

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of the General Counsel
625 Broadway, 14th Floor, Albany, New York 12233-1500
P: (518) 402-9185 | F: (518) 402-9018
www.dec.ny.gov

September 23, 2015

SENT VIA FIRST CLASS MAIL

Mr. David S. Yudelson, Esq.
Sive Paget & Riesel, PC
460 Park Avenue
10th Floor
New York, NY 10022

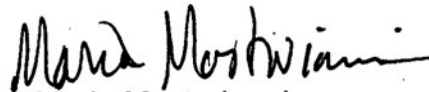
RE: ORDER ON CONSENT
688 Court Street LLC
Site Name: Chemtura 688-700 Court Street
Site No.: 224145
Index No.: CO 2-20150709-412

Dear Mr. Yudelson:

Enclosed for your files is a copy of the fully executed Order on Consent referencing 688 Court Street LLC and the Chemtura 688-700 Court Street site located at 688-700 Court Street, Brooklyn, NY 11231.

If you have any further questions or concerns relating to this matter, please contact attorney, Andrew Guglielmi at 518-402-9510.

Sincerely,



Maria Mastroianni
Legal Assistant
Bureau of Remediation
Office of General Counsel

Enclosure



Department of
Environmental
Conservation

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

-----X
In the Matter of Alleged Violations of Article 27, Titles
9 and 13 and Article 71 of the New York State Environmental
Conservation Law and Parts 373 and 375 of Title 6 of the
Official Compilation of Codes, Rules and Regulations of
the State of New York

ORDER ON CONSENT

-By-

Site No. 224145
Index No. CO 2-20150709-412

688 Court Street LLC

Respondent.

-----X
WHEREAS,

1. A. The Department is responsible for carrying out the policy of the State of New York 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 1, Title 3 of the ECL.

B. The New York State Department of Environmental Conservation ("Department") is responsible for inactive hazardous waste 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 of the State of New York ("6 NYCRR") and may issue orders consistent with the authority granted to the Commissioner of the Department by such statute.

C. The Department is responsible for the Resource Conservation and Recovery Act Program (RCRA a/k/a the "Industrial Hazardous Waste Management Program") pursuant to Article 27, Title 9 of the ECL and 6 NYCRR Parts 370 – 373.

D. This Order is issued pursuant to the Department's authority under, *inter alia*, ECL Article 27, Titles 9 and 13; ECL § 71-2727 and ECL § 3-0301.

2. 6 NYCRR 375-1 sets forth general requirements for the implementation of certain types of remedial programs, including inactive hazardous waste site remedial programs.

3. 6 NYCRR Part 373 sets forth requirements for closure and corrective action activities at a RCRA facility.

4. Violations of 6 NYCRR 373 and 375 are subject to enforcement under Article 71, Title 27 of the ECL, which authorizes the Department to impose civil penalties up to \$37,500 a day and seek injunctive relief.

5. Respondent 688 Court Street LLC ("Respondent"), is the owner of a RCRA facility, located at 688-700 Court Street, Brooklyn, New York, where hazardous waste was generated and discharged (the "Site"). The Site is subject to remedial Consent Orders for closure and corrective action at the RCRA facility with Chemtura Corporation (Chemtura).

6. The Site is listed on the State Inactive Hazardous Waste Site Registry as a Class "2" site with a site number of 224145. A map depicting the Site is attached as Exhibit A.

7. Respondent is a limited liability company, authorized to do business in New York, having its principal place of business at 202 Plymouth St. Brooklyn, NY 11201. Respondent is the current owner of the Site and has leased the site to several tenants.

8. Chemtura, the successor of Crompton Corporation, is responsible for investigation and remediation of the Site, pursuant to an Order on Consent with the Department signed in May 2002 and amended in November of 2010.

9. Several activities undertaken at the Site by Respondent constitute alleged violations of the ECL and 6NYCRR Part 375.1. Specific alleged violations include:

- a. Respondent demolished a concrete pad on or before March 2014. Respondent subsequently removed concrete, debris, and potentially contaminated soil from the Site, and re-poured a concrete pad. These activities were not performed pursuant to a Department-approved work plan.
- b. Respondent has commenced industrial and commercial uses at several buildings on the site without notifying the Department of a Change of Use or attempting to obtain Department approval. These activities may require the imposition of additional environmental controls to protect occupants from exposure to soil contamination or soil vapor, if such soil vapor has the potential to expose the public health or the environment to a significantly increased threat of harm or damage.
- c. Additionally, Respondent had covered several dormant extraction wells and other potential remedial system wells with concrete. These activities had the potential to interfere with an ongoing remedial program at the site.
- d. On May 19, 2015 the Department inspected the site and observed that Respondent's tenant had excavated a trench in an area of known contamination. As the landlord of the property, Respondent has liability for the actions of its tenants. Soil sampled from the trench constituted hazardous waste. This activity has the potential to expose the public health or the environment to a significantly increased threat of harm or damage and interferes with an ongoing remedial program at the site.

10. Respondent seeks to settle the alleged violations described herein and hereby waives any right to a hearing as may be provided by law, consents to the issuance and entry of this Order, and agrees to be bound by its terms. Respondent consents to and agrees not to contest the authority or jurisdiction of the Department to issue or enforce this Order, and agrees not to contest the validity of this Order or its terms or the validity of data submitted to the Department by Respondent pursuant to this Order.

NOW, having considered this matter and being duly advised, it is **ORDERED THAT**:

I. COMPLIANCE & INTERIM SITE MANAGEMENT PLAN

A. Within 10 days of the effective date of this Order, Respondent shall implement the attached Interim Site Management Plan. The Interim Site Management Plan (ISMP) will govern activities at the Site and which will need to be followed by Respondent, Respondent's tenants, and Chemtura Corporation.

B. Respondent shall provide a copy of the Interim Site Management Plan to all tenants and inform them in writing that: (i) the Site is subject to Department oversight; (ii) all tenants are required to comply with the ISMP; (iii) all uses and renovations subject to 6 NYCRR 375.11 must be submitted to the Department before being undertaken; and (iv) the tenants will be liable to Respondent and the Department if they violate the ISMP, or applicable laws and regulations.

C. A list of all tenants has been submitted to the Department including contact information. Respondent shall maintain this list and notify the Department when the list is changed, pursuant to the ISMP or confirm on an annual basis that the list has not changed.

II. PENALTY PAYMENT & SUSPENDED PENALTY

A. With respect to the violations which the Department alleges in paragraph 7 above, the Department, in settlement of any and all such violations, hereby assesses against Respondent a penalty of ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$150,000.00). EIGHTY-FIVE THOUSAND DOLLARS (\$85,000.00) of this penalty is immediately due and payable within thirty (30) days of the effective date of this Order, by check made payable to the order of the New York State Department of Environmental Conservation. Respondent will submit such settlement payments as required by this Order to:

Office of General Counsel
New York State Department of Environmental Conservation
625 Broadway, Floor 14th Floor
Albany, New York 12233-1500
Attn: Andrew O. Guglielmi

B. SIXTY-FIVE THOUSAND DOLLARS (\$65,000) of the penalty will be suspended and will not become payable unless Respondent fails to comply with any term of this Order or violates provisions of the ECL or 6 NYCRR Part 375. The Department will notify Respondent in writing if it alleges that violations requiring payment of the suspended penalty have occurred. This determination will be subject to the dispute resolution procedures in 6 NYCRR 375-1.5(b)(2).

III. ENVIRONMENTAL EASEMENT

Within 30 days of the effective date of this Order, Respondent shall submit to the Department for approval an Environmental Easement to run with the land in favor of the State which complies with the requirements of ECL Article 71, Title 36, and 6 NYCRR 375-1.8(h)(2). Upon acceptance of Environmental Easement by the State, Respondents shall comply with the requirements of 6 NYCRR 375-1.8(h)(2).

IV. ACCESS

Respondent, at reasonable times and upon reasonable notice, shall provide the Department, its agents, and Chemtura Corporation as the remedial party, access to the Site in order to inspect and/or perform such tests as the Department may deem appropriate, to copy any relevant records, or to perform any other lawful duty or responsibility in accordance with applicable laws and regulations.

V. MISCELLANEOUS

A. Respondent will further comply with the standard provisions which are attached, and which constitute material and integral terms of this Order and are hereby incorporated into this document.

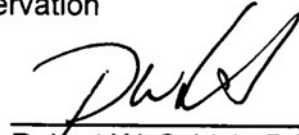
B. In the event of a conflict between the terms of the Order (including any and all attachments thereto and amendments thereof) and the terms of the standard provisions, the terms of this Order shall control.

C. The effective date of this Order is the date it is signed by the Commissioner or the Commissioner's designee.

DATED: Albany, New York
September 23, 2015

Marc S. Gerstman, Acting Commissioner
New York State Department of Environmental
Conservation

By:



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

CONSENT BY RESPONDENT

Respondent **688 Court Street LLC** hereby consents to the issuing and entering of this Order without further notice, waives its right to a hearing herein, and agrees to be bound by the terms, conditions and provisions contained in this Order.

By
(Signature): 
Print Name: JACK GUTTMAN

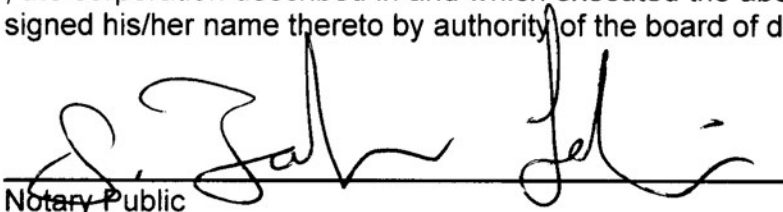
Title:

Date:

ACKNOWLEDGMENT

STATE OF New York) ss:
COUNTY OF Kings)

On the 4th day of SEP. in the year 2015 before me personally came JACK GUTTMAN to me known, who, being by me duly sworn, did depose and say that s/he resides in 588 Park Ave, Cedarhurst, NY 11516 that s/he is the MEMBER of _____, the corporation described in and which executed the above instrument; and that s/he signed his/her name thereto by authority of the board of directors of said corporation.


Notary Public

Signature and Office of individual taking acknowledgment

SHNEYEUR ZALMAN LEBOVIC
Notary Public, State of New York
No. 01LE6232331
Qualified in Kings County
Commission Expires Dec. 06, 2018

SHNEYEUR ZALMAN LEBOVIC
Notary Public, State of New York
No. 01LE6232331
Qualified in Kings County
Commission Expires Dec. 06, 2018

STANDARD PROVISIONS

Payment. Any penalty assessed pursuant to the terms and conditions of this Order shall be paid by submitting a certified or cashier's check or money order, payable to the Department of Environmental Conservation, to: Department of Environmental Conservation, Office of General Counsel, Attn: Andrew Guglielmi, Esq., 625 Broadway, 14th Floor, Albany, New York 12233-5550. Unpaid penalties imposed by this Order shall bear interest at the rate of 9 percent per annum for each day the penalty, or any portion thereof, remains unpaid. Payments received shall first be applied to accrued interest charges and then to the unpaid balance of the penalty.

Duration. This Order shall take effect when it is signed by the Commissioner of Environmental Conservation, or his designee, and shall expire when Respondent has fully complied with the requirements of this Order.

Access. For the purpose of monitoring or determining compliance with this Order, employees and agents of the Department shall be provided access to any facility, site, or records owned, operated, controlled or maintained by Respondent, in order to inspect and/or perform such tests as the Department may deem appropriate, to copy such records, or to perform any other lawful duty or responsibility.

Force Majeure. If Respondent cannot comply with a deadline or requirement of this Order, because of an act of God, war, strike, riot, catastrophe, or other condition which was not caused by the negligence or willful misconduct of Respondent and which could not have been avoided by the Respondent through the exercise of due care, Respondent shall apply in writing to the Department within a reasonable time after obtaining knowledge of such fact and request an extension or modification of the deadline or requirement.

Modifications. No change in this Order shall be made or become effective except as specifically set forth by written order of the Commissioner, being made either upon written application of Respondent, or upon the Commissioner's own findings after notice and opportunity to be heard has been given to Respondent. Respondent shall have the burden of proving entitlement to any modification requested pursuant to this Standard Provision or the "Force Majeure" provision, supra. Respondent's requests for modification shall not be unreasonably denied by the Department, which may impose such additional conditions upon Respondent as the Department deems appropriate. Notwithstanding the foregoing, if Respondent seeks to modify an approved Work Plan, a written request shall be made to the Department.

Permit Exemption. The Department may exempt Respondent from the requirement to obtain any state or local permit or other authorization for activities conducted pursuant to this Order as provided at 6 NYCRR 375-1.12(b), (c), and (d).

Other Rights. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting (1) any legal, administrative or

equitable rights or claims, actions, suits, causes of action or demands whatsoever that the Department may have against anyone other than Respondent; (2) any right of the Department to enforce administratively or at law or in equity, the terms, provisions and conditions of this Order; (3) any right of the Department to bring any future action, either administrative or judicial, for natural resource damages, or for any other violations of the ECL, the rules and regulations promulgated thereunder, or conditions contained in orders or permits, if any, issued by the Department to Respondent; (4) the summary abatement powers of the Department, either at common law or as granted pursuant to statute or regulation.

Tolling Agreement. Any time limitations set forth in Section 113(g)(1) of CERCLA, as amended, 42 U.S.C. § 9613(g)(1), Section 1012(h)(2) of the Oil Pollution Act, as amended, 33 U.S.C. § 2712(h)(2), the Federal Water Pollution Control Act, the New York Navigation Law, the New York Environmental Conservation Law, or any other federal or state statute or regulation with respect to potential claims for natural resource damages against Respondent or any other time limitations for the filing of potential natural resource damages claims against Respondent under any other applicable state or federal law are tolled in their entirety from the effective date of this Order until termination of this Order.

Entire Agreement. This Order shall constitute the entire agreement of the Department and Respondent with respect to settlement of those violations specifically referenced herein.

Headings. The paragraph headings set forth in this Order are included for convenience of reference only and shall be disregarded in the construction and interpretation of any provisions of this Order.

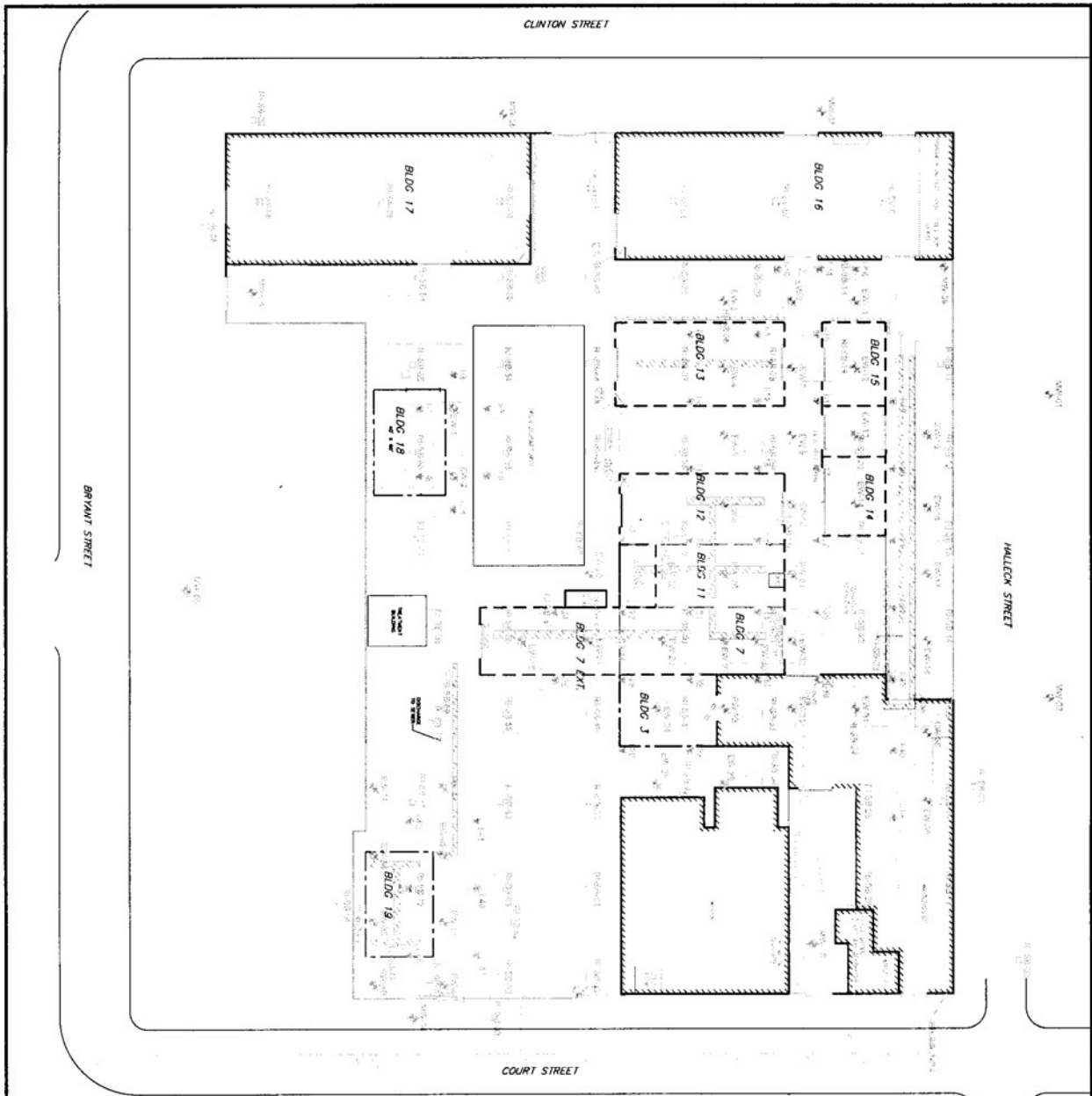
Signature of Order. This Order may be executed for the convenience of the parties hereto, individually or in combination, in one or more counterparts, each of which shall be deemed to have the status of an executed original and all of which shall together constitute one and the same.

Binding Effect. The provisions, terms, and conditions of this Order shall be deemed to bind Respondent and Respondent's heirs, legal representatives, receivers, trustees in bankruptcy, successors and assigns.

Service. If either Respondent is represented by an attorney with respect to the execution of this Order, service of a duly executed copy of this Order upon Respondent's counsel by ordinary mail shall be deemed good and sufficient service.

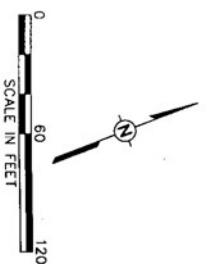
Exhibit A

Map of the Site



- LEGEND**
- INJECTION WELL
 - MONITORING WELL
 - EXTRACTING WELL
 - RI SOIL SAMPLING LOCATION
 - RI SOIL VAPOR SAMPLING LOCATION
 - PRE-EXISTING TRENCH
 - EXISTING SEWER LINE
 - EXISTING WATER LINE
 - EXISTING BUILDING
 - PARTIALLY DEMOLISHED BUILDING (STEEL FRAME AND ROOF PRESENT)
 - FORMER BUILDING LOCATION (FOUNDATION PRESENT)

Figure Source: Remedial Investigation Report prepared for Chemtura by WSP and dated 4/29/2013



NYSDEC	Exhibit A	CHEMTURA CORPORATION 688-700 COURT STREET BROOKLYN, NEW YORK
	SITE LAYOUT	

Exhibit B
Interim Site Management Plan

**CHEMTURA 688-700 COURT STREET
BROOKLYN, NEW YORK**

**Interim Site Management Plan
For
NYSDEC Site Number: 224145**

Revisions to Final Approved Interim Site Management Plan:

Revision #	Submitted Date	Summary of Revision	DEC Approval Date

AUGUST 2015

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FIGURES

Figure 1	Site Location Map
Figure 2	Locations of Known Contamination
Figure 3	DPE System Components
Figure 4	Site Cover System and Perimeter Control
Figure 5	Tenant Location Map

TABLES

Table 2.1	Emergency Contact Numbers
Table 2.2	Other Contact Numbers

LIST OF ACRONYMS

Acronym	Definition
CAMP	Community Air Monitoring Plan
DPE	Dual Phase Extraction
EC	Engineering Control
EWP	Excavation Work Plan
HASP	Health and Safety Plan
IC	Institutional Control
IRM	Interim Remedial Measure
ISMP	Interim Site Management Plan
LNAPL	Light Non-Aqueous Phase Liquid
NYCRR	New York Codes Rules and Regulations
NYS	New York State
NYSDEC	New York State Department of Environmental Conservation
NYS DOH	New York State Department of Health
PCBs	Polychlorinated Biphenyls
QAPP	Quality Assurance Project Plan
RAWP	Remedial Action Work Plan
RI	Remedial Investigation
RIR	Remedial Investigation Report
ROD	Record of Decision
SMP	Site Management Plan
SVI	Soil Vapor Intrusion
SVOC	Semi-Volatile Organic Compound
TAL	Target Analyte List
VOC	Volatile Organic Compound

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INTERIM SITE MANAGEMENT PLAN

1. INTRODUCTION AND SITE CONDITIONS

1.1. Introduction

This document was prepared to outline the responsibilities of the remedial party, property owners, tenants and any/all persons performing activities described below at the New York State Department of Environmental Conservation Site #224145, 688-700 Court St., Brooklyn, NY (the "Site"); see Figure 1 – Site Location Map. The Remedial Party ("RP"), Chemtura Corporation, is responsible for the remedial investigation and cleanup of the site. Environmental investigations and remediation are being conducted in accordance with Resource Conservation and Recovery Act ("RCRA") rules administered by the New York State Department of Environmental Conservation (NYSDEC) as well as the applicable requirements of 6 NYCRR Part 375. This work is being performed by the RP in accordance with Administrative Order on Consent ("AOC"), R2-0346-98-01, which was executed in May 2002, and AOC D2-03811-10-08, which was executed on November 30, 2010. A forthcoming AOC between NYSDEC and 688 Court Street LLC ("Owner's Order on Consent") will impose certain obligations on the Owner at the Site.

1.1.1. General

Crompton Corporation (a former Site owner) entered into AOC R2-0346-98-01 with NYSDEC in May 2002. In 2005, Crompton Corporation merged with Great Lakes Chemical Corporation and later became known as Chemtura Corporation (Chemtura), the current RP. On November 30, 2010, Chemtura and NYSDEC agreed to and signed the Amended AOC D2-03811-08. The Amended Order on Consent requires that Chemtura investigate and remediate contaminated media at the Site. The Site is made up of the former Chemtura property and all areas of known and suspected off-site contamination including the off-site areas depicted on Figure 2. For the purpose of this Interim Site Management Plan ("ISMP"), all references are to that portion of the Site which includes the former Chemtura property. Previous environmental reports describing Site contamination and remediation can be viewed by contacting the NYSDEC or visiting the document repositories located at:

Brooklyn Public Library 7 Wolcott St. and Dwight St. Brooklyn, NY 11238 (718) 935-0203	Brooklyn Community Board 6 250 Baltic Street Brooklyn, NY 12201 (718) 643-3027
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1.1.2. Purpose

The purpose of this ISMP is to act as an Institutional Control (IC) to guide the activities of the RP, Owner and tenants in order to protect human health and the environment from exposure to Site-related contamination and prevent interference with the ongoing remedial program. As such, Section 2 of this ISMP identifies the types of activities that require NYSDEC notification, review and/or work plan development and approval prior to implementation of the proposed activity. Activities triggering the need for a NYSDEC-approved work plan will also require the party that intends to make the change (RP, Owner or tenant) to prepare or amend existing associated plans, such as a Health and Safety Plan (HASP), Community Air Monitoring Plan (CAMP), Excavation Work Plan, Quality Assurance Project Plan (QAPP), etc. as appropriate and in accordance with DER-10 Technical Guidance for Site Investigation and Remediation (DER-10).

This ISMP will be updated as necessary as remedial activities progress at the Site. During this interim site management phase, the NYSDEC will work with the Owner to execute/record an Environmental Easement, which will refer to/rely on the ISMP and ultimately the final SMP. Upon completion of: a) the Site remedy, b) execution of the anticipated Environmental Easement, and c) the NYSDEC approval of the final Site Management Plan, this ISMP will be replaced by the final SMP.

Any revisions to this ISMP shall be proposed in writing to the NYSDEC's project manager by either the Owner or RP, with a concurrent copy provided to the RP or Owner. Any changes requested by tenants should be submitted by the Owner to the NYSDEC and the RP. NYSDEC shall provide comments in a timely manner to the RP or Owner. NYSDEC will provide a notice of any approved changes to the ISMP to both the Owner and the RP, and append these notices to the ISMP that is retained in its files. The Owner will be responsible to provide the revised ISMP to all tenants and provide proof of this distribution to the NYSDEC.

1.2. Site Background

1.2.1. Site Location and Description

The Site is known as 688-700 Court Street, in the Red Hook section of Brooklyn, New York and is identified as “Brooklyn, Block 621, Lots 1 and 34”. The Site is an approximately 5.5-acre area bounded by Halleck Street and Red Hook Recreational Park to the north, a Buckeye LLP Oil Terminal parking area and building immediately to the south, property leased by National Grid USA to the east across Court Street, and property owned by Sunlight Clinton Realty, LLC to the west across Clinton Street. The Site and much of the surrounding area is zoned as manufacturing district, M3-1 – Heavy Manufacturing District (Low Performance). The Red Hook Recreational Park, to the north of the Site, is zoned for residential use (R5 – General Residential Use). A site location map is provided as Figure 1.

1.2.2. Geologic and Hydrogeologic Conditions Encountered at the Site

Historic fill was identified in the shallow subsurface during the Remedial Investigation (RI) activities conducted by the RP. This historic fill, consists primarily of fine to coarse sand with varying amounts of silt and miscellaneous debris. The fill was observed across the Site from immediately beneath the improved surface (concrete, asphalt, or topsoil) downward to approximately 18 to 20 feet below ground surface (bgs).

Groundwater at the Site ranges from approximately 3.4 to 10 feet bgs. Groundwater flow is radial from the site and is tidally-influenced.

1.3. Summary of Remedial Investigation Findings

A RI was performed on-site by Chemtura from October 2011 through April 2013 to characterize the nature and extent of soil, groundwater and soil vapor contamination at the Site. The results of the RI are described in detail in the April 2013 Remedial Investigation Report (RIR) prepared by WSP Engineering of NY, PC (WSP), consultant for Chemtura. The RIR also summarized previous investigations at the Site. The following is a qualitative summary of the findings discussed by media type; for quantitative information, please refer to the RIR and previous investigation reports.

Soil

Remedial investigation of the soil identified PCB contamination, volatile and semi-volatile organic compounds as well as Target Analyte List (TAL) metals including barium, lead and cadmium. All soil sampling took place within the historic fill layer of the Site. No

borings were advanced into the native clay layer which begins below historic fill at approximately 18 to 20 ft bgs.

Groundwater

Groundwater quality has been monitored by using groundwater monitoring wells as gauging and sample collection points. Measureable petroleum light non-aqueous phase liquid (LNAPL) entrained with polychlorinated biphenyls (PCBs) was identified in five on-site wells. Additionally, volatile organic compounds (VOCs) semi-VOCs (SVOCs), PCBs, pesticides and metals concentrations were identified above the NYSDEC Technical and Operation Guidance Series (TOGS) 1.1.1 Class GA groundwater standards and guidance values (GA-SGVs).

Soil Vapor

Soil vapor samples were collected to evaluate the presence of volatile constituents in areas beneath two of the on-site buildings. Three sub-slab vapor probes were installed beneath Building 16 and three sub-slab vapor probes were installed beneath Building 17. These buildings are currently occupied by a commercial laundry equipment repair business and stone cutting business (See Figures 4 and 5). The sample results were evaluated by the New York State Department of Health ("NYSDOH") and no active control measures were required.

1.4. Summary of Remedial Actions

Two remedial actions have been undertaken at the Site as Interim Remedial Measures ("IRM"s). These actions include: 1) the excavation and offsite disposal of contaminated soil and 2) the installation and operation of a dual-phase extraction system as described below.

1.4.1. Previous Excavation and Disposal of Contaminated Soils

During late 2002, approximately 600 tons of cadmium and lead-impacted soil were excavated and disposed off-site at the EQ Michigan disposal facility. The excavations were backfilled during the same period and then re-surfaced in early 2003. This work was conducted as part of the Corrective Measures Implementation performed by ESC Engineering of New York, P.C. (ESC) and is documented in a March 17, 2003 letter from ESC.

1.4.2. Dual-Phase Extraction System

The RP installed and operated a steam-enhanced soil vapor extraction treatment system in 2004. The locations of the aboveground and below-grade components of the system at the Site are depicted on Figure 3. The system has been inactive since 2007.

2. ISMP NOTIFICATIONS, PROCEDURES AND APPROVALS

2.1. Introduction

As noted above, this ISMP is the mechanism to ensure that on-site activities: 1) are properly noticed to, reviewed and approved by the NYSDEC in order to protect human health and the environment from exposure to Site-related contamination, 2) prevent interference with the ongoing remedial program, 3) fulfill the requirements of all applicable AOCs, and 4) comply with environmental laws and guidance prior to the completion of the final remedy for the Site.

As noted above, this ISMP and the institutional and engineering controls (IC/ECs) will be revised as necessary as the remedial program progresses.

2.1.1. General

Since contaminated soil, groundwater and (potentially) soil vapor exist beneath the Site, property use limitations are required to protect human health and the environment prior to the completion of: a) the Site remedy, b) the execution of the anticipated Environmental Easement, and c) the approval of the final Site Management Plan.

Currently, exposure to contamination in soil/fill at the Site is prevented by the existing cover consisting of a combination of building foundations, asphalt and concrete pavement, with a small percentage of uncapped areas on the fringes of the property. Additionally, public access is limited since the property is completely surrounded by stone/masonry walls, building exteriors, or heavy metal gates. A map showing the extent of the composite cover system is included as Figure 4.

2.1.2. Activities Requiring Notification, Review or Are Prohibited

Certain activities at the Site may result in the exposure of these contaminants to humans or cause their migration in the environment. As such, the NYSDEC prohibits certain activities at this Site until a final remedy has been completed. Similarly, certain activities require notification, and in some cases, review and approval from the NYSDEC prior to implementation. It is important to note that the below-listed activities are not exhaustive

of all potential scenarios. It will be the RP's and Owner's responsibilities to contact the NYSDEC to obtain clarification of all other activities not listed which that party proposes to be performed. Tenants proposing any of the below activities, should work through the Owner to notify the NYSDEC and receive the appropriate approvals.

Activities that Require Written Notification to the NYSDEC:

- Installation of interior flooring such as: carpeting, tile, sheet flooring, wood (including underlayment).
- Any applications for permits or permit modifications related to the Site or Site-related materials (e.g., State Pollution Discharge Elimination System, application for off-site disposal, building permits, plumbing and sewer permits, curb cutting permits).

Activities that Require NYSDEC Review and Approval:

- All intrusive work, including but not limited to:
 - Removal or disturbance of existing ground surfacing, including building foundations, floor slabs, soil, asphalt or concrete pavement;
 - Drilling for borings, wells, or any other purpose;
 - Installation, tie-in or repair of underground utilities; and
 - Excavation and/or trenching of any size, scope, depth or area, for any purpose in any area of the Site.
- All additions to surfacing material above existing grade (soil, concrete, asphalt blacktop, gravel, or any other) for both interior and exterior spaces.
- All interior and exterior construction to create or modify existing building use or build-out.
- All changes in use or tenancy.
- Existing tenants' change in use.
- All property subdivisions.
- All application of pesticides, herbicides, fungicides, fumigants, and rodenticides.
- All use or generation of any hazardous material or hazardous waste as those terms are defined in New York State environmental laws.
- All changes in real property ownership or interests.
- All installation or modifications to the HVAC equipment.
- All discharges connected to the NYCDEP sanitary and/or storm sewer systems.
- All discharges to the surface or subsurface that are not permitted discharges to the NYCDEP sanitary and storm sewer systems.

- Any repair, penetration, addition, demolition or alteration of the cover systems as depicted in Figure 4.
- All exterior construction, demolition or modification, not otherwise specified.

Activities That are Prohibited

- Any activity, structure, or storage that inhibits, interferes with, prevents or otherwise limits access to the environmental investigation/remediation infrastructure, including but not limited to, remediation equipment building, monitoring wells, extraction wells, thermocouples, injection wells, piping, manholes, and vaults.
- Any access or introduction of foreign substances into any component of the environmental investigation/remediation infrastructure (see previous bullet for partial list).
- Any release of materials to the surface that have potential to negatively affect the scope, schedule, or budget of the on-going remedial program (environmental investigation/remediation).
- Any unpermitted activity that is an otherwise permit-required activity.
- Discharges of industrial or commercial wastewater to the groundwater or surface water (via storm sewers) without a proper permit (and pretreatment as necessary/required).
- Storage of hazardous waste for more than 90 days.
- Any violation of applicable environmental laws.
- Any un-permitted intrusive activity.
- The extraction of the groundwater from beneath the Site for any purpose.
- Vegetable gardens, farming, and cultivation of any vegetation for any purpose.
- The use of the Site as residential or restricted residential, as those terms are defined by 6 NYCRR 375, until such time as the Site is remediated to achieve those use levels, and they are allowable uses under local zoning.

2.1.3. Procedures for Implementing the ISMP

NYSDEC Notifications:

Written notification to the NYSDEC will be in the form of a letter to the designated Project Manager (PM) with the notifying party providing copy to the other party. The electronic submission of the letter is the preferred method of transmission. Activities requiring NYSDEC notification are not anticipated to require Department action other than acknowledgement of receipt. Any activity for which notification has been made cannot be initiated until such notification has been acknowledged by NYSDEC. However, if

additional questions/clarifications are necessary, the NYSDEC PM will contact the notifying party. NYSDEC shall approve, reject, or approve with conditions any proposed change in tenancy/use within 30 days of the Owners notification. The Department will make its best efforts to approve, reject or approve with conditions prior to the end of the 30 days with a target of responding within 15 days. NYSDEC's decision shall be deemed final agency action.

NYSDEC Review and Approval:

Activities/work plans to be reviewed and ultimately approved by the NYSDEC will also be submitted in electronic form and will include sufficient details, drawings, Health and Safety Plan, Community Air Monitoring Plan, Materials Handling Plan, Construction/Renovation/Redevelopment Plans, Corrective Measures Plan, Contingency Plan, Excavation Plan, Interim Remedial Measure Plan or any other plan (as appropriate and necessary) for the NYSDEC's Project Manager to ascertain if the proposed activity will interfere with or adversely affect the ongoing remedial program, is consistent with the NYSDEC's guidance and regulations, and is permissible. The NYSDEC will make its best effort to review the activity and related plans within 30 days of receipt. The NYSDEC encourages discussions prior to the submission of written plans so as to improve work plan quality and to facilitate efficient review.

2.1.4. Notifications

Notifications will be submitted by the property Owner and/or the RP to the NYSDEC as described:

- 15-day advance notice for activities which require NYSDEC notification.
- 60-day advance notice of any activity requiring the NYSDEC's review and approval as listed above, including those activities that require a change of use notice per 6NYCRR Part 375 Section 1.11(d). Any proposed changes in Site use by the Owner and/or Tenant(s) must be brought to the attention of the RP and NYSDEC concurrently. All change of use notifications shall be made to NYSDEC using the Change of Use form found at <http://www.dec.ny.gov/chemical/76250.html>. This will include a certification that the prospective owner or prospective tenant has been provided with a copy of the Owner's Order on Consent, the RP's AOC, any existing or pending Environmental Easement, and all approved work plans and reports, including this ISMP.

- Notice within two days of any identification of an unapproved activity (e.g., trenching), a prohibited activity (e.g., restricted residential use), damage or defect to the foundation, building structures, remedial investigation infrastructure (e.g., monitoring wells), remedial systems infrastructure (e.g., DPE), or other engineering controls (EC) (e.g., site cover) that may impact the ongoing investigation and/or reduces or has the potential to reduce the effectiveness any remedial element implemented or maintained by the Owner and/or RP, and likewise any action to be taken to mitigate/correct the condition, damage or defect.
- Verbal notice by noon of the following day of any emergency, such as a fire, flood, natural disaster, act of war, act of terrorism, or other catastrophic event that reduces or has the potential to reduce the effectiveness of existing ECs or remedial elements implemented or maintained by the RP at the Site, with written notification/confirmation within 7 days after knowledge of the event, consistent with the paragraph III.C.2 of the AOC. The notification should include a summary of actions taken, or proposed, and the potential impact to the environment and public health, if any.

2.1.4.1. Emergency Notifications

In the event of any environmentally related situation or unplanned occurrence requiring assistance, the Owner or Owner's Representative(s) should contact the appropriate party/ies from the contact list below. For emergencies, appropriate emergency response personnel should be contacted. This contact list shall be updated as needed by either the RP or Owner and distributed electronically.

Table 2.1 - EMERGENCY CONTACT NUMBERS

Medical, Fire, and Police	911
One Call Center	(800) 272-4480 (3 day notice required for utility mark-out)
Poison Control Center	(800) 222-1222
National Response Center - Pollution Toxic Chemical Oil Spills	(800) 424-8802
NYSDEC Spills Hotline**	(800) 457-7362

NYSDEC Project Manager, Charles Post	(518) 402-9768
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** - In the event a call is placed to the NYSDEC Spill Hotline, the caller shall also notify the NYSDEC Project Manager.

Prompt contact should also be made to the property Owner, the RP, any tenants currently occupying the Site, and NYSDEC in the event of any emergency condition. The location of each tenant is depicted on Figure 5.

Table 2.2 - Other Contact Numbers

Party	Contact Name	Contact email	Address	Contact Phone No.
Property Owner				
688 Court Street LLC	Mark Moskowitz	simmymoskowitz@msn.com	202 Plymouth St. Brooklyn, NY 11201	718-858-9805
Remedial Party				
Chemtura	Ramin Ansari	Ramin.Ansari@chemtura.com	Chemtura Corporation 199 Benson Road Middlebury, CT 06749	765-427-3535
Tenants				
Marriot Coach Inc.	Jacky Yang	Jackyyang369@yahoo.com	733 Clinton Street Brooklyn, NY 11231	646-878-8788
Canido Basonas Construction Corp.	Michael Brion	MBrion@Basonas.com	157 21 st Street Brooklyn, NY 11232	718-832-0283 917-921-0225
X5 Mobile Inc.	Zhong Ying Quan	Tdeng168@gmail.com	688 Court Street Brooklyn, NY 11231	718-855-1160 347-219-1985
Mar Al Realty LLC	Albert Casanova, Jr.	Alexis@ALMARMETAL.com	72 Delevant Street Brooklyn, NY 11231	917-299-9606 718-858-7921 917-299-9512
Commercial Laundry Service, Inc. – Bldg 16	Jake Sasalov	schedule.CLS12@gmail.com	6717 4 th Avenue Brooklyn, NY	718-439-1224 917-578-7874
VIP Second LLC (c/o Coral Realty, LLC) – Bldg 17	David Polosky		757 Clinton Street Brooklyn, NY 11231	
VIP Second LLC (attorney)	Boris Saks	boris@bsaksessq.com	1732 East 12 Street Brooklyn, NY 11229	718-998-1800
Guma Construction	Aaron Klein	simmymoskowitz@msn.com	202 Plymouth St. Brooklyn, NY 11201	718-858-9805 347-843-9667
NYSDEC (Region 2) Chief, Superfund and Brownfield Section	Jane O'Connell	jane.oconnell@dec.ny.gov	Hunters Point Plaza 47-40 21st Street Lg Islid City, NY 11101	718-482-4026 After hours: 800-847-7332

3. **Administration of Institutional Controls and Engineering Controls**

Since contaminated soil, groundwater and, potentially, soil vapor exist beneath the Site, property use limitations are required. The administration of the limitations is effectuated by the use of Institutional Controls and Engineering Controls (“IC/EC”s). This Section describes the procedures for the implementation and management of interim ECs and ICs by the Owner and/or the RP.

During the remedial design and implementation, it will be the responsibility of the Owner and RP to maintain communication between each other and the NYSDEC related to the IC/ECs and Site activities.

3.1. **Engineering Controls**

3.1.1. **Site Perimeter and Cover**

The Site is completely surrounded by stone/masonry walls, building exteriors, or heavy metal gates. This perimeter shall be maintained to limit access to the general public.

The cover system is considered an EC and must be maintained and monitored. In its current condition, the cover system protects the Site footprint via a matrix of asphalt, concrete and soil meeting 6 NYCRR Part 375 soil cleanup objectives. The integrity of the cover system will be monitored on a semi-annual basis, as well as after any significant storm/flooding events by Owner. Conditions and observations will be reported to NYSDEC as part of the Semi-Annual Report. When damage is noted, the Owner shall make timely repairs to the cover system so as to ensure continued protection of public health and the environment with the noted exception of intrusive work done by or on behalf of Chemtura. Repairs, penetrations, additions, alterations, or demolition to the cover require advance notice to the NYSDEC, RP and Owner concurrently. The NYSDEC will review and approve plans to perform this work.

3.1.2. **Environmental Media Monitoring/Waste Characterization**

Environmental media monitoring is performed to evaluate the performance and effectiveness of the ECs or Interim Remedial Measures (IRMs) to reduce or mitigate contamination at or emanating from the Site. At this point, there is no ongoing environmental media monitoring required; future environmental monitoring will be performed in accordance with the AOC as part of the ongoing remedial program, as

appropriate. Should an IRM be implemented in the future, an interim monitoring program will be developed as necessary and this ISMP updated accordingly.

As part of a NYSDEC-approved work plan, in the event that the RP, Owner, Owner's contractor, any tenant or tenant's contractor plan to generate waste from the Site (e.g., contaminated soil, groundwater, construction debris, building materials, etc.), it will be the responsibility of the generator to properly handle, store, manifest, transport and dispose of the wastes. This includes all non-hazardous and hazardous waste. Prior to off-site disposal of such materials, the RP, Owner or tenant shall provide the disposal facility acceptance letters to the NYSDEC PM for approval.

3.2 Institutional and Engineering Controls Reporting

A series of ICs are required by the NYSDEC to (1) implement, maintain and monitor existing ECs (Site perimeter control and Site cover); (2) prevent exposure to remaining contamination by controlling disturbances of the subsurface contamination; and, (3) limit the use and development of the Site as will be required by the forthcoming Environmental Easement and this ISMP. Adherence to these ICs on the Site is required by NYSDEC and will be implemented under this ISMP. These ICs are:

- Comply with the Owner's forthcoming AOC, Environmental Easement, this ISMP and ultimately the final SMP by the Owner and their successors, assigns and Tenants;
- All existing and future ECs must be operated and maintained as specified in this ISMP and the final SMP;
- All existing and future ECs on the Site must be inspected at a frequency and in a manner defined in this ISMP and the final SMP;
- Environmental and public health monitoring must be performed as defined in this ISMP and the final SMP; and
- Data and information pertinent to Site Management of the Site must be reported at the frequency and in a manner defined in this ISMP and the final SMP.

An Environmental Easement is forthcoming and will reference this ISMP. The Owner will submit to the NYSDEC within 60 days of the issuance of this ISMP all documents necessary for NYSDEC to draft the Environmental Easement.

The site cover and perimeter controls (ECs) will be observed semi-annually to note their condition and to evaluate their effectiveness. The RP and Owner will each periodically

certify and submit to the NYSDEC a semi-annual report that contains a written statement that certifies that: (1) controls employed at the Site and are the responsibility of the RP are unchanged from the previous certification or that any changes to the controls were approved by the NYSDEC; and (2) nothing has occurred that impairs the ability of the controls to protect public health and environment or that constitute a violation or failure to comply with the ISMP. These reports with certifications shall be submitted semi-annually, 30 days following the end of the certifying period or an alternate period of time that NYSDEC may allow. The contents of the semi-annual report shall be consistent with DER-10 Section 6.3(b).

It will be the responsibility of the RP to monitor (observe) the site cover and perimeter control whenever on Site, notify the NYSDEC and Owner concurrently of observed conditions and provide to the NYSDEC in a timely manner all field data and observations.

NYSDEC retains the right to access such Site at any time in order to evaluate the continued maintenance of any and all controls.

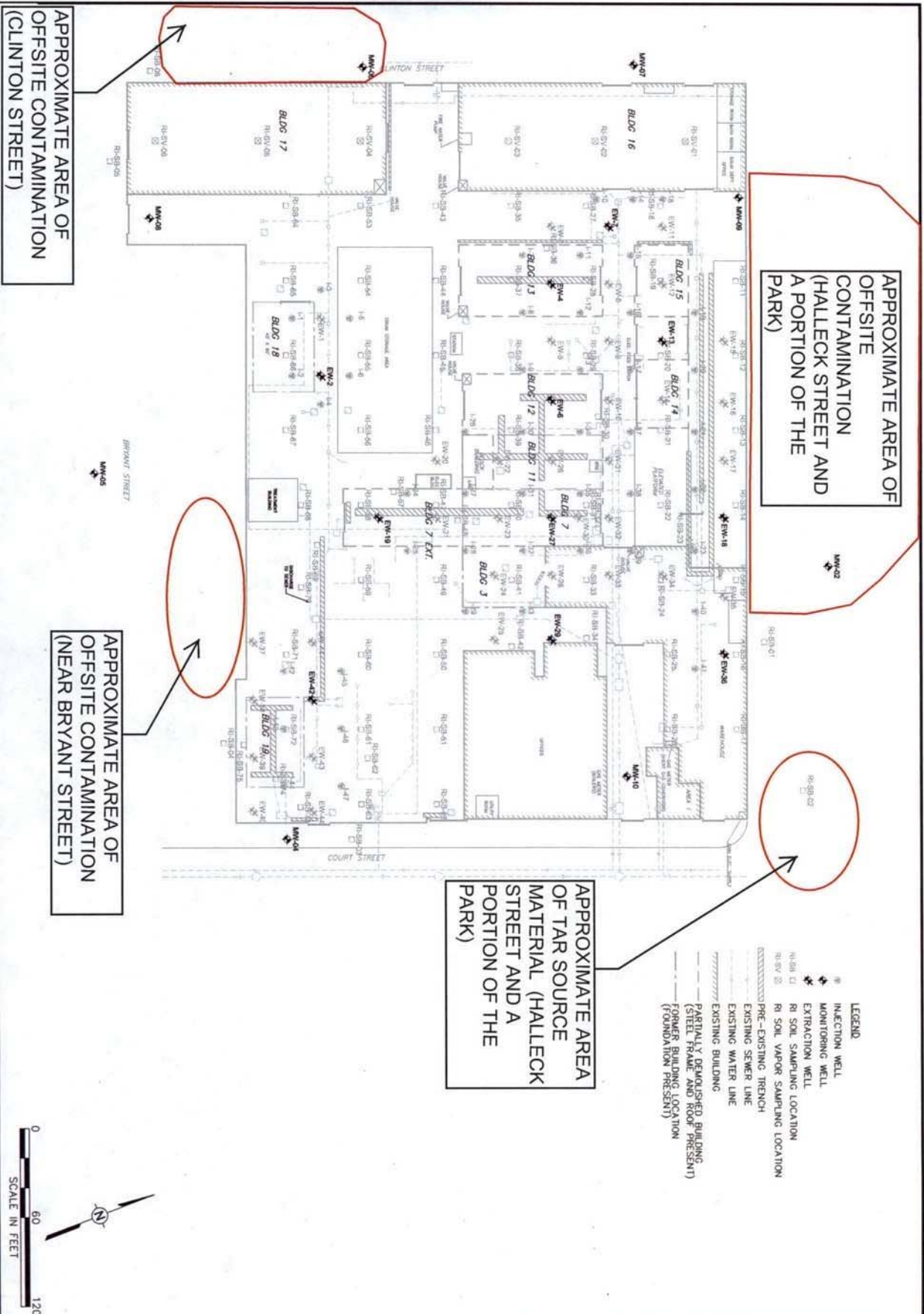


Interim Site Management Plan

Site Location Map

Chemtura 688-700 Court Street
Site #224145
Brooklyn, NY

Figure 1



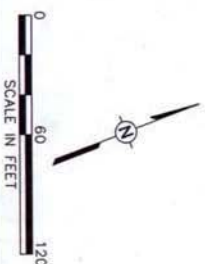
APPROXIMATE AREA OF OFFSITE CONTAMINATION (HALLECK STREET AND A PORTION OF THE PARK)

APPROXIMATE AREA OF OFFSITE CONTAMINATION (CLINTON STREET)

APPROXIMATE AREA OF OFFSITE CONTAMINATION (NEAR BRYANT STREET)

APPROXIMATE AREA OF TAR SOURCE MATERIAL (HALLECK STREET AND A PORTION OF THE PARK)

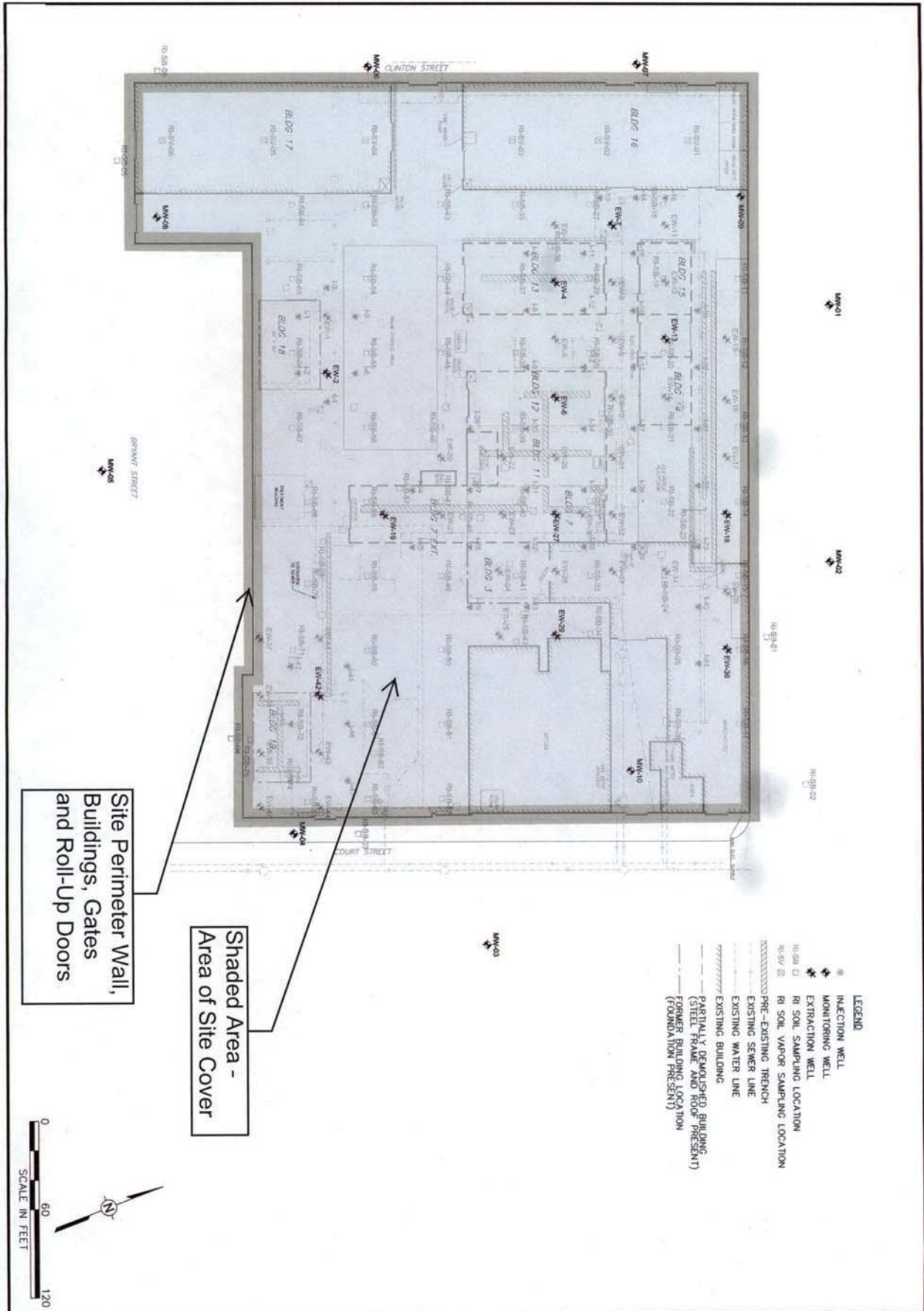
- LEGEND**
- INJECTION WELL
 - MONITORING WELL
 - ◆ EXTRACTION WELL
 - RI SOIL SAMPLING LOCATION
 - ⊠ RI SOIL VAPOR SAMPLING LOCATION
 - PRE-EXISTING TRENCH
 - EXISTING SEWER LINE
 - EXISTING WATER LINE
 - EXISTING BUILDING
 - PARTIALLY DEMOLISHED BUILDING (STEEL FRAME AND ROOF PRESENT)
 - FORMER BUILDING LOCATION (FOUNDATION PRESENT)



Interim Site Management Plan
Figure 2

Locations of Known Contamination

Chemtura 688-700 Court Street Site #224145 Brooklyn, NY



Interim Site Management Plan
Figure 4

Site Cover System and Perimeter Control

Chemtura 688-700 Court Street Site #224145
Brooklyn, NY

