



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
 DIVISION OF ENVIRONMENTAL REMEDIATION
Site Classification Report



DATE: 8/10/2021

Site Code: 905025	Site Name: AVM-Gowanda
City: Persia	Town: Persia
Region: 9	County: Cattaraugus
Current Classification: 02	Proposed Classification: 04
Estimated Size (acres): 1.00	Disposal Area: Dump
Significant Threat: Previously	Site Type:
Priority ranking Score: 350	Project Manager: Robert Strang

Summary of Approvals

Originator/Supervisor: Jeffrey Dyber	06/07/2021
RHWRE: Stan Radon:	06/09/2021
BEEI of NYSDOH:	04/30/2019
CO Bureau Director: Michael Cruden, Director, Remedial Bureau E:	06/07/2021
Assistant Division Director: George Heitzman, P.E.:	07/12/2021

Basis for Classification Change

Threats from the disposal of hazardous waste at this site were addressed by the implementation of the remedy identified for the site by one or more Records of Decision. All construction of the components of the site-wide remedy was completed no later than 2015. The Final Engineering Report (FER) confirms that the remedy has been constructed consistent with the requirements in the ROD. The FER is in DEC Docs. Management of contamination remaining at the site, including any required monitoring, is and has been controlled pursuant to a Site Management Plan (SMP). A copy of the SMP is in DEC Docs. Institutional controls were required to ensure the protectiveness of the site. The required controls, in the form of a deed restriction are in place. A significant threat to public health and the environment no longer exists at the site. The site is properly remediated and requires site management, therefore, it qualifies for Class 4 status on the Registry of Inactive Hazardous Waste disposal sites.

Site Description - Last Review: 01/05/2021

Location:
 The AVM - Gowanda site, One Industrial Place, Gowanda, is a one acre site located in an urban portion of Cattaraugus County, NY.



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Site Name: AVM-Gowanda

Site Features:

The main site features include two large abandoned manufacturing buildings and two small storage sheds surrounded by parking areas. A small portion of the site area is wooded while the remaining area is open field. The area is bound by Thatcher Creek, a tributary of Cattaraugus Creek, to the east, and Cattaraugus Creek to the west.

Current Zoning and Land Use:

The site is zoned for industrial/commercial use and currently active, housing the Gowanda Public Works Department. The surrounding parcels are currently used for a combination of light industrial and residential. The nearest resident borders the site to the north. There are no schools or any recreational facilities in the immediate vicinity.

Past Use of the Site:

Until 1979, the site was used for metal machining and stamping. Prior uses that appear to have led to site contamination include metal machining and stamping wastes which were disposed at the rear of the building.

Site Geology and Hydrogeology:

The site, and resulting area of impacted groundwater, is underlain by moderately to highly permeable alluvium comprised of a varying mix of sand and gravel. Within this alluvium are buried stream channels filled with coarser sand and gravel that serve as preferential flow paths and, in part, control groundwater flow. The thickness of the alluvium ranges from 4 to 15 feet. Groundwater occurs within the alluvium under unconfined conditions. Below the alluvium, is a dense glacial till that may serve as a barrier to further downward migration of contaminants. The surface of this till was eroded during post glacial stream flow, resulting in an uneven surface with the deepest area beneath Torrance Place. The water bearing alluvium is covered with up to 8 feet of flood plain silt and clay that serves to retard upward migration of contaminant vapors from the water table. Groundwater flow within the alluvium is to the north-northwest under a moderate gradient, at an estimated rate of 2 to 4 feet per day.

Contaminants of Concern (Including Materials Disposed)

Quantity Disposed

OU 01

TRICHLOROETHENE (F002)

0.00

1,1,1-TRICHLOROETHANE (F002)

0.00

Analytical Data Available for : Groundwater, Soil

Applicable Standards, Criteria or Guidance exceeded for:

Groundwater, Drinking Water

Site Environmental Assessment- Last Review: 01/05/2021

Remediation at the site is complete. Prior to remediation, the primary contaminants of concern were trichloroethylene in groundwater and indoor air. Remedial actions have successfully achieved cleanup objectives for industrial/commercial use. Residual contamination in groundwater and indoor air is being



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Site Name: AVM-Gowanda

managed under a Site Management Plan.

Site Health Assessment - Last Update: 12/29/2020

Contact with residually contaminated soils is not expected unless people dig below the currently in-place surface materials. People are not drinking the contaminated groundwater because the Village of Gowanda is served by a public water supply that is not affected by this site. Volatile organic compounds in the groundwater may move into the soil vapor (air spaces within the soil), which in turn may move into overlying buildings and affect the indoor air quality. This process, which is similar to the movement of radon gas from the subsurface into the indoor air of buildings, is referred to as soil vapor intrusion. Subslab depressurization systems (systems that ventilate/remove the air beneath the building) have been installed in the onsite building as well as several offsite residential homes to prevent impacts to indoor air.

	Start		End	
OU 00				
EC Water Supply Sampling	11/12/19	ACT	1/21/21	ANF
Emerging Contaminant Sampling	12/7/17	ACT	12/29/17	ACT
Periodic Review	3/18/18	ACT	3/21/18	ACT
Periodic Review	5/10/21	ACT	6/15/21	ACT
Periodic Review	4/17/24	PLN	6/1/24	PLN
Site Management	11/18/16	ACT	11/18/46	PLN
OU 01				
OGC Docket - Environmental Easement	4/18/06	ACT	10/31/07	TRM
Reclass Pkg.	6/7/21	ACT	9/30/21	PLN
Remedial Action	2/6/12	ACT	11/18/16	ACT
Remedial Design	11/25/03	ACT	3/28/11	ACT
Remedial Investigation	4/1/97	ACT	3/30/01	ACT
VI Evaluation	4/5/04	ACT	6/7/04	ACT
OU 01A				
Remedial Action	7/1/04	ACT	7/15/05	ACT

Remedy Description and Cost

Remedy Description for Operable Unit 01

In 1996 Gowanda Electronics installed a groundwater extraction well to address the on-site contamination problem. A Record of Decision (ROD) was issued in March 2001 and selected groundwater collection and treatment as the remedy for this site. The remedy is a combination of extraction and treatment via a reactive iron wall at the end of the contaminated plume. A design for extraction and treatment system is final and ready for bid. A pilot test of sodium permanganate is presently being performed in the plume to determine if it is more effective.

Total Cost \$2,685,000



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Site Name: AVM-Gowanda

Remedy Description for Operable Unit 01A

Installation of Subslab Venting Systems to mitigate indoor air issues

Total Cost

OU 00

Site Management Plan Approval: 11/18/2016

Status: ACT

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
 8/10/2021

SITE DESCRIPTION

SITE NO. 905025

SITE NAME AVM-Gowanda

SITE ADDRESS: One Industrial Place ZIP CODE: 14070

CITY/TOWN: Persia

COUNTY: Cattaraugus

ALLOWABLE USE:

SITE MANAGEMENT DESCRIPTION

SITE MANAGEMENT PLAN INCLUDES:

IC/EC Certification Plan	YES
Monitoring Plan	YES
Operation and Maintenance (O&M) Plan	YES

Periodic Review Frequency: every three years

Periodic Review Report Submittal Date: 04/17/2024



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
DIVISION OF ENVIRONMENTAL REMEDIATION
Site Classification Report



DATE: 8/10/2021

Site Code: 905025

Site Name: AVM-Gowanda

Description of Institutional Control

Other Controls

Block:

Lot:

Sublot:

Section:

Subsection:

S_B_L Image:

Discharge Permit

Village of Gowanda

27 E Main St

1 Industrial Place

Deed Restriction

Block: 1

Lot: 2

Sublot:

Section: 16

Subsection: 028

S_B_L Image: 16.028-1-2

Building Use Restriction

Ground Water Use Restriction

IC/EC Plan

Monitoring Plan

O&M Plan

Site Management Plan

Soil Management Plan

Description of Engineering Control

Not Applicable/No EC's



PUBLIC NOTICE

State Superfund Program

Sign up to receive site updates by email: www.dec.ny.gov/chemical/61092.html

Site Name: AVM-Gowanda

August 2021

Site No.: 905025 **Tax Map No.:** 16.028-1-2

Site Location: One Industrial Place, Persia, NY 14070

State Superfund Site Reclassification Notice Class 2 to Class 4

The Inactive Hazardous Waste Disposal Site Program (the State Superfund Program) is the State's program for identifying, investigating, and cleaning up sites where the disposal of hazardous waste may present a threat to public health and/or the environment. The New York State Department of Environmental Conservation (DEC) maintains a list of these sites in the Registry of Inactive Hazardous Waste Disposal Sites (Registry).

The site identified above, and located on the attached map, has been reclassified on the Registry as a Class 4 site as it no longer presents a significant threat to public health and/or the environment for the following reason(s):

- Soil and groundwater contamination has been effectively addressed through extensive cleanup actions, including:
 - groundwater extraction and treatment;
 - installation of a subsurface permeable reactive iron wall;
 - installation of sub-slab depressurization systems in eighteen nearby structures as well as the on-site building to prevent vapor intrusion into occupied buildings;
 - treatment of groundwater using in-situ (in-place) chemical oxidation through a series of injection wells; and
 - routine groundwater monitoring to assess progress toward remedial goals.
- The remedy includes implementation of a deed restriction and Site Management Plan that require compliance with institutional and engineering controls at the site.
- Annual certification of the Site Management Plan will ensure that the institutional and engineering controls remain effective at protecting the community and preventing exposures to site-related contamination.

If you own property adjacent to this site and are renting or leasing your property to someone else, please share this information with them. If you no longer wish to be on the contact list for this site or otherwise need to correct our records, please contact DEC's Project Manager listed below.

FOR MORE SITE INFORMATION

Additional information about this site can be found using DEC's "Environmental Site Remediation Database Search" engine which is located on the internet at:

www.dec.ny.gov/cfm/externalapps/derexternal/index.cfm?pageid=3

Site specific documents may be found online through the DECinfo Locator at :

<https://www.dec.ny.gov/data/DecDocs/905025/>

Comments and questions are always welcome and should be directed as follows:

Project Related Questions

Robert Strang, Project Manager

NYS Department of Environmental Conservation

625 Broadway

Albany, NY 12233-7017

robert.strang@dec.ny.gov

(518) 402-9813

DEC is sending you this notice in accordance with Environmental Conservation Law Article 27, Title 13 and its companion regulation (6 NYCRR 375-2.7(b)(6)(ii)) which requires DEC to notify all parties on the contact list for this site of this recent action.

Approximate Site Location
AVM-Gowanda
SITE ID 905025
One Industrial Place, Persia, NY 14070



Stay Informed With DEC Delivers

Sign up to receive site updates by email: www.dec.ny.gov/chemical/61092.html

As a listserv member, you will periodically receive site-related information/announcements for all contaminated sites in the county(ies) you select.

Note: Please disregard if you received this notice by way of a county email listserv.

DECinfo Locator

Interactive map to access DEC documents and public data about the environmental quality of specific sites: <http://www.dec.ny.gov/pubs/109457.html>

Electronic copies:

M. Ryan, Director, Division of Environmental Remediation
K. Lewandowski, Chief, Site Control Section
M. Cruden, Director, Remedial Bureau E
S. Radon, RHWRE, Region 9N
A. Caprio, RHWRE, Region 9S
D. Denk, Regional Permit Administrator, Region 9
M. Gollwitzer, Regional CPS, Region 9
C. Vooris, NYSDOH
C. Bethoney, NYSDOH Regional Chief
S. Surani, NYSDOH Project Manager
J. DeMarco, DER, Bureau of Program Management
R. Strang, Project Manager
L. Zinoman, Site Control Section

Village of Gowanda
27 E Main St
Gowanda, NY 14070

Thayer Every
512 Taylor Ln
Stoughton, WI 53589

Buffalo Turbine Agric Equip Co
PO Box 332
Gowanda, NY 14070

Cattaraugus County IDA
PO Box 1749
Ellicottville, NY 14731

State of New York
Attn: County Treasurer
303 Court St
Little Valley, NY 14755

Earl Clabeaux
84 Torrance Pl
Gowanda, NY 14070

James R Steever
74 Torrance Pl
Gowanda, NY 14070

Nancy Jemison
70 Torrance Pl
Gowanda, NY 14070

Tim K Ognen
64 Torrance Pl
Gowanda, NY 14070

Jannette Spicola
58 Torrance Pl
Gowanda, NY 14070

Paula Freeman
227 West Main St
Gowanda, NY 14070

James A Fix
98 Torrance Pl
Gowanda, NY 14070

Midfirst Bank
28 E Main St
Rochester, NY 14614

Chu Lam Lai
38 Park St
Springville, NY 14141

Jessica M Buck
114 Torrance Pl
Gowanda, NY 14070

Nancy L Smith
118 Torrance Pl
Gowanda, NY 14070

Charles F Koch
PO Box 12
Gowanda, NY 14070

Alan E Bierman
9717 Marek Road N
Cattaraugus, NY 14719

J&R International, LLC
174 Keil St
North Tonawanda, NY 14120

Gowanda Properties LLC
77 S Water St
Gowanda, NY 14070

Linda J Geraghty-Purdy
28 Torrance Pl
Gowanda, NY 14070

David E Yezek
34 Torrance Pl
Gowanda, NY 14070

Jacob Steinhoff
37 Torrance Pl
Gowanda, NY 14070

Renee Linden
139 Clark St
Springville, NY 14141

Kathy Smouse
69 Torrance Pl
Gowanda, NY 14070

Cindy Goode
71 Torrance Pl
Gowanda, NY 14070

Sue E Stelley
75 Torrance Pl
Gowanda, NY 14070

Laura L Guadagno
85 Torrance Pl
Gowanda, NY 14070

Ronald G Clabeaux Sr
87 Torrance Pl
Gowanda, NY 14070

Michael B McClenathan
PO Box 122
Twin Mountain, NH 03595

Carol A Sheibley
95 Torrance Pl
Gowanda, NY 14070

Luther Sebastian
99 Torrance Pl
Gowanda, NY 14070

Kevin L Neamon
103 Torrance Pl
Gowanda, NY 14070

Ruth A Menneke
504 Emerald Dr
Centralia, MO 65240

Andrew M Burr
26 Maltbie
Gowanda, NY 14070

Arnold & Joanne Andolsek Life Use
34 Chestnut St
Gowanda, NY 14070

Keybank, N.A.
4224 Ridge Lea Road
Amherst, NY 14226

David V Latona
48 Chestnut St
Gowanda, NY 14070

Roberta Raiport
56 Chestnut St
Gowanda, NY 14070

Kevin M Britt
64 Chestnut St
Gowanda, NY 14070

Crystal Sargeant
70 Chestnut St
Gowanda, NY 14070

Richard J Freeman
78 Chestnut St
Gowanda, NY 14070

LMR CAPITAL LLC
2952 Seneca St
West Seneca, NY 14224

Nathan P Green
10 Chestnut St
Gowanda, NY 14070

Daniel J Moyer
96 Chestnut St
Gowanda, NY 14070

LSOP Rentals Premier Asset Mgmt LLC
30 Palmer St
Gowanda, NY 14070

Katherine E Neyman
129 Chestnut St, Apt 3
Gowanda, NY 14070

Anne M Smith
126 Chestnut St
Gowanda, NY 14070

Richard Orth
33 Chestnut St
Gowanda, NY 14070

Mary Buckley
39 Chestnut St
Gowanda, NY 14070

Daniel Webber
47 Chestnut St
Gowanda, NY 14070

Thomas J Duffy
51 Chestnut St
Gowanda, NY 14070

Dina A Drain
55 Chestnut St
Gowanda, NY 14070

Colleen M Ernie
7146 Derby Rd
Derby, NY 14047

Theodore A Hapak
71 Chestnut St
Gowanda, NY 14070

Robert W Kniese
75 Chestnut St
Gowanda, NY 14070

Erik J Carroll
79-81 Chestnut St
Gowanda, NY 14070

George E Smith
3207 Hickox Rd
Hamburg, NY 14075

David R Fronczak
94 Cochrane St, Lower
Buffalo, NY 14206

Washy Lauretta E Life Use
95 Chestnut St
Gowanda, NY 14070

Gregory A Washy
212 Church St
Randolph, NY 14772

Lewis A Gerwitz
107 Chestnut St
Gowanda, NY 14070

Gernatt Asphalt Products
13870 Taylor Hollow Rd
Collins, NY 14034

John R. Searles
Cattaraugus County Administrator
Cattaraugus County Office Building
303 Court St
Little Valley, NY 14755

David Smith, Mayor, Village of Gowanda
Village Office
27 East Main Street
Gowanda, NY 14070

Gary Brecker, Code Enforcement Officer
Village of Gowanda Code Enforcement
Village Office
27 East Main Street
Gowanda, NY 14070

Village of Gowanda Water Department
Village Office
27 East Main Street
Gowanda, NY 14070

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Bureau of Technical Support
625 Broadway, 11th Floor, Albany, NY 12233-7020
P: (518) 402-9543 | F: (518) 402-9547
www.dec.ny.gov

July 13, 2021

Village of Gowanda
Attn: David Smith
27 East Main Street
Gowanda, NY 14070

Dear David Smith:

As mandated by Section 27-1305 of the Environmental Conservation Law (ECL), the New York State Department of Environmental Conservation (DEC) must maintain a Registry of all inactive disposal sites suspected or known to contain hazardous waste. The ECL also mandates that DEC notify the owner of all or any part of each site or area included in the Registry of Inactive Hazardous Waste Disposal Sites as to changes in site classification.

Our records indicate that you are the owner or part owner of the site listed below. Therefore, this letter constitutes notification of change in the classification of such site in the Registry of Inactive Hazardous Waste Disposal Sites in New York State.

DEC Site No.: 905025
Site Name: AVM-Gowanda
Site Address: One Industrial Place, Persia, NY 14070
Classification change: 2 to 4

The reasons for the change are as follows:

- Soil and groundwater contamination has been effectively addressed through extensive cleanup actions, including:
 - groundwater extraction and treatment;
 - installation of a subsurface permeable reactive iron wall;
 - installation of sub-slab depressurization systems in eighteen nearby structures as well as the on-site building to prevent vapor intrusion into occupied buildings;
 - treatment of groundwater using in-situ (in-place) chemical oxidation through a series of injection wells; and
 - routine groundwater monitoring to assess progress toward remedial goals.
- The remedy includes implementation of a deed restriction and Site Management Plan that require compliance with institutional and engineering controls at the site.
- Annual certification of the Site Management Plan will ensure that the institutional and engineering controls remain effective at protecting the community and preventing exposures to site-related contamination.

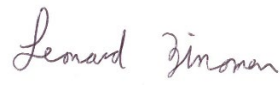
Enclosed is a copy of DEC's Inactive Hazardous Waste Disposal Site Report form as it appears in the Registry. An explanation of the site classifications is available at <http://www.dec.ny.gov/chemical/8663.html>. The Law allows the owner and/or operator of a site listed in the Registry to petition the Commissioner of DEC for deletion of such site, modification of site classification, or modification of any information regarding such site, by submitting a written statement setting forth the grounds of the petition.

Such petition may be addressed to:

Honorable Basil Seggos
Commissioner, NYS Department of Environmental Conservation
625 Broadway
Albany, New York 12233-1010

For additional information, please contact Robert Strang, the project manager at robert.strang@dec.ny.gov or 518-402-8642.

Sincerely,

 for

Kelly A. Lewandowski, P.E.
Chief, Site Control Section

Enclosure

ec w/Enc:

M. Ryan
K. Lewandowski
R. Strang, Project Manager

Do not include the following ec list with the owner letter.

ec w/Enc:

- C. Vooris, NYSDOH
- C. Bethoney, NYSDOH Regional Chief
- M. Cruden, Director, Remedial Bureau E
- J. Dyber, Chief, Bureau E – Section D
- M. Brady, Regional Attorney, Region 9
- D. Denk, Regional Permit Administrator, Region 9
- S. Radon, RHWRE, Region 9N
- A. Caprio, RHWRE, Region 9S
- L. Zinoman, Site Control Section



**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION
DIVISION OF ENVIRONMENTAL REMEDIATION
Inactive Hazardous Waste Disposal Report**



Site Code	905025					
Site Name	AVM-Gowanda	Address	One Industrial Place			
Classification	04	City	Persia	Zip	14070	
Region	9	County	Cattaraugus	Town	Persia	
Latitude	42 degrees, 27 minutes, 28.59 seconds				Estimated Size	1.0000
Longitude	-78 degrees, 56 minutes, 5.20 seconds					
Site Type	Dump					

Site Description

Location:

The AVM - Gowanda site, One Industrial Place, Gowanda, is a one acre site located in an urban portion of Cattaraugus County, NY.

Site Features:

The main site features include two large abandoned manufacturing buildings and two small storage sheds surrounded by parking areas. A small portion of the site area is wooded while the remaining area is open field. The area is bound by Thatcher Creek, a tributary of Cattaraugus Creek, to the east, and Cattaraugus Creek to the west.

Current Zoning and Land Use:

The site is zoned for industrial/commercial use and currently active, housing the Gowanda Public Works Department. The surrounding parcels are currently used for a combination of light industrial and residential. The nearest resident borders the site to the north. There are no schools or any recreational facilities in the immediate vicinity.

Past Use of the Site:

Until 1979, the site was used for metal machining and stamping. Prior uses that appear to have led to site contamination include metal machining and stamping wastes which were disposed at the rear of the building.

Site Geology and Hydrogeology:

The site, and resulting area of impacted groundwater, is underlain by moderately to highly permeable alluvium comprised of a varying mix of sand and gravel. Within this alluvium are buried stream channels filled with coarser sand and gravel that serve as preferential flow paths and, in part, control groundwater flow. The thickness of the alluvium ranges from 4 to 15 feet. Groundwater occurs within the alluvium under unconfined conditions. Below the alluvium, is a dense glacial till that may serve as a barrier to further downward migration of contaminants. The surface of this till was eroded during post glacial stream flow, resulting in an uneven surface with the deepest area beneath Torrance Place. The water bearing alluvium is covered with up to 8 feet of flood plain silt and clay that serves to retard upward migration of contaminant vapors from the water table. Groundwater flow within the alluvium is to the north-northwest under a moderate gradient, at an estimated rate of 2 to 4 feet per day.

Materials Disposed at Site

OU 01

TRICHLOROETHENE (F002)	UNKNOWN
1,1,1-TRICHLOROETHANE (F002)	UNKNOWN

Analytical Data Available for Groundwater, Soil

Applicable Standards, Criteria or Guidance exceeded for:

Groundwater, Drinking Water

Assessment of Environmental Problems

Remediation at the site is complete. Prior to remediation, the primary contaminants of concern were trichloroethylene in groundwater and indoor air. Remedial actions have successfully achieved cleanup objectives for industrial/commercial use. Residual contamination in groundwater and indoor air is being managed under a Site Management Plan.

Assessment of Health Problems

Contact with residually contaminated soils is not expected unless people dig below the currently in-place surface materials. People are not drinking the contaminated groundwater because the Village of Gowanda is served by a public water supply that is not affected by this site. Volatile organic compounds in the groundwater may move into the soil vapor (air spaces within the soil), which in turn may move into overlying buildings and affect the indoor air quality. This process, which is similar to the movement of radon gas from the subsurface into the indoor air of buildings, is referred to as soil vapor intrusion. Subslab depressurization systems (systems that ventilate/remove the air beneath the building) have been installed in the onsite building as well as several offsite residential homes to prevent impacts to indoor air.

Owners

Current Owner(s)

Village of Gowanda
27 East Main Street
Gowanda NY 14070

Previous Owner(s)

GOWANDA ELECTRONICS CORPORATION
ONE INDUSTRIAL PLACE
GOWANDA NY 14070

Disposal Owner(s)

AUTOMATIC VOTING MACHINE (AVM)

ZZ

Operators

Previous Operator(s)

AUTOMATIC VOTING MACHINE (AVM)
ONE INDUSTRIAL PLACE
GOWANDA NY 14070



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

July 30, 2019

Michael Cruden, Director
Remedial Bureau E
Division of Environmental Remediation
NYS Department of Environmental Conservation
625 Broadway, Albany, NY 12233

**Re: Final Engineering Report and Site
Management Plan**
AVM Gowanda Site
Site # 905025
Gowanda, Cattaraugus County

Dear Mr. Cruden:

At your Department's request, staff have reviewed the December 2018 *Final Engineering Report* (FER) and the December 2018 *Site Management Plan* (SMP) received in our office in May 2019 for the referenced site. Based on that review, I understand that historic operations at the site resulted in elevated levels of metals, total petroleum hydrocarbons and volatile organic compounds in soil and groundwater. The 2001 *Record of Decision* (ROD) for the site selected groundwater extraction and treatment and installation of a permeable passive/reactive iron wall as the remedy for the site. In 2004, a Pre-Design Investigation found that the on-site building and multiple off-site structures were impacted by soil vapor intrusion of site-related contaminants. Subsequent to these findings, sub-slab depressurization systems were installed in eighteen nearby structures and the on-site building.

A 2018 Explanation of Significant Difference (ESD), addressed additional mitigative actions that were necessary to prevent public health exposures to residual contamination and included implementation of institutional and engineering controls as required by the Site Management Plan. Annual certification will verify that the institutional and engineering controls remain effective at preventing exposures to site-related contamination.

Based on this review, I find that remedial actions have been satisfactorily completed in accordance with the 2001 ROD and the 2018 ESD and that measures are in place to prevent human exposures to residual contamination. If you have any questions, please contact me at (518) 402-7860.

Sincerely,

Charlotte Bethoney, Chief
Regions 1, 5 & 9
Bureau of Environmental Exposure Investigation

ec: C. Vooris / S. Berninger / e-File
A. Bonamici / C. Nicastro – NYSDOH WRO
E. Wohlers – CCHD
K. Lewandowski / J. Dyber / R. Strang – NYSDEC Central Office



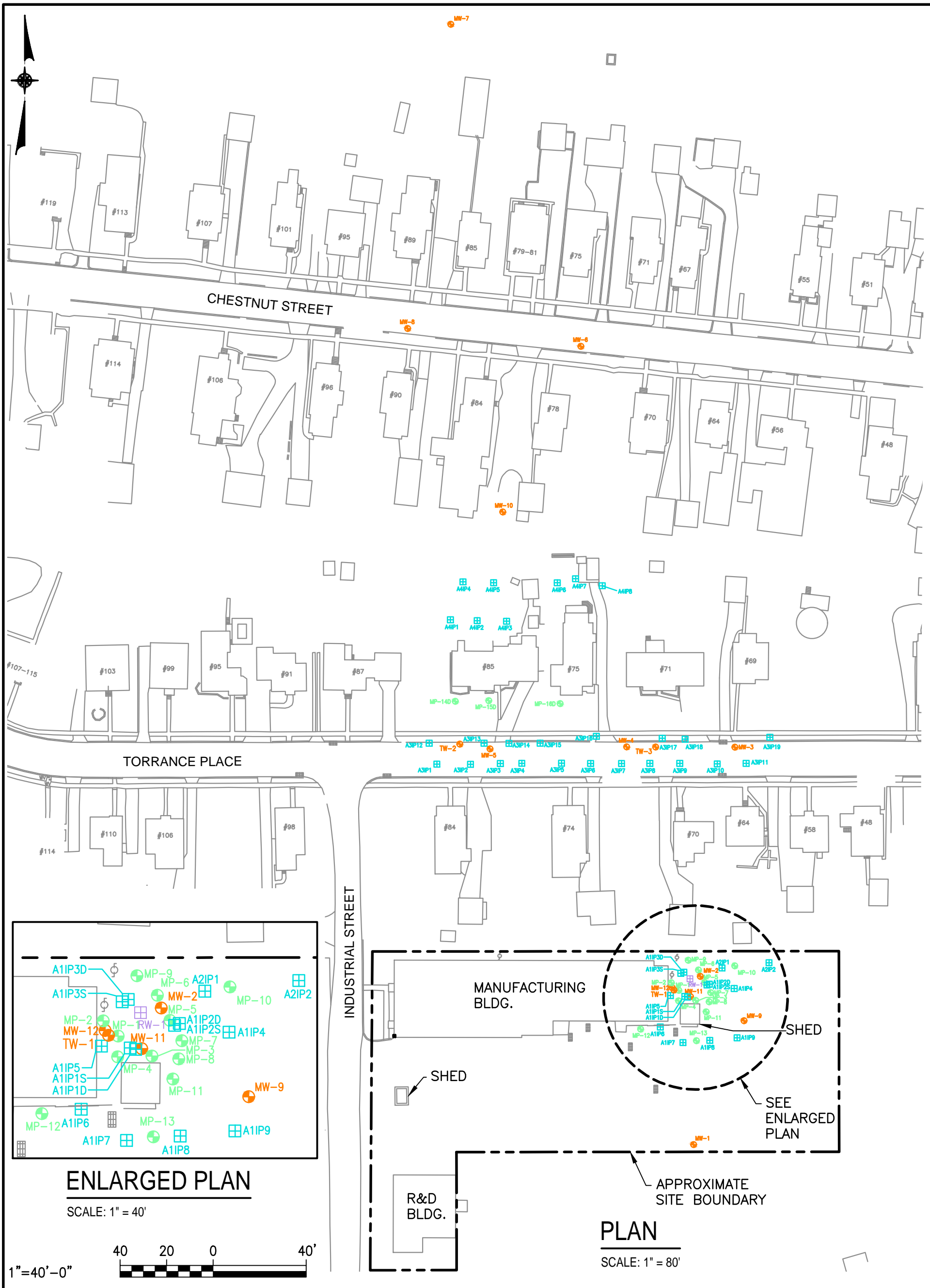
L:\3150_Gowanda\SiteMap.mxd (10/4/2016)



AVM GOWANDA SITE
GOWANDA, NY

SITE LOCATION MAP

FIGURE 1-1



F:\3150-12C\dwg\3150-12C-C-SPL01.dwg, 9/28/2016 8:14:55 AM, kalesius

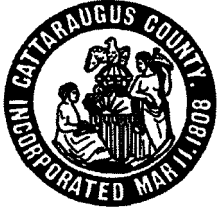
AVM GOWANDA SITE
GOWANDA, NEW YORK
SITE LAYOUT PLAN

SCALE: AS NOTED

FIGURE 1-2

APPENDIX C

DEED RESTRICTION



James K. Griffith
CATTARAUGUS COUNTY CLERK

Cattaraugus County Center 303 Court Street
Little Valley, NY 14755

(716) 938-9111
Fax: (716) 938-2773

Instrument Number

110724-001

No. of Pages: 7
not including this one

Delivered By: PHILLIPS LYTLE LLP

Receipt No. 110724

Return To:

PHILLIPS LYTLE LLP

DATE: 10/24/2008

PO BOX 1279

JAMESTOWN, NY 14702-1279

Time: 09:42 AM

Document Type: DEED

Parties To Transaction: ONE INDUSTRIAL TO GOWANDA VILLAGE

Town/City: PE - Persia

Deed Information

Taxable
Consideration: \$0.00

Transfer Tax: \$0.00

RETT No: 00916

Mortgage Information

Taxable
Mortgage Amount

Basic Mtge. Tax:

Special Mtge. Tax:

Additional Mtge. Tax.

State of New York
Cattaraugus County Clerk

Mortgage Serial No.:

This sheet constitutes the Clerk endorsement required by Section 316-A(5) & Section 319 of the Real Property Law of the State of New York.

Cattaraugus County Clerk

Please do not remove this page.



QUIT CLAIM DEED

THIS INDENTURE, made the 13th day of May, 2008,

BETWEEN

ONE INDUSTRIAL PLACE, INC., having its principal office at One Magnetics Parkway, Gowanda, New York, 14070 ("**Grantor**") and

VILLAGE OF GOWANDA, NEW YORK, having its principal office at 27 East Main Street, Gowanda, New York 14070 ("**Grantee**").

WITNESSETH, that the Grantor, in consideration of ONE DOLLAR AND NO MORE (\$1.00 AND NO MORE), lawful money of the United States, paid by the Grantee, does hereby remise, release and quitclaim unto the Grantee and the successors and assigns of the Grantee forever, the real property described and/or depicted in attached Schedule A ("**Property**").

TOGETHER with the appurtenances and all the estate and rights of the Grantor in and to the Property, if any.

The Grantor and Grantee agree as follows:

THE Property and this conveyance are subject to all laws, statutes, codes, ordinances, rules and regulations, and subject to all matters of record, including but not limited to all encumbrances, easements, rights of way, agreements, covenants, conditions and restrictions, if any.

THE Property and this conveyance, in order to protect human health and the environment and promote community objectives, are subject to the deed restrictions and covenants set forth in attached Exhibit A ("**Deed Restrictions**").

TO HAVE and to hold the Property herein granted unto the Grantee and the successors and assigns of the Grantee forever.

THE Grantee accepts the Property in its "As Is" condition. Except as expressly set forth herein, this conveyance is made without any covenant, representation or warranty whatsoever.

THE Grantor, in compliance with Section 13 of the Lien Law, covenants that the Grantor will hold and apply the consideration first to the payment of the cost of any improvements before using any part of the same for any other purpose.

Phillips, Lytle J'town

-0-
5.00
49.25
165.00

SCHEDULE A

The Property

Parcel I:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Persia, Village of Gowanda, Cattaraugus County, State of New York, described as follows: BEGINNING in the east line of Lot 27, at the northeast corner of property now or formerly owned by the Gowanda Builders and Supply Company (also known as Gowanda Builders Supply & Coal Co.); running thence in a northerly direction and along the east line of Lot 27, a distance of 168.3 feet more or less; running thence westerly a distance of 398 feet more or less to the easterly side of Industrial Place (50 feet wide); thence along said easterly side of Industrial Place in a southerly direction 172.5 feet more or less; and thence easterly a distance of 400.25 feet, more or less, to the place of beginning.

SUBJECT TO building and use restrictions of record, public roads abutting the said premises, prior grants, reservations or leases of coal, oil, gas or other minerals as shown by instruments of record and easements or rights of way of record or apparent upon inspection of the premises.

EXCEPTING AND RESERVING to Vincent Caito, his heirs, successors and assigns, the necessary easements for water supply lines and electric lines that may cross the premises and serve other lands owned by Vincent Caito located west of Industrial Place, together with the right for Vincent Caito, at his option, to connect or disconnect to water sprinkler system and pump house located on the premises. Vincent Caito agrees that should he, his heirs, successors or assigns again connect to the existing water sprinkler system and pump house that the costs of repair, maintenance and replacement of the fire pump house and its equipment shall be shared equally with the party of the second part, its successors and assigns.

Parcel II:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Village of Gowanda, Town of Persia, County of Cattaraugus and State of New York, being part of Lots 26 and 27, Township 6, Range 8 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING in the south line of Torrance Place, distant 393.32 feet west of its intersection with the centerline of Commercial Street, which point of beginning is also 104.0 feet west of the northwest corner of lands formerly owned by Frank Rizzo; thence westerly along the south line of Torrance Place, a distance of 104.25 feet; thence southerly at right angles, a distance of 145.25 feet; thence westerly at right angles, a distance of 53.75 feet to the northeast corner of lands conveyed to the Gowanda Electronics Corp., by deed recorded in Liber 792 of Deeds at page 358 in the east bounds of Lot 27; thence southerly along the east bounds of lot 27, being also the west bounds of Lot 26 and along the east line of lands so conveyed to the said Gowanda Electronics Corp., a distance of 168.30 feet to the south east corner of the Gowanda Electronics Corp.; thence westerly along the south line of lands so conveyed to the said Gowanda Electronics Corp., a distance of 400.25 feet to the southwest corner thereof in the east bounds of Industrial Place; thence southerly along the east bounds of Industrial Place, a distance of 121.50 feet; thence easterly at right angles, a distance of 242.30 feet; thence northeasterly at an interior angle of $157^{\circ} 29'$, a distance of 188.43 feet; thence easterly at an interior angle of $195^{\circ} 51'$, a distance of 181.70 feet; thence northerly at an interior angle of $85^{\circ} 22'$ a distance of 197.65 feet; thence northerly and at right angles to Torrance Place, a distance of 145.25 feet to the place of beginning, containing 2.17 acres of land, more or less as shown on a survey by W. C. Buckland, L. S. dated July 24, 1989.

RESERVING to Buffalo Turbine Agricultural Equipment Co. Inc. a right of way over a 20' wide strip of land located at the southwest corner of the lands above described extending along the southerly bounds thereof from Industrial Place 242.30 feet easterly.

SUBJECT to, and together with, a Driveway Agreement recorded in Liber 376 of Deeds at page 114.

ALSO all other easements, rights of way and leases of record.

EXHIBIT A

Deed Restrictions

WHEREAS, the Property is the subject of a Voluntary Cleanup Agreement bearing Index No. B9-0507-96-05 entered into by Gowanda Electronics Corporation and signed on behalf of the Commissioner of the New York State Department of Environmental Conservation ("NYSDEC") on January 13, 1998; and

WHEREAS, the NYSDEC approved a remedy to eliminate or mitigate all significant threats to the environment presented by impairments at the Property and such remedy requires that the Property be subject to restrictive covenants;

NOW, THEREFORE, the Grantor (for itself and its successors and/or assigns) covenants and the Grantee acknowledges by virtue of acceptance of this deed (for itself and its successors and/or assigns) that the following controls apply to the use of the Property:

1. Institutional and Engineering Controls.

A. The Property may be used for commercial or industrial use as long as the following long-term engineering and institutional controls are employed:

i. Compliance with the site management plan ("Site Management Plan") for the existing treatment system that will include the following components: (a) an evaluation of the potential for vapor intrusion at any new buildings constructed on the Property, including provisions for mitigation of any impacts identified for these new buildings; and (b) identification of any use restrictions related to the treatment system located on a certain portion of the Property to be defined in the Site Management Plan;

ii. Compliance with the Site Management Plan for the new system to include an operation, monitoring and maintenance plan and a soils management plan;

iii. Restriction of the use of groundwater as a source of potable water without necessary water quality treatment as determined by the New York State Department of Health;

iv. Annual certification, unless the NYSDEC approves a less frequent certification period, by the Property owner prepared and submitted by a professional engineer or such other qualified environmental professional acceptable to the NYSDEC, until the NYSDEC notifies the Property owner in writing that this certification is no longer needed. This submittal will contain a certification that the institutional controls and engineering controls, are still in place, allow the NYSDEC access to the Property, and that nothing has occurred that will impair the ability of the controls to protect public health or the environment or that constitute a violation or failure to comply with the Site Management Plan.

B. The Property may not be used for a higher level of use such as unrestricted, residential or restricted-residential use and the above-stated engineering controls may not be discontinued

without an amendment or extinguishment of these Deed Restrictions agreed to in writing by the NYSDEC.

C. By accepting this deed, the Grantee covenants and agrees that these Deed Restrictions shall be incorporated in full or by reference in any leases, subleases, easements, rights of way, licenses, or other instruments granting a right to use the Property.

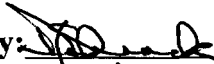
2. The NYSDEC, its agents, employees, or other representatives of New York State may enter the Property for the purpose of operating and maintaining the existing groundwater collection and treatment system at the Property and modifying it as necessary for its use as part of the off-site groundwater collection and treatment system (new system) and to inspect the Property in a reasonable manner and at reasonable times to assure compliance with the Deed Restrictions.

3. These Deed Restrictions are and shall be deemed a covenant that shall run with the land and the Property, shall be binding upon all future owners, lessees, sublessees, mortgagees, holders of rights under easements or rights of way, licenses and easements of all or any part of the Property, and shall provide that the Property owner, and its successors and assigns, consent to the enforcement by the NYSDEC or if the NYSDEC shall no longer exist, any New York State agency or agencies subsequently created to protect the environment of New York State and the health of the citizens of New York State ("Relevant Agency") of the prohibitions and restrictions of these Deed Restrictions and hereby covenants not to contest the authority of the Relevant Agency to seek enforcement.

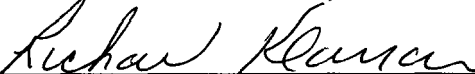
4. Any deed of conveyance of the Property, or any portion thereof, shall recite, unless the Relevant Agency has consented to the termination of such covenants and restrictions, that the said conveyance is subject to these Deed Restrictions.

IN WITNESS WHEREOF, the Grantor has caused these presents to be signed by its duly authorized officer this 28th day of May, 2008.

ONE INDUSTRIAL PLACE, INC.

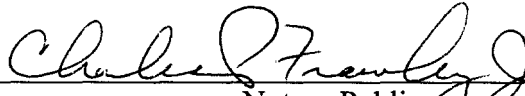
By: 
Name: DAVID C. SCHWACH
Title: PRESIDENT

VILLAGE OF GOWANDA, NEW YORK

By: 
Name: Richard L. Klauer
Title: Mayor

STATE OF NEW YORK)
)SS.:
COUNTY OF CATTARAUGUS)

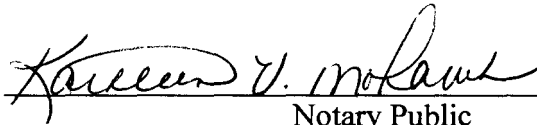
On the 28th day of May in the year 2008, before me, the undersigned, personally appeared David C. Schaack, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public
CHARLES P. FRAWLEY, JR.
Notary Public - State of New York
No. 01FR5082686
Qualified in Erie County
My Commission Expires July 28, 2009

STATE OF NEW YORK)
)SS.:
COUNTY OF CATTARAUGUS)

On the 13th day of May in the year 2008, before me, the undersigned, personally appeared Richard L. Klancer, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/~~she~~ executed the same in his/~~her~~ capacity, and that by his/~~her~~ signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public
KATHLEEN V. MOHAWK
Notary Public, State of New York
No. 01MO6048168
Qualified in Erie County
Commission Expires Sept. 18, 2010

PLEASE RECORD AND RETURN TO:

VILLAGE OF GOWANDA
27 East Main Street
Gowanda, New York 14070

New York State Department of Environmental Conservation

Division of Environmental Remediation

Remedial Bureau E, 12th Floor

625 Broadway, Albany, New York 12233-7017

Phone: (518) 402-9814 • **Fax:** (518) 402-9819

Website: www.dec.ny.gov



Alexander B. Grannis
Commissioner

DEC 16 2009

Mr. Michael E. Hutchinson
Superintendent of Public Works
Village of Gowanda
27 E Main Street
Gowanda, New York 14070

RE: Site No. 9-05-025, AVM Gowanda Site
Gowanda, Cattaraugus County
Contract PO 0011604

Dear Mr. Hutchinson:

Enclosed please find one executed original contract between the Village of Gowanda and the New York State Department of Environmental Conservation, Purchase Order Contract No. 0011604. Also enclosed are Standard Vouchers for payment submission under this contract.

If you have any questions, please contact me at (518) 402-9814.

Sincerely,

Jeffrey E. Trad, P.E.

Project Manager

Remedial Section A, Remedial Bureau E

Division of Environmental Remediation

Enclosures

PURCHASE ORDER

Orig. Agency Code 09000		Date (MM) (DD) (YYYY) 08/25/2009		Vendor: Show On All Bills and Correspondence		
Originating Agency: DEPARTMENT OF ENVIRONMENTAL CONSERVATION			Comptroller's Contract No.	Commodity Group No.	Document No. 0011604	
Vendor Payee ID # 040465301	Zip Code 14070	Federal Tax Exemption Number 146013200		Ship To: NYSDEC PROGRAM MGT 625 BROADWAY ALBANY, NY 12233 7012		
Payee: VLG OF GOWANDA 27 E MAIN ST GOWANDA, NY 14070			Bill To: NYSDEC PROGRAM MGT 625 BROADWAY ALBANY, NY 12233 7012			
Freight Terms: FOB Destination Vendor: Please direct questions to: CONTACT PURCHASING UNIT ALBANY, NY				Bill To: NYSDEC PROGRAM MGT 625 BROADWAY ALBANY, NY 12233 7012		

Item No.	Description of Material/Service	Quantity	Unit	Price	Amount
1	DER, VILLAGE OF GOWANDA, AVM-GOWANDA, SITE NO. 905025, Scope of services and reimbursement to be in accordance with the attached agreement	25,000.00	USD	\$1.00	\$25,000.00
				PO Total:	\$25,000.00

*** PURCHASE ORDER NUMBER 0011604 AND FEDERAL ID NUMBER MUST BE CLEARLY DISPLAYED ON ALL DELIVERIES AND INVOICES FOR THIS ORDER ***

*** A MATERIALS SAFETY DATA SHEET IN DUPLICATE MUST BE SUBMITTED WITH ALL MATERIALS/SUPPLIES THAT ARE POTENTIALLY TOXIC ***

PLEASE FURNISH THE ABOVE ARTICLES.
PURCHASE ORDER (See attached instructions)

PB

Unless otherwise indicated, all prices are F.O.B. destination.

VENDOR


Approved By: CONTRACT UNIT

This electronic approval is intended to serve as an actual signature.

NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

CONTRACT

This CONTRACT entered into by and between the Village of Gowanda, a municipal corporation in the State of New York with a principal place of business located at 27 East Main Street, Gowanda, New York 14070 (the "Village"), and the New York State Department of Environmental Conservation (the "DEC"), an agency of the State of New York with the main office at 625 Broadway, Albany, NY 12233.

WITNESSETH:

WHEREAS, Gowanda Electronics Corp., a corporation existing and organized under the laws of the State of New York with a principal place of business at One Magnetics Parkway, Gowanda, New York 14070 ("GEC") is the owner of that certain parcel of real property commonly known as the AVM-Gowanda Site No. 905025, and more accurately described on Exhibit A attached hereto and made part of the Agreement (the "Property"); and

WHEREAS, GEC entered into a Voluntary Cleanup Agreement ("VCA") with DEC, effective January 13, 1998, which relates to the implementation of a remedial program, including the construction and operation of a groundwater treatment system currently located on the Property (the "Existing System") to address on site groundwater contamination; and

WHEREAS, as of the date hereof, DEC has determined that GEC has complied with all of its obligations under the VCA; and

WHEREAS, GEC has decided to donate and transfer all rights, title and interest in the Property to the Village and the Village has agreed to accept the donation of the Property, which agreement is contained in a document titled Real Property Donation Agreement and dated October 24, 2007; and

WHEREAS, pursuant to the Record of Decision (the "ROD") for the AVM-Gowanda Site dated March 30, 2001, the DEC will commence a remedial program to address off site groundwater contamination and intends to house the ground water remediation equipment for the off site contamination ("New System") in a newly constructed building on the Property; and

WHEREAS, the anticipated date for completion of the New System is approximately 2010; and

WHEREAS, it is the intent of DEC to continue operating the Existing System until the New System is operational; and

WHEREAS, the DEC and the Village have determined that it is in the public interest and that public resources can be best used if the Village permits the DEC to house the New System in that portion of the structure (the "Building") that already houses the Existing System:

NOW, THEREFORE, in consideration of the terms, conditions and covenants hereinafter set forth, it is hereby agreed as follows:

1. Incorporations of Recitals. The foregoing recitals are hereby incorporated into this Agreement and made a part hereof

2. Operation of Existing System. (a) For a maximum of three (3) years from the date of approval of this Agreement, the Village agrees to assume the operation and maintenance of the Existing System in accordance with the Revised July 1998 O & M Plan for the Groundwater Collection and Treatment System (Site Management Plan) or any revisions to the Site Management Plan as agreed to by the DEC and the Village.

(b) Upon construction of the New System and its becoming operational, the Existing System shall be shut down and DEC will assume all costs and responsibility for decommissioning, removing, disposing and retrofitting as necessary, the Existing System, such action to commence no later than sixty (60) days after the New System becomes operational.

(c) Upon the New System becoming operational, the DEC shall assume all of the operation and maintenance costs and responsibilities for the New System. If the DEC does not complete the construction and commence operation of the New System within three (3) years of the date of approval this Agreement, then the Village will have no further obligation to operate or maintain the Existing System and DEC will assume the same unless the parties mutually agree to extend the Village's obligations. If the New System becomes operational before the three (3) year anniversary of the Agreement approval, the DEC shall assume the operation and maintenance responsibility as of the date of the commencement of operation of the New System.

3. Deed Restrictions/Easements. The Village agrees to comply with the Deed Restrictions which are part of the conveyance of the Property to the Village, a copy of which is attached hereto as Exhibit C and made a part of this Agreement. In addition the Village will grant the DEC an easement within the Village Public rights-of-way, as needed by DEC, for the construction of the New System and its operation in accordance with the New System's Site Management Plan, the specific terms of which shall be mutually agreed to by the Village and DEC.

4. Sub-slab Ventilation System. The DEC agrees to complete the installation of the sub-slab ventilation systems for the Site within one hundred twenty days (120) days after the approval of this Agreement.
5. Maintenance Payment. The maximum amount payable under this Agreement is \$25,000. This amount may be changed by written amendment.

DEC shall pay to the Village a percentage of the operation and maintenance costs to operate the Building, the percent to be calculated on the basis of the amount of square feet the New System occupies in the Building divided by the total square footage of the Building, which costs and expenses are listed in Exhibit D. Such payments shall be made on a quarterly basis per the Village's detailed invoice. The first payment period will begin upon commencement of the New System's operation.

6. Term. The term of this Agreement is three years, beginning on October 20, 2008 and ending on October 19, 2011. It will be effective on the date it is approved. It may be extended for an additional two years, in any calendar increment, said extension subject to approval as applicable.
7. Treatment Agreement. The DEC and the Village shall enter into mutually agreed upon Treatment Agreement (the "Treatment Agreement") in a form and substance substantially similar to that attached hereto as Exhibit E, to permit the DEC to discharge treated groundwater from the New System to the Village Publicly Owned Treatment Works ("POTW"). The DEC shall apply for a significant user permit (the "SIU Permit") upon the usual terms and conditions contained in such SIU permits issued by the Village pursuant to the rules and regulations of the POTW. A copy of the SIU Permit in a form and substance substantially similar to the permit to be issued is attached hereto as Exhibit E, Schedule A. In the event the DEC determines that the treated discharge from the New System is to be handled and/or discharged differently than that provided in the applicable permits, DEC shall notify the Village and negotiate in good faith with the Village the modification or termination of such permits and the alternate provisions for the handling and/or discharge of the treated groundwater.
8. Succession. This Agreement shall be binding on the parties set forth herein and to their, personal representatives, assigns, and other successors in interest.
9. Additional Documents. The parties to this Agreement shall execute such additional documents including Exhibits C and E as may be reasonably necessary to carry out the provisions of this Agreement.

10. Notices. All notices that may be given in connection with this Agreement shall be in writing and shall be delivered personally, or mailed, postage prepaid, by regular or certified mail, addressed as follows, or to such other address as may be designated in writing from time to time:

If to Village: Village of Gowanda
27 East Main Street
P.O. Box 109
Gowanda, New York 14070

Copy to: Kavinoky Cook LLP
726 Exchange Street, Suite 800
Buffalo, New York 14210
Attn: Deborah Chadsey

If to DEC: New York State Department of Environmental
Conservation
Division of Environmental Remediation
Remediation Bureau E
625 Broadway, 12th Floor
Albany, New York 12233-7013
Attn: Joseph White

11. Entire Agreement; Modification. This Agreement, includes Exhibit A, Property Description, Exhibit B, a true and accurate copy of the existing floor plan for the Building indicating the area of the Building proposed for use by DEC for the New System, Exhibit C, Deed Restrictions, Exhibit D, O & M Expenses and Exhibit E Treatment Agreement, together with Appendix A, standard state clauses and Appendix B, standard Department clauses. It constitutes the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations, and understandings. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by the parties to this Agreement. The order of precedence for interpretation and other purposes is as follows:

- a. Appendix A
- b. Appendix B
- c. Exhibit A
- d. Exhibit B
- e. Exhibit C
- f. Exhibit D
- g. Exhibit E

12. Severability. Each provision of this Agreement is severable from any and all other provisions of this Agreement. Should any provision(s) of this Agreement be for any reason unenforceable, the balance shall nonetheless be of full force and effect.
13. Miscellaneous. This Agreement contains the entire understanding of the parties; there have been no representations made which are not contained herein. This Agreement may be modified only by a written amendment signed by all parties. An oral modification shall not be binding on the parties. This Agreement shall be construed in accordance with the laws of the state of New York. Any failure by the parties to enforce any right arising under this Agreement shall not be deemed a waiver of such right.
14. Force Majeure. Neither party shall be liable for any failure or delay in performance of its respective obligations hereunder if and to the extent that any delay or failure is due to a cause or circumstance beyond the reasonable control of such party, including, without limitation, acts of God, or the public enemy, expropriation or confiscation of lands or facilities, compliance with any law, order or request of any Federal, State municipal or local governmental authority, acts of war, rebellion or sabotage or damages resulting therefrom, fires, floods, storms, explosions, accidents, riots, strikes or the delay or failure to perform by any subcontractor by reason of any cause or circumstances beyond reasonable control, of such subcontractor.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement
as of the date first above written.

Village of Gowanda

By: Richard Klancer

Printed Name: Richard Klancer

Title: Mayor

Department of Environmental
Conservation

By: Nancy Lussier

Printed Name: Nancy Lussier

Title: Director of MBS

STATE OF NEW YORK)
) SS.:
COUNTY OF Erie)

On the 16th day of October in the year 2008 before me personally came Richard L. Klancer ~~Mayor~~ ^(insert name and title) of the Village of Gowanda ^(insert political subdivision) the political subdivision described in and which executed the above instrument: by authority of Board of Trustees ^(attach certified copy of resolution or ordinance authorizing execution of instrument), and that (s)he signed his/her name by such authority.



KATHLEEN V. MOHAWK
Notary Public, State of New York
No. 01MO6048168
Qualified in Erie County
Commission Expires Sept. 18, 2010

STATE OF NEW YORK)
) SS.:
COUNTY OF _____)

On the _____ day of _____, 20__, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity as shown in the instrument, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

SCHEDULE A

Parcel I:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Persia, Village of Gowanda, Cattaraugus County, State of New York, described as follows: BEGINNING in the east line of Lot 27, at the northeast corner of property now or formerly owned by the Gowanda Builders and Supply Company (also known as Gowanda Builders Supply & Coal Co.); running thence in a northerly direction and along the east line of Lot 27, a distance of 168.3 feet more or less; running thence westerly a distance of 398 feet more or less to the easterly side of Industrial Place (50 feet wide); thence along said easterly side of Industrial Place in a southerly direction 172.5 feet more or less; and thence easterly a distance of 400.25 feet, more or less, to the place of beginning.

SUBJECT TO building and use restrictions of record, public roads abutting the said premises, prior grants, reservations or leases of coal, oil, gas or other minerals as shown by instruments of record and easements or rights of way of record or apparent upon inspection of the premises.

EXCEPTING AND RESERVING to Vincent Caito, his heirs, successors and assigns, the necessary easements for water supply lines and electric lines that may cross the premises and serve other lands owned by Vincent Caito located west of Industrial Place, together with the right for Vincent Caito, at his option, to connect or disconnect to water sprinkler system and pump house located on the premises. Vincent Caito agrees that should he, his heirs, successors or assigns again connect to the existing water sprinkler system and pump house that the costs of repair, maintenance and replacement of the fire pump house and its equipment shall be shared equally with the party of the second part, its successors and assigns.

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BEGINNING in the south line of Torrance Place, distant 393.32 feet west of its intersection with the centerline of Commercial Street, which point of beginning is also 104.0 feet west of the northwest corner of lands formerly owned by Fmk Rizzo; thence westerly along the south line of Torrance Place, a distance of 104.25 feet; thence southerly at right angles, a distance of 145.25 feet; thence westerly at right angles, a distance of 53.75 feet to the northeast corner of lands conveyed to the Gowanda Electronics Corp., by deed recorded in Liber 792 of Deeds at page 358 in the east bounds of Lot 27; thence southerly along the east bounds of lot 27, being also the west bounds of Lot 26 and along the east line of lands so conveyed to the said Gowanda Electronics Corp., a distance of 168.30 feet to the south east corner of the Gowanda Electronics Corp.; thence westerly along the south line of lands so conveyed to the said Gowanda Electronics Corp., a distance of 400.25 feet to the southwest corner thereof in the east bounds of Industrial Place; thence southerly along the east bounds of Industrial Place, a distance of 121.50 feet; thence easterly at right angles, a distance of 242.30 feet; thence northeasterly at an interior angle of 157 29', a distance of 188.43 feet; thence easterly at an interior angle of 195 51', a distance of 181.70 feet; thence northerly at an interior angle of 85 22' a distance of 197.65 feet; thence northerly and at

right angles to Torrance Place, a distance of 145.25 feet to the place of beginning, containing 2.17 acres of land, more or less as shown on a survey by W. C. Buckland, L. S. dated July 24, 1989.

RESERVING to Buffalo Turbine Agricultural Equipment Co. Inc. a right of way over a 20' wide strip of land located at the southwest corner of the lands above described extending along the southerly bounds thereof from Industrial Place 242.30 feet easterly.

SUBJECT to, and together with, a Driveway Agreement recorded in Liber 376 of Deeds at page 114.

ALSO SUBJECT to all other easements, rights of way and leases of record.

Deed Restrictions

WHEREAS, the Property is the subject of a Voluntary Cleanup Agreement bearing Index No. B9-0507-96-05 entered into by Gowanda Electronics Corporation and signed on behalf of the Commissioner of the New York State Department of Environmental Conservation (“NYSDEC”) on January 13, 1998; and

WHEREAS, the NYSDEC approved a remedy to eliminate or mitigate all significant threats to the environment presented by impairments at the Property and such remedy requires that the Property be subject to restrictive covenants;

NOW, THEREFORE, the Grantor (for itself and its successors and/or assigns) covenants and the Grantee acknowledges by virtue of acceptance of this deed (for itself and its successors and/or assigns) that the following controls apply to the use of the Property:

1. Institutional and Engineering Controls.

A. The Property may be used for commercial or industrial use as long as the following long-term engineering and institutional controls are employed:

i. Compliance with the site management plan (“Site Management Plan”) for the existing treatment system that will include the following components: (a) an evaluation of the potential for vapor intrusion at any new buildings constructed on the Property, including provisions for mitigation of any impacts identified for these new buildings; and (b) identification of any use restrictions related to the treatment system located on a certain portion of the Property to be defined in the Site Management Plan;

ii. Compliance with the Site Management Plan for the new system to include an operation, monitoring and maintenance plan and a soils management plan;

iii. Restriction of the use of groundwater as a source of potable water without necessary water quality treatment as determined by the New York State Department of Health;

iv. Annual certification, unless the NYSDEC approves a less frequent certification period, by the Property owner prepared and submitted by a professional engineer or such other qualified environmental professional acceptable to the NYSDEC, until the NYSDEC notifies the Property owner in writing that this certification is no longer needed. This submittal will contain a certification that the institutional controls and engineering controls, are still in place, allow the NYSDEC access to the Property, and that nothing has occurred that will impair the ability of the controls to protect public health or the environment or that constitute a violation or failure to comply with the Site Management Plan.

B. The Property may not be used for a higher level of use such as unrestricted, residential or restricted-residential use and the above-stated engineering controls may not be

discontinued without an amendment or extinguishment of these Deed Restrictions agreed to in writing by the NYSDEC.

C. By accepting this deed, the Grantee covenants and agrees that these Deed Restrictions shall be incorporated in full or by reference in any leases, subleases, easements, rights of way, licenses, or other instruments granting a right to use the Property.

2. The NYSDEC, its agents, employees, or other representatives of New York State may enter the Property for the purpose of operating and maintaining the existing groundwater collection and treatment system at the Property and modifying it as necessary for its use as part of the off-site groundwater collection and treatment system (new system) and to inspect the Property in a reasonable manner and at reasonable times to assure compliance with the Deed Restrictions.

3. These Deed Restrictions are and shall be deemed a covenant that shall run with the land and the Property, shall be binding upon all future owners, lessees, sublessees, mortgagees, holders of rights under easements or rights of way, licenses and easements of all or any part of the Property, and shall provide that the Property owner, and its successors and assigns, consent to the enforcement by the NYSDEC or if the NYSDEC shall no longer exist, any New York State agency or agencies subsequently created to protect the environment of New York State and the health of the citizens of New York State ("Relevant Agency") of the prohibitions and restrictions of these Deed Restrictions and hereby covenants not to contest the authority of the Relevant Agency to seek enforcement.

4. Any deed of conveyance of the Property, or any portion thereof, shall recite, unless the Relevant Agency has consented to the termination of such covenants and restrictions, that the said conveyance is subject to these Deed Restrictions.