

Periodic Review Report

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

BUFFALO, NEW YORK

June 2013

0235-013-001

Prepared By:



PERIODIC REVIEW REPORT
for the

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

BUFFALO, NEW YORK

June 2013

0235-013-001

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 & 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* (Ref. 1) 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 16, 2012 to June 15, 2013 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), which 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 BCP for redevelopment as an office building complex (HealthNow). Additional details relative to the history and remedial activities conducted at each of the parcels are discussed in Section 2.0.

2.0 SITE OVERVIEW

The Site is comprised of three former industrial/commercial properties located in the City of Buffalo, New York (see Figure 1). The Site is bordered by Fourth Street to the west, West Genessee Street to the south, and Seventh Street to the east; 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 (BCP Site No. C915194) is an approximately 4.9-acre parcel located at the corner of West Genessee and Seventh Streets. The BURA West property (BCP 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 Buffalo Gas Light Company MGP that operated from approximately 1848 to 1948.

Previous 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 followed by backfilling the 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.” Certificates of Completion (COCs) were issued for the two properties in November 2006.

2.2 New Seventh Street Property

The 4 New Seventh Street property (BCP 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, this parcel housed gasoline service stations. Various other 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 followed by backfilling the excavation with clean material. All impacted soil/fill within the property boundaries was removed to meet cleanup levels. A 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 NYSDEC 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 include 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 NYSDEC-approved SMPs, post-remedial groundwater monitoring was required for the Site on a quarterly basis for two 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. 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 parcel; therefore, they were sampled under both programs. As such, duplicate samples were collected from these well locations each quarter. 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 which was addressed through offsite remedial excavation works by other responsible parties (see Section 3.2).

The Eighth Quarterly Groundwater Monitoring Report (prepared by WSP) presented trend analyses for wells 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 off-site well MW-09 where the concentration trend analysis showed an increase in the benzene concentration.

Based on the MW-09 results, 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, including quarterly monitoring for one year at MW-09 and semi-annual monitoring for one year at MW-01 and MW-03. WSP conducted the first round of groundwater monitoring for MW-09, MW-01, and MW-03 in November 2009. 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. Since all concentrations were non-detect during the May 2011 monitoring event, the NYSDEC approved termination of monitoring at BCP-MW-04.

Sampling at off-site well MW-09 was performed by WSP in June, September, 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 well MW-09R. Well MW-09R was sampled in February 2012, completing the monitoring requirements for the Site.

Appendix A includes a summary of the analytical results for the June 2011 through February 2012 sampling events at MW-09/MW-09R. Prior groundwater sampling data for MW-09 and other monitoring locations were previously transmitted to the NYSDEC by the responsible parties and summarized with the July 2011 PRR.

3.2 Soil/Fill Management Plan

A Soil/Fill Management Plan (SFMP) was included in the NYSDEC-approved SMPs for the Site. The SFMP provides guidelines for the management of soil and fill material during any future intrusive activities that 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. An adjacent off-site excavation was performed by WSP from August 2012 through September 2012 to address outstanding issues with the National Fuel Gas Distribution Corporation property to the west of the Site. These activities did not involve or affect the 257 West Genesee Street Site.

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.

Benchmark conducted a Site Inspection of the exterior of the property on May 17, 2013. At the time of the Site Inspection, the property was being used as a large office building complex with an 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. Appendix B includes completed

Institutional and Engineering Controls Certification Forms for the Site. Appendix C presents a photographic log of the Sites during the May 2013 Site Inspection.

4.0 CONCLUSIONS AND RECOMMENDATIONS

Benchmark has made the following conclusions and recommendations for the reporting period June 16, 2012 to June 15, 2013:

- At the time of the Site Inspection (May 17, 2013), the Site was in compliance with both SMPs.
- The off-site excavation work on the adjacent property to the west in August/September 2012 did not involve the Site; therefor excavation monitoring was not required by 257 W. Genesee, LLC.

5.0 DECLARATION/LIMITATION

Benchmark Environmental Engineering & Science, PLLC personnel conducted the annual site inspections for BCP Site Nos. C915194, C915195, and C915203 in Buffalo, New York in accordance with generally accepted practices. This report complies 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.

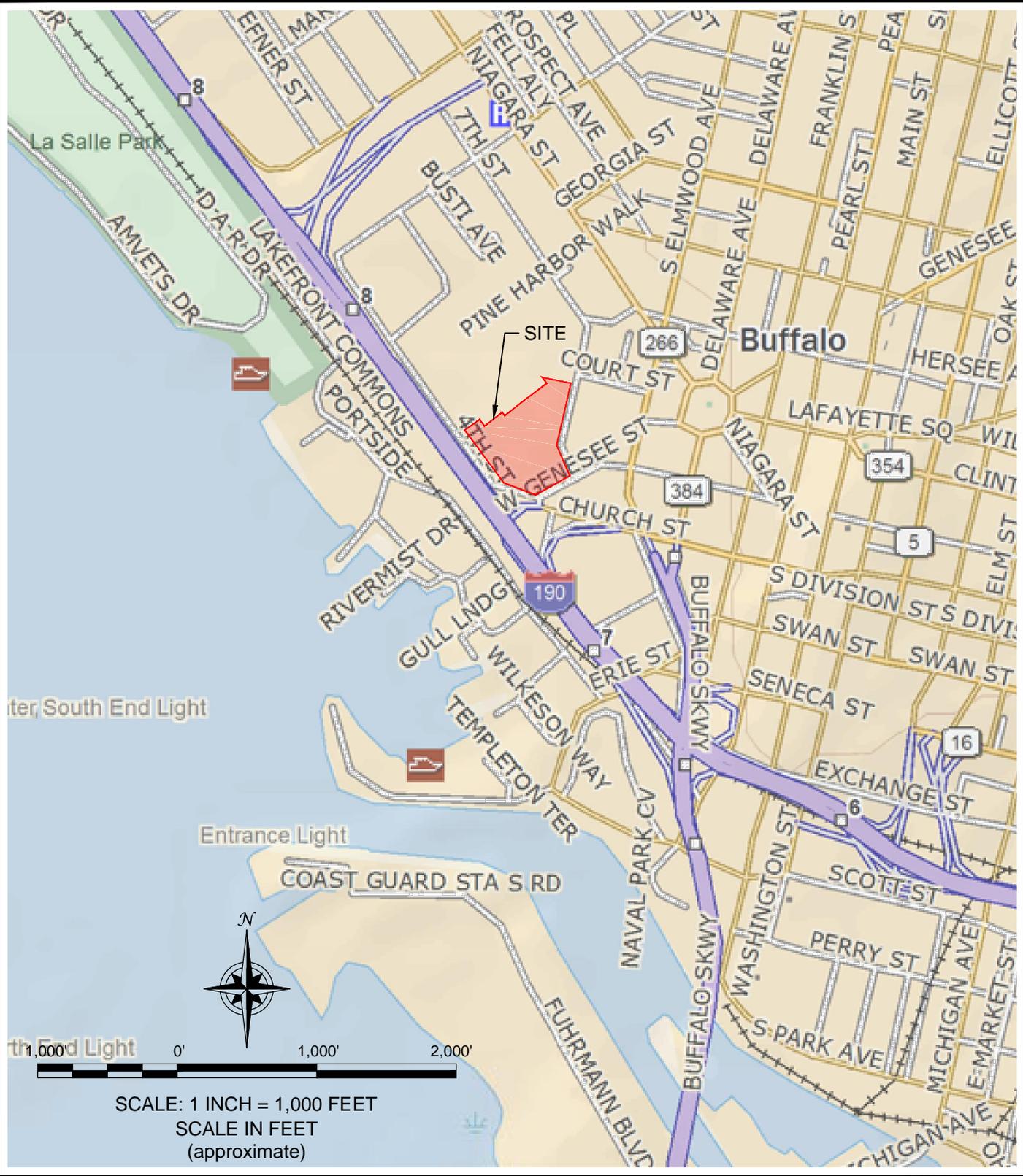
6.0 REFERENCES

1. New York State Department of Environmental Conservation. *DER-10; Technical Guidance for Site Investigation and Remediation*. May 2010.
2. *Pre-Design Investigation Report, Buffalo Service Center, Buffalo, NY*, dated February 2004, prepared by The RETEC Group, Inc.
3. *Limited and Focused Subsurface Investigation, Seventh Street Site and Fourth Street Site, Buffalo, New York*, dated February 2005, prepared by LCS, Inc.
4. *Limited and Focused Subsurface Investigation, Seventh Street Site and Fourth Street Site, Buffalo, New York*, dated April 2005, prepared by LCS, Inc.
5. *Remedial Investigation Work Plan for 4 New Seventh Street, Buffalo, New York*, prepared by LCS, Inc. and Benchmark Environmental Engineering & Science, PLLC, January 2006.
6. *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.
7. *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
8. *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
9. *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
10. *Site Management Plan - 4 New Seventh Street, Buffalo, New York*, prepared by LCS, Inc. and Benchmark Environmental Engineering & Science, PLLC, December 2006.

FIGURES

FIGURE 1

F:\CAD\Benchmark\Cole Real Estate\2013 PRR\Figure 1: Site Location and Vicinity Map.dwg



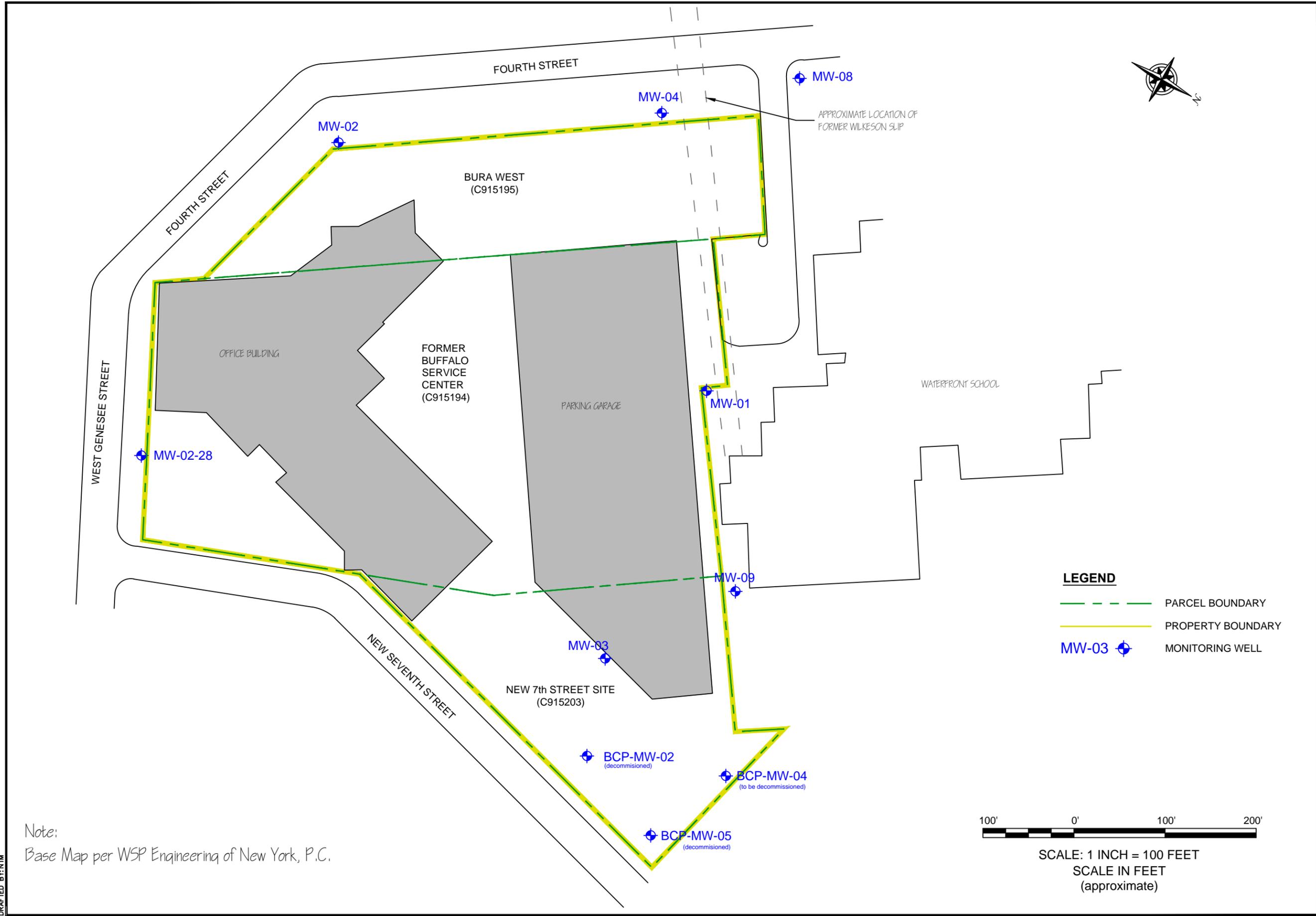
BENCHMARK
 ENVIRONMENTAL
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 SUITE 300
 BUFFALO, NY 14218
 (716) 856-0599

PROJECT NO.: 0235-013-001
DATE: MAY 2013
DRAFTED BY: JGT

SITE LOCATION AND VICINITY MAP

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



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

FIGURE 2

APPENDIX A

**DATA SUMMARY FOR OFF-SITE 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

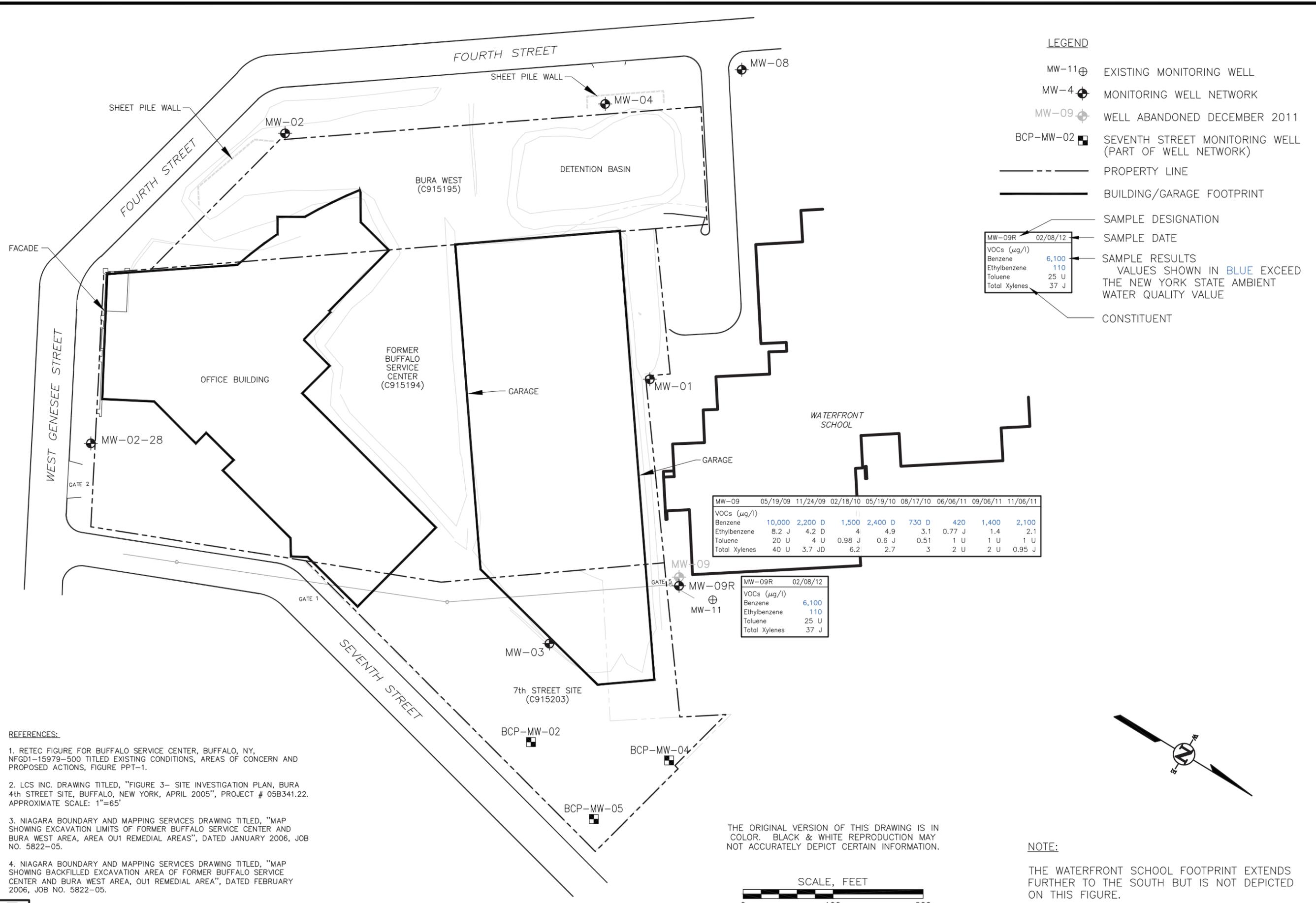
**Summary of MW-09 and MW-09R Results
QLT Buffalo
Buffalo, New York**

Well I.D.:	MW-09								MW-09R		
	Performance Monitoring (Post-Injection)								Performance Monitoring (Post-Injection)		
Event:											
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 ¹³ 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;
δ¹³C = 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\00003100003313-QLT_Buffalo\CAD\00003313-B02.dwg 4/6/2012 1:32 PM Usz01165



- REFERENCES:**
- RETEC FIGURE FOR BUFFALO SERVICE CENTER, BUFFALO, NY, NFGD1-15979-500 TITLED EXISTING CONDITIONS, AREAS OF CONCERN AND PROPOSED ACTIONS, FIGURE PPT-1.
 - 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'
 - NIAGARA BOUNDARY AND MAPPING SERVICES DRAWING TITLED, "MAP SHOWING EXCAVATION LIMITS OF FORMER BUFFALO SERVICE CENTER AND BURA WEST AREA, AREA OUI REMEDIAL AREAS", DATED JANUARY 2006, JOB NO. 5822-05.
 - NIAGARA BOUNDARY AND MAPPING SERVICES DRAWING TITLED, "MAP SHOWING BACKFILLED EXCAVATION AREA OF FORMER BUFFALO SERVICE CENTER AND BURA WEST AREA, OUI REMEDIAL AREA", DATED FEBRUARY 2006, JOB NO. 5822-05.

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.



Drawn By: *PR 03/02/12*
 Checked: *EMF 03/02/12*
 Approved:
 DWG Name: 00003313-B02

FORMER BUFFALO SERVICE CENTER
 BURA WEST SITE - BUFFALO, NEW YORK
 PREPARED FOR
 QLT BUFFALO LLC
 BUFFALO, NEW YORK

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

B

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 No. C915194

Site Details

Box 1

Site Name **Former Buffalo Service Station**

Site Address: 249 West Genesee Street Zip Code: 14202

City/Town: Buffalo

County: Erie

Site Acreage: 4.9

Reporting Period: June 15, 2012 to June 15, 2013

- | | 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

Box 2A

8. Has any new information revealed that assumptions made in the Qualitative Exposure Assessment regarding offsite contamination are no longer valid?

YES NO

If you answered YES to question 8, Include documentation or evidence that documentation has been previously submitted with this certification form.

9. Are the assumptions in the Qualitative Exposure Assessment still valid? (The Qualitative Exposure Assessment must be certified every five years)

If you answered NO to question 9, the Periodic Review Report must include an updated Qualitative Exposure Assessment based on the new assumptions.

SITE NO. C915194

Box 3

Description of Institutional Controls

Parcel

110.60-2-2.1

Owner

257 W. Genesee, LLC

Institutional Control

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

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.

Box 4

Description of Engineering Controls

None Required

Not Applicable/No EC's

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

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 Rd. #1100, Phoenix AZ 85016,
print name print business address

am certifying as EVP (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 26, 2013
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 No. C915195

Site Details

Box 1

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, 2012 to June 15, 2013

- | | YES | NO |
|--|-------------------------------------|-------------------------------------|
| 1. Is the information above correct?

If NO, include handwritten above or on a separate sheet. | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 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?

If you answered YES to questions 2 thru 4, include documentation or evidence that documentation has been previously submitted with this certification form. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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
Site Management Plan
O&M Plan
Landuse Restriction
Soil Management Plan

- 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

Box 4

Description of Engineering Controls

None Required

Not Applicable/No EC's

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 Rd. # 1100, Phoenix, AZ 85016,
print name print business address

am certifying as EVP (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 26, 2013
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 No.	Site Details	Box 1
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, 2012 to June 15, 2013		
		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

Box 2A

8. Has any new information revealed that assumptions made in the Qualitative Exposure Assessment regarding offsite contamination are no longer valid?

YES NO

If you answered YES to question 8, include documentation or evidence that documentation has been previously submitted with this certification form.

9. Are the assumptions in the Qualitative Exposure Assessment still valid?
(The Qualitative Exposure Assessment must be certified every five years)

If you answered NO to question 9, the Periodic Review Report must include an updated Qualitative Exposure Assessment based on the new assumptions.

SITE NO. C915203

Box 3

Description of Institutional Controls

Parcel

Owner

Institutional Control

110.60-2-2.1

267 W. Genesee, LLC

Ground Water Use Restriction
Soil Management Plan
Landuse Restriction
Site Management Plan

- i) Operation, Monitoring, and Maintenance Plan and Soil/Fill Management Plan
- ii) Use of groundwater for potable and non-potable purposes is prohibited.
- iii) unrestricted or residential use is prohibited.

Box 4

Description of Engineering Controls

None Required

Not Applicable/No EC's

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

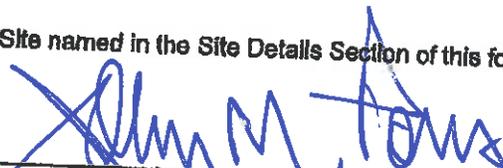
SITE OWNER OR DESIGNATED REPRESENTATIVE SIGNATURE

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 Rd. #1100, Phoenix AZ 85016
print name print business address

am certifying as EVP (Owner or Remedial Party)

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


Signature of Owner, Remedial Party, or Designated Representative

June 26, 2013
Date

Rendering Certification
John M. Pons, EVP of Cole REIT Advisors III, LLC,
manager of Cole HR Buffalo NY, LLC, Sole
member of 257 W. Genesee, LLC

APPENDIX C

SITE PHOTOGRAPHIC LOG (MAY 17, 2013)

Client Name:		Site Location: 257 W Genesee Street, LLC Site Buffalo, NY	Project No.:
Photo No. 1	Date 05/17/13		
Direction Photo Taken: North			
Description: Site Conditions - Visitor Surface Lot (looking north)			

Photo No. 2	Date 05/17/13	
Direction Photo Taken:		
Description: Site Conditions- East Side of Parking Garage		

Client Name:		Site Location: 257 W Genesee Street, LLC Site Buffalo, NY	Project No.:
Photo No. 3	Date 05/17/13		
Direction Photo Taken: South			
Description: Site Conditions- Office Building (looking South from New Seventh Street)			

Photo No. 4	Date 05/17/13		
Direction Photo Taken: Southwest			
Description: Northern Property Boundary (looking Southwest from New Seventh Street)			

Client Name:		Site Location: 257 W Genesee Street, LLC Site Buffalo, NY	Project No.:
Photo No. 5	Date 05/17/13		
Direction Photo Taken: West			
Description: Site Conditions- drive between garage and building complex, looking west			

Photo No. 6	Date 05/17/13	
Direction Photo Taken: South		
Description: Site Conditions- Berm area on 4th Street; looking south		

Client Name:		Site Location: 257 W Genesee Street, LLC Site Buffalo, NY	Project No.:
Photo No. 7	Date 05/17/13		
Direction Photo Taken: East			
Description: Site Conditions - Building Façade; looking east along 257 W. Genesee			

Photo No. 8	Date 05/17/13	
Direction Photo Taken: East		
Description: Site Conditions- looking east at entrance to garage from Fourth Street		

Client Name:		Site Location: 257 W Genesee Street, LLC Site Buffalo, NY	Project No.:
Photo No. 9	Date 05/17/13		
Direction Photo Taken: East -Southeast			
Description: Site Conditions- Detention pond area looking east-southeast.			

Photo No. 10	Date 05/17/13	
Direction Photo Taken: South		
Description: Site Conditions- Courtyard area on New Seventh Street looking south		