

FORMER BUFFALO FORGE PROPERTY
ERIE COUNTY, NEW YORK

Final Engineering Report
Amendment

NYSDEC Site Number: C915280

Prepared for:

Howden North America, Inc.
SAAKC Buffalo Forge, LLC

Prepared by:



BRYDGES ENGINEERING
IN ENVIRONMENT AND ENERGY, DPC

960 Busti Avenue
Suite B-150
Buffalo, New York 14213

JUNE 2022

CERTIFICATIONS

I, Jason M. Brydges, am currently a registered professional engineer licensed by the State of New York, I had primary direct responsibility for implementation of the remedial program activities, and I certify that the Remedial Action Work Plan was implemented and that all construction activities were completed in substantial conformance with the Department-approved Remedial Action Work Plan.

I certify that the data submitted to the Department with this Final Engineering Report Amendment demonstrates that the remediation requirements set forth in the Remedial Action Work Plan and in all applicable statutes and regulations have been or will be achieved in accordance with the time frames, if any, established for the remedy.

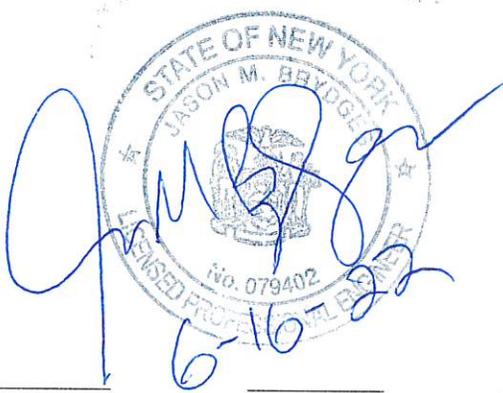
I certify that all use restrictions, Institutional Controls, Engineering Controls, and/or any operation and maintenance requirements applicable to the Site are contained in an environmental easement created and recorded pursuant ECL 71-3605 and that all affected local governments, as defined in ECL 7 1-3603, have been notified that such easement has been recorded.

I certify that a Site Management Plan has been submitted for the continual and proper operation, maintenance, and monitoring of all Engineering Controls employed at the Site, including the proper maintenance of all remaining monitoring wells, and that such plan has been approved by Department.

I certify that all documents generated in support of this report have been submitted in accordance with the DER's electronic submission protocols and have been accepted by the Department.

I certify that all data generated in support of this report have been submitted in accordance with the Department's electronic data deliverable and have been accepted by the Department.

I certify that all information and statements in this certification form are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law. I, Jason M. Brydges of, BE3 Corp, 960 Busti Avenue, Suite B-150, Buffalo, New York 14213 am certifying as Owner's Designated Site Representative for the site.



NYS Professional Engineer #

Date

Signature

TABLE OF CONTENTS

CERTIFICATIONS

1.0 INTRODUCTION.....	1
2.0 AMENDMENT REQUIRMENTS.....	2
3.0 CONTAMINATED SOIL REMOVAL.....	3

LIST OF APPENDICES

A – NYSDEC letter of January 5, 2022 to David Alexander- SAAKC Buffalo Forge, LLC

FINAL ENGINEERING REPORT

AMENDMENT

1.0 INTRODUCTION

Howden North America, Inc. (Howden) entered into a Brownfield Cleanup Program (BCP) with the New York State Department of Environmental Conservation (NYSDEC) in October 30, 2013 (Site number C915280). The agreement was amended (Amendment 1) to include SAAKC Buffalo Forge, LLC as co-applicant on June 20, 2017 to investigate and remediate a 12.426-acre Former Buffalo Forge Property (Site) located in Buffalo, New York.

The Site was remediated to Restricted Residential SCOs except for parcel 498 Broadway and a portion of the 490 Broadway parcel which are for commercial use. The Site was used for the construction of multiple apartment units with surface parking and some commercial uses as noted above.

The Site is located in the County of Erie, New York and is comprised of seven (7) parcels as follows:

- 498 Broadway Street – S.B.L. 111.41-5-31.1
- 233 Mortimer Street – S.B.L. 111.41-8-26
- 213 Mortimer Street – S.B.L. 111.41-4-1.1
- 187 Mortimer Street – S.B.L. 111.41-5-1.1
- 516 Spring Street – S.B.L. 111.41-7-12.1
- 498 Spring Street – S.B.L. 111.41-7-17.1
- 490 Broadway Street – S.B.L. 111.41-6-1.1

The initial Final FER dated November 2019 was accepted by NYSDEC along with the issuance of the Certificate of Completion (COC) dated December 31, 2019.

2.0 AMENDMENT REQUIRMENTS

This amendment was generated as a result of a letter sent by NYSDEC, dated January 5, 2022, to David Alexander as Certifying Party of SAAKC Buffalo Forge, LLC. regarding The Town of Tonawanda Landfill soil disposal of the Former Buffalo Forge Property (BCP #C915280) excavated soils (Copy in **Appendix A**) The letter stated the following.

“The Final Engineering Report for the above referenced site certifies soil/fill excavated during implementation of remedial activities at the Former Buffalo Forge BCP Site was disposed at the Town of Tonawanda Landfill. A review of the NYSDEC disposal reports for the landfill (between 2018 and 2020) indicates all or a portion of this material may have been diverted out of the landfill and used as fill at other remedial sites.”

The diversion of any soil/fill material sent to the Tonawanda Landfill from the Former Buffalo Forge BCP Site during remediation was without the knowledge or approval of the SAAKC Buffalo Forge, LLC (Site owner) or BE3 the Certifying Engineer. SAAKC Buffalo Forge, LLC. paid to have the soil/fill removed from the Site to the Tonawanda Landfill and quantities were verified by generator manifests from EnSol, Inc., the agent/operator of the Town of Tonawanda Landfill and provided in Appendix G of the original FER. The NYSDEC provided approval letters to the landfill accepting the Buffalo Forge Site soil/fill material to be used as Alternate Grading Material (AGM) on the landfill. Copies of these letters are provided in Appendix G of the original FER. Once the disposal receipts/manifests were received by BE3, the original FER was completed/submitted to NYSDEC and the remediation was considered complete including disposal of all materials at approved offsite locations.

According to the NYSDEC January, 5, 2022 letter, the Tonawanda Landfill, instead of using as AGM noted above, moved a substantial amount of the Buffalo Forge soil/fill to other site locations without SAAKC Buffalo Forge, LLC. /BE3 notification or approval. It should also be noted, SAAKC Buffalo Forge, LLC. would not have approved the transfer of any of their material to other locations if notified by the landfill.

The purpose of this amendment is to reflect the ultimate disposition of waste material (soil/fill) generated during the remediation of the Site.

3.0 CONTAMINATED SOIL REMOVAL

A total of **42,711** tons of soil related impacted material from the Former Buffalo Forge Site was disposed off-site at the Tonawanda Landfill by the Project Owner with the approval of NYSDEC. This quantity total was provided in Section 4.3.1 of the original FER and confirmed by manifests in Appendix G of the original FER. According to the NYSDEC letter of January 5, 2022 noted above, a substantial portion of the total Former Buffalo Forge soil/fill quantity sent to the Tonawanda Landfill was diverted by the Tonawanda Landfill to other BCP site locations, include the following:

- **19,297 tons** from the landfill to 837 Baily BCP Site #C915298 - 2019 3rd Quarterly NYSDEC Report.
- **6,390 tons** from the landfill to 837 Baily BCP Site #C915298 - 2019 4th Quarterly NYSDEC Report.
- **6,980 tons** from the landfill to Greenpac Mills Site #C932110 - 2020 3rd NYSDEC Quarterly Report.

Based on the above, **32,667 tons** of the **42,711 tons** sent to the Tonawanda Landfill from the Buffalo Forge site were moved by Tonawanda Landfill from its landfill to other sites leaving **10,044 tons** of Buffalo Forge soil/fill staying at the landfill.

SAAKC Buffalo Forge, LLC. and BE3 Corp. did not give any party consent to re-use the disposed soil at another location. SAAKC Buffalo Forge, LLC and BE3 Corp. have no knowledge of the circumstances surrounding the re-use of the soils or whether any party obtained permission to re-use the soils. SAAKC Buffalo Forge, LLC. and BE3 Corp. disavow any liability for the Former Buffalo Forge Site soils that were removed from the Tonawanda Landfill to other locations as noted above including the actual quantities and the end use of the material sent offsite.

APPENDIX A

NYSDEC JANUARY 5, 2022 LETTER

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Region 9
270 Michigan Avenue, Buffalo, NY 14203-2915
P: (716) 851-7220 | F: (716) 851-7226
www.dec.ny.gov

January 5, 2022

David Alexander
Saakc Buffalo Forge, LLC
150 SE 2nd Ave, Suite 300
Miami, Florida 33131

Dear David Alexander (as the Certifying Party):

Site Management (SM) –
Tonawanda Landfill Soil Disposal
Former Buffalo Forge Property
Buffalo, Erie County, Site No.: **C915280**

The Final Engineering Report for the above referenced site certifies soil/fill excavated during implementation of remedial activities at the Former Buffalo Forge BCP site was disposed at the Tonawanda Landfill. A review of disposal reports for the landfill (between 2018 and 2020) indicates all or a portion of this material may have been diverted out of the landfill and used as fill at other remedial sites (See table below).

Quarterly Report	Fill Location	Volume (Tons)	Notes
2019 - 3rd	490 Broadway, Buffalo	(19,297)	Sent off-site to 837 Bailey (BCP Site #C915298)
2019 - 4th	490 Broadway, Buffalo	(6,390)	Sent off-site to 837 Bailey (BCP Site #C915298)
2020 - 3rd	490 Broadway, Buffalo	(6,980)	Sent off-site to Greenpac Mills (Site #932110)

It is imperative that final engineering reports accurately reflect the ultimate disposition of waste material, especially considering the accuracy of information contained in the report is certified by a professional engineer. Please contact the landfill to verify the ultimate disposition of this material and provide an assessment of the suitability of this material for use at its final disposal location. Following your review, please contact this Department to discuss appropriate revisions to site related documents and Department review of a revised final engineering report.

David Alexander
January 4, 2022
Page 2

If you have any questions, please contact me at 716-851-7220 or email:
stanley.radon@dec.ny.gov.

Thank you for your cooperation.

Sincerely,

Stanley Radon, P.G.
Regional Geologist

SR/ds

ec: Andrea Caprio, Division of Environmental Remediation, NYSDEC Region 9
Benjamin McPherson, Division of Environmental Remediation, NYSDEC Region 9
Megan Kuczka, Division of Environmental Remediation, NYSDEC Region 9
Gillian Brown - Lower West Side Homes II Housing Development Fund Corp.
John Berry – Be3 Corp.
Peter Gorton – Be3 Corp.