April 28, 2009

Mr. Clint Halftown
Cayuga Indian Nation
P.O. Box 11
Versailles, NY 14168

Re: Phase I Environmental Site Assessment
2552 Route 89,
Seneca County Tax Map No.36-1-49
Town of Seneca Falls, New York 13148
AKRF Project Number 40212

Dear Halftown:

AKRF, Inc. is pleased to submit this Phase I Environmental Site Assessment Report for the above-referenced site. This report includes the findings of a site inspection, an evaluation of available historical information, the interpretation of selected federal and state environmental databases, and a review of selected Seneca County records. AKRF, Inc. met the requirements of American Society for Testing and Materials (ASTM) as established by ASTM Standard E1527-05 unless noted otherwise in Section 7: "Limitations".

We appreciate the opportunity to provide you with our services. If you should have any questions or comments regarding the enclosed report, please do not hesitate to contact us.

Sincerely,
AKRF, Inc.

Marc S. Godick, LEP
Senior Vice President

Kerry Gallagher
Environmental Scientist

Enc.

EXECUTIVE SUMMARY

AKRF, Inc. (AKRF) was retained by the Cayuga Indian Nation of New York State to perform a Phase I Environmental Site Assessment of the property located at 2552 Route 89, Town of Seneca Falls, Seneca County, New York. The Property comprised a convenience store, gasoline filling station and an asphalt-paved surface parking lot. The Property was approximately 0.7-acres in size, legally defined as Seneca County Tax Map parcel No. 36-1-49. The Property was located in a predominantly rural area, abutted by a former boat repair shop to the north, New York State Route 89 to the east followed by two commercial properties, a former campground and Cayuga Indian Nation offices to the west, and Garden Street followed by undeveloped land to the south.

The objective of this assessment was to identify any potential environmental concerns associated with the site resulting from past or current site usage or usage of neighboring properties. This Phase I Environmental Site Assessment was performed in accordance with customary principles and practices in the environmental consulting industry, and in conformance with the scope and limitations of ASTM Standard E1527-05, *Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Practice*. Any exceptions to, or deletions from, this practice are described in Section 7.0 of this report. This assessment revealed the following evidence of recognized environmental conditions in connection with the property:

- The Property comprised a convenience store, gasoline filling station, and an asphalt-paved parking lot. Historical uses of the Property include an auto dealership and gasoline filling station, which was reported as operating sometime between 1960 and 1980, and the previous underground tanks were removed and replaced in 1992. Although county records document the current building as being constructed in 1991, a review of historical photographs and reports indicate that the current structures may have been remodeled in stages from the original development. The past and current use of the Property as a gasoline filling station could potentially have caused a release of petroleum contamination to soil or groundwater. The underground storage tank leak detection system reported in the environmental database for the tanks currently in use at the Property did not indicate any releases of petroleum; however, undocumented spills could have contaminated soil and groundwater beneath the site. Registration for the current USTs was not up to date with NYSDEC. In addition, there was no documentation found for maintenance, leak detection, product inventory records, closure sampling related to the former underground tanks, activities related to the former dealership, or potential structures (dry wells, septic systems) related to the former site building.
- The maintenance and storage areas and the public restrooms contained general cleaning chemicals. No odors or observation of releases were noted during the site inspection. Chemicals should be stored properly, in accordance with manufacturers' specifications and applicable local, state and federal regulations.
- Suspect asbestos-containing materials (ACM) were observed, including fireproofing foam, suspended ceiling tiles, vinyl floor tiles, piping insulation, and window caulking.

Recommendations:

- A subsurface (Phase II) investigation is recommended for 2552 Route 89 based upon the current use as a gasoline station, and the previous use as a gasoline station and auto dealership. The compliance status of the USTs, including registration with NYSDEC, should be further evaluated and addressed, as warranted. The investigation should include the collection of soil and groundwater samples from areas adjacent to current and/or former underground tanks, dispenser islands, and site structures to determine if a release of petroleum has occurred.

- Prior to any demolition or renovation activities, all universal wastes and chemicals stored on-site should be disposed of in accordance with all applicable regulations.
- Prior to any renovation or demolition, a comprehensive asbestos survey should be conducted. If materials prove to contain asbestos, they should be properly removed and disposed of in accordance with all state and federal requirements by a licensed asbestos abatement contractor.

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1.0 INTRODUCTION

AKRF, Inc. (AKRF) was retained by the Cayuga Indian Nation of New York State to perform a Phase I Environmental Site Assessment of the property located at 2552 Route 89, Town of Seneca Falls, Seneca County, New York. The Property comprised convenience store, gasoline filling station and an asphalt-paved surface parking lot. The Property was approximately 0.7-acres in size, legally defined as Seneca County Tax Map parcel No. 36-1-49. The Property was located in a predominantly rural area, abutted by a former boat repair shop to the north, New York State Route 89 to the east, a former campground to the west, and Garden Street followed by undeveloped land to the south.

The scope of services for this assessment included the following:

The scope of services for this assessment was in conformance with ASTM Standard E1527-05 (*Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Practice*), with any exceptions to, or deletions from, this practice described in Section 7.0: "Limitations and Data Gaps." AKRF's scope addressed the ASTM scope by conducting the following:

- Observations of the Property (reconnaissance) were made to identify potential sources or indications of hazardous substances, including: aboveground storage tanks (ASTs); underground storage tanks (USTs); tank vents and fill ports; transformers and other items that could contain polychlorinated biphenyls (PCBs), drums or areas where hazardous materials were used, stored, or disposed; stained surfaces and soils; stressed vegetation, leaks, odors. In addition, where possible, neighboring properties were viewed, but only from public rights-of-way, to identify similar concerns.
- Readily available geological and groundwater (hydrogeological) information were evaluated to assist in determining the potential for contamination migration within, from and onto the Property.
- Historical topographic maps and aerial photographs for the Property and adjacent properties were reviewed to evaluate historic land uses.
- The following federal regulatory databases were reviewed to determine the regulatory status of the Property and properties within the ASTM-specified radii: National Priority List (NPL); Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS); Emergency Response Notification System (ERNS); Toxic Chemical Release Inventory System (TRIS); the Permit Compliance System of Toxic Wastewater Discharges (WWD); the Air Discharge Facilities Index (ADF) the USEPA Civil Enforcement Docket. The federal listing of facilities which are subject to corrective action under the Resource Conservation and Recovery Act (CORRACTS) is discussed with the State databases of RCRA listings.
- The following state regulatory databases were reviewed to determine the regulatory status of the Property and properties within the ASTM-specified radii, hazardous material spills (SPILLS); Resource Conservation and Recovery Act Notifiers (RCRA); Chemical Bulk Storage (CBS); Solid Waste Facilities (SWF); Petroleum Bulk Storage (PBS); State Inactive Hazardous Waste Disposal Sites (SHWS); Major Oil Storage Facilities (MOSF); Historic Utility Sites; Environmental Restoration Program (ERP); Voluntary Cleanup Program (VCP); and Brownfield Cleanup Program (BCP).
- A review of pertinent local (obtained at the County Clerk's Office of Seneca County, NY) and online records for the Property was conducted.

In addition to the ASTM Scope items, AKRF's scope (unless noted in Section 7.0) included:

- A state database of radon concentrations was used to determine whether indoor radon levels in the area (data are by county) generally comply with United States Environmental Protection Agency (USEPA) guidelines.

2.0 PHYSICAL SITE DESCRIPTION

Visual inspection of the site and adjacent areas was performed on March 20, 2009 by Kerry Gallagher of AKRF. At the time of the inspection, the weather was sunny and approximately 40 ºF, the visibility good. The site was inspected for the presence of stained surfaces and soils, stressed vegetation, storage tanks, drums, leaking pipes, transformers, suspect asbestos-containing materials, suspect lead-containing paint, and any other evidence of hazardous material usage and storage on-site. Photographs documenting the site inspection are included in Appendix A.

2.1 General Site Conditions

The Property was operated by Lakeside Trading, an enterprise of the Cayuga Indian Nation of New York. The convenience store building was centrally located on the parcel and was of steel and concrete construction with concrete and gypsum board walls, suspended acoustical ceiling tiles, and floors of resilient floor tiles and concrete. The building was reported to have been built in 1991. The store was used for the selling of a variety of food products, beverages, cigarettes, Lottery tickets and other miscellaneous sundries. One pump island with a metal awning and support beams housing two gasoline dispensers was located south of the convenience store. Man-way covers for the underground storage tanks (USTs) were observed south of the pump island. A small storage shed was noted on the west of the convenience store and was used for the storage of miscellaneous supplies and maintenance tools. An asphalt paved entrance to the gasoline filling queue was located north of the convenience store. No sheens, staining or petroleum odors were noted throughout the Property during the site inspection.

2.2 Topography, Geology, and Hydrogeology

The surface topography is relatively level. Based on reports compiled by the U.S. Geological Survey (Seneca Falls, New York Quadrangle), the property lies at an elevation of approximately 465 feet above the National Geodetic Vertical Datum of 1929 (an approximation of mean sea level). Groundwater likely flows in an easterly direction toward Cayuga Lake, located approximately 900 feet to the east. However, actual groundwater flow at the site can be affected by many factors including subsurface openings or obstructions such as basements, bedrock geology, local pumping of groundwater, and other factors beyond the scope of this study.

2.3 Storage Tanks

2.3.1 Underground Storage Tanks (USTs)

During the site inspection, manhole covers for two underground storage tanks (USTs) were observed south of the gasoline pumps. The tanks were identified as a 10,000-gallon UST used for regular unleaded gasoline and a 5,000-gallon UST for super unleaded gasoline. A review of the State regulatory records identified one 10,000-gallon and one 5,000-gallon in-service gasoline underground storage tanks. Off-site USTs are discussed in Section 4.2.2.

2.3.2 Aboveground Storage Tanks (ASTs)

No evidence, such as concrete foundations, containment walls, pedestals, or steel support structures, was observed during the site visit to indicate that aboveground storage tanks (ASTs) were located on-site either at the time of the inspection or in the past. A review of the State regulatory records did not cite any aboveground storage tanks (ASTs) for the subject property. There were no records of ASTs available in the Seneca County Clerk's Office. Off-site ASTs are discussed in Section 4.2.2.

2.4 Polychlorinated Biphenyls (PCBs)

Prior to 1979, polychlorinated biphenyls (PCBs) were widely used for their cooling properties in electrical equipment such as transformers, capacitors, switches and voltage regulators. The Seneca County Clerk's Office reports the one-story convenience store building currently on the Property to have been built in 1991, a time when PCB-containing equipment was not likely to be used. No leaks or stains were noted around lighting fixtures and switches, which do not currently pose a threat to human health or the environment.

2.5 Lead-Based Paint

Nationally, the residential use of lead-based paint was banned by the Consumer Products Safety Commission in 1977. The use of lead-based paint in commercial structures was severely restricted by the Consumer Products Safety Commission in 1977. Lead-based paint is potentially hazardous when in a deteriorating condition (i.e. chipped, broken, crumbling, pulverized); lead is potentially harmful to humans, particularly children, if ingested, inhaled or otherwise absorbed.

Based on the building's age, lead-based paint is not likely to be present. Painted surfaces of the on-site structures were in good condition and no peeling or flaking was noted. At the time of the site inspection, the structures did not include a child care center or other facility where the extended presence of young children would be typical.

2.6 Utilities

The Property was provided with natural gas heat by New York State Electric and Gas Company (NYSEG) and serviced by the municipal water and sewer system of the Town of Seneca Falls.

2.7 Waste Management and Chemical Handling

Solid waste was collected in trash receptacles throughout the property and removed weekly by a private hauler. No hazardous waste storage or generation was noted during the site visit.

2.8 Radon

Radon is a colorless, odorless gas produced by the radioactive decay of certain elements. The most common sources of radon are igneous and metamorphic rocks containing uranium (such as pitchblende), granite, shale, or phosphate, as well as soils or sediments derived from these parent materials. Radon may also be found in soils contaminated with certain industrial wastes (such as uranium or phosphate mine tailings) or in earth-derived building products which include industrial wastes that contain phosphate slag. In areas where the potential for radon accumulation is high, special ventilation systems may offset potential health hazards.

According to data compiled in 2008 by the Bureau of Radiation Protection, a division of the New York State Department of Health, Seneca County has lower average levels of basement radon

measurements in New York State at 2.93 picocuries/liter, below the USEPA recommended action level of 4.0 picocuries/liter.

2.9 Asbestos-Containing Materials (ACM)

Asbestos, a known human carcinogen, is a generic name assigned to a group of naturally occurring minerals exhibiting high tensile strength and possessing excellent fire resistance and insulating properties. These minerals include chrysotile, amosite, crocidolite, actinolite, tremolite, and anthophyllite. Asbestos is commonly found as a component of building materials including: thermal system insulation (TSI), pipe insulation, spray-applied fireproofing, spray- or trowel-applied surfacing materials, vinyl asbestos floor tiles and sheeting, plaster, sheetrock/joint compound, ceiling tiles, fire door fill, roofing materials, thermal gaskets, mastics, caulks and a range of other products.

Building materials containing greater than one percent asbestos are considered to be asbestos-containing materials (ACM). ACM are classified as friable or non-friable. Friable ACM are those which can be crumbled, pulverized, or reduced to powder when dry by hand or other mechanical pressure. Friable ACM, such as thermal system insulation and spray-applied fireproofing, are generally associated with a higher risk of releasing asbestos fibers than non-friable ACM, such as vinyl floor tiles and built-up roofing materials.

Although the Seneca County Clerk's Office reports the one-story convenience store building currently on the Property to have been built in 1991, a review of historical photographs and reports indicate that the current structures may have been remodeled in stages from the original building constructed sometime in the 1960s. Suspect asbestos-containing materials (ACM) were observed, including fireproofing foam, suspended ceiling tiles, vinyl floor tiles, piping insulation, and window caulking.

3.0 ADJACENT LAND USE

The Property was located in a predominantly rural area, abutted by a former boat repair shop to the north, New York State Route 89 and commercial properties to the east, a former campground and Lakeside Enterprises offices to the west and the Garden Street Extension followed by undeveloped land to the south.

4.0 PROPERTY HISTORY AND RECORDS REVIEW

4.1 Prior Ownership and Usage

4.1.1 Historical Maps

Historical Sanborn Insurance map coverage was unavailable for the Property and surrounding area. Historical U.S. Geological Survey Topographic maps covering the Property were viewed for evidence of prior land usage. Specifically, the U.S. Geological Survey Topographic map from the years 1899, 1953, 1978 and 1994 were reviewed online or were provided in a previous environmental investigation (discussed further in Section 6.0) were reviewed. Historical maps are included in Appendix B.

1899

The Property was shown as vacant undeveloped land. The surrounding properties consisted largely of undeveloped land with sparse buildings.

1953

The Property was shown as vacant undeveloped land. Route 89 abutted the eastern portion of the Property. Cayuga Lake State Park was shown to the south across Garden Street. The surrounding area was occupied by vacant land and sparse buildings.

1978

A building was shown on the property. A review of a previous environmental investigation (discussed further in Section 6.0) indicated the building is likely a former car dealership/filling station that was developed in the 1960s and ceased operation in the 1970s. Campgrounds were shown north and southwest of the Property. No further significant changes from the 1953 map were shown.

1994

A building appeared to be shown on the Property, but was partially obscured by a map notation. No significant changes from the 1978 map were shown in the surrounding areas.

To summarize, the Property was undeveloped since at least 1899, and was developed with a commercial building by 1978. The surrounding area was occupied by a state park, campgrounds, and some development.

4.1.2 Historical Aerial Photographs

Historical aerial photographs were reviewed from the years 1978, 1992, 1995, 2003, and 2007 online or from the previous environmental investigation (discussed further in Section 6.0) and are summarized below. Available historical aerial photographs are included in Appendix B.

1978

The photograph showed the on-site gas station former and the adjacent property containing the boat repair shop and campground. Residential and agricultural use properties were shown in the surrounding area.

1992, 1995, 2003, and 2007

The Property was developed with a building, a smaller structure (possibly a gas pump) and apparent paved and vegetated land. Buildings were shown north of the Property and to the east across Route 89. The surrounding properties to the south and west were largely undeveloped wooded areas.

The historical aerial photographs indicated that the Property was developed sometime prior to 1978, and by 1992 was developed with the current structures. The aerial photographs suggest that the current structures were constructed as additions to existing structures and demolition did not take place throughout development. No evidence of dumping was apparent in the aerial photograph.

4.1.3 Property Tax Files and Zoning Records

Electronic information provided by the Seneca County Tax Assessor's Office identified the Property as Tax Map Parcel No. 36-1-49. The Property is zoned for commercial use by the Town of Seneca Falls. Documentation is included in Appendix C.

4.1.4 Recorded Land Title Records

On October 3, 2003, records indicate the Property was transferred from Micro Inc., to B.E.P. Properties, and then to Cayuga Nation of New York, all on the same day. Prior to ownership by Micro, Inc. (November 1994), previous transactions were identified as being non-commercial, single individual ownership. Documentation from the Cayuga County Clerk's office is included in Appendix C.

4.2 Regulatory Review

Toxics Targeting, Inc. of Ithaca, New York, was contracted to obtain information regarding the regulatory status of the property and the surrounding area. This information included records from databases maintained by the USEPA and New York State Department of Environmental Conservation (NYSDEC). AKRF reviewed these records to identify the use, generation, storage, treatment and/or disposal of hazardous material and chemicals, or releases of such materials which may impact the Property. All applicable regulatory databases meet ASTM guidelines requesting utilization of information within 90 days' receipt from the appropriate agency. Copies of the pertinent sections of the Toxics Targeting, Inc. report are included in Appendix D.

4.2.1 Federal Review

The federal databases searched included the National Priority List (NPL); Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS); Emergency Response Notification System (ERNS); Toxic Chemical Release Inventory System (TRIS); the Permit Compliance System of Toxic Wastewater Discharges (WWD); the USEPA Civil Enforcement Docket.; and the Air Discharge Facilities (ADF) The federal listing of facilities which are subject to corrective action under the Resource Conservation and Recovery Act (CORRACTS) is discussed with the State databases of RCRA listings.

National Priority List (NPL)

The NPL is the USEPA's database of some of the most serious uncontrolled or abandoned hazardous waste sites identified for probable remedial action under the Superfund Program. NPL sites can pose a significant risk of stigmatizing surrounding properties and thus impacting property values.

No NPL sites were identified within one-mile of the Property.

Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS)

CERCLIS is a compilation of sites which the USEPA has investigated, or plans to investigate, pursuant to the Superfund Act of 1980 (CERCLA). As such, some of these sites may ultimately present concerns and others may not (but could still pose a perceived threat, thus affecting property values).

No CERCLIS sites were identified within a ½-mile of the Property.

Emergency Response Notification System (ERNS)

This federal database, compiled by the Emergency Response Notification System, records and stores information on certain reported releases of petroleum and other potentially hazardous substances.

The Property was listed as a potential ERNS site in the regulatory database for one spill located on Route 89 in Seneca Falls, although it was not mapped on this Toxics Targeting report:

- Route 89 in Seneca Falls was listed with a spill on June 25, 1987. The spill was reported to have been due to a 5-gallon bucket leaking from a freight truck on the highway. The quantity spilled was listed as 5 gallons of corrosive liquid nitrogen. No material was released into surrounding waterways.

The above listed spill is not anticipated to have affected the Property based on details listed in the database information.

Toxic Chemical Release Inventory System (TRIS)

The TRIS contains information reported by a variety of industries on their annual estimated releases of certain chemicals. No TRIS sites were identified within ⅛-mile of the Property.

Permit Compliance System of Toxic Wastewater Discharge (WWD)

This database includes certain sites which discharge wastewater containing potentially hazardous chemicals.

No WWD facilities were reported within ⅛-mile of the Property.

United States Environmental Protection Agency Civil Enforcement Docket

This database tracks civil judiciary cases filed on behalf of the USEPA by the Department of Justice.

No facilities were listed in the USEPA's Civil Enforcement Docket within ⅛-mile of the Property.

Air Discharge Facilities (ADF) Index

This federal database includes information on certain air emission sources.

No ADF facilities were identified within a ⅛-mile radius of the Property.

4.2.2 State Review

The state records reviewed included listings of hazardous material spills; Resource Conservation and Recovery Act (RCRA) Notifiers; Chemical Bulk Storage (CBS); Solid Waste Facilities (SWF); Petroleum Bulk Storage (PBS); State Inactive Hazardous Waste Disposal Sites (SHWS); State Hazardous Substance Waste Disposal Sites (SHSWDS); Major Oil Storage Facilities (MOSF); Brownfield Sites; Historic Utility Sites.; Environmental Restoration Program (ERP) sites; Voluntary Cleanup Program (VCP) sites and Brownfield Cleanup Program (BCP) sites.

New York SPILLS Database

This database includes releases reported to the NYSDEC, including tank test failures (for USTs only) and tank failures.

Six closed status spills were reported within a ½-mile radius of the Property. The gasoline station on the Property was cited with one spill:

- Seneca Falls Quickway #38, located at the Property, was listed with a closed status spill on January 8, 1998. The release was reportedly a surface gasoline release from a customer's vehicle. The quantity spilled was listed as 3 gallons. The release was reported to have been cleaned with speedy dry (absorbent) and the case achieved a closed regulatory status on the same date. This spill is not anticipated to have affected the Property based on details listed in the database information; however, undocumented releases from this facility have the potential to have affected subsurface conditions beneath the Property.

One spill was listed for the Monteverdi (William) Home located at the intersection of Route 89 and Garden Street:

- Monteverdi (William) Home, located approximately 250 feet southeast of the Property, was listed with a closed status spill in July of 1995 when a DEC representative noticed various containers and chemicals were being stored at the property and some spillage of an unspecified material. Based on the limited information available, past site inspection, and the age of the spill, no further action was required. The spill was closed in September of 2006.

Four spills were listed for the Cayuga Lake State Park, located at 2664 Lower Lake Road, approximately 720 feet south-southwest of the Property:

- Cayuga Lake State Park was listed with a closed status tank failure in June of 1998. A 1,000-gallon underground storage tank was noticed to be leaking. The quantity released was not specified. Contaminated soil and three additional 1,000 gallons underground storage tanks were removed, the soil was properly disposed and the UST was replaced by a 500-gallon aboveground storage tank. The spill was closed in February of 1992. A second listing for the same spill, reported in February of 1999, noted that the spill closure report included laboratory results indicating concentrations of petroleum compounds above laboratory detection limits but below NYSDEC STARS petroleum-contaminated soil guidance values in a soil sample. The closure report was reviewed and no further action was deemed necessary. This spill listing was closed in June of 1999.
- A spill was also reported in July of 2003 when a clogged sewer line overflowed from a manhole. Raw sewage was reportedly released. Based on a review of the database, no further action was deemed necessary. The spill was closed in October of 2003.
- Cayuga Lake State Park was also listed with a closed status spill in March of 1996 when 3 gallons of hydraulic oil were released onto the surrounding land and a storm sewer when the hydraulic line on a lumber truck broke. The spill was cleaned up with sawdust and impacted leaves were collected. No sheens were detected on the lake, no further action was deemed necessary, and the spill was closed on the same day.

Based on the anticipated groundwater flow direction, the above listed spills, most of which involved minor releases, are not anticipated to have affected subsurface conditions beneath the Property.

Resource Conservation and Recovery Act (RCRA) Notifiers Listings

This database lists sites that have filed notification forms regarding hazardous waste activity, including: treatment, storage and disposal facilities (TSDs); small-quantity generator (SQG) and large-quantity generators (LQG); and transporters regulated under RCRA. The discussion below includes any CORRACTS listings of facilities which are subject to corrective action under RCRA.

No CORRACTS facilities were identified within a one-mile radius of the Property. No RCRA TSD facilities were identified within a ½-mile radius of the Property. No RCRA Generators/Transporters were reported within a ⅛-mile radius of the Property.

Chemical Bulk Storage (CBS) Database

The CBS lists facilities that store regulated non-petroleum substances in aboveground tanks with capacities greater than 185 gallons and/or in underground tanks of any size.

No CBS facilities are listed within ⅛-mile of the Property.

Solid Waste Facilities (SWF)

This database includes a listing of landfills, incinerators, transfer stations, recycling centers, and other sites which manage solid waste.

No Solid Waste Facilities were identified within a ½-mile radius of the Property.

Petroleum Bulk Storage (PBS) Database

This database lists facilities that registered having either aboveground or underground petroleum tanks with total storage less than 400,000 gallons. Facilities with more than 400,000 gallons appear on the Major Oil Storage Facilities (MOSF) database instead.

One PBS facility was listed on the Property. Details of this facility are detailed in the following table:

Table 1

Area Petroleum Bulk Storage Facility Data

Location	Capacity (gallons)	Product Stored	Status	Install Date
Seneca Falls Quickway #28 (located on the Property)	10,000 UST	Gasoline	In Service	6/1992
	5,000 UST	Gasoline	In Service	6/1992
	15,000 UST	Unleaded Gasoline	Deleted from Database *	6/1992

Notes: AST - aboveground storage tank
UST - underground storage tank
* - Estimated that this listing was reassigned as two tanks (1-10,000 and 1-5,000 gallon).

One PBS facility, located south-southwest of the Property, was identified within a ⅛-mile radius of the subject site. Details of this facility are detailed in the following table:

Table 2

Area Petroleum Bulk Storage Facility Data

Location	Capacity (gallons)	Product Stored	Status	Install Date
NYS Office of Parks, Recreation, and Historic Preservation at Cayuga Lake State Park (810 feet south-southwest of the Property)	1,000 UST	Gasoline	Closed Prior to Micro Conversion, 03/91	12/1960
	1,000 UST	Gasoline	Closed-Removed	12/1980
	1,000 UST	Other	Closed Prior to Micro Conversion, 03/91	N/A
	1,000 UST	Other	Closed Prior to Micro Conversion, 03/91	N/A
	500 AST	Diesel	Closed-Removed	N/A
	1,000 AST	Gasoline	In Service	10/1998
	500 AST	Diesel	In Service	10/1998

Notes: AST - aboveground storage tank
UST - underground storage tank

A minor surface spill reported on the Property is not likely to have affected the subsurface. However, undocumented releases from the on-site filling station may have affected the Property. Based on the anticipated groundwater flow direction, the Office of Parks, Recreation and Historic Preservation tanks are not likely to have affected the Property.

State Inactive Hazardous Waste Disposal Site (SHWS) Registry

This program (also known as State Superfund) lists information regarding a variety of sites likely requiring cleanup.

No State Inactive Hazardous Waste Disposal Sites were reported within a one-mile radius of the Property.

State Hazardous Substance Waste Disposal Site (SHSWDS) Study

This database tracks certain sites that were not listed on SHWS, but may still require investigation and/or cleanup.

No SHSWDS were identified within a one-mile radius of the Property.

Major Oil Storage Facilities (MOSF) Database

These facilities have petroleum storage of 400,000 gallons or more.

No Major Oil Storage Facilities were listed within ⅛-mile of the Property.

Historic Utility Sites

This is an inventory of selected power generating facilities, manufactured gas plants and storage facilities, utility maintenance yards and other gas and electric utility sites identified in various historical documents, maps and annual reports from 1898 to 1950.

No Historic Utility Sites were listed within ⅛-mile of the Property.

Environmental Restoration Program

These sites (which are generally municipally-owned) are receiving New York State funding for site investigation and/or remediation. Some sites in this program have known contamination, whereas others have not had sufficient investigation to determine whether contamination is present.

No ERP sites were listed within ½-mile of the Property.

Voluntary Cleanup Program

The Voluntary Cleanup Program is a NYSDEC program for investigation and/or remediation of (generally) privately-owned sites. Some sites have known contamination, whereas others have not had sufficient investigation to determine whether contamination is present.

No VCP facilities were listed within ½-mile of the Property.

Brownfield Cleanup Program

This NYSDEC program is the successor to the Voluntary Cleanup Program. Again, some sites have known contamination, whereas others have not had sufficient investigation to determine whether contamination is present.

No BCP sites were listed within ½-mile radius of the Property.

4.2.3 Local Review

County Clerk's Office

Personnel interviewed at the Seneca County Town Clerk's office indicated that the Property was historically vacant land with no known development.

4.2.4 Additional Record Sources

To enhance the search, ASTM requires that additional local records be checked when, in judgment of the environmental professional, such records are: 1) reasonably ascertainable; 2) useful, accurate and complete in light of the objective of the records review; and 3) are obtained in initial ESAs. These records include:

- Local Brownfields Lists
- Local Lists of Landfill/solid waste disposal sites
- Local Lists of Hazardous Waste/Contaminated Sites
- Local Land Records (for activity use limitations)
- Records of emergency release reports
- Records of contaminated public wells

Sources for these records may include:

- Department of Heath/Environmental Division
- Building Permit/Inspection Department
- Local/Regional Pollution Control Agency

- Local/Regional Water Quality Agency
- Local Electric Utility (for PCB records)

In AKRF's judgment, no such additional local records (beyond those described in the immediately preceding section) are pertinent for the Property.

5.0 USER-PROVIDED INFORMATION

In preparing this Phase I ESA, AKRF requested that the client provide any pertinent information regarding the Property, specifically:

- The reason for performing the Phase I ESA;
- Whether they were aware of any pertinent current or historic activities at or near the Property, including but not limited to: hazardous substances or petroleum, waste management practices, filling or disposal drains, septic/sewer systems, and potable and non-potable wells;
- Owner and occupant information and whether they were aware of any previous Phase I ESAs or other potentially pertinent reports, plans or information;
- Whether any *environmental liens* or *activity and land use limitations* are in place or filed or recorded against the Property or whether there was pending, threatened, ongoing or past violations, litigation or enforcement action relevant to hazardous substances or petroleum products;
- Whether they had any specialized knowledge or experience related to the Property or nearby properties (e.g., specialized knowledge of the chemicals used by this type of business);
- Whether the (anticipated) purchase price reflects that the Property is or could be contaminated; and
- Whether they were aware of commonly known or reasonably ascertainable information about environmental conditions of the Property including current/past uses of the Property and adjacent properties.

Ms. B.J. Radford, Chief Operating Officer for the Cayuga Indian Nation, provided pertinent information related to the site's historical use. According to Ms Radford, this Phase I Environmental Site Assessment was being performed to evaluate the site as part of due diligence related to its proposed fee-to-trust acquisition. Ms. Radford provided previous environmental studies conducted on the Property, discussed further in Section 6.0. Ms. Radford indicated that the Property was historically used for agricultural crops and was unaware of any previous development at the site. Ms. Radford was not aware of any environmental liens or activity use limitations on the Property. To the extent that pertinent additional information was provided, it has been summarized elsewhere in this report.

6.0 PREVIOUS STUDIES

The following reports were provided to AKRF for review:

Phase I Environmental Site Assessment, Quickway Store, 2552 State Route 89, Town of Seneca Falls, Seneca County, New York, Environmental Compliance Management Corporation, *September 2003.*

In September 2003, Environmental Compliance Management Corporation (ECMC) conducted a Phase I Environmental Site Assessment at the Property. The site consisted of a two-story commercial building, covered gasoline pumps, asphalt parking lots, and small grass plots buffering the site from adjacent roadways. One underground gasoline storage tank with a leak detection system was reportedly used on the Property. Interviews indicated that the property was developed with an auto dealership, a filling station and an ice cream shop in the 1960s; the filling station reportedly ceased operating in the 1970s and resumed operating in the 1990s. Three underground storage tanks were removed in 1992 during the installation of the new tanks. While the site uses could be associated with petroleum contamination and ECMC observed limited staining on paved parking areas, ECMC found soil contaminant levels detected by soil sampling in 1994 to be within acceptable limits; concentrations of volatile organic compounds (VOCs) were well below NYSDEC Technical and Administrative Guidance Memorandum #4046 (TAGM) guidelines. ECMC noted that there was no record of spills or leaks at the site.

Phase I Environmental Site Assessment, Former Campground and Boat Repair Shop, Seneca County Tax Map Parcel Nos. 36-1-48.1 & 36-1-48.2, Seneca Falls, New York 13148, Synapse Risk Management, LLC, *October 2005.*

In October 2005, Synapse Risk Management, LLC (SRM) conducted a Phase I Environmental Site Assessment at the property north and west adjacent to the subject site. The adjacent properties comprised two parcels (Tax Map Nos. 36-1-48.1 and 36-1-48.2) occupied by a double-wide mobile home, wooden storage building, and vacant open land previously used as a campground. The investigation included an aerial photograph from 1978 that depicted a site building associated with the previous auto dealership and/or gas station. No Recognized Environmental Conditions were identified by SRM for the adjacent property.

7.0 LIMITATIONS AND DATA GAPS

This assessment met the requirements of the American Society for Testing and Materials (ASTM) as established by ASTM Standard E1527-05 at the time it was performed, with the following limitations and data gaps:

- Interviews and user provided information were limited to those discussed in Section 5.0. To the extent that interviews were not conducted with the list of interviewees cited in the ASTM Standard (past and present owners, operators, and occupants of the Property and local government officials), AKRF does not believe that this represents a significant data gap likely to result in additional or significantly changed recognized environmental conditions or conclusions.
- The Property area history was not conducted in five-year intervals. However, sufficient information about the history of the site and surrounding area could be obtained from the available historical aerial photographs, local records, and interviews, and this data gap is not likely to alter the conclusions of this report.
- In the judgment of AKRF, none of these limitations or data gaps are likely to have affected the ability to identify Recognized Environmental Conditions (RECs).

8.0 CONCLUSIONS AND RECOMMENDATIONS

AKRF, Inc. (AKRF) was retained by the Cayuga Indian Nation of New York State to perform a Phase I Environmental Site Assessment of the property located at 2552 Route 89, Town of Seneca Falls, Seneca County, New York. The Property comprised a convenience store, gasoline filling station and an asphalt-paved surface parking lot. The Property was approximately 0.7-acres in size, legally defined as Seneca County Tax Map parcel No. 36-1-49. The Property was located in a predominantly rural area, abutted by a former boat repair shop to the north, New York State Route 89 to the east followed by two commercial properties, a former campground and Cayuga Indian Nation offices to the west, and Garden Street followed by undeveloped land to the south.

The objective of this assessment was to identify any potential environmental concerns associated with the site resulting from past or current site usage or usage of neighboring properties. This Phase I Environmental Site Assessment was performed in accordance with customary principles and practices in the environmental consulting industry, and in conformance with the scope and limitations of ASTM Standard E1527-05, *Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Practice*. Any exceptions to, or deletions from, this practice are described in Section 7.0 of this report. This assessment revealed the following evidence of recognized environmental conditions in connection with the property:

- The Property comprised a convenience store, gasoline filling station, and an asphalt-paved parking lot. Historical uses of the Property include an auto dealership and gasoline filling station, which was reported as operating sometime between 1960 and 1980, and the previous underground tanks were removed and replaced in 1992. Although county records document the current building as being constructed in 1991, a review of historical photographs and reports indicate that the current structures may have been remodeled in stages from the original development. The past and current use of the Property as a gasoline filling station could potentially have caused a release of petroleum contamination to soil or groundwater. The underground storage tank leak detection system reported in the environmental database for the tanks currently in use at the Property did not indicate any releases of petroleum; however, undocumented spills could have contaminated soil and groundwater beneath the site. Registration for the current USTs was not up to date with NYSDEC. In addition, there was no documentation found for maintenance, leak detection, product inventory records, closure sampling related to the former underground tanks, activities related to the former dealership, or potential structures (dry wells, septic systems) related to the former site building.
- The maintenance and storage areas and the public restrooms contained general cleaning chemicals. No odors or observation of releases were noted during the site inspection. Chemicals should be stored properly, in accordance with manufacturers' specifications and applicable local, state and federal regulations.
- Suspect asbestos-containing materials (ACM) were observed, including fireproofing foam, suspended ceiling tiles, vinyl floor tiles, piping insulation, and window caulking.

Recommendations:

- A subsurface (Phase II) investigation is recommended for 2552 Route 89 based upon the current use as a gasoline station, and the previous use as a gasoline station and auto dealership. The compliance status of the USTs, including registration with NYSDEC, should be further evaluated and addressed, as warranted. The investigation should include the collection of soil and groundwater samples from areas adjacent to current and/or former underground tanks, dispenser islands, and site structures to determine if a release of petroleum has occurred.

- Prior to any demolition or renovation activities, all universal wastes and chemicals stored on-site should be disposed of in accordance with all applicable regulations.
- Prior to any renovation or demolition, a comprehensive asbestos survey should be conducted. If materials prove to contain asbestos, they should be properly removed and disposed of in accordance with all state and federal requirements by a licensed asbestos abatement contractor.

9.0 SIGNATURE PAGE

I declare that, to the best of my professional knowledge and belief, I meet the definition of Environmental Professional as defined in §312.10 of 40 CFR 312

I have the specific qualifications based on education, training, and experience to assess a property of the nature, history, and setting of the Property for which the assessment was performed. I have performed all the appropriate inquiries in conformance with standards and practices set forth in 40 CFR Part 312.

Marc S. Godick, LEP
Senior Vice President

Kerry Gallagher
Environmental Scientist

10.0 QUALIFICATIONS

The purpose of this assessment was to convey a professional opinion about the potential presence or absence of contamination, or possible sources of contamination on the Property, and to identify existing and/or potential environmental problems associated with the Property including *Recognized Environmental Conditions* as defined in ASTM Standard E1527-05, *Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Practice*.

The assessment was performed in accordance with customary principles and practices in the environmental consulting industry, and in accordance with the above-referenced ASTM Standard, except as noted otherwise in Section 7.0. It should only be used as a guide in determining the possible presence or absence of hazardous materials on the Property at the time of the reconnaissance, as it is based upon the review of readily available records relating to both the Property and the surrounding area, as well as a visual reconnaissance of current conditions.

This Phase I Assessment is not, and should not be construed as, a guarantee, warranty, or certification of the presence or absence of hazardous substances, which can be made only with testing, and contains no formal plans or recommendations to rectify or remediate the presence of any hazardous substances which may be subject to regulatory approval. This report is not a regulatory compliance audit.

This report is based on services performed by AKRF, Inc. professional staff and observation of the Property and its surroundings. We represent that observations made in this assessment are accurate to the best of our knowledge, and that no findings or observations concerning the potential presence of hazardous substances have been withheld or amended. The research and reconnaissance have been carried to a level that meets accepted industry and professional standards. Nevertheless, AKRF and the undersigned shall have no liability or obligation to any party other than the Cayuga Indian Nation of New York State and AKRF's obligations and liabilities to the above, is limited to fraudulent statements made, or grossly negligent or willful acts or omissions.

11.0 REFERENCES

1. New York State Department of Health, Office of Public Health, "Environmental Radiation," *Short Term Basement Radon Measurements by County* October 2008.
2. Toxics Targeting, Inc., "Seneca Falls – State Route 89, Seneca Falls, NY 13148," *Regulatory Radius Search*, February 20, 2009.
3. U.S. Geological Survey; *Seneca Falls Quadrangle*; 7.5 minute Series (Topographic); Scale 1:24,000; 1953; Photorevised 1978.
4. U.S. Geological Survey; *Geneva Quadrangle*; 15 minute Series (Topographic); Scale 1: 62,500; 1902; via http://historical.mytopo.com/
5. Environmental Compliance Management Corporation, *Phase I Environmental Site Assessment, Quickway Store, 2552 State Route 89, Town of Seneca Falls, Seneca County, New York,* September 2003.
6. Synapse Risk Management, LLC, *Phase I Environmental Site Assessment, Former Campground and Boat Repair Shop, Seneca County Tax Map Parcel Nos. 36-1-48.1 & 36-1-48.2, Seneca Falls, New York,* October 2005.

FIGURES

APPENDIX A
PHOTOGRAPHIC DOCUMENTATION

APPENDIX B
HISTORICAL MAPS /AERIAL PHOTOGRAPHS

APPENDIX C
LOCAL RECORDS

APPENDIX D
REGULATORY RECORDS REVIEW