

TOWNSHIP OF ST. CLAIR

BY-LAW NUMBER 38 OF 2011

Front Concession, Part Lot 5, RP 25R8615 Parts 2, 16, 19, 20, 29, Geographic Township of Moore, Township of St. Clair, County of Lambton, more particularly described on Schedule 'A' attached hereto.

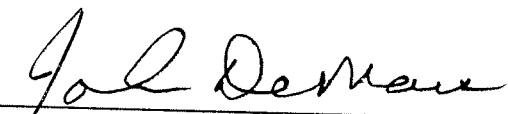
WHEREAS it is deemed expedient that the Corporation of the Township of St. Clair enter into a Site Plan Agreement with Trillium Distribution Inc.,

NOW THEREFORE the Council of the Corporation of the Township of St. Clair enacts as follows:

1. That the Corporation of the Township of St. Clair enter into an agreement with Trillium Distribution Inc. in the form of a site plan agreement, a copy of which is attached.
2. That the Mayor and Clerk are authorized to execute such agreement, and to Affix the Corporate Seal of the Corporation thereto.
3. This by-law shall come into force and take effect upon the final passing thereof.

READ a first, second and third time and finally passed this 18th day of July, 2011.


MAYOR


CLERK

SITE PLAN CONTROL AGREEMENT

THIS AGREEMENT made this 18th day of July, 2011

BETWEEN:

Trillium Distribution Inc.
(hereinafter called the "Owner")

-and-

TOWNSHIP OF ST. CLAIR
(hereinafter called the "Municipality")

WHEREAS the municipality has enacted a Site Plan Control Area By-law pursuant to the provisions of Section 41 of The Planning Act, 1990;

AND WHEREAS Trillium Distribution Inc. and the Municipality entered into a Site Plan Agreement on the 15th day of July 2003, and registered same in the Land Registry Division of Lambton on September 18, 2003 as Instrument No. 0904975;

AND WHEREAS the registered Owner of the said lands has requested, in writing, an amendment to the original agreement to develop a brine evaporation plant .

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the mutual covenants hereinafter expressed and other good and valuable consideration, the Parties hereto agree one with the other as follows:

PART 1

GENERAL

1. Subject Lands

The lands affected by this agreement are as follows:

Front Concession, Part Lot 5, RP 25R8615 Parts 2, 16, 19, 20, 29, Geographic Township of Moore, Township of St. Clair, County of Lambton, more particularly described on Schedule 'A' attached hereto.

2. Schedules

The following schedules are attached hereto and form part of this Agreement:

- 2.1 "SCHEDULE A" being a description of the lands affected by this Agreement.
- 2.2 "SCHEDULE B" being a schedule of financial obligations of the Owner payable upon execution of this Agreement or as otherwise provided
- 2.3 "SCHEDULE C" being copies of the approved plans and drawings referred to in Part II of this Agreement.
- 2.4 "SCHEDULE D" being a Mutual Drainage Agreement between the Owner and the County of Lambton providing a legal drainage outlet including a detailed drawing of the schematics of the storm water management system
- 2.5 "SCHEDULE E" being a detailed drawing of the dry hydrant to be provided by Owner for fire protection
- 2.6 "SCHEDULE F" being an easement with Terra for an underlying ammonia pipeline

2.7 "SCHEDULE G" being an engineers report on the integrity of the above ground existing tank including appropriate storage levels

2.8 "SCHEDULE H" being a copy of the certificate of insurance for the site

PART II

APPROVED PLANS

3. Approved Plans and Drawings

The Municipality has approved the following plans and drawings attached hereto and form part of this agreement:

1. **Site Plan: Drawing No. 09-5568-SP1 rev. 04 (T.W. Gray)**
2. **Drainage Plan: Drawing No. 09-5568-SP2 rev.05 (T.W. Gray)**
3. **Existing Pipeline – Mutual Drainage Agreement: Drawing No. 09-5568-SP3 (T.W. Gray)**
4. **Drainage Plan Pond Detail: Drawing No. 09-5568-POND (T.W. Gray)**

The Owner covenants and agrees to construct all buildings, structures, works, services and facilities required under this Agreement in accordance with the above referenced plans and drawings.

4. Approved Structures

The Owner acknowledges that the Municipality's review and approval of the submitted plans and drawings is on the basis of a proposal for the construction and operation of a Brine Evaporation Plant. The Owner represents and warrants to the Municipality that no deviations or changes shall be made to the plans or drawings noted above and no construction shall take place contrary to such plans and drawings, without prior written approval of the Municipality, except such changes as may be required by the Municipality in order that said plans and drawings shall comply with all relevant provisions of the building or zoning or other by-law or laws of the Municipality, and all regulations or laws of any other governmental body.

5. Conformity with Agreement

The Owner covenants and agrees that no development shall be undertaken or performed on the Lands except in accordance with the terms of this Agreement (including the schedules attached herewith), the approved Site Plan, all other plans and specifications submitted to and accepted by the Municipality and by such other agencies or approval authorities as may be applicable.

This agreement shall supersede previous site plan agreements and such previous site plan agreements are deemed null and void.

PART III

TERMS AND CONDITIONS

6. Compliance with the Building Code

The Owner acknowledges that compliance with the Ontario Building Code and the regulations thereunder is mandatory.

7. No Unauthorized Subdivision or Severance

The Owner covenants and agrees not to convey a part or to further divide the Lands subject to the site plan agreement, except in pursuance of the *Planning Act* or any other similar legislation.

8. Building Permits

The approval by the Municipality to the registration of the Plan and the execution of this Agreement by the Municipality shall not be deemed to give assurance that building permits when applied for, shall be issued on any of the lots or blocks as shown on this plan.

Issuance of Building Permits

No application shall be made for building permits and no building permits shall be issued until the following materials have been received by the Building Inspector:

- i) A copy of the Plans to be registered
- ii) A copy of the Site Plan and Development Agreement executed by the Owner and Municipality

9. Occupancy

- (a) The Owner covenants and agrees not to permit occupancy of any building or part thereof in the expanded new facilities for which building permits have been issued until all works required under this Agreement are completed in accordance with the requirements of the Ontario Building Code, the applicable zoning by-law and any other municipal by-laws, and that the internal water distribution and private septic system have been tested and approved and are operating in accordance with the conditions established by the Municipality. Work completed under Site Plan Agreement registered as Instrument Number 0904975 on September 18, 2003 is not applicable.
- (b) A certificate signed by a Professional Engineer or an Ontario Land Surveyor shall be provided verifying that the site grading is in conformity with the Grading Plan prior to occupancy.
- (c) To ensure compliance with Subclause 9(a) and (b) above, the Owner covenants and agrees that the Municipality may draw upon any security the Owner has provided to the Municipality up to the amount of \$10,000.00 if, in the opinion of the Building Inspector, a building or part thereof is occupied contrary to said provision.
- (d) In the event a building or unit is occupied otherwise than in accordance with the provisions of Subclause 9(a) and (b), the Owner covenants and agrees that the Municipality shall be entitled to obtain an order from a court of competent jurisdiction prohibiting the occupancy of any building or unit until such time as the terms of this agreement have been fully complied with, and the Owner shall be stopped from opposing such application on the part of the Municipality.

10. Professional Engineer

The Owner covenants and agrees to retain a Professional Engineer (hereinafter referred to as the "Engineer") who holds a Certificate of Authorization for municipal engineering applications from the Association of Professional Engineers of Ontario to prepare the design of grading, site and external servicing plans, municipal service connection designs, and storm water management reports that are to be submitted to the Director of Public Works for his/her approval.

The Owner's Engineer will be required to inspect and certify to the Director of Public Works that all internal and external services, grading, and storm water management requirements have been constructed in accordance with the approved Engineering Drawings and reports, prior to the reduction of the Letter of Credit held for engineering related works. The certificate, or certificates, shall be in a format acceptable to the Director of Public Works. The Director of Public Works may, upon pre-qualification of such, accept the use of other qualified professionals for certain components of the design, inspection and certification process.

11. Entry by Municipality

The Municipality may, by its officers, employees or agents, enter on the Lands or any part thereof as well as any building(s) erected thereon to ensure that any works, services or facilities required to be provided, constructed or installed by the Owner comply with this Agreement.

12. Maintenance of Internal Works and Facilities

The Owner covenants and agrees that once all works, services and facilities required to be provided, constructed or installed by it that are internal to the Lands under the terms of this Agreement have been completed to the satisfaction of the Municipality, and in accordance with all Municipal specifications and in a good and workmanlike manner, it shall maintain such works, services and facilities in the approved condition until this Agreement is amended or otherwise released from title. In the event that any of the internal works, services or facilities are not being maintained to the satisfaction of the Municipality, or if the Owner is otherwise in default of this Agreement, the Municipality may, on written notice to the Owner, require the Owner to comply with the terms of this Agreement.

13. General Conditions

The Owner covenants and agrees as follows:

Highway Widening

- (a) Not Applicable

Access Facilities

- (b) To produce an annual report to the Municipality to confirm the integrity of both the access lane and the culvert beneath it are adequate to accommodate emergency vehicles in the event of an emergency.
- (c) Not to foul the roads leading to the Lands. If the Owner is unable or unwilling to clean the street to the reasonable satisfaction of the Director of Public Works, the Owner hereby authorizes the Municipality to clean the street as required and agrees to pay the Municipality all costs associated with the cleaning operation performed by the Municipality.
- (d) To provide fire access route signs, to locate such number of fire hydrants and size of watermains as approved by the Municipality's Fire Chief or his designate and to satisfy any other requirements of the Fire Department at the Owner's expense.

Parking and Loading Facilities

- (e) To provide access to the site and parking spaces with an approved surface (paving requirement waived by minor variance) to the Municipality's specification as shown on the approved site plan identified as drawing SP1.

- (f) All handicapped parking spaces shall be so identified with appropriate signage to the satisfaction of the Municipality. Parking spaces for the disabled shall have a minimum width of 4.4 meters and a minimum length of 6 meters. . All other parking spaces will have a minimum width of 2.7 meters and a minimum length of 6 meters.
- (g) To provide curbstops marking each required parking space as shown on approved drawing SP1.

Walkways

Not Applicable.

Lighting Facilities

- (h) To design light standards, fixtures and illumination devices to adequately illuminate the Lands but to also prevent the spread of light onto other properties or onto public highways. Lighting Facilities will be in accordance with the approved site plan identified in Schedule "C".

Landscaping

- (i) To provide 30% of the lot area to meet the minimum required open space requirement from Table A of the Township's Zoning By-law 17 of 2003.
- (j) To install a sign to the specifications as outlined by the drawing in Schedule "C".

Garbage Collection

- (k) Not to permit and refuse, junk, debris, or other material to be deposited on any adjoining lands, and that any such refuse, junk, debris or other material generated from the Lands will be disposed of at the expense of the Owner. If the Owner fails to remove aforementioned material from the adjoining lands within a period of forty-eight (48) hours from the time of delivery of written notice to the Owner, the Municipality may remove the said material and the Owner will be charged for all expenses incurred by the Municipality and the Owner further agrees that the Municipality may take such charge against the security filed with the Municipality in accordance with Clause 16.
- (l) To design waste management system for the collection, storage and disposal of waste and recyclable materials.
- (m) To provide internal recycling and garbage areas sufficient to contain the required number of containers and/or materials as defined in Schedule "C".

Easements

- (n) To obtain confirmation from the appropriate entities that all public utility requirements for the Lands, including but not limited to telephone, telecommunications, cable television, hydro-electric power, gas and postal services, have been satisfactorily arranged, that servicing for same will be provided without any expense, cost or obligation on the part of the Municipality and that all requisite easements have been or will be provided to such entities.
- (o) To ensure no work or activity will impact the Ammonia pipeline when working on the lands subject to the easement shown by Schedule "F". The owner shall provide to the Township correspondence from Terra acknowledging and sanctioning the grading and development activity in the

lands subject to the easement prior to any movement of earth, grading or construction therein. This agreement hereby agrees to, save and hold harmless the Township, its agents and employees from all liabilities, charges, expenses and costs on account of or by reason of any such injuries, deaths, liabilities, claims, suits or losses however occurring or damages growing out of matters associated with the ammonia line and its easement.

Grading and Water Disposal

- (p) Not to permit the Lands to drain otherwise than into a properly installed drainage system with proper catchbasins connected to a Municipal drainage system and the grades and drainage facilities shall be so established as to provide that roof water drains into the internal system, to implement and maintain an on-site storm water management system to limit storm run-off from the site to a predevelopment rate of flow, all in accordance with the approved storm water management plan and Certificate of Approval. To indemnify and save harmless the Municipality from any liability for excess run-off as a result of construction or development on the Lands.
- (q) To ensure all works are built in accordance with Schedule "D" the approved storm water management plan.
- (r) The on-site drainage is in accordance to the Mutual Drainage Agreement attached to this agreement as Schedule "D".

Snow Removal

- (s) To provide regular removal of snow from the site [or to provide sufficient snow storage areas on the Land], and that the parking spaces and landscaping areas will not be used for the stockpiling of snow.
- (t) To remove snow from the access lane and from all fire routes within 24 hours of snowfall. If snow is not removed within 24 hours after snowfall, the Municipality will remove the snow at full expense of the Owner in order to keep emergency access clear.

Signs (lane information, fire routing, addressing)

- (u) The owner shall if required by the Township and at the Owner's expense, provide, erect and maintain all signage (i.e. 911 signs, fire lanes, one way lanes or construction information) on the subject lands. The Owner shall covenant and agree to comply with all sign permitting requirements according to the Township or the County as warranted by the Director or Manager of Public Works.

General Provisions

- (v) To file with the Director of Public Works, following completion of construction of any services a complete set of "as constructed" drawings for all services, including one complete set of "as constructed" drawings in digital format DWG or DGN.
- (w) To provide copies of each plan incorporated into this Agreement as a schedule for registration purposes at the time of execution of this Agreement (8.5" by 14").
- (x) To provide, during all hours of construction, competent on-site supervision of all works required to be done on al public and private lands and building construction to be undertaken on the Lands.

- (y) The Owner will be required to pay all costs associated with the relocation of utilities as may be required.
- (z) To erect sufficient hoarding, to the satisfaction of the Building Inspector, surrounding the construction on the Lands and to maintain same until final completion of construction.
- (aa) To make all necessary arrangements and to be solely responsible for the costs of altering, removing and relocating any existing municipal or public services requiring relocation in the course of, or in connection with, the construction, installation, or provision of the works, services and facilities required under this Agreement.
- (bb) To comply with all provisions of the Municipality's noise by-law.

PART IV

SPECIAL TERMS AND CONDITIONS

14. Parkland Dedication

The Owner agrees to pay the equivalent of 2% of the land value the day prior to the issuance of a building permit for the development subject to this Agreement as per Section B.15.1.5(b) of the Township Official Plan and in accordance with Section 42(1) of the Planning Act.

Phasing

- (a) Phase one of the development shall be developed in accordance to the approved drawings attached as Schedule "C" to this Agreement.
- (b) At the time of Phase 2 for the design and implementation of three proposed storage tanks identifies on drawing SP1 on Schedule "C", the Owner shall provide a security of \$2,000 to ensure a 2:1 replant ratio for all trees to be removed to accommodate the tanks and is refundable only after the trees have been grown on site for three years.

Oversized and External Services to be Installed

- (c) The costs of installing oversized or external services shall be paid for in full by the Owner.
- (d) The Owner covenants and agrees that the Municipality may draw upon any security the Owner has provided to the Municipality if, in the opinion of the Township in consultation with the County of Lambton Public Works Department, the external infrastructure is in need of repair or reconstruction in light of activity associated with the development onsite of the subject lands.

In the event that the costs of the works is more than the Letter of Credit, the Municipality may collect such deficiency from the Owner by demand or in like manner as municipal taxes that are overdue and payable. The public authority germane to the road may carry out repairs to roadways at the Owner's expense if such repairs are not carried out within 48 hours of notice to the Owner or his consulting engineer.

The Owner covenants and agrees that the Municipality may draw upon any security the Owner has provided to the Municipality if the water line connection from the LAWSS water main to the property line is not completed to the satisfaction of LAWSS and the Township of St. Clair Public Works Department.

Garbage Pick-Up

The Owner covenant and agrees that the costs of any deviation from standard garbage pick-up shall be borne by the Owner.

Septic System

The Owner shall, if required, construct a septic system as regulated and approved by the Private Sewage System Co-ordinator including appurtenances thereto. The construction of this private system shall be in accordance with the plans approved by the Director or Public Works or his designate.

At the Owner's expense, all septic works shall be inspected and if necessary (re)tested, and the method and time of the testing shall be to the satisfaction of the Private Sewage System Co-ordinator.

Storm Sewers

The Owner shall, if required by the Township, construct a storm water system as required and approved by the Director of Public Works, to adequately service the lands. All stormwater, including upgrading of downstream facilities if deemed necessary by the Township, shall be constructed according to the approved plans and specifications.

If required by the Director of Public Works, all storm works shall be inspected and videoed via closed circuit television to the satisfaction of, and upon any written notice from, the Director of Public Works and prior to assumption of the storm sewer works by the Township. In the event the results are not satisfactory in the sole opinion of the Director of Public Works, the Owner shall take such remedial steps as may, in the sole opinion of the Director of Public Works, be required.

The Owner agrees, at its own expense to repair and forever maintain all private storm systems including any stormwater management facility located on the subject lands or servicing the lands in accordance with Schedule "D".

Watermains

If required, the Owner shall, at its own expense construct, install and forever maintain all private watermain system including all valves, fire hydrants and all necessary service connections to existing municipal water distribution system to serve the subject lands. Such construction, installation and maintenance shall be in accordance with plans approved by the Director of Public works.

The Owner agrees, if required and at its own expense, that all watermains be flushed, chlorinated, pressure tested and bacterial tested to the satisfaction of the Director of Public Works.

The Owner shall, at its own expense, construct and forever maintain all private fire protection infrastructure including dry hydrants, connection pipelines and water ponds as detailed in this agreement. The owner shall provide water levels to the dry hydrant to levels satisfactory to the Fire Chief of the Township. The owner shall provide a maintenance report on an annual basis or as required by the Fire Chief to the Township.

The Owner shall install a water meter at the Greenfield Road allowance to the satisfaction of the Township and LAWSS (Lambton Area Water Supply System).

Containment Area

The Owner shall remove and decommission all catchbasins and their appurtenances in the bermed containment area of the above ground tank to the satisfaction of the Director of Public Works. In the event that the matters have not been provided to the satisfaction of the Township, the Township shall give twenty (20) days notice in writing by registered mail, addressed to the Owner at its last known address, such notice to be effective as the post office date. Should such default not be rectified by the Owner, the Owner hereby irrevocably grants consent, permission and authority for the Township or its agents to enter upon the lands and to perform such works or procedures as may be necessary to effect complete compliance. The Owner agrees to pay to the Township, within thirty (30) days of demand therefore by the Township, all costs and expenses incurred by the Township in performing such work or having such work performed by others and the whole or any part of the money so demanded and unpaid within the time above limited may at the option of the Township be added to the tax collectors roll for the land as a lien thereon to be recovered in the like manner as municipal taxes. The Owner further agrees that such entry and performances of work shall not constitute a trespass and the Township shall not be responsible for any damages caused in the performance of such work except such damages caused by negligence.

The Owner shall provide a pump-out apparatus in order to drain stormwater from the above ground tank containment area. The pump infrastructure shall be maintained in good working condition and designed to the satisfaction of the Director of Public Works. If requested from the Director of Public Works, the owner shall provide a report to the Director, at no cost to the Township, which records the results of an inspection of the pumps, and if required, the manner of how the pumps are to be maintained or improved.

The Owner shall provide for the containment of spills of brine based liquids or spills from trains, tanker cars or trucks in all loading or parking/storage areas. The owner shall ensure that no brine based materials or contaminants will flow into the storm water or leave off-site. This agreement hereby agrees to, save and hold harmless the Township, its agents and employees from all liabilities, charges, expenses and costs on account of or by reason of any such injuries, deaths, liabilities, claims, suits or losses however occurring or damages growing out of contaminants or spillage of brine based liquids or contaminants.

Above Ground Tank

On signing of the agreement, the Owner shall provide a report, identifying the integrity of the above ground tank which provides details of the most appropriate volumes of brine that the above ground tank may safely hold in the qualified professionals opinion, in addition to the volumes that could be held in the containment area in the event of a spill. The above ground tank report shall form Schedule "I" to this agreement. The Owner covenants and agrees to store only those volumes of brine in the above ground tank that is deemed safe by the integrity report identified in Schedule "I" as amended to the satisfaction of the Township. The above ground tank integrity may change due to aging or improvements and as such, Schedule "I" may be amended from time to time, provided the Owner provides updated reports or integrity documentation upon request of the Township that meets the satisfaction of the Township.

Docking Facility

The Owner covenants and agrees to maintain the docking facility in its entirety in good repair and to protect all structures and components of the dock from deterioration or rust by the application of appropriate weather resistant material including paint or other suitable preservation materials. In the event that the matters have not been provided to the satisfaction of the Township, the Township

shall give twenty (20) days notice in writing by registered mail, addressed to the Owner at its last known address, such notice to be effective as the post office date. Should such default not be rectified by the Owner, the Owner hereby irrevocably grants consent, permission and authority for the Township or its agents to enter upon the lands and to perform such works or procedures as may be necessary to effect complete compliance. The Owner agrees to pay to the Township, within thirty (30) days of demand therefore by the Township, all costs and expenses incurred by the Township in performing such work or having such work performed by others and the whole or any part of the money so demanded and unpaid within the time above limited may at the option of the Township be added to the tax collectors roll for the land as a lien thereon to be recovered in the like manner as municipal taxes. The Owner further agrees that such entry and performances of work shall not constitute a trespass and the Township shall not be responsible for any damages caused in the performance of such work except such damages caused by negligence.

Engineering, Inspection and Administration

The Director of Public Works or his designate shall approval all plans and inspect all service installations to see that they conform to the Township specifications. The Owner agrees to pay the sum of three percent of engineering, inspection and engineering administration costs to the Township, based upon tender prices of all services. Payment shall be made to the Township prior to the issuance of any building permits.

PART V

FINANCIAL CONDITIONS, SECURITY AND INSURANCE

15. Processing and Approval Fees

- (a) The Owner covenants and agrees to pay to the Municipality, upon execution of this Agreement, the fees outlined in Schedule "B".
- (b) The Owner hereby agrees to pay to the Township the full cost of registration of the site plan agreement on title of lands outlined in Schedule "A" within thirty (30) days of receiving notice from the Township. In the event the Owner has not paid the registration fees within thirty (30) days of receiving notice from the Township, the Owner hereby agrees and authorizes the Township to withhold any or all letters of credit submitted until such time as the fee(s) are paid in full.
- (c) The Owner hereby acknowledges and agrees that the Municipality reserves the right to draw on and use the proceeds from the irrevocable letter of credit provided on March 3, 2010 in the amount of \$5000 for the purposes of the installation of the water line and connection to the Municipality's (LAWSS) supply main on Greenfield Road.

16. Letter of Credit

- (a) The Owner hereby acknowledges and agrees that should there be a deficiency in or failure to carry out any work or matter required by any clause of this Agreement, and the Owner fails to comply, within thirty (30) days written notice, with a direction to carry out such work or matter, the Municipality may draw on the irrevocable letter(s) of credit, to the extent necessary and enter onto the Lands and complete all outstanding works or matters, and pay all costs and expenses incurred thereby from the proceeds so drawn.

- (b) The Owner hereby acknowledges and agrees that the Municipality reserves the right to draw on and use the proceeds from the irrevocable letter(s) of credit to complete any work or matter required to be done by the Owner pursuant to this Agreement. The Owner further acknowledges and agrees that, in the event that the Municipality determines that any reduction in the irrevocable letter of credit will create a shortfall with respect to securing the completion of any work or matter remaining to be carried out by the Owner pursuant to this Agreement, the Municipality will not be obligated to reduce the irrevocable letter of credit, until such time as such work is satisfactorily completed or the Municipality has sufficient security to ensure that such work will be completed.
- (c) Wherever in this Agreement an irrevocable letter of credit is required to be filed with the Municipality, the Owner may deposit with the Treasurer cash or certified cheque in an amount equal to the irrevocable letter of credit and such deposit shall be held by the Municipality as security in accordance with this Agreement, provided that no interest shall be payable on any such deposit.
- (d) The Owner acknowledges that upon the transfer of ownership of the Lands, the Municipality will not return any letter(s) of credit required under this Agreement until the new owner files with the Municipality a substitute letter of credit or such other security as may be permitted in the required amounts.

17. Insurance

The Owner shall provide to the Municipality, on or prior to the execution of this Agreement, a general comprehensive liability insurance policy [certificate of insurance] in the amount of \$1,000,000.00 (one million dollars) in a form satisfactory to the Municipality, indemnifying the Municipality from any loss arising from claims or damages, injury or otherwise in connection with the work done by or on behalf of the Owner.

The policy shall contain a cross-liability clause naming the Municipality as a co-insured. The policy shall be maintained in full force and effect until the public works have been assumed by the Municipality. In the event that any renewal premium is not paid, the Municipality in order to prevent the lapse of such liability insurance policy, may pay the renewal premium or premiums and the Owner agrees to pay the cost of such renewal or renewals within thirty (30) days of the account therefore being rendered by the Municipality. The issuance of such policy of insurance shall not be construed as relieving the Owner from any liability or responsibility for any claims in excess of the aforementioned policy limits.

PART VI

ADMINISTRATION

18. Notice

- (a) If any notice is required to be given by the Municipality to the Owner with respect to this Agreement, such notice shall be mailed, delivered or sent by facsimile transmission to:

TRILLIUM DISTRIBUTION INC.

~~Pollard Highway Products Limited~~

c/o Kevin Pollard

Box 280

Harrow, Ontario

N0R 1G0

Attn: Kevin Pollard

County of Lambton

789 Broadway Street
Wyoming, ON
Canada N0N 1T0
Attn: Legal Department

or such other address of which the Owner has notified the Municipality, in writing, and any such notice mailed, delivered or sent by facsimile transmission shall be deemed good and sufficient notice under the terms of this Agreement.

- (b) If any notice is required to be given by the Owner to the Municipality with respect to this Agreement, such notice shall be mailed, delivered or sent by facsimile transmission to:

Township of St. Clair,
1155 Emily Street,
Mooretown, Ontario. N0N 1M0
Attn: Chief Administrative Officer

19. Registration of Agreement

The Owner hereby agrees that this Agreement, together with any schedules thereto, will be registered upon Title to the Lands. The covenants, agreements, conditions and undertakings herein contained on the part of the Owner shall run with the Lands and shall be binding upon it, its successors and assigns as owners and occupiers from time to time and this covenant shall be to the benefit of the Municipality and its lands and highways appurtenant and adjacent to the Lands. The Owner further covenants and agrees to pay to the Municipality the cost of registration of this Agreement, as well as any further costs incurred by the Municipality as a result of the registration of any other documents pertaining to this Agreement (as per Section 15 of this Agreement).

20. Postponement and Subordination

The Owner covenants and agrees, at its own expense, to obtain and register such documentation from its mortgagees or encumbrances as may be deemed necessary by the Municipality to postpone and subordinate their interest in the Lands to the interest of the Municipality to the extent that this Agreement shall take effect and have priority as if it had been executed and registered prior to the execution and registration of the document or documents giving to the mortgagee and/or encumbrancers their interest in the Lands.

21. Enforcement

The Owner acknowledges that the Municipality, in addition to any other remedy it may have at law, shall also be entitled to enforce this Agreement in accordance with S.427 of the *Municipal Act*.

22. Other Applicable Laws

Nothing in this Agreement shall relieve the Owner from compliance with all applicable municipal by-laws, laws, regulations, notices or other policies or laws and/or regulations established by any other governmental body that may have jurisdiction over the Lands.

23. Termination of Agreement

If the proposed development governed by this Agreement is not commenced within two (2) years from the date of the execution of this Agreement, the

Municipality may, at its sole option and on 30 days notice to the Owner, declare this Agreement null and void and of no further force and effect. The refund of any fees, levies or other charges paid the Owner pursuant to this Agreement shall be in the sole discretion of the Municipality, but under no circumstances will interest be paid on any refund.

24. Waiver

The failure of the Municipality at any time to require performance by the Owner of any obligation under this Agreement shall in no way affect its right thereafter to enforce such obligation, nor shall the waiver by the Municipality of the performance of any obligation hereunder be taken or be held to be a waiver of the performance of the same or any other obligation hereunder at any later time. The Municipality shall specifically retain its rights at law to enforce this Agreement.

25. Extension of Time

Time shall always be of the essence of this Agreement. Any time limits specified in this Agreement may be extended with the consent in writing of both the Owner and the Municipality, but no such extension of time shall operate or be deemed to operate as an extension of any other time limit, and time shall be deemed to remain of the essence of this Agreement notwithstanding any extension of any time limit.

26. Governing Law

This Agreement shall be interpreted under and be governed by the laws of the Province of Ontario.

27. Successors and Assigns

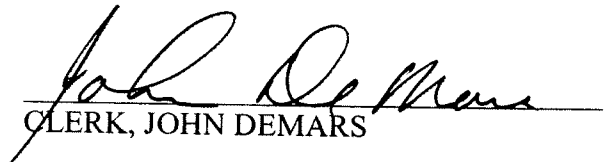
This Agreement and everything herein contained shall ensure to the benefit of and be binding upon the parties hereto and their successors and assigns.

IN WITNESS WHEREOF the Parties hereto have hereunto affixed their corporate seals duly attested to by their proper signing officers in that behalf.

SIGNED, SEALED AND DELIVERED

(SEAL) THE CORPORATION OF THE TOWNSHIP OF ST. CLAIR

per: 
MAYOR, STEVE ARNOLD


CLERK, JOHN DEMARS

(SEAL) 
OWNER,

OWNER,

SCHEDULE "A"

This Agreement pertains and incorporates the following land:

Front Concession, Part Lot 5, RP 25R8615 Parts 2, 16, 19, 20, 29, Geographic Township
of Moore, Township of St. Clair, County of Lambton,

2351 Greenfield Road

SCHEDULE “B”

There are no additional financial obligations that pertain to this Agreement.

Legal Property Identifier(s) and/or Other Information

To the Transfer of Easement made between The Corporation of the County of Lambton as Transferor and Terra International (Canada) Inc. as Transferee, with respect to lands described as Part of Lots 4 and 5, Front Concession, designated as Part 8, Reference Plan 25R-8490, and Part of Lots 10 and 11, Front Concession, now designated as Parts 5 and 6 on Reference Plan 25R-8490 Township of Moore, County of Lambton (No. 25)

The undersigned hereby consents to the Transfer of Easement herein which this Schedule is attached.

TRANSCANADA PIPELINES LIMITED,
re Instrument Number 247173

Per:

Kim McCaig

Name:

Kim McCaig
Manager

Title:

I have the authority to bind the Corporation.

USE ONLY

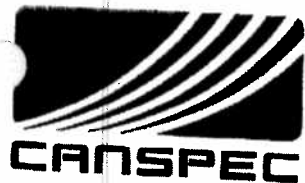
Schedule "G"

**OUT-OF-SERVICE INSPECTION OF TANK ON
LOT 5 GREENFIELD ROAD
COURTRIGHT**

**Report Prepared For:
POLLARD HIGHWAY PRODUCTS
Courtright, Ontario**

**ATTENTION: Kevin Pollard
DATE: February 13, 2002**





Canspec Group Inc.
#1, 396 S. McGregor Side Road
Sarnia, ON. Canada N7T 7H5

Phone: (519) 336-3021
Fax: (519) 336-8220

Materials Engineering and Testing
A Rockwood Company

February 13, 2002

Pollard Highway Products
P.O. Box 280
Harrow, Ontario
N0R 1G0

Phone: (519) 738-2213
Fax: (519) 738-2214

ATTENTION: Mr. Kevin Pollard

**SUBJECT: Out-of-Service Inspection, Tank on Lot 5, Greenfield Road
Per API 653, Addendum 3**

1. INTRODUCTION

On February 12 & 13, 2002 Canspec performed an out-of-service inspection of the Tank on Lot 5, Greenfield Road in Courtright. The lead inspector was Mr. Ian Moore (API 653 Certified Tank Inspector) assisted by Mr. Chad Hunter. The various inspections performed and the results obtained are contained in this report.

Drawings are given in Appendix A, and tabulated inspection and analysis data are given in Appendix B. Photographs of some of the features inspected are included in Appendix C.

2. SUMMARY

- 1) The floor is in good condition. Four areas were marked for repair for an inspection run of 20 years.
- 2) The stresses calculated in each shell course will allow for 43 feet of product head. This is limited by the minimum thickness of 0.695" found on the lower 6 inches of the shell.
- 3) The sample hatch is not accessible.
- 4) The nozzles are not accessible from the exterior.
- 5) The foundation is cement and covered in insulation.
- 6) The dyke is very wet and full of weeds.

We trust that this report provides the information that you require. Please do not hesitate to contact the undersigned if you need any further information, or if we can be of assistance in any other way.

Prepared by



Ian Moore, CGSB Level II
API 653

Reviewed by



Linda Ogorek
Senior Engineering Technologist



4. SCOPE OF INSPECTION

ITEM INSPECTED	✓	SCOPE OF INSPECTION, METHOD *
General Inspection	✓	Visual
External		N/A
Floor - Corrosion	✓	MFE Floor Scanner
Floor - Thickness	✓	UT
Floor - Settlement	✓	Elevations
Shell - Thickness	✓	UT
Shell-to-Bottom weld	✓	MPI Internal
Shell - Settlement	✓	Elevations
Nozzles & Pipework		N/A
Internal Details	✓	Visual
Internal Attachments		N/A
Roof - General		N/A
Roof - Thickness		N/A
Roof Support Structure		N/A
Strapping		N/A

✓ Indicates this item inspected.

* Refer to the supplementary document "Methods of Inspection of Aboveground Oil Storage Tanks in Accordance with API 653".

5. TANK INSPECTION - GENERAL RESULTS

FEATURE INSPECTED	RESULTS	
General, External	Not accessible. Insulated.	
Pipework, External	Primarily removed.	
Foundation	Cement - Insulated.	
Containment	Dyke area very wet and lots of weeds.	
General, Internal	Internally the tank is in very good condition. Very minor corrosion noted.	
Pipework, Internal	None.	
Attachments	Roof rafters not accessible for inspection.	
Nozzle list (first course):	See Dwg.	

6. ANALYSIS

ANALYSIS COMPLETED	ACCEPT	REJECT	APPLICABLE TABLE
Shell Analysis	X		See Table #3
Shell Settlement Analysis	X		Settlement Chart
Floor Analysis		X	See Tables #1 and #1.1
Floor Settlement Analysis	X	-	See Bottom Profile Chart
Roof Thickness	-	-	See Roof Drawing

TABLE OF CONTENTS

	PAGE
1. INTRODUCTION	1
2. SUMMARY	2
3. TANK BACKGROUND DATA.....	3
4. SCOPE OF INSPECTION	4
5. TANK INSPECTION - GENERAL RESULTS	5
6. ANALYSIS.....	5
7. TANK INSPECTION - FLOOR RESULTS.....	6
8. TANK INSPECTION - SHELL AND ROOF RESULTS	7

APPENDIX A - DRAWINGS

Drawing 1 -- Floor and Nozzles

APPENDIX B - TABLES and CHARTS

Table 1 -- Evaluation Of Underside And Topside Plate Corrosion, As Found
Table 1.1-- Evaluation Of Underside And Topside Plate Corrosion, 5-20 Yr. Period
Table 2 -- Settlement Analysis & Chart
Table 3 -- Design Analysis
Table 4 -- Bottom Profile Analysis & Chart
Table 6 -- Shell Thickness Data

APPENDIX C - PHOTOGRAPHS



7. TANK INSPECTION - FLOOR RESULTS

FEATURE INSPECTED	RESULTS	
Underside Pitting	2 areas found below 0.125" remaining wall. 1 area at 0.200". These areas are on plates 11, 26, 39 & 50 (see Dwg 1.) and should be repaired.	
Topside Pitting	None found.	
General Corrosion	None found.	
Floor Thickness	0.250" to 0.265" nominal.	
Welds, Lap - Fillet	Visually appear to be in good condition.	
Weld to Shell, inside	Magnetic Particle Inspection on weld revealed 3 areas of possible cold lap & 3 areas of porosity. These areas should be addressed. (see Dwg. 1)	
Weld to Shell, outside	N/A	
Floor Settlement	Meets API	
Roof support columns – base	None	
Sump	Small Sump 0.250" Thick	
Coating	N/A	

MAGNETIC PARTICLE TESTING REPORT

CLIENT: _____ P.O. NO.: _____

LOCATION: _____ JOB NO.: _____

ITEM TESTED: ALL NOZZLES & FLOOR TO SHELL WELDS - INTERIOR ONLY

ACCEPTANCE STANDARD: API 650 ASME SEC VIII

TECHNIQUE DETAILS

- PROCEDURE NO.: BLACK & WHITE
- MPI EQUIPMENT:
 - MANUFACTURER: MAGNETFLUX TYPE: P-200 SERIAL NO.: 31260 LAST CALIBRATION: JAN 02
 - MANUFACTURER: _____ TYPE: _____ SERIAL NO.: _____ LAST CALIBRATION: _____
- MAGNETIZING METHOD: ☒ AC OR ☐ DC / ☐ CONTINUOUS OR ☐ RESIDUAL / ☐ PROD ☒ YOKE ☐ COIL
- MPI EQUIPMENT: ☐ DRY (COLOUR _____) OR ☒ WET; ☐ FLUORESCENT OR ☒ NON-FLUORESCENT
- SURFACE CONDITION: ☐ CLEAN BARE METAL ☐ AS GROUND ☐ MACHINE ☐ SHOT BLAST ☐ PAINTED

SKETCH OF ITEM TESTED

SEE ATTACHED REPORT

TEST RESULTS

NO CRACKS WERE OBSERVED ON THE FLOOR TO SHELL WELD AREA, OR THE NOZZLE TO SHELL AREAS.

*NOTE - PIN HOLE POROSITY, AS WELL AS COLD LAP AREAS WERE IDENTIFIED AND RECORDED ON FINAL REPORT.

* HOURS RECORDED ON TIMESHEET # 4312 (8)

SIGNATURES

CLIENT REPRESENTATIVE: _____
 TECHNICIAN (SIGN): [Signature] LEVEL II
 TECHNICIAN (PRINT): TRIS OWERY
 ASSISTANT (PRINT): N/A

☒ CGSB
☒ ASNT
☐ QO
☐ ASS'T

CLIENT REPRESENTATIVE'S SIGNATURE INDICATES ACCEPTANCE OF REPORTS AND RESULTS, AND ACKNOWLEDGEMENT OF HOURS WORKED

TIME		HOURS		MT CONSUMABLES:
DEPART SHOP	<input type="checkbox"/> AM <input type="checkbox"/> PM	TOTAL TIME		
ON SITE	<input type="checkbox"/> AM <input type="checkbox"/> PM	LOA	MANDAYS	
OFF SITE	<input type="checkbox"/> AM <input type="checkbox"/> PM	OTM:		
ARRIVE SHOP	<input type="checkbox"/> AM <input type="checkbox"/> PM	SHIFT:	<input type="checkbox"/> DAY <input type="checkbox"/> NIGHT	
MINIMUM CHARGE:		<input type="checkbox"/> 2hr SHOP <input type="checkbox"/> 4hr FIELD		<input type="checkbox"/> CANS <input type="checkbox"/> LITRES

Storage Tank Information: Trillium Distribution

I Little Current (Uninsulated Carbon Steel)

3 Goat's Island, Hwy 6 Little Current, On

Tank #1 73 feet 4in (D) X 40 feet (H)- Established load level 1,28907 imp gallons

Tank #2 60 feet (D) X 48 Feet (H) -- established load level 690,443 imp gals

Tank #3 35 feet (D) X 23 feet 5 inches (H) -- established load level 144,962 imp gallons

II Thunder Bay (Uninsulated) Carbon Steel

40 Darrel Ave, Thunder Bay, On

Tank 34 117 feet (D) X 41 feet high -- Load level 1,374,610 imp gals(20' 6") Tank 35 92 feet 10 in (D) X 35 feet (H)--Load Level 975709 Imp Gallons

General

Tanks built before 1975

Tanks have been used to contain exclusively liquid calcium chloride at approximately 35% strength. Liquid Calcium chloride is non-toxic, non-flammable, Not classified as corrosive according to federal hazardous goods transportation but reacts with metal similar to sodium chloride liquid. Liquid stays at ambient temperature (no heating or cooling).

Visual inspections performed in past when tanks were empty. No leakage or concerns were found. Tanks were painted (exterior) approximately every 7 years since 1979.

Required: Ultra sound and other metal thickness testing on floors and walls to determine structural thickness and integrity to store liquid Calcium chloride with specific gravity of 1.354. It is expected that insurance companies will be requiring this information at certain intervals to maintain environmental and/or liability coverages. Accordingly it is expected that such tests would satisfy any industry standards currently being used for tank certification.

Method: It would be expected that testing could be performed when inventoried product would allow at least one tank to be available. Product could be transferred between other tanks but would probably involve an extra day or two on site to completely empty and wash tanks if multiple inspections were to be done consecutively. It is possible to perform single tank inspections as each tank is cleaned and ready.

p:/tankinspection/

III Courtright, Ontario

2351 Greenfield Road, St. Clair Twsp, Courtright, On

97' (D) X 70'(H) Fill Height 43"

Carbon Steel

Insulated

Last Inspection 2002

CSIO CERTIFICATE OF INSURANCE

DATE (YY/MM/DD)

10/06/09

BROKER

PBL Insurance Limited

150 Ouellette Place Suite 100
Windsor, ON

BROKER'S CLIENT ID: POLLA-1

N8X 1L9

INSURED'S FULL NAME AND MAILING ADDRESS

Pollard Highway Products Ltd.
Trillium Distribution Inc.
21 3rd Concession
HARROW, ON N0R 1G0

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policies below.

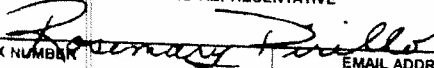
COMPANIES AFFORDING COVERAGE

COMPANY
A Chubb Insurance CompanyCOMPANY
BCOMPANY
CCOMPANY
D

COVERAGES

This is to certify that the policies of insurance listed below have been issued to the insured named above for the policy period indicated, notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain. The insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.

LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TYPE OF INSURANCE	CO LTR	POLICY NUMBER	POLICY EFFECTIVE DATE (YY/MM/DD)	POLICY EXPIRATION DATE (YY/MM/DD)	LIMITS OF LIABILITY (Canadian dollars unless indicated otherwise)	
COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE OR <input type="checkbox"/> OCCURRENCE <input type="checkbox"/> PRODUCTS AND / OR COMPLETED OPERATIONS <input type="checkbox"/> EMPLOYERS'S LIABILITY <input type="checkbox"/> CROSS LIABILITY <input type="checkbox"/> TENANTS LEGAL LIABILITY <input type="checkbox"/> NON-OWNED <input type="checkbox"/> HIRED <input type="checkbox"/> POLLUTION LIABILITY EXTENSION					EACH OCCURRENCE	\$
					GENERAL AGGREGATE	\$
					PRODUCTS - COMP/OP AGG	\$
					PERSONAL INJURY	\$
					TENANTS LEGAL LIABILITY	\$
					MED EXP (Any one person)	\$
					NON-OWNED AUTO	\$
					OPTIONAL POLLUTION LIABILITY EXTENSION	\$
					(Per Occurrence)	\$
					(Aggregate)	\$
AUTOMOBILE LIABILITY <input type="checkbox"/> DESCRIBED AUTOMOBILES <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> LEASED AUTOMOBILES					BODILY INJURY PROPERTY DAMAGE COMBINED	\$
					BODILY INJURY (Per person)	\$
					BODILY INJURY (Per accident)	\$
					PROPERTY DAMAGE	\$
<small>** ALL AUTOMOBILES LEASED IN EXCESS OF 30 DAYS WHERE THE INSURED IS REQUIRED TO PROVIDE INSURANCE</small>						
EXCESS LIABILITY <input type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM (Specify):					EACH OCCURRENCE	\$
					AGGREGATE	\$
OTHER LIABILITY (SPECIFY) Contractors Pollution Liability	A	37333369	10/06/08	13/06/08	Each Incident	5000000
					Aggregate	5000000
					Deductible	25000
ADDITIONAL INSURED See Description of Operations if Applicable					DESCRIPTION OF OPERATIONS/LOCATIONS/AUTOMOBILES/SPECIAL ITEMS The Certificate Holder is added as Additional Insured, but only with respect to Liability arising from the operations of the Named Insured	
CERTIFICATE HOLDER The Corporation of the County of Lambton PO Box 3000 789 Broadway St. Wyoming, ON N0P 1T0					CANCELLATION Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will endeavor to mail 30 days written notice to the certificate holder named to the left, but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives.	
SIGNATURE OF AUTHORIZED REPRESENTATIVE 					PRINT NAME INCLUDING POSITION HELD Rosemary C. Pirillo Commercial Account Manager	
FAX NUMBER 519-254-2150		EMAIL ADDRESS rpirillo@pblinsurance.com		COMPANY PBL Insurance Limited	DATE 10/06/09	
CERT (6/00)						