

**Gilberti Stinziano Heintz & Smith, P.C.**  
**ATTORNEYS AND COUNSELORS AT LAW**

555 East Genesee Street  
Syracuse, New York 13202-2159  
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Telefax: (315) 442-0106  
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Writer's Direct E-Mail: [jswanger@gilbertilaw.com](mailto:jswanger@gilbertilaw.com)  
Writer's Direct Fax: (315) 442-0169

SEP 11 2009

September 11, 2009

***Via Hand Delivery***

Bureau Chief or Regional Hazardous  
Waste Remediation Engineer  
Supervising Project Manager  
Environmental Remediation  
Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233

Division of Environmental Enforcement  
Department of Environmental Conservation  
625 Broadway, 14<sup>th</sup> Floor  
Albany, New York 12233-5500

Mr. Gary Litwin  
Bureau of Environmental Exposure  
Investigation  
New York State Department of Health  
Flanigan Square  
547 River Street  
Troy, New York 12180-2216

Ms. Karen Cahill  
New York State Department of Environmental  
Conservation  
Region 7 Headquarters  
615 Erie Boulevard West  
Syracuse, NY 13204-2400

***Re: Certificate of Mailing – Brownfield Cleanup Program Phase I Site - Destiny  
Project – Fact Sheet Titled Action to Address Brownfield Site Contamination  
Completed; Final Engineering Report Submitted to NYSDEC for Review***

Dear Sir or Madam:

Enclosed please find a Certificate of Mailing for the Brownfield Cleanup Program Phase I Site, Destiny Project, Fact Sheet titled *Action to Address Brownfield Site Contamination Completed; Final Engineering Report Submitted to NYSDEC for Review*, dated August 2009. Its attachments include the August 2009 Phase I Site Fact Sheet titled *Action to Address Brownfield Site Contamination Completed; Final Engineering Report Submitted to NYSDEC for Review*, and the Brownfield Site Contact mailing list of persons to which a copy of the Fact Sheet was mailed on September 8, 2009.

Also enclosed please find a CD, which is an updated disc containing the digital copy of the *Phase I Final Engineering Report Including Final Remedial Design* ("Phase I FER"). Please replace the CD in Appendix A of the Phase I FER with the enclosed CD.

Gilberti Stinziano Heintz & Smith, P.C.

SYRACUSE, NEW YORK 13202-2159

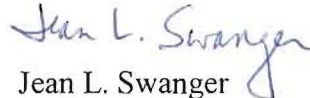
September 11, 2009

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If you have any questions, please contact me directly at (315) 442-0174.

Very truly yours,

GILBERTI STINZIANO HEINTZ & SMITH, P.C.

A handwritten signature in blue ink that reads "Jean L. Swanger". The signature is written in a cursive style with a large, stylized "J" and "S".

Jean L. Swanger  
Paralegal

Enc.

Project Name: Brownfield Cleanup Program Phase I Site, Destiny Project, Syracuse, New York

### CERTIFICATION OF MAILING

I certify that I mailed on September 8, 2009 a copy of the attached Brownfield Cleanup Program Phase I Site Fact Sheet titled *Action to Address Brownfield Site Contamination Completed; Final Engineering Report Submitted to NYSDEC for Review* by first class mail to the person(s) on the attached mailing list, by depositing a true copy thereof, securely enclosed in a postpaid wrapper, in the Post Office box at the intersection of Townsend Street and East Fayette Street in the City of Syracuse, New York, which box is under the exclusive care and custody of the United States Post Office Department.

Signature  Date 9/9/09

Attachments

# FACT SHEET

## Prepared and Submitted by Destiny Brownfield Cleanup Program – Phase I Site<sup>1</sup>

**Brownfield Cleanup  
Program- Phase I Site  
Destiny USA  
Syracuse, NY**

**August 2009**

### **Action to Address Brownfield Site Contamination Completed; Final Engineering Report Submitted to NYSDEC for Review**

Action has been completed to address contamination related to the real property shown on Figure 1 (“Phase I Site”), located in the City of Syracuse, Onondaga County, New York, consistent with New York’s Brownfield Cleanup Program (“BCP”). See map for the location of the Phase I Site.

Applicant has completed the remedial activities set forth in the Phase I Remedial Action Workplan (“Phase I RWP”) and has submitted to the New York State Department of Environmental Conservation (“NYSDEC”) a Phase I Final Engineering Report (“Phase I FER”), for review. The Phase I FER states that cleanup requirements have been achieved to fully protect public health and the environment for the proposed Phase I Site use. The Phase I FER is available at Robert P. Kinchen Central Library; the address is provided below under “Location of Reports and Information – Document Repository.”

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<sup>1</sup> NYSDEC originally denied the BCP Application and Applicant filed a proceeding challenging this determination. By order dated June 10, 2008, the Supreme Court ordered the entire Destiny site into the BCP. After the opinion was issued, Applicant repeatedly sought DEC’s participation in the remediation of the site under the strictures of the BCP as ordered by Supreme Court, offering to preserve the positions and rights of both parties pending the outcome of any appeal. Applicant explained to the Department that the exigencies imposed on this public project by prior delays, and legal and contractual obligations required that construction and remediation of Phase I proceed simultaneously. Letters outlining the applicants position have been attached to previous fact sheets and are available upon request.

DEC nevertheless determined not to participate in these efforts and decided instead to appeal the decision. Similarly, letters setting forth DEC’s position, which have been attached to previous fact sheets, are available upon request. While the appeal was pending, Applicant has proceeded with the BCP program relating to the Phase I Site in full compliance with all governing regulatory and statutory requirements, including NYSDEC precedents. Despite NYSDEC’s nonparticipation, Applicant has prepared and submitted all required public notices and sought input from NYSDEC, other agencies, and the public. This Fact Sheet does the same with respect to the Remedial Work Plan submitted to NYSDEC on May 20, 2009.

On June 5, 2009, the Appellate Division unanimously affirmed the decision of Supreme Court declaring the Destiny site to be a brownfield.



This Phase I FER applies to the Phase I Site, in connection with the first phase of the Destiny project located in Syracuse, New York. The first phase includes an 800,000+ square foot building expansion of the existing Carousel Center. The Phase I Site consists of the approximately 450,000 square foot building expansion footprint as shown on attached Figure 1. The Phase I Site is located within the overall boundaries of the Destiny Site ("Destiny Site"), shown on the attached Figure 2.

**Brownfield Cleanup Program:** New York's Brownfield Cleanup Program (BCP) encourages the voluntary cleanup of contaminated properties known as "brownfields" so that they can be reused and redeveloped. These uses include recreation, housing and business.

A **brownfield** is any real property that is difficult to reuse or redevelop because of the presence or potential presence of contamination. For more information about the BCP, visit: [www.dec.ny.gov/chemical/8450.html](http://www.dec.ny.gov/chemical/8450.html).

The BCP application indicates that the Destiny Site will be used as a unique development that will transform previously underutilized property into a major research, retail, entertainment, dining, hospitality, and tourism venue.

### Highlights of the Final Engineering Report

The Phase I Final Engineering Report has several goals:

- 1) describe the cleanup activities completed;
- 2) certify that cleanup requirements have been achieved or will be achieved for the Phase I Site;
- 3) describe any institutional/engineering controls to be used. An *institutional control* is a non-physical restriction on use of the Phase I Site, such as an environmental easement, when contamination left over after the cleanup action makes the site suitable for some, but not all uses. An *engineering control* is a physical barrier or method to manage contamination such as a cap or vapor barrier; and
- 4) certify that a Phase I Site Management Plan ("Phase I SMP") for any engineering controls used at the Phase I Site has been submitted to NYSDEC.

The selected remedy includes both institutional and engineering controls which will be appropriately protective to enable the Phase I Site to be used for residential (other than single family houses), commercial, or industrial uses. As to the engineering controls, the selected remedy for the Phase I Site included excavation, vapor barrier with vapor control and capping. (See discussion of Alternative 4 in the Phase I Remedial Work Plan ("Phase I RWP")). The selected remedy was chosen because it met the criteria established in the BCP program, including the protection of public health and the environment (including groundwater, drinking water, surface water, air, indoor air and sensitive populations) and was consistent with remedies approved at other NYSDEC-approved BCP sites with similar contamination and proposing a similar use. The selected remedy applies specifically to the Phase I Site.

Previous investigations, as discussed and summarized in the previously submitted Phase I RIR and Phase I RWP, identified soil contamination in surface and subsurface soils on the Phase I Site. Contaminants in soils included metals, petroleum-related compounds such as volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs) and polychlorinated biphenyls (PCBs) at concentrations exceeding the regulatory standards.

Groundwater investigation activities confirmed existing contamination on the Phase I Site associated with the historic activities. Contaminants in groundwater included metals, VOCs, and SVOCs at concentrations exceeding the regulatory standards.

In addition, soil vapor investigation activities confirmed volatile organic compounds, including trichloroethene (TCE), at concentrations exceeding background values published by the New York State Department of Health.

Soil excavation (over 88,000 cubic yards) removed significant amounts of contamination from the Phase I Site. Excavation, in conjunction with installation of a vapor barrier and vapor control system across the footprint of the Phase I Site, addressed contamination in the timeframes set forth in the Phase I RWP. These activities, in conjunction with the Phase I Site-wide capping, prevent exposure to contaminants and achieve the Remedial Action Objectives for the Phase I Site.

As to the institutional controls, the selected remedy provides the necessary administrative protections and legal notice of potential human or environmental exposure to contaminants as described in the Phase I RWP. The institutional controls, which prevent exposure on the Phase I Site to Phase I Site contaminants, include establishment of an environmental easement that allows use of the Phase I Site for residential, (other than single family houses), commercial, or industrial uses. The environmental easement also imposes Phase I Site groundwater use restrictions, requires monitoring and maintenance of the engineering controls, and requires that any modification or removal of the engineering controls be conducted in accordance with the requirements contained in the Phase I SMP and applicable law. A proposed environmental easement, including the recommended institutional and engineering controls, and Phase I SMP have been submitted to the NYSDEC and will be finalized and signed as required upon approval by the NYSDEC.

### **Next Steps**

NYSDEC will have the opportunity to review and approve and make any necessary revisions to the Phase I FER. After comments, if any, are addressed, the final Phase I FER will be placed in the document repository (See below for location). Thereafter, the Applicant is entitled to the issuance of a Certificate of Completion.

### **Background**

The Destiny Site consists of approximately 152 acres at the southeast end of Onondaga Lake (Figure 1). The Destiny Site is bounded by: Onondaga Lake, Conrail tracks and Harborside Drive, to the northwest; Interstate 81 (I-81) to the north and northeast; Bear Street on the south and southeast; and the New York State Barge Canal to the south and southwest.



The Phase I Site is located in a former area of extensive natural shoreline and lowland deposits consisting of marl (a naturally occurring deposit of clay, calcium, carbonate, and shell fragments), and organic vegetation including roots, wood, and peat. Prior to modern-day development, the general area was known for its extensive salt marshes and spring deposits that were mined for the salt content.

In the early 1900s, the Solvay Process Company brought the "Solvay Process" for generating Soda Ash (Sodium Carbonate) to the United States from Germany. The Company settled in Syracuse and commenced operation in or about 1907. The Solvay Process generated large quantities of waste materials, including Calcium Carbonate, Calcium Oxide, and Calcium Chloride. These wastes are generally characterized as being white to grey, relatively soft, clayey or "tooth paste-like" material. Areas were needed for the disposal of such waste materials, thus available areas of unoccupied land at the Solvay plant and on vacant land located throughout the south end of Onondaga Lake were utilized for such disposal. These disposal areas included a large portion of the area between Onondaga Lake and West Hiawatha Boulevard (current Carousel Area), including the Phase I Site. Throughout the first half of the 1900s, additional miscellaneous fill, including more Solvay waste and, most likely, various construction and demolition debris (C&D) waste, was deposited on and in the vicinity of the Phase I Site. Similar activities, excluding the additional deposition of Solvay wastes, continued from the 1930s to the 1980s. A portion of the former Marley Property was reportedly (Haley & Aldridge, 2002) used as a salvage yard for scrap metal. The salvage yard on the former Marley Property, which overlaps the Phase I Site, operated from the late 1930s up to the construction of the Carousel Center (Dunn, 1988).

From the 1940s to the 1980s, a five acre parcel of land at the south-central end of the Marley Property, known as the Clark (Clark Concrete Co.) Property, was used as a concrete batch plant for local construction projects. A DOT field station was also formerly located on this property. The Former Clark property is immediately adjacent to the Phase I Site. In or about 1987, the Clark Property was found to be contaminated with chlorinated and non-chlorinated hydrocarbons, including solvents. As a result, the Clark Property was listed on NYSDEC's Registry of Inactive Hazardous Waste Disposal Sites, as a Class 2 Site (significant threat to the public health or environment-action required) in April of 1989.

Major oil storage facilities were located on and immediately south of the Phase I Site. These facilities were owned by Amerada Hess and Buckeye Petroleum. These facilities were part of a large petroleum storage complex at the south end of Onondaga Lake known as Oil City.

Investigative activities have been conducted and are summarized in the Phase I RIR. The Phase I Site was most recently used for parking, vehicle driveways, and pedestrian walkways into the adjacent Carousel Center. Construction of the engineering controls on the Phase I Site described herein and in more detail in the Phase I FER is complete.

A more complete site history and description of the construction of the engineering controls on the Phase I Site are provided in the Phase I RIWP, Phase I RIR, Phase I RWP, and Phase I FER, which are available for public review.

## **FOR MORE INFORMATION**

### **Location of Reports and Information - Document Repository**

Project documents are available at the following location to help the public stay informed. These documents include, to date, the application to participate in the BCP, the Phase I Citizen Participation Plan, the Phase I Remedial Investigation Work Plan, Phase I Remedial Investigation Report, the Phase I Remedial Workplan, and the Phase I Final Engineering Report.

Robert P. Kinchen Central Library  
The Galleries of Syracuse  
447 South Salina Street  
Syracuse, New York 13204-2494  
Telephone: (315) 435-1900  
Email: [reference@onlib.org](mailto:reference@onlib.org)

### **Who to Contact**

Comments and questions are always welcome and should be directed as follows:

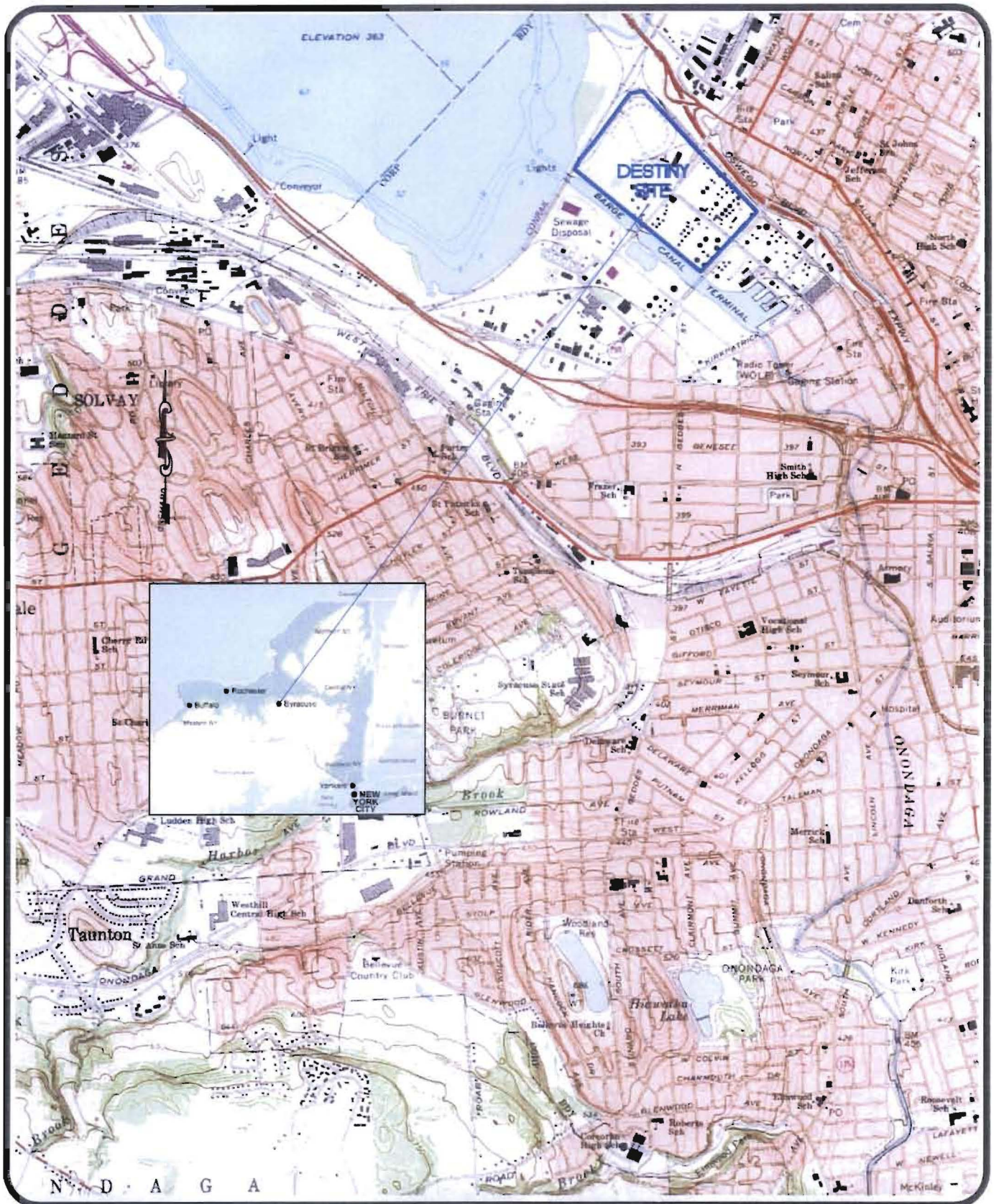
Bureau Chief or Regional Hazardous Waste Remediation Engineer  
Supervising Project Manager  
Environmental Remediation  
Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233-7012

Bureau of Environmental Exposure Investigation  
New York State Department of Health  
Flanigan Square  
547 River Street  
Troy, New York 12180-2216

William J. Gilberti, Jr.  
555 East Genesee Street  
Syracuse, New York 13202-2519

If you know someone who would like to be added to the project mailing list, have them contact William J Gilberti, Jr. at the address listed above. We encourage you to share this fact sheet with neighbors and tenants, and/or post this fact sheet in a prominent area of your building for others to see.





SPECTRA ENVIRONMENTAL GROUP, INC.  
19 British American Blvd  
Latham, NEW YORK 13202

## DESTINY SITE LOCATION MAP

ONONDAGA COUNTY

NEW YORK

PROJ. No.: 06448

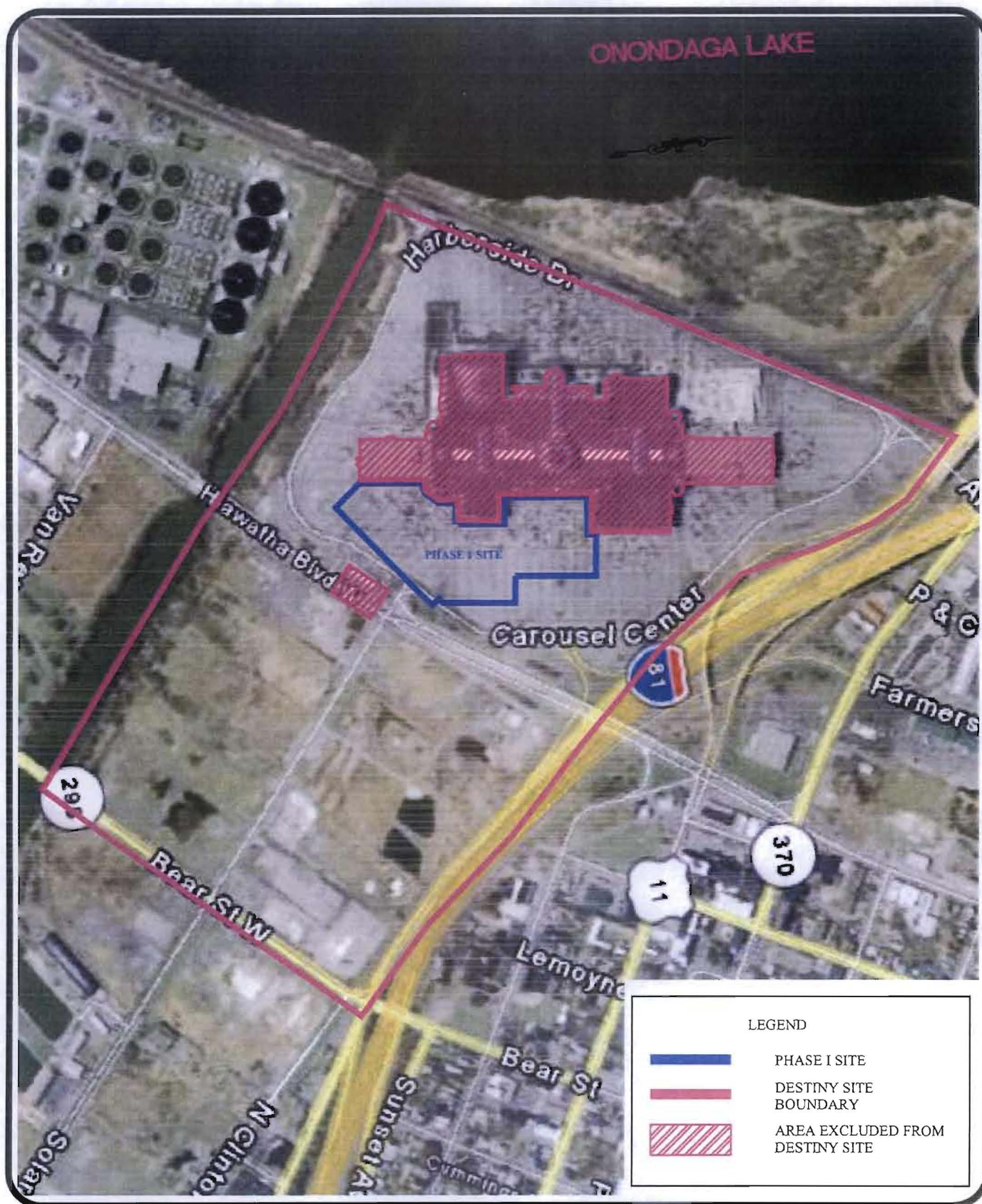
DATE: 09/09/2008

SCALE: NOT TO SCALE

DWG. NO. 06448SLMAP.DWG

FIGURE 1





SPECTRA ENVIRONMENTAL GROUP, INC.  
19 British American Blvd  
Latham, NEW YORK 13202

2008 AERIAL PHOTOGRAPH  
SHOWING DESTINY SITE

ONONDAGA COUNTY

NEW YORK

PROJ. No.: 06448

DATE: 09/09/2008

SCALE: NOT TO SCALE

DWG. NO. 06448SLMAP.DWG

FIGURE 2

## **CONTACT LIST INFORMATION**

### **Local Officials:**

Honorable Matthew J. Driscoll  
Mayor, City of Syracuse  
City Hall, Room 203  
233 East Washington Street  
Syracuse, New York 13202-1473  
Telephone: (315) 448-8005  
Email: [Mayor@ci.syracuse.ny.us](mailto:Mayor@ci.syracuse.ny.us)

Honorable Joanne M. Mahoney  
Onondaga County Executive  
John H. Mulroy Civic Center, 14<sup>th</sup> Floor  
421 Montgomery Street  
Syracuse, New York 13202  
Telephone: (315) 435-3516

William H. Meyer, Chair  
Onondaga County Legislature  
Onondaga County Courthouse, Room 407  
401 Montgomery Street  
Syracuse, New York 13202  
Telephone: (315) 435-2070  
Email Deborah L. Maturo, Clerk at: [DebbieMaturo@ongov.net](mailto:DebbieMaturo@ongov.net)

Honorable Bethaida Gonzalez, President  
Syracuse Common Council  
City Hall, Room 314  
233 East Washington Street  
Syracuse, New York 13202  
Telephone: (315) 448-8466

Linda DeFinchy, Chair  
Syracuse Zoning Board of Appeals  
City Hall Commons, Room 212  
201 East Washington Street  
Syracuse, New York 13202  
Telephone: (315) 448-8640



Ruben Cowart, Chair  
Syracuse Planning Commission  
City Hall Commons, Room 211  
201 East Washington Street  
Syracuse, New York 13202  
Telephone: (315) 448-8640

Don M. Jordan, Jr., Director  
Syracuse-Onondaga County Planning Agency  
John H. Mulroy Civic Center, 11<sup>th</sup> Floor  
421 Montgomery Street  
Syracuse, New York 13202  
Telephone: (315) 435-2611

Site Owners/Residents/Lessees:

Pyramid Company of Onondaga  
Clinton Exchange  
4 Clinton Square  
Syracuse, NY 13202

Syracuse Industrial Development Agency  
233 East Washington Street  
312 City Hall  
Syracuse, NY 13202  
Telephone: (315) 448-8100

City of Syracuse  
Rory A. McMahon, Corporation Counsel  
300 City Hall  
Syracuse, NY 13202  
Telephone: (315) 448-8400

New York State Canal Corporation  
Steven Eidt, Division Engineer, Syracuse Division  
Suite 250, 2nd Floor  
290 Elwood Davis Road  
Liverpool, NY 13088-0308  
Telephone: (315) 437-2741

Carmella R. Mantello, Director  
Canal Corporation Headquarters  
200 Southern Boulevard  
Albany, NY 12209  
Telephone: (518) 436-3055

New York State Department of Transportation:  
Card F. Ford, P.E., Regional Director  
State Office Building  
333 E. Washington St.  
Syracuse, NY 13202  
Telephone: (315) 428-4351

Adjacent Property Owners:

Development Assoc. Dembo  
250 S. Clinton St, Ste 502  
Syracuse, NY 132002  
Telephone Unknown

Destiny Land Use Co. LLC  
4 Clinton Square  
Syracuse, NY 13202

NY Central Lines LLC  
500 Water St. J910  
Jacksonville, FL 32202  
Telephone Unknown

Hess Realty Corporation  
1 Hess Plaza  
Woodbridge, NJ 07095  
(732) 750-6000

People of the State of New York  
New York State Department of Transportation  
50 Wolf Road  
Albany, NY 12232  
(518) 471-6195

Buckeye Pipe Line Company, LP  
P.O. Box 368  
5002 Buckeye Road  
Emmaus, PA 18049-5347  
(484) 232-4000

Belcher Co. of NY Inc.  
P.O. Box 4372  
Houston, TX 77210  
Telephone Unknown

Public water supplier:

Michael J. Ryan, P.E., Commissioner  
City of Syracuse Water Department  
101 North Beech Street  
Syracuse, New York 13210  
Telephone: (315) 473-2609

Local news media:

The Post Standard  
Clinton Square  
P.O. Box 4915  
Syracuse, New York 13221-4915  
Telephone: (315) 470-0011

WSTM/WSTQ - NBC 3  
1030 James Street  
Syracuse, New York 13203  
Telephone: (315) 477-9400

WTVH – CBS 5  
980 James Street  
Syracuse, New York 13203  
Telephone: (315) 425-5555

WSYR Channel 9  
5904 Bridge Street  
East Syracuse, New York 13057  
Telephone: (315) 446-9999  
Newsroom: (315) 446-3333

News 10 Now  
815 Erie Boulevard East  
Syracuse, New York 13210  
Telephone: (315) 234-0640

WSYT Fox 68  
1000 James Street  
Syracuse, New York 13203  
Telephone: (315) 472-6800



Radio Stations

WAQX – FM – 95X

WLTJ – FM – LITE ROCK 105.9

WNTQ – 93Q

1064 James Street

Syracuse, New York 13203

Telephone: (315) 472-0200

No Person Has Requested to be Placed on the Contact List

There is no School or Daycare Facility Located on or Near the Site

A document repository for the project is located at:

Robert P. Kinchen Central Library

The Galleries of Syracuse

447 South Salina Street

Syracuse, New York 13204-2494

Telephone: (315) 435-1900

Email: [reference@onlib.org](mailto:reference@onlib.org)