



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



7/11/2011

Site Code:	932021	Site Name:	Hooker-Hyde Park Landfill
City:	Niagara	Town:	Niagara
Region:	9	County:	Niagara
Current Classification:	02	Proposed Classification:	04
Estimated Size (acres):	15.00	Disposal Area:	Landfill
Significant Threat:	Previously	Site Type:	EPA Lead
Priority ranking Score:		Project Manager:	Will Welling

Summary of Approvals

Originator/Supervisor: Susan Edwards	03/23/2011
RHWRE: Gregory Sutton / Martin Doster:	05/23/2011
BEEI of NYSDOH:	05/17/2011
CO Bureau Director: Michael Cruden, Director, Remedial Bureau E:	04/15/2011
Assistant Division Director: Robert Schick:	05/25/2011

Site Description

SITE DESCRIPTION

Location:

The site is located in a commercial/residential area in the Town of Niagara adjacent to the boundaries of the Town of Lewiston and the City of Niagara Falls.

Site Features:

The site consists of a 15-acre closed landfill and an on-site treatment plant located on an adjacent parcel. The treatment plant consists of a main building and an office building, liquid storage tanks and associated above-ground piping. The site is located on flat land situated 200 feet above the level of the Niagara River which lies 2,000 feet to the west. The Niagara River flows north into Lake Ontario. Bloody Run Creek, the drainage basin for the landfill area, flows from the northwestern corner of the landfill, into storm sewers, then down the Niagara Gorge Face to the Niagara River. The site lies south of the New York Power Authority (NYPA) Forebay (reservoir), and west of the NYPA water conduits used to fill the reservoir.

Current Zoning/Uses:

The site treatment plant occupies a parcel classified as suitable for commercial, multiple use or multi-purpose, one story small structure. The closed landfill is classified as public service land used for landfills and dumps. The landfill parcel is adjacent to industrial facilities. Approximately 3,000 people are employed by the



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industries near the site and the site is located a few blocks east of a 500-home residential community. Niagara University property lies across the street on the north side of Power Project Road. Devil's Hole State Park is located along the Niagara River west of the site.

Site Geology and Hydrogeology:

Hyde Park Landfill is located within a half mile of and overlooking the Niagara River Gorge, just south of the Niagara escarpment marking the edge of the Erie-Ontario lowlands. The geology of the Niagara region consists of a generally thin blanket of unconsolidated Wisconsin-age glacial sediments overlying fractured Ordovician and Silurian-age bedrock. The overburden is a low permeability glacial till, except where it has been disturbed for the installation of subsurface utilities. The bedrock beneath the landfill is exposed along Power Authority Service Road which leads into the Niagara River Gorge. Among geologists this exposure is considered to be the most complete sequence of Silurian rocks in the State of New York. The bedrock sequence consists of limestone, dolostone, sandstone and shale. The impacted upper bedrock beneath the site is commonly referred to as the Lockport. This bedrock includes several formations which contain eleven bedding-parallel (nearly horizontal) groundwater flow zones. Flow is predominantly downward in the shallowest flow zones and horizontal in the deeper flow zones in the direction of the gorge face, which acts as a natural drain. These seeps from the gorge face then flow into the Niagara River.

Groundwater is recharged by precipitation, by the New York Power Authority (NYPA) Forebay, and potentially by the NYPA conduits. The groundwater in the overburden moves toward the northwest and strongly downward into the bedrock. Under non-pumping conditions, site groundwater discharges to the Niagara River gorge, and potentially to the NYPA Forebay and conduits.

Historical Use:

The Hooker-Hyde Park Landfill was operated from 1953 until 1975 by the Hooker Chemicals and Plastics Corporation (Hooker), now the Occidental Chemical Corporation (OCC). An estimated 80,200 tons of drummed and non-drummed chemical wastes produced by Hooker from the manufacture of a variety of pesticides and other organic chemicals were disposed at the 15-acre landfill. Many of these chemical wastes are hazardous.

The remedial history of the site began in 1972 when closure plans were approved by Niagara County and the State of New York. The original site closure was completed in 1977. The USEPA, acting within the authority of the Clean Water Act, filed a lawsuit in 1979 to require OCC to perform further remediation. Citizen reaction to local environmental threats across the country led Congress to establish the Superfund Program in 1980, an initiative designed to locate, investigate, and clean up the most hazardous sites nationwide. Superfund is officially called CERCLA, or the Comprehensive Environmental Response, Compensation, and Liability Act. In 1981, the EPA, the Department of Justice, the State, and a potentially responsible party, Occidental Chemical Corporation, signed a Consent Decree specifying OCC's responsibilities for cleanup of contamination at the site and maintenance of these remedies. The settlement included the State of New York.

The site was proposed for the National Priorities List (NPL) on December 1, 1982 and officially listed on September 1, 1983. The site continues to be a responsible party-funded, EPA-lead site.



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There has been intense public scrutiny of activities related to this site. Two citizens groups have intervened in the lawsuit against the potentially responsible party. The Canadian government also reviewed all of the program activities. This settlement was approved by the court in April 1982. OCC completed their Aquifer Survey in 1983 which led to the selection of remedies for the site in 1985. The 1985 document which sets forth the set of remedies is known as the Requisite Remedial Technologies (RRT). OCC began implementing these remedies in a phased approach in beginning in 1986.

Even though OCC was effectively dewatering the aquifer, they could not demonstrate complete groundwater capture, a requirement of the mandated monitoring program. OCC proposed a new site conceptual model in which there are eleven flow zones at the site and not just three aquifers as was thought in 1985. OCC conducted an extensive geophysical sampling program at the site in 2001 in order to better determine the groundwater flow zones. OCC, using an extensive monitoring system which was installed at the site during 2001 and 2002, concluded in the Remedial Characterization Report: Hydrologic Characterization (June 2003) that the contaminated groundwater surrounding the site was being captured by the extraction well system and that the requirements of the 1985 RRT were being achieved.

Operable Units:

An operable unit (OU) represents a portion of a remedial program for a site that for technical or administrative reasons can be addressed separately to investigate, eliminate or mitigate a release, threat of release or exposure pathway resulting from the site contamination. Remedial tasks at the site have been grouped into conceptual operable units but they do not have separate decision documents associated with them. The EPA states that the site is being addressed in a single long-term remedial phase focusing on cleanup of the entire site and remedial construction has been completed at this site.

OU1 is the Storage and Treatment Facility which manages collected non-aqueous liquids and pumped groundwater containing dissolved organic contaminants.

OU2 is the Source Control System. Used since 1993 to intercept liquid waste moving in the landfill, this OU consists of pumping wells. After collection, the waste flows into a decanter at the on-site storage and treatment facility.

OU3 consists of the two-part Overburden RRT. One part installed in 1978 consists of a perforated clay tile that completely surrounds the original landfill and was designed to capture seeps from the perimeter of the landfill. The second part of this operable unit was completed in 1990. It functions within the landfill to collect liquids which are pumped through a special double-wall force-main system to the Storage and Treatment Facility.

OU4 consists of the Lockport RRT. Separately managed sub units are named the NAPL Plume Containment System and the APL Plume Containment System. These two separate systems entail the use of monitoring wells and pumping wells in the bedrock to remove liquid wastes and groundwater. The NAPL plume containment system also includes a recirculation well and a hydraulic channel for re-circulating groundwater back into the bedrock.



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OU5 consists of the Gorge Seep Program. The seeps have now been remediated. Contaminated sediment was removed and some water was diverted into a culvert so that people would no longer be exposed to these seeps. The draft Lake Ontario Dioxin Bioaccumulation Study was completed in 1989, distributed for scientific review and was available to the public in September 1992. Fish and sediment samples from Lake Ontario were collected and analyzed, and laboratory studies were conducted.

OU6 consists of the landfill Capping-Excavation. In 1994, when the final cap was placed on the landfill, the collection tile of operable unit 3 (known as the OBCS) was covered by additional remedial wastes then covered with a new cap.

OU7 is the Bloody Run Remediation. Work involved excavating the flow path of the creek and storm sewers and covering over the remaining flow path within the Niagara River Gorge. Excavation was completed in February 1993. Additional excavation along University Drive and in the gorge discharge area was completed in 1994.

The eighth operable unit (OU8) consists of all remedial modifications made to the prototype system to modify the bedrock pump and treat system, to modify the NAPL extraction system and to increase the water treatment capacity.

OU00, Site Management, consists of community monitoring and all continuing operation, monitoring and maintenance of the ground-water extraction and treatment systems. Approximately 250 million gallons of groundwater will need to be treated over the next 30 years.

Contaminants of Concern (Including Materials Disposed)	Quantity Disposed
OU 01	
BRINE	0.00
ORGANIC PHOSPHATES, DECHLORANE,	0.00
BTC, CHLOROTOLUENES, DDM, TCP, BTF	0.00
DERIVATIVES, BENZOYL CHLORIDE, LOS/MCT	0.00
AND INORGANIC PHOSPHITES, CHLOROBENZENES,	0.00
CHLORINATED SOLVENTS	0.00
VOLATILE ORGANICS	0.00

Analytical Data Available for : Air, Groundwater, Surface Water, Soil, Sediment

Applicable Standards Exceeded for: Groundwater, Surface Water

Site Environmental Assessment

Nature and Extent of Contamination:

OUs 01, 06, 08 and 00 are process and construction related hence not included in this discussion.

Prior to Remediation

Based upon investigations conducted to date, the primary contaminants of concern are chlorinated organic wastes. Site-related compounds have been found at the landfill edges, along the trace of Bloody Run Creek and at seeps along the Niagara River Gorge face. The on-site, shallow overburden geology and shallow bedrock geology were contaminated within the landfill property limits. Offsite, from the landfill to the Niagara



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River Gorge, groundwater was contaminated with site-derived contaminants.

Post-Remediation

Remediation at the site is complete and the systems in place will require continuous operation, monitoring and management for the foreseeable future. The present remedial effort is to capture and contain all subsurface liquids from the site and from a large area between the site and the Niagara River Gorge. All recovered liquids are treated in the Storage and Treatment Facility. Separate phase, liquid landfill waste is collected and shipped offsite for destruction and all recovered water is filtered through carbon before being discharged to the Niagara Falls Wastewater Treatment Plant.

OU2 pertains to recovering free-phase, non-aqueous liquid waste within the site perimeter. 80,200 tons of chlorobenzenes, trichlorophenol (TCP) still bottoms and approximately 0.7- 1.6 tons of dioxin (2,3,7,8-Tetrachlorodibenzo-p-dioxin or TCDD) are believed to have been associated with these TCP wastes. Chlorinated organic wastes, including hexachloropentadiene derivatives, chlorendic acid, chlorinated toluenes, benzenes and phenols, predominate at the site.

OU3 pertains to the recovery of waste and contaminated groundwater in the overburden geology surrounding the landfill. Offsite, from the landfill to the Niagara River Gorge, pumping wells are run to capture all available groundwater.

OU4 pertains to impacted bedrock and groundwater below the landfill and the surrounding area. The 1985 remedial decision document named this element the Lockport RRT which includes the NAPL Plume Containment System and the APL Plume Containment System. These two separate systems use pumping wells in the bedrock to remove liquid wastes and groundwater. It is essential to continue running this operable unit because the pumping prevents fugative migration of contaminated groundwater. Monitoring wells belonging to OU4 provide verification that the systems are effective.

OU5 pertains to the historical discharge areas for the sites bedrock groundwater along the gorge face. Since pumping began, groundwater contribution to the seeps has dried up. Water now coming out from the seeps has been determined to be surface water rainfall and is clean.

OU7, the Bloody Run Remediation, involved excavation and landfilling onsite of contaminated sediment and covering the last part of the flow channel. Bloody Run Creek sediments were removed in 1993 (main creek channel) and 1994 (University Drive culvert and the discharge area in the Niagara River Gorge). The public's access to surface water flowing down the gorge face has been restricted through the use of culverts and rip-rap.

Special Resources Impacted/threatened:

There remains an advisory for fish consumption in the lower Niagara River and Lake Ontario for PCBs, Mirex, and Dioxin. The advisory is not all attributed to the current conditions at the Hooker - Hyde Park Landfill, persistence of those chemicals may be from other known sources upstream.

Although the ground water is contaminated with volatile organic compounds (VOCs) and dioxin from former disposal activities, this facility is now capped and groundwater capture is being maintained. Access to the landfill is restricted by a fence. Although groundwater is contaminated, there are no known uses of groundwater within the area.



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Site Health Assessment

Measures are in place to control the potential for coming in contact with subsurface soil and groundwater contamination remaining on the site. Because the site is vacant, the inhalation of site-related contaminants due to soil vapor intrusion does not represent a current concern. Furthermore, environmental sampling indicates soil vapor intrusion is not a concern for off-site buildings.

Remedy Description and Cost

Remedy Description for Operable Unit 01

There are eight operable units beginning with the Storage and Treatment Facility which manages the collected liquids. Non-aqueous phase liquid (NAPL) is extracted by source-control wells and then flows into a decanter at the on-site Storage and Treatment Facility. The source-control wells are only pumped once per month because of insufficient NAPL volume. The facility also treats pumped groundwater which contains dissolved, much less concentrated organic contaminants.

Total Cost

Remedy Description for Operable Unit 02

The second operable unit is the The Source Control System which is comprised of six pumping wells. However, only five of the six wells are active. Each active well is equipped with a level transmitter and pump connected to a double contained forcemain and discharging to Decanter No. 3 (HP-05). A totalizing flowmeter is installed on the forcemain prior to entering Decanter No. 3 (HP-05). The forcemain system is equipped with a leak detection system. Source Control Well Pump SC-2 is a positive displacement 1 horsepower pump manufactured by Protech, capable of pumping 5 GPM. All other Source Control Well Pumps are all 1 horsepower centrifugal pumps manufactured by Grundfos (model 10E11) capable of pumping 5 GPM. The pumps are constructed of stainless steel.

Total Cost

Remedy Description for Operable Unit 03

The third operable unit consists of the "Overburden RRT." The Overburden RRT System serves to prevent lateral migration of Site contaminants in the overburden. The system is comprised of two primary components, the EBCS and the OBCS. The EBCS is an overburden drain collection system consisting of perforated clay tile that completely surrounds the original landfill. It was installed in 1978 at the base of the landfill to provide containment of APL/NAPL seeps that occurred at the perimeter of the clay-capped landfill.

Currently, the EBCS serves to collect APL and NAPL within the landfill. The original EBCS consisted of two wet wells (Wet Well A and Wet Well B). However, during the recapping, Wet



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Well B was converted to a monitoring manhole and leachate now gravity flows through the former wet well to Wet Well A. All flow which gravity drains to Wet Well A is automatically pumped via double-contained forcemain to Decanter No. 2 (HP-04). A leak detection system is installed with the Wet Well A forcemain.

The OBCS is a drain collection system that serves to prevent off-site migration of APL/NAPL in the overburden. This system was completed in 1990. The OBCS intercepts flow on three sides of the Site (north, west, and south). The flow is directed by gravity to one of two pumping wet wells (Wet Well C and Wet Well D). From the wet wells the flow is automatically pumped via double-contained forcemain to Decanter No. 2 (HP-04). A leak detection system is installed with the OBCS forcemain.

Total Cost

Remedy Description for Operable Unit 04

The fourth operable unit consists of the "Lockport RRT." The Lockport Bedrock RRT System is comprised of two major components, the NAPL Plume Containment System and the APL Plume Containment System. Both systems include purge wells to remove bedrock APL and/or NAPL, as well as bedrock monitoring wells. The NAPL plume containment system also includes a recirculation well and a hydraulic channel for recirculating groundwater back to the bedrock groundwater regime.

Groundwater control has been achieved. Verification consists of monitoring the bedrock groundwater flow-zones. Monitoring these flow zones continue to be an essential part of long-term site management.

Total Cost

Remedy Description for Operable Unit 05

The fifth operable unit consists of the "Gorge Seep Program." The Niagara Gorge Face seeps have been remediated. Contaminated sediment was removed and some water diverted into a culvert so that people no longer would be exposed to these seeps.

Total Cost

Remedy Description for Operable Unit 06

The sixth operable unit consists of the landfill "Capping-Excavation." In 1994, when the final cap was placed on the landfill, the EBCS was covered by additional remedial wastes and the new clay and very low density polyethylene (VLDPE) cap.

Total Cost \$20,000,000



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Remedy Description for Operable Unit 07

The seventh operable unit consists of the "Bloody run" remeditaion. An assessment was completed in March 1992 to determine the risk of excavating Bloody Run sediments. The risks from excavation, EPA's preferred alternative, were found acceptable and the decision made to excavate the Bloody Run. Excavation was completed in February 1993. Additional excavation along University Drive and in the Niagara River Gorge discharge area was completed in 1994.

Total Cost

Remedy Description for Operable Unit 08

Operable Unit 8 consisted of all remedial modifications to be made to the proto- type system. Major activities included improvements to increase groundwater treatment capacity, modify bedrock pump and treat system, modify NAPL extraction system (08/93, 04/11).

Total Cost \$1,500,000

OU 00	Site Management Plan Approval: 12/31/1982	Status: ACT
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Basis for Classification Change

EPA added the Hooker – Hyde Park site northwest of the City of Niagara Falls, New York to the Superfund National Priorities List on September 1, 1983 because hazardous chemicals were found in the soil and ground water. The underlying ground water is contaminated with dioxin and volatile organic compounds (VOCs), which are potentially harmful contaminants. The cleanup included pumping out the dense oily liquids that contaminated the ground water in the landfill, creating a drain system around the landfill, preventing the escape of contaminated liquid from the landfill, studying the groundwater at both deep and shallow levels, and treating the contaminated liquids as well as the ground water. The landfill and its perimeter have been capped. To prevent pollution from migrating out of the site while collecting contaminated liquid for treatment, OCC has installed a system of twelve pumping wells that cause ground water to flow inward towards the landfill. These wells prevent ground water from seeping out of the landfill and into the surrounding bodies of water. Chemicals have been removed from the water and sediment in Bloody Run Creek. The Niagara Gorge Face has also been cleaned up. In addition to these cleanup measures, a program to protect nearby workers from contaminants has been completed. Further health safety measures have been taken, including an ongoing program that monitors for chemical contamination in wells throughout the area. The cleanup actions at the Hooker – Hyde Park site were completed in September 2003. The removal of contaminated soils and sediments combined with the treatment and monitoring operations have substantially reduced potential health risks and further environmental degradation.



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PRCLMUNI	Niagara
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PRCLMUNI	Niagara
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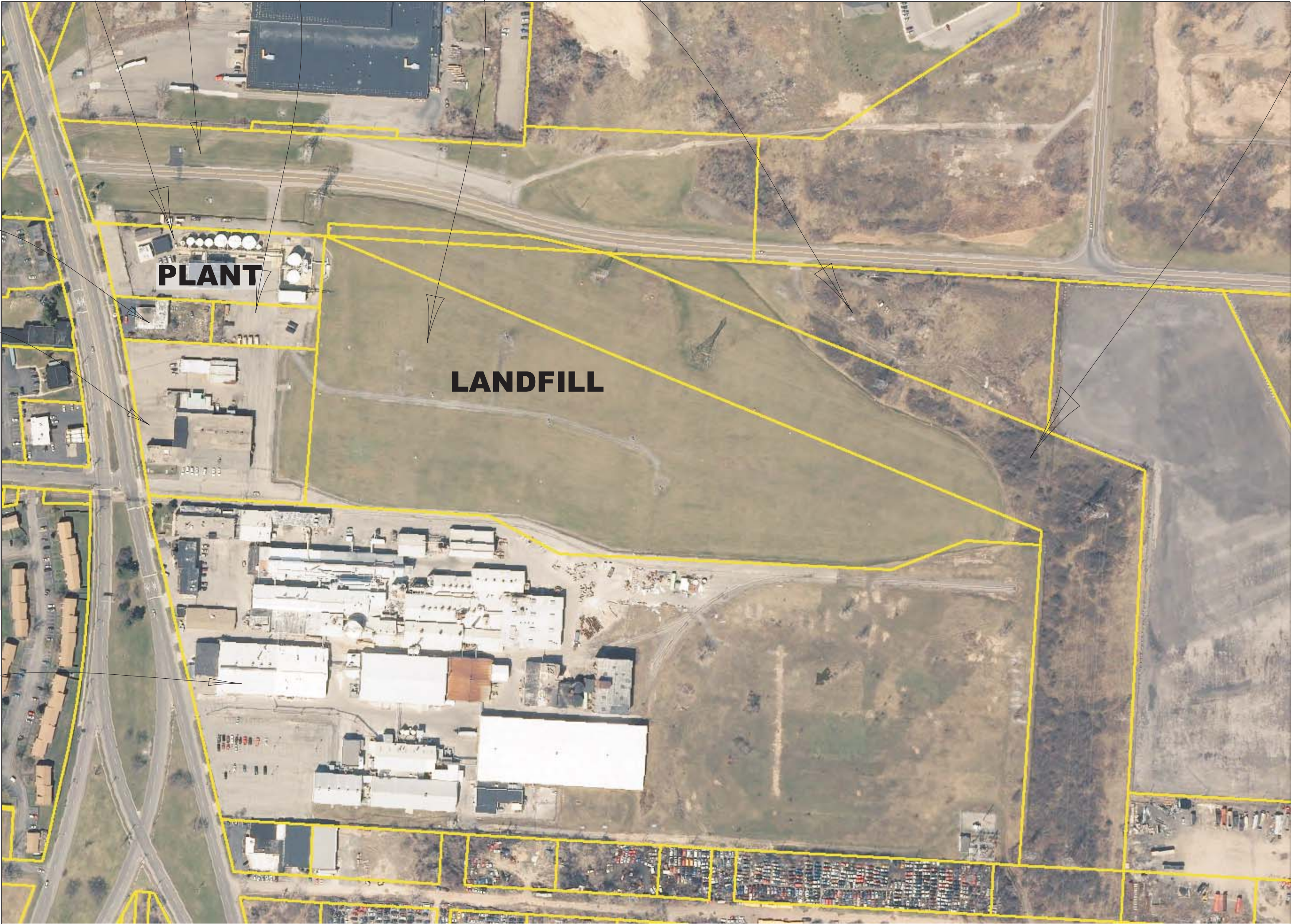
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PRCLMUNI	Niagara
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Shape	Polygon

Hooker - Hyde Park Landfill
Tax Parcel Information

Source: NYSGIS, November 2009





NIAGARA COUNTY CLERK
WAYNE F. JAGOW

RECEIPT

Create Time: 10/7/2010 12:05:25 PM
RECEIPT # 201059200

Recording Clerk: TH
Account: cash2
Rec'd Frm: MARIA - CHICAGO TITLE
By Mail/In Person (M/P): P

Instr#: 2010-16508
DOC: EASEMENT
DEED STAMP: 1042
OR Party: OCCIDENTAL CHEMICAL CORP
EE Party: TOWN OF NIAGARA

DEEDTP

Cover Page	1	\$8.00
Recording Fee	15	\$50.00
Cultural Ed	1	\$14.25
Records Management - County	1	\$1.00
Records Management - State	1	\$4.75
TP584	1	\$5.00

Transfer Tax	
Transfer Tax	\$0.00

Receipt Summary

TOTAL RECEIPT: ---->	\$83.00
TOTAL RECEIVED: ---->	\$83.00

Cash Back	\$0.00
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PAYMENTS

Check # 140338 ->	\$83.00
PHILLIPS LYTLE LLP	

OCT 07 2010

DECLARATION OF RESTRICTIVE COVENANTS

WAYNE E. JAGOW
NIAGARA COUNTY CLERK

AND

ENVIRONMENTAL EASEMENT

This Declaration of Restrictive Covenants and Environmental Easement (hereinafter "Restrictive Covenants and Environmental Easement") is made this 11th day of August, 2010, by and between Occidental Chemical Corporation ("Occidental"), organized in the State of New York ("Grantor"), having an address of 5005 LBJ Freeway, Dallas, Texas 75244, and the Town of Niagara, a municipal corporation organized in the State of New York ("Grantee"), having an address of 7105 Lockport Road, Niagara Falls, New York 13905.

WITNESSETH:

WHEREAS, Grantor is the owner of an approximately twenty-one acre parcel of land in the northwest corner of the Town of Niagara, State of New York, a portion of which previously was used as a landfill ("Landfill") and an approximately two-acre parcel of land in the vicinity of the Landfill upon which is situated a liquid waste treatment facility related to the Landfill ("Process Treatment Area"), both of which are more particularly described on Exhibit A attached hereto and made a part hereof, together with any building and improvements thereon and appurtenances thereto (collectively, the "Property"); and

WHEREAS, the Property is part of the Hooker-Hyde Park Superfund Site ("Site"), which the U.S. Environmental Protection Agency ("EPA"), pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9605, placed on the National Priorities List, as set forth in Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 C.F.R. Part 300, by publication in the Federal Register on September 8, 1983; and

WHEREAS, Occidental, the United States and the State of New York entered into a "Stipulation and Judgment Approving Settlement Agreement" ("Settlement Agreement") on January 19, 1981 in the United States District Court for the Western District of New York setting forth a remedial program to address environmental and health conditions arising out of and relating to the Site; and

WHEREAS, the parties to the Settlement Agreement subsequently entered into a "Stipulation on Requisite Remedial Technology" on November 1, 1985 ("RRT Stipulation") providing additional and more comprehensive studies and remedial measures at and around the Site, which RRT Stipulation was approved by the United States District Court for the Western District of New York; and

WHEREAS, in an Enforcement Decision Document ("EDD") dated November 11, 1985, the Regional Administrator of EPA Region II selected, and the New York State Department of Environmental Conservation ("NYSDEC") concurred with, a "Response Action" for the Site, which provides, in part, for the following actions which were set forth in the RRT Stipulation:

- Source control (prototype extraction wells);
- Containment and collection of aqueous phase liquids ("APL") and non-APL ("NAPL") in the overburden;
- Containment and collection of APL and NAPL in the bedrock;
- Treatment of collected APL and NAPL;
- Community monitoring program (monitoring wells for early detection of migration of Site-related chemicals);
- Intermediate and deep formations study (monitoring wells used to determine if contaminants from Hyde Park Landfill had penetrated the Rochester Shale [aquitard] formation below the Lockport Dolomite);
- Industrial protection program (remediation of sumps and sealing of manholes);
- Perimeter capping (clay cap around perimeter of landfill);
- Niagara Gorge face seeps remediation;
- Bloody Run excavation or capping (Bloody Run is a small drainage area flowing north from the Landfill, passing under a neighboring industry via a sewer, and under University Drive via a storm sewer which emerges at the Niagara Gorge);
- Final capping and Site closure;
- Tetrachlorodibenzo-p-dioxins ("TCDD") bioaccumulation study in Lake Ontario; and

WHEREAS, the Response Action specified in the EDD has been implemented and is functioning as designed; and

WHEREAS, the parties hereto have agreed that Grantor shall grant permanent restrictive covenants and an environmental easement to Grantee (1) to provide a right of access over the Property to the Grantee for purposes of implementing, facilitating and monitoring the Response Action, and (2) to impose on the Property use restrictions that will run with the land for the purpose of protecting human health and the environment in the future; and

WHEREAS, Grantor wishes to cooperate fully with the Grantee in the implementation of the Response Action at the Site;

NOW, THEREFORE:

1. Grant: Grantor, on behalf of itself, its successors and assigns, in consideration of the terms of the EDD, and other good and valuable consideration, does hereby give, grant, covenant, and declare in favor of the Grantee that the Property shall be subject to the restrictions on use and rights of access set forth below, and does give, grant, and convey to the Grantee with general

warranties of title the perpetual right to enforce said restrictions and rights, which shall be of the nature and character and for the purposes hereinafter set forth, with respect to the Property.

2. Purpose: It is the purpose of this instrument to convey to the Grantee real property rights, which will run with the land, to facilitate the continued implementation and monitoring of the Response Action and to protect human health and the environment and insure the integrity of the Site in the future.

3. Restrictions on Use: The following restrictions apply to the use of the Property, run with the land, and are binding on the Grantor: the Property shall not be used in any manner that would interfere with or adversely affect the implementation, integrity, or effectiveness of the Response Action performed at the Site, including, but not limited to, a) the extraction of on-site groundwater, b) any digging, excavation, extraction of materials, construction, or other activity outside the requirements of the Response Action that would disturb the cap placed upon the Landfill at the Site, or c) other activity that would disturb or interfere with any portion of the Response Action for the Site enumerated in the RRT Stipulation.

The Property may not be used for residential use. However, the Property may be used for commercial or industrial use as long as designated, long term engineering controls are employed and remain effective, specifically, the operation of the portion of the Response Action pertaining to the extraction wells, treatment facility and maintenance of the cap.

4. Modification or Termination of Restrictions: The restrictions on use specified in Paragraph 3 above may only be modified or terminated, in whole or in part, in writing executed by the Grantor and the Grantee with the prior written consent of EPA and NYSDEC; provided, however, that any modification or termination of said restrictions shall not adversely affect the implementation, integrity or effectiveness of the Response Action performed at the Site. If requested by the Grantor, such writing will be executed by Grantee in recordable form.

5. Right of Access: Grantee, its agents, employees, or other representatives, the EPA, and NYSDEC shall have a right of access to the Property at all reasonable times upon reasonable notice to Grantor for the following purposes, which right shall run with the land in perpetuity and be binding on Grantor:

a) Facilitating the continued implementation and monitoring of the Response Action in the EDD, including, but not limited to, source control, hydraulic control, groundwater treatment, and operation and maintenance of the Response Action;

b) Verifying any data or information relating to the Site;

c) Verifying that no action is being taken on the Property in violation of the terms of this instrument or of any federal or state environmental laws or regulations;

d) Conducting investigations pursuant to applicable environmental laws and regulations relating to contamination on or about the Site, including, without limitation, sampling of air, water, sediments, and soils;

e) Implementing additional or new response actions pursuant to CERCLA.

6. Reserved Rights of Grantor: Grantor hereby reserves unto itself, its successors, and assigns (a) all rights and privileges in and to the use of the Property which are not incompatible with or limited by the restrictions, rights, covenants, and easements granted herein and (b) the right to give, sell, assign, or otherwise transfer the underlying fee interest to the Property, in accordance with the Settlement Agreement, whether by operation of law, by deed, or by indenture, subject and subordinate to this Restrictive Covenants and Environmental Easement.

7. Governmental Authority: Nothing in this document shall limit or otherwise affect EPA's or NYSDEC's rights of entry and access or EPA's or NYSDEC's authority to take response actions pursuant to any applicable federal or state law.

8. No Public Access and Use: No right of access or use by the general public to any portion of the Property is conveyed by this instrument.

9. Public Notice: Grantor agrees to include in each instrument conveying any interest in any portion of the Property, including, but not limited to, deeds, leases, and mortgages, a notice which is in substantially the following form:

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO A DECLARATION OF RESTRICTIVE COVENANTS AND AN ENVIRONMENTAL PROTECTION EASEMENT, DATED 8/11, 2010, RECORDED IN THE CLERK'S OFFICE OF NIAGARA COUNTY ON 10/7, 2010, IN Instr. No. 2010 - 16508, IN FAVOR OF, AND ENFORCEABLE BY, THE TOWN OF NIAGARA AS GRANTEE AND BY THE PEOPLE OF THE STATE OF NEW YORK AND BY THE UNITED STATES OF AMERICA AS THIRD PARTY BENEFICIARIES.

Within thirty (30) days after any such instrument of conveyance is executed, Grantor agrees to provide Grantee, EPA and NYSDEC with certified true copies of said instrument and, if it has been recorded in the public land records, its recording reference.

10. Enforcement: The Grantee shall be entitled to enforce the terms of this instrument by resort to specific performance. All remedies available hereunder shall be in addition to any and all other remedies at law or in equity, including those provided under CERCLA. Any forbearance, delay or omission to exercise Grantee's rights under this instrument in the event of a breach of any term of this instrument shall not be deemed to be a waiver by the Grantee of such term or of any of the rights of the Grantee under this instrument.

11. Damages: Grantee shall also be entitled to recover any damages it incurs for breach of any covenant or violation of the terms of this instrument from the person or entity causing such damages, including any impairment to the Response Action that increases the cost of said Response Action as a result of such breach or violation.

12. Waiver of Certain Defenses: Solely for the purpose of Grantee's enforcement of its rights under this Restrictive Covenants and Environmental Easement, Grantor hereby waives any defense of laches, estoppel, or prescription.

13. Covenants: Grantor hereby covenants to and with the Grantee and its assigns that the Grantor is lawfully seized in fee simple of the Property, that the Grantor has a good and lawful right and power to sell and convey it or any interest therein, that the Property is free and clear of encumbrances, and that the Grantor will forever warrant and defend the title thereto and the quiet possession thereof.

14. Notices: Any notice, demand, request, consent, approval, or communication herein that any party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, or by such other means of receiving and communicating notices and responses to requests as the parties provide:

To Grantor:

To Grantee:

Occidental Chemical Corporation

The Town of Niagara

Michael G. Anderson
Vice President
5005 LBJ Freeway, Suite 1350
Dallas, Texas 75244-6119
Tel No. 972-687-7501
Fax No. 972-687-7524
Email: Mike_Anderson@OXY.COM

Town of Niagara
7105 Lockport Road
Niagara Falls, New York 13905
Attention: Town Clerk

A copy of each such communication shall also be sent to the following:

To EPA:

Chief, New York Remediation Branch
Emergency and Remedial Response Division
U.S. Environmental Protection Agency, Region II
290 Broadway, 20th Floor
New York, NY 10007-1866
Attention: Hooker-Hyde Park Superfund Site
Remedial Project Manager

To NYSDEC:

Office of General Counsel
NYS Department of Environmental
Conservation
625 Broadway
Albany, New York 12233-5500
Attention: Benjamin Conlon
Bureau Chief – Remediation and
Revitalization

and to:

Chief, New York/Caribbean Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region II
290 Broadway, 20th Floor
New York, NY 10007-1866
Attention: Hooker-Hyde Park Superfund Site
Site Attorney

To NYSDEC:

NYS Department of Environmental
Division of Environmental Remediation
Site Control
625 Broadway
Albany, New York 12233
Attention: Hooker-Hyde Park Superfund Site
Remedial Project Manager

15. General provisions:

a) Controlling Law: The interpretation and performance of this instrument shall be governed by the laws of the United States or, if there are no applicable federal laws, by the law of the State of New York.

b) Liberal Construction: Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the grant to effect the purpose of this instrument and the policy and purpose of CERCLA. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

c) Severability: If any provision of this instrument, or the application of it to any person or circumstance, is found to be invalid, the remainder of the provisions of this instrument, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

d) Entire Agreement: This instrument sets forth the entire agreement of the parties with respect to rights and restrictions created hereby, and it supersedes all prior discussions, negotiations, understandings, or agreements relating thereto, all of which are merged herein; provided that nothing in this instrument shall be deemed to alter or modify the EDD, the Settlement Agreement, or the RRT Stipulation.

e) No Forfeiture: Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

f) Successors: The covenants, easements, terms, conditions, and restrictions of this instrument shall be binding upon, and inure to the benefit of, the parties hereto and their respective representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property. The term "Grantor", wherever used herein, and any pronouns used in place thereof, shall include the entity named at the beginning of this document, identified as "Grantor" and its representatives, heirs, successors, and assigns. The term "Grantee", wherever used herein, and any pronouns used in place thereof, shall mean the Town

of Niagara as identified at the beginning of this document, identified as "Grantee" and its representatives, heirs, successors, and assigns.

g) Captions: The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

h) Counterparts: The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

i) Third-Party Beneficiary: Grantor and Grantee hereby agree that the United States, through EPA, and the State of New York, through NYSDEC, shall each be, on behalf of the public, a third-party beneficiary of the benefits, rights, and obligations conveyed to Grantee in this instrument; provided, however, that nothing herein shall be construed to create any obligations on the part of EPA or NYSDEC.

IN WITNESS WHEREOF, Grantor has caused this instrument to be signed in its name.

OCCIDENTAL CHEMICAL CORPORATION

This instrument is accepted by Grantee this 20 day of August, 2010 by Steven Richards on behalf of the Town of Niagara.

Steven Richards

By: STEVEN C. RICHARDS

TOWN OF NIAGARA

STATE OF)
) ss.
COUNTY OF)

On the 20 day of August in the year 2010 before me personally came Steven Richards to me known, who, being duly sworn, did depose and say that he is the Supervisor of the Town of Niagara, the municipal corporation described in and which executed the above instrument; that he know the seal of said corporation; that the seal affixed to said instrument is such seal; that it was so affixed by authority of the Council of the Town of Niagara, and that he signed his name thereto by like authority.

Witness my hand and official seal hereto affixed the day and year written above.

Jacqueline Siegmann
Notary Public in and for the State of
New York

My Commission Expires:

JACQUELINE SIEGMANN
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN NIAGARA COUNTY
NO. 01SI6171343
MY COMMISSION EXPIRES JULY 23, 20 11

Attachment: Exhibit A - legal description of the Property

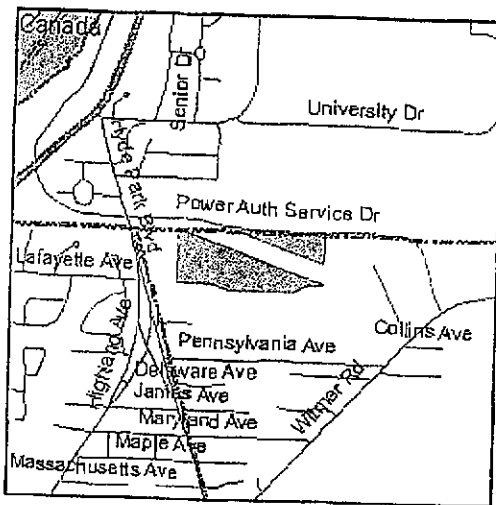
Niagara County On-Line Mapping System

Parcel Detail Report

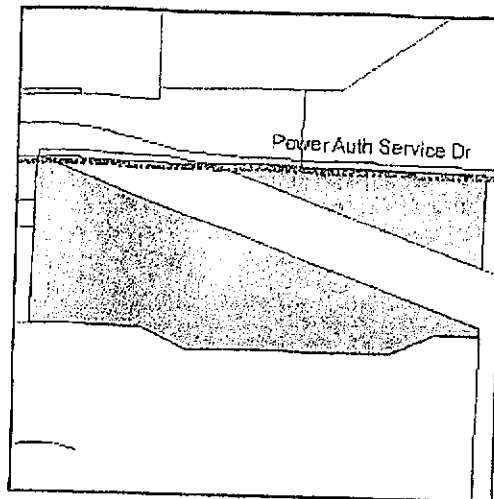
Address: Hyde Park Blvd

SBL: 130.11-1-4.1

Report generated: 7/27/2010 12:57:32 PM



Parcel Overview Map



Parcel Detail Map

PIN: 130.11-1-4.1

SBL: 1300110001004001

Address: Hyde Park Blvd

Municipality: 293000 - Niagara

Owner: Hooker Electro Chemical

Frontage:

Depth: 0

Acreage: 20.94

Property Class: 852

Total Assessment: \$560,000

Land Assessment: \$303,600

School District Code: 293001

School District Name: NIAGARA-WHEATFIELD (N)

XY-Coordinates: 1027598 , 1141057

Deed Book: 2870

Deed Page: 175

Sale Date: 1998/10/19

Sale Price: 25000

Sqft Living Area: 0

Grade:

Condition:

Year Built: 0

Building Style:

Districts:

- Agricultural:
- County Sewer:
- Drainage:
- Fire: FD301
- Fire Protection:
- Firemans Retirement Area:
- Gas Lighting:
- Light: LD301
- Paving:
- Refuse: RD301
- Road Improvement:
- Sewer: SD301
- Special Parking:
- Sewers:
- Storm Water:
- Village Sewer:
- Water: WD301, WD302

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LIBER 2881 PAGE 235

PARCEL "A"

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. 30 of the New York State Mile Reserve, bounded and described as follows: Beginning at a point in the center line of Hyde Park Boulevard at the northwest corner of lands conveyed to Tam Ceramics, Inc. by deed recorded in the Niagara County Clerk's Office in liber 1673 of Deeds at page 325; thence easterly along the north line of lands of said Tam Ceramics, Inc., and parallel with the south line of Lot No. 30 a distance of 861.61 feet to the principal point of beginning; thence easterly at an interior angle of $25^{\circ} 00' 28''$ and along the north line of lands of said Tam Ceramics, Inc., a distance of 1125.0 feet to a point; thence southwesterly at an interior angle of $25^{\circ} 00' 29''$ a distance of 189.24 feet to a point; thence westerly at an interior angle of $154^{\circ} 59' 31''$ and parallel with the north line thereof a distance of 782.0 feet to a point; thence northwesterly at an interior angle of $154^{\circ} 59' 32''$ a distance of 189.24 feet to the principal point or place of beginning

Together with an easement over Parcel "B"

LIBER 2881 PAGE 236

PARCEL "B"

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. 30 of the New York State Mile Reserve, bounded and described as follows: Beginning at a point in the center line of Hyde Park Boulevard at the northwest corner of lands conveyed to Tam Ceramics, Inc. by deed recorded in the Niagara County Clerk's Office in Liber 1673 of Deeds at page 325; thence easterly along the north line of lands of said Tam Ceramics, Inc., and parallel with the south line of Lot No. 30 a distance of 195.24 feet to the principal point of beginning; thence continuing easterly along the north line of lands of said Tam Ceramics, Inc., a distance of 668.37 feet to a point; thence southeasterly at an interior angle of $154^{\circ} 59' 32''$ a distance of 189.24 feet to a point; thence easterly at an interior angle of $205^{\circ} 00' 28''$ a distance of 782.0 feet to a point; thence southwesterly at an interior angle of $13^{\circ} 26' 17''$ a distance of 516.42 feet to a point; thence westerly at an interior angle of $166^{\circ} 33' 49''$ a distance of 280.0 feet to the east wall of an existing building; thence along the east and north walls of said existing building, the following 6 courses and distances: (1) Northerly at an interior angle of $89^{\circ} 44' 53''$ a distance of 11.19 feet; (2) Westerly at an interior angle of $270^{\circ} 02' 59''$ a distance of 78.42 feet; (3) Northerly at an interior angle of $90^{\circ} 09' 01''$ a distance of 27.07 feet; (4) Westerly at an interior angle of $269^{\circ} 43' 41''$ a distance of 15.28 feet; (5) Northerly at an interior angle of $83^{\circ} 45' 52''$ a distance of 26.68 feet; (6) Westerly at right angles a distance of 77.91 feet; thence along the extension south and along the east wall, north

188A2881 PAGE 237

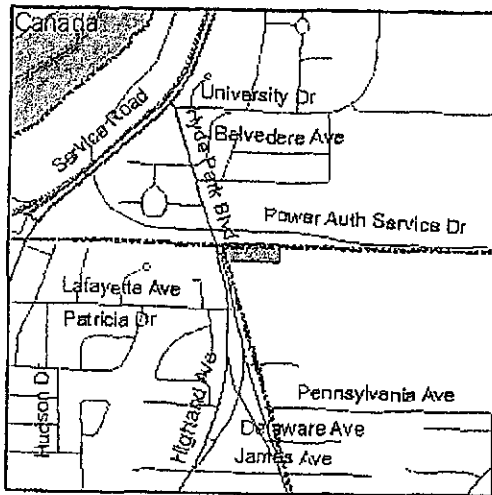
wall and west wall of an existing building, the next 3 courses and distances: (1) Northerly at an interior angle of $90^{\circ} 30' 49''$ a distance of 88.25 feet; (2) Westerly at an interior angle of $269^{\circ} 53' 45''$ a distance of 101.62 feet; (3) Southerly at an interior angle of $267^{\circ} 44' 20''$ a distance of 13.12 feet; thence along the extension east and along the north wall and west wall of an existing building, the next 2 courses and distances: (1) Westerly at an interior angle of $89^{\circ} 38' 49''$ a distance of 56.51 feet; (2) Southerly at right angles a distance of 4.89 feet; thence along the extension east and along the north wall and west wall of an existing building, the next 2 courses and distances: (1) Westerly at an interior angle of $89^{\circ} 58' 40''$ a distance of 63.13 feet; (2) Southerly at an interior angle of $270^{\circ} 17' 19''$ a distance of 27.41 feet; thence westerly at an interior angle of $90^{\circ} 07' 47''$ a distance of 166.23 feet to a point; thence along the extension south and along the east wall and north wall of an existing building, the next 4 courses and distances: (1) Northerly at an interior angle of $90^{\circ} 01' 16''$ a distance of 61.57 feet; (2) Westerly at an interior angle of $269^{\circ} 53' 54''$ a distance of 136.02 feet; (3) Southerly at an interior angle of $266^{\circ} 10' 31''$ a distance of 1.53 feet; (4) Easterly at an interior angle of $91^{\circ} 34' 33''$ a distance of 144.68 feet; thence northerly at an interior angle of $90^{\circ} 05' 34''$ a distance of 29.53 feet to the principal point or place of beginning

Niagara County On-Line Mapping System
Parcel Detail Report

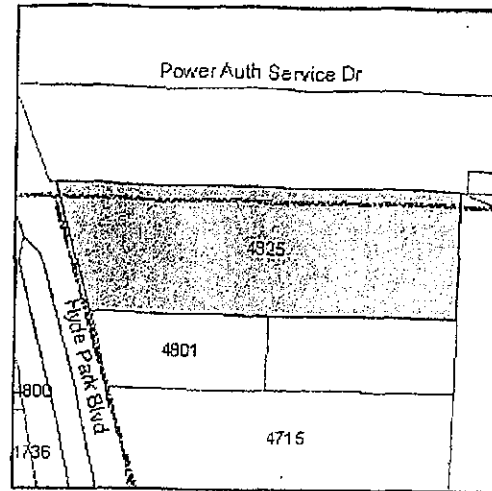
Address: 4825 Hyde Park Blvd

SBL: 130.11-1-3

Report generated: 7/27/2010 12:55:23 PM



Parcel Overview Map



Parcel Detail Map

PIN: 130.11-1-3

SBL: 1300110001003000

Address: 4825 Hyde Park Blvd

Municipality: 293000 - Niagara

Owner: Hooker Chemical Corp.

Frontage:

Depth: 0

Acreage: 1.9

Property Class: 484

Total Assessment: \$100,000

Land Assessment: \$27,600

School District Code: 293001

School District Name: NIAGARA-WHEATFIELD (N)

XY-Coordinates: 1026687 , 1141427

Deed Book: 1826

Deed Page: 099

Sale Date:

Sale Price: 0

Sqft Living Area: 0

Grade:

Condition:

Year Built: 0

Building Style:

Districts:

- Agricultural:
- County Sewer:
- Drainage:
- Fire: FD301
- Fire Protection:
- Firemans Retirement Area:
- Gas Lighting:
- Light: LD301
- Paving:
- Refuse: RD301
- Road Improvement:
- Sewer: SD301
- Special Parking:
- Sewers:
- Storm Water:
- Village Sewer:
- Water: WD301, WD302

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2-20

1826 PG 99

118-DEED-Deli Chm (Corporation)
With Lien Covenant

Sanders Legal Publishers
Prudential Bldg., Buffalo, N.Y. 14202

This Indenture,

Made the

21st

day of

Between

NIAGARA MOHAWK POWER CORPORATION

11 30 7.00 CHECK
000000 10-27-82 T11100

8103

a corporation organized under the laws of the State of New York with its principal office and place of business at 300 Erie Boulevard West in the City of Syracuse, County of Onondaga and State of New York 13202,

party of the first part, and

OCCIDENTAL CHEMICAL CORPORATION, a corporation of the State of New York with an office at 360 Rainbow Boulevard South, Niagara Falls, New York 14302,

party of the second part,

Witnesseth, that the party of the first part, in consideration of

ONE AND MORE

Dollars

(\$1.00 & More) lawful money of the United States,

11 31 2.20 CHECK
000000 10-27-82 T11100

paid by the party of the second part, does hereby remise, release and quitclaim unto the party

of the second part,

its successors

and assigns forever,

All that Tract or Parcel of Land, situate in Town of Niagara, Niagara County, New York, beginning at a point located at the intersection of the northerly boundary line of Lot 30 of the Mile Reserve with the division line between the property of Power Authority of the State of New York (Owner), formerly Francis J. Dolan and others (Reputed Owner) on the west and the property of the People of the State of New York (Owner), formerly Hooker Chemical Corporation (Reputed Owner) on the east; said point being 67.37 feet distant southerly measured at right angles from Station 31 + 43.06 of the hereinafter described Beck-Packard Transmission Line Survey Base Line; thence S 01° 25' 24" W, along the said property division line and the property division line between Power Authority of the State of New York (Owner) on the west and Hooker Chemical Corporation (Reputed Owner) on the east 77.62 feet to its intersection with the division line between the property of Power Authority of the State of New York (Owner) on the north and the property of Francis J. Dolan and others (Reputed Owners) on the south; thence N 70° 42' 39" W along the said division line 248.51 feet to its intersection (with the aforesaid northerly boundary line of Lot 30; thence easterly along said northerly boundary line of Lot 30, 236.53 feet to the point of beginning; being 9,178.5 square feet (0.211 acre) more or less.

Subject to the reservations and conditions contained in a certain deed dated August 24, 1967 which was recorded in the Niagara County Clerk's Office in Liber 1469 of deeds at Page 489.

The party of the first part hereby agrees and covenants that it will promptly proceed to obtain and furnish to the party of the second part, discharge or release of the above-described premises from the lien of the Mortgage Trust Indenture dated October 1, 1937, made by Central New York Power Corporation (now Niagara Mohawk Power Corporation) to The Marine Midland Trust Company of New York (now Marine Midland Bank), Trustee, as amended and supplemented.

The above-described premises is a portion of the lands which were conveyed to the grantor named herein by the Power Authority of the State of New York by a certain deed recorded in the Niagara County Clerk's Office on September 19, 1967 in Liber 1469 of Deeds at Page 489, and which are set forth in said deed as parcel No. 1294.

001270

PRESENTED TO
NIAGARA COUNTY PLANNING BOARD
FOR
ASSESSMENT & TAXATION
RAYMOND A. BIRCH
NIAGARA COUNTY CLERK

RECEIVED
\$ 3.00
REAL ESTATE
OCT 27 1982
TRANSFER TAX
NIAGARA
COUNTY

Contact List is Being Developed