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**FINAL REPORT FOR  
153 FILLMORE AVE.  
CITY OF TONAWANDA  
DEC PROJECT V00379-9  
MARCH 18, 2003**



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**New York State Department of Environmental Conservation**

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Approved  Approved As Noted  Resubmit With Revisions  Disapproved

**COMMISSIONER OF ENVIRONMENTAL CONSERVATION**

.....  
*Daniel K. King*.....  
Designated Representative

Date .. *Sept. 26, 2003* .....

## Summary and description of work

The City of Tonawanda owns through foreclosure, the industrial property at 153 Fillmore Avenue. The project site is approximately two acres and has a 3,000 to 4,000 square foot building on the site with an attached covered loading dock. The site is a former brown field that was remediated under the New York State Voluntary Cleanup Program. The City of Tonawanda and Erie County were joint applicants under this program. The agreement is attached as exhibit #1.

The property was at one time the home of the National Paint Company. After ceasing operations, National Paint sold the property to Krolab Products, Corp. which became Envirotek, Inc. In 1989, Envirotek filed for bankruptcy. In the late 80's the property was transferred, however, the new ownership (1788 Corporation) did not remediate environmental problems on the site. A series of US Environmental Protection Agency (USEPA) and New York State Department of Environmental Conservation (NYSDEC) enforcement proceedings took place in the 80's. In 1988 USEPA performed a drum removal operation at the site.

Throughout the 90's little action took place at the site other than periodic NYSDEC testing and investigation. In 2000, the City of Tonawanda and Erie County began discussions on cleanup and reuse of the site.

The following is a list of meetings and activities for this site:

- EPA clean up of Envirotek approx. 1989-1991
- NYSDEC sampling 11/95
- Disconnected water and sewer from mains 12/96
- City hires URS Consultants 8/00
- City initiates demolition 1<sup>st</sup> phase 4/01
- URS performs ACM survey 12/01
- Phase 2 bid out and awarded 6/02
- ACM removal complete 8/02
- Waste characterization complete for disposal purpose 8/02
- Stock piled soil removed to landfill by Ensol 8/02
- Above ground storage tanks removed from site 9/02
- Site cleared and grubbed 9/02
- Cover installed 9/02
- Project complete 10/02

## **First Phase**

The first phase of this project which began in 2001 consisted of demolition and removal of various structures, the removal of three (3) underground storage tanks, backfilling with clean material, and the stockpiling of contaminated soil to be removed from the site in the second phase. The project was administered by the City of Tonawanda with design documents being issued by URS Consultants. The project was bid and awarded and completed in 2001. Reference (URS SIRAR dated April 2002) Design documents and necessary correspondence maybe reviewed at the City of Tonawanda's office of City Engineer located at the following address:

The Office of the City Engineer  
200 Niagara Street  
Tonawanda, New York 14150-1099  
Telephone number (716) 695-8624  
Fax number (716) 743-8870

## **Second Phase**

The second phase was put out to bid by the City of Tonawanda using URS Remedial Action Plan dated April 2002. This phase of work was completed in October 2002 by SLC Services of Lockport N.Y.. The work was performed in accordance with the design documents (available for review at the City of Tonawanda City Engineers office), addenda #1, and letters from NYSDEC dated May 22, 2002 and dated August 20, 2002 (see exhibits #2 and #3).

The second phase activities consisted of the following;

1. In this phase the contaminated soils which were excavated from first phase were characterized, removed and legally disposed of at the Town of Tonawanda Landfill by Ensol Inc. (manifest information available for review at the City of Tonawanda office of City Engineer). Total disposal of 2092.26 tons of contaminated non-haz soil.
2. decontamination and removal of 4 above ground storage tanks
3. removal and disposal of ACM coatings on tanks
4. Removal of piping, supports and associated structures.
5. Sampling, analysis, and characterization of site materials on site
5. Removal and offsite disposal 11.55 tons of hazardous level material.
6. 200 cu. yds. of concrete rubblized and placed on site as fill

7. installation of 1 foot of clean cover material over the entire site totaling 4016.27 tons of clay and 566.50 tons of topsoil
8. In 2 areas which will be used for parking, asphalt paving was installed in lieu of a clay/soil cover (see exhibits #4 and #5 for topographic information and site improvements). Parking areas were equivalent one foot depth of clean material (i.e. combination of sub-base and asphalt)

Eight previously installed ground water monitoring wells were left in place for future use per the Ground Water Monitoring Plan. This work was completed under the direct supervision of the City of Tonawanda City Engineer.

### **Sampling and Analytical**

To determine if the material on the Fillmore Ave. Site was hazardous or non-hazardous SLC Environmental Services, Inc (SLC) analyzed 11 samples from various tanks and vessels at the site. SLC used dedicated sampling tools to collect samples from each location. The sample material was placed in laboratory-cleaned jars and transported under chain of custody procedures to Lozier Laboratories. All samples collected were analyzed for TCLP Volatiles, Semi-Volatiles, Metals, PCB, Pesticides, Corrosivity, Reactivity and Ignitability. The test results were presented to Modern Disposal of Lewiston, New York. This non-hazardous facility gained approval from the NYSDEC through the waste profile procedure to receive all the internal contents except from AST-3. AST-3 waste contained compounds at levels that required this material to be disposed of at US Liquids of Detroit, Michigan a hazardous waste facility. (See exhibit #6 for copies of the results)

### **Substantial deviations from approved Remedial Work Plan**

#### Approved Work Plan

The remedial work plan approved for 153 Fillmore Avenue called for a 12-inch over excavation and off site disposal of soils located below the contaminated soil stockpile generated during underground tank removal (First Phase). The stockpile was located in the northeasterly portion of the site. During the first phase of site remediation, approximately 2000 cubic yards of tank excavation material was placed over an area of the site which was most significantly impacted by site contaminants. Sampling of the underlying existing soils indicated elevated levels of PAH's, metals and PCB's. The approved work plan (Second Phase) addressed this contamination by specifying over excavation during stockpile removal to include an additional 6 to 12 inches below existing grade. This additional material, approximately 550-1100 cubic yards, would then be sent offsite for disposal.

## Revision to Approved Work Plan

In a letter from the New York State Department of Environmental Conservation (DEC) dated May 22, 2002 (Exhibit 2), a proposed modification to the approved work plan was accepted by the DEC and the New York State Department of Health (DOH). The modifications stipulated that, in lieu of the over excavation of soils in the northeast corner of the site, existing soils from "clean" areas of the site would be used as supplementary cover material. The supplementary cover material would be placed over the relatively more contaminated soils. The agreed modification would serve a dual purpose, both providing a cover greater than 12- inches over the impacted soils and allowing for positive drainage over the site to minimize precipitation infiltration. The additional grading would thereby protect groundwater impacts from contaminants left on site. The placement of the grade material to the rear of the property, adjacent to a railroad embankment, also limits the potential for soil and cover disturbance.

## Implementation of Work Plan Revision

A 12-inch cover was specified in the work plan to be placed over the entire property to minimize the potential for future contaminant exposure. In order to place the required 12- inches of cover material over the entire site as required in the work plan, perimeter surface soils were initially re-graded. This provided a cut to a depth of 12 – inches around the unpaved perimeter of the site. This was accomplished to insure that, subsequent to placement of the 12-inch cover material, the soil surface would match the existing grade of the adjacent property limits. Re-graded surface soils were placed over the northeasterly portion of the site. This provided additional cover for the soils, initially specified for over excavation, such that final grades in the area of the stockpiled soils exceeds original grade by over 12-inches. This meets the requirements set forth in the NYSDEC letter referenced above.

## **Institutional Controls**

The property at 153 Fillmore Avenue has been remediated by the City of Tonawanda and Erie County under a Voluntary Cleanup Agreement (Site #V00379-9, Index #B9-0583-00-08 exhibit #1) with the New York State Department of Environmental Conservation (NYSDEC). Finalization of the Agreement requires the imposition of institutional controls regarding future use of the property. These institutional controls consist primarily of deed restrictions specifically prohibiting the use of the property for anything other than commercial/industrial activities without an express written waiver from the NYSDEC. Under no circumstances is the property to be used for any type of residential, agricultural or school/day care purpose. In addition, the

use of groundwater as a source for potable or industrial water without NYSDEC approval and proper treatment is strictly prohibited.

Additional provisions associated with protection of the integrity of the remedial actions at the site are included in the Soils Management Plan and Groundwater Monitoring Plan generally outlined in the following paragraphs.

### **Site Cover Maintenance**

Cover is will periodically inspected and maintained. In the event of any damage, ruts will be filled in and recovered in order to maintain the integrity of the cover material (i.e. sod and paving materials).

### **Soils Management Plan**

(See appendix "a")

- The use of personal protective equipment by excavation workers to prevent exposures,
- The implementation of runoff control techniques,
- The implementation of dust monitoring and control techniques,
- Sample and analysis at a NYSDEC approved laboratory, for soils destined for off site disposal,
- Contingency plans for encountering suspected hazardous waste,
- The implementation of decontamination techniques for excavation equipment,
- Soil transportation and disposal at an appropriate NYSDEC approved landfill as dictated by soil sample results,
- Provisions for the restoration of the soil cover of equivalent measure to original, pre-disturbed condition.

## **Groundwater Monitoring Plan**

See appendix "b"

- Annual sampling and analysis of the five down-gradient monitoring wells (MW-1 through 4) and MW-8 is required.
- Biennial sampling of potential source wells (MW-5 through 7) is also required.
- Groundwater samples should be analyzed at a NYSDEC approved laboratory for TCL volatile and semi-volatile organics and RCRA metals.
- Sampling should be conducted in accordance with USEPA QA procedures and NYSDEC contract laboratory protocols.

The owner can request a revision to the sampling program (frequency and analites) after first year of monitoring is complete and data has been submitted.

## **Reporting Requirements**

To verify adherence to the stipulations and criteria in place for the reuse of 153 Fillmore Avenue, an annual statement must be submitted to the NYSDEC Region 9 office which provides information on compliance with the soil management plan, groundwater monitoring plan, and soil cover maintenance provisions as stated above. The statement should include any soil and groundwater sample results completed in the past year, along with a description of any soil disturbance and cover restoration conducted as part of the reuse of the site.

Annual certifications and monitoring data is to be submitted to:

NYSDEC  
Division of Environmental Remediation  
270 Michigan Ave.  
Buffalo, New York

And

NYSDOH  
584 Delaware Ave.  
Buffalo, New York



## Appendix "a"

The remedial alternative selected for the voluntary cleanup at 153 Fillmore Avenue included the placement of a one foot thick clean soil cover over the entire site. Where practical, as an alternative to the soil cover, a layer of asphalt was placed over original site soils. The purpose of the soil/asphalt cover was to eliminate potential exposures to original site soils that contain contaminants at levels below remedial cleanup criteria. These contaminants include RCRA metals, Target Compound List (TCL) volatile and semi-volatile compounds.

Future use of the site should preclude, wherever possible, excavation or disturbance of the remedial cover. Should any excavation be required where the depth of excavation exceeds one foot, a soils management plan would be required to minimize the risk of exposures, contaminant migration and to insure proper soil disposal.

## Appendix "b"

The investigation conducted at 153 Fillmore to determine the proper remedial alternative required the installation of eight perimeter groundwater monitoring wells. The wells are located along the property lines with four (MW-1 through 4) adjacent to the westerly property line along Fillmore Avenue, three (MW-5 through 7) along the easterly property line and one (MW-8) located along the southerly property line.

To assure that no significant offsite migration of residual contamination occurs, groundwater monitoring will be required utilizing the existing monitoring wells. Annual sampling and analysis of the five down-gradient monitoring wells (MW-1 through 4) and MW-8 is required. Biennial sampling of potential source wells (MW-5 through 7) is also required. Groundwater samples should be analyzed at a NYSDEC approved laboratory for TCL volatile and semi-volatile organics and RCRA metals. Sampling should be conducted in accordance with USEPA QA procedures and NYSDEC contract laboratory protocols.

Sampling data and laboratory analysis results must be submitted to the NYSDEC for review and be conducted for a minimum of three years. If the sample analytical data indicate consistently low contaminant levels such that it can be shown that offsite migration is not occurring, the owner may request from the NYSDEC a modification to the groundwater monitoring plan.

Annual certifications and monitoring data is to be submitted to:

NYSDEC  
Division of Environmental Remediation  
270 Michigan Ave.  
Buffalo, New York

And

NYSDOH  
584 Delaware Ave.  
Buffalo, New York



# CITY OF TONAWANDA, NEW YORK

OFFICE OF THE CITY ENGINEER

200 Niagara Street · Tonawanda, New York 14150-1099

Phone: (716) 695-8624

Fax: (716) 743-8870

**JACK E. GALLAGHER**

*Mayor*

**JASON ZDROJEWSKI, P.E.**

*City Engineer*

January 28, 2003

Mr. Daniel King, Regional Hazardous Waste Remediation Engineer  
New York State Dept. of Environmental Conservation  
270 Michigan Avenue  
Buffalo, New York 14203-2999

Re: Engineer's Certification of Final Remedial Report  
153 Fillmore Avenue  
City of Tonawanda

Dear Mr. King:

I certify that the NYSDEC approved Site Investigation/Remedial Alternatives Report dated November 2001, including all subsequent Addenda and NYSDEC approved Design Changes, were implemented, and that all construction activities were completed substantially in accordance with the Plan and were personally witnessed either by me or by a person under my direct supervision.

Work for this project was performed, and this report prepared, in accordance with generally accepted professional practices for the nature and condition of work completed in the same or similar localities, at the time the work was performed. It is intended for the exclusive use of the City of Tonawanda and the County of Erie for specific application to the 153 Fillmore Avenue site in the City of Tonawanda, New York.

No other warranty, express or implied, is made.



NY State Registered Professional Engineer, License No. 079052

If you have any other questions, please do not hesitate to contact this office.

Sincerely,

*Jason R. Zdrojewski*  
Jason R. Zdrojewski, P.E.  
City Engineer

**EXHIBIT 1**

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

**VOLUNTARY CLEANUP AGREEMENT**  
**INDEX NUMBER: B9-0583-00-08**

In the Matter of the Implementation of a Remedial Response Program  
for: 153 Fillmore Avenue, also known as the former Envirotek I Site by:  
Erie County and the City of Tonawanda , "Volunteer".

Site #: V00379-9

Index #: B9-0583-00-08

**WHEREAS**, the Department is responsible for enforcement of the ECL and the NL and such laws provide the Department authority to enter into this Agreement;

**WHEREAS**, the Department has established a Voluntary Cleanup Program to address the environmental, legal and financial barriers that hinder the redevelopment and reuse of contaminated properties;

**WHEREAS**, Volunteer represents, and the Department relied upon such representations in entering into this Agreement, that Volunteer's involvement with the Site is limited to the following: Volunteer does not own and has never operated the Site but intends to acquire and develop the Site after remediation;

**WHEREAS**, the parties are entering into this Agreement in order to set forth a process through which the Department will approve and the Volunteer will implement activities designed to address in whole or in part environmental contamination at the Site; and

**WHEREAS**, the Department has determined that it is in the public interest to enter into this Agreement as a means to address environmental issues at the Site with private funds while ensuring the protection of human health and the environment;

**NOW, THEREFORE**, IN CONSIDERATION OF AND IN EXCHANGE FOR THE MUTUAL COVENANTS AND PROMISES, THE PARTIES AGREE TO THE FOLLOWING:

I. Site Specific Definitions

For purposes of this Agreement, the terms set forth in the Glossary attached to and made a part of this Agreement shall have the meanings ascribed to them in that Glossary. In addition, for purposes of this Agreement, the following terms shall have the following meanings:

A. "Contemplated Use": the contemplated use of the property is for light industrial and warehousing facilities, continuing the types of uses consistent with area development.

B. "Existing Contamination": Previous investigations conducted by the Department and the US Environmental Protection Agency have demonstrated the existence of lead contamination and volatile organic solvents. The term also includes contamination encountered during the course of this Agreement's implementation, the nature and extent of which were unknown or inadequately characterized as of the effective date of this Agreement, but which shall have been fully characterized to the Department's satisfaction.

C. "Site": that property located at 153 Fillmore Avenue in the City of Tonawanda, Erie County. Exhibit "A" of this Agreement is a map of the Site showing its general location.

D. "Volunteer": The County of Erie and the City of Tonawanda, municipalities in the State of New York are each Volunteers to this Agreement.

## II. Development, Performance and Reporting of Work Plans

### A. Work Plan Labels

The work plans ("Work Plan" or "Work Plans") under this Agreement shall be captioned as follows:

1. "Investigation Work Plan" if the Work Plan provides for the investigation of the nature and extent of contamination at the Site;
2. "IRM Work Plan" if the Work Plan provides for an interim remedial measure;
3. "Remediation Work Plan" if the Work Plan provides for the Site's remediation to cleanup levels sufficient to allow the Contemplated Use of the Site to proceed; or
4. "OM&M Work Plan" if the Work Plan provides for post-remedial construction operation, monitoring and maintenance.

### B. Submission/Implementation of Work Plans

1. Any proposed Work Plan shall be submitted for the Department's review and approval and shall include, at a minimum, a chronological description of the anticipated activities, a schedule for performance of those activities, and sufficient detail to allow the Department to evaluate that Work Plan. A Professional Engineer must prepare, sign, and seal all Work Plans other than an Investigation Work Plan. Upon the Department's written approval of a Work Plan, such Department-approved Work Plan shall be incorporated into and become an enforceable part of this Agreement and shall be implemented in accordance with the schedule contained therein. If a proposed Work Plan is rejected by the Department, Volunteer shall elect in writing within 10 Days to: (i) modify or expand it; (ii) complete any other Department-

approved Work Plan(s); (iii) invoke the dispute resolution provisions of this Agreement pursuant to Paragraph XIII; or (iv) terminate this Agreement pursuant to the provisions set forth in Paragraph XII.

2. During all field activities, Volunteer shall have on-Site a representative who is qualified to supervise the activities undertaken and who may be an outside consultant retained by Volunteer to perform such supervision.

C. Revisions to Work Plans

If revisions to a Work Plan are required to satisfy the objectives of such Work Plan, the parties will negotiate revisions which shall be attached to and incorporated into the relevant Work Plan and enforceable under this Agreement. If the parties cannot agree upon revisions to the relevant Work Plan, then unless the Volunteer invokes the dispute resolution provisions of this Agreement pursuant to Paragraph XIII, either party may terminate this Agreement pursuant to Paragraph XII.

D. Submission of Final Reports

In accordance with the schedule contained in a Work Plan, Volunteer shall submit a final report containing on the cover page the caption of that Work Plan as set forth in Subparagraph II.A of this Agreement. The final report pertaining to that Work Plan's implementation shall include but not be limited to: all data generated relative to the Site and all other information obtained as part of the implementation of the subject Work Plan; all of the assessments and evaluations required by the subject Work Plan; a statement of any additional data that must be collected; "as-built" drawings, to the extent necessary, showing all changes made during construction. Additionally, the final report relative to the Investigation Work Plan shall contain a certification by the person with primary responsibility for the day to day performance of the activities under this Agreement that those activities were performed in full accordance with the Investigation Work Plan and all other final reports must contain such certification made by a professional engineer with primary responsibility for the day to day performance of the activities under this Agreement.

An OM&M Work Plan, if necessary, shall be submitted with the final report relative to an IRM Work Plan or a Remediation Work Plan.

E. Review of Submittals

1. The Department shall timely notify Volunteer in writing of its approval or disapproval of each submittal. All Department-approved submittals shall be incorporated into and become an enforceable part of this Agreement.

2. If the Department disapproves a submittal, it shall specify the reasons for

its disapproval and may request Volunteer to modify or expand the submittal. Within 30 Days after receiving written notice that Volunteer's submittal has been disapproved, Volunteer shall either make a revised submittal that corrects the stated deficiencies or elect to terminate the Agreement pursuant to Paragraph XII. If the Volunteer submits a revised submittal and it is disapproved, the Department and Volunteer may pursue whatever remedies may be available under this Agreement or under law.

3. Within 30 Days of the Department's approval of a final report, such report must be submitted to the Department in an electronic format acceptable to the Department.

F. Department's Determination of Need for Remediation

In addition to the Department's approval of the final report, the Department will determine upon its approval of each final report dealing with the investigation of the Site whether remediation, or additional remediation as the case may be, is needed to allow the Site to be used for the Contemplated Use.

1. If the Department determines that remediation, or additional remediation, is not needed to allow the Site to be used for the Contemplated Use, the Department shall provide Volunteer with the Release described in Subparagraph II.H.

2. If the Department determines that remediation, or additional remediation, is needed to allow the Site to be used for the Contemplated Use, Volunteer may, at its sole discretion, submit for review and approval a proposed Work Plan (or a revision to an existing Remediation Work Plan for the Site) which addresses the remediation of Existing Contamination. Such proposed Work Plan shall include, among other requirements, an evaluation of the proposed remedy considering the factors set forth in 6 NYCRR 375-1.10(c). At a minimum, the remedial activities contemplated by the proposed Work Plan must eliminate or mitigate all significant threats to the public health or environment and must be protective for the safe implementation of the Site's Contemplated Use. The Department will notice a proposed Work Plan addressing the Site's remediation for public comment in accordance with Subparagraph II.G of this Agreement. If Volunteer elects not to develop a Work Plan under this Subparagraph or either party concludes that a mutually acceptable Work Plan under this Subparagraph cannot be negotiated, then this Agreement shall terminate in accordance with Paragraph XII.

G. Notice of Proposed Work Plan for the Site's Remediation

Whenever a Work Plan for the Site's remediation (other than an IRM Work Plan) is proposed, the Department will publish a notice in the Environmental Notice Bulletin to inform the public of the opportunity to submit comments on the proposed Work Plan within 30 Days after the date of the issue in which the notice appears. The Department will notify Volunteer



following the close of the public comment period whether the proposed Work Plan needs to be revised. If the Department determines that revisions are necessary to protect human health or the environment for the Contemplated Use, Volunteer agrees to negotiate revisions to the proposed Work Plan in accordance with Paragraph II.C. If the Department determines that no revisions are required, then the Work Plan shall be attached hereto as Exhibit "B."

H. Release and Covenant Not To Sue

Upon the Department's determination that i) it is satisfied with the implementation of the Agreement; ii) no remedial activities other than those conducted at the Site, if any, are necessary for the Contemplated Use to proceed with protection of human health and the environment; and iii) Volunteer has complied, if required, with Paragraph X, the Department shall provide Volunteer with a Release and Covenant Not to Sue which is substantially similar to the one attached hereto as Exhibit "C," subject to the terms and conditions stated therein.

III. Progress Reports

Volunteer shall submit written monthly progress reports to the parties identified in Subparagraph XI.A.1. by the 10th day of each month commencing with the month subsequent to the approval of the first Work Plan and ending with the Termination Date. Such reports shall, at a minimum, include: all actions taken pursuant to this Agreement during the previous month and those anticipated for the next month; all results of sampling and tests and all other data received or generated by Volunteer or Volunteer's contractors or agents, whether under this Agreement or otherwise, in the previous month, including quality assurance/quality control information; and information regarding percentage of completion, unresolved delays encountered or anticipated that may affect the future schedule, and efforts made to mitigate such delays.

IV. Enforcement

This Agreement shall be enforceable as a contractual agreement under the laws of the State of New York. Volunteer shall not suffer any penalty or be subject to any proceeding or action if it cannot comply with any requirement of this Agreement as a result of a Force Majeure Event provided they notify the Department in writing within 10 business days of when they obtain knowledge of any such event. Volunteer shall include in such notice the measures taken and to be taken to prevent or minimize any delays and shall request an appropriate extension or modification of this Agreement. Volunteer shall have the burden of proving by a preponderance of the evidence that an event qualifies as a defense to compliance pursuant to this Paragraph.

V. Entry upon Site

Volunteer hereby consents, upon reasonable notice under the circumstances presented, to entry upon the Site or areas in the vicinity of the Site which may be under the control of

Volunteer, by any duly designated officer or employee of the Department or any State agency having jurisdiction with respect to the matters addressed in a Department-approved Work Plan, and any agent, consultant, contractor or other person so authorized by the Commissioner, all of whom shall abide by the health and safety rules in effect for the Site. Upon request, Volunteer shall permit the Department full access to all non-privileged records relating to matters addressed by this Agreement and to job meetings. Raw data is not considered privileged and that portion of any privileged document containing raw data must still be provided to the Department.

VI. Payment of State Costs

Within 30 Days after receipt of an itemized invoice from the Department, Volunteer shall pay to the Department a sum of money which shall represent reimbursement for the State's expenses for negotiating this Agreement and all costs associated with this Agreement, but not including any expenses incurred by the State after the Termination Date. Each such payment shall be made by certified check payable to the Department of Environmental Conservation and shall be sent to: Bureau of Program Management, Division of Environmental Remediation, New York State Department of Environmental Conservation, 50 Wolf Road, Albany, NY 12233-7010.

Personal service costs shall be documented by reports of Direct Personal Service, which shall identify the employee name, title, biweekly salary, and time spent (in hours) on the project during the billing period, as identified by an assigned time and activity code. Non-personal service costs shall be summarized by category of expense (e.g., supplies, materials, travel, contractual) and shall be documented by expenditure reports.

VII. Reservation of Rights

A. Except as provided in the Release and Covenant Not to Sue (Exhibit "C") after its issuance, nothing contained in this Agreement shall be construed as barring, diminishing, adjudicating, or in any way affecting any of the Department's or the Trustee's rights including, but not limited to, the right to recover natural resource damages, the right to take any investigatory or remedial action deemed necessary, and the right to exercise summary abatement powers with respect to any party, including Volunteer.

B. Except as otherwise provided in this Agreement, Volunteer specifically reserves all defenses under applicable law respecting any Departmental assertion of remedial liability against Volunteer, and further reserves all rights respecting the enforcement of this Agreement, including the rights to notice, to be heard, to appeal, and to any other due process. The existence of this Agreement or Volunteer's compliance with it shall not be construed as an admission of liability, fault or wrongdoing by Volunteer, and shall not give rise to any presumption of law or finding of fact which shall inure to the benefit of any third party.

C. Except as provided in Subparagraph XIV.L, Volunteer reserves such rights as it may have to seek and obtain contribution and/or indemnification from its insurers and from other potentially responsible parties or their insurers for past or future response/cleanup costs or such other costs or damages arising from the contamination at the Site as provided under applicable State and federal law.

#### VIII. Indemnification

Volunteer shall indemnify and hold the Department, the Trustee, the State of New York, and their representatives and employees harmless for all claims, suits, actions, damages, and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Agreement prior to the Termination Date except for liability arising from willful, wanton or malicious acts or acts constituting gross negligence by the Department, the State of New York, and/or their representatives and employees during the course of any activities conducted pursuant to this Agreement.

#### IX. Notice of Sale or Conveyance

A. Within 30 Days after the effective date of this Agreement, Volunteer shall cause to be filed the Notice of Agreement, which is attached to this Agreement as Exhibit "D," with the County Clerk in the county in which the Site is located and provide evidence of such filing to the Department. Volunteer may terminate such Notice on or after the Termination Date.

B. If Volunteer proposes to convey the whole or any part of any Volunteer's ownership interest in the Site, Volunteer shall, not fewer than 60 Days before the date of conveyance, notify the Department in writing of the identity of the transferee and of the nature and proposed date of the conveyance and shall notify the transferee in writing, with a copy to the Department, of the applicability of this Agreement. However, such obligation shall not extend to the granting of any rights under any mortgage, deed, trust, assignment, judgment, lien, pledge, security agreement, lease or any other right accruing to a person to secure the repayment of money or the performance of a duty or obligation by a person not affiliated with Volunteer.

#### X. Deed Restriction

Within 60 Days of the Department's approval of a Remediation Work Plan which relies upon institutional controls, Volunteer shall, unless otherwise authorized by the Department in writing, cause to be recorded a Department-approved instrument to run with the land with the County Clerk in the county in which the Site is located which is substantially similar to Exhibit "E" attached to this Agreement, and shall provide the Department with a copy of such instrument certified by such County Clerk to be a true and faithful copy. The Volunteer may petition the Department to terminate the deed restriction filed pursuant to this Paragraph when the Site is protective of human health and the environment for residential uses without reliance upon the restrictions set forth in such instrument. The Department will not unreasonably

withhold its approval of such petition.

XI. Communications

A. All-written communications required by this Agreement shall be transmitted by United States Postal Service, by private courier service, or hand delivered.

1. Communication from Volunteer shall be sent to:

John Hyden  
New York State Department of Environmental Conservation  
Division of Environmental Remediation  
270 Michigan Avenue  
Buffalo, New York 14203-2999

Note: four copies (one unbound) of work plans are required to be sent.

Andrew J. English, P.E.  
New York State Department of Environmental Conservation  
Division of Environmental Remediation  
50 Wolf Road  
Albany, New York 12233-7010

Gary Litwin  
Director, Bureau of Environmental Exposure Investigation  
New York State Department of Health  
Flanigan Square  
547 River Street  
Troy, New York 12180-2216

Note: two copies of work plans are required to be sent; and

Glen R. Bailey  
New York State Department of Environmental Conservation  
Division of Environmental Enforcement  
270 Michigan Avenue  
Buffalo, New York 14203-2999

2. Communication from the Department to Volunteer shall be sent to:

Paul B. Kranz, P.E.  
County of Erie  
Department of Environment and Planning

95 Franklin Street  
Buffalo, New York 14202

and to : Jason Zdrojewski  
City of Tonawanda  
200 Niagara Street  
Tonawanda, New York 14150

B. The Department and Volunteer reserve the right to designate additional or different addressees for communication on written notice to the other.

XII. Termination of Agreement

Either party may elect to terminate this Agreement, in which event this Agreement shall terminate effective the 5th Day after the written notification terminating this Agreement, except that such termination shall not affect the provisions contained in Paragraphs IV, VI and VIII and in Subparagraph XIV.L, nor Volunteer's obligation to ensure that it does not leave the Site in a condition, from the perspective of human health and environmental protection, worse than that which prevailed before any activities were commenced under this Agreement, which provisions and obligation shall survive the termination of this Agreement.

XIII. Dispute Resolution

Volunteer may commence dispute resolution within 20 Days of Volunteer's receipt of the Department's notice of disapproval of a submittal or proposed Work Plan, disapproval of a final report, or termination of this Agreement pursuant to Subparagraph XIV.A.2. Disputes regarding Work Plan development and revision shall be heard by the Bureau Director of the Division of Environmental Remediation's remedial bureau within which the Site is located. All other disputes subject to dispute resolution shall be heard by the Assistant Division Director of the Division of Environmental Remediation. Volunteer shall serve upon the Department a request for dispute resolution and a written statement of the issues in dispute, the relevant facts upon which the dispute is based, factual data, analysis or opinion supporting its position, and all supporting documentation upon which Volunteer relies (hereinafter called the "Statement of Position"). The Department shall serve its Statement of Position no later than 20 Days after receipt of Volunteer's Statement of Position. Volunteer shall have the burden of proving that the Department's position should not prevail. A meeting or telephone conference can be scheduled if it will promote a resolution of the issues. A final decision resolving the dispute will be issued timely. The final decision shall constitute a final agency action and Volunteer shall have the right to seek judicial review of the decision pursuant to Article 78 of the CPLR if Volunteer commences such proceeding no later than 30 Days after receipt of a copy of the decision. The invocation of dispute resolution shall not extend, postpone or modify Volunteer's obligations under this Agreement with respect to any item not in dispute unless or until the Department agrees or a court determines otherwise. The Department shall keep an

administrative record which shall be available consistent with Article 6 of the Public Officers Law.

XIV. Miscellaneous

A. 1. Volunteer hereby certifies that all information known to Volunteer and all information in the possession or control of Volunteer and its agents which relates in any way to the contamination existing at the Site on the effective date of this Agreement, and to any past or potential future release of hazardous substances, pollutants, or contaminants at or from the Site, and to their application for this Agreement, has been fully and accurately disclosed to the Department.

2. If the information provided and certifications made by Volunteer are not materially accurate and complete, this Agreement, except with respect to the provisions of Paragraphs IV, VI and VIII and Subparagraph XIV.L, at the sole discretion of the Department, and shall be null and void *ab initio* 15 Days after the Department's notification of such inaccuracy or incompleteness and the Department shall reserve all rights that it may have, unless, however, Volunteer submits information within that 15 Day time period indicating that the information provided and the certifications made were materially accurate and complete.

C. Each party shall have the right to take samples and to obtain split samples, duplicate samples, or both, of all substances and materials sampled by the other party.

D. Volunteer shall allow the Department to attend and shall notify the Department at least 5 business days in advance of any field activities to be conducted pursuant to this Agreement as well as any prebid meetings, job progress meetings, substantial completion meeting and inspection, and final inspection and meeting.

E. Volunteer shall obtain all permits, easements, rights-of-way, rights-of-entry, approvals, or authorizations necessary to perform Volunteer's obligations under this Agreement, except that the Department may exempt Volunteer from the requirement to obtain any permit issued by the Department for any activity that is conducted on the Site and that the Department determines satisfies all substantive technical requirements applicable to like activity conducted pursuant to a permit.

F. Volunteer shall not be considered an operator of the Site solely by virtue of having executed and/or implemented this Agreement.

G. Volunteer shall provide a copy of this Agreement to each contractor and subcontractor hired to perform work required by this Agreement and to each person representing Volunteer with respect to the Site and shall condition all contracts entered into in order to carry out the obligations identified in this Agreement upon performance in conformity with the terms of this Agreement.

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

I. 1. The terms of this Agreement shall constitute the complete and entire Agreement between the Department and Volunteers concerning the implementation of the work plan(s) attached to this Agreement. No term, condition, understanding or agreement purporting to modify or vary any term of this Agreement shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestion, or comment by the Department regarding any report, proposal, plan, specification, schedule, or any other submittal shall be construed as relieving Volunteer of Volunteer's obligation to obtain such formal approvals as may be required by this Agreement. In the event of a conflict between the terms of this Agreement and any Work Plan submitted pursuant to this Agreement, the terms of this Agreement shall control over the terms of the Work Plan(s) attached as Exhibit "B." Volunteer consents to and agrees not to contest the authority and jurisdiction of the Department to enter into or enforce this Agreement.

2. If Volunteer desires that any provision of this Agreement be changed, Volunteer shall make timely written application to the Commissioner with copies to the parties listed in Subparagraph XI.A and the Commissioner or his designee shall timely respond. This Subparagraph shall not extend to revisions to any Work Plan.

J. If there are multiple parties, the term "Volunteer" shall be read in the plural where required to give meaning to this Agreement. Further, the obligations of the Volunteer under this Agreement are joint and several and the "bankruptcy" or inability to continue by any Volunteer shall not affect the obligations of the remaining Volunteer(s) to carry out the obligations under this Agreement.

K. Except as provided in Subparagraph XIV.M., and to the extent authorized under 42 U.S.C. Section 9613 and any other applicable law, Volunteer shall not be liable for any claim, now or in the future, in the nature of contribution by potentially responsible parties concerning the alleged contamination which is the subject matter of this Agreement. In any future action brought by Volunteer against a potentially responsible party under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, the provisions of 42 U.S.C. Section 9613(f)(3) shall apply.

L. Volunteer and its employees, servants, agents, lessees, sublessees, successors, and assigns hereby waive any right to pursue reimbursement of monies expended by Volunteer prior to the Termination Date as against the State or the Spill Fund, and agree to indemnify and hold harmless the Spill Fund from any and all legal or equitable claims, suits, causes of action, or demands whatsoever with respect to the Site that any of same has or may have as a result of Volunteer's entering into or fulfilling the terms of this Agreement with respect to the Site.

M. Volunteer, Volunteer's lessees, sublessees, successors, and assigns shall be bound by this Agreement. Any change in ownership of Volunteer including, but not limited to, any transfer of assets or real or personal property, shall in no way alter Volunteer's responsibilities under this Agreement. Volunteer's successors and assigns shall provide to the Department a certification that they agree to be bound by this Agreement within 30 Days of becoming a successor or assign.

N. The effective date of this Agreement shall be the date it is signed by the Commissioner or the Commissioner's designee.

DATED: OCT. 29 2001

ERIN M. CROTTY, COMMISSIONER  
NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION AND  
TRUSTEE OF THE STATE'S NATURAL  
RESOURCES

151

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SUSAN I. TALUTO

DEPUTY COMMISSIONER

WATER QUALITY AND ENVIRONMENTAL  
REMEDATION



CONSENT BY VOLUNTEER

Volunteer hereby consents to the issuing and entering of this Agreement, waives Volunteer's right to a hearing herein as provided by law, and agrees to be bound by this Agreement.

City of Tonawanda

By: Alice A. Roth

Title: Mayor

Date: July 12th, 2001

STATE OF NEW YORK )  
 ) s.s.:  
COUNTY OF ERIE )

On the 12<sup>th</sup> day of July, in the year ~~2001~~ 2001, before me, the undersigned, personally appeared ALICE A. ROTH, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (~~are~~) subscribed to the within instrument and acknowledged to me that he/she/~~they~~ executed the same in his/her/~~their~~ capacity(~~ies~~), and that by his/her/~~their~~ signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Ronald C. Trabucco City Attorney

Signature and Office of individual taking acknowledgment.

RONALD C. TRABUCCO, Esq.  
Notary Public State of New York  
Qualified in Erie County  
My Commission Expires Sept. 30, 2001

CONSENT BY VOLUNTEER

Volunteer hereby consents to the issuing and entering of this Agreement, waives Volunteer's right to a hearing herein as provided by law, and agrees to be bound by this Agreement.

COUNTY OF ERIE

By Carl J. Galatross  
Deputy CE

JOEL A. GIAMBRA  
Erie County Executive

Dated: \_\_\_\_\_

APPROVED AS TO CONTENT

 (M)

LAURENCE K. RUBIN  
Commissioner, Department of  
Environment and Planning

Dated: 7/24/01

APPROVED AS TO FORM



GREGORY J. DUDEK  
Assistant County Attorney

Document No.: 01-278-EP  
Dated: \_\_\_\_\_

MUNICIPAL CORPORATION ACKNOWLEDGMENT

STATE OF NEW YORK )  
COUNTY OF ERIE ) ss.:  
CITY OF BUFFALO )

On the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, before me personally came \_\_\_\_\_ to me known, who being by me duly sworn, did depose and say that she/he resides in \_\_\_\_\_, that she/he is the \_\_\_\_\_ of the \_\_\_\_\_, and that she/he executed the foregoing instrument for and on behalf of the \_\_\_\_\_ by virtue of the authority in her/him vested as \_\_\_\_\_, and pursuant to the order resolution or authority of the \_\_\_\_\_ (attach copy or order, resolution or ordinance authorizing execution) of said political subdivision.

\_\_\_\_\_  
Notary Public

# STATE OF NEW YORK

LEGISLATURE OF ERIE COUNTY  
CLERK'S OFFICE

BUFFALO, N.Y., February 1, 2001

TO WHOM IT MAY CONCERN:

**I HEREBY CERTIFY**, That at the 4<sup>th</sup> Session of the Legislature of Erie County, held in the County Hall, in the City of Buffalo, on the First day of February A.D., 2001, a Resolution was adopted, of which the following is a true copy:

WHEREAS, Erie County and the City of Tonawanda desire to remediate and prepare for reuse a brownfield site at 153 Fillmore Avenue, in the City of Tonawanda; and

WHEREAS, the site was a former paint factory and storage area for solvents and chemicals and has had most of the chemical contaminants removed by the US Environmental Protection Agency; and

WHEREAS, the site has remained vacant and tax delinquent for over ten years and is a health and safety hazard to the neighborhood; and

WHEREAS, local businesses have expressed an interest in the site, if it were cleaned up and remediated; and

WHEREAS, the New York Department of Environmental Conservation has a program called the Voluntary Cleanup Program that allows a party who has not contributed to the contamination of a property to remediate the site under New York State supervision and be indemnified from future action by New York State for environmental issues; and

WHEREAS, the City of Tonawanda and Erie County submitted a joint application for the Voluntary Cleanup Program which has been approved by New York State Department of Environmental Conservation; and

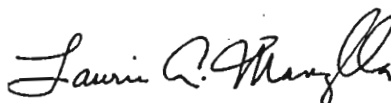
NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is authorized to enter into contracts with the New York State and the City of Tonawanda for the purpose of participating in the Voluntary Cleanup Program, and be it further

RESOLVED, that certified copies of this resolution be sent to the Director of Budget and Management, Commissioner of Environment and Planning, the County Comptroller, and the County Attorney.

Reference: Comm. 2E-33

ATTEST



LAURIE A. MANZELLA  
Clerk of the Legislature of Erie County

**EXHIBIT "A"**

**Map of Site**

EXHIBIT "A"

Map of Site



Envirotek 1 Site Location Map  
153 Fillmore Avenue  
Tonawanda, NY 14150

USGS Tonawanda East Quadrangle

**EXHIBIT "B"**

**Department-Approved Work Plan(s)**

## EXHIBIT "C"

### Release and Covenant Not to Sue

Unless otherwise specified in this letter, all terms used in this letter shall have the meaning assigned to them under the terms of the Voluntary Agreement entered into between the New York State Department of Environmental Conservation (the "Department") and Erie County and the City of Tonawanda ("Volunteer"), Index No. B9-0583-00-08 (the "Agreement").

The Department is pleased to report that the Department is satisfied that the Agreement's Work Plan(s) relative to the Envirotek I Site, located at 153 Fillmore in the City of Tonawanda has been successfully implemented.

The Department and the Trustee of New York State's natural resources ("Trustee"), therefore, hereby release, covenant not to sue, and shall forbear from bringing any action, proceeding, or suit against Volunteer and Volunteer's lessees and sublessees, successors and assigns, and their respective secured creditors, for the further investigation and remediation of the Site, and for natural resource damages, based upon the release or threatened release of Covered Contamination, provided that (a) timely payments of the amounts specified in Paragraph VI of the Agreement continue to be or have been made to the Department, (b) appropriate deed restrictions remain recorded in accordance with Paragraph X of the Agreement, and (c) Volunteer and/or its' lessees, sublessees, successors, or assigns promptly commence and diligently pursue to completion the Work Plan providing for OM&M, if any. Nonetheless, the Department and the Trustee hereby reserve all of their respective rights concerning, and such release, covenant not to sue, and forbearance shall not extend to or remedial action the Department deems necessary:

due to migration off-Site of contaminants resulting in impacts to environmental resources, to human health, or to other biota that are not inconsequential and to off-Site migration of petroleum;

due to environmental conditions or information related to the Site which were unknown at the time this Release and Covenant not to Sue was issued and which indicate that the Contemplated Use cannot be implemented with sufficient protection of human health and the environment;

due to Volunteer's failure to implement the Agreement to the Department's satisfaction; or

due to fraud committed by Volunteer in entering into or implementing this Agreement.

Additionally, the Department and the Trustee hereby reserve all of their respective rights concerning, and any such release, covenant not to sue, and forbearance shall not extend to Volunteer nor to any of Volunteer's lessees, sublessees, successors, or assigns who cause or allow a release or threat of release at the Site of any hazardous substance (as that term is defined at 42 USC 9601[14]) or petroleum (as that term is defined in Navigation Law § 172[15]), other than Covered Contamination; or cause or allow the use of the Site to change from the Contemplated Use to one requiring a lower level of residual contamination before that use can be implemented with sufficient protection of human health and the environment; nor to any of Volunteer's lessees, sublessees, successors, or assigns who is otherwise a party responsible under law for the remediation of the Existing Contamination independent of any obligation that party may have respecting same resulting solely from the Agreement's execution.

Notwithstanding the above, however, with respect to any claim or cause of action asserted by the Department or the Trustee, the one seeking the benefit of this release, covenant not to sue, and forbearance shall bear the burden of proving that the claim or cause of action, or any part thereof, is attributable solely to Covered Contamination.

Notwithstanding any other provision in this release, covenant not to sue, and forbearance,

if with respect to the Site there exists or may exist a claim of any kind or nature on the part of the New York State Environmental Protection and Spill Compensation Fund against any party, nothing in this letter shall be construed or deemed to preclude the State of New York from recovering such claim.

except as provided in this letter and in the Agreement, nothing contained in the Agreement or in this letter shall be construed as barring, diminishing, adjudicating, or in any way affecting any of the Department's or Trustee's rights (including, but not limited to, the right to recover natural resources damages) with respect to any party, including Volunteer.

nothing contained in this letter shall prejudice any rights of the Department or Trustee to take any investigatory or remedial action it deems necessary if Volunteer fails to comply with the Agreement or if contamination other than Existing Contamination is encountered at the Site.

nothing contained in this letter shall be construed to prohibit the Commissioner or his duly authorized representative from exercising any summary abatement powers.

nothing contained in this letter shall be construed to affect the Department's right to terminate the Agreement under the terms of the Agreement at any time during its implementation if Volunteer fails to comply substantially with the



Agreement's terms and conditions.

In conclusion, the Department is pleased to be part of this effort to return the Site to productive use of benefit to the entire community.

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL  
CONSERVATION AND TRUSTEE OF NEW YORK STATE'S  
NATURAL RESOURCES

By: \_\_\_\_\_

Appendix "A"  
(to Exhibit "C")  
Map of the Site

Exhibit "D"

NOTICE OF AGREEMENT

This Notice is made as of the \_\_\_\_ day of \_\_\_\_\_, 2000 by \_\_\_\_\_ regarding a parcel of real property located at 153 Fillmore Avenue in the City of Tonawanda, bearing Tax Map Number \_\_\_\_\_ (the "Property"); and

WHEREAS, \_\_\_\_\_ ("Volunteer"), entered into an agreement with the Department, Index # \_\_\_\_\_ ( the "Agreement"), concerning the remediation of contamination present on the Property, which Agreement was signed by the Commissioner of Environmental Conservation on \_\_\_\_\_; and

WHEREAS, in return for the remediation of the Property pursuant to the Agreement to the satisfaction of the Department, the Department will provide Volunteer and its lessees and sublessees, successors and assigns, including their respective secured creditors, with a release, covenant not to sue, and forbearance from bringing any action, proceeding, or suit related to the Site's further investigation or remediation, subject to certain reservations set forth in the Agreement; and

WHEREAS, pursuant to the Agreement, Volunteer agreed to give notice of the Agreement to all parties who may acquire any interest in the Property by filing this Notice with the Erie County Clerk,

NOW, THEREFORE, Volunteer, for itself and for its successors and assigns, declares that:

1. This Notice of the Agreement is hereby given to all parties who may acquire any interest in the Property; and
2. This Notice shall terminate upon the filing by Volunteer, or its successors and assigns, of a termination of notice of Agreement after having first received approval to do so from the New York State Department of Environmental Conservation or having terminated the Agreement pursuant to its Paragraph XII.

IN WITNESS WHEREOF, Volunteer has executed this Notice of Agreement by its duly authorized representative.

Dated:

By: \_\_\_\_\_

STATE OF NEW YORK )

) ss:

COUNTY OF )

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 2000, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Signature and Office of individual  
taking acknowledgment

**Appendix "A"**  
**(to Exhibit "D")**  
**Map of the Property**

**Exhibit "E"**

**DEED RESTRICTION**

\_\_\_\_\_ shall prohibit the Site from ever being used for purposes other than for the Contemplated Use without the express written waiver of such prohibition by the Department, or if at such time the Department shall no longer exist, any New York State department, bureau, or other entity replacing the Department;

shall prohibit the use of the groundwater underlying the Site without treatment rendering it safe for drinking water or industrial purposes, as appropriate, unless the user first obtains permission to do so from the Department, or if at such time the Department shall no longer exist, any New York State department, bureau, or other entity replacing the Department;

shall require Volunteer and Volunteer's successors and assigns to continue in full force and effect any institutional and engineering controls the Department requires Volunteer to put into place and maintain; and

shall provide that Volunteer, on behalf of itself and its successors and assigns, hereby consents to the enforcement by the Department, or if at such time the Department shall no longer exist, any New York State department, bureau, or other entity replacing the Department, of the prohibitions and restrictions that this Paragraph X requires to be recorded, and hereby covenants not to contest such enforcement.

## Glossary of Terms

The following terms shall have the following meanings:

"ALJ": Administrative Law Judge

"Covered Contamination": the concentrations of Existing Contamination remaining on the Site on the date that the Department issues the Release set forth in Exhibit "C."

"ECL": the Environmental Conservation Law.

"Force Majeure Event": an event which is brought on as a result of fire, lightning, earthquake, flood, adverse weather conditions, strike, shortages of labor and materials, war, riot, obstruction or interference by adjoining landowners, or any other fact or circumstance beyond Volunteer's reasonable control.

"Day": a calendar day unless otherwise specified.

"Department": the New York State Department of Environmental Conservation.

"IRM": an interim remedial measure which is a discrete set of activities which can be undertaken without extensive investigation and evaluation to prevent, mitigate, or remedy environmental damage or the consequences of environmental damage attributable to a Site.

"NL": the Navigation Law

"OM&M Plan": the Department-approved work plan detailing post-remedial operation, maintenance, and monitoring at the Site that Volunteer shall implement.

"Professional engineer": an individual registered as a professional engineer in accordance with Article 145 of the New York State Education Law. If such individual is a member of a firm, that firm must be authorized to offer professional engineering services in the State of New York in accordance with Article 145 of the New York State Education Law.

"Spill Fund": the New York State Environmental Protection and Spill Compensation Fund

"State Costs": all the State's expenses including, but not limited to, direct labor, fringe benefits, indirect costs, travel, analytical costs, and contractor costs incurred by the State of New York for negotiating, implementing, and administering this Agreement. Approved agency fringe benefit and indirect cost rates will be applied.

"Termination Date": the date upon which (i) the Release (Exhibit "C") is issued or the Department approves the final report relative to the OM&M at the Site, whichever is later; or (ii) the Agreement terminates pursuant to Paragraph XII. or Subparagraph XIV.A.2.

"Trustee": the Trustee of New York State's natural resources.

"Work Plan": a Department-approved work plan, as may be modified, pertaining to the Site that Volunteer shall implement and that is attached to this Agreement.



# STATE OF NEW YORK

LEGISLATURE OF ERIE COUNTY  
CLERK'S OFFICE

BUFFALO, N.Y., February 1, 2001

TO WHOM IT MAY CONCERN:

**I HEREBY CERTIFY**, *That at the 4<sup>th</sup> Session of the Legislature of Erie County, held in the County Hall, in the City of Buffalo, on the First day of February A.D., 2001, a Resolution was adopted, of which the following is a true copy:*

WHEREAS, Erie County and the City of Tonawanda desire to remediate and prepare for reuse a brownfield site at 153 Fillmore Avenue, in the City of Tonawanda; and

WHEREAS, the site was a former paint factory and storage area for solvents and chemicals and has had most of the chemical contaminants removed by the US Environmental Protection Agency; and

WHEREAS, the site has remained vacant and tax delinquent for over ten years and is a health and safety hazard to the neighborhood; and

WHEREAS, local businesses have expressed an interest in the site, if it were cleaned up and remediated; and

WHEREAS, the New York Department of Environmental Conservation has a program called the Voluntary Cleanup Program that allows a party who has not contributed to the contamination of a property to remediate the site under New York State supervision and be indemnified from future action by New York State for environmental issues; and

WHEREAS, the City of Tonawanda and Erie County submitted a joint application for the Voluntary Cleanup Program which has been approved by New York State Department of Environmental Conservation; and

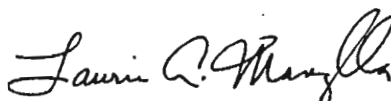
NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is authorized to enter into contracts with the New York State and the City of Tonawanda for the purpose of participating in the Voluntary Cleanup Program, and be it further

RESOLVED, that certified copies of this resolution be sent to the Director of Budget and Management, Commissioner of Environment and Planning, the County Comptroller, and the County Attorney.

Reference: Comm. 2E-33

ATTEST



LAURIE A. MANZELLA  
Clerk of the Legislature of Erie County

**EXHIBIT 2**

**New York State Department of Environmental Conservation**  
**Division of Environmental Remediation, Region 9**  
270 Michigan Avenue, Buffalo, New York, 14203-2999  
Phone: (716) 851-7220 • FAX: (716) 851-7226  
Website: www.dec.state.ny.us



May 22, 2002

Mr. Paul Kranz  
Mr. Ken Swanekamp  
Erie County Department of Environment & Planning  
95 Franklin Street  
Buffalo, New York 14202

Mr. Jason Zdrojewski  
City of Tonawanda  
Engineering Department  
200 Niagara Street  
Tonawanda, New York 14150

Mr. Robert Henschel  
URS  
282 Delaware Avenue  
Buffalo, New York 14202

Gentlemen:

153 Fillmore Ave.  
No. V00379-9

This is in response to your recent request to modify the remedial action planned for 153 Fillmore Avenue pursuant to the Voluntary Agreement executed between the City of Tonawanda, Erie County and this Department.

The current remedial plan (Alternative 4) includes off-site disposal of the stockpiled soils generated from earlier underground tank removal actions and excavation and off-site disposal of 6 to 12 inches of surface soil underlying these piles (the northeast area). By letter of May 17, 2002 to EnSol, Inc. this Department's Division of Solid and Hazardous Waste approved use of these stockpiled soils as an alternate grading material to be used at the Town of Tonawanda landfill. However this approval did not include the underlying 6 to 12 inch surface soil layer as additional testing and analysis is necessary before such a determination can be made.

In lieu of pursuing approval for use of the surface soil layer as alternate grading material at the Town of Tonawanda landfill, URS has proposed that these soils remain at the 153 Fillmore Avenue site and be incorporated into the on-site remedial plan. This request is in part due to the scheduling of the remediation work at 153 Fillmore, wherein solicitation of bids from prospective contractors is currently underway. Both

this office and the New York State Department of Health have evaluated the proposed modification for the northeast area and find the concept to be acceptable, subject to the following considerations:

- At a minimum, 12 inches of clean cover material must be placed over the northeast area soils.
- Cover thickness greater than 12 inches over the northeast soils is preferable. For example, site regrading to place lesser contaminated site soils over the northeast area soils and subsequently placing 12 inches of clean cover over the area will provide a greater overall cover thickness and therefore reduce exposure potential.
- Creation of a lift by consolidation of the northeast area soils and covering with a minimum of 12 inches of clean cover material is acceptable. It is preferred that any such lift be placed in the area of the elevated railroad embankment bordering the back of the site, in that the embankment would help limit off-site access to the lift area.
- Once consolidated or regraded, the northeast area soils should be covered with a marking layer, such as construction fabric, prior to placement of clean cover material. The layer is to work in conjunction with the site deed restriction and soils management plan. It is to serve as an indicator during future excavations that soils below this demarcation are contaminated and that special handling and/or disposal may be necessary.
- Any grossly contaminated soil or wastes encountered during site remediation must be excavated and properly disposed.
- All other elements of the remedial action outlined as Alternative 4, including deed restriction and future soil management, remain unchanged.

Please submit for NYSDEC and NYSDOH review and approval a brief letter/report and a supporting site diagram that depicts the revisions to Alternative 4 and demonstrates suitable adherence with the above-listed considerations.

Should you have any questions regarding the above, please do not hesitate to contact Dr. John Hyden or me at 716/851-7220.

Sincerely,

*Daniel K. King*

Daniel K. King  
Regional Hazardous Waste  
Remediation Engineer

DKK/tml

cc: Matt Forcucci

**EXHIBIT 3**

**New York State Department of Environmental Conservation**  
**Division of Environmental Remediation, Region 9**  
270 Michigan Avenue, Buffalo, New York, 14203-2999  
Phone: (716) 851-7220 • FAX: (716) 851-7226  
Website: www.dec.state.ny.us



August 20, 2002

Mr. Jason Zdrojewski, City Engineer  
200 Niagara Street  
Tonawanda, NY 14150

Mr. Paul Kranz  
Mr. Kenneth Swanekamp  
Erie County Department of the Environment & Planning  
95 Franklin Street  
Buffalo, NY 14202

Dear Sirs:

Site Investigation/Remedial Alternatives Report  
153 Fillmore Avenue Voluntary Cleanup  
DEC Project No. V00379-9

This letter is in response to recent discussions relating to remediation of Tanks 1 through 4 at the referenced site, and their impact on the approved remedial plans outlined in the Site Investigation/Remedial Alternatives Report dated April 2002.

Based on laboratory analysis of the asbestos coatings on these above-ground tanks, the coatings on Tanks 1 and 2 were properly disposed as non-hazardous waste. However, questions arose regarding coatings from Tanks 3 and 4 due to the presence of trichlorofluoromethane in the coatings. Our Division of Solid and Hazardous Materials has determined that the asbestos removed from Tanks 3 and 4 can be disposed as non-hazardous waste, as applicable thresholds and criteria which could designate the material as regulated hazardous waste were not reached. Regarding tank interiors, disposal of the contents of the four tanks must be based on the analytical results characterizing these materials as hazardous or non-hazardous.

The work undertaken to decommission, clean and dispose of Tanks 1 through 4 does not in any way change the status of the site as it relates to the State Voluntary Cleanup Program, and should be considered simply an element of the site remediation and redevelopment program. Implementation of the above-referenced approved remedial plan and anticipated redevelopment for the site can and should proceed.

Mr. Jason Zdrojewski  
Mr. Paul Kranz  
Mr. Kenneth Swanekamp  
August 20, 2002  
Page 2

Should you have any questions regarding this clarification, please do not hesitate to contact me at 716/851-7220.

Sincerely,



Daniel K. King, P.E.  
Regional Hazardous Waste Remediation  
Engineer

DKK/tml

cc: Mr. John Hyden, DEC-9  
Mr. Dominic Buccilli, DEC-9  
Mr. Nelson Schnabel, DEC-9  
Mr. Matthew Forcucci, DOH-Buffalo

**EXHIBIT 4**



Edge of Region  
574.80

574.81  
575.33  
575.46  
DPT+0.65

574.76  
575.90  
DPT+1.14

574.81  
575.97  
DPT+1.06

574.80  
575.81  
DPT+1.21

574.82  
575.66  
DPT+1.44

574.83  
575.50  
DPT+1.67

574.84  
575.37  
DPT+1.94

574.85  
575.27  
DPT+2.22

574.86  
575.17  
DPT+2.50

574.81  
575.93  
575.46  
DPT+0.65

574.76  
575.56  
DPT+1.14

574.81  
575.97  
DPT+1.06

574.80  
575.28  
DPT+1.44

574.76  
576.23  
DPT+1.11

574.83  
575.87  
DPT+1.44

574.84  
575.80  
DPT+1.67

574.85  
575.72  
DPT+1.94

574.86  
575.62  
DPT+2.22

WORK LIMIT ±

APPROXIMATE LIMIT 4' FILL

574.76  
574.78  
DPT+0.10

574.76  
575.56  
DPT+1.14

574.81  
575.97  
DPT+1.06

574.80  
575.28  
DPT+1.44

574.76  
576.23  
DPT+1.11

574.83  
575.87  
DPT+1.44

574.84  
575.80  
DPT+1.67

574.85  
575.72  
DPT+1.94

574.86  
575.62  
DPT+2.22

574.76  
574.78  
DPT+0.01

574.76  
575.56  
DPT+1.14

574.81  
575.97  
DPT+1.06

574.80  
575.28  
DPT+1.44

574.76  
576.23  
DPT+1.11

574.83  
575.87  
DPT+1.44

574.84  
575.80  
DPT+1.67

574.85  
575.72  
DPT+1.94

574.86  
575.62  
DPT+2.22

574.76  
574.87  
DPT+0.09

574.76  
575.56  
DPT+1.14

574.81  
575.97  
DPT+1.06

574.80  
575.28  
DPT+1.44

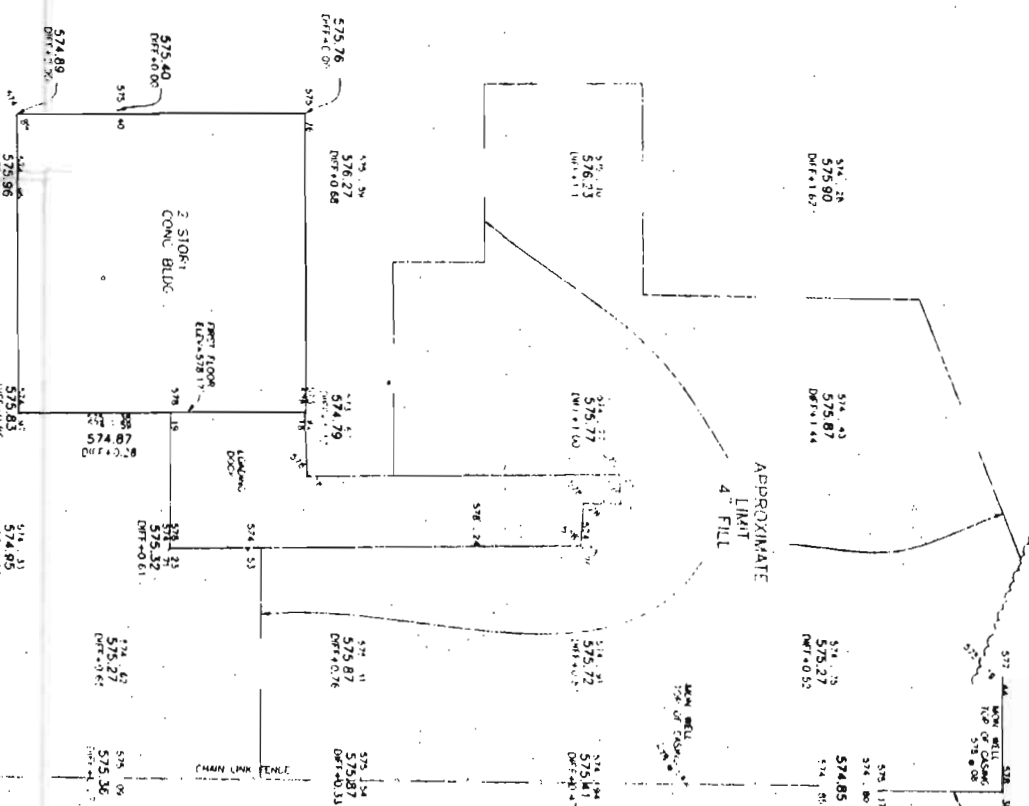
574.76  
576.23  
DPT+1.11

574.83  
575.87  
DPT+1.44

574.84  
575.80  
DPT+1.67

574.85  
575.72  
DPT+1.94

574.86  
575.62  
DPT+2.22



574.83  
574.80  
DPT+0.03

574.81  
575.10  
DPT+0.10

574.81  
575.61  
DPT+0.50

574.84  
575.31  
DPT+0.47

574.74  
575.13  
DPT+1.15

574.72  
574.85  
DPT+0.13

574.74  
574.60  
DPT+0.14

574.85  
574.85  
DPT+0.00

574.85  
574.85  
DPT+0.00

574.80  
574.80  
DPT+0.00

574.80  
574.80  
DPT+0.00

574.85  
574.85  
DPT+0.00

FILLMORE AVENUE

EDGE OF PARKING

574.85

574.85

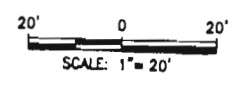
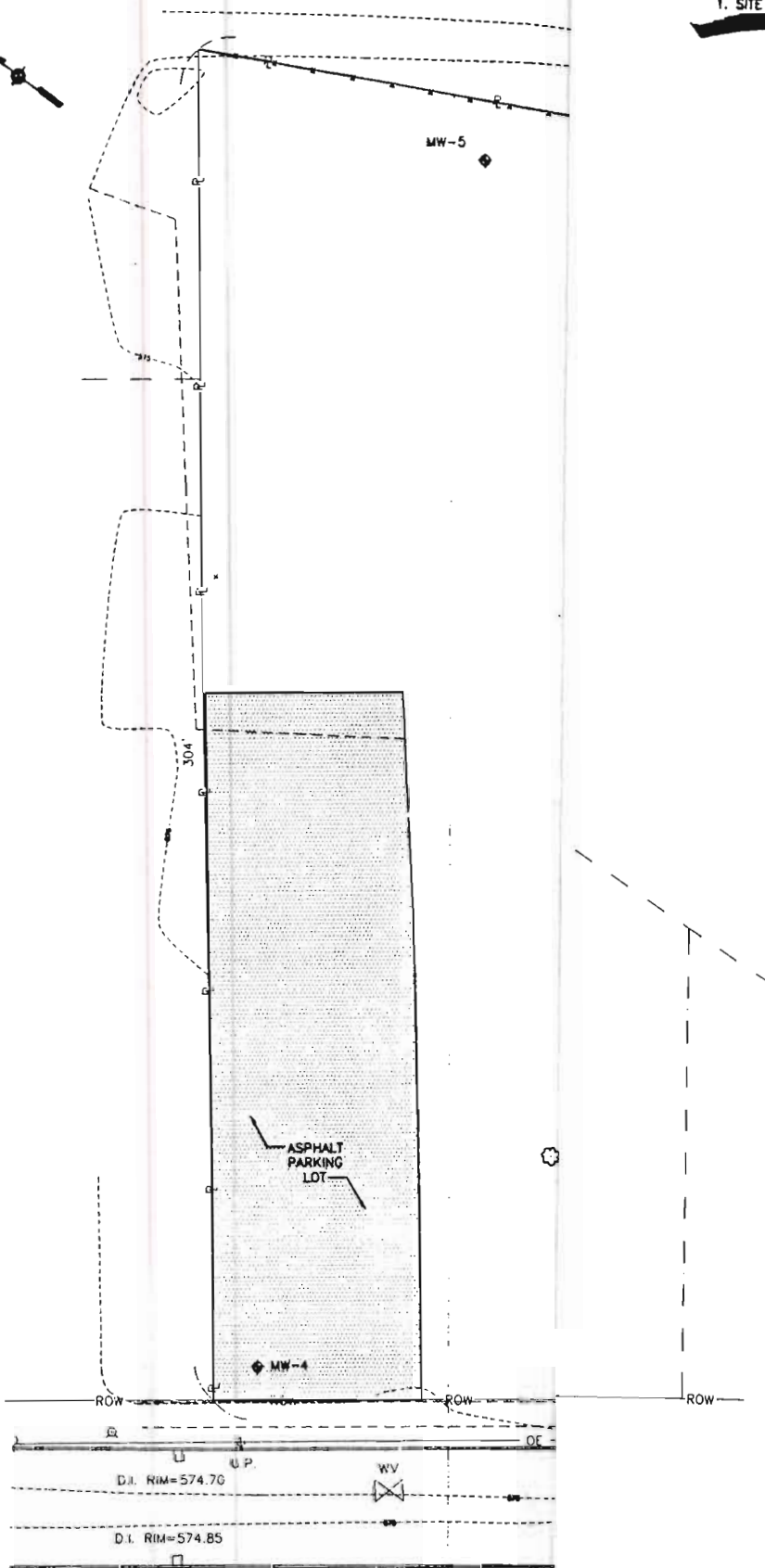
DATE OF SURVEY	DATE OF REVISION	COMMENT
9/17/2001	9/10/2001	ADDED REVISIONS

**EXHIBIT 5**

**NOTES:**

**1. SITE TO BE GRADED TO PROVIDE POSITIVE DRAINAGE.**

ALL DIMENSIONS ARE IN FEET UNLESS OTHERWISE NOTED.  
 ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.  
 ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.  
 ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.  
 ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.



**WARNING**  
 IT IS A VIOLATION OF SECTION 7309, SUBDIVISION 2, OF THE NEW YORK STATE EDUCATION LAW FOR ANY PERSON OTHER THAN THE SEAL APPLICANT ON THIS DRAWING TO ALTER IN ANY MANNER ANY ITEM ON THIS DRAWING. IF AN ITEM IS ALTERED, THE ALTERING ENGINEER SHALL AFFIX TO THE ITEM HIS SEAL AND THE NOTATION "ALTERED BY" FOLLOWED BY HIS SIGNATURE AND THE DATE OF SUCH ALTERATION, AND A SPECIFIC DESCRIPTION OF THE ALTERATION.

DRAWINGS		REVISIONS			
NO.	DATE	DESCRIPTION	NO.	DATE	DESCRIPTION

**153 FILLMORE AVENUE  
 CITY OF TONAWANDA  
 FINAL SITE CONDITIONS PLAN**

Scale: 1"=20'-0"    Date: APRIL 2002    DWG. 7

ALL DIMENSIONS ARE IN FEET UNLESS OTHERWISE NOTED.  
 ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.  
 ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

**EXHIBIT 6**



52430

MANILLA COPY



EX NY 14507  
SU 491011

3-5227

Fax #: 716-554-4114

"Specializing in Environmental Soil Tests"

5dup

Date Due: 8/2/02

Standard Service       Rush Service

Customer: SILC ENVIRONMENTAL SERVICES  
 Address: 295 NELL STREET  
 City/State/Zip: LOAN POINT NY 11094  
 Phone: (716) 433-0776 EXT 15  
 Fax: (716) 433-0502  
 Contact: \_\_\_\_\_

PO No.: \_\_\_\_\_  
 Project No.: 02-074-2  
 Project Cust.: \_\_\_\_\_  
 Project Site: FILLMORE SITE  
 Spill No.: \_\_\_\_\_  
 Pin No.: \_\_\_\_\_

### Sample Demographics and Parameters for Analysis

Special Instructions: FULL TCLP

Suspect Ingredient:  Diesel       Gasoline       Oil

Parameters for Analysis	
FULL TCLP	PCT

Date	Time	Sample Description & Location	MATRIX		
			ACUSCUS	Oil	Other
7/16	9:50	FIL-NOP-1 Steel Hopper white Solids			
	9:45	FIL-CT-1 CRUSHED TANK OIL TRAIL			
	10:00	FIL-ST-1 BLACK TOP SILVER TANK A			
	10:30	FIL-TF-1 OIL TANKS FURNACE			
	10:50	FIL-BTF-1 Big TRAYS WATER			
	11:30	FIL-AST-1 OIL			
	11:50	FIL-AST-2 TAR			
	11:50	FIL-AST-3 TAR			
	<del>12:00</del>	<del>FIL-SP-1</del>			
	<del>12:00</del>	<del>FIL-SP-2</del>			
	12:00	FIL-PIPE TAR - PIPE			

### Chain of Custody Record

# of Samples: 9      Samples Sent By:  Express Mail       Hand Delivery

# of Containers: 13      Custody Seal Intact?  Yes       No       N/A

Sampler: TERENCE JONES      Shipment Complete?  Yes       No       N/A

Signature: \_\_\_\_\_      Temperature: 52 Fahrenheit

SAMPLES RELINQUISHED BY		SAMPLES RECEIVED BY	
Name & Signature	Date & Time	Name & Signature	Date & Time
		<i>[Signature]</i>	7/25/02 1145
		<i>[Signature]</i>	7/26/02 8:15

"Results when YOU want them!"

LOZIER ANALYTICAL GROUP

Original - Lab Copy, Yellow - Customer Copy, Pink - Sampler Copy

CONFIDENTIAL INFORMATION

52431  
[Barcode]

52432  
[Barcode]

MANILLA COPY

# LAB

# WORKORDER

P. 55-55

P.O. Box #0, 3611 Water Street, Middlesex, NY 14507  
NY #11369 NJ #73744 CA #2055 SC #91011  
Phone #: 800-843-5227  
Fax #: 716-554-4114

5 dup

Date Due: 8.12.02

Standard Service  Rush Service

"Specializing in Environmental Soil Tests"

Customer: SLL ENVIRONMENTAL SERV  
Address: 295 MILL STREET  
City/State/Zip: LOCKPORT NY 14094  
Phone: (716) 433-0776 EXT 15  
Fax: (716) 433-0802  
Contact:

PO No.: \_\_\_\_\_  
Project No.: 02-074-2  
Project Cust.: \_\_\_\_\_  
Project Site: FILLMORE AVE  
Spill No.: \_\_\_\_\_  
Pin No.: \_\_\_\_\_

## Sample Demographics and Parameters for Analysis

Special Instructions: FULL TCLP OW  
ALL SAMPLES VOC, SVOC, & METALS  
DEST HEATS PCB RIC

Suspect Ingredient:  Diesel  Gasoline  Oil

Parameters for Analysis:

Date	Time	Sample Description & Location	MATRIX			Full TCLP RIC
			Aqueous	Soil	Other	
7/24	2:15	FIL-VES-S NORTH TAKES SOUTH		X	X	X
7/24	2:30	FIL-VES-N NORTH TAKES NORTH		X	X	X
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						
11.						

## Chain of Custody Record

# of Samples: 2 Samples Sent By:  Express Mail  Hand Deliv:  
# of Containers: 4 Custody Seal Intact?  Yes  No  N/  
Sampler: [Signature] Shipment Complete?  Yes  No  N/  
Signature: JERRY JONES Temperature: 5 C Fahrenheit

### SAMPLES RELINQUISHED BY

### SAMPLES RECEIVED BY

Name & Signature	Date & Time	Name & Signature	Date & Time
		<u>[Signature]</u>	7/25/02 1145
		Received for Laboratory by:	
		<u>[Signature]</u>	7/26/02 8

"Results when YOU want them!"



# Lozier Laboratories, Inc.

5611 Water St.  
 Middlesex NY, 14507  
 Phone (716)-654-6350  
 Fax (716)-554-4114

New York State  
 Approved  
 Environmental Laboratory  
 # 10390

Prepared for: ExpressLab, Inc.  
 5611 Water St., Middlesex, NY 14507

Laboratory Number: 17889

ExpressLab Client: SLC Environmental Services  
 295 Mill Street  
 Lockport, NY 14094  
 Attention: Jerry Jones

Report Date: 8/5/2002

Client PO Number: 02-074-2  
 Client Project Number:  
 Client Customer and Site: Hillmore Ave.

Sample Information  
 Date Received at Lozier: 7/26/2002  
 Date Received at ExpressLab: 7/26/2002  
 Sample Date: 7/24/2002  
 Sampled By: Client  
 Matrix: Solid/Liquid

Parameter	Lozier Sample ID:	ExpressLab Sample ID:	Client Sample ID:	Units	Method Number	Analysis Date
	17889--5	52426	FIL-BTF-1			
TCLP Arsenic				mg/l	EPA 6010B	8/5/2002
TCLP Selenium				mg/l	EPA 6010B	8/5/2002
TCLP Cadmium				mg/l	EPA 6010B	8/5/2002
TCLP Chromium				mg/l	EPA 6010B	8/5/2002
TCLP Barium				mg/l	EPA 6010B	8/5/2002
TCLP Silver				mg/l	EPA 6010B	8/5/2002
TCLP Lead				mg/l	EPA 6010B	8/5/2002
TCLP Mercury				mg/l	EPA 7470	8/1/2002

Parameter	Lozier Sample ID:	ExpressLab Sample ID:	Client Sample ID:	Units	Method Number	Analysis Date
	17889--7	52428	FIL-AST-2			
TCLP Arsenic				mg/l	EPA 6010B	8/5/2002
TCLP Selenium				mg/l	EPA 6010B	8/5/2002
TCLP Cadmium				mg/l	EPA 6010B	8/5/2002
TCLP Chromium				mg/l	EPA 6010B	8/5/2002
TCLP Barium				mg/l	EPA 6010B	8/5/2002
TCLP Silver				mg/l	EPA 6010B	8/5/2002
TCLP Lead				mg/l	EPA 6010B	8/5/2002
TCLP Mercury				mg/l	EPA 7470	8/1/2002



# Lozier Laboratories, Inc.

5611 Water St.  
Middlesex NY. 14507  
Phone (716)-654-6350  
Fax (716)-554-4114

New York State  
Approved  
Environmental Laboratory  
# 10390

Prepared for: ExpressLab, Inc  
5611 Water St., Middlesex, NY 14507

Laboratory Number: 17889

ExpressLab Client: SLC Environmental Services  
295 Mill Street  
Lockport, NY 14094

Report Date: 8/6/2002

Attention: Jerry Jones

**Sample Information**  
Date Received at Lozier: 7/26/2002  
Date Received at ExpressLab: 7/26/2002  
Sample Date: 7/24/2002  
Sampled By: Client  
Matrix: Solid/Liquid

Client PO Number: 02-074-2  
Client Project Number:  
Client Customer and Site: Fillmore Ave.

Parameter	Lozier Sample ID: 17889--9	ExpressLab Sample ID: 52430	Client Sample ID: FIL-Pipe	17889--10	ExpressLab Sample ID: 52431	Client Sample ID: FIL-VES-S	Units	Method Number	Analysis Date
TCLP Arsenic	<0.005			<0.005			mg/l	EPA 6010B	8/5/2002
TCLP Selenium	0.013			0.01			mg/l	EPA 6010B	8/5/2002
TCLP Cadmium	0.011			<0.001			mg/l	EPA 6010B	8/5/2002
TCLP Chromium	<0.003			<0.003			mg/l	EPA 6010B	8/5/2002
TCLP Barium	0.065			3.6			mg/l	EPA 6010B	8/5/2002
TCLP Silver	<0.005			<0.005			mg/l	EPA 6010B	8/5/2002
TCLP Lead	0.199			0.885			mg/l	EPA 6010B	8/5/2002
TCLP Mercury	<0.002			<0.002			mg/l	EPA 7470	8/1/2002

Parameter	Lozier Sample ID: 17889--11	ExpressLab Sample ID: 52432	Client Sample ID: FIL-VES-N	Units	Method Number	Analysis Date
TCLP Arsenic	<0.005			mg/l	EPA 6010B	8/5/2002
TCLP Selenium	0.009			mg/l	EPA 6010B	8/5/2002
TCLP Cadmium	<0.001			mg/l	EPA 6010B	8/5/2002
TCLP Chromium	<0.003			mg/l	EPA 6010B	8/5/2002
TCLP Barium	4.08			mg/l	EPA 6010B	8/5/2002
TCLP Silver	<0.005			mg/l	EPA 6010B	8/5/2002
TCLP Lead	0.006			mg/l	EPA 6010B	8/5/2002
TCLP Mercury	<0.002			mg/l	EPA 7470	8/1/2002





### Lozier Laboratories, Inc.

5611 Water St.  
 Middlesex NY, 14507  
 Phone (716)-654-6350  
 Fax (716)-554-4114

New York State  
 Approved  
 Environmental Laboratory  
 # 10390

Prepared for: ExpressLab, Inc.  
 5611 Water St., Middlesex, NY 14507

Laboratory Number: 17889

Report Date: 8/6/2002

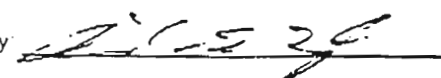
ExpressLab Client: SLC Environmental Services  
 295 Mill Street  
 Lockport, NY 14094  
 Attention: Jerry Jones

**Sample Information**  
 Date Received at Lozier: 7/26/2002  
 Date Received at ExpressLab: 7/26/2002  
 Sample Date: 7/24/2002  
 Sampled By: Client  
 Matrix: Solid/Liquid

Client PO Number: 02-074-2  
 Client Project Number:  
 Client Customer and Site: Hillmore Ave.

Parameter	Steel Hopper	Crushed Tank	Units	Method Number	Analysis Date
Lozier Sample ID:	17889--1	17889--2			
ExpressLab Sample ID:	52422	52423			
Client Sample ID:	FIL-HOP-1	FIL-CT-1			
TCLP Arsenic	<0.005	<0.005	mg/l	EPA 6010B	8/5/2002
TCLP Selenium	0.034	0.006	mg/l	EPA 6010B	8/5/2002
TCLP Cadmium	<0.001	<0.001	mg/l	EPA 6010B	8/5/2002
TCLP Chromium	<0.003	<0.003	mg/l	EPA 6010B	8/5/2002
TCLP Barium	0.587	0.019	mg/l	EPA 6010B	8/5/2002
TCLP Silver	<0.005	<0.005	mg/l	EPA 6010B	8/5/2002
TCLP Lead	<0.003	<0.003	mg/l	EPA 6010B	8/5/2002
TCLP Mercury	<0.002	<0.002	mg/l	EPA 7470	8/1/2002

Parameter			Units	Method Number	Analysis Date
Lozier Sample ID:	17889--3	17889--4			
ExpressLab Sample ID:	52424	52425			
Client Sample ID:	FIL-ST-1	FIL-TF-1			
TCLP Arsenic	<0.005	<0.005	mg/l	EPA 6010B	8/5/2002
TCLP Selenium	0.008	0.008	mg/l	EPA 6010B	8/5/2002
TCLP Cadmium	<0.001	<0.001	mg/l	EPA 6010B	8/5/2002
TCLP Chromium	<0.003	<0.003	mg/l	EPA 6010B	8/5/2002
TCLP Barium	0.405	0.014	mg/l	EPA 6010B	8/5/2002
TCLP Silver	<0.005	<0.005	mg/l	EPA 6010B	8/5/2002
TCLP Lead	1.13	<0.003	mg/l	EPA 6010B	8/5/2002
TCLP Mercury	<0.002	<0.002	mg/l	EPA 7470	8/1/2002

Approved By: 



# Lozier Analytical Group

5611 Water St.  
Middlesex, NY 14507

Phone: 800-843-5227  
Fax: 585-554-4114


ELAP# 11369

## LABORATORY REPORT - PCB's by 8082

Cust **SLC ENV. SERVICE**  
Address: 295 MILL ST.  
**LOCKPORT, N.Y. 14094**  
Attn: **JERRY JONES**

Phone 433-0776  
FAX 433-0802

PO Number:  
Project Number 02-074-2  
Project Cust:  
Project Site: **FILLMORE AVE.**

Lab Director:   
Nicholas Tedesche

### SAMPLE DEMOGRAPHICS AND TEST RESULTS

Results in bold type: Detection Limits in small print

Detection Limits\* =

Soil=ug/kg ppb

Extraction Method: 3550 Sonication

\*See Individual Limit

Analysis Method: EPA 8082 GC with ECD

Sample ID (LAB) 52422

Sample ID#1(CUST) FIL-HOP-1

Sample ID#2(CUST)

Matrix

**SOLID**

Sampled By

**JERRY JONES**

Date Sampled

07/24/02 9:30

Date Received

07/26/02 8:15

Date Analyzed

07/29/02

Date Reported

07/30/02

	Results	Det Limit*
Aroclor 1016	< DL(U)	16.7
Aroclor 1221	< DL(U)	16.7
Aroclor 1232	< DL(U)	16.7
Aroclor 1242	< DL(U)	16.7
Aroclor 1248	< DL(U)	16.7
Aroclor 1254	< DL(U)	16.7
Aroclor 1260	< DL(U)	16.7

< DL(U)=analyzed but not detected

L=estimated value

B=analyte found in blank

E=exceed calibration range

\* DL = Detection Limit

RESULTS WHEN YOU WANT THEM

PCB



# Lozier Analytical Group

5611 Water St.  
Middlesex, NY 14507

Phone: 800-843-5227  
Fax: 585-554-4114


ELAP# 11369

## LABORATORY REPORT - TCLP 8081

Cust SLC ENV. SERVICE  
Address: 295 MILL ST.  
LOCKPORT, N.Y. 14094  
Attn: JERRY JONES

Phone 433-0776  
FAX 433-0802

PO Number:  
Project Number 02-074-2  
Project Cust:  
Project Site: FILLMORE AVE.

Lab Director:   
Nicholas Tedesche

## SAMPLE DEMOGRAPHICS AND TEST RESULTS

Results in bold type; Detection Limits in small print

Detection Limits\* = Soil=ug/kg ppb

\*See Individual Limit Water=ug/L ppb

Sample ID (LAB) 52422

Sample ID#1(CUST) FIL-HOP-1

Sample ID#2(CUST)

Matrix SOLID

Sampled By JERRY JONES

Date Sampled 7/24/02

Date Received 7/26/02 8:15

Date Analyzed 7/29/02

Date Reported 7/30/02

	Results	Det Limit*
Gama BHC	< DL(U)	0.1
Heptachlor	< DL(U)	0.2
Heptachlor Epoxide	< DL(U)	0.2
Endrin	< DL(U)	0.2
Methoxychlor	< DL(U)	2.0

Results shown are: Pesticides

Extraction Method: EPA 3510 Liquid/Liquid Extraction

Analysis Method: EPA 8081 GC ECD

< DL(U)=analyzed but not detected

L =estimated value

B=analyte found in blank

E=exceed calibration range

ANALYSIS PERFORMED ON TCLP EXTRACT (WATER).

\* DL = Detection Limit

RESULTS WHEN YOU WANT THEM

RPT8080



# Lozier Analytical Group


5611 Water St.  
Middlesex, NY 14507

Phone: 800-843-5227  
Fax: 585-554-4114

ELAP# 11369

## LABORATORY REPORT - TCLP 8260

Cust SLC ENV. SERVICE  
Address: 295 MILL ST.  
LOCKPORT, N.Y. 14094  
Atm: JERRY JONES  
Phone 433-0776  
FAX 433-0802

PO Number:  
Project Number 02-074-2  
Project Cust:  
Project Site: FILLMORE AVE.  
Lab Director:   
Nicholas Tedesche

### SAMPLE DEMOGRAPHICS AND TEST RESULTS

Results in bold type; Detection Limits in small print

Results shown are: Volatile Organic Analytes

Detection Limits\* - Soil=ug/kg ppb

Extraction Method: EPA 5030 Purge & Trap

\*See Individual Limit Water=ug/L ppb

Analysis Method: EPA 8260 GC/MS

Sample ID (LAB)  
Sample ID#1(CUST)  
Sample ID#2(CUST)  
Matrix  
Sampled By  
Date Sampled  
Date Received  
Date Analyzed  
Date Reported

52422
FIL-HOP-1
SOLID
JERRY JONES
07/24/02 09:30
07/26/02 08:15
07/30/02
07/31/02

Vinyl Chloride  
1,1-Dichloroethene  
Methyl ethyl ketone  
Chloroform  
1,1-Dichloropropene  
Carbon Tetrachloride  
1,2-Dichloroethane  
Trichloroethene  
Benzene  
Tetrachloroethene  
Chlorobenzene  
Hexachlorobutadiene  
1,4-Dichlorobenzene

Results	Det Limit*
<DL(U)	2.0
<DL(U)	2.0
<DL(U)	2.0
<DL(U)	2.0
<DL(U)	2.0
<DL(U)	2.0
<DL(U)	2.0
<DL(U)	2.0
<DL(U)	2.0
<DL(U)	2.0
<DL(U)	2.0
<DL(U)	2.0

< DL(U)= analyzed but not detected  
L= estimated value  
B=analyte found in blank  
E=exceed calibration range  
j= < pql but > MDL

\* DL = Detection Limit



# Lozier Analytical Group

5611 Water St.  
Middlesex, NY 14507

Phone: 800-843-5227  
Fax: 585-554-4114

ELAP# 11769

## LABORATORY REPORT - 8270 TCLP

Cust SLC ENV. SERVICE  
Address: 295 MILL ST.  
LOCKPORT, N.Y. 14094  
Attn: JERRY JONES  
Phone 433-0776  
FAX 433-0802

PO Number:  
Project Number: 02-074-1  
Project Cust:  
Project Site: FILLMORE AVE.

Lab Director:   
Nicholas Tedesche

### SAMPLE DEMOGRAPHICS AND TEST RESULTS

Results in bold type; Detection Limits in small print  
Detection Limits: \* Water: -ug/L ppw  
\*See Individual Limit

Results shown are: TCLP 8270 Compounds  
Extraction Method: EPA 3510 Liquid-Liquid  
Analysis Method: EPA 8270 GC/MS

Sample ID (LAB)  
Sample ID#1(CUST)  
Sample ID#2(CUST)  
Matrix  
Sampled By  
Date Sampled  
Date Received  
Date Analyzed  
Date Reported

52422	
FIL-HOP-1	
SOLID	
JERRY JONES	
07/24/02	09:30
07/26/02	08:15
07/31/02	
08/01/02	

	Results	Det Limit*
2-Methylphenol	< DL(U)	0.050
3&4-Methylphenol	< DL(U)	0.100
Hexachlorobenzene	< DL(U)	0.050
Hexachlorobutadiene	< DL(U)	0.050
Hexachloroethane	< DL(U)	0.050
Nitrobenzene	< DL(U)	0.050
Pentachlorophenol	< DL(U)	0.050
Pyridine	< DL(U)	0.050
2,4,5-Trichlorophenol	< DL(U)	0.050
2,4,6-Trichlorophenol	< DL(U)	0.050
2,4-Dinitrotoluene	< DL(U)	0.050
1,4-Dichlorobenzene	< DL(U)	0.050

\* DL = Detection Limit

RESULTS WHEN YOU WANT THEM



# Lozier Analytical Group

5611 Water St.  
Middlesex, NY 14507

Phone: 800-843-5227  
Fax: 585-354-4114

ELAP# 11369

## LABORATORY REPORT - TCLP 8151

Cust: SLC ENV. SERVICE  
Address: 295 MILL ST.  
LOCKPORT, N.Y. 14094  
Attn: JERRY JONES

Phone: 433-0776  
FAX: 433-0802

PO Number:  
Project Number: 02-0742  
Project Cust:  
Project Site: FILMORE AVE.

Lab Director:   
Nicholas Tedesche

## SAMPLE DEMOGRAPHICS AND TEST RESULTS

Results in bold type; Detection Limits in small print

Detection Limits* -	Soil=ug/kg ppb	Extraction Method.	8151
*See Individual Limit	Water=ug/L ppb	Analysis Method.	EPA 3151 GC with ECD
Sample ID (LAB)	52422		
Sample ID#1(CUST)	FIL HOP-1		
Sample ID#2(CUST)			
Matrix	SOLID		
Sampled By	JERRY JONES		
Date Sampled	07/24/02 9:30		
Date Received	07/26/02 8:15		
Date Analyzed	08/02/02		
Date Reported	08/02/02		

	Results	Det. Limit*
Dicamba:	< DL(U)	0.5
2,4-D	< DL(U)	0.5
Silvex	< DL(U)	0.5
2,4,5-T	< DL(U)	0.5

< DL(U)-analyzed but not detected

L=estimated value

U=analysis found in blank

E=exceed calibration range

ANALYSIS PERFORMED ON TCLP EXTRACT (WATER).

\* DL = Detection Limit

**RESULTS WHEN YOU WANT THEM**

PAGE 1



# Lozier Analytical Group

5611 Water St.  
Middlesex, NY 14507

Phone: 800-843-5227  
Fax: 585-554-4114

ELAP# 11369

## LABORATORY REPORT - MISC

Cust: SLC ENV. SERVICE  
Address: 295 MILL ST.  
LOCKPORT, N.Y. 14094  
Attn: JERRY JONES  
Phone: 433-0776  
FAX: 433-0802

PO Number:  
Project Number: 02-074-2  
Project Cust:  
Project Site: FILLMORE AVE.  
Date FAXED: 52422  
Lab Director:

## SAMPLE DEMOGRAPHICS AND TEST RESULTS

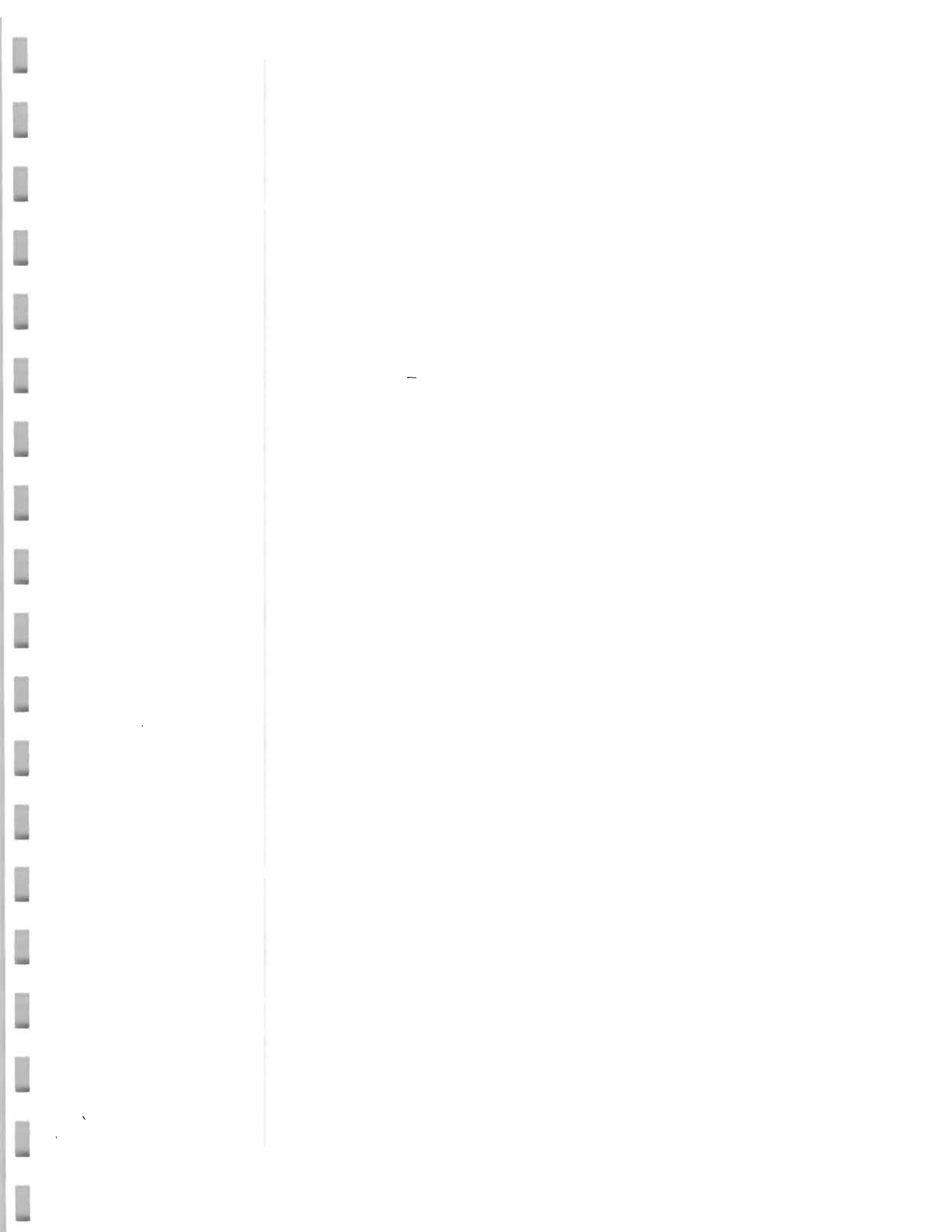
Results in bold type  
Detection Limits - Water=mg/L or PPM  
Soil=mg/Kg or PPM

Sample ID (LAB)	52422	
Sample ID#1(CUST)	FIL-110P-1	
Sample ID#2(CUST)		
Matrix	SOLID	
Sampled By	JERRY JONES	
Date Sampled	07/24/02	09:30
Date Received	07/26/02	08:15
Date Analyzed	07/30/02	
Date Reported	08/01/02	

Ignitability: Negative, No flash to 140F/60C  
Corrosivity: pH=8.69  
Reactivity: Sulfide: < 20 PPM  
Cyanide: < 20 PPM

< DL(U) = analyzed but not detected  
L = estimated value  
B = analyte found in blank  
E = exceeds calibration range

RESULTS WHEN YOU WANT THEM







# Lozier Analytical Group

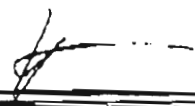
5611 Water St.  
Middlesex, NY 14507

Phone: 800-843-5227  
Fax: 585-554-4114

ELAP# 11369

## LABORATORY REPORT - MISC

Cust: SLC ENV. SERVICE  
Address: 295 MILL ST.  
LOCKPORT, N.Y. 14094  
Attn: JERRY JONES  
Phone: 435-0776  
FAX: 423-0802

PO Number:  
Project Number 02-074-2  
Project Cust:  
Project Site: FILLMORE AVE.  
Date FAXED: 52423  
Lab Director 

## SAMPLE DEMOGRAPHICS AND TEST RESULTS

Results in bold type

Detection Limits - Water-mg/L or PPM  
Soil-mg/Kg or PPM

Sample ID (LAB)	52423
Sample ID#1(CUS1)	FP-CT-1
Sample ID#2(CUST)	
Matrix	LIQUID
Sampled By	JERRY JONES
Date Sampled	07/24/02 09:45
Date Received	07/26/02 08:15
Date Analyzed	07/30/02
Date Reported	08/01/02

Ignitability: Negative, No flash to 140F/60C  
Corrosivity: pH-8.03  
Reactivity: Sulfide: < 20 PPM  
Cyanide: < 20 PPM

< DL(U) = analyzed but not detected  
I = estimated value  
B = analyte found in blank  
E = exceeded calibration range

RESULTS WHEN YOU WANT THEM



# Lozier Analytical Group

5611 Water St.  
Middlesex, NY 14507

Phone: 800-843-5227  
Fax: 985-554-4114

ELAP# 11369

## LABORATORY REPORT - TCLP 8151

Cust: <b>SLC ENV. SERVICE</b> Address: 295 MILL ST. LOCKPORT, N.Y. 14094 Attn: <b>JERRY JONES</b> Phone: 477-0776 FAX: 453-0802	PO Number: Project Number: 02-074-2 Project Cust: Project Site: <b>FILI MORE AVE.</b> Lab Director: Nicholas Tedesche
--	--

### SAMPLE DEMOGRAPHICS AND TEST RESULTS

(Results in bold type; Detection Limits in small print)

Detection Limits* -	Soil=ug/kg ppb	Extraction Method.	8151
*See Individual Limit	Water=ug/L ppb	Analysis Method.	EPA 8151 GC with ECU
Sample ID (LAB)	52423		
Sample ID#1 (CUST)	FIL-CT-1		
Sample ID#2 (CUST)			
Matrix	<b>LIQUID</b>		
Sampled By	<b>JERRY JONES</b>		
Date Sampled	07/24/02 9:45		
Date Received	07/26/02 8:15		
Date Analyzed	08/02/02		
Date Reported	08/02/02		

	Results	Det Limit*
Dicamba	< DL(U)	0.5
2,4-D	< DL(U)	0.5
Silvex	< DL(U)	0.5
2,4,5-T	< DL(U)	0.5

< DL(U)-analyzed but not detected

L=estimated value

B=analyte found in blank

E=exceed calibration range

ANALYSIS PERFORMED ON TCLP EXTRACT (WATER).

\* DL = Detection Limit

**RESULTS WHEN YOU WANT THEM**



# Lozier Analytical Group

5611 Water St.

Phone: 800-843-5227

Middlesex, NY 14507

Fax: 585-554-4114

ELAP# 11169

## LABORATORY REPORT - 8270 TCLP

Cust: <b>SLC ENV. SERVICE</b> Address: 295 MILL ST. LOCKPORT, N.Y. 14094 Attn: <b>JERRY JONES</b> Phone: 433-0776 FAX: 433-0802	PO Number: Project Number 02-074-2 Project Cust: Project Site: FILLMORE AVE. Lab Director: Nicholas Tedesche
--	---

### SAMPLE DEMOGRAPHICS AND TEST RESULTS

Results in bold type; Detection Limits in small print  
 Detection Limits\* - Water-tag L ppm  
 \*See Individual Limit

Results shown are: **1 TCLP 8270 Compounds**  
 Extraction Method: **EPA 3510 Liquid-Liquid**  
 Analysis Method: **EPA 8270 GC/MS**

Sample ID (LAB)	52423	
Sample ID#1(CUST)	FIL-CT-1	
Sample ID#2(CUST)		
Matrix	LIQUID	
Sampled By	JERRY JONES	
Date Sampled	07/24/02	09:45
Date Received	07/26/02	08:15
Date Analyzed	07/31/02	
Date Reported	08/01/02	

	Results	Det Limit*
2-Methylphenol	< DL(U)	0.050
3&4-Methylphenol	< DL(U)	0.100
Hexachlorobenzene	< DL(U)	0.050
Hexachlorobutadiene	< DL(U)	0.050
Hexachloroethane	< DL(U)	0.050
Nitrobenzene	< DL(U)	0.050
Pentachlorophenol	< DL(U)	0.050
Pyridine	< DL(U)	0.050
2,4,5-Trichlorophenol	< DL(U)	0.050
2,4,6-Trichlorophenol	< DL(U)	0.050
2,4-Dinitrotoluene	< DL(U)	0.050
1,4 Dichlorobenzene	< DL(U)	0.050

\* DL = Detection Limit

RESULTS WHEN YOU WANT THEM



# Lozier Analytical Group


5611 Water St.  
Middlesex, NY 14507

Phone: 800-843-5227  
Fax: 585-554-4114

ELAP# 11369

## LABORATORY REPORT - TCLP 8260

Cust SLC ENV. SERVICE  
Address: 295 MILL ST.  
LOCKPORT, N.Y. 14094  
Attn: JERRY JONES  
  
Phone 433-0776  
FAX 433-0802

PO Number:  
Project Number 02-074-2  
Project Cust:  
Project Site: FILLMORE AVE.  
  
Lab Director:   
Nicholas Tedesche

### SAMPLE DEMOGRAPHICS AND TEST RESULTS

Results in bold type; Detection Limits in small print  
Detection Limits\* = Soil=ug/kg ppb  
\*See Individual Limit Water=ug/L ppb

Results shown are: Volatile Organic Analytes  
Extraction Method: EPA 5030 Purge & Trap  
Analysis Method: EPA 8260 GC/MS

Sample ID (LAB)  
Sample ID#1(CUST)  
Sample ID#2(CUST)  
Matrix  
Sampled By  
Date Sampled  
Date Received  
Date Analyzed  
Date Reported

52423	
FIL-CT-1	
LIQUID	
JERRY JONES	
07/24/02	09:45
07/26/02	08:15
07/30/02	
07/31/02	

	Results	Det Limit*
Vinyl Chloride	<DL(U)	2.0
1,1-Dichloroethene	<DL(U)	2.0
Methyl ethyl ketone	<DL(U)	2.0
Chloroform	<DL(U)	2.0
1,1-Dichloropropene	<DL(U)	2.0
Carbon Tetrachloride	<DL(U)	2.0
1,2-Dichloroethane	<DL(U)	2.0
Trichloroethene	<DL(U)	2.0
Benzene	<DL(U)	2.0
Tetrachloroethene	<DL(U)	2.0
Chlorobenzene	<DL(U)	2.0
Hexachlorobutadiene	<DL(U)	2.0
1,4-Dichlorobenzene	<DL(U)	2.0

< DL(U)= analyzed but not detected  
L= estimated value  
B=analyte found in blank  
E=exceed calibration range  
J= < pql but > MDL

\* DL = Detection Limit

RESULTS WHEN YOU WANT THEM



# Lozier Analytical Group

5611 Water St.  
Middlesex, NY 14507

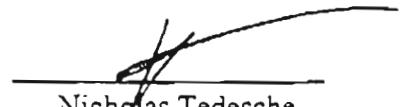
Phone: 800-843-5227  
Fax: 585-554-4114

ELAP# 11369

## LABORATORY REPORT - TCLP 8081

Cust SLC ENV. SERVICE  
Address: 295 MILL ST.  
LOCKPORT, N.Y. 14094  
Attn: JERRY JONES  
  
Phone 433-0776  
FAX 433-0802

PO Number:  
Project Number 02-074-2  
Project Cust:  
Project Site: FILLMORE AVE.

Lab Director:   
Nicholas Tedesche

### SAMPLE DEMOGRAPHICS AND TEST RESULTS

Results in bold type; Detection Limits in small print

Detection Limits\* = Soil=ug/kg ppb

\*See Individual Limit Water=ug/L ppb

Results shown are: Pesticides

Extraction Method: EPA 3510 Liquid/Liquid Extraction

Analysis Method: EPA 8081 GC ECD

Sample ID (LAB) 52423

Sample ID#1(CUST) FIL-CT-1

Sample ID#2(CUST)

Matrix LIQUID

Sampled By JERRY JONES

Date Sampled 7/24/02

Date Received 7/26/02 8:15

Date Analyzed 7/29/02

Date Reported 7/30/02

	Results	Det Limit*
Gama BHC	< DL(U)	0.1
Heptachlor	< DL(U)	0.2
Heptachlor Epoxide	< DL(U)	0.2
Endrin	< DL(U)	0.2
Methoxychlor	< DL(U)	2.0

< DL(U)=analyzed but not detected

L=estimated value

B=analyte found in blank

E=exceed calibration range

ANALYSIS PERFORMED ON TCLP EXTRACT (WATER).

\* DL = Detection Limit

RESULTS WHEN YOU WANT THEM

RPT8080



# Lozier Analytical Group

5611 Water St.  
Middlesex, NY 14507

Phone: 800-843-5227  
Fax: 585-554-4114

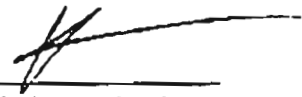
ELAP# 11369

## LABORATORY REPORT - PCB's by 8082

Cust SLC ENV. SERVICE  
Address: 295 MILL ST.  
LOCKPORT, N.Y. 14094  
Attn: JERRY JONES

Phone 433-0776  
FAX 433-0802

PO Number:  
Project Number 02-074-2  
Project Cust:  
Project Site: FILLMORE AVE.

Lab Director:   
Nicholas Tedesche

### SAMPLE DEMOGRAPHICS AND TEST RESULTS

Results in bold type: Detection Limits in small print

Detection Limits\* = Oil=ug/kg (ppb)

Extraction Method: 3580 Waste Dilution

\*See Individual Limit

Analysis Method: EPA 8082 GC with ECD

Sample ID (LAB) 52423

Sample ID#1(CUST) FIL-CT-1

Sample ID#2(CUST)

Matrix LIQUID

Sampled By JERRY JONES

Date Sampled 07/24/02 9:45

Date Received 07/26/02 8:15

Date Analyzed 07/29/02

Date Reported 07/30/02

	Results	Det Limit*
Aroclor 1016	< DL(U)	500.0
Aroclor 1221	< DL(U)	500.0
Aroclor 1232	< DL(U)	500.0
Aroclor 1242	< DL(U)	500.0
Aroclor 1248	< DL(U)	500.0
Aroclor 1254	< DL(U)	500.0
Aroclor 1260	< DL(U)	500.0

< DL(U)=analyzed but not detected

L=estimated value

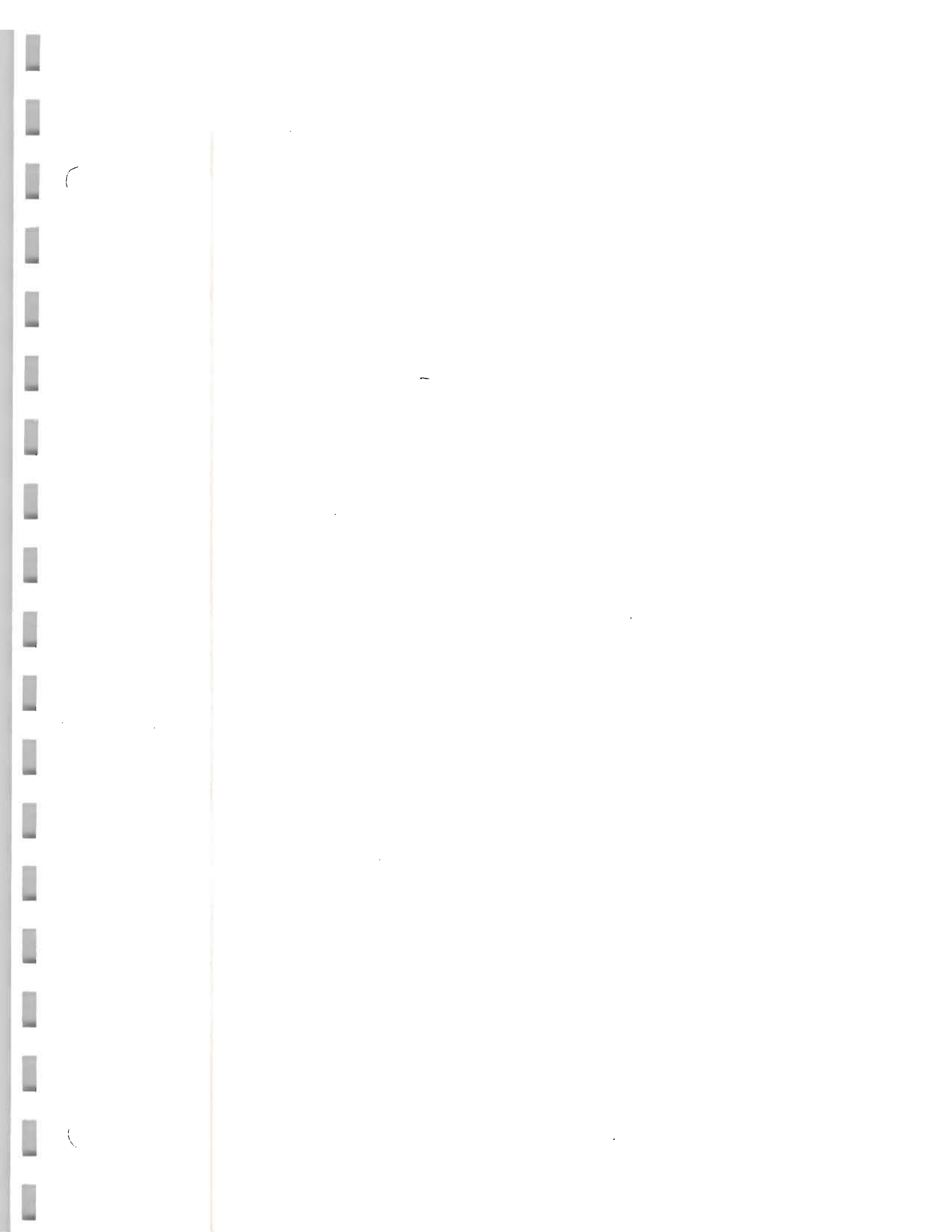
B=analyte found in blank

E=exceed calibration range

\* DL = Detection Limit

RESULTS WHEN YOU WANT THEM

PCB





# Lozier Analytical Group

3611 Water St.

Phone: 800-843-5227

Middlesex, NY 14507

Fax: 585-554-4114

ELAP# 11369

## LABORATORY REPORT - MISC

Cust: SLC ENV. SERVICE  
 Address: 295 MILL ST.  
 LOCKPORT, N.Y. 14094  
 Attn: JERRY JONES  
 Phone: 433-0776  
 FAX: 433-0802

PO Number:  
 Project Number 02-074-2  
 Project Cust:  
 Project Site: FILLMORE AVE.  
 Date FAXED: 52424  
 Lab Director:

## SAMPLE DEMOGRAPHICS AND TEST RESULTS

Results in bold type

Detection Limits - Water mg/L or PPM  
 Soil mg/Kg or PPM

Sample ID (LAB)	52424	
Sample ID#1 (CUST)	FIL-ST-1	
Sample ID#2 (CUST)		
Matrix	SOLID	
Sampled By	JERRY JONES	
Date Sampled	07/24/02	10:00
Date Received	07/26/02	08:15
Date Analyzed	07/30/02	
Date Reported	08/01/02	

Ignitability: Negative, No flash to 140F/60C  
 Corrosivity: pH=7.66  
 Reactivity: Sulfide: < 20 PPM  
 Cyanide: < 20 PPM

< DL(U) = analyzed but not detected  
 I = estimated value  
 B = analyte found in blank  
 C = exceed calibration range

**RESULTS WHEN YOU WANT THEM**





# Lozier Analytical Group

5611 Water St.  
Middlesex, NY 14507

Phone: 800-843-5227  
Fax: 585-554-1114

ELAP# 11369

## LABORATORY REPORT - TCLP 8151

Cust **SLC ENV. SERVICE**  
Address: **295 MILL ST.**  
**LOCKPORT, N.Y. 14094**  
Attn: **JERRY JONES**  
  
Phone 433-0776  
FAX 433-0802

PO Number  
Project Number 02-074-2  
Project Cust:  
Project Site: **FILLMORE AVE.**

Lab Director:   
Nicholas Tedesche

### SAMPLE DEMOGRAPHICS AND TEST RESULTS

Results in bold type; Detection Limits in small print

Detection Limits \* - Soil=ug/kg ppb

\*See Individual Limit Water=ug/L ppb

Extraction Method: 8151

Analysis Method: EPA 8151 GC with ECD

Sample ID (LAB) 52424

Sample ID#1(CUST) FIL-ST-1

Sample ID#2(CUST)

Matrix **SOLID**

Sampled By **JERRY JONES**

Date Sampled 07/24/02 10:00

Date Received 07/26/02 8:15

Date Analyzed 08/02/02

Date Reported 08/02/02

	Results	Det Limit
Dicamba	< DL(U)	0.5
2,4 D	< DL(U)	0.5
Silvex	< DL(U)	0.5
2,4,5-T	< DL(U)	0.5

< DL(U)=analyzed but not detected

I = estimated value

B=analyte found in blank

E=exceed calibration range

ANALYSIS PERFORMED ON TCLP EXTRACT (WATER).

\* DL = Detection Limit

**RESULTS WHEN YOU WANT THEM**

PAGE 1



# Lozier Analytical Group

5611 Water St.  
Middlesex, NY 14507

Phone: 800-843-9227

Fax: 585-354-4114

ELAP# 11369

## LABORATORY REPORT - 8270 TCLP

Cust **SLC ENV. SERVICE**  
Address: 295 MILL ST.  
LOCKPORT, N.Y. 14094  
Attn: **JERRY JONES**  
  
Phone 433-0776  
FAX 433-0802

PO Number:  
Project Number 02-074-2  
Project Cust:  
Project Site: **FILLMORE AVE.**

Lab Director:   
Nicholas Tedesche

### SAMPLE DEMOGRAPHICS AND TEST RESULTS

Results in bold type. Detection Limits in small print  
Detection Limits\* - Water mg/L ppm  
\*See Individual Limit

Results shown are: **TCLP 8270 Compounds**  
Extraction Method: **EPA 3510 Liquid-Liquid**  
Analysis Method: **EPA 8270 GC/MS**

Sample ID (LAR)	52423	
Sample ID#1(CUST)	FILL ST-1	
Sample ID#2(CUST)		
Matrix	SOLID	
Sampled By	JERRY JONES	
Date Sampled	07/24/02	10:00
Date Received	07/26/02	08:15
Date Analyzed	07/31/02	
Date Reported	08/01/02	

	Results	Det Limit*
2-Methylphenol	< DL(U)	0.050
3&4-Methylphenol	< DL(U)	0.100
Hexachlorobenzene	< DL(U)	0.050
Hexachlorobutadiene	< DL(U)	0.050
Hexachloroethane	< DL(U)	0.050
Nitrobenzene	< DL(U)	0.050
Pentachlorophenol	< DL(U)	0.050
Pyridine	< DL(U)	0.050
2,4,5-Trichlorophenol	< DL(U)	0.050
2,4,6-Trichlorophenol	< DL(U)	0.050
2,4-Dinitrotoluene	< DL(U)	0.050
1,4-Dichlorobenzene	< DL(U)	0.050

\* DL = Detection Limit

Page 1

RESULTS WHEN YOU WANT THEM



# Lozier Analytical Group

5611 Water St.  
Middlesex, NY 14507

Phone: 800-843-5227  
Fax: 585-554-4114

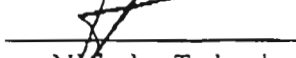
ELAP# 11369

## LABORATORY REPORT - TCLP 8081

Cust SLC ENV. SERVICE  
Address: 295 MILL ST.  
LOCKPORT, N.Y. 14094  
Attn: JERRY JONES

Phone 433-0776  
FAX 433-0802

PO Number:  
Project Number: 02-074-2  
Project Cust:  
Project Site: FILLMORE AVE.

Lab Director:   
Nicholas Tedesche

## SAMPLE DEMOGRAPHICS AND TEST RESULTS

Results in bold type; Detection Limits in small print

Detection Limits\* = Soil=ug/kg ppb

\*See Individual Limit Water=ug/L ppb

Results shown are: Pesticides

Extraction Method: EPA 3510 Liquid/Liquid Extraction

Analysis Method: EPA 8081 GC ECD

Sample ID (LAB) 52424  
Sample ID#1(CUST) FIL-ST-1  
Sample ID#2(CUST)  
Matrix SOLID  
Sampled By JERRY JONES  
Date Sampled 7/24/02  
Date Received 7/26/02 8:15  
Date Analyzed 7/29/02  
Date Reported 7/30/02

	Results	Det Limit*
Gama BHC	< DL(U)	0.1
Heptachlor	< DL(U)	0.2
Heptachlor Epoxide	< DL(U)	0.2
Endrin	< DL(U)	0.2
Methoxychlor	< DL(U)	2.0

< DL(U)=analyzed but not detected

L=estimated value

B=analyte found in blank

E=exceed calibration range

ANALYSIS PERFORMED ON TCLP EXTRACT (WATER).

\* DL = Detection Limit

RESULTS WHEN YOU WANT THEM

RPT8080





# Lozier Analytical Group

5611 Water St.

Phone: 800-843-5227

Middlesex, NY 14507

Fax: 585-554-4114

ELAP# 11369

## LABORATORY REPORT - MISC

Cust: SLC ENV. SERVICE  
 Address: 295 MILL ST.  
 LOCKPORT, N.Y. 14094  
 Attn: JERRY JONES  
 Phone: 433-0776  
 FAX: 433-0802

PO Number:  
 Project Number: 02-074-2  
 Project Cust:  
 Project Site: FILLMORE AVE.  
 Date FAXED: 52425  
 Lab Director:

## SAMPLE DEMOGRAPHICS AND TEST RESULTS

Results in bold type

Detection Limits = Water=mg/l. or PPM  
 Soil=ug/Kg or PPM

Sample ID (LAB)	52425	
Sample ID#1(CUST)	FIL-TF-1	
Sample ID#2(CUST)		
Matrix	LIQUID	
Sampled By	JERRY JONES	
Date Sampled	07/24/02	10:30
Date Received	07/26/02	08:15
Date Analyzed	07/30/02	
Date Reported	08/01/02	

Ignitability: Negative . No flash to 140F/60C  
 Corrosivity: pH=6.08  
 Reactivity: Sulfide: < 20 PPM  
 Cyanide: < 20 PPM

< DL(U)= analyzed but not detected  
 L= estimated value  
 D=analyte found in blank  
 F=exceed calibration range

RESULTS WHEN YOU WANT THEM



# Lozier Analytical Group

5611 Water St.  
Middlesex, NY 14507

Phone: 800-843-5227  
Fax: 585-564-4114

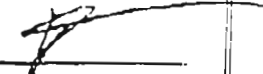
ELAP# 11369

## LABORATORY REPORT - TCLP 8151

Cust SLC ENV. SERVICE  
Address 295 MILL ST.  
ROCKPORT, N.Y. 14094  
Attn: JERRY JONES

Phone 433-0776  
FAX 433-0802

PO Number:  
Project Number: 02-074-2  
Project Cust:  
Project Site: HILLMORE AVE.

Lab Director:   
Nicholas Tedesche

## SAMPLE DEMOGRAPHICS AND TEST RESULTS

Results in bold type; Detection Limits in small print

Detection Limits\* = Soil=ug/kg ppb  
\*See Individual Limit Water=ug/L ppb

Extraction Method: 8151  
Analysis Method: EPA 8151 GC with ECD

Sample ID (LAB) 52425

Sample ID#1(CUST) FIL-TF-1

Sample ID#2(CUST)

Matrix LIQUID

Sampled By JERRY JONES

Date Sampled 07/24/02 10:30

Date Received 07/26/02 8:15

Date Analyzed 08/02/02

Date Reported 08/02/02

	Results	Det Limit
Dicamba	< DL(U)	0.5
2,4-D	< DL(U)	0.5
Silver	< DT (U)	0.5
2,4,5-T	< DL(U)	0.5

< DL(U)=analyzed but not detected

I=Estimated value

B=analyte found in blank

P=outside calibration range

ANALYSIS PERFORMED ON TCLP EXTRACT (WATER).

\* DL = Detection Limit

RESULTS WHEN YOU WANT THEM

PAGE 1



# Lozier Analytical Group

5611 Water St.

Phone: 800-843-5227

Middlesex, NY 14507

Fax: 585-554-4114

ELAP# 11369

## LABORATORY REPORT - 8270 TCLP

Cust: SLC ENV. SERVICE  
 Address: 295 MILL ST.  
 LOCKPORT, N.Y. 14094  
 Attn: JERRY JONES  
 Phone: 433-0776  
 FAX: 433-0802

PO Number:  
 Project Number 02-074-2  
 Project Cust:  
 Project Site: FILLMORE AVE.

Lab Director:   
 Nicholas Tedesche

### SAMPLE DEMOGRAPHICS AND TEST RESULTS

Results in bold type; Detection Limits in small print  
 Detection Limits\* = Water, mg/L ppm  
 \*See Individual Limit

Results shown are: TCLP 8270 Compounds  
 Extraction Method: EPA 3510 Liquid-Liquid  
 Analytic Method: EPA 8270 GC/MS

Sample ID (LAB)  
 Sample ID#1(CUST)  
 Sample ID#2(CUST)  
 Matrix  
 Sampled By  
 Date Sampled  
 Date Received  
 Date Analyzed  
 Date Reported

53425	
FIL-TF-1	
LIQUID	
JERRY JONES	
07/24/02	10:30
07/26/02	08:15
07/31/02	
08/01/02	

	Results	Det Limit*
2-Methylphenol	< DL(U)	0.050
3,4-Methylphenol	< DL(U)	0.100
Hexachlorobenzene	< DL(U)	0.050
Hexachlorobutadiene	< DL(U)	0.050
Hexachloroethane	< DL(U)	0.050
Nitrobenzene	< DL(U)	0.050
Pentachlorophenol	< DL(U)	0.050
Pyridine	< DL(U)	0.050
2,4,5-Trichlorophenol	< DL(U)	0.050
2,4,6-Trichlorophenol	< DL(U)	0.050
2,4-Dinitrotoluene	< DL(U)	0.050
1,4-Dichlorobenzene	< DL(U)	0.050

\* DL = Detection Limit

RESULTS WHEN YOU WANT THEM



# Lozier Analytical Group

5611 Water St.

Phone: 800-843-5227

Middlesex, NY 14507

Fax: 585-554-4114

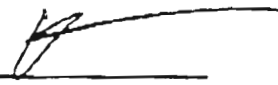
ELAP# 11369

## LABORATORY REPORT - TCLP 8260

Cust SLC ENV. SERVICE  
Address: 295 MILL ST.  
LOCKPORT, N.Y. 14094  
Attn: JERRY JONES

Phone 433-0776  
FAX 433-0802

PO Number:  
Project Number 02-074-2  
Project Cust:  
Project Site: FILLMORE AVE.

Lab Director:   
Nicholas Tedesche

### SAMPLE DEMOGRAPHICS AND TEST RESULTS

Results in bold type; Detection Limits in small print

Detection Limits\* =

Soil= $\mu\text{g}/\text{kg}$  ppb

\*See Individual Limit

Water= $\mu\text{g}/\text{L}$  ppb

Results shown are: Volatile Organic Analytes

Extraction Method: EPA 5030 Purge &amp; Trap

Analysis Method: EPA 8260 GC/MS

Sample ID (LAB)  
Sample ID#1(CUST)  
Sample ID#2(CUST)  
Matrix  
Sampled By  
Date Sampled  
Date Received  
Date Analyzed  
Date Reported

52425	
FIL-TF-1	
LIQUID	
JERRY JONES	
07/24/02	10:30
07/26/02	08:15
07/30/02	
07/31/02	

Vinyl Chloride  
1,1-Dichloroethene  
Methyl ethyl ketone  
Chloroform  
1,1-Dichloropropene  
Carbon Tetrachloride  
1,2-Dichloroethane  
Trichloroethene  
Benzene  
Tetrachloroethene  
Chlorobenzene  
Hexachlorobutadiene  
1,4-Dichlorobenzene

Results	Dct Limit*
<DL(U)	2.0
<DL(U)	2.0
<DL(U)	2.0
<DL(U)	2.0
<DL(U)	2.0
<DL(U)	2.0
<DL(U)	2.0
<DL(U)	2.0
<DL(U)	2.0
<DL(U)	2.0
<DL(U)	2.0
<DL(U)	2.0

&lt; DL(U) = analyzed but not detected

L= estimated value

B=analyte found in blank

E=exceed calibration range

J= &lt; ppq but &gt; MDL

\* DL = Detection Limit

RESULTS WHEN YOU WANT THEM





# Lozier Analytical Group

5611 Water St.  
Middlesex, NY 14507

Phone: 800-843-5227  
Fax: 585-554-4114

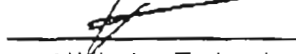
ELAP# 11369

## LABORATORY REPORT - TCLP 8081

Cust SLC ENV. SERVICE  
Address: 295 MILL ST.  
LOCKPORT, N.Y. 14094  
Attn: JERRY JONES

Phone 433-0776  
FAX 433-0802

PO Number:  
Project Number 02-074-2  
Project Cust:  
Project Site: FILLMORE AVE.

Lab Director:   
Nicholas Tedesche

## SAMPLE DEMOGRAPHICS AND TEST RESULTS

Results in bold type; Detection Limits in small print  
Detection Limits\* = Soil=ug/kg ppb  
\*See Individual Limit Water=ug/L ppb

Results shown are: Pesticides  
Extraction Method: EPA 3510 Liquid/Liquid Extraction  
Analysis Method: EPA 8081 GC ECD

Sample ID (LAB) 52425

Sample ID#1(CUST) FIL-TF-1

Sample ID#2(CUST)

Matrix LIQUID

Sampled By JERRY JONES

Date Sampled 7/24/02

Date Received 7/26/02 8:15

Date Analyzed 7/29/02

Date Reported 7/30/02

	Results	Det Limit*
Gamma BHC	< DL(U)	0.1
Heptachlor	< DL(U)	0.2
Heptachlor Epoxide	< DL(U)	0.2
Endrin	< DL(U)	0.2
Methoxychlor	< DL(U)	2.0

< DL(U)=analyzed but not detected

L=estimated value

B=analyte found in blank

E=exceed calibration range

ANALYSIS PERFORMED ON TCLP EXTRACT (WATER).

\* DL = Detection Limit



# Lozier Analytical Group

5611 Water St.  
Middlesex, NY 14507

Phone: 800-843-5227  
Fax: 585-554-4114


ELAP# 11369

## LABORATORY REPORT - PCB's by 8082

Cust SLC ENV. SERVICE  
Address: 295 MILL ST.  
LOCKPORT, N.Y. 14094  
Attn: JERRY JONES

Phone 433-0776  
FAX 433-0802

PO Number:  
Project Number: 02-074-2  
Project Cust:  
Project Site: FILLMORE AVE.

Lab Director:   
Nicholas Tedesche

## SAMPLE DEMOGRAPHICS AND TEST RESULTS

Results in bold type; Detection Limits in small print

Detection Limits\* = Oil=ug/kg (ppb)

Extraction Method: 3580 Waste Dilution

\*See Individual Limit

Analysis Method: EPA 8082 GC with ECD

Sample ID (LAB) 52425  
Sample ID#1(CUST) FIL-TF-1  
Sample ID#2CUST)  
Matrix LIQUID  
Sampled By JERRY JONES  
Date Sampled 07/24/02 10:30  
Date Received 07/26/02 8:15  
Date Analyzed 07/29/02  
Date Reported 07/30/02

	Results	Det Limit*
Aroclor 1016	< DL(U)	500.0
Aroclor 1221	< DL(U)	500.0
Aroclor 1232	< DL(U)	500.0
Aroclor 1242	< DL(U)	500.0
Aroclor 1248	< DL(U)	500.0
Aroclor 1254	< DL(U)	500.0
Aroclor 1260	< DL(U)	500.0

< DL(U)=analyzed but not detected

L=estimated value

B=analyte found in blank

E=exceed calibration range

\* DL = Detection Limit

RESULTS WHEN YOU WANT THEM

PCB





# Lozier Analytical Group

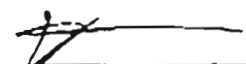
5611 Water St.  
Middlesex, NY 14507

Phone: 800-843-5227  
Fax: 585-494-4114

ELAP# 11369

## LABORATORY REPORT - MISC

**Client:** S.L.C ENV. SERVICE  
**Address:** 295 MILL ST.  
 LOCKPORT, N.Y. 14094  
**Attn:** JERRY JONES  
  
**Phone:** 433-0776  
**FAX:** 433-0802

**PO Number:**  
**Project Number:** 02-074-2  
**Project Cost:**  
**Project Site:** FILLMORE AVE.  
**Date FAXED:** 52426  
**Lab Director:** 

## SAMPLE DEMOGRAPHICS AND TEST RESULTS

Results in bold type  
 Detection Limits = Water=mg/L or PPM  
 Soil=mg/Kg or PPM

**Sample ID (LAB)**  
**Sample ID#1(CUST)**  
**Sample ID#2(CUST)**  
**Matrix**  
**Sampled By**  
**Date Sampled**  
**Date Received**  
**Date Analyzed**  
**Date Reported**

52426	
FIL-B/F-1	
LIQUID	
JERRY JONES	
07/24/02	10:30
07/26/02	08:15
07/30/02	
08/01/02	

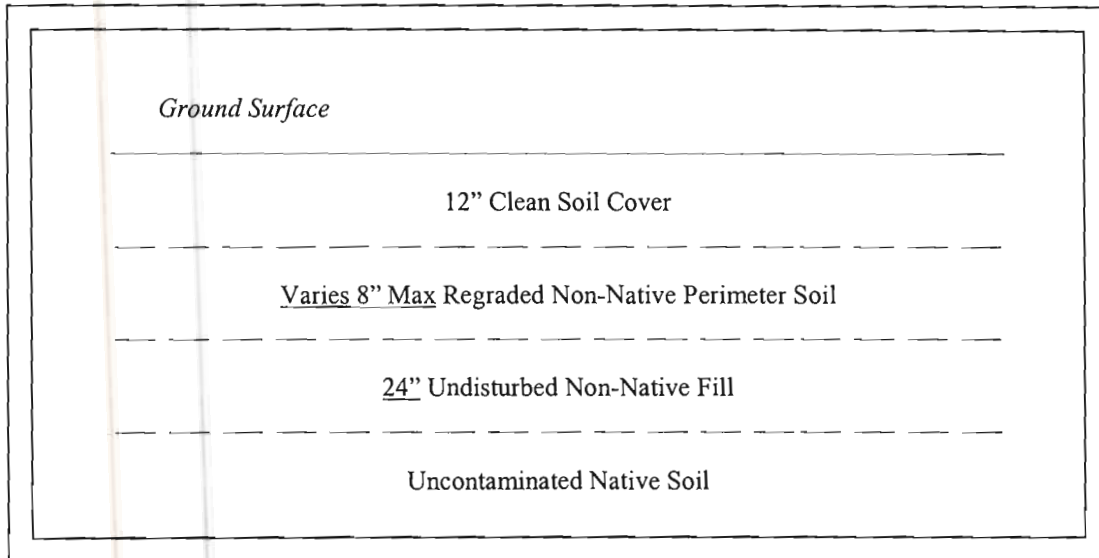
**Ignitability:** Negative, No flash to 140F/60C  
  
**Corrosivity:** pH=7.00  
  
**Reactivity:** Sulfides: < 20 PPM  
 Cyanide: < 20 PPM

< DL(L)F analyzed but not detected  
 E=estimated value  
 B=analytic found in blank  
 e=exceeds calibration range

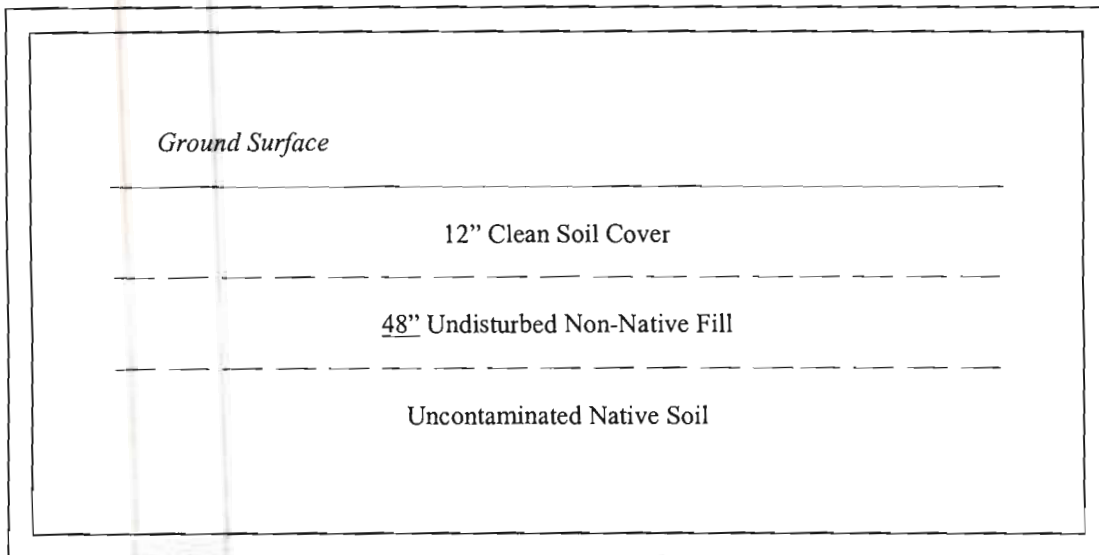
**RESULTS WHEN YOU WANT THEM**

**EXHIBIT 7**

153 Fillmore Avenue  
City of Tonawanda  
Typical Soil Cover  
Cross—Sections

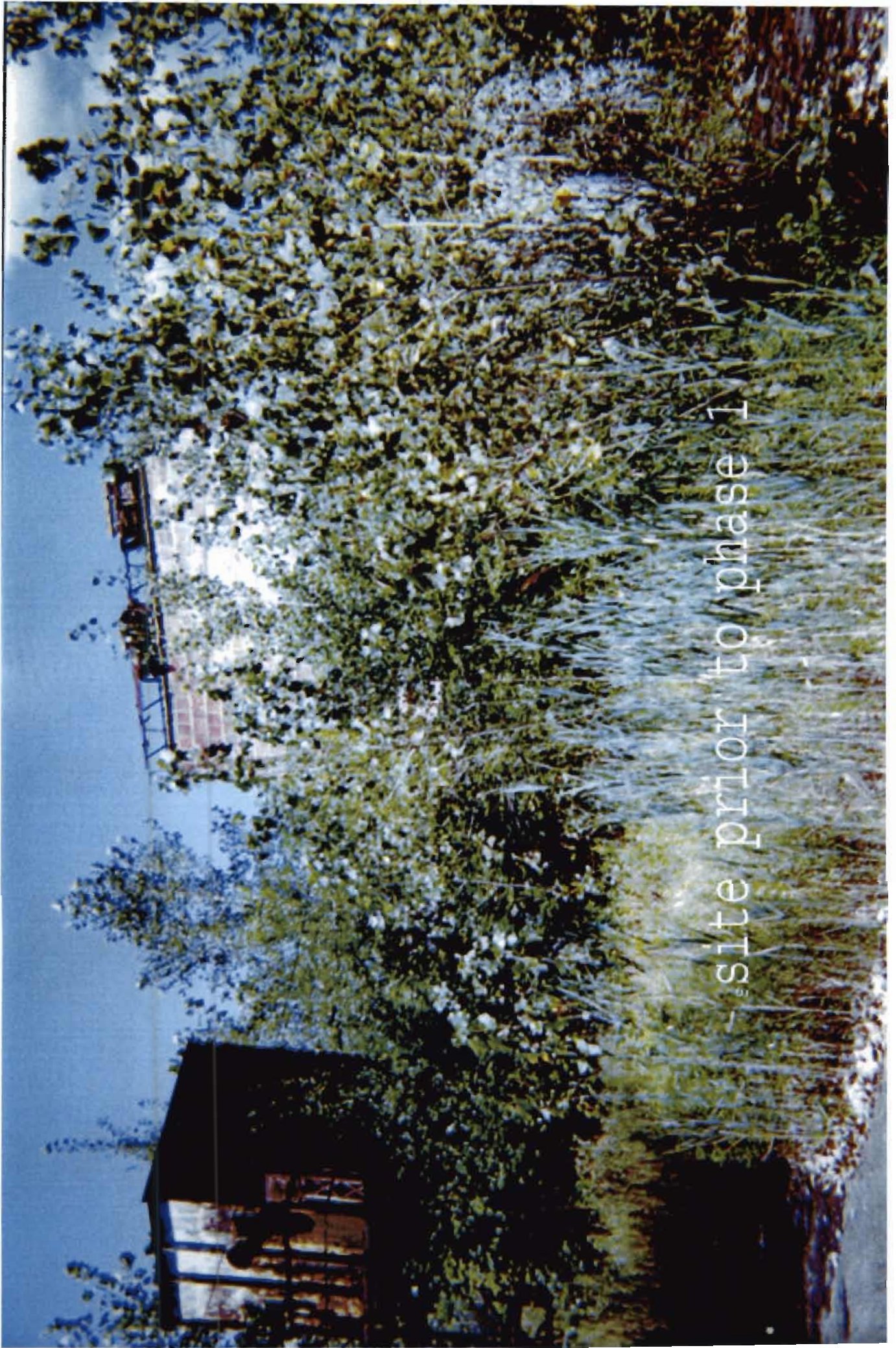


Northeast Area



Southeast Area

# PICTURES



site prior to phase 1





structure removed in phase 1



tank removal phase 1



above-ground storage tank



Fillmore Ave 7/23/02 contaminated soil pile



Fillmore Ave. 7/23/02



Fillmore Ave 7/23/02



Fillmore Ave. 7/23/02



9/24/02 Fillmore Ave.



