

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
NEW YORK WORKS II ENVIRONMENTAL RESTORATION PROJECT

In the Matter of the
implementation of a
Remedial Program for

NYWII ERP AGREEMENT
Index No. NYWII-E442037-12-14

Scolite – Upper Hudson River
DEC Site Number: **E442037**
Madison and River Street
Troy, New York 12180

Hereinafter referred to as "Site"

by:

City of Troy
433 River Street
Troy, New York 12180

Hereinafter referred to as "Municipality"

WHEREAS, the New York State Department of Environmental Conservation ("Department" or "NYSDEC") is authorized by Article 56 of the New York State Environmental Conservation Law (hereinafter the "ECL") to address contamination at municipal sites; and

WHEREAS, the Legislature has determined that the preservation, enhancement, restoration and improvement of the quality of the State's environment is one of government's most fundamental obligations; and

WHEREAS, Chapter 54, Laws of 2013 (the "Law of 2013"), provides New York Works funding for services, expenses, and indirect costs related to various environmental projects including, but not limited to, environmental restoration projects. The Law of 2013 allows the Department to enter into agreements with municipalities to undertake environmental restoration projects on behalf of a municipality upon request, provided that the municipality shall provide ten percent of the total project costs (hereinafter referred to as "NYWII ERP Agreement"); and

WHEREAS, the Legislature authorized the Department to develop and implement environmental restoration investigation and remediation projects for certain properties held in title by them; and

WHEREAS, the Municipality submitted an Application requesting that the Department undertake the development and implementation (i.e., the remedial design and remedial construction) of an environmental restoration remediation project (the "Project"), the purpose and scope of which is set forth in the Record of Decision ("ROD") provided in Exhibit A of this NYWII ERP Agreement, on the Site that is described in Exhibit B by metes and bounds and by reference to a recorded map showing its boundaries and bearing the seal and signature of a licensed land surveyor; and

WHEREAS, the Municipality agrees to comply with all terms and conditions of this NYWII ERP Agreement; and

WHEREAS, the Municipality submitted an approvable Application, including submission of its documentation of its authorization to enter into this NYWII ERP Agreement, and of its authorization of the person signing the same to do so; and

WHEREAS, the Project was given a priority ranking based on a score derived from information provided in the Application and is eligible to participate in NYWII ERP; and

WHEREAS, the Municipality has disclosed all responsible party payments received related to the Site prior to entering into this Agreement. Except as provided herein relative to responsible party funding, the Municipality may use any other funding available (i.e., federal, State or other private party monies) towards its cost share; and

WHEREAS, the Department's execution of this NYWII ERP Agreement is made in reliance upon the information provided by, and representations of, the Municipality in its application papers and in this NYWII ERP Agreement; and

WHEREAS, the Municipality has complied, and commits to comply, with the requirements for municipalities established under Article 56 of the ECL.

NOW, THEREFORE, IN CONSIDERATION OF AND IN EXCHANGE FOR THE MUTUAL COVENANTS AND PROMISES, THE PARTIES AGREE TO THE FOLLOWING:

I) Duties and responsibilities of the Department and the Municipality.

A) The Department, as required by the scope of the Project, shall:

- 1) implement a Citizen Participation Plan (CPP) for the Project consistent with DER-23; and
- 2) design and implement the remedy set forth in the ROD; and
- 3) prepare any necessary Environmental Easement (EE) documents for the Municipality's execution; and
- 4) prepare any necessary Site Management Plan (SMP).

B) The Municipality shall:

- 1) provide necessary assistance to the Department in the implementation of the Site CPP, including providing venues for meetings and contact information; and
- 2) execute and implement any Department prepared EE; and

- 3) implement the SMP, if one is required under this NYWII ERP Agreement, including all operation, maintenance and monitoring; and
- 4) provide the required Periodic Review Reports (PRR) as set forth in the SMP.

In the event that the remedy for the Site, or any Work Plan for the Site, requires a SMP as a consequence of operation, maintenance, and monitoring requirements, including reliance upon institutional or engineering controls, the Municipality shall file the initial PRR on the first day of the eighteenth month following the anniversary of the start of the SMP and continuing at the Department designated period until the Department notifies the Municipality in writing that such PRR may be discontinued.

Such PRR shall be signed by a Professional Engineer or by a qualified environmental professional as defined in 6 NYCRR 375-1.2(ak) approved by the Department to perform that function and certified under penalty of perjury that the institutional and/or engineering controls are unchanged from the previous certification and that nothing has occurred that would impair the ability of such controls to protect public health and the environment or constitute a violation or failure to comply with the approved SMP.

The Municipality shall notify the Department within twenty-four (24) hours of discovery of any breach, upset, interruption, or termination of one or more controls without the prior approval of the Department. Further, the Municipality shall take all actions required by the Department to maintain conditions at the Site that achieve the objectives of the remedy and/or the Work Plan and are protective of public health and the environment. An explanation of such upset, interruption, or termination of one or more controls and the steps taken in response shall be included in the foregoing notice and in the PRR required by this.

The Municipality can petition the Department for a determination that the institutional and/or engineering controls may be terminated. Such petition must be supported by a Professional Engineer stating that such controls are no longer necessary. The Department shall not unreasonably withhold its approval of such petition.

II) Allowable Use

The ROD determined that the Site will be used for Commercial Use, and the Municipality agrees for itself and for its lessees and successors in title that any proposed change to the Contemplated Use shall be governed by the provisions of ECL § 56-0511 and any implementing regulations thereto.

III) Enforcement and Force Majeure

This NYWII ERP Agreement shall be enforceable as a contractual agreement under the laws of the State of New York. The Municipality shall not suffer any penalty or be subject to any proceeding or action if it cannot comply with any requirement of this NYWII ERP Agreement as a result of a Force Majeure Event provided it notifies the Department in writing within ten (10) days of when it obtains knowledge of any such event. The Municipality shall include in such notice the measures taken and to be taken to prevent or minimize any delays and shall request an appropriate extension or modification of this NYWII ERP Agreement. The Municipality shall have the burden of proving by a preponderance of the evidence that an event qualifies as a Force Majeure Event pursuant to this Paragraph.

IV) Entry upon Site

The Municipality hereby agrees to provide access to the Site and to all relevant information regarding activities that may have involved hazardous waste at the Site in accordance with the provisions of ECL § 56-0515. Such access shall be for purposes of implementing any investigation, design, and remediation activities necessary to complete the ROD required remedy and inspecting the Site to ensure that any SMP for the conditions on such Site is being implemented satisfactorily, that the engineering and/or institutional controls are continually maintained in the manner the Department may require, that no person has engaged or is engaging in any activity that is not consistent with restrictions placed upon the use of the Site or that will or that reasonably is anticipated to: prevent or interfere significantly with a proposed, ongoing or completed project; or expose the public health or the environment to a significantly increased risk of harm or damage from such Site.

- A) The Department shall have the right to periodically inspect the Site to ensure that the use of the Site complies with the terms and conditions of this NYWII ERP Agreement; such right of inspection shall survive termination of this NYWII ERP Agreement.
- B) If the Department determines that the Municipality has failed to comply with the terms of the NYWII ERP Agreement, the Department may carry out any measures necessary to return the Site to a condition sufficiently protective of human health, in accordance with ECL § 56-0509.4; and neither the Municipality nor any of successors in title, lessees or lenders shall interfere with such access. The Municipality or successor and assign shall pay all costs incurred by the State and any release and indemnification shall be revoked.

V) Payment of State Costs

- A) The Municipality hereby agrees to pay the Department for the Municipality's share of the Project. The Municipality's share is ten percent (10%) of the Project cost for design and construction of the remedy. Construction costs are estimated at \$674,205 based on the Capital Cost provided in the ROD dated 03/23/11 and adjusted by the Consumer Price Index Inflation Calculator through 2013. The actual Project costs may vary.

- B) The Department will invoice the Municipality periodically. Within ninety (90) days after receipt of an invoice from the Department, the Municipality shall reimburse the Department for the Project costs incurred by the Department at a rate of ten percent (10%) of the Project costs.
- C) Costs shall be documented as provided by 6 NYCRR § 375-1.5(b)(3)ii. The Department shall not be required to provide any other documentation of costs, provided, however, that the Department's records shall be available consistent with, and in accordance with, Article 6 of the Public Officers Law.
- D) Each such payment shall be made payable to the New York State Department of Environmental Conservation and shall be sent to:
- Director, Bureau of Program Management
Division of Environmental Remediation
New York State Department of Environmental Conservation
625 Broadway
Albany, NY 12233-7012
- E) The provisions of 6 NYCRR §§ 375-1.5 (b)(3)(v) and (vi) shall apply to any objections by the Municipality to any invoiced costs under this NYWII ERP Agreement. Objections shall be sent to the Department as provided under subparagraph V.D.
- F) In the event of non-payment of any invoice within the ninety (90) days provided herein, the Department may seek enforcement of this provision pursuant to Paragraph III or the Department may commence an enforcement action for non-compliance with the Laws of 2013 and ECL § 71-4003. If such failure to pay is after the issuance of the Certificate of Completion (COC), enforcement shall include revocation of the COC and loss of any liability protection.

VI) Disposition of Site

- A) In the event that there is a Disposition of the Site or any portion of such Site, the Municipality is required to reimburse the State the amount owed. The amount owed shall consist of the "value of the Disposition of the Site" less the Municipal costs allowed to offset such value. The maximum amount of money owed the State is defined as an amount of money, not to exceed the State's costs incurred for the investigation and remediation of this Site under this NYWII ERP Agreement and any prior ERP State Assistance Contract (SAC) or Agreement for this Site. The Municipality's allowed costs consist of taxes owed to the Municipality upon acquisition and the Municipality's share of the Project costs (related to the disposed property) provided under this NYWII ERP Agreement as well as any costs allowed under the prior ERP SAC or Agreement for this Site.

For purposes of this subparagraph, the "value of the Disposition of the Site", or that portion of the Site that is disposed, consists, if the Site is disposed by transfer of title, of

the higher of the Site's sale price or the Site's fair market value at time of sale; or, if the Site is disposed by lease, the higher of the present worth of the stream of rent over a 30 year period beginning the effective date of this NYWII ERP Agreement or the present worth of the fair market value of the stream of rent over the same 30 year period. However, if the Site is located in an economic development zone or in a zone equivalent area, as those terms are defined in Sections 957 and 959(bb), respectively, of the General Municipal Law; or if the Site is located in a project area that is the subject of a redevelopment plan approved by Municipality's legislative body under Article 18-B of the General Municipal Law; or if the Site will be used to maintain or expand the supply of housing for persons of low income and families of low income as Section 2 of the Private Housing Finance Law defines them, then if the Site is disposed by sale, the "value of the Disposition of the Site", or that portion of the Site that is disposed, consists of the Site's sale price, and if the Site is disposed by lease, the present worth of the stream of rent over a 30 year period beginning the effective date of this NYWII ERP Agreement.

- B) If the Municipality disposes of the Site by sale to a responsible party, the disposition must be at fair market value. Additionally, the Municipality shall collect from such responsible party, in addition to such other consideration, an amount of money constituting the amount of Project costs incurred by the State under this NYWII ERP Agreement and any prior ERP SAC or Agreement for this Site plus accrued interest and transaction costs. The Municipality shall pay such funds immediately to the Department for deposit into an appropriate account.

VII) Cost Recovery

- A) The State hereby reserves the right to seek to recover the full amount of any Project Costs incurred by the State under this NYWII ERP Agreement and any prior ERP SAC or Agreement for this Site through litigation brought under Article 56 of the ECL or other statute or under the common law, or through cooperative agreements, with responsible parties, other than the following:
 - 1) The Municipality; and
 - 2) any successor in title to the Site, any lessee of the Site, and any person that provides financing to the Municipality, such successor in title, or such lessee relative to the remediation, restoration, or redevelopment of the Site, that did not generate, arrange for, transport, or dispose, and did not cause the generation, arrangement for, transportation, or disposal of any hazardous substance located at the Site and did not own the Site before the Municipality acquired title to the Site.
- B) The Municipality shall assist the Department and/or the State in compelling responsible parties to bear the cost of the Project by providing upon request by the Department all information that exists as of the start of the term of this NYWII ERP Agreement and any prior ERP SAC or Agreement for this Site that identifies the Site's responsible parties and all other information acquired during the course of the Project's implementation.

- C) Upon approval by the Department, the Municipality may make efforts to recover costs from responsible parties. The Municipality hereby agrees to provide the Department with timely advance written notice of any negotiations, proposed agreements, proposed settlements or legal action by which recovery is sought. The Municipality further agrees not to commence such legal action nor enter into any such proposed agreement or settlement without the approval of the Department.
- D) If any responsible party payments and/or other responsible party consideration become available to the Municipality during or after the completion of an environmental restoration project, the Municipality shall immediately notify the Department of such availability. The State is entitled to its share of the amount recovered from the responsible party under this NYWII ERP Agreement and any prior ERP SAC or Agreement for this Site. If the Municipality shall fail to make such payment to the State within sixty (60) days of receipt of any responsible party payment (or within ninety (90) days of signing this NYWII ERP Agreement, if the payment was received before the NYWII ERP Agreement was signed), the Department may take measures provided for by law.

If any responsible party payments are received prior to entering into this Agreement, the Municipality must pay the State ninety (90) percent of such payments, unless such payments were received for remedial activities conducted under any prior ERP SAC or Agreement for this Site.

The Municipality agrees that it will immediately notify the Department in writing of its receipt of funds from other sources for any of the Municipality's expenditures incurred pursuant to this NYWII ERP Agreement. Any such funds shall first be applied to the Municipality project share. Any additional funds shall then be applied to the State's share of the project costs.

VIII) Liability Protection

As set forth at ECL § 56-0509, the Municipality and applicable successors and assigns shall be entitled to certain liability protections, subject to the terms and conditions stated therein, upon the issuance of a COC for the Site by the Department. However, if the Municipality or its successor or assigns fails to comply with the EE and/or the SMP for the Site after the issuance of the COC, the Department reserves its right to revoke the COC and rescind any release of liability granted to the Municipality pursuant to ECL Article 56.

IX) Indemnification

The Municipality shall indemnify and save harmless the Department and the State of New York from and against all losses from claims, demands, payments, suits, actions, recoveries and judgments, of every nature and, description brought or recovered against it by reason of any acts or omissions of the Municipality, its agents, employees, or contractors related to this Site.

X) Change of Use

The Municipality shall notify the Department at least sixty (60) days in advance of any change of use as defined in ECL § 56-0511, which is proposed for the Site. In the event that the proposed change of use is inconsistent with the remedial program, the Department shall notify the Municipality of such determination within forty-five (45) days of receipt of such notice. In such event, the Municipality shall not implement the proposed change of use.

XI) Environmental Easement

A) If the Department's issuance of a ROD relies upon one or more institutional and/or engineering controls, the Department shall provide an EE for signature. The authorized representative for the Municipality shall within sixty (60) days of receipt of the EE, sign and submit it to the Department for execution. The Municipality's submittal shall satisfy the statutory and regulatory requirements of law as set forth in ECL Article 71, Title 36 and 6 NYCRR Part 375. The executed EE shall be recorded with the recording officer for the county in which the Site is located.

B) The Municipality or the owner of the Site may petition the Department to modify or extinguish the EE filed pursuant to this NYWII ERP Agreement at such time as it can certify that the Site is protective of human health and the environment without reliance upon the restrictions set forth in such instrument. Such certification shall be made by a Professional Engineer. The Department will not unreasonably withhold its consent.

C) Engineering and Institutional Controls

- 1) In the event that engineering and/or institutional controls are components of the remedy selected in the Department's ROD pertaining to the Site, the Department will cause the development of a plan to ensure that such controls are continually maintained in the manner satisfactory to the Department. The Municipality and its successors in title, lessees and lenders are prohibited from challenging the imposition or continuance of such controls, and failure to implement or comply with the Department-approved plan or to maintain such controls constitute a violation of this NYWII ERP Agreement and for the duration of such failure, the release and indemnification granted pursuant to ECL § 56-0509.1 shall have no force and effect.
- 2) The municipality's or successors' in title, lessees' and lenders' failure to cure such violation of engineering or institutional controls in the time period set by the Department will result in the Department seeking recovery of any funds expended on the Site and permanent revocation of any release and indemnification.

XII) Site Lease/Transfer Conditions

The Municipality shall not enter into any lease or transfer title to, the Site or any portion of it until the Municipality binds itself and its lessees and its successors in title, to the following conditions:

- A) The Site will not be used for the use set forth in Paragraph II or any less restrictive use until it is remediated. The Site may continue to be used for the purpose for which it is being used as of the start of the term of this NYWII ERP Agreement if the Department or DOH has not found that the existing state of contamination is such as to prohibit such use from continuing, giving due regard for public health and environmental protection; and
- B) If, before an EE for the Site is executed and recorded, the Municipality wishes to subdivide the Site into separate parcels, it may do so after submitting a change of use notice pursuant to 375-1.11(d).
- C) If a Municipality wishes to sell all or part of a Site before it is remediated, the Municipality's successor in title must first agree to remediate all such parcels under Department oversight in accordance with the Department's ROD and any such parcel cannot be used for the use set forth in Paragraph II or any less restrictive use until it is remediated. The Site may continue to be used for the purpose for which it is being used as of the start of the term of this NYWII ERP Agreement if the Department or DOH has not found that the existing state of contamination is such as to prohibit such use from continuing, giving due regard for public health and environmental protection.

XIII) Communications

- A) All written communications required by this NYWII ERP Agreement shall be transmitted by electronic mail unless otherwise specified by the DER project manager.

1) Communication from the Municipality shall be sent to:

- (i) Robert Cozzy, P.E., Director
Remedial Bureau B
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233
Phone: (518) 402-9768
Email: robert.cozzy@dec.ny.gov

- (ii) Krista Anders, Director
Bureau of Environmental Exposure Investigation
New York State Department of Health
Empire State Plaza
Corning Tower, Room 1787
Albany, New York 12237

Email: krista.anders@health.ny.gov

(iii) Andrew Guglielmi, Esq.
NYSDEC Office of General Counsel
625 Broadway
14th Floor
Albany, New York 12233-1500
Phone: (518) 402-9185
Email: andrew.guglielmi@dec.ny.gov

2) Communication from the Department to the Municipality shall be sent to:

Louis Rosamilia, Mayor
City of Troy
433 River Street
Troy, New York 12180
Phone: 518-279-7153
Email: andrew.kreshik@troyny.gov

B) The Department and the Municipality reserve the right to designate additional or different addressees for communication on written notice to the other.

C) Each party shall notify the other within ninety (90) days after any change in the addresses listed in this Paragraph.

XIV) Completion or Termination of NYWII ERP Agreement

A) If the Municipality complies with the requirements of applicable State and federal laws and regulations and with the terms of this NYWII ERP Agreement, the Department shall issue a COC. This NYWII ERP Agreement shall end when the Department issues the COC.

B) The Department may terminate this NYWII ERP Agreement without prejudice or waiver of any other rights the State has if the Municipality fails to comply with any of the requirements of applicable State or federal laws and regulations or with any of the requirements of this NYWII ERP Agreement. The Department shall provide written notification to the Municipality of its breach of contract, setting forth in writing the basis for termination of the NYWII ERP Agreement and allowing the Municipality a reasonable and specific amount of time within which to cure its breach. If the Municipality does not cure its breach of contract within the period of time allowed by the Department, this NYWII ERP Agreement shall terminate on the date set forth in the letter ("Termination Letter"). The Department shall notify the Municipality of the amount of money that the Municipality owes the State for repayment of State costs incurred for the Project, including the Department's oversight costs and for any other costs incurred by the State in administering and terminating the Municipality's environmental restoration remediation project ("Demand Letter"). The Municipality agrees that if this NYWII ERP Agreement is terminated by the Department under this Subparagraph B:

- 1) the Municipality, a successor in title, lessee and lender are not entitled to claim any liability limitation benefits provided under ECL § 56-0509 because the Municipality has failed to satisfy the requirement of ECL § 56-0509 (1)(a)(I) to comply with all of the terms and conditions of the NYWII ERP Agreement; and
 - 2) the Municipality shall pay to the Department an amount of money constituting the amount of Project costs incurred by the State under this NYWII ERP Agreement plus accrued interest and transaction costs, with interest thereon as provided by law, within 45 days of the Municipality's receipt of the Department's Demand Letter.
- C) The Municipality may terminate this NYWII ERP Agreement without prejudice or waiver of any other rights within thirty (30) days of receiving notice of the completion of the Remedial Design if the associated engineer's estimate of project costs exceeds the costs as set forth in Paragraph V.A by at least three times. The requirement for the Municipality to pay ten percent (10%) of the Project cost committed up to the date of termination survives the termination.
- XV) If this NYWII ERP Agreement is completed or terminated, the following requirements shall survive such completion or termination: Paragraphs VI (Disposition of Site), VII (Cost Recovery), and XII (Site Lease/Transfer Conditions).

If this NYWII ERP Agreement is terminated, the following requirements shall survive such termination: Paragraphs II (Allowable Use), IV (Entry upon Site), V (Payment of State Costs), X (Change of Use), XI (Environmental Easement), and XIII (Communications).

XVI) Miscellaneous

- A) The Municipality shall file all appropriate forms for registration and closure for all known or identified petroleum bulk storage tanks on the Site, and/or all known or identified chemical bulk storage tanks on the Site to allow proper registration and/or closure of all such tanks.
- B) The Department is exempt from the requirement to obtain any State or local permit or other authorization for any activity conducted pursuant to 6 NYCRR Part 375.
- C) The Municipality shall cooperate with the Department to obtain all Site access, permits, easements, rights-of-way, rights-of-entry, approvals, institutional controls, or authorizations necessary to perform the obligations under this NYWII ERP Agreement.
- D) The Municipality shall not be considered an operator of the Site solely by virtue of having executed and/or implemented this NYWII ERP Agreement.
- E) The paragraph headings set forth in this NYWII ERP Agreement are included for convenience of reference only and shall be disregarded in the construction and interpretation of any provisions of this NYWII ERP Agreement.

- F) The terms of this NYWII ERP Agreement shall constitute the complete and entire agreement between the Department and Municipality concerning the implementation of the activities required by this NYWII ERP Agreement. No term, condition, understanding, or agreement purporting to modify or vary any term of this NYWII ERP Agreement shall be binding unless made in writing and subscribed by both parties. In the event of a conflict between the terms of this NYWII ERP Agreement and any Work Plan submitted pursuant to this NYWII ERP Agreement, the terms of this NYWII ERP Agreement shall control over the terms of the Work Plan(s). The Municipality consents to and agrees not to contest the authority and jurisdiction of the Department to enter into or enforce this NYWII ERP Agreement and further agrees not to contest the validity of this NYWII ERP Agreement or its terms.
- G) Unless otherwise expressly provided herein, terms used in this NYWII ERP Agreement which are defined in ECL Article 56 or in 6 NYCRR Part 375 shall have the meaning assigned to them under said statute or regulations.
- H) The Municipality's obligation under this NYWII ERP Agreement represents payment for or reimbursement of response costs, and shall not be deemed to constitute any type of fine or penalty. This NYWII ERP Agreement does not constitute a permit and does not confer upon the Municipality the right to engage in the Contemplated Use or any other use of the Site for any particular purpose.
- I) No delay or omission on the part of either party in exercising any right under this NYWII ERP Agreement shall operate as a waiver of such right or of any other right under this NYWII ERP Agreement. A waiver shall not be construed as a bar to any right and/or remedy. No waiver or consent shall be binding unless it is in writing and executed by the Department and the Municipality.
- J) This NYWII ERP Agreement may be executed for the convenience of the parties hereto, individually or in combination, in one or more counterparts, each of which shall be deemed to have the status of an executed original and all of which shall together constitute one and the same.
- K) The effective date of this NYWII ERP Agreement is the date it is signed by the Commissioner or the Commissioner's designee after all other parties have signed.
- L) The Municipality acknowledges that it has read, understands, and agrees to abide by all the terms set forth in this NYWII ERP Agreement.
- M) In accordance with Section 41 of the State Finance Law, the State shall have no liability under this NYWII ERP Agreement beyond funds available for this NYWII ERP Agreement.

N) Notwithstanding any provision to the contrary, the Department expressly reserves its rights to postpone, suspend, abandon or terminate this NYWII ERP Agreement, and such actions shall in no event be deemed a breach of this NYWII ERP Agreement.

DATED:

JAN 27 2015

JOSEPH J. MARTENS
COMMISSIONER
NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By: 

Robert W. Schick, P.E., Director
Division of Environmental Remediation

CONSENT BY MUNICIPALITY

Municipality hereby consents to the issuing and entering of this Agreement, waives Municipality's right to a hearing herein as provided by law, and agrees to be bound by this Agreement.

Municipality's Name:

By: Louis A. Rosamilia
Printed Name: Louis A. Rosamilia
Title: MAYOR
Date: 1/20/15

STATE OF NEW YORK

COUNTY OF Rensselaer

On the 20th day of June in the year 2015, before me, the undersigned, personally appeared Louis A. Rosamilia (full name) personally known to me who, being duly sworn, did depose and say that he/she resides at Tryon (full mailing address) and that he/she is the Mayor of the City of Tryon (full legal name of municipality), the municipality described in and which executed the above instrument; and that he/she signed his/her name thereto as authorized by said municipality.

Notary Public, State of New York

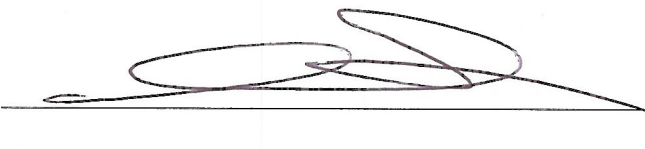

IAN H. SILVERMAN
Notary Public, State of New York
Qualified in Rensselaer County
No. 02SI6257313 Exp. 3/12/ 16

Exhibit A
Record of Decision

Division of Environmental Remediation

Record of Decision
FORMER SCOLITE
Environmental Restoration Project
Troy, Rensselaer County, New York
Site No. E442037

March 2011

DECLARATION STATEMENT - RECORD OF DECISION

FORMER SCOLITE Environmental Restoration Project Troy, Rensselaer County, New York Site No. E442037

Statement of Purpose and Basis

The Record of Decision (ROD) presents the selected remedy for the Former Scolite site, an environmental restoration site. The selected remedial program was chosen in accordance with the New York State Environmental Conservation Law, 6 NYCRR Part 375, and is not inconsistent with the National Oil and Hazardous Substances Pollution Contingency Plan of March 8, 1990 (40CFR300), as amended.

This decision is based on the Administrative Record of the New York State Department of Environmental Conservation (the Department) for the Former Scolite site and the public's input to the Proposed Remedial Action Plan (PRAP) presented by the Department. A listing of the documents included as a part of the Administrative Record is included in Appendix B of the ROD.

Description of Selected Remedy

Based on the results of the remedial investigation, alternative analysis (RI/AA) for the Former Scolite site and the criteria identified for evaluation of alternatives, the Department has selected installation of a site cover, institutional controls, and a site management plan. The components of the remedy are as follows:

1. A remedial design program would be implemented to provide the details necessary for the construction, operation, maintenance, and monitoring of the remedial program.
2. A cover would be constructed over all exposed soils to prevent exposure to contaminated soils. The site cover would either be a soil cover as described herein or buildings or pavement. The soil cover would be one-foot thick and consist of clean soil underlain by an indicator, such as geotextile fabric, to demarcate the cover soil from the subsurface soil. The top four inches of soil would be of sufficient quality to support vegetation. Clean soil would constitute soil that meets the Division of Environmental Remediation's criteria for backfill as described in Part 375-6.7(d). Alternatively, buildings, roadways, parking lots, etc. could be used; such areas would need to be covered by a paving system or concrete at least 6 inches thick. To implement the cover system describe above, the site will be graded and leveled as indicated in an approved design.
3. Soil vapor intrusion evaluations prior to re-use of existing structure and design of new structures so that vapor intrusion can be prevented or mitigated where appropriate.

4. To maximize the net environmental benefit, Green remediation and sustainability efforts are considered in the design and implementation of the remedy to the extent practicable, including;
- using renewable energy sources
 - reducing green house gas emissions
 - foster green and healthy communities
 - conserve natural resources
 - increase recycling and reuse of clean materials
 - utilize native species and discourage invasive species establishment during restoration
 - promote recreational use of natural resources
 - design cover systems to be usable for habitat or recreation
 - design storm water management systems to recharge aquifers
5. Imposition of an institutional control in the form of an environmental easement for the controlled property that:
- (a) requires the remedial party or site owner to complete and submit to the Department a periodic certification of institutional and engineering controls in accordance with Part 375-1.8 (h)(3).
- (b) land use is subject to local zoning laws, the remedy allows the use and development of the controlled property for
- ☐ residential use ☐ restricted residential use ☒ commercial use ☒ industrial use
- (c) prohibits agriculture or vegetable gardens on the controlled property;
- (d) requires compliance with the Department approved Site Management Plan;
6. Since the remedy results in contamination remaining at the site that does not allow for unrestricted use, a Site Management Plan is required, which includes the following:

An Institutional and Engineering Control Plan that identifies all use restrictions and engineering controls for the site and details the steps and media-specific requirements necessary to assure the following institutional and/or engineering controls remain in place and effective:

Institutional Controls:

- The Environmental Easement discussed in Paragraph 5 above.

Engineering Controls:

- Soil cover
- Soil vapor mitigation system

This plan includes, but may not be limited to:

- (i) Excavation Plan which details the provisions for management of future excavations in areas of remaining contamination;
- (ii) descriptions of the provisions of the environmental easement including any land use and groundwater restrictions;

- (iii) provisions for the management and inspection of the identified engineering controls;
- (iv) provision for the evaluation of the potential for soil vapor intrusion and the implementation of actions recommended, based on this evaluation, for any future building construction or renovation of existing structures on the site;
- (iv) maintaining site access controls and Department notification; and
- (v) the steps necessary for the periodic reviews and certification of the institutional and/or engineering controls.

New York State Department of Health Acceptance

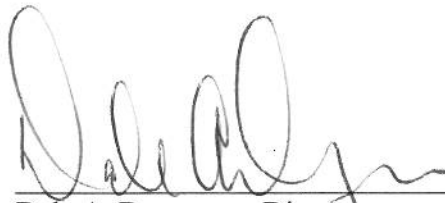
The New York State Department of Health (NYSDOH) concurs that the remedy selected for this site is protective of human health.

Declaration

The selected remedy is protective of human health and the environment, complies with State and Federal requirements that are legally applicable or relevant and appropriate to the remedial action to the extent practicable, and is cost effective. This remedy utilizes permanent solutions and alternative treatment or resource recovery technologies, to the maximum extent practicable, and satisfies the preference for remedies that reduce toxicity, mobility, or volume as a principal element.

MAR 23 2011

Date



Dale A. Desnoyers, Director
Division of Environmental Remediation

RECORD OF DECISION
FORMER SCOLITE
Environmental Restoration Project
Troy, Rensselaer County, New York
Site No. E442037
March 2011

SECTION 1: SUMMARY AND PURPOSE OF THE PROPOSED PLAN

The New York State Department of Environmental Conservation (the Department), in consultation with the New York State Department of Health (NYSDOH), has selected a remedy for the above referenced site. The disposal of hazardous waste at the site has resulted in threats to public health and the environment that are addressed by this remedy presented in this Record of Decision (ROD). The disposal of hazardous wastes at this site, as more fully described in Sections 5 of this document, have contaminated various environmental media. The proposed remedy, discussed in detail in Section 8, is intended to attain the remedial action objectives identified for this site in Section 6 for the protection of public health and the environment. This ROD identifies the selected remedy, summarizes the other alternatives considered, and discusses the reasons for the selected remedy. The Department has selected a final remedy for the site after careful consideration of all comments received during the public comment period.

The 1996 Clean Water/ Clean Air Bond Act provides funding to municipalities for the investigation and cleanup of brownfields. Brownfields are abandoned, idled, or under-used properties where redevelopment is complicated by real or perceived environmental contamination. They typically are former industrial or commercial properties where operations may have resulted in environmental contamination. Brownfields often pose not only environmental, but legal and financial burdens on communities. Under the Environmental Restoration Program, the state provides grants to municipalities to reimburse up to 90 percent of eligible costs for site investigation and remediation activities. Once remediated, the property can then be reused.

The Department has issued this ROD in accordance with the requirements of New York State Environmental Conservation Law and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York, 6 NYCRR Part 375.

SECTION 2: SITE DESCRIPTION AND HISTORY

2.1: Location and Description

Location

The Former Scolite site (Site) is located at #2 Madison Street in the City of Troy, Rensselaer County, NY. The site is a 5.7-acre parcel situated at the confluence of the Poesten Kill and the Hudson River on the North and West respectively as shown in Figure 1 of this PRAP. The site is bounded by Madison Street to the South and an active railroad to the East.

Site Features

The topography of the Site is level on the eastern half and terraced on the western half. Large concrete blocks function to retain fill and preserve flat working surfaces. Concrete or steel bulkheads are present on both the Hudson River and Poesten Kill shores. Concrete slabs, building debris, vegetation, and bare soil or fill are present at the surface of the Site.

The eastern half of the Site is the highest portion of the property and is relatively level. The western half is sloped and terraced, dropping approximately fifteen feet towards the Hudson River and extending to a concrete bulkhead. The north boundary of the Site is also confined by a bulkhead along the Poesten Kill. Nearly all of the eastern half of the Site is occupied by a concrete slab, indicating the location of one of the former manufacturing buildings. A significant portion of the western half is covered with metallic debris left from a metal transfer facility. In 2008, a large fire consumed half of the prominent foundry building on the east side of the Site making all neighboring buildings unsafe and requiring the demolition of the remainder of the foundry building and seven other small buildings. One four-story industrial building remains in disrepair at the southwest corner of the Site.

Current Zoning

This area of the City of Troy is largely comprised of industrial-scale facilities between the Hudson River and 1st St. The opposite side of 1st St generally consists of various single and multi-family housing as well as small commercial businesses. The most recent use of the Site was for the transfer of salvaged metal from truck to barge which involved daily use of large excavators, loaders and various sizes of trucks entering and leaving the facility.

Historical Uses

It is the site of several industries and industrial uses beginning as early as 1846 with the construction of an iron foundry. The iron and steel industry occupied the site under various companies such as the Rensselaer Iron Works, Ludlow Valve Manufacturing, and Ludlow Rensselaer Valve Foundry. In 1971 the iron and steel industry had disappeared from the Site and the property was purchased by Scolite International where Perlite (a volcanic mineral of low density upon processing) was manufactured.

Two subsequent occupants of the Site of note include a roofing or roofing products company that utilized large quantities of tar and related petroleum products as well as a scrap metal hauler and recycler who operated a salvaged metal transfer facility. Finally, there also appeared to have been some type of automobile maintenance or storage facility.

Site Geology and Hydrogeology

The Site is entirely comprised of historic fill, the thickness of which varies from approximately 14 feet on the east side to greater than 20 feet trending towards the southwestern corner of the Site. The fill is comprised of stained soils, slag, ash and brick. The fill overlies native soils comprised of clay, sandy clay, or mixtures of clay, sand and pebbles. Literature shows bedrock in the area to be thinly bedded and weathered shale of the Normanskill or Snake Hill formations. No bedrock was encountered during the investigation.

Groundwater at the site can be found between 10 and 20 feet below ground surface. The direction of groundwater flow is generally towards the Hudson River though a divide exists in the northeastern

corner where groundwater flows to the northeast, towards the Poesten Kill.

There are no surface water features on the Site and it appears the majority of on-site water resulting from precipitation infiltrates the ground. However, some potential exists for water to drain from the site into the Hudson River or Poesten Kill as well as to enter the storm sewers on Madison Street which would allow runoff to enter the Hudson River.

2.2: Operational/Disposal History

One hundred sixty years of industrial operations provided significant potential for disposal of large quantities of hazardous wastes. Contamination by hazardous wastes such as chlorinated solvents, metals, petroleum and polychlorinated biphenyls (PCBs) is often discovered at sites with a similar history. As mentioned in Section 2.1, the Site is comprised entirely of fill materials, however, no indication of large-scale or widespread hazardous waste disposal was detected during the SI and no documentation of past disposal is known to exist.

After the iron and steel operations ceased and opportunistic industries occupied the Site, SI data indicates there was a greater threat of release of hazardous wastes. Department staff witnessed significant quantities of tar-like petroleum substances stored in various containers around the large foundry building on-site in 2006. The containers ranged in size and type from small buckets to 55 gallon drums to large tanker trucks, all of which were stored haphazardly under leaky roofs in an unsecured manner. The 2008 fire occurred in the building where the majority of the tar wastes were stored causing some to be spilled or burned before they could be removed intact from the building. The fire resulted in large quantities of asbestos contaminated material (ACM) in the form of brick, mortar, roofing and other demolition materials left over from fighting the fire and razing the remaining buildings.



Prior to the fire, Department staff also witnessed stained soil and surface water sheens on puddles in the areas occupied by the scrap metal recycling operations. The observed contamination appeared to be consistent with petroleum related spills such as oily fluids or gasoline.

2.3: Remedial History

1. Remedial Parties and Program.

The City of Troy applied to the Environmental Restoration Program (ERP) in February 2006 and again in December 2006. The application for financial assistance for the investigation phase of the project was approved in August 2007. Approval of the application allowed the City to initiate a

removal activity to address the wastes that were described in Section 2.2.

2. Investigation/Actions.

An investigation was performed prior to the parcel entering the ERP. The investigation completed in 2006 was implemented under the South Troy Brownfields Assessment Demonstration Project and was considered a site characterization with results adequate to supplement the ERP application.

SECTION 3: LAND USE

The Department may consider the current, intended and reasonable anticipated future land use of the site and its surroundings when assessing the nature and extent of contamination. For this site alternatives that may restrict the use of the site to commercial criteria as described in Part 375-1.8 (g) are being evaluated in addition to unrestricted Soil Cleanup Objectives (SCOs). The commercial SCOs are appropriate based on the past industrial use of the Site and the anticipated development of the property by an organization intending to construct scientific and educational facilities relating to the study of the Hudson River. In addition, the State Assistance Contract required under the ERP specifies that the site will be evaluated for a commercial use. Therefore, the Department will utilize the commercial use SCOs found in Part 375-6.8 (b) in evaluating the remedial alternatives.

A comparison of the appropriate SCOs for the identified land use against the unrestricted use SCOs for the site contaminants is included in the Tables for the media being evaluated in section 5.1.2.

SECTION 4: ENFORCEMENT STATUS

Potentially Responsible parties (PRPs) are those who may be legally liable for contamination at a site. This may include past or present owners and operators, waste generators, and haulers.

Since no viable PRPs have been identified, there are currently no ongoing enforcement actions. However, legal action may be initiated at a future date by the state to recover state response costs should PRPs be identified. The City of Troy will assist the state in its efforts by providing all information to the state which identifies PRPs. The City will also not enter into any agreement regarding response costs without the approval of the Department.

SECTION 5: SITE CONTAMINATION

A remedial investigation has been conducted to determine the nature and extent of contamination and to evaluate the alternatives for addressing the significant threats to human health and the environment.

5.1: Summary of the Site Investigation

The purpose of the Site Investigation (SI) was to define the nature and extent of any contamination resulting from previous activities at the site. The SI was conducted between March 2009 and August 2010. The field activities and findings of the investigation are described in the SI Report.

The following general activities are conducted during an SI:

- Research of historical information;
- Interim Remedial Measures to remove hazardous wastes;
- Geophysical survey to detect buried tanks;
- Test pits, soil borings, and monitoring well installations;
- Sampling of waste, surface and subsurface soils, groundwater and soil vapor;
- Human Health Exposure Assessments.

5.1.1: Standards, Criteria, and Guidance (SCGs)

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

To determine whether the contaminants identified in various media are present at levels of concern, the data from the SI were compared to media specific SCGs. The Department has developed SCGs for groundwater, surface water, sediments, and surface and subsurface soil. The NYSDOH has developed SCGs for drinking water and soil vapor intrusion. The tables found in the following Sections list the applicable SCG in the footnotes. For a full listing of all SCGs see:

<http://www.dec.ny.gov/regulations/61794.html>

Based on the SI results, in comparison to the SCGs and potential public health and environmental exposure routes, certain media and areas of the site require remediation. These are summarized in Section 5.1.2. More complete information can be found in the SI Report.

5.1.2: Nature and Extent of Contamination

This section describes the findings of the Site investigation. As described in the SI report, waste/source materials were identified at the site.

Waste/Source Areas

Wastes are defined in 6 NYCRR Part 375-1.2 (aw) and include solid, industrial and/or hazardous wastes. Source Areas are defined in 6 NYCRR Part 375 (au). Source areas are areas of concern at a site where substantial quantities of contaminants are found which can migrate and release significant levels of contaminants to another environmental medium. Wastes and Source areas were identified at the site include:

Tar-like Petroleum Wastes

Containerized viscous petroleum materials had been stored in and around the foundry building prior to the 2008 fire that necessitated its razing. The materials appeared to be confined to the building however after the firefighting efforts were complete, several tons of demolition material on the concrete slab had been impacted by the waste with the potential for the waste to migrate off the slab into the site soils. The petroleum contaminated debris was removed in phases determined by accessibility as an IRM from late summer and continuing through the fall of 2008 preventing future

releases to soil or surface waters.

Asbestos Containing Material (ACM)

The demolition waste resulting from the fire was determined to contain more than 1% asbestos, meeting threshold in the definition of ACM and is, therefore, regulated by the New York State Department of Labor. The ACM was removed as an IRM preventing exposure to the local population via airborne asbestos fibers.

The waste/source areas identified at the site were addressed by the IRM(s) described in Section 5.2.

This section describes the findings for all environmental media that were evaluated. As described in the SI report, groundwater, soil, and soil vapor samples were collected to characterize the nature and extent of contamination.

For each media, a table summarizes the findings of the investigation. The tables present the range of contamination found at the site in the media and compares the data with the applicable SCGs for the site. The contaminants are arranged into four categories; volatile organic compounds (VOCs), semivolatile organic compounds (SVOCs), pesticides/ polychlorinated biphenyls (PCBs), and inorganics (metals). For comparison purposes the SCGs are provided for each medium that allows for unrestricted use. For soil, if applicable, the Restricted Use SCG identified in Section 3 are also presented.

Groundwater

Groundwater samples were collected from eight overburden monitoring wells (Figure 2) that were installed during the SI. No bedrock wells were installed as data from the overburden wells indicates that contamination on the surface has not migrated downward and would not have reached bedrock. Analytical data from the groundwater samples indicate there are no significant impacts to the on-site groundwater. There were minor detections of one VOC, two SVOCs, a pesticide and some metals including aluminum, iron and manganese. The metals and one pesticide were the only constituents to exceed groundwater standards (Figure 3).

Table 1 – Groundwater			
Detected Constituents	Concentration Range Detected (ppb) ^a	SCG ^b (ppb)	Frequency Exceeding SCG
VOCs			
Methyl Tert Butyl Ether	0.9-1.2	10	0 of 16
SVOCs			
2-Pentanone, 4-hydroxy-4-methyl-	3.4 – 5.4	50	0 of 16
Butane, 2-methoxy-2-methyl	8.8 – 14	50	0 of 16
Metals			
Aluminum	0.0125 – 1.79	0.1	6 of 16

Barium	0.047 – 0.272	2	0 of 16
Iron	0.135 – 42.3	0.3	14 of 16
Calcium	58 - 116	-	
Chromium	0.003	0.05	0 of 16
Copper	0.008	0.2	0 of 16
Lead	0.005 – 0.013	0.025	0 of 16
Manganese	0.661 – 4.28	0.3	16 of 16
Potassium	2.6 – 14	-	
Sodium	11.7 – 86	-	
Pesticides			
Heptachlor Epoxide	0.062	0.03	1 of 16

a - ppb: parts per billion, which is equivalent to micrograms per liter, ug/L, in water.

b- SCG: Standard Criteria or Guidance - Ambient Water Quality Standards and Guidance Values (TOGs 1.1.1), 6 NYCRR Part 703, Surface water and Groundwater Quality Standards, and Part 5 of the New York State Sanitary Code (10 NYCRR Part 5).

The metals that exceed groundwater standards are likely due to the surrounding geology and the historic fill present at the site. They do not create a concern because their effects tend to be asthetic and groundwater in the area is not utilized.

The pesticide that was detected during sampling, heptachlor epoxide, is not present consistently. It was found in only one of the sampling events and the sample was collected from the monitoring well on the extreme east edge of the Site, the location most hydraulically upgradient on the Site. This indicates that the contaminant is not likely to be site-related.

No site-related groundwater contamination of concern was identified during the SI. Therefore, no remedial alternatives need to be evaluated for groundwater and the protection of groundwater SCGs will not be applicable.

Soil

Surface Soil

Surface soil samples were collected from the top 2 inches of the Site to assess the potential for direct human exposure. The results of the analyses indicate there is a broad range of contaminants present at highly variable concentrations that are consistent with the activities known to have taken place. The most prominent types of contaminants that exceed unrestricted and commercial SCGs include SVOCs, metals and PCBs (Table 2). Figure 3 shows the locations on the Site where the samples were collected and which contaminants exceeding SCGs were present at each location.

Subsurface Soil

Subsurface soil samples were collected at the site from soil borings installed with a direct push drill rig and during the performance of test pitting. Samples were collected from the depth interval deemed to be the most likely to be contaminated or the depth corresponding to the groundwater table at each location. The most likely contaminated depth was determined using field instrumentation or through observations by the field staff.

The range of contaminants narrows dramatically from that exhibited by the surface soil samples.

Arsenic is the only contaminant that consistently exceeds SCGs in the subsurface (Table 3). Figure 4 shows the locations on the Site where the samples were collected and which contaminants exceeding SCGs were present at each location.

Table 2 - Surface Soil					
Detected Constituents	Concentration Range Detected (ppm) ^a	Unrestricted SCG ^b (ppm)	Frequency Exceeding Unrestricted SCG	Commercial SCG ^c (ppm)	Frequency Exceeding Restricted SCG
VOCs					
Ethylbenzene	0.003	1	0 of 14	390	0 of 14
m/p xylenes	0.003	0.26	0 of 14	500	0 of 14
Toluene	0.004 - 0.075	0.7	0 of 14	500	0 of 14
SVOCs					
Acenaphthene	0.43 – 1.1	100	0 of 14	100	0 of 14
Anthracene	0.24 – 7.1	100	0 of 14	100	0 of 14
Benzo(a)anthracene	0.04 – 16	1	9 of 14	5.6	2 of 14
Benzo(a)pyrene	0.28 – 13	1	9 of 14	1	9 of 14
Benzo(b)fluoranthene	0.05 – 19	1	10 of 14	5.6	3 of 14
Benzo(g,h,i)perylene	0.2 – 9.1	100	0 of 14	500	0 of 14
Benzo(k)fluoranthene	0.1 – 5.6	1	8 of 14	56	0 of 14
bis(2-Ethylhexyl)phthalate	0.240	50 ^(d)	0 of 14	-	
Chrysene	0.04 – 15	1	9 of 14	56	0 of 14
Dibenz(a,h)anthracene	0.05 – 2.6	0.33	5 of 14	0.56	3 of 14
Dimethylphthalate	0.35 – 2.0	100 ^(d)	0 of 14	-	
Fluoranthene	0.075 – 38	100	0 of 14	500	0 of 14
Fluorene	0.7 – 2.8	100	0 of 14	500	0 of 14
Indeno(1,2,3-cd)pyrene	0.19 – 6.5	0.5	9 of 14	5.6	1 of 14
Naphthalene	0.55 – 0.87	100	0 of 14	500	0 of 14
Phenanthrene	0.63 – 3.4	100	0 of 14	500	0 of 14
Pyrene	0.72 - 30	100	0 of 14	500	0 of 14
Metals					
Aluminum	2460 – 10600	5560 ^(e)	2 of 14	-	
Antimony	3.37 – 16.5	1.92 ^(e)	4 of 14	-	
Arsenic	2.76 – 3.2	13	8 of 14	16	7 of 14
Barium	38 – 168	350	0 of 14	400	0 of 14
Beryllium	0.56 – 1.02	7.2	0 of 14	590	0 of 14
Cadmium	0.57 – 57	2.5	10 of 14	9.3	7 of 14
Calcium	3270 – 26400	13383 ^(e)	2 of 14	-	
Chromium, total	17.9 – 6812	30	12 of 14	1,500	1 of 14
Cobalt	4.3-40.9	30 ^(d)	1 of 14	-	

Copper	149 - 891	50	5 of 14	270	3 of 14
Iron	32700 - 192360	2000 ^(d)	5 of 14	-	
Lead	19.8 – 1410	63	11 of 14	1,000	2 of 14
Magnesium	1050 – 6270	3267 ^(e)	1 of 14	-	
Manganese	420 - 1950	2,000	1 of 14	10,000	0 of 14
Total Mercury	0.05 – 2.1	0.81	7 of 14	2.8	1 of 14
Nickel	32.8 – 843	30	5 of 14	310	1 of 14
Potassium	324 – 378	634 ^(e)	1 of 14	-	
Selenium	0.92 – 12.5	3.9	2 of 14	1,500	0 of 14
Silver	3.42 – 21.1	2	2 of 14	1,500	0 of 14
Sodium	146 – 351	246 ^(e)	3 of 14	-	
Vanadium	36.3 - 198	100 ^(d)	1 of 14	-	
Zinc	325 - 1230	109	5 of 14	10,000	0 of 14
Pesticides/PCBs					
PCBs (Total)	0.04 – 7.3	0.1	9 of 14	1	5 of 14

a - ppm: parts per million, which is equivalent to milligrams per kilogram, mg/kg, in soil;

b - SCG: Part 375-6.8(a), Unrestricted Soil Cleanup Objectives.

c - SCG: Part 375-6.8(b), Restricted Commercial Soil Cleanup Objectives.

d - CP-51: Commissioner Policy on Soil Cleanup Guidance

e - Average area background values from the Site Investigation Report

Table 3 - Subsurface Soil

Detected Constituents	Concentration Range Detected (ppm) ^a	Unrestricted SCG ^b (ppm)	Frequency Exceeding Unrestricted SCG	Commercial SCG ^c (ppm)	Frequency Exceeding Restricted SCG
VOCs					
1,2,4 trimethyl benzene	6.6	3.6	1 of 26	190	0 of 26
toluene	0.776	0.7	1 of 26	500	0 of 26
SVOCs					
Benzo(a)anthracene	7.3	1	1 of 26	1	1 of 26
Benzo(a)pyrene	1 – 7.3	1	4 of 26	1	4 of 26
Metals					
Arsenic	16.6 – 44.3	13	10 of 26	16	10 of 26
Cadmium	10.9 – 12.2	2.5	2 of 26	9.3	2 of 26
Chromium, total	716	36	1 of 26	1,500	0 of 26
Copper	747 - 2760	50	19 of 26	270	3 of 26
Pesticides/PCBs					
PCBs (Total)	3.8	0.1	1 of 26	10 ^(d)	0 of 26

a - ppm: parts per million, which is equivalent to milligrams per kilogram, mg/kg, in soil;

b - SCG: Part 375-6.8(a), Unrestricted Soil Cleanup Objectives.

c - SCG: Part 375-6.8(b), Restricted Commercial Soil Cleanup Objectives.

d - CP-51: Commissioner Policy on Soil Cleanup Guidance (10 ppm in subsurface soil)

Contaminants in the soils that exceed unrestricted and commercial SCGs primarily include SVOCs, metals and PCBs and are concentrated in the surface soils. Arsenic is the only contaminant found consistently in the subsurface and can be assumed to be a component of the historic fill material present. The contaminants present at the surface are consistent with the Site's history of industrial and commercial uses. The pattern of detections of PCBs indicate the contamination is likely a result of discrete spills or localized deposition of contaminated soil and not a single, large release that has contaminated a large and contiguous volume of soil. SVOCs, mostly in the form of benzo(a)pyrene, are found in nearly all of the surface soil samples and are likely related to the long history of disturbed fill at the site as well as poor housekeeping during the various activities that have occurred at the Site. The metal contaminants are likely due to operations at the surface and are not a component of the fill. Cadmium is the most frequently occurring metal. Though the source is unknown, it is possible the contamination is due to historical processes related to the iron and steel industry at the Site including the combustion of coal.

Based on the findings of the Remedial Investigation, the disposal of hazardous waste has resulted in the contamination of soil. The site contaminants identified in soil which are considered to be the primary contaminants of concern, to be addressed by the remedy selection process are, SVOCs, metals and PCBs.

Soil Vapor Intrusion

The evaluation of the potential for soil vapor intrusion resulting from the presence of site related soil or groundwater contamination was evaluated by the sampling of soil vapor. At this site one building remains. Soil vapor was collected and analyzed as a field screening method to determine the location of areas with sources of contamination in addition to documenting the potential for soil vapor intrusion.

Soil vapor samples were collected from nine locations, including several locations below former building slabs located on-site. Since no buildings are immediately available for occupation, no indoor air samples were collected. Soil vapor sample results indicate significant impacts to on-site soil vapor from VOC contamination; which would be expected on a property utilized for scrap metal processing including air conditioning refrigerants, such as trichloromonofluoromethane (Freon 11), and petroleum related compounds such as benzene, toluene, ethylbenzene and xylenes (BTEX). Other likely petroleum related compounds that were detected frequently in the soil vapor include heptane and hexane hydrocarbons. While these compounds were commonly found in the soil vapor, there was no discernable correlation with contamination found in the other environmental media. Because there are no SCGs for contamination in soil vapor except in the context of vapor intrusion, there is no table provided to illustrate exceedances. Figure 5 was developed to provide a qualitative evaluation of the presence of soil vapor contamination and shows the contaminants with values that are relatively high compared to surrounding sample points. It is not intended to be a comprehensive depiction of all VOCs detected in the soil vapor but does show the higher concentrations of contaminants.

Petroleum related hydrocarbons and other compounds commonly expected to be present at a scrap metal salvage facility were the primary contaminants in soil vapor. There is no significant correlation with the soil vapor and contamination found in other media including soil and

groundwater. Therefore, the potential for vapor intrusion in future on-site structures should be evaluated as appropriate.

5.2: Interim Remedial Measures

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

An IRM was completed to address the petroleum wastes described in section 2.2 after the main foundry building burned. Containers and materials impacted by spilled petroleum wastes were consolidated and removed from the site for proper disposal. In areas where the liquid waste had spilled to the concrete pad, absorbent materials such as Speedy Dri were used to collect those wastes and were then containerized and disposed. The IRM was intended to remove pure product and site materials that were in the immediate vicinity. Approximately 200 cubic yards of petroleum-impacted waste were removed from the site and properly disposed of off-site. The removal task was very effective at preventing additional impacts to on-site soils and groundwater.

A second IRM was initiated to address ACM (comprised of demolition debris) resulting from the destruction of the main foundry building that was not impacted by the petroleum wastes. The ACM was first covered with heavy duty tarps to prevent it from becoming airborne and migrating off-site. The owner is still in the process of removing the ACM from the site. All ACM that has been removed has been disposed of in a solidwaste facility permitted to accept such waste.

5.3: Summary of Human Exposure Pathways:

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

Persons who enter the site may come into contact with contaminants in the soil by walking on the dirt, digging on or below the ground surface, and otherwise disturbing the soil. Volatile organic compounds in the soil may move into the soil vapor (air spaces within the soil), which in turn may move into overlying buildings and affect the indoor air quality. This process, which is similar to the movement of radon gas from the subsurface into the indoor air of buildings is referred to as soil vapor intrusion. Because there is no occupied on-site building, contact with contaminants due to soil vapor intrusion does not represent a concern for the site in its current condition. However, the potential exists for inhalation of site contaminants from soil vapor intrusion for any future on-site construction.

5.4: Summary of Environmental Assessment

This section summarizes the assessment of existing and potential future environmental impacts presented by the site. Environmental impacts may include existing and potential future exposure pathways to fish and wildlife receptors, wetlands, groundwater resources, and surface water.

The Former Scolite Site is located at the confluence of the Poesten Kill and Hudson River. Because

of the proximity to these two water bodies, the potential exists for the contamination in the surface soils (including SVOCs, metals, PCBs) to migrate from the Site via storm water runoff into one, or both, surface waters.

The remedy must address the potential impact of the site to the neighboring surface water resource.

Groundwater resources at the site include groundwater at depths approximately fifteen feet below the ground surface. The groundwater flows to the north and to the west in the direction of the two surface water bodies; the Poesten Kill and the Hudson River. The groundwater table is within the historic fill at the Site. Since the Site is located in an urban setting and a public water supply is available and there are no known private wells used for drinking water or processes water, groundwater is not utilized by the local population. Groundwater analyses indicate elevated levels of some metals including aluminum, iron, and manganese though these do not appear to be site related as there is not a correlation between contaminants in the soil and those in the groundwater.

No site-related groundwater contamination has been identified. Therefore, no remediation of groundwater is required.

SECTION 6: SUMMARY OF THE REMEDIATION OBJECTIVES

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

The remedial objectives for this site are:

Public Health Protection

Soil

- Prevent ingestion/direct contact with contaminated soil.
- Prevent inhalation of contaminants volatilizing from the soil.

Surface water

- Prevent surface water contamination which may result in fish advisories.

Soil Vapor

- Mitigate impacts to public health resulting from existing, or the potential for, soil vapor intrusion into the indoor air of buildings at or near a site.

Environmental Protection

Soil

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

SECTION 7: SUMMARY OF THE EVALUATION OF ALTERNATIVES

To be selected the remedy must be protective of human health and the environment, be cost-effective, comply with other statutory requirements, and utilize permanent solutions, alternative technologies or resource recovery technologies to the maximum extent practicable. Potential remedial alternatives for the Site were identified, screened and evaluated in alternative analysis report which is available at the document repositories established for this site.

A summary of the remedial alternatives that were considered for this site is presented below. Cost information is presented in the form of present worth, which represents the amount of money invested in the current year that would be sufficient to cover all present and future costs associated with the alternative. This enables the costs of remedial alternatives to be compared on a common basis. As a convention, a time frame of 30 years is used to evaluate present worth costs for alternatives with an indefinite duration. This does not imply that operation, maintenance, or monitoring would cease after 30 years if remediation goals are not achieved.

7.1: Description of Remedial Alternatives

The following alternatives were considered to address the contaminated media identified at the site as describe in Section 5:

Alternative 1: No Further Action

The No Further Action Alternative recognizes the remediation of the site completed by the IRM(s) described in Section 5.2. This alternative leaves the site in its present condition and does not provide any additional protection of the environment and/or public health. Under this alternative the monitoring wells installed on the site for the investigation would be decommissioned.

Present Worth:\$11,000
Capital Cost:\$11,000
Annual Costs:\$0

Alternative 2: Restoration to Pre-Disposal or Unrestricted Conditions

This alternative achieves all of the SCGs discussed in Section 5.1.1 and soil meets the unrestricted soil clean objectives listed in Part 375-6.8 (a). This alternative would include: excavation and off-site disposal of all historic fill material, approximately 147,000 cubic yards, with the importation of the same amount of clean fill to return the site to a similar elevation. The on-site building and foundations would be demolished and disposed of off-site. Groundwater would likely be encountered and have to managed. This alternative addresses the frequent occurrence of arsenic in the subsurface soil by removing the fill. It requires the transport of approximately 300,000 cubic yards of material or 10,000 truckloads at a cost likely to exceed \$100 per cubic yard of material removed and \$20 per yard of material placed. No site management plan, institutional or engineering controls would be required under this alternative.

Present Worth:\$18,000,000
Capital Cost:\$18,000,000
Annual Costs:\$0

Alternative 3: Installation of a Site Cover, Institutional Controls, and a Site Management Plan

Alternative 3 includes installation of a site cover, the imposition of institutional controls and development of a Site Management Plan (SMP). The controls include a land use restriction to Commercial or Industrial and required notification to a potential purchaser of Site contamination upon a change of property ownership. Access to the site would be restricted to prevent trespassers to limit the public's exposure to the contaminants at the site. These controls would be codified in an environmental easement granted to the New York State Department of Environmental Conservation.

Alternative 3 includes all of the components of the Site Management Plan and institutional controls described above in addition to placement of a site cover. A site cover will be installed to allow for the commercial use of the site. The cover will consist either of the structures such as buildings, pavement, sidewalks comprising the site development or a soil cover in areas where the upper one foot of exposed surface soil will exceed the commercial use soil cleanup objectives (SCOs). Where the soil cover is required it will be a minimum of one foot of soil, meeting the SCOs for cover material as set forth in 6 NYCRR Part 375-6.7(d). The soil cover will be placed over a demarcation layer. The excavation will be backfilled with soil meeting the backfill material requirements as set forth in 6 NYCRR Part 375-6.7(d) with the upper four inches of the soil of sufficient quality to maintain a vegetation layer.

The SMP provides guidance on the use of the Site to ensure protection of future occupants and workers at the Site and must be approved by the Department. The SMP includes provisions for managing soils and historic fill during excavation and site work and it specifies procedures for characterization, disposal and acceptable use of excavated material. The specification, maintenance requirements and repair procedures for the cover would be included in the SMP and it also requires evaluation of the potential for vapor intrusion into buildings to be constructed and may require the implementation of actions recommended to address exposures to soil vapor intrusion..

The timeframe required to implement this remedy would be approximately one year. The remedy design would consist of a grading plan to accommodate the grades of existing foundation material. Construction of the remedy once designed could be accomplished within a single construction season.

Present Worth:\$663,000
Capital Cost:\$651,000
Annual Costs:\$750

Alternative 4: Off-Site Disposal of Contaminated Media/Installation of a Cover System, Institutional Controls, and a Site Management Plan

Alternative 4 includes removal and off-site disposal of the surface soils where contamination is present at concentrations exceeding commercial SCGs and a installation of a cover to return the site

to appropriate grades. It also includes the imposition of institutional and engineering controls as well as development of a SMP as described above. Portions of the Site to be excavated include the areas of exceedances illustrated in Figure 3 where no intact foundations or buildings are present, as determined during the SI; approximately 3.94 acres of surface to a minimum depth of one foot.

Confirmation sampling would be required at all locations of soil/fill excavation to assure adequate removal of contaminated media. Sampling would be performed at the bottom and sidewalls of each excavation site.

Similar to the SMP for Alternative 3, the SMP would specify the procedures necessary to maintain the site remedy and protect the future occupants of the site. .

Present Worth:\$3,188,000
Capital Cost:\$3,176,000
Annual Costs:\$750

7.2 Evaluation of Remedial Alternatives

The criteria to which potential remedial alternatives are compared are defined in 6 NYCRR Part 375, which sets forth the requirements for the remediation of inactive hazardous waste disposal sites in New York. A detailed discussion of the evaluation criteria and comparative analysis is included in the alternative analysis report.

The first two evaluation criteria are termed “threshold criteria” and must be satisfied in order for an alternative to be considered for selection.

1. Protection of Human Health and the Environment. This criterion is an overall evaluation of each alternative’s ability to protect public health and the environment.

2. Compliance with New York State Standards, Criteria, and Guidance (SCGs). Compliance with SCGs addresses whether a remedy will meet environmental laws, regulations, and other standards and criteria. In addition, this criterion includes the consideration of guidance which the Department has determined to be applicable on a case-specific basis.

The next six “primary balancing criteria” are used to compare the positive and negative aspects of each of the remedial strategies.

3. Long-term Effectiveness and Permanence. This criterion evaluates the long-term effectiveness of the remedial alternatives after implementation. If wastes or treated residuals remain on-site after the selected remedy has been implemented, the following items are evaluated: 1) the magnitude of the remaining risks, 2) the adequacy of the engineering and/or institutional controls intended to limit the risk, and 3) the reliability of these controls.

4. Reduction of Toxicity, Mobility or Volume. Preference is given to alternatives that permanently and significantly reduce the toxicity, mobility or volume of the wastes at the site.

5. Short-term Impacts and Effectiveness. The potential short-term adverse impacts of the remedial action upon the community, the workers, and the environment during the construction and/or implementation are evaluated. The length of time needed to achieve the remedial objectives is also estimated and compared against the other alternatives.

6. Implementability. The technical and administrative feasibility of implementing each alternative are evaluated. Technical feasibility includes the difficulties associated with the construction of the remedy and the ability to monitor its effectiveness. For administrative feasibility, the availability of the necessary personnel and materials is evaluated along with potential difficulties in obtaining specific operating approvals, access for construction, institutional controls, and so forth.

7. Cost-Effectiveness. Capital costs and annual operation, maintenance, and monitoring costs are estimated for each alternative and compared on a present worth basis. Although cost-effectiveness is the last balancing criterion evaluated, where two or more alternatives have met the requirements of the other criteria, it can be used as the basis for the final decision. The costs for each alternative are presented in the Remedial Alternatives Cost Table 4.

Table 4 - Remedial Alternative Costs			
Remedial Alternative	Capital Cost (\$)	Annual Costs (\$)	Total Present Worth (\$)
No Action	11,000	0	11,000
Restoration to Pre-Disposal or Unrestricted Conditions	18,000,000	0	18,000,000
Installation of a Soil Cover, Institutional Controls, and Site Management Plan	651,000	750	663,000
Off-Site Disposal of Contaminated Media, Soil Cover, Institutional Controls, and Site Management Plan	3,176,000	750	3,188,000

8. Land Use. When cleanup to pre-disposal conditions is determined to be infeasible, the Department may consider the current, intended, and reasonable anticipated future land use of the site and its surroundings in the selection of the soil remedy.

The final criterion, Community Acceptance, is considered a “modifying criterion” and is taken into account after evaluating those above. It is evaluated after public comments on the Proposed Remedial Action Plan have been received.

9. Community Acceptance. Concerns of the community regarding the investigation, the evaluation of alternatives, and the PRAP have been evaluated. The responsiveness summary (Appendix A) presents the public comments received and the manner in which the Department addressed the concerns raised.

No significant public comments were received.

SECTION 8: SUMMARY OF THE PROPOSED REMEDY

Based on the Administrative Record (Appendix B) and the discussion presented below, the Department has selected Alternative 3, Institutional Controls, Site Management Plan and Installation of a Site Cover as the remedy for this site. The elements of this remedy are described at the end of this section.

8.1 Basis for Selection

The selected remedy is based on the results of the SI and the evaluation of alternatives.

Alternative 3 is selected because, as described below, it satisfies the threshold criteria and provides the best balance of the balancing criterion described in Section 7.2. It would achieve the remediation goals for the site by covering the soil and fill materials that pose a direct exposure threat to public health and the environment. This alternative addresses the five balancing criteria. It will timely address exposure threats to the public. It will be effective in the long term through the implementation of appropriate institutional and engineering controls that would be included in the SMP. Alternative 3 is easily implementable and cost effective. The toxicity, mobility, or volume of the waste on-site will not be significantly improved or altered, however, the current pathway as described above in Section 5.3 would be eliminated through the installation of the cover.

Alternative 1 does not satisfy the remedial goals specified in Section 6 and has been eliminated from consideration.

Alternative 2 addresses the exposure threat through the removal of all historic fill at the site. It is effective in the short and long term and the toxicity, mobility, and volume of the waste on-site is addressed. However, up to 10,000 truck loads would be necessary to remove waste and subsequently import fill to the site resulting in significant short term impacts associated with truck traffic, dewatering and potential air impacts. The cost is dramatically more than other alternatives and does not provide for a significantly more protective remedy than Alternative 3.

Like Alternative 3, effective implementation of Alternative 4 also satisfies all evaluation criteria because contaminated soils exceeding commercial SCGs would be removed from the Site and disposed of within an appropriate facility and a cover would be installed to return the site to appropriate grades. The toxicity, mobility, or volume of the waste on site will be improved through the removal and covering of any undetected, residual waste remaining at the site. However, the threat of exposure to on-site receptors is not significantly improved over Alternative 3 and does not justify the added cost.

The estimated present worth cost to implement the remedy is \$663,000. The cost to construct the remedy is estimated to be \$651,000 and the estimated average annual costs for 30 years is \$750.

8.2 **Elements of the Proposed Remedy**

The elements of the selected restricted use remedy are as follows:

1. A remedial design program would be implemented to provide the details necessary for the construction, operation, maintenance, and monitoring of the remedial program.
2. A cover would be constructed over all exposed soils to prevent exposure to contaminated soils. The site cover would either be a soil cover as described herein or buildings or pavement. The soil cover would be one-foot thick and consist of clean soil underlain by an indicator, such as geotextile fabric, to demarcate the cover soil from the subsurface soil. The top four inches of soil would be of sufficient quality to support vegetation. Clean soil would constitute soil that meets the Division of Environmental Remediation's criteria for backfill as described in Part 375-6.7(d). Alternatively, buildings, roadways, parking lots, etc. could be used; such areas would need to be covered by a paving system or concrete at least 6 inches thick. To implement the cover system describe above, the site will be graded and leveled as indicated in an approved design.
3. Soil vapor intrusion evaluations prior to re-use of existing structure and design of new structures so that vapor intrusion can be prevented or mitigated where appropriate.
4. To maximize the net environmental benefit, Green remediation and sustainability efforts are considered in the design and implementation of the remedy to the extent practicable, including;
 - using renewable energy sources
 - reducing green house gas emissions
 - foster green and healthy communities
 - conserve natural resources
 - increase recycling and reuse of clean materials
 - utilize native species and discourage invasive species establishment during restoration
 - promote recreational use of natural resources
 - design cover systems to be usable for habitat or recreation
 - design storm water management systems to recharge aquifers
5. Imposition of an institutional control in the form of an environmental easement for the controlled property that:
 - (a) requires the remedial party or site owner to complete and submit to the Department a periodic certification of institutional and engineering controls in accordance with Part 375-1.8 (h)(3).
 - (b) land use is subject to local zoning laws, the remedy allows the use and development of the controlled property for
 - ☐ residential use ☐ restricted residential use ☒ commercial use ☒ industrial use

- (c) prohibits agriculture or vegetable gardens on the controlled property;
 - (d) requires compliance with the Department approved Site Management Plan.
6. Since the remedy results in contamination remaining at the site that does not allow for unrestricted use, a Site Management Plan is required, which includes the following:

An Institutional and Engineering Control Plan that identifies all use restrictions and engineering controls for the site and details the steps and media-specific requirements necessary to assure the following institutional and/or engineering controls remain in place and effective:

Institutional Controls:

- The Environmental Easement discussed in Paragraph 5 above.

Engineering Controls:

- Soil cover
- Soil vapor mitigation system

This plan includes, but may not be limited to:

- (i) Excavation Plan which details the provisions for management of future excavations in areas of remaining contamination;
- (ii) descriptions of the provisions of the environmental easement including any land use and groundwater restrictions;
- (iii) provisions for the management and inspection of the identified engineering controls;
- (iv) provision for the evaluation of the potential for soil vapor intrusion and the implementation of actions recommended, based on this evaluation, for any future building construction or renovation of existing structures on the site;
- (iv) maintaining site access controls and Department notification; and
- (v) the steps necessary for the periodic reviews and certification of the institutional and/or engineering controls.

SECTION 9: HIGHLIGHTS OF COMMUNITY PARTICIPATION

As part of the remedial investigation process, a number of Citizen Participation activities were undertaken to inform and educate the public about conditions at the site and the potential remedial alternatives. The following public participation activities were conducted for the site:

- Repositories for documents pertaining to the site were established.
- A public contact list, which included nearby property owners, elected officials, local media and other interested parties, was established.
- A public meeting was held on February 15, 2011 to present and receive comment on the PRAP.
- A responsiveness summary (Appendix A) was prepared to address the comments received during the public comment period for the PRAP.

APPENDIX A

Responsiveness Summary

RESPONSIVENESS SUMMARY

**FORMER SCOLITE
Environmental Restoration Project
Troy, Rensselaer County, New York
Site No. E442037
March 2011**

The Proposed Remedial Action Plan (PRAP) for the Former Scolite site, was prepared by the New York State Department of Environmental Conservation (the Department) in consultation with the New York State Department of Health (NYSDOH) and was issued to the document repositories on February 2, 2011. The PRAP outlined the remedial measure proposed for the contaminated soil at the Former Scolite site.

The release of the PRAP was announced by sending a notice to the public contact list, informing the public of the opportunity to comment on the proposed remedy.

A public meeting was held on February 15, 2011, which included a presentation of the remedial investigation and alternative analysis (RI/AA) for the Former Scolite site as well as a discussion of the proposed remedy. The meeting provided an opportunity for citizens to discuss their concerns, ask questions and comment on the proposed remedy. These comments have become part of the Administrative Record for this site. The public comment period for the PRAP ended on March 21, 2011.

This responsiveness summary responds to all questions and comments raised during the public comment period. No comments were received regarding the PRAP for the Former Scolite Site.

APPENDIX B

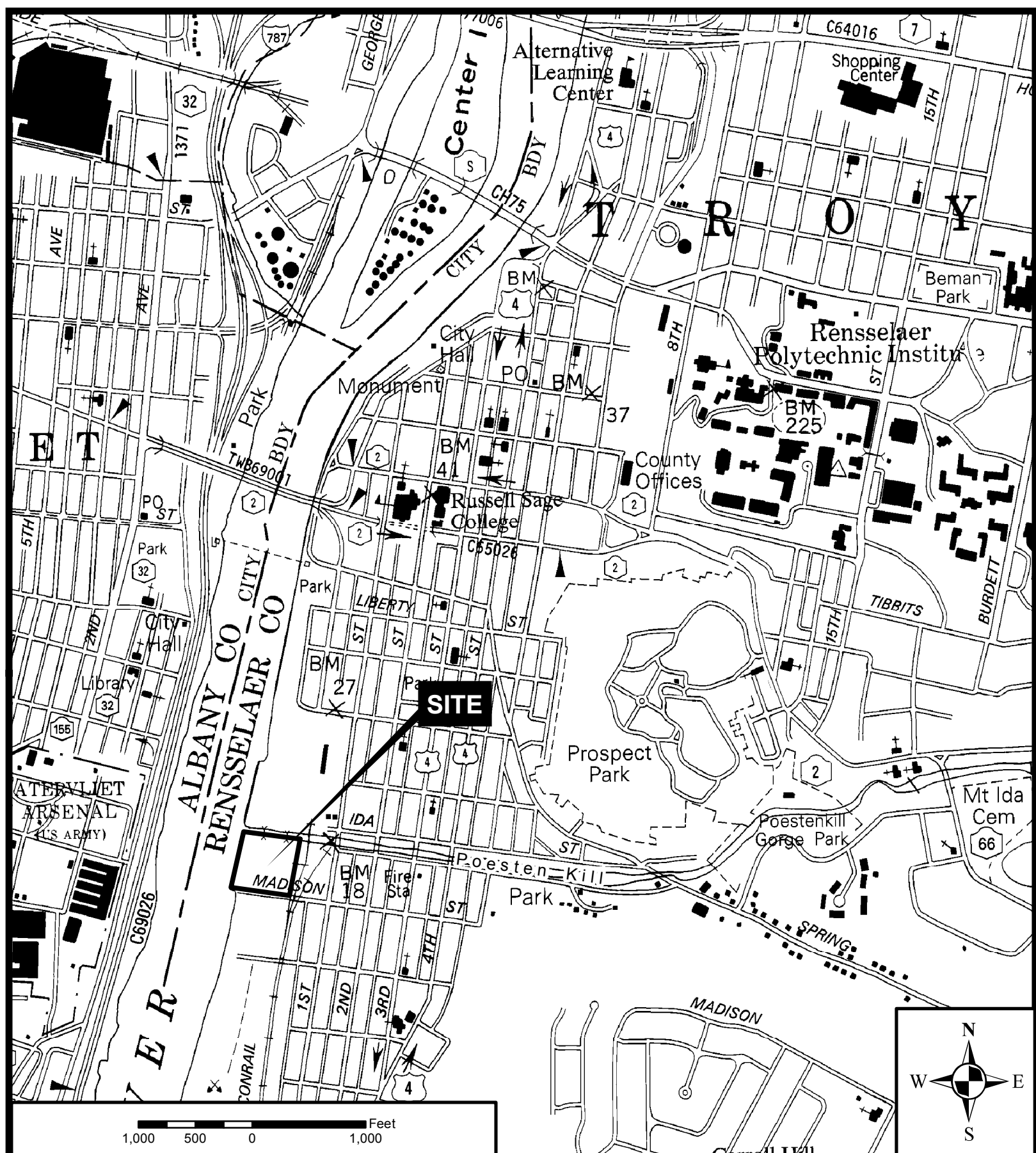
Administrative Record

ADMINISTRATIVE RECORD

**Environmental Restoration Project
Troy, Rensselaer County, New York
Site No. E442037
March 2011**

1. *Proposed Remedial Action Plan for the Former Scolite site*, dated February 2011, prepared by the Department.
2. The Department and the City of Troy entered into a State Assistance Contract, Contract No. C303736, February 26, 2008
3. Former Scolite Site Investigation Work Plan, March 2009
4. “Site Investigation Report, Former Scolite Property 2 Madison Street Troy, New York, 2011”, prepared by HRP Associates, Inc.
5. “Alternatives Analysis Report, Former Scolite Property 2 Madison Street Troy, New York, 2011”, prepared by HRP Associates, Inc.

FIGURES



SITE LOCATION

Former Scolite
E4-42-037

FIGURE 1



New York State
Department of Environmental
Conservation

Division of
Environmental Remediation

Former Scolite,
Troy

DEC Site No.: E4-42-037

FIGURE 2

Groundwater Flow August 2009

Map Details

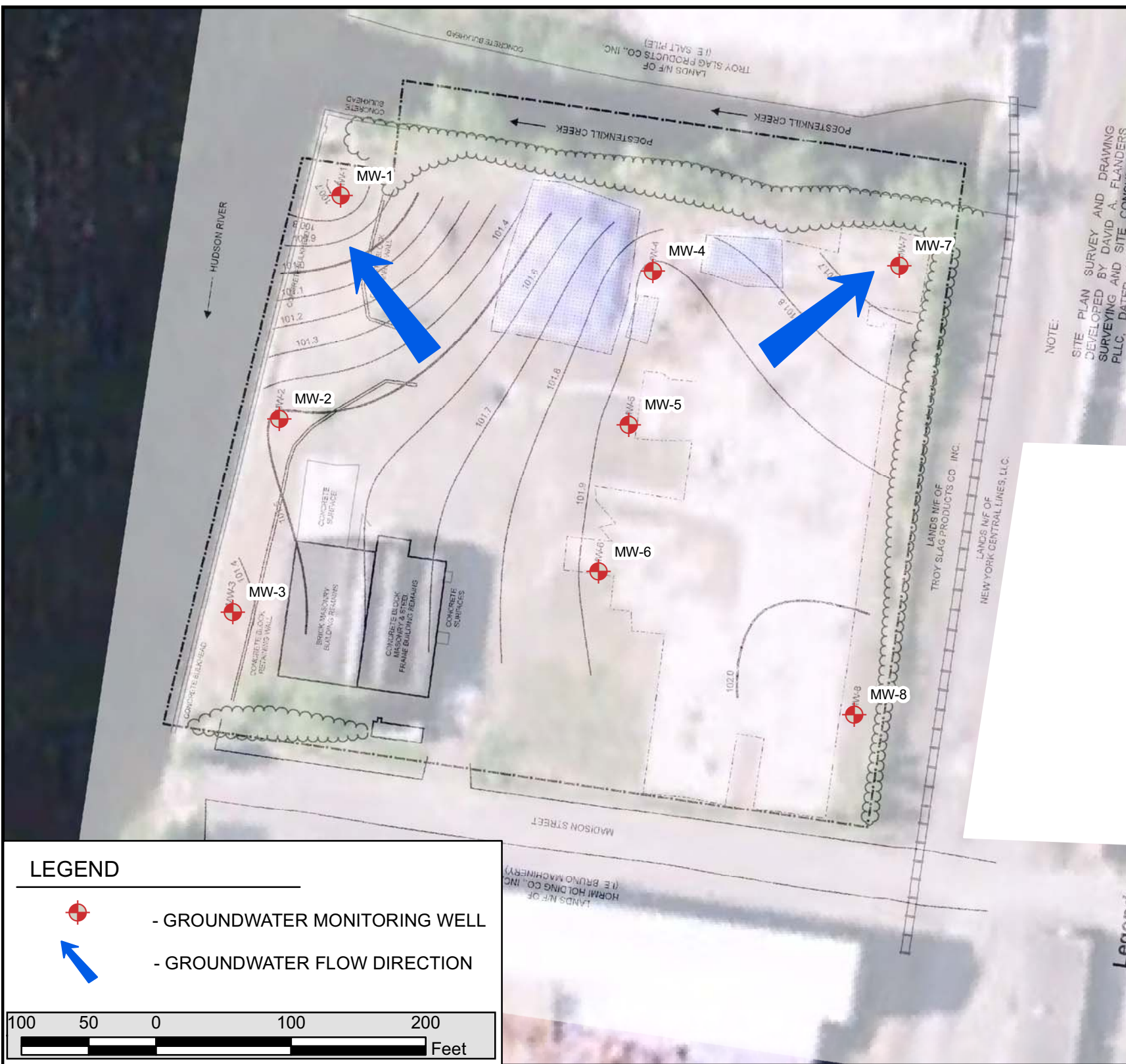
Created in ArcMap 9.3

10.19.2010

UNAUTHORIZED DUPLICATION
IS A VIOLATION OF
APPLICABLE LAWS



North American Datum 1983
UTM Zone 18





New York State
Department of Environmental
Conservation

Division of
Environmental Remediation

Former Scolite,
Troy

DEC Site No.: E4-42-037

FIGURE 3

**Exceedences of all
Compounds in
Groundwater & Surface
Soils(Commercial SCOs)**

Map Details

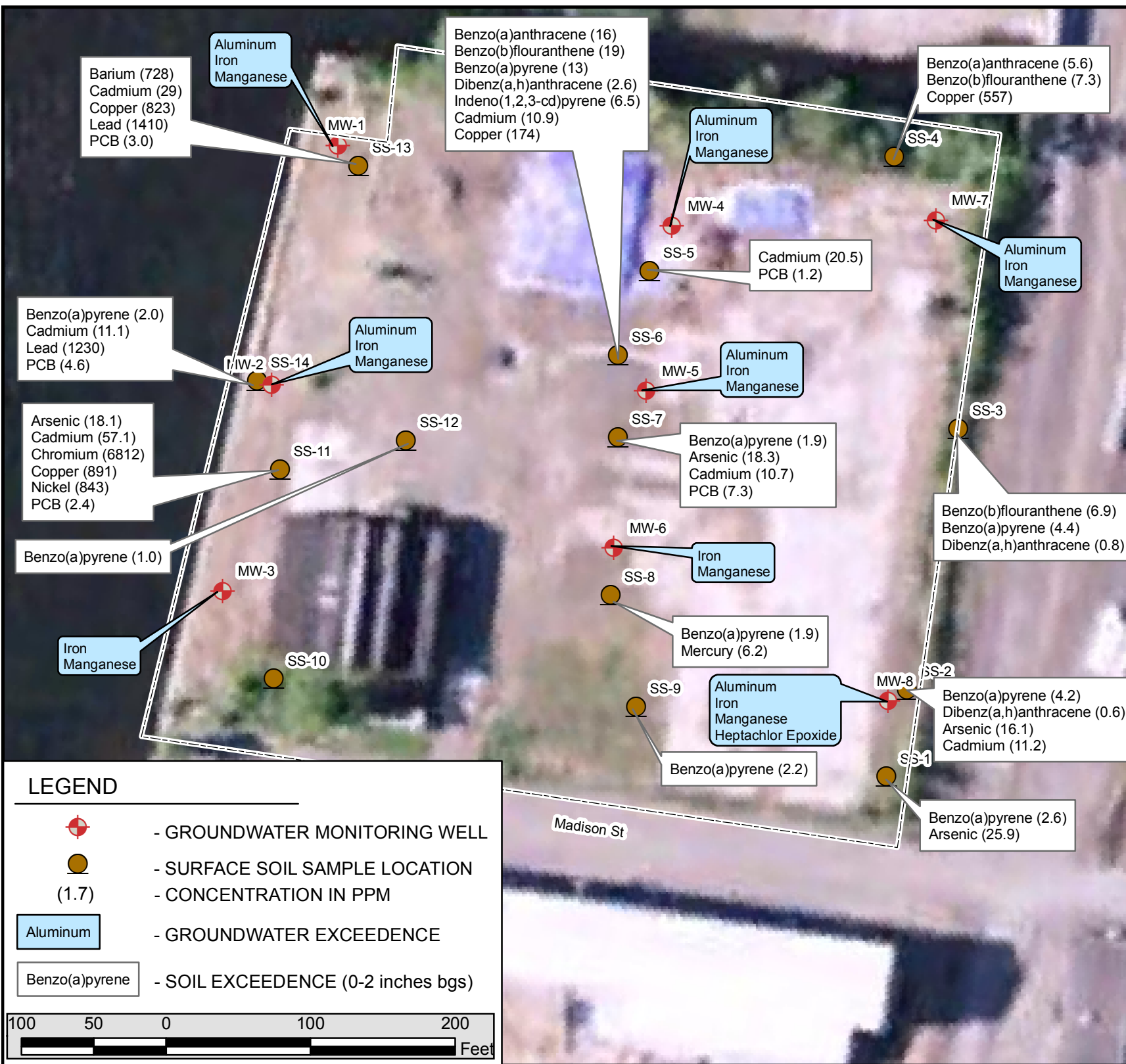
Created in ArcMap 9.3

10.19.2010

UNAUTHORIZED DUPLICATION
IS A VIOLATION OF
APPLICABLE LAWS



North American Datum 1983
UTM Zone 18





New York State
Department of Environmental
Conservation

Division of
Environmental Remediation

Former Scolite
Troy

DEC Site No.: E4-42-037

FIGURE 4

**Exceedences of all
Compounds in
Subsurface Soils
(Commercial SCOs)**

Map Details

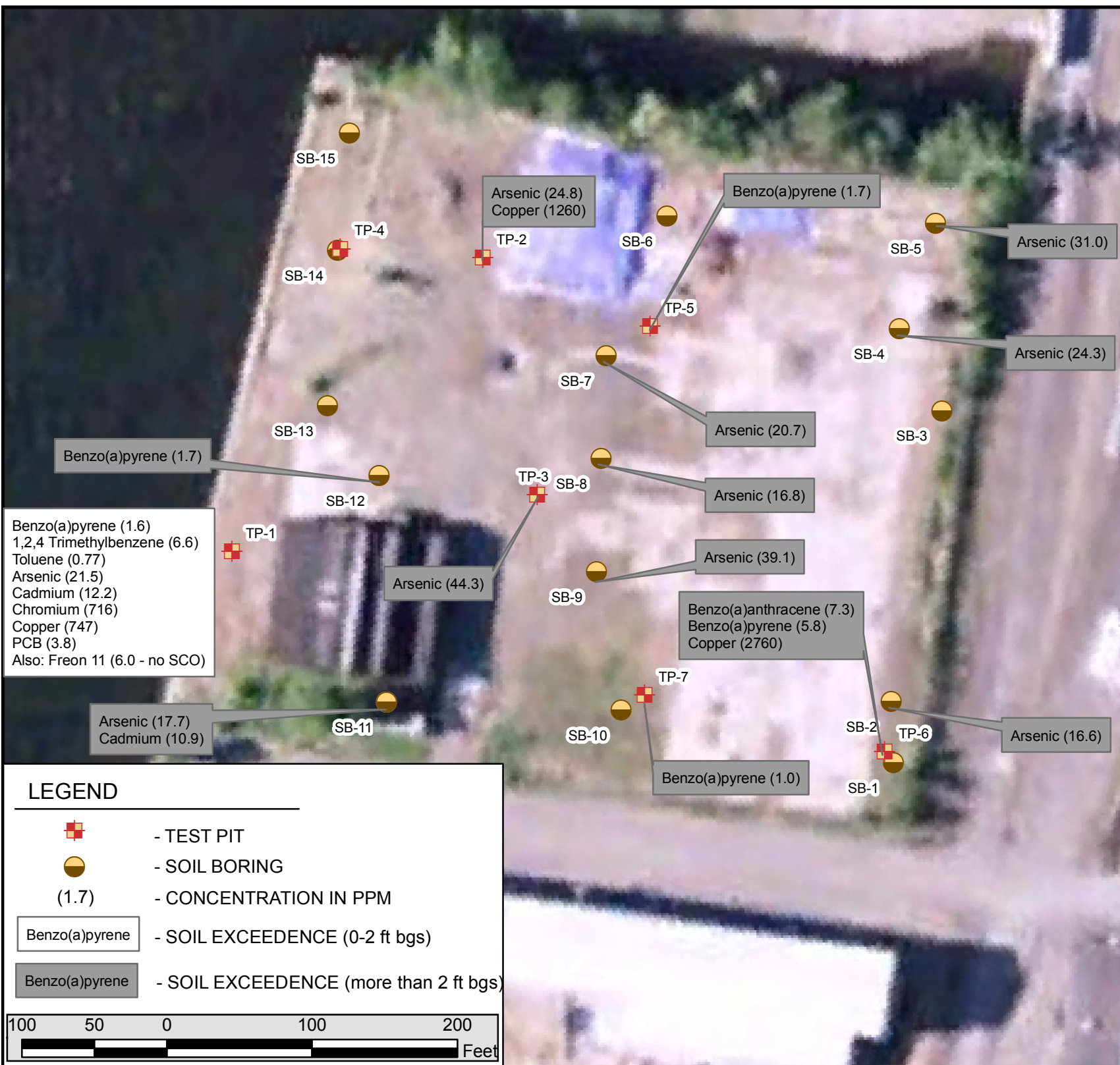
Created in ArcMap 9.3

10.19.2010

UNAUTHORIZED DUPLICATION
IS A VIOLATION OF
APPLICABLE LAWS



North American Datum 1983
UTM Zone 18





New York State
Department of Environmental
Conservation

Division of
Environmental Remediation

Former Scolite
Troy

DEC Site No.: E4-42-037

FIGURE 5

Significant Detections of Volatile Organic Compounds in Soil Vapor

Map Details

Created in ArcMap 9.3

10.19.2010

UNAUTHORIZED DUPLICATION
IS A VIOLATION OF
APPLICABLE LAWS



North American Datum 1983
UTM Zone 18



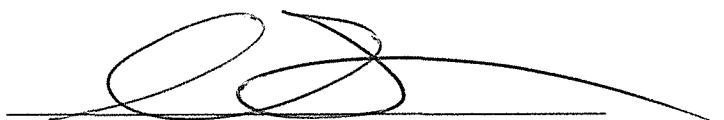
Exhibit B
Legal Description of Site

CERTIFICATION OF OWNERSHIP

I Ian Silverman, Esq., being an attorney duly admitted to the practice of law in the State of New York, affirm under the penalties of perjury the following:

1. That I am the attorney for the City of Troy, the Municipality which is the applicant to undertake a New York Works II Environmental Restoration Project known as the Scolite Project;
2. That the Property located at 2 Madison Street, Troy, New York, 12180, Rensselaer County, the subject of the Project and is more particularly described as the former Scolite site;
3. That I hereby certify to the Commissioner of Environmental Conservation that I have examined or caused to be examined the title to the Property, and that I have approved the same, and that as of the date of this affirmation a good and marketable title thereto in fee is vested in and may be conveyed by the City of Troy;
4. That annexed hereto is a certified copy of the deed whereby such title to the Property was conveyed to the City of Troy, and that I hereby certify to the Commissioner of Environmental Conservation that the property title, conveyed by said deed, is identical to the Property which is the subject of the Project; and
5. That I make this affirmation to be attached as an exhibit and incorporated by reference into such application.

Dated: August 3, 2014



Attorney Signature

12



FRANK J. MEROLA
Clerks Office
RENSSELAER COUNTY CLERK
Troy, NY 12180

INSTRUMENT ID: 2001-00050632

Type of Instrument: STANDARD DEED

Remarks: CITY OF TROY

CITY OF TROY
TO
CITY OF TROY

Received From: CITY OF TROY

Recording Charge: 52.00 Recording Pages: 4

** EXAMINED AND CHARGED AS FOLLOWS : **
** TRANSFER TAX ** .00 ** MTG/DEED AMOUNT ** .00

RS#: 4498

Mortgage#:

Original ID#:

Received Tax on Above Mortgage

Town:

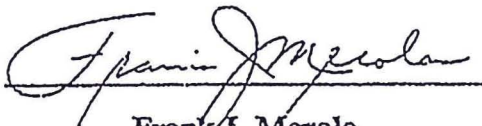
Basic: .00
Special Addl: .00
Additional: .00
Mortgage Tax Total: .00

Total Recording Fees: 52.00

** THIS PAGE IS PART OF THE INSTRUMENT **

I. HEREBY CERTIFY THAT THE WITHIN AND FOREGOING WAS RECORDED IN THE
CLERK'S OFFICE FOR

INSTRUMENT ID#: 2001-00050632
ON (Recorded Date): 07/13/01
AT (Time): 01:05
Terminal ID: 104



Frank J. Merola
Rensselaer County Clerk

Record and Return

CITY OF TROY



207 1206

101.53-10-3
101.53-10-4
111.28-4-1

THIS DEED

Made the 13th day of July, 2001, between JOSEPH BUCHANAN,
AS TREASURER AND COLLECTING OFFICER OF THE CITY OF TROY, Grantor,
and,

THE CITY OF TROY, NEW YORK, a municipal corporation of the State of New
York, Grantee,

WITNESSETH, that the Grantor in accordance with and pursuant to the terms
and provisions of a judgment of foreclosure, of the Rensselaer County Court made
July 11, 2001, in an in rem foreclosure action captioned, "In the Matter of the
Foreclosure of Tax Liens by Proceeding In Rem Pursuant to Article Eleven of the Real
Property Tax Law by the City of Troy, New York, AO Series"; index number 196930,
instituted by the City of Troy in the Rensselaer County Clerk's Office on the 25th day of
October 1999, by the filing of a Petition and Notice of Foreclosure in accordance with
the provisions of Article Eleven of the Real Property Tax Law of the State of New York,
hereby,

GRANTS AND CONVEYS to the City of Troy, its successors and assigns, full
and complete title in fee simple absolute in and to

ALL THOSE CERTAIN TRACTS, PIECES, LOTS OR PARCELS OF LAND,
together with improvements thereon, if any hereinafter, each being situate in the City of
Troy, County of Rensselaer, State of New York, described as follows:

Ward 03; 457 Broadway ; front footage 22.10 feet, depth 76.26 feet; being the same
premises described in Book 1326 of Deeds, page 0841 in the Rensselaer County
Clerk's Office and being the same premises in the 1998 City of Troy Assessment Rolls
as Plate Number 00670 and Tax Map Number 101.53-10-3. In Rem Serial No. AO
0034 (Horton, John T.)

267 1207

Ward 03; 459 Broadway ; front footage 21.97 feet, depth 76.26 feet; being the same premises described in Book 1364 of Deeds, page 517 in the Rensselaer County Clerk's Office and being the same premises in the 1998 City of Troy Assessment Rolls as Plate Number 00680 and Tax Map Number 101.53-10-4. In Rem Serial No. AO 0035 (Horton, John T.)

Ward 9; River Street ; 5.74 acres; being the same premises described in Book 1301 of Deeds, page 00182 in the Rensselaer County Clerk's Office and being the same premises in the 1998 City of Troy Assessment Rolls as Plate Number 00010 and Tax Map Number 111.28-4-1. In Rem Serial No. AO 0248 (Scolite International Co.)


EACH PARCEL hereinbefore described is followed by a serial number corresponding to the number it bore in the in rem foreclosure action hereinabove referred to. The name or names appearing at the end of each description is or are the name or names of the last known owner or owners as the same appeared on the City of Troy assessment roll for the year preceeding the calendar year in which the List of Delinquent Taxes was filed.

IF REFERENCE is made in the above description to Barton's Map, such reference is to Barton's Map of the City of Troy dated 1858, which is filed in the Rensselaer County Clerk's Office. If reference is made to Bevan's Map, it is Bevan's Map of Lansingburgh made in the year 1972, which map is filed in the Rensselaer County Clerk's Office.

TO HAVE AND TO HOLD the premises granted unto the City of Troy. Its successors and assigns forever.

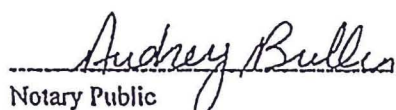
IN WITNESS WHEREOF, the grantor has hereunto set his hand and seal the date first above written.




JOSEPH BUCHANAN
Troy City Treasurer &
Collecting Officer

STATE OF NEW YORK
COUNTY OF RENSSELAER SS:

On this 13th day of July, 2001, before me came JOSEPH BUCHANAN,
Troy City Treasurer and Collecting Officer thereof, to me known to be the individual
described in and who executed the foregoing instrument and duly acknowledged to me
the same.


Notary Public

AUDREY BULLEN
Notary Public, State of New York
Reg # 02BU6023743
Residing in Rensselaer County
Commission Expires: 4-26-03

R & R to: City of Troy
1 Monument Square
Troy, N.Y 12180

Exhibit C

Municipal Resolution

Cheryl Christiansen
City Clerk
Lucille Taylor
Deputy City Clerk



Office of the City Clerk

Phone (518) 279-7102
Fax (518) 270-4639

CERTIFICATION

I, Cheryl Christiansen, City Clerk to the City Council of the City of Troy, located in the County of Rensselaer, State of New York, do hereby certify that the following Resolution #66 was adopted at the Regular Meeting of the City Council held on September 4, 2014 and is on file and of record.

I have compared the foregoing Resolution #66 thereof, now on file in this office and the same is a true and correct copy of said Resolution. The whole of said original Resolution #66 was duly adopted by a vote of 9 Affirmative votes and 0 Negative votes, (being at least a majority of the voting strength of the City Council) on the 4th day of September, 2014.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the City of Troy this 11th day of September, 2014.

Cheryl Christiansen
City Clerk
City of Troy, New York

(SEAL)

RESOLUTION AUTHORIZING THE ITEMS LISTED BELOW PURSUANT TO THE NEW YORK WORKS II ENVIRONMENTAL RESTORATION PROJECTS FUNDING

WHEREAS, The City of Troy, herein called the “Municipality”, after thorough consideration of the various aspects of the problem and study of available data, has hereby determined that certain work, as described in its application and attachments, herein called the “Project”, is desirable, is in the public interest and is required in order to implement the Project; and

WHEREAS, Article 56 of the Environmental Conservation Law authorizes State assistance to municipalities for environmental restoration projects by means of a contract and the Municipality deems it to be in the public interest and benefit under this law to enter into a contract therewith; and

WHEREAS, the enacted Executive Budget for State Fiscal year 2013-2014 (the “13/14 Budget”) as reflected in Chapter 54, Laws of 2013 (the “Laws of 2013”), provided New York Works II funding for services, expenses, and indirect costs related to various environmental projects including, but not limited to, environmental restoration projects. The Law allows the Department of Environmental Conservation (the “Department”) to enter into agreements with municipalities to undertake environmental restoration projects on behalf of a municipality upon request, provided that the municipality shall provide ten percent of the total project costs (hereinafter referred to as “NY WWII ERP”) ; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Troy that the Mayor is the representative authorized to act in behalf of the Municipality in all matters related to State assistance under ECL Article 56, Title 5. The Mayor is also authorized to make a request to the Department (by applying for participation in the NY WWII ERP) to enter into an agreement to undertake an environmental restoration project on behalf of the Municipality, execute the NY WWII ERP Agreement, submit Project documentation, and otherwise act for the Municipality’s governing body in all matter related to the Project and to State assistance; and

NOW THEREFORE BE IT FURTHER RESOLVED, that the Municipality agrees that it will fund its portion of the cost of the Project by reimbursing the Department ten percent (10%) of Project costs and that funds will be available to reimburse the Department within ninety (90) days after receipt of an invoice from the Department; and

NOW THEREFORE BE IT FURTHER RESOLVED, that one (1) certified copy of this Authorization be prepared and sent to the Albany office of the New York State Department of Environmental Conservation together with the Application for Participation in NY WWII ERP, and

NOW THEREFORE BE IT FURTHER RESOLVED, that this Authorization takes effect immediately.

Approved as to form, August 13, 2014

Ian H. Silverman, Esq., Corporation Counsel

AYES: 9
NOES: 0
ABSTAIN: 0

Troy City Clerk

Executive Action

Sent to the Mayor 9/5/14

Approved ☒ Date 9/5/14

Received from the Mayor 9/11/14

Veto ☐ Not Endorsed ☐

City Clerk

Mayor

