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2013.0032.00
January 30, 2013

New York State Department of Environmental Conservation
270 Michigan Avenue
Buffalo, New York 14203-2999

Attn: David Szymanski, Project Manager

Re: Periodic Review Report
One Buffalo Street Site (VCP Site No. V-00659-9)

Dear Mr. Szymanski:

TVGA Consultants (TVGA) has prepared the attached Periodic Review Report on behalf of One Buffalo Street, Inc. to document the site's compliance with deed restrictions and the Site Management Plan (SMP) for the site. Please note that the report contains our observations regarding the use of the site and the operation and maintenance of the remedial system at the site.

Based on our review, the site is in compliance with the deed restrictions and SMP. The next report will be due in January 2015. As stated in the attached report while the fan for the south branch portion of the SSV system was noted to be working the indicator light and alarm did not activate when manually tripped. Because the fan was operational this deficiency does not impact the performance of the SSV mitigation system. Mr. Reekie indicated that he contacted Mitigation Tech who will be onsite within a week to examine and correct this deficiency. A separate letter will be sent to NYSDEC to confirm this deficiency has been corrected.

Should you have any questions or comments concerning our submittal, please do not hesitate to contact me at your earliest convenience.

Sincerely,
TVGA CONSULTANTS

A handwritten signature in black ink that reads "James C. Manzella". The signature is written in a cursive, flowing style.

James C. Manzella, CHMM
Project Manager
cc: Tony Staub

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PERIODIC REVIEW REPORT

ONE BUFFALO STREET SITE
HAMBURG, NEW YORK

VCP SITE NUMBER V- 00659- 9

Prepared for:

ONE BUFFALO STREET, INC.

Prepared by:



ENGINEERING • LAND SURVEY • MAPPING • ENVIRONMENTAL

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**PERIODIC REVIEW REPORT
ONE BUFFALO STREET SITE
HAMBURG, NEW YORK**

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March 18, 2011
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1.0 INTRODUCTION

One Buffalo Street, Inc. retained TVGA Consultants (TVGA) to evaluate current conditions at the One Buffalo Street Site in Hamburg, New York and prepare this Periodic Review Report (PRR) for the property. This PRR is being completed to meet the Site Management Periodic Review Report and Institutional Control / Engineering Control (IC/EC) Certification requirements under the New York State Department of Environmental Conservation (NYSDEC) Voluntary Cleanup Program (VCP). The site NYSDEC VCP site number is V-00659-9. This PRR documents the implementation of and compliance with the February 2006 Site Management Plan (SMP) prepared for this site.

1.1 Background

The project site is located at the corner of Buffalo Street and Main Street in the Village of Hamburg, New York. The building contains multiple commercial tenants with storefront addresses of 1 through 15 Buffalo Street. Historically, a dry cleaning operation was present in the building from approximately 1953 to 1998. Environmental investigation conducted at the site revealed that contamination, likely associated with the former dry cleaning operation, had impacted the property and remedial activities were necessary. Specifically, tetrachloroethene (PCE), a common dry cleaning solvent, and the break-down products trichloroethene (TCE) and 1,2-Dichloroethene (DCE) were detected above regulatory values in the soil/fill and soil vapors. Subsequent remedial activities conducted at the site included soil excavation, indoor air and soil gas sampling, and installation of a sub-slab vapor (SSV) mitigation system. The remedial efforts also included the development of deed restrictions and the February 2006 Site Management Plan to identify future activities necessary to maintain the integrity of the in-place treatment systems and ensure the safety of people utilizing the building.

The original SSV mitigation system was completed in February of 2005 and operated until 2008. Upon One Buffalo Street, Inc.'s acquisition of the property in 2008, renovation of the existing storefronts necessitated modification of the SSV mitigation system. The revised SSV system was installed and put into operation in 2009. A re-certification report (October 19, 2009), which included an evaluation of the modified SSV system, was conducted by Benchmark Environmental Engineering and Science, PLLC during the first half of 2009. This report was submitted to the NYSDEC in November 2009.

The SMP requires the performance of an annual site inspection. The annual site inspection will include evaluation/confirmation of the following:

- Proper management of soil excavated and/or removed from the site.
- The property use remains restricted to commercial/non-residential.

-
- The alleyway along the eastern portion of the site remains unpaved.
 - The sump in the basement of 11 Buffalo Street remains connected to the sanitary sewer system.
 - The sub-slab vapor mitigation system is properly operated and maintained.

2.0 PERIODIC REVIEW

TVGA Consultants conducted the biennial Periodic Review in January 2013 for the reporting occurring between January 1, 2011 and January 1, 2013. It should be noted that the NYSDEC accepted a revision of the Periodic Review frequency from annual to biennial. A copy of the NYSDEC letter granting this approval is included in Appendix A. This Periodic Review is discussed in the sections below. Appendix B includes photographs taken during the Site Inspection and Appendix C includes the NYSDEC "Site Management Periodic Review Report Notice – Institutional and Engineering Controls Certification Form."

2.1 Deed Restriction/Site Management Plan Compliance

As part of the VCP Agreement for the site, compliance with the site's deed restrictions and the SMP are required. Renovations to the building interior (installation of walls, ceiling and floor coverings) occurred over this reporting period but no soils were removed from the site during these activities. Additionally, no changes to the deed restrictions, as outlined in the SMP, had occurred. In accordance with the deed restrictions the building is utilized for retail commercial businesses (restricted-commercial), the SSV mitigation system is currently being properly maintained and operated and groundwater is not being used for any purpose on this site.

2.2 On-site Inspection

On January 23, 2013, TVGA's Project Manager, Mr. James C. Manzella, CHMM, conducted the site inspection. The inspection included observation of current conditions throughout and surrounding the building; the sump in the basement of 11 Buffalo Street; and the SSV mitigation system. TVGA also held discussions with Mr. Jack Reekie of Lakeside Contracting (One Buffalo Street, Inc.'s designated redevelopment contractor) during the site inspection. TVGA also held conversations with Mr. Tony Staub, owner of the building, during the performance of this Periodic Review.

2.2.1 Site Use Restrictions

In accordance with the deed restrictions and SMP, the site is to be used for commercial/non-residential uses only. The site is currently utilized as a mixed retail building. Tenants include:

- 24-hour adult fitness center
- U.S. Postal Service post office
- Jewelry store
- Chocolate shop
- Specialty women's store
- Outdoor outfitters shop
- Specialty olive oil/vinegar retail store
- Vintage collectables store
- Hair salon

Additionally, approximately 1,150 square-feet of retail space is currently vacant and unoccupied. No residential uses were observed during the site inspection.

2.2.2 Alleyway Soil/Fill Cover System

According to the SMP, the alley immediately to the east of the building was to remain unpaved. Although covered with snow, a walk through of the alley confirmed that the alley surfaces were unpaved and consisted of gravel and/or dirt, with the exception of a small concrete apron that extends from East Main Street to approximately ten feet behind 1 Buffalo Street. This concrete apron has been in place for a few years and is not anticipated to impact the performance of the SSV mitigation system.

2.2.3 Sump

The SMP requires the connection of the sump to the sanitary sewer at all times, and that any additional sumps installed in the future will also be connected to the sanitary sewer. TVGA evaluated the condition of the sump in the basement of 11 Buffalo Street during the site inspection. A lexan cover is sealed over the sump, and all plumbing connections appeared intact. The cover and seal were not disturbed during the inspection. Additionally, no new sumps were observed in the basement of the building and no modification to the sump or the connection to the sanitary sewer occurred during the recent building renovations.

2.2.4 Sub-Slab Vapor Mitigation System

The SMP requires the proper operation and maintenance of the SSV mitigation system. TVGA evaluated the operation of the SSV mitigation system during the biennial site inspection. TVGA observed the discharge locations on the roof of the building, and the locations were free of ice and snow build-up. Additionally, while on the roof TVGA confirmed that both the north branch and south branch fans were operating and that air was flowing out of the vent pipes. TVGA and Mr. Reekie manually tripped the alarms on the SSV mitigation system monitoring system to confirm system operation by de-energizing both the north and south SSV mitigation fans. The north branch system monitoring gauges changed from green indicator lights to red indicator lights and an audible alarm sounded within a few minutes. However, while the fan was noted to be working, the south branch indicator light and alarm did not activate when manually tripped. Because the fan was operational this deficiency does not impact the performance of the SSV mitigation system. Mr. Reekie indicated that he contacted Mitigation Tech who will be onsite within a week to examine and correct this deficiency. A separate letter will be sent to NYSDEC to confirm this deficiency has been corrected.

2.2.5 Groundwater Use Restrictions

The site is serviced by the public water system and no groundwater use occurs on site.

3.0 CONCLUSIONS & RECOMMENDATIONS

At the time of the site inspection the subject property was in compliance with the SMP and deed restrictions. Based on the continued performance of the system, no changes to the periodic review reporting are recommended.

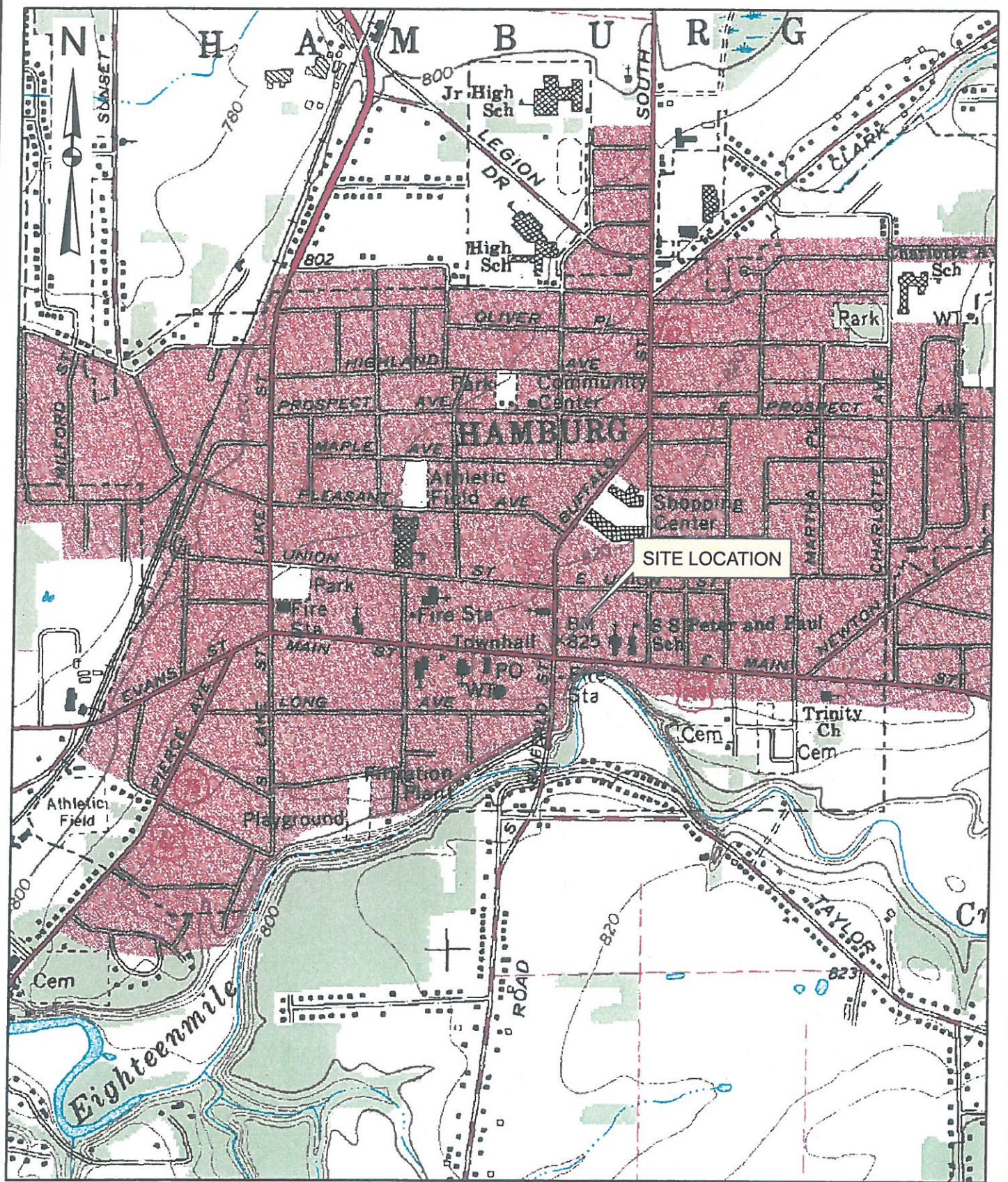
4.0 LIMITATIONS

The conclusions presented in this report are based on information gathered in accordance generally accepted professional consulting principles and practices. All conclusions reflect observable conditions existing at the time of the site inspection. Information provided by outside sources (individuals, agencies, laboratories, etc.), as cited herein, was used in the assessment of the site. The accuracy of the conclusions drawn from this assessment is, therefore, dependent upon the accuracy of information provided by these sources. Furthermore, TVGA is not responsible for the impacts of any changes in environmental standards, practices, or regulations subsequent to the performance of services.

This report is based upon the application of scientific principles and professional judgment to certain facts with resultant subjective interpretations. Professional judgments expressed herein are based upon the facts currently available within the limits of the existing data, scope of services, budget, and schedule. To the extent that more definitive conclusions are desired by the Client than are warranted by the current available facts, it is specifically TVGA's intent that the conclusions and recommendations stated herein will be intended as guidance and not necessarily a firm course of action except where explicitly stated as such. TVGA makes no warranties, expressed or implied including without limitation, warranties as to merchantability or fitness of a particular purpose. Furthermore, the information provided in this report is not to be construed as legal advice.

This assessment and report have been completed and prepared on behalf of and for the exclusive use of Mr. Anthony Staub. Any reliance on this report by a third party is at such party's sole risk. Furthermore, nothing contained in this report shall be construed as a warranty or affirmation by TVGA that the subject property described in this report are suitable collateral for any loan or that acquisition of such property by any lender through foreclosure proceedings or otherwise will pose no risk of potential environmental liability on the part of such lender.

FIGURES



SITE LOCATION MAP



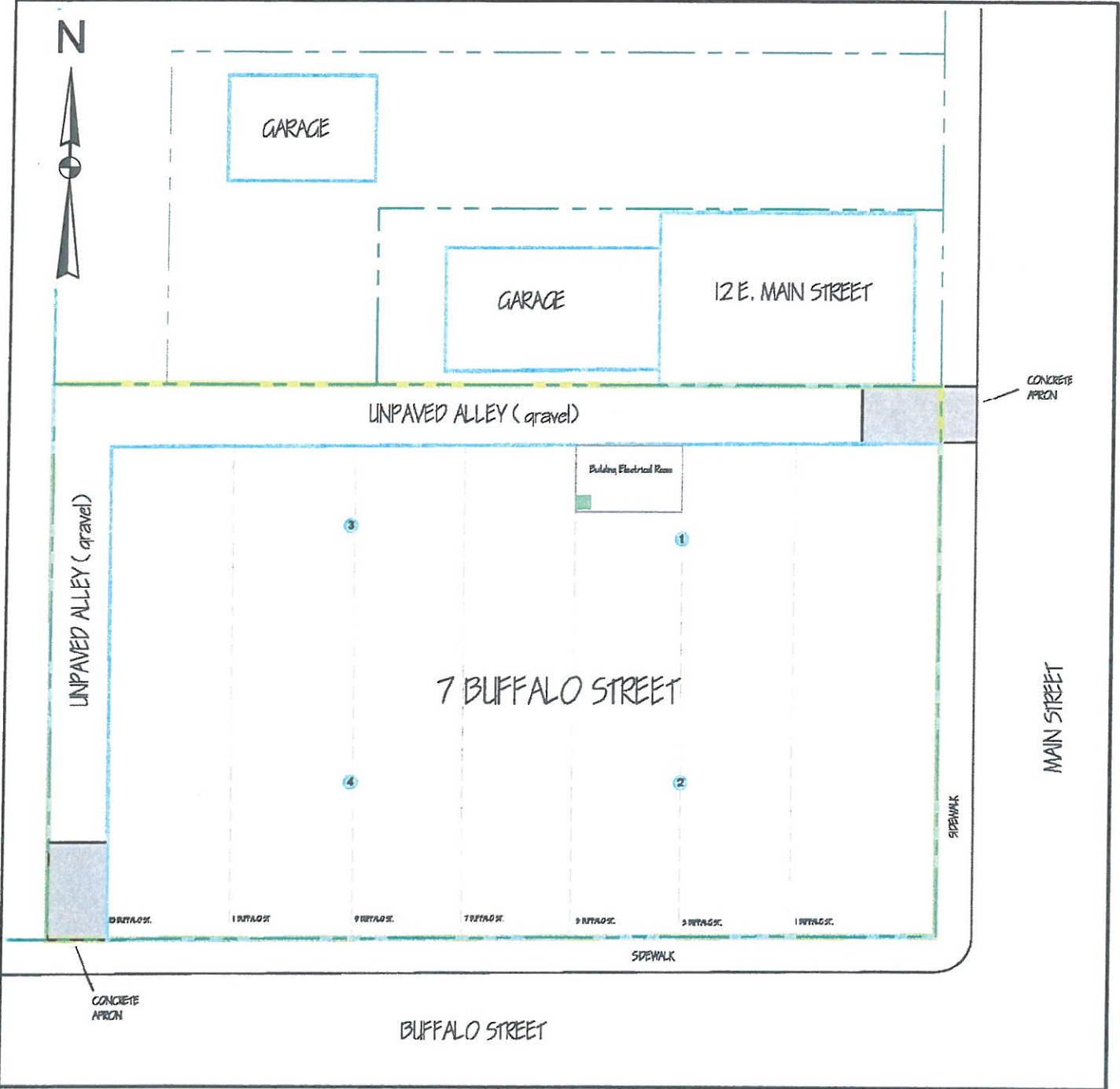
ONE BUFFALO STREET
HAMBURG, NEW YORK

PROJECT NO. 2013.0032.00







SCALE: 1 INCH = 1250 FEET

DATE: JANUARY 2013

FIGURE NO. 1



LEGEND:

-  PROPERTY BOUNDARY
-  PARCEL BOUNDARY
-  EXISTING BUILDINGS
-  APPROXIMATE INTERIOR BUILDING PARTIONS
-  LOCATION OF MITIGATION SYSTEM CONTROLS / ALARM
-  SSV MITIGATION EXTRACTION POINT LOCATION (4" sch 40 PVC)

SITE PLAN



ONE BUFFALO STREET
HAMBURG, NEW YORK

PROJECT NO. 2013.0032.00

NOT TO SCALE

DATE: JANUARY 2013

FIGURE NO. 2

APPENDIX A

**NYSDEC SITE MANAGEMENT PERIODIC REVIEW REPORT
RESPONSE LETTER - MARCH 18, 2011**

New York State Department of Environmental Conservation
Division of Environmental Remediation, Region 9
270 Michigan Avenue, Buffalo, New York, 14203-2915
Phone: (716) 851-7220 • FAX: (716) 851-7226
Website: www.dec.ny.gov



Joe Martens
Commissioner

March 18, 2011

Mr. Anthony Staub
206 Lake Street
Hamburg, NY 14075

Dear Mr. Staub:

**Site Management (SM) Periodic Review
Report (PRR) Response Letter
Buffalo and East Main St.
Hamburg, New York
Erie County, Site No.: V00659**

The Department has reviewed your Periodic Review Report (PRR) and IC/EC Certification for following period: 02/06/2009 to 01/01/2011.

The Department hereby accepts the PRR and associated IC/EC Certification, though the Department requests that you forward supporting information regarding Federal, State and/or local permits which were issued during the current reporting period. Box 1, Number 4 on the IC/EC Certification form submitted with the above-noted PRR indicates that such permits were issued, though no attached documentation or explanation was provided as requested. Please review these permits and submit copies to the Department for our records on or before April 15, 2011.

The requested Periodic Review frequency revision to 2-years is approved and your next PRR is due on January 1, 2013. You will receive a reminder letter and updated certification form 45-days prior to the due date.

Mr. Anthony Staub
March 18, 2011
Page 2

If you have any questions or comments please contact me at 716-851-7220 or e-mail:
dsszyman@gw.dec.state.ny.us

Sincerely,

\s\

David Szymanski
Project Manager

DS:dcg
szymanski\staub-mar1.ltr

cc: Mr. Robert Napieralski, TVGA Consultants

ec: Mr. Martin Doster, Regional Haz Waste Remediation Engineer, NYSDEC
Scarlett Messier, NYSDOH Project Manager

APPENDIX B
PHOTOGRAPHS



Photograph 1 – Northern SSV Mitigation Roof Fan



Photograph 2 – Southern SSV Mitigation Roof Fan



Photograph 3 – Unpaved Alleyway (East of the Building)



Photograph 4 – SSV Mitigation System Controls and Monitoring Equipment



Photograph 5 – Sealed Sump in Building Basement



Photograph 6 – The Atrium



Photograph 7 – The Atrium



Photograph 8 – Tenant Space – Ray Crinxi Gold Buying



Photograph 9 – Tenant Space – Primo Oliva



Photograph 10 – Tenant Space – Anytime Fitness



Photograph 11 – Tenant Space – Gear for Adventure



Photograph 12 – Front or Building Exterior (South Side)



Photograph 13 – Front or Building Exterior (North Side)

APPENDIX C

**NYSDEC INSTITUTIONAL AND ENGINEERING CONTROLS
CERTIFICATION FORM**



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



Site No.	V00659	Site Details	Box 1
-----------------	--------	---------------------	--------------

Site Name Buffalo and East Main St., Hamburg

Site Address: 1-15 Buffalo Street Zip Code: 14075
 City/Town: Hamburg
 County: Erie
 Site Acreage: 0.6

Reporting Period: January 01, 2011 to January 01, 2013

- | | 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"/> |
| If you answered YES to questions 2 thru 4, include documentation or evidence that documentation has been previously submitted with this certification form. | | |
| 5. Is the site currently undergoing development? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

- | | YES | NO |
|--|-------------------------------------|--------------------------|
| 6. Is the current site use consistent with the use(s) listed below?
Commercial and Industrial | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 7. Are all ICs/ECs in place and functioning as designed? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

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.

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

 Signature of Owner, Remedial Party or Designated Representative

 Date

SITE NO. V00659

Box 3

Description of Institutional Controls

Parcel

Owner

Institutional Control

196.09-2-30

Mr. Anthony Staub

Ground Water Use Restriction
Landuse Restriction
Soil Management Plan

Box 4

Description of Engineering Controls

Parcel

Engineering Control

196.09-2-30

Alternate Water Supply
Cover System
Vapor Mitigation

Engineering Control Details for Site No. V00659

Parcel: 196.09-2-30

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 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. If this site has an IC/EC Plan (or equivalent as required in the Decision Document), for each Institutional or Engineering control listed in Boxes 3 and/or 4, I certify by checking "YES" below that all of the following statements are true:

(a) the Institutional Control and/or 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.

Signature of Owner, Remedial Party or Designated Representative

Date

IC CERTIFICATIONS
SITE NO. V00659

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 James C. Manzella, CHMM at TVGA Consultants 620 Main St. Buffalo NY 14202
print name print business address

am certifying as Remedial Party (Owner or Remedial Party)

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

James C. Manzella
Signature of Owner, Remedial Party, or Designated Representative
Rendering Certification

1-30-13
Date

IC/EC CERTIFICATIONS

Box 7

Qualified Environmental Professional Signature

I certify that all information in Boxes 4 and 5 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 James C. Manzella, CHMM at TV&A Consultants, 620 Main St. Buffalo NY 14202
print name print business address

am certifying as a Qualified Environmental Professional for the Remedial Party
(Owner or Remedial Party)

James C. Manzella
Signature of Qualified Environmental Professional, for
the Owner or Remedial Party, Rendering Certification

Stamp
(Required for PE)

1-30-13
Date