

**BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION**

ECL ARTICLE 27, TITLE 14

9/3/04

Applicant Information		
NAME Co-Applicants - See Attachment		
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL
NAME OF APPLICANT'S REPRESENTATIVE		
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL
<p>THE APPLICANT MUST CERTIFY THAT IT IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL § 27-1405 (1) BY CHECKING ONE OF THE BOXES BELOW:</p> <p><input type="checkbox"/> PARTICIPANT An applicant who either 1) was the owner of the site at the time of the disposal of hazardous waste or discharge of petroleum or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.</p> <p><input checked="" type="checkbox"/> VOLUNTEER An applicant other than a participant, including an applicant whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.</p> <p>NOTE: By checking this box, the applicant certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; and iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.</p>		
Applicant Relationship to Property (check one): <input type="checkbox"/> Previous Owner <input type="checkbox"/> Current Owner <input type="checkbox"/> Potential /Future Purchaser <input type="checkbox"/> Other <u>SEE ATTACHMENT</u>		
Current Owner/Operator Information		
OWNER'S NAME (if different from applicant) SEE ATTACHMENT		
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL
OPERATOR'S NAME (if different from applicant)		
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL

Site Information

SITE NAME Former Buffalo Service Center Site (See Attached Map A)

SITE ADDRESS 249 West Genesee Street

CITY/TOWN Buffalo, New York

ZIP CODE 14202

COUNTY Erie

SITE SIZE (ACRES) 4.9 acres

LATITUDE (degrees/minutes/seconds) 42 ° 53 ' 7 "

LONGITUDE (degrees/minutes/seconds) 78 ° 52 ' 58 "

PLEASE ATTACH A COUNTY TAX MAP WITH IDENTIFIER NUMBERS, ALONG WITH ANY FIGURES NEEDED TO SHOW THE LOCATION AND BOUNDARIES OF THE SITE. ALSO INCLUDE A USGS 7.5 MINUTE QUAD MAP IN WHICH THE SITE IS LOCATED.

1. DO THE SITE BOUNDARIES CORRESPOND TO TAX MAP METES AND BOUNDS?
IF NO, PLEASE ATTACH A METES AND BOUNDS DESCRIPTION OF THE SITE. ☐ YES ☒ NO
2. IS THE SITE PART OF A DESIGNATED BROWNFIELD OPPORTUNITY AREA PURSUANT TO GML970-R? IF YES, IDENTIFY AREA (NAME) _____ ☐ YES ☒ NO
3. IS THE SITE PART OF A DESIGNATED EN-Zone PURSUANT TO TL § 21(b)(6)? FOR MORE INFORMATION GO TO: http://www.nylovesbiz.com/Productivity_Energy_and_Environment/BrownField_Redevelopment/default.asp ☒ YES ☐ NO
IF YES, IDENTIFY AREA (NAME) Idle

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

1. ARE ANY ENFORCEMENT ACTIONS PENDING AGAINST THE APPLICANT REGARDING THIS SITE? ☐ YES ☒ NO
2. IS THE APPLICANT SUBJECT TO AN OUTSTANDING CLAIM BY THE SPILL FUND FOR THIS SITE? ☐ YES ☒ NO
3. HAS THE APPLICANT VIOLATED ANY PROVISION OF ECL ARTICLE 27? ☐ YES ☒ NO
4. HAS THE APPLICANT BEEN PREVIOUSLY DENIED ENTRY TO THE BCP? ☐ YES ☒ NO
5. HAS THE APPLICANT COMMITTED A NEGLIGENT OR INTENTIONALLY TORTIOUS ACT REGARDING HAZARDOUS WASTE OR PETROLEUM? ☐ YES ☒ NO
6. HAS THE APPLICANT BEEN CONVICTED OF A CRIMINAL OFFENSE THAT INVOLVES A VIOLENT FELONY, FRAUD, BRIBERY, PERJURY, THEFT, OR OFFENSE AGAINST PUBLIC ADMINISTRATION? ☐ YES ☒ NO
7. HAS THE APPLICANT KNOWINGLY FALSIFIED STATEMENTS OR CONCEALED MATERIAL FACTS IN A MATTER RELATED TO THE DEPARTMENT? ☐ YES ☒ NO
8. HAS THE APPLICANT, BASED ON THE PROVISIONS OF ECL ARTICLE 27-1407 (OR A SIMILAR PROVISION OF FEDERAL OR STATE LAW), COMMITTED AN ACT OR FAILED TO ACT, AND SUCH ACT OR FAILURE TO ACT COULD BE THE BASIS FOR DENIAL OF A BCP APPLICATION? ☐ YES ☒ NO

Site Eligibility Information (Please refer to ECL § 27-1405)

1. DOES THE SITE MEET THE DEFINITION OF A BROWNFIELD SITE (REAL PROPERTY, THE REDEVELOPMENT OR REUSE OF WHICH MAY BE COMPLICATED BY THE PRESENCE OR POTENTIAL PRESENCE OF A HAZARDOUS WASTE, PETROLEUM, POLLUTANT, OR CONTAMINANT)? ☒ YES ☐ NO
2. IS THE SITE LISTED ON THE NATIONAL PRIORITIES LIST? ☐ YES ☒ NO
3. IS THE SITE LISTED ON THE NYS REGISTRY OF INACTIVE HAZARDOUS WASTE DISPOSAL SITES?
IF YES, PLEASE PROVIDE: SITE # _____ CLASS # _____ ☐ YES ☒ NO
4. IS THE SITE SUBJECT TO A PERMIT UNDER ECL ARTICLE 27, TITLE 9, OTHER THAN AN INTERIM STATUS FACILITY? ☐ YES ☒ NO
5. IS THE SITE SUBJECT TO A CLEANUP ORDER UNDER NAVIGATION LAW ARTICLE 12 OR ECL ARTICLE 17 TITLE 10? ☐ YES ☒ NO
6. IS THE SITE SUBJECT TO A STATE OR FEDERAL ENFORCEMENT ACTION RELATED TO HAZARDOUS WASTE OR PETROLEUM? ☐ YES ☒ NO

Project Description

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

- PURPOSE AND SCOPE OF THE PROJECT
- ESTIMATED PROJECT SCHEDULE

Site's Environmental History

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

1. ENVIRONMENTAL DATA

A PHASE I ENVIRONMENTAL SITE ASSESSMENT REPORT PREPARED IN ACCORDANCE WITH ASTM E 1527 (American Society for Testing and Materials: Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process), AND ALL ENVIRONMENTAL REPORTS RELATED TO CONTAMINANTS ON OR EMANATING FROM THE SITE.

IF A FINAL INVESTIGATION REPORT IS INCLUDED, INDICATE WHETHER IT MEETS THE REQUIREMENTS OF ECL ARTICLE 27-1415(2):

☒ YES ☐ NO

2. OWNERS

A LIST OF PREVIOUS OWNERS WITH NAMES, LAST KNOWN ADDRESSES AND TELEPHONE NUMBERS (DESCRIBE APPLICANT'S RELATIONSHIP, IF ANY, TO EACH PREVIOUS OWNER LISTED. IF NO RELATIONSHIP, PUT "NONE").

3. OPERATORS

A LIST OF PREVIOUS OPERATORS WITH NAMES, LAST KNOWN ADDRESSES AND TELEPHONE NUMBER (DESCRIBE APPLICANT'S RELATIONSHIP, IF ANY, TO EACH PREVIOUS OPERATOR LISTED. IF NO RELATIONSHIP, PUT "NONE").

Contact List Information

PLEASE ATTACH, AT A MINIMUM, THE NAMES AND ADDRESSES OF THE FOLLOWING:

1. THE CHIEF EXECUTIVE OFFICER AND ZONING BOARD CHAIRPERSON OF EACH COUNTY, CITY, TOWN AND VILLAGE IN WHICH THE SITE IS LOCATED.
2. RESIDENTS, OWNERS, AND OCCUPANTS OF THE SITE AND PROPERTIES ADJACENT TO THE SITE.
3. LOCAL NEWS MEDIA FROM WHICH THE COMMUNITY TYPICALLY OBTAINS INFORMATION.
4. THE PUBLIC WATER SUPPLIER WHICH SERVICES THE AREA IN WHICH THE SITE IS LOCATED.
5. ANY PERSON WHO HAS REQUESTED TO BE PLACED ON THE SITE CONTACT LIST.
6. THE ADMINISTRATOR OF ANY SCHOOL OR DAY CARE FACILITY LOCATED ON OR NEAR THE SITE.
7. THE LOCATION OF A DOCUMENT REPOSITORY FOR THE PROJECT (E.G., LOCAL LIBRARY)

Contaminant Information

INDICATE KNOWN OR SUSPECTED CONTAMINANTS AND THE MEDIA WHICH ARE KNOWN OR SUSPECTED TO HAVE BEEN AFFECTED:

Contaminant Category	Soil	Groundwater	Surface Water	Sediment	Soil Gas
Petroleum	✓	✓			
Chlorinated Solvents					
Other VOCs					
SVOCs	✓	✓			
Metals	✓	✓			
Pesticides					
PCBs					
Other*					

*Please describe: _____

Land Use Factors (Please refer to ECL § 27-1415(3))

Current Use: ☐ Residential ☐ Commercial ☒ Industrial ☐ Other Idle

Future Use: ☐ Residential ☒ Commercial ☐ Industrial ☐ Other _____

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

Yes No Unknown

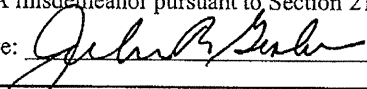
1. Do current historical and/or recent development patterns support the proposed use?

☒ ☐ ☐

2. Is the proposed use consistent with applicable zoning laws/maps?

☒ ☐ ☐

3. Is the proposed use consistent with applicable brownfield opportunity area designations? (See GML 970-r)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, other adopted land use plans?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Are there any Environmental Justice Concerns? (See §27-1415(3)(p)).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Are there any federal or State land use designations relating to this site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7. Do the population growth patterns and projections support the proposed use?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Is the site accessible to existing infrastructure?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Are there important cultural resources, including federal or state historic or heritage sites or Native American religious sites proximate to the site?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Are there important federal, state or local natural resources, including waterways, wildlife refuges, wetlands, or critical habitats of endangered or threatened species proximate to the site?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Are there floodplains proximate to the site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
12. Are there any institutional controls currently applicable to the site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
13. Describe on attachment the proximity to real property currently used for residential use, and to urban, commercial, industrial, agricultural, and recreational areas.			
14. Describe on attachment the potential vulnerability of groundwater to contamination that might migrate from the site, including proximity to wellhead protection and groundwater recharge areas.			
15. Describe on attachment the geography and geology of the site.			
(Note: the 16 th criteria relates to comments from the public, which would not be received at the time of application)			

Statement of Certification		
(By applicant who is an individual) I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law. Date: _____ Signature: _____ Print Name: _____		
(By an applicant other than an individual) Duke HN New I certify that I am <u>Senior VP</u> (title) of <u>York, LLC</u> (entity); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law. Date: <u>6/03/05</u> Signature: <u></u> Print Name: <u>John R. Gaskin</u>		

SUBMITTAL INFORMATION:

Three (3) complete copies are required.

- Two (2) copies, one hard copy with original signatures and one electronic copy in Portable Document Format (PDF) on a CD or diskette, must be sent to:

Chief, Site Control Section
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, NY 12233-7020
- One (1) hard copy must be sent to the DEC regional contact in the regional office covering the county in which the site is located. Please check our website for the address of our regional offices: <http://www.dec.state.ny.us/website/der/index.html>

FOR DEPARTMENT USE ONLY

BCP SITE NO: _____ BCP SITE T&A CODE: _____ PROJECT MANAGER: _____

3. Is the proposed use consistent with applicable brownfield opportunity area designations? (See GML 970-r)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, other adopted land use plans?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Are there any Environmental Justice Concerns? (See §27-1415(3)(p)).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Are there any federal or State land use designations relating to this site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7. Do the population growth patterns and projections support the proposed use?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Is the site accessible to existing infrastructure?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Are there important cultural resources, including federal or state historic or heritage sites or Native American religious sites proximate to the site?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Are there important federal, state or local natural resources, including waterways, wildlife refuges, wetlands, or critical habitats of endangered or threatened species proximate to the site?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Are there floodplains proximate to the site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
12. Are there any institutional controls currently applicable to the site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
13. Describe on attachment the proximity to real property currently used for residential use, and to urban, commercial, industrial, agricultural, and recreational areas.			
14. Describe on attachment the potential vulnerability of groundwater to contamination that might migrate from the site, including proximity to wellhead protection and groundwater recharge areas.			
15. Describe on attachment the geography and geology of the site.			
(Note: the 16 th criteria relates to comments from the public, which would not be received at the time of application)			

Statement of Certification

(By applicant who is an individual)

I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law.

Date: _____ Signature: _____ Print Name: _____

(By an applicant other than an individual)

I certify that I am MANAGER (title) of QLT BULLMAK (entity); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

Date: 5/16/05 Signature: James P Bulman Print Name: JAMES P BULLMAN

SUBMITTAL INFORMATION:

Three (3) complete copies are required.

- **Two (2)** copies, one hard copy with original signatures and one electronic copy in Portable Document Format (PDF) on a CD or diskette, must be sent to:

Chief, Site Control Section
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, NY 12233-7020

- **One (1)** hard copy must be sent to the DEC regional contact in the regional office covering the county in which the site is located. Please check our website for the address of our regional offices: <http://www.dec.state.ny.us/website/der/index.html>

FOR DEPARTMENT USE ONLY

BCP SITE NO: _____ BCP SITE T&A CODE: _____ PROJECT MANAGER: _____

SCHEDULE A

PARCEL A

(NFG Parcel A)

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being part of Outer Lot Number sixteen (16) and Lot Number two (2) of the South Village of Black Rock, bounded and described as follows:

COMMENCING at the point of intersection of the northwest line of Genesee Street and the northeast line of Fourth Street as originally located; thence northwesterly along said line of Fourth Street five hundred seventy-five (575) feet more or less to the southeast line of a former alley extending along the southeast line of Wilkenson Slip from Fourth Street to Jackson Street; thence northwesterly along said line of said alley three hundred seventy (370) feet more or less to the southwest line of Jackson Street; thence southeasterly along said line of Jackson Street two hundred forty (240) feet more or less to an angle in said line of Jackson Street; thence southeasterly continuing along the southwest line of Jackson Street four hundred fifteen (415) feet to its intersection with the northwest line of Genesee Street; thence southwesterly along said line of Genesee Street two hundred eighty-two (282) feet more or less to the point of beginning.

PARCEL B

(BURA East-Triangle)

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie and State of New York, being part of Outer Lot 16, bounded and described as follows:

BEGINNING at a point on the west line of Seventh Street at a distance of 239.22 feet northerly measured along the west line of Seventh Street from its intersection with the north line of West Genesee Street, said point being also on the former west line of Jackson Street and on the east line of lands conveyed to Niagara Gas Corporation by deed recorded in the Erie County Clerk's Office in Liber 1586 of Deeds at Page 365;

THENCE: Northerly, along the former west line of Jackson Street and the east line of said Niagara Gas Corporation lands, a distance of 118.97 feet to a point;

THENCE: Easterly, at right angles to the last described line, a distance of 3.78 feet to a point;

THENCE: Southeasterly, at an interior angle of 130°-24'-04" with the last described line, a distance of 64.01 feet to a point;

THENCE: Southerly, at an interior angle of 139°-35'-56" with the last described line, a distance of 7.83 feet to a point on the west line of Seventh Street;

THENCE: Southwesterly, along the west line of Seventh Street, a distance of 77.08 feet to the point of beginning, containing 0.07 Acre, be the same, more or less.

PARCEL C

(BURA West)

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie and State of New York, being part of Outer Lot 16 and part of Lot 2, South Village of Black Rock, bounded and described as follows:

BEGINNING at a point on the north line of Fourth Street as dedicated on July 27, 1982 at its intersection with the east line of former Fourth Street (now abandoned), said point being also on the west line of lands conveyed to Niagara Gas Corporation by deed recorded in the Erie County Clerk's Office in Liber 1586 of Deeds at Page 365;

THENCE: Northwesterly, along the northeast line of Fourth Street as dedicated on July 27, 1982, a distance of 202.18 feet to an angle point in the east line of Fourth Street as dedicated on July 27, 1982;

THENCE: Northerly, along the east line of Fourth Street as dedicated on July 27, 1982, at an interior angle of 139°-24'-58" with the last described line, a distance of 360.44 feet to a point;

THENCE: Northeasterly, at an interior angle of 114°-37'-36" with the last described line, a distance of 113.87 feet to a point on a non-tangent curve;

THENCE: Southerly, along a non-tangent curve to the left having a radius of 215.0 feet, 111.53 feet to a point on the east line of former Fourth Street (now abandoned), said point being also on the west line of said Niagara Gas Corporation lands;

THENCE: southerly, along the east line of former Fourth Street and west line of said Niagara Gas Corporation lands, a distance of 454.62 feet to the point of beginning, containing 1.36 Acres, be the same, more or less.

PARCEL D

(Part of BURA East)

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie and State of New York, being part of Outer Lot 16 and part of Lot 2, South Village of Black Rock, bounded and described as follows:

BEGINNING at a southeast corner of lands conveyed to New York State Urban Development Corporation by deed recorded in the Erie County Clerk's Office in Liber 8442 of Deeds at Page 247;

THENCE: Southerly in a line parallel to the western line of Seventh Street for a distance of 176.65 feet to a point on the easternmost boundary of lands conveyed to Niagara Gas Corporation by deed recorded in the Erie County Clerk's Office in Liber 1586 of Deeds at Page 365;

THENCE: Northerly, along the former west line of Jackson Street and the east line of said Niagara Gas Corporation lands, a distance of 201.52;

THENCE: Easterly to along the northerly boundary of lands conveyed to the City of Buffalo by deed recorded in the Erie County Clerk's Office in Liber 7323 of Deeds at Page 193 for a distance of 180.00 feet;

THENCE: Southeasterly at an interior angle of 90.00° with the last described line, a distance of 88.38 feet to the Point of Beginning, containing .45 Acre, be the same, more or less.

SUBJECT in each instance to easements, rights of way, and restrictions of record.

APPLICANT INFORMATION

1. Co-Applicant Information

QLT Buffalo LLC
11911 Freedom Drive, Suite 900
Reston, Virginia 20190

Phone: (703) 709-6500
Fax: (703) 709-8505
E-Mail: jbulman@escva.com

Co-Applicant's Representative

Mr. Jim Bulman
QLT Buffalo LLC
11911 Freedom Drive, Suite 900
Reston, Virginia 20190

Phone: (703) 709-6500
Fax: (703) 709-8505
E-Mail: jbulman@escva.com

2. Co-Applicant Information

Duke Realty HN New York, LLC
600 East 96th Street, Suite 100
Indianapolis, Indiana 46240

Phone: (317) 808-6309
Fax: (317) 808-6702
E-Mail: pat.shea@dukerealty.com

Co-Applicant's Representative

Patrick R. Shea
Development Services Manager
National Development & Construction
Duke Realty Corporation
600 East 96th Street, Suite 100
Indianapolis, Indiana 46240

Phone: (317) 808-6309
Fax: (317) 808-6702
E-Mail: pat.shea@dukerealty.com

3. Co-Applicant's Relationship to Property

Co-Applicant QLT Buffalo LLC is unrelated to the Property. Co-Applicant Duke Realty HN New York, LLC will become the owner of the Property on or before June 10, 2005.

4. Current Owner Information

Site owner and operator of Site, referred to Former Buffalo Service Center, as shown on attached Map A, is:

Site Owner: National Fuel Gas Supply Corporation

Site Operator: National Fuel Gas Distribution Corporation

Both have the following mail address, telephone and fax numbers, and e-mail address:

6363 Main Street
Williamsville, New York 14221

Phone: (716) 857-7328
Fax: (716) 857-7254
E-Mail: DelvecchioJ@natfuel.com

5. Description of Property

The address of the Former Buffalo Service Center is 249 W. Genesee Street, Buffalo, New York 14202. The Former Buffalo Service Center tax map parcel is 110.60-2-3.

PROJECT DESCRIPTION AND
ESTIMATED PROJECT SCHEDULE

Co-Applicant QLT Buffalo LLC will complete remediation of the Former Buffalo Service Center Site under an approved Remedial Action Work Plan and, once complete, this remediation will allow the Co-Applicant Duke Realty HN New York, LLC to construct a commercial building of approximately 350,000 square feet. HealthNow New York Inc. is expected to be the principal tenant of the office building. The construction may also include retail stores, parking lots and structures, access roads and related utilities and appurtenances. It is anticipated that approximately 1,200 employees of HealthNow New York Inc. would be located in the commercial office building.

The remediation portion of the project is anticipated to begin in the second quarter of 2005 and is expected to be complete by the fourth quarter of 2005. Commencement of construction is expected to immediately follow the completion of remedial activities and continue until the third quarter of 2007.

SITE'S ENVIRONMENTAL HISTORY

1. Environmental Data:

The nature and extent of environmental conditions at the Former Buffalo Service Center Site and areas immediately adjacent to the site were characterized to the satisfaction of the New York State Department of Environmental Conservation (NYSDEC) through the completion of several site investigations from 1989 to 2004 (E&E 1989, E&E 1990 (2), FDGTI 1996, FDGTI 1998, IT 2002, Geomatrix 2001, Shaw 2002 (2), RETEC 2003, and ESC 2004). Additional investigation activities have been performed in 2005 in preparation for the remedial actions to be undertaken. Based on the results of the investigations, former MGP structures, residual NAPL, and areas containing affected soil and groundwater have been identified and fully delineated. The site investigations conducted at this site are summarized below.

- 1989 – Ecology & Environment, Inc. (E&E) conducted a preliminary site assessment.
 - 1990 – E&E completed a health assessment and interim remedial measure of cyanide-containing soils near the western corner of the property.
 - 1990 – E&E completed an investigation by installing and sampling six groundwater monitoring wells.
 - 1996 – Fluor Daniel GTI completed qualitative and quantitative risk assessments of groundwater at the site. Direct contact with groundwater was not found to be a significant route of exposure to contaminants of interest.
 - 1998 – Fluor Daniel GTI installed and sampled two additional monitoring wells and 19 geoprobe borings.
 - 2000 – IT Corporation conducted a site-wide investigation of groundwater impacts.
 - 2001 – Geomatrix Consultants performed a geophysical survey of the site to delineate former MGP structures.
 - 2002 – Shaw/IT Corporation excavated 17 test pits, installed 27 geoprobe borings to collect soil and groundwater samples, and installed 16 monitoring wells.
-
- 2002 – Shaw/IT installed soil borings in the former Wilkeson Slip, conducted a site-wide groundwater sampling event, completed a human health risk assessment, and collected indoor air and sump water samples from the basement of the Waterfront School.
 - 2003 – RETEC completed a pre-design investigation that included the installation of 40 soil borings, 3 monitoring wells, 2 recovery wells, and 10 temporary piezometers on- and offsite. A pumping test was conducted

on one of the recovery wells. In addition, a treatability study was conducted for in-situ solidification and in-situ chemical oxidation (ISCO).

- 2004 – ESC Engineering collected three soil samples and three groundwater samples for validation of cost estimate assumptions.
- 2005 – ESC Engineering advanced test pits and collected samples for visual and analytical characterization at the West BURA property. Samples were collected from each OU for Toxicity Characteristic Leaching Procedure (TCLP) at the request of the NYSDEC.

2. List of Previous Owners/Operators:

National Fuel Gas Supply Company
(Owner)
National Fuel Gas Distribution Corporation
(Operator)
6363 Main Street
Williamsville, New York 14221

NFG has owned and operated the Site since approximately 1925.

Applicants have no relationship to any former owners/operators.

CONTACT INFORMATION

1. Chief Executive Officer: Joel A. Giambra
Edward A. Rath County Office Bldg.
95 Franklin Street
Buffalo, New York 14202
2. Zoning Board Chairperson: Frank Manuele, Chair
City of Buffalo Planning Board
901 City Hall
65 Niagara Square
Buffalo, New York 14202
3. Information on Residents, owners of the Site, and owners of adjacent properties is attached.
4. Local News Media: The Buffalo News
Administrative Office
One News Plaza
Buffalo, New York 14240
5. Public Water Supplier: Victoria Saxon, Chair
Buffalo Water Board
2 Porter Avenue
Buffalo, New York 14201
6. Any person who has requested to be placed on the list: None.
7. Administrator of School/Day Care: Waterfront Public School
95 Fourth Street
Buffalo, New York 14202
Levels K - 5
8. Location of Document Repository
for the Project:

Erie County Public Library
One Lafayette Square
Buffalo, New York 14203

CONTACT LIST – ADJACENT PROPERTY OWNERS

See attached.

**PROXIMITY TO REAL PROPERTY USED FOR RESIDENTIAL USE,
AND URBAN, COMMERCIAL, INDUSTRIAL, AGRICULTURAL
AND RECREATIONAL AREAS**

The Site is in proximity to real property used for apartments and condominiums (west of the NYS Thruway); is in proximity to the Waterfront School; and is in proximity to Lake Erie where recreational activities such as sailing, etc. take place during spring, summer, and fall. Also in close proximity to the Site are commercial buildings, including a Post Office, a hotel and a building housing local television station WKBW. Public parking is allowed along West Genesee and Fourth Streets adjacent to the Site.

**VULNERABILITY OF GROUNDWATER TO CONTAMINATION
THAT MIGHT MIGRATE FROM THE SITE, INCLUDING PROXIMITY
TO WELLHEAD PROTECTION AND GROUNDWATER RECHARGE AREAS**

The groundwater systems in the vicinity of the Buffalo Service Center Site are at limited risk of contamination from this site. The former manufactured gas operations were terminated in 1948, more than 57 years ago. The likely sources on the property will be addressed by the remedial actions, and therefore the risks of further impacts to groundwater are limited. The groundwater should be in a steady state condition.

There are no known drinking water or industrial wells operating down-gradient of the Former Buffalo Service Center property.

GEOGRAPHY AND GEOLOGY OF SITE

The geography of the area is relatively level urban land.

A layer of fill material covers the majority of the site in thickness ranging from 4 to 15 feet. The fill is thickest in the northwestern portion of the Former Buffalo Service Center. The fill consists primarily of silty sand, gravel, brick fragments, concrete and metal debris, and also contains varying amounts of coal gasification residuals such as cinder-like material, slag, ash-like material, and coal fragments. Underlying the fill is an alluvium unit comprised of a heterogeneous mixture of silt, sand, clay and gravel. Occasionally the alluvium was observed to be overlain with laterally discontinuous lenses of peat. Bedrock was encountered at depths that range from 18 to 25 feet below ground surface. The bedrock unit is a fractured limestone.

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N.Y.S. D.E.C., Region 9
270 Michigan Ave.
Buffalo, N.Y 14203

Community Outreach File
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Ms. Meaghan Boice-Green
N.Y.S. D.E.C., Region 9
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N.Y.S. D.E.C., Region 9
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Buffalo, NY 14202

Mr. Matt Forcucci
N.Y.S. D.O.H.
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Buffalo, NY 14202

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USEPA - Public Info. Office
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Niagara Falls, NY 14303

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420 Kaymar Drive
Amhurst, NY 14228

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792 East Delavan
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Assemblyman Sam Hoyt
144th Assembly District
General Donovan Building
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Assemblyman Mark Schroeder
145th Assembly District
General Donovan Building
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27th District
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465 Main Street
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Senator William Stachowski
58th District, N.Y.S. Senate
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Buffalo, NY 14206

Senator Byron Brown
60th District, N.Y.S. Senate
65 Court Street, Rm213
Buffalo, NY 14202

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U.S. Senate, 203 Guaranty Bld
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Mr. William Nowak
Buffalo Common Council Staff
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Buffalo Common Council, Elct.
1408 Buffalo City Hall
Buffalo, NY 14202

Councilman David Franczek, Pres.
Buffalo Common Council, Fill.
1315 City Hall
Buffalo, NY 14202

Councilman Dominic Bonifacio
Buffalo Common Council, Niag.
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Buffalo, NY 14202

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Buffalo, NY 14202

Mr. Gary Ziolkowski
Buffalo Community Development
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Buffalo, NY 14202

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Buffalo Coporation Council
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Buffalo, NY 14202

Ms. Maria Scinta
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Buffalo, NY 14202

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Buffalo Director of Safety
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Buffalo, NY 14202

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Buffalo Disaster Coordinator
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Buffalo, NY 14202

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Buffalo Economic Renaissance
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Buffalo, NY 14203

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Buffalo Environmental Comm.
916 City Hall
Buffalo, NY 14202

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Buffalo Environmental Mngmt.
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Buffalo, NY 14202

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Buffalo Haz. Mat. Captian
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Buffalo, NY 14202

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Buffalo Mayor's Office, R 201
City Hall
Buffalo, NY 14202

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Buffalo School Administration
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Erie Co. Environment & Plan.
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Buffalo, NY 14202

Mr. Michael Raab
Erie Co. Environment & Plan.
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Buffalo, NY 14202

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Erie Co. Health Dept., Rm 931
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Erie County Executive
95 Franklin Street
Buffalo, NY 14202

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25 Delaware Avenue
Buffalo, NY 14202

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Buffalo, NY 14202

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Buffalo, NY 14202

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Erie County Legislature, 2nd.
25 Delaware Avenue
Buffalo, NY 14202

Legislator George Holt
Erie County Legislature, 3rd.
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Buffalo, NY 14202

Legislator Michael Ranzenhofer
Erie County Legislature, 4th.
25 Delaware Avenue
Buffalo, NY 14202

Legislator Denis Marshall
Erie County Legislature, 5th.
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Buffalo, NY 14202

Legislator Albert DeBenedetti
Erie County Legislature, 6th.
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Buffalo, NY 14202

Legislator Demone Smith
Erie County Legislature, 7th.
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Principal Gail Buch
Waterfront Elementary School
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ATTN: ENVIRONMEN NEWS DESK
The Buffalo Challenger
108 Sycamore Street
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ATTN: Michael Desmond
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DESK
PO 1263, Horizons Plaza

Buffalo, NY 14240

ATTN: Environmen News Desk
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259 Delaware Avenue
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ATTN: Environmen News Desk
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7 Broadcast Plaza
Buffalo, NY 14202

ATTN: Jay Bonfatti
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1 News Plaza
Buffalo, NY 14240

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Sierra Club, Niagara Group
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Snyder, NY 14226

Ms. Lois Meyer
League of Woman Voters
731 W. Ferry St, Apt. 1-KL
Buffalo, NY 14222

Current Resident
RE: 4th St. Remediation Project
10 7th Street
Buffalo, NY 14201

Current Resident
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10 7th Street
Buffalo, NY 14201

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10 7th Street
Buffalo, NY 14201

Current Resident
RE: 4th St. Remediation Project
2 Pine Harbor Walk
Buffalo, NY 14201

Current Resident
RE: 4th St. Remediation Project
3 Pine Harbor Walk
Buffalo, NY 14201

Current Resident
RE: 4th St. Remediation Project
4 Pine Harbor Walk
Buffalo, NY 14201

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Buffalo, NY 14201

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Buffalo, NY 14201

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7 Pine Harbor Walk
Buffalo, NY 14201

Current Resident
RE: 4th St. Remediation Project
8 Pine Harbor Walk
Buffalo, NY 14201

Current Resident
RE: 4th St. Remediation Project
9 Pine Harbor Walk
Buffalo, NY 14201

Current Resident
RE: 4th St. Remediation Project
10 Pine Harbor Walk
Buffalo, NY 14201

Mr. Steven Sherman
Or current occupant
282 Delaware Avenue
Buffalo, NY 14202

Attn: Tenant
Or current occupant
85 Busti Ave
Buffalo, NY 14201-2225

Attn: Tenant
Or current occupant
42 Carolina St
Buffalo, NY 14201

Attn: Tenant
Or current occupant
68 Carolina St
Buffalo, NY 14201

Attn: J V Alexander
Or current occupant
160 7th St
Buffalo, NY 14201-2223

Attn: B Angeles
Or current occupant
70 Carolina St
Buffalo, NY 14201-2149

Attn: A N Askia
Or current occupant
120 7th St
Buffalo, NY 14201-2219

Attn: J Batista
Or current occupant
38 Carolina St
Buffalo, NY 14201-2149

Attn: E Baxter
Or current occupant
54 Carolina St
Buffalo, NY 14201-2149

Attn: C Bey
Or current occupant
150 7th St
Buffalo, NY 14201-2222

Attn: Timothy Blake
Or current occupant
120 7th St
Buffalo, NY 14201-2219

Attn: B Bridges
Or current occupant
120 7th St
Buffalo, NY 14201-2219

Attn: G M Chapman
Or current occupant
155 Busti Ave
Buffalo, NY 14201-2228

Attn: J M Clark
Or current occupant
160 7th St
Buffalo, NY 14201-2223

Attn: M Clark
Or current occupant
85 7th St
Buffalo, NY 14201-2204

Attn: D Cohen
Or current occupant
65 7th St
Buffalo, NY 14201-2203

Attn: Rodric I D Constantine
Or current occupant
90 7th St, Apt 203
Buffalo, NY 14200

Attn: R Cormack
Or current occupant
120 7th St
Buffalo, NY 14201-2219

Attn: Bill Crawford
Or current occupant
85 7th St
Buffalo, NY 14201-2204

Attn: Kelly D Davis
Or current occupant
120 7th St
Buffalo, NY 14201-2219

Attn: Coy L Jr Defoor
Or current occupant
140 7th St
Buffalo, NY 14201-2221

Attn: I M Dickerson
Or current occupant
165 7th St
Buffalo, NY 14201-2207

Attn: Harry Donmore
Or current occupant
165 7th St
Buffalo, NY 14201-2207

Attn: Robert L R Farabee
Or current occupant
165 7th St
Buffalo, NY 14201-2207

Attn: H C Floyd
Or current occupant
110 7th St
Buffalo, NY 14201-2218

Attn: Ted Gardner
Or current occupant
45 7th St
Buffalo, NY 14201-2202

Attn: Trina Gerald
Or current occupant
130 7th St
Buffalo, NY 14201-2220

Attn: L Gillings
Or current occupant
145 Busti Ave
Buffalo, NY 14201-2227

Attn: Judith Glover
Or current occupant
110 7th St
Buffalo, NY 14201-2218

Attn: Jose Gomez
Or current occupant
130 7th St
Buffalo, NY 14201-2220

Attn: Juan Gonzalez
Or current occupant
22 Carolina St
Buffalo, NY 14201-2149

Attn: S Guest
Or current occupant
110 7th St
Buffalo, NY 14201-2218

Attn: James Hargrave
Or current occupant
110 7th St
Buffalo, NY 14201-2218

Attn: T Henderson
Or current occupant
145 7th St
Buffalo, NY 14201-2206

Attn: Diane Hill
Or current occupant
110 7th St
Buffalo, NY 14201-2218

Attn: Carolyn A Hinkle
Or current occupant
110 7th St, Apt 202
Buffalo, NY 14200

Attn: D Jackson
Or current occupant
90 7th St
Buffalo, NY 14201-2216

Attn: M A James
Or current occupant
85 Busti Ave
Buffalo, NY 14201-2225

Attn: Donna Johnson
Or current occupant
150 7th St
Buffalo, NY 14201-2222

Attn: Tara Johnson
Or current occupant
150 7th St
Buffalo, NY 14201-2222

Attn: D Kamoche
Or current occupant
66 Carolina St
Buffalo, NY 14201-2149

Attn: O R Kendrick
Or current occupant
85 7th St
Buffalo, NY 14201-2204

Attn: C Knight
Or current occupant
90 7th St
Buffalo, NY 14201-2216

Attn: C Knight
Or current occupant
90 7th St
Buffalo, NY 14201-2216

Attn: L Love
Or current occupant
45 7th St
Buffalo, NY 14201-2202

Attn: Elisa Luciano
Or current occupant
130 7th St
Buffalo, NY 14201-2220

Attn: Larry Mayweather
Or current occupant
145 7th St
Buffalo, NY 14201-2206

Attn: Tensa Mc Henry
Or current occupant
160 7th St
Buffalo, NY 14201-2223

Attn: Shann Mc Norwood
Or current occupant
150 7th St
Buffalo, NY 14201-2222

Attn: D Mc Quiller
Or current occupant
130 7th St
Buffalo, NY 14201-2220

Attn: L M Mccoy
Or current occupant
65 7th St
Buffalo, NY 14201-2203

Attn: R McCoy
Or current occupant
85 7th St
Buffalo, NY 14201-2204

Attn: James Mchenry
Or current occupant
160 7th St
Buffalo, NY 14201-2223

Attn: L Miller
Or current occupant
85 Busti Ave
Buffalo, NY 14201-2225

Attn: Jamal Mitchell
Or current occupant
70 Carolina St
Buffalo, NY 14201-2149

Attn: Irma I Montanez
Or current occupant
120 7th St
Buffalo, NY 14201-2219

Attn: Leanna Murray
Or current occupant
65 7th St
Buffalo, NY 14201-2203

Attn: Vincent Nunez
Or current occupant
70 Carolina St
Buffalo, NY 14201-2149

Attn: Kevin Olive
Or current occupant
130 7th St
Buffalo, NY 14201-2220

Attn: Maria Ortis
Or current occupant
140 7th St
Buffalo, NY 14201-2221

Attn: L Owens
Or current occupant
170 7th St
Buffalo, NY 14201-2224

Attn: D Quarles
Or current occupant
110 7th St
Buffalo, NY 14201-2218

Attn: J Reid
Or current occupant
45 7th St
Buffalo, NY 14201-2202

Attn: Teddy Rivera
Or current occupant
38 Carolina St
Buffalo, NY 14201-2149

Attn: N Rodriguez
Or current occupant
145 Busti Ave
Buffalo, NY 14201-2227

Attn: Rosario Rodriguez
Or current occupant
95 Busti Ave
Buffalo, NY 14201-2226

Attn: Jacqueline Rogers
Or current occupant
85 Busti Ave
Buffalo, NY 14201-2225

Attn: D Schuman
Or current occupant
140 7th St
Buffalo, NY 14201-2221

Attn: Raymond Shelton
Or current occupant
130 7th St
Buffalo, NY 14201-2220

Attn: Frederick Simmons
Or current occupant
140 7th St
Buffalo, NY 14201-2221

Attn: Charles Simpson
Or current occupant
165 7th St
Buffalo, NY 14201-2207

Attn: P Smallwood
Or current occupant
85 7th St
Buffalo, NY 14201-2204

Attn: S Smallwood
Or current occupant
85 Busti Ave
Buffalo, NY 14201-2225

Attn: Valerie Smallwood
Or current occupant
85 7th St
Buffalo, NY 14201-2204

Attn: Frederick Smith
Or current occupant
165 7th St
Buffalo, NY 14201-2207

Attn: Napoleon Stephens
Or current occupant
145 7th St
Buffalo, NY 14201-2206

Attn: John Stokes
Or current occupant
145 7th St
Buffalo, NY 14201-2206

Attn: Tenant
Or current occupant
130 7th St
Buffalo, NY 14201-2220

Attn: Tenant
Or current occupant
50 Carolina St
Buffalo, NY 14201-2149

Attn: Christine Thompson
Or current occupant
85 7th St
Buffalo, NY 14201-2204

Attn: Louis Traylor
Or current occupant
120 7th St
Buffalo, NY 14201-2219

Attn: Aimable Twagilimana
Or current occupant
140 7th St
Buffalo, NY 14201-2221

Attn: Resident
Or current occupant
155 Busti Ave
Buffalo, NY 14201-2228

Attn: Derrick Williams
Or current occupant
120 7th St
Buffalo, NY 14201-2219

Attn: R L Williams
Or current occupant
145 Busti Ave
Buffalo, NY 14201-2227

Attn: Frederick Young
130 7th St
Buffalo, NY 14201-2220

Resident
Apt. 104
85 Bustie
Buffalo, NY 14201

Resident
Apt. 301
110 7th St.
Buffalo, NY 14201

Attn: Property Manager
Buffalo Municipal Housing Ath
300 Perry St
Buffalo, NY 14204

Attn: Property Manager
Buffalo Urban Renewal Agency
920 City Hall
Buffalo, NY 14202

Harbor View Houses, Inc
C/O Related Management Co.
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New York, NY 10022

Please Post & Distribute
Father Belle Community Center
Maryland & Busti Ave.
Buffalo, NY 14201

Please Post & Distribute
Hispanics United Community
254 Virginia St.
Buffalo, NY 14201

Attn: Manager Apartment
Rental Office
200 7th St
Buffalo, NY 14201

Attn: Property Manager
Waterfront Health Care Ctr.
200 7th St
Buffalo, NY 14201

Dexter Martinez
8250 Northwest 12th St.
Pembroke Pines, FL 33024

Current Resident
Apt 201
165 7th St
Buffalo, NY 14201

Mr. Thomas DeJac
Shoreline Apts. Supervisor
200 Niagara Street
Buffalo, NY 14201

Attn: Veronica Cary
Appartment 201
170 7th Street
Buffalo, NY 14201

Attn: Tina Bethea
Parent Of Waterfront Student
143 Freund Street
Buffalo, NY 14215

Tenant
Apt. 204
130 7th Street
Buffalo, NY 14201

**PROXIMITY TO REAL PROPERTY USED FOR RESIDENTIAL USE,
AND URBAN, COMMERCIAL, INDUSTRIAL, AGRICULTURAL
AND RECREATIONAL AREAS**

The Site is in proximity to real property used for apartments and is in proximity to Lake Erie where recreational activities such as sailing, etc. take place during spring, summer, and fall. Also in close proximity to the Site are commercial buildings, including a hotel and a building housing local television station WKBW.

**VULNERABILITY OF GROUNDWATER TO CONTAMINATION
THAT MIGHT MIGRATE FROM THE SITE, INCLUDING PROXIMITY
TO WELLHEAD PROTECTION AND GROUNDWATER RECHARGE AREAS**

The groundwater systems in the vicinity of the Buffalo Service Center Site are at limited risk of contamination from this site. The former manufactured gas operations were terminated in 1948, more than 57 years ago. The likely sources on the property are gone, and therefore the risks of further impacts are limited. The groundwater should be in a steady state condition.

There are no known drinking water or industrial wells operating down-gradient of the Buffalo Service Center property.

GEOGRAPHY AND GEOLOGY OF SITE

The geography of the area is relatively level urban land.

A layer of fill material covers the majority of the site in thickness ranging from 4 to 22 feet. The fill is thickest in the area of the former Wilkeson Slip in the northwestern portion of the study area. The fill consists primarily of silty sand, gravel, brick fragments, concrete and metal debris, and also contains varying amounts of coal gasification residuals such as cinder-like material, slag, ash-like material, and coal fragments. Underlying the fill is an alluvium unit comprised of a heterogeneous mixture of silt, sand, clay and gravel. Occasionally the alluvium was observed to be overlain with laterally discontinuous lenses of peat. Bedrock was encountered at depths which range from 18 to 25 feet below ground surface. The bedrock unit is a fractured limestone.