

BCT Agenda
February 23, 2009
1330-1630 Hours

SEAD 5 Construction Completion Report
SEAD 12 Construction Completion Report
Review Pending Document List
Status of Property Transfer FY 2010

February 24, 2010
0830-1100 Hours

Tour – SEAD 5
SEAD 12
SEAD 70

Former Sludge Waste Piles (SEAD-5)

Remedial Action Presentation
Seneca Army Depot Activity (SEDA)

Tuesday, February 23, 2010



Overview

- Site History
- Remedial Action Objectives
- Remedial Action Activities
- Soil Sampling Results
- Path Forward



Historic Site Use – SEAD-5

- During the 1980s, dried sewage sludge generated by the wastewater treatment plants at Buildings 4 and 715 was stockpiled at the Former Sludge Waste Piles site (SEAD-5).
- Portions of SEAD-5 were used as part of the Depot's DPW storage and staging area for equipment, materials, and supplies.

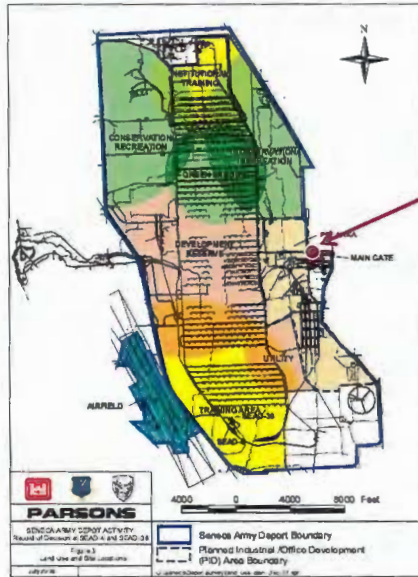


Historic Site Contaminants – SEAD-5

- Soil
 - 1985: Copper-impacted soil (removed).
 - 1992: Cadmium-impacted soil (removed).
 - 1994: Metal- and cPAH-impacted soil exceeding TAGM values; impetus for Time Critical Removal Action (TCRA).
- Groundwater
 - 1994: Fe, Mn, and Na above Class GA Standards.

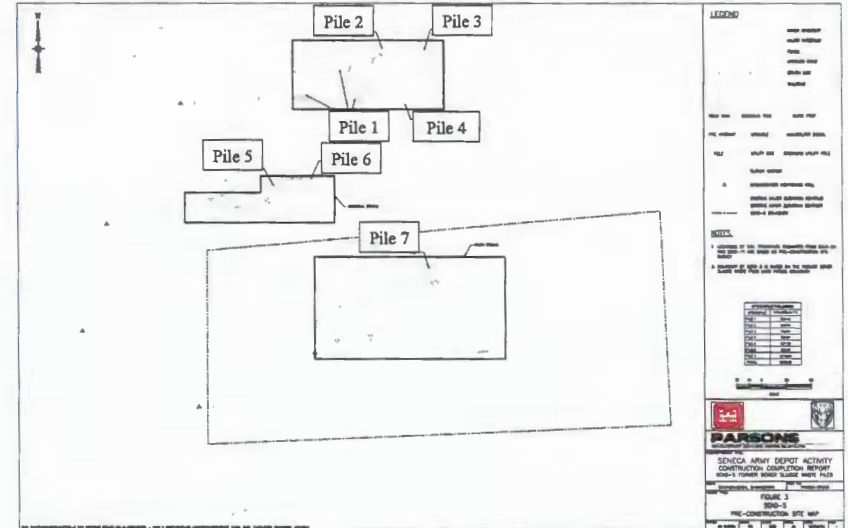


Site Location



Approximate location of SEAD-5

Site Plan



Regulatory History at SEAD-5

- 1985 • Sludge disposed of off-site after NYS and Army sample sludge piles
- 1992 • 560 tons of impacted sewage sludge disposed at Seneca Meadows Municipal Landfill
- 1994 • ESI and off-site disposal of sludge material
- 2003 to 2005 • Three-phase TCRA Conducted and Reported
- 2007 • Risk Assessment identifies potential risk due to cPAHs
- 2008 • Proposed Plan finalized
• Record of Decision finalized
- 2009 • Remedial Action Operation Plan (RAOP)
• Construction Begins June 30, 2009 and ends July 14, 2009



SEAD-5 Aerial Photograph

Remedial Action Objectives

- Inter surface and near-surface soil beneath a soil cover to minimize the likelihood of incidental contact with soils that contain residual levels of cPAHs above industrial SCOs.
- Implement Land Use Controls (LUCs) that:
 - Prohibit use of land at SEAD-5 for residential housing, elementary and secondary schools, childcare centers, and playgrounds.
 - Prohibit access to, or use of, the groundwater until groundwater cleanup standards are achieved.
 - Prohibit unauthorized excavation or other activities at SEAD-5 that could compromise the integrity of the engineered cover.



Site Preparation



- 6/30/09 – Parsons identified obstructions and utilities.
- 6/30/09 to 7/1/09 – Delineation of SEAD-5 limits.
- 7/6/09 – Mobilized to site.



Construction of Engineered Cover

1. Construction of initial cover layer 7/6/09 to 7/8/09.
2. Installation of demarcation fabric and construction of final cover layer 7/8/09 to 7/13/09.
3. Final grading of engineered cover 7/14/09.



Construction of Initial Soil Cover

- | | | |
|--|--|--|
| Step 1
Load stockpiled SEAD-59/71 soil | Step 2
Relocate stockpiled SEAD-59/71 soil to cover area | Step 3
Spread stockpiled SEAD-59/71 soil across cover area |
|--|--|--|



- 5,620 cy of stockpiled soil spread as the initial layer.
- Soil spread 10 ft beyond sample locations with exceedances.



Initial Cover Layer Material

- Consists of stockpiled soil generated during the SEAD-59/71 removal actions.
- SEAD-59/71 stockpiles distinguished from other stockpiles in the area based on the presence of plastic beneath the piles.
- Quality of stockpile material documented in the Phase II RI report (Parsons, 2006).



Plastic sheeting beneath SEAD-59/71 stockpiles



Demarcation Fabric Layout and Construction of Final Cover



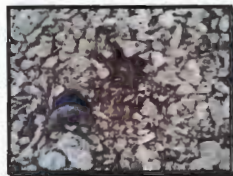
Orange snow fence and off-site borrow material laid out simultaneously



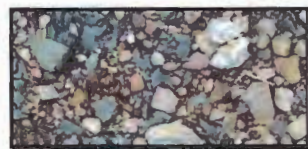
Final Cover Layer Material

Combination of three materials, all of which were sampled for VOCs, SVOCs, pesticides, PCBs, and metals:

1. On-site borrow material: ~625 cy of crushed concrete and gravel originally staged in SEAD-16 and SEAD-17.



Crushed concrete



Gravel

2. Off-site borrow material: ~2,300 cy of clean bank run sand.



Confirmatory Sampling

In accordance with the ROD, samples collected:

- One gravel
- Two concrete
- One bank run sand



Exceedances above NYSDEC Restricted Commercial Use SCOs

Sample	VOCs	SVOCs	Pesticides	PCBs	Inorganics
Gravel	0	0	0	0	0
Concrete (1)	0	0	0	0	0
Concrete (2)	0	0	0	0	0
Sand	0	0	0	0	0



Final Grading of Engineered Cover

- At completion, the engineered cover was graded to promote positive drainage.
- In accordance with the ROD, cover intended to permit infiltration.



10-ton vibratory roller compacting the final engineered cover surface



How did we do?

- Remedial action completed satisfactorily in full accordance with the ROD.
- The engineered cover fully conceals the contaminated soil at SEAD-5 that poses potential risk to future human receptors at the site.



Completed engineered cover at SEAD-5



Next Steps

- Site inspections in Spring/Summer 2010 to assess the growth of vegetation. Reseed if necessary.
- No groundwater monitoring required.
- The Army will impose the three aforementioned Land Use Controls (LUCs).
- Annual/five-year reviews to evaluate the effectiveness of the selected remedy.



Questions?



Radiological Waste Burial Pits Site (SEAD-12A)

**Remedial Action Presentation
Seneca Army Depot Activity (SEDA)**

Tuesday, February 23, 2010



Overview

- Removal Action Objectives
- Site History
- Planned NTCRA Work Elements
- Changes to Work Elements
- NTCRA – Work Progress
- NTCRA – Final Results
- NTCRA – Material Summary
- NTCRA – Demobilization

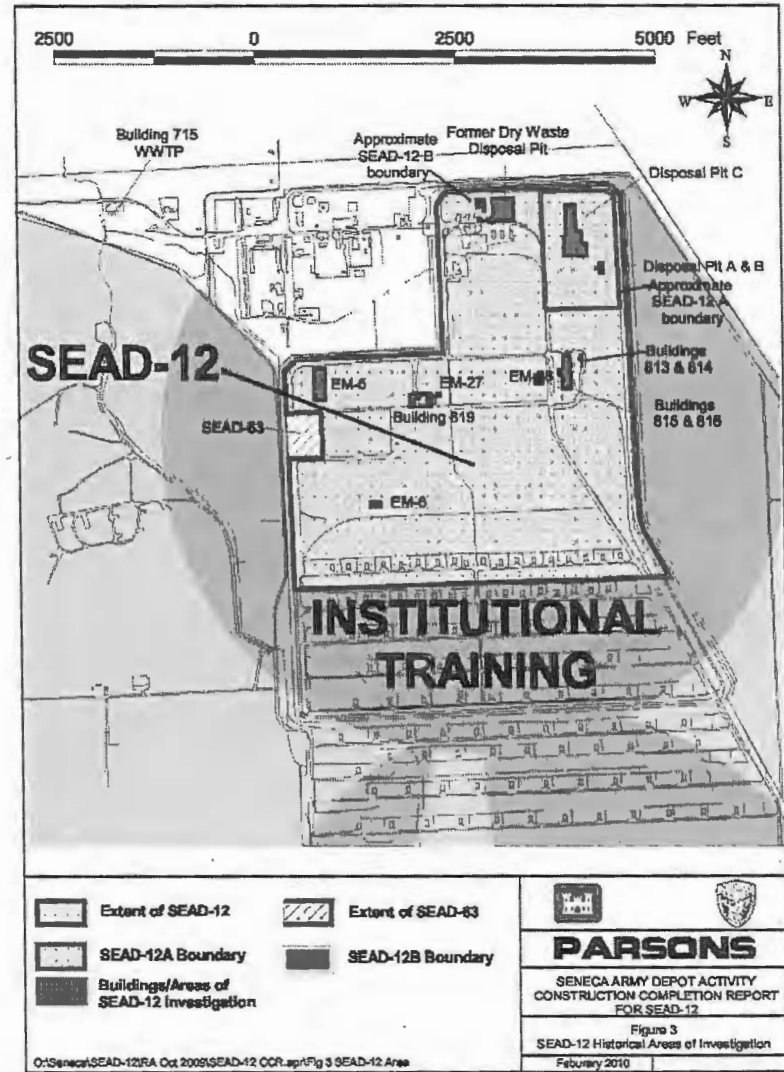
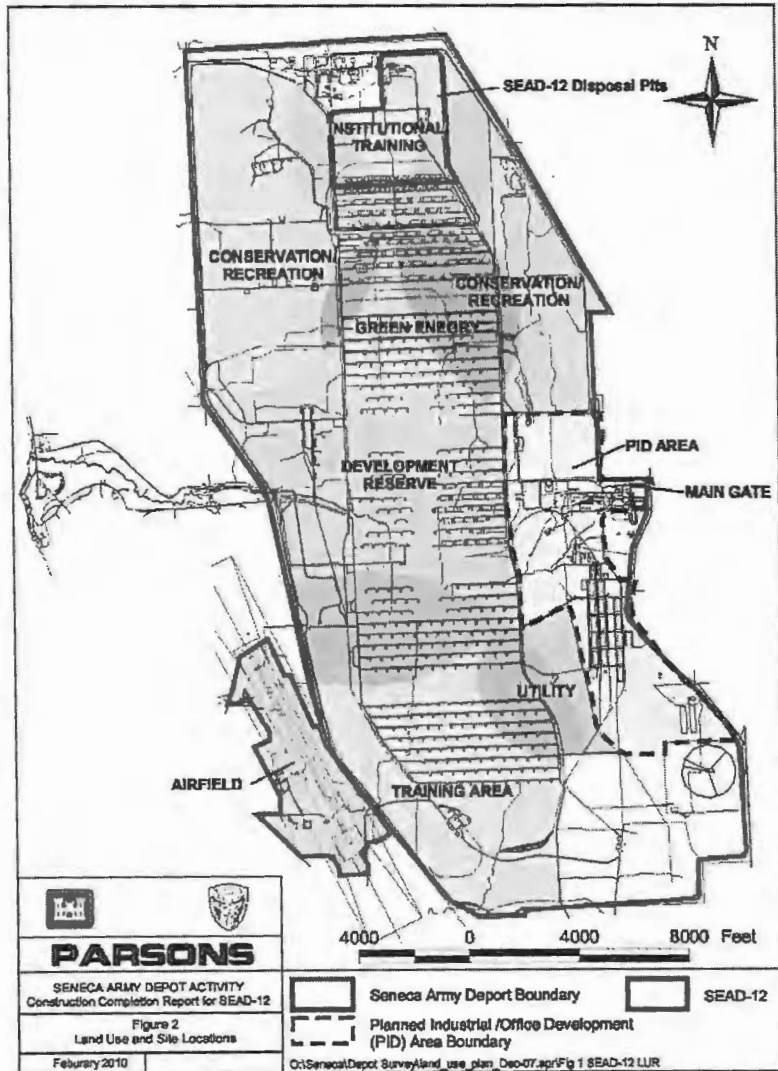
Removal Action Objectives

- Goal of NTCRA was to excavate, examine, and secure identified military-related items and debris previously buried at site to prevent future access by potential tenants/owners of property.
 - Remove and dispose of other commingled debris.
 - If hazardous substances found, evaluate levels, remove and treat if necessary, and disposed to mitigate or eliminate any continuing potential risk/threat.

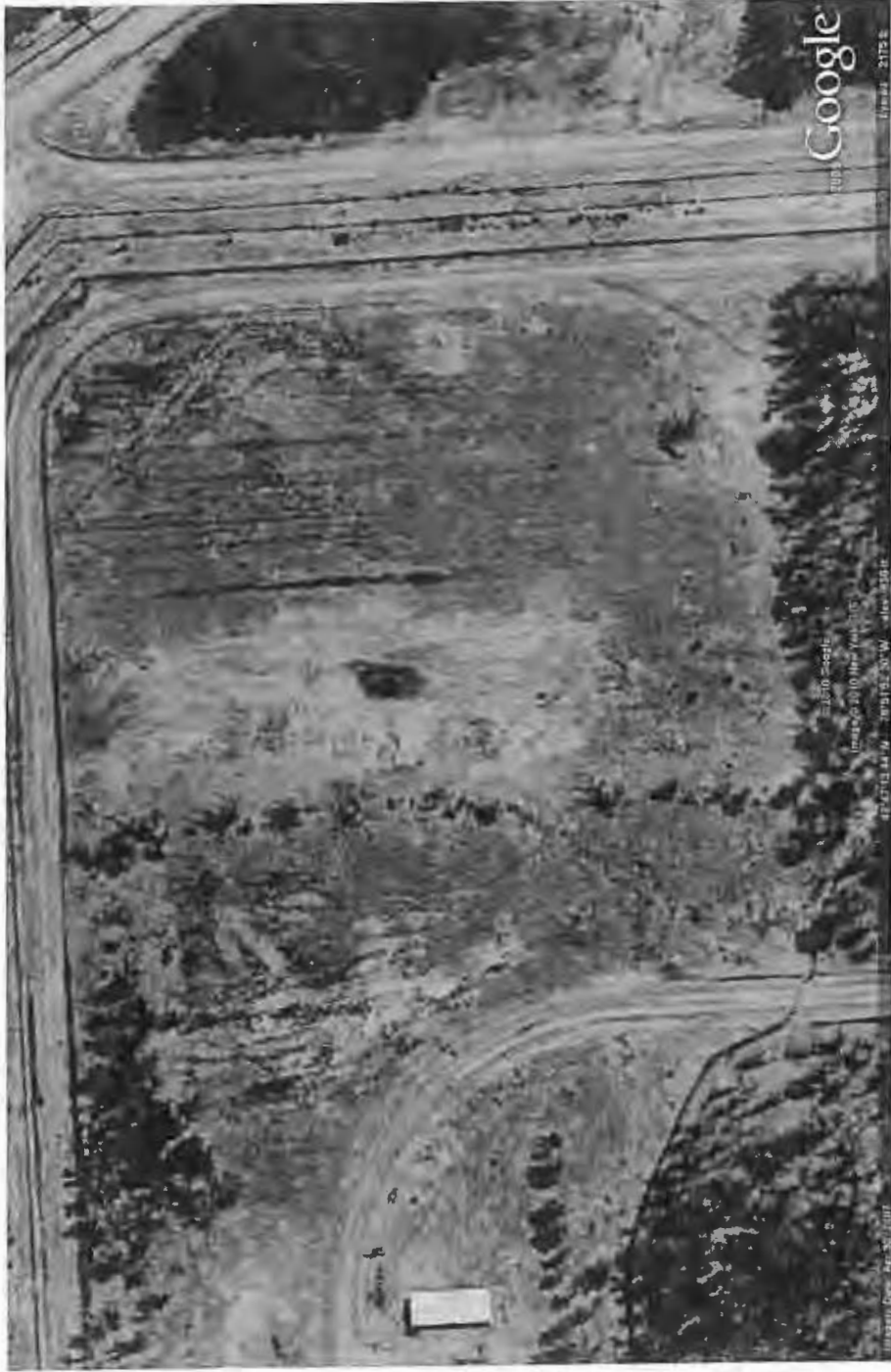
Site History – SEAD-12

- SEAD-12 encompasses about 360 acres of land in former Weapons Storage Area in north-central portion of Depot.
- Non-Time Critical Removal Action (NTCRA) conducted at historic burial pits designated as A/B and C located in SEAD-12A portion of SEAD-12.

Site Location



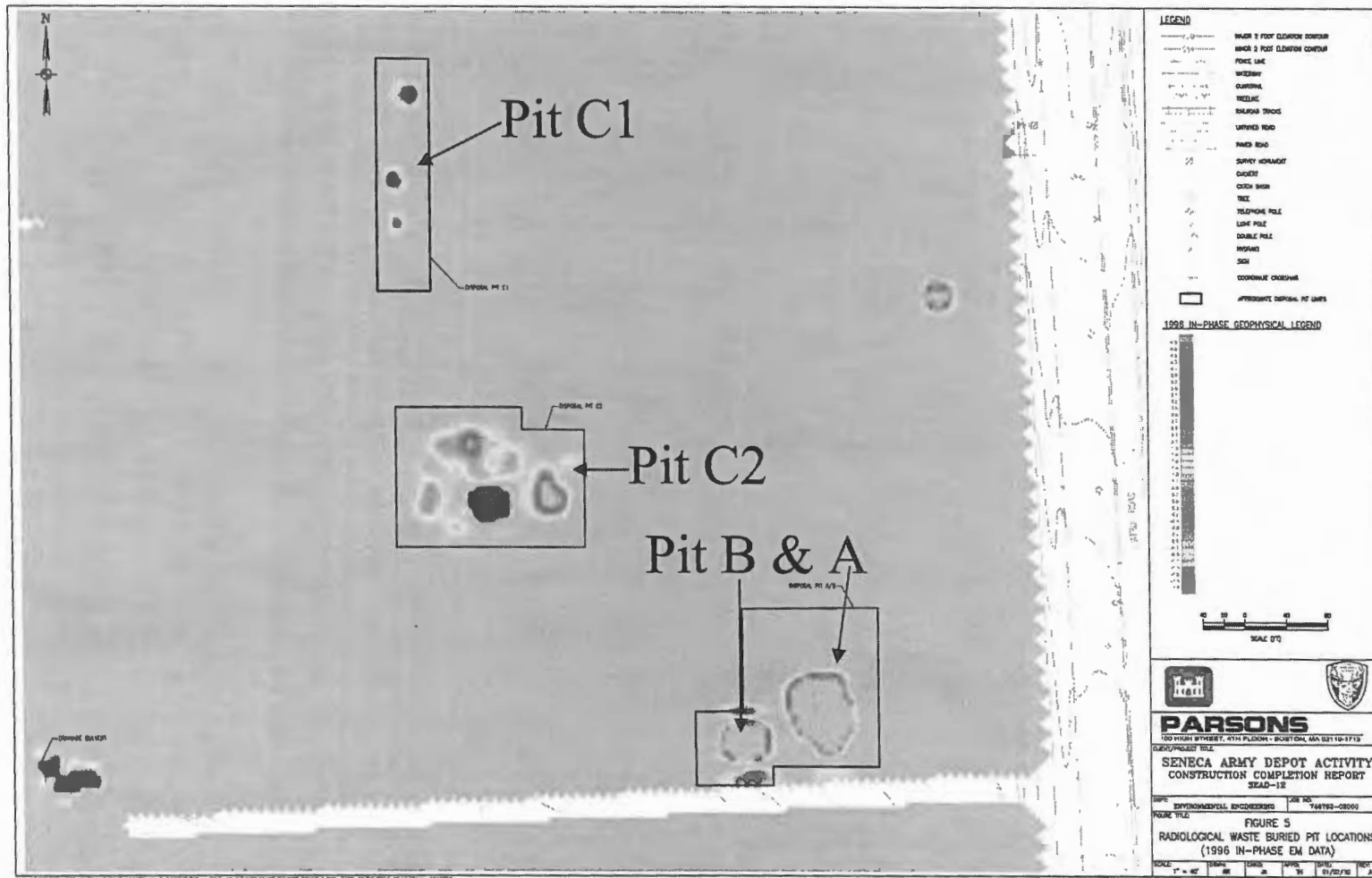
Site Location



Site History – SEAD-12

- Past work (ESI, RI, Supplemental RI) included sampling/analysis for chemical and radiological COCs, geophysical surveys, and characterizations of buildings and land in accordance with MARSSIM.
- RI risk assessment completed for chemical and radiological COCs.

Site Location – 1995 EM-31



Site History – SEAD-12

- NTCRA at burial pits was not driven by any identified unacceptable level of human health or ecological risk or hazard from chemical or radiological COCs identified in the prior CERCLA investigations.

Site History – SEAD-12

Table 5
Total Cancer Risk and Non-Cancer Risk for Chemical
and Radiological Pathways - SEAD-12

Potential Area of Concern	Chemical Total Cancer Risk ¹	Radiological Total Cancer Risk	Chemical and Radiological Total Cancer Risk	Total Non-Cancer Hazard Risk
Risk Scenario				
Disposal Pits A/B				
Current Worker	5.E-8	6.E-9	6.E-8	0.003
Future Park Worker	2.E-5	2.E-5	4.E-5	0.09
Future Recreational Child	2.E-5	1.E-6	2.E-5	0.3
Current/Future Construction Worker	1.E-7	4.E-6	4.E-6	0.1
Future Resident ³	4E-5 ³	3.0E-5	7E-5 ³	0.7 ^{2,3}
Disposal Pits C				
Current Worker	2.E-8	3.E-8	5.E-8	0.001
Future Park Worker	2.E-5	2.E-5	4.E-5	0.08
Future Recreational Child	2.E-5	1.E-6	2.E-5	0.2
Current/Future Construction Worker	1.E-7	4.E-6	4.E-6	0.06
Future Resident ³	4E-5 ³	3.5E-5	7E-5 ³	0.4 ^{2,3}

1. Chemical Reasonable Maximum Exposure risk values are presented.
2. Hazard index for residential child is presented.
3. The non-cancer hazard indices and excess cancer risks initially calculated for future resident were above the EPA target risk range; however, the risks for future residents are considered highly uncertain and probably overestimated as discussed in the report. The risks were recalculated not including benzo(a)pyrene, benzo(b)fluoranthene, indeno(1,2,3-cd)pyrene, and di-n-octylphthalate as groundwater COPCs and benzo(a)pyrene and Aroclor-1242 as surface water COPCs. The risks were recalculated and the post COPC elimination results are presented.

NTCRA Work Elements

- Mobilization (A&E, earthwork & rad contractors).
- GPS survey and grid layout.
- Development of background/pre-construction radiation levels.
- Establish work and support (material handling, processing, and staging) zones.
- Excavation of historic burial pit materials.

NTCRA Work Elements (cont.)

- Examination and segregation of excavated materials.
 - Manual and Mechanical Screen Plant
- Management of excavated material.
 - Sorting
 - Military-related items and radiological items.
 - C&D, recyclable metals, other debris.
 - Contaminated soils (rad or chemical).
 - Reusable soils.
 - Sampling/Analysis/Characterization
 - Real-time radiological and VOC scans..
 - Chemical and radiological analyses to support reuse/disposal characterizations.
 - Chemical and radiological analyses of limits of excavation if hazardous chemical or radiological substance releases are identified.

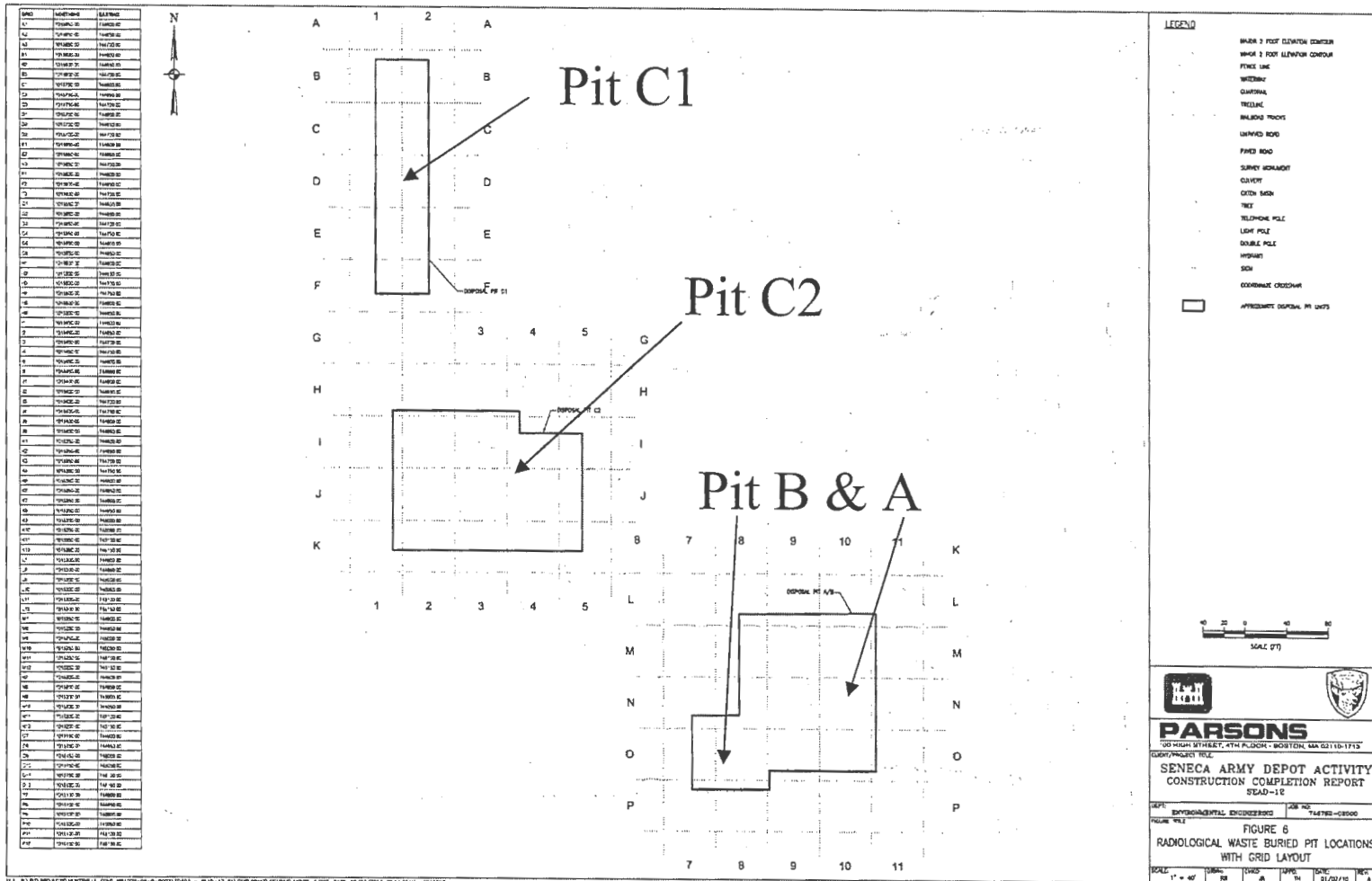
NTCRA Work Elements (cont.)

- Management of excavated material.
 - Final Deposition
 - Secure military–related items pending demilitarization and final deposition determination.
 - If identified, treat (stabilize) hazardous substances prior to approved offsite disposal.
 - Dispose C&D, recyclable metal, other debris and non reusable waste soil offsite at approved location (landfill/recycler).
 - Reuse approved soil at site (backfill).

NTCRA Work Elements (cont.)

- Site Restoration
 - Backfill and Re-Grading
 - Reseeding
- Demobilization

Work Area Grid Layout



Planned NTCRA Work Elements

- Work began at Pit A and B (07/13/09).
- Overburden stripped off and segregated (overburden/C1 pile) for potential reuse after characterization.
- Excavation of Pit A and B showed evidence of more diverse blend of debris than expected.
 - Debris included diverse variety of military-related items, C&D, metal objects, and miscellaneous materials.
 - Real-time scanning indicated more radiological material than expected.

Work Element Modifications

- Material from each pit hauled to Material Handling and Processing Area where it was laid out on plastic in 6 inch +/- lifts and scanned by rad tech for evidence of radiation.
- Radiological locations flagged for subsequent intrusive investigation and recovery.
- Flagged locations investigated and cleared (object identified and recovered).
- All debris/items removed and laid out on plastic for examination by Army personnel.
- All military-related items secured by Army in Building 814.
- All radiological material secured in B-25 boxes in Building 814.
- Other non- military/radiological materials sorted and segregated as appropriate, pending future disposal determinations.

Work Element Mods (cont.)

- Field Gamma Spectroscopy unit and qualified operator (health physicist) mobilized to site to conduct more detailed examinations/analyses of recovered radiological items.
- Field and laboratory characterization of identified radiological components indicated that ^{226}Ra and ^{232}Th with progeny as RCOCs.
- All 6-inch plus material from Mechanical Screening Plant rescanned (rad) and laid out for inspection by Army.



Work Element Mods (cont.)

- A gamma detection system (an array of 3 fixed NaI detectors) was fitted over the Screen Plant's discharge soil conveyor to provide real-time rad scanning of soil waste stream.
- When alarm sounded, screen shut down and soil on conveyor recovered, laid out and investigated by rad tech to identify/recover source material.
- Many alarms were false positives, but 1 or 2 of 10 resulted in rad object being recovered.

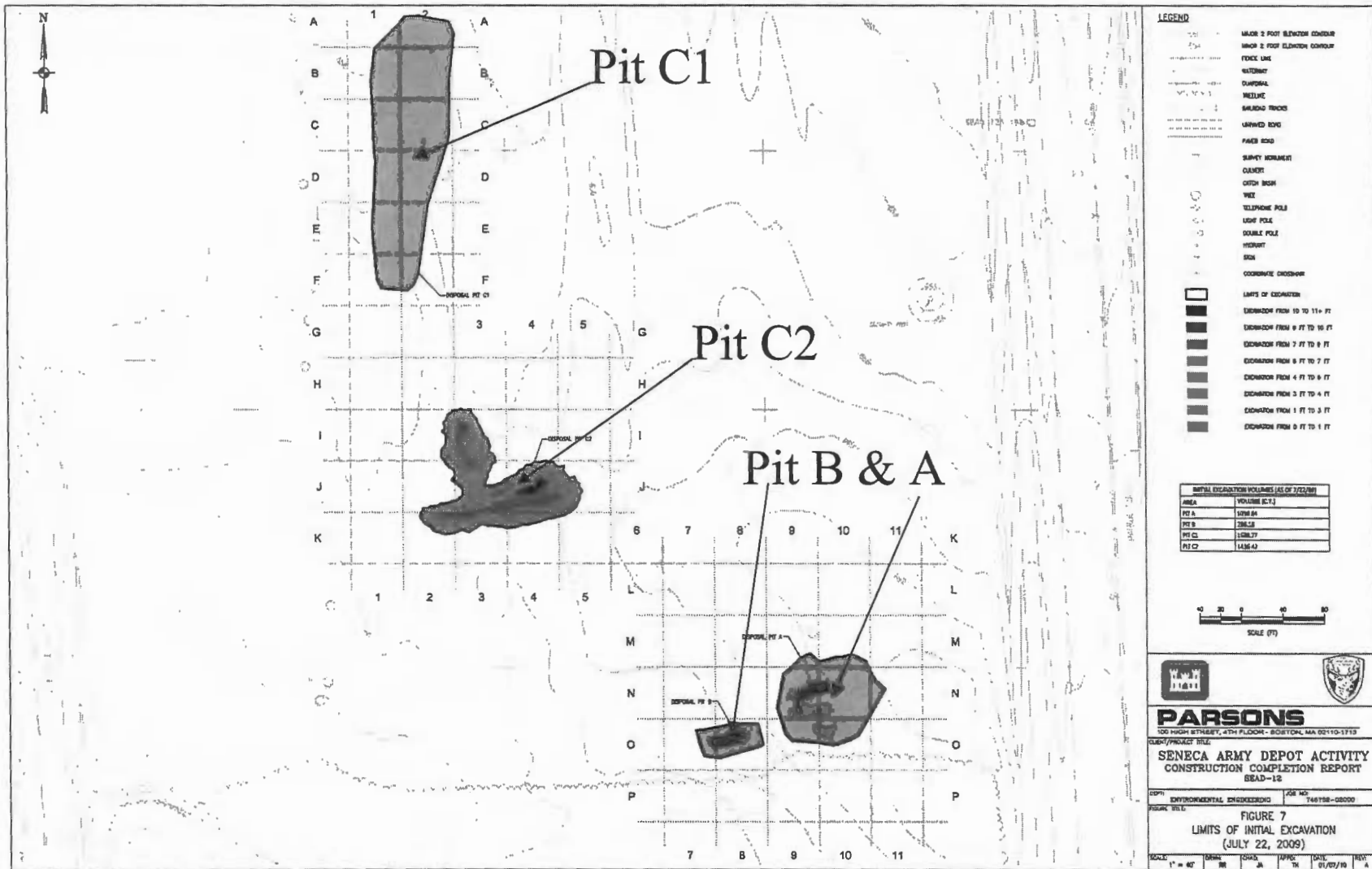
Work Element Mods (cont.)

- Confirmatory soil sampling for chemical and radiological COCs conducted at every excavation site.
 - Chemical samples collected from excavation floor (1 per 2500 square feet), excavation sidewalls (1 per 50 linear feet [lf]) and excavation perimeters 1 per 50 lf.)
 - TCL/TAL (VOCs, SVOCs, Pest/PCB, Metal and CN-) constituents
 - Collected radiological samples at same locations and additional biased sample locations to satisfy requirements of MARSSIM Class 1 Survey Units (SUs).
 - Gross Alpha & Beta and Gamma Spec (selected radioisotopes).

Work Element Mods (cont.)

- All chemical results compared to New York's Unrestricted Use soil cleanup objectives (SCOs).
- All radiological results compared to wide-area Derived Concentration Guideline Levels (DCGL_ws) developed by Argonne National Laboratory (ANL) during the SEDA license termination effort in 2003, which included a probabilistic analysis of input parameters. The final DCGL_ws correspond to a total effective dose equivalent (TEDE) of 10 mrem/yr.
- New York's 10 mrem/yr TEDE is lowest of three considered (EPA's 15 mrem/year, NRC's is 25 mrem/yr).

Initial Excavations – 08/13/09



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PARSONS
 100 HIGH STREET, 4TH FLOOR - BOSTON, MA 02110-1719
 CLIENT/PROJECT TITLE:
**SENECA ARMY DEPOT ACTIVITY
 CONSTRUCTION COMPLETION REPORT
 BEAD-18**

CDPI: ENVIRONMENTAL ENGINEERING JOB NO: 748758-02000
 FIGURE TITLE:
**FIGURE 7
 LIMITS OF INITIAL EXCAVATION
 (JULY 22, 2009)**

SCALE: 1" = 40'
 DESIGNED BY: JH
 CHECKED BY: JH
 APPROVED BY: TH
 DATE: 01/27/10
 REV: A

NTCRA - Work Progress

- Confirmatory soil (TCL/TAL COCs) and waste characterization (chem/rad) samples collected and submitted to laboratory for identification /quantization of contaminants.
- Site and all materials secured pending receipt of analytical data.
- Field crews and equipment demobilized from site (08/13/09) pending receipt of confirmation sample results.

NTCRA - Work Progress

- Confirmatory samples compared (point by point) to NYS Unrestricted Use SCO's.
- Both aroclor-1254 exceedances in samples from north face of Pit B.

Parameter	Units	Maximum Concentration	Frequency of Detection	Unrestricted Use Action Level	Number of Exceedances	Number of Detections	Number of Analyses
Aroclor-1254	UG/KG	1000	7%	100	2	5	70
4,4'-DDD	UG/KG	6.9	1%	3.3	1	1	70
4,4'-DDE	UG/KG	16	6%	3.3	4	4	70
4,4'-DDT	UG/KG	38	4%	3.3	3	3	70
Chromium	MG/KG	51.2	100%	30	2	70	70
Copper	MG/KG	61.4	100%	50	1	70	70
Manganese	MG/KG	1650	100%	1600	1	70	70
Nickel	MG/KG	75	100%	30	28	70	70
Zinc	MG/KG	154	100%	109	2	70	70

NTCRA – Work Progress

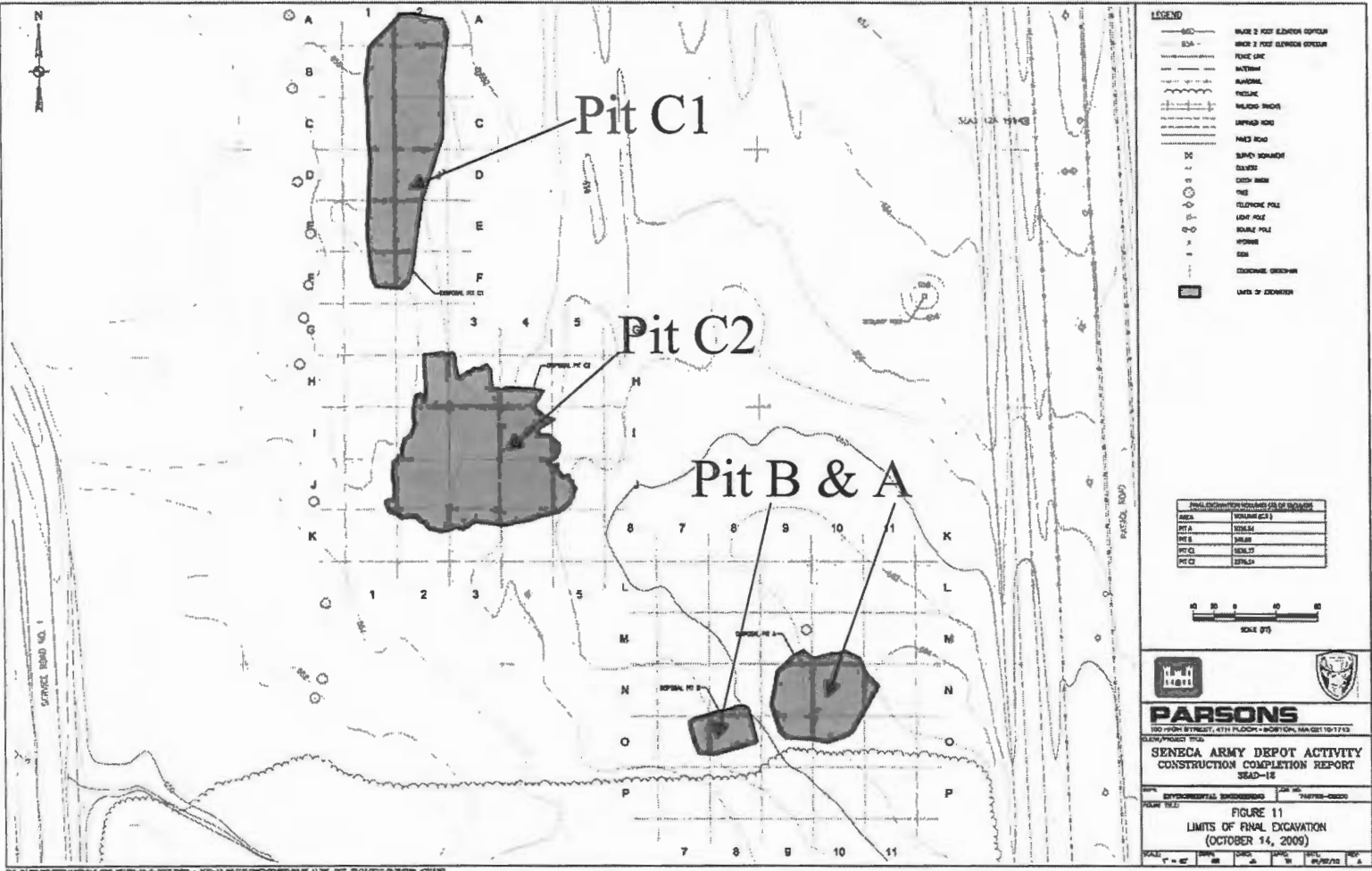
- Remobilized to site on 09/29/09.
- Perform radiological confirmatory sampling.
- Begin load out of materials.
- Conduct “mag + dig” surveys around excavations, material handling/processing area, and haul roads.
- Redig two areas
 - North face of Pit B to remove elevated aroclor-1254.
 - Large magnetic anomaly at Pit C2 grid J3
- EM-31 survey of entire area conducted to confirm debris was identified and removed.

NTCRA – Work Progress

- All EM-31 anomalies investigated and dug.
- Pit C2 expanded.
- Additional confirmatory samples collected for chemical and radiological analyses at Pit C2.
- New debris laid out, scanned, and hand sorted.
- Recovered debris inspected by Army; materials secured as needed.



Final Excavations



NTCRA – Final Results

- Final confirmatory sample results versus NYS SCOs.

Parameter	Units	Maximum Value	Frequency of Detection	NYSDEC Unrestricted Use Level	Number of Exceedances	Number of Times Detected	Number of Samples Collected
4,4'-DDD	UG/KG	6.9	1%	3.3	1	1	85
4,4'-DDE	UG/KG	5.9	4%	3.3	2	3	85
4,4'-DDT	UG/KG	9.8	4%	3.3	2	3	85
Alpha-BHC	UG/KG	210	6%	20	2	5	85
Beta-BHC	UG/KG	63	1%	36	1	1	85
Delta-BHC	UG/KG	61	4%	40	1	3	85
Chromium	MG/KG	51.2	100%	30	2	85	85
Copper	MG/KG	61.4	100%	50	1	85	85
Manganese	MG/KG	1650	100%	1600	2	85	85
Nickel	MG/KG	75	100%	30	32	85	85
Zinc	MG/KG	154	100%	109	2	85	85

NTCRA – Final Results

- Backfill material (Overburden/C1) confirmatory sample results versus NYS SCOs.

Parameter	Units	Maximum Value	Frequency of Detection	NYSDEC Unrestricted Use Level	Number of Exceedances	Number of Times Detected	Number of Samples Collected
Nickel	MG/KG	32.3	100%	30	5	12	12

- Background Data Set Results for Nickel

Parameter	Unit	Arithmetic Mean	Standard Deviation	Mean plus One Standard Deviation	Mean plus Two Standard Deviations	95th Percentile	95th Upper Confidence Limit
Nickel - Seneca Background Locations	MG/KG	31	11	42	52	49	34

NTCRA – Final Results

- As a result of the MARSSIM Final Status Survey at SEAD-12, it is concluded that the applicable DCGLw has been achieved for land area survey units, and the criteria for unrestricted release of the Site have been met.

NTCRA – Material Summary

- Military-related Items – 13.25 Tons
- Landfill Disposal – 5423 Tons
- Recycled Metal – 122 Tons mixed metals

NTCRA – Demobilization

- All field crew and equipment demobilized from site on October 29, 2009.
- Landscaper raked and seeded site on Nov 2/3, 2009.
- Seneca is currently working with Army Staff to dispose of military-related items.

NTCRA – Path Forward

- Submit Construction Completion Report.
- Prepare and submit Proposed Plan and Record of Decision for SEAD-12.
- Confirm growth of vegetation.

**Draft Notes of Teleconference
Seneca Army Depot Activity
Thursday, March 26, 2009
Meeting Minutes**

File
BCI
CALL
3/26/09

Attending:

Steve Absolom, SEDA
Steve Nohrstedt, CEHNC
Keith Hoddinott, CHPPM
Julio Vazquez, EPA Region 2
John Swartwout, NYSDEC
Kuldeep Gupta, NYSDEC
Mark Sergott, NYSDOH
Jeff Adams, Parsons
Todd Heino, Parsons

The teleconference began at approximately 10:30 AM.

Steve Absolom informed EPA that he had received the EPA's approval of the Army's demonstration that the remedial action undertaken at the Ash Landfill Operable Unit at the Seneca Army Depot Activity is Operating Properly and Successfully (OPS). Julio Vazquez said that he also had received a copy of the letter. Steve explained that with the receipt of this approval, the performance based contract for the Ash Landfill can now be closed out and the continued monitoring requirement established in the ROD will continue to be implemented.

S. Absolom next asked Julio if he had any comments on the SEAD-25 Annual Monitoring Report. J. Vazquez said he has reviewed the documents and verbally agreed with the monitoring requirements. He will send an email to S. Absolom with his agreement. S. Absolom indicated that this item would be removed from the document list.

S. Absolom next asked J. Vazquez if he had developed comments on the Ash Landfill LUC RD Amendment 3. J. Vazquez responded that he needs to check with the EPA's attorney, Michael Mintzer. S. Absolom then asked if there were any comments to the Ash Landfill Semi-annual Monitoring Report. J. Vazquez said he will need to double check the report. S. Absolom responded that this item can be dropped from the review list until the next monitoring event.

S. Absolom next indicated that the Draft Final Munitions Response and CERCLA Closure Report was revised by the Army and was sent out in January and that the Army was awaiting comments. S. Absolom asked Kuldeep Gupta and John Swartwout if they had any comments on the report. K. Gupta responded that the State had no comments on the document, and J. Swartwout indicated that the State normally did not review or address munitions response site completion reports. J. Vazquez responded that he has received some specific comments on the report having to do with risk assessment, and whether it needed to be done. He also indicated that his risk people normally did not accept unrestricted use determinations based solely on comparison to guidance values, and were pushing for completion of the risk assessment, consistent with the requirements of CERCLA. He further stated that personnel inside of Region II did not believe that munitions response sites could be released for unrestricted use, due to the continuing possibility that some munitions/ordnance could still remain at the site. J. Vazquez has placed a call to the EPA national headquarters, and is awaiting information regarding their position on munitions response sites. S. Absolom asked J. Vazquez if there is anything the Army can do to help the process. J. Vazquez

responded that he needs to determine EPAs headquarters' position. Region II believes that a full risk assessment will be required. J. Vazquez will need more time to respond.

S. Absolom next discussed the Draft Construction Completion Report (CCR) for SEAD 4/38, which was submitted at the end of February. S. Absolom asked J. Vazquez, K. Gupta, and J. Swartwout if they had comments. J. Vazquez responded that he has a few pages of comments that he will send to S. Absolom this afternoon. EPA's comments were received on 3/26/09. K. Gupta responded that he will also send comments to S. Absolom.

S. Absolom then indicated that he had received New York's concurrence letter for the SEAD-11 Draft Final Proposed Plan. The Army continues to await the EPA's determination regarding whether this Proposed Plan can be release for a public presentation and comment period. J. Vazquez responded that he will have some language changes that are being worked out by Region II's management. S. Absolom then asked J. Vazquez when the Army will receive comments. J. Vazquez responded that it is going to take some time before management is finished with the document; they want to put restrictions in, so it is going to be a while before they can say either way.

S. Absolom indicated that the ROD for SEAD-59/71 had been distributed. J. Vazquez responded that the EPA received the Army version yesterday and is circulating it for signature.

S. Absolom next indicated that the Army has sent the new electronic version of the Draft Final Record of Decision (ROD) for Five SWMUs, with revised language, to all parties. S. Absolom asked J. Vazquez if the EPA was satisfied with the document. J. Vazquez will let S. Absolom know shortly after speaking with the EPA's attorney. He has received comments from EPA headquarters, and expects to send comments to S. Absolom this afternoon or early next week.

S. Absolom next indicated that the Army is trying to respond to comments for the Proposed Plan for SEAD-12, as they receive them. S. Absolom indicated to K. Gupta that he received his email prior to the call, about resending the Remedial Investigation (RI) Report. K. Gupta responded that he has the RI, but the NYSDOH wasn't able to locate their copy. M. Sergott asked S. Absolom if it is possible to get a summarization based on what is in the RI. S. Absolom asked what they need summarized. M. Sergott responded that questions were raised based on figures only showing maximum concentrations versus showing the range of concentrations, as well as the soil samples locations. He was specifically wondering about the comparisons of the Soil Cleanup Objectives (SCO) and the general soil locations compared to the disposal pits. If the majority of sample locations were located in the disposal pit areas, it would kick the Report out of there. M. Sergott further indicated that he is most concerned with surface soils. S. Absolom responded that he can pull the tables for all the surface samples but they are large because it is a very large area. He asked for Jeff Adams' input. J. Adams responded that the tables in the RI Report were all based on comparisons to TAGMs, and are not fully comparable to the presentations made in the Proposed Plan, which were based on comparisons to the State's SCOs. While the presentations in the Proposed Plan are summary tables, they are based on full data comparisons to the SCOs. J. Adams will try and develop a presentation of the information but asked M. Sergott if he had a particular focus on specific contaminants. M. Sergott responded that their focus is PAHs, heavy metals, and PCBs. J. Adams responded that he will try to produce figures with locations where surface soils exceed PAH, heavy metal, and PCB SCOs, and then provide backup data tables with the information. K. Gupta mentions that he is also concerned with the number of soil samples. J. Vazquez asks if he can receive a copy of the data; he also commented that he has a concern with the variability of the data. S. Absolom responded that he will send copies of the figures and data once developed to the EPA, NYSDEC, and NYSDOH.

The final document discussed is the Draft Remedial Action Operations Plan (RAOP) for SEAD-13. S. Absolom indicated that the RAOP for SEAD-13 was submitted to NYSDEC and the EPA. He explained that the report is nothing more than procedures for pulling up wells and referencing the land use controls. K. Gupta asks S. Absolom if the Plan is a work plan. S. Absolom replied that it is a plan for decommissioning wells at SEAD-13. K. Gupta made the comment that the title is misleading. K. Gupta says he will review the document and provide comments.

J. Vazquez commented that the group should have a face to face meeting soon. S. Absolom suggested April 21st for the meeting. J. Vazquez, K. Gupta, and J. Swartwout say that that should work. M. Sergott said he needed to check his calendar before he could respond. K. Gupta also asked if a public meeting for the drafts should be scheduled soon. S. Absolom responded that he needs to resolve the issues with EPA before those meetings can be scheduled.

S. Absolom indicated that the next meeting will be planned for April 21st. If the public meeting can also be scheduled for that day, they can plan the public meeting for that evening, and the follow up meeting for the morning. The meeting will begin at 1:30.

The discussion ended at approximately 11:10.

Documents Under Review - Seneca Army Depot Activity
March 26, 2009

Document Under Review	Document Type	Action			Date Issued
		EPA	NYSDEC/NYSDOH	Other	
Ash Landfill OPS Letter	OPS	Received OPS Determination 03/19/09	None Anticipated		6-Jun-08
Year 2 SEAD-25 Annual Monitoring Report	Annual Report	Awaiting EPA Approval/Comments	Received NYSDEC comments 10/28/08		18-Jun-08
Ash Landfill LUC RD Amendment #3	LUC RD	Received EPA Comments 01/09/09	Received NYSDEC Concurrence 01/28/09		16-Jul-08
Ash LF Semiannual Monitoring Report 5R2008	LTM letter rpt	None Anticipated	None Anticipated		12-Jan-09
Draft Final Munitions Response and CERCLA Closure Report and Response to EPA Comments	Completion Report	Awaiting EPA Approval/Comments	Awaiting NYSDEC Approval/Comments		27-Jan-09
Draft CCR for SEAD-4 and SEAD-38	CCR	Awaiting EPA Approval/Comments	Awaiting NYSDEC Approval/Comments		26-Feb-09
Revised Draft Final SEAD-11 PRAP. (issued Word Copy 03/25/09)	PRAP	Awaiting EPA Approval/Comments	Receive State Concurrence Letter - 03/20/09		11-Mar-09
Final SEAD-59/71 ROD for Signature	ROD	Awaiting Signature	Concurrence included		18-Mar-09
Draft Final Record of Decision for Five SWMUs (SEADs 1, 2, 5, 24, & 48)	ROD	Awaiting EPA Approval/Comments	Awaiting NYSDEC Approval/Comments		02/23/09 & 03/19/09
Response to EPA Comments on SEAD-12 Proposed Plan	Comment Response	Awaiting EPA Approval/Comments	Awaiting NYSDEC Approval/Comments		23-Mar-09
Draft Remedial Action Operations Plan - SEAD-13	RAOP	Awaiting EPA Approval/Comments	Awaiting NYSDEC Approval/Comments		24-Mar-09
Revised Draft Final SEAD-12 PRAP. (issued Word Copy 03/25/09)	PRAP	Receive EPA Comments 03/19/09, Responded 03/23/09	Received NYSDEC Comments on 03/18/09, Responded 03/19/09		25-Mar-09

BCT Agenda
APRIL 21, 2009
1330-1630 Hours

Review Pending Document List

Discuss FOSTs To Be Completed Spring

SEAD 11 Public Comment Period Schedule

May 5, 2008

Mr. Stephen Absolom
Chief, Engineering and Environmental Division
Seneca Army Depot Activity (SEDA)
5786 State Route 96
Romulus, NY 14541-5001

Re: Seneca Army Depot Activity
Site ID# 850006
Draft FOST Addendum 2 (SEAD -11 & SEAD 3,6,8,14, 15
Ash Landfill) to Conservation Area FOST

Dear Mr. Absolom:

The New York State has reviewed the draft FOST Addendum 2 to FOST for Conservation Area, dated July 18, 2007 and the comments are as follows:

It is the position of New York State that a FOST covering SEAD-11 must wait until the ROD is approved for SEAD-11.

Page 1, Section 2, Bullet 1st, 3rd line- Modify the statement "...Confirmation testing showed no significant....." instead of "...Confirmation testing should no".

Page 1, Section 2, Bullet 1st, 3rd line-Modify the statement "...See the Final Construction Completion Report and ROD" instead of "...Draft Final Construction Completion Report.....".

(Please replace at all places where you have in this FOST)

Page 1, Section 2, Bullet 2nd, 1st line-Modify the Statement ".....these sites total approximately 45.2....." Instead of "...These sites totals approximately.....".

Page 1, Section 2, Bullet 2, 6th line - Replace with "...See the Final Construction Completion report and ROD dated Jan, 2005....."instead of "...Draft Final Construction Completion Report....."

Page 1, Section 2, 4th paragraph: Please modify the statement "...SEAD 11 is suitable for unrestricted reuse....." to "..... based on the current site conditions, SEAD-11 is in general

conformance with Part 375 Restricted Commercial Use Soil Cleanup Objectives, which are consistent with the future intended use of the area as training.”

Enclosure 2, Page 4- Item 1- “....Final Construction Completion report for the Ash landfill...dated April 2007 and ROD dated Jan 2005.....” instead of “....Draft Final....dated April 2007”.

“.....Final Construction Completion report ...dated April, 2007 and ROD...’ instead of “...Draft Construction completion report ...dated March 2007 .

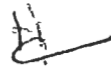
Enclosure 3, page 5- update “Draft Final construction completion report....” to “..Final Construction Completion Report and ROD.....” for SEAD 11 and SEAD Ash landfill.

Enclosure 5, Page 11, - Please use the most recent version of Easement language provided by NYSDEC Attorney.

Enclosure 5, Page 15- Use current Commissioner name.

If you have any questions, please call me at (518)402-9620 or e-mail me at kxgupta@gw.dec.state.ny.us.

Sincerely



Kuldeep K. Gupta, P.E.
Environmental Engineer
Remedial Section C

ecc: J. Swartwout, NYSDEC
M. Sergott, NYSDOH
Todd Heino, Parsons
J. Vasquez, USEPA
B. Putzig, Region 8



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

AUG 15 2007

BRAC Environmental Coordinator

Seneca Army Depot Activity

Attn: Stephen M. Absolom

PO Box 9

5786 State Route 96

Romulus, NY 14541-0009

Re: *Draft Addendum No. 2 to Conservation/Recreation Areas FOST
Seneca Army Depot Activity, Romulus, New York*

Dear Mr. Absolom:

This is in reference to the subject document received through electronic mail on July 17, 2007. The Army has informed us of its intention to transfer two areas of concern (AOCs) at the Seneca Army Depot, namely SEAD-11, which is known as the Old Construction Debris Landfill, and SEAD-3, 6, 8, 14, 15, which are known as the Ash Landfill. The Army refers to the Draft Final Construction Completion Report for SEAD-11, dated March 2007, and the Draft Final Construction Completion for the Ash Landfill, dated April 2007, as the supporting documents for these proposed transfers. The transfers would be pursuant to Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

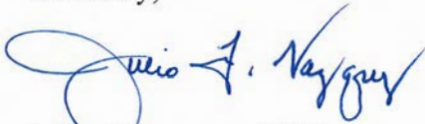
According to EPA's Finding of Suitability to Transfer guidance, the basis for transfer should be a determination that no remedial action is required or that all remedial action necessary to protect human health and the environment has been taken. A determination that no remedial action is required may be supported by appropriate documentation under applicable environmental regulatory programs, or it may be based on a consensus of the members of the facility's BRAC Cleanup Team.

In the case of SEAD-11 (the Old Construction Debris Landfill), such required documentation would include a CERCLA Record of Decision selecting a remedy for that AOC (or determining that no such remedy is required). No such decision document has been prepared and approved. For SEAD-3, 6, 8, 14, 15 (the Ash Landfill), prior to transfer the Army must provide the statutorily required covenant that all remedial action has been taken. If all remedial work is not certified as complete, which it has not been, the Army must demonstrate to EPA that the approved remedy has been installed and is operating properly and successfully.

As the above requirements for a Section 120(h) transfer have not been met for these properties, EPA considers the proposed transfer of these two AOCs premature. If the Army seeks to proceed with the transfer of these properties without satisfying these requirements, it should treat the transfers as "early transfers" under CERCLA, which requires the New York State Governor's signature among the other requirements related to the early transfer process as outlined in Section 120(h)(3)(C) of CERCLA and applicable guidance documents.

A facsimile of this letter will be forwarded to you today. Do not hesitate to call me if you may have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Julio F. Vazquez". The signature is fluid and cursive, with the first name being the most prominent.

Julio F. Vazquez, RPM
USEPA-Region 2
Emergency and Remedial Response Division
Special Projects Branch/Federal Facilities Section

cc: K. Gupta, NYSDEC
M. Sergott, NYSDOH
T. Heino, Parsons
R. Battaglia, USACE

DRAFT
ADDENDUM NUMBER 2
TO
FINDING OF SUITABILITY TO TRANSFER (FOST)
SENECA ARMY DEPOT ACTIVITY (SEDA)
Conservation/Recreation Area
(Conservation Area FOST)
July 18, 2007

1. Purpose. This addendum updates the Conservation Area FOST to reflect the completion of two one retained sites consisting of 6 5 Solid Waste Management Units. [Note: Since ROD has not yet been issued for SEAD-11, it is premature to transfer that site except as "early" transfer with approval of EPA and concurrence of Governor.]

2. Background. In September 2003, the Army prepared the Conservation Area FOST to support the transfer of approximately 6800 acres at SEDA to the Seneca County Industrial Development Agency (SCIDA). The FOST included the 14 sites that the Army retained pending completion of the necessary remedial action. [Addendum #1 to the FOST was prepared to address SEAD 24 and 48 and 63, 64B and 64D.] Over the past 3 years, the Army has completed remediation or investigation of the following 2-sites: [1. Remove reference to SEAD 11 since that is not ready for transfer except as early transfer and refer to completion of remediation instead of investigation. 3. There appears to be a reference to a footnote 1 at the end of the sentence. But I am unable to locate the text of the footnote. Should it be deleted?]

- SEAD 11(Old Construction Debris Landfill) — This site is approximately 7.7 acres. Approximately 35,000 tons of material was removed and disposed of at an approved landfill. Confirmation testing should no significant contamination remains at the site. See the Draft Final Construction Completion Report for the Old Construction Debris Landfill (SEAD 11), dated March 2007 for more details.

o SEAD 3,6, 8, 14,15 (Ash Landfill) - These sites total approximately 45.2 acres and include one building (Building 2207). Three in-situ reactive wall sets were installed to remove TCE contamination from the ground water. Approximately 1500 tons of soil were excavated and disposed of at an approved landfill. Fill areas required vegetative cover to prevent ecological receptors from coming in contact with soils containing residual metals contamination of lead, copper, mercury and zinc with maximum surface concentrations of 1170, 146, 1.2 and 6390 parts per million respectively.. See the Draft Final Construction Completion Report for the Ash Landfill Operable Unit dated April 2007 for additional information. By letter dated [insert date], EPA confirmed that the remedial action at the Ash Landfill areas of concern were operating properly and successfully.

Note – Building 2207 is abandoned and is scheduled for demolition under agreement with Reuse Authority.

¹ After this FOST Addendum is approved the Army will have completed remediation of 7 of the 14 Army Retained sites. See FOST Addendum 1 for additional information regarding the other remediated sites.

All environmental remedial activities at these sites have been implemented and the remedial sites are operating properly and successfully. [As to the Ash Landfill, the remedy has been constructed and is operating properly and successfully, but it is not true that "all remedial activities at the site" have been completed.] SEAD 11 is suitable for unrestricted reuse. [Remove SEAD 11 as the ROD has not yet been issued. SEAD 3, 6, 8, 14, and 15 will require an excavation and ground water usage restrictions, as well as restrictions against the construction of habitable structures and the requirement to maintain vegetative cover and to maintain remedial components and monitoring wells. The abatement dated [insert date] to Land Use Control Remedial Design the Army provided for land use control at the Ash Landfill areas of concern. [LUC RD should be done before the transfer.] In accordance therewith, the deed transferring these properties will incorporate an Environmental Easement establishing the appropriate land use restriction for SEAD 3, 6, 8, 14, and 15 and a Land Use Implementation Remedial Design Report will be prepared IAW the Federal Facilities Agreement. A site map depicting the locations of the environmental remediation sites is provided (Enclosure 1). In addition, a list of the supporting environmental documents for these sites is also provided (Enclosure 2). A description of the property (Enclosure 3) [There is no "description of property," rather Encl 4 is the Notification of hazardous substance storage . . .] and a summary of the environmental remediation taken at these sites is provided in the Notification of Hazardous Substance Storage, Release, or Disposal (Enclosure 4) [Encl 4 is "Environmental Protection Provisions"]. See also the Environmental Protection Deed Provisions (Enclosure 5) and Environmental Easement (Enclosure 6). [Please correct the references to the "enclosures" as noted above. Also, they are actually "attachments" (rather than "enclosures").]

3. Regulatory/Public Comment – The Army distributed a copy of this FOST Addendum to the United States Environmental Protection Agency Region II, the New York State Department of Environmental Conservation, and the transferee. Regulatory/public comments received during the public comment period will be reviewed and incorporated, as appropriate. A copy of the regulatory/public comments and the Army Response will be included at Enclosure 7 and 8. Pending

4. Findings of Suitability to Transfer. As a result of the [redacted] has determined is operating properly and successfully, completed removal actions and investigations, [redacted] Completion of remedy (e.g., Ash Landfill) rather than "investigation" (e.g. SEAD 11)].] the Army has made the determination that the 6-Solid Waste Management Units are suitable to transfer subject to the terms and conditions set forth in the attached Environmental Protection Provisions (Enclosure 5) and Environmental Easement (Enclosure 6). A copy of this FOST Addendum will be included with the Conservation/Recreation Area FOST.

Thomas Lederle
Chief, Industrial Branch
Base Realignment and Closure Division

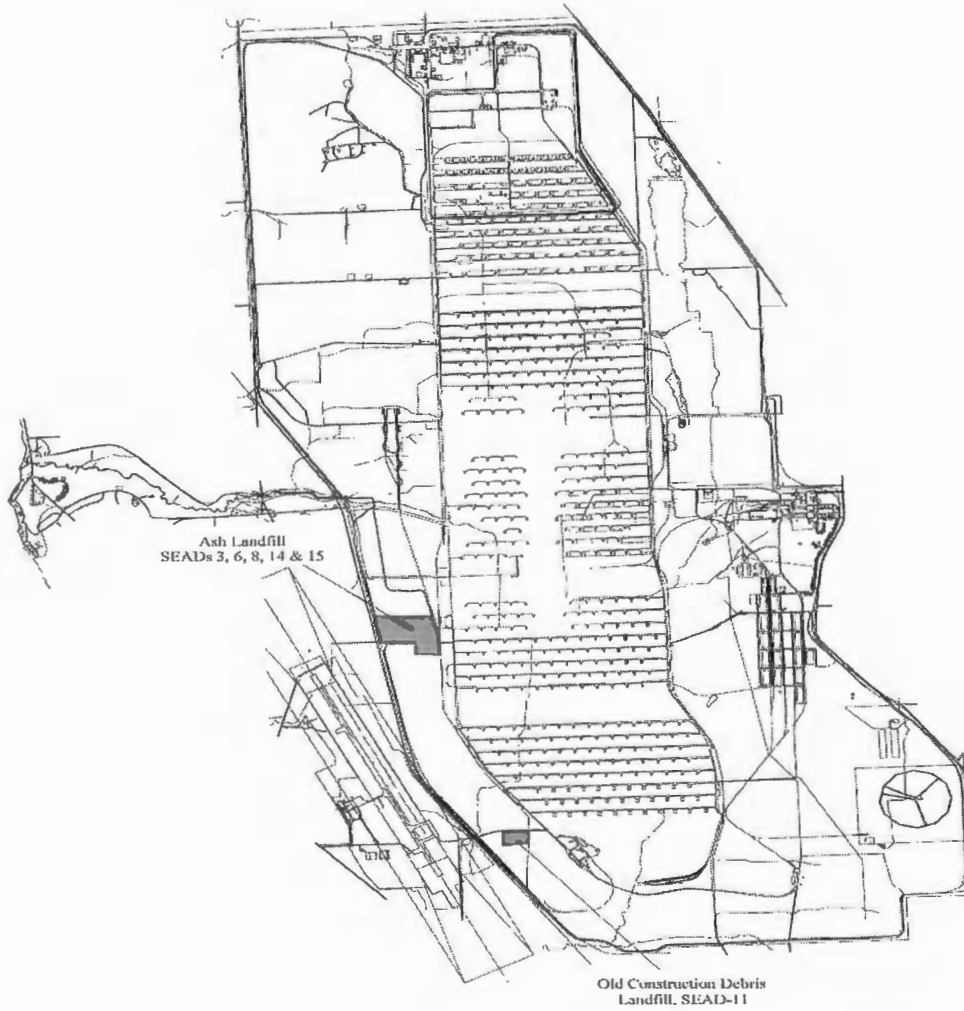
Date: _____

Enclosures 7
Encl 1 – Site Map

- Encl 2 – Supporting Environmental Documents
- Encl 3 - Notification of Hazardous Substance Storage, Release or Disposal
- Encl 4 – Environmental Protection Deed Provisions
- Encl 5 – Environmental Easement
- Encl 6 – Regulatory/Public Comments
- Encl 7 – Army Response to Comment

ENCLOSURE 1

SITE LOCATIONS [Note : Transfer of SEAD 11 is premature since ROD has not yet been issued and SEAD 11 may be removed from site Map.]



5000 0 5000 10000 Feet



PARSONS
Seneca Army Depot Activity
Enclosure 1
Locations of Ash Landfill
(SEADs 3, 6, 8, 14 & 15)
and
Old Construction Debris Landfill
(SEAD-11)

ENCLOSURE 2
SUPPORTING ENVIRONMENTAL DOCUMENTS

1. Draft Final Construction Completion Report for the Ash Landfill Operable Unit dated April 2007 [Why "draft"?]
2. [insert date] [REDACTED]
3. ~~Draft Construction Completion Report for the Old Construction Debris Landfill (SEAD 11), dated March 2007~~

[Note: Premature for SEAD 11 since it is still pre-ROD.]

[OPS report is another key supporting document.]

ENCLOSURE 3

NOTIFICATION OF HAZARDOUS SUBSTANCE STORAGE, RELEASE OR DISPOSAL

[Note: Transfer of SEAD 11 is premature since ROD has not yet been issued and SEAD 11 may be removed from the document.]

Building Number	Name of Hazardous Substance(s)	Date of Storage, Release, or Disposal	Remedial Actions
SEAD 11 (Old Construction Debris Landfill)	Soil contaminated with heavy metals and semi-volatile organic compounds	1940-1988	This site is approximately 7.7 acres. Approximately 35,000 tons of material was removed and disposed of at an approved landfill. Confirmation testing showed contamination remaining is consistent with site-specific background levels. See the Draft Final Construction Completion Report for the Old Construction Debris Landfill (SEAD 11), dated March 2007 for more details.
SEAD 3, 6, 8,14, and 15 (Ash Landfill)	Heavy Metal soil contamination and TCE ground water contamination is more fully described in the ROD	1945-1979	These areas of concern (AOCs) at the sites totals approximately 45.2 acres and include one building (Building 2207). A Record of Decision (ROD) was issued on [insert date] selecting a remedial action for these AOCs. Pursuant to the ROD , ± three in-situ reactive wall sets were installed to remove TCE contamination from the

			<p>ground water. Approximately 1500 tons of soil were excavated and disposed of at an approved landfill. Fill areas required vegetative cover to prevent wildlife contact with soils containing residual metals contamination of lead, copper, mercury and zinc with maximum surface concentrations of 1170, 146, 1.2 and 6390 parts per million respectively. See the Draft Final Construction Completion Report for the Ash Landfill Operable Unit dated April 2007 for additional information.</p> <p>These sites are subject to [REDACTED] excavation and ground water usage restrictions [REDACTED] set forth in to an environmental easement held by [REDACTED] the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation Law.</p>
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* The information contained in this notice is required under the authority of regulations promulgated under section 120(h) of the Comprehensive Environmental Response, Liability, and Compensation Act (CERCLA or 'Superfund') 42 U.S.C. §9620(h). This table provides information on the storage of hazardous substances for one year or more in quantities greater than or equal to 1,000 kilograms or the hazardous substance's CERCLA reportable quantity (which ever is greater). In addition, it provides information on the known release of hazardous substances in quantities greater than or equal to the substances CERCLA reportable quantity. See 40 CFR Part 373.

ENCLOSURE 4

ENVIRONMENTAL PROTECTION PROVISIONS

The following CERCLA Notice, Covenant, and Access Provisions and Environmental Protection Provisions will be placed in the deed [< I believe that the restrictions and access provisions will be in a separate "environmental easement" rather than in the deed. Will they also be in the deed? Please advise EPA as to how the Army plans to implement the easement provisions – and please then make the appropriate modification to this language.] in a substantially similar form to ensure protection of human health and the environment and to preclude any interference with ongoing or completed remediation activities.

The Grantor acknowledges that the Seneca Army Depot has been identified as a National Priorities List (NPL) site under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (hereinafter referred to as "CERCLA"). The Grantee acknowledges that the Grantor has provided it with a copy of the Seneca Federal Facility Agreement (hereinafter referred to as the "FFA") entered into by the United States Environmental Protection Agency, Region II, the State of New York, and the Department of the Army, effective January 23, 1993, and will provide the Grantee or the then record owner(s) of the Property [Note: The term "Property" should be defined to refer to the property being transferred in the deed.] with a copy of any amendments thereto. The Grantee, for itself, its successors and assigns, further agrees that notwithstanding any other provisions of this Deed, the Grantor assumes no liability to the Grantee, its successors and assigns, should implementation of the FFA interfere with their use of the Property. The Grantee, its successors and assigns, shall have no claim on account of any such interference against the Grantor or any officer, agent, employee or contractor thereof. The Grantor shall, however, comply with the provisions of paragraph III.B, [< I think that you mean III.B and not III.C.] below, in carrying out its responsibilities under the FFA.

I. CERCLA NOTICE, COVENANT AND RIGHT OF ACCESS

Pursuant to Section 120(h)(3) of CERCLA:

A. Notice and Covenant

1. The Grantor hereby notifies the Grantee that to the extent such information is available on the basis of a complete search of agency files, there was storage for a year or more, release or disposal of hazardous substances, petroleum, petroleum products or their derivatives on certain portions of the Property. For the purpose of this Deed, "hazardous substances" shall have the same meaning as in section 101(14) of CERCLA. Available information regarding the type, quantity, and location of the hazardous substances found on the Property, the time at which such storage, release or disposal took place, and the remedial action taken is contained in Exhibit C [< These are the exhibits stored in this document – please list the exhibits] hereof. The information regarding said storage, release or disposal indicates that [< I think that you mean III.B and not III.C.] there is no threat to human health or the environment on the Property. [< 1. Where does this language come from. The statute requires that remedial action has been taken to "protect human health and the

environment.” See paragraph 2.a below. Among the protectiveness standards is that the risks are within the appropriate risk range. Moreover, the remedy is protective if used for the approved purpose and if the LUCs are complied with. So a blanket statement of “no risk” is incorrect. Furthermore, the finding with respect to the risk does not come from the notification on storage and release. The proposed edits address these comments.]

2. The Grantor hereby covenants that:

a. ~~On those portions of the Property where there was the storage, release or disposal of hazardous substances, a~~ [redacted] all remedial action necessary to protect human health and the environment with respect to ~~any such~~ hazardous substances remaining on the Property has been taken before the date of this Deed ~~and the remedial action is operating properly and successfully~~; and [See CERCLA 120(h)(3)(A)(ii) statutory language. Also, as to Ash Landfill, the action is ongoing – not completed. .]

b. Any additional remedial action found to be necessary after the date of this Deed with regard to any hazardous substances remaining on the Property as a result of activities [redacted] of the Grantor shall be conducted by the Grantor. This covenant shall not apply to the extent that any such remedial actions are required as a result of [redacted] activities of the Grantee, its successors, or assigns.

B. Right of Access

The Grantor reserves a perpetual and assignable right and easement for access to the Property in any case in which remedial action or corrective action is found to be necessary after the date of this Deed. In exercising these rights of access, except in case of imminent endangerment to human health or the environment, the Grantor shall give the Grantee, or the then record owner, at least thirty (30) days prior written notice of actions to be taken in remediation of the Property, and shall use reasonable means, without significant additional cost to the Grantor, to avoid and/or minimize interference with the use of the Property by the Grantee, its successors and assigns. Furthermore, any such actions undertaken by the Grantor pursuant to this paragraph III.B ~~← I think that you mean III.B and not III.B~~ will, to the maximum extent practicable, be coordinated with a representative of the Grantee, its successors and assigns. Grantee agrees, notwithstanding any other provisions of this Deed, that the Grantor assumes no liability to the Grantee, its successors and assigns, or any other person, should remediation of the Property interfere with the use of the Property by the Grantee, its successors and assigns.

C. Transfer Documents

The Grantee and its successors and assigns covenant and agree that all leases, transfers or conveyances of the Property occurring subsequent to the date of this Deed shall be made expressly subject to, and shall have the benefit of, the provisions contained in this paragraph III.

II. ENVIRONMENTAL BASELINE SURVEY (“EBS”) AND FINDING OF SUITABILITY TO TRANSFER (“FOST”)

The Grantee has received the technical environmental reports, including the EBS for the Property, [redacted] "Property" has not been defined. Please define "Property" [redacted] dated March 22, 1996, and as revised on October 30, 1996 [redacted] I doubt if this is the correct document. First, the EBS is probably for the entire 10,600 acres of the Seneca Depot may not reflect conditions at the Ash Landfill. Second, why would a 1996 document accurately reflect the current conditions? Perhaps likely you want to refer to the Completion Report for the Ash Landfill, [redacted] and the FOST for SEDA Planned industrial Development and Warehouse Area, dated July 2002, prepared by the Grantor, and agrees, to the best of the Grantee's knowledge, that they accurately describe the environmental condition of the Property. [redacted] I am unsure of a Feb. 2002 FOST for the FID area. Please change to refer to the correct document. [redacted]

The Grantee has inspected the Property and accepts the physical condition and current level of environmental hazards on the Property and deems the Property to be safe for the Grantee's intended use. [redacted] Specify the intended use and Grant the use. [redacted] If an actual or threatened release of a hazardous substance or petroleum product is discovered on the Property after the date of the conveyance, whether or not such substance was set forth in the technical environmental reports, including the EBS, Grantee or its successors or assigns shall be responsible for such release or newly discovered substance unless Grantee is able to demonstrate that such release or such newly discovered substance was due to Grantor's activities, ownership, use, or occupation of the Property. Grantee, its successors and assigns, as consideration for the conveyance, agree to release Grantor from any liability or responsibility for any claims arising solely out of the release of any hazardous substance or petroleum product on the Property occurring after the date of this Deed, where such substance or product was placed on the Property by the Grantee, or its successors, assigns, employees, invitees, agents or contractors, after the conveyance. This Article III [redacted] shall not affect the Grantor's responsibilities to conduct response actions or corrective actions that are required by applicable laws, rules and regulations, or the Grantor's indemnification obligations under applicable laws.

III. MUNITIONS AND EXPLOSIVES OF CONCERN (MEC)

A. Based on a review of existing records and available information, there is no evidence that Munitions and Explosives of Concern (MEC) may be present on the Property. The term "MEC" means military munitions that may pose unique explosives safety risks, including: (A) unexploded ordnance (UXO), as defined in 10 U.S.C. § 101(e)(5); (B) discarded military munitions (DMM), as defined in 10 U.S.C. § 2710(e)(2); or (C) munitions constituents (e.g., TNT, RDX), as defined in 10 U.S.C. § 2710(e)(3), present in high enough concentrations to pose an explosive hazard.

B. The Grantee, its successors and assigns, are hereby notified that the Property was previously part of the Seneca Army Depot which was used for receipt, storage, maintenance, and issue of military munitions from 1941 to 2000. Based upon a comprehensive archive records search, the Grantor has determined that there is no evidence of munitions and explosives of concern (MEC) (formerly referred to as OE) on the Property.

C. Notwithstanding the comprehensive archive records search, the Grantor and Grantee acknowledge that there is a possibility that MEC may exist on the Property due to the former use of the Property as an active military installation. If the Grantee, any subsequent owner, or any other person should find any MEC on the Property, they shall immediately stop any intrusive or ground-disturbing work in the area or in any adjacent areas and shall not attempt to disturb, remove or destroy it, but shall immediately notify the Local Police Department so that appropriate explosive ordnance disposal personnel can be dispatched to address such MEC as required under applicable law and regulations.

D. The Grantee acknowledges receipt of the Seneca Depot Activity (SEDA) Ordnance and Explosives Archive Search Report dated December 1998

IV. NOTICE OF WETLANDS

The Property contains wetlands protected under state and federal laws and regulations. Applicable laws and regulations restrict activities that involve draining wetlands or the discharge of fill materials into wetlands, including, without limitation, the placement of fill materials; the building of any structure; the placement of site-development fills for recreational, industrial, commercial, residential, and other uses; the placement of causeways or road fills; and the construction of dams and dikes.

V. LAND USE RESTRICTIONS

The Deed shall include the following statement in at least a 15 pitch bold wording. The Proposed easement is Enclosure 4.

This Property is subject to an environmental easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation Law.

ENCLOSURE 5

ENVIRONMENTAL EASEMENT

THIS INDENTURE made this ____ day of _____, 2007, between The United States of America, acting by and through the Deputy Assistant Secretary of the Army (Installations and Housing) (the "Grantor"), and the People of the State of New York (the "Grantee"), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner", or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233.

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties ("brownfield sites") that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment ~~and whereas this is in the public interest to address environmental~~
~~properties pursuant to the Comprehensive Environmental Response, Compensation and Liability Act~~
~~(CERCLA) 42 U.S.C. § 9601 et seq.~~; and [~~Suggested language change since this is a CERCLA NPL site~~
~~rather than just a brownfield. But NYSDEC would need to approve this language change.~~]

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of environmental easements as an enforceable means of ensuring the performance of operation, maintenance, and/or monitoring requirements and of ensuring the potential restriction of future uses of the land, when an environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to perform properly and be effective, or which requires groundwater use or soil management restrictions; and

WHEREAS, the Legislature of the State of New York has declared that "Environmental Easement" shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law ("ECL") which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a brownfield site remedial program or eliminate potential exposure pathways to the hazardous waste or petroleum; and

WHEREAS, the Grantor, is the owner of real property located in the Town of Romulus, Seneca County, New York known and designated on the tax map of the Town of Romulus as contained in tax map parcel numbers 3-1-89.11, 8-1-1.11, and 12-1-1, being a portion of the property identified as Military Lot Numbers 68, 75, 81 and 82 [~~is a portion of the property identified as Military Lot Numbers 68, 75, 81 and 82~~]
as recorded in the land records of Seneca County, New York, at Seneca County Clerks Office, comprised of approximately 42 acres, [~~Note on the Record that Ash II landfill is owned by the US Army~~]
and hereinafter more fully described and attached hereto and made a part hereof (the "Controlled Property"); and [~~is a portion of the property identified as Military Lot Numbers 68, 75, 81 and 82~~]
~~discussed herein.~~

WHEREAS, the Commissioner does hereby acknowledge that the Department accepts this Environmental Easement in order to ensure the protection of human health and the environment and to achieve the requirements for remediation established at this Controlled Property until such time as this Environmental Easement is extinguished pursuant to ECL Article 71, Title 36.

NOW THEREFORE, in consideration of the covenants and mutual promises contained herein and the terms and conditions of the Record of Decision entitled, "Sites Requiring Institutional Controls in the Planned Industrial/Office Development or Warehousing Areas" dated July 2004, [REDACTED] Grantor grants, conveys and releases to Grantee a permanent Environmental Easement pursuant to Article 71, Title 36 of the ECL in, on, over, under, and upon the Controlled Property as more fully described herein ("Environmental Easement").

1. Purposes. Grantor and Grantee acknowledge that the Purposes of this Environmental Easement are: to convey to Grantee real property rights and interests that will run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of this Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of operation, maintenance, and/or monitoring requirements; and to ensure the potential restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional and Engineering Controls. The following controls apply to the use of the Controlled Property, run with the land, and are binding on the Grantor and the Grantor's successors and assigns, and are enforceable in law or equity against any owner of the Controlled Property, any lessees, and any person using the Controlled Property:

A. The Controlled Property may be used for unrestricted use as long as the following long-term institutional controls are employed:

(1) Ground Water Restriction.

There shall be no access to or use of the ground water on the Controlled Property known as SEAD [REDACTED] 6,7,8, 14, and 14 [REDACTED] for any purpose without the prior written approval of the Grantee, the U.S. Environmental Protection Agency Region II ("USEPA Region II"), and the U.S. Department of the Army ("Army"). However, any owner, lessee, or other person using the Controlled Property is authorized to install monitoring wells with the prior written approval of the Grantee, USEPA Region II, and the Army which approval shall not be unreasonably withheld. For the purpose of this restriction, "ground water" shall have the same meaning as in section 101(12) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended.

(2) Excavation Restriction.

No digging or excavation shall be permitted on that portion of the Controlled Property identified as SEAD [REDACTED] 6,7,8, 14, and 15 [REDACTED] without prior written approval of the Grantee, EPA Region 2 and the Army. [Note: 1. As it was written, the restriction was broader than the ROD requirement. The restriction in the ROD applies only to the portion above the groundwater plume. 2. Corrected the reference to the applicable AOCs.]

(3) Maintenance of Remedial Action at n

Maintain the vegetative soil layer over the ash fill areas and the NCFL to limit ecological contact. Maintain the integrity of any current or future remedial or monitoring system such as monitoring wells and impermeable reactive barriers. [These ROD imposes these additional restrictions. It is not clear to me what actions the grantee would need to take to “maintain” the wells and barriers – but that is what the ROD provides.]

B. The Controlled Property may be used for unrestricted use and the above-stated institutional controls may not be discontinued without an amendment or extinguishment of this Environmental Easement approved

C. The Grantor covenants and agrees for itself, its successors and assigns that until such time as the Environmental Easement is extinguished in accordance with the requirements of Article 71, Title 36 of the ECL, the property deed and all subsequent instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

This property is subject to an environmental easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation Law.

D. The Grantor covenants and agrees for itself, its successors and assigns that this Environmental Easement shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

E. The Grantor covenants and agrees for itself, its successors and assigns that the owner of the Controlled Property shall annually, or within such time as NYSDEC may allow, submit to NYSDEC, and provide a copy to USEPA Region II and the Army, a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury that the controls employed at the Controlled Property are unchanged from the previous certification or that any changes to the controls employed at the Controlled Property were approved by the NYSDEC, and that nothing has occurred that would impair the ability of such control to protect the public health and environment or constitute a violation or failure to comply with any Site Management Plan for such controls and giving access to such Controlled Property to evaluate continued maintenance of such controls.

3. Right to Enter and Inspect. The Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor’s Rights. The Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Controlled Property, all rights as fee owner of the Controlled Property, including:

1. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement; and

2. The right to give, sell, assign, or otherwise transfer the underlying fee interest to the Controlled Property by operation of law, by deed, or by indenture, subject and subordinate to this Environmental Easement.

5. Enforcement.

A. This Environmental Easement is enforceable in law or equity in perpetuity by the Grantor, the Grantee, or any affected local government, as defined in ECL Section 71-3603, [REDACTED] against the owner of the Controlled Property, any lessees, and any person using the Controlled Property. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel, or waiver. It is not a defense in any action to enforce this Environmental Easement that: it is not appurtenant to an interest in real property; it is not of a character that has been recognized traditionally at common law; it imposes a negative burden; it imposes affirmative obligations upon the owner of any interest in the burdened property; the benefit does not touch or concern real property; there is no privity of estate or of contract; or it imposes an unreasonable restraint on alienation.

B. The Grantee shall notify the Grantor and the owner of the Controlled Property [REDACTED] of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall set forth how the owner of the Controlled Property can cure such breach or suspected breach and give the owner of the Controlled Property a reasonable amount of time from the date of receipt of notice in which to cure. At the expiration of such period of time to cure, or any extensions granted by Grantee, the Grantee shall notify the Grantor and the owner of the Controlled Property [REDACTED] of any failure to adequately cure the breach or suspected breach. The owner of the Controlled Property shall then have a reasonable amount of time from receipt of such notice to cure. At the expiration of said second period, the Grantee may commence any proceedings and take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement in accordance with applicable law to require compliance with the terms of this Environmental Easement.

C. The failure of Grantee [REDACTED] to enforce any of the terms contained herein shall not be deemed a waiver of any such term nor bar its enforcement rights in the event of a subsequent breach of, or noncompliance with, any of the terms of this Environmental Easement.

6. Notice. Whenever notice to the State (including the annual certification) or approval from the State, USEPA Region II or the Army is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing its County tax map number or the Liber and Page or computerized system tracking/identification number and address its correspondence to:

Division of Environmental Enforcement
Office of General Counsel
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-5500

U.S. Environmental Protection Agency Region II
Emergency & Remedial Response Division
[REDACTED]
290 Broadway, 18th Floor, E-3
New York, New York 10007-1866

[REDACTED]

Headquarters, Department of the Army
ATTN: DAIM-ZA
600 Army Pentagon
Washington, DC 20310-0600

Such correspondence shall be delivered by hand, or by registered mail or by certified mail and return receipt requested. The Parties may provide for other means of receiving and communicating notices and responses to requests for approval.

7. Recordation. The Grantor shall record this instrument within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in the office of the recording officer for the county or counties where the Controlled Property is situated in the manner prescribed by Article 9 of the Real Property Law.

8. Amendment. This Environmental Easement may be amended only by an amendment executed by the Commissioner of the New York State Department of Environmental Conservation and filed with the office of the recording officer for the county or counties where the Controlled Property is situated in the manner prescribed by Article 9 of the Real Property Law.

9. Extinguishment. This Environmental Easement may be extinguished only by a release executed by the Commissioner of the New York State Department of Environmental Conservation and filed with the office of the recording officer for the county or counties where the Controlled Property is situated in the manner prescribed by Article 9 of the Real Property Law.

10. Joint Obligation. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

11. Grantor and USEPA Region II Opportunity to Review and Comment. The Grantee shall provide the Grantor and USEPA Region II with a notice of, and a reasonable opportunity to review and comment upon, requested approvals or actions under this Environmental Easement, including without limitation requests for amendment pursuant to Paragraph 8 hereof and extinguishment pursuant to Paragraph 9 hereof.

[REDACTED]

IN WITNESS WHEREOF, the Grantor has caused this instrument to be signed in its name.

Given under my hand and seal this _____ day of _____, 2005-██████████

(SEAL)

Notary Public

My commission expires on _____.

Grantee's Acknowledgment

STATE OF NEW YORK)
) ss:
COUNTY OF)

On the _____ day of _____, in the year 2005-██████████, before me, the undersigned, personally appeared Denise M. Sheehan ██████████, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her ██████████ capacity as Commissioner of the State of New York Department of Environmental Conservation, and that by her ██████████ signature on the instrument, the People of the State of New York, upon behalf of which the individual acted, executed the instrument.

Notary Public - State of New York

ENCLOSURE 6

REGULATORY/PUBLIC COMMENTS

(PENDING)

[< Note – not final]

ENCLOSURE 7

ARMY RESPONSE TO COMMENTS

(PENDING) [**< Note – not final**]

Absolom, Stephen M Mr CIV USA

From: Kuldeep Gupta [kxgupta@gw.dec.state.ny.us]
Sent: Monday, September 29, 2008 1:36 PM
To: Absolom, Stephen M Mr CIV USA
Cc: Julio Vazquez; John Swartwout
Subject: Seneca #850006-Draft Addendum 3- SEAD 3,6,8,14, 15 (AshLandfill) to LUC Remedial Design

Dear Mr. Absolom,

The New York State has reviewed the Draft Addendum 3- SEAD 3,6,8,14, 15 (Ash Landfill) to LUC Remedial Design for SEAD 27, 66, and 64A, dated July 2008 and the comments are as follows :

Page 1, Top Line,
Modify the title " Addendum 3- SEADs 3, 6, 8,14, and 15 Ash Landfill Operable Unit "
instead of "Addendum 2- 3, 6, 8,14, and
15 (Ash Landfill)"

Section 3, 4, 5 and 6,

Modify the statement- " SEADs 3, 6, 8,14, and 15 Ash
Landfill Operable Unit " instead of "...the Ash Landfill
Operable Unit....".

Please provide me a revised Copy of document for approval.

Kuldeep K. Gupta
Environmental Engineer, P.E.
Remedial Bureau A, Section C
Division of Environmental Remediation
11th Floor
625 Broadway
Albany, NY 12233-7015
e-mail: kxgupta@ gw.dec.state.ny.us
Phone: 518 402-9620
Fax: 518- 402-9022

Addendum 4

**Addressing
SEAD 1, 2, 5, 16, 17, 59, 71, 121C, and 121I**

**Land Use Control Remedial Design
For
SEAD 27, 66, and 64A
Seneca Army Depot Activity
Romulus, New York**

Seneca Army Depot Activity
Addendum date: February 2009

Addendum 4
Addressing
SEAD 1, 2, 5, 16, 17, 59, 71, 121C, and 121I

Land Use Control Remedial Design
For
SEAD 27, 66, and 64A
Seneca Army Depot Activity
Romulus, New York

1. Purpose: The Purpose of this Addendum to the “Land Use Control Remedial Design” (“SEAD LUC RD”) is to supplement the LUC RD in order to address the land use controls required for six areas of concern at SEAD which are designated and known as follows:

SEAD 1- Hazardous Waste Container Storage Facility
SEAD 2- PCB Transformer Storage Facility
SEAD 5- Sewage Sludge Waste Piles
SEAD 16- Abandoned Deactivation Furnace
SEAD 17- Deactivation Furnace
SEAD 59- Paint Disposal Area
SEAD 71- Alleged Paint Disposal Area
SEAD 121C- Defense Reutilization and Marketing Office Yard
SEAD 121I- Rumored Cosmoline Disposal Area

Pursuant to the ROD for each of the aforementioned areas of concern, land use controls was selected for all or part of the remedy for each AOC. The land use controls are applicable during pre and post transfer of these areas of concern. The SEAD LUC RD Figure 1 has been amended to include these AOCs. The AOCs that are subject to this RD, as amended, are identified in Table 1.

2. LUC Objectives and Restrictions:

The Record of Decisions (“RODs”) titled “The Abandoned Deactivation Furnace SEAD 16 and the Active Deactivation Furnace SEAD 17 “ signed on September 29, 2006, the “Defense Reutilization and Marketing Office Yard (SEAD 121C) and the Rumored Cosmoline Oil Disposal Area (SEAD 121I)” signed on August 7, 2008 , the” Fill Area West of Building 135 (SEAD 59) and the Alleged Paint Disposal Area (SEAD 71)” signed on XXXXX and the” Five Former Solid Waste Management Units (SWMUs), SEAD 1 (Hazardous Waste Container Storage Facility), SEAD 2 (PCB Transformer Storage Facility), SEAD 5 (Sewage Sludge Waste Piles), SEAD 24 (Abandoned Powder Burn Pit) and SEAD 48 (Row E0800 Pitchblende Storage Igloos)” signed on XXXXX requires the establishment of institutional controls (“ICs”). The RODs LUC Objectives are as follows:

- Prevent access or use of the groundwater until New York States GA ground water Standards are achieved; and
- Prohibit residential housing, elementary and secondary schools, child care facilities and playground activities; and
- Prevent unauthorized excavation at the SEAD 5;

Figure 1 has been modified to indicate that SEAD 1, 2, 5, 16, 17, 59, 71, 121C, and 121I are no longer identified as Army Retained Sites and that these parcels will be managed under this RD.

Note - The PID/Warehouse Area ROD proposed the establishment of an area-wide set of Land Use Restrictions for the PID/Warehouse Area. The area-wide Land Use Restrictions will simplify IC implementation by having a single set of Land Use Restrictions for the PID/Warehouse Area, which are consistent with its anticipated industrial land use. The PID/Warehouse Area also includes No Action/No Further Action (“NA/NFA”) sites. NA/NFA sites may be suitable for uses other than industrial. Upon request by a future property owner, the Army, USEPA Region II, and NYSDEC will evaluate any requested variances to the Land Use Restrictions regarding a NA/NFA site on a site-by-site basis.

3. IMPLEMENTATION ACTIONS.

The SEAD LUC RD Implementation Actions shall be implemented on SEAD 1, 2, 5, 16, 17, 59, 71, 121C, and 121I to prevent violations of the above LUC Objectives and Land Use Restrictions. The Army’s Caretaker staff will monitor compliance of the LUCs prior to transfer and before recordation of the Environmental Easement.

4. ENFORCEMENT

The SEAD LUC RD Enforcement provisions shall apply to SEAD 1, 2, 5, 16, 17, 59, 71, 121C, and 121I.

5. MODIFICATION

The SEAD LUC RD Modification provisions shall apply to SEAD 1, 2, 5, 16, 17, 59, 71, 121C, and 121I.

6. SUPPLEMENTATION

Paragraph 6 of the original LUC RD dated December 2006 is amended to permit the supplementation of the LUC RD to include all areas of concern at Seneca Army Depot Activity. As amended, the LUC RD is amended and supplemented to add these AOCs

(i.e., SEAD-1, 2, 5, 16, 17, 59, 71, 121C, and 121I) to the LUC RD pursuant to this LUC RD Addendum #4.

7. TERMINATION

The SEAD Termination provisions shall apply to SEAD1, 2, 5, 16, 17, 59, 71, 121C, and 121I.

**Table 1
Land Use Control Remedial Design
Site Description / Title**

SITE	DESCRIPTION	DOCUMENT
SEAD 27-	STEAM JENNY PIT	REMEDIAL DESIGN ¹
SEAD 64A-	GARBAGE DISPOSAL AREA	REMEDIAL DESIGN
SEAD 66-	PESTICIDE STORAGE AREA	REMEDIAL DESIGN
SEAD 25-	FIRE DEMONSTRATION PAD	ADDENDUM 1 ²
SEAD 26-	FIRE TRAINING AREA	ADDENDUM 1
SEAD 39 -	BUILDING 121 BOILER BLOW DOWN PIT	ADDENDUM 2 ³
SEAD 40 -	BUILDING 319 BOILER BLOW DOWN PIT	ADDENDUM 2
SEAD 41-	BUILDING 718 BOILER BLOW DOWN PIT	ADDENDUM 2
SEAD 67 -	DUMPSITE EAST OF STP 4	ADDENDUM 2
SEAD 13 -	INHIBITED RED FUMING NITRIC ACID (IRFNA)	ADDENDUM 2
SEAD 64B-	GARBAGE DISPOSAL AREA	ADDENDUM 2
SEAD 64C-	RUMORED GARBAGE DISPOSAL AREA	ADDENDUM 2

¹ Remedial Design See "Sites Requiring Institutional Controls in the Planned Industrial/Office Development and Warehousing Areas ("PID/Warehouse Area")" ROD, 9/28/04 , Section 2 "Site Name Location, and Description"

² Addendum 1 see The Fire Training and Demonstration Pad (SEAD 25) and the Fire Training Pit and Area (SEAD 26)ROD, 9/29/04, Section 2 "Site Name, Location, and Description"

³ Addendum 2 see Seventeen SWMU Requiring Land Use Controls (SEADs 13, 39, 40, 41, 43/56/69, 44A, 44B, 52, 62, 64B, 64C, 64D, 67, 122B, and 122E) ROD, 07/03/07, Section 2 "Site Name, Location, and Description"

SEAD 64D- GARBAGE DISPOSAL AREA	ADDENDUM 2
SEAD 122B- AIRFIELD SMALL ARMS RANGE	ADDENDUM 2
SEAD 122E- DEICING LOCATIONS	ADDENDUM 2
SEAD 44A- QUALITY ASSURANCE TEST LAB WEST	ADDENDUM 2
SEAD 44B- QUALITY ASSURANCE TEST LAB	ADDENDUM 2
SEAD 43- OLD MISSILE PROPELLANT TEST LAB	ADDENDUM 2
SEAD 56- HERBICIDE AND PESTICIDE STORAGE	ADDENDUM 2
SEAD 69- BUILDING 606 DISPOSAL AREA	ADDENDUM 2
SEAD 62- NICOTINE SULFATE DISPOSAL AREA	ADDENDUM 2
SEAD 52- AMMUNITION BREAKDOWN AREA	ADDENDUM 2
ASH LANDFILL OPERABLE Unit (SEAD 3, 6, ,8, 14, and 15)	ADDENDUM 3⁴
SEAD 16- ABANDONDED DEACTIVATION FURNACE	ADDENDUM 4⁵
SEAD 17- ACTIVE DEACTIVATION FURNACE	ADDENDUM 4
SEAD 121C- REUTILIZATION AND MARKETING YARD (SEAD 121C)	ADDENDUM 4⁶
SEAD 121I- RUMORED COSMOLINE OIL DISPOSAL AREA	ADDENDUM 4
SEAD 59- FILL AREA WEST OF BLDG 135	ADDENDUM 4⁷
SEAD 71- ALLEGED PAINT DISPOSAL AREA	ADDENDUM 4
SEAD 1- Hazardous Waste Container Storage Facility	ADDENDUM 4⁸

⁴ Addendum 3 see Ash Landfill Operable Unit, ROD dated January 21, 2005, Section 2 “Site Name, Location, and Description”

⁵ Addendum 4 see the Abandoned Deactivation Furnace SEAD 16 and the Active Deactivation Furnace SEAD 17 ROD dated March 2006, Section 2 “Site Name, Location, and Description”

⁶ Addendum 4 see the Defense Reutilization and Marketing Office Yard (SEAD 121C) and the Rumored Cosmoline Oil Disposal Area (SEAD 121I)dated June 2008, Section 2 “Site Name, Location, and Description”

⁷ Addendum 4 see the Defense Fill area West of Building 135 (SEAD 59) and the Alleged Paint Disposal Area (SEAD 71)dated Jan 2009, Section 2 “Site Name, Location, and Description”

⁸ Addendum 4 see the “Five Former Solid Waste Management Units (SWMUs), SEAD 1 (Hazardous Waste Container Storage Facility), SEAD 2 (PCB Transformer Storage Facility), SEAD 5 (Sewage Sludge

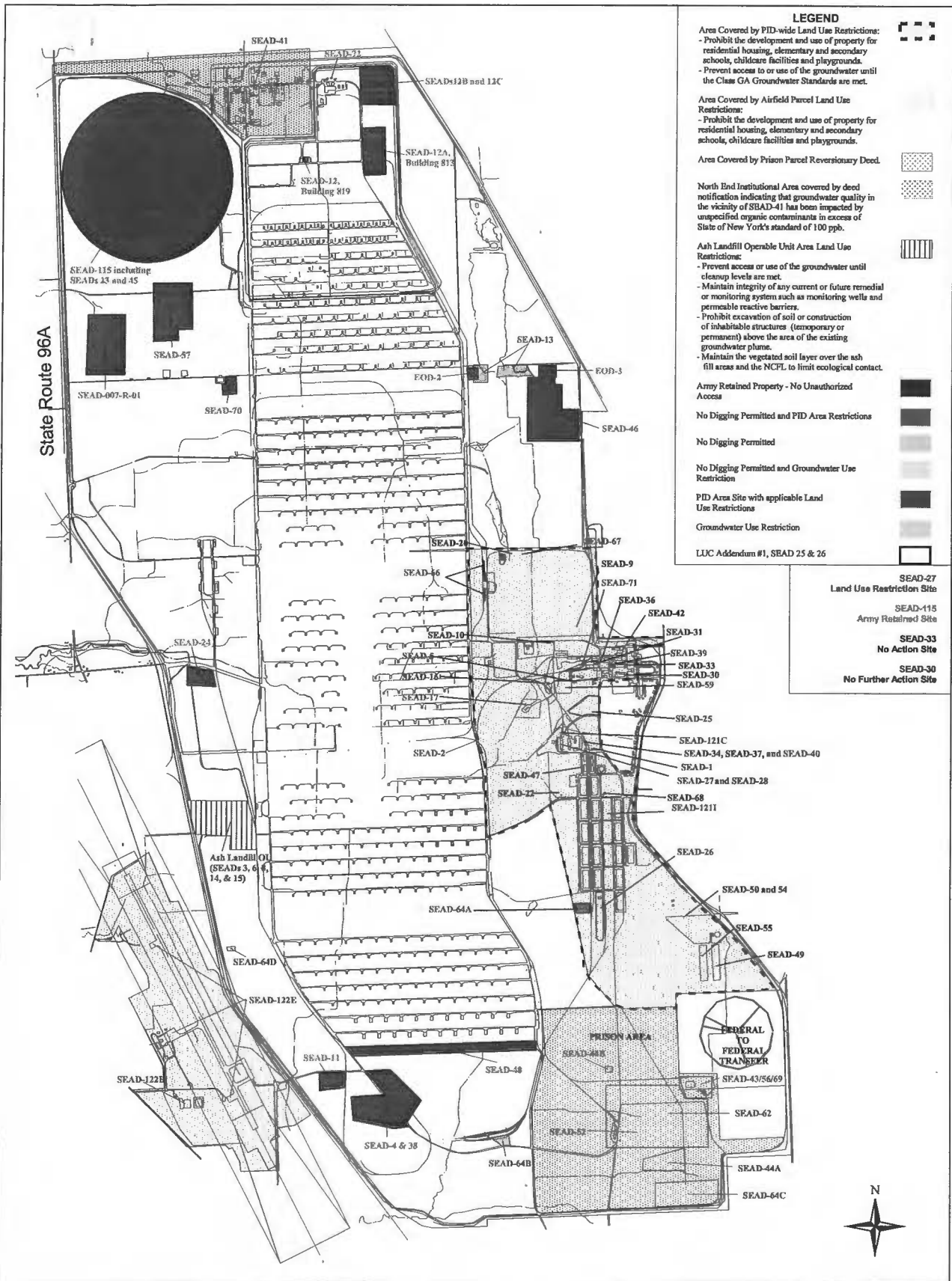
SEAD 2- PCB Transformer Storage Facility

ADDENDUM 4

SEAD 5- Sewage Sludge Waste Piles

ADDENDUM 4

Waste Piles), SEAD 24 (Abandoned Powder Burn Pit) and SEAD 48 (Row E0800 Pitchblende Storage Igloos)"dated XXXXX, Section 2 "Site Name, Location, and Description"



Land Use Control, Remedial Design, Version 2500 0 2500 5000 Feet

- PID Area LUC Sites, SEADs 27, 64A, and 66
- LUC Addendum #1, SEADs 25 and 26
- LUC Addendum #2, SEADs 13, 39, 40, 41, 43/56/69, 44A, 44B, 52, 62, 64B, 64C, 64D, 67, 122B, and 122E
- LUC Addendum #3, Ash Landfill Operable Unit SEADs 3, 6, 8, 14 and 15
- LUC Addendum #4, SEADs 1, 2, 5, 16, 17, 59, 71, 121C, and 121I

PARSONS

SENECA ARMY DEPOT ACTIVITY
Remedial Design
IC Implementation Plan - Addendum 3

FIGURE 1
EXTENT OF SEDA
LAND USE RESTRICTION

April 2009

o:\seneca\pid\luc\seneca lur amend 3 July 08.apr\Figure 1 Amend 3 LUC RD legend

DRAFT
ADDENDUM NUMBER 2
TO
FINDING OF SUITABILITY TO TRANSFER (FOST)
SENECA ARMY DEPOT ACTIVITY (SEDA)
Conservation/Recreation Area
(Conservation Area FOST)
April 14, 2009

1. Purpose. This addendum updates the Conservation Area FOST to reflect the completion of remedial activities at three retained sites consisting of eight Solid Waste Management Units.

2. Background. In September 2003, the Army prepared the Conservation Area FOST to support the transfer of approximately 6800 acres at SEDA to the Seneca County Industrial Development Agency (SCIDA). The FOST included sites that the Army retained pending completion of the necessary remedial action. The Army has completed remediation or investigation of the following Areas of Concern (AOC):

- SEAD 11 (Old Construction Debris Landfill) – This AOC is approximately 7.7 acres. Approximately 35,000 tons of material was removed and disposed at an approved landfill. Confirmation testing showed no significant contamination remains at the site. See the Final Construction Completion Report for the Old Construction Debris Landfill (SEAD 11), dated May 2008 for more details.
- SEAD 3, 6, 8, 14, and 15 (Ash Landfill) - This AOC is approximately 45.2 acres. Three in-situ reactive wall sets were installed to remove TCE contamination from the ground water. Approximately 1500 tons of soil were excavated and disposed at an approved landfill. Fill areas required vegetative cover to prevent ecological receptors from coming in contact with soils containing residual contamination of lead, copper, mercury and zinc with maximum surface concentrations of 1170, 146, 1.2 and 6390 parts per million respectively.. See the Operating Properly and Successfully Determination for the Ash Landfill Operable Unit dated June 2008 for additional information.
- SEAD 4 / 38 (Munitions Washout Facility and BLDG 2079 Boiler Blowdown Pit) This AOC is approximately 50.6 acres. Approximately 18,000 tons of material was removed and disposed at an approved landfill. Confirmation testing showed that agreed upon cleanup goals have been met. See the Draft Construction Completion Report for the Ammunition Washout Facility (SEAD 4/38), dated February 2009 for more details.

All environmental remedial activities at these sites have been implemented and the remedial action is working properly and successfully. SEADs 4, 11, and 38 have been determined to be suitable for unrestricted reuse. SEADs 3, 6, 8, 14, and 15 will require restrictions that prohibit excavation of soil, construction of habitable buildings, maintenance of vegetative covers, maintenance of remedial components and monitoring wells, and use of ground water until the remedial objects have been met. In accordance with the Land Use Control Remedial Design Amendment 2, the deed will incorporate an Environmental Easement establishing the appropriate land use restrictions for SEAD 3, 6, 8, 14, and 15. A site map depicting the locations of the environmental remediation sites is provided (Enclosure 1). In addition, a list of the supporting environmental

documents for these sites is also provided (Enclosure 2). The Notification of Hazardous Substance Storage, Release, or Disposal and a summary of the environmental remediation taken at these sites is provided in (Enclosure 3). See also the Environmental Protection Deed Provisions (Enclosure 4) and Environmental Easement (Enclosure 5).

3. Regulatory/Public Comment – The Army distributed a copy of this FOST Addendum to the United States Environmental Protection Agency Region II, the New York State Department of Environmental Conservation, and the transferee. Regulatory/public comments received during the public comment period will be reviewed and incorporated, as appropriate. A copy of the regulatory/public comments and the Army Response will be included at Enclosure 7 and 8. Pending

4. Findings of Suitability to Transfer. As a result of the completed actions, the Army has made the determination that the 8 Solid Waste Management Units are suitable to transfer subject to the terms and conditions set forth in the attached Environmental Protection Provisions (Enclosure 5) and Environmental Easement (Enclosure 6). A copy of this FOST Addendum will be included with the Conservation/Recreation Area FOST.

Joseph J. Vignali
Chief, Consolidations Branch
Base Realignment and Closure Division

Date: _____

Enclosures 7

Encl 1 – Site Map

Encl 2 – Supporting Environmental Documents

Encl 3 – Notification of Hazardous Substance Storage, Release or Disposal

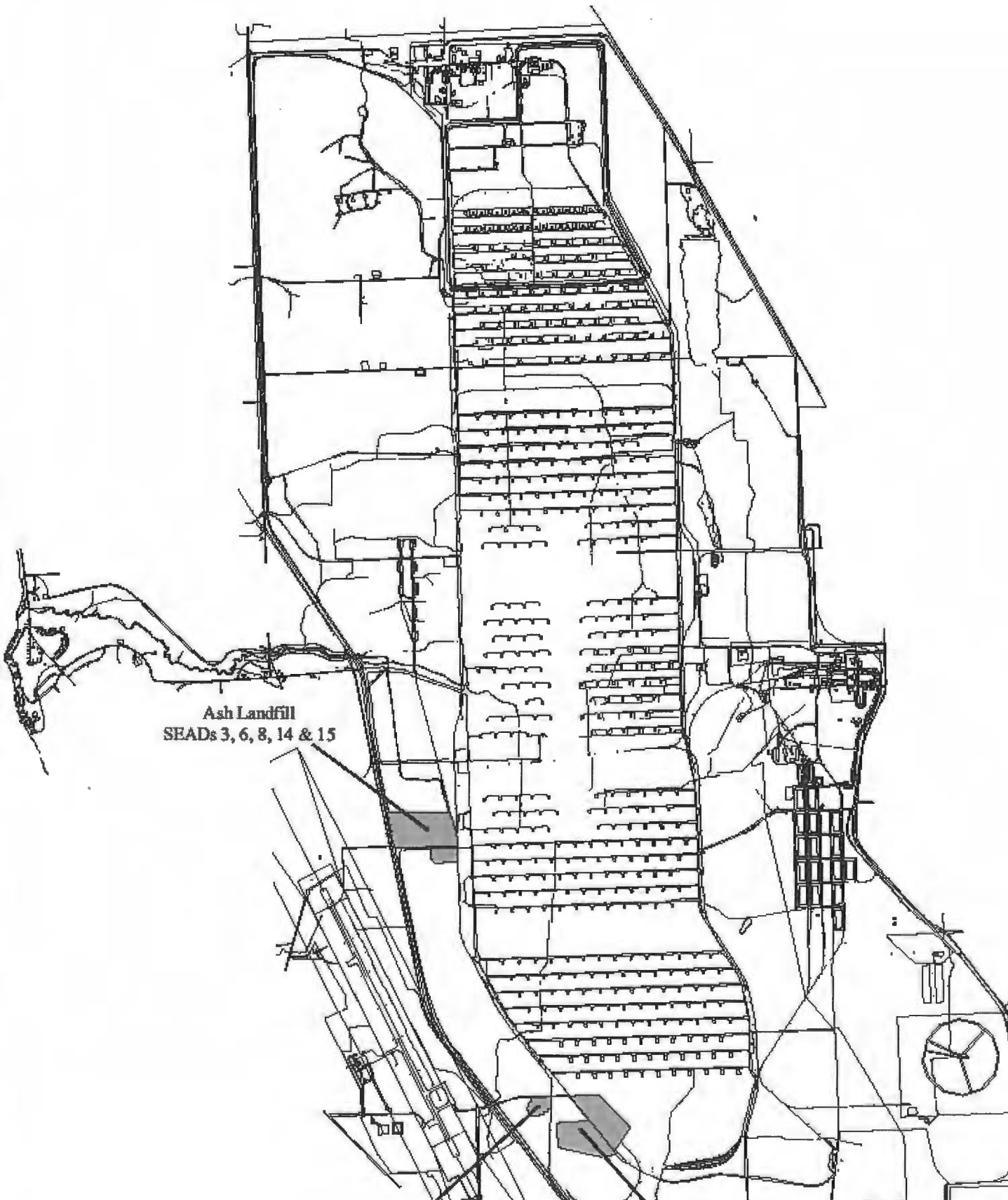
Encl 4 – Environmental Protection Deed Provisions

Encl 5 – Environmental Easement

Encl 6 – Regulatory/Public Comments

Encl 7 – Army Response to Comment

ENCLOSURE 1
SITE LOCATIONS



Ash Landfill
SEADs 3, 6, 8, 14 & 15

ENCLOSURE 2
SUPPORTING ENVIRONMENTAL DOCUMENTS

1. Draft Final Construction Completion Report for the Ash Landfill Operable Unit dated April 2007
2. Record of Decision for the
3. Operating Properly and Successfully determination dated June 2008.
4. Final Construction Completion Report for the Old Construction Debris Landfill (SEAD 11), dated February 2008
5. Draft Final Proposed Remedial Action Plan SEAD 11 dated March 2009
6. Record of Decision for the Munitions Washout Facility (SEAD 4) and the Building 2079 Boiler Blowdown Pit (SEAD 38) dated August 2008
7. Draft Construction Completion Report for the Munitions Washout Facility (SEAD 4) and the Bldg 2079 Boiler Blowdown Pit (SEAD 38)
8. Land Use Control Remedial Design Amendment 3 dated January 2009

ENCLOSURE 3

NOTIFICATION OF HAZARDOUS SUBSTANCE STORAGE, RELEASE OR DISPOSAL

Building Number	Name of Hazardous Substance(s)	Date of Storage, Release, or Disposal	Remedial Actions
SEAD 11 (Old Construction Debris Landfill)	Soil contaminated with heavy metals and semi-volatile organic compounds	1940- 1988	This site is approximately 7.7 acres. Approximately 35,000 tons of material was removed and disposed of at an approved landfill. Confirmation testing showed contamination remaining is consistent with site specific background levels. See the Final Construction Completion Report for the Old Construction Debris Landfill (SEAD 11), dated February 2008 for more details.
SEAD 4/38 Ammunition Washout Facility and Boiler Blowdown Pit	Soil contaminated with heavy metals and semi-volatile organic compounds	1940-1963	This site is approximately 50.6 acres. Approximately 18,229 tons of material was removed and disposed of at an approved landfill. Confirmation testing showed that clean up goals specified for unrestricted use had been met. See the Draft Construction Completion Report for the Munitions Washout

			Facility (SEAD 4) and Building 2079 Boiler Blowdown Pit (SEAD 38) dated February 2009 for more details
SEAD 3, 6, 8,14, and 15 (Ash Landfill)	Heavy Metal soil contamination and TCE ground water contamination	1945-1979	<p>These sites totals approximately 45.2 acres and include one building (Building 2207). Three in-situ reactive wall sets were installed to remove TCE contamination from the ground water. Approximately 1500 tons of soil were excavated and disposed of at an approved landfill. Fill areas required vegetative cover to prevent wildlife contact with soils containing residual metals contamination of lead, copper, mercury and zinc with maximum surface concentrations of 1170, 146, 1.2 and 6390 parts per million respectively. See the Draft Final Construction Completion Report for the Ash Landfill Operable Unit dated April 2007 for additional information.</p> <p>These sites are subject to excavation and ground water usage restrictions set forth in to an environmental easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation Law.</p>

* The information contained in this notice is required under the authority of regulations promulgated under section 120(h) of the Comprehensive Environmental Response, Liability, and Compensation Act (CERCLA or 'Superfund') 42 U.S.C. §9620(h). This table provides information on the storage of hazardous substances for one year or more in quantities greater than or equal to 1,000 kilograms or the hazardous substance's CERCLA reportable quantity (which ever is greater). In addition, it provides information on the known release of hazardous substances in quantities greater than or equal to the substances CERCLA reportable quantity. See 40 CFR Part 373.

ENCLOSURE 4

ENVIRONMENTAL PROTECTION PROVISIONS

The following CERCLA Notice, Covenant, and Access Provisions and Environmental Protection Provisions will be placed in the deed in a substantially similar form to ensure protection of human health and the environment and to preclude any interference with ongoing or completed remediation activities.

The Grantor acknowledges that Seneca has been identified as a National Priorities List (NPL) site under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (hereinafter referred to as "CERCLA"). The Grantee acknowledges that the Grantor has provided it with a copy of the Seneca Federal Facility Agreement (hereinafter referred to as the "FFA") entered into by the United States Environmental Protection Agency, Region II, the State of New York, and the Department of the Army, effective January 23, 1993, and will provide the Grantee or the then record owner(s) of the Property with a copy of any amendments thereto. The Grantee, for itself, its successors and assigns, further agrees that notwithstanding any other provisions of this Deed, the Grantor assumes no liability to the Grantee, its successors and assigns, should implementation of the FFA interfere with their use of the Property. The Grantee, its successors and assigns, shall have no claim on account of any such interference against the Grantor or any officer, agent, employee or contractor thereof. The Grantor shall, however, comply with the provisions of paragraph III.B, below, in carrying out its responsibilities under the FFA.

I. CERCLA NOTICE, COVENANT AND RIGHT OF ACCESS

Pursuant to Section 120(h)(3) of CERCLA:

A. Notice and Covenant

1. The Grantor hereby notifies the Grantee that to the extent such information is available on the basis of a complete search of agency files, there was storage for a year or more, release or disposal of hazardous substances, petroleum, petroleum products or their derivatives on certain portions of the Property. For the purpose of this Deed, "hazardous substances" shall have the same meaning as in section 101(14) of CERCLA. Available information regarding the type, quantity, and location of the hazardous substances found on the Property, the time at which such storage, release or disposal took place, and the remedial action taken is contained in Exhibit C hereof. The information regarding said storage, release or disposal indicates that there is no threat to human health or the environment on the Property.
2. The Grantor hereby covenants that:
 - a. On those portions of the Property where there was the storage, release or disposal of hazardous substances, all remedial action necessary to protect human health and the environment with respect to any such hazardous substances remaining on the Property has been taken before the date of this Deed; and

b. Any additional remedial action found to be necessary after the date of this Deed with regard to any hazardous substances remaining on the Property as a result of activities of the Grantor shall be conducted by the Grantor. This covenant shall not apply to the extent that any such remedial actions are required as a result of activities of the Grantee, its successors, or assigns.

B. Right of Access

The Grantor reserves a perpetual and assignable right and easement for access to the Property in any case in which remedial action or corrective action is found to be necessary after the date of this Deed. In exercising these rights of access, except in case of imminent endangerment to human health or the environment, the Grantor shall give the Grantee, or the then record owner, at least thirty (30) days prior written notice of actions to be taken in remediation of the Property, and shall use reasonable means, without significant additional cost to the Grantor, to avoid and/or minimize interference with the use of the Property by the Grantee, its successors and assigns. Furthermore, any such actions undertaken by the Grantor pursuant to this paragraph III.B will, to the maximum extent practicable, be coordinated with a representative of the Grantee, its successors and assigns. Grantee agrees, notwithstanding any other provisions of this Deed, that the Grantor assumes no liability to the Grantee, its successors and assigns, or any other person, should remediation of the Property interfere with the use of the Property by the Grantee, its successors and assigns.

C. Transfer Documents

The Grantee and its successors and assigns covenant and agree that all leases, transfers or conveyances of the Property occurring subsequent to the date of this Deed shall be made expressly subject to, and shall have the benefit of, the provisions contained in this paragraph III.

II. ENVIRONMENTAL BASELINE SURVEY (“EBS”) AND FINDING OF SUITABILITY TO TRANSFER (“FOST”)

The Grantee has received the technical environmental reports, including the EBS for the Property, dated March 22, 1996, and as revised on October 30, 1996 and the FOST for SEDA Planned industrial Development and Warehouse Area, dated July 2002, prepared by the Grantor, and agrees, to the best of the Grantee’s knowledge, that they accurately describe the environmental condition of the Property. The Grantee has inspected the Property and accepts the physical condition and current level of environmental hazards on the Property and deems the Property to be safe for the Grantee’s intended use. If an actual or threatened release of a hazardous substance or petroleum product is discovered on the Property after the date of the conveyance, whether or not such substance was set forth in the technical environmental reports, including the EBS, Grantee or its successors or assigns shall be responsible for such release or newly discovered substance unless Grantee is able to demonstrate that such release or such newly discovered substance was due to Grantor’s activities, ownership, use, or occupation of the Property. Grantee, its successors and assigns, as consideration for the conveyance, agree to release Grantor from any liability or responsibility for any claims arising solely out of the release of any hazardous substance or petroleum product on the Property occurring after the date of this Deed, where such substance or product was placed on the Property by the Grantee, or its successors, assigns, employees, invitees, agents or contractors, after the conveyance. This Article III shall not affect the Grantor’s

responsibilities to conduct response actions or corrective actions that are required by applicable laws, rules and regulations, or the Grantor's indemnification obligations under applicable laws.

III. MUNITIONS AND EXPLOSIVES OF CONCERN (MEC)

A. Based on a review of existing records and available information, there is no evidence that Munitions and Explosives of Concern (MEC) may be present on the Property. The term "MEC" means military munitions that may pose unique explosives safety risks, including: (A) unexploded ordnance (UXO), as defined in 10 U.S.C. § 101(e)(5); (B) discarded military munitions (DMM), as defined in 10 U.S.C. § 2710(e)(2); or (C) munitions constituents (e.g., TNT, RDX), as defined in 10 U.S.C. § 2710(e)(3), present in high enough concentrations to pose an explosive hazard.

B. The Grantee, its successors and assigns, are hereby notified that the Property was previously part of the Seneca Army Depot which was used for receipt, storage, maintenance, and issue of military munitions from 1941 to 2000. Based upon a comprehensive archive records search, the Grantor has determined that there is no evidence of munitions and explosives of concern (MEC) (formerly referred to as OE) on the Property.

C. Notwithstanding the comprehensive archive records search, the Grantor and Grantee acknowledge that there is a possibility that MEC may exist on the Property due to the former use of the Property as an active military installation. If the Grantee, any subsequent owner, or any other person should find any MEC on the Property, they shall immediately stop any intrusive or ground-disturbing work in the area or in any adjacent areas and shall not attempt to disturb, remove or destroy it, but shall immediately notify the Local Police Department so that appropriate explosive ordnance disposal personnel can be dispatched to address such MEC as required under applicable law and regulations.

D. The Grantee acknowledges receipt of the Seneca Depot Activity (SEDA) Ordnance and Explosives Archive Search Report dated December 1998

IV. NOTICE OF WETLANDS

The Property contains wetlands protected under state and federal laws and regulations. Applicable laws and regulations restrict activities that involve draining wetlands or the discharge of fill materials into wetlands, including, without limitation, the placement of fill materials; the building of any structure; the placement of site-development fills for recreational, industrial, commercial, residential, and other uses; the placement of causeways or road fills; and the construction of dams and dikes.

V. LAND USE RESTRICTIONS

The Deed shall include the following statement in at least a 15 pitch bold wording. The Proposed easement is Enclosure 4.

This Property is subject to an environmental easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation Law.

ENCLOSURE 5
ENVIRONMENTAL EASEMENT
FORMER SENECA ARMY DEPOT ACTIVITY
SENECA COUNTY, NEW YORK

THIS INDENTURE made this ____ day of _____, 2008, between The United States of America, acting by and through the Deputy Assistant Secretary of the Army (Installations and Housing) (the “Grantor”), and the People of the State of New York (the “Grantee”), acting through their Commissioner of the Department of Environmental Conservation (the “Commissioner”, or “NYSDEC” or “Department” as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233.

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties (“sites”) that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment; and

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of environmental easements as an enforceable means of ensuring the performance of operation, maintenance, and/or monitoring requirements and of ensuring the potential restriction of future uses of the land, when an environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to perform properly and be effective, or which requires groundwater use or soil management restrictions; and

WHEREAS, the Legislature of the State of New York has declared that “Environmental Easement” shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law (“ECL”) which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

WHEREAS, the Grantor, is the owner of real property located in the Town of Romulus, Seneca County, New York known and designated on the tax map of the Town of Romulus as contained in tax map parcel numbers 11-1-2 and 7-1-7 being a portion of the property identified as Military Lot Numbers 72, 73, 79, 80 and 86 comprised of approximately 45.2 acres, and hereinafter more fully described in Schedule A and depicted in Schedule B attached hereto and made a part hereof (the “Controlled Property”); and

WHEREAS, the Commissioner does hereby acknowledge that the Department accepts this Environmental Easement in order to ensure the protection of human health and the environment and to achieve

the requirements for remediation established at this Controlled Property until such time as this Environmental Easement is extinguished pursuant to ECL Article 71, Title 36;

NOW THEREFORE, in consideration of the covenants and mutual promises contained herein, and in order to implement the land use restriction identified in the "Finding of Suitability to Transfer (FOST), Seneca Army Depot Activity, "Conservation/ Recreation Area FOST Addendum 2," dated April 14, 2009, Grantor grants, conveys and releases to Grantee a permanent Environmental Easement pursuant to Article 71, Title 36 of the ECL in, on, over, under, and upon the Controlled Property as more fully described herein ("Environmental Easement").

1. Purposes. Grantor and Grantee acknowledge that the Purposes of this Environmental Easement are: to convey to Grantee real property rights and interests that will run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of this Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of operation, maintenance, and/or monitoring requirements; and to ensure the potential restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional Control. The following institutional control applies to the use of the Controlled Property, runs with the land, and is binding on the Grantor and the Grantor's successors and assigns, and is enforceable in law or equity against any owner of the Controlled Property, any lessees, and any person using the Controlled Property:

A. The Controlled Property may be used for commercial/industrial uses as long as the following long-term institutional control is employed:

(1) Ground Water Restriction.

There shall be no access to or use of the ground water on the Controlled Property known as SEAD 6,7,8, 14,and 15 for any purpose without the prior written approval of the Grantee, the U.S. Environmental Protection Agency Region II ("USEPA Region II"), and the U.S. Department of the Army ("Army"). However, any owner, lessee, or other person using the Controlled Property is authorized to install monitoring wells with the prior written approval of the Grantee, USEPA Region II, and the Army which approval shall not be unreasonably withheld. For the purpose of this restriction, "ground water" shall have the same meaning as in section 101(12) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended.

(2) Excavation Restriction.

No digging or excavation shall be permitted on that portion of the Controlled Property identified as SEAD 3, 6, ,8, 14,and 15 without prior written approval of the Grantee, EPA Region 2 and the Army.

The Controlled Property shall be used any purpose, providing the Controlled Property use does not access ground water or include excavation. Future owners or users of land within the Controlled Property may request a waiver from said restrictions on a location by location basis at such time as the concentrations of hazardous substances are reduced to levels that allow for unlimited exposure and unrestricted use. The owner or user making such a request must develop and submit with the request sufficient data and information, subject

to review and approval by the Grantee, the Grantor and the U.S. Environmental Protection Agency (“EPA”), to substantiate its request that the identified location is suitable for unlimited exposure and unrestricted use.

B. The Grantor covenants and agrees for itself, its successors and assigns that until such time as the Environmental Easement is extinguished in accordance with the requirements of this instrument and Article 71, Title 36 of the ECL, all subsequent deeds and instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

This property is subject to an environmental easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation Law.

D. The Grantor covenants and agrees for itself, its successors and assigns that this Environmental Easement shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

E. The Grantor covenants and agrees for itself, its successors and assigns that the owner of the Controlled Property shall annually, from the date of this Environmental Easement, or within such additional time as NYSDEC may allow, submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury that the institutional controls employed at the Controlled Property are unchanged from the previous certification or that any changes to such controls employed at the Controlled Property were approved by the NYSDEC; that nothing has occurred that would impair the ability of such controls to protect the public health and environment or constitute a violation or failure to comply with such controls; and that access to the Controlled Property was provided to such expert to evaluate the continued maintenance of such controls.

3. Right to Enter and Inspect. The Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor’s Rights. The Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Controlled Property, all rights as fee owner of the Controlled Property, including:

A. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement; and

B. The right to give, sell, assign, or otherwise transfer the underlying fee interest to the Controlled Property by operation of law, by deed, or by indenture, subject and subordinate to this Environmental Easement.

5. Enforcement.

A. This Environmental Easement is enforceable in law or equity in perpetuity by the Grantor, the Grantee, or any affected local government, as defined in ECL Section 71-3603, against the owner of the Controlled Property, any lessee, and any person using the Controlled Property. Enforcement shall not be

defeated because of any subsequent adverse possession, laches, estoppel, or waiver. It is not a defense in any action to enforce this Environmental Easement that: it is not appurtenant to an interest in real property; it is not of a character that has been recognized traditionally at common law; it imposes a negative burden; it imposes affirmative obligations upon the owner of any interest in the burdened property; the benefit does not touch or concern real property; there is no privity of estate or of contract; or it imposes an unreasonable restraint on alienation.

B. The Grantee shall notify the Grantor and the owner of the Controlled Property of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall set forth how the owner of the Controlled Property can cure such breach or suspected breach and give the owner of the Controlled Property a reasonable amount of time from the date of receipt of notice in which to cure. At the expiration of such period of time to cure, or any extensions granted by Grantee, the Grantee shall notify the Grantor and the owner of the Controlled Property of any failure to adequately cure the breach or suspected breach. The owner of the Controlled Property shall then have a reasonable amount of time from receipt of such notice to cure. At the expiration of said second period, the Grantee may commence any proceedings and take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement in accordance with applicable law to require compliance with the terms of this Environmental Easement.

C. The failure of the Grantee to enforce any of the terms contained herein shall not be deemed a waiver of any such term nor bar its enforcement rights in the event of a subsequent breach of, or noncompliance with, any of the terms of this Environmental Easement.

6. Notice. Whenever notice to the Grantee (including the annual certification) or approval from the Grantee or the Grantor is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing its County tax map number or the Liber and Page or computerized system tracking/identification number and address its correspondence, if to the Grantee, to:

Division of Environmental Enforcement
Office of General Counsel
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-5500

and, if to the Grantor, to:

Headquarters, Department of the Army
ATTN: DAIM-ZA
600 Army Pentagon
Washington, DC 20310-0600

and, if to EPA, to:

U.S. Environmental Protection Agency
Emergency & Remedial Response Division
290 Broadway, 18th Floor, E-3
New York, New York 10007-1866

Such correspondence shall be delivered by hand, or by registered mail or by certified mail and return receipt requested. The Parties may provide for other means of receiving and communicating notices and responses.

7. Recordation. The Grantor shall record this instrument within thirty (30) days of execution of this instrument by the Commissioner or his authorized representative in the office of the recording officer for the county where the Controlled Property is situated in the manner prescribed by Article 9 of the Real Property Law of the State of New York.

8. Amendment. This Environmental Easement may be amended only by an amendment executed by the Commissioner of the New York State Department of Environmental Conservation and filed with the office of the recording officer for the county where the Controlled Property is situated in the manner prescribed by Article 9 of the Real Property Law of the State of New York.

9. Extinguishment. This Environmental Easement may be extinguished only by a release executed by the Commissioner of the New York State Department of Environmental Conservation and filed with the office of the recording officer for the county where the Controlled Property is situated in the manner prescribed by Article 9 of the Real Property Law of the State of New York.

10. Grantor's Opportunity to Review and Comment. The Grantee shall provide the Grantor and EPA with a notice of, and a reasonable opportunity to review and comment upon, requested approvals or actions under this Environmental Easement, including, without limitation, requests for amendment pursuant to Paragraph 8 hereof and extinguishment pursuant to Paragraph 9 hereof.

**THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED
BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and
Through the Department of Environmental Conservation**

By: _____
Alexander B. Grannis, Commissioner

Date: _____

Grantee's Acknowledgment

STATE OF NEW YORK)
) ss:
COUNTY OF)

On the _____ day of _____, in the year 2008, before me, the undersigned, personally appeared Alexander B. Grannis, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as Commissioner of the State of New York Department of Environmental Conservation, and that by his signature on the instrument, the People of the State of New York, upon behalf of which the individual acted, executed the instrument.

Notary Public - State of New York

SCHEDULE A

Ash Landfill Operable Unit, SEADs 3, 6, 8, 14, and 15

Description of Historic Solid Waste Management Units SEADs 3, 6, 8, 14 and 15 – Ash Landfill Operable Unit

All that tract or parcel of land containing 44.69 acres, more or less, situate on land of now or formerly the Seneca Army Depot, in the Town of Romulus, County of Seneca, State of New York, as shown on a map entitled “Ash Landfill Operable Unit (SEADs 3, 6, 8, 14, & 15), Land Parcel Boundary,” dated May 2007, and being more particularly bounded and described as follows:

Beginning at a point having grid coordinates of N = 995,492; E = 741,261 of the New York State Plan Coordinate System of 1983 (Cors 96), Central Zone, transverse mecaton conformal projection of the North American Datum of 1983; thence

1. S 17° 11' 43" E, a distance of 774.62 feet to a point; thence
2. S 01° 44' 49" E, a distance of 623.29 feet to a point; thence
3. N 89° 18' 25" W, a distance of 744.05 feet to a point; thence
4. N 01° 11' 25" E, a distance of 385.08 feet to a point; thence
5. N 88° 06' 52" W, a distance of 972.53 feet to a point; thence
6. N 13° 21' 37" W, a distance of 986.70 feet to a point; thence
7. S 89° 13' 10" E, a distance of 1,688.16 feet to a point; said point being the Point or Place of Beginning.

SEAD-4, Munitions Washout Facility Leach Field

Description of Historic Solid Waste Management Unit SEAD-4, Munitions Washout Facility Leach Field

All those tracts or parcels of land containing 47.38 acres, more or less, situate on land of now or formerly the Seneca Army Depot, in the Town of Romulus, County of Seneca, State of New York, as shown on a map entitled "SEAD-4, Munitions Washout Facility Leach Field, Land Parcel Boundary," dated May 2007, and being more particularly bounded and described as follows:

First tract of land beginning at a point having grid coordinates of N = 987,909; E = 744,570 of the New York State Plan Coordinate System of 1983 (Cors 96), Central Zone, transverse mecaton conformal projection of the North American Datum of 1983; thence

8. N 86° 01' 59" E, a distance of 722.73 feet to a point; thence
9. S 46° 15' 42" E, a distance of 1,252.59 feet to a point; thence
10. S 33° 15' 34" W, a distance of 774.94 feet to a point; thence
11. N 39° 21' 50" W, a distance of 1,893.59 feet to a point; said point being the Point or Place of Beginning of the first tract or parcel of land.

Second tract of land beginning at a point having grid coordinates of N = 987,192; E = 744,189 of the New York State Plan Coordinate System of 1983 (Cors 96), Central Zone, transverse mecaton conformal projection of the North American Datum of 1983; thence

1. N 86° 11' 56" E, a distance of 889.96 feet to a point; thence
2. S 39° 25' 49" E, a distance of 1,172.97 feet to a point; thence
3. S 81° 52' 12" W, a distance of 417.19 feet to a point; thence
4. N 78° 27' 45" W, a distance of 1,184.94 feet to a point; thence
5. N 05° 02' 24" W, a distance of 671.60 feet to a point; said point being the Point or Place of Beginning of the second tract or parcel of land.

SEAD-11, Old Construction Debris Landfill

Description of Historic Solid Waste Management Unit SEAD-11, Old Construction Debris Landfill

All that tract or parcel of land containing 8.27 acres, more or less, situate on land of now or formerly the Seneca Army Depot, in the Town of Romulus, County of Seneca, State of New York, as shown on a map entitled "SEAD-11, Old Construction Debris Landfill, Land Parcel Boundary," dated May 2007, and being more particularly bounded and described as follows:

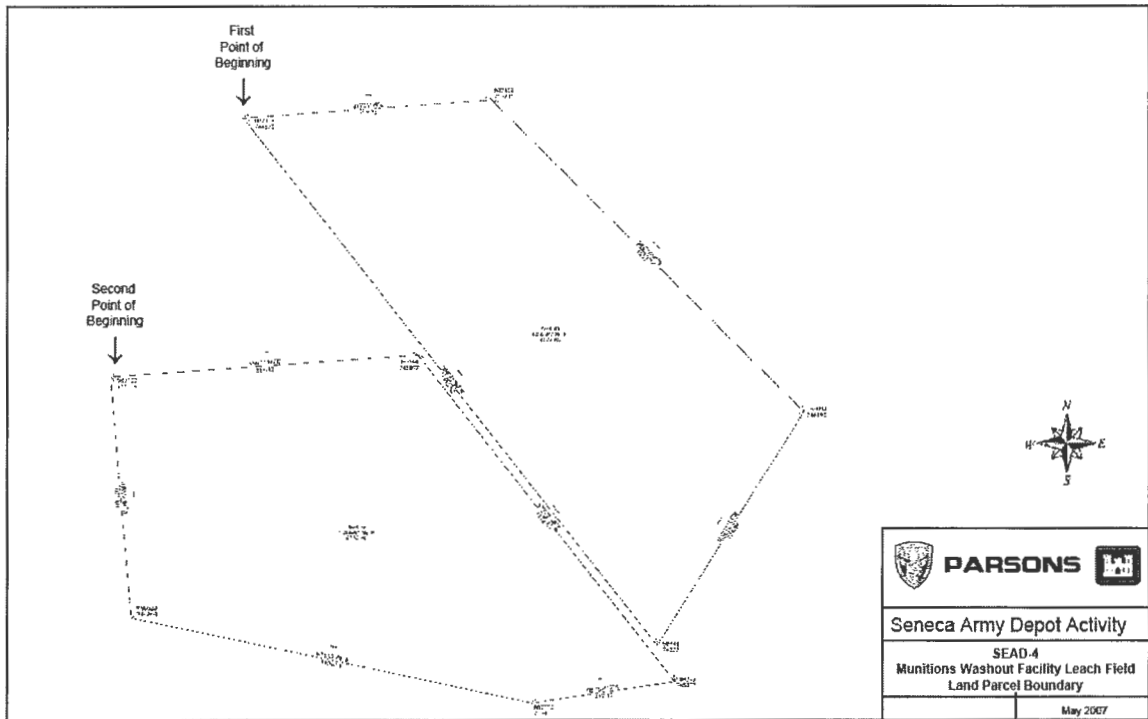
Beginning at a point having grid coordinates of N = 987,867; E = 743,281 of the New York State Plan Coordinate System of 1983 (Cors 96), Central Zone, transverse mecaton conformal projection of the North American Datum of 1983; thence

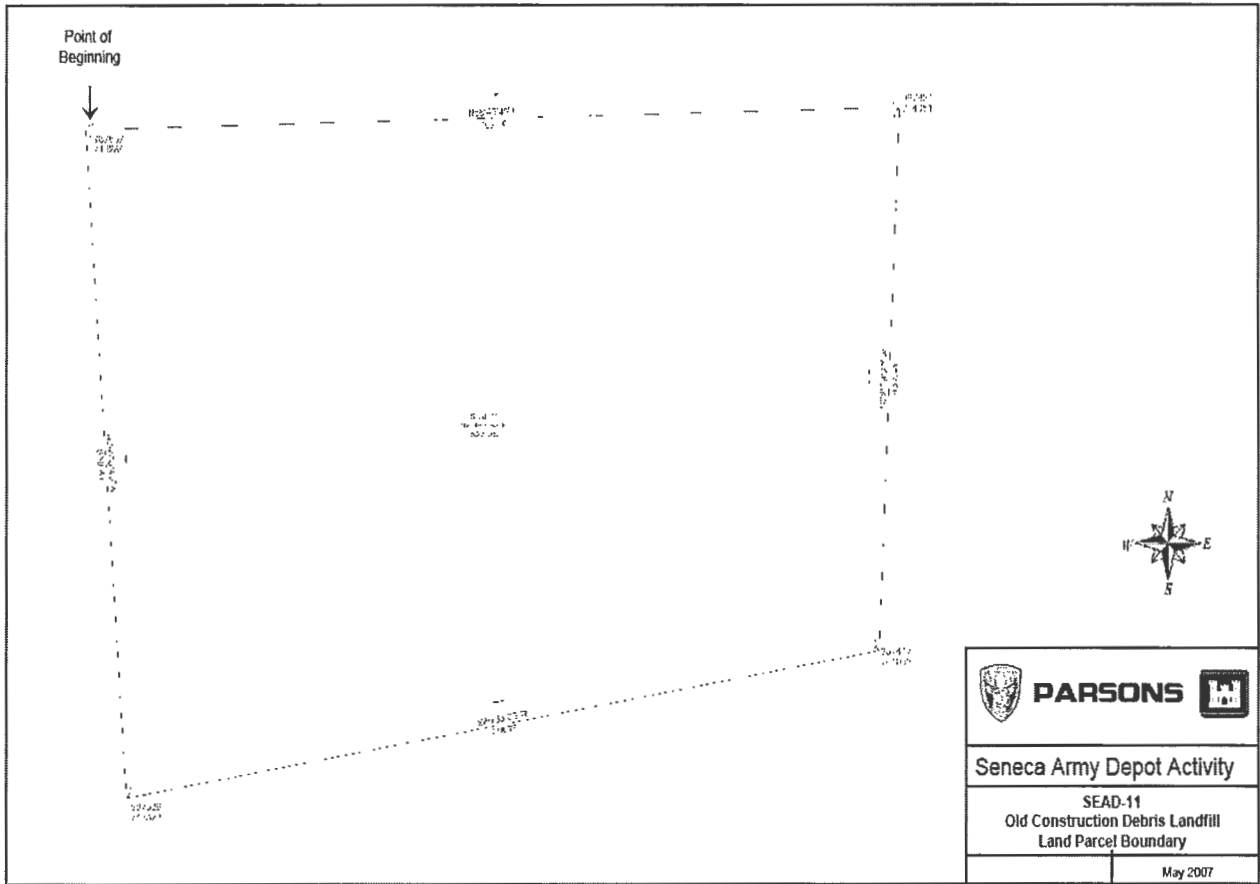
12. N 88° 43' 49" E, a distance of 767.19 feet to a point; thence

13. S 02° 29' 22" W, a distance of 437.41 feet to a point; thence

14. S 80° 33' 03" W, a distance of 718.75 feet to a point; thence

15. N 04° 08' 46" W, a distance of 539.41 feet to a point; said point being the Point or Place of Beginning.



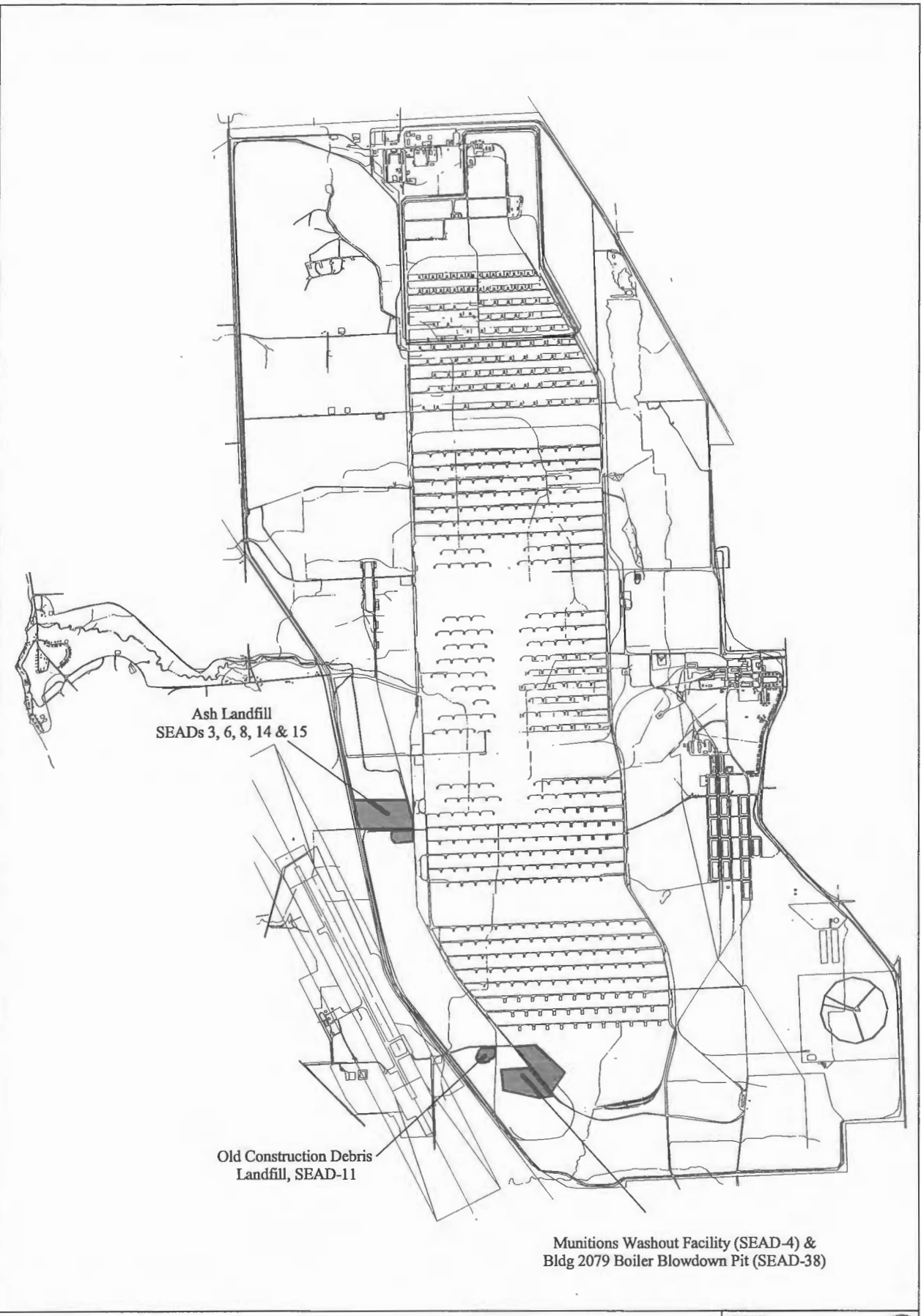


ENCLOSURE 6

**REGULATORY/PUBLIC COMMENTS
(PENDING)**

ENCLOSURE 7

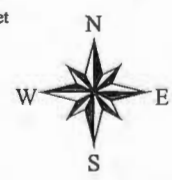
**ARMY RESPONSE TO COMMENTS
(PENDING)**



Ash Landfill
SEADs 3, 6, 8, 14 & 15

Old Construction Debris
Landfill, SEAD-11

Munitions Washout Facility (SEAD-4) &
Bldg 2079 Boiler Blowdown Pit (SEAD-38)



PARSONS

Seneca Army Depot Activity

Enclosure 1
Location of Ash Landfill (SEADs 3, 6, 8, 14 & 15),
Old Construction Debris Landfill (SEAD-11),
Munitions Washout Facility (SEAD-4), and
Building 2079 Boiler Blowdown Pit (SEAD-38)

April 2009

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ADDENDUM NUMBER 3
TO
FINDING OF SUITABILITY TO TRANSFER (FOST)
SENECA ARMY DEPOT ACTIVITY (SEDA)
Planned Industrial Development and Warehouse Area
(PID FOST)

1. Purpose. This addendum updates the PID FOST to reflect the completion of remedial activities at 6 retained sites that are identified as Solid Waste Management Units.

2. Background. In June 2003, the Army prepared the PID FOST to support the transfer of approximately 967 acres at SEDA to the Seneca County Industrial Development Agency (SCIDA). The FOST included sites that the Army retained pending completion of the necessary remedial action. The Army has completed remedial actions on the following 6 retained solid waste management areas:

- SEAD 16 Abandoned Deactivation Furnace – approximately 6.6 acres and no buildings
- SEAD 17 Deactivation Furnace – approximately 7.7 acres and no buildings;
- SEAD 121 C approximately 9 acres including building 355;
- SEAD 121I Rumored Cosmoline Disposal Site - approximately 16 acres and no buildings;
- SEAD 59 Paint Disposal Area - approximately 6 acres and no buildings;
- SEAD 71 Alleged Paint Disposal Area– approximately 2 acres and no buildings;

A site map depicting the locations of the environmental remediation sites is provided (Enclosure 1). In addition, a list of the supporting environmental documents for these sites is also provided (Enclosure 2). All required environmental remedial activities at these sites have been completed. The sites were remediated to levels suitable for commercial / industrial uses. A summary of the environmental remediation taken at these sites is provided in Notification of Hazardous Substance Storage, Release, or Disposal (Enclosure 3). In accordance with the LUC Remedial Design Amendment 4, the deed will incorporate an Environmental Easement establishing a land use restriction for these sites which prohibits residential use or activity and access to the ground water. These restrictions are consistent with the land use controls previously placed on the surrounding property. See Environmental Protection Deed Provisions (Enclosure 4) and Environmental Easement (Enclosure 5).

3. Regulatory/Public Comment – The Army distributed for review and comment, a copy of this FOST Addendum to the United States Environmental Protection Agency Region II, the New York State Department of Environmental Conservation, and the transferee.

4. Findings of Suitability to Transfer. As a result of the completed actions and the placement of an environmental easement on the property upon transfer to SCIDA, the Army has made the determination that the property may be released for restricted use. The site is suitable to transfer subject to the terms and conditions set forth in the Environmental Protection Provisions included in the PID FOST (Enclosure 4) and the Environmental Easement (Enclosure 5). A copy of this FOST Addendum will be included with the PID FOST.

James J. Vignali
Chief Consolidations Branch
Base Realignment and Closure Division

Date: _____

Enclosures 7

Encl 1 – Site Map

Encl 2 – Supporting Environmental Documents

Encl 3 - Notification of Hazardous Substance Storage, Release or Disposal

Encl 4 – Environmental Protection Deed Provisions

Encl 5 – Environmental Easement

Encl 6 – Regulatory /Public Comments

Encl 7 – Army Response to Comments

ENCLOSURE 1

SITE LOCATIONS

ENCLOSURE 2

SUPPORTING ENVIRONMENTAL DOCUMENTS

1. Final Construction Completion Report for SEAD 16 and SEAD 17 at Seneca Army Depot dated September 2008
2. Record of Decision for the Defense Reutilization and Marketing Office Yard (SEAD 121 C) and the Rumored Cosmoline Oil Disposal Area (SEAD 121I) dated June 2008
3. Final Removal Report SEAD 59 and 71 Time Critical Removal Action, dated January 2003
4. Record of Decision for the Fill Area West of Building 135 (SEAD 59) and 71 dated March 2009
5. Draft Final Construction Completion Report for SEAD 121C dated September 2008
6. Revised Letter Report for the Removal Action at the of Former Ore Staged at SEAD 121I dated September 2008.
7. Land Use Control Remedial Design Addendum 4 dated February 2009

ENCLOSURE 3

NOTIFICATION OF HAZARDOUS SUBSTANCE STORAGE, RELEASE OR DISPOSAL

Environmental Site/Building	Name of Hazardous Substance(s)	Date of Storage, Release, or Disposal	Remedial Actions
SEAD 16 Abandoned Deactivation Furnace (BRAC Parcel 19(3)HR/HS)) and SEAD 17 Deactivation Furnace, BRAC Parcel 3(1))	SEAD 16 – Lead Iron , Chrome and PAH soil contamination SEAD 17 Lead, chromium and soil contamination	1941 to 1995	Remediation effort. SEAD 16 and 17 soil was excavated and disposed of at an approved off installation landfill. All buildings were demolished. The maximum residual concentrations of COC is Lead at 1160PPM, SVOC of a BAP toxicity equivalence is 9.013 and mercury with a maximum concentration of 4.3ppb
SEAD 59 and SEAD 71 (Sludge Piles, BRAC Parcels 85(4) PS/PR and 89(4) HS/HR))	Fill areas containing heavy metal such as lead, and mercury and semi-volatile organic compounds.	1980 to 1994	Removal action. The Army removed and disposed of 8475 cyds of heavy metal contaminated soil at an approved and permitted off-site landfill. See “Seneca Army Depot Activity DRAFT Final Record of Decision for SEAD 59 and 71 Paint Disposal Area dated May 2008, for additional information. Contamination remaining (max concentration): Benzo(a)anthrthracene at 8900 ppb, Benzo(a) Pryene at 8050 ppb and Chrysene at 8900 ppb.
SEAD 121C (DRMO yard, BRAC Parcel 78(4) HS/HR)	Soil containing lead contamination.	1941 to 2001	Removal Action. The Army removed and disposed of 1356 tons of soil at an approved and permitted off-site landfill. See the completion report “ Seneca Army Depot Activity Draft Completion Report for SEAD 121C” dated Dec 2007 for additional information.

SEAD 121I (Rumored Cosmoline Disposal site, BRAC Parcel 74(4)HS/HR and 76 (4) HS/HR))	Soil containing residual ferro- manganese ore.	1941 to 2004	Removal action. The Army removed a total of 5914 tons ferro manganese ore mixed with asphalt and dirt and disposed of it at an approved and permitted off-site landfill. See the Seneca Army Depot Technical memorandum at the Location of Former Ore Piles Staged at SEAD 121I dated January 15, 2008, for additional information

* The information contained in this notice is required under the authority of regulations promulgated under section 120(h) of the Comprehensive Environmental Response, Liability, and Compensation Act (CERCLA or 'Superfund') 42 U.S.C. §9620(h). This table provides information on the storage of hazardous substances for one year or more in quantities greater than or equal to 1,000 kilograms or the hazardous substance's CERCLA reportable quantity (which ever is greater). In addition, it provides information on the known release of hazardous substances in quantities greater than or equal to the substances CERCLA reportable quantity. See 40 CFR Part 373.

ENCLOSURE 4

ENVIRONMENTAL PROTECTION DEED PROVISIONS

The following CERCLA Notice, Covenant, and Access Provisions and Environmental Protection Provisions will be placed in the deed in a substantially similar form to ensure protection of human health and the environment and to preclude any interference with ongoing or completed remediation activities.

The Grantor acknowledges that Seneca has been identified as a National Priorities List (NPL) site under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (hereinafter referred to as "CERCLA"). The Grantee acknowledges that the Grantor has provided it with a copy of the Seneca Federal Facility Agreement (hereinafter referred to as the "FFA") entered into by the United States Environmental Protection Agency, Region II, the State of New York, and the Department of the Army, effective January 23, 1993, and will provide the Grantee or the then record owner(s) of the Property with a copy of any amendments thereto. The Grantee, for itself, its successors and assigns, further agrees that notwithstanding any other provisions of this Deed, the Grantor assumes no liability to the Grantee, its successors and assigns, should implementation of the FFA interfere with their use of the Property. The Grantee, its successors and assigns, shall have no claim on account of any such interference against the Grantor or any officer, agent, employee or contractor thereof. The Grantor shall, however, comply with the provisions of paragraph III.B, below, in carrying out its responsibilities under the FFA.

I. CERCLA NOTICE, COVENANT AND RIGHT OF ACCESS

Pursuant to Section 120(h)(3) of CERCLA:

A. Notice and Covenant

1. The Grantor hereby notifies the Grantee that to the extent such information is available on the basis of a complete search of agency files, there was storage for a year or more, release or disposal of hazardous substances, petroleum, petroleum products or their derivatives on certain portions of the Property. For the purpose of this Deed, "hazardous substances" shall have the same meaning as in section 101(14) of CERCLA. Available information regarding the type, quantity, and location of the hazardous substances found on the Property, the time at which such storage, release or disposal took place, and the remedial action taken is contained in Exhibit C hereof. The information regarding said storage, release or disposal indicates that there is no threat to human health or the environment on the Property.
2. The Grantor hereby covenants that:
 - a. On those portions of the Property where there was the storage, release or disposal of hazardous substances, all remedial action necessary to protect human health and the environment with respect to any such hazardous substances remaining on the Property has been taken before the date of this Deed; and

b. Any additional remedial action found to be necessary after the date of this Deed with regard to any hazardous substances remaining on the Property as a result of activities of the Grantor shall be conducted by the Grantor. This covenant shall not apply to the extent that any such remedial actions are required as a result of activities of the Grantee, its successors, or assigns.

B. Right of Access

1. The Grantor reserves a perpetual and assignable right and easement for access to the Property in any case in which remedial action or corrective action is found to be necessary after the date of this Deed. In exercising these rights of access, except in case of imminent endangerment to human health or the environment, the Grantor shall give the Grantee, or the then record owner, at least thirty (30) days prior written notice of actions to be taken in remediation of the Property, and shall use reasonable means, without significant additional cost to the Grantor, to avoid and/or minimize interference with the use of the Property by the Grantee, its successors and assigns. Furthermore, any such actions undertaken by the Grantor pursuant to this paragraph III.B will, to the maximum extent practicable, be coordinated with a representative of the Grantee, its successors and assigns. Grantee agrees, notwithstanding any other provisions of this Deed, that the Grantor assumes no liability to the Grantee, its successors and assigns, or any other person, should remediation of the Property interfere with the use of the Property by the Grantee, its successors and assigns.

C. Transfer Documents

The Grantee and its successors and assigns covenant and agree that all leases, transfers or conveyances of the Property occurring subsequent to the date of this Deed shall be made expressly subject to, and shall have the benefit of, the provisions contained in this paragraph III.

II. ENVIRONMENTAL BASELINE SURVEY (“EBS”) AND FINDING OF SUITABILITY TO TRANSFER (“FOST”)

The Grantee has received the technical environmental reports, including the EBS for the Property, dated March 22, 1996, and as revised on October 30, 1996 and the FOST for SEDA Planned industrial Development and Warehouse Area, dated July 2002, prepared by the Grantor, and agrees, to the best of the Grantee’s knowledge, that they accurately describe the environmental condition of the Property. The Grantee has inspected the Property and accepts the physical condition and current level of environmental hazards on the Property and deems the Property to be safe for the Grantee’s intended use. If an actual or threatened release of a hazardous substance or petroleum product is discovered on the Property after the date of the conveyance, whether or not such substance was set forth in the technical environmental reports, including the EBS, Grantee or its successors or assigns shall be responsible for such release or newly discovered substance unless Grantee is able to demonstrate that such release or such newly discovered substance was due to Grantor’s activities, ownership, use, or occupation of the Property. Grantee, its successors and assigns, as consideration for the conveyance, agree to release Grantor from any liability or responsibility for any claims arising solely out of the release of any hazardous substance or petroleum product on the Property occurring after the date of this Deed, where such substance or product was placed on the Property by the Grantee, or its successors, assigns, employees, invitees, agents or contractors, after the conveyance. This Article III shall not affect the Grantor’s

responsibilities to conduct response actions or corrective actions that are required by applicable laws, rules and regulations, or the Grantor's indemnification obligations under applicable laws.

III. NOTICE OF THE PRESENCE OF LEAD BASED PAINT AND COVENANT AGAINST THE USE OF THE PROPERTY FOR RESIDENTIAL PURPOSES.

A. The Grantor covenants that the Property was not used as "Residential Real Property". The Grantee covenants that the Property is not intended to be used a "Residential Real Property" or occupied by children under 6 years of age. "Residential Real Property" means any housing constructed prior to 1978, except housing for the elderly (households reserved for and composed of one or more persons 62 years of age or more at the time of initial occupancy) or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling).

B. The Grantee is hereby informed and does acknowledge that all buildings on the Property, which were constructed or rehabilitated prior to 1978, are presumed to contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. The Grantee is notified that the Property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. Under federal law, the seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards.

C. Available information concerning known lead-based paint and/or lead-based paint hazards, the location of lead-based paint and/or lead-based paint hazards, and the condition of painted surfaces is contained in the Environmental Baseline Survey dated March 22, 1996. The Grantee hereby acknowledges receipt of all of the Environmental Baseline Survey. In addition, the Grantee acknowledges that it has received the opportunity to conduct its own risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards prior to execution of this document.

D. The Grantee further agrees to indemnify and hold harmless the Army, its officers, agents and employees, from and against all suits, claims, demands, or actions, liabilities, judgments, costs and attorney's fees arising out of, or in a manner predicated upon personal injury, death or property damage resulting from, related to, caused by or arising out of lead-based paint or lead-based paint hazards on the Property if used for Residential Real Property. The Grantee shall not be responsible for indemnifying or holding the Grantor harmless from any suits, claims, demands, actions, liabilities, judgments, costs and attorney's fees arising out of exposure to lead-based paint occurring prior to the date of the lease in furtherance of conveyance for the Property dated October 4, 1999.

E. The Grantee, its successors and assigns, covenants that it will include the LBP notice set forth in paragraph III.B. in all subsequent transfers, leases, or conveyance documents that include Residential Real Property.

IV. NOTIFICATION OF THE PRESENCE OF RADON AND COVENANT

The property are not occupied buildings and have not been sampled for The Grantee, its successors and assigns, covenant that they will include this radon notice in all subsequent conveyance documents that include said untested buildings and/or structures, or any portion thereof.

V. MUNITIONS AND EXPLOSIVES OF CONCERN (MEC)

A. Based on a review of existing records and available information, there is no evidence that Munitions and Explosives of Concern (MEC) may be present on the Property. The term "MEC" means military munitions that may pose unique explosives safety risks, including: (A) unexploded ordnance (UXO), as defined in 10 U.S.C. § 101(e)(5); (B) discarded military munitions (DMM), as defined in 10 U.S.C. § 2710(e)(2); or (C) munitions constituents (e.g., TNT, RDX), as defined in 10 U.S.C. § 2710(e)(3), present in high enough concentrations to pose an explosive hazard.

B. The Grantee, its successors and assigns, are hereby notified that the Property was previously part of the Seneca Army Depot which was used for receipt, storage, maintenance, and issue of military munitions from 1941 to 2000. Based upon a comprehensive archive records search, the Grantor has determined that there is no evidence of munitions and explosives of concern (MEC) (formerly referred to as OE) on the Property.

C. Notwithstanding the comprehensive archive records search, the Grantor and Grantee acknowledge that there is a possibility that MEC may exist on the Property due to the former use of the Property as an active military installation. If the Grantee, any subsequent owner, or any other person should find any MEC on the Property, they shall immediately stop any intrusive or ground-disturbing work in the area or in any adjacent areas and shall not attempt to disturb, remove or destroy it, but shall immediately notify the Local Police Department so that appropriate explosive ordnance disposal personnel can be dispatched to address such MEC as required under applicable law and regulations.

D. The Grantee acknowledges receipt of the Seneca Depot Activity (SEDA) Ordnance and Explosives Archive Search Report dated December 1998

VI. LAND USE RESTRICTIONS

The Deed shall include the following statement in at least a 15 pitch bold wording. The Proposed easement is Enclosure 4.

This Property is subject to an environmental easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation Law.

ENCLOSURE 5
ENVIRONMENTAL EASEMENT
FORMER SENECA ARMY DEPOT ACTIVITY
SENECA COUNTY, NEW YORK

THIS INDENTURE made this ____ day of _____, 2008, between The United States of America, acting by and through the Deputy Assistant Secretary of the Army (Installations and Housing) (the “Grantor”), and the People of the State of New York (the “Grantee”), acting through their Commissioner of the Department of Environmental Conservation (the “Commissioner”, or “NYSDEC” or “Department” as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233.

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties (“sites”) that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment; and

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of environmental easements as an enforceable means of ensuring the performance of operation, maintenance, and/or monitoring requirements and of ensuring the potential restriction of future uses of the land, when an environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to perform properly and be effective, or which requires groundwater use or soil management restrictions; and

WHEREAS, the Legislature of the State of New York has declared that “Environmental Easement” shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law (“ECL”) which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

WHEREAS, the Grantor, is the owner of real property located in the Town of Romulus, Seneca County, New York known and designated on the tax map of the Town of Romulus as contained in tax map parcel numbers 11-1-2 and 7-1-7 being a portion of the property identified as Military Lot Numbers 72, 73, 79, 80 and 86 comprised of approximately 45.6 acres, and hereinafter more fully described in Schedule A and depicted in Schedule B attached hereto and made a part hereof (the “Controlled Property”); and

WHEREAS, the Commissioner does hereby acknowledge that the Department accepts this Environmental Easement in order to ensure the protection of human health and the environment and to achieve

the requirements for remediation established at this Controlled Property until such time as this Environmental Easement is extinguished pursuant to ECL Article 71, Title 36;

NOW THEREFORE, in consideration of the covenants and mutual promises contained herein, and in order to implement the land use restriction identified in the "Finding of Suitability to Transfer (FOST), Seneca Army Depot Activity, "Conservation/ Recreation Area FOST Addendum 2," dated April 14, 2009, Grantor grants, conveys and releases to Grantee a permanent Environmental Easement pursuant to Article 71, Title 36 of the ECL in, on, over, under, and upon the Controlled Property as more fully described herein ("Environmental Easement").

1. Purposes. Grantor and Grantee acknowledge that the Purposes of this Environmental Easement are: to convey to Grantee real property rights and interests that will run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of this Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of operation, maintenance, and/or monitoring requirements; and to ensure the potential restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional Control. The following institutional controls apply to the use of the Controlled Property, runs with the land, and is binding on the Grantor and the Grantor's successors and assigns, and is enforceable in law or equity against any owner of the Controlled Property, any lessees, and any person using the Controlled Property:

A. The Controlled Property may be used for commercial/industrial uses as long as the following long-term institutional control is employed:

1). The Controlled Property shall be used solely for commercial and industrial purposes and not for residential purposes, the Controlled Property having been remediated only for commercial and industrial uses. Commercial and industrial uses include, but are not limited to, administrative/office space; manufacturing; warehousing; restaurants; hotels/motels; and retail activities. Residential use includes, but is not limited to, housing; childcare facilities; schools (excluding education and training programs for persons over 18 years of age); assisted living facilities; and outdoor recreational activities (excluding recreational activities by employees and their families incidental to authorized commercial and industrial uses on the Controlled Property). The restriction to commercial and industrial uses applies to all areas within the Controlled Property. Future owners or users of land within the Controlled Property may request a waiver from said restriction on a location by location basis at such time as the concentrations of hazardous substances are reduced to levels that allow for unlimited exposure and unrestricted use. The owner or user making such a request must develop and submit with the request sufficient data and information, subject to review and approval by the Grantee, the Grantor and the U.S. Environmental Protection Agency ("EPA"), to substantiate its request that the identified location is suitable for unlimited exposure and unrestricted use.

2) There shall be no access to or use of the ground water on the Controlled Property for any purpose without the prior written approval of the Grantee, the U.S. Environmental Protection Agency Region II ("USEPA Region II"), and the U.S. Department of the Army ("Army"). However, any owner, lessee, or other person using the Controlled Property is authorized to install monitoring wells with the prior written approval of the Grantee, USEPA Region II, and the Army which approval shall not be unreasonably withheld. For the purpose of this restriction, "ground water" shall have the same meaning as in section 101(12) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended.

B. The Controlled Property may not be used for residential or any other use other than a commercial or industrial use or have access to the groundwater and the above-stated institutional controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. The Grantor covenants and agrees for itself, its successors and assigns that until such time as the Environmental Easement is extinguished in accordance with the requirements of this instrument and Article 71, Title 36 of the ECL, all subsequent deeds and instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

This property is subject to an environmental easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation Law.

D. The Grantor covenants and agrees for itself, its successors and assigns that this Environmental Easement shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

E. The Grantor covenants and agrees for itself, its successors and assigns that the owner of the Controlled Property shall annually, from the date of this Environmental Easement, or within such additional time as NYSDEC may allow, submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury that the institutional controls employed at the Controlled Property are unchanged from the previous certification or that any changes to such controls employed at the Controlled Property were approved by the NYSDEC; that nothing has occurred that would impair the ability of such controls to protect the public health and environment or constitute a violation or failure to comply with such controls; and that access to the Controlled Property was provided to such expert to evaluate the continued maintenance of such controls.

3. Right to Enter and Inspect. The Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor's Rights. The Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Controlled Property, all rights as fee owner of the Controlled Property, including:

A. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement; and

B. The right to give, sell, assign, or otherwise transfer the underlying fee interest to the Controlled Property by operation of law, by deed, or by indenture, subject and subordinate to this Environmental Easement.

5. Enforcement.

A. This Environmental Easement is enforceable in law or equity in perpetuity by the Grantor, the Grantee, or any affected local government, as defined in ECL Section 71-3603, against the owner of the Controlled Property, any lessee, and any person using the Controlled Property. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel, or waiver. It is not a defense in any action to enforce this Environmental Easement that: it is not appurtenant to an interest in real property; it is not of a character that has been recognized traditionally at common law; it imposes a negative burden; it imposes affirmative obligations upon the owner of any interest in the burdened property; the benefit does not touch or concern real property; there is no privity of estate or of contract; or it imposes an unreasonable restraint on alienation.

B. The Grantee shall notify the Grantor and the owner of the Controlled Property of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall set forth how the owner of the Controlled Property can cure such breach or suspected breach and give the owner of the Controlled Property a reasonable amount of time from the date of receipt of notice in which to cure. At the expiration of such period of time to cure, or any extensions granted by Grantee, the Grantee shall notify the Grantor and the owner of the Controlled Property of any failure to adequately cure the breach or suspected breach. The owner of the Controlled Property shall then have a reasonable amount of time from receipt of such notice to cure. At the expiration of said second period, the Grantee may commence any proceedings and take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement in accordance with applicable law to require compliance with the terms of this Environmental Easement.

C. The failure of the Grantee to enforce any of the terms contained herein shall not be deemed a waiver of any such term nor bar its enforcement rights in the event of a subsequent breach of, or noncompliance with, any of the terms of this Environmental Easement.

6. Notice. Whenever notice to the Grantee (including the annual certification) or approval from the Grantee or the Grantor is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing its County tax map number or the Liber and Page or computerized system tracking/identification number and address its correspondence, if to the Grantee, to:

Division of Environmental Enforcement
Office of General Counsel
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-5500

and, if to the Grantor, to:

Headquarters, Department of the Army
ATTN: DAIM-ZA
600 Army Pentagon
Washington, DC 20310-0600

and, if to EPA, to:

U.S. Environmental Protection Agency
Emergency & Remedial Response Division
290 Broadway, 18th Floor, E-3
New York, New York 10007-1866

Such correspondence shall be delivered by hand, or by registered mail or by certified mail and return receipt requested. The Parties may provide for other means of receiving and communicating notices and responses.

7. Recordation. The Grantor shall record this instrument within thirty (30) days of execution of this instrument by the Commissioner or his authorized representative in the office of the recording officer for the county where the Controlled Property is situated in the manner prescribed by Article 9 of the Real Property Law of the State of New York.
8. Amendment. This Environmental Easement may be amended only by an amendment executed by the Commissioner of the New York State Department of Environmental Conservation and filed with the office of the recording officer for the county where the Controlled Property is situated in the manner prescribed by Article 9 of the Real Property Law of the State of New York.
9. Extinguishment. This Environmental Easement may be extinguished only by a release executed by the Commissioner of the New York State Department of Environmental Conservation and filed with the office of the recording officer for the county where the Controlled Property is situated in the manner prescribed by Article 9 of the Real Property Law of the State of New York.
10. Grantor's Opportunity to Review and Comment. The Grantee shall provide the Grantor and EPA with a notice of, and a reasonable opportunity to review and comment upon, requested approvals or actions under this Environmental Easement, including, without limitation, requests for amendment pursuant to Paragraph 8 hereof and extinguishment pursuant to Paragraph 9 hereof.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be signed in its name.

UNITED STATES OF AMERICA

By: _____
JOSEPH F. CALCARA
Deputy Assistant Secretary of the Army
(Installations and Housing)
OASA(I&E)

Grantor's Acknowledgment

COMMONWEALTH OF VIRGINIA)
) ss:
COUNTY OF ARLINGTON)

I, _____, a Notary Public in and for the Commonwealth of Virginia, do hereby certify that on the ____ day of _____, 2008, Joseph F. Calcara, Deputy Assistant Secretary of the Army (Installations and Housing), known to me or proven through satisfactory evidence of identity to be the person whose name is subscribed to the forgoing document, appeared in person and acknowledged before me that the signature on the document was voluntarily affixed by him for the purposes therein stated and that he had due authority to sign the document in the capacity therein stated.

Notary Public
Notary Registration No. _____

My commission expires on _____.

**THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED
BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and
Through the Department of Environmental Conservation**

By: _____
Alexander B. Grannis, Commissioner

Date: _____

Grantee's Acknowledgment

STATE OF NEW YORK)
) ss:
COUNTY OF)

On the _____ day of _____, in the year 2008, before me, the undersigned, personally appeared Alexander B. Grannis, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as Commissioner of the State of New York Department of Environmental Conservation, and that by his signature on the instrument, the People of the State of New York, upon behalf of which the individual acted, executed the instrument.

Notary Public - State of New York

SCHEDULE A

SEAD-16, the Abandoned Deactivation Furnace

Description of Historic Solid Waste Management Unit SEAD-16, the Abandoned Deactivation Furnace

All that tract or parcel of land containing 6.43 acres, more or less, situate on land of now or formerly the Seneca Army Depot, in the Town of Romulus, County of Seneca, State of New York, as shown on a map entitled "SEAD-16, Abandoned Deactivation Furnace, Land Parcel Boundary," dated May 2007, and being more particularly bounded and described as follows:

Beginning at a point having grid coordinates of N = 998,923; E = 749,318 of the New York State Plan Coordinate System of 1983 (Cors 96), Central Zone, transverse mecaton conformal projection of the North American Datum of 1983; thence

1. N 80° 25' 01" E, a distance of 546.63 feet to a point; thence
2. S 09° 32' 17" E, a distance of 621.59 feet to a point; thence
3. S 46° 48' 31" W, a distance of 268.83 feet to a point; thence
4. N 32° 16' 54" W, a distance of 835.08 feet to a point; said point being the Point or Place of Beginning.

SEAD-17, the Existing Deactivation Furnace

Description of Historic Solid Waste Management Unit SEAD-17, the Existing Deactivation Furnace

All that tract or parcel of land containing 6.92 acres, more or less, situate on land of now or formerly the Seneca Army Depot, in the Town of Romulus, County of Seneca, State of New York, as shown on a map entitled "SEAD-17, Existing Deactivation Furnace, Land Parcel Boundary," dated May 2007, and being more particularly bounded and described as follows:

Beginning at a point having grid coordinates of N = 998,358; E = 749,021 of the New York State Plan Coordinate System of 1983 (Cors 96), Central Zone, transverse mecaton conformal projection of the North American Datum of 1983; thence

1. S 88° 04' 44" E, a distance of 477.27 feet to a point; thence
2. S 02° 59' 22" E, a distance of 517.70 feet to a point; thence
3. N 87° 55' 08" W, a distance of 688.45 feet to a point; thence
4. N 25° 06' 12" E, a distance of 560.99 feet to a point; said point being the Point or Place of Beginning.

SEAD-59, the Fill Area West of Building 135

Description of Historic Solid Waste Management Unit SEAD-59, the Fill Area West of Building 135

All that tract or parcel of land containing 6.17 acres, more or less, situate on land of now or formerly the Seneca Army Depot, in the Town of Romulus, County of Seneca, State of New York, as shown on a map entitled "SEAD-59, Fill Area West of Building 135, Land Parcel Boundary," dated May 2007, and being more particularly bounded and described as follows:

Beginning at a point having grid coordinates of N = 999,149; E = 750,263 of the New York State Plan Coordinate System of 1983 (Cors 96), Central Zone, transverse mecaton conformal projection of the North American Datum of 1983; thence

1. S 82° 30' 15" E, a distance of 114.98 feet to a point; thence
2. S 01° 30' 27" W, a distance of 570.20 feet to a point; thence
3. N 88° 57' 13" W, a distance of 438.07 feet to a point; thence
4. N 08° 37' 08" W, a distance of 513.80 feet to a point; thence
5. N 80° 34' 56" E, a distance of 421.68 feet to a point; said point being the Point or Place of Beginning.

SEAD-71, the Alleged Paint Disposal Area

Description of Historic Solid Waste Management Unit SEAD-71, the Alleged Paint Disposal Area

All that tract or parcel of land containing 2.40 acres, more or less, situate on land of now or formerly the Seneca Army Depot, in the Town of Romulus, County of Seneca, State of New York, as shown on a map entitled "SEAD-71, Alleged Paint Disposal Area, Land Parcel Boundary," dated May 2007, and being more particularly bounded and described as follows:

Beginning at a point having grid coordinates of N = 999,408; E = 750,847 of the New York State Plan Coordinate System of 1983 (Cors 96), Central Zone, transverse mecaton conformal projection of the North American Datum of 1983; thence

1. N 88° 21' 48" E, a distance of 140.06 feet to a point; thence
2. S 00° 00' 00" E, a distance of 172.00 feet to a point; thence
3. S 80° 08' 32" W, a distance of 619.14 feet to a point; thence
4. N 82° 30' 15" W, a distance of 114.98 feet to a point; thence
5. N 00° 00' 00" E, a distance of 50.00 feet to a point; thence
6. N 70° 18' 32" E, a distance of 620.27 feet to a point; said point being the Point or Place of Beginning.

SEAD-121C, Defense Reutilization and Marketing Office (DRMO) Yard

Description of Historic Solid Waste Management Unit SEAD-121C, the Defense Reutilization and Marketing Office Yard

All that tract or parcel of land containing 8.75 acres, more or less, situate on land of now or formerly the Seneca Army Depot, in the Town of Romulus, County of Seneca, State of New York, as shown on a map entitled "SEAD-121C, Defense Reutilization and Marketing Office Yard, Land Parcel Boundary," dated May 2007, and being more particularly bounded and described as follows:

Beginning at a point having grid coordinates of N = 997,615; E = 750,113 of the New York State Plan Coordinate System of 1983 (Cors 96), Central Zone, transverse mecaton conformal projection of the North American Datum of 1983; thence

1. S 01° 54' 10" E, a distance of 301.17 feet to a point; thence
2. S 60° 08' 28" W, a distance of 62.27 feet to a point; thence
3. S 81° 15' 14" W, a distance of 78.92 feet to a point; thence
4. S 08° 49' 13" E, a distance of 58.69 feet to a point; thence
5. S 88° 14' 15" W, a distance of 65.03 feet to a point; thence
6. S 01° 36' 56" E, a distance of 390.16 feet to a point; thence
7. S 80° 35' 15" W, a distance of 568.66 feet to a point; thence
8. N 46° 23' 15" W, a distance of 204.41 feet to a point; thence
9. N 45° 48' 15" E, a distance of 806.18 feet to a point; thence
10. N 11° 28' 10" E, a distance of 211.22 feet to a point; thence
11. S 84° 51' 58" E, a distance of 257.03 feet to a point; said point being the Point or Place of Beginning.

SEAD-121I, Rumored Cosmoline Oil Disposal Area

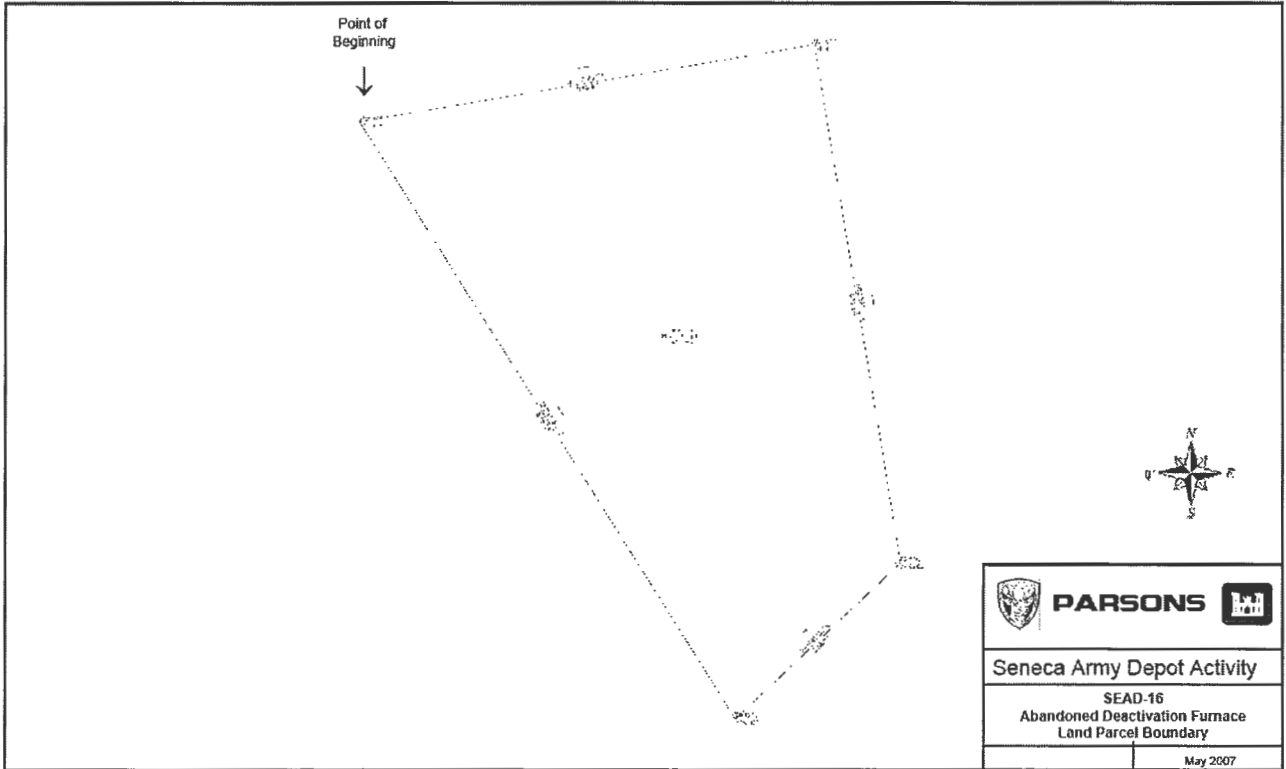
Description of Historic Solid Waste Management Unit SEAD-121I, the Rumored Cosmoline Oil Disposal Area

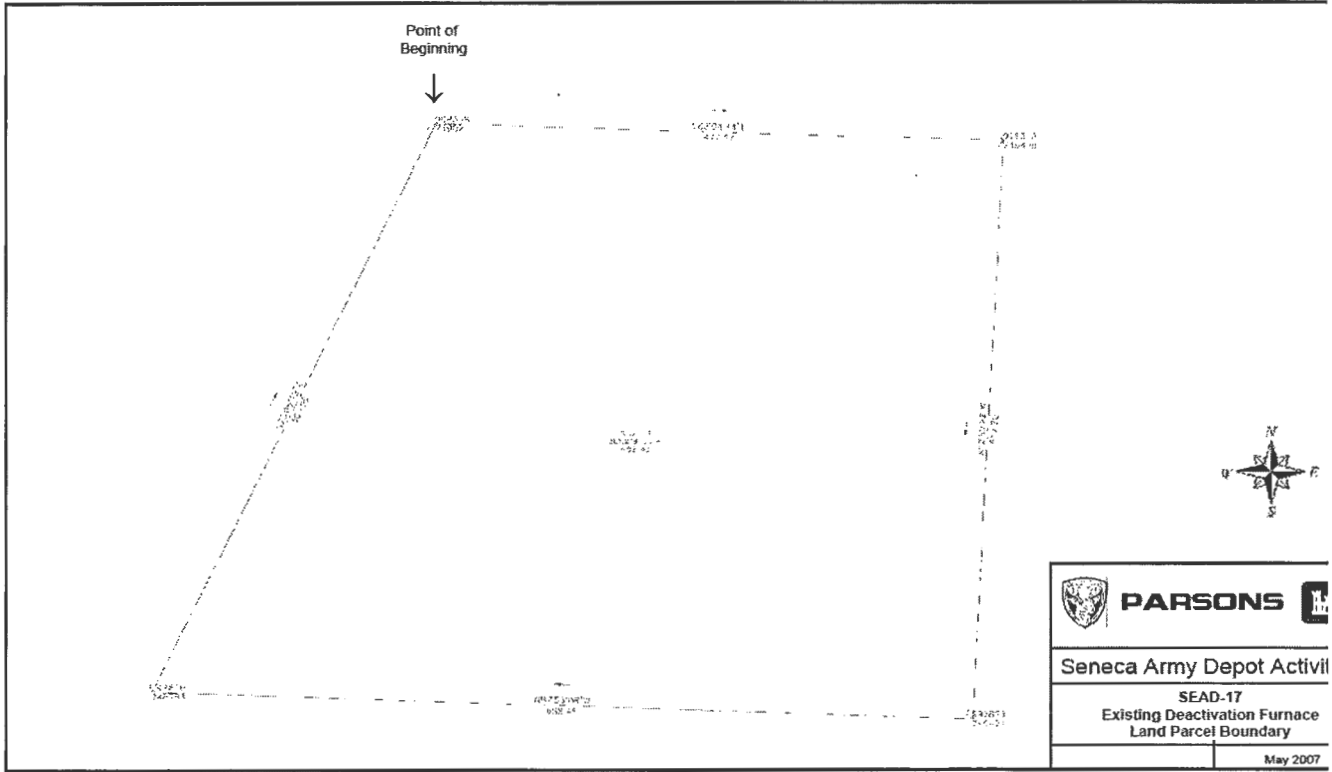
All that tract or parcel of land containing 16.80 acres, more or less, situate on land of now or formerly the Seneca Army Depot, in the Town of Romulus, County of Seneca, State of New York, as shown on a map entitled "SEAD-121I, Rumored Cosmoline Oil Disposal Area, Land Parcel Boundary," dated May 2007, and being more particularly bounded and described as follows:

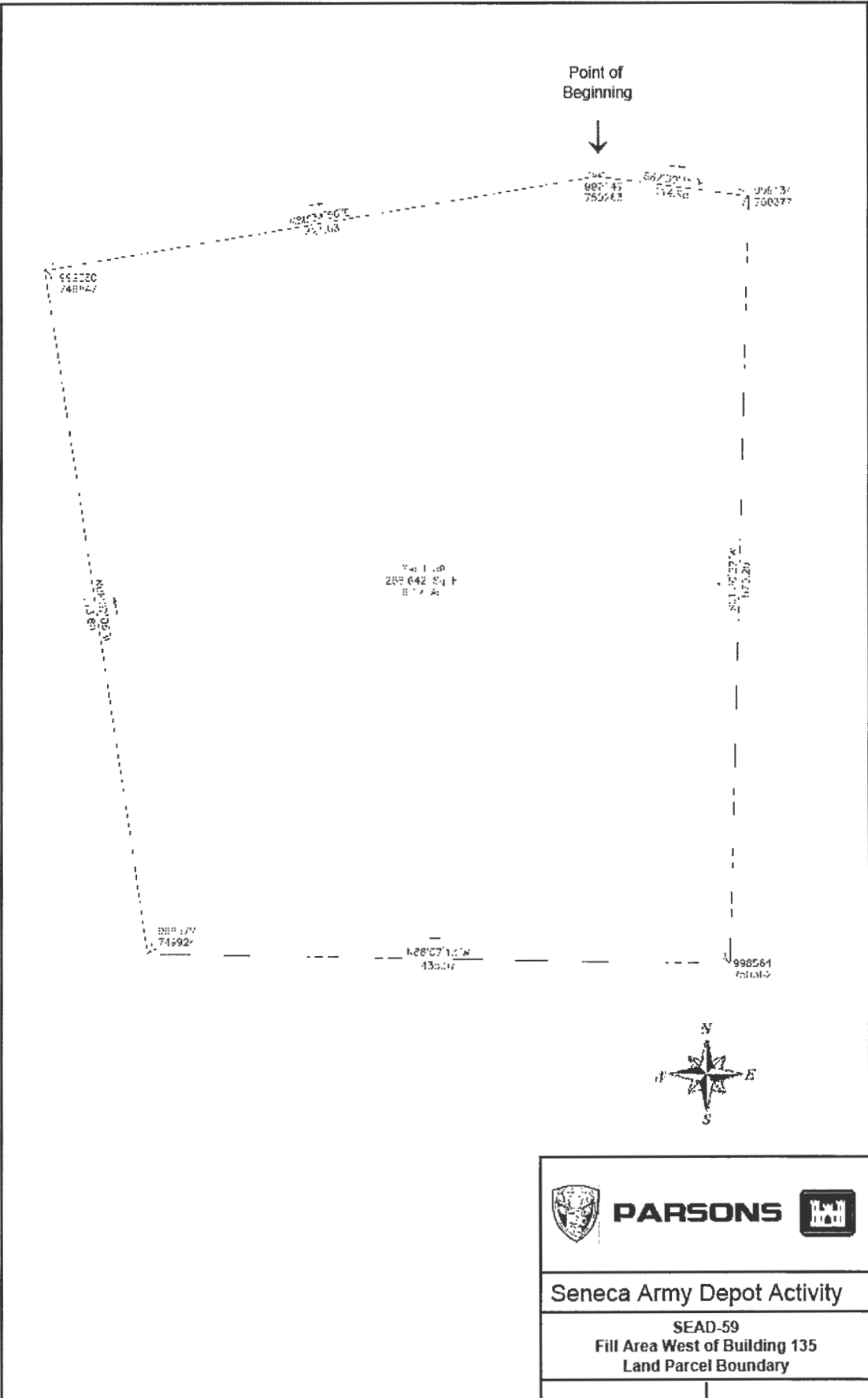
Beginning at a point having grid coordinates of N = 995,597; E = 751,510 of the New York State Plan Coordinate System of 1983 (Cors 96), Central Zone, transverse mecaton conformal projection of the North American Datum of 1983; thence

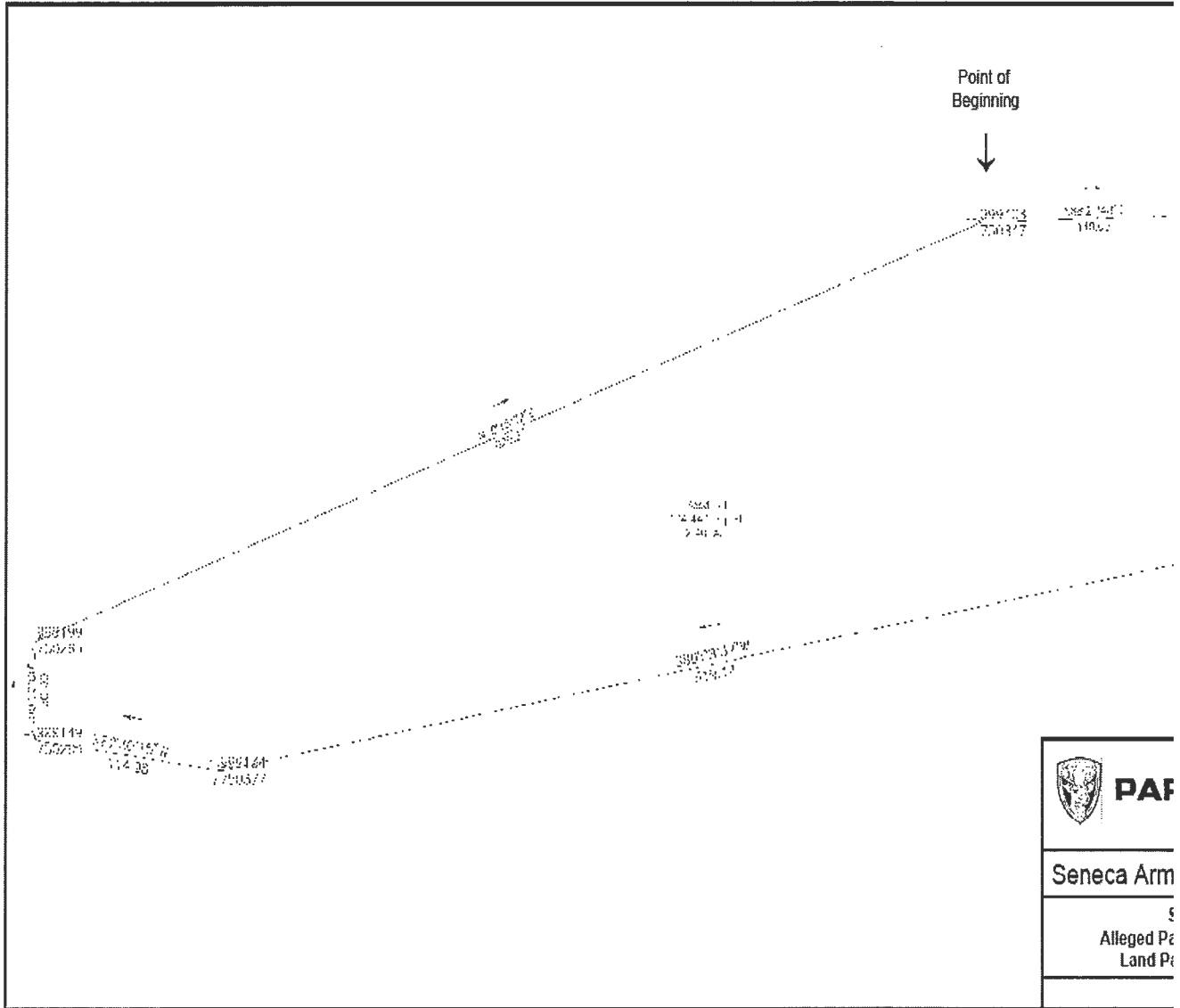
1. S 01° 44' 16" E, a distance of 2,572.18 feet to a point; thence
2. S 88° 35' 17" W, a distance of 284.09 feet to a point; thence
3. N 01° 45' 36" W, a distance of 2,572.21 feet to a point; thence
4. N 88° 35' 35" E, a distance of 285.09 feet to a point; said point being the Point or Place of Beginning.

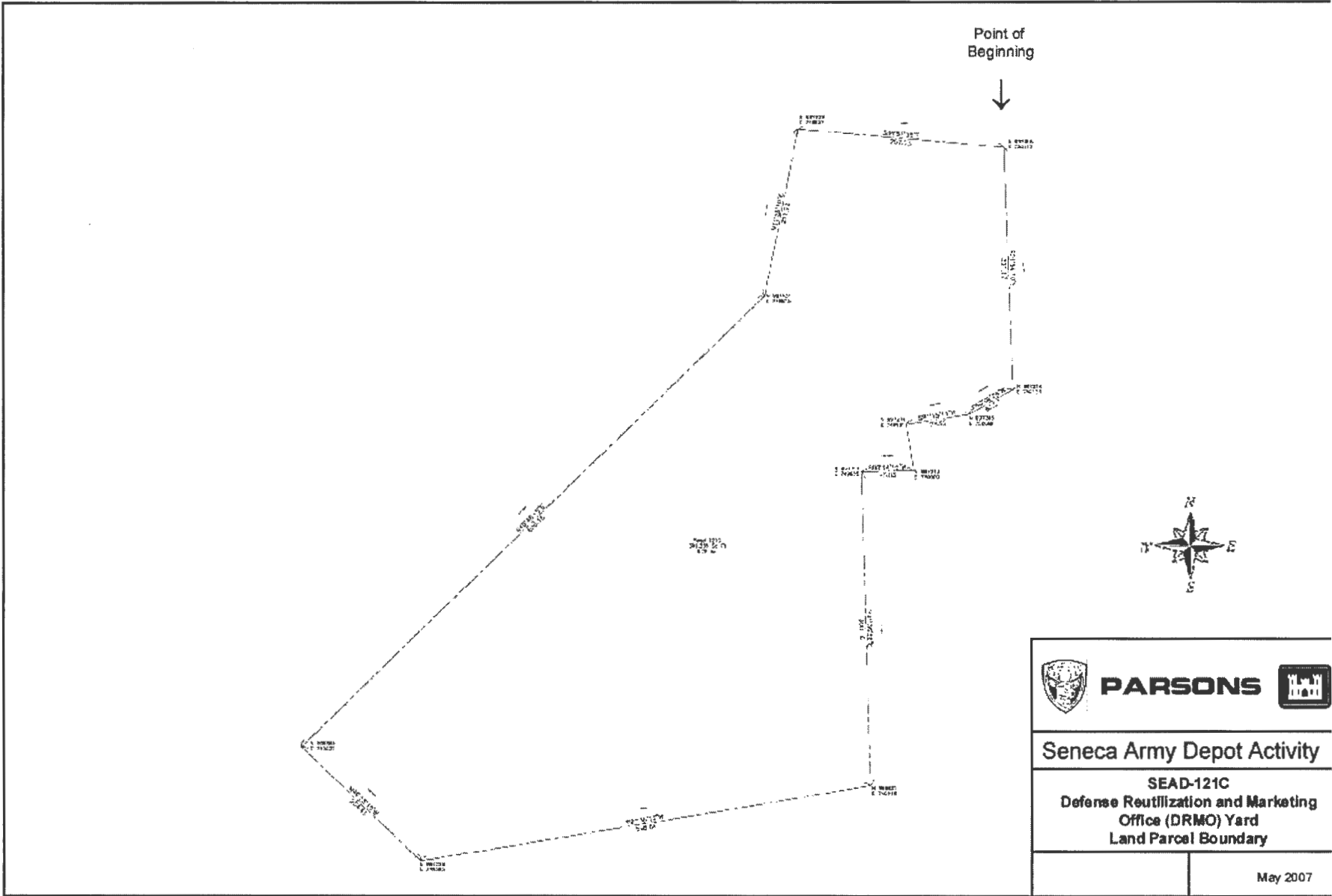
SCHEDULE B











Point of Beginning

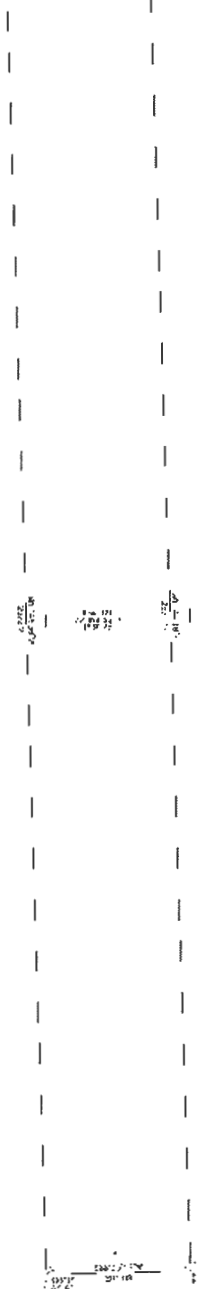




	PARSONS
Seneca Army Depot Activity	
SEAD-121C Defense Reutilization and Marketing Office (DRMO) Yard Land Parcel Boundary	
	May 2007

Point of Beginning



125.31' 184° 52' 22" 125.31'



	PARSONS	
Seneca Army Depot Activity		
SEAD-1211		
Rumored Cosmoline Oil Disposal Area		
Land Parcel Boundary		
		May 2007

ENCLOSURE 5
COMMENTS

Page 1 of 2

Main Identify

From: "Vazquez, Julio" <jvazquez@mail.epa.gov>
To: "Stephen Absolon" <stephen.m.absolon@us.army.mil>
Cc: "Gupta, Kuldeep" <kggupta@sw.dec.state.ny.us>
Sent: Tuesday, July 19, 2006 4:05 PM
Subject: Re: FOST addendums

Steve:

Here are my comments to the FOST Addendums.

Conservation/Recreational Areas:

1. Section I.A.2.b. CERCLA Notice and Covenant pursuant to Section 120(h)(3): The statutory covenant reads "any additional remedial action found to be necessary after the date of such transfer shall be conducted by the United States." The conditional language added, changes the intent of the statutory language. This language imposes a burden on the Grantee that is not called for in the language of CERCLA.

PID Areas with the added PAHs language:

1. Section I.A.2.b. CERCLA Notice and Covenant pursuant to Section 120(h)(3): The statutory covenant reads "any additional remedial action found to be necessary after the date of such transfer shall be conducted by the United States." The conditional language added, changes the intent of the statutory language. This language imposes a burden on the Grantee that is not called for in the language of CERCLA.

Please indicate if an EPA letterhead is further necessary or if this electronic correspondence is sufficient.

Julio F. Vazquez, RPM
U. S. EPA, Region 2

Stephen Absolon
<Stephen.M.Absolon@us.army.mil> To
Julio Vazquez/R2/USEPA/US@LPA

7/19/2006

EPA COMMENTS: PID Areas with the added PAHs language:
1. Section I.A.2.b. CERCLA Notice and Covenant pursuant to Section 120(h)(3): The statutory covenant reads "any additional remedial action found to be necessary after the date of such transfer shall be conducted by the United States." The conditional language added, changes the intent of the statutory language. This language imposes a burden on the Grantee that is not called for in the language of CERCLA.

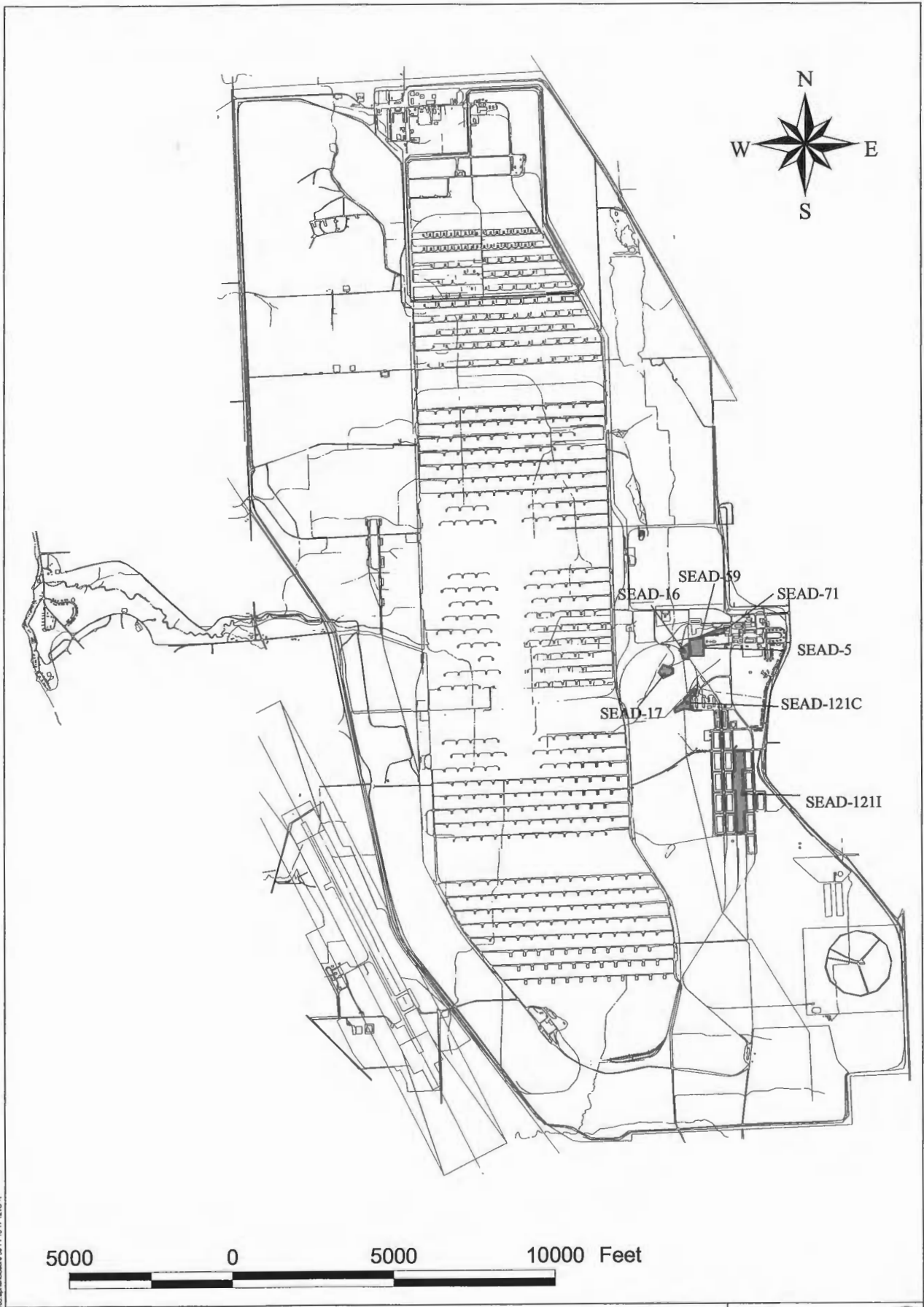
**ENCLOSURE 6
RESPONSE TO COMMENTS**

RESPONSE TO EPA COMMENTS

COMMENT- PID Areas with the added PAHs language:

1. Section I.A.2.b. CERCLA Notice and Covenant pursuant to Section 120(h)(3): The statutory covenant reads "any additional remedial action found to be necessary after the date of such transfer shall be conducted by the United States." The conditional language added, changes the intent of the statutory language. This language imposes a burden on the Grantee that is not called for in the language of CERCLA.


RESPONSE- THE LANGUAGE PROVIDED IS FROM DOD MODEL LANGUAGE AND HAS BEEN USED IN ALL PREVIOUS TRANSFERS. THE ARMY WILL NOT CHANGE THIS PREVIOUSLY NEGOTIATED LANGUAGE. THE REVISION TO ENCLOSURE 3 HAS BEEN MADE ADDING THE PAH LANGUAGE.



C:\stamach\depot_activity\seneca_survey_combo\072105\sp\seneca\08_17_16_17_121C_4

SEAD-5, former Sewage Sludge Piles
 SEAD-16, former Building S-311
 Abandoned Deactivation Furnace
 SEAD-17, former Building 367
 Existing Deactivation Furnace
 SEAD-59, Fill Area
 West of Building 135

SEAD-71, Alleged
 Paint Disposal Area
 SEAD-121C, Defense Reutilization
 and Marketing Office (CRMO) Yard
 SEAD-121I, Rumored Cosmoline
 Oil Disposal Area


Seneca Army Depot Activity
Enclosure 1 Location of SEADs 5, 16, 17, 59, 71, 121C and 121I
<small>April 2009</small>

File
May 20 BET

**Base Cleanup Team (BCT) Meeting
Seneca Army Depot Activity
Wednesday, May 20, 2009
Meeting Minutes**

Attending:

Steve Absolom, SEDA
Tom Battaglia, NY District
Keith Hoddinott, CHPPM
Kevin Healy, Huntsville
Julio Vazquez, USEPA Region 2
John Swartwout, NYSDEC
Kuldeep Gupta, NYSDEC
Mark Sergott, NYSDOH
Todd Heino, Parsons
Jeffrey Adams, Parsons

Steve Absolom convened the meeting at approximately 1:45 pm and began with a review of the Document List.

Review of Pending Document List

S. Absolom indicated that the Army had received the State's comments on the SEAD-4 Construction Completion Report on Tuesday, May 19, 2009. Responses to these comments will be prepared and returned to the State shortly. The Army was also in the process of finalizing its response to EPA comments on the same document.

S. Absolom next asked if either the State or the EPA intended to provide any comments on the Round 6 Ash Landfill Letter Report. Julio Vazquez indicated that he had not yet looked at the document but would look at it, and may provide comments in the future. He then asked if the system was continuing to perform as designed and Todd Heino and S. Absolom both indicated that the system was working in accordance with its design. The State indicated that they did not have any comments on the Semi-Annual Report.

S. Absolom then asked if the State and the EPA had had the chance to review response to EPA comments on the Annual Report for the OB Grounds. J. Vazquez indicated that he had received and reviewed the responses. The State indicated that they had received the document and had no comments. During this discussion, S. Absolom noted that the Army had also received comments from the State on this document, but had never formally responded to these comments. He indicated that the Army and Parsons will prepare and submit responses shortly.

S. Absolom then indicated that Parsons and the Army had conducted an inspection of Reeder Creek in April and had found that the sections of the creek that had previously been excavated to bedrock continued to be scoured by flow and that no sediment had re-deposited in the area. S. Absolom and Tom Battaglia both indicated that Reeder Creek

was a perennial stream that drained a large portion of the Depot, and typically carried a large volume of flow. Since it continuously has flow, and frequently has high flow, the previously excavated areas are unlikely to have new sediment deposition. This is the basis for the Army continuing to indicate that no sediment monitoring should be required. S. Absolom further indicated that the OB Grounds Monitoring Plan had been prepared to indicate that sediment monitoring would only be conducted if inspections of the interred soil piles at the OB Grounds showed evidence of breaches, or if the results of groundwater monitoring indicted that metals were being released from the site. Neither of these conditions had been observed at the site. Tom Battaglia then indicated that the inspection of the culvert stops that had been put into place to prevent runoff from the OD Grounds from flowing into Reeder Creek were also still present and effective, and as such there was no direct path available for soil from the OB Grounds to migrate into and deposit within the creek. John Swartwout suggested that the Army prepare a letter to the State documenting these observations for the record. It was also suggested that the sediment monitoring requirement might be eliminated as part of a five-year review. This prompted a discussion as to when the five year review was due. S. Absolom indicated that he believed that this would occur in 2011, but J. Vazquez indicated that it was the EPA's understanding that this should have occurred this year. However, due to staffing changes at the Region, this had not been scheduled, and would not happen till next year. S. Absolom indicated that he had not yet programmed funding for this activity until 2011. No final resolution was reached on this matter and will require further discussions between the EPA and Army.

Jeff Adams asked if the Army should reissue the OB Grounds Report with the information about the observations made in Reeder Creek, and it was suggested that this may possibly be done using insert pages instead of a full report reissue. This alternative will be reviewed and discussed in the future.

S. Absolom next queried the regulators as to whether they had any comments or concerns about the Land Use Control Remedial Design amendments that had been submitted. Kuldeep Gupta indicated that State comments would be forthcoming on most of them. J. Swartwout indicated that the person responsible for reviewing and approving easements at State sites had changed, and that the State was in the process of changing all of its policies and procedures regarding the wording and implementation of environmental easements. S. Absolom and J. Vazquez both expressed concerns that the wording of Seneca easement language had been extensively discussed by all parties over the last several years, and indicated that the Army and EPA were unlikely to embrace significant changes in the wording being used in current and future document. J. Vazquez indicated that he believed that the EPA and the State had an agreement that any future changes would not affect Proposed Plans or RODs that were associated with the Seneca Army Depot for this very reason. J. Swartwout indicated that he understood the Army and EPA positions, but this was a matter for review by the lawyers. S. Absolom indicated that the Army would continue to move forward with the current language, and hopefully this would eliminate future problems in this area.

The ensuing discussion focused on the State's recently issued guidance on well closure. S. Absolom asked if these were the new requirements for well closure, or would closure in accordance with Seneca's previously approved well abandonment plan be allowed. J. Swartwout asked K. Gupta if the new guidance had been officially released by the State, and K. Gupta indicated that he had obtained the document from the States lead for well abandonment. He did indicate that it was still draft, but was unsure if this was their current official guidance. This would have to be reviewed. J. Swartwout then asked S. Absolom if they had any comments or concerns. S. Absolom indicated that the Army and Parsons had just begun their review of this document, and might have questions or comments once this review was completed. J. Swartwout indicated that if questions or comments were identified, they could either be discussed with the State lead via a conference call or could be submitted in writing.

S. Absolom next indicated that all parties should have just received another version of the SEAD-12 and 72 Proposed Plan. This had been revised and updated in response to the EPA's most recent round of comments. S. Absolom indicated that he had received the State's concurrence letter on the prior version of the Proposed Plan, and did not believe that any of the changes requested by the EPA altered the planned action. Based on this discussion, the State indicated that it did not believe there would be any change in the State's acceptance of the Proposed Plan.

S. Absolom indicated that the EPA and the State should have also received a work plan for the proposed removal action in SEAD-12. It was the Army's goal to get this work going in June or July of this year, most likely before or concurrent to the finalization of the ROD for this site. J. Vazquez asked if the Army was sure it wanted to do the removal action before the ROD was signed, and S. Absolom indicated that yes this was his preference. This decision is being driven by the fact that there is a new occupant in this part of the Depot, and they have plans for future expansions of their facilities. It is the Army's intention to complete the inspection of the buried materials to ensure that there are no military-related items present, which will allow them to release this portion of the site for reuse. J. Swartwout indicated that the State has allowed this type of work to be done at other sites.

S. Absolom indicated that the State and the EPA should be receiving a copy of the Remedial Action Operations Plan for the action at SEAD-5 within the next week. Again it is the Army's desire to get this work done this summer. S. Absolom then asked the regulators if they were amenable to allowing the Army to use a geotextile instead of the colored "snow fence" material as the demarcation barrier. T. Battaglia questioned this choice because he believed that it was more valuable for other purposes, but Steve indicated that he thought this material was a better choice because it provided more of a visual demarcation line due to its thickness and toughness, and that the Army had an available supply which would reduce the cost of the action in SEAD-5. The State indicated that they did not have a problem with the use of the geotextile instead of the snow fence. J. Vazquez indicated that he would check with the individual who suggested the demarcation material in the first place.

J. Adams and T. Heino then provided short summaries of the proposed work at both SEAD-5 and SEAD-12. They indicated that this work would also be performed with other activities at SEAD-72 and the OD Grounds to provide more continuous actions at the Depot for the summer.

S. Absolom then noted that the Army had received comments from both the State and the EPA on the proposed Remedial Action Operations Plan for SEAD-13. It was the Army's intention not to perform any monitoring as none was specifically identified in the ROD for the site. It is the Army's contention that due to the location of this site in a wetland area, it is unlikely that it will ever be available for redevelopment to a situation where the groundwater would ever be used. If a future reuse alternative was identified for this land, the redeveloper would need to install and sample new wells before the groundwater could ever be used for portable purposes. Until such a use was identified, however, it was the Army's decision to abandon all of the existing wells to restrict access to the groundwater, and just to monitor the LUC as is required by the ROD. J. Vazquez and J. Swartwout both acknowledged that there was a rationale for pursuing the Army's path, and acknowledged that future data would be more valuable for determining whether the groundwater was suitable for some future use. They also both acknowledged that monitoring wells are susceptible to breakage and disrepair over extended periods and as such the well should most likely be abandoned if they are not going to be used. Procedures to abandon the wells still need to be confirmed.

The next topic of conversation related to the comments that the EPA had provided on the Munitions Response Completion Report. S. Absolom asked the EPA if it they wanted a risk assessment performed. J. Vazquez indicated that it was EPA's position that it could not decide that a site was acceptable for unrestricted use based on a comparison of site data to screening criteria alone. Further, the EPA screened maximum concentrations found at a site versus guidance values and did not use the 95th UCL as the basis of this call. Keith Hoddinott indicated that the EPA's own guidance (RAGS) allowed for the use of the 95th UCL or the maximum concentration during the screening process. J. Adams also informed J. Vazquez that both the 95th UCL and the maximum had been compared to the guidance values. J. Vazquez then indicated that the EPA typically used analytical results from the top 2 feet of the overburden as the basis of this comparison, and not the top 2 inches. K. Hoddinott then indicated that EPA guidance also allowed latitude in this area and would allow data from either the top two inches or the top two feet to be used. J. Vazquez suggested that the Army formalize their response to EPA comments, and he would review this matter with his risk assessment support personnel. S. Absolom then indicated that he thought the Army's best path forward was to formalize the response to comments, and then move forward with the Proposed Plan and ROD for these sites. The Army would hold off any further revision to the Completion Report, pending EPA's review of comment responses and review of the Proposed Plan.

Both the State and the EPA asked S. Absolom to provide them with an update as to the pending arrangements with the Fort Drum of the Depot and Steve indicated that this was proceeding and may be in place by June - July of this year.

The meeting adjourned at approximately 4:40 pm, and all parties were reminded that the public presentation of the SEAD-11 proposed plan would be held at the Seneca County Office Building, starting at 7:00 pm.