

# Phase I Environmental Site Assessment

**Location:**

766 New Babcock Street  
Buffalo, New York 14210

**Prepared For:**

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**Prepared:**

**March 2010**

## DISCLAIMER

This Phase 1 Environmental Site Assessment (Phase 1 ESA) is the professional opinion of AFI Environmental and is based upon information contained in public records, former worker interviews and observations made during a series of site reconnaissance(s) made April 14<sup>th</sup> 2010 of Parcel 1 & Parcel 2 for the personal inspection of the property located at 766 & 772 New Babcock St, Buffalo, New York, 14210, collectively referred to as The Subject Property (SBL#: Parcel 1 - 112.14-3-2.1 & Parcel 2 – 112.14-3-2 respectively). The opinions, findings and recommendations of AFI Environmental do not apply or pertain to conditions at the Property existing after the date of the final inspection(s) or to the Properties status after the final inspection date (April 14<sup>th</sup> 2010).

This report presents the evaluation procedures, assessment findings, and conclusions of the Phase I ESA. AFI Environmental has conducted this Phase 1 ESA consistent with the scope of our contract with our client and scope and limitations of ASTM Practice E1527-05 and the US Environmental Protection Agency's (USEPA's), final rule and standard for "All Appropriate Inquiry" (AAI) Standard (40 CFR Part 312). This rule establishes a minimum due diligence standard for innocent landowners, bona fide prospective purchasers, and contiguous property owners seeking liability protection under the comprehensive environmental response, compensation, and Liability Act ("CERCLA"), and for assessments under CERCLA 104 (k) (2) (B) Brownfield grant program.

This ESA was prepared using data, references and information available from federal, state, county, and local agencies. Observations were made of the land and improvements present at the time of the inspection(s). AFI Environmental renders no opinion as to the presence or absence of hazardous materials or potential environmental liability associated with portions of the property, structures or adjacent properties where access was limited, obstructed or unavailable or which may look to be included with the property based on landscaping or similar surface cover or which may be leased or excluded from the list of included properties.

Unless otherwise specified in this ESA, AFI Environmental did not perform, as part of

this Phase 1 ESA certified environmental testing, analysis or monitoring to determine the presence or absence of hazardous constituents. If additional and in-depth tests were conducted, the opinions of AFI Environmental contained herein may be significantly different.

This report is founded upon the application of professional judgment and scientific principles to certain facts with resultant subjective interpretations. The professional judgments expressed herein are based on the facts currently available within the limits of the scope of work, budget, existing data and schedule. To the extent that more definitive conclusions are desired by the client that are supported by the currently available facts, it is AFI Environmental's intent that the conclusions and recommendations stated herein will be intended as guidance and not necessarily a firm course of action except where explicitly stated as such.

AFI ENVIRONMENTAL MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES AS TO MERCHANTABILITY OR FITNESS OF A PARTICULAR PURPOSE. In addition, the information provided in this report is not to be construed as legal advice.

Nothing contained in this report shall be construed as a warranty or affirmation by AFI Environmental that the site and property described in the report are suitable collateral for any loan or that acquisition of such property by any lender through foreclosure proceedings or otherwise will pose no risk of potential environmental liability on the part of such lender.

## 1.0 EXECUTIVE SUMMARY

This report represents the results of a Phase I Environmental Site Assessment (Phase 1 ESA), conducted by AFI Environmental Consultants (AFI) a d/b/a of Buffalo Environmental Consultants, Inc. (BECI), on property which is intended to be part of the future development known as: **“766 & 772 New Babcock Street”** which initially intended to include the following parcel: (See attached Site map with parcel labeled as to location and number.)

**Parcel 1:** 766 New Babcock St, Buffalo, New York, 14210,

SBL#: 112.14-3-2.1

**Parcel 2:** 772 New Babcock St, Buffalo, New York, 14210,

SBL#: 112.14-3-2

This Phase 1 ESA has revealed the following potential areas of environmental concern (PAECs) based on historical records search showing past and present uses of the site, and field reconnaissance in which leaking drums were observed. The records search was conducted to gather information on former tenants; past operations and site activities and exterior disposal activities of waste products (mounds of suspected material were observed during the field reconnaissance portion of preparing this Phase 1 ESA). Site reconnaissance and further field inspection were conducted to evaluate and roughly characterize the relative extent of contamination dumping. No other evidence of recognized environmental conditions (RECs) in connection with the subject site except those items listed below.

<i>Summarized Environmental Finding</i>	<i>Environmental Issue</i>	<i>Opinions</i>
Former EPA Clean-up Site.- In 1999 the target property at 766 New Babcock Street, Buffalo, NY 14210 housed a variety of hazardous chemicals stored on site. Methylene Chloride, Trichloroethylene, Perchloroethylene and 1-1-1 Trichloroethane were found on site. The EPA began the inventory and removal of 398 drums of chlorinated solvents, 86 drums of chlorinated still bottoms, 74 lab packs and 15,000 gallons of chlorinated waste water.	The improper dumping of hazardous and/or regulated materials could allow for a release of the contents to reach surface soils, or groundwater located on the site.	The improper storage of hazardous and/or regulated materials is a REC on the subject site, as there is a potential for a release of the contents to reach soils located on the site. Clean-up objectives in 1999 vs Clean-up objectives in 2010 have become more severe. Concern that the soils and or USTs recorded for the site may still contain chemical constituents above guidance levels requiring further remediation

<p>A drywell was observed in the parking lot of the subject property. Dry wells can serve as a "straight-shot" conduit for ground water contamination from accumulated waste and items listed above.</p>	<p>This is a pathway for hazardous or regulated materials (such as petroleum) to penetrate subsurface soil and ground water or enter the sewer system which exits the site.</p>	<p>Any discharge of a hazardous and/or regulated material into subsurface soils is a REC.</p>
<p>A central Floor drain was observed in the building located on the subject property. The current operator said the drain is connected to the sewer. During the site walkthrough the inspector observed what appeared to be vent pipes near the grate which indicated this may have been a drywell.</p>	<p>This is a pathway for hazardous or regulated materials (such as petroleum) to penetrate subsurface soil and ground water or enter the sewer system which exits the site.</p>	<p>Any discharge of a hazardous and/or regulated material into subsurface soils is a REC.</p>
<p>Fill was observed on site, there was no documentation of where the fill came from. In 1999, the older wood framed portion of the facility was demolished; this portion of the building housed the items listed above in box 1. It is believed the demolished building may have been crushed up and used as fill for portions of the site.</p>	<p>The improper dumping of hazardous and/or regulated materials could allow for a release of the contents to reach surface soils located on the site.</p>	<p>The improper storage of hazardous and/or regulated materials is a REC on the subject site, as there is a potential for a release of the contents to reach soils located on the site. PCB containing transformers are required to be monitored.</p>
<p>The subject site was permitted as a hazardous waste chlorinated organic recovery facility, Voelker. The facility handled solvents such as methylene chloride, trichloroethylene and perchloroethylene. When the facility moved, they did not perform an inventory for removal. In 1990 the EPA came in to inventory and removal the hazardous waste.</p>	<p>This is a pathway for hazardous or regulated materials (such as petroleum) to penetrate subsurface soil and ground water or enter the sewer system which exits the site.</p>	<p>Any discharge of a hazardous and/or regulated material into subsurface soils is a REC.</p>
<p>55 Gallon drums were observed inside the building. At the time of the site reconnaissance, waste oil drums were leaking. Other drums were staged inside the building containing various fluids (hydraulic oil ect).</p>	<p>Spills pathway for hazardous or regulated materials (such as petroleum) to penetrate subsurface soil and ground water.</p>	<p>The improper storage of hazardous and/or regulated materials is a REC on the subject site, as there is a potential for a release of the contents to reach soils located on the site.</p>
<p>Staining was observed at the time of the site inspection; both inside and outside the structure on the subject</p>	<p>Spills pathway for hazardous or regulated materials (such as petroleum) to penetrate</p>	<p>The improper storage of hazardous and/or regulated materials is a REC on the subject</p>

property. Straining appeared to be from leaking equipment and 5 gallon and 55 gallon containers.	subsurface soil and ground water.	site, as there is a potential for a release of the contents to reach soils located on the site.
Five (5) Above Ground Storage Tanks (AST's) were observed at the subject property. Three (3) tanks were located outside the subject building and appeared to be leaking with stains	Spills pathway for hazardous or regulated materials (such as petroleum) to penetrate subsurface soil and ground water.	Any discharge of a hazardous and/or regulated material into subsurface soils is a REC.
There is a potential (due to age of buildings) which currently and previously occupied these parcels; for building components to contain PCB's. Building components possibly containing PCB's: electrical fixtures, capacitors, mercury switches, and transformers.	The improper dumping of hazardous and/or regulated materials could allow for a release of the contents to reach surface soils located on the site.	The improper storage of hazardous and/or regulated materials is a REC on the subject site, as there is a potential for a release of the contents to reach soils located on the site. PCB containing transformers are required to be monitored.
Seventy (70) database records were found for the adjacent and surrounding properties within the ASTM government/state records search radius.	Spills pathway for hazardous or regulated materials (such as petroleum) to penetrate subsurface soil and ground water.	Any discharge of a hazardous and/or regulated material into subsurface soils is a REC.
Presumed Asbestos Containing Material PACMs were noted. PACMs included, but not limited to, grout, mastic, window caulk, roofing, flashing, material insulation etc.  Asbestos sampling is not within the scope of an ESA E1527-05 Phase I	Employers must keep a survey which identifies the location of ACM construction materials on file and available for employee inspection. Know locations of ACM <b>must</b> be identified with warning stickers advising employees of hazardous condition. Severely damaged ACMs must be encapsulated and/or abated.	Any knowing release of ACMs into the air is a violation of USEPA Air quality regulations. Activities such as remodeling, renovations, and demolition which release ACMs into the air are regulated activities and subject to fines.
Due to the age of the buildings, and conditions of the deteriorating paint that were observed on the site there is a potential for dust and metals associated with lead-based paint and hexavalent chromium. Impacts may be associated with most of the buildings surfaces and all ground areas on and near the drip lines of the buildings and where wind could have carried the sand or metal dust.	Deteriorating paint needs to be handled in a manner in accordance with US EPA guidelines. A lead paint risk assessment of the existing structures and evaluation of the impact to surface soils of deteriorating lead based paint should be evaluated	Lead Sampling is not within the scope of an ESA E1527-05 Phase I. Exposure to lead can irritate the skin and cause respiratory and brain and central nervous system function problems.
Fluorescent light fixtures may contain ballast which contains PCB components.	The standard fluorescent lamp contains approximately 20 milligrams of mercury. While there are no known health	Any discharge of a hazardous and/or regulated material into subsurface soils is a REC.

	hazards from exposure to lamps that are intact, improper disposal of fluorescent lamps can contaminate.	
Site soils and ground water are in above acceptable levels based on current regulations.	Spills pathway for hazardous or regulated materials (such as petroleum) to penetrate subsurface soil and ground water.	Any discharge of a hazardous and/or regulated material into subsurface soils is a REC.
Historical records indicate historic unregulated UST associated with the subject site; registered to Voelker. This tank was closed in 1988, it is unknown whether orphan tanks exist on the site.	Spills pathway for hazardous or regulated materials (such as petroleum) to penetrate subsurface soil and ground water.	Any discharge of a hazardous and/or regulated material into subsurface soils is a REC.

**Additional Potential Areas of Environmental Concern (PAEC) and Significant Findings identified during AFI's Site Reconnaissance and Records Searched are Listed Below:**

- In 1999 the target property at 766 New Babcock Street, Buffalo, NY 14210 housed a variety of hazardous chemicals stored on site. Methylene Chloride, Trichloroethylene, Perchloroethylene and 1-1-1 Trichloroethane were found on site. The EPA began the inventory and removal of 398 drums of chlorinated solvents, 86 drums of chlorinated still bottoms, 74 lab packs and 15,000 gallons of chlorinated waste water. The EPA tested the groundwater and no contamination was found.
- In 2000, there was a Tank Failure north of the target property. According to the DEC, the spill material was Diesel and created a potential for fire or hazard. An environmental firm was hired to clean up the spill and generated 2 or 3 drums of diesel from the fuel tanks and a couple of drums from the cleanup of the spill onto Asphalt.
- In 2002, there was a UPS Truck Spill caused by equipment failure (ruptured saddle tank) north of the target property. According to the DEC, there was minimal potential for fire or hazard. 4 drums of cleanup material were gathered.
- In 2006, there was a minor spill north of the target property. The spill was cleaned up by Safety Kleen and less than 10 gallons of oil and water had mixed in the process.
- In 2003 there was a commercial/industrial spill north west of the target property. According to the DEC, the spill created a potential for fire or hazard. Results showed

elevated levels of Semi-volatile Compounds. Spill required no further work.

- In 1993 there was unreported issue north west of the target property. Housekeeping allowed water from washing bus batteries to run into the drain on the floor. No potential threat and no DEC response were recorded.
- In 1996 there was a spill north east of the target property. According to the DEC, a Tomasello Truck caused the spill however there was minimal potential for fire or hazard. The truck spilled Hydraulic Fluid and the Fire Department reported to clean it up. The Fire department left about 8 garbage bags of debris on the roadside.
- In 2000 there was a spill caused by a CSX Railroad derailment north west of the target property. According to the DEC the spill created a potential for fire or hazard. The 4,000 gallon capacity north fuel tank failed releasing 2,000 gallons plus of diesel on the ground and contaminated up to a 120 foot radius. The contaminated groundwater was disposed of through 25 drums with activated carbon.
- In 2003 there was a spill north west of the target property. According to the DEC there was minimal potential for fire or hazard. One of the hoses at a gas station in Buffalo was leaking diesel fuel. Spill was cleaned up completely.
- In 1997 it was reported that north west of the target property. There was deliberate dumping of Asbestos Containing Material in a trash bin outside the building that had no seal and was open to access the raw asbestos. There was no response from the DEC as this created minimal potential for fire or hazard.

### **Items identified during Records Search**

*For a complete listing of all records see section Appendix 13.0*

- A review of the CERCLIS list, as provided by EDR, and dated 06/30/2009 has revealed that there are two (2) CERCLIS sites within approximately 0.5 miles of the target property.
- A review of the RCRA-SQG list, as provided by EDR, and dated 01/13/2010 has revealed that there are three (3) RCRA-SQG sites within approximately 0.25 miles of the target property.
- A review of the RCRA-CESQG list, as provided by EDR, and dated 01/13/2010 has revealed that there are four (4) RCRA-CESQG sites within approximately 0.25 miles of the target property.
- A review of the SHWS list, as provided by EDR, and dated 02/23/2010 has revealed that there are four (4) SHWS sites within approximately 1 mile of the target property.
- A review of the SWF/LF list, as provided by EDR, and dated 01/19/2010 has revealed



that there are three (3) SWF/LF sites within approximately 0.5 miles of the target property.

- A review of the LTANKS list, as provided by EDR, and dated 02/23/2010 has revealed that there are ten (10) LTANKS sites within approximately 0.5 miles of the target property.
- A review of the HIST LTANKS list, as provided by EDR, and dated 01/01/2002 has revealed that there are nine (9) HIST LTANKS sites within approximately 0.5 miles of the target property.
- A review of the UST list, as provided by EDR, and dated 02/18/2010 has revealed that there is three (3) UST sites within approximately 0.25 miles of the target property.
- A review of the AST list, as provided by EDR, and dated 02/18/2010 has revealed that there is one (1) AST sites within approximately 0.25 miles of the target property.
- A review of the CBS AST list, as provided by EDR, and dated 01/01/2002 has revealed that there is one (1) CBS AST site within approximately 0.25 miles of the target property.
- A review of the MOSF AST list, as provided by EDR, and dated 01/01/2002 has revealed that there is one (1) MOSF AST site within approximately 0.5 miles of the target property.
- A review of the MOSF list, as provided by EDR, and dated 02/18/2010 has revealed that there is one (1) MOSF site within approximately 0.5 miles of the target property.
- A review of the CBS list, as provided by EDR, and dated 02/18/2010 has revealed that there is one (1) CBS site within approximately .25 miles of the target property.
- A review of the AST list, as provided by EDR, and dated 10/06/2009 has revealed that there are three (3) AST site within approximately 0.75 miles of the target property.
- A review of the SWTIRE list, as provided by EDR, and dated 08/01/2006 has revealed that there is one (1) SWTIRE site within approximately 0.5 miles of the target property.
- A review of the DEL SHWS list, as provided by EDR, and dated 06/09/2009 has revealed that there is one (1) DEL SHWS site within approximately 1 mile of the target property.
- A review of the HIST UST list, as provided by EDR, and dated 01/01/2002 has revealed that there are three (3) HIST UST sites within approximately 0.25 miles of the target property.
- A review of the ENG CONTROLS list, as provided by EDR, and dated 11/23/2009 has revealed that there is one (1) ENG CONTROLS site within approximately 0.75 miles of the target property.

- A review of the US BROWNFIELDS list, as provided by EDR, and dated 11/23/2009 has revealed that there are three (3) US BROWNFIELDS site within approximately 1 mile of the target property.
- A review of the NY Spills list, as provided by EDR, and dated 02/23/2010 has revealed that there are ten (10) NY Spills sites within approximately 0.125 miles of the target property.
- A review of the NY HIST Spills list, as provided by EDR, and dated 01/01/2002 has revealed that there are six (6) NY HIST Spills sites within approximately 0.125 miles of the target property.
- A review of the RCRA-NonGen list, as provided by EDR, and dated 01/13/2010 has revealed that there are five (5) RCRA-NonGen sites within approximately .25 miles of the target property.
- A review of the CONSENT list, as provided by EDR, and dated 08/03/2009 has revealed that there is one (1) CONSENT site within approximately 1 mile of the target property.
- A review of the MANIFEST list, as provided by EDR, and dated 01/04/2010 has revealed that there are nine (9) MANIFEST sites within approximately 0.25 miles of the target property.

The above notations are recognized Environmental Conditions found within the ASTM recommended search radiuses. There is no evidence that the Recognized Environmental conditions listed above have had any impact on the subject site.

Based mostly on visual inspection of parcel #1 & Parcel #2, and confirmed by review of historic records, and interviews with government agencies and individuals familiar with the area; it is AFI's opinion the past and present activities conducted at the site and the properties adjoining it have had, at a minimum, an impact to the site; and potentially adverse environmental effects on the subject property. Our historical review included the review of reasonable ascertainable standard historical sources of information dating to 1900, the earliest available historical records for the area of the subject property.

Due to the above identified PAECs and the history of the Site; AFI recommends that a Phase 2 Investigation be conducted at the site to investigate the potential for Soil and or Groundwater impacts from previous operations at the Site. In addition, the site should be scanned with ground penetrating Radar to confirm the absence of USTs, or if present, the UST should be registered and or removed. The Internal sump or pit should be sampled and or cleaned prior to purchase.

Due the suspected presence of Asbestos containing building materials (ACMBs) AFI recommends that an **asbestos survey** identifying the locations and quantity of ACM material be conducted prior to ownership or having employees utilize/occupy the site.

*OUR SERVICES FOR THE PHASE 1 ESA DID NOT INCLUDE SAMPLING OF: soil, ground water, radon, lead, asbestos or review of title documents.*

## CLIENT RELIANCE

AFI has completed a Phase I Environmental Site Assessment (ESA) of the Industrial Buildings, and Land, at 766 & 772 New Babcock St, Buffalo, New York, 14210, collectively referred to as The Subject Property (SBL#: Parcel 1 - 112.14-3-2.1 & Parcel 2 - 112.14-3-2 respectively). This assessment was performed utilizing methods and procedures consistent with good commercial or customary practice designed to conform to acceptable industry standards. This report is exclusively for the use and benefit of the Client and identified Users on the first page of this report and is not intended for the use or benefit of, nor may it be relied upon by, any other person or entity without the advanced written consent of AFI. The independent conclusions represent AFI's best professional judgment based on the information provided is true and correct in accordance with 18 U.S.C. 1001. Factual information regarding operations, conditions and test data provided by the Client, owner or their representative has been assumed to be correct and complete. Additionally, the conclusions presented are based on the conditions that existed and the information available at the time of the assessment.

*AFI has no present nor do we contemplate any future partnership with the Client. AFI has no interest in the property to be inspected which could adversely affect AFI's ability to perform an objective assessment; and neither the employment of AFI to conduct the Phase I ESA, nor the compensation for it, is contingent on the results of the Phase I ESA.*

Project Managers: Patrick Ackerman  
Researched by: Patrick Ackerman  
Surveyed by: William Heitzenrater and Patrick Ackerman  
Written by: William Heitzenrater and Patrick Ackerman  
Reviewed by: William Heitzenrater and Geoffrey Heitzenrater

William Heitzenrater  
Sr. Environmental Professional

Patrick Ackerman  
Environmental Professional

## 1.1 Report Findings

### 1.1.2 Site Description and Legal Description:

Two (2) parcel's listed below will make up the entire project area of our client proposed 766 & 772 New Babcock Street. Below is a summary of location, former address, former owner, and former acres.

#### **ASSESSED PROPERTY INFORMATION: Parcel #1**

- Mailing Addresses:	766 New Babcock Street
- Municipality:	Buffalo
- County, State, Zip:	Erie, New York 14210
- Tax ID No(s)	112.14-3-2.1
- Additional Parcels:	Yes
- Parcel Size (acres):	146.1 x 113
- Site Location Map:	See Figure #1
- Current Owner - Name:	Stegura, Lorraine K,
- Telephone Number:	N/A
- Key Site Contact - Name:	N/A
-Current Business/Tenant:	N/A
- Current Use - Description:	Hannah Demolition
- Past Use - Description:	Equipment Maintenance and Repair
- Site Improvements:	Remodeled within the last 10 years; new roof, office and ACM abatement

**ASSESSED PROPERTY INFORMATION: Parcel #2**

- Mailing Addresses:	772 New Babcock Street
- Municipality:	Buffalo
- County, State, Zip:	Erie, New York 14210
- Tax ID No(s)	112.14-3-2
- Additional Parcels:	Yes
- Parcel Size (acres):	98 x 0
- Site Location Map:	See Figure #1
- Current Owner - Name:	Stegura, Lorraine K,
- Telephone Number:	N/A
- Key Site Contact - Name:	N/A
-Current Business/Tenant:	N/A
- Current Use - Description:	Hannah Demolition
- Past Use - Description:	Equipment Maintenance and Repair
- Site Improvements:	Remodeled within the last 10 years; new roof, office and ACM abatement.

**LEGAL DESCRIPTION:**

The property, 766 & 772 New Babcock St, Buffalo, New York, 14210, collectively referred to as The Subject Property (SBL#: Parcel 1 - 112.14-3-2.1 & Parcel 2 – 112.14-3-2 respectively) is in the city of Buffalo, County of Erie, State of New York, and is described as follows:

## **SITE OWNERSHIP AND GENERAL CHARACTERISTICS:**

### Parcel 1 & 2

- Mailing Addresses:	766 & 772 New Babcock Street
- Municipality:	Buffalo
- County, State, Zip:	Erie, New York 14210
- Tax ID No(s)	112.14-3-2.1 112.14-3-2
- Parcel Size (acres):	146.1 x 113
- Current Use - Description:	Hanna Demolition

## **CURRENT USE OF THE PROPERTY**

*Refer to "Site Reconnaissance" in Section 4.0 or to "Conclusions" Section 1.2 of this report for a detailed description of the subject property and its uses. Refer to Appendix Section 10.0 for the cities directory for this report for a list of some of the previous occupants of the site.*

### ***1.1.2 Site Reconnaissance:***

On March 17 and April 14th, 2010 William Heitzenrater, Sr. Environmental Professional visited the site, located at 766 & 772 New Babcock St, Buffalo, New York, 14210, collectively referred to as The Subject Property (SBL#: 112.14-3-2.1 & 112.14-3-2 respectively). The purpose of this visit was to determine if the current and/or past use of the land at the property or adjoining properties have created, or have potential to create, a recognized environmental condition for the subject property.

- The property was walked through in such a way to view the whole site and adjacent sites while performing the site reconnaissance.
- All portions of the site that could be accessed (interior and exterior) were observed. All buildings were accessible for interior inspection.
- Field notes and photographs of REC's (recognized environmental concerns) were taken and included in this report.

The site location is identified on figure 1 (Site location), Topographic Map and color photographs of the site are located in Section 4.3 of this report.

### ***1.1.3 Site History***

Environmental Data Resource Co, Inc's (EDR) City Directory Abstract has a report designed to evaluate potential liability on the subject site resulting from past activities. The report includes a search and abstract of available city directory data. Business directories including city, cross reference and telephone directories were reviewed, if available, at approximately five (5) year intervals for the years spanning 1938 through 2010.

<b>Year</b>	<b>Uses</b>	<b>Source</b>
<b>766/772 New Babcock Street, Buffalo, New York 14210 (Parcel 1)</b>		
2010	Hannah Demolition Contractors	Polk's City Directory
N/A	Voelker Analysis	Interviews
N/A	S & B Truck Service	Interviews
N/A	ENRX	Interviews

See section 10.8 for full EDRs City Directory.

### ***1.1.4 Regulatory Information***

The purpose of the record review is to ascertain the potential for environmental concerns on the subject property resulting from current and previous on-site and nearby land use activities. During this portion of the Phase I ESA, numerous documents, which are prepared and maintained, by Federal, State and local government agencies are reviewed.

See section 11.0 for EDR Report.

### ***1.1.5 Interviews***

William Heitzenrater, Senior Environmental Professional for AFI Environmental, interviewed the current Manager and former husband of current owner on April 14, 2010.

Patrick Ackerman, Environmental Professional for AFI Environmental, conducted interviews



over the telephone with the following local agencies.

Buffalo Fire Department  
City of Buffalo Assessors  
City of Buffalo Building Inspector

Copies of the conversation logs are located in section 7.3 of this report.

### ***1.1.6 Other Findings***

The site was given a cursory visual inspection for asbestos containing materials (ACM) that may have been used in the construction of the structures on site. In 1972, the US Occupational Safety and Health Administration (OSHA) and Environmental Protection Agency (EPA) began regulating the use of asbestos.

Lead is a toxic metal that was used for many years in products found in and around our homes. Lead also can be emitted into the air from motor vehicles and industrial sources, and lead can enter drinking water from plumbing materials. Lead may cause a range of health effects, from behavioral problems and learning disabilities, to seizures and death. Children six years old and under are most at risk.

OSHA regulations presume that asbestos is present in pre-1981 buildings if certain types of building materials have been used unless they have been tested to prove otherwise. Based on the visual inspection and the year construction in stages beginning prior to 1971, there is a high probability that ACM is present in the buildings original construction materials. *Please note asbestos materials are still used in building materials found today, especially those materials manufactured outside the United States.*

During the inspection, the following Presumed Asbestos Containing Materials (PACM) were identified:

- Plaster Walls
- Roof and roof flashing
- Window caulk and glaze

*There is no way to tell by visual inspection alone whether or not a material contains asbestos. The only way to e certain if a material contains asbestos is to have it tested by a certified*

*laboratory. Since testing for the suspected ACM is outside the scope of the Phase I ESA conducted according to the ASTM Standard Practice E 1527 -05, no testing of PACM was performed as a part of this investigation.*

Due to the age and construction style of the building there is a potential for PCBs in electrical equipment and transformers, lead based paint on painted surfaces, and mercury in switches and thermostats. Confirmation of the presence of any of these materials was out-of-scope and was not part of this investigation.

## **1.2 CONCLUSIONS**

It is AFIs opinion that all conditions indicative of releases or threatened releases of hazardous substances, as defined in CERCLA section 101(14) (312.1 (c)) and as limited by the terms of AFIs agreement and areas available for inspection are listed above. No Activity and Use limitations (AULs) were noted, which would require ongoing maintenance to preserve CERCLA liability protection by the owner (based on IC/EC registries).

No major environmental concerns, and no disposal of CERCLA defined hazardous waste were noted; except for those noted as recognized environmental conditions (RECs), or Potential Areas of Environmental Concern (PAECs) identified in Section 1.0 above and discussed in the site reconnaissance section 4.1 below, were observed. The potential for surface impacts which may run to depth within the subsurface soil horizon, resulting from petroleum products or petroleum by-products leaking through fractures in the concrete inside the building; as a result of stacks of leaking gas tanks and drums of petroleum product failures was noted in section 1.0 and in section 4.1. While petroleum releases is not a CERCLA defined hazardous chemical (section 101(14) (312.1) (c)) the cleanup and/or remediation costs associated with soil and ground water impacts, if present, can be substantial. It is the opinion of this author that extensive soil impacts have occurred, at the site, (elevated metals in soils and petroleum releases) due to former operations and disposal practices at the site; and that remediation will be required. This statement is based on the identification of conditions ( mounds and areas of sand blasting sand dumped around the site); and lack of enforced good housekeeping procedures and the observation of stains below 55 gallon storage areas and stacks of gas tanks on the site; which are indicative of releases or threatened releases. Additional investigations (2006 and 2007 soil probing activities which penetrated the concrete floor and samples of soils collected across the site confirmed these assumptions).

## **1.3 DATA GAPS**

If there are any change, deletions, or additions to the Phase I Environmental site Assessment procedure they are agreed to by the Client, or User and AFI and are included in the contract. All of these deviations are noted in this section of the report.

The federal AAI rule eliminates the concept of “recognized environmental conditions”

(“RECs”) in favor of the “identification of conditions indicative of releases and threatened releases of hazardous substances on, at, in, or to the subject property.” The AAI rule also includes an exception for quantities or amounts of hazardous substances that, in the opinion of the Environmental professional, ‘generally would not pose a threat to human health or the environment.’ The AAI rule is followed for this report, as per the Client’s request and AFI’s contract.

Historical records were reviewed back to 1900:

- *No records were available for the site before 1900*
- *Information was not retrieved or returned from the following agencies:*
  - *City of Buffalo Treasurer*

## 1.4 RELIANCE AND DECLARATION

AFI has completed a Phase I Environmental Site Assessment (Phase 1 ESA) of the Industrial Building and Land, 766 & 772 New Babcock St, Buffalo, New York, 14210, collectively referred to as The Subject Property (SBL#: Parcel 1 - 112.14-3-2.1 & Parcel 2 – 112.14-3-2 respectively). This assessment was performed at the request of the Client, utilizing methods and procedures consistent with good commercial or customary practice designed to conform to acceptable industry standards. This report is exclusively for the use and benefit of the Client and identified Users on the first page of this report and is not intended for the use or benefit of, nor may it be relied upon by, any other person or entity without the advanced written consent of AFI. The independent conclusions represent AFI's best professional judgment based on the information provided is true and correct in accordance with 18 U.S.C. 1001. Factual information regarding operations, conditions and test data provided by the Client, owner or their representative has been assumed to be correct and complete. Additionally, the conclusions presented are based on the conditions that existed and the information available at the time of the assessment.

*AFI has no present nor do we contemplate any future partnership with the Client. AFI has no interest in the property to be inspected which could adversely affect AFI's ability to perform an objective assessment; and neither the employment of AFI to conduct the Phase I ESA, nor the compensation for it, is contingent on the results of the Phase I ESA.*

Project Managers: Patrick Ackerman  
Researched by: Patrick Ackerman  
Surveyed by: William Heitzenrater and Patrick Ackerman  
Written by: William Heitzenrater and Patrick Ackerman  
Reviewed by: William Heitzenrater and Geoffrey Heitzenrater

William Heitzenrater  
Sr. Environmental Professional

Patrick Ackerman  
Environmental Professional

**End of Executive Summary**

## 2.0 PURPOSE

The purpose of this Phase 1 Environmental site Assessment (Phase 1 ESA) is to identify “recognized environmental conditions” associated with the subject property, to the extent feasible pursuant to the processes described herein. The term “**recognized environmental conditions,**” ( **REC**) as defined by ASTM: “the presence or likely presence of any hazardous substances or petroleum product on a property under conditions that indicate an existing release, a past release, or a material threat of release of any hazardous substances or petroleum products into structures on the property or into the ground, groundwater or surface water of the property.” This practice is to define good commercial and customary practice in the United States of America for conducting an environmental site assessment of a parcel of commercial real estate with respect to the range of contaminants within the scope of the Comprehensive Environmental Response Compensation and Liability Act, (CERCLA) and petroleum products.

This report has been completed per the Scope of Work agreed to by AFI and the Client and as such, this report does meet the Clients requirements to assess the environmental risk related to the subject property as defined in 40 CFR part 312 “Standards and Practices for All Appropriate Inquires; Final Rule” (AAI). However this assessment does not satisfy the requirements for Limited Liability Protection (LLP) to CERCLA liability. The Format of the report and the methods utilized to gather information regarding the subject property, the utilization of Environmental Professionals and identification of data gaps and the discussions as to how these data gaps, if any, may impact the authors interpretation of environmental concerns at the site does allow this report to be consistent with the procedures of AAI.

### 3.0 SCOPE AND LIMITATIONS OF WORK

This assessment has been conducted in accordance with the ASTM "Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process" E 1527-05 also with Federal All Appropriate Inquiry (AAI) Standard (40 CFR Part 312). The ASTM E 1527-05 protocol specifies the degree and type of investigation, which constitutes "appropriate inquiry into the previous ownership and uses of the property consistent with good commercial or customary practice." Compliance to this protocol may enable this Phase 1 ESA to constitute "all appropriate inquiry" under CERCLA. In all cases, the documents, sources and minimum search distances established by ASTM E 1527-05 were either met or exceeded in the conduct of this Phase 1 Assessment.

#### 3.1 CLIENT RESPONSIBILITIES

The ASTM Standard E identifies the following Client responsibilities, which do not require the technical expertise of an environmental Professional and may be performed by the Client or User:

**Title Search-** Reviewing Title Records for Environmental Liens or Activity and land Use Limitations is the responsibility of the Client or User to identify environmental liens or activity and use limitations. If any records are found, this information should be reported to the Environmental Professional. The ASTM Standard E 1527 does not impose the responsibility of the title search on the Environmental Professional.

**Specialized knowledge or Experience of the Client or User-** If the Client or User is aware of any specialized knowledge or experience that is material to recognized environmental conditions in connection with the subject property, it is the Client's responsibility or User's responsibility to inform the Environmental Professional of this information or knowledge prior to the site reconnaissance.

**Significantly Lower Purchase Price-** If the Client or User should have actual knowledge that the purchase price of the property is significantly less than the purchase price of comparable properties due to environmental concerns on the

subject property or adjacent properties, the Client or User should impart this information to the Environmental Professional prior to the site reconnaissance.

The Client or user shall make known to the Environmental Professional in writing the reason for having the Phase I Environmental Assessment performed. If the Client or User does not identify the purpose for the Phase I Environmental Assessment the Environmental Professional shall perform the assessment with the understanding that the purpose is to meet the Client's requirement as stated in the Scope of Work, for assessment of the environmental risk, if any, associated with the subject site. It is the Client or User's responsibility to identify to the Environmental Professional the purpose and to modify the Scope of work under this practice for special circumstances, such as, but not limited to, the potential environmental conditions that could materially impact the operations of a business associated with the parcel of land.

### **3.2 SCOPE OF WORK**

The following Scope of Work was agreed upon by both parties and is limited to:

A reconnaissance of the site, as allowed by readily available access, was undertaken to visually identify indications of actual or potential site contamination. Adjacent sites were viewed from the boundaries and did not include actual on site inspection. This did not include any type of inspection that would require extraordinary effort to obtain.

A review of reasonably ascertainable historical records, site use documents, street directories, plant plans and aerial photographs available through standard government agencies and commercial services was performed. Historical records were reviewed to 1940 or the first development whichever is earlier.

The records obtained meets or exceeds the minimum search distances recommended by the ASTM E 1527 Practice. In cases of large, irregular shaped sites, the distances shall be measured from the nearest property boundary. Any reduction of the minimum search distances is based on the density of the setting, and the likely migration or hydrogeologic conditions.



A vehicular reconnaissance of the adjacent properties and the immediate surrounding area of the subject property was performed to identify current land use and to determine its potential to adversely affect the subject property.

A review of published hydro-geologic information: geological maps and records were performed to evaluate the potential migration characteristics of the area and the recorded depth to groundwater in the area of the site.

Interviews were conducted with individuals who are familiar with the subject property and who may have experience or special knowledge regarding environmental concerns on the site or the surrounding area. An individual most knowledgeable of the subject property was given a questionnaire containing the environmental questions established by ASTM Standard 1528-06 Transaction Screen. The written answers to this questionnaire are included in this report.

All technical services are performed by an environmental professional with training and education in environmental technology with emphasis on hazardous materials handling and regulations.

The Phase I ESA Report summarizes our findings, opinions and, if required, our recommendation, for further investigation has been completed.

### **3.3 LIMITATIONS**

This ESA is a visual observation of apparent environmental concerns. The scope of the work did not include the sampling and chemical analysis of soil, surface water, groundwater, air or building materials for lead or asbestos. Nor does this report include the investigation of process/operations of an existing facility in compliance with applicable environmental laws and regulations.

In preparing this report, AFI must rely on information obtained from government agencies: some of this information requires a legal description of the site. If the client did not provide this legal description, then some historical data may not be obtained and this section will show "no legal provided".

In preparing this report, AFI has relied upon certain information provided by the

federal, state, and local officials and knowledgeable individuals, as well as information contained in the files of federal, state and county agencies. AFI did not attempt to independently verify the accuracy of or the completeness of all information provided during the course of this investigation. No warranty is made regarding the accuracy of any publicly documented information or the opinions of officials or other persons consulted.

In the event that counsel, title examiner, or peer review for the Client obtains information on the environmental or hazardous waste issue at the subject site not contained in this report, such information shall be brought to AFI's Attention immediately. AFI will evaluate such information and, based on this evaluation, may modify the conclusions stated in this report.

In certain instances, alternatives may have been substituted for the standard sources in ASTM Standard Practice E 1527. This has only been done only in those situations when these alternatives are equal or better reliability and detail, or if a standard source is not readily ascertainable.

Factual information regarding the operations, conditions and test data provided by the Client, owner and/or their representatives have been assumed to be correct and complete.

The conclusions and recommendations presented in this report are based upon reasonable visual inspection of the site and research of readily available documentation. This information is relevant to the date of our site visit and should not be relied upon to represent conditions later. AFI is not responsible for the impact of any change in environmental standards, practices or regulations, subsequent to the performance of its services.

This report does not consider *de minimis* conditions (i.e., small amounts of hazardous substance) that generally do not pose a risk of material harm to public health or the environment and generally would not be the subject of enforcement action if brought to the attention of appropriate government agencies.

Time constraints limit some receipt of information such as fire department and other agencies, which require written requests and up to (2) weeks, or more, to

respond to these requests. Whenever possible AFI will endeavor to obtain this information; however, when it is not possible, AFI will state: DATA FAILURE DUE TO TIME CONSTRAINTS.

Completion of this report in the prescribed time is contingent on the receipt of the requested documents from the Government Agency, Client and/or owner of the subject site as requested.

Unrestricted access to all portions of the building must be provided. If additional visits to the site are required to finish the site reconnaissance due to tenant refusal to allow entry to the site, an additional charge will be added to the price of the Report. The owner or owner's agent must notify the tenant(s) prior to the time of the site reconnaissance that the assessor/inspector will be visiting the site

The information provided in the site reconnaissance is relevant to the date of the onsite work and should not be relied on to represent conditions at a later date.

Use of this Phase I ESA without the expressed written permission of AFI Environmental a d/b/a of Buffalo Environmental consultants, Inc., releases AFI from any liability that may arise from the use of this report.

Reasonably ascertainable for the purposes of this report is information that is (1) publicly available, (2) obtainable from the source within a reasonable time and cost constraints, and (3) practically reviewable.

This environmental assessment does not address issues that are not necessarily relevant to the environmental characteristics of the subject property, such as: geotechnical suitability including subsidence; economic profitability; appropriate zoning; conditions of plumbing, electrical, roofing, HVAC systems; and building structure.

Specific areas to which access was limited by the site conditions or conditions outside of AFI's control included the following:

- The roofs of the building were not inspected except from the ground.

### 3.4 NON-SCOPE ISSUES

The following non-scope issues to the Phase I ESA are included as part of this report.

A cursory visual survey for suspect asbestos containing material will be made taking in to consideration the year of construction of the building(s) and visual observations. This survey is not sufficient to identify specific areas, which may contain asbestos or the quantity or the potential cost of remediation or abatement.

The positive identification of asbestos or the lacks of asbestos can only be verified by sampling. No sampling will be done. As such, the Client should assume that all areas known to contain ACM(s), TSI, and Presumed Asbestos Containing Materials (PACMs) contain ACMs unless sampled and verified not to contain ACMs by a certified ACM Inspector with analytical testing by an EPA and state certified lab.

Radon information for the zip code 14210 of the subject property is attained from the State Radon Records from a study dated:

- *1986-1992*

All other non-scope issues must be identified prior to starting the Phase I procedure. These issues may include but are not limited to Comprehensive and Limited Asbestos surveys, investigation of utility transmission lines, underground transmission pipelines, radon testing, wetlands review and delineations, endangered species inventory, sensitive receptors, archeological studies, lead testing and mold survey and testing.

Our services for this Phase I report did not include sampling of soil, surface water, groundwater, radon, lead, asbestos, mold, or review of title documents. Please note, other Phase II or Documents may exist and be referenced in this report. Please see bibliography in section 12.0 of this report.

### 3.5 EXCEPTIONS AND/OR DEVIATIONS

If there are any change, deletions, or additions to the Phase I Environmental site Assessment procedure they are agreed to by the Client, or User and AFI and are included in the contract. All of these deviations are note in this section of the report.

The federal All Appropriate Inquiry (AAI) Standard (40 CFR Part 312) rule eliminates the concept of “recognized environmental conditions” (“RECs”) in favor of the “identification of conditions indicative of releases and threatened releases of hazardous substances on, at, in, or to the subject property.” The AAI rule also includes an exception for quantities or amounts of hazardous substances that, in the opinion of the Environmental professional, ‘generally would not pose a threat to human health or the environment.’ The AAI rule is followed for this report, as per the Client’s request and AFI’s contract.

Historical records were reviewed back to 1901:

- *No records were available for the site before 1901*
- *Information was not retrieved or returned from the following agencies:*
  - *City of Buffalo Treasurer*

## **4.0 SUBJECT PROPERTY/VICINITY DESCRIPTION**

### **4.1 SITE RECONNAISSANCE**

#### **4.1.1 METHODOLOGY**

- The assessor(s) walked the property in a systematic way to view the site and adjoining buildings and sites while performing the site reconnaissance.
- A photo record of the site was made along with notes to better visualize the features found on the site.
- The adjoining sites were viewed from the subject site, photographed, and also viewed and photographed from public roadways, and other public access ways. The inspection did not include entering the adjoining sites.
- The exterior accessible areas were observed.

#### **4.1.2 SITE STRUCTURES**

*There is a structure, constructed out of brick and wood with glass block windows. The building was remodeled within the last 10 years, including a new roof, office spaces and a ACM abatement.*

#### **4.1.3 HYDRAULIC EQUIPMENT/PCB CONTAINING EQUIPMENT**

*Due to the age of the building; certain electrical components, transformers and capacitors may contain PCB's. No 'No PCB' stickers were observed*

#### **4.1.4 INTERIOR STAINING/ODORS**

*Areas inside the building, near 55 gallon drums and drains, had staining on the ground surfaces.*

#### **4.1.5 HAZARDOUS AND REGULATED MATERIALS**

*Minor amounts of hazardous materials were observed on site in 55-gallon drums.*

#### **4.1.6 MATERIAL SAFETY DATA SHEETS (MSDS)**

*An MSDS is a written or printed document concerning a hazardous substance, which is prepared by chemical manufactures, importers, and employers for hazardous chemicals following OSHA's Hazard Communication Standard, 29 CFR 1910.1200.*

*No MSDS Sheets was available for viewing at the time of the inspection.*

#### **4.1.7 SALVAGE STORAGE**

*Some salvage waste/storage was observed at the time of the site reconnaissance.*

#### **4.1.8 DRUMS**

*A number of 55 gallon drums were observed on the subject site during the site reconnaissance. Some staining in the areas of the drum storage area was observed and discharge to the environment was assumed.*

#### **4.1.9 PROPERTY GROUNDS/VEGETATION**

*Stressed vegetation was on portions of the subject site.*

#### **4.1.10 CONCRETE/ASPHALT AREAS**

*There are areas around the building on the subject property with concrete and asphalt, stains were observed in these areas.*

#### **4.1.11 SURFACE ABNORMALITIES/DEPRESSIONS**

*The presence of environmental unusual and/or other suspicious surface abnormalities can be indicative of possible waste dumpsites or other subsurface activities.*

*No surface abnormalities or depressions were observed.*

#### **4.1.12 RUBBISH/DEBRIS**

*Rubbish and debris were observed on the boundary of the subject property; this debris appears to be from the neighboring property.*

#### **4.1.13 SOLID WASTE**

*Some solid waste was observed in the interior of the subject property. Construction Demolition Debris (C&D) was observed.*

#### **4.1.14 LIQUID WASTE/PITS/PONDS/LAGOONS**

*Pits, ponds, lagoons and sumps are man-made or natural depressions in the ground surface that are likely to hold liquids of sludge containing hazardous substance or petroleum product. Other devices, such as grease traps, in-line wastewater separators and sumps are used for the pretreatment of liquid wastes prior to their disposal.*

*No exterior liquid waste, pits, ponds or lagoons were observed at the time of the site reconnaissance. It can be assumed that during heavy rain some areas of the site will hold the rain water.*

#### **4.1.15 SURFACE DRAINAGE**

*During the exterior site walkthrough no surface drainage was observed.*

#### **4.1.16 WATER RETENTION**

*No exterior water retention spots were observed at the time of the inspection, however, it is assumed that after heavy rainfall water collects in poorly drained areas of the site and may pond. This ponding may collect additional petroleum products and drain to unprotected soil prior to infiltration.*

#### **4.1.17 STAINED GROUND SURFACES**

*Staining was observed inside the subject property on the floors near equipment storage, 55 gallon drums and AST's.*

#### **4.1.18 FILL DIRT**

*Fill dirt is dirt, soil, sand, or other earth that is obtained off site and used to fill holes or depressions, form mounts, or otherwise artificially change the grade or elevation of real property. However, dumping of sand and metal chips (possibly from sand blasting); which originated from onsite operations was observed on the site.*

*Fill was observed throughout the subject site.*



#### **4.1.19 WELLS**

*No wells were observed at the time of the inspection.*

#### **4.1.20 UNDER/ABOVEGROUND STORAGE TANKS (USTs & ASTs)**

*Evidence of historic USTs through site history reports, though no visual evidence was observed.*

#### **4.1.21 ELECTRICAL TRANSFORMERS**

*Prior to their ban in 1970's, Polychlorinated Biphenyls (PCB's) were used in dielectric fluids and oils in a variety of electrical equipment, such as transformers and capacitors, and in hydraulic equipment.*

*Three (3) pole mounted transformers were observed, no "No PCB" sticker were observed.*

*If dielectric fluid is released from an untested transformer, it is the utilities policy to test it for PCB content, repair or replace the transformer, and initiate the cleanup of the spill. If the transformer is damaged, or if leakage is visible, the utility company should be contacted. Stickers stating No-PCBs were not observed on all of the transformers. This is a PAEC.*

### **SUMMARY OF SITE RECONNAISSANCE**

*The interior of the building located on the subject property consists of a mostly open floor plan. The building was remodeled within the last 10 years. The remodeling activities consisted of a new roof, new offices and an asbestos abatement.*

## **4.2 ADJACENT SITES**

In most situations, these off-site observations did not include entering the site. The assessors viewed the adjacent sites from the subject site and from public roadways for evidence of chemical storage, improper waste disposal, or other

indications of adverse environmental conditions. Due to the migratory nature of certain environmental contaminants, the present land usage of adjoining properties was observed to determine their potential to adversely impact the subject property.

#### **4.2.1 Adjoining Properties**

**To the North**

**To the South**

**To the West**

**To the East**

#### **4.2.2 Past uses of Adjoining Properties**

Environmental Data Resource Co, Inc's (EDR) City Directory Abstract has a report designed to evaluate potential liability on the subject site and adjoining site resulting from past activities. The report includes a search and abstract of available city directory data. Business directories including city, cross reference and telephone directories were reviewed, if available, at approximately five (5) year intervals for the years spanning 1970 through 2000.

See sections 1.1.3 & 10.8 for complete City Directory.

### **4.3 SUBJECT SITE PHOTOGRAPHS**

#### **4.4 SUMMARY OF OBSERVATIONS OF POTENTIAL CONCERN**

It is AFIs opinion that all conditions indicative of releases or threatened releases of hazardous substances, as defined in CERCLA section 101(14) (312.1 (c)) and as limited by the terms of AFIs agreement and areas available for inspection are listed above. No Activity and Use limitations (AULs) were noted, which would require ongoing maintenance to preserve CERCLA liability protection by the owner (based on IC/EC registries).

No major environmental concerns, and no disposal of CERCLA defined hazardous waste were noted; except for those noted as recognized environmental conditions (RECs), or Potential Areas of Environmental Concern (PAECs) identified in Section 1.0 above and discussed in the site reconnaissance section 4.1 below, were observed. The potential for surface impacts which may run to depth within the subsurface soil horizon, resulting from petroleum products or petroleum by-products leaking through fractures in the concrete inside the building; as a result of stakes of leaking gas tanks and drums of petroleum product failures was noted in section 1.0 and in section 4.1. While petroleum releases is not a CERCLA defined hazardous chemical (section 101(14) (312.1) (c)) the cleanup and/or remediation costs associated with soil and ground water impacts, if present, can be substantial. It is the opinion of this author that extensive soil impacts have occurred, at the site, (elevated metals in soils and petroleum releases) due to former operations and disposal practices at the site; and that remediation will be required. This statement is based on the identification of conditions ( mounds and areas of sand blasting sand dumped around the site); and lack of enforced good housekeeping procedures and the observation of stains below 55 gallon storage areas and stacks of gas tanks on the site; which are indicative of releases or threatened releases. Additional investigations (2006 and 2007 soil probing activities which penetrated the concrete floor and samples of soils collected across the site confirmed these assumptions).

## 5.0 SUBJECT PROPERTY HISTORY AND USE

### 5.1 HISTORIC AERIAL PHOTOGRAPHS

#### 5.1.1 Aerial Photographs:

Environmental Data Resources, Inc. (EDR) Provide historical aerial photographs, and when available, provide one photograph per decade.

Year/Site	Observation
1958	766/772 New Babcock Street, Buffalo, NY 14210
Subject Property	Appears to be developed with the existing structures.
North	Suspected residential housing.
South	Suspected commercial/industrial development.
East	Suspected commercial/industrial development.
West	Suspected commercial/industrial development.
1966	766/772 New Babcock Street, Buffalo, NY 14210
Subject Property	Appears to be developed with the existing structures.
North	Suspected commercial/industrial development.
South	Suspected commercial/industrial development.
East	Suspected residential housing.
West	Suspected commercial/industrial development.
1978	766/772 New Babcock Street, Buffalo, NY 14210
Subject Property	Appears to be developed with the existing structures.
North	Suspected commercial/industrial development.
South	Suspected commercial/industrial development.
East	Suspected residential housing.
West	Suspected commercial/industrial development.
1983	766/772 New Babcock Street, Buffalo, NY 14210
Subject Property	Appears to be developed with the existing structures.
North	Suspected commercial/industrial development.
South	Suspected commercial/industrial development.
East	Suspected residential housing.
West	Suspected commercial/industrial development.

Year/Site	Observation
1995	766/772 New Babcock Street, Buffalo, NY 14210
Subject Property	Appears to be developed with the existing structures.
North	Suspected commercial/industrial development.
South	Suspected commercial/industrial development.
East	Suspected residential housing.
West	Suspected commercial/industrial development.

Year/Site	Observation
2006	766/772 New Babcock Street, Buffalo, NY 14210
Subject Property	Appears to be developed with the existing structures.
North	Suspected commercial/industrial development.
South	Suspected commercial/industrial development.
East	Suspected commercial/industrial development.
West	Suspected commercial/industrial development.

See appendix 10.7 for Aerial Photos.

## 5.2 HISTORICAL MAPS/DIRECTORIES

### 5.2.1 Fire Insurance Map(s):

- Source:

Sanborn Fire Insurance Maps

Environmental

Data Resources, Inc.

- Map Date(s):

1889 – 1986

Year/Site	Observation
1986	766/772 New Babcock Street, Buffalo, NY 14210
Subject Property	<b>766/772 New Babcock Street</b> – Subject site was occupied by Frontier Beef Inc. A building occupied by Hide Processing was south of the site.
1950	766/772 New Babcock Street, Buffalo, NY 14210
Subject Property	<b>766/772 New Babcock Street</b> – Subject site was occupied by U.S. Rubber Reclaiming Co. A Krauss and Co. a Hide Warehouse and a slaughter house were

	just north of the site and Niagara Mohawk Power Corporation was south of the site.
1939	766/772 New Babcock Street, Buffalo, NY 14210
Subject Property	<b>766/772 Babcock Street</b> – Subject site was occupied by U.S. Rubber Reclaiming Co. A slaughter house was just north of the site. Buffalo Niagara Electric Corporation was south of the site.
1917	766/772 New Babcock Street, Buffalo, NY 14210
Subject Property	<b>766/772 Babcock street</b> – A Krauss and Co. a Hide Warehouse and a slaughter house were just north of the site. Subject site was occupied by The Estate of Richard Webber a Slaughter House (not in operation). Buffalo General Electrical Company was south of the site.
1900	766/772 New Babcock Street, Buffalo, NY 14210
Subject Property	<b>766/772 Babcock Street</b> – Joe Grobe Slaughter House and M. Kerr & Son Sheep Killing Shed were north of the site. Subject site was occupied by an “Old & Vacant Private” lot. Nothing south of the site.
1889	766/772 New Babcock Street, Buffalo, NY 14210
Subject Property	<b>766/772 Babcock Street</b> – Subject site had two cattle barns with a creek splitting the southern half of the site. There was a slaughter house north of the subject property

## 5.3 MUNICIPAL RECORDS

### 5.3.1 Abstract of Title:

MONROE TITLE.

- Title Company:

A Stewart Company

- Title Number:

525874

- Certificate Date:

A copy of the EDR City Directory Abstract is contained in section 10.8

### 5.3.2 Property Tax Files:

SBL# 112.14-3-2.1

SBL# 112.14-3-2

- Source:

<http://gis1.erie.gov/>

- Date(s):

3/29/10

The current tax account number, owner and parcel size presented were obtained from the Erie County Assessor's website; <http://gis1.erie.gov/>.

### 5.3.3 Property Survey Map:

Copy of site map is in Appendix 10.10

### 5.3.4 Municipal Building Dept.:

- Source:

Engineering Office

Building Inspector

- Date:

### 5.3.5 Zoning/Land Use Maps:

- Source:

City of Buffalo

#### **5.4 PREVIOUS STUDY**

No previous studies were provided at the time of this report.

#### **5.5 SUMMARY OF HISTORIC USES**

The subject property was used as residential and commercial property.

Historically, the site has been used as a slaughter house, rubber reclaiming, and a warehouse. Equipment has been stored on site for maintenance and repair. An asbestos company was recently operators of the sit.

The site has historic contamination, EPA cleanups, but the current owner/operator has been conducting ongoing cleaning activities at the site (remodeling and asbestos abatements).



## 6.0 PHYSICAL AND HYDROGEOLOGIC SETTING

### 6.1 GEOLOGY

#### 6.1.1 USGS Topographic Map:

- Quadrangle: 42078-H7 Buffalo NE  
42078-G7 Buffalo SE
  
- Date: 1965 Edition

#### 6.1.2 USDA Soil Survey Map:

State Soil Geographic Database SSURGO  
According to the Soil Conservation Service SSURGO:  
Soil Component Name: Urban Land, Urban  
Surface Texture: Not Reported

### 6.2 HYDROLOGY

#### 6.2.1 Flood plains Maps:

- Source: Panel #3602300010B  
3602300005B  
3602300020B
  
- Date: 1974 - 1994

## **7.0 REGULATORY INFORMATION**

### **DATABASE**

The purpose of the record review is to ascertain the potential for environmental concerns on the subject property resulting from current and previous on-site and nearby land use activities. During this portion of the Phase I ESA, numerous documents, which are prepared and maintained, by various Federal, State and local government agencies are reviewed. The results of this investigation are discussed in the following sections.

### **7.1 SITE DISTRIBUTION SUMMARY - DATA BASES SEARCHED**

This database is an EPA maintained listing of facilities involved in the generation, transport, storage and/or disposal (TSD) of hazardous waste. Hazardous waste is any waste having characteristics identified under or listed pursuant to Section 301 of the Solid Waste Disposal Act (42 USC Section 6921). RCRA defines hazardous waste as "solid waste or combination of solid waste, which because of its quantity, concentration or physical, chemical or infectious characteristics may; (A) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible, illness; or (B) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed." Each facility on this list has obtained an EPA identification number and the facility is classified according to the type of hazardous waste involved and activity conducted. The database was reviewed for the following:

#### **7.1.1 CERCLIS**

CERCLIS Info is the Comprehensive Environmental Response, Compensation and Liability Information System contains data on potentially hazardous waste sites that have been reported to the USEPA by states, municipalities, private companies and private persons, pursuant to Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). CERCLIS contains sites which are either proposed to or on the National Priorities List (NPL) and sites which are in the screening and assessment phase for possible inclusion on the NPL.

A review of the CERCLIS list, as provided by EDR, and dated 06/30/2009 has revealed that there are two (2) CERCLIS sites within approximately 0.5 miles of the target property.

### **7.1.2 RCRA-SQG**

RCRA-SQG Info is EPA's comprehensive information system, providing access to data supporting the Resource Conservation and Recovery Act (RCRA) of 1976 and the Hazardous and Solid Waste Amendments (HSWA) of 1984. The database includes selective information on sites which generate, transport, store, treat and/or dispose of hazardous waste as defined by the Resource Conservation and Recovery Act (RCRA). Small quantity generators (SQG's) generate between 100 kg and 1,000 kg of hazardous waste per month.

A review of the RCRA-SQG list, as provided by EDR, and dated 01/13/2010 has revealed that there are three (3) RCRA-SQG sites within approximately 0.25 miles of the target property.

### **7.1.3 RCRA-CESQG**

RCRA-CESQG Info is EPA's comprehensive information system, providing access to data supporting the Resource Conservation and Recovery Act (RCRA) of 1976 and the Hazardous and Solid Waste Amendments (HSWA) of 1984. The database includes selective information on sites which generate, transport, store, treat and/or dispose of hazardous waste as defined by the Resource and conservation and Recovery Act (RCRA). Conditionally exempt small quantity generators (CESQG's) generate less than 100 kg of hazardous waste or less than 1 kg of acutely hazardous waste per month.

A review of the RCRA-CESQG's list, as provided by EDR, and dated 01/13/2010 has revealed that there are four (4) RCRA-CESQG's sites within approximately 0.25 miles of the target property.

### **7.1.4 SHWS**

The State and Hazardous Waste Sites (SHWS) records are the states' equivalent to CERCLIS. These sites may or may not already be listed on the federal CERCLIS list. Priority sites planned for cleanup using state funds (state equivalent of Superfund) are identified along with sites where cleanup will be paid for by potentially responsible parties. The data came from the Department of Environmental Conservation's Inactive Hazardous waste Disposal Sites in New York State.

A review of the SHWS list, as provided by EDR, and dated 02/23/2010 has revealed that there are four (4) SHWS sites within approximately 1 mile of the target property.

#### **7.1.5 SWF/LF**

The Solid Waste Facilities/Landfill Sites records are typically contain an inventory of solid waste disposal facilities or landfills in a particular state. The data comes from the list.

A review of the SWF/LF list, as provided by EDR, and dated 01/19/2010 has revealed that there are three (3) SWF/LF sites within approximately 0.5 miles of the target property.

#### **7.1.6 LTANKS**

Leaking Storage Tank Incident Reports are records that contain an inventory of reported leaking storage tank incidents reported from 04/01/1986 through the most recent update. They can be either leaking underground storage tanks or leaking aboveground storage tanks. The causes of the incidents are tank test failures of tank overfills.

A review of the LTANKS list, as provided by EDR, and dated 02/23/2010 has revealed that there are ten (10) LTANKS sites within approximately 0.5 miles of the target property.

#### **7.1.7 HIST LTANKS**

A listing of leaking underground and aboveground storage tanks. The causes of the incidents are tank test failures, tank failures or tank overfills. In 2002, the Department of Environmental Conservation stopped providing updates to its original Spills Information Database. The database includes fields that are no longer available from the NYDEC as of January 1, 2002. Current information may be found in the NY LTANKS database.

A review of the HIST LTANKS list, as provided by EDR, and dated 01/01/2002 has revealed that there are nine (9) HIST LTANKS site within approximately

0.5 miles of the target property.

#### **7.1.8 UST**

The Underground Storage Tank database contains registered UST's. UST's are regulated under Subtitle I of the Resource Conservation and Recovery Act (RCRA). The data comes from the Department of Environmental Conservation's Petroleum Bulk Storage (PBS) Database.

A review of the UST list, as provided by EDR, and dated 02/18/2010 has revealed that there are three (3) US INST CONTROL site within approximately 0.25 miles of the target property.

#### **7.1.9 AST**

The Aboveground Storage Tank database contains registered AST's. The data comes from the Department of Environmental Conservation's Petroleum Bulk Storage (PBS) Database.

A review of the AST list, as provided by EDR, and dated 02/18/2010 has revealed that there is one (1) SHWS sites within approximately 0.25 miles of the target property.

#### **7.1.10 CBS AST**

Chemical Bulk Storage Database registration data collected as required by 6 NYCRR Part 596. It includes facilities storing hazardous substances listed in 6 NYCRR Part 597, in aboveground tanks with capacities of 185 gallons or greater, and/or in underground tanks of any size. Includes facilities registered (and closed) since effective date of CBS regulations (July 15, 1988) through the date request is processed.

A review of the CBS AST list, as provided by EDR, and dated 01/01/2002 has revealed that there is one (1) CBS AST sites within approximately 0.25 miles of the target property.

### **7.1.11 MOSF AST**

Major Oil Storage Facilities Database. Facilities are licensed pursuant to Article 12 of the Navigation law, 6 NYCRR Part 610 and 17 NYCRR Part 30. These facilities may be onshore facilities or vessels, with petroleum storage capacities of 400,000 gallons or greater. Includes MOSF's ;icensed or closed since APRIL 1, 1986, (responsibility was transferred from DOT on October 13, 1985) plus available data obtained from DOT facilities licensed since Article 12 became law on April 1, 1978.

A review of the MOSF AST list, as provided by EDR, and dated 01/01/2002 has revealed that there is one (1) MOSF AST sites within approximately 0.5 miles of the target property.

### **7.1.12 MOSF**

These facilities may be onshore facilities or vessels, with petroleum storage capacities of 400,000 gallons or greater.

A review of the MOSF list, as provided by EDR, and dated 02/18/2010 has revealed that there is one (1) MOSF sites within approximately 0.5 miles of the target property.

### **7.1.13 CBS**

These facilities store regulated hazardous substances in aboveground tanks with capacities of 185 gallons or greater, and/or in underground tanks of any size.

A review of the CBS list, as provided by EDR, and dated 02/18/2010 has revealed that there is one (1) CBS sites within approximately 0.25 miles of the target property.

### **7.1.14 SWTIRE**

Registered Waste Tire Storage & Facility List from the Department of Environmental Conservation.

A review of the SWTIRE list, as provided by EDR, and dated 08/01/2006 has revealed that there is one (1) SWTIRE sites within approximately 0.5 miles of the target property.

#### **7.1.15 DEL SHWS**

A database listing of sites delisted from the Registry of Inactive Hazardous Waste Disposal sites.

A review of the DEL SHWS list, as provided by EDR, and dated 06/09/2009 has revealed that there is one (1) DEL SHWS site within approximately 1 mile of the target property.

#### **7.1.16 HIST UST**

The Underground Storage Tank database contains registered UST's. UST's are regulated under Subtitle I of the Resource Conservation and recovery Act (RCRA). The date comes from the Department of Environmental Conservation's Petroleum Bulk Storage (PBS) Databse.

A review of the HIST UST list, as provided by EDR, and dated 01/01/2002 has revealed that there are three (3) HIST UST site within approximately 0.25 miles of the target property.

#### **7.1.17 NY Spills**

Data collected on spills reported to NYSDEC is required by one or more of the following: Article 12 of the Navigation Law, 6 NYCRR Section 613.8 (from PBS regs) or 6 NYCRR Section 595.2 (from CBS regs). It includes spills active as of April 1, 1986, as well as spills occurring since this date.

A review of the NY Spills list, as provided by EDR, and dated 02/23/2010 has revealed that there are ten (10) NY Spills site within approximately 0.125 miles of the target property.

### **7.1.18 NY Hist Spills**

This database contains records of chemical and petroleum spill incidents. Under state law, petroleum and hazardous chemicals spills that can impact the waters of the state must be reported by the spiller (and, in some casesm by anyone who has knowledge of the spills.) in 2002, the Department of Environmental Conservation stopped providing updates to its original Spills Information Database. This database includes fields that are no longer available from the NYDEC as of January 1, 2002. Current information may be found in the NY Spills database.

A review of the NY Hist Spills list, as provided by EDR, and dated 01/01/2002 has revealed that there are six (6) NY Hist Spills sites within approximately 0.125 miles of the target property.

### **7.1.19 RCRA-NonGen**

RCRA Info is EPA's comprehensive information system, providing access to data supporting the Resource Conservation and Recovery Act (RCRA) of 1976 and the Hazardous and Solid Waste Amendments (HSWA) of 1984. The database includes selective information on sites which generate, transport, store, treat and/or dispose of hazardous waste as defined by the Resource Conservation and Recovery Act (RCRA). Non-generators do not presently generate hazardous waste.

A review of the RCRA-NonGen list, as provided by EDR, and dated 01/13/2010 has revealed that there are five (5) RCRA-NonGen sites within approximately 0.25 miles of the target property.

### **7.1.20 CONSENT**

Major Legal settlements that establish responsibility and standards for cleanup at NPL (superfund) sites. Released periodically by U.S. District Courts after settlement by parties to litigation matters.

A review of the CONSENT list, as provided by EDR, and dated 08/03/2009 has revealed that there is one (1) CONSENT site within approximately 1 mile of the target property.



### **7.1.21 MANIFEST**

Manifest is a document that lists and tracks hazardous waste from the generator through transporters to a TSD facility.

A review of the MANIFEST list, as provided by EDR, and dated 01/04/2010 has revealed that there are nine (9) MANIFEST sites within approximately 0.25 miles of the target property.

## **7.2 ENFORCEMENT ACTIONS/PERMITTED ACTIVITIES/INSTITUTIONAL CONTROLS**

Not available for the subject site.

## **7.3 INTERVIEWS/USER PROVIDED INFORMATION**

According to the ASTM "Standard Practice for Environmental Site Assessments: Phase 1 Environmental Site Assessment Process E 1527-05 and All Appropriate Inquiries, the owner, operator, previous owner, previous operator of the property should be contacted in order to obtain information regarding the presence, or absence, of recognized environmental conditions in connection with the subject property. In conformance to this protocol, AFI did give the owner a copy of the following questionnaire. See Section 10.0.

## **7.4 SUMMARY OF REGULATORY/USER PROVIDED INFORMATION**

### **7.4.1 IMPACT OF IDENTIFIED SITES ON THE SUBJECT PROPERTY**

Records search indicate that no impacts to date are recorded for the subject property from offsite impacts. Please see EDR Report, attached as Appendix 10.3 for complete details.

### **7.4.2 ENFORCEMENT ACTIONS/PERMITTED ACTIVITIES**

None Listed

### **7.4.3 PUBLIC DOMAIN INFORMATION SOURCES**

**7.4.3.1 USEPA FOIA – Letter Date:** March 18, 2010

See appendix 10.6 of report.

**7.4.3.2 New York State Department of Conservation FOIA –**  
**Letter Date:** March 18, 2010

See appendix 10.6 of report.

**7.4.3.3 Records Access Officer FOIA –**  
**Letter Date:** March 18, 2010

See appendix 10.6 of report.

**7.4.3.4 Buffalo – Building Inspector –**  
**Letter Date:** March 18, 2010

See appendix 10.6 of report.

**7.4.4 TOWN/CITY/VILLAGE of:** City of Buffalo

- 7.4.4.1**
- Title: **Building Inspector**
  - Date of Contact: **Name: David Krug**  
Supervising Code Enforcement Officer
  - Telephone Contact: 3/6/10

**7.4.5 SUMMARY**

As of the date of this report, we have not received any replies.

## 8.0 RADON

### 8.1 Radon:

- Source:

State Database: NY Radon

Zip	Total Sites	<4Pci/L	>=4Pci/L	>=20Pci/L	Avg>4Pci/L	Max Pci/L
14206	44	41(93.2%)	3 (6.8%)	0 (0%)	1.11	10.4

Federal EPA Radon Zone for Erie County: 1

Federal Area Radon Information for Erie County

Number of sites tested: 622

<u>Area</u>	<u>Average Activity</u>	<u>% &lt;4 pCi/L</u>	<u>% &lt;4-20 pCi/L</u>	<u>% &gt;20 pCi/L</u>
Living Area	1.000pCi/L	89%	11%	0%
Basement	1.150pCi/L	87%	11%	2%

## **9.0 WETLANDS**

### **9.1 Wetlands Maps:**

- Source:  
Phone #

Department of Environmental Conservation  
(518) 402-8961