

**IYER ENVIRONMENTAL GROUP, PLLC**  
**CONSULTING ENGINEERS & SCIENTISTS**



October 26, 2008

44 Rolling Hills Drive  
Orchard Park, NY 14127  
e-mail: [legpllc@aol.com](mailto:legpllc@aol.com)  
Phone: (716) 662-4157  
Cell: (716) 445-9684  
Fax: (716) 662-2118

Mr. David S. Szymanski  
NYS Department of Environmental Conservation  
270 Michigan Avenue  
Buffalo, NY 14203

**RE: 2530 Hamburg Turnpike Site – Brownfield Cleanup Project #C915191**  
**Certification of Institutional/Engineering Controls**

Dear Mr. Szymanski:

This is to certify that the institutional and engineering controls established for the site following remediation in 2005 are still in place. The property continues to be used only for commercial purposes, and the groundwater is not used as a potable water source. The paved areas continue to be in excellent condition, thereby preventing any contact with the underlying residual soil contamination.

Sincerely,  
IYER ENVIRONMENTAL GROUP, PLLC

Dharmarajan R. Iyer, Ph.D., P.E., CES

cc: Mr. Martin Doster, NYSDEC  
Ms. Linda Ross, NYSDEC  
Mr. Cameron O'Connor, NYSDOH

**New York State Department of Environmental Conservation**  
**Division of Environmental Remediation, Region 9**  
270 Michigan Avenue, Buffalo, New York, 14203  
Phone: (716) 851-7220 • FAX: (716) 851-7226  
Website: [www.dec.state.ny.us](http://www.dec.state.ny.us)



Alexander B. Grannis  
Commissioner

October 23, 2008

Mr. Frank Mathews, Jr.  
7695 Milestrip Road  
Orchard Park, New York 14127

Dear Mr. Mathews:

2530 Hamburg Turnpike Site  
Brownfield Cleanup Project #C915191  
Lackawanna (c), Erie County

The New York State Department of Environmental Conservation (NYSDEC) is writing to request submission of the Bi-Annual Certification for the above-noted Site. As of this date, no Certification has been received by this Department since the Certificate of Completion was issued on September 6, 2006. This Certification is a requirement of the Section 2-A, of the approved *Environmental Easement* filed in the Erie County Clerk's Office on July 5, 2006 (page enclosed,) wherein "...The Site should be certified every two years for institutional and engineering controls."

As we discussed via telephone several weeks ago, this certification should include an inspection of Site conditions to ensure that any controls instituted as part of participation in the Brownfield Cleanup Program are being met, in accordance with 6 NYCRR Part 375-1.8(h)(3)(I) and the above-noted Easement. Please review your records and submit the Bi-Annual Certification to the NYSDEC by November 10, 2008.

Please contact me at 716-851-7220 if you would like to discuss this matter further.

Sincerely,

David S. Szymanski  
Environmental Program Specialist 1, Trainee - 2

DSS/tml  
Enclosures

cc: Mr. Martin Doster, NYSDEC  
Ms. Linda Ross, NYSDEC  
Mr. Cameron O'Connor, NYS DOH



Site #C915191, Grantor grants, conveys and releases to Grantee a permanent Environmental Easement pursuant to Article 71, Title 36 of the ECL in, on, over, under, and upon the Controlled Property as more fully described herein ("Environmental Easement").

1. Purposes. Grantor and Grantee acknowledge that the Purposes of this Environmental Easement are: to convey to Grantee real property rights and interests that will run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of this Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of operation, maintenance, and/or monitoring requirements; and to ensure the potential restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional and Engineering Controls. The following controls apply to the use of the Controlled Property, run with the land are binding on the Grantor and the Grantor's successors and assigns, and are enforceable in law or equity against any owner of the Controlled Property, any lessees, and any person using the Controlled Property:

A. The Controlled Property may be used for commercial and industrial use as long as the following long-term engineering controls are employed:

The groundwater beneath the site cannot be used as a potable water source. The asphalt cover must be maintained to prevent any contact with the underlying residual soil contamination. The site should be certified every two years for institutional and engineering controls.

B. The Controlled Property may not be used for a higher level of use such as unrestricted/residential use and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of Article 71, Title 36 of the ECL, the property deed and all subsequent instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

**This property is subject to an environmental easement held by the New York State Department of Environmental Conservation pursuant of Title 36 to Article 71 of the Environmental Conservation Law.**

D. Grantor covenants and agrees that this Environmental Easement shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

E. Grantor covenants and agrees that it shall annually, or such time as NYSDEC may allow,