



Mike DeWine, Governor  
Jon Husted, Lt. Governor  
Laurie A. Stevenson, Director

91 7199 9991 7030 4726 5028

JAN 3 1 2020

Ralph Meierjohan  
East End Developers, LLC  
4010 North Bend Road,  
Suite 301  
Cincinnati, Ohio 45211

**Re: Walworth Junction Property  
Covenant  
Approvals  
Voluntary Action Program  
Hamilton County  
531003407002**

**CERTIFIED MAIL**

**Subject: Issuance of Covenant Not to Sue for the Walworth Junction Property,  
(19NFA754)**

Dear Mr. Ralph Meierjohan:

I am pleased to inform you that on JAN 3 1 2020, the Director of the Ohio Environmental Protection Agency ("Director") issued a Covenant Not to Sue ("CNS") to East End Developers, LLC for the Walworth Junction property, located at 2927-3121 (odd) Walworth Avenue, Cincinnati, Hamilton County, Ohio (the "Property"). The CNS was issued as Final Findings and Orders, pursuant to Ohio Revised Code ("ORC") Chapter 3746 and Ohio Administrative Code ("OAC") Chapter 3745-300.

The CNS states that based on the NFA Letter, and subject to all conditions set forth in these Findings and Orders, Ohio EPA covenants not to sue and releases East End Developers, LLC, and its agents, employees, members, shareholders, officers, directors, successors and assigns, and successors and assigns of the Property, from all civil liability to the State of Ohio to perform additional investigational and remedial activities. The covenant not to sue and release of liability applies to the Property that has undergone a Phase I or Phase II property assessment in compliance with ORC Chapter 3746 and OAC Chapter 3745-300, or has been the subject of remedial activities conducted under ORC Chapter 3746 and OAC Chapter 3745-300, to address a release of hazardous substances or petroleum, and the assessment or the remedial activities demonstrate or result in compliance with applicable standards.

Enclosed with the mailing to Ralph Meierjohan, who represents East End Developers, LLC in this matter, is a certified copy of the CNS and its exhibits for the required recording of the CNS documents in the same manner as a deed for the Property, as instructed by the CNS "Conditions and Limitations" section. The enclosed Affidavit for the CNS should be presented to the county recorder's office staff to support the required recording. The enclosed letter to the recorder's office should also be presented to the recorder's office staff to explain the required recording.

Remember to send Ohio EPA a complete copy of each recorded document that shows the recorder's date-stamp and recorded location. Documents may be sent by email (preferred) or mail to the attention of Angela Edwards, DERR Records Management Officer, at the following address:

Ohio EPA – Division of Environmental Response and Revitalization  
Voluntary Action Program  
50 W. Town St., Suite 700  
Columbus, OH 43215  
*Email: records@epa.ohio.gov*

OAC 3745-300-03 authorizes Ohio EPA to charge for the actual costs that it may incur related to site-specific activities, such as the monitoring of compliance with obligations under the CNS including review of the submitted reports. This Agency will send a separate correspondence to provide the number of the account established for the Property and to ask for verification of the billing information.

This action of the Director is final and may be appealed to the Environmental Review Appeals Commission ("Commission") pursuant to ORC 3745.04. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00, made payable to "Treasurer, State of Ohio", which the Commission, in its discretion, may reduce if by affidavit it is demonstrated that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days after the appeal is filed with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Commission at the following address: Environmental Review Appeals Commission, 30 East Broad Street, 4<sup>th</sup> Floor, Columbus, Ohio 43215.

Congratulations on the issuance of this CNS. Many persons within the agency, East End Developers, LLC, and Terracon, among others, worked hard to remove the environmental barriers associated with redeveloping this property. If you have any questions or concerns, feel free to contact me at (614) 644-2924 or via e-mail at [lisa.shook@epa.ohio.gov](mailto:lisa.shook@epa.ohio.gov).

Sincerely,



Lisa Shook  
Manager, Voluntary Action Program  
Division of Environmental Response and Revitalization

Enclosure

cc: Ralph Meierjohan, East End Developers, LLC, 4010 North Bend Road, Suite  
301, Cincinnati, OH 45211  
Ihor Melnyk, Certified Professional, Terracon, 611 Lunken Park Drive, Cincinnati,  
Ohio 45226

ec: Dan Tjoelker, SABR, Ohio EPA  
Clint White, Legal Office, Ohio EPA  
DERR-CO, VAP Files 19NFA754  
Sam Staschiak, DERR-VAP  
[records@epa.ohio.gov](mailto:records@epa.ohio.gov)



Mike DeWine, Governor  
Jon Husted, Lt. Governor  
Laurie A. Stevenson, Director

**RE: Recording of Covenant Not to Sue**

Dear County Recorder's Office personnel:

Attached is a certified copy of a Voluntary Action Program (VAP) covenant not to sue (CNS) issued by the Director of the Ohio Environmental Protection Agency for the property identified in the CNS. The legal description of the property is provided in Exhibit 1. The CNS was issued pursuant to Ohio Revised Code (ORC) § 3746.12.

This certified copy of the CNS is presented to you for its recording in the same manner as a deed to the property, pursuant to ORC §§ 317.08 and 3746.14 (see the "Conditions and Limitations" section of CNS). The affidavit attached to the CNS attests to the certified copy.

Please refer to the property owner East End Developers, LLC, and parcel number 031-0002-0107-00, when logging the recorded CNS in the County Recorder's Office records.

Thank you in advance for your assistance. Should you have any questions, please contact me at the Ohio EPA Legal Office at (614) 644-3037 or [clint.white@epa.ohio.gov](mailto:clint.white@epa.ohio.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Clint White", is written over a horizontal line.

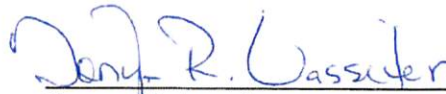
Clint White, Attorney  
Office of Legal Services

TO BE RECORDED IN **DEED RECORDS**,  
PURSUANT TO ORC 317.08(A)

**AFFIDAVIT FOR COVENANT NOT TO SUE**  
**(Certified Copy)**

STATE OF OHIO )  
 ) ss:  
COUNTY OF FRANKLIN )

Before me, the subscriber, a Notary Public in and for the State of Ohio, personally appeared Tonya R. Lassiter, who, being duly sworn according to law, deposes and says that: (i) she is employed as a records management officer in the Legal Office of the Ohio Environmental Protection Agency ("Ohio EPA") and, as such, is authorized to sign this Affidavit on behalf of Ohio EPA; and (ii) the attached document is a true and correct copy of the Covenant Not to Sue / Director's Final Findings and Orders issued by the Director, and entered in the Ohio EPA Director's Journal on January 31, 2020. This certified copy is regarding property known as the Walworth Junction Property, located at 2927-3121 (odd) Walworth Avenue in Cincinnati, Hamilton County, Ohio and further described in the attached Covenant Not to Sue.



Tonya R. Lassiter  
Records Management Officer  
Ohio EPA Legal Office

Sworn to and subscribed before me, a Notary Public in and for the State of Ohio, this 31<sup>st</sup> day of JANUARY, 2020.



Donald Vanterpool  
DONALD L. VANTERPOOL, Attorney-At-Law  
NOTARY PUBLIC, STATE OF OHIO Notary Public  
My Commission has no expiration date. State of Ohio  
Section 147.03 R.C.

*Permanent Commission*  
*No expiration, R.C. 147.03*

This instrument prepared by:  
Clint White, Attorney  
Ohio EPA Legal Office  
P.O. Box 1049  
Columbus, Ohio 43216-1049

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the matter of:**

Ralph Meierjohan  
East End Developers, LLC  
4010 North Bend Road, Suite 301  
Cincinnati, Ohio 45211

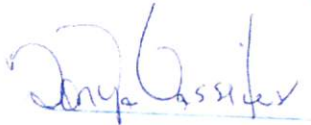
**Covenant Not to Sue**

**Director's Final Findings  
and Orders**

**Regarding property known as:**

Walworth Junction Property  
2927-3121 (odd) Walworth Avenue  
Cincinnati, Ohio 45226

A true and accurate copy of the  
Findings and Orders as filed in the records of the Ohio  
Environmental Protection Agency.

 Date 1/31/2020

Pursuant to Ohio Revised Code ("ORC") Chapter 3746 and Ohio Administrative Code ("OAC") Chapter 3745-300, the Director of the Ohio Environmental Protection Agency (the "Director") hereby makes the following Findings and issues the following Orders ("Findings and Orders").

**FINDINGS**

1. A No Further Action Letter, No. 19NFA754 (the "NFA Letter"), was submitted on December 2, 2019 to the Director under the Voluntary Action Program on behalf of East End Developers, LLC (the "Volunteer"), by Ihor Melnyk P.E., a certified professional, No. CP147, as defined in ORC 3746.01(F) and OAC 3745-300-01(A) (the "Certified Professional").

2. The Certified Professional issued the NFA Letter by his CP affidavit on November 25, 2019.
3. The NFA Letter describes the investigational and remedial activities undertaken at the approximately 5.704-acres property, known as Walworth Junction or Walworth Avenue Property, located at 2927-3121 (odd) Walworth Avenue, Cincinnati, Hamilton County, Ohio (the "Property"). An exact legal description of the Property is attached hereto as Exhibit 1. A property location map is attached hereto as Exhibit 2. Based on information in the NFA Letter, the Property is owned by East End Developers, LLC.
4. The Certified Professional prepared pursuant to OAC 3745-300-13 an Executive Summary of the NFA Letter, which is attached hereto as Exhibit 3.

#### **Summary of the voluntary action for the Property**

5. Based upon the information in the NFA Letter, the Volunteer undertook the following investigational and remedial activities regarding the Property:
  - a. A Phase I Property Assessment pursuant to OAC 3745-300-06, to determine whether there is any reason to believe that a release of hazardous substances or petroleum has or may have occurred on or from the Property.
  - b. A Phase II Property Assessment pursuant to OAC 3745-300-07, including but not limited to investigations of identified areas and affected media at the Property, to assess environmental conditions related to releases of hazardous substances and/or petroleum.
  - c. Other remedial activities, conducted under OAC 3745-300-11 or other applicable law, including the removal of approximately 80,000 cubic yards of soil and placement of compacted clean engineered fill.
  - d. A demonstration that the Property complies with applicable standards based on the remedial activities for the identified chemicals of concern ("COCs") in the identified areas at the Property and in affected media. The demonstration was made using generic numerical standards, and a protection of ground water meeting unrestricted potable use standards.
6. The Certified Professional has verified by affidavit that the voluntary action was conducted and the NFA Letter was issued for the Property in accordance with ORC Chapter 3746 and OAC Chapter 3745-300, that the Property is eligible for the Voluntary Action Program, and that the voluntary action was conducted in compliance with all applicable federal, state and local laws and regulations.
7. At the time that analyses were performed, Pace Analytical Services, Inc.

Indianapolis, IN and Pace Analytical Services, Inc. Minneapolis, MN, EA Group, and ALS Environmental were certified laboratories, No(s). CL0065, CL101, CL0015, and CL0022, respectively, as defined in ORC 3746.01(E) and OAC 3745-300-01(A), whose services were used in support of the NFA Letter.

### **Applicable Standards**

8. Based on the information contained in the NFA Letter and all conditions set forth in these Findings and Orders, the Property meets applicable standards contained in ORC Chapter 3746 and OAC Chapter 3745-300 for various uses including unrestricted land use and unrestricted potable ground water use. The applicable standards for the Property are those in effect when the NFA Letter was issued on November 25, 2019. The applicable standards, the methods of achieving compliance with the standards, and the associated points of compliance for the standards for each complete exposure pathway, are identified in the NFA Letter or by applicable law. The standards include one or more of the following:
  - a. Generic numerical standards determined in accordance with OAC 3745-300-08.
  - b. Property-specific risk assessment standards developed in accordance with OAC 3745-300-09.
  - c. Background standards determined in accordance with ORC 3746.06(A) and OAC 3745-300-07(H).
  - d. Standards for residential (potable) use of ground water underlying the Property, applied in accordance with ORC 3746.06(B) and OAC 3745-300-07(F).
9. Remedy changes may be undertaken or documented in accordance with OAC 3745-300-11. Documentation of new or revised remedies may be reviewed as an Ohio EPA public record. (Many public records are available to download from Ohio EPA's eDocument search engine page.)
10. Pursuant to ORC 3746.12(A), the Director of Ohio EPA is authorized to issue a covenant not to sue for the Property through these Findings and Orders. Based on the NFA Letter and subject to all conditions set forth in these Findings and Orders, the remedial activities conducted for the Property are protective of public health and safety and the environment.

### **ORDERS**

#### **Covenant**

1. Based on the NFA Letter, and subject to all conditions set forth in these Findings



and Orders, Ohio EPA hereby covenants not to sue and releases East End Developers, LLC, and its agents, employees, members, shareholders, officers, directors, successors and assigns, and successors and assigns of the Property, from all civil liability to the State of Ohio (the "State") to perform additional investigational and remedial activities. This covenant not to sue and release of liability ("Covenant") applies to the Property that has undergone a Phase I or Phase II property assessment in compliance with ORC Chapter 3746 and OAC Chapter 3745-300 or has been the subject of remedial activities conducted under ORC Chapter 3746 and OAC Chapter 3745-300 to address a release of hazardous substances or petroleum, and the assessment or the remedial activities demonstrate or result in compliance with applicable standards.

### **Conditions and Limitations**

#### **Requirement to Record These Findings and Orders / Covenant Not to Sue**

2. Within thirty (30) days after the issuance of these Findings and Orders, East End Developers, LLC shall:
  - a. File with Hamilton County Recorder's Office, for recording in the same manner as a deed to the Property pursuant to ORC 3746.14, a copy of these Findings and Orders, including Exhibits 1 (Legal Description), 2 (Property Location Map) and 3 (Executive Summary).
  - b. Submit to Ohio EPA a copy of the Findings and Orders that shows the filing date stamp of the Hamilton County Recorder's Office or other reliable information that verifies the recording of the Findings and Orders in accordance with this Order. The submission shall include a cover letter that identifies "Recorded - Covenant Not to Sue for NFA Letter No. 19NFA754." The submission shall be delivered by U.S. mail or by other reliable means to the DERR Records Management Officer at Ohio EPA's Central Office, 50 West Town Street, P.O. Box 1049, Columbus, OH 43216-1049, or at records@epa.ohio.gov.

#### **Limits of Covenant**

6. Pursuant to ORC 3746.12(B)(1), the Covenant shall remain in effect for as long as the Property continues to comply with the applicable standards upon which the Covenant is based, as referenced in these Findings and Orders.
  - a. Compliance with standards requires the effective performance of the remedial activities, as applicable, and additional or changed remedies as documented in Ohio EPA's public record or in an instrument recorded in the same manner as a deed for the Property.
  - b. Upon a finding pursuant to ORC 3746.12(B)(2) that the Property or portion

thereof no longer complies with applicable standards upon which issuance of the Covenant was based and receipt of the Director's notice of that fact and the requirements of ORC 3746.12(B)(3), the person(s) responsible for maintaining compliance with those standards shall receive an "opportunity to cure" the noncompliance.

- c. ORC 3746.12(B)(4) provides for revocation of the Covenant upon a Director's finding that the noncompliance has not been cured.
7. The Covenant shall not apply to releases of hazardous substances or petroleum that occur after the issuance of the NFA Letter.
  8. The Covenant shall not apply:
    - a. To claims for natural resource damages the State may have pursuant to Sections 107 or 113 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. 9607 and 9613, as amended.
    - b. To claims the State may have pursuant to Section 107 of CERCLA, 42 U.S.C. 9607, as amended, for costs other than those for damages to natural resources, provided that the State incurs those other costs as a result of an action by the United States Environmental Protection Agency.
    - c. As otherwise specifically provided in ORC Chapter 3746, including but not limited to obligations arising under other applicable laws.
  9. Nothing in the Covenant limits the authority of the Director to act under ORC 3734.13 and 3734.20 to 3734.23.
  10. Nothing in the Covenant limits the authority of the Director to request that a civil action be brought pursuant to the ORC or common law of the State to recover the costs incurred by Ohio EPA for investigating or remediating a release or threatened release of hazardous substances or petroleum at or from the Property, when the Director determines that the release or threatened release poses an imminent and substantial threat to public health or safety or the environment.
  11. Nothing in the Covenant shall be construed to limit or waive the Director's authority to revoke the Covenant in response to any of the circumstances for revocation of a covenant, as provided in ORC Chapter 3746 and OAC Chapter 3745-300.

#### **Ohio EPA Oversight and Access to Property**

12. Pursuant to ORC 3746.21 and at reasonable times, upon proper identification,

and stating the necessity and purpose as directed by applicable law, authorized representatives of the Director shall be granted access to the Property for the inspection or investigation purposes authorized under applicable law. Such purposes may include but are not limited to conducting an audit of the NFA letter.

### Transfer

13. Pursuant to ORC 3746.14 and OAC 3745-300-13, the NFA Letter and the Covenant Not to Sue/Findings and Orders may be transferred to any person by assignment or in conjunction with the acquisition of title to the Property.

### IT IS SO ORDERED:

  
\_\_\_\_\_  
Laurie A. Stevenson, Director  
Ohio Environmental Protection Agency

JAN 31 2020  
\_\_\_\_\_  
Date

**Exhibit 1**  
**Legal Description**

**EXHIBIT A**

SITUATED IN THE COUNTY OF HAMILTON AND STATE OF OHIO AND FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTH RIGHT OF WAY OF KATES PLACE AND THE EAST RIGHT OF WAY OF LEVIASSOR STREET, SAID POINT BEING THE TRUE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED; THENCE WITH THE SOUTH LINE OF SAID KATES PLACE, SOUTH 78° 18' 08" EAST, 152.01 FEET TO A POINT; THENCE LEAVING SAID LINE SOUTH 80° 48' 57" EAST, 207.19 FEET TO A POINT IN THE WEST LINE OF PROPERTY OWNED BY THE CITY OF CINCINNATI; THENCE WITH SAID WEST LINE SOUTH 11° 41' 54" WEST, 48.22 FEET TO A POINT IN THE SOUTH LINE OF SAID PROPERTY; THENCE WITH THE SOUTH LINE OF SAID PROPERTY SOUTH 71° 49' 30" EAST, 383.17 FEET TO A POINT; THENCE CONTINUING WITH SAID SOUTH LINE SOUTH 68° 08' 53" EAST, 455.81 FEET TO A POINT; THENCE SOUTH 59° 04' 54" EAST, 387.37 FEET TO A POINT IN THE SOUTH RIGHT OF WAY OF WALWORTH AVENUE; THENCE CONTINUING WITH SAID SOUTH LINE SOUTH 39° 00' 29" EAST, 54.94 FEET TO A POINT; THENCE SOUTH 59° 53' 32" EAST, 754.18 FEET TO A POINT IN WEST LINE OF A FOOT BRIDGE EASEMENT; THENCE LEAVING SAID RIGHT OF WAY ALONG THE WEST SIDE OF SAID EASEMENT SOUTH 30° 50' 35" WEST, 22.32 FEET TO A POINT; THENCE WITH A NEW LINE NORTH 64° 50' 45" WEST, 1,889.40 FEET TO A POINT; THENCE ALONG A CURVE TO THE LEFT 489.70 FEET, HAVING A RADIUS OF 2,000.00 FEET, WHOSE CHORD BEARS NORTH 71° 34' 25" WEST, 489.82 FEET TO A POINT; THENCE NORTH 78° 18' 08" WEST, 18.42 FEET TO A POINT IN THE EAST RIGHT OF WAY OF LEVIASSOR STREET; THENCE WITH THE EAST LINE OF SAID STREET NORTH 11° 41' 54" EAST, 108.10 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 5.72 ACRES, MORE OR LESS.

PPN: 031-0002-0107

*LS*

DESCRIPTION ACCEPTABLE  
HAMILTON COUNTY ENGINEER

Tax Map - 6/28/25 21

CAGIS - \_\_\_\_\_



**CONSOLIDATION PLAT OF SURVEY  
FOR  
CONSOLIDATED RAIL CORP.  
31 EAST GEORGIA STREET  
INDIANAPOLIS, INDIANA 46204  
SCALE 1"=100' Dec. 6, 1994**

The Owners of the Tract of Land shown on this Plat of Survey, declare that this Tract is covered by two or more Tracts or Grants on the Hamilton County Auditor's Tax List and the Hamilton County Auditor's Tax Map. It is hereby requested the Hamilton County Auditor to combine said Tracts or Grants into one entry on the Hamilton County Auditor's Tax List, and also to locate and define from the Hamilton County Auditor's Tax Map the Tract which shall and portions on said Tax Map and show the course and distance of the Survey as the boundary of the combined Tract of Land if this request is granted we agree to describe any part or all of the Tract of Land shown herein for future conveyance purposes by meter and bearings so that such description shall be identical with the same in the Hamilton County Recorder's Office.

We also certify that there are no subsequent claims against the above described property and it is all in and being returned.

Dated and acknowledged in the presence of Consolidated Rail Corp.

Witness: \_\_\_\_\_  
By \_\_\_\_\_

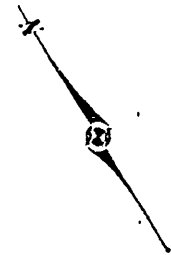
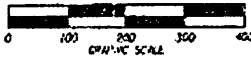
Witness: \_\_\_\_\_

State of Ind., County of Hamilton

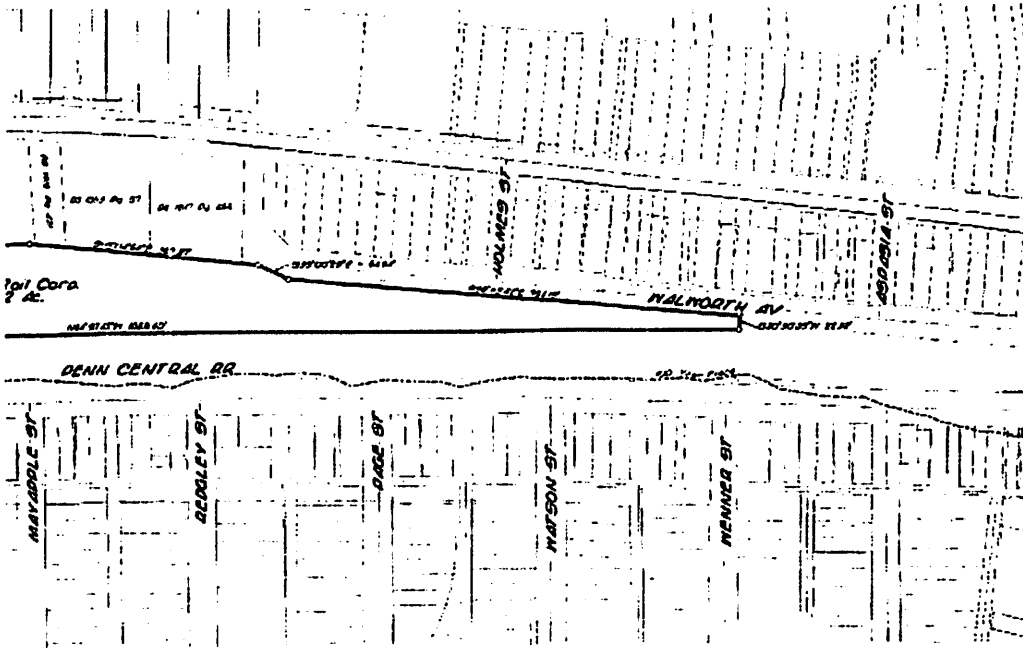
Be it remembered that on this \_\_\_\_\_ day of \_\_\_\_\_, 1994, before me the undersigned, a Notary Public in and for said County and State, personally came the said Consolidated Rail Corp. by \_\_\_\_\_, to me known and acknowledged the signing and execution of the foregoing plat to be its voluntary act and deed.

In testimony whereof, I have hereunto set my hand and Notary Seal on the day and date above written.

Done \_\_\_\_\_, 1994.  
Notary Public  
My Commission Expires \_\_\_\_\_



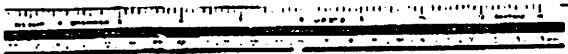
Legend:  
Ø-Indicates 810' from Pln 567



07

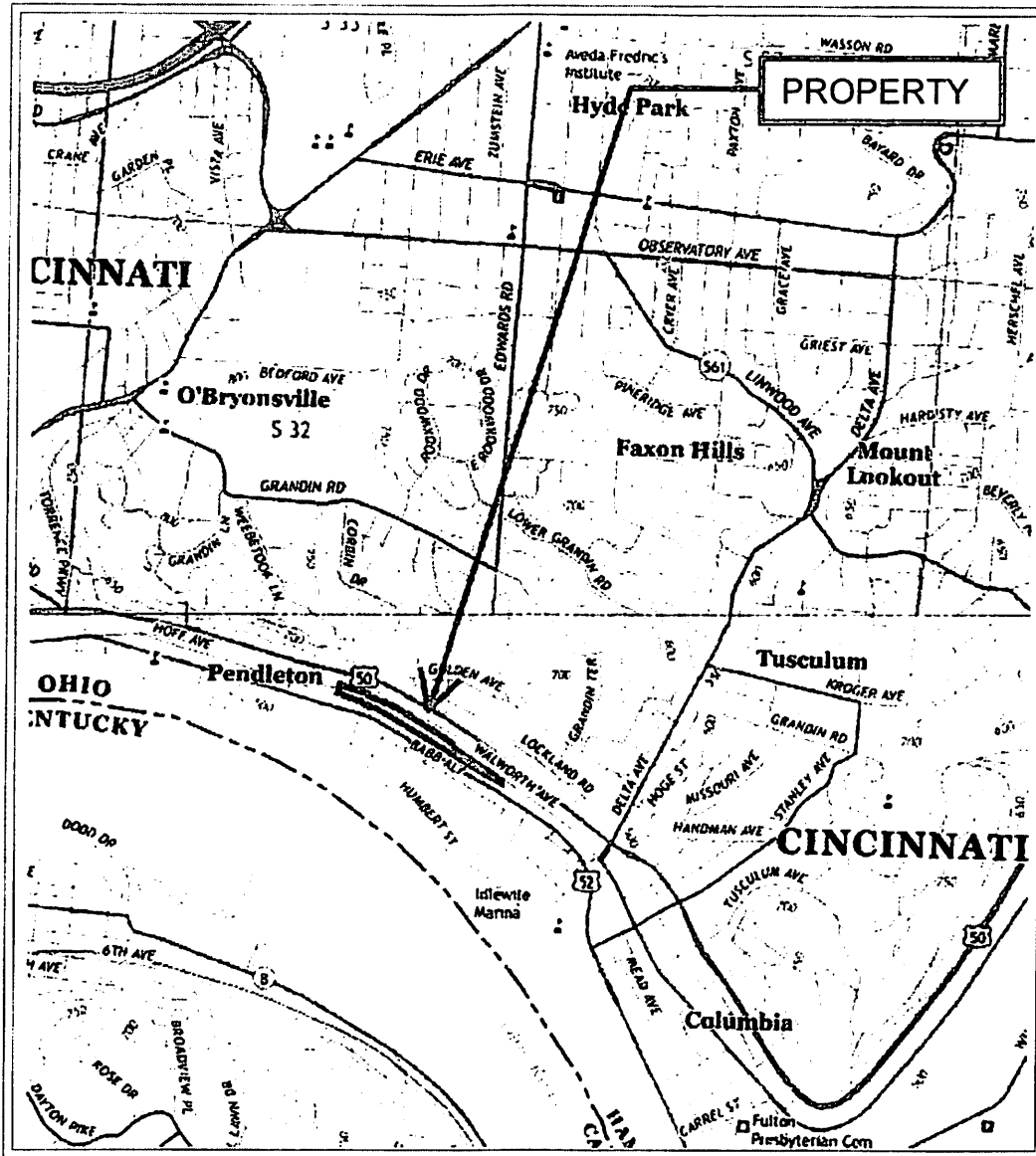
PLAT 1111  
THE BANK BUILDING  
INDIANAPOLIS, IND.

**LJB** LOCKWOOD, JONES AND BEALS INC.  
1765 WEST FIRST STREET, JR.  
INDIANAPOLIS, INDIANA 46204  
317-2211 FAX: 317-2212

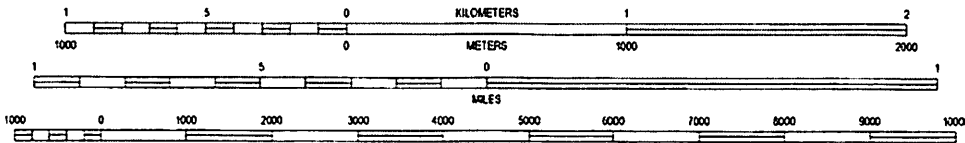


**Exhibit 2**  
**Property Location Map**





SCALE 1:24 000



CONTOUR INTERVAL FEET  
NATIONAL GEODETIC VERTICAL DATUM OF 1929

NEWPORT, KENTUCKY-OHIO  
2013  
7.5 MINUTE SERIES (TOPOGRAPHIC)

|             |     |            |            |
|-------------|-----|------------|------------|
| Project Mgr | SBN | Project No | N1187143   |
| Drawn By    | GMT | Scale      | AS SHOWN   |
| Checked By  | SBN | File No    | Exhibit 1  |
| Approved By | SBN | Date       | 11/12/2019 |

**Terracon**  
Consulting Engineers and Scientists  
611 LURKEN PARK DRIVE CINCINNATI, OHIO 45226  
PH (513) 321-5816 FAX (513) 321-4540

**TOPOGRAPHIC MAP**  
WALWORTH JUNCTION  
EAST END DEVELOPERS LLC  
WALWORTH AVENUE  
CINCINNATI, HAMILTON COUNTY, OHIO

**EXHIBIT**  
1

**Exhibit 3**  
**Executive Summary**

## EXECUTIVE SUMMARY FOR FILING

**Property/subject of the NFA letter:** Walworth Junction Property

**Alias Property Names:** Walworth Avenue Property

**Property Address:** 2927 through 3121 (odd) Walworth Avenue, Cincinnati, Hamilton County, Ohio

**Volunteer:** East End Developers, LLC, 4010 North Bend Road, Suite 301, Cincinnati, Ohio 45211

**Property Owner:** East End Developers, LLC, 4010 North Bend Road, Suite 301, Cincinnati, Ohio 45211

**NFA Letter and Executive Summary Issued by:** Ihor Melnyk, VAP Certified Professional, CP #147, Terracon Consultants, Inc., 611 Lunken Park Drive, Cincinnati, Ohio 45226, (513) 612-9003

The following is an executive summary of a No Further Action (NFA) letter for the above-mentioned Property. This executive summary serves as the recording document to meet the requirements of Ohio Revised Code (ORC) 3746.14(A)(1) and Ohio Administrative Code (OAC) 3745-300-13(J) under Ohio's Voluntary Action Program (VAP). Copies of the NFA letter and request for Covenant Not to Sue (CNS) may be obtained by contacting the Ohio EPA – Division of Environmental Response and Revitalization, Central Office Records Management Officer at (614) 644-2924. A legal description of the approximately 5.704-acre Property is included in the NFA letter.

### Historical Uses of the Property

Based on the historical use information, the Property was developed with railway operations including railroad tracks, a roundhouse and turntable, an oil house, blacksmith shop, machine shop, saw shop, boiler shop, erecting shop, and outbuildings including a shed with a sand drying furnace from at least 1891 to 1904. The roundhouse was demolished and a turntable was constructed in the center of the Property by 1904, when a coal tipple, oil house, store house, engine house with machinist and blacksmith areas, paint house, and outbuildings were present, until approximately 1922. From 1922 to 1950 several structures at the Property were demolished and a dormitory was constructed. The coal tipple and northern portion of the machine shop that previously housed the blacksmith and machine shop were removed between 1950 and 1981. The railroad tracks and remaining structures at the Property were removed between 1981 and 1985; with some concrete remnant structure and concrete slabs remaining at the Property at this time.

The general Property vicinity was developed with residential and commercial properties and railroad tracks prior to 1891. The adjoining properties have historically been developed with residential properties to the east and west; railroad tracks and vacant land with commercial and residential properties further south; and undeveloped wooded land to the north.

### Areas of Known or Suspected Contamination

Number of areas on this property that have known or suspected contamination: 16

The Property was previously occupied by a railyard which included multiple turntables, oil houses/rooms, blacksmith shops, an engine house, machine shop, repair shop, erecting shop, paint/tin houses, some of which straddled the Property boundary (IAs 1-15). The chemicals of concern (COCs) identified at the Property include: volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs; including polynuclear aromatic hydrocarbons [PAHs]), metals, herbicides, polychlorinated biphenyls, total petroleum hydrocarbons – gasoline and diesel range organic (TPH-GRO/DRO; soil only), asbestos (soil only). Soils were determined to be impacted by VOCs, PAHs, metals, PCBs, TPH-DRO, and asbestos. Despite the presence of soil impacted by COCs, groundwater Property-wide was determined not to be impacted by COCs at concentrations above UPUS. Soil gas samples collected in portions of the Property selected as most likely to be potentially impacted by VOCs were found to contain concentrations of VOCs. However,

no potential source of the VOCs was identified in soil or groundwater on the Property. Because there was no source identified, the soil in the elevated area (around SG-8) was removed to bedrock and backfilled with compacted borrow soil. Per discussion with VAP Technical Assistance, no additional assessment of the soil gas would be necessary. Additionally, during remedial soil excavation activities, a non-BUSTR-regulated UST, as well as petroleum-impacted soil, was discovered (and removed) in the north-central portion of the property at the western end of Walworth Avenue (IA-16).

Are there any impacts to the property from another source?

- No, all contamination on or emanating from this property originated from this property
- Yes, contamination from an off-property source has impacted this property

If yes, provide a brief explanation: Based on historical documentation, multiple identified areas straddled the Property boundary and may have been mostly or completely off-Property. In addition, immediately adjoining properties or portions of properties historically had similar use as the Property (i.e., railway operations). In fact, the property adjoining to the south remains an active railroad property with railroad tracks continuing to be present and occasionally used. Therefore, it is assumed that releases occurred off-Property such that: (i) remediation off-Property in these areas would not be appropriate; and (ii) remediation of impacts on-Property up to the Property boundary would be appropriate.

Are there any known impacts from this property to surrounding properties or waterways?

- No – Per discussions and concurrence from OEPA during Technical Assistance, contamination has not migrated off-property. Historic maps and aerial photos indicated structures (potential sources of impact to the environment) located off-Property along the Property boundary. The CP conservatively identified these potential off-Property sources as IAs to the Property (e.g., IA 11 extended off-Property, IA 13 and IA 14 were located completely off-Property.) because releases from off-Property could have caused impacts on/near the Property boundary.
- Yes – Provide a brief explanation:

#### Remedies Implemented to Ensure Property is Safe for Reuse

Asbestos abatement – Explain: No abatement was necessary because there was no regulated asbestos encountered at the Property. Soil containing asbestos (but not part of any structures/construction debris) was encountered and excavated and disposed of at an approved landfill.

Property use restrictions – Explain: N/A

Remedies subject to ongoing operation and maintenance (O&M), for example, under an O&M Plan  
Explain: N/A

Risk mitigation measures for construction or excavation activities – Explain: The contractor performing the remedial excavation as well as excavation for geotechnical purposes and the backfilling/compaction/grading was responsible for maintaining dust control as well as continual street cleaning to minimize spread of impacted soil.

Other remedial activities – Explain: Excavation of impacted soil, backfilling of replacement clean fill, and collection of confirmatory samples were completed to remediate the site soils to VAP residential standards. A total of approximately 80,000 cubic yards of soil were removed from the Property and disposed of off-site at properly licensed Rumpke facilities located in Colerain, Ohio and New Baltimore, Ohio.

#### Contamination Remaining on the Property

The following contamination remains on the property but has been determined to meet applicable standards for the safe reuse of the property for its intended land use:

- Soil – Explain: Contaminants in soil within the 10-foot point of compliance meet the standards for residential use.
- Soil gas – Explain: Contaminants in the soil gas meet the standards for residential use.
- Ground water – Explain: Contaminants in the ground water at the site meets the standards for unrestricted potable use.
- Other (if applicable) – Explain: N/A

**The Property Assessment and Cleanup Supports the Following Allowable Land Uses**  
*[Check those that apply and delete those that do not.]*

- Unrestricted use, which allows for all land uses including residential, recreational and commercial use



Mike DeWine, Governor  
Jon Husted, Lt. Governor  
Laurie A. Stevenson, Director

**Re: Walworth Junction Property  
Covenant  
Correspondence  
Voluntary Action Program  
Hamilton County  
531003407002**

**CERTIFIED MAIL**

**MEMORANDUM**

**TO:** Shelley Wilson, Executive Administrator for Real Property, Tax  
Equalization Division, Ohio Department of Taxation

**FROM:** Laurie A. Stevenson, Director, Ohio Environmental Protection Agency *LS*

**SUBJECT: Covenant Not to Sue Issued to East End Developers, LLC for the  
Walworth Junction Property**

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As Director of the Ohio Environmental Protection Agency, I certify that East End Developers, LLC has performed investigational and remedial activities at the property listed below and has been issued a Covenant Not to Sue under the authority of Ohio Revised Code ("ORC") 3746.12. This information is being provided in satisfaction of ORC 5709.87(B).

Property name: Walworth Junction Property

Property address: 2927-3121 (odd) Walworth Avenue, Cincinnati, Hamilton County, Ohio 45226

Property owner: East End Developers, LLC

Property owner address: 4010 North Bend Road, Suite 301, Cincinnati, Ohio 45211

Parcel number(s): 031-0002-0107-00

County: Hamilton

Taxing District: 001 – CINTI CORP-CINTI CSD

Date Covenant Not to Sue Issued: JAN 31 2020

Date remedial activities began as attested to under affidavit by the Certified Professional for the project: 6/10/2019

Attached, for your information, is a copy of the legal description of the property.

If additional information regarding the property or the voluntary action is required, I suggest you first contact Ihor Melnyk, the Certified Professional for the property, at (513) 612-9003. As an alternative, you may contact Sam Staschiak with the Ohio Environmental Protection Agency at (614) 728-1749.

cc: Ralph Meierjohan, East End Developers, LLC, 4010 North Bend Road, Suite 301, Cincinnati, OH 45211  
Ihor Melnyk, Certified Professional, Terracon, 611 Lunken Park Drive, Cincinnati, Ohio 45226  
Dusty Rhodes, Hamilton County Auditor, 138 E. Court Street, #304A, Cincinnati Ohio 45202

ec: E. Chase Dressman, Esq., Taft Law, cdressman@taftlaw.com  
Dan Tjoelker, SABR, Ohio EPA  
Clint White, Legal Office, Ohio EPA  
DERR-CO, VAP Files 19NFA754  
Sam Staschiak, DERR-VAP

**EXHIBIT A**

SITUATED IN THE COUNTY OF HAMILTON AND STATE OF OHIO AND FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTH RIGHT OF WAY OF KATES PLACE AND THE EAST RIGHT OF WAY OF LEVIASSOR STREET, SAID POINT BEING THE TRUE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED; THENCE WITH THE SOUTH LINE OF SAID KATES PLACE, SOUTH 78° 18' 08" EAST, 152.01 FEET TO A POINT; THENCE LEAVING SAID LINE SOUTH 80° 48' 57" EAST, 207.19 FEET TO A POINT IN THE WEST LINE OF PROPERTY OWNED BY THE CITY OF CINCINNATI; THENCE WITH SAID WEST LINE SOUTH 11° 41' 54" WEST, 48.22 FEET TO A POINT IN THE SOUTH LINE OF SAID PROPERTY; THENCE WITH THE SOUTH LINE OF SAID PROPERTY SOUTH 71° 48' 30" EAST, 383.17 FEET TO A POINT; THENCE CONTINUING WITH SAID SOUTH LINE SOUTH 68° 08' 33" EAST, 435.81 FEET TO A POINT; THENCE SOUTH 59° 04' 54" EAST, 387.37 FEET TO A POINT IN THE SOUTH RIGHT OF WAY OF WALWORTH AVENUE; THENCE CONTINUING WITH SAID SOUTH LINE SOUTH 38° 00' 29" EAST, 54.84 FEET TO A POINT; THENCE SOUTH 59° 53' 32" EAST, 754.18 FEET TO A POINT IN WEST LINE OF A FOOT BRIDGE EASEMENT; THENCE LEAVING SAID RIGHT OF WAY ALONG THE WEST SIDE OF SAID EASEMENT SOUTH 30° 50' 35" WEST, 22.32 FEET TO A POINT; THENCE WITH A NEW LINE NORTH 84° 50' 45" WEST, 1,869.40 FEET TO A POINT; THENCE ALONG A CURVE TO THE LEFT 469.70 FEET, HAVING A RADIUS OF 2,000.00 FEET, WHOSE CHORD BEARS NORTH 71° 34' 25" WEST, 468.82 FEET TO A POINT; THENCE NORTH 78° 18' 08" WEST, 18.42 FEET TO A POINT IN THE EAST RIGHT OF WAY OF LEVIASSOR STREET; THENCE WITH THE EAST LINE OF SAID STREET NORTH 11° 41' 54" EAST, 108.10 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 5.72 ACRES, MORE OR LESS.

PPN: 031-0002-0107

*LS*

DESCRIPTION ACCEPTABLE  
HAMILTON COUNTY ENGINEER

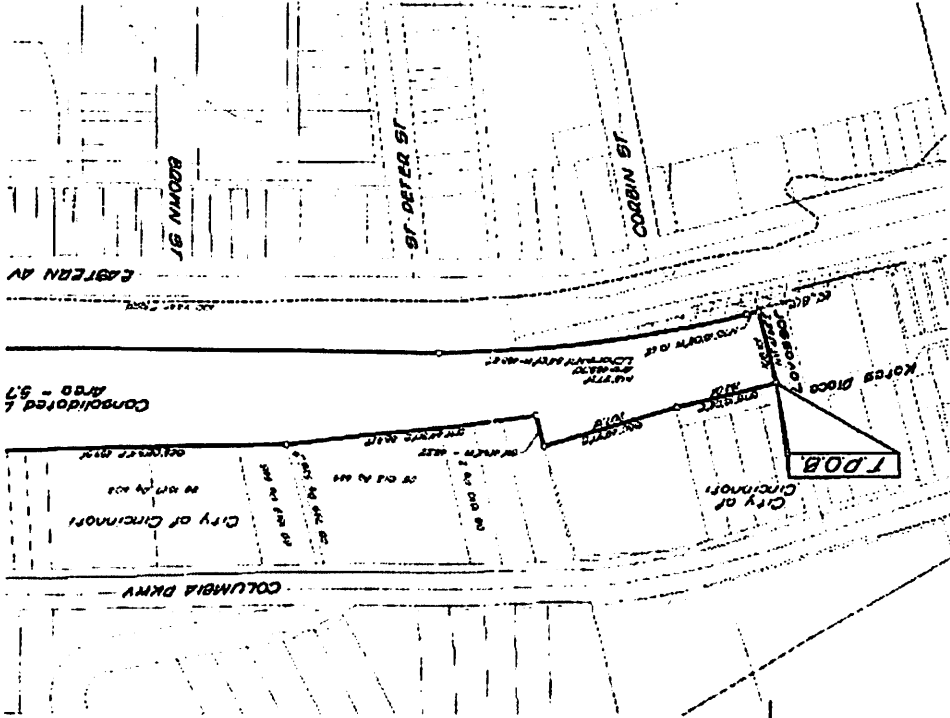
Tax Map - 6/20/25

CAGIS - \_\_\_\_\_



31-2-1

Reference 30-1-31-123



Consolidated L  
Area - 5.7

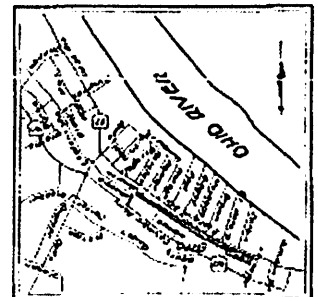
City of Cincinnati  
COLUMBIA PKWY  
EASTERN AV  
BOADWEN ST  
ST PETER ST  
COBBIN ST

JOHN O. HALEY, JR. 0288



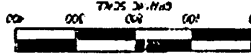
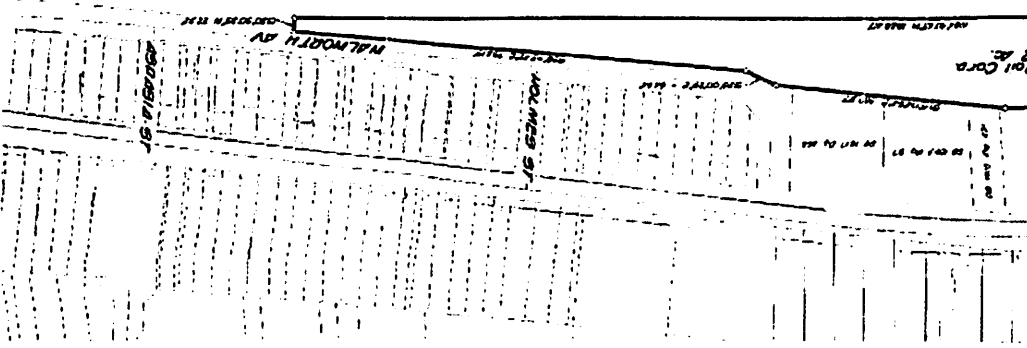
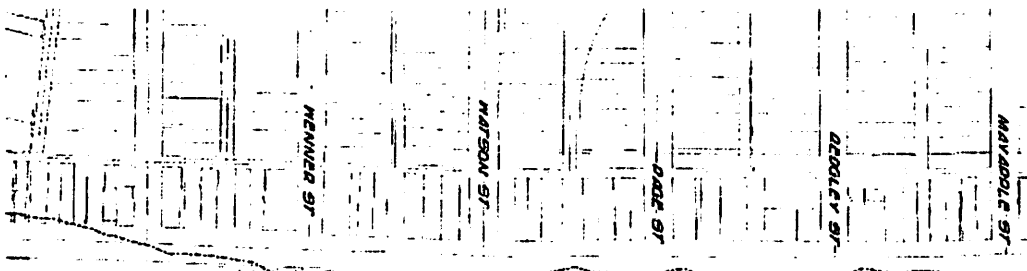
I hereby certify that the information shown on this survey is correct and is the result of a field survey by Lookwood, Jones & Beck, Inc.

Surveyor's Certification



70

LOCKWOOD, JONES AND DEALS INC. LJB



0 - INCHES 510' FROM DN SET

LEGEND

State of Ind. County of Hamilton  
I, My Commission Expires: \_\_\_\_\_

Consolidated Rail Corp.  
31 East Georgia Street  
Indianapolis, Indiana 46204  
SCALE 1"=100'  
Dec. 8, 1994

CONSOLIDATION PLAT OF SURVEY FOR CONSOLIDATED RAIL CORP.