

2558 Hamburg Turnpike
Suite 300
Buffalo, NY 14218
Phone: 716-856-0599
Fax: 716-856-0583



Letter of Transmittal

To: Chief, Site Section Control	Date: August 11, 2020
NYSDEC Albany	Project: 7 Evans Street
Division of Environmental Remediation	Project #: 0333-019-001
625 Broadway, 11 th floor	Re: BCP Application
Albany, NY 12233-7020	

We are sending you: **Attached** ☐ Under separate cover via _____ the following:

☐ Shop Drawings	☒ Other
☐ Specifications	☐ Sketches
☐ Prints	☐ Brochures
☐ Subcontract Agreement	☐ Laboratory Analytical Data Summary Package

Copies	Prepared By	Reference No.	Description
2	Benchmark & TurnKey		BCP Application for 7 Evans Street

These are transmitted as checked below:

- | | | |
|--|--|--|
| ☐ As requested | ☐ Approved | ☐ Resubmit ____ copies for approval |
| ☐ For your use | ☐ Approved as corrected | ☐ Submit ____ for distribution |
| ☒ For review & Comment | ☐ Revise & Resubmit | ☐ Return ____ corrected prints |
| ☐ For your information | ☐ Not Approved | ☐ Please Comment |

Remarks:

Hello,

We have enclosed two hardcopies of a Brownfield Cleanup Program Application which contain compact discs at the back with electronic files for the above referenced Site. In addition to the BCP application, a cover letter from Jeffrey Stravino was included with each hardcopy.

Please let us know if you have any questions or need any other information.

Christopher Boron
Sr. Project Manager

Jeffrey C. Stravino
Partner
Direct Dial: 716.848.1394
Direct Facsimile: 716.819.4659
jstravino@hodgsonruss.com



August 3, 2020

Via email

Jennifer Andaloro, Esq.
Senior Attorney, Office of General Counsel
NYSDEC
625 Broadway, 14th Floor
Albany, New York 12233-1500

Dear Ms. Andaloro:

Re: Batavia Former MGP
Site No. 819019
7 Evans Street, Batavia, New York (the "Site")

As you know, Hodgson Russ LLP represents R&J Enterprises of Batavia, LLC ("R&J") concerning the above-referenced Site. As you also know, R&J entered into an Order on Consent & Administrative Settlement in March 2014 ("Order") and diligently complied with the Order. The Department issued a Record of Decision in March 2020. As per our discussions with the Department, both in the past and recently, I am writing to confirm that the Order is hereby terminated, and R&J is concurrently submitting an application and related documents for the Brownfield Cleanup Program concerning the Site.

Thank you for your courtesy and cooperation throughout this matter. Please let me know if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeffrey C. Stravino".

Jeffrey C. Stravino

JCS/say
Enclosures

cc: *Via email:*
Michael Lesakowski , Benchmark & TurnKey
Christopher Boron, Benchmark & TurnKey
Chad LaCivita, R&J Enterprises of Batavia, LLC

Brownfield Cleanup Program Application

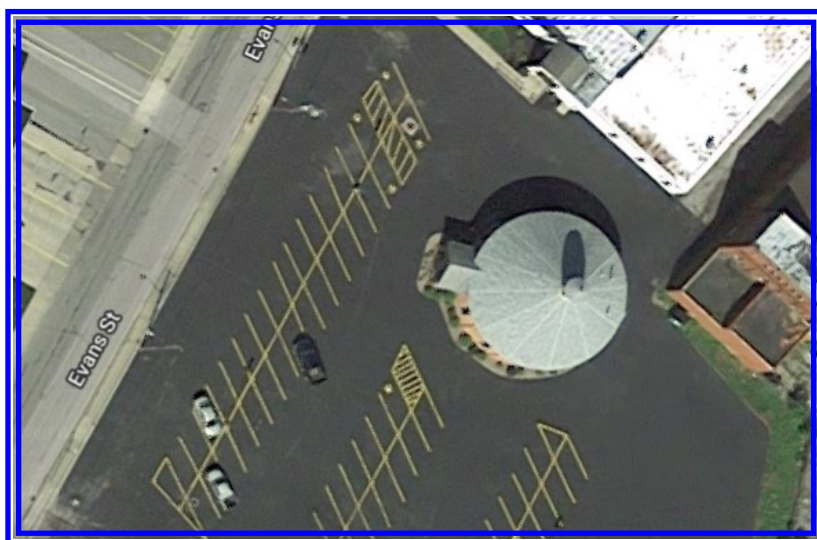
*7 Evans Street Site
Batavia, New York*

August 2020

B0333-019-001

Prepared For:

R&J Enterprises of Batavia, L.L.C.



Prepared By:



2558 Hamburg Turnpike, Suite 300, Buffalo, New York | phone: (716) 856-0635 | fax: (716) 856-0583



BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION FORM

DEC requires an application to request major changes to the description of the property set forth in a Brownfield Cleanup Agreement, or "BCA" (e.g., adding a significant amount of new property, or adding property that could affect an eligibility determination due to contamination levels or intended land use). Such application must be submitted and processed in the same manner as the original application, including the required public comment period. **Is this an application to amend an existing BCA?**

☐ Yes

☒ No

If yes, provide existing site number: _____

PART A (note: application is separated into Parts A and B for DEC review purposes) *BCP App Rev 10*

Section I. Requestor Information - See Instructions for Further Guidance

DEC USE ONLY
BCP SITE #:

NAME R&J Enterprises of Batavia, L.L.C.

ADDRESS PO Box 378

CITY/TOWN Batavia

ZIP CODE 14020

PHONE (716)-822-5438

FAX

E-MAIL chadl@skyworksllc.com

Is the requestor authorized to conduct business in New York State (NYS)?

☒ Yes ☐ No

- If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the [NYS Department of State's Corporation & Business Entity Database](#). A print-out of entity information from the database must be submitted to the New York State Department of Environmental Conservation (DEC) with the application to document that the requestor is authorized to do business in NYS. **Please note:** If the requestor is an LLC, the members/owners names need to be provided on a separate attachment. **See Appendix A, Section I**

Do all individuals that will be certifying documents meet the requirements detailed below? ☒ Yes ☐ No

- Individuals that will be certifying BCP documents, as well as their employers, meet the requirements of Section 1.5 of [DER-10: Technical Guidance for Site Investigation and Remediation](#) and Article 145 of New York State Education Law. **Documents that are not properly certified will be not approved under the BCP.** **See Appendix A, Section I**

Section II. Project Description

1. What stage is the project starting at?

☐ Investigation

☒ Remediation

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

2. If a final RIR is included, please verify it meets the requirements of Environmental Conservation Law (ECL) Article 27-1415(2): ☒ Yes ☐ No **RIR & NYSDEC Record of Decision provided electronically**

3. Please attach a short description of the overall development project, including:

- the date that the remedial program is to start; and **See Appendix A, Section II**

- the date the Certificate of Completion is anticipated. **See Figure 5**

Section III. Property's Environmental History**See Appendix A; Section III**

All applications **must include** an Investigation Report (per ECL 27-1407(1)). The report must be sufficient to establish contamination of environmental media on the site above applicable Standards, Criteria and Guidance (SCGs) based on the reasonably anticipated use of the property.

To the extent that existing information/studies/reports are available to the requestor, please attach the following (***please submit the information requested in this section in electronic format only***):

1. **Reports:** an example of an Investigation Report is a Phase II Environmental Site Assessment report prepared in accordance with the latest American Society for Testing and Materials standard (ASTM E1903). **Please submit a separate electronic copy of each report in Portable Document Format (PDF).**

2. SAMPLING DATA: INDICATE KNOWN CONTAMINANTS AND THE MEDIA WHICH ARE KNOWN TO HAVE BEEN AFFECTED. LABORATORY REPORTS SHOULD BE REFERENCED AND COPIES INCLUDED.

Contaminant Category	Soil	Groundwater	Soil Gas
Petroleum	X	X	
Chlorinated Solvents			
Other VOCs			
SVOCs	X	X	
Metals	X		
Pesticides			
PCBs			
Other*			

***Please describe:** _____

3. FOR EACH IMPACTED MEDIUM INDICATED ABOVE, INCLUDE A SITE DRAWING INDICATING:

- **SAMPLE LOCATION**
- **DATE OF SAMPLING EVENT**
- **KEY CONTAMINANTS AND CONCENTRATION DETECTED**
- **FOR SOIL, HIGHLIGHT IF ABOVE REASONABLY ANTICIPATED USE**
- **FOR GROUNDWATER, HIGHLIGHT EXCEEDANCES OF 6NYCRR PART 703.5**
- **FOR SOIL GAS/ SOIL VAPOR/ INDOOR AIR, HIGHLIGHT IF ABOVE MITIGATE LEVELS ON THE NEW YORK STATE DEPARTMENT OF HEALTH MATRIX**

See Appendix A, Section III**See Figure 7**

THESE DRAWINGS ARE TO BE REPRESENTATIVE OF ALL DATA BEING RELIED UPON TO MAKE THE CASE THAT THE SITE IS IN NEED OF REMEDIATION UNDER THE BCP. DRAWINGS SHOULD NOT BE BIGGER THAN 11" X 17". THESE DRAWINGS SHOULD BE PREPARED IN ACCORDANCE WITH ANY GUIDANCE PROVIDED.

ARE THE REQUIRED MAPS INCLUDED WITH THE APPLICATION?*

(*answering No will result in an incomplete application)

☒ Yes ☐ No

4. INDICATE PAST LAND USES (CHECK ALL THAT APPLY):

- | | | | |
|--|--|---|--|
| ☒ Coal Gas Manufacturing | ☐ Manufacturing | ☐ Agricultural Co-op | ☐ Dry Cleaner |
| ☐ Salvage Yard | ☐ Bulk Plant | ☐ Pipeline | ☐ Service Station |
| ☐ Landfill | ☐ Tannery | ☐ Electroplating | ☐ Unknown |

Other: flour mill, wholesale grocery,

Section IV. Property Information - See Instructions for Further Guidance				
PROPOSED SITE NAME 7 Evans Street				
ADDRESS/LOCATION 7 Evans Street				
CITY/TOWN Batavia		ZIP CODE 14020		
MUNICIPALITY(IF MORE THAN ONE, LIST ALL): City of Batavia				
COUNTY Genesee		SITE SIZE (ACRES) 1.16		
LATITUDE (degrees/minutes/seconds) 42 ° 52 ' 4.12 "		LONGITUDE (degrees/minutes/seconds) -78 ° 51 ' 55.15 "		
Complete tax map information for all tax parcels included within the proposed site boundary. If a portion of any lot is proposed , please indicate as such by inserting "P/O" in front of the lot number in the appropriate box below, and only include the acreage for that portion of the tax parcel in the corresponding far right column.ATTACH REQUIRED MAPS PER THE APPLICATION INSTRUCTIONS.				
Parcel Address	See Appendix A, Section IV	Section No.	Block No.	Lot No.
7 Evans Street		84.015	1	35
1. Do the proposed site boundaries correspond to tax map metes and bounds? ☒ Yes ☐ No If no, please attach an accurate map of the proposed site.				
2. Is the required property map attached to the application? See Figures 2, 3 & 4 ☒ Yes ☐ No (application will not be processed without map)				
3. Is the property within a designated Environmental Zone (En-zone) pursuant to Tax Law 21(b)(6)? (See DEC's website for more information) Yes ☒ No ☐ See Figure 8 If yes, identify census tract : 9507 Percentage of property in En-zone (check one): ☐ 0-49% ☐ 50-99% ☒ 100%				
4. Is this application one of multiple applications for a large development project, where the development project spans more than 25 acres (see additional criteria in BCP application instructions)? ☐ Yes ☒ No If yes, identify name of properties (and site numbers if available) in related BCP applications: _____				
5. Is the contamination from groundwater or soil vapor solely emanating from property other than the site subject to the present application? ☐ Yes ☒ No				
6. Has the property previously been remediated pursuant to Titles 9, 13, or 14 of ECL Article 27, Title 5 of ECL Article 56, or Article 12 of Navigation Law? ☐ Yes ☒ No If yes, attach relevant supporting documentation.				
7. Are there any lands under water? ☐ Yes ☒ No If yes, these lands should be clearly delineated on the site map.				

Section IV. Property Information (continued)

8. Are there any easements or existing rights of way that would preclude remediation in these areas?
If yes, identify here and attach appropriate information. ☐ Yes ☒ No

Easement/Right-of-way Holder

Description

None/unknown

9. List of Permits issued by the DEC or USEPA Relating to the Proposed Site (type here or attach information)

Type

Issuing Agency

Description

None/Unknown

10. Property Description and Environmental Assessment – **please refer to application instructions for the proper format of each narrative requested.** See Appendix A, Section IV

Are the Property Description and Environmental Assessment narratives included in the **prescribed format**?

☒ Yes ☐ No

Note: Questions 11 through 13 only pertain to sites located within the five counties comprising New York City

11. Is the requestor seeking a determination that the site is eligible for tangible property tax credits? ☐ Yes ☐ No

If yes, requestor must answer questions on the supplement at the end of this form.

Not Applicable

12. Is the Requestor now, or will the Requestor in the future, seek a determination that the property is Upside Down? ☐ ☐

Not Applicable

13. If you have answered Yes to Question 12, above, is an independent appraisal of the value of the property, as of the date of application, prepared under the hypothetical condition that the property is not contaminated, included with the application? ☐ ☐

Not Applicable

NOTE: If a tangible property tax credit determination is not being requested in the application to participate in the BCP, the applicant may seek this determination at any time before issuance of a certificate of completion by using the BCP Amendment Application, except for sites seeking eligibility under the underutilized category.

If any changes to Section IV are required prior to application approval, a new page, initialed by each requestor, must be submitted.

Initials of each Requestor: _____

BCP application - PART B (note: application is separated into Parts A and B for DEC review purposes)

Section V. Additional Requestor Information See Instructions for Further Guidance		DEC USE ONLY BCP SITE NAME: _____ BCP SITE #: _____	
NAME OF REQUESTOR'S AUTHORIZED REPRESENTATIVE Chad LaCivita			
ADDRESS PO Box 378			
CITY/TOWN Batavia		ZIP CODE 14020	
PHONE 716-822-5438	FAX	E-MAIL chadl@skyworkslc.com	
NAME OF REQUESTOR'S CONSULTANT Mr. Michael A. Lesakowski			
ADDRESS 2558 Hamburg Turnpike, Suite 300			
CITY/TOWN Buffalo		ZIP CODE 14218	
PHONE 716-856-0599	FAX 716-856-0583	E-MAIL mlesakowski@bm-tk.com.com	
NAME OF REQUESTOR'S ATTORNEY Mr. Jeffrey Stravino			
ADDRESS 140 Pearl Street, Suite 100			
CITY/TOWN Buffalo		ZIP CODE 14202	
PHONE (716)-848-1394	FAX 716-8194659	E-MAIL jstravin@hodgsonruss.com	
Section VI. Current Property Owner/Operator Information – if not a Requestor			
CURRENT OWNER'S NAME R & J Enterprises of Batavia, L.L.C.		OWNERSHIP START DATE: 1/17/2001	
ADDRESS PO Box 378			
CITY/TOWN Batavia		ZIP CODE 14020	
PHONE 716-822-5438	FAX	E-MAIL chadl@skyworkslc.com	
CURRENT OPERATOR'S NAME United Memorial Medical Center			
ADDRESS 127 North St			
CITY/TOWN Batavia		ZIP CODE 14020	
PHONE 585-343-6030	FAX	E-MAIL	
PROVIDE A LIST OF PREVIOUS PROPERTY OWNERS AND OPERATORS WITH NAMES, LAST KNOWN ADDRESSES AND TELEPHONE NUMBERS AS AN ATTACHMENT. DESCRIBE REQUESTOR'S RELATIONSHIP, TO EACH PREVIOUS OWNER AND OPERATOR, INCLUDING ANY RELATIONSHIP BETWEEN REQUESTOR'S CORPORATE MEMBERS AND PREVIOUS OWNER AND OPERATOR. IF NO RELATIONSHIP, PUT "NONE". See Appendix B, Section VI			
IF REQUESTOR IS NOT THE CURRENT OWNER, DESCRIBE REQUESTOR'S RELATIONSHIP TO THE CURRENT OWNER, INCLUDING ANY RELATIONSHIP BETWEEN REQUESTOR'S CORPORATE MEMBERS AND THE CURRENT OWNER.			
Section VII. Requestor Eligibility Information (Please refer to ECL § 27-1407) See Appendix B, Section VII			
If answering "yes" to any of the following questions, please provide an explanation as an attachment.			
1. Are any enforcement actions pending against the requestor regarding this site? ☐ Yes ☒ No			
2. Is the requestor subject to an existing order for the investigation, removal or remediation of contamination at the site? See Appendix B, Section VII ☐ Yes ☒ No			
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator. ☐ Yes ☒ No			

Section VII. Requestor Eligibility Information (continued)

4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the ECL Article 27; ii) any order or determination; iii) any regulation implementing Title 14; or iv) any similar statute, regulation of the state or federal government? If so, provide an explanation on a separate attachment. ☐ Yes ☒ No
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as name, address, DEC assigned site number, the reason for denial, and other relevant information. ☐ Yes ☒ No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting of contaminants? ☐ Yes ☒ No
7. Has the requestor been convicted of a criminal offense i) involving the handling, storing, treating, disposing or transporting of contaminants; or ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state? ☐ Yes ☒ No
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of DEC, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to DEC? ☐ Yes ☒ No
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9 (f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application? ☐ Yes ☒ No
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order? ☐ Yes ☒ No
11. Are there any unregistered bulk storage tanks on-site which require registration? ☐ Yes ☒ No

THE REQUESTOR MUST CERTIFY THAT HE/SHE IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL 27-1405 (1) BY CHECKING ONE OF THE BOXES BELOW: **See Appendix B, Section VII**

☐ PARTICIPANT

A requestor who either 1) was the owner of the site at the time of the disposal of hazardous waste or discharge of petroleum or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

☒ VOLUNTEER

A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

NOTE: By checking this box, a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.

If a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site, submit a statement describing why you should be considered a volunteer – be specific as to the appropriate care taken.

Section VII. Requestor Eligibility Information (continued)

Requestor Relationship to Property (check one):

☐ Previous Owner ☒ Current Owner ☐ Potential /Future Purchaser ☐ Other _____

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

☐ Yes

☐ No

Not applicable, applicant is the current Site owner.

Note: a purchase contract does not suffice as proof of access.

See Appendix B, Section VIII

Section VIII. Property Eligibility Information - See Instructions for Further Guidance

1. Is / was the property, or any portion of the property, listed on the National Priorities List?
If yes, please provide relevant information as an attachment. ☐ Yes ☒ No
2. Is / was the property, or any portion of the property, listed on the NYS Registry of Inactive Hazardous Waste Disposal Sites pursuant to ECL 27-1305? ☒ Yes ☐ No
If yes, please provide: Site # 819019 Class # 2
3. Is / was the property subject to a permit under ECL Article 27, Title 9, other than an Interim Status facility? ☐ Yes ☒ No
If yes, please provide: Permit type: _____ EPA ID Number: _____
Date permit issued: _____ Permit expiration date: _____
4. If the answer to question 2 or 3 above is yes, is the site owned by a volunteer as defined under ECL 27-1405(1)(b), or under contract to be transferred to a volunteer? Attach any information available to the requestor related to previous owners or operators of the facility or property and their financial viability, including any bankruptcy filing and corporate dissolution documentation. ☒ Yes ☐ No

See Appendix A, Section III and Appendix B, Section VI
5. Is the property subject to a cleanup order under Navigation Law Article 12 or ECL Article 17 Title 10? ☐ Yes ☒ No
If yes, please provide: Order # _____
6. Is the property subject to a state or federal enforcement action related to hazardous waste or petroleum? ☐ Yes ☒ No
If yes, please provide explanation as an attachment.

Section IX. Contact List Information

See Appendix B, Section IX

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

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

See Figure 9

Section X. Land Use Factors See Appendix B; Section X	
1. What is the current municipal zoning designation for the site? <u>C3 - Commercial</u> What uses are allowed by the current zoning? (Check boxes, below) See Appendix B; Section X ☐ Residential ☒ Commercial ☐ Industrial If zoning change is imminent, please provide documentation from the appropriate zoning authority.	
2. Current Use: ☐ Residential ☒ Commercial ☐ Industrial ☒ Vacant ☐ Recreational (check all that apply) Attach a summary of current business operations or uses, with an emphasis on identifying possible contaminant source areas. If operations or uses have ceased, provide the date.	
3. Reasonably anticipated use Post Remediation: ☐ Residential ☒ Commercial ☐ Industrial (check all that apply) Attach a statement detailing the specific proposed use. If residential, does it qualify as single family housing? ☐ Yes ☒ No	
4. Do current historical and/or recent development patterns support the proposed use?	☒ Yes ☐ No
5. Is the proposed use consistent with applicable zoning laws/maps? Briefly explain below, or attach additional information and documentation if necessary. See Appendix B; Section X	☒ Yes ☐ No
6. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, or other adopted land use plans? Briefly explain below, or attach additional information and documentation if necessary. See Appendix B; Section X	☒ Yes ☐ No

XI. Statement of Certification and Signatures

(By requestor who is an individual)

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

Date: _____

Signature: _____

Print Name: _____

(By a requestor other than an individual)

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

Date: 8-4-20

Signature: _____

Print Name: Chad A. LaGivita

SUBMITTAL INFORMATION:

- **Two (2)** copies, one paper copy with original signatures and one electronic copy in Portable Document Format (PDF), must be sent to:
 - Chief, Site Control Section
 - New York State Department of Environmental Conservation
 - Division of Environmental Remediation
 - 625 Broadway
 - Albany, NY 12233-7020

FOR DEC USE ONLY
BCP SITE T&A CODE: _____

LEAD OFFICE: _____

Supplemental Questions for Sites Seeking Tangible Property Credits in New York City ONLY. Sufficient information to demonstrate that the site meets one or more of the criteria identified in ECL 27 1407(1-a) must be submitted if requestor is seeking this determination.

BCP App Rev 10

Not Applicable

Property is in Bronx, Kings, New York, Queens, or Richmond counties.	☐ Yes ☐ No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	☐ Yes ☐ No
Please answer questions below and provide documentation necessary to support answers.	
1. Is at least 50% of the site area located within an environmental zone pursuant to NYS Tax Law 21(b)(6)? Please see DEC's website for more information.	
☐ Yes ☐ No	
2. Is the property upside down or underutilized as defined below?	Upside Down? ☐ Yes ☐ No
	Underutilized? ☐ Yes ☐ No
From ECL 27-1405(31): "Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated. From 6 NYCRR 375-3.2(I) as of August 12, 2016: (Please note: Eligibility determination for the underutilized category can only be made at the time of application) 375-3.2: (I) "Underutilized" means, as of the date of application, real property on which no more than fifty percent of the permissible floor area of the building or buildings is certified by the applicant to have been used under the applicable base zoning for at least three years prior to the application, which zoning has been in effect for at least three years; and (1) the proposed use is at least 75 percent for industrial uses; or (2) at which: (i) the proposed use is at least 75 percent for commercial or commercial and industrial uses; (ii) the proposed development could not take place without substantial government assistance, as certified by the municipality in which the site is located; and (iii) one or more of the following conditions exists, as certified by the applicant: (a) property tax payments have been in arrears for at least five years immediately prior to the application; (b) a building is presently condemned, or presently exhibits documented structural deficiencies, as certified by a professional engineer, which present a public health or safety hazard; or (c) there are no structures. "Substantial government assistance" shall mean a substantial loan, grant, land purchase subsidy, land purchase cost exemption or waiver, or tax credit, or some combination thereof, from a governmental entity.	

Supplemental Questions for Sites Seeking Tangible Property Credits in New York City (continued)

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

- ☐ Project is an Affordable Housing Project - Regulatory Agreement Attached;
- ☐ Project is Planned as Affordable Housing, But Agreement is Not Yet Available*
(*Checking this box will result in a “pending” status. The Regulatory Agreement will need to be provided to the Department and the Brownfield Cleanup Agreement will need to be amended prior to issuance of the CoC in order for a positive determination to be made.);
- ☐ This is Not an Affordable Housing Project.

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

(a) “Affordable housing project” means, for purposes of this part, title fourteen of article twenty seven of the environmental conservation law and section twenty-one of the tax law only, a project that is developed for residential use or mixed residential use that must include affordable residential rental units and/or affordable home ownership units.

(1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency’s affordable housing program, or a local government’s regulatory agreement or legally binding restriction, which defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants’ households annual gross income.

(2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency’s affordable housing program, or a local government’s regulatory agreement or legally binding restriction, which sets affordable units aside for home owners at a defined maximum percentage of the area median income.

(3) “Area median income” means, for purposes of this subdivision, the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development, or its successor, for a family of four, as adjusted for family size.

BCP Application Summary (for DEC use only)

Site Name: 7 Evans Street

City: Batavia

Site Address: 7 Evans Street

County: Genesee

Zip: 14020

Tax Block & Lot

Section (if applicable): 84.015

Block: 1

Lot: 35

Requestor Name: R&J Enterprises of Batavia, L.L.C. **Requestor Address:** PO Box 378

City: Batavia

Zip: 14020

Email: chadl@skyworkslc.com

Requestor's Representative (for billing purposes)

Name: Chad LaCivita

Address: PO Box 378

City: Batavia

Zip: 14020

Email: chadl@skyworkslc.com

Requestor's Attorney

Name: Mr. Jeffrey Stravino

Address: 140 Pearl Street, Suite 100

City: Buffalo

Zip: 14202

Email: jstravin@hodgsonruss.com

Requestor's Consultant

Name: Mr. Michael A. Lesakowski

Address: 2558 Hamburg Turnpike, Suite 300

City: Buffalo

Zip: 14218

Email: mlesakowski@bm-tk.com.com

Percentage claimed within an En-Zone: ☐ 0% ☐ <50% ☐ 50-99% ☒ 100%

DER Determination: ☐ Agree ☐ Disagree

Requestor's Requested Status: ☒ Volunteer ☐ Participant

DER/OGC Determination: ☐ Agree ☐ Disagree

Notes:

For NYC Sites, is the Requestor Seeking Tangible Property Credits: ☐ Yes ☐ No

Does Requestor Claim Property is Upside Down: ☐ Yes ☐ No

DER/OGC Determination: ☐ Agree ☐ Disagree ☐ Undetermined

Notes:

Does Requestor Claim Property is Underutilized: ☐ Yes ☐ No

DER/OGC Determination: ☐ Agree ☐ Disagree ☐ Undetermined

Notes:

Does Requestor Claim Affordable Housing Status: ☐ Yes ☐ No ☐ Planned, No Contract

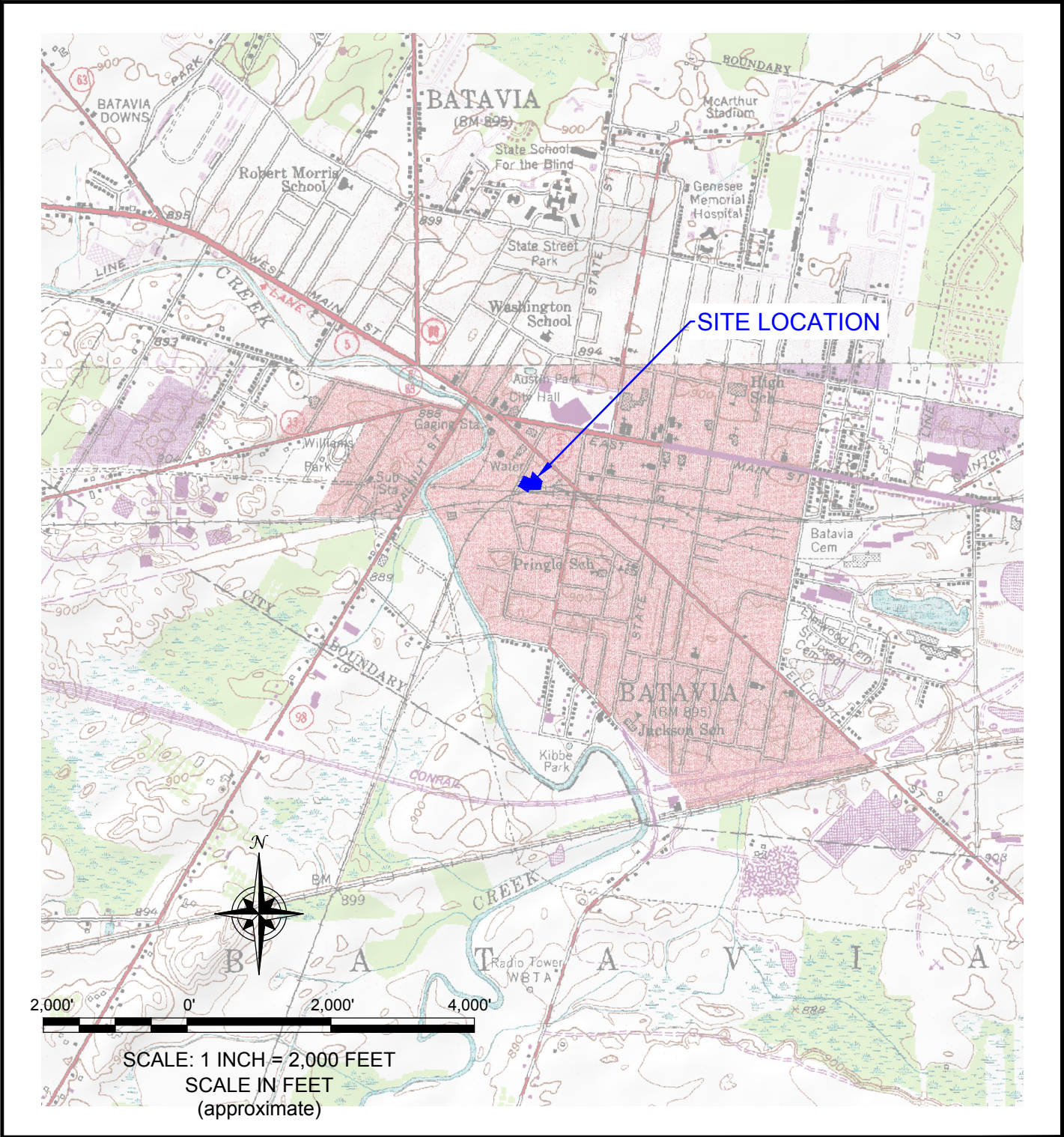
DER/OGC Determination: ☐ Agree ☐ Disagree ☐ Undetermined

Notes:

FIGURES

Figure 1	Site Location and Vicinity Map
Figure 2	Site Plan (Aerial)
Figure 3	Tax Map
Figure 4	Property Base Map (1,000' Setback)
Figure 5	Preliminary Project Schedule
Figure 6	Former MGP Structures and Previous Investigation Locations
Figure 7	Restricted Commercial Use Cleanup
Figure 8	En-Zone Map
Figure 9	Adjacent Property Owners
Figure 10	Zoning Map
Figure 11	USDA Soil Type Map
Figure 12	Isopotential Map

FIGURE 1



2558 HAMBURG TURNPIKE, SUITE 300, BUFFALO, NY 14218, (716) 856-0599

PROJECT NO.: 0333-019-001

DATE: JULY 2019

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SITE LOCATION & VICINITY MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

7 EVANS STREET SITE
BATAVIA, NEW YORK

PREPARED FOR
R&J ENTERPRISES OF BATAVIA, L.L.C.

DISCLAIMER: PROPERTY OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC. & TURNKEY ENVIRONMENTAL RESTORATION, LLC. IMPORTANT: THIS DRAWING PRINT IS LOANED FOR MUTUAL ASSISTANCE AND AS SUCH IS SUBJECT TO RECALL AT ANY TIME. INFORMATION CONTAINED HEREON IS NOT TO BE DISCLOSED OR REPRODUCED IN ANY FORM FOR THE BENEFIT OF PARTIES OTHER THAN NECESSARY SUBCONTRACTORS & SUPPLIERS WITHOUT THE WRITTEN CONSENT OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC & TURNKEY ENVIRONMENTAL RESTORATION, LLC.

LEGEND:

 BCP SITE BOUNDARY



SCALE: 1 INCH = 60 FEET
SCALE IN FEET
(approximate)



2558 HAMBURG TURNPIKE, SUITE 300, BUFFALO, NY 14218, (716) 856-0599



PROJECT NO.: 0333-019-001

DATE: JULY 2019

DRAFTED BY: CCB

SITE PLAN (AERIAL)

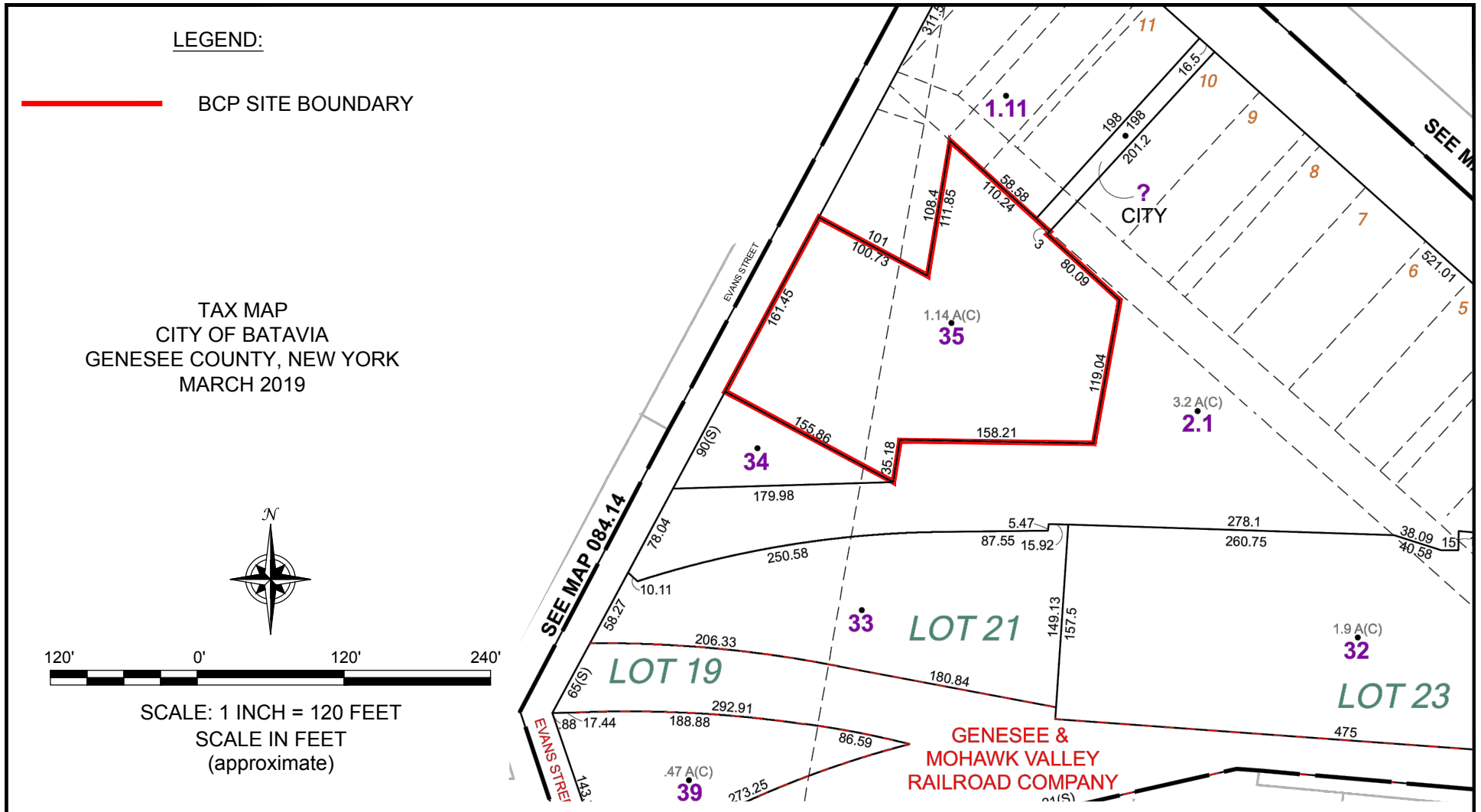
BROWNFIELD CLEANUP PROGRAM APPLICATION

7 EVANS STREET SITE
BATAVIA, NEW YORK

PREPARED FOR
R&J ENTERPRISES OF BATAVIA, L.L.C.

FIGURE 2

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PROJECT NO.: 0333-019-001

DATE: JULY 2019

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TAX MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

7 EVANS STREET SITE
BATAVIA, NEW YORK

PREPARED FOR
R&J ENTERPRISES OF BATAVIA, L.L.C.

FIGURE 3

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PROPERTY BASE MAP (1,000' SETBACK)

BROWNFIELD CLEANUP PROGRAM APPLICATION

7 EVANS STREET SITE
BATAVIA, NEW YORK

PREPARED FOR
R&J ENTERPRISES OF BATAVIA, L.L.C.

PREPARED FOR

JOB NO.: 0333-019-001

BENCHMARK
ENVIRONMENTAL
ENGINEERING &
SCIENCE, PLLC

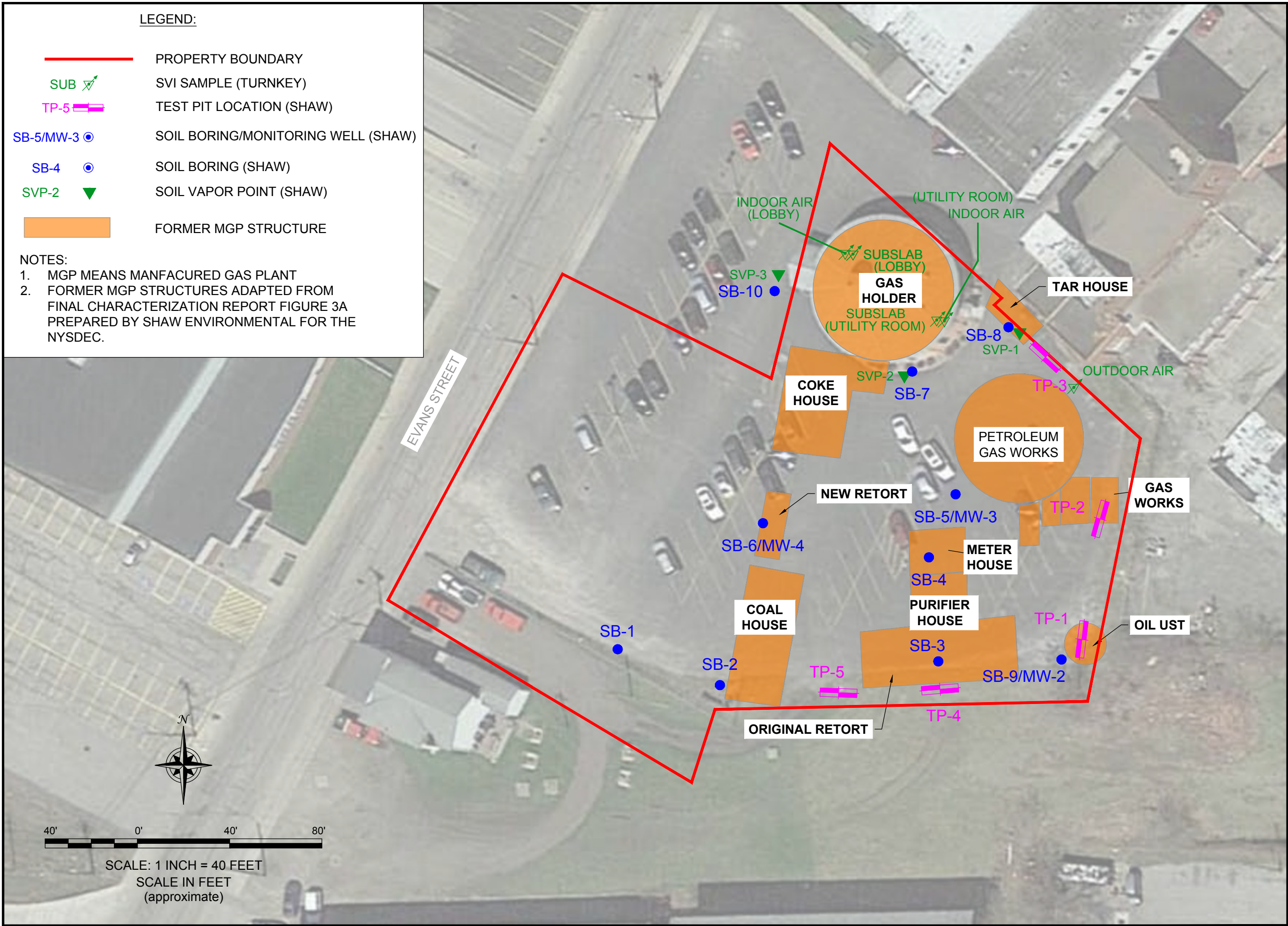
TURNKEY
ENVIRONMENTAL
RESTORATION, LLC

2558 HAMBURG TURNPIKE, SUITE 300, BUFFALO, NY 14218, (716) 856-0599

2558 HAMBURG TURNPIKE, SUITE 300, BUFFALO, NY 14218, (716) 856-0599

FIGURE 4

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FORMER MGP STRUCTURES AND PREVIOUS INVESTIGATION LOCATIONS

BROWNFIELD CLEANUP PROGRAM APPLICATION

7 EVANS STREET SITE
BATAVIA, NEW YORK

PREPARED FOR
R&J ENTERPRISES OF BATAVIA, L.L.C.

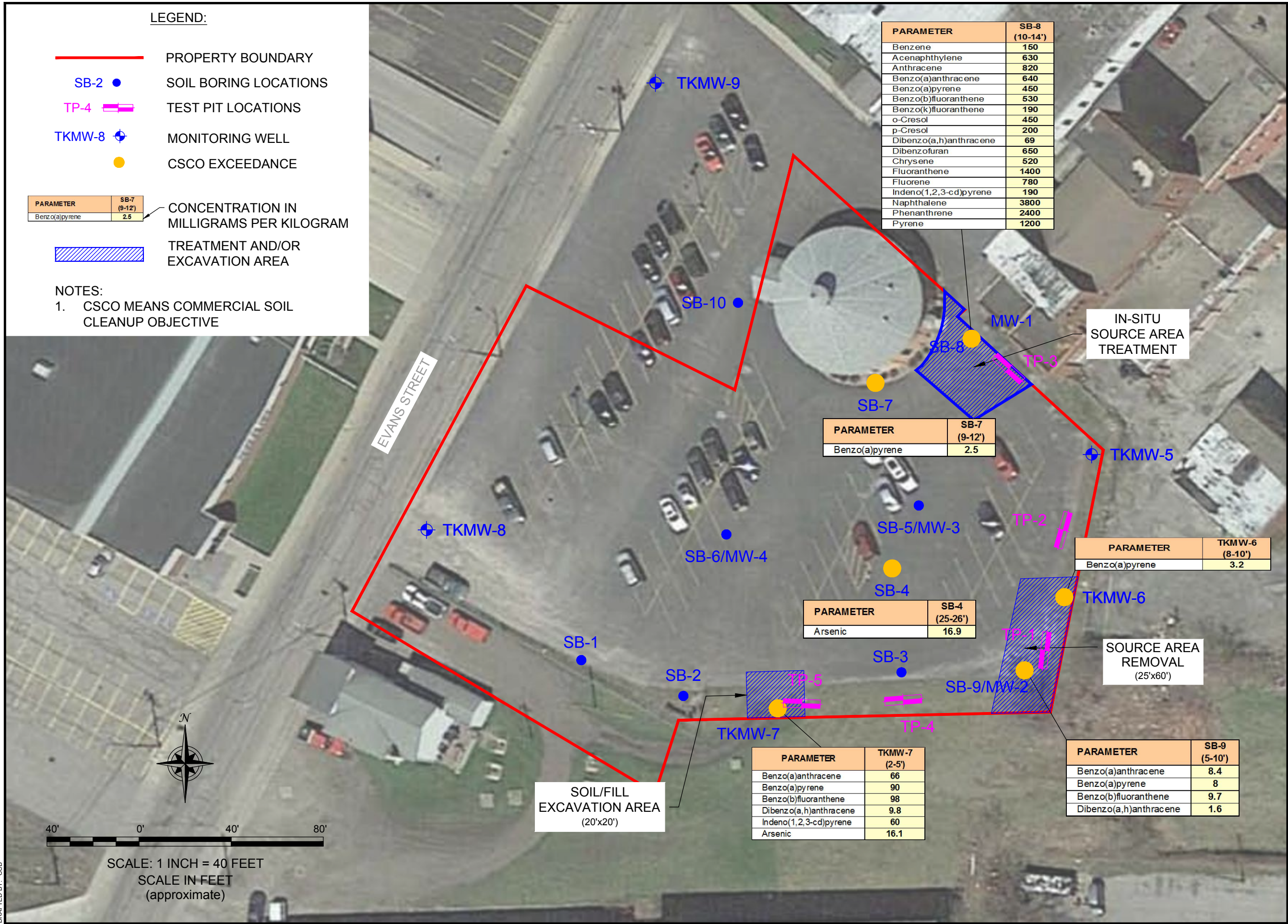


2558 HAMBURG TURNPIKE, SUITE 300, BUFFALO, NY 14218, (716) 856-0599

JOB NO.: 0333-019-001

FIGURE 6

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RESTRICTED COMMERCIAL USE CLEANUP
BROWNFIELD CLEANUP PROGRAM APPLICATION

7 EVANS STREET SITE
BATAVIA, NEW YORK

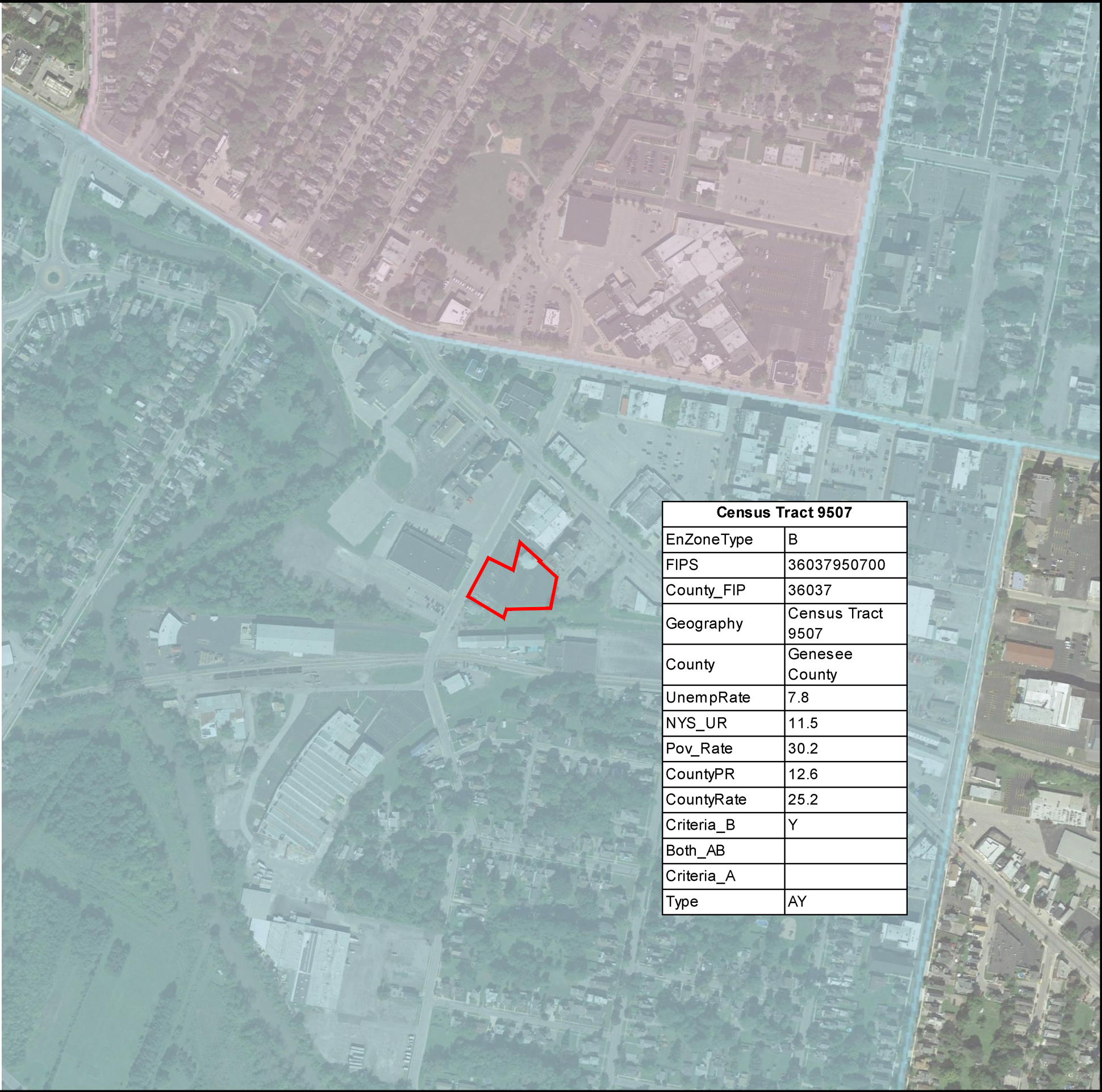
PREPARED FOR
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2558 HAMBURG TURNPIKE, SUITE 300, BUFFALO, NY 14218, (716) 856-0599

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EN-ZONE MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

7 EVANS STREET SITE
BATAVIA, NEW YORK

PREPARED FOR
R&J ENTERPRISES OF BATAVIA, L.L.C.

JOB NO.: 0333-019-001



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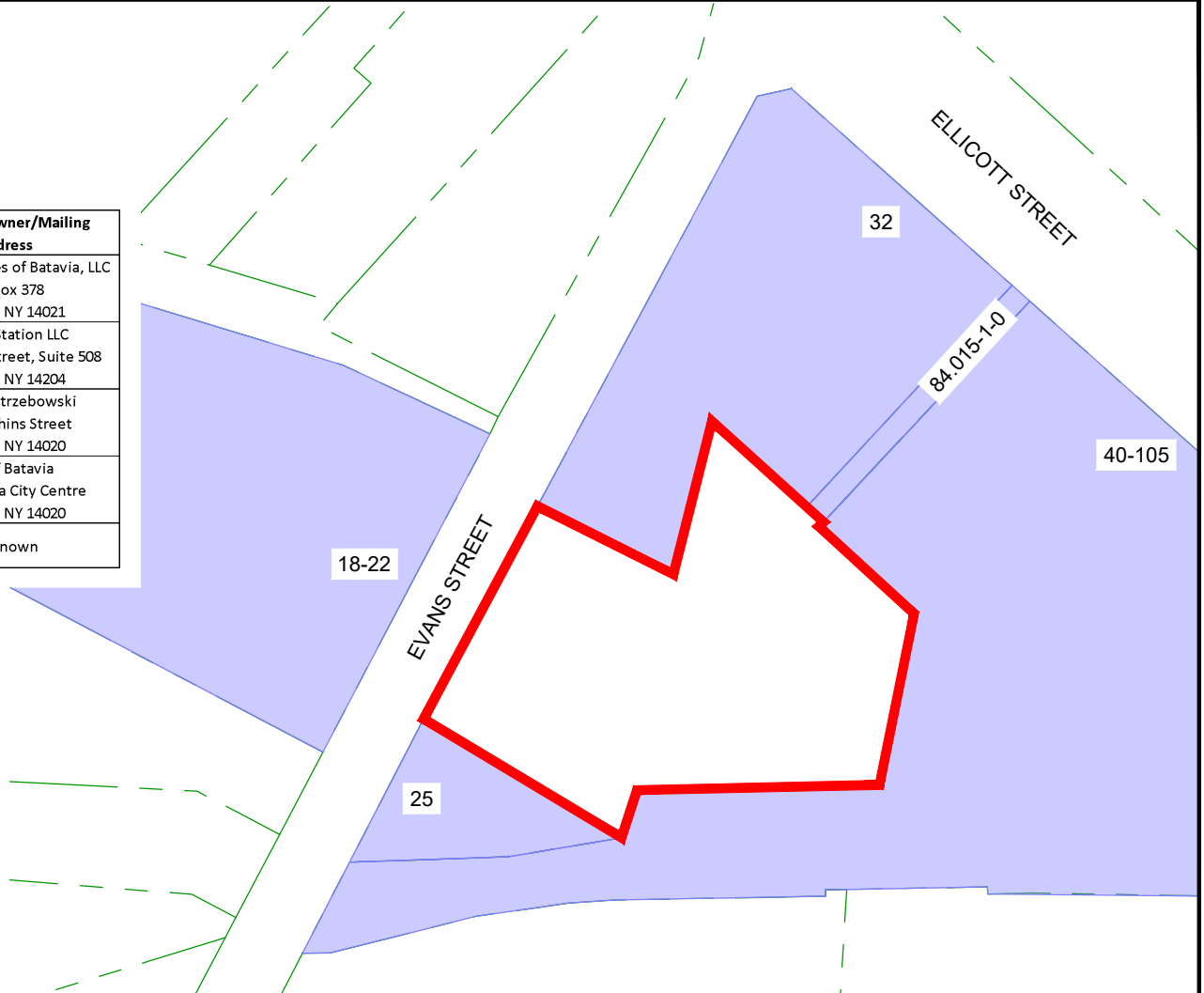
LEGEND:

- BCP SITE BOUNDARY
- - - - - PARCEL BOUNDARY

No.	Street	Use	Property Owner/Mailing Address
32	Ellicott Street	Commercial - Professional Building	R&J Enterprises of Batavia, LLC PO Box 378 Batavia, NY 14021
40-105	Ellicott Street	Commercial - Warehouse	Ellicott Station LLC 500 Seneca Street, Suite 508 Buffalo, NY 14204
25	Evans Street	Commercial - Detached Downtown Row Type	Gerald Potrzebowski 125 Hutchins Street Batavia, NY 14020
18-22	Evans Street	Commercial - Police and Fire Protection	City of Batavia One Batavia City Centre Batavia, NY 14020
Unaddressed Property Tax Map Parcel No - 84.015-1-0		Vacant - Unknown	Unknown



SCALE: 1 INCH = 120 FEET
SCALE IN FEET
(approximate)



2558 HAMBURG TURNPIKE, SUITE 300, BUFFALO, NY 14218, (716) 856-0599

PROJECT NO.: 0333-019-001

DATE: SEPTEMBER 2020

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ADJACENT PROPERTY OWNERS

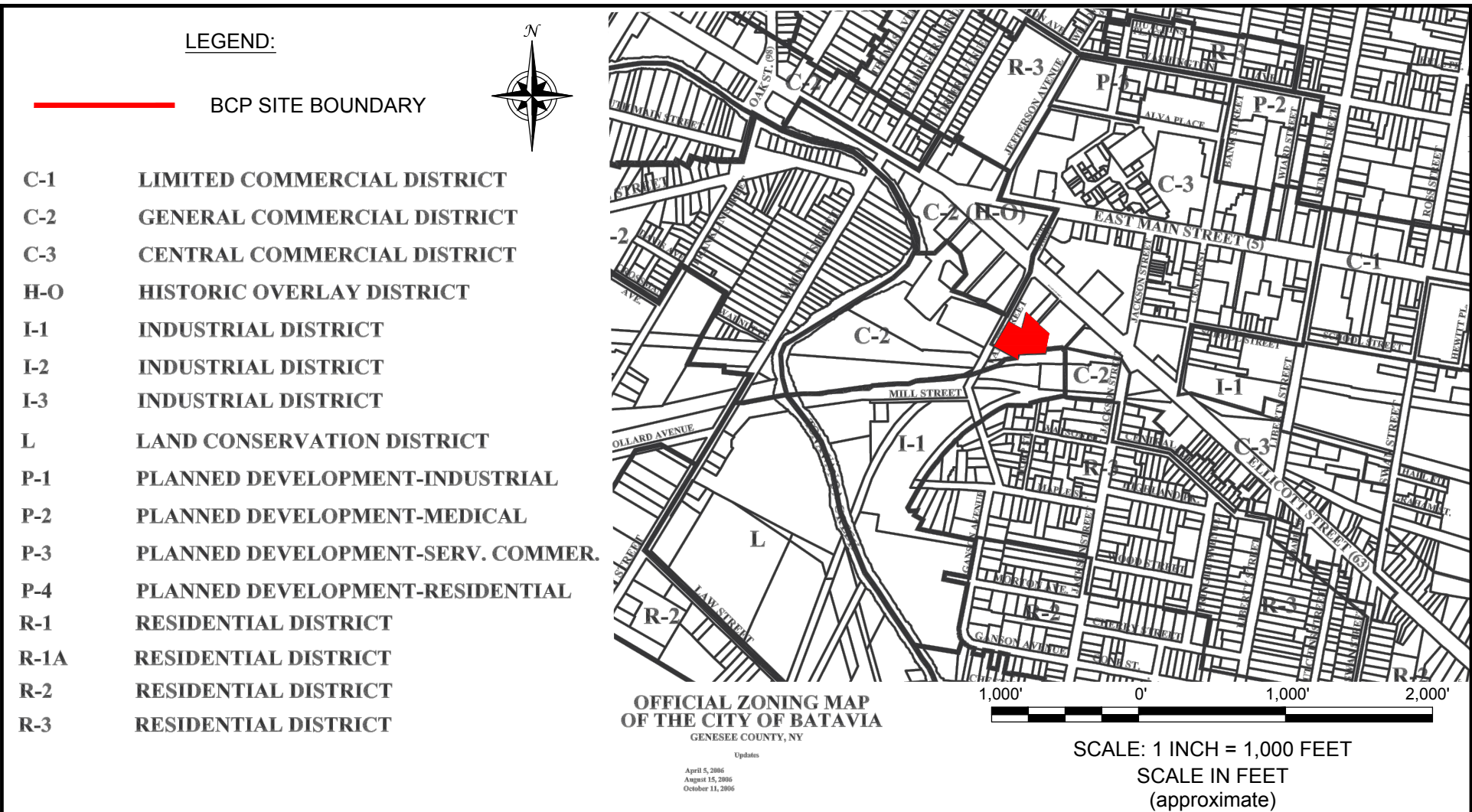
BROWNFIELD CLEANUP PROGRAM APPLICATION

7 EVANS STREET SITE
BATAVIA, NEW YORK

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FIGURE 9

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 2558 HAMBURG TURNPIKE, SUITE 300, BUFFALO, NY 14218, (716) 856-0599 PROJECT NO.: 0333-019-001 DATE: JULY 2019 DRAFTED BY: CCB	ZONING MAP BROWNFIELD CLEANUP PROGRAM APPLICATION 7 EVANS STREET SITE BATAVIA, NEW YORK PREPARED FOR R&J ENTERPRISES OF BATAVIA, L.L.C.	FIGURE 10
DISCLAIMER: PROPERTY OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC. & TURNKEY ENVIRONMENTAL RESTORATION, LLC IMPORTANT: THIS DRAWING PRINT IS LOANED FOR MUTUAL ASSISTANCE AND AS SUCH IS SUBJECT TO RECALL AT ANY TIME. INFORMATION CONTAINED HEREON IS NOT TO BE DISCLOSED OR REPRODUCED IN ANY FORM FOR THE BENEFIT OF PARTIES OTHER THAN NECESSARY SUBCONTRACTORS & SUPPLIERS WITHOUT THE WRITTEN CONSENT OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC & TURNKEY ENVIRONMENTAL RESTORATION, LLC.		

LEGEND:

 BCP SITE BOUNDARY

Map Unit Symbol	Map Unit Name
PhA	Palmyra gravelly loam, 0 to 3 percent slopes



SCALE: 1 INCH = 300 FEET

SCALE IN FEET
(approximate)



**Natural Resources
Conservation Service**

Web Soil Survey
National Cooperative Soil Survey



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PROJECT NO.: 0333-019-001

DATE: JULY 2019

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SOIL MAP

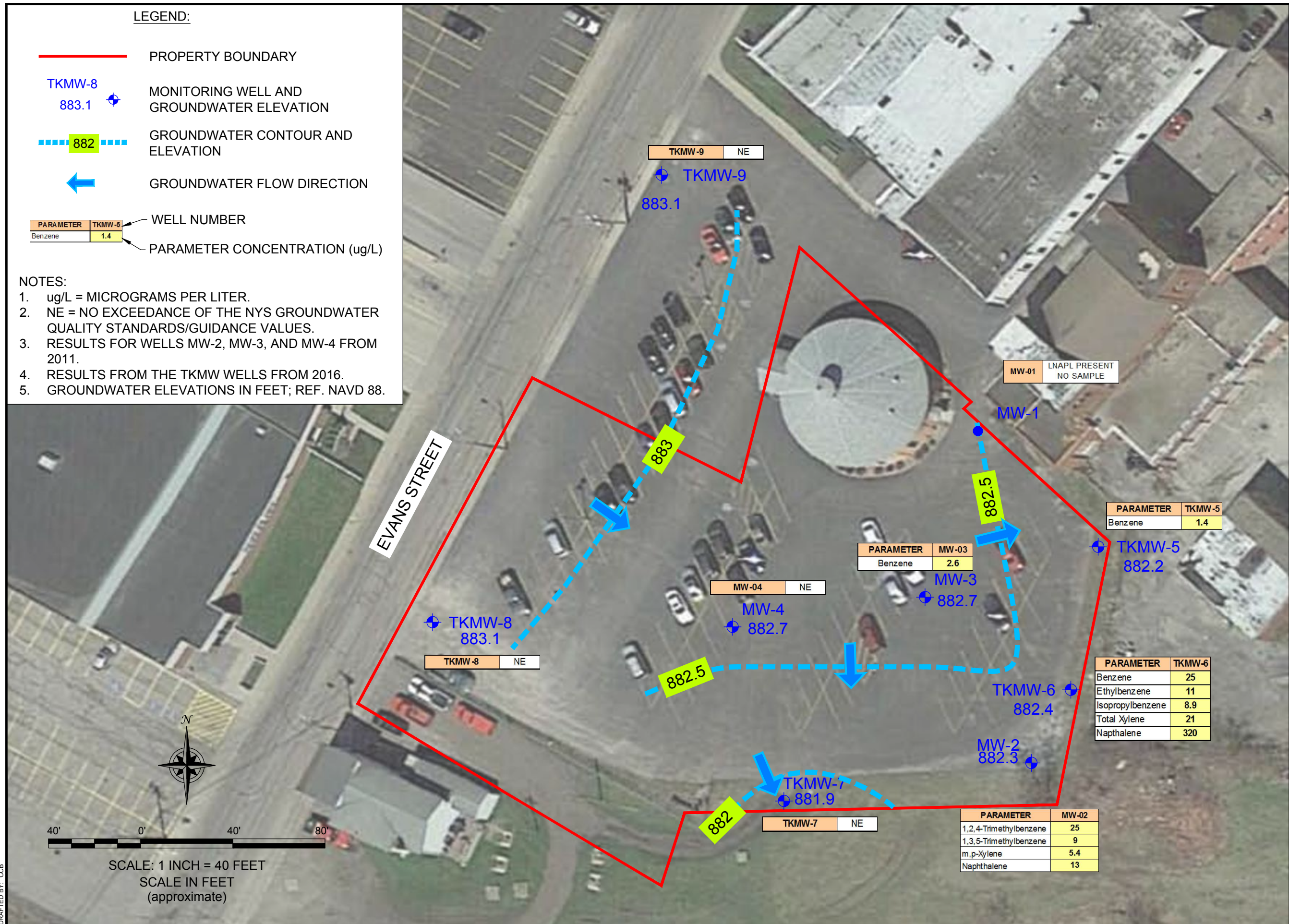
BROWNFIELD CLEANUP PROGRAM APPLICATION

7 EVANS STREET SITE
BATAVIA, NEW YORK

PREPARED FOR
R&J ENTERPRISES OF BATAVIA, L.L.C.

FIGURE 11

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TABLES

Table 1	Summary of Previous Site Characterization Soil/Fill Analytical Results
Table 2	Summary of Previous Site Characterization Groundwater Analytical Results
Table 3	Summary of Previous Site Characterization Soil Vapor & Ambient Air Analytical Results
Table 4	Summary of 2015 Soil Vapor Intrusion Sample Analytical Results
Table 5	Comparison of SVI Data to NYSDOH Decision Matrices
Table 6	Summary of Remedial Investigation Sampling and Analysis Program
Table 7	Summary of Remedial Investigation Soil-Fill Analytical Results
Table 8	Summary of Remedial Investigation Groundwater Analytical Result



TABLE 1
7 EVANS STREET BCP APPLICATION

SUMMARY OF PREVIOUS SITE CHARACTERIZATION SOIL-FILL ANALYTICAL RESULTS
REMEDIAL INVESTIGATION / FOCUSED FEASIBILITY STUDY REPORT
BATAVIA FORMER MGP SITE
NYSDEC SITE NO. 819019
BATAVIA, NEW YORK

PARAMETER ¹	Unrestricted SCOs ²	Protection of Groundwater SCOs ³	Commercial SCOs ³	SB-1	SB-2	SB-3	SB-4	SB-4	SB-5	SB-6	SB-7	SB-8	SB-9	SB-10
				5-10'	10-15'	10-15'	10-15'	25-26'	10-15'	10-15'	9-12'	10-14'	5-10'	10-15'
				9/6/2011	9/6/2011	9/6/2011	9/7/2011	9/7/2011	9/7/2011	9/7/2011	9/8/2011	9/12/2011	9/12/2011	9/13/2011
Volatile Organic Compounds (VOCs) - mg/Kg ³														
1,2,4-Trimethylbenzene	3.6	3.6	190	ND	ND	ND	ND	ND	ND	ND	ND	140	0.024	ND
1,3,5-Trimethylbenzene	8.4	8.4	190	ND	ND	ND	ND	ND	ND	ND	ND	72	0.0096	ND
4-Isopropyltoluene	--	--	--	ND	ND	ND	0.0016 J	ND	ND	ND	ND	ND	0.0045 J	ND
Acetone	0.05	0.05	500	0.11 J	0.017 J	0.0096 J	0.014 J	0.014 J	0.013 J	0.0092 J	0.0091 J	ND	0.11 J	0.024 J
Benzene	0.06	0.06	44	ND	ND	ND	ND	ND	0.0031 J	ND	0.0031 J	150	ND	ND
Carbon disulfide	--	--	--	ND	ND	0.0027 J	0.0068	ND	0.0014 J	ND	ND	ND	ND	ND
Ethylbenzene	1	1	390	ND	ND	ND	ND	ND	ND	ND	ND	20	ND	ND
Isopropylbenzene	--	--	--	ND	ND	ND	ND	ND	ND	ND	ND	13	0.0064	ND
n-Butylbenzene	12	12	500	ND	ND	ND	ND	ND	ND	ND	ND	5.6 J	0.0029 J	ND
n-Propylbenzene	3.9	3.9	500	ND	ND	ND	ND	ND	ND	ND	ND	5.2 J	0.0043 J	ND
sec-Butylbenzene	11	11	500	ND	ND	ND	ND	ND	ND	ND	ND	ND	0.0031 J	ND
Styrene	--	--	--	ND	ND	ND	ND	ND	ND	ND	ND	48	ND	ND
Toluene	0.7	0.7	500	ND	ND	ND	ND	ND	ND	ND	0.0012 J	140	ND	ND
Xylene (total)	0.26	1.6	500	ND	ND	ND	ND	ND	ND	ND	ND	220	0.0025 J	ND
Semi Volatile Organic Compounds (SVOCs)- mg/kg ⁴														
2,4-Dimethylphenol	--	--	--	ND	ND	ND	ND	ND	ND	ND	ND	450 EJ	ND	ND
2-Methylphenol (o-Cresol)	0.33	0.33	500	ND	ND	ND	ND	ND	ND	ND	ND	450 EJ	ND	ND
4-Methylphenol (p-Cresol)	0.33	0.33	500	ND	ND	ND	ND	ND	ND	ND	ND	200 DJ	0.058 J	ND
Bis(2-ethylhexyl)phthalate	--	--	--	ND	0.096 J	0.47	0.045 J	0.046 J	0.063 J	0.24	0.17	ND	0.59 J	ND
Butylbenzylphthalate	--	--	--	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND
Carbazole	--	--	--	ND	ND	0.062 J	0.12 J	ND	ND	0.084 J	0.047 J	290 DJ	2.1	0.066 J
Dibenzofuran	7	210	350	ND	ND	ND	0.1 J	ND	ND	0.12 J	0.049 J	650 D	1.6	0.065 J
Phenol	0.33	0.33	500	ND	ND	ND	ND	ND	ND	ND	ND	120 DJ	ND	ND
Acenaphthene	20	98	500	ND	ND	ND	0.28	ND	0.28	ND	0.12 J	450 D	2.2	ND
Acenaphthylene	100	107	500	0.059 J	ND	0.21	0.47	ND	0.046 J	0.082 J	0.59	630 D	1.1	0.081 J
Anthracene	100	1000	500	0.049 J	ND	0.097 J	0.27	ND	ND	0.21	0.28	820 D	6.1 D	0.15 J
Benzo(a)anthracene	1	1	5.6	0.38	ND	0.57	0.69	ND	ND	0.33	2.7	640 D	8.4 D	0.13 J
Benzo(a)pyrene	1	22	1	0.47	ND	0.52	0.58	ND	ND	0.22	2.5	450 D	8 D	0.11 J
Benzo(b)fluoranthene	1	1.7	5.6	0.59	ND	0.79	0.79	ND	ND	0.29	2.2	530 D	9.7 D	0.12 J
Benzo(g,h,i)perylene	100	1000	500	0.3	ND	0.43	0.4	ND	ND	0.14 J	1.4	200 DJ	5.4 D	0.053 J
Benzo(k)fluoranthene	0.8	1.7	56	0.27	ND	0.31	0.34	ND	ND	0.18 J	1.6	190 DJ	3.2 D	0.049 J
Dibenzo(a,h)anthracene	0.33	1000	0.56	0.11 J	ND	0.12 J	0.097 J	ND	ND	0.042 J	0.35	69	1.6	ND
Chrysene	1	1	56	0.32	ND	0.67	0.88	ND	ND	0.3	2.3	520 D	7.7 D	0.13 J
Fluoranthene	100	1000	500	0.37	0.045 J	0.78	2.3	ND	ND	0.73	2.8	1400 D	18 D	0.31 J
Fluorene	30	386	500	ND	ND	0.04 J	0.33	ND	ND	ND	0.1 J	780 D	2.7	0.098 J
Indeno(1,2,3-cd)pyrene	0.5	8.2	5.6	0.29	ND	0.35	0.34	ND	ND	0.13 J	1.1	190 DJ	4.4 D	0.047 J
Naphthalene	12	12	500	0.26	0.12 J	ND	0.38	ND	ND	ND	0.083 J	3800 D	1.4	ND
2-Methylnaphthalene	--	--	--	ND	ND	ND	0.13 J	ND	ND	ND	ND	1000 D	0.63	ND
Phenanthrene	100	1000	500	0.098 J	ND	0.26	2	0.041 J	ND	0.81	0.2	2400 D	18 D	0.44
Pyrene	100	1000	500	0.39	ND	0.8	2.2	ND	ND	0.54	3.4 D	1200 D	15 D	0.26
Total SVOCs	--	--	--	3.96	0.26	6.48	12.74	0.09	0.39	4.45	21.99	17,429	117.88	2.11
Total PAHs	--	--	500	3.96	0.17	5.95	12.35	0.04	0.33	4.00	21.52	14,269	112.90	1.98
Total PCBs- mg/kg ⁴														
Total PCBs	0.1	3.2	1	--	--	ND	--	--	--	--	ND	ND	ND	--
Metals- mg/kg														
Aluminum	--	--	--	4840	3140	5070	4260	3880	5270	5730	2280	3350	4900	2420
Antimony	--	--	--	0.65 J	ND	0.3 J	0.47 J	0.73 J	ND	ND	0.43 J	ND	0.75 J	ND
Arsenic	13	16	16	3	6	3.6	4.2	16.9	3.8	4.9	7.1	5.1	5.2	2.6
Barium	350	820	400	18	23.3	52.8	54.6	40.2	20.7	38.6	14	23.1	50.1	19.5
Beryllium	7.2	47	590	0.24 B	0.16 B	0.19	0.16	0.34	0.27	0.42	0.097 B	0.16 B	0.2 B	0.11 B
Cadmium	2.5	7.5	9.3	0.26	0.25 J	0.37 J	0.4 J	0.18 J	ND	ND	0.57 J	0.45 J	2.1 J	0.3 J
Calcium	--	--	--	2440	76700	73600	131000	68400	12300	28100	17600	71300	65300	116000
Chromium	30	NS	1500	7.6	6.7	7.7	6.6	7.6	8.7	12.6	3.6	6.5	7.6	4.6
Cobalt	--	--	--	4.1 J	4.1 J	3.8 J	3.8 J	12.4 J	4.5 J	6.3 J	2.3 J	1.7 EJ	4.1 EJ	2.1 EJ
Copper - Total	50	1750	270	19.4	17.3	18.5	14.7	63.2	18.8	21.3	9.8	11	22.6	8.6
Iron - Total	--	--	--	10500	9520	10100	7970	18900	11700	14000	8930	6520	27900	6710
Lead - Total	63	450	1000	34.6	6.2	21.6	6.8	15	6.6	8.1	4.1	33.2	31.1	3.9
Magnesium - Total	--	--	--	1850	16900	20200	17200	12900	4980	6940	36400	33100	10500	28100
Manganese - Total	--	--	10000	320	317	315	341	235	286	186	495	208	331	364
Nickel - Total	30	130	310	15.7 J	14.3 J	11.4 J	11 J	64.3 J	14.7 J	16.3 J	7.5 J	4.9	12.3 EJ	6.4 EJ
Potassium - Total	--	--	--	545	669	847	900	1140	486	773	747	803	946	733
Selenium - Total	3.9	4	1500	ND	ND	ND	ND	2.4	ND	ND	ND	ND	ND	ND
Silver - Total	2	8.3	1500	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND
Sodium - Total	--	--	--	70.1	115	310	196	141	137	393	220	247	216	200
Thallium - Total	--	--	--	ND	0.35 B	ND	ND	2	ND	ND	0.23 B	0.5 B	ND	ND
Vanadium - Total	--	--	--	9.2	8.7	10.6	9.3	18.8	11.9	14.6	7.5	7.7	9.7	7.5
Zinc - Total	109	2480	10000	43.2 J	35.9 J	68.4 J	68.9 J	30.2 J	38.8 J	38.4 J	36.1 J	53.4 EJ	1250 EJ	17.8 EJ
Mercury - Total	0.18	0.73	2.8	0.017 B	0.012 B	0.02 B	0.018 B	0.034 B	0.049	0.044	0.059	0.035 B	0.037 B	0.0068 B
Cyanide	27	40	27	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND
Pesticides and Herbicides- mg/kg ⁴														
Endosulfan sulfate	2.4	1000	200	--	--	ND	--	--	--	--	ND	ND	0.0052 J	NA

Notes:

- Only those parameters detected at a minimum of one sample location are presented in this table; all other compounds were reported as non-detect.
- Values per 6NYCRR NYSDEC Part 375 Soil Cleanup Objectives (SCOs).
- Values per NYSDEC Part 375 Restricted-Commercial Soil Cleanup Objectives (SCOs).
- Sample results were reported by the laboratory in ug/kg and converted to mg/kg for comparisons to SCOs
- Naphthalene was report on both the VOC and SVOC analytical compound lists used by the Spectrum Analytical, Inc. during the Site Characterization. For purposes of discussion in the RI/FFS report, naphthalene is discussed as a SVOC.

Definitions:

ND = Parameter not detected above laboratory detection limit.

NA = Parameter not analyzed for.

-- = No value available for the parameter or compound was not analyzed for.

J = Estimated value; result is less than the sample quantitation limit but greater than zero.

B = Analyte was detected in associated method blank.

E = Results exceeded calibration range.

EJ= Concentration exceeded calibration standards in initial analyses. But was not detected in the subsequent dilution. The concentration is estimated.

D= Analysis was performed under a sample dilution.

DJ= Analysis was performed under a sample dilution. The compound was positively identified, but the concentration is below the adjusted reporting limit of dilution.

R= Result was of poor quality and rejected through third party validation.

Bold	= Result exceeds Unrestricted SCOs.
Bold	= Results exceed Protection of Groundwater SCOs.
Bold	= Result exceeds Commercial SCOs.



TABLE 2
7 EVANS STREET SITE BCP APPLICATION

SUMMARY OF PREVIOUS SITE CHARACTERIZATION GROUNDWATER ANALYTICAL RESULTS
REMEDIAL INVESTIGATION / FOCUSED FEASIBILITY STUDY REPORT
BATAVIA FORMER MGP SITE
NYSDEC SITE NO. 819019
BATAVIA, NEW YORK

PARAMETER ¹	NYSDEC T.O.G.S 1.1.1 Groundwater Quality Standard ²	MW-02	MW-03	MW-04
		10/5/2011	9/29/2011	9/29/2011
<i>Volatile Organic Compounds (VOCs) ug/L</i>				
1,2,4-Trimethylbenzene	5*	25	ND	ND
1,3,5-Trimethylbenzene	5*	9	ND	ND
4-Isopropyltoluene	5*	2	ND	ND
Acetone	50	ND	ND	11 J
Benzene	1	0.71 J	2.6	ND
Isopropylbenzene	5*	2.8	ND	ND
m,p-Xylene	5*	5.4	ND	ND
n-Propylbenzene	5*	2.4	ND	ND
o-Xylene	5*	0.97 J	ND	ND
sec-Butylbenzene	5*	0.73 J	ND	ND
Toluene	5	0.74 J	ND	ND
Xylene (total)	5*	6.3	ND	ND
<i>Semi Volatile Organic Compounds (SVOCs) ug/L</i>				
Carbazole	--	1.5 J	ND	ND
Fluoranthene	50	ND	1.7 J	ND
Naphthalene	10	6 J	ND	ND
<i>PCBs ug/L</i>				
		ND	ND	ND
<i>Pesticides ug/L</i>				
		ND	ND	ND
<i>Metals ug/L</i>				
Aluminum	--	ND	75.3 B	1120
Arsenic	25	4.7	ND	ND
Barium	1,000	194 B	261	203
Calcium	--	182000	159000	280000
Chromium	50	ND	ND	2.3 B
Cobalt	--	ND	ND	1.5 B
Copper	200	ND	ND	7 B
Iron	300	8460	3570	3670
Magnesium	35,000	28900	26500	77300
Maganese	300	984	824	399
Nickel	100	0.2 B	ND	5.7 B
Potassium	--	13100	21100	25300
Sodium	20,000	100000	194000	31400
Vanadium	--	ND	ND	5.6
Zinc	2,000	ND	ND	20.2
Cyanide	200	ND	105	6.4 B

Notes:

- Only those parameters detected at a minimum of one sample location are presented in this table;
all other compounds were reported as non-detect.
- Values per NYSDEC T.O.G.S 1.1.1 Groundwater Quality Standard
- Values reported as micrograms per liter (ug/L) or parts per billion (ppb).
- The results presented for MW-02 are the higher of the actual sample result or its respective duplicate sample.

Definitions:

ND = Parameter not detected above laboratory detection limit.

NA = Parameter not analyzed for.

"--" = No value available for the parameter.

J = Estimated value; result is less than the sample quantitation limit but greater than zero.

B = Analyte was detected in associated method blank.

R= The data was rejected through third party data validation and deemed unusable.

* = The compound is a Principle Organic Contaminant and the class standard of 5 ug/L applies.

Bold = NYSDEC T.O.G.S 1.1.1 Groundwater Quality Standard



TABLE 3
7 EVAN STREET SITE BCP APPLICATION

SUMMARY OF PREVIOUS SITE CHARACTERIZATION SOIL VAPOR AND AMBIENT AIR ANALYTICAL RESULTS
REMEDIAL INVESTIGATION / FOCUSED FEASIBILITY STUDY REPORT
BATAVIA FORMER MGP SITE
NYSDEC SITE NO. 819019
BATAVIA, NEW YORK

PARAMETERS	SVP-1	SVP-2	SVP-3	AMBIENT
Volatile Organic Compounds (VOCs) - micrograms per cubic meter (ug/m³)				
Propene	ND	4.4	0.99 J	1.2
Dichlorodifluoromethane (CFC 12)	2.3 J	1.9	2.1 J	2
Chloromethane	ND	0.27 J	0.49 J	0.38 J
1,3-Butadiene	ND	0.23 NJ	ND	ND
Ethanol	ND	ND	4.4 J	3.4 J
Acetonitrile	ND	7.4	ND	ND
Acrolein	ND	ND	0.93 J	0.69 J
Acetone	ND	19 B	ND	ND
Trichlorofluoromethane	ND	1.1	1.1 J	1.1
2-Propanol (Isopropyl Alcohol)	25	ND	2.3 J	2.2
Trichlorofluoroethane	ND	0.46 J	0.51 J	0.49 J
Carbon Disulfide	ND	1.4 J	1.2 J	ND
Vinyl Acetate	ND	0.83 J	ND	ND
2-Butanone (MEK)	4.1 J	3.8 J	1.4 J	0.69 J
n-Hexane	ND	0.91	0.32 J	0.45 J
Chloroform	ND	0.38 J	0.24 J	ND
Benzene	ND	15	0.32 J	0.85
Carbon Tetrachloride	ND	0.31 J	0.31 J	0.35 J
Cyclohexane	ND	0.42 J	ND	ND
Bromodichloromethane	ND	0.15 NJ	ND	ND
Trichloroethene	ND	ND	0.14 J	ND
n-Heptane	ND	0.57 J	0.26 J	0.26 J
4-Methyl-2-pentanone	ND	0.61 J	ND	ND
Toluene	3 J	8.9	1.8 J	1.8
2-Hexanone	ND	1 NJ	0.34 J	ND
n-Octane	ND	0.32 J	0.27 J	ND
Tetrachloroethene	1.8 J	0.18 J	0.21 J	ND
Ethylbenzene	ND	1.5	0.44 J	0.4 J
m,p-Xylenes	8.5 J	7.3	1.5 J	1.1
Styrene	ND	0.83	ND	ND
o-Xylene	3.6 J	5.5	0.5 J	0.44 J
n-Nonane	4.2 J	0.76	0.53 J	0.45 J
Cumene	ND	0.17 J	ND	ND
alpha-Pinene	ND	0.67	0.18 J	ND
n-Propylbenzene	ND	0.21 J	ND	ND
4-Ethyltoluene	ND	0.54 J	ND	ND
1,3,5-Trimethylbenzene	3.1 J	3.9	0.22 NJ	ND
1,2,4-Trimethylbenzene	11	5.7 NJ	0.67 J	0.55 J
d-Limonene	ND	0.29 NJ	ND	ND
Naphthalene	41	100	ND	ND

Notes:

- Only those parameters detected above the method detection limits, at a minimum of one location are presented in this table.
- ND = compound concentration below reporting limit.
- J = The compound was positively identified, but the concentration is an estimated value.
- NJ = The result could be tentative in identification and could potentially be a false-positive. The reported value is an estimate.
- B = Compound was detected in associated method blank.



TABLE 4
7 EVANS STREET SITE BCP APPLICATION

SUMMARY OF 2015 SOIL VAPOR INTRUSION SAMPLE ANALYTICAL RESULTS
REMEDIAL INVESTIGATION / FOCUSED FEASIBILITY STUDY REPORT
BATAVIA FORMER MGP SITE
NYSDEC SITE NO. 819019
BATAVIA, NEW YORK

Parameter ¹	NYSDOH Indoor 90 th Percentile Comparison (µg/m3) ²	DAR-1 AGCs (µg/m3) ³	OSHA PELs (µg/m3) ⁴	Sample Location				
				Lobby		Utility Room		Outdoor
				Subslab	Indoor	Subslab	Indoor	
Volatile Organic Compounds (VOCs) - µg/m3								
1,1,2,2-Tetrachloroethane	<0.25	NA	NA	1.3	ND	ND	ND	ND
1,1,1- Trichloroethane	3.1	NA	NA	ND	0.27 J	2.2	ND	ND
1,1-Dichloroethene	<0.25	NA	NA	ND	0.52 J	ND	ND	ND
1,2,4-Trichlorobenzene	3.4	NA	NA	ND	ND	ND	ND	0.43 J
1,2,4-Trimethylbenzene	9.5	NA	NA	0.93 J	1.2 B	4.1	ND	0.078 J B
1,2-Dichlorobenzene	0.7	200	300,000	ND	1.2 J B	ND	ND	ND
1,2-Dichloroethene, Total	<0.25	63	790,000	ND	1.6	ND	ND	ND
1,3,5-Trimethylbenzene	3.6	NA	NA	ND	0.89 J	1.4	ND	ND
1,4-Dichlorobenzene	1.3	NA	NA	ND	0.21 J B	ND	ND	ND
4-Ethyltoluene	--	NA	NA	0.21 J	0.66 J	1.1	ND	ND
4-Isopropyltoluene	--	NA	NA	ND	ND	1.1	ND	ND
Acetone	110	NA	NA	23	17	25	12	4.1 J
Benzene	15	NA	NA	2.3	0.9	2.6	0.64	0.52 J
Carbon disulfide	--	NA	NA	2.1	ND	2.9	ND	ND
Carbon tetrachloride	0.81	NA	NA	0.37	0.78	0.24 J	0.59	0.52
Chloroethane	<0.25	10,000	2,600,000	0.77 J	2.6	ND	1.9	ND
Chloroform	1.4	NA	NA	0.5 J	ND	ND	0.19 J	ND
Cyclohexane	8.1	NA	NA	12 J	ND	25	ND	ND
Chloromethane	3.3	NA	NA	ND	1.5	0.16 J	1.2	1.2
cis-1,2-Dichloroethene	<0.25	63	790,000	ND	1.6	ND	ND	ND
Cumene	--	NA	NA	0.4 J	0.2 J	0.91 J	ND	ND
Dichlorodifluoromethane	15.0	NA	NA	2.3 J	3.6	2.3 J	3.1	2.9
Ethylbenzene	7.4	NA	NA	1.4	2.3	2.9	0.13 J	0.12 J
Freon 22	--	NA	NA	0.75 J	ND	4.9	ND	1.2 J
Freon TF	--	NA	NA	0.52 J	0.86 J	0.54 J	0.73 J	0.7 J
Hexachlorobutadiene	4.6	NA	NA	ND	ND	ND	ND	0.77 J
Isopropyl alcohol	--	NA	NA	110 E	730 E	11 J	350 E	2.7 J
Methyl Ethyl Ketone	16.0	NA	NA	2.1	1.3 J	5	0.91 J	ND
Methylene Chloride	22.0	NA	NA	1.1 J	0.74 J	1.1 J	ND	0.78 J
Naphthalene	--	NA	NA	ND	1.1 J	ND	ND	ND
n-Butane	--	NA	NA	24	2.8	28.0	2.3	1.3
n-Heptane	19.0	NA	NA	27	0.26 J	55	ND	ND
n-Hexane	18.0	NA	NA	22	0.39 J	49	ND	0.27 J
Styrene	1.3	NA	NA	1	ND	4.2	ND	ND
n-Propylbenzene	1.7	NA	NA	ND	0.49 J	0.99	ND	ND
tert-Butyl alcohol	--	NA	NA	ND	2.4 J	4.3 J	ND	ND
Tetrachloroethene	2.9	NA	NA	9.7	1.4	12	ND	ND
Toluene	58.0	NA	NA	12	39	26	1	0.89
Trichloroethene	0.5	NA	NA	23	ND	ND	ND	ND
Trichlorofluoromethane	17.0	NA	NA	1.2	2	1.2	1.6	1.5
Xylene (total)	--	NA	NA	7.6	11	17	0.24 J	0.51 J
m,p-Xylene	12.0	NA	NA	5.7	8.9 B	13	0.24 J B	0.37 J B
o-Xylene	7.6	NA	NA	1.9	2.8	4.4	ND	0.15 J

Notes:

- Only those parameters detected above the method detection limit, at a minimum of one location, are presented in this table.
 - Indoor Air sampling results compared to the NYSDOH Summary of Indoor and Outdoor Levels of Volatile Organic Compounds for Fuel Oil Heated Homes in NYS (November 2005)
 - NYSDEC Policy DAR-1, Guidelines for the Control of Toxic Ambient Air Contaminants, Annual Guideline Concentration (AGC).
 - Occupational Safety and Health Administration (OSHA) Permissible Exposure Limit (PEL).
 - Sampling completed on March 18-19, 2015.
- J = Estimated value.
 B = Compound was detected in the associated method blank at a concentration that may have contributed to sample result.
 E = Result exceeds calibration range.
 ND = Compound analyzed but not detected at a concentration above the reporting limit.
 "--" = No value set for this
 NA = Not applicable

	= NYSDOH Matrix 1 compound - carbon tetrachloride, trichloroethene, vinyl chloride (see Table 2)
	= NYSDOH Matrix 2 compound - Tetrachloroethene, 1,1,1-trichloroethane, cis-1,2-dichloroethene, and 1,1-dichloroethene (see Table 2)
	= Value exceeds NYSDOH Indoor Air Guidance - 90th percentile (see Note 2).



TABLE 5
7 EVANS STREET SITE BCP APPLICATION
COMPARISON OF OFF-SITE SUBSLAB VAPOR, INDOOR AIR AND OUTDOOR AIR ANALYTICAL DATA TO NYSDOH DECISION MATRICES
BATAVIA, NEW YORK

Sample Location	Carbon Tetrachloride		Trichloroethene (TCE)		cis-1,2-Dichloroethene		1,1-Dichloroethene		Tetrachloroethene (PCE)		1,1,1 -Trichloroethane		Methylene Chloride		Vinyl Chloride	
	Lab Reported Concentration (ug/m³)	Soil Vapor / Indoor Air Matrix 1	Lab Reported Concentration (ug/m³)	Soil Vapor / Indoor Air Matrix 1	Lab Reported Concentration (ug/m³)	Soil Vapor / Indoor Air Matrix 2	Lab Reported Concentration (ug/m³)	Soil Vapor / Indoor Air Matrix 2	Lab Reported Concentration (ug/m³)	Soil Vapor / Indoor Air Matrix 2	Lab Reported Concentration (ug/m³)	Soil Vapor / Indoor Air Matrix 2	Lab Reported Concentration (ug/m³)	Soil Vapor / Indoor Air Matrix 2	Lab Reported Concentration (ug/m³)	Soil Vapor / Indoor Air Matrix 1
Building 1																
Lobby																
Sub-Slab	0.37	NFA	23	NFA	ND	I,R	ND	NFA	9.7	NFA	ND	NFA	1.1 J	NFA	ND	NFA
Indoor Air	0.78		ND		1.6		0.52		1.4		0.27		0.74 J		ND	
Outdoor	0.52		ND		ND		ND		ND		ND		0.78 J		ND	
Utility Room																
Sub-Slab	0.24	NFA	ND	NFA	ND	NFA	ND	NFA	ND	NFA	2.2	NFA	1.1 J	NFA	ND	NFA
Indoor air	0.59		ND		ND		ND		ND		ND		ND		ND	
Outdoor	0.52		ND		ND		ND		ND		ND		0.78 J		ND	

Notes:

1. Concentration in micrograms per cubic meter (ug/m³)

Definitions:

- ND = Not Detected
J = Results areestimated; results are below the reporting limit, but greater than or equal to the method detection limit.
NFA = No further action.
I, R = Take reasonable and practical actions to identify source(s) and reduce exposures and resample or mitigate.
Monitor = Monitor soil vapor / indoor air
Mitigate = Mitigate source of identified parameter.

Analytes Assigned: Trichloroethene (TCE), cis-1,2-Dichloroethene (c12-DCE), 1,1-Dichloroethene (11-DCE), Carbon Tetrachloride				
SUB-SLAB VAPOR CONCENTRATION of COMPOUND (mcg/m³)	INDOOR AIR CONCENTRATION of COMPOUND (mcg/m³)			
	< 0.2	0.2 to < 1	1 and above	
< 6	1. No further action	2. No Further Action	3. IDENTIFY SOURCE(S) and RESAMPLE or MITIGATE	
6 to < 60	4. No further action	5. MONITOR	6. MITIGATE	
60 and above	7. MITIGATE	8. MITIGATE	9. MITIGATE	

Analytes Assigned: Tetrachloroethene (PCE), 1,1,1-Trichloroethane (111-TCA), Methylene Chloride				
SUB-SLAB VAPOR CONCENTRATION of COMPOUND (mcg/m³)	INDOOR AIR CONCENTRATION of COMPOUND (mcg/m³)			
	< 3	3 to < 10	10 and above	
< 100	1. No further action	2. No Further Action	3. IDENTIFY SOURCE(S) and RESAMPLE or MITIGATE	
100 to < 1,000	4. No further action	5. MONITOR	6. MITIGATE	
1,000 and above	7. MITIGATE	8. MITIGATE	9. MITIGATE	

Analytes Assigned: Vinyl Chloride			
SUB-SLAB VAPOR CONCENTRATION of COMPOUND (mcg/m³)	INDOOR AIR CONCENTRATION of COMPOUND (mcg/m³)		
	< 0.2	0.2 and above	
< 6	1. No further action	2. IDENTIFY SOURCE(S) and RESAMPLE or MITIGATE	
6 to < 60	3. MONITOR	4. MITIGATE	
60 and above	5. MITIGATE	6. MITIGATE	



TABLE 6
7 EVANS STREET SITE BCP APPLICATION

SUMMARY OF REMEDIAL INVESTIGATION SAMPLING AND ANALYSIS PROGRAM
REMEDIAL INVESTIGATION / FOCUSED FEASIBILITY STUDY REPORT
BATAVIA FORMER MGP SITE
NYSDEC SITE NO. 819019
BATAVIA, NEW YORK

Sample Identifier	Depth Sampled/ Screened (fbgs)	Analysis					Date Sampled	Notes
		TCL VOCs	TCL SVOCs	TAL Metals	TAL Metals (Dissolved)	Total Cyanide		
Subsurface Soil/Fill		X						
TKMW-5	9 to 11	X	X	X		X	04/13/2016	
TKMW-6	8 to 10	X	X	X		X	04/13/2016	
TKMW-7	2 to 5	X	X	X		X	04/13/2016	Duplicate
TKMW-8	5.5 to 7.5	X	X	X		X	04/13/2016	MS/MSD
TKMW-9	5 to 7	X	X	X		X	04/13/2016	
Groundwater								
TKMW-5	5 to 15	X	X	X		X	04/27/2016	
TKMW-6	5 to 15	X	X	X		X	04/27/2016	MS/MSD
TKMW-7	5 to 15	X	X	X		X	04/27/2016	
TKMW-8	5 to 15	X	X	X		X	04/27/2016	Duplicate
TKMW-9	5 to 15	X	X	X		X	04/27/2016	



TABLE 7
7 EVANS STREET BCP APPLICATION



SUMMARY OF REMEDIAL INVESTIGATION SOIL/FILL SAMPLE ANALYTICAL RESULTS
REMEDIAL INVESTIGATION / FOCUSED FEASIBILITY STUDY REPORT
BATAVIA FORMER MGP SITE
NYSDEC SITE NO. 819019
BATAVIA, NEW YORK

PARAMETER ¹	Unrestricted Use SCOs ²	Protection of Groundwater SCOs ²	Commercial Use SCOs ²	TKMW-5	TKMW-6	TKMW-7 ⁴	TKMW-8	TKMW-9
				(9-11')	(8-10')	(2-5')	(5.5-7.5')	(5-7')
				04/13/2016				
Volatile Organic Compounds (VOCs) - mg/Kg ³								
Ethylbenzene	1	1	390	ND	1.3	ND	ND	ND
Isopropylbenzene (Cumene)	--	--	--	ND	0.58 J	ND	ND	ND
Methylcyclohexane	--	--	--	ND	29	ND	ND	ND
Methylene chloride	0.05	0.05	500	ND	ND	ND	0.0041 J	0.0033 J
Total Xylenes	0.26	0.26	500	ND	3.5	ND	ND	ND
Semi-Volatile Organic Compounds (SVOCs) - mg/Kg ³								
2-Methylnaphthalene	--	--	--	ND	4.6	ND	ND	ND
Acenaphthene	20	98	500	ND	3.2	4 J	ND	ND
Acenaphthylene	100	107	500	ND	0.88 J	ND	ND	ND
Anthracene	100	1000	500	ND	3.3	10 J	ND	ND
Benzo(a)anthracene	1	1	5.6	0.18 J	3.5	66 J	ND	ND
Benzo(a)pyrene	1	22	1	0.11 J	3.2	90 J	ND	ND
Benzo(b)fluoranthene	1	1.7	5.6	0.16 J	3.4	98 J	ND	ND
Benzo(ghi)perylene	100	1000	500	ND	2.3	66 J	ND	ND
Benzo(k)fluoranthene	0.8	1.7	56	0.091 J	1.2	45 J	ND	ND
Biphenyl	--	--	--	ND	0.46 J	ND	ND	ND
Carbazole	--	--	--	ND	1.2	4.7 J	ND	ND
Chrysene	1	1	56	0.19 J	3.3	53 J	ND	ND
Dibenzo(a,h)anthracene	0.33	1000	0.56	ND	ND	9.8 J	ND	ND
Dibenzofuran	7	210	350	0.64	1.1	1.8 J	ND	ND
Fluoranthene	100	1000	500	0.22	9.2	53 J	ND	0.068 J
Fluorene	30	386	500	1.4	2.1	2.4 J	ND	ND
Indeno(1,2,3-cd)pyrene	0.5	8.2	5.6	ND	1.6	60 J	ND	ND
Naphthalene	12	12	500	ND	23 D	1.3 J	ND	ND
Nitrobenzene	--	--	--	ND	ND	ND	ND	ND
Phenanthrene	100	1000	500	ND	12	26 J	ND	0.032 J
Pyrene	100	1000	500	0.28	9.8	53 J	ND	0.061 J
Total SVOCs	--	--	--	3.271	89.34	644 J	0	0.161
Total PAHs	--	--	500	2.631	82.44	637.5	0	0.161
Total Metals - mg/Kg								
Aluminum	--	--	--	5410	6520	6210	9750	16400
Arsenic	13	16	16	3.5	2.9	16.1	4.6	5.7
Barium	350	820	400	18.2	18.9	90.7	25.9 J	63.4
Beryllium	7.2	47	590	0.27	0.33	0.59	0.38	0.75
Calcium	--	--	--	96200	1340	39600 J	29500 F2	3520
Chromium	30	--	1500	8.2	10.4	11	12.4	22.1
Cobalt	--	--	--	4	4.8	6.5	4.9	9
Copper	50	1,720	270	11.2	14.9	38.6 J	14.8	21.1
Iron	--	--	--	9150	12300	12500	13100	21800
Lead	63	450	1000	9.4	7.6	86.9	9.9	21.5
Magnesium	--	--	--	11300	2050	8120	4070 J	3830
Manganese	1600	2000	10000	257	208	216	163 F1F2	275
Mercury	0.18	0.73	2.8	ND	ND	0.18	ND	0.03
Nickel	30	130	310	12.4	19.9	17.1	15.7	27.9
Potassium	--	--	--	1860	1890	1200	1470 J	3110
Sodium	--	--	--	220	ND	532	282	456
Vanadium	--	--	--	14.6	20.2	19.3	20.7 F1	37.8
Zinc	109	2480	10000	32.6	42.4	80.7	37.6	65
Cyanide - Total	27	40	27	ND	ND	ND	ND	ND

Notes:

1. Only those parameters detected at a minimum of one sample location are presented in this table; all other compounds were reported as non-detect.
2. Values per NYSDEC Part 375 Soil Cleanup Objectives (SCOs).
3. Sample results were reported by the laboratory in ug/kg and converted to mg/kg for comparisons to SCOs.
4. The results presented for TKMW-7, 2 to 5 ft are the higher of the direct sample results or its duplicate.

Definitions:

ND = Parameter not detected above laboratory detection limit.
"--" = No value available for the parameter; Parameter not analysed for.
J = Estimated value; result is less than the sample quantitation limit but greater than zero.
^= ICV,CCV,ICB,CCB, ISA, ISB, CRI, CRA, DLCK or MRL standard: Instrument related QC is outside acceptance limits.
F1 = MS and/or MSD Recovery is outside acceptance limits.
F2 = MS/MSD RPD exceeds control limits
D = Compounds were identified in an analysis at the secondary dilution factor.

Bold	= Result exceeds Unrestricted Use SCOs.
Bold	= Result exceeds Protection of Groundwater SCOs.
Bold	= Result exceeds Commercial Use SCOs.



TABLE 8
7 EVANS STREET SITE BCP APPLICATION

SUMMARY OF REMEDIAL INVESTIGATION GROUNDWATER SAMPLE ANALYTICAL RESULTS
REMEDIAL INVESTIGATION / FOCUSED FEASIBILITY STUDY REPORT
BATAVAIA FORMER MGP SITE
NYSDEC SITE NO. 819019
BATAVIA, NEW YORK

PARAMETER ¹	GWQS ²					
		TKMW-5	TKMW-6	TKMW-7	TKMW-8 ³	TKMW-9
Volatile Organic Compounds (VOCs) - ug/L						
Acetone	50	3.4 J+	ND	ND	5.7 J+	9.1 J+
Benzene	1	1.4	25	ND	ND	0.76 J
Carbon disulfide	120	ND	ND	ND	0.39 J	0.81 J
Cyclohexane	--	0.36 J	22 J	ND	ND	ND
Ethylbenzene	5	ND	11	ND	ND	ND
Isopropylbenzene	5	ND	8.9 J	ND	ND	ND
Methylcyclohexane	--	0.56 J	200 F1	ND	ND	ND
Total Xylene	5	ND	21	ND	ND	ND
Semi-Volatile Organic Compounds (SVOs) - ug/L						
2-Methylnaphthalene	--	ND	20	ND	ND	ND
Acenaphthene	20	7.3 J	7.6	ND	ND	ND
Anthracene	--	0.48 J	1.6 J	ND	ND	ND
Benzaldehyde	--	ND	ND	0.59 J *	ND	ND
Carbazole	--	ND	8.3	ND	ND	ND
Dibenzofuran	--	0.56 J	2.7 J	ND	ND	ND
Di-n-butyl phthalate	50	ND	ND	ND	0.35 J	0.35 J
Fluoranthene	50	ND	1.1 J	ND	ND	ND
Fluorene	50	2.5 J	4 J	ND	ND	ND
Napthalene	10	ND	320 J-	ND	ND	ND
Phenanthrene	50	1.8 J	8.9	ND	ND	ND
Pyrene	50	ND	0.88 J	ND	ND	ND
Total Metals - ug/L						
Aluminum	--	260	ND	ND	ND	4,100
Barium	1000	320	220	38	140	110
Calcium	--	186,000	189,000	109,000	200,000	229,000
Chromium	50	ND	ND	ND	ND	6
Cyanide	200	12	16	ND	ND	ND
Iron	300	2,900	25,000	120	280 J	5,400
Magnesium	35000	27,400	21,700	18,600	34,000	58,300
Manganese	300	550	2,300	68	600	310
Potassium	--	10,400	13,100	3,700	11,100	15,700
Sodium	20000	236,000	192,000	45,700	396,000	399,000
Vanadium	14	ND	ND	ND	ND	7.9
Zinc	2000	ND	ND	ND	ND	19
Field Measurements (Units as Indicated)						
pH (units)	6.5 - 8.5	7.05	6.9	7.3	7.09	7.09
Temperature (oC)	--	11.2	12	10.1	10	10.3
Specific Conductance (uS)	--	2190	2001	799.8	3010	3500
Turbidity	--	29.3	19.8	12.3	11.8	664
DO (ppm)	--	1.09	1.19	2.95	4.2	1.28
ORP (mV)	--	-60	-107	115	112	73

Notes:

- Only those parameters detected at a minimum of one sample location are presented in this table; all other compounds or analytes were reported as non-detect.
- Values per NYSDEC Division of Water Ambient Water Quality Standards and Guidance Values and Groundwater Effluent Limitations - Class GA (TOGS 1.1.1)
- The results presented for TKMW-8 are the higher of the direct sample results or its duplicate.

Definitions:

ND = Parameter not detected above laboratory detection limit.

"--" = No value available for the parameter.

J = Estimated value.

J+ = estimated value may be biased high.

J- = estimated value may be biased low.

* = Laboratory control sample or laboratory control sample duplicate is outside acceptance limits.

F1 = matrix spike and/or matrix spike duplicate recovery is outside acceptance limits.

BOLD

= Result exceeds GWQS.

APPENDIX A

BCP APPLICATION PART A – SECTIONS I - IV

SECTION I – REQUESTOR INFORMATION

SECTION II – PROJECT DESCRIPTION

SECTION III – PROPERTY’S ENVIRONMENTAL HISTORY

SECTION IV – PROPERTY INFORMATION

**EXHIBIT A1 – R&J ENTERPRISES L.L.C. NYS CORPORATION & BUSINESS
ENTITY DATABASE INFORMATION**

EXHIBIT A2 – SANBORN MAPS

EXHIBIT A3 – 7 EVANS STREET GENESEE COUNTY PARCEL REPORT

EXHIBIT A4 - SIGNATURE CONSENT

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SECTION I – REQUESTOR INFORMATION

R&J Enterprises of Batavia, L.L.C. (R&J) is authorized to do business in New York State. The New York State Department of State's (NYSDOS) Corporation & Business Entity Database print-out for R&J Enterprises of Batavia, L.L.C is provided in this Appendix A as Exhibit A-1.

Benchmark Environmental Engineering and Science, PLLC (Benchmark), a registered New York State (NYS) engineering firm, and licensed NYS Professional Engineer (PE) will be acting as the Engineer of Record for this Brownfield Cleanup Program (BCP) project.

SECTION II – PROJECT DESCRIPTION

R&J, acting as a Volunteer, is willing to remediate the 7 Evans Street Site (hereinafter, the "Project Site" or the "Site"; see Figures 1 through 4) under the NYS BCP, and is submitting this BCP Application for eligibility acceptance into the program at the remediation phase. A preliminary project schedule is shown on Figure 5.

The Site, located at 7 Evans Street in Batavia, New York, was also formerly addressed as 11 Evans Street, and 17 - 23 Evans Street in the documents discussed in Section III of this Appendix A and provided electronically on the compact disc.

The Volunteer plans to remediate the Site in accordance with the NYSDEC-approved Remedial Investigation/Focuses Feasibility Study (RI/FFS) and NYSDEC-issued Record of Decision (ROD). The Site is currently zoned commercial, is currently used by a medical practice (WNY Pediatric Endocrinology) and will continue to be used for commercial purposes after the remediation is complete. Figure 2 is an Aerial Site Plan. The Site is occupied by one (1) round 2,800-square foot, single-story structure which is the shell of a former manufactured gas plant (MGP) gas holder that has been renovated for commercial use. Most of the Site is covered with an asphalt parking lot with some minor green space present along the eastern and southern property boundaries.

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The Project will result in the remediation of an environmentally impacted Site located in the City of Batavia Business District, Genesee County, New York.

SECTION III – PROPERTY’S ENVIRONMENTAL HISTORY

A summary of the previous environmental investigation findings completed for the Site are provided below. The Site has been impacted by the former MGP operations which existed at the Site. Apparent coal tar containing both volatile organic compounds (VOCs) and semi-volatile organic compounds (SVOCs) is present in the northern portion of the Site as non-aqueous phase liquid (NAPL) and adjacent to the former tar house that was present (see Figure 6). Petroleum impacts have been identified in the vicinity of the former oil underground storage tank (UST) formerly located in the southeastern corner of the Site.

The Batavia Gas Light Company (BGLC) occupied the Site as far back as June 1855 and constructed the original gasholder (total capacity of 13,500 cubic feet). In 1878, a new gasholder was constructed under a new business entity named Batavia Gas and Electric Company (BGEC). The new gasholder was 35,000 cubic feet and is the shell for the current structure present on the Site. Less than 10 years later, BGEC constructed new gas works infrastructure and began manufacturing gas from crude petroleum. In 1890, Consolidated Gas and Electric Company acquired the assets of BGEC. Sometime between 1906 and 1912, the MGP was no longer in operation and the Site became occupied by Roberts Brothers flouring mills. Other Site occupants from 1912 through 1931 have also included Lang’s Bakery, Genesee County, Granger & Co. wholesale grocery, and Batavia Motor Lines, Inc.

R&J purchased the property in 2001. Prior to purchasing the property, R&J completed a Phase I Environmental Site Assessment, further discussed below. At the time of its purchase, the Site was used for commercial purposes and occupied by two (2) buildings: the current commercial building (~2,500 sq ft) which is still present, and a larger grain elevator/warehouse building (~17,000 sq ft) south of the current commercial building. The grain elevator/warehouse building was demolished after purchase. The remaining portion of the Site including the footprint of the former building was use as parking.

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Phase I Environmental Site Assessment, Former The Top Notch Company, 17 – 23 Evans Street, Batavia, New York 14202 – Neeson-Clark Associates, Inc. – January 3, 2001.

Neeson-Clark Associates, Inc. (NCA) completed the Phase I on behalf Mr. Ronald Viele (former member of R&J, since retired). The scope of the assessment limited to visual observations in accordance with ASTM standards. The assessment procedure consisted of a review of the entire property to determine the following:

- presence of chemical use and storage;
- probable presence of Polychlorinated Bipheynls (PCBs);
- probable presence of asbestos;
- probable presence of other potentially hazardous substances;
- probable presence of hazardous wastes and other waste streams;
- probable presence of hazardous gases and air emissions;
- probable presence of underground and aboveground storage tanks;
- compliance with OSHA, SARA and other environmental regulations; and
- presence of wetlands.

The findings of the Phase I are as follows:

- Approximately 145 linear feet of asbestos containing pipe insulation was present in the basement of the grain elevator; and *(this building subsequently demolished by R&J after purchase)*
- A portion of the property was part of the old NYC rail line and trolley repair round house property.

NCA's report stated that "This assessment has revealed no evidence of recognized environmental conditions in connection with the property. In our opinion the subject Site is free of any serious environmental, health or safety concerns except for the aforementioned asbestos containing material located in the basement of the granary. A Phase II

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Environmental Audit is not recommended for this property. There has been no activity in the past or in the current situation that would alter this conclusion”.

R&J conducted proper pre-purchase due diligence and was not aware of any environmental concerns, other than the asbestos containing pipe insulation, associated with the property at the time of the purchase (innocent purchaser/landowner). Based on the results of the Phase I, the property was subsequently financed and purchased by R&J.

In or around 2009, which was several years after the acquisition of the property, NYSDEC identified the Site as former manufactured gas plant (MGP) location and contacted National Fuel Gas Corporation as a suspected successor-in-interest. National Fuel provided a document to NYSDEC to support its position that it was not responsible for clean-up of the Site (see Appendix B, Section VI and Exhibit B-1). NYSDEC then contacted R&J for access to the Site, which was granted, and NYSDEC commissioned Shaw Environmental & Engineering of New York, P.C. (Shaw) to perform a Site Characterization (SC), discussed below. Shaw then provided the SC to NYSDEC, which resulted in the Site being listed in the Registry of Inactive Hazardous Waste Disposal Sites (Registry) due to the contamination associated with the former MGP operations.

Final Site Characterization Report, Batavia Former MGP, 11 Evans Street, Batavia, Genesee County, New York – Shaw Environmental & Infrastructure Engineering of New York, P.C. – December 2012.

Shaw completed the SC work on behalf of NYSDEC in accordance with the Work Authorization D006132-23. The SC activities consisted of:

- Ten (10) soil borings (SB-1 through SB-10) of which four (4) were converted to groundwater monitoring wells (MW-1 through MW-4);
- Five (5) exploratory test pits (TP-1 through TP-5); and
- Installation of three (3) soil gas implants (SVP-1 through SVP-3) to facilitate collection of soil gas samples.

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Soil/Fill Sample Results

Coal tar was reportedly observed within monitoring well, MW-1, installed within soil boring SB-8, indicating the potential presence of non-aqueous phase liquid (NAPL) in the subsurface. This location is adjacent to the former tar house structure (see Figure 6). Coal tar may be present in the subsurface from approximately 5 to 10 fbgs. In addition to the coal tar, impacted soil/fill exceeding their respective NYSDEC Part 375 Commercial Soil Cleanup Objectives (CSCOs) were identified at the following locations.

- SB-4, 25 to 26 fbgs, arsenic
- SB-8, 10 to 14 fbgs, benzene and SVOCs
- SB-9, 5 to 10 fbgs, SVOCs

The arsenic detected at SB-4 was collected from native soil at a depth of 25 to 26 fbgs and the detected concentration of 16.9 mg/kg slightly exceeds its CSCO of 16 mg/kg. Elevated levels of benzene and SVOCs were identified at SB-8, 10 to 14 fbgs. This sample interval is below the depth at which coal tar may be present in the subsurface and is in the vicinity of the former tar house structure. SVOCs were detected at SB-9 in a fill material sample from 5 to 10 fbgs exceeding their respective CSCOs. This location is in the vicinity of a former oil UST. The soil/fill analytical results of the SC data are summarized on Table 1.

Groundwater Sample Results

Groundwater was not collected from MW-1 due to the presence of NAPL identified in the well. Low-level VOCs above their respective groundwater quality standards and guidance values (GWQS/GVs) were detected in groundwater samples collected from MW-2, installed at SB-9, in the vicinity of the former oil UST and MW-3 installed at SB-5 in the eastern central portion of the Site. Based on the SC, groundwater impacts appear to be limited to the area directly around the former tar house structure and historic oil UST. The groundwater analytical results of the SC data are summarized on Table 2.

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Soil Vapor Sample Results

Soil vapor results indicated that VOCs were present in the subsurface based on the results of the three (3) samples collected in the northern portion of the Site (see Table 3). No indoor or sub-slab air samples were collected as part of the SC work. A soil vapor intrusion (SVI) assessment was completed within the on-site building in March 2015, as discussed below.

SC Conclusions

Based on the findings of the SC, the Site was listed in the Registry in New York State as a Class 2 site (Site Number 819019).

NYSDEC subsequently issued an Order on Consent to R&J, which was executed on March 5, 2014, between NYSDEC and R&J, as the current Site owner. R&J or their tenants have not utilized the Site in any manner which would have caused the discharge of contamination that has been identified. Historic use of the Site as an MGP has impacted the subsurface soil and groundwater. The historic site buildings and associated apparatus shown on Figure 6 (e.g., tar house, gas works, Oil UST) were present in areas where contamination related to those uses were identified during the SC. R&J was unaware of the contamination present as the Phase I completed prior to purchase of the Site did not identify any RECs nor recommend a Phase II.

The following environmental documents to be discussed were completed by R&J, as required by the Order on Consent.

Interim Remedial Measures Work Plan - Conestoga-Rovers & Associates – December 2014

In December 2014, Conestoga-Rovers & Associates prepared an Interim Remedial Measure Work Plan (IRMWP) for the Site on behalf of R&J, which was approved by NYSDEC on January 6, 2015. The IRMWP discusses the activities planned for the implementation of the IRM, including the delineation, excavation and off-site disposal of grossly contaminated soil

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at the Site associated with the former MGP operations. The full scope of work outlined in the IRMWP was not implemented.

R&J had discussions with NYSDEC regarding implementing work necessary to fulfill the Order on Consent and transitioning the Site into the BCP to complete the necessary remedial action. As previously discussed, R&J was not responsible for the discharge of the contaminants present at the Site or aware of any contamination present (other than the asbestos pipe insulation identified by NCA in the Phase I) at the time of the purchase of the Site. The following tasks from the IRMWP were deemed necessary by NYSDEC to be completed by R&J to fulfill the Order on Consent and were implemented by R&J as part of the Remedial Investigation and Focused Feasibility Study (RI/FFS):

- Soil Vapor Intrusion Evaluation;
- Ground penetrating radar (GPR) survey; and
- Installation and sampling of five (5) soil borings and monitoring wells.

Soil Vapor Intrusion Assessment, TurnKey Environmental Restoration, LLC – March 2015

In March 2015, a soil vapor intrusion (SVI) assessment was conducted within the medical office building (former gas holder). In accordance with SVI Guidance sampling protocols, two (2) sub-slab air samples and two (2) interior air samples were collected from within the office building; and one (1) outdoor ambient air sample were collected for VOC analysis via EPA TO-15. Tables 4 and 5 summarize the analytical results associated with the SVI assessment and compare the results to the New York State Department of Health (NYSDOH) SVI Decision Matrices, respectively.

Based on the SVI assessment, SVI into the office building was not evident, and no further action was recommended. In a letter dated June 19, 2015, NYSDEC and NYSDOH

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concluded with the SVI assessment and concluded that no further action was necessary to evaluate the potential for SVI to occur.

Remedial Investigation/Focused Feasibility Study, TurnKey Environmental Restoration, Benchmark Environmental Engineering and Science, PLLC – July 2019

In April 2016, the remaining RI activities to fulfill the Order on Consent (GPR survey and installation/sampling of five (5) soil borings/monitoring wells) were completed by R&J. Table 6 is a summary of the sampling and analysis completed as part of the RI. Table 7 is a summary of the RI soil/fill sample results and Table 8 is a summary of the RI groundwater results. Based on the RI and previous investigation activities, a RI/FFS was prepared offering the following summary and conclusions:

- NAPL was present in SB-8/MW-01 in the vicinity of the former tar house in the northern portion of the Site and is the likely cause of the VOCs and SVOCs contamination in soil/fill and groundwater.
- VOCs (specifically benzene) and SVOCs are present in the soil/fill at SB-8 (vicinity of the former tar house in the northern portion of the Site, (see Figures 6 and 7) at concentrations above their respective CSCOs. This is also the location of the NAPL discussed above.
- Previous findings at TP-1 indicated the presence of black soil, strong product odors, and PID measurements of 399 ppm at approximately 6 to 7 fbs. This is likely contamination associated with the former UST that was reportedly present in this area of the Site (see Figures 6 and 7).
- Elevated SVOCs/PAHs (greater than 500 mg/kg) were also detected from 2 to 5 fbs at TKMW-7. The elevated SVOCs are likely associated with fill material present at TKMW-7, TP-4 and TP-5 to the west and are not associated with impacts from the NAPL identified at SB-8/MW-1. This contamination is likely associated with the former coal storage house and retort formerly present in this area of the Site (see Figures 6 and 7).
- Low-level VOCs and SVOCs were detected in the groundwater at the Site. Although not considered a significant concern, the low-level contamination (total concentrations less than 1 mg/L) is likely associated with the NAPL present in the vicinity of the former tar house (see Figure 6 and 7) and contamination present in the vicinity of TP-1 in the southeastern corner of the Site in the vicinity

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of the former oil UST. Treatment and/or removal of the source areas at the Site will address the source of groundwater contamination at the Site and improve groundwater quality.

- Based on the previously completed SVI investigation and NYSDOH/NYSDEC concurrence, vapor intrusion is not a concern of the on-site building and will not require further action.
- Given the nature and extent of contamination present in the soil/fill and groundwater, and the long history of commercial/industrial use, it is not reasonably practicable to remediate the property to pre-release (Track 1 Unrestricted Use) or Track 2 Restricted-Commercial Use conditions in the upper 15 feet.

Based on the Remedial Alternative Evaluation completed, a Track 4 Restricted-Commercial Use cleanup would achieve the Site's Remedial Action Objectives (RAOs) and was the proposed remedy. Components of the proposed selected remedy include (see Figure 7):

- A treatability study/pre-design investigation will be completed prior to implementation of the in-situ stabilization (ISS) remedial strategy in the vicinity of SB-8/MW-1 to determine proper stabilization mixture/methods and the extent of area to be treated.
- Treatment via ISS will be completed for the soil/fill/NAPL present in the source area, SB-8/MW-1, from depths of approximately 5 to 15 fbg.
- Excavation and off-site disposal of soil/fill present in the source area TP-1/SB-9/TKMW-6 to a depth of approximately 7 to 15 fbg.
- Excavation and off-site disposal of fill material with total PAHs greater than 500 mg/kg present in the area of TKMW-7 from approximately ground surface to 6 fbg.
- Managing impacted water encountered during remedial activities.
- Use of a DER-10 compliant cover system across the Site. Areas void of hardscape along the perimeter of the Site will either be covered with additional hardscape or sampled to determine if the upper 1 foot is compliant with a restricted commercial use cover system.
- Engineering Controls:
 - Maintaining the cover system consisting of the building foundation and asphalt parking lot. Asphalt cover removed for future development

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must be replaced by 6 inches of concrete or asphalt (including sub-base material), or a minimum of 1 foot of clean soil/gravel meeting CSCOs.

- Institutional Controls:
 - Implementing a Site Management Plan (SMP) including an Environmental Easement, EC/IC Plan, Site Monitoring Plan, Excavation Work Plan, O&M Plan, Site use limitations, and groundwater use restrictions.

Record of Decision, New York State Department of Environmental Conservation – March 2020

NYSDEC issued a Record of Decision (ROD) for the Site on March 23, 2020. The purpose of the ROD is to presents the site remedy selected by NYSDEC, with concurrence from NYSDOH, to be implemented at the Site. The site remedy selected is consistent with the proposed remedy in the RI/FFS, as discussed above.

As discussed on page A-6 of this Section, R&J was not responsible for the discharge of the contaminants present at the Site and has had discussions with NYSDEC about transitioning the Site into the BCP to complete the necessary remedial action. Appendix A Clause E.2. of the Order on Consent requires R&J to notify NYSDEC whether it will implement the remedial activities required by the ROD. R&J has submitted an Order on Consent withdrawal letter to NYSDEC, along with this BCP application. R&J would like to complete the remediation, outlined in the ROD, to address the contamination caused by others under the BCP.

SECTION IV – PROPERTY INFORMATION

Legal Parcel Description

The 7 Evans Street (Site), subject to this BCP application, is located within the City of Batavia Central Commercial District surrounded by commercial and recreational use properties (see Figures 1 through 3). The ±1.16-acre Site consists of one (1) tax parcel SBL No. 84.015-1-35.

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The Genesee County tax parcel detail report for the Site is provided for reference in this Appendix A as Exhibit A-3.

According to NYSDEC Environmental Zone (EN-Zone) mapping, the Site is located within an EN-Zone Type B designated census tract 9507 (Figure 8).

Easements and Permits

Utilities are located in the right-of-way along Evans Street and the Site has access to municipal sanitary sewer, electric, natural-gas, and public potable water. R&J is not aware of any other easements or restrictions on the Site.

R&J is not aware of any other formal enforcement action, civil judicial or existing administrative enforcement cases in associated with the subject property. We note the Site was formerly subject to an Order on Consent and Administrative Settlement A8-0812-13-09 (Batavia Former MGP Site No. 819019). R&J has submitted an Order on Consent withdrawal letter with this BCP application and would like to pursue the remedial activities required by the ROD, under the BCP.

In addition, based on information gathered to date, there are no institutional controls recorded for the Site.

Location

The Site is located on the east side of Evans Street in the City of Batavia Central Commercial Business District developed with commercial and recreational use properties in the City of Batavia, Genesee County, New York. The Site is bordered by Evans Street to the west, a commercial property to the north, a vacant warehouse property to the north and east, and commercial property to the south. The vacant warehouse property to the north and east,

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addressed 40-52 Ellicott Street, is the Ellicott Station BCP Site No. C819021. Adjacent property owners are identified on Figure 9.

Site Features

The Site is developed with one (1) structure in the northern portion of the property. The existing building is currently occupied by a medical office that was the former Batavia MGP gas holder, which has been remodeled for commercial use. The remaining portion of the Site is mainly paved for use as a parking lot with some minor green space along the eastern and southern boundaries.

Zoning and Land Use

According to City of Batavia's Assessors Office, the Site is located within the City of Batavia's Central Commercial District and is zoned C-3 for commercial use as shown on the City of Batavia Zoning Map (see Figure 10). The current and planned future use of the Site is commercial.

The surrounding parcels are as follows:

- north – commercial/vacant warehousing;
- south – commercial and vacant commercial land;
- east – vacant warehousing/vacant commercial; and,
- west – recreational/community service.

Past Use of the Site

The Batavia Gas Light Company (BGLC) occupied the Site as far back as June 1855 and constructed the original gasholder (total capacity of 13,500 cubic feet). In 1878, a new gasholder was constructed under a new business entity named Batavia Gas and Electric Company (BGEC). This new gasholder was almost triple the size of the original at 35,000 cubic feet. Less than 10 years later, BGEC constructed new gas works infrastructure and

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began manufacturing gas from crude petroleum. In 1890, Consolidated Gas and Electric Company acquired the assets of BGEC.

Sometime between 1906 and 1912, the MGP was not longer in operation and the Site became occupied by Roberts Brothers flouring mills. Other Site occupants from 1912 through 1931 have also included Lang's Bakery, Genesee County, Granger & Co. Wholesale grocery, and Batavia Motor Lines, Inc.

The Site was purchased by R&J in 2001 from David & Georgia La Rocco who owned the property since May 1985. At the time of its purchase, the Site was used for commercial purposes and occupied by two (2) buildings: the current commercial building (~2,500 sq ft) which is still present, and a larger grain elevator/warehouse building (~17,000 sq ft) south of the current commercial building. The grain elevator/warehouse building was demolished after purchase and the footprint of the former building was paved for use as parking. No other significant exterior changes to the Site, other than repaving the parking lot, have been made by R&J.

Previous investigation reports are provided electronically on the enclosed CD.

Site Geology and Hydrogeology

The Site is located within the Erie-Ontario Lowlands, which is typified by little topographic relief, and gently slopes, except in the immediate vicinity of major drainage ways. The surficial geology of the Erie-Ontario Lowlands has developed from lacustrine deposits or till that may contain both limestone and shale.

According to the Soil Survey of Genesee County, the native soils present in the vicinity of the Site are Palmyra gravelly loam (PhA), which are described as nearly level soil occupying the tops of large outwash terraces. The deposits are generally 30 to 70 feet thick consisting

APPENDIX A
BCP Application – Part A
Section I – Section IV
7 Evans Street Site

mainly of gravel and partly of sand (see Figure 11). Based on the RI activities and the soil boring completed as part of the SC, subsurface lithology is described as follows.

Fill materials consisting of varying amounts of brick, coal fragments, wood, silt, sand gravel and clay were present below the asphalt or vegetative cover to depths of 4 to 10 fbgs. The deeper fill materials (approximately 10 feet) were present in the northeastern portion of the Site in the vicinity of the former tar house and former petroleum gas works building. No fill appeared to be present along the western portion of the Site, the soil present below the asphalt cover was either silty clay (TKMW-8) in the southwestern corner or sand (TKMW-9) in the northwestern corner of the parking lot.

Native soil underlying the fill material generally consists of a sandy silt, sand with lesser and varying amounts of silt, and a sand with silt and gravel. The sandy silt was encountered at depths ranging from 4 to 10 fbgs, the sand with lesser and varying amounts of silt were encountered at depths ranging from 4 to 15 fbgs, and the sand with silt and gravel were encountered at depths of 9 to 16 fbgs.

Groundwater elevations measured during the RI ranged from approximately 7 to 8 fbgs, consistent with water levels identified during the SC. Groundwater flow direction appears to be easterly in the western and northeastern portion of the Site and southerly in the central and southern portion of the Site as shown on Figure 12.

Environmental Assessment Narrative

It appears the Site's past use as a MGP is the cause of the contamination present. Impacts have been identified in the vicinity of former Site features of the MGP (gas holder, oil UST, coal house and retort) as shown on Figure 6. R&J has utilized the Site for commercial purposes since its purchase in 2001, and the commercial use has not contributed to the contamination present.

APPENDIX A
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Soil – VOCs (specifically benzene) and SVOCs are present in the soil/fill at SB-8 (vicinity of the former tar house in the northern portion of the Site, (see Figure 7) at concentrations above their respective CSCOs. This is also the location of the NAPL discussed below.

At TP-1, black soil, strong product odors, and PID measurements of 399 ppm at approximately 6 to 7 fbs. This is likely contamination associated with the former UST that was reportedly present in this area of the Site.

Elevated SVOCs/PAHs (greater than 500 mg/kg) were also detected from 2 to 5 fbs at TKMW-7. The elevated SVOCs are likely associated with fill material present at TKMW-7, TP-4 and TP-5 to the west and are not associated with impacts from the NAPL identified at SB-8/MW-1.

Groundwater – NAPL was observed at MW-1. VOCs were detected above their respective GWQS/GVs at four (4) locations, MW-02, MW-03, TKMW-5, and TKMW-6. Naphthalene was the only SVOC detected above their respective GWQS/GVs at one (1) location (TKMW-6) in the groundwater samples collected from the Site. Three (3) metal analytes were detected above their respective GWQS/GVs in the groundwater at the Site, iron, magnesium, and sodium.

Figure 7 identifies the areas of environmental impacts to be addressed under the BCP in accordance with the NYSDEC-approved RI/FFS and NYSDEC-issued ROD.

Historic documents and previous investigation reports are provided electronically on the enclosed CD.

Exhibit A-1

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through May 31, 2019.

Selected Entity Name: R & J ENTERPRISES OF BATAVIA, L.L.C.

Selected Entity Status Information

Current Entity Name: R & J ENTERPRISES OF BATAVIA, L.L.C.

DOS ID #: 2310704

Initial DOS Filing Date: OCTOBER 28, 1998

County: GENESEE

Jurisdiction: NEW YORK

Entity Type: DOMESTIC LIMITED LIABILITY COMPANY

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

R & J ENTERPRISES OF BATAVIA, L.L.C.

PO BOX 378

BATAVIA, NEW YORK, 14020

Registered Agent

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this information is not recorded and only available by [viewing the certificate.](#)

***Stock Information**

# of Shares	Type of Stock	\$ Value per Share
-------------	---------------	--------------------

No Information Available

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
OCT 28, 1998	Actual	R & J ENTERPRISES OF BATAVIA, L.L.C.

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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Exhibit A-2

084144 - Batavia, NY

7 and 11 Evans Street

Batavia, NY 14020

Inquiry Number: 3770257.5

October 29, 2013

Certified Sanborn® Map Report

Certified Sanborn® Map Report

10/29/13

Site Name:

084144 - Batavia, NY
7 and 11 Evans Street
Batavia, NY 14020

Client Name:

Conestoga-Rovers &
8615 West Bryn Mawr Ave
Chicago, IL 60631

EDR Inquiry # 3770257.5

Contact: Sean Armbrust



The complete Sanborn Library collection has been searched by EDR, and fire insurance maps covering the target property location provided by Conestoga-Rovers & Associates were identified for the years listed below. The certified Sanborn Library search results in this report can be authenticated by visiting www.edrnet.com/sanborn and entering the certification number. Only Environmental Data Resources Inc. (EDR) is authorized to grant rights for commercial reproduction of maps by Sanborn Library LLC, the copyright holder for the collection.

Certified Sanborn Results:

Site Name: 084144 - Batavia, NY
Address: 7 and 11 Evans Street
City, State, Zip: Batavia, NY 14020
Cross Street:
P.O. # NA
Project: NA
Certification # 73DD-4E55-8035



Sanborn® Library search results
Certification # 73DD-4E55-8035

Maps Provided:

1968	1901
1948	1896
1931	1890
1919	1884
1912	
1906	

The Sanborn Library includes more than 1.2 million Sanborn fire insurance maps, which track historical property usage in approximately 12,000 American cities and towns. Collections searched:

- ☒ Library of Congress
- ☒ University Publications of America
- ☒ EDR Private Collection

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Sanborn Sheet Thumbnails

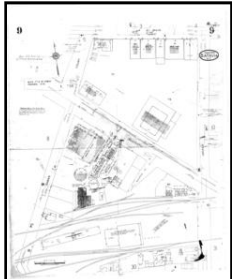
This Certified Sanborn Map Report is based upon the following Sanborn Fire Insurance map sheets.



1968 Source Sheets



Volume 1, Sheet 8



Volume 1, Sheet 9

1948 Source Sheets



Volume 1, Sheet 8



Volume 1, Sheet 9

1931 Source Sheets



Volume 1, Sheet 8



Volume 1, Sheet 9

1919 Source Sheets



Volume 1, Sheet 8



Volume 1, Sheet 9

1912 Source Sheets



Volume 1, Sheet 14



Volume 1, Sheet 15

1906 Source Sheets



Volume 1, Sheet 8



Volume 1, Sheet 9



Volume 1, Sheet 13

1901 Source Sheets



Volume 1, Sheet 8



Volume 1, Sheet 9



Volume 1, Sheet 13

1896 Source Sheets



Volume 1, Sheet 8



Volume 1, Sheet 9

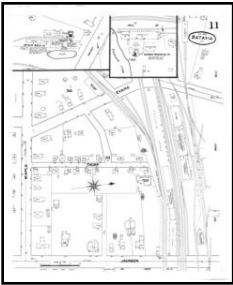


Volume 1, Sheet 13

1890 Source Sheets



Volume 1, Sheet 2



Volume 1, Sheet 11

1884 Source Sheets



Volume 1, Sheet 3



Volume 1, Sheet 4

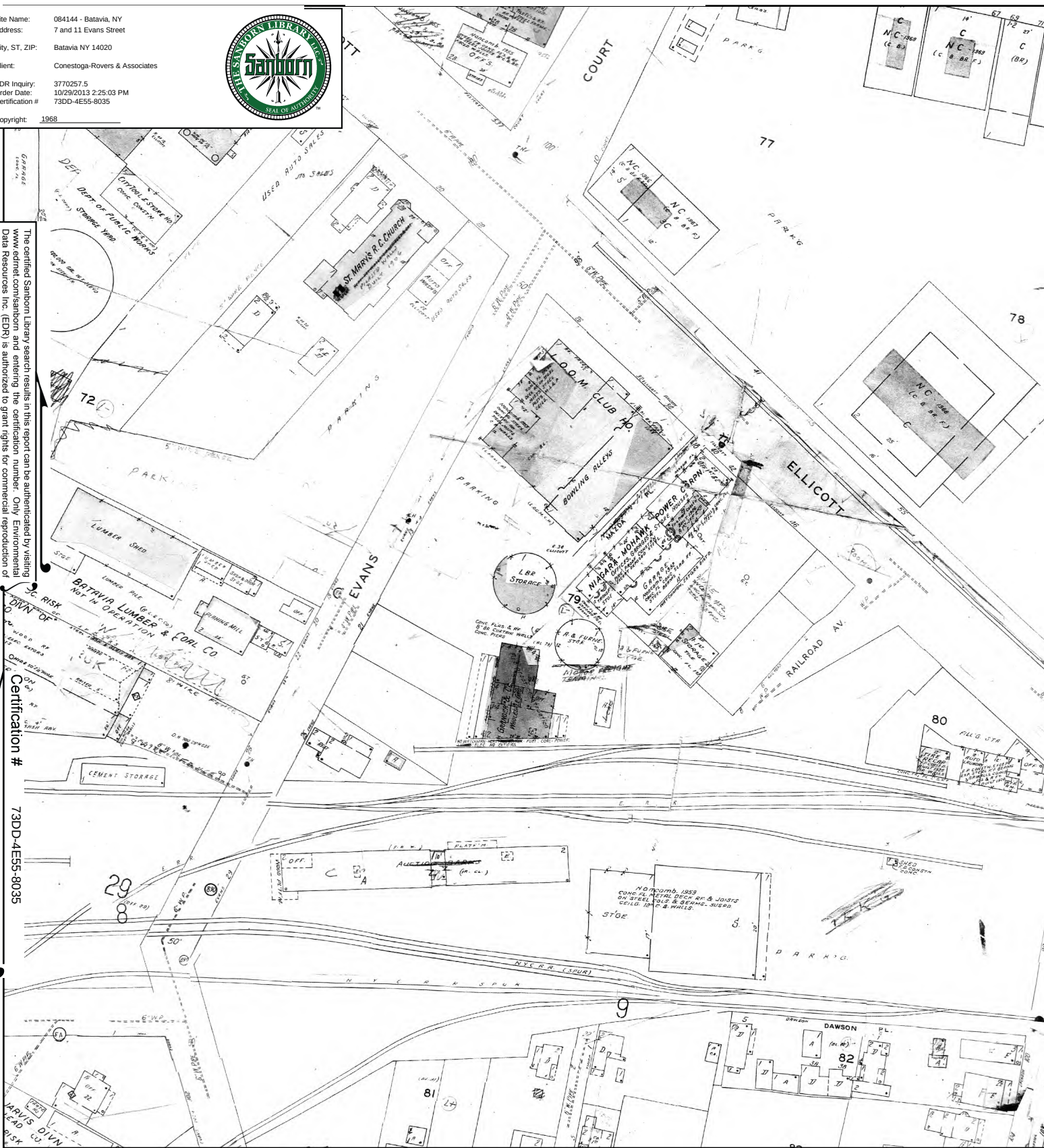
1968 Certified Sanborn Map

Site Name: 084144 - Batavia, NY
 Address: 7 and 11 Evans Street
 City, ST, ZIP: Batavia NY 14020
 Client: Conestoga-Rovers & Associates
 EDR Inquiry: 3770257.5
 Order Date: 10/29/2013 2:25:03 PM
 Certification #: 73DD-4E55-8035
 Copyright: 1968



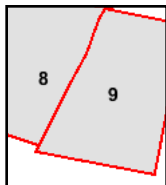
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 Volume 1, Sheet 9



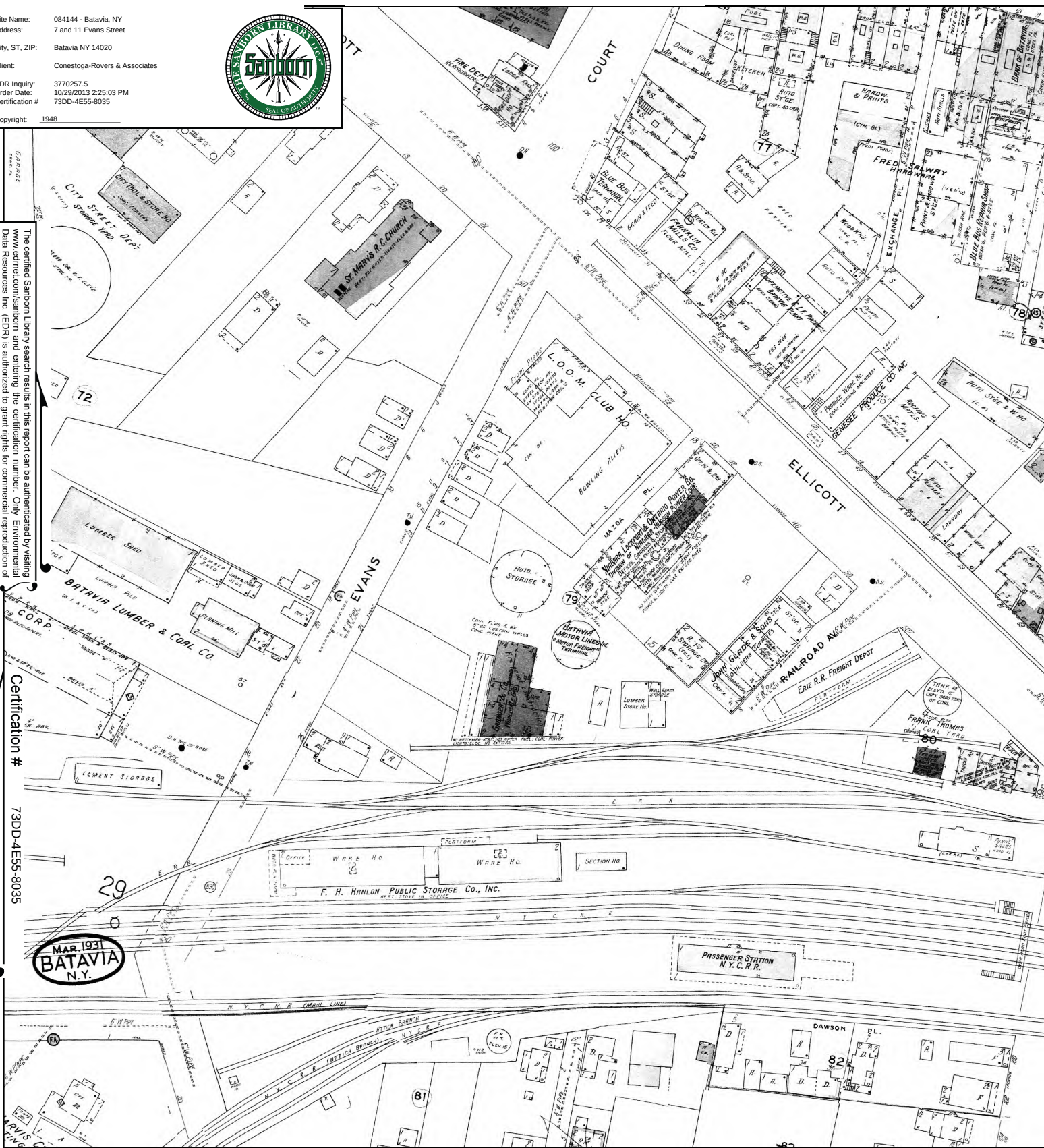
1948 Certified Sanborn Map

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 City, ST, ZIP: Batavia NY 14020
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 Order Date: 10/29/2013 2:25:03 PM
 Certification #: 73DD-4E55-8035
 Copyright: 1948



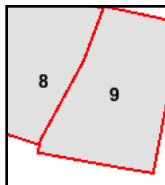
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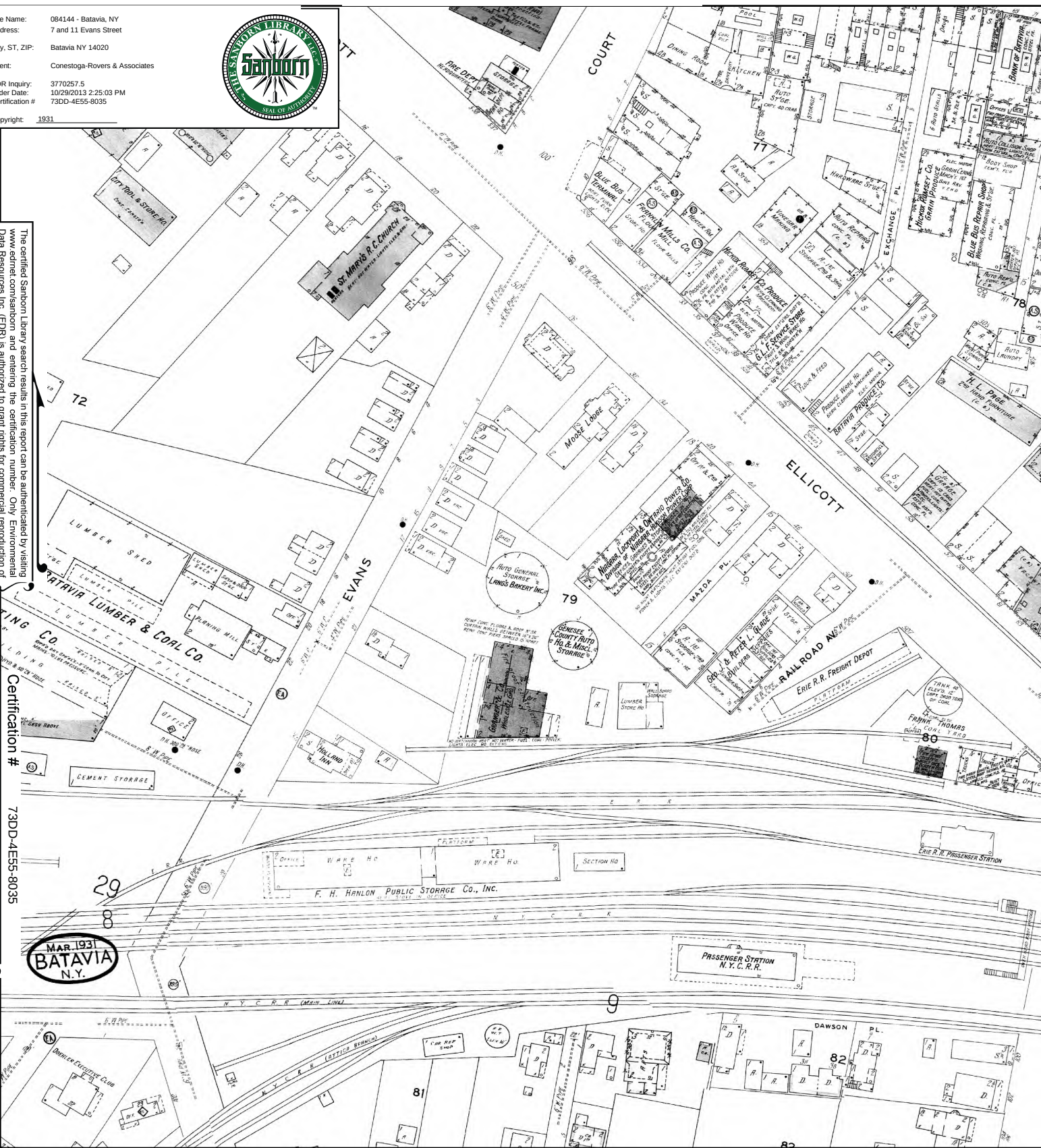


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 Address: 7 and 11 Evans Street
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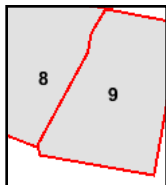


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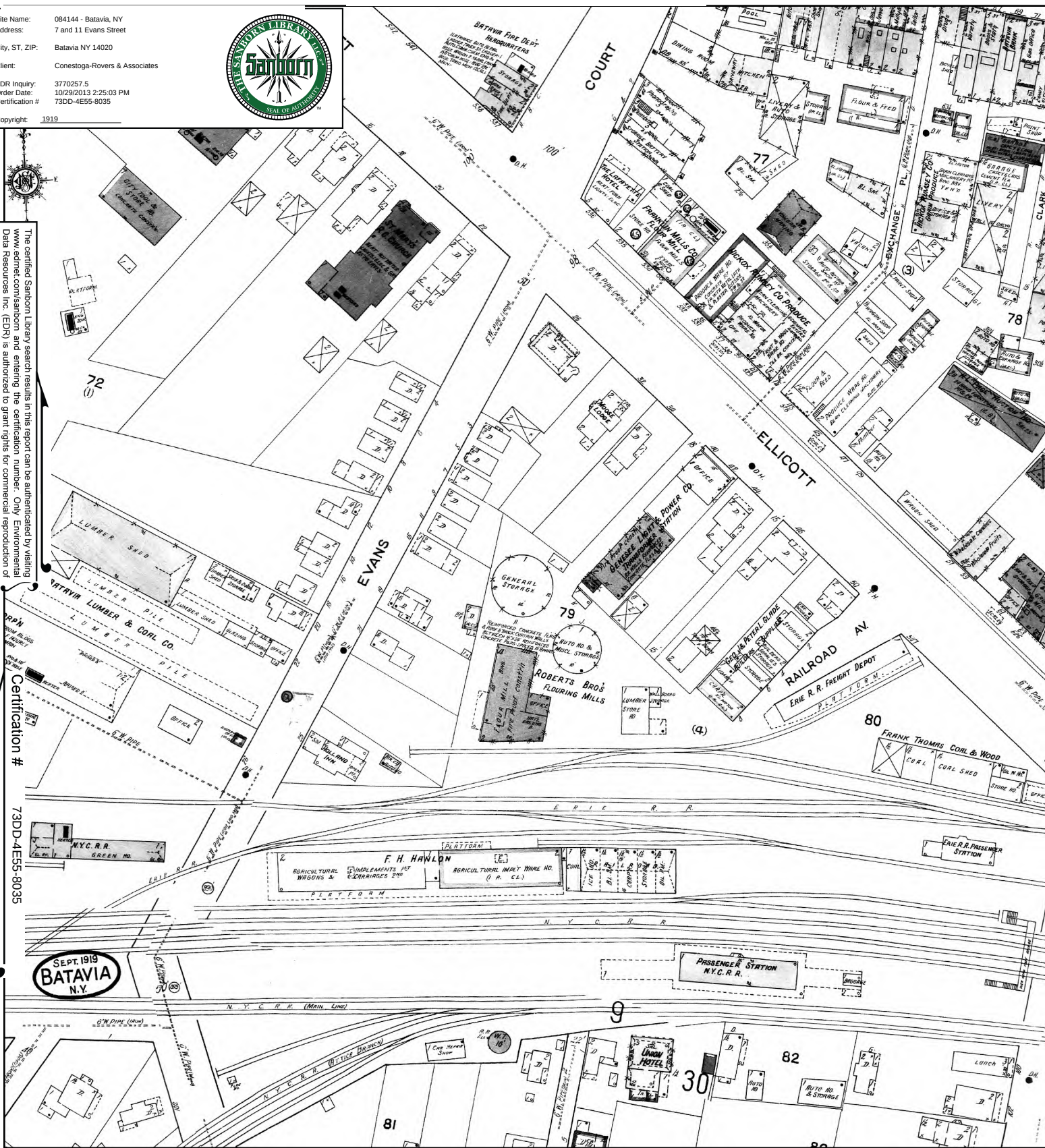
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 Copyright: 1919



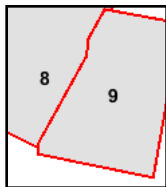
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1912 Certified Sanborn Map

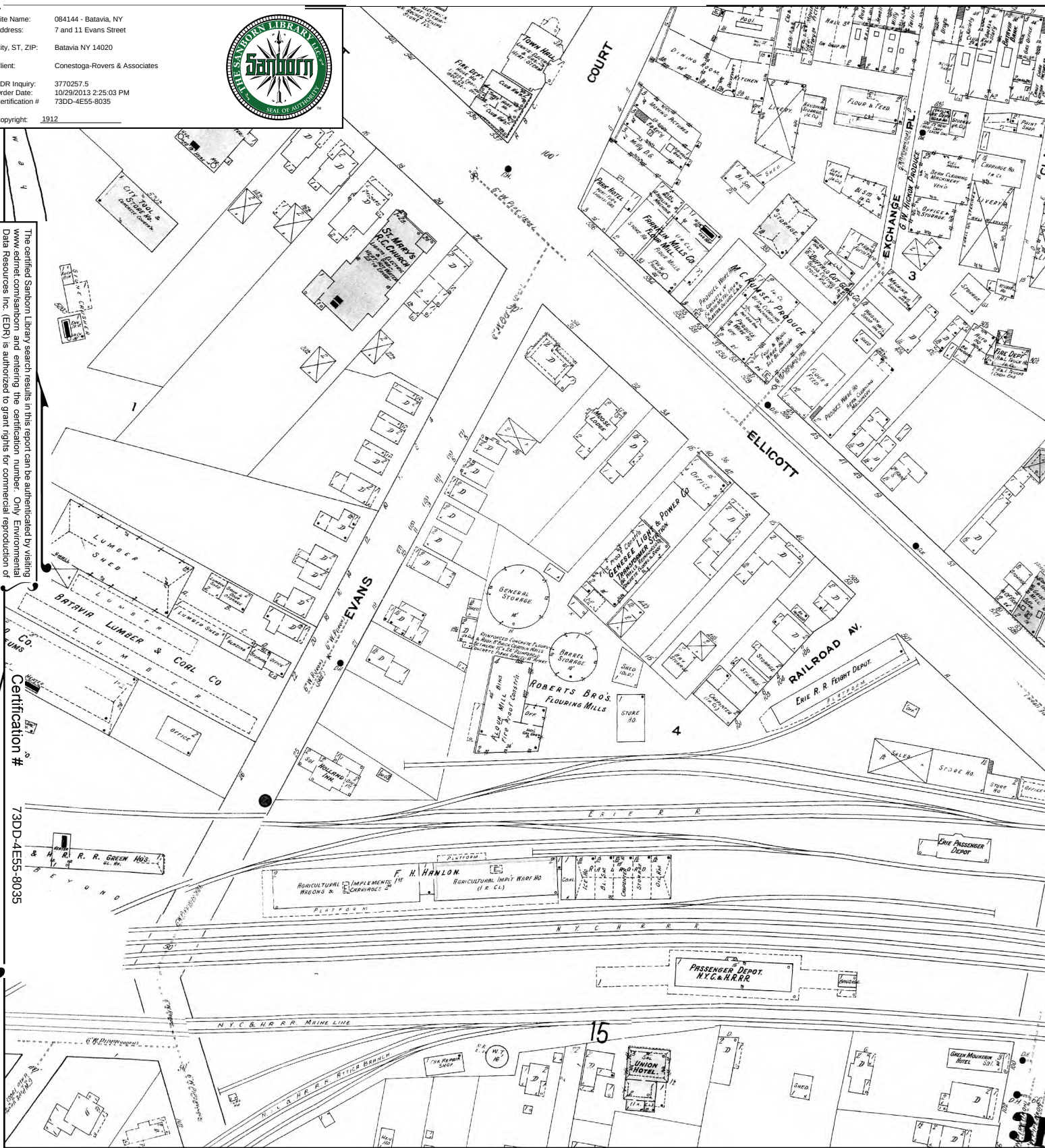
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 Certification #: 73DD-4E55-8035
 Copyright: 1912



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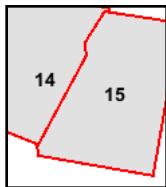
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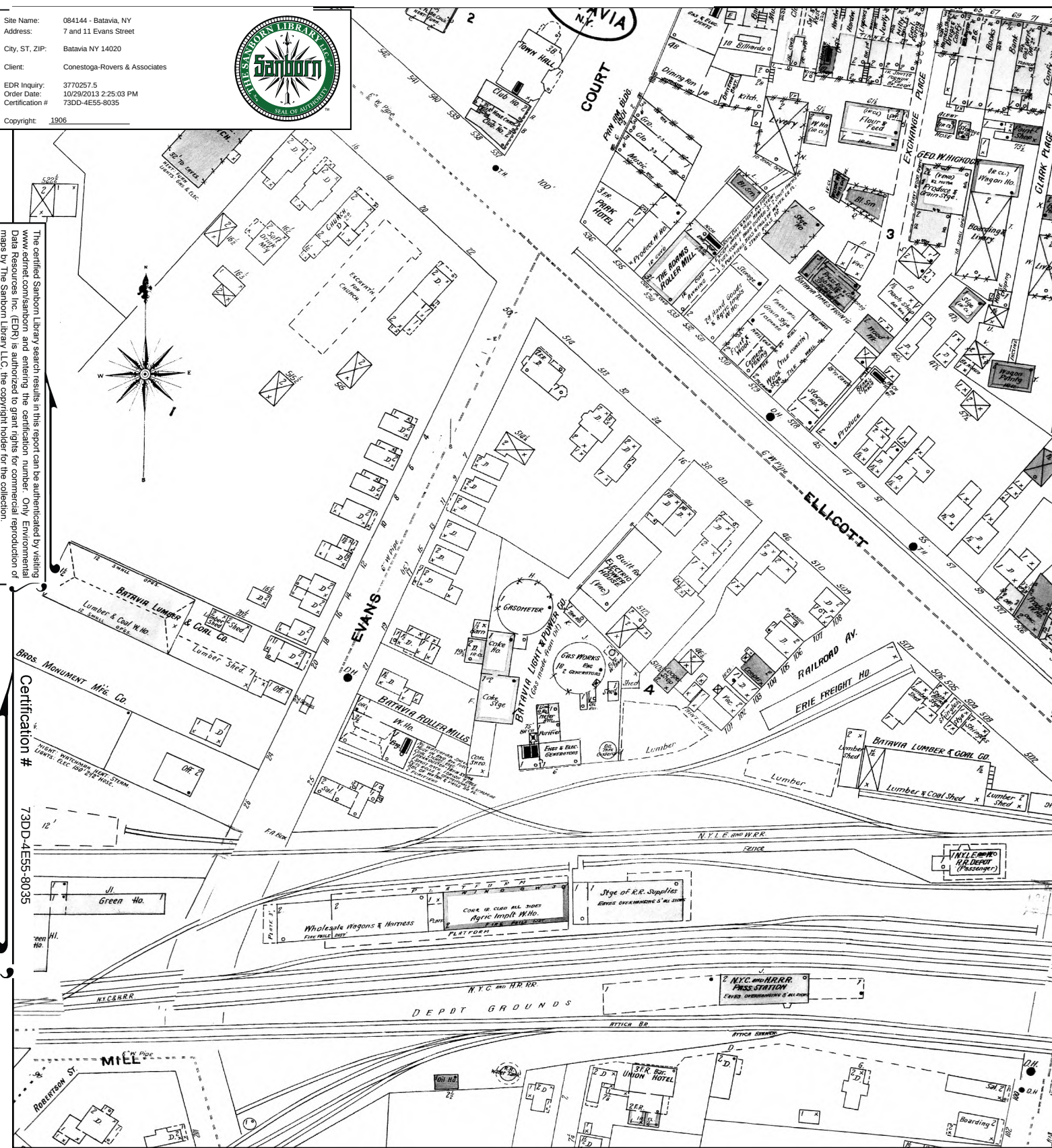


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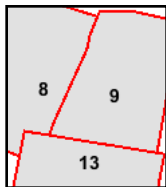
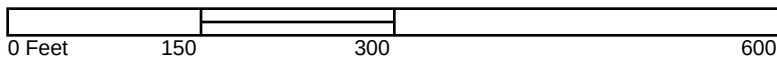
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 Address: 7 and 11 Evans Street
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 Client: Conestoga-Rovers & Associates
 EDR Inquiry: 3770257.5
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 Copyright: 1906



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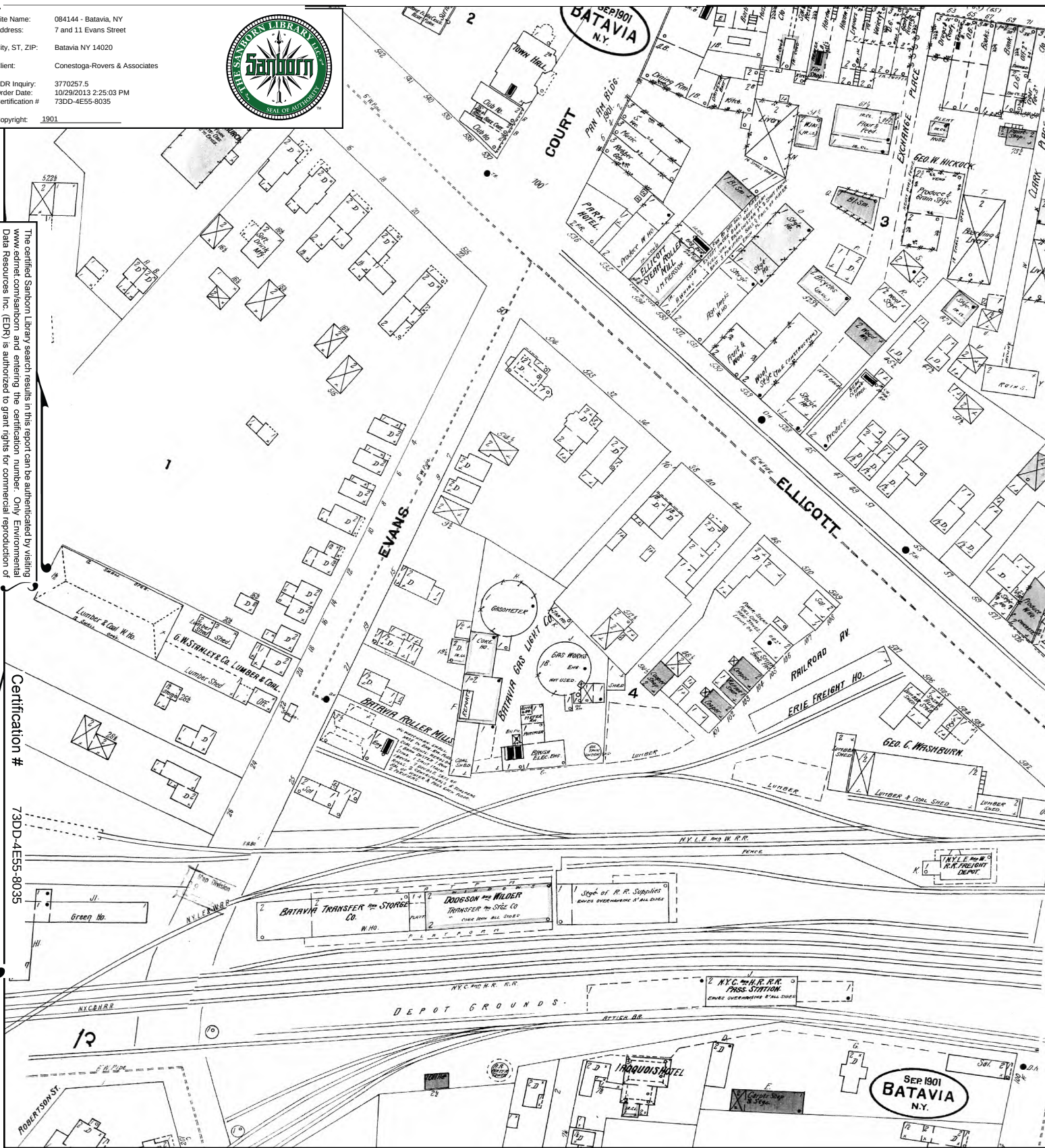
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 Copyright: 1901



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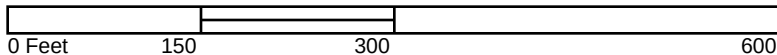
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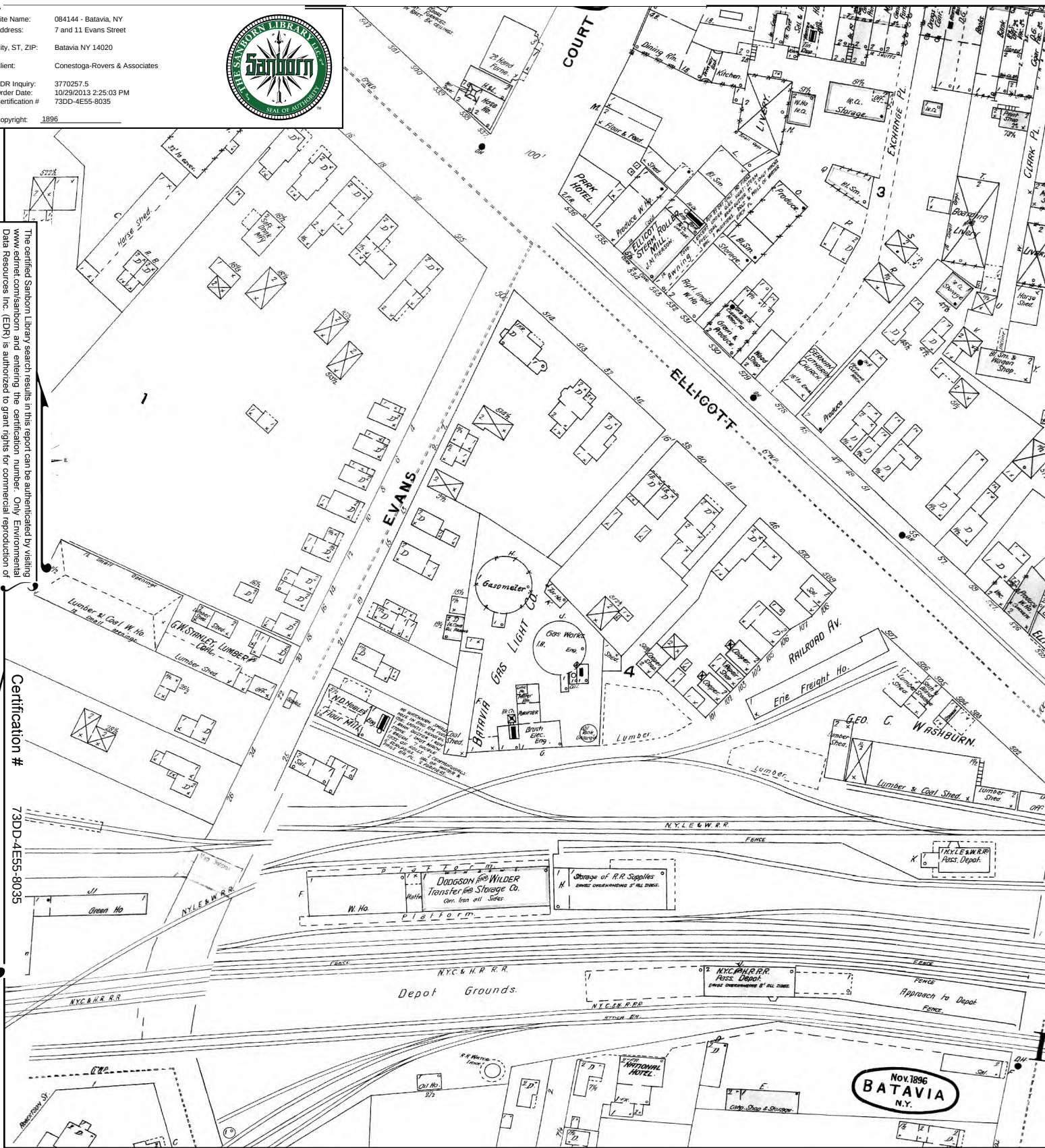
1896 Certified Sanborn Map

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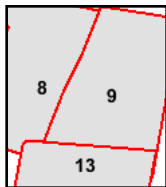
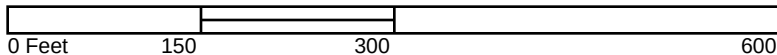


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1890 Certified Sanborn Map

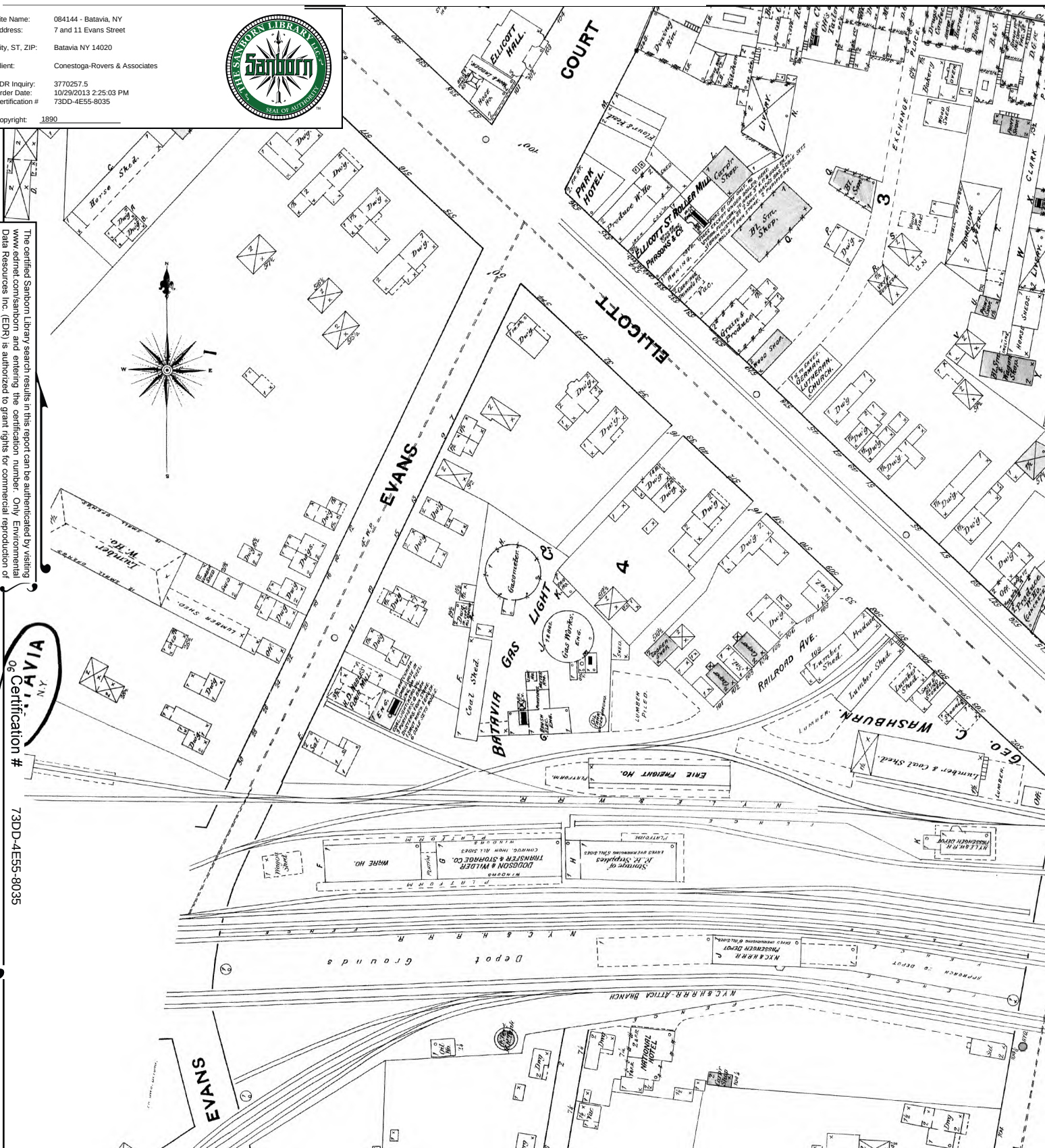
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 EDR Inquiry: 3770257.5
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 Certification #: 73DD-4E55-8035
 Copyright: 1890



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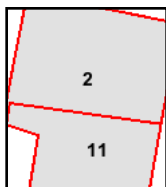
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Volume 1, Sheet 2
 Volume 1, Sheet 11



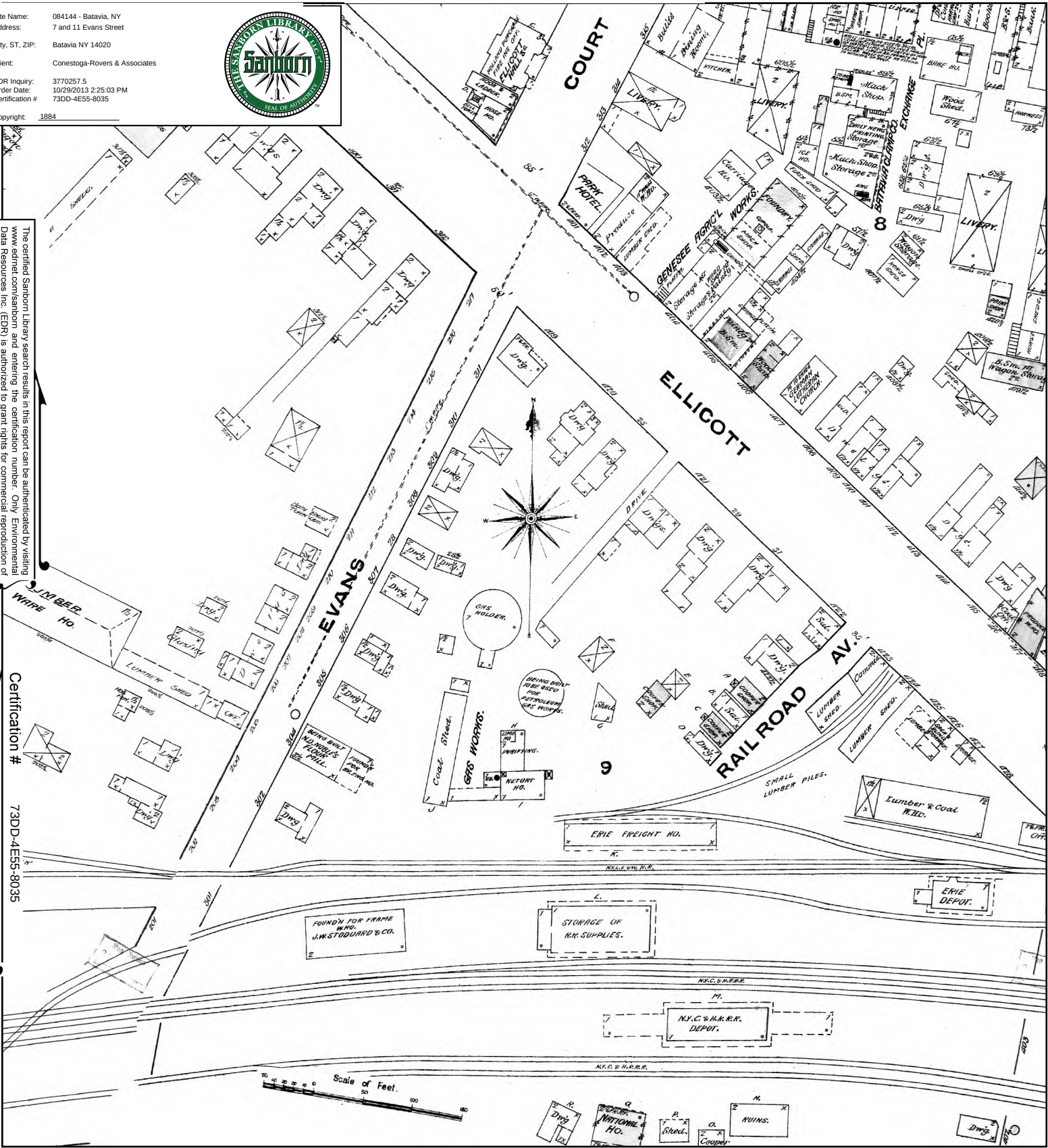
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 Address: 7 and 11 Evans Street
 City, ST, ZIP: Batavia NY 14020
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 EDR Inquiry: 3770257.5
 Order Date: 10/29/2013 2:25:03 PM
 Certification #: 73DD-4E55-8035
 Copyright: 1884



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Certification # 73DD-4E55-8035



This Certified Sanborn Map combines the following sheets.
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Volume 1, Sheet 3
 Volume 1, Sheet 4

0 Feet 150 300 600



Exhibit A-3

Property: 7 EVANS ST, Batavia, 14020
SWIS: 180200 SBL: 84.015-1-35



[Show all Images](#)
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Assessment	
Total	\$201,000.00
Total Land	\$41,000.00
County Taxable (Genesee)	\$201,000.00
Town Taxable	\$201,000.00
School Taxable	\$201,000.00
Village Taxable	\$201,000.00
Equalization Rate	100%
Level of Assessment	100%
Full Market Value	\$201,000.00

Structure		Property Description	
Site 1 of 1		Type	Commerical
Building 1 of 1		Use	464 - Office bldg.
Section 1 of 1		Ownership Code	-
		Zoning	00
		Road Type	-
		Water Supply	3 - Comm/public
		Utilities	4 - Gas & elec
		School District	Batavia City School - 180200
		Neighborhood Code	9041
		Last Property Sale	
Boeck # - Description	0521 - 1 sty Med clinic load sup	Sale Date	1/17/2001 1:29:17 PM
Construction Quality	2	Sale Price	\$80,000.00
Gross Floor Area	2827	Useable Sale	YES
Number of Stories	1	Arms Length	YES
Story Height	10	Prior Owner Name	R & J Enterprises of Batavia, LLC
Year Built / Effective Year Built	1900 / 2000	Deed Book	775
Condition	3 - Normal	Deed Page	137
Building Perimeter	188	Deed Date	1/17/2001
Basement Perimeter	0		
Basement SQFT	0		
Number of Elevators	0		
Air Conditioning %	100		
Sprinkler %	100		

Commerical Site Uses			
Site #	Commercial Use	Total Units	Total Rentable Area (sqft.)
1	Profssnl off	0	2,827

Improvements						
Site #	Description	Quantity	Condition	Year Built	SQFT	Dimensions
1	LP4 - Pavng-asphlt	0	Normal	1980	44000	0X0

Land						
Site #	Land Type	Acres	Front	Depth	SQFT	Soil Rating

1	01 - Primary	1.14	0	0	0	Land: 1 Rating:
---	--------------	------	---	---	---	-----------------

Owner Information					
Owner Name	Address 1	Address 2	Unit Name	Unit Number	City/State/Zip
R & J Enterprises of Batavia,	PO Box378				Batavia NY 14021

Exemptions				
Code Description	Amount	Exemption %	Start Year	End Year
No Exemptions				

Special Districts				
Code Description	Type	Primary Units	Secondary Units	Amount
HPD01 - Hist.preserv.dist.	A	0	0	\$0.00
BID01 - Busi.improv.district	A	0	0	\$201,000.00

Exhibit A-4

UNANIMOUS CONSENT AND RESOLUTION OF THE MEMBER OF R & J ENTERPRISES OF BATAVIA, L.L.C.

The undersigned, Angelina LaCivita, is the sole member ("Member") of R & J ENTERPRISES OF BATAVIA, L.L.C., a New York limited liability company ("R&J" or "Property Owner"). R&J is the owner of the real property located at 7 Evans Street, Batavia, New York (the "Site"), and hereby consents to the following action without a formal meeting:

WHEREAS, Member believes that it is in the best interests of the Property Owner to participate in the New York State Brownfield Cleanup Program (the "Program"), and enter into a Brownfield Site Cleanup Agreement (the "Agreement") with the New York State Department of Environmental Conservation ("NYSDEC") concerning the Site.

NOW, THEREFORE, BE IT RESOLVED, that Member hereby approves participation by the Property Owner in the Program with regard to the Premises; and

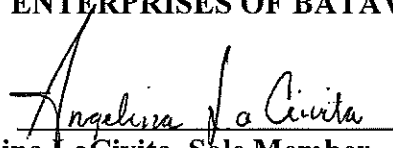
FURTHER RESOLVED, that Member hereby unconditionally authorizes, directs, and empowers Chad LaCivita ("Authorized Person") to negotiate, execute, and deliver all instruments, certifications, affidavits, affirmations, agreements, amendments, and any other documents in connection with or necessary to effect the Program (the "BCA Documents"), and to do and cause to be done all such further acts and things, in the name and on behalf of the Property Owner, as the Authorized Person may deem necessary or appropriate to effect the Program and to carry into effect the intent and purposes of the foregoing resolutions; and

FURTHER RESOLVED, that any and all actions heretofore taken and any and all instruments, certifications, affidavits, affirmations, agreements, amendments, and any other documents, and instructions (however characterized or described) heretofore or hereafter executed and delivered or filed and recorded as the case may be by the Authorized Person, to carry into effect the purposes and intent of the foregoing resolutions or the transactions contemplated therein or thereby, hereby are ratified, confirmed and approved; and

FURTHER RESOLVED, this consent may be delivered electronically.

IN WITNESS WHEREOF, the undersigned Member has executed this written Unanimous Consent and Resolution as of the 3rd day of August, 2020.

R & J ENTERPRISES OF BATAVIA, L.L.C.

By: 
Angelina LaCivita, Sole Member

APPENDIX B

BCP APPLICATION PART B – SECTION V - XI

SECTION VI – CURRENT PROPERTY OWNER/OPERATOR INFORMATION

SECTION VII – REQUESTOR ELIGIBILITY INFORMATION

SECTION IX – CONTACT LIST

SECTION X – LAND USE FACTORS

EXHIBIT B1 – NATIONAL FUEL GAS COMPANY RECORD SEARCH REPORT

EXHIBIT B2 - DOCUMENT REPOSITORY CONFIRMATION

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SECTION VI – CURRENT PROPERTY OWNER/OPERATOR INFORMATION

Reasonable attempts were made to attain complete information regarding current and previous site owners and operators. Information for the previous and current owners/operators is provided in the table below, as available.

Parcel Address	Use	Approx. Date(s)	Relationship to Applicant
7 Evans Street (formerly 11 Evans Street)			
Current Owner/Operator			
OWNER R&J Enterprises of Batavia, L.L.C. PO Box 378 Batavia, NY 14020	Commercial (Medical Office)	January 17, 2001 to Present	Owner is Applicant
OPERATOR United Memorial Medical Center 127 North Street Batavia, NY 14020	Commercial (Medical Office)	March 2018 to Present	No relationship
Past Owners/Operators			
Batavia Gas Light Company	Utility	July 30, 1855 to May 19, 1890	No relationship
Consolidated Gas and Electric Company	Utility	May 19, 1890 to July 13, 1904	No relationship
Safford E. North: Referee for Rochester Trust and Safe Deposit Company	Assumed Vacant	July 13, 1904 to November 13, 1904	No relationship

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Past Owners/Operators			
Seth W. Warren and Henrietta M. Warren	Unknown	November 15, 1904 to February 15, 1905	No relationship
Seth W. Warren as receiver of Batavia Light and Power Company	Utility	February 15, 1905 to February 18, 1910	No relationship
William, John and Frank Roberts	Unknown	February 18, 1910 to April 28, 1914	No relationship
Roberts Brothers Flour Mills, Inc.	Flour Mill	April 28, 1914 to November 28, 1924	No relationship
Frank H Roberts (Guy Lown served as bankruptcy trustee from September 29, 1930 to October 22, 1930)	Flour Mill	November 28, 1924 to October 22, 1930	No relationship
Herbert Booth	Unknown	October 22, 1930 to November 3, 1930	No relationship
Granger and Company	Wholesale Grocery	November 3, 1930 to July 25, 1983	No relationship
Henry & Adeline Starowitz (acquire interest in Granger and Company after dissolution)	Wholesale Grocery	July 25, 1983 to May 16, 1985	No relationship
David & Georgia La Rocco	Unknown	May 16, 1985 to January 17, 2001	No relationship
Operator Lamb Family Medicine 7 Evans Street Batavia, NY 14020	Commercial (Medical Office)	October 2004 to December 2017	No relationship

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Exhibit B-1 contains a Record Search Report (RSR) for the Site completed by National Fuel Gas Company (NFGC) dated April 30, 2009. NFGC was requested to complete the RSR for the Batavia MGP Site by NYSDEC in December 2008 when NYSDEC was assessing if NFGC, or its predecessors-in-interest, were a potential responsible party (PRP). No connection was identified between NFGC or its predecessors-in-interest as a PRP.

SECTION VII – REQUESTOR ELIGIBILITY INFORMATION

As previously discussed on page A-6 of Appendix A, R&J is an innocent landowner. Prior to purchase of the Site, R&J engaged a professional to perform a Phase I environmental site assessment. No recognized environmental conditions were identified, and no further investigation was recommended. R&J was not responsible for the discharge of the contaminants present at the Site and has had discussions with NYSDEC about transitioning the Site into the BCP to complete the necessary remedial action. Appendix A Clause E.2. of the Order on Consent requires R&J to notify NYSDEC whether it will implement the remedial activities required by the ROD. R&J has submitted an Order on Consent withdrawal letter to NYSDEC, along with this BCP application. R&J would like to complete the remediation, outlined in the ROD, to address the contamination caused by others under the BCP, as a Volunteer.

The Applicant, R&J, qualifies as a “Volunteer” in accordance with NY ECL 27-1405(1)(b) and 6NYCRR 375-3.2(b)(2) based on the following:

- the contamination in soil/fill and groundwater at the Site is reasonably attributable to the historic use of the Site as a MGP. The locations where contamination was identified coincide with historic site features of the MGP.
- the Applicant became involved with the property after the disposal or discharge of contaminants and their commercial usage has not contributed to the contamination present.

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- R&J completed a Phase I on the property prior to purchase which did not reveal evidence of recognized environmental conditions in connection with the Site which fulfilled their pre-purchase due diligence. Subsequent discussions with NYSDEC has indicated that they agree that R&J should be a Volunteer.

Based on the information herein, R&J is entitled to Volunteer status under NY ECL27-1405(1)(b).

SECTION VII – PROPERTY ELIGIBILITY INFORMATION

R&J purchased the Site in January 2001 and it has been used for commercial purposes since its acquisition. As discussed on page A-4 of Appendix A, in or around 2009, NYSDEC identified the Site as a former manufactured gas plant (MGP) location. NYSDEC contacted National Fuel Gas Corporation as a suspected successor-in-interest. National Fuel provided a document to NYSDEC to support its position that it was not responsible for clean-up of the Site (see Appendix B, Section VI and Exhibit B-1). NYSDEC then contacted R&J for access to the Site, which was granted, and NYSDEC commissioned Shaw to perform a SC (also discussed in Appendix A). The conclusion of the SC resulted in the Site being listed in the Registry of Inactive Hazardous Waste Disposal Sites (Registry) due to the contamination associated with the former MGP operations.

As discussed on page A-6 of Appendix A, NYSDEC subsequently issued an Order on Consent to R&J, which was executed on March 5, 2014, between NYSDEC and R&J, as the current Site owner. R&J or their tenants have not utilized the Site in any manner which would have caused the discharge of contamination that has been identified. Historic use of the Site as an MGP has impacted the subsurface soil and groundwater. The historic site buildings and associated apparatus shown on Figure 6 (e.g., tar house, gas works, Oil UST) were present in areas where contamination related to those uses were identified during the SC. R&J was unaware of the contamination present as the Phase I completed prior to

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7 Evans Street Site

purchase of the Site did not identify any RECs nor recommend a Phase II (discussed in Appendix A).

R&J had discussions with NYSDEC regarding implementing work necessary to fulfill the Order on Consent and transitioning the Site into the BCP to complete the necessary remedial action. The following tasks from the IRMWP were deemed necessary by NYSDEC to be completed by R&J to fulfill the Order on Consent and were completed by R&J as part of the Remedial Investigation and Focused Feasibility Study (RI/FFS):

- Soil Vapor Intrusion Evaluation;
- Ground penetrating radar (GPR) survey; and
- Installation and sampling of five (5) soil borings and monitoring wells.

R&J has submitted an Order on Consent withdrawal letter to NYSDEC, along with this BCP application. R&J would like to complete the remediation, outlined in the ROD, to address the contamination caused by others under the BCP.

SECTION IX – CONTACT LIST INFORMATION

Site Contact List

The following is the contact list for the subject property. Each contact will be sent fact sheets throughout the project's duration including the adjacent property owners included in the table on Page B-9.

Genesee County Contacts:

Jay A. Gsell
Genesee County Manager
Old Courthouse
7 Main Street
Batavia, NY 14020

Gary Maha
Genesee County Legislator, District 9
Old Courthouse
7 Main Street
Batavia, NY 14020

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Ms. Laraine Caton, Chair
Genesee Co. Planning Board
County Building 2
3837 West Main Street Road
Batavia, NY 14020
Ms. Pamela LaGrou
Genesee County Legislature Clerk
Old Courthouse
7 Main Street
Batavia, NY 14020

Mr. Felipe Oltramari, Director
Genesee Co. Planning Department
County Building 2
3837 West Main Street Road
Batavia, NY 14020
Mr. Steven Hyde
Genesee County IDA
99 MedTech Drive, Suite 106
Batavia, NY 14020

Mr. Paul Pettit, Public Health Director
Genesee County Health Department
3837 West Main Street Road
Batavia, NY 14020

Mr. Timothy Yaeger
Genesee County Emergency Management
Services
7690 State Street Road
Batavia, NY 14020

City of Batavia Contacts:

Mr. Martin Moore, Ph.D, City Manager
City of Batavia
One Batavia City Centre
Batavia, NY 14020

Ms. Kathy Briggs, Councilperson 5th Ward
City of Batavia
3 South Main
Batavia, NY 14020

Mr. Douglas Randall
City of Batavia Planning &
Development Committee
One Batavia City Centre
Batavia, NY 14020

APPENDIX B
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Supplier of Potable Water:

Mr. Jim Ficarella, Superintendent of
Water
Bureau of Water & Wastewater
One Batavia City Centre
Batavia, NY 14020

Local News Media:

Buffalo News
ATTN: Mr. Aaron Besecker
1 News Plaza
Buffalo, NY 14240

WGRZ TV - Ch. 2
ATTN: Ms. Maria Sisti
259 Delaware Avenue
Buffalo, NY 14202

WIVB - Ch. 4
ATTN: Ms. Lisa Fullone
2077 Elmwood Avenue
Buffalo, NY 14207

WKBW News Channel 7
ATTN: Ms. Melanie Pritchard
7 Broadcast Plaza
Buffalo, NY 14202

WJYE
ATTN: Environmental News Desk
1700 Rand Building
Buffalo, NY 14203

The Daily News
ATTN: Mr. John Anderson
2 Apollo Drive
Batavia, NY 14020

WBEN News Radio 930
Entercom Radio of Buffalo
500 Corporate Pkwy, Suite 200
Buffalo, NY 14226

WNED, Environmental News Desk
ATTN: Mr. Michael Desmond
P.O. Box 1263, Horizons Plaza
Buffalo, NY 14240

Nearby Schools:

Mr. Christopher Dailey, Superintendent
Batavia School District
260 State Street
Batavia, NY 14020

Dr. JoAnne Smith, Principal
Batavia High School
260 State Street
Batavia, NY 14020

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Mr. Ashely John Gillo, Principal
Batavia Middle School
96 Ross Street
Batavia, NY 14020

Ms. Amanda Cook, Principal
John Kennedy Intermediate
166 Vine Street
Batavia, NY 14020

Ms. Kia Evans, Principal
Jackson Primary
411 Jackson Street
Batavia, NY 14020

Ms. Karen Green, Principal
St. Joseph's School
2 Summit Street
Batavia, NY 14020

Mr. Wade Bianco, Principal
Notre Dame High School
73 Union Street
Batavia, NY 14020

Mr. Kevin MacDonald, District Superintendent
Genesee Valley BOCES
8250 State Street
Batavia, NY 14020

Ms. Barbara Lemen, Superintendent
NYS School of the Blind
2A Richmond Avenue
Batavia, NY 14020

Other Interested Parties:

WNY Director
Citizens Environmental Coalition
543 Franklin Street
Buffalo, NY 14202-1109

Document Repository:

Robert Conrad, Library Director
Richmond Memorial Library
19 Ross Street
Batavia, NY 14020

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7 Evans Street Site

Adjacent Property Owners

Information for the residents, owners, and occupants of the properties adjacent to the Site is provided in the table below (see Figure 9).

Adjacent Property Address			Property Owner Mailing Address
No.	Street	Property Use	
32	Ellicott Street	Commercial – Professional Building	R&J Enterprises of Batavia L.L.C. PO Box 378 Batavia, NY 14021
40-105	Ellicott Street	Commercial – Warehouse	Ellicott Station LLC 500 Seneca Street, Suite 508 Buffalo, NY 14204
25	Evans Street	Commercial - Detached Downtown Row Type	Gerald Potrzebowski 125 Hutchins Street Batavia, NY 14020
18-22	Evans Street	Commercial and Police & Fire Protection	City of Batavia One Batavia City Centre Batavia, NY 14020
Unaddressed Property Tax Map Parcel No 84.015-1-0		Commercial - Vacant	No Address Available

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Document Repository

The Richmond Memorial Library has agreed to act as the document repository for the proposed BCP Site. A letter of acknowledgement from the repository is included in this Appendix B as Exhibit B-2.

SECTION X – LAND USE FACTORS

1 – Current Zoning

The current and planned zoning for the Site is C-3, Commercial and is located in the City of Batavia Central Commercial Business District (see Figure 10).

2 – Current Use

The existing Site building is currently occupied by a medical office that was the former Batavia MGP gas holder, which has been remodeled for commercial use. The remaining portion of the Site is mainly paved for use as a parking lot with some minor green space along the eastern and southern boundaries.

The Site has been used for commercial purposes since R&J purchased the property in January 2001. The Site has a history of use as a MGP site and the contamination identified at the Site is consistent with use as a MGP (coal tar) and the location of associated structures (coal storage, retort) and appurtenance (oil UST).

Site usage since R&J's ownership has been commercial (medical offices) and they or their tenants are not responsible for the contamination present in the soil and groundwater at the Site requiring remedial action as outline in the NYSDEC-approved RI/FFS and NYSDEC-issued ROD.

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3, 4, 5 and 6 – Planned Future Use

The Volunteer plans to complete the required remedial action outline in the NYSDEC-approved RI/FFS and NYSDEC-issued ROD under the BCP and continue to use the property for commercial use.

The planned future use is consistent with the current and future zoning (Commercial) as presented on Figure 10.

Exhibit B-1



National Fuel

April 30, 2009

William Ottaway, P. E.
New York State Department of Environmental Conservation
Division of Environmental Remediation
Remedial Bureau C, 11th Floor
625 Broadway, Albany, NY 12233-7014

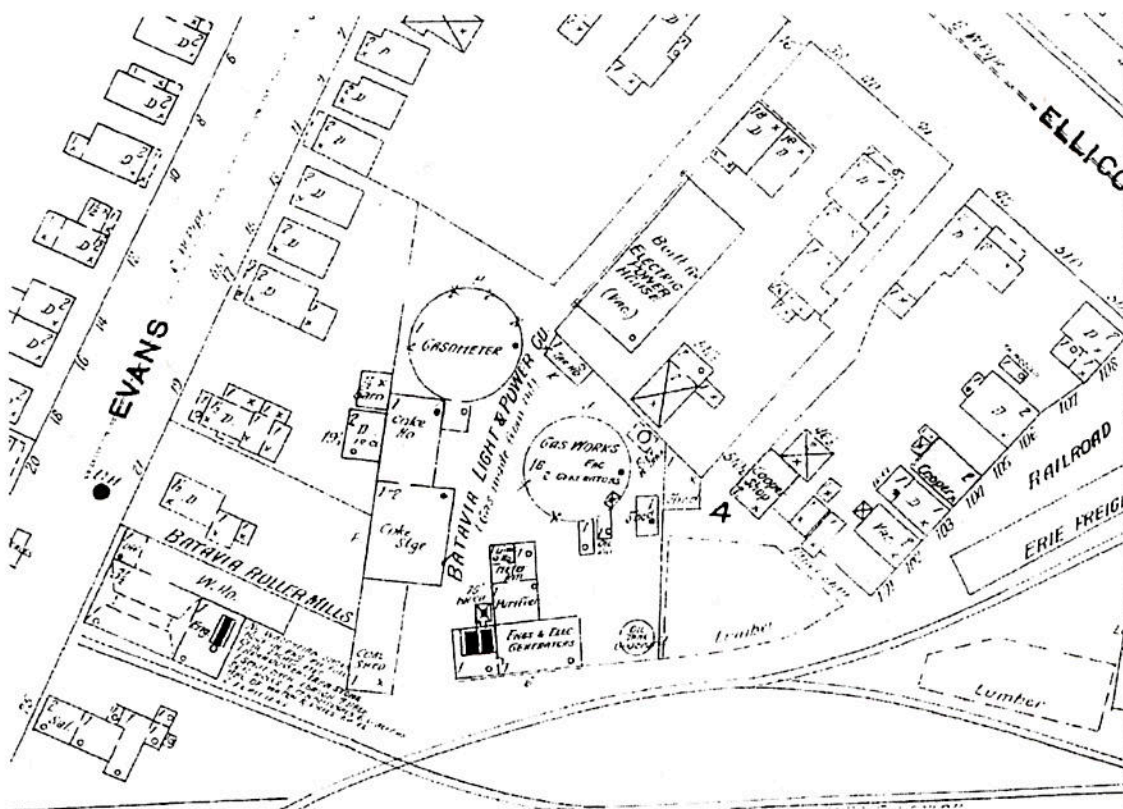
Re: Records Search Reports for Batavia (Site ID 8-19-019)
and Hornell (Site ID 8-51-032)

Dear Mr. Ottaway:

As requested in NYSDEC's December 2, 2008 letter to National Fuel Gas Distribution Corporation (National Fuel), we are providing to you the following records search reports regarding the Batavia and Hornell former manufactured gas plant sites. Kroll Associates, Inc. (Kroll) assisted National Fuel with the records search for these reports.

THE BATAVIA SITE

The Batavia Site is located in a triangle formed by the intersection of Ellicott and Evans Streets, with the Site bordered to the south by railroad tracks that run east-west. There is conflicting information as to whether the Site's address is on Evans Street or Ellicott Street, as it has been referenced as being addressed on both. Property ownership records identify the address as 11 Evans Street (Tax I.D. Number 084.015-1-35), while certain historical directories listed the facility at 27 Ellicott Street. The following represents the Site as it was in 1906, according to the 1906 Sanborn Fire Insurance Map ("Sanborn Map").



Document Search Process

Kroll's efforts included both computer database research and on-site public records research. In addition, Kroll submitted Freedom of Information Act ("FOIA") and Freedom of Information Law ("FOIL") requests to the relevant agencies seeking documents relating to the Batavia Site and surrounding properties. The following summarizes the sources, agencies and repositories searched by Kroll in connection with its investigation:

Historical Reference Documents – Various Repositories

- "Brown's Directory of North American Gas Companies," 1900 to 2002
- "Sanborn Fire Insurance Maps," 1884, 1890, 1896, 1901, 1906, 1912, 1919, 1931, 1948 and 1968
- "United States Geological Service Historical Topographic Maps," 1897, 1904, 1944, 1950, 1951 and 1978

Federal Agency Repositories

- Environmental Protection Agency (Region 2)
- United States District Courts

New York State Repositories

- Department of Environmental Conservation (Region 8)
- New York State Courts
- New York Secretary of State Filings
- New York State Archives
- New York State Museum
- "New York State Public Service Commission Submissions ("NYSPSC") and Annual Reports," certain available years

City of Batavia Repositories

- Batavia Department of Planning
- Batavia History Department (Ruth McEvoy Collection)
- Batavia Fire Department

Additional Resources

- Online searches for historical directories of Batavia
- "Historical and Statistical Gazetteer of New York State," 1860 and 1899
- Miscellaneous Business Directories and Criss-cross Directories
- "Our County and its People"
- Rootsweb publications, "Batavia Gas Light Company, Gasholder Houses, Evans & Ellicott Streets, Batavia"
- "Kirwin's Batavia and Genesee County Directory, 1888-1889"
- Historic American Engineering Record, "The Electrical Engineer: A Weekly Review," 1984
- "Gazetteer and Biographical Record of Genesee County, NY 1788-1890"
- New York Public Library – Science, Industry and Business Library (searched onsite database for relevant publications and records)
- Manufacturing Directories
- Genesee County Recorder of Deeds
- Miscellaneous Reference Materials and Periodicals
- Historical Aerial Photographs, 1978, 1985, 1995 and 2006

Records Search Report

The following summarizes the results of Kroll's Records Search.

1. **Request:** Detail all environmental data and information within Respondent's possession or control regarding environmental conditions at or emanating from the Site.

Response: After a search of the repositories, agencies and resources listed above, Kroll did not identify any information regarding the environmental conditions of the Batavia Site.

2. **Request:** A comprehensive list of all existing relevant reports with titles, authors, and subject matter, as well as a description of the results of all previous investigations of the Site and of areas immediately surrounding the

Site which are or might be affected by contamination at the Site, including all available topographic and property surveys, engineering studies, and aerial photographs.

Response: The following reports have been identified relevant to the Batavia Site and adjacent properties:

- "Brown's Directory of North American Gas Companies," 1900 to 2002
- "Sanborn Fire Insurance Maps," 1884, 1890, 1896, 1901, 1906, 1912, 1919, 1931, 1948 and 1968
- "United States Geological Service Historical Topographic Maps," 1897, 1904, 1944, 1950, 1951 and 1978

3. **Request:** Provide a concise summary of information held by Respondent and Respondent's consultants with respect to:

- i. a history of and description of the Site, including the nature of operations;
- ii. the types, quantities, physical state, locations, methods, and dates of disposal or release of hazardous waste at or emanating from the Site;
- iii. a description of current Site security (i.e. fencing, posting, etc.); and
- iv. the names and addresses of all persons responsible for disposal of hazardous waste, including the dates of such disposal and any proof linking each such person responsible with the hazardous wastes identified.

Response:

i. History and Description of the Site

Property Ownership

A summary of the property ownership for 11 Evans Street (Tax # 084.015-1-35):

- July 30, 1855 to May 19, 1890: Batavia Gas Light Company
- May 19, 1890 to July 13, 1904: Consolidated Gas and Electric Company
- July 13, 1904 to November 13, 1904: Safford E. North, Referee for Rochester Trust and Safe Deposit Company
- November 15, 1904 to February 15, 1905: Seth W. Warren and Henrietta M. Warren
- February 15, 1905 to February 10, 1910: Batavia Light and Power Company
- February 10, 1910 to February 18, 1910: Seth W. Warren as receiver of Batavia Light and Power Company
- February 18, 1910 to April 28, 1914: William A., John A. and Frank H. Roberts
- April 28, 1914 to November 28, 1924: Roberts Brothers Flour Mills, Inc.

- November 28, 1924 to July 19, 1929: Frank H. Roberts
- July 19, 1929 to October 22, 1930: Howard F. Roberts (Between September 29, 1930 and October 22, 1930, Guy Lown served as the bankruptcy trustee in In Re: Howard F. Roberts.)
- October 22, 1930 to November 3, 1930: Herbert T. Booth
- November 3, 1930 to November 3, 1930: Bank of Batavia
- November 3, 1930 to May 23, 1955: Granger and Company
- May 23, 1955 to July 25, 1983: Granger and Company, Inc. (incorporated as a wholesale grocery company on March 11, 1953)
- July 25, 1983 to May 16, 1985: Henry F. Starowitz and Adeline A. Starowitz (acquired interest in Granger following the company's dissolution)
- May 16, 1985 to January 17, 2001: David and Georgia La Rocco
- January 17, 2001 to present: R&J Enterprises of Batavia LLC

Historical Operations

Records maintained by the New York Secretary of State's office indicate that Batavia Gas Light Company was incorporated in New York on June 11, 1855. "Kirwin's Batavia and Genesee County Directory, 1888-1889" reports that the facility was located at 27 Ellicott Street and eventually became the Batavia Gas and Electric Company. The original gasholder held 13,500 cubic feet. In 1855, the plant served 150 customers and powered twenty street lamps.

In 1878, Batavia Gas and Electric Company built a new gasholder with a capacity of 35,000 cubic feet. The earliest known Sanborn Map, dated 1884, identified the facility as "Gas Works". A coal shed, retort and purifying house are visible in the 1884 Sanborn Map. In 1885, Batavia Gas and Electric Company constructed a new gas works to manufacture gas from crude petroleum.

In 1889, Consumers' Electric Light and Power Company was incorporated in New York. Later, in 1890, Consumers' Electric Light and Power Company purchased the Batavia Gas and Electric Company's plant and the entities were merged into Batavia Gas and Electric Company. Also in that year, Consolidated Gas and Electric Company acquired Batavia Gas and Electric Company.¹ The 1890 Sanborn Map indicates that Batavia Gas Light Company continued to reside on the property. Further outbuildings, including a tar house, are visible on the Sanborn Map.

On December 23, 1904, the Batavia Light and Power Company was organized for the purposes of acquiring all of the assets of Consolidated Gas and Electric Company, which were held by a receiver at the time.² Between 1905 and 1909, Batavia Light and Power Company is identified as the owner of the property constituting the Batavia Site, according to

¹ "The Gazetteer and Biographical Record of Genesee County," New York, June 1890.

² Articles of Incorporation of Batavia Light and Power Company.

property records maintained by the Genesee County Recorder of Deeds. The 1906 Sanborn Map identifies Batavia Light and Power Company as the operator. The Sanborn Map of that year also indicates that the plant manufactures gas from oil.

In 1909, Batavia Light and Power Company filed for voluntary dissolution.³

At some point in time after 1909, Roberts Brothers Flouring Mills and then Granger and Company took over operation of the buildings and property making up the Batavia Site as reflected in the subsequent Sanborn Maps.

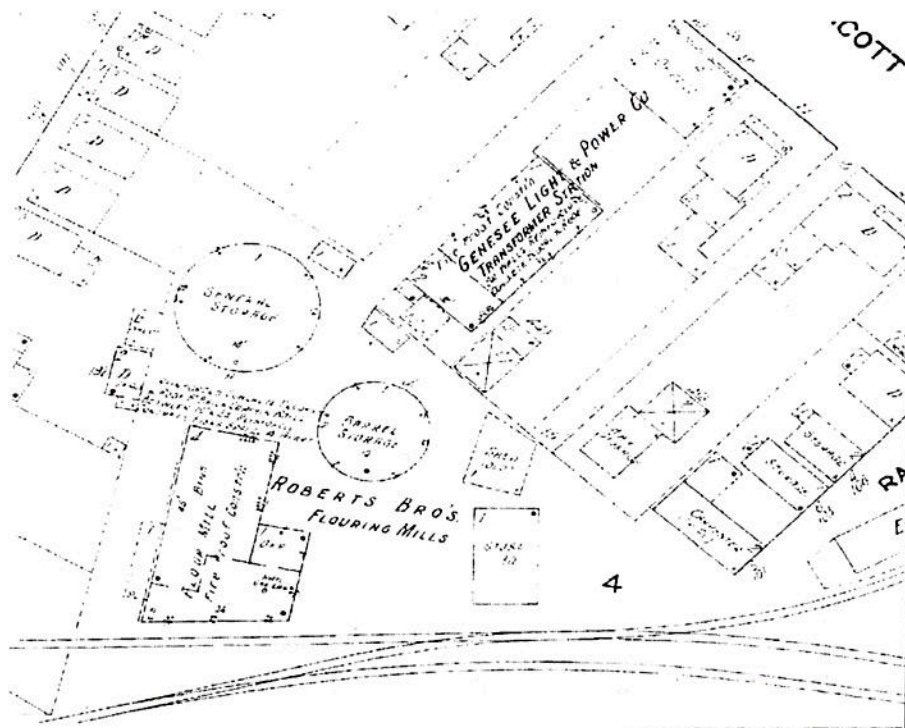
No connection between the Batavia Site and National Fuel, including National Fuel's predecessors-in-interest, was identified.

Adjacent Property

The history of the adjacent property, located on Ellicott Street, indicates that the property was never used to manufacture gas. The earliest corporate entity on the property appears to be Genesee Light and Power Company. The Genesee Light and Power Company was organized in New York State on September 23, 1909. It is registered to do business in Genesee County on September 28, 1909.

The Sanborn Map, below, depicts the Genesee Light and Power Company as it was in April 1912.

³ Articles of Dissolution of Batavia Light and Power Company. Note that the New York Secretary of State's corporate index indicates that the company was dissolved by process on December 15, 1932.



On April 26, 1923, Genesee Light and Power Company merged with Western New York Utilities Company Inc. and adopted the name Western New York Utilities Company.

Western New York Utilities Company merged with Niagara Lockport and Ontario Company and became Niagara Lockport and Ontario Company, a division of Niagara Hudson Power Company, on January 3, 1928. The 1931 Sanborn Map shows Niagara Lockport and Ontario Company on the property adjacent to the Batavia Site. The map indicates that the facility is used as an "office, garage and store houses".

No connection between the Adjacent Property and National Fuel, including, its predecessors-in-interest, was identified.

Conclusions

Neither National Fuel nor any of its predecessors-in-interest is affiliated in any way with the Batavia Site or the property adjacent to the Batavia Site, including as past or present owner or operator. As a result, neither National Fuel nor any of its predecessors-in-interest engaged in any operations at the Batavia Site or property adjacent to the Batavia Site that may have resulted in the disposal of hazardous waste at the properties.

ii. Disposal or Release of Hazardous Waste at or Emanating from the Site

Based on the records review conducted by Kroll, no releases of hazardous substances or disposal of hazardous substances have been identified at or emanating from the Batavia Site.

iii. A Description of Current Site Security

A visual inspection of the Batavia Site conducted by Kroll did not reveal any physical security measures in place. The Batavia Site is in active use, a doctor's office occupies one of the old gasholders. 17 – 23 Evans Street was designated a historical landmark by the Batavia Historical Society on October 21, 1998. A recent photograph of the Batavia Site, as obtained from an internet-based satellite photograph repository, depicts the Site as it currently stands⁴:



iv. The Identities of Individuals Responsible for any Releases at the Site

Consistent with the information provided in ii, above, no such individuals have been identified.

⁴ <http://www.co.genesee.ny.us/dpt/historian/walkingtour.html#Gas>

Exhibit B-2

Chris Z. Boron

From: Robert Conrad <rconrad@nioga.org>
Sent: Tuesday, July 02, 2019 8:17 PM
To: Chris Z. Boron
Subject: Re: Document Repository Request

Chris,

Yes, I approve. What is the projected end date of the site project? We do not intend to retain the documents permanently, only for the duration.

-Bob Conrad

On Fri, Jun 21, 2019 at 2:59 PM Chris Z. Boron <cboron@turnkeyllc.com> wrote:

Hello Bob,

Nice speaking with you earlier today. The attached letter is our request to use the Richmond Memorial Library as a document repository for our Brownfield Cleanup Program Site. If agreeable, could you please kindly respond by email, so we have a record of the confirmation.

Have a nice weekend.

Regards,

Christopher Boron, P.G.
Sr. Project Manager

The logo for Benchmark Turnkey, featuring the word "BENCHMARK" in a serif font, a stylized circular graphic with a cross-like shape inside, and the word "TURNKEY" in a serif font, all in white on a dark blue rectangular background.

Strong Advocates | Effective Solutions | Integrated Implementation

2558 Hamburg Turnpike, Suite 300, Buffalo, NY 14218

Phone: (716) 856-0599, Cell Phone: (716) 864-2726

www.benchmarkturnkey.com

June 21, 2019

Mr. Robert Conrad
Library Director
Richmond Memorial Library
19 Ross Street
Batavia, NY 14020

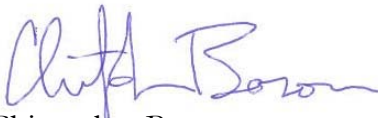
Re: Document Repository for Brownfield Cleanup Program
7 Evans Street Site
Batavia, New York

Dear Mr. Conrad:

On behalf of our client, Benchmark Environmental Engineering & Science, PLLC would like to request the Richmond Memorial Library to act as the document repository for the above-referenced Site. In the future, we will be sending various documents relating to the Site that should be made available for public review upon request.

Please contact me if you have questions or require additional information.

Sincerely,
Benchmark Environmental Engineering & Science, PLLC

A handwritten signature in blue ink, appearing to read 'Chris Boron'.

Christopher Boron
Sr. Project Manager

File: B0333-019-001

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www.benchmarkturnkey.com

2558 Hamburg Turnpike, Suite 300 | Buffalo, NY 14218
phone: (716) 856-0599 | fax: (716) 856-0583

APPENDIX C

PREVIOUS ENVIRONMENTAL INVESTIGATIONS (PROVIDED ELECTRONICALLY)

**PHASE I ENVIRONMENTAL SITE ASSESSMENT, FORMER TOP NOTCH COMPANY, 17-23
EVANS STREET, BATAVIA, NY 14020 – NEESON- CLARK ASSOCIATES, INC., JANUARY 3,
2001**

**FINAL SITE CHARACTERIZATION REPORT, BATAVIA FORMER MGP, 11 EVANS
STREET, BATAVIA, GENESEE COUNTY, NEW YORK 14021 – THE SHAW GROUP,
NOVEMBER 2012**

**INTERIM REMEDIAL MEASURES WORK PLAN, BATAVIA FORMER MGP SITE,
NYSDEC SITE No. 819019 – CONESTOGA-ROVERS & ASSOCIATES, DECEMBER 2014**

**FORMER BATAVIA MGP SITE (819019), SOIL VAPOR INTRUSION ASSESSMENT -
TURNKEY ENVIRONMENTAL RESTORATION, LLC, MAY 6, 2015**

**REMEDIAL INVESTIGATION/FOCUSED FEASIBILITY STUDY REPORT, BATAVIA
FORMER MGP SITE, NYSDEC SITE NUMBER 819019, 11 EVANS STREET, BATAVIA,
NEW YORK - TURNKEY ENVIRONMENTAL RESTORATION, LLC, JULY 2019**

**RECORD OF DECISION, BATAVIA FORMER MGP, STATE SUPERFUND PROJECT,
BATAVIA, GENESEE COUNTY, SITE No. 819019 – DIVISION OF ENVIRONMENTAL
REMEDiation, MARCH 2020**