

**CSXT 29th STREET YARD  
WHEELING, WEST VIRGINIA**

**LAND USE COVENANT**

CSX Transportation, Inc. (CSXT) has entered into a Voluntary Remediation Agreement (hereinafter referred to as the Agreement) with the Division of Environmental Protection for the State of West Virginia pursuant to the Voluntary Remediation and Redevelopment Act, W. Va. Code ' ' 22-22-1 through 22-22-21 (hereinafter referred to as the Act), for certain property, located between 27th and 29th Streets, Wheeling West Virginia in Webster District, Ohio County, West Virginia and more particularly described in a deed of record in the office of the Clerk of the County Commission of Ohio County, West Virginia (the Property). A survey map of the Property is included as Exhibit A. Paragraph 29. of the Agreement requires (CSXT) as the Owner of said Property, to file a Land Use Covenant with the Clerk of the Ohio County Commission. The Agreement allows certain levels of contamination to remain on the Property and requires a land use covenant be recorded in the office of the Clerk of the Ohio County Commission for the purposes of protecting public health and the environment and to prevent interference with the performance, operation and maintenance of any remedial actions required by the Agreement.

**NOW THEREFORE**, as CSXT, hereinafter referred to as Owner, and the director have provided in the Agreement, the following restrictions shall apply to this Property:

1. The Owner shall prohibit all activities that may result in human exposures above those specified by the Agreement. These activities include, but are not limited to: development of the site for residential use, unless actions are taken to reduce exposure to acceptable levels for such use.

State of West Virginia, County of Ohio, to-wit:

I, Chester W. Kloss, Clerk of the County Commission of said County, do certify that the forgoing document was admitted to record in this office on the 28th day of August, 2000 at 2:45 pm

Chester W. Kloss  
Clerk of the County Commission

T-789 PAN

2. The Owner shall restrict the uses of the Property to non-residential uses.
3. Prior to initiation of excavation activities, the Owner shall prepare a Health and Safety Plan to evaluate, monitor and respond to potential exposure from contaminants identified by the October 1999 Site Assessment Report prepared by Gannett Fleming, Inc.
4. The Owner shall provide written notice to the director of the Division of Environmental Protection of the intent to transfer any interest in the Property.
5. The Owner shall not convey any title, easement, or other interest in the Property without informing the purchaser of these restrictions under this Land Use Covenant.
6. The Owner shall grant the West Virginia Division of Environmental Protection and its designated representatives the right to enter the Property at reasonable times for the purpose of monitoring compliance with the Agreement and the Certificate of Completion, including the right to take samples, inspect the operation to evaluate the effectiveness of remedial activities, and inspect records all as provided in the Agreement.
7. The Division of Environmental Protection may enforce the restrictions set forth in this Land Use Covenant by legal action in a court of appropriate jurisdiction.
8. In accordance with the provisions of the Act regarding land use covenants, W. Va. Code '22-22-15 and in addition to any rights or duties contained in the Certificate of Completion, this Land Use Covenant relieves the Owner and any subsequent successors and assigns of the Owner, any person identified in W. Va. Code '22-22-18, from civil liability to the State as provided under the Act so long as the Property complies with the applicable standards identified in the Agreement.

9. The restrictions and other requirements described in this Land Use Covenant shall run with the land and shall be binding upon any future owners, successors or assigns and their authorized agents, employees or persons acting under their direction or control. Subject to subsequent written modification or release signed by the director and the owner at the time of such modification or release, and filed in the office of the Clerk of the County Commission of the county where these covenants have been recorded, this Land Use Covenant shall continue in perpetuity.

10. If any provision of this Land Use Covenant is held to be invalid by any court of competent jurisdiction, the invalidity of such provision shall not affect the validity of any other provisions hereof. All such other provisions shall continue unimpaired and in full force and effect.

11. This Land Use Covenant shall not be amended, modified or terminated except by written instrument executed by and between the Owner at the time of the proposed amendment, modification or termination, and the director of the West Virginia Division of Environmental Protection, or his successor in accordance with regulations promulgated by the director or his successor. Within 5 days of executing an amendment, modification or termination of this Land Use Covenant, the Owner shall record such amendment, modification or termination with the Clerk of the Ohio County Commission, and within 5 days thereafter, the Owner shall provide a true copy of the recorded amendment, modification or termination to the director of the Division of Environmental Protection.

The undersigned persons executing this Land Use Covenant on behalf of the Owner represent and certify that they are duly authorized and have been fully empowered to execute and deliver this Land Use Covenant.

IN WITNESS WHEREOF, the said Owner of the above described Property and the director of the Division of Environmental Protection have caused this Land Use Covenant to be executed this 2<sup>nd</sup> day of February, 2000.

SIGNED:

Marshall L. Williams

Marshall L. Williams  
Director, Environmental  
Real Estate Transactions

Ken Ellson

Director, Division of Environmental Protection

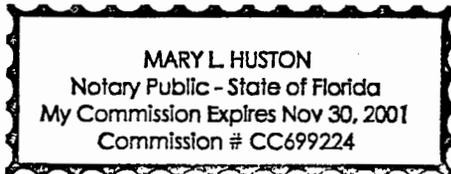
CSKT TRANSPORTATION, INC.  
By: CSX Real Property, Inc.  
Under the Authority of Property  
Management Agreement and  
Limited Power of Attorney dated  
as of March 1, 1990.

I, Mary L. Huston, a Notary Public in and for the State and County aforesaid, do hereby certify that Marshall L. Williams whose name is signed to the writing above, bearing date the 2<sup>nd</sup> day of February, 2000, has this day acknowledged same to be his true act and deed.

Given under my hand this the 2<sup>nd</sup> day of February, 2000

My commission expires 11-30-01

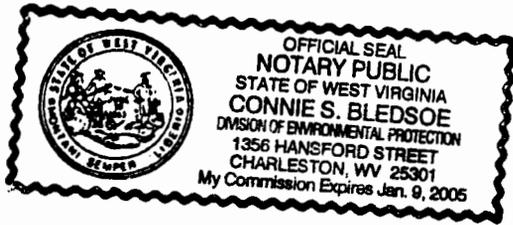
Mary L. Huston  
Notary Public

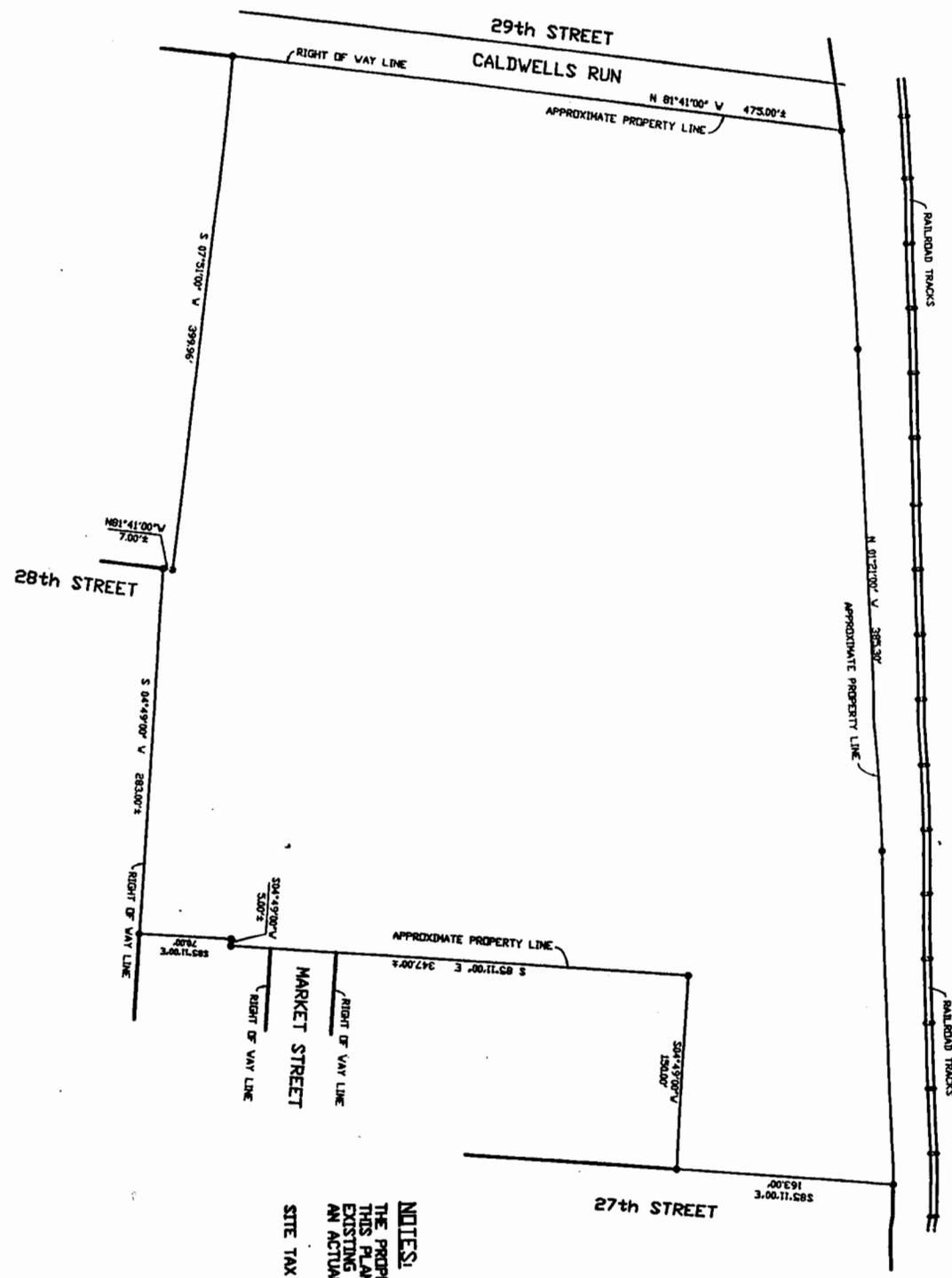


I, Connie S. Bledsoe a Notary Public in and for the State and County aforesaid, do hereby certify that Ken Ellison whose name is signed to the writing above, bearing date the 30<sup>th</sup> day of March, 2000, has this day acknowledged same to be his true act and deed.

Given under my hand this the 30<sup>th</sup> day of March, 2000

My commission expires January 9, 2005  
Connie S. Bledsoe  
Notary Public





NEW OR FORMAL,  
CSX TRANSPORTATION, INC.

FIGURE 1

**NOTES:**  
THE PROPERTY LINE INFORMATION SHOWN ON THIS PLAN IS A COMPILATION OF EXISTING RECORDS AND DOES NOT REPRESENT AN ACTUAL FIELD SURVEY.

SITE TAX ID NO. V72-002-0000-0000



**SITE PLAN**  
CSX TRANSPORTATION, INC.  
2800 STREET ROAD  
WHEELING, WEST VIRGINIA