

April 28, 2009

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

Re: Phase I Environmental Site Assessment  
271 Cayuga Street  
Village of Union Springs, New York 13160  
Cayuga County Tax Map No.141.05-1-3  
AKRF Project Number 40212

Dear Mr. 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 Cayuga 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.

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Marc S. Godick, LEP  
Senior Vice President

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Kerry Gallagher  
Environmental Scientist

Enc.

## EXECUTIVE SUMMARY

This Phase I Environmental Site Assessment was performed in conformance with 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. The term “Recognized Environmental Condition” means the presence or likely presence of hazardous substances or petroleum at the property, including the ground, groundwater, or surface water at or under the property.

This assessment revealed no evidence of Recognized Environmental Conditions. A summary of pertinent findings is as follows:

- Historical land use maps, the regulatory database search and previous environmental studies at the Property and adjacent areas indicated that the Property has historically been undeveloped vacant land surrounded by some residences and agricultural or vegetated land.
- The Cayuga County Clerk’s Office reports the structure to have been constructed in 1998, at a time when ACMs were rarely used in construction; however, suspect ACMs may be present such as within pipe chases, behind walls, or in other hidden locations.
- An unpaved right-of way vehicular access road was located on the northern portion of the site, extending west from the adjacent Lake Side Entertainment gaming facility to a chain-link fence enclosed natural gas well used to supply the Union Springs School District. There was no evidence of contamination observed during the inspection, but possible future activities, including well maintenance or re-drilling to improve capacity, may present a situation where on-site soil or groundwater could be contaminated near the well.
- According to data compiled in 2008 by the Bureau of Radiation Protection, a division of the New York State Department of Health, Cayuga County has one of the higher average levels of basement radon measurements in New York State at 4.37 picocuries/liter, above the USEPA recommended action level of 4.0 picocuries/liter.

### Recommendations:

- A subsurface (Phase II) investigation is not recommended at this time, however if future on-site development requires subsurface disturbance, soil (and groundwater if dewatering were to be required) would need to be managed in accordance with applicable local, state and federal requirements. If any unforeseen fuel oil tanks or evidence of contaminated soil (stains or odors) are encountered during site development, these materials (and all other materials requiring off-site disposal) should be disposed of in accordance with applicable federal, state and local regulations.
- Prior to any renovation or demolition, a comprehensive asbestos survey of the affected areas 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.
- Radon levels would need to be tested in accordance with applicable regulations for any future on-site development.

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## 1.0 INTRODUCTION

AKRF, Inc. (AKRF) was retained by Cayuga Indian Nation of New York State to perform a Phase I Environmental Site Assessment of the property located at 271 Cayuga Street, Town of Springport, Cayuga County, New York. The Property comprised a vacant building and an asphalt-paved surface parking lot. The Property was approximately 1.48-acres in size, legally defined as Cayuga County Tax Map parcel No.141.05-1-3. The Property was located in a predominantly rural area, abutted by undeveloped land, farmland and commercial properties to the north, New York State Route 89 to the east followed by commercial and residential properties, undeveloped land and farmland to the west, and a commercial property followed by a Union Springs Central High School 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 Cayuga 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 17, 2009 by Kerry Gallagher of AKRF. At the time of the inspection, the weather was sunny and approximately 40 °F, 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 located at 271 Cayuga Street, Town of Springport, Cayuga County, New York. The Property contained an unoccupied single-story structure and an asphalt-paved surface parking lot. The building, located on the northern portion of the parcel, was constructed in 1998 and consisted of a concrete slab on grade and steel frame construction with metal siding. An unpaved right-of way vehicular access road was located on the northern portion of the site, extending west from the adjacent Lake Side Entertainment gaming facility to a chain-link fence enclosed natural gas well used to supply the Union Springs School District. No solid waste, debris or evidence of illegal dumping activity was noted throughout the property. No evidence of material releases, i.e. stained surfaces, oil sheen, odors or stressed vegetation were noted at the property and no other significant observations were made. A standard doorway and exterior-adjacent concrete pad was located on the eastern side of the building. An exterior-adjacent concrete pad was located on the western side of the building for the air handling system and small wooden construction storage shed. The building was formerly used as a gaming facility and was vacant at the time of the site visit. The concrete floor was covered with carpet and tile which was observed to be in good condition with no major cracking or staining.

### **2.2 Topography and Hydrogeology**

The surface topography is relatively level. Based on reports compiled by the U.S. Geological Survey Springport, New York Quadrangle, the property lies at an elevation of approximately 440 feet above the National Geodetic Vertical Datum of 1929 (an approximation of mean sea level). Based on the elevation of Cayuga Lake, located approximately 3,000 feet to the west, and local data, groundwater is expected to be greater than 20 feet below grade. Groundwater most likely flows in a westerly or southwesterly direction toward Cayuga Lake. However, actual groundwater flow at the site can be affected by many factors including subsurface openings or obstructions such as basements, bedrock geology, and other factors beyond the scope of this study.

### **2.3 Storage Tanks**

#### **2.3.1 Underground Storage Tanks (USTs)**

A review of the State and local regulatory records did not identify any underground storage tanks on the Property. 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 and local records did not cite any ASTs for the subject property. 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. No PCB-containing equipment was observed on-site.

### **2.5 Lead-Based Paint**

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 age of on-site structure, 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 Union Springs.

### **2.7 Waste Management and Chemical Handling**

No waste generation was observed at the Property.

### **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, Cayuga County has one of the higher average levels of basement radon measurements in New York State at 4.37 picocuries/liter, above 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.

The Cayuga County Clerk's Office reports the structure to have been constructed in 1998, at a time when ACMs were rarely used in construction; however, suspect ACMs may be present in some building materials.

### **3.0 ADJACENT LAND USE**

The Property was located in a predominantly rural area, abutted by undeveloped land, farmland and commercial properties to the north, New York State Route 89 to the east followed by commercial and residential properties, undeveloped land and farmland to the west, and a commercial property followed by a Union Springs Central High School 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 online for evidence of prior land usage. Specifically, U.S. Geological Survey Topographic maps from the years 1899 and 1956 were reviewed. Historical maps of the subject Property are included in Appendix B and as Figure 1.

##### 1899

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

##### 1956

No significant changes from the 1899 map were noted.

To summarize, the Property was undeveloped since at least 1899. The surrounding properties were mainly vacant with some development noted.

#### **4.1.2 Historical Aerial Photographs**

Aerial photographs of the Property and adjacent areas dating to 1938 were reviewed. Specifically, aerial photographs from 1938, 1988 and 1995, 2003, and 2007 aerial photographs included in a previous environmental investigation (discussed further in Section 6.0), were reviewed and are summarized below. Historical aerial photographs of the subject Property are included in Appendix B and as Figure 2.

1938

The Property comprised undeveloped cleared land. The surrounding properties were largely undeveloped agricultural land or wooded areas.

1988

No significant changes from the 1938 map were noted.

1995

No significant changes from the 1988 map were noted.

2003 and 2007

Photograph is consistent with the current use of the Property and surrounding areas. The Property contained a building and parking lot and surrounding properties were residential, commercial, and agricultural, consistent with current conditions.

To summarize, historical aerial photographs indicated that the Property was undeveloped from 1938 onward and may have been used as agricultural land. No evidence of dumping and/or industrial use on-site was apparent in any of the aerial photographs.

**4.1.3 Property Tax Files and Zoning Records**

Electronic information provided by the Cayuga County Tax Assessor's Office identified the Property as Tax Map Parcel No.150.00-1-29.1. The Property is zoned for commercial use by the Town of Union Springs Zoning Department.

**4.1.4 Recorded Land Title Records**

The Property was transferred from B.E.P. Properties, Inc. to Nation of New York Cayuga in April 2003. Further 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 C.

**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 not listed as a potential ERNS site in the regulatory database.

A filling station on Route 90 in Union Springs (possibly the filling station located approximately 1,000 feet north of the site) was listed for one spill, although it was not mapped on this Toxics Targeting report. The Sunoco Gas/Sunshine Food filling station was listed with a spill on February 24, 1995. The spill was reportedly due to a leaking gasoline tank pipe or a possible hole in the tank. The quantity spilled was not specified. Although the ERNS listing noted that a call to DEC would be made, no spill was reported in the State SPILLS database. Based on the anticipated groundwater flow direction, any releases at the filling station are not likely to have affected the Property.

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 1/8-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.

Seven closed status spills were reported within a 1/2-mile radius of the Property as follows:

- The Express Mart filling station, located at 299 Cayuga Street, approximately 1,000 feet north of the site, was cited with three closed-status gasoline spills in 2000 and 2002. All three listings were for surface spills involving up to 10 gallons of gasoline, and were cleaned up and closed.
- Three closed-status spills were reported at Union Springs Mobil, at the intersection of Route 326 and Route 90 (approximately 1,500 feet north of the Property) between 1988 and 1991. In June 1989, heavy gasoline fumes were reported after opening a manhole. The spill was closed on the same day it was reported and no further significant information was given about the incident in the regulatory database. The site was also listed with a closed status spill in March 1991 when approximately 2 gallons of gasoline were released on the surrounding pavement due to an overfilled fuel tank on a customer's car. The release was reported to have caused fumes in the office at the facility. Corrective actions were taken and the spill was closed. A spill was reported in August 1988 in the roadway adjacent to this facility due to a faulty hydraulic hose on a tanker trailer. The quantity released was listed as 30 gallons. Residual soil contamination noted as a result of the incident was reportedly cleaned the following day, and the spill was closed in June 1989.
- A closed status spill was reported at Union Springs Central School at 239 Cayuga Street, approximately 1,000 feet south of the Property. The listing indicated that petroleum-contaminated soil was found during an excavation in April 2004, and was excavated and removed. The spill was closed in April 2005.

Based on the anticipated groundwater flow direction to the west, the above spills are not expected 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 identified within a ¼-mile radius of the Property as follows:

**Table 1**  
**Area Petroleum Bulk Storage Facility Data**

Location	Capacity (gallons)	Product Stored	Status	Install Date
Lakeside Trading/Rt. 90 (approximately 1,000 feet north of the Property)	6,000 UST	Gasoline	Closed-Removed	08/1966
	5,000 UST	Gasoline	Closed-Removed	08/1966
	6,000 UST	Diesel	Closed-Removed	08/1966
	6,000 UST	Gasoline	Closed-Removed	08/1966
	550 AST	Kerosene	Closed-Removed	09/1984
	10,000 UST	Gasoline	Unregistered	10/1995
	5,000 UST	Gasoline	Unregistered	10/1995
	5,000 UST	Gasoline	Unregistered	10/1995
	5,000 UST	Diesel	Administratively Closed	10/1995
	3,000 UST	Kerosene	Unregistered	10/1995

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

Based on the anticipated groundwater flow direction, this facility is not expected to have affected subsurface conditions beneath 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 1/8-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 1/8-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 1/2-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 1/2-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 1/2-mile radius of the Property.

#### 4.2.3 Local Review

##### County Clerk's Office

Personnel interviewed at the Cayuga County Town Clerk's office did not provide information in addition to recorded documents for the Property (included in Appendix C).

#### 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 Health/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 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, Commercial Property, 271 Cayuga Street, Town of Springport, Cayuga County, NY, Environmental Compliance Management Corporation, March 2003*

In March 2003, Environmental Compliance Management Corporation (ECMC) conducted a Phase I Environmental Site Assessment for the Property. The site was reported to be occupied by a one-story auto parts store and paved and vegetated land. No Recognized Environmental Conditions were identified and no further study were recommended by ECMC.

*Phase I Environmental Site Assessment, Former Gable Property, Cayuga County Tax Map No. 134.17-1-1.51, Union Springs, NY, Synapse Risk Management, LLC, October 2005*

In October 2005, Synapse Risk Management, LLC (SRM) conducted a Phase I Environmental Site Assessment for the former Gable Property west-adjacent to the subject Property. The site was reported to be vacant and consisted of an open field, a fence-enclosed natural gas well, two small ponds, and a dirt road that provided lone access to the site. No Recognized Environmental Conditions were identified by SRM and no further study were recommended by SRM. Historical aerial photographs provided with this report were reviewed to assess the history of the 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

This Phase I Environmental Site Assessment was performed in conformance with 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. The term “Recognized Environmental Condition” means the presence or likely presence of hazardous substances or petroleum at the property, including the ground, groundwater, or surface water at or under the property.

This assessment revealed no evidence of Recognized Environmental Conditions. A summary of pertinent findings is as follows:

- Historical land use maps, the regulatory database search and previous environmental studies at the Property and adjacent areas indicated that the Property has historically been undeveloped vacant land surrounded by some residences and agricultural or vegetated land.
- The Cayuga County Clerk’s Office reports the structure to have been constructed in 1998, at a time when ACMs were rarely used in construction; however, suspect ACMs may be present such as within pipe chases, behind walls, or in other hidden locations.
- An unpaved right-of way vehicular access road was located on the northern portion of the site, extending west from the adjacent Lake Side Entertainment gaming facility to a chain-link fence enclosed natural gas well used to supply the Union Springs School District. There was no evidence of contamination observed during the inspection, but possible future activities, including well maintenance or re-drilling to improve capacity, may present a situation where on-site soil or groundwater could be contaminated near the well.
- According to data compiled in 2008 by the Bureau of Radiation Protection, a division of the New York State Department of Health, Cayuga County has one of the higher average levels of basement radon measurements in New York State at 4.37 picocuries/liter, above the USEPA recommended action level of 4.0 picocuries/liter.

### Recommendations:

- A subsurface (Phase II) investigation is not recommended at this time, however if future on-site development requires subsurface disturbance, soil (and groundwater if dewatering were to be required) would need to be managed in accordance with applicable local, state and federal requirements. If any unforeseen fuel oil tanks or evidence of contaminated soil (stains or odors) are encountered during site development, these materials (and all other materials requiring off-site disposal) should be disposed of in accordance with applicable federal, state and local regulations.
- Prior to any renovation or demolition, a comprehensive asbestos survey of the affected areas 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.
- Radon levels would need to be tested in accordance with applicable regulations for any future on-site development.

## 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.

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Marc S. Godick, LEP  
Senior Vice President

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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., "Union Springs – Cayuga Street, Union Springs, New York 13160," *Regulatory Radius Search*, February 20, 2009.
3. U.S. Geological Survey; *Union Springs Quadrangle*; 7.5 minute Series (Topographic); Scale 1:24,000; 1955.
4. U.S. Geological Survey; *Auburn Quadrangle*; 15 minute Series (Topographic); Scale 1:62,500; 1899; via <http://historical.mytopo.com/>
5. U.S. Geological Survey; *Auburn Quadrangle*; 15 minute Series (Topographic); Scale 1:62,500; 1956; via <http://historical.mytopo.com/>.
6. Environmental Compliance Management Corporation, *Phase I Environmental Site Assessment, Commercial Property, 271 Cayuga Street, Town of Springport, Cayuga County, NY*, March 2003
7. Synapse Risk Management, LLC, *Phase I Environmental Site Assessment, Former Gable Property, Cayuga County Tax Map No.134.17-17-1.51, Union Springs, NY*, October 2005

## FIGURES

**APPENDIX A**  
**PHOTOGRAPHIC DOCUMENTATION**

**APPENDIX B**  
**HISTORICAL SANBORN MAPS /AERIAL PHOTOGRAPHS**

**APPENDIX C**  
**LOCAL RECORDS**

**APPENDIX D**  
**REGULATORY RECORDS REVIEW**