



Department of Environmental Conservation

BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION FORM

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

Yes No If yes, provide existing site number: _____

PART A (note: application is separated into Parts A and B for DEC review purposes) **BCP App Rev 9**

Section I: Requestor Information - See Instructions for Further Guidance

DEC USE ONLY
BCP SITE #:

NAME ACM Northfield CR #3, LLC
ADDRESS 780 Third Avenue, 27th Floor
CITY/TOWN New York, NY ZIP CODE 10017
PHONE 212-527-8184 FAX 917-274-1175 E-MAIL ufberg@atalayacap.com

Is the requestor authorized to conduct business in New York State (NYS)? Yes No
• If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's Corporation & Business Entity Database. A print-out of entity information from the database must be submitted to the New York State Department of Environmental Conservation (DEC) with the application, to document that the requestor is authorized to do business in NYS.
Do all individuals that will be certifying documents meet the requirements detailed below? Yes No
• Individuals that will be certifying BCP documents, as well as their employers, meet the requirements of Section 1.5 of DER-10: Technical Guidance for Site Investigation and Remediation and Article 145 of New York State Education Law. **Documents that are not properly certified will be not approved under the BCP.**

Section II: Project Description

1. What stage is the project starting at? Investigation Remediation
2. If the project is starting at the remediation stage, a Remedial Investigation Report (RIR), Alternatives Analysis, and Remedial Work Plan must be attached (see DER-10 / Technical Guidance for Site Investigation and Remediation for further guidance).
3. If a final RIR is included, please verify it meets the requirements of Environmental Conservation Law (ECL) Article 27-1415(2): Yes No
4. Please attach a short description of the overall development project, including:
• the date that the remedial program is to start; and
• the date the Certificate of Completion is anticipated.

Section III: Property's Environmental History

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

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

1. **Reports:** an example of an Investigation Report is a Phase II Environmental Site Assessment report prepared in accordance with the latest American Society for Testing and Materials standard (ASTM E1903).

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

Contaminant Category	Soil	Groundwater	Soil Gas
Petroleum			Not sampled
Chlorinated Solvents	Methylene Chloride 1,100 ppm	Methylene Chloride 13 ppb	Not sampled
Other VOCs	Toluene 19,000 ppm, Acetone 1,300 pp,		Not sampled
SVOCs			Not sampled
Metals	Barium 973 ppm, Mercury 6.7 ppm	Magnesium 154,000 ppm	
Pesticides			
PCBs	<1 ppm		
Other*	See Table 1	See Table 2	

*Please describe: Results from NYSDEC Site Evaluation Report 2008 and prior reports referenced.

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

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

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

ARE THE REQUIRED MAPS INCLUDED WITH THE APPLICATION?*
 (*answering No will result in an incomplete application)

Yes No

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

- | | | | |
|---|---|---|--|
| <input type="checkbox"/> Coal Gas Manufacturing | <input checked="" type="checkbox"/> Manufacturing | <input type="checkbox"/> Agricultural Co-op | <input type="checkbox"/> Dry Cleaner |
| <input type="checkbox"/> Salvage Yard | <input type="checkbox"/> Bulk Plant | <input type="checkbox"/> Pipeline | <input type="checkbox"/> Service Station |
| <input type="checkbox"/> Landfill | <input type="checkbox"/> Tannery | <input type="checkbox"/> Electroplating | <input type="checkbox"/> Unknown |

Other: _____

Section IV. Property Information - See Instructions for Further Guidance

PROPOSED SITE NAME **Bisonite Paint Co.**

ADDRESS/LOCATION **2268 Military Road**

CITY/TOWN **Tonawanda** ZIP CODE **14150**

MUNICIPALITY(IF MORE THAN ONE, LIST ALL): **Kenmore**

COUNTY **Erie**

SITE SIZE (ACRES) **4.00**

LATITUDE (degrees/minutes/seconds)
42 ° 59 ' 54.81 "

LONGITUDE (degrees/minutes/seconds)
78 ° 52 ' 59.81 "

COMPLETE TAX MAP INFORMATION FOR ALL TAX PARCELS INCLUDED WITHIN THE PROPERTY BOUNDARIES. ATTACH REQUIRED MAPS PER THE APPLICATION INSTRUCTIONS.

Parcel Address	Section No.	Block No.	Lot No.	Acreage
2268 Military Road	52.12	6	17.1	3.616
See attached supporting documentation.				

1. Do the proposed site boundaries correspond to tax map metes and bounds? Yes No
If no, please attach a metes and bounds description of the property.

2. Is the required property map attached to the application? Yes No
(application will not be processed without map)

3. Is the property within a designated Environmental Zone (En-zone) pursuant to Tax Law 21(b)(6)? Yes No
(See [DEC's website](#) for more information)

If yes, identify census tract : 83

Percentage of property in En-zone (check one): 0-49% 50-99% 100%

4. Is this application one of multiple applications for a large development project, where the development project spans more than 25 acres (see additional criteria in BCP application instructions)? Yes No

If yes, identify name of properties (and site numbers if available) in related BCP applications: _____

5. Is the contamination from groundwater or soil vapor solely emanating from property other than the site subject to the present application? Yes No

6. Has the property previously been remediated pursuant to Titles 9, 13, or 14 of ECL Article 27, Title 5 of ECL Article 56, or Article 12 of Navigation Law? Yes No
If yes, attach relevant supporting documentation.

7. Are there any lands under water? Yes No
If yes, these lands should be clearly delineated on the site map.

Section IV. Property Information (continued)

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

Easement/Right-of-way Holder

Description

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

Type

Issuing Agency

Description

10. Property Description and Environmental Assessment – please refer to application instructions for the proper format of each narrative requested.

Are the Property Description and Environmental Assessment narratives included in the prescribed format? Yes No

11. For sites located within the five counties comprising New York City, is the requestor seeking a determination that the site is eligible for tangible property tax credits?
If yes, requestor must answer questions on the supplement at the end of this form. Yes No

12. Is the Requestor now, or will the Requestor in the future, seek a determination that the property is Upside Down? Yes No

13. If you have answered Yes to Question 12, above, is an independent appraisal of the value of the property, as of the date of application, prepared under the hypothetical condition that the property is not contaminated, included with the application? Yes No

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

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

Initials of each Requestor: _____

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

Section V. Additional Requestor Information See Instructions for Further Guidance	DEC USE ONLY BCP SITE NAME: _____ BCP SITE #: _____
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NAME OF REQUESTOR'S AUTHORIZED REPRESENTATIVE Robert Flowers		
ADDRESS 780 Third Ave, 27th Floor		
CITY/TOWN New York, NY		ZIP CODE 10017
PHONE 212-527-8184	FAX 917-274-1175	E-MAIL ufberg@atalayacap.com
NAME OF REQUESTOR'S CONSULTANT Leader Professional Services, Inc.		
ADDRESS 271 Marsh Road, Suite 2		
CITY/TOWN Pittsford		ZIP CODE 14534
PHONE 585-248-2413	FAX 585-248-2834	E-MAIL mrumrill@leaderlink.com
NAME OF REQUESTOR'S ATTORNEY Greta Kolcon, Woods Oviatt Gilman		
ADDRESS 700 Crossroads Building 2, State Street		
CITY/TOWN Rochester, NY		ZIP CODE 14614
PHONE 585-987-2812	FAX 585-987-2912	E-MAIL gkolcon@woodsoviatt.com

Section VI. Current Property Owner/Operator Information – if not a Requestor

CURRENT OWNER'S NAME		OWNERSHIP START DATE:
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL
CURRENT OPERATOR'S NAME		
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL

IF REQUESTOR IS NOT THE CURRENT OWNER, DESCRIBE REQUESTOR'S RELATIONSHIP TO THE CURRENT OWNER, INCLUDING ANY RELATIONSHIP BETWEEN REQUESTOR'S CORPORATE MEMBERS AND THE CURRENT OWNER.
PROVIDE A LIST OF PREVIOUS PROPERTY OWNERS AND OPERATORS WITH NAMES, LAST KNOWN ADDRESSES AND TELEPHONE NUMBERS AS AN ATTACHMENT. DESCRIBE REQUESTOR'S RELATIONSHIP, TO EACH PREVIOUS OWNER AND OPERATOR, INCLUDING ANY RELATIONSHIP BETWEEN REQUESTOR'S CORPORATE MEMBERS AND PREVIOUS OWNER AND OPERATOR. IF NO RELATIONSHIP, PUT "NONE".

Section VII. Requestor Eligibility Information (Please refer to ECL § 27-1407)

If answering "yes" to any of the following questions, please provide an explanation as an attachment.

1. Are any enforcement actions pending against the requestor regarding this site? Yes No
2. Is the requestor subject to an existing order for the investigation, removal or remediation of contamination at the site? Yes No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator Yes No

Section VII. Requestor Eligibility Information (continued)

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

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

PARTICIPANT

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

VOLUNTEER

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

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

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

Section VII. Requestor Eligibility Information (continued)

Requestor Relationship to Property (check one):

Previous Owner Current Owner Potential /Future Purchaser Other _____

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

Yes No

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

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

1. Is / was the property, or any portion of the property, listed on the National Priorities List?
If yes, please provide relevant information as an attachment. Yes No
2. Is / was the property, or any portion of the property, listed on the NYS Registry of Inactive Hazardous Waste Disposal Sites pursuant to ECL 27-1305?
If yes, please provide: Site # 915010 Class # 3 Yes No
3. Is / was the property subject to a permit under ECL Article 27, Title 9, other than an Interim Status facility?
If yes, please provide: Permit type: _____ EPA ID Number: _____
Date permit issued: _____ Permit expiration date: _____ Yes No
4. If the answer to question 2 or 3 above is yes, is the site owned by a volunteer as defined under ECL 27-1405(1)(b), or under contract to be transferred to a volunteer? Attach any information available to the requestor related to previous owners or operators of the facility or property and their financial viability, including any bankruptcy filing and corporate dissolution documentation. Yes No
5. Is the property subject to a cleanup order under Navigation Law Article 12 or ECL Article 17 Title 10?
If yes, please provide: Order # _____ Yes No
6. Is the property subject to a state or federal enforcement action related to hazardous waste or petroleum?
If yes, please provide explanation as an attachment. Yes No

Section IX. Contact List Information

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

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

Section X: Land Use Factors

1. What is the current zoning for the site? What uses are allowed by the current zoning?
 Residential Commercial Industrial
 If zoning change is imminent, please provide documentation from the appropriate zoning authority.

2. Current Use: Residential Commercial Industrial Vacant Recreational (check all that apply)
Attach a summary of current business operations or uses, with an emphasis on identifying possible contaminant source areas. If operations or uses have ceased, provide the date.

3. Reasonably anticipated use Post Remediation: Residential Commercial Industrial (check all that apply) **Attach a statement detailing the specific proposed use.**

If residential, does it qualify as single family housing? Yes No

4. Do current historical and/or recent development patterns support the proposed use? Yes No

5. Is the proposed use consistent with applicable zoning laws/maps? Briefly explain below, or attach additional information and documentation if necessary. Yes No

See attached supporting documentation.

6. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, or other adopted land use plans? Briefly explain below, or attach additional information and documentation if necessary. Yes No

See attached supporting documentation.

XI Statement of Certification and Signatures

(By requestor who is an individual)

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

Date: _____ Signature: _____

Print Name: _____

(By a requestor other than an individual)

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

Date: 9/12/17 Signature: [Signature]

Print Name: by: Robert Flowers, its Authorized Representative

SUBMITTAL INFORMATION:

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

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

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

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

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

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

Project is an Affordable Housing Project - Regulatory Agreement Attached;

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

This is Not an Affordable Housing Project.

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

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

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

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

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

BCP Application Summary (for DEC use only)

Site Name: Bisonite Paint Co.
City: Tonawanda

Site Address: 2268 Military Road
County: Erie **Zip:** 14150

Tax Block & Lot

Section (if applicable): 52.12 **Block:** 6 **Lot:** 17.1

Requestor Name: ACM Northfield CR #3, LLC
City: New York, NY

Requestor Address: 780 Third Avenue, 27th Floor
Zip: 10017 **Email:** ufberg@atalayacap.com

Requestor's Representative (for billing purposes)

Name: Robert Flowers
City: New York, NY

Address: 780 Third Ave, 27th Floor
Zip: 10017

Email: ufberg@atalayacap.com

Requestor's Attorney

Name: Greta Kolcon, Woods Ovlatt Gilman
City: Rochester, NY

Address: 700 Crossroads Building 2, State Street
Zip: 14619

Email: gkolcon@woodsovlatt.com

Requestor's Consultant

Name: Leader Professional Services, Inc.
City: Pittsford

Address: 271 Marsh Road, Suite 2
Zip: 14534

Email: mrumrll@leaderlink.com

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

DER Determination: Agree Disagree

Requestor's Requested Status: Volunteer Participant

DER/OGC Determination: Agree Disagree
Notes:

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

Does Requestor Claim Property is Upside Down: Yes No

DER/OGC Determination: Agree Disagree Undetermined

Notes:

Does Requestor Claim Property is Underutilized: Yes No

DER/OGC Determination: Agree Disagree Undetermined

Notes:

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

DER/OGC Determination: Agree Disagree Undetermined

Notes:

NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
BROWNFIELD CLEANUP PROGRAM (BCP)
INSTRUCTIONS FOR COMPLETING A BCP APPLICATION

The New York State Department of Environmental Conservation (DEC) strongly encourages all applicants to schedule a pre-application meeting with DEC staff to review the benefits, requirements, and procedures for completing a project in the BCP. Contact your Regional office to schedule a meeting. To add a party to an existing BCP Agreement and/or Application, use the BCP Agreement Amendment Application. See guidance at the end of these instructions regarding the determination of a complete application.

SECTION I REQUESTOR INFORMATION

Requestor Name

Provide the name of the person(s)/entity requesting participation in the BCP. (If more than one, attach additional sheets with requested information. If an LLC, the members/owners names need to be provided on a separate attachment). The requestor is the person or entity seeking DEC review and approval of the remedial program.

If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear exactly as given in the NYS Department of State's Corporation & Business Entity Database. A print-out of entity information from the database must be submitted to DEC with the application, to document that the requestor is authorized to do business in NYS.

Address, etc.

Provide the requestor's mailing address, telephone number; fax number and e-mail address.

Document Certification

All documents, which are prepared in final form for submission to DEC for approval, are to be prepared and certified in accordance with Section 1.5 of DER-10. Persons preparing and certifying the various work plans and reports identified in Section 1.5 include:

- New York State licensed professional engineers (PEs), as defined at 6 NYCRR 375-1.2(a) and paragraph 1.3(b)47. Engineering documents must be certified by a PE with current license and registration for work that was done by them or those under their direct supervision. The firm by which the PE is employed must also be authorized to practice engineering in New York State;
- qualified environmental professionals as defined at 6 NYCRR 375-1.2(ak) and DER-10 paragraph 1.3(b)49;
- remedial parties, as defined at 6 NYCRR 375-1.2(ao) and DER-10 paragraph 1.3(b)60; or
- site owners, which are the owners of the property comprising the site at the time of the certification.

SECTION II PROJECT DESCRIPTION

As a separate attachment, provide complete and detailed information about the project, including the purpose of the project, the date the remedial program is to start, and the date the Certificate of Completion is anticipated..

**NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

SECTION III

PROPERTY'S ENVIRONMENTAL HISTORY

Please follow instructions on application form.

SECTION IV

PROPERTY INFORMATION

Proposed Site Name

Provide a name for the proposed site. The name could be an owner's name, current or historical operations (i.e. ABC Furniture) or the general location of the property. Consider whether the property is known by DEC by a particular name, and if so, use that name.

Site Address

Provide a street address, city/town, zip code, and each municipality and county in which the site is located. .

Site Size

Provide the approximate acreage of the site.

GIS Information

Provide the latitude and longitude for the approximate center of the property. Show the latitude and longitude in degrees, minutes and seconds.

Tax Parcel Information

Provide the tax parcel address/section/block/lot information and map. Tax map information may be obtained from the tax assessor's office for all tax parcels that are included in the property boundaries. Attach a county tax map with identifier numbers, along with any figures needed to show the location and boundaries of the property. Include a USGS 7.5 minute quad map on which the property appears and clearly indicate the proposed site's location.

1. Tax Map Boundaries

State whether the boundaries of the site correspond to the tax map boundaries. If no, a metes and bounds description of the property must be attached. The site boundary can occupy less than a tax lot or encompass portions of one or more tax lots and may be larger or smaller than the overall redevelopment/reuse project area. A site survey with metes and bounds will be required to establish the site boundaries before the Certificate of Completion can be issued.

2. Map

Provide a property base map(s) of sufficient detail, clarity and accuracy to show the following: i) map scale, north arrow orientation, date, and location of the property with respect to adjacent streets and roadways; and ii) proposed brownfield property boundary lines, with adjacent property owners clearly identified.

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SECTION IV (continued)

3. En-zone

Is any part of the property in an En-zone? If so, what percentage? For information on En-zones, please see DEC's website.

4. Multiple applications

Generally, only one application can be submitted, and one BCA executed, for a development project. In limited circumstances, the DEC may consider multiple applications/BCAs for a development project where 1) the development project spans more than 25 acres; 2) the approach does not negatively impact the remedial program, including timing, ability to appropriately address areas of concern, and management of off-site concerns; and 3) the approach is not advanced to increase the value of future tax credits (i.e., circumvent the tax credit caps provided under New York State Tax Law Section 21).

10. Property Description Narrative

Provide a property description in the format provided below. Each section should be no more than one paragraph long.

Location

Example: "The XYZ Site is located in an {urban, suburban, rural} area." {Add reference points if address is unspecific; e.g., "The site is approximately 3.5 miles east of the intersection of County Route 55 and Industrial Road."}

Site Features:

Example: "The main site features include several large abandoned buildings surrounded by former parking areas and roadways. About one quarter of the site area is wooded. Little Creek passes through the northwest corner."

Current Zoning and Land Use: (Ensure the current zoning is identified.)

Example: "The site is currently inactive, and is zoned for commercial use. The surrounding parcels are currently used for a combination of commercial, light industrial, and utility right-of-ways. The nearest residential area is 0.3 miles east on Route 55."

Past Use of the Site: include source(s) of contamination and remedial measures (site characterizations, investigations, Interim Remedial Measures, etc.) completed outside of the current remedial program (e.g., work under a petroleum spill incident).

Example: "Until 1992 the site was used for manufacturing wire and wire products (e.g., conduit, insulators) and warehousing. Prior uses that appear to have led to site contamination include metal plating, machining, disposal in a one-acre landfill north of Building 7, and releases of wastewater into a series of dry wells."

When describing the investigations/actions performed outside of the remedial program, include the major chronological remedial events that lead to the site entering a remedial program. The history should include the first involvement by government to address hazardous waste/petroleum disposal. Do not cite reports. Only include remedial activities which were implemented PRIOR to the BCA. Do not describe sampling information.

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SECTION IV (continued)

Property Description Narrative (continued)

Site Geology and Hydrogeology:

As appropriate, provide a very brief summary of the main hydrogeological features of the site including depth to water, groundwater flow direction, etc.

Environmental Assessment

The goal of this section is to describe the nature and extent of contamination at the site. When describing the nature of contamination, identify just the primary contaminants of concern (i.e., those that will likely drive remedial decisions/ actions). If there are many contaminants present within a group of contaminants (i.e., volatile organic compounds, semivolatile organic compounds, metals), identify the group(s) and one or two representative contaminants within the group. When addressing the extent of contamination, identify the areas of concern at the site, contaminated media (i.e., soil, groundwater, etc.), relative concentration levels, and a broad-brush description of contaminated areas/depths.

The reader should be able to know if contamination is widespread or limited and if concentrations are marginally or greatly above Standards, Criteria and Guidance (SCGs) for the primary contaminants. If the extent is described qualitatively (e.g., low, medium, high), representative concentrations should be given and compared with appropriate SCGs. For soil contamination, the concentrations should be compared with the soil cleanup objectives (SCOs) for the intended use of the site.

A typical Environmental Assessment would look like the following:

Based upon investigations conducted to date, the primary contaminants of concern for the site include cadmium and trichloroethene (TCE).

Soil - Cadmium is found in shallow soil, mostly near a dry well at the northeast end of the property. TCE is found in deeper soil, predominantly at the north end of the site. Concentrations of cadmium found on site (approximately 5 ppm) slightly exceed the soil cleanup objective (SCO) for unrestricted use (2.5 ppm). Concentrations of TCE found on site (5 ppm to 300 ppm) significantly exceed the soil cleanup objectives for the protection of groundwater (0.47 ppm).

Groundwater - TCE and its associated degradation products are also found in groundwater at the north end of the site, moderately exceeding groundwater standards (typically 5 ppb), with a maximum concentration of 1500 ppb. A moderate amount of TCE from the site has migrated 300 feet down-gradient off-site. The primary contaminant of concern for the off-site area is TCE, which is present at a maximum concentration of 500 ppb, at 10 feet below the groundwater table near Avenue A.

Soil Vapor & Indoor Air - TCE was detected in soil vapor at elevated concentrations and was also detected in indoor air at concentrations up to 1,000 micrograms per cubic meter.

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

SECTION V

ADDITIONAL REQUESTOR INFORMATION

Representative Name, Address, etc.

Provide information for the requestor's authorized representative. This is the person to whom all correspondence, notices, etc. will be sent, and who will be listed as the contact person in the BCA. Invoices will be sent to the representative of Applications determined to be Participants unless another contact name and address is provided with the application.

Consultant and Attorney Name, Address, etc.

Provide requested information.

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**SECTION VI CURRENT PROPERTY OWNER/OPERATOR INFORMATION
(IF NOT A REQUESTOR)**

Owner Name, Address, etc.

Provide requested information of the current owner of the property. List all parties holding an interest in the Property and, if the Requestor is not the current owner, describe the Requestor's relationship to the current owner.

Operator Name, Address, etc.

Provide requested information of the current operator (if different from the requestor or owner).

Provide a list of previous property owners and operators with names, last known addresses, telephone numbers and the Requestor's relationship to each owner and operator as a separate attachment

SECTION VII REQUESTOR ELIGIBILITY INFORMATION

As a separate attachment, provide complete and detailed information in response to any eligibility questions answered in the affirmative. It is permissible to reference specific sections of existing property reports; however, it is requested that such information be summarized. For properties with multiple addresses or tax parcels, please include this information for each address or tax parcel.

SECTION VIII PROPERTY ELIGIBILITY INFORMATION

As a separate attachment, provide complete and detailed information in response to the following eligibility questions answered in the affirmative. It is permissible to reference specific sections of existing property reports; however, it is requested that that information be summarized.

1. CERCLA / NPL Listing

Has any portion of the property ever been listed on the National Priorities List (NPL) established under CERCLA? If so, provide relevant information.

2. Registry Listing

Has any portion of the property ever been listed on the New York State Registry of Inactive Hazardous Waste Disposal Sites established under ECL 27-1305? If so, please provide the site number and classification. See the Division of Environmental Remediation (DER) website for a database of sites with classifications.

3. RCRA Listing

Does the property have a Resource Conservation and Recovery Act (RCRA) TSDF Permit in accordance with the ECL 27-0900 *et seq*? If so, please provide the EPA Identification Number, the date the permit was issued, and its expiration date. Note: for purposes of this application, interim status facilities are not deemed to be subject to a RCRA permit.

4. Registry / RCRA sites owned by volunteers

If the answer to question 2 or 3 above is yes, is the site owned by a volunteer as defined under ECL 27-1405(1)(b), or under contract to be transferred to a volunteer? Attach any information available to the requestor related to previous owners or operators of the facility or property and their financial viability, including any bankruptcy filing and corporate dissolution documentation.

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SECTION VIII (continued)

5. Existing Order

Is the property subject to an order for cleanup under Article 12 of the Navigation Law or Article 17 Title 10 of the ECL? If so, please provide information on an attachment. Note: if the property is subject to a stipulation agreement, relevant information should be provided; however, property will not be deemed ineligible solely on the basis of the stipulation agreement.

6. Enforcement Action Pending

Is the property subject to an enforcement action under Article 27, Titles 7 or 9 of the ECL or subject to any other ongoing state or federal enforcement action related to the contamination which is at or emanating from the property? If so, please provide information on an attachment.

SECTION IX CONTACT LIST INFORMATION

Provide the names and addresses of the parties on the Site Contact List (SCL) and a letter from the repository acknowledging agreement to act as the document repository for the proposed BCP project.

SECTION X LAND USE FACTORS

In addition to eligibility information, site history, and environmental data/reports, the application requires information regarding the current, intended and reasonably anticipated future land use.

1. This information consists of responses to the "land use" factors to be considered relative to the "Land Use" section of the BCP application. The information will be used to determine the appropriate land use in conjunction with the investigation data provided, in order to establish eligibility for the site based on the definition of a "brownfield site" pursuant to ECL 27-1405(2).
2. This land use information will be used by DEC, in addition to all other relevant information provided, to determine whether the proposed use is consistent with the currently identified, intended and reasonably anticipated future land use of the site at this stage. Further, this land use finding is subject to information regarding contamination at the site or other information which could result in the need for a change in this determination being borne out during the remedial investigation.

SECTION XI SIGNATURE PAGE

The Requestor must sign the application, or designate a representative who can sign. The requestor's consultant or attorney cannot sign the application. If there are multiple parties applying, then each must sign a signature page.

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DETERMINATION OF A COMPLETE APPLICATION

1. The first step in the application review and approval process is an evaluation to determine if the application is complete. To help ensure that the application is determined complete, requestors should review the list of common application deficiencies and carefully read these instructions.

2. DEC will send a notification to the requestor within 30 calendar days of receiving the application, indicating whether such application is complete or incomplete.

3. An application must include the following information relative to the site identified by the application, necessary for making an eligibility determination, or it will be deemed incomplete. (**Please note: the application as a whole** requires more than the information outlined below to be determined complete). The application must include:
 - a. for all sites, an investigation report sufficient to demonstrate the site requires remediation in order to meet the requirements of the program, and that the site is a brownfield site at which contaminants are present at levels exceeding the soil cleanup objectives or other health-based or environmental standards, criteria or guidance adopted by DEC that are applicable based on the reasonably anticipated use of the property, in accordance with applicable regulations. Required data includes site drawings requested in Section III, #3 of the BCP application form.

 - b. for those sites described below, documentation relative to the volunteer status of all requestors, as well as information on previous owners or operators that may be considered responsible parties and their ability to fund remediation of the site. This documentation is required for:
 - i. real property listed in the registry of inactive hazardous waste disposal sites as a class 2 site, which may be eligible provided that DEC has not identified any responsible party for that property having the ability to pay for the investigation or cleanup of the property prior to the site being accepted into the BCP; or

 - ii. real property that was a hazardous waste treatment, storage or disposal facility having interim status pursuant to the Resource Conservation and Recovery Act (RCRA) program, which may be eligible provided that DEC has not identified any responsible party for that property having the ability to pay for the investigation or cleanup of the property prior to the site being accepted into the BCP.

 - c. for sites located within the five counties comprising New York City, in addition to (a) and if applicable (b) above, if the application is seeking a determination that the site is eligible for tangible property tax credits, sufficient information to demonstrate that the site meets one or more of the criteria identified in ECL 27 1407(1-a). **If this determination is not being requested in the application to participate in the BCP, the applicant may seek this determination at any time before issuance of a certificate of completion, using the BCP Amendment Application, except for sites seeking eligibility under the underutilized category.**

 - d. for sites previously remediated pursuant to Titles 9, 13, or 14 of ECL Article 27, Title 5 of ECL Article 56, or Article 12 of Navigation Law, relevant documentation of this remediation.

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DETERMINATION OF A COMPLETE APPLICATION (continued)

4. If the application is found to be incomplete:
 - a. the requestor will be notified via email or phone call regarding minor deficiencies. The requestor must submit information correcting the deficiency to DEC within the 30-day review time frame; or
 - b. the requestor will receive a formal Letter of Incomplete Application (LOI) if an application is substantially deficient, if the information needed to make an eligibility determination identified in #4 above is missing or found to be incomplete, or if a response to a minor deficiency is not received within the 30-day period. The LOI will detail all of the missing information and request submission of the information. If the information is not submitted within 30 days from the date of the LOI, the application will be deemed withdrawn. In this case, the requestor may resubmit the application without prejudice.

5. If the application is determined to be complete, DEC will send a Letter of Complete Application (LOC) that includes the dates of the public comment period. The LOC will:
 - a. include an approved public notice to be sent to all parties on the Contact List included with the application;
 - b. provide instructions for publishing the public notice in the newspaper on the date specified in the letter, and instructions for mailing the notice to the Contact List;
 - c. identify the need for a certification of mailing form to be returned to DEC along with proof of publication documentation; and
 - d. specify the deadline for publication of the newspaper notice, which must coincide with, or occur before, the date of publication in the Environmental Notice Bulletin (ENB).
 - i. DEC will send a notice of the application to the ENB. As the ENB is only published on Wednesdays, DEC must submit the notice by the Wednesday before it is to appear in the ENB.
 - ii. The mailing to parties on the Contact List must be completed no later than the Tuesday prior to ENB publication. If the mailings, newspaper notice and ENB notice are not completed within the time-frames established by the LOC, the public comment period on the application will be extended to insure that there will be the required comment period.
 - iii. Marketing literature or brochures are prohibited from being included in mailings to the Contact List.

**BROWNFIELD CLEANUP PROGRAM
APPLICATION SUPPORT**

REQUESTOR NAME: ACM Northfield CR #3, LLC

BCP No.: C915010

ACM Northfield CR #3, LLC
2268 Military Road
Brownfield Cleanup Program Application
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SECTION I: REQUESTOR INFORMATION

The requested printout from the NYS Department of State's Corporate and Business Entity Database is attached as **Exhibit A**.

The members of the Requestor LLC are as follows:

- ACM Redstone Capital (Tranche B) Inc.; and
- Midwest, Inc.

SECTION II: PROJECT DESCRIPTION

The subject property is identified by NYSDEC as the Bisonite Paint Company Site, Site Number 915010. According to NYSDEC records, from 1947 to 1991, the historical owner, the Bisonite Paint Company ("Bisonite Paint"), owned and operated the property as a manufacturer of water and oil based paints. Bisonite Paint's operations included substantial environmental contamination of the site from disposal of paint pigments, spent solvents and mineral spirits, and associated byproducts. A prior investigation and cleanup was conducted in 1996 by 2251 Military Road Associates pursuant to an Order on Consent. This included remediation of a former tank farm with the removal of soil for offsite disposal, and the installation of an asphalt cap over a contaminated settling lagoon. A self-storage facility was also constructed at that time. However, the site continues to be listed on the NYSDEC's Inactive Hazardous Waste Disposal Site Registry. The Requestor acquired the property in December 2012 and since that time has marketed the property vigorously. Despite these efforts, attempts to sell the property have been unsuccessful because of the stigma of the environmental condition.

The project will entail completing the following: a site investigation ("SI") and preparation of a site investigation and Remedial Alternatives Analysis Report ("RAAR") to determine the extent of contamination, including the lagoon area and possible residual contamination associated with the former tank farm, and to provide information to evaluate appropriate response actions; and if sufficient data is available from the SI, to design and implement a remedial action. The objective of the project is to remediate the site and to remove the site from the NYSDEC's Inactive Hazardous Waste Disposal Site Registry. The planned remedial program (SI Workplan, SI, RAAR, etc.) will begin with 30-days of entry into the Brownfield Cleanup Program ("BCP"). Depending on the site conditions found. Issuance of the Certificate of Completion will be targeted within three years of entry into the BCP.

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SECTION III: PROPERTY'S ENVIRONMENTAL HISTORY

NYSDEC Reports Documenting Environmental History

The report showing that the Site Bisonite Paint Company is contaminated was prepared by NYSDEC entitled "Site Evaluation Report, Bisonite Paint Company Site Number 915010," dated December 2008. The pdf file of the report is submitted with this correspondence as **Appendix 1**. The report relies upon an earlier Preliminary Site Assessment ("PSA") from 1993. Leader has not conducted a complete records search for the property, but recently received a copy of the 1993 PSA through a FOIL request. The pdf files of the 1993 PSA and Supporting Documents are being submitted herewith as **Appendixes 2 and 3**, respectively. However, subsequent to the 1993 PSA, an entity called MRA completed removal actions under an Order on Consent, which included the construction of self-storage buildings and paving the ground surface. During the cleanup project, MRA sampled the soil for Lead and Chromium and finalized the Consent Order requirements. The former tank farm area was also remediated and 354 tons of soil were removed for offsite disposal. Given the remedial actions taken in the past, the presence of an asphalt cap over the property, and the passage of time, the surface soil samples referenced in the 1993 PSA are probably no longer representative of site conditions. Further, since the placement of the asphalt cap/parking lot, environmental threats presented in the 1993 PSA may no longer be applicable. For these reasons, Leader has not relied upon the data set forth in the 1993 PSA. There appears to be sufficient information available in the 2008 NYSDEC Site Evaluation Report to proceed with the BCP application.

Site drawings are attached as **Figures 2 – 5**. See also **Appendixes 1 – 3**.

SECTION IV: PROPERTY INFORMATION

Location

The property is located at 2268 Military Road in the Town of Tonawanda, Erie County (the "Bisonite Paint Company Site" or "the Site") approximately 0.2 miles north of Interstate Highway 290. The Site is situated on the west side of Military Road in an area consisting of mainly manufacturing and commercial businesses in the Town of Tonawanda. The Site is identified by four street addresses and tax identification numbers:

1. 2250 Military Road and tax identification number ("Tax Id. No.") 52.12-6-17.1;
2. 2260 Military Road and Tax Id No. 52.12-6-17.2;
3. 2266 Military Road and Tax Id. No. 52.12-6-16.2; and
4. 2268 Military Road and Tax Id. No. 52.12-6-16.1.

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To the west and south of the Site is a property owned by Niagara Mohawk Power Corporation, with street addresses of 2225 and 2300 Military Road and 841 Two Mile Creek Road. To the north, there is a commercial lumber yard owned by Spirit SPE Portfolio 2007-2LLC with an address of 2286 Military Road. To the east, there are properties owned by United Refining Company of Pennsylvania with an address of 2255 Military Road (gasoline station) and Niagara Regional Development LLC with an address of 2299 Military Road (warehouse). **Figure 1** shows the parcel addresses and parcel lines of the Site and the adjacent property owners.

The county tax map is attached as **Exhibit B**. See also **Table 3**.

Site Features

The Site is developed and used for commercial rental space and self-storage rental units. With the exception of a small lawn area adjacent to Military Road, the Site is paved with asphalt. The Site has seven buildings: an unused wood frame converted farmhouse; a concrete block and brick office building; three steel-framed and sided self-storage units; steel framed and sided self-storage units attached to a concrete block building construction; and a concrete block building with commercial rental space.

The Site is relatively flat, but drops in elevation slightly to the northwest. Immediately west of the Site, the ground surface rises abruptly approximately four to six feet, where immediately offsite there is a linear mound. The mound separates the Site from a railroad right-of-way (at a lower elevation than the Site) and further west is the Tonawanda Landfill (at a higher elevation than the Site). To the north, the ground surface is slightly lower than the Site. To the east, Military Road and the properties to the east of Military Road are at approximately the same elevation as the Site. The property to the south is at approximately the same elevation as the Site.

Current Zoning and Land Use

The zoning for the Site is designated as C-Manufacturing and is used for commercial purposes. Properties to the north and east have similar land designations. The property to the north is designated C-lumber yard; to the east, C-gasoline station and C-warehousing. To the west and south, these properties are designated as C-public utility.

The nearest residential area to the Site is approximately 0.04 of a mile, east of the Site and adjacent to the businesses along the east side of Military Road.

The Town of Tonawanda identifies the land use of the Site as vacant and the surrounding properties to the east and south, as industrial property; to the west, utility and infrastructure property; and to the north, commercial use property. Zoning for these properties all falls within the Waterfront Industrial District.

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The Erie County property information land use description of the Site is Vacant-Commercial and property to the east and south is listed as manufacturing. The property to the west is identified as public utility land use, while the property to the north is listed as lumber yard. Since the proposed use of the site will not change, it remains consistent with the current land use and zoning.

Past Use of the Site

The 2008 NYSDEC Report identified Bisonite Paint as the owner and operator of the property from 1947 to 1991. Bisonite Paint manufactured water and oil-based paints. Its manufacturing processes were housed in the larger Site building on the east side of the property. Bisonite Paint also had a tank farm for feedstocks and used a settling lagoon for wastewater disposal. The settling lagoon is reported to have covered an approximately 1,500 square feet area and had a depth of 8 to 10 feet. The lagoon is reported to have been used for the disposal of paint waste mixes consisting of metal pigments and other by-products of manufacturing including some solvents. The lagoon received wastewater from the manufacturing process by way of an open trench drain which crossed the Site from east to west from the manufacturing building. Sludge with solvent waste and mineral spirits was also reportedly spread over an acre of land to control weeds. **Figure 2** shows the approximate locations of the disposal facilities and buildings when Bisonite Paint operated the property.

The 2008 NYSDEC Report identifies Toluene, Xylene, Barium, Chromium, Lead, and Mercury found on the site. Barium, Chromium, Lead and Mercury were found at concentrations greater than the Residential Use Soil Cleanup Objectives (“SCO”), 6 NYCRR Part 375. Barium and Mercury were found at concentrations that exceeded Commercial use SCOs. Groundwater did not appear to be impacted, but there were questions whether the groundwater was reflective of site conditions, because the monitoring wells may not be located properly to evaluate the up and down gradient conditions. Many of these samples were collected to evaluate the impact from Bisonite Paint’s former disposal lagoon, which was reported to have been capped, but subsequent NYSDEC site visits found leachate outbreaks and waste-like materials in soil borings. NYSDEC conducted additional investigation activities in 2008 including soil and groundwater sampling.

The following is a chronological summary of past use and activities at the site, based upon the 2008 NYSDEC report:

- A. In 1978, the NYSDEC ordered Bisonite Paint to cease their waste disposal practices and begin hauling the waste offsite. By 1983 the lagoon had been backfilled, but it is unknown if the waste was dredged from the area. NYSDEC re-inspected the Site in 1985 and found the lagoon cover was not completely covering the area and leachate weeps were identified on the west side of the Site on the slope down to the railroad

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right of way. Subsequent inspections in 1990 found the lagoon and land spreading area covered with vegetation. Bisonite Paint closed manufacturing operations in 1991.

- B. In 1991, NYSDEC inspected the Site and found two box trailers filled with drums. This initiated the issuance of a NYSDEC RCRA Consent Order for Bisonite Paint to decommission the Site and provide proper disposal of the waste and debris. The Order did not address soil and groundwater contamination.
- C. In 1993, NYSDEC conducted a Preliminary Assessment which identified Areas of Concern related to soil contamination. Groundwater did not appear to be impacted from the past waste disposal activities.
- D. In 1996, 2251 Military Road Associates ("MRA") entered into the Voluntary Cleanup Program and conducted investigation and cleanup pursuant to an Order on Consent. During the cleanup project, MRA sampled the soil for Lead and Chromium and the former tank farm area was remediated, including the removal of 354 tons of soil for offsite disposal. MRA eventually built the self-storage facilities over the former land spreading area and the former tank farm after achieving the soil cleanup goals for Lead and Chromium. Given the remedial actions taken to date and the presence of an asphalt cap over the property, the collection of surface soils in 1993 does not speak to the presence of hazardous waste in the former lagoon area. It is noted that Acetone and Methylene Chloride were identified in Sample Blanks at similar concentrations compared to the soil boring B-2 sample. However, since these compounds can be associated with paint waste and the information about the sampling and blank methods and contaminants is not known, Leader is unable to address the potential problems with the data quality.

Upon information and belief, and based upon publicly available records, the London Norway Corporation acquired title to the property and obtained a new mortgage through the Bank of Akron in or about 1997, and later entered into a mortgage modification and consolidation agreement with Wyoming County Bank. Upon information and belief, the Wyoming County Bank mortgage was later assigned to Pramco III, LLC. Pramco III, LLC commenced foreclosure proceedings in 2006, and a Referee's Sale was held in 2007. The Referee's deed was issued to Sopramco III REO, LLC. According to the New York State Department of State Division of Corporations both Pramco III, LLC and Sopramco III REO, LLC are inactive foreign corporations.

Sopramco III REO, LLC transferred the Site to Requestor in December 2012 as part of the bulk sale of mortgage loans and REO properties. Since that time, Requestor has attempted to liquidate the property by marketing it for sale to an end user/operator/owner, but has been unsuccessful due to the environmental concerns surrounding the property.

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Site Geology and Hydrogeology

The undisturbed soils beneath the Site consist of fine glacial sediments of clay with lenses of gravel, sand and silt mixtures. These are found directly below the ground surface materials except in the former lagoon area where fill and waste were found. The fill consists of clay, construction debris, white chips, white powder, resin, overlying approximately two feet of paint pigments and other manufacturing waste. Paint solids were also observed in soil samples from the lagoon and these may have been indicative of the bottom of the former lagoon. The fill in the former lagoon has a thickness of approximately eight feet. In the boring for monitoring well MW-4, the fill included metal fragments, silt, cinders and combustion residue (charcoal).

Groundwater beneath the Site was encountered at a depth of approximately 4.5 to 5.5 feet below the ground surface. Based on monitoring wells from the Site and others at the adjacent Tonawanda Landfill, groundwater appears to flow from the northwest to the southeast.

Environmental Assessment

The 2008 investigation of the Site by NYSDEC is the most recent investigation of the property and since it was completed after any of the remedial activities, it provides an assessment of the post-remediation conditions. Soil samples collected during the 1993 PSA would be useful, but site conditions have changed since that time due to subsequent remediation activities, including removal of significant quantities of soil to off-site disposal. The soil contaminants found during NYSDEC's investigation include volatile and semivolatile organic compounds, PCBs and metals and **Table 1** summarizes those contaminants exceeding residential soil cleanup objectives ("SCOs"):

- The volatile organic compounds identified included; acetone, ethylbenzene, methylene chloride, toluene and xylene at concentrations greater than the 6 NYCRR Part 375 Residential Soil Cleanup Objectives ("SCO").
- The semivolatile organic compounds identified included; 2-methylnaphthalene, naphthalene, and bis (2-ethylhexyl) phthalate, at concentrations below residential SCOs.
- PCBs were found at concentrations below the residential SCOs. Barium, chromium, iron, lead and mercury were found at concentrations greater than residential SCOs.
- Groundwater impacts were identified and included; methylene chloride, 4 methyl 2-Pentanone, 1, 2-dichloroethene (total), antimony, iron, magnesium, manganese, and sodium, see **Table 2**.
- Soil vapor and indoor air samples were not collected.

Note that **Table 1** includes a footnote, that Barium and Iron found at the reported concentrations were from soil boring B-1, whereas as the table column heading noted the other results were from soil boring B-2.

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The 2008 Site Evaluation Report, perhaps wrongly, attempted to use groundwater elevation data from the Spaulding Composites Site and the Tonawanda Landfill Site to show how the site fits into the groundwater flow patterns. It appears ground surface elevation changes were not considered in this assessment. This reinforces the need for additional monitoring wells and a topographic survey for the SI.

SECTION VI: CURRENT PROPERTY OWNER/OPERATOR INFORMATION

Current Owner

The Requestor owns the property. The tax records from Erie County, New York reflect ownership of the parcels by Requestor. A copy is attached as **Exhibit C**.

Current Operator

A self-storage facility and parking lot occupies a portion of the Site. The current operator is ACM Northfield CR #3, the Requestor.

Previous Owners

Upon information and belief, previous owners include the following:

- Bisonite Paint, 2250 Military Rd., Tonawanda, New York 14150;
- London Norway Corporation, 2250 Military Rd., Tonawanda, New York 14150; and
- Sopramco III REO LLC, 9320 Excelsior Blvd., Hopkins, Minnesota 55343.

Previous Operators

Upon information and belief, Bisonite Paint operated the property for more than 40 years as a manufacturer of water and oil based paints, and is the reputed discharger of extensive and various contaminated materials at the site. Upon information and belief, Bisonite Paint operated at the site through 1991.

Upon information and belief, at some point in the late 1990s, a self-storage facility was constructed at the site, possibly by 2251 Military Road Associates, Inc. ("MRA"), but it is unknown who operated the facility at that time. In approximately 1996, MRA did enter into an Order on Consent and conducted remedial activities at the site, including substantial soil removal and installing an asphalt cap. Upon information and belief, London Norway Corporation acquired title to the property in or about 1997 and operated the property as a self-storage facility until 2007 when title transferred to Sopramco III REO, LLC in connection with a foreclosure sale

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Absence of Relationships to Prior Owners and Operators

Requestor has no relationship with Bisonite Paint, London Norway Corporation, or 2251 Military Road Associates. More than 20 years after Bisonite Paint's operations ceased, Requestor obtained ownership of the site from Sopramco III REO, LLC as part of a bulk sale of mortgage loans and REO properties in December 2012. Apart from this purchase transaction, there is no relationship between Requestor and Sopramco III REO, LLC, although it is noted that a current small minority owner of Requestor was at one time (but not at the time of aforementioned bulk sale) also a minority owner of Pramco III, LLC. Upon information and belief, Sopramco III REO, LLC was a subsidiary of Pramco III, LLC. Upon information and belief, none of these entities had any relationship with Bisonite Paint, 2251 Military Road Associates or London Norway Corporation.

SECTION VII: REQUESTOR ELIGIBILITY INFORMATION

See **Exhibit D**.

SECTION VIII: PROPERTY ELIGIBILITY INFORMATION

See **Exhibit E**.

SECTION IX: CONTACT LIST INFORMATION

The requested contact list is attached as **Exhibit F**.

An acknowledgement from the repository indicating that it agrees to act as the document repository for the property is attached as **Exhibit G**.

SECTION X: LAND USE FACTORS

The Site is currently used for commercial purposes insofar as there is a self-storage facility located at the Site. That is the only current use. The anticipated post-remediation use includes continuation of the use of the property for commercial purposes as a self-storage facility. Upon information and belief, the proposed use is consistent with current zoning laws, and no change in use is anticipated by Requestor.

Erie and Niagara Counties, New York published a "Framework for Regional Growth", Final report dated October 2006 setting forth a 15 year vision, which specifically includes Erie County's support to assist local brownfield initiatives. *See id.* at 67. Therefore, the BCA is consistent with the long term plans and vision for the region.

ACM Northfield CR #3, LLC
2268 Military Road
Brownfield Cleanup Program Application
Supporting Documentation

TABLES, FIGURES, EXHIBITS, APPENDIXES

Table 1	Maximum Observed Soil Concentrations Exceeding Part 375 Soil Cleanup Objectives for Residential and Commercial Property
Table 2	Maximum Observed Groundwater Concentrations Exceeding NYSDEC Groundwater Quality Criteria
Table 3	Property Ownership and Tax Identification Numbers
Figure 1	Tax Map
Figure 2	Waste Disposal Areas and Sample Locations
Figure 3	Values Greater Than Part 375 Commercial SCO
Figure 4	Groundwater Results Greater Than Standards
Figure 5	Site Area Topographic Map
Exhibit A	Requestor's Entity Information per NYS Division of Corporations
Exhibit B	County Tax Map
Exhibit C	Erie County, New York Real Property Information
Exhibit D	Requestor Eligibility Information
Exhibit E	Property Eligibility Information
Exhibit F	Contact List
Exhibit G	Document Repository Acknowledgment
Appendix 1	NYSDEC Site Evaluation Report, Bisonite Paint Company, Site No. 915010, Town of Tonawanda, Erie County, New York, dated December 2008
Appendix 2	Engineering Investigations at Inactive Hazardous Waste Sites Preliminary Site Assessment Report, Bisonite Paint Company, Site No. 915010, Town of Tonawanda, Erie County, dated March 1993
Appendix 3	Supporting Documents for Engineering Investigations at Inactive Hazardous Waste Sites. Bisonite Paint Company, Site No. 915010, Town of Tonawanda, Erie County, dated March 1993

Table 1
Maximum Observed Soil Concentrations Exceeding Part 375 Soil Cleanup Objectives
for Residential and Commercial Property

Compound	NYSDEC Soil Cleanup Objective for Residential/Commercial Property Use Milligrams per kilogram	Soil Boring B-2 6 to 8-feet Collected 09/17/1993
Acetone	100/500.0	1,300.0
Ethylbenzene	30/390.0	200.0
Methylene Chloride	51/500.0	1,100.0
Toluene	100/500.0	19,000.0
Total Xylene	100/500.0	1,000.0
Barium	350/400.0	973.0 ¹
Chromium	36/1,500.0	154.0
Iron	2,000/No standard	21,900 ¹
Lead	400/1,000	640.0
Mercury	0.8/2.8	6.7

1. Sample was collected from soil boring B-1 on September 3, 1993, at a depth of 4 to 6 feet. Results obtained from NYSDEC Site Evaluation Report for Bisonite Paint Company, Site No. 915010, December 2008.

Table 2
Maximum Observed Groundwater Concentrations
Exceeding NYSDEC Groundwater Quality Criteria

Compound	Groundwater Standard	Observed Max. Concentration
Methylene Chloride	5.0	13B ¹
Antimony	3.0	47.2B ²
Iron	300.0	12,900.0 ¹
Magnesium	35,000	154,000 ³
Manganese	300.0	526.0 ¹
Sodium	20,000	83,200 ¹

1. Monitoring well MW-4
 2. Monitoring well MW-2
 3. Monitoring well MW-3
- B = Contaminant was found in the sample blank

Results obtained from NYSDEC Site Evaluation Report for Bisonite Paint Company, Site No. 915010, December 2008.

Table 3
Property Ownership and Tax Identification Numbers

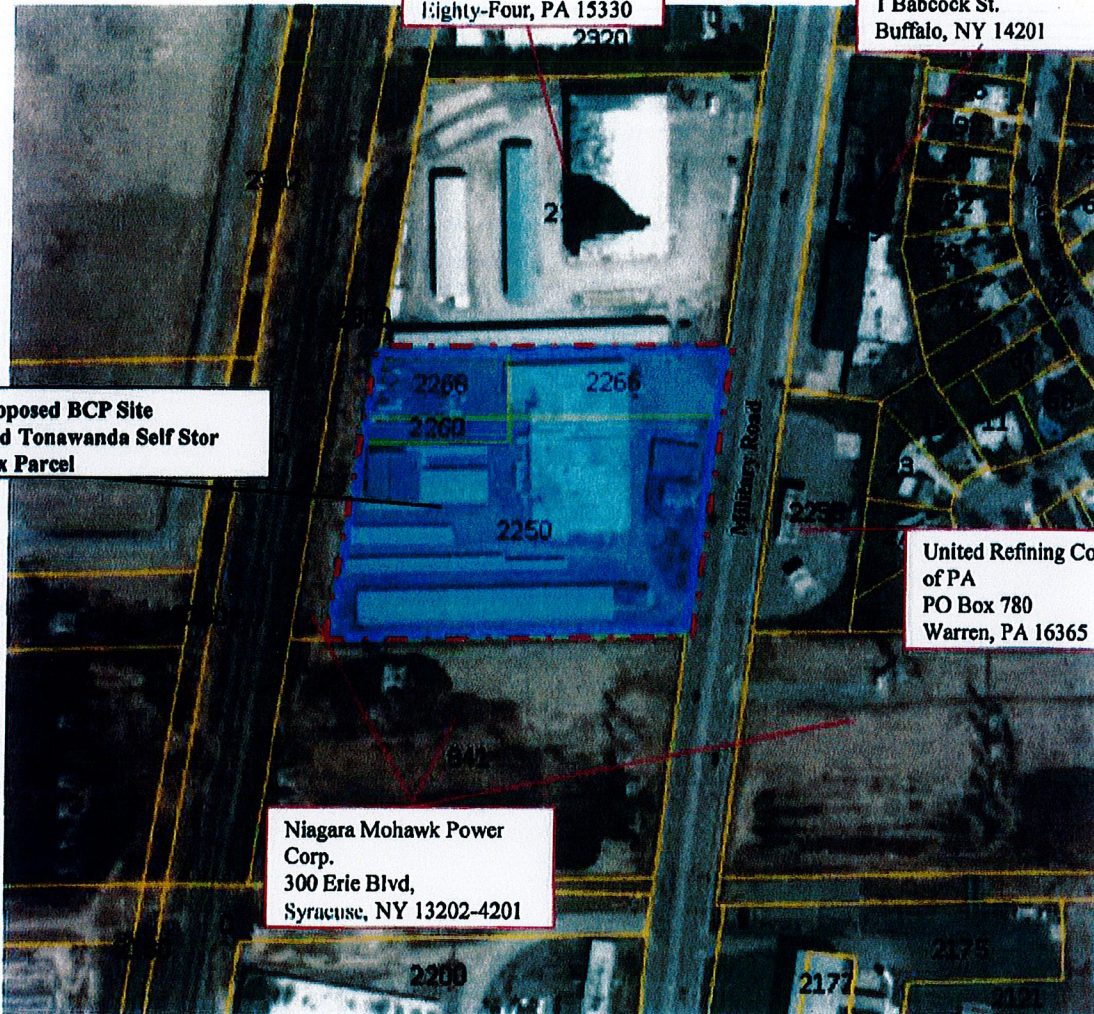
Property Address/Owner	Tax Identification Number
2250 Military Road/ACM Northfield CR#3 LLC	52.12-6-17.1
2260 Military Road/ACM Northfield CR#3 LLC	52.12-6-17.2
2266 Military Road/ACM Northfield CR#3 LLC	52.12-6-16.2
2268 Military Road/ACM Northfield CR#3 LLC	52.12-6-16.1
2286 Military Road/Spirit SPE Portfolio 2007-2LLC	52.12-6-15
2300 Military Road/ Niagara Mohawk Power Corp.	52.12-6-11



SPIRIT SPE Portfolio
 2007-2LLC
 1019 Rt. 519
 Eighty-Four, PA 15330

Niagara Regional
 Development LLC
 1 Babcock St.
 Buffalo, NY 14201

**Proposed BCP Site
 And Tonawanda Self Stor
 Tax Parcel**



United Refining Co.
 of PA
 PO Box 780
 Warren, PA 16365

Niagara Mohawk Power
 Corp.
 300 Erie Blvd,
 Syracuse, NY 13202-4201

Title **Tax Map**
2250 Military Road
Tonawanda, NY

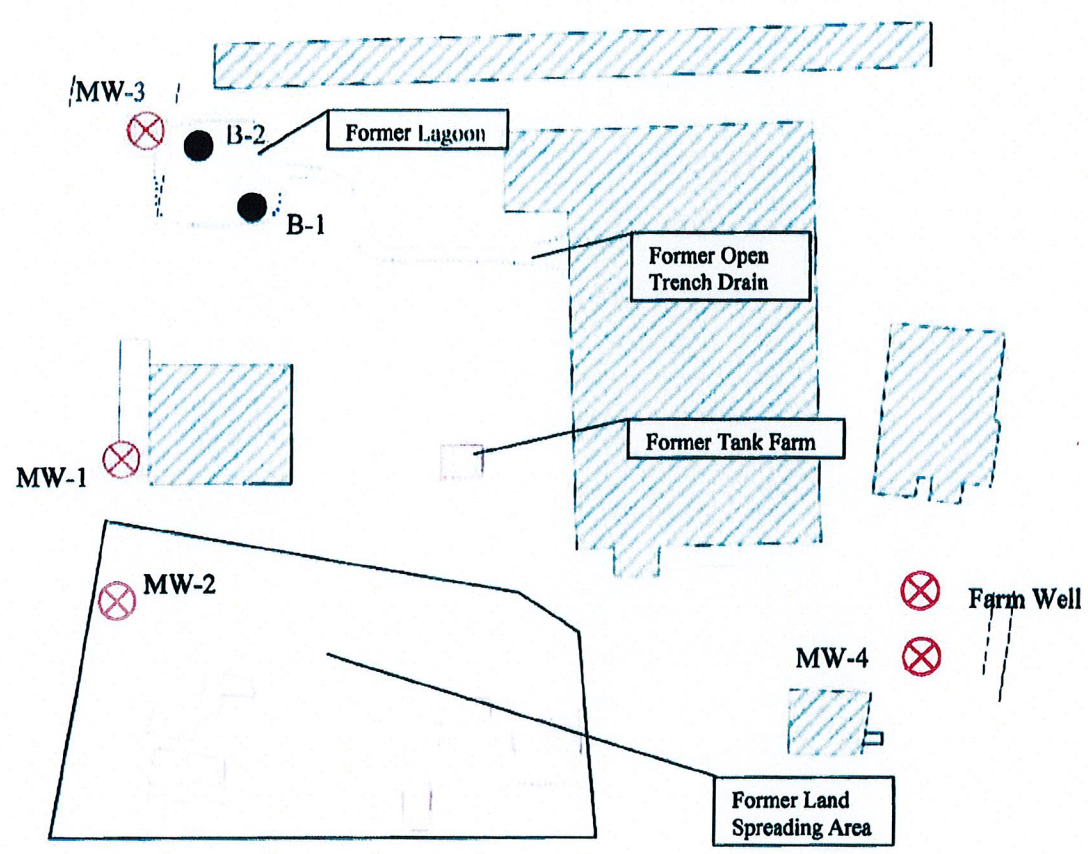
Prepared For **ACM Northern CR#3 LLC**
3144 S. Winton Road
Rochester, NY

Leader Professional Services
 271 Marsh Road, Suite 2
 Pittsford, NY 14534
 (585) 248-2413
 FAX (585) 248-2834

Project **235.198**
 Date **5/15/17**
 Scale **223 ft. per 1 in.**

Drawn **PVS**
 Checked **MPR**
 File Name **Site Map**

Figure **1**



- 2008 NYSDEC Monitoring Well
- Soil boring sampled in 2008 by NYSDEC

Title **Waste Disposal Areas and Sample Locations**
2250 Military Road
Tonawanda, NY

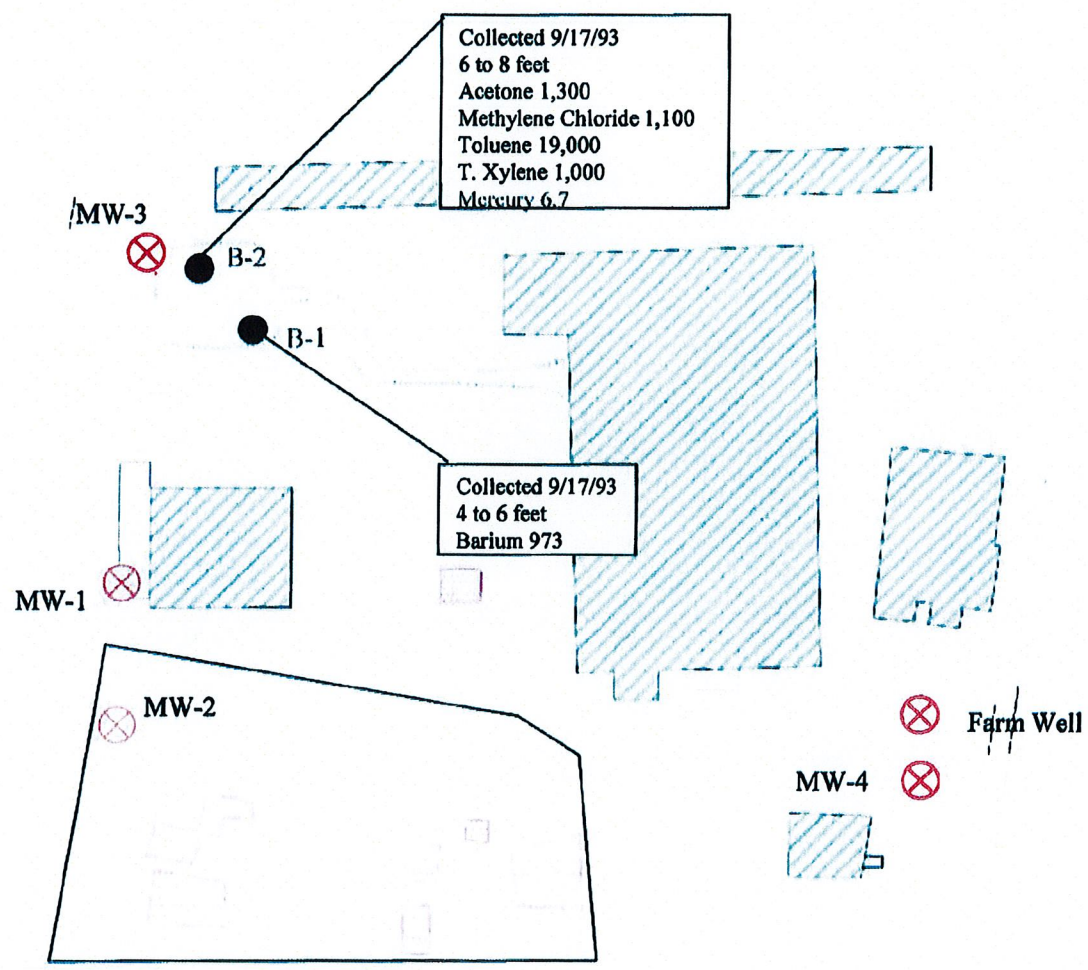
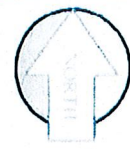
Prepared For **ACM Northern CR#3 LLC**
3144 S. Winton Road
Rochester, NY

Leader
Leader Professional Services
271 Marsh Road, Suite 2
Pittsford, NY 14534
(585) 248-2413
FAX (585) 248-2834



Project **235.198**
Date **5/15/17**
Scale **NTS**

Drawn **PVS**
Checked **MPR**
File Name **Site Map**

Figure **2**



All values shown units of milligrams per kilogram

-  2008 NYSDEC Monitoring Well
-  Soil boring sampled in 2008 by NYSDEC

Title Values Greater Than Part 375 Commercial SCO
2250 Military Road
Tonawanda, NY

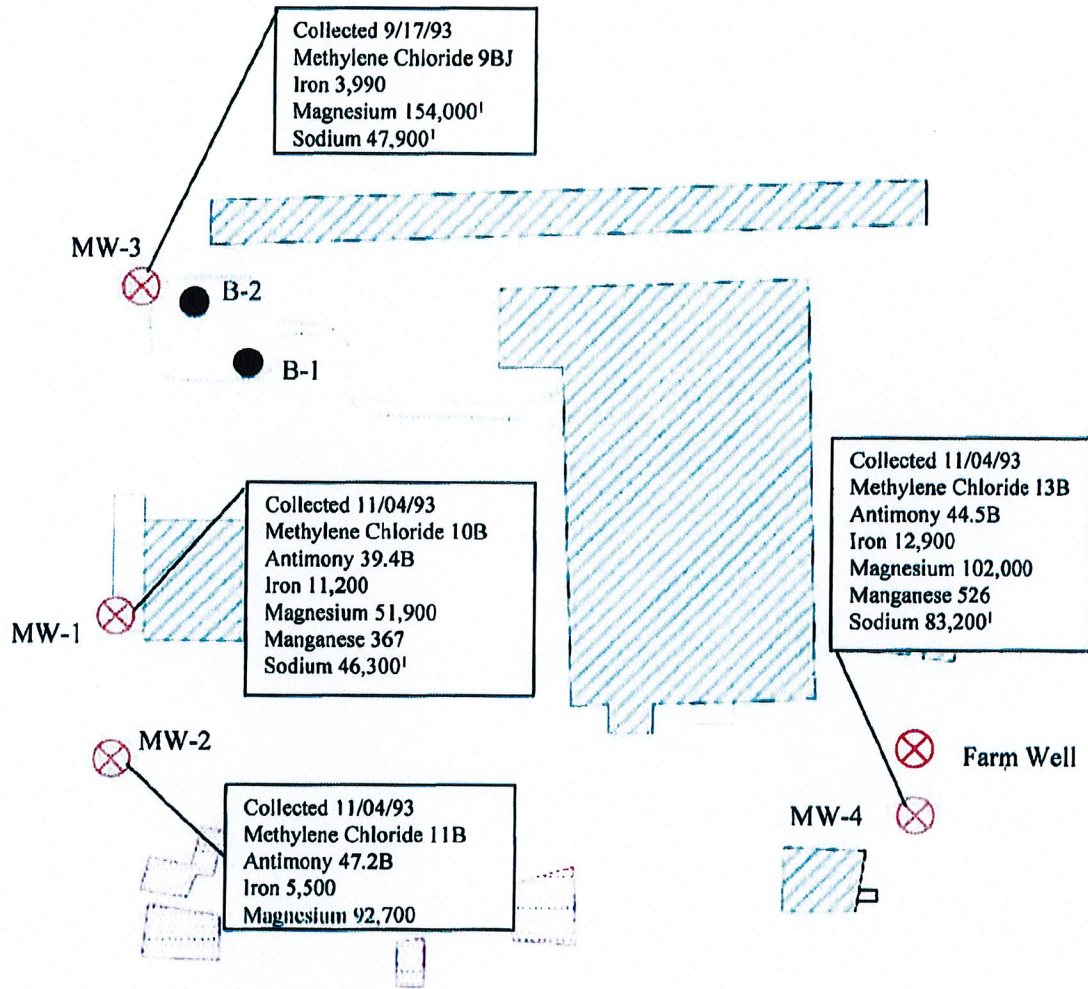


Project 235.198
Date 5/15/17
Scale NTS

Drawn PVS
Checked MPR
File Name Site Map

Figure 3

Prepared For ACM Northern CR#3 LLC
3144 S. Winton Road
Rochester, NY



All values shown in units of micrograms per liter



2008 NYSDEC Monitoring Well



Soil boring sampled in 2008 by NYSDEC

1. Sample collected on May 1, 1997

B= Compound found in blank; J = Compound found below reporting limit.

Title Groundwater Results Greater Than Standards
2250 Military Road
Tonawanda, NY

Prepared For ACM Northern CR#3 LLC
3144 S. Winton Road
Rochester, NY



Leader Professional Services
271 Marsi Road, Suite 2
Pittsford, NY 14534
(585) 248-2413
FAX (585) 248-2834

Project 235.198

Date 5/15/17

Scale NTS

Drawn PVS

Checked MPR

File Name Site Map

Figure

4



Title
Site Area Topographic Map
2250 Military Road
Tonawanda, NY

Prepared For
ACM Northern CR#3 LLC
3144 S. Winton Road
Rochester, NY


Leader Professional Services
271 Marsh Road, Suite 2
Pittsford, NY 14534
(585) 248-2413
FAX (585) 248-2834

Project 235.198
Date 5/15/17
Scale NTS

Drawn PVS
Checked MPR
File Name Site Map

Figure
5

EXHIBIT A

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through July 25, 2017.

Selected Entity Name: ACM NORTHFIELD CR #3, LLC

Selected Entity Status Information

Current Entity Name: ACM NORTHFIELD CR #3, LLC

DOS ID #: 5143524

Initial DOS Filing Date: MAY 25, 2017

County: NEW YORK

Jurisdiction: DELAWARE

Entity Type: FOREIGN LIMITED LIABILITY COMPANY

Current Entity Status: ACTIVE

Selected Entity Address Information

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

ACM NORTHFIELD CR #3, LLC

ATTN: TIMOTHY P. SHEEHAN

3144 S. WINTON RD.

ROCHESTER, NEW YORK, 14623

Registered Agent

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this

information is not recorded and only available by
viewing the certificate.

***Stock Information**

# of Shares	Type of Stock	\$ Value per Share
No Information Available		

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
MAY 25, 2017	Actual	ACM NORTHFIELD CR #3, LLC

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

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

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[Homepage](#) | [Contact Us](#)

EXHIBIT B



Scale: 1" = 100'

DATE: 12/15/2009

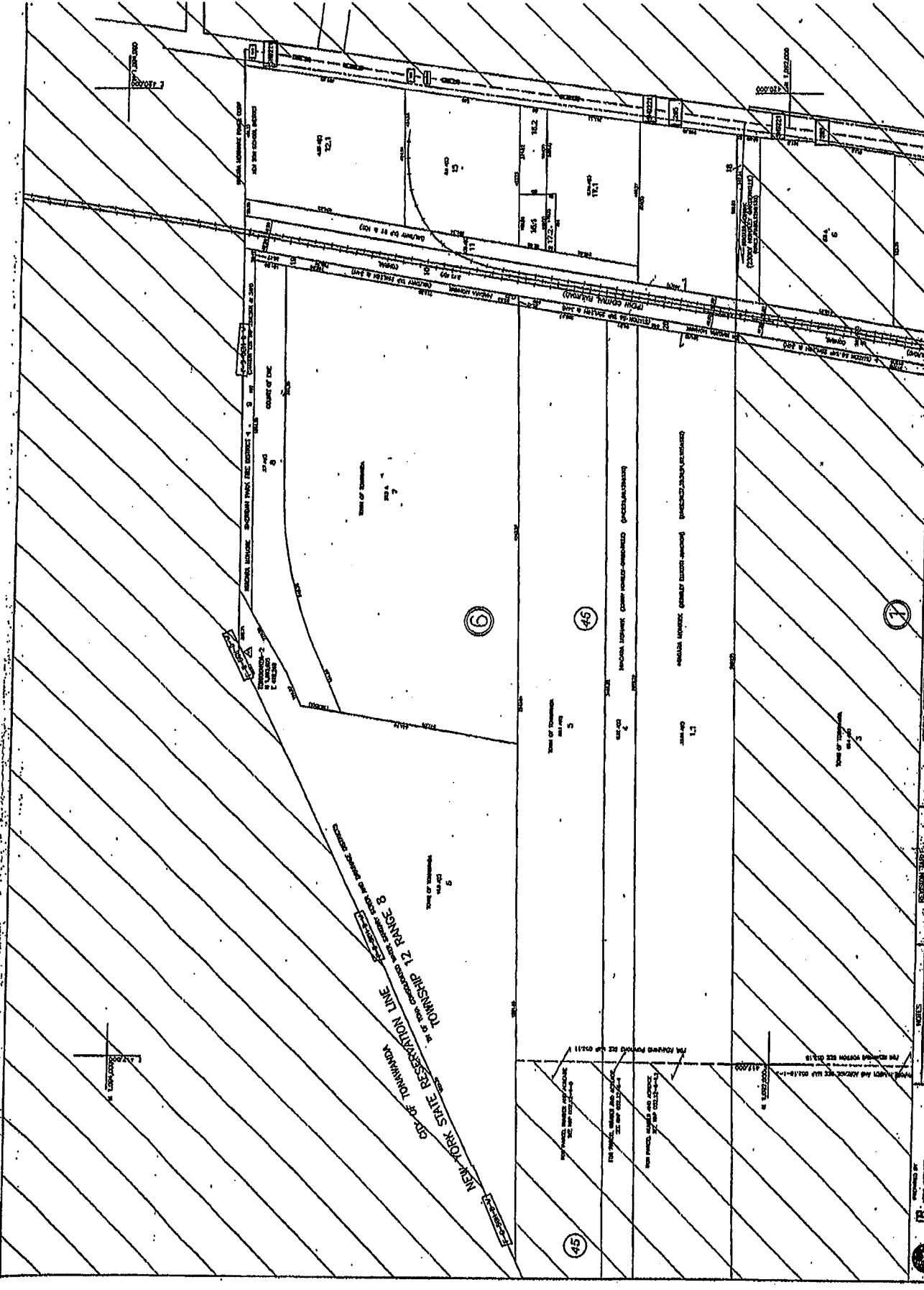
PROJECT: ...

OWNER: ...

DESIGNER: ...

NOTES: ...

STATE OF NEW YORK ...



TOWN OF TOWNANDWA

NEW YORK STATE RESERVATION LINE

GRAND AVENUE

TOWN AND STATE HIGHWAY

LOCAL HIGHWAY

45

46

47

STATE OF NEW YORK ...

EXHIBIT C

Real Property Information

Parcel Status	ACTIVE	City/Town	Tonawanda	Village	
S-B-L	52.12-6-16.2	Owner	ACM NORTHFIELD CR #3 LLC	SWIS	146489
Property Location	2266 MILITARY RD	Mailing Address			
Property Class	710 MANUFACTURE	Line 2			
Assessment	24800	Line 3			
Taxable	24800	Street	3144 S WINTON RD		
Desc	1317 N YOUNGMAN HWY	City/State	ROCHESTER NY		
Desc	0.495 ACRE	Zip	14623		
Deed Book		Deed Page			
Frontage	80	Depth	274.82	Acres	0.49
Year Built		Square Ft			
Beds		Baths			
FirePlace		School	KEN-TON UNION FREE S		

[Owner History](#) [Tax Payment History](#)

Google maps

[Click Here](#)

Owner Name {Last Name First} or

Property Address No./ Street

S-B-L

EXHIBIT D

Requestor Eligibility Information

Upon information and belief, and based on prior public records, the Bisonite Paint Company, Inc. was responsible for significant discharges of various contaminated materials at the Site. The New York State Department of Environmental Conservation, Region 9, Division of Environmental Remediation prepared a Site Investigation Scope of Work for the Bisonite Paint Company Site, Tonawanda, Erie County, New York, Site Number 915010 dated May 2011. According to a portion of Section 2.2 of that document:

The property was formerly utilized by the Bisonite Paint Company from 1947 until May 1, 1991 for the manufacture of water and oil based paints. Prior to 1978, paint pigments and approximately 1,800 gallons per year of spent solvents and mineral spirits were land-spread over a one-acre parcel of property for weed control... In addition, a settling lagoon approximately 50 feet long, 30 feet wide, and 8 to 10 feet deep was located on the northwestern portion of the property..., and utilized for the disposal of metal paint pigments and by-products from the manufacture of water and oil based paints... Paint Wastes were reportedly dumped into an open trench... Spills and leaks of raw chemical product to the open trench drain were also reported.

According to this NYSDEC report, "Bisonite manufacturing operations ceased on May 1, 1991 when the company closed and filed for bankruptcy." *Id.* at Section 2.2. It further indicates that the NYSDEC entered into an Order on Consent with Bisonite, but the Order did not address soil or groundwater contamination. *Id.* at Section 2.3.

According to the New York State Department of State Division of Corporations, the Bisonite Paint Company became inactive effective December 28, 1994.

According to the NYSDEC's Report, a company called 2251 Military Road Associates, Inc. submitted a Removal Action Work Plan in 1996. *Id.* at Section 2.5. Upon information and belief, Military Road Associates, Inc. excavated significant amounts of soil and conducted remediation activities pursuant to an Order on Consent. This included construction of storage buildings and an asphalt cap over a lagoon area. According to the New York State Department of State Division of Corporations, this company was a domestic corporation in New York from 1996 to 2000.

Upon information and belief, and based upon publicly available records, the London Norway Corporation acquired title to the property and obtained a new mortgage through the Bank of Akron in or about 1997, and later entered into a mortgage modification and consolidation agreement with Wyoming County Bank. Upon information and belief, the Wyoming County Bank mortgage was later assigned to Pramco III, LLC. Pramco III, LLC commenced foreclosure proceedings in 2006, and a Referee's Sale was held in 2007. The Referee's deed was issued to Sopramco III REO, LLC. According to the New York State Department of State Division of

ACM Northfield CR #3, LLC
2268 Military Road

(continued)

Corporations both Pramco III, LLC and Sopramco III REO, LLC are inactive foreign corporations.

Sopramco III REO, LLC transferred the Site to Requestor in December 2012 as part of the bulk sale of mortgage loans and REO properties. Since that time, Requestor has attempted to liquidate the property by marketing it for sale to an end user/operator/owner, but has been unsuccessful due to the environmental concerns surrounding the property. Requestor has maintained the asphalt cap throughout its ownership.

A BCP applicant may be either a "Participant" or a "Volunteer." A "Participant" is an applicant who either (i) was the owner of the site at the time of the disposal or discharge of contaminants; or (ii) is otherwise responsible according to applicable principles of statutory or common law liability, unless such person's liability arises solely as a result of such person's ownership or operation of or involvement with the site subsequent to the disposal or discharge. New York Environmental Conservation Law 27-1405(1)(a). This definition is repeated verbatim at 6 NYCRR 375-3.2(b)(1) and is paraphrased in the Brownfield Cleanup Program Guide at Section 2.4(1)(A). A "Volunteer" is an applicant other than a participant, including a person whose liability arises solely as a result of such person's ownership or operation of or involvement with the site subsequent to the disposal or discharge of contaminants provided that such person exercises appropriate care with respect to the contamination. New York Environmental Conservation Law 27-1405(1)(b). This definition is repeated verbatim at 6 NYCRR 375-3.2(b)(2) and is paraphrased in the Brownfield Cleanup Program Guide at Section 2.4(1)(B).

Because the Requestor became involved with the property decades after the disposal or discharge of contaminants, and has exercised appropriate care with respect to the contamination, it is entitled to Volunteer status under New York Environmental Conservation Law 27-1405(1)(b). It has no relationship with the reputed discharger, the Bisonite Paint Company.

EXHIBIT E

Property Eligibility Information

Documented Contamination of Site

The property is currently listed on the NYS Registry of Inactive Hazardous Waste Disposal Sites identified as Site Number 915010, Class #3. Upon information and belief, and based on prior public records, the Bisonite Paint Company, Inc. was responsible for significant discharges of various contaminated materials at the Site. The New York State Department of Environmental Conservation, Region 9, Division of Environmental Remediation prepared a Site Investigation Scope of Work for the Bisonite Paint Company Site, Tonawanda, Erie County, New York, Site Number 915010 dated May 2011. According to a portion of Section 2.2 of that document, during the period from 1947 until May 1, 1991, the Bisonite Paint Company manufactured water and oil based paints and discharged significant quantities of paint pigments, spent solvents and mineral spirits, and associated byproducts at the site.

According to the NYSDEC's records, some remediation work was performed by a company called 2251 Military Road Associates, Inc., pursuant to an Order on Consent sometime in the 1990s. This included the construction of a self-storage facility and paving over contaminated areas to establish an asphalt cap. Despite the prior removal work, significant contamination is believed to exist and the property currently remains on the New York State Registry of Inactive Hazardous Waste Disposal Sites. Because the significant contamination of this site has been well established through prior NYSDEC records, the property is eligible for acceptance into the Brownfield Cleanup Program.

Volunteer Status of Requestor/Owner

The Bisonite Paint Company Site is owned by a volunteer as defined under ECL 27-1405(1)(b), who is the Requestor. Pursuant to section VII. 4., the following sets forth available information related to previous owners or operators:

- A. Upon information and belief, and based on prior public records, the Bisonite Paint Company, Inc. was responsible for significant discharges of various contaminated materials at the Site. From 1947 to 1991, the Bisonite Paint Company owned and operated the property for the manufacture of water and oil based paints. According to NYSDEC records, Bisonite manufacturing operations ceased on May 1, 1991 when the company closed and filed for bankruptcy. According to the New York State Department of State Division of Corporations, the Bisonite Paint Company became inactive effective December 28, 1994.
- B. According to NYSDEC records, a company called 2251 Military Road Associates, Inc. submitted a Removal Action Work Plan in 1996 and excavated significant amounts of soil and conducted remediation activities pursuant to an Order on Consent. This included construction of storage buildings and an asphalt cap over a lagoon area. According to the New York State Department of State Division of Corporations, this company was a domestic corporation in New York from 1996 to 2000.

(continued)

- C. Upon information and belief, and based upon publicly available records, the London Norway Corporation acquired title to the property and obtained a new mortgage through the Bank of Akron in or about 1997, and later entered into a mortgage modification and consolidation agreement with Wyoming County Bank. Upon information and belief, the Wyoming County Bank mortgage was later assigned to Pramco III, LLC. Pramco III, LLC commenced foreclosure proceedings in 2006, and a Referee's Sale was held in 2007. The Referee's deed was issued to Sopramco III REO, LLC. According to the New York State Department of State Division of Corporations both Pramco III, LLC and Sopramco III REO, LLC are inactive foreign corporations.
- D. Sopramco III REO, LLC transferred the Site to Requestor in December 2012 as part of the bulk sale of mortgage loans and REO properties. Since that time, Requestor has attempted to liquidate the property by marketing it for sale to an end user/operator/owner, but has been unsuccessful due to the environmental concerns surrounding the property. Requestor has maintained the asphalt cap throughout its ownership.

A BCP applicant may be either a "Participant" or a "Volunteer." A "Participant" is an applicant who either (i) was the owner of the site at the time of the disposal or discharge of contaminants; or (ii) is otherwise responsible according to applicable principles of statutory or common law liability, unless such person's liability arises solely as a result of such person's ownership or operation of or involvement with the site subsequent to the disposal or discharge. New York Environmental Conservation Law 27-1405(1)(a). This definition is repeated verbatim at 6 NYCRR 375-3.2(b)(1) and is paraphrased in the Brownfield Cleanup Program Guide at Section 2.4(1)(A). A "Volunteer" is an applicant other than a participant, including a person whose liability arises solely as a result of such person's ownership or operation of or involvement with the site subsequent to the disposal or discharge of contaminants provided that such person exercises appropriate care with respect to the contamination. New York Environmental Conservation Law 27-1405(1)(b). This definition is repeated verbatim at 6 NYCRR 375-3.2(b)(2) and is paraphrased in the Brownfield Cleanup Program Guide at Section 2.4(1)(B).

Because the Requestor became involved with the property decades after the disposal or discharge of contaminants, and has exercised appropriate care with respect to the contamination, it is entitled to Volunteer status under New York Environmental Conservation Law 27-1405(1)(b). It has no relationship with the reputed discharger, the Bisonite Paint Company.

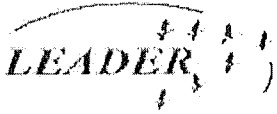
EXHIBIT F

CONTACT LIST

Public Officials	
Erie County Executive	Mark Poloncarz County Executive's Office 95 Franklin Street, 16 th Floor Buffalo, NY 14202
Erie County Commissioner of Environment and Planning	Thomas R. Hersey, Jr. 95 Franklin Street, 10 th Floor Buffalo, NY 14202
Tonawanda Town Supervisor	Joseph H. Emminger 2919 Delaware Avenue, Room 11, Kenmore, NY 14217
Tonawanda Town Planning Board Chairman	Earl R. Nunemaker 2919 Delaware Avenue, Room 11, Kenmore, NY 14217
Adjacent Property Owners	
East - 2225 Military Road/Niagara Mohawk Power Corp.	Niagara Mohawk Power Corp. 300 Erie Blvd. Syracuse, NY 13202-4201
East - 2255 Military Road/United Refining Co. of PA	United Refining Company of PA PO Box 780 Warren, PA 16365
North - 2286 Military Road/Spirit SPE Portfolio 2007-2LLC	Spirit SPE Portfolio 2007-2LLC 1019 Route 519 Eighty Four, PA 15330
East- 2299 Military Road/Niagara Regional Development LLC	Niagara Mohawk Power Corp. 300 Erie Blvd. Syracuse, NY 13202-4201
West - 2300 Military Road/Niagara Mohawk Power Corp.	Niagara Mohawk Power Corp. 300 Erie Blvd. Syracuse, NY 13202-4201
South - 841 Two Mile Creek Road/ Niagara Mohawk Power Corp.	Niagara Mohawk Power Corp. 300 Erie Blvd. Syracuse, NY 13202-4201
Local Media	
The Buffalo News	One News Plaza PO Box 100 Buffalo, NY
WNED and WBFO	Horizons Plaza PO Box 1263 Buffalo, NY 14240-1263

WIVB/WNLO-TV	2077 Elmwood Avenue Buffalo, NY 14207
7 Eyewitness News	7 Broadcast Plaza Buffalo, NY 14202
WGRZ-TV 20n Your Side	259 Delaware Avenue Buffalo, NY 14202
Water Supplier	
Tonawanda Water and Sewer	525 Belmont Avenue Buffalo, NY 14223
Document Repository	
Tonawanda Library	c/o Mary L. Muscarella – Director 333 Main Street Tonawanda, NY 14150
Other Relevant Persons	
Requestor's Attorney	Greta K. Kolcon, Esq. Woods Oviatt Gilman LLP 700 Crossroads Building 2 State Street Rochester, NY 14614 Tel: 585-987-2812 Email: gkolcon@woodsoviatt.com
Requestor's Authorized Representative	Robert Flowers 780 Third Ave, 27th Floor New York, NY 10017 Tel: 212-527-8184 Email: ufberg@atalayacap.com
Requestor's Consultant	Leader Professional Services, Inc. 271 Marsh Road, Ste. 2 Pittsford, NY 14534
President, Leader Professional Services, Inc.	Michael P. Rumrill Tel: 585-248-2413 Email: MRumrill@leaderlink.com
Senior Project Manager, Leader Professional Services, Inc.	Pete von Schondorf Tel: 585-248-2413 Email: pvonschondorf@leaderlink.com

EXHIBIT G



Peter vonSchondorf <pvonschondorf@leaderlink.com>

Re: Document Respository

1 message

Mary Muscarella <muscarellam@buffalolib.org>
To: Peter vonSchondorf <pvonschondorf@leaderlink.com>

Mon, Jun 26, 2017 at 4:28 PM

Mr. von Schondorf,

I concur with your request to use the City of Tonawanda Library to file documents for public review in the below cited case.

Thanks for your inquiry.

Mary L. Muscarella
Library Director I
City of Tonawanda Library
333 Main St, Tonawanda, NY 14150
(716)693-5043
muscarellam@buffalolib.org

From: Peter vonSchondorf <pvonschondorf@leaderlink.com>
Sent: Monday, June 26, 2017 1:30 PM
To: Mary Muscarella; Steven Hislop; Michael Rumrill
Subject: Document Respository

Ms. Muscarella,

As we discussed, we hope to be doing a Brownfield Cleanup Program project with the NYSDEC on a property located in the City of Tonawanda and we would like to use the resources of the library to file documents for public review. We would like your concurrence to my request so we can document the library has agreed to our request. A short email to me would be sufficient for our purposes. Your response will be included in our application to the NYSDEC. If you have any questions please call me.

Thank you.

Pete von Schondorf
Leader Professional Services, Inc.
271 Marsh Road - Suite 2
Pittsford, NY 14534

Office: 585-248-2413
Cell: 585-455-6309

The Buffalo & Erie County Public Library System has more than 2.6 million materials available for borrowing including books, eBooks, DVDs, music and more. Free library card applications can be downloaded and taken to any of the 37- local public libraries for processing. A valid form of identification and proof of address is necessary. For more information call 716-858-8900 or visit <http://www.BuffaloLib.org>. Follow the library on Facebook <https://www.facebook.com/buffalolibrary.central?ref=ts> , Twitter <http://twitter.com/buffalolibrary> , Pinterest <http://www.buffalolib.org/sites/default/files/images/pinterest.png> , Instagram <http://instagram.com/buffalolibrary> and Flickr <http://www.buffalolib.org/sites/default/files/images/flickr.png>