



NEW YORK
STATE OF
OPPORTUNITY.

**Department of
Environmental
Conservation**

Brownfield Cleanup Program

Citizen Participation Plan for 91 Leighton Ave Site

August 2024, revised November 2024

#C828231
91 Leighton Avenue
City of Rochester
Monroe County, New York

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Note: The information presented in this Citizen Participation Plan was current as of the date of its approval by the New York State Department of Environmental Conservation. Portions of this Citizen Participation Plan may be revised during the Site’s investigation and cleanup process.

Applicant: **Phillips Real Estate, LLC**
Site Name: **Leighton Ave**
Site Address: **91 Leighton Avenue, City of Rochester**
Site County: **Monroe County**
Site Number: **C828231**

1 What is New York’s Brownfield Cleanup Program?

New York’s Brownfield Cleanup Program (BCP) works with private developers to encourage the voluntary cleanup of contaminated properties known as “brownfields” so that they can be reused and developed. These uses include recreation, housing and business.

A *brownfield* is any real property that is difficult to reuse or redevelop because of the presence or potential presence of contamination. A brownfield typically is a former industrial or commercial property where operations may have resulted in environmental contamination. A brownfield can pose environmental, legal and financial burdens on a community. If a brownfield is not addressed, it can reduce property values in the area and affect economic development of nearby properties.

The BCP is administered by the New York State Department of Environmental Conservation (NYSDEC) which oversees Applicants who conduct brownfield site investigation and cleanup activities. An Applicant is a person who has requested to participate in the BCP and has been accepted by the NYSDEC. The BCP contains investigation and cleanup requirements, ensuring that cleanups protect public health and the environment. When the Applicant and the NYSDEC certify that these requirements have been met, the property can be reused or redeveloped for the intended use.

For more information about the BCP, go online at: <http://www.dec.ny.gov/chemical/8450.html>.

2 Citizen Participation Activities

Why NYSDEC Involves the Public and Why It Is Important

The NYSDEC involves the public to improve the process of investigating and cleaning up contaminated sites and to enable citizens to participate more fully in decisions that affect their health, environment and social well-being. The NYSDEC provides opportunities for citizen involvement and encourages early two-way communication with citizens before decision makers form or adopt final positions.

Involving citizens affected and interested in site investigation and cleanup programs is important for many reasons. These include:

- Promoting the development of timely, effective site investigation and cleanup programs that protect public health and the environment;
- Improving public access to, and understanding of, issues and information related to a particular site and that site's investigation and cleanup process;
- Providing citizens with early and continuing opportunities to participate in NYSDEC's site investigation and cleanup process;
- Ensuring that the NYSDEC makes site investigation and cleanup decisions that benefit from input that reflects the interests and perspectives found within the affected community; and
- Encouraging dialogue to promote the exchange of information among the affected/interested public, State agencies and other interested parties that strengthens trust among the parties, increases understanding of site and community issues and concerns and improves decision making.

This Citizen Participation (CP) Plan provides information about how the NYSDEC will inform and involve the public during the investigation and cleanup of the site identified above. The public information and involvement program will be carried out with assistance, as appropriate, from the Applicant.

Project Contacts

Appendix A identifies the NYSDEC project contact(s) to whom the public should address questions or request information about the site's investigation and cleanup program. The public's suggestions about this CP Plan and the CP program for the site are always welcome. Interested people are encouraged to share their ideas and suggestions with the project contacts at any time.

Locations of Reports and Information

The locations of the reports and information related to the site's investigation and cleanup program also are identified in Appendix A. These locations provide convenient access to important project documents for public review and comment. Some documents may be placed on the NYSDEC website. If this occurs, the NYSDEC will inform the public with fact sheets distributed about the site and by other means, as appropriate.

Site Contact List

Appendix B contains the site contact list. This list has been developed to keep the community informed about, and involved in, the site's investigation and cleanup process. The site contact list will be used periodically to distribute fact sheets that provide updates about the status of

the project. These will include notifications of upcoming activities at the site, such as fieldwork, as well as availability of project documents and announcements about public comment periods.

The Site contact list includes, at a minimum:

- Chief executive officer and planning board chairperson of each county, city, town and village in which the site is located;
- Residents, owners, and occupants of the site and properties adjacent to the site;
- The public water supplier which services the area in which the site is located;
- Any person who has requested to be placed on the site contact list;
- The administrator of any school or day care facility located on or near the site for purposes of posting and/or dissemination of information at the facility; and
- Location(s) of reports and information.

The site contact list will be reviewed periodically and updated as appropriate. Individuals and organizations will be added to the site contact list upon request. Such requests should be submitted to the NYSDEC project contact(s) identified in Appendix A. Other additions to the site contact list may be made at the discretion of the NYSDEC project manager, in consultation with other NYSDEC staff as appropriate.

Note: The first Site fact sheet, usually related to the draft Remedial Investigation Work Plan, is distributed both by paper mail via the US Postal Service and by email via DEC Delivers, the NYSDEC listserv service. The fact sheet includes instructions for signing up with the appropriate county listserv to receive future notifications about the site. See <http://www.dec.ny.gov/chemical/61092.html>.

Subsequent fact sheets about the site will be distributed exclusively through the listserv, except for households without internet access that have indicated the need to continue to receive site information in paper form. Please advise the NYSDEC site project manager identified in Appendix A if that is the case. Paper mailings may continue during the investigation and cleanup process for some sites, based on public interest and need.

CP Activities

The table at the end of this section identifies the CP activities, at a minimum, that have been and will be conducted during the site's investigation and cleanup program. The flowchart in Appendix D shows how these CP activities integrate with the site investigation and cleanup process. The public is informed about these CP activities through fact sheets and notices distributed at significant points during the program. Elements of the investigation and cleanup process that match up with the CP activities are explained briefly in Section 5.

- Notices and fact sheets help the interested and affected public to understand contamination issues related to a site, and the nature and progress of efforts to investigate and clean up a site.
- Public forums, comment periods and contact with project managers provide opportunities for the public to contribute information, opinions and perspectives that have potential to influence decisions about a site's investigation and cleanup.

The public is encouraged to contact project staff at any time during the site's investigation and cleanup process with questions, comments, or requests for information.

This CP Plan may be revised due to changes in major issues of public concern identified in Section 3 or in the nature and scope of investigation and cleanup activities. Modifications may include additions to the site contact list and changes in planned CP activities.

Technical Assistance Grant

The NYSDEC must determine if the site poses a significant threat to public health or the environment. This determination generally is made using information developed during the investigation of the site, as described in Section 5.

For Sites that are determined to be a significant threat, a qualifying community group may apply for a Technical Assistance Grant (TAG). The purpose of a TAG is to provide funds to the qualifying group to obtain independent technical assistance. This assistance helps the TAG recipient to interpret and understand existing environmental information about the nature and extent of contamination related to the site and the development/implementation of a remedy.

An eligible community group must certify that its membership represents the interests of the community affected by the site, and that its members' health, economic well-being or enjoyment of the environment may be affected by a release or threatened release of contamination at the site.

As of the date the declaration (page 2) was signed by the NYSDEC project manager, the significant threat determination for the site had not yet been made.

To verify the significant threat status of the site, the interested public may contact the NYSDEC project manager identified in Appendix A.

For more information about TAGs, go online at <http://www.dec.ny.gov/regulations/2590.html>

Note: The table identifying the citizen participation activities related to the site's investigation and cleanup program follows on the next page:

Citizen Participation Activities	Timing of CP Activity(ies)
Application Process:	
<ul style="list-style-type: none"> • Prepare site contact list • Establish document repository(ies) 	At time of preparation of application to participate in the BCP.
<ul style="list-style-type: none"> • Publish notice in Environmental Notice Bulletin (ENB) announcing receipt of application and 30-day public comment period • Publish above ENB content in local newspaper • Mail above ENB content to site contact list • Conduct 30-day public comment period 	When NYSDEC determines that BCP application is complete. The 30-day public comment period begins on date of publication of notice in ENB. End date of public comment period is as stated in ENB notice. Therefore, ENB notice, newspaper notice, and notice to the site contact list should be provided to the public at the same time.
After Execution of Brownfield Site Cleanup Agreement (BCA):	
<ul style="list-style-type: none"> • Prepare Citizen Participation (CP) Plan 	Before start of Remedial Investigation Note: Applicant must submit CP Plan to NYSDEC for review and approval within 20 days of the effective date of the BCA.
Before NYSDEC Approves Remedial Investigation (RI) Work Plan:	
<ul style="list-style-type: none"> • Distribute fact sheet to site contact list about proposed RI activities and announcing 30-day public comment period about draft RI Work Plan • Conduct 30-day public comment period 	Before NYSDEC approves RI Work Plan. If RI Work Plan is submitted with application, public comment periods will be combined and public notice will include fact sheet. Thirty-day public comment period begins/ends as per dates identified in fact sheet.
After Applicant Completes Remedial Investigation:	
<ul style="list-style-type: none"> • Distribute fact sheet to site contact list that describes RI results 	Before NYSDEC approves RI Report
Before NYSDEC Approves Remedial Work Plan (RWP):	
<ul style="list-style-type: none"> • Distribute fact sheet to site contact list about draft RWP and announcing 45-day public comment period • Public meeting by NYSDEC about proposed RWP (if requested by affected community or at discretion of NYSDEC project manager) • Conduct 45-day public comment period 	Before NYSDEC approves RWP. Forty-five day public comment period begins/ends as per dates identified in fact sheet. Public meeting would be held within the 45-day public comment period.
Before Applicant Starts Cleanup Action:	
<ul style="list-style-type: none"> • Distribute fact sheet to site contact list that describes upcoming cleanup action 	Before the start of cleanup action.
After Applicant Completes Cleanup Action:	
<ul style="list-style-type: none"> • Distribute fact sheet to site contact list that announces that cleanup action has been completed and that NYSDEC is reviewing the Final Engineering Report • Distribute fact sheet to site contact list announcing NYSDEC approval of Final Engineering Report and issuance of Certificate of Completion (COC) 	At the time the cleanup action has been completed. Note: The two fact sheets are combined when possible if there is not a delay in issuing the COC.

3 Major Issues of Public Concern

This section of the CP Plan identifies major issues of public concern that relate to the site. Additional major issues of public concern may be identified during the course of the site's investigation and cleanup process.

Previous investigations have identified chlorinated volatile organic compounds (CVOs), including tetrachloroethene (PCE) and trichloroethene (TCE) in groundwater at the Site. The site is located in an urban industrial and residential area. Residential use properties are located to the north and east of the site and are potentially down-gradient of impacted groundwater from the site.

4 Site Information

Appendix C contains a map identifying the location of the site.

Site Description

The Site is located at 91 Leighton Avenue in the City of Rochester, New York (Figure 1), at the eastern intersection of Greenleaf Street and Leighton Avenue. According to the City of Rochester Online Zoning Map, the Site is located within an Industrial and Medium Density Residential area and is comprised of approximately 1.73 acres of land. The Site is listed as parcel 107.78-2-50.

Properties adjacent to the site include the following:

Name	Type	Address
Roch Gas & Electric Corp	Industrial	492 Atlantic Ave, Rochester, NY
Phillips Real Estate LLC	Industrial	472 Atlantic Ave, Rochester, NY
Private Owner	Residence	77 Herkimer St, Rochester, NY
Ironcast Real Estate LLC	Residence	69 Herkimer St, Rochester, NY
Private Owner	Residence	94 Leighton Ave, Rochester, NY
Rocfalls Properties 1 LLC	Residence	90 Leighton Ave, Rochester, NY
Jagoal Property Mgmt LLC	Residence	86 Leighton Ave, Rochester, NY
Private Owner	Residence	82 Leighton Ave, Rochester, NY
Private Owner	Residence	74-76 Leighton Ave, Rochester, NY
Private Owner	Residence	70 Leighton Ave, Rochester, NY
Private Owner	Residence	61 Leighton Ave, Rochester, NY
City of Rochester	Vacant Land	89 Greenleaf St, Rochester, NY
Private Owner	Residence	85 Greenleaf St, Rochester, NY
BR Properties New York LLC	Residence	81 Greenleaf St, Rochester, NY
Private Owner	Residence	75 Greenleaf St, Rochester, NY
Private Owner	Residence	71 Greenleaf St, Rochester, NY
Phillips Real Estate LLC	Parking Lot	65 Greenleaf St, Rochester, NY
Private Owner	Residence	61-63 Greenleaf St, Rochester, NY

Name	Type	Address
JDM Homes II LLC	Residence	55 Greenleaf St, Rochester, NY

History of Site Use, Investigation and Cleanup

Historic records indicate the Site was previously occupied by the Rochester Can Co., a can manufacturing operation, from 1938 to 1955. From 1955 to 2022, the Site was generally utilized for appliance sales, warehousing/storage and distribution.

Historical use of the Site is summarized below:

At least 1912:

The Site is undeveloped land.

1930-2022:

Developed with a commercial/industrial building and utilized for various purposes including manufacturing, warehousing, and distribution. Between at least 1938 and 1955, the Subject Property was occupied by a can manufacturing facility. A railroad spur was located on the eastern portion of the Subject Property between at least 1938 and 1971. The City of Rochester issued a permit to remove one (1) 550-gallon tank from the Site in 1982; however, no closure documentation has been identified to date. A fire destroyed the building in October 2022.

2023:

Vacant property.

In 2023, a series of environmental assessments and investigations were conducted relative to the Site including:

- Phase I Environmental Site Assessment (ESA); January 2023 by LaBella Associates (LaBella)
- Limited Phase II ESA; March 2023 by Lu Engineers
- Supplemental Phase II ESA; October 2023 by Lu Engineers

Refer to Appendix A for locations of previous reports and information.

Lu Engineers was contracted in 2023 to further investigate and evaluate remedial options for previously documented impacted soils and groundwater. Contaminants of concern (COC) include VOCs, Chlorinated Volatile Organic Compounds (cVOCs), and Resource Conservation and Recovery Act (RCRA) metals primarily present in groundwater on the northwestern area of the Site. Previous investigations identified intermingled fill material at depths up to approximately 8 feet below ground surface (bgs).

Soils at the Site consist primarily of tightly-packed sands and silt with lesser amounts of fine gravel; bedrock has been encountered at depths ranging between 17 and 24 feet bgs.

Monitoring and observation of Site hydrology has indicated groundwater levels and roughly coincident with bedrock elevations with inferred shallow north/northwest hydraulic gradient.

5 Investigation and Cleanup Process

Application

The Applicant has applied for and been accepted into New York's Brownfield Cleanup Program (BCA) as a Volunteer. The Applicant's ownership or operation of the site took place after the discharge or disposal of contaminants. The Applicant must fully characterize the nature and extent of contamination on-Site, and must conduct a "qualitative exposure assessment," a process that characterizes the actual or potential exposures of people, fish and wildlife to contaminants on the site and to contamination that has migrated from the site.

The Applicant in its Application proposes that the site will be used for commercial purposes.

To achieve this goal, the Applicant will conduct investigation and remedial activities (if necessary) at the site with oversight provided by the NYSDEC. The Brownfield Cleanup Agreement executed by the NYSDEC and the Applicant sets forth the responsibilities of each party in conducting these activities at the site.

Investigation

The Applicant completed a preliminary site investigation before it entered into the BCP. As a results of the Site investigation, the Applicant must develop a remedial investigation workplan, which is subject to public comment. The Applicant has submitted an investigation workplan for the full site investigation. The NYSDEC will determine if the investigation goals and requirements of the BCP have been met or if additional work is needed before a remedy can be selected.

The Applicant will conduct an investigation of the site officially called a "remedial investigation" (RI). This investigation will be performed with NYSDEC oversight.

The site investigation has several goals:

- 1) Define the nature and extent of contamination in soil, surface water, groundwater and any other parts of the environment that may be affected;
- 2) Identify the source(s) of the contamination;
- 3) Assess the impact of the contamination on public health and the environment; and
- 4) Provide information to support the development of a proposed remedy to address the contamination or the determination that cleanup is not necessary.

The Applicant submits a draft “Remedial Investigation Work Plan” to NYSDEC for review and approval. The NYSDEC makes the draft plan available to the public review during a 30-day public comment period.

Interim Remedial Measures

An Interim Remedial Measure (IRM) is an action that can be undertaken at a site when a source of contamination or exposure pathway can be effectively addressed before the site investigation and analysis of alternatives are completed. If an IRM is likely to represent all or a significant part of the final remedy, the NYSDEC will require a 30-day public comment period.

Remedy Selection

When the investigation of the site has been determined to be complete, the project likely would proceed in one of two directions:

1. The Applicant may recommend in its investigation report that no action is necessary at the site. In this case, the NYSDEC would make the investigation report available for public comment for 45 days. The NYSDEC then would complete its review, make any necessary revisions, and, if appropriate, approve the investigation report. The NYSDEC would then issue a “Certificate of Completion” (described below) to the Applicant.

or

2. The Applicant may recommend in its investigation report that action needs to be taken to address site contamination. After the NYSDEC approves the investigation report, the Applicant may then develop a cleanup plan, officially called a “Remedial Work Plan”. The Remedial Work Plan describes the Applicant’s proposed remedy for addressing contamination related to the site.

When the Applicant submits a draft Remedial Work Plan for approval, the NYSDEC would announce the availability of the draft plan for public review during a 45-day public comment period.

Cleanup Action

NYSDEC will consider public comments, and revise the draft cleanup plan if necessary, before approving the proposed remedy. The New York State Department of Health (NYSDOH) must concur with the proposed remedy. After approval, the proposed remedy becomes the selected remedy. The selected remedy is formalized in the site Decision Document.

The Applicant may then design and perform the cleanup action to address the site contamination. The NYSDEC and the NYSDOH oversee the activities. When the Applicant completes cleanup activities, it will prepare a final engineering report that certifies that cleanup

requirements have been achieved or will be achieved within a specific time frame. The NYSDEC will review the report to be certain that the cleanup is protective of public health and the environment for the intended use of the site.

Certificate of Completion

When the NYSDEC is satisfied that cleanup requirements have been achieved or will be achieved for the site, it will approve the final engineering report. NYSDEC then will issue a Certificate of Completion (COC) to the Applicant. The COC states that cleanup goals have been achieved, and relieves the Applicant from future liability for site-related contamination, subject to certain conditions. The Applicant would be eligible to redevelop the site after it receives a COC.

Site Management

The purpose of site management is to ensure the safe reuse of the property if contamination will remain in place. Site management is the last phase of the site cleanup program. This phase begins when the COC is issued. Site management incorporates any institutional and engineering controls required to ensure that the remedy implemented for the site remains protective of public health and the environment. All significant activities are detailed in a Site Management Plan.

An *institutional control* is a non-physical restriction on use of the site, such as a deed restriction that would prevent or restrict certain uses of the property. An institutional control may be used when the cleanup action leaves some contamination that makes the site suitable for some, but not all uses.

An *engineering control* is a physical barrier or method to manage contamination. Examples of engineering controls include caps, covers, barriers, fences and treatment of water supplies.

Site management also may include the operation and maintenance of a component of the remedy, such as a system that pumps and treats groundwater. Site management continues until the NYSDEC determines that it is no longer needed.

When the investigation is complete, the Applicant will prepare and submit a report that summarizes the results. This report also will recommend whether cleanup action is needed to address site-related contamination. The investigation report is subject to review and approval by NYSDEC.

NYSDEC will use the information in the investigation report to determine if the site poses a significant threat to public health or the environment. If the site is a “significant threat,” it must be cleaned up using a remedy selected by NYSDEC from an analysis of alternatives prepared by

the Applicant and approved by NYSDEC. If the site does not pose a significant threat, the Applicant may select the remedy from the approved analysis of alternatives.

**Appendix A -
Project Contacts and Locations of Reports and Information**

Project Contacts

For information about the site's investigation and cleanup program, the public may contact any of the following project staff:

New York State Department of Environmental Conservation (NYSDEC):

Mackenzie Osygian, P.E

Project Manager
NYSDEC Region 8
Division of Environmental Remediation
6274 E Avon Lima Road
Avon, NY 14414
Email: makenzie.osygian@dec.ny.gov
Phone: (585) 226-5409

Andrea Pedrick

Citizen Participation Specialist
NYSDEC Region 8
Division of Environmental Remediation
6274 East Avon Lima Road
Avon, NY 14414
Email: andrea.pedrick@dec.ny.gov
Phone: (585) 226-5363

New York State Department of Health (NYSDOH):

Megan Rivera

Project Manager
NYSDOH
Bureau of Environmental Exposure
Investigation
Empire State Plaza
Corning Tower Room 1787
Albany, NY 12237
Email: beei@health.ny.gov
Phone: (518) 402-7860

Locations of Reports and Information

The facilities identified below are being used to provide the public with convenient access to important project documents

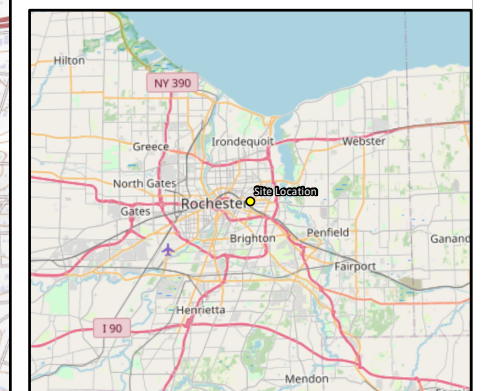
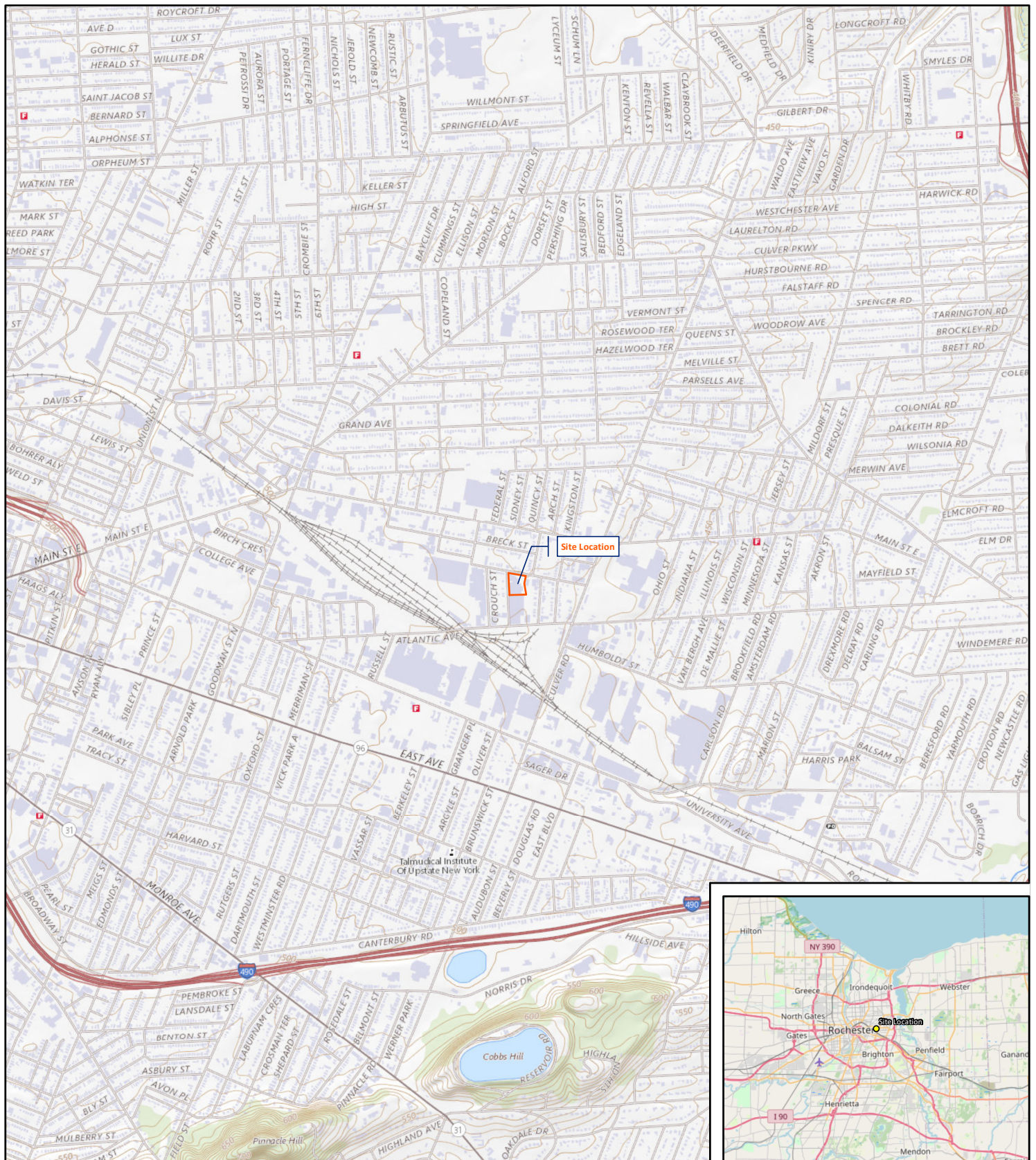
Winton Branch Library

611 Winton Rd N, Rochester NY 14609
Phone: (585)428-8204
Hours: **Sunday:** Closed
Monday Wed. & Friday: 10 AM – 5 PM
Tuesday 11 AM- 7 PM
Thursday 11 PM - 6 PM
Saturday 10 AM – 3 PM

NYSDEC Region 8

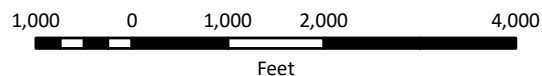
6274 E Avon Lima Rd, Avon NY 14414
Attn: Mackenzie Osygian
Phone: (585)226-5356
Hours: **Saturday & Sunday:** Closed
Monday – Friday: 8:30 AM – 4:45 PM

Appendix C - Site Location Map



Scale 1: 24,000

Contour Interval: 10-feet



Appendix D– Brownfield Cleanup Program Process

