management of the sediment containing residual methylene chloride impacts will be required.

3.1 Notification

If development, maintenance dredging, or any other type of work is planned within the Approximate Limits of IRM Dredging identified on **Figure 2** which has the potential to disturb sediment, then it is necessary to contact Paul Kurzanski, CSXT, Manager Environmental Remediation at 1-904-359-3101.

3.2 Project Plan Review

CSXT or its representative will be supplied in full, final copies of the design plans, maintenance activities, etc. CSXT will, in a timely manner, review the project documents, to determine whether the potential of the work might disturb the residual sediment impacts.

3.3 Determination of Potential of Residual Disturbance

Based on the review of the project documents, CSXT will execute one of the following three courses of action:

1. Draft a letter to the applicable party and regulatory agencies indicating that their intended project plans were carefully reviewed and the proposed actions will not disturb the identified residual impacts.
2. Draft a letter to the applicable party and regulatory agencies indicating that their

SEDIMENT MANAGEMENT PLAN
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intended project plans have the potential to disturb the identified residual impacts. In addition, CSXT will promptly implement a sampling program within the area of potentially disturbed sediments to ascertain whether any residual impacts in excess of the site-specific cleanup levels remain. Included within that sampling program will be an appropriate background study, including at least one sample taken up-river of the Approximate Limits of IRM Dredging in order to ascertain whether background conditions have changed since the implementation of the dredging IRM. If the sampling indicates the potential for disturbing sediments containing residual impacts in excess of the site-specific cleanup levels, CSXT will also provide for a representative to be on-site during the course of the work that may disturb the residual impacts. If the activities are concluded to be within a close proximity to the residual location, CSXT will provide labor and materials or cover the costs incurred with respect to the residually impacted sediment and any associated water by the applicable party to properly handle, segregate, stage, sample, analyze, and dispose (if impacted with methylene chloride or acetone in excess of the site-specific cleanup levels) of the impacted sediment and associated water.

3. Draft a letter to the applicable party and regulatory agencies indicating that their intended plans will likely disturb the location where sediments with residual impacts have been previously identified. CSXT will also characterize the area of disturbance in close proximity to the identified residual sediment impacts prior to the work to verify the presence or absence of residuals. CSXT will promptly implement a sampling program within the area of potentially disturbed sediments to ascertain whether any residual impacts in excess of the site-specific cleanup levels remain. Included within that sampling program will be an appropriate background study, including at least one sample taken up-river of the Approximate Limits of IRM Dredging in order to ascertain whether background conditions have changed since the implementation of the dredging IRM. If the sampling indicates the potential for disturbing sediments containing residual impacts in excess of the site-specific cleanup levels, CSXT will also provide for a representative to be on-site. CSXT will work closely with the applicable party, regulators, subcontracts, etc. to ensure proper plans, notifications, permits, health and safety measures, decontamination procedures, and monitoring (air, water, etc.) are in place prior to the initiation of the work as a result of the disturbance of the residuals. If necessary, CSXT will provide labor and materials or cover the costs incurred by the applicable party to: prepare and implement work plans; notifications and permits; additional health and safety measures; conduct monitoring (air, water, etc.); properly handle, segregate, stage, sample, analyze, and dispose of the impacted sediment and associated water.

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4.0 CONTACT INFORMATION

Key contacts that have been involved with the CSXT-River Street Derailment Project are provided below. The list includes the CSXT Manager Environmental Remediation, CSXT's engineering consultant (AMEC E & E, PC), CSXT's internal and local legal counsel (Hiscock Barclay, LLC), NYS regulators, Monroe County officials, City of Rochester engineer's and lawyers, and the USACE representative.

COMPANY	NAME	TITLE	PHONE	E-MAIL
CSXT.	Paul Kurzanski	Manager Environmental Remediation	904.359.3101	paul_kurzanski@csx.com
CSXT	Janet Scagnelli	Counsel Environmental	303.974.5155	Janet_scagnelli@csx.com
AMEC	Marie Dowd	Project Manager	518.372.0905	marie.dowd@amec.com
Hiscock Barclay	Tom Walsh	Outside Counsel	585.295.4414	twalsh@hblaw.com
NYSDEC	Frank Sowers	Project Manager	585.226.5357	flsowers@gw.dec.state.ny.us
NYSDOH	Katherine Comerford	Public Health Specialist	716.847.4385	
MCDOH	Jeff Kosmala	Senior Public Health Engineer	585.753.5904	jkosmala@monroecounty.gov
City of Rochester	Donald Crumb	Municipal Attorney	585.428.6775	crumbd@cityofrochester.gov
City of Rochester	Joe Biondolillo	Project Manager	585.428.6649	biondj@cityofrochester.gov
USACE	Steve Metivier	Biologist	716.879.4314	steven.v.metivier@usace.army.mil



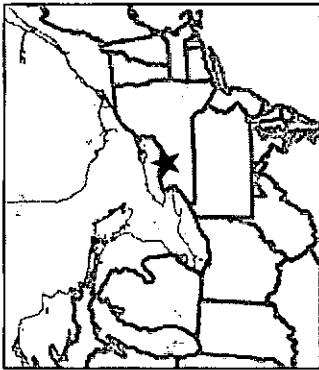
Public Safety
& Environment

Site Location Map
CSXT River Street Derailment Site
Rochester, NY

Figure #1

Monroe County New York

LOCATOR

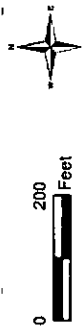


LEGEND

— CSXT Rail

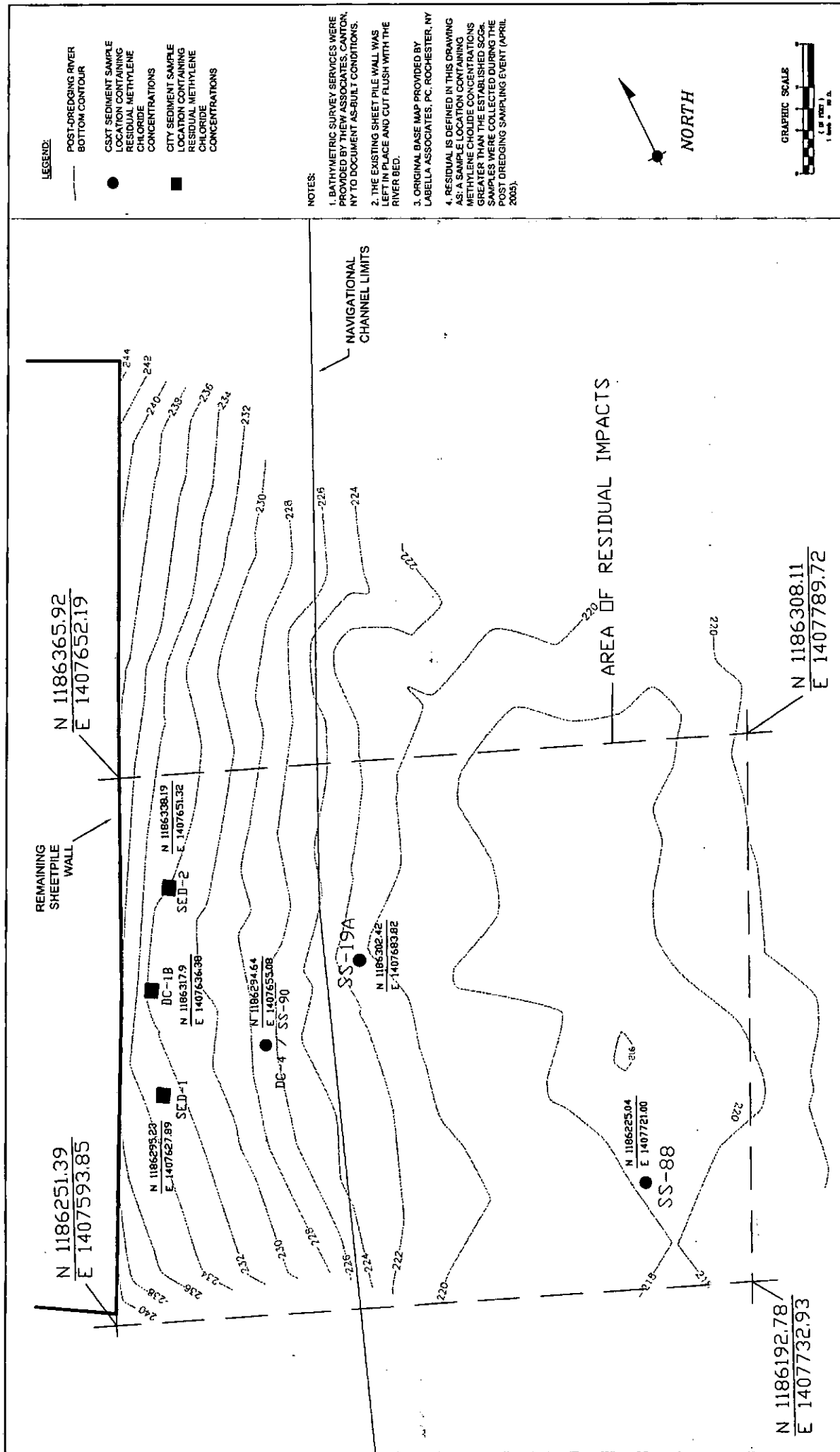
NOTES & SOURCES

Aerial Imagery Source: USGS
Projection: NAD 83 UTM Zone 18N
Map Created: 4 May 2005



AMEC Earth & Environmental, Inc.
Westford, Massachusetts





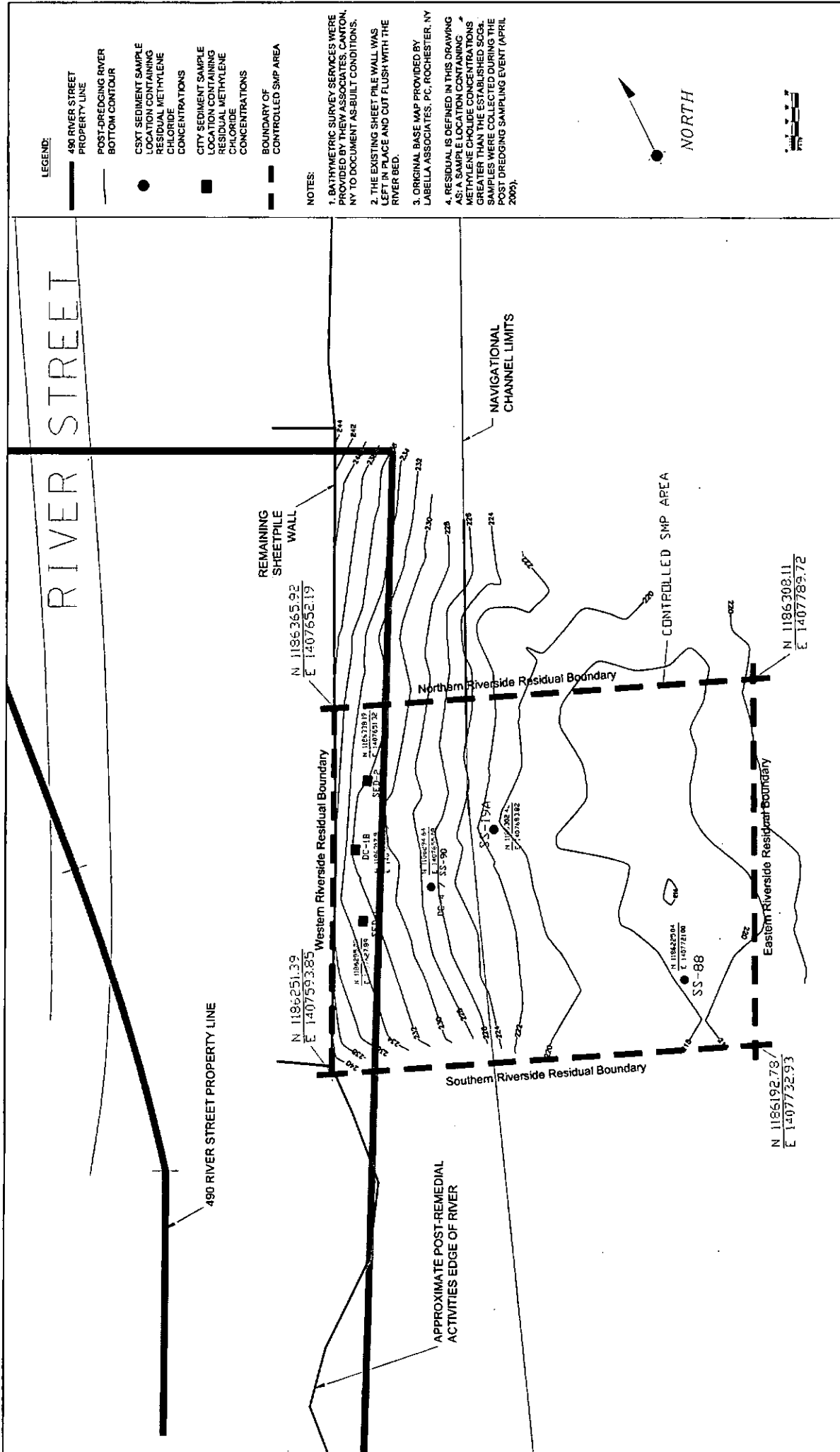
NO.	DATE	SUBJECT	BY	CHK'D	APP'D
1	09/18/05	APPROX POST DREDGING CONTIGUOUS ADJACENT TIDE GAUGE	PC	TPA	WTR
2	11/11/05	ADDED LEGEND TO SHOW RESIDUAL SAMPLE LOCATIONS	TPA	TPA	WTR
3	07/07/06	ADDED DRAWING TO INCLUDE CITY SAMPLES	TPA	TPA	WTR
4					
5					

CSX TRANSPORTATION		PREPARED BY: CSX TRANSPORTATION, INC. TRAFFIC & ENVIRONMENTAL DEPARTMENT 500 WATER STREET, 4TH FLOOR JACKSONVILLE, FL 32202	DRAWN BY: PAUL BURZEMER
SEDIMENT MANAGEMENT WORK PLAN		PROJECT: CSXT GENESSEE RIVER SITE PROJECT NO: 05000000000000000000	SHEET NO: 2 OF 2
SEDIMENT MANAGEMENT WORK PLAN		DATE: 11/11/05	SCALE: AS SHOWN

Exhibit F

Map of Rochester's 490 River Street Property, including the City's Under Water Lands,
showing Controlled Property

(Attached)

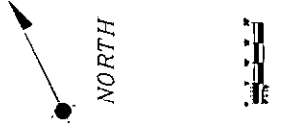


LEGEND:

- 490 RIVER STREET PROPERTY LINE
- POST-DREDGING RIVER BOTTOM CONTOUR
- CSXT SEDIMENT SAMPLE LOCATION CONTAINING RESIDUAL METHYLENE CHLORIDE CONCENTRATIONS
- CITY SEDIMENT SAMPLE LOCATION CONTAINING RESIDUAL METHYLENE CHLORIDE CONCENTRATIONS
- BOUNDARY OF CONTROLLED SMP AREA

NOTES:

1. BATHYMETRIC SURVEY SERVICES WERE PROVIDED BY THE ASSOCIATES, CANTON, NY TO DOCUMENT AS-BUILT CONDITIONS.
2. THE EXISTING SHEET PILE WALL WAS LEFT IN PLACE AND CUT FLUSH WITH THE RIVER BED.
3. ORIGINAL BASE MAP PROVIDED BY LABELLA ASSOCIATES, PC, ROCHESTER, NY
4. RESIDUAL IS DEFINED IN THIS DRAWING AS A SAMPLE LOCATION CONTAINING METHYLENE CHLORIDE CONCENTRATIONS GREATER THAN THE ESTABLISHED SCOR. SAMPLES WERE COLLECTED DURING THE POST DREDGING SAMPLING EVENT (APRIL 2002).



CSXT RIVER STREET SITE	
490 RIVER STREET PROPERTY WITH CONTROLLED SMP AREA	
DATE	11/01/05
SCALE	AS SHOWN
FIG. NO.	1
SHEET	

CSX TRANSPORTATION, INC.
 560 WATER STREET, 22ND FLOOR
 JACKSONVILLE, FL 32202
 PHONE: 904.241.4200

AMEC EARTH & ENVIRONMENTAL, INC.
 155 WEST KOLEAVO ROAD
 SCENESDELA, NY 13285
 PHONE: 518.486.4500

SEDIMENT MANAGEMENT WORK PLAN



NO.	DATE	BY	DESCRIPTION
1	05/18/05	TR	ADDED POST DREDGING CONTOUR, ADJUSTED TITLE BLOCK
2	11/11/05	TR	ADJUSTED LEGEND TO SHOW REMEDIATION SAMPLE LOCATIONS
3	07/07/06	TR	MODIFIED DRAWING TO INCLUDE CITY SAMPLES
4			
5			