

# Brownfield Cleanup Program Application

*2424 Hamburg Turnpike Site  
Lackawanna, New York*

Revised August 2015

0345-015-001



Prepared by:



2558 Hamburg Turnpike, Buffalo, New York | phone: (716) 856-0635 | fax: (716) 856-0583



## BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION FORM

Check here if this application is to request significant changes to property set forth in an existing Brownfield Cleanup Agreement:

☐ Yes

☒ No

(If yes, skip to Section IV; see application instructions) below

Existing BCP project number: \_\_\_\_\_

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

July 2015

#### Section I. Requestor Information - See Instructions for Further Guidance

DEC USE ONLY  
BCP SITE #: \_\_\_\_\_

NAME 2424 Hamburg Turnpike, LLC

ADDRESS 2558 Hamburg Turnpike, Suite 340

CITY/TOWN Buffalo, New York

ZIP CODE 14218

PHONE 716-856-0635

FAX 716-856-0583

E-MAIL mlesakowski@benchmarkturnkey.com

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

☒ Yes ☐ No

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

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

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

#### Section II. Project Description

**See Attachment 3**

1. What stage is the project starting at?

☒ Investigation

☐ Remediation

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

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

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

- reasonably anticipated use and benefits of the project to the community;
- anticipated remedial costs and cost of future development, if available;
- the date that the remedial program is to start; and
- the date the Certificate of Completion is anticipated.

### Section III. Property's Environmental History

All applications **must include** an Investigation Report (per ECL 27-1407(1)). The report must be sufficient to establish contamination of environmental media on the site above applicable Standards, Criteria and Guidance (SCGs) based on the reasonably anticipated use of the property. **See Attachment 4**

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

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

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

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

\*Please describe: \_\_\_\_\_

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

- SAMPLE LOCATION **See Attachment 4**
- DATE OF SAMPLING EVENT
- KEY CONTAMINANTS DETECTED
- FOR SOIL, HIGHLIGHT IF ABOVE REASONABLY ANTICIPATED USE
- FOR GROUNDWATER, HIGHLIGHT EXCEEDANCES OF 6NYCRR PART 703.5
- FOR SOIL GAS/ SOIL VAPOR/ INDOOR AIR, HIGHLIGHT IF ABOVE MITIGATE LEVELS ON THE NEW YORK STATE DEPARTMENT OF HEALTH MATRIX

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

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

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

Other: \_\_\_\_\_

Section IV. Property Information - See Instructions for Further Guidance				
PROPOSED SITE NAME 2424 Hamburg Turnpike				
ADDRESS/LOCATION 2424 Hamburg Turnpike				
CITY/TOWN Lackawanna		ZIP CODE 14218		
MUNICIPALITY(IF MORE THAN ONE, LIST ALL): City of Lackawanna				
COUNTY Erie		SITE SIZE (ACRES) 1.04		
LATITUDE (degrees/minutes/seconds) 42 ° 49 ' 7.16 "		LONGITUDE (degrees/minutes/seconds) 78 ° 50 ' 49.5 "		
COMPLETE TAX MAP INFORMATION FOR ALL TAX PARCELS INCLUDED WITHIN THE PROPERTY BOUNDARIES. ATTACH REQUIRED MAPS PER THE APPLICATION INSTRUCTIONS.				
Parcel Address		Section No.	Block No.	Lot No.
2424 Hamburg Turnpike		141.59	5	2
				Acreage
				1.04
1. Do the proposed site boundaries correspond to tax map metes and bounds? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If no, please attach a metes and bounds description of the property.				
2. Is the required property map attached to the application? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (application will not be processed without map)				
3. For purposes of the tangible property tax credit bonus, is the property within a designated Environmental Zone (En-zone) pursuant to Tax Law 21(6)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, identify census tract (see <a href="#">DEC's website</a> for more information): <u>Census Tract 017400</u> Percentage of property in En-zone (check one): <input type="checkbox"/> 0-49% <input type="checkbox"/> 50-99% <input checked="" type="checkbox"/> 100%				
4. Is this application one of multiple applications for a large development project, where the development project spans more than 25 acres (see additional criteria in BCP application instructions)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, identify name of properties (and site numbers if available) in related BCP applications: _____				
5. Is the contamination from groundwater or soil vapor solely emanating from property other than the site subject to the present application? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
6. Has the property previously been remediated pursuant to Titles 9, 13, or 14 of ECL Article 27, Title 5 of ECL Article 56, or Article 12 of Navigation Law? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, attach relevant supporting documentation.				
7. Are there any lands under water? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, these lands should be clearly delineated on the site map.				

**Section IV. Property Information (continued)**

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

Easement/Right-of-way Holder

Description

See Attachment 2

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

Type

Issuing Agency

Description

See Attachment 2

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

See Attachment 2

11. For sites located within the five counties comprising New York City, is the requestor seeking a determination that the site is eligible for tangible property tax credits?  
If yes, requestor must answer questions on the supplement at the end of this form. ☐ Yes ☐ No

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

Initials of each Requestor:

PW

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

<b>Section V. Additional Requestor Information</b> <b>See Instructions for Further Guidance</b>		DEC USE ONLY BCP SITE NAME: _____ BCP SITE #: _____	
NAME OF REQUESTOR'S AUTHORIZED REPRESENTATIVE Paul H. Werthman			
ADDRESS 2558 Hamburg Turnpike			
CITY/TOWN Buffalo, New York		ZIP CODE 14218	
PHONE 716-856-0635	FAX 716-0583	E-MAIL pwerthman@benchmarkturnkey.com	
NAME OF REQUESTOR'S CONSULTANT Same as Requestor			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
NAME OF REQUESTOR'S ATTORNEY Craig A. Slater, Esq., The Slater Law Firm, PLLC			
ADDRESS 26 Mississippi Street - Suite 400			
CITY/TOWN Buffalo		ZIP CODE 14203	
PHONE 716-845-6760	FAX NA	E-MAIL cslater@cslaterlaw.com	
<b>Section VI. Current Property Owner/Operator Information – if not a Requestor</b>			
CURRENT OWNER'S NAME Samuel Siegel c/o David Siegel			
ADDRESS 300 Main Street			
CITY/TOWN Buffalo		ZIP CODE 14202	
PHONE 561-748-0343	FAX NA	E-MAIL siegs@roadrunner.com	
CURRENT OPERATOR'S NAME Same as owner			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
<b>IF REQUESTOR IS NOT THE CURRENT OWNER, DESCRIBE REQUESTOR'S RELATIONSHIP TO THE CURRENT OWNER, INCLUDING ANY RELATIONSHIP BETWEEN REQUESTOR'S CORPORATE MEMBERS AND THE CURRENT OWNER.</b> <b>PROVIDE A LIST OF PREVIOUS PROPERTY OWNERS AND OPERATORS WITH NAMES, LAST KNOWN ADDRESSES AND TELEPHONE NUMBERS AS AN ATTACHMENT. DESCRIBE REQUESTOR'S RELATIONSHIP, TO EACH PREVIOUS OWNER AND OPERATOR, INCLUDING ANY RELATIONSHIP BETWEEN REQUESTOR'S CORPORATE MEMBERS AND PREVIOUS OWNER AND OPERATOR. IF NO RELATIONSHIP, PUT "NONE".</b>			
<b>Section VII. Requestor Eligibility Information (Please refer to ECL § 27-1407)</b>			
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 for the investigation, removal or remediation of 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? Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			

## Section VII. Requestor Eligibility Information (continued)

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

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

### ☐ PARTICIPANT

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

### ☒ VOLUNTEER

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

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

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

See Attachment 3

## Section VII. Requestor Eligibility Information (continued)

Requestor Relationship to Property (check one):

☐ Previous Owner ☐ Current Owner ☒ Potential /Future Purchaser ☐ Other \_\_\_\_\_

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

☒ Yes ☐ No

**See Attachment 1**

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

## Section VIII. Property Eligibility Information - See Instructions for Further Guidance **See Attachment 3**

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

## Section IX. Contact List Information

To be considered complete, the application must include the Brownfield Site Contact List in accordance with [DER-23 / Citizen Participation Handbook for Remedial Programs](#). Please attach, at a minimum, the names and addresses of the following: **See Attachment 5**

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

## Section X. Land Use Factors

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

☐ Residential ☒ Commercial ☐ Industrial

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

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

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

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

If residential, does it qualify as single family housing?

☐ Yes ☐ No

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

☒ Yes ☐ No

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

☒ Yes ☐ No

See Attachment 7 and Figure 6

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

☒ Yes ☐ No

See Attachment 7

## XI. Statement of Certification and Signatures

(By a requestor other than an individual)

I hereby affirm that I am Managing Member (title) of 2424 Hamburg Turnpike, LLC (entity); that I am authorized by that entity to make this application and execute the Brownfield Cleanup Agreement (BCA) and all subsequent amendments; that this application was prepared by me or under my supervision and direction. If this application is approved, I acknowledge and agree to execute a BCA within 60 days of the date of DEC's approval letter. I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

Date:

8/4/15

Signature:



Print Name:

Paul H Westhman

### SUBMITTAL INFORMATION:

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

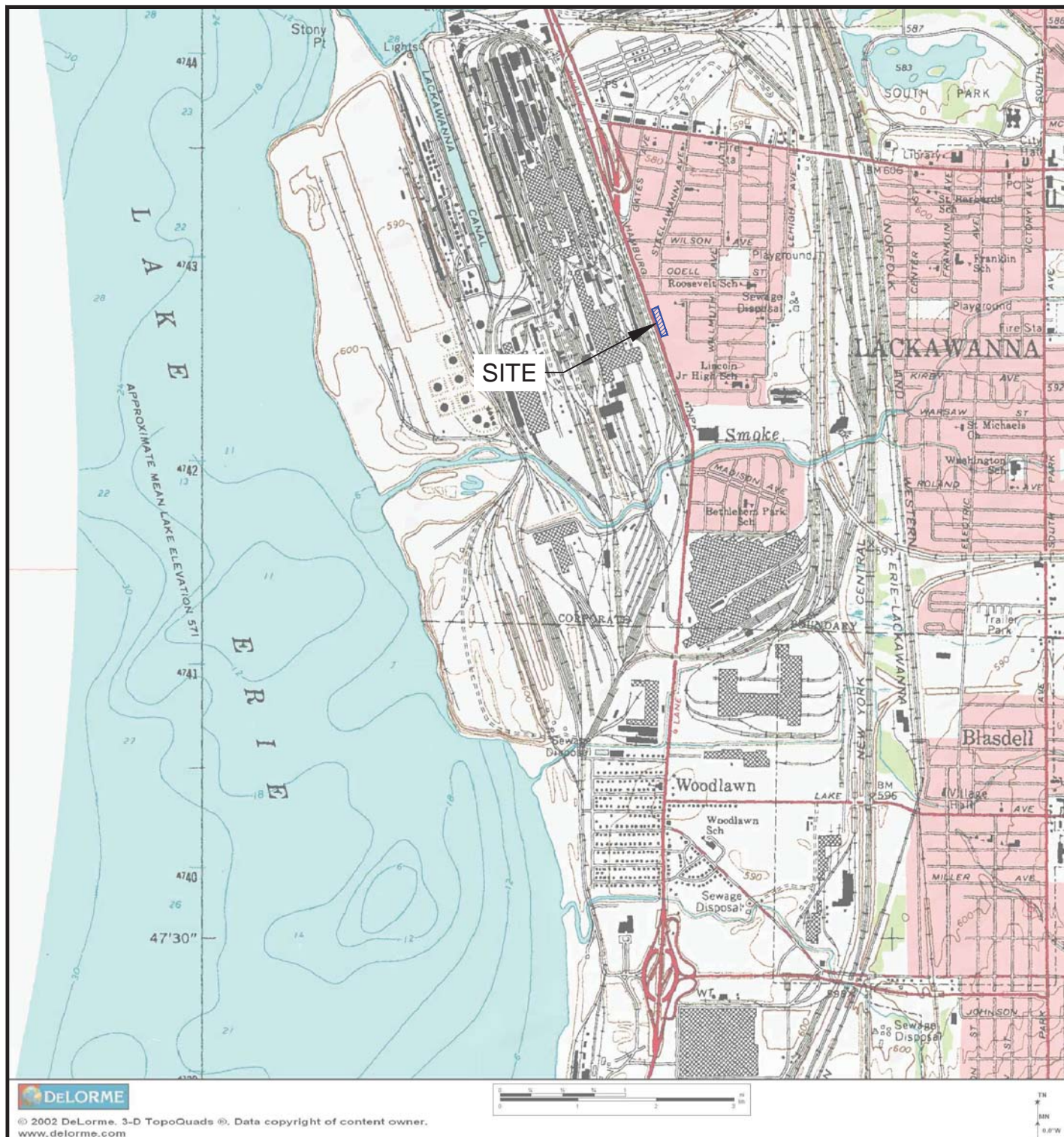
FOR DEC USE ONLY

BCP SITE T&A CODE: \_\_\_\_\_

LEAD OFFICE: \_\_\_\_\_

## FIGURES

# FIGURE 1



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www.delorme.com



2556 HAMBURG TURNPIKE  
SUITE 300  
BUFFALO, NY 14218  
(716) 856-0599

## SITE LOCATION & VICINITY MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

2424 HAMBURG TURNPIKE SITE

LACKAWANNA, NEW YORK

PREPARED FOR

2424 HAMBURG TURNPIKE, LLC

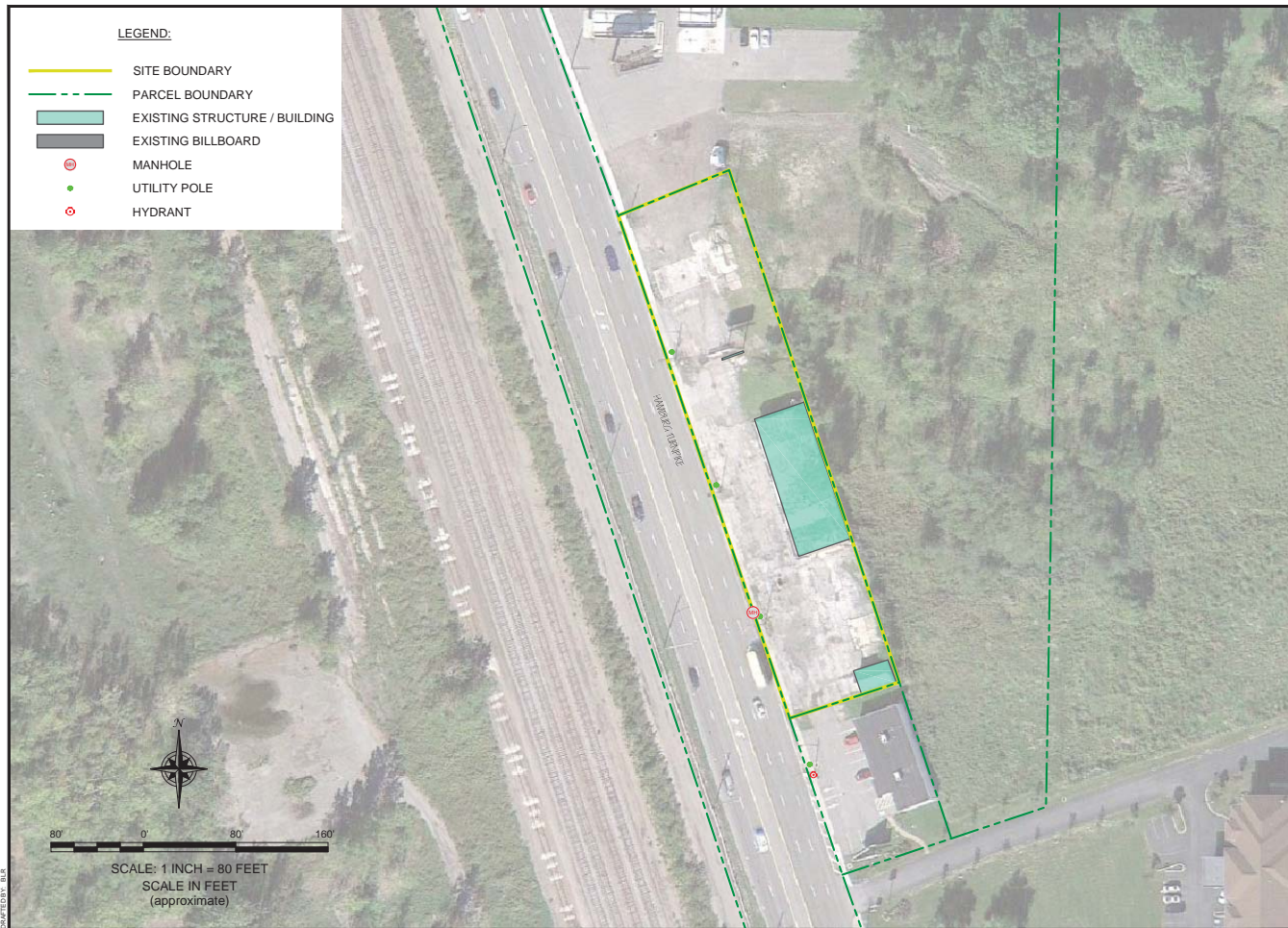
PROJECT NO.: 0345-015-001

DATE: MAY 2015

DRAFTED BY: BLR

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## SITE PLAN

BROWNFIELD CLEANUP PROGRAM APPLICATION  
2424 HAMBURG TURNPIKE SITE  
LACKAWANNA, NEW YORK  
2424 HAMBURG TURNPIKE, LLC

**BENCHMARK**  
LACKAWANNA  
ENGINEERING &  
SCIENCE, PLLC  
2558 HAMBURG TURNPIKE  
SUITE 300  
BUFFALO, NY 14218  
(716) 866-0589

JOB NO.: 0345-015-001

FIGURE 2

DISCLAIMER: BENCHMARK EES, PLLC, PROVIDES THIS DRAWING AS A PROFESSIONAL SERVICE AND AS SUCH IS SUBJECT TO RECALL AT ANY TIME. INFORMATION CONTAINED HEREON IS NOT TO BE DISCLOSED OR REPRODUCED IN ANY FORM OR BY ANY MEANS WITHOUT THE WRITTEN CONSENT OF BENCHMARK EES, PLLC.

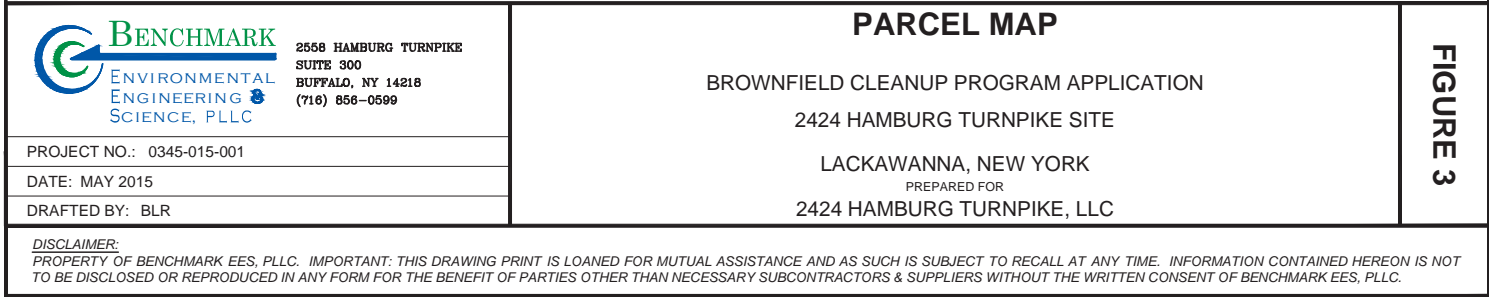
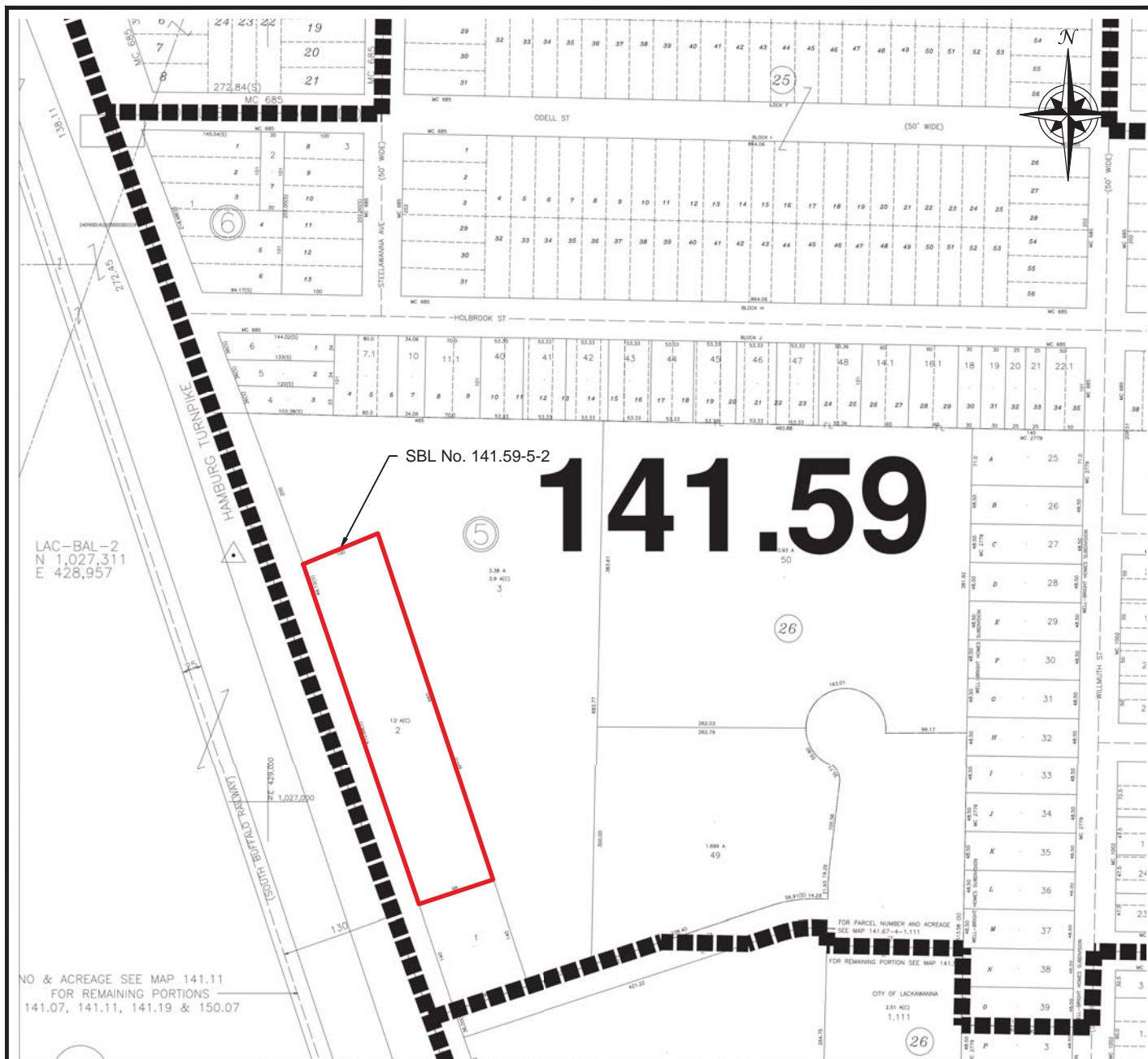


FIGURE 4



PREPARED BY

**AERO SERVICE**

Litton Philadelphia, Pennsylvania 19135

PREPARED FOR

**DIVISION OF REAL PROPERTY TAX SERVICES**

ERIE COUNTY, NEW YORK © 1981

200' 0' 200' 400'

SCALE: 1 INCH = 200 FEET

SCALE IN FEET

(approximate)



**2558 HAMBURG TURNPIKE  
SUITE 300  
BUFFALO, NY 14218  
(716) 856-0599**

PROJECT NO.: 0345-015-001

DATE: MAY 2015

DRAFTED BY: BLR

## TAX MAP

**BROWNFIELD CLEANUP PROGRAM APPLICATION**

**2424 HAMBURG TURNPIKE SITE**

**LACKAWANNA, NEW YORK**

PREPARED FOR

**2424 HAMBURG TURNPIKE, LLC**

**DISCLAIMER:**

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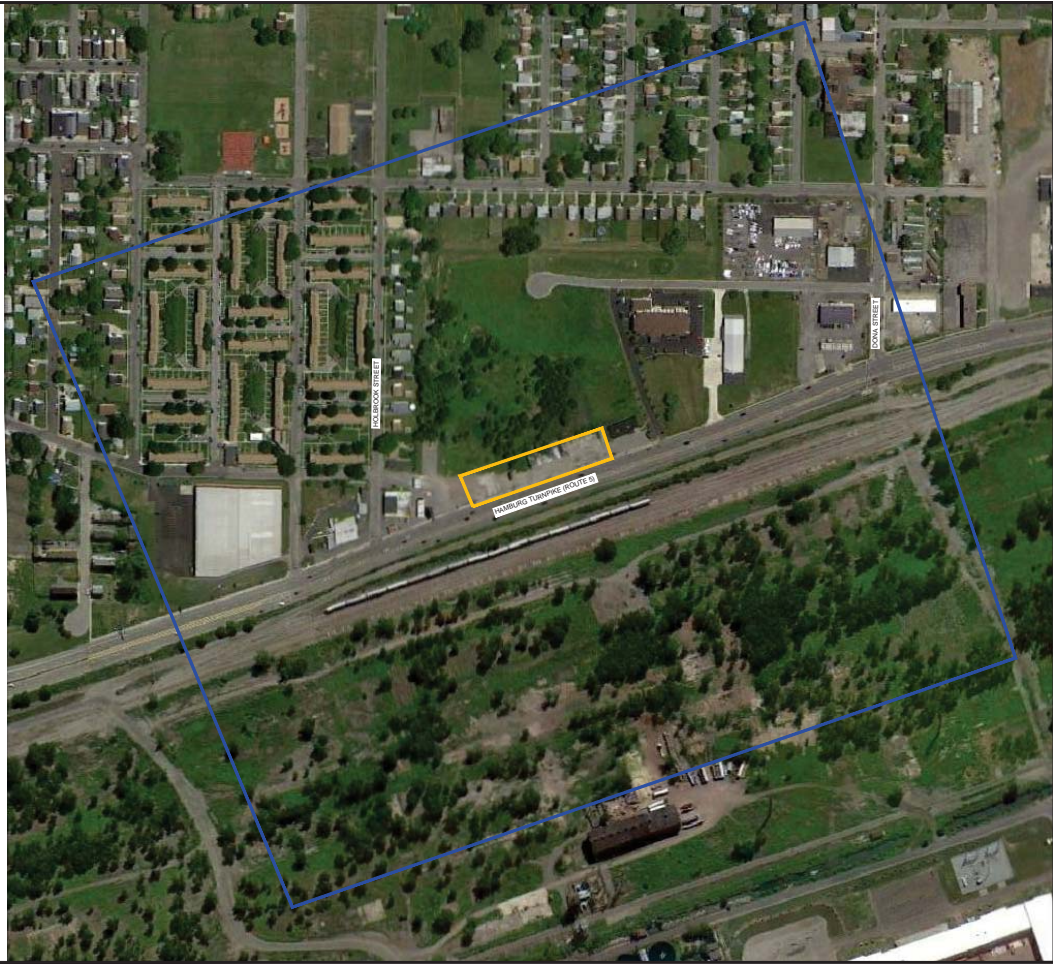
DATE: MAY 2015  
DRAWN BY: BLA



SCALE: 1 INCH = 300 FEET  
SCALE IN FEET  
(approximate)

**LEGEND**  
PARCEL BOUNDARY  
1,000 FOOT SETBACK

NOTES:  
1. ALL LOCATIONS AND BOUNDARIES ARE APPROXIMATE.  
2. AERIAL IMAGE SOURCE: GOOGLE EARTH.



### PROPERTY BASEMAP (1,000' SETBACK)

BROWNFIELD CLEANUP PROGRAM APPLICATION  
2424 HAMBURG TURNPIKE SITE  
LACKAWANNA, NEW YORK  
2424 HAMBURG TURNPIKE, LLC

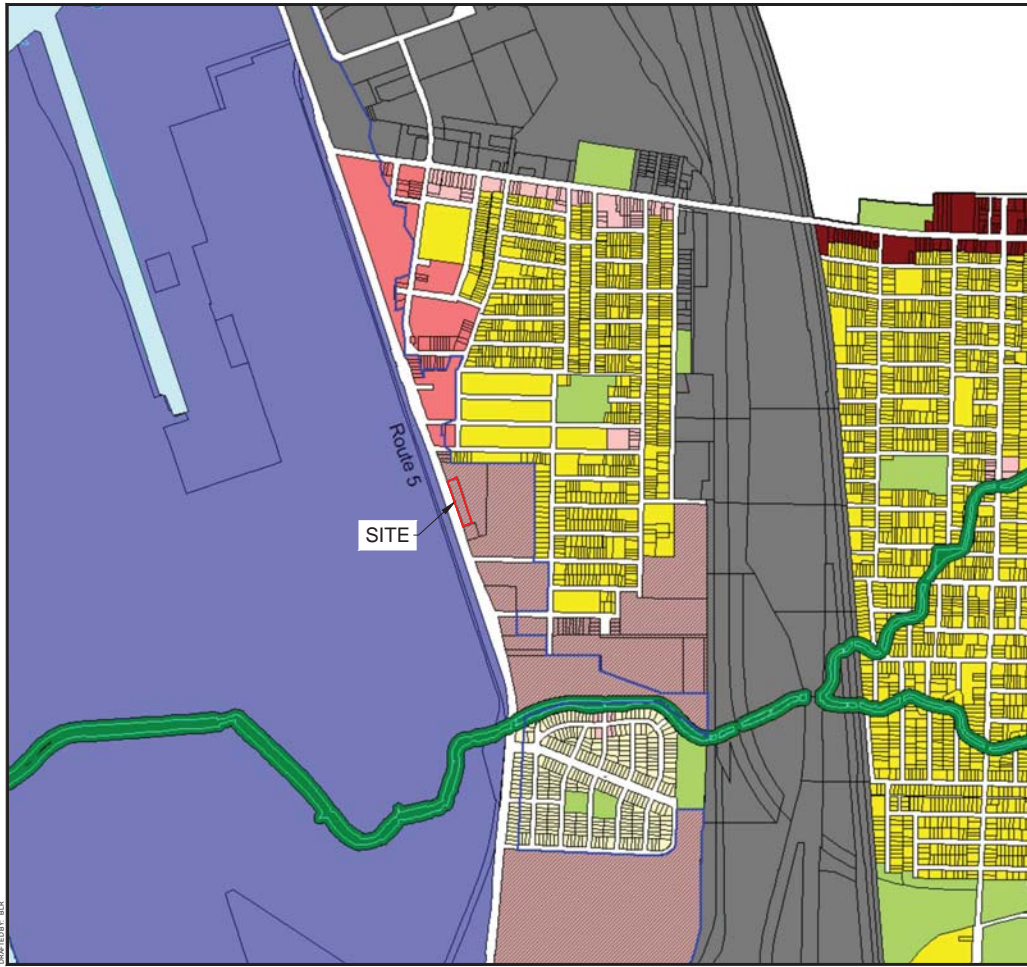
**BENCHMARK**  
ENGINEERING &  
SCIENCE, PLLC  
2559 HAMBURG TURNPIKE  
SUITE 300  
BUFFALO, NY 14218  
(716) 866-0599

JOB NO.: 0345-015-001

**FIGURE 5**

DISCLAIMER:  
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DATE: MAY 2015  
DRAWN BY: BJA



#### LEGEND

- Zoning
- Single Family Residential
  - Mixed Residential
  - Central Business District
  - Neighborhood Commercial
  - Regional Commercial
  - Mixed Commercial/ Industrial
  - Industrial
  - Bethlehem Redevelopment Area
  - Open Space
  - McKinley Parkway Overlay
  - Seaway Trail Overlay
  - Smokes Creek Overlay



1000' 0' 1000' 2000'

SCALE: 1 INCH = 1,000 FEET  
SCALE IN FEET  
(approximate)

#### Prepared by:

peter j. smith & company, inc.  
Buffalo, New York and Fort Erie, Ontario

URS Greiner, Woodward, Clyde  
Buffalo, New York

#### NEARBY LAND USE-ZONING MAP

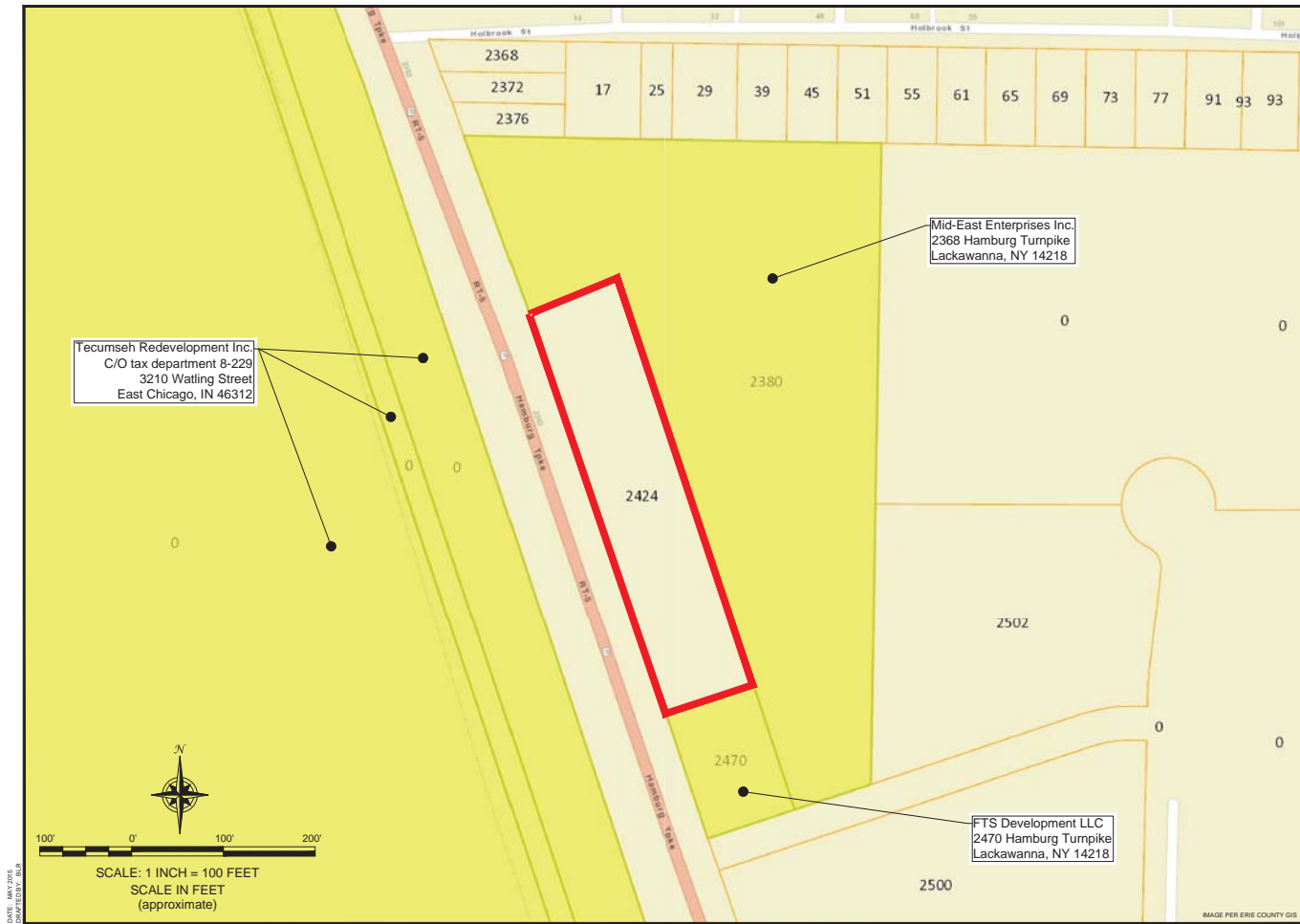
BROWNFIELD CLEANUP PROGRAM APPLICATION  
2424 HAMBURG TURNPIKE SITE  
LACKAWANNA, NEW YORK  
2424 HAMBURG TURNPIKE, LLC

FIGURE 6

**BENCHMARK**  
ENGINEERING &  
SCIENCE, PLLC  
2558 HAMBURG TURNPIKE  
SUITE 300  
BUFFALO, NY 14218  
(716) 866-0589

JOB NO.: 0345-015-001

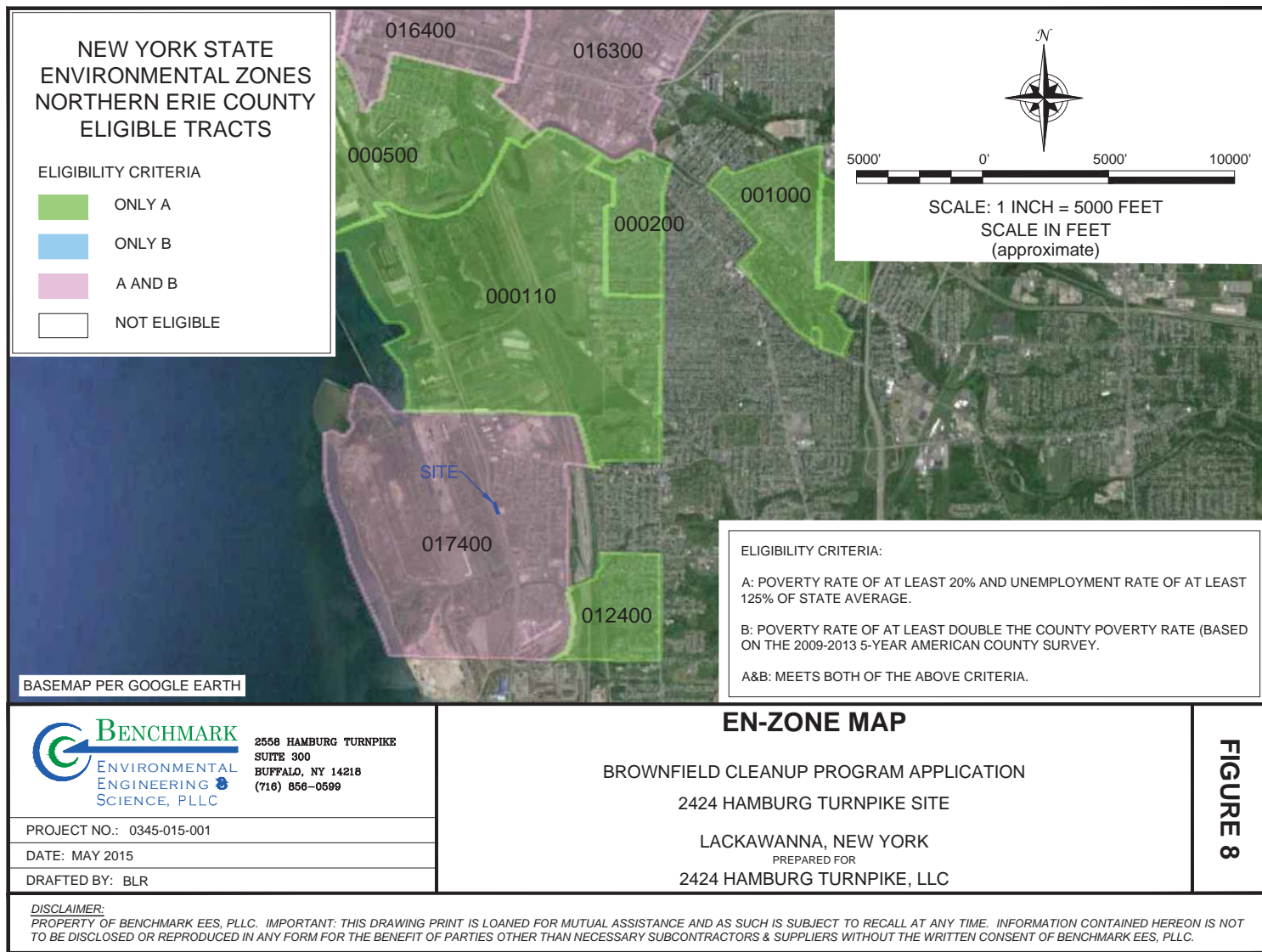
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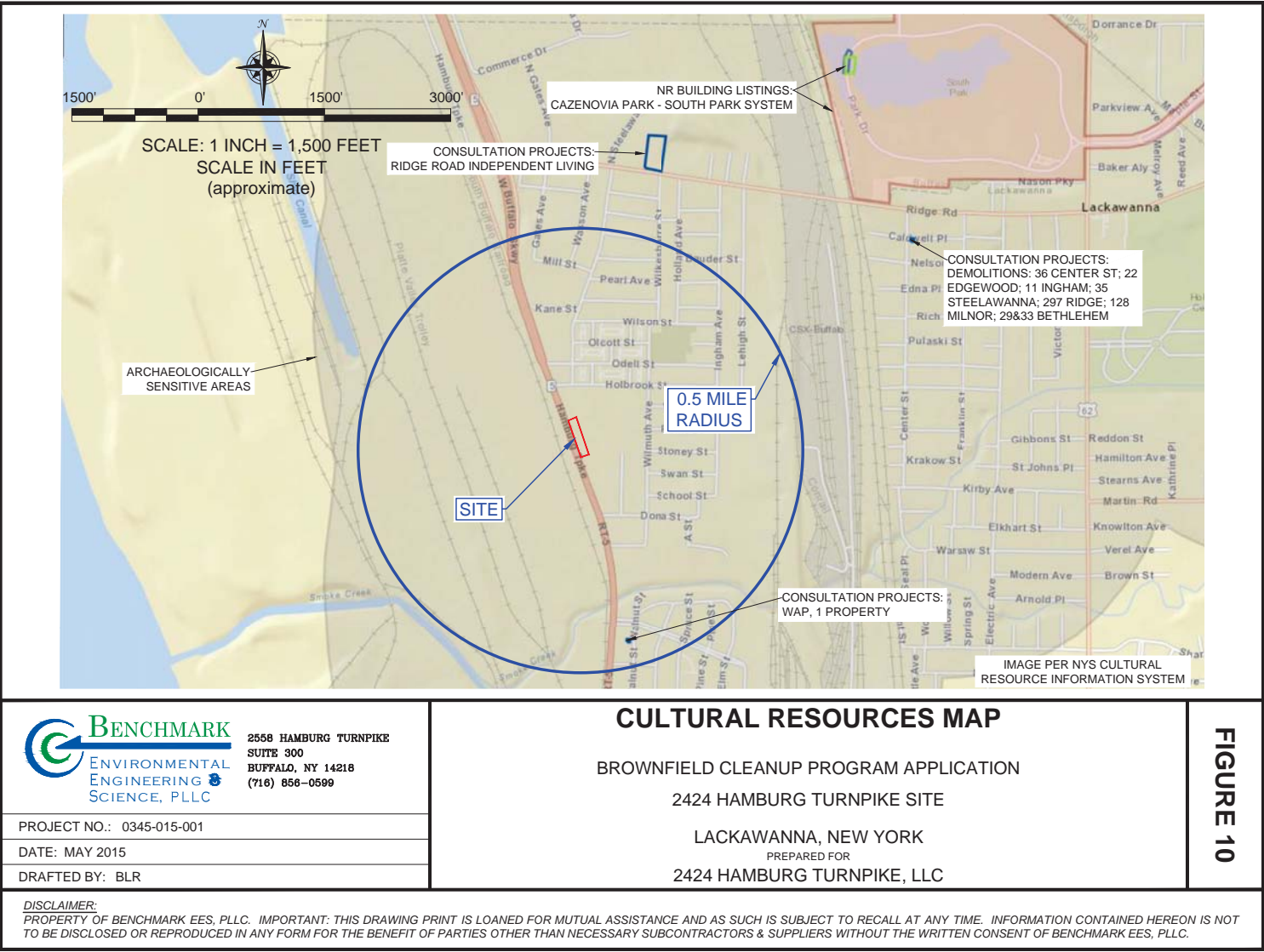
<b>BENCHMARK</b> ENGINEERING & SCIENCE, PLLC 2509 HAMBURG TURNPIKE SUITE 300 BUFFALO, NY 14218 (716) 866-0599	<b>ADJACENT PROPERTY OWNERS</b> BROWNFIELD CLEANUP PROGRAM APPLICATION 2424 HAMBURG TURNPIKE SITE LACKAWANNA, NEW YORK 2424 HAMBURG TURNPIKE, LLC	<b>FIGURE 7</b>
--	---	-----------------

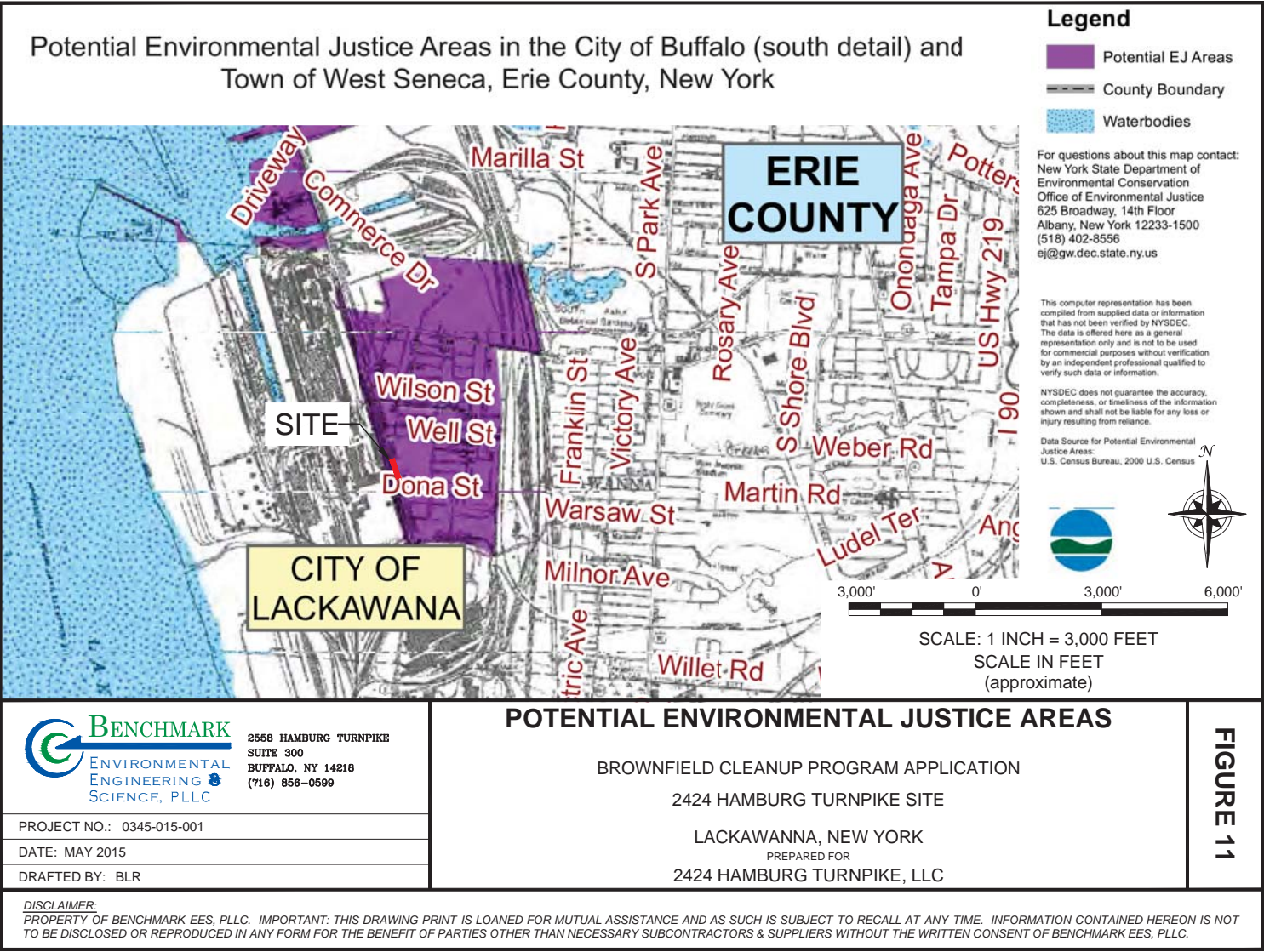
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JOB NO.: 0345-015-001

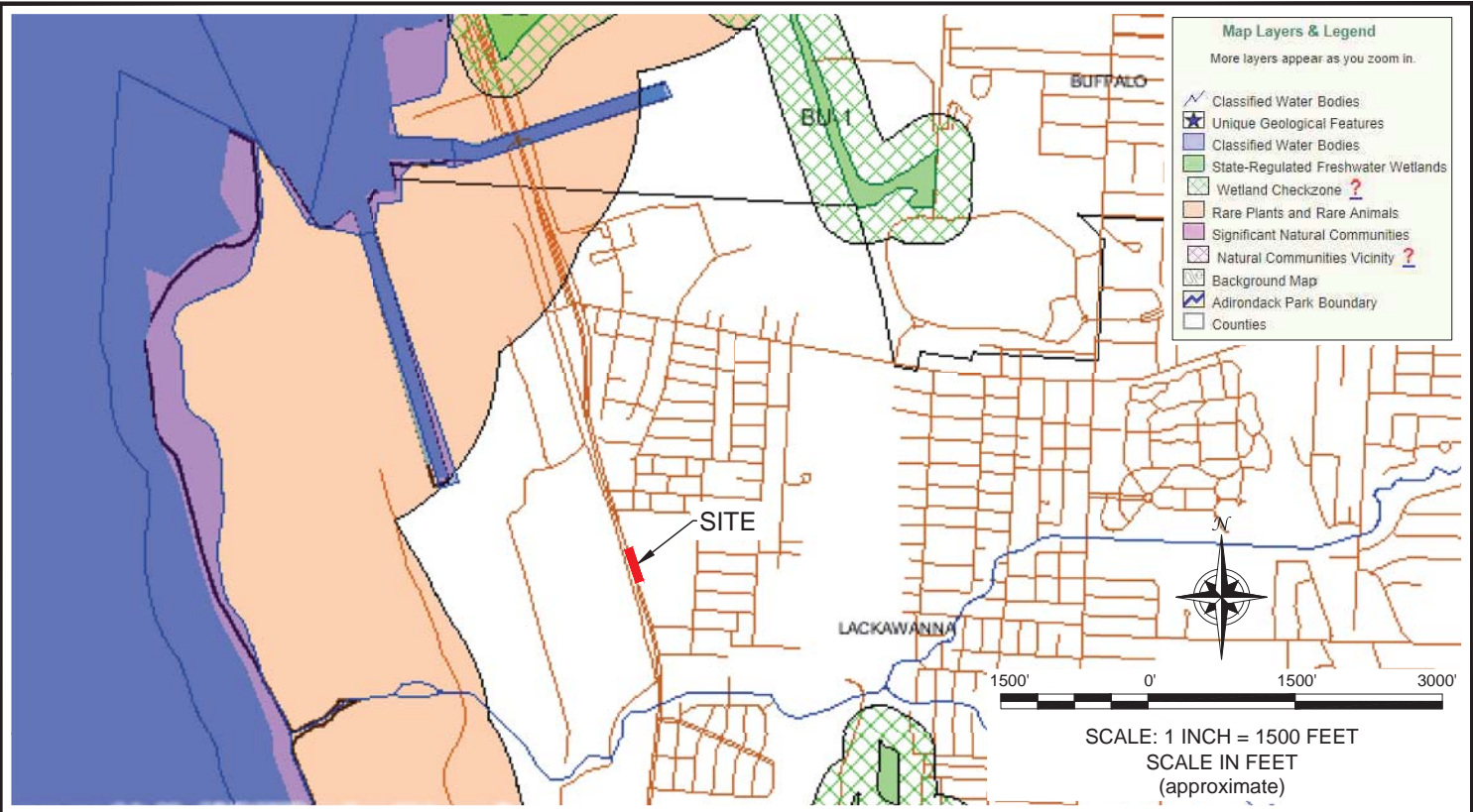


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F:\CAD\Benchmak\2424 Hamburg Turnpike, LLC\BCP App\Figure 12, Natural Resources Map.dwg



2558 HAMBURG TURNPIKE  
SUITE 300  
BUFFALO, NY 14218  
(716) 856-0599

PROJECT NO.: 0345-015-001

DATE: MAY 2015

DRAFTED BY: BLR

## NATURAL RESOURCES MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

2424 HAMBURG TURNPIKE SITE

LACKAWANNA, NEW YORK

PREPARED FOR

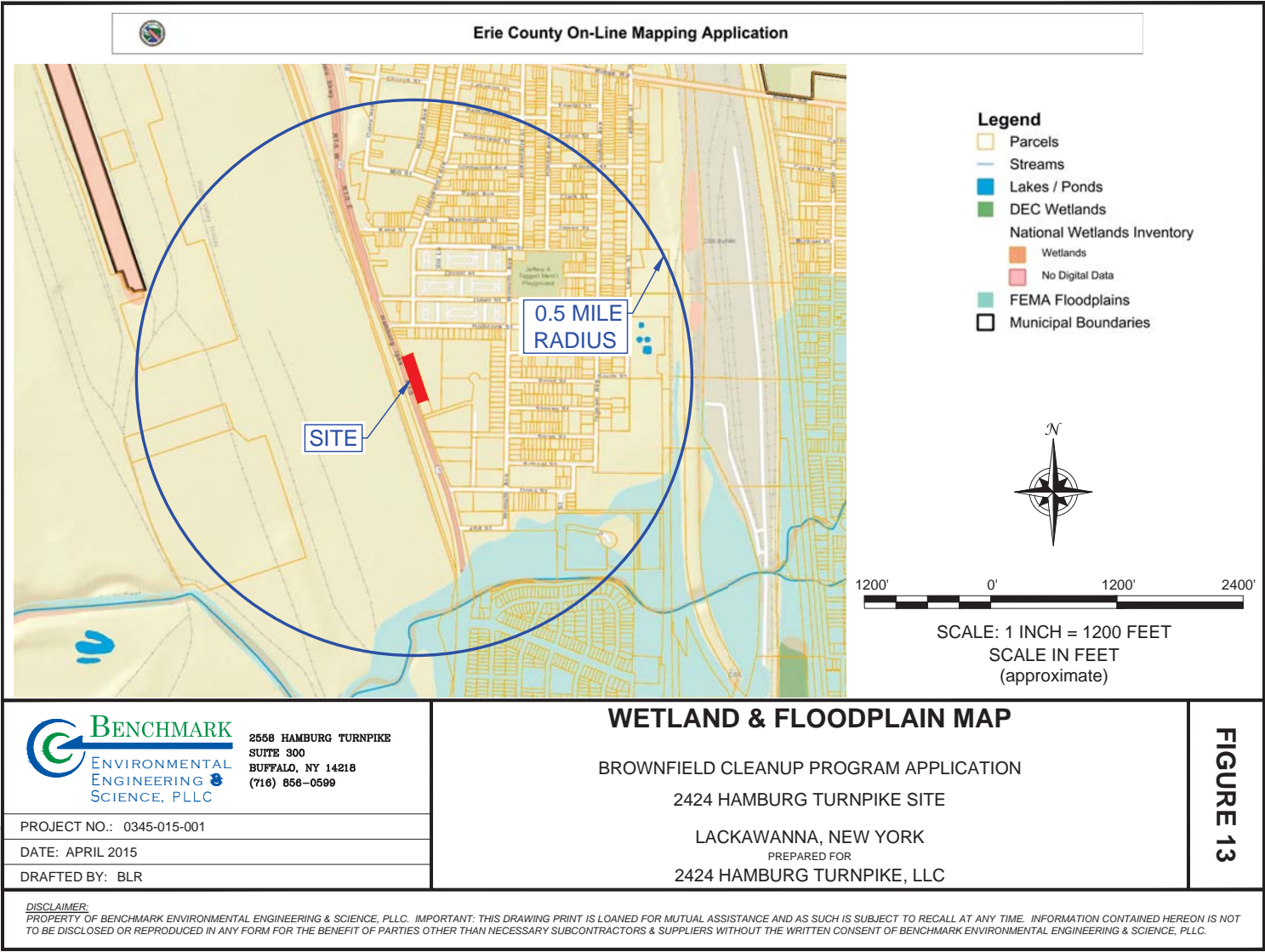
2424 HAMBURG TURNPIKE, LLC

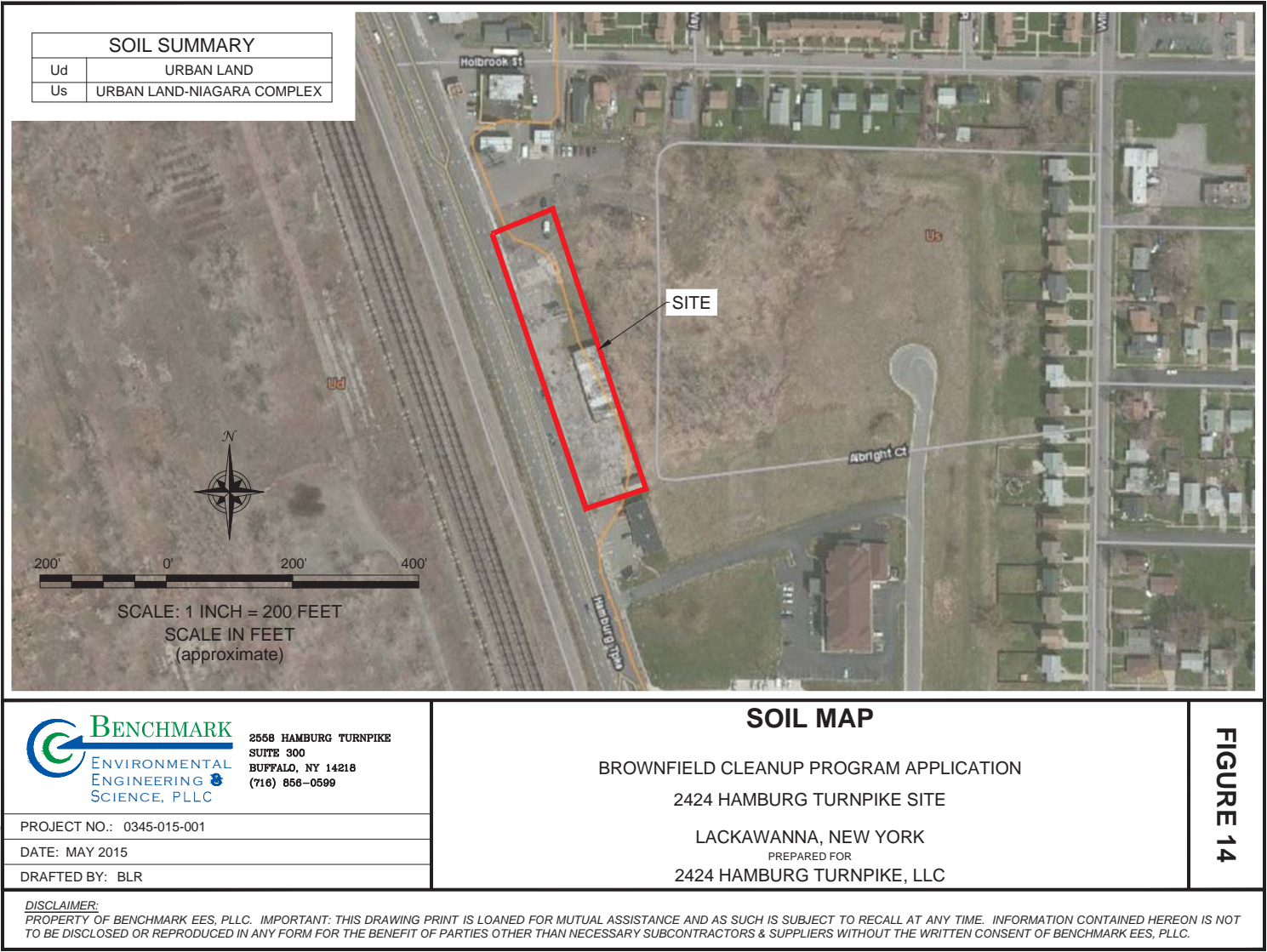
**FIGURE 12**

**DISCLAIMER:**

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F:\CAD\Benchmark\2424 Hamburg Turnpike, LLC\BCP Appl\Figure 13, Wetland and Floodplain Map.dwg





# ATTACHMENT 1

## BCP APPLICATION – SECTION I

### REQUESTER INFORMATION

NYS DEPARTMENT OF STATE CORPORATION & BUSINESS ENTITY DATABASE

SIGNATURE RESOLUTION

SITE ACCESS LETTER

# NYS Department of State

## Division of Corporations

### Entity Information

The information contained in this database is current through May 1, 2015.

---

Selected Entity Name: 2424 HAMBURG TURNPIKE, LLC

Selected Entity Status Information

**Current Entity Name:** 2424 HAMBURG TURNPIKE, LLC

**DOS ID #:** 4747186

**Initial DOS Filing Date:** APRIL 23, 2015

**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)**

2424 HAMBURG TURNPIKE, LLC

2558 HAMBURG TURNPIKE

SUITE 340

BUFFALO, NEW YORK, 14218

**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
APR 23, 2015	Actual	2424 HAMBURG TURNPIKE, 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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2424 Hamburg Turnpike, LLC has one member being TurnKey Environmental Restoration, LLC. RESOLVED, that Paul H. Werthman, Managing Member of TurnKey Environmental Restoration, LLC, be hereby authorized and empowered to sign a Brownfield Cleanup Agreement (BCA) for the property referred to as the 2424 Hamburg Turnpike 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 Paul H. Werthman is the duly qualified Managing Member of TurnKey Environmental Restoration, LLC, and by association 2424 Hamburg Turnpike, LLC, and custodian of the books and records of 2424 Hamburg Turnpike, 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 2424 Hamburg Turnpike, LLC and TurnKey Environmental Restoration, LLC, and that said meeting was held in accordance with state law and the Bylaws of the above-named Corporation on May 15, 2015, 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 TurnKey Environmental Restoration, LLC this day of May 15, 2015.

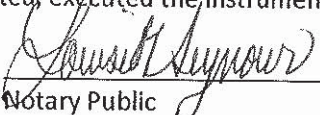
 (Signature)	Thomas H. Forbes (Print Name)	Member (Title)
 (Signature)	Michael A. Lesakowski (Print Name)	Member (Title)
 (Signature)	 (Print Name)	Member (Title)

#### ACKNOWLEDGMENT

(STATE OF NEW YORK)

(COUNTY OF ERIE)

On the 11<sup>th</sup> day of June in the year 2015, before me, the undersigned, a Notary Public in and for said State, personally appeared Thomas H. Forbes & Michael A. Lesakowski, 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

LOUISE M. SEYMOUR  
Notary Public, State of New York  
No. 01SE6228178  
Qualified in Erie County  
Commission Expires Sept. 13, 2018

March 31, 2015

Mr. Martin Doster  
New York State Division of Environmental Conservation  
270 Michigan Avenue  
Buffalo, NY 14203

Re: 2424 Hamburg Turnpike Site  
Lackawanna, New York

Dear Mr. Doster:

Please be advised that the property located at 2424 Hamburg Turnpike, Lackawanna, New York is currently under a contract of sale. TurnKey Environmental Restoration, LLC, affiliated entities and its agents have full right of access to the property to undertake investigation and remediation of the property under the New York State Brownfield Cleanup Program (BCP).

If you have any questions whatsoever, please do not hesitate to call me.

Regards,

A handwritten signature in black ink, appearing to read "David Seigel", written in a cursive style.

David Seigel  
Owner's Representative  
Estate of Samuel Seigel

# ATTACHMENT 2

## BCP APPLICATION – SECTION IV

### PROPERTY INFORMATION

PARCEL DESCRIPTION

EASEMENTS & PERMITS

PROPERTY DESCRIPTION NARRATIVE

**ATTACHMENT 2**  
**BCP Application – Section IV**  
**Property Information**  
**2424 Hamburg Turnpike Site**

**SECTION IV - QUESTIONS 1-4**

***Parcel Description***

The subject property (hereinafter, the “Project Site” or the “Site”) subject to the BCP application consists of one parcel totaling approximately 1.04 acres, located in a moderately developed mixed-use commercial, industrial and residential area of the City of Lackawanna, Erie County, New York (see Figures 1 and 2), and is further identified as:

- **2424 Hamburg Turnpike, S.B.L. # 141.59-5-2, 1.04 acres**

A formal tax map of the Site is provided as Figure 3 and the Erie County Real Property parcel boundaries are presented on Figure 4.

The Site, located on the east side of Hamburg Turnpike (aka Route 5), is bound by an active gasoline station to the north, a retail store to the south, vacant land to the east and Hamburg Turnpike followed by vacant industrial land to the west (see Figure 5).

The Site is zoned as mixed commercial and industrial. The area of the Site is predominantly zoned commercial and industrial along with the Bethlehem Redevelopment Area located west adjacent to the Site (see Figure 6). Residential properties are located north and east of the Site beyond vacant/commercial properties. Adjacent property owners are identified on Figure 7.

**SECTION IV – QUESTIONS 8 AND 9**

***Easements and Permits***

Utilities are located in the right-of-way along Hamburg Turnpike. Benchmark is not aware of any easements in connection with the Site.

The Site was not identified in the NYSDEC Remedial Site database nor the United States Environmental Protection Agency (USEPA) Enforcement and Compliance History Online (ECHO).

**ATTACHMENT 2**  
**BCP Application – Section IV**  
**Property Information**  
**2424 Hamburg Turnpike Site**

PBS information identified for the Site (No. 9-386383) through the NYSDEC Environmental Site Database Search indicates that three (3) 10,000-gallon USTs (two gasoline and one diesel fuel) installed on-Site in 1957 were closed/removed in 1994. PBS information is attached.

The following spill incidents identified through the on-line NYSDEC Environmental Site Database were identified for the Site:

- 9102471 (dated 6/1/1991) – Tank Failure (Diesel) which impacted groundwater. Spill was closed on 8/14/1992.
- 9102643 (dated 6/5/1991) – Tank Failure (Gasoline) which impacted groundwater. Spill file was closed on 6/11/1991.
- 9204849 (dated 7/1/1992) – Waste Oil/Used oil spill of approximately five (5) gallons. Spill file was closed on 7/30/1992.
- 9407600 (dated 9/2/1994) – Contaminated soil discovered during tank removal and free product noted in excavation. Spill file was made inactive on 8/28/1995.
- 1204435 (dated 7/10/2012) – petroleum contamination discovered during roadside utility upgrades. Spill file is currently open.

The NYSDEC Spill Incidents Database Search Details are attached.

**SECTION IV - QUESTION 10**

***Property Description Narrative***

**Location**

The 2424 Hamburg Turnpike Site is located in a moderately developed mixed-use commercial, industrial and residential area of the City of Lackawanna, New York. The Site is located approximately 300 feet south of the intersection of Hamburg Turnpike and Holbrook Street.

**ATTACHMENT 2**  
**BCP Application – Section IV**  
**Property Information**  
**2424 Hamburg Turnpike Site**

Site Features

The Site is currently unoccupied with two vacant commercial buildings consisting of a municipally-condemned former automobile service building with four repair bays and eight (8) in-ground hydraulic lifts and one (1) shed with unknown contents. The Site also includes green space and asphalt paved areas as well as concrete slabs suspected to have been associated with former on-Site structures.

Current Zoning and Land Use

The Site is zoned as mixed commercial and industrial. The area of the Site is predominantly zoned commercial and industrial along with the Bethlehem Redevelopment area located west adjacent to the Site (See Figure 6). Residential properties are located north and east of the Site beyond vacant/commercial properties.

Past Use of the Site

Prior to being vacated, the Site was utilized as an automobile filling and service station (Stop-N-Gas) beginning in at least 1957 when three (3) 10,000-gallon underground storage tanks (USTs) were installed on-Site. Petroleum Bulk Storage (PBS) records indicate that the three USTs were closed/removed in 1994.

Historic Site gasoline service station operations appear to have led to contamination on-Site and as summarized above, five spill incidents involve the Site. “Inactive” spill No. 9407600 involved petroleum-impacted soil and groundwater encountered during tank removal activities. Stockpiled soils from the excavation were bio-remediated and returned to the excavation subsequent to treatment. There was indication of contamination extending under the existing building.

**ATTACHMENT 2**  
**BCP Application – Section IV**  
**Property Information**  
**2424 Hamburg Turnpike Site**

An additional spill, No. 12-04435, remains active to-date and it was reported when petroleum contamination was discovered during utility upgrades being completed along Hamburg Turnpike. Investigation work completed under this spill identified petroleum-impacted soil and groundwater on-Site.

As clearly evidenced by the known contamination associated with the historic Site use, and the known contamination identified on-Site, as well as the potential for additional impacts associated with historic on-Site operations, environmental contamination at the Site complicates use and future redevelopment/reuse of the Project Site.

Additional details regarding the findings of the previous investigation are presented in Attachment 4.

Site Geology and Hydrogeology

The surficial geology<sup>1</sup> of the Lake Erie Plain consists of Lacustrine silt and clay which is described as generally laminated silt and clay deposited in proglacial lakes, generally Calcareous with the potential for land instability with a variable thickness (up to 100 meters). According to the USDA Web Soil Survey and the on-line Erie County “On-Map” website, site soils predominantly consists of Urban land (Ud) which is identified as a non-hydric soil with minor components consisting of Udorthents, Odessa, Mardin and Getzville. The eastern portion of the Site is identified as consisting of Urban Land-Niagara Complex (Us), a soil with the potential for hydric inclusions, with minor components including Udorthents, Raynham, Canandaigua and Swormville (see Figure 14). The majority of the Site is covered with asphalt paving, concrete slabs and the existing buildings. Surface soil only exists on the eastern portion of the Site, mainly in areas north of the historic automobile service building.

---

<sup>1</sup> Surficial Geologic Map of New York, Niagara Sheet, Compiled and edited by Donald H. Cadwell, University of the State of New York, The State Education Department, 1988.

**ATTACHMENT 2**  
**BCP Application – Section IV**  
**Property Information**  
**2424 Hamburg Turnpike Site**

Soils encountered during TurnKey's Phase II generally consisted miscellaneous fill material varying in depth from 0-8 fbgs, overlying native soils consisting of clay, peat and sand to depths of at least 16 fbgs.

Bedrock beneath the Site is identified as the Hamilton Group per the New York State Geologic Map of New York<sup>2</sup>. Bedrock of the Hamilton Group is a Middle Devonian age bedrock that consists mostly of dark gray/black shales and thin silty limestones, and usually quite fossiliferous. The Hamilton Group is thickest toward southeastern New York State; over 1,000 feet south of Syracuse; 500 feet in the Finger Lakes; and approximately 220 feet south of Buffalo. The Hamilton Group consists of four formations identified as the Marcellus (oldest) (Dhmr), Skaneateles (Dhsk), Ludlowville (Dhld), and Moscow (Dhmo) Formations. The Site is located within the Skaneateles formation. The top of the Hamilton Group is distinct and is drawn at the base of the black shales of the Geneseo Shale Member of the Genesee Group, a finely laminated, black petroliferous shale.

Bedrock was not encountered during the previous intrusive work.

During drilling, Benchmark observed groundwater at approximately six (6) feet below grade. Based on the location and topography in the area of the Site, groundwater would appear to flow south toward Smokes Creek or west toward Lake Erie. Actual groundwater flow patterns at the Site will be confirmed during Benchmark's Remedial Investigation.

Additional work is required to investigate groundwater quality. Monitoring wells to assess and characterize groundwater flow patterns and quality are planned during the Remedial Investigation.

---

<sup>2</sup> Geologic Map of New York, Niagara Sheet, Compiled and Edited by Lawrence V. Rickard and Donald W. Fisher, University of the State of New York, The State Education Department, March 1970.



## Bulk Storage Database Search Details

### Facility Information

**Site No.:** 9-386383  
**Status:** Unregulated/Closed  
**Expiration Date:** 08/17/1992  
**Site Type:** PBS  
**Site Name:** STOP N GAS  
**Address:** 2424 HAMBURG TURNPIKE  
**Locality:** LACKAWANNA  
**State:** NY  
**Zipcode:** 14218  
**County:** ERIE

### Owner(s) Information

**Facility Owner:** SAM SIEGEL-LEASED TO SADO GAS  
47 FAIRWAYS BLVD . WILLIAMSVILLE , NY. 14221  
**Mail Contact:** SAM SIEGEL-LEASED TO SADO GAS  
47 FAIRWAYS BLVD . WILLIAMSVILLE , NY. 14221

### Tank Information

#### 3 Tanks Found

Tank No	Tank Location	Status	Capacity (Gal.)
1	Underground	Closed - Removed	10000
2	Underground	Closed - Removed	10000
3	Underground	Closed - Removed	10000

[Return To Results](#)[Refine This Search](#)



## Bulk Storage Database Search Details

### Tank Information

[Next Tank](#)[Last Tank](#)

**Site No:** 9-386383

**Site Name:** STOP N GAS

**Tank No:** 1

**Tank Location:** Underground

**Tank Status:** Closed - Removed

**Tank Install Date:** 01/01/1957

**Tank Closed Date:** 09/01/1994

**Tank Capacity:** 10000 gal.

**Product Stored:** Gasoline

**Percentage:** 100%

**Tank Type:** 01 - Steel/Carbon Steel/Iron

**Tank Internal Protection:** None

**Tank External Protection:** Painted/Asphalt Coating

**Tank Secondary Containment:** None

**Tank Leak Detection:** Groundwater Well

**Overfill:** None

**Spill Prevention:** None

**Dispenser:** Pressurized Dispenser

**Pipe Location:** Underground/On-ground

**Pipe Type:** Fiberglass Reinforced Plastic (FRP)

**Pipe External Protection:** Fiberglass

**Piping Secondary Containment:** None

**Piping Leak Detection:** None

**Tank Next Test Due:**

**Tank Last Test:** 11/01/1987

**Tank Test Method:** Horner EZ Check I or II

[Refine This Search](#)[Return To Facility](#)



## Bulk Storage Database Search Details

### Tank Information

[First Tank](#)[Previous Tank](#)[Next Tank](#)[Last Tank](#)

**Site No:** 9-386383

**Site Name:** STOP N GAS

**Tank No:** 2

**Tank Location:** Underground

**Tank Status:** Closed - Removed

**Tank Install Date:** 01/01/1957

**Tank Closed Date:** 09/01/1994

**Tank Capacity:** 10000 gal.

**Product Stored:** Gasoline

**Percentage:** 100%

**Tank Type:** 01 - Steel/Carbon Steel/Iron

**Tank Internal Protection:** None

**Tank External Protection:** Painted/Asphalt Coating

**Tank Secondary Containment:** None

**Tank Leak Detection:** Groundwater Well

**Overfill:** None

**Spill Prevention:** None

**Dispenser:** Pressurized Dispenser

**Pipe Location:** Underground/On-ground

**Pipe Type:** Fiberglass Reinforced Plastic (FRP)

**Pipe External Protection:** Fiberglass

**Pipe External Protection:** Retrofitted Impressed Current

**Piping Secondary Containment:** None

**Piping Leak Detection:** None

**Tank Next Test Due:**

**Tank Last Test:** 11/01/1987

**Tank Test Method:** Horner EZ Check I or II

[Refine This Search](#)[Return To Facility](#)



## Bulk Storage Database Search Details

### Tank Information

[First Tank](#)[Previous Tank](#)

**Site No:** 9-386383

**Site Name:** STOP N GAS

**Tank No:** 3

**Tank Location:** Underground

**Tank Status:** Closed - Removed

**Tank Install Date:** 01/01/1957

**Tank Closed Date:** 09/01/1994

**Tank Capacity:** 10000 gal.

**Product Stored:** Diesel

**Percentage:** 100%

**Tank Type:** 01 - Steel/Carbon Steel/Iron

**Tank Internal Protection:** None

**Tank External Protection:** Painted/Asphalt Coating

**Tank Secondary Containment:** None

**Tank Leak Detection:** None

**Overfill:** None

**Spill Prevention:** None

**Dispenser:** Suction Dispenser

**Pipe Location:** Underground/On-ground

**Pipe Type:** Fiberglass Reinforced Plastic (FRP)

**Pipe External Protection:** Fiberglass

**Piping Secondary Containment:** None

**Piping Leak Detection:** None

**Tank Next Test Due:**

**Tank Last Test:** 11/01/1987

**Tank Test Method:** Horner EZ Check I or II

[Refine This Search](#)[Return To Facility](#)



## Spill Incidents Database Search Details

---

### Spill Record

#### Administrative Information

**DEC Region:** 9

**Spill Number:** 9102471

#### Spill Date/Time

**Spill Date:** 06/01/1991    **Spill Time:** 08:30:00 AM

**Call Received Date:** 06/01/1991    **Call Received Time:** 09:04:00 AM

#### Location

**Spill Name:** SAMUEL SIEGEL

**Address:** 2424 HAMBURG TURNPIKE

**City:** LACKAWANNA    **County:** ERIE

#### Spill Description

**Material Spilled**    **Amount Spilled**    **Resource Affected**

Diesel                      UNKNOWN    Groundwater

**Cause:** Tank Failure

**Source:** Commercial/Industrial

**Waterbody:**

#### Record Close

**Date Spill Closed:** 08/14/1992

"Date Spill Closed" means the date the spill case was closed by the case manager in the Department of Environmental Conservation (the Department). The spill case was closed because either; a) the records and data submitted indicate that the necessary cleanup and removal actions have been completed and no further remedial activities are necessary, or b) the case was closed for administrative reasons (e.g., multiple reports of a single spill consolidated into a single spill number). The Department however reserves the right to require additional remedial work in relation to the spill, if in the future it determines that further action is necessary.

If you have questions about this reported incident, please contact the [Regional Office](#) where



## Spill Incidents Database Search Details

---

### Spill Record

#### Administrative Information

**DEC Region:** 9

**Spill Number:** 9102643

#### Spill Date/Time

**Spill Date:** 06/05/1991    **Spill Time:** 08:00:00 PM

**Call Received Date:** 06/05/1991    **Call Received Time:** 08:34:00 PM

#### Location

**Spill Name:** ODOR AT 2424 HAMBURG

**Address:** 2424 HAMBURG TURNPIKE

**City:** LACKAWANNA    **County:** ERIE

#### Spill Description

**Material Spilled**    **Amount Spilled**    **Resource Affected**

Gasoline                      UNKNOWN    Groundwater

**Cause:** Tank Failure

**Source:** Gasoline Station or other PBS Facility

**Waterbody:**

#### Record Close

**Date Spill Closed:** 06/11/1991

"Date Spill Closed" means the date the spill case was closed by the case manager in the Department of Environmental Conservation (the Department). The spill case was closed because either; a) the records and data submitted indicate that the necessary cleanup and removal actions have been completed and no further remedial activities are necessary, or b) the case was closed for administrative reasons (e.g., multiple reports of a single spill consolidated into a single spill number). The Department however reserves the right to require additional remedial work in relation to the spill, if in the future it determines that further action is necessary.

If you have questions about this reported incident, please contact the [Regional Office](#) where



## Spill Incidents Database Search Details

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### Spill Record

#### Administrative Information

**DEC Region:** 9

**Spill Number:** 9204849

#### Spill Date/Time

**Spill Date:** 07/01/1992   **Spill Time:** 12:00:00 PM

**Call Received Date:** 07/24/1992   **Call Received Time:** 01:55:00 PM

#### Location

**Spill Name:** TURNPIKE AUTO REPAIR

**Address:** 2424 HAMBURG TURNPIKE - 5

**City:** LACKAWANNA   **County:** ERIE

#### Spill Description

Material Spilled	Amount Spilled	Resource Affected
------------------	----------------	-------------------

Waste Oil/Used Oil	5 Gal.	Soil
--------------------	--------	------

**Cause:** Deliberate

**Source:** Commercial/Industrial

**Waterbody:**

#### Record Close

**Date Spill Closed:** 07/30/1992

"Date Spill Closed" means the date the spill case was closed by the case manager in the Department of Environmental Conservation (the Department). The spill case was closed because either; a) the records and data submitted indicate that the necessary cleanup and removal actions have been completed and no further remedial activities are necessary, or b) the case was closed for administrative reasons (e.g., multiple reports of a single spill consolidated into a single spill number). The Department however reserves the right to require additional remedial work in relation to the spill, if in the future it determines that further action is necessary.

If you have questions about this reported incident, please contact the [Regional Office](#) where



## Spill Incidents Database Search Details

---

### Spill Record

#### Administrative Information

**DEC Region:** 9

**Spill Number:** 9407600

#### Spill Date/Time

**Spill Date:** 09/02/1994   **Spill Time:** 11:30:00 AM

**Call Received Date:** 09/02/1994   **Call Received Time:** 11:30:00 AM

#### Location

**Spill Name:** STOP & GAS - SEIGEL

**Address:** 2424 HAMBURG TURNPIKE

**City:** LACKAWANNA   **County:** ERIE

#### Spill Description

**Material Spilled**   **Amount Spilled**   **Resource Affected**

Gasoline                      UNKNOWN              Groundwater

**Cause:** Tank Failure

**Source:** Gasoline Station or other PBS Facility

**Waterbody:**

#### Record Close

**Date Spill Closed:** 08/28/1995

"Date Spill Closed" means the date the spill case was closed by the case manager in the Department of Environmental Conservation (the Department). The spill case was closed because either; a) the records and data submitted indicate that the necessary cleanup and removal actions have been completed and no further remedial activities are necessary, or b) the case was closed for administrative reasons (e.g., multiple reports of a single spill consolidated into a single spill number). The Department however reserves the right to require additional remedial work in relation to the spill, if in the future it determines that further action is necessary.

If you have questions about this reported incident, please contact the [Regional Office](#) where



## Spill Incidents Database Search Details

---

### Spill Record

#### Administrative Information

**DEC Region:** 9

**Spill Number:** 1204435

#### Spill Date/Time

**Spill Date:** 07/10/2012   **Spill Time:** 10:00:00 AM

**Call Received Date:** 07/17/2012   **Call Received Time:** 11:00:00 AM

#### Location

**Spill Name:** NYSDOT ROAD WORK

**Address:** 2424 HAMBURG TURNPIKE

**City:** LACKAWANNA   **County:** ERIE

#### Spill Description

**Material Spilled**   **Amount Spilled**   **Resource Affected**

Gasoline                      UNKNOWN      Soil

**Cause:** Other

**Source:** Gasoline Station or other PBS Facility

**Waterbody:**

#### Record Close

**Date Spill Closed:** Not closed

If you have questions about this reported incident, please contact the [Regional Office](#) where the incident occurred.

[Return To Results](#)

[Refine This Search](#)

# ATTACHMENT 3

## BCP APPLICATION – SECTION II VII & VIII

### PROPERTY ELIGIBILITY & DESCRIPTION

PROJECT DESCRIPTION

THE REQUESTOR AS A VOLUNTEER

PROPERTY ELIGIBILITY INFORMATION

THE CONTAMINATION ELEMENT

THE COMPLICATION ELEMENT

**ATTACHMENT 3**  
**BCP Application - Sections II, VII and VIII**  
**Property Description & Eligibility Information**  
**2424 Hamburg Turnpike Site**

**SECTION II – PROJECT DESCRIPTION**

***Project Description***

2424 Hamburg Turnpike, LLC, acting as a non-responsible Volunteer, is willing to remediate the Site under the Brownfield Cleanup Program (BCP) and is submitting this BCP application for eligibility into the Program. Upon acceptance into the BCP, 2424 Hamburg Turnpike, LLC plans to complete a Remedial Investigation, prepare a Remedial Investigation/Alternatives Analysis Report (RI/AAR) and prepare a Remedial Action Work Plan (RAWP) to address the contamination on-Site.

Redevelopment plans will be prepared as development opportunities arise. The planned future use of the Site will be consistent with the local zoning plan. Based on our experience with similar properties, we estimate \$300,000 for remedial costs.

A preliminary Project Schedule is presented on Figure 9.

**SECTION VII – REQUESTOR ELIGIBILITY INFORMATION**

***The Requestor as a Volunteer***

A BCP applicant may be either a “Participant” or a “Volunteer.”

A “Participant” is an applicant who either (i) was the owner of the site at the time of the disposal or discharge of contaminants; or (ii) is otherwise responsible according to applicable principles of statutory or common law liability, unless such person’s liability arises solely as a result of such person’s ownership or operation of or involvement with the site subsequent to the disposal or discharge. NY ECL 27-1405(1)(a). This definition is repeated verbatim at 6 NYCRR 375-3.2(b)(1) and is paraphrased in the Brownfield Cleanup Program Guide at Section 2.4(1)(A).

**ATTACHMENT 3**  
**BCP Application - Sections II, VII and VIII**  
**Property Description & Eligibility Information**  
**2424 Hamburg Turnpike Site**

A “Volunteer” is an applicant other than a participant, including a person whose liability arises solely as a result of such person’s ownership or operation of or involvement with the site subsequent to the disposal or discharge of contaminants provided that such person exercises appropriate care with respect to the contamination. NY ECL 27-1405(1)(b). This definition is repeated verbatim at 6 NYCRR 375-3.2(b)(2) and is paraphrased in the Brownfield Cleanup Program Guide at Section 2.4(1)(B).

Since the Applicant is not currently the owner and became involved with the property after the disposal or discharge of contaminants it is entitled to Volunteer status under NY ECL27-1405(1)(b).

**SECTION VIII – PROPERTY ELIGIBILITY INFORMATION**

***Property Eligibility Information***

The Site meets the definition of a “Brownfield site” as set forth in New York State Environmental Conservation Law (the “ECL”). The ECL Section 27-1405(2) defines a “Brownfield site” as “any real property, where a contaminant is present at levels exceeding soil cleanup objectives or other health-based or environmental standards, criteria or guidance adopted by the department that are applicable based on the reasonably anticipated use of the property in accordance with applicable regulations.” The regulations in 6NYCRR 375-3.3(a)(1) reiterate that a brownfield site has two elements and adds a “reasonable basis” test to each:

- (1) A brownfield site has two elements:
  - (i) There must be confirmed contamination on the property or a reasonable basis to believe that contamination is likely to be present on the property (the “Contamination Element”); and,
  - (ii) There must be a reasonable basis to believe that the contamination or potential presence of contamination may be complicating the development, use, or re-use of the property (the “Complication Element”)

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**2424 Hamburg Turnpike Site**

Moreover, the New York State Department of Environmental Conservation BCP Eligibility Guidance dated March 2005, which is incorporated into the Brownfield Cleanup Program Guide establishes several factors that the Department considers in evaluating whether the Contamination Element and the Complication Element exist.

***The Contamination Element***

The Department considers the following factors with respect to the Contamination Element, to the extent they are relevant to the proposed Site:

- (A) The nature and extent of known or suspected contamination;
- (B) Whether contaminants are present at levels that exceed standards, criteria, or guidance;
- (C) Whether contamination on the proposed site is historic fill material or exceeds background levels;
- (D) Whether there are or were industrial or commercial operations at the proposed site which may have resulted in environmental contamination; and/or,
- (E) Whether the proposed site has previously been subject to closure, a removal action, an interim or final remedial action, corrective action or any other cleanup activities performed by or under the oversight of the State or Federal government.

The Contamination Element of the BCP Eligibility Test has clearly been met in this application because:

- (A) The previous investigations have established that on-site soils and groundwater have been impacted by contaminants that will require remediation. Further, four underground anomalies, suspected to be fueling operation equipment such as appurtenant piping to the dispenser islands and/or USTs, were identified on-Site during a geophysical survey.
- (B) Petroleum contaminated soils, evidenced by elevated PID readings, olfactory evidence of a petroleum-type odor, and analytical sample results present on-Site exceeding CP-51 and/or Part 375 Unrestricted, Residential, Restricted Residential, Commercial and/or Industrial Use SCLs, are complicating redevelopment efforts.

**ATTACHMENT 3**  
**BCP Application - Sections II, VII and VIII**  
**Property Description & Eligibility Information**  
**2424 Hamburg Turnpike Site**

- (C) Petroleum contaminated groundwater, evidenced by visual product and analytical sample results exceeding NYSDEC Class GA Groundwater Quality Standards.
- (D) Miscellaneous fill material was identified across the Site.
- (E) Historical Site uses have resulted in environmental contamination.

***The Complication Element***

The Department considers the following factors with respect to the Complication Element; to the extent they are relevant to the proposed Site:

- (A) Whether the proposed site is idled, abandoned or underutilized;
- (B) Whether the proposed site is unattractive for redevelopment or reuse due to the presence or reasonable perception of contamination;
- (C) Whether properties in the immediate vicinity of the proposed site show indicators of economic distress such as high commercial vacancy rates or depressed property values; and/or,
- (D) Whether the estimated cost of any necessary remedial program is likely to be significant in comparison to the anticipated value of the proposed site as redeveloped or reused.

The Complication Element of the BCP Eligibility Test has clearly been met in this application because the proposed Site is unattractive for redevelopment or reuse due to the presence of contamination. This factor is clearly established by the following:

- (A) The Site is currently vacant and underutilized.
- (B) The Site is currently unattractive for redevelopment or reuse due to the known presence of contamination and the reasonable perception that there are additional areas of contamination present on the Site related to the historic operations that will require remediation.
- (C) The Site is located in an NYS En-Zone (see Figure 8), indicative of the economic conditions of the surrounding area, including a poverty rate of at least 20% and unemployment of at 125% of the State average; and a poverty rate of at least double the Erie County poverty rate. Because the site is located in the NYS En-Zone, it is eligible for certain local, state, and federal financial incentives, further indicating that the Site is unattractive for redevelopment particularly outside of the context of the BCP.

**ATTACHMENT 3**  
**BCP Application - Sections II, VII and VIII**  
**Property Description & Eligibility Information**  
**2424 Hamburg Turnpike Site**

- (D) The estimated cost of a proposed remedial program with regard to the Site is significant in comparison to the value of the Site (i.e., estimated at greater than 100% of the value of the Site).

**Based on the foregoing and as further set forth in this BCP application, the Site meets the Contamination Element and the Complication Element tests. As such, the Site qualifies as a Brownfield Site eligible for participation in the BCP, with the Applicant as a Volunteer, because (A) there is confirmed contamination at the Site, and (B) the contamination is complicating the redevelopment and re-use of the Site.**

# ATTACHMENT 4

## BCP APPLICATION – SECTION III

### PROPERTY'S ENVIRONMENTAL HISTORY

PREVIOUS ENVIRONMENTAL INVESTIGATIONS (*PROVIDED ELECTRONICALLY AS  
SEPARATE ATTACHMENT*)

PAST LAND USES

PREVIOUS /CURRENT PROPERTY OWNERS /OPERATORS

**ATTACHMENT 4**  
**BCP Application – Section III**  
**Property’s Environmental History**  
**2424 Hamburg Turnpike Site**

**PREVIOUS ENVIRONMENTAL INVESTIGATIONS**

Summaries of previous environmental findings completed for the Site are presented below. Note that some of the work was completed by others under spill incidents related to the Site, as identified below.

***“Inactive” NYSDEC Spill No. 9407600***

The 9407600 spill record indicates that three (3) 10,000 gallon USTs (two gasoline and one diesel fuel) were removed from the Site in 1994 by Nature’s Way. During excavation activities, petroleum-impacted soil and groundwater was discovered. Approximately 500 cubic yards of contaminated soils were excavated and stockpiled on-Site north and south of the existing automotive service building. The spill record indicates that confirmatory soil samples from the excavation exceeded the soil cleanup guidelines and that the contamination extended under the building.

The stockpiled soil was bio-remediated on-Site by the excavation contractor and returned to the excavation subsequent to treatment. Groundwater from the excavation was pumped into a temporary holding tank, treated through activated carbon and discharged to the ground on-Site.

The spill was reclassified as “inactive” on August 28, 1995.

***“Active” NYSDEC Spill No. 1204435***

The 1204435 spill record indicates that petroleum contamination was discovered during utility upgrades being completed along Hamburg Turnpike. Specifically, petroleum odors were apparent in the telecommunications manhole located along the western property boundary of the Site. The spill record also indicates that a geophysical survey was completed on-Site, as detailed below.

**ATTACHMENT 4**  
**BCP Application – Section III**  
**Property's Environmental History**  
**2424 Hamburg Turnpike Site**

***2013 Geophysical Survey Results***

AMEC Environment and Infrastructure, Inc. (AMEC) completed a geophysical survey of the Site on July 23, 2013. AMEC identified four underground anomalies believed to be potential fueling operation equipment, including appurtenant piping to the dispenser islands and/or USTs.

***Phase II Environmental Investigation Report, 2424 Hamburg Turnpike Site, Lackawanna, New York, completed by TurnKey, dated January 2014.***

TurnKey completed a Phase II Environmental Investigation consisting of ten (10) soil borings (SB-1 through SB-10), three of which were converted into temporary one-inch diameter monitoring wells (SB-4/TMW-1, SB-5/TMW-2 and SB-7/TMW-3), to assess subsurface conditions on-Site, including the area of potential contamination discovered during utility upgrade activities along Hamburg Turnpike (Spill No. 1204435) and areas proximate to the in-ground lifts within the service building and the four underground anomalies identified during the geophysical survey.

Elevated PID readings above background (0.0 ppm) and petroleum odors were identified in seven (7) of the ten (10) soil borings (SB-4 through SB-10) with the highest PID reading noted as 1,098 ppm at SB-6 (2-4'). In addition, approximately one-inch of floating petroleum product was noted in a monitoring well, TMW-1, completed north of the former UST excavation area.

Six soil samples were analyzed by the laboratory for Target Compound List (TCL) plus CP-51 VOCs and CP-51 SVOCs and two groundwater samples were analyzed for TCL plus CP-51 VOCs. [It should be noted that due to the presence of product at TMW-1, a groundwater sample was not selected for laboratory analysis from this location.] The following bullet points summarize laboratory analytical results:

**ATTACHMENT 4**  
**BCP Application – Section III**  
**Property's Environmental History**  
**2424 Hamburg Turnpike Site**

- Petroleum VOCs were detected at concentrations above CP-51 and/or Part 375 Protection of Groundwater, Unrestricted and/or Restricted Residential Use SCOs in all six soil samples.
- Three soil samples exhibited S-VOC concentrations above CP-51 and/or Part 375 Protection of Groundwater, Unrestricted, Restricted Residential, Commercial and/or Industrial Use SCOs.
- Both groundwater samples exhibited petroleum VOCs at concentrations above Class GA Groundwater Quality Standards (GWQS) with the more significant concentrations (16,333 micrograms per liter (ug/L) total VOCs) identified at TMW-2. Due to the presence of product at TMW-1, concentrations exceeding GWQS are assumed to be present.

The tabulated data from TurnKey's Phase II investigation is attached.

**PAST LAND USES**

Prior to being vacated, the Site was utilized as an automobile filling and service station (Stop-N-Gas) beginning in at least 1957 when three (3) 10,000-gallon USTs were installed on-Site through approximately 1994 when the tanks were removed. Subsequent to the automobile filling and service station operations, the Site operated as a retail store. Historic Sanborn maps and aerial photographs indicate that prior to the current on-Site development the Site was vacant land from at least 1926 through at least 1951. Aerial photographs and Sanborn maps are attached.

**ATTACHMENT 4**  
**BCP Application – Section III**  
**Property’s Environmental History**  
**2424 Hamburg Turnpike Site**

**PREVIOUS/CURRENT PROPERTY OWNERS/OPERATORS**

Reasonable attempts were made to attain complete information regarding current and previous site owners and operators. Based on available on-line records, the previous study and a file review at the City of Lackawanna Assessor’s office, contact information for the previous and current owners/operators has been provided in the table below, as available.

Parcel Address		Approx. Date(s)	Relationship to Applicant
<b>2424 Hamburg Turnpike</b>			
<b>Current Owner/Operator</b>			
Current Owner:	Samuel Siegel c/o David Siegel 300 Main Street Buffalo, NY 14202 Phone # 561-748-0343	1993 ~ Current	Current owner
Operator/Use:	2424 Hamburg Turnpike (retail store), Wiper Stop		None - No relationship
<b>Previous Owners/Operators</b>			
Prior Owner:	Ellen M. Urso 11 Stoneridge Lane Akron, NY 14001	1991 ~ 1993	Former Owner
Operator/Use:	Stop N Gas (gasoline station)		None - No relationship
Prior Owner:	Samuel Siegel 47 Fairways Boulevard Williamsville, NY 14221	1981 ~ 1991	Former Owner
Operator/Use:	Gasoline station		None - No relationship
Prior Owner:	Ageiger Enterprises, Inc.	1981	Former Owner
Operator/Use:	Gasoline station		None - No relationship

**ATTACHMENT 4**  
**BCP Application – Section III**  
**Property's Environmental History**  
**2424 Hamburg Turnpike Site**

Previous Owners/Operators			
Prior Owner:	Harold J. Geiger	1978	Former Owner
Operator/Use:	Gasoline station		None - No relationship
Prior Owner:	Independent Gasoline Dealers Management, Inc. 91 Temont Avenue North Tonawanda, NY 14120	1978	Former Owner
Operator/Use:	Gasoline station		None - No relationship
Prior Owner:	Independent Gasoline Dealers Management Corporation	1979	Former Owner
Operator/Use:	Gasoline station		None - No relationship
Prior Owner:	Northeast Chemical Company, Inc. 260 Creekside Drive Amherst, NY 14227	1979	Former Owner
Operator/Use:	Gasoline station		None - No relationship
Prior Owner:	Geiger Enterprises, Inc.	1975	Former Owner
Operator/Use:	Gasoline station		None - No relationship
Prior Owner:	Harold and Patricia Geiger 2320 West Oakfield Street Grand Island, NY	1975	Former Owner
Operator/Use:	Gasoline station		None - No relationship
Prior Owner:	Samuel Siegel 2036 Hamburg Turnpike Lackawanna, NY	1975	Former Owner
Operator/Use:	Gasoline station		None - No relationship
Prior Owner:	Geiger Enterprises, Inc. 2320 West Oakfield Street Grand Island, NY	1975	Former Owner
Operator/Use:	Gasoline station		None - No relationship

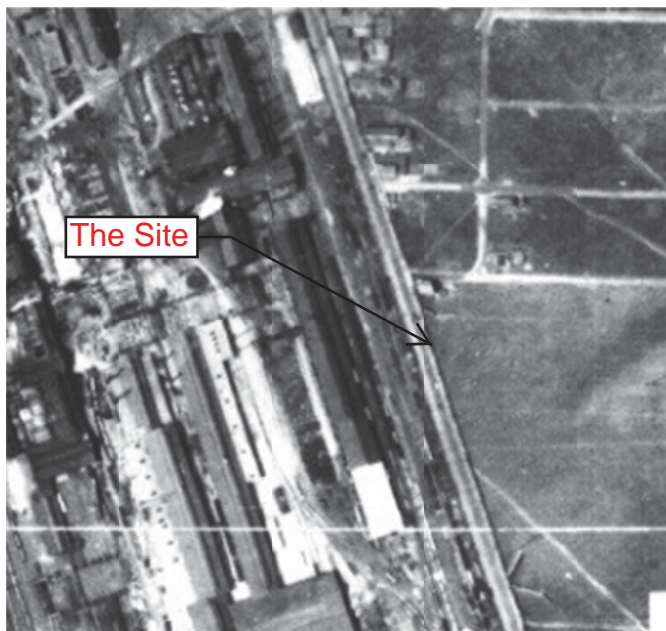
**ATTACHMENT 4**  
**BCP Application – Section III**  
**Property's Environmental History**  
**2424 Hamburg Turnpike Site**

Previous Owners/Operators			
Prior Owner:	The Stony Point Land Company	1956	Former Owner
Operator/Use:	Vacant commercial/industrial land		None - No relationship
Prior Owner:	Samuel Siegel 2036 Hamburg Turnpike Lackawanna, NY	1956	Former Owner
Operator/Use:	Vacant commercial/industrial land		None - No relationship

1951



1926



NY 524

35

30

31

JAN. 1927  
LACKAWANNA  
N.Y.

35

35

ADD. SHEET  
DEC. 1939

The Site

34

1950



**TABLE 1**  
**SUMMARY OF SOIL ANALYTICAL RESULTS**  
**2424 HAMBURG TURNPIKE SITE**  
**LACKAWANNA, NEW YORK**

PARAMETER <sup>1</sup>	Protection of Groundwater SCOs	CP-51 Unrestricted Use SCLs <sup>2</sup>	Restricted Residential Use SCOs <sup>3</sup>	Commercial Use SCOs <sup>3</sup>	Industrial Use SCOs <sup>3</sup>	Sample Location (Depth)					
						SB-4 (6-8')	SB-5 (6-8')	SB-6 (2-4')	SB-7 (2-4')	SB-8 (6-8')	SB-9 (6-8')
						01/14/2014					
Volatile Organic Compounds (VOCs) - mg/Kg <sup>4</sup>											
1,2,4-Trimethylbenzene	3.6	3.6	52	190	380	180	74	14	3.1	110	49
1,3,5-Trimethylbenzene	8.4	8.4	52	190	380	21	21	3.3	0.96	35	10
Benzene	0.06	0.06	4.8	44	89	1 J	0.8	1.5	0.083	11	1.6
Ethylbenzene	1	1	41	390	780	14	14	5.7	0.25	39	8
Isopropylbenzene (Cumene)	--	--	--	--	--	9.9	2.1	0.46	0.046 J	3.2	1.6
Methylcyclohexane	--	--	--	--	--	43	16	1.8	0.39	49	12
n-Butylbenzene	12	12	100	500	1000	26	4.4	0.6	0.23	5.2	3.2
n-Propylbenzene	3.9	3.9	100	500	1000	48	11	2.5	0.23	18	8.2
p-Isopropyltoluene	--	--	--	--	--	4.6	0.9	0.14	0.056 J	0.81	0.62
sec-Butylbenzene	11	11	100	500	1000	8.2	1.3	0.22	0.06	1.5	0.98
Toluene	0.7	0.7	100	500	1000	2.3 J	8.3	16	0.26	2.2	1
Total Xylenes	1.6	0.26	100	500	1000	12.6 J	79	29.3	1.88	16.36	16.87
Semi-Volatile Organic Compounds (SVOCs) - mg/Kg <sup>4</sup>											
Acenaphthene	98	20	100	500	1000	0.49	3.3	ND	ND	ND	0.083 J
Acenaphthylene	107	100	100	500	1000	0.34	21	ND	0.1 J	ND	0.2
Anthracene	1000	100	100	500	1000	0.86	39	0.76 J	0.075 J	0.074 J	0.36
Benzo(a)anthracene	1	1	1	5.6	11	1.1	71	1.6 J	0.19	0.11 J	0.47
Benzo(a)pyrene	22	1	1	1	1.1	0.76	63	1.6 J	0.19	0.071 J	0.39
Benzo(b)fluoranthene	1.7	1	1	5.6	11	1.2	79	2.3 J	0.26	0.12 J	0.48
Benzo(ghi)perylene	1000	100	100	500	1000	0.47	38	1.6 J	0.13 J	0.06 J	0.25
Benzo(k)fluoranthene	1.7	0.8	3.9	56	110	0.38	33	1 J	0.096 J	0.051 J	0.21
Chrysene	1	1	3.9	56	110	1.2	71	1.6 J	0.18	0.16	0.46
Dibenzo(a,h)anthracene	1000	0.33	0.33	0.56	1.1	0.12 J	10	ND	ND	ND	0.051 J
Fluoranthene	1000	100	100	500	1000	3.2	140	3.4	0.27	0.3	1
Fluorene	386	30	100	500	1000	1.3	24	1.4 J	0.056 J	0.13 J	0.35
Indeno(1,2,3-cd)pyrene	8.2	0.5	0.5	5.6	11	0.54	41	1.8 J	0.14 J	0.06 J	0.25
Naphthalene	12	12	100	500	1000	8	50	48	0.6	10	3.3
Phenanthrene	1000	100	100	500	1000	3.8	130	3.2	0.18	0.42	1.3
Pyrene	1000	100	100	500	1000	2.3	110	2.7	0.22	0.23	0.76

- 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 NYSDEC CP-51 Unrestricted Use Soil Cleanup Levels (SCLs).
  - Values per NYSDEC Part 375 Soil Cleanup Objectives (SCOs) (December 2006).
  - Sample results were reported by the laboratory in ug/kg and converted to mg/kg for comparisons to SCOs.

**Definitions:**

ND = Parameter not detected above laboratory detection limit.

-- = No value available for the parameter. Or parameter not analysed for.

J = Estimated value; result is less than the sample quantitation limit but greater than zero.

<u>Underlined</u>	= Exceeds Part 375 Protection of Groundwater SCOs L264
<b>Bold</b>	= Exceeds CP-51 Table 2 & 3 SCLs
<b>Bold</b>	= Exceeds Restricted Residential Use SCOs
<b>Bold</b>	= Exceeds Commercial Use SCOs
<b>Bold</b>	= Exceeds Industrial Use SCOs

TABLE 2

SUMMARY OF GROUNDWATER ANALYTICAL RESULTS

2424 HAMBURG TURNPIKE SITE

LACKAWANNA, NEW YORK

PARAMETER <sup>1</sup>	NYS GWQS <sup>2</sup>	SAMPLE LOCATION	
		TMW-2	TMW-3
		01/14/2014	
Volatile Organic Compounds (VOCs) - ug/L			
1,2,4-Trimethylbenzene	5	2000	85
1,2-Dichloroethane (EDC)	0.6	ND	0.34 J
1,3,5-Trimethylbenzene	5	490	22
Acetone	50	140 J	15
Benzene	1	520	6.3
Carbon disulfide	--	ND	1.1 J
Cyclohexane	--	180 J	5.4 J
Ethylbenzene	5	1500	8.6
Isopropylbenzene (Cumene)	5	56 J	1.8 J
Methylcyclohexane	--	97 J	8.8 J
Naphthalene	10	340	9.2
n-Butylbenzene	5	ND	2 J
n-Propylbenzene	5	210	6.7
sec-Butylbenzene	5	ND	0.79 J
Toluene	5	3000	12
Total Xylenes	5	7800	70
Total VOCs	--	16333	255

Notes:

1. Only those parameters detected at a minimum of one sample location are presented in this table; all other compounds were reported as non-detect.
2. Values per NYSDEC TOGS 1.1.1 Class GA Groundwater Quality Standards.
3. SB-4/TMW-1 was not sampled due to visible floating product.

Definitions:

ND = Parameter not detected above laboratory detection limit.

--" = No value available for the parameter. Or parameter not analysed for.

J = Estimated value; result is less than the sample quantitation limit but greater than zero.

**Bold** = Exceeds NYS GWQS

# ATTACHMENT 5

## BCP APPLICATION – SECTION IX

### CONTACT LIST INFORMATION

SITE CONTACT LIST

ADJACENT PROPERTY OWNERS LIST

**ATTACHMENT 5**  
**BCP Application Section IX**  
**Contact List Information**  
**2424 Hamburg Turnpike Site**

**Erie County Contacts:**

Honorable Mark Poloncarz  
Erie County Executive  
95 Franklin Street, 16<sup>th</sup> Floor  
Buffalo, NY 14202

Barbara Miller-Williams  
Erie County Legislator - District 1  
427 William Street  
Buffalo, NY 14204

Commissioner Maria R. Whyte  
Erie County DEP  
95 Franklin Street 10<sup>th</sup> Floor  
Buffalo, NY 14202

Paul Kranz  
Erie County DEP  
95 Franklin Street 10<sup>th</sup> Floor  
Buffalo, NY 14202

Mr. Christopher Jacobs  
Erie County Legislature Clerk  
92 Franklin Street  
Buffalo, NY 14202

Christopher Pawenski  
Erie County DEP  
95 Franklin Street 10<sup>th</sup> Floor  
Buffalo, NY 14202

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

David Stebbins  
ECIDA  
95 Perry Street, Suite 403  
Buffalo, NY 14203

Ralph Miranda  
Erie County EMC  
95 Franklin Street  
Buffalo, NY 14202

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

**City of Lackawanna Contacts:**

Geoffrey M. Szymanski, Mayor  
City of Lackawanna  
714 Ridge Road, Room 301  
Lackawanna, NY 14218

Hank Pirowski, Council President  
City of Lackawanna  
714 Ridge Road  
Lackawanna, NY 14218

Jacqueline A. Caferro, Clerk  
City of Lackawanna  
714 Ridge Road, Room 215  
Lackawanna, NY 14218

**ATTACHMENT 5**  
**BCP Application Section IX**  
**Contact List Information**  
**2424 Hamburg Turnpike Site**

**Portable Water**

Erie County Water Authority  
295 Main Street Room 350  
Buffalo, NY 14203

**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

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

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

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

**Document Repository:**

Jennifer Johnston, Director  
Buffalo & Erie County Public Library  
Lackawanna Branch  
560 Ridge Road  
Lackawanna, NY 14218

**ATTACHMENT 5**  
**BCP Application Section IX**  
**Contact List Information**  
**2424 Hamburg Turnpike Site**

**Nearby Schools:**

Superintendent Anne Spadone  
245 South Shore Blvd.  
McKinley Admin. Bldg.  
Lackawanna, NY 14218

**Other Interested Parties:**

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

Jill Spisiak Jedlicka  
Buffalo Niagara Riverkeeper  
721 Main Street  
Buffalo, NY 14203



Attachment 5

BCP Application - Section IX  
Contact List Information  
2424 Hamburg Turnpike Site  
Brownfield Cleanup Program Application

Adjacent Property Address				Property Owner
No.	Street	Property Type	Property Use	Mailing Address
0	Hamburg Turnpike	Commercial	Industrial Manufacturing	Tecumseh Redevelopment Inc. C/O Tax Department 8-229 3210 Watling Street East Chicago, IN 46312
0	Hamburg Turnpike	Commercial	RR-Manufacture	Tecumseh Redevelopment Inc. C/O Tax Department 8-229 3210 Watling Street East Chicago, IN 46312
2380	Hamburg Turnpike	Commercial	Billboard	Mid-East Enterprises Inc 2368 Hamburg Turnpike Lackawanna, NY 14218
2470	Hamburg Turnpike	Commercial	Retail	FTS Development LLC 2470 Hamburg Turnpike Lackawanna, NY 14218

# ATTACHMENT 6

## BCP APPLICATION – SECTION IX

### DOCUMENT REPOSITORY

DOCUMENT REPOSITORY CONFIRMATION LETTER AND EMAIL

**Strong Advocates, Effective Solutions, Integrated Implementation**

May 12, 2015

Ms. Jennifer Johnston  
Buffalo and Erie County Public Library  
Lackawanna Branch  
560 Ridge Road  
Lackawanna, NY 14218

Re: Document Repository for Brownfield Cleanup Program  
2424 Hamburg Turnpike Site  
Lackawanna, New York

Dear Ms. Johnston:

Thank you for agreeing to allow the Lackawanna Branch of the Buffalo and Erie County Public Library to serve as the document repository for the above-referenced Site. In the future, we will be sending various documents relating to the Site that should be made available for public review upon request in your resource area.

Please contact me at 856-0599 if you have questions or require additional information.

Sincerely,  
Benchmark Environmental Engineering & Science, PLLC



Heidi M. Higgins  
Senior Technician

cc: File: 0345-015-001

[www.benchmarkturnkey.com](http://www.benchmarkturnkey.com)

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## Heidi M. Higgins

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**From:** Jennifer Johnston [johnstonj@buffalolib.org]  
**Sent:** Thursday, July 30, 2015 5:14 PM  
**To:** Heidi M. Higgins  
**Subject:** Lackawanna Library Repository

Hello Heidi,

I am writing to confirm as per our conversation on May 12, 2015 that the Lackawanna Public Library will serve as a document repository for information regarding the 2424 Hamburg Turnpike site. All documents will be made available to the public and easily accessible.

Jennifer Johnston, Director  
Lackawanna Public Library  
560 Ridge Road  
Lackawanna, NY 14218  
Phone 716-823-0630  
Fax 716-827-1997

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The Buffalo & Erie County Public Library System has more than 2.6 million materials available for borrowing including books, eBooks, DVDs, music and more. Free library card applications can be downloaded and taken to any of the 37- local public libraries for processing. A valid form of identification and proof of address is necessary. For more information call 716-858-8900 or visit [www.BuffaloLib.org](http://www.BuffaloLib.org) .

# ATTACHMENT 7

## BCP APPLICATION – SECTION X

### LAND-USE FACTORS

SITE SUMMARY

ADJACENT LAND USE, DEVELOPMENT PATTERNS, & ZONING

NATURAL & CULTURAL RESOURCES

GROUNDWATER VULNERABILITY ASSESSMENT

GEOGRAPHY/ TOPOGRAPHY

GEOLOGY

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**BCP Application – Section X**  
**Land Use Factors**  
**2424 Hamburg Turnpike Site**

**SECTION X – LAND-USE FACTORS**

***Site Summary***

The following provides a brief summary of the Site:

- The Site is located within a moderately developed mixed-use commercial, industrial and residential area of the City of Lackawanna, Erie County, New York.
- The Site is currently unoccupied and includes a vacant automotive service building with four repair bays and eight (8) in-ground hydraulic lifts and one (1) shed with unknown contents.
- While redevelopment plans will be prepared as development opportunities arise, the planned future use of the Site will be consistent with the local zoning plan (see Figure 6).
- In accordance with §27-1415(3)(p), the Site is located within a NYSDEC Potential Environmental Justice (EJ) Area (See Figure 11). However, EJ concerns are not applicable to this project as the proposed use is not expected to cause or increase a disproportionate burden on the community in which the Site is located.
- There are no State or Federal land use designations related to the property.
- The Site has access to municipal utilities including: natural-gas, municipal sewer, electric, and public water.
- There are no known Institutional Controls (ICs) for the Site.

***Adjacent Land Use, Development Patterns, & Zoning***

The Site is located in a moderately developed mixed-use commercial, industrial and residential area of the City of Lackawanna, Erie County, New York. The Site, located on the east side of Hamburg Turnpike (aka Route 5), is bound by an active gasoline station to the north, a retail store to the south, vacant land to the east and Hamburg Turnpike followed by vacant industrial land to the west (see Attachment 2).

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The Site is zoned as mixed commercial and industrial. The area of the Site is predominantly zoned mixed commercial and industrial along with the Bethlehem Redevelopment Area located west adjacent to the Site (see Figure 6). Residential properties are located north and east of the Site beyond vacant/commercial properties. Adjacent property owners are identified on Figure 7.

***Natural and Cultural Resources***

- According to the New York State Cultural Resource Information System, the Site is located within an area identified as archaeologically sensitive (see Figure 10). There are no National Register listed historical sites located within 0.5 miles of the Site. A consultation project (WAP, 1 Property) was identified south of the Site, within the 0.5 mile radius.
- According to the NYSDEC's Environmental Resource Mapper (ERM), there are no important plant habitats or endangered species listed for the area encompassing the Site (see Figure 12).
- There are no wetland areas or floodplains located on-Site (see Figure 13). However, floodplains and federal wetlands are noted within ½ mile of the Site along Smokes Creek.

***Groundwater Vulnerability Assessment***

Based on a previous intrusive study completed by TurnKey, petroleum-related VOCs were detected in the groundwater on-Site above 6 NYCRR Part 703 NYSDEC Groundwater Criteria (Class GA). There was no indication within the previous study that impacted groundwater was migrating off-site.

Currently, there are no known deed restrictions on the use of groundwater at the Site. Municipal water is available to the Site and all surrounding properties.

Based on the location and topography in the area of the Site, groundwater would appear to flow south toward Smokes Creek or west toward Lake Erie. Actual groundwater flow patterns at the Site will be confirmed during TurnKey's Remedial Investigation.

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Additional work is required to investigate groundwater quality. Monitoring wells to assess and characterize groundwater flow patterns and quality are planned during the Remedial Investigation.

***Geography/Topography***

The Site is located within the Lake Erie-Niagara River Major Drainage Basin which is typified by little topographic relief and gentle slope toward Lake Erie, except in the immediate vicinity of major drainage ways. Generally, the Site is topographically flat and almost entirely covered by the existing buildings, concrete slabs and asphalt paving. Lake Erie is located approximately one (1) mile west of the Site and Smokes Creek is located approximately 0.4 miles south of the Site. The Site has an average elevation of approximately 580 feet above mean sea level based on USGS topographic mapping of the area. Precipitation (i.e., rain or snow melt) generally moves radially from the Site via overland flow to catch basins located along Hamburg Turnpike.

***Geology***

The surficial geology<sup>1</sup> of the Lake Erie Plain consists of Lacustrine silt and clay which is described as generally laminated silt and clay deposited in proglacial lakes, generally Calcareous with the potential for land instability with a variable thickness (up to 100 meters). According to the USDA Web Soil Survey and the on-line Erie County “On-Map” website, site soils predominantly consists of Urban land (Ud) which is identified as a non-hydric soil with minor components consisting of Udorthents, Odessa, Mardin and Getzville. The eastern portion of the Site is identified as consisting of Urban Land-Niagara Complex (Us), a soil with the potential for hydric inclusions, with minor components including Udorthents, Raynham, Canandaigua and Swormville (see Figure 14). The majority of the Site is covered with asphalt paving, concrete slabs and the existing buildings. Surface soil only exists on the eastern portion of the Site, mainly in areas north of the historic automobile service building.

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<sup>1</sup> Surficial Geologic Map of New York, Niagara Sheet, Compiled and edited by Donald H. Cadwell, University of the State of New York, The State Education Department, 1988.

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Soils encountered during TurnKey's Phase II generally consisted miscellaneous fill material varying in depth from 0-8 fbgs, overlying native soils consisting of clay, peat and sand to depths of at least 16 fbgs.

Bedrock beneath the Site is identified as the Hamilton Group per the New York State Geologic Map of New York<sup>2</sup>. Bedrock of the Hamilton Group is a Middle Devonian age bedrock that consists mostly of dark gray/black shales and thin silty limestones, and usually quite fossiliferous. The Hamilton Group is thickest toward southeastern New York State; over 1,000 feet south of Syracuse; 500 feet in the Finger Lakes; and approximately 220 feet south of Buffalo. The Hamilton Group consists of four formations identified as the Marcellus (oldest) (Dhmr), Skaneateles (Dhsk), Ludlowville (Dhld), and Moscow (Dhmo) Formations. The Site is located within the Skaneateles formation. The top of the Hamilton Group is distinct and is drawn at the base of the black shales of the Geneseo Shale Member of the Genesee Group, a finely laminated, black petroliferous shale.

Bedrock was not encountered during the previous intrusive work.

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<sup>2</sup> Geologic Map of New York, Niagara Sheet, Compiled and Edited by Lawrence V. Rickard and Donald W. Fisher, University of the State of New York, The State Education Department, March 1970.

**ATTACHMENT 8**

**ELECTRONIC COPY OF BCP APPLICATION,  
ATTACHMENTS AND PREVIOUS STUDIES**