

BROWNFIELD CLEANUP PROGRAM APPLICATION

**3678 Southwestern Boulevard Site
3678 Southwestern Boulevard
Orchard Park, New York 14127
BCP # C915342**

November 5, 2018
Revised December 19, 2018

Submitted to:
Chief, Site Control Section
New York State Department of Environmental Conservation Division
of Environmental Remediation
625 Broadway
Albany, New York 12233-7020

On Behalf Of:
Octavus Storage NY, LLC
1810 West Kennedy Boulevard
Tampa Florida, 33606
HEI Project No: e1728

Wittman GeoSciences, PLLC
3636 N. Buffalo Rd. Orchard
Park, NY 14127
(716) 574-1513

Prepared By:
Hazard Evaluations, Inc.
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BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION FORM

DEC requires an application to request major changes to the description of the property set forth in a Brownfield Cleanup Agreement, or "BCA" (e.g., adding a significant amount of new property, or adding property that could affect an eligibility determination due to contamination levels or intended land use). Such application must be submitted and processed in the same manner as the original application, including the required public comment period. **Is this an application to amend an existing BCA?**

☐

Yes

☐

No

If yes, provide existing site number: _____

PART A (note: application is separated into Parts A and B for DEC review purposes) **BCP App Rev 9**

Section I. Requestor Information - See Instructions for Further Guidance

DEC USE ONLY
BCP SITE #: _____

NAME

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

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. **Please see Section I Attachments**

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

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:

- the date that the remedial program is to start; and
- the date the Certificate of Completion is anticipated.

Please see Section II Attachments

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.

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			
Chlorinated Solvents			
Other VOCs			
SVOCs			
Metals			
Pesticides			
PCBs			
Other*			

*Please describe: _____

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

- **SAMPLE LOCATION** Please see Section III Attachments
- **DATE OF SAMPLING EVENT**
- **KEY CONTAMINANTS AND CONCENTRATION 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.

ARE THE REQUIRED MAPS INCLUDED WITH THE APPLICATION?*

(*answering No will result in an incomplete application)

Yes

No

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

Coal Gas Manufacturing	Manufacturing	Agricultural Co-op	Dry Cleaner
Salvage Yard	Bulk Plant	Pipeline	Service Station
Landfill	Tannery	Electroplating	Unknown

Other: _____

Section IV. Property Information - See Instructions for Further Guidance				
PROPOSED SITE NAME				
ADDRESS/LOCATION				
CITY/TOWN		ZIP CODE		
MUNICIPALITY(IF MORE THAN ONE, LIST ALL):				
COUNTY		SITE SIZE (ACRES)		
LATITUDE (degrees/minutes/seconds) ° ' "		LONGITUDE (degrees/minutes/seconds) ° ' "		
COMPLETE TAX MAP INFORMATION FOR ALL TAX PARCELS INCLUDED WITHIN THE PROPERTY BOUNDARIES. ATTACH REQUIRED MAPS PER THE APPLICATION INSTRUCTIONS. Please see Section IV Attachments				
Parcel Address	Section No.	Block No.	Lot No.	Acreage
1. Do the proposed site boundaries correspond to tax map metes and bounds? If no, please attach a metes and bounds description of the property.			Yes	No
2. Is the required property map attached to the application? (application will not be processed without map)			Yes	No
3. Is the property within a designated Environmental Zone (En-zone) pursuant to Tax Law 21(b)(6)? (See DEC's website for more information)			Yes	No
If yes, identify census tract : _____				
Percentage of property in En-zone (check one): 0-49% 50-99% 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)? Yes 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?			Yes	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? If yes, attach relevant supporting documentation.			Yes	No
7. Are there any lands under water? If yes, these lands should be clearly delineated on the site map.			Yes	No

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

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

Type

Issuing Agency

Description

10. Property Description and Environmental Assessment – **please refer to application instructions for the proper format of each narrative requested.**

Are the Property Description and Environmental Assessment narratives included in the **prescribed format**?

Yes

No

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

12. Is the Requestor now, or will the Requestor in the future, seek a determination that the property is Upside Down?

Yes

No

13. If you have answered Yes to Question 12, above, is an independent appraisal of the value of the property, as of the date of application, prepared under the hypothetical condition that the property is not contaminated, included with the application?

Yes

No

NOTE: If a tangible property tax credit determination is not being requested in the application to participate in the BCP, the applicant may seek this determination at any time before issuance of a certificate of completion by using the BCP Amendment Application, except for sites seeking eligibility under the underutilized category.

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: _____

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

Section V. Additional Requestor Information See Instructions for Further Guidance		DEC USE ONLY BCP SITE NAME: _____ BCP SITE #: _____	
NAME OF REQUESTOR'S AUTHORIZED REPRESENTATIVE			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
NAME OF REQUESTOR'S CONSULTANT			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
NAME OF REQUESTOR'S ATTORNEY			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
Section VI. Current Property Owner/Operator Information – if not a Requestor			
CURRENT OWNER'S NAME		OWNERSHIP START DATE:	
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
CURRENT OPERATOR'S NAME			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
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. 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". Please see Section VI Attachments			
Section VII. Requestor Eligibility Information (Please refer to ECL § 27-1407)			
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? Yes No			
2. Is the requestor subject to an existing order for the investigation, removal or remediation of contamination at the site? Yes 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. Yes 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. Are there any unregistered bulk storage tanks on-site which require registration? 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.

Please see Section VII Attachments

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 Requestor is current property owner

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

Section VIII. Property Eligibility Information - See Instructions for Further Guidance

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?
If yes, please provide: Site # _____ Class # _____

Yes No
3. Is / was the property subject to a permit under ECL Article 27, Title 9, other than an Interim Status facility?
If yes, please provide: Permit type: _____ EPA ID Number: _____
 Date permit issued: _____ Permit expiration date: _____

Yes No
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?
If yes, please provide: Order # _____

Yes No
6. Is the property subject to a state or federal enforcement action related to hazardous waste or petroleum?
If yes, please provide explanation as an attachment.

Yes No

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:

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.
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? <div style="display: flex; justify-content: space-around;"> Residential Commercial Industrial </div> 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. <div style="text-align: center; color: red;">Please see Section X Attachments</div> <div style="display: flex; justify-content: space-between;"> If residential, does it qualify as single family housing? <div> Yes No </div> </div>	
4. Do current historical and/or recent development patterns support the proposed use?	<div> Yes No </div>
5. Is the proposed use consistent with applicable zoning laws/maps? Briefly explain below, or attach additional information and documentation if necessary.	<div> Yes No </div>
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.	<div> Yes No </div>

XI. Statement of Certification and Signatures

(By requestor who is an individual)

If this application is approved, I hererby acknowledge and agree: (1) to execute a Brownfield Cleanup Agreement (BCA) within 60 days of the date of DEC's approval letter; (2) to the general terms and conditions set forth in the [Proposed DER-32, Brownfield Cleanup Program Applications and Agreements](#); and (3) that in the event of a conflict between the general terms and conditions of participation and the terms contained in a site-specific BCA, the terms in the site-specific BCA shall control. Further, 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: _____

Signature: _____

Print Name: _____

(By a requestor other than an individual)

I hereby affirm that I am Resident (title) of Oceanus Storage (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: (1) to execute a BCA within 60 days of the date of DEC's approval letter; (2) to the general terms and conditions set forth in the [Proposed DER-32, Brownfield Cleanup Program Applications and Agreements](#); and (3) that in the event of a conflict between the general terms and conditions of participation and the terms contained in a site-specific BCA, the terms in the site-specific BCA shall control. Further, 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: 11/18/18

Signature: [Signature] - president

Print Name: Joseph McNeil - president

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: _____

Supplemental Questions for Sites Seeking Tangible Property Credits in New York City ONLY. Sufficient information to demonstrate that the site meets one or more of the criteria identified in ECL 27 1407(1-a) must be submitted if requestor is seeking this determination.

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Property is in Bronx, Kings, New York, Queens, or Richmond counties.	Yes	No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	Yes	No
Please answer questions below and provide documentation necessary to support answers.		
1. Is at least 50% of the site area located within an environmental zone pursuant to NYS Tax Law 21(b)(6)? Please see DEC's website for more information.	Yes	No
2. Is the property upside down or underutilized as defined below?	Upside Down?	Yes No
	Underutilized?	Yes No
<p>From ECL 27-1405(31):</p> <p>"Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.</p> <p>From 6 NYCRR 375-3.2(I) as of August 12, 2016: (Please note: Eligibility determination for the underutilized category can only be made at the time of application)</p> <p>375-3.2:</p> <p>(I) "Underutilized" means, as of the date of application, real property on which no more than fifty percent of the permissible floor area of the building or buildings is certified by the applicant to have been used under the applicable base zoning for at least three years prior to the application, which zoning has been in effect for at least three years; and</p> <p>(1) the proposed use is at least 75 percent for industrial uses; or</p> <p>(2) at which:</p> <p>(i) the proposed use is at least 75 percent for commercial or commercial and industrial uses;</p> <p>(ii) the proposed development could not take place without substantial government assistance, as certified by the municipality in which the site is located; and</p> <p>(iii) one or more of the following conditions exists, as certified by the applicant:</p> <p>(a) property tax payments have been in arrears for at least five years immediately prior to the application;</p> <p>(b) a building is presently condemned, or presently exhibits documented structural deficiencies, as certified by a professional engineer, which present a public health or safety hazard; or</p> <p>(c) there are no structures.</p> <p>"Substantial government assistance" shall mean a substantial loan, grant, land purchase subsidy, land purchase cost exemption or waiver, or tax credit, or some combination thereof, from a governmental entity.</p>		

Supplemental Questions for Sites Seeking Tangible Property Credits in New York City (continued)

3. If you are seeking a formal determination as to whether your project is eligible for Tangible Property Tax Credits based in whole or in part on its status as an affordable housing project (defined below), you must attach the regulatory agreement with the appropriate housing agency (typically, these would be with the *New York City Department of Housing, Preservation and Development*; the *New York State Housing Trust Fund Corporation*; the *New York State Department of Housing and Community Renewal*; or the *New York State Housing Finance Agency*, though other entities may be acceptable pending Department review). **Check appropriate box, below:**

Project is an Affordable Housing Project - Regulatory Agreement Attached;

Project is Planned as Affordable Housing, But Agreement is Not Yet Available*
(*Checking this box will result in a “pending” status. The Regulatory Agreement will need to be provided to the Department and the Brownfield Cleanup Agreement will need to be amended prior to issuance of the CoC in order for a positive determination to be made.);

This is Not an Affordable Housing Project.

From 6 NYCRR 375- 3.2(a) as of August 12, 2016:

(a) “Affordable housing project” means, for purposes of this part, title fourteen of article twenty seven of the environmental conservation law and section twenty-one of the tax law only, a project that is developed for residential use or mixed residential use that must include affordable residential rental units and/or affordable home ownership units.

(1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency’s affordable housing program, or a local government’s regulatory agreement or legally binding restriction, which defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants’ households annual gross income.

(2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency’s affordable housing program, or a local government’s regulatory agreement or legally binding restriction, which sets affordable units aside for home owners at a defined maximum percentage of the area median income.

(3) “Area median income” means, for purposes of this subdivision, the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development, or its successor, for a family of four, as adjusted for family size.

BCP Application Summary (for DEC use only)**Site Name:****City:****Site Address:****County:****Zip:****Tax Block & Lot****Section (if applicable):****Block:****Lot:****Requestor Name:****City:****Requestor Address:****Zip:****Email:****Requestor's Representative (for billing purposes)****Name:****Address:****City:****Zip:****Email:****Requestor's Attorney****Name:****Address:****City:****Zip:****Email:****Requestor's Consultant****Name:****Address:****City:****Zip:****Email:****Percentage claimed within an En-Zone:****0%****<50%****50-99%****100%****DER Determination:****Agree****Disagree****Requestor's Requested Status:****Volunteer****Participant****DER/OGC Determination:****Agree****Disagree****Notes:****For NYC Sites, is the Requestor Seeking Tangible Property Credits:****Yes****No****Does Requestor Claim Property is Upside Down:****Yes****No****DER/OGC Determination:****Agree****Disagree****Undetermined****Notes:****Does Requestor Claim Property is Underutilized:****Yes****No****DER/OGC Determination:****Agree****Disagree****Undetermined****Notes:****Does Requestor Claim Affordable Housing Status:****Yes****No****Planned, No Contract****DER/OGC Determination:****Agree****Disagree****Undetermined****Notes:**

Section I

Requestor Information

Octavus Storage NY, LLC – Business Entity Information

Octavus Storage NY, LLC is owned by Joe McNeil as sole owner/managing member, with business address at 1810 West Kennedy Boulevard Tampa, Florida 33606

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through October 26, 2018.

Selected Entity Name: OCTAVUS STORAGE NY, LLC

Selected Entity Status Information

Current Entity Name: OCTAVUS STORAGE NY, LLC

DOS ID #: 5433393

Initial DOS Filing Date: OCTOBER 26, 2018

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)

OCTAVUS STORAGE
1810 WEST KENNEDY
TAMPA, NEW YORK, 33606

Registered Agent

OCTAVUS STORAGE, LLC
1810 WEST KENNEDY
TAMPA, NEW YORK, 33606

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
OCT 26, 2018	Actual	OCTAVUS STORAGE NY, 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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Section II

Project Description

Project Description

The site is currently underutilized, underdeveloped property located in the Town of Orchard Park. The on-site building is approximately 4,700 square feet, constructed with a metal roof and metal siding. The northern portion of the site is vacant wooded land, which includes a former industrial pond as well as an apparent waste disposal area. The site has been vacant and generally unused, for the past 25 years. The building has been used for temporary storage.

The existing building will be gut-renovated and developed into self-storage units. Additionally, the property will be appropriately graded, paved, and developed as a self-storage unit facility.

Remedial investigation is expected to start in winter 2018/2019 with remedial activities in early spring 2019. The Certificate of Completion is anticipated by December 2019.

Section III

Property's Environmental History

Figure III-A – Sampling Locations

Table III-A – Soil Analytical Testing Results

Erie County Environmental Memo



Parameter	SS-3
Metals Analysis (mg/kg)	
Barium	617
Chromium	308
Copper	1,110
Lead	184
Nickel	45
Zinc	546

Parameter	SS-2
Metals Analysis (mg/kg)	
Barium	702
Chromium	286
Copper	1,010
Lead	446
Zinc	740

Parameter	SS-1
Metals Analysis (mg/kg)	
Barium	701
Chromium	272
Copper	961
Lead	206
Zinc	733

Parameter	B-3
Metals Analysis (mg/kg)	
Nickel	45.7

Parameter	SS-5
Metals Analysis (mg/kg)	
Barium	779
Chromium	322
Copper	1,050
Lead	214
Silver	2.2
Zinc	919

Parameter	SS-4
Metals Analysis (mg/kg)	
Barium	608
Chromium	340
Copper	1,130
Lead	308
Zinc	885

Parameter	B-2
Metals Analysis (mg/kg)	
Nickel	35.4

Parameter	UUSCO	RRUSCO	CUSCO	IUSCO
Metals Analysis (mg/kg)				
Barium	350	400	400	10,000
Chromium, trivalent	30	180	1,500	6,800
Copper	50	270	270	10,000
Lead	63	400	1,000	3,900
Nickel	30	310	310	10,000
Zinc	109	10,000	10,000	10,000

Soil boring locations and analytical data from "Phase II Environmental Site Assessment for Octavus Storage, Joe McNeil, 1810 W. Kennedy Blvd, Tampa, FL 33606 – location – 3678 Southwestern Boulevard, Orchard Park, New York", completed by Great Lakes Environmental & Safety Consultants, Inc., dated April 2018.

KEY



= Soil Boring Location (04/2018)



= Surface Soil Location (04/2018)



exceeds Unrestricted Use SCO

exceeds Restricted Residential Use SCO

exceeds Commercial Use SCO

HAZARD EVALUATIONS, INC.

Phase I/II Audits – Site Investigations – Facility Inspections

SOIL BORING LOCATION PLAN

3678 SOUTHWESTERN BOULEVARD
ORCHARD PARK, NEW YORK

DRAWN BY: SS

SCALE: not to scale

PROJECT: e1728

CHECKED BY: MMW

DATE: 08/18

FIGURE NO: III-A

Table III-A
Soil Analytical Testing Results
3678 Southwestern Boulevard, Orchard Park, NY

Parameter	UUSCO	RRUSCO	CUSCO	IUSCO	SS-1	SS-2	SS-3	SS-4	SS-5	B-1	B-2	B-3
Alpha Job Number					L1812163	L1812163	L1812163	L1812163	L1812163	L1812163	L1812163	L1812163
Sampling Date					04/06/18	04/06/18	04/06/18	04/06/18	04/06/18	04/06/18	04/06/18	04/16/18
Volatiles 8260C Analysis (ug/kg)												
Acetone	50	100,000	500,000	1,000,000	3.2 J	ND	ND	ND	ND	ND	ND	ND
Carbon disulfide	NV	NV	NV	NV	ND	ND	ND	ND	ND	1.1 J	ND	ND
Methyl cyclohexane	NV	NV	NV	NV	ND	ND	ND	ND	ND	0.21 J	ND	0.58 J
Semivolatile 8270D Analysis (ug/kg)												
Benzoic Acid	NV	NV	NV	NV	ND	ND	280 J	250 J	220 J	ND	ND	ND
Fluoranthene	100,000	100,000	500,000	1,000,000	ND	24 J	23 J	ND	29 J	ND	ND	ND
Pyrene	100,000	100,000	500,000	1,000,000	ND	18 J	18 J	ND	24 J	ND	ND	ND
Metals Analysis (mg/kg)												
Aluminum	NV	NV	NV	NV	27,600	27,600	24,600	26,600	26,200	5,430	9,260	5,630
Antimony	NV	NV	NV	NV	5.59	8.51	4.97	5.77	4.74	0.719 J	0.933 J	1.69 J
Arsenic	13	16	16	16	1.3	1.02	1.93	1.28	1.33	5.19	2.82	11.3
Barium	350	400	400	10,000	701	702	617	608	779	25.5	36.7	21.1
Beryllium	7.2	72	590	2,700	0.38 J	0.416	0.333 J	0.432	0.346 J	0.289 J	0.41 J	0.271 J
Cadmium	2.5	4.3	9.3	60	1.8	1.89	2.14	2.48	2.45	0.289 J	0.288 J	0.271 J
Calcium	NV	NV	NV	NV	36,300	36,100	32,300	34,700	36,100	41,400	88,500	104,000
Chromium, trivalent	30	180	1,500	6,800	272	286	308	340	322	10.1	17	11.1
Cobalt	NV	NV	NV	NV	12.1	9.03	14.3	11.5	12.7	6.57	10.8	26.4
Copper	50	270	270	10,000	961	1,010	1,110	1,130	1,050	24.4	48.5	48.3
Iron	NV	NV	NV	NV	166,000	163,000	168,000	198,000	185,000	14,600	23,000	19,100
Lead	63	400	1,000	3,900	206	446	184	308	214	8.31	8.04	26.1
Magnesium	NV	NV	NV	NV	5,070	5,150	4,680	5,260	5,310	10,800	5,920	5,880
Manganese	1,600	2,000	10,000	10,000	1,170	1,190	946	986	1,110	310	358	300
Mercury (total)	0.18	0.81	2.8	5.7	ND	ND	ND	ND	0.022 J	0.026 J	0.039 J	0.035 J
Nickel	30	310	310	10,000	28.7	21.8	45	28.5	29.2	18.5	35.4	45.7
Potassium	NV	NV	NV	NV	4,450	4,410	3,350	4,090	4,090	460	560	523
Selenium	3.9	180	1,500	6,800	ND	ND	ND	3.35 J	3.1 J	ND	ND	0.568 J
Silver	2	180	1,500	6,800	1.24	1.45	1.8	1.62	2.2	ND	ND	ND
Sodium	NV	NV	NV	NV	32,400	33,900	27,700	31,200	33,800	124 J	127 J	116 J
Thallium	NV	NV	NV	NV	0.348 J	0.374 J	ND	0.604 J	0.628 J	ND	ND	ND
Vanadium	NV	NV	NV	NV	14.1	14.4	12.8	17.6	17.5	11	13.9	11.6
Zinc	109	10,000	10,000	10,000	733	740	546	885	919	55.4	50.6	32.5
PCB Analysis (ug/kg)												
PCBs, total	100	1,000	1,000	25,000	ND	ND	ND	ND	ND	ND	ND	ND

Notes:

1. Analytical data summarized from "Phase II Environmental Site Assessment for Octavus Storage, Joe McNeil, 1810 W. Kennedy Blvd, Tampa, FL 33606 - location - 3678 Southwestern Boulevard, Orchard Park, New York" completed by Great Lake Environmental & Safety Consultants, Inc., dated April 2018.

2. ug/kg = parts per billion; mg/kg = parts per million.

3. ND = not detected; NT = not tested; NV = no value.

4. Analytical results compared to NYSDEC Part 375-6; Remedial Program Soil Cleanup Objectives,

Table 375-(a) Unrestricted Use Soil Cleanup Objective; and Table 375-6.8(b): Restricted Use Soil Cleanup Objectives

5. Shading indicates:

	exceeds UUSCO - Unrestricted Use Soil Cleanup Objective
	exceeds RRUSCO - Restricted Residential Use Soil Cleanup Objective
	exceeds CUSCO - Commercial Use Soil Cleanup Objective
	exceeds IUSCO - Industrial Use Soil Cleanup Objective

Appendix B

Analytical Data Report

GREAT LAKES ENVIRONMENTAL & SAFETY CONSULTANTS

COUNTY OF ERIE
DEPARTMENT OF ENVIRONMENT AND PLANNING
PLANNING DIVISION

* * * MEMORANDUM * * *

File
Torrax

FROM: ^{ms}BARBARA A. SHILLING, Program Specialist DATE: 10/3/83
TO: GEORGE W. SCHANZENBACHER, Deputy Commissioner
SUBJECT: Torrax Facility

At your request, we have used the maps and information available through the County's Development Decision Support System to identify the following potential environmental concerns in regard to the Torrax facility (see attached map A).

Wetlands - none.

Floodplains - none; slight slumping and flooding potential.

NYS Protected Waters - none.

Waters of the United States - none.

Significant Wildlife Habitats - none.

Significant Plantlife Habitats - none.

Significant Fish Habitats - none.

Aquifers/Potential of Polluting Regional Internal Water Table - moderate to minimal.

Potential for Polluting Nearby Drainageways - moderate.

Slope - approximately 4%; site slopes from over 750 feet at frontage to 730 feet at building.

Soils - The majority of the site is in the general soil unit "Angola - nearly level"; the area north of the building is "Darien - nearly level" (see map B attached). Both these general soil units are considered poor for development purpose (ie. these soils have serious limitations that are difficult to overcome). These limitations include: seasonal wetness (both Angola and Darien), depth to bedrock (Angola), and frost action (Darien). Both units are considered silty and clayey soils with a ph of 5.5 to 6.5. The natural watertable is semi-perched at 0.5 to 2 feet (Angola) and perched at 0.5 to 2 feet (Darien). Site specific soils information will be necessary to make determinations regarding soil limitations.

George W. Schanzenbacher
October 3, 1983
Page Two

Prime Agricultural Soil - The majority of the site is classified as Important, north of the building the soil is classified as prime (55-75%).

Agricultural Districts - none.

Soild Waste Disposal Sites - none known.

Archeological Sites - Information not available at present.

BAS/ss


attachment

DISCLAIMER

The County makes no representations, warranties or guarantees as to the accuracy or completeness of the material provided through the Development Decision Support System. The System makes available to the public, information which the County has received and compiled in order to assist in basic planning and physical development. The user of the System agrees to be responsible for determining the reliability of any information obtained and uses the information at his own risk. The County will not be responsible for any omissions, dissemination of inaccurate information or misuse of any information obtained.

COUNTY OF ERIE
DEPARTMENT OF ENVIRONMENT & PLANNING
DIVISION OF PLANNING

MEMORANDUM

FROM  MELVIN SZYMANSKI, Planning DATE 2/20/91
TO ROBERT KOWALEWSKI, Finance
SUBJECT Torrax Facility

Attached are an Environmental Assessment prepared in 1983, and a more recent audit, 1990, for the Torrax Facility. The Planning Division has no knowledge of any changes at the site since the October 1990 audit.

COUNTY OF ERIE
DEPARTMENT OF ENVIRONMENT AND PLANNING
ENVIRONMENTAL COMPLIANCE SERVICES

* * * M E M O R A N D U M * * *

FROM: THOMAS R. HERSEY/JEROME L. MILLER

DATE: 10/2/90

TO: MICHAEL RAAB

RE: Site Audit of County Torrax Facility

On September 27, 1990, Mr. Hersey and I performed an inspection of the county Torrax facility on Southwestern Boulevard in Orchard Park. As the site is presently being considered for possible use as a base for the Southtowns Hazmat group, our concern was the presence of any hazardous materials left from use of this site as an incinerator. As expected, the site is overgrown and the building is damaged from both vandals and the elements. The inspection of the building revealed that the locks have been forced and the interior has been used for drinking parties (beer blasts) by area youth. Large areas of the interior have also been painted with graffiti. The north end of the building shows severe roof damage and has been accessible to area bird population for quite sometime. The north end floor is covered with a substantial amount of bird feces. The basement of the building is flooded an estimated 6 foot deep, the water level can be seen from the exterior of the building in the flooded loading bays. The stairway to the basement has been largely blocked by various debris, apparently thrown there by the area youth who use the building. Inside one of the old office areas we found approximately 15-5 gallon metal buckets of sewer grouting compound. Of these 15 buckets, 13 were found to be either partially or completely full. The labels on these buckets characterize them as flammable liquids and states that toluene diisocyanate is contained in the compound. The buckets are in fair to poor condition and look to have been abandoned here since the closing of the facility. It is possible that Erie County Sewer District personnel left these containers when they occupied the facility.

An inspection of the property outside the fence line shows an uncovered uncapped landfill where ash from the Torrax operation was disposed. The lagoon used for the scrubber process is still in evidence, has not been filled or covered and still retains water. There is indications of a large deer population using a portion of the lagoon as a bedding area and for drinking water. Areas where the ash has been piled show no evidence of vegetative outcropping or cover. The ash itself is a hard black granular substance and is similar to foundry sand residues. Several rock sized pieces of substance were also evident in the ash.

MEMORANDUM
Michael Raab
October 2, 1990
Page Two

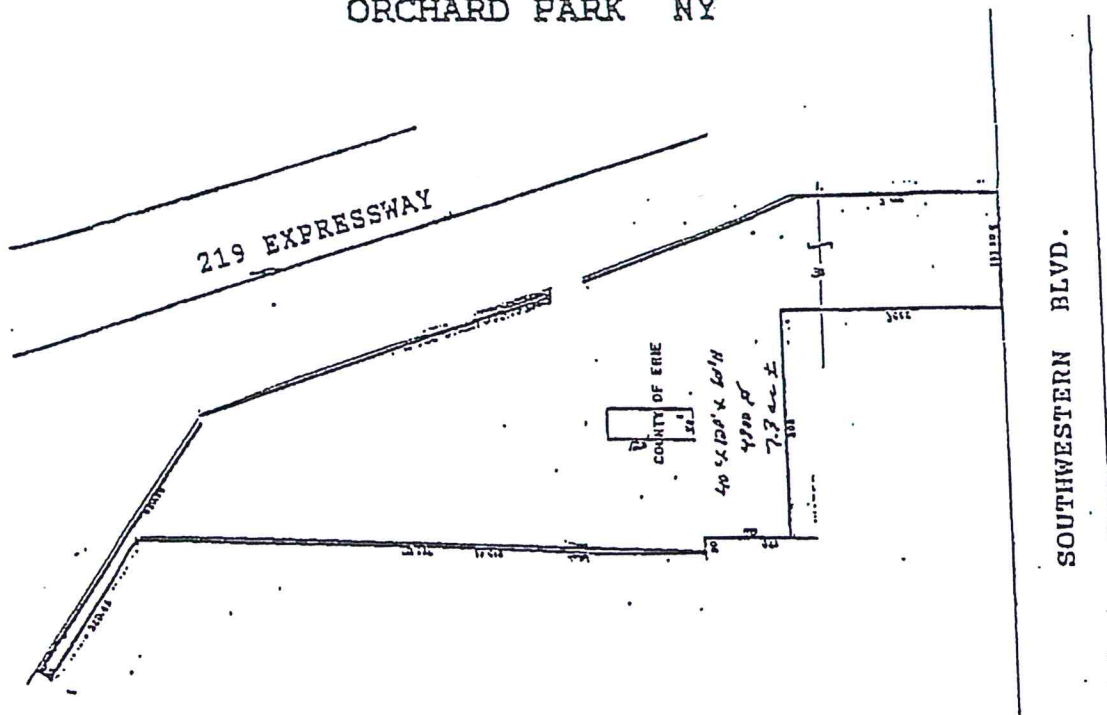
In summation, the only hazardous waste of concern found were the 13 metal buckets of sewer grout compound inside the building. The flooded basement, presence of this compound, and access to the building by the unlocked back gate and forced back door make this a fairly precarious situation. We recommend tha the County chain the back gate and door to the building. Furthermore the 13 buckets should be disposed of properly and the basement pumped out. There does not appear to be any reason to restrict the use of this facility by the Southtowns Hazmat Team.

The northern portion of the site beyond the fenced perimeter contains an unclosed ash landfill and treatment lagoon for which the county does not possess a valid Part 360 Permit to Operate. The landfill portion of this site should be covered and capped as per Part 360 closure regulations. The old lagoon should also be filled and capped as part of this process. According to the Erie County Soil Survey, this portion of the site contains soils possessing hydric properties. With the exception of the ash fill and some stone fill providing access to the lagoon, the majority of this portion is lowlands with cattails and other suspected wetland vegetation. The presence of wetland conditions could pose certain problems in completing closure at this site and for any future development.

At present New York State DEC does not have this site on any investigatory list nor are they aware of site conditions. The county needs to further investigate the potential of this area as a wetland and then contact New York State DEC about performing final closure on this area.

TRH:JLM:jk

3678 SOUTHWESTERN BOULEVARD
ORCHARD PARK NY



SITE DESCRIPTION:

Location: Vacant land on Southwestern and RT 219 Expressway in the Town of Orchard Park (see Reverse Side). Accessible via Southwestern Blvd.

Premises: 7.3 Vacant Acres Total

Zoning: Industrial

Sale Price: \$292,000

Utilities: Sewer, Gas, Water located on Southwestern Blvd.

ADDITIONAL INFORMATION

This Industrial parcel is vacant except for the Torrax Facility which is Approximately 40' x 120' x 60' vacant building, which was formally used for incineration by the town of Orchard Park. The entire parcel can be developed for Industrial use such as manufacturing, business & professional offices, medical facilities, warehousing, or distribution plants.

Developer / Owner will build for Lessor or Joint Venture.

* The above information is approximate and is not guaranteed

the  **EBurke Co.**
Builders • Developers
675-3000



DEPARTMENT OF THE ARMY
BUFFALO DISTRICT, CORPS OF ENGINEERS
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199

REPLY TO
ATTENTION OF

July 3, 1991

Regulatory Branch

SUBJECT: Determination of No Jurisdiction for Application
No. 91-976-390

Mr. Joe Demarco
40 Hillside Avenue
Orchard Park, New York 14127

Site: Abandoned Torrax Site
Town: Orchard Park
County: Erie
State: New York

Dear Mr. Demarco:

Under Section 404 of the Clean Water Act the Corps of Engineers regulates the discharge of dredged or fill material into "Waters of the United States", including wetlands. The information which accompanied your application indicates that the proposed work will not involve a discharge of dredged or fill material into "Waters of the United States". Specifically, the areas that you are proposing to expand the existing building, as shown on the attached drawings, are not jurisdictional wetlands. Therefore, we have determined that we have no jurisdiction over the proposal and a Department of the Army permit is not required.

Should you modify your proposal to entail a discharge of dredged or fill material into a "Water of the United States" you must contact this office regarding Department of the Army permit requirements.

I would like to point out that in other areas of the site that you are currently not proposing any work, appear to have wetlands subject to jurisdiction under Section 404 of the Clean Water Act. Therefore, I recommend that before you undertake any work on other areas of the site, that you contact this office to determine the need to obtain Department of the Army authorization to proceed with the project.

You are encouraged to contact the appropriate state and local governmental officials to insure that the proposed work complies with their requirements.

Regulatory Branch

SUBJECT: Determination of No Jurisdiction for Application
No. 91-976-390

Questions pertaining to this matter should be directed to
Mr. Gary McDannell, who may be contacted by calling 716-879-4322,
or by writing to the above address.

Sincerely,

A handwritten signature in cursive script, appearing to read "John W. Morris".

for John W. Morris
Colonel, U.S. Army
Commanding

Enclosures

Orchard

Don Wilbur

CL-87-7

8 additions to be
within fenced area

TOWN OF ORCHARD PARK
10" SANITARY SEWER

26" SANITARY

M245

Proposed
Addition

(#7 Buffalo SE)

EXIST.

7.3 A(C)

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Proposed
Addition
2000 sq. ft.

COUNTY OF ERIE

WATER SUPPLY

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WATER

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Attention

Don Wilson

HISTORY OF THE PROPERTY

The Polk City Directories were obtained for the years up to and including 1979. These directories list the Erie County Torrax Facility for the years 1972 through 1979. This facility is listed as being under construction in 1971. There is no listing for this facility previous to this time. All other listings in this area are for residential properties. There is nothing in these directory listings to indicate concern for environmental problems.

★ The Torrax Building was a county owned facility built approximately in 1970. The building was used for an experimental pilot program, funded by Federal, State and private agencies, for the incineration of refuse. In 1974, this experimental program was halted and all of the major equipment was removed. The building was then occupied between 1974 and 1977 by the Erie County Sewerage and Management Department as a vehicle repair and/or storage facility. From 1977 to the present, the building has stood idle and has been vandalized.

During it's operational phase, the building housed a high temperature incinerator capable of using 13,000 cu ft/hr natural gas. The maximum waste to be burned was 8400 lb/hr. Stack tests in accordance with EPA procedure showed compliance with emission standards cited in the Federal Register, December 23, 1971.

AGENCY FILES REPORT

A Freedom of Information Act (FOIL) Request was filed with the Erie County Department of Environment and Planning. The following information was uncovered:

In September of 1990, the Department of Environment and Planning (DEP) conducted a site inspection of the Torrax facility on Southwestern Boulevard. The DEP staff described the condition of the facility and property. Approximately 15 - 5 gallon buckets of sewer grouting compound was in one of the offices, 13 of which were found to be partially or completely full, which appear to have been abandoned since the facility was closed. An uncapped uncovered landfill of ash, suspected to have originated from the facility operation, and a lagoon used for the scrubber process was observed beyond the fence line. The ash was observed to be a hard black granular substance which had no evidence of vegetation cropping out from

Section IV

Property Information

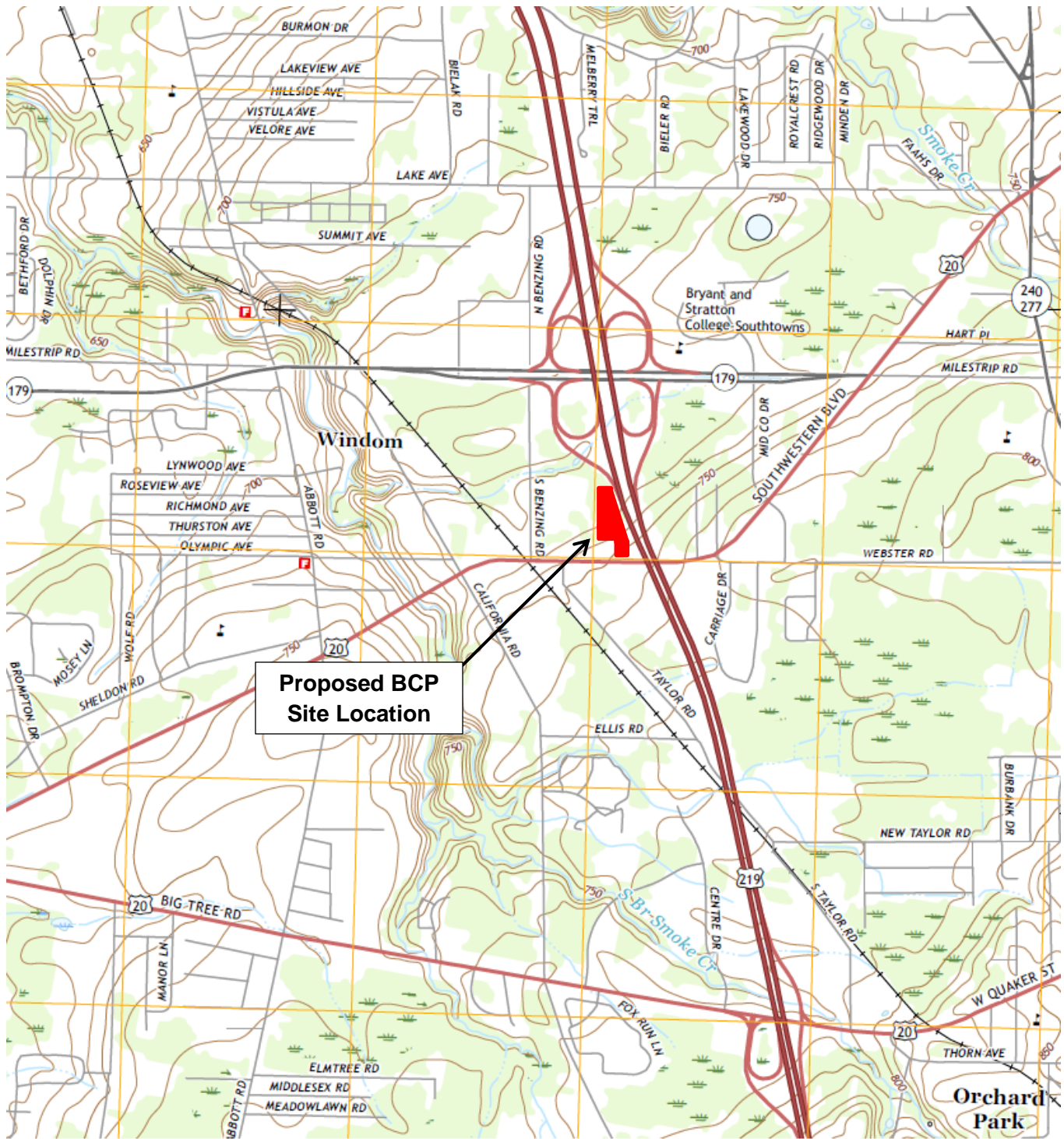
Figure IV-A- Site Locus- USGS Map

Figure IV-B- Tax Map

Figure IV-C- Site Survey

Figure IV-D- Site Base Map

Property Description Narrative



THIS DRAWING IS FOR ILLUSTRATIVE AND INFORMATIONAL PURPOSES ONLY
AND WAS ADAPTED FROM USGS, BUFFALO SE, NEW YORK 2016 QUADRANGLE.

HAZARD EVALUATIONS, INC.

Phase I/II Audits – Site Investigations – Facility Inspections

SITE LOCATION

3678 SOUTHWESTERN BOULEVARD
ORCHARD PARK, NEW YORK

OCTAVUS STORAGE NY, LLC

TAMPA, FLORIDA

DRAWN BY: SS

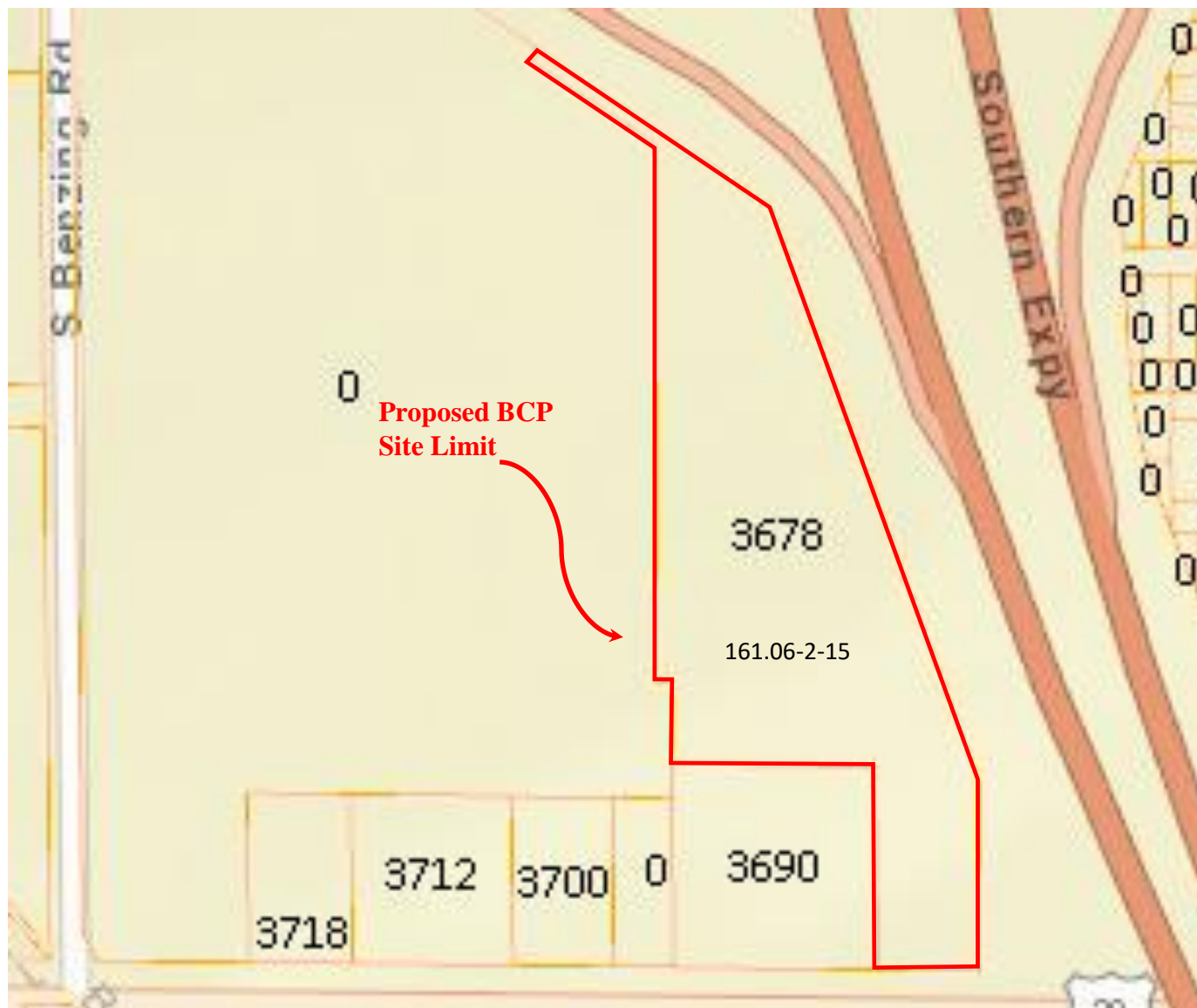
SCALE: NOT TO SCALE

PROJECT: e1728

CHECKED BY: MW

DATE: 09/18

FIGURE NO: IV-A



Notes:

- 1 – Base map adapted from Erie County Department of Environment and Planning Office of GIS
- 2 – Boundaries of Site correspond with tax boundaries for SBL #161.06-2-15 at 3678 Southwestern Boulevard.

HAZARD EVALUATIONS, INC.

Phase I/II Audits – Site Investigations – Facility Inspections

TAX MAP

3678 SOUTHWESTERN BOULEVARD
ORCHARD PARK, NEW YORK

OCTAVUS STORAGE NY, LLC
TAMPA, FLORIDA

DRAWN BY: EB

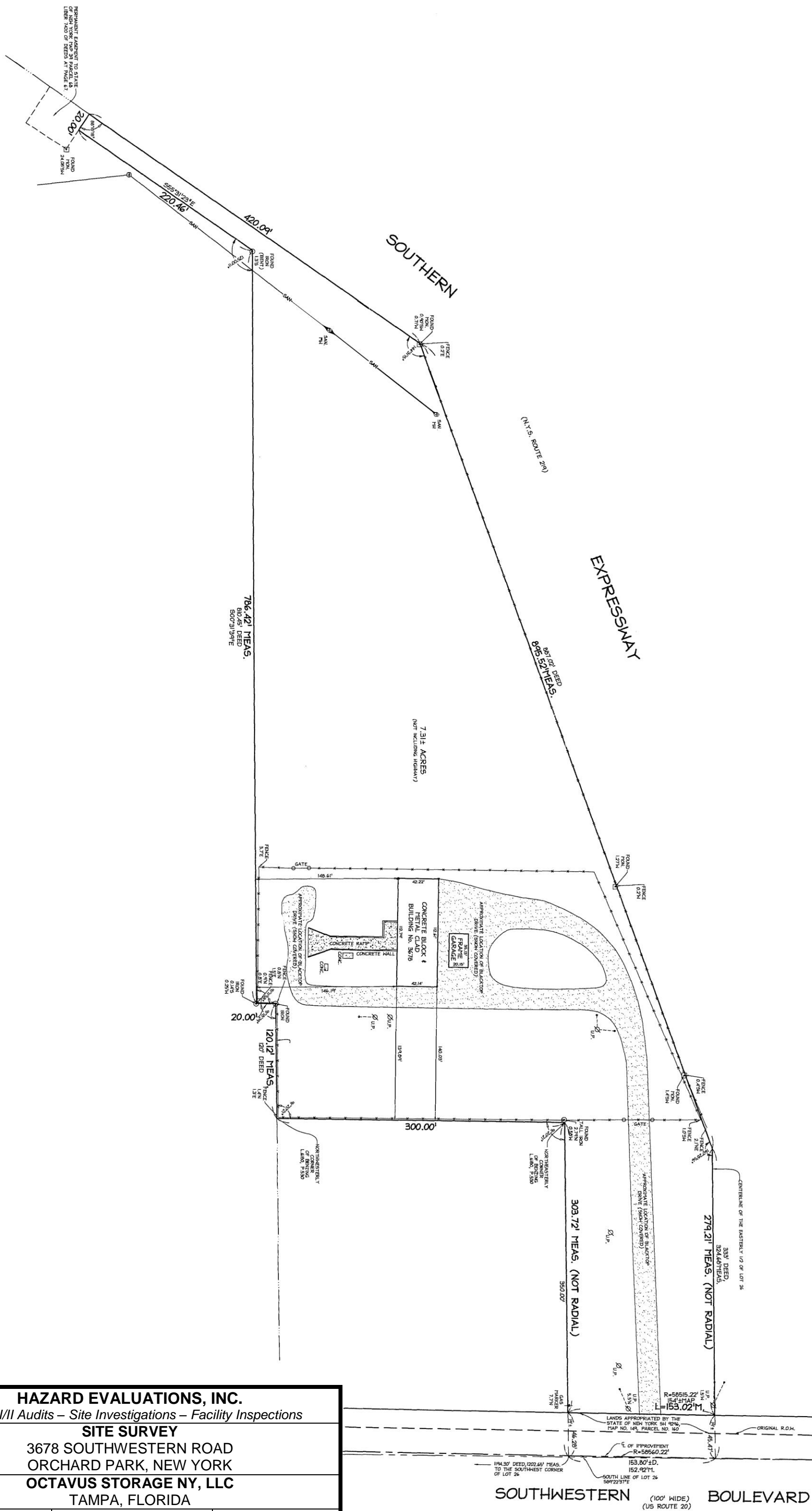
SCALE: NOT TO SCALE

PROJECT: e1728

CHECKED BY: MMW

DATE: 09/18

FIGURE NO: IV-B



HAZARD EVALUATIONS, INC.

Phase I/II Audits – Site Investigations – Facility Inspections

BASE MAP

3678 SOUTHWESTERN ROAD
ORCHARD PARK, NEW YORK

OCTAVUS STORAGE NY, LLC

TAMPA, FLORIDA

DRAWN BY: LSH

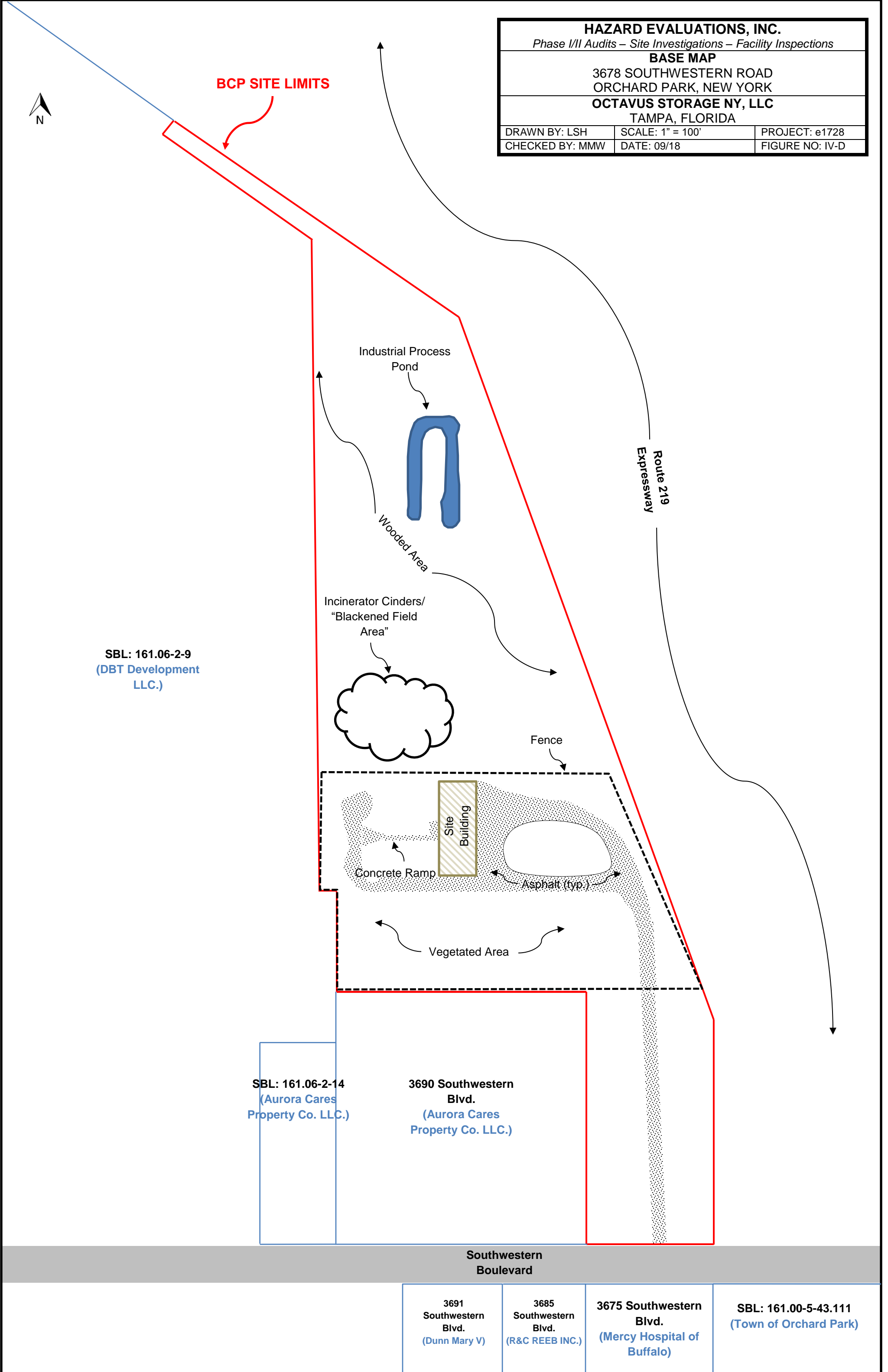
SCALE: 1" = 100'

PROJECT: e1728

CHECKED BY: MMW

DATE: 09/18

FIGURE NO: IV-D



Property Description Narrative

Location – The site is addressed as 3678 Southwestern Boulevard in the Town of Orchard Park, Erie County, New York and consists of one parcel totaling approximately 7.34 acres of land. The site is bound to the north and east by Route 219 Expressway, to the south by Southwestern Boulevard, and to the west by vacant land. The property is located within a commercial area, utilized for industrial, commercial, and residential purposes.

Site Features – Site is developed with a two-story approximate 4,756 square foot building. The parcel includes an asphalt driveway, concrete loading ramp, perimeter fence, and wooded area in the north portion, which includes a pond (former process lagoon).

Current Zoning and Land Use – Site is currently vacant and inactive, most recently used for storage. Site is currently zoned I-1 (Industrial).

Past Uses of the Site – The subject site was initially utilized agriculturally, from at least 1926 through at least 1966. In 1967, the property was purchased by the County of Erie (Torrax) to be utilized for the disposal of municipal solid waste through incineration. The facility was identified as under construction in 1971, and operated by the Erie County Torrax Facility from 1972 to 1979. The building was used for an experimental pilot program for the incineration of refuse. In 1974, the experimental program was halted and all of the major equipment was removed. During its operational phase, the building housed a high temperature incinerator capable of using 13,000 cu ft/hr natural gas. The maximum waste to be burned was 8,400 lb/hr. The northern portion of the site was used as an ash landfill and scrubber process water treatment lagoon.

The building was then occupied between 1974 and 1977 by the Erie County Sewerage and Management Department as a vehicle repair and/or storage facility, and has generally been vacant since that time. The property was purchased in 1993 by Torrax Building Joint Venture and generally vacant, but used for occasional storage. The building is currently vacant.

Prior remedial measures have not been completed at the site. Great Lake Environmental and Safety Consultants, Inc. (Great Lakes) completed a limited Phase II investigation in April 2018. The work included completion of 3 soil borings and 5 surface soil samples with collection of soil samples, which is included in Section III.

Site Geology and Hydrogeology – Soil borings were completed by Great Lakes, however, Great Lakes did not provide information on subsurface conditions, nor were boring logs included within their report.

According to soils data obtained from the USDA Soil Conservation Service available on their website at <http://websoilsurvey.nrcs.usda.gov/>, the soil beneath the subject site is as silty loam including Angola silt loam, Canadaigua silt loam, Darien silt loam and Niagara silt loam.

A review of the available wetlands information and floodplain information available on Erie County “On-Map” at <http://gis2.erie.gov/HTML5/ErieCountyNY/PublicLaunchPage.aspx>

indicated state or federal regulated wetlands are not located on the subject site. Additionally, the subject site is not located within a 100-year flood zone.

Based on a review of the site topographic conditions as depicted on the USGS 7.5 minute Topographic Quadrangle Map of Buffalo SE, New York, shallow regional groundwater flows is expected to flow in a northwesterly direction toward an unnamed tributary of South Branch Smokes Creek located approximately 500 feet northwest, which flows into South Branch Smokes Creek and toward the Lake Erie located approximately four miles west of the Site.

Environmental Assessment – Based on the investigation completed in April 2018 by Great Lakes, the primary contaminants of concern in the soil include metals, specifically barium and copper.

Soil – The known contamination at the site is primarily due to dumping of incineration waste in the vacant, wooded area north of the on-site building. However, the lateral and vertical extent of the incineration waste is not currently fully understood. The concentration of the metals were up to 779 parts per million (ppm) of barium at SS-5 (CUSCO – 400 ppm); 1,130 ppm of copper at SS-4 (CUSCO – 270 ppm); 340 ppm of chromium at SS-4 (RRUSCO – 180 ppm); and lead at 446 ppm at SS-2 (RRUSCO – 400 ppm).

Groundwater – Groundwater samples were not collected during the Great Lakes investigation.

Section VI

Additional Requestor Information

Requestor's Relationships

The Requestor is the current owner.

Past owners and relationship with owner:

3678 Southwestern Boulevard

Grantee	Grantor	Date	Last known address/phone	Relationship to Requestor
Octavus Storage NY LLC	Torrax Building Joint Venture	9/17/2018	1810 West Kennedy Tampa, FL 33606	None
Torrax Building Joint Venture	County of Erie	11/29/1993	Unknown	None
County of Erie	Theodore O. Zittle and Sara Florilla Zittel	5/11/1970	Unknown	None
Theodore O. Zittle and Sara Florilla Zittel	Jeanette Benzing (executor for Magnus P. Benzing)	11/24/1967	Unknown	None
Theodore O. Zittel and Sara Florilla	Jeannette Benzing	9/19/1963	Unknown	None
Jeannette Benzing	Magnus P. Benzing (will)	5/10/1962	Unknown	None
Magnus P. Benzing	Magnus A. Benzing (will)	4/15/1949	Unknown	None
Magnus P. and Jeannette Benzing	Magnus Beck Brewing Copany	10/30/1948	Unknown	None
Magnus Beck Brewing Company	Emilo Mondelo and Luisa Mondelo	10/1/1944	Unknown	None
Emilio Mondelo	City of Buffalo	3/19/1943	Unknown	None
Magnus A. Benzing	Alice P. Banzing	4/24/1931 (will)	Unknown	None
Alice P. Benzing	Henry and Catharine Henel	6/15/1918	Unknown	None
City of Buffalo	Adam J. Benzing and Louisa Downer	11/23/1912	Unknown	None

3678 Southwestern Boulevard Past Operators

In addition to the various recorded owners of the parcel, the site has been occupied by various Erie County entities including the Erie county Torrax Facility and the Erie County Sewerage and Management Department. Reportedly, the Erie County Torrax Facility operated from 1972 to 1979. The building was used for an experimental pilot program for the incineration of refuse. In 1974, the experimental program was halted and all of the major equipment was removed. The building was then occupied between 1974 and 1977 by the Erie County Sewerage and Management Department. Torrax Building Joint Venture has not operated the site or building since purchase in 1993. However, the site was occasionally used for storage.

The requestor is a Volunteer and is not aware of last know addresses for the previous operators. Additionally, the Requestor has no relationship with any of the past building operators.

HOLLAND LAND TITLE & ABSTRACT COMPANY, INC.

110 Pearl Street, Suite 900

Buffalo NY 14202-3207

SEARCH NO.: 2010-59131

COUNTY: Erie

SBL NO.: 161.06-2-15

SWIS Code: 146089

TOWN	LOT NO.	TOWNSHIP & RANGE	ADDRESS (NO. & STREET)	SUB/COVER ACRES/ DIMENSIONS
Orchard Park	26	T-10 R-7	3678 Southwestern Blvd.	-

HOLLAND LAND TITLE & ABSTRACT COMPANY, INC., a Corporation duly incorporated under the laws of the State of New York, for a valuable consideration to it paid, hereby Certifies to the record owners of an interest in or specific lien upon the premises above described, that there are no COUNTY TAXES OR TAX SALES, now a lien against the real estate described in the tax rolls as above, now payable, except as follows:

ASSESSED TO: **Torrax Bldg Joint Venture and Patrick Burke et al**

CERTIFY TO: **Torrax Building Joint Venture; Patrick Burke; William Sahlem; Edmund F. Burke and Fred Hanania**

NO SEARCH INCLUDED FOR COUNTY AND PURE WATERS DISTRICTS. NO SEARCH INCLUDED FOR LOCAL ASSESSMENTS, VILLAGE OR SCHOOL TAXES. PURSUANT TO NEW YORK REAL PROPERTY TAX LAW SECTIONS 302 AND 520, THE REAL ESTATE TAX LIABILITY MAY BE AFFECTED UPON TRANSFER ON TITLE, IF PREMISES HAVE A PARTIAL OR FULL EXEMPTION.

FOR WHAT TAX OR TAX SALE	YEAR	AMOUNT TAX OR SALE	REMARKS
COUNTY	2018	\$2,114.46	Paid

Plus interest, if any.

Dated: **August 15, 2018**

HOLLAND LAND TITLE & ABSTRACT
COMPANY, INC.

By:

Authorized Signature

For your convenience, please call **Holland Land Title & Abstract Company, Inc.** at **716-853-6529**, 24 hours prior to closing so that we may continue this search in advance. Please give the following information: Search Number, Property Address, Closing Attorney and Time of Closing.

**FIRST AMERICAN TITLE INSURANCE COMPANY,
by its Agent, HOLLAND LAND TITLE & ABSTRACT COMPANY, INC.,
a New York Corporation**

for valuable consideration paid, GUARANTEE to the record owners of an interest in or a specific lien upon the premises particularly described **below** on the date hereof and their successors in interest of record, that the SET-OUTS designated herein by marginal number(s) **1-36** inclusive, are all of the references affecting title to said premises, which appear upon

- (a) INDICES to records, papers, files and documents, (including the Inactive Hazardous Waste Disposal Site Registry Index as provided for in Section 316-b of New York Real Property Law since July 1, 1993) in the offices of the CLERK of the COUNTY OF ERIE AND
- (b) INDICES to wills and administration of decedents' estates in the office of the SURROGATE of ERIE COUNTY
- (c) INDICES to bankrupts in the Buffalo, New York office of the CLERK of the UNITED STATES DISTRICT COURT for the WESTERN DISTRICT OF NEW YORK

against the names of the parties appearing in the within abstract during the periods in which it appears there was a record interest in said premises under the names from **November 23, 1912** to the date hereof, and upon

- (d) JUDGMENT DOCKETS for ten last years past, and
- (e) DOCKETS of FEDERAL TAX LIENS for 10 years one month last past,

against the names of parties in such ownership in both of said offices of the aforesaid clerks, and GUARANTEE FURTHER that the SET-OUTS herein are correct statements as to such records and indices. The GUARANTEE under this Certificate shall not be limited by time.

Torrax Building Joint Venture; Patrick Burke; William Sahlem; Edmund F. Burke and Fred Hanania - Owner(s)

WITNESS the Corporate Seal of said Corporations and the signature of their respective duly authorized officers this **15th** day of **August, 2018** at **8:59 A.M.**

**HOLLAND LAND TITLE & ABSTRACT
COMPANY, INC.**

By: _____

Authorized Signature

Search No.: **2010-59131**

Abstractor: **KA**

**FIRST AMERICAN TITLE INSURANCE COMPANY,
by its Agent, HOLLAND LAND TITLE & ABSTRACT COMPANY, INC.,
a New York Corporation**

for valuable consideration paid, GUARANTEE to the record owners of an interest in or a specific lien upon the premises particularly described **below** on the date hereof and their successors in interest of record, that the SET-OUTS designated herein by marginal number(s) **37-39** inclusive, are all of the references affecting title to said premises, which appear upon

- (a) INDICES to records, papers, files and documents, (including the Inactive Hazardous Waste Disposal Site Registry Index as provided for in Section 316-b of New York Real Property Law since July 1, 1993) in the offices of the CLERK of the COUNTY OF ERIE AND
- (b) INDICES to wills and administration of decedents' estates in the office of the SURROGATE of ERIE COUNTY
- (c) INDICES to bankrupts in the Buffalo, New York office of the CLERK of the UNITED STATES DISTRICT COURT for the WESTERN DISTRICT OF NEW YORK

against the names of the parties appearing in the within abstract during the periods in which it appears there was a record interest in said premises under the names from **August 15, 2018** to the date hereof, and upon

- (d) JUDGMENT DOCKETS for ten last years past, and
- (e) DOCKETS of FEDERAL TAX LIENS for 10 years one month last past,

against the names of parties in such ownership in both of said offices of the aforesaid clerks, and GUARANTEE FURTHER that the SET-OUTS herein are correct statements as to such records and indices. The GUARANTEE under this Certificate shall not be limited by time.

Torrax Building Joint Venture; Patrick Burke; William Sahlem; Edmund F. Burke and Fred Hanania - Owner(s)

WITNESS the Corporate Seal of said Corporations and the signature of their respective duly authorized officers this **24th** day of **September 2018** at **4:18 P.M.**

**HOLLAND LAND TITLE & ABSTRACT
COMPANY, INC.**

By: _____

Authorized Signature

Search No.: **2010-59131**

Abstractor: **KA**

PREMISES

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Orchard Park, County of Erie and State of New York, being part of Lot 26, Township 10, Range 7, of the Buffalo Creek Indian Reservation, and more particularly bounded and described as follows:

BEGINNING at a point in the southerly line of said Lot No. 26 distant 1194.30 feet easterly from the southwesterly corner of said Lot No. 26, said point of beginning being at the southerly line of said Lot No. 26, 153.80 feet, more or less westerly, as measured along said southerly line; thence easterly along said southerly line 153.80 feet to the center line of the easterly 1/2 of said Lot 26; thence northerly along said center line 333 feet, more or less, to the southwesterly line of land appropriated by the People of the State of New York for Southern Expressway, Section 1, thence northwesterly along the southwesterly line of land so appropriated 887.02 feet, more or less, to a stake place at an angle in said southwesterly line of the Southern Tier Expressway; thence northwesterly continuing along the southwesterly line of land so appropriated at an interior angle of 143 degrees 31' 13" 420.09 feet to the southeasterly line of said Parcel No. 68, Map No. 39 of land so appropriated by the State of New York recorded in Liber 7420 of Deeds at page 69; thence southwesterly along the southeasterly line of said Parcel No. 68, Map No. 39, 20 feet thence south 55 degrees 31' 23" east 220.46 feet; thence 0 degrees 31' 39" east 810.45 feet; thence easterly parallel with the southerly line of said Lot No. 26, 20 feet more or less, thence southerly 120 feet, more or less, to the northwesterly corner of land conveyed to Charles J. Benzing and Anna F. Benzing, his wife, by said deed recorded in Liber 6180 of Deeds at page 530; thence easterly along the northerly line of land so conveyed to Benzing 300 feet to the northeasterly corner of land so conveyed to Benzing; thence southerly along the easterly line of land so conveyed to Benzing and the extension thereof southerly 350 feet to the point of beginning.

- | | | |
|----|--|---|
| 1. | Henry Henel and
Catharine, his wife | Warranty Deed
Dated: June 15, 1918
Ack.: June 15, 1918
Rec.: July 9, 1918
Liber 1431 of Deeds, page 38
Consideration: \$1.00 |
| | -TO- | |
| | Alice P. Benzing
(No search against grantors) | |

Conveys the following: Town of Orchard Park, (formerly East Hamburg), County of Erie and State of New York, being the west half of the east half of Lot No. 26, Township 10, Range 7 of the Buffalo Creek Reservation, and containing 27 ¼ acres of land, be the same more or less, being the east part of premises et al.

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- | | | |
|----|--|---|
| 2. | Frederick Fenske and
Bertha Fenske
-VS-
Magnus A. Benzing and
Alice P. Benzing | Supreme Court Erie County
Lis Pendens for specific
performance of an agreement to
sell and convey same premises as
in Deed recorded in Liber 1431 of
Deeds at page 38 being the east
part of premises et al
Filed: May 16, 1922
Aaron & Dautch, Attorneys |
|----|--|---|
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- | | | |
|----|---|---|
| 3. | Will

-OF-
Alice P. Benzing
(Case No. 167073) | Will
Dated: April 24, 1931
Probated: February 2, 1949
Erie County Surrogate's Court
Recorded in Liber 154 of Wills
at page 390 |
|----|---|---|

Devises all her estate to her husband, Magnus A. Benzing. Appoints said husband, executor.

Petition for Probate of Will filed January 25, 1949 recites death of decedent on October 22, 1948, leaving her surviving no husband, but the following: Magnus P. Benzing, son, Frank A. Benzing, son; Alice B. Morrow, daughter; Charles Edward Benzing (also known as Edward Charles Benzing) grandson; Edward Paul Benzing (also known as Frank Magnus Benzing), grandson, all of full age. That the above named Charles Edward Benzing and Edward Paul Benzing are the sons and distributees of Edward C. Benzing, a deceased son of decedent.

Letters of Administration with the Will annexed issued to Magnus P. Benzing and Frank A. Benzing recorded February 2, 1949 in Liber 129 of Letters at page 24.

4. Magnus P. Benzing, individually and as Administrator with the Will annexed, of the Estate of Alice P. Benzing, deceased, Frank A. Benzing, individually and as Administrator with the Will annexed, of the Estate of Alice P. Benzing, deceased, Alice B. Morrow, Charles Edward Benzing, also known as Edward Charles Benzing and Edward Paul Benzing, also known as Frank Magnus Benzing
- Warranty Deed
Dated: April 15, 1949
Ack.: May 9, 1949
Rec.: June 1, 1949

-TO-

Magnus P. Benzing

Liber 4524 of Deeds, page 65

Consideration: \$1.00 and no more

Conveys same premises as in Deed recorded in Liber 1431 of Deeds at page 38 above being the east part of premises et al.

-
5. Adam J. Benzing and Louisa Downer, his wife
- Warranty Deed
Dated: November 23, 1912
Ack.: November 23, 1912
Rec.: December 5, 1912
Liber 1224 of Deeds, page 538
Consideration: \$1.00
- TO-
- The City of Buffalo
(No search against grantors)

Conveys the following: Town of East Hamburg, County of Erie and State of New York, being the west part of Lot No. 26, Township 10, Range 7 of the Buffalo Creek Reservation, known as the Mile Strip, bounded and described as follows:

Beginning at the southwest corner of Lot No. 26, said point being the intersection of the center lines of highways running easterly and westerly and northerly; thence northerly on the westerly line of Lot No. 26, and in the center of the highway, 2421.8 feet; thence easterly at right angles, 896.7 feet to lands owned by H. Henel; thence southerly on the westerly line of lands owned by H. Henel to the southerly line of Lot No. 26 and to the center of the highway; thence westerly on the southerly line of Lot No. 26 and in the center of the highway 894.3 feet to the place of beginning; containing 50 acres, be the same, more or less, being the west part or balance of premises et al.

6. Adam J. Benzing Right of Way
Dated: August 27, 1910
-TO- Ack.: October 24, 1910
Rec.: June 6, 1911
United Natural Gas Company Liber 1153 of Deeds, page 491
(No search against second party) Consideration: \$5.00

Grants right of way to run pipe line over lands of first party in Town of East Hamburg.

7. The City of Buffalo Quit Claim Deed
Dated: March 19, 1943
Ack.: March 19, 1943
-TO- Rec.: March 24, 1943
Emilio Mondelo Liber 3361 of Deeds, page 482
Consideration: \$10,500.00

Conveys same premises as in Deed recorded in Liber 1224 of Deeds at page 538, being the west part or balance of premises et al.

8. Emilio Mondelo and Warranty Deed
Luisa Mondelo, also known as Dated: October 1, 1944
Louisa Mondelo, his wife Ack.: October 1, 1944
-TO- Rec.: October 16, 1944
Liber 3615 of Deeds, page 83
Magnus Beck Brewing Company, Inc. Consideration: \$1.00

Conveys same premises as in Liber 1224 of Deeds at page 538, being the west part or balance of premises et al.

9. In the Matter Certified Copy of Certificate of Incorporation
-OF- Dated: December 23, 1932
Magnus Beck Brewing Company Inc. Filed: January 3, 1933
Case No. 19925 Duration: perpetual

10. Magnus Beck Brewing Company Inc. Warranty Deed
Dated: December 30, 1948
Ack.: December 30, 1948
-TO- Rec.: December 30, 1948
Magnus P. Benzing and Liber 4455 of Deeds, page 577
Jeannette S. his wife Consideration: \$1.00 and more

Conveys same premises as in Deed recorded in Liber 1224 of Deeds at page 538, being the west part or balance of premises et al.

-
11. Frank A. Benzing Agreement
Dated: September 9, 1949
Ack.: September 9, 1949
-WITH- Rec.: September 12, 1949
Magnus P. Benzing Liber 4576 of Deeds, page 470
(No search against first party)

Second party grants to first party a water line agreement effecting premises et al. (See agreement recital therein)

-
12. Magnus P. Benzing and Easement
Jeanette S. his wife Dated: April 17, 1958
-TO- Ack.: April 23, 1958
Erie County Water Authority Rec.: May 15, 1958
(No search against second party) Liber 6295 of Deeds, page 55

First parties grant unto the second party an easement for a water main.

-
13. In the Matter Surrogate's Court Erie County
Of the Estate Petition for Probate of Will
OF Filed: May 10, 1962
Magnus P. Benzing
(Case No. A-2130)

Recites Decedent died on or about May 4, 1962, leaving him surviving Jeannette S. Benzing, wife of full age, et al.

Transfer Tax Proceedings filed September 9, 1963 lists premises as described in Liber 1224 of Deeds at page 538.

Fixes tax at \$2,887.78. Receipt filed herewith.

Letters Testamentary and Trusteeship issued to Jeannette S. Benzing and Edwin F. Jaeckle on May 11, 1962.

(Being the west part or balance of premises et al)

14.	In the Matter	Release
	of the Estate	Dated: August 9, 1963
	OF	Rec.: September 19, 1963
	Magnus P. Benzing	Liber 22 of Transfer Tax at page 349

Releases same premises as in Liber 1224 of Deeds at page 538 above from the lien of the estate tax imposed by the United States by Section 6324 of the Internal Revenue Code of 1954.

(Being the west part or balance of premises et al)

15.	In the Matter	Release
	of the Estate	Dated: September 9, 1963
	OF	Rec.: September 19, 1963
	Magnus P. Benzing	Liber 22 of Transfer Tax at page 348

Releases same premises as in Deed recorded in Liber 1224 of Deeds at page 538 above from the lien of estate tax imposed by Article 10-C or Article 26 of the Tax Law by the State of New York.

(Being the west part or balance of premises et al)

16.	Jeannette S. Benzing	Warranty Deed
		Dated: September 19, 1963
		Ack.: September 19, 1963
	-TO-	Rec.: September 19, 1963
	Theodore O. Zittel and	Liber 6930 of Deeds, page 493
	Sara Florilla, his wife	Consideration: \$1.00 and more

Conveys the following described premises situate in the Town of Orchard Park, County of Erie and State of New York, being part of Lot No. 26, Township 10, Range 7 of that part of the Buffalo Creek Reservation known as the Mile Strip bounded as follows: Beginning at a point in the south line of said Lot No. 26, distant easterly 324.75 feet from the west line of Lot No. 26 as measured along the south line of Lot No. 26; running thence easterly along the south line of Lot No. 26, 569.56 feet to the southeast corner of lands conveyed to Magnus P. Benzing and Jeannette S. Benzing, his wife, by deed recorded in the Erie County Clerk's Office in Liber 4455 of Deeds at page 577; running thence northerly along the east line of Benzing's land, 1,661 feet; running thence westerly on a line parallel with

the south line of Lot No. 26, 571.15 feet; running thence southerly on a line parallel with the west line of Lot No. 26 1,661 feet to the point or place of beginning, being the west part or balance of premises et al.

Together with a right of way over a 40 foot strip of land running easterly from the west line of Lot No. 26 to the westerly line of the lands above described, the center line of said 40 foot strip commencing at a point in the west line of Lot No. 26 distant northerly from the southerly line of Lot No. 26, 456 feet and running easterly at an angle of 89° 33", and the northerly and southerly lines of said 40 foot strip running parallel to said center line, each at a distance of 20 feet therefrom. This right of way to be non-exclusive and to expire 10 years from the date hereof.

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|--|---|
| 17. Theodore O. Zittel and
Sara F. his wife
-TO-

New York State Electric & Gas
Corporation
(No search against second party) | Easement
Dated: March 25, 1968
Ack.: March 25, 1968
Rec.: April 18, 1968
Liber 7459 of Deeds, page 551
Consideration: \$1.00 |
|--|---|

Grants the right to construct, operate and maintain a pole line for electric lines, together with the right of ingress and egress to lands situate in the Town of Orchard Park, fronting on the easterly side of Benzing Road and bounded northerly by Milestrip Road and southerly by Southwestern Boulevard.

-
- | | |
|--|---|
| 18. Theodore O. Zittel and
Sara Florilla, his wife
-TO-

Town of Orchard Park and Orchard
Park Sanitary Sewer District No. 18
(No search against second parties) | Easement
Dated: September 30, 1969
Ack.: September 30, 1969
Rec.: October 2, 1969
Liber 7634 of Deeds, page 415
Consideration: \$1.00 and other good and
valuable consideration |
|--|---|

Grants the right to construct, operate and maintain water, sanitary sewer and storm sewer mains in, under, upon and across together with the right of ingress and egress to lands situate in the Town of Orchard Park, Lot No. 26, Township 10, Range 7. (Deed reference Liber 6930 of Deeds at page 493 and Liber 7425 of Deeds at page 615)

19. Theodore O. Zittel and Sara Florilla, his wife
-TO-
Town of Orchard Park and Orchard Park Sanitary Sewer District No. 18
(No search against second parties)
- Easement
Dated: September 13, 1969
Ack.: September 15, 1969
Rec.: October 2, 1969
Liber 7634 of Deeds, page 418
Consideration: \$1.00 and other good and valuable consideration

Grants the same as in last above easement over the same premises.

-
20. Theodore O. Zittel and Sara Florilla, his wife
-TO-
Town of Orchard Park and Orchard Park Sanitary Sewer District No. 18
(No search against second parties)
- Easement
Dated: September 15, 1969
Ack.: September 15, 1969
Rec.: October 2, 1969
Liber 7634 of Deeds, page 421
Consideration: \$1.00 and other good and valuable consideration

Grants the same as in Easement recorded in Liber 7634 of Deeds at page 415 above on said described premises.

-
21. Theodore O. Zittel and Sara F. his wife
-TO-
Town of Orchard Park and Orchard Park Sanitary Sewer District No. 17
(No search against second parties)
- Easement
Dated: April 21, 1970
Ack.: May 8, 1970
Rec.: May 13, 1970
Liber 7688 of Deeds, page 60
Consideration: \$1.00 and other good and valuable consideration

Grants the right to construct, operate and maintain water and sanitary sewer and storm sewer mains in, under, upon and across lands situate in the Town of Orchard Park, Lot No. 26, Township 10, Range 7 located on the easterly side of Benzing Road.

25. County of Erie Easement
Dated: August 6, 1970
-TO- Ack.: August 6, 1970
Rec.: August 28, 1970
New York State Electric & Gas Liber 7721 of Deeds, page 93
Corporation
(No search against grantee)

Granted for electric and communication system purposes on grantor's lands fronting on Southwestern Blvd. East by Southern Expressway. West by Zittel Property.

26. County of Erie Right of Way
Dated: September 16, 1970
-TO- Ack.: September 16, 1970
Rec.: September 30, 1970
Iroquois Gas Corporation Liber 7730 of Deeds, page 382
(No search against grantee)

Granted for gas system purposes on grantor's lands north by County of Erie; east by New York State (Southern Expressway); south by Highway (Southwestern Boulevard); west by Charles Benzing, pursuant to a resolution adopted by the Erie County Legislature by Item No. 112 on September 8, 1970.

See Assignment of Interest recorded in Liber 8189 of Deeds at page 13.

27. The County of Erie Quit-Claim Deed
Dated: November 29, 1993
Ack.: November 29, 1993
-TO- Rec.: November 30, 1993
Torrax Building Joint Venture; Liber 10805 of Deeds, page 341
Patrick Burke; William Sahlem; Edmund Consideration: \$83,000.00
F. Burke and Fred Hanania

Conveys premises.

Subject to easement and rights of way recorded in Liber 1153 of Deeds at page 491, Liber 4576 of Deeds at page 470, Liber 6295 of Deeds at page 55 and Liber 6930 of Deeds at page 493.

This conveyance is made and accepted with the reservation of and subject to any and all easements and rights of way heretofore separately acquired by the County as if same had not merged with the fee title including, but not limited to, any portion of the above-described premises conveyed to or dedicated by the County of Erie for highway, drainage or other purposes as may appear in the

records of the Clerk of the County of Erie; subject also to taxes, local assessments, easements and restrictions or other matters of record affecting the premises.

28.	In Re	Will
	Estate of	Dated: December 2, 1996
	Edmund F. Burke	Probated: January 5, 2007
	Case #: 2006-4897	Erie County Surrogate's Court

Makes certain personal bequests. All the rest, residue and remainder to his trustees in trust nevertheless for the benefit of his wife, Sharon A. Burke, upon her death the balance of the trust to his descendants except his son, Shawn Burke, shall take nothing.

Directs all just debts and funeral expenses be paid.

Appoints his wife, Sharon A. Burke, Executor and appoints his wife, Sharon A. Burke, and his sons, David M. Burke and Patrick E. Burke, Trustees and grants full power.

Letters Testamentary issued to Sharon A. Burke on January 5, 2007. Letters of Trusteeship issued to Sharon A. Burke, Patrick E. Burke and David M. Burke on January 5, 2007.

Revokes all prior wills and codicils.

Prior Will dated April 1, 1965. Prior Will dated January 31, 1959.

Petition for Probate filed December 15, 2006 recites decedent died December 8, 2006 leaving him surviving Sharon A. Burke, full spouse, Patrick E. Burke, full son; David M. Burke, full son, et al.

29.	In RE	Petition in Bankruptcy #94-12600
	Patrick M. Burke	Filed: September 9, 1994
	Bankrupt	Chapter 7

For further Proceeding see United States District Court Western District of New York.

30.	In RE	Petition in Bankruptcy #97-17902
	Patrick S. Burke	Filed: December 19, 1997
	Bankrupt	Chapter 7

For further Proceeding see United States District Court Western District of New York.

31.	In RE David E. Burke Bankrupt	Petition in Bankruptcy #08-20004 Filed: January 2, 2008 Chapter 7
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For further Proceeding see United States District Court Western District of New York.

32.	New York State Department of Taxation & Finance Commission Civil Enforcement-Indiv. Case Enforcement WA Harriman State Campus Albany, NY 12227-0001 -VS- Sharon A. Burke 6455 Lake Ave. Orchard Park, NY 14127-1254	State Tax Warrant for \$7,692.52 File No. Q 231-4314 Filed: January 21, 2011 Vacated: May 26, 2011
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33.	In RE Patrick Burke a/k/a Patrick E. Burke, Sr. Bankrupt	Petition in Bankruptcy #11-21751 Filed: September 9, 2011 Chapter 7
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For further Proceeding see United States District Court Western District of New York.

34.	In RE David B. Burke, Sr. Bankrupt	Petition in Bankruptcy #11-14106 Filed: November 30, 2011 Chapter 13
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For further Proceeding see United States District Court Western District of New York.

35.	Midland Funding LLC 8875 Aero Dr., Suite 200 San Diego, CA 92123 (No search against judgment creditor) -VS- Patrick Burke, Jr. 940 Wehrle Dr. Clarence, NY 14032-1826	Judgment for \$4,607.82 File No. Q 254-6606 Supreme Court Erie County Perf.: December 6, 2012 Dock.: December 6, 2012 Pressler & Pressler, Attorneys
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36.	Joshua D. Karczewski and Tracy C. Karczewski c/o Kenney Shelton Liptak Nowak LLP 233 Franklin St. Buffalo, NY 14202 (No search against judgment creditor)	Judgment for \$900,000.00 File No. Q 288-6135 Supreme Court Erie County
	-VS-	Perf.: February 1, 2016
	Patrick H. Burke 230 Scott St. Buffalo, NY 14202	Dock.: February 1, 2016 Kenney Shelton Liptak Nowak, Attorneys

August 15, 2018
@ 8:59 A.M.
KA/jlr

37.	Affidavit	Affidavit
	-OF-	Sworn to: September 17, 2018
	Patrick Burke a/k/a Patrick E. Burke, individually and as Trustee	Rec.: September 24, 2018 Liber 11334 of Deeds, page 8890

Deposes and says:

That Torrax Building Joint Venture is a four (4) party partnership and a Grantee in a Deed filed November 30, 1993 in Liber 10805 of Deeds at page 341.

That the original members of the Torrax Building Joint Venture partnership were Patrick Burke, William Sahlem, Edmund F. Burke and Fred Hanania, each with a 25% interest in the same as reflected in each of their tax returns accordingly.

That as of January 5, 2007, the existing members of the Torrax Building Joint Venture partnership are Patrick Burke a/k/a Patrick E. Burke, individually and as Trustee of the Last Will and Testament of Edmund F. Burke, William Sahlem, Fred Hanania, Sharon A. Burke as Executrix and Trustee of the Last Will and Testament of Edmund F. Burke and David A. Burke as Trustee of the Last Will and Testament of Edmund F. Burke.

That since January 5, 2007, there have been no further changes to the partnership.

That Affiant's attention has been called to certain judgments, tax liens, warrants or other recorded encumbrances or liens against persons with names similar to affiants.

That there are no judgments, tax liens, warrants, attachments or other encumbrances or liens of any nature whatsoever against affiants, nor have they ever been adjudicated incompetent or bankrupt.

That affiants have been known by the names in which this affidavit is made and by no other names for the last ten years.

38.	Affidavit	Affidavit
	-OF-	Sworn to: September 19, 2018
	Sharon A. Burke	Rec.: September 24, 2018
		Liber 11334 of Deeds, page 8893

Deposes and says:

I am the Executrix of the Estate of Edmund F. Burke, deceased, who died December 8, 2006.

When Decedent died, he was an owner with a 25% interest of the property commonly known as 3678 Southwestern Boulevard, Orchard Park, New York, and more particularly described in Liber 10805 of Deeds at page 341 in the Erie County Clerk's Office.

Deponent knows that a diligent search has been made for all assets of the decedent's estate.

Federal Estate Tax and New York Estate Tax Returns were filed and no New York Estate Tax or Federal Estate Taxes are due.

All debts of the decedent have been paid.

39.	Patrick Burke a/k/a Patrick E. Burke, individually and as Trustee of the Last Will and Testament of Edmund F. Burke; William Sahlem; Fred Hanania; Sharon A. Burke, as Executrix and Trustee of the Last Will and Testament of Edmund F. Burke; David M. Burke, as Trustee of the Last Will and Testament of Edmund F. Burke, being all the members of Torrax Building Joint Venture	Warranty Deed Dated: September 17, 2018 Ack.: September 17, 2018 Rec.: September 24, 2018
	-TO-	
	Octavus Storage NY LLC (No search against grantee)	Liber 11334 of Deeds, page 8895 Consideration: 365,000.00

Conveys premises

September 24, 2018
@ 4:18 P.M.
JBS/jlr

Section VII

Requestor Eligibility Information

Volunteer – Octavus Storage NY, LLC, should be considered a Volunteer to the BCP. Octavus Storage NY, LLC purchased the property in September 2018 for future redevelopment. No activities or operations have occurred since purchase. The impacts are associated with historical usage associated with on-site incineration program while owned and operated by The County of Erie. Octavus Storage NY, LLC has not operated the subject site, and therefore does not have responsibility for the contamination present at the site.

Section IX

Contact List

Contact List

Letter from Repository

Contact List		
Federal Representative		
U.S. Representative Chris Collins 27 th District Local Office 2813 Wehrle Drive Suite 13 Williamsville, NY 14221 716-634-2324	US Senator Hon. Charles E. Schumer 130 South Elmwood Ave. #660 Buffalo, NY 14202 716-846-4111	US Senator Hon. Kristen Gillibrand 726 Exchange St., Suite 511 Buffalo, NY 14201 716-854-9725
New York Representative		
New York State Senator Chris Jacobs 65 Court Street Mahoney State Office Building Rm 213 716-854-8705	New York State Assemblyman Eric T. Bohen District Office 1074 Union Road West Seneca, NY 14224 716-608-6099	
Erie County Representative		
Erie County Executive Mark Poloncarz 95 Franklin Street 16th Floor Buffalo, New York 14202 (716) 858-8500	Erie County Clerk Michael P. Kearns 92 Franklin Street Buffalo, New York 14202 (716) 858-8865	Commissioner of Environment and Planning Thomas R. Hersey, Jr. Edward A. Rath County Office Building 95 Franklin Street 10th Floor Buffalo, New York 14202 (716) 858-8390
Town of Orchard Park Representative		
Town Supervisor Dr. Patrick J. Keem 4295 South Buffalo Street Orchard Park, NY 14127 716-662-6400 ext. 1502	Town Council Eugene Majchrzak 4295 South Buffalo Street Orchard Park, NY 14127 716-662-6400 ext. 1603	Town Engineer Wayne Bieler 4295 South Buffalo Street Orchard Park, NY 14127 716-662-6425
Remy C. Orffeo Town Clerk 4295 S. Buffalo Street Orchard Park, NY 14127 716-662-6410		

Adjacent Property Owners		
Unaddressed Parcel SBL: 161.06-2-9 DBT Development LLC. 5540 Southwestern Blvd. Hamburg, NY 14075	3690 Southwestern Blvd. Aurora Cares Property Co. LLC. P.O. Box 428 Orchard Park, NY 14127	3675 Southwestern Blvd. Mercy Hospital of Buffalo 144 Genesee St. Buffalo, NY 14203
3685 Southwestern Blvd. R&C REEB INC. 3685 Southwestern Blvd. Orchard Park, NY 14127		
Local News Media		
Buffalo News One News Plaza PO Box 100 Buffalo, NY 14240 716-849-4444	WGRZ-TV Channel 2 259 Delaware Avenue Buffalo, NY 14202 716-849-2222	WIVB-TV Channel 4 2077 Elmwood Avenue Buffalo, NY 14202 716-874-4410
WKBW-ABC Channel 7 7 Broadcast Plaza Buffalo, NY 14202 716-845-6100	WUTV-FOX (Channel 29) 699 Hertel Avenue, Suite 100 Buffalo, New York 14207	
Public Water Supplier		
Erie County Water Authority 295 Main Street Buffalo, NY 14203 716-849-8484		
Persons who have requested to be on the list		
None requested		
Administrator of School and Daycare Facilities near the Property		
No Day care within ¼ mile of the site		
No school within ¼ mile of the site		
Local Document Repositories		
Orchard Park Public Library 4570 S. Buffalo Street Orchard Park, NY 14127 716-662-9851 Peggy Errington – Branch Manager		

From: April Tompkins [<mailto:tompkinsa@buffalolib.org>]
To: gbittner@hazardevaluations.com
Subject: FW: Repository Request

Good afternoon Greg,

This is to inform you and confirm that the Buffalo and Erie County Public Library will be the repository for the Brownfield Clean Program document(s) and will be made available for public review. ***Also, this serves as permission to submit future document and updates.***

Please keep the following in mind:

- Documents (including updates) for public review should be sent or brought in person to the Central Library to the attention of Carol Batt, of whom I assist. Documents sent via e-mail will not be accepted. The mailing address is:

**Attention: April Tompkins
Re: Repository Documents
Buffalo and Erie County Public Library
1 Lafayette Square
Buffalo, NY 14203**
- Documents for the Central/Downtown library are made available on the first floor in the Information Services Department within a day or so after receipt. If received Friday afternoon, they go out the following Monday.
- If you would like the document(s) distributed at libraries other than Central, you will need to send the appropriate quantity of copies with labels regarding their destinations. We will distribution accordingly. We do not make copies for distribution.
- It's your choice regarding the format (hard copy and / or disk) you wish to submit. If the document is very large, part in hard copy and part on disk is acceptable. If submitting in both formats, please be sure that they are titled/labeled accordingly. Although CD-ROMs cannot be used on public library computers, if someone brings in their personal laptop, the disc can be viewed in house. If optional, an alternative is the availability to go online using a provided link for patrons to read/review/print.

If you still have any questions/concerns, please feel free to contact me by replying to this e-mail or by phone at 716-858-7129. Thank you.

Regards,

April Tompkins, Sr. Library Clerk
Office of Chief Operating Officer & Information Technology
Buffalo and Erie County Public Library
1 Lafayette Square | Buffalo, NY 14203
Voice: 716-858-7129 | Fax: 716-858-6211
E-mail: tompkinsa@buffalolib.org

Section X

Land Use Factors

2. Current Use – The site building has been vacant since the late 1970s; but occasionally used for storage. Specific historical areas of usage and possible contaminant source areas are not known.

3. Reasonably Anticipated Use Post Remediation – The Site will be developed as self-storage units. Due to the proposed future usage, commercial usage will be cleanup goal/criteria.

4. Recent Development –. The proposed use is consistent with current property zoning. Development plans are underway.