

Brownfield Cleanup Program Application

1050-1088 Niagara Street Site
Buffalo, New York

May 2013

0136-013-005

Prepared For:

9271 Group, LLC



Prepared By:



2558 Hamburg Turnpike, Suite 300, Buffalo, New York 14218 | phone: (716) 856-0599 | fax: (716) 856-0583



NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION



BROWNFIELD CLEANUP PROGRAM (BCP)

ECL ARTICLE 27 / TITLE 14

DEPARTMENT USE ONLY
BCP SITE #:

07/2010

Section I. Requestor Information

NAME **9271 Group, LLC**

ADDRESS **295 Main Street, Suite 210**

CITY/TOWN **Buffalo, New York**

ZIP CODE **14203**

PHONE **716-854-0060**

FAX **716-852-2829**

E-MAIL

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 DEC with the application, to document that the applicant is authorized to do business in NYS.

NAME OF REQUESTOR'S REPRESENTATIVE **Mr. William Paladino**

ADDRESS **295 Main Street, Suite 210**

CITY/TOWN **Buffalo**

ZIP CODE **14203**

PHONE **716-854-0060**

FAX **716-852-2829**

E-MAIL **bpaladino@ellicottdevelopment.com**

NAME OF REQUESTOR'S CONSULTANT **Mr. Michael Lesakowski**

ADDRESS **2558 Hamburg Turnpike, Suite 300**

CITY/TOWN **Buffalo, New York**

ZIP CODE **14218**

PHONE **716-856-0635**

FAX **716-856-0583**

E-MAIL **mlesakowski@benchmarkturnkey.com**

NAME OF REQUESTOR'S ATTORNEY **Mr. Craig Slater**

ADDRESS **26 Mississippi Street, Suite 400**

CITY/TOWN **Buffalo, New York**

ZIP CODE **14203**

PHONE **716-845-6760**

FAX **716-845-6764**

E-MAIL **cslater@cslater.com**

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, the requestor certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; and iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.

Requestor Relationship to Property (check one):

☐ Previous Owner

☒ Current Owner

☐ Potential /Future Purchaser

☐ Other _____

If requestor is not the site owner, requestor will have access to the property throughout the BCP project. ☐ Yes ☐ No

-Proof of site access must be submitted for non-owners

Section II. Property InformationCheck here if this application is to request significant changes to property set forth in an existing BCA: ☐

Existing BCP site number: _____

PROPERTY NAME 1050-1088 Niagara Street Site

ADDRESS/LOCATION 1050-1088 Niagara Street CITY/TOWN Buffalo, New York ZIP CODE 14213

MUNICIPALITY(If MORE THAN ONE, LIST ALL):

City of Buffalo

COUNTY Erie

SITE SIZE (ACRES) 2.72

LATITUDE (degrees/minutes/seconds) N42 ° 54 ' 45 "

LONGITUDE (degrees/minutes/seconds) W78 ° 54 ' 2 "

HORIZONTAL COLLECTION METHOD: ☐ SURVEY ☐ GPS ☒ MAP

HORIZONTAL REFERENCE DATUM: NAD 83

COMPLETE TAX MAP INFORMATION FOR ALL TAX PARCELS INCLUDED WITHIN THE PROPERTY BOUNDARIES. ATTACH REQUIRED MAPS PER THE APPLICATION INSTRUCTIONS.

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
1050 Niagara Street	1050	99.49	6	2	1.08
1054 Niagara Street	1054	99.49	6	10	0.05
1088 Niagara Street	1088	99.49	1	15	1.59

1. Do the property boundaries correspond to tax map metes and bounds? ☒ Yes ☐ No
If no, please attach a metes and bounds description of the property.
2. Is the required property map attached to the application? (application will not be processed without map) ☒ Yes ☐ No
3. Is the property part of a designated En-zone pursuant to Tax Law § 21(b)(6)? ☒ Yes ☐ No
For more information please see Empire State Development's [website](#).
If yes, identify area (name) A and B; Census Tract 61
Percentage of property in En-zone (check one): ☐ 0-49% ☐ 50-99% ☒ 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)? If yes, identify name of properties in related BCP applications: ☐ Yes ☒ No

5. Property Description Narrative:

See Attachment II

6. List of Existing Easements (type here or attach information)

Easement Holder	Description
-----------------	-------------

Unknown/None

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

Type	Issuing Agency	Description
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None / Unknown

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

Initials of each Requestor: _____

WAP
QK

RECEIVED

JUN 21 2013

BUREAU OF
TECHNICAL SUPPORT

Section III. Current Property Owner/Operator InformationOWNER'S NAME **9271 Group, LLC**ADDRESS **295 Main Street, Suite 210**CITY/TOWN **Buffalo, New York**ZIP CODE **14203**PHONE **716-854-0060**FAX **716-852-2829**

E-MAIL

OPERATOR'S NAME **(Same as Owner)**

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

Section IV. 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 type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 2. Is the requestor subject to an existing order relating to contamination at the site? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 4. Has the requestor been determined to have violated any provision of ECL Article 27? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 5. Has the requestor previously been denied entry to the BCP? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving contaminants? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 7. Has the requestor been convicted of a criminal offense that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 8. Has the requestor knowingly falsified or concealed material facts or knowingly submitted or made use of a false statement in a matter before the Department? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.8(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? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

Section V. Property Eligibility Information (Please refer to ECL § 27-1405)

- | | | |
|--|------------------------------|--|
| 1. Is the property, or was any portion of the property, listed on the National Priorities List?
If yes, please provide relevant information as an attachment. | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 2. Is the property, or was any portion of the property, listed on the NYS Registry of Inactive Hazardous Waste Disposal Sites?
If yes, please provide: Site # _____ Class # _____ | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 3. Is the property subject to a permit under ECL Article 27, Title 9, other than an Interim Status facility?
If yes, please provide: Permit type: _____ EPA ID Number: _____
Date permit issued: _____ Permit expiration date: _____ | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 4. Is the property subject to a cleanup order under navigation law Article 12 or ECL Article 17 Title 10?
If yes, please provide: Order # _____ | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 5. Is the property subject to a state or federal enforcement action related to hazardous waste or petroleum?
If yes, please provide explanation as an attachment. | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

Section VI. Project DescriptionWhat stage is the project starting at? ☒ Investigation ☐ Remediation

Please attach a description of the project which includes the following components:

- Purpose and scope of the project
 - Estimated project schedule
- (see Attachment VI)

Section VII. Property's Environmental History

To the extent that existing information/studies/reports are available to the requestor, please attach the following:

1. Environmental Reports

A Phase I environmental site assessment report prepared in accordance with ASTM E 1527 (American Society for Testing and Materials: Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process), and all environmental reports related to contaminants on or emanating from the site.

If a final investigation report is included, indicate whether it meets the requirements of ECL Article 27-1415(2): ☐ Yes ☒ No

2. 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	Surface Water	Sediment	Soil Gas
Petroleum	x				
Chlorinated Solvents					
Other VOCs					
SVOCs	x				
Metals	x				
Pesticides					
PCBs					
Other*					

*Please describe: _____

3. SUSPECTED CONTAMINANTS: INDICATE SUSPECTED CONTAMINANTS AND THE MEDIA WHICH MAY HAVE BEEN AFFECTED. PROVIDE BASIS FOR ANSWER AS AN ATTACHMENT.

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

*Please describe: _____

4. INDICATE KNOWN OR SUSPECTED SOURCES OF CONTAMINANTS (CHECK ALL THAT APPLY). PROVIDE BASIS FOR ANSWER AS AN ATTACHMENT.

- | | | | |
|---|--|--|---|
| <input checked="" type="checkbox"/> Above Ground Pipeline or Tank | <input type="checkbox"/> Lagoons or Ponds | <input checked="" type="checkbox"/> Underground Pipeline or Tank | <input type="checkbox"/> Surface Spill or Discharge |
| <input checked="" type="checkbox"/> Routine Industrial Operations | <input type="checkbox"/> Dumping or Burial of Wastes | <input type="checkbox"/> Septic tank/lateral field | <input type="checkbox"/> Adjacent Property |
| <input type="checkbox"/> Drums or Storage Containers | <input type="checkbox"/> Seepage Pit or Dry Well | <input checked="" type="checkbox"/> Foundry Sand | <input type="checkbox"/> Electroplating |
| <input type="checkbox"/> Coal Gas Manufacture | <input type="checkbox"/> Industrial Accident | <input type="checkbox"/> Unknown | |

Other: _____

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

- | | | | | | |
|---|---|---|--------------------------------------|---|-------------------------------------|
| <input type="checkbox"/> Coal Gas Manufacturing | <input checked="" 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 checked="" type="checkbox"/> Service Station | <input type="checkbox"/> Landfill | <input type="checkbox"/> Tannery | <input type="checkbox"/> Electroplating | <input type="checkbox"/> Unknown |

Other: Commercial Printing, International Brewing Company, and Gelatine Corp

6. PROVIDE A LIST OF PREVIOUS PROPERTY OWNERS AND OPERATORS WITH NAMES, LAST KNOWN ADDRESSES AND TELEPHONE NUMBERS AS AN ATTACHMENT. DESCRIBE REQUESTOR'S RELATIONSHIP, IF ANY, TO EACH PREVIOUS OWNER AND OPERATOR. IF NO RELATIONSHIP, PUT "NONE".

(see Attachment VII-Q6)

Section VIII. Contact List Information

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 a letter sent to the repository acknowledging that it agrees to act as the document repository for the property.

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

1. Current Use: ☐ Residential ☒ Commercial ☐ Industrial ☒ Vacant ☐ Recreational (check all that apply)
Provide summary of business operations as an attachment.

2. Intended Use Post Remediation: ☐ Unrestricted ☐ Residential ☒ Commercial ☐ Industrial (check all that apply)
Provide specifics as an attachment.

- | | |
|--|---|
| 3. Do current historical and/or recent development patterns support the proposed use? (See #14 below re: discussion of area land uses) (see Attachment IX - Q3&14) | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 4. Is the proposed use consistent with applicable zoning laws/maps? (see Attachment IX - Q4) | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 5. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, designated Brownfield Opportunity Area plans, other adopted land use plans? (see Attachment IX - Q5) | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 6. Are there any Environmental Justice Concerns? (See §27-1415(3)(p)). | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 7. Are there any federal or state land use designations relating to this site? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 8. Do the population growth patterns and projections support the proposed use? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 9. Is the property accessible to existing infrastructure? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 10. Are there important cultural resources, including federal or state historic or heritage sites or Native American religious sites within ½ mile? (see Attachment IX - Q10) | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 11. Are there important federal, state or local natural resources, including waterways, wildlife refuges, wetlands, or critical habitats of endangered or threatened species within ½ mile? (see Attachment IX - Q11) | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 12. Are there floodplains within ½ mile? (see Attachment IX - Q12) | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 13. Are there any institutional controls currently applicable to the property? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 14. Describe the proximity to real property currently used for residential use, and to urban, commercial, industrial, agricultural, and recreational areas in an attachment. (see Attachment IX - Q3&14) | |
| 15. Describe the potential vulnerability of groundwater to contamination that might migrate from the property, including proximity to wellhead protection and groundwater recharge areas in an attachment. (see Attachment IX - Q15) | |
| 16. Describe the geography and geology of the site in an attachment. (see Attachment IX - Q16) | |

Section X. Statement of Certification and Signatures

(By requestor who is an individual)

If this application is approved, I acknowledge and agree to the general terms and conditions set forth in DER-32 *Brownfield Cleanup Program Applications and Agreements* and to execute a Brownfield Cleanup Agreement (BCA) within 60 days of the date of DEC's approval letter. I also agree that in the event of a conflict between the general terms and conditions of participation set forth in DER-32 and the terms contained in a site-specific BCA, the terms in the BCA shall control. I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law.

Date: _____ Signature: _____ Print Name: _____

(By an requestor other than an individual)

I hereby affirm that I am Managing Member (title) of 9271 Group, LLC (entity); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction. If this application is approved, I acknowledge and agree to the general terms and conditions set forth in DER-32 *Brownfield Cleanup Program Applications and Agreements* and to execute a Brownfield Cleanup Agreement (BCA) within 60 days of the date of DEC's approval letter. I also agree that in the event of a conflict between the general terms and conditions of participation set forth in DER-32 and the terms contained in a site-specific BCA, the terms in the BCA shall control. 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: 5/13/13 Signature: [Signature] Print Name: William Paladino

SUBMITTAL INFORMATION:

Three (3) complete copies are required.

- **Two (2)** copies, one paper copy with original signatures and one electronic copy in Portable Document Format (PDF) on a CD, must be sent to:
Chief, Site Control Section
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, NY 12233-7020
- **One (1)** paper copy must be sent to the DEC regional contact in the regional office covering the county in which the site is located. Please check our [website](#) for the address of our regional offices.

FOR DEPARTMENT USE ONLY

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



LIST OF SUPPLEMENTAL INFORMATION

NYSDEC Brownfield Cleanup Program Application

1050-1088 Niagara Street Site

Buffalo, New York

Section No.	Section Title	Question No.	Description
I	Requestor Information	--	NYS Department of State - Entity Information & Filing Receipt
II	Property Information	1	Tax Map / Metes and Bounds Description
		5	Property Description
VI	Project Description	--	Project Description & Estimated Project Schedule
VII	Property's Environmental History	1	Environmental Reports
		2	Analytical Laboratory Reports
		3	Basis for Suspected Contaminants
		4	Basis for Known/Suspected Sources of Contamination
		5	Past Land Uses
		6	List of Previous Property Owners and Operators
VIII	Contact List Information	1, 3-6	Brownfield Site Contact List
		2	Resident and Commercial Contact List
		7	Document Repository Confirmation Letter
IX	Land Use Factors	3 & 14	Adjacent Land Uses and Development Patterns
		4	Applicable Zoning Laws/Maps
		5	Comprehensive Land Use Plans
		10	Cultural Resources Within 1/2 Mile
		11	Natural Resources Within 1/2 Mile
		12	Floodplains Within 1/2 Mile
		15	Groundwater Vulnerability Assessment
		16	Site Geography/Geology



LIST OF TABLES AND FIGURES

NYSDEC Brownfield Cleanup Program Application

1050-1088 Niagara Street Site

Buffalo, New York

Section No.	Section Title	Table No.	Title
VII	Property's Environmental History	VII-1	Summary of Soil/Fill Analytical Data
VIII	Contact List Information	VIII-1	Resident and Commercial Contact List

Section No.	Section Title	Figure No.	Title
II	Property Information	II-1	Site Location and Vicinity Map
		II-2	Site Plan
		II-3	Tax Map
		II-4	Property Base Map (1,000' setback)
VII	Property's Environmental History	VII-1	Known/Suspected Sources of Contamination
IX	Land Use Factors	IX-1	Nearby Land Use/Zoning Map
		IX-2	Cultural Resources Map
		IX-3	Natural Resources Map
		IX-4	Wetlands and Floodplains Map
		IX-5	Soil Map

SECTION I

REQUESTOR INFORMATION

NYS DEPARTMENT OF STATE – ENTITY INFORMATION
&
SIGNATURE AUTHORIZATION

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through April 11, 2013.

Selected Entity Name: 9271 GROUP, LLC

Selected Entity Status Information

Current Entity Name: 9271 GROUP, LLC

DOS ID #: 3642212

Initial DOS Filing Date: MARCH 10, 2008

County: ERIE

Jurisdiction: NEW YORK

Entity Type: DOMESTIC LIMITED LIABILITY COMPANY

Current Entity Status: ACTIVE

Selected Entity Address Information

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

9271 GROUP, LLC

295 MAIN ST STE 210

BUFFALO, NEW YORK, 14203

Registered Agent

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this information is not recorded and only available by [viewing the certificate](#).

***Stock Information**

of Shares Type of Stock \$ Value per Share

No Information Available

*Stock information is applicable to domestic business corporations.

Name History

Filing Date Name Type Entity Name

MAR 10, 2008 Actual 9271 GROUP, LLC

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.

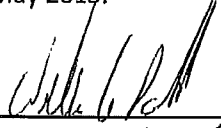
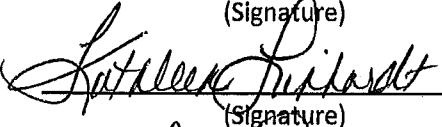
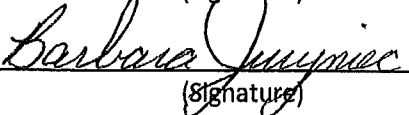
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RESOLVED, that Mr. William Paladino, Managing Member of 9271 Group, LLC (Company) be hereby authorized and empowered to sign a Brownfield Cleanup Agreement (BCA) for property referred to as the 1050-1088 Niagara Site with New York State Department of Environmental Conservation (NYSDEC), in the name of and on behalf of this Company.

The undersigned hereby certify that he is the duly qualified Managing Member and custodian of the books and records of 9271 Group, LLC, a corporation duly formed pursuant to the laws of the State of New York, and that the foregoing is a true record of a resolution duly adopted by the Members at a meeting of 9271 Group, LLC and that said meeting was held in accordance with state law and the Bylaws of the above-named Corporation on May 1, 2013, and that said resolution is now in full force and effect without modification or rescission.

IN WITNESS WHEREOF, I have executed my name as Member of the above-named Company this 1st day of May 2013.

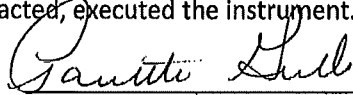
	William Paladino	Managing Member
(Signature)	(Print Name)	(Title)
	KATHLEEN LINHARDT	ASSISTANT MANAGER
(Signature)	(Print Name)	Member
	Barbara Juryniec	Member
(Signature)	(Print Name)	(Title)

ACKNOWLEDGMENT

(STATE OF NEW YORK)

(COUNTY OF ERIE)

On the 1st day of May in the year 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared William Paladino, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon the behalf of which the individual(s) acted, executed the instrument.


Notary Public

PAULETTE GULLO
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 02-15-14

SECTION II

PROPERTY INFORMATION

<u>QUESTION No.</u>	<u>DESCRIPTION</u>
<i>1</i>	<i>TAX MAP</i>
<i>5</i>	<i>PROPERTY DESCRIPTION</i>

Section II – Question 5 Property Information

1050-1088 Niagara Street Site Brownfield Cleanup Program Application

PROPERTY DESCRIPTION

The subject property is comprised of three (3) adjoining parcels in a highly developed light industrial/ commercial/ residential area of the City Buffalo, Erie County, New York as illustrated on Figures II-1 through II-4 and described below:

- 1050 Niagara Street (Tax Map No. 99.49-6-2): 1.08 acre parcel in the City of Buffalo.
- 1054 Niagara Street (Tax Map No. 99.49-6-10): 0.05 acre parcel in the City of Buffalo.
- 1088 Niagara Street (Tax Map No. 99.49-1-15): 1.59 acre parcel in the City of Buffalo.

Parcel boundaries correspond to the tax map boundaries; however, an updated metes and bounds description is not yet available. The metes and bounds description of the BCP Project Site will be provided to the NYSDEC upon completion of the boundary survey.

The BCP Site is bound by Albany Street to the north with commercial properties beyond; commercial manufacturing facility to the south; Niagara Street and residential properties beyond to the east; and railroad tracks, NYS I-190, and the Niagara River to the west.

The 1050 Niagara Street parcel has a long history of being utilized for industrial operations (since at least 1889). The Niagara Lithograph Company (current on-site building), a commercial printing company, was located on the 1050 Niagara Street parcel of the Site from at least 1930 through at least 1990; and Miken Companies, also a commercial printing company, was located on-Site until at least 2000. Historic lithographic printing is associated with the use of VOC cleaning and printing solvents. Historic Sanborn map (1925) indicate two 25,000 gal tanks were located in the basement, likely contained fuel oil for the adjacent boilers, and/or potential printing-solvent storage.

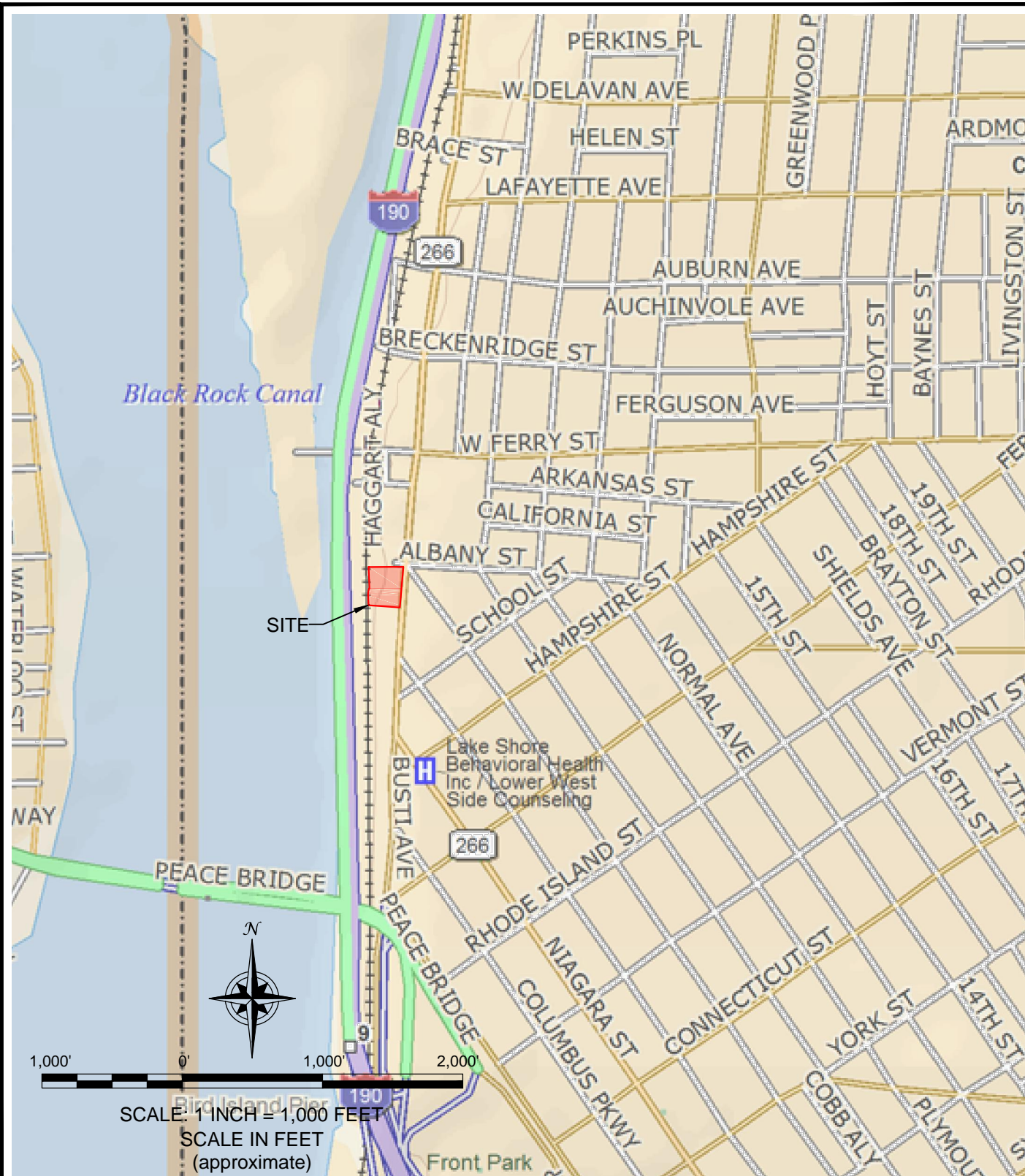
Section II – Question 5 Property Information

1050-1088 Niagara Street Site Brownfield Cleanup Program Application

The 1088 Niagara Street parcel (northern portion of the Site) formerly included the International Brewing Company and American Gelatine Corp. operated on-Site in the early 1900s. Historic Sanborn map indicate former rail siding, coal dump and storage, and coal fired kilns and boilers. In at least 1925, Hygrade Oil Co. utilized the site as a service station and fuel distribution facility, including multiple petroleum storage and distribution tanks, gasoline pump house(s), and tank wagon loading house, which was historically located abutting the current 1050 Niagara Street building, from at least the 1920s through the 1960s. Gulf Oil Corporation and Hygrade Petroleum Co. were identified as on-Site operators from at least the 1920s through at least 1960.

Previous investigations completed on-Site (see Section 7) discovered the presence of abandoned historic underground storage tanks (USTs) and in-ground hydraulic lifts. Based on the investigation findings, the NYSDEC Spills hotline was notified and Spill No. 1201545 was issued for the Site. An Interim Remedial Measures (IRM) Work Plan has been prepared and submitted concurrent with the BCP Application to address the environmental concerns related to the unregistered historic USTs. The purpose of the IRM Work Plan is to provide details relative to the removal and proper handling of the USTs and any residual contents prior to completion of the Remedial Investigation (RI) and development of remedial alternatives.

FIGURE II-1



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

SITE LOCATION AND VICINITY MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

1050-1088 NIAGARA STREET SITE

BUFFALO, NEW YORK

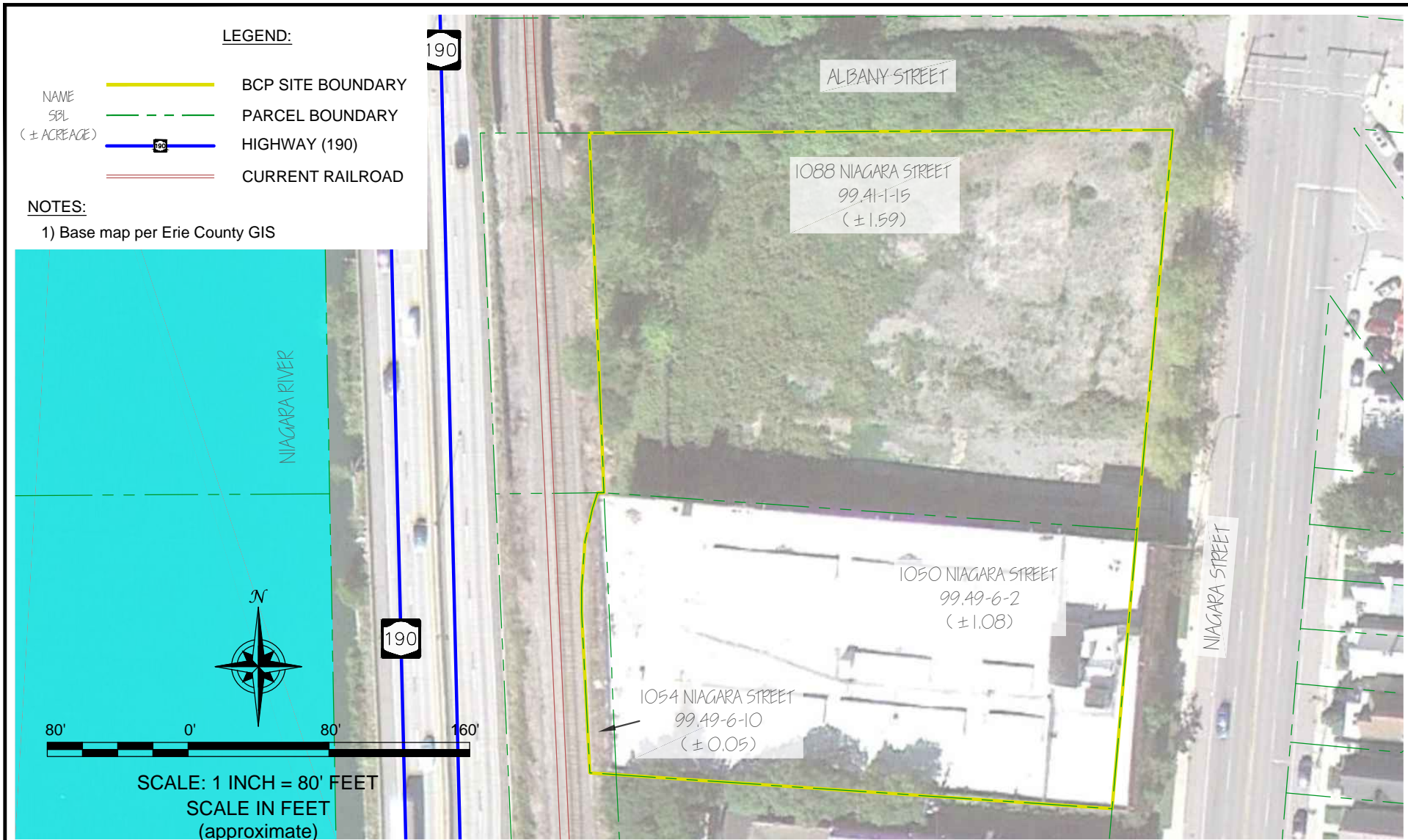
PREPARED FOR

9271 GROUP, LLC

PROJECT NO.: 0136-013-005

DATE: APRIL 2013

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SITE PLAN (AERIAL)

BROWNFIELD CLEANUP PROGRAM APPLICATION

1050-1088 NIAGARA STREET SITE

BUFFALO, NEW YORK

PREPARED FOR
9271 GROUP, LLC

PROJECT NO.: 0136-013-005

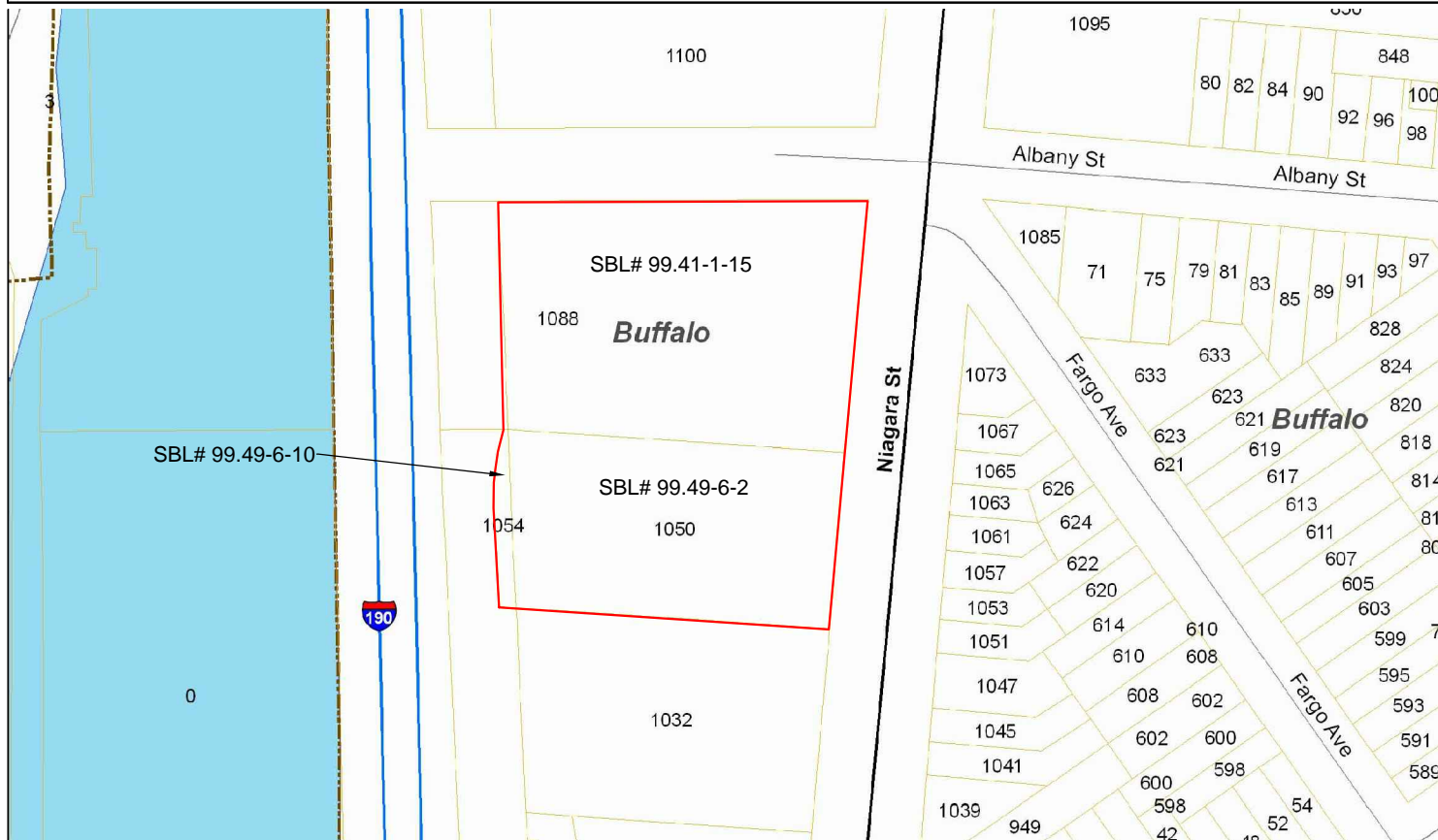
DATE: APRIL 2013

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FIGURE II-2



Erie County On-Line Mapping System



0.1 0 0.03 0.1 Miles

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ERIE COUNTY, NEW YORK
DEPARTMENT OF ENVIRONMENT & PLANNING
OFFICE OF GEOGRAPHIC INFORMATION SERVICES



Legend

Streets and Highways

- Interstate
- Primary State Road
- Secondary State Road
- County Road
- Local Road
- Parcels



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SUITE 300
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PROJECT NO.: 0136-013-005

DATE: APRIL 2013

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TAX MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

1050-1088 NIAGARA STREET

BUFFALO, NEW YORK

PREPARED FOR

9271 GROUP, LLC

FIGURE II-3



PROPERTY BASE MAP (1000' SETBACK)

BROWNFIELD CLEANUP PROGRAM APPLICATION
1050-1088 NIAGARA STREET SITE
BUFFALO, NEW YORK
PREPARED FOR
9271 GROUP, LLC



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

JOB NO.: 0136-013-005

FIGURE II-4

1899 - Sanborn Map

89

Erie Canal

TOW PATH

ALBANY

91

INTERNATIONAL BREWING CO.

THE NEW ONE STORY BUILDING - POWER & LIGHTING -
FUEL OIL - LIGHTS GAS & SANITARY LIGHT
FUEL OIL - LIGHTS GAS & SANITARY LIGHT
FUEL OIL - LIGHTS GAS & SANITARY LIGHT

REWORKED & REPAIRED - POWER & LIGHTING -
FUEL OIL - LIGHTS GAS & SANITARY LIGHT
FUEL OIL - LIGHTS GAS & SANITARY LIGHT
FUEL OIL - LIGHTS GAS & SANITARY LIGHT

INTERNATIONAL TRACTION CO. - POWER HO. & CAR STORAGE

85

NIAGARA

FARGO

90

AV

SCHOOL

PROSPECT

87

AV



Scale of Feet. 0 50 100 150

HAMPSHIRE

1925
BUFFALO, N.Y. 10211
91
(91-89)

SEE VOLUME FOUR

STEEL LIFT BRIDGE

HOTEL
RIVERSIDE

W. FERRY

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HAGGART

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LAWLER IRON WORK INC. MACHY CASTING

GULL

CONTRACTORS YARD

STORAGE

4

CO-OPERATIVE ORANGE LEAGUE FEDERATION EXCHANGE INC.
GRAIN & FEED SUPPLY CO.

ALBANY

STORAGE

STORAGE

STORAGE

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NIAGARA LITHOGRAPH CO.

PRINTING & LITHOGRAPHY

STORAGE

STORAGE

STORAGE

STORAGE

STORAGE

STORAGE

STORAGE

NIAGARA

92

109



WEST SIDE BOATING CLUB

Scale of Feet

Copyright 1925 by the Sanborn Map Co.

BUFFALO, N.Y. VOL 1A

(91-89)

See Volume Four

SPACE LIFT BRIDGE

W. FERRY *5-22-1942*

Ship Canal & Black Rock Harbor

NIAGARA

ALBANY

NIGARA LITHOGRAPH CO
PRINTED AT

Scale of Feet

SECTION VI

PROJECT DESCRIPTION

PROJECT DESCRIPTION & ESTIMATED PROJECT SCHEDULE

Section VI
Project Description and Estimated Schedule

1050-1088 Niagara Street Site
Brownfield Cleanup Program Application

PROJECT DESCRIPTION

9271 Group, LLC, acting as non-responsible BCP Volunteer, is willing to remediate the Site under the BCP, and is submitting this BCP application for eligibility into the Program. Once the application is approved by the NYSDEC, 9271 Group, LLC will submit a Remedial Investigation (RI) Work Plan for approval. The RI Work Plan will be designed to delineate known areas of impact and further evaluate other potential environmental conditions on the Site. Ultimately, 9271 Group, LLC intends to perform remedial measures on the property to redevelop the Site as a new mixed-use commercial/residential property. The remedial measures will be protective under a Commercial Use with the goal of achieving a Track 2 cleanup (if feasible), per 6NYCRR Part 375-3.8(e)(2), to Commercial soil cleanup objectives.

An Interim Remedial Measures (IRM) Work Plan has been prepared and submitted concurrent with the BCP Application to address the environmental concerns related to the unregistered historic USTs. During the Limited Phase II Investigation (see Section 7), abandoned historic underground storage tanks (USTs) and in-ground hydraulic lifts were discovered. Based on the investigation findings, the NYSDEC Spills hotline was notified and Spill No. 1201545 was issued for the Site. The purpose of the IRM Work Plan is to provide details relative to the removal and proper handling of the USTs and any residual contents.

PRELIMINARY REDEVELOPMENT PLAN

9271 Group, LLC plans to conduct an extensive renovation of the existing building, and construction an extension to the existing building along Niagara Street, which will include new commercial retail space, new parking areas, and landscaped areas. The preliminary redevelopment plan envisions a capital investment of approximately \$5-6 MM to remediate and redevelop the Site. The project will result in the reuse of a vacant, idle, environmentally-impaired property into a productive, community-enhancing redevelopment.

Section VI
Project Description and Estimated Schedule

1050-1088 Niagara Street Site
Brownfield Cleanup Program Application

ESTIMATED PROJECT SCHEDULE

The environmental engineering and consulting tasks associated with the project are listed below with an estimated schedule of completion:

Task	Timeframe
Submit BCP Application and IRM Work Plan	May 2013
NYSDEC Review & 30-day Public Comment Period	June 2013
BCA Issued	July/August 2013
<u>Remedial Investigation Work Plan (RIWP)</u> : Prepare Draft RIWP, NYSDEC Review Period, Issue Fact Sheet, 30-Day Public Comment Period, Finalize RIWP	Fall 2013
Perform RI Field Work	Winter 2013/ Spring 2014
<u>Remedial Investigation/Alternatives Analysis (RI/AA) Report</u> : Prepare Draft RI/AA Report, NYSDEC Review Period, Issue Fact Sheet, 30-Day Public Comment Period, Finalize RI/AA Report	Spring/Summer 2014
<u>Remedial Action Work Plan (RAWP)</u> : Prepare Draft RAWP, NYSDEC Review Period, Issue Fact Sheet, 45-Day Public Comment Period, Finalize RAWP, Issue Notice Prior to Construction	Summer/Fall 2014
Implement Remedial Measures	Fall/Winter 2014
<u>Post-Remedial Documents</u> : Prepare Site Management Plan (SMP), Environmental Easement (EE), and Final Engineering Report; NYSDEC Review Period; Issue FER Fact Sheet; Finalize SMP, EE, and FER	Spring 2015
COC Received, Issue Fact Sheet on IC/ECs	Spring/Summer 2015

SECTION VII

PROPERTY'S ENVIRONMENTAL HISTORY

<u>QUESTION No.</u>	<u>DESCRIPTION</u>
<i>1</i>	<i>ENVIRONMENTAL REPORTS</i>
<i>2</i>	<i>ANALYTICAL DATA REPORTS</i>
<i>3</i>	<i>BASIS FOR SUSPECTED CONTAMINANTS</i>
<i>4</i>	<i>BASIS FOR KNOWN/SUSPECTED SOURCES OF CONTAMINATION</i>
<i>5</i>	<i>PAST LAND USES</i>
<i>6</i>	<i>LIST OF PREVIOUS PROPERTY OWNERS AND OPERATORS</i>

Section VII – Question 1 Environmental Reports

1050-1088 Niagara Street Site Brownfield Cleanup Program Application

A brief summary of the previous investigations completed for the Site is presented below. Reports are provided on the attached CD. Figure VII-1 shows the areas of known or suspected sources of contamination as well as the soil boring sample locations listed below.

JUNE 2012 – PHASE I ENVIRONMENTAL SITE ASSESSMENT

TurnKey Environmental Restoration, LLC (TurnKey) completed a Phase I ESA in June 2012. Findings of the Phase I report are summarized below:

- Historic operators on-Site included commercial printing from at least 1930 through at least 2000, Gulf Oil Corporation from the 1920s through the 1960s, Hygrade Oil and Fuel Corp./Hygrade Petroleum Co. from the 1920s through the 1940s, and the American Gelatine Company and the International Brewing Company in the early 1900s.
- The Site included a filling station from the 1920s through the 1960s. Multiple gasoline tanks, assumed to be USTs, were identified on the northern portion of the site in at least 1925 and 1951 based on historic Sanborn maps.
- Two 25,000 gallon tanks were noted in the basement of 1050 Niagara Street based on historic Sanborn maps; contents unknown.
- Potential tank vents were noted on the west side of the building on the 1050 Niagara Street parcel and potential tank fill ports were noted on the surface in the southeast portion of the 1088 Niagara Street parcel.
- Building-mounted transformers were noted south of the 1050 Niagara Street building.
- Numerous closed/inactive spills were identified in connection with adjacent/nearby properties in the regulatory database.

**Section VII – Question 1
Environmental Reports**

**1050-1088 Niagara Street Site
Brownfield Cleanup Program Application**

JULY 2012 LIMITED PHASE II ENVIRONMENTAL INVESTIGATION REPORT

TurnKey Environmental Restoration, LLC (TurnKey) completed a Limited Phase II Environmental Investigation Report in July 2012. Findings of the Limited Phase II investigation are detailed below:

- Three (3) abandoned USTs; were encountered; these USTs appeared to be associated with the former services station on-Site.
- Field observations of apparent petroleum contamination, including elevated PID readings and petroleum odors, were observed in TP-3, TP-4 and TP-10. Apparent petroleum-stained soil was also noted in TP-4;
- Apparent foundry sand (black sand) was noted in test pits TP-1 and TP-5;
- Elevated VOCs, some exceeding Commercial Use SCO's were detected;
- Several metals were detected above their respective Unrestricted Use SCO's, including lead and mercury above their respective Commercial Use SCO's;
- In-ground hydraulic lifts and USTs were discovered on-Site;
- Based on the findings of the investigation NYSDEC Spill file No. 1201545 was opened for the Site.

Section VII – Question 2
Analytical Data Reports

1050-1088 Niagara Street Site
Brownfield Cleanup Program Application

The following analytical laboratory data reports are provided on the attached CD. Table VII-1 provides a summary of the analytical reports provided.

JULY 2012 – LIMITED PHASE II ENVIRONMENTAL INVESTIGATION (TURNKEY)

- Soil – TestAmerica Job ID 480-20163-1 (TCL + STARS list VOCs, STARS list SVOCs, and RCRA metals) prepared for TurnKey, test pit samples TP-1, TP-3, TP-4, TP-5, and TP-10.

Section VII – Question 3
Basis for Suspected Contaminants

1050-1088 Niagara Street Site
Brownfield Cleanup Program Application

Soil/fill contaminant concentrations are summarized based on previous investigations conducted by TurnKey in July 2012 (see Table VII-1). Other potential environmental conditions include: former hydraulic lift, abandoned USTs, impacted soil/fill on Site, building mounted transformers, and former coal bins (see Figure VII-1).

Photo 1:



Hydraulic lifts

Photo 2:



USTs – TP-4

Photo 3:



USTs – TP-4

Photo 4:



Impacted Soil – TP-5

Section VII – Question 4
Known/Suspected Sources of Contamination

1050-1088 Niagara Street Site
Brownfield Cleanup Program Application

Based on previous investigations conducted by TurnKey in June and July 2012, the following areas are known or suspected sources of contamination (see Figure VII-1):

- Elevated VOCs, some exceeding Commercial Use SCOs were detected in on-Site soil/fill. Several metals were detected above their respective Unrestricted Use SCOs, including lead and mercury detected above Commercial Use SCOs (see Table VII-1);
- Field observations of apparent petroleum contamination, including elevated PID readings and petroleum odors, were observed in TP-3, TP-4 and TP-10. Apparent petroleum-stained soil and highest PID reading (1,268 ppm) was also noted in TP-4;
- Apparent foundry sand was noted in TP-1 and TP-5;
- NYSDEC Spill file 1201545 was opened for the Site;
- Evidence of historic Site use as a petroleum filling station from at least 1930 through at least 1960;
- Former use as a lithographic printing operation likely indicates the use of VOC-containing cleaning, degreasing and ink solvents on-Site;
- Evidence of two 25,000 gallon tanks within the basement of the 1050 Niagara Street building, likely containing fuel oil and/or printing related solvents;
- Multiple USTs, former in-ground hydraulic lift, and building mounted transformers were identified during previous investigation activities;
- Former coal bins, rail siding, oil pump houses, and multiple petroleum storage tanks (ASTs and USTs) were noted on historic Sanborn maps.

Section VII – Question 5 Past Land Uses

1050-1088 Niagara Street Site Brownfield Cleanup Program Application

The historical use of the subject property has been researched through review of historic maps, historic aerial photographs, municipal records, owner-provided information, and/or other reasonably obtainable documents. These documents indicate that the Site has a long history of being utilized for industrial operations (since at least 1889).

1050 Niagara Street parcel

The 1050 Niagara Street parcel has been utilized for industrial operation since at least 1889. The Niagara Lithograph Company (current on-site building), operated a commercial printing company from at least 1930 through at least 1990 and Miken Companies, also a commercial printing company, until at least 2000. Historic Sanborn records indicate that two 25,000 gallon tanks, likely containing fuel oil and/or printing related solvents were located in the basement of the building. Lithographic printing operation historically utilized VOC-based solvent routinely for printing cleaning, degreasing and ink-solvents.

1088 Niagara Street parcel

The 1088 Niagara Street parcel (northern portion of the Site) formerly included the International Brewing Company and American Gelatine Corp. operated on-Site in the early 1900s. Historic Sanborn map indicate former rail siding, coal dump and storage, and coal fired kilns and boilers. In at least 1925, Hygrade Oil Co. utilized the site as a service station and fuel distribution facility, including multiple petroleum storage and distribution tanks, gasoline pump house(s), and tank wagon loading house, which was historically located abutting the current 1050 Niagara Street building from at least the 1920s through at least 1960. Gulf Oil Corporation and Hygrade Petroleum Co. were identified as on-Site operators from at least the 1920s through at least 1960.

Section VII – Question 6
Previous Site Owners and Operators

1050-1088 Niagara Street Site
Brownfield Cleanup Program Application

Reasonable attempts were made to attain complete contact information for previous Site owners and operators. The following table lists the current and previous property owners and operators:

Current	Owner or Operator	Date Range	Relationship to Requestor
9271 Group, LLC 210 Ellicott Square Bldg. Buffalo, NY 14203	Owner	Current	Applicant
Previous	Owner or Operator	Date Range	Relationship to Requestor
<i>1050 Niagara:</i> NBBC Association Inc	Unknown	2005	None
<i>1050 Niagara:</i> Miken Companies	Unknown	1995-at least 2000	None
<i>1050 Niagara:</i> Sale Niagara Inc. lithographers	Unknown	1990	None
<i>1050 Niagara:</i> Sale Niagara Inc. lithographers and Miken Systems, Inc., die cutters	Unknown	1985	None
<i>1050 Niagara:</i> Sale-Niagara Inc, Mikon Systems die cutters, and Newtron Label Corp label printing	Unknown	1980	None
<i>1050 Niagara:</i> Sale Niagara Inc, Royton Paper Products Co Inc	Unknown	1975	None
<i>1050 Niagara:</i> Sale Niagara Inc, Royton Paper Products,	Unknown	1969-1970	None

Section VII – Question 6
Previous Site Owners and Operators

1050-1088 Niagara Street Site
Brownfield Cleanup Program Application

1070 Niagara: Arena Tile Distributors Inc Tile Paint and Manson Judo Club			
1050-1068 Niagara: Niagara Lithograph, 1070 Niagara: Arena Tile Distributors Inc and Manson Judo Club	Unknown	1965	None
1050-1068 Niagara: Niagara Lithograph Co, 1070-1088 Niagara: Lazarony Anthony H Gulf Service gas station and Allied Automotive Supply Inc auto parts	Unknown	1960	None
1050-1062 Niagara: Niagara Lithograph Co, 1070-1088 Niagara: Gulf Oil Corp distribution office 3 Allied Automotive	Unknown	1956	None
1050-1062 Niagara: Niagara Lithograph, 1070-1088 Niagara: Gulf Oil Corp dist office and Anthony Lazarony filling station	Unknown	1950	None
1050 Niagara: Niagara Lithograph, 1070 Niagara: Gulf Oil Corp, 1088 Niagara: vacant	Unknown	1945	None

Section VII – Question 6
Previous Site Owners and Operators

1050-1088 Niagara Street Site
Brownfield Cleanup Program Application

<i>1050 Niagara:</i> Niagara Lithograph Co, <i>1070 Niagara:</i> Hygrade Oil and Fuel Corp	Unknown	1940	None
<i>1050 Niagara:</i> Niagara Lithograph, <i>1070 Niagara:</i> Hygrade Petroleum Corp, Buffalo Plywood Corp, Hygrade Fuel Corp oils and lubricants, Kraft Associated Distributors, Munro Metal Products Corp	Unknown	At least 1935	None
<i>1050 Niagara:</i> Niagara Lithograph, <i>1070 Niagara:</i> Harbor Plywood Corp veneer manufacturers, Hygrade Petroleum Corp, Mohn & Hunter Laundry branch, and Munro Metal Products Corp, <i>1088 Niagara:</i> Anderson Service Inc filling station	Unknown	Pre-1930	None



SECTION VII - PROPERTY'S ENVIRONMENTAL HISTORY

TABLE VII-1

SUMMARY OF SOIL ANALYTICAL RESULTS

1050-1088 NIAGARA STREET SITE

BUFFALO, NEW YORK

Parameter ¹	Unrestricted Use SCOs ²	Restricted Residential Use SCOs ³	Commercial Use SCOs ²	Test Pit Location				
				TP-1 (7-9)	TP-3 (4-5)	TP-4 (3-5)	TP-5 (7-9)	TP-10 (9-11)
Volatile Organic Compounds (VOCs) - mg/Kg ³								
2-Butanone (MEK) ⁵	--	--	--	NA	0.026 J	ND	NA	0.006 J
Acetone	0.05	100	500	NA	0.17	ND	NA	0.042
Ethylbenzene	1	41	390	NA	ND	23	NA	ND
Cyclohexane	--	--	--	NA	0.27	19	NA	ND
Isopropylbenzene (Cumene)	2.3	2.3	2.3	NA	0.25	9.6	NA	ND
n-Butylbenzene	12	100	500	NA	ND	7.7	NA	ND
n-Propylbenzene	3.9	100	500	NA	0.38	130	NA	ND
sec-Butylbenzene	11	100	500	NA	ND	3.3	NA	ND
tert-Butylbenzene	5.9	100	500	NA	0.019 J	ND	NA	ND
1,2,4-Trimethylbenzene	3.6	52	190	NA	0.7 B	85	NA	0.0012 J
1,3,5-Trimethylbenzene	8.4	52	190	NA	ND	35	NA	ND
p-Isopropyltoluene	10	10	10	NA	ND	7.2	NA	ND
Total Xylene	0.26	100	500	NA	0.091 B	100	NA	0.003 J
Methylcyclohexane	--	--	--	NA	0.55	120	NA	ND
TICS	--	--	--	NA	10.89 J	812 J	NA	0.286 J
Semi-Volatile Organic Compounds (SVOCs) - mg/Kg ³								
Acenaphthylene	100	100	500	0.01 J	ND	ND	ND	ND
Acenaphthene	20	100	500	0.025 J	ND	ND	ND	ND
Anthracene	100	100	500	0.047 J	ND	ND	0.11 J	ND
Benzo(a)anthracene	1	1	5.6	0.17 J B	ND	ND	0.61 J B	ND
Benzo(b)fluoranthene	1	1	5.6	0.2 B	ND	ND	0.72 J B	ND
Benzo(k)fluoranthene	0.8	3.9	56	0.08 J B	ND	ND	0.32 J B	ND
Benzo(g,h,i)perylene	100	100	500	0.11 J B	ND	ND	0.4 J B	ND
Benzo(a)pyrene	1	1	1	0.18 J B	ND	ND	0.58 J B	ND
Chrysene	1	3.9	56	0.15 J B	ND	ND	0.6 J B	ND
Dibenzo(a,h)anthracene	0.33	0.33	0.56	0.035 J	ND	ND	ND	ND
Fluoranthene	100	100	500	0.22 B	ND	ND	0.96 J B	ND
Fluorene	30	100	500	0.016 J	ND	ND	ND	ND
Indeno(1,2,3-cd)pyrene	0.5	0.5	5.6	0.092 J B	ND	ND	0.31 J B	ND
Naphthalene	12	100	500	0.1 J	0.0052 J	4.4 J	ND	ND
Phenanthrene	100	100	500	0.22 B	ND	ND	0.66 J B	ND
Pyrene	100	100	500	0.22 B'	ND	ND	1.0 J B	ND
TICS	--	--	--	2.62 J	5.15 J	177.3 J	ND	0.378 J
Metals - mg/Kg								
Arsenic	13	16	16	8.8	4.5	4.3	5.9	5.1
Barium	350	400	400	133	112	117	375	76.7
Cadmium	2.5	4.3	9.3	1.7	ND	0.33	6	0.25
Chromium	30	180	1500	77.3	18.8	14.4	67.6	15.3
Lead	63	400	1000	1160	19	1.3	292	14
Silver	2	180	1500	ND	ND	ND	0.73	ND
Mercury	0.18	0.81	2.8	4	ND	0.083	0.35	ND
Field Measurement - ppm								
Photoluminescence detector (PID) Reading	--	--	--	0	938	1,268	0	468

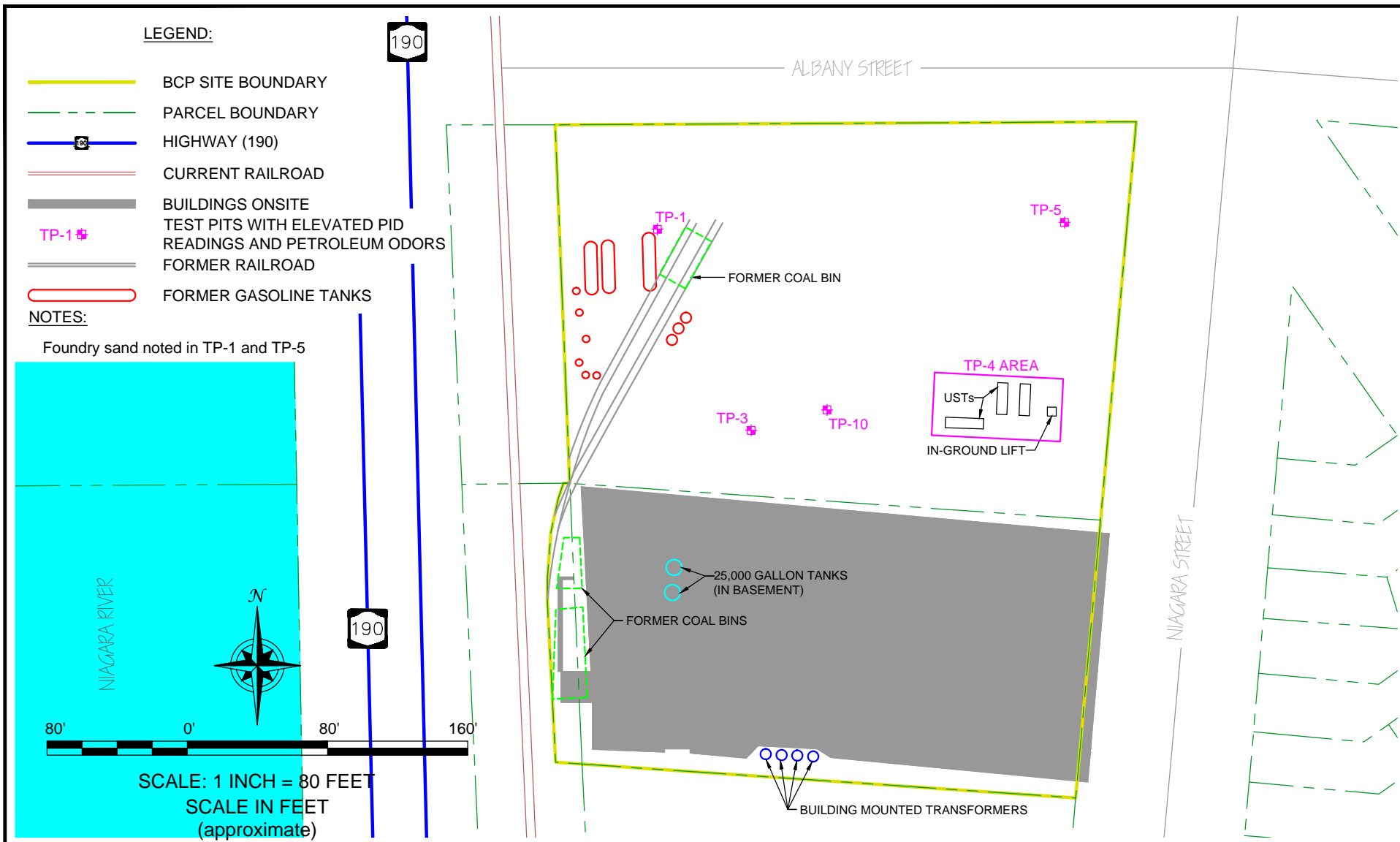
Notes:

- Only those parameters detected at a minimum of one sample location are presented in this table; all other compounds were reported as non-detect.
- Values per 6NYCRR Part 375.6.8 (a) Soil Cleanup Objectives - (May 2010)
- Sample results were reported by the laboratory in ug/Kg and converted to mg/Kg for comparison to SCOs.

Definitions:

- ND = Parameter not detected above laboratory detection limit.
 NA = Parameter not Analysed.
 "--" = No SCO available.
 J = Estimated value; result is less than the sample quantitation limit but greater than zero.

Exceeds Unrestricted Use SCOs
Exceeds Restricted Residential Use SCOs
Exceeds Commercial Use SCOs



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

PROJECT NO.: 0136-013-005

DATE: APRIL 2013

DRAFTED BY: JGT

FIGURE VII-1

SECTION VIII

CONTACT LIST INFORMATION

<u>QUESTION No.</u>	<u>DESCRIPTION</u>
<i>1, 3 – 6</i>	<i>BROWNFIELD SITE CONTACT LIST</i>
<i>2</i>	<i>RESIDENT AND COMMERCIAL CONTACT LIST</i>
<i>7</i>	<i>DOCUMENT REPOSITORY CONFIRMATION LETTER</i>

**Section VIII – Questions 1 and 3-6
Brownfield Site Contact List**

**1050-1088 Niagara Street Site
Brownfield Cleanup Program Application**

CONTACT LIST (EXCEPT ADJACENT RESIDENTS)

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

Erie County Contacts:

Honorable Mark Poloncarz
Erie County Executive
95 Franklin Street, 16th floor
Buffalo, NY 14202

Ms. Betty Jean Grant
District 2 Erie County Legislator
790 East Delavan Avenue
Buffalo, NY 14215

Commissioner Maria R. Whyte
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
92 Franklin Street, 7th floor
Buffalo, NY 14202

Mr. Christopher Pawenski
Erie Co. Environment & Plan.
95 Franklin St.
Buffalo, NY 14202

Commissioner Gale Burstein
Erie Co. Health Dept.
95 Franklin Street, Room 931
Buffalo, NY 14202

Commissioner Daniel Neaverth, Jr.
Erie County Local Emergency
45 Elm St.
Buffalo, NY 14203

Mr. John J. LaFalce
ECIDA
143 Genesee Street
Buffalo, NY 14203

**Section VIII – Questions 1 and 3-6
Brownfield Site Contact List**

**1050-1088 Niagara Street Site
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 K. Morrell, Chairman
City of Buffalo
Planning Board
901 City Hall
Buffalo, NY 14219

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: Ms. Anne Marie Franczyk
465 Main Street
Buffalo, NY 14203-1793

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

**Section VIII – Questions 1 and 3-6
Brownfield Site Contact List**

**1050-1088 Niagara Street Site
Brownfield Cleanup Program Application**

Supplier of Potable Water:

Buffalo Water Authority
281 Exchange Street
Buffalo, NY 14204

Nearby Schools:

Dr. Wanda Schoenfeld, Principal
PS 30 Frank A Sedita Academy
21 Lowell Street
Buffalo, NY 14213

Ms. Nadia Nashir, Principal
PS 45 International School
141 Hoyt Street
Buffalo, NY 14213

Ms. Valarie Kent, Principal
PS 18 Dr. Antonia Pantoja
Community School of Academic
Excellence@77
370 Normal Ave.
Buffalo, NY 14213

Howard Lewis Parent Center
179 Albany Street
Buffalo NY 14213

Other Interested Parties:

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

Document Repository:

Ms. Kathy Galvin, Director
Buffalo & Erie County Public Library
Niagara Branch
280 Porter Ave
Buffalo, NY 14201



Section VIII - Question 2
Table VIII-1
Resident-Commercial Contact List

1050-1088 Niagara Street Site
Brownfield Cleanup Program Application

Adjacent Property Address			Property Owner Mailing Address
No.	Street	Property Use	
1100	Niagara Street	Industrial	Big Sky Seeding Company 275 West St, STE 204 Aurapolis, MD 21401
1111	Niagara Street	Industrial	1115 NS Holdings LLC 1111 Niagara St Buffalo, NY 14213
1095	Niagara Street	Industrial	1095 Niagara Street INC 4239 Sheva LN Hamburg, NY 14075
1085	Niagara Street	Commercial	Naples Family Trust #2 c/o Marco's Restaurant 1085 Niagara St Buffalo, NY 14213
1032	Niagara Street	Industrial	1032 Niagara Street LLC 33 Harbour Pointe Common Buffalo, NY 14202
1054	Niagara Street	Industrial	9271 Group LLC 201 Ellicott Square BLDG Buffalo, NY 14203
1073	Niagara Street	Commercial	Niagara Fargo Services INC 2915 Fix Rd
1067	Niagara Street	Commercial	Niagara Fargo Services INC 2915 Fix Rd
1065	Niagara Street	Residential (2)	Pablo Leonel Cuevas 12 Clifford St Buffalo NY 14210
1063	Niagara Street	Residential	Clinton Holcomb 1675 Niagara St Buffalo, NY 14207
1061	Niagara Street	Residential	Enzo & Giovanna Stinziani 1061 Niagara St
1057	Niagara Street	Residential (2)*	Charles R Varco 1057 Niagara St Buffalo, NY 14213



Section VIII - Question 2
Table VIII-1
Resident-Commercial Contact List

1050-1088 Niagara Street Site
Brownfield Cleanup Program Application

Adjacent Property Address			Property Owner Mailing Address
No.	Street	Property Use	
1053	Niagara Street	Residential (2)	James C Hall 1053 Niagara St Buffalo, NY 14213
1051	Niagara Street	Residential (3)*	Khin Htay OO 931 Niagara St Buffalo, NY 14207
1047	Niagara Street	Residential (2)	Khin Htay OO 931 Niagara St Buffalo, NY 14207
1045	Niagara Street	Residential (2)	Rosina Bolden 1045 Niagara St Buffalo, NY 14213
1041	Niagara Street	Residential (2)	Daniel R Vargas 1041 Niagara St Buffalo, NY 14213
1039	Niagara Street	Residential (2)	Lenny Johnson 1039 Niagara St Buffalo, NY 14213
71	Albany Street	Commercial	Highland Glen Realty PO Box 976 Buffalo, NY 14213

*Residential (2) refers to a 2 resident property

*Residential (3) refers to a 3 resident property



April 15, 2013

Ms. Kathy Galvin
Library Director
Niagara Branch Library
280 Porter Avenue
Buffalo, NY 14201

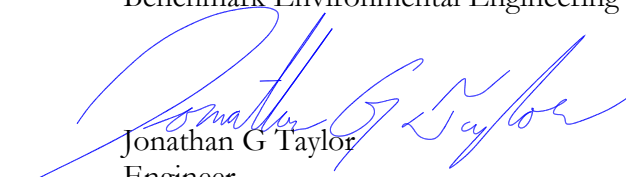
Re: Document Repository for Brownfield Cleanup Program
1050 – 1088 Niagara Street Site
Buffalo, NY

Dear Ms. Galvin:

Thank you for agreeing to establish the Niagara Branch Library as the document repository for the above-referenced candidate NY State Brownfield Cleanup Program (BCP) Site. In the future, we will be sending various documents related to the Site that should be made available for public review upon request.

Again, we appreciate your cooperation in this matter. Please contact me at 856-0599 if you have questions or require additional information.

Sincerely,
Benchmark Environmental Engineering & Science, PLLC


Jonathan G Taylor
Engineer
jtaylor@benchmarkturnkey.com

cc: Michael A. Lesakowski (TurnKey)

File: 0136-013-005

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2558 Hamburg Turnpike, Suite 300 | Buffalo, NY 14218
phone: (716) 856-0599 | fax: (716) 856-0583

SECTION IX

LAND USE FACTORS

<u>QUESTION No.</u>	<u>DESCRIPTION</u>
<i>3 & 14</i>	<i>ADJACENT LAND USE AND DEVELOPMENT PATTERNS</i>
<i>4</i>	<i>APPLICABLE ZONING LAWS/MAPS</i>
<i>5</i>	<i>COMPREHENSIVE LAND USE PLANS</i>
<i>10</i>	<i>CULTURAL RESOURCES WITHIN ½ MILE</i>
<i>11</i>	<i>NATURAL RESOURCES WITHIN ½ MILE</i>
<i>12</i>	<i>FLOODPLAINS WITHIN ½ MILE</i>
<i>15</i>	<i>GROUNDWATER VULNERABILITY ASSESSMENT</i>
<i>16</i>	<i>SITE GEOGRAPHY/GEOLOGY</i>

Section IX – Questions 3 and 14
Adjacent Land Uses and Development Patterns

1050-1088 Niagara Street Site
Brownfield Cleanup Program Application

HISTORICAL AND/OR RECENT DEVELOPMENT PATTERNS

The Site has a long history of being utilized for industrial and commercial operations since at least 1889. The International Brewing Company, American Gelatine Corp., Gulf Oil Corporation, Hygrade Petroleum Co., The Niagara Lithograph Company, and Miken Companies have all historically operated on the Site. Industrial, commercial, and residential operations were identified for adjacent properties through the years.

Currently the Site is improved with a single building on the 1050 Niagara Street parcel, and flat vacant land on the 1088 Niagara Street parcel, with commercial property to the north and south, residential properties to the east, and railroad tracks, highway (190), and The Niagara River to the west. The surrounding neighborhood was and continues to be developed as a mixed commercial/residential use area. Therefore, the proposed use is consistent with historical and/or current development patterns for the neighborhood.

ADJACENT LAND USES

The Site is located in an urban mixed use light industrial, commercial, residential, and vacant area in the City of Buffalo, New York. Figure IX-1 is a map the general land use of adjacent properties. The property is bounded by Albany Street and a commercial operation to the north; manufacturing facility to the south, Niagara Street and residential properties to the east; and railroad tracks, Interstate 190, and The Niagara River to the west.

Section IX – Questions 3 and 14
Adjacent Land Uses and Development Patterns

1050-1088 Niagara Street Site
Brownfield Cleanup Program Application

	Adjacent Property Owner/Current Use	Apparent Past Use	Comments/Concerns
North:	Commercial Manufacture Big Sky Seeding Company [1100 Niagara Street] 275 West Street Aurapolis, MD 21401	Same	None
South:	Commercial Manufacture 1032 Niagara Street, LLC 33 Harbour Point Common Buffalo, NY 14202	Same	None
East:	Commercial Auto Body Niagara Fargo Services Inc. 2915 Fix Road Grand Island, NY 14072	Same	None
	Residential Pablo Leonel Cuevas 12 Clifford Street Buffalo, NY 14210	Same	None
	Residential Clinton Holcomb 1075 Niagara Street Buffalo, NY 14207	Same	None
	Residential Enzo & Giovanna Stinziani 1061 Niagara Street Buffalo, NY 14213	Same	None
	Residential Charles R Varco 1057 Niagara Street Buffalo, NY 14213	Same	None
	Residential James C Hall 1053 Niagara Street Buffalo, NY 14213	Same	None
	Residential Khin Htay Oo 931 Niagara Street Buffalo, NY 14207	Same	None
West:	Railroad corridor, Highway (190), and The Niagara River	Same	None

Section IX – Question 4
Applicable Zoning Laws/Maps

1050-1088 Niagara Street Site
Brownfield Cleanup Program Application

The proposed use as a commercial/residential development is consistent with the current zoning of the Site and surrounding property use. The mixed commercial and residential use of the surrounding area indicates redevelopment of the Site for planned commercial use as logical to the continued growth and redevelopment of the community. Figure IX-1 illustrates the current zoning for the Site and vicinity.

Section IX – Question 5
Applicable Land Use Plans

1050-1088 Niagara Street Site
Brownfield Cleanup Program Application

BUFFALO’S COMPREHENSIVE LAND USE PLAN

The proposed use of the Site as a commercial/residential development is consistent with Buffalo’s Comprehensive Plan that states, “*The Buffalo Comprehensive Plan was created to guide Buffalo to achieve a shared community vision of our future. We intend to build a city that is a prosperous, green regional center providing livable communities for all its citizens. It will have a thriving, progressive economy with leading edge companies; inclusive community life and harmonious social relations; prestigious medical, academic, and public institutions; and fully restored and enhanced natural, cultural, and built heritage.*”

The proposed redevelopment plan involves physical modifications to the Site, including existing building renovation, and new construction to develop a new commercial development.

The Site does not fall within a designated Brownfield Opportunity Area.

Section IX – Question 10
Cultural Resources Within ½ Mile

1050-1088 Niagara Street Site
Brownfield Cleanup Program Application

According to the NYS Historic Preservation Office GIS mapping website, the Site is not included within an area considered archaeologically sensitive based on information reported to the New York State Office of Parks, Recreation, and Historic Preservation (OPRHP).

No National Register-listed sites exist within a ½-mile radius of the Site (see Figure IX-2).

Section IX – Question 11
Natural Resources Within ½ Mile

1050-1088 Niagara Street Site
Brownfield Cleanup Program Application

The following natural resources exist within ½ mile of the Site:

- The Niagara River is classified water located west of the Site (see Figure IX-3).
- According to the NYSDEC's Environmental Resource Mapper (ERM) there are two important plant habitats/endangered species listed for the area encompassing the Site:
 - The Golden Dock (*Rumex fueginus*) is listed as an endangered rare plant species under NYS Protected Status.
 - The American Burying Beetle (*Nicrophorus americanus*) is listed as an endangered rare animal species under NYS Protection Status.

Section IX – Question 12
Floodplains Within ½ Mile

1050-1088 Niagara Street Site
Brownfield Cleanup Program Application

According to the Erie County On-line GIS mapping website (see Figure IX-4), the Buffalo River floodplain exists within a ½-mile radius of the Site but does not fall within the Site boundaries.

Section IX – Question 15
Groundwater Vulnerability Assessment

1050-1088 Niagara Street Site
Brownfield Cleanup Program Application

POTENTIAL VULNERABILITY OF GROUNDWATER TO CONTAMINATION

Historically, the Site has been used for industrial operations since at least 1889, including commercial printing operations, brewing company, gelatin manufacturer, and a gasoline filling station from at least 1925 through 1951. Multiple gasoline tanks were identified on the northern portion of the site associated with historic Site use a filling station. Previous environmental investigations have identified contamination in on-site subsurface soil/fill.

Soil/fill encountered during the limited Phase II investigation, exhibited PID readings as high as 1,268 ppm in TP-4; elevated readings were observed in TP-3, TP-4, and TP-10. Six VOCs and one SVOC were detected above Unrestricted Use SCOs in soil/fill analytical results (see Table VII-1).

During the limited Phase II investigation, groundwater was not encountered during test pitting activities. Therefore, a thorough evaluation of Site groundwater was not possible. Groundwater monitoring wells will be installed and sampled as part of the Remedial Investigation that will be performed under the BCP.

Based on information gathered to date, there are no known deed restrictions on the use of groundwater at the Site. Potable water is supplied to the Site and surrounding vicinity by municipal water service (City of Buffalo).

GROUNDWATER FLOW/RECHARGE

Based on the previous investigations (see Section VII), no permanent groundwater monitoring wells exist on the Site. Based on surficial topography indicated by USGS quadrangle maps, regional groundwater appears to flow to the west towards the Niagara River.

RECOMMENDATIONS

The previous investigation findings including: multiple historic tanks (USTs and ASTs), former coal bins, a former hydraulic lift, and contaminated soil described above

Section IX – Question 15
Groundwater Vulnerability Assessment

1050-1088 Niagara Street Site
Brownfield Cleanup Program Application

demonstrate potential vulnerability to the groundwater quality. Additional investigation is required to assess Site groundwater quality. Remedial measures may be necessary to reduce potential impacts to groundwater.

Section IX – Question 16
Site Geography/Geology

1050-1088 Niagara Street Site
Brownfield Cleanup Program Application

REGIONAL GEOGRAPHY/GEOLOGY

Based on the bedrock geologic map of Erie County (Buehler and Tesmer, 1963), the Site is situated over the Onondaga Formation of the Middle Devonian Series. The Onondaga Formation is comprised of a varying texture from coarse to very finely crystalline with a dark gray to tan color and chert and fossils within. The unit has an approximated thickness of 110 to 160 feet.

The Site is located within the Erie-Ontario lake plain physiographic province, which is typified by little topographic relief and gentle slope toward Lake Erie, except in the immediate vicinity of major drainage ways (USDA, 1978). The surficial geology of the Lake Erie Plain consists of a thin glacial till (if present), glacio-lacustrine deposits, recent alluvium, and the soils derived from these deposits.

SITE GEOGRAPHY/GEOLOGY

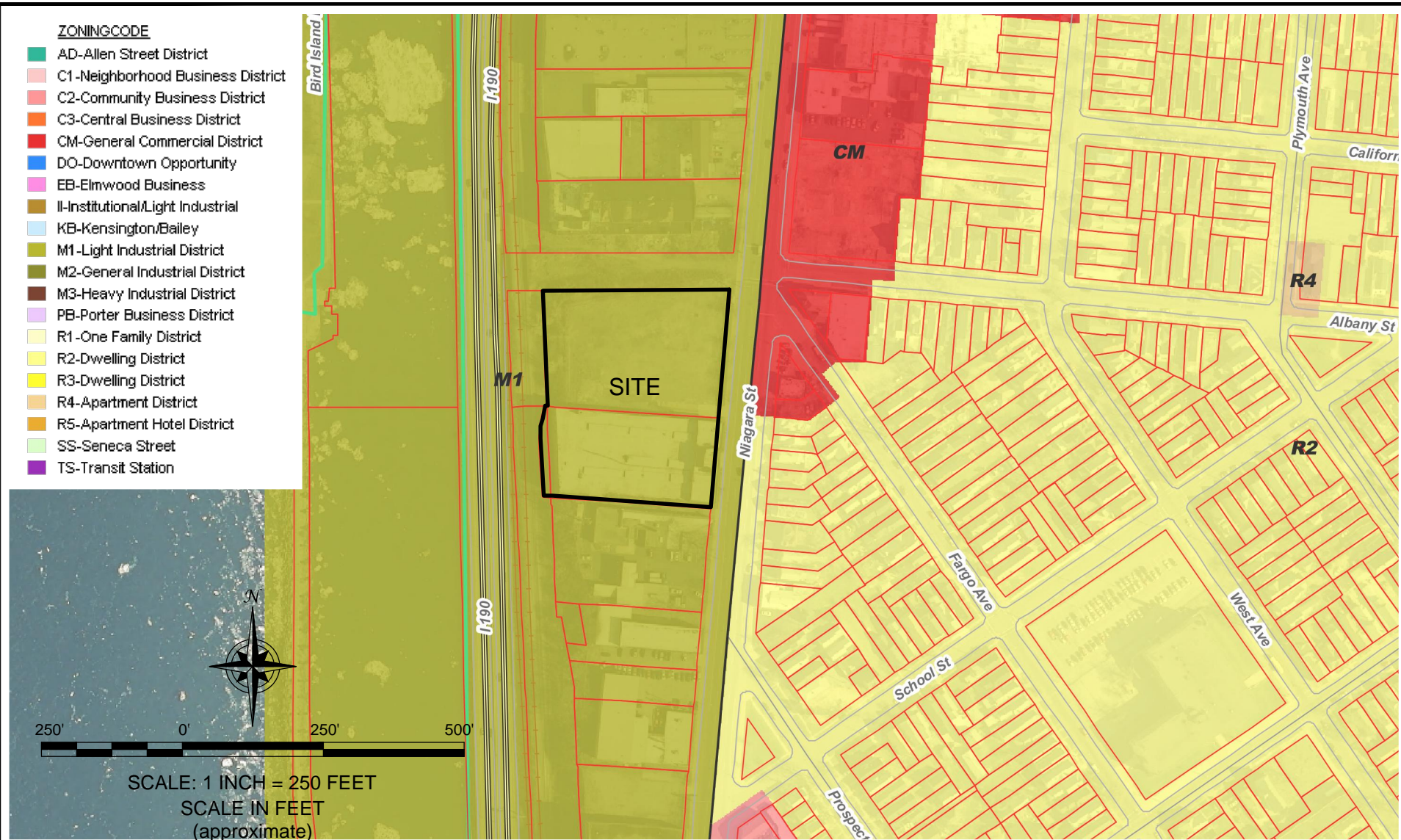
According to the United States Department of Agriculture (USDA) Erie County Soil Map (1978), the surface soils on the Site is characterized as Urban Land, consisting of level to gently sloping land with 80 percent or more of the soil surface covered by asphalt, concrete, buildings, or other impervious structures typical of an urban environment. Mapping of the surface soils in the vicinity of the Site, based on the USDA soil survey, indicates the surficial geology of the area consists of various loams, with slopes typically ranging from 0 to 6%. Figure IX-5 is the USDA 1978 map showing the soil types on and adjacent to the Site.

Based on the test pits advanced during TurbKey's limited Phase II Site Investigation, The subsurface soil/fill can generally be described as sandy lean clay with varying amounts and depths of fill material (i.e., brick, concrete). Apparent foundry sand was observed in TP-1 and TP-5 from approximately 7-10 fbg. Slag fill was observed in the upper foot of TP-5 through TP-9. Petroleum odors were noted in the TP-3 and TP-4. It should be noted that TP-4 was actually a series of test pits that encountered three USTs and an abandoned in-

Section IX – Question 16
Site Geography/Geology

1050-1088 Niagara Street Site
Brownfield Cleanup Program Application

ground lift (see Figure VII-1). Groundwater was not encountered during the test pit excavations.



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SUITE 300
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(716) 856-0635

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NEARBY LAND USE / ZONING MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

1050-1088 NIAGARA STREET SITE

BUFFALO, NEW YORK

PREPARED FOR
9271 GROUP, LLC

FIGURE IX-1



CULTURAL RESOURCES MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

1050-1088 NIAGARA STREET SITE

BUFFALO, NEW YORK

PREPARED FOR
9271 GROUP, LLC

FIGURE IX-2

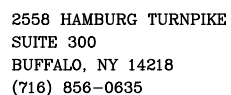


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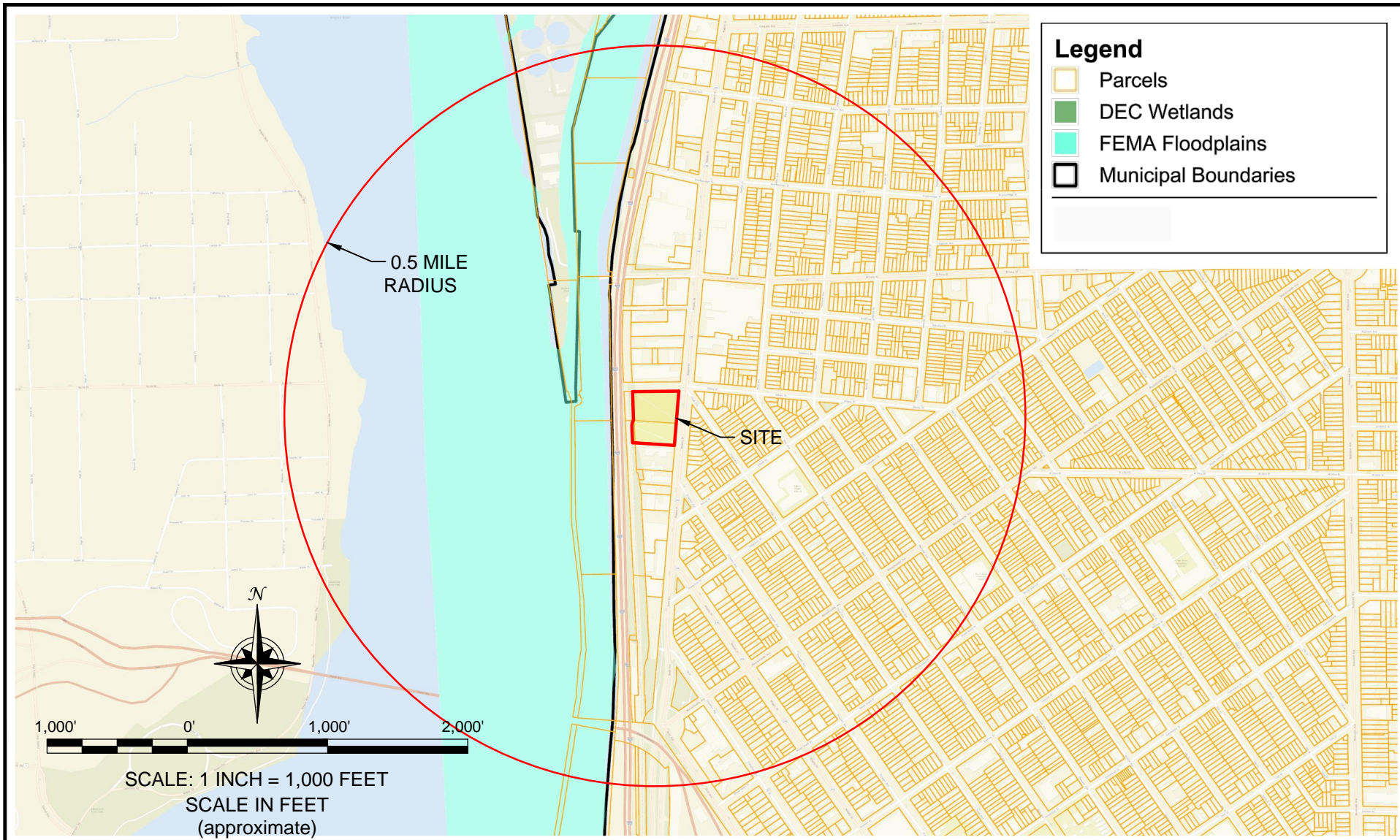
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9271 GROUP, LLC

FIGURE IX-3



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WETLANDS AND FLOODPLAINS MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

1050-1088 NIAGARA STREET SITE

BUFFALO, NEW YORK

PREPARED FOR
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FIGURE IX-4



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SOIL MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

1050-1088 NIAGARA STREET SITE

BUFFALO, NEW YORK

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FIGURE IX-5