



New York State Department of Environmental Conservation

Brownfield Cleanup Program

Citizen Participation Plan for **300 Ohio Street Site** **4216 Group, LLC**

300 Ohio Street
Buffalo, New York

November 2011

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Note: The information presented in this Citizen Participation Plan was current as of the date of its approval by the New York State Department of Environmental Conservation. Portions of this Citizen Participation Plan may be revised during the brownfield site’s remedial process.

Applicant: **4216 Group, LLC (“Applicant”)**
Site Name: **300 Ohio Street Site (“Site”)**
Site Number: **C915257**
Site Address: **300 Ohio Street, Buffalo, New York 14204**
Site County: **Erie**

1. What is New York’s Brownfield Cleanup Program?

New York’s Brownfield Cleanup Program (BCP) is designed to encourage the private sector to investigate, remediate (cleanup) and redevelop brownfields. A brownfield is any real property where redevelopment or reuse may be complicated by the presence or potential presence of a contaminant. A brownfield typically is a former industrial or commercial property where operations may have resulted in environmental contamination. A brownfield can pose environmental, legal and financial burdens on a community. If the brownfield is not addressed, it can reduce property values in the area and affect economic development of nearby properties.

The BCP is administered by the New York State Department of Environmental Conservation (NYSDEC), which oversees Applicants that conduct brownfield site remedial activities.¹ An Applicant is a person whose request to participate in the BCP has been accepted by NYSDEC. The BCP contains investigation and remediation (cleanup) requirements, ensuring that cleanups protect public health and the environment. When NYSDEC certifies that these requirements have been met, the property can be reused or redeveloped for the intended use.

For more information about the BCP, go online at: www.dec.ny.gov/chemical/8450.html

2. Citizen Participation Plan Overview

This Citizen Participation (CP) Plan provides members of the affected and interested public with information about how NYSDEC will inform and involve them during the investigation and remediation of the site identified above. The public information and involvement program will be carried out with assistance, as appropriate, from the Applicant.

Appendix A contains a map identifying the location of the site.

¹ “Remedial activities, remedial action, and remediation” are defined as all activities or actions undertaken to eliminate, remove, treat, abate, control, manage, or monitor contaminants at or coming from a brownfield site.

Project Contacts

Appendix B identifies NYSDEC project contact(s) to whom the public should address questions or request information about the site's remedial program. The public's suggestions about this CP Plan and the CP program for the site are always welcome. Interested people are encouraged to share their ideas and suggestions with the project contacts at any time.

Document Repositories

The locations of the site's document repositories also are identified in Appendix B. The document repositories provide convenient access to important project documents for public review and comment.

Site Contact List

Appendix C contains the brownfield site contact list. This list has been developed to keep the community informed about, and involved in, the site's investigation and remediation process. The brownfield site contact list will be used periodically to distribute fact sheets that provide updates about the status of the project, including notifications of upcoming remedial activities at the site (such as fieldwork), as well as availability of project documents and announcements about public comment periods.

The brownfield site contact list includes, at a minimum:

- Chief executive officer and zoning chairperson of each county, city, town and village in which the site is located;
- Residents, owners, and occupants of the site and properties adjacent to the site;
- The public water supplier which services the area in which the site is located;
- Any person who has requested to be placed on the site contact list;
- The administrator of any school or day care facility located on or near the site for purposes of posting and/or dissemination of information at the facility; and
- Document repositories.

Where the site or adjacent real property contains multiple dwelling units, the Applicant will work with the Department to develop an alternative method for providing such notice in lieu of mailing to each individual. For example, the owner of such a property that contains multiple dwellings may be requested to prominently display fact sheets and notices required to be developed during the site's remedial process. This procedure would substitute for the mailing of

such notices and fact sheets, especially at locations where renters, tenants, and other residents may number in the hundreds or thousands, making the mailing of such notices impractical.

The brownfield site contact list will be reviewed periodically and updated as appropriate. Individuals and organizations will be added to the site contact list upon request. Such requests should be submitted to the NYSDEC project contact(s) identified in Appendix B. Other additions to the brownfield site contact list may be made on a site-specific basis at the discretion of the NYSDEC project manager, in consultation with other NYSDEC staff as appropriate.

CP Activities

Appendix D identifies the CP activities, at a minimum, that have been and will be conducted during the site's remedial program. The flowchart in Appendix E shows how these CP activities integrate with the site remedial process. The public is informed about these CP activities through fact sheets and notices developed at significant points in the site's remedial process.

- **Notices and fact sheets** help the interested and affected public to understand contamination issues related to a brownfield site, and the nature and progress of efforts to investigate and remediate a brownfield site.
- **Public forums, comment periods and contact with project managers** provide opportunities for the public to contribute information, opinions and perspectives that have potential to influence decisions about a brownfield site's investigation and remediation.

The public is encouraged to contact project staff anytime during the site's remedial process with questions, comments, or requests for information about the remedial program.

This CP Plan may be revised due to changes in major issues of public concern, identified in Section 6, or in the nature and scope of remedial activities. Modifications may include additions to the site contact list and changes in planned citizen participation activities.

3. Site Information

Site Description

The Site is comprised, of 11 adjoining parcels totaling approximately 5.0-acres, located in a historically industrial area of the City of Buffalo, Erie County, New York. The Site is bound by Ohio Street and Chicago Street to the west and southwest; Mackinaw Street to the north; and the

City of Buffalo – Conway Park to the east. Residential development is located approximately 0.2-miles to the east and southeast, and approximately 0.4-miles to the north. A site location map is included as Appendix A.

Site History

The majority of the Site (i.e., 300-354 Ohio Street) was historically utilized as an automobile filling station and fuel distribution operation since at least 1925. The Site has contained at least 15 underground storage tanks (USTs), and one (1) aboveground storage tank (AST). Regulated materials and/or wastes associated with automobile repair activities were likely used, stored and/or generated on-Site, including gasoline, diesel, No. 2 fuel oil, kerosene, propane, motor oil, and waste oils. Operations have ceased and the building is currently vacant.

The northern portion of the Site addressed at 11, 71, 73 and 75 Chicago Street and 49-53 Mackinaw Street was a portion of the former E&B Machinery and Central Manufacturing operations. These entities formerly operated a machine shop, trucking terminal and coffin and cooperage manufacturing operations. Historic sanborn maps indicate that the adjacent factory property included a machine shop and on-Site gasoline tank(s), trucking terminal and truck repair operations. Currently, there is one commercial office building located on the 11 Chicago Street parcel, north of the vacant service station and a vacant former freight building on the parcel addressed at 53 Mackinaw. The parcels addressed at 71, 73 and 75 Chicago Street and 49 Mackinaw Street are currently vacant land.

Environmental History

A May 2010 Limited Phase II Site Assessment and subsequent September 2010 Supplemental Phase II Site Assessment were completed on the former Petroleum Sales and Services, Inc. parcels (i.e., 300-354 Ohio Street and southern sections of 11 Chicago Street and 53 Mackinaw Street parcels). Those investigations revealed evidence of significant subsurface contamination related to the former operation of a petroleum filling station and fuel distribution operation. Elevated levels of petroleum-related volatile organic compounds (VOCs) and semi-volatile organic compounds (SVOCs), some exceeding NYSDEC Part 375 Industrial soil cleanup objectives (SCOs) were detected. NYSDEC Spill number 0904777 was assigned to the Site and administratively closed upon acceptance of the Applicant into the BCP.

4. Remedial Process

Note: See Appendix E for a flowchart of the brownfield site remedial process.

Application

The Applicant has applied for and been accepted into New York's Brownfield Cleanup Program as a Volunteer. This means that the Applicant was not responsible for the disposal or discharge of the contaminants or whose ownership or operation of the site took place after the discharge or disposal of contaminants. The Volunteer must fully characterize the nature and extent of contamination on-site, and must conduct a "qualitative exposure assessment," a process that characterizes the actual or potential exposures of people, fish and wildlife to contaminants on the site and to contamination that has migrated from the site.

The Applicant in its Application proposes that the Site will be used for restricted purposes. To achieve this goal, the Applicant will conduct remedial activities at the Site with oversight provided by NYSDEC. The Brownfield Cleanup Agreement provides the responsibilities of each party in conducting a remedial program at the Site.

If the Applicant conducts a remedial investigation (RI) of the Site, it will be performed with NYSDEC oversight, and with the following goals:

- 1) Define the nature and extent of contamination in soil, surface water, groundwater and any other impacted media;
- 2) Identify the source(s) of the contamination;
- 3) Assess the impact of the contamination on public health and/or the environment; and
- 4) Provide information to support the development of a Remedial Work Plan to address the contamination, or to support a conclusion that the contamination does not need to be addressed.

The Applicant will prepare an RI Report after it completes the RI. This report will summarize the results of the RI and will include the Applicant's recommendation of whether remediation is needed to address site-related contamination. The RI Report is subject to review and approval by NYSDEC. Before the RI Report is approved, a fact sheet that describes the RI Report will be sent to the Site's contact list.

NYSDEC determines whether the Site poses a significant threat to public health and/or the environment. If NYSDEC determines that the Site is a "significant threat," a qualifying

community group may apply for a Technical Assistance Grant (TAG). The purpose of a TAG is to provide funds to the qualifying community group to obtain independent technical assistance. This assistance helps the TAG recipient to interpret and understand existing environmental information about the nature and extent of contamination related to the Site and the development/implementation of a remedy.

For more information about the TAG Program and the availability of TAGs, go online at: www.dec.ny.gov/regulations/2590.html

Remedy Selection

If remediation is required, the Applicant will be able to develop a Remedial Work Plan. The Remedial Work Plan describes how the Applicant would address the contamination related to the site.

The public will have the opportunity to review and comment on the draft Remedial Work Plan. The site contact list will be sent a fact sheet that describes the draft Remedial Work Plan and announces a 45-day public comment period. NYSDEC will factor this input into its decision to approve, reject or modify the draft Remedial Work Plan.

A public meeting may be held by NYSDEC about the proposed Remedial Work Plan if requested by the affected community and if significant substantive issues are raised about the draft Remedial Work Plan. Please note that in order to request a public meeting, the health, economic well being, or enjoyment of the environment of those requesting the public meeting must be threatened or potentially threatened by the site. In addition, the request for the public meeting should be made within the first 30 days of the 45-day public comment period for the draft Remedial Work Plan. A public meeting also may be held at the discretion of the NYSDEC project manager in consultation with other NYSDEC staff as appropriate.

Construction

Approval of the Remedial Work Plan by NYSDEC will allow the Applicant to design and construct the alternative selected to remediate the site. The site contact list will receive notification before the start of site remediation. When the Applicant completes remedial activities, it will prepare a final engineering report that certifies that remediation requirements have been achieved or will be achieved within a specific time frame. NYSDEC will review the report to be certain that the remediation is protective of public health and the environment for the intended use of the site. The site contact list will receive a fact sheet that announces the completion of remedial activities and the review of the final engineering report.

Certificate of Completion and Site Management

Once NYSDEC approves the final engineering report, NYSDEC will issue the Applicant a Certificate of Completion. This Certificate states that remediation goals have been achieved, and relieves the Applicant from future remedial liability, subject to statutory conditions. The Certificate also includes a description of any institutional and engineering controls or monitoring required by the approved remedial work plan. If the Applicant uses institutional controls or engineering controls to achieve remedial objectives, the site contact list will receive a fact sheet that discusses such controls.

An institutional control is a non-physical restriction on use of the brownfield site, such as a deed restriction that would prevent or restrict certain uses of the remediated property. An institutional control may be used when the remedial action leaves some contamination that makes the site suitable for some, but not all uses.

An engineering control is a physical barrier or method to manage contamination, such as a cap or vapor barrier.

Site management will be conducted by the Applicant as required. NYSDEC will provide appropriate oversight. Site management involves the institutional and engineering controls required for the brownfield site. Examples include: operation of a water treatment plant, maintenance of a cap or cover, and monitoring of groundwater quality.

5. Citizen Participation Activities

CP activities that have already occurred and are planned during the investigation and remediation of the site under the BCP are identified in Appendix D: Identification of Citizen Participation Activities. These activities also are identified in the flowchart of the BCP process in Appendix E. NYSDEC will ensure that these CP activities are conducted, with appropriate assistance from the Applicant.

All CP activities are conducted to provide the public with significant information about site findings and planned remedial activities, and some activities announce comment periods and request public input about important draft documents such as the Proposed Remedial Work Plan.

All written materials developed for the public will be reviewed and approved by NYSDEC for clarity and accuracy before they are distributed. Notices and fact sheets can be combined at the discretion, and with the approval, of NYSDEC.

6. Major Issue of Public Concern

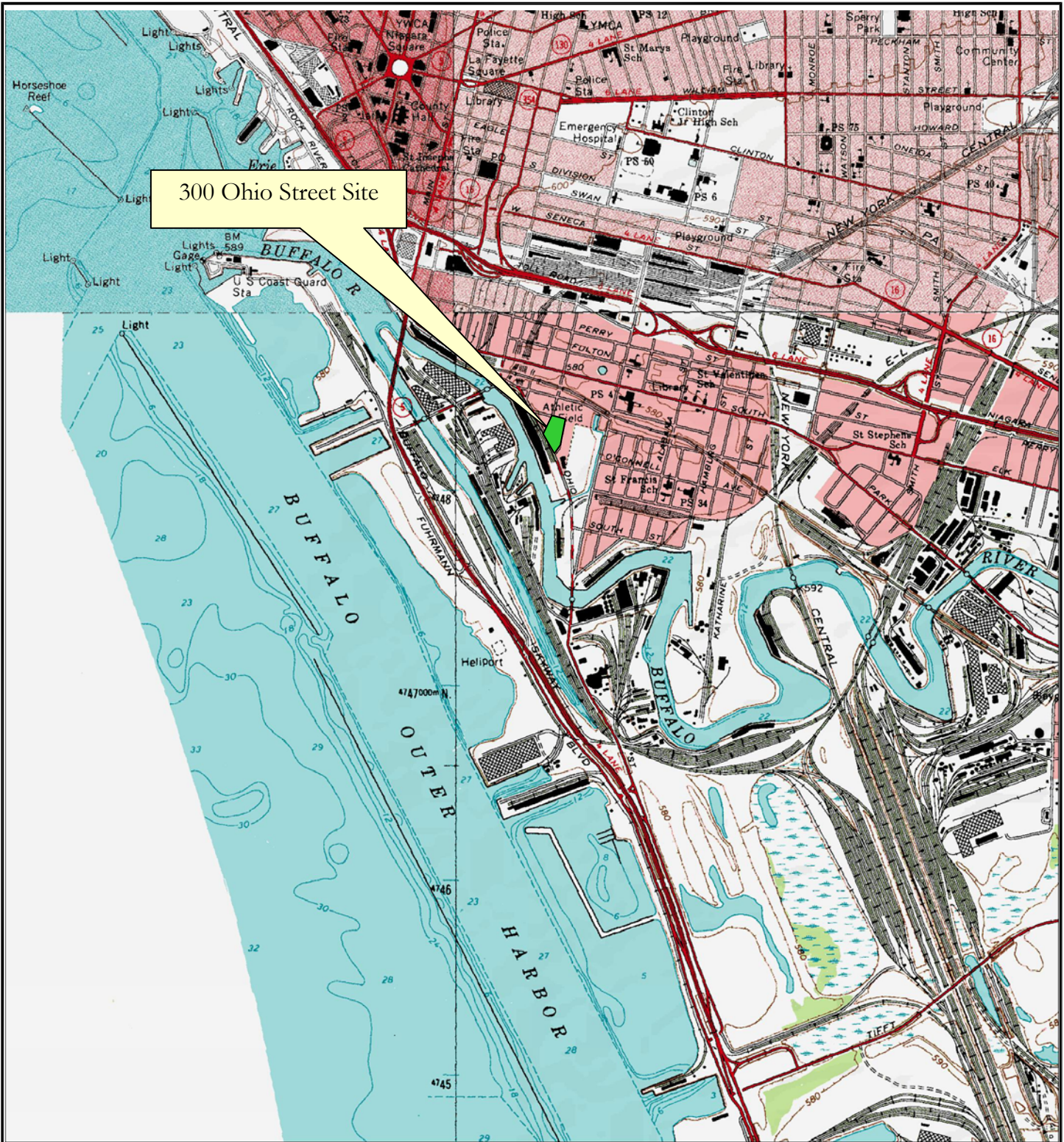
This section of the CP Plan identifies major issues of public concern, if any, that relate to the site. Additional major issues of public concern may be identified during the site's remedial process.

Local Residents

Professionals experienced in performing cleanup activities in densely populated areas will carry out the Site Remediation. All work will be conducted under a Site-Wide Health and Safety Plan and Community Air Monitoring Program approved by the NYSDEC and NYSDOH. The Site Remediation will be conducted over a limited duration and during normal business hours. Soil excavations will be secured to eliminate the risk of injury. The Site Remediation will be performed with minimal equipment; hence, there will be no change in traffic patterns.

Appendix A – Site Location Maps

FIGURE 1-1



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2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0635

SITE LOCATION AND VICINITY MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

300 OHIO STREET SITE

BUFFALO, NEW YORK

PREPARED FOR

4216 GROUP, LLC

PROJECT NO.: 0136-037-100

DATE: JUNE 2011

DRAFTED BY: NTM

Appendix B – Document Repositories

Document Repositories

The document repositories identified below have been established to provide the public with convenient access to important project documents:

Buffalo & Erie County Public Library
1 Lafayette Square
Buffalo, NY 14203
Attn: Mary Jean Jakubowski
Deputy Director
Phone: (716) 858-8900
Hours: Mon -Sat. 9:00-5:00
Sun. Closed

NYSDEC Region 9 Office
270 Michigan Avenue
Buffalo, NY 14203
Phone: (716) 851-7220
Hours: M-F 8:30-4:45
(Call for appointment)

Appendix C

Brownfield Site Contact List 300 Ohio Street Brownfield Cleanup Program Application

CONTACT LIST

The following is the contact list information for the subject property. The following contacts will be sent fact sheets throughout the project's duration.

Erie County Contacts:

Honorable Christopher Collins
Erie County Executive
95 Franklin Street
Buffalo, NY 14202

Erie County Legislator Daniel M. Kozub
District 1
609 Ridge Road
Lackawanna, NY 14218

Commissioner Kathy Konst
Erie Co. Environment & Plan.
95 Franklin Street
Buffalo, NY 14202

Mr. Paul Kranz
Erie Co. Environment & Plan.
95 Franklin Street
Buffalo, NY 14202

Mr. Robert Graber
Erie County Legislature Clerk
25 Delaware Avenue
Buffalo, NY 14202

Mr. Michael Raab
Erie Co. Environment & Planning
95 Franklin Street
Buffalo, NY 14202

Commissioner Anthony Billittier
Erie Co. Health Dept.
95 Franklin Street, Room 931
Buffalo, NY 14202

Erie County Local Emergency
45 Elm St.
Buffalo, NY 14203

David Stebbins
ECIDA
275 Oak St.
Buffalo, NY 14203

Christopher Pawenski
Erie County DEP
95 Franklin St.
Buffalo, NY 14202

Appendix C

Brownfield Site Contact List 300 Ohio Street Brownfield Cleanup Program Application

City of Buffalo Contacts:

Byron Brown, Mayor
City of Buffalo
65 Niagara Sq
Buffalo, NY 14219

David A. Franczyk, Councilman
City of Buffalo
1315 City Hall
Buffalo, NY 14219

James A. Morrell, Chairman
City of Buffalo
Planning Board
901 City Hall
Buffalo, NY 14219

Supplier of Potable Water:

Buffalo Water Authority
281 Exchange Street
Buffalo, NY 14204

Local News Media:

Buffalo News
ATTN: Ms. Aaron Besecker
1 News Plaza
Buffalo, NY 14240

WGRZ TV - Ch. 2
ATTN: Ms. Maria Sisti
259 Delaware Avenue
Buffalo, NY 14202

WIVB - Ch. 4
ATTN: Ms. Lisa Fullone
2077 Elmwood Avenue
Buffalo, NY 14207

WKBW News Channel 7
ATTN: Ms. Melanie Pritchard
7 Broadcast Plaza
Buffalo, NY 14202

Alternate Press
ATTN: Mr. Joe Schmidbauer
P.O. Box 729, Washington Station
Buffalo, NY 14205

Business First
ATTN: Anne Marie Franczyk
465 Main Street
Buffalo, NY 14203-1793

Appendix C

Brownfield Site Contact List 300 Ohio Street Brownfield Cleanup Program Application

WBEN News Radio 930
Entercom Radio of Buffalo
500 Corporate Pkwy
Suite 200
Buffalo, NY 14226

WNED, Environmental News Desk
ATTN: Mr. Michael Desmond
P.O. Box 1263, Horizons Plaza
Buffalo, NY 14240

Nearby Schools:

Jacquelyn Bavaro-Phelan, Principal
Lorraine Elementary School
425 South Park Avenue
Buffalo, NY 14204

Other Interested Parties:

WNY Director
Citizens Env. Coalition
543 Franklin Street
Buffalo, NY 14202-1109

Document Repository:

Mary Jean Jakubowski, Deputy Director
Buffalo & Erie County Public Library
1 Lafayette Square
Buffalo, NY 14203



Appendix C

Adjacent Property Owners List
300 Ohio Street
Brownfield Cleanup Program Application

Adjacent Property Address		Property Owner
No.	Street	Mailing Address
122	Louisiana St	City of Buffalo Dept. of Parks and Recreation 511 City Hall Buffalo, NY 14202
60	Mackinaw St	Patricia Zbock 2825 N Creek Road Hamburg NY 14075
5	Miami St	Seneca Erie Gaming Corp. 310 Fourth Street Niagara Falls, NY 14303
61	Miami St	Joseph M Mazur 61 Miami Street Buffalo, NY 14204
63	Miami St	NU-ERA Towing Services, Inc. 95 Miami Street Buffalo, NY 14204
65	Miami St	NU-ERA Towing Services, Inc. 95 Miami Street Buffalo, NY 14204
67	Miami St	NU-ERA Towing Services, Inc. 95 Miami Street Buffalo, NY 14204
55	Chicago St	Newark Niagara, LLC c/o Clinton Brown Company 653 Main Street Buffalo, NY
81	Chicago St	Peter B. Bus, Jr. 843 Bear Road Cowlesville, NY 14037
87	Chicago St	Peter B. Bus, Jr. 843 Bear Road Cowlesville, NY 14037
215 & 249	Ohio St	Buffalo River Fest Park, LLC 93 Leddy Street Buffalo, NY 14210
286	Ohio St	1029 Group, LLC 295 Main Street, Suite 210 Buffalo, NY 14203
399	Ohio St	Paladino-Magnano Trust 295 Main Street, Suite 210 Buffalo, NY 14203
420	Ohio St	NYSDEC 128 South Street Olean, NY 14760
421	Ohio St	NYSDEC 128 South Street Olean, NY 14760

Appendix D – Identification of Citizen Participation Activities

Required Citizen Participation (CP) Activities	CP Activities) Occur at this Point
Application Process:	
<ul style="list-style-type: none"> • Prepare brownfield site contact list (BSCL) 	At time of preparation of application to participate in BCP.
<ul style="list-style-type: none"> • Establish document repositories • Publish notice in Environmental Notice Bulletin (ENB) announcing receipt of application and 30-day comment period 	When NYSDEC determines that BCP application is complete. The 30-day comment period begins on date of publication of notice in ENB. End date of comment period is as stated in ENB notice. Therefore, ENB notice, newspaper notice and notice to the BSCL should be provided to the public at the same time.
After Execution of Brownfield Site Cleanup Agreement:	
<ul style="list-style-type: none"> • Prepare citizen participation (CP) plan 	Draft CP Plan must be submitted within 20 days of entering Brownfield Site Cleanup Agreement. CP Plan must be approved by NYSDEC before distribution.
After Remedial Investigation (RI) Work Plan Received:	
<ul style="list-style-type: none"> • Mail fact sheet to BSCL about proposed RI activities and announcing 30-day public comment period on draft RI Work Plan 	Before NYSDEC approves RI Work Plan. If RI Work Plan is submitted with application, comment periods will be combined and public notice will include fact sheet. 30-day comment period begins/ends as per dates identified in fact sheet.
After RI Completion:	
<ul style="list-style-type: none"> • Mail fact sheet to BSCL describing results of RI 	Before NYSDEC approves RI Report.
After Remedial Work Plan (RWP) Received:	
<ul style="list-style-type: none"> • Mail fact sheet to BSCL about proposed RWP and announcing 45-day comment period • Public meeting by NYSDEC about proposed RWP (if requested by affected community or at discretion of NYSDEC project manager in consultation with other NYSDEC staff as appropriate) 	Before NYSDEC approves RWP. 45-day comment period begins/ends as per dates identified in fact sheet. Public meeting would be held within the 45-day comment period.
After Approval of RWP:	
<ul style="list-style-type: none"> • Mail fact sheet to BSCL summarizing upcoming remedial construction 	Before the start of remedial construction.
After Remedial Action Completed:	
<ul style="list-style-type: none"> • Mail fact sheet to BSCL announcing that remedial construction has been completed • Mail fact sheet to BSCL announcing issuance of Certificate of Completion (COC) 	At the time NYSDEC approves Final Engineering Report. These two fact sheets should be combined when possible if there is not a delay in issuance of the COC.

Appendix E

