



New York State Department of Environmental Conservation

Brownfield Cleanup Program

Citizen Participation Plan

for

125 Main Street Site

BCP Site No. 915262

125 Main Street
City of Buffalo
Erie County, New York

June 2012

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Note: The information presented in this Citizen Participation Plan was current as of the date of its approval by the New York State Department of Environmental Conservation. Portions of this Citizen Participation Plan may be revised during the site’s investigation and cleanup process.

Applicant: **Harbor District Associates, LLC (“Applicant”)**
Site Name: **125 Main Street Site (“Site”)**
Site Address: **125 Main Street, Buffalo, NY 14204**
Site County: **Erie**
Site Number: **C915262**

1. What is New York’s Brownfield Cleanup Program?

New York’s Brownfield Cleanup Program (BCP) works with private developers to encourage the voluntary cleanup of contaminated properties known as “brownfields” so that they can be reused and developed. These uses include recreation, housing, and business.

A *brownfield* is any real property that is difficult to reuse or redevelop because of the presence or potential presence of contamination. A brownfield typically is a former industrial or commercial property where operations may have resulted in environmental contamination. A brownfield can pose environmental, legal and financial burdens on a community. If the brownfield is not addressed, it can reduce property values in the area and affect economic development of nearby properties.

The BCP is administered by the New York State Department of Environmental Conservation (NYSDEC) which oversees Applicants that conduct brownfield site investigations and cleanup activities. An Applicant is a person who has requested to participate in the BCP has been accepted by NYSDEC. The BCP contains investigation and cleanup requirements, ensuring that cleanups protect public health and the environment. When NYSDEC certifies that these requirements have been met, the property can be reused or redeveloped for the intended use.

For more information about the BCP, go online at: www.dec.ny.gov/chemical/8450.html

2. Citizen Participation Activities

Why NYSDEC Involves the Public and Why It Is Important

NYSDEC involves the public to improve the process of investigating and cleaning up contaminated sites, and to enable citizens to participate more fully in decisions that affect their health, environment, and social well being. NYSDEC provides opportunities for citizen involvement and encourages early two-way communication with citizens before decision makers form or adopt final positions.

Involving citizens affected and interest in site investigation and cleanup programs is important for many reasons. These include:

- Promoting the development of timely, effective site investigation and cleanup programs that protect public health and the environment

- Improving public access to, and understanding of, issues and information related to a particular site and that site's investigation and cleanup process
- Providing citizens with early and continuing opportunities to participate in NYSDEC's site investigation and cleanup process
- Ensuring that NYSDEC makes site investigation and cleanup decisions that benefit from input that reflects the interests and perspectives found within the affected community
- Encouraging dialogue to promote the exchange of information among the affected/interested public, State agencies, and other interested parties that strengthens trust among the parties, increases understanding of site and community issues and concerns, and improves decision making.

This Citizen Participation (CP) Plan provides information about how NYSDEC will inform and involve the public during the investigation and cleanup of the site identified above. The public information and involvement program will be carried out with assistance, as appropriate, from the Applicant.

Project Contacts

Appendix A identifies NYSDEC project contact(s) to whom the public should address questions or request information about the site's investigation and cleanup program. The public's suggestions about this CP Plan and the CP program for the site are always welcome. Interested people are encouraged to share their ideas and suggestions with the project contacts at any time.

Locations of Reports and Information

The locations of the reports and information related to the site's investigation and cleanup program also are identified in Appendix A. These locations provide convenient access to important project documents for public review and comment. Some documents may be placed on the NYSDEC web site. If this occurs, NYSDEC will inform the public in fact sheets distributed about the site and by other means, as appropriate.

Site Contact List

Appendix B contains the site contact list. This list has been developed to keep the community informed about, and involved in, the site's investigation and cleanup process. The site contact list will be used periodically to distribute fact sheets that provide updates about the status of the project. These will include notifications of upcoming activities at the site (such as fieldwork), as well as availability of project documents and announcements about public comment periods. The site contact list includes, at a minimum:

- chief executive officer and planning board chairperson of each county, city, town and village in which the site is located;

- residents, owners, and occupants of the site and properties adjacent to the site;
- the public water supplier which services the area in which the site is located;
- any person who has requested to be placed on the site contact list;
- the administrator of any school or day care facility located on or near the site for purposes of posting and/or dissemination of information at the facility;
- location(s) of reports and information.

The site contact list will be reviewed periodically and updated as appropriate. Individuals and organizations will be added to the site contact list upon request. Such requests should be submitted to the NYSDEC project contact(s) identified in Appendix A. Other additions to the site contact list may be made at the discretion of the NYSDEC project manager, in consultation with other NYSDEC staff as appropriate.

CP Activities

The table at the end of this section identifies the CP activities, at a minimum, that have been and will be conducted during the site's investigation and cleanup program. The flowchart in Appendix D shows how these CP activities integrate with the site investigation and cleanup process. The public is informed about these CP activities through fact sheets and notices distributed at significant points during the program. Elements of the investigation and cleanup process that match up with the CP activities are explained briefly in Section 5.

- **Notices and fact sheets** help the interested and affected public to understand contamination issues related to a site, and the nature and progress of efforts to investigate and clean up a site.
- **Public forums, comment periods and contact with project managers** provide opportunities for the public to contribute information, opinions and perspectives that have potential to influence decisions about a site's investigation and cleanup.

The public is encouraged to contact project staff at any time during the site's investigation and cleanup process with questions, comments, or requests for information. This CP Plan may be revised due to changes in major issues of public concern identified in Section 3 or in the nature and scope of investigation and cleanup activities. Modifications may include additions to the site contact list and changes in planned citizen participation activities.

Technical Assistance Grant

NYSDEC must determine if the site poses a significant threat to public health or the environment. This determination generally is made using information developed during the investigation of the site, as described in Section 5.

If the site is determined to be a significant threat, a qualifying community group may apply for a Technical Assistance Grant (TAG). The purpose of a TAG is to provide funds to the qualifying group to obtain independent technical assistance. This assistance helps the TAG recipient to

interpret and understand existing environmental information about the nature and extent of contamination related to the site and the development/implementation of a remedy.

An eligible community group must certify that its membership represents the interests of the community affected by the site, and that its members' health, economic well-being or enjoyment of the environment may be affected by a release or threatened release of contamination at the site.

For more information about TAGs, go online at <http://www.dec.ny.gov/regulations/2590.html>

Note: The table identifying the citizen participation activities related to the site's investigation and cleanup program follows on the next page:

Citizen Participation Requirements (Activities)	Timing of CP Activity(ies)
Application Process:	
Prepare site contact list Establish document repositories	At time of preparation of application to participate in the BCP.
<ul style="list-style-type: none"> • Publish notice in Environmental Notice Bulletin (ENB) announcing receipt of application and 30-day public comment period Publish above ENB content in local newspaper Mail above ENB content to site contact list Conduct 30-day public comment period 	When NYSDEC determines that BCP application is complete. The 30-day public comment period begins on date of publication of notice in ENB. End date of public comment period is as stated in ENB notice. Therefore, ENB notice, newspaper notice, and notice to the site contact list should be provided to the public at the same time.
After Execution of Brownfield Site Cleanup Agreement:	
Prepare Citizen Participation (CP) Plan	Before start of Remedial Investigation
Before NYSDEC Approves Remedial Investigation (RI) Work Plan:	
<ul style="list-style-type: none"> • Distribute fact sheet to site contact list about proposed RI activities and announcing 30-day public comment period about draft RI Work Plan Conduct 30-day public comment period 	Before NYSDEC approves RI Work Plan. If RI Work Plan is submitted with application, public comment periods will be combined and public notice will include fact sheet. Thirty-day public comment period begins/ends as per dates identified in fact sheet.
After Applicant Completes Remedial Investigation:	
<ul style="list-style-type: none"> • Distribute fact sheet to site contact list that describes RI results 	Before NYSDEC approves RI Report
Before NYSDEC Approves Remedial Work Plan (RWP):	
<ul style="list-style-type: none"> • Distribute fact sheet to site contact list about proposed RWP and announcing 45-day public comment period • Public meeting by NYSDEC about proposed RWP (if requested by affected community or at discretion of NYSDEC project manager) Conduct 45-day public comment period 	Before NYSDEC approves RWP. Forty-five day public comment period begins/ends as per dates identified in fact sheet. Public meeting would be held within the 45-day public comment period.
Before Applicant Starts Cleanup Action:	
<ul style="list-style-type: none"> • Distribute fact sheet to site contact list that describes upcoming cleanup action 	Before the start of cleanup action.
After Applicant Completes Cleanup Action:	
<ul style="list-style-type: none"> • Distribute fact sheet to site contact list that announces that cleanup action has been completed and that summarizes the Final Engineering Report • Distribute fact sheet to site contact list announcing issuance of Certificate of Completion (COC) 	At the time NYSDEC approves Final Engineering Report. These two fact sheets are combined if possible if there is not a delay in issuing the COC.

3. Major Issues of Public Concern

This section of the CP Plan identifies major issues of public concern that relate to the site. Additional major issues of public concern may be identified during the course of the site's investigation and cleanup process.

Local Residents

The Site Remediation will be carried out by professionals experienced in performing cleanup activities in densely populated areas. All work will be conducted under a Site-Wide Health and Safety Plan and Community Air Monitoring Program approved by the NYSDEC and NYSDOH.

The Site Remediation will be conducted over a limited duration and during normal business hours. Soil excavations will be secured to eliminate the risk of injury. The Site Remediation will be performed with minimal equipment; hence, there will be no change in traffic patterns.

4. Site Information

Site Description

Appendix C contains maps identifying the location of the site.

The Project Site comprised of a single parcel totaling approximately 2.2-acres, located in the City of Buffalo, Erie County, New York. The Site is bound by Interstate 190 to the north; Scott Street to the south; Washington Street to the east; and Main Street to the west. The Site is located in a predominantly commercial area of the City of Buffalo. Residential development is located approximately within 0.15-miles to the west.

History of Site Use, Investigation, and Cleanup

The Site is located within the historic canal district of the City of Buffalo, containing former industrial, commercial, and residential uses. The former Hamburg Canal runs under the south end of the Site, and was subsequently filled in between 1899 and 1925. Quay Street historically ran through the central portion of the site.

The site was developed with various commercial industrial businesses from the late 1800s through the 1920s, including a bit brace factory, wire works, shoe manufacturer, box manufacturer, junk yard, contractors yard, paint shop and tin shop. Lehigh Valley Railroad Passenger Station was also located on-site from at least 1925 through at least 1951. The majority of the Site was historically utilized as the General William J Donovan State Office Building from approximately 1961 through 2008. The site has been vacant since 2008.

A summary of the previous environmental site investigations completed for the Site is presented below.

November 2007 –Phase II Environmental Site Assessment

In 2007, URS Corporation conducted an Environmental Site Assessment of the subject property that included soil boring, soil testing and groundwater testing. Semi-volatile organic compounds (SVOCs), primarily poly-aromatic hydrocarbons (PAHs) were found to exceed NYSDEC commercial soil cleanup objectives (SCOs). Acetone was detected in groundwater exceeded NYSDEC water quality standards.

December 2008 – Undergroud Storage Tank (UST) Removal

Four USTs, including one diesel fuel day tank for an emergency generator, one (1) 1,000-gallon diesel fuel UST, one (1) 4,000-gallon gasoline UST and one (1) 30,000-gallon #6 fuel oil UST were removed from the subject property in 2008.

2011 – Supplemental Phase II Subsurface Investigation

In 2011, Benchmark Environmental Engineering & Science, PLLC conducted a Supplementary Phase II Subsurface Investigation of the subject property that included additional soil borings and soil testing. SVOCs and metals were found to exceed NYSDEC Commercial SCOs

5. Investigation and Cleanup Process

Application

The Applicant has applied for and been accepted into New York's Brownfield Cleanup Program as a Participant. This means that the Applicant was the owner of the site at the time of the disposal or discharges of contaminants or was otherwise liable for the disposal or discharge of the contaminants. The Participant must fully characterize the nature and extent of contamination onsite, as well as the nature and extent of contamination that has migrated from the site. The Participant also must conduct a "qualitative exposure assessment," a process that characterizes the actual or potential exposures of people, fish and wildlife to contaminants on the site and to contamination that has migrated from the site.

The Applicant in its Application proposes that the site will be used for restricted purposes.

To achieve this goal, the Applicant will conduct investigation and cleanup activities at the site with oversight provided by NYSDEC. The Brownfield Cleanup Agreement executed by NYSDEC and the Applicant sets forth the responsibilities of each party in conducting these activities at the site.

Investigation

The Applicant has completed a partial site investigation before it entered into the BCP. For the partial investigation, NYDEC will determine if the data are useable.

The site investigation has several goals:

- 1) define the nature and extent of contamination in soil, surface water, groundwater and any other parts of the environment that may be affected;
- 2) identify the source(s) of the contamination;

- 3) assess the impact of the contamination on public health and/or the environment; and
- 4) provide information to support the development of a proposed remedy to address the contamination or the determination that cleanup is not necessary.

When the investigation is complete, the Applicant will prepare and submit a report that summarizes the results. This report also will recommend whether cleanup action is needed to address site-related contamination. The investigation report is subject to review and approval by NYSDEC.

NYSDEC will use the information in the investigation report to determine if the site poses a significant threat to public health or the environment. If the site is a “significant threat,” it must be cleaned up using a remedy selected by NYSDEC from an analysis of alternatives prepared by the Applicant and approved by NYSDEC. If the site does not pose a significant threat, the Applicant may select the remedy from the approved analysis of alternatives.

Remedy Selection

When the investigation of the site has been determined to be complete, the project likely would proceed in one of two directions:

1. The Applicant may recommend in its investigation report that no action is necessary at the site. In this case, NYSDEC would make the investigation report available for public comment for 45 days. NYSDEC then would complete its review, make any necessary revisions, and, if appropriate, approve the investigation report. NYSDEC would then issue a “Certificate of Completion” (described below) to the Applicant.

or

2. The Applicant may recommend in its investigation report that action needs to be taken to address site contamination. After NYSDEC approves the investigation report, the Applicant may then develop a cleanup plan, officially called a “Remedial Work Plan”. The Remedial Work Plan describes the Applicant’s proposed remedy for addressing contamination related to the site.

When the Applicant submits a proposed Remedial Work Plan for approval, NYSDEC would announce the availability of the proposed plan for public review during a 45-day public comment period.

Cleanup Action

NYSDEC will consider public comments, and revise the draft cleanup plan if necessary, before approving the proposed remedy. The New York State Department of Health (NYSDOH) must concur with the proposed remedy. After approval, the proposed remedy becomes the selected remedy.

The Applicant may then design and perform the cleanup action to address the site contamination. NYSDEC and NYSDOH oversee the activities. When the Applicant completes cleanup

activities, it will prepare a final engineering report that certifies that cleanup requirements have been achieved or will be achieved within a specific time frame. NYSDEC will review the report to be certain that the cleanup is protective of public health and the environment for the intended use of the site.

Certificate of Completion

When NYSDEC is satisfied that cleanup requirements have been achieved or will be achieved for the site, it will approve the final engineering report. NYSDEC then will issue a Certificate of Completion (COC) to the Applicant. The COC states that cleanup goals have been achieved, and relieves the Applicant from future liability for site-related contamination, subject to certain conditions. The Applicant would be eligible to redevelop the site after it receives a COC.

Site Management

Site management is the last phase of the site cleanup program. This phase begins when the COC is issued. Site management may be conducted by the Applicant under NYSDEC oversight, if contamination will remain in place. Site management incorporates any institutional and engineering controls required to ensure that the remedy implemented for the site remains protective of public health and the environment. All significant activities are detailed in a Site Management Plan.

An institutional control is a non-physical restriction on use of the site, such as a deed restriction that would prevent or restrict certain uses of the property. An institutional control may be used when the cleanup action leaves some contamination that makes the site suitable for some, but not all uses.

An engineering control is a physical barrier or method to manage contamination. Examples include: caps, covers, barriers, fences, and treatment of water supplies.

Site management also may include the operation and maintenance of a component of the remedy, such as a system that is pumping and treating groundwater. Site management continues until NYSDEC determines that it is no longer needed.

Appendix A - Project Contacts and Locations of Reports and Information

Project Contacts

For information about the site's investigation and cleanup program, the public may contact any of the following project staff:

New York State Department of Environmental Conservation (NYSDEC):

David Locey
Project Manager
NYSDEC Region 9
Division of Environmental Remediation
270 Michigan Avenue
Buffalo, NY 14203
Phone: (716) 851-7220
Email: dplocey@gw.dec.state.ny.us
Hours: M-F 8:30-4:45

Kirsten Davidson
Citizen Participation Specialist
Public Affairs & Education
NYSDEC Region 9
270 Michigan Avenue
Buffalo, NY 14203
Phone: (716) 851-7220
Fax: (716) 851-7226
Email: kxdavids@gw.dec.state.ny.us

New York State Department of Health (NYSDOH):

Scarlett Messier-McLaughlin
Public Health Specialist
NYSDOH
Bureau of Environmental Exposure
Investigation
Flanigan Square, Room 300
547 River Street
Troy, NY 12180
Phone: (518) 402-7860
Email: BEEI@health.state.ny.us

Locations of Reports and Information

The facilities identified below are being used to provide the public with convenient access to important project documents:

Buffalo & Erie County Public Library
1 Lafayette Square
Buffalo, NY 14203
Attn: Mary Jean Jakubowski
Deputy Director
Phone: (716) 858-8900

Hours: M – Sat. 9-5
Sun. (closed)

Appendix B - Site Contact List

Appendix B

Brownfield Site Contact List 125 Main Street

CONTACT LIST

The following is the contact list information for the subject property. The following contacts will be sent fact sheets throughout the project's duration.

Erie County Contacts:

Honorable Mark Poloncarz
Erie County Executive
95 Franklin Street, 16th floor
Buffalo, NY 14202

Erie County Legislator Timothy R. Hogues
District 1
427 Williams Street
Buffalo, NY 14204

Commissioner Maria R. Whyte
Erie Co. Environment & Plan.
95 Franklin Street
Buffalo, NY 14202

Mr. Paul Kranz
Erie Co. Environment & Plan.
95 Franklin Street
Buffalo, NY 14202

Mr. Robert Graber
Erie County Legislature Clerk
25 Delaware Avenue
Buffalo, NY 14202

Christopher Pawenski
Erie County DEP
95 Franklin St.
Buffalo, NY 14202

Commissioner Gale Burstein
Erie Co. Health Dept.
95 Franklin Street, Room 931
Buffalo, NY 14202

Erie County Local Emergency
45 Elm St.
Buffalo, NY 14203

David Stebbins
ECIDA
275 Oak St.
Buffalo, NY 14203

Appendix B

Brownfield Site Contact List 125 Main Street

City of Buffalo Contacts:

Byron Brown, Mayor
City of Buffalo
65 Niagara Sq
Buffalo, NY 14219

David A. Franczyk, Councilman
City of Buffalo
1315 City Hall
Buffalo, NY 14219

James K. Morrell, Chairman
City of Buffalo
Planning Board
901 City Hall
Buffalo, NY 14219

Supplier of Potable Water:

Buffalo Water Authority
281 Exchange Street
Buffalo, NY 14204

Local News Media:

Buffalo News
ATTN: Ms. Aaron Besecker
1 News Plaza
Buffalo, NY 14240

WGRZ TV - Ch. 2
ATTN: Ms. Maria Sisti
259 Delaware Avenue
Buffalo, NY 14202

WIVB - Ch. 4
ATTN: Ms. Lisa Fullone
2077 Elmwood Avenue
Buffalo, NY 14207

WKBW News Channel 7
ATTN: Ms. Melanie Pritchard
7 Broadcast Plaza
Buffalo, NY 14202

Alternate Press
ATTN: Mr. Joe Schmidbauer
P.O. Box 729, Washington Station
Buffalo, NY 14205

Business First
ATTN: Anne Marie Franczyk
465 Main Street
Buffalo, NY 14203-1793

Appendix B

Brownfield Site Contact List 125 Main Street

WBEN News Radio 930
Entercom Radio of Buffalo
500 Corporate Pkwy
Suite 200
Buffalo, NY 14226

WNED, Environmental News Desk
ATTN: Mr. Michael Desmond
P.O. Box 1263, Horizons Plaza
Buffalo, NY 14240

Nearby Schools:

Michael Kotok, Vice President
Buffalo Urban Outdoor Education (BUOE)
1 Navel Park Cove
Buffalo, NY 14202

Susan M. Doyle, Principal
PS 415 Middle Early College High School
290 Main Street #4
Buffalo, NY 14202

Petrina Hill-Cheatom, Dean of Students II
Erie Community College
121 Ellicott Street
Buffalo, NY 14203

Other Interested Parties:

WNY Director
Citizens Env. Coalition
543 Franklin Street
Buffalo, NY 14202-1109

Document Repository:

Mary Jean Jakubowski, Deputy Director
Buffalo & Erie County Public Library
1 Lafayette Square
Buffalo, NY 14203



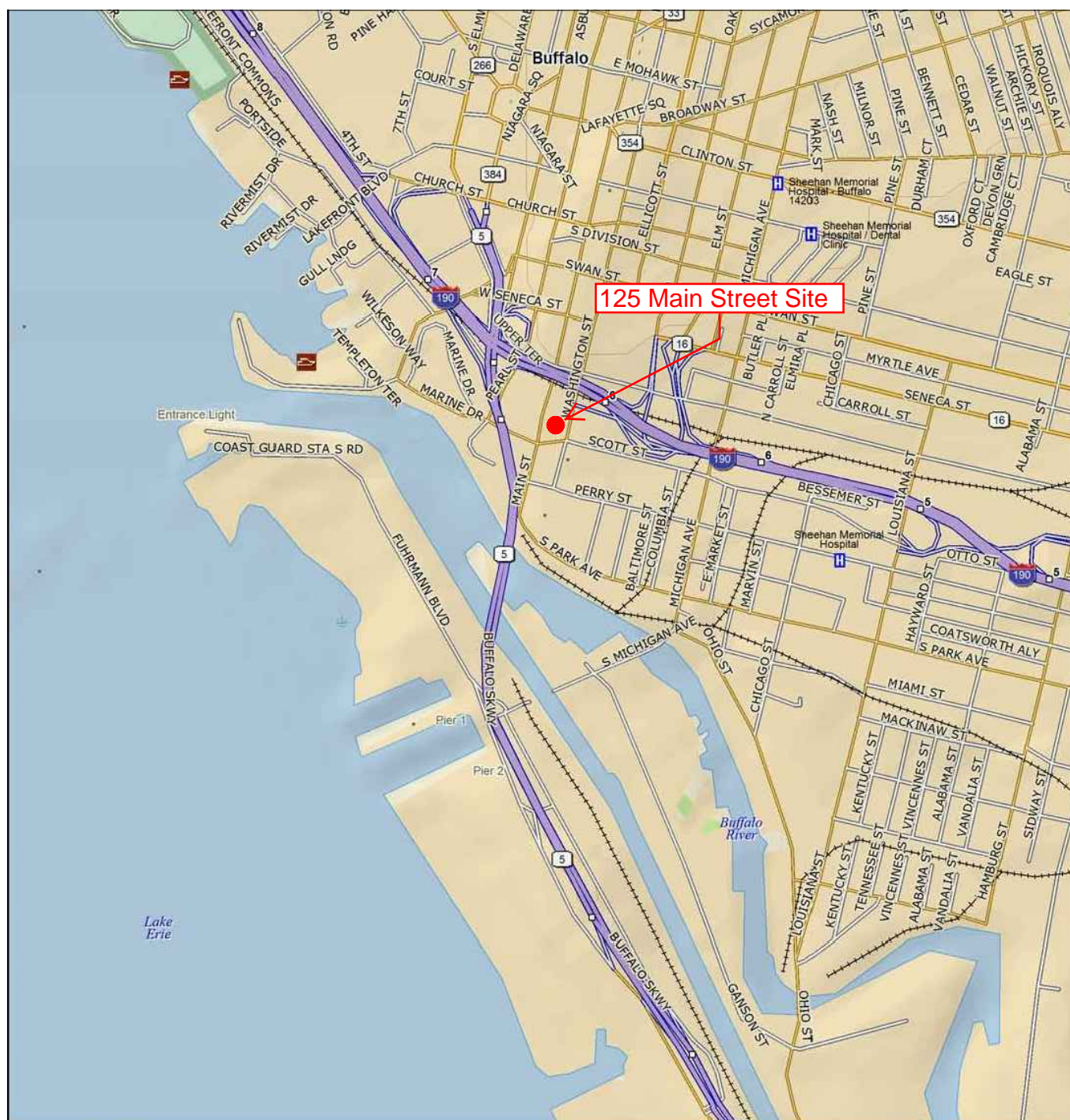
Appendix B

Adjacent Property Owners List 125 Main Street

Adjacent Property Address		Property Owner Mailing Address
No.	Street	
75	Main St	City of Buffalo 920 City Hall Buffalo, NY 14202
130	Main St	Erie Canal Harbor Development Corp. 95 Perry Street Buffalo, NY 14203
222	Main St	Seneca One Realty LLC 1 HSBC Center Buffalo, NY 14203
710	Marine	City of Buffalo Division of Real Estate 1202 City Hall Buffalo, NY 14202
95	Washington St	Agency 1 Marine Midland Ctr Buffalo, NY 14203
125	Washington St	Buffalo News Inc. 1 News Plaza Buffalo, NY 14203
155	Washington St	City of Buffalo Board of Parking 1801 City Hall Buffalo, NY 14202
177	Washington St	Seneca One Realty LLC 1 HSBC Center Buffalo, NY 14203
263	Washington St	City of Buffalo 901 City Hall Buffalo, NY 14202
33	Scott St	Buffalo News Inc. 1 News Plaza Buffalo, NY 14203
75	Exchange St	City of Buffalo Division of Real Estate 65 Niagara Sq Buffalo, NY 14202

Appendix C - Site Location Map & Site Plan

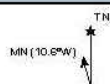
FIGURE 1



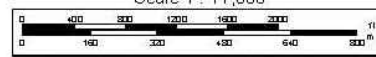
Data use subject to license.

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Scale 1 : 17,600



1" = 1,466.7 ft Data Zoom 13-5



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0635

PROJECT NO.: 0105-049-101

DATE: FEBRUARY 2012

DRAFTED BY: JGT

SITE LOCATION AND VICINITY MAP

125 MAIN STREET SITE

BUFFALO, NEW YORK

PREPARED FOR

HARBOR DISTRICT ASSOCIATES, LLC.



Base Image per Bing Maps

— Parcel Boundary per GIS (Approximate)

Not to Scale



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0635

SITE PLAN (AERIAL)

125 MAIN STREET SITE

BUFFALO, NEW YORK

PREPARED FOR

HARBOR DISTRICT ASSOCIATES, LLC.

PROJECT NO.: 0105-049-101

DATE: FEBRUARY 2012

DRAFTED BY: JGT

FIGURE 2

Appendix D– Brownfield Cleanup Program Process

