

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Remedial Bureau E  
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July 12, 2017

Mr. Michael Ford, P.E.  
Corning Incorporated  
HP-ME-03-83  
Corning, New York 14831

RE: **Study Area – Operable Unit 03  
Site ID No. 851046, Corning (C), Steuben County  
Decision Document**

Dear Mr. Ford:

The New York State Department of Environmental Conservation (Department) and the New York State Department of Health (NYSDOH) have reviewed the Focused Feasibility Study and Alternatives Analysis Report (FSS/AAR) for the schools and public use portions of the Study Area Site - Operable Unit 03, dated February 2017 and prepared by Weston Solutions, Inc., on behalf of Corning Incorporated.

Enclosed is a copy of the Department's Decision Document and Responsiveness Summary for the site. The remedy is to be implemented in accordance with this Decision Document. Please ensure that a copy of the Decision Document and Responsiveness Summary are placed in the document repository.

Please contact the Department's Project Manager, Kelly Cloyd at (585) 226-5351 or [kelly.cloyd@dec.ny.gov](mailto:kelly.cloyd@dec.ny.gov) at your earliest convenience to discuss next steps.

Sincerely,



Michael J. Cruden, P.E.  
Director  
Remedial Bureau E  
Division of Environmental Remediation

Enclosure

ec: R. Schick/M. Ryan, DER  
K. Cloyd/B. Schilling, Region 8  
B. Conlon, OGC  
J. Deming/M. Doroski, NYSDOH  
K. Douglas, Corning Incorporated



Department of  
Environmental  
Conservation

# DECISION DOCUMENT

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**Study Area**  
**Operable Unit (OU) 3**  
**Corning, Steuben County, New York**  
**Site ID No. 851046**  
**July 2017**



**Department of  
Environmental  
Conservation**

Prepared by  
Division of Environmental Remediation  
New York State Department of Environmental Conservation

# **DECLARATION STATEMENT - DECISION DOCUMENT**

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**Study Area**  
**Operable Unit (OU) 3**  
**Corning, Steuben County, New York**  
**Site ID No. 851046**  
**July 2017**

## **Statement of Purpose and Basis**

This document presents the remedy for the Study Area, site number 851046. The remedial program was chosen in accordance with the New York State Environmental Conservation Law and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR) Part 375.

This decision is based on the Administrative Record of the New York State Department of Environmental Conservation (the Department) for the Study Area and the public's input to the proposed remedy presented by the Department.

## **Description of Selected Remedy**

The elements of the selected remedy are:

1. Remedial Design - A remedial design program will be implemented to provide the details necessary for the construction, operation, optimization, maintenance, and monitoring of the remedial program. The remedial design program will include:
  - Design-Phase Investigation - A design-phase investigation will be conducted at the Corning Painted Post High School to determine if the existing one foot cover meets restricted residential SCOs. In the event this investigation determines that the existing one foot cover does not meet restricted residential SCOs, additional remedial work will be required.
  - Green remediation principles and techniques will be implemented to the extent feasible in the design, implementation, and site management of the remedy as per DER-31.
2. Excavation and off-site disposal - contaminated soils in the top two feet from Corning Christian Academy and Memorial Stadium which exceed restricted residential soil cleanup objectives (as defined by 6 NYCRR Part 375-6.8) and target fill in accordance with Commissioner Policy CP-51 Section G will both be excavated and disposed at a facility permitted to accept the material. Contaminated soils in the top one foot from Corning Painted Post High School, which exceed restricted residential soil cleanup objectives (as defined by 6 NYCRR Part 375-6.8) and target fill in accordance with Commissioner Policy CP-51 Section G, will both be excavated and disposed at a facility permitted to accept the

material. An evaluation of all samples from an individual property will be performed, recognizing the heterogeneity of contamination and the uncertainty of sampling and analysis. The Department, in consultation with the NYSDOH, will exercise limited discretion when determining that remediation is complete and has generally achieved the remedial goals where some discrete samples may not achieve the established cleanup levels. This flexibility will be tied to exposure potential. Also, the Department, in consultation with the NYSDOH, may determine that remediation is complete for properties when (1) there are a large number of confirmatory samples; (2) the vast majority of confirmation samples indicate that the soil cleanup levels for the site have been achieved; and (3) those that do not achieve the SCO exceed it only by a small amount. This determination will also accommodate property owner concerns related to preservation of their property with respect to specific features such as mature trees, or other features of significance to the property owner where possible. Where the soil cover is required, it will be as described in paragraphs 4 and 5 below, meeting the SCOs for cover material as set forth in 6 NYCRR Part 375-6.7(d) for restricted residential use.

3. Restoration of Excavated Areas - All areas where soil is excavated will be restored in accordance with the restoration requirements set forth in the approved remedial design, and will:
  - a. be backfilled with clean fill soil and top soil as appropriate which meets the requirements of 6NYCRR 375-6.8 to establish the grades approved in the remedial design. Grass covered areas will be restored by seeding or placement of sod. Trees will be replaced at the discretion of the property owner and if any areas are determined to be wildlife habitat they will be appropriately restored to allow this use; and
  - b. replace landscaping features such as sidewalks, driveways, and other property-specific features in kind (and consistent with local building codes) where removal is required to implement the remedy. The need for removal of any property-specific features will be determined during the design of the remediation phase in consultation with the affected property owners; and
  - c. restore publicly owned property and infrastructure if it is shown to have been damaged by remedial activities. Any affected property shall be replaced in accordance with local building codes and standard industry practices.
  
4. Cover System, Corning Christian Academy and Memorial Stadium - A cover will be required to allow for restricted residential use of the property. The cover will consist of either the existing structures such as buildings, pavement, sidewalks comprising the development or a soil cover in areas where the top two feet of exposed surface soil exceed the applicable soil cleanup objectives (SCOs) or target fill exists. The soil cover will be placed over a demarcation layer, with the upper six inches of soil having sufficient quality to maintain a vegetation layer. In the event the use of the property(ies) change(s), a cover thickness appropriate for that new use will be required. Any fill material brought to the property(ies) will meet the requirements for the identified land use as set forth in 6 NYCRR Part 375-6.7(d).

5. Cover System, Corning Painted Post High School - A one foot soil cover will be required consisting of either the existing structures such as buildings, pavement, sidewalks comprising the development or a soil cover in areas where the top one foot of exposed surface soil exceed the applicable soil cleanup objectives (SCOs) or target fill exists. The soil cover will be placed over a demarcation layer, with the upper six inches of soil having sufficient quality to maintain a vegetation layer. In the event the use of the property changes, a cover thickness appropriate for that new use will be required. Any fill material brought to the property will meet the requirements for the identified land use as set forth in 6 NYCRR Part 375-6.7(d).
6. Institutional Controls - Imposition of an institutional control in the form of environmental easements for the controlled properties which will:
  - require the remedial party or property owner to complete and submit to the Department a periodic certification of institutional and engineering controls in accordance with Part 375-1.8 (h)(3);
  - allow the use and development of the controlled property for restricted residential use as defined by Part 375-1.8(g), although land use is subject to local zoning laws; and
  - require compliance with the Department approved Site Management Plan. A Site Management Plan is required, which includes the following:
    - a. an Institutional and Engineering Control Plan that identifies all use restrictions and engineering controls for the area of concern and details the steps and media-specific requirements necessary to ensure the following institutional and/or engineering controls remain in place and effective:

Institutional Controls: requires Corning Incorporated to complete and submit to the Department a periodic certification of institutional and engineering controls in accordance with Part 375- 1.8(h)(3). Institutional controls also include voluntary agreements between Corning Incorporated and respective property owners for access and any other pertinent provisions to enable the installation and maintenance of cover systems, management of remaining contamination, excavation, inspections, sampling, and/or any other requisite activities.

Engineering Controls: The soil cover discussed in Paragraphs 4 and 5 above.

The Site Management Plan will include, but may not be limited to:

- an Excavation Plan which details the provisions for management of future excavations in areas of remaining contamination; and
- a provision for further investigation and remediation should large scale redevelopment occur or the use of the property(ies) change(s), if any of the existing structures are demolished, or if the subsurface is otherwise made accessible. The nature and extent of contamination in areas where access was previously limited or unavailable will be immediately and thoroughly investigated pursuant to a plan approved by the Department. Based on the investigation results and the Department's determination of the need for a

remedy, a Remedial Action Work Plan (RAWP), if required, will be developed for the final remedy for the site, including removal and/or treatment of any source areas to the extent feasible. Citizen Participation Plan (CPP) activities will continue through this process. Any necessary remediation will be completed prior to, or in association with, redevelopment; and

- a provision for further investigation and remediation, if necessary, to refine the nature and extent of contamination in areas where access was previously hindered or where future excavations are proposed at depths greater than that remediated under this proposed remedy as well as areas where unexpected fill containing ash brick or glass is encountered regardless of depth; and
- provisions for the management and inspection of the identified engineering controls, including within right-of-way areas (while usage of these areas is generally controlled by their right-of-way status, Corning Incorporated has committed to address potential exposures related to required maintenance or repairs to piping, culverts, *etc.* and the presence of remaining contamination including excavation, management and disposal in accordance with the intended use of the right-of-way area); and
- a provision maintaining access control and Department notifications; and
- a provision for tracking of property ownership changes to allow for continued communication with owners; and
- a provision for an annual reminder from Corning Incorporated to the Corning-Painted Post School District, Corning Christian Academy, and the City of Corning of the presence of remaining contamination, and of Corning Incorporated's commitment to address (including excavation, management, and disposal) remaining contaminated soils, as necessary and in accordance with the intended use of the property; and
- a provision for Corning Incorporated to send annual reminders to the City and Town of Corning Code Enforcement Offices and Departments of Planning and Economic Development to timely inform Corning Incorporated of any building permits or other approvals they grant for properties within the area addressed by this proposed decision document where contamination remains after the remedy is completed; and
- a provision for Corning Incorporated to send annual reminders to the Corning-Painted Post School District, Corning Christian Academy, and the City of Corning (Memorial Stadium) with a request to timely inform Corning Incorporated of any plans to conduct ground-intrusive work within the area addressed by this proposed decision document (*e.g.*, soil disturbance work); and
- the provisions necessary for the periodic reviews and certification of the institutional and/or engineering controls; and
- a provision for providing, in the event that the current use of the Corning Christian Academy, Corning Painted Post School District or Memorial Stadium property(ies) change(s), a cover thickness appropriate for that new use will be required. Any fill material brought to the property(ies) will meet the requirements for the identified land use as set forth in 6 NYCRR Part 375-6.7(d).

- b. A Monitoring Plan to assess the performance and effectiveness of the remedy. The plan will include, but may not be limited to:
- monitoring of groundwater to assess the performance and effectiveness of the remedy; and
  - a schedule of monitoring and frequency of submittals to the Department; and
  - an annual visual inspection of properties to ensure that the controls remain in place and effective.
7. Interim Site Management Plan - An Interim Site Management Plan (ISMP) is required during pre-design, design and remedial activities that is consistent with Paragraph 6 (above) for properties located in the area addressed by this Proposed Decision Document including rights of way and utility corridors. The ISMP is intended to address all soil management issues until the remedy is fully implemented and will terminate once all properties where access was granted are remediated and a Department approved SMP is in place.

### **Declaration**

The remedy conforms with promulgated standards and criteria that are directly applicable, or that are relevant and appropriate and takes into consideration Department guidance, as appropriate. The remedy is protective of public health and the environment.

**Michael J Cruden**

Digitally signed by Michael J Cruden  
DN: cn=Michael J Cruden, o=DER, ou=RBE,  
email=mjcruden@gw.dec.state.ny.us, c=US  
Date: 2017.07.10 10:57:08 -04'00'

Date

Michael Cruden, Director  
Remedial Bureau E



# DECISION DOCUMENT

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**Study Area**  
**Operable Unit (OU) 3**  
**Corning, Steuben County, New York**  
**Site No. 851046**  
**July 2017**

## **Statement of Purpose and Basis**

This Decision Document presents the remedy identified by the Department of Environmental Conservation (Department), in consultation with the Department of Health (NYSDOH), for Operable Unit 3 of the Study Area (the Site). This decision is based on the investigation and interim remedial measures implemented by Corning Incorporated pursuant to the 2014 Order on Consent (Index No. B8-0835-14-07).

## **CITIZEN PARTICIPATION**

The Department seeks input from the community on all remedies. A public comment period was held, during which the public was encouraged to submit comment on the proposed remedy. All comments on the remedy received during the comment period were considered by the Department in selecting a remedy for the site. Site-related reports and documents were made available for review by the public at the following document repositories:

NYSDEC – Region 8 Office  
6274 East Avon- Lima Rd.  
Avon, NY 14414  
M-F: 8:45am – 4:30pm  
Contact: Linda Vera for an appointment  
(585) 226 - 5324

Southeast Steuben County Library  
300 Nasser Civic Center Plaza  
Suite 101  
Corning, NY 14830  
phone: (607) 936-3713

In addition, the Department's project-specific website contains relevant information on this site, including many of the reports located in the repositories:  
<http://www.dec.ny.gov/chemical/97180.html>

## **Receive site-related Citizen Participation information by Email**

Please note that the Department's Division of Environmental Remediation (DER) is "going paperless" relative to citizen participation information. The ultimate goal is to distribute citizen participation information about contaminated sites electronically by way of county email listservs. Information will be distributed for all sites that are being investigated and cleaned up in a particular



county under the State Superfund Program, Environmental Restoration Program, Brownfield Cleanup Program, Voluntary Cleanup Program, and Resource Conservation and Recovery Act Program. We encourage the public to sign up for one or more county listservs at <http://www.dec.ny.gov/chemical/61092.html>

### **Description of the Site**

The site consists of approximately 201 acres, and it has been separated into five Operable Units (OUs). The Site was initially defined in the Order on Consent (Index No. B8-0835-14-07) with Corning Incorporated as the area bounded by Pyrex Street on the west, E. Pulteney Street on the north, Post Creek on the east, and the Chemung River on the south. The area has been expanded to include the area characterized by the Department as the “Expansion Area” (i.e., OU5). The five Operable Units (see descriptions below) are now collectively referred to as the “Study Area”. During the 2012 demolition of the former Kent Phillips School and improvements to the Corning-Painted Post High School (CPPHS), workers encountered fill containing ash, brick, or glass waste in layers which exceed one inch (“target fill”) during excavations. Department determined that the presence of the target fill material and the contaminant levels warranted additional investigation at the school property and at nearby properties within the Study Area. The Department asked Corning Incorporated to begin an investigation to further characterize the nature and extent of target fill within the study area. Subsequently, investigations were undertaken by Corning Incorporated and the Department, and fill containing ash, brick, or glass was found in other locations in the Study Area. Target fill has been identified that has concentrations of arsenic, cadmium, and lead exceeding restricted residential and/or commercial SCOs and may test as characteristic hazardous waste. The Operable Units are defined as follows:

- **OU1 - Residential Area:** The larger residential area including Houghton Park. It is bounded by school properties to the south, NYS Flood Control lands to the east, East Pulteney Street to the north, and Pyrex Street to the west. Remediation of this area will not be addressed within this PDD.
- **OU2 – Residential Area at the Eastern End of Corning Boulevard:** Remediation of this area will not be addressed within this PDD.
- **OU3 - School/Community Use Areas:** Properties owned by the Corning-Painted Post School District, Corning Christian Academy, and the City of Corning (Memorial Stadium).
- **OU4 - Flood Control Areas:** The southern and eastern most portions of the Study Area including flood control structures, levies, and adjacent portions of the Chemung River and Post Creek. Remediation of this area will not be addressed within this PDD.
- **OU5 - Off-Site Expansion Area:** The residential areas immediately to the north and west of the boundaries of OU1. The Expansion Area is further bounded by I-86 to the north, Centerway (NYS Route 414) to the west, and the Guthrie Medical Center property to the South. Remediation of this area will not be addressed within this PDD.

OU3 is the subject of this document. A Decision Document(s) will be issued separately for OUs 1, 2, 4, and 5.

### **Standards, Criteria, and Guidance (SCGs)**

The remedy must conform to promulgated standards and criteria that are directly applicable or that

are relevant and appropriate. The selection of a remedy must also take into consideration guidance, as appropriate. Standards, Criteria and Guidance are hereafter called SCGs.

### **Site Characterization Results**

The data have identified contaminants of concern. A "contaminant of concern" is a contaminant that is sufficiently present in frequency and concentration in the environment to require evaluation for remedial action. Not all contaminants identified within the Study Area are contaminants of concern. The nature and extent of contamination and environmental media requiring action are summarized below. The contaminants of concern identified at this site are a number of metals including lead, arsenic and cadmium, and semi-volatile organic compounds. The contaminant(s) of concern exceed the applicable SCGs for soil.

### **Nature and Extent of Contamination**

Soil and groundwater were analyzed for volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), metals, polychlorinated biphenyls (PCBs), and pesticides. Based upon investigations conducted to date, the primary contaminants of concern are lead, arsenic, cadmium and semi-volatile organic compounds.

Site characterization confirmed the disposal of significant quantities of target fill in various portions of the Study Area, including the Corning-Painted Post High School, Corning Christian Academy and Corning Memorial Stadium which comprise OU3.

Analytical results exceeded Toxicity Characteristic Leaching Procedure (TCLP) regulatory levels for lead in 9 of 87 samples (at concentrations up to 46 parts per million [ppm]) and for cadmium in 1 of 87 samples (at concentrations up to 1.1 ppm) in OU3.

Total concentrations of several metals and semi-volatile organic compounds (SVOCs) exceed the restricted residential use soil cleanup objectives (SCOs). Arsenic was detected in 44 of 242 samples at concentrations up to 530 ppm, barium was detected in 4 of 87 samples at concentrations up to 3,000 ppm, cadmium was detected in 23 of 242 samples at concentrations up to 420 ppm, and lead was detected in 34 of 242 samples at concentrations up to 5,870 ppm. Total SVOCs have been detected at a total concentration of 1,613 ppm. Approximately 22 percent of the soil excavated during construction work at CPP High School from 2012 through 2014 contained levels of lead and/or cadmium which characterized them as hazardous waste. As of the end of the 2014 construction season, excavation of fill material was largely complete, and approximately 8,332 tons had been disposed of as hazardous waste and 28,785 tons had been disposed of as non-hazardous waste.

Groundwater samples have been collected from seven groundwater monitoring wells installed on school and City property, the school's irrigation well (used to water athletic fields as needed in dry weather), and an adjacent public water supply well. Groundwater monitoring to date has not identified levels of the Study Area-related contaminants above groundwater standards. The area is served by public water and no other private water supplies are known to exist in this area.

## **Summary of Human Exposure Pathways**

This human exposure assessment identifies ways in which people may be exposed to site-related contaminants. Chemicals can enter the body through three major pathways (breathing, touching or swallowing). This is referred to as *exposure*.

People may contact contamination by digging or otherwise disturbing soils in areas of known soil contamination or in areas where visible fill containing ash, brick, or glass is present.

## **Summary of the Remediation Objectives**

The objectives for the remedial program have been established through the remedy selection process stated in 6 NYCRR Part 375. The goal for the remedial program is to restore the site to pre-disposal conditions to the extent feasible. At a minimum, the remedy shall eliminate or mitigate all significant threats to public health and the environment presented by the contamination identified at the site through the proper application of scientific and engineering principles.

The remedial action objectives for this site are:

### **Soil**

#### **RAOs for Public Health Protection**

- Prevent ingestion/direct contact with contaminated soil.
- Prevent inhalation of or exposure from contaminants in soil.

#### **RAOs for Environmental Protection**

- Prevent migration of contaminants that would result in groundwater or surface water contamination.

## **Basis for Selection**

The selected remedy is based on an evaluation of alternatives given the challenging circumstances of existing public use areas which were developed over former ash dumps. An unrestricted cleanup would necessitate extensive excavation, including some building demolition, and would be overly destructive to the existing public use properties. An unrestricted use remedy is not feasible or necessary to be protective of human health and the environment. The remedy will consist of excavation and removal of target fill and contaminated soil within the top two feet (one foot at the Corning Painted Post High School) to meet restricted residential SCO remedial goals. The criteria to which potential remedial alternatives are compared are defined in 6 NYCRR Part 375 and a consideration of these criteria is described below. The first two evaluation criteria are termed "threshold criteria" and must be satisfied in order for an alternative to be considered for selection.

1. Protection of Human Health and the Environment. This criterion is an overall evaluation of each alternative's ability to protect public health and the environment.

The selected remedy will satisfy this criterion by removing the target fill and contaminated soils in the top two feet which exceed restricted residential soil cleanup objectives (as defined by 6 NYCRR Part 375-6.8) from the impacted properties and properly disposing of them off-site. The selected remedy addresses the soil contamination near the surface, which is the most significant threat to human health and the environment. The selected remedy relies on a cover system, a site use restriction, and a Site Management Plan to protect public health and will also include a restriction on groundwater use on the site as a precautionary measure. The risks of uninformed large scale digging or construction operations is manageable through Institutional Controls. While removal to achieve unrestricted use removes the greatest amount of target fill and contaminated soils, this alternative would result in a significant impact to the community. The duration of a removal and increase in truck traffic to achieve unrestricted use would be substantial. The potential for vehicle and pedestrian accidents would be much higher for a removal to achieve unrestricted use because of the large number of trucks to be loaded and driven through surrounding neighborhoods during the remedial work. Dust control efforts would be significant during a removal to achieve unrestricted use since nearly all the target fill and contaminated soils with elevated concentrations of metals and semi-volatile organic compounds would be excavated. Overall, the selected remedy will be much less disruptive to the community while still achieving the goal of being protective of human health and the environment.

2. Compliance with New York State Standards, Criteria, and Guidance (SCGs). Compliance with SCGs addresses whether a remedy will meet environmental laws, regulations, and other standards and criteria. In addition, this criterion includes the consideration of guidance which the Department has determined to be applicable on a case-specific basis.

The remedy complies with SCGs to the extent practicable, while allowing for the continued existence of the established community. It complies with the restricted residential use soil cleanup objectives at the surface by removal of target fill and contaminated soils in the top two feet (one foot for Corning Painted Post High School) and through construction of a cover system to prevent contact with any contamination remaining below two feet.

The next six "primary balancing criteria" are used to compare the positive and negative aspects of each of the remedial strategies.

3. Long-term Effectiveness and Permanence. This criterion evaluates the long-term effectiveness of the remedial alternatives after implementation. If wastes or contamination remains on-site after the selected remedy has been implemented, the following items are evaluated: 1) the magnitude of the remaining risks, 2) the adequacy of the engineering and/or institutional controls intended to limit the risk, and 3) the reliability of these controls.

Long-term effectiveness is best accomplished by those alternatives involving excavation of the contaminated overburden soils. Removal of all of the chemical contamination would

remove the need for property use restrictions, but significantly alter the character of the existing neighborhood. The selected remedy provides for a cleanup that results in removal of all of the contamination from the top two feet (one foot for Corning Painted Post High School) to minimize the potential for exposure. The selected remedy also requires institutional controls, a cover system, and long-term site management. The selected remedy will also include a groundwater use restriction as a precautionary measure.

The institutional controls will ensure proper excavation of soils below two feet (one foot for Corning Painted Post High School) except for perhaps small excavations such as planting bushes or installing posts, which would not result in substantial potential risk if the excess soils were dispersed on the ground surface if no target fill is observed and the school or City employees observed common sense practices such as hand washing, etc.

4. Reduction of Toxicity, Mobility or Volume. Preference is given to alternatives that permanently and significantly reduce the toxicity, mobility, or volume of the wastes at the site.

The selected remedy, which includes limited excavation and off-site disposal, reduces the toxicity, mobility and volume of on-site waste by transferring the material to an approved off-site location. However, depending on the disposal facility, the volume of the material will not be reduced. Removal to achieve unrestricted use would require the excavation and disposal of a much larger volume of soil than the selected remedy.

5. Short-term Impacts and Effectiveness. The potential short-term adverse impacts of the remedial action upon the community, the workers, and the environment during the construction and/or implementation are evaluated. The length of time needed to achieve the remedial objectives is also estimated and compared against the other alternatives.

Removal to achieve unrestricted use and the selected remedy both have short-term impacts which could be controlled, however, the selected remedy will have the least impact due to the lower volume of soil to be removed and replaced, thereby limiting the impacts of noise, traffic and possible accidents as a result of the lower number of truck trips required to implement the selected remedy. The time needed to achieve the remediation goals is much shorter for the selected remedy and significantly longer for removal to achieve unrestricted use. Removal to achieve unrestricted use would involve significant impacts to the existing community in terms of both disruption and time.

6. Implementability. The technical and administrative feasibility of implementing each alternative are evaluated. Technical feasibility includes the difficulties associated with the construction of the remedy and the ability to monitor its effectiveness. For administrative feasibility, the availability of the necessary personnel and materials is evaluated along with potential difficulties in obtaining specific operating approvals, access for construction, institutional controls, and so forth.

The selected remedy is favorable in that it is readily implementable. Removal to achieve unrestricted use is marginally implementable, and the volume of soil excavated under this alternative will necessitate increased truck traffic on local roads for a longer period of time as well as significant disruption to the existing community. Removal to achieve unrestricted use and the selected remedy both have challenges with implementation such as obtaining access and coordinating activities with property owners and utilities. The selected remedy is more easily implemented than removal to achieve unrestricted use because the selected remedy removes a smaller volume of soil from each property.

7. Cost-Effectiveness. Capital costs and annual operation, maintenance, and monitoring costs are estimated for each alternative and compared on a present worth basis. Although cost-effectiveness is the last balancing criterion evaluated, where two or more alternatives have met the requirements of the other criteria, it can be used as the basis for the final decision.

The costs of the alternatives vary significantly. The selected remedy has a lower cost, but has on-going annual costs on-site associated with long-term maintenance of the cover system and other site management activities. However, once remediation is complete, annual site management costs are expected to be relatively low. Removal to achieve unrestricted use is much more expensive, but does not provide a proportional increase in protection.

8. Land Use. When cleanup to pre-disposal conditions is determined to be infeasible, the Department may consider the current, intended, and reasonable anticipated future land use of the site and its surroundings in the selection of the soil remedy.

Since the existing and anticipated use of the site is generally restricted residential, the selected remedy is less desirable because at least some contaminated soil remains on the property whereas removal to achieve unrestricted use removes all of the contaminated soil permanently. However, the remaining contamination with the selected remedy will be controllable with construction of a cover system, institutional controls, and implementation of a Site Management Plan.

The final criterion, Community Acceptance, is considered a "modifying criterion" and was taken into account after evaluating those above. It was evaluated after public comments on the Proposed Remedial Action Plan were received.

9. Community Acceptance. Concerns of the community regarding the investigation, the evaluation of alternatives, and the selected remedy was evaluated.

The remedy is being selected because, as described above, it satisfies the threshold criteria and provides the best balance of the balancing criteria. The selected remedy is protective of public health and the environment.

## **Description of the Remedy**

The remedy will be implemented within eighteen months of issuance of this decision document or other timeframe as the Department agrees upon in writing, otherwise the remedial decision may be re-evaluated in accordance with DER-2, Making Changes to Selected Remedies. The schedule shall provide for remedy implementation to commence within 60 days of Department's approval of the design document or other time frame as the Department agrees upon in writing.

The remedy will consist of excavation and removal of target fill to conform to Commissioner Policy CP-51 Section G and excavation and removal of soil within the top two feet to meet the restricted residential SCO remedial goals, with some flexibility to be employed by the Department and NYSDOH on a case-specific basis. This flexibility may allow for limited confirmation samples to exceed the SCO levels, based on concentration, the location and/or depth of the sample exceeding the SCO and the implementability of the removal, and exposure potential, while still achieving sufficient removal to assure a protective cleanup for which a no further action determination can be issued, with site management where appropriate.

The elements of the selected remedy are:

1. Remedial Design - A remedial design program will be implemented to provide the details necessary for the construction, operation, optimization, maintenance, and monitoring of the remedial program. The remedial design program will include:
  - Design-Phase Investigation - A design-phase investigation will be conducted at the Corning Painted Post High School to determine if the existing one foot cover meets restricted residential SCOs. In the event this investigation determines that the existing one foot cover does not meet restricted residential SCOs, additional remedial work will be required.
  - Green remediation principles and techniques will be implemented to the extent feasible in the design, implementation, and site management of the remedy as per DER-31.
2. Excavation and off-site disposal - contaminated soils in the top two feet from Corning Christian Academy and Memorial Stadium which exceed restricted residential soil cleanup objectives (as defined by 6 NYCRR Part 375-6.8) and target fill in accordance with Commissioner Policy CP-51 Section G will both be excavated and disposed at a facility permitted to accept the material. Contaminated soils in the top one foot from Corning Painted Post High School, which exceed restricted residential soil cleanup objectives (as defined by 6 NYCRR Part 375-6.8) and target fill in accordance with Commissioner Policy CP-51 Section G, will both be excavated and disposed at a facility permitted to accept the material. An evaluation of all samples from an individual property will be performed, recognizing the heterogeneity of contamination and the uncertainty of sampling and analysis. The Department, in consultation with the NYSDOH, will exercise limited discretion when determining that remediation is complete and has generally achieved the remedial goals where some discrete samples may not achieve the established cleanup levels. This flexibility will be tied to exposure potential. Also, the Department, in consultation with the NYSDOH, may determine that remediation is complete for properties when (1) there are a large number of confirmatory samples; (2) the vast majority of



confirmation samples indicate that the soil cleanup levels for the site have been achieved; and (3) those that do not achieve the SCO, exceed it only by a small amount. This determination will also accommodate property owner concerns related to preservation of their property with respect to specific features such as mature trees, or other features of significance to the property owner where possible. Where the soil cover is required, it will be as described in paragraphs 4 and 5 below, meeting the SCOs for cover material as set forth in 6 NYCRR Part 375-6.7(d) for restricted residential use.

3. Restoration of Excavated Areas - All areas where soil is excavated will be restored in accordance with the restoration requirements set forth in the approved remedial design, and will:
  - d. be backfilled with clean fill soil and top soil as appropriate which meets the requirements of 6NYCRR 375-6.8 to establish the grades approved in the remedial design. Grass covered areas will be restored by seeding or placement of sod. Trees will be replaced at the discretion of the property owner and if any areas are determined to be wildlife habitat they will be appropriately restored to allow this use; and
  - e. replace landscaping features such as sidewalks, driveways, and other property-specific features in kind (and consistent with local building codes) where removal is required to implement the remedy. The need for removal of any property-specific features will be determined during the design of the remediation phase in consultation with the affected property owners; and
  - f. restore publicly owned property and infrastructure if it is shown to have been damaged by remedial activities. Any affected property shall be replaced in accordance with local building codes and standard industry practices.
4. Cover System, Corning Christian Academy and Memorial Stadium - A cover will be required to allow for restricted residential use of the property. The cover will consist of either the existing structures such as buildings, pavement, sidewalks comprising the development or a soil cover in areas where the top two feet of exposed surface soil exceed the applicable soil cleanup objectives (SCOs) or target fill exists. The soil cover will be placed over a demarcation layer, with the upper six inches of soil having sufficient quality to maintain a vegetation layer. In the event the use of the property(ies) change(s), a cover thickness appropriate for that new use will be required. Any fill material brought to the property(ies) will meet the requirements for the identified land use as set forth in 6 NYCRR Part 375-6.7(d).
5. Cover System, Corning Painted Post High School - A one foot soil cover will be required consisting of either the existing structures such as buildings, pavement, sidewalks comprising the development or a soil cover in areas where the top one foot of exposed surface soil exceed the applicable soil cleanup objectives (SCOs) or target fill exists. The soil cover will be placed over a demarcation layer, with the upper six inches of soil having sufficient quality to maintain a vegetation layer. In the event the use of the property changes a cover thickness appropriate for that new use will be required. Any fill material

brought to the property will meet the requirements for the identified land use as set forth in 6 NYCRR Part 375-6.7(d).

6. Institutional Controls - Imposition of an institutional control in the form of environmental easements for the controlled properties which will:
  - require the remedial party or property owner to complete and submit to the Department a periodic certification of institutional and engineering controls in accordance with Part 375-1.8 (h)(3);
  - allow the use and development of the controlled property for restricted residential use as defined by Part 375-1.8(g), although land use is subject to local zoning laws; and
  - require compliance with the Department approved Site Management Plan. A Site Management Plan is required, which includes the following:
    - c. an Institutional and Engineering Control Plan that identifies all use restrictions and engineering controls for the area of concern and details the steps and media-specific requirements necessary to ensure the following institutional and/or engineering controls remain in place and effective:

Institutional Controls: requires Corning Incorporated to complete and submit to the Department a periodic certification of institutional and engineering controls in accordance with Part 375- 1.8(h)(3). Institutional controls also include voluntary agreements between Corning Incorporated and respective property owners for access and any other pertinent provisions to enable the installation and maintenance of cover systems, management of remaining contamination, excavation, inspections, sampling, and/or any other requisite activities.

Engineering Controls: The soil cover discussed in Paragraphs 4 and 5 above.

The Site Management Plan will include, but may not be limited to:

- an Excavation Plan which details the provisions for management of future excavations in areas of remaining contamination; and
- a provision for further investigation and remediation should large scale redevelopment occur or the use of the property(ies) change(s), if any of the existing structures are demolished, or if the subsurface is otherwise made accessible. The nature and extent of contamination in areas where access was previously limited or unavailable will be immediately and thoroughly investigated pursuant to a plan approved by the Department. Based on the investigation results and the Department's determination of the need for a remedy, a Remedial Action Work Plan (RAWP), if required, will be developed for the final remedy for the site, including removal and/or treatment of any source areas to the extent feasible. Citizen Participation Plan (CPP) activities will continue through this process. Any necessary remediation will be completed prior to, or in association with, redevelopment; and
- a provision for further investigation and remediation, if necessary, to refine the nature and extent of contamination in areas where access was previously

hindered or where future excavations are proposed at depths greater than that remediated under this remedy as well as areas where unexpected fill containing ash brick or glass is encountered regardless of depth; and

- provisions for the management and inspection of the identified engineering controls, including within right-of-way areas (while usage of these areas is generally controlled by their right-of-way status, Corning Incorporated has committed to address potential exposures related to required maintenance or repairs to piping, culverts, *etc.* and the presence of remaining contamination including excavation, management and disposal in accordance with the intended use of the right-of-way area); and
  - a provision maintaining access control and Department notifications; and
  - a provision for tracking of property ownership changes to allow for continued communication with owners; and
  - a provision for an annual reminder from Corning Incorporated to the Corning-Painted Post School District, Corning Christian Academy, and the City of Corning of the presence of remaining contamination, and of Corning Incorporated's commitment to address (including excavation, management, and disposal) remaining contaminated soils, as necessary and in accordance with the intended use of the property; and
  - a provision for Corning Incorporated to send annual reminders to the City and Town of Corning Code Enforcement Offices and Departments of Planning and Economic Development to timely inform Corning Incorporated of any building permits or other approvals they grant for properties within the area addressed by this decision document where contamination remains after the remedy is completed; and
  - a provision for Corning Incorporated to send annual reminders to the Corning-Painted Post School District, Corning Christian Academy, and the City of Corning (Memorial Stadium) with a request to timely inform Corning Incorporated of any plans to conduct ground-intrusive work within the area addressed by this decision document (*e.g.*, soil disturbance work); and
  - the provisions necessary for the periodic reviews and certification of the institutional and/or engineering controls; and
  - a provision for providing, in the event that the current use of the Corning Christian Academy, Corning Painted Post School District or Memorial Stadium property(ies) change(s), a cover thickness appropriate for that new use will be required. Any fill material brought to the property(ies) will meet the requirements for the identified land use as set forth in 6 NYCRR Part 375-6.7(d).
- d. A Monitoring Plan to assess the performance and effectiveness of the remedy. The plan will include, but may not be limited to:
- monitoring of groundwater to assess the performance and effectiveness of the remedy; and
  - a schedule of monitoring and frequency of submittals to the Department; and
  - an annual visual inspection of properties to ensure that the controls remain in place and effective.

7. Interim Site Management Plan - An Interim Site Management Plan (ISMP) is required during pre-design, design and remedial activities that is consistent with Paragraph 6 (above) for properties located in the area addressed by this Decision Document including rights of way and utility corridors. The ISMP is intended to address all soil management issues until the remedy is fully implemented and will terminate once all properties where access was granted are remediated and a Department approved SMP is in place.



Houghton Plot Neighborhood

Post Creek

Chemung River

East High School

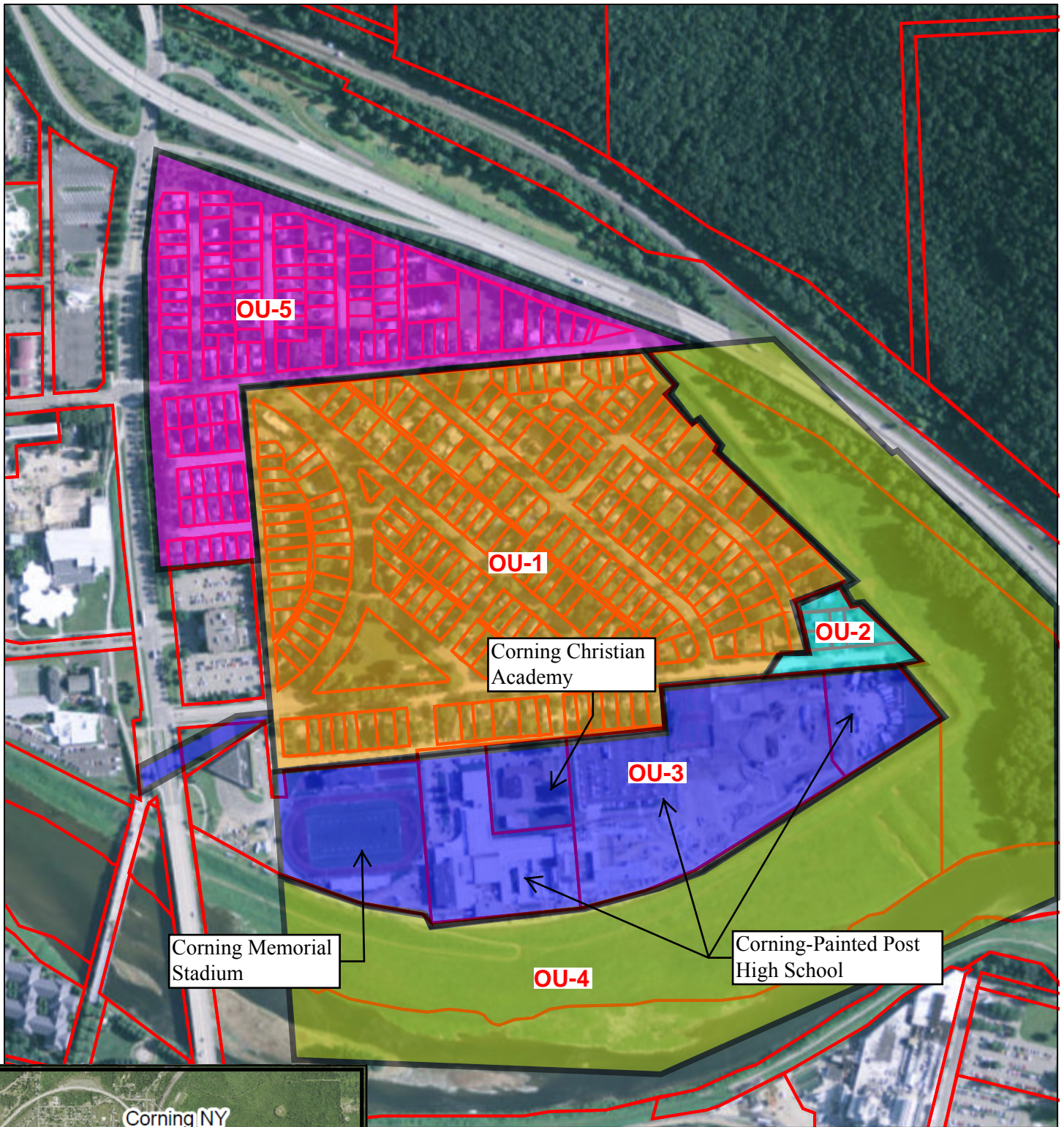
Google earth

feet  
meters



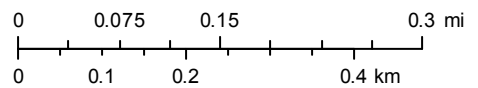


# Study Area Operable Units



Department of  
Environmental  
Conservation

1:9,028



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

# RESPONSIVENESS SUMMARY

Study Area  
Operable Unit Nos. 1, 2, 3 and 5  
Corning (C), Steuben County, New York  
Site No. 851046

## GENERAL COMMENTS/RESPONSES – ALL OPERABLE UNITS

**COMMENT 1:** College kids are out doing the digging and sampling without proper masks or equipment. Are they being exposed? I'm concerned about the young lady. Is she also breathing in hazardous waste?

**RESPONSE 1:** The appropriate level of personal protective equipment was worn by field staff during sampling. Air monitoring was conducted during the sampling to ensure that the field staff conducting the sampling are not exposed to contaminants at unacceptable concentrations.

**COMMENT 2:** When will DEC issue the no further action (NFA) letters?

**RESPONSE 2:** The Department committed to providing the first group of NFA letters within 60 days of the March 22, 2017 public meeting and sixty-nine NFA letters were mailed to property owners on May 18, 2017. As further investigation and/or remediation is completed, the Department will continue to issue NFA letters as warranted.

**COMMENT 3:** Every site management plan has financial ramifications. They are not mentioned. Is it Corning, Inc? If there are coordination and delays with Corning, Inc, for building additions, there are no details. Who pays?

**RESPONSE 3:** As with the other elements of the remedy, Corning Incorporated is responsible for the costs associated with site management.

**COMMENT 4:** What if in a 15-year span, hypothetically, the groundwater is found to be contaminated, with a NFA letter, is an addendum added? Will the NFA be nullified? Is the NFA legally binding for what may happen in the future?

**RESPONSE 4:** Based on the Department's experience with similar target fill at other locations within the City of Corning, this scenario is unlikely. Should this did occur, the Department would re-evaluate the protectiveness of its remedial decision.

**COMMENT 5:** The adjacent property owned by the city or state, for example, I86, will that be tested or sampled? Will remediation be required?

**RESPONSE 5:** The Department is evaluating the need for further investigation in those areas.

**COMMENT 6:** Remediation was supposed to begin last summer with more sampling. What caused the delay? That's a whole year.

**RESPONSE 6:** It was determined that taking the time to develop and issue a final remedy decision to guard against the need for multiple remedial activities at any one property was a better approach for the residential areas.



**COMMENT 7:** When hauling stuff out, are there special trucks that are covered up to protect the areas they are going through?

**RESPONSE 7:** The trucks will be covered.

**COMMENT 8:** My concern is digging around the building disturbing the soil causing water issues going into the building. Will you use high clay soil on top and sloping so that the water will drain away?

**RESPONSE 8:** Property specific issues such as the one you described will be addressed during the design phase of the project. Property owners will have input into how such details will be addressed prior to excavation and restoration on their property.

**COMMENT 9:** Where do you dump the dirt afterwards? Which landfill? The one up in Painted Post on the hill or the one in Bath?

**RESPONSE 9:** Disposal facilities properly permitted to accept the contaminated soil will be utilized. Soil that is considered hazardous waste will be disposed at a secure hazardous waste landfill permitted to accept such waste. Non-hazardous soil will go to solid waste landfills. The disposal locations will be identified and approved prior to the start of the removal.

**COMMENT 10:** Are there any other areas that Corning dumped Corel waste and ash and asbestos? I know of sites on Rt 414, 4<sup>th</sup>, 3<sup>rd</sup>, 2<sup>nd</sup> Streets. The first 8 houses, every one of those yards, on Rt. 414 in Beaver Dams.

**RESPONSE 10:** The Department is aware of several locations outside of the Study Area where similar waste was disposed. Some of these locations have been investigated. Investigation is planned at others. If the questioner can provide more details, the Department will evaluate the need for investigation of those areas.

**COMMENT 11:** Please work more closely with the City of Corning. Who can we go to? Over 20 years and 7 mayors, they ignore our requests re: access in alleyways and rights of ways (ROWs). It is a mess. Please DEC and Corning Inc., listen to us.

**RESPONSE 11:** DEC and the City of Corning have and will continue to work together cooperatively.

**COMMENT 12:** Is there any written agreement with Corning Inc.?

**RESPONSE 12:** An Order on Consent to address the remedial phase of the project is currently being finalized.

**COMMENT 13:** A lot was promised last year and it didn't get done. Can you get going before the plan is approved?

**RESPONSE 13:** Please see Response 6.

**COMMENT 14:** Is this a Brownfield Cleanup Program? A State Superfund? What is it?

**RESPONSE 14:** The Study Area is being addressed under New York State's Superfund program by a responsible party.

**COMMENT 15:** Could you do the draft site management plan now during the public comment period?

**RESPONSE 15:** The Department placed a link on the Study Area webpage to the template for Site Management plans. The page can be viewed at:

<http://www.dec.ny.gov/chemical/97180.html>

Prior to approval of the Site Management Plans, the Department will post the plans on its web site for the Study Area.

**COMMENT 16:** Is the feasibility study done?

**RESPONSE 16:** Yes, the Focused Feasibility Study/Alternative Analysis Report was posted on the Study Area webpage on March 24, 2017.

**COMMENT 17:** How deep does the fill (contamination) run? Is it variable? Generally how deep is it?

**RESPONSE17:** Distribution of the target fill is highly variable. In some locations target fill is present at the surface and extends to depths greater than 15 feet. At other locations it is present in layers with variable thickness in the subsurface. At still other locations, it is present in small quantities in discrete areas.

**COMMENT 18:** Did you look at pre-release conditions in the draft decision document if feasible? Would you have to dig everything up? So it isn't feasible? Is it too disruptive or is it the cost?

**RESPONSE 18:** The Department considered an alternative that could restore the area to pre-disposal conditions. It would, however, require excavation to 15 feet in some areas and is not feasible since it would require demolition of numerous residential structures, as well as schools and other public facilities, and would destroy the character of the neighborhood.

**COMMENT 19:** Does the feasibility study have a cost in it?

**RESPONSE 19:** The selected remedy is estimated to cost approximately \$24 million dollars. In addition, the costs for other alternatives evaluated are also included in the Focused Feasibility Study/Alternatives Analysis.

**COMMENT 20:** Can you solidify?

**RESPONSE 20:** Solidification is not technically feasible, the complex distribution of target fill in the subsurface does not lend itself to solidification.. Further, the equipment and material handling requirements of a solidification remedy would more significantly impact the neighborhood.

**COMMENT 21:** Is there any other technology?

**RESPONSE 21:** No other feasible technologies were identified for this situation that would be as effective at preventing exposure while maintaining the character of the neighborhood.

**COMMENT 22:** Utilities with emergency repair may involve off hours coordination.

**RESPONSE 22:** This will be addressed in the SMP.

**COMMENT 23:** City maintains streets in line with other areas outside the Study Area. There is a capital improvement program, with a 14-year rotating program.

**RESPONSE 23:** Please see response 22.

**COMMENT 24:** A change in leadership is a significant delay. There was supposed to be additional soil sampling in the Fall. Why the significant delays from work promised last outreach meetings? You've wasted a whole year, Corning should give us an extra year on the VAP.

**RESPONSE 24:** Corning Incorporated noted at the public meeting that the VAP might be revisited in the future if circumstances warrant it. The State is not involved in the Value Assurance Program (VAP). Any questions regarding the VAP should be directed to Corning Incorporated. Also please see responses 6.

**COMMENT 25:** What variables are discussed as part of the negotiations?

**RESPONSE 25:** The negotiations focus on how the measures are best implemented and a schedule for the implementation.

**A letter dated April 24, 2017 was received from Mayor, Richard P. Negri on behalf of the City of Corning, with the following comment:**

**COMMENT 26:** I am writing in response to the proposed remedial decisions for residential areas adjacent to the Corning-Painted Post High School.

The process of investigating the site and determining the appropriate remedial actions has been lengthy. These delays have resulted in residents not being able to make firm plans on property sales, refinancing, and improvements which disturb the soil. Corning Incorporated's Value Assurance Program (VAP) has assisted with allowing sales to occur, but the status of refinancing and home improvements may be uncertain in some cases.

Given the protracted investigatory phase of this project, it is time to provide certainty to property owners, interested buyers and lenders in the study area. The proposed remedial decisions summarized in the Department of Environmental Conservation's (DEC) March 2017 Fact Sheet would provide this necessary clarification.

In addition, the investigation and remediation of the Corning Painted-Post High School site and War Memorial Stadium have been extensive. The remedial actions that have been undertaken and those that are proposed have addressed the community's concerns.

I greatly appreciate DEC's willingness to find practical solutions to the remediation of contaminants in the study area. The City of Corning looks forward to working with you on implementing the proposed decisions.

**RESPONSE 26:** Comment noted.

## COMMENTS/RESPONSES – OPERABLE UNITS 1, 2 AND 5

**COMMENT 27:** We signed a permit to take a sample the first time around. To date, only a 2” sample was taken. We’ve lived there for 50 years. Will someone need to take a 2 foot sample?

**RESPONSE 27:** Soil borings will be used to sample at greater depths. Borings have been completed on many properties and additional borings are planned, unless you live in the expedited sampling area (refer to the attached figure 2) where some exceptions have been made.

**COMMENT 28:** If I get a NFA letter, but they find something 14-16 years after, who is liable?

**RESPONSE 28:** The remedy includes provisions under the site management plan (SMP) to address encountering target fill at a later date, even if an NFA letter was issued. Corning Incorporated will be required under the SMP to address the scenario you describe.

**COMMENT 29:** How can I comment on the proposed decision document until I understand your statements better? On page 11, excavation plan in site management plan, inconsequential amounts can be out in garbage. Define inconsequential waste. There is no flexibility. Another is providing management access control. How can you legally do that by saying it’s in the site management plan now without an easement?

**RESPONSE 29:** The Resource Conservation and Recovery Act (RCRA) allows homeowners to dispose of small amounts of target fill with household garbage. While RCRA does not specify a quantity allowed, as a practical matter, the amount would be limited by the amount of material accepted by the resident’s waste hauler.

The site management plan will be implemented through an access agreement between the home owner and Corning Incorporated but will also rely on a system of notifications and reminders.

**COMMENT 30:** How can you write a no further action letter without a site management plan?

**RESPONSE 30:** For properties where no target fill was found and/or there are no or only minor soil cleanup objective (SCO) exceedances, no site management is necessary. The no further action letter sent to owners of these properties does not reference site management since it is not required.

**COMMENT 31:** Long term (new owner provision) should be forever. Could you write examples of a site management plan? Is it in a template? Could you write up a sample? Why can’t a homeowner see a sample? Before the comment period is over?

**RESPONSE 31:** The new owner notification provisions obligate the responsible party, after which the Department will consider additional notifications or other appropriate measures to address the potential for exposure on unremediated properties. The Department placed a link on the Study Area webpage to the template for Site Management plans. The template can be viewed at: <http://www.dec.ny.gov/chemical/97180.html>

**COMMENT 32:** Page 3 of the proposed decision document, 1/3 of the way down, OU3. The decision document is for OU 1,2, 4 and 5. A large percentage of people live there. Where is that?

**RESPONSE 32:** The Proposed Decision Document is for Operable Units 1, 2 and 5. Operable Unit 4 includes the flood control lands around the Houghton Plot and will be addressed in the future. A map and detailed description of the operable units that comprise the Study Area are available on the Department’s website at: <http://www.dec.ny.gov/chemical/97180.html> and are included in the final Decision Document. During the public meeting two Proposed Decision Documents were discussed. One was for Operable Unit 3 which includes the Corning Painted

Post School District property, the Corning Christian Academy and the Corning Memorial Stadium. The other Proposed Decision Document addresses Operable Units 1, 2 and 5 which are the residential areas east of Centerway (Route 414).

**COMMENT 33:** How does the delay in the remedial project affect the VAP (Value Assurance Plan?) So we just have to wait and see?

**RESPONSE 33:** Please see response 24.

**COMMENT 34:** Is there any consideration for vacated houses in OU2? How will they be remediated? Will the houses remain? Could those houses have residents in them again?

**RESPONSE 34:** The remediation will allow these properties to be used again, however it is up to the owner of the properties to determine if the vacant houses will remain.

**COMMENT 35:** Why in the 6 page spreadsheet, is the data left blank when results were sent TCLP data last year? I needed something to compare with so many chemicals and metals. I had to call and ask for it. This may have happened to other people.

**RESPONSE 35:** The TCLP regulatory limits were not included due to an oversight, the levels are: arsenic 5 parts per million (ppm), barium 100 ppm, cadmium 1 ppm, chromium 5 ppm, lead 5 ppm, mercury 0.2 ppm, selenium 1 ppm, and silver 5 ppm.

**COMMENT 36:** Why only a 2 foot removal for the 5 houses found to be highly contaminated? We were originally told they would tear them down. It reduces the value. What is the plan for those empty houses? The grass needs to be mowed, bushes trimmed, etc. Houses will become dilapidated.

**RESPONSE 36:** Please see response 34.

**COMMENT 37:** But the VAP can't be done until the remediation plans is completed?

**RESPONSE 37:** Please see response 24.

**COMMENT 38:** It shouldn't kick in before remediation is complete, leftover contamination will reduce value.

**RESPONSE 38:** Please see response 24.

**COMMENT 39:** While work is going on, will you put those people up in hotels?

**RESPONSE 39:** The Department's experience on other sites is temporary relocation has not been necessary. The work on an individual property will be coordinated with that owner and address any concerns they may have with timing.

**COMMENT 40:** Will you power wash houses after yard remediation?

**RESPONSE 40:** Because air will be closely monitored and dust suppression measures will implemented if needed, the Department does not anticipate cleaning of the structures will be necessary as a result of the remedial work.

**COMMENT 41:** Will more testing be done on the 69 properties ready for NFA?

**RESPONSE 41:** No, the Department did not require further testing and issued the NFA letters on May 18, 2017.

**COMMENT 42:** You could dig the yard deeper. Take two feet or more.

**RESPONSE 42:** While it may be feasible to excavate to a greater depth (i.e., greater than the 2 feet required under the selected remedy), the remedy satisfies the threshold criteria and provides the best balance of the regulatory selection criteria. The selected remedy is protective of public health and the environment.

**COMMENT 43:** Will people maintain their own driveway? What if they get a new driveway?

**RESPONSE 43:** If a driveway or sidewalk is a part of the cover system with contamination beneath it, Corning Incorporated will be responsible for their maintenance. If, however, during remediation the driveway or sidewalk is removed and replaced after contamination beneath it is excavated, it would be the owner's responsibility to maintain the driveway or sidewalk.

**COMMENT 44:** Will Corning, Inc, maintain it?

**RESPONSE 44:** Please see response 43.

**COMMENT 45:** How are sidewalks handled? Like driveways?

**RESPONSE 45:** Please see response 43.

**COMMENT 46:** Do you have a time frame when you will begin digging up lawns? Will it be this year or when I'm 90 years old?

**RESPONSE 46:** The Department has told Corning Incorporated that it expects that some excavation work will begin during 2017. Corning Incorporated indicated a willingness to begin the remediation in 2017. Substantial additional investigation is also being performed in 2017.

**COMMENT 47:** When will testing start for expedited area? When will we be able to get a date?

**RESPONSE 47:** Field work in the expedited area began on April 24, 2017 and is largely complete.

**COMMENT 48:** How does the VAP relate to the no further action letter with site management plan?

**RESPONSE 48:** Please see response 24.

**COMMENT 49:** How do you get adequate appraisal to protect homeowner's values if there is a known contaminant for property with a no further action letter with a site management plan?

**RESPONSE 49:** This is part of Corning Incorporated's VAP. Please see response 24.

**A letter dated April 12, 2017 was received via e-mail from Joe P. Dubendorfer, P.E. with the following comments:**

**COMMENT 50:** Page 5 of 12, Basis of Selection; "The proposed remedy would consist of excavation and removal of target fill and contaminated soil within the top two feet to meet the residential SCO remedial goals"

After also reading the "Focused Feasibility Study/Alternate Analysis" I understand the reasoning and understand that this selection of remedy is the correct one for most cases. What cannot be determined by the public is how many properties could be made clean by going further and not affecting adjacent properties or other issues on the individual specific properties. Other remedies may be more desirable to the property Owner, if practicable, other than cost to implement. Does this one remedy fit all?

**RESPONSE 50:** The remedy has some limited flexibility built into the decision as follows" The Department may require deeper excavation on a property if that excavation: is only marginally deeper than two feet; is only in a limited area of that property; and would result in a cleanup for which a no further action determination (without site management) could then be issued for that property." The remedy is considered protective of public health and the environment.

**COMMENT 51:** Page 6 of 12; "Long-Term Effectiveness and Permanence" "The proposed remedy also requires institutional controls, a cover system, and long term site management." 2a; Many of my following comments throughout this document pertain to the institutional and engineering controls, thus a Site Management Plan, being placed on a Home Owners piece of private property. This PPD document is written in the usual format of the technical and environmental jargon of the culture of the individuals that work in this field. This document and all of the others presented do not perform the function of really telling the real consequences of a SMP on a piece of private property. More needs to be done up front before approval of this plan with the individuals that will have the potential of a SMP literally slapped upon their private property for ever. These are Home Owners of all different degrees of age, education, and knowledge. Just full filling all of the required public notifications and expect understanding is not fair. If I am to have SMP potentially being placed on my private property I would desire more detailed information on the detailed rights that are being taken away from the full enjoyment, control and future exercise of full value sale by me and spouse or our estate by created by the SMP.

**RESPONSE 51:** The Department held availability sessions and public meetings in May of 2016 and March of 2017 to discuss concerns related to site management with residents both face to face and in the larger meetings. The March 2017 availability session and public meeting was specifically held to explain the proposed decision documents and what the decisions mean to the property owner. The Department and the Department of Health remain available to discuss concerns and answer questions.

**COMMENT 52:** The Focused Feasibility Study/Alternate Analysis for the proposed remedy estimates that 125 properties might have to have a remediation implemented. This is an estimate so the number may have been factored high. So say 110 need remediation and for the sake of argument twenty can be remediated and have a NFA with no SMP. These are guesses on my part as the data is not provided. So my assumption is that about 90 or more private properties may require a SMP. With that number of private citizens being affected I believe it is prudent to provide more detailed information on the requirements of the permanent restriction placed on ones private land. Why cannot four or more typical SMP's be prepared as a template before approval? I am sure I could come up with that many scenarios.

**RESPONSE 52:** Site management plans are typically developed after remedy selection, however to address this concern the Department provided the following information on its public web site immediately following the public meeting:

#### **How the Site Management Plan Might Work**

- *Who Writes the Plan:* Corning Incorporated
- *Who Approves the Plan:* New York State Department of Environmental Conservation; New York State Department of Health
- *Plan Highlights:*
  - Identify all use restrictions (for example, Memorial Stadium is restricted residential) and engineering controls (for example, soil cover).



- Include provisions to maintain access agreements where necessary to inspect and/or perform excavation work in areas with soil covers. Access agreements for site management with property owners are expected to be similar in form to the ones used for investigation and/or remedial work.
- Include a soils management plan outlining requirements if the property owner intended to disturb remaining target fill or soils above the soil cleanup objectives. A very generic excavation work plan is included as Appendix [X] in the Site Management Plan template (see link below).
- Require periodic inspections to ensure the remedy remains in place and continues to be effective.
- Outline steps necessary to track property ownership changes to ensure new owners get notifications and reminders.
- Describe the system of notifications and reminders to property owners to keep stakeholders informed of planned work which might impact the soil covers. An example would be an annual reminder letter from Corning Incorporated to the City of Corning requesting to be informed of any building permits or other approvals they grant for properties within the Study Area where target fill or soils above the soil cleanup objectives remain after the remedy.
- Provide contact information for DEC, DOH and Corning Incorporated.

View a template for a Site Management Plan which would be used as a starting point to develop a specific plan for the Study Area:

[http://www.dec.ny.gov/docs/remediation\\_hudson\\_pdf/smptemplate.pdf](http://www.dec.ny.gov/docs/remediation_hudson_pdf/smptemplate.pdf)

An area-wide site management plan will apply to the full Study Area. Property owners with impacted soils remaining below a site cover system will receive an individual report of conditions about their own property. This report will identify areas on their property with known remaining impacted soils and refer to the Study Area site management plan. Contact information will be provided in the individual plans for questions and assistance in following the plan.

The Department website can be accessed at: <http://www.dec.ny.gov/chemical/97180.html>.

**COMMENT 53:** The PPD and the Focused Feasibility Study/Alternate Study both put a strong reliance on the City of Corning Planning Code and the Building Permit Process. This is a good start and has to be coordinated but this has its weaknesses. Many smaller projects and accessory uses do not get building permits. In fact, sometimes even when a permit should be issued it does not. For example, landscaping, clothes drying poles, horseshoe pits, fire pits, basketball net stanchions, etc. Even saying UFPO prevents this is not a reality.

**RESPONSE 53:** The use of the City of Corning Planning Code and Building Permit Process while not as robust as an Environmental Easement, still provides significant controls which are in line with the nature and characterization of the target fill. In addition, the requirements for periodic notices and reminders ensure property owners/residents remain aware of the remaining target fill and are reminded that soil disturbances need to account for any controls in place on a specific property consistent with the SMP.

**COMMENT 54:** Page 6 of 12; “The institutional controls will ensure proper excavation of soils below two feet except for the perhaps small excavations such as planting bushes or installing posts, which would not result in substantial risk if the excess soils were disposed of in household garbage (or dispersed on the ground surface if no target fill is observed) and the resident observed common sense practices such as handwashing, etc.”

This is a great idea but will the DEC really in the end let a private home owner make such decisions. What is considered “small”? A post embedded in the ground, depending upon its potential use, most likely would have to go into the ground three feet. The weight of such material could be substantial. Current weight limits on the city required garbage bag is 40 lbs and has a cost associated. Should the Owner be required to pay?

**RESPONSE 54:** Please see responses 29 and 53.

**COMMENT 55:** Page 8 of 12;”8. Land Use”;” However, the remaining contamination with the proposed remedy will be controllable with construction of a cover system, institutional controls, and implementation of a Site Management Plan.”

This comment pertains to the present land use and the assumption that it would stay the same after implementation of the remedy. That assumption is probably correct but does not take into account that many properties will now have SMP’s placed upon them. It is a high probability that after remediation that the entire neighborhood as well as the properties having SMP’s will suffer from some land value decrease. The potential for long term impact of the nature of the neighborhood culture will change from our current stable R-1 status with long term resident Owners to the potential of creating many lower cost rental properties, thus a potential for an impact upon the positive attributes of this neighborhood. Nothing is mentioned concerning this in any of your evaluations. The Corning Value Assurance Program (VAP) is not part of this decision but that plan does not address the long term affects after five years and does not assist those that want to stay after this mess in an attempt to keep the neighborhood as is.

**RESPONSE 55:** The site management plan provides for tracking property ownership changes and if the land use changes as you suggest the proposed remedial decision may need to be revisited by the Department in the future.

**COMMENT 56:** Page 8 of 12;”Description of Remedy” This flexibility may allow for limited confirmation samples to exceed the SCO levels, based on concentration, the location and/or depth of the sample exceeding the SCO and the implementability of the removal and exposure potential, while still achieving sufficient removal to assure a protective cleanup for which a no further action determination can be issued, with site management where appropriate.”

This flexibility is beneficial to the overall process. An added benefit to this flexibility would be to have sufficient flexibility to also allow implementation in a way to have no SMP placed upon a property where appropriate for the same reasons.

**RESPONSE 56:** Please see response 50.

**COMMENT 57:** Page 9 of 12; Under “The elements of the proposed remedy for OU1, OU2, and OU5 are:”

Under the third bullet indicating a health and safety plan, would temporary relocation of the residents be required? This a major deal for some families or others with major Stage of Life issues. Should be more detailed in the decision process so individuals can understand what is really being represented in order to implement the remedy.

**RESPONSE 57:** Please see response 39.

**COMMENT 58:** Page #8; Calls for a voluntary agreement between Corning Incorporated and the respective home owners to allow access and other rights to manage the remedy. Does this become a Deed Restriction, Legal Right of Way or an Easement? Again any of these has an effect on Property value that is not being addressed. Obviously the DEC has no interest in the finances but the Owners need to know what is going to happen BEFORE this is approved.

**RESPONSE 58:** It is anticipated that some form of an access agreement with the property owner will be used by Corning Incorporated to secure access for site management.

**COMMENT 59:** Page #11; Bullet 1; Again, what does “inconsequential” really mean?

**RESPONSE 59:** Inconsequential relates to small excavations such as planting bushes or installing posts, which would not result in substantial risk if the excess soils were disposed of in household garbage and the resident takes measures to prevent potential exposure already provided by NYSDOH, which include: 1) maintaining a grass or mulch cover over soil; 2) avoid bringing soil inside the house by brushing off your clothes and remove shoes at the door; 3) use of doormats and periodic damp mopping of floors for soil that might be tracked indoors; and 3) washing hands with soap and water after outdoor activities. Also see response 29.

**COMMENT 60:** Page #11, Bullet 3; A provision for further investigation and remediation where unexpected target fill is encountered. Is this just in the initial remediated area or elsewhere on the property outside the SMP defined area? Is a SMP for a property just for the remediated area or the entire property? Are the SMP’s specific for each property or are they meant to be area wide? Is there an intent to create a neighborhood wide SMP? Is the assumption that a No Further Action letter carries no SMP with it unless it specifically indicates one correct?

**RESPONSE 60:** A site management plan will apply to the full Study Area. Property owners with target fill remaining below a site cover system will receive an individual report of conditions remaining at their own property after remediation. This report will identify areas of their property where target fill remains and refer to the Study Area site management plan. Contact information will be provided in the individual plans for questions and assistance in following the plan.

With respect to the no further action letters sent to property owners, without a site management provision, the following statement was included:

“In the event that you should encounter significant amounts of ash, brick or glass (target fill) at your property in the future, please contact the DEC. At that time, your property may be re-evaluated. In the event that you encounter inconsequential amounts of ash, brick or glass at your property, you may dispose of such material as household waste in your garbage.”

**COMMENT 61:** Page 11; Bullet 6; Why limited to 15 years? A SMP lasts forever so a new home owner should always be notified.

**RESPONSE 61:** The noted provision applies only to notification by Corning Incorporated to new property owners of Corning Incorporated’s offer to implement the remedy for a period of two years following the change in ownership.

**COMMENT 62:** General Comment on SMP. The financial impacts of a SMP are not provided. It is realized by this writer that this is not a concern of the DEC as far as the approval of the plan but for any potential Home Owners that face the potential for a SMP should have a right to know how issues are going to be handled or not handled for them. If Corning Incorporated is financially responsible to what standard does this imply? Some examples;

Owner desires to redo a driveway that was retained as allowable cover. If the contamination is less than two feet or was not tested since it was a driveway. Are any restrictions on the Owner to replace the driveway? If it requires management with all of the proper controls does CI pay for all of the additional costs?

**RESPONSE 62:** Corning Incorporated indicated during the public meeting that it is their intent to remediate a property in such a manner that the driveway can either be maintained or they will replace a driveway without restrictions.

**COMMENT 63:** Owner desires to put an addition on his home and it falls in a remediated area. How is the excavation handled? The Owner would have used a local excavator to perform a simple task at a price that was reasonably costed. Now a qualified firm with oversight is required to excavate and most likely backfill the foundation. Does Corning pay it all the difference? How would the difference be determined because no locals would provide a price? Is a local contractor going to be allowed into the excavation to construct the foundation due to potential exposure? What about all of the potential lost time to a basic simple process that now requires a lot of coordination and timing issues? How are the higher costs going to be handled for the permit costs and property assessment?

**RESPONSE 63:** Corning Incorporated will be responsible for the remedial work necessary in the area disturbed by the proposed project. The site management plan will include an Excavation Plan which details the provisions for undertaking future excavations (including recommended measures to prevent potential exposure).

**COMMENT 64:** Owner desires to put an in ground pool in. Same questions as above.

**RESPONSE 64:** Please see response 63.

**COMMENT 65:** Owner desires to modify the grading of the area covered by the SMP. Say wants to raise it up for a paved patio. Normally a homeowner just gets some bank run gravel or topsoil and does his thing. How is CI going to respond to that and how is it paid for. These sources do not test for the soil specs that DEC requires.

**RESPONSE 65:** Increasing the cover thickness beyond the two feet required is not an issue. The property owner should however notify the Department and Corning Incorporated so both parties are aware of this modification.

**COMMENT 66:** I could keep providing examples that apply to the everyday use of a home owner's right to use their property. The SMP hinders that right. If the financial burdens are explained and provided it could even become a boon to the home owner.

**RESPONSE 66:** Please see response 51.

**COMMENT 67:** Page 95 of 95 of the Focused Feasibility Study/Alternate Analysis report provides the estimate of the annual costs for the ongoing Inspection, Maintenance & Monitoring of the soil cover at \$36,000 per year. This is understandable but seems low when compared to the consultant's costs to perform this amount of work. In addition it appears from this estimate that Corning Incorporated plans not to have any ongoing costs in providing the required SMP support costs for Owners that require work to be performed to make modifications to their private property now restricted by the SMP. Are they not responsible? If so, should some money be included and become part of the evaluation? I do not think this would change the recommendation but it sure would be prudent to show some costs for this effort if it to be covered. Maybe the intent is not to have this covered by Corning Incorporated which brings about a whole new argument and potential ramifications. Again as commented on many times in this comment document this concern should be addressed and communicated as part of this decision approval process, not after.

**RESPONSE 67:** Cost estimates of this kind are generally in a range of minus thirty to plus fifty percent for use in selecting an alternative, but do not reflect the actual costs of the necessary work.

**COMMENT 68:** For a property that has been granted a No Further Action without a Site Management Plan, what is the process and protection for the Owner when excavating and this material is discovered but was not found in the previous testing? Obviously, notification is required. If the same typical contaminants are found is Corning incorporated still responsible to provide remediation and/or long term SMP? Or is the Home Owner responsible?

**RESPONSE 68:** Please see response 60.

**A letter dated April 24, 2017 was received via e-mail from Alan J. Knauf of Knauf Shaw LLP which included the following comments**

**COMMENT 69:** We urge the New York State Department of Environmental Conservation (“NYSDEC” or the “Department”) to reject this Property Remedy, and adopt a remedy to better protect the health and well-being of the residents of Houghton Plot. The Proposed Remedy is a minimalistic effort on behalf of Corning to remediate the Houghton Plot. The PDD and FFS/AA attempt to justify the Proposed Remedy with broad-brush conclusions, which lack a scientific risk assessment or cost/benefit analysis. The real reasoning appears to be that the Proposed Remedy is all that Corning is willing to pay for.

**RESPONSE 69:** The Department does not approve the Focused Feasibility Study/Alternatives Analysis. The document is reviewed and accepted as providing sufficient information on which to make a remedial decision, which is then offered for public review along with the proposed decision document. The Department does not necessarily agree with all statements in the report but maintains that it has the information necessary to make an appropriate remedial decision.

**COMMENT 70:** Predisposal Conditions Are Not Being Met. Under the State Superfund program – which is the authority the Department is operating under – the stated remedial goal is to “restore the site to predisposal conditions, to the extent feasible.” 6 N.Y.C.R.R. §375-2.8. The Proposed Remedy fails to do so.

The FFS/AA states that OU1, OU2, and OU5 was previously farmland, and developed into to a residential area after the Contamination was deposited. The Proposed Remedy will not restore the area to predisposal conditions. Alternative #3 would require removal of essentially all of the Contamination down to 15 feet, except what is underneath existing structures, and would achieve the goal to “restore the site to predisposal conditions.” In contrast, the recommended Alternative #2 would leave a large share of the Contamination in place, and would not meet unrestricted SCOs, or at times, even the residential SCOs.

Weston states that “Per communication with NYSDEC, certain CP-51 criteria do not apply to the Study Area.” FFS/AA at 4-5. However, the requirements of CP-51 cannot be arbitrarily ignored for this site. CP-51/Soil Cleanup Guidance states, for the State Superfund Program:

The goal of the remedial program for a specific site is to restore that site to predisposal conditions, to the extent feasible. The unrestricted use SCOs are considered to be representative of pre-disposal conditions....

CP-51 at 6. While Department policy requires that the cleanup meet unrestricted SCOs by removing the Contamination, the Proposed Remedy would not do so. While CP-51 provides an exception where “achieving unrestricted SCOs is not feasible,” that is not the case here. While it would be expensive – about \$71 million for 127 properties over about 100 acres – it is certainly feasible. In fact, it is not out of line with other cleanups required by the Department<sup>1</sup>, and is certainly something Corning can afford.<sup>2</sup>

The FFS/AA states at 6-7 that “Removal of Subject Material beyond two feet would not achieve a meaningful additional reduction in health risks.” However, a Human Health Assessment should be provided in compliance with USEPA guidance. Otherwise, there is no basis to say there will be no “meaningful reduction,” since the risk has not been quantified.

Nor is there any sensitivity analysis. For example, Weston could have compared the benefits of a 3-foot excavation to the 2-foot excavation in all – or selected – areas. However, the analysis arbitrarily gave only two choices – 2 feet or 15 feet.

**RESPONSE 70:** The remedy is based on an evaluation of several excavation scenarios in consideration of the existing residential neighborhood which was developed over areas where the target fill was disposed. Removal of all target fill and soil to residential use SCOs would require extensive excavation, including demolition of homes, and would be overly destructive to the existing residential properties. As this extent of excavation would not be feasible or necessary to be protective of public health and the environment, the Department in consultation with the NYSDOH has selected a remedy that relies on a cover system, institutional controls, and a site management plan to protect public health. There will also be a restriction on groundwater use in the area as a precautionary measure. The potential exposure that may result from uninformed and/or uncontrolled large scale excavation or other construction operations will be managed through the SMP and institutional controls. The Department had to consider its regulatory requirements, the implementability of the action to be taken along with the other reevaluation criteria and also complete the remedy selection process such that it was not inconsistent with the National Contingency Plan, in order to be able to require the implementation of the remedy. Certain of the Department’s regulatory provisions contained in 6 NYCRR Part 375 are being reevaluated to in consideration of situations like those which exist in the Study Area. 6 NYCRR Part 375 was not written to address a scenario such as that presented by the issues in the Study Area. The Department expects and intends to address this issue in its upcoming Part 375 rulemaking.

**COMMENT 71:** The Proposed Remedy Fails to Comply With the Applicable Standards, Criteria, and Guidance.

Pursuant to 6 N.Y.C.R.R. §375-1.8(f), “A remedy shall be selected upon consideration” of nine factors, one of which is “Standards, criteria, and guidance” (“SCG”). The remedy must “conform to standards and criteria that are generally applied, consistently applied, and officially promulgated . . . unless good cause exists why conformity should be dispensed with.” 6 N.Y.C.R.R. §375-1.8(f)(2)(i).

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<sup>1</sup> For example, last month the Department required excavation of a 1000 SF area in a single residential back yard to meet unrestricted SCOs at the cost of about \$500,000. *Town & Country Dry Cleaners*, Site No. 828149, Record of Decision (March 2017).

<sup>2</sup> Corning, Inc. has annual revenues of about \$10 billion and a market cap of about \$25 billion.

“Residential Use” “is the land use category which allows a site to be used for any use other than raising live stock or producing animal products for human consumption. Restrictions on the use of groundwater are allowed, but no other institutional or engineering controls are allowed relative to the residential use soil cleanup objectives. This is the land use category which will be considered for single-family housing.” 6 N.Y.C.R.R. §375-1.8(g)(2)(i) [emphasis added].

It is abundantly apparent that the Houghton Plot has, and will continue to be, used for Residential Use. The Proposed Remedy is in direct conflict with this provision, as a Site Management Plan (“SMP”) is proposed for the Study Area.

Corning wishes to deviate from this standard as it contends it has demonstrated “good cause.” However, it fails to establish any one of the following four criteria for “good cause” listed in 6 N.Y.C.R.R. §375-1.8(f)(2).

(a) the proposed action is only part of a complete program or project that will conform to such standard or criterion upon completion.

This is not applicable or relied upon by the FFS/AA.

(b) conformity to such standard or criterion will result in greater risk to the public health or to the environment than alternatives.

The FFS/AA states that conformance to the standard will result in greater risk to the public health and environment because of “increased earthmoving activities, soil particle/dust generation, truck traffic, and deep excavations.” FFS/AA 6-8.

This is an insufficient justification. These impacts will occur regardless of whether Alternative 2 or 3 is chosen. These impacts do not negatively affect the public health so much so that remedial standards should not be followed. Further, the FFS/AA fails to quantify the impacts of “earthmoving activities, soil particle/dust generation, truck traffic, and deep excavations.” Nor does the study calculate at what point the risk from these activities outweighs the risk to public health or the environment. Calculation of the health risk would require a Human Health Risk Assessment in accordance with USEPA guidance, which is glaringly absent.

In any event, the minor inconvenience that residents may experience due to the remediation is far outweighed by the lifetime burden imposed by the SMP.

(c) conformity to such standard or criterion is technically impracticable from an engineering perspective.

The FFS/AA states that Alternative 3 is “technically impracticable because some material may be inaccessible due to slope stability concerns.” FFS/AA 6-8. This is also an insufficient justification. Many remedial sites across the State have excavated down to depths of 15-feet. No scientific basis, such as geotechnical data, is provided to justify the conclusion. If slope stability issues are encountered, then exceptions could be made on a case-by-case basis, but at least the majority of the properties would be remediated to unrestricted SCOs, obviating the need for a SMP.

Additionally, the concern about “potential damage to integrity of adjacent structures,” appears to be pseudo, as it is not accounted for in the cost estimate for Alternative 3.

- (d) the program or project will attain a level of performance that is equivalent to that required by the standard or criterion through the use of another method or approach.

This is not applicable or relied upon by the FFS/AA.

Thus, Corning has failed to establish “good cause,” and must comply with the Residential Use SCGs.

**RESPONSE 71:** The State does not consider excavations to 15 feet with demolition of residential structures to be necessary to be protective, nor do we consider such excavations to be prudent or feasible. Also please see Response 70.

**COMMENT 72:** Improper Delegation of Authority. Because an Environmental Easement is not being required, the Department plans to use the “City of Corning Building Code notification requirements” as a means to enforce the SMP. This is an improper delegation of the Department’s authority to oversee and enforce the SMP. The Department is essentially relying on an existing Code<sup>3</sup> to ensure that the current and future residents will be complying with the SMP. The FFS/AA even states that the Proposed Remedy includes “reliance upon City of Corning Building Code notification requirements.” FFS/AA 6-7. It is the institutional control proposed “for management of the remaining residual constituents at concentrations greater than SCOs, at depths greater than 2 ft bgs.” FFS/AA 6-8. This planned “area-wide SMP” is unprecedented and inappropriate. The Department is approving an institutional control that itself will not be able to enforce. Importantly, unlike the Environmental Easement, the Building Code does not “run with the land.” There is a potential that future residents will be completely unaware of their obligations under the SMP, if the prior owners neglect to notify. Corning will be administering the SMP, yet it is the residents that are forced to comply with it.

**RESPONSE 72:** The selected remedy does not rely on zoning but instead provides for a system of periodic notices and reminders to ensure property owners and other stakeholders remain aware of the remaining target fill and are reminded that proposed soil disturbances need to account for any controls in place on a specific property. The site management plan remedial element also requires the tracking property ownership changes. Finally, the selected remedy requires an annual notice from Corning Incorporated to the City and Town of Corning Code Enforcement Offices and Departments of Planning and Economic Development reminding them of the need to timely inform Corning Incorporated of any building permits or other approvals they grant for properties within the area addressed by this remedy where target fill will remain beneath a soil cover.

**COMMENT 73:** The Proposed Remedy is Unclear. The FFS/AA states that there are two remedial options: 1) most areas that have Contamination above the Standard Cleanup Objectives (“SCOs”) at depths less than 2 ft, will be excavated, and most excavated areas will receive a demarcation layer at the base of the excavation; or 2) areas that have Contamination that exceeds

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<sup>3</sup> The “City of Corning Building Code” does not exist. The City of Corning adheres to the New York State Uniform Fire Prevention and Building Code. We are unaware of a notification provision contained in the Uniform Code. Please provide a complete citation.



SCOs below 2 ft, but not above, will not be excavated or receive a demarcation layer. FFS/AA 6-6, 6-7. However, the Cost Estimates detail three remedial options: 1) “Surface soil remediate only” 2) “Top 2 ft removal only”; and 3) “2 ft removal with demarc. layer.” Please reconcile and clarify the Proposed Remedy.

**RESPONSE 73:** The selected remedy and all associated requirements is set forth in this Decision Document and was provided to the public for review in March 2017 in the proposed decision document both of which addressed the questions raised.

**COMMENT 74:** The Proposed Remedy Should Be Phased to Minimize Impacts. Further, the excavation plan and pre-design should be phased to allow for all remediation to occur in a single group of nearby properties at one time, so that impacts can be limited to one episode for each cluster of residents. While the work is going in a particular area, Corning should pay for the residents to stay at a hotel until the remediation in the area is complete.

**RESPONSE 74:** A plan to phase the work will be developed during the design. Also see response 39.

**COMMENT 75:** Dirt Floors in Basements Have Been Omitted. Neither the PDD nor the FFS/AA discuss the potential human exposure to the contamination through the dirt floors that we believe may be present in some residents’ basements. All basements should be surveyed, and a cover system should be put in place for all houses with dirt floors.

**RESPONSE 75:** If a dirt floor is identified in the basement of a specific home it will be evaluated during the design for consistency with the remedy as appropriate. The Decision Document has been revised to clarify this issue.

**COMMENT 76:** The Groundwater Determination is Unsupported by the Testing Done to Date. There has not been enough testing done to determine that groundwater within OU1, OU2, and OU5 is not impacted. A review of the environmental reports completed by Weston shows that only one groundwater monitoring well was installed within the residential areas of the Study Area, in OU2. See Figure 3 of the Groundwater Wells Report, dated October 24, 2014. Two groundwater sampling events occurred. FFS/AA 3-3. Based on this very limited analysis of groundwater, Corning has only proposed three remedial alternatives. There was simply not enough groundwater analysis of the residential areas to make this determination. More groundwater samples should occur before the final remedy is selected.

**RESPONSE 76:** The remedy includes a restriction on groundwater use in the area as a precautionary measure. The remedy also includes monitoring of groundwater to assess the performance and effectiveness of the remedy. In the event that future groundwater monitoring were to identify a concern, the remedy would be revisited and amended, if necessary.

**COMMENT 77:** Driveways and Other Existing Structures Should Be Maintained by Corning. Corning intends to prevent exposure to the Contamination by providing a cover system (Alternative 2), but also by utilizing the existing asphalt and pavement within the Study Area. FFS/AA 6-8. “The soil cover **or asphalt/pavement** provides physical protection of underlying residual constituents.” FFS/AA 6-9. All asphalt, pavement and sidewalks should be inspected for integrity, and replaced if they are not adequate. Furthermore, as part of the Remedy Corning should be maintaining the residents’ driveways in perpetuity, as it will do for the soil cover.

**RESPONSE 77:** Please see response 43.

**COMMENT 78:** Additional Deed Notice to be Filed? The NYSDEC presentation held on March 22, 2017 stated that “The existence of the deed provision referencing the maintaining of ash dumps in the Study Area may require an additional deed notice to be filed with the County Clerk.” This comment needs to be explained. What if a resident does not want to have their title clouded with such a notice? In conclusion, we urge the Department to go back to the drawing board and require a more complete and scientific analysis, and then require a remedy consistent with the State Superfund requirement of “predisposal conditions.”

**RESPONSE 78:** The comment at the public meeting was acknowledgement that some of the residential deeds for properties in the study area currently include provisions granting Corning Glass certain rights with respect to the “ash dumps” and other structures located within the area identified as the Houghton Plot. The remedy includes a provision for the Department to evaluate additional measures on unaddressed residential properties which may be needed to be protective of public health. Although participation is voluntary, the Department and NYSDOH encourage all property owners to participate by allowing their property to be investigated and cleaned up if warranted. After the implementation of the remedy for property owners who chose to decline cleanup or sampling sunsets, the Department will evaluate additional measures on unaddressed residential properties which may be needed to be protective of human health (e.g., continued reminders and notices from the Department). The Department and NYSDOH relied on a scientific evaluation of data from extensive sampling in the study area as well as the available remedial alternatives when proposing the remedy. The Department and NYSDOH consider the proposed remedy to be protective of public health and the environment.

**RA letter dated April 24, 2017 was received via e-mail from Peter Morton of Ravi Engineering, which included the following comments:**

**COMMENT 79:** In regards to Alternative 3, Weston stated that “deeper excavations are possible, but impracticable.” Excavations deeper than two feet are common practice and are required by the NYSDEC to obtain cleanup standards in many single-family residential neighborhoods.

**RESPONSE 79:** Excavations of greater than two feet may be common practice for some sites but as a rule this has not been the case with other residential soil cleanups in the Superfund program. Where needed, soil removals from residential properties have been associated with contamination attributed to air or surface water deposition or other migration/disposal of contaminants unlikely to continue beneath existing structures. At this site, the residential neighborhood was built over ash dumps and the contamination extends beneath structures and into other inaccessible areas.

**COMMENT 80:** Weston stated: deeper excavations “do not provide any significant additional benefit with respect to overall health or environmental protectiveness. The proposed 2 foot excavation with a soil cover will have the provision that a Site Management Plan (SMP) be developed including Institutional and Engineering Controls Plans; the SMP will be in place in perpetuity. The effectiveness of the two foot cap will be diminished by natural causes; as discussed below, plant root growth will extend below the demarcation layer and will channel contaminants to the surface over time. Furthermore, Weston should have performed a scientific Human Health Risk Assessment in compliance with USEPA guidance to assess potential future health impacts. Weston also should have quantified the benefits of each alternative so they could be adequately compared through a cost/benefit analysis.

**RESPONSE 80:** The Site Management Plan includes a provision for a monitoring plan, including annual inspections of properties to ensure that controls remain in place and are effective. DER-10/Technical Guidance for Site Investigation and Remediation is the applicable guidance and sufficient information was provided to make a qualitative human health exposure assessment.

**COMMENT 81:** Weston stated: “In comparison to excavation limited to 2 feet, deeper excavations result in more potential exposure during implementation.” Prior to the commencement of remedial activities, a NYSDEC-approved Remedial Action Work Plan (RAWP), Health & Safety Plan (HASP), and Community Air Monitoring Plan (CAMP) will be required. Compliance with these documents during remedial excavations will minimize concerns relative to worker or community exposure, regardless of the depth of the excavations.

**RESPONSE 81:** Comment noted.

**COMMENT 82:** Weston stated: deeper excavations will “cause more disruption to the community for a longer period of time.” If Alternative 3 was selected, the disruptions to the community would last for the extent of the remedial project, but when completed, the disruptions will come to an end. Under Weston’s proposal, the disruption will be in the form of the SMP associated with the properties in perpetuity.

**RESPONSE 82:** Please see response 71.

**COMMENT 83:** Weston stated: deeper excavations will “impose a larger environmental footprint.” A SMP associated with the properties in perpetuity is a far greater “environmental footprint” than that associated with the remedial project.

**RESPONSE 83:** The environmental footprint would be greater with a more extensive removal action. Removal to achieve unrestricted use would require the excavation and disposal of a much larger volume of soil than the remedy. The duration of the removal and increase in truck traffic to achieve unrestricted use would also be substantial, increasing the potential for vehicle and pedestrian accident because of the large number of trucks to be loaded and driven through surrounding neighborhoods during the remedial work. Dust control efforts would be significant during a removal to achieve unrestricted use since nearly all the target fill and contaminated soil with elevated concentrations of metals and semi-volatile organic compounds would be excavated in addition to the demolition of homes and other structures. Overall, the remedy will be much less disruptive to the community while still achieving the goal of being protective of public health and the environment.

**COMMENT 84:** Weston stated: deeper excavations will “require more complex construction when slope stabilization and shoring is need around structures and subsurface utilities.” 6 NY CRR 375-3.8 states that to achieve a Track 2 remediation “the requirement to achieve contaminant-specific soil cleanup objectives...shall not apply to soils at a depth greater than 15 feet below ground surface,” indicating that 15 foot deep excavations are feasible. Issues including slope stabilization and shoring should be addressed in the RAWP.

Furthermore, Weston failed to perform any sensitivity analysis that considered the benefits of digging deeper than 2 feet but less than 15 feet in some areas.

**RESPONSE 84:** The use of language from a regulation to support a position that 15 deep excavations are feasible regardless of the proximity of residential houses is without basis. Deep excavations are typically performed utilizing either benching or shoring, both of which are problematic in an existing residential neighborhood. Shoring is generally avoided in proximity to

residential housing due to the vibration impacts to footings and foundations. There is insufficient space to properly bench the excavation work in this residential neighborhood.

**COMMENT 85:** Weston stated that the excavations as deep as required to remove all of the Corning fill would still result in residual constituents at concentrations greater than SCOs. The only remaining fill with residual constituents at concentrations greater than SCOs will be buried beneath existing houses; it will not pose a threat relative to potential exposures.

**RESPONSE 85:** Please see response 70.

**COMMENT 86:** Weston stated that deep excavations are not cost-effective for the little, if any additional benefit provided.

**RESPONSE 86:** Please see response 71.

**COMMENT 87:** In our estimation avoidance of the SMP in perpetuity is worth the cost of the deep excavations. However, a quantified cost/benefit analysis should be completed.

**RESPONSE 87:** Please see responses 42 and 53 and 71.

**COMMENT 88:** Weston stated that the fill is, in many cases, adjacent to properties that require no excavation. Requiring deeper excavation at any property could result in disruption and impacts to properties that require no, or very limited excavation. The neighborhood will be disrupted regardless of Weston's choice of Alternative 2 versus the more invasive Alternative 3. The benefit of having no SMP moving forward outweighs the temporary disruption to be incurred during remediation.

**RESPONSE 88:** Refer to response 71 regarding disruption related to alternatives.

**COMMENT 89:** There is a concern regarding root growth if Weston's Alternative 2 is selected. Numerous vegetables such as artichokes, asparagus, lima beans, okra, parsnips, pumpkin, rhubarb, winter squash, sweet potatoes, tomatoes, and watermelon have root depths ranging from 24 inches (2 feet) to >36 inches (3 feet), deeper than the 2-foot depth of the proposed cover system. These plants could easily penetrate the demarcation layer and uptake the underlying contaminants through their root systems. Fruiting trees and shrubs planted in the 2 feet of cover soils would also be anticipated to breach the demarcation layer and uptake the underlying contaminants.

**RESPONSE 89:** The NYSDOH generally recommends that if you are concerned about chemicals in the soil, you consider growing vegetables in raised beds with clean soil (at least ten inches deep). Use untreated wood to make the beds. Pressure-treated wood and railroad ties contain added chemicals.

<https://www.health.ny.gov/publications/1301/>

Specific planting concerns relative to the demarcation layer can be discussed with individual property owners.

**COMMENT 90:** The demarcation layer is laid down as a physical barrier to prevent mixing of clean soil and underlying contaminated fill. There is potential that the glass and other sharp material (brick, rocks) in the fill soils will compromise the demarcation layer, significantly diminishing its lifespan. The contaminants of concern are heavy metals, which do not naturally break down; they persist indefinitely in the soil. The cover system is a temporary solution to a

permanent problem if the contaminants are not removed from the residential properties, risking the potential for exposure and requiring additional future abatement.

**RESPONSE 90:** The remedy relies on a cover system, a site use restriction, and a SMP to protect public health and will also include a restriction on groundwater use on the site as a precautionary measure. The SMP includes a provision for a monitoring plan, including annual inspections of properties to ensure that controls remain in place and effective. Overall, the remedy will be much less disruptive to the community while still achieving the goal of being protective of public health and the environment.

The remedy will address all potential exposure pathways. By removing the uppermost two feet of material, direct exposure pathways are prevented in their entirety. Replacing this material with clean soil provides a medium for plants to grow in that is free of site-related contamination (see also response to comment 99 below). In addition, the SMP will include a provision for a monitoring plan, including annual inspections of properties to ensure that controls remain in place and effective. All of this is in accordance with the applicable regulatory guidance (DER-10/Technical Guidance for Site Investigation and Remediation). Health gardening guidance can be viewed at: <https://www.health.ny.gov/publications/1301/>, in addition to links to supporting information, including the Technical Support Document describing the development of health risk- and background level-based soil cleanup objectives relevant for New York State remedial programs.

**COMMENT 91:** The March 2017 PDD states that the “Summary of Human Exposure Pathways” identifies ways in which people may be exposed to site-related contaminants. It states that people may contact contamination by digging or otherwise disturbing soils in areas of known soil contamination. It then states that the goal for the remedial program is to restore the site to pre-disposal conditions to the extent feasible.

The PDD states that “an unrestricted cleanup necessitates extensive excavation, including some building demolition, and would be overly destructive to the existing residential properties. An unrestricted use remedy is not feasible or necessary to be protective of human health and the environment.” Our preferred remedy is the excavation of all suspect fill material from the residential yards; no building demolition is proposed. By excavating all of the fill, it will eliminate concerns relative to future exposures due to unpermitted digging and cap degradation. It will be far more protective to human health and the environment than a 2-foot soil cap over the contaminated soils, and will better restore the Site to “pre-disposal conditions” than Alternative 2.

**RESPONSE 91:** Please see responses 70 and 71.

**COMMENT 92:** The PDD states that the “Basis for Selection” (of the remedy) is based on six criteria: Protection of Human Health and the Environment. The PDD States that the proposed remedy addresses the soil contamination near the surface, which is the most significant threat to human health and the environment. The proposed two-foot cover, however, does not address future exposure concerns due to cap degradation, unpermitted digging, or damage caused by roots or other factors to the demarcation layer.

**RESPONSE 92:** Please see response 90.

**COMMENT 93:** The PDD States that the risks of uninformed large scale digging or construction operations would be managed through Institutional Controls (IC). Institutional controls cannot manage uninformed, large scale digging operations, as the perpetrators will not be aware of the IC restrictions prior to digging.

**RESPONSE 93:** Please see responses 42, 52, and 54.

**COMMENT 94:** The PDD states that removal to achieve unrestricted use removes the greatest amount of target fill and contaminated soils; this alternative would result in a significant impact to the community. This alternative will result in a beneficial impact to the community, as it will remove the onus of the SMP in perpetuity.

**RESPONSE 94:** Please see responses 42, 52, 54, and 70.

**COMMENT 95:** The PDD states the duration of a removal and increase in truck traffic to achieve unrestricted use would be substantial. The potential for vehicle and pedestrian accidents would be much higher for a removal to achieve unrestricted use because of the large number of trucks to be loaded and driven through surrounding neighborhoods during the remedial work. It will be incumbent on the remedial contractors to ensure that they have control of their truck traffic and comply with all applicable traffic control regulations. These requirements will apply regardless of the scope of the project. Furthermore, there is no quantification of the risk of vehicle and pedestrian accidents.

**RESPONSE 95:** Please see response 83.

**COMMENT 96:** The PDD states that dust control efforts would be significant during the removal to achieve unrestricted use since nearly all the target fill and contaminated soils with elevated concentrations of metals and semi-volatile organic compounds would be excavated. As previously stated, a NYSDEC- and NYSDOH-approved RAWP, HASP, and CAMP will mitigate concerns relative to fugitive emissions during the scope of the remedial project.

**RESPONSE 96:** Please see responses 70 and 71.

**COMMENT 97:** The PPD states that overall, the proposed remedy will be much less disruptive to the community while still achieving the goal of being protective of human health and the environment. The proposed two-foot cap will be less disruptive in the short term for the duration of the remedial activities only. The requisite SMP in perpetuity will be far more disruptive to the community in the long term.

**RESPONSE 97:** Please see responses 3, 8 and 42.

**COMMENT 98:** Compliance with New York State Standards, Criteria, and Guidance (SCGs)

The PDD states that the proposed remedy complies with SCGs to the extent practicable, while allowing for the continued existence of the established community.

The proposed remedy complies with the SCGs with the huge caveat of a requisite SMP in perpetuity.

**RESPONSE 98:** Comment noted

**COMMENT 99:** Long-term Effectiveness and Permanence The PDD states that long-term effectiveness is best accomplished by those alternatives involving excavation of the contaminated overburden soils. Removal of all of the chemical contamination would remove the need for property use restrictions, but significantly alter the character of the existing neighborhood. We concur completely with the above statement. The removal of all of the contamination will significantly alter – in a positive way - the character of the existing neighborhood. By removing the onus of the SMP, the neighborhood will maintain its property value, and will not be affected by the SMP liability in perpetuity.

**RESPONSE 99:** As noted in the response to comment 90, removal of two feet of contaminated material and replacement with clean soil is designed to prevent direct exposure (“contact”)

altogether, and to provide an uncontaminated medium for gardens (both flower and vegetable). References such as can be found at: <https://eartheasy.com/raised-beds-soil-depth-requirements.html> report that for most vegetable crops the bulk of the root mass is found in the upper six inches of the soil. Those who wish to consider additional measures that they could take to further reduce the potential for indirect exposure to subsurface contamination via consumption of homegrown produce may find the Department of Health's generic recommendations for construction of raised beds at: <https://www.health.ny.gov/publications/1301/> to be helpful. Such measures, in combination with the proposed removal and replacement of contaminated material, can fully accommodate the rooting depth of the desired crop. Any additional specific planting concerns relative to the demarcation layer can be discussed with individual property owners.

**COMMENT 100:** The PDD states the proposed remedy requires institutional controls, a cover system, and long-term site management. As previously stated, the proposed remedy will result in an environmental liability in perpetuity.

**RESPONSE 100:** Please refer to response 71.

**COMMENT 101:** Reduction of Toxicity, Mobility or Volume The PDD states that preference is given to alternatives that permanently and significantly reduce the toxicity, mobility or volume of the wastes at the site. For the reason stated above, removal of all of the suspect fill material is a preferable option to capping contaminated soils in place.

**RESPONSE 101:** This is one of the "primary balancing criteria" which are used to compare the positive and negative aspects of each of the remedial strategies. The Decision Document states: "The remedy, which includes limited excavation and off-site disposal, reduces the toxicity, mobility and volume of on-site waste by transferring the material to an approved off-site location. However, depending on the disposal facility, the volume of the material will not be reduced. Removal to achieve unrestricted use would require the excavation and disposal of a much larger volume of soil than the proposed remedy."

**COMMENT 102:** Short-term Impacts and Effectiveness The PDD states that removal to achieve unrestricted use and the proposed remedy both have short-term impacts which could be controlled; however, the proposed remedy will have the least impact due to the lower volume of soil to be removed and replaced, thereby limiting the impacts of noise, traffic and possible accidents as a result of the lower number of truck trips required to implement the proposed remedy. The short term impacts to achieve unrestricted use can be controlled. However, the negative impacts of contamination left in place will be a long term liability to affected current, and future property owners.

**RESPONSE 102:** Please refer to response 71.

**COMMENT 103:** Implementability The PDD states the technical feasibility includes the difficulties associated with the construction of the remedy and the ability to monitor its effectiveness. Removal to achieve unrestricted use is marginally implementable, and the volume of soil excavated under this alternative will necessitate increased truck traffic on local roads for a longer period of time as well as significant disruption to the existing community. As previously stated, the increased truck traffic can be controlled in the short term, and the liability of covering the contaminated fill will be a long-term liability.

**RESPONSE 103:** Please refer to response 71.

**COMMENT 104:** Cost-Effectiveness The PDD states that the costs of the alternatives vary significantly. The proposed remedy has a lower cost, but has on-going annual costs on-site associated with long-term maintenance of the cover system and other site management activities. Removal to achieve unrestricted use is much more expensive, but does not provide a proportional increase in protection.

The PDD states our preferred unrestricted cleanup is much more expensive, but does not provide a proportional increase in protection. However, this statement is not based upon a Human Health Risk Assessment. But if one accepts this premise, it is not an apt comparison. In addition to the on-going annual costs associated with long-term maintenance of the cover system and other site management activities, it does not acknowledge the cost of the long term liability associated with the affected properties burdened with a SMP in perpetuity.

**RESPONSE 104:** This is one of the "primary balancing criteria" which are used to compare the positive and negative aspects of each of the remedial strategies. The remedy is being selected because, as described above, it satisfies the threshold criteria and provides the best balance of the balancing criteria. The selected remedy is protective of public health and the environment. The remedy will achieve sufficient removal to assure a protective cleanup for which a no further action determination can be issued, with site management where appropriate. Properties with site management will be subject to periodic notifications and reminders but other site management obligations will be handled by others (e.g., managing target fill encountered during future excavations under the site management plan).

**COMMENT 105:** The PDD states since the existing and anticipated use of the site is generally residential, the proposed remedy is less desirable because at least some contaminated soil remains on the property whereas removal to achieve unrestricted use removes all of the contaminated soil permanently. This is an accurate statement.

**RESPONSE 105:** Comment noted.

**COMMENT 106:** The PDD states the remaining contamination with the proposed remedy will be controllable with construction of a cover system, institutional controls, and implementation of a Site Management Plan. The above is true with the caveat that the affected properties will be burdened by this environmental liability in perpetuity.

**RESPONSE 106:** Please refer to response 69.

### COMMENTS/RESPONSES – OPERABLE UNIT #3

**COMMENT 107:** During the public meeting, the slide about exposure, breathing in contamination, when they are digging soil at Corning Painted Post High School, dirt goes all along Corning Blvd. It's dusty, blowing. How do you protect against adjacent properties?

**RESPONSE 107:** A community air monitoring plan will be implemented to provide protection for the nearby community and workers from potential airborne contaminant releases. During the investigation and remedial work if dust is detected above the action level or if any visible dust is generated, the remedial work will be stopped until dust suppression techniques are deployed.

**COMMENT 108:** I have children in both schools. Is water testing an on-going part of the project?

**RESPONSE 108:** The Study Area, including the schools, is served by a public water supply that is routinely tested to ensure the water is suitable for people to drink. The Corning Painted



Post School District uses a well for irrigating the athletic fields. The School's irrigation well has been sampled and has not shown an impact from the soil contamination to date. A groundwater monitoring element is included in the remedy. The irrigation well will continue to be sampled as a part of the groundwater monitoring program required under the remedy.

**COMMENT 109:** What is the extent of removal at pre-school and Corning Christian Academy? When will the playground and yard be remediated?

**RESPONSE 109:** Relatively small excavations are planned for the School Properties in order to achieve the soil cleanup objectives. The Department approved work plans include maps showing the areas where excavation is planned. They are available at the document repositories and on DEC's Study Area webpage at: <http://www.dec.ny.gov/chemical/97180.html>. The excavation is planned to begin just after the school year is finished in June.

**A letter dated April 24, 2017 was received via e-mail from Superintendent Michael Ginalski on behalf of the Corning Painted Post School District Comments, with the following comments:**

**COMMENT 110:** Page 9, Paragraph 1, Bullet 1-the District requests that the Department identify the Party that will conduct and bear the costs associated with the design phase investigation and the additional remedial work, if required as a result of the design phase investigation, at the Corning Painted Post High School. The District should not be required to incur any of the costs associated with the work plan, including the cost of testing cover material brought to the site by the District during construction of the capital project which met applicable standards as engineered fill for the project. As a reminder, the District was not required by any law, regulation or guidance to test such engineered fill, where as in this case, at the time it was brought on site, the District's property was not in any regulatory program or under consent order. Perhaps as important, at the time the District had such cover material brought on to the site, it was in active ongoing discussions with the Department regarding the construction of the project, including as to the use of fill and other material on site, and the Department did not indicate in any manner that it wanted such testing to occur; in fact, at the time, the Department discussed with the District re-use of on-site material as an alternative to bringing in new material consistent with the regulations and consistent with the status of the property not being in any program or under a consent order. Indeed, several years later when the Department stated the District should test such material, despite no regulatory requirement to complete such testing, the District nevertheless did so, in part because of the information that came to light in the interim as the result of additional material identified during project construction.

**RESPONSE 110:** Corning Incorporated is responsible for the remedial design and remedial actions planned for the school properties and Memorial Stadium. The Department is approving a one foot soil cover which meets the required soil cleanup objectives (SCOs). A design-phase investigation will be conducted at the Corning Painted Post High School to determine if the existing cover meets SCOs and is a minimum of one foot in depth. In the event this investigation determines that the existing cover does not meet SCOs or is not a minimum of one foot in depth, additional remedial work will be required. The Department has never asserted that the one foot cover could consist of untested material. The remedy is to be implemented within eighteen months of issuance of the final decision document or another timeframe as the Department may agree to after consultation with the school district.

**COMMENT 111:** Page 11, Paragraph 6(a), Bullet 2 - the District requests that the Department identify the Party responsible for planning and investigating the nature and extent of contamination should redevelopment of any significance occur, or the use of the District property changes, and insure that the costs associated with investigation and remediation not be imposed on or be borne by the District.

**RESPONSE 111:** The site management plans will specify notification requirements for a change of use including site ownership changes. The responsibility for any required additional investigation and/or remediation to accommodate a change in use that may affect the exposure scenarios will fall to the property owner proposing a new use or redevelopment of the site. Costs associated with investigation and remediation may be negotiated with a prospective purchaser as part of any property transfer.

**COMMENT 112:** Page 11, Paragraph 6(a), Bullet 3 - same comment as Bullet 2 above.

**RESPONSE 112:** In the event that previously inaccessible areas become accessible, such as the result of the demolition of a building in an area where target fill may be encountered, the responsibility would reside with the responsible party and the property owner at the time this occurs.

**COMMENT 113:** Page 12, Paragraph 6(b) - the District requests that the Department identify the Party responsible for monitoring of groundwater and conducting annual visual inspections to ensure that the controls on the District Property remain in place and effective and insure that the costs associated with these activities not be imposed on or be borne by the District.

**RESPONSE 113:** Reporting requirements will also be imposed upon the property owners and/or Corning Incorporated to maintain cover systems as part of normal facility operations such as maintaining lawns and parking areas.

**COMMENT 114:** Page 12, Paragraph 7 - the District understands that a Draft Interim Site Management Plan for the District Property has been submitted to the Department by Corning Incorporated. The District was not extended any opportunity to review the draft document for its property prior to submittal. Therefore, the District requests that the Department ensure that the District has the opportunity to review and comment on the Draft Interim Site Management Plan prior to the Department's approval.

**RESPONSE 114:** The school district will be able to review the documents before the Department issues an approval.

**COMMENT 115:** Comment on the Focused Feasibility Study/Alternatives Analysis Section 6.1.3, Paragraph 1-The District requests replacement of Paragraph 1 with the following paragraph in italics to be consistent with the Proposed Decision Document, Page 13, Basis for Selection, 2. Compliance with New York State Standards, Criteria, and Guidance (SCGs): *"The proposed remedy complies with SCGs to the extent practicable, while allowing for the continued existence of the established community. It complies with the residential and restricted residential use soil cleanup objectives at the surface by removal of target fill and contaminated soils in the top two feet (one foot for Corning Painted Post High School) and through construction of a cover system (including geotextile fabric beneath imported cover material at Corning Painted Post High School) to prevent contact with any contamination remaining below the cover. NYSDEC provided approval of the High School Athletic Field Construction Completion Report dated November 2015 and the Memorial Stadium Construction Completion Report dated*

*November 2015 in two letters to the School District, both dated January 8, 2016 (NYSDEC, 20160; NYSDEC, 2016b*

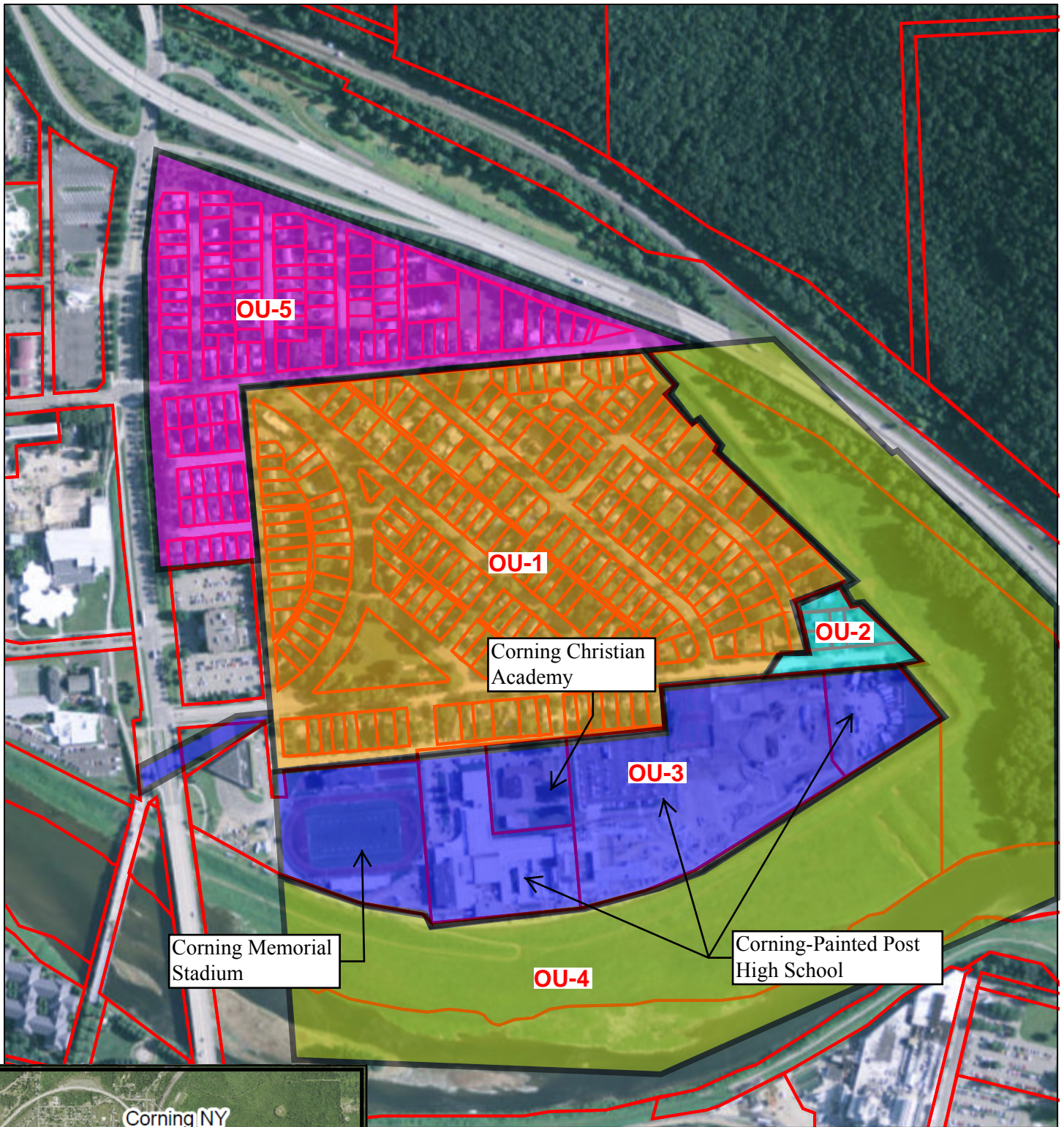
**RESPONSE 115:** Please see response 69.

**COMMENT 116:** Executive Summary, Page ES-2, Paragraph 3-The District requests replacement of the word "indicated" with "determined" in the last sentence. ("NYSDEC has determined that no further action is required by Corning Incorporated for Subject Material located beneath the existing natural turf athletic fields.") Section 6.1.1, Paragraph 5 - The District requests replacement of the word "indicated" with "determined" in the last sentence. ("NYSDEC has determined that no further action is required by Corning Incorporated for Subject Material located beneath the existing natural turf athletic fields.")

**RESPONSE 116:** Please see response 69.

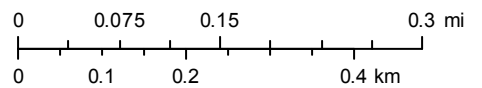


# Study Area Operable Units



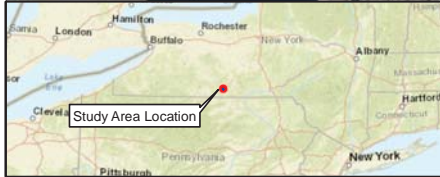
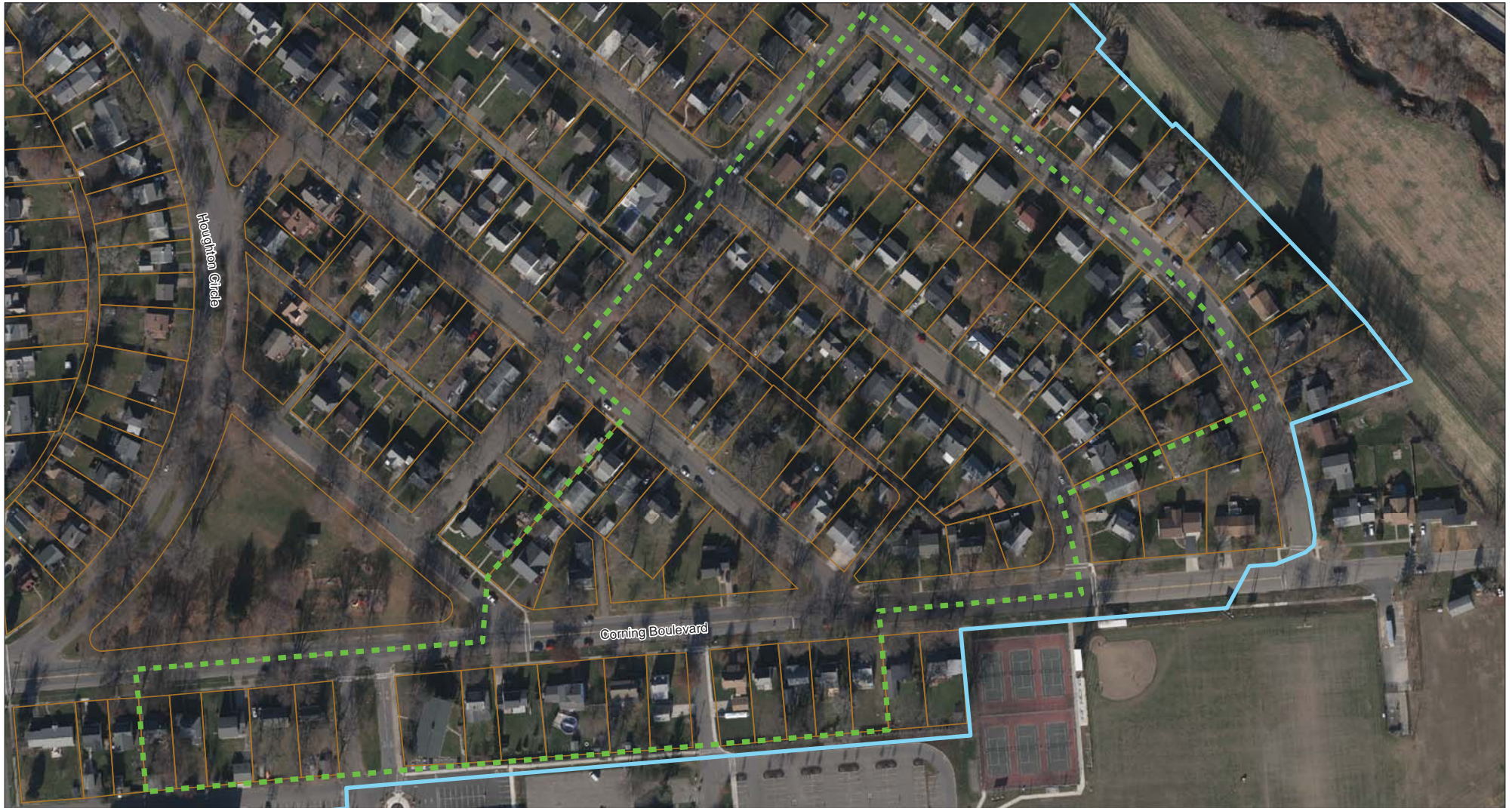
Department of  
Environmental  
Conservation

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Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community





Legend

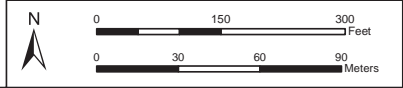
- Residential Area
- Expedited Portion of the Study Area

NOTES:  
 Base Imagery: Robinson Aerial Imagery, Dec 2015  
 Coordinate System: NAD 1983 State Plane  
 New York Central Feet  
 Datum: NAD83. Units: Feet

Study Area  
 Corning NY



Figure 1  
 Expedited Portion of  
 the Study Area



Document Name: Expedited\_Portion.MXD  
 3/10/2017