

RD BK06470-0979 DM-DEED MISCELLANEOUS
2020009296 02/11/2020 09:16:12 AM:1
RCD FEE: \$144.25



46-TRAINER \$0.00

When recorded, return to:
Melvin Smith
4401 Ridge Road
Trainer, PA 19061

The Delaware County Parcel Identification No. of the Property is: 46-00-00482-00

GRANTOR: Congoleum Corporation

PROPERTY ADDRESS: 4401 Ridge Road, Trainer PA 19061

ENVIRONMENTAL COVENANT

This Environmental Covenant is executed pursuant to the Pennsylvania Uniform Environmental Covenants Act, Act No. 68 of 2007, 27 Pa. C.S. §§ 6501 – 6517 (UECA). This Environmental Covenant subjects the Property identified in Paragraph 1 to the activity and/or use limitations in this document. As indicated later in this document, this Environmental Covenant has been approved by the United States Environmental Protection Agency (EPA).

1. **Property affected.** The property affected (Property) by this Environmental Covenant is located in Trainer Borough, Delaware County. The portion of the Property affected by this Environmental Covenant is termed the “Environmental Covenant Area” and is defined by the legal description contained in Exhibit A.

The latitude and longitude of the center of the Property is: 39.8258809, -75.415766.

The Property has been known by the following name(s): Congoleum Corporation

The EPA Facility ID# is PAD002343200

A complete description of the Property is attached to this Environmental Covenant as Exhibit A. A map of the Property is attached to this Environmental Covenant as Exhibit B.

2. **Property Owner / GRANTOR / GRANTEE.** Congoleum Corporation (Congoleum) is the owner of the Property and the GRANTOR and GRANTEE of this Environmental Covenant.

3. The mailing address of the owner is: 4401 Ridge Road, Trainer, PA 19061

4. **Description of Contamination and Remedy.** The Property is an active manufacturing facility located on 51.4 acres in Marcus Hook, Delaware County. The Property includes approximately 55 buildings, most of which are utilized as a manufacturing plant and warehouses. One quarter of the buildings are closed and are no longer in use. Since 1902, the Facility has manufactured floor products. Congoleum originally manufactured linoleum floor coverings and later converted to vinyl floor coverings in the 1960s. Solvent based inks/paints were historically used in the manufacturing process until the early 1980s when the process switched over to water based inks/paints.

In 2005 and as part of the Environmental Indicators (EIs) determination, EPA conducted a surface and subsurface soil and groundwater investigation at the Property. Samples were taken from the former landfill and areas of interest. The investigation targeted volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), and heavy metals. No VOCs or heavy metals were detected above the EPA industrial risk-based concentrations in subsurface soils. Seven SVOCs were detected in surface soils. Those SVOCs concentrations in soils are within EPA's acceptable cancer risk range. The respective EPA risk range standards and the range of the detected concentration procured in 2005 are listed below:

Constituents	Industrial Standards (mg/kg)	Concentrations (mg.kg)
Benzo(a)anthracene	4.5-450	0.14-22
Benzo(a)pyrene	0.45-45	0.09-17
Benzo(b)fluoranthene	4.5-450	0.40-20
Bis(2-chloroethyl)ether	3.0-300	0.38-4.2
3,3-Dichlorobenzidine	7.3-730	0.76-8.3
Dibenz(a,h)anthracene	0.45-45	0.05-4.2
N-Nitroso-di-n-propylamine	0.47-47	0.38-4.2

The groundwater investigation did not detect VOCs or SVOCs at levels above the EPA Maximum Contaminant Levels (MCLs), promulgated pursuant to Section 42 U.S.C 300f et seq. of the Safe Drinking Water Act and codified at 40 CFR Part 14, the levels that EPA determined to be protective for public consumption in drinking water. However, several monitoring wells detected levels of arsenic, beryllium, chromium, lead and vanadium that exceed their respective MCLs.

The list of heavy metals of concern in groundwater and their respective MCLs and the range of detected concentrations are:

Heavy Metals	Detected Concentrations	MCLs
Arsenic	11-38	10
Chromium	40-393	100
Beryllium	2-15	4
Lead	13-106	15
Vanadium	43-437	100

The aforementioned heavy metals were detected in the shallow aquifer. The depth of the shallow aquifer varies from 13 to 28 feet below ground surface (bgs). In addition, the aquifer has a low yield because at several locations groundwater flow is as low as 1-5 gallons per minute. The low yield is also evident from the clay material found in the shallow aquifer. The shallow depth and low groundwater yield in this aquifer makes it unsuitable as a potential source for drinking water. The regional hydrogeology consists primarily of the Wissahickon Formation where groundwater withdrawal for industrial or domestic use is at a depth of at least 125 feet bgs. Given the characteristics of the regional hydrogeology and the low yield and depth to groundwater, EPA considers the shallow aquifer beneath the Property a non-use aquifer.

On May 4, 2016, EPA issued a Final Decision and Response to Comments (FDRTC) in which it selected a Final Remedy for the Property. The Final Remedy included the implementation of

land and groundwater use restrictions necessary to prevent human exposure to contaminants at the Property through an enforceable institutional control. This Environmental Covenant is that enforceable mechanism. The land and groundwater use restrictions are described in paragraph 5 (Activity and Use Limitations) of this Environmental Covenant.

The administrative record pertaining to the EPA's FDRTC is located at the location listed below:

US EPA
Region III
1650 Arch Street
Philadelphia, PA 19103

5. **Activity and Use Limitations.** The Property is subject to the following activity and use limitations, which the then current owner of the Property, and its tenants, agents, employees and other persons under its control, shall abide by:

- (i) The integrity of the landfill cap shall be maintained;
- (ii) Property land use shall be restricted to non-residential use; and
- (iii) Onsite groundwater use shall be restricted to non-potable purposes.

6. **Notice of Limitations in Future Conveyances.** Each instrument hereafter conveying any interest in the Property subject to this Environmental Covenant shall contain a notice of the activity and use limitations set forth in this Environmental Covenant and shall provide the recorded location of this Environmental Covenant.

7. **Compliance Reporting.** By the end of July, annually beginning in 2020, following EPA's approval of this Environmental Covenant, the then current owner of the Property shall submit to the EPA and any Holder listed in Paragraph 3, written documentation stating whether or not the activity and use limitations in this Environmental Covenant are being abided by. In addition, within 21 days after a) written request by EPA, b) transfer of title of the Property or of any part of the Property affected by this Environmental Covenant, c) noncompliance with paragraph 5 (Activity and Use Limitations), d) an application for a permit or other approval for any building or site work that could affect contamination on any part of the Property, the then current owner will send a report to the EPA and any Holder. The report will state whether or not there is compliance with paragraph 5. If there is noncompliance, the report will state the actions that will be taken to assure compliance.

8. **Access by EPA and the Pennsylvania Department Environmental Protection (PADEP).** In addition to any rights already possessed by EPA and PADEP, this Environmental Covenant grants to EPA and PADEP a right of reasonable access of the Property in connection with implementation or enforcement of this Environmental Covenant.

9. **Recording and Notification of Recording.** Within 30 days after the date that EPA approves this Environmental Covenant, the Congoleum shall file this Environmental Covenant with the Recorder of Deeds for Delaware County, and send a file-stamped copy of this Environmental Covenant to EPA within 90 days of EPA's approval of this Environmental

Covenant. Within 90 days after this Environmental Covenant has been filed with the Recorder of Deeds for each County in which the Property is located, the Congoleum shall send a file-stamped copy to each of the following: Trainer Borough; Delaware County; the EPA, any Holder listed in paragraph 3.

10. **Termination or Modification.**

(a) This Environmental Covenant runs with the land unless terminated or modified in accordance with 27 Pa. C.S. § 6509 or 6510, or in accordance with paragraph 10.(b). The then current owner of the Property shall provide EPA written notice of the pendency of any proceeding that could lead to a foreclosure, as referred to in 27 Pa. C.S. § 6509(a)(4), within seven calendar days of the owner's receiving notice of the pendency of such proceeding.

(b) This Environmental Covenant may be amended or terminated as to any portion of the Property that is acquired for use as state highway right-of-way by the Commonwealth of Pennsylvania provided that: (1) EPA waives the requirements for an environmental covenant and for conversion pursuant to 27 Pa. C.S. § 6517 to the same extent that this Environmental Covenant is amended or terminated; (2) EPA determines that termination or modification of this Environmental Covenant will not adversely affect human health or the environment; and (3) EPA provides 30-days advance written notice to the current property owner, each holder, and as practicable, each person that originally signed the Environmental Covenant or successors in interest to such persons.

(c) This Environmental Covenant shall terminate upon attainment, in accordance with 35 P.S. §§ 6026.101-6026.908, with an unrestricted use remediation standard for the above-described contamination at the Property. EPA must approve, in writing, of such termination.

(d) In accordance with 27 Pa. C.S. § 6510(a)(3)(i), Grantor hereby waives the right to consent to any amendment or termination of the Environmental Covenant by consent; it being intended that any amendment to or termination of this Environmental Covenant by consent in accordance with this Paragraph requires only the following signatures on the instrument amending or terminating this Environmental Covenant: (i) the Holder at the time of such amendment or termination; (ii) the then current owner of the Property; and (iii) EPA.

11. **Notification and Enforcement to PADEP**

(a) **Notification.** The then current owner shall provide PADEP written notice of:

- (1) the pendency of any proceeding that could lead to a foreclosure as referred to in 27 Pa. C.S. § 6509(a)(4), within seven calendar days of the owner's receiving notice of the pendency of such proceeding;
- (2) any judicial action referred to in 27 Pa. C.S. § 6509(a)(5), within seven calendar days of the owner's receiving notice of such judicial action;
- (3) any judicial action referred to in 27 Pa. C.S. § 6509(b), within seven calendar days of the owner's receiving notice of such judicial action; and

(4) termination or amendment of this Environmental Covenant pursuant to 27 Pa. C.S. § 6510, within seven calendar days of the owner's becoming aware of such termination or amendment.

(b) Enforcement. A civil action for injunctive or other equitable relief for violating this Environmental Covenant may be maintained by the EPA.

12. Agency's address. Communications with the EPA regarding this Environmental Covenant shall be sent to: Khai M. Dao, EPA Project Manager, USEPA, 1650 Arch Street, Mailcode: 3LD20, Philadelphia, PA 19103

13. Severability. The paragraphs of this Environmental Covenant shall be severable and should any part hereof be declared invalid or unenforceable, the remainder shall continue in full force and effect between the parties.

ACKNOWLEDGMENTS [by Owner(s) and any Holder(s), in the following form:

Date: Congoleum Corporation, Grantor/Grantee
By: Chris O'Connor
Name: Chris O'Connor
Title: CEO

COMMONWEALTH OF PENNSYLVANIA) [other state, if executed outside PA]
)
COUNTY OF Mercer NJ) SS:

On this 9th day of January, 2020, before me, the undersigned officer, personally appeared Chris O'Connor [Owner, Grantor] who acknowledged himself/herself to be the person whose name is subscribed to this Environmental Covenant, and acknowledged that s/he executed same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

Rebecca Lynn Simms
Notary Public

REBECCA LYN SIMMS
Commission # 2333441
Notary Public, State of New Jersey
My Commission Expires
September 03, 2020



Exhibit A
Description of Property

Exhibit A

CONGOLEUM CORPORATION

HISTORIC LEGAL DESCRIPTION

ALL THAT CERTAIN lot or piece of ground with the buildings and improvements erected thereon SITUATE partly in the Borough of Trainer and partly in the Township of Lower Chichester, County of Delaware and Commonwealth of Pennsylvania, bounded and described as follows to wit:

BEGINNING at a monument set at the intersection of the Southeasterly side of Ridge Avenue (61.5 feet wide) with the Northeasterly side of Yates Avenue (41 feet wide); thence along said side of Ridge Avenue the four (4) following courses and distances: (1) North 60 degrees 10 minutes 09 seconds East, 200.00 feet to a monument, (2) North 59 degrees 45 minutes 19 seconds East, 951.55 feet to a point of curve, (3) along the arc of a curve to the right having a radius of 5,698.93 feet, the arc distance of 137.59 feet to a point of tangency, and (4) North 61 degrees 08 minutes 19 seconds East, 880.13 feet to a monument set at the corner of property now or formerly of N.Z. Graves, Inc.; thence along said property of N.Z. Graves, Inc., South 30 degrees 04 minutes 56 seconds East, 612.69 feet to a monument; thence along the same North 59 degrees 41 minutes 19 seconds East, 5.75 feet to a monument set at the corner of lands now or formerly of the P.B. and W.R.R. Co.; thence along said lands of the P.B. and W.R.R. Co. South 30 degrees 18 minutes 41 seconds East, 302.00 feet to a monument set on the Northwesterly right-of-way line of said P.B. and W.R.R. Co., at the corner of lands now or formerly of Congoleum-Nairn, Inc.; thence along said right-of-way line the three (3) following courses and distances: (1) South 59 degrees 41 minutes 19 seconds West, 938.48 feet to a monument, (2) South 49 degrees 36 minutes 36 seconds West, 200.00 feet to a monument, and (3) South 59 degrees 41 minutes 19 seconds West, 1,282.47 feet to an iron post at the corner of lands now or formerly of Houdry Process Corporation; thence along said lands of the Houdry Process Corporation and along the Northeasterly side of Spring Street (35 feet wide, unopened) North 29 degrees 47 minutes 21 seconds West, 642.13 feet to a monument set at the Southeasterly corner of Spring Street and Ormond Street (46 feet wide); thence along said side of Ormond Street, North 60 degrees 10 minutes 19 seconds East, 238.62 feet to a monument set at the Southeasterly terminus of the Northeasterly side of Yates Avenue; thence along said side of Yates Avenue North 30 degrees 09 minutes 26 seconds West, 336.00 feet to the first mentioned point and place of beginning.

CONTAINING 50.996 acres of land, more or less; 3.015 acres of which is situate in the Township of Lower Chichester, and 47.981 acres of which is situate in the Borough of Trainer.

NOTE: Being Parcel No. 46-00-00482-00 and 08-00-01290-00 of the City of Trainer, County of Delaware.

AND BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

AS-SURVEYED LEGAL DESCRIPTION:

All that certain lot or parcel of ground situate in the Borough of Trainer, County of Delaware, Commonwealth of Pennsylvania, bounded and described as follows:

Beginning at a point located on the South right-of-way line of Ridge Avenue, said point being situate at the intersection of the East right-of-way line of Yates Avenue with the aforementioned South right-of-way line of Ridge Avenue; THENCE FROM THE PLACE OF BEGINNING along the aforementioned South right-of-way line of Ridge Avenue, North sixty degrees ten minutes and nine seconds East (N 60°10'09" E) for a distance of two hundred and no hundredths feet (200.00') to a point; thence further along the same, North fifty-nine degrees forty-five minutes and nineteen seconds East (N 59°45'19" E) for a distance of nine hundred fifty-one and fifty-five hundredths feet (951.55') to a point; thence still further along the same, around a curve having an angle of one degree twenty-three minutes and eight seconds (1°23'08"), a radius of five thousand six hundred ninety-eight and ninety-three hundredths feet (5,698.93'), a tangent of sixty-eight and ninety-one hundredths feet (68.91'), an arc of one hundred thirty-seven and eighty-two hundredths feet (137.82'), for a chord course of North sixty degrees fourteen minutes and fifty-seven seconds East (N 60°14'57" E) for a chord distance of one hundred thirty-seven and eighty-one hundredths feet (137.81') to a point; thence still further along the same, North sixty-one degrees eight minutes and nineteen seconds East (N 61°08'19" E) for a distance of eight hundred eighty and thirteen hundredths feet (880.13') to a point; thence, South thirty degrees four minutes and fifty-six seconds East (S 30°04'56" E) for a distance of six hundred twelve and sixty-nine hundredths feet (612.69') to a point; thence, North fifty-nine degrees forty-one minutes and nineteen seconds East (N 59°41'19" E) for a distance of five and seventy-five hundredths feet (5.75') to a point; thence, South thirty degrees eighteen minutes and forty-one seconds East (S 30°18'41" E) for a distance of three hundred two and no hundredths feet (302.00') to a point; thence, South fifty-nine degrees forty-one minutes and nineteen seconds West (S 59°41'19" W) for a distance of nine hundred thirty-eight and forty-eight hundredths feet (938.48') to a point; thence, South forty-nine degrees thirty-six minutes and thirty-six seconds West (S 49°36'36" W) for a distance of two hundred and no hundredths feet (200.00') to a point; thence, South fifty-nine degrees forty-one minutes and nineteen seconds West (S 59°41'19" W) for a distance of one thousand two hundred eighty-two and forty-seven hundredths feet (1,282.47') to a point; thence along the East right-of-way line of Spring Street, North twenty-nine degrees forty-seven minutes and twenty-one seconds West (N 29°47'21" W) for a distance of six hundred forty-two and thirteen hundredths feet (642.13') to a point; thence along the South right-of-way line of Ormond Street, North sixty degrees ten minutes and nineteen seconds East (N 60°10'19" E) for a distance of two hundred thirty-eight and sixty-two hundredths feet (238.62') to a point; thence along the aforementioned East right-of-way line of Yates Avenue, North thirty degrees nine minutes and twenty-six seconds West (N 30°09'26" W) for a distance of three hundred thirty-six and no hundredths feet (336.00') to the place of beginning.

Containing 2,220,817.01 Square Feet (50.983 Acres).

The property described and shown hereon is the same property described in Commonwealth Land Title Insurance Company title commitment no. MTAPA-053599A dated May 13, 2009.

Exhibit B
Map of Property

Property Boundary Coordinates (WGS84)		
Id	Latitude	Longitude
1	39.82583822	-75.41755634
2	39.82610705	-75.41693548
3	39.82740244	-75.41399361
4	39.8275872	-75.41356545
5	39.82873429	-75.41080755
6	39.82727135	-75.40973125
7	39.8272792	-75.40971349
8	39.82655974	-75.40917925
9	39.82527967	-75.41207884
10	39.82492769	-75.41262531
11	39.82317827	-75.4165875
12	39.82471586	-75.41770542
13	39.82503657	-75.41696468

Landfill Boundary Coordinates (WGS84)		
ID	Latitude	Longitude
A	39.82784973	-75.41177021
B	39.82664537	-75.41091377
C	39.82645625	-75.41135579
D	39.82766149	-75.41221183

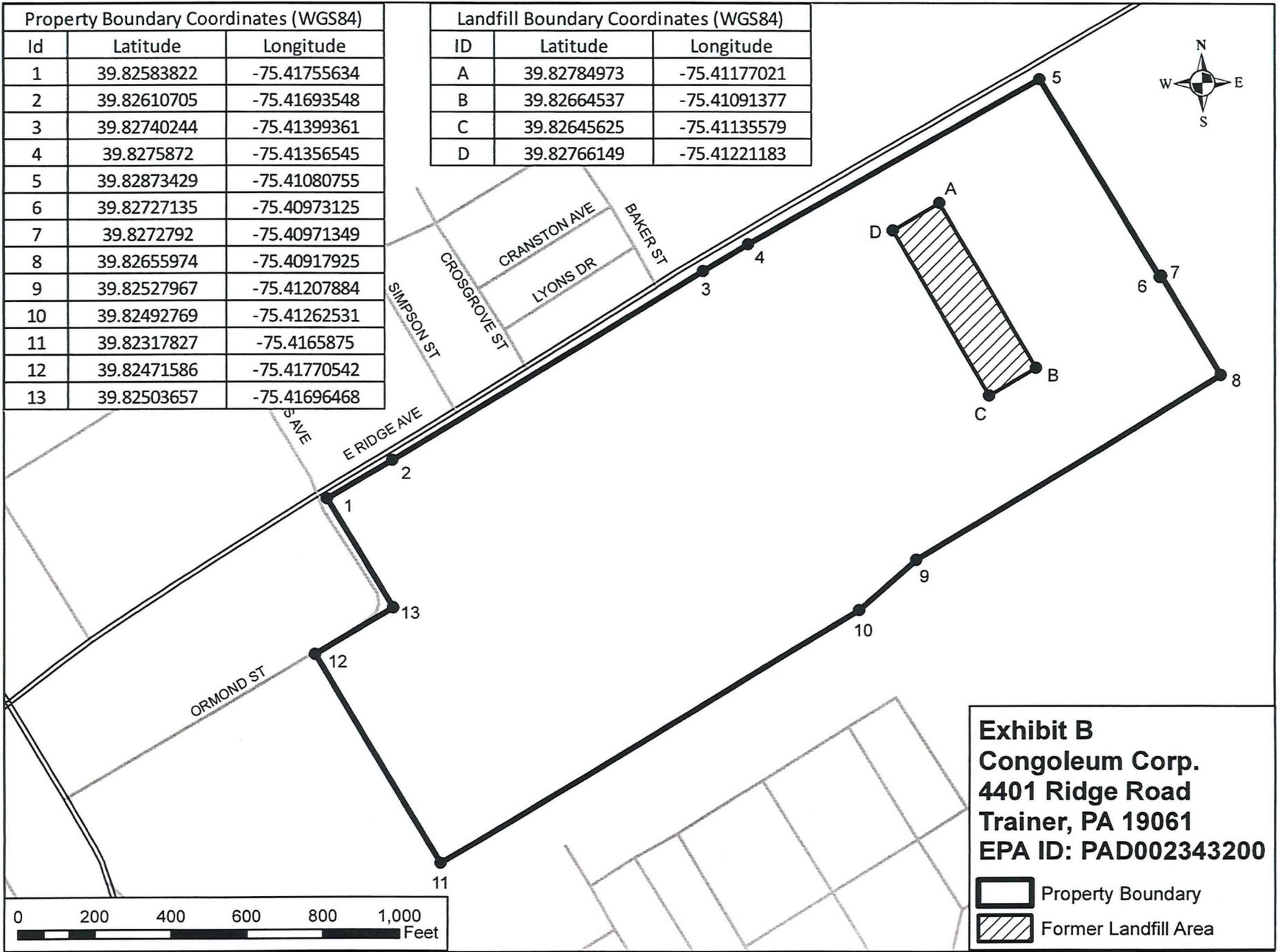


Exhibit B
Congoleum Corp.
4401 Ridge Road
Trainer, PA 19061
EPA ID: PAD002343200

 Property Boundary
 Former Landfill Area