



New York State Department of Environmental Conservation

Brownfield Cleanup Program

Citizen Participation Plan for Niagara Transformer Corporation – 1755 Dale Road

1755 Dale Road
Cheektowaga
Erie, New York

September 2009

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Note: The information presented in this Citizen Participation Plan was current as of the date of its approval by the New York State Department of Environmental Conservation. Portions of this Citizen Participation Plan may be revised during the brownfield site’s remedial process.

Applicant: **Niagara Transformer Corporation (“Applicant”)**
Site Name: **Niagara Transformer Corporation – 1755 Dale Road (“Site”)**
Site Address: **1755 Dale Road**
Site County: **Erie**
Site Number: **C915234**

1. What is New York’s Brownfield Cleanup Program?

New York’s Brownfield Cleanup Program (BCP) is designed to encourage the private sector to investigate, remediate (clean up) and redevelop brownfields. A brownfield is any real property where redevelopment or reuse may be complicated by the presence or potential presence of a contaminant. A brownfield typically is a former industrial or commercial property where operations may have resulted in environmental contamination. A brownfield can pose environmental, legal and financial burdens on a community. If the brownfield is not addressed, it can reduce property values in the area and affect economic development of nearby properties.

The BCP is administered by the New York State Department of Environmental Conservation (NYSDEC) which oversees Applicants that conduct brownfield site remedial activities.¹ An Applicant is a person whose request to participate in the BCP has been accepted by NYSDEC. The BCP contains investigation and remediation (cleanup) requirements, ensuring that cleanups protect public health and the environment. When NYSDEC certifies that these requirements have been met, the property can be reused or redeveloped for the intended use.

For more information about the BCP, go online at: www.dec.ny.gov/chemical/8450.html.

2. Citizen Participation Plan Overview

This Citizen Participation (CP) Plan provides members of the affected and interested public with information about how NYSDEC will inform and involve them during the investigation and remediation of the site identified above. The public information and involvement program will be carried out with assistance, as appropriate, from the Applicant.

Appendix A contains a map identifying the location of the site.

Project Contacts

¹ “Remedial activities”, “remedial action”, and “remediation” are defined as all activities or actions undertaken to eliminate, remove, treat, abate, control, manage, or monitor contaminants at or coming from a brownfield site.

Appendix B identifies NYSDEC project contact(s) to whom the public should address questions or request information about the site's remedial program. The public's suggestions about this CP Plan and the CP program for the site are always welcome. Interested people are encouraged to share their ideas and suggestions with the project contacts at any time.

Document Repositories

The locations of the site's document repositories also are identified in Appendix B. The document repositories provide convenient access to important project documents for public review and comment.

Site Contact List

Appendix C contains the brownfield site contact list. This list has been developed to keep the community informed about, and involved in, the site's investigation and remediation process. The brownfield site contact list will be used periodically to distribute fact sheets that provide updates about the status of the project. These will include notifications of upcoming remedial activities at the site (such as fieldwork), as well as availability of project documents and announcements about public comment periods.

The brownfield site contact list includes, at a minimum:

- chief executive officer and official(s) principally involved with relevant zoning and planning matters of each county, city, town and village in which the site is located;
- residents, owners, and occupants of the site and properties adjacent to the site;
- the public water supplier which services the area in which the site is located;
- any person who has requested to be placed on the site contact list;
- the administrator of any school or day care facility located on or near the site for purposes of posting and/or dissemination of information at the facility;
- document repositories.

Where the site or adjacent real property contains multiple dwelling units, the Applicant will work with NYSDEC to develop an alternative method for providing such notice in lieu of mailing to each individual. For example, the owner of such a property that contains multiple dwellings may be requested to prominently display fact sheets and notices required to be developed during the site's remedial process. This procedure would substitute for the mailing of such notices and fact sheets, especially at locations where renters, tenants and other residents may number in the hundreds or thousands, making the mailing of such notices impractical.

The brownfield site contact list will be reviewed periodically and updated as appropriate. Individuals and organizations will be added to the site contact list upon request. Such requests should be submitted to the NYSDEC project contact(s) identified in Appendix B. Other additions to the brownfield site contact list may be made on a site-specific basis at the discretion of the NYSDEC project manager, in consultation with other NYSDEC staff as appropriate.

CP Activities

Appendix D identifies the CP activities, at a minimum, that have been and will be conducted during the site's remedial program. The flowchart in Appendix E shows how these CP activities integrate with the site remedial process. The public is informed about these CP activities through fact sheets and notices developed at significant points in the site's remedial process.

Notices and fact sheets help the interested and affected public to understand contamination issues related to a brownfield site, and the nature and progress of efforts to investigate and remediate a brownfield site.

Public forums, comment periods and contact with project managers provide opportunities for the public to contribute information, opinions and perspectives that have potential to influence decisions about a brownfield site's investigation and remediation.

The public is encouraged to contact project staff at any time during the site's remedial process with questions, comments, or requests for information about the remedial program.

This CP Plan may be revised due to changes in major issues of public concern identified in Section 6 or in the nature and scope of remedial activities. Modifications may include additions to the brownfield site contact list and changes in planned citizen participation activities.

3. Site Information

Site Description

Location – 1755 Dale Road, Cheektowaga, Erie

Setting – Commercial/industrial

Site size – 3.07 acres

Adjacent properties –

- North – Dale Road immediately borders the site to the north, across which lies Upstate Niagara Cooperative, Inc., a dairy processing facility.
- East – A vacant undeveloped land parcel lies adjacent to the east of the site and a large commercial warehouse is to the east of the vacant parcel.
- South – A large, heavily traveled, rail corridor with multiple tracks directly borders the southern end of the site.
- West – Niagara Transformer Corporation's manufacturing facility is directly to the west of the site at 1747 Dale Road where they manufacture electrical transformers.

Site History

Prior and current use(s) – The site has been undeveloped since the 1930's. Fire insurance records indicate that the southern portion of the Site was utilized as a contractor's yard and a junkyard prior to the 1930's. The site remains undeveloped and unused with the exception of the storage of a large decommissioned oil tank and four temporary storage containers used by the Applicant.

Known or suspected contaminants – The site was found to have PCB contamination in the surface and subsurface soils from a previous soil investigations conducted in 1996, 2004 and 2007.

Environmental History

Limited soil sampling data collected from three separate investigations (1996/1997, 2004 and 2007) indicate the low level presence of PCBs in shallow soils across a significant portion of the site and concentrated at higher concentrations nearer to the western property line. The exact origin and history of contamination is unclear and complicated by PCB remedial cleanups conducted on the adjacent Niagara Transformer manufacturing parcel at 1747 Dale Road to the west and use of the Site as a staging area for the contractors performing both of the remedial projects. The most comprehensive soil investigation was performed in November of 2007 by Niagara Transformer Corporation. Forty-six (46) soil boring samples, ranging in depth from 6 inches to 6 feet, were taken across the majority of the site to evaluate the level and extent of contamination. The highest concentrations were found near the western (central) border where it is believed that remediation equipment from a contractor was staged during a PCB cleanup of the Applicant's facility.

4. Remedial Process

Note: See Appendix E for a flowchart of the brownfield site remedial process.

Application

The Applicant has applied for acceptance into New York's Brownfield Cleanup Program as a Participant. This means that the Applicant was the owner of the site at the time of the disposal or discharges of contaminants or was otherwise liable for the disposal or discharge of the contaminants. The Participant must fully characterize the nature and extent of contamination onsite, as well as the nature and extent of contamination that has migrated from the site. The Participant also must conduct a "qualitative exposure assessment," a process that characterizes the actual or potential exposures of people, fish and wildlife to contaminants on the site and to contamination that has migrated from the site.

The Applicant in its Application proposes that the site will be used for restricted industrial purposes related directly to expansion of its current manufacturing operations.

To achieve this goal, the Applicant will conduct remedial activities at the site with oversight provided by NYSDEC. The Brownfield Cleanup Agreement executed by NYSDEC and the Applicant will set forth the responsibilities of each party in conducting a remedial program at the site.

Investigation

The remedial investigation (RI) of the site will be performed with NYSDEC oversight. The Applicant has developed a remedial investigation work plan, which is subject to public comment as noted in Appendix D. The goals of the investigation are as follows:

- 1) Define the nature and extent of contamination in soil, surface water, groundwater and any other impacted media;
- 2) Identify the source(s) of the contamination;
- 3) Assess the impact of the contamination on public health and/or the environment; and
- 4) Provide information to support the development of a Remedial Work Plan to address the contamination, or to support a conclusion that the contamination does not need to be addressed.

The Applicant will prepare an RI Report after it completes the RI. This report will summarize the results of the RI and will include the Applicant's recommendation of whether remediation is needed to address site-related contamination. The RI Report is subject to review and approval by NYSDEC. Before the RI Report is approved, a fact sheet that describes the RI Report will be sent to the site's contact list.

NYSDEC will determine if the site poses a significant threat to public health and/or the environment. If NYSDEC determines that the site is a "significant threat," a qualifying community group may apply for a Technical Assistance Grant (TAG). The purpose of a TAG is to provide funds to the qualifying community group to obtain independent technical assistance. This assistance helps the TAG recipient to interpret and understand existing environmental information about the nature and extent of contamination related to the site and the development/implementation of a remedy.

An eligible community group must certify that its membership represents the interests of the community affected by the site, and that its members' health, economic well-being or enjoyment of the environment may be affected by a release or threatened release of contamination at the eligible site.

For more information about the TAG Program and the availability of TAGs, go online at: www.dec.ny.gov/regulations/2590.html.

Remedy Selection

After NYSDEC approves the RI Report, the Applicant will be able to develop a Remedial Work Plan if remediation is required. The Remedial Work Plan describes how the Applicant would address the contamination related to the site.

The public will have the opportunity to review and comment on the draft Remedial Work Plan. The site contact list will be sent a fact sheet that describes the draft Remedial Work Plan and announces a 45-day public comment period. NYSDEC will factor this input into its decision to approve, reject or modify the draft Remedial Work Plan.

A public meeting may be held by NYSDEC about the proposed Remedial Work Plan if requested by the affected community and if significant substantive issues are raised about the draft Remedial Work Plan. Please note that, in order to request a public meeting, the health, economic well-being or enjoyment of the environment of those requesting the public meeting must be threatened or potentially threatened by the site. In addition, the request for the public meeting should be made within the first 30 days of the 45-day public comment period for the draft Remedial Work Plan. A public meeting also may be held at the discretion of the NYSDEC project manager in consultation with other NYSDEC staff as appropriate.

Construction

Approval of the Remedial Work Plan by NYSDEC will allow the Applicant to design and construct the alternative selected to remediate the site. The site contact list will receive notification before the start of site remediation. When the Applicant completes remedial activities, it will prepare a final engineering report that certifies that remediation requirements have been achieved or will be achieved within a specific time frame. NYSDEC will review the report to be certain that the remediation is protective of public health and the environment for the intended use of the site. The site contact list will receive a fact sheet that announces the completion of remedial activities and the review of the final engineering report.

Certificate of Completion and Site Management

Once NYSDEC approves the final engineering report, it will issue the Applicant a Certificate of Completion. This Certificate states that remediation goals have been achieved, and relieves the Applicant from future remedial liability, subject to statutory conditions. The Certificate also includes a description of any institutional and engineering controls or monitoring required by the approved remedial work plan. If the Applicant uses institutional controls or engineering controls to achieve remedial objectives, the site contact list will receive a fact sheet that discusses such controls.

An institutional control is a non-physical restriction on use of the brownfield site, such as a deed restriction that would prevent or restrict certain uses of the remediated property. An institutional control may be used when the remedial action leaves some contamination that makes the site suitable for some, but not all uses.

An engineering control is a physical barrier or method to manage contamination, such as a cap or vapor barrier.

Site management will be conducted by the Applicant as required. NYSDEC will provide appropriate oversight. Site management involves the institutional and engineering controls required for the brownfield site. Examples include: operation of a water treatment plant, maintenance of a cap or cover, and monitoring of groundwater quality.

5. Citizen Participation Activities

CP activities that have already occurred and are planned during the investigation and remediation of the site under the BCP are identified in Appendix D: Identification of Citizen Participation Activities. These activities also are identified in the flowchart of the BCP process in Appendix E. NYSDEC will ensure that these CP activities are conducted, with appropriate assistance from the Applicant.

All CP activities are conducted to provide the public with significant information about site findings and planned remedial activities, and some activities announce comment periods and request public input about important draft documents such as the Remedial Work Plan.

All written materials developed for the public will be reviewed and approved by NYSDEC for clarity and accuracy before they are distributed. Notices and fact sheets can be combined at the discretion, and with the approval of, NYSDEC.

6. Major Issues of Public Concern

This section of the CP Plan identifies major issues of public concern, if any, that relate to the site. Additional major issues of public concern may be identified during the site's remedial process.

The site is located in an area currently zoned for manufacturing, and current land uses adjacent to and nearby the site are predominantly commercial/industrial. The nearest residential neighborhood is approximately one-quarter of a mile from the site to the southwest. Based on recent investigation data, the levels of known PCB soil/fill contamination do not pose a significant threat for exposure. The site remediation will be carried out by professionals experienced in performing cleanup activities. All site work will be conducted under a site-wide Health and Safety Plan and a Community Air Monitoring Program approved by the NYSDEC and the New York State Department of Health (NYSDOH). The site remediation will be conducted over limited time duration and during normal business hours. NYSDEC anticipates excavating and transporting a small quantity of contaminated soil, so traffic is not expected to be significantly impacted. Proposed soil excavations associated with the planned remediation will be shallow in nature and secured to reduce the risk of injury and the potential exposures.

Appendix A – Site Location Map

Appendix B – Project Contacts and Document Repositories

Project Contacts

For information about the site’s remedial program, the public may contact any of the following project staff:

New York State Department of Environmental Conservation (NYSDEC):

David Locey
Project Manager
NYSDEC Region 9
Division of Environmental Remediation
270 Michigan Ave.
Buffalo, NY 14203
716-851-7220

Mark Baetzhold
Citizen Participation Specialist
NYSDEC Region 9
270 Michigan Ave.
Buffalo, NY 14203
716-851-7220

New York State Department of Health (NYSDOH):

Cameron O’Connor
Project Manager
NYSDOH
584 Delaware Avenue
Buffalo, New York 14202
716-847-4501

Document Repositories

The document repositories identified below have been established to provide the public with convenient access to important project documents:

Cheektowaga Public Library
Anna M. Reinstein Memorial Branch
2580 Harlem Road
Cheektowaga, NY 14225
Attn: Ms. Chris Bazan, Branch Director
Phone: 716-892-8089
Summer Hours: Mon/Thurs–1:00 – 9:00 PM
 Tue – 10:00 AM – 5:00 PM
 Wed – 10:00 AM – 9:00 PM
 Sat – 10:00 AM – 5:00 PM
 Fri/Sun – Closed

NYSDEC Region 9
270 Michigan Ave.
Buffalo, NY 14203
Attn: David P. Locey
Phone: 716-851-7220
Hours: 8:30 am – 4:45 pm
(Call for appointment)

Select and/or abbreviated documents will also be available on DEC's website. Visit <http://www.dec.ny.gov/chemical/37554.html> and look for the Niagara Transformer entry under the Erie County heading.

Appendix D – Identification of Citizen Participation Activities

Required Citizen Participation (CP) Activities	CP Activities) Occur at this Point
Application Process:	
<ul style="list-style-type: none"> • Prepare brownfield site contact list (BSCL) 	At time of preparation of application to participate in BCP.
<ul style="list-style-type: none"> • Establish document repositories • Publish notice in Environmental Notice Bulletin (ENB) announcing receipt of application and 30-day comment period 	When NYSDEC determines that BCP application is complete. The 30-day comment period begins on date of publication of notice in ENB. End date of comment period is as stated in ENB notice. Therefore, ENB notice, newspaper notice and notice to the BSCL should be provided to the public at the same time.
After Execution of Brownfield Site Cleanup Agreement:	
<ul style="list-style-type: none"> • Prepare citizen participation (CP) plan 	Draft CP Plan must be submitted within 20 days of entering Brownfield Site Cleanup Agreement. CP Plan must be approved by NYSDEC before distribution.
After Remedial Investigation (RI) Work Plan Received:	
<ul style="list-style-type: none"> • Mail fact sheet to BSCL about proposed RI activities and announcing 30-day public comment period on draft RI Work Plan 	Before NYSDEC approves RI Work Plan. If RI Work Plan is submitted with application, comment periods will be combined and public notice will include fact sheet. 30-day comment period begins/ends as per dates identified in fact sheet.
After RI Completion:	
<ul style="list-style-type: none"> • Mail fact sheet to BSCL describing results of RI 	Before NYSDEC approves RI Report.
After Remedial Work Plan (RWP) Received:	
<ul style="list-style-type: none"> • Mail fact sheet to BSCL about proposed RWP and announcing 45-day comment period • Public meeting by NYSDEC about proposed RWP (if requested by affected community or at discretion of NYSDEC project manager in consultation with other NYSDEC staff as appropriate) 	Before NYSDEC approves RWP. 45-day comment period begins/ends as per dates identified in fact sheet. Public meeting would be held within the 45-day comment period.
After Approval of RWP:	
<ul style="list-style-type: none"> • Mail fact sheet to BSCL summarizing upcoming remedial construction 	Before the start of remedial construction.
After Remedial Action Completed:	
<ul style="list-style-type: none"> • Mail fact sheet to BSCL announcing that remedial construction has been completed • Mail fact sheet to BSCL announcing issuance of Certificate of Completion (COC) 	At the time NYSDEC approves Final Engineering Report. These two fact sheets should be combined when possible if there is not a delay in issuance of the COC.

Appendix E – Brownfield Cleanup Program Process

