



Department of  
Environmental  
Conservation

# **Brownfield Cleanup Program**

## **Citizen Participation Plan**

for

## **HUNTLEY POWER SOUTH PARCEL**

March 8, 2019

Site # C915337  
3500 River Road  
Town of Tonawanda  
Erie County, New York

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**Note:** The information presented in this Citizen Participation Plan was current as of the date of its approval by the New York State Department of Environmental Conservation. Portions of this Citizen Participation Plan may be revised during the site’s investigation and cleanup process.

Applicant: **Huntley Power LLC (“Applicant”)**  
Site Name: **Huntley Power South Parcel (“Site”)**  
Site Address: **3500 River Road, Town of Tonawanda**  
Site County: **Erie**  
Site Number: **C915337**

## **1. What is New York’s Brownfield Cleanup Program?**

New York’s Brownfield Cleanup Program (BCP) works with private developers to encourage the voluntary cleanup of contaminated properties known as “brownfields” so that they can be reused and developed. These uses include recreation, housing, and business.

A *brownfield* is any real property that is difficult to reuse or redevelop because of the presence or potential presence of contamination. A brownfield typically is a former industrial or commercial property where operations may have resulted in environmental contamination. A brownfield can pose environmental, legal, and financial burdens on a community. If a brownfield is not addressed, it can reduce property values in the area and affect economic development of nearby properties.

The BCP is administered by the New York State Department of Environmental Conservation (NYSDEC) which oversees Applicants who conduct brownfield site investigation and cleanup activities. An Applicant is a person who has requested to participate in the BCP and has been accepted by NYSDEC. The BCP contains investigation and cleanup requirements, ensuring that cleanups protect public health and the environment. When NYSDEC certifies that these requirements have been met, the property can be reused or redeveloped for the intended use.

For more information about the BCP, go online at:  
<http://www.dec.ny.gov/chemical/8450.html> .

## **2. Citizen Participation Activities**

### *Why NYSDEC Involves the Public and Why It Is Important*

NYSDEC involves the public to improve the process of investigating and cleaning up contaminated sites, and to enable citizens to participate more fully in decisions that affect their health, environment, and social well-being. NYSDEC provides opportunities for citizen involvement and encourages early two-way communication with citizens before decision makers form or adopt final positions.

Involving citizens affected and interested in site investigation and cleanup programs is important for many reasons. These include:

- Promoting the development of timely, effective site investigation and cleanup programs that protect public health and the environment
- Improving public access to, and understanding of, issues and information related to a particular site and that site's investigation and cleanup process
- Providing citizens with early and continuing opportunities to participate in NYSDEC's site investigation and cleanup process
- Ensuring that NYSDEC makes site investigation and cleanup decisions that benefit from input that reflects the interests and perspectives found within the affected community
- Encouraging dialogue to promote the exchange of information among the affected/interested public, State agencies, and other interested parties that strengthens trust among the parties, increases understanding of site and community issues and concerns, and improves decision making.

This Citizen Participation (CP) Plan provides information about how NYSDEC will inform and involve the public during the investigation and cleanup of the site identified above. The public information and involvement program will be carried out with assistance, as appropriate, from the Applicant.

#### *Project Contacts*

Appendix A identifies NYSDEC project contact(s) to whom the public should address questions or request information about the site's investigation and cleanup program. The public's suggestions about this CP Plan and the CP program for the site are always welcome. Interested people are encouraged to share their ideas and suggestions with the project contacts at any time.

#### *Locations of Reports and Information*

The locations of the reports and information related to the site's investigation and cleanup program also are identified in Appendix A. These locations provide convenient access to important project documents for public review and comment. Some documents may be placed on the NYSDEC web site. If this occurs, NYSDEC will inform the public in fact sheets distributed about the site and by other means, as appropriate.

### *Site Contact List*

Appendix B contains the site contact list. This list has been developed to keep the community informed about, and involved in, the site's investigation and cleanup process. The site contact list will be used periodically to distribute fact sheets that provide updates about the status of the project. These will include notifications of upcoming activities at the site (such as fieldwork), as well as availability of project documents and announcements about public comment periods.

The site contact list includes, at a minimum:

- chief executive officer and planning board chairperson of each county, city, town and village in which the site is located;
- residents, owners, and occupants of the site and properties adjacent to the site;
- the public water supplier which services the area in which the site is located;
- any person who has requested to be placed on the site contact list;
- the administrator of any school or day care facility located on or near the site for purposes of posting and/or dissemination of information at the facility;
- location(s) of reports and information.

The site contact list will be reviewed periodically and updated as appropriate. Individuals and organizations will be added to the site contact list upon request. Such requests should be submitted to the NYSDEC project contact(s) identified in Appendix A. Other additions to the site contact list may be made at the discretion of the NYSDEC project manager, in consultation with other NYSDEC staff as appropriate.

**Note:** The first site fact sheet (usually related to the draft Remedial Investigation Work Plan) is distributed both by paper mailing through the postal service and through DEC Delivers, its email listserv service. The fact sheet includes instructions for signing up with the appropriate county listserv to receive future notifications about the site. See <http://www.dec.ny.gov/chemical/61092.html> .

Subsequent fact sheets about the site will be distributed exclusively through the listserv, except for households without internet access that have indicated the need to continue to receive site information in paper form. Please advise the NYSDEC site project manager identified in Appendix A if that is the case. Paper mailings may continue during the investigation and cleanup process for some sites, based on public interest and need.

## *CP Activities*

The table at the end of this section identifies the CP activities, at a minimum, that have been and will be conducted during the site's investigation and cleanup program. The flowchart in Appendix D shows how these CP activities integrate with the site investigation and cleanup process. The public is informed about these CP activities through fact sheets and notices distributed at significant points during the program. Elements of the investigation and cleanup process that match up with the CP activities are explained briefly in Section 5.

- **Notices and fact sheets** help the interested and affected public to understand contamination issues related to a site, and the nature and progress of efforts to investigate and clean up a site.
- **Public forums, comment periods and contact with project managers** provide opportunities for the public to contribute information, opinions and perspectives that have potential to influence decisions about a site's investigation and cleanup.

The public is encouraged to contact project staff at any time during the site's investigation and cleanup process with questions, comments, or requests for information.

This CP Plan may be revised due to changes in major issues of public concern identified in Section 3 or in the nature and scope of investigation and cleanup activities. Modifications may include additions to the site contact list and changes in planned citizen participation activities.

## *Technical Assistance Grant*

NYSDEC must determine if the site poses a significant threat to public health or the environment. This determination generally is made using information developed during the investigation of the site, as described in Section 5.

If the site is determined to be a significant threat, a qualifying community group may apply for a Technical Assistance Grant (TAG). The purpose of a TAG is to provide funds to the qualifying group to obtain independent technical assistance. This assistance helps the TAG recipient to interpret and understand existing environmental information about the nature and extent of contamination related to the site and the development/implementation of a remedy.

An eligible community group must certify that its membership represents the interests of the community affected by the site, and that its members' health, economic well-being

or enjoyment of the environment may be affected by a release or threatened release of contamination at the site.

As of the date the declaration (page 2) was signed by the NYSDEC project manager, the significant threat determination for the site had not yet been made.

To verify the significant threat status of the site, the interested public may contact the NYSDEC project manager identified in Appendix A.

For more information about TAGs, go online at  
<http://www.dec.ny.gov/regulations/2590.html>

Note: The table identifying the citizen participation activities related to the site's investigation and cleanup program follows on the next page:

Citizen Participation Activities	Timing of CP Activity(ies)
<b>Application Process:</b>	
<ul style="list-style-type: none"> <li>• Prepare site contact list</li> <li>• Establish document repository(ies)</li> <li>• Publish notice in Environmental Notice Bulletin (ENB) announcing receipt of application and 30-day public comment period</li> <li>• Publish above ENB content in local newspaper</li> <li>• Mail above ENB content to site contact list</li> <li>• Conduct 30-day public comment period</li> </ul>	<p>At time of preparation of application to participate in the BCP.</p> <p>When NYSDEC determines that BCP application is complete. The 30-day public comment period begins on date of publication of notice in ENB. End date of public comment period is as stated in ENB notice. Therefore, ENB notice, newspaper notice, and notice to the site contact list should be provided to the public at the same time.</p>
<b>After Execution of Brownfield Site Cleanup Agreement (BCA):</b>	
<ul style="list-style-type: none"> <li>• Prepare Citizen Participation (CP) Plan</li> </ul>	<p>Before start of Remedial Investigation</p> <p><b>Note:</b> Applicant must submit CP Plan to NYSDEC for review and approval within 20 days of the effective date of the BCA.</p>
<b>Before NYSDEC Approves Remedial Investigation (RI) Work Plan:</b>	
<ul style="list-style-type: none"> <li>• Distribute fact sheet to site contact list about proposed RI activities and announcing 30-day public comment period about draft RI Work Plan</li> <li>• Conduct 30-day public comment period</li> </ul>	<p>Before NYSDEC approves RI Work Plan. If RI Work Plan is submitted with application, public comment periods will be combined and public notice will include fact sheet. Thirty-day public comment period begins/ends as per dates identified in fact sheet.</p>
<b>After Applicant Completes Remedial Investigation:</b>	
<ul style="list-style-type: none"> <li>• Distribute fact sheet to site contact list that describes RI results</li> </ul>	<p>Before NYSDEC approves RI Report</p>
<b>Before NYSDEC Approves Remedial Work Plan (RWP):</b>	
<ul style="list-style-type: none"> <li>• Distribute fact sheet to site contact list about draft RWP and announcing 45-day public comment period</li> <li>• Public meeting by NYSDEC about proposed RWP (if requested by affected community or at discretion of NYSDEC project manager)</li> <li>• Conduct 45-day public comment period</li> </ul>	<p>Before NYSDEC approves RWP. Forty-five day public comment period begins/ends as per dates identified in fact sheet. Public meeting would be held within the 45-day public comment period.</p>
<b>Before Applicant Starts Cleanup Action:</b>	
<ul style="list-style-type: none"> <li>• Distribute fact sheet to site contact list that describes upcoming cleanup action</li> </ul>	<p>Before the start of cleanup action.</p>
<b>After Applicant Completes Cleanup Action:</b>	
<ul style="list-style-type: none"> <li>• Distribute fact sheet to site contact list that announces that cleanup action has been completed and that NYSDEC is reviewing the Final Engineering Report</li> <li>• Distribute fact sheet to site contact list announcing NYSDEC approval of Final Engineering Report and issuance of Certificate of Completion (COC)</li> </ul>	<p>At the time the cleanup action has been completed.</p> <p><b>Note:</b> The two fact sheets are combined when possible if there is not a delay in issuing the COC.</p>

### 3. Major Issues of Public Concern

This section of the CP Plan identifies major issues of public concern that relate to the site. Additional major issues of public concern may be identified during the course of the site's investigation and cleanup process.

Comments on the draft BCP Application were received from County and Town government agencies as well as environmental non-for-profit organizations. All commenting groups expressed their support of the application and of the applicant's proposal for further environmental investigation and ultimate remediation and redevelopment of the Site. Some in-common concerns expressed by the commenting organizations include requests for:

- recognition and consideration of recent planning documents that have been prepared by and/or for the Town;
- consideration of the existing soil berm that contains elevated levels of arsenic;
- Site cleanup that is protective of both human health and ecological resources; and
- the ultimate site use to include passive recreation and public access to the river.

### 4. Site Information

Appendix C contains a map identifying the location of the site.

#### *Site Description*

- location: 3500 River Road, Town of Tonawanda, Erie county
- setting: large industrial/urban
- site size: 34.80 acres
- adjacent properties:
  - To the North: Huntley Northern Parcel/former power plant - no longer active;
  - To the East: River Road and Sumitomo Rubber, an active tire manufacturer;
  - To the South: Erie County Water Authority – raw water extraction facility;
  - To the West: the Niagara River.

#### *History of Site Use, Investigation, and Cleanup*

The facility is a recently retired coal-fired power plant, initially constructed in 1916 and expanded over the years. The last of the operating generating units at the station property were retired in 2016. The BCP Site does not include the generating station and structures of the station property. Rather, the portion of the station property within the Site contained the coal pile, removed after the last generating units retired. The coal pile area is surrounded by a subsurface containment structure and dewatering

system, consisting of a slurry wall and pumping stations. The Site also contains two basins and a pond. The pond was used to receive residuals created from the combustion of the coal to generate electricity. The coal yard dewatering system remains in operation and the equalization basins are used to receive water from the dewatering system after passing through an oil/water separator. The south pond continues to be used to receive water from the Station's basement sumps. The Site has no buildings on it.

An environmental evaluation (Phase I Environmental Site Assessment (ESA)) of the entire, approximately 90-acre, former Huntley Steam Station property was completed in 1998 which identified several areas of historic spills, some of which were located on the BCP Site. Based on the findings of the Phase I ESA, a sampling was conducted, also in 1998. The sampling included samples of on-site surface and subsurface soil, groundwater, and sediment for chemical analysis.

In connection with BCP application, limited investigation was completed 2018 on the southern portion of the plant property. In addition, ongoing groundwater sampling is completed at the Site for compliance with stormwater discharge permits and regulations governing coal combustion residuals. These samples are analyzed for a limited number of chemicals.

The coal that was long used to fuel the plant contained sulfur content. The sulfur in coal is associated with the presence of arsenic. Limited sampling performed on the Site have confirmed the presence of elevated levels of arsenic in pond sediment, Site subsurface soils, and groundwater. With NYSDEC's permission, soil with elevated levels of arsenic was used to construct a berm to visually screen a pedestrian walkway along the eastern Site boundary. The berm was covered with clean soil and seeded to form a complete grass cover.

During the removal of coal from the coal pile, petroleum was discovered at the base of the coal pile inside the slurry wall. The extent of the petroleum as far as area, depth, and volume is currently unknown.

## **5. Investigation and Cleanup Process**

### *Application*

The Applicant has applied for and been accepted into New York's Brownfield Cleanup Program as a Participant. This means that the Applicant was the owner of the site at the

time of the disposal or discharge of contaminants or was otherwise liable for the disposal or discharge of the contaminants. The Participant must fully characterize the nature and extent of contamination onsite, as well as the nature and extent of contamination that has migrated from the site. The Participant also must conduct a “qualitative exposure assessment,” a process that characterizes the actual or potential exposures of people, fish and wildlife to contaminants on the site and to contamination that has migrated from the site.

The Applicant in its Application proposes that the site will be used for restricted purposes.

To achieve this goal, the Applicant will conduct investigation and cleanup activities at the site with oversight provided by NYSDEC. The Brownfield Cleanup Agreement executed by NYSDEC and the Applicant sets forth the responsibilities of each party in conducting these activities at the site.

### *Investigation*

The Applicant will conduct an investigation of the site officially called a “remedial investigation” (RI). This investigation will be performed with NYSDEC oversight. The Applicant must develop a remedial investigation workplan, which is subject to public comment.

The site investigation has several goals:

- 1) define the nature and extent of contamination in soil, surface water, groundwater and any other parts of the environment that may be affected;
- 2) identify the source(s) of the contamination;
- 3) assess the impact of the contamination on public health and the environment;  
and
- 4) provide information to support the development of a proposed remedy to address the contamination or the determination that cleanup is not necessary.

The Applicant submits a draft “Remedial Investigation Work Plan” to NYSDEC for review and approval. NYSDEC makes the draft plan available to the public review during a 30-day public comment period.

When the investigation is complete, the Applicant will prepare and submit a report that summarizes the results. This report also will recommend whether cleanup action is needed to address site-related contamination. The investigation report is subject to review and approval by NYSDEC.

NYSDEC will use the information in the investigation report to determine if the site poses a significant threat to public health or the environment. If the site is a “significant

threat,” it must be cleaned up using a remedy selected by NYSDEC from an analysis of alternatives prepared by the Applicant and approved by NYSDEC. If the site does not pose a significant threat, the Applicant may select the remedy from the approved analysis of alternatives.

### *Interim Remedial Measures*

An Interim Remedial Measure (IRM) is an action that can be undertaken at a site when a source of contamination or exposure pathway can be effectively addressed before the site investigation and analysis of alternatives are completed. If an IRM is likely to represent all or a significant part of the final remedy, NYSDEC will require a 30-day public comment period.

### *Remedy Selection*

When the investigation of the site has been determined to be complete, the project likely would proceed in one of two directions:

1. The Applicant may recommend in its investigation report that no action is necessary at the site. In this case, NYSDEC would make the investigation report available for public comment for 45 days. NYSDEC then would complete its review, make any necessary revisions, and, if appropriate, approve the investigation report. NYSDEC would then issue a “Certificate of Completion” (described below) to the Applicant.

**or**

2. The Applicant may recommend in its investigation report that action needs to be taken to address site contamination. After NYSDEC approves the investigation report, the Applicant may then develop a cleanup plan, officially called a “Remedial Work Plan”. The Remedial Work Plan describes the Applicant’s proposed remedy for addressing contamination related to the site.

When the Applicant submits a draft Remedial Work Plan for approval, NYSDEC would announce the availability of the draft plan for public review during a 45-day public comment period.

### *Cleanup Action*

NYSDEC will consider public comments, and revise the draft cleanup plan if necessary, before approving the proposed remedy. The New York State Department of Health

(NYSDOH) must concur with the proposed remedy. After approval, the proposed remedy becomes the selected remedy. The selected remedy is formalized in the site Decision Document.

The Applicant may then design and perform the cleanup action to address the site contamination. NYSDEC and NYSDOH oversee the activities. When the Applicant completes cleanup activities, it will prepare a final engineering report that certifies that cleanup requirements have been achieved or will be achieved within a specific time frame. NYSDEC will review the report to be certain that the cleanup is protective of public health and the environment for the intended use of the site.

### *Certificate of Completion*

When NYSDEC is satisfied that cleanup requirements have been achieved or will be achieved for the site, it will approve the final engineering report. NYSDEC then will issue a Certificate of Completion (COC) to the Applicant. The COC states that cleanup goals have been achieved, and relieves the Applicant from future liability for site-related contamination, subject to certain conditions. The Applicant would be eligible to redevelop the site after it receives a COC.

### *Site Management*

The purpose of site management is to ensure the safe reuse of the property if contamination will remain in place. Site management is the last phase of the site cleanup program. This phase begins when the COC is issued. Site management incorporates any institutional and engineering controls required to ensure that the remedy implemented for the site remains protective of public health and the environment. All significant activities are detailed in a Site Management Plan.

An *institutional control* is a non-physical restriction on use of the site, such as a deed restriction that would prevent or restrict certain uses of the property. An institutional control may be used when the cleanup action leaves some contamination that makes the site suitable for some, but not all uses.

An *engineering control* is a physical barrier or method to manage contamination. Examples include: caps, covers, barriers, fences, and treatment of water supplies.

Site management also may include the operation and maintenance of a component of the remedy, such as a system that pumps and treats groundwater. Site management continues until NYSDEC determines that it is no longer needed.

**Appendix A -  
Project Contacts and Locations of Reports and Information**

**Project Contacts**

For information about the site's investigation and cleanup program, the public may contact any of the following project staff:

**New York State Department of Environmental Conservation (NYSDEC):**

Bryan Kowalewski  
Project Manager  
NYSDEC Region 9  
Division of Environmental Remediation  
270 Michigan Avenue  
Buffalo, New York 14203

Phone: 716-851-7220

Kristen Davidson  
Citizen Participation Specialist  
NYSDEC Region 9  
270 Michigan Avenue  
Buffalo, New York 14203

Phone: 716-851-7220

**New York State Department of Health (NYSDOH):**

Steven Berninger  
Project Manager  
New York State Department of Health  
Corning Tower, Room 1787 Empire  
State Plaza  
Albany, NY 12237  
518-402-7860

**Locations of Reports and Information**

The facilities identified below are being used to provide the public with convenient access to important project documents:

Buffalo and Erie County Public Library  
Riverside Branch  
820 Tonawanda Street  
Buffalo, New York 14207  
Phone: 716-875-0562  
Hours: Tues and Wed: 10 to 6  
Thurs: noon to 8, Sat: 10 to 6

NYSDEC Region 9  
270 Michigan Avenue  
Buffalo, New York 14203  
Attn: Steve Moeller  
Phone: 716-851-7220  
Hours: Monday – Friday 9:00 to 4:30  
(call for appointment)

## Appendix B - Site Contact List

### 1. Local Government – Town of Tonawanda

Joseph Emminger - Town Supervisor  
2919 Delaware Ave.  
Kenmore, NY 14217

James Hartz - Director of Planning and Development  
2919 Delaware Ave.  
Kenmore, NY 14217

Mark Poloncarz  
Erie County Executive  
95 Franklin Street  
Buffalo, NY 14202

Thomas R. Hersey, Jr.  
Erie County Commissioner of Environment and Planning  
95 Franklin Street, 10th Floor  
Buffalo, NY 14202

### 2. Residents, Owners and Occupants of Property and Property Adjacent to Site:

Adjacent land owners are listed below:

#### East of Site:

Goodyear Dunlop Tires	SBL# 65.17-2-1.111
PO Box 647	Parcel Address: 3333 River Road
Kenmore, NY 14216	Parcel Size: 130.7 acres

and

Erie County Water Authority	SBL# 65.17-1-3
350 Ellicott Square Bldg.	Parcel Address: 3300 River Road
Buffalo, NY 14203	Parcel Size 3.2 acres

#### South of Site:

Buffalo & Erie County Industrial Land	SBL# 65.13-2-1
Erie County Industrial Development Corp.	Parcel Address: 3445 River Road
95 Perry Street, Suite 403	Parcel Size: 6.43 Acres

Buffalo, New York 14203

and

County of Erie  
95 Franklin Street  
Buffalo, NY 14202

SBL# 65.17-1-4  
Parcel Address: 4200 River Road  
Parcel Size: 0.799 Acres

North of Site:

Huntley Power LLC  
C/O NRG Energy  
804 Carnegie Center  
Princeton, NJ 08540

SBL: 64.16-1-1.2  
Parcel address: 3500 River Road  
Parcel Size: 102.32 (prior to BCP subdivision)

West of the Site:

Niagara River (Waters of the US)

3. Local Media:

Local Newspaper:

Buffalo News  
1 News Plaza Buffalo NY 14240 (716) 849-3434  
17  
<http://www.buffalonews.com/classifieds/>

Local Television:

WGRZ – TV Channel 2  
259 Delaware Avenue Buffalo, NY 14202 (716) 849-2200  
<http://www.wgrz.com/news/default.aspx>

WIVB – TV Channel 4  
2077 Elmwood Avenue Buffalo, NY 14207 (716) 874-4410  
<http://www.wivb.com/subindex/news>

WKBW – TV Channel 7 7 Broadcast Plaza Buffalo, NY 14202 (716) 840-7777  
<http://www.wkbw.com/>

Radio:

WBEN 930 AM Radio 500 Corporate Parkway Amherst, NY 14226 (716) 843-0600<http://www.wben.com>

WBFO 88.7 FM Radio 3435 Main Street Buffalo, NY 14214 (716) 829-6000<http://www.wbfo.org/>

4. Local Water Supplier:

Tonawanda Water & Sewer Department  
525 Belmont Ave.  
Buffalo, New York 14223

5. Persons Requesting to be Placed on Contact List:

To Be Completed as Necessary

6. School and Day Care Facilities:

There are no known schools or day care facilities located on or within one mile of the proposed BCP Site.

7. Community Organizations:

Buffalo Niagara Waterkeepers  
Mr. Joel Bernosky  
721 Main Street  
Buffalo, New York 14203

Clean Air  
Rebecca Newberry – Executive Director  
52 Linwood Avenue  
Buffalo, New York 14209



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Data Supplied by :



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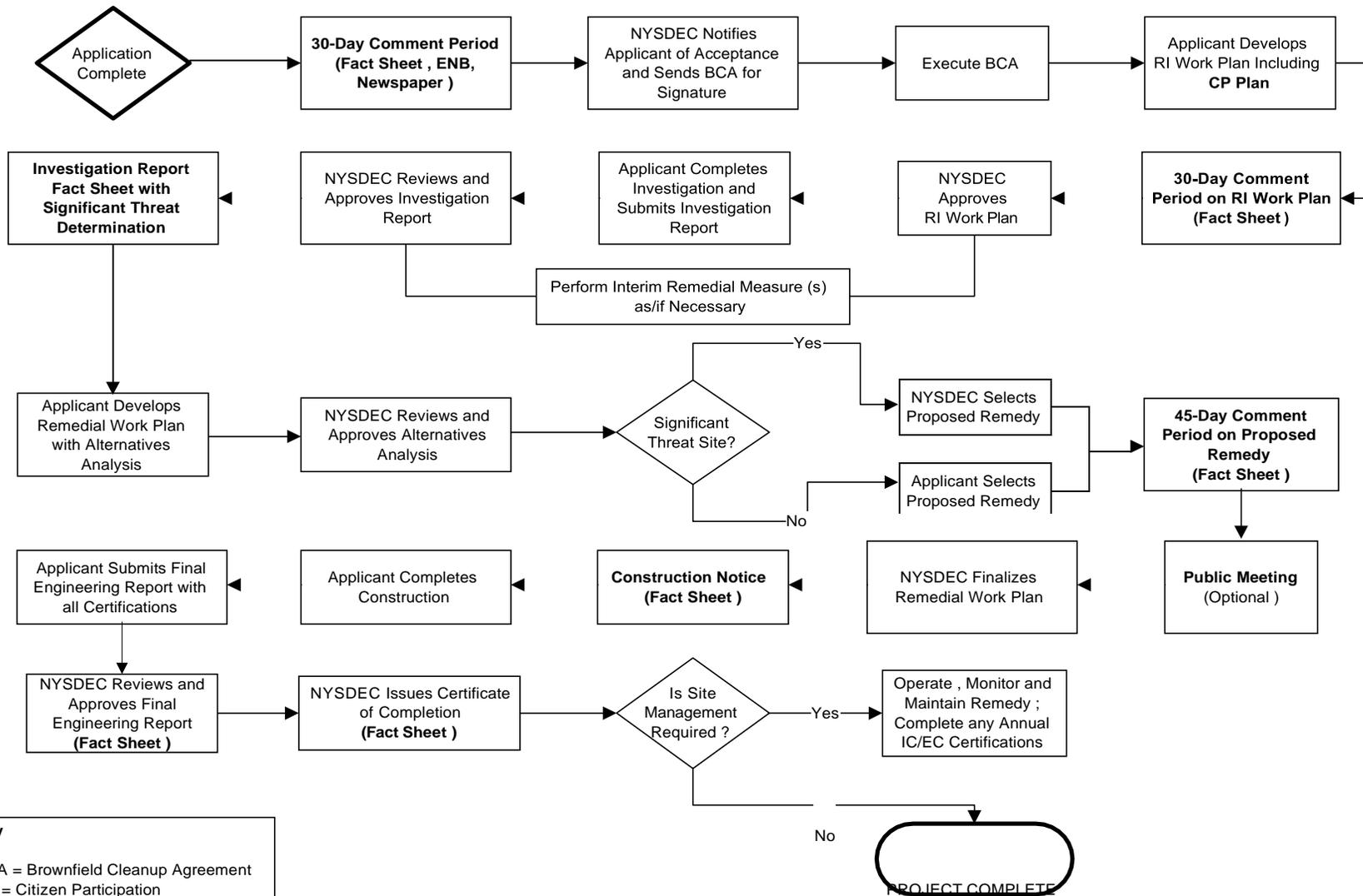


PROJ. MGR.: JJR  
 DESIGNED BY: JJR  
 REVIEWED BY: DJT  
 OPERATOR: EMD  
 DATE: 08-22-2018

**SITE LOCATION MAP**  
 HUNTLEY POWER SOUTH PARCEL  
 3500 RIVER ROAD  
 TONAWANDA, NEW YORK

JOB NO.  
 21.0056855.00  
 APPENDIX  
**C** PAGE 18

# Appendix D– Brownfield Cleanup Program Process



**Key**  
 BCA = Brownfield Cleanup Agreement  
 CP = Citizen Participation  
 EC = Engineering Control  
 ENB = Environmental Notice Bulletin  
 IC = Institutional Control  
 RI = Remedial Investigation

**Note:** CP Activities are in **Bold**