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October 23, 2024

US Environmental Protection Agency, Region II
290 Broadway
New York, NY 10007-1866

Attn: Mr. Patrick Peck, Project Officer

RE: **RLF EPA Cooperative Agreement – BF 96238700**
Brownfields Cleanup Decision Memorandum
Former Chip's Service Station
4360 Acme Road
Frankfort, New York

Dear Mr. Peck:

The Mohawk Valley Economic Development Growth Enterprises Corporation (MVEDGE) is pleased to submit this Brownfields Cleanup Decision Memorandum (Decision Memo) to the U.S. Environmental Protection Agency (USEPA), in accordance with the above referenced Cooperative Agreement.

This Decision Memo presents the steps leading to the selection of a remedial approach at the referenced site. The memorandum is organized as follows:

- Section 1 – Introduction,
- Section 2 - Summary of the Analysis of Brownfields Cleanup Alternatives (ABCA),
- Section 3 – Description of the selected remedial approach, and
- Section 4 – Demonstration that the selected remedial approach achieves regulatory compliance and attains the cleanup goals.

1 INTRODUCTION

The former Chips Service Station Site (Site) is located at 4360 Acme Road in Frankfort, New York. It sits on the western side of Acme Road and is adjoined by residences, Route 5S, a closed car dealership and the NYS Empire Trail. The 0.47-acre vacant Site consists of three contiguous parcels of land identified by the Town of Frankfort as 119.27-1-13 (Parcel A), 119.27-1-14 (Parcel B), and 119.27-1-15 (Parcel C). The Site will be developed as a parking facility to provide access to the adjacent walking/biking Empire State Trail. The site location is depicted on Attachment A.

The MVEDGE has awarded the County of Herkimer a \$100,000 EPA RLF Subgrant to assist with the environmental remediation of the site. This subgrant funding is being provided as part of the USEPA's Cooperative Agreement No. BF96238700 awarded to the MVEDGE. This cooperative agreement provides the terms and conditions for use of the brownfields cleanup

grant funds, including a commitment to provide for community involvement in the site remediation process.

In accordance with those terms and conditions, MVEDGE produced a program work plan describing programmatic tasks to be completed, including project deliverables for each project funded. Project deliverables include the ABCA and this Decision Memo, among other documents. The County of Herkimer produced the draft ABCA (July 30, 2024) and the final ABCA (October 15, 2024). The final ABCA has been submitted to the USEPA. A summary of the ABCA is presented below, in Section 2.

Based on the analyses provided in the ABCA, including the open public meeting held on October 11, 2024; consultation with the State regulatory authorities (NYS Department of Environmental Conservation and NYS Department of Labor); and the entirety of the administrative record for the site, Herkimer County has selected, and MVEDGE has approved, a remedial approach for the Site as presented in this Decision Memo.

2 SUMMARY OF ABCA

The purpose of the ABCA is to identify, evaluate, and compare the reasonable alternatives for addressing the contamination identified at the Site. The ABCA presents information regarding site description, site environmental conditions, applicable laws and standards, and an evaluation of selected remedial alternatives. These items are summarized in this section.

2.1 Site Description

One single-story former gasoline station/automotive service building totaling approximately 300 square feet (ft²) constructed circa (c.) 1935, one two-story residential building totaling approximately 800 ft² constructed c. 1935 currently improve the Site. One approximately 500 ft² canopy was removed from the Site in 2023. The remainder of the Site includes an asphalt parking area paved in 1975, a 250 ft² advertising billboard, and vegetated areas. The Site operated as a gas filling station from 1938 to 1962. It served as an auto service station until circa 2010 and has remained vacant since. USTs not previously removed will be addressed under NYS Office of Comptroller Abandoned Gasoline Station Program. The buildings on site are slated for demolition due to their poor condition. Abatement of Asbestos Containing Materials (ACM) is needed to ready the site for redevelopment.

2.2 Site Environmental Conditions

The Site is identified on NYS Department of Environmental Conservation databases for underground, above-ground tanks and inactive petroleum bulk storage. It has been subject to various environmental assessments as described below.

2.2.1 Phase I ESA

Phase I ESA (July/August 2022) – HRP Associates, Inc.: A Phase I ESA was performed at the Site on behalf of the Herkimer County Industrial Development Agency to satisfy due diligence prior

to site acquisition. The Site is identified on NYS Department of Environmental Conservation databases for underground, above-ground tanks and inactive petroleum bulk storage. No tank closure documents were identified. The report also identified the potential risks for asbestos containing materials and lead-based paint to be high. Furthermore, access to the interior of the building was limited due to obstruction and safety concerns due to the building's condition.

2.2.2 Limited Phase II ESA

Limited Phase II ESA (August 2022) – HRP Associates, Inc.: The scope of this assessment included the completion of a ground penetrating radar (GPR) survey, the installation of six on-site soil borings and two temporary groundwater monitoring wells, the laboratory analysis of five soil samples and two groundwater samples. Results indicated that a 10,000 gallon gasoline UST, a 6,000 gallon gasoline UST, and a 4,000 gallon gasoline UST and are likely still present at the site. Recommendations focused on the excavation and removal of the USTs and if found, any petroleum soils impacted.

2.2.3 Building Inspection and Pre-Demolition Building Survey

Asbestos Building Inspection and Pre-Demolition Building Survey (April 3, 2024) – A2Z Environmental LLC: On March 3, 2024, Mr. Jamie Foster (NYS DOL Asbestos Handler Certification #23-61QZUK-SHAB), completed a hazardous materials survey at the Site.

The survey was limited to identifying and sampling friable suspect ACM, as the residential building is damaged and will likely be demolished with suspect asbestos in place. The surveyor collected 42 samples (including layers) of friable suspect asbestos and non-friable white and black exterior paint on building foundations. Asbestos was detected in the following building materials:

- Duct wrap, first floor, 57% chrysotile asbestos, 4 linear feet, with debris on the floor of the room
- Joint Compound, first floor, 1.8% chrysotile asbestos, 175 ft²
- Transite siding, exterior walls, 11.8% chrysotile asbestos, 850 ft²
- Roofing materials were not sampled due to safety concerns and assumed ACM

The asbestos surveyed at the Site, in place, damaged and released, is categorized as Regulated ACM (RACM). RACM must be removed before renovation or demolition activities that will disturb the materials. RACM includes:

- Friable ACM;
- Category I nonfriable ACM that has become friable or will be subjected to drilling, sanding, grinding, cutting, or abrading; and
- Category II nonfriable ACM that could be crumbled, pulverized, or reduced to powder during renovation or demolition activities.

2.2.4 Ongoing Monitoring

Remediation is not anticipated to include an Engineering Control or recording of a deed notice. No Operation and Maintenance is anticipated to be needed upon completion of remediation.

2.2.5 Summary of Data

MVEDGE has received EPA approval for the use of brownfield Revolving Loan Fund (RLF) monies to extend a subgrant to Herkimer County. All work has been and will continue to be overseen by Herkimer County's QEP for the site.

2.3 Applicable Laws and Cleanup Standards

The asbestos NESHAP (40 CFR Part 61, Subpart M) regulates asbestos fiber emissions and asbestos waste disposal practices. It also requires the identification and classification of existing building materials prior to demolition or renovation activity. Under NESHAP, asbestos-containing building materials are classified as either friable, Category I non-friable, or Category II non-friable ACM. Friable materials are those that, when dry, may be crumbled, pulverized, or reduced to powder by hand pressure. Category I non-friable ACM includes packing materials, gaskets, resilient floor coverings and asphalt roofing products containing more than 1 percent (%) asbestos. Category II nonfriable ACM are nonfriable materials other than Category I nonfriable materials that contain more than 1% asbestos.

Regulated ACM (RACM) must be removed before renovation or demolition activities that will disturb the materials. The asbestos surveyed at the Site, in place, damaged and released, is categorized as RACM.

Asbestos abatement and worker protection activities are regulated by the NYSDOL under Industrial Code Rule 56, and asbestos waste transport and disposal under NYSDEC under Part 360. Abatement contractors, abatement methods, independent air monitors, project monitors, and project designers are regulated under DOL ICR 56. Project notification to building occupants and nearby businesses is required at least 10 working days prior to the start of any asbestos abatement activities.

The asbestos standard for construction (29 CFR 1926.1101) established by the Occupational Safety and Health Administration (OSHA) requires that employee exposure to airborne asbestos fibers be maintained below the permissible exposure limits (PEL). The occupational exposure limits are as follows:

- Asbestos Excursion Limit (excursion limit of 30 minutes): 1.0 f/cc fibers per cubic centimeter as detected using phase contrast microscopy)
- Asbestos PEL (8-hour time-weighted average permissible exposure level): 0.1 f/cc.

Transportation of asbestos waste is also regulated under U.S. Department of Transportation 49 CFR 171-180.

2.4 Analysis of Cleanup Alternatives

The ABCA presents an evaluation of several potential cleanup scenarios for the site. The following evaluation criteria were considered in comparing the remedial alternatives:

- Effectiveness in providing compliance with regulations and increased protectiveness to public health and the environment;
- Implementability of the considered alternative;
- Cost of the considered alternative; and
- Sustainability and resilience considerations.

Based on these criteria and giving consideration to site characteristics, surrounding environment, land-use restrictions, potential future uses, and cleanup goals, Herkimer County selected Demolition with RACM in Place as the preferred remedial approach. The preferred remedial approach is described in Section 3 of this Decision Memo.

Subsequent to the publication of a Draft ABCA, Herkimer County solicited and received public comment (as documented in the Final ABCA). A summary of the public comments received is appended to the Final ABCA document. No public comments expressed objection to, or disagreement with, the preferred remedial action.

3 SELECTED ENVIRONMENTAL CLEANUP PLAN

3.1 Remedial Approach: Demolition with RACM in Place

The remedial action will include the demolition of structures with RACM left in place. Structure debris will be disposed of in a regulated landfill. In accordance with the asbestos NESHAP, demolition, handling, loading and transportation will require materials to be adequately wet and contained. All structure debris will be treated as RACM and will be handled and disposed of according to all federal, state, and local regulations.

The structure is unsafe to the extent that the abatement contractor could not safely implement an abatement prior to demolition. NYSDOL provided a variance approval authorizing the demolition in place. RACM demolition will be performed by a NYS-licensed abatement contractor. This approach will accelerate the period of abatement, demolition, and disposal.

This approach increases the volume of material that must be handled as ACM, thereby taking greater volume from existing capacity of regional landfills. This option also creates a waste generation stream and associated liabilities for the generator.

3.2 Selection Rationale

This approach complies with remediation standards and achieves project remediation goals by:

- Eliminating toxic exposure to workers, visitors, and residents

- Supporting project goals and reuse plans, and consistent with State recreation goals of utilizing the Statewide trail system
- Eliminating long term obligations (inspection, repair, safety concerns, security)
- Promoting sustainability strategies
- Reducing blight

4 Regulatory Compliance and Achievement of Cleanup Goals

4.1 Regulatory Framework

The site will be remediated under the oversight of the New York State Department of Labor. Removal of RACM will be conducted by a NYSDOL-licensed asbestos abatement contractor. The Town of Frankfort Code Department deemed the structures “unsafe” requiring its removal or repair (September 6, 2024). Given its unsound nature, on October 3, 2024, the NYSDOL granted a variance to allow for the controlled demolition with ACM in place.

4.2 Achievement of Cleanup Goals

ACM abatement will facilitate the redevelopment of the site. The redevelopment activities for the property will be improvements for a parking lot to support use of the adjacent New York State trail.

4.3 Limitations

Following remediation, limited environmental concerns will still exist in the form of remaining underground storage tanks. Through the NYS Office of Comptroller Abandoned Gasoline Station Program, the remaining underground storage tanks will be removed. As such, it is anticipated that prior to redevelopment, the site will be fully remediated for unrestricted use.

5 Closing

This Decision Memo was prepared with the assistance of the MVEDGE’s technical consultant, Brownfield Redevelopment Solutions, Inc. (BRS). Please contact the BRS project managers listed below, or the undersigned, with any questions regarding this document.

BRS Project contacts:

Michele Christina, Principal
Michele@brsinc.com
(856) 964-6456, Ext 1

Sincerely,

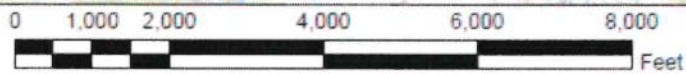
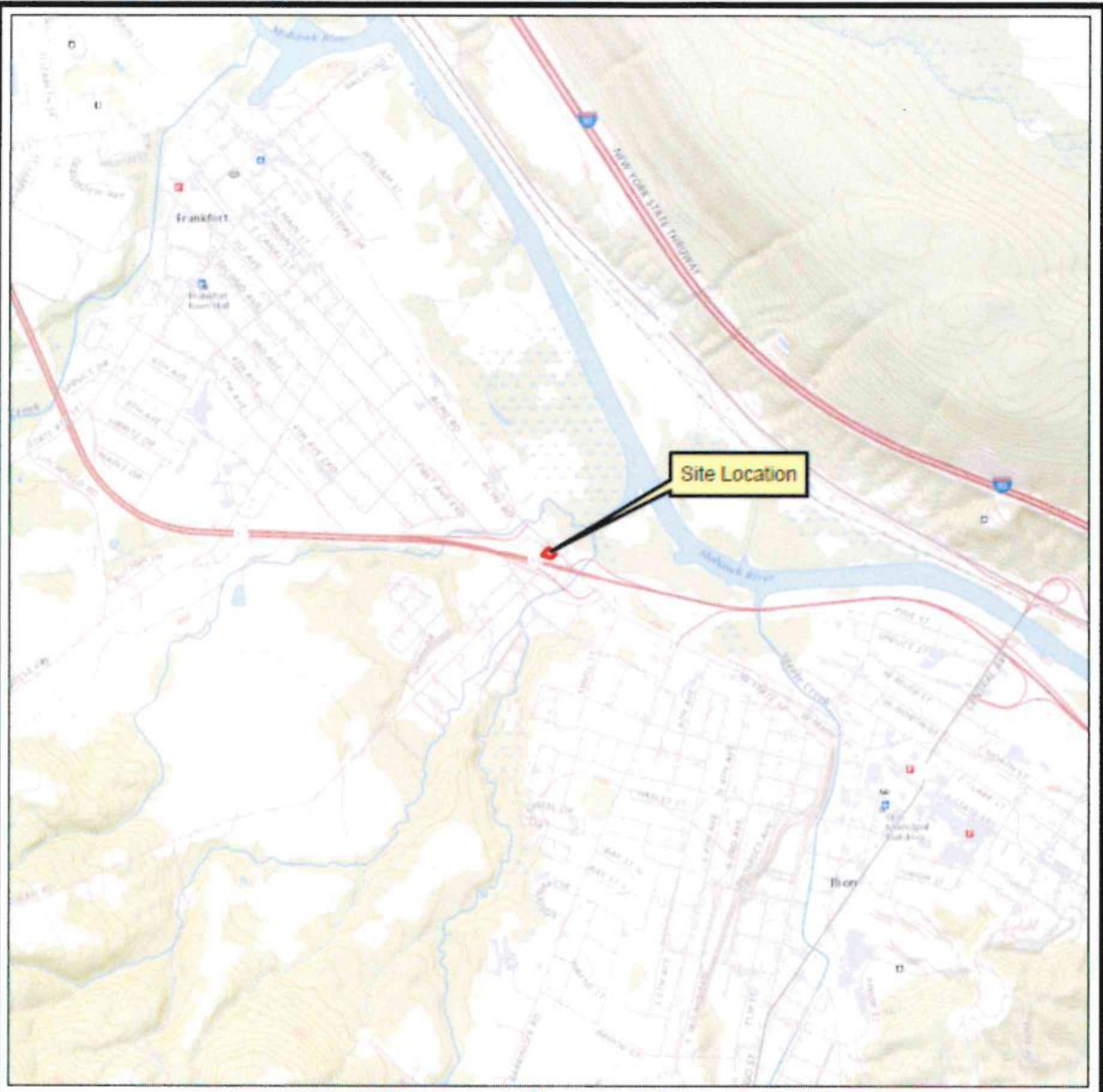


Christian Mercurio
Vice President Planning & Development
Mohawk Valley EDGE

Attachment

cc: Laura Cohen, MVEDGE
Michele Christina, BRS
Laura Burnham, BRS

Attachment A – Site Location Map



1:24,000



USGS Quadrangle Information
Quad ID: 43075-A1
Name: Ilion, New York

Site Location
4360 Acme Road
Frankfort, New York
HRP # HER1504.P1
Scale 1" = 2,000'

ONE FAIRCHILD SQUARE
SUITE 110
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