

# **Periodic Review Report & IC/EC Plan Certification**

**Location:**

Fluid Handling, LLC.  
175 Standard Parkway, Cheektowaga, New York 14227

May 2021

Prepared by:



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Building 59, Suite 101  
Rochester, New York 14615  
585-313-9683

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# Section 1

NEU-VELLE LLC

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## Executive Summary

## **1.0 EXECUTIVE SUMMARY**

Fluid Handling LLC. (Fluid Handling) has prepared this Periodic Review Report (PRR) to document compliance with the site management requirements for the facility located at 175 Standard Parkway in Cheektowaga, New York. The requirements are associated with soil impacts identified through a Voluntary Cleanup Agreement (VCA-Site No. V00329), which activities were performed in support of receiving a letter of Assignable Release and Covenant Not to Sue from the New York State Department of Environmental Conservation (NYSDEC), dated June 8, 2005.

This PRR certifies that all covenants and restrictions for the site remain in effect. No changes to the Soils Management Contingency Plan (SMCP) are recommended at this time. The frequency of the PRR appears to be adequate and the provisions of Voluntary Cleanup Agreement should remain in place.

## **Section 2**

NEU-VELLE LLC

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# **Site Overview/Background**

## 2.0 SITE OVERVIEW/BACKGROUND

The site is an active industrial property currently owned by Fluid Handling LLC. The facility consists of two buildings totaling 184,778 square feet on approximately 24 acres of property. The site is boarded to the south and west primarily by residential properties. The land to the east is owned by National Grid and is traversed by unpaved service roads. The land adjacent to the north is owned by the Town of Cheektowaga. A railroad owned and operated by Consolidated Rail Corp. is located adjacent to the northernmost service road.

The facility has been occupied by Fluid Handling LLC. since November 2011. The Fluid Handling business was spun off from ITT Corporation (ITT) in 2011, but facility operations did not change as a result of the changeover. ITT owned and operated the site from 1986 until 2011. Prior to ITT's occupancy, the site was owned by American Standard. American Standard occupied the site from 1966 to 1986. From 1947 to 1966, U.S. Rubber Reclaiming Co., Inc., a tire recycling facility, operated at the site. Prior to the construction of the facility in 1947, the land was undeveloped.

The site has been characterized during several previous investigations performed from approximately 1997 to 2003, which have been documented and submitted to the NYSDEC. The nature of the contamination at the site is consistent with industrial property, particularly slag fill. Contaminants noted were, beryllium, and SVOCs, such as, dibenzofuran, benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, benzo(a)pyrene, dibenzo(a,h)anthracene, 2-methylnaphthalene, indeno(1,2,3-c,d)pyrene and phenanthrene. Previous site investigations indicate that the groundwater quality had been compromised in one area of the site by 1,1,1-TCA and 1,1- DCA at a concentration of (110ug/I and 10 ug/I respectively), slightly above the NYSDEC Class GA standard of 5 ug/I.

## **Section 3**

NEU-VELLE LLC

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# **Covenants and Restrictions**

### 3.0 COVENANTS AND RESTRICTIONS

As previously presented, the activities under the VCA were performed in support of receiving a letter of Assignable Release and Covenant Not to Sue from the NYSDEC. The letter references required deed restrictions, which are specified in the Declaration of Covenants and Restrictions, dated November 30, 2004, and which are presented below.

#### **November 30, 2004**

- First, the property subject to the Declaration of Covenants and Restrictions is described in Appendix "A" and made a part hereof.
- Second, unless prior written approval by the Department or, if the department shall no longer exist, any New York State agency or agencies subsequently created to protect the environment of the State and the health of the State's citizens, hereinafter referred to as "The Relevant Agency", is first obtained, there shall be no disturbance of soils or excavation of the Property, which results in unacceptable human exposure to contaminated soils. Any disturbance of soils or excavation of the Property that is in conformance with a Soil Management Contingency Plan prepared by the owner of the Property and approved, in writing, by the Relevant Agency shall not be deemed to result in unacceptable human exposure to contaminated soils.
- Third, the owner of the Property shall prohibit the Property from ever being used for purposes other than for industrial use without the express written waiver of such prohibition by the Relevant Agency.
- Fourth, the owner of the Property shall prohibit the use of the groundwater underlying the Property, without treatment rendering it safe for drinking water or industrial purposes, as appropriate, unless the user first obtains permission to do so from the Relevant Agency.
- Fifth, the owner of the Property shall continue in full force and effect any institutional and engineering controls required under the Agreement and maintain such controls unless the owner first obtains permission to discontinue such controls from the Relevant Agency. The owner of the Property shall certify annually, by the tenth day of April, commencing April 2005, to the Relevant Agency, that all covenants and restrictions set forth in this Declaration are in place or have been complied with, and identify any excavation activities undertaken during the past year.
- Sixth, any soil generated during the excavations from the area defined as "APC-10" on the attached Appendix B Will be tested and analyzed by an approved laboratory from the New York State Environmental Laboratory Approval Program (ELAP). If the sample result exceed guidance values listed in ether the Department's Technical, Administrative Guidance Memorandum (TAGM) HWR-94-4046 (Revised) of the Department's STARS

Memo #1 (Petroleum Contaminated Soil Guidance Policy), the owner of the Property will remediate or properly dispose of the excavated material.

- Seventh, this Declaration is and shall be deemed a covenant that shall run with the land and shall be binding upon all future owners of the Property and shall provide that the owner and its successors and assigns consent to enforcement by the Relevant Agency of the prohibitions and restrictions that Paragraph X of the Agreement require to be recorded, and hereby covenant not to contest the authority of the Relevant Agency to seek enforcement.
- Eighth, any deed of conveyance of the Property, or any portion thereof, shall recite, unless the Relevant Agency has consented to the termination of such covenants and restrictions, that said conveyance is subject to this Declaration of Covenants and Restrictions.

To address the second restriction above, a Soil Management Contingency Plan (SMCP) dated August 2007 was prepared and submitted to and approved by the NYSDEC. The second, third, and fourth restrictions above constitute the site's Institutional Controls, which in simplified terms are:

- Soil Management Contingency Plan;
- Industrial land use restriction; and
- Groundwater use restriction.

No engineering controls were specified for the facility.

### **November 12, 2018**

On November 12, 2018, the Declaration of Covenants and Restrictions was amended. Details of the amendment are as follows:

- Fluid Handling, LLC is the current owner of the Property, which it acquired by that certain Deed dated October 27, 2011 and recorded in the Erie County Clerk's Office on January 31, 2012.
- Fluid Handling, LLC also owns other land and improvements in the vicinity of the Property which is not encumbered by the Declaration (the "Adjacent Land");
- Declaration of Covenants and Restrictions only relates to Parcels 1 and 2 in the Deed.

## **Section 4**

NEU-VELLE LLC

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# **Soils Management Contingency Plan Use and Site Inspection**

#### **4.0 SOILS MANAGEMENT CONTIGENCY PLAN USE AND SITE INSPECTION**

Based on information received from the facility, one soil disturbance project was performed during the reporting period, as summarized below. The project was performed in general accordance with the soil management plan. There has been no change in industrial land use and no groundwater use at the facility.

##### **1. Stormwater System Construction - 2020**

In 2020, The facility performed upgrades to the stormwater management system located on the east side of the facility. During the project, petroleum contaminated soil was encountered (NYSDEC Spill Number 2003354). As documented in the Remedial Action Summary Report submitted to the NYSDEC in April 2021, 9.82 tons of petroleum impacted soil was excavated and transported to the Waste Management Chaffee Landfill located at 10860 Olean Road, in Chaffee New York for appropriate disposal. The excavation was backfilled with clean crusher run and covered with asphalt to grade.

## **Section 5**

NEU-VELLE LLC

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# **Conclusion and Recommendations**

## **5.0 Conclusion and Recommendations**

Fluid Handling hereby confirms that the above summarized projects were performed in accordance with the SMCP for the site and IC controls for the site. Based on our review of the SMCP as well as inspection of the facility, NEU-VELLE believe the institutions controls are achieving the objectives of the Voluntary Cleanup Agreement for the site.

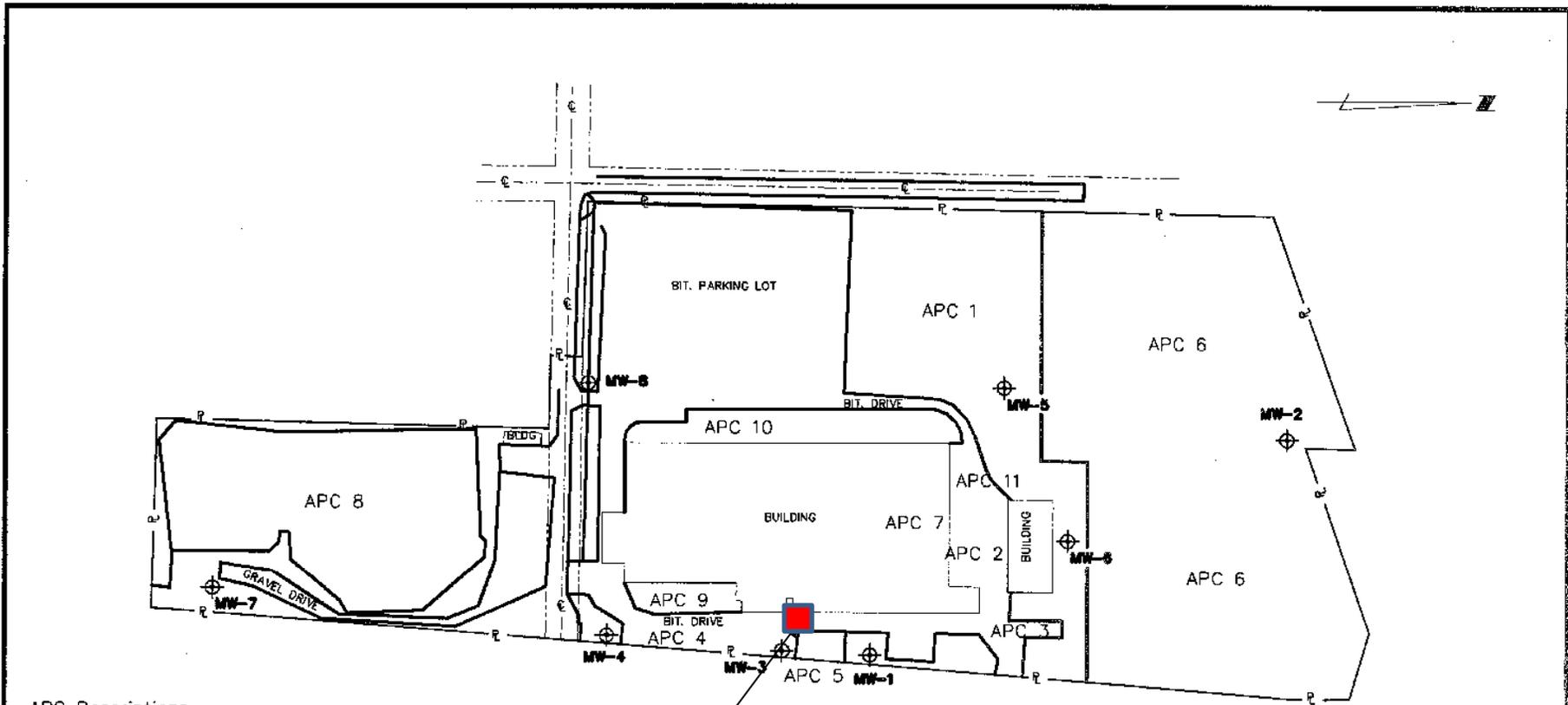
This PRR certifies that all covenants and restrictions set forth in this report remain in effect. No changes to the SMCP are recommended at this time. The frequency of the PRR appears to be adequate and the provisions of Voluntary Cleanup Agreement should remain in place.

# Appendix A

NEU-VELLE LLC

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## Site Map



**APC Descriptions**

- APC 1 — Tire Recycling Areas
- APC 2 — Pre-1982 Waste Disposal Practices
- APC 3 — Current Hazardous Waste Storage Area
- APC 4 — Past Hazardous Waste Storage Area
- APC 5 — Transformers
- APC 6 — Possible Former Landfilling Area
- APC 7 — Former Fuel Oil Storage Tank
- APC 8 — Standard Park Ball Field
- APC 9 — Drain Outside Loading Dock
- APC 10 — Roof Drain Adjacent to Vapor Degreaser Vents
- APC 11 — Catch Basin

EXCAVATION AREA  
(5' X 5' X 7')

**LEGEND**

⊕ — MONITORING WELL LOCATION  
MW-4



**CLIENT/PROJECT**  
**ITT INDUSTRIES**  
**ITT HEAT TRANSFER FACILITY**  
**CHEEKTOWAGA, NEW YORK**



**TITLE**  
**SITE LAYOUT AND AREAS OF**  
**POTENTIAL CONCERN (APCs) MAP**

<b>DRAWN</b>	BEC	<b>CHECKED</b>	DCW	<b>REVIEWED</b>	BCS	<b>DATE</b>	07/18/07	<b>SCALE</b>	AS SHOWN	<b>FILE NO.</b>	073-89038	<b>JOB NO.</b>	073-89038	<b>DWG NO.</b>	07389038A138	<b>FIGURE</b>	1
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# Appendix B

NEU-VELLE LLC

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# Certification



Enclosure 2  
**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**  
**Site Management Periodic Review Report Notice**  
**Institutional and Engineering Controls Certification Form**



	Site Details	Box 1	
Site No.	V00329		
Site Name ITT Heat Transfer (ITT Standard)			
Site Address: 175 STANDARD PARKWAY		Zip Code: 14227	
City/Town: Cheektowaga			
County: Erie			
Site Acreage: 24.000			
Reporting Period: March 28, 2018 to March 28, 2021			
		YES	NO
1. Is the information above correct?		<input checked="" type="checkbox"/>	<input type="checkbox"/>
If NO, include handwritten above or on a separate sheet.			
2. Has some or all of the site property been sold, subdivided, merged, or undergone a tax map amendment during this Reporting Period?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Has there been any change of use at the site during this Reporting Period (see 6NYCRR 375-1.11(d))?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Have any federal, state, and/or local permits (e.g., building, discharge) been issued for or at the property during this Reporting Period?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>If you answered YES to questions 2 thru 4, include documentation or evidence that documentation has been previously submitted with this certification form.</b>			
5. Is the site currently undergoing development?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
		<b>Box 2</b>	
		YES	NO
6. Is the current site use consistent with the use(s) listed below? Industrial		<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Are all ICs in place and functioning as designed?		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>IF THE ANSWER TO EITHER QUESTION 6 OR 7 IS NO, sign and date below and DO NOT COMPLETE THE REST OF THIS FORM. Otherwise continue.</b>			
<b>A Corrective Measures Work Plan must be submitted along with this form to address these issues.</b>			
_____ Signature of Owner, Remedial Party or Designated Representative		_____ Date	

SITE NO. V00329

Box 3

**Description of Institutional Controls**

Parcel

Owner

Institutional Control

113.01-1-28

Xylem Inc.

Soil Management Plan  
Ground Water Use Restriction  
Landuse Restriction

Box 4

**Description of Engineering Controls**

None Required

Not Applicable/No EC's

**Periodic Review Report (PRR) Certification Statements**

1. I certify by checking "YES" below that:

- a) the Periodic Review report and all attachments were prepared under the direction of, and reviewed by, the party making the Engineering Control certification;
- b) to the best of my knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and the information presented is accurate and complete.

YES NO

2. For each Engineering control listed in Box 4, I certify by checking "YES" below that all of the following statements are true:

- (a) The Engineering Control(s) employed at this site is unchanged since the date that the Control was put in-place, or was last approved by the Department;
- (b) nothing has occurred that would impair the ability of such Control, to protect public health and the environment;
- (c) access to the site will continue to be provided to the Department, to evaluate the remedy, including access to evaluate the continued maintenance of this Control;
- (d) nothing has occurred that would constitute a violation or failure to comply with the Site Management Plan for this Control; and
- (e) if a financial assurance mechanism is required by the oversight document for the site, the mechanism remains valid and sufficient for its intended purpose established in the document.

YES NO

**IF THE ANSWER TO QUESTION 2 IS NO, sign and date below and DO NOT COMPLETE THE REST OF THIS FORM. Otherwise continue.**

**A Corrective Measures Work Plan must be submitted along with this form to address these issues.**

*N/A*

\_\_\_\_\_  
Signature of Owner, Remedial Party or Designated Representative

\_\_\_\_\_  
Date

IC CERTIFICATIONS  
SITE NO. V00329

Box 6

**SITE OWNER OR DESIGNATED REPRESENTATIVE SIGNATURE**

I certify that all information and statements in Boxes 1, 2, and 3 are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.

I Albert G. Lyons, Jr at Neu-velle LLC  
1667 LAKE AVE, Bldg 59, Suite 101  
Rochester, NY 14615  
print name print business address

am certifying as Owner Representative (Owner or Remedial Party)

for the Site named in the Site Details Section of this form.

Albert G Lyons Jr  
Signature of Owner, Remedial Party, or Designated Representative  
Rendering Certification

5/14/21  
Date