Site Management Plan

Midler City Industrial Park Site
Brownfield Cleanup

City of Syracuse
Onondaga County, New York

NYSDEC BROWNFIELD SITE # C734103

Prepared for
Pioneer Midler Avenue, LLC

By

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SECTION 1 - INTRODUCTION

1.1 General

This Site Management Plan (SMP) has been prepared by C&S Engineers, Inc. (C&S) on behalf of Pioneer Midler, LLC. (Pioneer) for the Pioneer Midler Avenue Brownfield Site (Site), located in Syracuse, New York in accordance with New York State Department of Environmental Conservation's (NYSDEC) *Draft Technical Guidance for Site Investigation and Remediation,* dated December 25, 2002 (Draft DER-10). This SMP addresses the means for implementation of Institutional Controls (ICs) and Engineering Controls (ECs), which are required by the Environmental Easement for the Site. A copy of the signed Easement is included in Appendix C.

After completion of the remedial work described in the Interim Remedial Measure (IRM) Report, some contamination was left in the subsurface at this Site, which is hereafter referred to as "residual contamination." Such residual contamination consists of soil that is several feet below grade and groundwater that is also below grade. This Site Management Plan was prepared to manage residual contamination at the Site in perpetuity or until extinguishment of the Environmental Easement in accordance with 6 NYCRR Part 375. The IRM work on the Site began in mid 2006 and was completed in October 2007. All reports associated with the Site can be viewed by contacting the NYSDEC or its successor agency managing environmental issues in New York State.

In an effort to monitor the effectiveness of remediation and to avoid direct and indirect future human or environmental exposure to potential residually contaminated soil and groundwater located at the Site, several measures and procedures will be implemented by Pioneer and remain in effect until such time as the NYSDEC and the property owner agree that measures are no

longer required. It will be the responsibility of Pioneer to notify all property lessees and contractors of these measures and procedures prior to any on-site maintenance or construction activities. The exception to this would be an emergency repair that needed to be made. In such an emergency situation, the contractor performing the work must notify the property owner.

It should be noted that this document is intended to be a "living" document and data collected in the future, changes in site conditions, and/ or changes in methods or procedures will be incorporated as appendices to this document.

Pioneer will be responsible for the distribution of this SMP to all property lessees. It will be the responsibility of Pioneer to insure that, to the extent possible, that the measures and procedures outlined within this SMP are followed by their lessees.

1.2 Purpose

The Site contains residual contamination left after completion of the IRM performed under the BCP. ECs have been incorporated into the Site remedy to provide proper management of residual contamination in the future to ensure protection of public health and the environment. A site-specific Environmental Easement has been recorded with the Onondaga County Clerk that provides an enforceable means to ensure the continued and proper management of residual contamination and protection of public health and the environment. It requires strict adherence to all Engineering Controls and all Institutional Controls placed on this Site by NYSDEC by the grantor of the Environmental Easement and any and all successors and assigns of the grantor. ICs provide restrictions on Site usage and mandate operation, maintenance, monitoring and reporting measures for all ECs and ICs. This SMP includes all methods necessary to ensure compliance with all ECs and ICs required by the Environmental Easement for residual contamination at the Site. The SMP has been approved by the NYSDEC, and compliance with this Plan is required by the grantor of the Environmental Easement and grantor's successors and assigns.

Site management is the last phase of the remedial process and is triggered by the approval of the Final Engineering Report and issuance of the Certificate of Completion (COC) by NYSDEC. The SMP continues in perpetuity or until extinguished in accordance with 6 NYCRR Part 375. It is the responsibility of the Environmental Easement grantor, and its successors and assigns to ensure that all Site Management responsibilities under this plan are performed.

The SMP provides a detailed description of procedures required to manage residual contamination at the Site following the completion of the IRM in accordance with the Brownfield Cleanup Agreement (BCA) with the NYSDEC. This includes:

1) development, implementation, and management of all Engineering and Institutional Controls;
2) development and implementation of a Monitored Natural Attenuation Monitoring Plan;
3) development of a plan to operate and maintain a sub-slab depressurization system in each building on the property (including, where appropriate, preparation of an Operation and Maintenance Manual);
4) submittal of Site Management Reports, performance of inspections and certification of results, and demonstration of proper communication of Site information to NYSDEC;

To address these needs, this SMP includes four plans:

1) an Engineering and Institutional Control Plan for implementation and management of EC/ICs;
2) a Monitoring Plan for implementation of Site Monitoring;
3) an Operation and Maintenance Plan for implementation of control systems; and
4) a Site Management Reporting Plan for submittal of data, information, recommendations, and certifications to NYSDEC.

Site Management activities, reporting, and EC/IC certification will be scheduled on a certification period basis. The certification period will be annually.

Important notes regarding this SMP are as follows:

- This SMP defines site-specific implementation procedures as required by the Environmental Easement. The penalty for failure to implement the SMP is revocation of the COC;
- The BCA for the Site requires conformance with this SMP, and therefore, serves as a contractual binding authority under which this SMP is to be implemented. The BCP law itself also requires the preparation of a SMP in ECL 27-1415 and 27-1419. Therefore, the BCA is a binding contract and the BCP law is statutory authority under which this SMP is required and is to be implemented.
- At the time this report was prepared, the SMP and all Site documents related to the Remedial Investigation and Remedial Action are maintained at the NYSDEC Region 7 offices in Syracuse. At the time of SMP submission, the Site documents can also be found in the repository established for this project, as listed below:

  City of Syracuse
  Department of Community Development
  Division of Code Enforcement
  201 E. Washington Street, Room 101
  Syracuse, NY 13202

SECTION 2 - SITE BACKGROUND

2.1 Site Description

The Midler City Industrial Park Site is approximately 22 acres and is located in the eastern portion of the City of Syracuse, as shown on Figure 1. The site was developed as an industrial facility in the late nineteenth century and was utilized as such through the mid-twentieth century. The Midler City Industrial Park Site is relatively flat and is bounded as follows:

- To the north by Interstate Route 690.
- To the east by property owned by Sutton Investing Corporation.
- To the south by property owned by CSX Transportation.
- To the west by Midler Avenue.

Review of United States Geological Survey (USGS) mapping shows that the site lies at an elevation of approximately 410 feet above mean sea level and is located approximately 800 feet north of the former Erie Canal (now Erie Boulevard) and three miles east of Onondaga Creek. Surface drainage in the area is controlled via storm water structures, with the majority of flow toward the west, where subtle sloping topography would result in discharge to Onondaga Creek, which discharges to Lake Ontario via the Seneca/Oswego River system.

According to United States Department of Agriculture - Soil Conservation Service Soil Survey mapping for Onondaga County, the soils in the vicinity of the site are classified as "Cut and Fill Land". These soils have moderate to poor permeability and are characterized by seasonal high water tables. Review of surficial geologic mapping prepared by the New York State Geological Survey indicates that unconsolidated soils in the vicinity of the site consist of lacustrine silt and clay. Consistent with the topographic setting of the site, shallow groundwater flow in the area of the site would be expected to flow across the site generally from north to south.

Regional bedrock geologic mapping indicates that bedrock underlying the site consists of the Camillus and Syracuse formations of shale, dolostone, gypsum, or salts, generally present at depths of greater than 100 feet. Groundwater within the deeper bedrock generally occurs within fractures, joint sets, and bedding planes.

2.2 Site History

The early history of the site was characterized by its use as an industrial site and its proximity to transportation infrastructure (railroads and previously, the Erie Canal). Former tenants of note include *Pierce, Butler, & Pierce Manufacturing Company*, a producer of heavy iron wares (boilers, radiators, piping, etc.) and *Prosperity Company,* a producer of laundry and dry cleaning equipment. Prior to acquisition by Pioneer, the Site was owned by Sutton Investing Company since 1961. Under the ownership of Sutton Investing Company, the buildings were utilized as general storage/operations (warehouse) rental space. The nature of these tenants is varied and included, but was not limited to:

- Auto dealer storage of new and used vehicles
- Electrical contractor
- Landscape contractor
- Rack/storage/pallet system vendor
- Hardwood/plywood storage
- General contractors

2.3 Summary of the Remedial Activities

During the Remedial Investigation (RI) and demolition activities, areas impacted by petroleum and chlorinated volatile organic compounds were discovered. The term *chlorinated volatile organic compounds* (CVOCs), as used in this work plan, refers to the suite of compounds made up of tetrachloroethene (PCE), trichloroethene (TCE), vinyl chloride (VC), cis-1,2-dichloroethene (cis-1,2-DCE), and trans-1,2-dichloroethene (trans-1,2-DCE).

During demolition of the building slabs, direct action was taken to remove petroleum impacted soils and subsurface structures. Information regarding activities undertaken during the slab demolition has been documented in the Concrete Slab Demolition Summary Report, prepared by C&S.

In addition, an Interim Remedial Measure (IRM) was conducted to remove CVOCs from four source areas identified during the RI. The technology adopted to remove CVOCs was in-situ thermal desorption. The smallest of the four source areas ("B-5" Area) was first excavated and the impacted materials were placed within the two largest areas ("B-1" and "B-3" Areas) for CVOC removal via in-situ thermal desorption. Further information regarding remedial efforts undertaken in the IRM is presented in the IRM report prepared by C&S.

2.4 Residual Contamination

The extent of CVOC impacts at the site was significantly altered by the year-long IRM. The thermal desorption of more than 99.9% of CVOCs from within the source areas has left a site characterized by dispersed locations where CVOC impacts are present at concentrations orders of magnitude less than those present before the IRM. In addition to those documented reductions within the source areas, the IRM created dynamic conditions within the subsurface, likely associated with enhanced biodegradation of CVOCs, which will persist for months into the "cool-down" period.

Within the IRM treatment areas, there were 21 sampling locations where one or more individual CVOC parameters were detected at concentrations exceeding the respective SSCO (out of a total of 59 verification sampling locations). Likewise, there were approximately 36 RI sample locations (out of the hundreds of locations sampled) from outside of the delineated treatment areas where one or more individual CVOC parameters were present at levels exceeding respective SSCOs. VOC data for these IRM and RI locations are presented in the *Remedial Investigation and Remedial Alternatives Analysis Report* for the site. Appendix D of this report

provides Figure 17 from the *Remedial Investigation and Remedial Alternatives Analysis Report* showing the sample locations. Although these data represent a conservative estimate of present conditions, they are the relevant data for further discussion within this Site Management Plan.

SECTION 3 - ENGINEERING AND INSTITUTIONAL CONTROL PLAN

3.1 Purpose and Definitions

Institutional and engineering controls (ICs and ECs) are utilized on sites where the potential exists for contact with residual contamination in the soil and/or groundwater. Definitions for ECs and ICs as provided in the NYSDEC's *Draft Technical Guidance for Site Investigation and Remediation* (Draft DER-10) are provided below:

"Engineering controls" means any physical barrier or passive mechanism to contain or stabilize contamination, ensure the effectiveness of a remedial action or eliminate potential exposure pathways from any contaminated medium. Engineering controls may include, without limitation, caps, covers, vapor barriers, fences, slurry walls, access controls and demarcation barriers (e.g., geonets or other fabric). Engineering controls are used in conjunction with institutional controls, to ensure that the engineering controls remain effective.

"Institutional controls" means non-physical mechanisms which restrict the use of a site, limit human exposure, or prevent any actions which would threaten the effectiveness, operation, or maintenance of a remedy at or pertaining to the site. Institutional controls apply when contaminants remain at a site at levels which would not allow unrestricted human use of the property. Institutional controls may include, without limitation, restrictions on the use of structures, land and groundwater as well as deed notices and covenants.

Access to the site will continue to be provided to the NYSDEC to evaluate the remedy, including access to evaluate the continued maintenance of such controls.

Pioneer has developed several ECs and ICs for this Site. These ECs and ICs are further elaborated on below.

3.2 Site Specific Engineering Controls

Sub-slab depressurization systems (SSDSs) - SSDSs will be installed and maintained on all existing and all future buildings on the Site. The designs and system performance requirements will be in accordance with most current applicable regulations and/or guidance.

Public water supply - The site and surrounding properties receive their domestic water from municipal service connections supplied by the City of Syracuse. The source of the municipal water supply is surface water from Skaneateles Lake, Otisco Lake, and Lake Ontario.

Paved and concrete surfaces - Site cover - To the extent reasonable, surfaces outside of the building footprints are to be paved or covered with conventional asphalt or concrete. Areas beneath the asphalt and/or concrete pavement are to receive one foot of clean Type 1 or 2 crushed limestone from an approved Quarry (i.e., T. H. Kinsella, Hansen). Areas outside of buildings and paved areas will receive either a combination of clean crushed limestone fill, and/or clean topsoil to a depth of one foot. The clean crushed limestone fill and/or topsoil will be maintained to avoid direct contact with pre-existing urban fill material and native soils.

3.3 Site Specific Institutional Controls

Annual Certification - As required by ECL 27-1415 and the Brownfield Cleanup Agreement for the site, Pioneer will submit an annual certification that the aforementioned Engineering Controls are in operation and working effectively to the NYSDEC.

Environmental Easement - Pioneer will grant the NYSDEC an environmental easement for the Site to ensure that use restrictions or engineering controls remain in place and will be binding to future owners and lessees, or until modified, extinguished, or amended by a written instrument executed by the Commissioner of the NYSDEC.

Groundwater Use Restriction - The use or discharge of untreated groundwater for any purpose will not be permitted at the Site.

Soil Management Plan - A site specific soil management plan will be implemented at this Site. The soil management plan is presented in Section 3.4 below.

3.4 Soil Management Plan

3.4.1 Overview and objectives

The objective of this Soil Management Plan (SoMP) is to set guidelines for management of soil material during any future activities which would breach the cover system at the site. This SoMP addresses environmental concerns related to soil management and has been reviewed and approved by the New York State Department of Environmental Conservation.

3.4.2 Nature and extent of contamination

Section 2 above describes the residual contamination at the site subsequent to the IRM that was completed in October 2006.

3.4.3 Contemplated use

The site has been significantly redeveloped with a big-box home improvement store and a credit union. Additional future commercial development is anticipated to take place.

3.4.4 Purpose and description of surface cover system

As part of the site redevelopment, a significant portion of the site has been paved for roadways and parking lots. In addition, a considerable portion of the site has been cover with clean crushed stone fill to bring the facility to grade for development. While not specifically designed as a surface cover system, the effect of this fill and paving is the same. The fill and paving reduce the potential for human contact with the existing urban fill material and the paving eliminates the potential for contaminated runoff from the property. The paving and fill consists of the following:

- Fill and Subbase: Run of Crush limestone fill was imported to elevate grades to pre-asphalt and concrete pavement depths. In some location, this material was installed in excess of three feet.
- Asphalt: a minimum of 4 inches of material in areas that will become roads, sidewalks, and parking lots. Actual cross sections will be determined based on the intended use of the area.
- Concrete: a minimum of 6 inches of material in areas that will become slab-on-grade structures or for roads, sidewalks, and parking lots in lieu of asphalt. For slab-on-grade structures, refer to the text on the SSDS. Actual cross sections will be determined based on the intended use of the area.

The Property Manager will perform a semiannual inspection of the cover system.

3.4.5 Management of soils/fill and long term maintenance of cover system

The purpose of this section is to provide environmental guidelines for management of subsurface soils/fill and the long-term maintenance of the cover system during any future intrusive work which breaches the cover system.

The SMP includes the following conditions:

- Any breach of the paving and fill (including for the purposes of construction or utilities work) must be replaced or repaired using existing non-hazardous material or an acceptable borrow source free of industrial and/or other potential sources of chemical or petroleum contamination. The repaired area must be covered with existing non-hazardous material or clean soil and reseeded or covered with impervious product such as concrete or asphalt to prevent erosion in the future.
- Control of surface erosion and run-off of the entire property at all times, including during construction activities. This includes proper maintenance of the vegetative cover established on the property.

- Site soil that is excavated and is intended to be removed from the property must be managed, characterized, and properly disposed of in accordance with NYSDEC regulations and directives.
- Soil excavated at the site may be reused as backfill material on-site provided it contains no visual or olfactory evidence of contamination, and it is placed beneath a cover system component.
- Any off-site fill material brought to the site for filling and grading purposes shall be from an acceptable borrow source free of industrial and/or other potential sources of chemical or petroleum contamination. Off-site borrow sources should be subject to collection of one representative composite sample per source. The sample should be analyzed for Target Compound List (TCL) volatiles, semivolatiles, pesticides, PCBs, and inorganics. The soil will be acceptable for use as cover material provided that all parameters meet the NYSDEC recommended soil cleanup objectives included in TAGM 4046.
- All liquids to be removed from the Site, including dewatering fluids, will be handled, transported and disposed in accordance with applicable local, State, and Federal regulations.
- Prior to any construction activities, the contractor is to be notified of the site conditions with clear instructions regarding how the work is to proceed. The contractor will be instructed that invasive work performed at the property must be performed in accordance with all applicable local, state, and federal regulations to protect worker health and safety.

3.4.6 Excavated and stockpiled soil/fill disposal

Soil/fill that is excavated as part of development which cannot be used as fill below the fill and paving will be further characterized prior to transportation off-site for disposal at a permitted facility. For excavated soil/fill with visual evidence of contamination (i.e., staining or elevated PID measurements), one composite sample and a duplicate sample will be collected for each 100 cubic yards of stockpiled soil/fill. For excavated soil/fill that does not exhibit visual evidence of contamination but must be sent for off-site disposal, one composite sample and a duplicate

sample will be collected for 2,000 cubic yards of stockpiled soil, and a minimum of one sample will be collected for volumes less than 2,000 cubic yards.

If the analytical results indicate that concentrations exceed the standards for RCRA characteristics, the material will be considered a hazardous waste and must be properly disposed off-site at a permitted disposal facility within 90 days of excavation. If the analytical results indicate that the soil is not a hazardous waste, the material will be properly disposed off-site at a non-hazardous waste facility. Stockpiled soil cannot be transported on or off-site until the analytical results are received.

Stockpiles will be inspected at a minimum once each week and after every significant storm event. Results of inspections will be recorded in a logbook and maintained at the Site and available for inspection by NYSDEC. Soil stockpiles will be continuously encircled with silt fences. Hay bales will be used as needed near catch basins, surface waters and other discharge points. Stockpiles will be kept covered at all times with appropriately anchored tarps. Stockpiles will be routinely inspected and damaged tarp covers will be promptly replaced.

3.4.7 Subgrade material

Subgrade material used to backfill excavations or placed to increase site grades or elevation shall meet the following criteria. Note that this requirement does not apply to materials placed during site development that has already occurred.

- Excavated on-site soil/fill which appears to be visually impacted will be sampled and analyzed. If analytical results indicate that the contaminants, if any, are present at concentrations below the SSCOs for the Midler site, the soil/fill can be used as backfill on-site.
- Any off-site fill material brought to the site for filling and grading purposes shall be from an acceptable borrow source free of industrial and/or other potential sources of chemical or petroleum contamination.

- Off-site soils intended for use as site backfill cannot otherwise be defined as a solid waste in accordance with 6 NYCRR Part 360-1.2(a).
- If the contractor designates a source as "virgin" soil, it shall be further documented in writing to be native soil material from areas not having supported any known prior industrial or commercial development or agricultural use.
- Virgin soils that appear contaminated should be subject to collection of one representative composite sample per source. The sample should be analyzed for TCL volatiles, semivolatiles, pesticides, PCBs, arsenic, barium, cadmium, chromium, lead, mercury, selenium, silver, and cyanide. The soil will be acceptable for use as backfill provided that all parameters meet the SSCOs.
- Imported non-virgin soils that appear contaminated will be tested via collection of one composite sample per 500 cubic yards of material from each source area. If more than 1,000 cubic yards of soil are borrowed from a given off-site non-virgin soil source area and both samples of the first 1,000 cubic yards meet SSCOs, the sample collection frequency will be reduced to one composite for every 2,500 cubic yards of additional soils from the same source, up to 5,000 cubic yards. For borrow sources greater than 5,000 cubic yards, sampling frequency may be reduced to one sample per 5,000 cubic yards, provided all earlier samples met the SSCOs.

3.4.8 Notification

The Contractor must notify Pioneer Midler Avenue, LLC prior to any earthwork including excavation and/or borings through or under the Midler Crossing site. During routine activities, spoil materials generated are normally expected to be classified as construction/demolition debris and presumed to be non-hazardous. The Contractor should be familiar with these types of materials and will handle them in accordance with their standard operating procedures. The health and safety of the Contractor's personnel on-site shall be the responsibility of the Contractor and is not addressed as part of this plan. The contractor may need to prepare a Health and Safety Plan and a Community Air Monitoring Plan if excavation into original site materials is anticipated.

3.4.9 Site Dewatering

If the discovery of residual material involves contaminated waters existing within site utility conveyances or open excavations, similar response activities will take place as those described above. When dealing with contaminated waters however, options for disposal will be limited to containerizing with off-site disposal or discharge to the Publicly Owned Treatment Works (POTW) with adequate characterization and pretreatment acceptable to the Control Authority. Characterization for off-site disposal will vary by site, but will involve the same types of analyses listed previously. Onondaga County regulates the discharge of contaminated groundwater to the sewer system through the Industrial Wastewater Pretreatment Program and has developed specific guidance for disposal to the sewer which is presented in Attachment C.

The minimal analyses required for consideration of discharge to the POTW are listed below along with the effluent limits:

Parameter	**Daily Allowable Effluent Concentration Limitation**
Total Cadmium (Cd)	2.0 mg/l
Total Chromium (Cr)	8.0 mg/l
Total Copper (Cu)	5.0 mg/l
Total Nickel (Ni)	5.0 mg/l
Total Zinc (Zn)	5.0 mg/l
Total Mercury (Hg)	0.02 mg/l
Total Lead (Pb)	1.0 mg/l
Oil & Grease	150.0 mg/l
pH	5.5-10.5 Standard Units
Total Toxic Organics (TTO's)	0.1 mg/l
PCB's	0.5 µg/l
Methyl Tertiary Butyl Ether (MTBE)	Included under TTO limit

Options for handling the waters will be a function of the quantity encountered, the nature of the contaminant and the options for disposal of the wastes.

3.4.10 Stormwater Management

The project has a statewide SPDES General Permit for Stormwater Discharges from Construction Activity (GP-02-01) as well as a Stormwater Pollution Prevention Plan (SWPPP) in place. Additionally, the SWPPP will remain in place until site stabilization has been achieved and a "Notice of Termination" has been submitted and approved by the NYSDEC. Any future disturbances that compromise the stabilization of the site will comply with NYSDEC storm water pollution control requirements.

SECTION 4 - SITE MONITORING PLAN

4.1 Introduction

4.1.1 General

The Monitoring Plan describes the measures for evaluating the performance and effectiveness of the implemented ECs in reducing or mitigating contamination at the Site. This Monitoring Plan is subject to revision by NYSDEC.

4.1.2 Purpose

This Monitoring Plan describes the methods to be used for:

- Sampling and analysis of groundwater;
- Evaluating Site information periodically to confirm that the remedy continues to be effective as per the design;
- Preparing the necessary reports for the various monitoring activities.
- Assessing achievement of the remedial performance criteria.

To adequately address these issues, this Monitoring Plan provides information on:

- Sampling locations, protocol, and frequency;
- Analytical sampling program requirements;
- Reporting requirements;
- Quality Assurance/Quality Control (QA/QC) requirements;
- Inspection and maintenance requirements for monitoring wells;
- Monitoring well decommissioning procedures; and
- Annual inspection and certification.

Quarterly monitoring of the performance of the remedy and overall reduction in contamination on-Site will be conducted for the first two years. Frequency thereafter will be determined by

NYSDEC. Trends in contaminant levels in groundwater in the affected areas will be evaluated to determine if the remedy continues to be effective in achieving remedial goals.

4.2 Groundwater Monitoring

The proposed long term monitoring of effectiveness of the remedial activities undertaken and the subsequently proposed monitored natural attenuation of the Site will be accomplished through the quarterly analysis of the groundwater quality at select groundwater monitoring wells. The sampling frequency may be modified by NYSDEC. The SMP will be modified to reflect changes in sampling plans approved by NYSDEC. Deliverables for the groundwater-monitoring program are specified below.

The select groundwater samples will be analyzed via ASP 2000 Protocols for volatile organic compounds (VOCs). An annual report documenting the groundwater quality at the Site will be submitted to the NYSDEC. Any future changes in sampling locations, frequency, method, and/ or analysis requirements will be incorporated as appendices to this document. Details regarding the groundwater monitoring plan follow.

Each monitoring well will be purged a minimum of three well volumes. The samples obtained from the three newest wells (MW-14D, MW-15D, MW-16D) will be analyzed for volatile organic compounds consistent with NYSDEC Analytical Services Program protocols.

Other parameters of interest relative to groundwater which may be recorded in the field or by a fixed laboratory include:

- ORP
- Temperature
- pH
- Dissolved oxygen
- Ferric iron
- Ferrous iron
- Total Iron
- Sulfate
- Sulfide
- Dissolved Organic Carbon
- Dissolved Inorganic Carbon
- Dissolved methane

- Dissolved ethene
- Dissolved ethane
- Microbial analysis to determine presence and concentration of Dehalococcoides (Dhc) populations and gene analysis to determine presence/concentrations of Dhc able to dechlorinate vinyl chloride.

The Health and Safety Plan for the previously completed Remedial Investigation will be used for this work.

Existing monitoring wells MW-2D, MW-9D, MW-10D, MW-12R, and MW-13D (locations shown on Figure 1) are viable, although it is expected that minor repairs and new curb boxes will be required after final site grades are established. Each of these monitoring wells will be sampled and analyzed for the same laboratory and field parameters as the three (3) new wells. Groundwater level measurements recorded at the existing wells will be incorporated with measurements from the three new wells as to facilitate the making of an updated groundwater contour map.

Groundwater data (quality and water level) will be tabulated and accumulated after each quarterly round of sampling. Chemical constituent degradation products (e.g., vinyl chloride, ethene) detected in groundwater samples will be the primary means to assess the progress of natural attenuation. That data will also be used to establish and refine theoretical rate constants described in the Remedial Work Plan. Parameters that are indicative of natural attenuation (ORP, dissolved ethene, etc.) will also be monitored to help detect changes in environmental conditions.

Repairs and/or replacement of wells in the monitoring well network will be performed based on assessments of structural integrity and overall performance. Well decommissioning, for the purpose of replacement, will be reported to NYSDEC prior to performance and in the annual report. Well decommissioning without replacement must receive prior approval by NYSDEC. Well abandonment will be performed in accordance with NYSDEC's *Groundwater Monitoring Well Decommissioning Procedures*. Monitoring wells that are decommissioned because they

have been rendered unusable will be reinstalled in the nearest available location, unless otherwise approved by the NYSDEC.

Sampling and analyses will be performed consistent with the items below:

- Sample containers will be properly washed, decontaminated, and appropriate preservative will be added (if applicable) prior to their use by the analytical laboratory. Containers with preservative will be tagged as such.
- Sample holding times will be consistent with the NYSDEC ASP requirements.
- Field QC samples (e.g., trip blanks, coded field duplicates, and matrix spike/matrix spike duplicates) will be collected as necessary.
- All field analytical equipment will be calibrated prior to each day's use. Calibration procedures will conform to manufacturer's standard instructions.
- Samples will be collected using low-flow procedures.
- The laboratory will follow all calibration procedures and schedules as specified in ASP 2000 and subsequent updates that apply to the instruments used for the analytical methods.
- A Data Usability Summary Report (DUSR) will be prepared for each sample submitted for analysis consistent with NYS ASP requirements. The DUSR will present the results of data validation, including a summary assessment of laboratory data packages, sample preservation and chain of custody procedures, and a summary assessment of precision, accuracy, representativeness, comparability, and completeness for each analytical method.

4.3 Monitoring Reporting Requirements

Forms and any other information generated during regular monitoring events and inspections will be kept on file. All forms, and other relevant reporting formats used during the monitoring/inspection events, will be subject to approval by NYSDEC and submitted at the time of the Site Management Report, as specified in the Reporting Plan of the SMP. All monitoring

results will be reported to NYSDEC on an Annual basis in the Site Management Report. The report will include, at a minimum:

- Date of sampling events;
- Description of the activities performed;
- Type of samples collected (e.g., groundwater);
- Copies of field forms completed (e.g., well sampling logs, chain-of-custody documentation, etc.);
- Sampling results in comparison to appropriate standards/criteria;
- A figure illustrating sample type and sampling locations;
- Copies of laboratory data sheets and the required laboratory data deliverables required for all points sampled (also to be submitted electronically in the NYSDEC-identified format);
- Any observations, conclusions, or recommendations; and

Data will be reported in hard copy or digital format as determined by NYSDEC.

4.4 Monitoring Program Decision Points

Within 45 days of NYSDEC approving the *Remedial Work Plan*, each of the new and existing monitoring wells will be sampled and analyzed as described above. Subsequent sampling events will occur on a quarterly basis for a period of two years after the first event is completed.

Once the quarterly data is received, it will be summarized in tabular form and submitted to the NYSDEC. After the first four quarters of data has been generated, an annual report will be prepared. That first annual report will:

- Document the site activities of the previous 12 months including installation of the new well and in-situ hydraulic conductivity testing.
- Summarize groundwater quality data in tabular form.
- Include refined rate constants using actual site data.

- Identify trends in geochemical or microbial changes.
- Assess the apparent efficiencies of natural attenuation.
- Provide recommendations for adjustments in the sampling program.

After the second year of groundwater monitoring is complete, a report similar to the first annual report will be prepared. In the event the data presented in the second annual report indicates inconclusive trends of dechlorination, then the quarterly groundwater monitoring program will continue for another year.

Conversely, if data from the preceding six quarters demonstrates a progression of continued reductive dechlorination, the frequency of sampling and the number of monitoring wells included in the program may, after consultation with and approval of NYSDEC, be reduced.

If at the end of the third year, it is determined that dechlorination is not progressing, then Pioneer will evaluate continued monitoring and the feasibility of additional remedial measures that could be implemented to enhance degradation of CVOCs. Subsequently, the selection and implementation of additional measures and the monitoring program will be subject to review and approval by the NYSDEC.

SECTION 5 - OPERATIONS AND MAINTENANCE PLAN

5.1 Introduction

The Operation and Maintenance Plan describes the measures necessary to operate and maintain mechanical components of the remedy selected for the Site (e.g., SSDS systems). This Operation and Maintenance Plan includes the steps necessary to allow individuals unfamiliar with the Site to operate and maintain the systems. The plan also includes an operation and maintenance contingency plan. The plan will be updated periodically (if necessary) to reflect changes in Site conditions or the manner in which the systems are operated and maintained.

Information on non-mechanical Engineering Controls (i.e. composite cover) can be found in Section 3 - Engineering and Institutional Control Plan. This Operation and Maintenance Plan is not to be used as a stand-alone document, but as a component document of the SMP. The Operation and Management Plan is subject to NYSDEC revision.

5.2 Sub-Slab Depressurization Systems

The SSDS shall be operational at all times, regardless of building occupancy, in order to maintain a minimum negative pressure below the slab of –0.004" water column. The design and installation of the system shall be executed in accordance with the recommendations stipulated in the 2006 edition of the NYSDOH document *Guidance for Evaluating Soil Vapor Intrusion in the State of New York*.

During occupied periods, building HVAC systems shall provide minimum ventilation rates in accordance with ASHRAE Standard 62 and maintain the area above the slab at a slightly positive pressure in order to further inhibit vapor intrusion.

The components that create the negative pressure beneath the floor slab shall be selected based upon NYSDOH Vapor Intrusion Guidance as well as the nature and use of the building.

Additionally the mechanical components shall be rated for continuous SSDS service. All moving parts within the unit shall be permanently lubricated so as to not require regular service. Each SSDS fan shall have a dedicated alarm system which includes visual and/or audible warning alarms.

Initial Commissioning

Prior to building occupancy design professional or environmental professional shall verify that the systems are operating satisfactorily, including the following:

- Performance of pressure field extension testing to ensure that the required negative pressure of -0.004 inches of water has been achieved below the entire slab. Perform leak testing at each floor penetration via the use of smoke tubes. If leaks are detected they shall be sealed with an appropriate caulking or sealing compound.
- Verification that all warning/safety systems are operational.
- Verification that air intakes have not been installed within 10 feet of the SSDS discharge point.
- Verification that the building is under positive pressure.
- Confirmation of the absence of backdraft conditions in HVAC equipment venting systems.
- Building occupants will be made aware of the warning device or indicator (what it is., where it is located, how it works, how to read/understand it, and what to do if it indicates the system is not working properly).

Upon satisfactory verification of the above owner shall submit As-built drawing of the SSDS and one (1) copy will remain on site.

Operation and Maintenance

Verification of normal operating status by visual observation of the warning system and/or magnehelic gauge by the occupants shall be executed and recorded on a monthly basis.

Routine maintenance will be performed every 12 months and include:

- visual inspection of above grade components

- verification that no building intakes have been added w/in 10' of the SSDS ventilation stacks
- As appropriate preventative maintenance, repairs and/or adjustments shall be made to the system to ensure it's continued effectiveness
- If significant changes are made to building, the system will be modified and/or expanded to properly ensure the system is functioning properly.
- Verification that floor penetrations are not leaking and if leaks are detected appropriate repairs are to be completed.

In the event of fan failure, as evidenced by the lack of fan differential pressure and/or an alarm indication, the building occupants shall immediately engage the services of a commercial HVAC service organization to restore the system to normal operation within 24 hours of the event. The building occupants shall not attempt to repair or modify the fan or any of the SSDS components. Once the failed system has been restored to normal operating status, the following verification steps shall be performed by the service organization and documented for the occupant's records:

- Verification that warning/safety systems are operational.
- Verification for proper differential pressure from the magnehelic gauge

Any written documentation associated with any repair, modifications, and/or re-commissioning after system failure shall be retained on site

Annual Inspection and Certification

Submission of an annual inspection and certification report that documents the SSDS controls remain in place, and are performing properly. Such certification shall be by professional engineer or an environmental professional. The report shall also contain the documentation of monthly monitoring, modifications and repairs.

5.3 Pavement and Concrete Surfaces

All paved and concreted surfaces are to be maintained such that extensive perforations or cracks are sealed or repaired on an on-going basis. The Property Manager will perform a semiannual inspection of the cover system.

SECTION 6 - SITE MONITORING REPORTING PLAN

6.1 Introduction

A Site Management Report will be submitted by March 1st annually to NYSDEC. The Site Management Report will be prepared consistent with NYSDEC Draft DER-10 *Technical Guidance for Site Investigation and Remediation* requirements. This Site Management Reporting Plan and its requirements are subject to revision by NYSDEC. The annual report will include the following:

- Identification of all required EC/ICs required by the Remedial Work Plan for the Site;
- An evaluation of the Engineering and Institutional Control Plan and the Monitoring Plan for adequacy in meeting remedial goals;
- Assessment of the continued effectiveness of all Institutional and Engineering Controls for the Site;
- Certification that the EC/ICs remain in place;
- Results of the required periodic Site Inspections; and
- All deliverables generated during the reporting period, as specified in this SMP.

The Site Management Reporting Plan is subject to NYSDEC revision.

6.2 Certification of Engineering and Institutional Controls

Information on EC/ICs can be found in the Engineering and Institutional Control Plan portion of the SMP. Inspection of the EC/ICs will occur at a frequency described in the Monitoring Plan and the Operation and Maintenance Plan. After the last inspection of the reporting period, a qualified environmental professional and/or a Professional Engineer licensed to practice in New York State will sign and certify the document. The document will certify that institutional controls and/or engineering controls employed at such site are:

- unchanged from the previous certification (or describes changes which were approved by the Department);
- in place and effective;
- performing as designed; and
- that nothing has occurred that would impair the ability of the controls to protect the public health and environment; or constitute a violation or failure to comply with any element of the SMP for such controls.

6.3 Site Inspections

6.3.1 Inspection Frequency

Inspections will be conducted:

- Annually;
- Whenever a severe condition has taken place, such as an erosion or flooding event that may affect the ECs.

6.3.2 Inspection Forms, Sampling Data, and Maintenance Reports

Inspections and monitoring events will be recorded on the appropriate forms for their respective system. Additionally, a general Site-wide inspection form will be completed during the Site-wide inspection.

Applicable inspection forms and other records (including all sampling data of any media at the Site and system maintenance reports) generated for the Site during the calendar year will be included in the Report.

6.3.3 Evaluation of Records and Reporting

The results of the inspection and Site monitoring data will be evaluated as part of the EC/IC certification to confirm that the:

- EC/ICs are in place, are performing properly, and remain effective;
- The Monitoring Plan is being implemented;
- Operation and maintenance activities are being conducted properly; and, based on the above items,
- The Site remedy continues to be protective of public health and the environment and is performing as designed in the RAWP and FER.

6.4 Site Management Report

The Site Management Report will be submitted annually and will be submitted by March 1 of the year following the reporting period. The report will include:

- A certification that ECs/ICs remain in place;
- All applicable inspection forms and other records generated for the Site during the reporting period;
- Cumulative data summary tables and/or graphical representations of contaminants of concern by media, which include a listing of all compounds analyzed along with the applicable standards, with all exceedances highlighted;
- Results of all analyses, copies of all laboratory data sheets, and the required laboratory data deliverables required for all points sampled during the calendar year (also to be submitted electronically in the NYSDEC-specified format);
- A Site evaluation, which will address the following:
    - The compliance of the remedy with the requirements of the Remedial Work Plan and FER;
    - The performance and effectiveness of the remedy;
    - The operation and the effectiveness of the SSDS, including identification of any needed repairs or modifications;
    - Any new conclusions or observations regarding Site contamination based on inspections or data generated by the Monitoring Plan for the media being monitored; and

  - Recommendations regarding any necessary changes to the remedy and/or Monitoring Plan.

- A figure showing sampling and well locations, and significant analytical values at sampling locations; and
- Comments, conclusions, and recommendations, based on an evaluation of the information included in the report, regarding EC/ICs at the Site.

The Site Management Report will be submitted, in hard-copy format, to the Region 7 NYSDEC offices, located at 615 Erie Blvd., West, Syracuse, New York 13204-2400, and in electronic format to NYSDEC and NYSDOH.

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Appendix A

Soil Management Plan Forms

MIDLER CROSSINGS

WASTE NOTIFICATION FORM

1. Date:_____ Event No._____
2. Time of Discovery:_____
3. Name of Person Who Discovered Waste:_____
4. Method of Discovery:_____
5. Name of Person Reporting:_____
6. Description of Waste:
   a. Physical Characteristics _____liquid _____solid _____semi-solid (sludge)
   *Brief Description:*_____
   b. Estimated Quantity of Waste (based on visual observation):_____
   c. Color:_____
   d. Odor (describe if noticeable odor was present):_____
7. Location of Waste:_____
8. Response Action Taken Prior to Notification:_____
9. Persons Notified:_____

MIDLER CROSSINGS

WASTE STORAGE AREA INSPECTION FORM

Inspector Name:_____ Weather Conditions:_____

Date of Inspection:_____ Temperature:_____

Time of Inspection:_____

	Yes	No
Is area secured and are signs posted?	____	____
Are all wastes within containment area covered with polyethylene?	____	____
Is there any visual evidence of surface staining or discoloration originating from the containment area?	____	____
Are exposed liner and cover surfaces in good condition?	____	____
Is there any visual evidence of vandalism, tampering or any other deteriorating condition?	____	____
Does visual inspection indicate repair work is required? *(Explain)*	____	____
Were photographs taken? If yes, by whom? *Name* _____	____	____
Indicate photo log numbers.	____	____

*Remarks/Comments:*_____

_____

_____

_____

Table 1
Required Groundwater Analysis

Parameter	OCDWEP Daily Allowable Effluent Concentration Limitation
Total Cadmium (Cd)[1]	2.0 mg/l
Total Chromium (Cr)[1]	8.0 mg/l
Total Copper (Cu)[1]	5.0 mg/l
Total Nickel (Ni)[1]	5.0 mg/l
Total Zinc (Zn)[1]	5.0 mg/l
Total Mercury (Hg)	0.02 mg/l
Total Lead (Pb)	1.0 mg/l
Oil & Grease	150 mg/l
pH	5.5-10.5 Standard Units
Total Toxic Organics (TTO's)[2]	0.1 mg/l
PCB's[3]	0.5 µg/l
Methyl Tertiary Butyl Ether (MTBE)	Discharge limit included under TTO limit

2. An inspection of the project site by a representative of this Department shall be conducted prior to issuance of the discharge permit. At the time of the inspection a location for discharging the groundwater/wastewater to the sanitary sewer shall be discussed.

3. The Contractor shall remit a project permit fee of One Hundred Eighty-Five Dollars ($185.00) to the Department along with the written request as outlined in item #1. A check or money order for the full amount shall be made out to Onondaga County Department of Water Environment Protection, attention Bonnie Karasinski, Fiscal Officer. Should the application be rejected, the permit discharge fee shall be returned to the Contractor.

4. A permit to discharge will be issued by this Department governing the acceptance of groundwater/wastewater from the project site. The permit shall be based upon the

---

[1] Analysis for these parameters shall not be required should County personnel deem unnecessary based on best professional judgement.

[2] Total Toxic Organics is currently defined by the County, as Control Authority, to be the sum of the detectable concentrations of parameters detected by USEPA Method 624 (including Xylenes).

[3] Polychlorinated biphenyl's (PCB's) are those parameters detected by USEPA Method 608.

14. The Department reserves the right to conduct random site inspections to ensure compliance of the requirements within the permit and these procedures.

15. Upon the completion of the project, a final, written report must be submitted to the Department within five working days. The report shall include: a) the total volume of discharged groundwater/wastewater including the method used to determine the volume; b) the project completion date; and c) a copy of the waste manifest from the receiving permitted landfill for any waste material (i.e. sludge, oil product) removed as part of this project and transported to and disposed of at that facility.

Failure to comply with the conditions detailed herein shall subject the permittee to enforcement violations of up to $1,000.00 for each violation as detailed in Article VII of the Onondaga County Rules and Regulations Relating to the Use of the Public Sewer System.

Updated on 01-03-03

Appendix B

List of Acronyms

List of Acronyms

ASP	Analytical Services Protocol
BCA	Brownfield Cleanup Agreement
BCP	Brownfield Cleanup Program
C/D	Construction / demolition
CFR	Code of Federal Regulations
COC	Certificate of Completion
CVOC	Chlorinated volatile organic compound
DCE	Dichloroethene
DER	Division of Environmental Remediation
EC	Engineering control
ECL	Environmental Conservation law
IC	Institutional control
IRM	Interim Remedial Measure
NYCRR	New York Codes Rules and Regulations
NYSDEC	New York State Department of Environmental Conservation
NYSDOH	New York State Department of Health
ORP	Oxidation-reduction potential
PCB	Polychlorinated biphenyls
PCE	Tetrachloroethene (aka perchloroethylene)
PID	Photoionization detector
POTW	Publicly Owned Treatment Works
RI	Remedial Investigation
SMP	Site Management Plan
SoMP	Soil Management Plan
SSDS	Sub-slab depressurization system
SWPPP	Stormwater Pollution Prevention Plan
TCE	Trichloroethene
TCLP	Toxicity Characteristic Leaching Procedure
USDA	United States Department of Agriculture
USEPA	United States Environmental Protection Agency
USGS	United States Geological Society
VC	Vinyl chloride
VOC	Volatile organic compound

Appendix C

Environmental Easement

C&S ENGINEERS

County: Onondaga Site No.C734103 BCA No. B7-0679-04-1 1

ENVIRONMENTAL EASEMENT GRANTED PURSUANT TO ARTICLE 71, TITLE 36 OF THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW

THIS INDENTURE made this 17th day of December, 2007, between Owner(s) Pioneer Midler Avenue, LLC residing at (or having an office at) 250 South Clinton Street, Syracuse, New York 13202 (the "Grantor"), and The People of the State of New York (the "Grantee."), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner", or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233,

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties ("sites") that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment; and

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of Environmental Easements as an enforceable means of ensuring the performance of operation, maintenance, and/or monitoring requirements and of ensuring the potential restriction of future uses of the land, when an environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to perform properly and be effective, or which requires groundwater use or soil management restrictions; and

WHEREAS, the Legislature of the State of New York has declared that Environmental Easement shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law ("ECL") which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and;

WHEREAS, Grantor, is the owner of real property located at the address of 621 and 629 S. Midler Avenue in the City of Syracuse, Onondaga County, New York known and designated on the tax map of the City of Syracuse as tax map parcel number section 33.01 block 1 lot 02 and section 33.01 block 1 lot19 being the same as that property conveyed to Grantor by deed from Sutton Investing Corp. on August 31, 2005 , and recorded in the Land Records of the Onondaga County Clerk in liber 4902 of deeds at page 033, and by deed from Pioneer Realty Company, Inc. on August 31, 2005 and recorded in the land records of the Onondaga County Clerk in liber 4902 of deeds at page 029, comprised of approximately 21.8 acres, and hereinafter more fully described in Schedule A attached hereto and made a part hereof (the " Controlled Property"); and;

WHEREAS, the Commissioner does hereby acknowledge that the Department accepts this Environmental Easement in order to ensure the protection of human health and the environment and to achieve the requirements for remediation established at this Controlled Property until such time as this Environmental Easement is extinguished pursuant to ECL Article 71, Title 36;and

NOW THEREFORE, in consideration of the covenants and mutual promises contained herein and the terms and conditions of Brownfield Cleanup Agreement Number B7-0679-04-11,

Grantor grants, conveys and releases to Grantee a permanent Environmental Easement pursuant to Article 71, Title 36 of the ECL in, on, over, under, and upon the Controlled Property as more

fully described herein ("Environmental Easement").

1. Purposes. Grantor and Grantee acknowledge that the Purposes of this Environmental Easement are: to convey to Grantee real property rights and interests that will run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of this Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of operation, maintenance, and/or monitoring requirements; and to ensure the potential restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional and Engineering Controls. The following controls apply to the use of the Controlled Property, run with the land are binding on the Grantor and the Grantor's successors and assigns, and are enforceable in law or equity against any owner of the Controlled Property, any lessees, and any person using the Controlled Property.

A. The Controlled Property may be used for commercial or industrial use as long as the following long-term engineering controls are employed:

(i) compliance with the Department-approved Site Management Plan ("SMP") for the implemented remedy until the remedial goals for the Controlled Property are attained or deemed complete by the Department;

(ii) maintenance at a minimum of a one foot cover system or a six inch pavement system or buildings over the Site and any disturbance of or excavation from the Site cover system at depths greater than the one foot shall be done in accordance of the requirements of the SMP;

(iii) the groundwater beneath the Controlled Property cannot be used as a potable water source or for any other use without prior written permission of the Department and the pumping and discharge of groundwater to the waters of the State shall not be allowed without appropriate treatment and approval of the governing State, County or Municipal authority;

(iv) continued groundwater monitoring in accordance with the SMP until the Department determines that such monitoring is unnecessary;

(v) installation and maintenance in accordance with the standards and procedures specified in the SMP of subslab depressurization ("SSD") systems for all buildings and building additions to be constructed on the Site and the continued operation and maintenance in accordance with the SMP of those SSD systems already installed on the Site;

The Grantor hereby acknowledges receipt of a copy of the NYSDEC-approved Site Management Plan, dated December 2007. The SMP describes obligations that Grantor assumes on behalf of Grantor, its successors and assigns. The Grantor's assumption of the obligations contained in the SMP which may include sampling, monitoring, and/or operating a treatment system on the Controlled Property, and providing certified reports to the NYSDEC, is and remains a fundamental element of the Department's determination that the Controlled Property is safe for a specific use, but not all uses. Upon notice of not less than thirty (30) days the Department in exercise of its discretion and consistent with applicable law may revise the SMP.

The notice shall be a final agency determination. The Grantor and all successors and assigns, assume the burden of complying with the SMP and obtaining an up-to-date version of the SMP from:

Regional Remediation Engineer:
Region 7
New York State Department of Environmental Conservation
615 Erie Blvd. West
Syracuse, New York 13204-2400

or:

Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, New York 12233

B. The Controlled Property may not be used for a higher level of use such as unrestricted or restricted residential or residential use and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of Article 71, Title 36 of the ECL, the property deed and all subsequent instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

This property is subject to an environmental easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation Law.

D. Grantor covenants and agrees that this Environmental Easement shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

E. Grantor covenants and agrees that it shall annually, or such time as NYSDEC may allow, submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury that the controls employed at the Controlled Property are unchanged from the previous certification or that any changes to the controls employed at the Controlled Property were approved by the NYSDEC, and that nothing has occurred that would impair the ability of such control to protect the public health and environment or constitute a violation or failure to comply with any Site Management Plan for such controls and giving access to such Controlled Property to evaluate continued maintenance of such controls.

3. Right to Enter and Inspect. Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor's Rights. Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Property, all rights as fee owner of the Controlled Property, including:

1. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement;

2. The right to give, sell, assign, or otherwise transfer the underlying fee interest to the Controlled Property by operation of law, by deed, or by indenture, subject and subordinate to this Environmental Easement;

5. Enforcement

A. This Environmental Easement is enforceable in law or equity in perpetuity by Grantor, Grantee, or any affected local government, as defined in ECL Section 71-3603, against the owner of the Property, any lessees, and any person using the land. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel, or waiver. It is not a defense in any action to enforce this Environmental Easement that: it is not appurtenant to an interest in real property; it is not of a character that has been recognized traditionally at common law; it imposes a negative burden; it imposes affirmative obligations upon the owner of any interest in the burdened property; the benefit does not touch or concern real property; there is no privity of estate or of contract; or it imposes an unreasonable restraint on alienation.

B. If any person intentionally violates this Environmental Easement, the Grantee may revoke the Certificate of Completion provided under ECL Article 27, Title 14, or Article 56, Title 5 with respect to the Controlled Property.

C. Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall set forth how Grantor can cure such breach or suspected breach and give Grantor a reasonable amount of time from the date of receipt of notice in which to cure. At the expiration of such period of time to cure, or any extensions granted by Grantee, the Grantee shall notify Grantor of any failure to adequately cure the breach or suspected breach. Grantor shall then have a reasonable amount of time from receipt of such notice to cure. At the expiration of said second period, Grantee may commence any proceedings and take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement in accordance with applicable law to require compliance with the terms of this Environmental Easement.

D. The failure of Grantee to enforce any of the terms contained herein shall not be deemed a waiver of any such term nor bar its enforcement rights in the event of a subsequent breach of or noncompliance with any of the terms of this Environmental Easement.

6. Notice. Whenever notice to the State (other than the annual certification) or approval from the State is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing the following information:

County, NYSDEC Site Number, NYSDEC Contract, BCA or Order Number, and the County tax map number or the Liber and Page or computerized system identification number.

Parties shall address correspondence to:

Environmental Easement Attorney
Office of General Counsel
NYSDEC
625 Broadway
Albany New York 12233-1500

Such correspondence shall be delivered by hand, or by registered mail or by Certified mail and return receipt requested. The Parties may provide for other means of receiving and communicating notices and responses to requests for approval.

7. Recordation. Grantor shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

8. Amendment. This Environmental Easement may be amended only by an amendment executed by the Commissioner of the New York State Department of Environmental Conservation and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

9. Extinguishment. This Environmental Easement may be extinguished only by a release by the Commissioner of the New York State Department of Environmental Conservation and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

10. Joint Obligation. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

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

Pioneer-Midler Avenue, LLC

By: _____
Dale L. Van Epps
Title: Executive Committee Member
Date: December 17, 2007

THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of Environmental Conservation

by: _____
Alexander B. Grannis, Commissioner

Grantor's Acknowledgment

STATE OF NEW YORK)
)
COUNTY OF ONONDAGA)

On the 17TH day of December, in the year 2007, before me, the undersigned, personally appeared Dale L. Van Epps, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Mary E. Cerio
Notary Public

MARY E. CERIO
Notary Public, State of New York
Registered in Onondaga County
No. 4996808
Commission Expires 05/26/10

Grantee's Acknowledgment

STATE OF NEW YORK)
) ss:
COUNTY OF)

On the 21 day of May, in the year 2007, before me, the undersigned, personally appeared ALEXANDER B. GRANNIS, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as Commissioner of the State of New York Department of Environmental Conservation, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public - State of New York

SCOTT OWENS
Notary Public, State of New York
No. 01OW6166972
Qualified in Albany County
Commission Expires April 12, 2008

Parcel Description
Pioneer Midler Avenue LLC
Syracuse, NY

All that tract or parcel of land situate in the City of Syracuse, Onondaga County, State of New York, being part of Military Lot Number 40 of the former Town of Dewitt, bounded and described as follows:

Beginning at a concrete monument on the easterly right of way line of South Midler Avenue as appropriated to the State of New York (Map No. 66, Parcel No. 106 & 107); thence, along the easterly line of said appropriated Parcel No. 106 the following two courses and distances:

North 02°-36'-16" West, a distance of 330.71 feet to a point; thence,

North 07°-30'-43" West, a distance of 276.38 feet to a concrete monument on the southerly right of way line of New York State Route 690 (as appropriated to the State of New York - Map No. 354, Parcel No. 450 & 451; and Map No. 351, Parcel No. 445); thence,

North 71°-46'-10" East, along the southerly right of way line of said Route 690, a distance of 17.28 feet to the northwest corner of Proposed Lot 5; thence, the following three courses and distances along said Lot 5:

South 18°-23'-56" East, a distance of 47.11 feet to a point; thence,

North 73°-21'-19" East, a distance of 23.85 feet to a point; thence,

North 18°-23'-47" West, a distance of 47.77 feet to a point on the southerly right of way line of said Route 690; thence,

North 71°-46'-10" East, along said southerly right of way line of Route 690, a distance of 486.65 feet to an angle point; thence,

North 68°-07'-00" East, continuing along said southerly right of way line of Route 690, a distance of 37.53 feet to the northwest corner of proposed Lot 4; thence, the following three courses and distances along said Lot 4:

South 21°-53'-00" East, a distance of 50.84 feet to a point; thence,

North 68°-07'-00" East, a distance of 23.84 feet to a point; thence,

North 21°-53'-00" West, a distance of 50.84 to a point on the southerly right of way line of said NYS Route 690; thence, continuing along said southerly right of way line of Route 690 the following three courses and distances:

North 68°-07'-00" East, a distance of 65.62 feet to an angle point; thence,

North 77°-43'-00" East, a distance of 197.00 feet to a concrete monument; thence,

North 76°-10'-30" East, a distance of 244.30 feet to the northwest corner of proposed Lot 3; thence, the following three courses and distances along said Lot 3:

South 13°-49'-30" East, a distance of 50.50 feet to a point; thence,

North 76°-10'-30" East, a distance of 23.84 feet to a point; thence,

North 13°-49'-30" West, a distance of 50.50 to a point on the southerly right of way line of said NYS Route 690; thence,

North 76°-10'-30" East, along said southerly right of way line of Route 690, a distance of 126.52 feet to a point; thence,

South 13°-49'-30" East, a distance of 656.54 feet to a point on the northerly line of lands now or formerly of the City of Syracuse (Tax Map No. 33.01-1-20); thence,

North 73°-21'-19" East, on said northerly line, a distance of 996.00 feet to a point on the easterly line of said property of the City of Syracuse; thence,

South 04°-09'-10" East, a distance of 39.81 feet to a point on the northerly line of lands now or formerly of New York Central Lines, LLC; thence,

South 73°-21'-19" West, on said northerly line, a distance of 2356.10 feet to a point on the easterly right of way line of South Midler Avenue; thence,

North 00°-23'-35" West, on said easterly right of way line, a distance of 31.20 feet to a concrete monument; thence,

North 73°-43'-32" East, a distance of 168.40 feet to a point; thence,

North 04°-19'-45" West, a distance of 61.40 feet to the northeast corner of aforesaid appropriation to the State of New York (Map No. 66, Parcel No. 107) ; thence, the following two (2) courses and distances on said appropriation:

South 75°-02'-08" West, a distance of 144.06 feet to a concrete monument; thence,

North 57°-44'-29" West, a distance of 21.26 feet to the Point of Beginning.

Said parcel containing 21.727 acres, more or less, shown on a map prepared by Bergmann Associates entitled "ALTA/ACSM Land Title Survey - Proposed Retail Development, Midler Avenue, Syracuse, New York", dated August 13, 2004, last revised on August 22, 2005.

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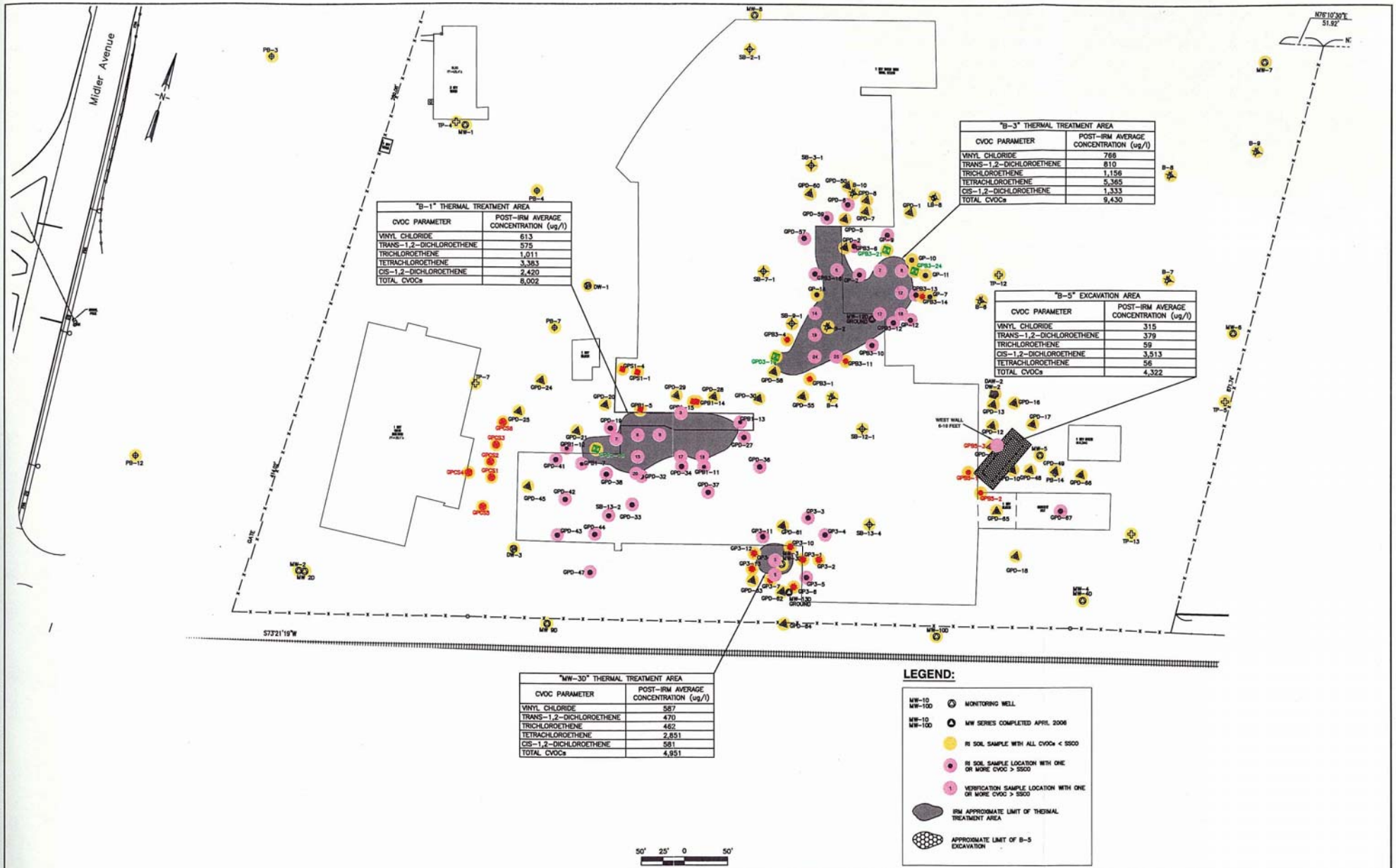
Appendix D

Residual Contamination Figure

(Figure 17 from the RI/AAR)

C&S ENGINEERS


Midler Avenue
"B-1" THERMAL TREATMENT AREA
CVOC PARAMETER | POST-IRM AVERAGE CONCENTRATION (ug/l)
VINYL CHLORIDE | 613
TRANS-1,2-DICHLOROETHENE | 575
TRICHLOROETHENE | 1,011
TETRACHLOROETHENE | 3,383
CIS-1,2-DICHLOROETHENE | 2,420
TOTAL CVOCs | 8,002
"B-3" THERMAL TREATMENT AREA
CVOC PARAMETER | POST-IRM AVERAGE CONCENTRATION (ug/l)
VINYL CHLORIDE | 766
TRANS-1,2-DICHLOROETHENE | 810
TRICHLOROETHENE | 1,156
TETRACHLOROETHENE | 5,365
CIS-1,2-DICHLOROETHENE | 1,333
TOTAL CVOCs | 9,430
"B-5" EXCAVATION AREA
CVOC PARAMETER | POST-IRM AVERAGE CONCENTRATION (ug/l)
VINYL CHLORIDE | 315
TRANS-1,2-DICHLOROETHENE | 379
TRICHLOROETHENE | 59
CIS-1,2-DICHLOROETHENE | 3,513
TETRACHLOROETHENE | 56
TOTAL CVOCs | 4,322
"MW-30" THERMAL TREATMENT AREA
CVOC PARAMETER | POST-IRM AVERAGE CONCENTRATION (ug/l)
VINYL CHLORIDE | 587
TRANS-1,2-DICHLOROETHENE | 470
TRICHLOROETHENE | 462
TETRACHLOROETHENE | 2,851
CIS-1,2-DICHLOROETHENE | 581
TOTAL CVOCs | 4,951
LEGEND:
MONITORING WELL
MW SERIES COMPLETED APRIL 2006
RI SOIL SAMPLE WITH ALL CVOCs < SSCO
RI SOIL SAMPLE LOCATION WITH ONE OR MORE CVOC > SSCO
VERIFICATION SAMPLE LOCATION WITH ONE OR MORE CVOC > SSCO
IRM APPROXIMATE LIMIT OF THERMAL TREATMENT AREA
APPROXIMATE LIMIT OF B-5 EXCAVATION
50' 25' 0 50'
C&S ENGINEERS, INC.
499 Col. Eileen Collins Blvd.
Syracuse, New York 13212
Phone 315-455-2000
Fax 315-455-9667
www.cscos.com
DATE: OCTOBER 2007
SCALE: AS SHOWN
FILE NO. C81.002.001
NO ALTERATION PERMITTED HEREON EXCEPT AS PROVIDED UNDER SECTION 7209 SUBDIVISION 2 OF THE NEW YORK EDUCATION LAW
Pioneer Midler Avenue LLC
Remedial Investigation Report
Post-IRM Soil CVOCs Data
Figure 17