
PERIODIC REVIEW REPORT

**2530 HAMBURG TURNPIKE SITE
(BCP SITE NO. C915191)**

LACKAWANNA, NEW YORK

September 2010

0112-047-900

Prepared for:

2530 HTP LLC

Prepared By:



Benchmark Environmental Engineering & Science, PLLC
2558 Hamburg Turnpike, Suite 300
Buffalo, NY 14218
(716)856-0599

PERIODIC REVIEW REPORT

2530 Hamburg Turnpike Site

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1.0 INTRODUCTION

Benchmark Environmental Engineering and Science, PLLC (Benchmark) has prepared this Periodic Review Report (PRR), on behalf of 2530 HTP LLC, to summarize the post-remedial status of New York State Department of Environmental Conservation (NYSDEC) Brownfield Cleanup Program (BCP) Site No. C915191.

This PRR has been prepared for the 2530 Hamburg Turnpike Site in accordance with NYSDEC DER-10 *Technical Guidance for Site Investigation and Remediation* (May 2010). The NYSDEC's Institutional and Engineering Controls (IC/EC) Certification Form has been completed for the Site (see Appendix A).

This PRR and the associated inspection form have been completed for the post-remedial activities at the Site for the period from September 22, 2008 to September 22, 2010.

1.1 Site Background

The 2530 Hamburg Turnpike Site encompasses approximately 1.3-acres of land which was redeveloped to include a gasoline pump island and canopy, convenience store and car wash facility in Lackawanna, New York (see Figure 1). The Site was historically used as a gasoline service station which impacted the site with volatile organic compounds (VOCs) and semivolatile organic compounds (SVOCs) related to the former underground storage tanks (USTs) and automobile service operation.

1.2 Remedial History

The site was used as an automobile service station from at least 1940's. An office building was also located on-Site until 2005, at which time the building was donated to a local church and moved off of the Site.

Previous investigations were completed in April 2004 and July 2004 to investigate potential contamination related to the historic use of the Site as a gasoline station. The results of those investigations indicated that petroleum-related VOCs and SVOCs were present in soil and groundwater at concentrations above NYSDEC recommended soil cleanup objectives (RSCOs) and groundwater quality standards (GWQS) that required remediation. A NYSDEC Spill file was opened for the site (No. 0475033).

After acceptance into the New York State BCP in April 2005, a Supplemental Investigation and Interim Remedial Measures (SI/IRM) Work Plan was prepared in April 2005, and amended in July 2005. Remedial activities began in May 2005, with completion of fieldwork in September 2005. Remedial activities are described below in Section 2.0.

The remedial program was successful in achieving the remedial objectives for the Site, and the Site Closure Report was approved by the Department in December 2005. The NYSDEC issued a Certificate of Completion (COC) for the Site on September 8, 2006.

1.3 Compliance and Recommendations

At the time of the Site inspection (September 22, 2010), the Site was fully compliant with the Department's approved Institutional and Engineering Controls. No modifications to the current SMP are recommended at this time.

2.0 BCP SITE OVERVIEW

The Site is bounded by Hamburg Turnpike (Rt. 5) to the west, Dona Street to the south, Albright Court to the east, and commercial properties to the north. The Site was impacted by the former gasoline service station was located on the Site from at least the 1940s. The Site was vacant in 2005 when BCP remedial activities began.

Environmental site investigations were conducted in 2004 which revealed that the Site had been impacted by VOCs and SVOCs which would inhibit redevelopment of the parcel. 2530 Hamburg Turnpike, LLC entered into a Brownfield Cleanup Agreement (BCA) with the NYSDEC in April 2005 to remediate and redevelop the site as a gasoline and convenience store. The remedial activities began in May 2005 and were completed by September 2005.

The remedial activities included:

- Excavation and off-site disposal of approximately 5,908-tons of non-hazardous petroleum impacted soil at a permitted solid waste landfill;
- Excavation, cleaning, and disposal for scrap of two abandoned USTs;
- Extraction, treatment and permitted-discharge of approximately 573,000-gallons of excavation waters to the Erie County wastewater treatment plant;
- Backfill of the excavation areas with DEC approved backfill;
- Collection of confirmatory soil samples; and
- Completion of asphalt surface cover during Site redevelopment.

Based on the results of the remedial activities, Spill No. 0475033 was closed in April 2006. The Site Closure Report was approved by the Department in December 2005. The NYSDEC issued a COC for the Site on September 8, 2006. The initial annual inspection was completed in October 2006, and all ICs were in compliance at that time.

3.0 SITE MANAGEMENT

A Final Site Closure report was prepared for the Site, and approved by the Department in December 2005. The Site Closure Report includes sections which detail Operation and Maintenance (O&M) and Long-term Monitoring, and Institutional Controls (ICs) for the Site. An Environmental Easement was filed with Erie County which details the requirements of the property owner. A brief description of the components of the Site Closure Report and the Environmental Easement are presented below.

3.1 Site Closure Report

3.1.1 Operation and Maintenance and Long-term Monitoring Plan

The O&M and Long-term Monitoring Plan provided as a section of the Final Site Closure Report (December 2005) indicates that no long-term monitoring is required for the Site based on the extensive remedial activities completed at the Site.

3.1.2 Institutional Controls

The Institutional Controls described within the Final Site Closure Report (December 2005) indicates that the Site will be utilized for commercial purposes and that the asphalt surface cover will be maintained to prevent contact with underlying residual soil contamination.

3.2 Environmental Easement

An Environmental Easement was filed with Erie County (File No. 2006147264) on July 5, 2006 for the Site.

3.2.1 Engineering and Institutional Control Requirements and Compliance

As detailed in the Environmental Easements, several ICs need to be maintained as a requirement of the BCA for the Site.

3.2.2 Institutional Controls

- Groundwater-Use Restriction – the use of groundwater for potable purposes is prohibited;
- Surface Maintenance – the asphalt surface must be maintained to prevent any contact with the underlying residual soil contamination;
- Land-Use Restriction - the controlled property may be used for commercial and/or industrial use; and
- Certification – the controlled property shall be certified every two years for institutional controls.

3.2.3 Engineering Controls

No Engineering controls are utilized on-Site

3.3 Reporting Period Compliance

3.3.1 Site Inspection

A Site Inspection of the property was conducted by Benchmark on September 23, 2010. At the time of the inspection, the property was being used as a gasoline station, car wash and convenience store. No observable indication of intrusive activities was noted during the Site Inspection. The property is on municipal water supply, and no observable use of groundwater was noted during the site inspection. The Site, at the time of the site inspection was in full compliance with the Site ICs. A completed Institutional Control Certification Form is provided in Appendix A. A photolog of the site inspection is presented in Appendix B.

3.3.2 Corrective Measures

During the reporting period, a NYSDEC Spill file (No. 0907369) was opened related to an equipment failure. During a NYSDEC PBS inspection on September 30, 2009, approximately 1-gallon of petroleum was observed by the PBS inspector in a container sump on-Site. Although the petroleum was fully contained within the sump, the NYSDEC

protocol is to open a NY Spill file until the appropriate action is taken (in this case, removal of the material).

Benchmark personnel previously spoke with Ms. Andrea Skalski of the NYSDEC Petroleum Bulk Storage (PBS) department on January 8, 2010 to check the status of the NY Spill. Ms. Skalski indicated that appropriate action was taken and the NY Spill is currently “closed”. A copy of the NYSDEC Spill Incident Report showing the status of the spill is included as Appendix C.

3.3.3 Property Transfer

The current property owners, 2530 HTP, LLC, completed the property transfer on March 23, 2010. Notification of the property transfer was provided to the NYSDEC in accordance with 6NYCRR Part 375-1.11. Department Notification of Property Transfer are provided in Appendix C.

4.0 CONCLUSIONS AND RECOMMENDATIONS

4.1 Conclusions

- At the time of the Site inspection, the Site was in compliance with the Environmental Easement. Specifically, the Site is fully compliant with the Institutional Controls including land-use restrictions, groundwater-use restrictions, and the asphalt was being properly maintained.
- NYSDEC Spill No. 0907369, opened on September 30, 2009 related to an equipment failure, was officially closed on January 8, 2010

4.2 Recommendations

- The reporting period on the IC/EC Certification form should be changed to reflect bi-annual certification (i.e. September 27, 2010 to September 27, 2012).

5.0 DECLARATION/LIMITATION

Benchmark Environmental Engineering and Science, PLLC, personnel conducted the annual site inspection for Brownfield Cleanup Program Site No. C915191, located in Lackawanna, New York, according to generally accepted practices. This report complied with the scope of work provided to 2530 HTP LLC by Benchmark Environmental Engineering and Science, PLLC.

This report has been prepared for the exclusive use of 2530 HTP LLC. The contents of this report are limited to information available at the time of the site inspection. The findings herein may be relied upon only at the discretion of 2530 HTP LLC. Use of or reliance upon this report or its findings by any other person or entity is prohibited without written permission of Benchmark Environmental Engineering and Science, PLLC.

FIGURES



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0599

SITE LOCATION AND VICINITY MAP

PERIODIC REVIEW REPORT

2530 HAMBURG TURNPIKE SITE

LACKAWANNA, NEW YORK

PREPARED FOR

2530 HTP, LLC

PROJECT NO.: 0112-047-900

DATE: SEPTEMBER 2010

DRAFTED BY: NTM



Base Map per Bing Maps

Not to Scale



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0599

PROJECT NO.: 0112-047-900

DATE: SEPTEMBER 2010

DRAFTED BY: NTM

SITE PLAN (AERIAL)

PERIODIC REVIEW REPORT

2530 HAMBURG TURNPIKE SITE

LACKAWANNA, NEW YORK

PREPARED FOR
22530 HTP, LLC

FIGURE 2

APPENDIX A

INSTITUTIONAL & ENGINEERING CONTROLS CERTIFICATION FORM



Enclosure 1

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Periodic Review Report Notice
Institutional and Engineering Controls Certification Form



Site No. C915191 Site Details Box 1

Site Name 2530 Hamburg Turnpike Site

Site Address: 2530 HAMBURG TURNPIKE Zip Code: 14218

City/Town: Lackawanna

County: Erie

Allowable Use(s) (if applicable, does not address local zoning): Commercial and Industrial

Site Acreage: 1.3

Owner: 2530 HTP LLC

2440 Sheridan Drive, Tonawanda, NY 14150

Reporting Period: September 22, 2008 to ~~November 07, 2009~~*September 22, 2010*

Verification of Site Details

Box 2

- | | YES | NO |
|--|-------------------------------------|-------------------------------------|
| 1. Is the information in Box 1 correct? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| If NO, are changes handwritten above or included on a separate sheet? | <input checked="" type="checkbox"/> | |
| 2. Has some or all of the site property been sold, subdivided, merged, or undergone a tax map amendment during this Reporting Period? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| If YES, is documentation or evidence that documentation has been previously submitted included with this certification? | <input checked="" type="checkbox"/> | |
| 3. Have any federal, state, and/or local permits (e.g., building, discharge) been issued for or at the property during this Reporting Period? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| If YES, is documentation (or evidence that documentation has been previously submitted) included with this certification? | <input checked="" type="checkbox"/> | |
| 4. If use of the site is restricted, is the current use of the site consistent with those restrictions? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| If NO, is an explanation included with this certification? | <input type="checkbox"/> | |
| 5. For non-significant-threat Brownfield Cleanup Program Sites subject to ECL 27-1415.7(c), has any new information revealed that assumptions made in the Qualitative Exposure Assessment regarding offsite contamination are no longer valid? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| If YES, is the new information or evidence that new information has been previously submitted included with this Certification? | <input type="checkbox"/> | |
| 6. For non-significant-threat Brownfield Cleanup Program Sites subject to ECL 27-1415.7(c), are the assumptions in the Qualitative Exposure Assessment still valid (must be certified every five years)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| If NO, are changes in the assessment included with this certification? | <input type="checkbox"/> | |

SITE NO. C915191

Box 3

Description of Institutional Controls

Parcel

Institutional Control

S_B_L Image: 141.67-4-2.2

Ground Water Use Restriction
Landuse Restriction

Box 4

Description of Engineering Controls

None Required

Attach documentation if IC/ECs cannot be certified or why IC/ECs are no longer applicable.
(See instructions)

Control Description for Site No. C915191

Parcel: 141.67-4-2.2

The following Ground Water Use Restrictions and Landuse Restrictions were identified in the Environmental Easement filed with the Erie County Clerk on 7/5/08:

1. The Controlled Property may be used for commercial and industrial use as long as institutional controls are employed.
2. 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.
3. The site shall be certified every two years to ensure that institutional and engineering controls are in place, are operating properly, and are protective of human health and the environment.

Periodic Review Report (PRR) Certification Statements

1. I certify by checking "YES" below that:

- a) the Periodic Review report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;
- b) to the best of my knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and the information presented is accurate and complete.

YES NO

☒ ☐

2. If this site has an IC/EC Plan (or equivalent as required in the Decision Document), for each Institutional or Engineering control listed in Boxes 3 and/or 4, I certify by checking "YES" below that all of the following statements are true:

- (a) the Institutional Control and/or Engineering Control(s) employed at this site is unchanged since the date that the Control was put in-place, or was last approved by the Department;
- (b) nothing has occurred that would impair the ability of such Control, to protect public health and the environment;
- (c) access to the site will continue to be provided to the Department, to evaluate the remedy, including access to evaluate the continued maintenance of this Control;
- (d) nothing has occurred that would constitute a violation or failure to comply with the Site Management Plan for this Control; and
- (e) if a financial assurance mechanism is required by the oversight document for the site, the mechanism remains valid and sufficient for its intended purpose established in the document.

YES NO

☒ ☐

3. If this site has an Operation and Maintenance (O&M) Plan (or equivalent as required in the Decision Document);

I certify by checking "YES" below that the O&M Plan Requirements (or equivalent as required in the Decision Document) are being met.

YES NO

☒ ☐

4. If this site has a Monitoring Plan (or equivalent as required in the remedy selection document);

I certify by checking "YES" below that the requirements of the Monitoring Plan (or equivalent as required in the Decision Document) is being met.

YES NO

☒ ☐

IC CERTIFICATIONS
SITE NO. C915191

Box 6

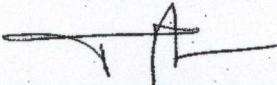
SITE OWNER OR DESIGNATED REPRESENTATIVE SIGNATURE

I certify that all information and statements in Boxes 2 and/or 3 are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.

I Timothy P. Boyle at 2440 Sheridan Dr. Tonawanda NY 14150
print name print business address

am certifying as Owners Representative (Owner or Remedial Party)

for the Site named in the Site Details Section of this form.


Signature of Owner or Remedial Party Rendering Certification

10-8-10
Date

IC/EC CERTIFICATIONS

Box 7

QUALIFIED ENVIRONMENTAL PROFESSIONAL (QEP) SIGNATURE

I certify that all information in Boxes 4 and 5 are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.

I Michael Lesakowski at 2553 Hamburg Turnpike Buffalo NY 14218
print name print business address

am certifying as a Qualified Environmental Professional for the Owner

(Owner or Remedial Party) for the Site named in the Site Details Section of this form.


Signature of Qualified Environmental Professional, for
the Owner or Remedial Party, Rendering Certification

Stamp (if Required)

10/14/10
Date

APPENDIX B

SITE PHOTLOG

SITE PHOTOGRAPHS

Photo 1:



Photo 2:



Photo 3:



Photo 4:



Photo 1: Site Conditions - (looking northeast from corner of Route 5 and Dona Street)

Photo 2: Site Conditions - Canopy and Car Wash Building (looking east)

Photo 3: Site Conditions – Car Wash Building and Asphalt (looking east)

Photo 4: Building (east side of property)

SITE PHOTOGRAPHS

Photo 5:



Photo 6:



Photo 7:



Photo 8:



Photo 5: Parking area, pump island and canopy (looking west)

Photo 6: Grass area (looking east)

Photo 7: Asphalt surface (looking west)

Photo 8: Asphalt surface (looking southwest)

APPENDIX C

ADDITIONAL INFORMATION

- PROPERTY TRANSFER NOTIFICATION
- NYSDEC SPILL NO. 0907369 CLOSURE

CITY OF LACKAWANNA
ENGINEERING DIVISION
714 RIDGE ROAD, ROOM 311
LACKAWANNA, NY 14218

PERMIT ISSUANCE CERTIFICATE

Permit Issued: 03/30/2010 Expires: 03/30/2011
Total Permit Fees: \$75.00

Permit Type: COMM ALTERATION
Permit No: B000011116

The CITY OF LACKAWANNA does hereby issue a Permit to the following:

Owner:
2530 HAMBURG TURNPIKE, LLC
2530 HAMBURG TPKE
LACKAWANNA NY
14218

Applicant:
ADVANCED WINDOW & DOOR
238 GRIMSBY ROAD
BUFFALO, NEW YORK
14223

Construction shall take place at the following address in the Limits of the
CITY OF LACKAWANNA
2530 HAMBURG TPKE

Zoned:

General Description of Improvement made to property is as follows.

EXISTING CONVENIENCE STORE W/FUEL CANOPY & TIM HORTON'S DRIVE THRU

All work shall be performed in accordance with the construction documents submitted and accepted as part of the application. In the event of changes occurring during construction, the code enforcement officer shall be notified immediately. Restrictions are as follows:

The following Inspections are required before a Certificate of Occupancy or Compliance will be issued.

BUILDING

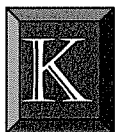
Excavation/Footing	Plumbing
Foundation	Insulation
Framing	Final

Required inspections are to be requested 24 hours in advance by calling 827-6427 or 827-6403. Inspectors have up to 48 hours to make required inspections after notification. All permits are subject to General Inspections at any time during Construction or before issuance of Certificate of Occupancy or Compliance.

All permits must meet or exceed all State/Local Building and Electrical Codes and City Ordinances. Permission is hereby granted to proceed with the work as set forth in the specifications, plans or statements now on file in this Department. Any amendments made to the original plans and specifications must first be submitted for approval.

Certificate Issued by:

Commissioner of Public Works



THE KNOER GROUP, PLLC

424 Main Street, Suite 1820
Buffalo, New York 14202

(716) 332-0032
www.knoergroup.com

Sandra Nasca, Esq.
snasca@knoergroup.com

January 21, 2010

VIA E-MAIL & REGULAR MAIL

Martin Doster, P.E.
New York State Department of Environmental Conservation
Division of Environmental Remediation
270 Michigan Avenue
Buffalo, New York 14203-2999

***Re: Brownfield Cleanup Program # C915191
Our File No.: 06-2137***

Dear Mr. Doster:

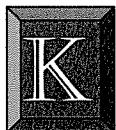
Please accept this correspondence as notification that the property covered under the above referenced Brownfield Cleanup Agreement will be transferred to a new owner. There will be no change in use of the property, only a change in title will occur. The change will not affect the site's completed remedial program. The prospective purchaser has been provided a copy of the Brownfield Cleanup Agreement, the Environmental Easement as well as a copy of all approved remedial work plans and reports. Please advise as soon as possible of receipt of this notice as we are attempting to close on this transaction in the very near future. Thank you for your assistance.

Very truly yours,

THE KNOER GROUP, PLLC

Sandra Nasca

SAN/rh
Cc: 2530 Hamburg Turnpike, LLC



THE KNOER GROUP, PLLC

424 Main Street, Suite 1820
Buffalo, New York 14202

(716) 332-0032
www.knoergroup.com

Sandra Nasca, Esq.

snasca@knoergroup.com

March 31, 2010

Martin Doster, P.E.
New York State Department of Environmental Conservation
Division of Environmental Remediation
270 Michigan Avenue
Buffalo, New York 14203-2999

Re: *Brownfield Cleanup Program # C915191*
Our File No.: 06-2137

Dear Mr. Doster:

Please accept this correspondence as notification pursuant to the New York Code of Rules and Regulations §375-1.11 that the property covered under the above referenced Brownfield Cleanup Agreement has been transferred to a new owner effective March 23, 2010. The new owner is 2530 HTP LLC, 2440 Sheridan Drive, Tonawanda, New York 14150; phone number (716) 833-6626; fax number (716) 874-7032. The contact person is Timothy P. Boyle, 2440 Sheridan Drive, Tonawanda, New York 14150; phone number (716) 614-1290. Please advise if you require anything further. Thank you for your assistance.

Very truly yours,

THE KNOER GROUP, PLLC

Sandra Nasca

SAN/rh

Cc: 2530 Hamburg Turnpike, LLC
Alan Laurita, Esq.



Spill Incidents Database Search Details

Spill Record

Administrative Information

DEC Region: 9

Spill Number: 0907369

Spill Date/Time

Spill Date: 09/30/2009 **Spill Time:** 02:36:00 PM

Call Received Date: 09/30/2009 **Call Received Time:** 02:56:00 PM

Location

Spill Name: FRANKS MINI MART

Address: 2530 HAMBURG TURNPIKE

City: LACKAWANNA **County:** Erie

Spill Description

Material Spilled **Amount Spilled** **Resource Affected**

Diesel	2.00 Gal.	Unknown
--------	-----------	---------

Cause: Equipment Failure

Source: Gasoline Station

Waterbody:

Record Close

Date Spill Closed: 01/08/2010

"Date Spill Closed" means the date the spill case was closed by the case manager in the Department of Environmental Conservation (the Department). The spill case was closed because either; a) the records and data submitted indicate that the necessary cleanup and removal actions have been completed and no further remedial activities are necessary, or b) the case was closed for administrative reasons (e.g., multiple reports of a single spill consolidated into a single spill number). The Department however reserves the right to require additional remedial work in relation to the spill, if in the future it determines that further action is necessary.

If you have questions about this reported incident, please contact the [Regional Office](#) where the incident occurred.

[Refine Current Search](#)
