

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

In the Matter of the  
Development and Implementation  
of Remedial Programs for  
Former Manufactured Gas Plants and  
Gas Holder Locations under  
Article 27, Title 13 of the  
Environmental Conservation Law  
by

Brooklyn Union Gas Company d/b/a  
KeySpan Energy Delivery New York  
&  
KeySpan Gas East Corporation d/b/a  
KeySpan Energy Delivery Long Island,

Respondents.

**MODIFICATION  
TO  
ORDER ON CONSENT  
and  
ADMINISTRATIVE  
SETTLEMENT**

Index # A2-0552-0606

2 Additional Sites

**WHEREAS:**

1. The New York State Department of Environmental Conservation (“Department”) is responsible for inactive hazardous waste disposal site remedial programs pursuant to Article 27, Title 13 of the Environmental Conservation Law (“ECL”) and Part 375 of Title 6 of the Official Compilation of Codes Rules and Regulations (“6 NYCRR”) and may issue orders consistent with the authority granted to the Commissioner by such statute.

2. The Department is responsible for carrying out the policy of the State of New York (“State”) to conserve, improve and protect its natural resources and environment and control water, land, and air pollution consistent with the authority granted to the Department and the Commissioner by Article 3, Title 3 of the ECL.

3. Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York and KeySpan Gas East Corporation d/b/a KeySpan Energy Delivery Long Island (“Respondents” or KeySpan”) are subject to an Order on Consent and Administrative Settlement that was effective March 4, 2007, DEC Index No. A2-0552-0606, which was modified on August 10, 2007 and further modified on September 28, 2007 (together the “March 4, 2007 Order”) pertaining to former manufactured gas plant (“MGP”) sites, holder sites and disposal site (collectively, the “Sites”) at which coal tar and associated hazardous substances (“MGP wastes”) were, or may have been, disposed at various times in the past by Respondent or its predecessors or affiliates.

4. The Department and the Respondents now desire a further modification pursuant to Whereas Paragraph 5 and Paragraph XIV.G of the March 4, 2007 Order. The purpose of this

modification (“Modification”) to the March 4, 2007 Order is to add the following sites in Kings County, which Respondents either own or formerly owned and/or operated manufactured gas plants (“MGP”), at which, *inter alia*, coal tar and associated hazardous substances (“MGP Wastes”) were or may have been disposed at various times in the past, to Whereas Paragraphs 4.A and 4.B, respectively, and to Exhibit “A” - Table 1 of the March 4, 2007 Order: Equity Works and Greenpoint Energy Center. These two former MGP Sites, are more particularly described in Article I below and are currently listed in the *Registry of Inactive Hazardous Waste Disposal Sites in New York* as Class 2 sites. These two Sites had previously been included in Exhibit “A” - Table 3 of Order on Consent and Administrative Settlement Index # A2-0552-0606.

5. The Department contends that KeySpan’s, and/or KeySpan’s predecessors’, operations at the Equity Works and Greenpoint Energy Center Sites resulted in the release of MGP Wastes and other contaminants into the environment, and that these MGP wastes and other contaminants continue to exist in the sediments of Newtown Creek, a 3.5-mile-long waterway that separates Kings and Queens Counties, New York and that flows into the East River; its several tributaries, including, without limitation, Whale Creek, Dutch Kills, Maspeth Creek, and English Kills, its approximately 170 acres of sediment bed, and its immediate shoreline. The Department contends that these MGP wastes and other contaminants serve as continuing sources of contaminant releases. The Department, the State and Respondents are currently negotiating a Consent Decree (“Newtown Creek Decree”) with other parties for investigation and/or remediation of Newtown Creek. The Department and Respondents agree that, upon entry, the Newtown Creek Decree shall be the primary, but not exclusive, mechanism for the investigation of the Respondents’ releases from the Equity Works and Greenpoint Energy Center Sites now located in Newtown Creek.

6. The Department and Respondents recognize that the two Sites listed in Paragraph 4 above have the potential to release MGP Wastes and other contaminants. The Department and Respondents recognize that implementation of this Modification will expedite the investigation and, if necessary, remediation, of these two Sites. The Department and Respondents further agree that addition of these two Sites to the March 4, 2007 Order will avoid potentially prolonged and complicated litigation, and that this Modification is mutually acceptable, fair, reasonable, and in the public interest.

7. It is the intent of the Department and Respondents that the definition of these two Sites under the March 4, 2007 Order will not be interpreted to overlap with the Newtown Creek Decree definition of the Newtown Creek Site. Therefore, investigation and/or remediation activities pertaining to Newtown Creek under the March 4, 2007 Order shall be coordinated with any investigation and/or remediation activities under the Newtown Creek Decree.

8. Respondents hereby waive any right to a hearing as may be provided by law, consent to the issuance and entry of this Modification, and agree to be bound by its terms. Respondents consent to and agree not to contest the authority or jurisdiction of the Department to issue or enforce this Modification, and agree not to contest the validity of this Modification or its terms or the validity of data submitted to the Department by Respondents pursuant to this Modification and the March 4, 2007 Order.

9. Respondents have committed to perform an IRM in the bulkhead of the Greenpoint Energy Center Site as a part of this Order on Consent. Pursuant to Paragraph II.B.1(c), the work plan to implement the IRM has been submitted to the Department for review and approval.

NOW, THEREFORE, having considered this matter and being duly advised,

**IT IS ORDERED THAT:**

**ARTICLE I.** Exhibit "A" - Table 1 of the March 4, 2007 Order is hereby and henceforth revised to add the following two (2) Sites and to remove them from Exhibit "A" - Table 3:

| #  | KeySpan Sites                            | Work Plan Type | Site No. | Location Description                     | County |
|----|--|----------------|----------|--|--------|
| 28 | Equity Works Former MGP Site             | SC             | 224050   | Maspeth Avenue<br>Brooklyn, NY 11211     | Kings  |
| 29 | Greenpoint Energy Center Former MGP Site | SC             | 224052   | 287 Maspeth Avenue<br>Brooklyn, NY 11211 | Kings  |

**ARTICLE II.** Respondents shall submit to the Department a Records Search Report for the Sites listed in Article I above in accordance with Exhibit "F" of the March 4, 2007 Order within thirty (30) Days after the effective date of this Modification. The Records Search Report can be limited if the Department notifies Respondents that prior submissions satisfy specific items required for the Records Search Report. Such Records Search Reports shall be submitted in a format acceptable to the Department.

**ARTICLE III.** The first Work Plan for each of the Sites listed in Article I above, shall be submitted to the Department in accordance with a schedule to be determined by the Department within thirty (30) days of the effective date of this Modification based upon a reprioritization of all KeySpan Sites as well as the need to coordinate investigation and remediation activities under the March 4, 2007 Order as determined necessary by the Department with those of any Newtown Creek Decree.

**ARTICLE IV.** All other Work Plans and IRM Work Plans under the March 4, 2007 Order for these two (2) Sites shall address uplands conditions. The Department and Respondents agree that any investigation and remediation activities in Newtown Creek shall be addressed as determined necessary by the Department under the Newtown Creek Decree, unless such work is required under the March 4, 2007 Order to address uplands conditions at the two Sites, e.g. to address current or future seeps.

**ARTICLE V.** Respondents shall provide public notice similar to the Notice of Order & Settlement Agreement attached to the March 4, 2007 Order as Exhibit "D," with regard to each of the above Sites, modified to the extent necessary to comport with the requirements of 6 NYCRR 375-1.5(a).

**ARTICLE VI.** Except for the Modification set forth herein, the March 4, 2007 Order shall remain in full force and effect and the terms thereof and the obligations therein are incorporated herein and shall apply with the same force and effect to the applicable provisions of this Modification. The terms of the March 4, 2007 Order, including all appendices and modifications, are not otherwise modified or expanded in any way.

**ARTICLE VII.** The terms hereof shall constitute this complete and entire Modification of the March 4, 2007 Order. No other term, condition, understanding or agreement purporting to modify the terms of the March 4, 2007 Order shall be binding unless subscribed to by both parties in accordance with the terms of the March 4, 2007 Order.

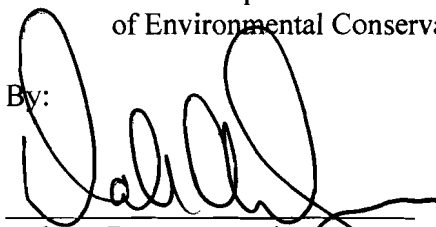
**ARTICLE VIII.** Nothing in this Modification shall affect the claims of the Department or the State with respect to Newtown Creek. The Department and the State reserve all their rights with respect to investigation and remediation of Newtown Creek including but not limited to their rights under the March 4, 2007 Order in the event, and to the extent, that the Newtown Creek Decree does not become effective with respect to investigation and/or remediation.

**ARTICLE IX.** The effective date of this Modification to the March 4, 2007 Order shall be the date signed by the Commissioner or his designee.

DATED: May 22, 2008

ALEXANDER B. GRANNIS,  
COMMISSIONER  
New York State Department  
of Environmental Conservation

By:

  
Dale A. Desnoyers, Director  
Division of Environmental Remediation

**CONSENT BY RESPONDENTS**

Respondents, Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York and KeySpan Gas East Corporation d/b/a KeySpan Energy Delivery Long Island, hereby consent to the issuing and entering of this Order on Consent and Administrative Settlement, waive their right to a hearing herein as provided by law, and agree to be bound by this Modification.

**BROOKLYN UNION GAS COMPANY d/b/a  
KEYSPAN ENERGY DELIVERY NEW YORK**

By: David C. Loh

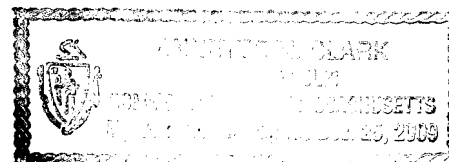
Title: VP ENVIRONMENTAL

Date: 5/19/2008

STATE OF ~~NEW YORK~~ <sup>Mass.</sup> )  
COUNTY OF Worcester ) s.s.:

On the 19th day of May, in the year 2008, before me, the undersigned, personally appeared David C. Lohmore, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Annette He Clark  
Signature and Office of individual  
taking acknowledgment



KEYSPAN GAS EAST CORPORATION D/B/A  
KEYSPAN ENERGY DELIVERY LONG ISLAND

By: David C. Loh

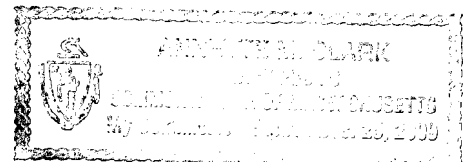
Title: VP ENVIRONMENTAL

Date: 5/19/2008

Mass  
STATE OF ~~NEW YORK~~ )  
 ) s.s.:  
COUNTY OF Worcester )

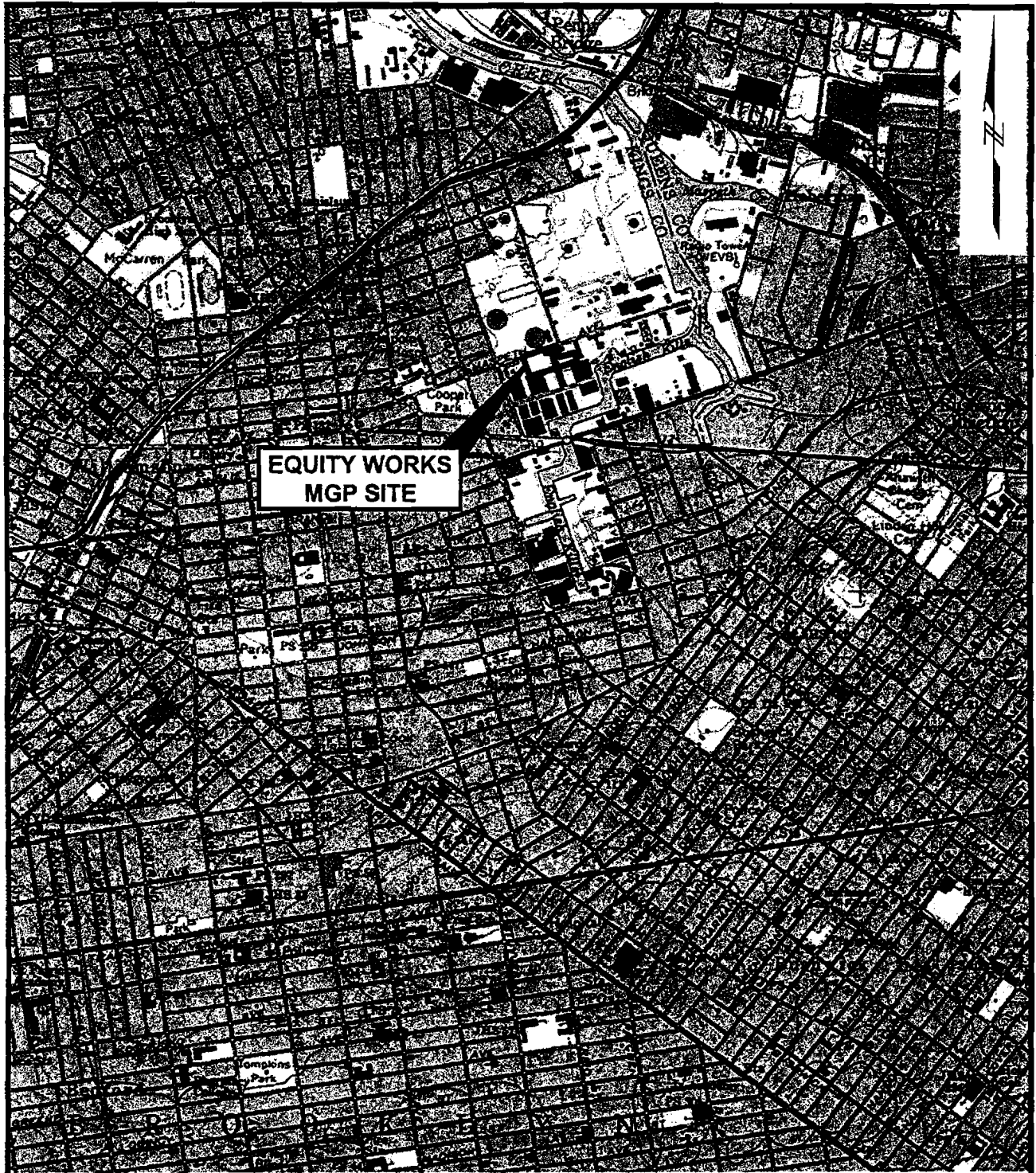
On the 19<sup>th</sup> day of May, in the year 2008, before me, the undersigned, personally appeared David Lodemore, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Annette Clark  
Signature and Office of individual  
taking acknowledgment

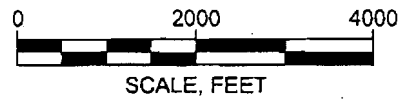


**EXHIBIT "A"**

**Maps of Sites Included in Article I**



SOURCE: Map created with TOPO! © 2001 National Geographic  
 (www.nationalgeographic.com/topo)



NYSDEC BCP APPLICATION  
 EQUITY WORKS MGP  
 BROOKLYN, NEW YORK

KEYSPAN CORPORATION  
 BROOKLYN, NEW YORK



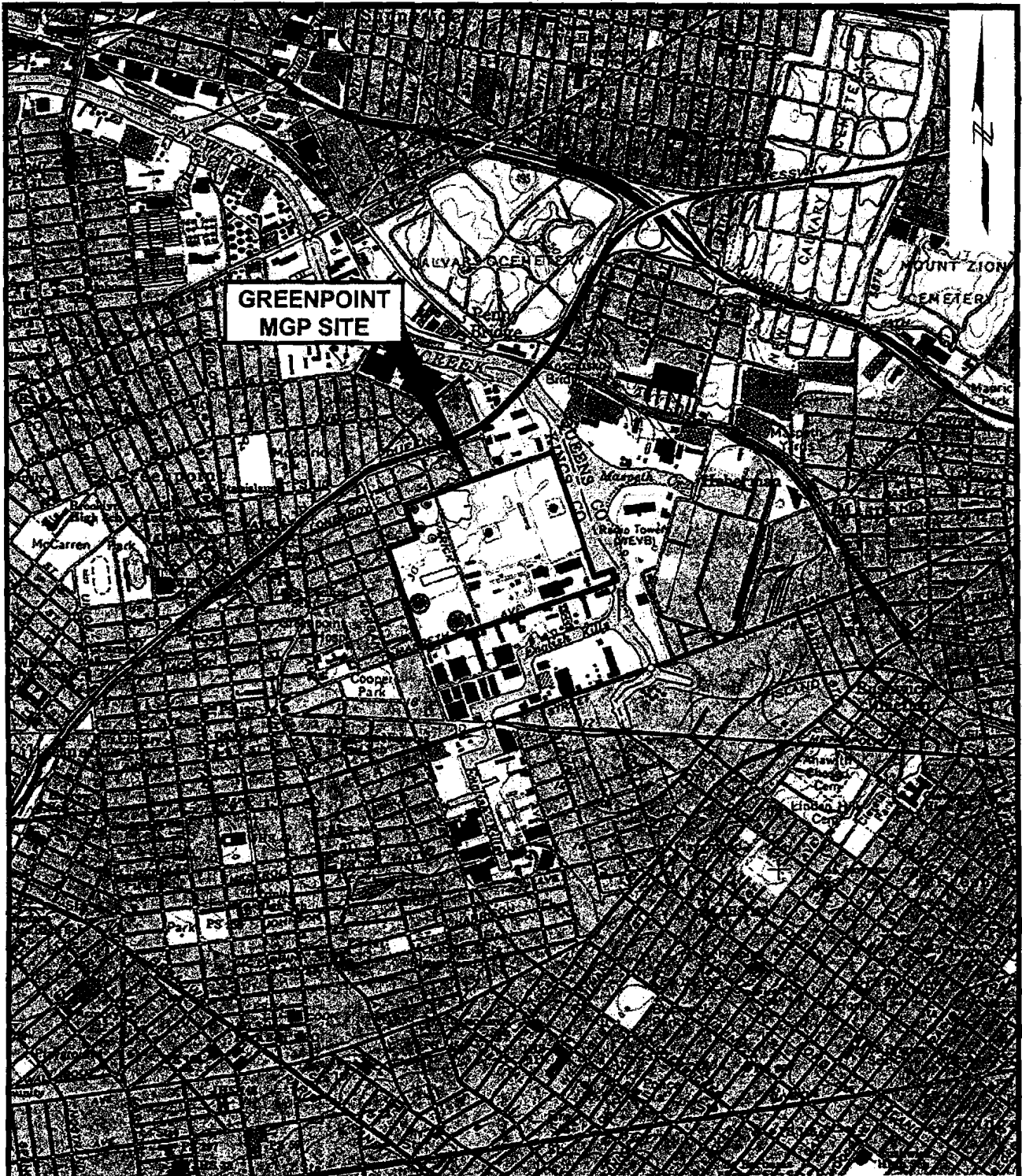
PROJECT 982482

SITE LOCATION MAP

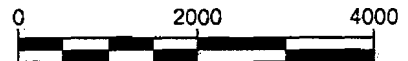
AUGUST 2004

FIGURE 1






SOURCE: Map created with TOPO!® ©2001 National Geographic  
 (www.nationalgeographic.com/topo)



SCALE, FEET

|   |  |                          |                 |
|---|--|--------------------------|-----------------|
| <p>NYSDEC BCP APPLICATION<br/>         GREENPOINT MGP<br/>         BROOKLYN, NEW YORK</p> |  | <p>SITE LOCATION MAP</p> |                 |
| <p>KEYSPAN CORPORATION<br/>         BROOKLYN, NEW YORK</p>                                | <p>PROJECT 982482</p>  | <p>AUGUST 2004</p>       | <p>FIGURE 1</p> |