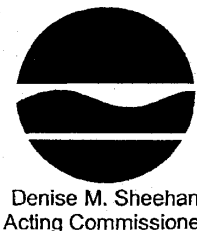


New York State Department of Environmental Conservation
Division of Environmental Remediation
Bureau of Technical Support, 11th Floor
625 Broadway, Albany, New York 12233-7020
Phone: (518) 402-9553 • FAX: (518) 402-9577
Website: www.dec.state.ny.us



MEMORANDUM

TO: Charlotte Theobald, Project Manager, Region 8
Ed Belmore, NYSDEC - DER Remedial Bureau D
Gary Litwin, NYSDOH - DEHI Bureau of Environmental Exposure Investigation
Bart Putzig, Regional Hazardous Waste Remediation Engineer, Region 8
Joe Ryan, DEE Program Attorney, Region 8
Christina Dowd, NYSDEC - DFWMR Bureau of Habitat
Anne Hohenstein, NYSOSC
Susanne Wither, NYSDEC, Bureau of Technical Support

FROM: Kelly Lewandowski, NYSDEC - DER Bureau of Technical Support *Kelly Lewandowski*

SUBJECT: Brownfield Cleanup Program Application
Seneca Market I, LLC Site, C849004

DATE: JUN 20 2005

The attached Brownfield Cleanup Program Application for remedial work at the subject site has been forwarded to you for your records and/or processing according to the established Brownfield Cleanup Program procedures. If you require additional copies or the complete series of the related application's attachments, please contact the project manager, Charlotte Theobald at 585-226-5354.

The Time and Activity Code for the subject site is: N854 (onsite); N855 (offsite).

Attachments
MB/ca

Distribution

Original (with all attachments) to:

Charlotte Theobald, NYSDEC - Region 8

Copy (with all attachments) to:

Gary Litwin, NYSDOH - DEHI Bureau of Environmental Exposure Investigation

Joseph Ryan, DEE Program Attorney, Region 8

Ed Belmore, NYSDEC DER Remedial Bureau D

Anne Hohenstein, NYSOSC

Susanne Wither, NYSDEC, BTS

Copy (without attachments) to:

Anthony Quartarro, NYSDEC - DEE Superfund and Voluntary Cleanup Bureau

Christina Dowd, NYSDEC - DFWMR Bureau of Habitat

New York State Department of Environmental Conservation
Division of Environmental Remediation
Bureau of Technical Support, 11th Floor
625 Broadway, Albany, New York 12233-7020
Phone: (518) 402-9543 • FAX: (518) 402-9595
Website: www.dec.state.ny.us



JUN 20 2005

Peter L. Krog
Seneca Market I, LLC
4 Centre Drive
Orchard Park, New York 14127

Re: Brownfield Cleanup Application
Seneca Market I, LLC Site, BCP No. C849004

Dear Mr. Krog:

The New York State Department of Environmental Conservation (Department) is in receipt of your application for participation in the Brownfield Cleanup Program (BCP) pursuant to ECL Section 27-1400 et seq. As you know, the BCP is a cooperative approach between the Department and lenders, developers, and current and prospective owners. The program fosters private-sector remediation of brownfields and reduces development pressures on "greenfields." We are pleased to advise you that your application has been determined to be complete.

Pursuant to ECL Section 27-1407(5), a forty-five day public comment period is to be commenced upon the Department's determination that an application is complete. During the comment period the Department will be evaluating the eligibility of the project and determine the status regarding this as soon as possible. The party seeking to participate in the BCP is required under the BCP to notify in writing the chief executive officer and zoning board of each county, city, town and village in which the proposed brownfield site is located, as well as residents of the site, the public water supplier which services the area, any person who has requested to be placed on the brownfield site contact list, and the administrator of any school or day care facility located adjacent to or near the site. Further, the Department will publish a similar notice in the Environmental Notice Bulletin.

In order to facilitate the notifications, the Department has prepared the enclosed Public Notice for you to utilize and the instructions for placing and mailing the notifications as well as the document repository location and contents. As the requestor, you are responsible for making available a copy of the application and copies of all other related attached documents such as any assessment and investigation reports and/or investigation or remedial work plans. Also, you must use this Department-approved Public Notice form and cannot provide any other or additional information when fulfilling your obligation to provide a legal notice for the newspaper of the application and comment period. The enclosed form should be provided to a local newspaper servicing the area including the brownfield site for publication no later than June 29, 2005.

Additionally, all of the above-mentioned mailings should be completed no later than June 28, 2005. To the extent that the mailings and publications are not completed in accordance with these time frames, the Department will extend the comment period for a period sufficient to comply with the required forty-five day notice requirement running from the latest of the mailings or publication.

A certificate of mailing, on the enclosed form, is required to be submitted within three days of the mailing. Further, the proof of publication provided by the newspaper must be submitted within three days of your receipt of such document. These documents should be submitted to the Department's project manager at:

New York State Department of Environmental Conservation
Region 8
6274 East Avon-Lima Road
Avon, New York 14414-8519
Attn: Charlotte Theobald

The Department will make every effort to determine your eligibility and status under the BCP forty-five (45) days from the date of this letter. We look forward to working cooperatively with you to address the environmental conditions at the brownfield site and to return this property back to productive use.

Sincerely,



Kelly A. Lewandowski, P.E.
Chief
Site Control Section

MB /ca
Enclosures

Electronic copy w/enclosures:

C. Theobald, Project Manager, Region 8
G. Litwin, NYSDOH
A. Quartararo
S. Wither

Copy w/o enclosures:

S. Bolesky (application only)

Brownfield Cleanup Program Public Notice Instructions

A. Instructions to Requestor¹

Newspaper

1) The enclosed public notice must be published, without modification, in a local newspaper of general circulation that services the area that includes the site no later than the date specified in the Division of Environmental Remediation's (DER) cover letter. The notice must be located prominently in the community bulletin section or comparable local section of the newspaper. The notice must be published in English and in any other language spoken by a significant number of people within the site community.

2) A proof of publication of the newspaper notice must be submitted to DER by the date specified in the DER cover letter.

Site Contact List

1) The enclosed public notice must be mailed, without modification, to the parties on the Site Contact List included with the application. The mailing must be performed by the date specified in the DER cover letter. No other materials can be mailed with this notice.

2) A certificate of mailing must be completed and submitted to DER by the date specified in the DER cover letter. (See enclosed certificate of mailing form)

Repository

1) Application package (application and appropriate documents) must be put in the site document repository specified in the public notice prior to the start of the public comment period.

B. Requestor's Instructions to Newspapers Regarding Printing the Public Notice

The enclosed public notice announces the receipt of a complete Brownfield Cleanup Program application package by the New York State Department of Environmental Conservation. Pursuant to ECL Section 27-1407(5), the public notice must be located prominently in the community bulletin section or similar local section of the newspaper. The public notice must be published by the date specified.

C. Requestor's Instructions to Parties on the Site Contact List Receiving the Public Notice

The enclosed public notice announces the receipt of a complete Brownfield Cleanup Program application package by the New York State Department of Environmental Conservation. Pursuant to ECL Section 27-1407(5), a public notice announcing the receipt of an application must be sent to parties on the Site Contact List. Please read the enclosed public notice and review the application package in the site document repository for further information.

¹ A requestor is a person who has submitted an application to participate in the BCP whose eligibility has not yet been determined by the Department of Environmental Conservation.

**PUBLIC NOTICE
FACT SHEET**

BROWNFIELD CLEANUP PROGRAM

Site Name: Seneca Market I, LLC
Site Address: Franklin, First, and Decatur Streets
Watkins Glen, New York 14819
County: Schuyler
Site No.: C849004
Requestor: Peter L. Krog

The New York State Department of Environmental Conservation (NYSDEC) administers the Brownfield Cleanup Program (BCP) pursuant to State Environmental Conservation Law (ECL) 27-1400 et seq. The BCP was created to encourage the remediation and redevelopment of contaminated properties known as brownfields. The requestor indicated above has submitted a BCP application for remediation of the site indicated above.

NYSDEC will accept public comments concerning the application. A copy of the application and other appropriate documents (application package) is available in the site document repository located at the address indicated below.

Please note the application package includes the Draft Remedial Work Plan which describes how the contamination related to the site will be addressed.

NYSDEC will review the application package and public comments received and then make a determination on the eligibility of the application.

Comments should be submitted by August 15, 2005 to:

New York State Department of Environmental Conservation
Division of Environmental Remediation - Region 8
6274 East Avon-Lima Road
Avon, New York 14414-8519
Attn: Charlotte Theobald

Repository address:

Watkins Glen Public Library
610 S. Decatur Street
Watkins Glen, New York 14891

**Seneca Market I, LLC Site
C849004**

CERTIFICATION OF MAILING

I certify that I mailed on _____ a copy of the attached
_____ by first class mail upon the person(s) on the attached
mailing list, by depositing a true copy thereof, securely enclosed in a postpaid wrapper, in
the Post Office box at _____ in the
City of _____, New York, which box is under the
exclusive care and custody of the United States Post Office Department:

Signature

Date



BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION

ECL ARTICLE 27, TITLE 14

9/3/04

Applicant Information		
NAME Seneca Market 1, LLC (TBD, General Manager)		
ADDRESS 4 Centre Drive		
CITY/TOWN Orchard Park, New York		ZIP CODE 14127
PHONE 716-667-1234	FAX 716-667-1258	E-MAIL plkrog@krogcorp.com
NAME OF APPLICANT'S REPRESENTATIVE Peter L. Krog		
ADDRESS 4 Centre Drive		
CITY/TOWN Orchard Park, New York		ZIP CODE 14127
PHONE 716-667-1234	FAX 716-667-1258	E-MAIL plkrog@krogcorp.com
<p>THE APPLICANT MUST CERTIFY THAT IT IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL § 27-1405 (1) BY CHECKING ONE OF THE BOXES BELOW:</p> <p><input type="checkbox"/> PARTICIPANT An applicant 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.</p> <p><input checked="" type="checkbox"/> VOLUNTEER An applicant other than a participant, including an applicant 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.</p> <p>NOTE: By checking this box, the applicant 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; and iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.</p>		
Applicant Relationship to Property (check one):		
<input type="checkbox"/> Previous Owner <input type="checkbox"/> Current Owner <input type="checkbox"/> Potential /Future Purchaser <input checked="" type="checkbox"/> Other <u>Current Owner Part/Future Owner Remainder</u>		
Current Owner/Operator Information		
OWNER'S NAME (if different from applicant) See Attachment 1 for listing of current owners		
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL
OPERATOR'S NAME (if different from applicant)		
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL

Site Information			
SITE NAME Seneca Market 1, LLC Site			
SITE ADDRESS Franklin, First, & Decatur Street		CITY/TOWN Watkins Glenn	ZIP CODE 14819
COUNTY Schuyler		SITE SIZE (ACRES) Approximately 2.5	
LATITUDE (degrees/minutes/seconds) 42° 22' 59.13"		LONGITUDE (degrees/minutes/seconds) 76° 52' 27.96"	
PLEASE ATTACH A COUNTY TAX MAP WITH IDENTIFIER NUMBERS, ALONG WITH ANY FIGURES NEEDED TO SHOW THE LOCATION AND BOUNDARIES OF THE SITE. ALSO INCLUDE A USGS 7.5 MINUTE QUAD MAP IN WHICH THE SITE IS LOCATED.			
1. DO THE SITE BOUNDARIES CORRESPOND TO TAX MAP METES AND BOUNDS? IF NO, PLEASE ATTACH A METES AND BOUNDS DESCRIPTION OF THE SITE.		<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
2. IS THE SITE PART OF A DESIGNATED BROWNFIELD OPPORTUNITY AREA PURSUANT TO GML970-R? IF YES, IDENTIFY AREA (NAME) _____		<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
3. IS THE SITE PART OF A DESIGNATED EN-Zone PURSUANT TO TL § 21(b)(6)? FOR MORE INFORMATION GO TO: http://www.nylovesbiz.com/Productivity_Energy_and_Environment/BrownField_Redevelopment/default.asp IF YES, IDENTIFY AREA (NAME) _____		<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
Applicant Eligibility Information (Please refer to ECL § 27-1407)			
1. ARE ANY ENFORCEMENT ACTIONS PENDING AGAINST THE APPLICANT REGARDING THIS SITE?		<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
2. IS THE APPLICANT SUBJECT TO AN OUTSTANDING CLAIM BY THE SPILL FUND FOR THIS SITE?		<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
3. HAS THE APPLICANT VIOLATED ANY PROVISION OF ECL ARTICLE 27?		<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
4. HAS THE APPLICANT BEEN PREVIOUSLY DENIED ENTRY TO THE BCP?		<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
5. HAS THE APPLICANT COMMITTED A NEGLIGENT OR INTENTIONALLY TORTIOUS ACT REGARDING HAZARDOUS WASTE OR PETROLEUM?		<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
6. HAS THE APPLICANT BEEN CONVICTED OF A CRIMINAL OFFENSE THAT INVOLVES A VIOLENT FELONY, FRAUD, BRIBERY, PERJURY, THEFT, OR OFFENSE AGAINST PUBLIC ADMINISTRATION?		<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
7. HAS THE APPLICANT KNOWINGLY FALSIFIED STATEMENTS OR CONCEALED MATERIAL FACTS IN A MATTER RELATED TO THE DEPARTMENT?		<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
8. HAS THE APPLICANT, BASED ON THE PROVISIONS OF ECL ARTICLE 27-1407 (OR A SIMILAR PROVISION OF FEDERAL OR STATE LAW), COMMITTED AN ACT OR FAILED TO ACT, AND SUCH ACT OR FAILURE TO ACT COULD BE THE BASIS FOR DENIAL OF A BCP APPLICATION?		<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
Site Eligibility Information (Please refer to ECL § 27-1405)			
1. DOES THE SITE MEET THE DEFINITION OF A BROWNFIELD SITE (REAL PROPERTY, THE REDEVELOPMENT OR REUSE OF WHICH MAY BE COMPLICATED BY THE PRESENCE OR POTENTIAL PRESENCE OF A HAZARDOUS WASTE, PETROLEUM, POLLUTANT, OR CONTAMINANT)?		<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
2. IS THE SITE LISTED ON THE NATIONAL PRIORITIES LIST?		<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
3. IS THE SITE LISTED ON THE NYS REGISTRY OF INACTIVE HAZARDOUS WASTE DISPOSAL SITES? IF YES, PLEASE PROVIDE: SITE # <u>8-49-002</u> CLASS # <u>2</u>		<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
4. IS THE SITE SUBJECT TO A PERMIT UNDER ECL ARTICLE 27, TITLE 9, OTHER THAN AN INTERIM STATUS FACILITY?		<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
5. IS THE SITE SUBJECT TO A CLEANUP ORDER UNDER NAVIGATION LAW ARTICLE 12 OR ECL ARTICLE 17 TITLE 10?		<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
6. IS THE SITE SUBJECT TO A STATE OR FEDERAL ENFORCEMENT ACTION RELATED TO HAZARDOUS WASTE OR PETROLEUM?		<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
Project Description			
PLEASE ATTACH A DESCRIPTION OF THE PROJECT WHICH INCLUDES THE FOLLOWING COMPONENTS:			
<ul style="list-style-type: none"> PURPOSE AND SCOPE OF THE PROJECT ESTIMATED PROJECT SCHEDULE 			

Site's Environmental History

TO THE EXTENT THAT EXISTING INFORMATION/STUDIES/REPORTS ARE AVAILABLE TO THE APPLICANT, PLEASE ATTACH THE FOLLOWING:

1. **ENVIRONMENTAL DATA**

A PHASE I ENVIRONMENTAL SITE ASSESSMENT REPORT PREPARED IN ACCORDANCE WITH ASTM E 1527 (American Society for Testing and Materials: Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process), AND ALL ENVIRONMENTAL REPORTS RELATED TO CONTAMINANTS ON OR EMANATING FROM THE SITE.

IF A FINAL INVESTIGATION REPORT IS INCLUDED, INDICATE WHETHER IT MEETS THE REQUIREMENTS OF ECL ARTICLE 27-1415(2):

YES NO

2. **OWNERS**

A LIST OF PREVIOUS OWNERS WITH NAMES, LAST KNOWN ADDRESSES AND TELEPHONE NUMBERS (DESCRIBE APPLICANT'S RELATIONSHIP, IF ANY, TO EACH PREVIOUS OWNER LISTED. IF NO RELATIONSHIP, PUT "NONE").

3. **OPERATORS**

A LIST OF PREVIOUS OPERATORS WITH NAMES, LAST KNOWN ADDRESSES AND TELEPHONE NUMBER (DESCRIBE APPLICANT'S RELATIONSHIP, IF ANY, TO EACH PREVIOUS OPERATOR LISTED. IF NO RELATIONSHIP, PUT "NONE").

Contact List Information

PLEASE ATTACH, AT A MINIMUM, THE NAMES AND ADDRESSES OF THE FOLLOWING:

1. THE CHIEF EXECUTIVE OFFICER AND ZONING BOARD CHAIRPERSON OF EACH COUNTY, CITY, TOWN AND VILLAGE IN WHICH THE SITE IS LOCATED.
2. RESIDENTS, OWNERS, AND OCCUPANTS OF THE SITE AND PROPERTIES ADJACENT TO THE SITE.
3. LOCAL NEWS MEDIA FROM WHICH THE COMMUNITY TYPICALLY OBTAINS INFORMATION.
4. THE PUBLIC WATER SUPPLIER WHICH SERVICES THE AREA IN WHICH THE SITE IS LOCATED.
5. ANY PERSON WHO HAS REQUESTED TO BE PLACED ON THE SITE CONTACT LIST.
6. THE ADMINISTRATOR OF ANY SCHOOL OR DAY CARE FACILITY LOCATED ON OR NEAR THE SITE.
7. THE LOCATION OF A DOCUMENT REPOSITORY FOR THE PROJECT (E.G., LOCAL LIBRARY)

Contaminant Information

INDICATE KNOWN OR SUSPECTED CONTAMINANTS AND THE MEDIA WHICH ARE KNOWN OR SUSPECTED TO HAVE BEEN AFFECTED:

Contaminant Category	Soil	Groundwater	Surface Water	Sediment	Soil Gas
Petroleum	✓	✓			✓
Chlorinated Solvents		✓			✓
Other VOCs	✓	✓			✓
SVOCs	✓				
Metals					
Pesticides					
PCBs					
Other*					

*Please describe: _____

Land Use Factors (Please refer to ECL § 27-1415(3))

Current Use: Residential Commercial Industrial Other _____

Future Use: Residential Commercial Industrial Other 8-49-002

Please check the appropriate boxes and provide an explanation as an attachment if appropriate.

Yes No Unknown

1. Do current historical and/or recent development patterns support the proposed use?

2. Is the proposed use consistent with applicable zoning laws/maps?

3. Is the proposed use consistent with applicable brownfield opportunity area designations? (See GML 970-r)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, other adopted land use plans?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Are there any Environmental Justice Concerns? (See §27-1415(3)(p)).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Are there any federal or State land use designations relating to this site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Do the population growth patterns and projections support the proposed use?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Is the site accessible to existing infrastructure?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Are there important cultural resources, including federal or state historic or heritage sites or Native American religious sites proximate to the site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Are there important federal, state or local natural resources, including waterways, wildlife refuges, wetlands, or critical habitats of endangered or threatened species proximate to the site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Are there floodplains proximate to the site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
12. Are there any institutional controls currently applicable to the site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
13. Describe on attachment the proximity to real property currently used for residential use, and to urban, commercial, industrial, agricultural, and recreational areas.			
14. Describe on attachment the potential vulnerability of groundwater to contamination that might migrate from the site, including proximity to wellhead protection and groundwater recharge areas.			
15. Describe on attachment the geography and geology of the site.			
(Note: the 16 th criteria relates to comments from the public, which would not be received at the time of application)			

Statement of Certification

(By applicant who is an individual)

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: 2 _____ Signature: _____ Print Name: _____

(By an applicant other than an individual)

I certify that I am _____ (title) of _____ (entity); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and 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: 5/1/05 Signature:  Print Name: Perotkay

SUBMITTAL INFORMATION:

Three (3) complete copies are required.

- Two (2) copies, one hard copy with original signatures and one electronic copy in Portable Document Format (PDF) on a CD or diskette, 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

- One (1) hard copy must be sent to the DEC regional contact in the regional office covering the county in which the site is located. Please check our website for the address of our regional offices: <http://www.dec.state.ny.us/website/der/index.html>

FOR DEPARTMENT USE ONLY

BCP SITE NO: _____ BCP SITE T&A CODE: _____ PROJECT MANAGER: _____

ATTACHMENT 1

PROPERTY OWNERSHIP INFORMATION

PROPERTY OWNERSHIP INFORMATION
 (SEE ATTACHED TAX MAP & SURVEY)

SBL #	SIZE (ACRES)	OWNER NAME & ADDRESS
65.09-2-59.2	0.29	SENECA MARKET I, LLC 4 CENTRE DRIVE ORCHARD PARK, NY 14127 TEL. 716-667-1234 FAX 716-667-1258
65.09-2-59.1	0.2	SENECA MARKET II, LLC 4 CENTRE DRIVE ORCHARD PARK, NY 14127 TEL. 716-667-1234 FAX 716-667-1258
65.09-2-58	0.13	SALVATORE & MARION SCATA 1809 PRAIRIE DUNES CIRCLE LAKELAND, FLORIDA 33810
65.09-2-56	1.76	SCHULYER COUNTY IDA ⁽¹⁾ 2 N. FRANKLIN STREET SUITE 330 WATKINS GLEN, NY 14891 TEL. 607-535-4341 FAX 607-535-7221
65.09-2-61.2	0.19	SCHULYER COUNTY IDA 2 N. FRANKLIN STREET SUITE 330 WATKINS GLEN, NY 14891 TEL. 607-535-4341 FAX 607-535-7221

1. Currently being leased from Schuyler County IDA with an option to purchase for \$1.00 plus all unpaid payments in lieu of taxes under the current pilot agreement.

TAX MAP & SURVEYS

Lincoln Way
(agreement L281, p49 14' wide)

Wine & Glass, Tour, Inc.
L314, p322 survey M821, p1218122

6' pedestrian row L281, p52

S89°07'02"E - 108.96'

macadam
NYSEG easement
L319, p275
eave

building 0.4

light 5.8

step 1.4

109.37' conc sidewalk

macadam

light 3.9

sign 5.9

macadam

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sign 5.9

macadam

3 sty. brick former machine shop

walkway

1 sty. brick

Parcel A
8,773 s.f.

Parcel B
12,600 s.f.

North Franklin Street (75' wide)

N22°31'00"W

S67°29'00"W - 100.00'

N67°29'00"E - 100.00'

S22°31'00"E

Schuyler County Industrial Development Agency, Inc.

L290, p462 survey M824, p63

192.09'

126.00'

100.00'

100.00'

100.00'

100.00'

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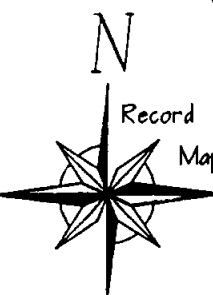
planter

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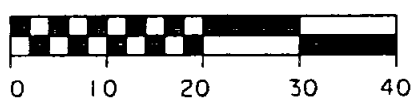
planter

planter

- Legend of Symbols
- ⊙ P.O.B. Point of beginning
 - ⊕ Survey marker, PK nail or 3/8 rod
 - ⊕ Calculated point (no monument)
 - ⊕ Iron rod
 - ⊕ Iron pipe
 - ⊕ Monitoring well
 - ⊕ Utility pole / overhead electric
 - ⊕ Light
 - ⊕ Water valve
 - ⊕ Gas valve
 - ⊕ Electric pedestal/outlet
 - ⊕ Sign
 - ⊕ Manhole
 - ⊕ Hydrant



Robinson Surveying & Mapping
117 Tenth Street, Watkins Glen, NY 14891
Telephone: (507) 535-7643



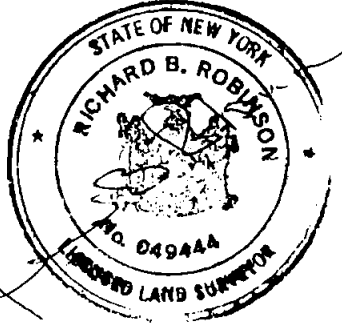
"It is hereby certified that this survey map was prepared in accordance with the existing Code of Practice for Land Surveys by the New York State Association of Professional Land Surveyors. This certificate is not transferable to additional institutions, third parties or subsequent owners. This certification shall run specifically to:
1- Peter L. Krog
2- Donald A. Narde, Jr.
3- Ticor Title Insurance Company
4- Ziff, Weiermiller, Hayden & Mustico LLP
4- Peter S. Gilfillan, Esq.

Deed Reference: Osco W. Peterson, Referee to Donald A. Narde, Jr. dated June 25, 1992; recorded July 30, 1992 in Liber 293, page 8.

Map References: 1- "Village of Watkins Glen" by A.D. Beach and F.A. Camp dated 1974; recorded in Schuyler County Clerk's Office. 2- "White Water Development" dated September 19, 1985; recorded August 8, 1988 in Mapbook 20 at page 29.

Abstract Reference: Donald A. Narde, Jr. by Finger Lakes Abstract Corp. dated September 21, 1999

Easements and rights of way: Subject to easements, rights of way and other matters of public record that a complete and updated abstract would show. No physical evidence of easements, rights of way or encroachments found unless shown hereon.



Map of lands to be conveyed to		
Peter L. Krog		
Scale: 1" = 20'	86174 FRA	Drawn by: DOS
Date: October 20, 1999	Tax Parcel: 65.09-2-59	
North Franklin Street Village of Watkins Glen Town of Dix, Schuyler Co., NYS		
Page No. 1120C	Project No. 83183 M3	

P.O.B. lies N22°31'00"W, 87.50' from intersection easterly limit of Franklin Street and northerly limit of First Street.

Scata L282, p188
survey L282, p190

Any copy of this survey map not bearing the Long Surveyor's or other signature and enclosed seal shall not be considered a true and valid copy.

63.09-2-27.2, 271, 28

SENECA

LAKE

61.111

1.64A
1.3A(C)

61.2
3.12A

Simiele

61.114

59.2

56
1.762A

KROG

59.1
KROG
0.20A

SCOTIA WATERFALLS
SENECA COUNTY
VFW

58
0.134

57
0.134

FIRST STREET

DECATUR STREET

STREET

ING STREET

SECOND STREET

FRANKLIN STREET
N.Y.S. HIGHWAY 14
ALLEY
CHARTERED
DON
CHARTERED
P. 03



- Legend of Symbols
- P.O.B. Point of beginning
 - 5/8 inch dia. steel rod with survey cap
 - utility pole / overhead electric
 - fire hydrant
 - dried line

Certification: "It is hereby certified that this survey map was prepared in accordance with the Code of Practice for Land Surveys adopted October 1966, last revised July 19, 1985 by the New York State Association of Professional Land Surveyors. This Certification shall run only to the person for whom the survey was prepared, and on behalf of the Title Company and Lending Institution listed hereon, and to the SUCCESSORS AND ASSIGNS of the lending institution. This certificate is not transferable to additional institutions or subsequent owners."
 This certification shall run specifically to:
 1- Peter Krog and James Zaepfel
 2- Ticor Title Guarantee Company
 3-
 4-
 5-

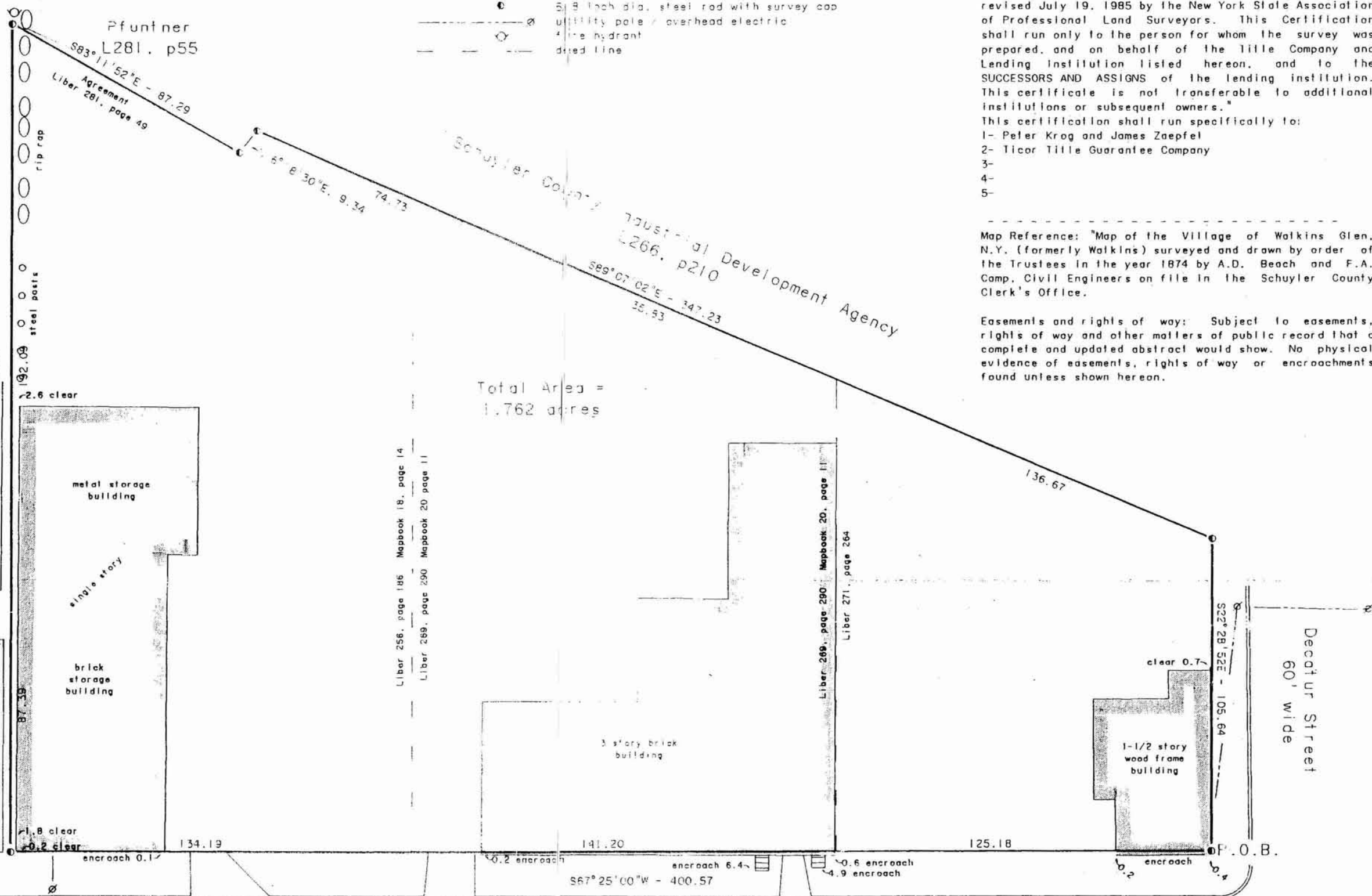
Map Reference: "Map of the Village of Watkins Glen, N.Y. (formerly Watkins) surveyed and drawn by order of the Trustees in the year 1874 by A.D. Beach and F.A. Camp, Civil Engineers on file in the Schuyler County Clerk's Office."

Easements and rights of way: Subject to easements, rights of way and other matters of public record that a complete and updated abstract would show. No physical evidence of easements, rights of way or encroachments found unless shown hereon.

reputed
Lakeside Development, Inc.
L270, p33

Scata
L282, p188

William Coon
Veterans Association, Inc.
L92, p330



Total Area =
1.762 acres



"Alteration of or addition to a Survey Map bearing a licensed Land Surveyor's Seal is a violation of Section 7209, of the New York State Education Law except as provided by Section 7209(2)."

"Any copy of this survey map not bearing the Land Surveyor's original signature and embossed seal shall NOT be considered a true and valid copy."

This map prepared by
Robinson Surveying & Mapping
117 Tenth Street, Watkins Glen, NY 14891
Telephone: (607) 535-7643



Map of lands to be conveyed to PETER KROG & JAMES ZAEPFEL	
Scale 1" = 30'	Drawn by DOS
Date November 21, 1991	Tax Parcels 65.09-2-54.53
First Street Village of Watkins Glen Town of Dix Schuyler County, NYS	
Page No. 36-232	Project No. 91140

LEASE AGREEMENT BETWEEN
SCHUYLER COUNTY INDUSTRIAL DEVELOPMENT AGENCY
AND
PETER KROG & JAMES A. ZAEPFEL

13

SCHUYLER COUNTY INDUSTRIAL DEVELOPMENT AGENCY

and

PETER KROG and JAMES ^{A.} ZAEPFEL
_A

LEASE AGREEMENT
DATED AS OF DECEMBER 2, 1991

THIS LEASE AGREEMENT dated as of December 2, 1991, between the SCHUYLER COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York having its office at 208 Broadway, Montour Falls, New York 14865 (the "Agency") and PETER KROG and JAMES A. ZAEPFEL, having an office at 5505 Main Street, Williamsville, New York 14221 (the "Company").

R E C I T A L S

Title 1 of Article 18-A of the General Municipal Law of the State of New York was duly enacted into law as Chapter 1030 of the Laws of 1969 of the State of New York;

The aforesaid Act authorizes the creation of industrial development agencies for the Public Purposes of the State:

The aforesaid Act further authorizes each such agency to lease any or all of its facilities at such rentals and on such other terms and conditions as it deems advisable.

Pursuant to and in accordance with the provisions of the aforesaid Act, the Agency was created and is empowered under the Act to undertake the leasing of the facility described on Schedule "A" annexed hereto (the "Facility");

The Agency proposes to lease the Facility to the Company, and the Company desires to rent the Facility from the Agency, upon the terms and conditions set forth in this Lease Agreement.

AGREEMENT

For and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto do hereby mutually agree as follows:

ARTICLE I

REPRESENTATIONS AND COVENANTS

Section 1.1 Representations and Covenants of Agency. The Agency makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The Agency is duly established and validly existing under the provisions of the Act and has full legal right, power and authority to execute this Lease.

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(b) The Agency will cause the Facility to be constructed and equipped and will lease the Facility to the Company pursuant to this Lease, all for the Public Purposes of the State.

(c) Neither the execution and delivery of this Lease nor the fulfillment of or compliance with the provisions of the Lease will conflict with or result in a breach of or constitute a default under any of the terms, conditions or provisions of the Act, any other law or ordinance of the State or any political subdivision thereof or of the Agency's Certificate of Establishment or By-laws, as amended, or of any corporate restriction or any agreement or instrument to which the Agency is a party or by which it is bound.

(d) This Lease constitutes a legal, valid and binding obligation of the Agency enforceable against the Agency in accordance with its terms.

Section 1.2 Representations and Covenants of Company.
The Company makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The Company has full legal right, power and authority to execute, deliver and perform this Lease and this Lease has been duly executed and delivered by the Company.

(b) Neither the execution and delivery of this Lease nor the fulfillment of or compliance with the provisions of this Lease will conflict with or result in a breach of or constitute a default under any of the terms, conditions or provisions of any law or ordinance of the State or any political subdivision thereof or any restriction or any agreement or instrument to which the Company is a party or by which it is bound.

(c) The Facility and the design, acquisition, construction, equipping, use and operation thereof will conform with all applicable zoning, planning, building and environmental laws, ordinances, rules and regulations of governmental authorities having jurisdiction over the Facility.

ARTICLE II

CONSTRUCTION AND EQUIPPING OF FACILITY

Section 2.1 Construction and Equipping of Facility.

(a) The Company agrees that, on behalf of the Agency, it will construct and equip the Facility.

(b) The Agency hereby appoints the Company its true and lawful agent, and the Company hereby accepts such agency (i)

to construct and equip the Facility, (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions with any other party, and in general to do all things which may be requisite or proper, all for constructing and equipping the Facility with the same powers and with the same validity as the Agency could do if acting on its own behalf, (iii) to pay all fees, costs and expenses incurred in the construction, and (iv) to ask, demand, sue for, levy, recover and receive all such sums or money, debts, dues and other demands whatsoever which may be due, owing and payable to the Agency under the terms of any contract, order, receipt or writing in connection with the construction, and to enforce the provisions of any contract, agreement, obligation, bond or other performance security.

(c) The Agency shall enter into, and accept the assignment of, such contracts as the Company may request in order to effectuate the purposes of this Section 2.1.

Section 2.2 Remedies to be Pursued Against Contractors, Subcontractors, Materialmen and their Sureties.

In the event of a default by any contractor, subcontractor, materialman or other party under any contract made by it in connection with the Facility or in the event of a breach of warranty or other liability with respect to any materials, workmanship, or performance guaranty, the Company at its expense, either separately or in conjunction with others, may pursue any and all remedies available to it and the Agency, as appropriate, against the contractor, subcontractor, materialman or other party so in default and against any surety for the performance of such contract. The Company, in its own name or in the name of the Agency, may prosecute or defend any action or proceeding or take any other action involving any such contractor, subcontractor, materialman or surety or other party which the Company deems reasonably necessary, and in such event the Agency, at the Company's expense, hereby agrees to cooperate fully with the Company and to take all action necessary to effect the substitution of the Company for the Agency in any such action or proceeding. The proceeds of any recovery from a contractor or subcontractor or materialman or other party shall be the property of the Company.

ARTICLE III

DEMISING CLAUSES AND RENTAL PROVISIONS

Section 3.1 Demise of Facility. The Agency hereby leases the Facility to the Company and the Company hereby takes the Facility from the Agency upon the terms and conditions of this Lease.

Section 3.2 Duration of Lease Term; Quiet Enjoyment.

(a) The Agency shall deliver to the Company sole and exclusive possession of the Facility (subject to Sections 6.3 and 8.2 hereof) and the leasehold estate created hereby shall commence on the date hereof and the Company shall accept possession of the Facility on the date hereof.

(b) Except as provided in Section 8.2 hereof, the leasehold estate created hereby shall terminate at 11:59 p.m. on January 1, 2012 or on such earlier date as may be permitted by Section 9.1 hereof.

(c) Except as provided in Sections 6.3 and 8.2 hereof, the Agency shall neither take nor suffer or permit any action to prevent the Company during the Lease Term from having quiet and peaceable possession and enjoyment of the Facility and will, at the request of the Company and at the Company's cost, cooperate with the Company in order that the Company may have quiet and peaceable possession and enjoyment of the Facility as hereinabove provided.

Section 3.3 Rents and Other Amounts Payable. The Company shall pay basic rent for the Facility as follows:

One Dollar (\$1.00) per year payable on the first day of December, 1991 and on the first day of each and every December thereafter during the term of this Lease.

ARTICLE IV

PAYMENTS IN LIEU OF TAXES AND INSURANCE

Section 4.1 Payments in Lieu of Taxes and Assessments.

The Company agrees to pay, as the same become due, all payments required to be paid pursuant to the payment in lieu of tax agreement ("PILOT Agreement") between the Company and the Agency of even date herewith and all special assessments from time to time assessed against the Facility.

Section 4.2 Insurance. At all times throughout the Lease Term, the Company shall, at its sole cost and expense, maintain or cause to be maintained insurance protecting the Agency and the Company against loss or losses from liability imposed by law or assumed in any written contract (including the contractual liability assumed by the Company under Section 6.2 hereof) and arising from personal injury, including bodily injury or death, or damage to the property of others, caused by an accident or occurrence with a limit of liability of not less than \$1,000,000 (combined single limit or equivalent for personal

injury, including bodily injury or death, and property damage) and with a blanket excess liability coverage in an amount not less than \$3,000,000 combined single limit or equivalent protecting the Agency and the Company against any loss or liability or damage for person injury, including bodily injury or death, or property damage.

Section 4.3 Additional Provisions Respecting Insurance.

(a) All insurance required by Section 4.2 hereof shall be procured and maintained in financially sound and generally recognized responsible insurance companies authorized to write such insurance in the State of New York. The policy evidencing the insurance shall name the Agency as additional insured.

(b) A copy of the policy or original certificate (or original binders) of insurance hereof shall be delivered to the Agency on or before the date hereof. Prior to the expiration of each such policy, the Company shall furnish the Agency with evidence that such policy has been renewed or replaced. The Company shall provide such further information with respect to the insurance coverage required by this Lease as the Agency may from time to time reasonably require.

ARTICLE V

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 5.1 Damage or Destruction of the Facility.

(a) If the Facility shall be damaged or destroyed (in whole or in part) at any time during the Lease Term there shall be no abatement or reduction in the amounts payable by the Company under this Lease or the PILOT Agreement.

(b) The Company shall be entitled to all insurance proceeds from any casualty loss.

Section 5.2 Condemnation.

(a) If title to or use of the Facility shall be taken by Condemnation (in whole or in part) at any time during the Lease Term, there shall be no abatement or reduction in the amounts payable by the Company under this Lease or the PILOT Agreement.

(b) The Company shall be entitled to the proceeds of any condemnation award.

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ARTICLE VI

SPECIAL COVENANTS

Section 6.1 No Warranty of Condition or Suitability by Agency. THE AGENCY MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, TITLE, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS OF THE FACILITY OR THAT IT IS OR WILL BE SUITABLE FOR THE COMPANY'S PURPOSES OR NEEDS.

Section 6.2 Hold Harmless Provisions.

(a) The Company agrees that the Agency shall not be liable for and agrees to defend, indemnify, release and hold the Agency harmless from and against any and all (i) liability for loss or damage to property or injury to or death of any and all parties that may be occasioned by, directly or indirectly, any cause whatsoever, pertaining to the Facility or arising by reason of or in connection with the occupation or the use thereof or the presence of any person or property on, in or about the Facility or the Land or (ii) liability arising from or expense incurred by the Agency's construction and equipping, owning and leasing of the Facility, including without limiting the generality of the foregoing, all claims arising from the breach by the Company or any of its covenants contained herein, the exercise by the Company of the authority conferred upon it pursuant to Section 2.1(d) of this Lease and all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing, provided that any such losses, damages, liabilities or expenses of the Agency are not incurred or do not result from the gross negligence or intentional or willful wrongdoing of the Agency or any of its members, agents or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence in part of the Agency, or any of its members, directors, officers, agents or employees and irrespective of the breach of a statutory obligations or the application of any rule of comparative or apportioned liability.

(b) Notwithstanding any other provisions of this Lease, the obligations of the Company pursuant to this Section 6.2 shall remain in full force and effect after the termination of this Lease until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought and payment in full or the satisfaction of such claim, cause of action or prosecution relating to the matters herein described and the payment of all expenses and charges incurred by the Agency, or its respective members, directors, officers, agents and employees, relating to the enforcement of the provisions herein specified.

(c) In the event of any claim against the Agency or its members, officers, agents or employees by any employee or contractor of the Company or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the obligations of the Company hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation, disability benefits or other employee benefit acts.

Section 6.3 Right to Inspect Facility. The Agency and its duly authorized agents shall have the right at all reasonable times to inspect the Facility.

Section 6.4 Agreement to Provide Information. The Company agrees whenever requested by the Agency to provide and certify or cause to be provided and certified such information concerning the Company, its finances, its operations and its affairs necessary to enable the Agency to make any report required by law or any governmental regulation.

Section 6.5 Books of Record and Account. The Company at all times agrees to maintain proper accounts, records and books in which full and correct entries shall be made, in accordance with generally accepted accounting principles, of all transactions and events relating to the business and affairs of the Company.

Section 6.6 Compliance with Orders, Ordinances, Etc.

(a) The Company, throughout the Lease Term, agrees that it will promptly comply, and cause any sublessee or occupant of the Facility to comply, with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Facility or any part thereof or to the construction and equipping thereof, or to any use, manner of use or condition of the Facility or any part thereof, of all federal, state, county, municipal and other governments, departments, commissions, boards, courts, authorities, officials and officers and companies or associations insuring and having jurisdiction over the Facility or any part thereof, or to the construction and equipping thereof, or to any use, manner of use or condition of the Facility or any part thereof.

(b) The Company shall not cause or permit the Facility to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials, except in compliance with all applicable federal, state and local laws or regulations, nor shall the Company cause or permit, as a result of any intentional or unintentional act or omission on the part of the Company or any contractor,

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subcontractor, tenant or subtenant, a release of Hazardous Materials onto the Facility or onto any other property. The Company shall comply with and ensure compliance by all contractors, subcontractors, tenants and subtenants with all applicable federal, state and local laws, ordinances, rules and regulations, whenever and by whomever triggered, and shall obtain and comply with, and ensure that all contractors, subcontractors, tenants and subtenants obtain and comply with, any and all approvals, registrations or permits required thereunder. The Company shall (a) conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials, on, from or affecting the Facility (i) in accordance with all applicable federal, state, and local laws, ordinances, rules, regulations, and policies, (ii) to the satisfaction of the Agency and (iii) in accordance with the orders and directives of all federal, state, and local governmental authorities; and (b) defend, indemnify, and hold harmless the Agency, its employees, agents, officers, and members, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to (i) the presence, disposal, release or threatened release of any Hazardous Materials which are on, from or affecting the soil, water, vegetation, buildings, personal property, persons, animals or otherwise, (ii) any bodily injury, personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials, (iii) any lawsuit brought or threatened, settlement reached, or governmental order relating to such Hazardous Materials, and/or (iv) any violation of laws, orders, regulations, requirements, or demands of government authorities, or any policies or requirements of the Agency, which are based upon or in any way related to such Hazardous Materials, including, without limitation, attorney and consultant fees, investigation and laboratory fees, court costs, and litigation expenses. For purposes of this Section, "Hazardous Materials" includes, without limitation, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Superfund Amendments and Reauthorization Act of 1986 (Pub.L. No. 99-499, 100 stat. 1613 (1986), the Hazardous materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), and in the regulations adopted and publications promulgated pursuant thereto, or any other federal, state or local environmental law, ordinance, rule or regulation. The provisions of this Section shall be in addition to any and all other obligations and liabilities the Company may have to the Agency at common law, and shall survive the transactions contemplated herein.

(c) Notwithstanding the provisions of subsections (a) and (b) hereof, the Company may in good faith contest the validity or the applicability of any requirement of the nature referred to in such subsections (a) and (b) by appropriate legal proceedings conducted in good faith and with due diligence. In such event, the Company may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom, unless the Agency shall notify the Company that by failure to comply with such requirement or requirements, the Facility or any part thereof may be subject to loss, penalty or forfeiture, in which event the Company shall promptly take such action with respect thereto or provide such security as shall be satisfactory to Agency.

(d) Notwithstanding the provisions of this Section 6.6, if, because of a breach or violation of the provisions of subsections (a) or (b) hereof (without giving effect to subsection (c) hereof), the Agency or any of its members, officers, agents, or employees, shall be threatened with a fine or imprisonment, then, upon notice from the Agency, the Company shall immediately provide legal protection and/or pay amounts necessary in the opinion of the Agency and its members, officers, agents and employees sufficient, to the extent permitted by applicable law, to remove the threat of such fine or imprisonment.

(e) Notwithstanding any provision of this Section, the Agency retains the right to defend itself in any action or actions which are based upon or in any way related to such Hazardous Materials. In any such defense of itself, the Agency shall select its own counsel, and any and all costs of such defense, including, without limitation, attorney and consultant fees, investigation and laboratory fees, court costs and litigation expenses, shall be paid by the Company.

Section 6.7 Depreciation Deductions and Investment Tax Credit. The parties agree that, as between them, the Company shall be entitled to all depreciation deductions with respect to any depreciable property comprising a part of the Facility and to any investment credit with respect to any part of the Facility.

ARTICLE VII

SALE OF FACILITY; ASSIGNMENTS

Section 7.1 Restriction on Sale of Facility.

Except as otherwise specifically provided in this Article VII and in Article VIII hereof, the Agency shall not sell, convey, transfer, encumber or otherwise dispose of the Facility or any part hereof or any of its rights under this Lease, without the prior written consent of the Company.

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Section 7.2 Assignment.

(a) This Lease may not be assigned, in whole or in part except on the following conditions:

(i) the assignee assumes the obligations of the Company hereunder to the extent of the interest assigned;

(ii) the Company furnishes to the Agency a true and complete copy of such assignment and the instrument of assumption;

Section 7.3 Merger of Agency.

(a) Nothing contained in this Lease shall prevent the consolidation of the Agency with, or merger of the Agency into, or transfer of title to the entire Facility to any other public benefit corporation or political subdivision which has the legal authority to own and lease the Facility, provided that upon such consolidation, merger or transfer, the due and punctual performance and observance of all the agreements and conditions of this Lease to be kept and performed by the Agency shall be expressly assumed in writing by the public benefit corporation or political subdivision resulting from such consolidation or surviving such merger or to which the Facility shall be transferred.

(b) Within thirty (30) days after the consummation of any such consolidation, merger or transfer of title, the Agency shall give notice thereof in reasonable detail to the Company.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.1 Events of Default Defined. The following shall be "Events of Default" under this Lease:

(i) the failure by the Company to pay or cause to be paid the amount specified to be paid pursuant to Section 3.3 hereof within twenty (20) days after written notice of such failure given to the Company by the Agency ;

(ii) the failure by the Company to observe and perform any covenant contained in the PILOT Agreement within ten (10) days after receipt of written notice of such failure given to the Company by the Agency;

(iii) the failure by the Company to observe and perform any other covenant, condition or agreement hereunder on its part to be observed or performed for a period of thirty (30)

days after written notice, specifying such failure and requesting that it be remedied, given to the Company by the Agency.

Section 8.2 Remedies on Default.

(a) Whenever any Event of Default shall have occurred, the Agency may take, to the extent permitted by law, any one or more of the following remedial steps:

(i) declare, by written notice to the Company, to be immediately due and payable, whereupon the same shall become immediately due and payable (A) all unpaid installments of rent payable pursuant to Section 3.3 hereof; (B) the unamortized portion of the principal payments required to be paid pursuant to Paragraphs 3(a) and (b) of the PILOT Agreement and (C) all other payments due under this Lease.

(ii) terminate, on ten (10) days written notice to the Company, the Lease Term and all rights of the Company under this Lease and, without being liable for any prosecution or damages therefor, exclude the Company from possession of the Facility and lease the Facility to another party for the account of the Company, holding the Company liable for the amount, if any, by which the aggregate of the rents and other amounts payable by the Company hereunder exceeds the aggregate of the rents and other amounts received from such other party under the new lease and for all unpaid payments in lieu of taxes pursuant to Sections 3(a) and (b) of the PILOT Agreement;

(iii) take any other action at law or in equity which may appear necessary or desirable to collect the payments then due or thereafter to become due hereunder and under the PILOT Agreement, to secure possession of the Facility, and to enforce the obligations, agreements or covenants of the Company under this Lease and under the PILOT Agreement.

(b) No action taken pursuant to this Section 8.2 (including repossession of the Facility) shall relieve the Company from its obligation to make all payments required by Section 5.3 hereof or under Sections 3(a) or (b) of the PILOT Agreement.

ARTICLE IX

EARLY TERMINATION OF LEASE;
OPTION IN FAVOR OF COMPANY

Section 9.1 Early Termination of Lease. The Company shall have the option to terminate this Lease at any time upon filing with the Agency a certificate stating the Company's intention to do so pursuant to this Section and the date upon which such termination shall occur.

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Section 9.2 Conditions to Early Termination of Lease.

In the event the Company exercises its option to terminate this Lease in accordance with the provisions of Section 9.1 hereof, the Company shall pay to the Agency an amount equal to all unpaid payments in lieu of taxes pursuant to Section 4 of the PILOT Agreement.

Section 9.3 Obligation to Purchase Facility.

Upon termination or expiration of the Lease Term, the Company shall purchase the Facility from the Agency for the purchase price of One Dollar (\$1.00) plus all unpaid payments in lieu of taxes pursuant to Section 4 of the PILOT Agreement. The Company shall purchase the Facility by giving written notice to the Agency (i) declaring the Company's election to purchase and (ii) fixing the date of closing such purchase, which shall be the date on which this Lease is to be terminated.

Section 9.4 Conveyance on Purchase.

At the closing of any purchase of the Facility pursuant to Sections 9.1 and 9.3 hereof, the Agency shall, upon receipt of the purchase price, deliver to the Company all necessary documents to convey to the Company title to the Facility subject only to the following: (A) any liens created at the request of the Company, to the creation of which the Company consented or in the creation of which the Company acquiesced, (B) any liens or encumbrances existing on the date hereof and (C) any liens resulting from the failure of the Company to perform or observe any of the agreements on its part contained in this Lease or arising out of an Event of Default hereunder.

ARTICLE X

MISCELLANEOUSSection 10.1 Notices.

All notices, certificates and other communications hereunder shall be in writing and shall be either delivered personally or sent by certified mail, postage prepaid, return receipt requested, addressed as follows or to such other address as any party may specify in writing to the other:

To the Agency:

Schuyler County Industrial Development Agency
208 Broadway
Montour Falls, New York 14865

To the Company:

Peter Krog
James^A Zaepfel
5505 Main Street
Williamsville, New York 14221

Any such notice shall be deemed to have been given upon receipt or upon refusal of the party being notified to accept delivery of such notice.

Section 10.2 Binding Effect. This Lease shall inure to the benefit of and shall be binding upon the parties and their respective successors and assigns.

Section 10.3 Severability. In the event any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 10.4 Amendments, Changes and Modifications. This Lease may not be amended, changed, modified, altered or terminated except in a writing executed by the parties hereto.

Section 10.5 Execution of Counterparts. This Lease may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 10.6 Applicable Law. This Lease shall be governed exclusively by the applicable laws of the State of New York without regard or reference to its conflict of law principles.

Section 10.7 Subordination of Fee Interest.

The Agency covenants, warrants and agrees whenever and as often as Company may request, during the existence of this Lease, to mortgage its fee title to the Facility and to subject and subordinate the said title and the Agency's interest in this Lease to the lien of any mortgages for the benefit of the Company.

The Agency covenants, warrants and agrees whenever and as often as Company may request, to join in the execution of notes or bonds and mortgages, and such related and customary instruments as may be required to impose valid liens on the Facility, or any portion or portions thereof that may be designated by the Company, and to execute such amendments and modifications to this Lease and documents in connection with such mortgages as may be reasonably required by the mortgagees. The aforesaid instruments and/or mortgages shall be secured by the Facility or such parts thereof as shall be designated by the Company.

The Agency's obligation to join in the execution of the aforesaid mortgage instruments shall be subject to the condition that the notes, bonds and mortgages and related instruments by

their terms shall provide that there shall be no personal liability thereunder on the part of the Agency and that the obligees and mortgagees shall look solely to the security of the mortgage for repayment.

Section 10.8 Limitation of Liability.

Notwithstanding anything contained in this Lease to the contrary, the Company and the entities or persons comprising the Company shall have no personal liability for the payment of any sums due hereunder or for the performance of any of the terms, covenants and conditions contained herein. In the event the Company defaults in making any payments hereunder or in performing any of the terms, covenants and conditions contained herein, the Agency shall have recourse to the Company's interest in the Facility only and shall not seek to enforce any judgment against any of the other assets of the Company or of the individuals or entities comprising the Company.

Section 10.9 Interim Lease. The Agency and the Company hereby acknowledge that this Lease is intended to be an interim lease and is intended to be amended and restated at such time as the Agency issues its industrial revenue bond for the construction and equipping of the Facility.

IN WITNESS WHEREOF, the Agency and the Company have caused this Lease to be executed in their respective names by their duly authorized officers, all as of December 2, 1991.

AGENCY:

SCHUYLER COUNTY INDUSTRIAL DEVELOPMENT AGENCY

By David Merrilweather, Chairman
David Merrilweather,
Chairman

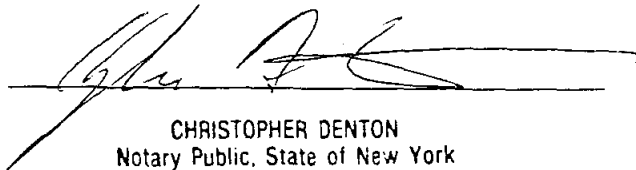
COMPANY:

RECEIVED 11/29
REAL ESTATE
DEC - 4 1991
TRANSFER TAX
SCHUYLER
COUNTY

Peter Krog
PETER KROG
James A. Zaepfel
JAMES A. ZAEPFEL

STATE OF NEW YORK)
COUNTY OF SCHUYLER) SS:


On the 2nd day of December, 1991, before me personally appeared David Merriweather, to me known, who, being by me duly sworn, did depose and say that he resides at Montour-Townsend Rd., Montour Falls, New York; that he is the Chairman of the SCHUYLER COUNTY INDUSTRIAL DEVELOPMENT AGENCY, Schuyler County, New York, the public benefit corporation of the State of New York described in and which executed the within Lease; and that he signed his name thereto by order of the members of said public benefit corporation.



CHRISTOPHER DENTON
Notary Public, State of New York
Chemung County, No. 4663718
Commission Expires Nov. 30, 1993

STATE OF NEW YORK)
COUNTY OF SCHUYLER) SS:

On this 2nd day of December, 1991 before me, the subscriber, personally appeared PETER KROG and JAMES A ZAEPFEL, to me known and known to me to be the same person described in and who executed the within instrument, and they acknowledged to me that they executed the same.



PETER S. GILFILLAN
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Nov. 30, 1993

LEASE AGREEMENT

between
SCHUYLER COUNTY INDUSTRIAL
DEVELOPMENT AGENCY
and
PETER KROG and JAMES ZAEPFEL

Dated: December 2, 1991

SCHUYLER COUNTY CLERK
RECORDED ON THE 4 DAY OF
Dec 19 91 AT 10:41 O'CLOCK
P. M. BY MISS 37 OF Schuyler
PAGE 237 AND 238
P. S. Gilfillan, Notary

RECORD AND RETURN TO:
Peter S. Gilfillan, Esq.
Gross, Shuman, Brizdler & Gilfillan, P.C.
465 Main St., Suite 600
Buffalo, New York 14203
(716) 854-4300

**ACCESS AGREEMENT FOR PARCEL NUMBERS
65.09-2, 59.2, 59.1, AND 56**



SCHUYLER COUNTY INDUSTRIAL DEVELOPMENT AGENCY

2 N. Franklin Street, Suite 330, Watkins Glen, NY 14891 - (607) 535-4341

May 27, 2005

Peter Krog
The Krog Corporation
4 Centre Drive
Orchard Park NY 14127

Dear Peter:

As the Schuyler County Industrial Development Agency who holds title to the property tax parcel number's 65.09-2, 59.2, 59.1 and 56 we give you full access to carry on with your project.

Sincerely,

A handwritten signature in cursive script that reads "Kevin Murphy". The ink is dark and the signature is fluid.

Kevin Murphy
Chair



SCHUYLER COUNTY INDUSTRIAL DEVELOPMENT AGENCY

2 N. Franklin Street, Suite 330, Watkins Glen, NY 14891 - (607) 535-4341

Fax

To: Scott Fairbrother, Krog Corp.	From: Anne Bailey
Fax: 716-667-1258	Pages: 2
Phone:	Date: May 27, 2005
Re: Krog Property	CC:
<input type="checkbox"/> Urgent <input checked="" type="checkbox"/> For Review <input type="checkbox"/> Please Comment <input type="checkbox"/> Please Reply <input type="checkbox"/> Please Recycle	

• **Comments:**

ATTACHMENT 2

PROJECT DESCRIPTION/SCHEDULE

**Seneca Market I, LLC
Seneca Harbor Hotel, Watkins Glen, New York
Brownfield Cleanup Program Application**

Project Description and Schedule

Background

Seneca Market I, LLC and Seneca Market II, LLC (hereafter referred to jointly as Seneca Market) own 0.29 and 0.2-acre parcels, respectively within the block bounded by Franklin, First, Decatur Streets, and the Finger Lakes Railway right-of-way in the Village of Watkins Glen, Schuyler County, New York (see Figures 1 and 2). Seneca Market has an option on a 1.76-acre parcel and 0.13-acre parcel within this same block. The approximately 0.29-acre parcel, located along North Franklin Street, contains the Seneca Market building, a multipurpose shopping and office building located along the northern side of the property. The approximately 0.20-acre parcel contains the former Glen Vintage Auto Museum (presently unoccupied). The western portion of the 1.76-acre parcel contains a large block building that was formerly used as a bus garage and is currently leased to Seneca Hardwoods, a manufacturer of custom flooring. A building foundation, reputedly a remnant of a former Welch's Grape facility, also remains on the 1.76-acre parcel.

The 0.13-acre parcel contains a structure deemed the "former dry cleaning building." This is a two-story brick building that includes two (2) unoccupied single-story brick sheds to the east. A VFW building is located immediately south of the former dry cleaning building, but is outside of the 0.13-acre property limits. The former dry cleaning building is presently occupied by a real estate firm.

The parcels have a history of use that dates back to the 1860s. The Seneca Market building has formerly been used as a foundry; a flour and grist mill; and most recently retail shops on the first floor and professional office space on the second and third floors. A marble works building was formerly present just south of Seneca Market until it was destroyed in 1970. The former Auto Museum was previously used for miscellaneous storage, in particular auto parts. The dry cleaning building has mainly been used for retail businesses, a machine shop, and for dry cleaning operations.

Environmental Investigations and Remedial Efforts

Chlorinated Organic-Impacted Area

A 1991 Environmental Assessment of the Site revealed that groundwater under a portion of the property (i.e., 20 Franklin Street at the corner of North Franklin and First) was contaminated with chlorinated organic compounds associated with the former dry cleaning operations. NYSDEC subsequently listed an approximate 0.3-acre portion of the property as a Class 2 inactive hazardous waste

site (i.e., "the North Franklin Street Site" - NYSDEC Registry No. 8-49-002). The inactive hazardous waste site encompasses the 0.13-acre parcel, including the former dry cleaner building, and a portion of the 0.20-acre parcel. A Remedial Investigation/Feasibility Study (RI/FS) performed and completed in 1993 by URS Consultants under a Standby Contract with the NYSDEC delineated the extent of soil and groundwater contamination on and adjacent to the Franklin Street site. URS subsequently designed remediation systems to treat soil and groundwater, pursuant to a Record of Decision (ROD) signed in 1994. The remedial measures included a soil vapor extraction (SVE) system to treat shallow VOC-impacted soil, and a groundwater pump and treat system to extract and treat groundwater adjacent to the former dry cleaner building. The systems were placed into operation in Fall of 1996. Confirmatory soil samples collected during remediation indicated that SVE had effectively cleaned up the soil near the extraction wells, underneath the former auto museum, and to the rear of the former dry cleaning building. However, in the process of collecting the confirmatory soil samples, it was discovered that the soil contaminant concentrations in the immediate vicinity of the dry cleaning building were much higher and extended deeper into clay than previously thought. SVE did not clean up this area of highly contaminated soil to cleanup objectives despite subsequent modifications to and extended operation of the SVE system. Operation of the SVE system was suspended in March 1998 and operation of the groundwater treatment system was suspended at the end of April 1998, pending the results of further investigations.

In 1998/1999, URS performed additional soil investigations and cleanup technology feasibility studies to evaluate deeper soil contamination. It was concluded that chlorinated organic compounds remained on-site in a small area directly adjacent to and outside the former dry cleaning building, as well as beneath the dry cleaner building at depths greater than 16 feet. A chemical oxidation pilot study conducted from March through May 2000 significantly reduced the mass of chlorinated contaminants in Site soils. Despite the reduction, localized areas of residual chlorinated organic contamination remain in soils and groundwater adjacent to and beneath the former dry cleaner building. In March 2004, an active venting system was installed within the former dry cleaner building to control the potential indoor migration of vapors from the residual contamination. In addition, deed restrictions were placed on the inactive hazardous waste site to prevent usage of groundwater and contact with residual soil contamination.

Other Areas

A Phase I Environmental Site Assessment (ESA) was performed in November 1991 for the parcels on the eastern portion of the subject property. The ESA identified several potential environmental conditions including possible underground storage tanks, drums, an inoperable piston arrangement for a hydraulic lift, and oil spills near the corner of First and Decatur Streets. Petroleum hydrocarbons, lower levels of chlorinated hydrocarbons, and several elevated inorganic compounds related to the above described conditions were detected in the

soil and groundwater during the RI/FS. Two areas on the larger parcel that contained soil heavily contaminated with benzene, toluene, ethylbenzene, and xylene (BTEX) were excavated and bioremediated off-site in the late 1990s. As such, residual BTEX contamination in soil and groundwater may exist proximate to these historic source areas. In addition, the RI identified BTEX contamination in soil/fill and groundwater beneath the former bus garage near the former dry cleaner building. While SVE and/or insitu oxidation treatment of the chlorinated organic impacted soils may have partially addressed the BTEX impacted soils, there is likely residual BTEX contamination in soil/fill beneath the former bus garage.

Intended Future Use of Site

Seneca Market plans to redevelop the approximately 2.38-acre site as a hotel complex (see Figure 3). An additional 0.19-acre parcel along the railroad and 0.21-acre property south of First Street will also be incorporated in the plan to provide space for a hotel veranda and ancillary parking, respectively. With the exception of the Seneca Market building, all buildings and foundations within this entire 2.77-acre site will be demolished to facilitate redevelopment efforts. Areas within the site that are not incorporated into the hotel or related structures will be covered by asphalt parking areas, driveway and landscaping.

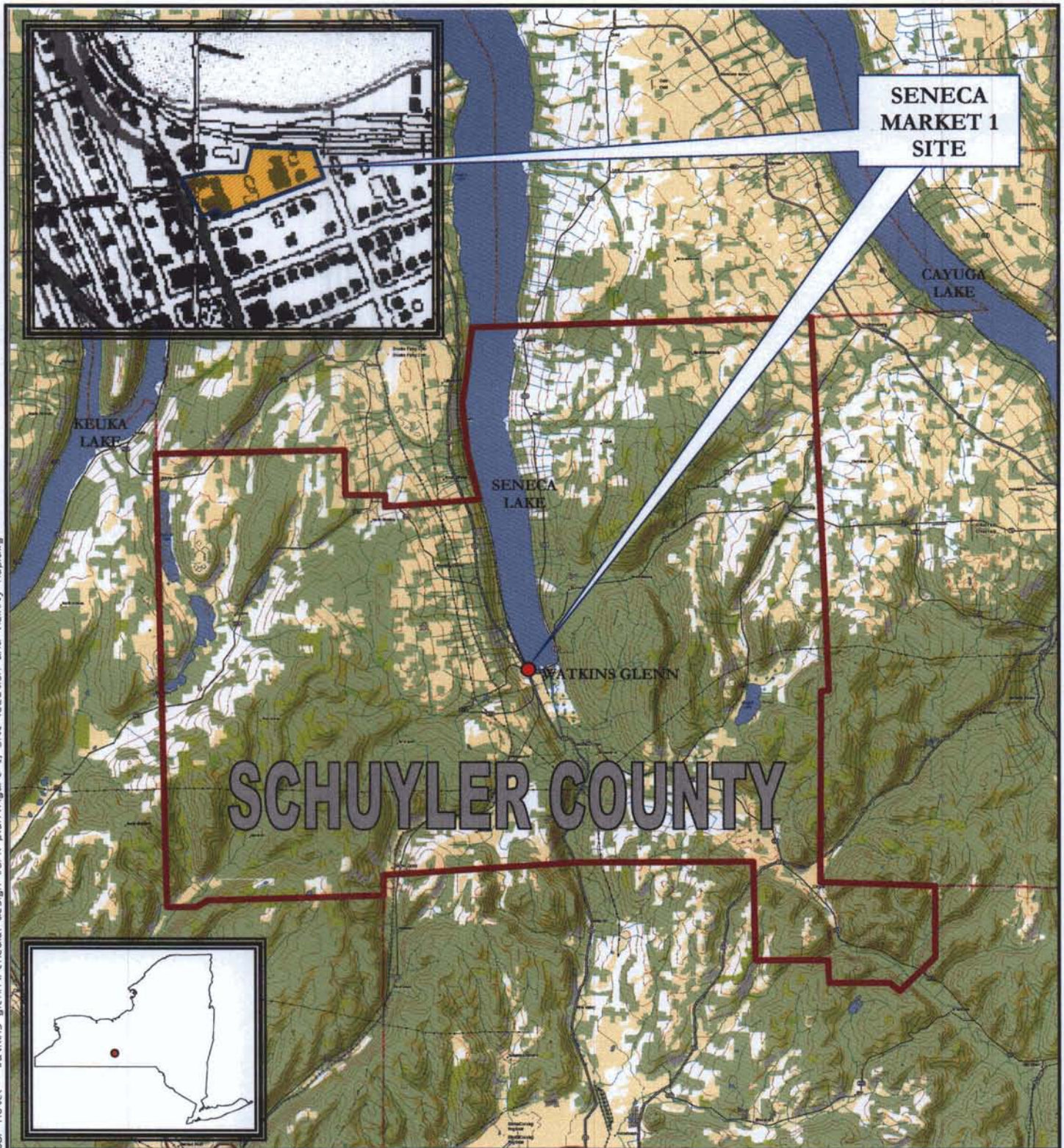
Schedule

A proposed Project Schedule is attached.

References

The Brownfield Cleanup Program (BCP) Application requests that any existing investigation documents be enclosed with the BCP Application. The investigation and remedial work performed to-date on the site has been led by the NYSDEC. Consequently, the NYSDEC already maintains copies of these documents on file. However, for illustration purposes Attachment 3 presents the planned hotel redevelopment relative to areas of soil and groundwater contamination as determined during previous investigations.

FIGURE 1



FILEPATH: g:\cad\benchmark\krog\seneca harbor hotel - watkins glenn\renewal design work plan\Figure 1j site location and vicinity map.dwg



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 ENVIRONMENTAL
 ENGINEERING &
 SCIENCE, PLLC

726 EXCHANGE STREET
 SUITE 624
 BUFFALO, NEW YORK 14210
 (716) 656-0599

SITE LOCATION AND VICINITY MAP
 BROWNFIELDS CLEANUP PROGRAM

SENECA MARKET 1 SITE
 WATKINS GLENN, NEW YORK








PREPARED FOR
 SENECA MARKET 1, LLC

PROJECT NO.: 0092-002-100
 DATE: MAY 2005
 DRAFTED BY: BCH

DATE: JUNE 2005
 DRAFTED BY: BCH
 FILEPATH: g:\ood\benchmark\proj\seneca harbor hotel - wtkins glen\remedial design work plan\figure 2_ site plan.dwg



LEGEND:

-  SITE PROPERTY BOUNDARY
-  PARCEL BOUNDARY
-  SENECA MARKET BUILDING (*Seneca Market I, LLC*)
-  FORMER GLEN VINTAGE AUTO MUSEUM BUILDING (VACANT) (*Seneca Market II, LLC*)
-  FORMER DRY CLEANER (*Salvatore & Marion Scala*)
-  FORMER BUS GARAGE (SENECA HARDWOODS BUILDING) (*Schuyler County IDA*)
-  REPUTED FORMER WELCH'S GRAPE FACILITY FOUNDATION (*Schuyler County IDA*)



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

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 (716) 856-0599

JOB NO.: 0092-002-100

SITE PLAN
 REMEDIAL DESIGN WORK PLAN
 SENECA MARKET 1 SITE
 WATKINS GLEN, NEW YORK
 PREPARED FOR
 SENECA MARKET 1, LLC

FIGURE 2

PROJECT SCHEDULE
 SENECA MARKET 1, LLC
 BROWNFIELD CLEANUP AND REDEVELOPMENT

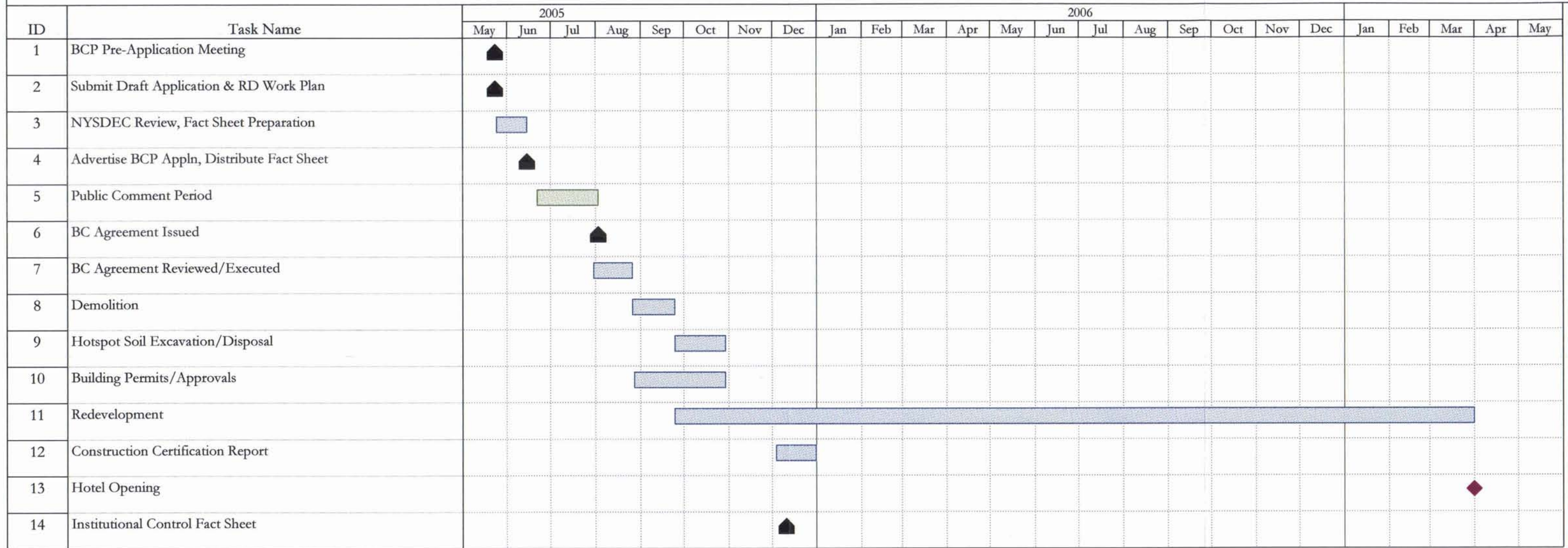
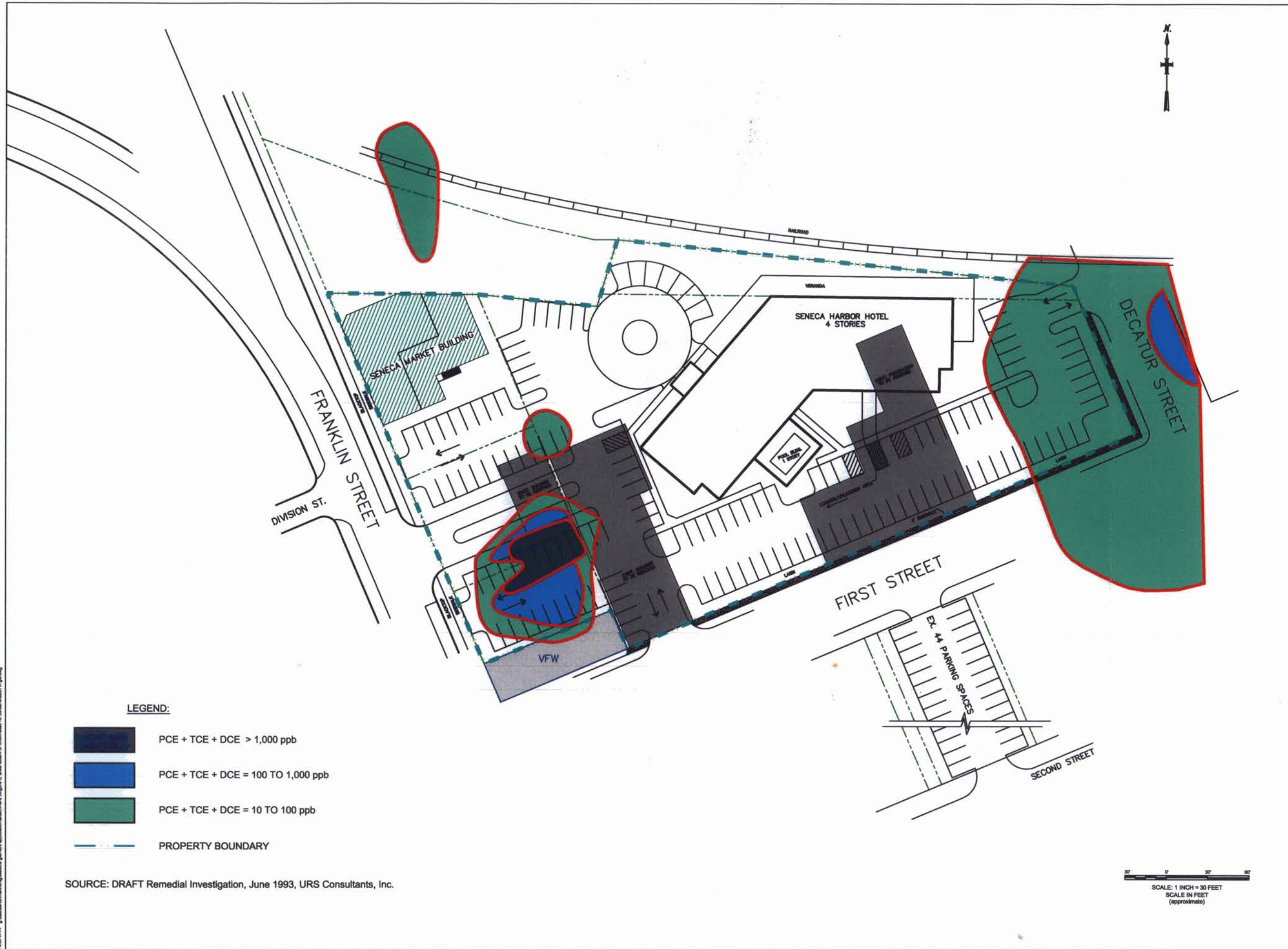


FIGURE 5

ATTACHMENT 3

PLANNED HOTEL REDEVELOPMENT RELATIVE TO SOIL AND GROUNDWATER CONTAMINATION

FILEPATH: \\sambenchmark\working\p0000\app\contaminated\m2\figure 3, areal extent of chlorinated hydrocarbon contamination in pdf.dwg



- LEGEND:**
- PCE + TCE + DCE > 1,000 ppb
 - PCE + TCE + DCE = 100 TO 1,000 ppb
 - PCE + TCE + DCE = 10 TO 100 ppb
 - PROPERTY BOUNDARY

SOURCE: DRAFT Remedial Investigation, June 1993, URS Consultants, Inc.



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NO.	BY	DATE	REVISIONS

SEAL

DRAWN BY: BCH	DATE: JUNE 2005
CHECKED BY: PHW	APPROVED BY: PHW

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AREAL EXTENT OF CHLORINATED HC CONTAMINATION IN SOIL

BROWNFIELD CLEANUP APPLICATION - ATTACHMENT 3
 WATKINS GLEN, NEW YORK

PREPARED FOR
 SENECA MARKET 1, LLC

FIGURE 3

