

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Remedial Bureau E

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June 4, 2015

Mr. James Panepinto  
132 Dingens St, LLC  
1 Babcock Street  
Buffalo, New York 14210

RE: 132 Dingens Street, Site ID No.: C915263  
Buffalo, Erie County, Remedial Investigation Report  
Alternatives Analysis Report & Decision Document

Dear Mr. Panepinto:

The New York State Department of Environmental Conservation (Department) and the New York State Department of Health (NYSDOH) have reviewed the Remedial Investigation Report (RI) and Alternatives Analysis Report (AAR) for the 132 Dingens Street Site, dated May 2015 and prepared by Iyer Environmental Group, PLLC on behalf of the 132 Dingens St, LLC.

The RI and AAR are hereby approved. Please ensure that copies of the approved RI and AAR are placed in the document repository (ies). The draft reports should be removed.

Enclosed is a copy of the Department's Decision Document for the site. The remedy is to be implemented in accordance with this Decision Document. Please ensure that a copy of the Decision Document is placed in the document repository (ies).

Please contact the Department's Project Manager, Jaspal S. Walia, at (716) 851-7220 or [jaspal.walia@dec.ny.gov](mailto:jaspal.walia@dec.ny.gov) at your earliest convenience to discuss next steps. Please recall the Department requires seven (7) days' notice prior to the start of field work.

Sincerely,



Michael J. Cruden, P.E.  
Director, Remedial Bureau E  
Division of Environmental Remediation

Enclosure

cc: Robert Schick/Michael Ryan, NYSDEC  
Kelly Lewandowski, NYSDEC  
Chad Staniszewski/Jaspal S. Walia, NYSDEC, Region 9  
Jennifer Dougherty, Esq., NYSDEC, Region 9  
Anthony Perretta, NYSDOH  
Dharma Iyer, Iyer Environmental Group  
Robert Knoer, Esq., The Knoer Group

# DECISION DOCUMENT

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132 Dingens Street Site  
Brownfield Cleanup Program  
Buffalo, Erie County  
Site No. C915263  
May 2015



Prepared by  
Division of Environmental Remediation  
New York State Department of Environmental Conservation

# **DECLARATION STATEMENT - DECISION DOCUMENT**

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132 Dingens Street Site  
Brownfield Cleanup Program  
Buffalo, Erie County  
Site No. C915263  
May 2015

## **Statement of Purpose and Basis**

This document presents the remedy for the 132 Dingens St. Site, a brownfield cleanup site. The remedial program was chosen in accordance with the New York State Environmental Conservation Law and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR) Part 375.

This decision is based on the Administrative Record of the New York State Department of Environmental Conservation (the Department) for the 132 Dingens St. Site and the public's input to the proposed remedy presented by the Department.

## **Description of Selected Remedy**

The elements of the selected remedy are as follows:

### 1. Remedial Design:

A remedial design program will be implemented to provide the details necessary for the construction, operation, optimization, maintenance, and monitoring of the remedial program. Green remediation principles and techniques will be implemented to the extent feasible in the design, implementation, and site management of the remedy as per DER-31. The major green remediation components are as follows:

- Considering the environmental impacts of treatment technologies and remedy stewardship over the long term;
- Reducing direct and indirect greenhouse gases and other emissions;
- Increasing energy efficiency and minimizing use of non-renewable energy;
- Conserving and efficiently managing resources and materials;
- Reducing waste, increasing recycling and increasing reuse of materials which would otherwise be considered a waste;
- Maximizing habitat value and creating habitat when possible;
- Fostering green and healthy communities and working landscapes which balance ecological, economic and social goals; and
- Integrating the remedy with the end use where possible and encouraging green and sustainable re-development.

### 2. Excavation:

- Approximately 1,300 cubic yards of contaminated soil/industrial fill, which form the source areas of concern, will be excavated and disposed off-site at permitted facilities. Site specific excavation objectives were established for arsenic (79 ppm), lead (5,000 ppm), mercury (5.7 ppm), and semi-volatile organic compounds (total PAHs-500 ppm). PCBs will be remediated to meet Part 375 commercial use soil cleanup objectives of 1 ppm which will meet the Toxic Substances Control Act (TSCA) self-implementing requirements. Clean fill meeting the requirements of 6 NYCRR Part 375-6.7(d) will be brought in to complete the backfilling of the excavation. The site will be re-graded to accommodate installation of a cover system as described in remedy element # 3.

### 3. Cover System:

- A site cover will be required to allow for a commercial use of the site.
- The cover will consist either of asphalt, concrete, gravels, floor slab, building, or a soil cover in areas where the upper one foot of exposed surface soil exceed the applicable soil cleanup objectives (SCOs). Where the soil cover is required, it will be a minimum of one foot of soil meeting the SCOs for cover material as set forth in 6 NYCRR Part 375-6.7(d) for commercial use. The soil cover will be placed over a demarcation layer. Any fill material brought to the site will meet the requirements for the identified site use as set forth in 6 NYCRR Part 375-6.7(d).

### 4. Institutional Control:

Imposition of an institutional control in the form of an environmental easement for the controlled property that: requires the remedial party or site owner to complete and submit to the Department a periodic certification of institutional and engineering controls in accordance with Part 375-1.8 (h)(3);

- allows the use and development of the controlled property for commercial and industrial uses as defined by Part 375-1.8(g), although land use is subject to local zoning laws;
- restricts the use of groundwater as a source of potable or process water, without necessary water quality treatment as determined by the NYSDOH or County DOH;
- requires compliance with the Department approved Site Management Plan.

### 5. Site Management Plan:

A Site Management Plan is required, which includes the following:

- an Institutional and Engineering Control Plan that identifies all use restrictions and engineering controls for the site and details the steps and media-specific requirements necessary to ensure the following institutional and/or engineering controls remain in place and effective;

Engineering Controls: The soil cover discussed in Paragraph 3 above.

Institutional Controls: The Environmental Easement discussed in Paragraph 4 above.

This plan includes, but may not be limited to:

- an Excavation Plan which details the provisions for management of future excavations in areas of remaining contamination;
- descriptions of the provisions of the environmental easement including any land use and groundwater use restrictions;
- provisions for the management and inspection of the identified engineering controls;

- maintaining site access controls and Department notification; and
- the steps necessary for the periodic reviews and certification of the institutional and/or engineering controls.

**Declaration**

The remedy conforms with promulgated standards and criteria that are directly applicable, or that are relevant and appropriate and takes into consideration Department guidance, as appropriate. The remedy is protective of public health and the environment.

**Michael J Cruden**

Digitally signed by Michael J Cruden  
DN: cn=Michael J Cruden, o=DER, ou=RBE,  
email=mjcruden@gw.dec.state.ny.us, c=US  
Date: 2015.05.29 13:35:26 -04'00'

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Date

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Michael Cruden, Director  
Remedial Bureau E

# DECISION DOCUMENT

132 Dingens St. Site  
Buffalo, Erie County  
Site No. C915263  
May 2015

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## **SECTION 1: SUMMARY AND PURPOSE**

The New York State Department of Environmental Conservation (the Department), in consultation with the New York State Department of Health (NYSDOH), has selected a remedy for the above referenced site. The disposal of contaminants at the site has resulted in threats to public health and the environment that would be addressed by the remedy. The disposal or release of contaminants at this site, as more fully described in this document, has contaminated various environmental media. Contaminants include hazardous waste and/or petroleum.

The New York State Brownfield Cleanup Program (BCP) is a voluntary program. The goal of the BCP is to enhance private-sector cleanups of brownfields and to reduce development pressure on "greenfields." A brownfield site is real property, the redevelopment or reuse of which may be complicated by the presence or potential presence of a contaminant.

The Department has issued this document in accordance with the requirements of New York State Environmental Conservation Law and 6 NYCRR Part 375. This document is a summary of the information that can be found in the site-related reports and documents.

## **SECTION 2: CITIZEN PARTICIPATION**

The Department seeks input from the community on all remedies. A public comment period was held, during which the public was encouraged to submit comment on the proposed remedy. All comments on the remedy received during the comment period were considered by the Department in selecting a remedy for the site. Site-related reports and documents were made available for review by the public at the following document repository:

Buffalo & Erie Public Library  
Attn: Susan Carson  
East Clinton Branch  
1929 Clinton Street  
Buffalo, NY 14206  
Phone: 716-858-7135

### **Receive Site Citizen Participation Information By Email**

Please note that the Department's Division of Environmental Remediation (DER) is "going

paperless" relative to citizen participation information. The ultimate goal is to distribute citizen participation information about contaminated sites electronically by way of county email listservs. Information will be distributed for all sites that are being investigated and cleaned up in a particular county under the State Superfund Program, Environmental Restoration Program, Brownfield Cleanup Program, Voluntary Cleanup Program, and Resource Conservation and Recovery Act Program. We encourage the public to sign up for one or more county listservs at <http://www.dec.ny.gov/chemical/61092.html>

### **SECTION 3: SITE DESCRIPTION AND HISTORY**

#### Location:

This site is located at 132-136 Dingens Street in the City of Buffalo. This site is next to the New Buffalo Industrial Park complex. The site borders with UPS terminal and Buffalo Games to the north, Niagara Tying Service to the east, Dingens Street to the south, Family Service Center to the southwest, Buffalo News warehouse and the FPPF Chemical Company to the west.

#### Site Features:

This 13 acre irregular shaped site contains an old refrigeration building and the remnants of a warehouse building (concrete floors) which was destroyed by a fire in 2010. Currently the site is vacant except for the old refrigeration building which is partially rented. The site is completely fenced, and is cluttered with tires and miscellaneous materials.

#### Current Zoning and Land Use:

The site is zoned for industrial use. The general land use of the surrounding properties is commercial and industrial.

#### Past Use of the Site:

In early 1900s, the area was covered with railroad tracks. From early 1930s to 1966, the site was used by Mali's Fuel Service for its fuel oil equipment construction and service business. In 1966, the property was purchased by Niagara Frontier Service/ Tops Market. Tops Market constructed a 102,260 square feet warehouse building and a refrigeration building to store perishable foods. The refrigeration building contained ammonia tanks and was connected to the warehouse by a 5' 4" diameter tunnel. In 1996, Tops Market moved out. Later, the property was used by Superior Pallet for recycling, refurbishing, and shredding wood pallets and by Umbra for warehousing and distribution of small waste basket containers. In 2006, AMS Ventures LLC took over the property. Dating back to 1930s, there had been several above ground and underground petroleum storage tanks (USTs) and transformers at the site. In 1987, a spill (# 8707625) was reported due to leaking USTs containing diesel fuel. That spill was closed in 1991.

#### Site Geology and Hydrogeology:

The site is generally underlain by industrial fill materials (such as slag, cinders, ash, brick, glass, metal, and wood) which is intermixed with earthen fill (such as sand, gravel, silt and clay). The fill overlays natural clays and silts. Groundwater is estimated at approximately 20 feet bgs. The bedrock consists of Onondaga Limestone and is approximately 30 – 35 feet below ground surface. The local groundwater flow is generally to the south.

A site location map is attached as Figure 1.

#### **SECTION 4: LAND USE AND PHYSICAL SETTING**

The Department may consider the current, intended, and reasonably anticipated future land use of the site and its surroundings when evaluating a remedy for soil remediation. For this site, alternatives (or an alternative) that restrict(s) the use of the site to commercial use (which allows for industrial use) as described in Part 375-1.8(g) were/was evaluated in addition to an alternative which would allow for unrestricted use of the site.

A comparison of the results of the Remedial Investigation (RI) to the appropriate standards, criteria and guidance values (SCGs) for the identified land use and the unrestricted use SCGs for the site contaminants is available in the RI Report.

#### **SECTION 5: ENFORCEMENT STATUS**

The Applicant(s) under the Brownfield Cleanup Agreement is a/are Volunteer(s). The Applicant(s) does/do not have an obligation to address off-site contamination. However, the Department has determined that this site poses a significant threat to public health or the environment; accordingly, enforcement actions are necessary.

#### **SECTION 6: SITE CONTAMINATION**

##### **6.1: Summary of the Remedial Investigation**

A remedial investigation (RI) serves as the mechanism for collecting data to:

- characterize site conditions;
- determine the nature of the contamination; and
- assess risk to human health and the environment.

The RI is intended to identify the nature (or type) of contamination which may be present at a site and the extent of that contamination in the environment on the site, or leaving the site. The RI reports on data gathered to determine if the soil, groundwater, soil vapor, indoor air, surface water or sediments may have been contaminated. Monitoring wells are installed to assess groundwater and soil borings or test pits are installed to sample soil and/or waste(s) identified. If other natural resources are present, such as surface water bodies or wetlands, the water and sediment may be sampled as well. Based on the presence of contaminants in soil and groundwater, soil vapor will also be sampled for the presence of contamination. Data collected in the RI influence the development of remedial alternatives. The RI report is available for review in the site document repository and the results are summarized in section 6.3.

The analytical data collected on this site includes data for:

- groundwater
- soil

### **6.1.1: Standards, Criteria, and Guidance (SCGs)**

The remedy must conform to promulgated standards and criteria that are directly applicable or that are relevant and appropriate. The selection of a remedy must also take into consideration guidance, as appropriate. Standards, Criteria and Guidance are hereafter called SCGs.

To determine whether the contaminants identified in various media are present at levels of concern, the data from the RI were compared to media-specific SCGs. The Department has developed SCGs for groundwater, surface water, sediments, and soil. The NYSDOH has developed SCGs for drinking water and soil vapor intrusion. For a full listing of all SCGs see: <http://www.dec.ny.gov/regulations/61794.html>

### **6.1.2: RI Results**

The data have identified contaminants of concern. A "contaminant of concern" is a contaminant that is sufficiently present in frequency and concentration in the environment to require evaluation for remedial action. Not all contaminants identified on the property are contaminants of concern. The nature and extent of contamination and environmental media requiring action are summarized below. Additionally, the RI Report contains a full discussion of the data. The contaminant(s) of concern identified at this site is/are:

Arsenic  
Lead  
Mercury

Polychlorinated biphenyls (PCBs)  
Polycyclic Aromatic Hydrocarbons (PAHs)

The contaminant(s) of concern exceed the applicable SCGs for:

- groundwater
- soil

### **6.2: Interim Remedial Measures**

An interim remedial measure (IRM) is conducted at a site when a source of contamination or exposure pathway can be effectively addressed before issuance of the Decision Document.

There were no IRMs performed at this site during the RI.

### **6.3: Summary of Environmental Assessment**

This section summarizes the assessment of existing and potential future environmental impacts presented by the site. Environmental impacts may include existing and potential future exposure pathways to fish and wildlife receptors, wetlands, groundwater resources, and surface water. The RI report presents a detailed discussion of any existing and potential impacts from the site to fish and wildlife receptors.

#### Investigations:

A number of site investigations were conducted on this site. Phase I investigations in 1997 in 2004. Phase II investigations were performed in 2004 and 2012.

Under the BCP, a Remedial Investigation (RI) was conducted in 2012. The RI consisted of surface soils, subsurface soils/fill, and groundwater investigation. The data collected during site investigations and RI showed a widespread contamination of metals, polycyclic aromatic hydrocarbons (PAHs), and polychlorinated biphenyls (PCBs) above the commercial use soil cleanup objectives (CSCOs) in soil/fill samples.

#### Nature and Extent of Contamination:

Soil: The concentrations of metals were up to: 274 ppm arsenic (CSCO-16 ppm); 8.3 ppm mercury (CSCO-2.8 ppm); 93,500 ppm lead (CSCO-1,000 ppm). The SVOCs levels due to PAHs were up to 7,163 ppm (SCO for total PAHs-500ppm). Levels of PCBs were up to 59 ppm (CSCO-1 ppm).

The concentrations of volatile organic compounds (VOCs), pesticides and cyanides were below their respective commercial SCOs in soil/fill samples.

#### Hazardous Waste:

Sampling revealed the presence of hazardous wastes on-site due to concentrations of lead and PCBs that were encountered at the site. The levels of Toxicity Characteristic Leaching Procedures (TCLP) for lead were up to 34.4 mg/l (Hazardous waste regulatory TCLP level for lead- 5 mg/l) and the concentrations of PCBs were up to 59 ppm PCBs (Hazardous waste regulatory limit – 50 ppm).

Groundwater: Groundwater samples were analyzed for VOCs, semi-volatile organic compounds (SVOCs), metals, PCBs, and pesticides. Two rounds of groundwater data were collected from eight on-site overburden monitoring wells. No levels exceeding groundwater standards were noted except for the naturally occurring metals barium, manganese and magnesium.

Off-Site: Further evaluation to the extent of potential contamination off-site will be evaluated.

### **6.4: Summary of Human Exposure Pathways**

This human exposure assessment identifies ways in which people may be exposed to site-related contaminants. Chemicals can enter the body through three major pathways (breathing, touching or swallowing). This is referred to as *exposure*.

The site is completely fenced, which restricts public access. However, persons who enter the site could contact contaminants in soil by walking on the site, digging or otherwise disturbing the soil. The potential exists for contact with contaminants in soils off-site as the extent of contamination has not been completely defined. Groundwater at the site is not used for drinking or other purposes and the area is served by a public water supply that obtains water from a different source not affected by this contamination.

## **6.5: Summary of the Remediation Objectives**

The objectives for the remedial program have been established through the remedy selection process stated in 6 NYCRR Part 375. The goal for the remedial program is to restore the site to pre-disposal conditions to the extent feasible. At a minimum, the remedy shall eliminate or mitigate all significant threats to public health and the environment presented by the contamination identified at the site through the proper application of scientific and engineering principles.

The remedial action objectives (RAOs) for this site are:

### **Soil**

#### **RAOs for Public Health Protection**

- Prevent ingestion/direct contact with contaminated soil.

#### **RAOs for Environmental Protection**

- Prevent migration of contaminants that would result in groundwater or surface water contamination.

## **SECTION 7: ELEMENTS OF THE SELECTED REMEDY**

The alternatives developed for the site and the evaluation of the remedial criteria are presented in the Alternative Analysis. The remedy is selected pursuant to the remedy selection criteria set forth in DER-10, Technical Guidance for Site Investigation and Remediation and 6 NYCRR Part 375.

The selected remedy is a Track 4: Restricted use with site-specific soil cleanup objectives remedy.

The selected remedy is referred to as the Excavation, Off-Site Disposal, and Cover System remedy.

The elements of the selected remedy, as shown in Figure 2, are as follows:

### **1. Remedial Design:**

A remedial design program will be implemented to provide the details necessary for the construction, operation, optimization, maintenance, and monitoring of the remedial program. Green remediation principles and techniques will be implemented to the extent feasible in the design, implementation, and site management of the remedy as per DER-31. The major green remediation components are as follows:

- Considering the environmental impacts of treatment technologies and remedy stewardship over the long term;
- Reducing direct and indirect greenhouse gases and other emissions;
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- Conserving and efficiently managing resources and materials;

- Reducing waste, increasing recycling and increasing reuse of materials which would otherwise be considered a waste;
- Maximizing habitat value and creating habitat when possible;
- Fostering green and healthy communities and working landscapes which balance ecological, economic and social goals; and
- Integrating the remedy with the end use where possible and encouraging green and sustainable re-development.

## 2. Excavation:

- Approximately 1,300 cubic yards of contaminated soil/industrial fill, which form the source areas of concern, will be excavated and disposed off-site at permitted facilities. Site specific excavation objectives were established for arsenic (79 ppm), lead (5,000 ppm), mercury (5.7 ppm), and semi-volatile organic compounds (total PAHs -500 ppm). PCBs will be remediated to meet Part 375 commercial use soil cleanup objectives of 1 ppm which will meet the Toxic Substances Control Act (TSCA) self-implementing requirements. Clean fill meeting the requirements of 6 NYCRR Part 375-6.7(d) will be brought in to complete the backfilling of the excavation. The site will be re-graded to accommodate installation of a cover system as described in remedy element # 3.

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- The cover will consist either of asphalt, concrete, gravels, floor slab, building, or a soil cover in areas where the upper one foot of exposed surface soil exceed the applicable soil cleanup objectives (SCOs). Where the soil cover is required, it will be a minimum of one foot of soil meeting the SCOs for cover material as set forth in 6 NYCRR Part 375-6.7(d) for commercial use. The soil cover will be placed over a demarcation layer. Any fill material brought to the site will meet the requirements for the identified site use as set forth in 6 NYCRR Part 375-6.7(d).

## 4. Institutional Control:

Imposition of an institutional control in the form of an environmental easement for the controlled property that: requires the remedial party or site owner to complete and submit to the Department a periodic certification of institutional and engineering controls in accordance with Part 375-1.8 (h)(3);

- allows the use and development of the controlled property for commercial and industrial uses as defined by Part 375-1.8(g), although land use is subject to local zoning laws;
- restricts the use of groundwater as a source of potable or process water, without necessary water quality treatment as determined by the NYSDOH or County DOH;
- requires compliance with the Department approved Site Management Plan.

## 5. Site Management Plan:

A Site Management Plan is required, which includes the following:

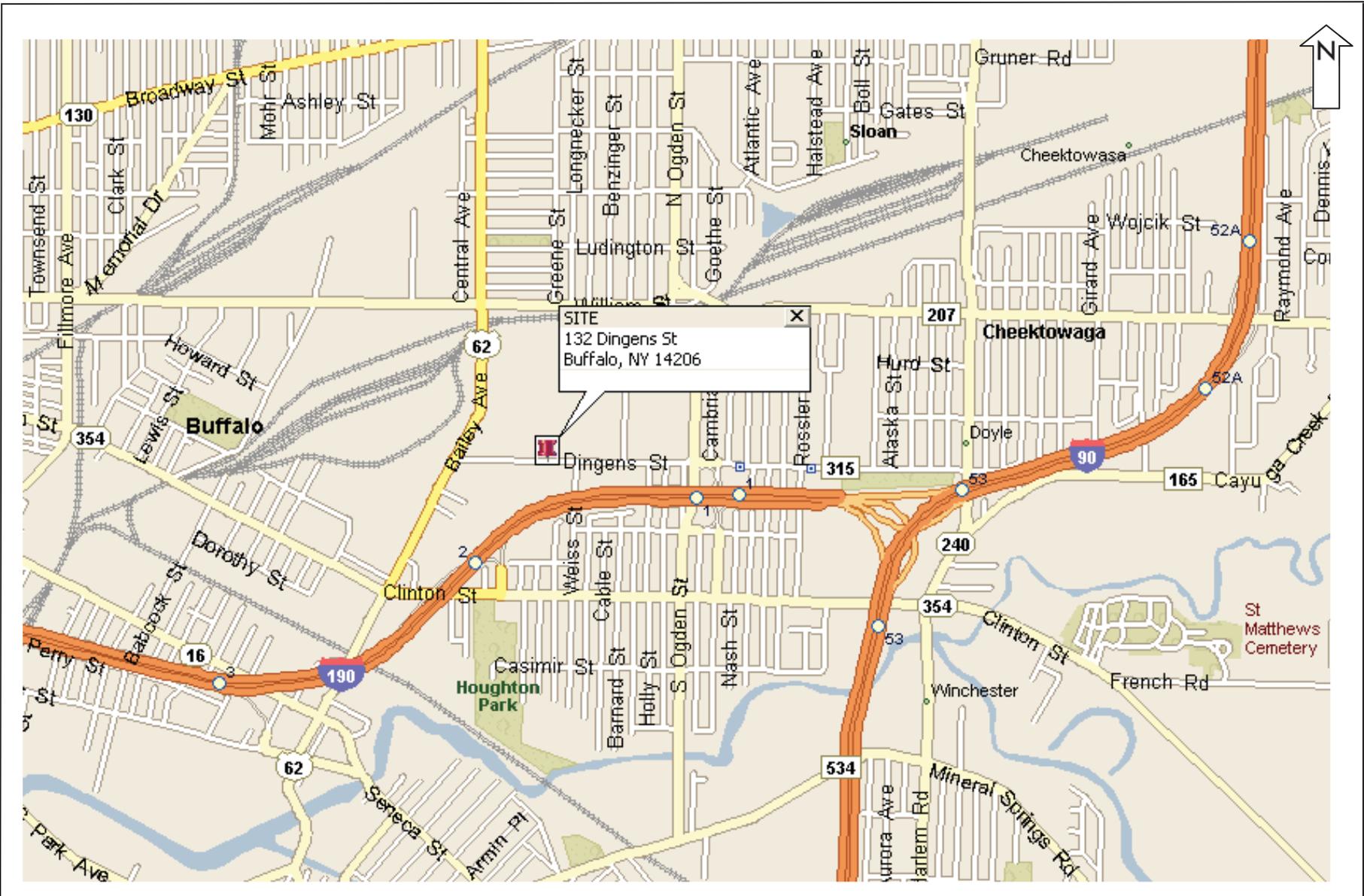
- an Institutional and Engineering Control Plan that identifies all use restrictions and engineering controls for the site and details the steps and media-specific requirements necessary to ensure the following institutional and/or engineering controls remain in place and effective;

Engineering Controls: The soil cover discussed in Paragraph 3 above.

Institutional Controls: The Environmental Easement discussed in Paragraph 4 above.

This plan includes, but may not be limited to:

- an Excavation Plan which details the provisions for management of future excavations in areas of remaining contamination;
- descriptions of the provisions of the environmental easement including any land use and groundwater use restrictions;
- provisions for the management and inspection of the identified engineering controls;
- maintaining site access controls and Department notification; and
- the steps necessary for the periodic reviews and certification of the institutional and/or engineering controls.



**132 DINGENS STREET SITE, BUFFALO, NY  
SITE LOCATION MAP**

**FIGURE 1**

**IEG**

