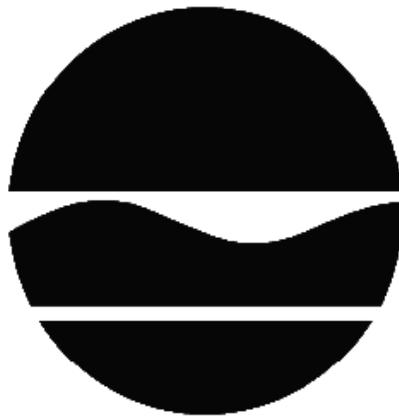


RECORD OF DECISION

JMT Properties Inc., Facility
Former G.E. and Black & Decker Site
Operable Unit Numbers: 05, 06
State Superfund/RCRA Project
Brockport, Monroe County
EPA ID#NYD002221919 – Registry Site No. 828003
September 2012



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

DECLARATION STATEMENT - RECORD OF DECISION

JMT Properties, Inc., Facility
(Former G.E. and Black & Decker Site)
Operable Unit Numbers: 05 and 06
RCRA/State Superfund Project
Brockport, Monroe County
Site No. 828003
September 2012

Statement of Purpose and Basis

This document presents the remedy for Operable Unit Numbers: 05: Storm Sewer and PCB Contaminated Soil (On-Site) and 06: Waste oil container storage area (CSA), Outside CSA, Degreaser Area of the Former G.E. and Black & Decker 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) Parts 373 and 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 Operable Unit Numbers: 05 and 06 of the Former G.E. and Black & Decker 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

For OU: 05

The elements of the selected remedy are as follows:

Operable Unit 05 (OU05) is the storm sewer system and PCB-contaminated soils located at the 200 State Street site. Elements of the remedy for OU05 included storm sewer cleaning and sediment removal, storm sewer replacement of pipe and manholes, relining storm sewer lines, excavation and off-site disposal of soils related to PCB contamination. Sewer replacement and relining also addressed infiltration of VOC contaminated groundwater. These actions were performed as interim measures associated with this operable unit.

Some residual PCB contamination remains at the site under the main manufacturing building in the vicinity of Line 2 of the Storm Sewer system. Controls to limit potential future exposures to this material are part of the remedy.

EPA/DEC coordinated emergency removal action conducted during 2010 to drain PCB oil from transformers located on the site. As part of the remedy, the equipment that contained the PCB oil will be removed from the site.

For OU: 06

The elements of the selected remedy are as follows:

Operable Unit 06 (OU06) is the waste oil container storage area, outside container storage area and degreaser areas that were located in/near the courtyard area on the east side of the main building at the 200 State Street site. The OU06 remedy adopts interim measures that were taken to control the infiltration of chlorinated volatile organic compounds into the storm water network. This included removal and replacement of storm sewer structures/pipes with water-tight designs in several areas at the 200 State Street site.

Storm water quality monitoring was performed and demonstrated the effectiveness of the interim measures.

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.

October 15, 2012



Date

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

RECORD OF DECISION

JMT Properties, Inc. Facility
(Former G.E. and Black & Decker Site)
Brockport, Monroe County
EPA ID#NYD002221919/Site No. 828003
September 2012

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 has resulted in threats to public health and the environment that would be addressed by the remedy. The disposal of hazardous wastes at this site, as more fully described in Section 6 of this document, has contaminated various environmental media. The remedy is intended to attain the remedial action objectives identified for this site for the protection of public health and the environment. This Record of Decision (ROD) identifies the selected remedy, summarizes the other alternatives considered, and discusses the reasons for selecting the remedy.

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 New York State Hazardous Waste Management Program (also known as the RCRA Program) requires corrective action for releases of hazardous waste and hazardous constituents to the environment. This facility is subject to both programs.

The Department has issued this document in accordance with the requirements of New York State Environmental Conservation Law and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR) Parts 373 (RCRA) and 375 (State Superfund). 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 repositories:

Seymour Library
161 East Avenue
Brockport, NY 14420
Telephone (585) 637-1050

Brockport Village Offices
18 State Street
Brockport, NY 14420
Telephone (585) 637-1044

A public meeting was also conducted. At the meeting, the findings of the site investigations 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

Location:

The JMT Properties site is located at 200 State Street, in an industrial area, on the east side of the Village of Brockport.

Site Features:

The main feature of the approximately 28 acre property is a large abandoned building, surrounded by parking areas and access roads. There are also several small sheds/buildings located on the east side of the main building. The southern part of the site includes some open, grassy areas, and some wooded areas. The New York State Barge Canal is across the street, on the north side of the site. Storm water from the site is conveyed under the canal, to the north side, where the storm sewer discharges to Tributary #3 to Brockport Creek.

Current Zoning/Use(s):

The site is currently inactive, and is zoned for industrial use. The surrounding parcels are currently used for a combination of commercial and industrial uses, mainly related to frozen food processing and storage. The nearest residential area is approximately 0.1 miles north, on the north side of the canal.

Historic Use(s):

The site was historically used for the manufacturing of house-wares, and was operated by General Electric between 1946 and 1983, and then by Black & Decker from 1984-1986, when house-wares production ended. In 1988, Black & Decker sold the facility to the County of Monroe Industrial Development Agency (COMIDA). COMIDA leased the property to Kleen-Brite Laboratories who used the facility for the storage and packaging of detergents and other cleaning products. The site was subsequently acquired from COMIDA by JMT Properties, Inc. in 1992, and Kleen-Brite continued to use the site for storage and packaging of detergents and other cleaning products.

Historic operations included a wastewater treatment plant for industrial discharges from house-ware metal plating operations. The treatment plant included six lagoons and a sludge drying bed. The lagoons were closed under an NYSDEC approved closure plan in 1986. Closure activities involved the removal of 4,170 tons of sludge, contaminated soils and the lagoon liners. Prior to closure, volatile organic compounds (VOCs) were identified in groundwater wells monitoring the lagoons. In response, a groundwater pump and treat system was built in 1987 and began operating in 1988. Treated groundwater is discharged to the Barge Canal under a DEC permit.

Operable Units:

The site was divided into seven operable units. An operable unit represents a portion of a remedial program for a site that for technical or administrative reasons can be addressed separately to investigate, eliminate or mitigate a release, threat of release or exposure pathway resulting from the site contamination.

Operable Unit 01 (OU 01) is the Lagoon Closure mentioned above. The remedy for this operable unit has been addressed in a separate decision document.

OU 02 consists of the On-Site (200 State Street) Groundwater. The remedy for this operable unit has been addressed in a separate decision document.

OU 03 is the Prior Sludge Application Area, an on-site area located primarily to the south of the main building, where sludge historically removed from the lagoons was placed. The remedy for this operable unit has been addressed in a separate decision document.

OU 04 is the Off-Site Groundwater, and includes the related off-site soil vapor intrusion evaluation. The remedy for this operable unit is being addressed in a separate decision document.

OU 05 is the On-Site Storm Sewer and PCB Contaminated Soil.

OU 06 is Waste Oil Container Storage Area, Outside Container Storage Area and Degreaser Area, and includes the related on-site soil vapor intrusion evaluation.

OU 07 is the Off-Site Storm Water Drainageway, and includes the off-site storm sewer network and Tributary #3 to Brockport Creek. The remedy for this operable unit has been addressed in a separate decision document.

Site Geology and Hydrogeology:

The site soils (overburden) are a relatively thin (5-20 feet) deposit of glacially derived material, overlying sedimentary bedrock. The soils have low permeability and tend to be poorly drained. The bedrock consists of sandstone, siltstone and shale. The natural groundwater flow is towards the north, with flow predominately occurring through fractures/higher permeability features of the bedrock.

Site Status:

Upon implementation of the selected remedy OU 05 and 06 (a remedial decision for OU 04 is being processed concurrently, but in a separate document), this facility will transition into the site management phase of long-term operation, monitoring and maintenance of the site.

Operable Units (OU) Number 05 (On-Site Storm Sewer and PCB Contaminated Soil) and 06 (Waste Oil Container Storage Area (CSA), Outside CSA, Degreaser Area) are the subject of this document. Aside from OU 04 noted above, decision documents for the remaining operable units associated with this site were issued previously.

A site location map is attached as Figure 1. Figure 2 shows the JMT Properties facility.

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. Since this site is currently zoned for industrial use, anticipated commercial and industrial uses were considered when evaluating the soil remediation.

A comparison of the results of the investigation against various use standards, criteria and guidance values (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:

JMT Properties, Inc.

Kleen-Brite Chemical Company, Inc.

Kleen-Brite Laboratories, Inc.

County of Monroe Industrial Development Agency (COMIDA)

Stanley/Black & Decker (U.S.) Inc.

General Electric Company

This facility was issued a 6NYCRR Part 373 RCRA Post-Closure Permit (NYSDEC Permit No.: 8-2652-00030/00001-0) in 1994. JMT Properties, Inc. and Black & Decker (U.S.) Inc. were named as co-permittees in that permit. The permit will be renewed or replaced with another legal mechanism to implement the selected remedy. DEC may replace the permit with a corrective action consent order to administer post-closure care and corrective action obligations for the facility.

SECTION 6: SITE CONTAMINATION

6.1: Summary of the Site Investigations

Investigations were conducted to define the nature and extent of contamination resulting from previous activities at the site. The field activities and findings of the investigations are described in reports available at the document repositories noted above.

The following general activities are typically conducted during an RI:

- Research of historical information,
- 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, if present,
- Ecological and Human Health Exposure Assessments, if warranted.

The analytical data collected for Operable Units 05 and 06 includes data for:

- groundwater
- surface water
- soil
- storm sewer solids
- soil vapor
- indoor air

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 associated with OU 05 and 06 are present at levels of concern, the data from the site investigations 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 SCGs in the footnotes. For a full listing of all SCGs see: <http://www.dec.ny.gov/regulations/61794.html>

6.1.2: Investigation Results

The data have identified contaminants of concern. A "contaminant of concern" is a hazardous contaminant 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 site investigation reports contain a full discussion of the data. The contaminant(s) of concern identified at this site is/are:

For OU: 05

Polychlorinated Biphenyls (PCBs)

For OU: 06

Trichloroethene (TCE)
cis-1,2-Dichloroethylene

Vinyl Chloride

As illustrated in Exhibit A, the contaminant(s) of concern exceed the SCGs for:

- soil
- soil vapor

The PCB exceedances have been attributed to OU 05. The CVOC exceedances have been attributed to OU 06.

6.2: Interim Measures

An interim measure 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 interim measures have been completed for Operable Units 05 and 06 at this site based on conditions observed during the site investigations.

OU 05 Storm Sewer and PCB Contaminated Soil (On-Site) Interim Remedial Measure

In March 2001 GE/Black & Decker submitted an action plan under which the following actions were implemented:

- further sampling on-site within the on-site storm sewer network (done 3/21/01).
- interim measures to remove sediments from the two manholes that exhibited high PCB concentrations, for off-site disposal (removal occurred on 4/5/01).

The investigation was followed by an interim measures implementation plan that resulted in extensive cleaning and sediment sampling of the storm sewer; excavation of PCB-impacted soil near the western transformer area, in the eastern courtyard area, and to the south of the courtyard area; relining on storm sewer piping under part of the main building; and isolating abandoned lines from the active storm water system (see figures in Exhibit A for location of these features). Volumes of soil excavated are summarized below.

On-Site Storm Sewer Excavation Areas	Soil Volume (cubic yards)
OCSA/WOCSA	450
Western Transformer Area	10
PSAA Area 4	50
PSAA Area 2	490
<u>Pipe Stub Area</u>	<u>50</u>
Total	1050

Storm sewer and manhole cleaning/replacement activities were completed as part of the interim measures. These initial actions were completed during 2002. Additional on-site PCB clean-up actions continued through 2005 and involved removal and replacement of contaminated catch basins and manholes, and removal and replacement of segments of the storm sewer piping.

An area with elevated PCBs concentrations was left in place under a portion of the building because of access limitations. The soil contamination was identified by coring through the concrete floor and sampling the underlying soils near storm sewer Line 2. Since some contaminated soils were left in place, as an interim measure, the storm sewer line passing through this area was slip-lined using InSituForm® technology to isolate the storm sewer from the contamination.

PCB Oil Removal Interim Measure

DEC coordinated an emergency action during 2010 to remove approximately 14,000 pounds of PCB oil from transformers and a capacitor located on site.

OU 06 Waste Oil Container Storage Area (CSA), Outside CSA, Degreaser Area Interim Measures

In August 1997, the facility proposed replacing and rerouting sections of the storm sewer located in the vicinity of the OU 06 area. The plan was approved by the Department in August 1997, and the work was completed in October 1997.

Specifically, the measures included the following:

- Removal and off-site disposal of approximately 70 linear feet of 12-inch diameter corrugated metal pipe;
- Removal and off-site disposal of approximately 157 linear feet of 8-inch vitrified clay pipe (VCP);
- Removal and off-site disposal of four concrete catch basins;
- In-place abandonment of approximately 110 linear feet of 8-inch VCP;
- Installation of water-tight storm sewer piping and catch basins to replace the removed or abandoned portions of the storm sewer system; and,
- Installation of new roof drain piping at two locations in the manufacturing building.

Following completion of these measures, re-sampling of the storm sewer system was performed to monitor its effectiveness and to determine if additional activities might be warranted. The monitoring program involved the collection of storm water samples from catch basin CB-3A and various other manholes and catchbasins at the facility. Two dry-weather (low flow) and one wet-weather sampling events were performed between November 1997 and April 1998. The monitoring showed that the interim measures were very effective in reducing contaminant concentrations in Lines 1 and 2 of the storm sewer, immediately downgradient of the OCSA/DA. However, monitoring results from further downstream within the storm sewer network (e.g., at catchbasin CB-3A) indicated that contaminants were still entering the storm water system from other areas of the site.

As a result of the effectiveness monitoring results, the following data needs were identified:

- Additional field reconnaissance at the facility including both underground utilities and roof drain downspout locations;
- Additional television inspection of the storm sewer system, specifically between manhole MH-3C and catchbasin CB-3A and through Line 4;
- Additional low-flow storm sewer sample collection and analysis in the areas noted immediately above; and,
- Soil borings to further define the depth to bedrock along Line 4.

This work, completed during 1998, better defined the physical layout of the storm sewer system on the west side of the manufacturing building. Relatively high concentrations of contaminants were detected in catchbasin CB-4B, located on Line 4. Soil borings and the invert elevation for the storm sewer indicated that this catchbasin was constructed into the top of bedrock, and was intercepting contaminated groundwater from the bedrock. Based on this finding, catchbasin CB-

4B was removed and replaced with a water-tight design in 1998. GE subsequently completed a number of rounds of performance testing to monitor the effectiveness of the interim measures.

Results of post-interim measures effectiveness monitoring showed that the actions taken for Line 2 was effective in reducing TCE, cis-1,2-DCE and total VOC concentrations in the storm sewer system at and downstream from the OCSA.

As documented by the data from 29 post-construction sampling events between November 1997 and September 1999, VOCs in storm water at the facility boundary are consistently below NYSDEC's ambient water quality standards (AWQS) for Class C surface water bodies.

The results of the surface water samples collected from the culvert located on the north side of the Barge Canal, at monitoring point OSSW-1, showed that the concentration of TCE was consistently below NYSDEC's AWQS for Class C surface water. In addition, although the surface water is not used for drinking, results obtained at OSSW-1 are well below the NYSDOH's drinking water standards.

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 OUs 05 and 06.

The primary contaminants of concern in groundwater at the site are TCE and degradation products of these compounds. A groundwater extraction and treatment system, located at the facility at 200 State Street, began operating in 1988. The system was enhanced in 1999 and again in 2007 to increase its effectiveness. Solvent contamination in groundwater is also present in the residential area north of the site. In 2001 a groundwater extraction and treatment system was installed in the residential area at 98 Lyman Street, and has been operating effectively for over a decade. It appears that contamination in the residential area migrated prior to installation and operation of the on-site groundwater recovery system at 200 State Street.

The primary contaminants of concern with on-site soils associated with wastewater treatment sludge were chromium and nickel (from electroplating operations). A 1997 soil removal for OU 03 reduced metals concentrations below levels of concern.

PCBs were subsequently found to be present in on-site soils and in solids accumulated in the storm sewer system. On-site IRMs for excavation and removal of PCB contaminated materials (primarily soils and storm sewer solids) were completed. The effectiveness of the on-site PCB actions has been monitored using a trap that captures solids moving in the storm sewer system. The solids are periodically removed from the trap and tested, prior to disposal, to track PCB concentrations.

Off-site remedial actions along the Tributary #3 to Brockport Creek drainageway (Operable Unit 07) were implemented to address PCB contamination of soil, sediment and the storm sewer system. These removed all PCBs greater than 1 ppm. A fish tissue sampling program was implemented to monitor PCB levels in fish in Brockport Creek to assess the effectiveness of these actions. Baseline fish tissue monitoring was performed prior to drainageway sediment removal.

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*.

People are not drinking the contaminated groundwater because the area is served by a public water supply that is not contaminated by the site. The potential for soil vapor intrusion to occur on-site will be evaluated should the site building be re-occupied and/or if new construction occurs.

6.5: Summary of the Remediation Objectives

The objectives for the remedial program for Operable Units 05 and 06 have been established through the remedy selection process in the 6 NYCRR Part 373 Post-Closure Permit and 6 NYCRR Part 375. 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 (RAOs) for this site are:

For OU 05:

Soil

RAOs for Public Health Protection

- Prevent ingestion/direct contact with contaminated soil.

Storm Sewer Solids

RAOs for Public Health Protection

- Prevent direct contact with contaminated storm sewer solids.

RAOs for Environmental Protection

- Prevent migration/discharge of contaminated storm sewer solids to surface water and sediments

For OU 06:

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 THE SELECTED REMEDY

To be selected, the remedy must be protective of human health and the environment, be cost-effective, comply with other statutory requirements, and utilize permanent solutions, alternative technologies or resource recovery technologies to the maximum extent practicable. The remedy must also attain the remedial action objectives identified for the site, which are presented in Section 6.5.

The Department's remedy and basis for selection is set forth below.

Operable Unit 05

For OU 05 (Storm Sewer and PCB-Contaminated Soils (On-Site)), although the interim measures described in Section 6.2 largely achieved the applicable SCGs, additional actions are warranted. The selected remedy includes:

1. Source Removal – In 2010, DEC coordinated an action to remove PCB oil from electrical equipment located on the site. Any remaining PCB containing electrical equipment will also be removed which will include the previously drained equipment (transformers and capacitor) as well as other PCB-containing electrical equipment that may be present at the site. Equipment disposal shall be in accordance with federal requirements concerning PCB-containing electrical equipment.

This action is expected to address approximately 12.5 tons of equipment, and the disposal is by incineration. Note that federal requirements for disposal of PCB-containing electrical equipment allow other disposal options for certain types of equipment, and those options may be utilized where applicable.

2. Soils - Shallow soils (0-12 inches) with PCBs greater than 1 ppm were excavated and removed from the site during the IRMs described in Section 6.2. Subsurface soils with PCBs greater than 10 ppm were also removed from accessible areas during the IRM. Subsurface soils with less than 10 ppm PCBs are still present at the site. Per Commissioner's Soil Clean-Up Policy (CP-51), PCB cleanup to 1 ppm surface and 10 ppm subsurface meets criteria for commercial/industrial use. Although these criteria were achieved in all currently accessible areas, the remedy includes site use controls to limit potential exposures to subsurface soils with PCBs greater than 1 ppm. These soils will be addressed through the in the Site Management Plan described below.

There are also soils located under the main building, in the vicinity of Storm Sewer Line 2, with PCBs greater than 10 ppm. As part of the remedy, in the event soils in the vicinity of Storm Sewer Line 2 become accessible, those with PCB concentrations greater than 10 ppm will be removed for off-site disposal. This contingent action will be addressed in the Site Management Plan.

3. Institutional Control - Imposition of an institutional control in the form of an environmental easement or a deed restriction or an environmental notice 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;
 - prohibits agriculture or vegetable gardens on the controlled property; and,
 - requires compliance with a Department approved Site Management Plan.

4. Site Management Plan - The purpose of site management is to ensure the remedy continues to be protective and to ensure the safe reuse of properties where contamination will remain in place. A site management plan (SMP) is created to identify and implement the institutional and engineering controls (IC/EC) required for a site. Site management continues until the Department determines that it is no longer needed. Unless site management is directly funded by the State, the remedial party and the site owner are jointly responsible to ensure that all site management responsibilities identified in the site management plan, environmental easement and the oversight agreement, are performed.

A Site Management Plan is required. Previously approved plans may be incorporated into the SMP where appropriate, provided full electronic copies are available to be compiled into the SMP. The SMP shall include 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 property use restriction noted above.

Engineering Controls: The storm sewer improvements discussed in Section 6.2 above.

This plan includes, but may not be limited to:

- an Excavation Plan which details the provisions for management of future excavations in areas of remaining contamination;
- descriptions of the provisions of the any land use and groundwater use restrictions;
- a provision for evaluation of the potential for soil vapor intrusion if applicable should the on-site building become occupied and for any buildings developed on the site, including provision for

implementing actions recommended to address exposures related to soil vapor intrusion;

- provisions for the management and inspection of the identified engineering controls;
- maintaining site access controls and Department notification;
- and the steps necessary for the periodic reviews and certification of the institutional and/or engineering controls.

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

- monitoring and reporting actions that were developed for the interim remedial measures for OU 05 will be integrated into the SMP (monitoring of storm sewer solids to assess the performance and effectiveness of the remedy);
- a schedule of monitoring and frequency of submittals to the Department;
- monitoring for vapor intrusion for any buildings occupied or developed on the site, as may be required by the Institutional and Engineering Control Plan discussed above;
- maintaining site access controls and Department notification; and
- providing the Department access to the site and remedial program records.

5. Financial Assurance - Financial assurance for implementing and completing the remedy.

Operable Unit 06

For OU 06 (Waste Oil Container Storage Area (CSA), Outside CSA, Degreaser Area), the interim measures described in Section 6.2 achieved the applicable SCGs for surface water. However, additional actions are warranted. The selected remedy includes:

1. Soil Vapor Intrusion Evaluation – As summarized in Exhibit A, soil vapor intrusion sampling was conducted in the main building at the site. Chlorinated VOCs were detected in on-site sub-slab vapor and in crawl space indoor air. The available data indicates a need for further monitoring and possibly mitigation. However, there are concerns about whether the existing data would be representative of the building in active use. To address this issue, the remedy includes requirements for re-sampling and re-evaluating the soil vapor intrusion pathway, in the event that the utility service is re-established and the main on-site structure is to be occupied. This contingent action is to be addressed in the Site Management Plan.
2. Site Management - A SMP (described more fully in the OU 05 remedy description above) is required. Maintenance of the engineering controls that were implemented for OU 06 as interim measures (as described in Section 6.2) will be addressed in the SMP. The SMP will also address the contingent soil vapor intrusion evaluation discussed above.

3. Financial Assurance - Financial assurance for implementing and completing the remedy.

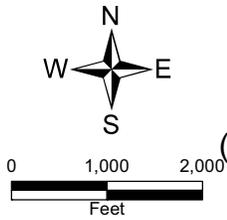
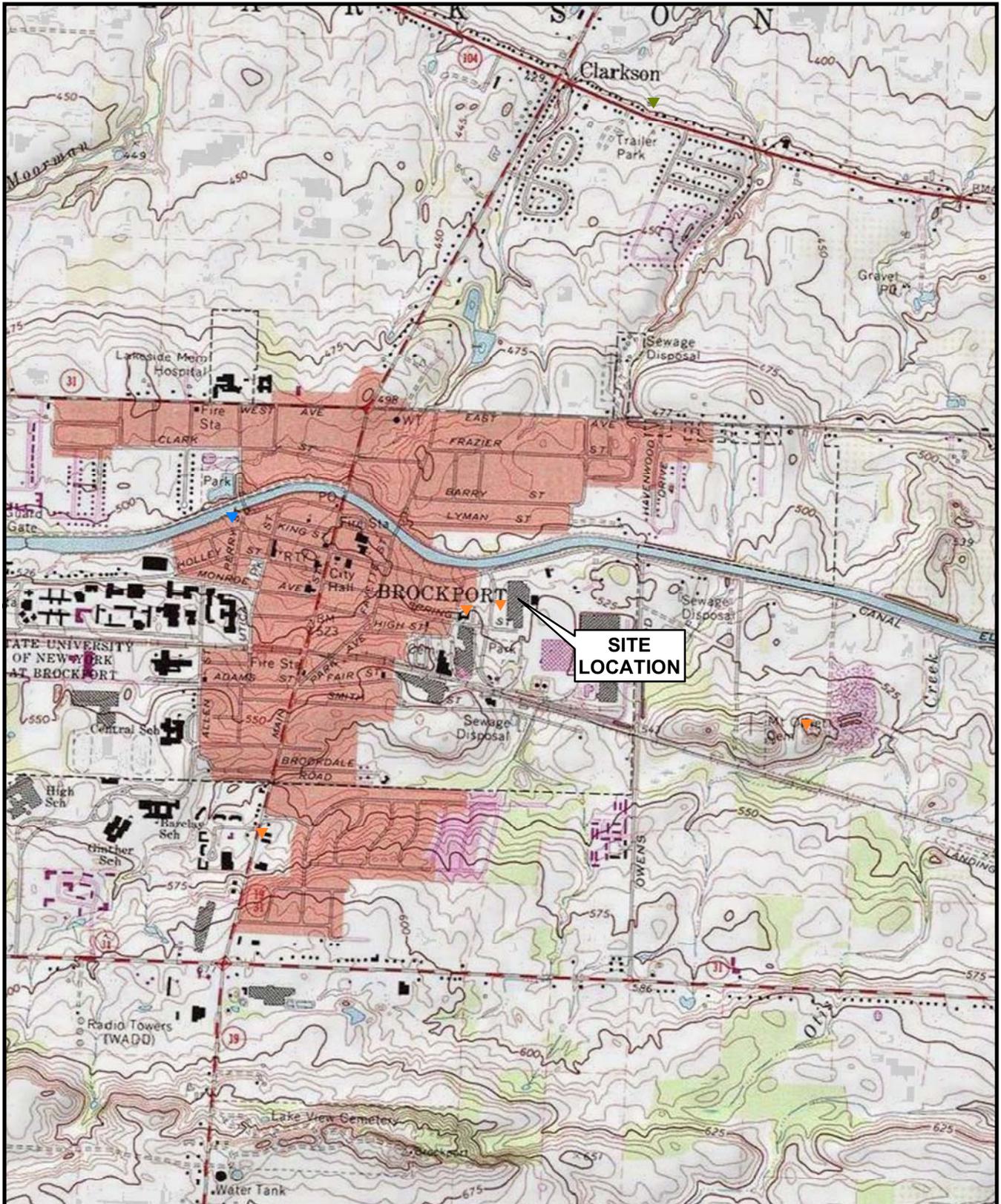


Figure 1
 Site Location Map
 JMT Facility - Brockport
 (Former GE/Black & Decker Site)
 Town of Sweden, Monroe
 Site No. 828003



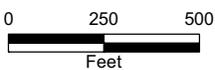
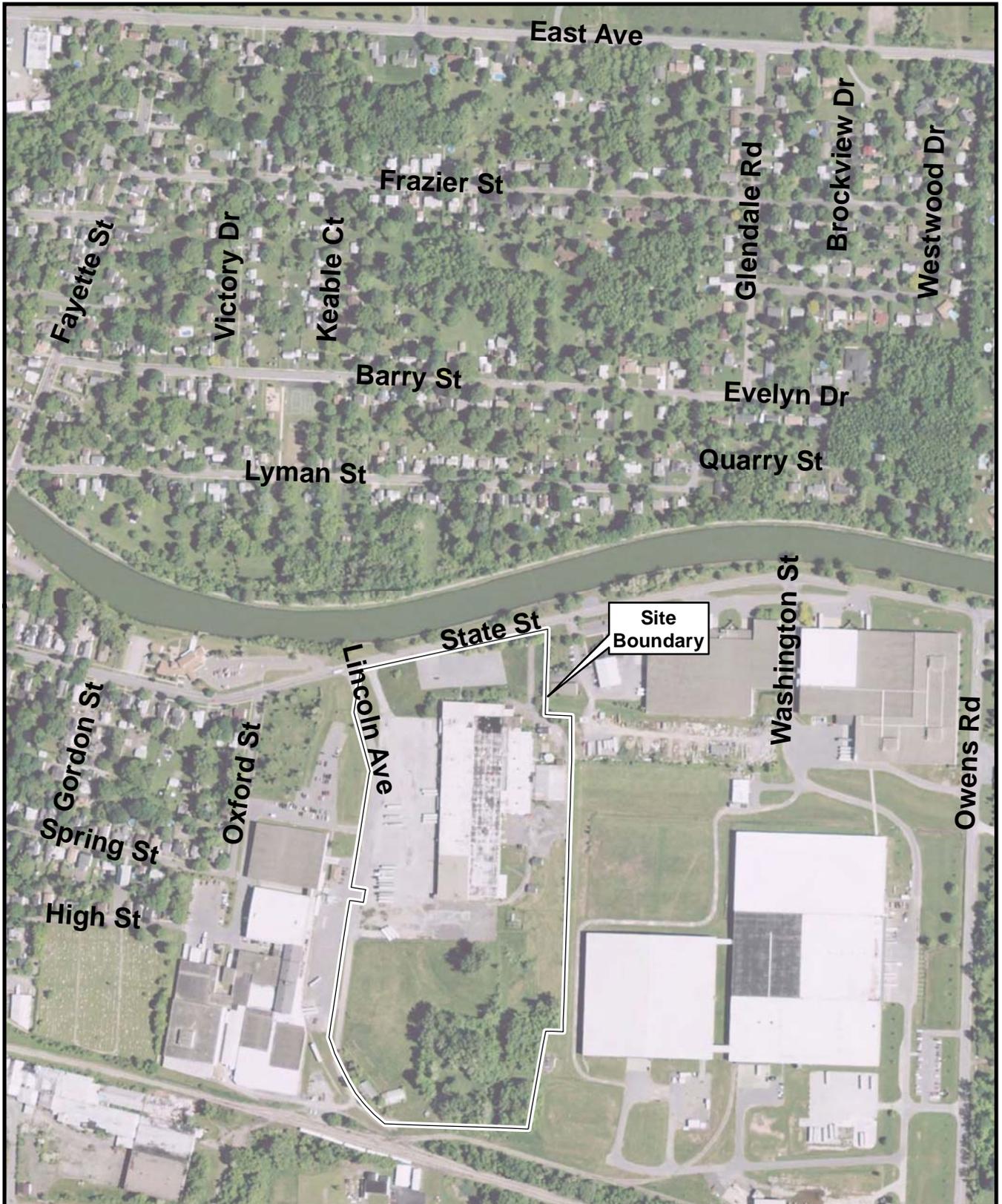


Figure 2 Site Map

JMT Facility - 200 State Street, Brockport
 (Former GE/Black & Decker Site)
 Town of Sweden, Monroe
 Site No. 828003



Exhibit A – Operable Units 05 (On-site Storm Sewer and Soil PCB Contamination) and 06 (Waste Oil Container Storage Area, Outside Container Storage Area, Degreaser Areas)

Nature and Extent of Contamination

This section describes the findings for all environmental media that were evaluated for the subject operable units. As described in Section 6.1, samples were collected from various environmental media to characterize the nature and extent of contamination.

For each medium, a table summarizes the findings specific to each operable unit. The tables present the range of contamination found in the media and compares the data with the applicable SCGs for the site. The contaminants are arranged into two categories; volatile organic compounds (VOCs), and polychlorinated biphenyls (PCBs). For comparison purposes, the SCGs are provided for each medium that would allow for unrestricted use. For soil, if applicable, the Restricted Use SCGs identified in Section 6.1.1 are also presented.

Numerous interim measures were taken to address contamination that was identified as the site was being investigated. As a result of these measures, much of the impacted environmental media was eliminated from the site. The discussions that follow are limited to those environmental media that still exhibited contaminant impacts following completion of the interim measures.

Waste/Source Areas

Waste/source materials associated with OU 05 were identified at the site. Wastes include solid, industrial and/or hazardous wastes. Source areas are areas of concern at a site where substantial quantities of contaminants are found which can migrate and release significant levels of contaminants to another environmental medium. Wastes and Source areas identified at the site for OU 05 include PCB electrical transformers and capacitors. The PCB electrical equipment is located in two areas, one being an enclosed shed attached to the west side of the main building, the other being located outside, in the south electrical substation (see Exhibit A – Figure 1). As an emergency removal action, in 2010 DEC's contractor drained approximately 14,000 pounds of PCB oil from this electrical equipment and shipped it off-site for proper disposal. However, the equipment is still on the site and is expected to contain high concentrations of residual PCBs (oil samples showed PCB concentrations of up to 490,000 ppm). The known PCB-containing equipment (transformers and capacitor) is estimated to weigh approximately 25,000 pounds.

Soils with up to 80 ppm concentrations of PCBs were identified in soils near the PCB equipment. These potential source area soils were removed during an interim measure. These soil removal actions achieved <1 ppm surface/<10 ppm subsurface PCB concentrations. Source areas for PCBs were also identified in solids accumulated in the storm sewer system, in storm sewer structures located near the eastern side of the main building. These accumulated solids were removed during an interim measure. Subsequent monitoring of solids caught in a storm sewer sediment trap located on-site has shown concentrations below 1 ppm, indicating that the soil and solids source material was successfully removed by the measures.

The interim measures are described in Section 6.2. The remaining waste/source area(s) identified during the site investigations will be addressed in the remedy selection process.

Groundwater

Groundwater samples were collected from monitoring wells on-site during the remedial investigation for Operable Unit 06 (see Exhibit A – Figure 2). The results indicate contamination of the groundwater at parts of the site exceed the SCGs for volatile organic compounds. Key contaminants and SCGs are provided in the Table below. Note that the on-site groundwater contamination has been addressed as a separate operable unit/remedy and is not discussed further in this exhibit or in the ROD.

Table 1 – Groundwater (November 2011 Data Set)

Detected Constituents	Overburden Concentration Detected (ppb) ^{a,b}	Bedrock Concentration Range Detected (ppb) ^a	SCG ^c (ppb)
Trichloroethene (TCE)	1.8 J	Non-detect – 3,400	5
Cis-1,2-Dichloroethene (cis-DCE)	190	Non-detect - _1,000	5
Vinyl Chloride (VC)	Non-detect	Non-detect - _100	2

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

b- results from overburden well GEB-18S.

c- 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).

Soil

Shallow and subsurface soil samples were collected at the site. The results indicate that soils at the site exceed the unrestricted SCG for volatile organic compounds and polychlorinated biphenyls. Key contaminants and SCGs are provided in the Table 2 below.

The volatile organic compound exceedances were identified in the courtyard area on the east side of the main building, generally immediately adjacent to the building. VOCs exceeding SCGs were also present under the building, near the courtyard. Although SCGs for the protection of groundwater are shown in the table below, note that a separate groundwater remedy has been implemented for the site.

The PCB exceedances were identified in several areas of the site, including the courtyard area, the portions of the area south of the building, and near the PCB equipment located on the west side of the building and in the south substation. Shallow soils with PCBs greater than 1 ppm were excavated and removed from the site during the interim measures described in Section 6.2. Subsurface soils (soil beneath 1 foot of soil cover) with PCBs greater than 10 ppm were also removed from these areas during the interim measures. Subsurface soils with less than 10 ppm PCBs are still present at the site. There are also soils located under the main building, in the vicinity of Storm Sewer Line 2, with PCBs greater than 10 ppm (see Exhibit A – Figure 3). These soils were not accessible, so they were not addressed by the interim measures.

Table 2 - Soil

Detected Constituents	Concentration Range Detected (ppm) ^a	Unrestricted SCG ^b (ppm)	Restricted Use SCG ^c (ppm) Commercial	Restricted Use SCG ^c (ppm) Industrial	Restricted Use SCG ^d (ppm) Protection of Groundwater
Trichloroethene	0-100	0.470	200	400	0.047
Cis-1,2-Dichloroethene	0-350J ^e	0.250	500	1000	0.250
1,1,1-Trichloroethane	0-47	0.680	500	1000	0.680
1,1-Dichloroethane	0-4.2JN ^e	0.270	240	480	0.270
1,1-Dichloroethene	0-2.7	0.330	500	1000	0.330
Polychlorinated Biphenyls	0-180	0.100	1 ^f	25	3.2

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 or Industrial Use, as noted.

d - SCG: Part 375-6.8(b), Restricted Use Soil Cleanup Objectives for the Protection of Groundwater. Note that a separate remedy has already been implemented to address on-site groundwater, so these SCGs are not pertinent to the OU 05 and 06 remedy.

e - J-flagged result indicates estimated concentration; N-flagged result indicates lab quality control issue with analytical batch.

f - 1 ppm is SCG for surficial soils. For subsurface soils, 10 ppm is the SCG. Subsurface soil means soil beneath permanent structures, pavement or similar cover systems or soil beneath 1 foot of soil cover for commercial and industrial uses.

Based on the findings, the presence of PCBs has resulted in the contamination of soil. The site contaminants identified in soil which are considered to be the primary contaminants of concern, to be addressed by the remedy selection process are PCBs.

Storm Sewer Water/Surface Water

Storm sewer and surface water samples were collected during the site investigation to determine if contaminated groundwater was infiltrating into the storm sewer system and migrating off-site. The samples were collected to assess water quality within the storm sewer network on the site, and at the location where the storm water discharges to the surface as Tributary #3 to Brockport Creek. The testing showed concentrations of volatile organic compounds (primarily trichloroethene) above the SCG in water within the storm sewer system on the site. Although TCE was detected at the most downstream point where storm water exits the site, and off-site where Tributary #3 daylights, contaminant concentrations at these locations did not exceed the SCG. Nevertheless, in response, interim measures as described in Section 6.2 were implemented to reduce the infiltration of groundwater into the sewer and lower the contaminant concentrations of water within the storm sewer system and in the water exiting the site. As documented by the data from 29 post-interim measure sampling events between November 1997 and September 1999, including 24 sampling events conducted during the corrective measure study, VOCs in storm water at the facility boundary are consistently below NYSDEC's ambient water quality standards (AWQS) for Class C surface water bodies.

The results of the surface water samples collected from the culvert located on the north side of the Barge Canal, at monitoring point OSSW-1 (see Exhibit A – Figure 4), indicate that the concentration of TCE was consistently below NYSDEC's AWQS for Class C surface water. Although the surface water is not used for drinking, results obtained at OSSW-1 are well below the NYSDOH's drinking water standards.

Post-interim measure monitoring results for the storm sewer water and the surface water are shown in Tables 3 and 4, respectively.

Table 3 - Storm Sewer Water – Post-Interim Measure On-Site

Detected Constituents	Concentration Range Detected (ppb) ^a	SCG ^b (ppb)
Trichloroethene	0-31	40
cis-1,2-Dichloroethene	0-19	NL ^c
Vinyl chloride	0-1.5	NL ^c
1,1,1-Trichloroethane	0-1.7	NL ^c

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

b-SCG: Ambient Water Quality Standards and Guidance Values (TOGs 1.1.1) and 6 NYCRR Part 703: Surface Water and Groundwater Quality Standards. Although water within the storm sewer system is not surface water, the water ultimately discharges to Tributary #3 (a Class C surface water), so the Class C criteria assigned to the receiving water has been identified as relevant.

c-There is no 6 NYCRR Part 703: Surface Water and Groundwater Quality Standard listed for this constituent for a Class C surface water.

Table 4 - Surface Water – Post-Interim Measure Off-Site (Tributary #3 at monitoring point OSSW-1)

Detected Constituents	Concentration Range Detected (ppb) ^a	SCG ^b (ppb)
Trichloroethene	0-2.4	40
cis-1,2-Dichloroethene	0-1.3	NL ^c
Vinyl chloride	Non-detect	NL ^c
1,1,1-Trichloroethane	Non-detect	NL ^c

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

b - SCG: Ambient Water Quality Standards and Guidance Values (TOGs 1.1.1) and 6 NYCRR Part 703: Surface Water and Groundwater Quality Standards.

c - NL= Not Listed. There is no 6 NYCRR Part 703: Surface Water and Groundwater Quality Standard listed for this constituent for a Class C surface water. Although the surface water is not used for drinking, all results are below NYSDOH drinking water standards.

The interim measures described in Section 6.2 reduced storm water contaminant concentrations below applicable SCGs, so no further action for this operable unit is warranted.

Soil Vapor

The evaluation of the potential for on-site soil vapor intrusion resulting from the presence of site related soil or groundwater contamination was evaluated by the sampling of sub-slab vapor and crawl space indoor air inside the on-site structure (main building) in December 2008. This work was performed by Day Environmental, Inc., for a party that was interested in purchasing the site. This work was performed without notice to or involvement of Department or NYSDOH staff. The Day Environmental report is dated January 13, 2009. The Department was subsequently provided a copy of the report on October 21, 2009. Electrical service to the building had been terminated so there was no operational heating or air handling (HVAC) for the building at the time sampling was conducted. The building was vacant and unoccupied at the time of sampling, so the results summarized below may not be representative of conditions for the building when in active use.

The results indicate trichloroethylene (TCE), cis-1,2-dichloroethylene (cis-1,2-DCE) and 1,1,1-trichloroethane were detected in on-site sub-slab vapor. TCE and cis-1,2-DCE were detected in crawl space indoor air. Based on the concentrations detected, and in comparison with the NYSDOH Soil Vapor Intrusion Guidance, the presence of TCE has resulted in the contamination of soil vapor. Based on NYSDOH guidance, the available TCE data indicates the need for further monitoring and possibly mitigation.

However, as noted above, there are concerns about whether the existing data would be representative of the building in active use. To address this issue, the remedy includes requirements for re-sampling and re-evaluating the soil vapor intrusion pathway, in the event that the utility service is re-established and the main on-site structure is to be occupied.

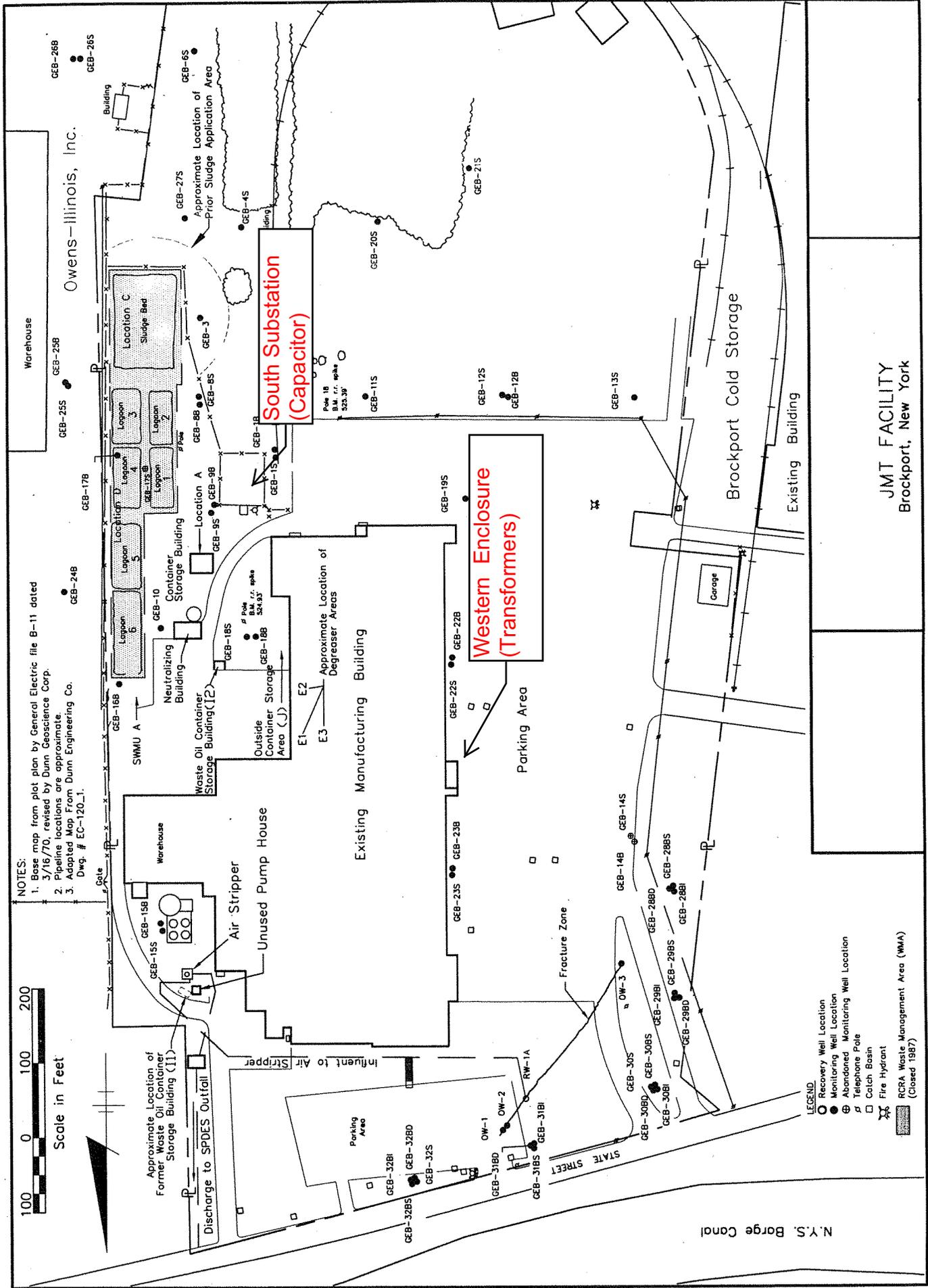


Exhibit A - Figure 1
 Known PCB-Containing Equipment

Exhibit A - Figure 2
Operable Unit 06 Location

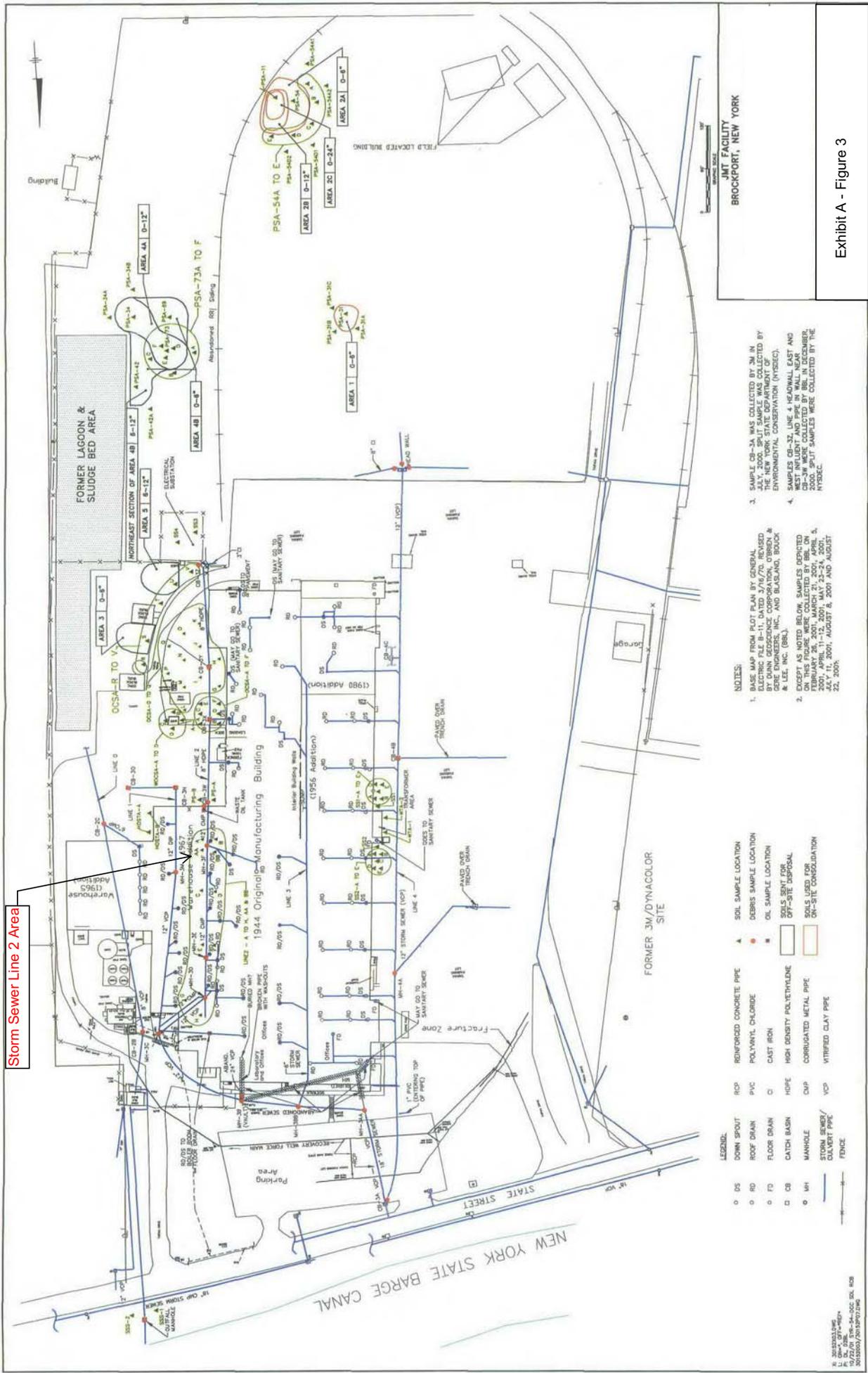
- LEGEND**
- Recovery Well Location
 - ⊕ Monitoring Well Location
 - ⊕ Abandoned Monitoring Well Location
 - ⊕ Telephone Pole
 - Catch Basin
 - Manholes
 - 525 Topographic Surface Contour
 - Fracture Zone (Point of Compliance)
 - Fire Hydrant
 - RCMA Waste Management Area (WMA) (Clean closure 1987)

JMT FACILITY
BROCKPORT, NEW YORK

SITE MAP



OU 06 - Waste Oil Container Storage Area, Outside Container Storage Area and Degreaser Area Location Map



Storm Sewer Line 2 Area

3M FACILITY
BROCKPORT, NEW YORK

- NOTES:
1. BASE MAP FROM PLOT PLAN BY GENERAL ELECTRIC FILED DATED 3/17/70. REVISED ELECTRIC FILED DATED 3/17/70. REVISED BY THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION (NYSDEC).
 2. EXCEPT AS NOTED BELOW, SAMPLES DEPICTED ON THIS FIGURE WERE COLLECTED BY BBL ON 11/11/2001, APRIL 11-12, 2001, MAY 23-24, 2001, JULY 11, 2001, AUGUST 8, 2001 AND AUGUST 22, 2001.
 3. SAMPLE CB-3A WAS COLLECTED BY JM IN 2000. SAMPLES CB-3A THROUGH CB-3I WERE COLLECTED BY THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION (NYSDEC).
 4. SAMPLES CB-32, LINE 4 HEADWALL EAST AND WEST INFLUENT AND PIPE IN WALL NEAR WEST INFLUENT AND PIPE IN WALL NEAR WEST INFLUENT WERE COLLECTED BY BBL IN 2000. SPILT SAMPLES WERE COLLECTED BY THE NYSDEC.

- LEGEND:
- DS DOWN SPOUT
 - RD ROOF DRAIN
 - FD FLOOR DRAIN
 - CB CATCH BASIN
 - MH MANHOLE
 - S/S STORM SEWER/ DIVERGENT PIPE
 - F FENCE
 - RCP REINFORCED CONCRETE PIPE
 - PVC POLYVINYL CHLORIDE
 - HDPE HIGH DENSITY POLYETHYLENE
 - CMP CORRUGATED METAL PIPE
 - VCP VITRIFIED CLAY PIPE
 - ▲ SOIL SAMPLE LOCATION
 - DEBRIS SAMPLE LOCATION
 - OIL SAMPLE LOCATION
 - SOIL SPILT FOR OFF-SITE DISPOSAL
 - SOILS USED FOR ON-SITE CONSOLIDATION

N 301322214
A 301322214
D 301322214
S 301322214

Exhibit A - Figure 3

General Location of Storm Sewer Line 2 PCB-Impacted (>10 ppm) Soil

APPENDIX A

Responsiveness Summary

RESPONSIVENESS SUMMARY

JMT Properties, Inc. Facility
Former General Electric/Black & Decker Site
OU4, OU5, OU6
RCRA/State Superfund Project
Town of Sweden, Monroe County, New York
Site No. 828003

The Proposed Remedial Action Plans (PRAPs) for the referenced site were prepared by the New York State Department of Environmental Conservation (the Department) in consultation with the New York State Department of Health (NYSDOH) and were issued to the document repositories on February 29, 2012. The PRAPs outlined the remedial measures proposed for the referenced operable units associated with the Former General Electric/Black & Decker site.

The release of the PRAPs 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 March 13, 2012, which included a presentation of the site investigations as well as a discussion of the proposed remedy for each operable unit. The meeting provided an opportunity for citizens to discuss their concerns, ask questions and comment on the proposed remedies. These comments have become part of the Administrative Record for this site. The public comment period for the PRAP was scheduled to end on March 30, 2012. Based on a request submitted on behalf of Stanley Black & Decker and General Electric, the comment period was extended and ended on April 30, 2012.

This responsiveness summary responds to all questions and comments raised during the public comment period. This includes comments received at the public meeting, as well as those submitted by email, and by letter. The following are the comments received, with the Department's responses:

Public Meeting Comments:

COMMENT 1: Is the electrical equipment still in the on-site building? Why didn't someone remove the equipment along with the PCBs? Who will be responsible for removing this equipment? When will it be removed?

RESPONSE 1: Yes, the equipment is still on-site. NYSDEC performed an emergency removal action to get the liquid PCB oil off of the site as it posed the greatest threat for an environmental release. A liquid oil release would likely have re-contaminated the Tributary 3 drainageway and adjacent residential properties. Since this is a class 2 site, NYSDEC was able to focus on removing PCB oil from the site and was able to expend state funds to accomplish this action.

The drained equipment still contains high concentrations of residual PCBs and poses a release threat. Therefore the remedy includes removal of this equipment from the site. The NYSDEC is

initiating negotiations with the potentially responsible parties (PRPs) regarding the remedial program which will include removal of this equipment.

COMMENT 2: In the sediment trap, when it was being vacuumed, were there levels of PCBs that were found above the 1 ppm cleanup level? Did the sediment trap overflow?

RESPONSE 2: Yes, sediment with PCBs concentrations greater than 1 ppm has been found in the trap. The trap is routinely checked and cleaned out. DEC is not aware of any occurrences of an overflow.

COMMENT 3: Who is responsible for all of the remedial work? Who will pay for it? Who made them remediate the site? Why won't they remediate the inside of the on-site building?

RESPONSE 3: The ROD calls for the removal of the PCB-containing electrical equipment and a vapor intrusion evaluation. A vapor intrusion evaluation and, if necessary, installation of a mitigation system, is an essential part of the remedial program and will be required before occupancy.

The purpose of the PRAP is to present the proposed remedy. The mechanism and parties that will be involved with implementation of the remedy are resolved separately from remedy selection.

COMMENT 4: Jerry Rowell, who is in the process of purchasing the on-site building, posed the following questions: Why can't I occupy the building? DEC told me that I can't occupy the building! I hired an outside firm to test the vapors below the building and they told me the levels were above DOH guidance values. Does there need to be testing or a radon type system installed? He had conferences with DEC attorneys and Black & Decker attorneys and hasn't been told anything since. When is someone going to do something? Who will pay for additional sampling and if a system is needed, who will pay for it? Will the State pay for it?

RESPONSE 4: NYSDEC did not tell Mr. Rowell that he can't occupy or take possession of the building. NYSDEC informed Mr. Rowell that there could be a soil vapor intrusion problem due to the presence of chlorinated solvents in the groundwater. As indicated in the PRAP, and now the ROD, based on currently available sampling results, it is not clear whether mitigation inside the building will be necessary due to its current condition, so additional evaluation will be necessary. Mr. Rowell has also been advised by NYSDEC that a property owner of a site like 200 State Street that is subject to a remedial decision pursuant to both RCRA and the State Superfund, could be responsible for ensuring that the remedial program is implemented. Under the RCRA permit and/or under the State Superfund Program, the property owner is considered a PRP and may have obligations pursuant to both programs relative to contamination at the site. The NYSDEC will seek to have the PRPs implement the selected remedial program in an expeditious manner.

If Mr. Rowell would like further information, he may contact Maura Desmond, the DEC attorney assigned to this project, at 716-851-7190.

COMMENT 5: Is there a proposal to remove the equipment from the on-site building? If the levels in the building are above DOH guidance levels to remediate, will things change? Will there be anything that will be placed in the area once the equipment is removed?

RESPONSE 5: Equipment from the on-site building that used chlorinated solvents has already been removed from the site. The ROD remedy calls for the removal of PCB-containing electrical equipment from the site. The NYSDEC is not aware of plans to place anything in the areas once the equipment is removed.

COMMENT 6: When was SVI on-site sampling conducted last? When will it be conducted again?

RESPONSE 6: The on-site SVI sampling was completed in December 2008. The selected remedy calls for additional testing if the building is prepared for occupancy/use.

COMMENT 7: If the on-site building is sealed and money is spent and if levels require mitigation, who will pay for it?

RESPONSE 7: If the building is occupied, the remedy requires a soil vapor intrusion investigation, the results of which may indicate a need for mitigation. The PRPs identified for the site are obligated to fund and implement the remedial program. The PRPs include past owners and operators and may include owners at the time of occupancy. Also see response 3.

COMMENT 8: Was any soil and groundwater testing done off-site along the canal? How far down the canal? In the fields north or east?

RESPONSE 8: Groundwater and soil sampling have been conducted along the canal. Groundwater was sampled from wells along both the north and south sides of the canal. Soil/sediment sampling has been conducted along the swale, between State Street and the canal, and within the canal when the water level was lowered for the winter as well as near the outfall/discharge point in the canal and at locations a few hundred feet to the east and west. The testing in the canal and in the swale on the south side of the canal did not show elevated levels of site-related contaminants. Groundwater contamination is present north of the canal, as indicated in Exhibit A of the OU04 ROD.

COMMENT 9: I live in the house right next to the site. The soil on my property was removed and replaced with new soil and stones were placed on top of the soil (located along the canal). Why are the stones turning black color? What is it? Is it contamination emanating from the site?

RESPONSE 9: DEC does not believe that contamination is emanating from the site and affecting your property. Groundwater in the area has high levels of naturally occurring dissolved solids such as manganese and iron, and these can precipitate and form coatings on rocks when groundwater discharges to surface water (Tributary #3 to Brockport Creek) is exposed to air. Manganese deposits tend to be black colored.

COMMENT 10: What would cause the levels of TCE to decrease in the groundwater?

RESPONSE 10: Groundwater pumping and treatment removes contaminants from the groundwater in the area of the site. If the contaminant source does not get replenished, the TCE levels would be expected to decrease. The groundwater pump and treat system installed on the site at 200 State Street began operating in 1988, and the off-site (98 Lyman Street) system has been operational since 2001. The observed decreases are not unexpected as this is one of the desired results of the systems' operation.

COMMENT 11: Why does the on-site building have to be heated in order to conduct SVI sampling?

RESPONSE 11: Sub-slab vapor and indoor air samples are typically collected during 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.

A building does not need to be heated to conduct SVI sampling. However, SVI sampling should be conducted under conditions that are representative of the conditions that would be present when the building is occupied/in use.

COMMENT 12: What if the building was razed, then there would be no need for an evaluation for SVI, right? What would happen if a new building was constructed on-site?

RESPONSE 12: If a new building were to be constructed on the site or if the existing building is redeveloped, an SVI evaluation would need to be conducted. Alternatively, the building could include a mitigation system.

COMMENT 13: I lived on Gordon Street for years and had a vegetable garden. Should I be concerned about contamination from this site or the 3M/Dynacolor site?

RESPONSE 13: Soil sampling conducted on properties west of Oxford Street showed no site-related contamination from either the 3M/Dynacolor site or the GE/B&D site. Therefore it is not expected that the area beyond Oxford, which is not down gradient from the Sites, would be contaminated.

COMMENT 14: I live at 113 Lyman Street. Has my house been sampled for SVI? If not, will it be sampled?

RESPONSE 14: No, SVI sampling has not been conducted at this location. Although this house was included in the 1996 residential sampling program study area, a water sample could not be collected because the sump was dry, despite multiple visits and attempts. The 1996 testing program relied on water sample results to determine if indoor air testing would be performed. Since no water sample was collected, indoor air testing was not performed at this location. As described in the OU 04 ROD, the prior (1996) SVI efforts will be re-evaluated. If SVI sampling is determined to be necessary, sampling at this location may be pursued.

COMMENT 15: Will DEC make the RPs complete the SVI work at the site?

RESPONSE 15: DEC is seeking to have the PRPs implement the remedy.

The following comment was received From J. Milner via an email dated April 9, 2012.

COMMENT 16: As a former resident of the Village of Brockport and one who lived in the vicinity of the JMT Properties I would like to share a story with you about a concern I have had for many years about the possible contamination in and around the home my family lived in from 1968 - 1976. I was away when you recently conducted a meeting on March 13 for the community and I realize the public comment period ended on March 29 but I hope you will give consideration to what I have to say.

Little did we know when we resided at 113 State Street that the torrent of ground water we had to deal with in our basement each spring and to a lesser degree throughout the year was probably contaminated. I believe that the storm and sanitary sewers that were underground at our location were full of the contaminants you are now dealing with. I have read your most recent report and I understand that the primary focus is in the area north of the JMT property but I am convinced that the sewers in the area of our home, which was northwest of JMT, were collapsed and much of the runoff was going into our basement. Our former home no longer exists nor is the beverage company that was just east of our property. I can't help but wonder if the soil under the present Senior Center on State Street and other properties west of the JMT property are contaminated and after living with those cancer causing agents as long as we did if they had something to do with my wife and I both contracting cancer and one of our daughters having a child with Down Syndrome. I can still remember sloshing around in the water in our basement when it was coming in faster than the sump pump could handle it. Who would have thought that GE and Black and Decker were allowing this poison to go into the ground.

Thanks for listening and I hope someday that the contaminated area will be clean and people living in that area won't have to worry about what is going on underground.

RESPONSE 16: Based on the location of the former residence described, groundwater in the vicinity would not have been affected by the former GE/Black & Decker site. The house was located to the west of the site, and groundwater from the site would have moved towards the north. Also, migration of contaminants in groundwater from the site occurred through bedrock groundwater flow, not the overburden or soil zone where a basement would be positioned. The sewers in the vicinity of your former property are likely installed below the seasonal groundwater surface, so groundwater would tend to discharge into, not out of the sewers. The 113 State Street area could be expected to prone to wet basements due to proximity to the canal, especially when the canal is filled during the navigation season.

The former 3M/Dynacolor site, located at 180 State Street, nearer to 113 State Street, is another site that has been investigated and remediated, under NYSDEC oversight. Soil sampling completed on properties west of Oxford Street showed no site related impacts from either the 3M/Dynacolor site or the GE/B&D site. Also see response 8.

A letter dated April 30, 2012 was received from Young/Sommer LLC, on behalf of Black & Decker and General Electric), which provided the following comments.

COMMENT 17: The PRAPs acknowledge that the RCRA program is applicable to the Site. The NYSDEC drafted Statements of Basis for Site Wide Remedy Selection and Off-Site Groundwater in 2008 for use in the RCRA program. The Department should explain why, after 25 years, it has decided to abandon the RCRA program as the basis for managing the Site and substitute the State Superfund program instead.

RESPONSE 17: This site is classified as a class 2 site on the Registry of Inactive Hazardous Waste Disposal Sites (the Registry), so the State Superfund law (SSF) is applicable to the remedial program developed to respond to the significant threat to human health and/or the environment. Although RCRA and state superfund are governed by two different statutes, their remedial programs share many similarities and generally produce consistent outcomes. There is broad overlap in the process for establishing cleanup standards under these programs. Both programs stress protection of human health and the environment, and both require that a cleanup meet applicable substantive provisions of State law. DER relies on DER-10 Technical guidance for Site Investigation and Remediation which has the benefits of ensuring staff use consistent nomenclature and approaches to the cleanup of sites. Since this is a class 2 Registry site, the requirement of 6NYCRR 375-2.8(e) regarding selection of the final remedy for the site remedial program is applicable.

COMMENT 18: The 2008 Statement of Basis for Off-Site Groundwater acknowledged the residential sampling program and abatement measures approved by NYSDEC/NYSDOH and conducted in 1996 through 1998 and showed that the "areal extent and magnitude of the off-site VOC plume has decreased". The Statement of Basis acknowledged the effectiveness of the on-site corrective action system and "on-going natural attenuation" in reducing off-site VOC concentrations. The 2008 draft Statement of Basis did not require additional vapor intrusion sampling. The PRAP for OU 4 does not set forth any identified deficiencies in the prior soil vapor intrusion investigation and mitigation measures program that were implemented.

In light of this history, NYSDEC should identify the data, if any, gathered since 2008 that serve as the technical basis for the PRAPs' requirement to submit a soil vapor intrusion evaluation sampling work plan. Also, NYSDEC must identify the deficiencies, if any, in the residential sampling program and abatement measures approved by NYSDEC/NYSDOH and conducted in 1996 through 1998 that necessitate further soil vapor intrusion investigation measures. Finally, NYSDEC must identify the specific data gaps, if any, that exist with regard to the current NYSDOH Guidance in relation to the prior residential sampling program and Day Environmental sampling effort. In other words, if NYSDEC believes that past sampling efforts do not meet the requirements of NYSDOH's VI guidance, they must explain why in detail so that any deficiency can be evaluated within the applicable context.

To the best of our knowledge, the available data establish that groundwater quality with regard to VOC impacts has been effectively addressed. If additional data have been gathered showing that extensive VOC contamination remains that would cause a vapor intrusion risk, it must be provided to GE, SBD and others so that it can be properly assessed. If no additional data or other evidence has been gathered, NYSDEC must provide a more thorough explanation of why it believes additional investigation of off-site vapor intrusion is necessary.

RESPONSE 18: The 2008 Statement of Basis for Off-Site Groundwater was a preliminary draft decision document which was not public noticed or released for public review/comment. The PRAPs that were released for public comment in February 2012, and now this ROD, reflect the final action on this matter, also see Response 17 above.

The NYSDEC, in consultation with the NYSDOH, is requiring a re-evaluation of the soil vapor intrusion exposure pathway in accordance with NYSDEC's DEC Program Policy DER-13: Strategy for Evaluating Soil Vapor Intrusion at Remedial Sites in New York (October 2006). This site is one of 421 past or legacy sites, which are defined as sites with known or suspected VOC contamination where remedial decisions for part or all of the site were made prior to January 1, 2003, that are undergoing this re-evaluation process. As stated in DER-13, although the agencies may have previously evaluated the soil vapor pathway at a site, improvements in analytical techniques and knowledge gained from the investigation of sites in New York and other states has led to an increased awareness regarding soil vapor as a media of concern and the potential for exposures from the soil vapor intrusion pathway. Based on this additional information, New York is currently re-evaluating previous assumptions and decisions regarding the potential for soil vapor intrusion exposures at sites. The result is that additional work may be required to investigate and, where appropriate, remediate sites.

As indicated in DER-13, evaluations of soil vapor intrusion at these past or legacy sites are to be completed in accordance with the state's existing guidance (*Final Guidance for Evaluating Soil Vapor Intrusion in the State of New York*, NYSDOH 2006). Previous evaluations at this site have not been; for example, as pertaining to minimum reporting limits achieved during sample analyses, sampling during the heating season, sub-slab vapor characterization (where feasible), and comprehensive sampling to define the nature and extent of soil vapor contamination and exposure concerns within a study area. Re-evaluating soil vapor intrusion at this site will verify that all appropriate actions have been/are implemented to identify and address exposures related to soil vapor intrusion.

COMMENT 19: JMT and COMIDA are identified in Section 5 of both PRAPs as PRPs. However, the draft Order on Consent that was issued along with the PRAPs was not sent to those parties. NYSDEC must explain why the owner of the property was not issued a draft Order on Consent when some of the work depends fully on the consent and authorization of the PRP owner. In particular, the OU 5 work includes the following tasks, all of which implicate the owner and most of which can only be performed by the owner:

- The handling and disposal of personal property owned by the owner;
- The imposition of an easement on the property of the owner;
- The development of a Site Management Plan that the owner must comply with and approve; and
- The evaluation of vapor intrusion if and when utility service is reestablished in the existing building and the building is occupied.

The Site Owner's liabilities moreover are acknowledged by NYSDEC in Section 7.4, p. 13, where it notes that "the remedial party and the Site Owner are jointly responsible to ensure that

all site management responsibilities identified in the site management plan, environmental consent and the oversight agreement, are performed."

RESPONSE 19: The purpose of the PRAP is to present the proposed remedy. The mechanism and parties that will be involved with implementation of the remedy are resolved separately from remedy selection.

COMMENT 20: In the OU 5 and 6 PRAP, Section 7.3 notes that the abandoned industrial building on the industrial zoned property is to have institutional controls and engineering controls (IC/EC) restrictions placed on the property. Such controls can only be established by the PRP owner. Has the NYSDEC determined that the deed restriction limits the use of the property to industrial zoned activities as established by local zoning? Has the owner agreed to industrial use restrictions or engineering controls? Who is the owner of the property and what correspondence, if any, has the NYSDEC had with the PRP owner with regard to industrial use restrictions or engineering controls? Has the owner disclosed the Day Environmental VI assessment to the NYSDEC/NYSDOH? If so, did NYSDEC/NYSDOH provide comments to the owner on the VI report? The Department needs to involve the owner of the property so that necessary institutional and engineering controls, and building-related evaluations and operations can be performed by the Site owner.

RESPONSE 20: The site use restriction, which will be in the form of an environmental easement, has not yet been placed. As stated in 6 NYCRR 375-1.8(g)(5), the allowable use of a site can be based on a cleanup level that would require a less restrictive use of the site than would be allowed based upon zoning. So although the local zoning is currently industrial, DEC may select a cleanup level and use restriction which would allow a less restrictive use of the site, such as commercial.

Records from Monroe County indicate that JMT Properties, Inc. is the owner of the property. The owner's representative was notified that a remedy had been proposed for the site, and that a public meeting was scheduled. The owner did not provide the Day Environmental VI report to the DEC. The report was provided to the Department by a party interested in purchasing the property.

COMMENT 21: The selected remedial programs set forth in the PRAPs should not be duplicative of prior approved and implemented work plans. The NYSDEC should clarify that all prior activities conducted pursuant to RCRA-approved work plans, and all data obtained during such activities, will be deemed to have been developed in a manner that was fully consistent with the National Contingency Plan (NCP), 6 NYCRR Part 375, and, where applicable, NYSDEC guidance. The NYSDEC should specifically identify any activities or data that it does not believe can be applied to the remedial measures selected in the PRAPs.

RESPONSE 21: DEC believes that there is a functional equivalence and there are not substantive differences between the RCRA and SSF cleanup programs in that they have roughly the same approach to cleanups. Under each program, examinations of available data are made after discovery of a release to determine if an emergency action is warranted. Both programs authorize short term measures to abate immediate adverse effects of a release. In addition, once an

emergency has been addressed, both programs provide for appropriate investigation to establish long-term cleanup options.

The SSF program uses different terminology from the RCRA process. For example, in SSF a field investigation (with sampling) is called a "Remedial Investigation" (RI) and an evaluation of the relative feasibility of different remedy options is known as a "Feasibility Study" (FS). In RCRA, these are a "RCRA Facility Investigation" (RFI) and a "Corrective Measures Study" (CMS).

Under SSF, when the investigation has been completed and DEC is ready to select a cleanup plan, it issues a Proposed Remedial Action Plan identifying the preferred cleanup approach for the site or an element of the site (referred to as an "operable unit"). After soliciting public comment, DEC issues a final decision in a document known as the Record of Decision (ROD).

The RCRA program relies on either a permit modification process to incorporate the selected Remedies or a Statement of Basis, but also solicits public comment before a remedy is selected.

DEC will generally accept documents prepared pursuant to the RCRA Corrective Action program as meeting the substantive equivalent requirements of the SSF program. However, in those instances where the PRAPs require further actions, such as preparation of a comprehensive site management plan, it means that the existing documents need to be updated/integrated (post-closure plan, corrective action system operation and maintenance plan, compliance monitoring program sampling and analysis plan, off-site groundwater interim corrective measures implementation plan, etc.).

COMMENT 22: OU4 Section 4, Page 5

First Paragraph, First Sentence: The PRAP states: "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 operable unit, an alternative which allows for unrestricted use of the site was evaluated." (Emphasis added). However, there is no soil remediation remedy for the industrial facility and its surroundings and the remedial action objectives (RAOs) in the PRAP are applicable solely to groundwater and vapor. The sentence should be clarified to note that the facility is in an industrial zone, that the only contemplated use should be consistent with such zoning, and that "the Department may consider the current, intended, and reasonably anticipated future land use of the site and its surroundings when evaluating a remedy for groundwater." The Department cannot require the remediation of the property for "unrestricted" or residential uses.

RESPONSE 22: The word "soil" has been deleted in the ROD. The suggested clarification about the facility being in an industrial zone is not appropriate since OU 4 is located in a residential neighborhood, on a parcel that was in residential use prior to construction of the treatment system. The Department can require remediation of such properties to "unrestricted" criteria.

COMMENT 23: OU4 *Fourth Paragraph, Second Sentence:* The PRAP states: "Mitigation systems were installed in two houses." However, given the scope of the off-site investigation that was conducted in the residential neighborhood, this one sentence does not provide the public

with any sense of the extensive nature of the 38-homestudy that was conducted. The PRAP should provide a more meaningful summary of the past investigation and abatement measures, particularly where the NYSDEC/NYSDOH reviewed and approved the work. NYSDEC is aware that abatement measures were proposed in six of the seven residences in which TCE and/or 1,2-dichloroethene (1,2-DCE) were detected; abatement measures were completed in two residences, another residence was purchased by GE (and used to construct the off-site groundwater remediation system), and agreements to implement abatement measures in the other three residences were offered but not accepted by the other property owners. In the seventh house, continued monitoring was offered, but not accepted by the owner(s).

RESPONSE 23: Additional detail to address this has been added to the ROD/ROD Exhibits.

COMMENT 24: OU4 Section 6.3, Page 7

Second Paragraph, Second Sentence: The PRAP states: "The potential for soil vapor intrusion to occur on-site will be evaluated should the site building be re-occupied and/or if new construction occurs. For this operable unit, an alternative which allows for unrestricted use of the site was evaluated." Because off-site groundwater is the subject of OU-4, the inclusion of this sentence in the OU 4 PRAP is confusing and would be more appropriate in the OU 5/OU 6 PRAP. If the sentence remains, reference should be made to both the Day Environmental report and to the fact that, as stated on page 14 of the OU 5/OU 6 PRAP, any contingent evaluation of a vapor intrusion pathway will need to be implemented by the Site owner in the event that utility/HVAC service is re-established and the on-site structure is to be occupied. Because the Site Management Plan will be the vehicle governing this contingency measure, the PRAP needs to provide notice to the Site owner of its obligations if the Site owner intends to use the on-site industrial building. In the alternative, the reference to on-site issues should be deleted.

RESPONSE 24: The requested change has been incorporated in the ROD.

COMMENT 25: OU4 Section 6.3, Page 7

Second Paragraph, Third Sentence: The PRAP states: "NYSDOH and NYSDEC will re-evaluate the need to investigate the potential for soil vapor intrusion into off-site structures." The Off-Site Groundwater CMS Report was submitted to NYSDEC in December 2007. NYSDEC tentatively approved this report in September 2008, subject to public comment. Groundwater was the only media required to be addressed in the CMS report; none of the corrective action alternatives included a vapor intrusion evaluation because it had already been addressed in 1996 in accordance with the NYSDEC/NYSDOH-approved program. The PRAP does not identify any new conditions or new data that provide a technical foundation for a "re-evaluation" of the extensive studies conducted to date. The PRAP should identify the technical basis, along with data, that serves as the basis for a decision to reinvestigate off-site structures.

RESPONSE 25: See response 18.

COMMENT 26: OU4 Section 6.4, Page 8

Second Paragraph: The PRAP notes that the groundwater extraction and treatment system has operated as an ICM at 200 State Street since 1988 and that it has been enhanced over the years, including enhancements as recent as 2007. The PRAP should be revised to more thoroughly

discuss the remedial program for groundwater both on and off-site and its effectiveness in reducing contaminant concentrations, including a description of the off-site groundwater extraction trench and treatment system installed on property at 98 Lyman Street, which has been successfully operating for well over a decade.

RESPONSE 26: Additional detail has been included.

COMMENT 27: OU4 Section 7, Page 8

First Paragraph: The Off-Site Groundwater CMS Report submitted to NYSDEC in December 2007 and tentatively approved by the Department in September 2008 "subject to public comment" did not call for additional soil vapor intrusion analysis. The PRAP should be revised to explain the technical basis for the proposed soil vapor intrusion evaluation work plan requirement in light of this history.

RESPONSE 27: See response 18.

COMMENT 28: OU4 Section 7, Page 9

Soil Vapor Intrusion Evaluation: The PRAP states: "Submission of a soil vapor intrusion evaluation sampling work plan will be required." As previously noted, however, the PRAP does not provide any technical basis for the requirement. The simple fact that the 2006 NYSDOH guidelines did not exist when the off-site residential vapor assessment program was implemented is not an adequate basis to require an entirely new assessment program; mere curiosity does not justify the potential disruptions to the community caused by requiring such a program, particular given that the assessment process is disruptive to the homeowners involved.

Absent new information or data showing that the prior vapor intrusion program approved by the Department was inadequate, this requirement should be reconsidered. If the Department wants to preserve the flexibility to require such an assessment in the future, the PRAP could more accurately state that NYSDEC and NYSDOH will re-evaluate the need to investigate the potential for soil vapor intrusion into off-site structures based on future monitoring data and new information showing a deterioration in off-site groundwater conditions. If an additional soil vapor intrusion investigation is determined necessary, the adequacy of the 1996 sampling program and related IRMs should first be evaluated relative to current NYSDOH soil vapor intrusion guidelines and reasons for the deficiency of that program, if any, should be described.

RESPONSE 28: See response 18.

COMMENT 29: OU4 *Site Management Plan:* (pages 9 - 10): This item calls for a Site Management Plan (SMP) to be prepared for OU-4. The SMP is to include an Engineering Control Plan, a Monitoring Plan and an Operation and Maintenance Plan. However, there are already numerous NYSDEC-approved plans in place that have worked effectively for years. These plans include the following documents that provide essentially the same information as that called for in the SMP for OU 4:

- Off-Site Groundwater Remediation Interim Corrective Measures Operation and Maintenance Plan (Blasland, Bouck & Lee, Inc., 2006);

- Off-Site Groundwater Remediation Interim Corrective Measures Implementation Plan (Blasland, Bouck & Lee, Inc., 2000);
- Off-Site Groundwater Corrective Measures Study Report (O'Brien & Gere, 2007);
- Compliance Monitoring Program Sampling and Analysis Plan (2008);
- Engineering Certification Report Interim Corrective Measures at House No. 4 (O'Brien & Gere, 2009); and
- House NO.4 Sanitary Sewer Discharge Monitoring Sampling and Analysis Plan (O'Brien & Gere, 2002).

The PRAP should clarify that previously-approved existing plans will be accepted towards the requirements of the SMP without revision or resubmittal. The attempt to transfer oversight of the facility and related remediation programs from RCRA to Article 27, Title 13 should not require duplication of effort and costs where documents and activities already have been drafted, finalized, used and/or undertaken.

RESPONSE 29: Previously approved plans can be accepted where appropriate, provided full electronic copies are available to be incorporated in the SMP.

COMMENT 30: OU4 Exhibit A - Groundwater:

The table for groundwater presents a concentration range detected for TCE, cis-1,2-DCE and vinyl chloride. It appears that the concentrations presented are from groundwater samples collected in June 2011. A reference to the date of sample collection should be added to the table. In addition, the maximum concentrations presented in the table for groundwater are representative of bedrock monitoring wells. The maximum concentrations of the overburden monitoring well in the area of OU 4 are significantly lower (4.4 ug/l TCE, 0.99 J [estimated] ug/l cis-1,2-DCE and non-detect vinyl chloride). It is important to distinguish between the concentrations of VOCs in overburden as compared to bedrock groundwater when evaluating impact to human health and the environment, including the evaluation of VOC concentrations in the overburden groundwater and potential vapor intrusion. Concentration ranges of TCE, cis-1,2-DCE and vinyl chloride for both overburden and bedrock groundwater should be presented in the table since the exposure issue arises from vapor, not ingestion because a municipal water system supplies the neighborhood. (See human exposure pathway description in Section 6.3). As such, overburden concentrations are more relevant to this issue.

RESPONSE 30: Clarifying information (sample date/flow zone) has been added to the table in the ROD.

COMMENT 31: OU4 Exhibit A - Soil Vapor

As previously noted, the need for another soil vapor intrusion assessment in the residential community has not been established in the PRAP. Any such program must be based on data and information that raises technical deficiencies in the prior NYSDEC/NYSDOH-approved program, which was extensive.

RESPONSE 31: See response 18.

COMMENT 32: OU5,6 Section 1, Page 1

Second Paragraph: Although the PRAP acknowledges that the facility is regulated under RCRA, it then, without discussion or explanation, appears to prefer to regulate the facility under the State Superfund Program rather than the State RCRA Program. The Site has been, and is currently, managed under RCRA. There is an approved Post-Closure Permit issued for this facility and activities under that Permit have been and are underway. Because the Site has been managed successfully under the RCRA program for 25 years, the PRAP should set forth the legal, technical and policy reasons, if any, for moving the Site from regulation under RCRA to management under the Superfund Program.

RESPONSE 32: While determining the appropriate enforcement approach at a facility is a site-specific decision, DER's preference is to utilize orders in lieu of post-closure permits (where active hazardous waste management operations are no longer on-going). Further, since this is a class 2 inactive hazardous waste disposal site, the site-specific decision considers this preference as well as factors associated with this particular facility. Regardless of the approach taken, the desired outcome is the same, continued site management to ensure the remedy remains effective and protective of human health and the environment. Also see response 17.

COMMENT 33: OU5,6 Section 3, Page 3

Fourth Paragraph: It is our understanding that ownership of the Site may have changed hands in recent months. The NYSDEC should ascertain whether JMT remains the owner of the property or whether COMIDA took title and has sold the property to another entity. Facility actions conducted by prospective purchasers or the actual owner should be obtained by the NYSDEC. NYSDEC can exercise its information-gathering authority to determine the present ownership status and whether additional investigation has been conducted by other parties. In the event that there is a new owner of the property, that entity should be listed under Section 5 of the PRAP. As set forth below, several measures called for in the PRAP can only be implemented by, or in cooperation with, the current Site owner. As a result, it is crucial that ownership of the Site be firmly established.

RESPONSE 33: The ROD identifies the selected remedy. Selection of a remedy is not dependent on the identification of the property owner. Implementation of the remedy will involve efforts to coordinate activities with the property owner going forward. Also see response 20.

COMMENT 34: OU5,6 Section 3, Page 4

Last Paragraph, First Sentence: According to past reports submitted to the Department, overburden thickness ranges from 5 - 20 feet rather than 10 - 15 feet.

RESPONSE 34: The revised range has been used in the ROD.

COMMENT 35: OU5,6 Section 4, Page 5

First and Second Paragraph: The property has been used for industrial purposes for more than 60 years and is located in an industrial zone. The first paragraph states that anticipated commercial and industrial uses were considered when evaluating soil remediation requirements for the Site. However, the second paragraph indicates that the results of the investigation were compared with unrestricted use standards, criteria and guidance (SCG) values, a standard that is

not applicable to the Site. The soils evaluation table in Exhibit A appropriately lists Restricted Use - Commercial, Restricted Use - Industrial, and Restricted Use - Protection of Groundwater. The reference to unrestricted use concentrations in the text is confusing and inappropriate and should be deleted.

RESPONSE 35: The results were evaluated against the unrestricted use standards, as part of the process set forth in 375-2.8(c)(2) due to the site's status as a class 2 site. The goal of the remedial program is to restore the site to pre-disposal conditions to the extent feasible. Also see response 20.

COMMENT 36: OU5,6 Section 5, Page 5

Second Paragraph: As previously noted, in the event a new owner is identified, that entity should be listed in Section 5, particularly in light of the fact that certain program elements, such as removal of personal property, filing of an environmental easement, turning on power and occupying the building are all uniquely the obligation of the owner. If JMT, the co-permittee with SBD on the Post-Closure Permit, remains the owner, will the NYSDEC make the necessary arrangements for JMT to implement the owner obligations under the PRAP?

RESPONSE 36: See responses 1, 4, 7, 19 and 33.

COMMENT 37: OU5,6 Section 6.1, Page 6

The first complete sentence provides that "The following general activities are typically conducted during an RI." However, the investigation at the property was conducted under the RCRA program; as such, the reference to an RI is not accurate from a programmatic perspective. To the extent that the NYSDEC wants the PRAP to be programmatic accurate, it would be more accurate to refer to the RCRA activities that have been and are being conducted using RCRA-specific terms such as RFA, RFI, CMS, CMI, etc. Moreover, future work at the Site should not duplicate prior efforts under RCRA based on a programmatic change with no clear rationale.

RESPONSE 37: See response 17. The term "RI" is the functional equivalent of RFI and may be read as such.

COMMENT 38: OU5,6 Section 6.1.2, Page 6

Fifth and Sixth Bullet: The heading for "RI" should be changed to reflect that the facility has been subject to investigation under RCRA not State Superfund. Several RFIs have been conducted. To the extent that reference is made to indoor air samples, reference should be made to the Day Environmental Report conducted in 2009, and the party conducting that study should be identified.

RESPONSE 38: The Day Environmental Report has been more clearly identified in the ROD exhibit and the party that conducted that work has been identified therein. Also see response 37.

COMMENT 39: OU5,6 Section 6.1.2, Page 7

Top of Page - The PRAP indicates that the contaminants of concern (COCs) exceed the SCGs in soil and soil vapor, but does not distinguish between OUs. This is confusing and should be clarified.

RESPONSE 39: Details providing the requested clarification have been incorporated in the ROD Exhibit A.

COMMENT 40: OU5,6 Section 6.3, Page 10

Second Paragraph, Second Sentence: See comment on Exhibit A - Soil Vapor below for a discussion of issues associated with evaluation of on-site vapor intrusion referenced in Sentence 2. Vapor sampling in the on-site building requires the active involvement of the Site owner, including the re-installation of power to the building, re-establishment of an operating HVAC system, occupancy of the building, use of the building, etc. At this time there is no exposure associated with an inhalation pathway; as such, it is only by the affirmative action of the Site owner that the inhalation pathway becomes actualized; accordingly, this contingent measure should be identified as the obligation of the owner when and if the owner decides to trigger the requirement for indoor air sampling.

RESPONSE 40: See response 19.

COMMENT 41: OU5,6 Section 6.3, Page 10

Second Paragraph, Third Sentence: The reference to off-site structures in Sentence 3 is out of place in the OU 5/ OU 6 PRAP, which addresses on-site conditions only. Accordingly, this sentence should be deleted.

RESPONSE 41: The referenced sentence has been deleted in the ROD.

COMMENT 42: OU5,6 Section 6.5, Page 11

The PRAP makes reference to remedial action objectives (RAOs), a term associated with the Part 375 regulations under the state Superfund program. Because the Site has been governed by the RCRA program, it is more appropriate to use post-closure care and corrective action terminology with regard to protection of human health and the environment. The use of state Superfund language throughout the document, when this facility has been governed, and facility investigations and corrective actions have been implemented under RCRA, should be reconsidered and put into context of the apparent determination by the NYSDEC to alter the regulatory oversight program after several decades. Reasons for the shift of regulatory oversight should first be identified and explained so that the public understands the basis for the suggested change. If the decision is made to keep the property subject to the RCRA program, as it has been for decades, the Part 375 language should be corrected to proper Part 373 regulatory terminology with regard to protection of human health and the environment.

RESPONSE 42: See response 17.

COMMENT 43: OU5,6 Section 7, Page 12

The first paragraph specifies that the remedy selected must "utilize permanent solutions, alternative technologies or resource recovery technologies to the maximum extent practicable".

This criterion, however, does not appear in the RCRA regulations with regard to corrective action or post-closure care. Has the NYSDEC evaluated this project in relation to the remedy selection criteria established by RCRA? If so, will the final ROD include a discussion of the remedy selection in the context of RCRA? The goal of the corrective action program should be to protect human health and the environment.

RESPONSE 43: See response 17.

COMMENT 44: *OU-05, Item 1, Source removal*: The PRAP calls for the removal of any remaining PCB containing electrical equipment from the Site. However, GE and SBD do not currently own or operate the facility and so arguably lack the authority to implement this measure. The PRAP should clarify that the disposal of personal property, such as electrical equipment, will be the responsibility of the present owner of the equipment (JMT or the successor owner, if any). To facilitate removal of the equipment, NYSDEC must take the necessary steps to identify and locate the owner of the facility and/or the personal property. More generally, it is not explained in the PRAP why NYSDEC did not remove the contaminated equipment at the time it arranged for them to be drained. Although NYSDEC, like GE and SBD, may have been concerned regarding ownership issues, the fact remains that this work must now be implemented by the property owner.

RESPONSE 44:

NYSDEC performed an emergency removal action to get the liquid PCB oil off of the site as it posed the greatest threat for an environmental release. A liquid oil release would likely have re-contaminated the Tributary 3 drainageway and adjacent residential properties. Since this is a class 2 site, NYSDEC was able to focus on removing PCB oil from the site and was able to expend state funds to accomplish this action.

The drained equipment still contains high concentrations of residual PCBs and poses a release threat. Continuing deterioration of the site, and the possibility of copper thieves targeting this equipment, increases the threat. Therefore the remedy includes removal of this equipment from the site. Also, see response 19.

COMMENT 45: Section 7, Page 12 & 13

OU 5, Items 2, 3 and 4: The PRAP notes that currently inaccessible soils, containing more than 10 ppm, remain on the Site and that these soils will be removed for off-site disposal in accordance with a Site Management Plan. However, addressing these soils is a contingent measure dependent upon what the owner of the property does in the future. Accordingly, the property owner is and must be responsible for implementing the SMP with respect to soils under existing "caps" such as buildings or other structures. Because all accessible areas have been subject to corrective action and have achieved appropriate protective status, the future actions of the owner will be the trigger for such contingent response and SMP implementation.

For similar reasons, the property owner also is responsible for implementing institutional control/engineering control (IC/EC) programs at the property since the owner will need to be the party who places an environmental easement on its property and/or agrees to a deed restriction. The actual owner of the property must be identified and notified of these owner responsibilities.

Finally preparation of a SMP for the facility requires the development of an Institutional and Engineering Control Plan and a Monitoring Plan. As the Department is aware, there are already many existing NYSDEC-approved plans in place that have been implemented for many years. These existing plans should be available to the facility owner to incorporate into any final SMP that the owner may be required to develop and implement. It should not be necessary to duplicate these past efforts.

RESPONSE 45: See responses 19 and 21.

COMMENT 46: Section 7, Page 14

OU 6, Item 1: The PRAP requires re-sampling and re-evaluating the soil vapor intrusion pathway in the event utility service is reestablished and the main on-site structure is to be occupied. Because the steps leading up to the assessment will be undertaken by the facility owner, this reassessment must necessarily be implemented by the owner. Prior to conducting any VI assessment, the Day Environmental Report should be reviewed so as to better ascertain the scope of the building inventory conducted by Day so that the facility owner can remove indoor air contaminant sources and conduct the necessary work in accordance with NYSDOH guidance. The conditions under which any VI assessment is performed should be representative of routine operations to be conducted at the industrial facility. This includes re-establishing an operating HVAC system. In addition, the condition of the building structure should be evaluated prior to the owner conducting any VI assessment (*i.e.*, windows should be intact, outer doors should close properly, etc.). In general, if the Department wants to have the owner conduct an indoor air assessment, the Department must contact the owner and direct that the owner conduct the work.

RESPONSE 46: The remedy must be protective of current and reasonably anticipated future use. Occupancy of the building is reasonably anticipated so the remedy includes provisions to address exposures that may arise through such use. General Electric and Black & Decker used chlorinated solvents at this site, and releases of chlorinated solvents to groundwater were documented while General Electric still owned the site. These releases to the environment impair reasonably anticipated use of this site. As noted in Exhibit A, while there are some concerns about representativeness of building conditions at the time of sampling, potential exposures may exist since the results showed elevated levels of chlorinated solvents in the sub-slab vapor. Also see response 19.

COMMENT 47: OU5,6 Exhibit A - Waste/Source Areas

The electrical equipment in the building is the personal property of the facility owner. The facility owner must be asked to implement the removal of its equipment.

RESPONSE 47: The transformers have been present since GE and Black & Decker's ownership and use of the site and are to be addressed by the remedial program. Also see response 33.

COMMENT 48: OU5,6 Exhibit A - Groundwater

The maximum concentrations presented in Groundwater Table 1 are representative of bedrock monitoring wells. The maximum concentrations of the overburden monitoring well in the area of OU 6 (GEB-18S) are significantly lower (1.8 J ug/L trichloroethene, 190 ug/L cis-1,2-

dichloroethene and non-detect vinyl chloride). For purposes of evaluating vapor intrusion, it is important to distinguish between the concentrations of VOCs in overburden versus bedrock groundwater since conditions in the bedrock groundwater will not be the source if the overburden is within or near applicable standards. In light of these considerations, Table 1 should include the overburden concentrations to reflect the conditions in the media that is more directly associated with the concern over the inhalation exposure pathway.

RESPONSE 48: Columns specific to the overburden and bedrock groundwater have been added to the table in the ROD.

COMMENT 49: OU5,6 Exhibit A - Soil

The first sentence of the discussion of soil contamination indicates shallow and subsurface soils were collected at the Site. Surface and subsurface SCGs for PCBs are mentioned; however, the soil results presented in Table 2 are not differentiated by depth range. Table 2 presents the TCE Unrestricted SCG and Restricted Use SCG - Protection of Groundwater as 0.047 ppm. However, the soil cleanup objective (SCO) tables currently provided under Part 375 on NYSDEC's website list these standards as 0.470 ppm. *See* 6 NYCRR § 375-6.8(a), (b). Similarly, the cis-1,2-dichloroethene Restricted Use SCG - Industrial is listed as 500 ppm in Table 2; however, it is shown as 1000 ppm in the Part 375 SCO table. The SCGs in Table 2 should be confirmed and corrected, as necessary.

RESPONSE 49: For the contaminants included in the table, only PCBs have depth-dependent soil comparison values (see note "f" below Table 2). As noted in the text in the exhibit, the excavation actions removed shallow soil in all areas where soil analytical results exceeded 1 ppm total PCB concentrations, so there is no value in differentiating results by depth range.

The SCGs in Table 2 have been corrected in the ROD.

COMMENT 50: OU5,6 Exhibit A - Soil Vapor

A vapor intrusion assessment was performed on December 16, 2008 and is summarized in a report prepared by Day Environmental, Inc. dated January 13, 2009. As previously noted, these data were not specifically referenced or summarized in the PRAP; nor is there any assessment of the reliability of the Day sampling program. Nevertheless, the PRAP section concludes that the sub-slab TCE data indicates the need for further monitoring and possible mitigation based on "NYSDOH guidance". However, the NYSDOH guidance is rooted in a comparison of sub-slab and indoor air data. Also, the NYSDOH Matrix 1 is not intended for application to abandoned industrial buildings that sit empty, unused and without electricity or an operational HVAC system. In addition, the concentrations of TCE detected by Day Environmental in the sub-slab sample ranged from 0.803 to an estimated 172 ug/m³. Under the NYSDOH guidance, these results would not mandate mitigation without comparison with indoor air concentrations. In and of themselves, the TCE detections were relatively low and, based on a typical attenuation factor across thick concrete slab floors in an industrial building in an industrial zone, the corresponding concentrations expected in the indoor air would be low. Under these circumstances, curiosity with regard to vapor intrusion in the abandoned industrial building should be the responsibility of the building owner and can be conducted if and when the building owner places the building into its intended industrial or commercial use.

RESPONSE 50:, The available sub-slab vapor results did indicate the potential for exposures, therefore the PRAP, and now the ROD, calls for further evaluation of this exposure pathway to ensure that the remedy is protective of human health and the environment, if the building is re-occupied.

APPENDIX B

Administrative Record

Administrative Record

JMT Properties, Inc. Facility
Former General Electric/Black & Decker Site
OU5, OU6

RCRA/State Superfund Project
Town of Sweden, Monroe County, New York
Site No. 828003

Post-Closure Permit for JMT Facility (NYSDEC Permit No.: 8-2652-00030/00001-0; EPA ID#NYD0002221919), 1994, NYSDEC.

Statement of Basis for Prior Sludge Application Area, October 1997, NYSDEC.

Engineering Certification Report - Storm Water Interim Corrective Measures [On-Site], dated November 1997, prepared by Blasland, Bouck & Lee, Inc.

Engineering Certification Report - Prior Sludge Application Area, dated June 1998, prepared by Blasland, Bouck & Lee, Inc.

Brockport Creek Biomonitoring Plan, January 2002, prepared by Blasland, Bouck and Lee, Inc.

Off-Site Storm Water Drainageway Interim Corrective Measures Implementation Plan for the JMT Properties Site (200 State Street), dated April 2002, prepared by Blasland, Bouck and Lee, Inc.

Engineering Certification Report - Brush and Soil Stockpile Removal [Off-Site], dated December 2002, prepared by Blasland, Bouck & Lee, Inc.

Engineering Certification Report - Off-Site Storm Water Drainageway Interim Corrective Measures, dated February 2003, prepared by Blasland, Bouck and Lee.

Engineering Certification Report - On-Site Storm Sewer Interim Corrective Measures, dated March 2003, prepared by Blasland, Bouck & Lee, Inc.

Off-Site Storm Water Drainageway Interim Corrective Measures Implementation Plan for the JMT Properties Site (200 State Street), dated April 2003, prepared by Blasland, Bouck and Lee, Inc.

Engineering Certification Report - Off-Site Storm Water Drainageway Interim Corrective Measures" dated December 2003, prepared by Blasland, Bouck & Lee, Inc.

Engineering Certification Report - Storm Sewer Replacement and Culvert Cleaning [Off-Site], dated January 2004, prepared by Blasland, Bouck & Lee, Inc.

Off-Site Storm Water Drainageway Interim Corrective Measures Implementation Plan for the JMT Properties Site (200 State Street), dated May 2004, prepared by Blasland, Bouck and Lee, Inc.

Storm Sewer Video Inspection (including project record drawings and subsurface structure inspection logs) dated January 2005, prepared by Blasland, Bouck and Lee, Inc.

Engineering Certification Report - On-Site PCB Cleanup, dated March 2005, prepared by Blasland, Bouck & Lee, Inc.

Guidance for Evaluating Soil Vapor Intrusion in the State of New York, 2006, NYSDOH.

Brockport Creek Biomonitoring Results, 2002 - 2012, prepared by Blasland, Bouck and Lee, Inc./ARCADIS.

Proposed Remedial Action Plan, JMT Facility Operable Unit 05/06, 2012, NYSDEC.

Record of Decision, JMT Facility Operable Unit 04 (Off-Site Groundwater), 2012, NYSDEC.

Milner, J., April 9, 2012 email to NYSDEC (PRAP Comments).

Young/Sommer, LLC. April 30, 2012 Letter to NYSDEC (PRAP Comments).