

# Periodic Review Report

**FORMER BUFFALO SERVICE CENTER, BURA WEST &  
4 NEW SEVENTH STREET SITES  
(SITE NOS. C915194, C915195, & C915203)**

**BUFFALO, NEW YORK**

June 2012  
Revised July 2012

0235-001-901

Prepared By:



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# **PERIODIC REVIEW REPORT**

## **for the**

**FORMER BUFFALO SERVICE CENTER, BURA WEST PROPERTY &  
4 NEW SEVENTH STREET SITES  
(SITE NOS. C915194, C915195, & C915203)**

**BUFFALO, NEW YORK**

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June 2012  
Revised July 2012

0235-001-901

Prepared for:

**257 W. GENESEE, LLC**

Prepared By:



Benchmark Environmental Engineering & Science, PLLC  
2558 Hamburg Turnpike, Suite 300  
Buffalo, NY 14218  
(716)856-0599

# PERIODIC REVIEW REPORT

## 257 W. Genesee, LLC Sites

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# PERIODIC REVIEW REPORT

## 257 W. Genesee, LLC Sites

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## 1.0 INTRODUCTION

Benchmark Environmental Engineering and Science, PLLC (Benchmark) has prepared this Periodic Review Report (PRR), on behalf of 257 W. Genesee, LLC, to summarize the post-remedial status of New York State Department of Environmental Conservation (NYSDEC) Brownfield Cleanup Program (BCP) Site Nos. C915194, C915195, and C915203.

This PRR has been prepared in accordance with NYSDEC's DER-10 *Technical Guidance for Site Investigation and Remediation* (May 2010) whereby one PRR is prepared when multiple parcels comprise the redeveloped Site. The NYSDEC's Institutional and Engineering Controls Certification Forms have been prepared for each individual Site (see Appendix A). This PRR and the associated inspections forms have been completed for the June 15, 2011 to June 15, 2012 reporting period.

### 1.1 Background

The 257 W. Genesee, LLC property (Site) encompasses three adjoining BCP Sites. The three parcels include: (1) the Former Buffalo Service Center Site (C915194); (2) the Buffalo Urban Renewal Agency (BURA) West Site (C915195); and (3) the 4 New Seventh Street Site (C915203) (see Figures 1 and 2).

The Former Buffalo Service Center (C915194) and the BURA West (C915195) parcels were the former location of the Buffalo Gas Light Company's (predecessor to National Fuel Gas) Manufactured Gas Plant (MGP). The MGP plant operated from approximately 1848 to 1948. Site investigations revealed that the century of industrial use on these parcels resulted in contamination of the soil/fill and groundwater with certain petroleum organics and cyanide. The 4 New Seventh Street (C915203) parcel was the location of a former coal storage yard until approximately 1900; a gasoline service station from 1927-1966; and various commercial / industrial operations. Impacts at this parcel were primarily related to former petroleum storage and distribution operations.

The three parcels were remediated concurrently under the NYSDEC Brownfield Cleanup Program (BCP) for redevelopment as an office building complex (HealthNow). Additional details relative to the history and remedial activities conducted at each of the parcels is discussed below.

## 2.0 SITE OVERVIEW

The Site is comprised of three former industrial/commercial properties located in the City of Buffalo, New York. The Site is bordered by Fourth Street to the west, West Genessee Street to the south, and Seventh Street to the east (see Figure 2). The Waterfront School borders the Site to the north (see Figure 2). A brief description of the three parcels is presented below.

### 2.1 Former Buffalo Service Center & Bura West Properties

The former Buffalo Service Center (BSC) property (Site No. C915194) is an approximately 4.9-acre parcel, located at the corner of West Genessee and Seventh Streets. The BURA West property (Site No. C915195) is an approximately 1.7-acre parcel, located west of the BSC property along Fourth Street. The BSC and Bura West properties were the location of the former Manufactured Gas Plant (MGP) which operated from approximately 1848 to 1948 by Buffalo Gas Light Company.

The environmental site investigations revealed the presence of: volatile organic compounds (VOCs), specifically benzene, toluene, ethylbenzene, and xylene (BTEX); semi-volatile organic compounds (SVOCs), primarily polycyclic aromatic hydrocarbons (PAHs); and cyanide in on-site soil and groundwater.

In June 2005, remedial efforts under the BCP began with the excavation and off-site disposal of approximately 153,000-tons of contaminated soil/fill, and backfilling of excavation with clean material. Remedial activities at the former BSC and BURA West properties were completed in September 2006. All impacted soil/fill above cleanup levels was removed, and in 2006 NYSDEC determined that the Site “no longer poses a significant threat to the environment.” Certificate of Completions (COCs) were issued for the two properties in November 2006.

### 2.2 New Seventh Street Property

The 4 New Seventh Street property (Site No. C915203) is comprised of an approximate 1.7-acre parcel located east of the BSC property along Seventh Street. The New Seventh Street parcel was formerly a coal shed and storage yard until approximately

1900. From 1927-1966 it housed gasoline service stations. Various commercial/industrial operations have also been located on the property. Environmental site investigations conducted on-Site revealed the presence of petroleum-based VOCs and SVOCs in soil/fill and groundwater.

Remedial activities under the BCP began in May 2006 with excavation and off-site disposal of approximately 6,600-tons of contaminated soil/fill, and backfilling of the excavation with clean material. All impacted soil/fill above cleanup levels was removed within the property boundaries. A Certificate of Completion (COC) was issued for the Site in December 2006.

### **3.0 SITE MANAGEMENT PLAN**

A combined Site Management Plan (SMP) was prepared by ESC Engineering of New York, P.C., for the Buffalo Service Center and BURA West properties and approved by the Department in October 2006. A separate SMP was prepared by Lender Consulting Services (LCS) for the 4 New Seventh Street Site in December 2006. The SMPs includes a Groundwater Monitoring Plan, a Soil/Fill Management Plan, and a copy of the Environmental Easements. A brief description of the components of the SMP is presented below.

#### **3.1 Groundwater Monitoring Plan**

As a component of the Department approved SMPs, post-remedial groundwater monitoring was required for the Site on a quarterly basis for two (2) years following completion of the remedial activities. A total of 10 monitoring wells on and outside of the Site were sampled and analyzed for petroleum-based organic compounds per the SMP requirements, with quarterly groundwater monitoring results forwarded to the NYSDEC following each event. Groundwater monitoring began in August 2007, and the eighth quarterly groundwater monitoring event was completed by WSP Engineering (WSP) in May 2009. Because wells MW-03 and MW-09 were slated for sampling under both the ESC SMP for the former BSC and BURA West parcels as well as the LCS SMP for the 4 New Seventh Street parcels, they were sampled under both programs. As such, duplicate samples were collected from these well locations each quarter. Also, MW-04 exhibited a thin layer of light non-aqueous phase liquid (LNAPL) during the initial monitoring event and was therefore excluded from subsequent sampling due to the likelihood for positive bias from this layer. The LNAPL is believed to be attributable to residual off-site impact west of the property boundary and is expected to be addressed by other responsible parties at a future date.

The Eighth Quarterly Groundwater Monitoring Report (WSP) presented trend analyses for MW-01, MW-03, BCP-MW-04, BCP-MW-05, and MW-09. Excluding MW-04, the remaining locations exhibited non-detectable or sufficiently low concentrations to preclude the need for trend evaluation. In general, concentrations dropped over the 2-year period at most locations, with notable exception at offsite well MW-09 where the



concentration trend analysis showed an increase in benzene concentration over the 2-year monitoring period.

Based on the results related to MW-09, a Pre-Design Investigation Report and Chemical Oxidation Enhanced Bioremediated Work Plan (July 2009) was prepared by WSP. The work plan proposed the injection of Klozer CR ® in the vicinity of MW-09. NYSDEC approved the subsequent work plan, and the injection was performed in August 2009. Post-injection groundwater monitoring was initiated as part of the work plan, whereby quarterly monitoring for one year at MW-09, and semi-annual monitoring for one year at MW-01 and MW-03 was initiated. The first round of groundwater monitoring was conducted for MW-09, MW-01, and MW-03 in November 2009 by WSP. The final round of groundwater monitoring was performed in August 2010. A performance monitoring report was prepared by WSP in October 2010. Based on the monitoring data, WSP recommended two additional quarters of data from MW-09, and no further action from monitoring wells MW-01 and MW-03.

Concurrently, BCP-MW-02 was decommissioned with NYSDEC approval in January 2010. Monitoring wells BCP-MW-05 and PZ-10 were decommissioned with NYSDEC approval in June 2010. Due to the results of the quarterly groundwater monitoring previously conducted and ongoing remediation at MW-09, the NYSDEC requested additional sampling of BCP-MW-04. Monitoring well BCP-MW-04 was sampled in May 2011. Results from the May 2011 monitoring event indicated all concentrations of analytes were non-detect. Based on the results, the NYSDEC approved termination of monitoring at BCP-MW-04.

Sampling at offsite well MW-09 was performed by WSP on three occasions in 2011: June 2011, September 2011 and November 2011. The November 2011 sampling event followed redevelopment of the well, as reduced yield and inconsistent results in September indicated that the well screen was partially clogged. Redevelopment was unsuccessful and in December 2011 well MW-09 was replaced with a new well (MW-09R). Well MW-09R was sampled in February 2012.

A summary of the analytical results for the June 2011 through February 2012 sampling events at MW-09/MW-09R is included in Appendix A. Prior groundwater

sampling data for MW-09 and other monitoring locations was previously transmitted the NYSDEC by the responsible parties and was summarized in the July 2011 PRR.

### **3.2 Soil/Fill Management Plan**

A Soil/Fill Management Plan (SFMP) was included in the approved-SMP for the Site. The SFMP provides guidelines for the management of soil and fill material during any future intrusive activities which disturb soil/fill greater than 12-inches below surface-grade. A passive vapor barrier was installed into the foundation slab of the office buildings during construction.

No intrusive activities requiring management of on-Site soil or fill material; or the placement of backfill materials occurred during the monitoring period.

### **3.3 Institutional Control Requirements and Compliance**

As detailed in the Environmental Easements, filed with the Erie County, New York, several Institutional Controls (ICs) need to be maintained as a requirement of the BCAs for the Site. All three properties encompassing the Site are subject to the same ICs:

- Land-Use Restriction: The controlled property may be used for commercial and/or industrial use;
- Implementation of the SMP including the Groundwater Monitoring Plan, Soil/Fill Management Plan, and Monitoring Plan; and
- Groundwater-Use Restriction – the use of groundwater for potable and non-potable purposes is prohibited.

A Site Inspection of the exterior of the property was conducted by Benchmark on June 5, 2012. At the time of the inspection, the property was being used as a large office building complex with elevated parking ramp, surface parking, paved walkways and landscaped grassy areas. No observable indication of intrusive activities was noted during the Site Inspection. The office complex is on municipal water supply, and no observable use of groundwater was noted during the site inspection. Completed Institutional Control

Certification Forms for the Site are provided in Appendix B. A photolog is presented in Appendix C.

## 4.0 CONCLUSIONS AND RECOMMENDATIONS

- At the time of the site inspection, the Site was in compliance with the Site Management Plan.

## 5.0 DECLARATION/LIMITATION

Benchmark Environmental Engineering and Science, PLLC, personnel conducted the annual site inspections for Brownfield Cleanup Program Site Nos. C915194, C915195, C915203, Buffalo, New York, according to generally accepted practices. This report complied with the scope of work provided to 257 W. Genesee, LLC by Benchmark Environmental Engineering and Science, PLLC.

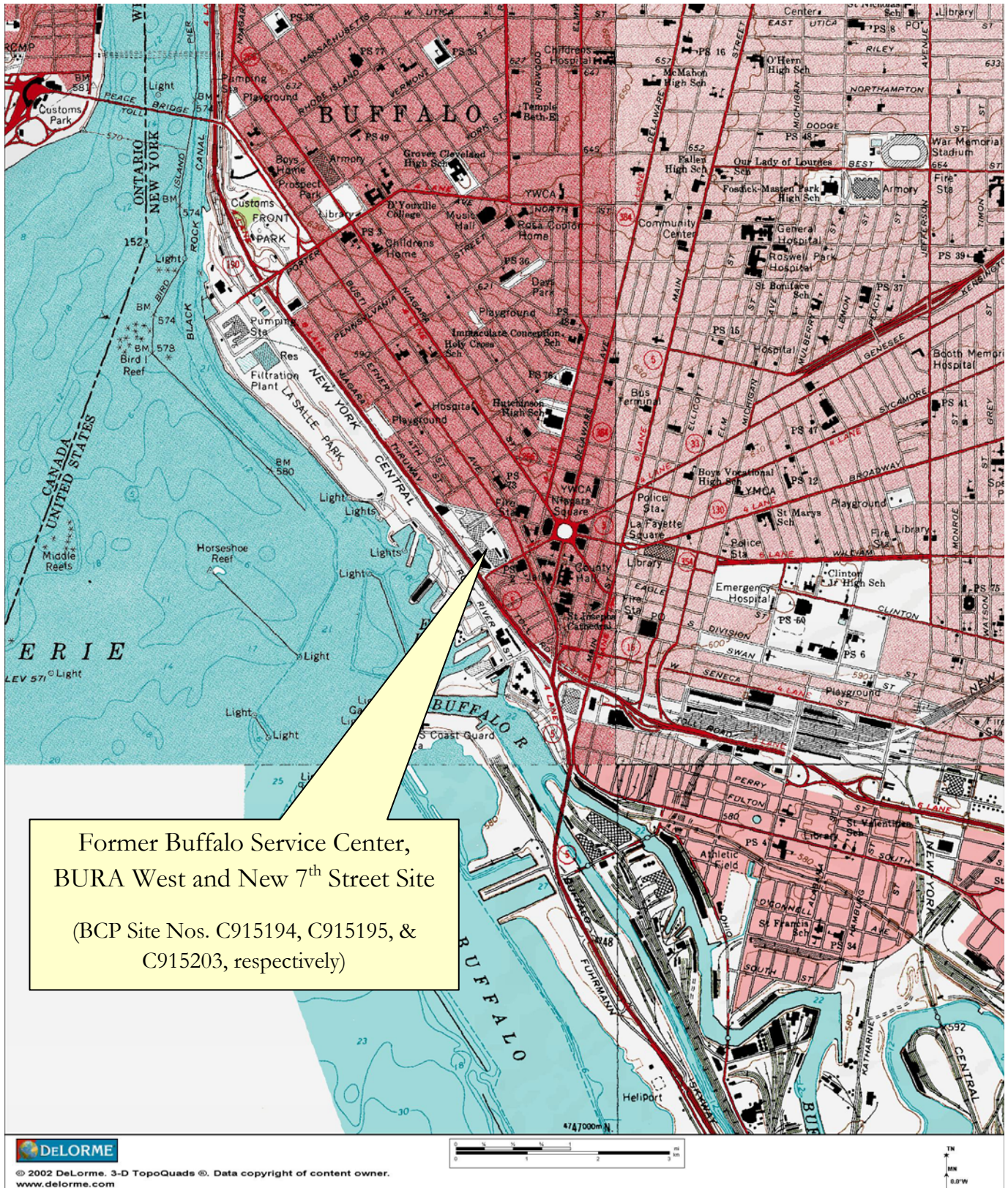
This report has been prepared for the exclusive use of 257 W. Genesee, LLC. The contents of this report are limited to information available at the time of the site inspection. The findings herein may be relied upon only at the discretion of 257 W. Genesee, LLC. Use of or reliance upon this report or its findings by any other person or entity is prohibited without written permission of Benchmark Environmental Engineering and Science, PLLC.

## 6.0 REFERENCES

1. *Pre-Design Investigation Report, Buffalo Service Center, Buffalo, NY*, dated February 2004, prepared by The RETEC Group, Inc.
2. *Limited and Focused Subsurface Investigation, Seventh Street Site and Fourth Street Site, Buffalo, New York*, dated February 2005, prepared by LCS, Inc.
3. *Limited and Focused Subsurface Investigation, Seventh Street Site and Fourth Street Site, Buffalo, New York*, dated April 2005, prepared by LCS, Inc.
4. *Remedial Investigation Work Plan for 4 New Seventh Street, Buffalo, New York*, prepared by LCS, Inc. and Benchmark Environmental Engineering & Science, PLLC, January 2006.
5. *Interim Remedial Measures Work Plan for Brownfield Cleanup Program - 4 New Seventh Street, Buffalo, New York*, prepared by LCS, Inc. and Benchmark Environmental Engineering & Science, PLLC, February 2006.
6. *Final Engineering Report for Interim Remedial Measures - 4 New Seventh Street, Buffalo, New York*, prepared by LCS, Inc. and Benchmark Environmental Engineering & Science, PLLC, August 2006
7. *Final Remedial Action Report Brownfield Cleanup Program – Former Buffalo Service Center Site (C915194), Buffalo Urban Renewal Agency West Site (C915195) Buffalo, New York*, prepared by ESC Engineering of New York, P.C., October 2006
8. *Final Site Management Plan – Former Buffalo Service Center Site (C915194), Buffalo Urban Renewal Agency West Site (C915195), Fourth and West Genesee Streets, Buffalo, New York*, prepared by ESC Engineering of New York, P.C., October 2006
9. *Site Management Plan - 4 New Seventh Street, Buffalo, New York*, prepared by LCS, Inc. and Benchmark Environmental Engineering & Science, PLLC, December 2006.
10. New York State Department of Environmental Conservation. *DER-10; Technical Guidance for Site Investigation and Remediation*. May 2010.

## FIGURES





2558 HAMBURG TURNPIKE  
SUITE 300  
BUFFALO, NY 14218  
(716) 856-0599

PROJECT NO.: 0184-002-100

DATE: MARCH 2010

DRAFTED BY: NTM

## SITE LOCATION AND VICINITY MAP

PERIODIC REVIEW REPORT

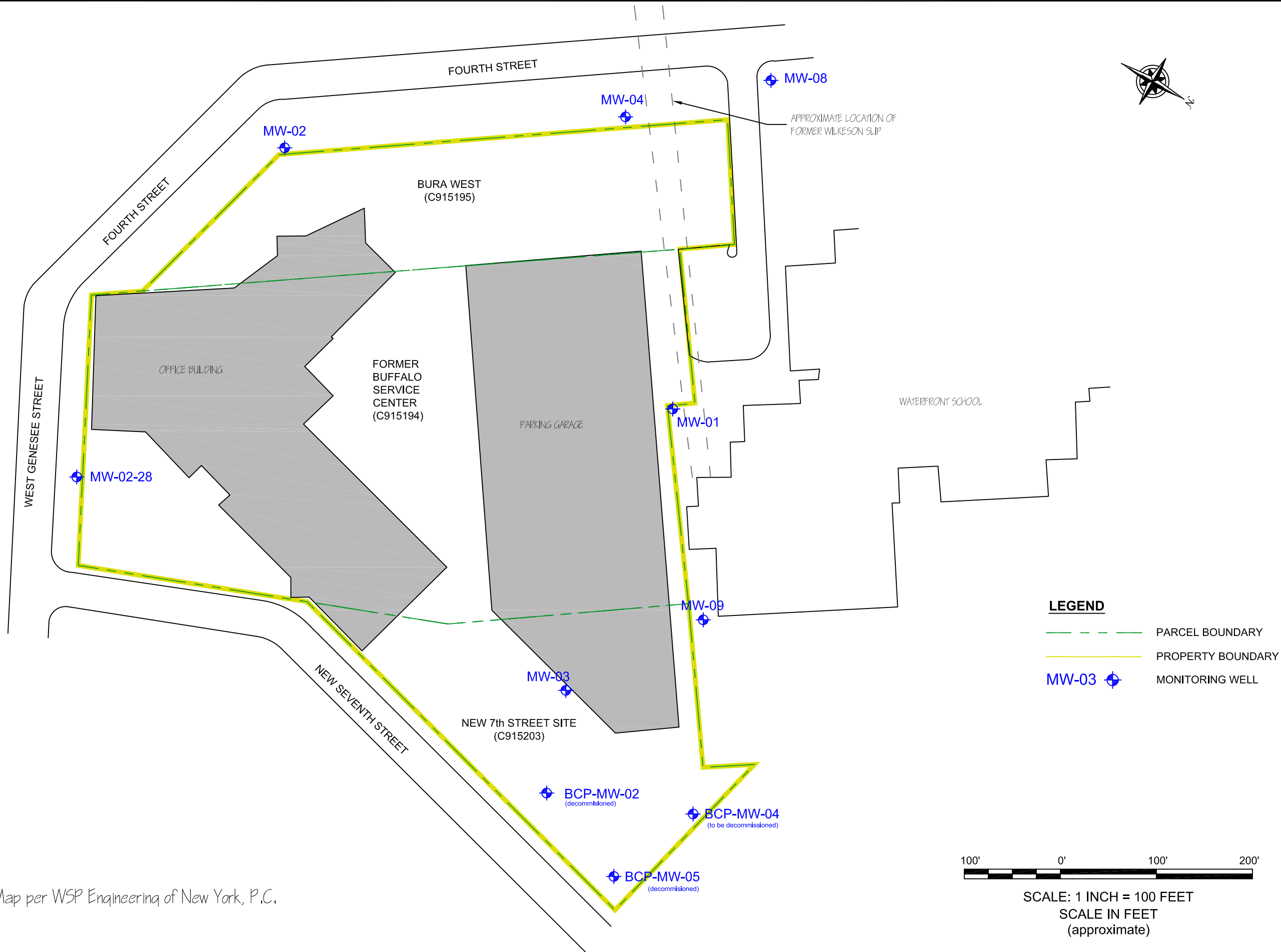
FORMER BUFFALO SERVICE CENTER, BURA WEST  
AND NEW SEVENTH STREET SITE  
BUFFALO, NEW YORK

PREPARED FOR  
257 W. GENESEE STREET, LLC



DATE: JULY 2011  
DRAFTED BY: NTM

Note:  
Base Map per WSP Engineering of New York, P.C.



## SITE PLAN

PERIODIC REVIEW REPORT  
FORMER BUFFALO SERVICE CENTER, BURA WEST  
AND NEW SEVENTH STREET SITES  
BUFFALO, NEW YORK  
PREPARED FOR  
257 W. GENESEE STREET, LLC

**BENCHMARK**  
Environmental  
Engineering &  
Science, PLLC  
2558 HAMBURG TURNPIKE  
SUITE 300  
BUFFALO, NY 14218  
(716) 856-0599

JOB NO.: 0184-002-100

FIGURE 2

## **APPENDIX A**

### **DATA SUMMARY FOR OFFSITE WELL MW-09/MW-09R JUNE 2011 – FEB 2012**

**(PER WSP ENGINEERING OF NEW YORK, P.C. APRIL 2012 REPORT  
TO JASPAL WALIA OF NYSDEC)**

Table 1

Summary of MW-09 and MW-09R Results  
QLT Buffalo  
Buffalo, New York

Well I.D.:		MW-09								MW-09R	
Event:		Performance Monitoring (Post-Injection)								Performance Monitoring (Post-Injection)	
Sample Date:		08/17/10 (b)	08/17/10 (b)	06/03/11 (b)	06/03/11 (b)	09/06/11 (b)	09/06/11 (b)	11/06/11 (b)	11/06/11 (b)	2/8/2012 (b)	2/8/2012 (b)
Parameters	NSYDEC Standards (c)										
Volatile Organic Compounds (µg/l)											
Acetone	50	31	33	14	13	25	28	-	-	250 U	250 U
Benzene	1	730 D08	720 D08	420	430	1,400	970	2,100	2,100	6,100	5,000
2-Butanone	50	5 J	5.6 J	1.7 J	1.7 J	3.5 J	3.9 J	-	-	250 U	250 U
Ethylbenzene	5	3.1	2.7	0.77 J	0.79 J	1.4	1.4	2.1	2.2	110	72
Toluene	5	1 U	1 U	1 U	1 U	1 U	1 U	1 U	1 U	25 U	25 U
Total Xylenes	5	3	2.3	2 U	2 U	2 U	2 U	0.88 J	0.95 J	37 J	31 J
General Chemistry (mg/l)											
Ferrous Iron	-	1	-	0.2 U	-	0.2 U	-	-	-	1.4 HF	-
Nitrate	-	2.25	-	1.6	-	1.7 H	-	-	-	0.05 U	-
Sulfate	-	1,520 D08	-	1,350 B	-	1,280	-	-	-	740	-
Sulfide	-	0.1 U	-	1 U	-	0.8 J	-	-	-	1 U	-
Compound Specific Isotopic Analysis (‰)											
Benzene δ <sup>13</sup> C	-	-23.03	-	-24.54	-	-25.2	-	-	-	-24.9	-
Field Parameters											
Temperature (°C)	-	17.7	-	15.95	-	15.46	-	8.32	-	5.4	-
Specific Conductance (mS/cm)	-	5.98	-	4.63	-	4.38	-	4.35	-	3.25	-
Dissolved Oxygen (mg/l)	-	23.99	-	26.32	-	35.27	-	25.34	-	1.05	-
pH (s.u.)	-	12.67	-	10.54	-	10.06	-	11.79	-	7.07	-
ORP (mV)	-	30	-	64	-	32	-	103	-	36	-
Turbidity (NTUs)	-	87.1	-	39.2	-	18.9	-	15.2	-	49.2	-
Purge Volume (gal)	-	1	-	0.6	-	0.2	-	0.1	-	1.2	-

Boxed value greater than the NYSDEC standards

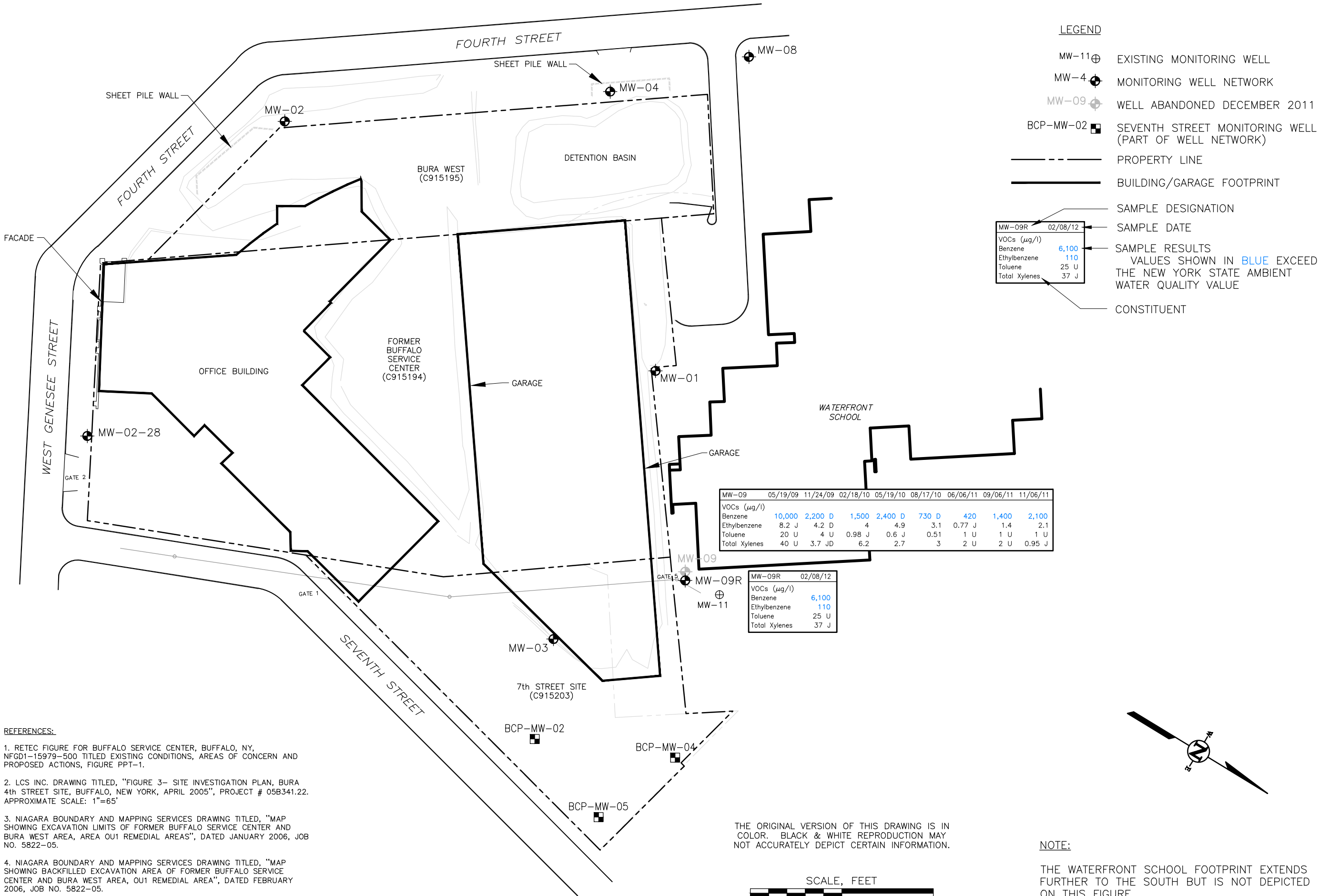
- a/ I.D. = identification; NYSDEC = New York State Department of Environmental Conservation;  
µg/l = micrograms per liter; mg/l = milligrams per liter; °C = degrees Celcius;  
mS/cm = microSiemens per centimeter; s.u. = standard units; mV = millivolts;  
NTU = nephelometric turbidity units; gal = gallons; ‰ = part per thousand;  
δ<sup>13</sup>C = delta carbon-13; ND = not detected; '-' = standard not developed or constituent not analyzed.
- b/ Sample and duplicate.
- c/ NYSDEC Ambient Water Quality Standards and Guidance Values. Technical and Operational Guidance Series (1.1.1). June 1998 and as updated.
- d/ Data Qualifiers:  
U = constituent not detected at reported detection limit  
J = estimated concentration  
B = analyte detected in associated method blank  
D, D08 = result from diluted aliquot  
H = sample was analyzed after hold time  
F = matrix spike or matrix spike duplicate exceeds control limits
- e/ Results from sample collected by the NYSDEC.
- f/ Supplemental Investigation

R:\Acad\CADD\00003\00003313-QLT\_Buffalo\CAD\00003313-B02.dwg 4/6/2012 1:32 PM Usz01165

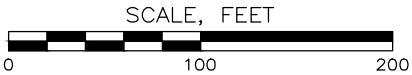
REFERENCES:

1. RETEC FIGURE FOR BUFFALO SERVICE CENTER, BUFFALO, NY, NFGD1-15979-500 TITLED EXISTING CONDITIONS, AREAS OF CONCERN AND PROPOSED ACTIONS, FIGURE PPT-1.
2. LCS INC. DRAWING TITLED, "FIGURE 3- SITE INVESTIGATION PLAN, BURA 4th STREET SITE, BUFFALO, NEW YORK, APRIL 2005", PROJECT # 05B341.22. APPROXIMATE SCALE: 1"=65'
3. NIAGARA BOUNDARY AND MAPPING SERVICES DRAWING TITLED, "MAP SHOWING EXCAVATION LIMITS OF FORMER BUFFALO SERVICE CENTER AND BURA WEST AREA, AREA OU1 REMEDIAL AREAS", DATED JANUARY 2006, JOB NO. 5822-05.
4. NIAGARA BOUNDARY AND MAPPING SERVICES DRAWING TITLED, "MAP SHOWING BACKFILLED EXCAVATION AREA OF FORMER BUFFALO SERVICE CENTER AND BURA WEST AREA, OU1 REMEDIAL AREA", DATED FEBRUARY 2006, JOB NO. 5822-05.

B



THE ORIGINAL VERSION OF THIS DRAWING IS IN COLOR. BLACK & WHITE REPRODUCTION MAY NOT ACCURATELY DEPICT CERTAIN INFORMATION.



NOTE:

THE WATERFRONT SCHOOL FOOTPRINT EXTENDS FURTHER TO THE SOUTH BUT IS NOT DEPICTED ON THIS FIGURE.

FIGURE 1

PERFORMANCE MONITORING RESULTS

WSP ENGINEERING OF NEW YORK, P.C.

750 Holiday Drive, Suite 410  
Pittsburgh, Pennsylvania 15220  
(412) 604-1040  
www.wspenvironmental.com/usa

FORMER BUFFALO SERVICE CENTER  
BURA WEST SITE - BUFFALO, NEW YORK

PREPARED FOR  
QLT BUFFALO LLC  
BUFFALO, NEW YORK

Drawn By: *PR 03/06/2012*

Checked: *EMF 03/06/2012*

Approved:

DWG Name: 00003313-B02

## **APPENDIX B**

### **INSTITUTIONAL & ENGINEERING CONTROL (IC/EC) CERTIFICATION FORMS**



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.	C915194		
Site Name	Former Buffalo Service Station <i>Center</i>		
Site Address:	249 West Genesee Street	Zip Code:	14202
City/Town:	Buffalo		
County:	Erie		
Site Acreage:	4.9		
Reporting Period: June 15, 2011 to June 15, 2012			
		YES	NO
1.	Is the information above correct?	<input type="checkbox"/>	<input checked="" 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"/>
		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"/>
<b>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.</b>			
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	

		Box 2A	
		YES	NO
8.	Has any new information revealed that assumptions made in the Qualitative Exposure Assessment regarding offsite contamination are no longer valid?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>If you answered YES to question 8, include documentation or evidence that documentation has been previously submitted with this certification form.</p>			
9.	Are the assumptions in the Qualitative Exposure Assessment still valid? (The Qualitative Exposure Assessment must be certified every five years)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>If you answered NO to question 9, the Periodic Review Report must include an updated Qualitative Exposure Assessment based on the new assumptions.</p>			

SITE NO. C915194			Box 3
<b>Description of Institutional Controls</b>			
<u>Parcel</u>	<u>Owner</u>	<u>Institutional Control</u>	
110.60-2-2.1	257 W. Genesee, LLC	Ground Water Use Restriction Landuse Restriction O&M Plan Site Management Plan Soil Management Plan	

Box 4
<p><b>Description of Engineering Controls</b></p> <p>None Required</p> <p>Not Applicable/No EC's</p> <p><b>Engineering Control Details for Site No. C915194</b></p> <p>Parcel: 110.60-2-2.1</p> <p>i) Use of groundwater for potable and non-potable purposes is prohibited.</p> <p>ii) Implementation of Operation, Monitoring, and Maintenance Plan and Soil/Fill Management Plan.</p>

**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. C915194

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 John M. Pons at 2325 E. Camelback Road, Suite 1100, Phoenix AZ 85016,  
print name print business address

am certifying as Executive Vice President (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

June 27, 2012  
Date

John M. Pons, EVP of Cole REIT Advisors III, LLC,  
manager of Cole HN Buffalo NY, LLC, sole member  
of 257 W. Genesee, LLC



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.	C915195		
Site Name Buffalo Urban Renewal Agency West Property			
Site Address: 257 West Genesee Street Zip Code: 14202			
City/Town: Buffalo			
County: Erie			
Site Acreage: 1.7			
Reporting Period: June 15, 2011 to June 15, 2012			
		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"/>
		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.			
Signature of Owner, Remedial Party or Designated Representative		Date	

**SITE NO. C915195**

**Box 3**

**Description of Institutional Controls**

Parcel

**110.60-2-2.1**

Owner

**257 W. Genesee, LLC**

Institutional Control

Ground Water Use Restriction  
Landuse Restriction  
O&M Plan  
Site Management Plan  
Soil Management Plan

**Box 4**

**Description of Engineering Controls**

None Required

Not Applicable/No EC's

**Engineering Control Details for Site No. C915195**

**Parcel: 110.60-2-2.1**

- i) Use of groundwater for potable and non-potable purposes is prohibited.
- ii) Implementation of Operation, Monitoring, and Maintenance Plan and Soil/Fill Management Plan.
- iii) Property shall remain as commercial/Industrial use only

**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. C915195

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, John M. Pons at 2325 E. Camelback Road, Suite 1100 Phoenix AZ 85016  
print name print business address

am certifying as Executive Vice President (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

June 27, 2012  
Date

John M. Pons, EVP of Cole REIT Advisors III, LLC,  
manager of Cole HN Buffalo NY, LLC, sole member  
of 257 W. Genesee, LLC



**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.** C915203

**Site Name** 4 New Seventh Street Site

**Site Address:** 4 New Seventh Street Site      **Zip Code:** 14202  
**City/Town:** Buffalo  
**County:** Erie  
**Site Acreage:** 1.7

**Reporting Period:** June 15, 2011 to June 15, 2012

- |   | 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"/> |

**Box 2**

- |  | YES                                 | NO                       |
|--|-------------------------------------|--------------------------|
| 6. Is the current site use consistent with the use(s) listed below?<br>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.**

\_\_\_\_\_  
Signature of Owner, Remedial Party or Designated Representative

\_\_\_\_\_  
Date

		Box 2A	
		YES	NO
8.	Has any new information revealed that assumptions made in the Qualitative Exposure Assessment regarding offsite contamination are no longer valid?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>If you answered YES to question 8, include documentation or evidence that documentation has been previously submitted with this certification form.</p>			
9.	Are the assumptions in the Qualitative Exposure Assessment still valid? (The Qualitative Exposure Assessment must be certified every five years)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>If you answered NO to question 8, the Periodic Review Report must include an updated Qualitative Exposure Assessment based on the new assumptions.</p>			

SITE NO. C915203			Box 3
Description of Institutional Controls			
<u>Parcel</u>	<u>Owner</u>	<u>Institutional Control</u>	
110.60-2-2.1	257 W. Genesee, LLC	Ground Water Use Restriction Landuse Restriction Site Management Plan Soil Management Plan	
12-1-23	257 W. Genesee, LLC	Ground Water Use Restriction Landuse Restriction Site Management Plan Soil Management Plan	

Box 4
<p><b>Description of Engineering Controls</b></p> <p>None Required</p> <p>Not Applicable/No EC's</p> <p><b>Engineering Control Details for Site No. C915203</b></p> <p><b>Parcel: 110.60-2-2.1</b></p> <p>i) Operation, Monitoring, and Maintenance Plan and Soil/Fill Management Plan</p> <p>ii) Use of groundwater for potable and non-potable purposes is prohibited.</p> <p>iii) unrestricted or residential use is prohibited.</p> <p><b>Parcel: 12-1-23</b></p> <p>i) Operation, Monitoring, and Maintenance Plan and Soil/Fill Management Plan</p> <p>ii) Use of groundwater for potable and non-potable purposes is prohibited.</p> <p>iii) unrestricted or residential use is prohibited.</p>

**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. C915203

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 John M. Pons at 2325 E Camelback Road, Suite 1100, Phoenix AZ 85016,  
print name print business address

am certifying as Executive Vice President (Owner or Remedial Party)

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

John M. Pons  
Signature of Owner, Remedial Party, or Designated Representative  
Rendering Certification

June 27, 2012  
Date


John M. Pons, EVP of Corp REIT Advisors III, LLC,  
Manager of Cole HN Buffalo NY, LLC, sole member  
of 257 W. Genesee, LLC

## APPENDIX C


### SITE PHOTO LOG

## PHOTOGRAPHIC LOG

<b>Client Name:</b>		<b>Site Location:</b> 257 W Genesee Street, LLC Site Buffalo, NY	<b>Project No.:</b>
<b>Photo No.</b>  1	<b>Date</b>  06/05/12		
<b>Direction Photo Taken:</b> North			
<b>Description:</b> Site Conditions - Visitor Surface Lot (looking north)			


<b>Photo No.</b>  2	<b>Date</b>  06/05/12	
<b>Direction Photo Taken:</b>		
<b>Description:</b> Site Conditions- East Side of Parking Garage		


## PHOTOGRAPHIC LOG

<b>Client Name:</b>		<b>Site Location:</b> 257 W Genesee Street, LLC Site Buffalo, NY	<b>Project No.:</b>
<b>Photo No.</b>  3	<b>Date</b>  06/05/12		
<b>Direction Photo Taken:</b> South			
<b>Description:</b> Site Conditions- Office Building (looking South from New Seventh Street)			

<b>Photo No.</b>  4	<b>Date</b>  06/05/12	
<b>Direction Photo Taken:</b> Southwest		
<b>Description:</b> Northern Property Boundary (looking Southwest from New Seventh Street)		


## PHOTOGRAPHIC LOG


<b>Client Name:</b>		<b>Site Location:</b> 257 W Genesee Street, LLC Site Buffalo, NY	<b>Project No.:</b>
<b>Photo No.</b>  5	<b>Date</b>  06/05/12		
<b>Direction Photo Taken:</b> West			
<b>Description:</b> Site Conditions- drive between garage and building complex, looking west			

<b>Photo No.</b>  6	<b>Date</b>  06/05/12	
<b>Direction Photo Taken:</b> South		
<b>Description:</b> Site Conditions- Berm area on 4th Street; looking south		





## PHOTOGRAPHIC LOG

<b>Client Name:</b>		<b>Site Location:</b> 257 W Genesee Street, LLC Site Buffalo, NY	<b>Project No.:</b>
<b>Photo No.</b> 7	<b>Date</b> 06/05/12		
<b>Direction Photo Taken:</b> East			
<b>Description:</b> Site Conditions - Building Façade; looking east along 257 W. Genesee			

<b>Photo No.</b> 8	<b>Date</b> 06/05/12	
<b>Direction Photo Taken:</b> East		
<b>Description:</b> Site Conditions- looking east at entrance to garage from Fourth Street		

## PHOTOGRAPHIC LOG

<b>Client Name:</b>		<b>Site Location:</b> 257 W Genesee Street, LLC Site Buffalo, NY	<b>Project No.:</b>
<b>Photo No.</b>  9	<b>Date</b>  06/05/12		
<b>Direction Photo Taken:</b> East -Southeast			
<b>Description:</b> Site Conditions- Detention pond area looking east-southeast.			

<b>Photo No.</b>  10	<b>Date</b>  06/05/12	
<b>Direction Photo Taken:</b> South		
<b>Description:</b> Site Conditions- Courtyard area on New Seventh Street looking south		