NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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December 26th, 2018

Mr. Robert Wilson
American Tire, Inc.
397 Ludington Street
Cheektowaga, NY 14206

Re: 1550 Harlem Road
Site ID No.: C915321
Cheektowaga, Erie County
Remedial Investigation/Interim Remedial Measures/Alternative Analysis Report & Decision Document

Dear Mr. Wilson:

The New York State Department of Environmental Conservation (Department) and the New York State Department of Health (NYSDOH) have reviewed the Remedial Investigation/ Interim Remedial Measures/Alternative Analysis Report (RI/IRM/AAR) for the 1550 Harlem Road Site, dated December 4, 2018 and prepared by Wittman GeoSciences, PLLC and Hazard Evaluations, Inc. on behalf of the American Tire, Inc.

The RI/IRM/AAR is hereby approved. Please ensure that a copy of the approved RI/IRM/AAR is placed in the document repository. The draft report should be removed.

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

Please contact the Department's Project Manager, Jaspal S. Walia, at (716) 851-7220 or jaspal.walia@dec.ny.gov at your earliest convenience to discuss next steps.

Sincerely,

Michael Cruden
Bureau Director
Remedial Bureau E
Division of Environmental Remediation

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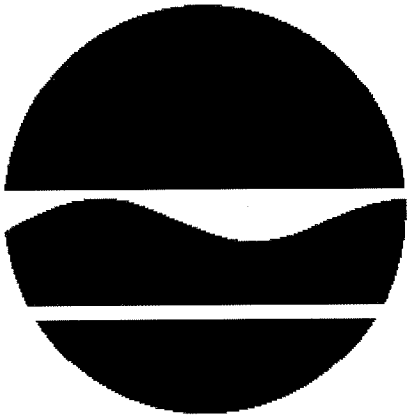
DECISION DOCUMENT

1550 Harlem Road
Brownfield Cleanup Program
Cheektowaga, Erie County
Site No. C915321
December 2018



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

DECLARATION STATEMENT - DECISION DOCUMENT

1550 Harlem Road
Brownfield Cleanup Program
Cheektowaga, Erie County
Site No. C915321
December 2018

Statement of Purpose and Basis

This document presents the remedy for the 1550 Harlem Road site, a brownfield cleanup site. The remedial program was chosen in accordance with the New York State Environmental Conservation Law and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR) Part 375.

This decision is based on the Administrative Record of the New York State Department of Environmental Conservation (the Department) for the 1550 Harlem Road site and the public's input to the proposed remedy presented by the Department.

Description of Selected Remedy

During the course of the investigation certain actions, known as interim remedial measures (IRMs), were undertaken at the above referenced site. An IRM is conducted at a site when a source of contamination or exposure pathway can be effectively addressed before completion of the remedial investigation (RI) or alternatives analysis (AA). The IRM(s) undertaken at this site are discussed in Section 6.2.

Based on the implementation of the IRM(s), the findings of the investigation of this site indicate that the site no longer poses a threat to human health or the environment; therefore, No Further Action is the selected remedy. The remedy may include continued operation of a remedial system if one was installed during the IRM and the implementation of any prescribed institutional controls/engineering controls (ICs/ECs) that have been identified as being part of the proposed remedy for the site.

Declaration

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

michael.cruden@dec.ny.gov

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Date

Michael Cruden, Director
Remedial Bureau E

DECISION DOCUMENT

1550 Harlem Road
Cheektowaga, Erie County
Site No. C915321
December 2018

SECTION 1: SUMMARY AND PURPOSE

The New York State Department of Environmental Conservation (the Department), in consultation with the New York State Department of Health (NYSDOH), has selected a remedy for the above referenced site. The disposal of contaminants at the site resulted in threats to public health and the environment that were addressed by actions known as interim remedial measures (IRMs), which were undertaken at the site. An IRM is conducted at a site when a source of contamination or exposure pathway can be effectively addressed before completion of the remedial investigation (RI) or alternative analysis (AA). The IRMs undertaken at this site are discussed in Section 6.2.

Based on the implementation of the IRMs, the findings of the investigation of this site indicate that the site no longer poses a threat to human health or the environment. The IRMs conducted at the site attained the remediation objectives identified for this site, which are presented in Section 6.5, for the protection of public health and the environment. No Further Action is the selected remedy. A No Further Action remedy may include continued operation of any remedial system installed during the IRM and the implementation of any prescribed controls that have been identified as being part of the remedy for the site. This DD identifies the IRMs conducted and discusses the basis for No Further Action.

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

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

SECTION 2: CITIZEN PARTICIPATION

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

East Clinton Branch Library
1929 Clinton Street
Buffalo, NY 14206
Phone: 716-823-5626

Receive Site Citizen Participation Information By Email
Please note that the Department's Division of Environmental Remediation (DER) is "going paperless" relative to citizen participation information. The ultimate goal is to distribute citizen participation information about contaminated sites electronically by way of county email listservs. Information will be distributed for all sites that are being investigated and cleaned up in a particular county under the State Superfund Program, Environmental Restoration Program, Brownfield Cleanup Program, Voluntary Cleanup Program, and Resource Conservation and Recovery Act Program. We encourage the public to sign up for one or more county listservs at http://www.dec.ny.gov/chemical/61092.html

SECTION 3: SITE DESCRIPTION AND HISTORY

Location:
The site consists of two parcels totaling approximately 0.43 acres of land. The site is bound to the east by Harlem Road, to the west by Gratton Street and residential properties, to the north by a commercial use (Romar Industrial Plaza) and to the south by commercial uses (H&V Sales). The property is located within an urban area, utilized for commercial and residential purposes.

Site Features:
Currently the site is a vacant lot. The on-site buildings were removed in March 2018.

Current Zoning and Land Use:
The site is currently inactive and has been abandoned since 2014. It is currently zoned commercial. The western portion of the site is zoned as residential.

Past Uses of the Site:
The site was originally developed as a gasoline station in the late 1950s or early 1960s, and continued to be used as a gas station until the 1970s. The site then remained vacant for a period of several years before being converted into a nursery/garden center in the early to mid-1980s. The site continued to be operated as a nursery/garden center until early 2014 and has been vacant since that time.

Site Geology and Hydrogeology:
The site contains granular and cohesive fill material throughout the site. The fill material extended to generally between 3 to 5 feet below grade. The fill is underlain by silty clay. The depth of groundwater is from 4 to 8 feet below ground surface. The shallow localized groundwater flow is in a southerly direction toward Cayuga Creek located approximately 0.75 miles south.

A site location map is attached as Figure 1.

SECTION 4: LAND USE AND PHYSICAL SETTING

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

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

SECTION 5: ENFORCEMENT STATUS

The Applicant under the Brownfield Cleanup Agreement is a Volunteer. The Applicant does not have an obligation to address off-site contamination. However, the Department has determined that this site does not pose a significant threat to public health or the environment; accordingly, no enforcement actions are necessary.

SECTION 6: SITE CONTAMINATION

6.1: Summary of the Remedial Investigation

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

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

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

The analytical data collected on this site includes data for:

- groundwater
- soil

6.1.1: Standards, Criteria, and Guidance (SCGs)

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

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

6.1.2: RI Results

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

benzene
ethylbenzene
polycyclic aromatic hydrocarbons (PAHs)
manganese
lead

Based on the investigation results, comparison to the SCGs, and the potential public health and environmental exposure routes, certain media and areas of the site required remediation. These media were addressed by the IRMs described in Section 6.2. More complete information can be found in the Remedial Investigation-Interim Remedial Measures-Alternative Analysis Report.

6.2: Interim Remedial Measures

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

The following IRMs have been completed at this site between February 2018 and August 2018 based on conditions observed during the RI. The completed IRMs are shown on Figure 2.

IRM – Removal of Tanks, Piping, Impacted Soil and Water:
The IRM was completed to promptly address known environmental impacts and consisted of:

Excavation and off-site disposal of contaminant source areas, including:
- grossly contaminated soil, as defined in 6 NYCRR Part 375-1.2(u);

- soils which exceeded the restricted residential soil cleanup objectives (RRSCOs) for all contaminants including volatile organic compounds (VOCs) from petroleum hydrocarbons, metals and polycyclic aromatic hydrocarbons (PAHs); and
- soils that created a nuisance condition, as defined in Commissioner Policy CP-51 Section G.

Underground Storage Tank (UST) Removal:
(i) Two gasoline USTs (8,000-gallon and 5,000-gallon), their associated piping, and 415 cubic yards of petroleum contaminated soil were excavated and disposed off-site. The tank excavations extended to 5-12 ft below ground surface (bgs) and the removal of two pipes in the pump island areas went to 4-5 ft bgs. After cleaning, the tanks were sent to Metalico Scrap in Buffalo, NY for recycling. Clean fill meeting the requirements of 6 NYCRR Part 375-6.7(d) for restricted residential use was brought in to complete the backfilling of the excavation and establish the designed grades at the site.

(ii) Demolition of the existing building to enable the system piping from the USTs to be traced.

(iii) Off-site disposal of 14,245 gallons of petroleum impacted water from the excavation and cleaning of the removed tanks.

IRM - Removal of Contaminated Soil/Fill:
Approximately 63 cubic yards of soil/fill contaminated with PAHs, lead, benzene and manganese above restricted residential soil cleanup objectives (RRSCOs) were excavated and disposed off-site at the Waste Management Facility in Chaffee, New York. The excavations extended to 2 to 3 feet below grade. The cleanup was confirmed by collecting confirmatory samples after completion of excavation of contaminated soil/fill. The levels of all contaminants in post-excavation samples were below RRSCOs. Clean fill meeting the requirements of 6 NYCRR Part 375-6.7(d) for restricted residential use was brought in to complete the backfilling of the excavation and establish the designed grades at the site.

6.3: Summary of Environmental Assessment

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

A Remedial Investigation (RI) was completed in September 2018. The soil/fill and groundwater samples were analyzed for Target Compound List (TCL) volatiles organic compounds (VOCs), semi-volatile organic compounds (SVOCs), polychlorinated biphenyls (PCBs), pesticides, herbicides, and Target Analyte List (TAL) metals. Soil/fill samples were collected across the site to native soil which was present from 3 to 4 feet below ground surface (bgs). Contamination in the USTs was upto 12 feet bgs. Deeper soil borings (16-20 feet below ground surface) did not identify the presence of contamination in native soil.

Post IRM:
Soil: Post excavation verification sampling of the excavation bottom and sidewalls was implemented to ensure project cleanup goals were achieved. The concentrations of contaminants remaining in soil/ fill were less than the RRSCOs.

No significant impact to off-site soil from contaminants that have migrated from the site was identified. One off-site boring adjacent to Harlem Road exceeded RRSCOs for benzene and xylenes, however confirmatory samples at the site perimeter in this location were below RRSCOs for these contaminants.

Groundwater: Groundwater Quality Standards (GWQS) exceeded for ethylbenzene (160 ppb; GWQS - 5 ppb) in only one well. The concentrations of naturally occurring metals (iron, magnesium, and manganese) also exceeded GWQS in some wells.

No migration of contaminated groundwater that would adversely impact off-site properties was identified.

6.4: Summary of Human Exposure Pathways

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

Interim remedial measures taken at the site have reduced the potential for contact with site contaminants. People will not come into contact with site-related groundwater contamination unless they dig below the surface. People are not drinking the contaminated groundwater because the area is served by a public water supply that is not affected by this contamination. Volatile organic compounds in the groundwater or soil may move into the soil vapor (air spaces within the soil), which in turn may move into overlying buildings and affect the indoor air quality. This process, which is similar to the movement of radon gas from the subsurface into the indoor air of buildings, is referred to as soil vapor intrusion. Environmental sampling indicates that soil vapor intrusion is not a concern at this site.

6.5: Summary of the Remediation Objectives

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

The remedial action objectives for this site are:

Groundwater

RAOs for Public Health Protection

- Prevent ingestion of groundwater with contaminant levels exceeding drinking

water standards.

- Prevent contact with, or inhalation of volatiles, from contaminated groundwater.

RAOs for Environmental Protection

- Restore ground water aquifer to pre-disposal/pre-release conditions, to the extent practicable.

Soil

RAOs for Public Health Protection

- Prevent ingestion/direct contact with contaminated soil.
- Prevent inhalation of or exposure from contaminants volatilizing from contaminants in soil.

SECTION 7: ELEMENTS OF THE SELECTED REMEDY

Based on the results of the investigations at the site, the interim remedial measures (IRMs) that has been performed, and the evaluation presented here, the Department has selected No Further Action as the remedy for the site. This No Further Action remedy includes the implementation of institutional controls (ICs) as the selected remedy for the site. The Department believes that this remedy is protective of human health and the environment and satisfies the remediation objectives described in Section 6.5.

The selected remedy is referred to as the Restricted Residential Use (Track 2) remedy.
In addition to the IRMs that have been performed, the elements of the selected remedy are as follows:

1. Institutional Control - Imposition of an institutional control in the form of an environmental easement for the controlled property which will:

- require the remedial party or site owner to complete and submit to the Department a periodic certification of institutional controls in accordance with Part 375-1.8 (h)(3);
- allow the use and development of the controlled property for restricted residential use as defined by Part 375-1.8(g), although land use is subject to local zoning laws;
- restrict the use of groundwater as a source of potable or process water, without necessary water quality treatment as determined by the NYSDOH or County DOH; and
- require compliance with the Department approved Site Management Plan.

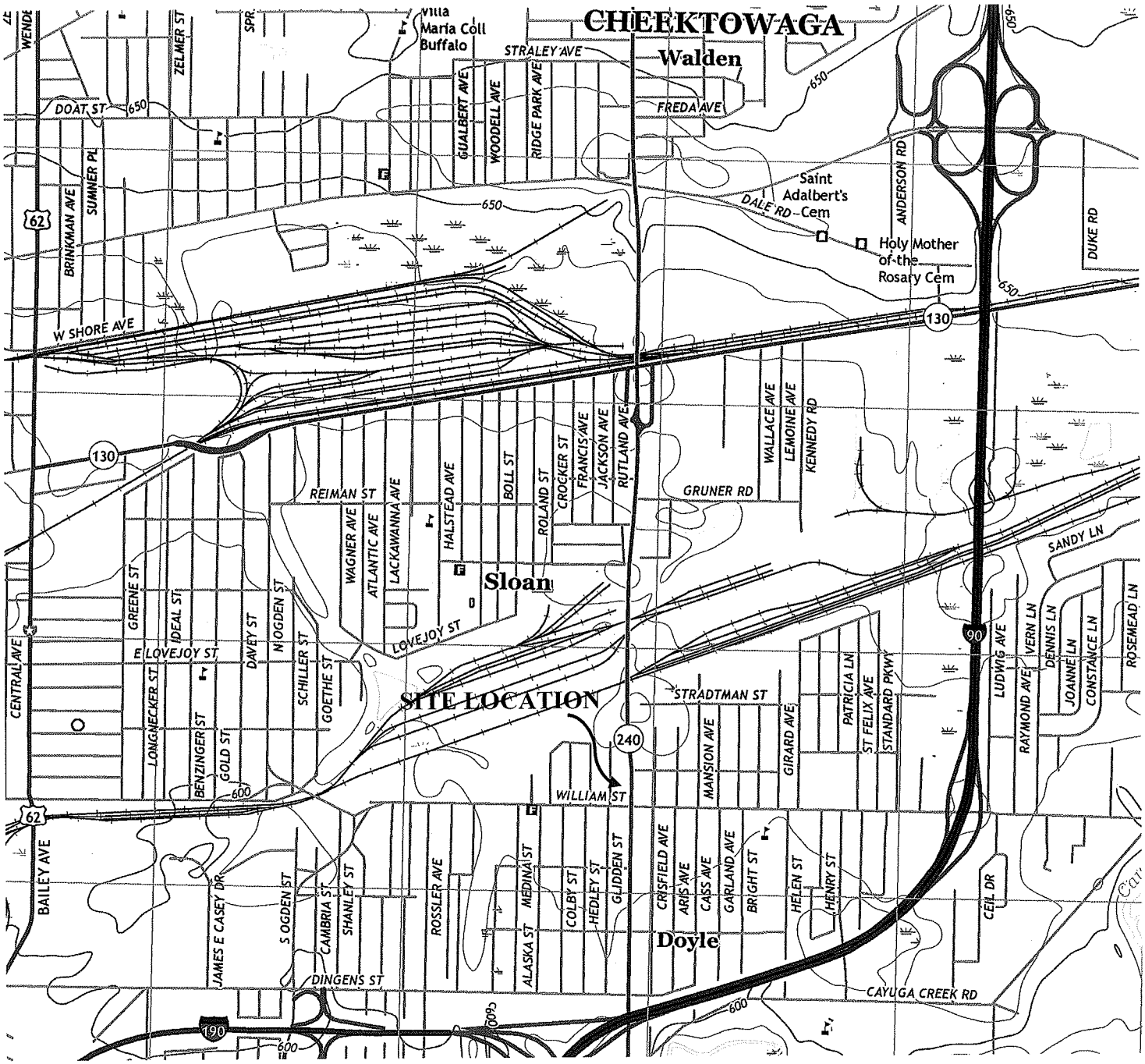
2. Site Management Plan: A Site Management Plan is required, which includes the following:

a) an Institutional Control Plan that identifies all use restrictions for the site and details the steps and media-specific requirements necessary to ensure the following institutional controls remain in place and effective:

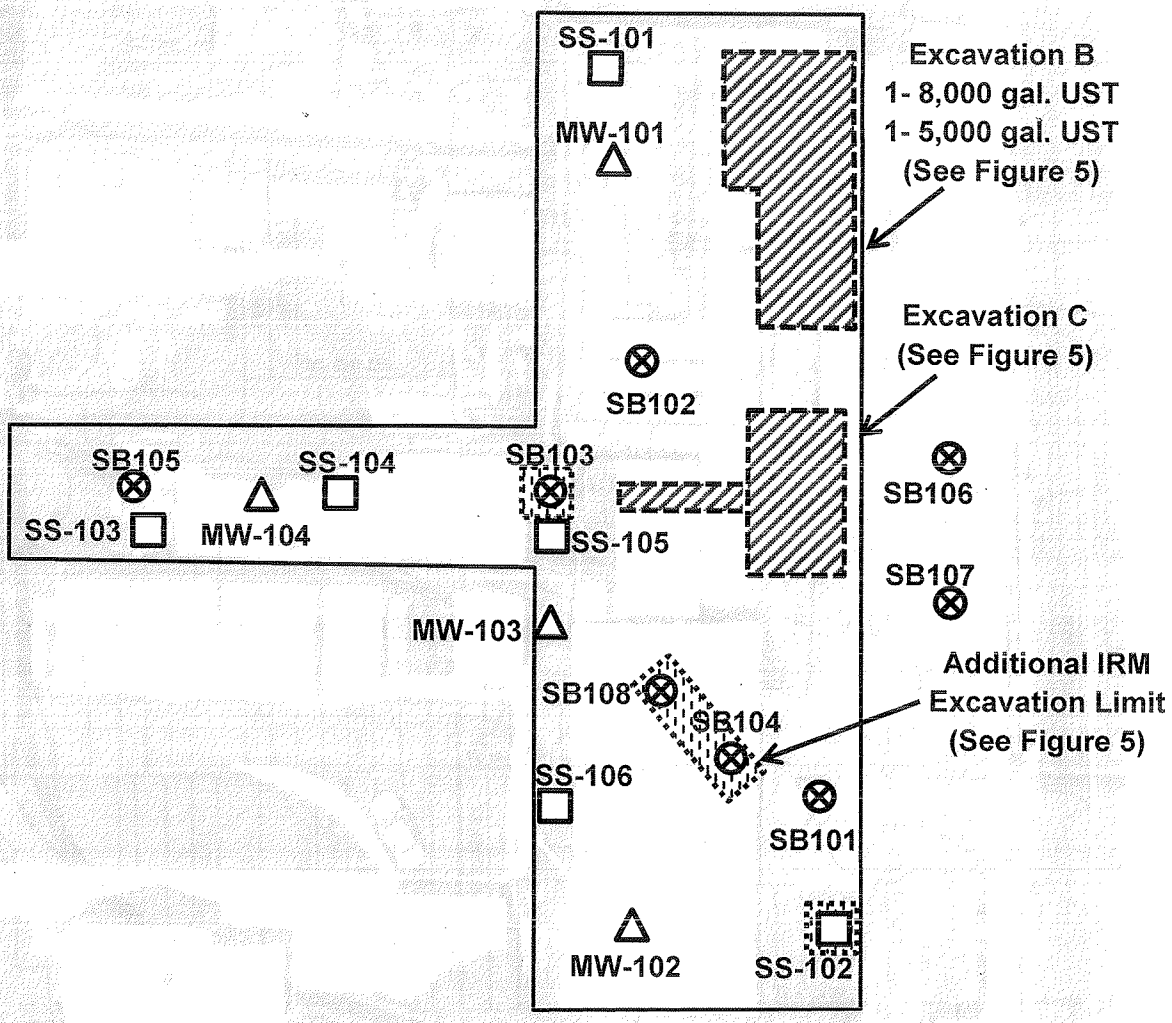
Institutional Controls: The Environmental Easement discussed in Paragraph 1 above.

This plan includes, but may not be limited to:

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



WITTMAN GEOSCIENCES, PLLC	Date: 10/2018	**Site Location Map**	Project: 18-102
	Scale: not to scale	1550 Harlem, Cheektowaga, NY	Figure: 1



KEY

⊗ = Soil Boring Location

△ = Monitoring Well Location

□ = Surface Soil Location

▨ = IRM Excavation limits (2/2018)

▨ = Additional IRM Excavation limits (8/2018)

WITTMAN GEOSCIENCES, PLLC	Date: 10/2018	**Interim Remedial Measure Locations**	Project: 18-102
	Scale: 1' = 40'	1550 Harlem Road, Cheektowaga, NY	Figure: 2