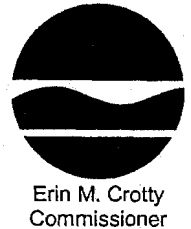


New York State Department of Environmental Conservation
Division of Environmental Remediation
Bureau of Technical Support, 11th Floor
625 Broadway, Albany, New York 12233-7020
Phone: (518) 402-9553 • FAX: (518) 402-9577
Website: www.dec.state.ny.us

file



MEMORANDUM

TO: See Distribution List

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

SUBJECT: Brownfield Cleanup Program Application
Former Ames/Hills Plaza, C907029

DATE: OCT 22 2004

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 me at 518-402-9553.

The Time and Activity Code for the subject site is: N685 (On-Site); N686 (Off-Site)

Attachment(s)

Distribution

Original (with all attachments) to:

Jaspal Walia, NYSDEC Region 9

Copy (with all attachments) to:

Gary Litwin, NYSDOH - DEHI Bureau of Environmental Exposure Investigation

Edward Belmore, NYSDEC - DER Remedial Bureau D

Joseph Ryan, NYSDEC DEE Region 9

Anne Hohenstein, NYSOSC

Copy (without attachments) to:

Anthony Quartararo, NYSDEC - DEE Superfund and Voluntary Cleanup Bureau

Christina Dowd, NYSDEC - DFWMR Bureau of Habitat

Martin Doster, NYSDEC Region 9

New York State Department of Environmental Conservation

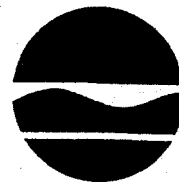
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Erin M. Crotty
Commissioner

OCT 20 2004

Mr. Peter L. Krog
The Krog Corporation
4 Centre Drive
Orchard Park, NY 14127

Re: Brownfield Cleanup Application
Former Ames/Hills Plaza
BCP ID C907029

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 thirty-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 applicant 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 notice 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 October 27, 2004. Additionally, all of the above-mentioned mailings should be completed no later than October 26, 2004. 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 thirty-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 9
270 Michigan Avenue
Buffalo, New York 14203
ATTN: Jasper Walia

The Department will make every effort to determine your eligibility and status under the BCP by December 11, 2004. 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

Enclosures

ec: w/enc.:
J. Walia
M. VanValkenburg, NYSDOH
A. Quartararo

Instructions to Applicant Regarding Placing and Mailing of Notification Regarding Completeness Determination

1) The enclosed notice must be provided, without modification, by the applicant to a local newspaper of general circulation servicing the area including the brownfield site for publication no later than the date specified in the cover letter. The notice must be located prominently in the community bulletin section or similar local section of the newspaper. The notice must be published in English and in any other language spoken by significant numbers of people within the community.

2) The enclosed notice must be mailed, without modification, by the applicant to the brownfield site contact list as identified in the applicant's application. The mailing must be performed by the date specified in the cover letter. No other materials can be mailed with this notice.

3) The applicant must complete and submit to the Department the attached certificate of mailing within the time frame specified in the cover letter.

4) The applicant must forward to the Department proof of publication by the newspaper of the newspaper notice within the time frame specified in the cover letter.

5) The applicant must make available a copy of the application and all other related documents (i.e., Phase Assessment Reports, Remedial Investigation Work Plans and Reports and Remedial Design Work Plans) at the document repository specified in the public notice.

Instructions to Newspapers Regarding Printing the Public Notice

The enclosed notice announces the receipt of an application by the New York State Department of Environmental Conservation to the Department's Brownfield Cleanup Program. Pursuant to ECL Section 27-1407(5), the notice must be located prominently in the community bulletin section or similar local section of the newspaper. The notice must be published in English and in any other language spoken by significant numbers of people within the community.

Instructions to Individuals Receiving the Public Notice

The enclosed notice announces the receipt of an application by the New York State Department of Environmental Conservation to the Department's Brownfield Cleanup Program (BCP). Pursuant to ECL Section 27-1407(5), upon the Department's determination that a BCP application is complete, the applicant must send notice of the application to individuals on a site contact list. Please read the enclosed notice for further information and instructions.

Brownfield Cleanup Program

Former Ames/Hills Plaza

City of Jamestown, Chautauqua County

State of New York

NOTICE

Pursuant to ECL 27-1407 and 1417

The New York State Department of Environmental Conservation (Department) administers the Brownfield Cleanup Program pursuant to ECL 27-1400 et seq. The Brownfield Cleanup Program is designed to encourage the remediation of contaminated properties known as brownfields for reuse and redevelopment. The Krog Corporation has submitted an application to participate in the Brownfield Cleanup Program. The application was determined to be complete by the Department on October 20, 2004. The property described in the application is located at 15 South Main Street, Jamestown, NY 14701. The application proposes that the applicant will conduct investigation and/or remedial activities at the site. The application proposes that the site will be used for commercial purposes.

The Department will receive public comments concerning the application for thirty days from October 27, 2004 through November 26, 2004. After review of the application and any public comments received, the Department will determine whether to accept the Applicant's request to participate in the Brownfield Cleanup Program. If the Department accepts the Applicant's request to participate, it will execute a Brownfield Cleanup Agreement (BCA) with the Applicant. By executing a BCA, the Applicant would commit to undertake certain remedial activities under the Department's oversight. A copy of the application as well as a copy of its Appendices; a NYSDEC Fact Sheet; a Remedial Investigation Work Plan dated October 2004; and a Citizen Participation Plan dated October 2004 are available in the document repository for this site located at the James Prendergast Library, 509 Cherry Street, Jamestown, NY 14701.

The referenced documents are draft and have not been reviewed by the Department staff prior to their release for public comment. The Department, in conjunction with the New York State Department of Health will review these documents during the public comment period.

All citizens are encouraged to offer comments in writing to and refer questions to:

New York State Department of Environmental Conservation
Region 9
270 Michigan Avenue
Buffalo, NY 14203
ATTN: Jaspal Walia

Former Ames/Hills Plaza
BCP ID C907029

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

8/9/04

Applicant Information			
NAME	The Krog Corporation		
ADDRESS	4 Centre Drive		
CITY/TOWN	Orchard Park	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	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 checked="" type="checkbox"/> Potential /Future Purchaser <input type="checkbox"/> Other _____			
Current Owner/Operator Information			
OWNER'S NAME (if different from applicant)		(Acting Agent for Center - Jamestown Associates) (See Attachment 1)	
Walter A. Scott III			
ADDRESS	1146 Freeport Road		
CITY/TOWN	Pittsburgh, PA	ZIP CODE	15238
PHONE	412/782-2080	FAX	412/782-2066
		E-MAIL	ascott125@aol.com
OPERATOR'S NAME (if different from applicant)		Not Applicable	
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE		FAX	
		E-MAIL	

RECEIVED

AUG 01 2004

BUREAU OF
TECHNICAL SUPPORT

Site InformationSITE NAME **Former Ames/Hills Plaza**SITE ADDRESS **15 South Main Street** CITY/TOWN **Jamestown**ZIP CODE **14701**COUNTY **Chautauqua**SITE SIZE (ACRES) **7.0 acres**LATITUDE **42° 05' 36"**LONGITUDE **79° 14' 16"**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. **see attachment 2**

1. DO THE SITE BOUNDARIES CORRESPOND TO TAX MAP METES AND BOUNDS? ☐ YES ☒ NO
IF NO, PLEASE ATTACH A METES AND BOUNDS DESCRIPTION OF THE SITE.
2. IS THE SITE PART OF A DESIGNATED BROWNFIELD OPPORTUNITY AREA PURSUANT TO GML970-R? IF YES, IDENTIFY AREA (NAME) _____ ☐ YES ☒ 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 ☐ YES ☒ NO
IF YES, IDENTIFY AREA (NAME) _____

Applicant Eligibility Information (Please refer to ECL § 27-1407)

1. ARE ANY ENFORCEMENT ACTIONS PENDING AGAINST THE APPLICANT REGARDING THIS SITE? ☐ YES ☒ NO
2. IS THE APPLICANT SUBJECT TO AN OUTSTANDING CLAIM BY THE SPILL FUND FOR THIS SITE? ☐ YES ☒ NO
3. HAS THE APPLICANT VIOLATED ANY PROVISION OF ECL ARTICLE 27? ☐ YES ☒ NO
4. HAS THE APPLICANT BEEN PREVIOUSLY DENIED ENTRY TO THE BCP? ☐ YES ☒ NO
5. HAS THE APPLICANT COMMITTED A NEGLIGENT OR INTENTIONALLY TORTIOUS ACT REGARDING HAZARDOUS WASTE OR PETROLEUM? ☐ YES ☒ 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? ☐ YES ☒ NO
7. HAS THE APPLICANT KNOWINGLY FALSIFIED STATEMENTS OR CONCEALED MATERIAL FACTS IN A MATTER RELATED TO THE DEPARTMENT? ☐ YES ☒ 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? ☐ YES ☒ NO

Site Eligibility Information (Please refer to ECL § 27-1205)

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)? ☒ YES ☐ NO
2. IS THE SITE LISTED ON THE NATIONAL PRIORITIES LIST? ☐ YES ☒ NO
3. IS THE SITE LISTED ON THE NYS REGISTRY OF INACTIVE HAZARDOUS WASTE DISPOSAL SITES? ☐ YES ☒ NO
IF YES, PLEASE PROVIDE: SITE # _____ CLASS # _____
4. IS THE SITE SUBJECT TO A PERMIT UNDER ECL ARTICLE 27, TITLE 9, OTHER THAN AN INTERIM STATUS FACILITY? ☐ YES ☒ NO
5. IS THE SITE SUBJECT TO A CLEANUP ORDER UNDER NAVIGATION LAW ARTICLE 12 OR ECL ARTICLE 17 TITLE 10? ☐ YES ☒ NO
6. IS THE SITE SUBJECT TO A STATE OR FEDERAL ENFORCEMENT ACTION RELATED TO HAZARDOUS WASTE OR PETROLEUM? ☐ YES ☒ NO

Project Description

PLEASE ATTACH A DESCRIPTION OF THE PROJECT WHICH INCLUDES THE FOLLOWING COMPONENTS:

- PURPOSE AND SCOPE OF THE PROJECT
- ESTIMATED PROJECT SCHEDULE

Attachment 3

Site's Environmental History

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

1. **ENVIRONMENTAL DATA** See attachment 4

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** See attachment 5

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** See attachment 5

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: See attachment 6

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	X				
Chlorinated Solvents					
Other VOCs					
SVOCs	X				
Metals	X	X			
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 _____

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

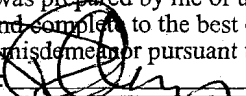
Yes No Unknown

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 checked="" type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input 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 type="checkbox"/>	<input checked="" type="checkbox"/>
11. Are there floodplains proximate to the site?	<input checked="" type="checkbox"/>	<input 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. See attachment 4			
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. See attachment 4			
15. Describe on attachment the geography and geology of the site. See attachment 4			
(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: _____ 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: <u>9/23/04</u> Signature: <u></u> Print Name: <u>Peter L. Kroq</u>			

SUBMITTAL INFORMATION:

Four (4) complete copies, one with original signatures, are required.

- Three (3) of the copies, one with original signatures, 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) 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>

The Department encourages applicants to submit an electronic copy (CD or diskette) of the application and attachments in addition to what is required above.

FOR DEPARTMENT USE ONLY

BCP SITE NO: _____ BCP SITE T&A CODE: _____ PROJECTMANAGER: _____