

February 26, 2024

Megan Kuczka
New York State Department of Environmental Conservation
Division of Environmental Remediation
Environmental Program Specialist 1
700 Delaware Avenue
Buffalo, NY 14209

Re: 113-119 Colgate Periodic Review Report (PRR) – 2020-2023

On behalf of 113-119 Colgate Avenue II LLC, the New York State Department of Environmental Conservation's (NYSDEC's) comments dated February 15, 2024, were reviewed by BE3 regarding the 2020-2023 PRR for the former Ameron Site (No. 915133) located at 113-119 Colgate Avenue, Buffalo, New York, Erie County. The responses to comments were generated and placed into the revised PRR. BE3 comment responses are provided below in red.

- Have the debris piles of cement and asphalt, and the slag been onsite and in-place since remedial efforts were complete?

Response: Yes – Section 1.1 has been amended to read “Slag was also observed across the property which has been onsite and in-place since remedial efforts were completed.”

- Comment 4 – Figure 1 (Site Encroachment Location Map) is not appended to Appendix B. Please add in.

Response: Figure 1 (Site Encroachment Location Map) has been amended to Appendix B.

- Comment 7 – Section 2 – Elaborate on what “certain chemicals” were identified in 1983-1984 environmental investigations.

Response: “Certain chemicals” has been specified to include PCBs, polycyclic hydrocarbons (PAHs), metals (lead), chlorinated volatile organic compounds (VOCs) and aromatic VOCs.

- Comment 11 – Box 5, Question 2 should be answered “yes” if no further corrective measures are warranted onsite.

Response: Box 5, Question 2 has been answered “yes” to reflect that no further corrective measures are warranted onsite.

PERIODIC REVIEW REPORT

OCTOBER 31, 2020 – OCTOBER 31, 2023
FORMER AMERON SITE

113 & 119 COLGATE AVENUE
BUFFALO, NEW YORK
NYSDEC SITE NO. 915133



Prepared for:

113-119 Colgate Avenue II LLC
1255 Niagara Street
Buffalo, NY 14213

Prepared by:



Brydges Engineering in Environment and Energy
960 Busti Ave Suite B-150
Buffalo, New York, 14213

Updated February 2024

TABLE OF CONTENTS

1.0	INTRODUCTION.....	1
1.1	Site Background and Description.....	1
2.0	SITE ENVIRONMENTAL OVERVIEW.....	2
3.0	SITE MANAGEMENT PLAN.....	3
3.1	Groundwater Monitoring Plan	3
3.2	Site Delisting	4
3.3	Monitoring Well Decommissioning.....	4
3.4	Excavation Work Plan.....	4
3.5	Institutional Control Requirements.....	4
3.6	Compliance violations	5
4.0	SITE EVALUATION.....	5
5.0	CONCLUSIONS.....	5
6.0	CERTIFICATION OF ENGINEERING AND INSTITUTIONAL CONTROLS.....	5

FIGURES

- Figure 1 Site Location Map
Figure 2 Remedial Locations
Figure 3 Site Plan

APPENDICES

- Appendix A IC/EC Certification
Appendix B Site Encroachment Information
Appendix C Field Inspection Report & Site Photographs
Appendix D SMP Addendum

1.0 INTRODUCTION

Brydges Engineering in Environment and Energy (BE3) has prepared this Periodic Review Report (PRR) for the Former Ameron Site located at 113 and 119 Colgate Avenue, Buffalo, New York (refer to figures). The PRR is required by the Site Management Plan (*Site Management Plan, Colgate Avenue Site, Buffalo NY, NYSDEC No. 915133*); prepared for Ameron International; prepared by Benchmark Environmental Engineering and Science, dated: Final October 2012 – Updated by BE3 May 2021). This PRR, which is required to be submitted to the NYSDEC every three years covers the certification period of October 31, 2020, through October 31, 2023. No groundwater use, change of use, or import of materials has occurred during the certifying period.

This PRR has been completed in accordance with NYSDEC's DER-10 Technical Guidance for Site Investigation and Remediation" and includes the results of the site wide inspection conducted in September 2023. The NYSDEC's Institutional and Engineering Controls Certification forms have been prepared for the site (refer to **Appendix A**).

1.1 SITE BACKGROUND AND DESCRIPTION

The site is located in the City of Buffalo, County of Erie, New York and is identified as 113-119 Colgate Avenue (SBL Nos. 133.62-2-1.11 and 133.62-2-25.11) on the Erie County tax map. The two-parcel site is an approximately 3.2-acre area bounded by Colgate Avenue to the north, light industrial properties to the south, residential properties along Colgate Avenue to the east and commercial and industrial properties to the west (refer to attached Figures). The 113 and 119 Colgate Avenue properties are former industrial properties south of Colgate Avenue.

The subject 113 Colgate parcel is a 1.22-acre industrial property. The 119 Colgate Avenue property is a 1.94-acre manufacturing parcel that contains a 2-story commercial/industrial building. Both the 113-119 Colgate parcels were owned by Americoat Corporation and are now owned by 113-119 Colgate Avenue II LLC. Immediately adjacent to the east of the 113-119 Colgate parcels are residential properties. Northeast and north are commercial/industrial properties including Ortlepp Machine (adjacent east of the 122 Colgate parcel), Grove Roofing and Hogan Glass/West Metal Works. To the south and west are commercial/industrial properties operated by Consumer's Beverage and to the northwest is a vacant former industrial property. The current zoning is industrial. The surrounding parcels are currently used for a combination of commercial, light industrial, and residential. The nearest residential area is adjacent to the east boundary of the site.

Historically, the 113-119 Colgate Avenue property was occupied as early as 1917 by the Commercial Electrolytic Corporation. A review of historic Sanborn maps and records indicates that the existing structure was constructed in 1917. By 1950, the Nukem Products Corporation occupied an expanded structure on the 113-119 Colgate Avenue property. Nukem was listed as a manufacturer of acid resistant cement. The Ameron Protective Coating Division operated the facility from the 1960's through the mid 1980's. Until 1982 the site was used for manufacturing protective coating products. Prior uses that appear to have led to site contamination include storage and handling of solvents and other chemicals.

Currently, the 113-119 Colgate Avenue site includes one approximately 15,000 square foot building that is used for manufacturing on the 1st floor and commercial uses on the second floor. The building is surrounded by open land, several concrete slabs, foundations, and roadways. About one third of the site is open grass covered land with piles of debris which includes cement and asphalt. Slag was also observed across the property which has been onsite and in-place

since remedial efforts were completed. Trees and brush covers the southwestern area where rail tracks are located.

The contamination identified previously at the 113-119 Colgate Avenue property appears to have been adequately investigated and remediated but residual soil contamination remains above unrestricted use levels. There are two different environmental easements covering the Site. These easements were put on the property because of the residual contamination.

The easement institutional controls for the properties are as follows:

- Properties are only to be used for commercial as described in 6 NYCRR Part 375-1.8(g)(2)(iii) and industrial as described in 6 NYCRR Part 375-1.8(g)(2)(iv)
- SMP adherence required for any future disturbance in contaminated areas including Excavation work plan
- All engineering controls must be inspected, operated, and maintained at a frequency and in a manner defined in the SMP
- Groundwater and other environmental or public health monitoring must be performed as defined in the SMP
- Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in the SMP
- Operation, maintenance, monitoring, inspection, and reporting of any of the mechanical or physical components of the remedy shall be performed as defined in the SMP
- Access to the site must be provided to agents, employees or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by the Environmental Easement.
- The controlled property shall not be used for residential or restricted residential, and the above-stated engineering controls may not be discontinued without amendment or extinguishment of the Environmental Easement.

Historical summary associated with the current SMP is as follows:

- 1986 Ameron entered Order on Consent with NYSDEC to install and operate a sub-slab soil vapor extraction system under the two western rooms of Plant 1 for a period of 10-years. The system was operated through 1999.
- A total of eleven underground storage tanks (USTs) were removed in 2004-2005 from the western portion of the property which included disposal of 2,839 tons of petroleum impacted soil in a landfill.
- Ameron entered an order on consent in 2004 to complete a remedial investigation/feasibility study (RI/FS).
- In 2009 a fire destroyed a portion of Plant #1. All structures were demolished except for a 2-story structure on the eastern portion of the property.
- In 2010 the site was remediated which included excavation of 75-tons of soil that exceeded lead and polychlorinated biphenyl (PCB) levels; placement of an environmental easement to restrict land use; remediation of groundwater using compounds to reduce/remediate chlorinated solvents and petroleum compounds near specific wells/portions of the property; development and implementation of a SMP for long term management of the property (See Figures)

2.0 SITE ENVIRONMENTAL OVERVIEW

Based on site history, environmental investigations were performed during 1983 and 1984 which revealed the presence of PCBs, polycyclic hydrocarbons (PAHs), metals (lead), chlorinated volatile organic compounds (VOCs) and aromatic VOCs in the soil and shallow groundwater beneath the western most portion of the former manufacturing building (see Site Plan for location). In 1986 an environmental investigation revealed the presence of volatile organic compound contamination on the western portion of the site. A vapor extraction system was constructed and operated from 1989 to 1999. In 2001, several underground storage tanks were discovered. The tanks and impacted soils were removed in 2004. An Order on Consent Index #B9-0690-04-011 was issued on December 15, 2004. A Remedial Investigation was implemented from 2006 to 2009. The Remedial Investigation and Feasibility Study Report concluded that additional soil and groundwater remediation was required. A Decision Document was issued June 2010. Remedial action, including soil removal and groundwater treatment using enhanced biodegradation, was completed October 1, 2010.

The 113-119 Colgate Avenue property was delisted from the registry of Inactive Hazardous Waste Sites on September 3, 2013. Previous requirement to monitor groundwater has been removed by the NYSDEC and is no longer required. There are still environmental requirements/institutional controls for the property as listed above and covered in Section 3.0 Site Management Plan.

3.0 SITE MANAGEMENT PLAN

A Site Management Plan (SMP) was prepared by Benchmark Environmental Engineering and Science (Benchmark) for Ameron and approved by NYSDEC in October 2012. The SMP included:

- A Groundwater Monitoring Plan.
- An Excavation Work Plan;
- An Engineering and Institutional Control Plan; and
- A copy of an Environmental Easement.

At the request of the NYSDEC, an addendum to the SMP was prepared in March 2021 by BE3 and subsequently approved in May 2021. The addendum addressed the following aspects of the SMP:

- Modification of the PRR Submittal frequency;
- Groundwater sampling cessation and well decommissioning;
- Contact information changes;
- Site delisting;
- Current Site use.

See **Appendix D** for further details.

3.1 GROUNDWATER MONITORING PLAN

As part of the original remedial investigation a network of groundwater monitoring wells were installed to monitor site groundwater. As part of the post remedial requirements an SMP was developed which included the requirement to sample and analyze specific wells on a semi-annual basis. This lasted for two years and resulted in four sampling events. The results of the groundwater monitoring were submitted to NYSDEC after each event and summarized in the PRR for the period of October 31, 2012 through October 31, 2013. Based on the data which indicated no upward trending or significant offsite impact, the NYSDEC agreed to terminate groundwater monitoring following the December 2012 event. As such, groundwater monitoring is no longer

required for this property and is therefore not contained in this PRR.

3.2 SITE DELISTING

On September 3, 2013, the site was delisted from the registry of NY State Inactive Hazardous Waste Sites in accordance with all State public notice protocol.

3.3 MONITORING WELL DECOMMISSIONING

All the remaining onsite and offsite groundwater monitoring wells and piezometers were decommissioned in February 2014. The wells were decommissioned by Earth Dimensions, Inc., a professional welling drilling contractor following NYSDEC Groundwater Monitoring Decommissioning Policy CP-43. The work was overseen by Benchmark.

3.4 EXCAVATION WORK PLAN

As part of the requirements of the SMP, an Excavation Work Plan (EWP) was developed and is contained in the SMP. The EWP provides the guidance and procedures for the property going forward for the management of soil and fill materials during any future intrusive activities and soil/fill disturbances.

BE3 conducted a site reconnaissance during a Phase I Environmental Site Assessment (ESA) in October 2015 for property ownership transfer. Subsequent site reconnaissance was conducted in December 2016, October 2017, September 2020, and September 2023 to complete PRRs for the years 2016, 2017, 2020 and 2023, respectively. No evidence of intrusive activities, soil disturbances or fill placement was observed during the reconnaissance and the property was observed to be unchanged in terms of ground topography with the exception of this year. Some minor ground disturbance by the adjacent landowner affected part of the subject property in 2023 and was reported immediately upon discovery, and subsequently documented, to the NYSDEC. The area was examined and re-covered to the satisfaction of the NYSDEC as documented in attached emails and photographs – also see Section 3.6 below and **Appendix B**.

3.5 INSTITUTIONAL CONTROL REQUIREMENTS

There are two different environmental easements covering the Site. These easements were put on the property because of the residual contamination. The easements are to the People of the State of New York and give the DEC power to enforce certain “rules” applicable to the Site. As detailed in the easements, several Institutional Controls (ICs) are associated with the property

The ICs for the property are:

- Land Use restriction - property only used for commercial/industrial use with a SMP.
- SMP adherence required including for any future disturbance in contaminated areas including Excavation work plan;
- Use of Groundwater prohibited unless treated as approved by DEC/DOH;
- Soil Vapor barrier and passive vapor system required for any new building with upgrade to active system if necessary. Prior to installation a work plan is required with NYSDEC review;
- Vegetable gardens and farming prohibited;
- Periodic certifications required annually or on NYSDEC schedule;
- Notifications and Emergency Response Plans required; and

- Site monitoring – Groundwater Monitoring per the plan is no longer necessary.

3.6 COMPLIANCE VIOLATIONS

In April 2023, NYSDEC was informed immediately upon discovery by the property owner that ground disturbing activities at the neighboring property had encroached onto the subject Site. Off-site millings were mistakenly deposited by a neighboring property owner on an approximately 0.1-acre area in the southeast portion of the Site. The adjacent property owner was notified, and all millings were subsequently removed. No excavation or on-site removal of soil on the subject property occurred. Seed was placed on the disturbed area to promote vegetation growth and prevent on-site erosion per the SMP requirements. The Department deemed that no further action was required regarding this incident (refer to attached email in **Appendix B**).

4.0 SITE EVALUATION

A Site Wide Inspection was completed by BE3 on September 19, 2023. The previous inspection was performed on September 23, 2020. During the inspection it was confirmed that the incidentally deposited millings had been removed and that vegetation was restored. In addition, the previously noted debris piles of cement and asphalt were still present on site. See **Appendix B** for additional details. The inspection concluded that the Site was in compliance with all IC/EC.

5.0 CONCLUSIONS

All components of the SMP (IC/EC, monitoring, O & M) were in compliance with SMP requirements during the reporting period with the exception of the compliance violation noted in Section 3.6 which was remedied, and no further action was required. The cover system has not been disturbed since initial placement. The remaining soil cover, grass areas and concrete and asphalt areas are undisturbed since the last inspection. No excavations into the cover system have occurred since initial placement.

6.0 CERTIFICATION OF ENGINEERING AND INSTITUTIONAL CONTROLS

Below is the signed certification. Also, attached in Appendix A are the executed NYSDEC Site Management Periodic Review Report Notice Institutional and Engineering Controls Certification Form.

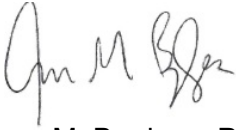
For each institutional or engineering control identified for the site, I certify that all the following statements are true:

- The inspection of the site to confirm the effectiveness of the institutional and engineering controls required by the remedial program was performed under my direction.
- The institutional control and engineering control employed at this site is unchanged from the date the control was put in place, or last approved by the Department.
- Nothing has occurred that would impair the ability of the control to protect the public health and environment;
- Nothing has occurred that would constitute a violation or failure to comply with any site management plan for this control;
- Access to the site will continue to be provided to the Department to evaluate the remedy, including access to evaluate the continued maintenance of this control;
- If a financial assurance mechanism is required under the oversight document for the

site, the mechanism remains valid and sufficient for the intended purpose under the document;

- Use of the site is compliant with the environmental easement;
- The engineering control systems are performing as designed and are effective;
- To the best of my knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program and generally accepted engineering practices; and
- The information presented in this report is accurate and complete.

I certify that all information and statements in this certification form are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law. I, Jason M. Brydges, PE, of BE3Corp., 960 Busti Ave. Suite B-150, Buffalo New York 14213, am certifying as Owner's Designated Site Representative for the site.



Jason M. Brydges, PE
President

FIGURES

Historical Topographic Map

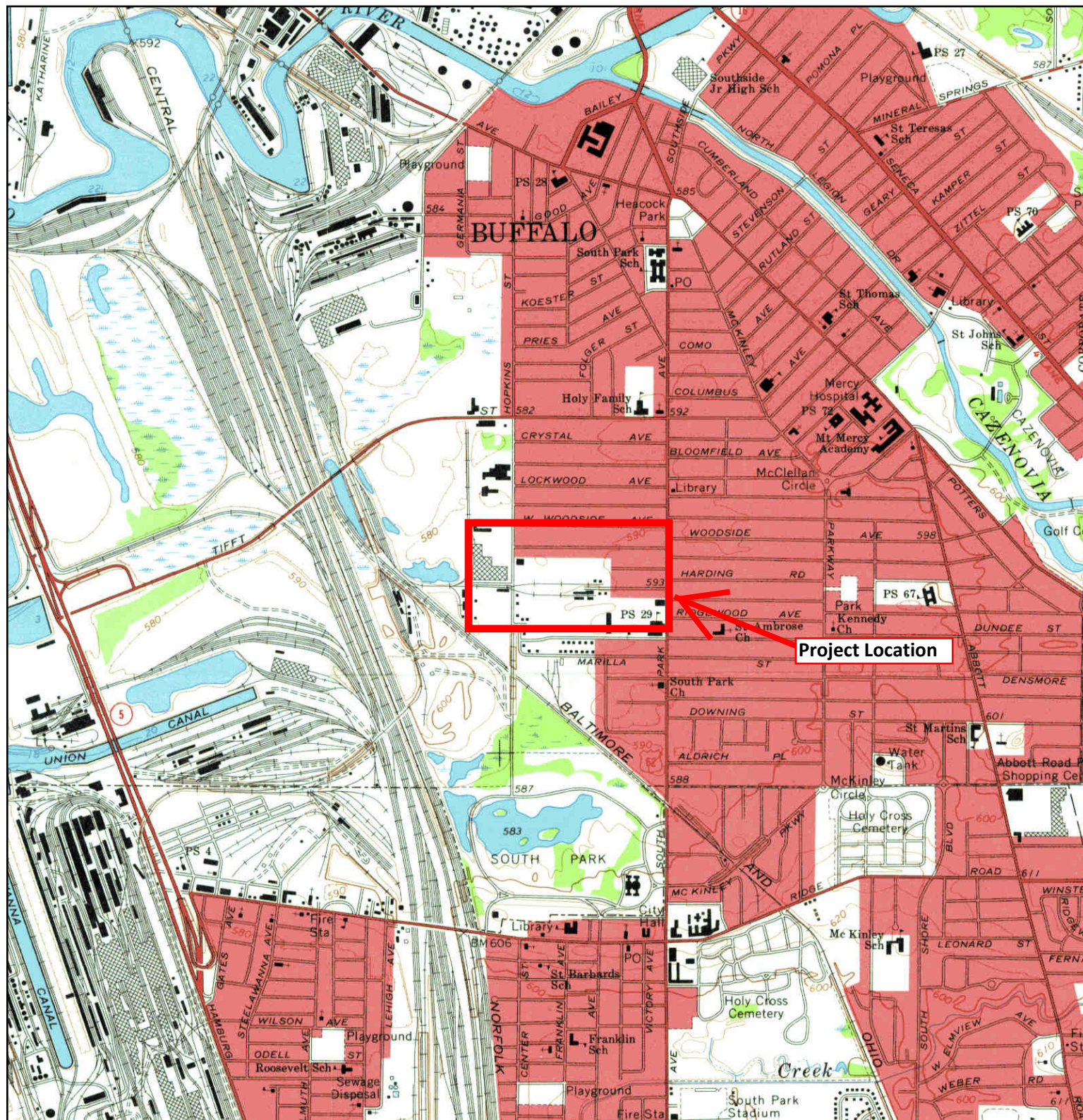


Figure: Property Location

<p>N ↑</p>	<p>TARGET QUAD NAME: BUFFALO SE MAP YEAR: 1965</p> <p>SERIES: 7.5 SCALE: 1:24000</p>		<p>CLIENT: Panamerican Environmental, Inc CONTACT: Peter J Gorton INQUIRY#: 4247799.10 RESEARCH DATE: 03/30/2015</p>
----------------	--	--	--

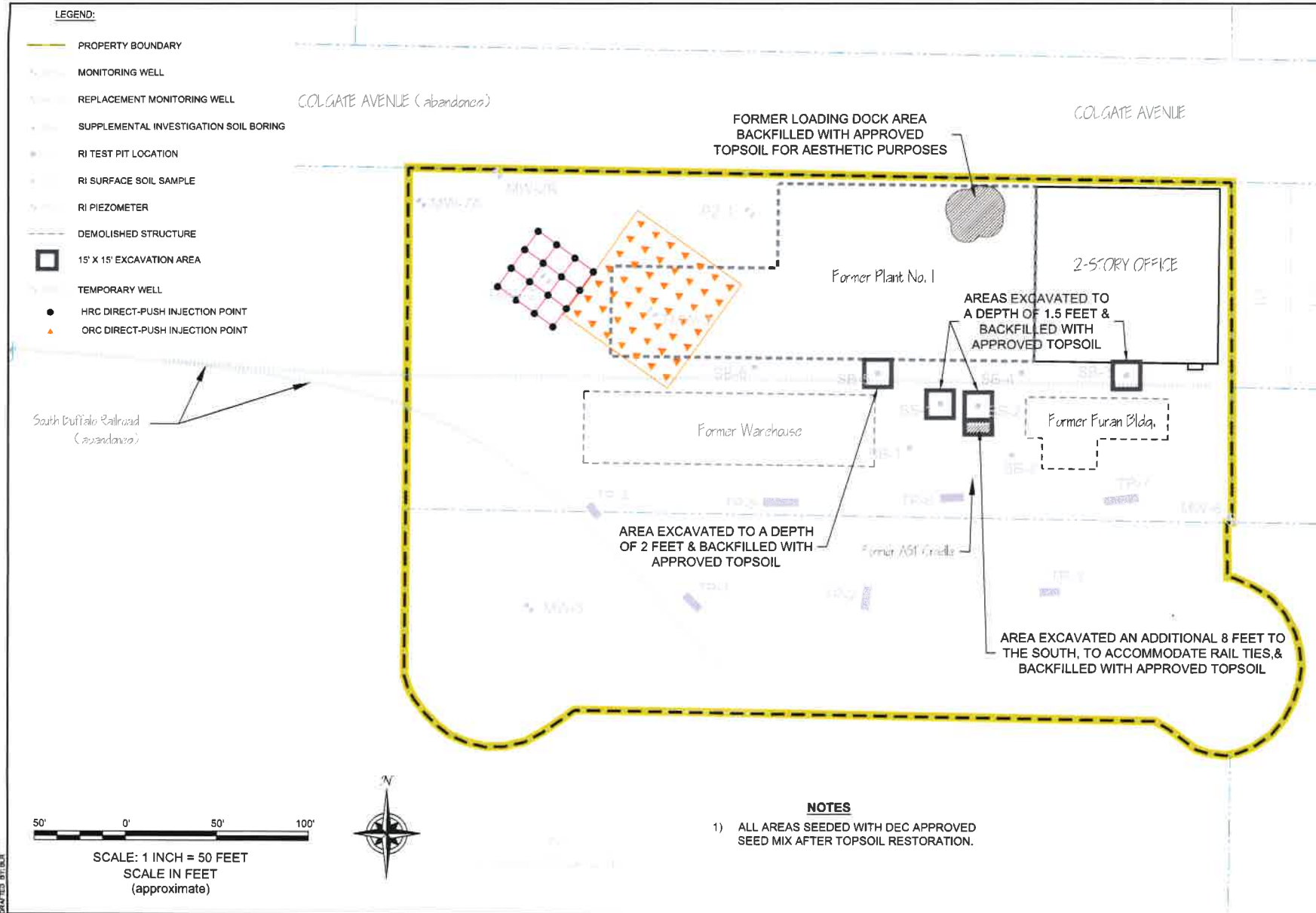


Figure: Property Areas of Previous Remediation

Source:

BENCHMARK
ENVIRONMENTAL
ENGINEERING
SCIENCE, PLLC
2955 ELMHURST TURNPIKE
SUITE 300
BUFFALO, NEW YORK 14218
(716) 856-0590

From PRR October 2014-October 2015 Report

JOB NO.: 0100-014-003

APPENDIX A

IC/EC CERTIFICATION FORM



Enclosure 2
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Periodic Review Report Notice
Institutional and Engineering Controls Certification Form



Site Details

Box 1

Site No. **915133**

Site Name **Ameron**

Site Address: 113 and 119 Colgate Avenue Zip Code: 14220
City/Town: Buffalo
County: Erie
Site Acreage: 3.200

Reporting Period: October 31, 2020 to October 31, 2023

YES NO

1. Is the information above correct? ☒ ☐

If NO, include handwritten above or on a separate sheet.

2. Has some or all of the site property been sold, subdivided, merged, or undergone a tax map amendment during this Reporting Period? ☐ ☒

3. Has there been any change of use at the site during this Reporting Period (see 6NYCRR 375-1.11(d))? ☐ ☒

4. Have any federal, state, and/or local permits (e.g., building, discharge) been issued for or at the property during this Reporting Period? ☐ ☒

If you answered YES to questions 2 thru 4, include documentation or evidence that documentation has been previously submitted with this certification form.

5. Is the site currently undergoing development? ☐ ☒

Box 2

YES NO

6. Is the current site use consistent with the use(s) listed below? ☒ ☐
Commercial and Industrial

7. Are all ICs in place and functioning as designed? ☒ ☐

IF THE ANSWER TO EITHER QUESTION 6 OR 7 IS NO, sign and date below and DO NOT COMPLETE THE REST OF THIS FORM. Otherwise continue.

A Corrective Measures Work Plan must be submitted along with this form to address these issues.

Signature of Owner, Remedial Party or Designated Representative

Date

Description of Institutional ControlsParcelOwnerInstitutional Control**133.62-2-1.11**

113-119 Colgate Avenue II LLC

Landuse Restriction
Soil Management Plan
IC/EC Plan
Site Management Plan

Control is in the form of two easements one for 113 Colgate Street and a second for 119 Colgate. Both indentures dated 07/25/2012 and filed by the Erie County Clerk's office 9/20/2012.

Use Restriction - commercial

SMP

Annual Reporting

Groundwater Use Prohibited

Gardens prohibited

133.62-2-25.11

113-119 Colgate Avenue II LLC

Soil Management Plan
Landuse Restriction
Site Management Plan
IC/EC Plan

Control is in the form of two easements one for 113 Colgate Street and a second for 119 Colgate. Both indentures dated 07/25/2012 and filed by the Erie County Clerk's office 9/20/2012.

Use Restriction - commercial

SMP

Annual Reporting

Groundwater Use Prohibited

Gardens prohibited

Description of Engineering Controls

None Required

Not Applicable/No EC's

Periodic Review Report (PRR) Certification Statements

1. I certify by checking "YES" below that:

a) the Periodic Review report and all attachments were prepared under the direction of, and reviewed by, the party making the Engineering Control certification;

b) to the best of my knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and the information presented is accurate and complete.

YES NO



2. For each Engineering control listed in Box 4, I certify by checking "YES" below that all of the following statements are true:

(a) The Engineering Control(s) employed at this site is unchanged since the date that the Control was put in-place, or was last approved by the Department;

(b) nothing has occurred that would impair the ability of such Control, to protect public health and the environment;

(c) access to the site will continue to be provided to the Department, to evaluate the remedy, including access to evaluate the continued maintenance of this Control;

(d) nothing has occurred that would constitute a violation or failure to comply with the Site Management Plan for this Control; and

(e) if a financial assurance mechanism is required by the oversight document for the site, the mechanism remains valid and sufficient for its intended purpose established in the document.

YES NO



IF THE ANSWER TO QUESTION 2 IS NO, sign and date below and DO NOT COMPLETE THE REST OF THIS FORM. Otherwise continue.

A Corrective Measures Work Plan must be submitted along with this form to address these issues.

Signature of Owner, Remedial Party or Designated Representative

Date

IC CERTIFICATIONS
SITE NO. 915133

Box 6

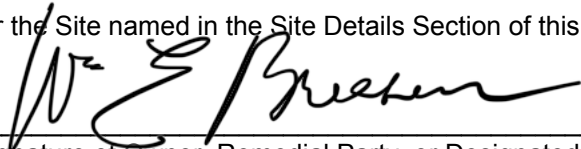
SITE OWNER OR DESIGNATED REPRESENTATIVE SIGNATURE

I certify that all information and statements in Boxes 1,2, and 3 are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.

I WILLIAM E BREESER at 680 NEW BABCOCK, BFLD, NY 14206
print name print business address

am certifying as MEMBER (Owner or Remedial Party)

for the Site named in the Site Details Section of this form.


Signature of Owner, Remedial Party, or Designated Representative
Rendering Certification

1/24/24
Date

APPENDIX B

SITE ENCROACHMENT INFORMATION



LEGEND

- BCP Site Boundary
- Area of Site Encroachment

NOTES

The site encroachment comprises approximately 0.05 acres of the BCP Site

BE3

**BRYDGES
ENGINEERING**
IN ENVIRONMENT
AND ENERGY, DPC

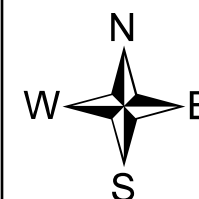
960 Busti Avenue
Buffalo, NY 14213
716.249.6880

jbrydges@be3corp.com

CLIENT: 113-119 Colgate Avenue II LLC

Figure 1 Site Encroachment Location Map

Former Ameron Site
113 & 119 Colgate Avenue
Buffalo, NY 14220



Date: January 9, 2024



1. Millings unintentionally placed on the Site by a neighboring property owner.



2. Additional view of millings encroaching on the Site.



BRYDGES ENGINEERING
IN ENVIRONMENT AND ENERGY, DPC



1. View of the Site after millings have been removed, facing north.



2. View of the Site after millings have been removed, facing south.



BRYDGES ENGINEERING
IN ENVIRONMENT AND ENERGY, DPC



3. View of the Site after millings have been removed, facing northeast.



4. View of the Site after millings have been removed, facing southeast.

From: Kuczka, Megan E (DEC) <Megan.Kuczka@dec.ny.gov>
Sent: Monday, May 15, 2023 1:44 PM
To: William Breeser <web@betterwire.com>; Randall Pawlik <RPawlik@bisonelevator.com>
Cc: Sean M. Donahue <SDonahue@phillipslytle.com>; Steve Bennett <Steve@betterwire.com>; Peter Gorton <pgorton@be3corp.com>; Caprio, Andrea (DEC) <Andrea.Caprio@dec.ny.gov>; Scholand, Gregory P (DEC) <Gregory.Scholand@dec.ny.gov>
Subject: RE: Pictures for DEC

CAUTION: This email originated from outside of the organization.

Randy/Bill -

Thanks again for the follow-up and removing the millings from the Ameron Site. Please place seed on the disturbed area to promote vegetation growth and prevent onsite erosion, as the Site Management Plan for this site requires vegetation to stabilize areas not covered by hardscape. I don't expect that any additional action will be required of you at the Ameron Site from the Department related to this incident, once vegetation has been established. In the future, please be cognizant of the restrictions on the Ameron Site and please notify the Department if any hazardous material is uncovered outside the Ameron Site boundaries.

Feel free to reach out with any questions.

Sincerely,

Megan Kuczka

she/her/hers

Environmental Program Specialist 1, Division of Environmental Remediation

APPENDIX C

SITE PHOTOGRAPHS & FIELD INSPECTION REPORT



1. Area of encroachment demonstrating vegetative growth, facing south.



2. Area of encroachment demonstrating vegetative growth, facing southwest.



BRYDGES ENGINEERING
IN ENVIRONMENT AND ENERGY, DPC



3. Eastern portion of property, facing northeast.



4. Eastern portion of property, facing north.



5. Eastern portion of property, facing west.



6. Centrally located concrete pads (former building slab), facing west.



7. Centrally located fallen limbs from 2022 winter storm, facing south.



8. Concrete pads (former building slab) immediately south of the on-site building, facing west.



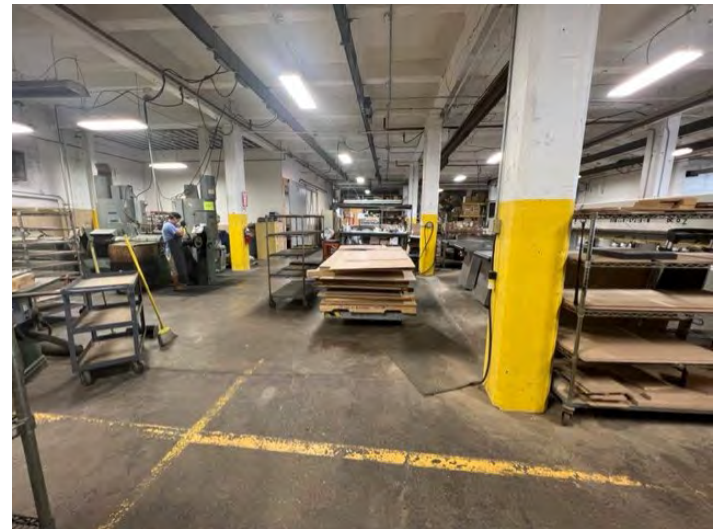
9. Western portion of property, west.



10. Western portion of property, facing north.



11. Central portion of property, facing east.



12. Interior of on-site building, facing west.



13. Interior of on-site building, facing west.



14. Interior of on-site building, facing south.



15. Interior product storage area, facing north.



16. Interior product storage area, facing south.



BE3 Corp.
960 Busti Ave, B-150
Buffalo, New York

SITE WIDE INSPECTION FORM

Date: 9/19/2023

Site Name: Ameron

Location:

133 & 119 Colgate Ave, Buffalo, NY 14220

General Site Conditions: The Site appears relatively unchanged since the previous 2020 PRR conducted in 2020. Vegetative growth has visibly returned to the area of the site encroachment. Building operations remain consistent.

Weather Conditions: 53°F partly sunny with 11 mph wind moving east

Compliance/Evaluation ICs and ECs :

The Site is still consistent with the land use restriction (i.e., property only used for commercial/ industrial) and groundwater use restriction. Vegetative growth has been restored to the area of the April 2023 site encroachment. No ECs are applicable to the Site.

Site management Activities (sampling, H & S Inspection, etc.):

No site management activities were necessary during the reporting period with the exception of the removal of the unintentionally placed millings. As noted above, it was confirmed that vegetation has been restored to the area. Wells were decommissioned in 2014 and all sampling requirements were removed by the NYSDEC.

Compliance with Permits and O & M Plan:

The site remedy does not rely on any mechanical systems, such as groundwater treatment systems, sub-slab depressurization systems or air sparge/soil vapor extraction systems to protect public health and the environment. Therefore, the operation and maintenance of such components is not included in this SMP.

Records Compliance:

All communications with the DEC regarding the site encroachment have been documented and kept on record.

General Comments:

The property is in good condition and resembles photographs taken during the 2020 site wide inspection.

INSPECTOR'S NAME: Alexis Palumbo-Compton

APPENDIX D

SMP ADDENDUM

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation

270 Michigan Avenue, Buffalo, NY 14203-2915

P: (716) 851-7220 | F: (716) 851-7226

www.dec.ny.gov

May 4, 2021

William Breaser
113-119 Colgate Avenue II LLC
680 New Babcock
Buffalo, NY 14206

Re: Site Management (SM) -
Site Management Plan Addendum
Ameron, Buffalo
Erie County, Site No.: **915133**

Dear William Breaser (as the Certifying Party):

The New York State Department of Environmental Conservation (NYSDEC) and the New York State Department of Health (NYSDOH) have reviewed and accept your Addendum to the Site Management Plan received March 31, 2021. If you have any questions, please contact me at 716-851-7220 or email: megan.kuczka@dec.ny.gov.

Sincerely,



Megan Kuczka
Environmental Program Specialist – 1

cc: Andrea Caprio – NYSDEC
Maureen Brady – NYSDEC
Peter Gorton – BE3 Corp.
Dalton Stack – BE3 Corp.
Adam Walters, Esq. – Philips Lytle LLP



Department of
Environmental
Conservation



Via E-Mail and U.S. Mail

March 31, 2021

Megan Kuczka
New York State Department of
Environmental Conservation
Division of Environmental Remediation
270 Michigan Avenue
Buffalo, NY 14206

Re: Registry of Inactive Hazardous Waste Disposal Sites, Site No. 915133
Addendum to Site Management Plan

Dear Ms. Kuczka:

As you know, we represent 113-119 Colgate Avenue II LLC ("**Colgate Avenue**") with respect to the above referenced matter, which relates to an approximately 3.2 acre parcel of land, located at 113-119 Colgate Avenue in the City of Buffalo ("**Site**"). We write today as a follow-up to your letter, dated February 22, 2021 ("**Department Letter**"), sent in response to ongoing communications between Colgate Avenue and the New York State Department of Environmental Conservation ("**Department**") with respect to requests by the Department for a new Site Management Plan ("**SMP**").

By way of brief background, the Department, beginning around October 2020, contacted Colgate Avenue seeking various changes to the SMP, which was initially approved and accepted by the Department in October 2012. Following a series of communications between Colgate Avenue and the Department regarding the scope of the requested changes, we, on behalf of Colgate Avenue, submitted a letter dated February 18, 2021, proposing the submission of an addendum to the SMP as an alternative to the preparation and submission of a new SMP, which was previously requested by the Department.

In the Department Letter, the Department agreed to this proposal and asked that the addendum address: (1) modification of the Periodic Review Report Submittal frequency; (2) groundwater sampling cessation and well decommissioning; (3) contact

ATTORNEYS AT LAW

ADAM S. WALTERS PARTNER DIRECT 716 847 7023 AWALTERS@PHILLIPSLYTLE.COM



Megan Kuczka
Page 2

March 31, 2021

information changes; (4) site delisting; and (5) the Site's current use. Accordingly, on behalf of Colgate Avenue, we submit the enclosed addendum to the SMP, which specifically addresses each of the items requested by the Department. We anticipate that this addendum will be acceptable to the Department and serves to resolve the Department's outstanding requests.

Thank you for your consideration of this matter. If you have any questions about the foregoing, please do not hesitate to contact me.

Very truly yours,

Phillips Lytle LLP

By /s/ *Adam S. Walters*

Adam S. Walters

ASW

cc: Andrea Caprio <andrea.caprio@dec.ny.gov>
William Breeser <web@betterwire.com>
Peter J. Gorton <pgorton@be3corp.com>

ADDENDUM TO AMERON SITE MANAGEMENT PLAN MARCH 2021

**FORMER AMERON SITE
113-119 COLGATE AVENUE
BUFFALO, NEW YORK
NYSDEC SITE NO. 915133**



PREPARED FOR:

**113-119 COLGATE AVENUE II LLC
1255 NIAGARA ST.
BUFFALO, NY 14213**

PREPARED BY:



**960 BUSTI AVENUE
SUITE B-150
BUFFALO, NY 14213**

TABLE OF CONTENTS

1.0	INTRODUCTION.....	3
2.0	CHANGES/ADDENDUMS TO THE SMP	3

1.0 INTRODUCTION

At the request of the New York State Department of Environmental Conservation (NYSDEC) the Colgate Avenue Site Management Plan (*Site Management Plan, Colgate Avenue Site, Buffalo NY, NYSDEC # 915133*); prepared for Ameron International; prepared by Benchmark Environmental Engineering and Science, dated: Final August 2012) – Colgate Avenue Site SMP - is being updated to identify certain changes that have occurred at 113-119 Colgate Avenue, Buffalo, New York 14220 (“site”) since the SMP was first approved by NYSDEC in 2012

2.0 CHANGES/ADDENDUMS TO THE SMP

A Site Management Plan (SMP) was prepared by Benchmark Environmental Engineering and Science (Benchmark) for Ameron and approved by NYSDEC in August 2012. The SMP included:

- A Groundwater Monitoring Plan.
- An Excavation Work Plan;
- An Engineering and Institutional Control Plan; and
- A copy of an Environmental Easement.

The following changes constitute the addendum to the SMP.

A proposed delisting of sites from New York State Registry of Inactive Hazardous Waste Disposal Sites (Registry). The 113-119 Colgate Avenue property was delisted from the registry of Inactive Hazardous Waste Sites on September 3, 2013. (See Attached).

Section 1.1.1 page 1

The Site use changed in October 2015. A 60-Day Advance Notification of Site Change of Use, Transfer of Certificate of Completion, and/or Ownership was completed and submitted to NYSDEC. The type of change identified on the form was “Change in Ownership or Change in Remedial Parties” and reflected the purchase of the Site by 113-119 Colgate Avenue II LLC from Ameron. With this change in ownership the use of the site went from vacant industrial/commercial to active industrial/commercial.

Section 2.2 Page 13

The Site ownership was slightly modified in August 2019 with a change in members of 113-119 Colgate Avenue II LLC. A 60-Day Advance Notification of Site Change of Use, Transfer of Certificate of Completion, and/or Ownership was completed and submitted to NYSDEC. The type of change identified on the form was “Change in Ownership or Change in Remedial Parties” and “Other (any physical alteration or other change of use)”. The following changes were identified:

- Place temporary storage structures on existing slabs on the property with overhead utilities if underground cannot be used.

- Remove clean backfill used to fill in the former loading dock for its re-use and place the clean backfill soil at another location on the property.

Section 2.5.1 Page 18

DEC Contact Information has changed to the following.

- Megan Kuczka (NYSDEC Project Manager)
Phone: 716-851-7220, Email: Megan.Kuczka@DEC.ny.gov
- Andrea Caprio (NYSDEC Project Manager's Supervisor)
Phone: 716-851-7220, Email: andrea.caprio@dec.ny.gov
- Kelly Lewandowski (NYSDEC Site Control)
Phone: 518-402-9553, Email: Kelly.lewandowski@dec.ny.gov
- Steven Berninger (NYSDOH Project Manager)
Phone: 518-402-7860, Email: steven.berninger@health.ny.gov

Section 2.5.1 Page 18

The Environmental contractor contact information has changed from Benchmark Environmental Engineering & Science, PLLC to Brydges Engineering in Environment and Energy (BE3). The contact information for BE# is as follows:

- Jason Brydges, P.E.
Phone: 716-249-6880, Email: jbrydges@be3corp.com
- Peter Gorton, Qualified Environmental Professional
Phone: 716-249-6880, Email: pgorton@be3corp.com
- Dalton Stack, Qualified Environmental Professional
Phone: 716-249-6880, Email: dstack@be3corp.com)

Section 3.2.1 page 21

NYSDEC agreed to terminate groundwater monitoring following the December 2012 event. Groundwater monitoring is no longer required for this property and is therefore no longer required in the SMP.

Section 3.2.1.2 page 22

All the remaining onsite and offsite groundwater monitoring wells and piezometers were decommissioned in February 2014. Wells were decommissioned by Earth Dimensions,

Inc., following NYSDEC Groundwater Monitoring Decommissioning Policy CP-43.

Section 5.3 Page 28

The frequency of the Periodic Review Report was changed. In December 2017 with approval from NYSDEC. Based on compliance with the SMP and no active Environmental Controls at this site, the Department decreased the frequency of the Periodic Review Report from Annual to Triennial. Following such changes, Periodic Review Reports are now due to NYSDEC in 2023, 2026, 2029, 2032, 2035, and every three years thereafter, unless and until a further change in reporting frequency is approved by NYSDEC. The Periodic Review Report must be submitted within 30 days of the end of the Certifying Period.

New York State Department of Environmental Conservation
Division of Environmental Remediation
Bureau of Technical Support, 11th Floor
625 Broadway, Albany, NY 12233-7020
Phone: (518) 402-9543 • Fax: (518) 402-9547
Website: www.dec.ny.gov



September 3, 2013

National Oilwell Varco, Inc.
Attn: Mr. Jeffery Mann
7909 Parkwood Circle Drive
Houston, TX 77036

RE: DEC Site #915133
Site Name: Ameron
Site Address: 113 and 119 Colgate Avenue, City of
Buffalo, Erie County 14220

Dear Mr. Mann:

The 60-day prior notification which included a 30-day public comment period has ended. These requirements were established for the proposed deletion of sites from the New York State Registry of Inactive Hazardous Waste Disposal Sites (Registry).

A comment was received but was not substantive enough to reconsider the site's delisting. The comment and DEC's response are available from the Project Manager given below.

This letter serves as your official notification that the subject site has been deleted from the Registry and that the deletion became effective on the date marked above.

If you have any questions relative to this matter or wish to review any associated documents in the repository, please contact the Project Manager, Maurice Moore, NYSDEC, 270 Michigan Ave, Buffalo, NY 14203; or call 716-851-7220.

Sincerely,

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

cc: M. Moore, Project Manager
A. English
K. Lewandowski
K. Anders, NYSDOH
L. Ennist
D. Denk, Regional Permit Administrator
M. Brady, Regional Attorney, Region 9
M. Doster, RHWRE, Region 9
M. Cruden, Director, Remedial Bureau E
B. Anderson, Site Control Section