Ontario

AMENDED ENVIRONMENTAL COMPLIANCE APPROVAL
NUMBER 9842-97ZJTU
Issue Date: October 18, 2022

Canadian National Railway Company
935 de la Gauchetière St W
Post Office Box, No. 8100
Montreal, Quebec
H3B 2M9

Site Location: Modler Property
Lot Parts 1 & 2, Part of Lot 3, Concession 1
Leeds and the Thousand Islands Township, United Counties of Leeds and Grenville

You have applied under section 20.2 of Part II.1 of the Environmental Protection Act , R.S.O. 1990, c. E. 19 (Environmental Protection Act) for approval of:

a 2.03 hectare Waste Disposal Site within a 147.3 hectare total site area for the treatment of 2,300 tonnes of non-hazardous waste soil impacted with polycyclic aromatic hydrocarbons (PAHs).

For the purpose of this environmental compliance approval, the following definitions apply:

"Approval" means this Environmental Compliance Approval and any Schedules to it, including the application and supporting documentation listed in Schedule "A";
"Company" means the Canadian National Railway Company, and includes its officers, employees, agents and contractors;
"Director" means any Ministry employee appointed in writing by the Minister pursuant to section 5 of the EPA as a Director for the purposes of Part II.1 of the EPA;
"District Manager" means the District Manager of the local district office of the Ministry in which the Site is geographically located;
"Excess Soil" has the same meaning as in Ontario Regulation 406/19 (On-Site and Excess Soil Management) made under the EPA;
"EPA" means the Environmental Protection Act, R.S.O. 1990, C.E-19, as amended;
"Ministry" means the Ontario Ministry of the Environment, Conservation and Parks;
"NMA" means Nutrient Management Act, 2002, S.O. 2002, c.4, as amended;
"Ontario Regulation 153/04" means Ontario Regulation 153/04, Record of Site Condition - Part XV.1 of the EPA, as amended;
"Ontario Regulation 406/19" means Ontario Regulation 406/19: ON-SITE AND EXCESS SOIL MANAGEMENT, made under the EPA, as amended;
"Regulation 347" means R.R.O. 1990, Regulation 347: GENERAL - WASTE

MANAGEMENT, made under the EPA, as amended;
"Operator" means any person, other than the Company's employees, authorized by the Company as having the charge, management or control of any aspect of the Site, and includes its successors or assigns;
"OWRA" means the Ontario Water Resources Act, R.S.O. 1990, c. O.40, as amended from time to time;
"Qualified Person" has the same meaning as in Ontario Regulation 153/04, as amended;
"PA" means the Pesticides Act, R.S.O. 1990, c. P.11, as amended from time to time;
"Processed soil" means PAH impacted soil which is undergoing or has undergone the process of landfarming at the Site;
"Provincial Officer" means any person designated in writing by the Minister as a provincial officer pursuant to Section 5 of the OWRA or Section 5 of the EPA or Section 17 of PA or Section 4 of NMA or Section 8 of SDWA;
"SDWA" means Safe Drinking Water Act, 2002, S.O. 2002, c.32, as amended;
"Site" means the waste management activity taking place on the 2.03 hectare Waste Disposal Site within the 147.3 hectare property area located at Modler Property, Part of Lots 1, 2 & 3, Concession 1, Geographic Township of Lansdowne, designated as parts 1 and 2 on Plan 28R-14304; Township of Leeds and the Thousand Islands, United Counties of Leeds and Grenville; and
"Trained personnel" means personnel trained in accordance with the training requirements stipulated in this Approval, resulting in being knowledgeable through instruction and/or practice.

You are hereby notified that this environmental compliance approval is issued to you subject to the terms and conditions outlined below:

TERMS AND CONDITIONS

1.0 Compliance

1.1 The Company shall ensure compliance with all the conditions of this Approval and shall ensure that any person authorized to carry out work on or operate any aspect of the Site is notified of this Approval and the conditions herein and shall take all reasonable measures to ensure any such person complies with the same.

1.2 Any person authorized to carry out work on or operate any aspect of the Site shall comply with the conditions of this Approval.

2.0 Build, etc. in Accordance

2.1 Except as otherwise provided by this Approval, the Company shall ensure that the Site is designed, developed, built, operated and maintained in accordance with the application for this Approval, dated June 26, 2012, signed by Alexandre Borges, CN Environment Officer, Canadian National Railway Company, plans, specifications and the supporting documentation listed in the attached Schedule “A”.

3.0 Interpretation

3.1 Where there is a conflict between a provision of any document, including the application referred to in this Approval and the conditions of this Approval, the conditions in this Approval shall take precedence.
3.2 Where there is a conflict between the application and a provision in any documents listed in Schedule "A", the application shall take precedence, unless it is clear that the purpose of the document was to amend the application and that the Ministry approved the amendment.
3.3 Where there is a conflict between any two documents listed in Schedule "A", other than the application, the document bearing the most recent date shall take precedence.
3.4 The requirements of this Approval are severable. If any requirement of this Approval, or the application of any requirement of this Approval to any circumstance, is held invalid or unenforceable, the application of such requirement to other circumstances and the remainder of this Approval shall not be affected thereby.

4.0 Other Legal Obligations

4.1 The issuance of, and compliance with the conditions of, this Approval does not:
(a) relieve any person of any obligation to comply with any provision of any applicable statute, regulation or other legal requirement; or
(b) limit in any way the authority of the Ministry to require certain steps be taken or to require the Company to furnish any further information related to compliance with this Approval.

5.0 Adverse Effects

5.1 The Site shall be constructed, operated and maintained in an environmentally safe manner which ensures the health and safety of all persons and minimizes adverse effects on the natural environment.
5.2 The Company shall take steps to minimize and ameliorate any adverse effect on the natural environment or impairment of water quality resulting from the Site, including such accelerated or additional monitoring as may be necessary to determine the nature and extent of the effect or impairment.
5.3 Despite the Company or any other person fulfilling any obligations imposed by this Approval the person remains responsible for any contravention of any other condition of this Approval or any applicable statute, regulation, or other legal requirement resulting from any act or omission that caused the adverse effect to the natural environment or impairment of water quality.

6.0 Change of Ownership

6.1 The Company shall notify the Director in writing, and forward a copy of the notification to the District Manager, within thirty (30) days of the occurrence of any changes:
(a) the ownership of this Approval;
(b) the Operator of the Site;
(c) the address of the Company;
(d) the partners, where the Company is or at any time becomes a partnership and a copy of the most recent declaration filed under the Business Names Act, R.S.O. 1990, c. B.17, as amended, shall be included in the notification;

(e) the name of the corporation where the Company is or at any time becomes a corporation, other than a municipal corporation, and a copy of the most current information filed under the Corporations Information Act, R.S.O. 1990, c. C.39, as amended, shall be included in the notification.

6.2 No portion of this Site shall be transferred or encumbered prior to or after closing of the Site unless the Director is notified in advance and sufficient financial assurance is deposited with the Ministry to ensure that these conditions will be carried out. In the event of any change in ownership of the Site, other than change to a successor municipality, the Company shall notify the successor of and provide the successor with a copy of this Approval, and the Company shall provide a copy of the notification to the District Manager and the Director.

7.0 Financial Assurance

7.1 The Company shall maintain financial assurance, as defined in Section 131 of the EPA, for the amount of $274,200.00. This financial assurance shall be in a form acceptable to the Director and shall provide sufficient funds for the analysis, transportation, Site clean-up, monitoring and disposal of all quantities of soil on the Site at any one time.

7.2 Commencing on March 31, 2027 and at intervals of five (5) years, the Company shall submit to the Director, a re-evaluation of the amount of financial assurance to implement the actions required under Condition 7.1. The re-evaluation shall include an assessment based on any new information relating to the environmental conditions of the Site and shall include the costs of additional monitoring and/or implementation of contingency plans required by the Director upon review of the closure plan and annual reports. The financial assurance must be submitted to the Director within ten (10) days of written acceptance of the re-evaluation by the Director.

7.3 The amount of financial assurance is subject to review at any time by the Director and may be amended at his/her discretion. If any financial assurance is scheduled to expire or notice is received, indicating financial assurance will not be renewed, and satisfactory methods have not been made to replace the financial assurance at least sixty (60) days before the financial assurance terminates, the financial assurance shall forthwith be replaced by cash.

8.0 Inspections

8.1 No person shall hinder or obstruct a Provincial Officer from carrying out any and all inspections authorized by the OWRA, the EPA, the PA, the SDWA or the NMA of any place to which this Approval relates, and without limiting the foregoing:

(a) to enter upon the premises where the approved processing is undertaken, or the location where the records required by the conditions of this Approval are kept;

(b) to have access to, inspect, and copy any records required to be kept by the conditions of this Approval;

(c) to inspect the Site, related equipment and appurtenances;

(d) to inspect the practices, procedures, or operations required by the conditions of this Approval; and

(e) to sample and monitor for the purposes of assessing compliance with the terms and conditions of this Approval or the EPA, the OWRA, the PA, the SDWA or the NMA.

9.0 Information and Record Retention

9.1 Any information requested by the Ministry, concerning the operation of the Site and its operation under this Approval including but not limited to any records required to be kept by this Approval, shall be either:

(a) kept at the Modler property where the Site is located, or

(b) kept in electronic form by the Company,

and shall be readily available to be provided to the Ministry upon request. Records shall be retained for a minimum of ten (10) years except as otherwise authorized in writing by the Director.

9.2 The receipt of any information by the Ministry or the failure of the Ministry to prosecute any person or to require any person to take any action, under this Approval or under any statute, regulation or other legal requirement, in relation to the information, shall not be construed as:

(a) an approval, waiver, or justification by the Ministry of any act or omission of any person that contravenes any term or condition of this Approval or any statute, regulation or other legal requirement; or

(b) acceptance by the Ministry of the information's completeness or accuracy.

9.3 The Company shall maintain a current copy of the Design and Operations Report at the Site to be made available to any Provincial Officer upon request.

10.0 Site Closure

10.1 The Company shall no longer conduct landfarming of the non-hazardous soil impacted with polycyclic aromatic hydrocarbons (PAHs) previously deposited on Site.

10.2 The Company shall initiate the closure of the Site in accordance with the Closure Plan amended to this Approval as Item 7 of Schedule "A".

10.3 The Company shall initiate the Ministry's Pre-Submission Form process required under Ontario Regulation 153/04 within sixty (60) days of the issuance of this Approval.

11.0 Signage

11.1 The Company shall maintain a readable sign posted at the entrance to the Site stating the following information:

(a) name of the Company;

(b) this Approval number;

(c) the Company's telephone number to which complaints may be directed;

(d) twenty-four hour emergency telephone number (if different from above);

(e) a warning against unauthorized access; and

(f) a warning against dumping at the Site.

12.0 Compliance Testing of Processed Soil

12.1 Until completion of the site closure process, annual confirmatory soil sampling shall be undertaken at the Site. Samples shall be collected in accordance with the requirements stipulated in Schedule "B" of this Approval. Results and analytical interpretation of results shall be submitted to the District Manager in accordance with Condition 19.1.

12.2 All sampling / analytical documentation for the Processed Soil at the Site shall be undertaken by, or under the supervision of, a Qualified Person.

13.0 Soil Processing and End-Use of Processed Impacted Soil

13.1 No Processed Soil may leave the Site except to be deposited at a property or a site in accordance with one of the following criteria:

(a) to an approved waste disposal facility permitted to accept the Processed Soil under Part V of the EPA.

(b) a receiving site which has been assessed by a Qualified Person that confirms the receiving site has a fill management plan and that the soil quality is acceptable for the intended receiving site such that it will not cause an adverse effect to human health or the environment;

(c) sites in which site specific standards developed in a risk assessment as outlined in Ontario Regulation 153/04 has been completed, and which the Processed Soil meet.

13.2 (a) No Processed Soil may be used at the Site for agricultural purposes unless a Record of Site Condition allowing for Agricultural Use of the property has been filed in accordance with Section 168.3.1 of the EPA and Ontario Regulation 153/04.

(b) No Processed Soil may leave this Site for deposition at an "area of natural significance", as defined by Section 1 of Ontario Regulation 153/04 and/or used for agricultural use.

13.3 Any Processed Soil leaving the Site shall be managed in accordance with Regulation 347 and Ontario Regulation 406/19.

14.0 Complaints Procedure

14.1 If at any time, the Company receives complaints regarding the operation of the Site, the Company shall respond to these complaints according to the following procedure:

(a) record and number each complaint, either electronically or in a separate log book, and shall include the following information:

(i) the nature of the complaint;

(ii) if complaint is odour or nuisance related, the weather conditions and wind direction at the time of the complaint;

(iii) the name, address and the telephone number of the complainant (if provided);

(iv) the time and date of the complaint;

(b) The Company, upon notification of the complaint, shall initiate appropriate steps to determine all possible causes of the complaint. If the operation of this Site is determined to be the likely cause of the complaint, the Company shall proceed to take the necessary actions to eliminate the cause of the complaint and shall immediately notify the District Manager (or Spills Action Centre if after office hours) and forward a formal reply to the complainant.

(c) The Company shall complete and retain at the Site a report written within seven (7) days of the complaint date identifying the sources of the complaint, listing the actions taken to resolve the complaint and any recommendations for remedial measures, and managerial or operational changes to reasonably avoid the recurrence of similar incidents.

(d) The report required in condition 14.1 (c) above shall also be submitted to the District Manager within seven (7) days of the complaint date,

15.0 Spill Contingency and Emergency Response

15.1 (a) The Company shall take immediate measures to clean-up all spills, related discharges, bypass, and process upsets of wastes which result from the operation of the Site.

(b) All spills and upsets shall be immediately reported to the Ministry's Spills Action Centre at (416) 325-3000 or 1-800-268-6060 and shall be recorded in a written log or an electronic file format, as to the nature of the spill or upset, and the action taken for clean-up, correction and prevention of future occurrences.

15.2 (a) An up-to-date version of the Emergency Response Plan shall be kept at the Site at all times, in a central location available to all staff, and a copy shall be submitted to the District Manager. The Emergency Response Plan shall be reviewed on an annual basis and updated, if necessary. The revised version of the Emergency Response Plan shall be submitted to the District Manager for comments and concurrence.

(b) The Company shall ensure that the contingency equipment and materials outlined in the Emergency Response Plan are immediately available at the Site at all times, in a good state of repair, and fully operational.

(c) The Company shall ensure that all operating personnel are fully trained in the use of the contingency equipment and materials outlined in the Emergency Response Plan, and in the procedures to be employed in the event of an emergency.

16.0 Training

16.1 A training plan shall be developed and maintained for all employees that operate the Site. Only trained personnel may operate the Site or carry out any activity required under this Approval.

16.2 As a minimum, employees shall be trained with respect to the following areas:

(a) terms and conditions requirements of this Approval;

(b) use and operation of equipment and management of the Site;

(c) operating, monitoring and inspection procedures;

(d) any environmental concerns pertaining to the waste to be handled;

(e) occupational health and safety concerns pertaining to the waste to be handled;

(f) relevant waste management legislation, regulations, including, but not limited to the EPA and Regulation 347;

(g) operation of equipment and procedures to be followed in the event of an emergency situation;

(h) specific written procedures for the control of adverse effect conditions.

17.0 Site Inspection

17.1 (a) An inspection of the entire Site and all equipment on the Site shall be conducted each day the Site is visited by Company personnel to ensure that:

(i) the Site is secure;

(ii) the operation of the Site is not causing any adverse effects on the environment; and

(iii) the Site is being operated in compliance with this Approval.

(b) Any deficiencies discovered as a result of the inspection shall be remedied immediately, including temporarily ceasing operations at the Site if needed.
(c) The Company shall ensure the Site inspections are carried out only by trained personnel.

18.0 Record Keeping

18.1 A record of the inspections required by Condition 17.1 shall be kept in a log book or in an electronic file that includes the following information:
(a) the name and signature of person that conducted the inspection;
(b) the date, time and frequency of the inspections;
(c) a list of any deficiencies discovered;
(d) any recommendations for remedial actions; and
(e) the date, time and description of actions taken.

18.2 The Company shall maintain at the Site, a daily log or an electronic file of the information related to the operations at the Site. As a minimum, the following information shall be collected and recorded:
(a) records of the type, frequency, quantities and of the source(s) and of additives at the Site;
(b) observations on the status of the landfarming on a quarterly basis;
(c) any spills or upsets as noted in Condition 15.1; and
(d) results of the inspections required under Condition 17.1, including the name and signature of the person conducting the inspection.
(e) records on the inspection and maintenance of the equipment; and
(f) records of end use of processed soil.

19.0 Annual Report

19.1 By March 31st of each year, the Company shall prepare and submit to the District Manager an annual report covering the previous calendar year. Each report shall include, as a minimum, the following information:
(a) a progress and status report on the closure of the Site, as per the schedule outlined in the Closure Plan amended to item 7 of Schedule "A";
(b) all analytical results and interpretation of analytical results undertaken by a Qualified Person;
(c) any environmental and operational problems, that could negatively impact the environment, encountered during the operation of the Site and during the facility inspections;
(d) any mitigative actions taken during the course of the previous calendar year;
(e) a summary of any complaints received and actions taken to resolve the complaints; and
(f) a statement as to compliance with all Conditions of this Approval and with the inspection and reporting requirements of the Conditions herein.

Schedule "A"

This Schedule "A" forms part of Environmental Compliance Approval No. 9842-97ZJTU.

1. Application for a Waste Disposal Site dated June 26, 2012 from Canadian National

Railway, Modler property - Land Farming Soil Remediation, submitted by Scott Reid, Conestoga-Rovers & Associates, including supporting documentation.
2. Letter dated August 31, 2012 from Scott Reid, Conestoga-Rovers & Associates, to Andrea Solis, Application Assessment Officer, Ministry of the Environment, re: Response to Comments, Application for Approval of Waste Disposal Site, MOE Reference Number 7103-8VXL4C.
3. Letter dated September 4, 2012 from Scott Reid, Conestoga-Rovers & Associates, to Andrea Solis, Application Assessment Officer, Ministry of the Environment, re: Response to Comments, Application for Approval of Waste Disposal Site, MOE Reference Number 7103-8VXL4C.
4. Memorandum dated March 11, 2013 from Scott Reid, Alan F. Weston and Sophia Dore, Conestoga-Rovers & Associates to Lucie Guichelaar, Ministry of the Environment, re: Treatability Study for Treatment of Low Level PAHs in Soils, Modler Property, Leeds and the Thousand Islands Township, Ontario.
5. Memorandum dated July 10, 2013 from Scott Reid and Ryan Sheppard, Conestoga-Rovers & Associates to Lucie Guichelaar, Ministry of the Environment, re: Operations Plan - Modler Property.
6. Application to amend Environmental Compliance Approval No. 9842-97ZJTU for a Waste Disposal Site dated October 30, 2014 and all accompanying documentation.
7. Report dated April 6, 2022, entitled "Closure Plan ECA No. 9842-97ZJTU, Land Farming Soil Remediation, Township of Leeds and the Thousand Islands, Ontario" prepared and signed by Matthew Crandles, P. Eng. Project Manager, GHD, and William Ames, P. Eng., Principal, GHD including all attached figures, appendices and drawings.

Schedule "B"

This Schedule "B" forms part of Environmental Compliance Approval No. 9842-97ZJTU.

Processing Soil Testing Requirements

No. of samples	***Type of analyses***
1 discrete sample for each 100 m^3	· polycyclic aromatic hydrocarbons

The reasons for the imposition of these terms and conditions are as follows:

Conditions 1.1 and 1.2 are included to ensure that the Company notifies any person it authorizes to carry out work pursuant to this Approval about the existence of this Approval.
Condition 2.1 is included to ensure that the Site is constructed and the process operated in the manner in which was described for the review and upon which approval was granted.
Conditions 3.1 to 3.4 are included to clarify how to interpret this Approval in relation to the application and supporting documentation submitted by the Owner.
Conditions 4.1 to 5.3 are included to clarify the legal obligations of the Company, and to

ensure the Site is operated in an environmentally safe manner.
Conditions 6.1 is included to ensure that the Ministry records are kept accurate and current with respect to the Site.
The reason for Condition 6.2 is to restrict potential transfer or encumbrance of the Site without the approval of the Director. Any transfer of encumbrance can be made only on the basis that it will not endanger compliance with this Approval.
Conditions 7.1 to 7.4 are included to ensure that, should the Company be unable or unwilling to clean up the Site, that the Ministry has sufficient funds available to do so.
Condition 8.1 is included to ensure that the Ministry has access to the Site for assessing compliance with this Approval, and applicable acts and regulations.
Conditions 9.1 and 9.2 are included to ensure that records are kept for Ministry review, to confirm compliance with this Approval, applicable acts and regulations.
The reasons for Conditions 10.1 and 10.2 are to ensure the Site is no longer conducting landfarming operations at the Site and to ensure that the Site is closed in a manner which is protective of the health and safety of the environment and public and not in a manner which the Director has not been asked to consider.
The reason for Condition 10.3 is to ensure that Site Closure is conducted in a timely manner and in accordance with the process detailed in the Closure Plan and with Ontario Regulation 153/04.
Condition 11.1 is included to ensure that the public have the information on how to report any issues regarding the Site.
Condition 12.1 is included to clarify the minimum required testing frequency and parameters to be tested.
Conditions 13.1 and 13.2 are included to specify how the soil may be managed and where the soils may be taken to after processing.
Condition 14.1 is included to ensure that a procedure is in-place to record and respond to possible issues regarding the operation of the Site.
Conditions 15.1 and 15.2 are included to ensure that a response procedure is established and followed, and the Ministry is informed of any unintended spill, release or discharge from the Site.
Conditions 16.1 and 16.2 are included to ensure that persons operating or working at the Site have adequate training.
Condition 17.1 is included to ensure that regular inspections are done at the Site, to ensure that the conditions of this Approval are met, and that the Site does not cause an adverse effect
Condition 18.1 and 18.2 are included to ensure that information regarding Site operations is available to the Ministry for review, and to ensure compliance with this Approval.
Condition 19.1 is included to ensure information is provided to the Ministry regarding site operations. Monitoring information and interpretation is needed to ensure the site is not causing an adverse effect.

Upon issuance of the environmental compliance approval, I hereby revoke

Approval No(s). 9842-97ZJTU issued on February 27, 2021

In accordance with Section 139 of the *Environmental Protection Act,* you may by written notice served upon me and the Ontario Land Tribunal within 15 days after receipt of this notice, require a hearing by the Tribunal. Section 142 of the *Environmental Protection Act* provides that the notice requiring the hearing ("the Notice") shall state:

a. The portions of the environmental compliance approval or each term or condition in the environmental compliance approval in respect of which the hearing is required, and;
b. The grounds on which you intend to rely at the hearing in relation to each portion appealed.

Pursuant to subsection 139(3) of the *Environmental Protection Act,* a hearing may not be required with respect to any terms and conditions in this environmental compliance approval, if the terms and conditions are substantially the same as those contained in an approval that is amended or revoked by this environmental compliance approval.

The Notice should also include:

1. The name of the appellant;
2. The address of the appellant;
3. The environmental compliance approval number;
4. The date of the environmental compliance approval;
5. The name of the Director, and;
6. The municipality or municipalities within which the project is to be engaged in.

And the Notice should be signed and dated by the appellant.

This Notice must be served upon:

Registrar* Ontario Land Tribunal 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5 OLT.Registrar@ontario.ca	and	The Director appointed for the purposes of Part II.1 of the *Environmental Protection Act* Ministry of the Environment, Conservation and Parks 135 St. Clair Avenue West, 1st Floor Toronto, Ontario M4V 1P5

*** Further information on the Ontario Land Tribunal's requirements for an appeal can be obtained directly from the Tribunal at: Tel: (416) 212-6349 or 1 (866) 448-2248, or** www.oltt.gov.on.ca

The above noted activity is approved under s.20.3 of Part II.1 of the *Environmental Protection Act.*

DATED AT TORONTO this 18th day of October, 2022

Mohsen Keyvani, P.Eng.
Director
appointed for the purposes of Part II.1 of the
Environmental Protection Act

DL/
c: District Manager, MECP Kingston - District
Matthew Crandles, GHD