6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-SFUND- 1998-0006; FRL-9997-20-Region 2]

National Oil and Hazardous Substance Pollution Contingency Plan

National Priorities List: Deletion of the Peter Cooper Superfund Site

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA), Region 2, is publishing a direct final notice of deletion of the Peter Cooper Superfund Site (Site) located in the Village of Gowanda, Cattaraugus County, New York from the National Priorities List (NPL). The NPL, promulgated pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA),, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by the EPA with the concurrence of the State of New York, through the Department of Environmental Conservation (NYSDEC), because the EPA has determined that all appropriate response under CERCLA, other than operation and maintenance, monitoring, and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: This direct final deletion will be effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*] unless the EPA receives adverse comments by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. If adverse comments are received, the EPA will publish a

timely withdrawal of the direct final deletion in the *Federal Register* informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-1998-0006, by one of the following methods:

- https://www.regulations.gov. Follow on-line instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit https://www2.epa.gov/dockets/commenting-epa-dockets.

- Email: henry.sherrel@epa.gov
- Mail: Sherrel Henry, Remedial Project Manager, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th Floor, New York, New York 10007-1866

- Hand delivery: Superfund Records Center, 290 Broadway, 18th Floor, New York, NY 10007-1866 (telephone: (212) 637-4308). Such deliveries are only accepted during the Docket's normal hours of operation (Monday to Friday from 9:00 a.m. to 5:00 p.m.) excluding federal holidays and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA-HQ-SFUND- 1998-0006. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at https://www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through https://www.regulations.gov or e-mail. The https://www.regulations.gov Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to the EPA without going through https://www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the https://www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically in https://www.regulations.gov or in hard copy at:

U.S. Environmental Protection Agency, Region 2

Superfund Records Center

290 Broadway, Room 1828

New York, New York 10007-1866

(212) 637-4308

Hours: Monday through Friday: 9:00 a.m. through 5:00 p.m.

Information for the Site is also available for viewing at the Site Administrative Record Repositories located at:

Gowanda Free Library

56 W. Main Street Gowanda, New York 14138

(716) 532-9449

Hours: Monday through Friday: 9:00 a.m. through 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ms. Sherrel D. Henry, Remedial Project Manager, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th Floor, NY, NY 10007-1866, (212) 637-4273, email: henry.sherrel@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. Introduction

EPA Region 2 is publishing this direct final Notice of Deletion of the Peter Cooper Superfund Site (Site) from the NPL. The NPL constitutes Appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which the EPA promulgated pursuant to section 105 of CERCLA. The EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in 300.425(e) (3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that the EPA is using for this action. Section IV discusses the Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e),

EPA will consider, in consultation with the state, whether any of the following criteria have been met:

i. responsible parties or other persons have implemented all appropriate response actions required;

ii. all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. the remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA section 121 (c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) EPA consulted with the State of New York prior to developing this direct final Notice of Deletion and the Notice of Intent to Delete co-published today in the "Proposed Rules" section of the Federal Register.

(2) EPA has provided New York State 30 working days for review of this notice and the parallel Notice of Intent to Delete prior to their publication today, and the state, through the NYSDEC, has concurred on the deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final Notice of Deletion, a notice of the availability of the parallel Notice of Intent to Delete is being published in a major local newspaper, *Dunkirk Observer*. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the Site from the NPL.

(4) EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section

300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

Site Background and History

The Peter Cooper Site, EPA ID No. NYD980530265, is located off Palmer Street, in the Village of Gowanda, Cattaraugus County, New York, approximately 30 miles south of Buffalo, New York. The Site consists of an inactive landfill and land associated with the former Peter Cooper Corporation (PCC) animal glue and adhesives manufacturing plant. The Site is bound to the north by Cattaraugus Creek (Creek), to the south by Palmer Street, to the west by a former hydroelectric dam and wetland area, and to the east by residential properties. Regionally, the Village of Gowanda is located both in Erie County and Cattaraugus County and is separated by Cattaraugus Creek. In Erie County, the Village of Gowanda is included in the Town of Collins. The Town of Collins is bordered by the Seneca Nation of Indians Cattaraugus Reservation to the west. In Cattaraugus County, the Village of Gowanda is in the Town of Persia. The Site is located in an area characterized by mixed industrial-commercial/residential usage.

For purposes of the remedial investigation and feasibility study (RI/FS), the Site was divided into two sections. The western section, called the inactive landfill area (ILA), is approximately 15.6 acres in size and includes an additional five acres referred to as the "elevated fill subarea." The westernmost portion of the elevated fill subarea is located on property owned by the New York State Electric & Gas Corporation (NYSEG). The

eastern section of the Site, the former manufacturing plant area (FMPA), is approximately 10.4 acres.

From 1904 to 1972, PCC and its predecessor, Eastern Tanners Glue Company, manufactured animal glue at the Site. When the animal glue product line was terminated, PCC continued to produce synthetic industrial adhesives until the plant closed in 1985. The wastes from PCC's glue production were disposed of on the elevated fill subarea. Between 1925 and October 1970, PCC used the northwest portion of the property to pile sludge remaining after the animal glue manufacturing process. These wastes, known as "cookhouse sludge" because of a cooking cycle that occurred just prior to extraction of the glue, are derived primarily from chrome-tanned hides obtained from tanneries. The waste material has been shown to contain elevated levels of chromium, arsenic, zinc, and several organic compounds.

In June 1971, the New York State Supreme Court (8^{th} J.D. Cattaraugus County) ordered PCC to remove all or part of the waste pile and terminate discharges into the Creek. In 1972, PCC reportedly removed approximately 38,600 tons of waste pile material and transferred it to a separate site in Markhams, New York. Between 1972 and 1975, the remaining waste pile at the Site was graded by PCC, covered with a 6-inch clay barrier layer and 18 to 30 inches of soil, and vegetated with grass. Stone rip-rap and concrete blocks were placed along the bank of the Creek to protect the fill material from scouring or falling into the Creek.

In July 1976, the assets of the original PCC, including the manufacturing plant and property located in Gowanda, were purchased by Rousselot Gelatin Corporation and its parent, Rousselot, S.A., of France. Rousselot Gelatin was renamed Peter Cooper

Corporation, and this newly-formed PCC sold the Site to JimCar Development, Inc. in April 1988. The property was subsequently transferred to the Gowanda Area Redevelopment Corporation (GARC) in 2009. Excluding the portion of the Site owned by NYSEG, the remainder of the property is presently owned by GARC.

From 1981 to 1983, NYSDEC conducted several investigations at the facility and identified the presence of arsenic, chromium and zinc in soil and sediment samples. As a result of this investigation, NYSDEC oversaw PCC's development of an RI/FS for the Site. However, because the waste detected at the Site did not meet the New York State statutory waste definition in effect in 1991 for an inactive hazardous waste disposal site, NYSDEC removed the Site from its Registry of Inactive Hazardous Waste Sites, and a remedy was not selected.

In 1996, EPA collected and analyzed soil, groundwater, surface water, and sediment samples from the Site. Results of the sampling and analysis confirmed contamination, including the presence of arsenic, chromium, and other hazardous substances.

During these Site assessments, EPA personnel observed that the existing retaining wall was subject to severe erosion. It was determined that the retaining wall and rip-rap had to be repaired or upgraded to prevent the continued erosion of landfill materials into the Creek. On October 24, 1996, EPA and NYSEG entered into an administrative order on consent (AOC). Pursuant to the AOC, NYSEG installed approximately 150 feet of rip-rap revetment along the south bank of the Cattaraugus Creek and adjacent to the landfill to prevent further erosion of materials from the landfill into the Creek.

Based on this information, the Site was proposed to the NPL on September 25, 1997 (62 FR 50450) and placed on the NPL on March 6, 1998 (63 FR 11332).

Remedial Investigation and Feasibility Study

In April 2000, EPA issued a unilateral administrative order (UAO) to fourteen respondents to perform the RI/FS of the Site, subject to EPA oversight. Media sampled during the RI included landfill gas, groundwater, surface water, sediment, soil, waste material, and seepage emanating from the landfill.

From 2000 to 2001, the UAO respondents, through their consultants, Benchmark Environmental Engineering and Science PLLC (Benchmark) and Geomatrix Consultants, performed a comprehensive RI to define the nature and extent of contamination at the Site. The final RI report was submitted to EPA in November 2003. The scope of the RI included the following activities: the replacement of four wells from the existing network of 10 monitoring wells in the ILA and the installation of six new wells in the FMPA; surface water and sediment investigations of the Creek; sludge fill characterization of the ILA, by conducting three different activities (geophysical surveys, test pits, and soil borings) to establish the limits of buried waste fill material; an existing landfill cover evaluation by excavating 24 test holes to determine cover system thickness and characteristics; a surface soil investigation of the ILA and FMPA , consisting of 30 soil samples collected from zero to six inches below ground surface (bgs); a subsurface soil investigation of the ILA and FMPA consisting of 23 soil samples collected from three to 12 feet bgs; a landfill gas investigation of the elevated fill area of the ILA; and a leachate seep investigation of the elevated fill area of the ILA.

An FS was then completed by the UAO respondents, and a report was submitted to EPA in June 2005. The FS Report identified and evaluated remedial alternatives to address soil contamination for the Site, consistent with the guidelines presented in Guidance for conducting RI/FS under CERCLA. A preferred alternative was presented to the public for review and comment in July 2005. Results of the RI and FS were summarized in the Record of Decision (ROD) issued by EPA in September 2005.

Concurrent with completion of the RI/FS activities, the Village of Gowanda in association with the University at Buffalo Center for Integrated Waste Management developed a Reuse Assessment and Concept Plan for the Site, in which it was concluded that the "highest and best use" of the property would be as a multi-use recreational facility. The Reuse Assessment and Concept Plan, funded in part by the USEPA through its Superfund Redevelopment Initiative, envisions a publicly-available Site incorporating elements such as a walking/biking trail, fishing access, outdoor picnic areas, small boat launch, and other related recreational features.

Selected Remedy

Based upon the results of the RI/FS, a Proposed Plan, and a Public Meeting, a Remedy was selected in September 2005. For this Site, remedial action objectives (RAOs) were only established for soil. The RAOs for soil are (1) to reduce or eliminate any direct contact threat associated with the contaminant soils/fill, (2) to minimize or eliminate contaminant migration from contaminated soils to the groundwater and surface water, and (3) to minimize or eliminate contaminant migration from groundwater to the Creek. The elements of the selected remedy are:

- Excavating three hot spot areas and consolidating waste from these areas within

the elevated fill subarea, capping the five-acre elevated fill subarea of the inactive landfill area with a low permeability, equivalent design barrier cap, consistent with the requirements of 6 New York Codes, Rules and Regulations (NYCRR) Part 360, including seeding with a mixture of seeds to foster natural habitat;

- Conducting post-excavation confirmatory soil sampling;
- Backfilling of excavated areas with clean fill; collecting the leachate seeps, pretreating the leachate as necessary, then discharging the leachate to the public owned treatment works (POTW) collection system for further treatment and discharge. As a contingency, if treatment of the leachate seep at the POTW is not available, the leachate would be treated and discharged to Cattaraugus Creek. Since the installation of the cap and groundwater diversion system (described below) should reduce leachate generation, the volume of seep leachate requiring treatment is anticipated to be reduced or nearly eliminated over time;
- Installing a groundwater diversion system to limit groundwater migration through the elevated fill subarea. The remedy provides for the potential that if additional data collected in the remedial design phase of the project support the conclusion that installation of a diversion wall will result in a minimal increase in the collection of contaminants by the leachate collection system, the diversion wall would not be installed;
- Installing a passive gas venting system for proper venting of the five-acre elevated fill subarea of the ILA;
- Stabilizing the banks of the Creek;
- Performing long-term operation and maintenance including inspections and

repairs of the landfill cap, gas venting, and leachate systems;

- Performing air monitoring, surface water and groundwater quality monitoring; and
- Evaluating Site conditions at least once every five years to determine if the remedy remains protective.

The remedy also included institutional controls such as restrictive covenants and environmental easements for limiting future use of the Site and the groundwater to ensure that the implemented remedial measures will not be disturbed and that the Site will not be used for purposes incompatible with the completed remedial action. The institutional controls will be managed, in part, through a Site Management Plan (SMP) to ensure appropriate handling of subsurface soils during redevelopment.

To ensure that engineering controls and institutional controls remain in place and effective for the protection of public health and the environment, an annual certification, commencing from the date of implementation, has been required to be performed by the parties responsible for implementing the remediation.

Consistent with the future use of the property, following issuance of the ROD, the Village of Gowanda and the UAO recipients entered into discussions concerning the Village's redevelopment goals. An agreement was reached, and GARC took ownership of the Site and agreed to perform certain post-remedial operation and maintenance and monitoring activities in exchange for provision of specific, non-remedial construction activities and funding by the respondents to facilitate park redevelopment. Non-remedial construction activities that were slated to be performed by the UAO recipients, concurrent with remedial activities, are listed below.

- Removal of up to 1,000 tons of non-hazardous construction and demolition debris from the former manufacturing plant area of the site, with disposal of the materials beneath the elevated fill subarea cover (in a manner to prevent settlement) or off-site disposal at a permitted disposal facility.
- Construction of a clean utility corridor (i.e., waterline) to facilitate utility service to a future, multi-use building, pavilion, or other park development.
- Elevated fill subarea cover system grading and contouring to facilitate Site development plans. This involved creating a benched area along the Creek side of the landfill that may provide a level area for future construction of a bike or walking path.

Response Actions

In 2009, EPA concluded consent decree (CD) negotiations with a subgroup of the UAO recipients, identified as the performing settling defendants (PSDs), related to the performance of the design and implementation of the remedy called for in the ROD. On February 12, 2009, the CD was entered in United States District Court. On March 15, 2009, Benchmark was approved as the supervising contractor to conduct the remedial design (RD) and implement the remedy at the Site. The ROD included provisions for the evaluation of the construction of a diversion wall around the elevated fill area in the event the wall would affect the planned remedial actions. In accordance with the ROD, EPA and NYSDEC concurred with the findings of an analysis performed by the PSDs, prior to the entry of the CD, that the installation of an upgradient groundwater diversion wall around the elevated fill subarea would not materially alter the effectiveness of the planned remedial measures; therefore, the diversion wall component of the ROD was not implemented.

In accordance with the requirements of the CD, the PSDs prepared a RD work plan. The RD work plan outlined the following remedial construction measures: mobilization; site preparation, including hotspot excavation; groundwater/seep collection; and cover system construction (barrier layer material placement and compaction, topsoil and seeding, and passive gas venting). In 2009, the RD report and design plans and specifications were implemented under a design build contract for Site remediation. The RD report identified materials to be employed for major remedial components, construction requirements, quality control requirements, and measures to protect workers, the surrounding community, and the environment during the remedial work.

In the Summer of 2009, the PSDs conducted certain preparatory activities at the Site to facilitate the remedial construction. These activities included the removal of small trees, shrubs, brush, and stumps. Clearing and grubbing in and around the area of the elevated fill area was performed with a hydro ax. The staged trees, stumps, and brush were ground into mulch and were hauled off-site for processing at a permitted facility.

The excavation of the three "hotspot" areas of contaminated soil/fill was completed in August 2009. Soil excavated from these impacted areas was hauled to the elevated fill subarea of the ILA for placement and compaction prior to placing the soil cover system. The excavated areas were then backfilled with clean soil. Confirmatory sampling of the excavation sidewalls and bottom indicated arsenic and VOC concentrations that remained were below the Site cleanup goals.

Construction of the seep/groundwater collection system was substantially completed in November 2009. The collection system includes the Creek bank regrading and bedrock channel excavation, the pump station installation, the pretreatment building

construction, the force main piping, and the sanitary sewer tie-in. The seep/groundwater collection system was placed into full-time operation in May 2010, with operation and maintenance duties transferred to GARC.

The remedial measures for the elevated fill subarea involved re-grading the adjacent bank (excluding the riprap-stabilized area on NYSEG's property) and removal of concrete blocks and boulders to provide a more uniform slope for reduced erosion potential. A seep collection trench was then excavated into the surface of the weathered shale bedrock at the toe of the slope to intercept and collect the seeps. A perforated drainage pipe and granular media envelope collect and transmit water to a packaged leachate pump station. The slope of the regraded bank is lined with a geocomposite drainage layer, leading to the collection trench, covered by a geomembrane liner to prevent seep breakout and mitigate Creek and surface water infiltration during high water conditions. The liner extends vertically to the 100-year floodplain elevation and is protected from erosion by a surface layer of medium and large riprap over a non-woven geotextile fabric and gravel bed. Collected seep water and shallow groundwater are conveyed from the pump station by a force main to a pretreatment building where an oxidant delivery system is available to mitigate hydrogen sulfide odors, as needed. Pretreated seeps/groundwater is discharged to the Village of Gowanda's sanitary sewer collection system on Palmer Street for treatment at the Village POTW consistent with the approved discharge permit.

The final cap system, installed from August 2009 to July 2010, includes all the construction components in the approved RD report. Containment/isolation with soil cover enhancement involved the following: clearing and grubbing the approximate five-

acre elevated fill subarea; moderate regrading and/or filling of low spots across the five-acre area to facilitate runoff; supplementing existing cover to provide for a minimum 18-inch thickness of a recompacted soil barrier layer and placement of six inches of topsoil over the five-acre area; and reseeding of the elevated fill subarea cover to provide for a good stand of grass that will foster natural habitat. Cover soils were tested to assure conformance with contaminant levels established under state law.

Following construction of the cap, five passive gas vents were installed through the sludge fill in the elevated fill subarea to relieve gas buildup beneath the cover system. The vents were constructed with individual risers that extend to a sufficient height above ground surface to promote atmospheric dispersion of odor-causing constituents and prevent direct inhalation of vented gases by trespassers or future recreational Site users.

EPA and NYSDEC conducted a final inspection of the constructed remedy on September 9, 2010. Based on the results of the inspection, it was determined that the Site construction was complete and that the remedy was implemented consistent with the ROD. In the final inspection EPA concluded that the PSDs constructed the remedy in accordance with the RD plans and specifications, and no further response (other than the operation and maintenance of the cap and cover, and long-term groundwater monitoring) is anticipated. EPA approved the remedial action report (RAR) for the Site on June 17, 2011. The RAR documented all the remedial activities conducted at the Site and included as-built drawings to document Site conditions at completion. The PSDs and GARC, the latter being the current property owner, are sharing responsibilities for management of the Site in accordance with the SMP. The ROD called for the development of a SMP to provide for the proper management of all post-construction remedy components

including an environmental easement that describes the institutional controls incorporated into the remedy and the requirement for certification that the institutional controls remain effective and in place.

As mention above, the environmental easement and/or restrictive covenant was designed to restrict the use of on-Site groundwater as a source of potable or process water and to restrict activities on the Site that could compromise the integrity of the cap. The restrictions are memorialized in an environmental easement filed with the Cattaraugus County Clerk on March 30, 2009.

Currently all areas of the Site designated for passive recreational use have been covered with a minimum of one foot of clean, vegetated cover soil or pavement, and those designated for active recreational use have been covered with a minimum of two feet of clean, vegetated cover soil or pavement. Inspections were performed by GARCs designated engineer to verify that the minimum required soil thicknesses were achieved. As part of the redevelopment efforts, the following Park amenities and improvements were constructed during 2016 and 2017:

- Regulation (90 foot diamond) ballfield:
- Playground and equipment
- Paved parking area and extension of asphalt path
- Ballfield backstop
- 24’ x 24’ gazebo

Verification of Cleanup Levels

Data are collected and reviewed to ensure that the RAOs are met following implementation of the remedial action. For this Site, RAOs were only established for soil.

The RAOs for soil are (1) to reduce or eliminate any direct contact threat associated with the contaminant soils/fill, (2) to minimize or eliminate contaminant migration from contaminated soils to the groundwater and surface water, and (3) to minimize or eliminate contaminant migration from groundwater to the Creek. These RAOs and the associated cleanup levels set forth in the ROD were met upon completion of the remedial construction, as documented in the RAR for the Site dated September 2010. Because of the limited remaining risks from exposure to the groundwater and surface water at this Site, institutional controls are deemed necessary to address any potential future exposure. Specifically, deed restrictions have been imposed to prevent the use of groundwater as a source of potable or process water unless groundwater quality standards are met. Long-term monitoring will be conducted to ensure that the selected Site remedy is protective of human health and the environment. Groundwater and surface water will be monitored as part of the post-construction response activities to ensure that the contamination is attenuating, and groundwater quality continues to improve.

Groundwater monitoring was performed during 10 separate events in June 2011, January 2012, June 2012, January 2013, June 2013, June 2014, October 2015, October 2016, November 2017 and October 2018. Groundwater samples were collected from five monitoring wells (MWs) at the Site. Samples were analyzed for inorganic parameters (total metals), VOCs (chlorinated aliphatics only), and water quality parameters (ammonia, hardness, chloride, total sulfide). Total metals analyses included hexavalent chromium, total chromium, arsenic, and manganese. Groundwater results were compared to the more stringent of the State or federal promulgated standards.

VOC concentrations were either not detected (nondetect) or below the state Groundwater Quality Standards and Guidance Values (GWQS/GV) at all monitoring well locations, with the exception of tetrachloroethene (PCE) and *cis*-1,2-dichloroethene (*cis*-1,2- DCE). PCE was detected above the GWQS of 5 ug/L, with concentrations ranging from 5.9 micrograms per liter (ug/L) to 13 ug/L. *Cis*-1,2-DCE was detected above the GWQS of 5 ug/L with concentrations ranging from 5.4 ug/L to 8.5 ug/L. These sporadic, slight VOC exceedances of GWQS criteria are not considered significant, and do not constitute a contaminant plume requiring response action.

Concentrations reported for hexavalent chromium were nondetect or below GWQS at all monitoring locations. Total chromium was reported as nondetect or below the GWQS of 0.05 milligram/liter (mg/L) at all monitored locations, with the exception of two minor exceedances of 0.056 mg/L and 0.054 mg/L. These sporadic, slight exceedances of total chromium GWQS criteria are not considered significant.

Arsenic was reported above the federal Maximum Contaminant Levels (MCLs) of 0.010 mg/L, with concentrations ranging from 0.011 mg/L to 0.043 mg/L. Arsenic was also detected in the upgradient well, so the exceedances in on-site wells are not considered to be Site-related. Manganese was detected above the GWQS of 0.03 mg/L with concentrations ranging from 0.37 mg/L to 6.6 mg/L. The manganese screening criteria is a secondary MCL. Secondary MCLs do not require regulatory actions since they represent aesthetic parameters. They will continue to be monitored.

The water quality parameters reported for all sampling events were nondetect or below the GWQS for sulfide and chloride at all sampling locations. Ammonia was detected above the GWQS of 2 mg/L during all monitoring events at concentrations

ranging from 3.5 mg/L to 10.8 mg/L. However, ammonia was also detected in the upgradient monitoring well, so the exceedances are not considered to be Site-related. The groundwater data review indicates that the low levels of contamination in Site groundwater are attenuating and groundwater quality has improved compared to baseline levels measured prior to commencement of remedial activities. In general, the data indicate minor/seasonal changes in concentration for the monitored parameters at each of the sample locations with no upward trending. These data support the assumption set forth in the ROD that the groundwater contamination is localized and the decrease in frequency indicates that limited residual groundwater contamination has attenuated. The environmental easement placed on the Site property restricts the use of groundwater as a source of potable or process water unless groundwater quality standards are met. Groundwater quality will continue to be monitored in accordance with the SMP.

Surface water samples were collected from three locations along the Creek at the same time as the groundwater samples were obtained from June 2011 through October 2018. Samples were also analyzed for inorganic parameters (total metals), VOCs (chlorinated aliphatics only) and water quality parameters (ammonia, hardness, chloride, total sulfide). Total metals analyses include hexavalent chromium, total chromium, arsenic, and manganese.

VOCs, sulfide, and chloride were not detected during any surface water sampling event. Ammonia was detected above the Surface Water Quality Standards (SWQS) of 0.035 mg/L and iron and manganese were detected above the SWQS of 0.30 mg/L. Although ammonia, iron and manganese concentrations were reported above standards, this appears attributable to naturally occurring conditions as evidenced by their presence

of concentrations above the standards in the upstream surface water sample. In addition, iron does not have a primary standard, and is not considered a contaminant of concern for the Site.

The surface water data review indicates few exceedances of the standards with no observed impact from the Site to the Creek. This indicates that there is no contaminated groundwater plume emanating from the landfill area. Surface water quality will continue to be monitored in accordance with the SMP.

Operation and Maintenance

A long-term monitoring program in being implemented that was designed to ensure that the implemented remedy remains effective. The majority of the long-term monitoring program, which is being conducted by Benchmark under contract to the PSDs, includes the following: annual inspection of the landfill cover system; monitoring of the gas venting system; inspection of groundwater level monitoring; collection of groundwater samples from selected wells; collection of surface water samples from the Creek at three locations and groundwater samples from five wells; and providing annual reports on these activities to NYSDEC and EPA. The Groundwater/Seep Collection and Pretreatment systems are monitored semi-annually by the Village of Gowanda, on behalf of GARC.

Five-Year Review

Because hazardous substances, pollutants, or contaminants remain at the Site above levels that would otherwise allow for unlimited use and unrestricted exposure, a statutory five-year review is required. The first five-year review was completed in April 2015. In the review EPA concluded that the remedy is functioning as intended and is protective of

human health and the environment. The five-year review did not include any issues or recommendations. The next five-year review will be completed before April 2020.

Community Involvement

Public participation activities for this Site have been satisfied as required in CERCLA 113(k) and Section 117. As part of the remedy selection process, the public was invited to comment on EPA's proposed remedies. All other documents and information that EPA relied on or considered in recommending this deletion are available for the public to review at the information repositories identified above.

Determination that the Site Meets the Criteria for Deletion in the NCP

EPA, with the concurrence of the State of New York through NYSDEC, has determined that all required and appropriate response actions have been implemented by the responsible parties. The criteria for deletion from the NPL (40 CFR 300.425(e)(1)(I)) are met. The implemented remedy achieves the protection specified in the ROD(s) for all pathways of exposure. All selected remedial and removal action objectives and associated cleanup levels are consistent with agency policy and guidance. No further Superfund response is needed to protect human health and the environment.

V. Deletion Action

The EPA, with concurrence of the State of New York through the NYSDEC, has determined that all appropriate response actions under CERCLA, other than operation and maintenance, monitoring and five-year reviews have been completed. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is proposing to delete the Site without prior publication. This action will be effective

[INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER]*, unless EPA receives adverse comments by [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER]*,If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion, and the deletion will not take effect. EPA will prepare a response to comments and continue with the deletion process, as appropriate, on the basis of the notice of intent to delete and the comments already received. If there is no withdrawal of this direct final notice of deletion, there will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: July 16, 2019.

Peter D. Lopez,
Regional Administrator, Region 2.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(d); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Subpart L—National Oil and Hazardous Substances Pollution Contingency Plan; Involuntary Acquisition of Property by the Government

Appendix B to Part 300 [Amended]

2. Table 1 of Appendix B to part 300 is amended by removing the entry: "NY, Peter Cooper, Gowanda".

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