

**FIRST AMENDMENT TO
ENVIRONMENTAL NOTICE**

This First Amendment (“First Amendment”) to the Environmental Notice, dated August 8, 2013 and is made this 14 day of April, 2023 by NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, a governmental agency with an address at 625 Broadway, Albany, New York 12233 (the “Department”).

WITNESSETH:

WHEREAS, on August 8, 2013 NYSDEC executed an Environmental Notice in lieu of an Environmental Easement or Deed Restrictions (the “Notice”) which encumbered certain real property, as described therein (the “Property”) and further identified as NM - Utica Harbor Point MGP Site; Site No. 633021 City of Utica, County of Oneida, NY Tax Map: 306.20-1-11; 306.20-1-3; 306.15-1-3, 4 & 5, which is currently owned by the Utica Harbor Point Development Corporation, a New York not for profit corporation (“UHPDC”) and

WHEREAS, the Notice was recorded in Oneida County Clerk’s Office on August 16, 2013 as Instrument Number 2013-001058; and

WHEREAS, the Notice, among other things, described the Property using a metes and bounds description, restricted the use of the Property to commercial and industrial uses to ensure the integrity and continuous effectiveness of the engineering controls and prevent a significantly increased threat of harm or damage at the Property as a result of exposure to soils on the Property pursuant to that certain site management plan for DEC Site No. 6-33-021, OU3 DSA-1 (as amended, the “SMP”) which plan was approved by the Department; and

WHEREAS, UHPDC acquired title to the Property subject to the Notice by deed from The People of the State of New York by and through the New York State Canal Corporation which deed was recorded August 8, 2018 in the Oneida County Clerk’s Office as instrument Number 2018-011045; and

WHEREAS, the Property (a portion of which was previously identified as Parcel 306.20-1-11) was subsequently consolidated with other lands and subdivided into six separate tax parcels now identified as (i) **Lot #1** 06.20-1-7 (3.16 acres), (ii) **Lot #2** 306.20-1-12.1 (0.50 acres) (iii) **Lot #3** 306.20-1-9 (12.29 acres), (iv) **Lot #4** 306.20-1-8 (2.38 acres), (v) **Lot #5** 306.20-1-11 (1.78 acres), and (vi) **Lot #6** 306.20-1-7.1 (0.09 acres), all as more accurately depicted on Appendix A-1; and

WHEREAS, only the parcel identified as Lot #3 above and now identified as Parcel 306.20-1-9 comprises Operable Unit 3 as described in the Record of Decision dated as of March 30, 2001 (as amended, “ROD”); and

WHEREAS, this First Amendment is being executed by the Department solely to amend the metes and bounds description of the Property as defined in the Notice to correctly define and identify the land area where remedial action was undertaken in compliance with the ROD.

NOW THEREFORE, THE DEPARTMENT AGREES THAT:

1. Appendix A (“Property”), the original metes and bounds description attached to the Notice is deleted in its entirety and replaced with the metes and bounds description attached to this First Amendment as Appendix “A”, Property Description and more accurately depicted as Lot #3 (Parcel 306.20-1-9) on attached Appendix A-1, “Depiction of Property”.
2. Except as modified herein, all of the terms, covenants and conditions of the Notice shall remain in full force and effect and are hereby ratified.
3. The owner of the Property will record this First Amendment as a covenant that shall run with the land and be binding upon all future owners of the Property.

Balance of page blank. Signature page to follow.

IN WITNESS WHEREOF, the undersigned has executed this First Amendment on the date first above written.

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By: Andrew Guglielmi

Name: Andrew Guglielmi

Title: Division Director
Division of Environmental Remediation

STATE OF NEW YORK) ss.:
COUNTY OF ALBANY)

On the 14th day of April in the year 2023 before me, the undersigned, personally appeared Andrew Guglielmi personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in his or her capacity and that by his or her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Jennifer Andalaro
Notary Public

JENNIFER ANDALORO
Notary Public, State of New York
No. 02AN6098246
Qualified in Albany County 24
Commission Expires January 14, 2024

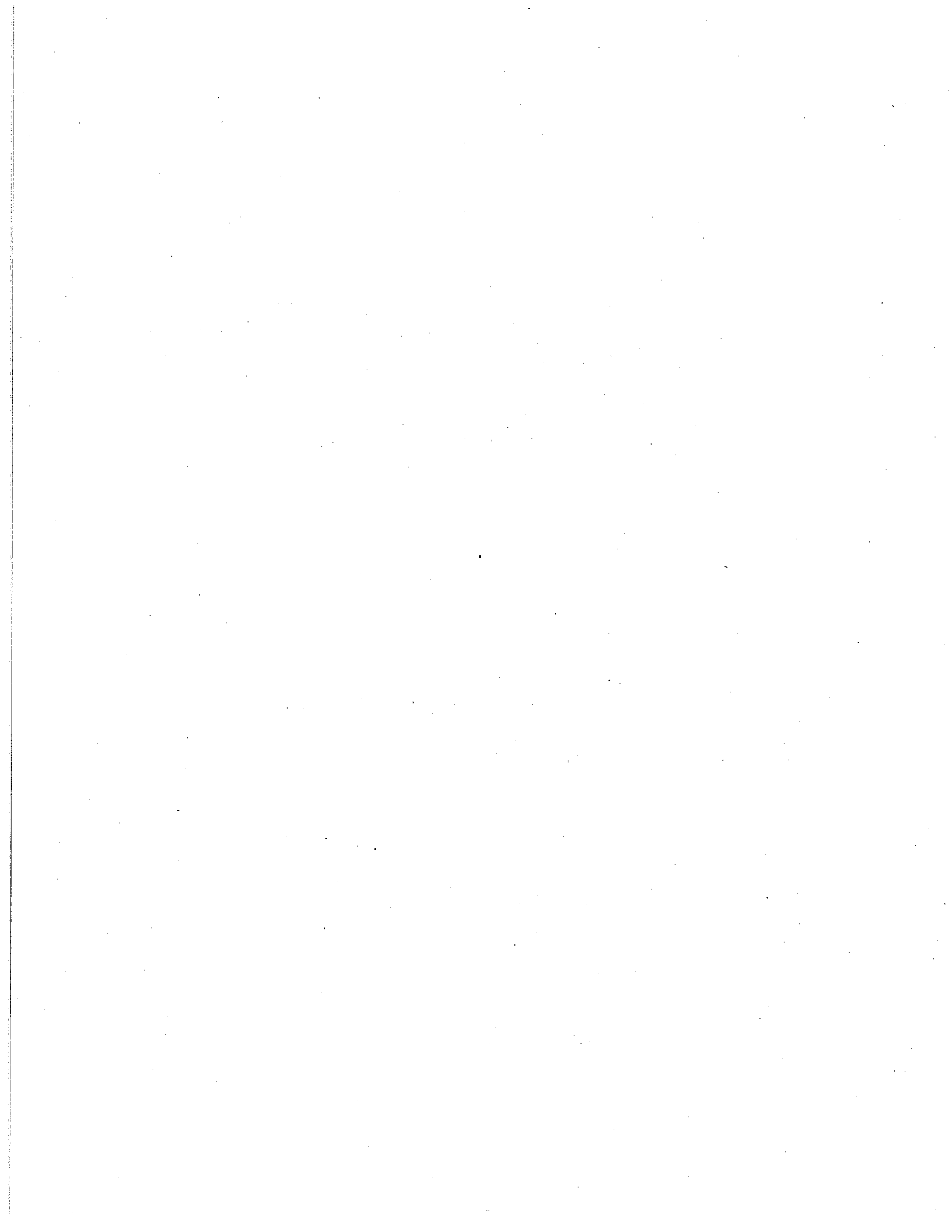
Appendix A
Property Description

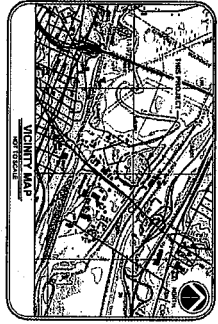
ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE CITY OF UTICA, COUNTY OF ONEIDA AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

Beginning at a point on the easterly blue line of the Utica Terminal Basin Barge Canal Harbor, said point standing at the intersection of the easterly blue line of the Utica Terminal Basin Barge Canal Harbor with the easterly boundary of Niagara Mohawk Power Corporation (Now or Formerly), as described in a Warranty Deed dated February 2, 1928 and filed in the Oneida County Clerk's Office in liber 879 of deeds at page 157; thence **N29°54'04"E 555.67 feet** along the easterly boundary of Niagara Mohawk Power Corporation and a northerly extension thereof to an iron rod; thence **S55°07'35"E 895.42 feet** to an iron rod; thence **S40°49'50"W 462.94 feet** to an iron rod; thence **N60°11'56"W 255.42 feet** to an iron rod; thence **S29°48'03"W 304.26 feet** to an iron rod standing on the northeasterly blue line of the Utica Terminal Basin Barge Canal Harbor; thence **N46°38'24"W 347.90 feet** along the northeasterly blue line of the Utica Terminal Basin Barge Canal Harbor to an iron rod standing on the easterly blue line of the Utica Terminal Basin Barge Canal Harbor; thence **N16°39'56"W 290.67 feet** along the easterly blue line of the Utica Terminal Basin Barge Canal Harbor to the point and place of beginning.

The above described premises containing **12.29± acres (535,352.4± sq. ft.)** of land more or less.

Appendix A-1
Depiction of Property
(see attached map)





TOTAL ACREAGE THIS SURVEY IS 24.281 ACRES

UTICA TERMINAL BASIN
BARGE CANAL HARBOR

ZONING INFORMATION

NO.	DATE	DESCRIPTION
1	02/28/17	PRELIMINARY ZONING
2	03/28/17	FINAL ZONING

MAP REFERENCES:

1. The map is based on the most recent aerial photograph available.

2. The map is based on the most recent topographic map available.

3. The map is based on the most recent cadastral map available.

4. The map is based on the most recent utility map available.

BOUNDARY COURSES:

1. 10.28' ACRES 306.20-1-7.1

2. 10.28' ACRES 306.20-1-7.2

NO. **DATE** **REVISION** **BY** **NO.** **DATE** **REVISION** **BY**

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THE UNDERSIGNED ENGINEER CERTIFIES THAT THIS IS AN ACCURATE MAP OF AN OPEN PLEASANT AND HEALTHY AND SOUNDLY SITUATED TRACT OF LAND IN THE CITY OF UTICA, STATE OF NEW YORK.

Harbor Area Holdings LLC
Utica Harbor Point Development Corporation
City of Utica, State of New York

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ADDELTA ENGINEERING & LAND SURVEYING
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DEED REFERENCES:

1. 10.28' ACRES 306.20-1-7.1

2. 10.28' ACRES 306.20-1-7.2

LEGEND:

1. Proposed Boundary

2. Existing Boundary

3. Proposed Right-of-Way

4. Existing Right-of-Way

5. Proposed Easement

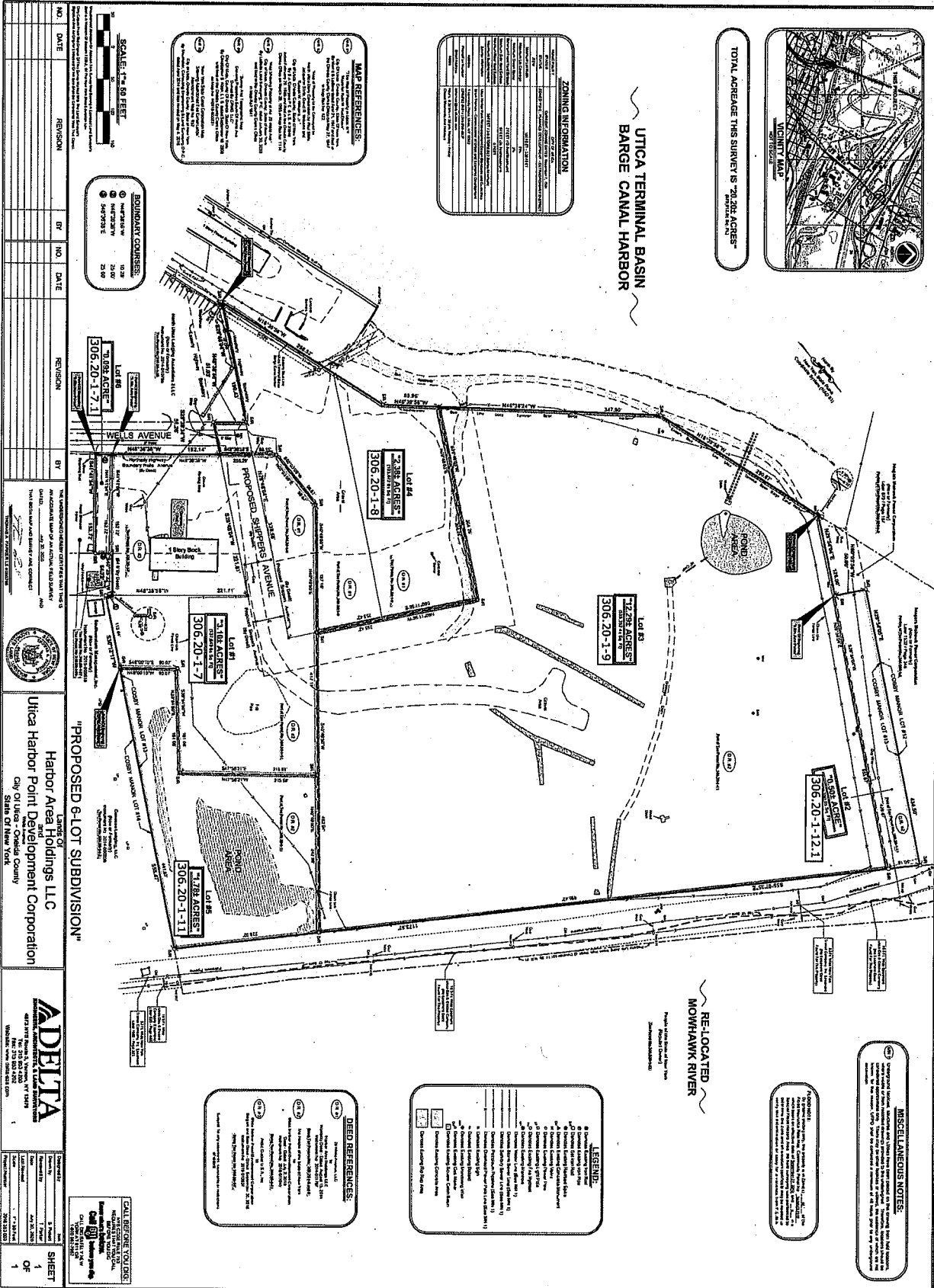
6. Existing Easement

7. Proposed Encroachment

8. Existing Encroachment

9. Proposed Encroachment

10. Existing Encroachment



RELOCATED MOWHAWK RIVER

Proposed Relocation of the Mowhawk River
Royal Channel

RELOCATED MOWHAWK RIVER

DISCLAIMER:

This map is not to be used for any purpose other than that for which it was prepared. It is not to be construed as a warranty of any kind. The engineer assumes no responsibility for any errors or omissions in this map. The engineer is not responsible for any actions taken based on this map. The engineer is not responsible for any damages or losses resulting from the use of this map. The engineer is not responsible for any claims or lawsuits filed against the engineer or the engineer's firm. The engineer is not responsible for any claims or lawsuits filed against the engineer or the engineer's firm. The engineer is not responsible for any claims or lawsuits filed against the engineer or the engineer's firm.

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