



## Phillips Lytle LLP

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

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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**

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## 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, 11<sup>th</sup> Floor**  
625 Broadway, Albany, NY 12233-7020  
**Phone: (518) 402-9543 • Fax: (518) 402-9547**  
**Website: [www.dec.ny.gov](http://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