



**SUBMITTAL INSTRUCTIONS:**

1. Compile the application package in the following manner:
  - a. one file in non-fillable PDF of the application form plus supplemental information, excluding the previous environmental reports and work plans, if applicable;
  - b. one individual file (PDF) of each previous environmental report; and,
  - c. one file (PDF) of each work plan being submitted with the application, if applicable.
2. Compress all files (PDFs) into one zipped/compressed folder.
3. Submit the application to the Site Control Section either via email or ground mail, as described below.

**Please select only ONE submittal method – do NOT submit both email and ground mail.**

a. VIA EMAIL:

- Upload the compressed folder to the NYSDEC File Transfer Service. (<http://fts.dec.state.ny.us/fts>) or another file-sharing service.
- Copy the download link into the body of an email with any other pertinent information or cover letter attached to the email.
- Subject line of the email: “BCP Application NEW - \*Proposed Site Name\*”
- Email your submission to [DESiteControl@dec.ny.gov](mailto:DESiteControl@dec.ny.gov) – do NOT copy Site Control staff.

b. VIA GROUND MAIL:

- Save the application file(s) and cover letter to an external storage device (e.g., thumb drive, flash drive). Do NOT include paper copies of the application or attachments.
- Mail the external storage device to the following address:  
Chief, Site Control Section  
Division of Environmental Remediation  
625 Broadway, 11<sup>th</sup> Floor  
Albany, NY 12233-7020

**PROPOSED SITE NAME:** Community Manufacturing - Port Ewen

**Is this an application to amend an existing BCA with a major modification?** Please refer to the application instructions for further guidance related to BCA amendments.

If yes, provide existing site number: \_\_\_\_\_

☐

Yes

☒

No

**Is this a revised submission of an incomplete application?**

If yes, provide existing site number: 356063 Class P

☒

Yes

☐

No



BCP App Rev 15 – May 2023

**SECTION I: Property Information**

PROPOSED SITE NAME **Community Manufacturing Solutions**

ADDRESS/LOCATION **115 Broadway/Route 9W**

CITY/TOWN **Town of Esopus**

ZIP CODE **12466**

MUNICIPALITY (LIST ALL IF MORE THAN ONE) **Hamlet of Port Ewen**

COUNTY **Ulster**

SITE SIZE (ACRES) **3.53**

LATITUDE

LONGITUDE

41 ° 54 ' 40.46 " 73 ° 58 ' 33.24 "

Provide tax map information for all tax parcels included within the proposed site boundary below. If a portion of any lot is to be included, please indicate as such by inserting "p/o" in front of the lot number in the appropriate box below, and only include the acreage for that portion of the tax parcel in the corresponding acreage column.

**ATTACH REQUIRED TAX MAPS PER THE APPLICATION INSTRUCTIONS.**

Parcel Address	Section	Block	Lot	Acreage
115 Broadway/Route 9W	56.52	1	14	3.53

1. Do the proposed site boundaries correspond to tax map metes and bounds? If no, please attach an accurate map of the proposed site including a metes and bounds description.	<input checked="" type="radio"/> Y	<input type="radio"/> N
2. Is the required property map included with the application? (Application will not be processed without a map)	<input checked="" type="radio"/> Y	<input type="radio"/> N
3. Is the property within a designated Environmental Zone (En-zone) pursuant to Tax Law 21(b)(6)? (See <a href="#">DEC's website</a> for more information) If yes, identify census tract: _____ Percentage of property in En-zone (check one): 0% <input checked="" type="radio"/> 1-49% <input type="radio"/> 50-99% <input type="radio"/> 100% <input type="radio"/>	<input type="radio"/> Y	<input checked="" type="radio"/> N
4. Is the project located within a disadvantaged community? See application instructions for additional information.	<input checked="" type="radio"/> Y	<input type="radio"/> N
5. Is the project located within a NYS Department of State (NYS DOS) Brownfield Opportunity Area (BOA)? See application instructions for additional information.	<input type="radio"/> Y	<input checked="" type="radio"/> N
6. Is this application one of multiple applications for a large development project, where the development spans more than 25 acres (see additional criteria in application instructions)? If yes, identify names of properties and site numbers, if available, in related BCP applications: _____	<input type="radio"/> Y	<input checked="" type="radio"/> N

SECTION I: Property Information (CONTINUED)		Y	N
7. Is the contamination from groundwater or soil vapor solely emanating from property other than the site subject to the present application?		<input type="radio"/>	<input checked="" type="radio"/>
8. Has the property previously been remediated pursuant to Titles 9, 13 or 14 of ECL Article 27, Title 5 of ECL Article 56, or Article 12 of Navigation Law? If yes, attach relevant supporting documentation.		<input type="radio"/>	<input checked="" type="radio"/>
9. Are there any lands under water? If yes, these lands should be clearly delineated on the site map.		<input type="radio"/>	<input checked="" type="radio"/>
10. Has the property been the subject of or included in a previous BCP application? If yes, please provide the DEC site number: _____		<input type="radio"/>	<input checked="" type="radio"/>
11. Is the site currently listed on the Registry of Inactive Hazardous Waste Disposal Sites (Class 2, 3, or 4) or identified as a Potential Site (Class P)? If yes, please provide the DEC site number: <u>356063</u> Class: <u>P</u>		<input checked="" type="radio"/>	<input type="radio"/>
12. Are there any easements or existing rights-of-way that would preclude remediation in these areas? If yes, identify each here and attach appropriate information.  <div style="display: flex; justify-content: space-between;"> <div><u>Easement/Right-of-Way Holder</u></div> <div><u>Description</u></div> </div>		<input type="radio"/>	<input checked="" type="radio"/>
13. List of permits issued by the DEC or USEPA relating to the proposed site (describe below or attach appropriate information):  <div style="display: flex; justify-content: space-between;"> <div><u>Type</u></div> <div><u>Issuing Agency</u></div> <div><u>Description</u></div> </div>		<input type="radio"/>	<input checked="" type="radio"/>
14. Property Description and Environmental Assessment – please refer to the application instructions for the proper format of each narrative requested. Are the Property Description and Environmental Assessment narratives included in the prescribed format?		<input checked="" type="radio"/>	<input type="radio"/>
<b>Note: Questions 15 through 17 below pertain ONLY to proposed sites located within the five counties comprising New York City.</b>			
15. Is the Requestor seeking a determination that the site is eligible for tangible property tax credits? If yes, Requestor must answer the Supplemental Questions for Sites Seeking Tangible Property Credits Located in New York City ONLY on pages 11-13 of this form.		<input type="radio"/>	<input type="radio"/>
16. Is the Requestor now, or will the Requestor in the future, seek a determination that the property is Upside Down?		<input type="radio"/>	<input type="radio"/>
17. If you have answered YES to Question 16 above, is an independent appraisal of the value of the property, as of the date of application, prepared under the hypothetical condition that the property is not contaminated, included with the application?		<input type="radio"/>	<input type="radio"/>
<b>NOTE:</b> If a tangible property tax credit determination is not being requested at the time of application, the applicant may seek this determination at any time before issuance of a Certificate of Completion by using the BCP Amendment Application, except for sites seeking eligibility under the underutilized category.			
<b>If any changes to Section I are required prior to application approval, a new page, initialed by each Requestor, must be submitted with the application revisions.</b>			
<b>Initials of each Requestor:</b> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div>_____</div> <div>_____</div> <div>_____</div> <div>_____</div> <div>_____</div> <div>_____</div> </div>			

## SECTION II: Project Description

1. The project will be starting at: ☒ Investigation ☐ Remediation

NOTE: If the project is proposed to start at the remediation stage, at a minimum, a Remedial Investigation Report (RIR) must be included, resulting in a 30-day public comment period. If an Alternatives Analysis and Remedial Action Work Plan (RAWP) are also included (see [DER-10, Technical Guidance for Site Investigation and Remediation](#) for further guidance), then a 45-day public comment period is required.

2. If a final RIR is included, does it meet the requirements in ECL Article 27-1415(2)?

☐ Yes ☐ No ☒ N/A

3. Have any draft work plans been submitted with the application (select all that apply)?

☐ RIWP ☐ RAWP ☐ IRM ☒ No

4. Please provide a short description of the overall project development, including the date that the remedial program is to begin, and the date by which a Certificate of Completion is expected to be issued.

Is this information attached? ☒ Yes ☐ No

## SECTION III: Land Use Factors

1. What is the property's current municipal zoning designation? GC - General Commercial

2. What uses are allowed by the property's current zoning (select all that apply)?

Residential ☐ Commercial ☒ Industrial ☐

3. Current use (select all that apply):

Residential ☐ Commercial ☐ Industrial ☐ Recreational ☐ Vacant ☒

4. Please provide a summary of current business operations or uses, with an emphasis on identifying possible contaminant source areas. If operations or uses have ceased, provide the date by which the site became vacant.  
Is this summary included with the application?

Y ☒ N ☐

5. Reasonably anticipated post-remediation use (check all that apply):

Residential ☐ Commercial ☒ Industrial ☐

If residential, does it qualify as single-family housing?

N/A ☒ ☐ ☐

6. Please provide a statement detailing the specific proposed post-remediation use.  
Is this summary attached?

☒ ☐

7. Is the proposed post-remediation use a renewable energy facility?  
See application instructions for additional information.

☐ ☒

8. Do current and/or recent development patterns support the proposed use?

☒ ☐

9. Is the proposed use consistent with applicable zoning laws/maps?  
Please provide a brief explanation. Include additional documentation if necessary.

☒ ☐

10. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, or other adopted land use plans?  
Please provide a brief explanation. Include additional documentation if necessary.

☒ ☐



#### SECTION IV: Property's Environmental History

All applications **must include** an Investigation Report (per ECL 27-1407(1)). The report must be sufficient to establish that contamination of environmental media exists on the site above applicable Standards, Criteria and Guidance (SCGs) based on the reasonably anticipated use of the site property and that the site requires remediation. To the extent that existing information/studies/reports are available to the requestor, please attach the following:

1. **Reports:** an example of an Investigation Report is a Phase II Environmental Site Assessment report prepared in accordance with the latest American Society for Testing and Materials standard ([ASTM E1903](#)). **Please submit a separate electronic copy of each report in Portable Document Format (PDF). Please do NOT submit paper copies of ANY supporting documents.**
2. **SAMPLING DATA: INDICATE (BY SELECTING THE OPTIONS BELOW) KNOWN CONTAMINANTS AND THE MEDIA WHICH ARE KNOWN TO HAVE BEEN AFFECTED. DATA SUMMARY TABLES SHOULD BE INCLUDED AS AN ATTACHMENT, WITH LABORATORY REPORTS REFERENCED AND INCLUDED.**

CONTAMINANT CATEGORY	SOIL	GROUNDWATER	SOIL GAS
Petroleum	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chlorinated Solvents	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Other VOCs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SVOCs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Metals	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pesticides	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PCBs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PFAS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1,4-dioxane	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other – indicated below	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

\*Please describe other known contaminants and the media affected:

3. For each impacted medium above, include a site drawing indicating:
  - Sample location
  - Date of sampling event
  - Key contaminants and concentration detected
  - For soil, highlight exceedances of reasonably anticipated use
  - For groundwater, highlight exceedances of 6 NYCRR part 703.5
  - For soil gas/soil vapor/indoor air, refer to the NYS Department of Health matrix and highlight exceedances that require mitigation

These drawings are to be representative of all data being relied upon to determine if the site requires remediation under the BCP. Drawings should be no larger than 11"x17" and should only be provided electronically. These drawings should be prepared in accordance with any guidance provided.

Are the required drawings included with this application?

☒ YES

☐ NO

4. Indicate Past Land Uses (check all that apply):

<input type="checkbox"/> Coal Gas Manufacturing	<input checked="" type="checkbox"/> Manufacturing	<input type="checkbox"/> Agricultural Co-Op	<input type="checkbox"/> Dry Cleaner
<input type="checkbox"/> Salvage Yard	<input type="checkbox"/> Bulk Plant	<input type="checkbox"/> Pipeline	<input type="checkbox"/> Service Station
<input type="checkbox"/> Landfill	<input type="checkbox"/> Tannery	<input type="checkbox"/> Electroplating	<input type="checkbox"/> Unknown

Other: Past occupants include Dana Manufacturing (a portable stove and heater production facility) and JC Metal Spinning (a reported machine shop with lathes). The Site was used as a microfilm services facility (with on-site film development) from circa 1984 until 2002.

**SECTION V: Requestor Information**

NAME Community Manufacturing Solutions, LLC

ADDRESS 101 Woodcrest Drive

CITY/TOWN Rifton

STATE NY

ZIP CODE 12471

PHONE (845) 658-7700

EMAIL brianbutton@ccimail.com

	Y	N
1. Is the requestor authorized to conduct business in New York State (NYS)?	<input checked="" type="radio"/>	<input type="radio"/>
2. If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS DOS to conduct business in NYS, the requestor's name must appear, exactly as given above, in the <a href="#">NYS Department of State's Corporation &amp; Business Entity Database</a> . A print-out of entity information from the database must be submitted with this application to document that the requestor is authorized to conduct business in NYS. Is this attached?	<input checked="" type="radio"/>	<input type="radio"/>
3. If the requestor is an LLC, a list of the names of the members/owners is required on a separate attachment. Is this attached? N/A <input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
4. Individuals that will be certifying BCP documents, as well as their employers, must meet the requirements of Section 1.5 of <a href="#">DER-10: Technical Guidance for Site Investigation and Remediation</a> and Article 145 of New York State Education Law. Do all individuals that will be certifying documents meet these requirements? <b>Documents that are not properly certified will not be approved under the BCP.</b>	<input checked="" type="radio"/>	<input type="radio"/>

**SECTION VI: Requestor Eligibility**

If answering "yes" to any of the following questions, please provide appropriate explanation and/or documentation as an attachment.

	Y	N
1. Are any enforcement actions pending against the requestor regarding this site?	<input type="radio"/>	<input checked="" type="radio"/>
2. Is the requestor subject to an existing order for the investigation, removal or remediation of contamination at the site?	<input checked="" type="radio"/>	<input type="radio"/>
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.	<input type="radio"/>	<input checked="" type="radio"/>
4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of (i) any provision of the ECL Article 27; (ii) any order or determination; (iii) any regulation implementing Title 14; or (iv) any similar statute or regulation of the State or Federal government?	<input type="radio"/>	<input checked="" type="radio"/>
5. Has the requestor previously been denied entry to the BCP? If so, please provide the site name, address, assigned DEC site number, the reason for denial, and any other relevant information regarding the denied application.	<input type="radio"/>	<input checked="" type="radio"/>
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting of contaminants?	<input type="radio"/>	<input checked="" type="radio"/>

## SECTION VI: Requestor Eligibility (CONTINUED)

7. Has the requestor been convicted of a criminal offense (i) involving the handling, storing, treating, disposing or transporting or contaminants; or (ii) that involved a violent felony, fraud, bribery, perjury, theft or offense against public administration (as that term is used in Article 195 of the Penal Law) under Federal law or the laws of any state?	<input type="radio"/> Y	<input checked="" type="radio"/> N
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of DEC, or submitted a false statement or made use of a false statement in connection with any document or application submitted to DEC?	<input type="radio"/>	<input checked="" type="radio"/>
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9(f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application?	<input type="radio"/>	<input checked="" type="radio"/>
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order?	<input type="radio"/>	<input checked="" type="radio"/>
11. Are there any unregistered bulk storage tanks on-site which require registration?	<input type="radio"/>	<input checked="" type="radio"/>
12. THE REQUESTOR MUST CERTIFY THAT HE/SHE IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL 27-1405(1) BY CHECKING ONE OF THE BOXES BELOW:		
<b>PARTICIPANT</b> <input type="checkbox"/> <p>A requestor who either (1) was the owner of the site at the time of the disposal of hazardous waste or discharge of petroleum, or (2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.</p>	<b>VOLUNTEER</b> <input checked="" type="checkbox"/> <p>A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.</p> <p>NOTE: By selecting this option, a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: (i) stop any continuing discharge; (ii) prevent any threatened future release; and, (iii) prevent or limit human, environmental or natural resource exposure to any previously released hazardous waste.</p> <p><b>If a requestor whose liability arises solely as a result of ownership, operation of, or involvement with the site, submit a statement describing why you should be considered a volunteer – be specific as to the appropriate care taken.</b></p>	
13. If the requestor is a volunteer, is a statement describing why the requestor should be considered a volunteer attached?		
Yes <input checked="" type="radio"/> No <input type="radio"/> N/A <input type="radio"/>		

**SECTION VI: Requestor Eligibility (CONTINUED)**

14. Requestor relationship to the property (check one; if multiple applicants, check all that apply):

☐ Previous Owner ☒ Current Owner ☐ Potential/Future Purchaser ☐ Other: \_\_\_\_\_

If the requestor is not the current owner, **proof of site access sufficient to complete remediation must be provided.** Proof must show that the requestor will have access to the property before signing the BCA and throughout the BCP project, including the ability to place an environmental easement on the site.

Is this proof attached?

☐ Yes☐ No☒ N/A**Note:** A purchase contract or lease agreement does not suffice as proof of site access.**SECTION VII: Requestor Contact Information**

REQUESTOR'S REPRESENTATIVE Brian Button

ADDRESS 101 Woodcrest Drive

CITY Rifton

STATE NY

ZIP CODE 12471

PHONE (845) 332-2226

EMAIL brianbutton@ccimail.com

REQUESTOR'S CONSULTANT (CONTACT NAME) Michael Carr

COMPANY LaBella Associates

ADDRESS 5 McCrea Hill Road

CITY Ballston Spa

STATE NY

ZIP CODE 12020

PHONE (518) 885-5383

EMAIL mcarr@labellapc.com

REQUESTOR'S ATTORNEY (CONTACT NAME) Dean Sommer

COMPANY Young / Sommer LLC

ADDRESS Executive Woods, 5 Palisades Drive,

CITY Albany

STATE NY

ZIP CODE 12205

PHONE (518) 438-9914

EMAIL dsommer@youngsommer.com

**SECTION VIII: Program Fee**

Upon submission of an executed Brownfield Cleanup Agreement to the Department, the requestor is required to pay a non-refundable program fee of \$50,000. Requestors may apply for a fee waiver based on demonstration of financial hardship.

	Y	N
1. Is the requestor applying for a fee waiver based on demonstration of financial hardship?	<input type="radio"/>	<input checked="" type="radio"/>
2. If yes, appropriate documentation to demonstrate financial hardship must be provided with the application. See application instructions for additional information.		
Is the appropriate documentation included with this application? N/A	<input type="radio"/>	<input type="radio"/>

**SECTION IX: Current Property Owner and Operator Information**

CURRENT OWNER Community Manufacturing Solutions, LLC		
CONTACT NAME Brian Button		
ADDRESS 101 Woodcrest Drive		
CITY Rifton	STATE NY	ZIP CODE 12471
PHONE (845) 332-2226	EMAIL brianbutton@ccimail.com	
OWNERSHIP START DATE 5/19/2022		
CURRENT OPERATOR Vacant		
CONTACT NAME		
ADDRESS		
CITY	STATE	ZIP CODE
PHONE	EMAIL	
OPERATION START DATE		

**SECTION X: Property Eligibility Information**

	Y	N
1. Is/was the property, or any portion of the property, listed on the National Priorities List? If yes, please provide additional information as an attachment.	<input type="radio"/>	<input checked="" type="radio"/>
2. Is/was the property, or any portion of the property, listed on the NYS Registry of Inactive Hazardous Waste Disposal Site pursuant to ECL 27-1305? If yes, please provide the DEC site number: <u>356063</u> Class: <u>P</u>	<input checked="" type="radio"/>	<input type="radio"/>

**SECTION X: Property Eligibility Information (continued)**

3. Is/was the property subject to a permit under ECL Article 27, Title 9, other than an Interim Status facility? If yes, please provide: Permit Type: _____ EPA ID Number: _____  Date Permit Issued: _____ Permit Expiration Date: _____	<b>Y</b> <input type="radio"/>	<b>N</b> <input checked="" type="radio"/>
4. If the answer to question 2 or 3 above is YES, is the site owned by a volunteer as defined under ECL 27-1405(1)(b), or under contract to be transferred to a volunteer? If yes, attach any available information related to previous owners or operators of the facility or property and their financial viability, including any bankruptcy filings and corporate dissolution documents.  <div style="text-align: right;">N/A <input checked="" type="radio"/></div>	<input type="radio"/>	<input type="radio"/>
5. Is the property subject to a cleanup order under Navigation Law Article 12 or ECL Article 17 Title 10? If yes, please provide the order number: _____	<input type="radio"/>	<input checked="" type="radio"/>
6. Is the property subject to a state or federal enforcement action related to hazardous waste or petroleum? If yes, please provide additional information as an attachment.	<input type="radio"/>	<input checked="" type="radio"/>

**SECTION XI: Site Contact List**

To be considered complete, the application must include the Brownfield Site Contact List in accordance with *DER-23: Citizen Participation Handbook for Remedial Programs*. Please attach, at a minimum, the names and mailing addresses of the following:

- The chief executive officer and planning board chairperson of each county, city, town and village in which the property is located.
- Residents, owners, and occupants of the property and adjacent properties.
- Local news media from which the community typically obtains information.
- The public water supplier which services the area in which the property is located.
- Any person who has requested to be placed on the contact list.
- The administrator of any school or day care facility located on or near the property.
- The location of a document repository for the project (e.g., local library). **If the site is located in a city with a population of one million or more, add the appropriate community board as an additional document repository.** In addition, attach a copy of an acknowledgement from each repository indicating that it agrees to act as the document repository for the site.

## SECTION XII: Statement of Certification and Signatures

(By requestor who is an individual)

If this application is approved, I hereby acknowledge and agree: (1) to execute a Brownfield Cleanup Agreement (BCA) within 60 days of the date of DEC's approval letter; (2) to the general terms and conditions set forth in the [DER-32, Brownfield Cleanup Program Applications and Agreements](#); and (3) that in the event of a conflict between the general terms and conditions of participation and terms contained in a site-specific BCA, the terms in the site-specific BCA shall control. Further, I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

(By a requestor other than an individual)

I hereby affirm that I am General Manager (title) of Community Manufacturing Solutions, LLC (entity); that I am authorized by that entity to make this application and execute a Brownfield Cleanup Agreement (BCA) and all subsequent documents; that this application was prepared by me or under my supervision and direction. If this application is approved, I hereby acknowledge and agree: (1) to execute a Brownfield Cleanup Agreement (BCA) within 60 days of the date of DEC's approval letter; (2) to the general terms and conditions set forth in the [DER-32, Brownfield Cleanup Program Applications and Agreements](#); and (3) that in the event of a conflict between the general terms and conditions of participation and terms contained in a site-specific BCA, the terms in the site-specific BCA shall control. Further, I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law.

Date: 04/06/2024

Signature: \_\_\_\_\_

Print Name: John A. Yelle

**PLEASE REFER TO THE APPLICATION COVER PAGE AND BCP APPLICATION INSTRUCTIONS FOR DETAILS OF PAPERLESS DIGITAL SUBMISSION REQUIREMENTS.**



## FOR SITES SEEKING TANGIBLE PROPERTY CREDITS IN NEW YORK CITY ONLY

Sufficient information to demonstrate that the site meets one or more of the criteria identified in ECL 27-1407(1-a) must be submitted if requestor is seeking this determination.

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Please respond to the questions below and provide additional information and/or documentation as required. <i>Please refer to the application instructions.</i>	Y	N
1. Is the property located in Bronx, Kings, New York, Queens or Richmond County?	<input type="radio"/>	<input type="radio"/>
2. Is the requestor seeking a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit?	<input type="radio"/>	<input type="radio"/>
3. Is at least 50% of the site area located within an environmental zone pursuant to NYS Tax Law 21(b)(6)?	<input type="radio"/>	<input type="radio"/>
4. Is the property upside down or underutilized as defined below?		
Upside down	<input type="radio"/>	<input type="radio"/>
Underutilized	<input type="radio"/>	<input type="radio"/>

**From ECL 27-1405(31):**

“Upside down” shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.

**From 6 NYCRR 375-3.2(I) as of August 12, 2016** (Please note: Eligibility determination for the underutilized category can only be made at the time of application):

375-3.2:

- (I) “Underutilized” means, as of the date of application, real property on which no more than fifty percent of the permissible floor area of the building or buildings is certified by the applicant to have been used under the applicable base zoning for at least three years prior to the application, which zoning has been in effect for at least three years; and
- (1) the proposed use is at least 75 percent for industrial uses; or
- (2) at which:
- (i) the proposed use is at least 75 percent for commercial or commercial and industrial uses;
  - (ii) the proposed development could not take place without substantial government assistance, as certified by the municipality in which the site is located; and
  - (iii) one or more of the following conditions exists, as certified by the applicant:
    - (a) property tax payments have been in arrears for at least five years immediately prior to the application;
    - (b) a building is presently condemned, or presently exhibits documented structural deficiencies, as certified by a professional engineer, which present a public health or safety hazard; or
    - (c) there are no structures.

“Substantial government assistance” shall mean a substantial loan, grant, land purchase subsidy, land purchase cost exemption or waiver, or tax credit, or some combination thereof, from a governmental entity.

**FOR SITES SEEKING TANGIBLE PROPERTY CREDITS IN NEW YORK CITY ONLY (continued)**

5. If you are seeking a formal determination as to whether your project is eligible for Tangible Property Tax Credits based in whole or in part on its status as an affordable housing project (defined below), you must attach the regulatory agreement with the appropriate housing agency (typically, these would be with the *New York City Department of Housing, Preservation and Development*; the *New York State Housing Trust Fund Corporation*; the *New York State Department of Housing and Community Renewal*; or the *New York State Housing Finance Agency*, though other entities may be acceptable pending Department review).

**Check appropriate box below:**

- ☐ Project is an Affordable Housing Project – regulatory agreement attached
- ☐ Project is planned as Affordable Housing, but agreement is not yet available\*
- \*Selecting this option will result in a “pending” status. The regulatory agreement will need to be provided to the Department and the Brownfield Cleanup Agreement will need to be amended prior to issuance of the CoC in order for a positive determination to be made.
- ☐ This is not an Affordable Housing Project

**From 6 NYCRR 375-3.2(a) as of August 12, 2016:**

- (a) “Affordable housing project” means, for purposes of this part, title fourteen of article twenty-seven of the environmental conservation law and section twenty-one of the tax law only, a project that is developed for residential use or mixed residential use that must include affordable residential rental units and/or affordable home ownership units.
- (1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency’s affordable housing program, or a local government’s regulatory agreement or legally binding restriction, which defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants’ household’s annual gross income.
- (2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency’s affordable housing program, or a local government’s regulatory agreement or legally binding restriction, which sets affordable units aside for homeowners at a defined maximum percentage of the area median income.
- (3) “Area median income” means, for purposes of this subdivision, the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development, or its successor, for a family of four, as adjusted for family size.

**FOR SITES SEEKING TANGIBLE PROPERTY CREDITS IN NEW YORK CITY ONLY (continued)**

6. Is the site a planned renewable energy facility site as defined below?

☐

Yes – planned renewable energy facility site with documentation

☐

Pending – planned renewable energy facility awaiting documentation

\*Selecting this option will result in a “pending” status. The appropriate documentation will need to be provided to the Department and the Brownfield Cleanup Agreement will need to be amended prior to issuance of the CoC in order for a positive determination to be made.

☐

No – not a planned renewable energy facility site

If yes, please provide any documentation available to demonstrate that the property is planned to be developed as a renewable energy facility site.

**From ECL 27-1405(33) as of April 9, 2022:**

“Renewable energy facility site” shall mean real property (a) this is used for a renewable energy system, as defined in section sixty-six-p of the public service law; or (b) any co-located system storing energy generated from such a renewable energy system prior to delivering it to the bulk transmission, sub-transmission, or distribution system.

**From Public Service Law Article 4 Section 66-p as of April 23, 2021:**

(b) "renewable energy systems" means systems that generate electricity or thermal energy through use of the following technologies: solar thermal, photovoltaics, on land and offshore wind, hydroelectric, geothermal electric, geothermal ground source heat, tidal energy, wave energy, ocean thermal, and fuel cells which do not utilize a fossil fuel resource in the process of generating electricity.

7. Is the site located within a disadvantaged community, within a designated Brownfield Opportunity Area, and plans to meet the conformance determinations pursuant to subdivision ten of section nine-hundred-seventy-r of the general municipal law?

☐

Yes - \*Selecting this option will result in a “pending” status, as a BOA conformance determination has not yet been made. Proof of conformance will need to be provided to the Department and the Brownfield Cleanup Agreement will need to be amended prior to issuance of the CoC in order for a positive determination to be made.

☐

No

**From ECL 75-0111 as of April 9, 2022:**

(5) "Disadvantaged communities" means communities that bear the burdens of negative public health effects, environmental pollution, impacts of climate change, and possess certain socioeconomic criteria, or comprise high-concentrations of low- and moderate-income households, as identified pursuant to section 75-0111 of this article.

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

## BROWNFIELD CLEANUP PROGRAM (BCP) INSTRUCTIONS FOR COMPLETING AND SUBMITTING A BCP APPLICATION

The New York State Department of Environmental Conservation (DEC) strongly encourages all applicants to schedule a pre-application meeting with DEC staff to review the benefits, requirements, and procedures for completing a project in the BCP. Contact your [Regional Office](#) to schedule a meeting. To add a party to an existing BCP Agreement, use the [BCP Agreement Amendment Application](#).

**For further information regarding the determination of a complete application, please refer to the guidance following these instructions, as well as the [NYSDEC BCP website](#).**

### SUBMITTAL INSTRUCTIONS

- Compile the application package in the following manner:
  - one file in non-fillable portable document format (PDF) of the application form plus supplemental information, excluding the previous environmental reports and work plans, if applicable;
  - one individual file (PDF) of each previous environmental report; and,
  - one file (PDF) of each work plan being submitted with the application, if applicable.
- Compress all files (PDFs) into one zipped/compressed folder
- Submit the application to the Site Control Section either via email or ground mail, as described below.

**Please select only ONE submittal method - do NOT submit both via email and via ground mail.**

#### VIA EMAIL:

- Upload the compressed folder to the NYSDEC File Transfer Service (<https://fts.dec.state.ny.us/fts/>) or another file-sharing service.
- Copy the download link into the body of an email with any other pertinent information or cover letter attached to the email.
- Subject line of the email: *"BCP Application NEW - \*Proposed Site Name\*"*
- Email your submission to [DESiteControl@dec.ny.gov](mailto:DESiteControl@dec.ny.gov) - do NOT copy Site Control staff.

#### VIA GROUND MAIL:

- Save the application file and cover letter to an external storage device (e.g., thumb drive, flash drive). Do NOT include paper copies of the application or attachments.
- Mail the external storage device to the following address:

Chief, Site Control Section  
Division of Environmental Remediation  
625 Broadway, 11th Floor  
Albany, NY 12233-7020

SECTION I: Property Information	
<b>PLEASE NOTE</b>	<b>If any changes to SECTION I are required prior to application approval, a new page 2, initialed by each requestor, must be submitted with the revisions.</b>
<b>Proposed Site Name</b>	Provide a name for the proposed site. The name could be an owner's name, current or historical operations (i.e., ABC Furniture) or the general location of the property. Consider whether the property is known by DEC by a particular name, and if so, use that name.
<b>Site Address</b>	Provide a street address, city/town, zip code, and each municipality and county in which the site is located.
<b>Site Size</b>	Provide the approximate acreage of the site.
<b>GIS Information</b>	Provide the latitude and longitude for the approximate center of the property. Show the latitude and longitude in degrees, minutes and seconds.
<b>Tax Parcel Information</b>	Provide the tax parcel address/section/block/lot information and map. Tax map information may be obtained from the tax assessor's office for all tax parcels that are included in the property boundaries. Attach a county tax map with identifier numbers, along with any figures needed to show the location and boundaries of the property. Include a USGS 7.5-minute quad map on which the property appears and clearly indicate the proposed site's location.
<b>Tax Map Boundaries</b>	State whether the boundaries of the site correspond to the tax map boundaries. If no, a metes and bounds description of the property must be attached. The site boundary can occupy less than a tax lot or encompass portions of one or more tax lots and may be larger or smaller than the overall redevelopment/ reuse project area. A site survey with metes and bounds will be required to establish the site boundaries before the Certificate of Completion can be issued.
<b>Site Map</b>	Provide a property base map(s) of sufficient detail, clarity and accuracy to show the following: (i) map scale, north arrow orientation, date, and location of the property with respect to adjacent streets and roadways; and (ii) proposed brownfield property boundary lines, with adjacent property owners clearly identified.
<b>En-zone</b>	If any part of the site is located within an En-zone, please provide a map showing the location of the site with the En-zone overlay. For information on En-zones, please see <a href="#">DEC's website</a> . Note that new En-zone boundaries are effective January 1, 2023.
<b>Disadvantaged Communities</b>	If the site is located within a Disadvantaged Community, please provide a map showing the location of the site with the Disadvantaged Community overlay. For additional information on disadvantaged communities, please refer to the <a href="#">Climate Leadership and Community Protection Act website</a> .

**SECTION I: Property Information (continued)**

<b>Brownfield Opportunity Area (BOA)</b>	If the site is located within a NYS Department of State designated Brownfield Opportunity Area, please provide a map showing the location of the site with the BOA overlay. For more information on designated BOAs, please refer to the <a href="#">NYS DOS website</a> . Additional information on BOA conformance determinations can be found at the <a href="#">Office of Planning and Development website</a> . A BOA conformance determination cannot be made until a Decision Document has been issued for the site.
<b>Multiple Applications</b>	Generally, only one application can be submitted, and one BCA executed, for a development project. In limited circumstances, the DEC may consider multiple applications/BCAs for a development project where (1) the development project spans more than 25 acres; (2) the approach does not negatively impact the remedial program, including timing, ability to appropriately address areas of concern, and management of off-site concerns; and (3) the approach is not advanced to increase the value of future tax credits (i.e., circumvent the tax credit caps provided under New York State Tax Law Section 21).
<b>Previous BCP Applications</b>	If all or part of the proposed site has been the subject of a previous BCP application (whether accepted, denied or withdrawn), please provide the assigned DEC site number from the previous application as well as any relevant information regarding why the property is not currently in the program.
<b>Registry Listing and P-site Status</b>	If all or part of the proposed site is now or ever was listed on the Registry of Inactive Hazardous Waste Disposal Sites or is currently the subject of investigation as a Potential Site, please provide the assigned DEC site number.

## SECTION I: Property Information (continued)

### Property Description Narrative

Provide a property description in the format provided below. Each section should be no more than one paragraph long.

#### Location:

Example: "The XYZ Site is located in an {urban, suburban, rural} area." {Add reference points if address is unspecific; e.g., "The site is approximately 3.5 miles east of the intersection of County Route 55 and Industrial Road."}

#### Site Features:

Example: "The main site features include several large, abandoned buildings surrounded by former parking areas and roadways. About one quarter of the site area is wooded. Little Creek passes through the northwest corner."

#### Current Zoning and Land Use: (Ensure the current zoning is identified)

Example: "The site is currently inactive and is zoned for commercial use. The surrounding parcels are currently used for a combination of commercial, light industrial, and utility rights-of-way. The nearest residential area is 0.3 miles east on Route 55."

Past Use of the Site: include source(s) of contamination and remedial measures (site characterizations, investigations, Interim Remedial Measures, etc.) completed outside of the current remedial program (e.g., work under a petroleum spill incident).

Example: "Until 1992 the site was used for manufacturing wire and wire products (e.g., conduit, insulators) and warehousing. Prior uses that appear to have led to site contamination include metal plating, machining, disposal in a one-acre landfill north of Building 7, and releases of wastewater into a series of dry wells."

When describing the investigations/actions performed outside of the remedial program, include the major chronological remedial events that lead to the site entering a remedial program. The history should include the first involvement by government to address hazardous waste/petroleum disposal. Do not cite reports. Only include remedial activities which were implemented PRIOR to the BCA. Do not describe sampling information.

#### Site Geology and Hydrogeology:

As appropriate, provide a very brief summary of the main hydrogeological features of the site including depth to water, groundwater flow direction, etc.



## SECTION I: Property Information (continued)

<b>Environmental Assessment</b>	<p>The goal of this section is to describe the nature and extent of contamination at the site. When describing the nature of contamination, identify just the primary contaminants of concern (i.e., those that will likely drive remedial decisions/actions). If there are many contaminants present within a group of contaminants (i.e., volatile organic compounds, semi-volatile organic compounds, metals), identify the group(s) and one or two representative contaminants within the group. When addressing the extent of contamination, identify the areas of concern at the site, contaminated media (i.e., soil, groundwater, etc.), relative concentration levels, and a broad-brush description of contaminated areas/depths. The reader should be able to know if contamination is widespread or limited and if concentrations are marginally or greatly above Standards, Criteria and Guidance (SCGs) for the primary contaminants. If the extent is described qualitatively (e.g., low, medium, high), representative concentrations should be given and compared with appropriate SCGs. For soil contamination, the concentrations should be compared with the soil cleanup objectives (SCOs) for the intended use of the site.</p> <p><b>A typical Environmental Assessment would look like the following:</b></p> <p>Based upon investigations conducted to date, the primary contaminants of concern for the site include cadmium and trichloroethene (TCE).</p> <p><i>Soil</i> - Cadmium is found in shallow soil, mostly near a dry well at the northeast end of the property. TCE is found in deeper soil, predominantly at the north end of the site. Concentrations of cadmium found on site (approximately 5 ppm) slightly exceed the soil cleanup objective (SCO) for unrestricted use (2.5 ppm). Concentrations of TCE found on site (5 ppm to 300 ppm) significantly exceed the soil cleanup objectives for the protection of groundwater (0.47 ppm).</p> <p><i>Groundwater</i> - TCE and its associated degradation products are also found in groundwater at the north end of the site, moderately exceeding groundwater standards (typically 5 ppb), with a maximum concentration of 1500 ppb. A moderate amount of TCE from the site has migrated 300 feet down-gradient off-site. The primary contaminant of concern for the off-site area is TCE, which is present at a maximum concentration of 500 ppb, at 10 feet below the groundwater table near Avenue A.</p> <p><i>Soil Vapor &amp; Indoor Air</i> - TCE was detected in soil vapor at elevated concentrations and was also detected in indoor air at concentrations up to 1,000 micrograms per cubic meter.</p>
<b>Questions 15-17: New York City Sites</b>	<p>These questions pertain ONLY to sites located within the five counties comprising New York City. If the requestor is seeking a determination that the site is eligible for tangible property tax credits, this section and the <i>Supplemental Questions for Sites Seeking Tangible Property Credits in New York City</i> <b>must</b> be completed.</p>

## SECTION II: Project Description

As a separate attachment, provide complete and detailed information about the project, including the purpose of the project, the date the remedial program is to start, and the date the issuance of the Certificate of Completion is anticipated.

## SECTION III: Land Use Factors

In addition to eligibility information, site history, and environmental data/reports, the application requires information regarding the current, intended and reasonably anticipated future land use.

This information consists of responses to the "land use" factors to be considered relative to the "Land Use" section of the BCP application. The information will be used to determine the appropriate land use in conjunction with the investigation data provided, in order to establish eligibility for the site based on the definition of a "brownfield site" pursuant to ECL 27-1405(2).

This land use information will be used by DEC, in addition to all other relevant information provided, to determine whether the proposed use is consistent with the currently identified, intended and reasonably anticipated future land use of the site at this stage. Further, this land use finding is subject to information regarding contamination at the site or other information which could result in the need for a change in this determination being borne out during the remedial investigation.

<b>Zoning and Current Use</b>	Provide the current municipal zoning designation and uses permitted by that designation. Provide a summary of the current use of the site, including identifying possible contaminant source areas. If the site is no longer in use, provide the date by which operations ceased.
<b>Anticipated Use</b>	Identify the anticipated post-remediation use of the site and provide a detailed description of the specific anticipated post-remediation use as an attachment.
<b>Renewable Energy Facility Site</b>	Indicate if the post-remediation use of the site is proposed to be a renewable energy facility. A "renewable energy facility site" shall mean real property (a) this is used for a renewable energy system, as defined in section sixty-six-p of the public service law; or (b) any co-located system storing energy generated from such a renewable energy system prior to delivering it to the bulk transmission, sub-transmission, or distribution system. Section 66-p of the Public Service Law: "Renewable energy systems" means systems that generate electricity or thermal energy through use of the following technologies: solar thermal, photovoltaics, on land and offshore wind, hydroelectric, geothermal electric, geothermal ground source heat, tidal energy, wave energy, ocean thermal, and fuel cells which do not utilize a fossil fuel resource in the process of generating electricity. Provide any detailed plans or documentation to support this. Appropriate documentation must be provided as follows: for planned renewable energy facilities generating/storing less than twenty-five (25) megawatts, a local land use approval must be provided. For planned renewable energy facilities generating/storing twenty-five (25) megawatts or greater, a permit issued by the Office of Renewable Energy Siting must be provided.
<b>Compliance with Zoning Laws, Recent Development, and Community Master Plans</b>	Provide an explanation to support the responses to each of these items. Attach additional documentation if applicable.

#### SECTION IV: Property's Environmental History

For all sites, an investigation report is required that is sufficient to demonstrate the site requires remediation in order to meet the requirements of the program, and that the site is a brownfield site at which contaminants are present at levels exceeding the soil cleanup objectives or other health-based or environmental standards, criteria or guidance adopted by DEC that are applicable based on the reasonably anticipated use of the property, in accordance with applicable regulations. Required data include site drawings and data summary tables requested in Section IV, #3 of the BCP application form. Specific instructions regarding the data summary tables are attached at the end of these instructions.

#### SECTION V: Requestor Information

<b>Requestor Name</b>	<p>Provide the name of the person(s)/entity requesting participation in the BCP (if more than one, attach additional sheets with requested information). The requestor is the person or entity seeking DEC review and approval of the remedial program.</p> <p>If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear exactly as given in the <a href="#">NYS Department of State's Corporation &amp; Business Entity Database</a>. A print-out of entity information from the database must be submitted to DEC with the application, to document that the requestor is authorized to do business in NYS.</p>
<b>Address, etc.</b>	Provide the requestor's mailing address, telephone number and e-mail.
<b>LLC Information</b>	If the requestor(s) is/are an LLC, the names of the members/owners must be provided on a separate attachment.
<b>Document Certification</b>	<p>All documents, which are prepared in final form for submission to DEC for approval, are to be prepared and certified in accordance with Section 1.5 of <a href="#">DER-10</a>. Persons preparing and certifying the various work plans and reports identified in Section 1.5 include:</p> <ul style="list-style-type: none"><li>• New York State licensed professional engineers (P.E.s), as defined at 6 NYCRR 375-1.2(aj) and paragraph 1.3(b)47. Engineering documents must be certified by a P.E. with current license and registration for work that was done by them or those under their direct supervision. The firm by which the P.E. is employed must also be authorized to practice engineering in New York State;</li><li>• qualified environmental professionals as defined at 6 NYCRR 375-1.2(ak) and DER-10 paragraph 1.3(b)49;</li><li>• remedial parties, as defined at 6 NYCRR 375-1.2(ao) and DER-10 paragraph 1.3(b)60; or</li><li>• site owners, which are the owners of the property comprising the site at the time of the certification.</li></ul>

## SECTION VI: Requestor Eligibility

As a separate attachment, provide complete and detailed information in response to any eligibility questions answered in the affirmative. It is permissible to reference specific sections of existing property reports; however, it is requested that such information be summarized. For properties with multiple addresses or tax parcels, please include this information for each address or tax parcel.

<b>Volunteer Statement</b>	If a requestor whose liability arises solely as a result of ownership, operation of, or involvement with the site, submit a statement describing why you should be considered a volunteer. Be specific as to the appropriate care taken.
<b>Proof of Site Access</b>	If a requestor is not the current owner of the entirety of the site, a site access agreement <b>must be provided</b> that demonstrates that the requestor will have access to the property before signing the BCA and throughout the BCP project. Additionally, the access agreement must include language allowing the requestor the ability to place an environmental easement on the site should the requestor not be the owner at the time remediation is complete and a Track 1 cleanup has not been achieved.

## SECTION VII: Requestor Contact Information

<b>Requestor's Representative</b>	Provide information for the requestor's authorized representative. This is the person to whom all correspondence, notices, etc. will be sent, and who will be listed as the contact person in the BCA. Invoices will be sent to the representative of Applications determined to be Participants unless another contact name and address is provided with the application.
<b>Requestor's Consultant and Requestor's Attorney</b>	Provide all requested information.

## SECTION VIII: Program Fee

If the requestor is applying for a fee waiver, sufficient documentation must be provided to demonstrate financial hardship. To demonstrate financial hardship, the applicant must show that with the payment of the program fee, remediation of the brownfield site would not be economically viable. This documentation may be in the form of federal tax returns with applicable schedules, financial statements and balance sheets, proof that the applicant has waived its right to tax credits, or any other documentation deemed acceptable by the Department.

If the requestor is applying for a fee waiver based on the requestor's status as a not-for-profit entity, please provide documentation of non-profit designation.

## SECTION IX: Current Property Owner and Operator Information

<b>Owner Information</b>	Provide requested information of the current owner of the property. List <u>all</u> parties holding an interest in the property and, if the requestor is not the current owner, describe the requestor's relationship to the current owner. If the property consists of multiple parcels, be sure to include the ownership start date of each.
<b>Operator Information</b>	Provide requested information of the current operator(s). If multiple operators, attach the requested information for each operator, including the date each operator began utilizing the property.
<b>Historical Owners and Operators</b>	Provide a list of previous owners and a list of previous operators, including dates of ownership or operation and last-known addresses and phone numbers. Describe the requestor's relationship to each previous owner and operator; if no relationship, indicate "none". When describing the requestor's relationship to current and historical owners and operators, include any relationship between the requestor's corporate members and the previous owners and operators.

## SECTION X: Property Eligibility Information

As a separate attachment, provide complete and detailed information in response to the following eligibility questions answered in the affirmative. It is permissible to reference specific sections of existing property reports; however, it is requested that that information be summarized.

<b>CERCLA / NPL Listing</b>	Has any portion of the property ever been listed on the National Priorities List (NPL) established under CERCLA? If so, provide relevant information.
<b>Registry Listing</b>	Has any portion of the property ever been listed on the New York State Registry of Inactive Hazardous Waste Disposal Sites established under ECL 27-1305? If so, please provide the site number and classification. See the Division of Environmental Remediation (DER) <a href="#">website</a> for a database of sites with classifications.
<b>RCRA Listing</b>	Does the property have a Resource Conservation and Recovery Act (RCRA) TSD Permit in accordance with the ECL 27-0900 et seq? If so, please provide the EPA Identification Number, the date the permit was issued, and its expiration date. Note: for purposes of this application, interim status facilities are not deemed to be subject to a RCRA permit.
<b>Registry/RCRA Sites Owned by Volunteers</b>	If the answer to question 2 or 3 above is yes, is the site owned by a volunteer as defined under ECL 27- 1405(1)(b), or under contract to be transferred to a volunteer? Attach any information available to the requestor related to previous owners or operators of the facility or property and their financial viability, including any bankruptcy filing and corporate dissolution documentation.

## SECTION X: Property Eligibility Information (CONTINUED)

<b>Existing Order</b>	Is the property subject to an order for cleanup under Article 12 of the Navigation Law or Article 17 Title 10 of the ECL? If so, please provide information on an attachment. Note: if the property is subject to a stipulation agreement, relevant information should be provided; however, property will not be deemed ineligible solely on the basis of the stipulation agreement.
<b>Pending Enforcement Actions</b>	Is the property subject to an enforcement action under Article 27, Titles 7 or 9 of the ECL or subject to any other ongoing state or federal enforcement action related to the contamination which is at or emanating from the property? If so, please provide information as an attachment.

## SECTION XI: Site Contact List

Provide the names and addresses of the parties on the Site Contact List (SCL) and a letter from the repository acknowledging agreement to act as the document repository for the proposed BCP project. For sites located in a city with a population of one million or more, the appropriate community board must be included as an additional document repository, and acknowledgement of their agreement to act as such must also be provided.

## SECTION XII: Statement of Certification and Signatures

The requestor must sign the application or designate a representative who is authorized to sign. The requestor's consultant or attorney cannot sign the application. If there are multiple parties applying, then each requestor must sign a signature page. If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the entity's name must appear exactly as given in the NYS Department of State's Corporation & Business Entity Database.

## DATA SUMMARY TABLE INSTRUCTIONS

Data summary tables should include the following columns:

Soil Table:

Analytes > SCOs <sup>a</sup>	Detections > SCOs <sup>b</sup>	Max. Detection (ppm) <sup>c</sup>	SCO (ppm) <sup>d</sup>	Depth (ft bgs)
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Groundwater Table:

Analytes > AWQS <sup>e</sup>	Detections > AWQS <sup>f</sup>	Max. Detection (ppb) <sup>c</sup>	AWQS (ppb) <sup>g</sup>
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Soil Gas Table:

Analytes <sup>h</sup>	Total Detections	Max. Detection (ug/m3) <sup>c</sup>	Type <sup>i</sup>
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<sup>a</sup> Include all contaminants over the applicable soil cleanup objectives (SCOs). Column header should specify which SCOs are being compared to. (i.e., "RRSCOs" for Restricted Residential SCOs)

<sup>b</sup> Number of detections over applicable SCOs. Specify which SCOs are being compared to in column header.

<sup>c</sup> Maximum detection in parts per million (ppm) for soil, parts per billion (ppb) for groundwater, or micrograms per cubic meter (ug/m3) for soil gas.

<sup>d</sup> List the respective SCO. Specify which SCOs are being compared to in column header.

<sup>e</sup> Include all contaminants over Class GA Ambient Water Quality Standards (AWQS).

<sup>f</sup> Number of detections over AWQS.

<sup>g</sup> List the respective AWQS.

<sup>h</sup> Include all chlorinated volatile organic compound (VOCs) detections.

<sup>i</sup> Specify type: soil vapor, sub-slab or indoor air.



## Example Data Summary Tables

**Soil Table:**

Analytes > RR SCOs	Detections > RR SCOs	Maximum Detection (ppm)	RR SCO (ppm)	Depth (ft bgs)
Benzo(a)anthracene	3	11	1	5 – 7
Benzo(a)pyrene	4	15	1	5 – 7
Benzo(b)fluoranthene	5	15	1	5 – 7
Benzo(k)fluoranthene	1	5.3	3.9	5 – 7
Indeno(1,2,3-cd)pyrene	7	8.4	0.5	5 – 7
barium	2	967	400	0.5 – 2.5
cadmium	2	94.1	4.3	6 – 8
lead	3	1,790	400	0.5 – 2.5

**Groundwater Table:**

Analytes > AWQS	Detections > AWQS	Max. Detection (ppb)	AWQS (ppb)
Benz(a)anthracene	2	0.2	0.002
Benzo(a)pyrene	2	0.221	ND
Benzo(b)fluoranthene	2	0.179	0.002
Benzo(k)fluoranthene	2	0.189	0.002
Indeno(1,2,3-cd)pyrene	2	0.158	0.002
Tetrachloroethene (PCE)	1	12	5

**Soil Gas Table:**

Analytes	Total Detections	Max. Detection (µg/m³)	Type
Carbon tetrachloride	1	0.84	Soil vapor
Methylene chloride	1	2.6 J	Soil vapor
Tetrachloroethene	2	47	Soil vapor
Trichloroethene	1	1.2	Soil vapor
Trichlorofluoromethane	1	21	Soil vapor

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

## DETERMINATION OF A COMPLETE APPLICATION

1. The first step in the application review and approval process is an evaluation to determine if the application is complete. To help ensure that the application is determined complete, requestors should review the list of common application deficiencies and carefully read these instructions.
2. DEC will send a notification to the requestor within 30 calendar days of receiving the application, indicating whether such application is complete or incomplete.
3. An application must include the following information relative to the site identified by the application, necessary for making an eligibility determination, or it will be deemed incomplete. (Please note: the application as a whole requires more than the information outlined below to be determined complete). The application must include:
  - a. for all sites, an investigation report sufficient to demonstrate the site requires remediation in order to meet the requirements of the program, and that the site is a brownfield site at which contaminants are present at levels exceeding the soil cleanup objectives or other health-based or environmental standards, criteria or guidance adopted by DEC that are applicable based on the reasonably anticipated use of the property, in accordance with applicable regulations. Required data includes site drawings requested in Section IV, #3 of the BCP application form.
  - b. for those sites described below, documentation relative to the volunteer status of all requestors, as well as information on previous owners or operators that may be considered responsible parties and their ability to fund remediation of the site. This documentation is required for:
    - i. real property listed in the registry of inactive hazardous waste disposal sites as a class 2 site, which may be eligible provided that DEC has not identified any responsible party for that property having the ability to pay for the investigation or cleanup of the property prior to the site being accepted into the BCP; or
    - ii. real property that was a hazardous waste treatment, storage or disposal facility having interim status pursuant to the Resource Conservation and Recovery Act (RCRA) program, which may be eligible provided that DEC has not identified any responsible party for that property having the ability to pay for the investigation or cleanup of the property prior to the site being accepted into the BCP.
  - c. for sites located within the five counties comprising New York City, in addition to (a) and if applicable (b) above, if the application is seeking a determination that the site is eligible for tangible property tax credits, sufficient information to demonstrate that the site meets one or more of the criteria identified in ECL 27 1407(1-a). If this determination is not being requested in the application to participate in the BCP, the applicant may seek this determination at any time before issuance of a certificate of completion, using the BCP Amendment Application, except for sites seeking eligibility under the underutilized category.
  - d. for sites previously remediated pursuant to Titles 9, 13, or 14 of ECL Article 27, Title 5 of ECL Article 56, or Article 12 of Navigation Law, relevant documentation of this remediation.

## DETERMINATION OF A COMPLETE APPLICATION (CONTINUED)

4. If the application is found to be incomplete:
  - a. the requestor will be notified via email or phone call regarding minor deficiencies. The requestor must submit information correcting the deficiency to DEC within the 30-day review time frame; or
  - b. the requestor will receive a formal Letter of Incomplete Application (LOI) if an application is substantially deficient, if the information needed to make an eligibility determination identified in #4 above is missing or found to be incomplete, or if a response to a minor deficiency is not received within the 30-day period. The LOI will detail all of the missing information and request submission of the information. If the information is not submitted within 30 days from the date of the LOI, the application will be deemed withdrawn. In this case, the requestor may resubmit the application without prejudice.
5. If the application is determined to be complete, DEC will send a Letter of Complete Application (LOC) that includes the dates of the public comment period. The LOC will:
  - a. include an approved public notice to be sent to all parties on the Contact List included with the application;
  - b. provide instructions for publishing the public notice in the newspaper on the date specified in the letter, and instructions for mailing the notice to the Contact List;
  - c. identify the need for a certification of mailing form to be returned to DEC along with proof of publication documentation; and
  - d. specify the deadline for publication of the newspaper notice, which must coincide with, or occur before, the date of publication in the Environmental Notice Bulletin (ENB).
    - i. DEC will send a notice of the application to the ENB. As the ENB is only published on Wednesdays, DEC must submit the notice by the Wednesday before it is to appear in the ENB.
    - ii. The mailing to parties on the Contact List must be completed no later than the Tuesday prior to ENB publication. If the mailings, newspaper notice and ENB notice are not completed within the timeframes established by the LOC, the public comment period on the application will be extended to ensure that there will be the required comment period.
    - iii. Marketing literature or brochures are prohibited from being included in mailings to the Contact List.

# Brownfield Cleanup Program Application

**Location:**

115 Broadway  
Hamlet of Port Ewen, Town of Esopus  
Ulster County, New York

**Prepared for:**

Community Manufacturing Solutions, LLC  
P.O. Box 903  
Rifton, New York 12471

LaBella Project No. 2223878

Revised Submittal: April 22, 2024      Third Submittal



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## Property Description Narrative (Section I, Item 14)

**Location:** The Community Manufacturing Solutions Site is located in a mixed-use, suburban area on the eastern side of Broadway (aka Route 9W). The commercially zoned Site is approximately 900 feet west of the Hudson River and approximately 2,100 feet southeast of Rondout Creek. The Site consists of a 3.53-acre parcel identified as Section 56.52., Block, Lot 14.

**Site Features:** The eastern-central portion of the Site is developed with a high, one-story commercial/light manufacturing building and a contiguous three-story office structure. The southern-central portion of the Site contains a one-story garage building. Exterior portions of the Site consist of: paved access drives and parking areas on its northeastern, eastern, and southern central portions; maintained yard areas to the north and west of the main building; and wooded areas near the southern and southeastern Site boundaries.

**Current Zoning and Land Use:** The commercial Site is currently inactive and zoned for General Commercial- (GC). The surrounding parcels are a combination of residential, commercial, and institutional properties (e.g., Town of Esopus Library). A multi-family residential property (Riverview on the Hudson) adjoins the Site to the east and northeast. Nearby properties to the south are predominately single-family residences. The site is NOT located in NYS Department of Labor En-Zone. The site is located in a Climate Justice Working Group Disadvantaged Community.

**Past Use of the Site:** According to available information the Site was first developed in 1970 when the current on-site building was constructed. Past occupants include Dana Manufacturing (a portable stove and heater production facility) and JC Metal Spinning (a reported machine shop with lathes). The Site was used as a microfilm services facility (with on-site film development) from circa 1984 until 2002. On-site microfilm services were subsequently limited to preservation and storage until 2022 when Community Manufacturing Solutions took title to the property. At present there is no active commercial use operating at the property.

No known remedial activities were performed at the Site by the prior owner; however, previous environmental investigations on behalf of the current owner/applicant identified chlorinated solvents in soil and groundwater at concentrations above NSYDEC Unrestricted Use Soil Cleanup Objectives (USCOs) and Technical and Operational Guidance Series (TOGS) groundwater standards (GS), respectively. The Site is identified as a NYSDEC Class "P" site (ID# 356063) for known contamination that could make it eligible for consideration to be listed on the Registry of Inactive Hazardous Waste Disposal Sites (commonly referred to as the list of State Superfund Sites). A 550-gallon fuel oil aboveground storage tank (AST) was removed in February 2022. The AST was reportedly installed to replace a 1,000-gallon fuel oil underground storage tank (UST) that was removed in 2010. No active spill events have been reported at the Site since applicant took ownership.

**Site Geology and Hydrogeology:** Soils identified at the Site generally consisted of poorly sorted sand, silt, mixtures overlying dense clays at depths ranging from 6.5 to 22.5 feet. Depth to groundwater varied from approximately 3 to 12 feet below the ground surface. Groundwater flow across the Site is generally to the northwest toward the Hudson River with some local variations. Bedrock was not encountered in borings.

## Environmental Assessment:

Based upon investigations conducted to date, the primary contaminants of concern for the site include chlorinated volatile organic compounds (VOCs).

- **Soil:** Six (6) soil samples were collected during a Phase II investigation conducted at the Site. Two VOCs were detected at concentrations above USCOs. cis-1,2-dichloroethylene (cis-DCE) was detected at 3.2 milligrams per kilogram ([mg/kg] USCO 0.25 mg/kg) and vinyl chloride was detected at 0.11 mg/kg (USCO 0.02 mg/kg). Other VOCs, SVOCs, and metals were either non-detect or were detected at concentrations lower than their unrestricted use guidance values. Thirty-one soil samples were collected from fourteen (14) soil borings during a preliminary property characterization conducted at the Site. Three (3) soil samples contained chlorinated VOCs at concentrations above USCOs as follows: tetrachloroethene (PCE) in one sample at 17 mg/kg (USCO 1.3 mg/kg); trichloroethene (TCE) in one sample at 14 mg/kg (USCO 0.47 mg/kg); DCE in three samples at maximum concentration of 1.4 mg/kg (USCO 0.25 mg/kg); and, vinyl chloride in one sample at 0.04 mg/kg (USCO 0.02 mg/kg).
- **Groundwater:** One (1) groundwater sample was collected from a temporary monitoring well during the Phase II investigation. Six chlorinated VOCs were detected at concentrations above the GS. 1,1-dichloroethylene (1,1-DCE) was detected at 4.4 micrograms per liter ([µg/L] GS 0.7 µg/L); cis-DCE at 2,900 µg/L (GS 5.0 µg/L); PCE at 940 µg/L (GS 5.0 µg/L); trans-1,2-dichloroethylene (trans-DCE) at 98 µg/L (GS 5.0 µg/L); TCE at 1,300 µg/L (GS 5.0 µg/L); and, vinyl chloride at 340 µg/L (GS 2.0 µg/L).

Six (6) groundwater monitoring wells were installed during the preliminary property characterization. Five groundwater samples contained chlorinated VOCs at concentrations above the GS. 1,1-DCE was detected in one sample at 6.0 µg/L (GS 0.7 µg/L); cis-DCE in four samples, maximum concentration of 520 µg/L (GS 5 µg/L); PCE in five samples, maximum concentration of 310 µg/L (GS 5 µg/L); trans-DCE in one sample at 98 µg/L (GS 5 µg/L); TCE in three samples, maximum concentration of 1,000 µg/L (GS 5 µg/L); and, vinyl chloride in one sample at 340 µg/L (GS 2.0 µg/L).

One of six groundwater samples was analyzed for per- and polyfluoroalkyl substances (PFAS) during the preliminary site characterization. Perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) were detected at concentrations less than the NYSDEC Interim Guidance Values of 10 ppt. Remaining PFAS results included two detected compounds with no established guidance values. 1,4-dioxane was not detected.

- **Indoor and Outdoor Air:** Four indoor air samples and one outdoor air sample were collected during the Phase II investigation. Elevated levels of chlorinated VOCs were detected including: PCE at a maximum concentration of 30 micrograms per cubic meter (µg/m<sup>3</sup>), and TCE at a maximum concentration of 5.6 µg/m<sup>3</sup>. Elevated levels of petroleum-related VOCs were also detected.



- **Soil Vapor:** Two soil vapor samples and one outdoor ambient air sample were collected during the preliminary site characterization. Eleven VOCs were detected in soil vapor samples that were not detected in the outdoor air (AO) sample. VOCs were detected in each soil vapor sample at concentrations above the outdoor air sample's value. PCE was detected at 96.9 and 42.2  $\mu\text{g}/\text{m}^3$  (AO 0.51  $\mu\text{g}/\text{m}^3$ ). Four VOCs with no established guidance levels were detected at levels above the AO value.

## Project Description Narrative (Section II)

A conceptual plan for the proposed project is currently being developed. The project is expected to now include demolition of the large building and commercial redevelopment. At present it is anticipated that the commercial property will maintain its former use (prior to being vacated) as a light manufacturing/commercial development site. However, the Applicant wishes to maintain flexibility as to the specific future use of the property based in part upon the site investigation data to be gathered as part of the BCP remedial investigation process; such that there could be a restricted-residential use complementary to commercial redevelopment. In such an event the soil cleanup objective would be tied to the use of the property.

The remedial program is anticipated to include removal of soil and fill material to address the chlorinated VOC impacts to soil and groundwater, including installation of a sub slab depressurization system on any building to be occupied. The Applicant expects, with DEC approval, to conduct remedial activities concurrently and in conjunction with Site redevelopment. The Applicant's goal is to be a Volunteer under the BC Program and to begin investigation activity in the Spring/Summer of 2024, depending on BCP status. The goal is to have the Certificate of Completion issued in the Fall of 2025.

## Land User Factors (Section III)

1. **Zoning and Current Use:** The Site has been vacant and inactive since 2022 and is zoned for General Commercial Use (GC). The GC zoning designation was established to allow for a wide range of business uses along Route 9W and within the more urban hamlet of Port Ewen to serve not only Town residents but also through traffic and visitors as well. Applicable development standards are intended to provide adequate parking, separation of access drives and protection to adjacent residential areas. The proposed project is consistent with zoning.
2. **Anticipated Use:** The proposed project would redevelop the Site for light manufacturing/commercial use; with the understanding that restricted residential use could be considered complementary to commercial redevelopment once data is generated during the remedial investigation process.
3. **Compliance with Zoning Laws, Recent Development, and Community Master Plans:** The proposed project is consistent with zoning laws and the Town of Esopus' Comprehensive Plan as it will be conducive to locally owned businesses, create new employment, redevelop a vacant manufacturing property while remediating existing impacts from prior operations at the property, and provide associated adequate parking for the development.

## Requestor Information (Section V)

**2. Requester is an LLC. NYS Department of State Entity Information for Community Manufacturing Solutions, LLC is attached.**

Community Manufacturing Solutions  
BCP Application

Community Manufacturing Solutions, LLC	101 Woodcrest Drive	Current Owner	5/19/2022
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**3. Requester is an LLC. The names of the members/owners are provided below:**

Community Manufacturing Solutions, a Bruderhof LLC Company		Community Holdings LLC which has a sole member, Church Stewardship Inc., a 501[c](3) non-profit entity of the Bruderhof which contributes to and carries out charitable initiatives both in the Hudson valley and further afield.
		•
		•
		•

Requestor Eligibility (Section VI)

13. If the requestor is a volunteer, is a statement describing why the requestor should be considered a volunteer attached?

Community Manufacturing Solutions, LLC took title to the property in May 19, 2022. The current owner Applicant is not and never was associated with prior owners Preservation Ridge, LLC (2015 to 2022), Sagitt Realty Corp. f/k/a Medrex, Ltd. (1983-2015), John Campola (1971-1983), or John Campola and Andres Vestergaard (1967-1973). The Applicant had no role in causing or contributing to the contamination conditions that it has discovered during its due diligence evaluation of the property.

After Applicant initiated its due diligence assessment of the property, it identified and reported the detection of contamination to the DEC and then voluntarily entered into an Administrative Agreement/Order on Consent with the DEC under Article 27, Title 13 to govern the investigation and cleanup of the property.

The preliminary data confirmed that there were subsurface contaminant conditions that would preclude the immediate use of the building that had been planned by Applicant and also confirmed that the investigation and cleanup process for the property could be more expensive than first anticipated.

Because of the data reflecting detectable concentrations of contaminants in multiple locations on the property and having a better evaluation of the property, Applicant requested that the DEC allow it to transition from the Title 13 Order on Consent that it had earlier signed to the Title 14 BCP, BCA as a Volunteer. This transition seemed particularly applicable to the Applicant's status and desire to reuse the property for commercial use, possibly coordinated with a restricted residential use if supported by subsurface data to be gathered during the site investigation to be conducted under the BCP. Attached hereto is the initial inquiry and notice to the Department requesting the transition from Title 13 to Title 14. Please see the attached

Community Manufacturing Solutions  
BCP Application

January 2, 2024 letter from Young/Sommer LLC to NYSDEC Office of General Counsel explaining the Requestor eligibility.

Community Manufacturing Solutions, LLC	101 Woodcrest Drive	Current Owner	5/19/2022
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### Proof of Site Access

14. The Applicant is the owner of the property and has control and oversight of the property. As such it has access and has the right to also grant access to the Department. Attached hereto is the title to the property.

### Current Property Owner and Operator Information (Section IX)

NYSDEC's letter dated October 27, 2022, requests a list of previous owners/operators including last known contact information, relationship to requestor, and dates of ownership/operation. These tables are provided below.

Previous Owner	Last Known Contact Information	Relationship to Requestor	Dates of Ownership
Community Manufacturing Solutions, LLC	101 Woodcrest Drive	Current Owner	5/19/2022
PRESERVATION RIDGE LLC	PO Box 640 Port Ewen NY 12466	None	2015-2022
Sagitt Realty, Corp. f/k/, Medrex, Ltd.	PO Box 698 Port Ewen NY 12466	None	1983-2015
John Campola	Deceased	None	1971-1983
John Campola and Andres Vestergaard	Deceased	None	1967-1973
Known Operators	Last Known Contact Information	Relationship to Requestor	Dates Operated
Hudson Microimaging Inc. aka Hudson Archival, Hudson Archival Services	115 Broadway, Port Ewen, NY 12466	None	2002-2022
Dana Manufacturing	115 Broadway, Port Ewen, NY 12466	None	Prior to 1982

## Project Contacts and Locations of Reports and Information

### Site Contact List

NYSDEC	NYSDOH
New York State Department of NYSDEC Central Office 625 Broadway Albany, NY 12233-0001	New York State Department of Health Empire State Plaza Corning Tower Room 1787 Albany, NY 12237

*Table B-1: Chief Executive Officers and Planning Board Chairpersons*

Department	Street Address
Dennis Doyle, Ulster County Planning Department Director	244 Fair Street, 3rd Floor Kingston, NY 12401
Roxanne Pecora, Esopus Planning Board Chairperson	1 Town Hall Way, Ulster Park NY 12487
Danielle Freer, Esopus Town Supervisor	1 Town Hall Way, Ulster Park NY 12487
Holly Netter, Esopus Town Clerk	1 Town Hall Way, Ulster Park NY 12487

*Table B-2: Media*

	Department	Street Address	City/Town	State	Zip Code
Television	Channel 10 WTEN (ABC)	341 Northern Boulevard	Albany	NY	12204
	Channel 13 WNYT (NBC)	15 North Pearl Street	Albany	NY	12207
	WMHT Public Television (PBS)	4 Global View, Troy, NY	Troy	NY	12180
	WRGB CBS 6	1400 Balltown Rd, Schenectady, NY	Schenectady	NY	12309
	Channel 23 WXXA (Fox)	28 Corporate Circle	Albany	NY	12203
Radio	WGHQ 920 AM	82 John Street	Kingston	NY	12401
	WAMK 90.9 FM	318 Central Avenue	Albany	NY	12206

Community Manufacturing Solutions  
BCP Application

	WAMC 1400 AM	318 Central Avenue	Albany	NY	12206
<b>Publications/ Websites</b>	Daily Freeman	115 Green St, Suite 1 Mailing: P.O. Box 4470	Kingston	NY	12401

Table B-3: Public Water Supplier

Public Water Supplier	Street Address	Phone and Fax
Port Ewen Water/Sewer District	Roger Mabie Water Treatment Plant 131 River Road Ulster Park, NY 12487	Phone: 845-331-5900 Fax: 845-331-5981

Table B-4: No schools or day care facilities were identified within 2,000 feet of the Site.

Table B-5: Properties Adjoining the Site (also shown on Attached Figure 1B)

Property Owner	Address	Parcel number	Direction from site
Town of Esopus	North Broadway right-of-way and undeveloped land	N/A	Northern Adjoining
Riverview on the Hudson	1 Riverview through 34 Riverview, Port Ewen, NY 12466	56.52-1-38.1 through 56.52-1-38.34	Eastern Adjoining
Town of Esopus Library	128 Canal St Port Ewen NY 12466	56.52-1-15.110	Southern Adjoining
Town of Esopus	Broadway/Route 9W right-of-way and undeveloped land	N/A	Western Adjoining
Mary Pulvirenti	114 Broadway/Route 9W Port Ewen NY 12466	56.52-3-6	Western Adjoining (across Broadway/ Route 9W)

Community Manufacturing Solutions  
BCP Application

## List of Figures and Attachments

- 1a – USGS Topographic Map
- 1b – Tax Map with Adjoining Property Owner Names
- 1c – Site Redevelopment Plan
- 1d - Site Sketch Plan
- 2 – Site Survey
- 3 – Soil Vapor Sample Locations with Results Callouts Added
- 4 – Indoor Air Sample Locations with Results
- 5 – Soil Sample Results with Comparisons to NYSDEC Part 375 Soil Cleanup Objectives for Unrestricted Use
- 6 – Groundwater Sample Results with Comparisons to NYSDEC Groundwater Quality Standards
- 7 – Groundwater Elevation
- Contours
- 8 – Data Summary Tables
- 9 – En-Zone Map with Site Location
- 10 – Disadvantaged Communities Map with Site Location
- 11 – Esopus Library Letter of Acknowledgement
- 12 – Agreement Signatory Authority Documentation
- 13 – NYSDOS Verification of Corporation
- 14 – January 2, 2024 Requestor Eligibility Letter





N



USGS Topographic Quadrangle Map – Kingston East, New York



**SITE: 115 Broadway**  
Hamlet of Port Ewen  
Town of Esopus  
Ulster County, New York

**FIGURE 1A**

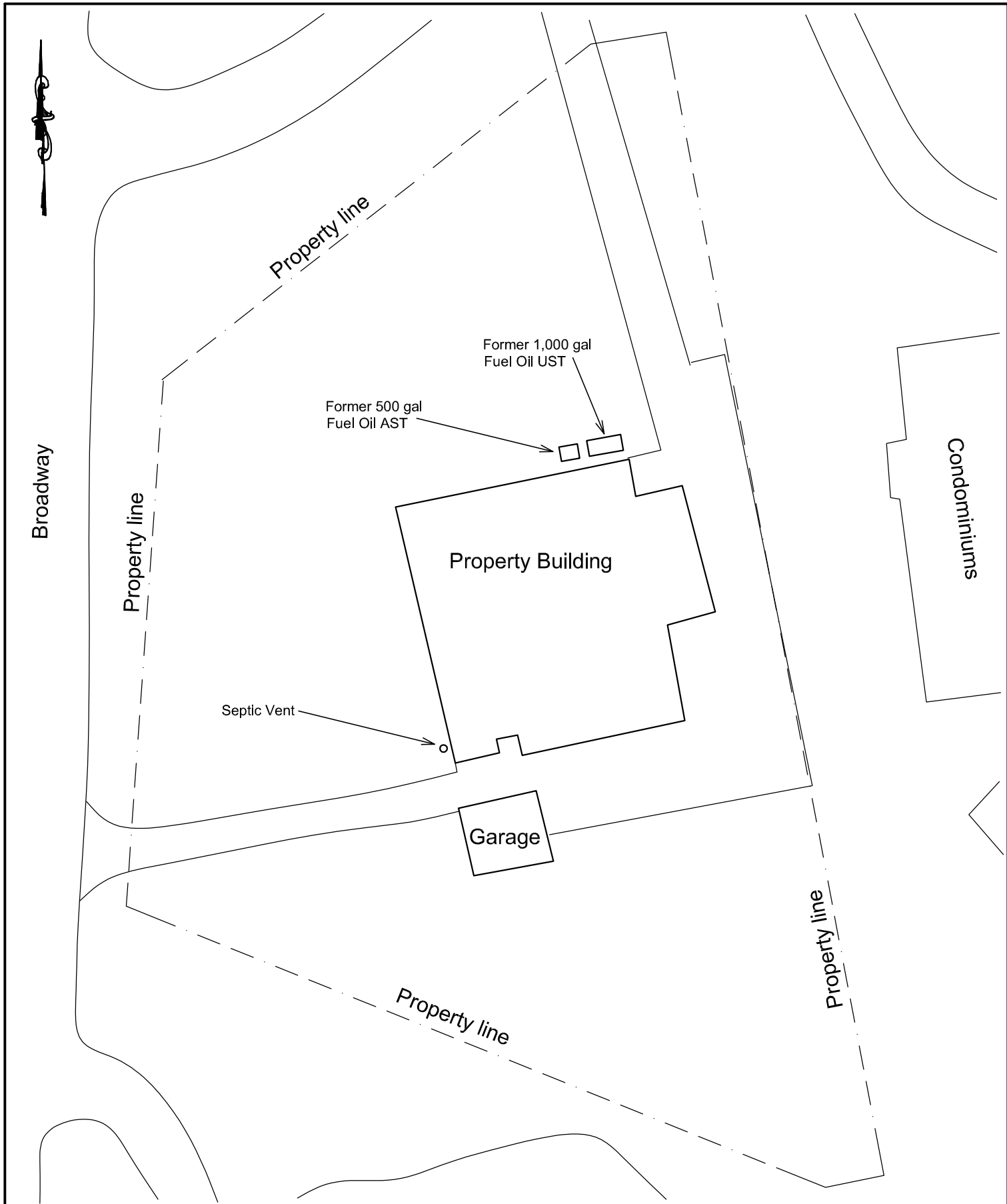
Property  
Location  
w/USGS Topo  
Map





#### Figure 1C – Site Re-Development Plan

The proposed project would redevelop the Site for light manufacturing/commercial use; with the understanding that restricted residential use could be considered complementary to commercial redevelopment once data is generated during the remedial investigation process. The applicant wishes to maintain flexibility as to the specific future use of the property based in part upon the site investigation data to be gathered as part of the BCP remedial investigation process; such that there could be a restricted-residential use complementary to commercial redevelopment. In such an event the soil cleanup objective would be tied to the use of the property.



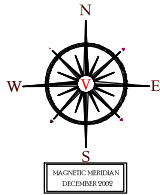
SITE: Comm. Manufacturing Solutions, LLC  
115 Broadway  
Port Ewen, Town of Esopus  
Ulster County, New York

Figure 1D

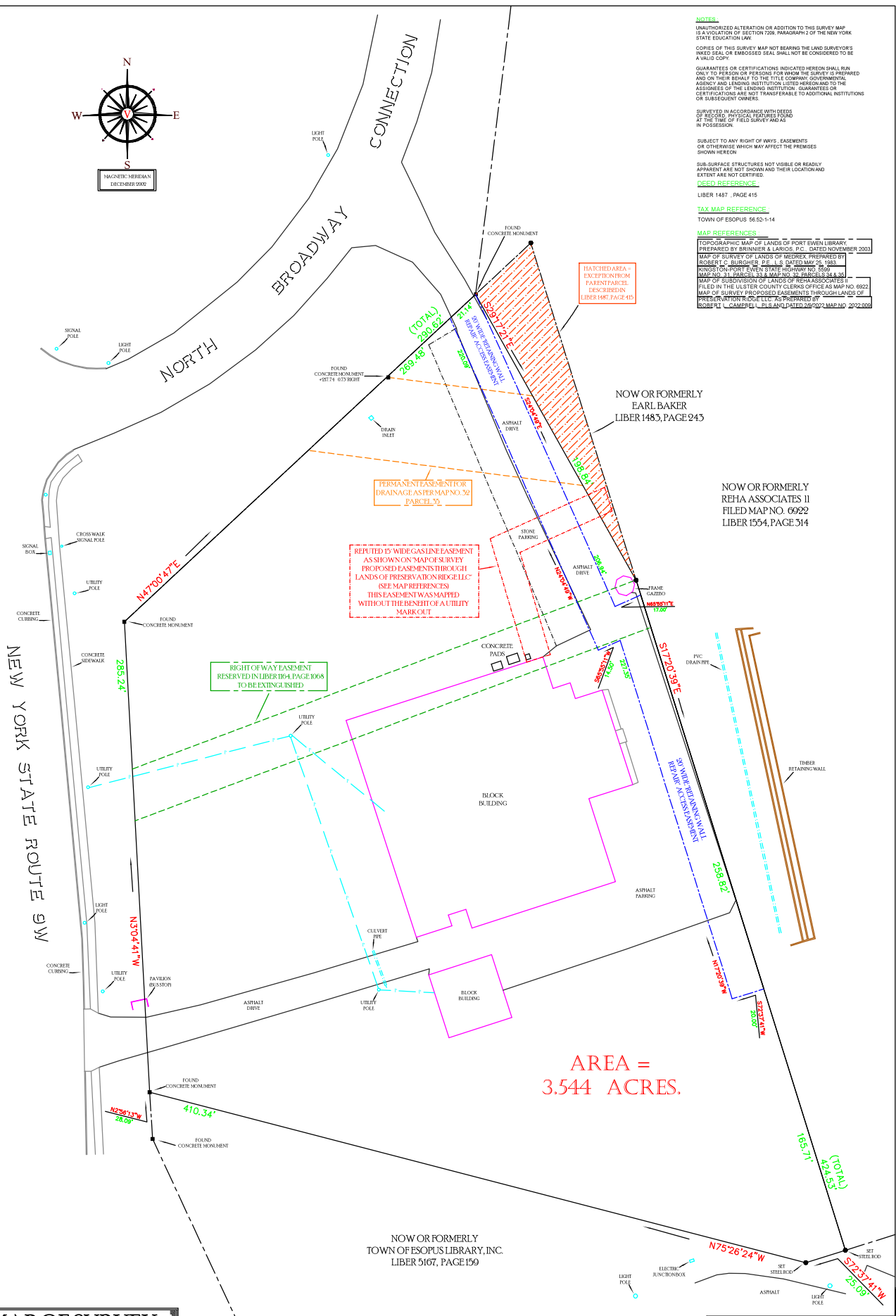
Date: September 2022

0 (approx scale) 70  
feet

## Site Sketch Plan



**NOTES:**  
UNAUTHORIZED ALTERATION OR ADDITION TO THIS SURVEY MAP IS A VIOLATION OF SECTION 200, PARAGRAPHS 1 OF THE NEW YORK STATE EDUCATION LAW.  
COPIES OF THIS SURVEY MAP NOT BEARING THE LAND SURVEYOR'S INKED SEAL OR EMBOSSED SEAL, SHALL NOT BE CONSIDERED TO BE A VALID COPY.  
GUARANTEES OR CERTIFICATIONS INDICATED HEREON SHALL RUN ONLY TO PERSON OR PERSONS FOR WHOM THE SURVEY IS PREPARED AND ON THEIR BEHALF TO THE TITLE COMPANY, GOVERNMENT AGENCY AND LENDING INSTITUTION LISTED HEREON AND TO THE ASSIGNEES OF THE LENDING INSTITUTION. GUARANTEES OR CERTIFICATIONS ARE NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS.  
SURVEYED IN ACCORDANCE WITH DEEDS OF RECORD. PHYSICAL FEATURES FOUND AT THE TIME OF FIELD SURVEY AND AS SHOWN HEREON.  
SUBJECT TO ANY RIGHT OF WAY, EASEMENTS OR OTHERWISE WHICH MAY AFFECT THE PREMISES SHOWN HEREON.  
SUB-SURFACE STRUCTURES NOT VISIBLE OR READILY APPARENT ARE NOT SHOWN AND THEIR LOCATION AND EXTENT ARE NOT CERTIFIED.  
**DEED REFERENCE**  
LIBER 1487, PAGE 415  
**TAX MAP REFERENCE**  
TOWN OF ESOPUS 56.52-1-14  
**MAP REFERENCES**  
TOPOGRAPHIC MAP OF LANDS OF PORT EWEEN LIBRARY, PREPARED BY BRINNER & LAROS, P.C., DATED NOVEMBER 2003.  
MAP OF SURVEY OF LANDS OF MEDREX, PREPARED BY ROBERT C. BURCHER, P.E., L.S., DATED MAY 25, 1983.  
JUNCTION OF PORT EWEEN STATE HIGHWAY 2509, MAP NO. 31, PARCELS 33 & 34, MAP NO. 39, PARCELS 34 & 35.  
MAP OF SUBDIVISION OF LANDS OF REHA ASSOCIATES II, FILED IN THE ULSTER COUNTY CLERK'S OFFICE AS MAP NO. 6922.  
MAP OF SURVEY PROPOSED EASEMENTS THROUGH LANDS OF PRESERVATION RIDGE, LLC, AS PREPARED BY ROBERT C. BURCHER, P.E., L.S., DATED 05-07-2010, MAP NO. 2702-000.



MAP OF SURVEY  
PREPARED FOR

COMMUNITY MANUFACTURING  
SOLUTIONS, LLC

TOWN OF ESOPUS  
SCALE 1"=50'

ULSTER COUNTY, N.Y.  
APRIL 8, 2022

# PRELIMINARY COPY NO.5

- I HEREBY CERTIFY THIS SURVEY TO:
- 1.) COMMUNITY MANUFACTURING SOLUTIONS, LLC.
  - 2.) PRESERVATION RIDGE, LLC.
  - 3.) FIDELITY NATIONAL TITLE INSURANCE COMPANY.
  - 4.) HILL-N-DALE ABSTRACTERS, INC.

MAP NO. 3775

VETERE LAND SURVEYING, PLLC  
LICENSED PROFESSIONAL LAND SURVEYOR

943 ULSTER  
LANDING ROAD  
SAUGERTIS, NY 12477

MICHAEL C. VETERE

LICENSE NO. 50960

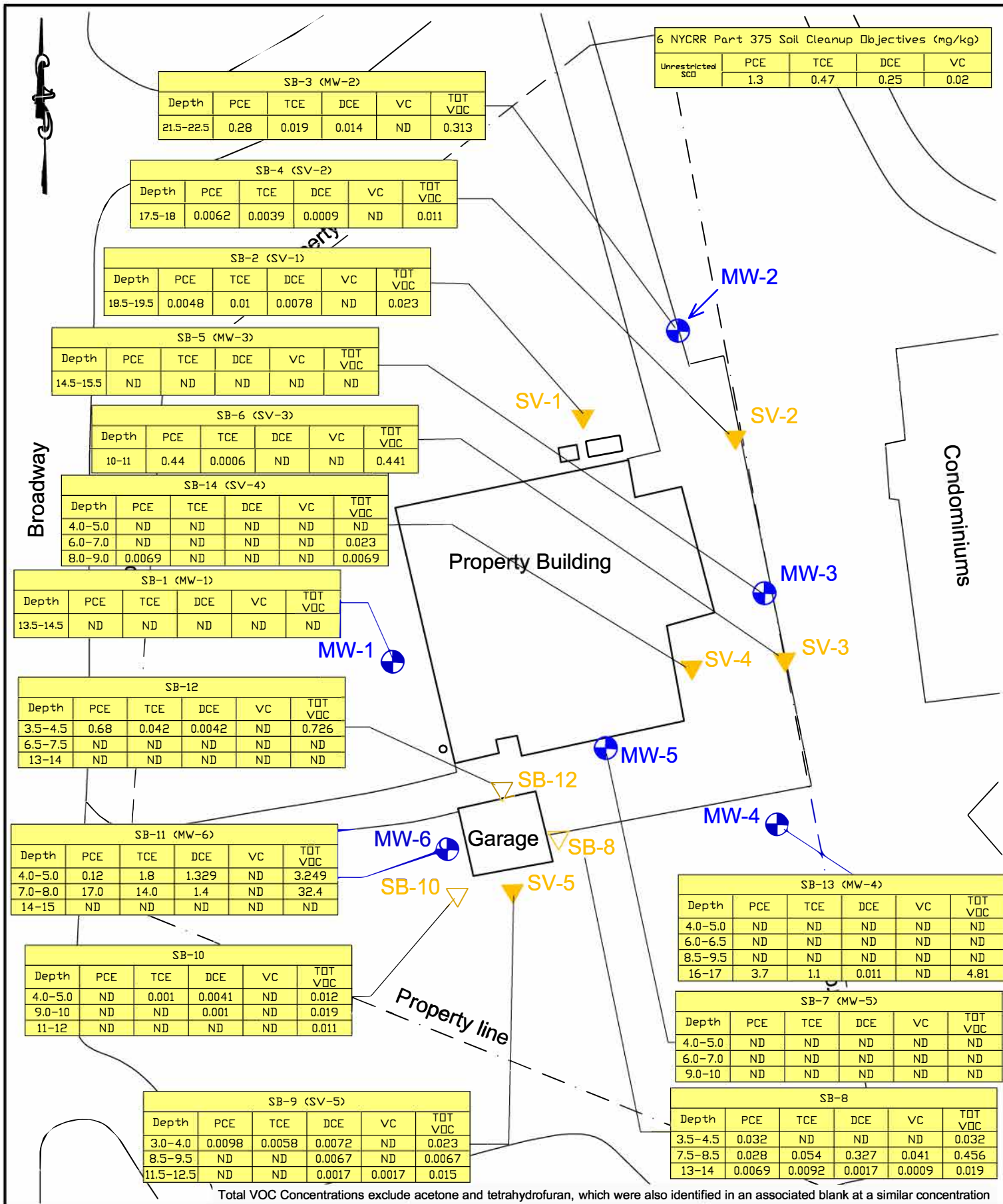




Figure 4

0 (approx scale) 70  
feet

 Indoor Air Sampling Location (approx)



SITE: Comm. Manufacturing Solutions, LLC  
115 Broadway  
Port Ewen, Town of Esopus  
Ulster County, New York

Figure 5

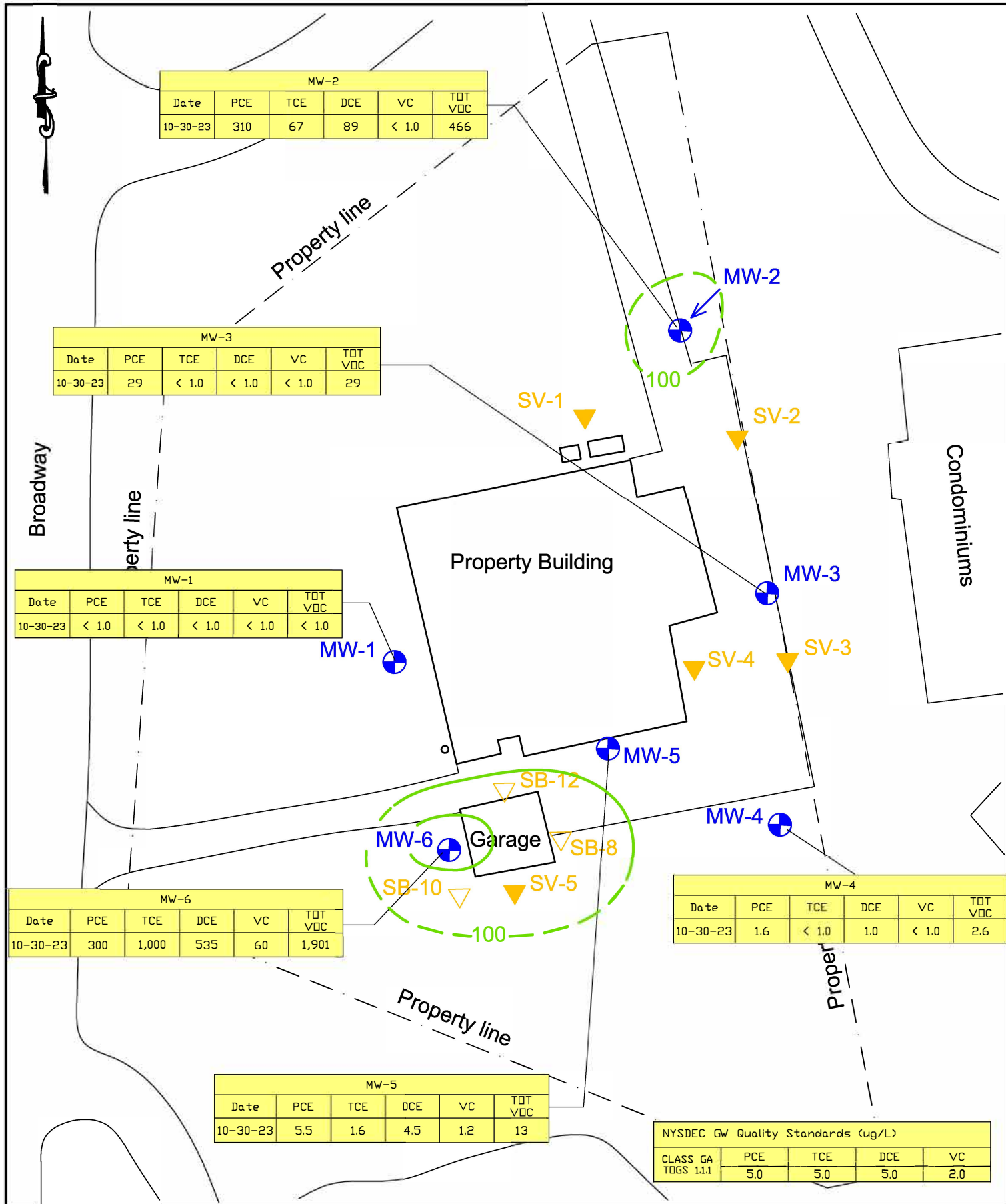
Date: 10-24-2023

0 (approx scale) 70  
feet

## Soil Analytical Results August, 2023

Concentrations in mg/kg

▽ Soil Boring      ⊕ Monitoring Well  
▼ Soil Vapor Sampling Location



SITE: Comm. Manufacturing Solutions, LLC  
115 Broadway  
Port Ewen, Town of Esopus  
Ulster County, New York

Figure 6

Date: 10-30-2023

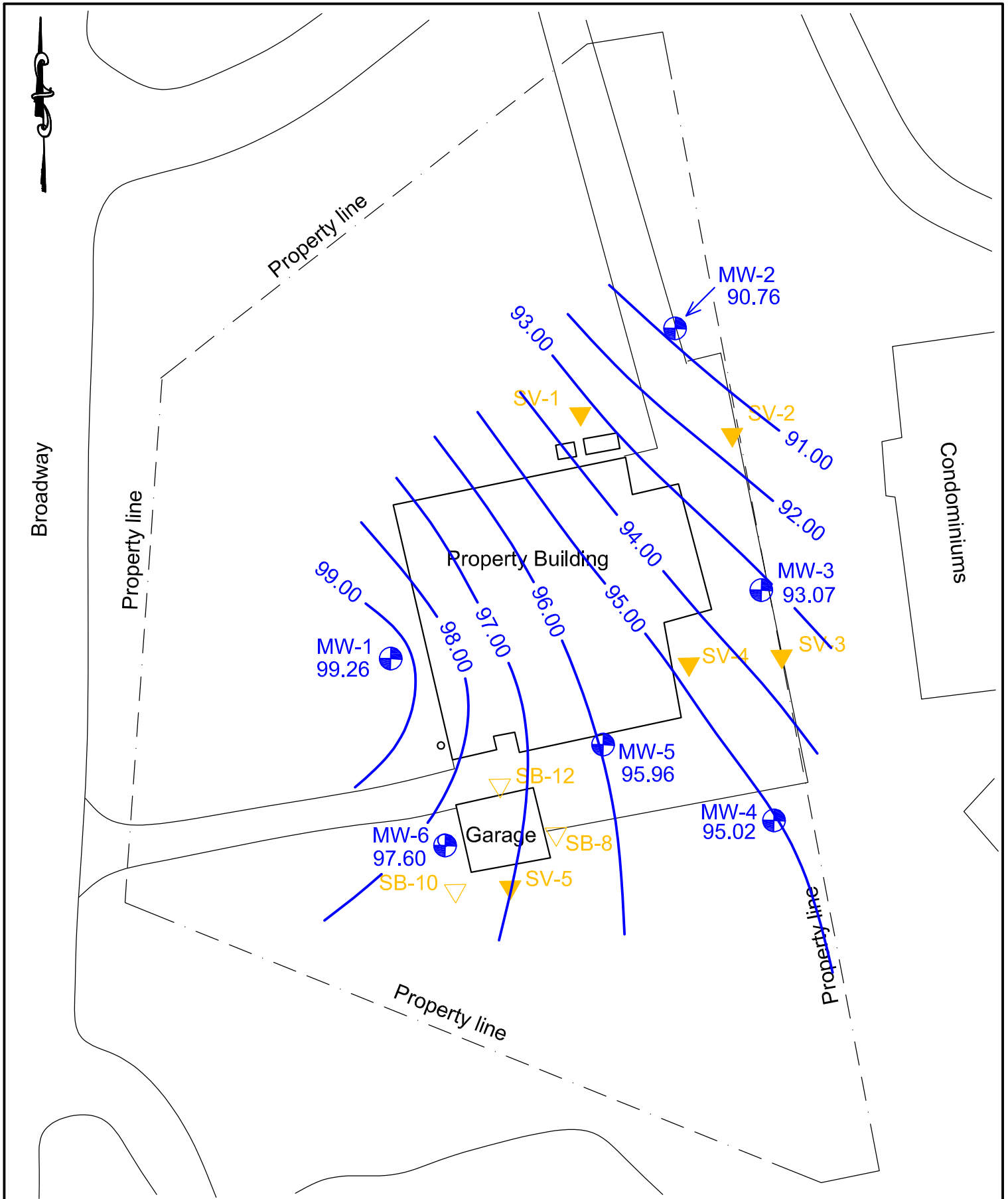
0 (approx scale) 70  
feet

**Groundwater Analytical Results**  
**PCE and Related Degradation By-Products**  
**October 30, 2023**

Concentrations in ug/L

- ▽ Soil Boring
- ⊕ Monitoring Well
- ▽ Soil Vapor Sampling Location





SITE: Comm. Manufacturing Solutions, LLC  
 115 Broadway  
 Port Ewen, Town of Esopus  
 Ulster County, New York

Figure 7

Date: 10-30-2023

0 (approx scale) 70  
 feet

### Groundwater Elevation Contours October 30, 2023

- ▽ Soil Boring
- ⊕ Monitoring Well
- ▽ Soil Vapor



Analytical Data Summary Tables  
Community Manufacturing Solutions  
115 Broadway/Route 9W  
Port Ewen, New York

**Soil Table:**

Analyte Exceeding Unrestricted Soil Cleanup Objectives (SCOs)	# Detections Exceeding Unrestricted SCOs	Max Detection (ppm)	Unrestricted SCO (ppm)	Sample Depth (ft bgs)
Acetone*	2	0.06	0.05	6.0 - 12.5
cis-1,2-Dichloroethene	3	1.4	0.25	7.0 - 8.0
Tetrachloroethene	2	17	1.3	7.0 - 8.0
Tetrahydrofuran*	16	0.01	NA	3.0 - 22.5
Trichloroethene	3	14	0.47	7.0 - 8.0
Vinyl chloride	1	0.04	0.02	7.5 - 8.5
<b>Notes</b> SCO = Soil Cleanup Objective per 6NYCRR part 376-6.8(a) * indicates that Acetone and Tetrahydrofuran were also identified in an associated blank sample at a similar concentration				

**Groundwater Table: Volatile Organic Compounds**

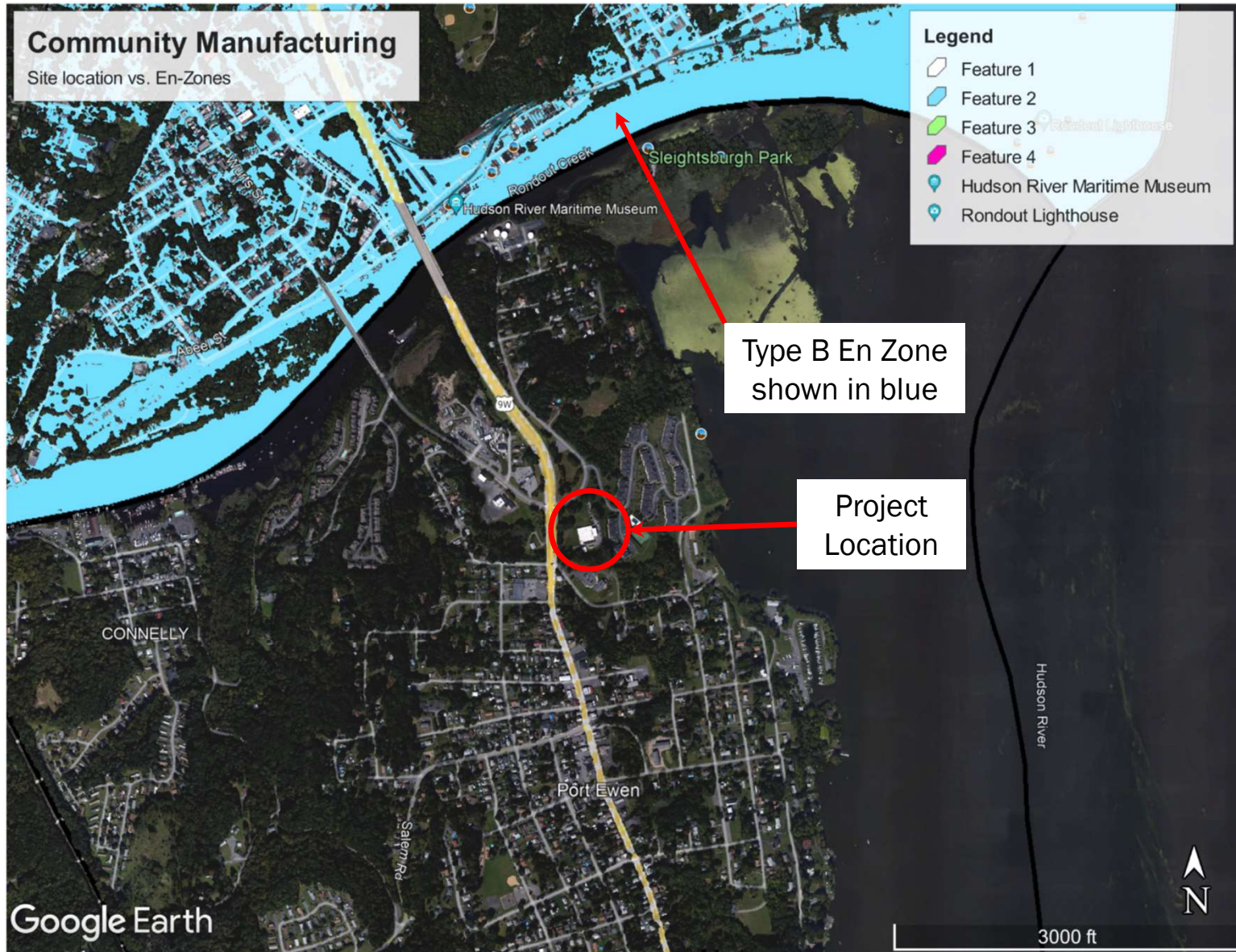
Analyte Exceeding Ambient Water Quality Standards (AWQS)	# Detections Exceeding AWQS	Max Detection (ppb)	AWQS (ppb)
1,1-Dichloroethene	1	6.0	5.0
cis-1,2-Dichloroethene	3	520	5.0
Tetrachloroethene	5	310	5.0
trans-1,2-Dichloroethene	1	15	5.0
Trichloroethene	3	1,000	5.0
Vinyl chloride	1	60	2.0
<b>Notes</b> AWQS = Ambient Water Quality Standards per TOGS 1.1.1 as amended			

**Groundwater Table: Semi-Volatile Organic Compounds**

Analyte Exceeding Ambient Water Quality Standards (AWQS)	# Detections Exceeding AWQS	Max Detection (ppb)	AWQS (ppb)
Benzo(a) anthracene	7	0.16	0.002
Benzo(a) pyrene	7	0.10	ND
Benzo(b) fluoranthene	7	0.30	0.002
Benzo(k) fluoroanthene	7	0.21	0.002
Chrysene	7	0.15	0.002
Indeno(1,2,3-cd) pyrene	7	0.20	0.002
<b>Notes</b> AWQS = Ambient Water Quality Standards per TOGS 1.1.1 as amended ND = Non-detectable			

**Soil Vapor Table:**

Analyte Detected	# Detections Outdoor Air	Max Detection Outdoor Air (ppb)	# Detections Soil Vapor	Max Detection Soil Vapor (ppb)
1,1,1-Trichloroethane			1	2.16
1,2,4-Trimethylbenzene			2	1.29
4-Ethyltoluene			1	1.11
4-Methyl-2-pentanone (MIBK)			1	1.01
Acetone	1	9.21	2	38.50
Benzene			1	1.71
Carbon Tetrachloride	1	0.45	2	0.38
Chloroform			1	1.91
Chloromethane	1	1.21		
cis-1,2-Dichloroethene			1	1.92
Dichlorodifluoromethane	1	2.34	2	2.11
Ethanol	1	12.30	2	72.9
Isopropyl Alcohol*	1	62.60	2	631.00
m,p-Xylene			2	2.12
Methylethylketone			2	4.54
Propylene			1	1.10
Tetrachloroethene	1	0.51	2	96.90
Trichloroethene			2	23.30
Trichlorofluoromethane	1	1.16	2	1.35
<b>Notes</b> Blank space indicates that this compound was not detected * isopropyl alcohol used in lieu of helium to check integrity of soil vapor sampling point				





## **List of Disadvantaged Communities**

The information below is a list of disadvantaged communities statewide based on the criteria established by the Climate Justice Working Group, as required by the Climate Leadership and Community Protection Act.

The disadvantaged communities criteria established by the Climate Justice Working Group identifies 1,736 census tracts across New York State, representing 35% of all census tracts. Please refer to the "Technical Documentation" for the details on the criteria, including methodology, indicators, data sources, and scoring approach used in the development of the criteria.

Census Tract	Region	County	Place Name
36111952500	Mid -Hudson	Ulster	Port Ewen

Source: <https://climate.ny.gov/Resources/Disadvantaged-Communities-Criteria> - New York's Climate Leadership & Community Protection Act (ny.gov)

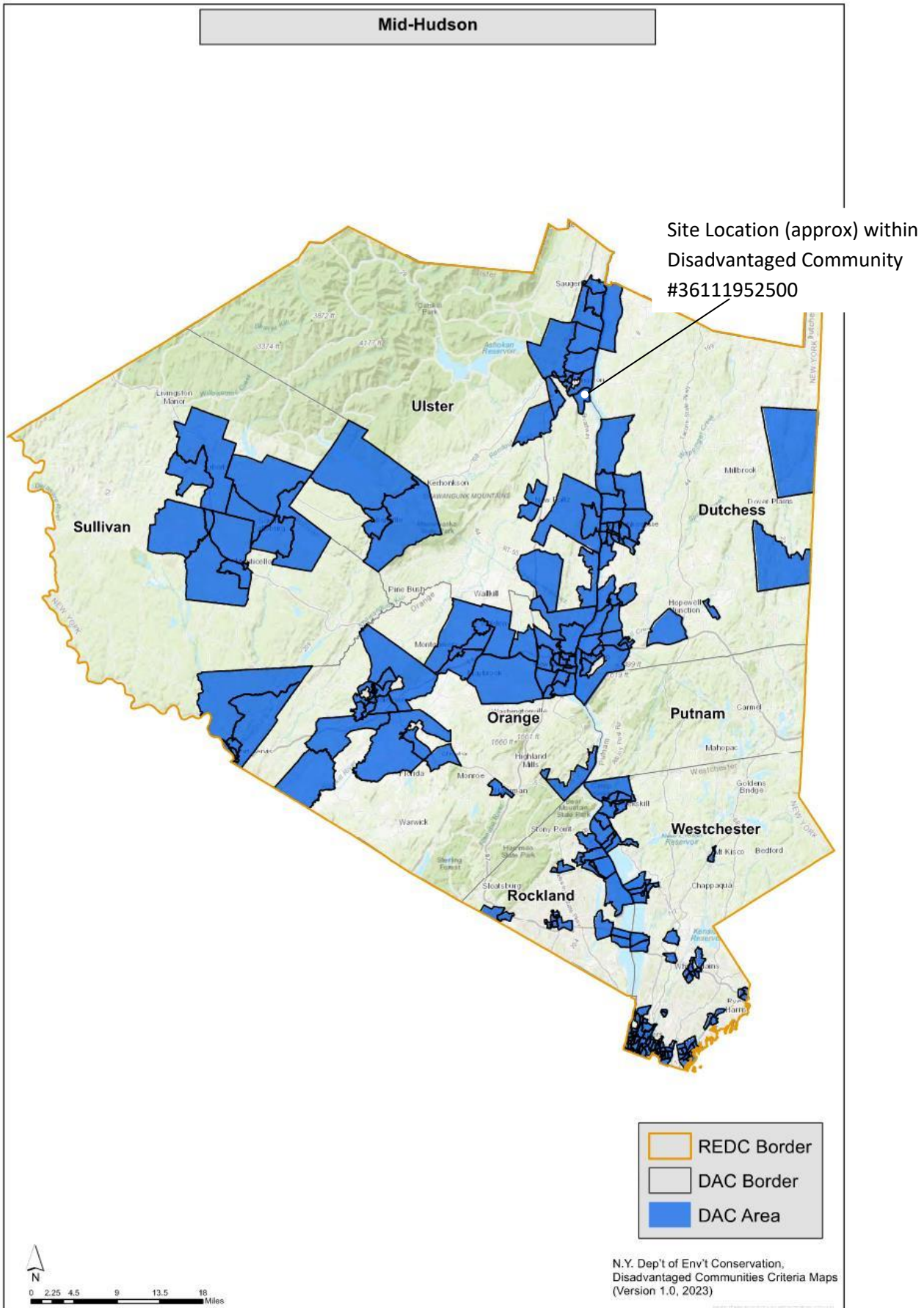
## **New York State Disadvantaged Communities Criteria Version 1.0 Maps**

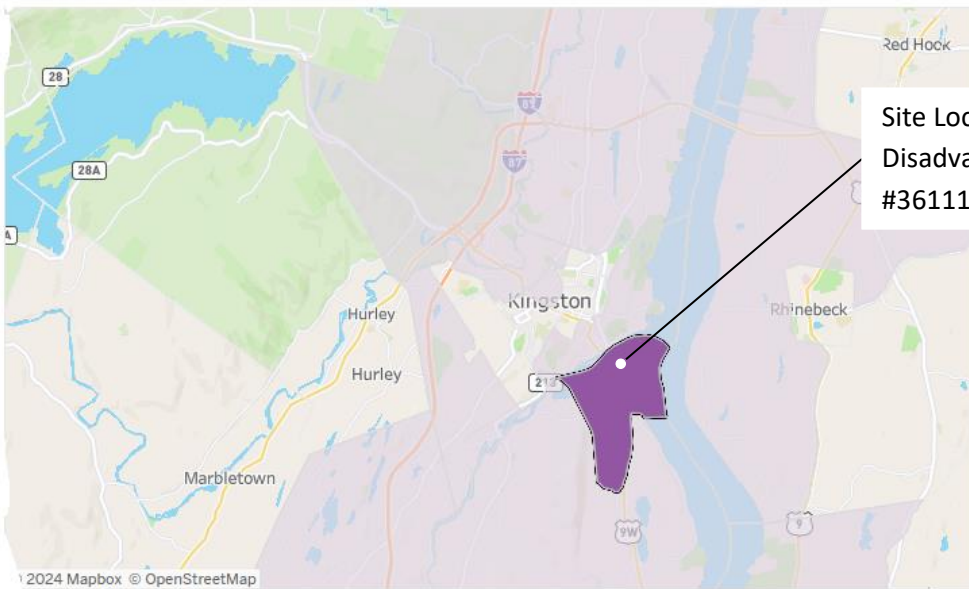
The New York State Climate Justice Working Group, which consists of representatives from environmental justice groups across the State and representatives of several State agencies, under the New York State Department of Environmental Conservation, voted on March 27, 2023 on final criteria to identify disadvantaged communities to help guide the implementation of the State's nation-leading Climate Leadership and Community Protection Act.

This document includes maps of the disadvantaged communities. For ease of viewing, this document includes a map for each Regional Economic Development Council (REDC) region throughout New York State. REDC's were developed by New York State to support and streamline local economic development opportunities. There are a total of 10 REDC regions in New York State. Disadvantaged communities are defined at the census tract level per the criteria and nest within the REDC regions for ease of viewing. The maps within this document show a single map by REDC region and include disadvantaged communities census tracts outlined in black. For further information about New York State's disadvantaged communities criteria visit <https://climate.ny.gov/Resources/Disadvantaged-Communities-Criteria>.

(SEE FOLLOWING PAGE)

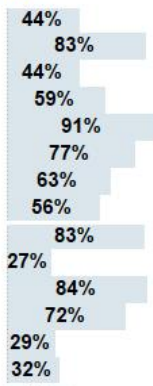






Click a Single Census Tract on the Map to View Indicator Details 

#### Population Characteristics & Vulnerability



#### Environmental Burden & Climate Change Risk

Land Use & Historic Discrimination	Active Landfills
	Housing Vacancy Rate
	Industrial/Manufacturing/Mining La...
	Major Oil Storage Facilities
	Municipal Waste Combustors
	Power Generation Facilities
	Regulated Management Plan (Ch...
Potential Climate Change Risk	Remediation Sites
	Scrap Metal Processing
	Agricultural Land Use
	Coastal Flooding and Storm Risk ..
	Driving Time to Urgent/Critical Care
	Extreme Heat Projections (>90? d...
	Inland Flooding Risk Areas



April 10, 2024

Jesse Chance, Library Director  
Town of Esopus Library  
P.O. Box 1167  
128 Canal Street  
Port Ewen, NY 12466

*Re: Brownfield Document Repository Request  
115 Broadway (aka Route 9W), Port Ewen, NY  
Project # 2233689*

Dear Director Chance,

We are in the process of submitting a Brownfield application to the New York State Department of Environmental Conservation (NYSDEC) for the property listed above. As part of this application, it is necessary to identify repository locations where project documents will be made available for public review. We request your permission to include the Town of Esopus Public Library as a document repository for this project. If you accept, please sign below and return a copy of the signed form to LaBella Associates.


Please send any correspondence concerning this matter to our office at 5 McCrea Hill Road, Ballston Spa, NY 12020. I can be reached at (518) 885-5383. Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Atkinson', written over a horizontal line.

Adam Atkinson  
Sr. Project Manager

We agree to act as a repository location for Brownfield project documents for the property located on 115 Broadway (aka Rt 9W), Port Ewen, NY.

Signed Name: \_\_\_\_\_

Printed Name: Jesse Chance

Date: 4/16/24

# Community Manufacturing Solutions, LLC

101 Woodcrest Drive • Rifton NY 12471  
tel: 845.658.7700 • fax: 845.658.3144

## CERTIFICATE OF AUTHORITY

I, Brian Button, hereby certify that I am the duly appointed, qualified, and acting President of Community Holdings, LLC, a New York limited liability company which is the sole member of Community Manufacturing Solutions, LLC, a New York limited liability company, and that I am authorized to execute this Certificate on behalf of the Community Manufacturing Solutions, LLC.

In my capacity as President of the sole member of Community Manufacturing Solutions, LLC, I certify the following:

John A Yelle is the duly authorized General Manager of Community Manufacturing Solutions, LLC and as such has authority to sign a Brownfield Cleanup Program Application and Brownfield Cleanup Agreement for the company.

IN WITNESS WHEREOF, I have executed this Certificate as of this 5<sup>th</sup> day of April 2024.

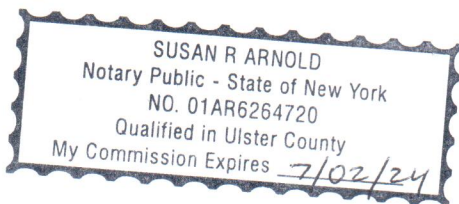
Brian Button, President  
Community Holdings, LLC

State of New York)

County of Ulster) ss:

On the 5<sup>th</sup> day of April in the year 2024 before me personally came Brian Button, personally known to me, who, being by me duly affirmed, did depose and say that he resides in Rifton, NY; that he is the President of Community Holdings, LLC, the company described in and which executed the above instrument; and that he signed his name thereto by duly granted authority.

Notary Public



# Department of State

## Division of Corporations

### Entity Search Results

A total of 1 entities were found. If the entity name you are searching is not displayed please refine the search.

Search

Name	DOS ID #	Assumed Name ID #	Status	Entity Type	Date of First Filing	County
COMMUNITY MANUFACTURING SOLUTIONS, LLC	5105559		Active	FOREIGN LIMITED LIABILITY COMPANY	03/21/2017	Ulster

Rows per page: 5 1-1 of 1 < >

Return to Search



# Young / Sommer LLC

ATTORNEYS AT LAW

EXECUTIVE WOODS, FIVE PALISADES DRIVE, ALBANY, NY 12205

Phone: 518-438-9907 • Fax: 518-438-9914

[www.youngsommer.com](http://www.youngsommer.com)

Richard E. Ostrov, Esq.  
Writer's Telephone Extension: 236  
[dsommer@youngsommer.com](mailto:dsommer@youngsommer.com)

January 2, 2024

**Via Electronic Mail Only**

Michael Murphy, Esq.  
Phoebe Gittelson, Esq.  
New York State Department of Environmental Conservation  
Office of General Counsel  
625 Broadway, 14<sup>th</sup> Floor  
Albany, NY 12233

**RE: Community Manufacturing Solutions, LLC  
Supplemental Work Plan and Request for Title 13 Transition to Title 14 BCP  
115 Broadway, Hamlet of Port Ewen,  
Town of Esopus, Ulster County, New York**

Dear Michael & Phoebe:

This is to follow up our discussion on December 13<sup>th</sup> about the process for transitioning an Article 27, Title 13 Administrative Settlement<sup>1</sup> to a Brownfield Cleanup Program Agreement. The Title 13 Order on Consent, a copy of which is attached hereto as ***Attachment 1***, was entered into voluntarily by the Respondent, Community Manufacturing Solutions, LLC, a part of the Bruderhof Community in Rifton, New York, (hereinafter the "Bruderhof").

The Bruderhof, an Anabaptist Christian community, entered into the Order on Consent anticipating some detection of contamination that might be found at a commercial property, but they anticipated that such a condition would be at concentrations that would still justify the repurposing of the current building back to a rich tradition of cut and sew products and other

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<sup>1</sup> DEC "P" Site No.: 356063; DEC Site Name: 115 Broadway, Port Ewen, NY; Index No. CO 3-20221212-169

light manufacturing that would provide stable employment in support of local families and the wider community.<sup>2</sup>

Now, with the data gathered during initial site assessment sampling showing a condition that might require remedial action, the anticipated scope and cost of the site investigation and remediation has led the Bruderhof to have to rethink the viability of the current reuse plan of the building. With the same goal of benefitting the wider community and creating jobs, they now must consider whether it makes more sense, given the new delays in scheduling, to demolish the building and redevelop the property taking into account how the Brownfield Cleanup Program (“BP”) could help them achieve their goals; goals that are firmly rooted in the very purpose of the BCP.

### **Background of Bruderhof Communities**

Bruderhof Communities is a non-profit religious community that has been in New York since 1954 with a reputation for integrity and deep civic engagement in the surrounding community. Bruderhof purchased the property in Port Ewen with the intent of promptly restoring what has been a derelict building on a main thoroughfare in the Town of Esopus back to productive use, and to bring back commercial activity and job opportunities to the area; an area that is undergoing some growth and renewed development interest.

Unfortunately, considering the undisclosed subsurface contaminant condition, even though “modest” in concentration, Bruderhof is facing a post-closing scenario that is hampering the vision of quickly and cost-effectively fixing up the building and getting the property back into productive use. This unanticipated (and undisclosed) subsurface detection of contamination is the foundation of my call to you about transitioning from the current Title 13 Order/Agreement to a Title 14 Brownfield Cleanup Agreement.

The Bruderhof would be a “Volunteer” under the BC Program, and thereby be able to somewhat “temper” the financial impact of the unanticipated contaminant discovery in terms of tax credit incentives and the BCP scope of liability obligations of a Volunteer. Given the scheduling of site investigation, detection delineation and response action, the Bruderhof is now forced to reconsider the “immediate” reuse of the existing building and productive reuse commerce.

Instead, with a different and much longer schedule facing them, along with significant costs to address the environmental issues, they are evaluating a different approach that could involve new construction. With demolition and new construction concepts, the BCP makes immediate sense; particularly where this redevelopment project is the type of private-public partnership happening in the Town of Esopus to revitalize this key corridor, a gateway to the Town of Esopus and Port Ewen.

I am providing a few representative web sites as ***Attachment 2*** so that you can see how this project is part of the economic development focus of the Town. This is the very type of

---

<sup>2</sup> This religious organization prides itself in working collaboratively and cooperatively with its neighbors in New York. See, <https://www.bruderhof.com>

project encouraged by the Comprehensive Plan of the Town and this “Site” now becomes exactly what brownfield redevelopment envisioned.

### **Background of Contaminant Detection and Site Redevelopment**

The circumstances here, as more fully set forth below, are that the Bruderhof purchased the property in 2022 based on its location, along with a commercial building on the property that was the right size for its contemplated use. The pre-closing AAI Phase 1 found no observable evidence of contamination but recommended limited subsurface investigation; so, upon taking title, it retained consultants to conduct its Phase II assessment. This post-closing due diligence review detected a subsurface condition with detectable concentrations of VOCs in soil, vapor, and groundwater. The condition was reported to the DEC, an Article 27, Title 13, Order on Consent was entered, and preliminary groundwater data, along with some soil and vapor detections, confirm that the property is eligible for the Brownfield Cleanup Program (BCP). The attachments along with this correspondence establish that there is subsurface contamination, and we suggest that it is likely that some response action will be required by the Department.

The Bruderhof had absolutely nothing to do with any entities or activities that caused or contributed to the release of contamination into the environment that has now been discovered during due diligence efforts. Any liability here would wholly be rooted in “current owner” status since the Bruderhof had nothing to do with the acts or omissions that caused the contaminant conditions on, at or under the 3.5-acre commercial property located on U.S. Route 9W in the Hamlet of Port Ewen, Town of Esopus, Ulster County. Not wanting to put any on-site workers in a “potential exposure pathway” work environment, and to make sure the long-term vision for the property would come to fruition, the Bruderhof, with full transparency, immediately turned to the Department for advice and guidance on how to address the subsurface contaminants inherited from prior owners and operators of the newly acquired property.

Because of the detectable concentrations of VOCs and the scope of investigation and response action that may be required, the Bruderhof is respectfully asking the Department to allow it to transition to the brownfield program in light of their “volunteer” status under Title 14, and because they are now forced to reconsider how best to redevelop the property within project budgets; causing it to reconsider the BCP provisions and that program’s applicability. There is nothing in the Part 375 regulations that preclude any such transition from Title 13 to Title 14.

### **History of Site Assessment**

In June of 2022, as part of the Bruderhof due diligence review of the commercial parcel at 115 Broadway, it retained Gallagher Bassett Technical Services (“GBTS”) to conduct a Phase I Site Assessment of the Property, which is serviced by municipal water and sewer. GBTS concluded that there was a recognized environmental condition (“REC”), related to the prior use of solvents by others at the property. Although GBTS concluded that no further investigation as to records of prior operations was necessary, it recommended that a “limited subsurface investigation be performed to screen for any significant contamination conditions” that may have been caused by prior owners or operators at the commercial property. (A copy of the GBTS Phase I is available for your review if you would like to receive a copy. I did not think attaching the Phase I was necessary since the Attachments here provide actual data.)

Based upon the identification of the REC, Bruderhof engaged DT Consulting to conduct an initial subsurface investigation. The investigation detected the presence of part per billion (ug/l) concentrations of tetrachloroethylene (“PCE”) in certain soil locations and in groundwater, along with degradation compounds of PCE such as trichloroethylene (“TCE”) and Vinyl Chloride (“VC”). Although the concentrations were modest, and the detection of degradation compounds reflected that the PCE was degrading, the concentrations were still more than applicable groundwater standards. No vessels containing PCE were identified. The detection of the compounds was associated with past releases resulting in a pre-closing/pre-existing condition caused by others, not by any act or omission of the Bruderhof Community.

With the detection of solvents in the groundwater, Bruderhof had DT Consulting conduct an indoor air quality assessment of the main office building on the property. The data [*see Attachment 3 documents*] indicated that low concentrations of PCE vapor were detectable inside the building. Although the concentrations were well below any applicable OSHA standard, the concentrations were above those set forth in a New York State Department of Health guidance document, [https://health.ny.gov/environmental/indoors/vapor\\_intrusion/docs/svi\\_decision\\_matrices\\_abc.pdf](https://health.ny.gov/environmental/indoors/vapor_intrusion/docs/svi_decision_matrices_abc.pdf) that relates to impacts on indoor air quality arising from a subsurface contaminant condition. The condition, as noted below, was brought to the attention of the Regional Office of the NYS Department of Environmental Conservation.

Upon confirmation of the pre-existing condition, the Bruderhof then engaged environmental counsel and the Environmental Engineering firm, LaBella Engineering. Region 3 staff were informed and the standard process of entering a Title 13 Order on Consent and submitting an investigation and remediation work plan for NYSDEC approval was initiated. (*Attachment 4* hereto is a copy of the letter to Region 3 Counsel, Ashley Johnson.)

The matter was later transferred to DEC Counsel Phoebe Gittelson in Central Office. Phoebe is copied on this correspondence. (I have directed the letter to you since I reached out to you to discuss the matter without seeing that the matter had already been sent to the Central Office; I thought it had remained in the Region.)

Even though the Bruderhof Community had no involvement in causing the contaminant conditions, the Bruderhof representatives obtained necessary approval to enter an Administrative Agreement governing its “cleanup” of the mess left by others, as part of its cooperative and transparent approach to this unfortunate situation. The Order on Consent was finalized and served on “Respondent” on February 2, 2023. (See, *Attachment 1* hereto.)

In spring of 2023 LaBella submitted a Site Characterization Work Plan for Department approval. The Work Plan was approved in the Summer and has been implemented. (Attached hereto as *Attachment 5* are documents and Figures regarding confirmation of subsurface contamination). It is this data that triggers the need to shift into the BCP. This data shows that more subsurface assessment is needed, and a proposal to implement supplemental investigation measures is today being submitted to the Department technical project manager along with a Conceptual Site Model. (Attached hereto as *Attachment 6* is the proposed Supplemental Work Plan and Conceptual Site Model recommended by LaBella).

The Bruderhof is asking for the Department to permit it to submit a BCP Application and to participate in the BCP as a Volunteer assuming that the pre-application process provides confirmation to the Department that there is both a contaminant condition and that the Bruderhof Community would be a Volunteer under the program.

It is respectfully requested that the Department review this matter, and the Attachments with the appropriate Department staff, and let us know if we can proceed concurrently with two matters:

1. Department review of Attachment 6 – Preliminary Property Characterization and Recommendation for Supplemental Investigation; and,
2. Department review of a BCP Pre-Application submission with the information that is attached hereto, along with other BCP required information.

Assuming that the Department is prepared to consider and allow a transition from Article 13 to Article 14, it is requested that the Department consider whether it would be possible to schedule implementation of the supplemental investigation work plan set forth in **Attachment 6** for immediately after BCP acceptance and a BC Agreement signed.

As you can imagine, the Bruderhof is so disappointed that it is having to devote such significant resources to address a condition created by others, but it hopes that the Department will work with them to conduct the necessary response action(s) and get on with the redevelopment of the property in accordance with an Article 14 BCA.

Please let me know if you have any questions or whether you need further information. Thank you very much for your time and attention to this matter. Please give us some directions as to transitioning from Title 13 to Title 14.

Thank you as always for your guidance on such matters.

Very truly yours,

YOUNG/SOMMER LLC

A handwritten signature in black ink, appearing to read 'Dean S. Sommer', with a long horizontal flourish extending to the right.

Dean S. Sommer

Attachments