



BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION FORM

Is this application to request significant changes to property set forth in an existing Brownfield Cleanup Agreement?

☐ Yes ☒ No

If yes, fill in existing BCP project number: _____
Skip to Section IV and follow application instructions below.

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

August 2015

Section I. Requestor Information - See Instructions for Further Guidance

DEC USE ONLY
BCP SITE #:

NAME Hertel Warehouse Inc.

ADDRESS PO Box 68

CITY/TOWN Buffalo

ZIP CODE 14207

PHONE 716-873-2000

FAX 716-864-5992

E-MAIL dsadkin@morganmaterials.com

Is the requestor authorized to conduct business in New York State (NYS)?

☒ Yes ☐ No

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

Do all individuals that will be certifying documents meet the requirements detailed below? ☒ Yes ☐ No

- Individuals that will be certifying BCP documents, as well as their employers, meet the requirements of Section 1.5 of [DER-10: Technical Guidance for Site Investigation and Remediation](#) and Article 145 of New York State Education Law. **Documents that are not properly certified will be not approved under the BCP.**

Section II. Project Description

1. What stage is the project starting at?

☒ Investigation

☐ Remediation

2. If the project is starting at the remediation stage, a Remedial Investigation Report (RIR), Alternatives Analysis, and Remedial Work Plan must be attached (see [DER-10 / Technical Guidance for Site Investigation and Remediation](#) for further guidance).

3. If a final RIR is included, please verify it meets the requirements of Environmental Conservation Law (ECL) Article 27-1415(2): ☐ Yes ☐ No

4. Please attach a short description of the overall development project, including:

- the date that the remedial program is to start; and
- the date the Certificate of Completion is anticipated.

Section III. Property's Environmental History

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

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

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

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

Contaminant Category	Soil	Groundwater	Soil Gas
Petroleum	No	No	NA
Chlorinated Solvents	Yes	Yes	NA
Other VOCs	Yes	Yes	NA
SVOCs	Yes	Yes	NA
Metals	Yes	Yes	NA
Pesticides	Yes	NA	NA
PCBs	Yes	NA	NA
Other*			

*Please describe: _____

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

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

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

ARE THE REQUIRED MAPS INCLUDED WITH THE APPLICATION?*

(*answering No will result in an incomplete application)

☒ Yes ☐ No

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

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

Other: Chemical Storage Warehouse

Section IV. Property Information - See Instructions for Further Guidance				
PROPOSED SITE NAME Hertel Warehouse Site				
ADDRESS/LOCATION 373 Hertel Avenue				
CITY/TOWN Buffalo		ZIP CODE 14207		
MUNICIPALITY(IF MORE THAN ONE, LIST ALL):				
COUNTY Erie		SITE SIZE (ACRES) 3.51		
LATITUDE (degrees/minutes/seconds) 42 ° 56 ' 42.20 "		LONGITUDE (degrees/minutes/seconds) 78 ° 53 ' 36.51 "		
COMPLETE TAX MAP INFORMATION FOR ALL TAX PARCELS INCLUDED WITHIN THE PROPERTY BOUNDARIES. ATTACH REQUIRED MAPS PER THE APPLICATION INSTRUCTIONS.				
Parcel Address		Section No.	Block No.	Lot No.
357 Hertel Avenue		77.74	4	23
				Acreage
				3.51
1. Do the proposed site boundaries correspond to tax map metes and bounds? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If no, please attach a metes and bounds description of the property.				
2. Is the required property map attached to the application? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (application will not be processed without map)				
3. Is the property within a designated Environmental Zone (En-zone) pursuant to Tax Law 21(b)(6)? (See DEC's website for more information) Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, identify census tract : <u>Census Tract 56</u> Percentage of property in En-zone (check one): <input type="checkbox"/> 0-49% <input type="checkbox"/> 50-99% <input checked="" type="checkbox"/> 100%				
4. Is this application one of multiple applications for a large development project, where the development project spans more than 25 acres (see additional criteria in BCP application instructions)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, identify name of properties (and site numbers if available) in related BCP applications: _____				
5. Is the contamination from groundwater or soil vapor solely emanating from property other than the site subject to the present application? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
6. Has the property previously been remediated pursuant to Titles 9, 13, or 14 of ECL Article 27, Title 5 of ECL Article 56, or Article 12 of Navigation Law? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, attach relevant supporting documentation.				
7. Are there any lands under water? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, these lands should be clearly delineated on the site map.				

Section IV. Property Information (continued)

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

Easement/Right-of-way Holder

Description

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

Type

Issuing Agency

Description

10. Property Description Narrative – **please refer to application instructions for proper format. Include sections for location, site features, current zoning and land use, past use of the site, site geology and hydrogeology, and environmental assessment.**

Is the Property Description Narrative included, and in the proper format?

☒ Yes ☐ No

11. For sites located within the five counties comprising New York City, is the requestor seeking a determination that the site is eligible for tangible property tax credits?

If yes, requestor must answer questions on the supplement at the end of this form.

☐ Yes ☒ No

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

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

Initials of each Requestor: _____

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

Section V. Additional Requestor Information See Instructions for Further Guidance		DEC USE ONLY BCP SITE NAME: _____ BCP SITE #: _____	
NAME OF REQUESTOR'S AUTHORIZED REPRESENTATIVE Donald Sadkin			
ADDRESS 380 Vulcan St.			
CITY/TOWN Buffalo		ZIP CODE 14207	
PHONE 716-873-2000	FAX 716-864-5992	E-MAIL dsadkin@morganmaterials.com	
NAME OF REQUESTOR'S CONSULTANT AFI Environmental			
ADDRESS 8644 Buffalo Ave.			
CITY/TOWN Niagara Falls		ZIP CODE 14304	
PHONE 716-283-7645	FAX 716-283-2858	E-MAIL stwsbillh@aol.com	
NAME OF REQUESTOR'S ATTORNEY Richard Lippes			
ADDRESS 1109 Delaware Ave			
CITY/TOWN Buffalo		ZIP CODE 14209	
PHONE 716-884-4800	FAX	E-MAIL rlippes@concentric.net	
Section VI. Current Property Owner/Operator Information – if not a Requestor			
CURRENT OWNER'S NAME Hertel Warehouse Inc.		OWNERSHIP START DATE: 1978	
ADDRESS PO Box 68			
CITY/TOWN Buffalo		ZIP CODE 14207	
PHONE 716-873-2000	FAX 716-864-5992	E-MAIL dsadkin@morganmaterials.com	
CURRENT OPERATOR'S NAME Hertel Warehouse Inc.			
ADDRESS PO Box 68			
CITY/TOWN Buffalo		ZIP CODE 14207	
PHONE 716-873-2000	FAX 716-864-5992	E-MAIL dsadkin@morganmaterials.com	
IF REQUESTOR IS NOT THE CURRENT OWNER, DESCRIBE REQUESTOR'S RELATIONSHIP TO THE CURRENT OWNER, INCLUDING ANY RELATIONSHIP BETWEEN REQUESTOR'S CORPORATE MEMBERS AND THE CURRENT OWNER. PROVIDE A LIST OF PREVIOUS PROPERTY OWNERS AND OPERATORS WITH NAMES, LAST KNOWN ADDRESSES AND TELEPHONE NUMBERS AS AN ATTACHMENT. DESCRIBE REQUESTOR'S RELATIONSHIP, TO EACH PREVIOUS OWNER AND OPERATOR, INCLUDING ANY RELATIONSHIP BETWEEN REQUESTOR'S CORPORATE MEMBERS AND PREVIOUS OWNER AND OPERATOR. IF NO RELATIONSHIP, PUT "NONE".			
Section VII. Requestor Eligibility Information (Please refer to ECL § 27-1407)			
If answering "yes" to any of the following questions, please provide an explanation as an attachment.			
1. Are any enforcement actions pending against the requestor regarding this site?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
2. Is the requestor subject to an existing order for the investigation, removal or remediation of contamination at the site?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Section VII. Requestor Eligibility Information (continued)

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

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

☐ PARTICIPANT

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

☒ VOLUNTEER

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

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

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

Section VII. Requestor Eligibility Information (continued)

Requestor Relationship to Property (check one):

☐ Previous Owner ☒ Current Owner ☐ Potential /Future Purchaser ☐ Other _____

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

☐ Yes ☐ No

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

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

1. Is / was the property, or any portion of the property, listed on the National Priorities List?
If yes, please provide relevant information as an attachment. ☐ Yes ☒ No
2. Is / was the property, or any portion of the property, listed on the NYS Registry of Inactive Hazardous Waste Disposal Sites pursuant to ECL 27-1305? ☐ Yes ☒ No
If yes, please provide: Site # _____ Class # _____
3. Is / was the property subject to a permit under ECL Article 27, Title 9, other than an Interim Status facility? ☐ Yes ☒ No
If yes, please provide: Permit type: _____ EPA ID Number: _____
Date permit issued: _____ Permit expiration date: _____
4. If the answer to question 2 or 3 above is yes, is the site owned by a volunteer as defined under ECL 27-1405(1)(b), or under contract to be transferred to a volunteer? Attach any information available to the requestor related to previous owners or operators of the facility or property and their financial viability, including any bankruptcy filing and corporate dissolution documentation. ☐ Yes ☐ No
5. Is the property subject to a cleanup order under Navigation Law Article 12 or ECL Article 17 Title 10? ☒ Yes ☐ No
If yes, please provide: Order # B9-0619-02-08
6. Is the property subject to a state or federal enforcement action related to hazardous waste or petroleum? ☐ Yes ☒ No
If yes, please provide explanation as an attachment.

Section IX. Contact List Information

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

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

Section X. Land Use Factors

1. What is the current zoning for the site? What uses are allowed by the current zoning?

☐ Residential ☒ Commercial ☐ Industrial

If zoning change is imminent, please provide documentation from the appropriate zoning authority.

2. Current Use: ☐ Residential ☒ Commercial ☐ Industrial ☐ Vacant ☐ Recreational (check all that apply)

Attach a summary of current business operations or uses, with an emphasis on identifying possible contaminant source areas. If operations or uses have ceased, provide the date.

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

If residential, does it qualify as single family housing?

☐ Yes ☐ No

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

☒ Yes ☐ No

5. Is the proposed use consistent with applicable zoning laws/maps? Briefly explain below, or attach additional information and documentation if necessary.

There will be no change in use of the property.

☒ Yes ☐ No

6. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, or other adopted land use plans? Briefly explain below, or attach additional information and documentation if necessary.

There will be no change in use of the property.

☒ Yes ☐ No

XI. Statement of Certification and Signatures

(By requestor who is an individual)

If this application is approved, I acknowledge and agree to execute a Brownfield Cleanup Agreement (BCA) within 60 days of the date of DEC's approval letter. I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law.

Date: _____

Signature: _____

Print Name: _____

(By a requestor other than an individual)

I hereby affirm that I am PRESIDENT (title) of Hertel Warehouse Inc. (entity); that I am authorized by that entity to make this application and execute the Brownfield Cleanup Agreement (BCA) and all subsequent amendments; that this application was prepared by me or under my supervision and direction. If this application is approved, I acknowledge and agree to execute a BCA within 60 days of the date of DEC's approval letter. 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: 11/3/15

Signature: 

Print Name: DONALD SISKIN

SUBMITTAL INFORMATION:

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

FOR DEC USE ONLY

BCP SITE T&A CODE: _____ LEAD OFFICE: _____

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

August 2015

Property is in Bronx, Kings, New York, Queens, or Richmond counties.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Please answer questions below and provide documentation necessary to support answers.	
1. Is at least 50% of the site area located within an environmental zone pursuant to NYS Tax Law 21(b)(6)? Please see DEC's website for more information.	
<input type="checkbox"/> Yes <input type="checkbox"/> No	
2. Is the property upside down or underutilized as defined below?	Upside Down? <input type="checkbox"/> Yes <input type="checkbox"/> No
	Underutilized? <input type="checkbox"/> Yes <input type="checkbox"/> No
From ECL 27-1405(31):	
<p>"Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.</p>	
<p>From 6 NYCRR 375-3.2(I) as of July 1, 2015: (Please note: Eligibility determination for the underutilized category can only be made at the time of application)</p>	
<p>(I) "Underutilized" means, as of the date of application, real property:</p> <p style="margin-left: 20px;">(1) on which a building or buildings, can be certified by the municipality in which the site is located, to have for at least five years used no more than fifty percent of the permissible floor area under the applicable base zoning immediately prior to the application which has been in effect for at least five years;</p> <p style="margin-left: 20px;">(2) at which the proposed development is solely for a use other than residential or restricted residential;</p> <p style="margin-left: 20px;">(3) which could not be developed without substantial government assistance, as certified by the municipality in which the site is located; and</p> <p style="margin-left: 20px;">(4) which is subject to one or more of the following conditions, as certified by the municipal department responsible for such determinations of the municipality in which the site is located:</p> <p style="margin-left: 40px;">(i) property tax payments have been in arrears for at least five years immediately prior to the application;</p> <p style="margin-left: 40px;">(ii) contains a building that is presently condemned, or presently exhibits documented structural deficiencies, as certified by a professional engineer, which present a public health or safety hazard; or</p> <p style="margin-left: 40px;">(iii) the proposed use is in whole or in substantial part for industrial uses.</p> <p>"Substantial government assistance" shall mean a substantial loan, grant, land purchase subsidy, or land purchase cost exemption or waiver, from a governmental entity; or for properties to be developed in whole or in part for industrial uses, a substantial loan, grant, land purchase subsidy, land purchase cost exemption or waiver, or a tax credit, from a governmental entity, or a low-cost loan from an industrial fund managed by the municipality and partner financial institutions.</p>	

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

3. Is the project an affordable housing project as defined below?

☐ Yes ☐ No

From 6 NYCRR 375- 3.2(a) as of July 1, 2015:

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

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

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

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

BCP Application Summary (for DEC use only)**Site Name:** Hertel Warehouse Site**City:** Buffalo**Site Address:** 373 Hertel Avenue**County:** Erie**Zip:** 14207**Tax Block & Lot****Section (if applicable):** 77.74**Block:** 4**Lot:** 23**Requestor Name:** Hertel Warehouse Inc.**City:** Buffalo**Requestor Address:** PO Box 68**Zip:** 14207**Email:** dsadkin@morganmaterials.com**Requestor's Representative (for billing purposes)****Name:** Donald Sadkin**Address:** 380 Vulcan St.**City:** Buffalo**Zip:** 14207**Email:** dsadkin@morganmaterials.com**Requestor's Attorney****Name:** Richard Lippes**Address:** 1109 Delaware Ave**City:** Buffalo**Zip:** 14209**Email:** rlippes@concentric.net**Requestor's Consultant****Name:** AFI Environmental**Address:** 8644 Buffalo Ave.**City:** Niagara Falls**Zip:** 14304**Email:** stwsbillh@aol.com**Percentage of site within an En-Zone:** ☐ 0% ☐ <50% ☐ 50-99% ☒ 100%**Requestor's Requested Status:** ☒ Volunteer ☐ Participant

REVISED BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION

Location:

373 Hertel Avenue
Buffalo, New York 14207

Prepared For:

Hertel Warehouse Inc.
373 Hertel Avenue
Buffalo, New York 14207

Prepared By:



AFI Environmental
PO Box 4049
Niagara Falls, New York 14304
(716) 283-7645
www.afienvironmental.com

**Prepared:
December 2015**

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- B. Historical Soil Sampling/Monitoring Well Data Location Map
- C. Groundwater Monitoring and Sampling Map (July 2013)
- D. Off-Site Well Location Map
- E. Test Pit Location Map
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- G. Property Location and Description Maps
- H. Affidavits
- I. Document Repository Letter
- J. (CD-ROM)

I. Requester Information

Hertel Warehouse Inc. (HWI) as the Requestor (Applicant) is a Volunteer that will enter into the New York State (NYS) Brownfield Cleanup Program (BCP) to complete the remedial activities under an executed Brownfield Cleanup Agreement (BCA). A print out of Applicant information from the New York State Department of State's Corporation & Business Entity Database is included as **Attachment A**.

II. Project Description

This project will enter the Brownfield Cleanup Program (BCP) in the investigation phase. Several investigations have already been conducted on the property, each of which identified contaminated environmental media. A data gap investigation will be necessary in order to fill data gaps from these previous investigations, fully characterize the property, and allow for the development and implementation of remedial alternatives.

The property is anticipated to be used for commercial and/or industrial purposes. HWI intends to renovate and remodel the existing building for re-use by HWI and/or other independent businesses. Formerly demolished sections of the warehouse building will be rebuilt and the rail siding to the southeast of the site will be reactivated for use. The scope and footprint of redevelopment will be refined based on the results of the additional environmental investigation and the selected remedy.

Clean-up of the property for the future intended use will benefit the community by remediating the current contamination under the BCP, returning the property to a productive use (i.e., revenue and tax generating business operation), and there will be jobs created associated with the remedial program and the future site use.

The remedial program is anticipated to start on the property following execution of the BCA. A Remedial Investigation Work Plan (RI WP) will be prepared for New York State Department of Environmental Conservation (NYSDEC) and New York State Department of Health (NYSDOH) approval in accordance with NYSDEC DER-10: *Technical Guidance for Site Investigation and Remediation* (DER-10) prior to initiating the RI. Field work for the RI is anticipated to be initiated in March 2016 and a Certificate of Completion (COC) is anticipated to be granted by NYSDEC in 2017.

II.1. Project Schedule

December 2015	Submit Brownfield Application
January 2016	Acceptance into Brownfield Program
March 2016	Submittal of RI WP.

June 2016	RI Commences
September 2016	Draft RI/AA/RAP Report to NYSDEC
November 2016	Receipt of Decision Document
January 2017	Remedy Implementation Commences
June 2017	Submittal of Final Engineering Report (FER) and Site Management Plan (SMP) (if required) to NYSDEC
December 2017	Issuance of Certificate of Completion

III. Property's Environmental History

In September 1996, NYSDEC Division of Spills was made aware of abandoned drums at the Site by police responding to a silent alarm. The report of abandoned drums initiated a site inspection by NYSDEC Spills Division. In March 1997, at the request of NYSDEC, United States Environmental Protection Agency (USEPA) evaluated the Site and ultimately removed approximately 20,000 drums. In August 1997, drum removal negotiations were completed and an Administrative Order on Consent issued (order# B9-0619-02-08).

As a result of the Order on Consent, several environmental investigations have been performed at the Site. **Attachment B** illustrates historic monitoring well and soil boring sample locations. **Attachment C** illustrates the most recent groundwater monitoring and sampling event. The following is a summary of significant results of the site investigations performed at the site.

III.1. Roy F. Weston, Inc.

As part of a site-wide investigation conducted in 1998, Weston, as contractor for the USEPA, drilled and sampled 17 shallow soil borings (GP-1 through GP-17) to a depth of four feet and drilled and installed five overburden groundwater-monitoring wells (MW-1 through MW-5) throughout the site (**Attachment B**). Soil samples were collected from each boring (0- to 4-foot composite) and analyzed for VOCs, target analytic list (TAL) metals, base neutral extractable, and pesticides and polychlorinated biphenyls (PCBs) in soils.

Soil Results

Four VOCs were detected in one or more soil samples at concentrations above soil cleanup objectives (SCOs) outlined in NYSDEC Technical and Administrative Guidance Memorandum (TAGM) #4046 *Determination of Soil Cleanup Objectives and Cleanup Levels*. Acetone was detected at 16,000 micrograms per kilogram ($\mu\text{g/kg}$) at GP-17, trichloroethene (TCE) was detected

at locations GP-7 and GP-10 at 2,700 µg/kg and 1,400 µg /kg respectively, tetrachloroethene (PCE) was detected at location GP-10 and GP-12 at 4,800 and 31,000 µg /kg respectively and 1,1,2,2-PCE was detected at location GP-7 at a concentration of 1,300 µg /kg. Boring GP-12 is located near the loading dock at the south side of the facility, GP-17 is near well MW-3 and borings GP-7 and 10 are in the eastern area of the warehouse building.

The presence of metals in soil was fairly consistent between boring locations throughout the site with some exceptions. Iron, nickel and zinc were detected at concentrations above NYSDEC TAGM 4046 SCO's and/or the range found in eastern US background soils in many of the 17 boring locations. The presence of these three metals at these levels was attributed, by Weston, to site background levels that are probably above the cleanup objective. Beryllium, Mercury and Chromium were each detected slightly above the eastern US background range at one or two of the 17 boring locations.

Groundwater Results

Weston collected groundwater samples from four of the five wells (monitoring well MW-5 did not produce enough water to sample) and the samples were analyzed for full Target Compound List/Target Analyte List (TCL/TAL) analytes. Groundwater collected from the two wells completed in the deeper saturated clay (MW-1 and MW-2), did not contain VOCs. Groundwater collected from the two wells completed in the sand and gravel fill materials (MW-3 and MW-4) showed elevated levels of VOCs. MW-3 contained TCE and cis-1,2-dichloroethene (DCE) at concentrations of 500 micrograms per liter (ug/L) and 540 ug/L respectively. MW-4 contained TCE at a concentration of 6.7 ug/L. These concentrations were above NYSDEC Technical and Operational Guidance Series (TOGS) 1.1.1 *Ambient Water Quality Standards and Guidance Values and Groundwater Effluent Limitations* groundwater standards. PCE and its breakdown products (TCE, DCE, and vinyl chloride) were also present at lesser concentrations in groundwater samples from MW-3 and MW-4.

Iron, manganese, and sodium were present in one or more of the groundwater samples at concentrations above NYSDEC TOGS 1.1.1 groundwater quality standards. The Weston report suggests that these metals may be indicative of naturally occurring site conditions. No other metals were detected in groundwater samples at concentrations above NYSDEC TOGS 1.1.1 groundwater quality standards.

III.2. Malcolm Pirnie, Inc.

Malcolm Pirnie, Inc. conducted supplemental site investigations during 2001 to characterize a potential contaminant source area and to better delineate the extent of known VOC contamination in groundwater. The initial investigation performed in April 2001, included the advancement of

soil borings in the vicinity of the loading dock area to investigate a potential source of VOC contamination in the soil. Soil samples collected for chemical analysis at the 0-4 feet and 4-8 feet below ground surface intervals identified elevated levels of PCE (up to 88,000 µg/kg) in the unsaturated fill.

A subsurface drilling program conducted in August 2001, was performed to install two additional shallow groundwater monitoring wells (MW-6 and MW-7), to evaluate the integrity of the existing on-site monitoring well network and to better define shallow groundwater flow direction. Soil boring and well logs are not available for these wells. Groundwater samples collected from each of the wells installed within the fill unit, detected elevated VOC concentrations. Analytical results of the groundwater samples collected at the newly installed wells MW-6 and MW-7 (589 µg /L and 67,200 µg /L, respectively) when used in concert with isopotential data infer that soils in the loading dock area impacted shallow groundwater at the Site.

III.3. AFI Environmental Ad Hoc Investigation

AFI completed a limited “Ad Hoc” subsurface site ground water investigation in August 2012, to evaluate the location and integrity of the on-site monitoring well network, and to determine if any in-situ attenuation of soil and/or groundwater impact had occurred since 2001. AFI located five (5) previously installed monitoring wells (MW-1, MW-2, MW-3, MW-4 and MW-5). MW-2 was found to be filled with sediment/soil and MW-1 was found in need of repair to its riser and well cap (the handle and lock broke off leaving the well inaccessible). AFI developed three (3) of the existing five (5) wells (MW-3, MW-4 and MW-5) and collected a water sample from each. Groundwater samples collected from MW-3 showed elevated VOC concentrations (22,200 µg /L for cis-1,2-Dichloroethene, 1,520 µg /L for PCE, 1,220 µg /L for TCE and 4,450 for Vinyl Chloride). MW-4 results were 14.6 µg /L for cis-1,2-Dichloroethene and 6.10 µg /L for Vinyl Chloride while results for MW-5 were below detection limits for VOCs. No other wells or soils were sampled due to integrity or location issues.

Subsequent to the ad-hoc sampling by AFI, AFI’s field scientist met with NYSDEC Region 9 representatives and discussed the needs of the site and level of investigation and information required by NYSDEC for a Site Characterization Work Plan as required by the now somewhat dated Order on Consent.

Based on the detection of VOCs found in the groundwater and soil on the Hertel Warehouse, Inc. (aka Morgan Materials) Site, NYSDEC recommended that HWI perform additional on-site and off-site investigations and perform remedial measures. In February 2013, AFI submitted to NYSDEC a Site Characterization Work Plan to support and define HWI’s commitment for an off-site characterization under a NYSDEC Order on Consent. The purpose of the Work Plan was to describe the actions necessary to identify and delineate contaminant source location(s) in soil and

groundwater and define groundwater conditions on and immediately off-site so that a cost-effective remedial approach could be identified.

A majority of this work was completed in May through July 2013. A summary of the work follows.

On-Site Monitoring Wells

Based on historic information, the grassy area north of the loading dock is a suspected source area of VOC constituents detected in the down gradient groundwater monitoring wells located on the southern perimeter of the property. Therefore, a shallow groundwater monitoring well (MW-8) was installed in the grassy area near the former loading dock to establish the depth to the underlying clay unit and evaluate groundwater contamination in this potential source area. A second groundwater monitoring well (MW-9) was installed south-southeast of MW-7 to evaluate the potential for off-site impacts to the Site from the former junk yard to the east. Former MW-2 (from a 1998 study) was located and re-drilled (MW-2a) west of the original location. A map showing the locations of the monitoring wells is included as **Attachment C**.

Off-Site Groundwater Monitoring Wells

Groundwater analytical data collected to-date has identified elevated levels of VOC contamination in shallow groundwater monitoring wells at the site's down gradient perimeter. AFI received permission to access private property and a total of two (2) monitoring wells (MW-11 and MW-12) were installed off-site to characterize groundwater quality and complement the existing monitoring well network. MW-11 was installed, north of the railway, on the 'Former' Auto City of Buffalo, Inc. property located at 409 Hertel Avenue to evaluate the southeast groundwater flow direction. MW-12 was installed due east of the Site on Military Road to evaluate potential impact to the Hertel Middle School, a sensitive receptor. A map showing the locations of the monitoring wells is included as **Attachment D**.

Subsequent to monitoring well installation and development, groundwater samples were collected from all seven (7) existing and the four (4) newly installed monitoring wells to evaluate groundwater quality at the site and off-site perimeter areas where new wells have been installed.

A total of eleven (11) groundwater samples were collected from nine (9) on-site monitoring wells (MW-1 through MW-9) and two (2) off-site monitoring wells (MW-11 and MW-12). All 11 groundwater samples were analyzed for VOCs using EPA Method 8260B and all but five wells (MW-1, MW-2, MW-4, MW-5, and MW-9) were analyzed for various wet chemistry parameters relative to remedial alternative selection and implementation. Wet chemistry tests included (Iron and Manganese [both total and dissolved], nitrate, sulfate, methane, ethane/ethene, and hydrogen).

In addition to samples collected for VOC and wet chemistry analyses, samples were collected for semi-volatile organic compounds (SVOC) analyses at five down gradient perimeter monitoring wells (MW-3, MW-4, MW-6, MW-7 and MW-9). Samples collected for SVOCs were analyzed using USEPA Method 8270. Three quality control samples consisting of a blind duplicate, a matrix spike (MS) and a matrix spike duplicate (MSD) were also collected.

According to groundwater monitoring data collected on August 22, 2013, the apparent groundwater flow is to the southeast. . A groundwater monitoring and sampling map for this event is included as **Attachment C**.

VOCs

On-Site Monitoring Wells

Monitoring wells MW-1, MW-2 and MW-5 did not exceed any NYSDEC TOGS 1.1.1 groundwater standards for VOCs. Monitoring wells MW-3, MW-4 and MW-9 exceeded NYSDEC TOGS 1.1.1 groundwater standards for VOCs cis-1,2-Dichloroethene and Vinyl chloride. Monitoring well MW-6 exceeded NYSDEC TOGS 1.1.1 groundwater Standards for VOCs cis-1,2-Dichloroethene, Tetrachloroethene, and Vinyl chloride. Monitoring well MW-7 exceeded NYSDEC TOGS 1.1.1 groundwater standards for VOCs 1,1-Dichloroethene, Acetone, cis-1,2-Dichloroethene, Tetrachloroethene, trans-1,2-Dichloroethene, Trichloroethene, and Vinyl chloride. Monitoring well MW-8 exceeded NYSDEC TOGS 1.1.1 groundwater standards for VOCs cis-1,2-Dichloroethene, Tetrachloroethene and Trichloroethene.

Off-Site Monitoring Wells

Off-site well MW-11 located on the southern border of the former Buffalo Auto City, Inc. property exceeded NYSDEC TOGS 1.1.1 groundwater standards for VOCs 1,1-Dichloroethane, cis-1,2-Dichloroethene, Tetrachloroethene, trans-1,2-Dichloroethene, Trichloroethene and Vinyl chloride. Off-site well MW-12 located just west of the Hertel Middle School did not exceed any NYSDEC TOGS 1.1.1 groundwater standards for VOCs.

SVOCs

On-Site Monitoring Wells

As per the work plan, MW-1, MW-2, MW-5 and MW-8 were not analyzed for SVOCs. Monitoring wells MW-3, MW-4, MW-6, MW-7 and MW-9 exceeded NYSDEC TOGS 1.1.1 groundwater standards for SVOCs Benz(a)anthracene, Benzo(b)fluoranthene, Benzo(k)fluoranthene, Chrysene and Indeno(1,2,3-cd)pyrene.

Off-Site Monitoring Wells

As per the work plan, off-site wells MW-11 and MW-12 were not analyzed for SVOCs.

Wet Chemistry

On-Site Monitoring Wells

As according to the work plan monitoring wells MW-1, MW-2, MW-4, MW-5 and MW-9 were not analyzed for wet chemistry parameters. Iron (Dissolved), Iron (Total), Manganese (Dissolved), Manganese (Total) and Sulfate were detected in samples collected from monitoring wells MW-3, MW-6, MW-7 and MW-8. Methane was detected in monitoring well MW-3. Ethane and Ethene were detected in monitoring well MW-6 and Methane, Ethane and Ethene were detected in monitoring well MW-7.

Off-Site Monitoring Wells

Iron (Dissolved), Iron (Total), Manganese (Dissolved), Manganese (Total), Methane, Ethane and Ethene were detected in both off-site monitoring wells MW-11 and MW-12. Sulfate was detected in off-site monitoring well MW-11.

Subsurface Soil Sampling

Laboratory results for the soil sample collected from MW-2a and submitted for analysis did not exceed SCOs for Commercial or Industrial Use for VOCs, SVOCs, Metals, PCBs or Cyanide.

Surface Soil Sampling

AFI conducted surface sampling to further understand the impact of the potential VOCs and to take corrective action if needed. A total of three (3) surface samples (SS-1, SS-2 and SS-3) were collected from a grid pattern, as directed by NYSDEC, focusing on the eastern, western and southern areas of the property in between the concrete slab of the building and the chain-linked fence. A mini excavator was utilized to scrape the surface of the soil to approximately six (6) inches below grade. A sample was collected from loosened soil. Soil samples were analyzed for TCL SVOCs via EPA Method 8270, PCBs via EPA Method 8082, Pesticides via EPA Method 8081 and TAL Metals via EPA Method 6010. A map showing the locations of the soil borings is included as **Attachment E**.

Soil/fill samples from the three (3) surface samples (SS-1 through SS-3) were analyzed for TCL SVOCs via EPA Method 8270, TAL Metals via EPA Method 6010 and PCBs via EPA Method 8082.

None of the sampled soils from the surface exceeded 6 NYCRR Part 375 6.8 (b) Commercial or Industrial SCO levels with the exception of Benzo(a)pyrene in SS-1 (2.2 mg/kg) and SS-3 (3.3 mg/kg) which exceeded the 6 NYCRR Part 375 6.8 (b) Industrial SCO, Dibenzo(a,h)anthracene in SS-3 (1 mg/kg) which exceeded the 6 NYCRR Part 375 6.8 (b) Commercial SCO and Manganese in SS-2 (32,000 mg/kg) which exceeded the 6 NYCRR Part 375 6.8 (b) Industrial SCO.

Test Pit Investigation

To obtain information regarding the nature and extent of visually observed surface spills and to characterize historic urban and anthropogenic fill, as encountered, and potential impacts related to historic operations; sampling and laboratory analysis of soils was completed through the installation of eight (8) Test Pits (TP-1, TP-2, TP-3, TP-4, TP-5, TP-6, TP-7 and TP-8). Test Pits TP-1 through TP-3 were located in the vicinity of MW-3 and MW-7. Test Pits TP-4, TP-5 and TP-6 were located just south of the concrete loading dock. This approximately 40' x 40' area had previously been identified by NYSDEC as an area which was impacted by historic spills and would need to be excavated and soils properly disposed of as part of the IRM discussed in Section 5.0 of this report. Test Pits TP-7 and TP-8 were located just west of the loading dock. A map showing the locations of the test pits is included as **Attachment E**.

Each test pit was excavated to approximately eight (8) ftbg using a mini excavator. Test pits were advanced to refusal, the top of the water table, or to a practical depth due to excavation equipment limitations or stability issues. Soils were characterized and screened for VOCs using a PID; evidence of contamination (e.g. odor, staining, ash, cinders, slag, etc.) was documented on log forms along with soil characterization information and observations.

A composite soil sample from each test pit was collected and sent for laboratory analysis of TCL VOCs via EPA Method 8260, TCL SVOCs via EPA Method 8270, and RCRA Metals using EPA Method 6010. Typically samples were collected from the composite of soils excavated from each pit in a zone or area with the strongest evidence of contaminant impact. If there were no field indicators of contamination, soil samples were collected from the bottom of the exploration or at the water table respectfully.

A composite sample of soils recovered from all test pits was collected and sent for laboratory analysis for waste characterization (i.e., TCLP VOCs, TCLP SVOCs, TCLP Pesticides and Herbicides, TCLP Metals, PCBs and Cyanide).

VOCs

None of the sampled soils from the test pits exceeded 6 NYCRR Part 375 6.8 (b) Commercial or Industrial SCO levels for VOCs.

SVOCs

The majority of the analyzed SVOCs were reported as non-detectable or at trace (estimated) concentrations below the sample quantitation limit. Soil samples collected from test pits TP-3, TP-5, TP-6, TP_7 and TP-8 exceeded Commercial and/or Industrial SCOs for one or more SVOC parameters Benzo(a)pyrene, Benz(a)anthracene, Benz(b)fluoranthene, Dibenz(a,h)anthracene and Indeno(1,2,3-cd)pyrene.

Soil samples collected from test pits TP-1 and TP-2 were below Commercial and Industrial SCOs for SVOCs.

Metals

None of the sampled soils from the test pits exceeded 6 NYCRR Part 375 6.8 (b) Commercial or Industrial SCO levels for metals with the exception of Barium in TP-2 (454 mg/kg) which exceeded the 6 NYCRR Part 375 6.8 (b) Commercial SCO.

Underground Utility Bedding Material Investigation

The current owner has informed AFI via drawings provided February 4, 2013, that the site is serviced by an underground water service line and a sanitary sewer line that both run north- south from the center of the previous building concrete slab, in the general area of the former shower/bathrooms and locker rooms of the now demolished building (pad is still intact). AFI conducted an exploratory investigation of the bedding material for the two (2) known, underground utility services entering the site from Hertel Avenue.

AFI attempted to locate these utilities and sample the bedding material for possible chemical impacts or possible releases. A test pit (TP-9) was dug in the vicinity where the lines were thought to be located 100' north of the existing building, 150' east of the northwest corner of the existing fence on the north side (Hertel) of the site and 15' east along the sidewalk from the electrical utility pole situated there. This location was located directly south of a water main valve observed on the sidewalk. A map showing the location of the test pit is included as **Attachment E**.

A water main was observed just under the concrete which was first excavated from this location. Approximately 2.5 to 3 ftbg, a 4-inch ceramic sewer line was unearthed at the north end of the pit, within a layer of brown clay and running northwest to southeast. The pit was excavated to 5' and

natural brown clay was observed from this point up to the depth (2.5' to 3') where the sewer line was exposed. The final dimension of the pit was 3' x 10' x 5'. Using standard protocol for working around utility lines, a mini-excavator was used to collect soil samples from the bedding material. Due to the close proximity of the sewer and water lines, one sample was collected from the side wall of the pit representing both utility bedding materials and analyzed for VOCs via EPA Method 8260.

One composite soil sample was collected from the side wall of TP-9 representing both utility (sewer and water) bedding materials and analyzed for TCL VOCs via EPA Method 8260.

None of the sampled soil from test pit TP-9 exceeded 6 NYCRR Part 375 6.8 (b) Commercial or Industrial SCO levels for VOCs.

Interim remedial Measures

Based on results of the site characterization investigations conducted at the Site, VOC and SVOC contamination was confirmed in on-site soils and groundwater. Two (2) main Areas of Concern (AOC) were identified. AOC-1 was located in the vicinity of TP-4 through TP-8 and AOC-2 was located in the vicinity of TP-1, TP-2 and TP-3. AOC-1 was further divided in to three area AOC-1a, AOC-1b and AOC-1c. A map showing the location of these AOC sub-divisions is included as Figure 8.

In order to mitigate on-site impacts and to expedite the remedial process, an IRM was implemented at the Site concurrent with RI activities. The three (3) areas of concern (AOC) located directly South, North and West of the concrete loading dock (AOC-1a, AOC-1b and AOC-1c) were designated for removal and proper disposal. On June 24 and 25, 2013, impacted soil was excavated to depths ranging from 2' to 4' below grade until PID readings were recorded below 5 parts per million by volume (ppmv). A map showing the areas of excavation is included as **Attachment F**. Excavated soils were transported off-site for disposal at the Town of Tonawanda Landfill, Tonawanda, New York. A total of 213.8 tons of soil was excavated and disposed of. A total of 292 tons of material was imported to the Site for use as backfill from NYSDEC Permitted Mine No. 90489.

See Attached as CD-ROM

- Roy F. Weston Inc. /REAC. Final Report Morgan Materials Site Soil Sampling, Monitor Well Installation, and Groundwater Sampling. January 1999.
- AFI Environmental 373 Hertel Avenue AD-Hoc Groundwater Investigation, August, 2012

IV. Property Information

The Property address is 373 Hertel Avenue, (aka 357 Hertel) Buffalo New York 14207 (The Site) SBL No. 77.74-4-23. The site is 3.51 acres located at 42° 56' 41.73" Latitude and 78° 53' 37.10" Longitude (obtained from Google Earth). The vicinity of the site includes residential mixed with light commercial and industrial land use.

Real Property Information

Parcel Status	ACTIVE	City\Town	Buffalo	Village	
S-B-L	77.74-4-23	Owner	HERTEL WAREHOUSE INC.		
Property Location	357 HERTEL	Mailing Address	C/O ATTN: MORGAN MATERIALS INC		
Property Class	449 WAREHOUSE	Line 2			
Assessment	116500	Line 3			
Taxable	116500	Street	PO BOX 68		
Desc	412.19 W MILITARY	City/State	BUFFALO NY		
Desc	514.51 SW; 131.77 RL	Zip	14207		
Deed Book		Deed Page			
Frontage	558.59	Depth	637.12	Acres	0
Year Built		Square Ft			
Beds		Baths			
FirePlace		School	BUFFALO SCHOOL DIST		
History Link	Taxes				



[Click Here](#)

Owner Name {Last Name First} or

Property Address No./ Street

S-B-L

The following figures depicting the property's location and layout are included in **Attachment G**:

- United States Geological Survey 7.5-Minute topographic quadrangle map depicting the property's location;
- Property Line map;
- Copy of Erie County Tax Map
- Map showing subject property and adjacent properties.
- List of adjacent property owners

7. Lands Under Water

There are no lands under water for the subject site

8. Easement/Right-of-Way Holder

There are no known easements or Right-of-Way holders.

10. Property Description Narrative

Location

The Hertel Warehouse Site is located in an urban area. The Site consists of one (1) parcel measuring approximately 3.51 acres with a street address of 373 Hertel Avenue (aka 357 Hertel Avenue), Buffalo, Erie County, New York with Tax ID # 77.74-4-23. Coordinates of the property are 42° 56' 42.20''N, 78° 53' 36.31''W (WGS84). The Site is located 0.1 miles southeast of the intersection of Hertel Avenue and Military Road.

Site Features

The Site consists of a warehouse building, parking lot and one entrance driveway. The Site is generally flat lying with limited topographic features. The surface of the Site is primarily occupied by the concrete pad for the current and former warehouse building(s). The southern portion of the site has a paved access road to the loading docks in the rear of the warehouse. The remainder of the site is undeveloped.

Current Zoning and Land Use

The site is currently zoned for commercial use. The surrounding parcels are currently used for a combination of residential, commercial, light industrial, railways, and utility right-of-ways. The nearest residential area is located on the north side Hertel Avenue, across the street from the site.

Past Use of the Site

Buffalo Environmental Consultants, Inc. d/b/a AFI Environmental reviewed the city directories for the subject and adjoining properties, as provided by EDR that covered the years 2013, 2008, 2001, 1998, 1996, 1992, 1985, 1980, 1975, 1970, 1964, 1960, 1955, 1950, 1946, 1940, 1935, 1930 and 1925. This information was used to generate the table below outlining the past operators at the site. In addition AFI interviewed Mr. Don Sadkin, representative of the current owner on

11/19/2015 who was a tenant at the property prior to his company's current ownership. He indicated the property addresses as odd numbers 373 to 427 Hertel Avenue.

It should be noted there is no relationship between the current owner and any of the previous operators with the exception of Morgan Materials, Inc. Morgan Materials, Inc. started as a tenant in 1975 (listed in the table below as Morgan Chemical Warehouse) and has remained a tenant to present. According to the accountant for Morgan Materials, Inc., Donald Sadkin (authorized representative of the requestor) is 100% shareholder for Morgan Materials, Inc. while being a 1% shareholder for Hertel Warehouse Inc. The other owners of Hertel Warehouse Inc. were:

Jennifer Sadkin Lofman	33%	1988 to present
Donald Sadkin	1%	1988 to present
Marc Lofman	66%	2012 to present
Jonathan Sadkin	33%	1988 to 2012
Rachel Sadkin Rogowin	33%	1988 to 2012

(The ownership percentages were confirmed by Morgan Materials, Inc. Accountant, Mr. Gary Kriner CPA. Please note, Mr. Kriner's information only dates back to 1988. Information regarding ownership of Hertel Warehouse Inc. prior to 1988 was not available to AFI to review at the time of writing this document. This confirmation is included in **Attachment H**)

The common stockholder for both corporations is Don Sadkin with 100% ownership of Hertel Warehouse, Inc. and 1% of Morgan Materials, Inc. Mr. Sadkin is president of both corporations and indicates that none of the previous owners of the property have ever had any interest in either company above, nor has he had ownership in their corporations prior to Hertel Warehouse Inc.'s purchase of the property or while Morgan Material, Inc. was tenant of the property (**Attachment H**).

Date(s)	Property Comments	Surrounding Area Comment
2013	X	356 Hertel - Xtreme Wheels
2008	X	356 Hertel - Canine Sports Complex - Positive Pet Training - Xtreme Wheels 430 Hertel - Hoot Gibson Standard Auto
2001	X	X
1998	X	X
1996	X	X
1992	427 Hertel - Davis Scrap & Service Co	356 Hertel - Insulation Distributors

		<ul style="list-style-type: none"> - Multiglas Products Co Inc 430 Hertel <ul style="list-style-type: none"> - Bibson Std Garage Auto Repair
1985	427 Hertel <ul style="list-style-type: none"> - Davis Scrap & Service Co 	356 Hertel <ul style="list-style-type: none"> - Buffalo Insulation Distributors <ul style="list-style-type: none"> - Multiglas Products Co Inc 430 Hertel <ul style="list-style-type: none"> - Moxies Service used light mach
1980	357 Hertel <ul style="list-style-type: none"> - Insulation Distribution Inc Whse 427 Hertel <ul style="list-style-type: none"> - Davis Scrap & Service Co 	356 Hertel <ul style="list-style-type: none"> - Buffalo Insulation Distributors <ul style="list-style-type: none"> - Multiglas Products Co Inc 430 Hertel <ul style="list-style-type: none"> - Moxies Service used light mach
1975	373 Hertel <ul style="list-style-type: none"> - Alden Lift Truck Stge (*a/k/a- Leo's Lift truck) - Apollo Storage Co Warehouse- *Moving Company - General Refractories Company-(*Fire Brick storage-facility) - <u>Morgan Chemical Warehouse- (*as Tenant)</u> 357 Hertel <ul style="list-style-type: none"> - Kencroft Whse Addn Space 427 Hertel <ul style="list-style-type: none"> - Military Waste Paper 	356 Hertel <ul style="list-style-type: none"> - Buffalo Insulation Distributors <ul style="list-style-type: none"> - Multiglas Products Co Inc 430 Hertel <ul style="list-style-type: none"> - Mozies Auto Service 438 Hertel <ul style="list-style-type: none"> - West Hertel Cleaners
1970	373 Hertel <ul style="list-style-type: none"> - Filtration Unlimited Inc- (*stored filters) - Kencroft Assoc Inc Foundry - Kencroft Warehouse Div of Kencroft Malleable Co Inc. 357 Hertel <ul style="list-style-type: none"> - Kencroft Warehouse Additional Space 427 Hertel <ul style="list-style-type: none"> - Military Waste Paper 	356 Hertel <ul style="list-style-type: none"> - Buffalo Insulation Distributors <ul style="list-style-type: none"> - Multiglas Products Co Inc 430 Hertel <ul style="list-style-type: none"> - Moxies Auto Service 438 Hertel <ul style="list-style-type: none"> - West Hertel Cleaners

Date(s)	Property Comments	Surrounding Area Comment
1964	373 Hertel <ul style="list-style-type: none"> - Commercial Filtrs Co - Filtration Unlimited - Fulflo Filters Co - Honan Crane Filters - Kencroft Warehouse Div of Kencroft Malleable Co Inc - Shell Oil Co Distributer - Shiver T & Co Filter Manufacturing 427 Hertel <ul style="list-style-type: none"> - Military Waste Paper Metal Co Junk 	356 Hertel <ul style="list-style-type: none"> - Buffalo Insulation Distributors 430 Hertel <ul style="list-style-type: none"> - Moxies Auto Service 438 Hertel <ul style="list-style-type: none"> - North Park Cleaners
1960	373 Hertel <ul style="list-style-type: none"> - Goodrich BF Tire Company (*a/k/a Steve'sTire) - Kencroft Assoc - Kencroft Malleable Co Inc Fdry 	356 Hertel <ul style="list-style-type: none"> - Black Rock Milling Co - Livestock Feeds 430 Hertel <ul style="list-style-type: none"> - Moxies Auto Service

	427 Hertel - Military Waste Paper Metal Co Junk	438 Hertel - North Park Cleaners
1955	373 Hertel - Kencroft Malleable Co Inc Fdry 427 Hertel - Military Waste Paper Metal Co Junk	324 Hertel - NYC System Locker 356 Hertel - Park & Pollard Co - Black Rock Milling 430 Hertel - Czernyński Auto Repair 438 Hertel - North Park Cleaners
1950	373 Hertel - Kencroft Malleable Co Inc founders 427 Hertel - Military Waste Paper Metal Co Junk	324 Hertel - NYC System Locker 356 Hertel - Park & Pollard Co - Black Rock Milling 430 Hertel - Czernyński Auto Repair 438 Hertel - North Park Cleaners
1946	373 Hertel - Kencroft Malleable Co Inc founders 427 Hertel - Military Waste Paper Metal Co Junk	324 Hertel - NYC Systems Coal Dock 356 Hertel - Park & Pollard Co - Black Rock Milling 438 Hertel - North Park Cleaners

Date(s)	Property Comments	Surrounding Area Comment
1940	373 Hertel - Jewell Alloy & Malleable Co Inc Founders 427 Hertel - Jewell Alloy & Malleable Co Inc	324 Hertel - NYC Systems Coal Dock 356 Hertel - Park & Pollard Co - Black Rock Milling
1935	373 Hertel - Jewell Alloy & Malleable Co Inc 427 Hertel - Jewell Alloy & Malleable Co Inc	324 Hertel - NYCRR Systems Coal Dock 356 Hertel - Park & Pollard Co - Black Rock Milling
1930	373 Hertel - Jewell Alloy & Malleable Co Inc 427 Hertel - Jewell Alloy & Malleable Co Inc	352 Hertel - Vander Ho. Johnanna Mrs. 356 Hertel - Park & Pollard Co - Black Rock Milling
1925	X	356 Hertel - Park & Pollard Co - Black Rock Milling

As the table outlines, the property was used primarily as metal foundry from at least 1930 to approximately 1960 when the site was used as a warehouse for a variety of tenants. From approximately 1960 to 1970 the site was used as a combination metal foundry and commercial warehouse storage. In 1975 the site was primarily used for commercial warehouse storage with the exception of Alden Lift Truck Stge (*a/k/a- Leo's Lift truck) who's operations included repair and cleaning of tow motors in the loading dock area. From 1980 to 1992, Davis Scrap & Service Co. was the only operator listed at the site.

In September 1996, NYSDEC Division of Spills was made aware of abandoned drums at the Site by police responding to a silent alarm. The report of abandoned drums initiated a site inspection by NYSDEC Spills Division. In March 1997, at the request of NYSDEC, United States Environmental Protection Agency (USEPA) evaluated the Site and ultimately removed approximately 20,000 drums. In August 1997, drum removal negotiations were completed and an Administrative Order on Consent issued.

In November 1998, soil and groundwater samples were collected by Roy F. Weston, Inc. (Weston) on behalf of the USEPA Response Engineering and Analytical Contract (REAC) to provide technical support to the USEPA Environmental Response Team Center (ERTC). A Final Report was completed in January 1999, and drum removal was completed by March 1999, and given a Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) site status of "cleaned up".

In March 2000, NYSDEC Division of Environmental Remediation (DER) requested HWI undertake an investigation and possible cleanup of the loading dock area containing elevated levels of chlorinated VOCs.

HWI subsequently retained Malcolm Pirnie to assist HWI in addressing NYSDEC's concerns relative to remediation of the site. Malcolm Pirnie submitted to NYSDEC a Site Investigation Work Plan for a Soil and Groundwater Investigation. A comprehensive Site Investigation Report detailing the results of the investigation was submitted to NYSDEC in December 2001.

In July 2003, a fire destroyed much of the warehouse. Cleanup activities removed all fire-related debris down to the floor slab of the main part of the warehouse. Approximately 25,000 square feet of the rear of the warehouse still exists under a two story roof. From 2004 until 2012 no work was completed at the site. In 2012, HWI, was successful in negotiating its payment for the fire losses. In August 2012, HWI retained AFI to evaluate the technical and field investigative needs for compliance with the Order on Consent as well as determine the requirements for upgrading the monitoring well network and finalization of the Site Characterization Work Plan (SCWP). As part of this work, monitoring wells were installed, soil samples were collected and several IRM excavations in the loading dock area were completed. Based on the results of this investigation, HWI elected to enter into the BCP.

Site Geology and Hydrogeology

The Hertel Warehouse Site is located in the Erie-Ontario lowlands physiographic province where the bedrock is predominantly limestone, dolomite and shale. This area has been repeatedly covered by continental glacial ice sheets which have deposited unstratified till. Thick veneers of stratified till have been deposited by glacial meltwater channels. Meltwater also formed lakes at the ice margins where silts and clays accumulated. Erie County is covered by such lake sediments.

The U.S. Department of Agriculture Soil Conservation Service website describes the general soil type at the Site as Urban Land (Ud). This is indicative of the level to gently sloping land with at least 40 percent of the soil surface covered by asphalt, concrete, buildings, or other impervious structures typical of an urban environment.

According to the previous investigations, soil observed consists of fill materials extending to depths of approximately four (4) feet below grade (ftbg) in the northwestern portion of the site to approximately 13 ftbg in the southeastern portion of the site. The fill materials include gravel, sand, silty clay and clay. The fill material is underlain by a native stiff silt and clay.

Based on the previous investigations, the uppermost groundwater bearing unit appears to be situated at or near the interface between the soil and a natural clay layer at approximately 11 ftbg. Groundwater elevation was calculated with data collected by AFI on June 4, 7 and 17, 2013. The southwestern flow direction was expected, which would indicate control of flow by the proximity of the site to Scajaquada Creek located approximately 0.60 miles to the south.

Environmental Assessment

Based upon investigations conducted to date, the primary contaminants of concern for the site include chlorinated VOCs

Soil – chlorinated VOCs were found in shallow soils (i.e. 0-4 feet below grade) predominantly on the south portion of the site and appears to be related to the loading dock area. Concentrations of total VOCs ranged from approximately 12,000 parts per billion (ppb) to approximately 90,000 ppb.

Groundwater – Chlorinated VOCs are also found in groundwater at the south end of the site, exceeding groundwater standards (typically 5 ppb), with a maximum total concentration of approximately 45,000 ppb.

Soil Vapor & Indoor Air – A soil vapor and/or indoor air study has not been conducted at the site.

V. Additional Requestor Information

The requestor's selected environmental consultant is AFI Environmental located at 8644 Buffalo Avenue, Niagara Falls, NY.

The requestor's selected attorney is Richard Lippes located at 1109 Delaware Avenue, Buffalo, NY.

VI. Current Property Owner/Operator Information

The site is currently owned by Hertel Warehouse Inc. and is located at 373 Hertel Avenue, (aka 357 Hertel) Buffalo New York 14207. The property is currently used as a warehouse.

Please refer to the table in Section IV for the list of operators.

It should be noted, the table below is based on interviews with Don Sadkin regarding the property ownership history. Please see **Attachment H** for an affidavit from Mr. Sadkin regarding property ownership. A title abstract for independent verification of the following information was not available at the time of the preparation of this application. It should be noted that the current tenant (Morgan Materials, Inc.) was at no time an owner of the property as previous reported. This was an error. As previously stated, there is no relationship between the current owner and any of the previous operators with the exception of Morgan Materials, Inc. Morgan Materials, Inc started as a tenant in 1975 and has remained a tenant to present. According to the accountant for Morgan Materials, Inc., Donald Sadkin (authorized representative of the requestor) is 100% shareholder for Morgan Materials, Inc. while being a 1% shareholder for Hertel Warehouse Inc. Mr. Sadkin is president of both corporations and indicates that none of the previous owners of the property have ever had any interest in either company above, nor has he had ownership in their corporations prior to Hertel Warehouse Inc.'s purchase of the property or while Morgan Material, Inc. was tenant of the property.

It should also be noted, there is no relationship between the previous owners (i.e., Red Bergman and Jimmy DeChristopher aka Hertel Warehouse) and the current owner Hertel Warehouse Inc.

Previous Property Owners

Property Owner	Dates	Last Known Address	Last Known Phone No.	Relationship to requestor
Ralph Rycroft aka Kencroft Malleable Co Inc	Prior to 1974	373 Hertel Ave	Not Known	None
Red Bergman and Jimmy DeChristopher (Owners) aka Hertel Warehouse	1974 - 1978	373 Hertel Ave	Not Known	None
Hertel Warehouse Inc.	1978- Present	PO Box 68 Buffalo, NY	716-873-2000	Requestor

VII. Requestor Eligibility Information

On December 8, 2003 the New York State Department of Environmental Conservation (NYSDEC) issued an Order on Consent (OOC) to Morgan Materials, Inc. In August 2012, Hertel Warehouse Inc. retained AFI to evaluate the technical and field investigative needs of compliance with the Order on Consent and determine the current requirements for upgrading the monitoring network and finalization of the Site Characterization Work Plan (SCWP). With the acceptance of AFI's SCWP, the requester is now in compliance with OOC.

Please note #11 in this section of the application was marked "yes" because if it was marked "no", it would imply there is a known known bulk storage tank on-site that has not been registered with DEC. There are currently no known bulk storage tanks on-site.

It is the Requestor's position the chlorinated VOCs that are the primary driver for the site to be entered into the BCP, are from one of the previous, unrelated owner tenant's operations. Under the ownership of Hertel Warehouse (i.e. Red Bergman and Jimmy DeChristopher), Leo's Lift Truck rented a portion of the warehouse and operations included repair and cleaning of tow motors in the loading dock area. Please note this was the area of primary concern when, in March 2000, NYSDEC requested HWI undertake an investigation and possible cleanup of the loading dock area containing elevated levels of chlorinated VOCs. As such, the Requestor should be considered a Volunteer.

VIII. Property Eligibility Information

In 1998, Roy F. Weston, Inc. (Weston), as contractor for the USEPA, drilled and sampled 17 shallow soil borings (GP-1 through GP-17) to a depth of four feet and drilled and installed five overburden groundwater-monitoring wells.

Four VOCs were detected in one or more soil samples at concentrations above NYSDEC soil cleanup objectives. Acetone was detected at 16,000 ug/l at GP-17, TCE was detected at locations GP-7 and GP-10 at 2,700ug/kg and 1,400ug/kg respectively, PCE was detected at location GP-10 and GP-12 at 4,800 and 31,000ug/kg respectively and 1,1,2,2-PCA was detected at location GP-7 at a concentration of 1,300 ug/kg

Groundwater collected from the two wells completed in the sand and gravel fill materials (MW-3 and MW-4) showed elevated levels of VOCs. MW-3 contained trichloroethene (TCE) and cis-1,2-dichloroethene (DCE) at concentrations of 500 ug/l and 540 ug/l respectively, and MW-4 contained TCE at a concentration of 6.7 ug/l, also at concentrations above NYSDEC groundwater quality standards.

During 2001 Malcolm Pirnie, Inc. conducted supplemental site investigations. Soil samples collected for chemical analysis at the 0-4 feet and 4-8 feet below ground surface intervals identified elevated levels of PCE (up to 88 mg/kg) in the unsaturated fill. Groundwater samples collected from each of the wells installed within the fill unit, detected elevated VOC concentrations. Analytical results of the groundwater samples collected at the newly installed wells MW-6 and MW-7 (589 ug/l and 67,200 ug/l, respectively) when used in concert with isopotential data infer that soils in the loading dock area impacted shallow groundwater at the Hertel Warehouse, Inc. site.

In August 2012 AFI Environmental completed a Limited “Ad Hoc” sub surface site ground water investigation. Groundwater samples collected from MW-7 detected elevated VOC concentrations 22,200 ug/L for cis-1,2-Dichloroethene, 1520 ug/L Tetrachloroethene, and 1220 ug/L for Trichloroethene. MW-4 results were 14.6 ug/L cis-1,2-Dichloroethene, 6.10 ug/L Vinyl Chloride and MW-5 were below detection limits for VOCs.

IX. Contact List Information

Project Contacts:

For information about the site(s) investigation and cleanup program, the public may contact any of the following project staff:

New York State Department of Environmental Conservation (NYSDEC):

Mr. Jaspal S. Walia, P.E.
NYSDEC
270 Michigan Avenue
Buffalo, NY 14203
(716) 851-7220

Ms. Megan Gollwitzer
Citizen Participation Specialist
NYSDEC
270 Michigan Avenue
Buffalo, NY 14203

New York State Department of Health (NYSDOH):

Mr. Matt Forcucci
NYSDOH
584 Delaware Avenue
Buffalo, NY 14202
(716)847-4385

Site Contact List (Continued)

Location of Reports and Information:

The facilities identified below are being used to provide the public with convenient access to important project documents. A letter from the Buffalo and Erie County Public Library acknowledging agreement to act as the document repository for the proposed project is included as **Attachment I**.

Buffalo and Erie County Public Library
North Park Branch
975 Hertel Ave
Buffalo, NY 14216
716-875-3748

NYSDEC Region 9 Office
270 Michigan Avenue
Buffalo, NY 14203
(716)851-7220
(Please call for an appointment)

Federal Representative (U.S. House of Representatives)

U.S. Representative Brian Higgins
Erie County Office
Larkin at Exchange
726 Exchange Street
Suite 601
Buffalo, NY 14210
Phone: 716-852-3501
Fax: 716-852-3929

Site Contact List (Continued)

New York State Senator and Assemblyperson

New York State Senator Mark Grisanti
Walter J. Mahoney State Office Building
65 Court Street, Room 213
Buffalo, New York 14202
P: 716-854-8705
F: 716-854-3051

New York State Assemblyman Sean Ryan
District Office
936 Delaware Avenue
Buffalo, NY 14209
716-885-9630
Fax: 716-885-9636

Chief Executive Officer, Planning Board Chairperson and City Administrator of each County, City, Town and Village in which the Site is located:

City of Buffalo

Office of the Mayor
Mayor Bryon W. Brown
201 City Hall
Buffalo, New York 14202
(716)852-3300

Office of City Administrator
Donna Estrich
203 City Hall
Buffalo, New York 14202
(716)851-5922

Office of Planning Board
James A. Morrell - Chairman
901 City Hall
Buffalo, New York 14202
(716)852-3300

Site Contact List (Continued)

Erie County

Erie County Executive
Mark C. Poloncarz
95 Franklin Street
16th Floor
Buffalo, New York 14202
(716)858-8500

Erie County Clerk
Christopher L. Jacobs
92 Franklin Street
Buffalo, New York 14202
(716)-858-8785

Commissioner of Environment and Planning
Maria R. Whyte, Commisioner
Edward A. Rath County Office Building
95 Franklin Street, 10th Floor
Buffalo, New York 14202
Phone: (716) 858-8390

County and/or municipal agency directors of health, emergency services, economic development and planning departments.

Erie County

Erie County Commissioner of Health
Gale R. Burstein, MD, MPH, FAAP
Rath Building
95 Franklin Street
Buffalo, NY 14202
Office: (716) 858-7690

Emergency Services Commissioner
Daniel J. Neaverth, Jr.
Rath Building
95 Franklin Street
Buffalo, NY 14202
716-858-6578

Site Contact List (Continued)

Erie County Industrial Development Agency
Alfred Culliton, Chief Operating Officer
143 Genesee Street
Buffalo, New York 14203
(716) 856-6525

City of Buffalo

Economic Development, Permit and Inspection
Department Head: James W. Comerford
Address: 324 City Hall, Buffalo, NY, 14202
Phone Numbers: 716-851-4972
Email: jcomerford@city-buffalo.com

Emergency Management Services
Commissioner Garnell W. Whitfield, Jr.
City of Buffalo Office of Homeland Security/Emergency Management
195 Court Street, Buffalo NY 14202
Office: (716) 851-5333
Fax: (716) 851-5341
Email: gwhitfield@bfdny.org

Office of Strategic Planning
Executive Director: Brendan R. Mehaffy
Office Address: 920 City Hall
Buffalo NY 14202
Phone: (716) 851-4769
Email: bmehaffy@city-buffalo.com

Residents, Owners and Occupants of the Site:

Donald Sadkin
Hertel Warehouse, Inc.
373 Hertel Avenue
Buffalo, New York 14207

Site Contact List (Continued)

Nearby School Administrators

PS 94 West Hertel Academy
Principal: Debra Sevillian-Poles
489 Hertel Avenue
Buffalo, NY 14207
Phone: 716.816.4150

Grabiarz School of Excellence
Principal: Gregory Mott
225 Lawn Ave
Buffalo, NY 14207
Ph: (716) 816-4040

Our Lady of Black Rock School
Principal: Mrs. Marth Eadie
16 Peter St
Buffalo, NY 14207
Ph: (716) 873-7497

The Math Science Technology Preparatory School
Principal: Rose Schneider
101 Hertel Ave
Buffalo, NY 14207
Ph: (716) 816-4500

Riverside Institute of Technology
Principal: Denise Clarke
51 Ontario St
Buffalo, NY 14207-1489
Ph: (716) 816-4360

McKinley Vocational High School
Principal: Crystal Boling-Barton
1500 Elmwood Ave
Buffalo, NY 14207-3086
Ph: (716) 816-4480

Pamela C. Brown, Ed.D
Superintendent of Buffalo Public Schools
Buffalo Public Schools
712 City Hall
Buffalo, New York 14202
(716) 816-3500

Site Contact List (Continued)

Persons requesting to be placed on distribution list

None identified to date.

Water Supplier

Buffalo Water Authority
281 Exchange Street
Buffalo, NY 14202
(716) 847-1065

Location of Document Repository

Buffalo and Erie County Public Library
North Park Branch
975 Hertel Ave
Buffalo , NY 14216
Phone: 716-875-3748
Fax: 716-875-3748

News Media

Buffalo News
One News Plaza
PO Box 100
Buffalo, New York 14240
(716) 849-4444

WJL 1440 AM
920 Union Road
West Seneca, New York 14224
(716) 674-9555

WGRZ-NBC (Channel 2)
259 Delaware Avenue
Buffalo, New York 14202
(716) 849-2222

WIVB –CBS (Channel 4)
2077 Elmwood Avenue
Buffalo, New York 14202
(716) 874-4410

Site Contact List (Continued)

WKBW – ABC (Channel 7)
7 Broadcast Plaza
Buffalo, New York 14202
(716) 845-6100

WUTV-FOX (Channel 29)
699 Hertel Avenue, Suite 100
Buffalo, New York 14207

Residents, owners and occupants adjacent to the site

SBL	ADDNUM	ADDNAME	PROP_DESC	OWNER1	OWNER2	MAILAD1	STREET	CITY	ZIP
77.75-5-4	409	HERTEL	Auto dealer	ADORNETTO PETER N			96 CHEROKEE DR	WEST SENECA NY	14224
77.74-3-21	374	HERTEL	1 Family Res	DAVIS RASHARD			374 HERTEL AVE	BUFFALO NY	14207
77.74-3-22	370	HERTEL	1 Family Res	WIKTOROWSKI MICHAEL D	WIKTOROWSKI SUSAN M		370 HERTEL AVE	BUFFALO NY	14207
77.74-3-23	366	HERTEL	1 Family Res	RYAN RICHARD			366 HERTEL AVE	BUFFALO NY	14207
77.74-3-24	362	HERTEL	1 Family Res	WAY JOAN M			362 HERTEL AVE	BUFFALO NY	14207
77.74-3-17	384	HERTEL	2 Family Res	ACOSTA RENEE C			31 COLUMBIA BLVD	KENMORE NY	14217
77.74-3-18	382	HERTEL	Res vac land	BOCHNIARZ LISA M			163 CROWLEY AVE	BUFFALO NY	14207
77.74-3-19	378	HERTEL	Res vac land	POPP DANIEL R. & W			191 GROTE ST	BUFFALO NY	14207
77.74-3-20	376	HERTEL	2 Family Res	MOWRY GERALD R			4285 CONNECTION DR	WILLIAMSVILLE NY	14221
77.75-6-15	406	HERTEL	1 Family Res	BUFFALO BATIM LLC			56 GREENWOOD PL	BUFFALO NY	14213
77.75-6-16	402	HERTEL	2 Family Res	PUTNEY THOMAS M			4905 SMILEY TERRACE	CLARENCE NY	14031
77.75-6-17	396	HERTEL	Com vac w/imp	CITY OF BUFFALO	REAL ESTATE OFFICE	RM 901	CITY HALL	BUFFALO NY	14202
77.75-6-18	394	HERTEL	Com vac w/imp	CITY OF BUFFALO	REAL ESTATE OFFICE	RM 901	CITY HALL	BUFFALO NY	14202
77.75-6-14	408	HERTEL	2 Family Res	FORTMAN RONALD F			2944 STALEY RD	GRAND ISLAND NY	14072
77.74-4-22	356	HERTEL	Warehouse	SHYLO GROUP INC			356 HERTEL AVE	BUFFALO NY	14207

X. Land Use Factors

HWI intends to renovate and remodel the existing building for re-use by HWI or other independent businesses consistent with current use (i.e. commercial warehouse). Formerly demolished sections of the building will be rebuilt and the rail siding to the southeast of the site will be reactivated for use.

XI. Statement of Certification

See BCP Application

Attachments

ATTACHMENT A

NYS DEPARTMENT OF STATE ENTITY INFORMATION

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through September 21, 2015.

Selected Entity Name: HERTEL WAREHOUSE INC.

Selected Entity Status Information

Current Entity Name: HERTEL WAREHOUSE INC.

DOS ID #: 742506

Initial DOS Filing Date: DECEMBER 22, 1982

County: ERIE

Jurisdiction: NEW YORK

Entity Type: DOMESTIC BUSINESS CORPORATION

Current Entity Status: ACTIVE

Selected Entity Address Information

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

HERTEL WAREHOUSE INC.

719 BRISBANE BLDG

BUFFALO, NEW YORK, 14203

Registered Agent

NONE

This office does not record information regarding the names and addresses of officers, shareholders or directors of nonprofessional corporations except the chief executive officer, if provided, which would be listed above. Professional corporations must include the name(s) and address(es) of the initial officers, directors, and shareholders in the

initial certificate of incorporation, however this information is not recorded and only available by [viewing the certificate.](#)

***Stock Information**

# of Shares	Type of Stock	\$ Value per Share
200	No Par Value	

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
DEC 22, 1982	Actual	HERTEL WAREHOUSE INC.

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

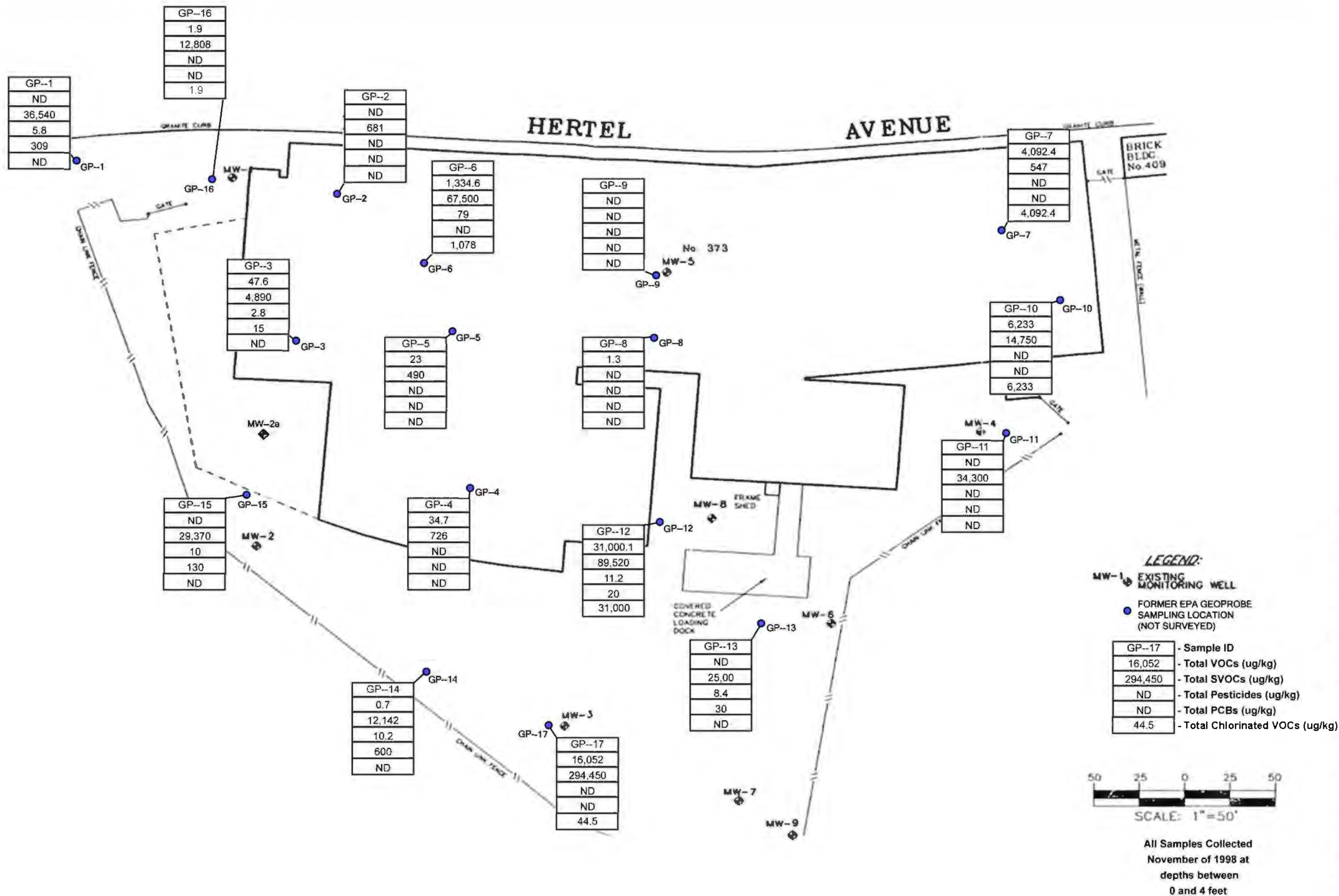
NOTE: New York State does not issue organizational identification numbers.

[Search Results](#) [New Search](#)

[Services/Programs](#) | [Privacy Policy](#) | [Accessibility Policy](#) | [Disclaimer](#) | [Return to DOS](#)
[Homepage](#) | [Contact Us](#)

ATTACHMENT B

HISTORICAL SOIL SAMPLING/MONITORING WELL LOCATION MAP



**HISTORIC SOIL BORING AND
MONITORING WELL LOCATIONS**

MORGAN MATERIALS SITE
373 HERTEL AVENUE, BUFFALO, NY 14207



DATE
10/15/2015

SCALE
1"=50'

FIGURE NUMBER

PROJECT NUMBER
A12B-Hertel ENV

REVISION
Rev 2ear

ATTACHMENT C

GROUNDWATER MONITORING AND SAMPLING MAP (JULY 2013)



GROUNDWATER MONITORING MAP
(7/31/2013 and 8/22/2013)

MORGAN MATERIALS SITE
373 HERTEL AVENUE, BUFFALO, NY 14207



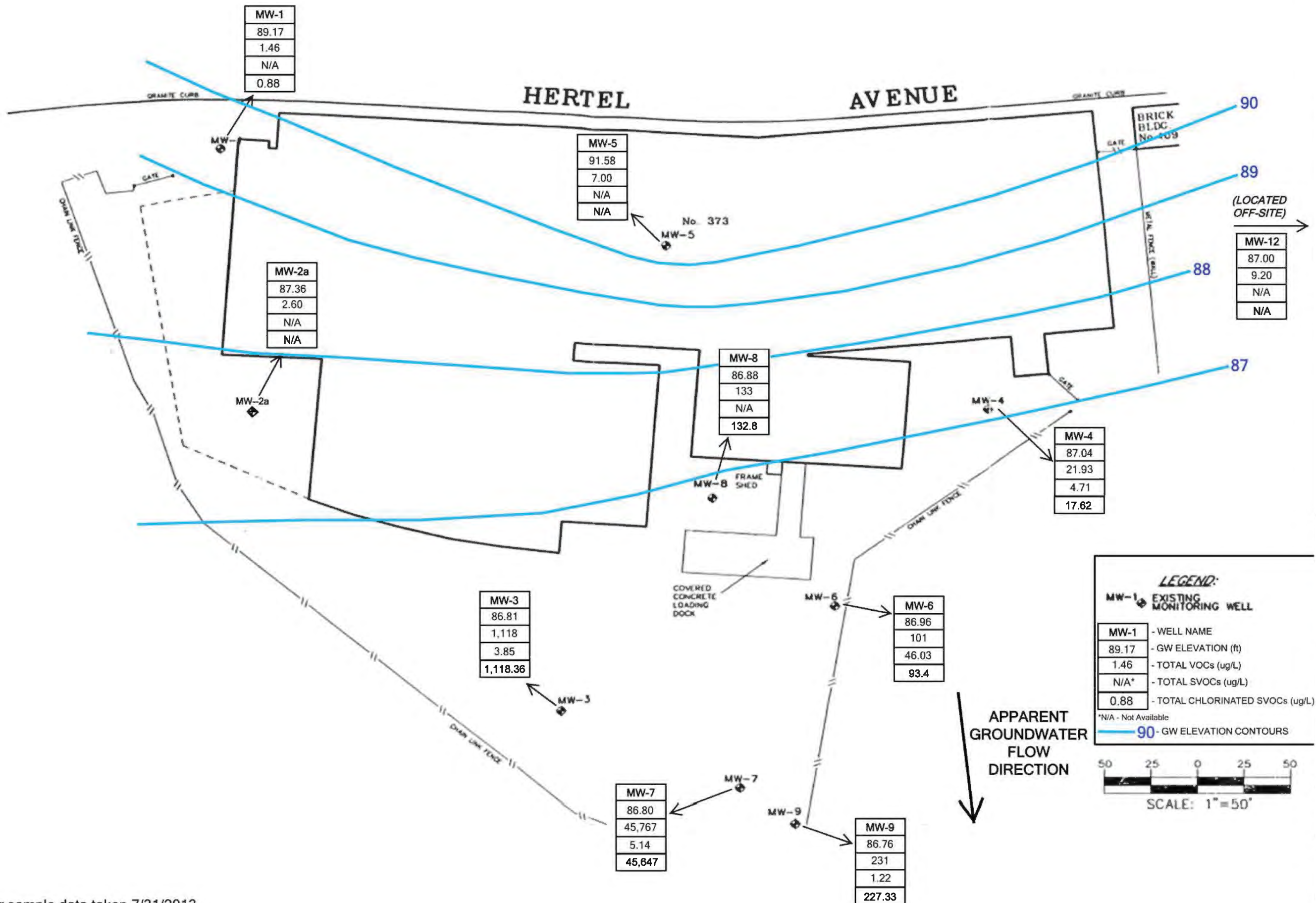
DATE
10/15/2015

SCALE
1"=50'

FIGURE NUMBER

PROJECT NUMBER
A12B-Hertel ENV

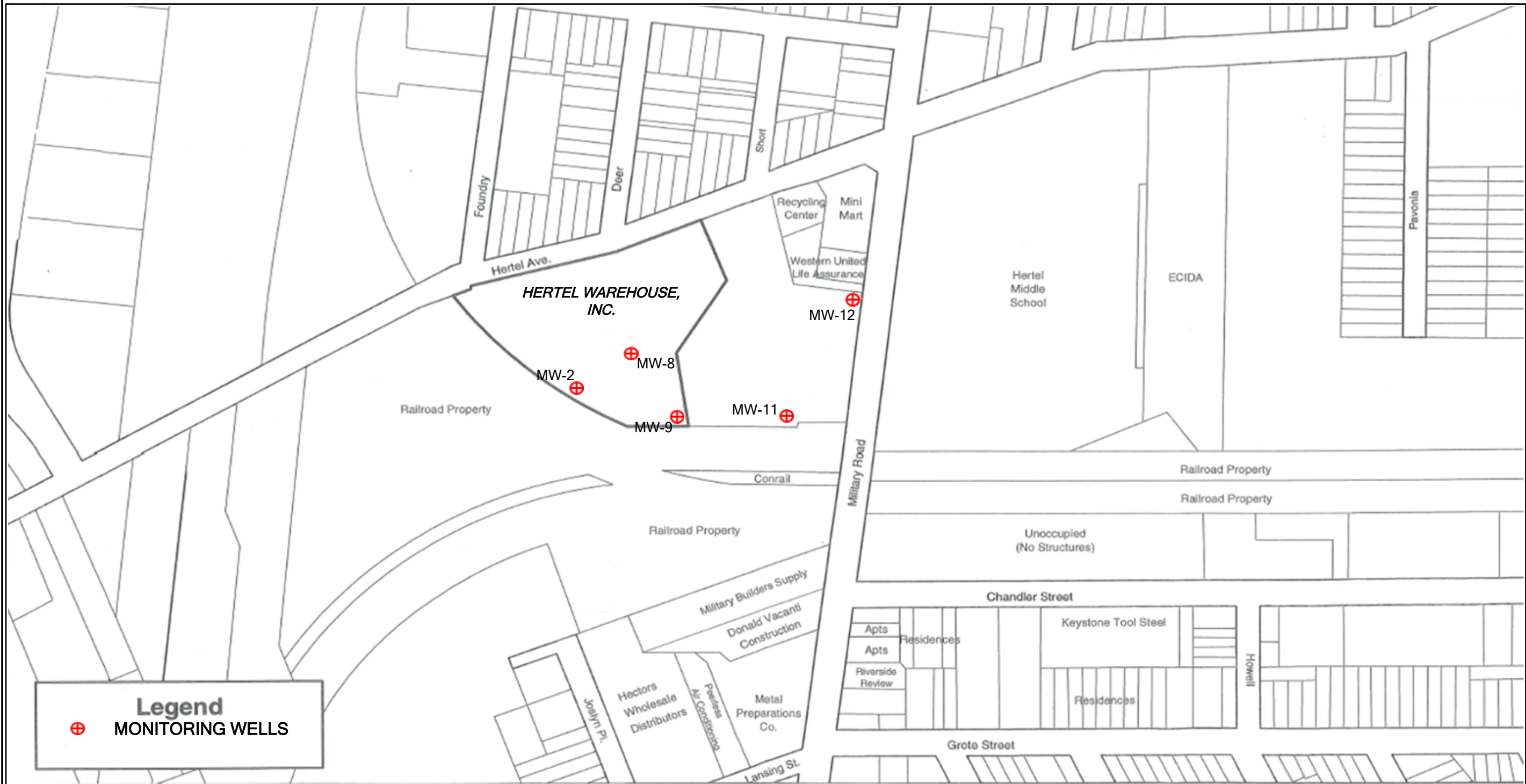
REVISION
Rev6ear



Note:
Groundwater sample data taken 7/31/2013
Groundwater elevation measured 8/22/2013

ATTACHMENT D

OFF-SITE WELL LOCATION MAP



Legend
⊕ MONITORING WELLS



**SITE CHARACTERIZATION
MONITORING WELL LOCATIONS**

HERTEL WAREHOUSE, INC.
373 HERTEL AVENUE, BUFFALO, NY 14207



DATE
8/06/2014

SCALE
N/A

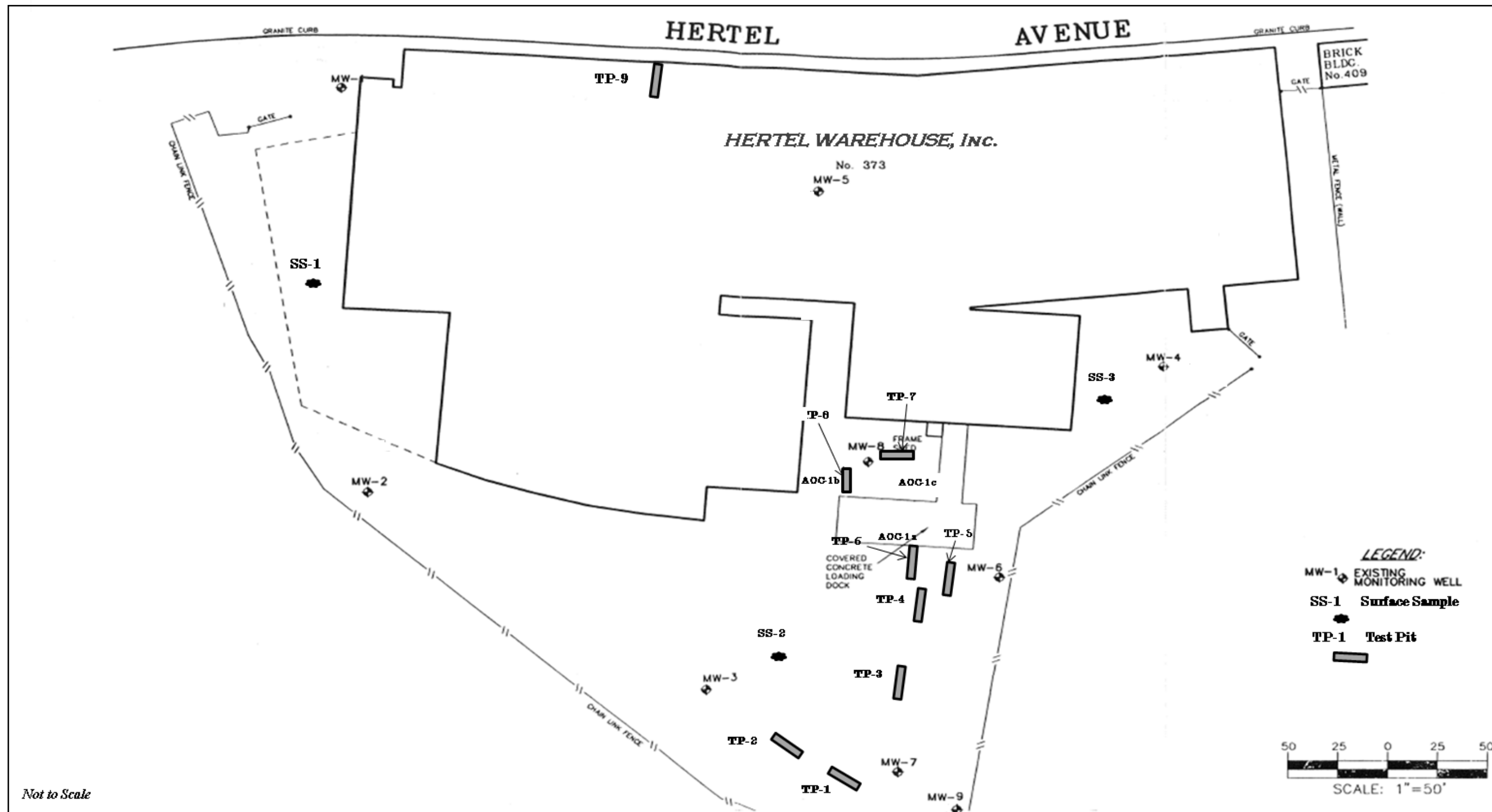
FIGURE NUMBER
5

PROJECT NUMBER
A12B-Hertel ENV

REVISION
Rev3 ash

ATTACHMENT E

TEST PIT LOCATION MAP



SITE CHARACTERIZATION SOIL SAMPLE AND TEST PIT LOCATIONS

HERTEL WAREHOUSE, INC.
373 HERTEL AVENUE, BUFFALO, NY 14207



DATE
8/06/2014

SCALE
N/A

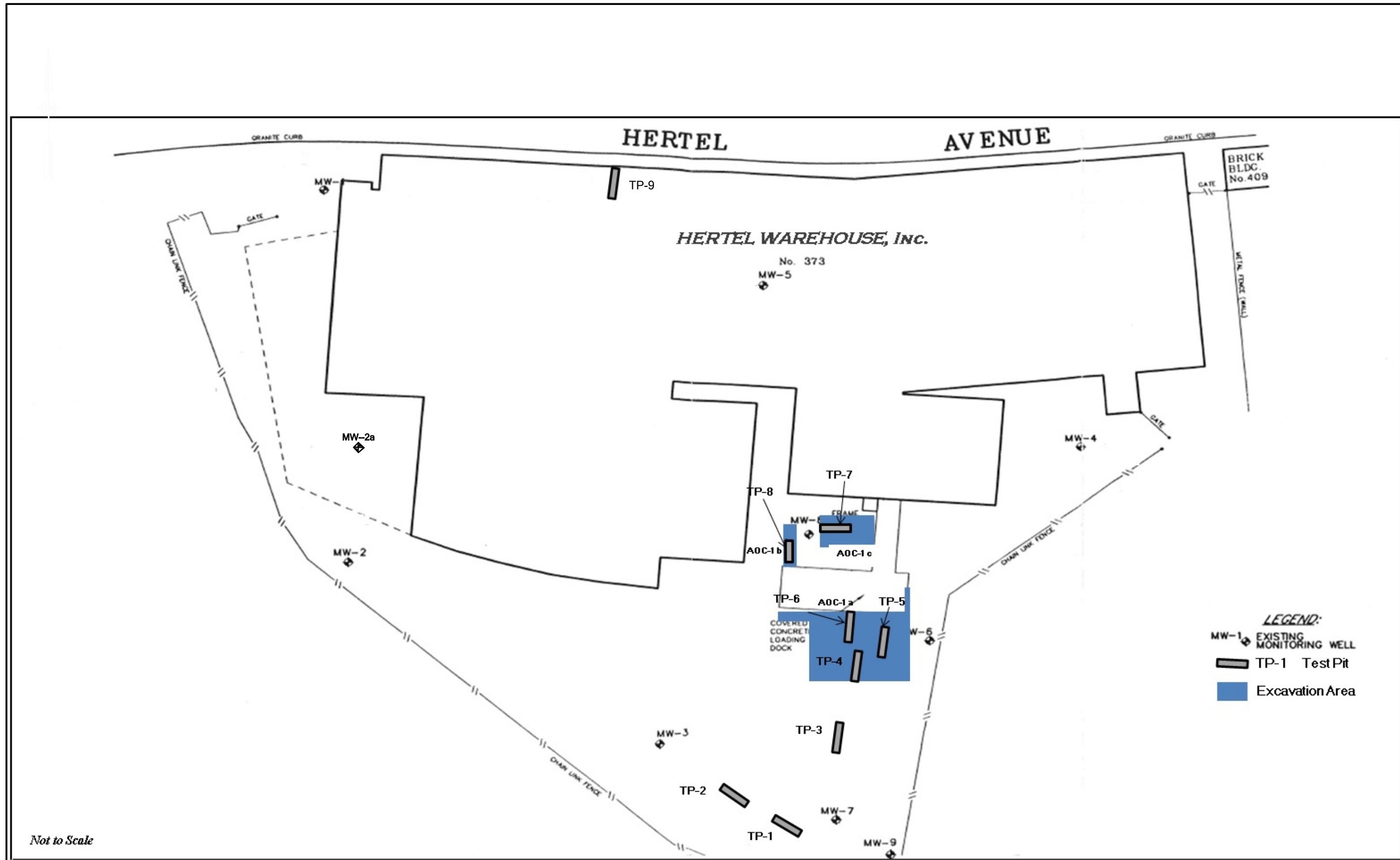
FIGURE NUMBER
6

PROJECT NUMBER
A12B-Hertel ENV

REVISION
Rev2 ash

ATTACHMENT F

IRM EXCAVATION LOCATION MAP



IRM EXCAVATION LOCATIONS

MORGAN MATERIALS SITE
373 HERTEL AVENUE, BUFFALO, NY 14207



DATE
12/9/2014

SCALE
N/A

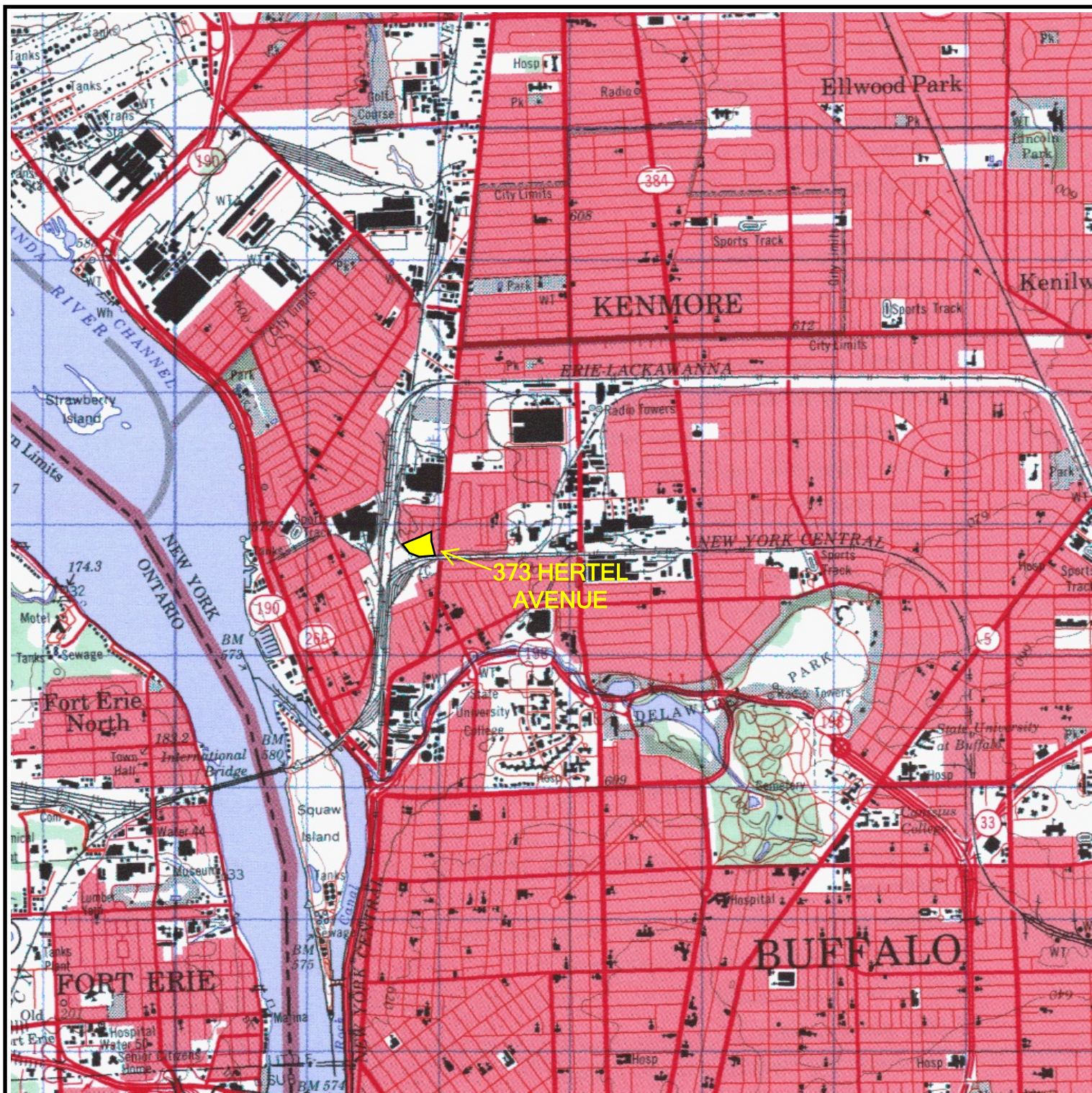
FIGURE NUMBER
8

PROJECT NUMBER
A12B-Hertel ENV

REVISION
Rev3 spl

ATTACHMENT G

PROPERTY LOCATON AND DESCRIPTION MAPS



Source: United States Geological Survey (USGS) Topographic Map



Quadrangle Location



Scale: Undefined



7815 Buffalo Avenue
Niagara Falls, NY 14304

Date
12/5/2014

Revision
Rev3 spl

SITE LOCATION MAP

Morgan Materials Site
Site Number 915210

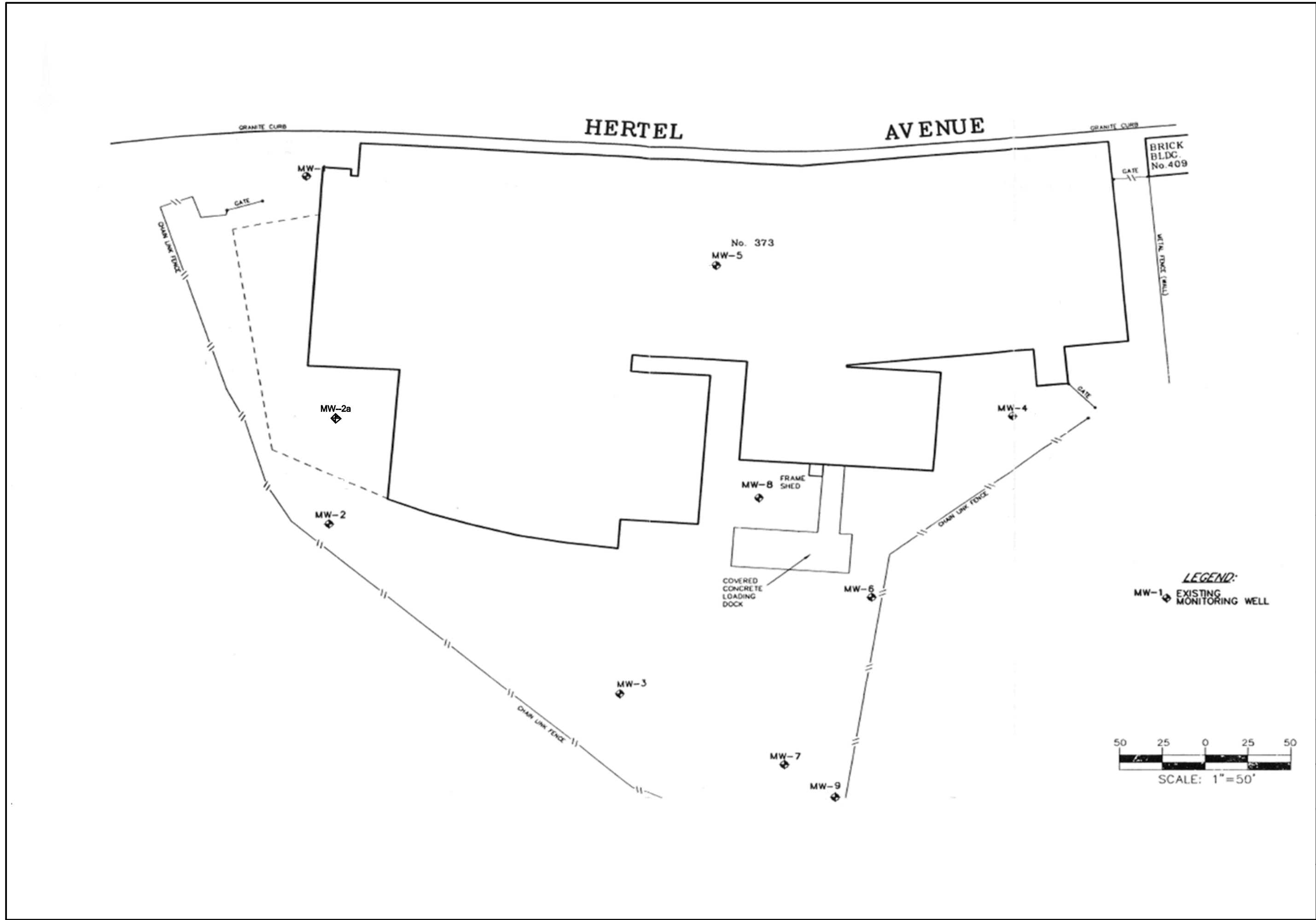
373 Hertel Avenue
Buffalo, NY 14207

Figure Number

1

Project Number

A12B- Hertel ENV



SITE MAP

MORGAN MATERIALS SITE
373 HERTEL AVENUE, BUFFALO, NY 14207



DATE
12/9/2014

SCALE
1"=50'

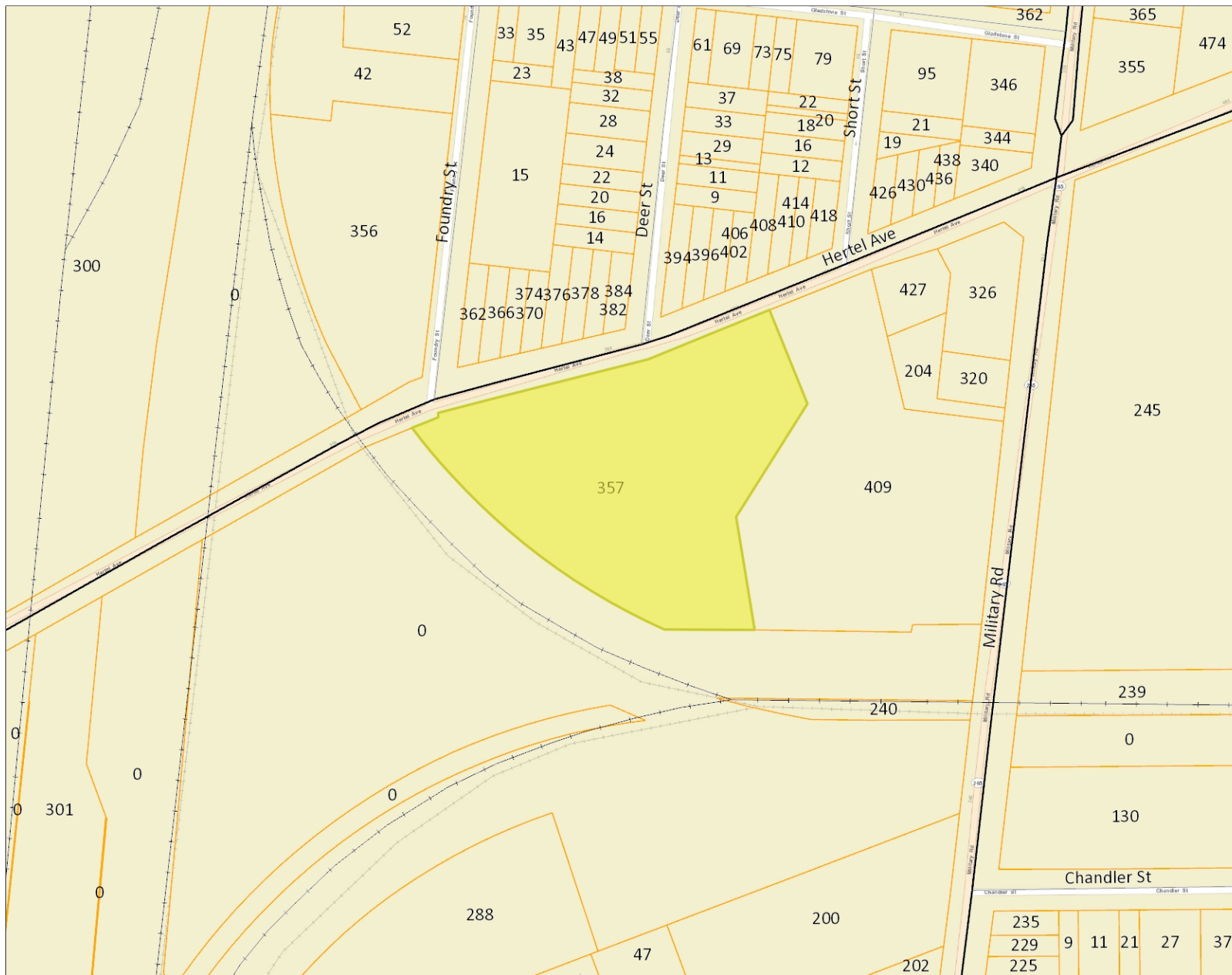
FIGURE NUMBER
2

PROJECT NUMBER
A12B-Hertel ENV

REVISION
Rev3 spl

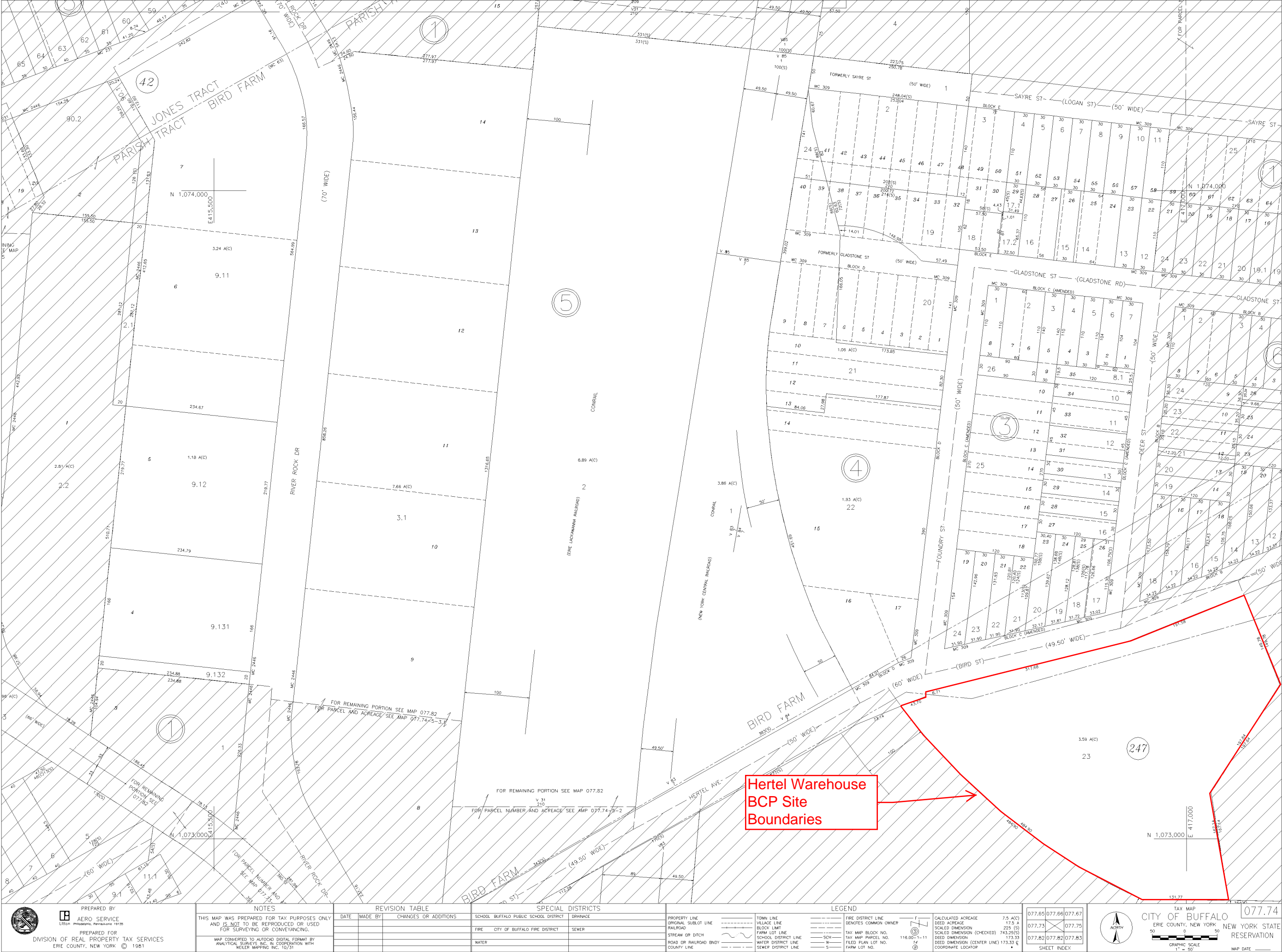


Erie County On-Line Mapping Application




ATTACHMENT G
NEIGHBORING PROPERTY OWNERS
HERTEL WAREHOUSE, INC. (aka MORGAN MATERIALS) SITE
373 HERTEL AVENUE
BUFFALO, NEW YORK

SBL	ADDNUM	ADDNAME	PROP_DESC	OWNER1	OWNER2	MAILAD1	STREET	CITY	ZIP
77.74-4-23	357	HERTEL	Warehouse	HERTEL WAREHOUSE INC.	C/O ATTN: MORGAN MATERIALS INC		PO BOX 68	BUFFALO NY	14207
77.75-5-4	409	HERTEL	Auto dealer	ADORNETTO PETER N			96 CHEROKEE DR	WEST SENECA NY	14224
77.74-3-21	374	HERTEL	1 Family Res	DAVIS RASHARD			374 HERTEL AVE	BUFFALO NY	14207
77.74-3-22	370	HERTEL	1 Family Res	WIKTOROWSKI MICHAEL D	WIKTOROWSKI SUSAN M		370 HERTEL AVE	BUFFALO NY	14207
77.74-3-23	366	HERTEL	1 Family Res	RYAN RICHARD			366 HERTEL AVE	BUFFALO NY	14207
77.74-3-24	362	HERTEL	1 Family Res	WAY JOAN M			362 HERTEL AVE	BUFFALO NY	14207
77.74-3-17	384	HERTEL	2 Family Res	ACOSTA RENEE C			31 COLUMBIA BLVD	KENMORE NY	14217
77.74-3-18	382	HERTEL	Res vac land	BOCHNIARZ LISA M			163 CROWLEY AVE	BUFFALO NY	14207
77.74-3-19	378	HERTEL	Res vac land	POPP DANIEL R.& W			191 GROTE ST	BUFFALO NY	14207
77.74-3-20	376	HERTEL	2 Family Res	MOWRY GERALD R			4285 CONNECTION DR	WILLIAMSVILLE NY	14221
77.75-6-15	406	HERTEL	1 Family Res	BUFFALO BATIM LLC			56 GREENWOOD PL	BUFFALO NY	14213
77.75-6-16	402	HERTEL	2 Family Res	PUTNEY THOMAS M			4905 SMILEY TERRACE	CLARENCE NY	14031
77.75-6-17	396	HERTEL	Com vac w/imp	CITY OF BUFFALO	REAL ESTATE OFFICE	RM 901	CITY HALL	BUFFALO NY	14202
77.75-6-18	394	HERTEL	Com vac w/imp	CITY OF BUFFALO	REAL ESTATE OFFICE	RM 901	CITY HALL	BUFFALO NY	14202
77.75-6-14	408	HERTEL	2 Family Res	FORTMAN RONALD F			2944 STALEY RD	GRAND ISLAND NY	14072
77.74-4-22	356	HERTEL	Warehouse	SHYLO GROUP INC			356 HERTEL AVE	BUFFALO NY	14207



Provided by www.Landmaxdata.com



PREPARED BY
AERO SERVICE
L.L.C.
PHILADELPHIA, PENNSYLVANIA 19139
PREPARED FOR
DIVISION OF REAL PROPERTY TAX SERVICES
ERIE COUNTY, NEW YORK © 1981

NOTES
THIS MAP WAS PREPARED FOR TAX PURPOSES ONLY AND IS NOT TO BE REPRODUCED OR USED FOR SURVEYING OR CONVEYANCING.
MAP CONVERTED TO AUTOCAD DIGITAL FORMAT BY ANALYTICAL SURVEYS, INC. IN COOPERATION WITH WELER MAPPING, INC. 10/31

REVISION TABLE		
DATE	MADE BY	CHANGES OR ADDITIONS


SPECIAL DISTRICTS	
SCHOOL: BUFFALO PUBLIC SCHOOL DISTRICT	DRAINAGE
FIRE: CITY OF BUFFALO FIRE DISTRICT	SEWER
WATER	

LEGEND	
PROPERTY LINE	TOWN LINE
ORIGINAL SUBLOT LINE	VILLAGE LINE
RAILROAD	BLOCK LIMIT
STREAM OR DITCH	FARM LOT LINE
ROAD OR RAILROAD ENDY COUNTY LINE	SCHOOL DISTRICT LINE
	WATER DISTRICT LINE
	SEWER DISTRICT LINE


CALCULATED ACRES		7.5 A(C)
DEED ACRES		17.5 A
SCALED DIMENSION		225 (3)
SCALED DIMENSION (CHECKED)		243.25(3)
DEED DIMENSION		173.33
DEED DIMENSION (CENTER LINE)		173.33 E
COORDINATE LOCATOR		

077.65	077.66	077.67
077.73	077.74	077.75
077.82	077.83	077.84

SHEET INDEX



CITY OF BUFFALO
ERIE COUNTY, NEW YORK
TAX MAP
077.74
NEW YORK STATE
RESERVATION
MAP DATE



GRAPHIC SCALE
1" = 50'

ATTACHMENT H

Affidavits



MORGAN MATERIALS

INCORPORATED

380 Vulcan Street Buffalo, New York 14207 USA
Telephone: (716) 873-2000 FAX: (716) 873-2181

To: Bill Heitzenrater, AFI
From: Donald Sadkin, President of Hertel Warehouse, Inc.
President of Morgan Materials, Inc
Subject: BCP - Affirmation
Hertel Warehouse, Inc. as Requester re Property at 373 Hertel Ave
Date: 12/11/15

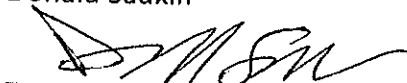
The Subject Property of the BCP is 373 Hertel Ave, Buffalo, NY.

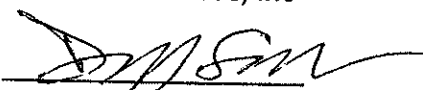
Please be advised that neither Donald Sadkin, Hertel Warehouse, Inc. nor Morgan Materials, Inc. had any interest in the previous owner entity, nor any relationship with persons who may have previously owned except as a commercial tenant, of the Subject Property located at 373 Hertel Ave.

It is my understanding that the previous owners were Red Bergman and/or Jimmy DiChristopher, or some entity that they may have owned. The facility was known as "Hertel Warehouse", which may or may not be the name of the ownership entity.

In addition, neither these individuals nor their assigns nor entities that they owned, had any interest at any time in the newly formed Hertel Warehouse, Inc. who ultimately purchased and currently owns the Subject Property. Finally, neither these individuals nor their assigns nor their entities had any interest at any time in Morgan Materials, Inc.


Donald Sadkin


Donald Sadkin, President
Hertel Warehouse, Inc


Donald Sadkin, President
Morgan Materials, Inc

8780 Wenner Road
Williamsville, N.Y. 14221

Gary Kriner, CPA

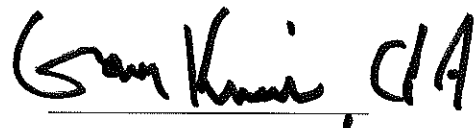
Telephone 716-566-2911
Fax 716-566-2989
gkriner@taurcap.com

To Bill Heitzenrater, AFI
Re Rep Letter re Hertel Warehouse, Inc BCP
Date 12/11/15

I have been engaged by Donald Sadkin to perform various CPA services since 1988. Specifically, I have been associated with the preparation of the tax returns of Hertel Warehouse, Inc. and Morgan Materials, Inc. for certain periods since 1988. Mr. Sadkin has been and is President of both entities and exclusively has at all times made all operational decisions.

I can confirm the following ownership of these entities since that time:

<u>Shareholder</u>	<u>% Owned</u>	<u>Eff Date</u>
<u>Hertel Warehouse, Inc.</u>		
Donald Sadkin	1%	1988 to 2015
Jonathan Sadkin	33%	1988 to 2012
Rachel Sadkin Rogowin	33%	1988 to 2012
Jennifer Sadkin Lofman	33%	1988 to 2015
Marc Lofman	66%	2013 to 2015
<u>Morgan Materials, Inc.</u>		
Donald Sadkin	100%	1988 - 2015


Gary Kriner, CPA

ATTACHMENT I

Document Repository Letter

From: [Emilee Rowland](#)
To: "Steve Leitten"
Subject: FW: Document Repository Permission - for AFI Environmental
Date: Monday, November 16, 2015 3:57:02 PM

From: April Tompkins [mailto:tompkinsa@buffalolib.org]
Sent: Monday, November 16, 2015 3:55 PM
To: Emilee Rowland
Subject: RE: Document Repository Permission - for AFI Environmental

Good afternoon Emilee,

Per your message below, this is to inform you that permission is granted to AFI Environmental for the Buffalo and Erie County Public Library to be the repository for all present and future documents and updates that should be made available for public inspection/review **at all town and city locations**. **You will not need additional future permission.**

Regards,
April

From: Emilee Rowland [mailto:emilee.rowland@afienvironmental.com]
Sent: Monday, November 16, 2015 3:00 PM
To: April Tompkins
Cc: 'Steve Leitten'
Subject: RE: Document Repository Permission - for AFI Environmental

Hello April!

If you recall, around this time in October we spoke regarding using the main branch as a repository for a BCP Application. I was wondering if we could also have permission & a letter for another at your North Park location? I realize we have to forward the documents physically, but per our application we need proof that you are willing to accept the documents there.

Thanks,

Emilee Rowland
Administrative Assistant

(716) 283-7645 Main
(716) 283-2858 Fax
(585) 808-6223 Mobile

AFI Environmental
<http://www.afienvironmental.com/>

From: April Tompkins [<mailto:tompkinsa@buffalolib.org>]
Sent: Monday, October 12, 2015 11:08 AM
To: emilee.rowland@afienvronmental.com
Subject: Document Repository Permission - for AFI Environmental
Importance: High

Good morning Emilee,

Per our phone conversation, this is to inform you that permission is granted to AFI Environmental for the Buffalo and Erie County Public Library to be the repository for all present and future documents and updates that should be made available for public inspection/review. You will not need additional future permission.

Please keep the following in mind:

- Documents (including updates) for public inspection/review should be brought in person to the Central Library (second floor Administration Office) or mailed to the attention of Carol Batt, of whom I assist. Documents sent via e-mail will not be accepted. The mailing address is:

Attention: Carol Ann Batt
Chief Operating Officer
Buffalo and Erie County Public Library
1 Lafayette Square
Buffalo, NY 14203

- Documents for the Central Library (downtown) are made available on the first floor in the Information Services Department usually within 3 days after receipt, not counting weekends.
- If you would like document(s) distributed at libraries other than the Central Library (downtown), you will need to send the appropriate quantity of copies with labels regarding their destinations. We will distribution accordingly. We do not make copies for distribution.
- It is your choice regarding the format (hard copy and/or disk) you wish to submit. If the document is very large, part in hard copy and part on disk is acceptable. If submitting in both formats, please be sure that they are titled/labeled accordingly. Although CD-ROMs cannot be used on public library computers, if someone brings in their personal laptop, the disc can be viewed in-house. If optional, an alternative is the availability of a provided link to allow patrons online access to read/review/print. Patrons are not allowed to take documents out of the library.

If you still have any questions/concerns, please feel free to contact me by replying to this e-mail or by phone at 716-858-7129. Thank you.

Regards,

April

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

ATTACHMENT J

CD ROM