



SYRACUSE UNIVERSITY

ENVIRONMENTAL HEALTH AND SAFETY SERVICES OFFICE

March 25, 2014

Chris Mannes, III, P.E.
NYS Department of Environmental Conservation
Region 7
Division of Environmental Remediation
615 Erie Boulevard, West
Syracuse, NY 13204

Re: Site Management Periodic Review Report
Site #: B00003
Site Name: Midtown Plaza
Site Address: 727 East Washington St., Syracuse, NY 13202

Dear Chris Mannes:

The following information, attachments and certifications are provided to satisfy the requirements of Periodic Review Report (PRR) requested by NYS Department of Environmental Conservation (DEC) in lieu of all other previously required certifications, reports, etc., associated with the redevelopment of the property referenced herein. This PRR is for the former Midtown Plaza Site ("City Parcel") that was redeveloped by Syracuse University for the Syracuse Center of Excellence (CoE) in Environmental and Energy Systems Headquarters ("CoE Campus Development Project") (2005 - 2011).

This PRR covers activities at the site from March 1, 2013 to March 1, 2014.

I. Executive Summary

The former Midtown Plaza site ("City Parcel") at 700 East Washington Street in Syracuse, NY, was purchased by Syracuse University in 2004 and redeveloped as the Syracuse Center of Excellence in Environmental and Energy Systems Headquarters (current building address is 727 East Washington St.). Prior to purchase by Syracuse University, a Record of Decision (ROD) was issued for the site in March 1998 and the activities to implement the ROD, including demolition for the Midtown Plaza building at the site, were completed in June 1999.

Additional limited subsurface investigations were conducted by Syracuse University in cooperation with the NYSDEC Region 7 Division of Environmental Remediation during the CoE Campus Development Project. Contaminants, including asbestos debris, semi-volatile polycyclic hydrocarbons, heavy metals and Hexavalent chromium, were identified to be present in the site's soils and groundwater at varying degrees. Remediation of the site as part of the CoE Campus Development Project began in the summer of 2006 under the NYSDEC approved Site Management Plan for Construction of the TIEQ Laboratory and CoE Headquarters (July 2005) (referred to herein as the "Construction SMP"). The bulk of source removal efforts occurred from August 2006 through the summer of 2007 and additional source removal continued sporadically through the completion of the CoE development project in fall of 2010.

As mandated by the Construction SMP, a "Cover" consisting of no less than a 12-inch depth of NYSDEC approved impervious products was placed on all portions of the City Parcel redeveloped as part of the CoE

Campus Development Project. A Construction SMP Compliance Report and Certification and a Cover Placement Certification were submitted to NYSDEC in March 2011 for the redeveloped portions of the City Parcel. The southeast quadrant of the City Parcel still remains undeveloped and without the required “Cover” pending redevelopment as an Intermodal Parking and Transportation Facility (ITF). Construction of the ITF is scheduled to begin in the spring of 2014.

A NYSDEC approved Post Construction Site Management Plan (SMP) is in force and being followed for the developed portions of the City Parcel (i.e. the CoE Campus). No deviations from the Post Construction SMP were identified or known to have occurred during the March 1, 2013 to March 1, 2014 reporting period.

No changes to the Post Construction or Construction Site Management Plans are recommended at this time by Syracuse University. It is acceptable to the University to continue to submit a Periodic Review Report and certification for this site annually in lieu of all other previously agreed to reports, certifications, etc. associated with redevelopment of this property (including the Deed Restriction that was recorded in the Onondaga County Clerk’s Office by the City of Syracuse on March 25, 2004) until all redevelopment activities on the City Parcel have been completed and the required “Cover” is in place throughout the City Parcel. A less frequent reporting timeframe will be requested by the University once redevelopment of the site is complete.

II. Site Overview

The former Midtown Plaza site at 700 East Washington Street in Syracuse, NY, is located in the City of Syracuse and is bordered by East Washington St. and East Water St. between Forman Ave and Almond St. (Attachment A). The site was purchased by Syracuse University in 2004 and redeveloped as part of the Syracuse Center of Excellence in Environmental and Energy Systems Headquarters development project (also known as the “CoE Campus Development Project”). The CoE Campus Development Project involved redevelopment of the following two (2) adjacent parcels (“CoE Site”) (Attachment B):

- a 0.6 acre parcel formally owned by the City of Syracuse Industrial Development Agency (SIDA Parcel) and
- a 2.4 acre parcel formally owned by the City of Syracuse that was the site of the former Midtown Plaza building (“City Parcel”).

The City Parcel portion of the CoE Site was initially remediated by the City of Syracuse under the NYSDEC Environmental Restoration Program (ERP). A Record of Decision (ROD) was issued for the site by the NYSDEC in March 1998 and activities to implement the ROD, including demolition of the former Midtown Plaza building, were completed in June 1999. The site was then chosen by the NYS Governor’s office, Syracuse University, and several private companies and academic institutions to be the location of the future NYS Center of Excellence for Environmental and Energy Systems (CoE). Syracuse University acquired the property in 2004 and performed additional sub-surface investigations during redevelopment of the CoE Site and construction of the CoE Headquarters building (spring 2006 – fall 2011).

The nature and extent of contamination at the City Parcel were defined through (a) the investigation conducted by the City of Syracuse under the ERP project, (b) the University’s environmental assessment review conducted by O’Brien and Gere Engineers Inc., (c) NYSDEC investigations performed in the fall of 2004, and (d) University sub-surface investigations performed during site redevelopment and construction.

Contaminants identified during the site investigations and/or encountered during site redevelopment include:

- Debris containing residual asbestos from demolition of the former Midtown Plaza building
- Soil and debris containing semi-volatile polycyclic hydrocarbons

- Soil containing heavy metals
- Soil with visible staining from petroleum products from previous spills on-site and/or migrating on to the site from adjacent sites
- Hexavalent chromium in the groundwater (identified in one on-site monitoring well, T2)

Redevelopment activities on the City Parcel were governed by the Construction SMP, which specified requirements for soil handling, re-use and disposal, community air monitoring, and other associated redevelopment activities, as well as a requirement to place a “Cover” on the City Parcel as part of the redevelopment work.

During the fall of 2010, redevelopment activities associated with the CoE Campus Development Project were essentially completed except for a space awaiting construction of an Intermodal Parking and Transportation Facility. The required “Cover” was put in place on the redeveloped areas of the City Parcel.

A Construction Compliance Report and compliance certifications confirming installation of the required City Parcel Cover and adherence to the Construction SMP for the re-development activities were submitted to the Department with the University’s correspondence to you of March 28, 2011.

The current building address for the CoE Headquarters Building is 727 East Washington St.

III. Remediation Performance and Effectiveness

The redevelopment activities associated with the CoE Campus Development Project are completed. The required “Cover” is in place and being maintained in accordance with the Post Construction SMP on all of the City Parcel with the exception of the southeast quadrant of the site (Attachment C). Most of the southeast quadrant of the City Parcel remains undeveloped without “Cover” in place because this area is proposed to be part of the area for construction of an Intermodal Parking and Transportation Facility (ITF) funded by a Federal Department of Transportation (DOT) grant with matching funds from Syracuse University (the “ITF Project”). The ITF Project has experienced several schedule setbacks due to delays in Congressional approvals of the funding bill, and numerous requests by NYS DOT for additional traffic and parking studies of the surrounding area.

The 100% Construction Documents set for the ITF Project is currently being reviewed for approval by the Federal and NYS DOT. The University anticipates that the ITF Project will go to bid late in the early spring of 2014 and will take approximately 12 to 18 months to complete.

A fence is currently in place around the undeveloped area of the City Parcel to prevent access to the area from adjoining public sidewalks. Access to this area is limited to individuals who have been authorized and made aware of the existing site conditions by the University’s Office of Campus Planning, Design and Construction (CPDC). Development activities associated with the ITF will be completed following the Construction SMP for development activities on the City Parcel, including the installation of the required “Cover.”

Following completion of the ITF Project, a construction compliance report specific to the ITF Project will be prepared and submitted to the Department accompanied by the required certification from the University. The University will also submit an amended City Parcel Cover Certification confirming that the “Cover” has been extended over the entire City Parcel with the completion of this project.

IV. IC/EC Plan Compliance Report

- **Landuse Restriction**

The current use of the redeveloped site conforms to the requirements of the land restriction.

- **Site Management Plan – Post Construction**

The Post-Construction Site Management Plan (SMP) is in effect for the redeveloped areas of the City Parcel. All future development and maintenance activities in this area are required to follow the guidelines set forth in the Post-Construction SMP. In accordance with Section 6 of the Post-Construction SMP, the CoE Site representatives and a Qualified Environmental Professional (James Blum, P.E., Syracuse University CPDC) performed the required annual site inspection of the City Parcel in March 2014. The inspection was performed for the entire CoE Campus site with the exception of the undeveloped, fenced in area in the southeast quadrant of the site (that is, the future ITF development area). The inspection included a visual evaluation of the CoE Site to identify any weathering or impairments in the “Cover” materials and a review of any activities that could have disturbed the “Cover.”

As indicated on the enclosed copy of the completed (March 20, 2014) CoE Campus Site Inspection Form (Attachment D), no known activities occurred on the CoE Site over the last year that breached the “Cover.” No areas of impairment or concern were observed in the “Cover” during the annual site inspection.

- **Site Management Plan – Construction (includes soil management requirements)**

The Construction SMP will be followed during redevelopment activities associated with the Intermodal Parking and Transportation Facility on the southeast quadrant of the City Parcel. The Construction SMP specifies requirements for soil handling, re-use and disposal, community air monitoring, and other associated redevelopment activities, as well as a requirement to place a 12-inch “Cover” on the City Parcel as part of the re-development work. Following completion of the ITF Project, a construction compliance report specific to the ITF Project will be prepared and submitted to the NYSDEC accompanied by the required certification from the University. The University will also submit an amended City Parcel Cover Certification confirming that the “Cover” has been extended over the entire City Parcel with the completion of this project.

- **Cover System:**

A “Cover” consisting of NYSDEC approved impervious products including concrete, asphalt, and/or clean soil or stone was installed and remains in place at a depth of not less than 12-inches on the portions of the City Parcel redeveloped as part of the CoE Campus Development Project. A demarcation layer consisting of orange colored landscape fabric (mirafi) was placed, as described in the Construction Manager’s Compliance Management Report and Certification for the project, below the “Cover” to distinguish the boundary between the “Cover” and pre-existing fill.

In the Cover Certification submitted to NYSDEC (Chris Mannes) in March 2011, the University certified that, to the best of its knowledge, a Cover consisting of NYSDEC approved impervious products and/or clean soil or stone of a substantially uniform depth of not less than 12-inches and an demarcation layer of orange mirafi had been installed and remains in place on all portions of the City Parcel redeveloped as part of the CoE Campus Development Project, with the exception of the undeveloped, fenced in area in the southeast quadrant of the site (the future ITF development area).

V. Monitoring Plan Compliance Report – Not Applicable

VI. Operations and Maintenance Plan Compliance Report – Not Applicable

VII. Overall PRR Conclusions and Recommendations

No deviations in compliance with the Institution and Engineering Controls in place for the City Parcel portion of the CoE Site, including the Post Construction SMP, Land Use Restriction and site “Cover” were identified during the reporting period of March 1, 2013 through March 1, 2014.

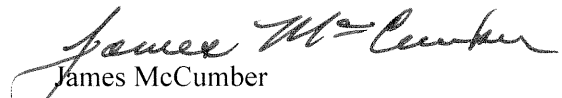
As indicated in Section III above, redevelopment activities in the undeveloped and un-covered southeast quadrant of the City Parcel are scheduled to commence in the spring of 2014 as part of the construction of the Intermodal Parking and Transportation Facility (ITF). Development activities associated with the ITF will be completed following the Construction SMP for development activities on the City Parcel, including the installation of the required “Cover.” An SMP construction report and certification and a certification of “Cover” placement will be submitted to the NYSDEC once redevelopment of this area of the City Parcel is completed.

No changes to the Post Construction or Construction SMPs are recommended at this time by Syracuse University. It is acceptable to the University to continue to submit the Periodic Review Report for this site annually until all redevelopment activities on the City Parcel have been completed and the required “Cover” is in place throughout the City Parcel. A less frequent reporting timeframe will be requested by the University once redevelopment of the site is complete.

If you have any questions or require any additional information, please do not hesitate to contact me at your convenience.

Sincerely,

On Behalf of Syracuse University:


James McCumber
Director, Environmental Health Office

Attachment A – CoE Site Location
Attachment B – CoE Site Plan
Attachment C – CoE Site Cover
Attachment D – CoE Annual Site Inspection
Attachment E – NYSDEC PRR IC/EC Certification Form

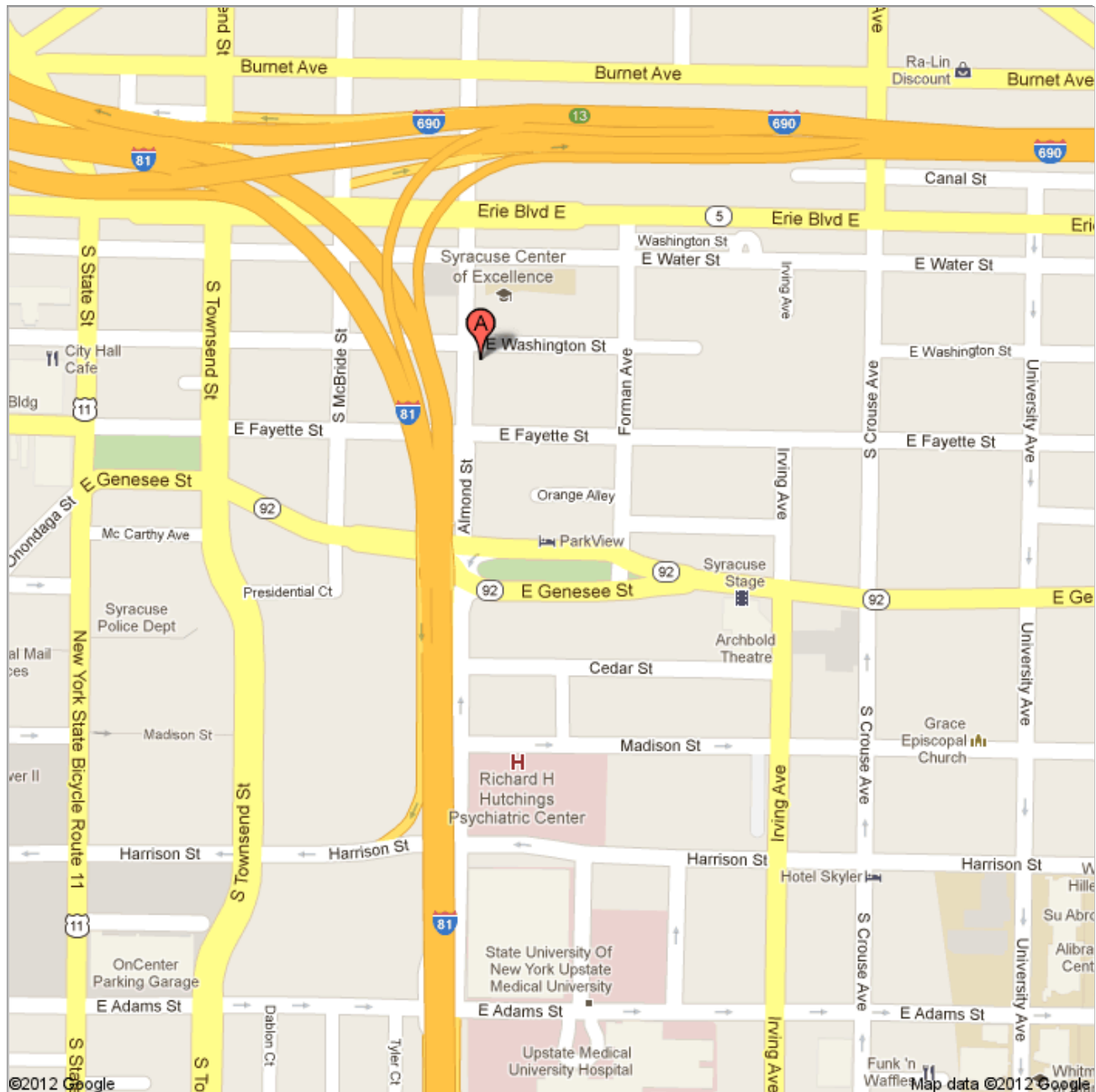
Cc: E. Beattie – Syracuse University CPDC
J. Blum – Syracuse University CPDC
B. Ponza – Syracuse University EHSS
E. Bogucz – Syracuse University CoE
Barry Kogut – Bond, Schoeneck and King

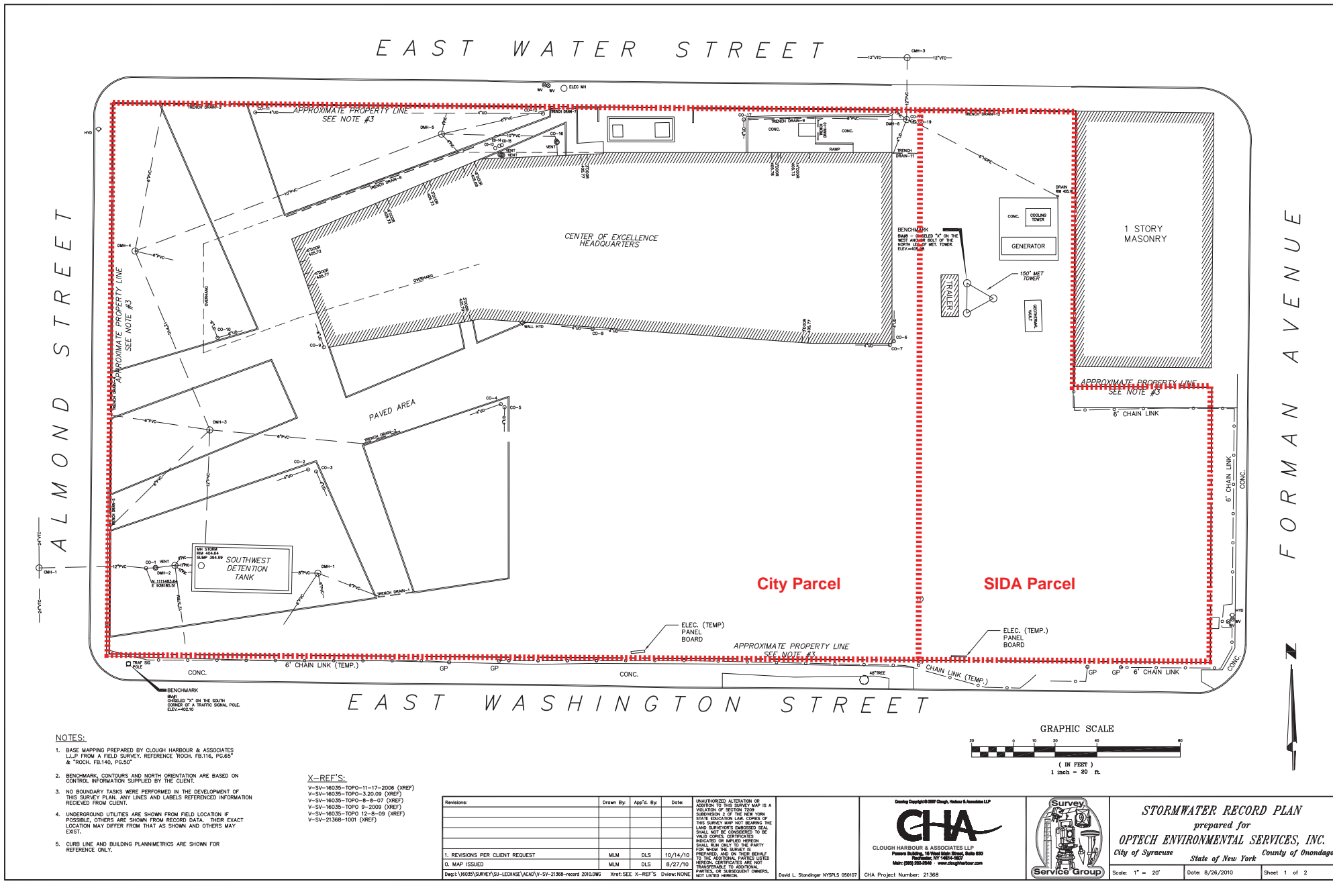


Address **700 E Washington St**
Syracuse, NY 13210

Get Google Maps on your phone

Text the word "GMAPS" to 466453





Created: January 19, 2011
January 19, 2011



NOTES:

1. BASE MAPPING PREPARED BY CLOUGH HARBOUR & ASSOCIATES LLP FROM A FIELD SURVEY. REFERENCE "ROCH. FB.116, PG.65" & "ROCH. FB.140, PG.20"
2. BENCHMARK, CONTIGUOUS AND NORTH ORIENTATION ARE BASED ON CONTROL INFORMATION SUPPLIED BY THE CLIENT.
3. NO BOUNDARY TASKS WERE PERFORMED IN THE DEVELOPMENT OF THIS SURVEY PLAN. ANY LINES AND LABELS REFERENCED INFORMATION RECEIVED FROM CLIENT.
4. UNDERGROUND UTILITIES ARE SHOWN FROM FIELD LOCATION IF POSSIBLE, OTHERS ARE SHOWN FROM RECORD DATA. THEIR EXACT LOCATION MAY DIFFER FROM THAT AS SHOWN AND OTHERS MAY EXIST.
5. CURB LINE AND BUILDING PLANNIMETRICS ARE SHOWN FOR REFERENCE ONLY.

X-REF'S:

V-SV-16035-TOPO-11-17-2008 (XREF)
V-SV-16035-TOPO-3-20-09 (XREF)
V-SV-16035-TOPO-8-8-07 (XREF)
V-SV-16035-TOPO-9-20-09 (XREF)
V-SV-16035-TOPO 12-8-09 (XREF)
V-SV-21368-1001 (XREF)

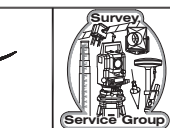
Revisions:	Drawn By:	App'd. By:	Date:
1. REVISIONS PER CLIENT REQUEST	MLM	DLS	10/14/10
2. MAP ISSUED	MLM	DLS	8/27/10

Draw: V-SV-16035(SURVEY)(SU)-LECHASE(VACU)-V-SV-21368-record 2010.DWG Xref: SEE X-REF'S Draw: NONE

UNAUTHORIZED ALTERATION OF THIS SURVEY MAP IS A VIOLATION OF SECTION 2009 SUBSECTION 2 OF THE NEW YORK STATE EDUCATION LAW. COPIES OF THIS SURVEY MAP NOT BEARING THE LAND SURVEYOR'S EMBOSSED SEAL SHALL NOT BE CONSIDERED TO BE VALID CORNER CERTIFICATES. REQUESTS OR WRITTEN REQUESTS FOR REVISIONS SHALL BE FORWARDED TO THE PARTY PREPARED, AND ON THEIR BEHALF TO THE ADDITIONAL PARTIES LISTED HEREIN. CERTIFICATES ARE NOT TRANSFERABLE TO ADDITIONAL PARTIES OR SUCCESSOR OWNERS, NOT LISTED HEREIN.

David L. Standinger WSPS 050107 CHA Project Number: 21368

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CHA
CLOUGH HARBOUR & ASSOCIATES LLP
Powers Building, 10 West Main Street, Suite 600
Binghamton, NY 13902-4201
Main: (607) 755-0549 www.cloughharbour.com



ENCAPSULATION RECORD PLAN
prepared for
OPTECH ENVIRONMENTAL SERVICES, INC.
City of Syracuse State of New York County of Onondaga
Scale: 1" = 20' Date: 8/26/2010 Sheet 2 of 2



**EXHIBIT B
CENTER OF EXCELLENCE
CAMPUS SITE INSPECTION FORM**

Inspection Date: March 20, 2014

Property Name: Syracuse University Center of Excellence

Property Address: 727 East Washington Street

City: Syracuse

State: NY

Zip Code: 13210

Property ID: (Tax Assessment Map)

City Parcel Number: 030 – 15 – 01.0

SIDA Parcel Number: 030 – 15 – 02.0

Total Acreage of Center of Excellence: 2.4 Acres

Weather (during inspection): Temperature: 38-degrees: Conditions: Overcast

SIGNATURE: _____

James P. Blum

The findings of this inspection were discussed with appropriate personnel, corrective actions were identified; and implementation was mutually agreed upon:

Inspector: James P. Blum

Date: March 20, 2014

Next Scheduled Inspection Date: Fall 2014.

IMPERVIOUS SURFACES

	Yes	No
1. List types and locations of cover inspected. Paving and pavers throughout the site.		
2. Is there evidence of sloughing, erosion, ponding or settlement?	___	<u>X</u>
Is there evidence of unintended traffic or rutting?	___	<u>X</u>
Are there visible cracks?	___	<u>X</u>

If answer to any of the above questions in YES, then provide a description below and indicate the location on attached map.



SOIL COVER
AND
VEGETATION

	Yes	No
3. Is soil and vegetation in acceptable condition?	<u>X</u>	—
A. Is there evidence of sloughing, erosion, ponding or settlement?	—	<u>X</u>
B. Is there evidence of unintended traffic or rutting?	—	<u>X</u>
C. Is there evidence of distressed vegetation or turf?	—	<u>X</u>
D. Are there locations where the marker layer is visible?	<u>X</u>	—

ACTIVITY ON
SITE

	Yes	No
4. Any activity on this site that mechanically disturbed the cover.	—	<u>X</u>

Provide a map indicating location of any modifications to property cover. – No modifications.

COMMENTS:

General: Surfaces and soil cover appears to be in appropriate condition.

3D: Mirafi marker layer is visible at edge turn-up along the south-eastern limit of boundary layer. This is the turn-up material (future edge overlap) and does not represent the depth of the boundary layer. Material will be used in overlap of the Intermodal Transportation Facility (ITF) project area.

General Note: Walk improvements were performed within the right-of-way of East Washington Street during summer/fall 2013. Fencing was maintained in the right-of-way with no disruption of barrier layer.

ATTACHMENTS: Note those that are attached:

Property Map: N.A.

Sketch: N.A.

Photographs: N.A.



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.	B00003		
Site Name Midtown Plaza			
Site Address: 727 East Washington Street		Zip Code: 13202-	
City/Town: Syracuse (C)			
County: Onondaga			
Site Acreage: 2.4			
Reporting Period: March 01, 2013 to March 01, 2014			
		YES	NO
1. Is the information above correct?		<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Has there been any change of use at the site during this Reporting Period (see 6NYCRR 375-1.11(d))?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Have any federal, state, and/or local permits (e.g., building, discharge) been issued for or at the property during this Reporting Period?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
However, construction of the Intermodal Parking and Transportation Facility is scheduled to start in the spring of 2014			
		Box 2	
		YES	NO
6. Is the current site use consistent with the use(s) listed below? Commercial and Industrial		<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Are all ICs/ECs in place and functioning as designed?		<input checked="" type="checkbox"/>	<input type="checkbox"/>
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.			
Not Applicable			
Signature of Owner, Remedial Party or Designated Representative		Date	

SITE NO. B00003

Box 3

Description of Institutional Controls

Parcel

Owner

Institutional Control

030-15-1.0

Syracuse University

Site Management Plan

Landuse Restriction

Soil Management Plan

included as part of the
Site Management Plan

Maintain Cover System, typical cover system are comprised of a building foot-print/concrete slab, side-walks, asphalt/gravel paking areas and in landscaped areas: maintain a minimum thickness of 12 inches of soil/mulch/grass cover. If damages occur repair areas of concern and notify the Department along a with a follow up report outlining actions taken to address damages.

Box 4

Description of Engineering Controls

Parcel

Engineering Control

030-15-1.0

Cover System

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.

Not Applicable

Signature of Owner, Remedial Party or Designated Representative

Date

IC CERTIFICATIONS
SITE NO. B00003

Box 6

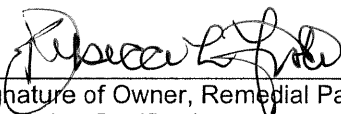
SITE OWNER OR DESIGNATED REPRESENTATIVE SIGNATURE

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 Rebecca L. Foote at Comptroller's Office, Syracuse University, Skytop Office Building
print name print business address Syracuse, NY 13244

am certifying as Comptroller of Syracuse University (Owner or Remedial Party)

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


Signature of Owner, Remedial Party, or Designated Representative
Rendering Certification

3/26/2014
Date

IC/EC CERTIFICATIONS

Box 7

Qualified Environmental Professional 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 James Blum, P.E. at Office of Campus Planning, Design and Construction
print name Syracuse University, Skytop Office Building, Syracuse, NY 13244
print business address

am certifying as a Qualified Environmental Professional for the Owner, Syracuse University
(Owner or Remedial Party)

James P. Blum
Signature of Qualified Environmental Professional, for
the Owner or Remedial Party, Rendering Certification

Stamp
(Required for PE)

3/25/14
Date

Attachment No. 1

Site Management Periodic Review Report

Site No.: B00003

Site Name: Midtown Plaza
727 East Washington Street
Syracuse, NY 13202

OVERVIEW

The referenced site was remediated by the City of Syracuse under the NYSDEC Environmental Restoration Program. This resulted in the issuance of a Record of Decision in March 1998 and the recording of a Deed Restriction in the Onondaga County Clerk's Office by the City of Syracuse on March 25, 2004 (Attachment 2). It is the University's understanding that the annual certification being required by NYSDEC requires that the University certify as to the University's continued adherence to the terms of (a) the Deed Restriction and (b) the applicable Site Management Plans that were approved as part of NYSDEC's approval of the University's requested Change of Use (see attached copies of the University's letter of July 7, 2005 (attachment 3) and the NYSDEC response of July 18, 2005 (attachment 4)). References to the Site remedial program are a reference to the terms of these documents.

BOOK 4824 PAGE 503

CITY OF SYRACUSE
3115

**AMENDED AND RESTATED DECLARATION OF COVENANTS AND
RESTRICTIONS IN FAVOR OF THE STATE OF NEW YORK AND NEW
YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

700 East Water Street, Syracuse, New York

**THIS AMENDED AND RESTATED DECLARATION OF COVENANTS AND
RESTRICTIONS** (the "*Amended Covenants*"), made as of the March 1, 2004, by the
CITY OF SYRACUSE, a municipal corporation organized and existing pursuant to the
laws of the State of New York, whose address is City Hall, 233 East Washington Street,
Syracuse, New York 13202 ("*Grantor*").

WHEREAS, the Grantor is the owner of the real property located at 700 East Water
Street, Syracuse, New York (the "*Property*"), as further described on the attached
Schedule "A"; and

WHEREAS, the Property has been investigated and remediated in accordance with the
terms and conditions of the "*Environmental Restoration Program*" established under the
1996 Clean Water/Clean Air Bond Act, as set forth in Title 5 of Article 56 of the New
York State Environmental Conservation Law (the "*Act*") and its accompanying
regulations, and is subject to the terms and conditions set forth in such laws and
regulations; and

WHEREAS, to implement the clean-up of the Property under the Act, the Grantor
entered into the following contracts with the New York State Department of
Environmental Conservation (the "*DEC*"); (i) an investigation contract, State Assistance
Contract No. C300442, filed in the Onondaga County Clerk's Office on October 24, 1997
(ref. 1085497 at Deed Book 4193, Page 120); together with any amendments thereto; (ii)
a remediation contract, State Assistance Contract No. C300666 filed in the Onondaga
County Clerk's Office on August 14, 1998 (ref. 0864498 at Deed Book 4260, Page 287);
together with any amendments thereto; and (iii) that certain Record of Decision dated
March 1998 (the "*Record*"), which related to the investigation and approved remediation
of the Property, prepared by the DEC and filed in their offices; and

WHEREAS, the Grantor caused the recording with the Onondaga County Clerk, on May
24, 2001, in Deed Book 4554 at Page 273, of that certain Declaration of Covenants and
Restrictions (the "*Covenants*") dated May 21, 2001, in favor of the State of New York
and the DEC, as a requirement of the Grantor's participation in the investigation and
remediation of the Property pursuant to the Act; and

WHEREAS, the DEC has requested that the City amend and restate the Covenants in
their entirety, with the following;

NOW THEREFORE, in consideration of the investigation and remediation of the
Property pursuant to the Act, State Assistance Contract No. C300442, State Assistance
Contract No. C300666, the Record, the covenants and promises made therein and herein,

REST BK 4554 Pg 273

R4P: Dean Skerwood
Room 300, City Hall
Syracuse NY 13202
(1565)

and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Grantor does hereby amend and restate the Covenants in their entirety and does covenant for itself, its successors and assigns, that:

1. the Property shall be used for industrial, commercial and business uses and that the commercial use of the Property will exclude activities such as day care centers;
2. the Grantor and successors in title shall implement and maintain the following engineering controls over the Property:
 - (a) any soil on the Property must be covered by an impervious product approved by the DEC, such as concrete, asphalt or structures, or must be covered with a layer of clean soil of uniform depth of not less than twelve inches, and this impervious surface or soil layer must be maintained at all times; and
 - (b) any soil that is excavated and is intended to be removed from the Property must be managed, characterized, and properly disposed of in accordance with DEC regulations and directives, however soil excavated at the site may be reused as backfill material provided it contains no visual or olfactory evidence of contamination, and it is placed beneath a minimum twelve inches of clean soil cover or impervious product such as asphalt or concrete; and
 - (c) there shall be no gardening for human consumption; and
 - (d) The Grantor or its successor or assigns shall annually certify to DEC that the remedy continues to be maintained in accordance with the Record; and
3. the use, change of use or occupancy of the Property shall be governed in all respects by the applicable provisions of the Act and its accompanying regulations, unless this requirement shall have been waived for the Property by an amendment of the Act, regulations promulgated pursuant to the Act, or at the permitted direction of the DEC; and
4. the Property shall be held or conveyed subject to the terms and conditions of the Act and its accompanying lawfully promulgated rules and regulations.

The Grantor further declares that:

1. the Property shall be held, sold and conveyed subject to each and every term, covenant, condition and restriction set forth in the afore-mentioned law,

regulations and contracts. All such terms, covenants, conditions and restrictions shall constitute covenants that shall run with the land and shall be binding on all parties including heirs, successors, and assigns having any right, title or interest in the Property or any part thereof; and

2. any use or occupancy of the Property is limited to the uses identified above and that any "change in use" which includes, but is not limited to, construction on the Property, is subject to the requirements set forth in section 56-0511 of the Act, which requirements minimally include the prior notice and approval of DEC or its successor. Every deed subsequent to this deed shall contain this restrictive covenant and all subsequent owners shall be deemed to covenant by acceptance of a deed to the Property, be bound by this restrictive covenant. The State of New York and/or DEC, as well as their successors or assigns, shall be entitled to enforce the terms of this restrictive covenant.

BEING, covenants touching and concerning the same premises conveyed to the Grantor herein by that certain Tax Deed dated April 24, 1997, duly recorded on April 28, 1997 in the Office of the Onondaga County Clerk in Deed Book 4153 at Page 26.

IN WITNESS WHEREOF, the Grantor has duly executed these Amended Covenants, amending and restating the Covenants in their entirety, as of the date first above written.

CITY OF SYRACUSE

By: Matthew J. Driscoll
Matthew J. Driscoll, Mayor

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss.:

On this 22nd day of March, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared Matthew J. Driscoll, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Dan Sherwood
Notary Public
DAN F. SHERWOOD
Notary Public in the State of New York
Qualified in Onondaga County, N.Y. 5022669
My Commission Expires February 3, 2007



SYRACUSE UNIVERSITY

SENIOR VICE PRESIDENT FOR BUSINESS, FINANCE, AND ADMINISTRATIVE SERVICES

OVERNIGHT DELIVERY

July 7, 2005

Denise M. Sheehan
Acting Commissioner
NYS Department of Environmental Conservation
625 Broadway
Albany, NY 12233-1011

Re: *Syracuse Center of Excellence in Environmental and Energy Systems ("CoE")*
- Request for Approval of "Change of Use" under ECL § 56-0511

Dear Commissioner Sheehan:

This is to request that the New York State Department of Environmental Conservation (the "Department") approve a proposed "change of use" for property located at 700 East Washington Street in the City of Syracuse (see the enclosed Exhibit A) that is known as the Former Midtown Plaza Site (the "Site"). The Site was remediated by the City under a Record of Decision (ROD) entitled "Former Midtown Plaza Site (Environmental Restoration, Syracuse (C), Onondaga County, Site Number B-0003-7) (March 1998)" that was issued under the Department's Environmental Restoration Program ("ERP") for municipal Brownfield sites.

The "change of use" is to be implemented by Syracuse University (the "University") upon conveyance of the Site from the City to the University. The University plans to construct on the Site the building(s) that will make up the CoE Campus and use the Site for the Contemplated Uses described in the enclosed Exhibit B. The Department's approval of the proposed "change of use" is a condition precedent to the closing. The details of our request are set forth in this letter and enclosures (the "Submission").

Background

Section 56-0511.2 of the New York State Environmental Conservation Law ("ECL") provides as follows:

No person shall engage in any activity at a property investigated or remediated under an environmental restoration project that is not consistent with restrictions placed upon the use of the property, or that will, or that reasonably is anticipated to: prevent or interfere significantly with a proposed, ongoing, or completed project; or expose the public health or the environment to a significantly increased threat of harm or damage from such property. If the commissioner determines that a proposed change of use is prohibited pursuant to this section, he or she shall, within forty-five days after receipt of the complete notice required by this section, provide the person giving such notice with a written determination that such change of use will not be authorized, together with the reasons for such determination.¹

For the purposes of this section:

- (i) "change of use" means the transfer of title to all or part of property subject to an environmental restoration project, the erection of any structure on such property, and the creation of a park or other public or private recreational facility on such property, or any activity that is likely to disrupt or expose hazardous substances or to increase direct human exposure; or any other conduct that will or may tend to significantly interfere with an ongoing or completed environmental restoration project.
- (ii) "complete notice" means a notice that adequately apprises the department of the contemplated physical alteration of the property and how such alteration may affect the property's proposed, ongoing, or completed project, or of the proposed new owner's ability to implement the engineering and institutional controls associated with the property.

ECL § 56-0511.3.

In this case, the proposed "change of use" involves the construction and operation of buildings that will serve as the CoE Campus.

Governor Pataki announced the Syracuse Center of Excellence in Environmental and Energy Systems in June 2002. In January 2004, the Governor announced in his State of the State address that the location of the CoE headquarters facility would be in downtown Syracuse at this former Midtown Plaza site.

¹ The need to abide by this provision is also referenced in the State Assistance Contracts that were entered into by the City of Syracuse for the investigation and remediation undertaken at the Site. (See the investigation contract, State Assistance Contract No. C300442 that was recorded in the Onondaga County Clerk's Office on October 24, 1997 and the remediation contract, State Assistance Contract No. C300666 that was recorded in the Onondaga County Clerk's Office on August 14, 1998.)

In connection with the establishment of the CoE, the "University" has applied for grants from the Empire State Development Corporation ("ESDC"). That money will be used to purchase the following parcels, which are currently unimproved:

- (a) Parcel I – 700 East Water Street, Syracuse, New York (approx. 2.4 acres) currently owned by the City and the site of the former Midtown Plaza.
- (b) Parcel II – 728 East Water Street, Syracuse, New York (approx. 0.6 acres) currently owned by the City of Syracuse Industrial Development Agency ("SIDA").

These parcels will serve as the University's CoE Campus. In addition to the purchase of the parcels, the University will use the referenced ESDC funding to build the CoE Headquarters facility on the CoE Campus. Both parcels are proposed to be taken in the name of Syracuse University.

All research projects at the CoE Campus will be conducted by either Syracuse University or one of the CoE not-for-profit educational or scientific research corporations. Some of the research may be supported in whole or in part by funding from business corporations.

The University intends to construct on the CoE Campus two separate facilities that are referred to herein as the "CoE Campus Development." Those facilities were described in the existing conceptual plan as follows:

- (a) *Total Indoor Environmental Quality (TIEQ) Laboratory.* The building that will house the TIEQ Laboratory will be a two-story structure with a footprint of approximately 10,000 square feet. Researchers will use the laboratory for evaluating how human performance is affected by changes in temperature, humidity, air quality, lighting, and sound.
- (b) *CoE Headquarters Facility.* This building will be approximately 50,000 square feet, with approximately 36,000 square feet for offices, collaboration workspaces, meeting rooms, and public spaces, and 14,000 square feet for laboratories.

Note that it is unclear at this time whether these facilities will be constructed as two separate buildings or in some other format. That issue is under review by the University's design team.

As previously noted, the University will use ESDC grant money to purchase the parcels that will make up the CoE Campus and build the CoE Headquarters Facility. The funding for the TIEQ Laboratory building will come from the New York State Office of Science, Technology and Academic Research (NYSTAR) as the signature facility for the Environmental Quality Systems STAR Center.

CoE Campus Development

We ask that the Department approve the University's proposed construction and operation of the buildings that are described in the enclosed Exhibit B as a permitted "change of use" within the meaning of ECL Section 56-0511. This Submission is the "complete notice" that is required for the Department to make its decision.

The CoE Campus Development is in the conceptual stage. However, development of the Site will need to reflect the specifications of the District Plan that was approved by the City of Syracuse Planning Commission for the change in the zoning of the site from Commercial A to Planned Institutional District ("PID").

The term "site" (as referenced in the following District Plan descriptions) refers to a resubdivided area that includes both the former Midtown Plaza site and the SIDA parcel. The references to the size(s) of the proposed facilities that are referenced below from the District Plan should be regarded as approximate.

(a) Site Area & Boundaries

Formerly the site of the Smith Corona manufacturing facility and then the mixed-use Midtown Plaza, the site now incorporates a vacant Brownfield site.

At 3.0 acres, the site is comprised of two parcels, the former Midtown Plaza site at 700 East Water Street (2.4 acres) and the contiguous parcel to the east, the SIDA parcel (0.6 acres).

The site is bordered on the north by East Water Street, on the east by Forman Avenue and the adjunct U-Haul facility fronting on Forman Avenue, on the south by East Washington Street, and on the west by Almond Street.

The CoE site will be linked to the University main campus by the shuttle bus system. At the street or within the site, there will be a shuttle bus stop.

(b) Setbacks, Lot Coverage & Floor Area Ratio

The placement of buildings on the site will seek to reinforce the urban fabric, locating buildings close to the perimeter sidewalks. The Center of Excellence will be a unique contribution to the urban experience and not another ubiquitous suburban office development.

Setbacks will generally be ten feet wide. The 10-foot setback generally works well to provide space for planting screens, fences, and for locating specialized equipment for tempering or monitoring specific interior environments.

The proposed lot coverage is 50%. The site will likely be developed as follows:

Labs: 24,000 SF footprint and Offices: 10,000 SF footprint
Surface Parking: 100 spaces @ 300 SF each = 30,000 SF

Total Footprint & Parking: 64,000 SF* (*permits future parking deck)
Total Site Area: 130,680 SF / 50% lot coverage: 65,340 SF

The proposed Floor Area Ratio is 2.0. Total gross square footage allowable would be 261,360 SF at full build-out.

Approximately 100 parking spaces will be provided on the site. The CoE headquarters site will purposely promote alternative modes of transportation and try to discourage parking for single occupancy vehicles. Accordingly, the campus shuttle bus route will be extended to the site, providing regular service. The parking area will be effectively screened from public streets and from neighboring properties by a wall, opaque fence or densely-planted evergreen hedges.

(c) Site Elements/Massing

The location of buildings on the site will be a function of required site orientation, soil bearing capacities, and ease of dealing with the contaminated soil, characteristic of a Brownfield site. At this time, the specific placement of buildings and site elements on the site has not been determined.

Total square footage of the proposed facilities on the CoE Campus is 60,000 SF (gross) broken down as follows:

The CoE Headquarters Facility:

Office tower: 36,000 SF gross
(22,000 SF net)
10,000 SF footprint
60 feet tall

Laboratory: 14,000 SF gross
14,000 SF footprint
30 feet tall

TIEQ (Total Indoor Environmental Quality) Lab:
10,000 SF gross

10,000 SF footprint
30 feet tall

Parking: Area for 100 vehicles
Approx.: 30,000 SF

Landscaped Space: The PID rules require a minimum of 20% of the site area developed as open space. 20% Site Area: 26,136 SF

(d) Zoning

The site zoning was changed from CA, Commercial A zoning district to a Planned Institutional District to allow the University's educational uses. The areas immediately surrounding the site are all classified Commercial A. South of East Fayette Street, the zoning district classifications change first to BA, Business A, and then to Residential, class B (RB) south of East Genesee Street.

Immediately surrounding the site are the following uses: warehouse to the north, warehouse and multi-family residential to the east, one general commercial parcel and largely parking areas to the south, and parking areas to the west.

Site Development Requirements

O'Brien & Gere Engineers, Inc. ("O'Brien & Gere") did a Phase II investigation and a copy of O'Brien & Gere's Report (dated September 2004) was forwarded to Mary Jane Peachey, the Regional Engineer for the Department's Region 7 under cover of letter dated September 17, 2004 from the University's outside counsel, Bond, Schoeneck & King, PLLC ("BS&K"). Based on its investigation, O'Brien & Gere made the following recommendations to address potential environmental concerns in the future development at the Site, which the University intends to incorporate:

- Minimize excavation and disposal of existing demolition debris/soil, existing foundations, floors and walls from the former Midtown Plaza building by utilizing a deep foundation approach;
- Remove the basement for the CoE Headquarters building in order to eliminate the need for excavation and off-site disposal of the debris/soil and the potential need for special handling of ground water;² and

² The University is not planning to build subsurface levels of buildings, although it may encounter specific program elements which require pits (elevators, ground source heat pumps, etc.). The University's design team will address items like this on a case-by-case basis.

- Incorporate utility trenches and related site improvements during the construction of the CoE Campus to minimize further disturbance of the demolition debris and underlying soil during future development of the Site.

Following the submission of the results of the O'Brien & Gere Phase II report to the Department, the Department (Region 7) conducted a supplemental investigation at the Site. The results of that investigation are described in the following submittals that were provided to the University as noted:

- Letter report prepared by Nature's Way Environmental Consultants and Contractors, Inc., dated December 20, 2004 (copy forwarded to Lance Lippencott of Syracuse University under cover of note from the Department's Chris Mannes dated January 6, 2005)
- Contaminated Soil Removal Report prepared by OP-TECH Environmental Services, Inc. dated February 11, 2005 (copy forwarded to BS&K by Mr. Mannes under cover of note dated February 22, 2005)
- Soil disposal profiles (soil pile (excavation work) and soil cuttings from monitoring wells – A, B and C) (copy forwarded to BS&K by Mr. Mannes under cover of his note of February 1, 2005)
- Analytical laboratory reports of soil testing (copies of which were initially forwarded by fax to Mr. Lippencott by Mr. Mannes on December 17, 2004)

We have been informed that the Department has concluded that the findings of its supplemental investigation do not require any further investigation or remedial response.

The Department opened a spill file (Spill # 0404540) at the Site due to the finding of petroleum-impacted soil in the course of the O'Brien & Gere Phase II investigation. However, the impacted soil was subsequently removed from the site by a DEC contractor and the spill file was closed on April 1, 2005.

Site Management Plans

The Department's ERP Record of Decision for the Site did not specify any specific engineering controls to address the residual contamination at the Site. However, there was recorded in the Onondaga County Clerk's Office an Amended and Restated Declaration of Covenants and Restrictions in favor of the State of New York and New York State Department of Environmental Conservation that was signed by the City of Syracuse in connection with the referenced ERP project on March 2004 (the "Deed Restriction"). This Deed Restriction

Denise M. Sheehan
July 7, 2005
Page 8

specified among other things, a need to maintain a cover over the Site that had not yet been installed.

By letter dated June 22, 2005 to Michael Ryan, the ERP Project Manager, BS&K requested a clarification of the terms of the Deed Restriction and certain of the obligations that the University would be assuming at the Site as a successor in interest. The letter reflected discussions with Department staff and the University understands that it will need to abide by the terms of Department-approved Site Management Plans as a condition to the Department's approval of the proposed "change of use" associated with the CoE Campus Development.

By letter dated June 28, 2005 to BS&K, Mr. Ryan provided the requested clarifications, and among other things, confirmed that (1) the cover over the former Midtown Plaza site will be installed in connection with the proposed site development activities and (2) the University will include with its Change of Use request, two Site Management Plans – one to cover the period of construction of the CoE Campus Development and a second to cover post-construction. To that end, we have enclosed with this letter copies of the following Site Management Plans ("SMPs"), which reflect modifications made in response to comments made by Department staff to earlier drafts:

- (a) Syracuse Center of Excellence for Environmental and Energy Systems, 700 and 728 East Water Street, Syracuse, New York, Site Management Plan for the Construction of the TIEQ Laboratory and CoE Headquarters Facility (July 2005); and
- (b) Syracuse Center of Excellence for Environmental and Energy Systems, 700 and 728 East Water Street, Syracuse, New York, Site Management Plan for Post-Construction Invasive Site Development and Maintenance Activities (July 2005)

Request for Approval

By letter to you dated May 16, 2005, the City requested approval of the proposed "change of use" that consists of the proposed transfer of the Site to the University. The Department approved that "change of use" by its letter to the City dated June 2, 2005 from Dale Desnoyers, the Director of the Department's Division of Environmental Remediation.

Based on the information in this Submission, the University now respectfully requests approval of the proposed "change of use" that consists of its proposed construction of the CoE Campus Development as set forth in this Submission and the use and operation of the Site for the Contemplated Uses that are forth in the enclosed Exhibit B. The requested approval would be conditioned on the University's compliance with the terms of the enclosed SMPs.

Denise M. Sheehan
July 7, 2005
Page 9

Upon receipt of the requested Department approval, we understand that the University can proceed with the proposed design, construction and operation of the CoE Campus Development without further involvement by the Department so long as there is no material change to the information contained in this Submission.

Notice of Commencement under ECL § 56-0511.1

ECL Section 56-0511.1 provides in pertinent part as follows:

At least sixty days before the start of physical alteration or construction constituting a change of use at a property investigated or remediated under an environmental restoration project, or at least sixty days before a change of use at such a property not involving any physical alteration or construction, as the case may be, the person or entity proposing to make a change of use shall provide written notification to the department and the clerks of the county and other municipalities in which such property is located.

Emphasis supplied.

This letter is also being submitted to comply with the foregoing notice requirement for the CoE Campus Development. A copy of this notice is being provided to the Onondaga County Clerk and the City Clerk as required under ECL § 56-0511.1. There are no municipalities within the County other than the City that are involved.

Finally, we want to thank the Department for its assistance in working with the University in addressing the various issues associated with finalizing the former Midtown Plaza ERP Project and clarifying the responsibilities that the University will be assuming as a successor in title to this Site.

Sincerely,

SYRACUSE UNIVERSITY

By: *Louis G. Marcoccia*

Louis G. Marcoccia, Ed.D.
Senior Vice President for Business, Finance, and Administrative Services

Enclosures

Denise M. Sheehan
July 7, 2005
Page 10

cc: Michael J. Ryan, P.E., NYSDEC Project Manager*
Mary VonWergers, Esq, NYSDEC Central Office*
Mary Jane Peachey, P.E., Regional Engineer, NYSDEC Region 7*
Chris Mannes, NYSDEC Region 7*
Henrietta Hamel, NYSDOH*
M. Ann Ciarpelli, Onondaga County Clerk
John P. Copanas, City Clerk
Terri Bright, Esq., City Corporation Counsel
Beth Rougeux, Executive Director, SU Office of Government and Community Relations
Lance Lippencott, SU CoE Project Manager, SU Office of Design & Construction
Barry R. Kogut, Esq., BS&K

* With copies of enclosures

EXHIBIT A

Former Midtown Plaza Site Parcel I

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Syracuse, County of Onondaga and State of New York, being Lot Inc. 3-8 & 11-16, Block 231 at 700 East Water Street & Almond Street, Property Number 1594204300, designated as Section 030, Block 15 Lot 01.0 (030-15-01.0) of the Official Tax Map of the City of Syracuse as identified in the tax map below and consisting of the same premises conveyed by that certain Tax Deed dated April 28, 1997, duly recorded on April 28, 1997 in the Office of the Onondaga County Clerk in Deed Book 4153 at Page 26&c:

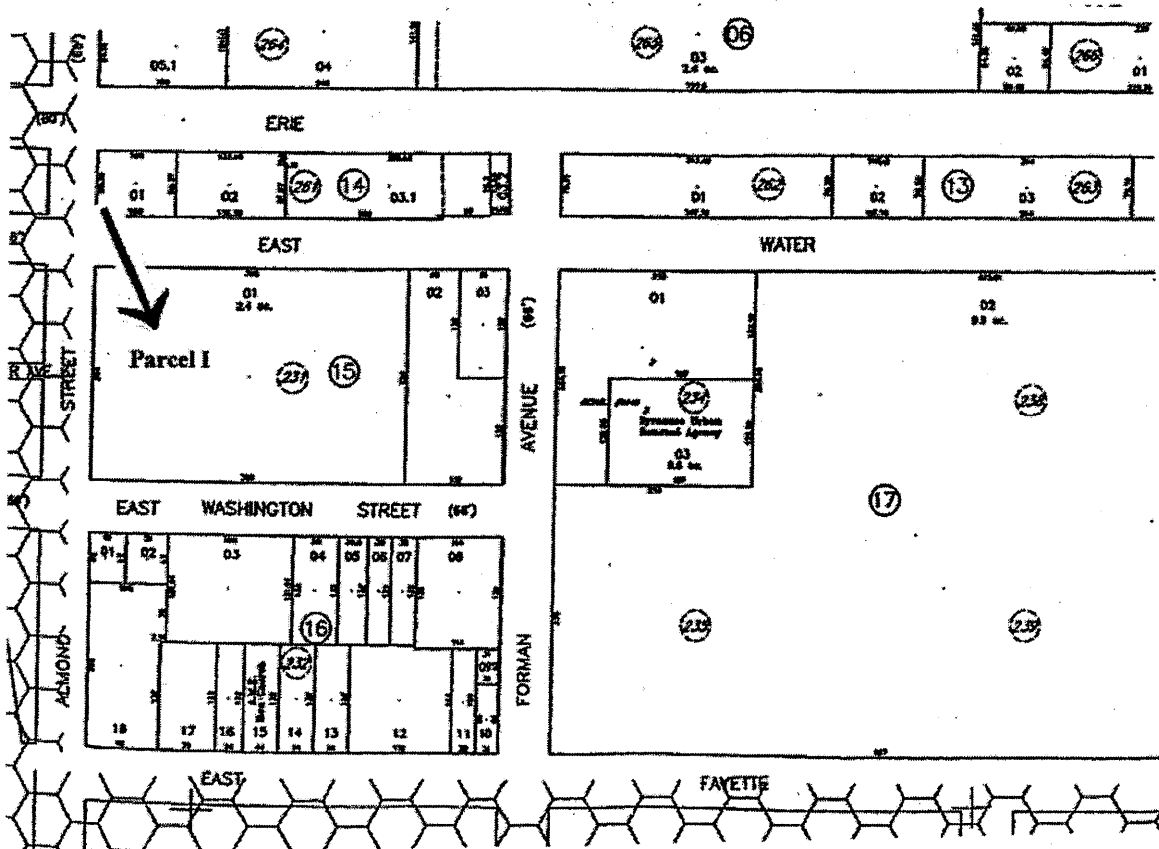


EXHIBIT B

Contemplated Uses

The activities to be conducted on the Property shall consist of the following:

Research*

- Basic research on environmental and energy technologies
- Applied research and technology development
- Evaluation of advanced environmental and energy technologies
- Evaluation of Indoor Environmental Quality factors on human health and productivity
- Technology transfer activities

Teaching

- Graduate students earning thesis credit and undergraduate teaching
- Seminars and lectures on environmental and energy issues and technologies
- Cooperative education and activities aimed at placing students in local environmental and energy companies

Administration

- House administrative leaders and staff and administrative activities related to the Syracuse Center of Excellence in Environmental and Energy Systems ("CoE")

* All research projects will be conducted by one of the CoE not-for-profit educational or scientific research corporations. Some of the research may be supported in whole or in part by funding from business corporations.

**New York State Department of Environmental Conservation
Division of Environmental Remediation, 12th Floor**

625 Broadway, Albany, New York 12233-7011
Phone: (518) 402-9706 • FAX: (518) 402-9020
Website: www.dec.state.ny.us



Denise M. Sheehan,
Acting
Commissioner

JUL 18 2005

Louis G. Marcoccia, Ed.D.
Senior Vice President for Business,
Finance and Administrative Services
Syracuse University
Skytop Office Building
Syracuse, NY 13244-5300

Re: Midtown Plaza Environmental Restoration Project
Site ID No. B-0003-7, Syracuse, Onondaga County

Dear Dr. Marcoccia:

This letter is to acknowledge Syracuse University's intentions to construct and operate on the subject site buildings that will make up the Syracuse Center of Excellence in Environmental and Energy Systems Campus, as described in your July 7, 2005 letter to Acting Commissioner Sheehan. This change of use is acceptable to the Department.

By way of this letter, the Site Management Plans (SMPs) developed by the University and provided with your letter of July 7, 2005 are also hereby approved. It is my understanding that these SMPs have been developed to acknowledge and accommodate site-specific engineering controls during construction and post-construction, respectively.

If you have any questions concerning this matter, please do not hesitate to contact Mr. Michael Ryan, the Department's project manager, at (518) 402-9564.

Sincerely,

Dale A. Desnoyers
Director
Division of Environmental Remediation

cc: M. Ryan
B. Kogut

§ 56-0511. Change of use.

1. At least sixty days before the start of physical alteration or construction constituting a change of use at a property investigated or remediated under an environmental restoration project, or at least sixty days before a change of use at such a property not involving any physical alteration or construction, as the case may be, the person or entity proposing to make a change of use shall provide written notification to the department and the clerks of the county and other municipalities in which such property is located.

2. No person shall engage in any activity at a property investigated or remediated under an environmental restoration project that is not consistent with restrictions placed upon the use of the property, or that will, or that reasonably is anticipated to: prevent or interfere significantly with a proposed, ongoing, or completed project; or expose the public health or the environment to a significantly increased threat of harm or damage from such property. If the commissioner determines that a proposed change of use is prohibited pursuant to this section, he or she shall, within forty-five days after receipt of the complete notice required by this section, provide the person giving such notice with a written determination that such change of use will not be authorized, together with the reasons for such determination.

3. For the purposes of this section:

(i) **"change of use" means** the transfer of title to all or part of property subject to an environmental restoration project, the erection of any structure on such property, and the creation of a park or other public or private recreational facility on such property, **or any activity that is likely to disrupt or expose contamination or to increase direct human exposure; or any other conduct that will or may tend to significantly interfere with an ongoing or completed environmental restoration project.**

(ii) "complete notice" means a notice that adequately apprises the department of the contemplated physical alteration of the property and how such alteration may affect the property's proposed, ongoing, or completed project, or of the proposed new owner's ability to implement the engineering and institutional controls associated with the property.

Emphasis added.