

**FINAL**

**DECISION DOCUMENT**

**Former Niagara Falls – Buffalo Defense Nike Battery BU-34/35  
Aurora and Orchard Park, New York**

**Formerly Used Defense Site (FUDS)  
NO. C02NY007701**

**Contract No. W912DR-13-D-0013  
Delivery Order No. DB01**

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	Concurrence with the Final Engineering Report remedial actions
	Acceptance of the Final Remedial Investigation Report



## ACRONYMS AND ABBREVIATIONS

µg/L.....	micrograms per liter	NYCRR .....	New York Codes, Rules, and Regulations
AGC .....	Army Geospatial Center	NYSDEC .....	New York State Department of Environmental Conservation
AR.....	Administrative Record	NYSDOH.....	New York State Department of Health
ASA .....	Assistant Secretary of the Army		
BACK .....	background	PAH .....	polycyclic aromatic hydrocarbon
BTEX .....	benzene, toluene, ethylbenzene, and xylenes	PCB.....	polychlorinated biphenyl
BU-34/35 .....	Battery Unit-34/35	PFAS.....	per and polyfluorinated alkyl substances
CERCLA.....	Comprehensive Environmental Response, Compensation, and Liability Act	RI .....	Remedial Investigation
CFR .....	Code of Federal Regulations	RSL.....	Regional Screening Level
COPC .....	contaminant of potential concern	SB .....	soil boring
CSM.....	conceptual site model	SCO .....	soil cleanup objectives
DA.....	Department of the Army	SESI .....	Sterling Environmental Services, Inc.
DERP .....	Defense Environmental Restoration Program	SLERA.....	Screening Level Ecological Risk Assessment
DoD.....	Department of Defense	SVOC .....	semi-volatile organic compound
EAI.....	Environmental Audits Inc.	TI2E .....	TI2E Joint Venture
Eco-SSL .....	ecological soil screening level	UFP-QAPP .....	Uniform Federal Policy for Quality Assurance Project Plan
EPA .....	United States Environmental Protection Agency	USACE .....	United States Army Corps of Engineers
ESL .....	ecological screening level	U.S.C. ....	United States Code
FS .....	Feasibility Study	UST.....	underground storage tank
FUDS .....	Formerly Used Defense Sites	VISL .....	vapor intrusion screening level
HHRA .....	human health risk assessment	VOC.....	volatile organic compound
HI .....	hazard index	WRAI.....	Water Resource Associates, Inc.
HRI.....	Health Research, Inc.		
IE&E .....	Installations, Energy and Environment		
M&E .....	Metcalf and Eddy, Inc.		
MCL.....	Maximum Contaminant Level		
MPI .....	Malcolm Pirnie, Inc.		
NCP.....	National Oil and Hazardous Substances Contingency Plan		
NFCS .....	Niagara Frontier Consulting Services, Inc.		



## 1.0 DECLARATION

### 1.1 SITE NAME AND LOCATION

The Former Niagara Falls-Buffalo Defense Nike Battery Unit-34/35 (BU-34/35) is located in Erie County, New York and consisted of two operational areas: (1) the former battery control area (Control Area) and the former launch area (Launch Area). The Control Area and Launch Area are located on separate parcels of land separated by approximately 2 miles. Nike BU-34/35 is listed as Formerly Used Defense Site (FUDS) Property No. C02NY0077. A general site location map is shown on Figure 1, a site map of the Launch Area is shown on Figure 2, and a site map of the Control Area is shown on Figure 3.

Nike BU-34/35 was established in 1955-1956 and was used by the U.S. Army from January 1957 through March 1963 for the assembly, launching, and control of guided Nike Ajax Missiles for defense against high-flying hostile aircraft. The site was deactivated on April 8, 1965. The Control Area property was transferred to Health Research, Inc. (HRI), which remains the current property owner. The Launch Area property is currently owned by Waterhill Evergreen Holdings, LLC.

The Control Area is a 25.65-acre parcel of land located at 3270 Transit Road in Orchard Park, New York, and is currently vacant. The Launch Area is a 19.84-acre parcel of land located at 601 Willardshire Road near the intersection of North Davis Road in the Town of Aurora, New York, and is currently vacant.

### 1.2 STATEMENT OF BASIS AND PURPOSE

This Decision Document presents the selected remedy of no further action at Former Nike BU-34/35 in Orchard Park and Aurora, New York. The United States Army Corps of Engineers (USACE) is the lead agency under the Defense Environmental Restoration Program (DERP) for response actions for the Department of Defense (DoD) at Former Nike BU-34/35, and has developed this Decision Document consistent with the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 United States Code (U.S.C.) § 9601 et seq, as amended, and to the extent practical the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) 40 Code of Federal Regulations (CFR) Part 300. This decision is based on the Administrative Record (AR) file for this site.

As a result of remedial investigations conducted, a Proposed Plan (USACE, 2019) was issued in October 2019, indicating that no further action is necessary at the Former Nike BU-34/35 related to former DoD use. The public comment period for the Proposed Plan ran from October 28, 2019 to December 16, 2019. The Proposed Plan was posted on the USACE project web site, and direct-mailed copies of the plan were provided to 65 stakeholders, the Aurora Town Public Library, and the Orchard Park Library. A public meeting was held on Wednesday, November 13, 2019 at 6:30pm at the Town of Aurora Senior Citizens Center. During the public meeting, USACE presented the Proposed Plan and the public was offered an opportunity to voice their comments and/or provide them in writing.

In their letter dated December 12, 2019, the New York State Department of Environmental Conservation (NYSDEC) and the New York State Department of Health (NYSDOH) concurred with the selected remedy of no further action for Former Nike BU-34/35.

The AR, which contains information relevant to decision making for this site, may be viewed at the Aurora Town Public Library, 550 Main Street, East Aurora, NY, the Orchard Park Library, 4570 South Buffalo Street, Orchard Park, NY, or on the project web site.<sup>1</sup>

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<sup>1</sup> <https://www.nan.usace.army.mil/Missions/Environmental/Environmental-Remediation/Niagara-Falls-Buffalo-Defense-Nike-Battery/>.



### 1.3 DESCRIPTION OF SELECTED REMEDY

The overall site cleanup strategy is to ensure that residual concentrations of chemicals in environmental media potentially related to historical DoD operations at the Control Area and Launch Area of Former Nike BU-34/35 do not pose unacceptable risk to human health or the environment. This objective was achieved through RI efforts and removal actions at the Launch Area under the FUDS program (separate from the CERCLA investigation).

The proposed plan of no further action for both the Launch Area and the Control Area provides formal closure of Former Nike BU-34/35 under the DERP-FUDS program.

#### Control Area

Under CERCLA, the no further action option is appropriate for sites when there is no current or potential threat to human health or the environment. Based on the results of the RI, there are no unacceptable risks identified for current or reasonably foreseeable future use of the Control Area from historical DoD activities; therefore, no further action is deemed necessary.

Under the no further action plan, land use controls would not be implemented, and no monitoring would occur to determine if remedial action or feasibility study is necessary from historical DoD activities.

#### *Major components of the selected remedy for the Control Area*

- Approval of Decision Document

#### Launch Area

Under CERCLA, the no further action option is appropriate for sites when there is no current or potential threat to human health or the environment. Based on the results of the RI and removal actions, there are no unacceptable risks identified for current or reasonably foreseeable future use of the Launch Area from historical DoD activities; therefore, no further action is deemed necessary.

Under the no further action plan, land use controls would not be implemented, and no monitoring would occur to determine if remedial action or feasibility study is necessary from historical DoD activities. All monitoring wells associated with BU-34/35 Launch Area would be properly decommissioned.

#### *Major components of the selected remedy for the Launch Area*

- Approval of Decision Document
- Decommissioning of nine (9) monitoring wells at Launch Area

### 1.4 STATUTORY DETERMINATIONS

USACE has determined that no remedial action is necessary at the site as a result of historical DoD activities.

#### 1.4.1 Statutory Requirements

USACE, acting in accordance with CERCLA, as well as FUDS program policy, has determined that the selected remedy of no further action for the Former Nike BU-34/35 is protective of human health and the environment from historical DoD activities, and 5-year reviews are not required.

#### 1.4.2 Ongoing Responsibilities

In accordance with FUDS program policy, if future conditions, or new information, suggest a response action is necessary to address FUDS-eligible hazardous substances, pollutants or contaminants, the property may be reactivated.



## 1.5 AUTHORIZING SIGNATURE

The Department of Defense (DoD) is the lead agency under the Defense Environmental Restoration Program (DERP) for the Former Niagara Falls-Buffalo Defense Nike Battery Unit 34/35 (BU-34/35), Formerly Used Defense Site, and U.S. Army Corps of Engineers (USACE) has developed this Decision Document (DD) for DoD. This DD is consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The DD is approved by the undersigned, pursuant to the delegated authority in the Assistant Secretary of the Army (ASA) for Installations, Energy and Environment (IE&E) memorandum dated 24 June 2019, subject: Assignment of Mission Execution Functions Associated with Department of Defense Lead Agent Responsibilities for the Formerly Used Defense Sites Program, and the 9 February 2017 Memo Interim Guidance Document (IGD) for the Formerly Used Defense Sites (FUDS) Decision Document (DD) Staffing and Approval.

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KAREN J. BAKER  
Programs Director

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Date



## 2.0 DECISION SUMMARY

### 2.1 SITE NAME, LOCATION, AND BRIEF DESCRIPTION

The Former Niagara Falls-Buffalo Defense Nike BU-34/35 is located in Erie County, New York and consisted of two operational areas, former battery control area (Control Area) and former launch area (Launch Area), located on separate parcels of land separated by approximately 2 miles (Figure 1).

Nike BU-34/35 is listed as FUDS Property number C02NY0077. In accordance with the provisions of the DERP Management Guidance, the Department of the Army (DA) serves as the DoD Executive Agent for execution of the Defense Environmental Restoration Program for Formerly Used Defense Sites (DERP-FUDS).

The DA further delegated the responsibility of the DERP-FUDS program management and execution to the USACE. All plans and activities conducted by USACE at the former Niagara Falls-Buffalo Defense Nike BU-34/35 location were funded by the FUDS Program and coordinated with the NYSDEC, the NYSDOH, and current property owners.

**Control Area:** The 25.65-acre Control Area parcel is located at 3270 Transit Road in Orchard Park, New York and is currently owned by HRI. The Control Area consisted of radar systems to detect incoming targets (acquisition and target tracking) and direct the missiles (missile tracking), along with the computer systems to plot and direct the intercept. Hazardous materials were not typically stored or used by DoD at Nike control sites. Structures formerly present at the Control Area included radar control buildings, barracks, electrical power generators, water treatment facilities, water tower, mess hall, administrative buildings (Figure 3). All structures associated with DoD use of the site have since been demolished by the current property owner and the site is currently vacant with abandoned roadways visible and naturally occurring vegetation present.

**Launch Area:** The 19.84-acre Launch Area parcel of land is located at 601 Willardshire Road near the intersection of North Davis Road in the Town of Aurora, New York, and is currently owned by Waterhill Evergreen Holdings, LLC. Nike Ajax missiles were assembled, serviced, maintained, and prepared for firing at the Launch Area. The missiles were stored in six underground silos measuring approximately 60-feet by 60-feet. The tops of the silos were approximately three feet below surface, and the floors of the silos were approximately 16 feet below surface. Other structures formerly present at the Launch Area included barracks, a missile assembly building, electrical power generator, water treatment facilities, and an acid mixing and wash rack area (Figure 2). All structures associated with DoD use of the site have since been demolished. The site is currently vacant and predominantly an open grass field.

### 2.2 SITE HISTORY AND ENFORCEMENT ACTIVITIES

Former Nike BU-34/35 served as a surface-to-air missile launch site, as discussed in Section 2.1. An evaluation of historical information available for the site indicate:

- At the Control Area, hazardous materials were not typically stored or used by DoD at Nike control sites.
- At the Launch Area, hazardous substances may have been released to the environment as a result of historical DoD activities, which included assembling, servicing, maintaining, and preparing Nike Ajax missiles for firing and related support activities.

There is no history at Former Nike BU-34/35 of any cited violations or enforcement activities taken at the site under Federal or State environmental regulations or statutes.





Former Nike BU-34/35 has been the subject of several site investigations and remedial actions to date. Past environmental activities at the Control Area and at the Launch Area were completed independently of each other and do not provide information about the other. Independent investigation of the areas was a natural result of the parcels transferring to different owners after the combined site was deactivated. The most recent Final Remedial Investigation Report (TI2E, 2019) completed 2019 is the first effort to consider and document both areas in a single report. This was done with the intention of ultimately achieving DERP-FUDS program closure for both areas.

**Control Area:** The environmental activities at the Control Area were conducted in two phases related to two separate parties interested in purchasing the property for redevelopment. The first phase of environmental work (for an unknown potential property developer) began in 1991 and extended through 1995. The second phase related to J&M Properties began in 1997 and extended through 2002. A final phase of activity that included an RI and Proposed Plan prepared by USACE occurred from 2016 to 2019. Reports, documenting letters, and activities included:

#### First Phase of Environmental Work

- 1991 Environmental Assessment Phase I Report conducted by Water Resources Association, Inc. (WRAI)
- 1993 Environmental Investigations by Sterling Environmental Services, Inc. (SESI)
- 1993 Phase I Environmental Assessment conducted by Niagara Frontier Consulting Services, Inc. (NFCS)
- 1993, 1994, and 1995 letters from Michael Murphy, HRI, to Ms. Shays, Hunt Real Estate, regarding the Phase I Environmental Assessment, exploratory excavation activities, Phase II environmental sampling, and removal of structures and overhead/underground utilities
- 1994 Toxicity Characteristic Leaching Procedure Results by SESI
- 1994 Vault Closure by SESI

#### Second Phase of Environmental Work

- 1997 Focused Phase II Environmental Assessment by Environmental Audits Inc. (EAI)
- 1997 Excavation Performed by EAI
- 1998 Proposed Redevelopment Project
- 1999 Investigation by J&M Properties
- 2000 Report to Orchard Park Planning Board
- 2000 Work Plan to Investigate Remaining Environmental Issues
- 2001 Positive Declaration for Proposed Development
- 2002 Subsurface Investigation Report by EAI

#### Third Phase of Environmental Work

- 2016 Archival Research and Historical Photo Analysis by the AGC
- 2019 Final Remedial Investigation Report by TI2E Joint Venture (TI2E) for USACE
- 2019 Proposed Plan by USACE

#### **Launch Area:**

Two environmental investigations were conducted at the Launch Area during the period from 1988 to 1996. These two investigations were conducted on behalf of USACE and resulted in the following documents:

- 1988 Draft Engineering Report and Contamination Evaluation prepared by Metcalf & Eddy, Inc. (M&E)



- 1996 Draft Limited RI/Feasibility Study (FS) Report, prepared by Malcolm Pirnie, Inc. (MPI).

No other investigations were completed at the Launch Area until 2016. In 2016, the Remedial Investigation field work was completed. Following the RI field work, USACE performed three separate actions at the Launch Area between 2017 and 2019, funded by the FUDS Program. This work was separate from the CERCLA investigation, but relevant to site closure. These actions included: (1) removal of an 8,000-gallon UST, (2) demolition and closure of six underground silos, and (3) closure of a septic tank. Based on the results of the RI, a Proposed Plan was developed. These activities resulted in the following reports:

- 2016 Archival Research and Historical Photo Analysis by the AGC
- 2019 Final Engineering Report Closure of Underground Nike Missile Silos by Tantara for USACE
- 2019 Final Remedial Investigation Report by TI2E for USACE
- 2019 Proposed Plan by USACE

## 2.3 COMMUNITY PARTICIPATION

Community participation activities provided the public with an opportunity to express its views on the proposed plan of no further action. USACE considered both state (NYSDEC and NYSDOH), and public input during community participation activities.

The Final Remedial Investigation Report and Proposed Plan for BU-34/35 were made available to the public in October 2019. They can be found in the AR file maintained at the Aurora Town Public Library and Orchard Park Library and are also available on the project website. The Proposed Plan was direct mailed to 65 stakeholders.

A public comment period was held from October 28, 2019 to December 16, 2019. No written comments were received.

In addition, a public meeting was held on Wednesday, November 13, 2019 at 6:30pm at the Town of Aurora Senior Citizens Center to present the Proposed Plan to the community. The community was also made aware of the public meeting through a notice in two local newspapers, The Buffalo News and East Aurora Advertiser. At this meeting, following a presentation by the USACE project manager, representatives from USACE and NYSDOH answered questions regarding the site and the proposed remedy of no further action. A responsiveness summary documenting and further addressing public comments from the November 13, 2019 meeting, is provided in Section 3.0 of this Decision Document.

## 2.4 SCOPE AND ROLE OF RESPONSE ACTION

This Decision Document addresses both the Control Area and the Launch Area portions of Former Nike BU-34/35. The response action at both areas is for **no further action** and the role of this response action is to achieve formal closure of Former Nike BU-34/35 under the DERP-FUDS program.

Both the Control Area and Launch Area are currently owned by entities other than the DoD. The FUDS program does not address any environmental impacts that may be associated with the current use of the site – it is focused only on DoD site use.



## 2.5 SITE CHARACTERISTICS

The Control Area is approximately 26 acres in size and fairly with a slight slope to the northwest toward an off-site unnamed intermittent stream that drains to the north into Cazenovia Creek. Currently, the Control Area is vacant (all structures associated with former site operations have been removed). Isolated asphalt and concrete areas associated with former parking areas and foundations remain, and the area is heavily vegetated with grasses, bushes and scattered small trees. Groundwater is approximately 10 feet below ground surface within the fluvial and lacustrine deposits overlying bedrock. The physiographic province of the Control Area is the Central Lowland.

The Launch Area is approximately 20 acres in size and is fairly level with a slight slope to the south. Major surface water features in the vicinity (not on the site) include Cazenovia Creek, an unnamed intermittent stream, and small isolated shallow ponds. Cazenovia Creek is confined to a narrow valley with steep slopes. Groundwater is approximately 16 feet below ground surface within the fluvial and lacustrine deposits of the semi-confined aquifer above which the Launch Area is situated. The groundwater gradient flowing southwest toward Cazenovia Creek is relatively flat within the footprint of the Launch Area but increases as groundwater follows surface topography towards Cazenovia Creek. The physiographic province of the Launch Area is the Central Lowland.

### 2.5.1 Conceptual Site Model

A conceptual site model (CSM) is a description of the site based on existing knowledge that provides an overview picture by identifying potential sources, fate and transport, exposure pathways and receptors/resources. It is useful for identifying completed exposure pathways between potential contaminated media and potential receptors and aids in defining site dynamics, streamlining risk assessments, and developing appropriate corrective actions.

#### Control Area

Hazardous materials were not typically stored or used by DoD at Nike control sites. Additionally, historical remediation activities completed at the Control Area addressed potential releases to the environment and the historical sampling data support that there are no unacceptable risks to human health or the environment resulting from historical DoD activities at the Control Area. The archival research and historical photo analysis, visual inspection, and geophysical survey during the RI confirmed that any DoD-related USTs had been removed from the site.

#### Launch Area

The CSM developed for the Launch Area consisted of both a human health CSM and an ecological CSM. The CSMs are provided in Figure 4 and Figure 5 and briefly described below.

The potential source for both CSMs is identified as: silos, acid mixing and wash rack area, generator building, and the water treatment plant sand filters. The potential release mechanisms include spills, discharges and leaching. The exposure media include soil and groundwater with surface runoff, surface water, sediment, and uptake accumulation added for the ecological CSM. The potential receptors include:

- Human Health Receptors: *Current* – Site worker, adolescent trespasser, youth recreational user. *Future* – Site worker (new construction), site worker (silo reuse), construction worker, resident (adult and child), adolescent trespasser, youth recreational user. Section 2.6 provides additional explanation of current and future use of the site and resources which supports the selection of the above receptors.
- Ecological receptors: Aquatic and terrestrial invertebrates, plants, amphibians, reptiles, birds and mammals and aquatic fish.



### 2.5.2 Sampling Strategy

Sampling was conducted in a manner consistent with evaluating the nature and delineating the extent of potential contamination of soil and groundwater from historical DoD activities at the Launch Area. In addition to the collection of environmental media samples at the Launch Area, RI activities for both the Launch Area and Control Area included evaluation of past investigations, historical photo analysis, visual inspection, and a geophysical survey.

#### Control Area

No samples were collected at the Control Area by USACE during RI field activities.

#### Launch Area

Sampling activities at the Launch Area involved the collection of soil samples from soil borings and test pits as well as groundwater samples from both existing and new monitoring wells installed during RI field activities. Samples collected included:

- 18 soil borings (SB1 through SB18) advanced throughout the Launch Area boundary with 67 distinct samples being collected to assess surface and subsurface soil for volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), metals, and polychlorinated biphenyls (PCBs).
- 10 soil borings (BACK1 through BACK10) representing 25 distinct samples were collected adjacent to the Launch Area to characterize background conditions.
- Three test pits were excavated at the Launch Area to evaluate subsurface soils near potential sources.
- Groundwater sampling was conducted from nine monitoring wells to evaluate site groundwater for VOCs, SVOCs, metals, and PCBs.

RI activities were conducted from April 4 through June 2, 2016. All soil and groundwater samples were collected and analyzed in accordance with the Uniform Federal Policy for Quality Assurance Project Plan (UFP-QAPP; TI2E, 2016). Quality control samples and quality assurance oversight indicate data are usable and of acceptable quality.

### 2.5.3 Sources, Types, and Extent of Contamination

Based on the historical information used to develop the RI sampling strategy and the usability of the data generated during the site investigation, Former Nike BU-34/35 is considered adequately characterized to determine potential contamination from historical DoD activities.

#### Control Area

At the Control Area, the current site owner, HRI, and two property development companies conducted environmental activities to investigate and remediate the property. The Control Area was not investigated directly by USACE because hazardous materials were not typically stored or used by DoD at Nike control sites. Studies, assessments, and site cleanup actions were conducted by HRI from 1991 to 2002. These activities were undertaken at the Control Area to address environmental issues related to HRI operations at the Control Area after the property was transferred.

While these past investigations were undertaken to address potential environmental impacts related to HRI operations at the Control Area, if there had been impacts from historical DoD activities, these past investigations would have identified them. For USACE's purpose, historical data from 1991 to 2002 and RI efforts are sufficient to address potential impacts from historical DoD activities. Figure 6 shows the sampling locations of past investigations at the Control Area. Based on the previous investigation activities, all residual concentrations of metals in soil and groundwater were determined to be consistent



with background conditions. While several organic compounds were historically detected in soil and groundwater, VOCs were not detected during the final round of sampling completed in 2002. Even though impacts from historical DoD activities at the Control Area are unlikely due to a lack of potential contaminant sources, to confirm there are no unacceptable risks to human health or the environment health from historical DoD activities, USACE compared historical detected concentrations of organic chemicals in soil and groundwater to relevant soil and groundwater screening benchmarks, including:

#### *Soil*

- June 2017 United States Environmental Protection Agency (EPA) residential Regional Screening Levels (RSLs)
- Final Unrestricted Use Soil Cleanup Objectives (SCOs) from 6 New York Codes, Rules, and Regulations (NYCRR) Part 375-6.8(a)

#### *Groundwater*

- June 2017 EPA tap water RSLs and Vapor Intrusion Screening Levels (VISLs)
- Federal maximum contaminant levels (MCLs) for drinking water

Soil: Acetone and methylene chloride were detected in soil at the Control Area at concentrations that were below soil screening benchmarks.

Groundwater: 1,2,4-trimethylbenzene, 1,3,5-trimethylbenzene, xylenes, and toluene were detected in groundwater at the Control Area at concentrations that were below groundwater screening benchmarks; however, benzene and ethylbenzene both exceeded one or more groundwater screening benchmarks. For the chemicals exceeding the screening benchmark, a screening estimate of potential cancer risk was developed based on the maximum detected concentration. This process is described in Section 2.7.

The results of the archival research and historical photo analysis, visual inspection, and geophysical survey at the Control Area concluded there were no visible impacts from a former Paint and Oil Storage Shed, and that there was no indication of any remaining USTs potentially associated with Former Building 7 (East Engine Generator and Frequency Changer Building) and Former Building 13 (West Engine Generator and Frequency Changer Building).

#### **Launch Area**

Similar to the Control Area, the screening benchmarks used to evaluate sampling results from the Launch Area included June 2017 EPA RSLs and Final Unrestricted Use SCOs for soil, and June 2017 EPA tap water RSLs and federal MCLs for drinking water.

The results of the RI sampling and discussion of the nature, extent, and source of contamination above screening benchmarks are summarized in Table 1 and Table 2 for soil and groundwater, respectively. Sampling locations are shown on Figure 7.

The results of the archival research and historical photo analysis, visual inspection, and geophysical survey at the Launch Area identified an 8,000-gallon UST. The UST and some stained soil associated with the UST were subsequently removed in late 2017 (Tantara, 2019) and in a letter issued on March 9, 2018, NYDEC confirmed no further action was required at the site for the UST closure. A metal frame and concrete foundation of a former oil storage shed were also identified but sampling did not indicate any release in this area.

**Table 1. Soil Summary (Launch Area)**

Compound	Summary
VOCs	Low levels of VOCs, primarily related to petroleum hydrocarbons such as benzene, toluene, ethylbenzene, and xylenes (BTEX), were detected in soil samples throughout the site, but at concentrations that were generally an order of magnitude or more below screening benchmarks. Acetone was the only VOC that was detected in soil at concentrations above the Unrestricted Use SCO; however, concentrations were significantly less than the EPA residential RSL. Additionally, the distribution of low-level acetone is not indicative of a point source, and if it was historically released would be expected in groundwater. Acetone was not detected in any of the groundwater samples.
SVOCs	Six SVOCs, all of which were polycyclic aromatic hydrocarbons (PAHs), exceeded screening benchmarks, including benzo(k)fluoranthene, benzo(a)pyrene, indeno(1,2,3-cd)pyrene, chrysene, benzo(b)fluoranthene, and benz(a)anthracene. Exceedances were limited to three sampling locations, SB3, SB14, and SB17. As is typically observed, the detected PAHs were generally co-located, with more than one PAH being observed in each sampling interval at a given location. Based on the background evaluation, detections of these six PAHs did not align with the background dataset, and as a result, they are considered to be site-related. Based on the trend that concentrations decreased with depth, the PAHs are likely related to incidental surface releases associated with historical site use.
Metals	Metals were detected in all of the RI soil samples. Based on the background evaluation, the site datasets for arsenic, copper, iron, nickel, thallium, and zinc (which had exceeded a screening benchmark) were determined to be consistent with the background datasets for these chemicals, suggesting that the presence of metals in soil are a background condition.
PCBs	Aroclor-1260, detected at SB14-00, was the only PCB detected onsite and was an order of magnitude below the screening benchmark.

**Table 2. Groundwater Summary (Launch Area)**

Compound	Summary
VOCs	Not detected in any of the samples.
SVOCs	Not detected in any of the samples.
Metals	Both total and dissolved metals were detected in all groundwater samples collected. Based on the background evaluation, the site datasets for arsenic, cobalt, and manganese (which had exceeded a screening benchmark) were determined to be consistent with the background datasets for these chemicals, suggesting that the presence of metals in groundwater are attributable to dissolution from background concentrations of these metals in soil.
PCBs	Not detected in any of the samples.





## 2.6 CURRENT AND POTENTIAL FUTURE SITE AND RESOURCE USES

### Control Area

The Control Area site is currently vacant with abandoned roadways visible and naturally occurring vegetation present. It is currently not used for a specific purpose. The former Control Area is owned by HRI and future site has not been determined. There are no publicly available plans confirming site use is expected to change. However, documents from 2002 proposed development of a residential subdivision at the site. Therefore, it is reasonably anticipated that the site may be used for residential purposes and groundwater may foreseeably be used as a potable water supply.

### Launch Area

The Launch Area is currently predominantly an open grass field with portions of the property surrounded by wooden fence with no trespassing signs. However, land surrounding the Launch Area contains trails that enter and exit the site, suggesting that the site and surrounding area may be used for recreational purposes. The Launch Area is currently not used for a specific purpose. The Launch Area is privately owned and future use has not been determined. The two property parcels comprising the Launch Area are zoned as combinations of Rural-Residential and Agricultural. Since residential use of property is a permitted use for parcels zoned as Rural-Residential and Agricultural, residential use of the site is reasonably anticipated. In this case, groundwater may foreseeably be used as a potable water supply.

The Launch Area is bounded on the east by residential estates; on the south by forested land, an intermittent stream, and Cazenovia Creek; on the west by residences, estate (large) properties, and the Elma Agricultural District; and on the north by Willardshire Road and further to the north by residential properties and estates.

## 2.7 SUMMARY OF SITE RISKS

This section provides a summary of site risks associated with the Control Area and the Launch Area. Based on these results, no further action is required for Former Nike BU-34/35, and there are no future use restrictions from historical DoD operations at the Control Area and the Launch Area.

### Control Area

Even though impacts from historical DoD activities at the Control Area is unlikely due of a lack of potential contaminant sources, USACE compared historical detected concentrations of organic chemicals in soil and groundwater (noted in investigations conducted by others) to relevant soil and groundwater screening benchmarks to confirm there are no unacceptable risks to human health or the environment from historical DoD activities.

Benzene and ethylbenzene both exceeded one or more groundwater screening benchmarks. Specifically, benzene was detected at two locations sampled in 1999, B1 and B4, at 20 micrograms per liter ( $\mu\text{g/L}$ ) and  $3 \mu\text{g/L}$ , respectively; and ethylbenzene was detected at on location, B1 at  $2 \mu\text{g/L}$  in 1999. Comparisons of the maximum detected concentration of benzene and ethylbenzene to tapwater RSLs for groundwater consumption and the VISLs for inhalation of indoor air result in the following cancer risk estimates for these two VOCs (i.e., carcinogenic risk is the primary concern for both chemicals):

	<u>Groundwater Consumption</u>	<u>Inhalation of Indoor Air</u>
• Benzene:	$4.4 \times 10^{-5}$	$1.3 \times 10^{-5}$
• Ethylbenzene	$1.3 \times 10^{-6}$	$5.7 \times 10^{-7}$



As shown above, the screening estimates of potential cancer risk are below target risk levels (i.e., below  $1 \times 10^{-4}$ ) for both benzene and ethylbenzene.

Previous investigations determined that residual concentrations of metals in soil and groundwater were consistent with background conditions and VOCs were not detected in groundwater during the last sampling event performed in 2002. Therefore, additional environmental sampling at the Control Area was not conducted by USACE. In addition, previous investigations support that there are not unacceptable risks to ecological receptors resulting from historical DoD activities at the Control Area. As part the RI, site visits were conducted, a geophysical survey performed, and the AGC performed archival research and historical photo analysis for the Control Area to evaluate potential sources. The results of these additional activities support that there are no unacceptable risks to human health or the environment resulting from historical DoD activities at the Control Area.

### **Launch Area**

A human health risk assessment (HHRA) and screening-level ecological risk assessment (SLERA) were performed for the Launch Area as part of the RI (TI2E, 2019). The results are summarized below.

#### **2.7.1 Summary of Human Health Risk Assessment**

The HHRA was performed in a manner consistent with EPA CERCLA guidance. Carcinogenic and non-carcinogenic risks were calculated for each complete exposure scenario listed below:

- Current use: Incidental ingestion of and dermal contact with surface soil for site worker, adolescent trespassers (12-18 years old), and youth recreational users (6 to 18 years old).
- Future use: Incidental ingestion of and dermal contact with combined surface and subsurface soil for site worker (new construction), site worker (reuse of silos), construction worker, resident (adult, child, and age adjusted), adolescent trespassers (12-18 years old), and youth recreational users (6 to 18 years old).

Four PAHs were identified as contaminants of potential concern (COPCs) for surface soil and combined surface and subsurface soil: benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, and indeno(1,2,3-cd)pyrene. There were no COPCs identified for groundwater.

The results of the HHRA are detailed in the Final Remedial Investigation Report (TI2E, 2019). The HHRA for the Launch Area determined that all carcinogenic risks and noncarcinogenic hazards for exposure to site-related surface soil concentrations by all potential current receptors (current site workers, adolescent trespassers, and youth recreational users) are within target levels that are acceptable for risk (i.e., below  $1 \times 10^{-4}$  for carcinogenic risks and below the noncarcinogenic hazard index [HI] of 1.0). For future site use, all potential carcinogenic risks and noncarcinogenic hazards for exposure to soil by site workers, construction workers, residents, adolescent trespassers, and youth recreational users are within target levels (i.e., below  $1 \times 10^{-4}$  and an HI of 1.0). Overall, the HHRA determined that there are no site-related carcinogenic risks or noncarcinogenic hazards that exceed target risk levels resulting from exposure to soil and groundwater at the Launch Area at Former Nike BU-34/35. Therefore, the HHRA results support that residual concentrations of chemicals in environmental media potentially related to historical operations at the Launch Area of Former Nike BU-34/35 do not pose unacceptable risk to human health.





## 2.7.2 Summary of Ecological Risk Assessment

A screening-level ecological risk assessment (SLERA) was conducted to evaluate potential adverse impacts to ecological receptors at Former Nike BU-34/35 due to the presence of residual contaminants related to historical DoD activities at the Launch Area. The SLERA was performed in a manner consistent with EPA, CERCLA, and NYSDEC guidance.

The SLERA for the Launch Area identified preliminary COPCs for direct exposure (lower-trophic-level receptor) and food web exposure (upper-trophic-level receptor) scenarios based on exceedances of ecological screening levels (ESLs) and/or Eco-Soil Screening Levels (Eco-SSLs), or detections without screening values. All metals are considered unrelated to the site, naturally occurring and not indicative of unacceptable ecological risks. Preliminary COPCs included total low molecular weight PAHs, total high molecular weight PAHs and four other non-PAH SVOCs. Based on comparison to the site-specific background dataset, the PAHs are likely site related. The SVOCs were determined to be site related but there were no exceedances of ESLs (direct exposure for lower-trophic-level receptors) or adjusted (lowest observed adverse effect level-based) mammal Eco-SSLs (food web receptors). In addition, SVOCs were detected infrequently in surface soil at Former Nike BU-34/35. As a result, the SLERA identified no unacceptable risk to ecological receptors and determined that no further ecological risk assessment was necessary for the site.

## 2.8 RATIONAL FOR NO FURTHER ACTION

Based on the results of the Remedial Investigation there are no unacceptable risks to human health or the environmental for current or reasonably foreseeable future use of the Control Area and Launch Area from historical DoD activities.

The USACE, with the concurrence of the NYSDEC, has determined that no further action under CERCLA or DERP is necessary to protect human health or the environment from hazardous substances in groundwater and soil from historical DoD activities as Former Nike BU-34/35. Because no further action will be taken due to the absence of risk at the site from historical DoD activities, neither a five-year review nor implementation of institutional controls, a remedy schedule, or annual operation and maintenance will be necessary. No further costs are expected to be incurred.

At the Launch Area, nine (9) monitoring wells related to previous USACE investigations will be decommissioned.

## 2.9 DOCUMENTATION OF SIGNIFICANT CHANGES

The Proposed Plan was issued for Former Nike BU-34/35 in October 2019 and identified no further action for the Launch Area and the Control Area. The public comment period ran from October 28, 2019 to December 16, 2019. USACE reviewed and responded to verbal comments submitted during the public comment period; there were no written comments received from the public. In a letter dated December 12, 2019, NYSDEC and NYSDOH presented their concurrence with the no further action remedy identified in the Proposed Plan.

It was determined that no significant changes to the remedy of no further action, as originally identified in the Proposed Plan, were necessary or appropriate.

However, a clarification was made in how the absence of future use restrictions is described. Rather than state “future use is unrestricted” (language used in the Final Remedial Investigation Report and Proposed Plan), in this Decision Document USACE states, “there are no future use restrictions from historical DoD activities.” This clarification limits the scope of the future use conclusion, which was absent from the



initial statement. Additionally, we have added the qualifying statement of, “from historical DoD activities” as needed throughout this Decision Document. This clarification was made to highlight the directive of the DERP-FUDS program activities at Former Nike BU-34/35 to address only environmental impacts from DoD use of the site.

This clarification was made principally in response to a citizen’s public comment expressing concern over non-DoD activity they observed at the Control Area. During the RI, USACE worked in conjunction with the current property owner HRI and Erie County to acquire a comprehensive record of environmental investigation and response-related activity at the Control Area. Even though the most recent documents relating to the Control Area date to 2002, USACE had no reason to doubt that the conclusions in the provided documents still held. However, in response to the citizen’s comments and concerns, in this Decision Document which supersedes the Proposed Plan, USACE has modified the language used to indicate the absence of future use restrictions (i.e., that there are no future use restrictions from DoD site operations).



### 3.0 RESPONSIVENESS SUMMARY

The purpose of the Responsiveness Summary is to provide a summary of the stakeholders' comments, concerns, and questions about the remedy for Former Nike BU-34/35.

The Proposed Plan (USACE, 2019) was issued on October 28, 2019. USACE held a Proposed Plan meeting on November 13, 2019 at the Town of Aurora Senior Citizens Center to discuss the proposed remedy/decision. The public comment period ran from October 28, 2019 to December 16, 2019.

Attachment A includes copies of the newspaper announcements, public notice meeting invitation, slides from the presentation made at the public meeting, and the legal transcript of the public meeting.

Attachment B includes three letters from NYSDEC and NYSDOH. The letters document department concurrence with the Proposed Plan, concurrence with the Final Engineering Report remedial actions, and acceptance of the Final Remedial Investigation Report.

#### 3.1 SUMMARY OF COMMENTS AND RESPONSE TO COMMENTS

There were no written comments received during the open public comment period.

The following are verbal comments received from the public on the Proposed Plan at the November 13, 2019 public meeting for the Former Nike BU-34/35. USACE responses elaborate further on those presented at the public meeting. Comments and responses are provided by subject. The page numbers where the comments can be found in the transcript are provided in parenthesis.

##### Groundwater and Future Use at the Launch Area

One community member, Mr. Forbes, asked questions related to groundwater and future use at the Launch Area. Specifically, the questions sought to understand groundwater use restrictions, future groundwater monitoring requirements, well decommissioning, use restrictions, and sampling for emerging contaminants (transcript pages 18-19). Mr. Forbes stated, "A couple of questions concerning the launch area. Does the remedy contemplate any groundwater use restrictions at this point post remedial?" "Any post-remedial groundwater monitoring planned at this time?" "Will the existing [groundwater] wells be decommissioned?" "Any other end-use restrictions contemplated at this point in terms of redevelopment of the property?" "I know you did a round of groundwater sampling for – or multiple rounds of groundwater sampling for compounds and parameters you listed. Were there any samples collecting for emerging contaminants?"

*RESPONSE: There are no groundwater use restrictions from historical DoD activities at the Launch Area and there will be no post-remedial groundwater monitoring. Use restrictions would be considered an institutional control, which is a remedy different from the selected remedy of no further action. The RI results indicate residual concentrations of chemicals in environmental media potentially related to historical DoD operations at the Launch Area do not pose unacceptable risk to human health or the environment. As such, USACE plans to take no further action at the site. Existing groundwater wells will be decommissioned by USACE once this Decision Document is signed. Regarding other end-use restrictions, as described above, the no further action remedy includes no future use restrictions at the site from historical DoD activities. We suggest you direct questions regarding end-use redevelopment to your local town officials familiar with local redevelopment codes and regulations.*

*In 2018, NYSDEC's contractor collected groundwater samples from monitoring wells located at the Launch Area to evaluate concentrations of the following emerging contaminants: 1,4-dioxane and a*



*group of 21 chemicals referred to as per and polyfluorinated alkyl substances (PFAS). Based on the results of these samples, NYSDEC determined that no further action was required for the emerging contaminants (1,4-dioxane and PFAS) at the Launch Area. Mr. Walia's (NYSDEC representative) response to this question is provided on page 19 of the transcript.*

### **Silo Backfill at the Launch Area**

Another community member, Mr. Rosatti, had questions about the material used for backfilling the silos in the Launch Area (transcript pages 29-31). Mr. Rosatti stated, "Do you have any information about what material was used, if it was, you know, like concrete road base or something or top soil or.." "Was there an analysis of the wells after the fill was put in them [silos]?" "So there's no testing done after the silo was actually filled in then?"

RESPONSE: *Yes, we do have information on the material used to backfill the silos. Detailed information on the backfill process and materials used can be found on page 13 and 14 of the Final Engineering Report available on the project website at this web address:*

*<https://www.nan.usace.army.mil/Missions/Environmental/Environmental-Remediation/Niagara-Falls-Reports/> A summary of backfill material used is provided below.*

*The silos were filled with a combination of crushed concrete, associated concrete launch pads, and other onsite fill material including the concrete roof and wall slabs, scraped of their waterproof coating with portions of uncoated concrete reduced to 3-foot minus and 3-inch minus in size. Backfill placed at depths greater than 10 feet below final grade consisted of the onsite prepared 3-foot minus concrete combined with onsite soils previously excavated or imported select granular fill from D&H Excavating, Arcade, NY. Backfill placed in the upper 10 feet below final grade consisted of onsite soils previously stripped from the site, onsite prepared 3-inch minus concrete, and imported fill from D&H Excavating. Backfill was placed in approximate 12-inch lifts and compacted with the back of an excavator bucket at depths greater than 10 feet below final grade or sheepsfoot roller in the upper 10 feet below final grade. Imported backfill was pre-characterized and was found to meet the NYSDEC Unrestricted Use criteria. The amount of backfill imported to the site totaled 3,685 tons. In-place density of backfill was confirmed through density testing by 3rd Rock, LLC, East Aurora.*

*No additional testing and analysis was done after the silos were backfilled. The RI that included soil and groundwater testing took place in 2016 and the silo demolition and backfill took place in 2019. The results from soil and groundwater testing in 2016 indicated there was no unacceptable risk from soil and groundwater. This information was needed prior to the demolition and backfill process to ensure safety of the site workers. Additionally, as described above, the backfill material was either already on site and met criteria for reuse or was imported to the site and through pre-characterization and was found to meet the NYSDEC Unrestricted Use criteria. Given the origin of backfill material, there is no reason to believe groundwater would be negatively impacted by the backfill and as such no further testing is warranted.*

The same community member, Mr. Rosatti, asked if there were plans and systems in place to link closed sites together in case new information became available that could reveal additional concerns (transcript pages 31-32).

RESPONSE: *There are no plans to link this site to others around the county as no such linking system exists. However, when FUDS sites are closed the administrative record for the site remains. While there is no future monitoring planned for Former Nike BU-34/35, if future conditions or new information suggest a response action is necessary to address FUDS-eligible hazardous substances, pollutants or contaminants, the property may be reactivated (see Section 1.5.2 of this Decision Document).*



## Control Area

Mr. and Mrs. Rappold attended the public meeting and commented on several subjects regarding the Control Area.

### a. Observed Activity at the Control Area and Responsibility

Mr. and Mrs. Rappold live across the street and were concerned by things they observed going on at the control area including a major clean up around 2010 of as Mr. Rappold stated, "...all the rubbish, all the garbage, all the oil, all the gas up on that property" (transcript page 20). Mr. Rappold stated, "And they brought in a big bucket, one big – one big trash bin after another. It was a cesspool that made a junkyard look clean. That's how bad it was across the street. Now you want me to be satisfied by what you're saying here. I went across the road repeatedly. I talked to the people that were doing the cleanup. Everything was confidential. Nobody would say anything. I live in West Seneca – well I moved up there is 2003. I was very skeptical about buying the land. I'm still skeptical that I bought the land. Because even in West Seneca, we knew about the contamination up there. There's nothing here about Roswell Park either." (transcript page 21)

Following an explanation by Mr. Goepfert that the Proposed Plan document being discussed at the meeting deals only with environmental impacts associated with the DoD use of the site which occurred from 1957 to 1963, Mr. Rappold stated, "So in other words, what you're saying here is not relevant to that land being clean then [in 2010]." (transcript page 22). Mr. Goepfert confirmed the statement and explained the questions should be directed to the people responsible for the cleanup and Mrs. Rappold followed up by asking, "Then who is the owner of the property now?" "Okay, and that's from Roswell Park, right?" (p23) Mrs. Rappold also commented "And we've heard from neighboring people up in the areas there that they were conducting all kinds of experiments on animals up there, cancer research, and then that cancer things were buried up there. (transcript page 23)"

*RESPONSE: Final Remedial Investigation Report, Proposed Plan and this Decision Document for Former Nike BU34/35 developed by USACE are intended to address potential environmental impacts related to historical DoD operations. Regulations of the DERP-FUDS which oversee the site dictate this objective to prevent federal funds from being used to address contamination for which another potential responsible party should be paying.*

*In the case of the Control Area, the DoD was active at the site from 1957 to 1963 and ownership transferred to HRI in 1965 who remain the owners at present. Therefore, the RI efforts in relationship to the Control Area were intended to only consider site impacts potentially related to the DoD use and ownership of the site from 1957-1965. Site activities occurring after 1965 are outside of DoD responsibility. The site activity you mention in 2010 as well as concern regarding buried items should be directed to the current site owner.*

*Regarding HRI's relationship to Roswell Park, as per the HRI website, "HRI was established in 1953 primarily to serve the research programs of the Roswell Park Cancer Institute, which at the time was an institution of the Department of Health." Currently, HRI provides services to the Roswell Park programs through its HRI Rowell Park Division located in Buffalo, and HRI also now serves other major NYSDOH programs at various health centers throughout the area as well. HRI is currently a nonprofit corporation (HRI, 2018). We suggest reaching out to HRI directly for further questions regarding the relationship between HRI and Roswell Park.*





### 3b. Site Investigations at the Control Area

Mr. and Mrs. Rappold commented on the borings and tests done at the site focusing on what was done and by whom before or after 2002 and the results. Mr. Rappold asked, “Excuse me, sir. Was this taken after 2002?” (transcript page 9). “Now when I talked to you, the borings and the testing was all done by 2002; am I correct?” “And there’s been no testing since?” (transcript page 20). Mrs. Rappold also states, “But the question is, when was the last time the Army Corps of Engineers tested the soil?” Mr. Rappold further questions, “Well, I missed the meeting, but I went to Orchard Park and I talked with the engineers there.” “And I asked them about the testing...” “...before 2002.” “And their exact words were, it was inconclusive, the testing.” “They could not answer because it was inconclusive.” (transcript pages 25-26)

*RESPONSE: Past investigations at the former Control Area are listed in Section 2.2 of this Decision Document and are summarized in greater detail on pages 4-10 of the Final Remedial Investigation Report (TI2E, 2019). Based on our review of reports and documents made available to us during the RI, the record of boring and testing indicates that there has been no groundwater or soil testing at the Control Area since 2002.*

*Regarding the question of the last time USACE tested the soil, USACE has not funded or performed any boring or testing of soil at the Control Area. USACE investigations of the Control Area for the RI included thorough review of past investigations, archival research and historical photo analysis, geophysical survey to confirm the absence of underground storage tanks, and visual inspection. The RI review of past investigations compiled analysis results from four soil sample locations, four soil boring locations, 16 test trench locations, and five piezometer locations. The compiled results were compared with background conditions, screening benchmarks, screening levels, and target cancer risk levels. The outcome of those comparisons along with an assessment that the past investigation locations sufficiently characterized the area where historical DoD activities took place, led to the conclusion that no further evaluation of soil and groundwater was required. While these past investigations were undertaken to address potential environmental impacts related to HRI operations at the Control Area, if there had been impacts from historical DoD activities, these past investigations would have identified them. For USACE’s purpose, historical data from 1991 to 2002 and RI efforts are sufficient to address potential impacts from historical DoD activities. The need for post-2002 testing to investigate recent site activity would be determined by the current owner and would not involve USACE.*

*Regarding your comments addressing Orchard Park engineers with whom you spoke and indication of inconclusive testing. USACE cannot comment on conversations you had with other entities. Based on the RI, USACE concludes there are no unacceptable risks to human health or the environment from historical DoD activities at the Control Area.*

### 3c. Scope of Proposed Plan

Mr. and Mrs. Rappold made several comments seeking to clarify for whom and what the proposed remedy of no action covers and does not cover. Mr. Rappold stated, “Well, it’s a little misleading to get this in the mail and it’s like it’s a clean bill of health to that soil across the street from us when you don’t really know if it is, right?” “Yeah. Well, I had one neighbor die of cancer one house from me. And the neighbor who spoke up at the meeting a couple of years ago, he died of cancer. I have two dogs, German Shephard dogs. They both died of lung cancer at six years old. Everything’s documented by Orchard Park Vet. Now, is everything a coincidence up there or what? I don’t know. But I do know I’m not getting any firm statements from anybody about that land across the street. And it just seems like what you just said covers yourself, but it doesn’t cover the land or where it’s at today. That’s what I’m saying right?” (transcript pages 26-28)



Mrs. Rappold also stated, “I have one question. So is this basically the Army washing its hands of this whole thing, that they’ve done their part and they’re done with it and that’s it?” (transcript page 34) Furthermore, Mr. Rappold added, “I’m just saying to make it clear for the record that this land is only cleared by the Army. That doesn’t mean the land is clear of contaminants.” (transcript page 35)

Mr. Rappold was also interested in receiving a copy of the transcript from the meeting.

*RESPONSE: During the RI, USACE worked in conjunction with the current property owner HRI and Erie County to acquire a comprehensive record of environmental investigation and response-related activity at the Control Area. Even though the most recent documents relating to the Control Area date to 2002, USACE had no reason to doubt that the conclusions in the provided documents still held. However, in response to the comments and concern regarding non-DoD site activity, in this Decision Document which supersedes the Proposed Plan, USACE has clarified the language used to indicate the absence of future use restrictions. Rather than state “future use is unrestricted”, USACE instead states, “there are no future use restrictions from historical DoD activities.” This clarification limits the scope of the future use conclusion which was absent from the initial statement. Additionally, we have added the qualifying statement of, “from historical DoD activities” as needed throughout. This clarification was made to highlight the directive of the DERP-FUDS program activities at Former Nike BU-34/35 to address only environmental impacts from DoD use of the site.*

*This clarification is described and documented in Section 2.9 Documentation of Significant Changes of this Decision Document.*

*Regarding concern of cancer incidence and lack of firm answers, we cannot comment on coincidence, but hope that our answers have provided clarification as to the intent of USACE efforts at the Former Nike BU-34/35 and the scope of the proposed plan.*

*Regarding interest in receiving a copy of the transcript from the meeting, a copy of the transcript is provided in Attachment B of this Decision Document.*

### **3.2 STATE ACCEPTANCE**

Definition: This criterion considers whether the States agrees with, opposes, or has no comment on the Selected Alternative.

Analysis: In their letter dated December 12, 2019, the New York State Departments of Environmental Conservation and Health state that they concur with the selected remedy of no further action for the Nike BU-34/35 Site (Attachment B).

### **3.3 COMMUNITY ACCEPTANCE**

Definition: This criterion considers whether the local community agrees with the Selected Alternative. Comments received during the public comment period are an important indicator of community acceptance.

Analysis: The Proposed Plan was made available during the public comment period from October 28, 2019 to December 16, 2019. A public meeting was held on November 13, 2019 to solicit public comments which are documented in Section 3.1 above. The only public comments received were those made during the public meeting. No additional comments were received by mail or email.

During the public meeting there was no expressed dissent of the proposal for no further action. Based on a comment from the public regarding future use restrictions at the Control Area as discussed in Section 3.2,



the no further action statement in this Decision Document was clarified to indicate that the no further action referred to addressing historical activities associated with prior DoD use of the Control Area and Launch Area. This documented clarification adequately addresses expressed concerns and demonstrates USACE responsiveness to community input and supports community acceptance.





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## 4.0 REFERENCES

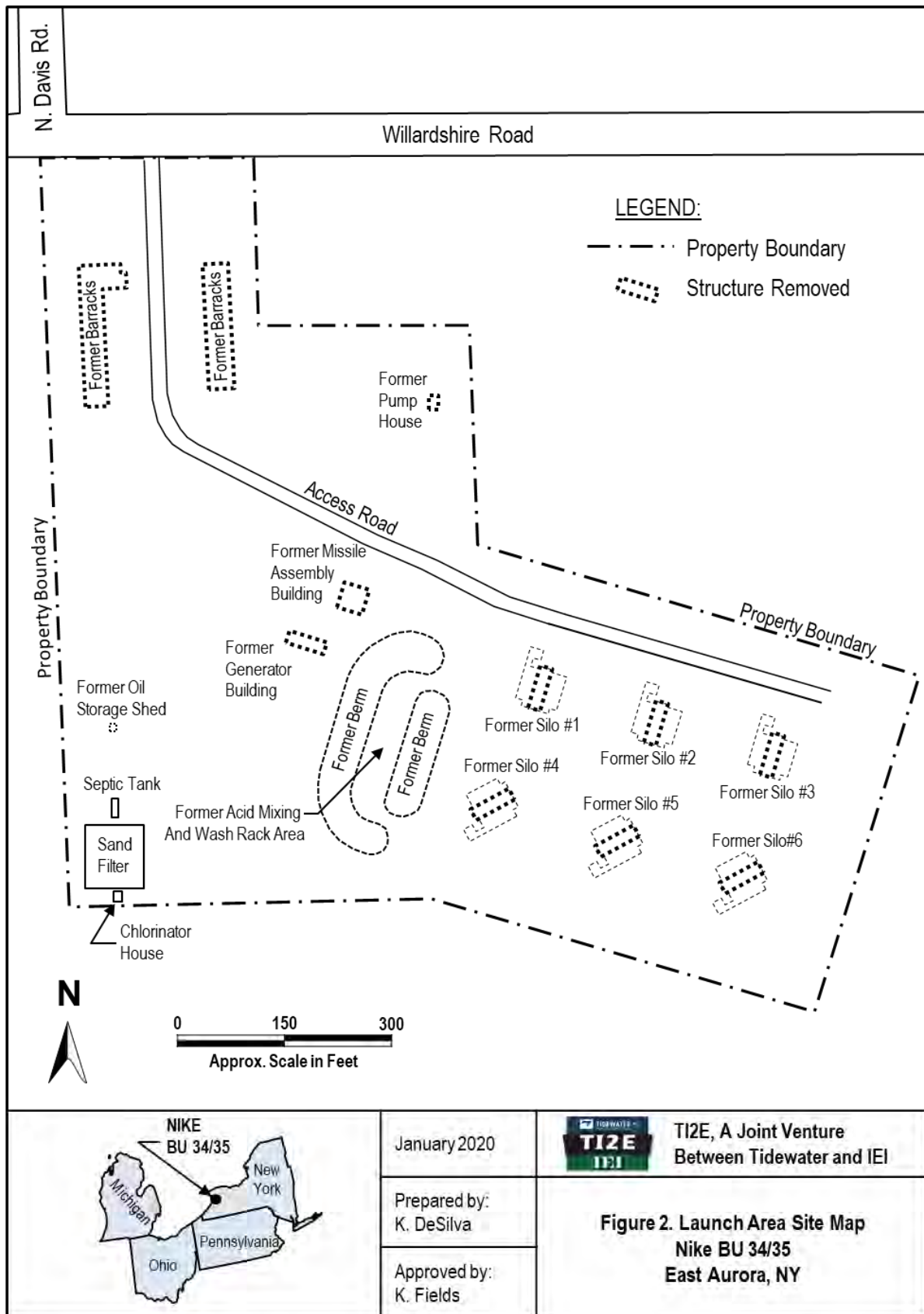
- Tantara. 2019. *Final Engineering Report, Closure of Underground Nike Missile Silos - Defense Battery BU-34/35, Town of Aurora, New York*. Contract No. W912WJ-16-C-0023. Prepared for: U.S. Army Corps of Engineers (USACE) New England District. October.
- TI2E. 2016. *Final Remedial Investigation Work Plan. Former Niagara Falls – Buffalo Defense Nike Battery BU-34/35, East Aurora and Orchard Park, New York. Formerly Used Defense Sites (FUDs). NO. CO2NY007701*. Contract No. W912DR-13-D-0013. Delivery Order No. DB01. Prepared for: U.S. Army Corps of Engineers (USACE) New England District. February.
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- USACE. 2019. *Proposed Plan. Former Niagara Falls – Buffalo Defense Nike Battery BU-34/35, East Aurora and Orchard Park, New York*. October.



## FIGURES

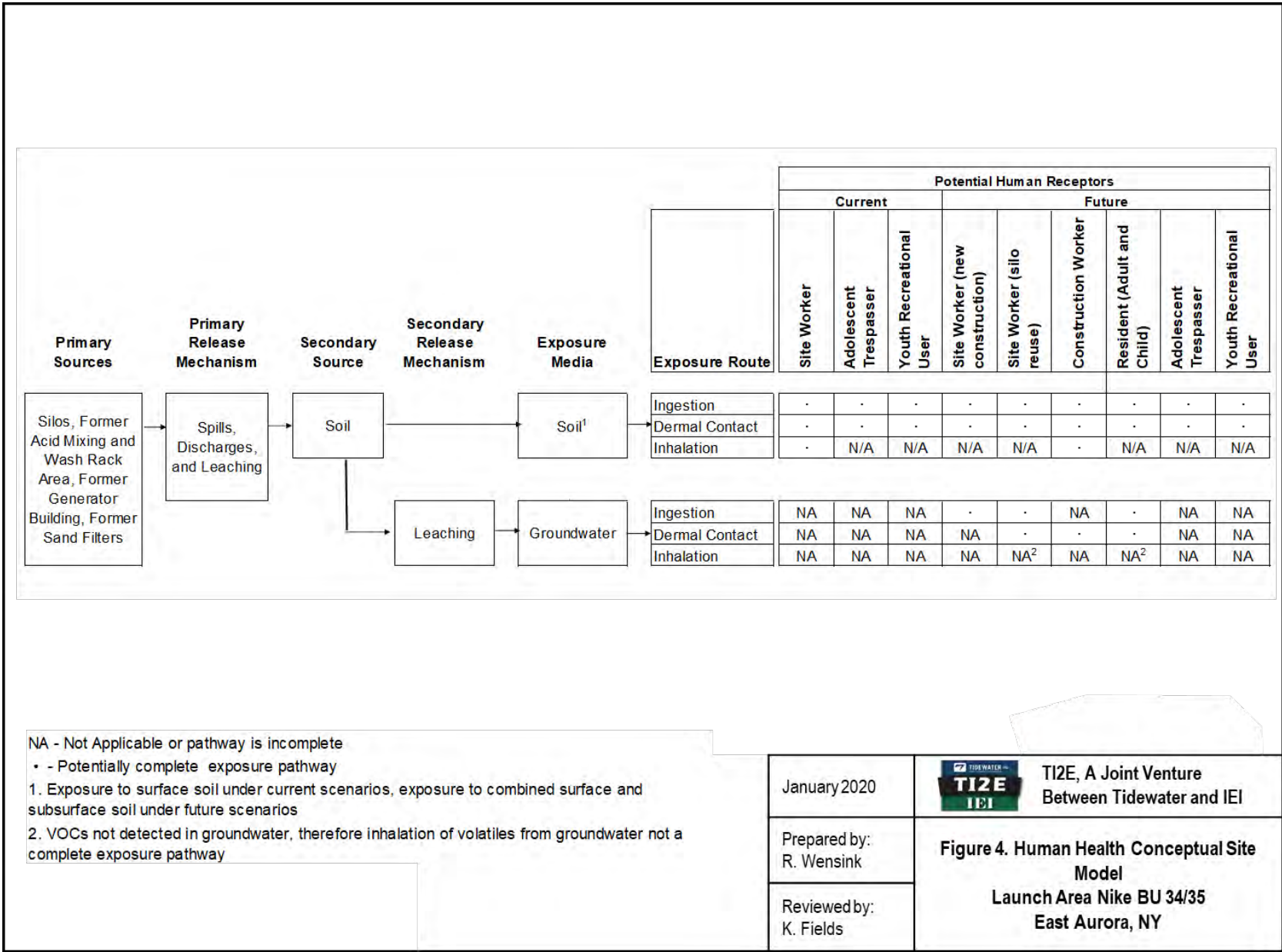


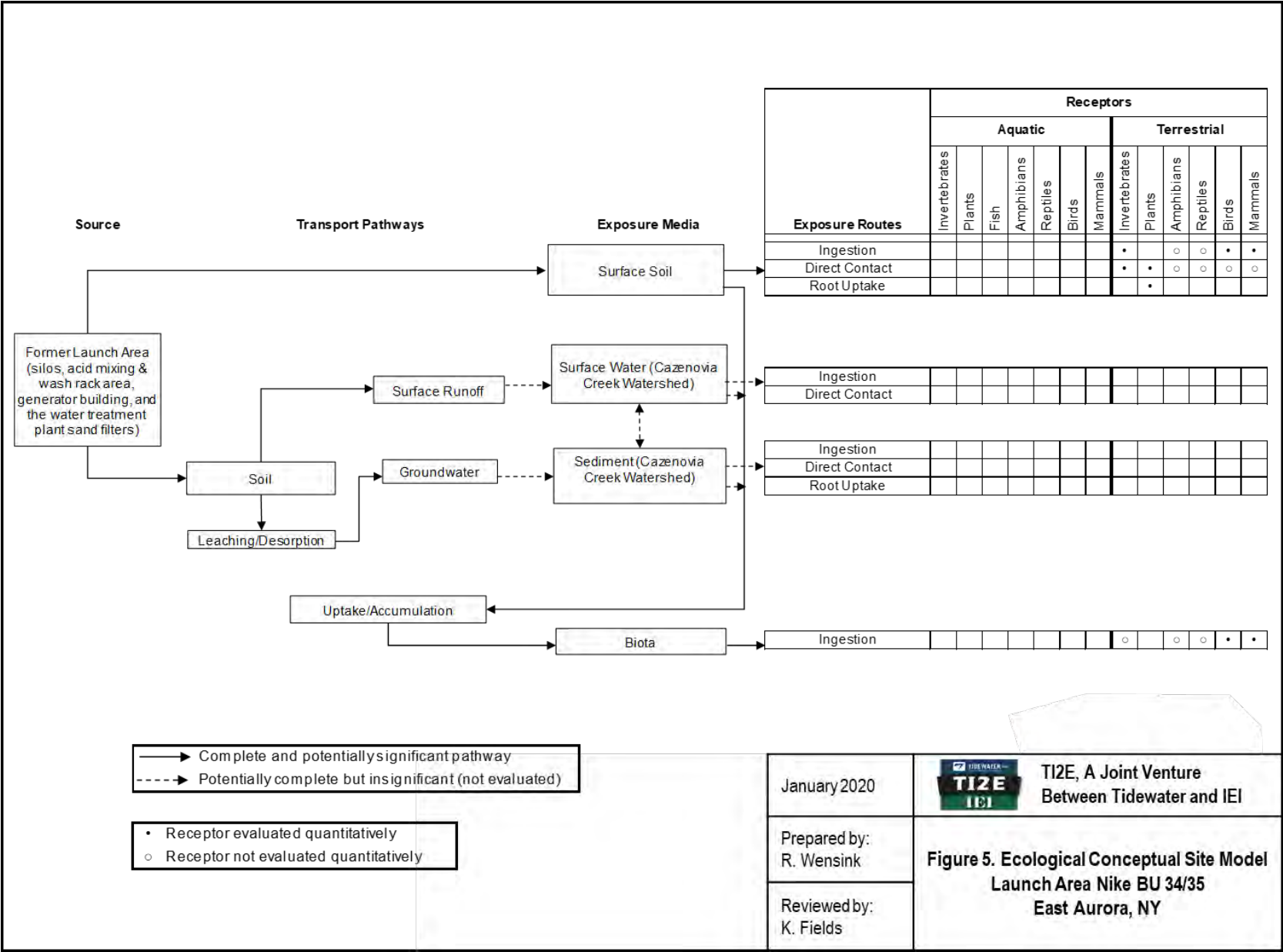
<p>NIKE BU 34/35</p>	<p>January 2020</p>	<p><b>TIDWATER</b> <b>TIE</b> <b>IEI</b></p> <p>TI2E, A Joint Venture Between Tidewater and IEI</p>
	<p>Prepared by: K. DeSilva</p>	<p><b>Figure 1. Former Nike BU-34/35 Site Location Map Orchard Park and East Aurora, NY</b></p>
	<p>Approved by: K. Fields</p>	







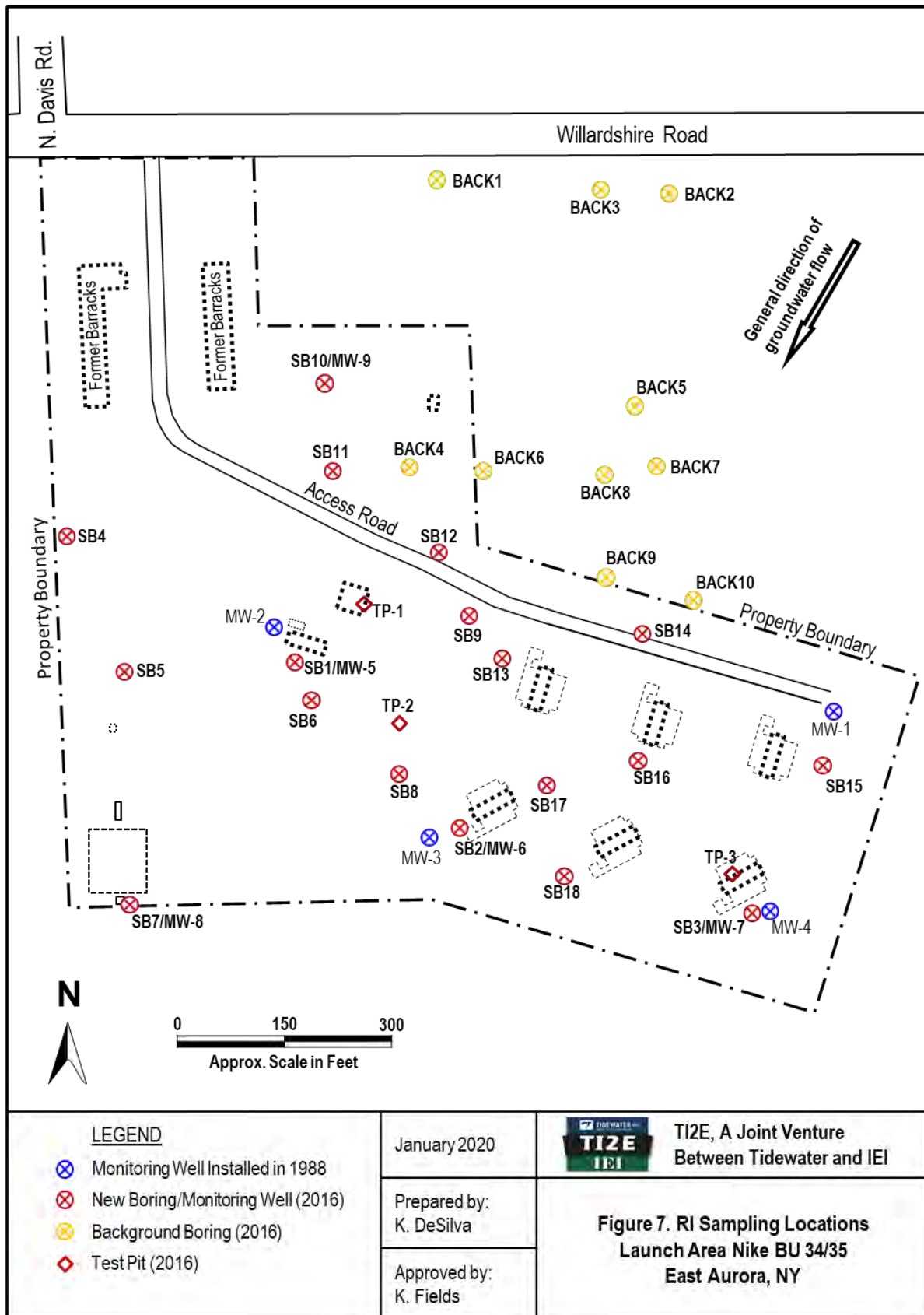














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**ATTACHMENT A    Public Meeting Supporting Documents**

Newspaper announcements  
Public notice meeting invitation  
Presentation Slides  
Legal transcript of public meeting

# THE BUFFALO NEWS

## -Affidavit-

Maureen Elardo of the City of Buffalo, New York, being duly sworn, deposes and says that he/she is Principal Clerk of THE BUFFALO NEWS INC., Publisher of THE BUFFALO NEWS, a daily newspaper, or The Sun, a weekly newspaper, or the Pennysaver, a weekly shopper published in Buffalo NY. A notice was inserted and published therein **1** times, the first insertion being on **11/01/2019** and the last insertion being on **11/01/2019**

Maureen Elardo

Dates Ad Ran:

Buffalo News (P1) 11/01/19

Sworn to before me this 1<sup>st</sup> day of November 2019

Debra M Palkowski

Notary Public, Erie County, New York

**DEBRA M. PALKOWSKI**  
Notary Public - State of New York  
No. 01P84955693  
Qualified in Erie County  
My Commission Expires Sept. 5, 2021

## ANNOUNCEMENTS



Buffalonews.com/life/celebrations  
PLACE AN AD **856-5555**



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Mon - Fri 8 a.m. - 8 p.m.  
Sat - Sun - Holidays 10 a.m. - 8 p.m.

## 703 Activities/Events



**Pasta for Pups:** Sunday Nov. 10, 1-5pm. Clarence Fire Hall, 10355 Main St. Pasta, drinks & desserts. 100 + Baskets, 50/50, Bills Game & fun for all! For info & presale tickets find us on Facebook or go to [buffalounderdogs.com](http://buffalounderdogs.com)



**PRE-HOLIDAY SHOPPING EXTRAVAGANZA**  
Sunday November 3rd from 11-5 PM  
Knights of Columbus 36 Pierce Ave., Hamburg, NY 14075  
All proceeds from 50/50 and basket raffles are going to the Hillside Special Santa Program

## 710 Auctions - General

ANDERSON - 838-8484  
[andersonauctioneers.com](http://andersonauctioneers.com)



BuffaloNews.com/bnmarketplace  
PLACE AN AD **856-5555**

## 758 Meetings/Public Hearings

The U.S. Army Corps of Engineers invites you to attend a

**Public Meeting for the Former Niagara Falls – Buffalo Defense Nike Battery Unit 34/35**  
Aurora and Orchard Park, New York  
Wednesday, November 13, 2019  
6:30 pm to 8:00 pm

**Town of Aurora Senior Citizen Center**  
101 King Street, Suite A  
East Aurora, New York, 14052

The Former Niagara Falls – Buffalo Defense Nike Battery Unit 34/35 (Nike BU-34/35) Site was utilized by the Department of Defense (DoD) from 1957 to 1963. The Site consists of two properties: the Control Area property located in Orchard Park,

## 758 Meetings/Public Hearings

New York and the Launch Area property located in Aurora, New York. Extensive remedial investigations were conducted at the properties beginning in 1988. Most recently, the U.S. Army Corps of Engineers (USACE) performed an investigation and closure of the former missile silos, underground storage tank and septic tank at the Launch Area from 2016 through 2019. Results from investigations and closure actions have led to a Proposed Plan of No Further Action (NFA) for the Control Area and Launch Area properties. The Proposed Plan provides the site history and background, a summary of the site characteristics, a description of the investigations and risk assessments, and the rationale for NFA.

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## PUBLIC COMMENT PERIOD

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U.S. Army Corps of Engineers, New York District  
Attn: Mr. G. Goepfert  
CENAN-PPE, 17th Floor,  
Station 17 401-2  
26 Federal Plaza  
New York, New York 10278

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Construction on Oakwood Ave. between Sycamore St. and Elm St. requires access to the Aurora Senior Citizens Center (101 King St.) from the south via Persons St.

**764 Miscellaneous Notices**  
**IMPORTANT INFORMATION ABOUT YOUR SPECTRUM TV CHANNEL LINEUP**  
**Communities Served:**  
Cities of Amsterdam, Batavia, Buffalo, Dunkirk, Lackawanna, Lockport, Niagara Falls, North Tonawanda, Olean, Rochester, Tonawanda; Towns of Alabama, Albion, Alden, Alexander, Alfred, Allegany, Alma, Almond, Amherst, Amity, Amsterdam, Andover, Angelica, Arcade, Attica, Aurora, Barre, Batavia,

## 764 Miscellaneous Notices

Belfast, Bennington, Bergen, Bethany, Bolivar, Boston, Brant, Brighton, Broadalbin, Burns, Byron, Cambria, Carlton, Castile, Chautauqua, Cheektowaga, Chili, Clarence, Clarkston, Clarksville, Clarksburg, Cold Spring, Collins, Concord, Coneyango, Covington, Cuba, Dansville, Darien, Dunkirk, Eagle, Eden, Elba, Ellicottville, Elma, Evans, Franklinville, Freedom, Friendship, Gaines, Gainesville, Galway, Gates, Genesee, Genesee Falls, Grand Island, Great Valley, Greece, Groveland, Hamburg, Hamlin, Hanover, Hartland, Henrietta, Hinsdale, Holland, Hume, Irondequoit, Ischua, Java, Kendall, Lancaster, Le Roy, Lewiston, Lockport, Machias, Mansfield, Marilla, Mayfield, Middlebury, Murray, Naples, New Albion, Newfane, Newstead, Niagara, North Collins, North Dansville, North Harmony, Oakfield, Ogden, Olean, Orangeville, Orchard Park, Parma, Pavilion, Pembroke, Pendleton, Penfield, Perinton, Perry, Perrysburg, Persia, Perth, Pike, Pittsford, Pomfret, Porter, Portland, Portville, Randolph, Ridgeway, Riga, Ripley, Roylton, Sardinia, Scio, Shelby, Sheldon, Sheridan, Sherman, Somerset, Sparta, Springwater, Stafford, Stockton, Sweden, Tonawanda, Wales, Warsaw, Wayland, Webster, Wellsville, West Seneca, West Sparta, Westfield, Wheatfield, Willing, Wilson, Wirt, Yates, Yorkshire; Villages of Akron, Albion, Alden, Alexander, Alfred, Allegany, Almond, Andover, Angelica, Angola, Arcade, Attica, Barker, Belmont, Bergen, Biasedell, Bolivar, Broadalbin, Brockport, Brocton, Canaseraga, Cassadaga, Castile, Cattaraugus, Churchville, Cohocton, Cortu, Cuba, Dansville, Delevan, Depew, East Aurora, East Randolph, East Rochester, Elba, Ellicottville, Fairport, Farnham, Forestville, Franklinville, Fredonia, Gainesville, Galway, Gowanda, Hamburg, Hilton, Holley, Kenmore, Lancaster, Le Roy, Lewiston, Lyndonville, Mayville, Medina, Middleport, North Collins, Oakfield, Orchard Park, Perry, Perrysburg, Pittsford, Portville, Randolph, Richburg, Sherman, Silver Creek, Silver Springs, Sloan, Spencerport, Springville, Warsaw, Wayland, Webster, Wellsville, Westfield, Williams-ville, Wilson, Wyoming and Youngstown, NY

Effective on or after December 13, 2019, Adult Pay-Per-View programming from the following channels will be moved to On Demand: 1802, 1803, 1805, 1807, 1809, 1811, 1812, 1828, 1832, 1833 & 1834. To access these services On Demand, tune to the On Demand menu.

For a complete channel lineup, visit [Spectrum.com/Channels](http://Spectrum.com/Channels). To view this notice online, visit [Spectrum.net/ProgrammingNotices](http://Spectrum.net/ProgrammingNotices). You may downgrade or disconnect your service without charge within 30 days of receipt of this notice.

## 766 Bids &amp; Proposals

CITY OF BUFFALO  
DIVISION OF PURCHASE  
851-5235  
Sealed proposals will be received and publicly opened for the following commodities. Specifications can also be found at our website, [www.buffalo.ny.gov/bids](http://www.buffalo.ny.gov/bids). Bidder must submit statement indicating he/she will work toward a minority workforce and utilization goal of 25% along with a 5% goal for

**CLASSIFIED ADS DIAL 856-5555**

## 766 Bids &amp; Proposals

women.

William L. Sunderlin,  
Director of Purchase  
Division of Purchase  
COUNTY OF ERIE  
DIVISION OF PURCHASE  
95 FRANKLIN ST.,  
RM. 1254  
BUFFALO, NY 14202

SEALED BIDS will be received and publicly opened at the above address by the undersigned for:

REACTOR SAND,  
219265-002  
ON 11-13-19 AT 11:00AM

TANK LINING, 219262-002  
ON 12-4-19 AT 11:00AM

in accordance with the specifications on file at the above address.

This Division reserves the right to reject any and all bids and waive any informalities. Formal bids can be downloaded at: <http://www.erie.gov/depts/purchasing/bids.aspx>.

VALLIE FERRARACCIO  
Director of Purchase

## 767 Liens

[BN] Thank You for your business

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## PUZZLE CORNER

## Crossword / By EUGENE SHEFFER

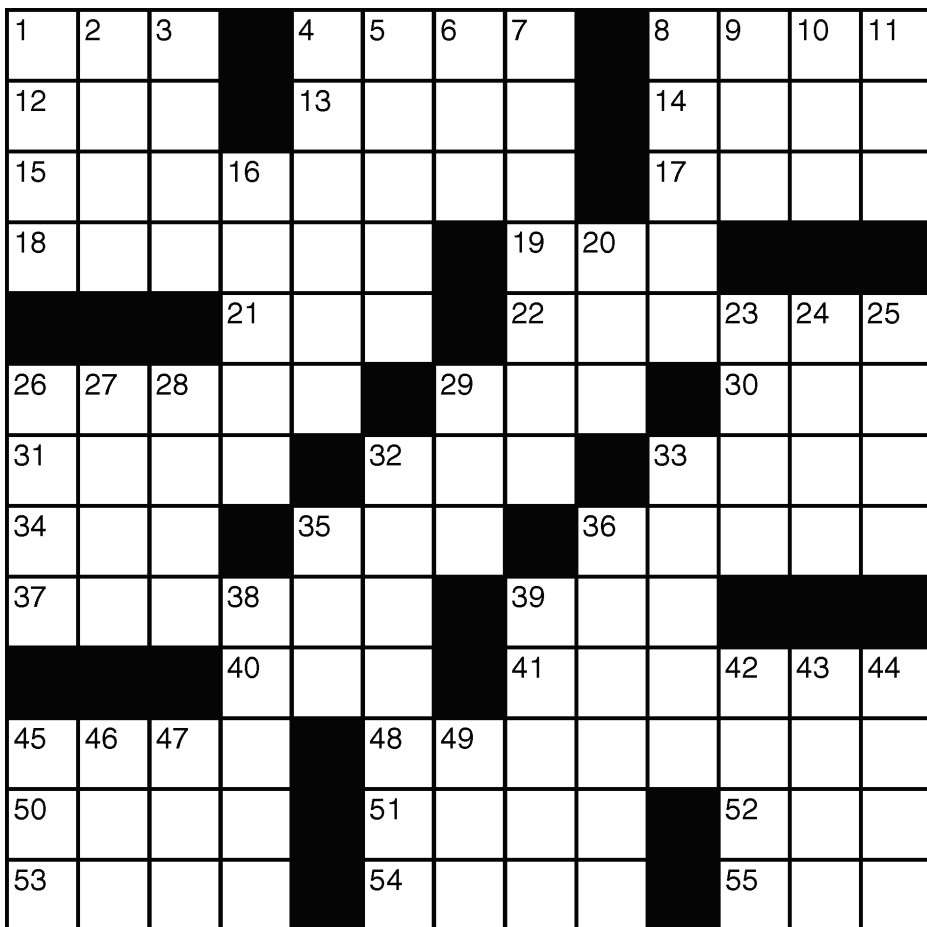
**Solution time:** 25 minutes

## ACROSS

- 1 Cookout, briefly
- 4 Crooner Perry
- 8 Kermit, for one
- 12 Museum display
- 13 Mideast airline
- 14 Slender woodwind
- 15 Reason for saving
- 17 Mature
- 18 Kathmandu native
- 19 CEO's deg.
- 21 One of the Stooges
- 22 Check time
- 26 Macho types
- 29 Wet dirt
- 30 Docs' bloc
- 31 Apple tablet
- 32 Greyhound vehicle
- 33 Radiate
- 34 Berlin's country (Abbr.)
- 35 Zodiac animal
- 36 "The Sound of Music" teenager
- 37 Time of prosperity
- 39 Standard
- 40 Long, skinny fish
- 41 Reach
- 45 Token of immunity on "Survivor"
- 48 April celebration
- 50 Brusque
- 51 Pulitzer winner James
- 52 Sound booster
- 53 Meditative practice
- 54 Govt. agents
- 55 Frenzied

## DOWN

- 1 Hoedown site
- 2 Highland hillside
- 3 Swab brand
- 4 Sri Lanka, once
- 5 Nostalgic song
- 6 Goat's cry
- 7 Mount —
- 8 Incursion
- 9 Slugger's stat
- 10 "Alley —"
- 11 "Gosh!"
- 16 Identified
- 20 Abysmal
- 23 Valley



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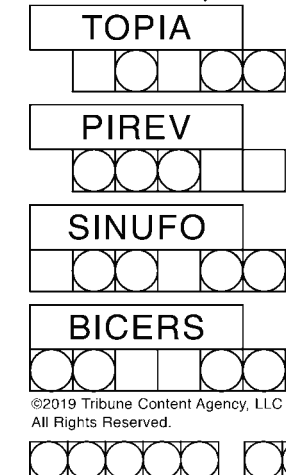
11/1/19

## Thursday's Answer

- 24 Hebrew prophet
- 25 Two-masted boat
- 26 Lofty
- 27 Duel tool
- 28 Crèche figure
- 29 Silent
- 32 Stew flavorer
- 33 Circumference
- 35 Singer Carly — Jepsen
- 36 Coffee bar orders
- 38 Triangular letter
- 39 Removed rind from
- 42 First person
- 43 "— Rock"
- 44 Times Sq. force
- 45 Glacial
- 46 Pair with an air
- 47 URL ending
- 49 Get older

## JUMBLE

Unscramble these Jumbles, one letter to each square, to form four ordinary words.



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## THAT SCRAMBLED WORD GAME

By David L. Hoyt and Jeff Knurek



Now arrange the circled letters to form the surprise answer, as suggested by the above cartoon.

Yesterday's Jumbles: FURRY DRESS POSTAL BOVINE  
Answer: Dracula was feeling overwhelmed and was worried about his — BLOOD PRESSURE

## Cryptoquip

11/1/19

The Cryptoquip is a substitution cipher in which one letter stands for another. If you think that X equals O, it will equal O throughout the puzzle. Single letters, short words and words using an apostrophe give you clues to locating vowels. Solution is by trial and error.

Today's Cryptoquip Clue: V equals H

VL RHWSLO R ORBSLH VQCHZ  
DRCMSR OW DZBV MVRM VL  
VZCI ZF R ARTT MRFLOMSN  
ORNQCI "WD, OALLM WD."

**Yesterday's Cryptoquip:** News story giving info about how badly all the flowers have shriveled up: a wither report.

**CRYPTOQUIP BOOK 2! Send \$4.50 (check/m.o.) to**  
**CryptoClassics Book 2, P.O. Box 536475, Orlando, FL 32853-6475**

## Word Game / By KATHLEEN SAXE

11/1/19

## TODAY'S WORD — CHOLERIC

(CHOLERIC: KAHL-uh-rik: Easily angered; bad-tempered.)

Average mark 31 words  
Time limit 40 minutes

Can you find 43 or more words in CHOLERIC?  
The list will be published tomorrow.

## YESTERDAY'S WORD — TARRAGON

tang	torn	argon	roar	groan
tango	trona	arrant	gnar	groat
tarn	agar	arrogant	gnat	orang
taro	agora	rang	goat	organ
toga	angora	rant	grant	
tong	aorta	roan	grantor	

**RULES OF THE GAME:** 1. Words must be of four or more letters. 2. Words that acquire four letters by the addition of "s," such as "bats" or "dies," are not allowed. 3. Additional words made by adding a "d" or an "s" may not be used. For example, if "bake" is used, "baked" or "bakes" are not allowed, but "bake" and "baking" are admissible. 4. Proper nouns, slang words, or vulgar or sexually explicit words are not allowed. To contact Word Game creator Kathleen Saxe, write to Word Game, Kathleen Saxe, Universal Uclick, 1130 Walnut St., Kansas City, MO 64106. © 2019 United Feature Syndicate, Distributed by Universal Uclick for UFS

## WONDERWORD

By DAVID OUELLET

**HOW TO PLAY:** All the words listed below appear in the puzzle — horizontally, vertically, diagonally and even backward. Find them, circle each letter of the word and strike it off the list. The leftover letters spell the WONDERWORD.

THE EAGLES (BAND)

Solution: 9 letters

S T L L I R H T C I S U M E D  
R E H D A O R T I C E A C M W  
O C V G T N B I H M D A S A N  
N N A E I A O M O N E Y L N A  
S A L L N N I I I P E S N D C  
T M O D I T D L N L H E N O I  
A O L D S F I I N U L A U L R  
D W N E D E O E M G E N P I E  
T I B T A J H R S D T R M N M  
E T K S N D S U N R I S E E A  
Q C D A L T O N Y I G H I T S  
U H B W E R F N A N A D S L T  
I Y R E D R O B O O L O N G A  
L J A M E S B S F E L D E R G  
A S E Y E N I Y L S M U R D E

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11/1/19

American, Band, Banjo, Best, Border, Break, California, Country, Dalton, Dean, Doolin, Drums, Eden, Felder, Frey, Glenn, Henley, Hits, Hotel, James, Leadon, Limit, Linda, List, Long, Lyrin' Eyes, Mandolin, Meisner, Midnight, Money, Music, Peace, Reunion, Road, Ronstadt, Schmit, Seventies, Songs, Stage, Sunrise, Tequila, Thrill, Time, Walsh, Wasted, Witchy, Woman  
**Yesterday's Answer: Oatcakes**  
**Jo's Jewels Collector's Edition** is back by popular demand!  
Purchase online at [www.WonderWordBooks.com](http://www.WonderWordBooks.com) or call 1-800-642-6480.

## Wishing Well®

8	3	2	3	8	6	7	8	5	6	2	3	5
D	A	C	W	A	M	C	R	U	A	H	O	N
2	4	5	2	6	3	8	5	2	3	8	4	3
A	A	C	N	K	R	I	A	G	K	N	P	O
7	8	7	8	5	7	6	8	3	7	4	7	5
O	G	N	I	N	T	E	D	F	R	A	O	N
6	4	7	2	3	7	6	2	7	4	2	7	5
A	R	L	E	L	I	C	O	M	T	F	P	Y
2	6	3	5	2	3	2	7	6	3	8	5	2
F	H	O	T	O	V	R	U	I	E	E	I	T
4	6	2	6	8	2	6	5	2	6	4	5	6
Y	L	U	D	A	N	H	M	E	A	F	I	P
5	4	7	4	5	6	7	4	6	7	4	7	4
N	O	L	R	G	P	S	Y	Y	E	O	S	U

Here is a pleasant little game that will give you a message every day. It's a numerical puzzle designed to spell out your fortune. Count the letters in your first name. If the number of letters is 6 or more, subtract 4. If the number is less than 6, add 3. The result is your key number. Start at the upper left-hand corner and check one of your key numbers, left to right. Then read the message the letters under the checked figures give you. © King Features Syndicate Inc. 2019Worldrights reserved.



State of New York } ss.  
County of Erie

The U.S. Army Corps of Engineers invites you to attend a  
**PUBLIC MEETING**  
for the  
**Former Niagara Falls - Buffalo Defense Nike Battery Unit**  
34/35

**Aurora and Orchard Park, New York**  
**WEDNESDAY, NOVEMBER 13, 2019**  
**6:30 PM TO 8:00 PM**  
**Town of Aurora Senior Citizen Center**  
**101 King Street, Suite A**  
**East Aurora, New York, 14052**

The Former Niagara Falls - Buffalo Defense Nike Battery Unit 34/35 (Nike BU-34/35) Site was utilized by the Department of Defense (DoD) from 1957 to 1963. The Site consists of two properties: the Control Area property located in Orchard Park, New York and the Launch Area property located in Aurora, New York. Extensive remedial investigations were conducted at the properties beginning in 1988. Most recently, the U.S. Army Corps of Engineers (USACE) performed an investigation and closure of the former missile silos, underground storage tank and septic tank at the Launch Area from 2016 through 2019. Results from investigations and closure actions have led to a Proposed Plan of No Further Action (NFA) for the Control Area and Launch Area properties. The Proposed Plan provides the site history and background, a summary of the site characteristics, a description of the investigations and risk assessments, and the rationale for NFA.

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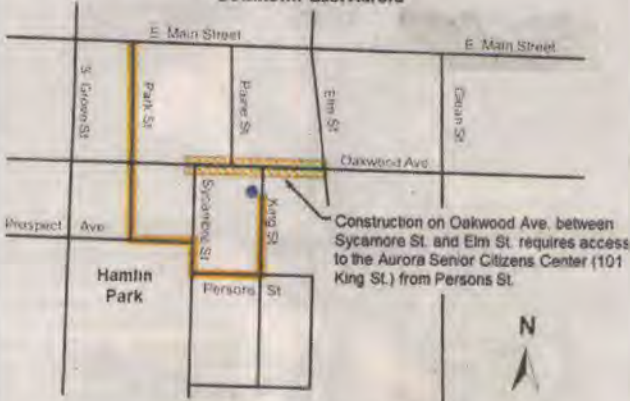
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Attn: Mr. G. Goepfert  
CENAN-PP-E, 17th Floor, Station 17 401-2  
26 Federal Plaza  
New York, New York 10278

14-1

**PLEASE NOTE MAP OF MEETING LOCATION AND DIRECTIONS DUE TO CONSTRUCTION NEAR THE TOWN OF AURORA SENIOR CITIZENS CENTER**

Construction on Oakwood Ave. between Sycamore St. and Elm St. requires access to the Aurora Senior Citizens Center (101 King St.) from the south via Persons St.

**Downtown East Aurora**



**Directions to 101 King St. from E. Main St.:** Take Park St. south, turn left on Prospect Ave., turn right on Sycamore St. turn left on Persons St. and turn left on King St. The Aurora Senior Citizens Center is on the left-hand side of the street.

Grant M. Hamilton, of the Village of East Aurora, New York, being duly sworn, deposes and says that he is the publisher of the East Aurora Advertiser, a public newspaper published weekly in said village; that the notice, of which the annexed printed slip taken from said newspaper is a copy, was inserted and published therein one

weeks, commencing on the 31st day of October, 2019 and ending on the 31st day of October, 2019 making one insertions.

Grant M. Hamilton

Sworn before me this 31st day

of October, 2019

Casey J Dunlap

Notary Public in and for Erie County

**CASEY J DUNLAP**  
Notary Public, State of New York  
Registration# C1DU8358825  
My Commission Expires 04/03/2021

The U.S. Army Corps of Engineers invites you to attend a

Public Meeting  
for the  
Former Niagara Falls – Buffalo Defense Nike Battery Unit 34/35  
Aurora and Orchard Park, New York

**Wednesday, November 13, 2019  
6:30 pm to 8:00 pm**

**Town of Aurora Senior Citizen Center  
101 King Street, Suite A  
East Aurora, New York, 14052**

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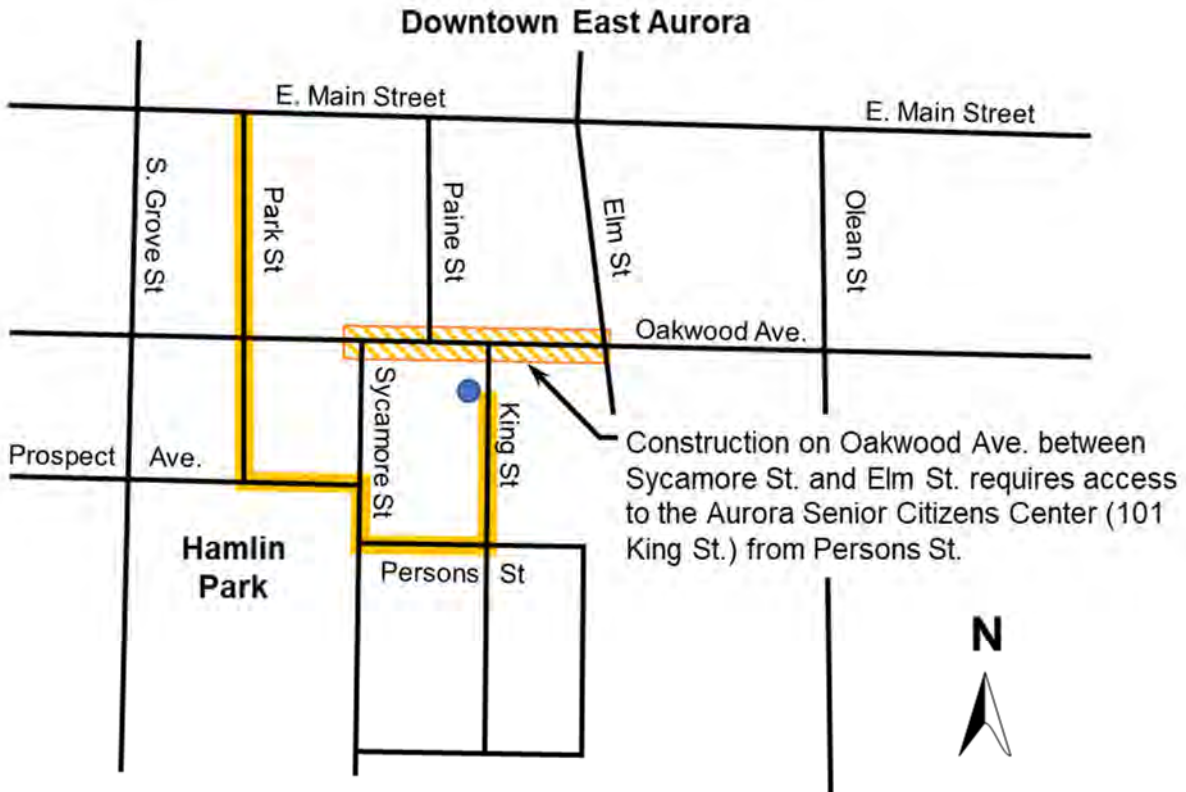
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# **Public Meeting for the Proposed Plan Buffalo Defense Nike Battery BU-34/35 Formerly Used Defense Site**

**Gregory J. Goepfert, P.E., PMP**

Project Manager

U.S. Army Corps of Engineers (USACE)  
New York District

November 13, 2019





# Presentation Overview

- Purpose of Public Meeting
- Site History
- Investigations and Closure Actions
- Public Input



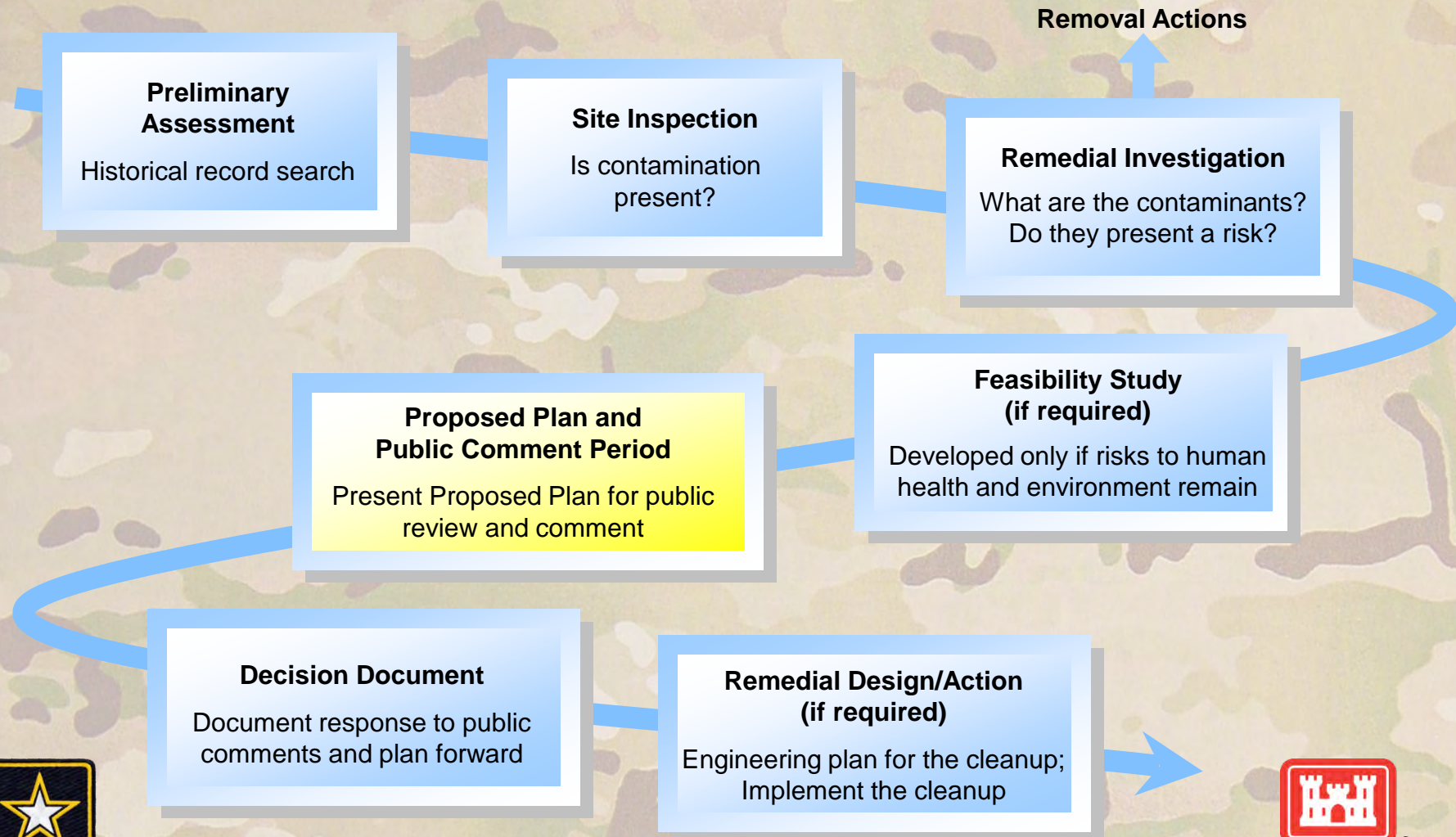


# Purpose of Public Meeting

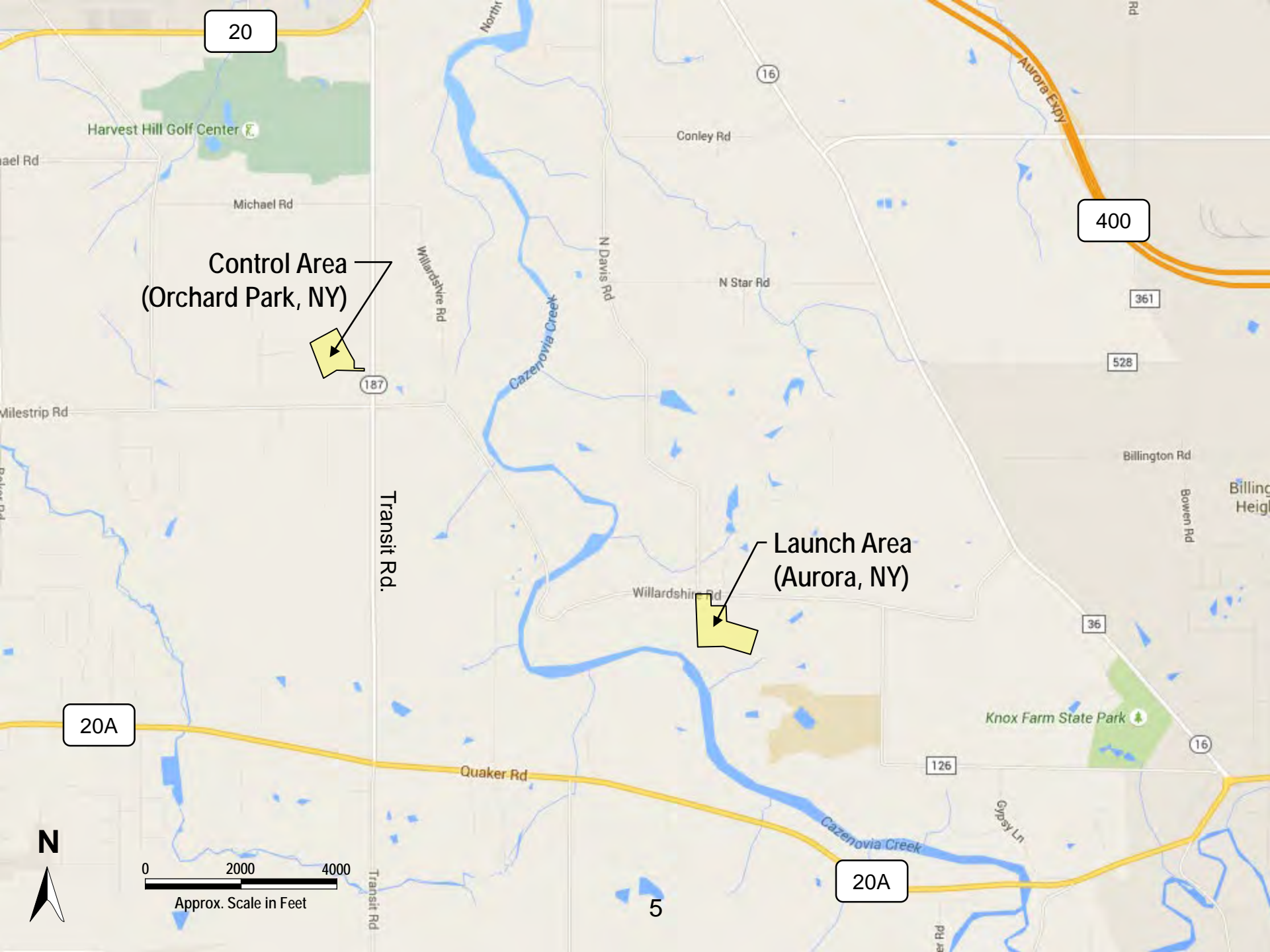
- Summarize the investigations and actions undertaken at the Nike BU-34/35 Launch Area and Control Area
- Provide the rationale for the determination of no further action
- Collect comments on the Proposed Plan
- Discuss next steps



# Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Process







Control Area  
(Orchard Park, NY)

Launch Area  
(Aurora, NY)



0 2000 4000  
Approx. Scale in Feet

# Control Area and Launch Area Summary

- Control Area and Launch Area used by the Army from 1957 to 1965
- Launch Area used for underground missile storage and aboveground launch capabilities
- Control Area used for missile/target radar tracking and administrative functions
- 1964-1965: Launch Area reverted back to private ownership, Control Area transferred to HRI





# Control Area in 1958

Transit Road

Missile/Target Tracking Radar  
Acquisition Radar  
Battery/Radar Control  
Diesel Generator  
Water Tower  
Missile/Target Tracking Radar  
Missile/Target Tracking Radar  
Acquisition Radar  
Missile/Target Tracking Radar  
Battery/Radar Control  
Diesel Generator  
Sewage Treatment Plant  
Mess Hall  
Admin.  
Barracks



0 100 200  
Approx. Scale in Feet

# Previous Investigations and Actions at the Control Area (Completed under HRI Ownership)





# USACE Geophysical Investigation at the Control Area



# Launch Area in 1958

Willardshire Rd.





# Launch Area Remedial Investigation

- Eighteen (18) borings with 67 samples collected to assess surface and subsurface soil
- Ten (10) borings representing 25 samples to assess background conditions
- Three (3) test pits near potential source areas
- Installed and sampled five (5) new groundwater monitoring wells; sampled four (4) existing wells
- Samples analyzed for VOCs, SVOCs, metals, and PCBs
- Performed a geophysical investigation





## LEGEND

- Monitoring Well (1996)
- Boring/Monitoring Well (2016)
- Soil Boring (2016)
- Background Boring (2016)
- Soil Boring (2019)
- Test Pit (2016)

0 150 300  
Approx. Scale in Feet



# Launch Area Investigations and Closure Actions



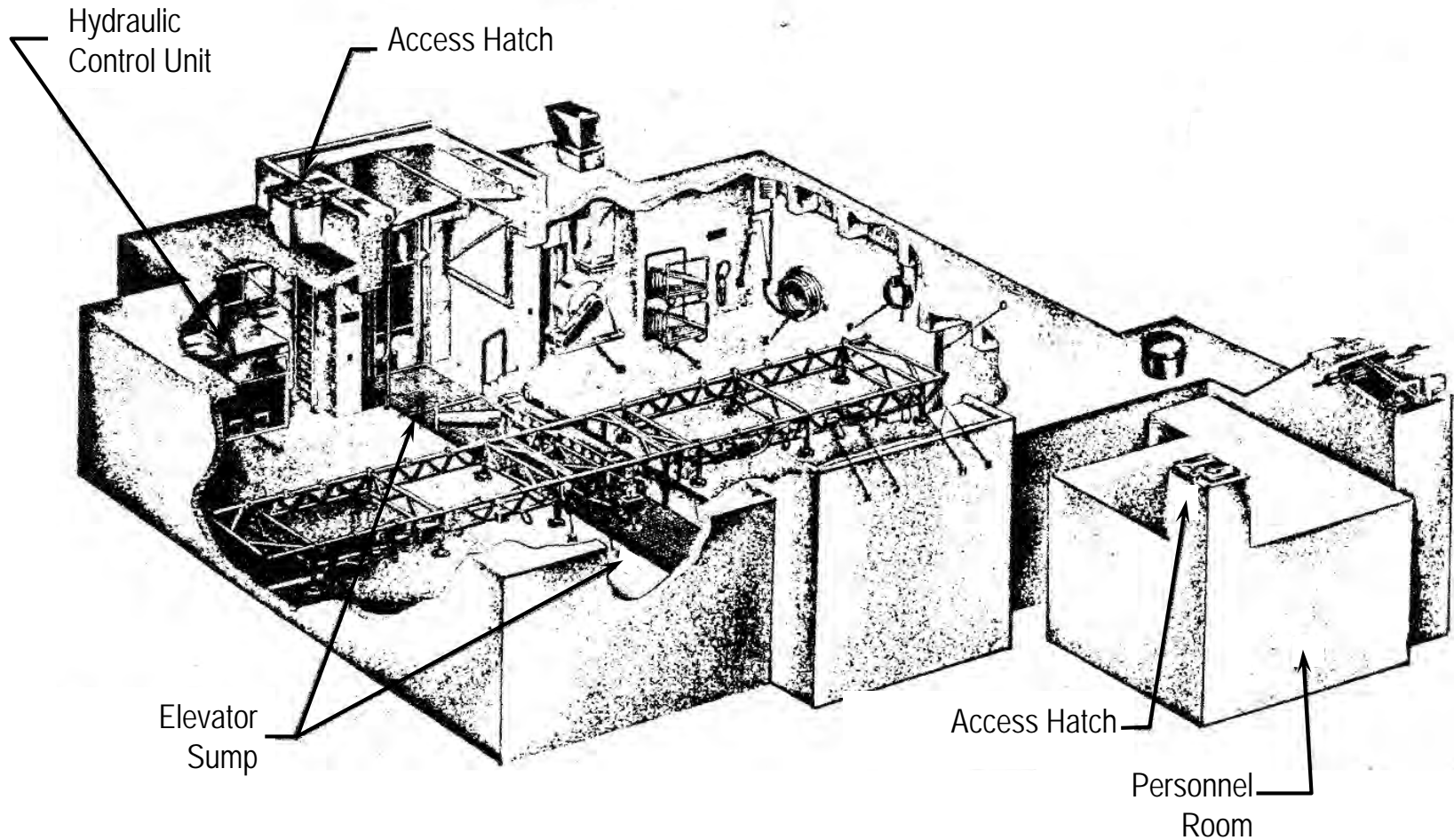


# Launch Area Investigation Activities





# Closure of Underground Silos





# Silo Closure Activities



07/22/2019 12:53



# Underground Storage Tank and Septic Tank Closure





# Conclusion

## **No Further Action is recommended for the Launch Area and Control Area based on the following:**

- USACE's review of historical records, investigations, and actions performed during HRI ownership indicate no unacceptable risk associated with the Control Area.
- The results of the remedial investigation and closure actions undertaken at the Launch Area indicate that there is no unacceptable risk to human health and the environment and future site use is unrestricted.
- USACE received New York State concurrence on the Remedial Investigation Report and findings for the Control and Launch Area from the New York State Department of Environmental Conservation on November 1, 2019, stating, "we find the (Remedial Investigation) Report acceptable."





## Next Steps

- Receive community comments on the proposed plan (tonight and via mail).
- USACE will provide written responses to all formal comments, which will be documented in a Responsiveness Summary within the Decision Document for the Site.
- Estimate the Decision Document will be finalized around March 2020, and made available to the public via the information repositories (libraries) and project website.





# Important Information

- Comments cards can be submitted tonight or mailed to:

Mr. Gregory J. Goepfert, Project Manager  
U.S. Army Corps of Engineers, New York District  
26 Federal Plaza, 17th Floor – Station 17 401-2  
New York, NY 10278.

- Project Website:

<https://www.nan.usace.army.mil/Missions/Environmental/Environmental-Remediation/Niagara-Falls-Buffalo-Defense-Nike-Battery/>

- Comments Will be Accepted Through December 16, 2019



*U.S. Army Corps of Engineers  
Defense Nike Battery Unit 34/35 Aurora and Orchard Park*

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*PROPOSED PLAN  
November 13, 2019*

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*Min-U-Script® with Word Index*

U.S. Army Corps of Engineers  
PROPOSED PLAN  
Former Niagara Falls - Buffalo  
Defense Nike Battery Unit 34/35  
Aurora and Orchard Park, New York

Wednesday, 13 November, 2019

6:30 p.m.

Town of Aurora Senior Citizens Center  
101 King Street  
Suite A  
East Aurora, NY 14052

GREGORY J. GOEPFERT, P.E., P.M.P.  
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[Presentation Outline](#)



## 1 P R O C E E D I N G S

2 MR. GOEPFERT: Good evening, everybody. Thanks  
3 for coming on this cold, blustery night in Aurora,  
4 New York.

5 I want to tell you just up front that this  
6 meeting is being recorded by our stenographer. His  
7 name is Stephen Metschl. And he's here with Alec.  
8 Okay. So all the proceedings of this meeting are  
9 formally recorded and will be part of the final  
10 record for this site.

11 So I just want to let you know that, you know,  
12 if you make comments, any comments that you make  
13 tonight will be recorded. And if I'm unable to  
14 answer your questions tonight, they will be  
15 responded formally to you in writing and will be  
16 made part of the official record of the site and  
17 this meeting. Okay?

18 So I like to do that because people record me  
19 at different venues and don't tell me that I'm  
20 being recorded. But I have a different situation.  
21 I'm on the record all the time, as opposed to  
22 people coming to the meeting who may not have known  
23 that. But that's the way it is.

1       So I want to thank Steve and Alec for coming  
2       tonight and supporting us. And also, I wanted to  
3       thank -- tonight I want to thank the Aurora Senior  
4       Center folks, specifically Donna and Maria, for  
5       helping out here, and the citizens of Aurora for  
6       allowing us to have our meeting -- conducting our  
7       meeting here tonight.

8       For those who haven't met me, my name is  
9       Gregory Goepfert. I'm the project manager for this  
10      Nike site. It's Nike BU 34/35. It's a formerly  
11      used Defense site. That's the program that I work  
12      on, Formerly Used Defense Sites. And I'm involved  
13      with the environmental investigation and cleanup of  
14      sites in New York and New Jersey.

15      The purpose of our meeting tonight is to  
16      basically obtain public input or commentary on work  
17      that we've done. And if you don't have comments  
18      tonight, you can provide comments to us in writing  
19      by the 16th of December, which is our cutoff date.  
20      It's -- any mail with any comments needs to be  
21      postmarked by the 16th of December. So we hope  
22      that you would respect that date so that we could  
23      respond in a very efficient manner to any comments

1 or questions that you may have.

2 Also, later in the program this evening, if  
3 you'd like to make a comment, I would ask that you  
4 stand up in front of this microphone here and  
5 identify yourself for the record so that we can  
6 respond appropriately to you and to your -- any  
7 comments that you might have for the record. Okay?  
8 So that's why we're here tonight, is to hear from  
9 you basically, not just to hear from me.

10 So we will -- tonight we're going to summarize  
11 the work that we've done investigation wise and  
12 actions taken at the Nike -- the launch area of the  
13 site and the control area of the site. Our  
14 proposed plan is that no further actions are  
15 necessary. We'll talk about how we came to that  
16 conclusion and discuss what the next steps are  
17 here.

18 We follow a process called CERCLA, which is the  
19 Comprehensive Environmental Response, Compensation,  
20 and Liability Act. That's the law that we follow  
21 under the Formerly Used Defense Site Program to  
22 investigate and address our sites. The part of the  
23 process that we're in right now is in the proposed

1 plan public comment period. And that's where we  
2 present the proposed plan, which by the way is  
3 located on that desk where you signed in. If you  
4 didn't have a copy of it, you can pick up an extra  
5 copy of it there. It's also available on our  
6 website along with the other documents supporting  
7 that plan.

8 After the proposed plan is issued to the  
9 public, which it has been, we ask for public  
10 comments. And then a decision document is prepared  
11 based upon the commentary that's received and our  
12 input. And we document those responses to you and  
13 ultimately make a decision of whether anything  
14 further is necessary on these sites.

15 As you probably know, the control area of this  
16 site is located in Orchard Park. And the Orchard  
17 Park site is a 26-acre property. And the launch  
18 area is located in Aurora, New York, and that's a  
19 19-acre property.

20 As far as the history is concerned, the Army  
21 used the control area and the launch area from  
22 about 1957 through '65. '65 is when property  
23 transfers took place, but the actual end of the use

1 of the site happened around 1963. That's when the  
2 last units were decommissioned from that site. And  
3 by units, I mean the military personnel that were  
4 assigned to those sites no longer were there from  
5 about '63 -- 1963.

6 The launch area in Aurora was used for the  
7 storage of the Nike Ajax Missile system. The  
8 control area was simply a target acquisition area,  
9 radar tracking, and used for administrative  
10 functions. So that's the control area.

11 In '65, the launch area reverted back to  
12 private ownership that existed prior to its  
13 transfer in '57, and the control area was  
14 transferred to a state -- quasi-state organization  
15 called Health Research Incorporated, HRI.

16 This is a picture, an aerial photograph of the  
17 control area in 1958. The types of operations  
18 going on there were the target tracking radar  
19 systems, diesel generator buildings, and berthing  
20 capability for the soldiers that were stationed at  
21 that location. So that's basically the control  
22 area.

23 So the Army typically does not use hazardous



1 substances -- or use hazardous substances at  
2 control sites. However, under the ownership of  
3 Health Research Incorporated, there was several  
4 investigations -- environmental investigations were  
5 done at the control area at Orchard Park which  
6 entailed groundwater sampling, soil sampling, test  
7 pit, you know, investigation, subsurface  
8 investigation. There was also debris that was  
9 removed, sludges from sanitary sewer systems, some  
10 stained soils. And the structures were demolished  
11 by HRI. However, there were no USTs, or  
12 underground storage tanks, that were encountered  
13 during the demolition of site structures. So  
14 that's the control site.

15 The Army -- after a public meeting that we had  
16 back in August of 2016, there were some comments  
17 from the public that made us think about going back  
18 and doing some archival research to make sure that  
19 we have addressed the Army's -- any -- any  
20 potential adverse impact from the Army of this  
21 control site.

22 So the only thing really we found out in the  
23 archival research was that there was a possibility

1 that maybe there were some underground storage  
2 tanks, fuel-type tanks that were associated with  
3 the diesel generator buildings at that site.

4 And at the control area, we did magnetometry,  
5 which is basically taking a metal detector and  
6 running it over the site in the area where we  
7 thought it might be. And we found that there were  
8 no underground storage tanks found during the  
9 geophysical investigation. So that was basically a  
10 wrap-up of our control site.

11 And also, on top of that, in our archival  
12 research, we found no material requisition sheets  
13 as part of the research that we did that had any  
14 requisitions of hazardous substances for that site.  
15 So that was the control area.

16 This is an aerial photograph of the launch area  
17 in 1958, shortly after the site was built up. And  
18 as you could see the location of the six silos, the  
19 former silos now, and there was a generator  
20 building, missile assembly building. And these  
21 features -- we used these features as the basis for  
22 the investigations that we conducted of this site.

23 So about the investigations we did at the site,

1 it included a very thorough -- there was sampling  
2 of various media, soil, groundwater. We had 18  
3 borings with 67 samples collected. We had ten  
4 borings representing -- because the borings are --  
5 the samples are taken from various depths.

6 MR. RAPPOLD: Excuse me, sir. Was this taken  
7 after 2002?

8 MR. GOEPFERT: Was what --

9 MR. RAPPOLD: The borings.

10 MR. GOEPFERT: -- what taken? The borings were  
11 taken in 2016.

12 MR. RAPPOLD: Okay. Thank you.

13 MR. GOEPFERT: And I know you came late, but --

14 MR. RAPPOLD: Well, the detoured trying to get  
15 here --

16 MRS. RAPPOLD: Couldn't get here.

17 MR. GOEPFERT: Oh, yeah. I apologize for that.  
18 Unfortunately, everybody didn't get the memo that  
19 we put in the public announcement that had  
20 directions around the construction tonight.

21 MR. RAPPOLD: Well, we went on the computer and  
22 everything. It was tough getting here.

23 MR. GOEPFERT: Yeah. I apologize for that.

1 And thank you for making it. So you didn't miss  
2 the whole --

3 MR. RAPPOLD: All right.

4 MR. GOEPFERT: -- presentation. So what I'm  
5 asking is that if you have any questions or  
6 comments, we're asking people to come right up to  
7 the microphone and introduce themselves.

8 MR. RAPPOLD: Okay.

9 MR. GOEPFERT: And who are you, sir?

10 MR. RAPPOLD: I'm Mark Rappold.

11 MR. GOEPFERT: Mark Rappold.

12 MR. RAPPOLD: Yeah.

13 MR. GOEPFERT: Okay.

14 MR. RAPPOLD: I live right across the street  
15 from the control area.

16 MR. GOEPFERT: Oh, okay. Very good.

17 MR. RAPPOLD: And I called you. I didn't make  
18 the meeting a few years ago and I had called you.

19 MR. GOEPFERT: Oh, okay.

20 MR. RAPPOLD: And I want to go over our talk  
21 and what's going on here.

22 MR. GOEPFERT: Okay.

23 MR. RAPPOLD: Are you saying these borings on



1 the control area up on Transit Road, 2016 -- I  
2 don't remember seeing --

3 MR. GOEPFERT: Oh, no, no, no, no. We're  
4 talking about the launch area now. This is --

5 MR. RAPPOLD: Oh, okay.

6 MR. GOEPFERT: This is -- we're past the  
7 control area.

8 MR. RAPPOLD: So we're past the control area?

9 MR. GOEPFERT: Right.

10 MR. RAPPOLD: So I missed that.

11 MR. GOEPFERT: We can go back.

12 MR. RAPPOLD: Well, we've got everybody here.  
13 I --

14 MR. GOEPFERT: But let me tell you, the control  
15 area -- the whole history of the investigation of  
16 the control area, that predated 2016. That's in  
17 the early 2000s.

18 MR. RAPPOLD: Well, that's what I want to talk  
19 about and points --

20 MR. GOEPFERT: Okay.

21 MR. RAPPOLD: Okay.

22 MR. GOEPFERT: So getting back to the launch --  
23 we can get back to you.

1 MR. RAPPOLD: All right.

2 MR. GOEPFERT: Okay. Ten borings representing  
3 25 samples. Three test pits here, source areas  
4 that we thought would be good places to be perhaps  
5 a conservative way to sample where we think we  
6 might find something.

7 We installed five new groundwater wells, and  
8 there were four existing wells on that property  
9 previous to that. So now we have nine. And the  
10 sampling -- the samples were analyzed for VOCs  
11 (volatile organic compounds), SVOCs (semi-volatile  
12 organic compounds), metals, and PCBs, which is  
13 polychlorinated biphenyl compounds. Okay? And  
14 then we also performed a geophysical investigation  
15 at the property.

16 So this is a layout of all the sampling that  
17 was done, most of which was done in 2016 at the  
18 launch area site. Okay. You can see soil borings  
19 where the monitoring wells are, where the test pits  
20 were. It also shows the features of the -- we  
21 found a septic tank in our archival research that  
22 we closed -- cleaned and closed.

23 We also found in our archival research and our

1   aerial photographs the possibility of the location  
2   of an underground storage tank, a diesel tank next  
3   to the old generator building. And sure enough, we  
4   went out and did magnetometry and we did find the  
5   tank. It was 8,000 gallon tank. And we removed  
6   that in November of 2017.

7       So that's the scope of the activities at the  
8   launch area.

9       This is -- this is some of the workmen and  
10   technicians out doing the work, the yellow stub up  
11   pipe there is a monitoring well. You'll see nine  
12   of them interspersed around the property.

13       The gentleman up on that item that looks like a  
14   bicycle is a -- that's a magnetometer. And that's  
15   how we do magnetometer surveys. And on the right  
16   side are the -- is the boring equipment where we  
17   take the punch samples to take samples of the  
18   subsurface soils at various depths.

19       Missile silos. This is picture from our  
20   archival research. The silos are roughly  
21   60-foot by 60-foot and 16-foot deep. And these are  
22   the silos that we actually closed in the period  
23   from 2018. We were out there from April through

1 November of 2018, and we were also out there  
2 from -- I guess it must have been April 2019  
3 through the end of July is when we finished our  
4 work closing the silos at the launch area.

5 And this is some of the pictures of -- we  
6 had -- we had evacuated all the silos of the water  
7 that had collected in the silos. We used  
8 filtration equipment, which is shown in the upper  
9 right photo in this slide. The work on the silo,  
10 the cleaning and the closure of the silos is shown  
11 on these two left slides, top and bottom. And the  
12 final product is that -- that photo is dated  
13 July 22nd was the final site, how it looked after  
14 the hydro seeding was performed. So this is the  
15 fruit of our labor at that site.

16 This is the underground storage tank on the  
17 left-hand side. Those two photos show the tank  
18 that we found that was unknown until we did the  
19 archival research. The 8,000-gallon tank was  
20 removed and disposed of. There was very minor  
21 leakage. Perhaps it may not have been the tank  
22 that leaked. It might have been an overfill  
23 situation at one time. But it was not -- it was



1 not a substantial leak. The State of New York  
2 agreed with our closure methods and the outcome of  
3 our closure activity and gave us a  
4 no-further-action letter for the closure of that  
5 tank. On the right-hand side is the septic tank --  
6 tanks that were cleaned and closed on the property  
7 as well.

8 So concluding here from my side of the  
9 presentation is that we are proposing that no  
10 further actions are required at either the control  
11 site or the launch area. We've done extensive  
12 investigation work at the launch area and we've  
13 done a complete job of reviewing a lot of the  
14 reports that existed for the site over at the  
15 control site and also the additional archival  
16 research that we did to locate perhaps other  
17 features that we may have missed. And we went out  
18 there and checked that out and found nothing at the  
19 site.

20 We've received -- we've coordinated these  
21 documents with the State of New York. The remedial  
22 investigation report was reviewed by the state.  
23 All the work that we've done as we went along from

1 the beginning, from the beginning of our  
2 involvement at these two sites were coordinated  
3 with the state. So we expect to get some feedback  
4 on the proposed plan from the state, as we would  
5 from you, and that will be part of the final record  
6 of the sites.

7 And we do have a letter from the state dated  
8 November 1st that said that they found that the  
9 remedial investigation report that we produced was  
10 acceptable. And we expect to get another letter  
11 from them about our proposed plan. That will be  
12 also part of the record.

13 So what are the next steps? We're here to  
14 listen to your comments tonight. Any comments that  
15 you give us tonight will be recorded and either  
16 responded to tonight or responded to you formally  
17 with a more detailed response at the end of the  
18 comment period. Okay?

19 We expect to produce what we call a decision  
20 document for the site, and that takes some time to  
21 assemble, to get everybody's comments properly  
22 answered. And that responsiveness summary is  
23 actually included in the decision document.

1       The decision document will be put together and  
2       signed by our general officer. And once that's  
3       done, a notice to the public will be put in the  
4       local newspapers that say the decision document is  
5       signed. And the official decision document will be  
6       placed in the administrative record for the site,  
7       which includes the Orchard Park Library and the  
8       Aurora Public Library.

9       Sir, did you want me to go back to the control  
10      site?

11      MR. RAPPOLD: Well, if you could answer my  
12      questions, you don't have to.

13      MR. GOEPFERT: Would you like to step to the  
14      mic?

15      MR. RAPPOLD: Can you hear me here?

16      MR. GOEPFERT: Well, no.

17      UNIDENTIFIED SPEAKER: Do you want to stick  
18      with what we're on first or no?

19      MR. GOEPFERT: Sure. Go ahead.

20      UNIDENTIFIED SPEAKER: Yeah. Why don't we  
21      start with what we're on here right now.

22      MR. FORBES: Good evening. My name is  
23      Tom Forbes. A couple of questions concerning the

1 launch area.

2 Does the remedy contemplate any groundwater use  
3 restrictions at this point post remedial?

4 MR. GOEPFERT: No restriction is expected.

5 MR. FORBES: Any post-remedial groundwater  
6 monitoring planned at this time?

7 MR. GOEPFERT: We have no -- no monitoring  
8 planned at this time.

9 MR. FORBES: Okay. Will the existing wells be  
10 decommissioned?

11 MR. GOEPFERT: Yes, they will, once the  
12 decision document is signed.

13 MR. FORBES: Okay. Any other end-use  
14 restrictions contemplated at this point in terms of  
15 redevelopment to the property?

16 MR. GOEPFERT: That's not a question for the  
17 Army Corps of Engineers. That's a question for  
18 your local town officials.

19 MR. FORBES: Okay. Last question. I know you  
20 did a round of groundwater sampling for -- or  
21 multiple rounds of groundwater sampling for  
22 compounds and parameters that you listed. Were  
23 there any samples collecting for emerging



1 contaminants?

2 MR. GOEPFERT: The State of New York can answer  
3 that question for you because they did some  
4 sampling from our wells.

5 MR. FORBES: Are those results available?

6 MR. GOEPFERT: Jaspal, could you please stand  
7 up here to answer the question in the microphone,  
8 please?

9 MR. WALIA: Yeah. The emerging contaminants --  
10 State of New York, we received a report for the  
11 project. And we did have our stand-by contractor  
12 and they conducted their investigation and  
13 reported. And there were not of any of the  
14 contaminants.

15 MR. GOEPFERT: Thank you, Mr. Walia.

16 Did you hear that answer, sir?

17 MR. FORBES: I did. Thank you.

18 MR. GOEPFERT: Okay. Any other questions from  
19 this?

20 Please.

21 MR. RAPPOLD: Okay.

22 MR. GOEPFERT: Would you like me to go back to  
23 the --

1 MR. RAPPOLD: No.

2 MR. GOEPFERT: Okay. What was your name again?

3 MR. RAPPOLD: Mark Rappold.

4 MR. GOEPFERT: Mark Rappold.

5 MR. RAPPOLD: And what's your first name?

6 MR. GOEPFERT: Gregory GOEPFERT.

7 MR. RAPPOLD: Okay. I talked to you a few  
8 years ago when you had the other meeting.

9 MR. GOEPFERT: Okay.

10 MR. RAPPOLD: And you were unaware of quite a  
11 few things that were going on at the control area.  
12 I live across the street.

13 MR. GOEPFERT: Okay.

14 MR. RAPPOLD: Now, when I talked to you, the  
15 borings and the testing was all done by 2002; am I  
16 correct?

17 MR. GOEPFERT: I believe you are correct.

18 MR. RAPPOLD: And there's been no testing  
19 since?

20 MR. GOEPFERT: Not by the Army Corps of  
21 Engineers.

22 MR. RAPPOLD: And you did know about all the  
23 rubbish, all the garbage, all the oil, all the gas

1 up on that property where they did a major cleanup  
2 around 2010. When I talked to you on the phone,  
3 you said you didn't know about it.

4 MR. GOEPFERT: No, I did not.

5 MR. RAPPOLD: Well, I live across the street.  
6 And they brought in a big bucket, one big -- one  
7 big trash bin after another. It was a cesspool  
8 that made a junkyard look clean. That's how bad it  
9 was across the street.

10 Now, you want me to be satisfied by what you're  
11 saying here. I went across the road repeatedly. I  
12 talked to the people that were doing the cleanup.  
13 Everything was confidential. Nobody would say  
14 anything.

15 I live in West Seneca -- well, I moved up there  
16 in 2003. I was very skeptical about buying the  
17 land. I'm still skeptical that I bought the land.  
18 Because even in West Seneca, we knew about the  
19 contamination up there. There's nothing here about  
20 Roswell Park either.

21 MR. GOEPFERT: Well, the -- this document, if  
22 I -- if you want to finish, you can go ahead, or I  
23 could answer --

1 MR. RAPPOLD: Yeah. Yes.

2 MR. GOEPFERT: -- at least partially what  
3 you're saying.

4 This document deals -- we only deal with  
5 contamination or issues that are associated with  
6 the Defense Department use of the site. So the  
7 Defense Department was present at the control area  
8 from 1957 till 1963.

9 MR. RAPPOLD: Yeah. I understand.

10 MR. GOEPFERT: So anything that happened beyond  
11 that time is not the Defense Department's  
12 responsibility. It's the responsibility of the  
13 owner of the site.

14 MR. RAPPOLD: So in other words, what you're  
15 saying here is not relevant to that land being  
16 cleaned then. You're not saying --

17 MR. GOEPFERT: What I'm saying --

18 MR. RAPPOLD: That land's not ready for  
19 development as far as --

20 MR. GOEPFERT: What I'm saying is that the --  
21 any liabilities of the Defense Department have been  
22 adequately addressed by the studies that we've  
23 done.



1 MR. RAPPOLD: All right.

2 MR. GOEPFERT: So that's -- so the questions  
3 that you're -- where your questions really need to  
4 be directed to --

5 MR. RAPPOLD: Yes. That's where I was going.

6 MR. GOEPFERT: -- are to the people who are  
7 responsible for the cleanup of that property in the  
8 recent past that you're quoting. That was not the  
9 Army Corps of Engineers.

10 MRS. RAPPOLD: Then who is the owner of the  
11 property now?

12 MR. GOEPFERT: Health Research Incorporated.

13 MRS. RAPPOLD: Okay. And that's from Roswell  
14 Park, right?

15 MR. GOEPFERT: I believe so, yes. That's a  
16 subsidiary.

17 MRS. RAPPOLD: And we've heard from neighboring  
18 people up in the area there that they were  
19 conducting all kinds of experiments on animals up  
20 there, cancer research, and then that cancer things  
21 were buried up there.

22 MR. GOEPFERT: And as I said, the questions  
23 that you're asking me needs --

1 MRS. RAPPOLD: Right. I understand --

2 MR. GOEPFERT: -- need to be directed to --

3 MRS. RAPPOLD: -- that you're from the Army  
4 Corps of Engineers.

5 MR. GOEPFERT: Right.

6 MRS. RAPPOLD: But the question is, when was  
7 the last time the Army Corps of Engineers tested  
8 the soil?

9 MR. RAPPOLD: He said before 2002.

10 MRS. RAPPOLD: Before 2002?

11 MR. GOEPFERT: I think you missed the part of  
12 the discussion because, unfortunately, you got  
13 diverted with the construction.

14 But typically at control areas, the Army  
15 doesn't use hazardous substances at its control  
16 areas.

17 MRS. RAPPOLD: Okay.

18 MR. GOEPFERT: Okay. So, therefore, what we  
19 did was, we made sure we looked in our record to  
20 see if there was anything that could have proved  
21 that statement wrong. And we found nothing to  
22 prove that statement wrong.

23 What we did find is perhaps there may have been

1 some underground storage tanks associated with the  
2 diesel generator buildings. Those buildings are to  
3 generate power in the event of a power outage.

4 MR. RAPPOLD: Well, those --

5 MR. GOEPFERT: So the tanks -- tanks were -- we  
6 investigated to see whether the tanks were still  
7 there. And there were no underground storage tanks  
8 in the locations where they may have been or they  
9 could have been.

10 MR. RAPPOLD: Like I said, I missed that --

11 MR. GOEPFERT: So, therefore, somebody must  
12 have taken them out.

13 MR. RAPPOLD: Well, I missed the meeting, but I  
14 went to Orchard Park and I talked to the engineers  
15 there.

16 MR. GOEPFERT: Sure.

17 MR. RAPPOLD: And I asked them about the  
18 testing --

19 MR. GOEPFERT: Right.

20 MR. RAPPOLD: -- before 2002.

21 MR. GOEPFERT: Right.

22 MR. RAPPOLD: And their exact words were, it  
23 was inconclusive, the testing.

1 MR. GOEPFERT: Okay.

2 MR. RAPPOLD: They could not answer because  
3 they said it was inconclusive.

4 MR. GOEPFERT: Okay.

5 MR. RAPPOLD: So -- okay. You're -- you're  
6 representing the Army here.

7 MR. GOEPFERT: Correct.

8 MR. RAPPOLD: And --

9 MR. GOEPFERT: We make no -- we make no  
10 conclusion based upon other people's use of the  
11 site or whatever they really did. There's no work  
12 that we think that we have to do because of the  
13 Army's occupation at the site.

14 MR. RAPPOLD: All right.

15 MR. GOEPFERT: Okay? We're not misrepresenting  
16 our record and we're not representing the record of  
17 the owner.

18 MR. RAPPOLD: Well, it's a little misleading  
19 when you get this in the mail and it's like it's a  
20 clean bill of health to that soil across the street  
21 from us when you don't really know if it is, right?

22 MR. GOEPFERT: Well, we know that we don't have  
23 anything there from the Army. That's what we know.



1 MR. RAPPOLD: Yeah, but you're -- the testing  
2 before 2002 was inconclusive and as of right now,  
3 it's inconclusive; am I correct?

4 MR. GOEPFERT: That's what you've been told.

5 MR. RAPPOLD: Yes. By the Orchard Park  
6 engineer.

7 MR. GOEPFERT: I don't know anything about your  
8 conversation.

9 MR. RAPPOLD: So you have nothing more to add  
10 to that?

11 MR. GOEPFERT: I have nothing to add to --

12 MR. RAPPOLD: Okay.

13 MR. GOEPFERT: -- the conversation that you've  
14 previously had other than the fact that you're  
15 making this part of the record.

16 MR. RAPPOLD: Yes. Yes, I'm making this part  
17 of the record.

18 MR. GOEPFERT: And everybody who's -- the  
19 public will be recognizing your comments.

20 MR. RAPPOLD: Yeah. Well, I had one neighbor  
21 die of cancer one house from me. And the neighbor  
22 who spoke up at this meeting a couple years ago, he  
23 died of cancer.

1 I have two dogs, German Shepherd dogs. They  
2 both died of lung cancer at six years old.  
3 Everything's documented by Orchard Park vet.

4 Now, is everything a coincidence up there or  
5 what? I don't know.

6 But I do know I'm not getting any firm  
7 statements from anybody about that land across the  
8 street. And it just seems like what you just said  
9 covers yourself, but it doesn't cover the land or  
10 where it's at today. That's what I'm saying.  
11 Right?

12 MR. GOEPFERT: I would agree with you.

13 MR. RAPPOLD: Okay.

14 MR. GOEPFERT: So I make no representation as  
15 to the work that -- the operation of the subsequent  
16 landowner.

17 MR. RAPPOLD: Am I able to get a statement from  
18 you for saying that?

19 MR. GOEPFERT: You just got it.

20 MR. RAPPOLD: I know. But if I want to go to  
21 Orchard Park and talk to them and --

22 MR. GOEPFERT: You just got it.

23 MR. RAPPOLD: I mean, I don't have it.

1 MR. GOEPFERT: It's part of the statement.

2 It's on the record.

3 MR. RAPPOLD: Well, it's on the record, but  
4 it's not --

5 MR. GOEPFERT: It's on the record. You could  
6 take that record to the -- to Orchard Park.

7 MR. RAPPOLD: Can you send me a copy of it?

8 MR. GOEPFERT: Absolutely.

9 MR. RAPPOLD: Oh, okay.

10 MR. GOEPFERT: Yes, sir.

11 MR. RAPPOLD: Okay. Thank you.

12 MR. GOEPFERT: Thank you.

13 Anybody else have any other comments or  
14 questions?

15 Yes, sir.

16 MR. ROSATTI: Hi. My name is Tony Rosatti. I  
17 just had a question regarding the backfill at the  
18 silos in the launch area.

19 MR. GOEPFERT: Yes.

20 MR. ROSATTI: Do you have any information about  
21 what material was used, if it was, you know, like  
22 concrete road base or something or top soil or --

23 MR. GOEPFERT: It's a mixture that's identified

1 clearly in the final engineering report that I have  
2 posted on the website.

3 MR. ROSATTI: Okay.

4 MR. GOEPFERT: All the material that we used  
5 was unrestricted material. It passed the  
6 unrestricted test.

7 In the lower portion of the silo, we used a  
8 crushed concrete, clean concrete that was crushed  
9 to three-foot minus size. And then in the  
10 interstitial spaces, it was some clean fill,  
11 unrestricted fill put there. And it was brought up  
12 to a certain level, about ten foot below ground  
13 surface. Okay. And then everything is three --  
14 three-inch minus material.

15 MR. ROSATTI: So was there an analysis of --

16 MR. GOEPFERT: Analysis are in the reports.

17 MR. ROSATTI: -- of the wells after the fill  
18 was put in then?

19 MR. GOEPFERT: Analysis -- the analysis of the  
20 wells took place way before the fill was put in.  
21 The analysis of the fill was -- was taken from the  
22 vendor for the fill.

23 MR. ROSATTI: So there's no testing done after



1 the --

2 MR. GOEPFERT: After the fill --

3 MR. ROSATTI: -- silo was actually filled in  
4 then?

5 MR. GOEPFERT: No, there was not.

6 MR. ROSATTI: Okay. Is there any -- is there  
7 any plans to link this to the other sites around  
8 the country in the event that something is  
9 discovered in the future?

10 We've seen in the press that, for instance,  
11 some of the parks in Niagara Falls had backfill  
12 material that was radioactive that they didn't  
13 consider a problem at the time but became more of a  
14 concern later on.

15 Is there any way that something like that would  
16 be identified here, or is it just something that  
17 would come up during the normal course of  
18 evaluation and not something linked back through  
19 the Department of Defense?

20 MR. GOEPFERT: I'm not sure I understand your  
21 question.

22 MR. ROSATTI: I was just trying to determine if  
23 there was anything that was being planned for

1 future monitoring in the event of problems being  
2 uncovered at other locations.

3 MR. GOEPFERT: We -- our proposed plan has no  
4 future monitoring --

5 MR. ROSATTI: Okay.

6 MR. GOEPFERT: -- that's planned.

7 MR. ROSATTI: Okay. That's all I had. Thank  
8 you.

9 MR. GOEPFERT: Thank you.

10 I hope the construction didn't cause you a  
11 problem.

12 UNIDENTIFIED SPEAKER: Just a little.

13 MR. GOEPFERT: Does anyone else have any other  
14 comments or questions that they'd like to make a  
15 part of the record?

16 I'm sorry. You got here at the last five  
17 minutes. I'd be happy to go over the presentation  
18 with you since you are here after we conclude.

19 UNIDENTIFIED SPEAKER: Yeah. I'm sorry we're  
20 late.

21 MR. GOEPFERT: Excuse me?

22 UNIDENTIFIED SPEAKER: I'm sorry we're late.

23 MR. GOEPFERT: No. That's --

1 UNIDENTIFIED SPEAKER: How long was your  
2 presentation?

3 MR. GOEPFERT: We started about 6:30.

4 UNIDENTIFIED SPEAKER: Oh. We thought it  
5 started at 7:00. I'm sorry.

6 MR. GOEPFERT: Any other questions or comments?

7 MR. RAPPOLD: Just how do I get a copy of --  
8 before I go, can I get a copy of what was said?

9 MR. GOEPFERT: No. We'll be -- we'll be taking  
10 that -- this is a court -- this is an encrypted --  
11 you know, transcript of the meeting.

12 MR. RAPPOLD: Yes.

13 MR. GOEPFERT: And then we'll send that out  
14 after it's formally transcribed.

15 MR. RAPPOLD: But you don't --

16 MR. GOEPFERT: I don't have anything to give  
17 you tonight.

18 MR. RAPPOLD: Yeah. But do I go up there give  
19 him my address and all that?

20 MR. GOEPFERT: Yeah. We'll take your address.

21 MR. RAPPOLD: Okay.

22 MR. GOEPFERT: Yeah. No problem.

23 Thank you. Just put that, your address, in the

1 back of that. Make sure you look at everything.

2 MRS. RAPPOLD: I have --

3 MR. GOEPFERT: Yes, ma'am.

4 MRS. RAPPOLD: I have one question.

5 So is this basically the Army washing its hands  
6 of this whole thing, that they've done their part  
7 and they're done with it and that's it.

8 MR. GOEPFERT: This is the Army saying that  
9 we've done our investigation work based upon the  
10 known use of the site by the Army. And we're  
11 saying that we are confident that every  
12 Army-related issue that may exist or has existed  
13 has been covered at this point in time.

14 MR. RAPPOLD: I would also like a comment to be  
15 added, anything that was done to that site after,  
16 you know, you sold it.

17 MR. GOEPFERT: Well, that's -- that's --

18 MR. RAPPOLD: Yeah. But what you're saying has  
19 nothing to do with after you sold it.

20 MR. GOEPFERT: That's right, because I will  
21 make no representation for what someone did  
22 subsequent to the Army's ownership of the site.

23 MR. RAPPOLD: Exactly --



1 MR. GOEPFERT: So if you bought -- if you  
2 bought -- if somebody bought your property and you  
3 had -- you know, and started doing something on  
4 your property that was detrimental to the property,  
5 would you want that individual going back to you  
6 and placing the responsibility on your shoulders?

7 MR. RAPPOLD: Oh, no. I'm just saying to make  
8 it clear for the record that this land is only  
9 cleared by the Army. That doesn't mean the land is  
10 clear of contaminants.

11 MR. GOEPFERT: Right. And that's -- I thought  
12 I said that clearly tonight.

13 MR. RAPPOLD: Okay.

14 MR. GOEPFERT: Okay.

15 MR. RAPPOLD: Where do I put my name?

16 MR. GOEPFERT: You can put your name and  
17 address there and I'll be sure to make sure you're  
18 added to the list.

19 Okay. Are there any other questions or  
20 comments?

21 Okay. We'll look forward to getting out the  
22 responsiveness summary and the decision document to  
23 you and working with you further, as needed, to

1 bring this proposed plan to a decision document.

2 Okay.

3

4 (Meeting concluded 7:12 p.m.)

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6 [Presentation Outline](#)

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1 STATE OF NEW YORK

2 COUNTY OF ERIE

3  
4 I, Stephen J. Metschl, a Notary Public in and  
5 for the State of New York, do hereby certify:

6 That this proceeding was taken pursuant to  
7 notice at the time and place herein set forth; that  
8 said hearing was recorded by me and thereafter  
9 under my supervision transcribed into the English  
10 language, and I hereby certify the foregoing  
11 testimony is a full, true and correct transcription  
12 of the recording so taken.

13  
14 I further certify that I am neither counsel for  
15 nor related to any parties of this hearing, nor in  
16 anywise interested in the outcome thereof.

17  
18 IN WITNESS WHEREOF, I have hereunto subscribed  
19 my name this 6th day of December, 2019.

20  
21  
22  
23  


Stephen J. Metschl  
Notary Public, State of NY

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**ATTACHMENT B    Letters from NYSDEC and NYSDOH**  
Concurrence with the Proposed Plan,  
Concurrence with the Final Engineering Report remedial actions  
Acceptance of the Final Remedial Investigation Report.

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Office of the Director

625 Broadway, 12th Floor, Albany, New York 12233-7011

P: (518) 402-9706 | F: (518) 402-9020

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DEC 12 2019

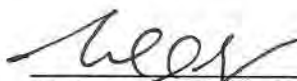
Mr. Gregory Goepfert  
U.S. Army Corps of Engineers, New York District  
CENAN-PP-E, 17<sup>th</sup> Floor, Station 17 401-2  
26 Federal Plaza  
New York, New York, 10278

RE: Nike Battery BU-34/35, (NYSDEC I.D. No. 915236)  
East Aurora and Orchard Park, New York  
Proposed Plan

Dear Mr. Goepfert:

The New York State Departments of Environmental Conservation and Health have completed reviews of the Proposed Plan for Nike Battery BU-34/35 site, dated October 2019. The Departments concur with the proposed No Further Action remedy. Please contact Mr. Jaspal S. Walia at 716-851-7220 if you have any questions.

Sincerely,



Michael J. Ryan, P.E.

Director

Division of Environmental Remediation

cc: S. Radon, Region 9  
J. Walia, Region 9  
M. Cruden, NYSDEC  
J. Swartwout, NYSDEC  
J. Nealon, NYSDOH  
C. Bethoney, NYSDOH



Department of  
Environmental  
Conservation

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Region 9  
270 Michigan Avenue, Buffalo, NY 14203-2915  
P: (716) 851-7220 | F: (716) 851-7226  
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January 14, 2020

Mr. Gregory J. Goepfert  
Department of the Army  
New York District, Corps of Engineers  
Jacob K. Javits Federal Building  
New York, New York 10278-0090

Dear Mr. Goepfert:

Final Engineering Report  
Nike Battery BU-34/35  
Town of Aurora, New York  
(NYSDEC I.D. #: 915236)

The New York State Departments of Environmental Conservation and Health have completed reviews of the Final Engineering Report, dated October 2019 for the above referenced site. The report includes the closure of the missile silos, fuel oil underground storage tank, and septic tank/system. The Departments concur with the remedial actions described in the Final Engineering Report.

Should there be any questions relative to this letter, please call me at (716) 851-7220.

Sincerely,



Jaspal S. Walia, P.E.  
Project Manager

JSW/jl

ec: Ms. Andrea Caprio, NYSDEC  
Mr. John Swartwout, NYSDEC  
Ms. Jacquelyn Nealon, NYSDOH



# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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270 Michigan Avenue, Buffalo, NY 14203-2915  
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November 1, 2019

Mr. Gregory J. Goepfert  
U.S. Army Corps of Engineers  
New York District  
26 Federal Plaza,  
17<sup>th</sup> Floor- Stn. 17 401-2  
New York, New York 10278-0090

Dear Mr. Goepfert:

Final Remedial Investigation Report  
Nike Battery BU-34/35  
East Aurora and Orchard Park, New York  
(NYSDEC I.D. #: 915236)

The New York State Department of Environmental Conservation (NYSDEC) and the New York State Department of Health (NYSDOH) have reviewed the Final Remedial Investigation Report for the above referenced site, dated October 2019 and prepared by T12E Joint Venture, on behalf of U.S. Army Corps of Engineers (USACE)

All our previous comments have been adequately addressed and we do not have any further comments. We find the Report acceptable.

Should there be any questions relative to this letter, please call me at (716) 851-7220.

Sincerely,



Jaspal S. Walia, P.E.  
Project Manager

JW/dpp

ec: Mr. Stanley Radon, NYSDEC  
Mr. John Swartwout, NYSDEC  
Ms. Jacquelyn Nealon, NYSDOH



Department of  
Environmental  
Conservation