

# DECISION DOCUMENT

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3100 Clinton Street Site  
Brownfield Cleanup Program  
West Seneca, Erie County  
Site No. C915339  
December 2020



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

# DECLARATION STATEMENT - DECISION DOCUMENT

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3100 Clinton Street Site  
Brownfield Cleanup Program  
West Seneca, Erie County  
Site No. C915339  
December 2020

## **Statement of Purpose and Basis**

This document presents the remedy for the 3100 Clinton Street Site 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 3100 Clinton Street Site site and the public's input to the proposed remedy presented by the Department.

## **Description of Selected Remedy**

During 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.

## **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*

12/22/2020  
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Date

Michael Cruden, Director  
Remedial Bureau E

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## **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. This Decision Document 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:

DECInfo Locator - Web Application

<https://gisservices.dec.ny.gov/gis/dil/index.html?rs=C915339>

Buffalo and Erie County Public Library  
1 Lafayette Square  
Buffalo, NY 14203  
Phone:

### **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 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**

**Site Location:** This 9.95-acre site is located in a mixed commercial industrial area in the Town of West Seneca. The site is bounded by vacant wooded land to the north, northwest and southeast, with Clinton Street to the southwest; and commercial and industrial park on Empire Drive to the east. Former railroad ties are present along the southeast site boundary.

**Site Features:** Currently the site is vacant.

**Zoning and Land Use:** The current zoning for the site is M-1 which is defined Manufacturing District.

**Past Use of the Site:** The site was used for agriculture until the early 1900s. From the early 1900s to the 1960s the site was used as railroad tracks/yards. Railroad areas were previously built-up with fill materials from unknown sources, with track ballasts and railroad ties remaining on-site.

#### **Site Geology and Hydrogeology:**

The site is located within the Erie-Ontario Lowlands and gently slopes westward towards Lake Erie, except in the immediate vicinity of major drainage ways. The site contains fill throughout which varies from surface to six feet below the ground surface (ftbgs). The fill materials consist of cinders, bricks, coal, coke, and railroad materials. Fill is underlain with native soil consisting of sand, sandy lean clay, silt and gravel to a depth of 14 ftbgs. The groundwater flow in the area of the site is westerly toward convergence of Buffalo and Cayuga Creeks.

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 which allows for unrestricted use of the site was evaluated.

A comparison of the results of the Remedial Investigation (RI) against unrestricted use standards, criteria and guidance values (SCGs) for the site contaminants is available in the 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 contaminant of concern identified at this site are:

arsenic	lead
cadmium	nickel
chromium	zinc
copper	polycyclic aromatic hydrocarbons (PAHS)

The contaminants of concern exceed the applicable SCGs for:  
- soil

### **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 were completed at this site between December 30, 2019 and April 17, 2020. based on conditions observed during the RI. The IRM locations are shown in Figure 2.

#### **IRM - Excavations**

On-Site Soil/fill:

Approximately 45,850 tons of on-site soil/fill that was grossly contaminated, created a nuisance condition, or which exceeded unrestricted soil cleanup objectives (USCOs) was excavated and disposed of at Chaffee Landfill. The depths of excavations ranged from ground surface to approximately 6 fbs.

The soil cleanup was confirmed by collecting samples after completion of excavation activities. The contaminant levels of all confirmatory soil samples taken were below USCOs. Clean fill (virgin-source stones) meeting the requirements of 6 NYCRR Part 375-6.7(d) for unrestricted residential use was brought in to complete the backfilling of the excavations.

After completion of IRM excavation activities and achievement of USCOs for remaining native soils, select areas of native soils were determined to be structurally unsuitable for redevelopment purposes. A total of 761 loads of clean, native soils were excavated and transported off-site for redevelopment purposes.

**Off-Site Area:**

Approximately 249 tons of additional soil/fill was excavated from an off-site area adjacent to the southwest corner of the site boundary for redevelopment purposes and disposed of at a commercial landfill.

**Water Management:** Approximately one million gallons of water collected during IRM excavations was stored on-site in holding tanks and discharged to Erie County Sewer Authority system under a permit.

The details of IRM activities are presented in the Remedial Investigation/Interim Remedial Measures/Alternatives Analysis Report, dated November 2020.

### **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.

**Remedial Investigation Results:**

The field work for the remedial investigation (RI) was completed in 2019. The RI included sampling of soil/fill and groundwater. The sub-surface soil/fill and groundwater samples were analyzed for Target Compound List (TCL) volatile 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 surface to 6 feet below ground surface. Deeper test pits excavated during the Phase II Investigation (15 feet below ground surface) did not identify the presence of contamination in native soil.

The concentrations of contaminants in different media were as follows:

**Sub-surface soil/fill:**

**Volatile Organic Compounds (VOCs):** Only two VOCs were detected slightly exceeding their unrestricted soil cleanup objectives (USCOs): 0.092 parts per million (ppm) acetone (URSCO - 0.05 ppm) at one location and 0.68 ppm chloroform (USCO - 0.37 ppm) at another location.

Type text here

**Semi-volatile Organic Compounds (SVOCs):** Among the SVOCs, polycyclic aromatic hydrocarbons (PAHs) exceeding USCOs were up to 21 ppm benzo(a)anthracene (USCO - 1 ppm); 16 ppm benzo(a)pyrene (USCO - 1 ppm); 28 ppm benzo(b)fluoranthene (USCO - 1 ppm);

4.0 ppm benzo(k)fluoranthene (USCO - 0.8 ppm); 25.0 ppm chrysene (USCO - 1 ppm); 3.3 ppm dibenz(a,h)anthracene (USCO - 0.33 ppm), and 11 ppm indeno(1,2,3-cd)pyrene (USCO - 0.5 ppm).

Metals: The concentrations of metals exceeding USCOs were up to 680 ppm arsenic (USCO - 13 ppm); 6.9 ppm cadmium (USCO - 2.5 ppm); 246 ppm chromium (USCO - 30 ppm); 132 ppm copper (USCO - 50 ppm); 403 ppm lead (USCO - 63 ppm); 50.7 ppm nickel (USCO - 30 ppm); 5.85 ppm selenium (USCO - 3.9 ppm); and 521 ppm zinc (USCO - 109 ppm).

Pesticides: The levels of DDT (0.031 ppm and 0.0077 ppm.) slightly exceeded USCO (0.0033 ppm) found at two locations. The concentrations of DDE (0.0041 ppm) and DDD (0.0045 ppm) slightly exceeded USCO (0.0033 ppm) at one location.

Polychlorinated biphenyls (PCBs): 0.14 ppm aroclor-1254, was detected slightly exceeding the total PCBs (USCO - 0.1 ppm) at one location.

#### Groundwater:

Groundwater samples collected from six groundwater monitoring wells did not contain any VOCs, SVOCs, PCBs, pesticides, or herbicides above Groundwater Quality Standards (GWQS). Only naturally occurring metals iron, manganese, and sodium exceeded GWQS in some monitoring wells. No emerging contaminants were detected above guidance values in groundwater.

#### Post IRM:

Soil: Post excavation verification sampling of 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 USCOs. There is no evidence of off-site migration of contaminants of concern.

### **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*.

Remedial actions taken have eliminated the potential for contact with site related contaminants. People are not drinking contaminated groundwater as the area is supplied by a municipal source that is not affected by 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.

**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.

**RAOs for Environmental Protection**

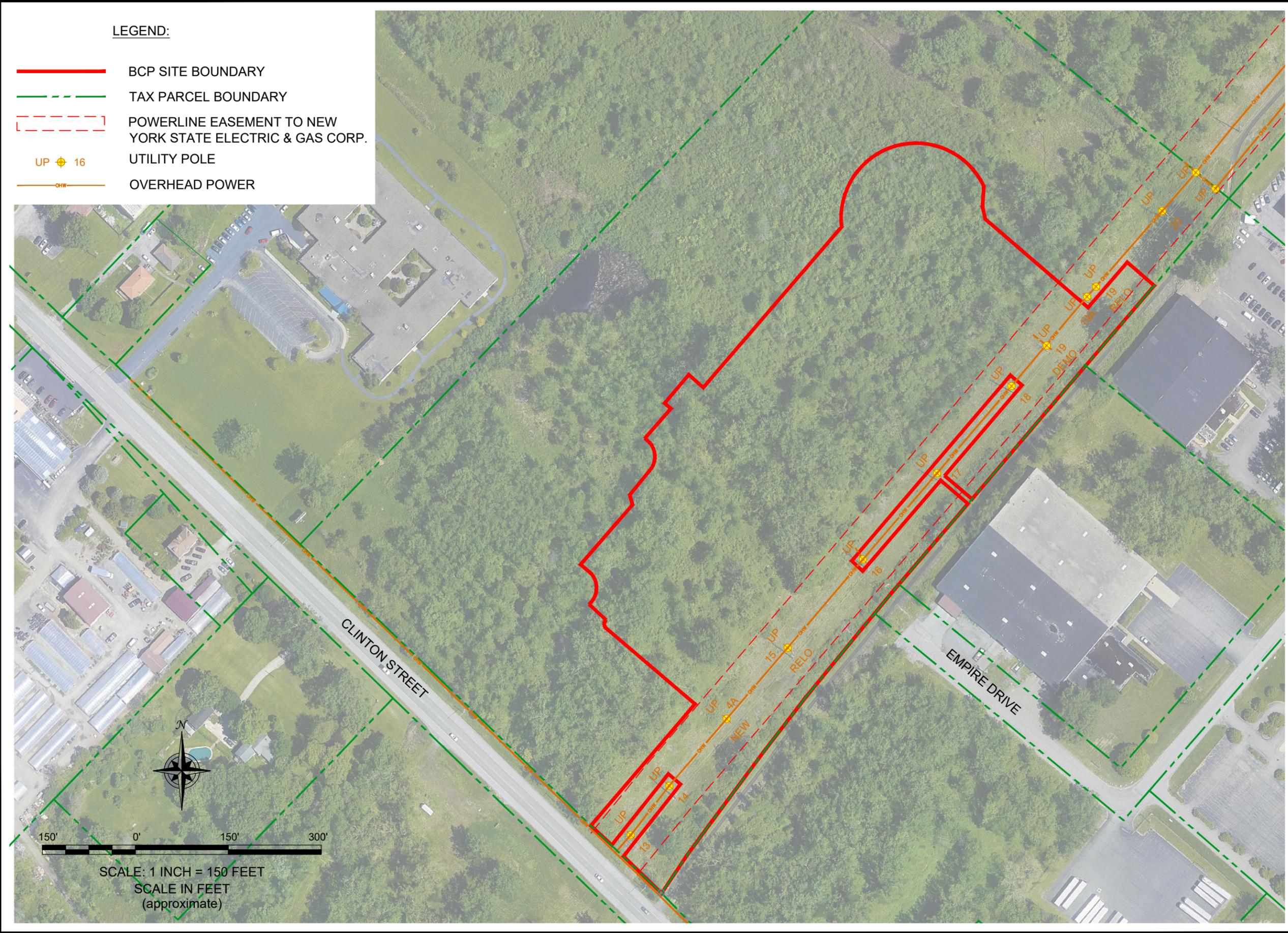
- Prevent migration of contaminants that would result in groundwater or surface water contamination.

**SECTION 7: ELEMENTS OF THE SELECTED REMEDY**

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

To address the Groundwater RAO for public health, 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 should be restricted. However, an environmental easement is not required to achieve this restriction as it is our understanding that the West Seneca municipality has public water available at this location and as such, has indicated that permits to drill private wells would not be honored or accepted.

As public water suppliers must also meet the requirements of 10 NYCRR Chapter I Subpart 5-2, no additional restrictions on potable water use are necessary.



- LEGEND:**
- BCP SITE BOUNDARY
  - - - TAX PARCEL BOUNDARY
  - - - POWERLINE EASEMENT TO NEW YORK STATE ELECTRIC & GAS CORP.
  - UP 16 UTILITY POLE
  - OH OVERHEAD POWER

150' 0' 150' 300'

SCALE: 1 INCH = 150 FEET  
SCALE IN FEET  
(approximate)

**SITE PLAN (AERIAL)**

R/I/RM/AA REPORT  
3100 CLINTON STREET SITE  
BCP SITE NO. C915339  
WEST SENECA, NEW YORK  
PREPARED FOR

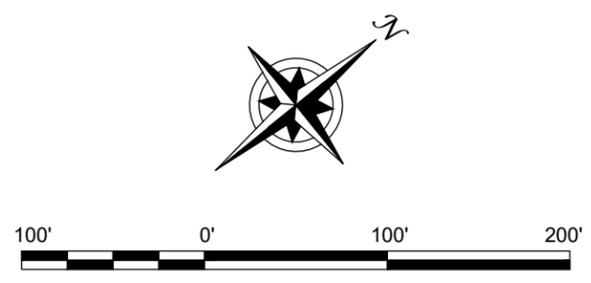
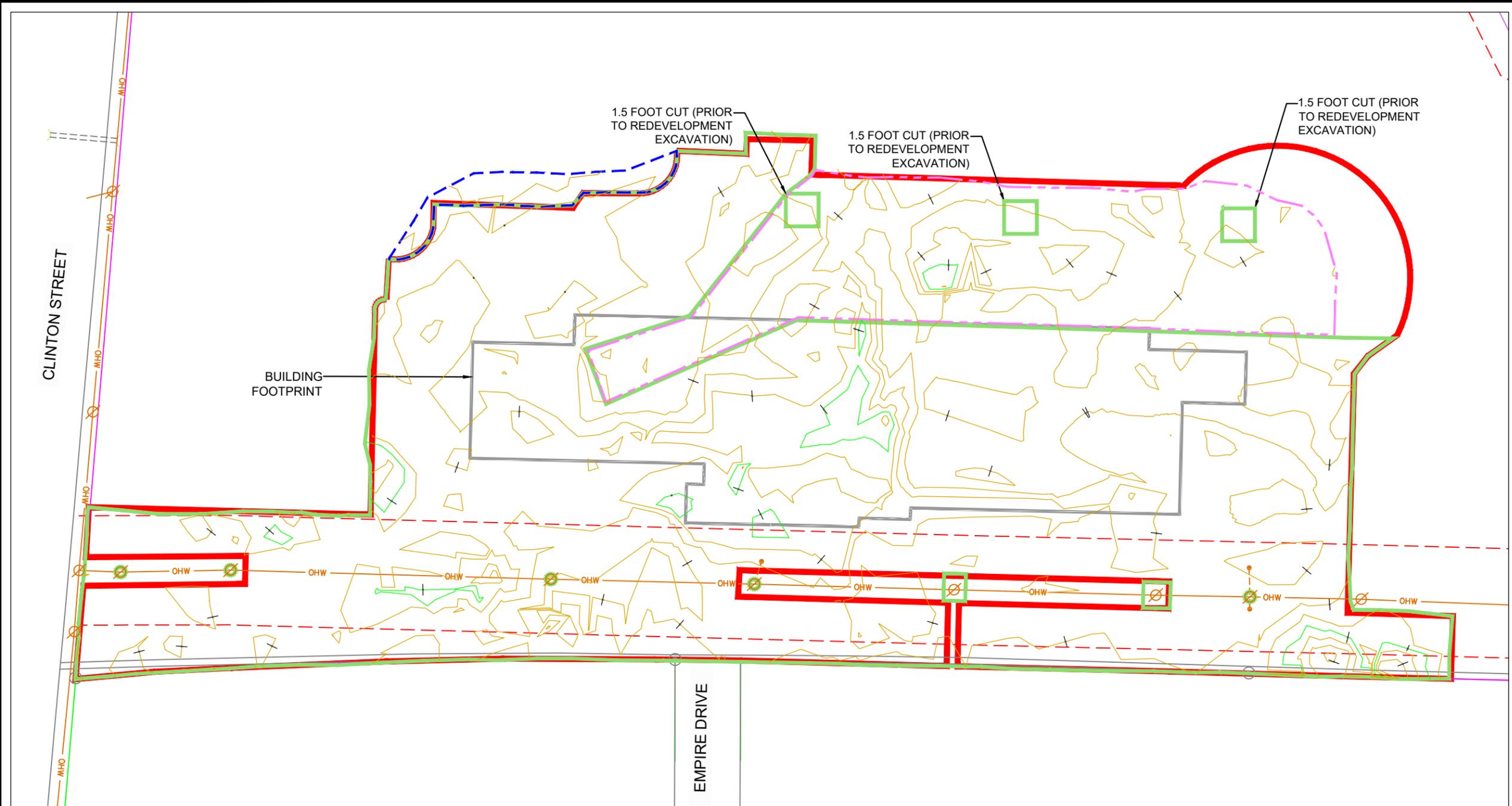
ROSINA FOOD PRODUCTS, INC. & 3100 CLINTON STREET, LLC

JOB NO.: 0450-018-001



**FIGURE 1**

**DISCLAIMER:** PROPERTY OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC. & TURNKEY ENVIRONMENTAL RESTORATION, LLC. IMPORTANT: THIS DRAWING PRINT IS LOANED FOR MUTUAL ASSISTANCE AND AS SUCH IS SUBJECT TO RECALL AT ANY TIME. INFORMATION CONTAINED HEREON IS NOT TO BE DISCLOSED OR REPRODUCED IN ANY FORM FOR THE BENEFIT OF PARTIES OTHER THAN NECESSARY SUBCONTRACTORS & SUPPLIERS WITHOUT THE WRITTEN CONSENT OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC & TURNKEY ENVIRONMENTAL RESTORATION, LLC.



SCALE: 1 INCH = 100 FEET  
SCALE IN FEET  
(approximate)

**LEGEND:**

	BCP SITE BOUNDARY		ADDITIONAL REDEVELOPMENT EXCAVATION AREA (OUTSIDE BCP BOUNDARY)
	NYSEG EASEMENT LOCATION		ADDITIONAL REDEVELOPMENT EXCAVATION AREA (STRUCTURALLY UNSUITABLE CLEAN NATIVE SOIL)
	OVERHEAD POWER		
	UTILITY POLE		
	REMEDIAL EXCAVATION AREA		
	DEPTH <sup>1</sup> CONTOUR MINOR (1 FOOT INTERVAL)		
	DEPTH <sup>1</sup> CONTOUR MAJOR (5 FOOT INTERVAL)		

- NOTES:**
1. DEPTH IS ELEVATION DIFFERENCE (FT) BETWEEN EXISTING GRADE (PRIOR TO ANY SITE WORK) AND BOTTOM OF REMEDIAL EXCAVATION.
  2. EXCAVATION AREA SURVEYED BY BENCHMARK-TURNKEY PERSONNEL DURING REMEDIAL ACTIVITIES.

**FINAL DEPTH OF EXCAVATION CONTOUR MAP**

RI/IRM/AA REPORT  
3100 CLINTON STREET SITE  
BCP SITE NO. C915339  
WEST SENECA, NEW YORK  
PREPARED FOR



2558 HAMBURG TURNPIKE, SUITE 300, BUFFALO, NY 14218, (716) 856-0599  
JOB NO.: 0450-018-001

ROSINA FOOD PRODUCTS, INC. & 3100 CLINTON STREET, LLC

**FIGURE 2**

**DISCLAIMER: PROPERTY OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC. & TURNKEY ENVIRONMENTAL RESTORATION, LLC. IMPORTANT: THIS DRAWING PRINT IS LOANED FOR MUTUAL ASSISTANCE AND AS SUCH IS SUBJECT TO RECALL AT ANY TIME. INFORMATION CONTAINED HEREON IS NOT TO BE DISCLOSED OR REPRODUCED IN ANY FORM FOR THE BENEFIT OF PARTIES OTHER THAN NECESSARY SUBCONTRACTORS & SUPPLIERS WITHOUT THE WRITTEN CONSENT OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC & TURNKEY ENVIRONMENTAL RESTORATION, LLC.**