

# DECISION DOCUMENT

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Jay Hague  
Brownfield Cleanup Program  
Rochester, Monroe County  
Site No. C828216  
June 2023



**Department of  
Environmental  
Conservation**

Prepared by  
Division of Environmental Remediation  
New York State Department of Environmental Conservation

# **DECLARATION STATEMENT - DECISION DOCUMENT**

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Jay Hague  
Brownfield Cleanup Program  
Rochester, Monroe County  
Site No. C828216  
June 2023

## **Statement of Purpose and Basis**

This document presents the remedy for the Jay Hague site, a brownfield cleanup site. The remedial program was chosen in accordance with the New York State Environmental Conservation Law and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR) Part 375.

This decision is based on the Administrative Record of the New York State Department of Environmental Conservation (the Department) for the Jay Hague site and the public's input to the proposed remedy presented by the Department.

## **Description of Selected Remedy**

During the course of the investigation certain actions, known as interim remedial measures (IRMs), were undertaken at the above referenced site. An IRM is conducted at a site when a source of contamination or exposure pathway can be effectively addressed before completion of the remedial investigation (RI) or alternatives analysis (AA). The IRM undertaken at this site is discussed in Section 6.2.

Based on the results of the investigations at the site, the IRM that has been performed, and the evaluation presented here, the Department has selected No Further Action as the remedy for the site. This No Further Action remedy includes implementation of institutional and engineering controls (ICs/ECs) at the site including maintenance of the site cover, placement of an environmental easement and site management plan as the selected remedy for the site. The Department believes that this remedy is protective of human health and the environment and satisfies the remediation objectives described in Section 6.5.

The elements of the IRM already completed and the institutional and engineering controls are listed below:

### Site Cover

A site cover, partly constructed under the IRM discussed above, currently exists in areas not occupied by buildings or asphalt and will be maintained to allow for commercial/industrial use of the site. Any site redevelopment will maintain the existing site cover. The site cover may include building slabs, paved surface parking areas, sidewalks, or soil where the upper one foot of

exposed surface soil meets the applicable soil cleanup objectives (SCOs) for commercial or industrial use. Any fill material brought to the site will meet the requirements for the identified site use as set forth in 6NYCRR part 375-6.7(d).

### Institutional Control

Imposition of an institutional control in the form of an environmental easement for the controlled property which will:

- require the remedial party or site owner to complete and submit to the Department a periodic certification of institutional and engineering controls in accordance with Part 375-1.8 (h)(3);
- allow the use and development of the controlled property for commercial use or industrial use as defined by Part 375-1.8(g), although land use is subject to local zoning laws;
- restrict the use of groundwater as a source of potable or process water, without necessary water quality treatment as determined by the NYSDOH or County DOH; and
- require compliance with the Department approved Site Management Plan.

### Site Management Plan

A Site Management Plan is required, which includes the following:

1. an Institutional and Engineering Control Plan that identifies all use restrictions and engineering controls for the site and details the steps and media-specific requirements necessary to ensure the following institutional and/or engineering controls remain in place and effective:

Institutional Controls: The Environmental Easement discussed above.

Engineering Controls: The site cover discussed above. This plan includes, but may not be limited to:

- an Excavation Plan which details the provisions for management of future excavations in areas of remaining contamination;
- a provision for further investigation and remediation should large scale redevelopment occur, if any of the existing structures are demolished, or if the subsurface is otherwise made accessible. The nature and extent of contamination in areas where access was previously limited or unavailable will be immediately and thoroughly investigated pursuant to a plan approved by the Department. Based on the investigation results and the Department determination of the need for a remedy, a Remedial Action Work Plan (RAWP) will be developed for the final remedy for the site, including removal and/or treatment of any source areas to the extent feasible. Citizen Participation Plan (CPP) activities will continue through this process. Any necessary remediation will be completed prior to, or in association with, redevelopment. This includes areas under the buildings and/or parking lot;
- a provision should redevelopment occur to ensure no soil exceeding protection of groundwater concentrations will remain below storm water retention basin or infiltration structures.
- descriptions of the provisions of the environmental easement including any land use, and groundwater use restrictions;
- a provision for evaluation of the potential for soil vapor intrusion for any occupied buildings on the site, including provision for implementing actions recommended to address

exposures related to soil vapor intrusion;

- a provision that should a building foundation or building slab be removed in the future, a cover system consistent with that described in above will be placed in any areas where the upper one foot of exposed surface soil exceeds the applicable soil cleanup objectives (SCOs)
- provisions for the management and inspection of the identified engineering controls;
- maintaining site access controls and Department notification; and
- the steps necessary for the periodic reviews and certification of the institutional and/or engineering controls.

2. a Monitoring Plan to assess the performance and effectiveness of the remedy. The plan includes, but may not be limited to:

- monitoring of groundwater to assess the performance and effectiveness of the remedy;
- a schedule of monitoring and frequency of submittals to the Department;
- monitoring for vapor intrusion for any buildings on the site, as may be required by the Institutional and Engineering Control Plan discussed above.

3. an Operation and Maintenance (O&M) Plan to ensure continued operation, maintenance, optimization, monitoring, inspection, and reporting of any mechanical or physical components of the remedy. The plan includes, but is not limited to:

- procedures for maintaining the remedy;
- maintaining site access controls and Department notification; and
- providing the Department access to the site and O&M records.

### **Declaration**

The remedy conforms with promulgated standards and criteria that are directly applicable, or that are relevant and appropriate and takes into consideration Department guidance, as appropriate. The remedy is protective of public health and the environment.

6/30/2023

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Date

*Michael J Cruden*

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Michael Cruden, Director  
Remedial Bureau E

# DECISION DOCUMENT

Jay Hague  
Rochester, Monroe County  
Site No. C828216  
June 2023

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## **SECTION 1: SUMMARY AND PURPOSE**

The New York State Department of Environmental Conservation (the Department), in consultation with the New York State Department of Health (NYSDOH), has selected a remedy for the above referenced site. The disposal of contaminants at the site resulted in threats to public health and the environment that were addressed by actions known as interim remedial measures (IRMs), which were undertaken at the site. An IRM is conducted at a site when a source of contamination or exposure pathway can be effectively addressed before completion of the remedial investigation (RI) or alternative analysis (AA). The IRMs undertaken at this site are discussed in Section 6.2.

Based on the implementation of the IRM(s), the findings of the investigation of this site indicate that the site no longer poses a threat to human health or the environment. The IRM(s) conducted at the site attained the remediation objectives identified for this site, which are presented in Section 6.5, for the protection of public health and the environment. No Further Action is the selected remedy. A No Further Action remedy may include continued operation of any remedial system installed during the IRM and the implementation of any prescribed controls that have been identified as being part of the remedy for the site. This DD identifies the IRM conducted and discusses the basis for No Further Action.

The New York State Brownfield Cleanup Program (BCP) is a voluntary program. The goal of the BCP is to enhance private-sector cleanups of brownfields and to reduce development pressure on "greenfields." A brownfield site is real property, where a contaminant is present at levels exceeding the soil cleanup objectives or other health-based or environmental standards, criteria or guidance, based on the reasonably anticipated use of the property.

The Department has issued this document in accordance with the requirements of New York State Environmental Conservation Law and 6 NYCRR Part 375. This document is a summary of the information that can be found in the site-related reports and documents.

## **SECTION 2: CITIZEN PARTICIPATION**

The Department seeks input from the community on all remedies. A public comment period was held, during which the public was encouraged to submit comment on the proposed remedy. All comments on the remedy received during the comment period were considered by the Department in selecting a remedy for the site. Site-related reports and documents were made

available for review by the public at the following document repository:

Lyell Branch Library  
956 Lyell Avenue  
Rochester, NY 14606

Documents were also made available at the NYSDEC's online document repository:  
DECInfo Locator <https://www.dec.ny.gov/data/DecDocs/C828216/>

### **Receive Site Citizen Participation Information By Email**

Please note that the Department's Division of Environmental Remediation (DER) is "going paperless" relative to citizen participation information. The ultimate goal is to distribute citizen participation information about contaminated sites electronically by way of county email listservs. Information will be distributed for all sites that are being investigated and cleaned up in a particular county under the State Superfund Program, Environmental Restoration Program, Brownfield Cleanup Program, Voluntary Cleanup Program, and Resource Conservation and Recovery Act Program. We encourage the public to sign up for one or more county listservs at <http://www.dec.ny.gov/chemical/61092.html>

### **SECTION 3: SITE DESCRIPTION AND HISTORY**

#### Location:

The site is located in an urban industrial area one (1) block north of I-490 and approximately five hundred (500) feet east of railroad tracks owned by CSX. The southern portion of the site borders on Jay Street, a major east-west street in Rochester, New York.

#### Site Features:

The site is developed with two (2) buildings. The balance of the Site is asphalt parking area with two small, landscaped areas. The current owner purchased approximately 0.23 acres located in the southwest portion of the site in 2009 that was formerly part of 1030 Jay Street. The parcels were combined to comprise a total of 1.36 acres.

#### Current Zoning and Land Use:

The site is zoned M-1 Industrial and currently used for manufacturing. It is surrounded by the M-1 District to the north and west, and the R-1 Residential District to the east and south. The site is currently used for woodworking and some metal work/finishing.

#### Past Use of the Site:

The site was historically comprised of residential parcels from the late 1800s to early 1900s. From at least 1930 until present day, the site was used as a machine shop, including metal stamping, metal fabrication and tool manufacturing, electroplating, and woodworking operations.

These types of manufacturing operations are known to use various chlorinated solvents, heavy metals, lubricants, and cutting oils.

#### Site Geology and Hydrology:

Soils at the site consist generally of glacial till comprised of tightly packed brown sand, sandy silts and little fine to coarse subangular and subrounded gravel. Drilling equipment refusal was encountered between 3.9 to 11.5 ft bgs, which may indicate the top of bedrock at the site. Environmental consultants believe the hydraulic gradient at the site is extremely low based on previous groundwater sampling data, with groundwater generally flowing northward.

A site location map is attached as Figure 1.

### **SECTION 4: LAND USE AND PHYSICAL SETTING**

The Department may consider the current, intended, and reasonably anticipated future land use of the site and its surroundings when evaluating a remedy for soil remediation. For this site, alternatives that restrict the use of the site to commercial use (which allows for industrial use) as described in Part 375-1.8(g) were evaluated in addition to an alternative which would allow for unrestricted use of the site.

A comparison of the results of the investigation to the appropriate standards, criteria and guidance values (SCGs) for the identified land use and the unrestricted use SCGs for the site contaminants is available in the Remedial Investigation (RI) Report.

### **SECTION 5: ENFORCEMENT STATUS**

The Applicant under the Brownfield Cleanup Agreement is a Participant. The Applicant has an obligation to address on-site and off-site contamination. Accordingly, no enforcement actions are necessary.

### **SECTION 6: SITE CONTAMINATION**

#### **6.1: Summary of the Remedial Investigation**

A remedial investigation (RI) serves as the mechanism for collecting data to:

- characterize site conditions;
- determine the nature of the contamination; and
- assess risk to human health and the environment.

The RI is intended to identify the nature (or type) of contamination which may be present at a site and the extent of that contamination in the environment on the site, or leaving the site. The RI reports on data gathered to determine if the soil, groundwater, soil vapor, indoor air, surface water or sediments may have been contaminated. Monitoring wells are installed to assess groundwater and soil borings or test pits are installed to sample soil and/or waste(s) identified. If

other natural resources are present, such as surface water bodies or wetlands, the water and sediment may be sampled as well. Based on the presence of contaminants in soil and groundwater, soil vapor will also be sampled for the presence of contamination. Data collected in the RI influence the development of remedial alternatives. The RI report is available for review in the site document repository and the results are summarized in section 6.3.

The analytical data collected on this site includes data for:

- air
- groundwater
- soil
- soil vapor
- indoor air
- sub-slab vapor

### **6.1.1: Standards, Criteria, and Guidance (SCGs)**

The remedy must conform to promulgated standards and criteria that are directly applicable or that are relevant and appropriate. The selection of a remedy must also take into consideration guidance, as appropriate. Standards, Criteria and Guidance are hereafter called SCGs.

To determine whether the contaminants identified in various media are present at levels of concern, the data from the RI were compared to media-specific SCGs. The Department has developed SCGs for groundwater, surface water, sediments, and soil. The NYSDOH has developed SCGs for drinking water and soil vapor intrusion. For a full listing of all SCGs see: <http://www.dec.ny.gov/regulations/61794.html>

### **6.1.2: RI Results**

The data have identified contaminants of concern. A "contaminant of concern" is a contaminant that is sufficiently present in frequency and concentration in the environment to require evaluation for remedial action. Not all contaminants identified on the property are contaminants of concern. The nature and extent of contamination and environmental media requiring action are summarized below. Additionally, the RI Report contains a full discussion of the data. The contaminant(s) of concern identified at this site is/are:

trichloroethene (TCE)

cis-1,2-dichloroethene

Based on the investigation results, comparison to the SCGs, and the potential public health and environmental exposure routes, certain media and areas of the site required remediation. These media were addressed by the IRM described in Section 6.2. More complete information can be found in the RI Report and the IRM Construction Completion Report.

## **6.2: Interim Remedial Measures**

An interim remedial measure (IRM) is conducted at a site when a source of contamination or exposure pathway can be effectively addressed before issuance of the Decision Document.

An interim remedial measure (IRM) was conducted to excavate surface soils impacted with polycyclic aromatic hydrocarbons (PAHs) from two small areas with exposed soils. After excavation the impacted soils were disposed of at an appropriate disposal facility and the areas were restored with clean soil that met applicable standards. The soil cover constructed, along with cover already present at the site, is considered an engineering control which will be managed and maintained in the future under a site management plan.

### **6.3: Summary of Environmental Assessment**

This section summarizes the assessment of existing and potential future environmental impacts presented by the site. Environmental impacts may include existing and potential future exposure pathways to fish and wildlife receptors, wetlands, groundwater resources, and surface water. The RI report presents a detailed discussion of any existing and potential impacts from the site to fish and wildlife receptors.

Based on the remedial investigation and the IRM performed to date, contamination remaining at the site consists of chlorinated solvents, known as volatile organic compounds (VOCs) in groundwater.

Groundwater – Groundwater contamination consists mostly of the VOC trichloroethene (TCE) and its breakdown products. TCE was detected at values up to 13 parts per billion (ppb), which has a groundwater standard of 5 ppb. TCE's break down product, cis-1,2-Dichloroethene (Cis-1,2-DCE), was detected at values up to 43 ppb compared to cis-1,2-DCEs groundwater standard of 5 ppb.

Surface Soils – Benzo(a)pyrene, a semi-volatile organic compound (SVOC) and polycyclic aromatic hydrocarbon (PAH), was identified above commercial soil cleanup objectives in surface soils, however implementation of the IRM remediated surface soils at the site and established a site wide cover system.

Subsurface Soils – TCE was detected in subsurface soils at up to .51 parts per million (ppm) which is above the unrestricted use standard of .47 ppm, but below the commercial soil cleanup objective (SCO) of 200 ppm. TCE did not exceed Unrestricted Use SCOs in samples taken on-site near the site boundary. Therefore, data does not indicate any off-site impacts in soil related to this site.

Soil Vapor/Indoor Air – VOCs were detected in both sub slab and indoor air samples; however, they were at levels that did not require actions. Perimeter soil vapor samples taken were non detect for contaminated of concern, therefore data does not indicate any off-site impacts in soil vapor related to this site.

### **6.4: Summary of Human Exposure Pathways**

This human exposure assessment identifies ways in which people may be exposed to site-related contaminants. Chemicals can enter the body through three major pathways (breathing, touching, or swallowing). This is referred to as *exposure*.

The majority of the site is covered with buildings and pavement; however, people may come into contact with site-related soil and groundwater contamination if they dig below the surface. People are not drinking the contaminated groundwater because the area is served by a public water supply that is not affected by site contamination. Volatile organic compounds in soil vapor (air spaces within the soil) may move into overlying structures and affect the indoor air quality. This process, which is similar to the movement of radon gas from the subsurface into the indoor air of buildings, is referred to as soil vapor intrusion. Environmental sampling indicates that soil vapor intrusion is not a current concern on-site. The potential exists for the inhalation of site contaminants due to soil vapor intrusion for any future on-site redevelopment. Environmental sampling indicates that soil vapor intrusion is not a concern for off-site buildings.

## **6.5: Summary of the Remediation Objectives**

The objectives for the remedial program have been established through the remedy selection process stated in 6 NYCRR Part 375. The goal for the remedial program is to restore the site to pre-disposal conditions to the extent feasible. At a minimum, the remedy shall eliminate or mitigate all significant threats to public health and the environment presented by the contamination identified at the site through the proper application of scientific and engineering principles.

The remedial action objectives for this site are:

### **Groundwater**

#### **RAOs for Public Health Protection**

- Prevent ingestion of groundwater with contaminant levels exceeding drinking water standards.
- Prevent contact with, or inhalation of volatiles, from contaminated groundwater.

#### **RAOs for Environmental Protection**

- Restore ground water aquifer to pre-disposal/pre-release conditions, to the extent practicable.
- Prevent the discharge of contaminants to surface water.
- Remove the source of ground water contamination.

### **Soil**

#### **RAOs for Public Health Protection**

- Prevent ingestion/direct contact with contaminated soil.
- Prevent inhalation of or exposure from contaminants volatilizing from contaminants in soil.

#### **RAOs for Environmental Protection**

- Prevent migration of contaminants that would result in groundwater or surface water contamination.
- Prevent impacts to biota from ingestion/direct contact with soil causing toxicity or

impacts from bioaccumulation through the terrestrial food chain.

### **Soil Vapor**

#### **RAOs for Public Health Protection**

- Mitigate impacts to public health resulting from existing, or the potential for, soil vapor intrusion into buildings at a site.

## **SECTION 7: ELEMENTS OF THE SELECTED REMEDY**

Based on the results of the investigations at the site, the IRM that has been performed, and the evaluation presented here, the Department has selected No Further Action as the remedy for the site. This No Further Action remedy includes continued operation of the soil cover system and the implementation of ICs/ECs at the site including an environmental easement and site management plan as the selected remedy for the site. The Department believes that this remedy is protective of human health and the environment and satisfies the remediation objectives described in Section 6.5.

The elements of the IRM already completed and the institutional and engineering controls are listed below:

### Site Cover

A site cover, constructed under the IRM discussed above, currently exists in areas not occupied by buildings or asphalt and will be maintained to allow for commercial/industrial use of the site. Any site redevelopment will maintain the existing site cover. The site cover may include the building slab, paved surface parking areas, sidewalks or soil where the upper one foot of exposed surface soil meets the applicable soil cleanup objectives (SCOs) for commercial or industrial use. Any fill material brought to the site will meet the requirements for the identified site use as set forth in 6NYCRR part 375-6.7(d).

### Groundwater Monitoring

Monitoring will be required at the site. Monitoring will be conducted for "contaminants of concern" in groundwater which are volatile organic compounds.

### Institutional Control

Imposition of an institutional control in the form of an environmental easement for the controlled property which will:

- require the remedial party or site owner to complete and submit to the Department a periodic certification of institutional and engineering controls in accordance with Part 375-1.8(h)(3);
- allow the use and development of the controlled property for commercial use or industrial use as defined by Part 375-1.8(g), although land use is subject to local zoning laws;
- restrict the use of groundwater as a source of potable or process water, without necessary water quality treatment as determined by the NYSDOH or County DOH; and
- require compliance with the Department approved Site Management Plan.

### Site Management Plan

A Site Management Plan is required, which includes the following:

1. an Institutional and Engineering Control Plan that identifies all use restrictions and engineering controls for the site and details the steps and media-specific requirements necessary to ensure the following institutional and/or engineering controls remain in place and effective:

Institutional Controls: The Environmental Easement discussed in above.

Engineering Controls: The soil cover discussed in above. This plan includes, but may not be limited to:

- an Excavation Plan which details the provisions for management of future excavations in areas of remaining contamination;
- a provision for further investigation and remediation should large scale redevelopment occur, if any of the existing structures are demolished, or if the subsurface is otherwise made accessible. The nature and extent of contamination in areas where access was previously limited or unavailable will be immediately and thoroughly investigated pursuant to a plan approved by the Department. Based on the investigation results and the Department determination of the need for a remedy, a Remedial Action Work Plan (RAWP) will be developed for the final remedy for the site, including removal and/or treatment of any source areas to the extent feasible. Citizen Participation Plan (CPP) activities will continue through this process. Any necessary remediation will be completed prior to, or in association with, redevelopment. This includes areas under the buildings and/or parking lot;
- a provision should redevelopment occur to ensure no soil exceeding protection of groundwater concentrations will remain below storm water retention basin or infiltration structures.
- descriptions of the provisions of the environmental easement including any land use, and groundwater use restrictions;
- a provision for evaluation of the potential for soil vapor intrusion for any occupied buildings on the site, including provision for implementing actions recommended to address exposures related to soil vapor intrusion;
- a provision that should a building foundation or building slab be removed in the future, a cover system consistent with that described above will be placed in any areas where the upper one foot of exposed surface soil exceeds the applicable soil cleanup objectives (SCOs)
- provisions for the management and inspection of the identified engineering controls;
- maintaining site access controls and Department notification; and
- the steps necessary for the periodic reviews and certification of the institutional and/or engineering controls.

2. a Monitoring Plan to assess the performance and effectiveness of the remedy. The plan includes, but may not be limited to:

- monitoring of groundwater to assess the performance and effectiveness of the remedy;
- a schedule of monitoring and frequency of submittals to the Department;
- monitoring for vapor intrusion for any buildings on the site, as may be required by the Institutional and Engineering Control Plan discussed above.

3. an Operation and Maintenance (O&M) Plan to ensure continued operation, maintenance, optimization, monitoring, inspection, and reporting of any mechanical or physical components of the remedy. The plan includes, but is not limited to:

- procedures for maintaining the remedy;
- maintaining site access controls and Department notification; and
- providing the Department access to the site and O&M records.

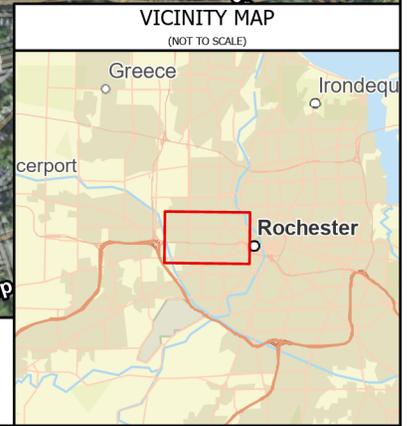
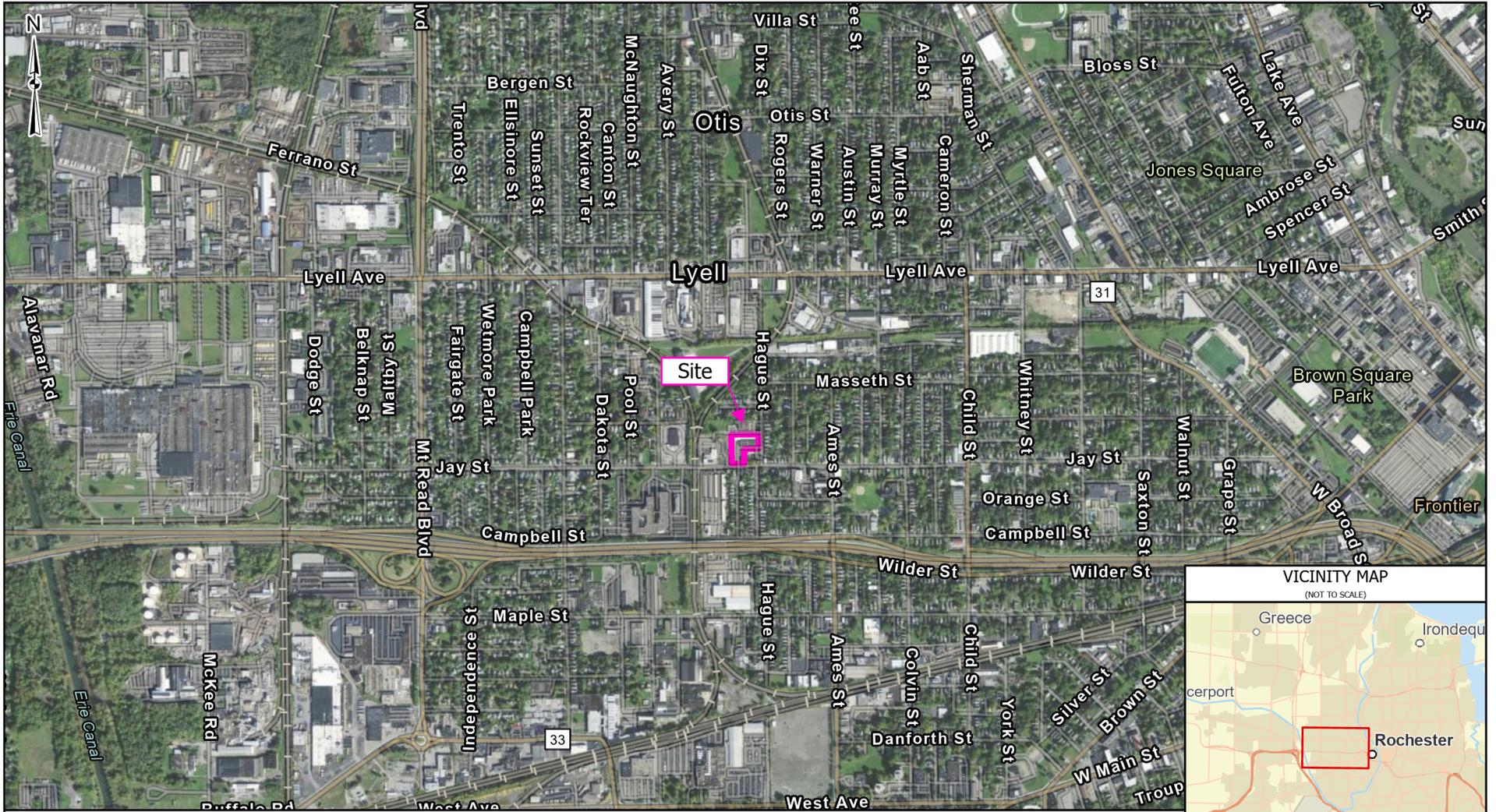


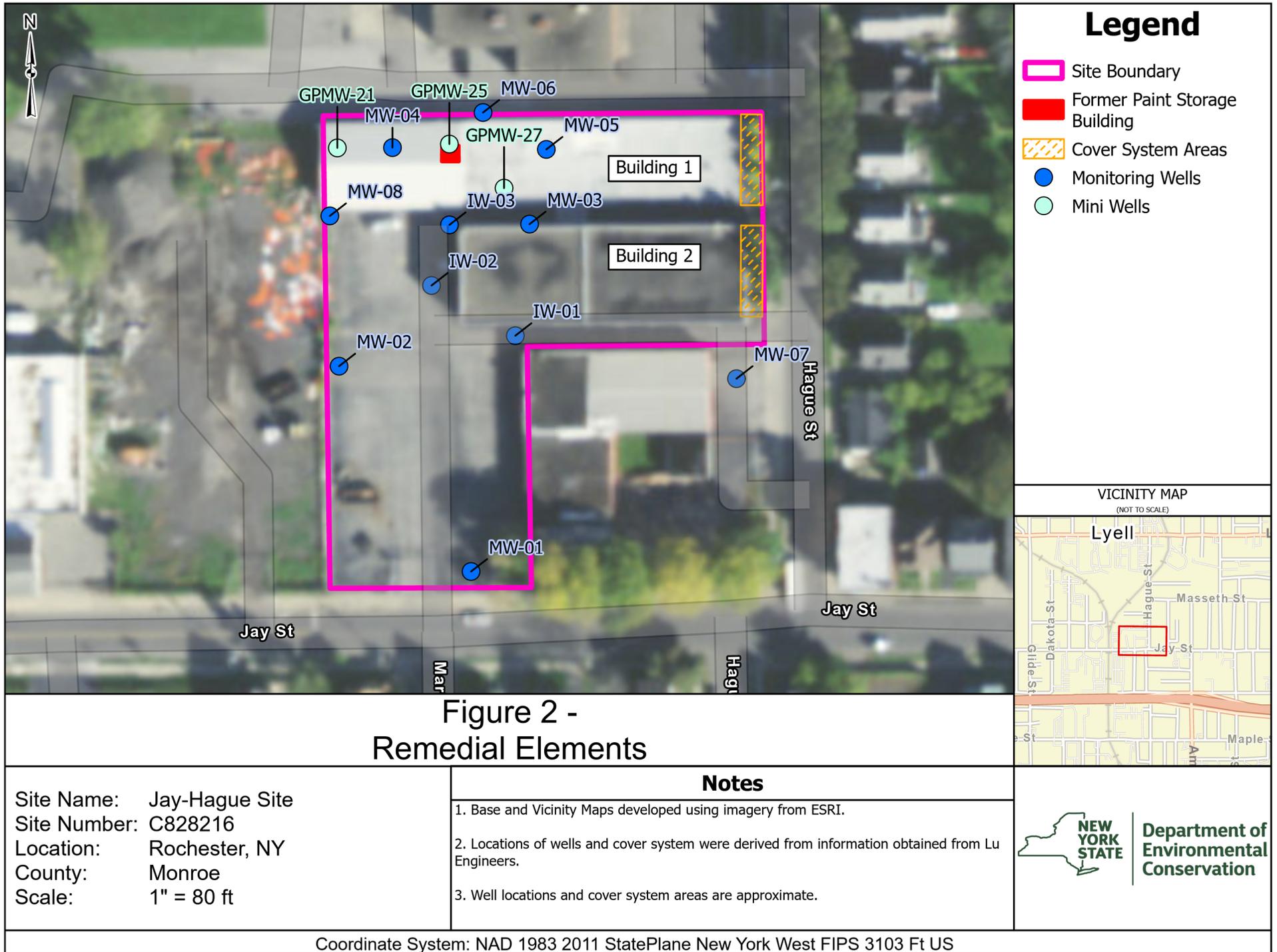
Figure 1 -  
Site Location Map

Site Name: Jay-Hague Site  
 Site Number: C828216  
 Location: Rochester, NY  
 County: Monroe  
 Scale: 1" = 1500 ft

**Notes**  
 1. Base and Vicinity Maps developed using imagery from ESRI.



Coordinate System: NAD 1983 2011 StatePlane New York West FIPS 3103 Ft US



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