

2020 PERIODIC REVIEW REPORT

Bern Metal Corporation
NYSDEC ID: 915135

17-039-1144

Prepared for:



City of Buffalo
Office of Strategic Planning
Division of Environmental Affairs

Prepared by:



LiRo Engineers, Inc.
690 Delaware Avenue
Buffalo, New York 14209

June 11, 2020

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1.0 Introduction

LiRo Engineers, Inc. (LiRo) has prepared this Periodic Review Report (PRR) on behalf of the City of Buffalo (COB) to summarize the post remedial status of the New York State Department of Environmental Conservation (NYSDEC) Brownfield Cleanup Program (BCP) Site No. 915135, located at 22 Bender Street in the City of Buffalo, Erie County, New York (“Site”; see Figure 1).

This PRR has been prepared for the Bern Metal Corporation Site in accordance with NYSDEC DER-10 *Technical Guidance for Site Investigation and Remediation*. The NYSDEC Institutional and Engineering Controls (IC/EC) Certification Form has been completed for the Site (Appendix A). This PRR and associated inspection form have been completed for the post-remedial activities at the Site for the reporting period from May 15, 2019 to May 15, 2020.

1.1 Background Information

The Bern Metal Corporation Site (Site) is located at 22 Bender Street in the City of Buffalo, Erie County, New York (Figure 1).

The Site previously consisted of two properties known as: Bern Metals (approximately 3.7 acres) and Universal Metals (approximately 1.5 acres). The Site was an abandoned scrap reprocessor. Based on complaints from citizens, the NYSDEC conducted a Phase I Investigation in 1987. Approximately 200 55-gallon drums were found on the Bern Metals property, along with other wastes including metal turnings, waste chemicals, sludges, battery cases, and spilled battery acids. Subsequently, 25 leaking transformers containing PCBs were found on the Universal Metals property.

1.2 Regulatory History

In 1990, the United States Environmental Protection Agency (USEPA) conducted an emergency removal at the Site. Drums, gas cylinders, and transformers were removed from the Site. Under order by the USEPA in 1994, a group of potentially responsible parties (PRPs) remediated neighboring residential properties and erected a fence around the contaminated Site. The PRPs conducted a Remedial Investigation and Feasibility Study (RI/FS) of the Site during the period from 1993 to 1995.

The Record of Decision (ROD) was signed in 1996 which required the contaminated soils be consolidated and properly capped. Under a separate New York State consent order, the PRPs consolidated and capped the waste onto the property known as Bern Metals (approximately 3.7 acres), completing the project in 2002. The long-term Operation, Maintenance, and Monitoring Plan (OMM) is in effect and is being implemented by the City of Buffalo.

The Universal Metals property has been remediated as required by the ROD.

2.0 Site Overview

The Bern Metal Site is an approximately 3.7 acre capped landfill located at 22 Bender Street in the City of Buffalo, Erie County, New York (Figure 1). The landfill was completed in 2002 and the long-term OMM prepared by Blasland, Bouk, and Lee, Inc. (BBL) beginning in 2003 by the City of Buffalo. During this monitoring period, the property was purchased by Mr. Mohammed Siddiqui.

3.0 Site Management

3.1 Monitoring and Maintenance Program

3.1.1 Groundwater Monitoring

The OMM specified that during the first two years of the OMM program, groundwater sampling would be performed on a semi-annual basis and the first two groundwater sampling events would include analysis for cadmium, chromium, lead, manganese, zinc, polychlorinated biphenyls (PCBs), and benzene, toluene, ethylbenzene, and xylenes (BTEX). After a review of the first two rounds of groundwater sampling data and as approved by the NYSDEC, the analyses were reduced to lead analysis only. Following the first two years of groundwater sampling, the groundwater sampling frequency was reduced to annually. The last groundwater sampling event was performed on May 3, 2017 and recommendation was made to modify the groundwater monitoring frequency to quinquennially (every 5 years). NYSDEC approved the modification to the groundwater monitoring frequency on November 21, 2017. As a result, groundwater sampling was not performed during this PRR reporting period.

3.1.2 Site Inspection and Certification

In accordance with NYSDEC DER-10 6.3(a)(4), this PRR is to provide the information necessary to document the basis for the IC/EC certification. The certification primarily consists of a Site inspection to complete the NYSDEC's IC/EC Certification Form in order to confirm that the IC/ESs:

- Are in place, performing properly, and remain effective;
- That nothing has occurred that would impair the ability of the controls to protect the public health and environment;
- That nothing has occurred that would constitute a violation or failure to comply with any operation and maintenance plan for such controls; and,
- That access is available to the Site to evaluate continued maintenance of such controls.

A Site inspection of the property was conducted on May 19, 2020 by a LiRo employee who meets the requirements of a Qualified Environmental Professional (QEP), a representative of the NYSDEC, a representative from the City of Buffalo Engineering Department and the Owner. The Site inspection included the following components:

- Final cover system;
- Stormwater drainage system;
- Site access and security systems; and,

- Site monitoring wells.

During the inspection of the final cover system, one inactive rodent burrow was found in the southern side of the landfill between RD-1 and RD-2. The vegetative cover was found to have substantial overgrowth. Erosion, vehicle ruts, ponding water, tree and brush growth and protruding objects were not observed.

During the inspection of the stormwater drainage system, Japanese Knotweed and shrub roots were observed within the perimeter drainage ditch. The vegetation has been cut down and there is no evidence of blockage in the ditch.

During the inspection a breach was observed in the perimeter fence near RD-2. The breach in the fence was repaired by the City of Buffalo on May 20, 2020.

All five Site monitoring wells were found to be in good condition. A new steel lockable pro-casing was installed at RD-3/RD-3R in January of 2020.

At the time of the inspection, the Site was generally in compliance with the EC/ICs. Appendix A includes the completed Institutional and Engineering Controls Certification form and Appendix B contains the completed Site Inspection Form. Appendix C provides a photographic log showing the condition of the Site at the time of inspection.

3.2 Engineering and Institutional Control Requirements and Compliance

The following IC/EC are to be maintained as a requirement of the Brownfield Cleanup Agreement (BCA) for the Site:

- **Engineering Controls:** Engineering controls (EC) for the Site consist of a cover system and fencing.

The Site cover system and Site fencing continue to operate as designed and are being maintained and monitored as required.

- **Institutional Controls:** Institutional controls (IC) for the Site consist of a groundwater use restriction and implementation of the Site OMM.

The site institutional controls are being implemented as required.

4.0 Conclusions and Recommendations

Conclusions from the monitoring, maintenance, and inspection activities performed during the current PRR reporting period are as follows:

- At the time of the Site inspection, the Site was in compliance with the IC/EC including groundwater monitoring, inspection, and, inspection and maintenance of the Site cover and fencing.
- Based on visual inspection, the groundwater monitoring wells were observed to be structurally sound.

Based on the conclusions presented above, the Site has been in operation and compliance with the Site OMM for nearly 14 years with little to no change in groundwater quality since 2003. Similarly, the groundwater flow pattern has shown little to no change during this period. LiRo recommends the following with regards to the operation, maintenance, and monitoring at the Site:

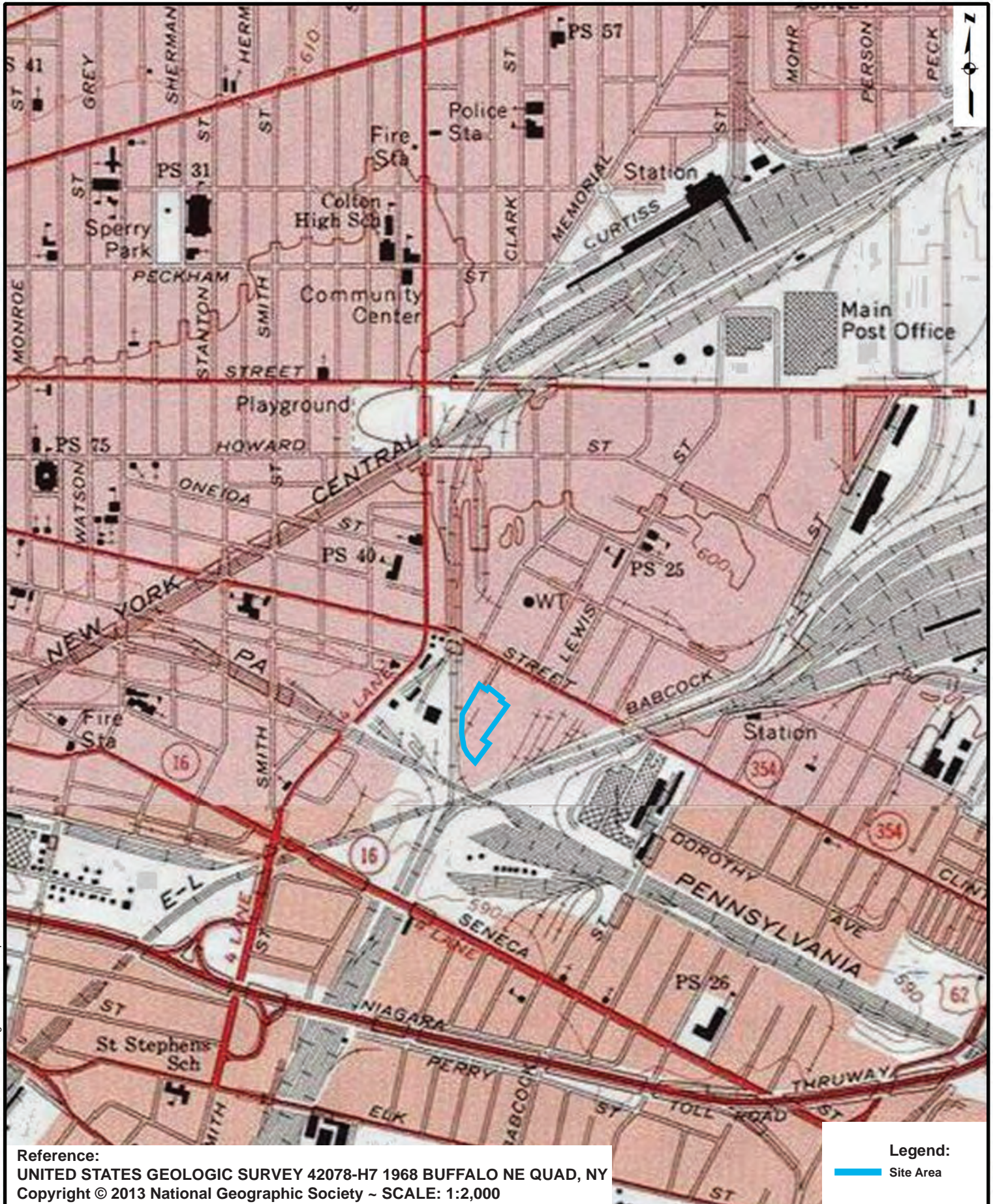
- Site inspections should continue to be performed annually during the spring and prior to end of the next certifying period;
- Groundwater monitoring should be performed during the certifying period ending in May 2022, as approved by NYSDEC;
- Breach in the perimeter fencing should be repaired (completed as noted below)
- The vegetative cover on the landfill cap should be mowed annually;
- Baiting and trapping for rodent control should be initiated each spring;
- Backfilling of rodent burrows should be completed following removal of rodents; and,
- Periodic removal of vegetation from the perimeter drainage ditch to reduce the risk of vegetative spread onto the landfill cap.

4.1 Corrective Actions

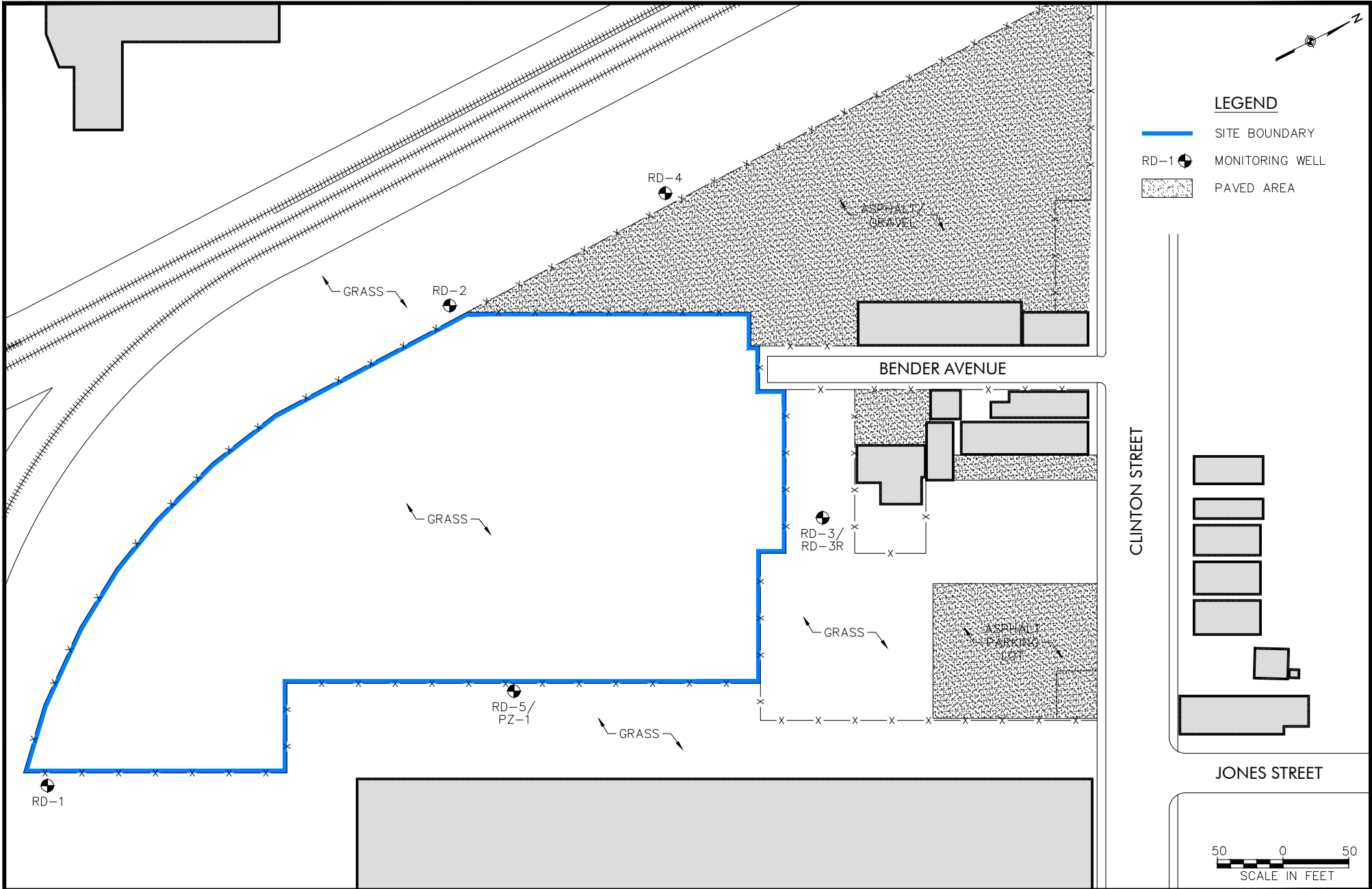
Corrective actions to address the identified maintenance items were completed in May 2020. As of that time, the following maintenance items were corrected/repared:

- Animal burrow backfilled with soil; and,
- The breach of the Site perimeter fencing has been repaired.

Figures



BERN METAL CORPORATION SITE TOPOGRAPHIC LOCATION MAP



LiRo Engineers, Inc.
690 Delaware Avenue
Buffalo, New York

BERN METAL CORPORATION SITE PLAN

FIGURE NO.

2

Appendix A
PRR Certification Form



Enclosure 2
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Periodic Review Report Notice
Institutional and Engineering Controls Certification Form



Site Details

Box 1

Site No. 915135

Site Name Bern Metal Corp.

Site Address: 22 Bender Street **Zip Code:** 14206

City/Town: Buffalo

County: Erie

Site Acreage: 3.700

Reporting Period: May 15, 2019 to May 15, 2020

YES NO

1. Is the information above correct?

☒ ☐

If NO, include handwritten above or on a separate sheet.

2. Has some or all of the site property been sold, subdivided, merged, or undergone a tax map amendment during this Reporting Period?

☒ ☐

3. Has there been any change of use at the site during this Reporting Period (see 6NYCRR 375-1.11(d))?

☐ ☒

4. Have any federal, state, and/or local permits (e.g., building, discharge) been issued for or at the property during this Reporting Period?

☐ ☒

If you answered YES to questions 2 thru 4, include documentation or evidence that documentation has been previously submitted with this certification form.

5. Is the site currently undergoing development?

☐ ☒

Box 2

YES NO

6. Is the current site use consistent with the use(s) listed below?
Closed Landfill

☒ ☐

7. Are all ICs/ECs in place and functioning as designed?

☒ ☐

**IF THE ANSWER TO EITHER QUESTION 6 OR 7 IS NO, sign and date below and
DO NOT COMPLETE THE REST OF THIS FORM. Otherwise continue.**

A Corrective Measures Work Plan must be submitted along with this form to address these issues.

Signature of Owner, Remedial Party or Designated Representative

Date

Description of Institutional ControlsParcelOwnerInstitutional Control**111.84-2-15.1**

Bernard Arwitz

Ground Water Use Restriction

O&M Plan

i) Implementation of Operation, Maintenance, and Monitoring Plan, dated May, 2003. ii) Prohibition of use of groundwater iii) Maintenance of fencing

111.84-2-16

Bernard Arwitz

Ground Water Use Restriction

O&M Plan

Ground Water Use Restriction

O&M Plan

i) Implementation of Operation, Maintenance, and Monitoring Plan, dated May, 2003. ii) Prohibition of use of groundwater iii) Maintenance of fencing

Description of Engineering ControlsParcelEngineering Control**111.84-2-15.1**

Cover System

Fencing/Access Control

i) Implementation of Operation, Maintenance, and Monitoring Plan, dated May, 2003.

ii) Prohibition of use of groundwater

iii) Maintenance of fencing

111.84-2-16

Cover System

Fencing/Access Control

Cover System

Fencing/Access Control

Periodic Review Report (PRR) Certification Statements

1. I certify by checking "YES" below that:

a) the Periodic Review report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;

b) to the best of my knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and the information presented is accurate and complete.

YES NO

☒ ☐

2. If this site has an IC/EC Plan (or equivalent as required in the Decision Document), for each Institutional or Engineering control listed in Boxes 3 and/or 4, I certify by checking "YES" below that all of the following statements are true:

(a) the Institutional Control and/or Engineering Control(s) employed at this site is unchanged since the date that the Control was put in-place, or was last approved by the Department;

(b) nothing has occurred that would impair the ability of such Control, to protect public health and the environment;

(c) access to the site will continue to be provided to the Department, to evaluate the remedy, including access to evaluate the continued maintenance of this Control;

(d) nothing has occurred that would constitute a violation or failure to comply with the Site Management Plan for this Control; and

(e) if a financial assurance mechanism is required by the oversight document for the site, the mechanism remains valid and sufficient for its intended purpose established in the document.

YES NO

☒ ☐

**IF THE ANSWER TO QUESTION 2 IS NO, sign and date below and
DO NOT COMPLETE THE REST OF THIS FORM. Otherwise continue.**

A Corrective Measures Work Plan must be submitted along with this form to address these issues.

Signature of Owner, Remedial Party or Designated Representative

Date

**IC CERTIFICATIONS
SITE NO. 915135**

Box 6

SITE OWNER OR DESIGNATED REPRESENTATIVE SIGNATURE

I certify that all information and statements in Boxes 1,2, and 3 are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.

I Stephen Frank at 690 Delaware Ave, Buffalo, NY
print name print business address
am certifying as Remedial Party (Owner or Remedial Party)

for the Site named in the Site Details Section of this form.

Stephen Frank 6/1/20
Signature of Owner, Remedial Party, or Designated Representative Date
Rendering Certification

IC/EC CERTIFICATIONS


Box 7

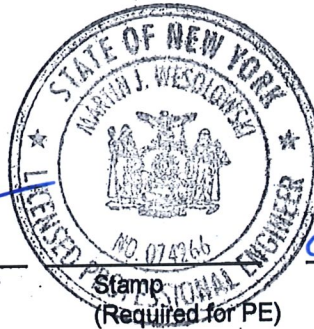
Professional Engineer Signature

I certify that all information in Boxes 4 and 5 are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.

I Martin Wesolowski at 690 Delaware Ave, Buffalo, NY
print name print business address

am certifying as a Professional Engineer for the Remedial Party
(Owner or Remedial Party)


Signature of Professional Engineer, for the Owner or
Remedial Party, Rendering Certification



Stamp
(Required for PE)

6/8/2020
Date



CITY OF BUFFALO
Office of Strategic Planning



BYRON W. BROWN
Mayor

BRENDAN MEHAFFY
Executive Director

May 12, 2020

Mr. Mohammed Siddiqui
117 Hayden Street
Buffalo, New York 14210

Re: 22-23 Bender AKA Bern Metal Corp. Site
NYSDEC Site # 915135
22-23 Bender Street
Buffalo, NY 14206

Mr. Siddiqui,

Further and as a follow-up to the April 9, 2020 letter regarding your acquisition of real property located at 22 Bender Street (SBL: 111.84-2-16) and at 23 Bender Street (SBL: 111.84-2-15.1) (collectively, the "Site"), the City of Buffalo is sending you this notice of an upcoming regularly scheduled Site visit in connection with certain ongoing obligations and in connection with general property restrictions all pursuant to Site related arrangements required by the New York State Department of Environmental Conservation (NYSDEC). The Site, also known as "Bern Metal Corp. Site" (NYSDEC Site # 915135), is subject to record restrictions and engineering/institutional controls associated with Site contamination arising from former activities/uses that occurred on the Site.

The City of Buffalo has responsibilities for certain of the ongoing operation, maintenance and monitoring of the Site as a result of the provisions contained in a consent decree, a copy of which was previously sent to you. The Consent Decree was entered into on or about July of the year 2002. The Site Operation, Maintenance, and Monitoring Plan (OMM Plan) was approved and implemented on or about May of the year 2003. City of Buffalo employees and/or designated personnel acting on behalf of the City of Buffalo will need to continue to access the Site per the Consent Decree and related documentation. Per recent correspondence from the NYSDEC regarding the annual Periodic Review Report (PRR) and IC/EC Certification for the site, the City will have staff and/or designated personnel on site on **May 19, 2020 at 9 AM** to complete Site inspection, routine maintenance and any required repairs. In the event of unfavorable weather conditions, **May 20, 2020 at 9 AM** has been set as the backup date.

Should you have any questions or concerns, please do not hesitate to contact me at 716-851-5406 or email at: jpaananen@city-buffalo.com

Sincerely,

Jason Paananen, AICP
Director of Environmental Affairs

Cc: Brendan Mehaffy, Executive Director, Office of Strategic Planning
John Heffron, Assistant Corporation Counsel
Michael Finn, Commissioner of Department of Public Works, Parks and Streets
Don Poleto, Senior Engineer, Department of Public Works, Parks and Streets
Lou Petrucci, Deputy Commissioner, Department of Permits and Inspections
Megan Kuczka, NYSDEC Region 9
Chad Staniszewski, NYSDEC Region 9

Attachments: April 9, 2020 Correspondence Letter

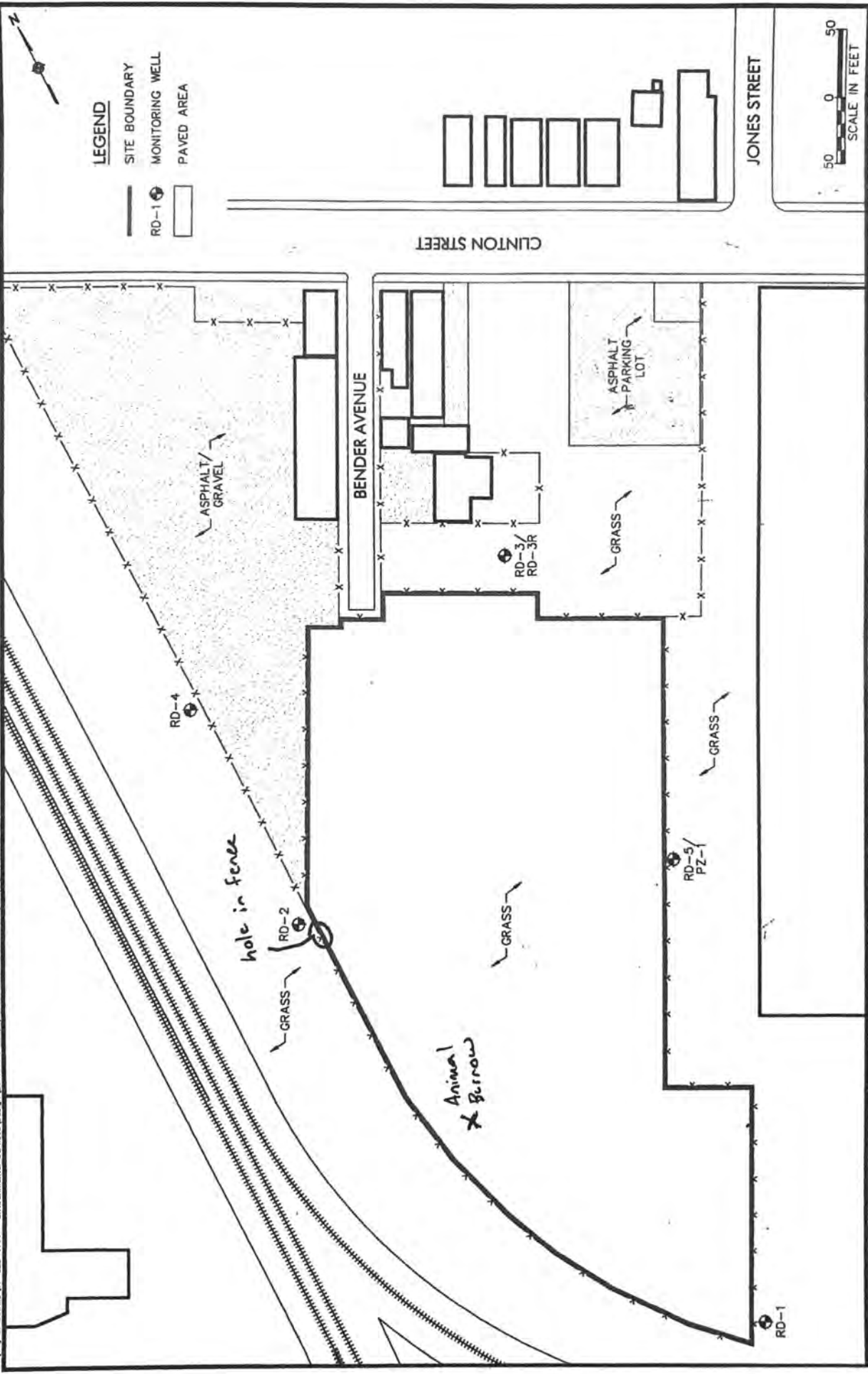
Appendix B
Site Inspection Form

Post-Closure Inspection Form for Operation, Maintenance, and Monitoring
Bern Metal/Universal Metal Site
Buffalo, New York

Date: 5/19/20
 Weather: Cloudy

Inspector(s): A. Kosars
S. Frank
M. Kulczka

Inspection Items	Acceptable		Comments/Conditions
	Yes	No	
1. General Site Conditions			
Gates Locked and Secure	X		breach in fence near RD-2
Perimeter Fence/ Warning Signs		X	
Perimeter Vegetation	X		
Trash or Litter	X		
Survey Control Monuments	X		
2. Maintenance Road Conditions			
Surface	X		
Accessibility	X		
3. Final Cover Vegetation			
General Grass Growth	X		one burrow between RD-1 + RD-2
Stressed Vegetation	X		
Animal Burrows		X	
Tree or Bush Growth	X		
Protruding Objects/Settlement	X		
Ponding Water	X		
Erosion	X		
4. Storm Water Drainage System			
Mid-Slope Drainage Swales	X		
Perimeter Drainage Ditch	X		
Outlet Drainage Ditch	X		
Catch Basins	X		
5. Groundwater Monitoring Wells			
Casings Secure and Locked	X		
6. Other Items			
Sketch <u>See attached drawing</u>			



Appendix C

Site Photographs

Site Photos



Photo No. 1 – Nearly empty drum to be removed from site.



Photo No. 2 – Monitoring well RD-3/RD-3R with new protective casing and repaired PVC riser.

Site Photos



Photo No. 3 – View of vegetative growth on top of landfill.



Photo No. 4 – View of Northern side of Landfill and drainage swale.

Site Photos



Photo No. 5 – View of repaired breeching in fence



Photo No. 6 – View of breeching in fence at RD-2