



Department of  
Environmental  
Conservation

**Brownfield Cleanup Program**  
**Public Participation Plan**  
for  
**The Green**  
**NYSDEC BCP Site: C336099**

November 2024

NYSDEC BCP Site: C336099  
The Green  
City of Newburgh, Orange County, New York

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**Note:** The information presented in this Public Participation Plan was current as of the date of its approval by the New York State Department of Environmental Conservation. Portions of this Public Participation Plan may be revised during the site’s investigation and cleanup process.

Applicant: **The Kearney Realty & Development Group Inc. (“Applicant”)**  
Site Name: **The Green (“Site”)**  
Site Address: **137 Smith St., and 140 & 146 Montgomery St., City of Newburgh**  
Site County: **Orange**  
Site Number: **C336099**

## **1. What is New York’s Brownfield Cleanup Program?**

New York’s Brownfield Cleanup Program (BCP) works with private developers to encourage the voluntary cleanup of contaminated properties known as “brownfields” so that can be reused and developed. These uses include recreation, housing, and business.

A *brownfield* is any real property that is difficult to reuse or redevelop because of the presence or potential presence of contamination. A brownfield typically is a former industrial or commercial property where operations may have resulted in environmental contamination. A brownfield can pose environmental, legal, and financial burdens on a community. If a brownfield is not addressed, it can reduce property values in the area and affect economic development of nearby properties.

The BCP is administered by the New York State Department of Environmental Conservation (NYSDEC) which oversees Applicants who conduct brownfield site investigation and cleanup activities. An Applicant is a person who has requested to participate in the BCP and has been accepted by NYSDEC. The BCP contains investigation and cleanup requirements, ensuring that cleanups protect public health and the environment. When NYSDEC certifies that these requirements have been met, the property can be reused or redeveloped for the intended use.

For more information about the BCP, go online at:  
<http://www.dec.ny.gov/chemical/8450.html>

## **2. Public Participation Activities**

### *Why NYSDEC Involves the Public and Why It Is Important*

NYSDEC involves the public to improve the process of investigating and cleaning up contaminated sites, and to enable citizens to participate more fully in decisions that affect their health, environment, and social well-being. NYSDEC provides opportunities for citizen involvement and encourages early two-way communication with citizens before decision-makers form or adopt final positions.

Involving citizens affected and interested in site investigation and cleanup programs is important for many reasons. These include:

Promoting the development of timely, effective site investigation and cleanup programs that protect public health and the environment;

Improving public access to, and understanding of, issues and information related to a particular site and that site’s investigation and cleanup process;

Providing citizens with early and continuing opportunities to participate in NYSDEC's site investigation and cleanup process;

Ensuring that NYSDEC makes site investigation and cleanup decisions that benefit from input that reflects the interests and perspectives found within the affected community; and

Encouraging dialogue to promote the exchange of information among the affected/interested public, State agencies, and other interested parties that strengthens trust among the parties, increases understanding of site and community issues and concerns, and improves decision-making.

This Public Participation (PP) Plan provides information about how NYSDEC will inform and involve the public during the investigation and cleanup of the site identified above. The public information and involvement program will be carried out with assistance, as appropriate, from the Applicant.

### *Project Contacts*

Appendix A identifies NYSDEC project contact(s) to whom the public should address questions or request information about the site's investigation and cleanup program. The public's suggestions about this PP Plan and the PP program for the site are always welcome. Interested people are encouraged to share their ideas and suggestions with the project contacts at any time.

### *Locations of Reports and Information*

The locations of the reports and information related to the site's investigation and cleanup program also are identified in Appendix A. These locations provide convenient access to important project documents for public review and comment. Some documents may be placed on the NYSDEC web-site. If this occurs, NYSDEC will inform the public in fact sheets distributed about the site and by other means, as appropriate.

### *Site Contact List*

Appendix B contains the site contact list. This list has been developed to keep the community informed about, and involved in, the site's investigation and cleanup process. The site contact list will be used periodically to distribute fact sheets that provide updates about the status of the project. These will include notifications of upcoming activities at the site (such as fieldwork), as well as availability of project documents and announcements about public comment periods.

The site contact list includes, at a minimum:

- Chief executive officer and planning board chairperson of each county, city, town and village in which the site is located;
- Residents, owners, and occupants of the site and properties adjacent to the site;
- The public water supplier which services the area in which the site is located;
- Any person who has requested to be placed on the site contact list;
- The administrator of any school or day care facility located on or near the site for purposes of posting and/or dissemination of information at the facility; and,
- Location(s) of reports and information.

The site contact list will be reviewed periodically and updated as appropriate. Individuals and organizations will be added to the site contact list upon request. Such requests should be submitted to the NYSDEC project contact(s) identified in Appendix A. Other additions to the site contact list may be made at the discretion of the NYSDEC project manager, in consultation with other NYSDEC staff as appropriate.

Note: The first site fact sheet (usually related to the draft Remedial Investigation Work Plan) is distributed both by paper mailing through the postal service and through DEC Delivers, its email listserv service. The fact sheet includes instructions for signing up with the appropriate county listserv to receive future notifications about the site.

See <http://www.dec.ny.gov/chemical/61092.html>.

Subsequent fact sheets about the site will be distributed exclusively through the listserv, except for households without internet access that have indicated the need to continue to receive site information in paper form. Please advise the NYSDEC site project manager identified in Appendix A if that is the case. Paper mailings may continue during the investigation and cleanup process for some sites, based on public interest and need.

### *PP Activities*

The table at the end of this section identifies the PP activities, at a minimum, that have been and will be conducted during the site's investigation and cleanup program. The flowchart in Appendix D shows how these PP activities integrate with the site investigation and cleanup process. The public is informed about these PP activities through fact sheets and notices distributed at significant points during the program.

Elements of the investigation and cleanup process that match up with the PP activities are explained briefly in Section 5.

**Notices and fact sheets** help the interested and affected public to understand contamination issues related to a site, and the nature and progress of efforts to investigate and clean up a site.

**Public forums, comment periods and contact with project managers** provide opportunities for the public to contribute information, opinions, and perspectives that have potential to influence decisions about a site's investigation and cleanup.

The public is encouraged to contact project staff at any time during the site's investigation and cleanup process with questions, comments, or requests for information.

This PP Plan may be revised due to changes in major issues of public concern identified in Section 3 or in the nature and scope of investigation and cleanup activities. Modifications may include additions to the site contact list and changes in planned public participation activities.

### *Technical Assistance Grant*

NYSDEC must determine if the site poses a significant threat to public health or the environment. This determination generally is made using information developed during the investigation of the site, as described in Section 5.

If the site is determined to be a significant threat, a qualifying community group may apply for a Technical Assistance Grant (TAG). The purpose of a TAG is to provide funds to the qualifying group to obtain independent technical assistance. This assistance helps the TAG recipient to interpret and understand existing environmental information about the nature and extent of contamination related to the site and the development and implementation of a remedy.

An eligible community group must certify that its membership represents the interests of the community affected by the site, and that its members' health, economic well-being or enjoyment of the environment may be affected by a release or threatened release of contamination at the site.

As of the date the declaration (page 2) was signed by the NYSDEC project manager, the significant threat determination for the site had not yet been made. To verify the significant threat status of the site, the interested public may contact the NYSDEC project manager identified in Appendix A.

For more information about TAGs, go online at

<http://www.dec.ny.gov/regulations/2590.html>

Note: The table identifying the public participation activities related to the site's investigation and cleanup program follows on the next page.

Public Participation Activities	Timing of Public Participation Activity(ies)
<b>Application Process:</b>	
<ul style="list-style-type: none"> <li>• Prepare site contact list</li> <li>• Establish document repository(ies)</li> </ul>	At time of preparation of application to participate in theBCP.
<ul style="list-style-type: none"> <li>• Publish notice in Environmental Notice Bulletin (ENB) announcing receipt of application and 30-day public comment period</li> <li>• Publish above ENB content in local newspaper</li> <li>• Mail above ENB content to site contact list</li> <li>• Conduct 30-day public comment period</li> </ul>	<p>When NYSDEC determines that BCP application is complete. The 30-day public comment period begins on date of publication of notice in ENB. End date of public comment period is as stated in ENB notice.</p> <p>Therefore, ENB notice, newspaper notice, and notice to the contact list should be provided to the public at the same time.</p>
<b>After Execution of Brownfield Site Cleanup Agreement (BCA):</b>	
<ul style="list-style-type: none"> <li>• Prepare Public Participation (PP) Plan</li> </ul>	<p>Before start of Remedial Investigation</p> <p><b>Note:</b> Applicant must submit PP Plan to NYSDEC for review and approval within 20 days of the effective dateof the BCA.</p>
<b>Before NYSDEC Approves Remedial Investigation (RI) Work Plan:</b>	
<ul style="list-style-type: none"> <li>• Distribute fact sheet to site contact list about proposed RI activities and announcing 30-day public comment period about draft RI Work Plan</li> <li>• Conduct 30-day public comment period</li> </ul>	Before NYSDEC approves RI Work Plan. If RI Work Plan is submitted with application, public comment periods will be combined and public notice will include fact sheet. 30-day public comment period begins/ends as per dates identified in fact sheet.
<b>After Applicant Completes Remedial Investigation:</b>	
<ul style="list-style-type: none"> <li>• Distribute fact sheet to site contact list that describesRI results</li> </ul>	Before NYSDEC approves RI Report
<b>Before NYSDEC Approves Remedial Work Plan (RWP):</b>	
<ul style="list-style-type: none"> <li>• Distribute fact sheet to site contact list about draft RWP and announcing 45-day public comment period</li> <li>• Public meeting by NYSDEC about proposed RWP (if requested by affected community or at discretion of NYSDEC project manager)</li> <li>• Conduct 45-day public comment period</li> </ul>	Before NYSDEC approves RWP. 45-day public comment period begins/ends as per dates identified in fact sheet. Public meeting would be held within the 45- day public comment period.
<b>Before Applicant Starts Cleanup Action:</b>	
<ul style="list-style-type: none"> <li>• Distribute fact sheet to site contact list that describes upcoming cleanup action</li> </ul>	Before the start of cleanup action.
<b>After Applicant Completes Cleanup Action:</b>	
<ul style="list-style-type: none"> <li>• Distribute fact sheet to site contact list that announces that cleanup action has been completed and that NYSDEC is reviewing the Final EngineeringReport</li> <li>• Distribute fact sheet to site contact list announcing NYSDEC approval of Final Engineering Report and issuance of Certificate of Completion (COC)</li> </ul>	At the time the cleanup action has been completed. <b>Note:</b> The two fact sheets are combined when possibleif there is not a delay in issuing the COC.

### 3. Major Issues of Public Concern

This section of the PP Plan identifies major issues of public concern that relate to the site. Additional major issues of public concern may be identified during the course of the site's investigation and cleanup process.

The primary contaminants of concern at the Site are elevated levels of metals in soil. Public health concerns are currently unknown. Site contamination is not affecting community activities and there are no known on-site uses of groundwater at or near the Site (the surrounding area utilizes public water). During the cleanup of the Site, there may be issues such as odor, noise, or truck-related traffic.

### 4. Site Information

Appendix C contains a map identifying the location of the site.

#### *Site Description*

The Site consists of a 1.16-acre parcel located at 137 Smith Street, and 140 and 146 Montgomery Street. The property is vacant land. Development plans include construction of two new mixed-use and mixed-income buildings with associated infrastructure and landscaping. Both structures will have retail uses along South Street. New construction will require soil excavation. The Site is located in an urban setting comprised primarily of residential, commercial, and institutional uses. Adjoining properties contain a public school (to the west) and residential buildings.

#### *History of Site Use, Investigation, and Cleanup*

Development occurred at the property as early as the 1800s, and the Site formerly contained multiple structures (likely used for residential purposes), the last of which were demolished sometime between 1971 and 1992.

Previous subsurface investigations documented poor-quality fill materials contaminated by metals, including arsenic, cadmium, lead, and mercury, at concentrations above NYSDEC Soil Clean-up Objectives for Restricted-Residential Use.

Site cleanup actions will likely involve removal of soils containing metals above Unrestricted Use criteria, resulting in a final remediation that is protective of human health and the environment.

### 5. Investigation and Cleanup Process

#### *Application*

The Applicant has applied for and been accepted into New York's Brownfield Cleanup Program **as Volunteer**. This means that the Applicant was not responsible for the disposal or discharge of the contaminants or whose ownership or operation of the site took place after the discharge or disposal of contaminants. The Volunteer must fully characterize the nature and extent of contamination onsite, and must conduct a "qualitative exposure assessment," a process that characterizes the actual or potential



exposures of people, fish, and wildlife to contaminants on the site and to contamination that has migrated from the site.

The Applicant in its Application proposes that the site will be used for residential purposes, and will meet (at a minimum) the criteria for a Restricted-Residential Use cleanup (dependent on the final remediation plan, an Unrestricted Use cleanup may be pursued). To achieve this goal, the Applicant will conduct investigation and cleanup activities at the site with oversight provided by NYSDEC. The Brownfield Cleanup Agreement executed by NYSDEC and the Applicant sets forth the responsibilities of each party in conducting these activities at the site.

### *Investigation*

The Applicant will conduct an investigation of the site officially called a “remedial investigation” (RI). This investigation will be performed with NYSDEC oversight. The Applicant must develop a remedial investigation work plan, which is subject to public comment. The site investigation has several goals:

- 1) Define the nature and extent of contamination in soil, surface water, groundwater and any other parts of the environment that may be affected;
- 2) Identify the source(s) of the contamination;
- 3) Assess the impact of the contamination on public health and the environment; and
- 4) Provide information to support the development of a proposed remedy to address the contamination or the determination that cleanup is not necessary.

The Applicant submits a draft “Remedial Investigation Work Plan” to NYSDEC for review and approval. NYSDEC makes the draft plan available to the public review during a 30-day public comment period.

When the investigation is complete, the Applicant will prepare and submit a report that summarizes the results. This report also will recommend whether cleanup action is needed to address site-related contamination. The investigation report is subject to review and approval by NYSDEC.

NYSDEC will use the information in the investigation report to determine if the site poses a significant threat to public health or the environment. If the site is a “significant threat,” it must be cleaned up using a remedy selected by NYSDEC from an analysis of alternatives prepared by the Applicant and approved by NYSDEC. If the site does not pose a significant threat, the Applicant may select the remedy from the approved analysis of alternatives.

### *Interim Remedial Measures*

An Interim Remedial Measure (IRM) is an action that can be undertaken at a site when a source of contamination or exposure pathway can be effectively addressed before the site investigation and analysis of alternatives are completed. If an IRM is likely to represent all or a significant part of the final remedy, NYSDEC will require a 30-day public comment period.

### *Remedy Selection*

When the investigation of the site has been determined to be complete, the project likely would proceed in one of two directions:

- 1) The Applicant may recommend in its investigation report that no action is necessary at the site. In this case, NYSDEC would make the investigation report available for public comment for 45 days. NYSDEC then would complete its review, make any necessary revisions, and, if appropriate, approve the investigation report. NYSDEC would then issue a "Certificate of Completion" (described below) to the Applicant.

**or**

- 2) The Applicant may recommend in its investigation report that action needs to be taken to address site contamination. After NYSDEC approves the investigation report, the Applicant may then develop a cleanup plan, officially called a "Remedial Work Plan". The Remedial Work Plan describes the Applicant's proposed remedy for addressing contamination related to the site. When the Applicant submits a draft Remedial Work Plan for approval, NYSDEC would announce the availability of the draft plan for public review during a 45-day public comment period.

### *Cleanup Action*

NYSDEC will consider public comments, and revise the draft cleanup plan if necessary, before approving the proposed remedy. The New York State Department of Health (NYSDOH) must concur with the proposed remedy. After approval, the proposed remedy becomes the selected remedy. The selected remedy is formalized in the site Decision Document.

The Applicant may then design and perform the cleanup action to address the site contamination. NYSDEC and NYSDOH oversee the activities. When the Applicant completes cleanup activities, it will prepare a Final Engineering Report (FER) that certifies that cleanup requirements have been achieved or will be achieved within a specific time frame. NYSDEC will review the report to be certain that the cleanup is protective of public health and the environment for the intended use of the site.

### *Certificate of Completion*

When NYSDEC is satisfied that cleanup requirements have been achieved or will be achieved for the site, it will approve the FER. NYSDEC then will issue a Certificate of Completion (COC) to the Applicant.

The COC states that cleanup goals have been achieved, and relieves the Applicant from future liability for site-related contamination, subject to certain conditions. The Applicant would be eligible to redevelop the site after it receives a COC.

### *Site Management*

The purpose of site management is to ensure the safe reuse of the property if contamination will remain in place. Site management is the last phase of the site cleanup program. This phase begins when the COC is issued. Site management incorporates any institutional and engineering controls required to ensure that the remedy implemented for the site remains protective of public health and the environment. All significant activities are detailed in a Site Management Plan.

An institutional control is a non-physical restriction on use of the site, such as a deed restriction that would prevent or restrict certain uses of the property. An institutional control may be used when the cleanup action leaves some contamination that makes the site suitable for some, but not all uses.

An engineering control is a physical barrier or method to manage contamination. Examples include: caps, covers, barriers, fences, and treatment of water supplies.

Site management also may include the operation and maintenance of a component of the remedy, such as a system that pumps and treats groundwater. Site management continues until NYSDEC determines that it is no longer needed.

## **Appendix A – Project Contacts and Locations of Reports and Information**

### *Project Contacts*

For information about the site's investigation and cleanup program, the public may contact any of the following project staff:

#### **New York State Department of Environmental Conservation (NYSDEC):**

Caroline Jalanti  
Project Manager, NYSDEC  
625 Broadway  
Albany, NY 12233  
caroline.jalanti@dec.ny.gov  
(518) 402-9650

Stephanie Mossey  
Citizen Participation Specialist  
NYSDEC – Region 3  
21 South Putt Corners Road  
New Paltz, NY 12561  
Stephanie.Mossey@dec.ny.gov

#### **New York State Department of Health (NYSDOH):**

Michael Izdebski  
Project Manager, NYSDOH  
Empire State Plaza – Corning Tower, Rm 1787  
Albany, NY 12237  
beei@health.ny.gov

### *Locations of Reports and Information*

The facilities identified below are being used to provide the public with convenient access to important project documents:

Newburgh Free Library  
Karen Cissel, Librarian, Head of User Services  
124 Grand Street, Newburgh, NY 12550  
Phone: 845-563-3600  
Email: kcissel@rcls.org

NYSDEC – Region 3  
21 South Putt Corners Road  
New Paltz, NY 12561  
(845) 256-3146

## Appendix B – Site Contact List

### *Public Officials:*

#### **City of Newburgh Mayor**

##### **Torrance Harvey**

83 Broadway, Newburgh, NY 12550

Phone: 845-569-7305

#### **City of Newburgh City Manager**

##### **Todd Venning**

83 Broadway, Newburgh, NY 12550

Phone: 845-569-7301

#### **Orange County Executive**

##### **Steven M. Neuhaus**

255 Main Street, Goshen, NY 10924

Phone: 845-291-2700

#### **NYS Senate District 39**

##### **Rob Rolison**

3 Neptune Road, Suite N22

Poughkeepsie, NY 12601

Phone: 845-229-0106

#### **City of Newburgh Clerk**

##### **Lorene Vitek**

83 Broadway, Newburgh, NY 12550

Phone: 845-569-7311

#### **City of Newburgh Building Department**

##### **Charlotte Mountain**

1841 Courthouse/123 Grand Street

Newburgh, NY 12550

Phone: 845-569-7400

#### **NYS Assembly District 104**

##### **Jonathan G. Jacobson**

436 Robinson Avenue, Suite B

Newburgh, NY 12550

845-562-0888

### *Local Schools and Daycare Centers*

#### **Horizons-on-the-Hudson Magnet School**

137 Montgomery Street

Newburgh, NY 12550

Phone: 845-563-3725

### *Media*

#### *Local*

#### **Hudson Valley Press**

343 Broadway

Newburgh, NY 12550

Phone: 845-562-1313

#### **Mid-Hudson Times**

500 Stony Brook Ct, Suite 2,

Newburgh, NY 12550

Phone: 845-561-0170

#### *General Circulation*

#### **Times Herald-Record**

90 Crystal Run Rd., Suite 310,

Middletown, NY 10941

Phone: 888-620-1700

*Public Water Supplier*

**Newburgh Water Department**

493 Little Britain Road,  
Newburgh, NY 12550  
Phone: 845-565-3356

*Community, Civic, Religious and Other Environmental Organizations*

**Riverkeeper**

20 Secor Road, Ossining, NY 10562  
phone: 800-217-4837  
email: info@riverkeeper.org

**Scenic Hudson**

85 Civic Center Plaza, Suite 300  
Poughkeepsie, NY 12601  
phone: 845-473-4440  
email: info@scenichudson.org

**Hudson River Sloop Clearwater**

724 Wolcott Avenue, Beacon, NY 12508  
phone: 845-265 8080  
email: office@clearwater.org

**Orange County Land Trust**

PO Box 269, Mountainville, NY 10953  
phone: 845-534-3690  
email: info@OCLT.org

*Adjacent Properties*

<b>Address and Tax ID</b> (section – block – lot)	<b>Current Use</b>
150 Smith Street (12-5-1)	apartment building
207 Water Street (12-3-2.1 and -4)	multi-family residential
158 Montgomery Street (12-3-4)	multi-family residential
137 Montgomery Street (12-2-5)	public school
131 Montgomery Street (19-1-6)	multi-family residential
69 South Street (19-2-1)	multi-family residential

# Appendix C – Site Map



<p><b>Site Location Map</b>                  137 Smith Street                  140 and 146 Montgomery Street                  City of Newburgh                  Orange County, New York</p>	<p><b>Legend:</b></p> <ul style="list-style-type: none"> <li><span style="color: red;">—</span> BCP Site Boundary</li> <li><span style="color: yellow; border-bottom: 1px dashed yellow;">   </span> tax lot lines</li> </ul>	<p>BCP ID: C336099</p>
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## Appendix D – Brownfield Cleanup Program Process

