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R2002101086

DACA27-2-02-460

DEPARTMENT OF THE ARMY
RAILROAD EASEMENT
JOLIET ARMY AMMUNITION PLANT
WILL COUNTY, ILLINOIS

THE SECRETARY OF THE ARMY, hereinafter sometimes referred to as the grantor, under and by virtue of the authority vested in the Secretary by Title 10, United States Code, Section 2668, having found that the granting of this easement will not be against the public interest, hereby grants to **CENTERPOINT INTERMODAL LLC**, hereinafter referred to as the grantee, an easement appurtenant for the construction, operation and maintenance of a railroad, hereinafter referred to as the facilities, over, across, in and upon the lands of the United States, identified as M7 West, a narrow 200 foot corridor containing 3.504 acres and located within Site M7 (former Red Water Area) east of, and parallel to, West TNT Road, Joliet Army Ammunition Plant, Illinois, and further identified in Exhibit "A", attached hereto and made a part hereof, hereinafter referred to as the "premises" or as the "Property".

The easement hereby granted shall include the following additional rights, benefits and privileges:

1. Railroad operations over, across, in and upon the premises; and
2. Vehicular ingress and egress by and for the railroad personnel and contractors over, across, in and upon the premises; and
3. The construction, reconstruction, repair, maintenance, replacement, use and operation of any now existing or hereafter emplaced rails, ties, switches and switch gear, ballast, railbeds, signals and control devices, signal towers, markings and signs, bridges and trestles, retaining walls, light fixtures and poles and electrical service thereto, culverts, swales, drainage facilities, storm sewers and catch basins, detention and retention basins, and any other improvements, fixtures and systems incidental to the use of the premises as a railroad right-of-way (all of the foregoing being a part of the "facilities" herein).

THIS EASEMENT is granted subject to the following conditions.

1. This easement hereby granted shall be perpetual. This easement will be extinguished upon transfer to the grantee of fee title to the premises identified in the attached Exhibit "A".

2. CONSIDERATION

The consideration for this easement shall be ten and No/100 (\$10.00) in hand paid by grantee to grantor, the receipt and sufficiency of which are hereby acknowledged by grantor.

3. NOTICES

All correspondence and notices to be given pursuant to this easement shall be addressed, if to the grantee, to CENTERPOINT INTERMODAL LLC at ATTN: Mr. Mike Mullen, 1808 Swift Drive, Oak Brook, Illinois 60523-1501; and, if to the United States, to the District Engineer, Attention: Chief, Real Estate Division, Post Office Box 59, Louisville, Kentucky 40201-0059; or as may from time to time otherwise be directed by the parties. Notice shall be deemed to have been duly given if and when enclosed in a properly

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sealed envelope or wrapper addressed as aforesaid, and deposited postage prepaid in a post office regularly maintained by the United States Postal Service.

4. AUTHORIZED REPRESENTATIVES

Except as otherwise specifically provided, any reference herein to "Secretary," "District Engineer," "Installation Commander," or "said officer" shall include their duly authorized representatives. Any reference to "grantee" shall include assignees, transferees and their duly authorized representatives.

5. SUPERVISION BY THE COMMANDER'S REPRESENTATIVE

The construction, operation, maintenance, repair or replacement of said facilities, including culverts and other drainage facilities, shall be performed at no cost or expense to the United States and subject to the approval of the Commander's Representative, Joliet Army Ammunition Plant, IL, hereinafter referred to as said officer, which consent shall not be unreasonably withheld, delayed, conditioned or denied. Within a reasonable period after the completion of any of the above activities, the Grantee shall immediately restore the premises to the satisfaction of said officer. The use and occupation of the premises for the purposes herein granted shall be subject to such rules and regulations as said officer prescribes in writing from time to time; provided that, except in cases of national emergency or other military requirements, such rules and regulations prescribed by such officer shall not prohibit or unreasonably impede the use of the premises as a railroad right-of-way and associated uses.

6. APPLICABLE LAWS AND REGULATIONS

The grantee shall comply with all applicable Federal, state, county and municipal laws, ordinances and regulations wherein the premises are located.

7. CONDITION OF PREMISES

The grantee acknowledges that it has inspected the premises, knows the condition, and understands that the same is granted without any representation or warranties whatsoever and without any obligation on the part of the United States.

8. INSPECTION AND REPAIRS

The grantee shall inspect the facilities at reasonable intervals and immediately repair any defects found by such inspection or when required by said officer to repair any such defects.

9. PROTECTION OF GOVERNMENT PROPERTY

The grantee shall be responsible for any damage that may be caused to the property of the United States by the activities of the grantee under this easement and shall exercise due diligence in the protection of all property located on the premises against fire or damage from any and all other causes. Any property of the United States damaged or destroyed by the grantee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the grantee to a condition satisfactory to said officer, or at the election of said officer, reimbursement made therefore by the grantee in an amount necessary to restore or replace the property to a condition satisfactory to said officer.

10. RIGHT TO ENTER

The right is reserved to the United States, its officers, agents, and employees to enter upon the premises at any time and for any purpose necessary or convenient in connection with government work, to make inspections, to remove timber or other material, except property of the grantee, and/or to make any other use of the lands as may be necessary in connection with government purposes, and the grantee shall

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have no claim for damages on account thereof against the United States or any officer, agent, or employee thereof.

11. RIGHT TO CONNECT

The United States reserves the right to make connections to roads and streets on other government lands as said officer may from time consider necessary, and also reserves to itself rights-of-way for all purposes across, over or under the right-of-way hereby granted; provided that such rights shall be used in a manner that will not create unnecessary interference with the use and enjoyment by the grantee, or railroad companies and the railroad operators, of the right-of-way herein granted.

12. OTHER AGENCY AGREEMENTS

It is understood that the provisions of the conditions on **SUPERVISION BY THE COMMANDER'S REPRESENTATIVE** and **RIGHT TO ENTER** above shall not abrogate or interfere with any agreements or commitments made or entered into between the grantee and any other agency of the United States with regard to financial aid to the grantee in connection with the construction, maintenance, or repair of the facilities herein authorized.

13. TERMINATION

All or any part of this easement may be revoked by the Secretary for failure of the grantee to comply with the terms of this easement grant, or for non-use for a period of two (2) years, or for abandonment; provided that, prior to effecting any such revocation:

- A. The Secretary shall first give the grantee written notice of the basis for such intended revocation as set forth above, and the particular terms of this easement concerning which the grantee is not in compliance; and,
- B. The grantee shall have the right during the "Cure Period" (hereinafter defined) to cure any violations of or deficiencies under this easement, or cure any failure to comply with the terms of this easement, or to cease the non-use or abandonment of this easement, and otherwise to come into compliance with this easement grant.

The "Cure Period" shall be such period of time as is reasonably necessary to commence and complete all curative actions under paragraph B. of this Section 13, provided further that the "Cure Period" shall not be less than 30 days after receipt by grantee of the written notice from the Secretary pursuant to paragraph A. of this Section 13. If such curative actions are commenced and completed within the Cure Period, then the Secretary shall not revoke all or any part of this easement.

14. SOIL AND WATER CONSERVATION

The grantee shall maintain, in a manner satisfactory to said officer, all soil and water conservation structures that may be in existence upon said premises at the beginning of or that may be constructed by the grantee during the term of this easement, and the grantee shall take appropriate measures to prevent or control soil erosion within the right-of-way herein granted. Any soil erosion occurring outside the premises resulting from the activities of the grantee shall be corrected by the grantee as directed by said officer.

15. ENVIRONMENTAL PROTECTION

a. Within the limits of their respective legal powers, the parties hereto shall protect the premises against pollution of its air, ground, and water. The grantee shall promptly comply with any laws, regulations, conditions or instructions affecting the activity hereby authorized if and when issued by the Environmental Protection Agency, or any Federal, state, interstate or local governmental agency having jurisdiction to abate

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or prevent pollution. The disposal of any toxic or hazardous materials within the premises is strictly prohibited. The grantee shall comply with such regulations, conditions, or instructions in effect or prescribed by the said Environmental Protection Agency or any Federal, state, interstate or local governmental agency. The Grantee shall not discharge waste or effluent from the premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

b. The use of any pesticides or herbicides within the premises shall be in conformance with all applicable Federal, state and local laws and regulations. The grantee must obtain approval in writing from said officer before any pesticides or herbicides are applied to the premises, which consent shall not be unreasonably withheld, delayed, conditioned or denied.

c. The grantee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs arising from the grantee's activities, the grantee shall be liable to restore the damaged resources.

16. ENHANCED PRELIMINARY ASSESSMENT SCREENING/ENVIRONMENTAL BASELINE SURVEY

An Enhanced Preliminary Assessment Screening/Environmental Baseline Survey, Land Transfer to the State of Illinois for Industrial Parks (EPAS/EBS), dated September 1997; the Final Feasibility Studies for the MFG and LAP dated September 1997; and documentation from a walk-through inspection that occurred on July 10, 1997, document the known history of the property with regard to the storage, release or disposal of hazardous substances thereon. Upon expiration, revocation or termination of this easement, another EBS shall be prepared which will document the environmental condition of the property at that time. A comparison of the two assessments will assist the said officer in determining any environmental restoration requirements. Any such requirements will be completed by the grantee in accordance with the condition on **RESTORATION**.

17. HISTORIC PRESERVATION

The grantee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archeological, architectural or other cultural artifacts, relics, remains or objects of antiquity. In the event such items are discovered on the premises, the grantee shall immediately notify said officer and protect the site and material from further disturbance until said officer gives clearance to proceed. Said officer may permit the removal or disturbance of any historical, archeological, architectural or other cultural artifacts, relics, remains or objects of antiquity, to the extent permitted by law in coordination with the State Historic Preservation Officer (SHPO).

18. NON-DISCRIMINATION

a. The grantee shall not discriminate against any person or persons because of race, color, religion, sex, age, handicap, or national origin.

b. The grantee, by acceptance of this easement, is receiving a type of Federal assistance and, therefore hereby gives assurance that it will comply with the provisions of Title VI of the Civil Rights Act of 1964 as amended (42 U.S.C. § 2000d); the Age Discrimination Act of 1975 (42 U.S.C. § 6102); the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 CFR Part 300) issued as Department of Defense Directive 5500.11, and 1020.1 and Army Regulation 600-7. This assurance shall be binding on the grantee, its agents, successors, transferees, and assignees.

19. RESTORATION

On or before the revocation of this easement, the grantee shall, without expense to the United States, and within such time as said officer may indicate, restore the premises to the satisfaction of said

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officer. In the event the grantee shall fail to restore the premises, at the option of said officer, said improvements shall either become the property of the United States without compensation, therefore said officer shall have the option to perform the restoration at the expense of the grantee, and the grantee shall have no claim for damages against the United States or its officers or agents for such action.

20. DISCLAIMER

This instrument is effective only insofar as the rights of the United States in the property are concerned; and the grantee shall obtain such permission as may be required on account of any other existing rights. It is understood that the granting of this easement does not eliminate the necessity of obtaining any Department of the Army permit which may be required pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 3 March 1899 (30 Stat. 1151; 33 U.S.C. § 403), Section 404 of the Clean Water Act (33 U.S.C. § 1344) or any other permit or license which may be required by Federal, state or local statute in connection with use of the premises.

21. SITE SPECIFIC CONDITIONS

Access across the site must be provided to the Department of the Army (the "Army"), which will accommodate traffic to and from the bioremediation facility.

22. ENVIRONMENTAL PROTECTION PROVISIONS

The following conditions, restrictions, and notifications are hereby placed in this Easement to ensure protection of human health and the environment and to preclude any interference with ongoing or completed remediation activities at Joliet Army Ammunition Plant (JOAAP):

a. INCLUSION OF PROVISIONS: The person or entity to whom the Property is granted shall neither transfer the Property, nor grant any interest, privilege, or license whatsoever in connection with the Property without the inclusion of the environmental protection provisions contained herein, and shall require the inclusion of such environmental protection provisions in all further deeds, transfers, leases, or grant of any interest, privilege, or license.

b. NPL PROPERTY: The United States acknowledges that JOAAP has been identified as a National Priorities List (NPL) site under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) of 1980, as amended. The GRANTEE acknowledges that the United States has provided it with a copy of the JOAAP Federal Facility Agreement (FFA) entered into by the United States Environmental Protection Agency (USEPA), Region V, the State of Illinois, and the Department of the Army, effective June 1989, and will provide the GRANTEE with a copy of any amendments thereto. The person or entity to which the Property is transferred agrees that the FFA, the JOAAP Record of Decision (ROD), or any amendment to them, or any subsequent ROD takes precedence over the terms of property transfer should a conflict arise. The person or entity to whom the Property is transferred, further agrees that notwithstanding any other provisions of the property transfer document, the United States assumes no liability to the person or entity to whom the Property is transferred should implementation of the FFA, the JOAAP ROD, or any amendment to them, or any subsequent ROD interfere with their use of the Property. The person or entity to whom the Property is transferred or any subsequent transferee, shall have no claim on account of any such interference against the United States or any officer, agent, employee or contractor thereof.

c. NO LIABILITY FOR NON-ARMY CONTAMINATION: The Army shall not incur liability for additional response action or corrective action found to be necessary after the date of this Easement in any case in which the person or entity to whom the Property is transferred, or other non-Army entities, is identified as the party responsible for contamination of the Property.

d. RESTRICTED TO COMMERCIAL/INDUSTRIAL USE: The Department of the Army has

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undertaken careful environmental study of the Property and concluded, to which the GRANTEE agrees, that the Property is limited by its environmental condition to commercial and industrial uses. In order to protect human health and the environment and further the common environmental objectives and land use plans of the United States, State of Illinois, and Will County, Illinois, the covenants and restrictions shall be included in all subsequent lease, transfer or conveyance documents relating to the Property, to assure the use of the Property is consistent with the environmental condition of the Property. These following restrictions and covenants benefit the land retained by the GRANTOR and the public welfare generally and is consistent with state and federal environmental statutes.

e. LAND USE RESTRICTIONS:**(1.) Restrictions and Conditions**

The GRANTEE covenants for itself, its successors and assigns, future owners, heirs, and executors, that the Property is not to be used for residential purposes, the Property having been remediated only for commercial and industrial uses. The GRANTEE, for itself, its successors and assigns, future owners, heirs, and executors covenants that it will not undertake nor allow any activity on or use of the Property that would violate the restrictions contained herein. These restrictions and covenants are binding on the GRANTEE, future owners, heirs and executors; shall run with the land; and are forever enforceable.

(2.) Enforcement

The restrictions and conditions stated in Section E1 benefit the public in general and the territory surrounding the Property, including lands retained by the United States, and, therefore, are enforceable by the United States government. The GRANTEE covenants for itself, its successors and assigns, future owners, heirs, and executors that it shall include and otherwise make legally binding, the restrictions in all subsequent lease, transfer or conveyance documents relating to the Property subject hereto.

f. GROUNDWATER RESTRICTIONS:**(1.) Restrictions and Conditions:**

The GRANTEE covenants for itself, its successors and assigns, future owner, heirs, and executors not to: access or use shallow groundwater underlying the Property for residential purposes, the Property having been remediated only for commercial and industrial uses. For the purpose of this restriction, "groundwater" shall have the same meaning as in Section 101(12) of CERCLA. The GRANTEE, for itself, its successors and assigns, future owners, heirs, and executors covenants that it will not undertake nor allow any activity on or use of the Property that would violate the restrictions continued herein. These restrictions and covenants are binding on the GRANTEE, its successors and assigns; future owners, heirs and executors; shall run with the land; and are forever enforceable.

(2.) Enforcement

The restrictions and conditions stated in Section F1 benefit the public in general and the territory surrounding the property, including lands retained by the United States, and, therefore, are enforceable by the United States government. The GRANTEE covenants for itself, its successors and assigns, future owners, heirs, and executors that it shall include and otherwise make legally binding, the restrictions in all subsequent lease, transfer or conveyance documents relating to the Property subject hereto.

(3.) Army Access

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The Army and its representatives shall, for all time, have access to the Property for the purpose of installing and/or removing groundwater monitoring wells, and to perform continued monitoring of groundwater conditions, allowing chemical and/or physical testing of wells to evaluate water quality and/or aquifer characteristics. The property owner shall allow ingress and egress of all equipment necessary to accomplish the same.

g. LEAD-BASED PAINT WARNING AND COVENANT:

*Note—The Property is not intended for residential use, per P.L. 104-106, and residential use is prohibited by the JOAAP Record of Decision (ROD), dated October 1998.

(1.) The Property does not contain structures or buildings suitable for residential dwellings. The GRANTEE, and its successors and assigns, future owners, heirs and executors, is hereby informed and does acknowledge that all buildings on the Property, which were constructed or rehabilitated prior to 1978 and which have since been removed, were presumed to contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Such property may present exposure to lead for lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems and impaired memory.

(2.) Available information concerning known lead-based paint and/or lead-based paint hazards, the location of lead-based paint and/or lead-based paint hazards, and the condition of painted surfaces is contained in the Preliminary Assessment Screening/Environmental Baseline Survey (EPAS/EBS), which has been provided to the GRANTEE. Additionally, the Finding of Suitability to Transfer (FOST) has been provided to the GRANTEE. The GRANTEE has been provided with a copy of the federally approved pamphlet on lead poisoning prevention. The GRANTEE hereby acknowledges receipt of all of the information described in this paragraph.

(3.) A risk assessment or inspection by the GRANTEE, its successors and assigns, future owners, heirs and executors, for possible lead-based paint hazards is recommended prior to the transfer of the Property. The GRANTEE, its successors and assigns, future owners, heirs and executors, acknowledge that they have received the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or paint hazards prior to execution of the transfer.

(4.) The GRANTEE, its successors and assigns, future owners, heirs and executors, shall comply with all applicable federal, state, and local laws and regulations pertaining to lead-based paint and/or lead-based paint hazards as defined in 40 Code of Federal Regulations Part 745.223 in or on structures existing on the Property at the time of transfer. The GRANTEE, its successors and assigns, future owners, heirs and executors agree to be responsible for any future remediation of lead-based paint found to be necessary on the Property arising from or incident to post transfer possession and/or use of structures on the Property.

(5.) The Army assumes no liability for remediation or damages for personal injury, illness, disability, or death, to the GRANTEE, its successors and assigns, future owners, heirs and executors, sublessees, or to any other person, including members of the general public, arising from or incident to possession and/or use of any portion of the Property or structures existing on the Property as of the date of this Easement containing lead-based paint. Grantee acknowledges this disclaimer and covenants not to initiate any claim against the Army relating to or arising from the lead based paint in said structures. The GRANTEE, its successors and assigns, future owners, heirs and executors, further agrees to indemnify and hold harmless the Army, its officers, agents and employees, from and against suits, claims, demands or actions, liabilities, judgments, costs and attorney's fees arising out of, or in any manner predicated upon, personal injury, death or property damage resulting from, related to, caused by or arising out of the possession and/or use of any portion of the Property containing lead-based paint. The obligation of the GRANTEE, its successors and assigns, future owners, heirs and executors, shall apply

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whenever the United States incurs costs or liabilities for actions giving rise to liability under this section.

h. NOTICE OF THE PRESENCE OF ASBESTOS AND COVENANT:

(1.) The GRANTEE, its successors and assigns, future owners, heirs and executors, is hereby informed and does acknowledge that friable and nonfriable asbestos or asbestos-containing materials ("ACM") have been found on the Property, as described in the final installation-wide EBS. The ACM on the Property does not currently pose a threat to human health or the environment. All friable asbestos that posed a risk to human health has been removed by the Army prior to the date of this Easement.

(2.) The GRANTEE covenants and agrees that its use and occupancy of the Property will be in compliance with all applicable laws relating to asbestos; and that the Army assumes no liability for compliance with all applicable laws relating to asbestos; and that the Army assumes no liability for future remediation of asbestos or damages for personal injury, illness, disability, or death from exposures to asbestos which occur after the date of this Easement, to the GRANTEE, its successors and assigns, future owners, heirs or executors and to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the Property, whether the GRANTEE, its successors and assigns, future owners, heirs or executors have properly warned or failed to properly warn the individual(s) injured. The GRANTEE agrees to be responsible for any future remediation of asbestos contained within any building and/or structures existing on the Property as of the date of this Easement, to the extent that such remediation is required by law.

(3.) Unprotected or unregulated exposures to asbestos in product manufacturing, shipyard, and building construction workplaces have been associated with asbestos-related diseases. Both Occupational Safety and Health Administration (OSHA) and the United States Environmental Protection agency (USEPA) regulate asbestos because of the potential hazards associated with exposure to airborne asbestos fibers.

(4.) The GRANTEE acknowledges that it has inspected the Property as to its asbestos content and condition and any hazardous or environmental conditions relating thereto. The GRANTEE shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Property, including, without limitation, any asbestos hazards or concerns.

(5.) No warranties either express or implied are given with regard to the condition of the Property, including, without limitation, whether the Property does or does not contain asbestos or is not safe for a particular purpose. The failure of the GRANTEE to inspect, or to be fully informed as to the condition of all or any portion of the Property offered, will not constitute grounds for any claim or demand against the United States.

i. PCB CONTAINING EQUIPMENT NOTIFICATION:

(1.) The GRANTEE and its successors and assigns, future owners, heirs and executors is hereby informed and does acknowledge that equipment containing Polychlorinated Biphenyls (PCBs) existed on the Property to be conveyed, as listed in Section 3.4 of the FOST document. All PCB containing equipment had been properly labeled in accordance with applicable law and regulation to provide notification to future users. Any PCB contamination or spills related to such equipment has been properly remediated prior to conveyance. To the best of the GRANTOR's knowledge, all PCB-containing equipment has been properly removed from the Property and does not currently pose a threat to human health or the environment.

(2.) Upon request, the Army agrees to furnish to the GRANTEE and its successors and assigns, future owners, heirs and executors any and all records in its possession related to such PCB equipment necessary for the continued compliance by the GRANTEE and its successors and assigns, future owners,

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heirs and executors with applicable laws and regulations related to the use and storage of PCB containing equipment.

(3.) Should currently unknown PCB-containing equipment later be identified existing on site, the GRANTEE covenants and agrees that its continued possession, use and management of any PCB containing equipment will be in compliance with all applicable laws relating to PCBs and PCB containing equipment, and that the Army assumes no liability for the future remediation of PCB contamination or damages for personal injury, illness, disability, or death from exposures to PCBs which occur after the date of this Easement, to the GRANTEE, its successors and assigns, future owners, heirs, and executors or to any other person, including members of the general public arising from or incident to contact of any kind whatsoever with PCBs or PCB containing equipment, whether the GRANTEE, its successors and assigns, future owners, heirs and executors have properly warned or failed to properly warn the individual(s) injured. The GRANTEE agrees to be responsible for any future remediation of PCBs contained within PCB containing equipment existing on the Property as of the date of this Easement, to the extent that such remediation is required by law.

j. NOTICE OF THE POTENTIAL FOR THE PRESENCE OF UNEXPLODED ORDNANCE OR EXPLOSIVES:

Ordnance and explosive (OE) investigations indicate that OE is not likely on this Property. However, because this is a former military installation with a history of OE, there is a slight potential for OE to be present on the Property. In the event the GRANTEE, its successors and assigns and future owners, heirs, and executors, should discover what appears to be items of an ordnance or explosive nature on the Property, the said parties shall not attempt to remove or destroy such items, will immediately stop any excavation or other work in the area, and notify the local Police Department and the nearest Department of Army Explosive Ordnance Detachment. The Army acknowledges its responsibility for OE/UXO (ordnance and explosives/unexploded ordnance) and will take prompt action upon notification of discovery.

23. JOAAP CERCLA ENVIRONMENTAL DEED RESTRICTIONS

The following conditions, restrictions, and notifications, are hereby placed in this Easement to ensure protection of human health and the environment and to preclude any interference with ongoing or completed, or future remediation activities at Joliet Army Ammunition Plant (JOAAP):

i. PURPOSE AND INTENT:

(1.) The intent of these restrictions is to protect human health and the environment by: (i) preventing the exacerbation of contaminated groundwater aquifers; (ii) maintaining the integrity of the confining layers that underlie the contaminated groundwater aquifers, and to prevent drainage or other migration thereof from their current positions; and (iii) preventing the creation of pathways of exposure to human or ecological receptors from contaminated groundwater aquifers.

(2.) In accordance with Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended, 42 U.S.C. Section 9601, et al., the following restrictions shall form part of any deed or other agreement proposed to govern the easement or transfer of Property described in the attached Exhibit "A".

The Property constitutes a subset of the real estate to be ultimately transferred to the Grantee for use as industrial parks. The parcel name of this easement is also known as M7W. The Property includes no buildings/structures.

(3.) The Property is located within a Groundwater Management Zone (GMZ) as defined by the Groundwater Operable Unit Remedial Design/Remedial Action Plan for JOAAP. As such, groundwater

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monitoring and implementation of remedial actions within these areas will be ongoing until successful remediation of the entire GMZ is documented by the Army and approved by the USEPA and Illinois EPA. Since the Property lies within a GMZ, it thus falls under specific restrictions imposed by the USEPA and Illinois EPA. These restrictions are clearly delineated in the following sections.

II. LAND USE RESTRICTIONS AND COVENANTS AND MONITORING WELL RESTRICTIONS AND COVENANTS FOR THE PROPERTY:

The Property, shall be subject to the land use restrictions and covenants as set forth in this Article.

a. It is the intent of Grantor and Grantee that the land use restrictions and covenants and monitoring well use restrictions and covenants as set forth in this Article shall run with the land and restrict the use of the Property pursuant to the legislative mandate set forth in CERCLA and are necessary to ensure the protection of human health and the environment.

b. That within the boundaries of the Property, Grantee, its successors and assigns, future owners, heirs, and executors, shall not use, move, access, modify, remove, disturb, close, abandon, or otherwise harm or destroy any existing, or future existing, groundwater monitoring well that is owned by Grantor, without prior written permission from the Grantor in consultation with the USEPA and the Illinois Environmental Protection Agency (hereinafter "IEPA"). If written permission is granted to any landowner(s) for the installation of a replacement well, it shall be installed, at no expense to the Grantor, pursuant to applicable federal laws and regulations and the standards current at the time set forth in the Illinois Water Well Construction Code or successor codes.

c. Grantee covenants for itself, its successors, and assigns, future owners, heirs, and executors, that the land use restrictions and covenants as set forth in this Article shall be covenants running with the land and shall be binding upon the Grantee, its successors and assigns, future owners, heirs, and executors.

d. Grantee, its successors and assigns, future owners, heirs, and executors, shall include the land use restrictions and covenants as set forth in this Article in all subsequent lease, transfer, or conveyance documents for all or any part of the above-referenced tracts. Notwithstanding this provision, failure to include the land use restrictions and covenants as set forth in this Article in all subsequent lease, transfer, or conveyance documents shall not abrogate the status of these restrictions and covenants as binding upon Grantee, its successors and assigns, future owners, heirs, and executors.

e. Grantee, its successors and assigns, future owners, heirs, and executors, shall not knowingly or negligently undertake or allow any activity on or use of the above-referenced tracts that would violate the land use restrictions and covenants as set forth in this Article.

f. The land use restrictions and covenants as set forth in this Article are enforceable by Grantor. Grantor shall have the right to enforce the terms of this Easement by resort to specific performance or legal process. All remedies available hereunder shall be in addition to any and all remedies at law or in equity, including CERCLA. Enforcement of the terms of this Easement shall be at the discretion of Grantor, and any forbearance, delay, or omission to exercise its rights under this Easement in the breach of any term of this Easement shall not be deemed to be a waiver by Grantor of such term or any subsequent breach of the same or any other term, or of any of the rights of Grantor under this Easement.

g. It is the intent of the Grantor and Grantee that the restrictions set forth in this Section shall ensure the protection of human health and the environment. Grantee, its successors and assigns, future owners (excluding the United States), heirs, and executors shall use the above-referenced tracts for commercial and industrial parks. In addition, the above-referenced tracts shall not be used by Grantee, its successors and assigns, future owners (including the United States), heirs, and executors, for:

(1.) any type of residential purpose;

(2.) any type of educational purpose for children in grades kindergarten through twelve (12).

(3.) any type of child or adult care purpose, provided however, this prohibition shall not exclude any child day care facility operated solely within the confines of a building structure;

(4.) any type of solid or hazardous waste landfill purpose;

(5.) any type of commercial quarry operation, provided that the foregoing restriction shall not prohibit: (a) mass earth work and site grading activities, including borrow, fill, and balancing; or (b) the excavation and use of gravel, sand, stone, aggregate and other on-site materials as rail bed ballast, in making concrete or asphalt, or in the construction of detention and retention facilities, rail beds, roads, or rights-of-way; or (c) other construction activities on or about the Property or in constructing roads and railroads leading or connecting to the Property to a distance of no more than ten (10) miles from the Property;

(6.) any type of incineration of solid waste other than in connection with on-site manufacturing process(es); and

(7.) any type of concrete batch plant or asphalt plant, unless the concrete or asphalt batch plant is operated for the purpose of servicing construction activities associated with the development of the Property or the adjacent industrial park, or in constructing roads and railroads leading or connecting to the Property or the adjacent industrial park, to a distance of no more than ten (10) miles from the Property.

III. GROUNDWATER RESTRICTIONS AND COVENANTS FOR THE PROPERTY:

The Property lies within the Groundwater Management Zone established by the ROD.

a. The Property is subject to the groundwater restrictions and covenants as set forth in this Article.

b. It is the intent of Grantor and Grantee that the groundwater restrictions and covenants as set forth in this Article shall restrict the use of the Property for the protection of human health and the environment until such time as the Property has been remediated to the standards established in the ROD as contemplated in Section F below. The ROD and amendments or corrections thereto are available at the following repositories: Wilmington Library, Joliet Library, Administration Building at Joliet Army Ammunitions Plant, Region 5 USEPA, and IEPA Bureau of Land, Federal Facilities Unit, Springfield, Illinois.

c. Grantee, its successors and assigns, future owners, heirs, and executors, shall include the groundwater restrictions and covenants as set forth in this Article in all subsequent lease, transfer, or conveyance documents for all or any part of the Property. Notwithstanding this provision, failure to include the groundwater restrictions and covenants, as set forth in this Article, in all subsequent lease, transfer, or conveyance documents shall not abrogate the status of these restrictions and covenants as binding upon Grantee, its successors and assigns, future owners, heirs, and executors.

d. Grantee, its successors and assigns, future owners, heirs, and executors shall not undertake or allow any activity on or use of the Property that would violate the groundwater restrictions and covenants as set forth in this Article.

e. The groundwater restrictions and covenants as set forth in this Article are enforceable by Grantor. Grantor shall have the right to enforce the terms of this Easement by resort to specific performance or legal process. All remedies available hereunder shall be in addition to any and all

remedies at law or in equity, including CERCLA. Enforcement of the terms of this Easement shall be at the discretion of Grantor, and any forbearance, delay, or omission to exercise its rights under this Easement in the breach of any term of this Easement shall not be deemed to be a waiver by Grantor of such term or any subsequent breach of the same or any other term, or of any of the rights of Grantor under this Easement.

f. Grantee covenants for itself, its successors, and assigns, future owners, heirs, and executors that the groundwater restrictions and covenants as set forth in this Article shall be covenants running with the land and shall be binding upon Grantee, its successors and assigns, future owners, heirs, and executors. Upon the successful remediation of the Property to the industrial standards set forth in the ROD, Grantor, with the written concurrence of the USEPA and the IEPA, shall release, in whole or in part, any relevant groundwater restriction and covenant set forth in this Article. The referenced release shall not be unreasonably withheld. In addition, the referenced release shall be executed by the Secretary of the Army, United States Department of the Army, or his/her authorized designee.

g. It is the intent of Grantor and Grantee that the restrictions set forth in this Section shall ensure the protection of human health and the environment. Unless the following restrictions in this Section G are removed or amended in accordance with this Article, within the boundary of the Property, Grantee, its successors and assigns, future owners, heirs, and executors:

(1.) Shall not conduct any activity (e.g., any anthropogenic seismic activity, deep excavation activity, or drilling or pumping a well within the Silurian dolomite aquifer) that would increase the volume or area of the contaminated groundwater, damage the confining layers that underlie the contaminated groundwater (e.g., fracturing the Maquoketa confining layer or any other existing confining layer(s) or strata of the Maquoketa confining layer), or create pathways of exposure to human or ecological receptors from the contaminated groundwater to the extent prohibited by the ROD. For identification purposes, the groundwater within the glacial drift and the Silurian dolomite aquifer (collectively referred to herein as "the contaminated groundwater") is located above the Maquoketa confining bed.

(2.) Shall not use the groundwater above the Maquoketa confining bed for potable purposes.

h. Shallow groundwater above the Maquoketa confining bed has the potential to be contaminated with hazardous substances, including, but not limited to explosives, their derivatives or volatile organic compounds. In the event shallow groundwater above the Maquoketa confining bed is encountered at any time due to the disturbance or excavation of surface or subsurface soil, Grantee, its successors and assigns, future owners, heirs, and executors, shall comply with all laws and regulations that are applicable to the safe and proper management, discharge, disposal, or treatment of all shallow groundwater encountered.

IV. GROUNDWATER RESTRICTIONS AND COVENANTS FOR DEED RESTRICTED PROPERTY: (Parcel M7W)

a. The Property described in the attached Exhibit "A" is subject to the groundwater restrictions and covenants as set forth in this Article, and said Property shall also be referred to in this Article as the Deed Restricted Parcel.

b. It is the intent of Grantor and Grantee that the groundwater restrictions and covenants as set forth in this Article shall restrict the use of the Deed Restricted Parcel for the protection of human health and the environment until such time as the Deed Restricted Parcel has been remediated to the standards established in the ROD, as provided in Section F below.

c. Grantee, its successors and assigns, future owners, heirs, and executors, shall include the groundwater restrictions and covenants as set forth in this Article in all subsequent lease, transfer, or conveyance documents for all or any part of the Deed Restricted Parcel. Notwithstanding this provision,

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failure to include the groundwater restriction and covenant as set forth in this Article in all subsequent lease, transfer, or conveyance documents shall not abrogate the status of these restrictions and covenants as binding upon Grantee, its successors and assigns, future owners, heirs, and executors.

d. Grantee, its successors and assigns, future owners, heirs, and executors, shall not undertake or allow any activity on or use of the Deed Restricted Parcel that would violate the groundwater restrictions and covenants as set forth in this Article.

e. The groundwater restrictions and covenants as set forth in this Article are enforceable by Grantor. Grantor shall enforce the terms of this Easement by resort to specific performance or legal process. All remedies available hereunder shall be in addition to any and all remedies at law or in equity, including CERCLA. Enforcement of the terms of this Easement shall be at the discretion of Grantor, and any forbearance, delay, or omission to exercise its rights under this Easement in the breach of any term of this Easement shall not be deemed to be a waiver by Grantor of such term or any subsequent breach of the same or any other term, or of any of the rights of Grantor under this Easement.

f. Grantee covenants for itself, its successors and assigns, future owners, heirs, and executors that the groundwater restrictions and covenants as set forth in this Article shall be covenants running with the land and shall be binding upon Grantee, its successors and assigns, future owners, heirs, and executors. Upon the successful remediation of the Deed Restricted Parcel to the industrial standards set forth in the ROD, Grantor, with the written concurrence of the USEPA and the IEPA, shall release, in whole or in part, any relevant groundwater restriction and covenant set forth in this Article. The referenced release shall not be unreasonably withheld. In addition, the referenced release shall be executed by the Secretary of the Army, United States Department of the Army, or his/her authorized designee.

g. It is the intent of Grantor and Grantee that the restrictions set forth in this Section shall ensure the protection of human health and the environment. Unless the following restrictions in this Section G are removed or amended in accordance with Section F of this Article, within the boundary of the Deed Restricted Parcel, Grantee, its successors and assigns, future owners, heirs, and executors:

- (1.) Shall not use the contaminated groundwater; and
- (2.) Shall not drill, construct, pump, or use groundwater supply wells.

24. CERCLA NOTIFICATION/COVENANTS:

Pursuant to Section 120 (h)(3) of the Comprehensive Environmental Response Compensation, and Liability Act, as amended, 42 U.S.C. Section 9601 et seq ("CERCLA"):

a. For the Property:

(1.) The Grantor hereby notifies the Grantee of the storage, release and disposal of hazardous substances on the Property. For the purpose of this Easement, "hazardous substances" shall have the same meaning as section 101 (14) of CERCLA. Available information regarding the type, quantity, and location of such substances and action taken is provided in attached Exhibit "B". Based upon this information, the Grantor has determined the Property suitable for transfer in accordance with the provisions of this Easement.

(2.) The Grantor hereby covenants that:

(a.) All remedial action necessary to protect health and the environment with respect to any such hazardous substances remaining on the Property has been taken before the date of conveyance hereunder in accordance with CERCLA; and

(b.) Any additional remedial action found to be necessary with regard to such hazardous substances remaining after the date of the conveyance that resulted from past activities shall be

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conducted by the Grantor. This covenant shall not apply in any case in which the person or entity to whom the Property is transferred is a potentially responsible party under CERCLA with respect to the Property.

b. Consistent with the Memorandum of Agreement (MOA), which was attached as Exhibit "A" to the Quit Claim Deed of Conveyance dated August 2, 2000 and which was recorded as Document No. R2000086264 on August 11, 2000 in the Will County, Illinois Recorder's Office, the Grantor reserves an easement and right of access on, over and through the Property for inspection, investigation, monitoring, sampling, testing, remedial action, corrective action or other action (collectively "Response Actions") that the Grantor deems necessary after the date of this conveyance in order to fulfill the Grantor's environmental responsibilities under this Easement or applicable law, including the right of the Grantor to ensure compliance with the Restrictive Covenants imposed by this Easement. In exercising these rights of access, except in case of imminent endangerment to human health of the environment, the Grantor shall give the Grantee, or the then record owner, reasonable prior written notice of Response Actions to be taken in, or on the Property and shall use reasonable means, without significant additional cost to the Grantor, to avoid and/or minimize interference with the Grantee's use of the Property. In exercising these rights of access, the Grantor shall abide by the provisions of Article 5 of the MOA. Except as otherwise provided for by law, the Grantee, the then record owner, and any other person shall have no claim or cause of action against the Grantor or any officer, agent, employee or contractors for interference with the use of the Property based upon Response Actions taken under this Subsection.

25. MEMORANDUM OF AGREEMENT:

The provisions of that certain Memorandum of Agreement dated August 2, 2000, by and between the United States of America and the Joliet Arsenal Development Authority (herein called the "MOA"), shall be applicable to this Easement, the parties hereto and the Property hereunder.

26. NON-REVERTER:

The easement hereby conveyed is not qualified, defeasible, or subject to any special limitation, condition subsequent or executory limitation except as set out in Paragraph 13 of this Easement. The failure of Grantee or any successor owner or occupant of the Property (or any portion thereof) to comply with the covenants, restrictions, requirements, or other obligations set forth in this Easement shall not cause a forfeiture of this Easement, a termination of any estate hereby created, or any reversion thereof, except as provided for in Paragraph 13 of this Easement.


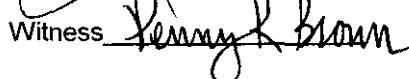
THIS EASEMENT is not subject to Title 10, United States Code, Section 2662, as amended.

IN WITNESS WHEREOF, I have hereunto set my hand by authority of the Secretary of the Army,
this 23rd day of May, 2002.



MICHAEL G. BARTER
Chief, Real Estate Division

Signed sealed and delivered
In the presence of

Witness 
Witness 

COMMONWEALTH OF KENTUCKY)
)SS
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for the Commonwealth of Kentucky, County of Jefferson, whose commission as such expires on the 18th day of June, 2002, do hereby certify that this day personally appeared before me in the Commonwealth of Kentucky, County of Jefferson, Michael G. Barter, Chief, Real Estate Division, whose name is signed to the foregoing instrument and acknowledged the foregoing instrument to be his free act and deed dated this 23rd day of May, 2002, and acknowledged the same for and on behalf of the United States of America.

Asia M. Patrick
Notary Public, State at Large, Kentucky

My Commission Expires: 6-18-2002

THIS EASEMENT is also executed by the grantee this 22nd day of May, 2002.
In Testimony whereof, witness the signature of the Grantee, acting by and through Michael M. Mullen and
as its President/COO and, this 22nd day of May, 2002. Rockford O. Kottka
Executive Vice President/
Treasurer of CenterPoint
Properties Trust, Manager

CENTERPOINT INTERMODAL, LLC
By: CenterPoint Properties Trust, manager

BY: [Signature]
Michael M. Mullen
President and Chief Operating Officer
TITLE: _____

BY: [Signature]
Rockford O. Kottka
Exec. Vice President & Treasurer
TITLE: _____

STATE OF ILLINOIS)
COUNTY OF COOK)

The foregoing easement was acknowledged before me this 22nd day of May, 2002, by
Michael M. Mullen and as President/COO and of Centerpoint Intermodal, LLC.
Rockford O. Kottka Executive Vice President/
Treasurer of CenterPoint
Properties Trust, Manager

[Signature]
Notary Public, State of Illinois

My Commission Expires: _____



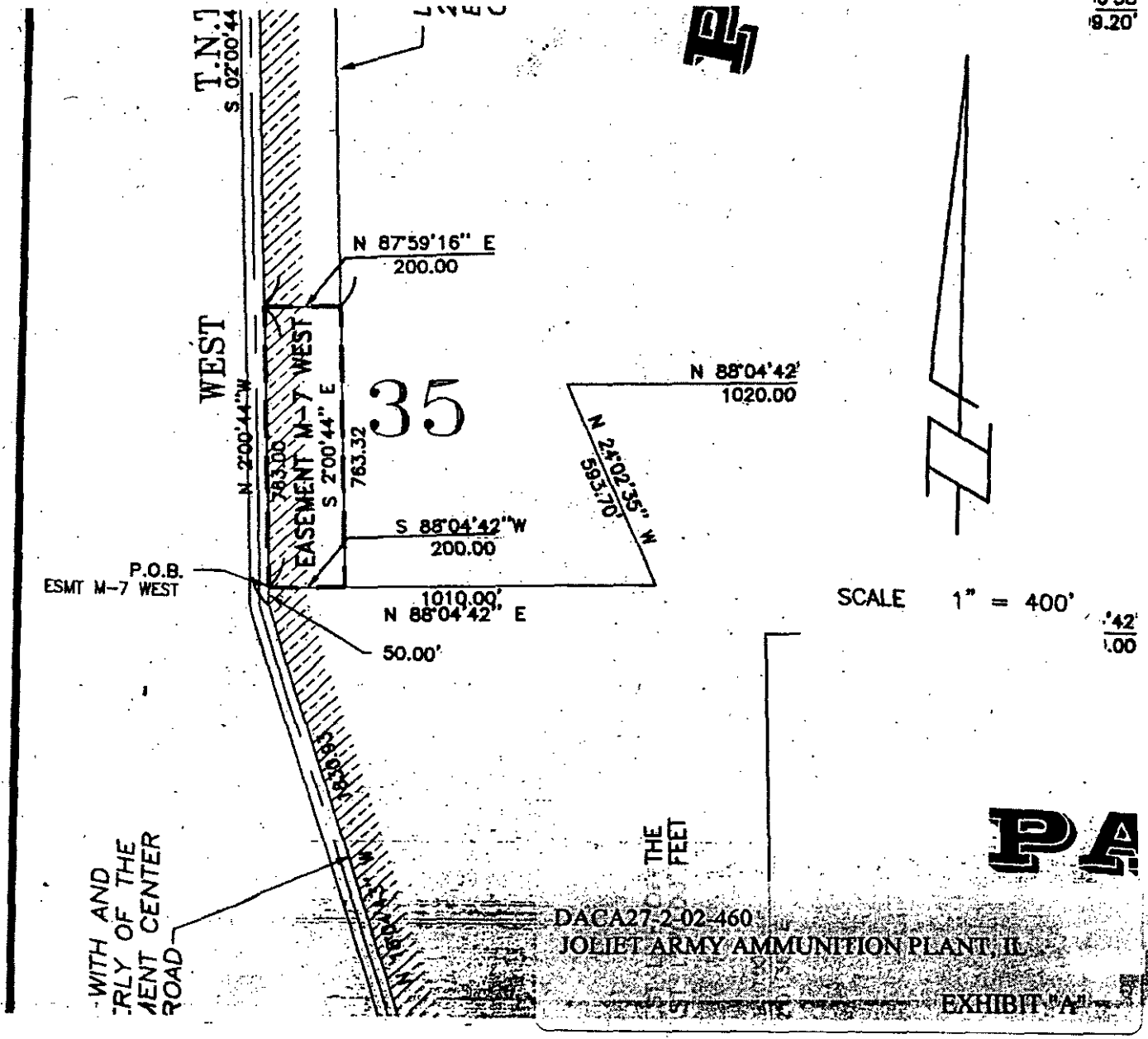
R2002101005

PARCEL B - EASEMENT M-7 WEST

THAT PART OF SECTION 35, IN TOWNSHIP 34 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, CHANNAHON TOWNSHIP, WILL COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE SOUTH LINE OF SAID SECTION 35 WITH A LINE PARALLEL WITH AND 25 FEET EASTERLY OF THE EXISTING PAVEMENT CENTER OF WEST TNT ROAD; THENCE NORTH 06 DEGREES 05 MINUTES 12 SECONDS EAST ALONG SAID PARALLEL LINE 254.34 FEET; THENCE CONTINUING ALONG SAID PARALLEL LINE NORTH 18 DEGREES 04 MINUTES 43 SECONDS WEST 1830.93 FEET; THENCE CONTINUING ALONG SAID PARALLEL LINE NORTH 2 DEGREES 00 MINUTES 44 SECONDS WEST 50.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID PARALLEL LINE NORTH 2 DEGREES 00 MINUTES 44 SECONDS WEST 763.00 FEET; THENCE NORTH 87 DEGREES 59 MINUTES 16 SECONDS EAST TO A LINE PARALLEL WITH AND 225 FEET EASTERLY OF THE EXISTING PAVEMENT CENTER OF WEST TNT ROAD; THENCE SOUTH 2 DEGREES 00 MINUTES 44 SECONDS EAST ALONG SAID PARALLEL LINE 763.32 FEET; THENCE SOUTH 88 DEGREES 04 MINUTES 42 SECONDS WEST 200.00 FEET TO THE POINT OF BEGINNING; containing 3.504 acres more or less.

P.I.N.: ~~10-25-200-002~~ Address: CenterPoint Intermodal Center, Vicinity of Baseline and East Access, Elwood, Illinois

10-26-400-001



6'38
9.20'

SCALE 1" = 400'

42
00

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EXHIBIT 'A'

ENCLOSURE 5

Table 3 - Notification of Hazardous Substance Storage, Release, and Disposal

Building	Name of Hazardous Substance(s)	Date of Storage, Release, and Disposal
----------	--------------------------------	--

There are no remaining buildings or materials storage facilities nor any known or documented hazardous substance storage, release, or disposal on the Property for easement (M7 West) or transfer (M8P, LT3) in this FOST.

Source: EPAS/EBS Survey, Volume 1 of 2, September 1997.

MARY ANN STUKEL

17P

Will County Recorder
Will County

R 2002101086

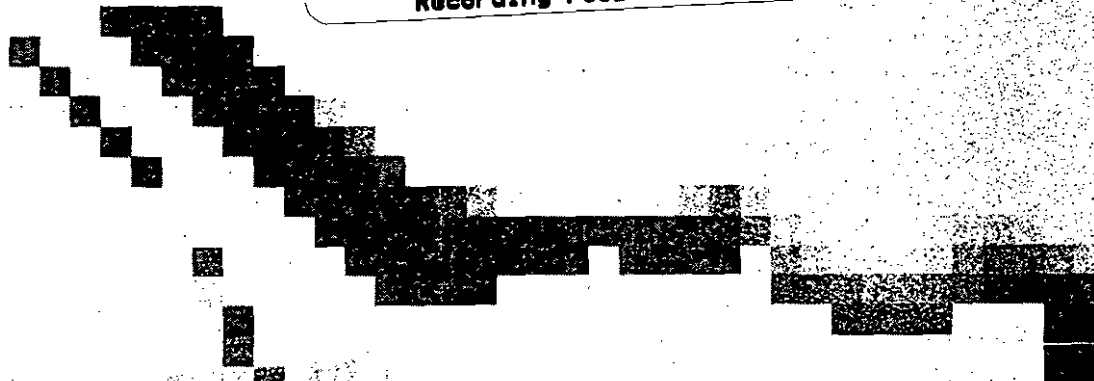
Page 17 of 17

PC1 Date 06/19/2002

Time 13:07:08

Recording Fees:

56.00



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EXHIBIT "B"