

April 28, 2009

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

Re: Phase I Environmental Site Assessment
299 and 303 Cayuga Street,
Cayuga County Tax Map No.134.17-1-1.21 and 134.17-1-1.121
Village of Union Springs, New York 13160
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.

Marc S. Godick, LEP
Senior Vice President

Kerry Gallagher
Environmental Scientist

Enc.

EXECUTIVE SUMMARY

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 299 and 303 Cayuga Street in the Village of Union Springs, Cayuga County, New York. The Property comprised a convenience store, gasoline filling station, car wash, and an asphalt-paved surface parking lot. The Property was approximately 2-acres in size, legally defined as Cayuga County Tax Map parcel No.134.17-1-1.21 and 134.17-1-1.121. The Property was located in a predominantly rural area, abutted by undeveloped land and residences to the north, New York State Route 90 (a.k.a. Cayuga Street) to the east, undeveloped land to the west, and a retail shop 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 contained a convenience store and gasoline filling station, a car wash, and an asphalt-paved surface parking lot. The current and past 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 all the tanks currently in use at the Property did not indicate any releases of petroleum. Registration for the current USTs was not up to date with NYSDEC. In, addition, there was no documentation found for maintenance, leak detection, fluid measurement records, closure sampling related to the former underground tanks, or activities related to the former site building. Historical or undocumented spills could have contaminated soil and groundwater beneath the site.
- The Cayuga County Clerk's Office reports the structures to have been constructed in 1994 and 1999, 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.
- 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.
- 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 recommended for 299 Cayuga Street based upon the former and existing use as a gasoline station. 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 proposed development 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 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 structures containing a basement or below grade floors.

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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 299 and 303 Cayuga Street in the Village of Union Springs, Cayuga County, New York (Property). The Property comprised a convenience store, gasoline filling station, car wash, and an asphalt-paved surface parking lot. The Property was approximately 2-acres in size, legally defined as Cayuga County Tax Map parcel No.134.17-1-1.21 and 134.17-1-1.121. The Property was located in a predominantly rural area, abutted by undeveloped land and residences to the north, New York State Route 90 (a.k.a. Cayuga Street) to the east, undeveloped land to the west, and a retail shop 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 comprised a single-story concrete structure occupied by a convenience store, associated gasoline filling station, a single-story concrete car wash structure, and an asphalt-paved surface parking lot. 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 southern parcel (134.17-1-1.121) 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 store was used for the selling of a variety of food products, beverages, cigarettes, lottery tickets and other miscellaneous sundries. Three pump islands with a metal awning and support beams housing gasoline, diesel and kerosene dispensers were located immediately east of the convenience store. Man-way covers for the underground storage tanks (USTs) were observed southwest of the pump islands and south of the convenience store. A small storage building was noted on the northwest portion of the asphalt-paved parking lot west of the convenience store and was used for the storage of miscellaneous supplies and maintenance tools. A gravel parking lot and low-lying wetlands were located directly south of the Property. The car wash was located on the northern parcel (134.17-1-1.21) of the convenience store/gasoline filling station separated by asphalt/concrete curbs and comprised a concrete superstructure with exterior walls of ceramic tile and a metal roof. The carwash contained three coin operated washing bays with floor drains in each, which were reported to be connected to the municipal sewer system by site personnel. No sheens, staining or petroleum odors were noted throughout the Property during the site inspection.

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 450 feet above the National Geodetic Vertical Datum of 1929 (an approximation of mean sea level). Based on the elevation of Cayuga Lake, located approximately one mile to the west, groundwater is expected at a depth of approximately 70 feet. Groundwater most likely flows in a westerly direction toward Cayuga Lake. However, actual groundwater flow at the site can be affected by many factors including subsurface openings or obstructions, bedrock geology, 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 several underground storage tanks (USTs) were observed southwest of the dispenser pumps. A review of the State regulatory records identified the Property as a Petroleum Bulk Storage facility that contained two former 6,000-gallon and one former 5,000-gallon gasoline underground storage tanks and one former 6,000-gallon diesel underground storage tank, all listed as installed in 1966 and removed in October 1995. Additionally, one 10,000-gallon and two 5,000-gallon gasoline underground storage tanks and one 3,000-gallon kerosene underground storage tank, all listed as unregistered, were cited with an installation date of 1995. A 5,000-gallon diesel underground storage tank was listed as administratively closed with an installation date of 1995. Off-site USTs are discussed in Section 4.2.2.

2.3.2 Aboveground Storage Tanks (ASTs)

A review of the State regulatory records identified the Property as a Petroleum Bulk Storage facility with one 550-gallon kerosene aboveground storage tank installed in 1966 and subsequently closed and removed. No ASTs were observed during the site visit. 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 Cayuga County Clerk's Office reports the one-story convenience store building currently on the Property to have been built in 1999 and the car wash to have been built in 1994. Based on the age of on-site structures, PCB-containing equipment was not likely to be used during construction. 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

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.

The Cayuga County Clerk's Office reports the one-story convenience store building currently on the Property to have been built in 1999 and the car wash to have been built in 1994. Based on the age of on-site structures, 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

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, 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 structures on the Property to have been constructed in 1994 and 1999, 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 and residences to the north, commercial properties including a retail store and gaming facility to the south, vacant land to the west, and New York State Route 90 (a.k.a. Cayuga Street) to the east followed by vacant land and commercial development.

4.0 PROPERTY HISTORY AND RECORDS REVIEW

4.1 Prior Ownership and Usage

4.1.1 Historical Maps

Historical Sanborn Insurance map coverage was not available for the Property and surrounding area. Historical U.S. Geological Survey (USGS) Topographic maps covering the Property were viewed online for evidence of prior land usage. Specifically, USGS 15 and 7.5 Minute series Topographic maps of the Auburn, NY Quadrangle and local maps from the years 1899, and 1956 were reviewed and are included in Appendix B. Historical maps from 1812, 1829, 1838, and 1875 were also reviewed from previous investigation reports.

1812

The Property and surrounding area was shown as being part of the Cayuga Reservation land.

1829 and 1838

The Property and surrounding area was shown as being vacant undeveloped land.

1875 and 1899

The Property was shown as vacant undeveloped land. The surrounding properties consisted largely of undeveloped land with sparse buildings and Union Springs Central School, located approximately 1 mile south of the Property.

1956

Two buildings were shown on the Property. The surrounding properties consisted largely of undeveloped land with sparse buildings and Union Springs Central School, located approximately 1 mile south of the Property.

To summarize, the Property was undeveloped and part of the Cayuga Reservation on the 1812 map and remained undeveloped to at least 1899. By 1956 the Property had two structures. The surrounding properties were mainly vacant with some development noted.

4.1.2 Historical Aerial Photographs

Aerial photographs of the Property and adjacent areas dated 1938, 1988, 1995, 2003, and 2007 were reviewed and are summarized below. Historical aerial photographs for the Property are included in Appendix B and Figure 2.

1938

The Property was shown as undeveloped agricultural land. The surrounding properties were largely undeveloped agricultural land or wooded areas. Historical aerials for the Property are included in Appendix B.

1988

Two buildings and three smaller structures, a wooded area, and paved land were noted on the Property. The buildings were likely associated with operation of the gasoline station and show the former site layout. Buildings were noted south of the Property and to the

east across Route 90. The surrounding properties were largely undeveloped agricultural land or wooded areas.

1995

The use of the Property could not be determined due to the poor legibility of the map. Uses in the surrounding area appeared to be generally similar to the 1988 map with additional development of surrounding properties.

2003 and 2007

Two buildings were noted on the Property and appear to be the structures currently in use on the Property.

To summarize, historical aerial photographs indicated that the Property was undeveloped in 1938, and was developed with two buildings and three smaller structures by 1988 and two buildings that appear to be the structures currently in use by 2007. 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. 134.17-1-1.21 (car wash) and 134.17-1-1.121 (convenience store and gasoline filling station). 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 Cayuga Nation of New York 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 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. An unmapped site was labeled in the database report as EPA ID No. NYN000204289 and was identified as "Cayuga Groundwater Contamination Site, State Route 326". The listing was associated with a plume of contaminated groundwater from an unknown source(s), which covers an area of approximately 3,050 acres or 4.8 square miles. The plume consisted of chlorinated solvents and had contaminated 51 residential drinking water wells. The plume was identified as being in the vicinity of the site.

The Property is served by public water supply and the drinking water is not at risk. Due to the anticipated depth to groundwater (greater than 20 feet below grade), the plume is not anticipated to impact soil gas beneath the floor of the site building.

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.

A filling station on Route 90 in Union Springs (possibly the Property) 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. This release may have occurred on the Property and may have affected subsurface conditions.

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 1/8-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.

The Property was cited with several spills, and seven closed status spills were reported within a 1/2-mile radius of the Property:

- Express Mart, located at 299 Cayuga Street was listed with a closed status spill in June 2000. The release was reported to have been due to a faulty shutoff valve on a fuel line hose on a customer's vehicle. The quantity spilled was listed as 5 gallons. The release was reported to have been cleaned with speedy dry (absorbent) and the case achieved a closed regulatory status in October 2000. In November 2001, a spill was reported at the facility related to an accidental release of gasoline from a filling nozzle on pavement. The quantity spilled was reported as 8 gallons. Cleanup activities were initiated and the spill was closed later that same month. The facility was also listed with a closed spill in June 2001. The spill file notes indicated that a faulty fuel tank on a customer's car caused a release of petroleum on black top. The quantity spilled was listed as 10 gallons. The release was reported to have been cleaned with speedy dry (an absorbent) and the case achieved a closed regulatory status in April 2002.

The above listed spills involved minor surface releases and are not anticipated to have affected subsurface conditions on the Property based on details listed in the database. However, undocumented releases from this facility may have affected subsurface conditions beneath the Property.

Three spills were listed for the former Union Springs Mobil Service Station, located at the intersection of Route 326 and Route 90, approximately 300 feet north of the Property:

- Union Springs Mobil was listed with a closed status spill in June of 1989 when 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 reportedly 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 following the day of the incident and the spill was closed in June 1989.

The above listed spills involved minor releases and are not anticipated to have affected the Property based on details listed in the database; however, given the proximity of this facility, undocumented releases have the potential to have affected subsurface conditions beneath the site.

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 exceeding 1,100 gallons. Facilities with more than 400,000 gallons appear on the Major Oil Storage Facilities (MOSF) database instead.

The Property was listed as a PBS facility:

Table 1
Area Petroleum Bulk Storage Facility Data

Location	Capacity (gallons)	Product Stored	Status	Install Date
Lakeside Trading/Rt. 90 (On-Site)	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

* - According to site personnel, there is an in-service 5,000-gallon diesel tank on-site.

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 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 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 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, Express Mart & Car Wash, 299-303 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 at the Property. The site consisted of: two steel and concrete one-story buildings that housed a gasoline station/convenience store and carwash; covered gasoline, diesel, and kerosene delivery pumps; small grass areas; clean fill areas; and gravel parking areas, according to ECMC. ECMC reported that the site was listed in the New York State Department of Environmental Conservation (NYSDEC) leaking tanks (LTANKS) database for three documented spills. Spill# 0060020 occurred on June 8, 2000 due to a gasoline fill valve malfunction and was closed on October 24, 2000. Spill# 0102901 occurred on June 15,

2001 due to a gasoline tank that leaked approximately 10 gallons of gasoline and was reported to have been cleaned up with Speedi-dry absorbent. Spill# 0107937 occurred on November 3, 2001 due to human error which spilled approximately 8 gallons of gasoline, and was cleaned up with Speedi-dry. The Phase I ESA indicated that five underground storage tanks (gasoline, kerosene and diesel) were installed at this site in 1995 and were equipped with leak detection systems, and that the most recent tank and line tightness tests in March 2003 reported no failures. Therefore, ECMC concluded that although there was a potential of subsurface impact from the use of the Property as a filling station, no known contamination was present. No further studies were recommended by ECMC at the site.

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 Cayuga Indian Nation of New York State to perform a Phase I Environmental Site Assessment of the property located at 299 and 303 Cayuga Street in the Village of Union Springs, Cayuga County, New York. The Property comprised a convenience store, gasoline filling station, car wash, and an asphalt-paved surface parking lot. The Property was approximately 2-acres in size, legally defined as Cayuga County Tax Map parcel No.134.17-1-1.21 and 134.17-1-1.121. The Property was located in a predominantly rural area, abutted by undeveloped land and residences to the north, New York State Route 90 (a.k.a. Cayuga Street) to the east, undeveloped land to the west, and a retail shop 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 contained a convenience store and gasoline filling station, a car wash, and an asphalt-paved surface parking lot. The current and past 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 all the tanks currently in use at the Property did not indicate any releases of petroleum. Registration for the current USTs was not up to date with NYSDEC. In addition, there was no documentation found for maintenance, leak detection, fluid measurement records, closure sampling related to the former underground tanks, or activities related to the former site building. Historical or undocumented spills could have contaminated soil and groundwater beneath the site.
- The Cayuga County Clerk's Office reports the structures to have been constructed in 1994 and 1999, 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.
- 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.
- 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 recommended for 299 Cayuga Street based upon the former and existing use as a gasoline station. 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 proposed development 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 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 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.

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., "Union Springs – Cayuga Street, Union Springs, New York 13160," *Regulatory Radius Search*, February 20, 2009.
3. U.S. Geological Survey; *Auburn Quadrangle*; 15 minute Series (Topographic); Scale 1:62,500; 1899; via <http://historical.mytopo.com/>.
4. U.S. Geological Survey; *Auburn Quadrangle*; 15 minute Series (Topographic); Scale 1:62,500; 1956; via <http://historical.mytopo.com/>.
5. Environmental Compliance Management Corporation, *Phase I Environmental Site Assessment, Express Mart & Car Wash, 299-303 Cayuga Street, Town of Springport, Cayuga County, New York*, March 2003.

FIGURES

APPENDIX A
PHOTOGRAPHIC DOCUMENTATION

APPENDIX B
HISTORICAL MAPS / AERIAL PHOTOGRAPHS

APPENDIX C
LOCAL RECORDS

APPENDIX D
REGULATORY RECORDS REVIEW