RECORD OF DECISION

Burn Rite Coal, Scrap and Salvage Co.
State Superfund Project
Herkimer, Herkimer County
Site No. 622014
January 2015

Prepared by
Division of Environmental Remediation
New York State Department of Environmental Conservation

DECLARATION STATEMENT - RECORD OF DECISION

Burn Rite Coal, Scrap and Salvage Co.
State Superfund Project
Herkimer, Herkimer County
Site No. 622014
January 2015

Statement of Purpose and Basis

This document presents the remedy for the Burn Rite Coal, Scrap and Salvage Co. site, a Class 2 inactive hazardous waste disposal site. The remedial program was chosen in accordance with the 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, 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 Burn Rite Coal, Scrap and Salvage Co. site and the public's input to the proposed remedy 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

During the course of the investigation certain actions, known as interim remedial measures (IRMs), were undertaken at the above referenced site. An IRM is conducted at a site when a source of contamination or exposure pathway can be effectively addressed before completion of the remedial investigation (RI) or feasibility study (FS). The IRM(s) undertaken at this site are discussed in Section 6.2.

Based on the implementation of the IRM(s), the findings of the investigation of this site indicate that the site no longer poses a threat to human health or the environment; therefore No Further Action is the selected remedy. The remedy may include continued operation of a remedial system if one was installed during the IRM and the implementation of any prescribed institutional controls/engineering controls (ICs/ECs) that have been identified as being part of the remedy for the site.

The IRM(s) conducted at the site attained the remediation objectives identified for this site in Section 6.5 for the protection of public health and the environment.

New York State Department of Health Acceptance

The New York State Department of Health (NYSDOH) concurs that the remedy 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.

February 3, 2015

Date

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

RECORD OF DECISION

Burn Rite Coal, Scrap and Salvage Co.
Herkimer, Herkimer County
Site No. 622014
December 2014

SECTION 1: SUMMARY AND PURPOSE

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 wastes at the site resulted in threats to public health and the environment that were addressed by actions known as interim remedial measures (IRMs), which were undertaken at the site. An IRM is conducted at a site when a source of contamination or exposure pathway can be effectively addressed before completion of the remedial investigation (RI) or feasibility study (FS). The IRMs undertaken at this site are discussed in Section 6.2.

Based on the implementation of the IRM(s), the findings of the investigation of this site indicate that the site no longer poses a threat to human health or the environment. The IRM(s) conducted at the site attained the remediation objectives identified for this site, which are presented in Section 6.5, for the protection of public health and the environment. No Further Action is the remedy selected by this Record of Decision (ROD). A No Further Action remedy may include site management, which will include continued operation of any remedial system installed during the IRM and the implementation of any prescribed controls that have been identified as being part of the remedy for the site. This ROD identifies the IRM(s) conducted and discusses the basis for No Further Action.

The New York State Inactive Hazardous Waste Disposal Site Remedial Program (also known as the State Superfund Program) is an enforcement program, the mission of which is to identify and characterize suspected inactive hazardous waste disposal sites and to investigate and remediate those sites found to pose a significant threat to public health and environment.

The Department has issued this document in accordance with the requirements of New York State Environmental Conservation Law and 6 NYCRR Part 375. This document is a summary of the information that can be found in the site-related reports and documents.

SECTION 2: CITIZEN PARTICIPATION

The Department seeks input from the community on all remedies. A public comment period was held, during which the public was encouraged to submit comment on the proposed remedy. All comments on the remedy received during the comment period were considered by the Department in selecting a remedy for the site. Site-related reports and documents were made

available for review by the public at the following document repository:

Herkimer Public Library
Attn: Leslie Paul
245 N. Main Street, Washburn Meeting Room
Herkimer, NY 13350
Phone: 315-866-1733

A public meeting was also conducted. At the meeting, the findings of the remedial investigation (RI) and the feasibility study (FS) were presented along with a summary of the proposed remedy. After the presentation, a question-and-answer period was held, during which verbal or written comments were accepted on the proposed remedy.

Comments on the remedy received during the comment period are summarized and addressed in the responsiveness summary section of the ROD.

Receive Site Citizen Participation Information By Email

Please note that the Department's Division of Environmental Remediation (DER) is "going paperless" relative to citizen participation information. The ultimate goal is to distribute citizen participation information about contaminated sites electronically by way of county email listservs. Information will be distributed for all sites that are being investigated and cleaned up in a particular county under the State Superfund Program, Environmental Restoration Program, Brownfield Cleanup Program, Voluntary Cleanup Program, and Resource Conservation and Recovery Act Program. We encourage the public to sign up for one or more county listservs at http://www.dec.ny.gov/chemical/61092.html

SECTION 3: SITE DESCRIPTION AND HISTORY

Site Location: The site is located on the northeast corner of the intersection of Routes 5 and 28 in the eastern part of the Village of Herkimer in Herkimer County.

Site Features: The site is approximately 7.6 acres. A large supermarket is present on the property along with associated parking lots, access roads and landscaped areas. The site is relatively flat and is located about 100 yards from the West Canada Creek.

Current Zoning: The site is currently an active commercial retail store. The property is zoned for commercial use. Surrounding properties are a combination of commercial or residential land use.

Past Use of the Site: The site was originally developed as a railroad yard in the 1880s. In the early 1940s, it was redeveloped as a lumber yard. In 1973, it was purchased and converted into a scrap yard. The Burn-Rite Scrap and Salvage Company operated from 1973 until the mid-1980s. By 1988, scrap metal operations had ceased and most of the scrap material was removed. The alleged dismantling of electrical transformers and other PCB-contaminated equipment resulted in soil and groundwater contamination.

Operable Units: There is only one operable unit (OU-1/OU-1A) for the site.

Geology and Hydrology: The water table is situated approximately 10 feet below grade and flows in the south-southeast direction approximately parallel to the West Canada Creek.

A site location map is attached as Figure 1.

SECTION 4: LAND USE AND PHYSICAL SETTING

The Department may consider the current, intended, and reasonably anticipated future land use of the site and its surroundings when evaluating a remedy for soil remediation. For this site, alternatives (or an alternative) that restrict(s) the use of the site to commercial use (which allows for industrial use) as described in Part 375-1.8(g) were/was evaluated in addition to an alternative which would allow for unrestricted use of the site.

A comparison of the results of the investigation to the appropriate standards, criteria and guidance values (SCGs) for the identified land use and the unrestricted use SCGs for the site contaminants is included in the Tables for the media being evaluated in Exhibit A.

SECTION 5: 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.

The PRPs for the site, documented to date, include:

Burn-Rite Coal, Scrap & Salvage Co.

The Department and Ventura-Herkimer, LLC entered into Voluntary Cleanup Agreements on June 4, 1996 (index no. D6-0001-96-05) and May 12, 1997 (index no. R6-0002-96-10). The agreement obligates Ventura-Herkimer, LLC to implement a remedial program for the site as a volunteer; which Ventura-Herkimer did implement to the satisfaction of the NYSDEC. Ventura-Herkimer LLC received a 'No Further Action' determination and Release from the NYSDEC in October 1997.

SECTION 6: SITE CONTAMINATION

6.1: Summary of the Remedial Investigation

A Remedial Investigation (RI) has been conducted. The purpose of the RI was to define the nature and extent of any contamination resulting from previous activities at the site. The field activities and findings of the investigation are described in the RI Report.

The following general activities are conducted during an RI:

- Research of historical information,
- Geophysical survey to determine the lateral extent of wastes,
- Test pits, soil borings, and monitoring well installations,
- Sampling of waste, surface and subsurface soils, groundwater, and soil vapor,
- Sampling of surface water and sediment,
- Ecological and Human Health Exposure Assessments.

The analytical data collected on this site includes data for:

- groundwater
- surface water
- soil

6.1.1: Standards, Criteria, and Guidance (SCGs)

The remedy must conform to 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 RI were compared to media-specific SCGs. The Department has developed SCGs for groundwater, surface water, sediments, and soil. The NYSDOH has developed SCGs for drinking water and soil vapor intrusion. The tables found in Exhibit A list the applicable SCG in the footnotes. For a full listing of all SCGs see: http://www.dec.ny.gov/regulations/61794.html

6.1.2: RI Results

The data have identified contaminants of concern. A "contaminant of concern" is a hazardous waste that is sufficiently present in frequency and concentration in the environment to require evaluation for remedial action. Not all contaminants identified on the property are contaminants of concern. The nature and extent of contamination and environmental media requiring action are summarized in Exhibit A. Additionally, the RI Report contains a full discussion of the data. The contaminant(s) of concern identified at this site is/are:

1,1,1 TCA	POLYCHLORINATED BIPHENYLS (PCB)
TRICHLOROETHENE (TCE)	1,1 Dichloroethene

Based on the investigation results, comparison to the SCGs, and the potential public health and environmental exposure routes, certain media and areas of the site required remediation. These

media were addressed by the IRM(s) described in Section 6.2. More complete information can be found in the RI Report and the IRM Construction Completion Report.

6.2: 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.

The following IRM(s) has/have been completed at this site based on conditions observed during the RI.

Interim Remedial Action

The following components of the remedial program were conducted under the Voluntary Cleanup Program (Site No. V00066). The remedial program was undertaken following a public comment period and the scope of the action was set forth in the Voluntary Cleanup Agreement with the NYSDEC in 1997.

1. Soil/debris/concrete removal:

Approximately 7550 cubic yards (cy) of soil, debris and concrete were excavated from the site and managed as follows:

- Approximately 2050 cy of soil, debris and concrete with PCB concentrations greater than 100 parts per million (ppm) were disposed of off-site.
- Approximately 1025 cy of soil, debris and concrete with PCB concentrations between 50-100 ppm were placed in a consolidation area and capped as described below.
- Approximately 3980 cy of soil, debris and concrete with PCB concentrations between 11-49 ppm were placed under the Parking Lot Containment Area in the shopping center parking lot and covered as described below.
- Approximately 490 cy of soil debris and concrete with PCB concentrations between 1-10 ppm were excavated from areas under the building footprints and placed either within the Parking Lot Consolidation Area or in the Green Area Consolidation Area, and covered as described below.

All landscaped areas not covered by buildings or pavement were sampled to verify that PCBs in surficial soil did not exceed 1 ppm PCBs, or that soil containing 1 – 10 ppm PCB were covered with 12 inches of clean soil.

2. Consolidation Areas: Three consolidation areas were created at the site that contain PCB-contaminated soil, debris and concrete:

a. Part 360 Equivalent Consolidation Area:
Soil, concrete and debris with PCB concentrations ranging from 50 to 100 ppm were consolidated on-site in an approximately 1.4-acre mounded area located to the southeast of the supermarket. This material was compacted and covered with a cap meeting the substantive requirements of New York State Solid Waste Regulations (6NYCRR Part 360) at the time of

construction. This cap consists of a protective soil layer placed over the fill, a low permeability membrane placed between geofabric protective layers, a barrier protection layer of soil, and topsoil.

b. Parking Lot Consolidation Area:
Soil, concrete and debris with PCB concentrations ranging from 11 to 49 ppm were consolidated under an approximately 2.7 acre parking lot located directly south of the supermarket. The fill material was compacted and covered with a geotextile fabric and seven inches of compacted clean soil and followed by two layers of asphalt (subbase and top coat). Clean utility corridors were established in the parking lot area by removing all soil containing PCBs greater than 1 ppm to allow for the installation and maintenance of subgrade utilities such as parking lot lighting and storm drains.

c. Green Consolidation Area:
Soil, debris and concrete with PCB concentrations ranging from 1 – 10 ppm excavated from areas of building footprints were placed either in the Parking Lot Consolidation Area or in the Green Consolidation Area. The Green Consolidation Area is a mounded area located directly north of the supermarket and comprises approximately 0.75 acres. The fill material was compacted and covered with 12 inches of clean soil.

3. All surface soils contaminated with inorganic compounds (metals) at levels exceeding the Department's soil cleanup objectives (DHWR TAGM 4046) were either placed in one of the consolidation areas, or covered in place with 12 inches of clean soil.

4. All underground storage tanks and associated contaminated soil were removed and disposed off-site.

5. An Operation and Maintenance plan was developed, which provides for regular inspections of the integrity of the consolidation areas, as well as periodic monitoring of the groundwater and surface water.

6.3: 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.

Based upon the resources and pathways identified and the toxicity of the contaminants of ecological concern at this site, a Fish and Wildlife Resources Impact Analysis (FWRIA) was deemed not necessary for OU 01.

Nature and Extent of Contamination: Remedial work was completed in 1997 under the Voluntary Cleanup Program (Operable Unit-1A). The remedy addressed PCB, and inorganic soil contamination and was sufficient to allow the construction of a supermarket and bank. During the remedial work, a cover system was placed over the entire site which prevents exposure to contaminated subsurface soils. Below the constructed cover system subsurface soils

contain PCBs and inorganics above the Soil Cleanup Objectives required for commercial land use.

Groundwater monitoring of four on-site wells has been conducted by the Volunteer pursuant to the 1997 Voluntary Cleanup Agreement for this Site (#V00066). Groundwater sampling from 2013 noted low levels of chlorinated volatile organic compounds (CVOCs) including 1,1,1-trichloroethane (TCA), trichloroethylene (TCE), and 1,1-dichloroethene. Concentrations of the above CVOCs have generally been below the NYS Part 703 groundwater quality standards with the exception of one on-site well with TCA slightly above the NYS standard.

During the construction of the present commercial development, a storm water management system was installed as part of the cover system to prevent surface water from infiltrating into the contaminated subsurface soils. The storm water system discharges to the adjacent West Canada Creek.

Based on field observations, the site's soil contamination does not impact adjacent structures or ecological resources.

6.4: 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*.

Measures are in place to control the potential for coming in contact with subsurface soil and groundwater contamination remaining on the site. People are not drinking the contaminated groundwater because the area is served by a public water supply that is not affected by this contamination. Volatile organic compounds in the groundwater may move into soil vapor (air spaces within the soil), which in turn may move into overlying buildings and affect indoor air quality. This process, which is similar to the movement of radon gas from the subsurface into the air of buildings, is referred to as soil vapor intrusion. The potential for soil vapor intrusion to occur in on-site and off-site buildings needs to be evaluated.

6.5: 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 action objectives for this site are:

Groundwater

RAOs for Public Health Protection

- Prevent ingestion of groundwater with contaminant levels exceeding drinking water standards.
- Prevent contact with, or inhalation of volatiles, from contaminated groundwater.

RAOs for Environmental Protection

- Restore ground water aquifer to pre-disposal/pre-release conditions, to the extent practicable.

Soil

RAOs for Public Health Protection

- Prevent ingestion/direct contact with contaminated soil.

RAOs for Environmental Protection

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

Soil Vapor

RAOs for Public Health Protection

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

SECTION 7: SUMMARY OF SELECTED REMEDY

Based on the results of the investigations at the site, the IRM that has been performed, and the evaluation presented here, the Department is proposing No Further Action as the remedy for the site. This No Further Action remedy includes implementation of ICs/ECs (see below) as the proposed remedy for the site. The Department believes that this remedy is protective of human health and the environment and satisfies the remediation objectives described in Section 6.5, and expects that upon implementation of these elements the site will be reclassified to Class 4 on the Registry of Inactive Hazardous Waste Disposal Sites.

The elements of the IRMs already completed and the institutional controls are listed below:

1. Site Cover:

A site-wide cover currently exists and will be maintained to allow for commercial use of the site. Any site redevelopment will maintain a site cover, which may 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 applicable soil cleanup objectives (SCOs). Where a 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) for commercial use. The soil cover will be placed over a demarcation layer, with the upper six inches of the soil of sufficient quality to maintain a vegetation layer. Any fill material brought to the site will meet the requirements for the identified site use as set forth in 6 NYCRR Part 375-6.7(d).

2. Soil Vapor Intrusion Evaluation:

The potential for soil vapor intrusion will be evaluated for on-site buildings and off-site residential buildings between the downgradient (southeast) boundary of the site and East State Street, including provision for implementing actions recommended to address exposures related to soil vapor intrusion.

3. Environmental Easement

Imposition of an institutional control in the form of an environmental easement for the controlled property that:

- 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);
- allows the use and development of the controlled property for commercial and industrial uses as defined by Part 375-1.8(g), although land use is subject to local zoning laws;
- restricts the use of groundwater as a source of potable or process water, without necessary water quality treatment as determined by the NYSDOH or County DOH and;
- requires compliance with the Department approved Site Management Plan.

4. Site Management Plan:

A Site Management Plan is required, which includes the following:

a. 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 ensure the following institutional and/or engineering controls remain in place and effective:

Institutional Controls: The Environmental Easement discussed in Paragraph 3 above.
Engineering Controls: The consolidation cell and cover system described in Paragraph 1 above and Section 6.2.

This plan includes, but may not be limited to:

- an Excavation Plan which details the provisions for management of future excavations on the controlled property;
- descriptions of the provisions of the environmental easement restriction including any land use restrictions;
- provisions for the management and inspection of the consolidation cell and soil cover;
- maintaining site access controls and Department notification;
- the steps necessary for the periodic reviews and certification of the institutional controls.
- provision for evaluation of the potential for soil vapor intrusion for any buildings developed on the site, including provision for implementing action recommended to address exposures related to soil vapor intrusion, including associated operation and maintenance;

b. Monitoring Plan to assess the performance and effectiveness of the remedy. The plan includes, but may not be limited to:

- monitoring of groundwater and soil vapor intrusion to assess the performance and effectiveness of the remedy;

- a schedule of monitoring and frequency of submittals to the Department.

Exhibit A

Nature and Extent of Contamination

This section describes the findings of the 2012 Remedial Investigation and the confirmation soil sampling from the 1997 Interim Remedial Action (IRM) for all environmental media that were evaluated. As described in Section 6.1, samples were collected from various environmental media to characterize the nature and extent of contamination.

For each medium for which contamination was identified, 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 three categories; volatile organic compounds (VOCs), 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 SCGs identified in Section 4 and Section 6.1.1 are also presented.

Waste/Source Areas

As described in the 1997 Site Remediation Report, waste/source materials were identified at the site which are addressed by the IRM conducted in 1997. These source materials were either properly disposed off-site or managed in one of three consolidation 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 were substantial quantities of contaminants are found which can migrate and release significant levels of contaminants to another environmental medium.

Waste materials identified at the Burn Rite Site consist of soil and debris contaminated with PCBs. Three consolidation areas were created at the site that contain PCB-contaminated soil, debris and concrete. Figure 3 shows the location of the consolidation areas.

a. Part 360 Equivalent Consolidation Area:

Soil, concrete and debris with PCB concentrations ranging from 50 to 100 ppm were consolidated on-site in an approximately 1.4-acre mounded area located to the southeast of the supermarket. This material was compacted and covered with a cap meeting the substantive requirements of New York State Solid Waste Regulations (6NYCRR Part 360) at the time of construction. This cap consists of a protective soil layer placed over the fill, a low permeability membrane placed between geofabric protective layers, a barrier protection layer of soil, and topsoil.

b. Parking Lot Consolidation Area:

Soil, concrete and debris with PCB concentrations ranging from 11 to 49 ppm were consolidated under an approximately 2.7 acre parking lot located directly south of the supermarket. The fill material was compacted and covered with a geotextile fabric and seven inches of compacted clean soil and followed by two layers of asphalt (subbase and top coat). A clean utility corridor was established in the parking lot area by removing all soil containing PCBs greater than 1 ppm to allow for installation and maintenance of subgrade utilities such as parking lot lighting and storm drains

c. Green Area Consolidation Area:

Soil, debris and concrete with PCB concentrations ranging from 1 to 10 ppm excavated from areas of building footprints were placed either in the Parking Lot Consolidation Area or in the Green Area Consolidation Area. The Green Area Consolidation Area is a mounded area located directly north of the supermarket and comprises approximately 0.75 acres. The fill material was compacted and covered with 12 inches of clean soil.

The consolidation areas that were created by the 1997 Interim Remedial Measure contain the PCB wastes/source material from the site remediation. The waste/source areas do not pose a significant threat to public health and the environment since active/potential exposure routes are addressed by the installation and maintenance of containment cells.

Soil

Confirmation soil samples were collected during the 1997 IRM. The samples represent what remains at the site below the site-wide cover and the consolidation areas after the IRM was performed. The Table below presents a summary of the confirmation soil samples collected during the IRM. Figure 4 shows the locations (by Area) of the results that are presented in the table. In general, PCB levels in soil below the site-wide cover do not exceed the remedial goal of 10 ppm in subsurface soil with the exception of soil which is managed in Part 360 Equivalent Consolidation Area (see Figure 4, Area D). In this area 5 out of 36 samples exceed 10 ppm and one sample was as high as 44 ppm for PCBs. However, these soils are below the consolidation areas that contain soils which contains PCBs between 10 and 100 ppm and the area is covered with either an engineered Part 360 cover system or the supermarket parking lot cover. A few subsurface confirmation soil samples exceeded 10 ppm PCBs and are under located under the Supermarket Building (Area A) and under the Parking Lot Consolidation Area (Area B).

PCBs					
Area	Concentration Range Detected (ppm)[a]	Surface Soil SCG[b] (ppm)	Frequency Exceeding Surface Soil SCG	Subsurface Soil SCG[b] (ppm)	Frequency Exceeding Surface Soil SCG
Total	0.21-44	1	31 of 90	10	7 of 90
Area A (Under Supermarket)	<1-37	1	7 of 25	10	1 of 25
Area B (Under Parking Lot)	0.29-11	1	3 of 10	10	1 of 10
Area C (East of Supermarket)	<1-7	1	2 of 7	10	0 of 7
Area D (Part 360 Area)	<1-44	1	12 of 36	10	5 of 36
Area E (Under Parking Lot)	0.21-9.5	1	4 of 8	10	0 of 10
Area F (East of Bank)	0.84-7.6	1	3 of 4	10	0 of 10

a - ppm: parts per million, which is equivalent to milligrams per kilogram, mg/kg, in soil.
b- SCG: Standard Criteria or Guidance – Commissioner Policy 51 (CP-51) Soil Cleanup Objectives

Concentrations of inorganics in soil indicate that soil below the site-wide cover does not exceed the SCG.

Detected Constituents	Concentration Range Detected (ppm)[a]	Unrestricted SCG[b] (ppm)	Frequency Exceeding Unrestricted SCG	Residential Use SCG[c] (ppm)	Frequency Exceeding Restricted SCG
Inorganics					
Arsenic	<0.05-<2.5	13	0 of 6	16	0 of 6
Barium	0.09-78	350	0 of 6	400	0 of 6
Cadmium	<0.005-7.9	2.5	1 of 6	9.3	0 of 6
Chromium	<0.005-12.2	1	1 of 6	400	0 of 6
Cyanide	<1	27	0 of 1	27	0 of 1
Lead	<0.1-360	63	1 of 6	1,000	0 of 6
Mercury	<0.0005-2.7	0.18	1 of 6	2.8	0 of 6
Selenium	<0.05-<2.5	3.9	0 of 6	1,500	0 of 6
Silver	<0.02-<1	2	0 of 6	1,500	0 of 6

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 Use Soil Cleanup Objectives for the Protection of Public Health for Commercial Use, unless otherwise noted.

Soil contamination identified during confirmation soil sampling was addressed during the IRM described in Section 6.2.

Soil Vapor

No soil vapor samples have been collected at the site. The potential for soil vapor intrusion into on-site and off-site buildings will be evaluated as an element of the remedy.

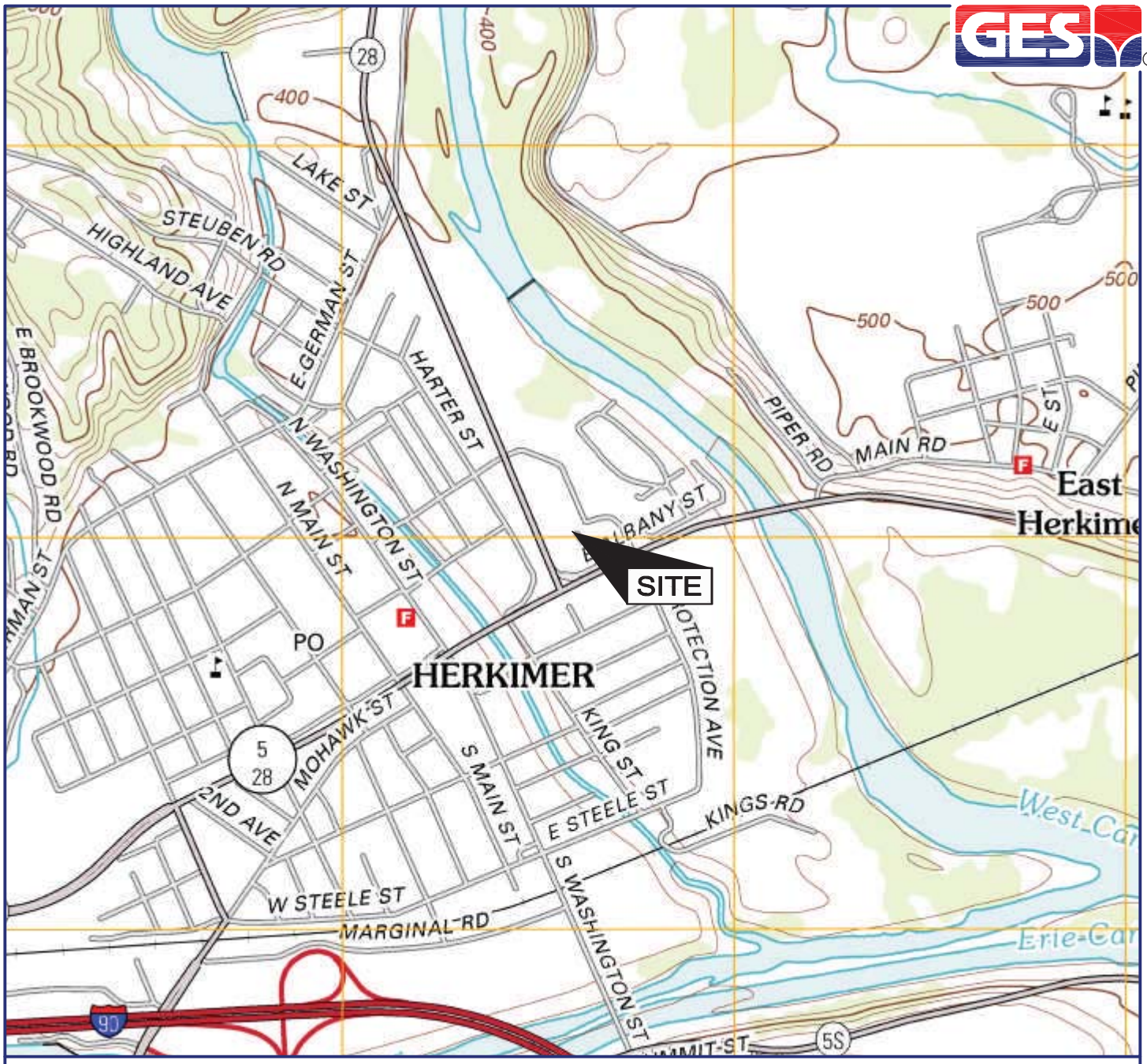
Groundwater

Groundwater samples were collected from the 7 overburden monitoring wells during the remedial investigation conducted in 2013. The samples were collected to assess groundwater conditions on-site and to judge if site related contamination is moving off-site. Figure 5 and 6 show locations of monitoring wells. No inorganic (metals) were detected above the appropriate SCGs. Detectable concentrations of PCBs were not present in any of the groundwater samples. The results did indicate that shallow groundwater contains levels of volatile organic compounds at, and just below, the SCG. VOCs were also detected in the upgradient monitoring well just below the SCG indicating the possibility of a low level upgradient source of groundwater contamination. The site is located in the Village of Herkimer and the area is serviced by a public water supply.

Detected Constituents	Concentration Range Detected (ppb)[a]	SCG[b] (ppb)	Frequency Exceeding SCG
VOCs			
1,1,1-Trichloroethane	1.1-5.5	5	1 of 16
1,1,2-Trichloro-1,2,2-trifluoroethane	0.34-0.38	5	0 of 2
1,1-Dichloroethene	0.46-0.69	5	0 of 6
Acetone	3.9	50	0 of 1
Chloroform	0.2-8.3	7	2 of 16
Tetrachloroethene	0.46-0.61	5	0 of 2
Trichloroethene	0.56-1.60	5	0 of 3

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).

No site-related groundwater contamination of concern was identified during the RI. Therefore, no remedial alternatives need to be evaluated for groundwater.



SOURCE: USGS 7.5 MINUTE SERIES
TOPOGRAPHIC QUADRANGLE 2013
HERKIMER, NEW YORK
CONTOUR INTERVAL = 20'

QUADRANGLE LOCATION

DRAFTED BY: W.G.S. (N.J.)	SITE LOCATION MAP
CHECKED BY:	NYSDEC FORMER BURN RITE ROUTES 5 & 28 HERKIMER, NEW YORK
REVIEWED BY:	
NORTH	Groundwater & Environmental Services, Inc. 70 JON BARRETT ROAD, ROBIN HILL CORP. PARK, PATTERSON, NY 12563

SCALE IN FEET	DATE	FIGURE
0 — 2000	1-14-15	1

M:\Graphics\1100-Patterson-LHV\Misc\NYSDEC\Herkimer\Herkimer SLM.dwg, Layout1 (2), 1/14/2015 1:57:53 PM, WShea

N
W E
S

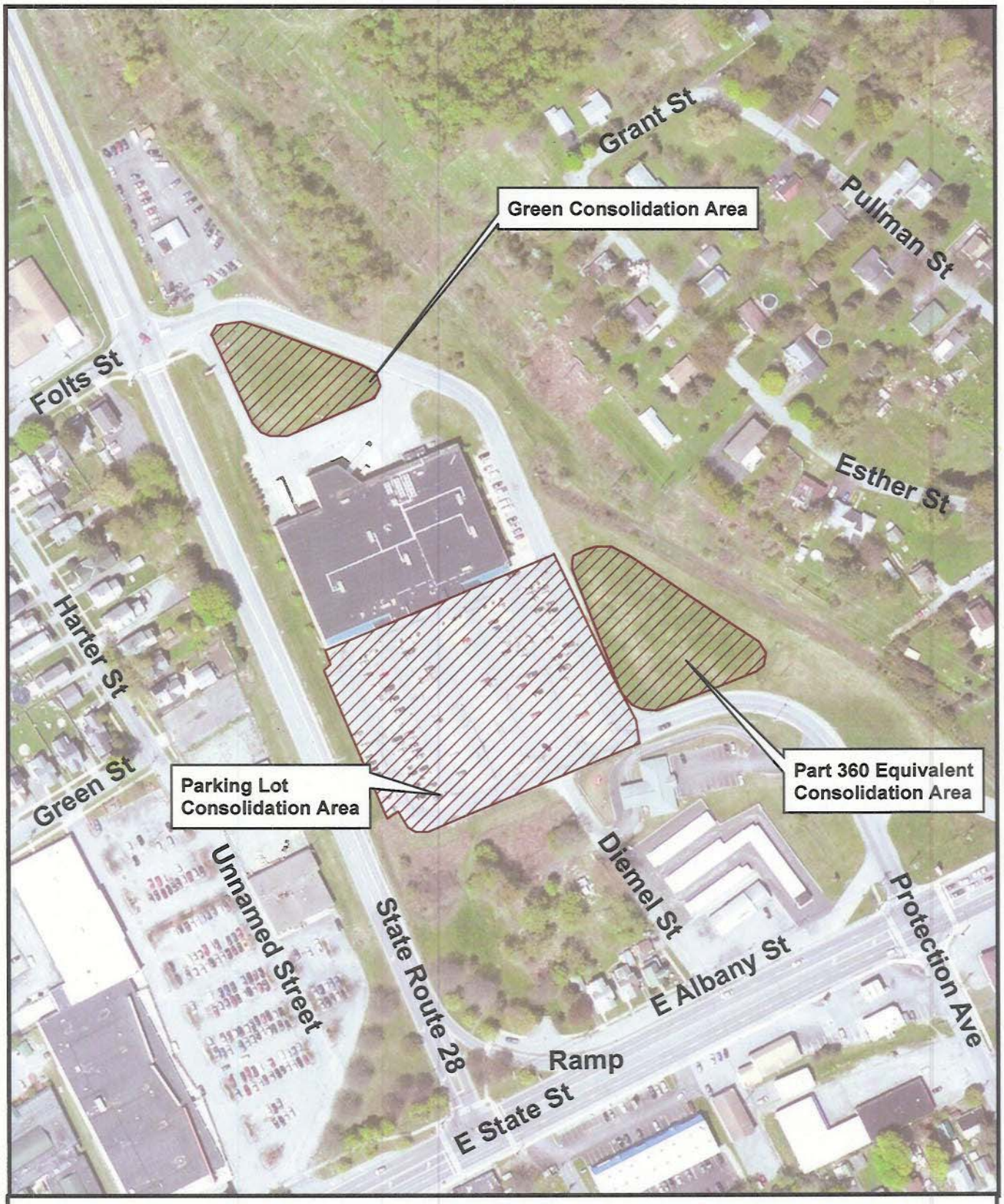
0 100 200
Feet

Figure 2

Site Map

Burn Rite Coal, Scrap and Salvage Co.
Town of Herkimer, Herkimer County
Site No. 6-22-014

DEPARTMENT OF ENVIRONMENTAL CONSERVATION • NEW YORK STATE •



N
W E
S

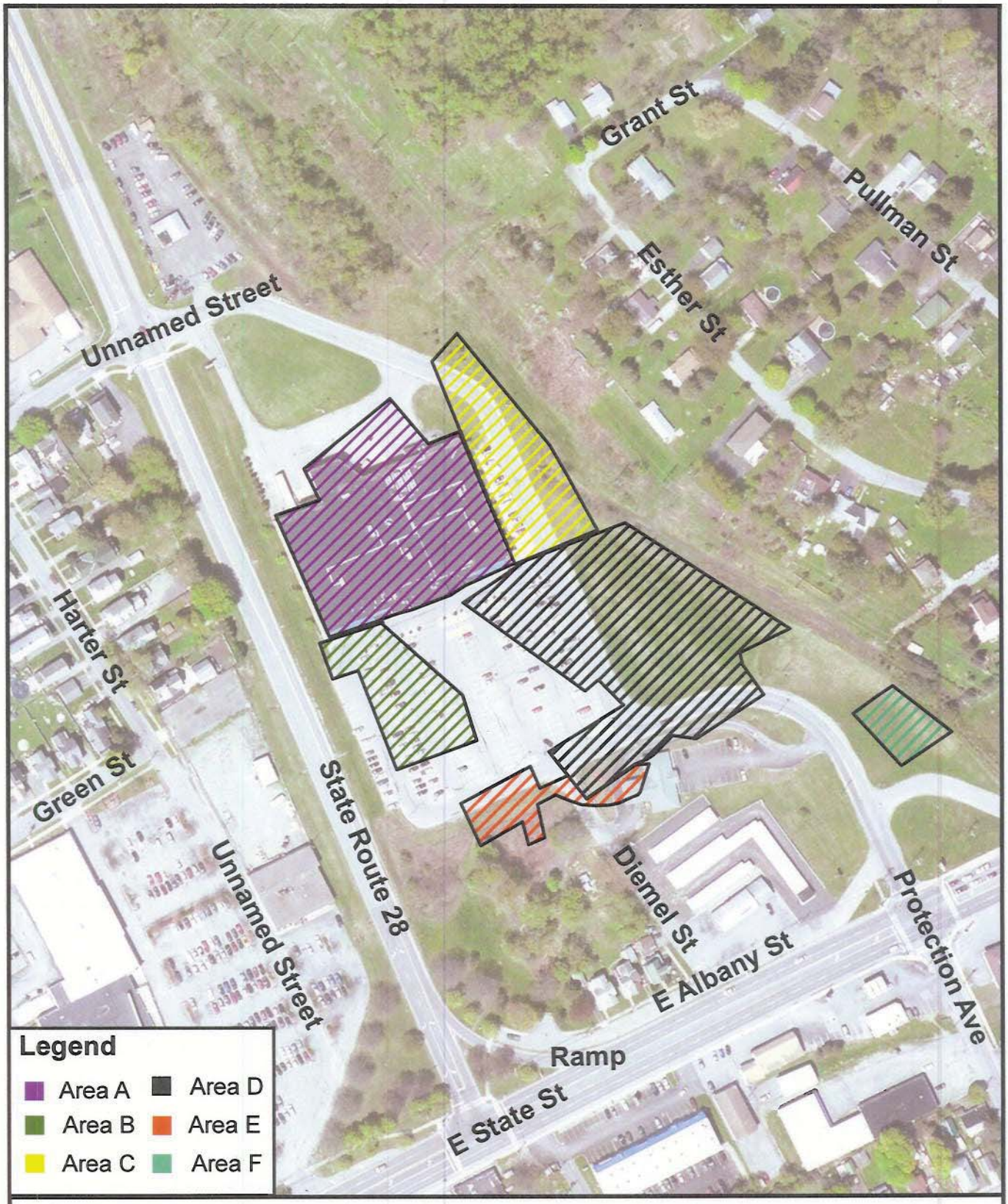
0 100 200
Feet

Figure 3

Soil Consolidation Locations

Burn Rite Coal, Scrap and Salvage Co.
Town of Herkimer, Herkimer County
Site No. 6-22-014

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
NEW YORK STATE



N
W E
S

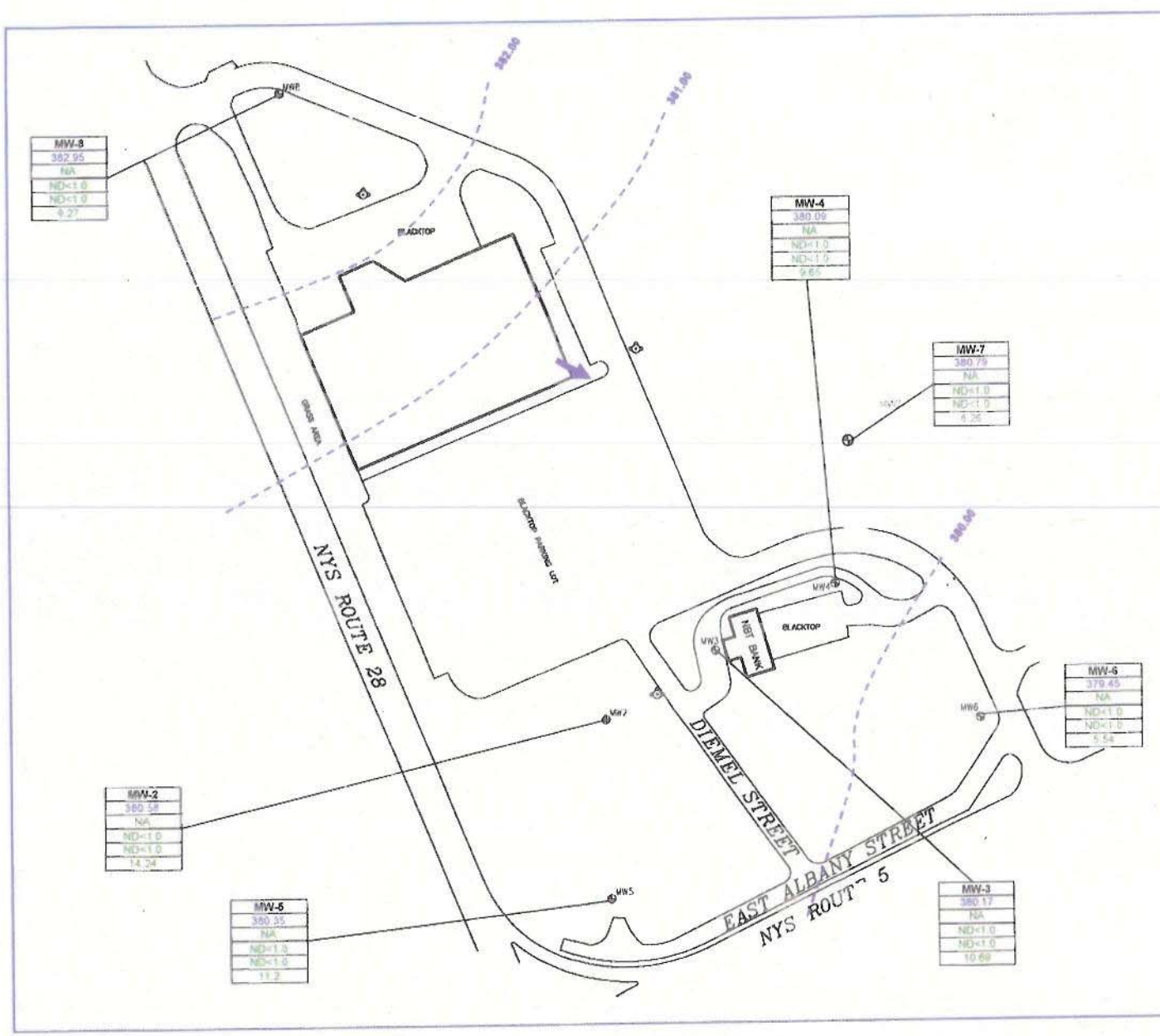
0 100 200
Feet

Figure 4

IRM Confirmatory Soil Sampling Areas

Burn Rite Coal, Scrap and Salvage Co.
Town of Herkimer, Herkimer County
Site No. 6-22-014

DEPARTMENT OF ENVIRONMENTAL CONSERVATION • NEW YORK STATE •



LEGEND

FIRE HYDRANT

MONITORING WELL

INFERRED GROUNDWATER FLOW DIRECTION

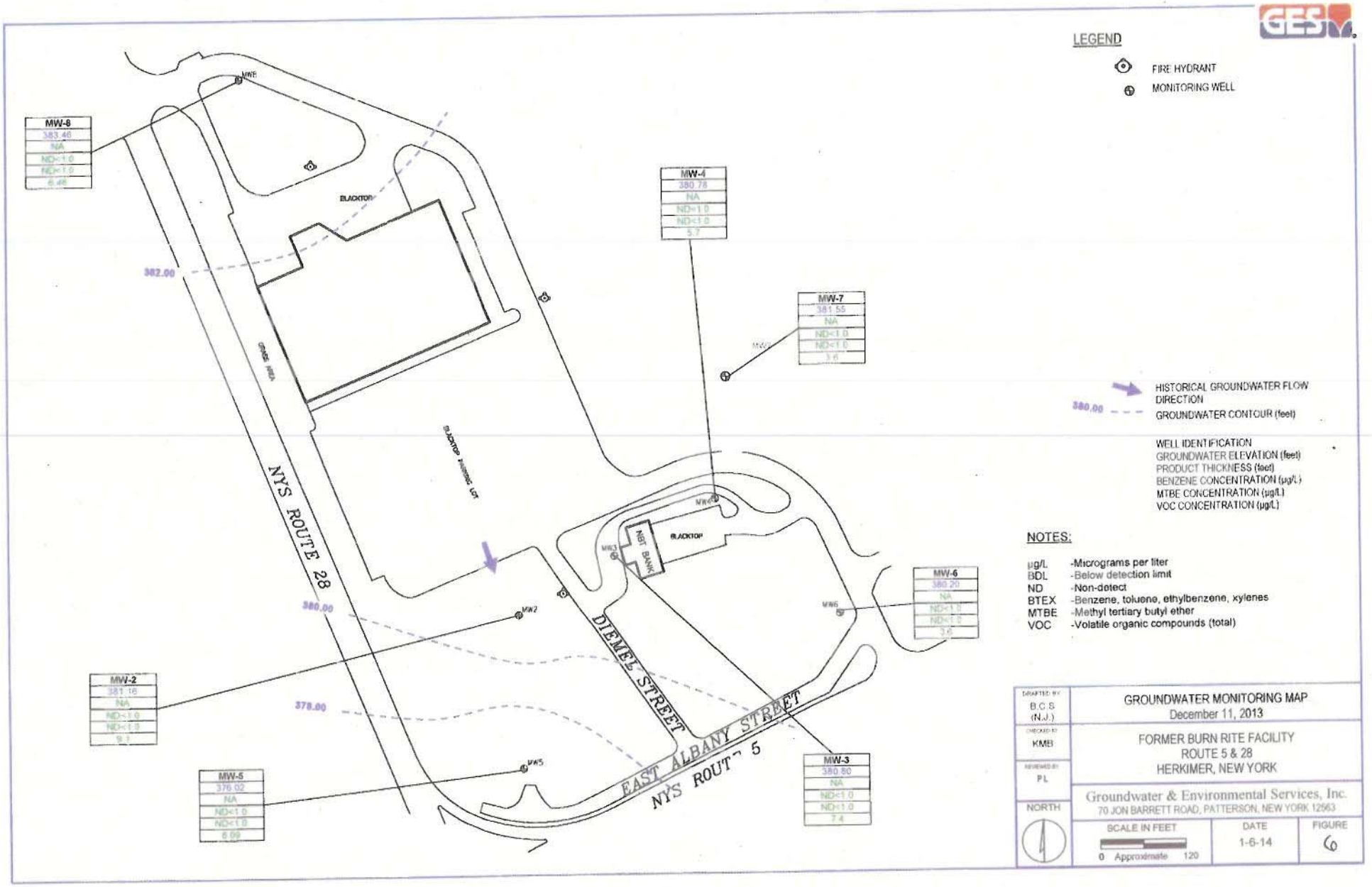
380.00 GROUNDWATER CONTOUR (feet)

MW-7	WELL IDENTIFICATION
380.79	GROUNDWATER ELEVATION (feet)
NA	PRODUCT THICKNESS (feet)
ND<1.0	BENZENE CONCENTRATION (µg/L)
ND<1.0	MTBE CONCENTRATION (µg/L)
6.26	VOC CONCENTRATION (µg/L)

NOTES:

µg/L -Micrograms per liter
BDL -Below detection limit
ND -Non-detect
BTEX -Benzene, toluene, ethylbenzene, xylenes
MTBE -Methyl tertiary butyl ether
VOC - Volatile organic compounds (total)

DRAFTED BY B.C.S (N.J.)	GROUNDWATER MONITORING MAP October 25, 2013
CHECKED BY KMB	FORMER BURN RITE FACILITY ROUTE 5 & 28 HERKIMER, NEW YORK
REVIEWED BY PL	Groundwater & Environmental Services, Inc. 70 JON BARRETT ROAD, PATTERSON, NEW YORK 12563
NORTH	SCALE IN FEET 0 Approximate 120 / DATE 12-18-13 / FIGURE 5


LEGEND
FIRE HYDRANT
MONITORING WELL
HISTORICAL GROUNDWATER FLOW DIRECTION
380.00 GROUNDWATER CONTOUR (feet)
WELL IDENTIFICATION
GROUNDWATER ELEVATION (feet)
PRODUCT THICKNESS (feet)
BENZENE CONCENTRATION (µg/L)
MTBE CONCENTRATION (µg/L)
VOC CONCENTRATION (µg/L)
NOTES:
µg/L -Micrograms per liter
BDL -Below detection limit
ND -Non-detect
BTEX -Benzene, toluene, ethylbenzene, xylenes
MTBE -Methyl tertiary butyl ether
VOC -Volatile organic compounds (total)
MW-8
383.46
NA
ND<1.0
ND<1.0
6.46
MW-4
380.78
NA
ND<1.0
ND<1.0
5.7
MW-7
381.55
NA
ND<1.0
ND<1.0
3.6
MW-6
380.20
NA
ND<1.0
ND<1.0
3.6
MW-2
381.16
NA
ND<1.0
ND<1.0
9.1
MW-5
376.02
NA
ND<1.0
ND<1.0
6.09
MW-3
380.80
NA
ND<1.0
ND<1.0
7.4
382.00
380.00
378.00
NYS ROUTE 28
DIEMEL STREET
EAST ALBANY STREET
NYS ROUTE 5
BLACKTOP
BLACKTOP PARKING LOT
GRASS AREA
NBT BANK
NORTH
DRAFTED BY B.C.S (N.J.)
CHECKED BY KMB
REVIEWED BY PL
GROUNDWATER MONITORING MAP
December 11, 2013
FORMER BURN RITE FACILITY
ROUTE 5 & 28
HERKIMER, NEW YORK
Groundwater & Environmental Services, Inc.
70 JON BARRETT ROAD, PATTERSON, NEW YORK 12563
SCALE IN FEET
0 Approximate 120
DATE 1-6-14
FIGURE 6

APPENDIX A

Responsiveness Summary

RESPONSIVENESS SUMMARY

Burn Rite Coal, Scrap and Salvage Co.
State Superfund Project
Town of Herkimer, County of Herkimer, New York
Site No. 622014

The Proposed Remedial Action Plan (PRAP) for the Burn Rite Coal Scrap and Salvage 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 November 6, 2014. The PRAP outlined the remedial measure proposed for the contaminated soil and groundwater at the Burn Rite Coal Scrap and Salvage 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 November 12, 2014, which included a presentation of the remedial investigation, the Voluntary Cleanup Program (VCP) Remedial Action preformed in 1997, the Operation and Maintenance data collected at the site under VCP, and the Superfund Groundwater Investigation for the Burn Rite Coal Scrap and Salvage 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 December 10, 2014.

This responsiveness summary responds to all questions and comments raised during the public comment period. The following are the comments received, with the Department's responses:

COMMENT 1:

Was air monitoring conducted when there is digging in the contaminated soils and will there be air monitoring in the future?

RESPONSE 1:

During the remediation in 1997, air monitoring and dust control measures were in place during the remediation of the site, conducted by the remedial contractor, to minimize the creation and migration of contaminated dust and vapors. From a review of the 1997 Final Report, there were no identified cases where action levels were exceeded during the remedial work.

During the monitoring well installation in 2013, air monitoring for vapors and particulates was also conducted at the work site. There were no exceedances of action levels.

A Site Management Plan (SMP) will be developed that will address any future actives at the site. The SMP will include a soil excavation plan that details how any excavated soil will be investigated, managed and disposed. The SMP will be referenced in the Environmental Easement

so that any future site owner(s) will be aware of the SMP requirements should any future development plans change the present site conditions. As will be included in the SMP, any future remedial work will also be done in accordance with the approved site specific community air monitoring plan to ensure that contaminated particulates and vapors do not migrate at levels of concern to the surrounding community

COMMENT 2:

Are there protections in place below the building to prevent exposure to the contamination in the soil?

RESPONSE 2:

The 1997 remediation removed soil containing PCBs greater than 1 ppm from under the on-site building footprint. Clean soil was imported and placed in these areas to achieve final grades prior to construction of the site buildings. Also see Response 1 regarding the SMP.

COMMENT 3:

Is there monitoring of surface water?

RESPONSE 3:

Following the 1997 remediation, site related storm water was monitored for site specific contaminants. No site specific constituents of concern were found in the on-site storm water.

COMMENT 4:

What happens if there is digging in area in the future?

RESPONSE 4:

See Response 1.

COMMENT 5:

Is there any contamination offsite?

RESPONSE 5:

There is presently no indication that site contamination has migrated off-site in groundwater or the soil. However, due to the presence of low levels of volatile organic compounds in on-site groundwater (which is below the NYS Groundwater Standards), there is a potential for soil vapor intrusion to occur in nearby buildings. Therefore, the potential for soil vapor intrusion to occur on-site and off-site will be evaluated this current heating season.

COMMENT 6:

Why was December chosen for the groundwater well sampling?

RESPONSE 6:

Two rounds of groundwater sampling and analysis were performed, one in October and one in December of 2013, as part of the Groundwater Investigation Study. Both rounds were scheduled for completion in the last quarter of 2013. The December sampling provided a confirmation of the first round results, and sampling in winter was useful in the evaluation of the potential for soil vapor intrusion.

COMMENT 7:

We have observed flooding in the area of the site. Some houses near the site have had basement flooding in their homes. Have there been complaints from Hannaford about flooding of their building? Does the flooding impact the contamination remaining on-site?

RESPONSE 7:

The Department has not received any notification from the site owner or operators regarding concerns about flooding. Since 1997, the site has been inspected annually and any observed erosion of the site cover system has been evaluated and addressed. The SMP to be developed for the site will continue the periodic site inspection process.

COMMENT 8:

How is the Superfund program different from the Voluntary Cleanup program?

RESPONSE 8:

The State Superfund program commenced in 1982 and is for sites that are considered a significant threat to human health and the environment. The Burn Rite site was added to the State Registry of Inactive Hazardous Waste Disposal Sites in 1988, just after the salvage yard closed.

The site's volunteer entered the Voluntary Cleanup Program (VCP) in 1997 and conducted the remedy for the site. The VCP site and the State Superfund site have the same site boundaries. The VCP is an older New York State administrative program that focused on the cleanup and redevelopment of contaminated sites in New York by volunteers. Sites can no longer enter the VCP, but new sites can enter the Brownfield Cleanup Program, the current remedial program for volunteers wishing to clean up contaminated sites for redevelopment.

The Superfund registry listing of the site remained in place after the VCP cleanup was complete which enabled the State to perform a more thorough evaluation of chlorinated volatile organic

solvent contamination in groundwater. The work recently conducted by the Department addressed these concerns and led to the remedy selected for the site.

COMMENT 9:

Do the contaminants found at the site bioaccumulate and what will happen to the contaminants over time?

RESPONSE 9:

The main contaminants addressed by the 1997 remediation are polychlorinated biphenyls (PCBs) and inorganics (metals), both which can bioaccumulate if chronic exposure to them were to occur. However, the contamination that remains at the site has been placed under the cover system installed during the 1997 remediation, controlling any potential exposures. These contaminants are not mobile and will remain in place and will be managed under the Site Management Plan that will be developed for the site.

COMMENT 10:

Is soil vapor intrusion an issue at this site?

RESPONSE 10:

Due to the presence of low levels of volatile organic compounds in the groundwater, there is a potential for soil vapor intrusion to occur in nearby buildings. Therefore, the potential for soil vapor intrusion to occur on-site and off-site will be evaluated this current heating season. The sampling is recommended for the heating season, because soil vapor intrusion is more likely to occur when a building's heating system is in operation and doors and windows are closed.

COMMENT 11:

Did the neighborhood around the site receive notice of the public meeting?

RESPONSE 11:

A fact sheet announcing the public meeting was developed and published to the Department's Listserv e-mail service, which included several local media outlets. In addition, fact sheets were mailed to all adjacent property owners.

The volunteer under the VCP, Ventura-Herkimer LLC submitted a letter dated December 9, 2014, which included the following comments:

COMMENT 12:

Update Figure 1 as the topographic map is from 1943 and does not show the intersection of Route 28 and Route 5.

RESPONSE 12:

The figure will be revised.

COMMENT 13:

Requested additional language to Section 5 (Enforcement Status) of the PRAP regarding the work conducted under the Voluntary Cleanup Agreement (VCA).

RESPONSE 13:

The ROD has so been revised.

COMMENT 14:

Request changing the date of the VCA as presented in Section 6.2 (Interim Remedial Measure).

RESPONSE 14:

The ROD has been revised as requested.

COMMENT 15:

Request to change Section 6.4 (Summary of the Human Exposure Pathway) to remove the reference of groundwater contamination.

RESPONSE 15:

One on-site monitoring well in the center of the site consistently shows groundwater contamination by chlorinated volatile organics above the NYS Groundwater Standards. As such, the reference to groundwater contamination will remain.

COMMENT 16:

Request to change Section 7.0 (Summary of the Proposed Remedy). An Environmental Easement (EE) is not required and Ventura-Herkimer LLC will not consent to placement of an EE.

RESPONSE 16:

The Burn Rite Site is listed on the Registry of Inactive Hazardous Waste Disposal Sites in the State of New York as a Class 2 site. Environmental Conservation Law (ECL §27-1318) requires that the owner of an inactive hazardous waste disposal site, and/or any person responsible for implementing a remedial program at such a site, where institutional or engineering controls are employed, to execute an environmental easement. It is our understanding that Ventura Development did place a deed restriction on the site that restricts the site to commercial land use. However, this deed restriction did not include important components that are necessary to manage the contamination remaining at the site and to protect the public health. These necessary components include a groundwater use restriction, reference to a Site Management Plan to manage remaining subsurface contamination, periodic certifications to the Department that the engineering and institutional controls are in place, and access to the site for the Department to monitor the protectiveness of the remedy. Failure to grant an environmental easement would be a violation of New York State Environmental Conservation Law and result in the site remaining a class 2 until such time as the remedy set forth in this ROD is implemented. The remedy requires placing an environmental easement on the site property.

COMMENT 17:

Any Site Management Plan (SMP) must be consistent with the provision of the Voluntary Cleanup Agreement.

RESPONSE 17:

In general, the SMP that will be developed for the site will not contradict the requirements of the VCA, which calls for post-remedial monitoring and maintenance of the site. However, the SMP must also include additional provisions to protect public health and the environment. For example, the need to evaluate soil vapor intrusion and a soil management plan to address potentially excavated subsurface soils if future development occurs.

COMMENT 18:

Requests change in language to Exhibit A (Waste and Source Areas) regarding source material management.

RESPONSE 18:

The ROD has been revised to reflect that source material was either properly disposed off-site or managed in one of the three consolidation areas. Further, the apparent duplicate language in this section of the exhibit will be removed.

COMMENT 19:

Requests change in language to Exhibit A regarding the description of the clean utility corridor in the Parking Lot Consolidation Area.

RESPONSE 19:

The ROD has been revised as requested

COMMENT 20:

Requests change in language to Exhibit A regarding the description of the site groundwater.

RESPONSE 20:

The ROD has been revised as requested.

APPENDIX B

Administrative Record

ADMINISTRATIVE RECORD

Burn Rite Coal, Scrap and Salvage Co.
State Superfund Project
Town of Herkimer, County of Herkimer, New York
Site No. 622014

1. Proposed Remedial Action Plan for the Burn Rite Coal, Scrap and Salvage Company Site, dated November 2014, prepared by the NYSDEC.

2. Comments to the NYSDEC Proposed Remedial Action Plan, dated November 2014, Burn Rite Site, Herkimer NY (NYSDEC Site No. 622014), Submitted by Ventura-Herkimer LLC.

3. "Subsurface Investigation Report, Former Burn Rite Facility, Route 5 & 28, Herkimer, New York", dated January 2014, prepared for the NYSDEC by Groundwater Environmental Services.

4. "Ventura Herkimer, LLC, VCP Site Remediation Report; Burn Rite Salvage Yard; Herkimer, New York", dated September 16, 1997, prepared by Adirondack Environmental Services, Inc.

5. "Voluntary Agreement Index Number R6-0002-96-10" between NYSDEC and William Feinstein d/b/a Ventura Development Company for "Burn Rite Salvage Site No V00066", dated May 12, 1997.

6. "Ventura Development Company, VCP Site Remediation Plan, Burn Rite Salvage Yard, Herkimer, New York", dated February 24, 1997, prepared by Adirondack Environmental Services, Inc.

7. "Additions/Changes to Registry, Inactive Hazardous Waste Site, Burn Rite Coal, Scrap and Salvage", class of the site to a class 2, dated February 12, 1989, prepared by NYSDEC staff.