



The Brownfield Opportunity Area Program Determination of Conformance Application Form

Applicability/Purpose: This application should be used to request a Determination of Conformance from the Secretary of State for a project located on a real property site that is (1) enrolled in and subject to the remediation requirements of the Brownfield Cleanup Program (BCP) as determined by the Department of Environmental Conservation (DEC), and located within a designated Brownfield Opportunity Area (BOA) that has been designated by the Secretary.

This application may be submitted at any time after DEC has issued a BCP Final Decision Document approving a Remedial Work Plan as described in section 375-3.8(g) of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR §375-3.8(g)) for the real property site proposed for development.

Please do not complete this application if you wish to claim tax credits for expenditures related to these other components of the brownfield redevelopment tax credit: (1) site preparation and cleanup tax credit component, and (2) on-site groundwater remediation tax credit component.

Section 1: Applicant/Requestor Information

Is the Requestor the Property Owner? [X] YES or [] NO

Name of Requestor: 2424 Hamburg Turnpike, LLC

Address: 2558 Hamburg Turnpike, Suite 340, Buffalo, NY 14218

Phone: (716) 998-4151

Email: phwerthman@gmail.com

Name and Contact Information of Authorized Representative (if different):

Name and Contact Information of Property Owner (if different):

Section 2: Brownfield Cleanup Program (BCP) Application Information

A. BCP Project Site Number: C915296

B. Date that the DEC executed the Brownfield Cleanup Agreement (BCA) for the project: 11/02/2015

The Brownfield Opportunity Area Program Determination of Conformance Application Form

C. Provide date of the Final Decision Document: March 2018
 (Attach Final Decision Document for the DEC BCP site per application instructions DOS-2015-INST.)

D. Has DEC issued a Certificate of Completion (COC) for the BCP site?
 YES (If yes, date of COC: _____) or NO

Section 3: Property Information

A. Proposed Project Name: 2424 Hamburg Turnpike Site Redevelopment

B. Address/Location: 2424 Hamburg Turnpike

City/Town/Village and Zip: Lackawanna 14218

Municipality(ies): City of Lackawanna

County(ies): Erie

C. Size of Site to be Developed (acres): 1.05

D. Tax map information for all tax parcels included within the project boundaries. Attach required maps per the application instructions.

141.59-5-2

Section 4: Brownfield Opportunity Area (BOA) Information

A. Name of Designated BOA: City of Lackawanna First Ward BOA

B. Municipality or municipalities, including any county, in which the BOA is located. If more than one, list all.

City of Lackawanna, Erie County

C. Is the proposed development located on a Strategic Site as described in the BOA Nomination document?

YES or NO If yes, list the page(s) in the BOA Nomination where this information is referenced:

	Strategic Site Information	BOA Nomination Page(s)
1		
2		
3		
4		

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Section 5: Project Information

- A. Project Narrative. Describe the proposed development, including location, uses and density, site layout and relationship of development to surrounding uses. (Attach additional sheets if necessary.)

Site redevelopment plans will be prepared as development opportunities arise and will be consistent with the local zoning plan. Site utilities (i.e., sewer, water, electric, gas) are available. The building has been equipped with new doors and heat, and all interior features have been removed. The development plan is to lease the Site as commercial retail and/or office rental space then complete the interior and exterior to the lessee's requirements.

The Site is located within a moderately developed mixed-use commercial, industrial and residential area of the City of Lackawanna, Erie County, New York. The Bethlehem Redevelopment Area is adjacent to and west of the Site as identified in the May 2018 Draft City of Lackawanna Local Waterfront Revitalization Program (LWRP).

Figure 1 - Property Base Map - shows the location of the property and surrounding uses

Figure 2 - Site Plan - shows the location and size of the the existing structure

Figure 3 - Rendering - show the style, size and scale of the existing building

Figure 4 - Land Use/Zoning Map - shows the current land use and zoning for the Site and surrounding properties

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- B. List of maps and documents attached to the application: (Refer to instructions DOS-2045-INST.)

- Property base map
- Site plan
- Renderings
- Other (Describe: Land Use/Zoning Map)

The Brownfield Opportunity Area Program Determination of Conformance Application Form

Section 6. Project Conformance to Criteria

- A. How are the uses proposed for the site consistent with the vision statement, goals and objectives for revitalization as described in the BOA plan? (Attached additional sheets if necessary.)

The Site is within the Hamburg Turnpike (Route 5) Corridor, a reinvestment area within the First Ward BOA. The public, community groups, and city, county and state governments support redevelopment along the Hamburg Turnpike (2018 BOA Final Implementation Plan, page 76). As outlined in the Design Framework of the 2018 BOA Plan (Section 9.0, page 149), one of the visions of the BOA is promotion of economic development via development of vacant and underutilized parcels along the Hamburg Turnpike to include a mix of uses and establish density; increase retail business, good and services, community centers, and office parks in the BOA; and continue marketing campaign to heighten developer interest in Hamburg Turnpike. Implementation of the proposed project fulfills this vision by turning this vacant property into commercial retail and/or office rental space. Attracting people to this Site on a daily basis will provide additional patrons to the Ridge Road commercial district.

The following opportunities and goals are presented in Section 9.0 (page 161) of the 2018 BOA Implementation Study:

The Hamburg Turnpike lies in the center of a high commuting route from the south towns to the City of Buffalo. This route is located on the fringe of the Buffalo-Niagara Metropolitan Statistical Area (MSA). This commuter corridor and regional connector provides the passage of upwards of 40,000 trips per day. While the high commuter traffic was discussed as a challenge above, this high level traffic pattern can be seen as an opportunity as well. The need to capture these commuters by instituting potential destination retail, additional commercial use and service type amenities will transform the landscape of this portion of the First Ward BOA significantly. Traffic calming is seen as an opportunity to encourage additional retail development on the eastern portion of the Hamburg Turnpike. This is because creating more efficient but welcoming streets to accommodate all users is increasingly sustainable and allows for increased economic development. Overall traffic calming along the Hamburg Turnpike will increase safety, mobility, access and economic vitality.

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- B. How are the density and configuration of the proposed development and associated buildings and structures consistent with the objectives, desired redevelopment, and priorities for investment as stated in the BOA plan? (Attach additional sheets if necessary.)

According to the 2018 BOA Plan (page 172), the Conceptual Land Use Plan targets commercial/retail redevelopment. The land fronting the eastern side of Hamburg Turnpike is intended to cater to commuters in the form of retail and service needs. Specific uses include hotel/hospitality, destination retail, locally-serving retail, gasoline stations, car washes, etc. The current redevelopment plan is unchanged from previous use and consistent with applicable zoning and land use as presented in the 2018 BOA Plan.

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C. Please explain whether zoning and other land use regulations are applicable to your proposed development and if such applicable zoning or other land use regulations are set forth or proposed in the related BOA Nomination(s). How does the proposed development comply with the zoning and other land use regulations that were provided for or proposed in the BOA Nomination (if applicable)? (Attach additional sheets if necessary.)

The Site falls within the Hamburg Turnpike Corridor of the First Ward BOA as well as the Seaway Trail Overlay District, which regulates development to maintain views of Lake Erie. The project follows the design guidelines for this Overlay District as outlined in the 2018 BOA Plan (page 43).

In the City of Lackawanna, land use is regulated by the City of Lackawanna Zoning Ordinance. Figure 4.10 of the 2018 BOA Plan indicates the Site is zoned for regional commercial use. This designation is designed to allow for the development of large-scale commercial uses while protecting surrounding uses from increased traffic, lighting, noise and other encroachments. Maximum building height permitted is 3 stories or 30 feet. The existing building conforms with this zoning designation.

Therefore, the proposed development complies with the zoning and other land use regulations.

Section 7: Municipal Notification

For each municipality receiving notification, provide contact information and date the application was sent. (Attach proof of delivery as per instructions DOS-2045-INST.)

Municipality	Mailing Address	Date Application Sent
City of Lackawanna	714 Ridge Road, Room 309 Lackawanna, New York 14218	11/12/2019
Erie County DEP	95 Franklin St, Room 1064, Buffalo, NY 14202	11/12/2019

The Brownfield Opportunity Area Program Determination of Conformance Application Form

Statement of Certification and Signatures

(By requestor who is an individual)

I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable under law, which may include punishment as a Class A misdemeanor pursuant to section 210.45 of the Penal Law.

Signature: _____

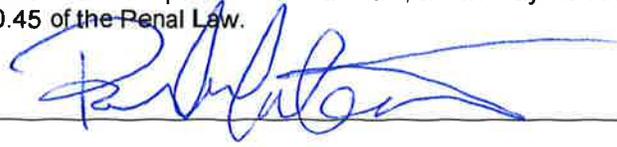
Print Name: _____

Date: _____

(By a requestor other than an individual)

I hereby affirm that I am Managing Member (title)
of 2424 Hamburg Turnpike, LLC (entity);

that this application was prepared by me or under my supervision and direction. I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable under law, which may include punishment as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

Signature:  _____

Print Name: Paul H. Werthman

Date: 11-12-2019

SUBMISSION INSTRUCTIONS

Submit one (1) hard copy of this completed application form with original signatures and all required attachments. In addition, transmit one (1) complete electronic copy of the completed application with all required attachments in Portable Document Format (PDF). The hard copy documents, together with a thumb drive, compact disk (CD), or DVD containing the electronic PDF copy of the completed application, should be sent to:

Honorable Rossana Rosado
Secretary of State
New York State Department of State
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001
Attn: BOA Program

**Brownfield Opportunity Area Program
Determination of Conformance Application Form**

**2424 Hamburg Turnpike Site
BCP Site No. C9151296**

List of Figures

- | | |
|----------|---------------------|
| Figure 1 | Property Base Map |
| Figure 2 | Site Plan |
| Figure 3 | Rendering |
| Figure 4 | Land Use/Zoning Map |

Attachment

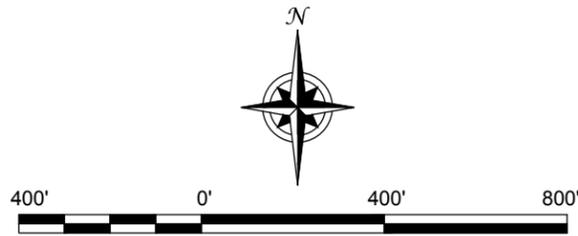
- | | |
|--------------|--|
| Attachment 1 | March 2018 Final Decision Document, 2424 Hamburg Turnpike Site |
| Attachment 2 | Proof of Delivery to City of Lackawanna and Erie County DEP |

FIGURES

LEGEND

 BCP & PROPERTY BOUNDARY

NOTES:
1. AERIAL IMAGE SOURCE: GOOGLE EARTH.



SCALE: 1 INCH = 400 FEET
SCALE IN FEET
(approximate)



PROPERTY BASE MAP

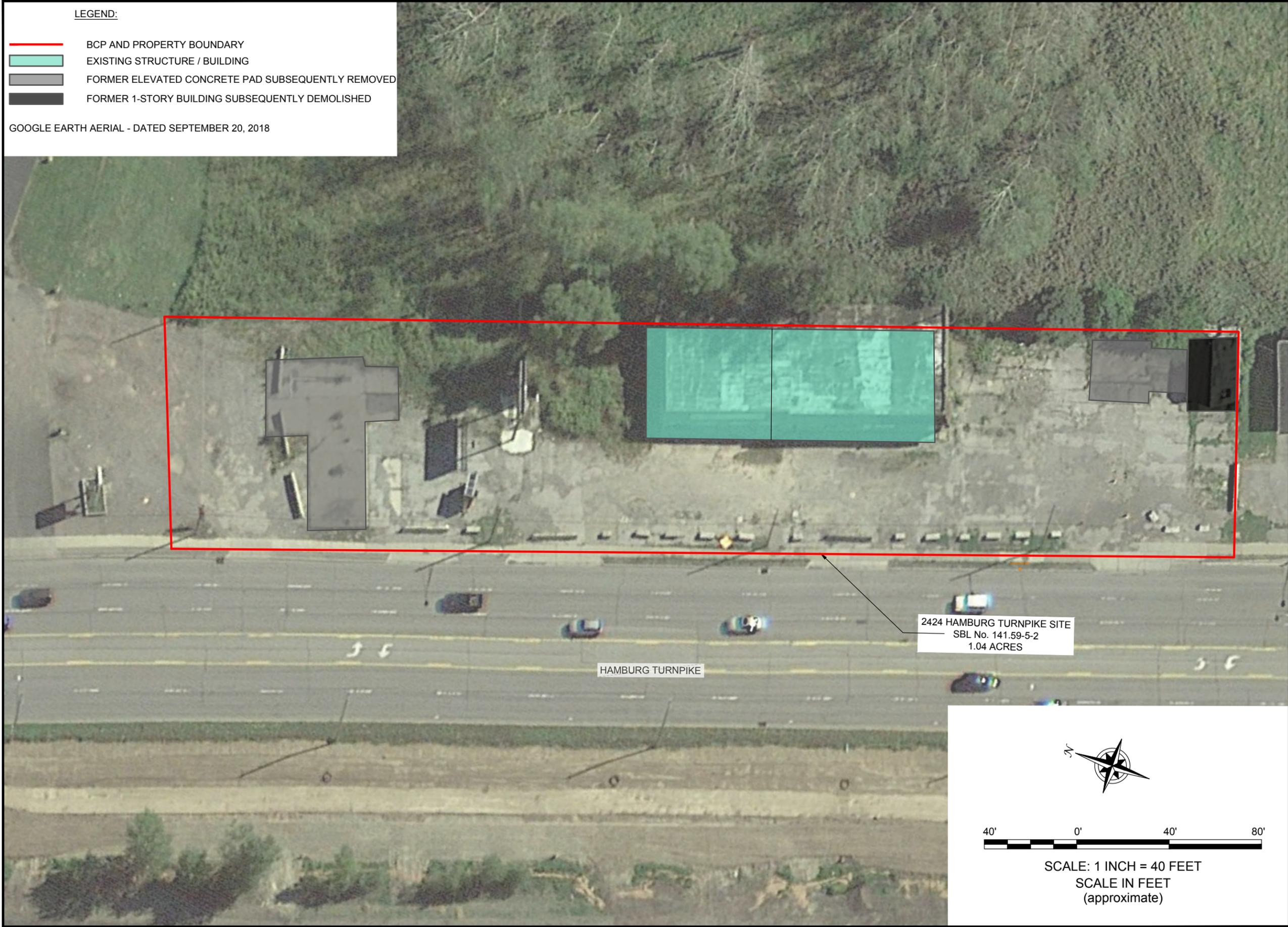
BOA PROGRAM DETERMINATION OF CONFORMANCE
2424 HAMBURG TURNPIKE SITE
BCP SITE NO. C915296
LACKAWANNA, NEW YORK
PREPARED FOR
2424 HAMBURG TURNPIKE, LLC



JOB NO.: 0345-015-001

FIGURE 1

DISCLAIMER: PROPERTY OF BENCHMARK EES, PLLC. IMPORTANT: THIS DRAWING PRINT IS LOANED FOR MUTUAL ASSISTANCE AND AS SUCH IS SUBJECT TO RECALL AT ANY TIME. INFORMATION CONTAINED HEREON IS NOT TO BE DISCLOSED OR REPRODUCED IN ANY FORM FOR THE BENEFIT OF PARTIES OTHER THAN NECESSARY SUBCONTRACTORS & SUPPLIERS WITHOUT THE WRITTEN CONSENT OF BENCHMARK EES, PLLC.



SITE PLAN

BOA PROGRAM DETERMINATION OF CONFORMANCE

2424 HAMBURG TURNPIKE SITE
BCP SITE NO. C915296
LACKAWANNA, NEW YORK
PREPARED FOR
2424 HAMBURG TURNPIKE, LLC

BENCHMARK
ENVIRONMENTAL
ENGINEERING &
SCIENCE, PLLC
2556 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0599

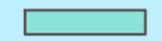
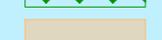
JOB NO.: 0345-015-001

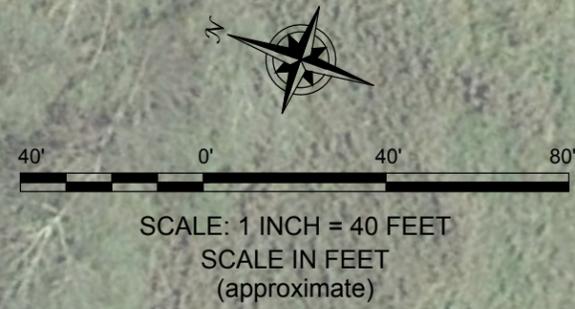
FIGURE 2

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LEGEND:

-  BCP AND PROPERTY BOUNDARY
-  EXISTING STRUCTURE / BUILDING
-  ASPHALT COVER
-  SOIL COVER
-  POURED CONCRETE
-  PHOTO LOCATION



P2



P1



P3

NOTE: PHOTOS TAKEN OCTOBER 24, 2019

RENDERING

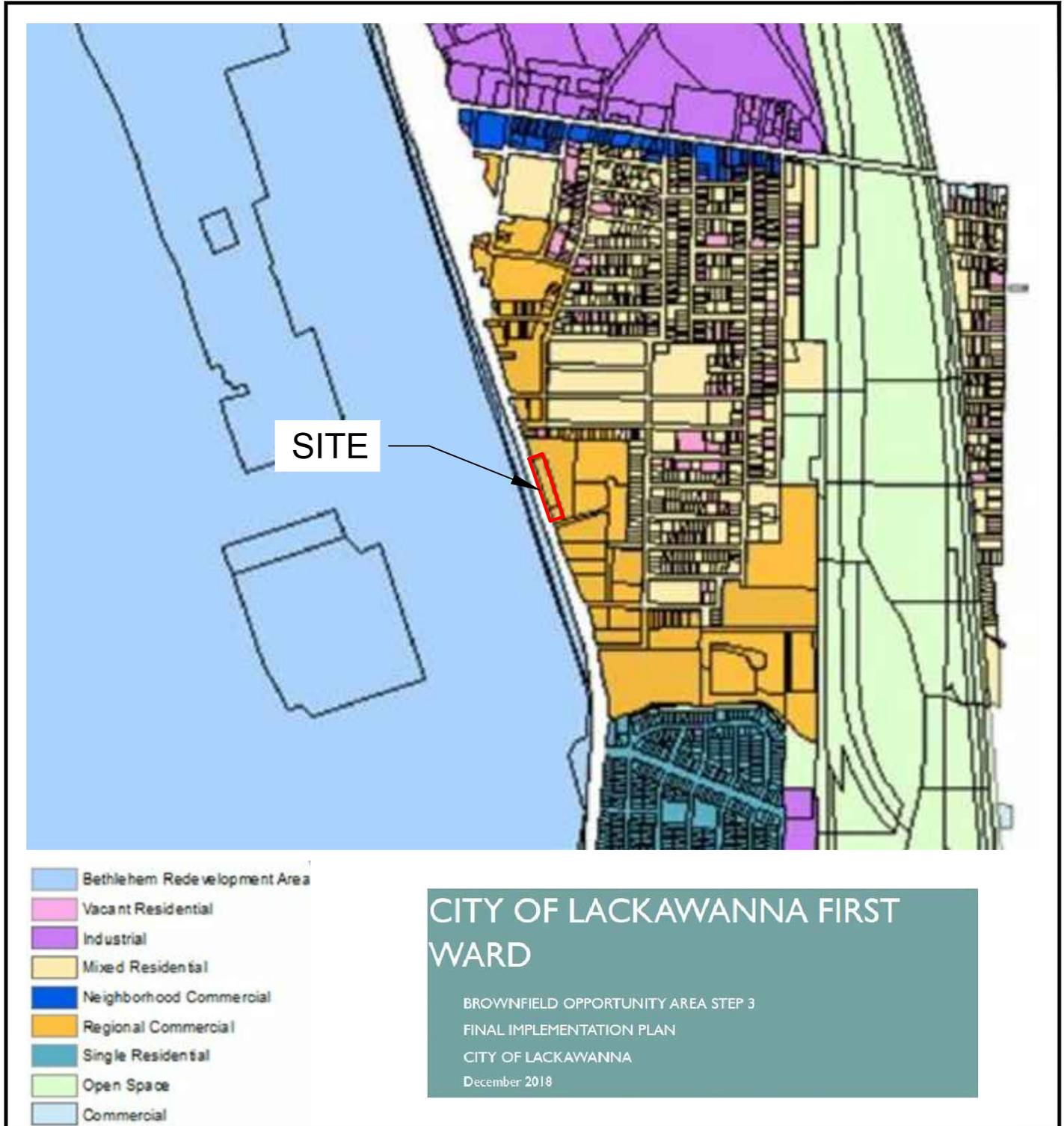
BOA PROGRAM DETERMINATION OF CONFORMANCE
 2424 HAMBURG TURNPIKE SITE
 BCP SITE NO. C915296
 LACKAWANNA, NEW YORK
 PREPARED FOR
 2424 HAMBURG TURNPIKE, LLC



JOB NO.: 0345-015-001

FIGURE 3

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2558 HAMBURG TURNPIKE
 SUITE 300
 BUFFALO, NY 14218
 (716) 856-0599

LAND USE / ZONING MAP

BOA PROGRAM DETERMINATION OF CONFORMANCE

2424 HAMBURG TURNPIKE SITE
 BCP SITE NO. C915296
 LACKAWANNA, NEW YORK

PREPARED FOR

2424 HAMBURG TURNPIKE, LLC

PROJECT NO.: 0345-015-001

DATE: OCTOBER 2019

DRAFTED BY: CCB

DISCLAIMER:

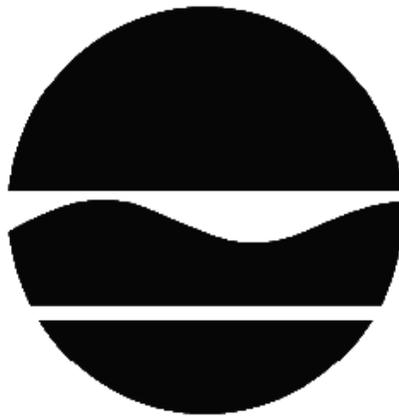
PROPERTY OF BENCHMARK EES, PLLC. IMPORTANT: THIS DRAWING PRINT IS LOANED FOR MUTUAL ASSISTANCE AND AS SUCH IS SUBJECT TO RECALL AT ANY TIME. INFORMATION CONTAINED HEREON IS NOT TO BE DISCLOSED OR REPRODUCED IN ANY FORM FOR THE BENEFIT OF PARTIES OTHER THAN NECESSARY SUBCONTRACTORS & SUPPLIERS WITHOUT THE WRITTEN CONSENT OF BENCHMARK EES, PLLC.

ATTACHMENT 1

MARCH 2018 FINAL DECISION DOCUMENT

DECISION DOCUMENT

2424 Hamburg Turnpike
Brownfield Cleanup Program
Lackawanna, Erie County
Site No. C915296
March 2018



Prepared by
Division of Environmental Remediation
New York State Department of Environmental Conservation

DECLARATION STATEMENT - DECISION DOCUMENT

2424 Hamburg Turnpike
Brownfield Cleanup Program
Lackawanna, Erie County
Site No. C915296
March 2018

Statement of Purpose and Basis

This document presents the remedy for the 2424 Hamburg Turnpike site, a brownfield cleanup site. The remedial program was chosen in accordance with the New York State Environmental Conservation Law and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR) Part 375.

This decision is based on the Administrative Record of the New York State Department of Environmental Conservation (the Department) for the 2424 Hamburg Turnpike site and the public's input to the proposed remedy presented by the Department.

Description of Selected Remedy

1. Remedial Design

A remedial design program will be implemented to provide the details necessary for the construction, operation, optimization, maintenance, and monitoring of the remedial program. Green remediation principles and techniques will be implemented to the extent feasible in the design, implementation, and site management of the remedy as per DER-31. The major green remediation components are as follows;

- Considering the environmental impacts of treatment technologies and remedy stewardship over the long term;
- Reducing direct and indirect greenhouse gases and other emissions;
- Increasing energy efficiency and minimizing use of non-renewable energy;
- Conserving and efficiently managing resources and materials;
- Reducing waste, increasing recycling and increasing reuse of materials which would otherwise be considered a waste;
- Maximizing habitat value and creating habitat when possible;
- Fostering green and healthy communities and working landscapes which balance ecological, economic and social goals; and
- Integrating the remedy with the end use where possible and encouraging green and sustainable re-development.

2. In-Situ Dual Phase Soil Vapor and Groundwater Extraction System

Dual phase extraction (DPE), also known as multi-phase extraction, is a technology that uses a high-vacuum system to remove both contaminated groundwater and soil vapor. In DPE systems a high-vacuum extraction well is installed with its screened section in the zone of contaminated

soils and groundwater. Fluid/vapor extraction systems depress the water table and water flows faster to the extraction well. DPE removes contaminants from above and below the water table.

Prior to the full implementation of this technology, a pilot study will be conducted to more clearly define design parameters. The pilot study will determine dual phase soil vapor and groundwater extraction (DPE) well zone of influence and operational parameters including the installation of (9) DPE wells: two within the former automotive repair building, six west of the building, and one north of the former UST excavation.

If the studies determine that the treated soil/groundwater does not or will not meet the remedial action objectives for groundwater using this technology alone, additional treatment/design will be conducted and/or an alternate technology will be proposed.

The operation of the components of the remedy will continue until the remedial objectives have been achieved, or until the Department determines that continued effective operation is technically impracticable or no longer feasible.

3. Cover System

A site cover will be required to allow for commercial use of the site in areas where the upper one foot of exposed surface soil will exceed the applicable soil cleanup objectives (SCOs). Where a soil cover is to be used, it will be a minimum of one foot of soil placed over a demarcation layer, with the upper six inches of soil of sufficient quality to maintain a vegetative layer. Soil cover material, including any fill material brought to the site, will meet the SCOs for cover material for the use of the site as set forth in 6 NYCRR Part 375-6.7(d). Substitution of other materials and components may be allowed where such components already exist or are a component of the tangible property to be placed as part of site redevelopment. Such components may include, but are not necessarily limited to: pavement, concrete, paved surface parking areas, sidewalks, building foundations and building slabs.

4. Institutional Control

Imposition of an institutional control in the form of an environmental easement for the controlled property which will:

- require the remedial party or site owner to complete and submit to the Department a periodic certification of institutional and engineering controls in accordance with Part 375-1.8 (h)(3);
- allow the use and development of the controlled property for commercial or industrial use as defined by Part 375-1.8(g), although land use is subject to local zoning laws;
- restrict the use of groundwater as a source of potable or process water, without necessary water quality treatment as determined by the NYSDOH or County DOH; and
- require compliance with the Department approved Site Management Plan.

5. Site Management Plan

A Site Management Plan is required, which includes the following:

- a. an Institutional and Engineering Control Plan that identifies all use restrictions and engineering controls for the site and details the steps and media-specific requirements necessary to ensure the following institutional and/or engineering controls remain in place and effective:

Institutional Controls: The Environmental Easement discussed in Paragraph 4 above.

Engineering Controls: The cover system discussed in Paragraph 3 above and the in-situ dual phase soil vapor and groundwater extraction system discussed in Paragraph 2 above.

This plan includes, but may not be limited to:

- an Excavation Plan which details the provisions for management of future excavations in areas of remaining contamination;
- descriptions of the provisions of the environmental easement including any land use, groundwater, and surface water use restrictions;
- a provision for evaluation of the potential for soil vapor intrusion for any existing buildings that become (re)occupied and any new buildings developed on the site, including provision for implementing actions recommended to address exposures related to soil vapor intrusion;
- a provision that should a building foundation or building slab be removed in the future, a cover system consistent with that described in Paragraph 3 above will be placed in any areas where the upper one foot of exposed surface soil exceeds the applicable soil cleanup objectives (SCOs)
- provisions for the management and inspection of the identified engineering controls;
- maintaining site access controls and Department notification; and
- the steps necessary for the periodic reviews and certification of the institutional and/or engineering controls.

b. a Monitoring Plan to assess the performance and effectiveness of the remedy. The plan includes, but may not be limited to:

- monitoring of groundwater to assess the performance and effectiveness of the remedy; and
- a schedule of monitoring and frequency of submittals to the Department; and
- monitoring for vapor intrusion for any buildings on the site, as may be required by the Institutional and Engineering Control Plan discussed above.

c. an Operation and Maintenance (O&M) Plan to ensure continued operation, maintenance, optimization, monitoring, inspection, and reporting of any mechanical or physical components of the remedy. The plan includes, but is not limited to:

- procedures for operating and maintaining the remedy;
- compliance monitoring of treatment systems to ensure proper O&M as well as providing the data for any necessary permit or permit equivalent reporting;
- maintaining site access controls and Department notification; and
- providing the Department access to the site and O&M records.

Declaration

The remedy conforms with promulgated standards and criteria that are directly applicable, or that are relevant and appropriate and takes into consideration Department guidance, as appropriate. The remedy is protective of public health and the environment.

Michael J Cruden

Digitally signed by Michael J Cruden
DN: cn=Michael J Cruden, o=DER, ou=RBE,
email=mjcruden@gw.dec.state.ny.us, c=US
Date: 2018.03.08 10:16:22 -05'00'

Date

Michael Cruden, Director
Remedial Bureau E

DECISION DOCUMENT

2424 Hamburg Turnpike
Lackawanna, Erie County
Site No. C915296
March 2018

SECTION 1: SUMMARY AND PURPOSE

The New York State Department of Environmental Conservation (the Department), in consultation with the New York State Department of Health (NYSDOH), has selected a remedy for the above referenced site. The disposal of contaminants at the site has resulted in threats to public health and the environment that would be addressed by the remedy. The disposal or release of contaminants at this site, as more fully described in this document, has contaminated various environmental media. Contaminants include hazardous waste and/or petroleum.

The New York State Brownfield Cleanup Program (BCP) is a voluntary program. The goal of the BCP is to enhance private-sector cleanups of brownfields and to reduce development pressure on "greenfields." A brownfield site is real property, the redevelopment or reuse of which may be complicated by the presence or potential presence of a contaminant.

The Department has issued this document in accordance with the requirements of New York State Environmental Conservation Law and 6 NYCRR Part 375. This document is a summary of the information that can be found in the site-related reports and documents.

SECTION 2: CITIZEN PARTICIPATION

The Department seeks input from the community on all remedies. A public comment period was held, during which the public was encouraged to submit comment on the proposed remedy. All comments on the remedy received during the comment period were considered by the Department in selecting a remedy for the site. Site-related reports and documents were made available for review by the public at the following document repository:

Buffalo & Erie County Public Library
Attn: Jennifer Johnston
Lackawanna Branch
560 Ridge Road
Lackawanna, NY 14218
Phone: 716-823-0630

Receive Site Citizen Participation Information By Email

Please note that the Department's Division of Environmental Remediation (DER) is "going

paperless" relative to citizen participation information. The ultimate goal is to distribute citizen participation information about contaminated sites electronically by way of county email listservs. Information will be distributed for all sites that are being investigated and cleaned up in a particular county under the State Superfund Program, Environmental Restoration Program, Brownfield Cleanup Program, Voluntary Cleanup Program, and Resource Conservation and Recovery Act Program. We encourage the public to sign up for one or more county listservs at <http://www.dec.ny.gov/chemical/61092.html>

SECTION 3: SITE DESCRIPTION AND HISTORY

Location: The 1.04-acre site is in an urban area located approximately 300 feet south of the intersection of Hamburg Turnpike and Holbrook Street in the City of Lackawanna.

Site Features: The site is relatively flat, mostly covered with asphalt, and includes a former auto repair building with an in-ground hydraulic lift and a small storage shed.

Current Zoning and Land Use: The site is currently inactive and zoned commercial/industrial.

Past Use of the Site: From 1957-1994 the site was utilized as an automobile filling and service station. Three 10,000-gallon underground storage tanks (USTs) associated with the filling station were removed in 1994.

Site Geology and Hydrogeology: Site soils consist of 0 to 8 feet of fill material (sand, gravel, brick, slag, soils) underlain by native soils (clay, peat and sand) to 16 feet below ground surface (fbgs). Depth to groundwater is 6 to 8 fbgs and flows westward towards Lake Erie.

A site location map is attached as Figure 1.

SECTION 4: LAND USE AND PHYSICAL SETTING

The Department may consider the current, intended, and reasonably anticipated future land use of the site and its surroundings when evaluating a remedy for soil remediation. For this site, alternatives (or an alternative) that restrict(s) the use of the site to commercial use (which allows for industrial use) as described in Part 375-1.8(g) were/was evaluated in addition to an alternative which would allow for unrestricted use of the site.

A comparison of the results of the Remedial Investigation (RI) to the appropriate standards, criteria and guidance values (SCGs) for the identified land use and the unrestricted use SCGs for the site contaminants is available in the RI Report.

SECTION 5: ENFORCEMENT STATUS

The Applicant(s) under the Brownfield Cleanup Agreement is a/are Volunteer(s). The Applicant(s) does/do not have an obligation to address off-site contamination. However, the Department has determined that this site does not pose a significant threat to public health or the environment; accordingly, no enforcement actions are necessary.

SECTION 6: SITE CONTAMINATION

6.1: Summary of the Remedial Investigation

A remedial investigation (RI) serves as the mechanism for collecting data to:

- characterize site conditions;
- determine the nature of the contamination; and
- assess risk to human health and the environment.

The RI is intended to identify the nature (or type) of contamination which may be present at a site and the extent of that contamination in the environment on the site, or leaving the site. The RI reports on data gathered to determine if the soil, groundwater, soil vapor, indoor air, surface water or sediments may have been contaminated. Monitoring wells are installed to assess groundwater and soil borings or test pits are installed to sample soil and/or waste(s) identified. If other natural resources are present, such as surface water bodies or wetlands, the water and sediment may be sampled as well. Based on the presence of contaminants in soil and groundwater, soil vapor will also be sampled for the presence of contamination. Data collected in the RI influence the development of remedial alternatives. The RI report is available for review in the site document repository and the results are summarized in section 6.3.

The analytical data collected on this site includes data for:

- groundwater
- soil

6.1.1: Standards, Criteria, and Guidance (SCGs)

The remedy must conform to promulgated standards and criteria that are directly applicable or that are relevant and appropriate. The selection of a remedy must also take into consideration guidance, as appropriate. Standards, Criteria and Guidance are hereafter called SCGs.

To determine whether the contaminants identified in various media are present at levels of concern, the data from the RI were compared to media-specific SCGs. The Department has developed SCGs for groundwater, surface water, sediments, and soil. The NYSDOH has developed SCGs for drinking water and soil vapor intrusion. For a full listing of all SCGs see: <http://www.dec.ny.gov/regulations/61794.html>

6.1.2: RI Results

The data have identified contaminants of concern. A "contaminant of concern" is a contaminant that is sufficiently present in frequency and concentration in the environment to require evaluation for remedial action. Not all contaminants identified on the property are contaminants of concern. The nature and extent of contamination and environmental media requiring action are summarized below. Additionally, the RI Report contains a full discussion of the data. The

contaminant(s) of concern identified at this site is/are:

benzo(a)pyrene	arsenic
benzo(b)fluoranthene	xylene (mixed)
benzo(a)anthracene	naphthalene
indeno(1,2,3-cd)pyrene	n-propylbenzene
chrysene	isopropylbenzene
benzene	1,2,4-trimethylbenzene
ethylbenzene	1,3,5-trimethylbenzene
toluene	

The contaminant(s) of concern exceed the applicable SCGs for:

- groundwater
- soil

6.2: Interim Remedial Measures

An interim remedial measure (IRM) is conducted at a site when a source of contamination or exposure pathway can be effectively addressed before issuance of the Decision Document. The following IRM activities were conducted March through April 2017.

Limited excavation and off-site disposal of contaminant source areas below the existing auto repair building, including:

- grossly contaminated soil, as defined in 6 NYCRR Part 375-1.2(u) and soils exhibiting PID measures exceeding 100 ppm;
- removal and proper disposal/recycling of existing in-ground auto lifts and contents of, underground piping, and other associated structures;
- non-aqueous phase liquids;
- soil with visual waste material or non-aqueous phase liquid; and
- soils that create a nuisance condition, as defined in Commissioner Policy CP-51 Section G.

Clean fill meeting the commercial soil cleanup objective (CSCO) requirements of 6 NYCRR Part 375-6.7(d) was brought in to replace the excavated soil or complete the backfilling of the excavation and establish the designed grades at the site.

Contamination left in place include grossly contaminated media (GCM) below the foundation of the existing auto repair building (to save the structure) and additional contamination outside and around the former fuel dispensing area to be addressed as part of the final remedy.

6.3: Summary of Environmental Assessment

This section summarizes the assessment of existing and potential future environmental impacts presented by the site. Environmental impacts may include existing and potential future exposure pathways to fish and wildlife receptors, wetlands, groundwater resources, and surface water.

The RI report presents a detailed discussion of any existing and potential impacts from the site to fish and wildlife receptors.

Nature and Extent of Contamination:

Soil and groundwater were analyzed for volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), metals, polychlorinated biphenyls (PCBs), and pesticides. Based upon investigations conducted to date, the primary contaminants of concern include VOCs, SVOCs and grossly contaminated media (GCM).

Surface soil (0-2 inches below ground)

The only exceedance of CSCOs was benzo(a)pyrene at one location (3.2 parts per million (ppm) vs CSCO 1 ppm). The remaining VOC, SVOC, metal, pesticide, herbicide, and PCB concentrations were either below or slightly above Unrestricted Soil Cleanup Objectives (USCOs).

Data does not indicate any off-site impacts to surface soil related to this site.

Subsurface Soil

GCM was identified over approximately two thirds of the site with strong petroleum-like odors, sheen/floating product on the water table to 15 fbs, and photoionization detector (PID) readings up to 1,014 ppm. No VOCs were detected above Part 375 CSCOs. The following SVOCs exceeded CSCOs SCOs: benzo(a)anthracene (up to 13 ppm; CSCO 5.6 ppm), benzo(b)fluoranthene (up to 18 ppm; CSCO 5.6 ppm), benzo(a)pyrene (up to 10 ppm; CSCO 1 ppm), and indeno(1,2,3-cd) pyrene (up to 7.3 ppm; CSCO 5.6 ppm). Arsenic was present above its respective Part 375 CSCO in subsurface soil/fill at three sample locations (up to 25.9 ppm; CSCO is 16 ppm). Pesticides, herbicides and PCBs were not detected above USCOs.

Data does not indicate any off-site impacts to subsurface soil related to this site.

Groundwater

The following VOCs were detected above their Groundwater Quality Standard (GWQS): benzene in two wells at a concentration up to 520 parts per billion (ppb) (GWQS 1.0 ppb); 1,2,4-trimethylbenzene in two wells at a concentration up to 2,000 ppb (GWQS 5.0 ppb); 1,3,5-trimethylbenzene in two wells at a concentration up to 490.0 ppb (GWQS 5.0 ppb); ethylbenzene in one well at a concentration up to 1,500 ppb (GWQS 5.0 ppb); toluene in three wells at a concentration up to 3,000 ppb (GWQS 5.0 ppb); and total xylenes in four wells at a concentration up to 7,800 ppb (GWQS 5.0 ppb).

The following SVOCs were detected above their GWQS: naphthalene in one well at a concentration up to 24 ppb (GWQS 10 ppb); and phenol in one well at a concentration up to 2.1 ppb (GWQS 1 ppb).

Arsenic was detected in two wells at a concentration up to 63 ppb (GWQS 25 ppb).

Herbicides, pesticides and PCBs were not detected above GWQS.

Data does not indicate any off-site impacts in groundwater related to this site.

6.4: Summary of Human Exposure Pathways

This human exposure assessment identifies ways in which people may be exposed to site-related contaminants. Chemicals can enter the body through three major pathways (breathing, touching or swallowing). This is referred to as *exposure*.

Direct contact with contaminants in soil and groundwater is unlikely because the majority of the site is covered with buildings and/or pavement. However, people will come into contact with site-related soil and groundwater contamination if they dig below these materials. Contaminated groundwater at the site is not used for drinking or other purposes and the site is served by a public water supply not affected by this contamination. Volatile organic compounds in the groundwater or soil may move into the soil vapor (air spaces within the soil), which in turn may move into overlying buildings and affect the indoor air quality. This process, which is similar to the movement of radon gas from the subsurface into the indoor air of buildings, is referred to as soil vapor intrusion. Because the site is vacant, the inhalation of site-related contaminants due to soil vapor intrusion does not represent a current concern. However, the potential exists for inhalation of site-related contaminants in indoor air for any future on-site redevelopment or occupancy. Sampling indicates soil vapor intrusion is not a concern for off-site buildings.

6.5: Summary of the Remediation Objectives

The objectives for the remedial program have been established through the remedy selection process stated in 6 NYCRR Part 375. The goal for the remedial program is to restore the site to pre-disposal conditions to the extent feasible. At a minimum, the remedy shall eliminate or mitigate all significant threats to public health and the environment presented by the contamination identified at the site through the proper application of scientific and engineering principles.

The remedial action objectives for this site are:

Groundwater

RAOs for Public Health Protection

- Prevent ingestion of groundwater with contaminant levels exceeding drinking water standards.
- Prevent contact with, or inhalation of volatiles, from contaminated groundwater.

RAOs for Environmental Protection

- Remove the source of ground or surface water contamination.
- Restore ground water aquifer to pre-disposal/pre-release conditions, to the extent practicable.

Soil

RAOs for Public Health Protection

- Prevent ingestion/direct contact with contaminated soil.
- Prevent inhalation of or exposure from contaminants volatilizing from contaminants in soil.

RAOs for Environmental Protection

- Prevent migration of contaminants that would result in groundwater or surface water contamination.

Soil Vapor

RAOs for Public Health Protection

- Mitigate impacts to public health resulting from existing, or the potential for, soil vapor intrusion into buildings at a site.

SECTION 7: ELEMENTS OF THE SELECTED REMEDY

The alternatives developed for the site and the evaluation of the remedial criteria are presented in the Alternative Analysis. The remedy is selected pursuant to the remedy selection criteria set forth in DER-10, Technical Guidance for Site Investigation and Remediation and 6 NYCRR Part 375.

The selected remedy is a Track 4: Restricted use with site-specific soil cleanup objectives remedy.

The selected remedy is referred to as the Commercial Use (Track 4) remedy.

The elements of the selected remedy, as shown in Figure 2, are as follows:

1. Remedial Design

A remedial design program will be implemented to provide the details necessary for the construction, operation, optimization, maintenance, and monitoring of the remedial program. Green remediation principles and techniques will be implemented to the extent feasible in the design, implementation, and site management of the remedy as per DER-31. The major green remediation components are as follows;

- Considering the environmental impacts of treatment technologies and remedy stewardship over the long term;
- Reducing direct and indirect greenhouse gases and other emissions;
- Increasing energy efficiency and minimizing use of non-renewable energy;
- Conserving and efficiently managing resources and materials;
- Reducing waste, increasing recycling and increasing reuse of materials which would otherwise be considered a waste;
- Maximizing habitat value and creating habitat when possible;
- Fostering green and healthy communities and working landscapes which balance ecological, economic and social goals; and
- Integrating the remedy with the end use where possible and encouraging green and sustainable re-development.

2. In-Situ Dual Phase Soil Vapor and Groundwater Extraction System

Dual phase extraction (DPE), also known as multi-phase extraction, is a technology that uses a high-vacuum system to remove both contaminated groundwater and soil vapor. In DPE systems

a high-vacuum extraction well is installed with its screened section in the zone of contaminated soils and groundwater. Fluid/vapor extraction systems depress the water table and water flows faster to the extraction well. DPE removes contaminants from above and below the water table.

Prior to the full implementation of this technology, a pilot study will be conducted to more clearly define design parameters. The pilot study will determine dual phase soil vapor and groundwater extraction (DPE) well zone of influence and operational parameters including the installation of (9) DPE wells: two within the former automotive repair building, six west of the building, and one north of the former UST excavation.

If the studies determine that the treated soil/groundwater does not or will not meet the remedial action objectives for groundwater using this technology alone, additional treatment/design will be conducted and/or an alternate technology will be proposed.

The operation of the components of the remedy will continue until the remedial objectives have been achieved, or until the Department determines that continued effective operation is technically impracticable or no longer feasible.

3. Cover System

A site cover will be required to allow for commercial use of the site in areas where the upper one foot of exposed surface soil will exceed the applicable soil cleanup objectives (SCOs). Where a soil cover is to be used, it will be a minimum of one foot of soil placed over a demarcation layer, with the upper six inches of soil of sufficient quality to maintain a vegetative layer. Soil cover material, including any fill material brought to the site, will meet the SCOs for cover material for the use of the site as set forth in 6 NYCRR Part 375-6.7(d). Substitution of other materials and components may be allowed where such components already exist or are a component of the tangible property to be placed as part of site redevelopment. Such components may include, but are not necessarily limited to: pavement, concrete, paved surface parking areas, sidewalks, building foundations and building slabs.

4. Institutional Control

Imposition of an institutional control in the form of an environmental easement for the controlled property which will:

- require the remedial party or site owner to complete and submit to the Department a periodic certification of institutional and engineering controls in accordance with Part 375-1.8 (h)(3);
- allow the use and development of the controlled property for commercial or industrial use as defined by Part 375-1.8(g), although land use is subject to local zoning laws;
- restrict the use of groundwater as a source of potable or process water, without necessary water quality treatment as determined by the NYSDOH or County DOH; and
- require compliance with the Department approved Site Management Plan.

5. Site Management Plan

A Site Management Plan is required, which includes the following:

- a. an Institutional and Engineering Control Plan that identifies all use restrictions and engineering controls for the site and details the steps and media-specific requirements necessary to ensure the following institutional and/or engineering controls remain in place and effective:

Institutional Controls: The Environmental Easement discussed in Paragraph 4 above.

Engineering Controls: The cover system discussed in Paragraph 3 above and the in-situ dual phase soil vapor and groundwater extraction system discussed in Paragraph 2 above.

This plan includes, but may not be limited to:

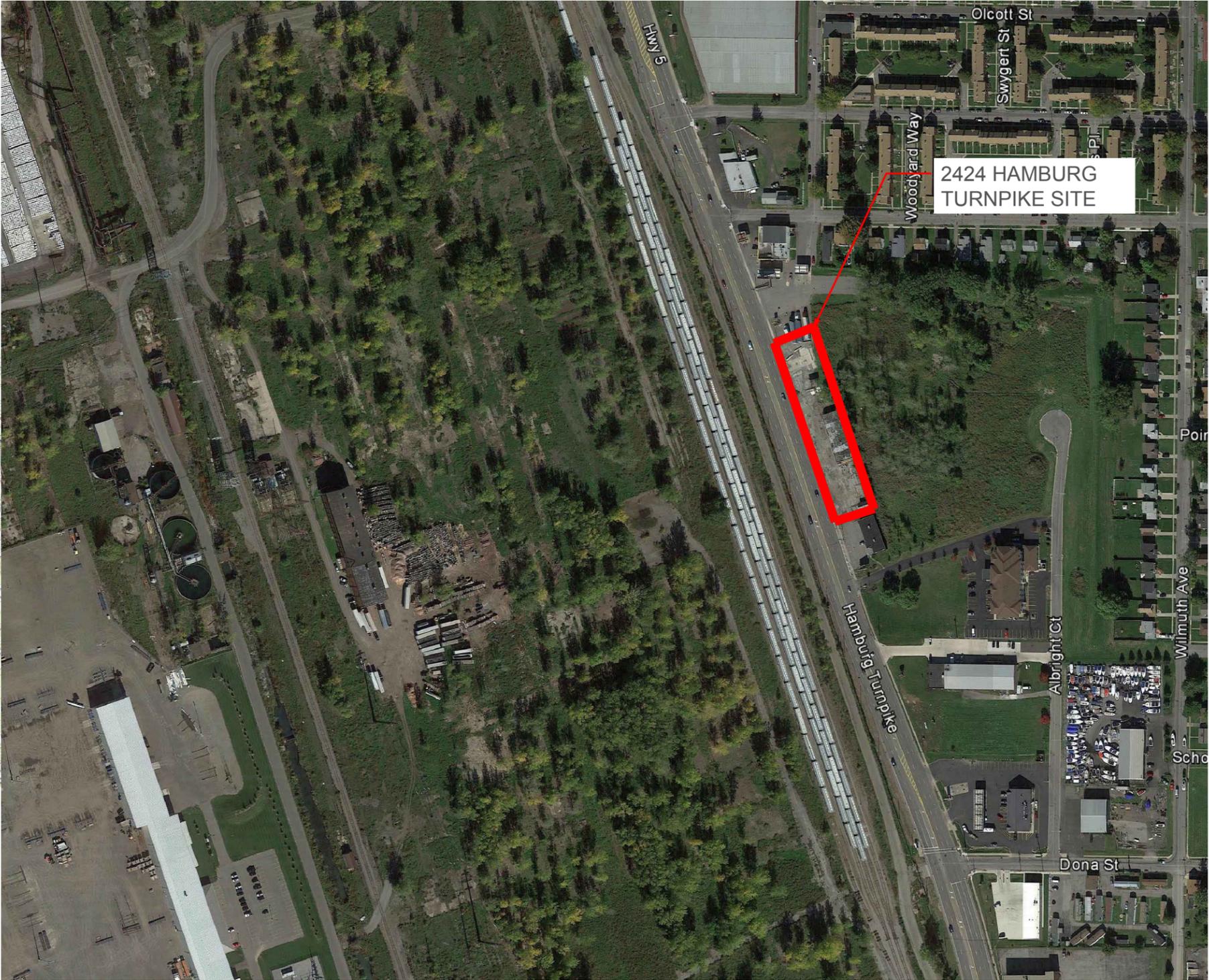
- an Excavation Plan which details the provisions for management of future excavations in areas of remaining contamination;
- descriptions of the provisions of the environmental easement including any land use, groundwater, and surface water use restrictions;
- a provision for evaluation of the potential for soil vapor intrusion for any existing buildings that become (re)occupied and any new buildings developed on the site, including provision for implementing actions recommended to address exposures related to soil vapor intrusion;
- a provision that should a building foundation or building slab be removed in the future, a cover system consistent with that described in Paragraph 3 above will be placed in any areas where the upper one foot of exposed surface soil exceeds the applicable soil cleanup objectives (SCOs)
- provisions for the management and inspection of the identified engineering controls;
- maintaining site access controls and Department notification; and
- the steps necessary for the periodic reviews and certification of the institutional and/or engineering controls.

b. a Monitoring Plan to assess the performance and effectiveness of the remedy. The plan includes, but may not be limited to:

- monitoring of groundwater to assess the performance and effectiveness of the remedy; and
- a schedule of monitoring and frequency of submittals to the Department; and
- monitoring for vapor intrusion for any buildings on the site, as may be required by the Institutional and Engineering Control Plan discussed above.

c. an Operation and Maintenance (O&M) Plan to ensure continued operation, maintenance, optimization, monitoring, inspection, and reporting of any mechanical or physical components of the remedy. The plan includes, but is not limited to:

- procedures for operating and maintaining the remedy;
- compliance monitoring of treatment systems to ensure proper O&M as well as providing the data for any necessary permit or permit equivalent reporting;
- maintaining site access controls and Department notification; and
- providing the Department access to the site and O&M records.



AERIAL OF SITE
APPROXIMATE SCALE 1" = 300'

SOURCE: GOOGLE EARTH OCTOBER 2016 IMAGERY



SITE VICINITY AND LOCATION PLAN

REMEDIAL INVESTIGATION / ALTERNATIVES ANALYSIS REPORT
2424 HAMBURG TURNPIKE SITE
LACKAWANNA, NEW YORK
PREPARED FOR
2424 HAMBURG TURNPIKE, LLC

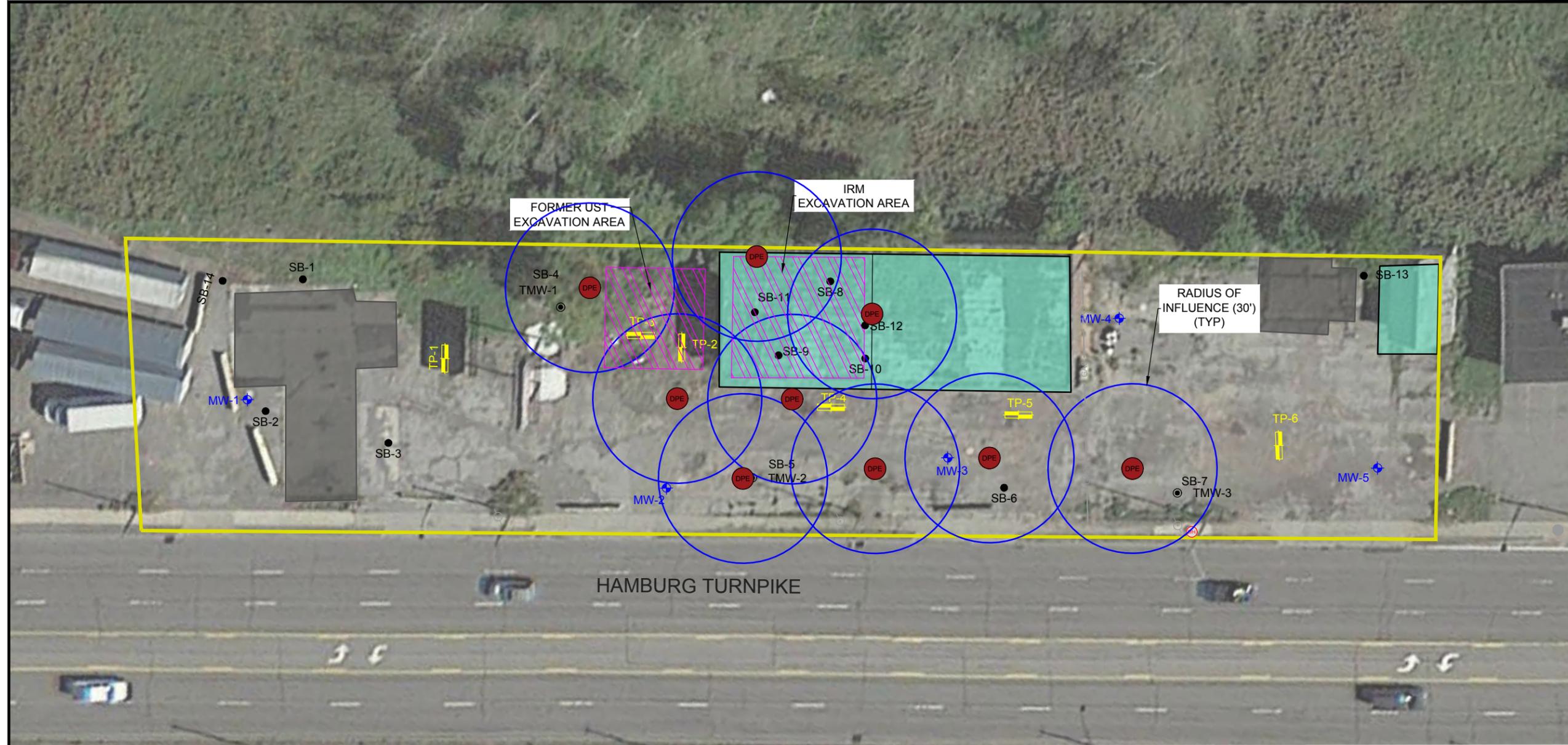


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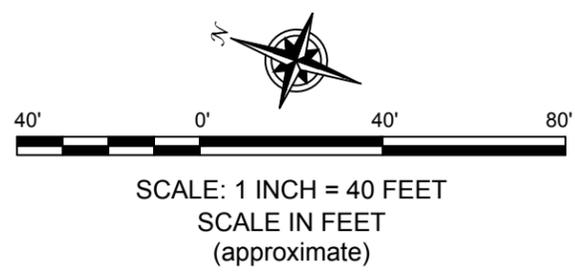
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FIGURE 1

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HAMBURG TURNPIKE



LEGEND:

	SITE BOUNDARY
	EXISTING STRUCTURE
	RI SOIL BORING
	RI TEST PIT
	RI MONITORING WELL
	SOIL BORING (PHASE II - 2014)
	TEMPORARY MONITORING WELL (PHASE II - 2014)
	NATURAL GAS LINE
	MANHOLE
	UTILITY POLE
	PROPOSED DUAL PHASE (SOIL VAPOR AND GROUNDWATER) EXTRACTION WELL (9)

**TRACK 4 COMMERCIAL USE CLEANUP ALTERNATIVE
DUAL PHASE EXTRACTION**

REMEDIAL INVESTIGATION / ALTERNATIVES ANALYSIS REPORT

BENCHMARK
ENVIRONMENTAL
ENGINEERING &
SCIENCE, PLLC

2558 HAMBURG TURNPIKE
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2424 HAMBURG TURNPIKE SITE
LACKAWANNA, NEW YORK
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FIGURE 2

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Richard E. Stanton, Esq.

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