

New York State Department of Environmental Conservation
 Division of Environmental Remediation
 Bureau of Hazardous Site Control

ADDITIONS/CHANGES TO REGISTRY: SUMMARY OF APPROVALS

SITE NAME: VANADIUM CORP. OF AMERICA

DEC I.D. NUMBER 932001

Current Classification _____

Volunteer Yes _____ No _____
 Sign (7) below

Activity: Add as Class _____ Reclassify to _____ Delist Category _____ Modify _____

Approvals:

- | | | | | | |
|---|-----|-------------------------------------|----|--------------------------|--|
| 1. Regional Hazardous Waste Engineer | Yes | <input checked="" type="checkbox"/> | No | <input type="checkbox"/> | <u>2/19/02</u> |
| 2. BEEI of NYSDOH | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> | <u>J/A</u> |
| 3. DEE | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> | <u>J/A</u> |
| 4. _____ Remediation Action Bureau Director [Class 2] | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> | <u>J/A</u> |
| 5. BHSC - Investigation Section | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> | <u>J/A</u> |
| 6. BHSC - O&M Section [Class 4] | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> | <u>J/A</u> |
| 7. BPM - Brownfield & Voluntary Cleanup Section | | | | | <u>J/A</u> Date _____ |
| 8. Site Control Section | | | | | <u>Den J. F.</u> Date <u>10/1/02</u> |
| 9. Director | | | | | <u>Phil Marino</u> Date <u>10/1/02</u> |

Completion Checklist for Registry Sites

		Completed By: Initials	Date
OWNER NOTIFICATION LETTER?	<input type="checkbox"/>	_____	_____
ADJACENT PROPERTY OWNER NOTIFICATION LETTER?	<input type="checkbox"/>	_____	_____
ENB / LEGAL NOTICE SENT? (For Deletion Only)	<input type="checkbox"/>	_____	_____
COMMENTS SUMMARIZED / PLACE IN REPOSITORY?	<input type="checkbox"/>	_____	_____
FINAL NOTIFICATION SENT TO OWNER? (For Deletion Only)	<input type="checkbox"/>	_____	_____



SITE INVESTIGATION INFORMATION

1. SITE NAME Vanadium Corp of America OU#1		2. SITE NUMBER 932001	3. TOWN/CITY/VILLAGE Town of Niagara	4. COUNTY Niagara
5. REGION 9	6. CLASSIFICATION CURRENT [2] PROPOSED [] MODIFICATION: Site Boundary Modification			
7. LOCATION OF SITE (Attach U.S.G.S. Topographic Map showing site location)				
a. Quadrangle Niagara Falls & Lewiston		b. Site Latitude 43° 07' 22" Site Longitude 79° 02' 01"		
c. Tax Map Number(s) 130.15-4-10.1 and 130.15-4-10.2 (OU#1 -CCMA) 130.16-10 (OU#2 - Airco Inc.) 130.20-1-2 (OU#3- Niagara Mohawk and New York Power Authority)		d. Site Street Address Witmer Road, Town of Niagara		
8. BRIEFLY DESCRIBE THE SITE (Attach site map showing disposal/sampling locations)				
<p>This site is part of a former manufacturing facility and was used for the disposal of various silicon dusts and alloys as well as miscellaneous refuse. The site contains a closed Part 360 landfill containing manufacturing waste and dusts, some of which are listed hazardous waste. The site was owned by the Vanadium Corp. of America from 1920 to 1964. In 1964, Pittsburgh Metallurgical (now Airco, Inc.) purchased western 62 acres of the property, from which SKW Alloys, Inc. (now CCMA) obtained the western 37 acres from Airco Inc. in 1979. This 37-acre parcel currently constitutes Operable Unit (OU) #1. SKW Metal Alloys Inc. has conducted site sampling investigations to determine the nature and extent of hazardous wastes at the site, and implemented an Interim Remedial Measure (IRM) on OU#1 to isolate the waste and control storm water flow. The IRM was completed in November 1998, and the IRM Certification Report was accepted in January 2000. Consequential amounts of hazardous waste outside the foot print of the closed landfill were not found through the site investigation efforts. A CCMA (formally SKW) petition to delist OU#1 from the Registry was denied by the State due to the presence of listed hazardous waste remaining in the landfill cells. Based on the site investigations completed, only the closed Part 360 landfill contains consequential amounts of hazardous waste and OU 1 should therefore be limited to the landfill area. A deed notification for OU#1 was filed in the Niagara County Clerks office on May 3, 2001 in Book 3114 Page 291. Revised site boundary descriptions and a site survey for OU#1 (to include only the landfill) have been provided by CCMA.</p>				
<p>a. Area 9.764 acres - revised OU#1 b. Completed: () Env. Property Assessment (X) PSA () SI () ESI (X) IRM () RI/FS (X) Construction () O&M (X) Other Site Screening</p>				
9. HAZARDOUS WASTE DISPOSED (include EPA Hazardous Waste Numbers)				
Ferro chromium silicon Alloy Dust (K090 & D002)		Ferro chromium silicon slag (D002)		Ferro manganese slag
Ferro silicon dust		Calcium hydroxide, refuse		
10. ANALYTICAL DATA AVAILABLE				
a. () Air (X) Groundwater (X) Surface Water (X) Sediment (X) Soil (X) Waste (X) Leachate (X) EPTox (X) TCLP				
b. Contravention of Standards or Guidance Values: Ground water and surface water				
11. CONCLUSION				
<p>Consequential amounts of hazardous waste exists in only the Permitted Closed Part 360 Landfill located within the current OU#1 site. The completed IRM has successfully eliminated the generation of high pH surface water by covering slag deposits and grading site to control on site surface storm flows. Site screening investigations performed prior to IRM by SKW did not identify the presence of consequential amounts of hazardous waste in areas outside the foot print of the landfill cells. Therefore, modification of the site description and boundaries of OU#1 to include only the landfill is necessary and appropriate.</p>				
<p>a. Institutional Controls (IC) Required? (X) Y () N b. If yes, identify Deed Notice OU#1 c. Are these ICs in place and verified? (X) Y () N</p>				
12. SITE IMPACT DATA				
a. Nearest Surface Water: Distance 1000 ft.		Direction West Class A Special Niagara River		
b. Groundwater: Depth 10 ft.		Flow Direction Variable () Sole Source (X) Primary () Other High-Yield Aquifer		
c. Water Supply: Distance 3 miles		Direction South Active (X) Yes () No		
d. Nearest Building: Distance 100 ft.		Direction West Use Industrial		
e. Documented fish or wildlife mortality?		() Y (X) N		
f. Impact on special status fish or wildlife resource?		() Y (X) N		
g. Controlled Site Access? OU#1 and OU#2 OU#3		(X) Y () N		
h. Exposed hazardous waste? OU#1		() Y (X) N		
i. If proposed Classification is 2, Priority?		() 1 () 2 () 3 N/A		
j. EPA ID# NYD980654305		HRS Score _____		
13. SITE OWNER'S NAME		14. ADDRESS		15. TELEPHONE NUMBER
<p>OU#1 CCMA (formally SKW) OU#2 BOC Gases (formally Airco Inc.) OU#3 Niagara Mohawk OU#3 New York Power Authority OU#3 Cyprus Minerals (Phelps Dodge Corporation)</p>		<p>PO Box 217 Calvert City Kentucky 42029 100 Mountain Ave, Murray Hill New Jersey 07974-2064 300 Erie Blvd West, Syracuse New York 13202 123 Main Street, White Plains New York 10601 One North Central Ave, Phoenix Arizona 85004-2306</p>		<p>(270) 395-7631 (908) 771-1452 (315) 428-6944 (914) 390-8026 (602) 366-8100</p>
16. PREPARER		17. APPROVED		
<p><i>Michael J. Hinton</i> <i>2/15/02</i> Signature Date</p>		<p><i>Robert L. Marino</i> <i>10/1/02</i> Signature Date</p>		
<p>Michael J. Hinton, Project Manager, NYSDEC - Region 9 Name, Title, Organization</p>		<p>Robert L. Marino, Director, BHSC Name, Title, Organization</p>		

Inactive Hazardous Waste Disposal Report

Site Name: Vanadium Corporation of America	Site Code: 932001
Class Code: 2 Region: 9 County: Niagara	EPA Id: NYD980654305
Address: Witmer Road at Maryland Avenue	City: Niagara Zip: 14305
Latitude: 43 7' 22" Longitude: 79 1' 59"	
Site Type: Landfill	Estimated Size: 100 + Acres

Site Owner / Operator Information:

Current Owner(s) Name: *** Multiple Site Owners ***

Current Owner(s) Address:

Owner(s) during disposal: *** Multiple Site Owners ***

Operator(s) during disposal: *** Multiple Site Operators ***

Stated Operator(s) Address:

Hazardous Waste Disposal Period: From unknown To unknown

Site Description:

The Vanadium Corp. of America owned this site from 1920 to 1964. In 1964, Pittsburgh Metallurgical (now Airco, Inc.) purchased 62 acres of the property. In 1979, SKW Alloys, Inc. bought the Airco Alloys Division of Airco, Inc., obtaining the western 37 acres, operable unit (OU) #1. Airco Carbon retained the eastern 25 acres of their original 62 acre site, OU#2. This site has been used by SKW Alloys, Airco Carbon, and former owners to dispose of ferrochromium silicon alloy dust, ferromanganese slag, ferrochromium silicon slag, ferrosilicon dust, calcium hydroxide and miscellaneous refuse. The portion of the site owned by Airco Carbon contains an inactive landfill. The remaining portion of the site is owned by Niagara Mohawk and the Power Authority, OU#3. Groundwater monitoring at the landfills OU#1 revealed low levels of chlorinated organics. Disposal of ferrochromium silicon dust at the site by Airco Alloys has been confirmed with pH measurements of local groundwater and surface water often exceeding 12.5. Sampling revealed surface water contamination by phenol, iron, and hexavalent chromium at levels greater than Class C surface water standards. Samples also exceed the Class C pH range of 6.5 to 8.5. An investigation under the NYSDEC IIWA program was completed at the Niagara Mohawk Portion of the site, OU#3. Monitoring wells, soil borings and waste samples were collected and a site survey was done to determine actual size and waste characteristics of the NIMO site. SKW Metal Alloys Inc. performed an Interim Remedial Measure (IRM) on their portion of the site to isolate the water and control storm water flow. The British Oxygen Corp. who purchased Airco has completed an IRM landfill closure on OU#2. CCMA (formally SKW) petitioned the state to delist OU#1 from the registry. The petition was denied due to the presence of listed hazardous waste in the landfill cells. Site boundaries for OU#1 have been revised to include just the landfill cells. Deed notification for the removed portions of OU#1 were filed in the Niagara County Clerks office, in Book 3114 Page 291. Negotiations with the PRPs to address OU#3 are ongoing.

Confirmed Hazardous Waste Disposal:	Quantity:
Ferro chromium silicon Alloy Dust (K090 & D002) (K090 & D002 Waste)	50,000 Tons
Ferro chromium silicon Slag (K090 & D002 Waste)	21,000 Tons
Ferro silicon dust	25,000 Tons
Calcium hydroxide, refuse	unknown
Ferro Manganese Slag	6,000 Tons

Analytical Data Available for:	Groundwater	Surface Water	Soil
Applicable Standards Exceeded in:	Groundwater	Surface Water	
Geotechnical Information:	Depth to		
Soil/Rock Type: Clay-rich and sand-rich silt over till.	Groundwater: Range: 15 to 20 feet.		

Legal Action: Type:	Status:
Remedial Action:	Nature of action:

Assessment of Environmental Problems:

The presence of hazardous waste has been documented and significant threat has been determined. pH values in groundwater wells and surface water exceed 12.5. Exceedences for groundwater standards were noted for vinylchloride, trichloroethene, phenol, chromium, manganese, hexavalent chromium, cyanide, magnesium, sodium and zinc.

Assessment of Health Problems:

The properly closed landfill areas are fenced. There are many open waste piles on the adjacent Niagara Mohawk (NiMo) and PASNY right-of-ways. Nearby residents are concerned about children playing in the Niagara Mohawk/PASNY right-of-ways. There is evidence of motorbike and all-terrain-vehicle usage along the power lines, which could result in direct contact with contaminants in soil and surface water. The pH of groundwater and surface water within the landfill area has exceeded 12.5 (considered corrosive). Exposures to site-related contaminants via drinking water are not expected because area residents are provided with public water.

New York State Department of Environmental Conservation

Division of Environmental Remediation, Region 9

270 Michigan Avenue, Buffalo, New York, 14203-2999


Phone: (716) 851-7220 • FAX: (716) 851-7226

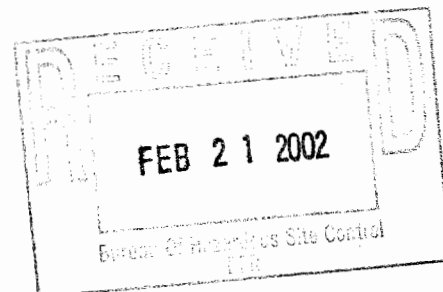
Website: www.dec.state.ny.us



Erin M. Crotty
Commissioner

MEMORANDUM

TO: Dennis Farrar, DER - Site Control Bureau
FROM: Dan King, DER - Region 9 
SUBJECT: Vanadium OU No. 1
Site No. 932001
Change in Site Description
DATE: February 15, 2002



Enclosed for processing is a listing package to change the description of Operable Unit (OU) No. 1 of the Vanadium site located in Niagara(T), Niagara County. The site description for this operable unit currently includes the western 37-acre parcel of the Vanadium site. Situated within OU No. 1 is a 9.8-acre landfill closed pursuant to Part 360. Site investigations have not confirmed the presence nor disposal of consequential amounts of hazardous waste at OU No. 1, except for those hazardous wastes within the existing landfill. As such, the change in the description and boundary of OU No. 1 is necessary to remove all but the landfill.

The following items are enclosed in the listing package:

Site Investigation Information Form - The form has been prepared to reflect the changes for OU No. 1. The site descriptions and boundaries for the rest of the Vanadium site (OU Nos. 2 and 3) should remain as currently listed in the Registry.

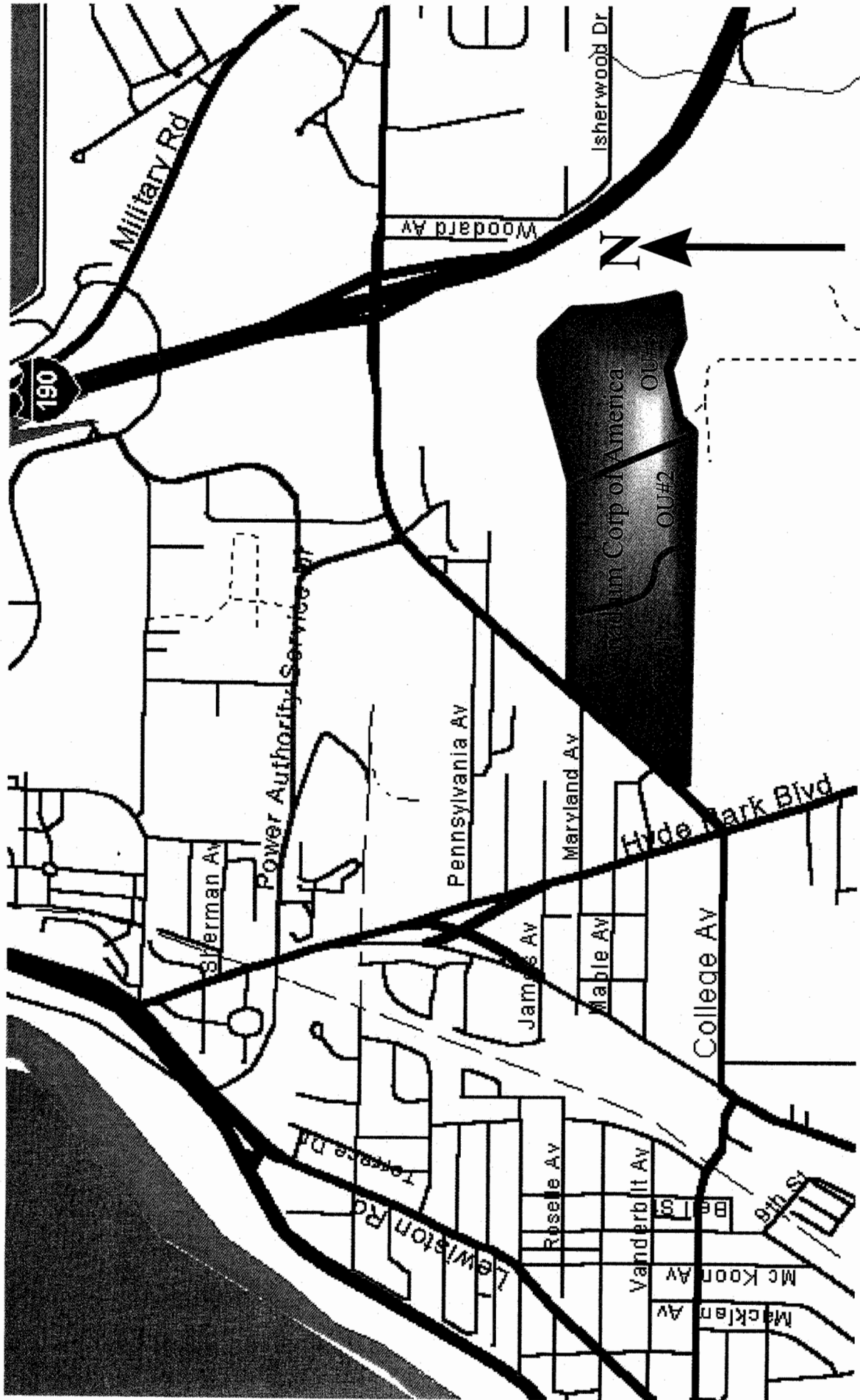
Supporting Documentation - The following information is provided in support of the listing package and to update the Site Control records regarding OU No. 1:

- Two site maps are enclosed. One depicts the current OUs and the entire 100-acre area of the Vanadium site. The other map depicts the 75-acre site after modification to OU No. 1,
- Deed notification imposed on the current OU No. 1 area and a map depicting the area covered by the notification,
- Site descriptions of both the area of OU No. 1 to remain on the Registry and the area of OU No. 1 to be removed, and
- Site map outlining the area of OU No. 1 to remain on the Registry.

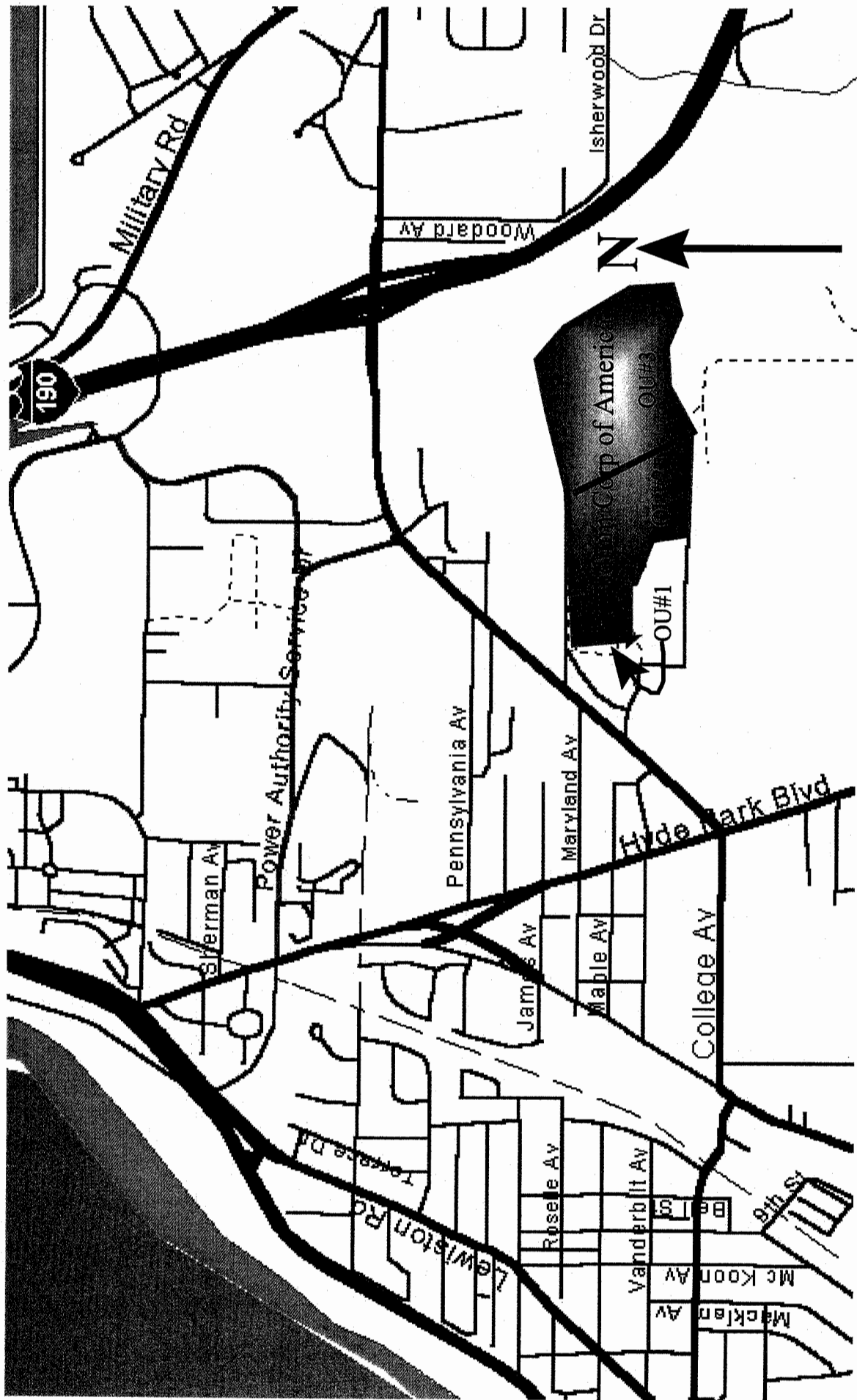
A revised Registry sheet that indicates the pending modifications to OU No. 1 was previously provided as part of the ongoing Registry update. If processing of the enclosed package is completed prior to issuance of this year's Registry, additional modification of the Registry sheet is needed.

Please contact Mr. Michael Hinton, regional project manager, or me should you have any questions regarding the enclosed package.

DKK/tml
Enclosures



Original Vanadium Corporation of America Site (approx. 100 acres)



Modified Vanadium Corporation of America Site (approx. 75 acres)

New York State Department of Environmental Conservation
Division of Environmental Remediation, Region 9
270 Michigan Avenue, Buffalo, New York, 14203-2999
Phone: (716) 851-7220 • FAX: (716) 851-7226
Website: www.dec.state.ny.us



JAN 17 2000

January 13, 2000

Mr. Edward Bredniak
CC Metals and Alloys Inc.
P.O. Box 217
Calvert City, Kentucky 42029

Dear Mr. Bredniak:

Vanadium Corporation of America
Site #932001
SKW Operable Unit I
Revised IRM Completion Report

The New York State Departments of Environmental Conservation (NYSDEC) and Health (NYS DOH) have reviewed the IRM Completion Report prepared by LAN Associates and dated November 11, 1999. This report is acceptable to the NYSDEC and represents the completion of the agreed upon IRM program.

With the completion of the IRM program, all costs incurred by the state during the implementation of this program must be reimbursed as indicated in the IRM consent order. The NYSDEC will send an itemized bill to you in the near future.

The Department requests the addition of the surface water discharge point and monitoring well BR-1 to the existing Part 360 quarterly sampling program for the facility, and that these points be sampled on the same schedule and for the same parameters as the other monitoring points. If you have any questions regarding the Part 360 sampling requirements please call Ms. Mary McIntosh at (716) 851-7220.

Finally, with the completion of the IRM program a long-term maintenance plan must be prepared to ensure the continued effectiveness of the IRM. An Operation and Maintenance Plan must be prepared that includes a deed restriction to restrict the future use of the property and provides a schedule for the mowing of the site, routine inspections to identify and correct areas that may settle, erode or are damaged by burrowing animals or site activities. The deed restriction must be filed in the Niagara County Clerks office to advise future owners of the concerns associated with this site.

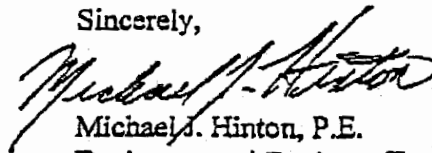


Mr. Edward Bredniak
January 13, 2000
Page 2

The NYSDEC is pleased with the IRM program implemented by CC Metals and Alloys, Inc. which accomplished the goals established for the IRM. Please keep in mind the fact that the SKW property is just one of three operable units established for the Vanadium Corporation of America site. The NYSDEC is negotiating with the other property owners to address the issues associated with the remaining parcels. Following completion of work at the individual parcels, the NYSDEC intends to prepare a Proposed Remedial Action Plan (PRAP) and Record of Decision (ROD) that will summarize the remedial activities at the Vanadium site for all the operable units and recommend any further work if needed.

If you have any questions, please call me at (716) 851-7220.

Sincerely,

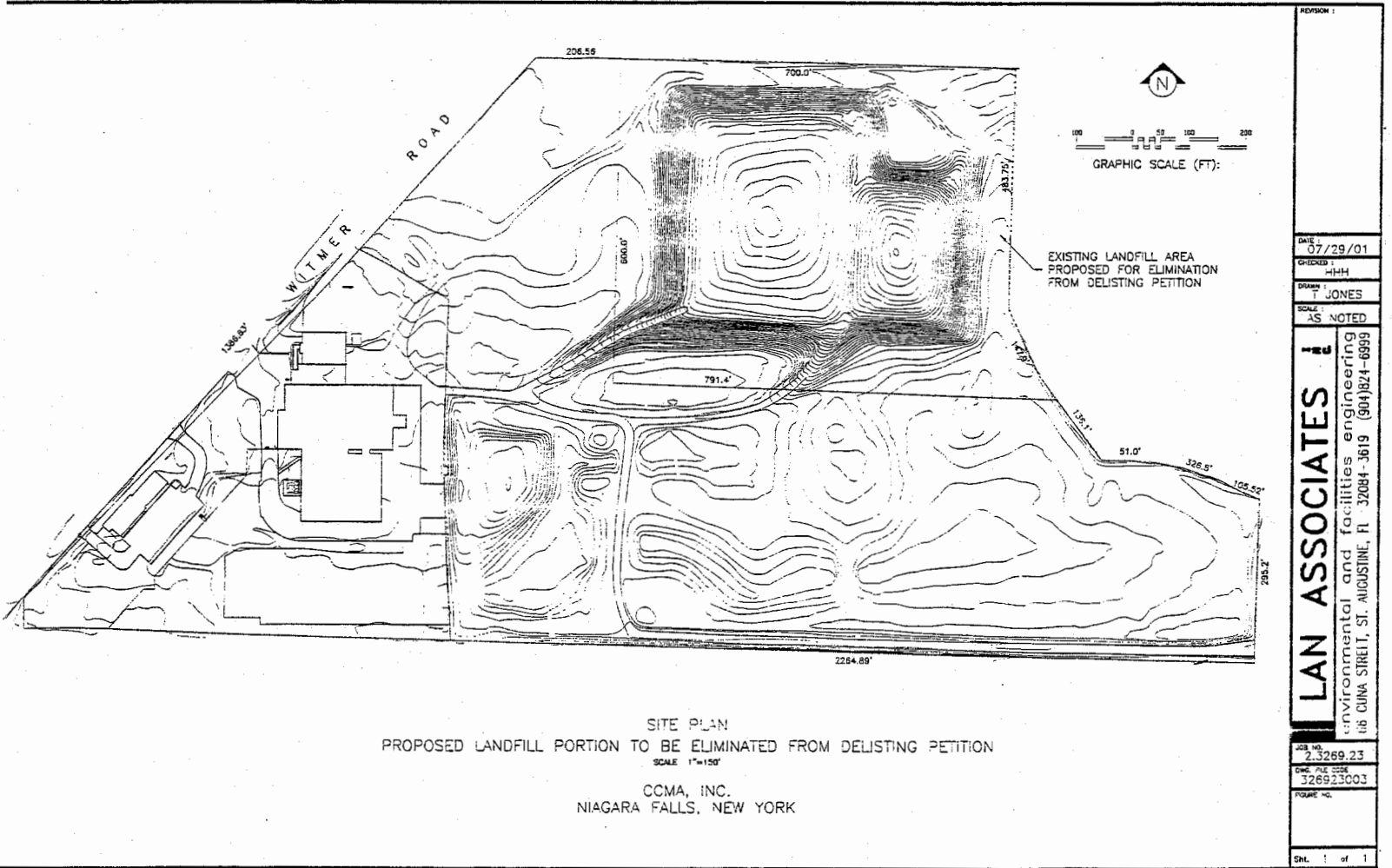


Michael J. Hinton, P.E.
Environmental Engineer II
Division of Environmental Remediation
Region 9

MJH:tml

cc: Mr. Daniel King, NYSDEC, Division of Environmental Remediation, Region 9
Maura Desmond, Esq., NYSDEC, Division of Environmental Enforcement, Buffalo
Ms. Karen Maurano, NYSDEC, Division of Environmental Remediation, Albany
Ms. Dawn Hettrick, NYS DOH, Albany
Ms. Mary McIntosh, NYSDEC, Division of Solid and Hazardous Materials, Region 9
Mr. Guy Van Doren, P.E. LAN Associates

DECLARATION OF COVENANTS & RESTRICTIONS
 BOOK 3114 PAGE 291



SITE PLAN
 PROPOSED LANDFILL PORTION TO BE ELIMINATED FROM DELISTING PETITION
 SCALE 1"=150'

CCMA, INC.
 NIAGARA FALLS, NEW YORK

REVISION:
DATE: 07/29/01
CHECKED: JHH
DRAWN: T. JONES
SCALE: AS NOTED
LAN ASSOCIATES Environmental and facilities engineering 116 QUINA STREET, ST. AUGUSTINE, FL 32084-3619 (904)824-6999
JOB NO. 2.3269.23
DWG. FILE CODE 326923003
FIGURE NO.
SHEET 1 of 1

AREA REMOVED
FROM OU #1
SITE DESCRIPTION

Boundary Description
Parcel to be included in delisting petition

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Niagara, County of Niagara, and state of New York, being part of Lot 24, Township 13, Range 9 of the Holland Land Company's Survey, bounded and described as follows:

Beginning at a point in the centerline of Witmer Road at the southwest corner of lands conveyed by the Niagara Falls Power Company to the Vanadium Corp. of America by deed recorded in the Niagara County Clerks Office in liber 660 at page 319;

Running thence easterly along said southerly line of Vanadium Corp. lands, a distance of 2264.89 feet to the southeast corner of lands conveyed by Airco, Inc. to SKW Alloys, Inc. by deed recorded in liber 1657 at page 187;

Running thence northerly at a right angle to the last previous course, a distance of 295.2 feet to a northeasterly corner of aforesaid lands conveyed to SKW Alloys, Inc.;

Running thence northwesterly along a northeasterly line of aforesaid lands conveyed to SKW Alloys, Inc., said line deflecting to the left 67°-47'-54" from the last previous course, a distance of 105.52 feet to a point of curve;

Running thence northwesterly and westerly on a northeasterly boundary of aforesaid lands conveyed to SKW Alloys, Inc., said boundary being a curve to the left, said curve having a radius of 326.5 feet, an arc distance of 135.47 feet to the point of tangency;

Running thence westerly along a northerly line of aforesaid lands conveyed to SKW Alloys, Inc., a distance of 51.0 feet;

Running thence northwesterly along a northeasterly of aforesaid lands conveyed to SKW Alloys, Inc., said line deflecting to the right 53°-00'-55" from the last course, a distance of 136.1 feet;

Running thence westerly along a line parallel with the southerly line of lands appropriated by the Power Authority of the State of New York (PASNY) as shown on PASNY Map No. 1295, Parcel 1295, a distance of 791.4 feet;

Running thence northerly at a right angle to the last previous course, a distance of 600.0 feet to a point on said southerly line of lands appropriated by PASNY;

Running thence westerly along said southerly line of lands appropriated by PASNY, a distance of 206.56 feet to the centerline of Witmer Road;

Running thence southwesterly along the centerline of Witmer Road, a distance of 1386.83 feet to the point of beginning;

Excepting and reserving a triangular parcel of land in the southwest corner of the above described parcel, said triangular parcel conveyed to the Niagara Mohawk Power Corporation by deed recorded in liber 1352 at page 358;

Containing 27.325 acres of land, more or less;

Subject to any easements, reservations or restrictions of record.

Boundary Description
Parcel to be excluded from delisting petition

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Niagara, County of Niagara, and state of New York, being part of Lot 24, Township 13, Range 9 of the Holland Land Company's Survey, bounded and described as follows:

Beginning at the point in the southerly line of lands appropriated by the Power Authority of the State of New York (PASNY) as shown on PASNY Map No. 1295, Parcel 1295, at a distance of 206.56 feet easterly along said line from its point of intersection with the centerline of Witmer Road (said centerline being also the northwesterly line of Lot 24 and the southeasterly line of Lot 32 of the Mile Reserve), said point of beginning being also 700.0 feet from a northeasterly corner of lands conveyed by Airco, Inc. to SKW Alloys, Inc., by deed recorded in liber 1657 at page 187, as measured along the said southerly line of lands appropriated by PASNY;

Running thence southerly at a 90° angle from said southerly line of lands appropriated by PASNY, a distance of 600.0 feet;

Running thence easterly parallel to said southerly line of lands appropriated by PASNY, a distance of 791.4 feet to a point in a northeasterly line of aforesaid lands conveyed to SKW Alloys, Inc.;

Running thence northwesterly along said northeasterly line of lands conveyed to SKW Alloys, Inc., a distance of 147.9 feet;

Running thence northerly on a line deflecting to the right 38°-10'-30" from the last previous course, a distance of 483.75 feet to a northeast corner of aforesaid lands conveyed to SKW Alloys, Inc., said corner lying in the southerly line of aforesaid lands appropriated by PASNY;

Running thence westerly along said southerly line of, a distance of 700.0 feet to the point of beginning;

Containing 9.764 acres of land, more or less.

Subject to any easements, reservations or restrictions of record.

DO NOT DETACH - THIS IS PAGE 1 OF
RECORDED DOCUMENT

NIAGARA COUNTY CLERK RECORDING PAGE

OFFICE OF THE CLERK COUNTY OF NIAGARA

WAYNE F. JAGOW, COUNTY CLERK

County Courthouse, 175 Hawley Street, P.O. Box 461, Lockport, NY 14095

Phone (716) 439-7027

Fax (716) 439-7066

INSTRUMENT DATE April 30, 2001

DOCUMENT TYPE Declaration of Covenants and Restrictions

(10)

Parties: (Print Names In Full)

1st Part CC Metals & Alloys

2nd Part _____

Town/City Niagara

ORIGINAL FILED

MAY 3 - 2001

WAYNE F. JAGOW
NIAGARA COUNTY CLERK
LOCKPORT, NEW YORK 14094

DOCUMENT # 1003276
BOOK 3114 PAGE 291
NUMBER OF PAGES 10
RECORDED 05/03/2001
04:27:33 P.M.
RECEIPT # 10039
PAID - COUNTY CLERK
WAYNE F. JAGOW

Return To:

Paul Meesky
Hodgson Russ LLP
One M&T Plaza Suite 2000
Buffalo, NY 14203

THIS SPACE RESERVED FOR COUNTY CLERK

MORTGAGE# _____

MORTGAGE AMOUNT

\$ _____

() One/two family () Other

[] Check if to be apportioned

RECORDING TAX RECEIPT

BASIC \$ _____

ADDITIONAL \$ _____

SPECIAL \$ _____

TOTAL \$ _____

State of New York) ss
County of Niagara)
I do hereby certify that I have
Received on the within Mortgage, being
the amount of the Recording Tax
Imposed thereon & paid at recording.

Dated _____, 20____

REAL ESTATE TRANSFER
TAX
\$ _____

NIAGARA COUNTY

Mortgage Tax Clerk of Niagara County

DECLARATION OF COVENANTS AND RESTRICTIONS

This Declaration of Covenants and Restrictions, made this 30th day of April 2001, by CC Metals and Alloys, Inc. ("CCMA"), (formerly known as SKW Metals and Alloys, Inc.), a corporation organized and existing under the laws of the State of Delaware and having an office for the transaction of business at 300 Corporate Parkway, Amherst, New York.

RECITALS

WHEREAS, CCMA owns a portion of the Vanadium Corporation of America site ("Vanadium Site"), listed as Site No. 932001 in the New York State Department of Environmental Conservation's ("NYSDEC") Registry of Inactive Hazardous Waste Disposal Sites; and

WHEREAS, CCMA's portion of the Vanadium Site is located on Witmer Road in the Town of Niagara, County of Niagara, State of New York, which is more particularly described in Appendix A attached to this Declaration of Covenants and Restrictions and made a part hereof, and hereinafter referred to as the "Property"; and

WHEREAS, a landfill occupies a part of the northern portion of the Property, such landfill was properly closed in 1992-1993 in accordance with NYSDEC regulations and the NYSDEC approved the landfill closure in 1994; and

WHEREAS, in response to the NYSDEC's inclusion of the Vanadium Site on the Registry, CCMA entered into an Order on Consent in 1998 with the NYSDEC, Index No. B9-

0470-94-12, a copy of which was attached to and made a part of a Declaration of Covenants and Restrictions which was recorded in the Niagara County Clerk's Office on July 30, 1998 in Liber 2848 at page 25; and

WHEREAS, pursuant to the Order on Consent, CCMA undertook remedial measures to address conditions in an area in the southeast portion of the Property, which measures included regrading to (i) eliminate off-site surface water runoff from entering the Property, (ii) isolate on-site stormwater to prevent contact with underlying soil and groundwater, (iii) produce a site drainage system for the Property to control stormwater discharge from the Property, and (iv) eliminate on-site low lying areas where surface water could accumulate; and

WHEREAS, the NYSDEC approved the remedial measures completion report in a letter dated January 13, 2000, and the Declaration of Covenants and Restrictions recorded at the Niagara County Clerk Office on July 30, 1998 automatically terminated upon satisfaction of the obligations imposed under the Order on Consent; and

WHEREAS, CCMA in February 2001 submitted to the NYSDEC a Petition to Delist the Property from the Registry, and the NYSDEC has requested that this Declaration of Covenants and Restrictions be filed with the Niagara County Clerk.

WHEREAS, documentation of the landfill closure, Order on Consent, remedial measures and Petition to Delist the Property from the Registry are part of the public record kept in the NYSDEC's Region 9 office in Buffalo.

NOW, THEREFORE, CCMA, for itself and its successors and/or assigns, covenants that:

First, the Declaration of Covenants and Restrictions recorded in the Niagara County Clerk's Office on July 30, 1998 was automatically terminated of record with the approval by the NYSDEC of the remedial measures completion report (see Appendix B for NYSDEC's approval letter dated January 13, 2000).

Second, the Property, more particularly described in Appendix A, is subject to this Declaration of Covenants and Restrictions.

Third, unless prior written approval by the NYSDEC and the New York State Department of Health, or any New York State agency or agencies subsequently created to protect the environment of the State and the health of the State's citizens, is first obtained, no person may engage in any activity, including regrading, that will, or that reasonably is anticipated to, interfere significantly with any completed closure or remedial program affecting the Property, including any activity that will result in the disturbance or excavation of the on-site landfill or contour of the Property including the drainage system.

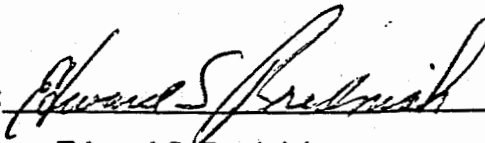
Fourth, this Declaration is and shall be deemed a covenant that shall run with the land and shall be binding upon all future owners of the Property.

Fifth, any deed of conveyance regarding the Property shall recite that the said conveyance is subject to this Declaration of Covenants and Restrictions.

IN WITNESS WHEREOF, CCMA has executed this instrument on this 30TH day of April, 2001.

CC METALS AND ALLOYS, INC.

By:



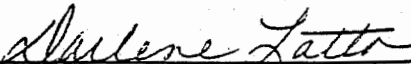
Edward S. Bredniak
President

COMMONWEALTH OF KENTUCKY)

: SS.

COUNTY OF MARSHALL)

On the 30 day of April, in the year 2001, before me, the undersigned, personally appeared EDWARD S. BREDNIAK, 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 executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument, and that such individual made such appearance before the undersigned in the City of CALVERT City; Commonwealth of Kentucky.



Notary Public

My commission expires January 27, 2004

APPENDIX A

That Tract or Parcel of Land situate in the Town of Niagara, County of Niagara and State of New York, being part of Lot 24, Township 13, Range 9 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point in the center line of the Witmer Road at the southwest corner of lands conveyed by the Niagara Falls Power Company to the Vanadium Corporation of America by deed recorded in the Niagara County Clerk's Office in Liber 660 at Page 319.

Running thence easterly along the southerly line of lands so conveyed, a distance of 2264.89' to a point.

Running thence northerly at right angles to the last previous course, a distance of 295.2' to a point.

Running thence northwesterly on a line deflecting to the left $67^{\circ} 47' 54''$ from the last previous course, a distance of 105.52' to the point of curve.

Running thence northwesterly and westerly on a curve to the left, said curve having a radius of 326.5', an arc distance of 135.47' to the point of tangency.

Running thence westerly along said line of tangency, a distance of 51.0' to a point.

Running thence northwesterly, on a line deflecting to the right $53^{\circ} 00' 55''$ from the last course, a distance of 284.0' to a point.

Running thence northerly, on a line deflecting to the right $38^{\circ} 10' 30''$ from the last previous course, a distance of 483.75' to a point on the southerly line of lands appropriated by the Power Authority of the State of New York as shown on Power Authority of the State of New York Map No. 1295, Parcel 1295.

Running thence westerly at right angles to the last previous course and along the southerly line of lands appropriated by the Power Authority of the State of New York as aforesaid, a distance of 906.56' to the center line of the Witmer Road.

Running thence southwesterly, along the center line of the Witmer Road, said center line being also the Mile Line, a distance of 1386.83' to the point of beginning.

EXCEPTING and reserving a triangular parcel of land in the southwest corner of the above described parcel conveyed to the Niagara Mohawk Power Corporation by deed recorded in Liber 1352 at Page 358, August 31, 1960 described as follows:

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Niagara, County of Niagara and State of New York, being part of Lot 24, Township 13, Range 9 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at the point of intersection of the easterly line of Witmer Road and the southerly line of lands conveyed to Niagara Falls Power Company by deed dated March 22, 1940 recorded in Niagara County Clerk's Office in Liber 660 of Deeds page 319; thence northerly along the easterly line of Witmer Road 80.40 feet to a point; thence southerly along a line which is at right angles to the southerly line of lands conveyed as aforesaid 61.32 feet to a point; thence westerly along said southerly line 52 feet to the point of beginning;

ALSO EXCEPTING therefrom the premises described as follows:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Niagara, County of Niagara and State of New York, being part of Lot No. 24, Township 13, Range 9 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point in the center line of Witmer Road at the southwest corner of land conveyed to Vanadium Corporation of America by deed recorded in liber 660 of Deeds at page 319; thence easterly along the south line of land so conveyed a distance of 836.5 feet; thence northerly at a right angle a distance of 598 feet; thence westerly at a right angle a distance of 329.24 feet to the center line of Witmer Road; thence southwestwardly along the center line of Witmer Road, said center line being also the Mile Line, a distance of 784.17 feet to the point of beginning.

Inactive Hazardous Waste Disposal Report

April 1, 2002

Site Name: Vanadium Corporation of America	Site Code: 932001
Class Code: 2 Region: 9 County: Niagara	EPA Id: NYD980654305
Address: Witmer Road at Maryland Avenue / Niagara Falls, NY 14305	
Latitude: 43° 7' 22" Longitude: 79° 1' 59"	
Site Type: Landfill	Estimated Size: 100+ Acres

Site Owner / Operator Information:

Current Owner(s) Name: *** Multiple Site Owners ***
Current Owner(s) Address:
Owner(s) during disposal: *** Multiple Site Owners ***
Operator(s) during disposal: *** Multiple Site Operators ***
Stated Operator(s) Address:
Hazardous Waste Disposal Period: From: unknown To: unknown

Site Description:

The Vanadium Corp. of America owned this site from 1920 to 1964. In 1964, Pittsburgh Metallurgical (now Airco, Inc.) purchased 62 acres of the property. In 1979, SKW Alloys, Inc. bought the Airco Alloys Division of Airco, Inc., obtaining the western 37 acres, operable unit (OU) #1. Airco Carbon retained the eastern 25 acres of their original 62 acre site, OU#2. This site has been used by SKW Alloys, Airco Carbon, and former owners to dispose of ferrochromium silicon alloy dust, ferromanganese slag, ferrochromium silicon slag, ferrosilicon dust, calcium hydroxide and miscellaneous refuse. The portion of the site owned by Airco Carbon contains an inactive landfill. The remaining portion of the site is owned by Niagara Mohawk and the Power Authority, OU#3. Groundwater monitoring at the landfills OU#1 revealed low level of chlorinated organics. Disposal of ferrochromium silicon dust at the site by Airco Alloys has been confirmed with pH measurements of local groundwater and surface water often exceeding 12.5. Sampling revealed surface water contamination by phenol, iron, and hexavalent chromium at levels greater than Class C surface water standards. Samples also exceed the Class C pH range of 6.5 to 8.5. An investigation under the NYSDEC IIWA program was completed at the Niagara Mohawk Portion of the site, OU#3. Monitoring wells, soil borings and waste samples were collected and a site survey was done to determine actual size and waste characteristics of the NIMO site. SKW Metal Alloys Inc. performed an Interim Remedial Measure (IRM) on their portion of the site to isolate the water and control storm water flow. The British Oxygen Corp. who purchased Airco has completed an IRM landfill closure on OU#2. CCMA (formally SKW) petitioned the state to delist OU#1 from the registry. The petition was denied due to the presence of listed hazardous waste in the landfill cells. Site boundaries for OU#1 have been revised to include just the landfill cells. Deed notification for the removed portions of OU#1 were filed in the Niagara County Clerks office, in Book 3114 Page 291. Negotiations with the PRPs to address OU#3 are ongoing.

Confirmed Hazardous Waste Disposal:

Confirmed Hazardous Waste Disposal:	Quantity:
Ferro chromium silicon Alloy Dust (K090 & D002) (K090 & D002 Waste)	50,000 Tons
Ferro chromium silicon Slag (K090 & D002 Waste)	21,000 Tons
Ferro silicon dust	25,000 Tons
Calcium hydroxide, refuse	unknown
Ferro Manganese Slag	6,000 Tons

Analytical Data Available for:	Groundwater	Surface Water	Soil
Applicable Standards Exceeded in:	Groundwater	Surface Water	
Geotechnical Information:			Depth to
Soil/Rock Type: Clay-rich and sand-rich silt over till.			Groundwater: Range: 15 to 20 feet.
Legal Action: Type:		Status:	
Remedial Action:		Nature of action:	

Assessment of Environmental Problems:

The presence of hazardous waste has been documented and significant threat has been determined. pH values in groundwater wells and surface water exceed 12.5. Exceedences for groundwater standards were noted for vinylchloride, trichloroethene, phenol, chromium, manganese, hexavalent chromium, cyanide, magnesium, sodium and zinc.

Assessment of Health Problems:

The properly closed landfill areas are fenced. There are many open waste piles on the adjacent Niagara Mohawk and PASNY right-of-ways. Nearby residents are concerned about children playing in the Niagara Mohawk/PASNY right-of-ways. There is evidence of motorbike and all-terrain-vehicle usage along the power lines, which could result in direct contact with contaminants in soil and surface water. The pH of groundwater and surface water within the landfill area has exceeded 12.5 (considered corrosive). Exposures to site-related contaminants via drinking water are not expected because area residents are provided with public water.

A. Sylvester

New York State Department of Environmental Conservation
Division of Environmental Remediation
Bureau of Hazardous Site Control, 11th Floor
625 Broadway, Albany, New York 12233-7014
Phone: (518) 402-9551 • FAX: (518) 402-9020
Website: www.dec.state.ny.us



SEP 18 2002

This letter was sent to the people on the attached list.

Dear :

The New York State Department of Environmental Conservation (Department) maintains a Registry of sites where hazardous waste disposal has occurred. Property located at Witmer Road in the Town of Niagara, County of Niagara, and designated as Tax Map Numbers 130.15-4-10.1, 130.16-10, 130.20-1-2 and 130.15-4-10.2 recently had its boundaries modified in the Registry. The name and site I.D. number of this property as listed in the Registry is Vanadium Corporation of America, Site #932001.

We are sending this letter to you and others who own property near the site listed above, as well as the county and town clerks. We are notifying you about these activities at this site because we believe it is important to keep you informed.

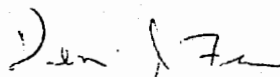
If you currently are renting or leasing your property to someone else, please share this information with them. If you no longer own the property to which this letter was sent, please provide this information to the new owner and provide this office with the name and address of the new owner so that we can correct our records.

The reason for this recent classification decision is as follows:

- Consequential amounts of hazardous waste exists in only the Permitted Closed Part 360 Landfill located within the current Operable Unit (OU) #1 site. The completed Interim Remedial Measure (IRM) has successfully eliminated the generation of high pH surface water by covering slag deposits and grading site to control on site surface storm flows. Site screening investigations performed prior to IRM by SKW did not identify the presence of consequential amounts of hazardous waste in areas outside the foot print of the landfill cells. Therefore, modification of the site description and boundaries of OU#1 to include only the landfill is necessary and appropriate.

If you have questions, need additional information, or have information which you believe would be useful to us, please call the Department of Environmental Conservation's toll-free number: **1(800)342-9296**. The Department of Health maintains a Health Liaison Program (HeLP) toll-free number: **1(800)458-1158 Ext. 2-7530**.

Sincerely,



Dennis J. Farrar
Chief
Site Control Section

bcc: D. Desnoyers
D. Weigel
D. Farrar
J. Swartwout
P. Buechi, R/9
S. Doleski, R/9
M. Boice-Green, R/9
A. Sylvester
G. Litwin
L. Ennist

AS/srh

A. Sylvester

New York State Department of Environmental Conservation
Division of Environmental Remediation
Bureau of Hazardous Site Control, 11th Floor
625 Broadway, Albany, New York 12233-7014
Phone: (518) 402-9551 • FAX: (518) 402-9557
Website: www.dec.state.ny.us



Erin M. Crotty
Commissioner

AUG 29 2002

This letter was sent to the people on the enclosed list.

Dear :

As mandated by Section 27-1305 of the Environmental Conservation Law (ECL), the New York State Department of Environmental Conservation (Department) must maintain a Registry of all inactive disposal sites suspected or known to contain hazardous waste. The ECL also mandates that this Department 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 or boundaries.

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 boundary of such site in the Registry of Inactive Hazardous Waste Disposal Sites in New York State.

DEC Site No.: 932001
Site Name: Vanadium Corporation of America
Site Address: Witmer Road at Maryland Avenue, Niagara, NY 14305

The reason for the boundary modification is as follows:

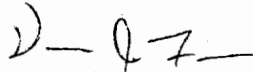
- Consequential amounts of hazardous waste exists in only the Permitted Closed Part 360 Landfill located within the current Operable Unit (OU) #1 site. The completed IRM has successfully eliminated the generation of high pH surface water by covering slag deposits and grading site to control on site surface storm flows. Site screening investigations performed prior to Interim Remedial Measure (IRM) by SKW did not identify the presence of consequential amounts of hazardous waste in areas outside the foot print of the landfill cells. Therefore, modification of the site description and boundaries of OU#1 to include only the landfill is necessary and appropriate.

Enclosed is a copy of the New York State Department of Environmental Conservation, Division of Environmental Remediation, Inactive Hazardous Waste Disposal Site Report form as it appears in the Registry and Annual Report, and an explanation of the site classifications. The Law allows the owner and/or operator of a site listed in the Registry to petition the Commissioner of the New York State Department of Environmental Conservation 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:

Erin M. Crotty
Commissioner
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-1010

For additional information, please contact me at (518) 402-9553.

Sincerely,



Dennis J. Farrar
Chief
Site Control Section

Enclosures

bcc: S. Ervolina
D. Weigel
R. Marino
D. Farrar
J. Swartwout
A. Sylvester

w/Enc. (Copy of Site Report form only)

A. Grant
G. Litwin, DOH
E. Belmore
A. Snyder, R/9
P. Buechi, R/9
S. Doleski, R/9

AS/srh

REVISION :

DATE : 07/29/01

CHECKED : HHH

DRAWN : T JONES

SCALE : AS NOTED

environmental and facilities engineering
66 CUNA STREET, ST. AUGUSTINE, FL 32084-3619 (904)824-6999



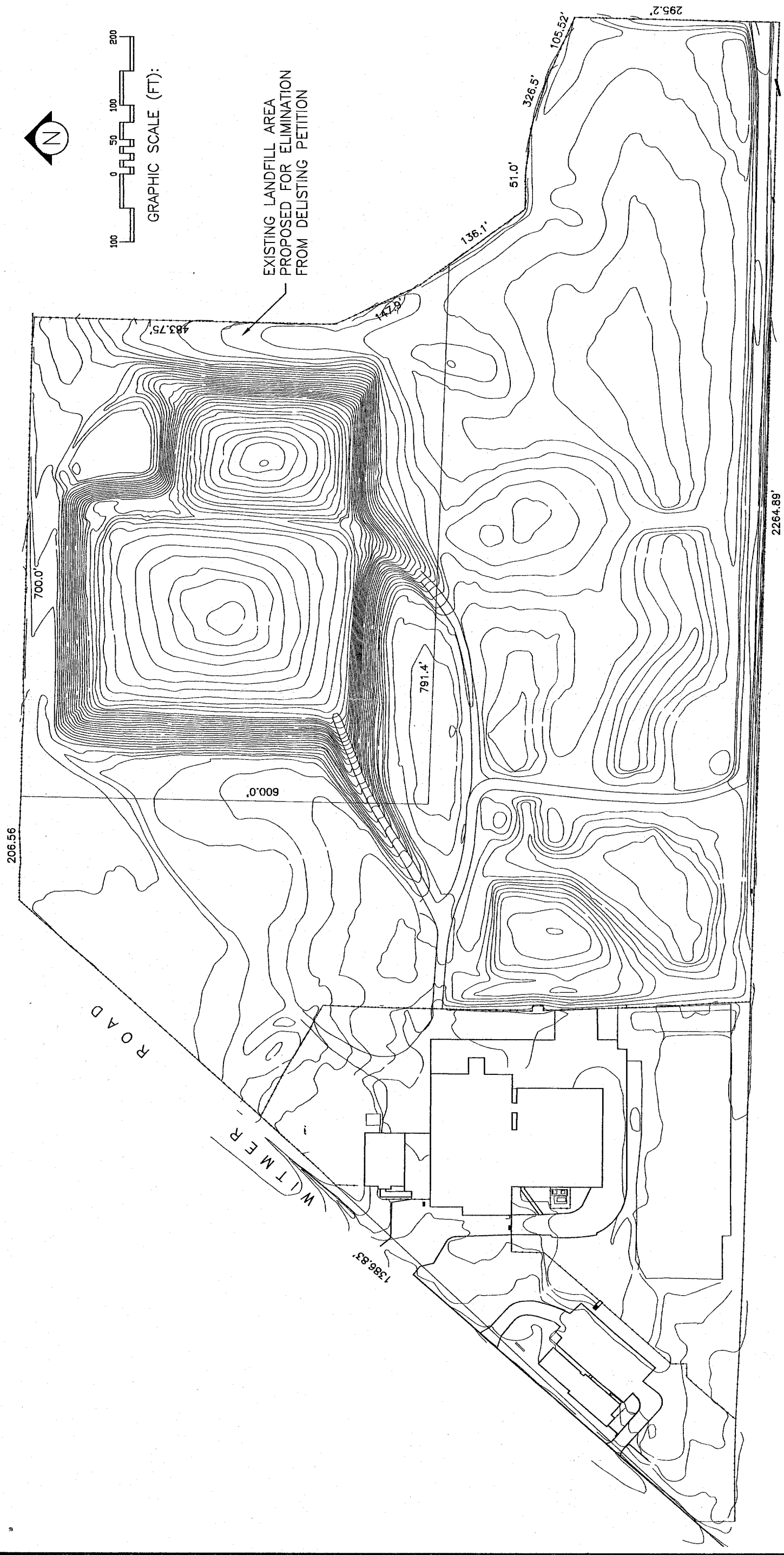
LAN ASSOCIATES

JOB NO.
2.3269.23

DWG. FILE CODE
326923003

FIGURE NO.

Sht. 1 of 1



SITE PLAN
 PROPOSED LANDFILL PORTION TO BE ELIMINATED FROM DELISTING PETITION
 SCALE 1"=150'

CCMA, INC.
 NIAGARA FALLS, NEW YORK