



Department of
Environmental
Conservation

Brownfield Cleanup Program

Citizen Participation Plan

for

3678 Southwestern Boulevard Site

June 2019

BCP Site # C915342
3678 Southwestern Boulevard
Orchard Park
Erie County, New York

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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: **Octavus Storage NY, LLC (“Applicant”)**
Site Name: **3678 Southwestern Boulevard Site (“Site”)**
Site Address: **3678 Southwestern Boulevard, Orchard Park, NY**
Site County: **Erie**
Site Number: **C915342**

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 a 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 who conduct brownfield site investigation and cleanup activities. An Applicant is a person who has requested to participate in the BCP and 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:
<http://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 interested 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.

Note: The first site fact sheet (usually related to the draft Remedial Investigation Work Plan) is distributed both by paper mailing through the postal service and through DEC Delivers, its email listserv service. The fact sheet includes instructions for signing up with the appropriate county listserv to receive future notifications about the site. See <http://www.dec.ny.gov/chemical/61092.html> .

Subsequent fact sheets about the site will be distributed exclusively through the listserv, except for households without internet access that have indicated the need to continue to receive site information in paper form. Please advise the NYSDEC site project manager identified in Appendix A if that is the case. Paper mailings may continue during the investigation and cleanup process for some sites, based on public interest and need.

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.

As of the date the declaration (page 2) was signed by the NYSDEC project manager, the significant threat determination for the site had not yet been made.

To verify the significant threat status of the site, the interested public may contact the NYSDEC project manager identified in Appendix A.

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 Activities	Timing of CP Activity(ies)
Application Process:	
<ul style="list-style-type: none"> • Prepare site contact list • Establish document repository(ies) 	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 (BCA):	
<ul style="list-style-type: none"> • Prepare Citizen Participation (CP) Plan 	Before start of Remedial Investigation Note: Applicant must submit CP Plan to NYSDEC for review and approval within 20 days of the effective date of the BCA.
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 draft 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 NYSDEC is reviewing the Final Engineering Report • Distribute fact sheet to site contact list announcing NYSDEC approval of Final Engineering Report and issuance of Certificate of Completion (COC) 	At the time the cleanup action has been completed. Note: The two fact sheets are combined when 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.

Soil contamination has been identified associated with historical operations at the Site. Previous investigations have identified heavy metals and semi-volatile organic compounds (SVOCs) within the upper fill materials.

The presence of these contaminants does not present a significant risk at this time to the surrounding properties. The soil and groundwater conditions will be further investigated as part of this BCP project. There is a potential for worker exposure through fugitive dust emissions during investigation and remediation activities. Such exposure will be alleviated through dust control measures and a community air monitoring plan.

4. Site Information

Appendix C contains a map identifying the location of the site.

Site Description

The Site is addressed at 3678 Southwestern Boulevard in the Town of Orchard Park, Erie County, New York. The Site consists of a single parcel totaling approximately 7.34 acres of land. The Site is located in commercial area of Orchard Park, utilized for light industrial, commercial and residential purposes, and bound to the north and east by Route 219 Expressway, to the south by Southwestern Boulevard, and to the west by vacant land. The 3678 Southwestern Boulevard Site is improved with a two-story, approximate 4,756 square foot building. The parcel includes an asphalt driveway, concrete loading ramp, perimeter fence around portions, and wooded area in the northern portion which contains a former industrial discharge retention pond. Appendix C contains a map identifying the location of the Site.

History of Site Use, Investigation, and Cleanup

The subject site was initially utilized agriculturally, from at least 1926 through at least 1966. In 1967, the property was purchased by the County of Erie (Torrax) to be utilized for the disposal of municipal solid waste through incineration. The facility was identified as under construction in 1971, and operated by the Erie County Torrax Facility from 1972 to 1979. The building was used for an experimental pilot program for the incineration of refuse. During its operational phase, the building housed a high temperature incinerator capable of using 13,000 cu ft/hr natural gas. The maximum waste to be burned was

8,400 lb/hr. In 1974, the experimental program was halted and all of the major process equipment was removed. During the period of operation, the northern portion of the site was used as an ash landfill and scrubber discharge retention pond.

The building was then occupied between 1974 and 1977 by the Erie County Sewerage and Management Department as a vehicle repair and/or storage facility, and has been vacant since that time. The property was purchased in 1993 by Torrax Building Joint Venture and remained unoccupied, but was used for occasional storage of equipment. The building is currently vacant

5. Investigation and Cleanup Process

Application

The Applicant has applied for and been accepted into New York's Brownfield Cleanup Program as a Volunteer. This means that the Applicant was not responsible for the disposal or discharge of the contaminants or whose ownership or operation of the site took place after the discharge or disposal of contaminants. The Volunteer must fully characterize the nature and extent of contamination onsite, and 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 commercial 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 will conduct an investigation of the site officially called a "remedial investigation" (RI). This investigation will be performed with NYSDEC oversight. The Applicant must develop a remedial investigation workplan, which is subject to public comment.

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 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.

The Applicant has submitted a draft “Remedial Investigation Work Plan” to NYSDEC for review and approval. NYSDEC has made the plan available to the public.

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.

Interim Remedial Measures

An Interim Remedial Measure (IRM) is an action that can be undertaken at a site when a source of contamination or exposure pathway can be effectively addressed before the site investigation and analysis of alternatives are completed. If an IRM is likely to represent all or a significant part of the final remedy, NYSDEC will require a 30-day public comment period.

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 draft Remedial Work Plan for approval, NYSDEC would announce the availability of the draft 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 selected remedy is formalized in the site Decision Document.

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

The purpose of site management is to ensure the safe reuse of the property if contamination will remain in place. Site management is the last phase of the site cleanup program. This phase begins when the COC is issued. 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 pumps and treats 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):

Mr. Bryan Kowalewski

Project Manager
NYSDEC Region 9
Division of Environmental Remediation
270 Michigan Avenue
Buffalo, NY 14203-2915
(716) 851-7220
Email: bryan.kowalewski@dec.ny.gov

Ms. Kristen Davidson

Citizen Participation Specialist
NYSDEC Region 9
Division of Environmental Remediation
270 Michigan Avenue
Buffalo, NY 14203-2915
(716) 851-7220
Email: kristin.davidson@dec.ny.gov

New York State Department of Health (NYSDOH):

Ms. Angela Martin

Bureau of Environmental Exposure
Investigation
Empire State Plaza
Corning Towner Room 1787
Albany, NY 12237
Email: angela.martin@health.ny.gov

Locations of Reports and Information

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

Buffalo and Erie County Public Library
Orchard Park Public Library
4570 S. Buffalo Street
Orchard Park, NY 14127
Phone: (716) 662-9851

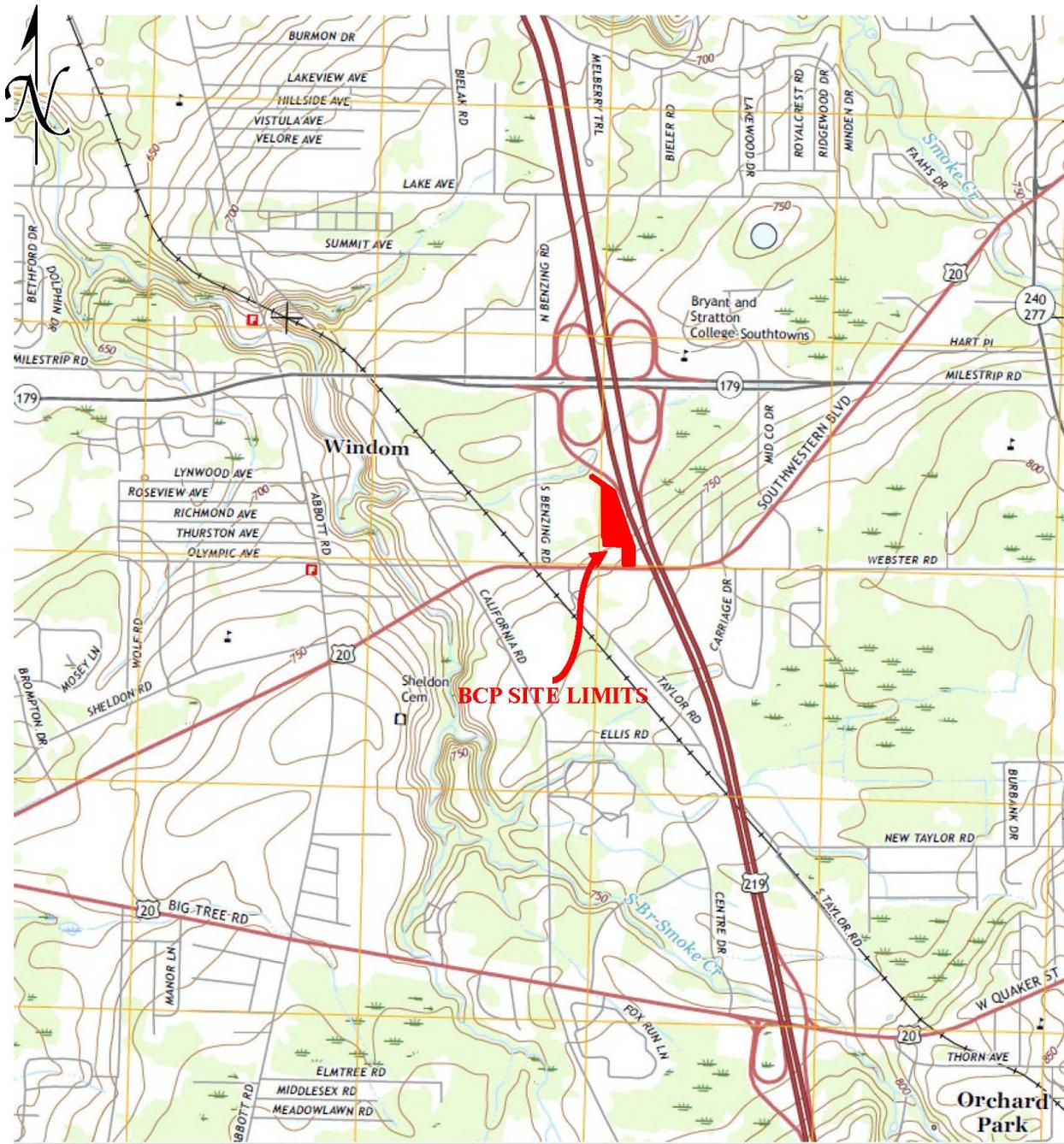
NYSDEC Region 9
Division of Environmental Remediation
270 Michigan Avenue
Buffalo, NY 14203-2399
Attn: Bryan Kowalewski
Phone: (716) 851-7220

Appendix B - Site Contact List

Contact List		
Federal Representative		
U.S. Representative Chris Collins 27 th District Local Office 2813 Wehrle Drive Suite 13 Williamsville, NY 14221 716-634-2324	US Senator Hon. Charles E. Schumer 130 South Elmwood Ave. #660 Buffalo, NY 14202 716-846-4111	US Senator Hon. Kristen Gillibrand 726 Exchange St., Suite 511 Buffalo, NY 14201 716-854-9725
New York Representative		
New York State Senator Chris Jacobs 65 Court Street Mahoney State Office Building Rm 213 716-854-8705	New York State Assemblyman Eric T. Bohen District Office 1074 Union Road West Seneca, NY 14224 716-608-6099	
Erie County Representative		
Erie County Executive Mark Poloncarz 95 Franklin Street 16th Floor Buffalo, New York 14202 (716) 858-8500	Erie County Clerk Michael P. Kearns 92 Franklin Street Buffalo, New York 14202 (716) 858-8865	Commissioner of Environment and Planning Thomas R. Hersey, Jr. Edward A. Rath County Office Building 95 Franklin Street 10th Floor Buffalo, New York 14202 (716) 858-8390
Town of Orchard Park Representative		
Town Supervisor Dr. Patrick J. Keem 4295 South Buffalo Street Orchard Park, NY 14127 716-662-6400 ext. 1502	Town Council Eugene Majchrzak 4295 South Buffalo Street Orchard Park, NY 14127 716-662-6400 ext. 1603	Town Engineer Wayne Bieler 4295 South Buffalo Street Orchard Park, NY 14127 716-662-6425
Remy C. Orffeo Town Clerk 4295 S. Buffalo Street Orchard Park, NY 14127 716-662-6410		

Local News Media		
Buffalo News One News Plaza PO Box 100 Buffalo, NY 14240 716-849-4444	WGRZ-TV Channel 2 259 Delaware Avenue Buffalo, NY 14202 716-849-2222	WIVB-TV Channel 4 2077 Elmwood Avenue Buffalo, NY 14202 716-874-4410
WKBW-ABC Channel 7 7 Broadcast Plaza Buffalo, NY 14202 716-845-6100	WUTV-FOX (Channel 29) 699 Hertel Avenue, Suite 100 Buffalo, New York 14207	
Public Water Supplier		
Erie County Water Authority 295 Main Street Buffalo, NY 14203 716-849-8484		
Persons who have requested to be on the list		
None requested		
Administrator of School and Daycare Facilities near the Property		
No Day care within ¼ mile of the site		
No school within ¼ mile of the site		

Appendix C - Site Location Map



THIS DRAWING IS FOR ILLUSTRATIVE AND INFORMATIONAL PURPOSES ONLY
AND WAS ADAPTED FROM USGS, BUFFALO SE, NEW YORK 2016 QUADRANGLE.

Appendix D– Brownfield Cleanup Program Process

