



# 2021 Periodic Review Report

(Reporting Period: April 17, 2020 to July 17, 2021)

Location:

Erie County Shoreline Trail  
2303 Hamburg Turnpike  
Lackawanna, New York 14218  
NYSDEC Site No. C915197L

Prepared for:

Erie County Department of Environment and Planning  
95 Franklin Street, Room 1053  
Buffalo, New York 14202

LaBella Project No. 2212549

August 2021

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## 1.0 EXECUTIVE SUMMARY

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This Periodic Review Report (PRR) is a required element of the approved Site Management Plan (SMP) for the Erie County Shoreline Trail Bethlehem Steel Phase I. This New York State Brownfield Cleanup Program (BCP) site was remediated in accordance with Brownfield Cleanup Agreement (BCA) Index No. C915197L-01-18), which was executed on March 9, 2018 with amendments dated on February 14, 2019 and April 2, 2020.

### 1.1 Site Summary

The Site is identified as the Erie County Shoreline Trail Bethlehem Steel Phase I NYSDEC BCP No. C915197L and consists of approximately 5,140 feet of the 10-foot wide asphalt paved Erie County Shoreline Trail Bethlehem Steel Phase I located in Lackawanna, New York (hereafter referred to as the “Site”). The Site is approximately seven acres of land divested and formed from the easterly fifty-foot (50’) widths of BCP Sites C915198H, C915198K, C915197B, C915197D, C915197F, C915197H and C915197K. The Site is a long 50-foot wide parcel along the west side of NYS Route 5 and Hamburg Turnpike from Dona Street north to the Gateway Trade Center. The Site is bounded by the Gateway Trade Center property to the north, NYSDEC BCP Site C915198F to the south, NYS Route 5 and Hamburg turnpike to the east, and NYSDEC BCP Sites C915198H, C915198K, C915197B, C915197D, C915197F, C915197H, and C915197K to the west.

Historically, the Site was a portion of a larger property occupied by an integrated steel mill operated by the Bethlehem Steel Corporation (BSC). The site was part of a large industrial complex that contained numerous buildings and facilities, none of which currently remain on the site. The BSC property was the subject of assessments and investigations under the Resource Conservation and Recovery Act (RCRA) and the area containing the sites received a “No Further Assessment” designation from the U.S. Environmental Protection Agency (USEPA) in the early 1990s and was excluded from the RCRA Order by USEPA in 2001. In 2005, Tecumseh Redevelopment Inc. (Tecumseh) entered an approximate 102-acre portion of the BSC property containing the Sites and referred to as the Phase I Business Park in the BCP. In 2007, Tecumseh Redevelopment Inc. (Tecumseh) entered an approximate 143-acre portion of the BSC property containing the Site and referred to as the Phase II Business Park in the BCP. The Site was divested from these BCP Sites.

The Remedial Investigation (RI) conducted on the Phase I Business Park property between 2006 and 2008 and on the Phase II Business Park property between 2010 and 2013 revealed that contamination associated with historical steel mill operations had impacted the soil/fill on the property, necessitating remedial action. The RIs did not identify groundwater impacts proximate the Site. Several phases of remedial actions were undertaken for Business Park Phase I and Phase II in accordance with NYSDEC-approved Interim Remedial Measures (IRM) Work Plans. Following completion of the remedial work, some contamination was left in the soil/fill of the Sites, which is hereafter referred to as the “remaining contamination”. The remaining contamination was generally characterized by widespread exceedances of the 6 New York Codes, Rules and Regulation (NYCRR) Part 375 Soil Cleanup Objectives (SCOs) for un-restricted use for certain metals and polycyclic aromatic hydrocarbons (PAHs) to the approximate native soil depth of 8 feet below the ground surface. The remedial efforts also included development of SMPs to manage the remaining contamination at the Sites in perpetuity or until extinguishment of the Environmental Easements that were placed on the Sites in accordance with Environmental Conservation Law (ECL) Article 71, Title 36.

The NYSDEC-approved Remedial Action Work Plan (RAWP) for the Erie County Shoreline Trail Bethlehem Steel Phase I BCP Site No. C915197L dated February 2018 prescribed the remedy for the Site which included the placement of a cover system comprised of 12 inches of clean soil with a demarcation layer in all areas that are not covered by the asphalt trail or covered by concrete. In 2018, the pedestrian/bicycle trail along with the remainder of the cover system was constructed at the Site and a BCP Certificate of Completion (COC) was issued, signifying satisfactory completion of the remedial program and acceptance of the Final Engineering Report (FER) for the Site.

### **1.2 Effectiveness of Remedial Program**

Based on a recent inspection of the Sites, the engineering and institutional controls are in place, are performing properly, and remain effective and protective of public health and the environment.

### **1.3 Non-Compliance**

No areas of non-compliance regarding the major elements of the SMP were identified during the preparation of this PRR.

### **1.4 Recommendations**

Overall, the remedial program is viewed to be effective in achieving the remedial objectives for the Sites. No changes to the SMP or the frequency of PRR submissions are recommended at this time.

## **2.0 SITE OVERVIEW**

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### **2.1 Site Description**

The Site includes an approximately seven-acre parcel consisting of a 10-foot wide 5,140-foot long asphalt pedestrian/bicycle trail along the west side of NYS Route 5 and Hamburg Turnpike within the City of Lackawanna. The Site is 50 feet in width and extends from Dona Street north beyond Ridge Road to the Gateway Trade Center property. The Site is bounded by the Gateway property to the north, NYSDEC BCP Site C915198F to the south, NYS Route 5 and Hamburg turnpike to the east, and NYSDEC BCP Sites C915198H, C915198K, C915197B, C915197D, C915197F, C915197H, and C915197K to the west. The Site was divested and formed from the easterly fifty-foot (50') widths of BCP Sites C915198H, C915198K, C915197B, C915197D, C915197F, C915197H, and C915197K. Lake Erie is situated approximately 5,100 feet to the west of the Sites, while Smoke Creek is located approximately 1,200 feet south of the Site. Figure 1 shows the approximate location of the Site and Figure 2 depicts the approximate extents of the Site.

Soil/fill remaining on the Site located beneath the cover system was characterized as generally impacted by the historical industrial usage of the BSC property. These impacts were characterized as widespread exceedances of the 6 NYCRR Part 375 SCOs for un-restricted use for certain metals and PAHs to the approximate native soil depth of 8 feet below the ground surface. The impacted soil/fill constitutes the remaining contamination on the Site. No groundwater contamination necessitating remediation was identified on the Site.

### **2.2 Summary of Remedial Actions**

Remedial activities completed at the Site were conducted in accordance with the NYSDEC-approved Remedial Action Work Plan (RAWP) for the Erie County Shoreline Trail Bethlehem Steel Phase I BCP

Site No. C915197L dated February 2018. Remediation for the Site was performed as a single project, and no interim remedial measures, operable units or separate construction contracts were performed. The final remedy implemented at the Site in 2018 involved the installation of a cover system in accordance with the NYSDEC-approved RAWP. The cover system installed at the Site is comprised of the following components:

- A demarcation layer placed atop the remaining soil/fill followed by a minimum of a 12-inch soil cover, obtained from a NYSDEC approved stockpile, in areas of the Site not covered by the 10-foot wide asphalt trail to prevent human exposure to remaining contaminated soil/fill.
- A 10-foot wide asphalt trail consisting of four inches of asphalt pavement and eight inches of gravel subbase.
- Concrete cover at the approach ramps for Ridge Road and Dona Street, bench pads, and the areas of the iron button.

Contaminated soil/fill was encountered during excavation activities associated with the installation of the underdrain system in one portion of the Site. The excavation extended approximately two feet below ground surface and resulted in the transported and disposal of 137.23 tons of non-hazardous soil/fill to the Waste management of NY at Chafee Landfill, a permitted Subtitle D landfill.

On-site soil/fill was used as subgrade backfill beneath the soil cover. Excess existing soil excavated during the installation of the underdrain system as well as soil generated from created grading operations were placed west of the Site to fill in low areas on BCP Parcel Nos. C915157D, C915157F and C915158K.

In addition to the cover system, a Site Specific Site Management Plan (SMP) was prepared to manage remaining contamination as required by the Environmental Easements placed on NYSDEC BCP Site Nos. C915157 and C915198. The Site Specific SMP is included as Appendix E-12 in the January 2014 SMP for the Tecumseh Phase I Business Park for NYSDEC Site Nos. C915197 through C915197K. The SMP specifies the procedures required to manage the remaining contamination on the Site post remediation, including (1) implementation and management of all engineering and institutional controls; (2) media monitoring, if applicable; (3) operation and maintenance of treatment, collection, containment or recover systems, if applicable; (4) performance of periodic inspections, certification of results and submittal of PRRs; and (5) defining criteria for termination of any remaining treatment system operations.

The two environmental easements in place for the Site encompass NYSDEC BCP Site Nos. C915157 and C915198, executed by the NYSDEC and recorded with the Erie County Clerk in 2014. The environmental easements were placed on the properties to (1) implement, maintain and monitor the Engineering Controls; (2) prevent future exposure to remaining contamination by controlling disturbances of the subsurface contamination; and, (3) limit the use and development of the site to commercial and industrial uses only. Copies of easements provided in Appendix 1.

### 3.0 PERFORMANCE, EFFECTIVENESS & PROTECTIVENESS OF THE REMEDY

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All remedial actions prescribed in the RAWP for the Site were completed and the remedial goals were accomplished through the installation of the Site-wide cover systems to prevent exposure to remaining contamination in the subsurface.

As indicated below in Section 4.1.2, the cover systems were inspected on July 21, 2021. Based on

the inspections, the cover systems are intact, functioning effectively throughout the Sites and are protective of public health and the environment.

## 4.0 INSTITUTIONAL/ENGINEERING CONTROL (IC/EC) PLAN COMPLIANCE REPORT

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### 4.1 IC/EC Requirements and Compliance

#### 4.1.1 IC Requirements-Site Restrictions

In accordance with the SMP, a series of Institutional Controls (ICs) have been established for the Site. Adherence to these ICs is required by the Environmental Easements. The Environmental Easements are described within the Final Engineering Report, included within Appendix 1. These ICs are:

- Compliance with the environmental easement and the SMP by the Owner and the Owner's successors and assigns;
- All Engineering Controls (ECs) must be installed, operated and maintained as specified in the SMP;
- All ECs on the Site must be inspected at a frequency and in a manner defined in the SMP;
- Environmental or public health monitoring must be performed as defined in the SMP;
- Data and information pertinent to site management of the Site must be reported at the frequency and in a manner defined in the SMP;
- All future activities on the property that will disturb remaining contaminated material must be conducted in accordance with the SMP;
- Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in the SMP;
- Operation, maintenance, monitoring, inspection, and reporting of mechanical or physical components of the remedy shall be performed as defined in the SMP; and
- Access to the Site must be provided to agents, employees or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by the environmental easements.

Institutional Controls identified in the environmental easements may not be discontinued without an amendment to or extinguishment of the environmental easement.

The Site has a series of ICs in the form of restrictions. Site restrictions that apply are as follows:

- The Site may only be used for recreational trail uses only;
- The use of groundwater underlying the Site is restricted as a source of potable or process water, without necessary water quality treatment, as determined by the New York State Department of Health or Erie County Health Department;
- Compliance with the SMP is required; and
- The owner of the Site is required to provide an IC/EC certification, prepared and submitted by a professional engineer or environmental professional acceptable to the NYSEC annually or for a period to be approved by the NYSDEC, which will certify that the ICs and ECs put in place are unchanged from the previous certification or that any changes to the controls were approved by the NYSDEC; and, nothing has occurred that impairs the ability of the controls to

protect public health and environment or that constitute a violation or failure to comply with the SMP.

LaBella has concluded that the ICs are in force and are being adhered to with respect to the condition and use of the Sites and activities conducted thereon.

#### *4.1.2 Engineering Control-Soil Cover System*

Exposure to the remaining contamination in soil/fill at the Site is prevented by the cover systems that were previously placed over the Site. The cover system is comprised of a minimum of 12 inches of NYSDEC approved soil overlaying a demarcation layer (orange plastic mesh material) in areas of the Site not covered by the asphalt pedestrian/bicycle trail. The pedestrian/bicycle trail consists of eight inches of subbase and four inches of asphalt pavement. The Excavation Work Plan, which appears in Appendix B of the SMP, outlines the procedures that are required to be implemented in the event the cover system is breached, penetrated or temporarily removed, and any underlying remaining contamination is disturbed. The cover system is a permanent control and the quality and integrity of this system will be inspected at defined, regular intervals in perpetuity.

On July 21, 2021, Mr. Andrew Benkleman of LaBella conducted the annual Site inspections, which included traversing the Sites on foot to observe the current conditions. The Site Inspection Form is included herein as Appendix 2. Appendix 3 includes photographs taken during the Site inspection.

The Site consists of an asphalt pedestrian/bicycle trail aligned with vegetated soil cover occurring at the ground surface along the length of the Site. The cover systems at the time of the Site inspections were observed to be intact and functioning as intended.

On May 14, 2020 National Fuel excavated an area approximately ten feet by thirty feet to an unknown depth along the western side of pedestrian/bicycle trail and a smaller area approximately five feet by five feet east of the trail. The approximate locations of the excavations are depicted on Figure 2. Erie County notified National Fuel of their violation of the SMP and coordinated repairs to the cover system. The cover system repairs included the removal of the uppermost one-foot of soil/fill in the areas disturbed. The removed material was placed on the adjacent NYSDEC BCP Site No C915197B, with NYSDEC approval. A geotextile fabric was placed as a demarcation layer across the disturbed areas atop the existing Site soil/fill. One foot of NYSDEC approved soils was placed on the geotextile fabric to match the surrounding grade. The imported clean soil used for the repairs was from a stockpile of previously approved soil used to construct the original cover for the Site. The repaired areas were subsequently seeded. Correspondence including NYSDEC approval of imported cover soil, placement of excavated materials on the adjacent NYSDEC BCP Site, and NYSDEC approval of the work completed is included in Appendix 4. Photographs of initial Site disturbance and the completed repair work are included in Appendix 3.

#### **4.2 IC/EC Certification**

The IC/EC Certification Forms for the Sites were completed in their entirety as all ICs/ECs are in place for the Sites per the SMP. Appendix 5 includes the signed NYSDEC Site Management Periodic Review Report Notice-Institutional and Engineering Controls Certification Forms.



## 5.0 MONITORING PLAN COMPLIANCE REPORT

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### 5.1 *Requirements*

The Monitoring Plan is included in Section 3.0 of the SMP and describes the measures for evaluating the performance and effectiveness of: the remedy to reduce or mitigate contamination at the Site, the soil cover systems, and all affected Site media.

The Monitoring Plan describes the methods to be used for:

- Monitoring the cover system;
- Assessing achievement of the remedial performance criteria;
- Evaluating Site information periodically to confirm that the remedy continues to be effective in protecting public health and the environment; and,
- Preparing the necessary reports for the various monitoring activities.

To adequately address these issues, the Monitoring Plan provides information on:

- Annual inspection and periodic certification.

### 5.2 *Comparisons with Remedial Objectives*

Cover system monitoring was performed in accordance with the SMP, and included the annual visual inspection of the cover system components. As described in Section 4.1.2, the cover system was observed to be intact and functioning as intended, and is continuing to satisfy the remedial objectives for the Site.

### 5.3 *Monitoring Deficiencies*

No monitoring deficiencies were noted or experienced during the inspection of the cover system or completion of the PRR.

### 5.4 *Monitoring Conclusions and Recommendations*

The procedures utilized to evaluate the performance and effectiveness of the cover system were conducted in accordance with the SMP and verified that the cover system is functioning as intended. No changes to the monitoring plan are recommended.

## 6.0 OPERATION AND MAINTENANCE PLAN

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The remedy for the Site does not rely on mechanical systems to protect public health and the environment. Therefore, no operation and maintenance requirements apply to the Site.



## 7.0 CONCLUSIONS AND RECOMMENDATIONS

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Annual inspection of the Site was performed on July 21, 2021 by LaBella Associates, DPC as prescribed in the SMP. As a result of this inspection, LaBella has determined that the Site is in compliance with all elements of the SMP, including the Engineering & Institutional Control Plan, the Site Monitoring Plan and the Operations & Maintenance Plan. No deficiencies or failures to satisfy the requirements of the SMP were identified.

As reflected by the signed Institutional and Engineering Controls Certification Forms (Appendix 5), LaBella has concluded that:

- The required EC/ICs are in place, are performing properly, and remain effective;
- The Site Monitoring Plan is being implemented;
- Operation and Maintenance activities are being conducted properly; and
- The remedy continues to be protective of public health and the environment and is performing as specified in the RAWP and FER.

No changes to the inspection, reporting or certification frequency prescribed in the SMP are recommended.

## 8.0 LIMITATIONS

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The conclusions presented in this report are based on information gathered in accordance with generally acceptable professional consulting principles and practices. All conclusions reflect observable conditions existing at the time of the Site inspection. Information provided by outside sources (individuals, agencies, laboratories, etc.) as cited herein, was used in the assessment of the Site. The accuracy of the conclusions drawn from this assessment is, therefore, dependent upon the accuracy of information provided by these sources. Furthermore, LaBella is not responsible for the impacts of any changes in environmental standards, practices, or regulations subsequent to the performance of services.

This report is based upon the application of scientific principles and professional judgment to certain facts with resultant subjective interpretations. Professional judgments expressed herein are based upon the facts currently available with the limits of the existing data, scope of services, budget and schedule. To the extent that more definitive conclusions are desired by the Client than are warranted by the current available facts, it is specifically LaBella's intent that the conclusions and recommendations stated herein will be intended as guidance and not necessarily a firm course of action except where explicitly stated as such. LaBella makes no warranties, expressed or implied including without limitation, warranties as to merchantability or fitness of a particular purpose. Furthermore, the information provided in this report is not be construed as legal advice.

This inspection and report have been completed and prepared on behalf of and for the exclusive use of the County of Erie Department of Environment and Planning. Any reliance on this report by a third party is at such party's sole risk.

## 9.0 REFERENCES

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DER-10/Technical Guidance for Site Investigation and Remediation, NYSDEC, May 3, 2010

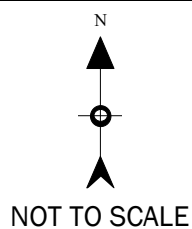
Site Management Plan for BCP Tecumseh Phase I Business Park, NYSDEC Site No. C915197 through C915197K, Turnkey Environmental Restoration, LLC, January 2014

Decision Document for the Phase I Business Park Site No. C915197, January 2012

Appendix E - Site Management Plan for Tecumseh Phase I Business Park, NYSDEC Site No. C915197 through C915197K, Turnkey Environmental Restoration, LLC, November 2017

Remedial Action Work Plan – Erie County Shoreline Trail Bethlehem Steel Phase I BCP Site No. C915197L, February 2018

## FIGURES



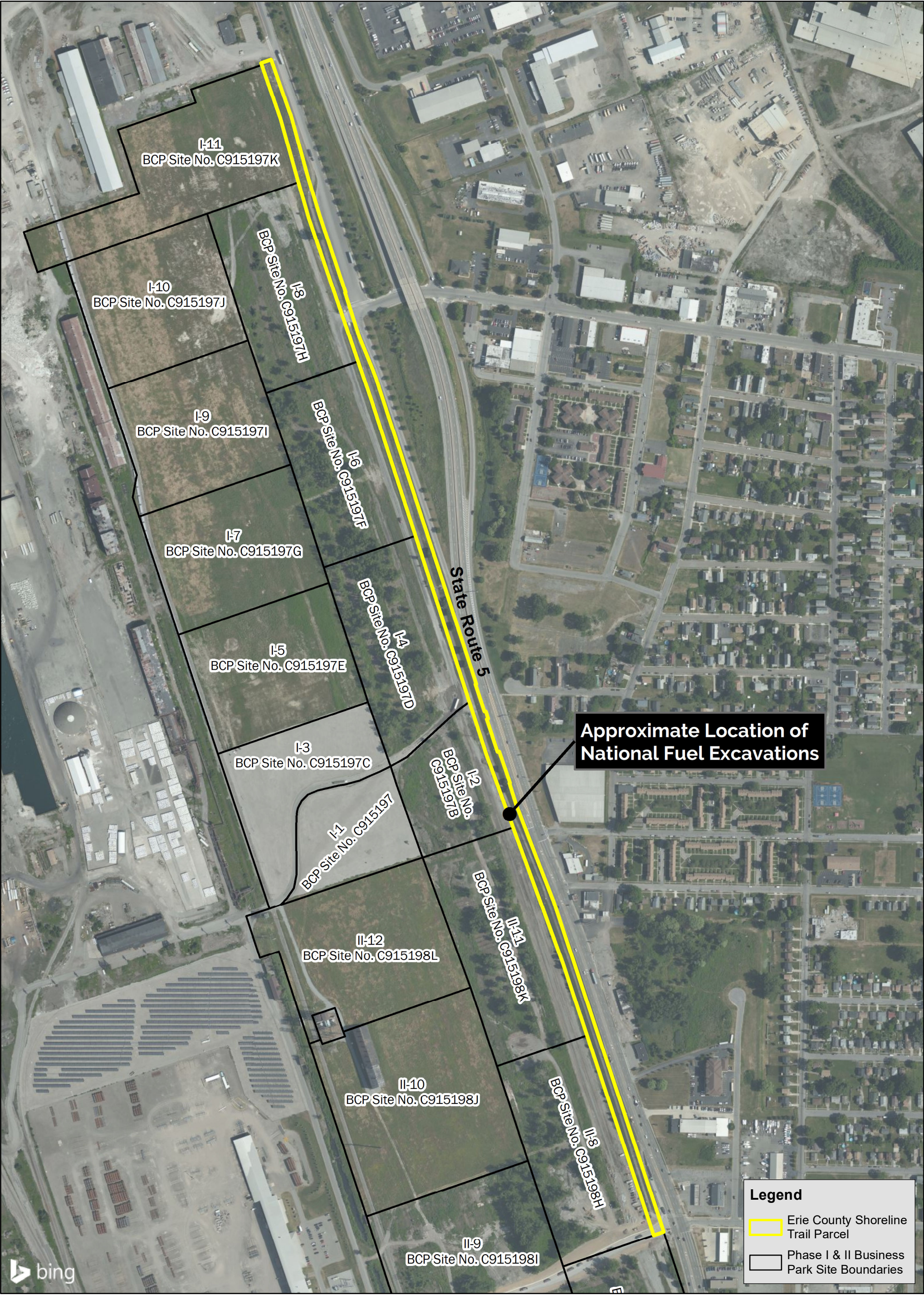
## FIGURE 1 SITE LOCATION MAP

Brownfield Cleanup Program  
Erie County Shoreline Trail  
Lackawanna, New York



PROJECT NO. 2212549





<p>PROJECT #/DRAWING #/ DATE</p> <div>2212549</div> <div>FIGURE 2</div> <p>8/13/2021</p>	<p>DRAWING NAME:</p> <p>ERIE COUNTY SHORELINE TRAIL</p>	<p>PROJECT:</p> <p>2021 PERIODIC REVIEW REPORT ERIE COUNTY SHORELINE TRAIL</p> <p>NYS DEC SITE NO. C915197L</p>	<div><div><div>N</div><div>W</div><div>E</div><div>S</div></div><div>0250500</div><div>Feet</div><div>1 inch = 408 feet</div><div>INTENDED TO PRINT AS: 11" X 17"</div></div> <div><div><div></div><div></div></div><div><b>LaBella</b> Powered by partnership.</div></div>
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# APPENDIX 1

## Environmental Easements

CHRISTOPHER L. JACOBS, ERIE COUNTY CLERK  
REF:

DATE: 7/15/2014  
TIME: 9:11:34 AM  
RECEIPT: 14107868

BOX 29  
ACCOUNT #: 0

ITEM - 01 785  
RECD: 7/15/2014 9:21:59 AM  
FILE: 2014137589 BK/PG D 11266/5436  
Deed Sequence: TT2013021925  
TECUMSEH REDEVELOPMENT INC  
NEW YORK STATE DEPT OF ENVIRONMENTAL CONSERV  
ATION

Recording Fees	90.00
TP584	10.00

Subtotal 100.00

ITEM - 02 785  
RECD: 7/15/2014 9:21:59 AM  
FILE: 2014137590 BK/PG D 11266/5446  
Deed Sequence: TT2013021926  
TECUMSEH REDEVELOPMENT INC  
NEW YORK STATE DEPT OF ENVIRONMENTAL CONSERV  
ATION

Recording Fees	85.00
TP584	10.00

Subtotal 95.00

ITEM - 03 785  
RECD: 7/15/2014 9:21:59 AM  
FILE: 2014137591 BK/PG D 11266/5455  
Deed Sequence: TT2013021927  
TECUMSEH REDEVELOPMENT INC  
NEW YORK STATE DEPT OF ENVIRONMENTAL CONSERV  
ATION

Recording Fees	100.00
TP584	10.00

Subtotal 110.00

ITEM - 04 785  
RECD: 7/15/2014 9:21:59 AM  
FILE: 2014137592 BK/PG D 11266/5467  
Deed Sequence: TT2013021928  
TECUMSEH REDEVELOPMENT INC  
NEW YORK STATE DEPT OF ENVIRONMENTAL CONSERV  
ATION

Recording Fees	105.00
TP584	10.00

Subtotal 115.00

TOTAL DUE	\$420.00
PAID TOTAL	\$420.00
PAID CHECK	\$420.00
Check #6438:	420.00

REC BY: Donna  
COUNTY RECORDER



FILED

JUL 15 2014

ERIE COUNTY  
CLERK'S OFFICE

County: Erie Site Nos: C915197, C915197B, C915197C, C915197D, C915197E,  
C915197F, C915197G, C915197H, C915197I, C915197J, and C915917K  
Brownfield Cleanup Agreement Number: B9-0696-05-06(A)

**ENVIRONMENTAL EASEMENT GRANTED PURSUANT TO ARTICLE 71, TITLE 36  
OF THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW**

THIS INDENTURE made this 26<sup>th</sup> day of June, 2014 between Owner(s) Tecumseh Redevelopment Inc., having an office at 4020 Kinross Lakes Parkway, County of Summit, State of Ohio (the "Grantor"), and The People of the State of New York (the "Grantee."), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner", or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233,

**WHEREAS**, the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties ("sites") that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment; and

**WHEREAS**, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of Environmental Easements as an enforceable means of ensuring the performance of operation, maintenance, and/or monitoring requirements and the restriction of future uses of the land, when an environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to perform properly and be effective, or which requires groundwater use or soil management restrictions; and

**WHEREAS**, the Legislature of the State of New York has declared that Environmental Easement shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law ("ECL") which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

**WHEREAS**, Grantor, is the owner of real property located at the address of 2303 Hamburg Turnpike in the City of Lackawanna, County of Erie and State of New York, known and designated on the tax map of the County Clerk of Erie as tax map parcel numbers: Section 141.11 Block 1 Lot 50, being a portion of that certain plot, piece or parcel of land conveyed to Grantor by deed dated May 6, 2003 and recorded in the Erie County Clerk's Office in Liber 11040 and Page 8953. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 102.49 +/- acres, and is hereinafter more fully described in the Land Title Survey, which includes parcels recognized under Brownfield Cleanup Agreement Amendments dated August 22, 2012 ("Sites"), dated September 14, 2012, field survey completed June 12, 2012 and prepared by Wendel, which will be attached to the Site Management Plan. The Controlled Property description is set forth in and attached hereto as Schedule A; and

**WHEREAS**, the Department accepts this Environmental Easement in order to ensure the protection of public health and the environment and to achieve the requirements for remediation established for the Controlled Property until such time as this Environmental Easement is extinguished pursuant to ECL Article 71, Title 36; and

**NOW THEREFORE**, in consideration of the mutual covenants contained herein and the terms and conditions of Brownfield Cleanup Agreement Index Number: B9-0696-05-06(A), Grantor conveys to Grantee a permanent Environmental Easement pursuant to ECL Article 71, Title 36 in, on, over, under, and upon the Controlled Property as more fully described herein ("Environmental Easement").

1. Purposes. Grantor and Grantee acknowledge that the Purposes of this Environmental Easement are: to convey to Grantee real property rights and interests that will run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of this Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of operation, maintenance, and/or monitoring requirements; and to ensure the restriction of future uses of the land that are inconsistent with the above-stated purpose.
2. Institutional and Engineering Controls. The controls and requirements listed in the Department approved Site Management Plan ("SMP") including any and all Department approved amendments to the SMP are incorporated into and made part of this Environmental Easement. These controls and requirements apply to the use of the Controlled Property, run with the land, are binding on the Grantor and the Grantor's successors and assigns, and are enforceable in law or equity against any owner of the Controlled Property, any lessees and any person using the Controlled Property.
  - A. (1) The Controlled Property may be used for:

**Commercial as described in 6 NYCRR Part 375-1.8(g)(2)(iii) and Industrial as described in 6 NYCRR Part 375-1.8(g)(2)(iv)**
  - (2) All Engineering Controls must be operated and maintained as specified in the Site Management Plan (SMP);
  - (3) All Engineering Controls must be inspected at a frequency and in a manner defined in the SMP;
  - (4) The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Erie County Department of Health to render it safe for use as drinking water or for industrial purposes, and the user must first notify and obtain written approval to do so from the Department;
  - (5) Groundwater and other environmental or public health monitoring must be performed as defined in the SMP;
  - (6) Data and information pertinent to Site Management of the Controlled Property must be reported at the frequency and in a manner defined in the SMP;
  - (7) All future activities on the property that will disturb remaining contaminated material must be conducted in accordance with the SMP;

(8) Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in the SMP;

(9) Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical components of the remedy shall be performed as defined in the SMP;

(10) Access to the site must be provided to agents, employees or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by this Environmental Easement.

B. The Controlled Property shall not be used for Residential or Restricted Residential purposes as defined in 6NYCRR 375-1.8(g)(2)(i) and (ii), and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. The SMP describes obligations that the Grantor assumes on behalf of Grantor, its successors and assigns. The Grantor's assumption of the obligations contained in the SMP which may include sampling, monitoring, and/or operating a treatment system, and providing certified reports to the NYSDEC, is and remains a fundamental element of the Department's determination that the Controlled Property is safe for a specific use, but not all uses. The SMP may be modified in accordance with the Department's statutory and regulatory authority. The Grantor and all successors and assigns, assume the burden of complying with the SMP and obtaining an up-to-date version of the SMP from:

Site Control Section  
Division of Environmental Remediation  
NYSDEC  
625 Broadway  
Albany, New York 12233  
Phone: (518) 402-9553

D. Grantor must provide all persons who acquire any interest in the Controlled Property a true and complete copy of the SMP that the Department approves for the Controlled Property and all Department-approved amendments to that SMP.

E. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of ECL Article 71, Title 36 of the ECL, the property deed and all subsequent instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

**This property is subject to an Environmental Easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation Law.**

F. Grantor covenants and agrees that this Environmental Easement shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to

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use the Controlled Property.

G. Grantor covenants and agrees that it shall, at such time as NYSDEC may require, submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury, in such form and manner as the Department may require, that:

(1) the inspection of the site to confirm the effectiveness of the institutional and engineering controls required by the remedial program was performed under the direction of the individual set forth at 6 NYCRR Part 375-1.8(h)(3).

(2) the institutional controls and/or engineering controls employed at such site:

(i) are in-place;

(ii) are unchanged from the previous certification, or that any identified changes to the controls employed were approved by the NYSDEC and that all controls are in the Department-approved format; and

(iii) that nothing has occurred that would impair the ability of such control to protect the public health and environment;

(3) the owner will continue to allow access to such real property to evaluate the continued maintenance of such controls;

(4) nothing has occurred that would constitute a violation or failure to comply with any site management plan for such controls;

(5) the report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;

(6) to the best of his/her 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

(7) the information presented is accurate and complete.

3. Right to Enter and Inspect. Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor's Rights. Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Property, all rights as fee owner of the Property, including:

A. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement;

B. The right to give, sell, assign, or otherwise transfer part or all of the underlying fee interest to the Controlled Property, subject and subordinate to this Environmental Easement;

5. Enforcement

A. This Environmental Easement is enforceable in law or equity in perpetuity by Grantor, Grantee, or any affected local government, as defined in ECL Section 71-3603, against the owner of the Property, any lessees, and any person using the land. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel, or waiver. It is not a defense in any action to enforce this Environmental Easement that: it is not appurtenant to an interest in real property; it is not of a character that has been recognized traditionally at common law; it imposes a negative burden; it imposes affirmative obligations upon the owner of any [10/12]

interest in the burdened property; the benefit does not touch or concern real property; there is no privity of estate or of contract; or it imposes an unreasonable restraint on alienation.

B. If any person violates this Environmental Easement, the Grantee may revoke the Certificate of Completion with respect to the Site within the Controlled Property on or about which the violation pertains.

C. Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall set forth how Grantor can cure such breach or suspected breach and give Grantor a reasonable amount of time from the date of receipt of notice in which to cure. At the expiration of such period of time to cure, or any extensions granted by Grantee, the Grantee shall notify Grantor of any failure to adequately cure the breach or suspected breach, and Grantee may take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement, including the commencement of any proceedings in accordance with applicable law.

D. The failure of Grantee to enforce any of the terms contained herein shall not be deemed a waiver of any such term nor bar any enforcement rights.

6. Notice. Whenever notice to the Grantee (other than the annual certification) or approval from the Grantee is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing the following information:

County, NYSDEC Site Number, NYSDEC Brownfield Cleanup Agreement, State Assistance Contract or Order Number, and the County tax map number or the Liber and Page or computerized system identification number.

Parties shall address correspondence to: Site Numbers: C915197, C915197B, C915197C,  
C915197D, C915197E, C915197F, C915197G, C915197H, C915197I, C915197J, and C915197K  
Office of General Counsel  
NYSDEC  
625 Broadway  
Albany New York 12233-5500

With a copy to: Site Control Section  
Division of Environmental Remediation  
NYSDEC  
625 Broadway  
Albany, NY 12233

All notices and correspondence shall be delivered by hand, by registered mail or by Certified mail and return receipt requested. The Parties may provide for other means of receiving and communicating notices and responses to requests for approval.

7. Recordation. Grantor shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

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8. Amendment. Any amendment to this Environmental Easement may only be executed by the Commissioner of the New York State Department of Environmental Conservation or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.
9. Extinguishment. This Environmental Easement may be extinguished only by a release by the Commissioner of the New York State Department of Environmental Conservation, or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.
10. Joint Obligation. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

IN WITNESS WHEREOF, Grantor has caused this instrument to be signed in its name.

Grantor: Tecumseh Redevelopment Inc.

By: Keith A. Nagel

Print Name: Keith A. Nagel

Title: VP - ENVIR AFFAIRS Date: May 29, 2014  
REAL ESTATE

**Grantor's Acknowledgment**

Ohio  
STATE OF NEW YORK )  
COUNTY OF Summit ) ss:

On the 29<sup>th</sup> day of May, in the year 2014, before me, the undersigned, personally appeared Keith A. Nagel, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Susan E. Beck  
Notary Public - State of ~~New York~~ Ohio

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Commission Expires: Nov. 6, 2017



**THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE  
PEOPLE OF THE STATE OF NEW YORK**, Acting By and Through the Department of  
Environmental Conservation as Designee of the Commissioner,

By:



Robert W. Schick, Director  
Division of Environmental Remediation

**Grantee's Acknowledgment**

STATE OF NEW YORK     )  
                                  ) ss:  
COUNTY OF ALBANY     )

On the 26th day of June, in the year 2014, before me, the undersigned,  
personally appeared Robert W. Schick, personally known to me or proved to me on the basis of  
satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within  
instrument and acknowledged to me that he/she/ executed the same in his/her/ capacity as  
Designee of the Commissioner of the State of New York Department of Environmental  
Conservation, and that by his/her/ signature on the instrument, the individual, or the person upon  
behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public - State of New York

**David J. Chiusano**  
**Notary Public, State of New York**  
**No. 01CH5032146**  
**Qualified in Schenectady County**  
**Commission Expires August 22, 2018**



**SCHEDULE "A" PROPERTY DESCRIPTION**

ALL THAT TRACT OF PARCEL OF LAND, SITUATE IN THE CITY OF LACKAWANNA, COUNTY OF ERIE, STATE OF NEW YORK, BEING PART OF LOTS 20, 21, 22, 23, 24, & 25 OF THE OGDEN GORE TRACT AND PART OF LOT 36 OF THE BUFFALO CREEK RESERVATION, TOWNSHIP 10, RANGE 8 OF THE HOLLAND LAND COMPANY'S SURVEY AND MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY HIGHWAY BOUNDARY OF HAMBURG TURNPIKE, (ALSO KNOWN AS STATE ROUTE NO. 5) AND THE SOUTHERLY LINE OF LANDS CONVEYED TO GATEWAY TRADE CENTER, INC. BY DEED RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 10886 OF DEEDS AT PAGE 1064, SAID POINT BEING S 19°-27'-46" E, A DISTANCE OF 547.89 FEET FROM THE INTERSECTION OF THE WESTERLY HIGHWAY BOUNDARY OF HAMBURG TURNPIKE AND THE NORTHERLY LINE OF THE CITY OF LACKAWANNA (ALSO BEING THE SOUTHERLY LINE OF THE CITY OF BUFFALO);

THENCE S 19°-33'-00" E ALONG THE WESTERLY HIGHWAY BOUNDARY OF HAMBURG TURNPIKE A DISTANCE OF 279.01 FEET;

THENCE ALONG THE WESTERLY HIGHWAY BOUNDARY OF THE HAMBURG TURNPIKE ARTERIAL HIGHWAY MAP NUMBER 303, PARCEL 303, S 16°-04'-57" E, A DISTANCE 482.30 FEET TO AN ANGLE POINT IN SAID LINE;

THENCE CONTINUING ALONG THE SAID WESTERLY HIGHWAY BOUNDARY MAP NUMBER 303, PARCEL 303, S 18°-29'-00" E, A DISTANCE OF 30.00 FEET TO A POINT;

THENCE ALONG THE WESTERLY HIGHWAY BOUNDARY OF HAMBURG TURNPIKE AS APPROPRIATED BY THE NEW YORK STATE DEPARTMENT OF PUBLIC WORKS AS SHOWN ON MAP NO. 40 – R2, PARCEL NO. 44 RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 5650 OF DEEDS AT PAGE 388, THE FOLLOWING 18 COURSES AND DISTANCES:

1. S 18°-28'-38" E, A DISTANCE OF 355.00 FEET;
2. S 71°-39'-20" W, A DISTANCE OF 2.00 FEET;
3. S 18°-28'-44" E, A DISTANCE OF 223.00 FEET;
4. S 22°-17'-43" E, A DISTANCE OF 150.35 FEET;
5. S 18°-28'-39" E, A DISTANCE OF 512.00 FEET;
6. S 16°-37'-53" E, A DISTANCE OF 260.12 FEET;
7. S 18°-22'-18" E, A DISTANCE OF 793.00 FEET;
8. S 71°-35'-29" W, A DISTANCE OF 4.00 FEET;
9. S 18°-01'-20" E, A DISTANCE OF 132.00 FEET;
10. N 71°-35'-29" E, A DISTANCE OF 4.67 FEET;
11. S 18°-17'-48" E, A DISTANCE OF 38.00 FEET;
12. S 71°-35'-29" W, A DISTANCE OF 4.86 FEET;
13. S 18°-01'-20" E, A DISTANCE OF 160.00 FEET;
14. N 71°-35'-29" E, A DISTANCE OF 9.80 FEET;

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15. S 18°-24'-31" E, A DISTANCE OF 159.00 FEET;  
16. S 71°-35'-29" W, A DISTANCE OF 3.89 FEET;  
17. S 18°-22'-14" E, A DISTANCE OF 180.00 FEET;  
18. S 20°-44'-09" E, A DISTANCE OF 8.40 FEET TO A POINT IN THE NORTH LINE OF  
BUSINESS PARK, PHASE II PARCEL B, AS SHOWN ON A MAP PREPARED BY WENDEL  
DUCHSCHERER, PROJECT #411107, DATED JUNE, 2012

THENCE ALONG THE NORTH LINE OF SAID BUSINESS PARK, PHASE II, PARCEL B, S  
71°-31'-33" W, A DISTANCE OF 1251.00 FEET TO A POINT IN THE EAST LINE OF BCP  
SITE NUMBER C915218;

THENCE CONTINUING ALONG SAID LINE, N 18°-22'-06" W, A DISTANCE OF 2030.00  
FEET TO A POINT;

THENCE CONTINUING ALONG SAID LINE, N 09°-40'-30" E, A DISTANCE OF 106.50  
FEET TO A POINT;

THENCE CONTINUING ALONG SAID LINE, N 18°-23'-42" W A DISTANCE OF 1051.55  
FEET TO A POINT;

THENCE ALONG THE NORTH LINE OF BCP SITE NUMBER C915218, N 71°-00'-00" W, A  
DISTANCE OF 143.38 FEET TO A POINT IN THE EAST LINE OF SAID LANDS  
CONVEYED TO GATEWAY TRADE CENTER, INC.;

THENCE CONTINUING NORTHERLY AND EASTERLY ALONG SAID LANDS  
CONVEYED TO GATEWAY TRADE CENTER, INC. THE FOLLOWING 2 COURSES AND  
DISTANCES:

1. N 18°-29'-44" W, A DISTANCE OF 199.75 FEET TO A POINT;  
2. N 71°-42'-08" E, A DISTANCE OF 519.24 FEET TO A POINT IN THE SOUTH LINE OF  
LANDS CONVEYED TO GATEWAY TRADE CENTER, INC. BY DEED RECORDED IN  
THE ERIE COUNTY CLERK'S OFFICE IN LIBER 10886 OF DEEDS AT PAGE 1115;

THENCE CONTINUING EASTERLY AND NORTHERLY ALONG SAID LANDS  
CONVEYED TO GATEWAY TRADE CENTER, INC. THE FOLLOWING 5 COURSES  
AND DISTANCES:

1. N 71°-42'-08" E, A DISTANCE OF 50.00 FEET TO A POINT  
2. N 18°-22'-31" W, A DISTANCE OF 314.71 FEET TO A POINT;  
3. N 71°-12'-22" E, A DISTANCE OF 386.47 FEET TO A POINT;  
4. N 18°-17'-53" W, A DISTANCE OF 70.00 FEET TO A POINT;  
5. N 71°-12'-22" E, A DISTANCE OF 400.00 FEET TO THE POINT  
OF BEGINNING. CONTAINING 102.49 ACRES OF LAND, MORE OR LESS.



# **Combined Real Estate Transfer Tax Return, Credit Line Mortgage Certificate, and Certification of Exemption from the Payment of Estimated Personal Income Tax**

Recording office time stamp

See Form TP-584-I, Instructions for Form TP-584, before completing this form. Print or type.

**Schedule A – Information relating to conveyance**

<b>Grantor/Transferor</b>		Name (if individual, last, first, middle initial) ( <input type="checkbox"/> check if more than one grantor )		Social security number
<input type="checkbox"/> Individual		Tecumseh Redevelopment, Inc.		
<input checked="" type="checkbox"/> Corporation		Mailing address		Social security number
<input type="checkbox"/> Partnership		4020 Kinross Lakes Parkway		
<input type="checkbox"/> Estate/Trust		City	State	ZIP code
<input type="checkbox"/> Single member LLC		Richfield	OH	44286
<input type="checkbox"/> Other		Single member's name if grantor is a single member LLC (see instructions)		Federal EIN 01-0649791
				Single member EIN or SSN
<b>Grantee/Transferee</b>		Name (if individual, last, first, middle initial) ( <input type="checkbox"/> check if more than one grantee )		Social security number
<input type="checkbox"/> Individual		The People of the State of New York, acting through their		
<input type="checkbox"/> Corporation		Commissioner of the Department of Environmental Conservation		
<input type="checkbox"/> Partnership		Mailing address		Social security number
<input type="checkbox"/> Estate/Trust		625 Broadway		
<input type="checkbox"/> Single member LLC		City	State	ZIP code
<input checked="" type="checkbox"/> Other		Albany	NY	12233
		Single member's name if grantee is a single member LLC (see instructions)		Federal EIN 14-6013200
				Single member EIN or SSN

## Location and description of property conveyed

Tax map designation – Section, block & lot (include dots and dashes)	SWIS code (six digits)	Street address	City, town, or village	County
141.11-1-50	140900	2303 Hamburg Turnpike	Lackawanna	Erie

## Type of property conveyed (check applicable box)

- 1 ☐ One- to three-family house  
 2 ☐ Residential cooperative  
 3 ☐ Residential condominium  
 4 ☐ Vacant land  
 5 ☒ Commercial/Industrial  
 6 ☐ Apartment building  
 7 ☐ Office building  
 8 ☐ Other \_\_\_\_\_

Date of conveyance

06 | 26 | 2014  
 month day year

Percentage of real property  
conveyed which is residential  
real property \_\_\_\_\_ 0 %  
 (see instructions)

## Condition of conveyance (check all that apply)

- a. ☐ Conveyance of fee interest  
 b. ☐ Acquisition of a controlling interest (state percentage acquired \_\_\_\_\_ %)  
 c. ☐ Transfer of a controlling interest (state percentage transferred \_\_\_\_\_ %)  
 d. ☐ Conveyance to cooperative housing corporation  
 e. ☐ Conveyance pursuant to or in lieu of foreclosure or enforcement of security interest (attach Form TP-584.1, Schedule E)  
 f. ☐ Conveyance which consists of a mere change of identity or form of ownership or organization (attach Form TP-584.1, Schedule F)  
 g. ☐ Conveyance for which credit for tax previously paid will be claimed (attach Form TP-584.1, Schedule G)  
 h. ☐ Conveyance of cooperative apartment(s)  
 i. ☐ Syndication  
 j. ☐ Conveyance of air rights or development rights  
 k. ☐ Contract assignment  
 l. ☐ Option assignment or surrender  
 m. ☐ Leasehold assignment or surrender  
 n. ☐ Leasehold grant  
 o. ☐ Conveyance of an easement  
 p. ☒ Conveyance for which exemption from transfer tax claimed (complete Schedule B, Part III)  
 q. ☐ Conveyance of property partly within and partly outside the state  
 r. ☐ Conveyance pursuant to divorce or separation  
 s. ☒ Other (describe) \_\_\_\_\_  
 Environmental Easement Pursuant to ECL Art. 21, Title 36

For recording officer's use	Amount received	Date received	Transaction number
	Schedule B., Part I \$		
	Schedule B., Part II \$		

**Schedule B – Real estate transfer tax return (Tax Law, Article 31)****Part I – Computation of tax due**

- 1 Enter amount of consideration for the conveyance (if you are claiming a total exemption from tax, check the exemption claimed box, enter consideration and proceed to Part III) ..... ☒ **Exemption claimed**
- 2 Continuing lien deduction (see instructions if property is taken subject to mortgage or lien) .....
- 3 Taxable consideration (subtract line 2 from line 1) .....
- 4 Tax: \$2 for each \$500, or fractional part thereof, of consideration on line 3 .....
- 5 Amount of credit claimed for tax previously paid (see instructions and attach Form TP-584.1, Schedule G) .....
- 6 Total tax due\* (subtract line 5 from line 4) .....

1.		0	00
2.		0	00
3.		0	00
4.			
5.			
6.		0	00

**Part II – Computation of additional tax due on the conveyance of residential real property for \$1 million or more**

- 1 Enter amount of consideration for conveyance (from Part I, line 1) .....
- 2 Taxable consideration (multiply line 1 by the percentage of the premises which is residential real property, as shown in Schedule A) ...
- 3 Total additional transfer tax due\* (multiply line 2 by 1% (.01)) .....

1.		0	00
2.			
3.		0	00

**Part III – Explanation of exemption claimed on Part I, line 1 (check any boxes that apply)**

The conveyance of real property is exempt from the real estate transfer tax for the following reason:

- a. Conveyance is to the United Nations, the United States of America, the state of New York, or any of their instrumentalities, agencies, or political subdivisions (or any public corporation, including a public corporation created pursuant to agreement or compact with another state or Canada) ..... a ☒
- b. Conveyance is to secure a debt or other obligation..... b ☐
- c. Conveyance is without additional consideration to confirm, correct, modify, or supplement a prior conveyance..... c ☐
- d. Conveyance of real property is without consideration and not in connection with a sale, including conveyances conveying realty as bona fide gifts ..... d ☒
- e. Conveyance is given in connection with a tax sale..... e ☐
- f. Conveyance is a mere change of identity or form of ownership or organization where there is no change in beneficial ownership. (This exemption cannot be claimed for a conveyance to a cooperative housing corporation of real property comprising the cooperative dwelling or dwellings.) Attach Form TP-584.1, Schedule F..... f ☐
- g. Conveyance consists of deed of partition..... g ☐
- h. Conveyance is given pursuant to the federal Bankruptcy Act ..... h ☐
- i. Conveyance consists of the execution of a contract to sell real property, without the use or occupancy of such property, or the granting of an option to purchase real property, without the use or occupancy of such property ..... i ☐
- j. Conveyance of an option or contract to purchase real property with the use or occupancy of such property where the consideration is less than \$200,000 and such property was used solely by the grantor as the grantor's personal residence and consists of a one-, two-, or three-family house, an individual residential condominium unit, or the sale of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold covering an individual residential cooperative apartment..... j ☐
- k. Conveyance is not a conveyance within the meaning of Tax Law, Article 31, section 1401(e) (attach documents supporting such claim) ..... k ☐

\*The total tax (from Part I, line 6 and Part II, line 3 above) is due within 15 days from the date conveyance. Please make check(s) payable to the county clerk where the recording is to take place. If the recording is to take place in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, make check(s) payable to the **NYC Department of Finance**. If a recording is not required, send this return and your check(s) made payable to the **NYS Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

**Schedule C – Credit Line Mortgage Certificate (Tax Law, Article 11)****Complete the following only if the interest being transferred is a fee simple interest.**

I (we) certify that: (check the appropriate box)

1. ☒ The real property being sold or transferred is not subject to an outstanding credit line mortgage.
2. ☐ The real property being sold or transferred is subject to an outstanding credit line mortgage. However, an exemption from the tax is claimed for the following reason:
- ☐ The transfer of real property is a transfer of a fee simple interest to a person or persons who held a fee simple interest in the real property (whether as a joint tenant, a tenant in common or otherwise) immediately before the transfer.
- ☐ The transfer of real property is (A) to a person or persons related by blood, marriage or adoption to the original obligor or to one or more of the original obligors or (B) to a person or entity where 50% or more of the beneficial interest in such real property after the transfer is held by the transferor or such related person or persons (as in the case of a transfer to a trustee for the benefit of a minor or the transfer to a trust for the benefit of the transferor).
- ☐ The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.
- ☐ The maximum principal amount secured by the credit line mortgage is \$3,000,000 or more, and the real property being sold or transferred is **not** principally improved nor will it be improved by a one- to six-family owner-occupied residence or dwelling.

**Please note:** for purposes of determining whether the maximum principal amount secured is \$3,000,000 or more as described above, the amounts secured by two or more credit line mortgages may be aggregated under certain circumstances. See TSB-M-96(6)-R for more information regarding these aggregation requirements.

☐ Other (attach detailed explanation).

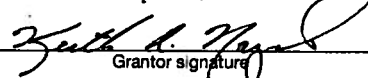
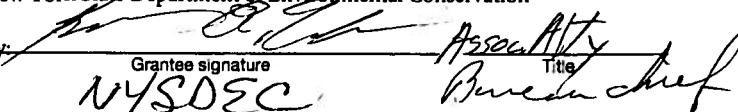
3. ☐ The real property being transferred is presently subject to an outstanding credit line mortgage. However, no tax is due for the following reason:
- ☐ A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.
- ☐ A check has been drawn payable for transmission to the credit line mortgagee or his agent for the balance due, and a satisfaction of such mortgage will be recorded as soon as it is available.
4. ☐ The real property being transferred is subject to an outstanding credit line mortgage recorded in \_\_\_\_\_ (insert liber and page or reel or other identification of the mortgage). The maximum principal amount of debt or obligation secured by the mortgage is \_\_\_\_\_. No exemption from tax is claimed and the tax of \_\_\_\_\_ is being paid herewith. (Make check payable to county clerk where deed will be recorded or, if the recording is to take place in New York City but not in Richmond County, make check payable to the **NYC Department of Finance**.)

**Signature (both the grantor(s) and grantee(s) must sign)**

The undersigned certify that the above information contained in schedules A, B, and C, including any return, certification, schedule, or attachment, is to the best of his/her knowledge, true and complete, and authorize the person(s) submitting such form on their behalf to receive a copy for purposes of recording the deed or other instrument effecting the conveyance.

Tecumseh Redevelopment, Inc.

New York State Department of Environmental Conservation

By:   
Grantor signatureVice President of Environmental  
Affairs and Real Estate  
TitleBy:   
Grantee signature  
NYSDDEC  
Associate  
Bureau Chief  
Title

Grantor signature

Title

Grantee signature

Title

**Reminder:** Did you complete all of the required information in Schedules A, B, and C? Are you required to complete Schedule D? If you checked e, f, or g in Schedule A, did you complete Form TP-584.1? Have you attached your check(s) made payable to the county clerk where recording will take place or, if the recording is in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, to the **NYC Department of Finance**? If no recording is required, send your check(s), made payable to the **Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.



**Schedule D - Certification of exemption from the payment of estimated personal income tax (Tax Law, Article 22, section 663)**

Complete the following only if a fee simple interest or a cooperative unit is being transferred by an individual or estate or trust.

If the property is being conveyed by a referee pursuant to a foreclosure proceeding, proceed to Part II, and check the second box under **Exemptions for nonresident transferor(s)/seller(s)** and sign at bottom.

**Part I - New York State residents**

If you are a New York State resident transferor(s)/seller(s) listed in Schedule A of Form TP-584 (or an attachment to Form TP-584), you must sign the certification below. If one or more transferors/sellers of the real property or cooperative unit is a resident of New York State, **each** resident transferor/seller must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all resident transferors/sellers.

**Certification of resident transferor(s)/seller(s)**

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) as signed below was a resident of New York State, and therefore is not required to pay estimated personal income tax under Tax Law, section 663(a) upon the sale or transfer of this real property or cooperative unit.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

**Note:** A resident of New York State may still be required to pay estimated tax under Tax Law, section 685(c), but not as a condition of recording a deed.

**Part II - Nonresidents of New York State**

If you are a nonresident of New York State listed as a transferor/seller in Schedule A of Form TP-584 (or an attachment to Form TP-584) but are not required to pay estimated personal income tax because one of the exemptions below applies under Tax Law, section 663(c), check the box of the appropriate exemption below. If any one of the exemptions below applies to the transferor(s)/seller(s), that transferor(s)/seller(s) is not required to pay estimated personal income tax to New York State under Tax Law, section 663. **Each** nonresident transferor/seller who qualifies under one of the exemptions below must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all nonresident transferors/sellers.

If none of these exemption statements apply, you must complete Form IT-2663, *Nonresident Real Property Estimated Income Tax Payment Form*, or Form IT-2664, *Nonresident Cooperative Unit Estimated Income Tax Payment Form*. For more information, see *Payment of estimated personal income tax*, on page 1 of Form TP-584-I.

**Exemption for nonresident transferor(s)/seller(s)**

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) (grantor) of this real property or cooperative unit was a nonresident of New York State, but is not required to pay estimated personal income tax under Tax Law, section 663 due to one of the following exemptions:

- ☐ The real property or cooperative unit being sold or transferred qualifies in total as the transferor's/seller's principal residence (within the meaning of Internal Revenue Code, section 121) from \_\_\_\_\_ Date to \_\_\_\_\_ Date (see instructions).
- ☐ The transferor/seller is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure, or in lieu of foreclosure with no additional consideration.
- ☐ The transferor or transferee is an agency or authority of the United States of America, an agency or authority of the state of New York, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

CHRISTOPHER L. JACOBS, ERIE COUNTY CLERK  
REF:

DATE: 7/15/2014  
TIME: 9:11:34 AM  
RECEIPT: 14107868

BOX 29  
ACCOUNT #: 0

ITEM - 01 785  
RECD: 7/15/2014 9:21:59 AM  
FILE: 2014137589 BK/PG D 11266/5436  
Deed Sequence: TT2013021925  
TECUMSEH REDEVELOPMENT INC  
NEW YORK STATE DEPT OF ENVIRONMENTAL CONSERV  
ATION

Recording Fees	90.00
TP584	10.00

Subtotal 100.00

ITEM - 02 785  
RECD: 7/15/2014 9:21:59 AM  
FILE: 2014137590 BK/PG D 11266/5446  
Deed Sequence: TT2013021926  
TECUMSEH REDEVELOPMENT INC  
NEW YORK STATE DEPT OF ENVIRONMENTAL CONSERV  
ATION

Recording Fees	85.00
TP584	10.00

Subtotal 95.00

ITEM - 03 785  
RECD: 7/15/2014 9:21:59 AM  
FILE: 2014137591 BK/PG D 11266/5455  
Deed Sequence: TT2013021927  
TECUMSEH REDEVELOPMENT INC  
NEW YORK STATE DEPT OF ENVIRONMENTAL CONSERV  
ATION

Recording Fees	100.00
TP584	10.00

Subtotal 110.00

ITEM - 04 785  
RECD: 7/15/2014 9:21:59 AM  
FILE: 2014137592 BK/PG D 11266/5467  
Deed Sequence: TT2013021928  
TECUMSEH REDEVELOPMENT INC  
NEW YORK STATE DEPT OF ENVIRONMENTAL CONSERV  
ATION

Recording Fees	105.00
TP584	10.00

Subtotal 115.00

TOTAL DUE	\$420.00
PAID TOTAL	\$420.00
PAID CHECK	\$420.00
Check #6438:	420.00

REC BY: Donna  
COUNTY RECORDER



FILED

JUN 15 2014

ERIE COUNTY  
CLERK'S OFFICE

County: Erie Site Nos: C915198, C915198B, C915198C, C915198D, C915198E, C915198F, C915198G, C915198H, C915198I, C915198J, C915198K, and C915198L

Brownfield Cleanup Agreement Number: B9-0696-05-06(B)

**ENVIRONMENTAL EASEMENT GRANTED PURSUANT TO ARTICLE 71, TITLE 36  
OF THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW**

THIS INDENTURE made this 21<sup>st</sup> day of June, 2014 between Owner(s) Tecumseh Redevelopment Inc., having an office at 4020 Kinross Lakes Parkway, County of Summit, State of Ohio (the "Grantor"), and The People of the State of New York (the "Grantee."), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner", or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233,

**WHEREAS**, the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties ("sites") that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment; and

**WHEREAS**, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of Environmental Easements as an enforceable means of ensuring the performance of operation, maintenance, and/or monitoring requirements and the restriction of future uses of the land, when an environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to perform properly and be effective, or which requires groundwater use or soil management restrictions; and

**WHEREAS**, the Legislature of the State of New York has declared that Environmental Easement shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law ("ECL") which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

**WHEREAS**, Grantor, is the owner of real property located at the address of 2303 Hamburg Turnpike in the City of Lackawanna, County of Erie and State of New York, known and designated on the tax map of the County Clerk of Erie as tax map parcel numbers: Section 141.11 Block 1 Lot 50, being a portion of that certain plot, piece or parcel of land conveyed to Grantor by deed dated May 6, 2003 and recorded in the Erie County Clerk's Office in Liber 11040 and Page 8953. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 141.25 +/- acres, and is hereinafter more fully described in the Land Title Survey, which includes parcels recognized under Brownfield Cleanup Agreement Amendments dated August 22, 2012 ("Sites"), dated September 14, 2012, field survey completed June 12, 2012 and prepared by Wendel, which will be attached to the Site Management Plan. The Controlled Property description is set forth in and attached hereto as Schedule A; and

**WHEREAS**, the Department accepts this Environmental Easement in order to ensure the protection of public health and the environment and to achieve the requirements for remediation established for the Controlled Property until such time as this Environmental Easement is extinguished pursuant to ECL Article 71, Title 36; and

[10/12]

County: Erie Site Nos: C915198, C915198B, C915198C, C915198D, C915198E, C915198F, C915198G, C915198H, C915198I, C915198J, C915198K, and C915198L  
Brownfield Cleanup Agreement Number: B9-0696-05-06(B)

**NOW THEREFORE**, in consideration of the mutual covenants contained herein and the terms and conditions of Brownfield Cleanup Agreement Index Number: B9-0696-05-06(B), Grantor conveys to Grantee a permanent Environmental Easement pursuant to ECL Article 71, Title 36 in, on, over, under, and upon the Controlled Property as more fully described herein ("Environmental Easement").

1. Purposes. Grantor and Grantee acknowledge that the Purposes of this Environmental Easement are: to convey to Grantee real property rights and interests that will run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of this Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of operation, maintenance, and/or monitoring requirements; and to ensure the restriction of future uses of the land that are inconsistent with the above-stated purpose.
2. Institutional and Engineering Controls. The controls and requirements listed in the Department approved Site Management Plan ("SMP") including any and all Department approved amendments to the SMP are incorporated into and made part of this Environmental Easement. These controls and requirements apply to the use of the Controlled Property, run with the land, are binding on the Grantor and the Grantor's successors and assigns, and are enforceable in law or equity against any owner of the Controlled Property, any lessees and any person using the Controlled Property.
  - A. (1) The Controlled Property may be used for:

**Commercial as described in 6 NYCRR Part 375-1.8(g)(2)(iii) and Industrial as described in 6 NYCRR Part 375-1.8(g)(2)(iv)**
  - (2) All Engineering Controls must be operated and maintained as specified in the Site Management Plan (SMP);
  - (3) All Engineering Controls must be inspected at a frequency and in a manner defined in the SMP;
  - (4) The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Erie County Department of Health to render it safe for use as drinking water or for industrial purposes, and the user must first notify and obtain written approval to do so from the Department;
  - (5) Groundwater and other environmental or public health monitoring must be performed as defined in the SMP;
  - (6) Data and information pertinent to Site Management of the Controlled Property must be reported at the frequency and in a manner defined in the SMP;
  - (7) All future activities on the property that will disturb remaining contaminated material must be conducted in accordance with the SMP;

[10/12]

County: Erie Site Nos: C915198, C915198B, C915198C, C915198D, C915198E,  
C915198F, C915198G, C915198H, C915198I, C915198J, C915198K, and  
C915198L  
Brownfield Cleanup Agreement Number: B9-0696-05-06(B)

(8) Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in the SMP;

(9) Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical components of the remedy shall be performed as defined in the SMP;

(10) Access to the site must be provided to agents, employees or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by this Environmental Easement.

B. The Controlled Property shall not be used for Residential or Restricted Residential purposes as defined in 6NYCRR 375-1.8(g)(2)(i) and (ii), and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. The SMP describes obligations that the Grantor assumes on behalf of Grantor, its successors and assigns. The Grantor's assumption of the obligations contained in the SMP which may include sampling, monitoring, and/or operating a treatment system, and providing certified reports to the NYSDEC, is and remains a fundamental element of the Department's determination that the Controlled Property is safe for a specific use, but not all uses. The SMP may be modified in accordance with the Department's statutory and regulatory authority. The Grantor and all successors and assigns, assume the burden of complying with the SMP and obtaining an up-to-date version of the SMP from:

Site Control Section  
Division of Environmental Remediation  
NYSDEC  
625 Broadway  
Albany, New York 12233  
Phone: (518) 402-9553

D. Grantor must provide all persons who acquire any interest in the Controlled Property a true and complete copy of the SMP that the Department approves for the Controlled Property and all Department-approved amendments to that SMP.

E. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of ECL Article 71, Title 36 of the ECL, the property deed and all subsequent instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

**This property is subject to an Environmental Easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation Law.**

County: Erie Site Nos: C915198, C915198B, C915198C, C915198D, C915198E, C915198F, C915198G, C915198H, C915198I, C915198J, C915198K, and C915198L  
Brownfield Cleanup Agreement Number: B9-0696-05-06(B)

F. Grantor covenants and agrees that this Environmental Easement shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

G. Grantor covenants and agrees that it shall, at such time as NYSDEC may require, submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury, in such form and manner as the Department may require, that:

- (1) the inspection of the site to confirm the effectiveness of the institutional and engineering controls required by the remedial program was performed under the direction of the individual set forth at 6 NYCRR Part 375-1.8(h)(3).
- (2) the institutional controls and/or engineering controls employed at such site:
  - (i) are in-place;
  - (ii) are unchanged from the previous certification, or that any identified changes to the controls employed were approved by the NYSDEC and that all controls are in the Department-approved format; and
  - (iii) that nothing has occurred that would impair the ability of such control to protect the public health and environment;
- (3) the owner will continue to allow access to such real property to evaluate the continued maintenance of such controls;
- (4) nothing has occurred that would constitute a violation or failure to comply with any site management plan for such controls;
- (5) the report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;
- (6) to the best of his/her 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
- (7) the information presented is accurate and complete.

3. Right to Enter and Inspect. Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor's Rights. Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Property, all rights as fee owner of the Property, including:

A. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement;

B. The right to give, sell, assign, or otherwise transfer part or all of the underlying fee interest to the Controlled Property, subject and subordinate to this Environmental Easement;

5. Enforcement

A. This Environmental Easement is enforceable in law or equity in perpetuity by Grantor, Grantee, or any affected local government, as defined in ECL Section 71-3603, against the owner of the Property, any lessees, and any person using the land. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel, or waiver. It is not a [10/12]

County: Erie Site Nos: C915198, C915198B, C915198C, C915198D, C915198E, C915198F, C915198G, C915198H, C915198I, C915198J, C915198K, and C915198L  
Brownfield Cleanup Agreement Number: B9-0696-05-06(B)

defense in any action to enforce this Environmental Easement that: it is not appurtenant to an interest in real property; it is not of a character that has been recognized traditionally at common law; it imposes a negative burden; it imposes affirmative obligations upon the owner of any interest in the burdened property; the benefit does not touch or concern real property; there is no privity of estate or of contract; or it imposes an unreasonable restraint on alienation.

B. If any person violates this Environmental Easement, the Grantee may revoke the Certificate of Completion with respect to the Site within the Controlled Property on or about which the violation pertains.

C. Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall set forth how Grantor can cure such breach or suspected breach and give Grantor a reasonable amount of time from the date of receipt of notice in which to cure. At the expiration of such period of time to cure, or any extensions granted by Grantee, the Grantee shall notify Grantor of any failure to adequately cure the breach or suspected breach, and Grantee may take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement, including the commencement of any proceedings in accordance with applicable law.

D. The failure of Grantee to enforce any of the terms contained herein shall not be deemed a waiver of any such term nor bar any enforcement rights.

6. Notice. Whenever notice to the Grantee (other than the annual certification) or approval from the Grantee is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing the following information:

County, NYSDEC Site Number, NYSDEC Brownfield Cleanup Agreement, State Assistance Contract or Order Number, and the County tax map number or the Liber and Page or computerized system identification number.

Parties shall address correspondence to: Site Numbers: C915198, C915198B, C915198C, C915198D, C915198E, C915198F, C915198G, C915198H, C915198I, C915198J, C915198K, and C915198L

Office of General Counsel  
NYSDEC  
625 Broadway  
Albany New York 12233-5500

With a copy to:

Site Control Section  
Division of Environmental Remediation  
NYSDEC  
625 Broadway  
Albany, NY 12233

All notices and correspondence shall be delivered by hand, by registered mail or by Certified mail and return receipt requested. The Parties may provide for other means of receiving and communicating notices and responses to requests for approval.

[10/12]



County: Erie Site Nos: C915198, C915198B, C915198C, C915198D, C915198E,  
C915198F, C915198G, C915198H, C915198I, C915198J, C915198K, and  
C915198L  
Brownfield Cleanup Agreement Number: B9-0696-05-06(B)

7. Recordation. Grantor shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.
8. Amendment. Any amendment to this Environmental Easement may only be executed by the Commissioner of the New York State Department of Environmental Conservation or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.
9. Extinguishment. This Environmental Easement may be extinguished only by a release by the Commissioner of the New York State Department of Environmental Conservation, or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.
10. Joint Obligation. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

IN WITNESS WHEREOF, Grantor has caused this instrument to be signed in its name.

Grantor: Tecumseh Redevelopment Inc.

By: Keith A. Nagel

Print Name: Keith A. Nagel

Title: VP - ENVIR AFFAIRS Date: May 27, 2014  
REAL ESTATE

County: Erie Site Nos: C915198, C915198B, C915198C, C915198D, C915198E,  
C915198F, C915198G, C915198H, C915198I, C915198J, C915198K, and  
C915198L  
Brownfield Cleanup Agreement Number: B9-0696-05-06(B)

**Grantor's Acknowledgment**

*Ohio*  
STATE OF ~~NEW YORK~~ )  
COUNTY OF *Summit* ) ss:

On the 29<sup>th</sup> day of May, in the year 20 14, before me, the undersigned, personally appeared Keith Nard, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

*Joan E. Dick*  
Notary Public - State of New York

*Ohio*

*Commission expires:*


*Nov. 6, 2017*





County: Erie Site Nos: C915198, C915198B, C915198C, C915198D, C915198E,  
C915198F, C915198G, C915198H, C915198I, C915198J, C915198K, and  
C915198L  
Brownfield Cleanup Agreement Number: B9-0696-05-06(B)

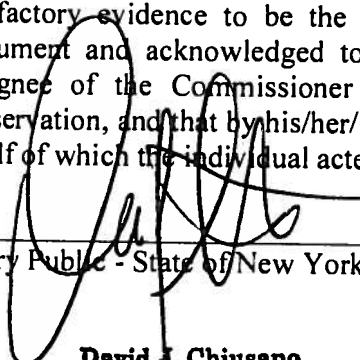
**THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE  
PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of  
Environmental Conservation as Designee of the Commissioner,**

By:   
Robert W. Schick, Director  
Division of Environmental Remediation

**Grantee's Acknowledgment**

STATE OF NEW YORK     )  
  ) ss:  
COUNTY OF ALBANY     )

On the 26<sup>th</sup> day of June, in the year 2014, before me, the undersigned,  
personally appeared Robert W. Schick, personally known to me or proved to me on the basis of  
satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within  
instrument and acknowledged to me that he/she/ executed the same in his/her/ capacity as  
Designee of the Commissioner of the State of New York Department of Environmental  
Conservation, and that by his/her/ signature on the instrument, the individual, or the person upon  
behalf of which the individual acted, executed the instrument.

  
Notary Public - State of New York

**David J. Chiusano**  
**Notary Public, State of New York**  
**No. 01CH5032146**  
**Qualified in Schenectady County**  
**Commission Expires August 22, 2018**

County: Erie Site Nos: C915198, C915198B, C915198C, C915198D, C915198E, C915198F, C915198G, C915198H, C915198I, C915198J, C915198K, and C915198L  
Brownfield Cleanup Agreement Number: B9-0696-05-06(B)

### **SCHEDULE "A" PROPERTY DESCRIPTION**

#### **PARCEL A**

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Lackawanna, County of Erie and State of New York, being part of Lot 15 of the Ogden Gore Tract and part of Lot 23, Township 10, Range 8 of the Buffalo Creek Reservation, described as follows:

Beginning at the intersection of the westerly highway boundary of the Hamburg Turnpike (also known as State Route No. 5) as appropriated by the New York State Department of Public Works as shown on Map No. 1, Parcel 1 and recorded in the Erie County Clerk's Office in Liber 5650 of Deeds at Page 404 and the municipal boundary line between the City of Lackawanna (to the north) and the Town of Hamburg (to the south), said point also being along the northerly boundary of lands conveyed to the South Buffalo Railway company by deed recorded in the Erie County Clerk's Office in Liber 10119 of Deeds at Page 131; running thence N 86°-32'-54" W along the northerly line of said South Buffalo Railway Company's land, a distance of 507.02 feet to an angle point therein; Thence N 56°-55'-40" W, and continuing along said South Buffalo Railway Company's land a distance of 386.48 feet to a point; thence N 03°-25'-27" W, a distance of 1,284.41 feet to a point of curvature of a tangent curve; thence along a curve to the left having a radius of 518.00 feet, an arc length of 168.84 feet to a point approximately 25 feet south from the existing southerly top of high bank of Smokes Creek; thence easterly and northerly approximately 25 feet south from the existing southerly top of the high bank of Smokes Creek the following 6 courses and distances;

1. Thence N 80°-39'-39" E, a distance of 37.52 feet to a point;
  2. Thence N 44°-31'-00" E, a distance of 261.86 feet to a point;
  3. Thence N 71°-51'-20" E, a distance of 455.12 feet to a point;
  4. Thence N 20°-01'-37" E, a distance of 360.67 feet to a point;
  5. Thence N 03°-49'-42" E, a distance of 217.94 feet to a point;
  6. Thence N 72°-45'-22" E, a distance of 373.92 feet to a point on the westerly highway boundary of the Hamburg Turnpike as acquired by the New York State Department of Transportation under S. H. No. FAC 49-10 Map 305, Parcel 306 and recorded in the Erie County Clerk's Office in Liber 10960 of Deeds at page 2028; thence southerly along said westerly highway boundary the following 19 courses and distances;
1. Thence S 03°-16'-37" W, a distance of 188.27 feet to a point;
  2. Thence S 03°-54'-17" W, a distance of 687.46 feet to the point of curvature of a tangent curve;
  3. Thence along a curve to the right having a radius of 8,149.13 feet, an arc length of 144.86 feet to a point;
  4. Thence S 04°-55'-24" W, a distance of 35.83 feet to a point;
  5. Thence S 85°-04'-36" W, a distance of 9.84 feet to a point;
  6. Thence S 05°-13'-45" W, a distance of 200.60 feet to a point;
  7. Thence S 05°-20'-02" W, a distance of 110.00 feet to a point;
  8. Thence S 00°-45'-26" W, a distance of 110.27 feet to a point;
  9. Thence S 05°-20'-02" W, a distance of 220.00 feet to a point;
  10. Thence S 05°-01'-28" W, a distance of 365.00 feet to a point;
  11. Thence S 85°-13'-34" E, a distance of 5.00 feet to a point;

[10/12]

County: Erie Site Nos: C915198, C915198B, C915198C, C915198D, C915198E, C915198F, C915198G, C915198H, C915198I, C915198J, C915198K, and C915198L

Brownfield Cleanup Agreement Number: B9-0696-05-06(B)

12. Thence S 04°-17'-11" W, a distance of 67.00 feet to a point;
13. Thence S 06°-15'-26" W, a distance of 248.08 feet to a point;
14. Thence S 03°-29'-18" W, a distance of 52.01 feet to a point;
15. Thence S 05°-06'-49" W, a distance of 133.00 feet to a point;
16. Thence S 85°-13'-34" W, a distance of 1.00 feet to a point;
17. Thence S 05°-06'-49" W, a distance of 45.00 feet to a point;
18. Thence S 85°-13'-34" W, a distance of 7.00 feet to a point;
19. Thence S 05°-06'-49" W, a distance of 90.00 feet to the point of beginning, containing 47.18 acres of land more or less.

Being part of the piece or parcel of land in a bargain and sale deed dated 5/06/2003 and recorded 5/22/2003 in Liber 11040 of Deeds at page 8953 in the Erie County Clerk's Office. This parcel of land is part of the overall deed.

### **PARCEL B**

ALL THAT TRACT OR PARCEL OF LAND situated in the City of Lackawanna, County of Erie and State of New York, being part of lots 18, 20 and 21 of the Ogden Gore Tract and part of Lot 24, Township 10, Range 8 of the Buffalo Creek Reservation, bounded and described as follows:

Commencing at the intersection of the westerly highway boundary of the Hamburg Turnpike (also known as State Route No. 5) as appropriated by the New York State Department of Public Works as shown on Map No. 1, Parcel 1 and recorded in the Erie County Clerk's Office in Liber 5650 of Deeds at page 404 and the municipal boundary line between the City of Lackawanna (to the north) and the Town of Hamburg (to the south). Said point also being along the northerly boundary of lands conveyed to the South Buffalo Railway Company by deed recorded in the Erie County Clerk's Office in Liber 10119 of Deeds at page 131; thence N 86°-32'-54" W along said municipal boundary line and the northerly line of said South Buffalo Railway Company's land, a distance of 507.02 feet to a point; thence N 56°-55'-40" W and continuing along said South Buffalo Railway Company's land, a distance of 386.48 feet to a point; thence N 03°-25'-27" W, a distance of 1,284.41 feet to a point of curvature of a tangent curve; thence along a curve to the left having a radius of 518.00 feet, an arc length of 168.84 feet to a point approximately 25 feet south from the existing southerly top of the high bank of Smokes Creek; thence N 30°-20'-56" E, crossing Smokes Creek, a distance of 395.96 feet to a point approximately 25 feet north from the existing northerly top of high bank of Smokes Creek and the principal point of beginning; thence N 18°-20'-36" W, a distance of 3,292.99 feet to a point; thence S 71°-34'-47" W, a distance of 93.00 feet to a point; thence N 18°-20'-36" W, a distance of 214.85 feet to a point on the southerly line of lands conveyed to Gateway Trade Center Inc. By deed recorded in the Erie County Clerk's Office in Liber 10886 of Deeds at page 1064; thence N 71°-41'-32" E, and along the southerly line of lands so conveyed to Gateway Trade Center, Inc. by deed aforesaid, a distance of 28.04 feet to a southeast corner thereof; thence N 71°-11'-53" E, a distance of 86.73 feet to a point; thence N 71°-31'-33" E, a distance of 1,251.00 feet to a point on the westerly highway boundary of Hamburg Turnpike as appropriated by the New York State Department of Public works as shown on Map No. 40-R2, Parcel 44 and recorded in the Erie County Clerk's Office in Liber 5650 of Deeds at page 388; thence southerly along the westerly highway boundary of the Hamburg Turnpike the following 4 courses and distances:

20. Thence S 20°-45'-14" E, a distance of 129.67 feet to a point;
21. Thence S 22°-43'-04" E, a distance of 272.45 feet to a point;

[10/12]

County: Erie Site Nos: C915198, C915198B, C915198C, C915198D, C915198E, C915198F, C915198G, C915198H, C915198I, C915198J, C915198K, and C915198L  
Brownfield Cleanup Agreement Number: B9-0696-05-06(B)

22. Thence S 18°-25'-27" E, a distance of 1,965.57 feet to the point of curvature of a non-tangent curve;
23. Thence along a curve to the right, having a radius of 3,226.70 feet, an arc length of 677.61 feet to a point which is approximately 25 feet north from the existing northerly top of high bank of Smokes Creek;

Thence westerly and southerly, approximately 25 feet north from the existing northerly top of the high bank of Smokes Creek the following 5 courses and distances;

24. Thence S 75°-24'-22" W, a distance of 420.71 feet to a point;
25. Thence S 52°-31'-09" W, a distance of 145.07 feet to a point;
26. Thence S 00°-25'-31" W, a distance of 225.66 feet to a point;
27. Thence S 14°-36'-37" W, a distance of 317.80 feet to a point;
28. Thence S 74°-29'-02" W, a distance of 360.63 feet to the principal point of beginning, containing 95.42 acres of land, more or less.

Being part of the piece or parcel of land in a bargain and sale deed dated 5/06/2003 and recorded 5/22/2003 in Liber 11040 of Deeds at page 8953 in the Erie County Clerk's Office. This parcel of land is part of the overall deed.

#### **SUBSTATIONS EXCEPTED OUT OF EASEMENT AREA**

##### **Substation 10A**

Commencing at the principal point of beginning of the Environmental Easement Business Park Phase II, Parcel "B";

Thence N 18°-50'-22" W, a distance of 457.40 feet to the point of beginning;  
Thence N 18°-24'-23" W, a distance of 225.00 feet to a point;  
Thence N 71°-35'-37" E, a distance of 188.17 feet to a point;  
Thence S 18°-24'-23" E, a distance of 225.00 feet to a point;  
Thence S 71°-35'-37" W, a distance of 188.17 feet to the point of beginning.  
Containing 0.97 Acres of land, more or less.

##### **Substation 11A**

Commencing at the northwest corner of the Environmental Easement Parcel "B";  
Thence S 33°-30'-30" E, a distance of 558.31 feet to the point of beginning;  
Thence N 71°-48'-41" E, a distance of 112.00 feet to a point;  
Thence S 20°-04'-28" E, a distance of 146.00 feet to a point;  
Thence S 71°-48'-41" W, a distance of 112.00 feet to a point;  
Thence N 20°-04'-28" W, a distance of 146.00 feet to the point of beginning.  
Containing 0.38 Acres of land, more or less.



**Combined Real Estate  
Transfer Tax Return,  
Credit Line Mortgage Certificate, and  
Certification of Exemption from the  
Payment of Estimated Personal Income Tax**

Recording office time stamp

See Form TP-584-I, Instructions for Form TP-584, before completing this form. Print or type.

**Schedule A – Information relating to conveyance**

<b>Grantor/Transferor</b>		Name (if individual, last, first, middle initial) ( <input type="checkbox"/> check if more than one grantor)		Social security number
<input type="checkbox"/> Individual		Tecumseh Redevelopment, Inc.		
<input checked="" type="checkbox"/> Corporation		Mailing address		Social security number
<input type="checkbox"/> Partnership		4020 Kinross Lakes Parkway		
<input type="checkbox"/> Estate/Trust		City	State	ZIP code
<input type="checkbox"/> Single member LLC		Richfield	OH	44286
<input type="checkbox"/> Other		Single member's name if grantor is a single member LLC (see instructions)		Federal EIN 01-0649791
				Single member EIN or SSN
<b>Grantee/Transferee</b>		Name (if individual, last, first, middle initial) ( <input type="checkbox"/> check if more than one grantee)		Social security number
<input type="checkbox"/> Individual		The People of the State of New York, acting through their		
<input type="checkbox"/> Corporation		Commissioner of the Department of Environmental Conservation		Social security number
<input type="checkbox"/> Partnership		Mailing address		
<input type="checkbox"/> Estate/Trust		625 Broadway		
<input type="checkbox"/> Single member LLC		City	State	ZIP code
<input checked="" type="checkbox"/> Other		Albany	NY	12233
		Single member's name if grantee is a single member LLC (see instructions)		Federal EIN 14-6013200
				Single member EIN or SSN

**Location and description of property conveyed**

Tax map designation – Section, block & lot (include dots and dashes)	SWIS code (six digits)	Street address	City, town, or village	County
141.11-1-50	140900	2303 Hamburg Turnpike	Lackawanna	Erie

**Type of property conveyed (check applicable box)**

1 <input type="checkbox"/> One- to three-family house	5 <input checked="" type="checkbox"/> Commercial/Industrial	Date of conveyance <table border="1"><tr><td>06</td><td>26</td><td>2014</td></tr><tr><td>month</td><td>day</td><td>year</td></tr></table>	06	26	2014	month	day	year	Percentage of real property conveyed which is residential real property _____ 0 % (see instructions)
06	26		2014						
month	day		year						
2 <input type="checkbox"/> Residential cooperative	6 <input type="checkbox"/> Apartment building								
3 <input type="checkbox"/> Residential condominium	7 <input type="checkbox"/> Office building								
4 <input type="checkbox"/> Vacant land	8 <input type="checkbox"/> Other _____								

**Condition of conveyance (check all that apply)**

a. <input type="checkbox"/> Conveyance of fee interest	f. <input type="checkbox"/> Conveyance which consists of a mere change of identity or form of ownership or organization (attach Form TP-584.1, Schedule F)	i. <input type="checkbox"/> Option assignment or surrender
b. <input type="checkbox"/> Acquisition of a controlling interest (state percentage acquired _____ %)	g. <input type="checkbox"/> Conveyance for which credit for tax previously paid will be claimed (attach Form TP-584.1, Schedule G)	m. <input type="checkbox"/> Leasehold assignment or surrender
c. <input type="checkbox"/> Transfer of a controlling interest (state percentage transferred _____ %)	h. <input type="checkbox"/> Conveyance of cooperative apartment(s)	n. <input type="checkbox"/> Leasehold grant
d. <input type="checkbox"/> Conveyance to cooperative housing corporation	i. <input type="checkbox"/> Syndication	o. <input type="checkbox"/> Conveyance of an easement
e. <input type="checkbox"/> Conveyance pursuant to or in lieu of foreclosure or enforcement of security interest (attach Form TP-584.1, Schedule E)	j. <input type="checkbox"/> Conveyance of air rights or development rights	p. <input checked="" type="checkbox"/> Conveyance for which exemption from transfer tax claimed (complete Schedule B, Part III)
	k. <input type="checkbox"/> Contract assignment	q. <input type="checkbox"/> Conveyance of property partly within and partly outside the state
		r. <input type="checkbox"/> Conveyance pursuant to divorce or separation
		s. <input checked="" type="checkbox"/> Other (describe) _____ to ECL Art. 71 Title 36

For recording officer's use	Amount received	Date received	Transaction number
	Schedule B., Part I \$ _____		
	Schedule B., Part II \$ _____		



**Schedule B – Real estate transfer tax return (Tax Law, Article 31)****Part I – Computation of tax due**

- 1 Enter amount of consideration for the conveyance (if you are claiming a total exemption from tax, check the exemption claimed box, enter consideration and proceed to Part III) ..... ☒ **Exemption claimed**
- 2 Continuing lien deduction (see instructions if property is taken subject to mortgage or lien) .....
- 3 Taxable consideration (subtract line 2 from line 1) .....
- 4 Tax: \$2 for each \$500, or fractional part thereof, of consideration on line 3 .....
- 5 Amount of credit claimed for tax previously paid (see instructions and attach Form TP-584.1, Schedule G) .....
- 6 Total tax due\* (subtract line 5 from line 4) .....

1.		0	00
2.		0	00
3.		0	00
4.			
5.			
6.		0	00

**Part II – Computation of additional tax due on the conveyance of residential real property for \$1 million or more**

- 1 Enter amount of consideration for conveyance (from Part I, line 1) .....
- 2 Taxable consideration (multiply line 1 by the percentage of the premises which is residential real property, as shown in Schedule A) ...
- 3 Total additional transfer tax due\* (multiply line 2 by 1% (.01)) .....

1.		0	00
2.			
3.		0	00

**Part III – Explanation of exemption claimed on Part I, line 1 (check any boxes that apply)**

The conveyance of real property is exempt from the real estate transfer tax for the following reason:

- a. Conveyance is to the United Nations, the United States of America, the state of New York, or any of their instrumentalities, agencies, or political subdivisions (or any public corporation, including a public corporation created pursuant to agreement or compact with another state or Canada) ..... a ☒
- b. Conveyance is to secure a debt or other obligation..... b ☐
- c. Conveyance is without additional consideration to confirm, correct, modify, or supplement a prior conveyance..... c ☐
- d. Conveyance of real property is without consideration and not in connection with a sale, including conveyances conveying realty as bona fide gifts ..... d ☒
- e. Conveyance is given in connection with a tax sale..... e ☐
- f. Conveyance is a mere change of identity or form of ownership or organization where there is no change in beneficial ownership. (This exemption cannot be claimed for a conveyance to a cooperative housing corporation of real property comprising the cooperative dwelling or dwellings.) Attach Form TP-584.1, Schedule F..... f ☐
- g. Conveyance consists of deed of partition..... g ☐
- h. Conveyance is given pursuant to the federal Bankruptcy Act ..... h ☐
- i. Conveyance consists of the execution of a contract to sell real property, without the use or occupancy of such property, or the granting of an option to purchase real property, without the use or occupancy of such property..... i ☐
- j. Conveyance of an option or contract to purchase real property with the use or occupancy of such property where the consideration is less than \$200,000 and such property was used solely by the grantor as the grantor's personal residence and consists of a one-, two-, or three-family house, an individual residential condominium unit, or the sale of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold covering an individual residential cooperative apartment..... j ☐
- k. Conveyance is not a conveyance within the meaning of Tax Law, Article 31, section 1401(e) (attach documents supporting such claim) ..... k ☐

\*The total tax (from Part I, line 6 and Part II, line 3 above) is due within 15 days from the date conveyance. Please make check(s) payable to the county clerk where the recording is to take place. If the recording is to take place in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, make check(s) payable to the **NYC Department of Finance**. If a recording is not required, send this return and your check(s) made payable to the **NYS Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

**Schedule C -- Credit Line Mortgage Certificate (Tax Law, Article 11)****Complete the following only if the interest being transferred is a fee simple interest.**

I (we) certify that: (check the appropriate box)

1. ☒ The real property being sold or transferred is not subject to an outstanding credit line mortgage.
2. ☐ The real property being sold or transferred is subject to an outstanding credit line mortgage. However, an exemption from the tax is claimed for the following reason:
- ☐ The transfer of real property is a transfer of a fee simple interest to a person or persons who held a fee simple interest in the real property (whether as a joint tenant, a tenant in common or otherwise) immediately before the transfer.
- ☐ The transfer of real property is (A) to a person or persons related by blood, marriage or adoption to the original obligor or to one or more of the original obligors or (B) to a person or entity where 50% or more of the beneficial interest in such real property after the transfer is held by the transferor or such related person or persons (as in the case of a transfer to a trustee for the benefit of a minor or the transfer to a trust for the benefit of the transferor).
- ☐ The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.
- ☐ The maximum principal amount secured by the credit line mortgage is \$3,000,000 or more, and the real property being sold or transferred is **not** principally improved nor will it be improved by a one- to six-family owner-occupied residence or dwelling.

**Please note:** for purposes of determining whether the maximum principal amount secured is \$3,000,000 or more as described above, the amounts secured by two or more credit line mortgages may be aggregated under certain circumstances. See TSB-M-96(6)-R for more information regarding these aggregation requirements.

☐ Other (attach detailed explanation).

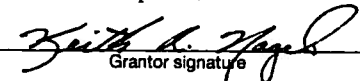
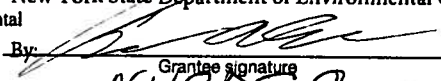
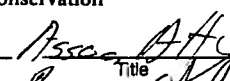
3. ☐ The real property being transferred is presently subject to an outstanding credit line mortgage. However, no tax is due for the following reason:
- ☐ A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.
- ☐ A check has been drawn payable for transmission to the credit line mortgagee or his agent for the balance due, and a satisfaction of such mortgage will be recorded as soon as it is available.
4. ☐ The real property being transferred is subject to an outstanding credit line mortgage recorded in \_\_\_\_\_ (insert liber and page or reel or other identification of the mortgage). The maximum principal amount of debt or obligation secured by the mortgage is \_\_\_\_\_. No exemption from tax is claimed and the tax of \_\_\_\_\_ is being paid herewith. (Make check payable to county clerk where deed will be recorded or, if the recording is to take place in New York City but not in Richmond County, make check payable to the **NYC Department of Finance**.)

**Signature (both the grantor(s) and grantee(s) must sign)**

The undersigned certify that the above information contained in schedules A, B, and C, including any return, certification, schedule, or attachment, is to the best of his/her knowledge, true and complete, and authorize the person(s) submitting such form on their behalf to receive a copy for purposes of recording the deed or other instrument effecting the conveyance.

Tecumseh Redevelopment, Inc.

New York State Department of Environmental Conservation

By: <u></u>	Vice President of Environmental Affairs and Real Estate	By: <u></u>	<u></u>
Grantor signature	Title	Grantee signature	Title
		<u>NYSDEC</u>	<u>Bureau Chief</u>

**Reminder:** Did you complete all of the required information in Schedules A, B, and C? Are you required to complete Schedule D? If you checked e, f, or g in Schedule A, did you complete Form TP-584.1? Have you attached your check(s) made payable to the county clerk where recording will take place or, if the recording is in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, to the **NYC Department of Finance**? If no recording is required, send your check(s), made payable to the **Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

**Schedule D - Certification of exemption from the payment of estimated personal income tax (Tax Law, Article 22, section 663)**

Complete the following only if a fee simple interest or a cooperative unit is being transferred by an individual or estate or trust.

If the property is being conveyed by a referee pursuant to a foreclosure proceeding, proceed to Part II, and check the second box under *Exemptions for nonresident transferor(s)/seller(s)* and sign at bottom.

**Part I - New York State residents**

If you are a New York State resident transferor(s)/seller(s) listed in Schedule A of Form TP-584 (or an attachment to Form TP-584), you must sign the certification below. If one or more transferors/sellers of the real property or cooperative unit is a resident of New York State, **each** resident transferor/seller must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all resident transferors/sellers.

**Certification of resident transferor(s)/seller(s)**

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) as signed below was a resident of New York State, and therefore is not required to pay estimated personal income tax under Tax Law, section 663(a) upon the sale or transfer of this real property or cooperative unit.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

**Note:** A resident of New York State may still be required to pay estimated tax under Tax Law, section 685(c), but not as a condition of recording a deed.

**Part II - Nonresidents of New York State**

If you are a nonresident of New York State listed as a transferor/seller in Schedule A of Form TP-584 (or an attachment to Form TP-584) but are not required to pay estimated personal income tax because one of the exemptions below applies under Tax Law, section 663(c), check the box of the appropriate exemption below. If any one of the exemptions below applies to the transferor(s)/seller(s), that transferor(s)/seller(s) is not required to pay estimated personal income tax to New York State under Tax Law, section 663. **Each** nonresident transferor/seller who qualifies under one of the exemptions below must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all nonresident transferors/sellers.

If none of these exemption statements apply, you must complete Form IT-2663, *Nonresident Real Property Estimated Income Tax Payment Form*, or Form IT-2664, *Nonresident Cooperative Unit Estimated Income Tax Payment Form*. For more information, see *Payment of estimated personal income tax*, on page 1 of Form TP-584-I.

**Exemption for nonresident transferor(s)/seller(s)**

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) (grantor) of this real property or cooperative unit was a nonresident of New York State, but is not required to pay estimated personal income tax under Tax Law, section 663 due to one of the following exemptions:

- ☐ The real property or cooperative unit being sold or transferred qualifies in total as the transferor's/seller's principal residence (within the meaning of Internal Revenue Code, section 121) from \_\_\_\_\_ Date \_\_\_\_\_ to \_\_\_\_\_ Date \_\_\_\_\_ (see instructions).
- ☐ The transferor/seller is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure, or in lieu of foreclosure with no additional consideration.
- ☐ The transferor or transferee is an agency or authority of the United States of America, an agency or authority of the state of New York, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

## APPENDIX 2

### Site Inspection Form

## Annual Site Inspection Form

**Bethlehem Steel Shoreline Trail  
2303 Hamburg Turnpike, Lackawanna, New York  
NYSDEC Site No. C915197L**

Date: July 21, 2021

**Inspector:** Andrew Benkleman

**Weather:** Sunny 78°F.

### 1. Compliance with all ICs, including site usage:

**SITE USAGE:** Use of the Site is limited to Commercial & Industrial Uses. Indicate if any other type of use is occurring at the Site.

## Bike & Pedestrian Trail

**GROUNDWATER USAGE:** Use of groundwater underlying the Site is prohibited without treatment. Indicate whether groundwater use is occurring at the Site along with any treatment measures being applied.

Groundwater is not used

COMPLIANCE WITH SMP: List Site activities and indicate compliance or non-compliance with SMP.

Site is in compliance with SMP



**2. An evaluation of the condition and continued effectiveness of the ECs:**

SITE COVER CONDITION: Good, Fair, or Poor

Good

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SITE COVER EFFECTIVENESS: As Intended or Needs Repair

As Intended

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**3. General site conditions at the time of the inspection:**

Acceptable:   X      Unacceptable            describe:

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## APPENDIX 3

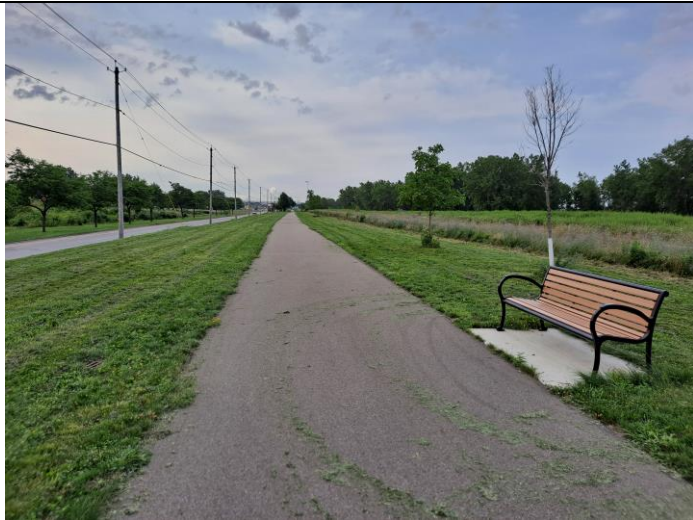
### Photographs



Entrance to Shoreline Trail from Dona Street



Entrance to Shoreline Trail from Dona Street



Typical view of Shoreline Trail and soil cover



Typical view of Shoreline Trail and soil cover



Typical view of vegetative soil cover east of Shoreline Trail



Typical view of vegetative soil cover west of Shoreline Trail





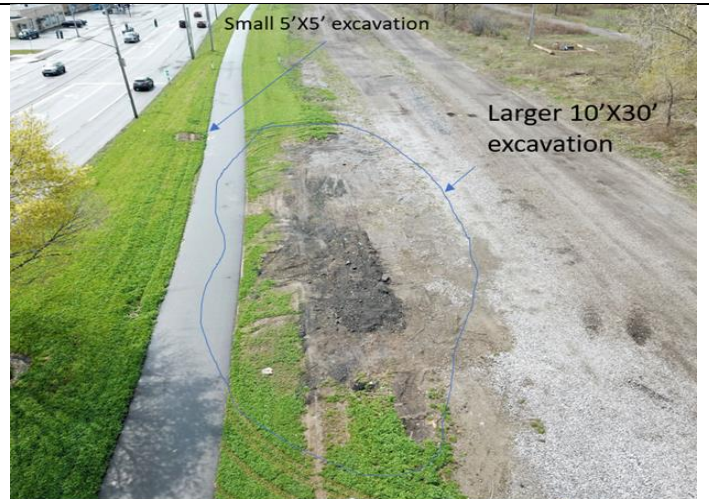
Shoreline Trail and vegetative soil cover proximate Ridge Road



Ridge Road Crossing Shoreline Trail



Ridge Road Crossing Shoreline Trail



May 15, 2021 notice of cover system disturbance



Post-cover system repairs of National Fuel excavation



Post-cover system repairs of National Fuel excavation

## APPENDIX 4

### National Fuel Excavation Email Correspondence



## Benkleman, Andrew

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**From:** Kuczka, Megan E (DEC) <Megan.Kuczka@dec.ny.gov>  
**Sent:** Wednesday, June 3, 2020 10:18 AM  
**To:** Hood, John; Haas, Vicki  
**Subject:** Re: Beth Steel site excavation

[Caution: this email is **not** from an Erie County employee: attachments or links **may not be safe.**]

John,

Thank you for coordinating with Tom Forbes and National Fuel on addressing this cover breach. Per the pictures, everything seems to be cleaned up and restored.

Thanks again,

### Megan Kuczka

Environmental Program Specialist 1, Division of Environmental Remediation  
**New York State Department of Environmental Conservation**  
270 Michigan Avenue, Buffalo, NY 14203  
P: (716) 851-7220 | F: (716) 851-7226 | [Megan.Kuczka@dec.ny.gov](mailto:Megan.Kuczka@dec.ny.gov)

[www.dec.ny.gov](http://www.dec.ny.gov) |



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**From:** Hood, John  
**Sent:** Wednesday, June 3, 2020 10:12 AM  
**To:** Kuczka, Megan E (DEC) ; Haas, Vicki (ERIE)  
**Subject:** Beth Steel site excavation

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Hi Megan,

National Fuel completed the cap repair and reseedling at the disturbed area near the Bike trail at the Bethlehem steel site. Attached are a couple of pictures of the completed effort. We are in the process of doing the site recert and updating contacts for further notifications. Please let me know if you need additional info or have any questions.

Take care,

John

John B. Hood | Chief Environmental Compliance Specialist  
Erie County | Environment & Planning  
95 Franklin St., Room 1074 | Buffalo, NY 14202  
P:+1(716)858-7897 | F:+1(716)858-7713  
cell-716-512-8919

## Benkleman, Andrew

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**From:** Moore, Maurice (DEC) <maurice.moore@dec.ny.gov>  
**Sent:** Thursday, May 21, 2020 4:33 PM  
**To:** Hood, John; Kuczka, Megan E (DEC)  
**Subject:** RE: Bike trail excavation site

[Caution: this email is not from an Erie County employee: attachments or links may not be safe.]

I have reviewed the request. The soil is acceptable for commercial use and will grow grass.

Thanks, Maurice

-----Original Message-----

From: Hood, John <John.Hood@erie.gov>  
Sent: Thursday, May 21, 2020 3:09 PM  
To: Moore, Maurice (DEC) <maurice.moore@dec.ny.gov>; Kuczka, Megan E (DEC) <Megan.Kuczka@dec.ny.gov>  
Subject: Fw: Bike trail excavation site

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Hi Maurice and Megan,

I spoke with Tom Forbes, the SMP primary PE and QEP with Turnkey. Mr. Forbes was made aware of the small excavation after the fact and agreed to discuss the repair with National Fuel. Mr Forbes mentioned he would reach out to Maurice to see if their proposal to use some onsite clean soil would be satisfactory for the cap cover. Please let me know if you have any concerns with the approach described in Tom's note below.

Take care,

John

John B. Hood | Chief Environmental Compliance Specialist Erie County | Environment & Planning  
95 Franklin St., Room 1074 | Buffalo, NY 14202 P:+1(716)858-7897<tel:+1(716)858-7897> | F:+1(716)858-7713<tel:+1(716)858-7713>  
mobile ph: (716)-512-8919

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From: Tom H. Forbes <TForbes@bm-tk.com>  
Sent: Thursday, May 21, 2020 1:19 PM  
To: Hood, John; stawickir@natfuel.com  
Cc: Eric Warren  
Subject: RE: Bike trail excavation site

[Caution: this email is not from an Erie County employee: attachments or links may not be safe.]

Thanks John - I believe we are in good shape. Zoladz has enough material leftover and stockpiled farther back onsite and graciously agreed to let us take it. I'll circle back with Bob Stawicki but mid next week should work.

Bob, do you have a dump truck if we load it for you? If not we may be able to bring it in our truck or via a few trips with our front end loader or tractor. I will be asking Eric Warren from my office (copied here) to help with that.

My mobile number, if needed, is 716-864-1730.

Best regards,  
Tom

Thomas H. Forbes, P.E.  
Principal Engineer  
tforbes@benchmarkturnkey.com

Benchmark Environmental Engineering & Science, PLLC TurnKey Environmental Restoration, LLC [2](https://secure-web.cisco.com/1rBdV_1qZASLgMeN7Ok4wgfLNLVFXg92E7MhnsKQSwGvNSZhHphL1iAnreMWh330Su9qCj2Bo41mpN0MPVI9FvdWboLIfo1-aBEg0hLgRelZ1Qwhf3NDDUv4E_xlCvEFj3A0q7LddIJF9R5lwC4Vw-gY6NT2vpdwK7Uh_3Vu9sJQKh9D5e3JH6qS_GWDAD2Vmm3LyF5fADt-65biTxFbmOAo7IS9N55C8YSP6pgFUJ_asFL2dH3UbUhUspN4YnZ05djy3596ZbflLzCCuHoxedml0ACvfltuSzfROULTJvloW_p eOczfgak_4OK9OxhSC/https%3A%2F%2Fprotect2.fireeye.com%2Fv1%2Furl%3Fk%3D557b890c-095e856f-55797039-0cc47aa88e08-3c5637b939d67aef%26q%3D1%26e%3Dccfea1ca-dfc4-4358-b635-6bd3d1f2fbfa%26u%3Dhttp%253A%252F%252Fwww.benchmarkturnkey.com%252F<https://secure-web.cisco.com/1zbtPSEtool-zEHZFhZDjm9zP2UkxrKtCPSuQihwSncCMA-Q9fHbWMJGOoirPVI3MsHFgJ9L9tNgP6XCBJ13CfRAMvmJqhCwc2pGju2CG9Jw9vX7caitgRcBP66wOBs2vHY1jPIPIJFrZI199G DYZ3wmimLUWgyVNaOSDRNM-rAcQFtt4J4_O8c320GPZidx_OdMOsDs8R1aDAZ_h0ABQkbDukArZIBesYXls-51t-Pvf27flnkKsLZH-EDv5yoy0CuxBY5P25zP-xJkNcafQo9hCP9DH4Vce0U4ag_DEAVm6QILNgZBNebCj6uROyRtz4/https%3A%2F%2Fprotect2.fireeye.com%2Fv1%2Furl%3Fk%3D7a94012d-26b10d4e-7a96f818-0cc47aa88e08-a2786bac0f8fbaa5%26q%3D1%26e%3Dccfea1ca-dfc4-4358-b635-6bd3d1f2fbfa%26u%3Dhttp%253A%252F%252Fwww.benchmarkturnkey.com%252F> Environmental Engineering, Construction & Site Management | Benchmark & Turnkey<https://secure-web.cisco.com/12Q_dSAiEu55C-jmEtEx4UcqTSWSmX7pbtEgDCTy_f4i2xchjHchQT41j4E1yS2GDOfo9prhrm3nvw44lb1PD8MJr-8fX5IZP2k27t9jQ9vYEi4op1vzCZQen5WVcfb6sttoMEALPEf-H_MfWUHonvyWa1xDun8GClzQ83jX1X9u2YTPuEdvhmvglgZ48fQmyAG43uE8dFybJzJ_XDT-CIRR9yF8e2KHBojUFR-EtmjckH2loaww4Yi3pQ07mwEW3VFyGucOpIVTn1C6VuyE2uTYoAv7PiuLexbriG4MdxjpjeTUxv5AyyvUDFpSMqiwL-/https%3A%2F%2Fprotect2.fireeye.com%2Fv1%2Furl%3Fk%3D16ce0a4a-4aeb0629-16ccf37f-0cc47aa88e08-f592aaa30bf4513d%26q%3D1%26e%3Dccfea1ca-dfc4-4358-b635-6bd3d1f2fbfa%26u%3Dhttp%253A%252F%252Fwww.benchmarkturnkey.com%252F> https://secure-web.cisco.com/1EdANcuB12ApYTS3E3x2GlHq7u-PT9LpYebDquwrm6uFDtWodgBgoqn7R5Xaqm1QkaFDSZZFwiBoeUI1FuLjYhVmCd4xereaQuVNVr2c2d8ML5glOfCy6EmFn NI4NU69mT-ennDVzelURTJNAzepP0zy9Z0VUBYSUJNGx8Bh6EfZegGIKN7yb0sFNIWNdqv5GUYfyfqkIWoynpIaJnCjGdjAxFsZqOppuedGc cTqRj2GkYqUkF-qTQeAq-JCaSuVS4eK4Ep8bTT9lymGp8YVNWNf8jnsxEqfTxYLeBbOolR2HkldNhP4bMO0rlsgvBr/https%3A%2F%2Fprotect2.fireeye.com%2Fv1%2Furl%3Fk%3D0eb92b5b-529c2738-0ebbd26e-0cc47aa88e08-</a></p></div><div data-bbox=)

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Benchmark Environmental Engineering & Science & Turnkey Environmental Restoration located in Western NY, are environmental engineers and scientists providing site remediation, hazardous waste removal and brownfield site management services.

2558 Hamburg Turnpike, Suite 300, Buffalo, NY 14218

Phone: (716) 856-0599, Mobile: (716) 864-1730 Facsimile: (716) 856-0583

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-----Original Message-----

From: Hood, John <John.Hood@erie.gov>

Sent: Thursday, May 21, 2020 12:00 PM

To: Tom H. Forbes <TForbes@bm-tk.com>; stawickir@natfuel.com

Subject: Bike trail excavation site

Hey Tom,

Thanks for taking my call this morning and agreeing to call Mr. Stawicki at National Fuel about the excavation repair.

Take care,

John

John B. Hood | Chief Environmental Compliance Specialist Erie County | Environment & Planning

95 Franklin St., Room 1074 | Buffalo, NY 14202 P:+1(716)858-7897<tel:+1(716)858-7897> | F:+1(716)858-7713<tel:+1(716)858-7713>

mobile ph: (716)-512-8919

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## Benkleman, Andrew

---

**From:** Tom H. Forbes <TForbes@bm-tk.com>  
**Sent:** Thursday, May 28, 2020 1:35 PM  
**To:** Hood, John; stawickir@natfuel.com  
**Cc:** Eric Warren; Rountree, Mark; Eric Warren  
**Subject:** RE: Bike trail excavation site

[Caution: this email is not from an Erie County employee: attachments or links may not be safe.]

Good afternoon to all:

I think we are in good shape on this. I spoke with Bob Stawicki this morning - Megan Kuczka of the DEC approved the import of leftover soil from the original bike path cover, which Zoladz has agreed to donate. Bob will tentatively have a crew there Monday (weather looks perfect as of now) with a dump truck, excavator, and geotextile to serve as a demarcation layer beneath the clean cover, which is acceptable in lieu of netting. Removed materials will be cast on ILDC's uncovered property west of the access drive, which Megan also approved.

We will take some photos, set up a dust meter, and document the work. Eric Warren from my office will be onsite to assist and show the crew to the clean soil stockpile. Eric's mobile number is 716-462-0490. No charge for Benchmark's time.

Good luck!  
Tom

Thomas H. Forbes, P.E.  
Principal Engineer  
tforbes@benchmarkturnkey.com

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-----Original Message-----

From: Tom H. Forbes  
Sent: Thursday, May 28, 2020 8:09 AM  
To: Hood, John <John.Hood@erie.gov>; stawickir@natfuel.com  
Cc: Eric Warren <ewarren@bm-tk.com>; Rountree, Mark <Mark.Rountree@erie.gov>  
Subject: RE: Bike trail excavation site

John and Bob,

Sorry for the delayed reply - I was traveling yesterday. I have some material that can be used for the trail repair per the attached DEC approval, but its located at the far south end of the Tecumseh site. I can donate the material but would need to work out a plan with Bob to get it from our stockpile to the bike path.

This was a bit jumbled; I actually learned that Zoladz has leftover soil from the original bike path construction onsite and is willing to donate that, but in the interim I had asked permission to use the subject soil for a different repair onsite and Maurice mistakenly thought I wanted to use it for the Bike Path as well. I'd like to make one call this morning to Stan Radon of the DEC (Maurice retired yesterday) to see if he will approve use of the material Zoladz has leftover, as its more conveniently located and again is the same material as originally placed. I'll let you know as soon as I hear back today.

Best regards,  
Tom

Thomas H. Forbes, P.E.  
Principal Engineer  
tforbes@benchmarkturnkey.com

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Phone: (716) 856-0599, Mobile: (716) 864-1730 Facsimile: (716) 856-0583

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-----Original Message-----

From: Hood, John <John.Hood@erie.gov>  
Sent: Wednesday, May 27, 2020 10:41 AM  
To: stawickir@natfuel.com  
Cc: Eric Warren <ewarren@bm-tk.com>; Tom H. Forbes <TForbes@bm-tk.com>; Rountree, Mark <Mark.Rountree@erie.gov>  
Subject: Re: Bike trail excavation site

Good Morning Bob,

I will be at a site visit for next few hours, but wanted to touch base this afternoon about the cap repair. I'll check back around 2 if I don't hear back.

Take care,  
John

---

From: Tom H. Forbes <TForbes@bm-tk.com>  
Sent: Thursday, May 21, 2020 3:46 PM  
To: Hood, John; stawickir@natfuel.com  
Cc: Eric Warren  
Subject: Re: Bike trail excavation site

[Caution: this email is not from an Erie County employee: attachments or links may not be safe.]

John, I have traded voicemails with Maurice but I think that reuse of the same material as was originally placed should be no issue for him. I will verify that before we go ahead and make arrangements with Bob and will let you know.

Thanks  
Tom

Get Outlook for iOS<[https://secure-web.cisco.com/1gg4wa1R8y-GkCCfCNUdx6e0KL45IEysOT7x3NIt\\_CAux2Ls5hWABIO76D1cM9cY68ACdAMvRCXwINLr-PNj4fyJAHZnmJFkEckJV1LWRWH8ZHlshVD05jcJpVclErBDs1R8HyhdzFPEhgJn7KX2YUCju8BzLvFAZ9qh3vjw7GjKcCOmbKWHTU1sXjUF6zLpuJQMZxyfU5zS5q5O3gPEgExENYYGbGdQCoy8SeK\\_NTv5Z-av2NQX6coddEWpPE0sX3d2QH2mGGAdu7nByowZ4gl2dyCAJ-rRRBHWZ\\_ADuWEb08HB4EUOP-IONJX-xvcz/https%3A%2F%2Faka.ms%2Fo0ukef](https://secure-web.cisco.com/1gg4wa1R8y-GkCCfCNUdx6e0KL45IEysOT7x3NIt_CAux2Ls5hWABIO76D1cM9cY68ACdAMvRCXwINLr-PNj4fyJAHZnmJFkEckJV1LWRWH8ZHlshVD05jcJpVclErBDs1R8HyhdzFPEhgJn7KX2YUCju8BzLvFAZ9qh3vjw7GjKcCOmbKWHTU1sXjUF6zLpuJQMZxyfU5zS5q5O3gPEgExENYYGbGdQCoy8SeK_NTv5Z-av2NQX6coddEWpPE0sX3d2QH2mGGAdu7nByowZ4gl2dyCAJ-rRRBHWZ_ADuWEb08HB4EUOP-IONJX-xvcz/https%3A%2F%2Faka.ms%2Fo0ukef)>

---

From: Hood, John <John.Hood@erie.gov>  
Sent: Thursday, May 21, 2020 3:39:56 PM  
To: Tom H. Forbes <TForbes@bm-tk.com>; stawickir@natfuel.com <stawickir@natfuel.com>  
Cc: Eric Warren <ewarren@bm-tk.com>  
Subject: Re: Bike trail excavation site

Thanks Tom and Bob. Did you have a chance to speak with Maurice at NYSDEC? Please keep me posted and thanks very much for your attention to this issue.

Take care,

John

John B. Hood | Chief Environmental Compliance Specialist Erie County | Environment & Planning  
95 Franklin St., Room 1074 | Buffalo, NY 14202 P:+1(716)858-7897<tel:+1(716)858-7897> | F:+1(716)858-7713<tel:+1(716)858-7713>  
mobile ph: (716)-512-8919

---

From: Tom H. Forbes <TForbes@bm-tk.com>  
Sent: Thursday, May 21, 2020 1:19 PM  
To: Hood, John; stawickir@natfuel.com  
Cc: Eric Warren  
Subject: RE: Bike trail excavation site

[Caution: this email is not from an Erie County employee: attachments or links may not be safe.]

Thanks John - I believe we are in good shape. Zoladz has enough material leftover and stockpiled farther back onsite and graciously agreed to let us take it. I'll circle back with Bob Stawicki but mid next week should work.

Bob, do you have a dump truck if we load it for you? If not we may be able to bring it in our truck or via a few trips with our front end loader or tractor. I will be asking Eric Warren from my office (copied here) to help with that.

My mobile number, if needed, is 716-864-1730.

Best regards,  
Tom

Thomas H. Forbes, P.E.  
Principal Engineer  
tforbes@benchmarkturnkey.com

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Phone: (716) 856-0599, Mobile: (716) 864-1730 Facsimile: (716) 856-0583

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-----Original Message-----

From: Hood, John <John.Hood@erie.gov>

Sent: Thursday, May 21, 2020 12:00 PM

To: Tom H. Forbes <TForbes@bm-tk.com>; stawickir@natfuel.com

Subject: Bike trail excavation site

Hey Tom,

Thanks for taking my call this morning and agreeing to call Mr. Stawicki at National Fuel about the excavation repair.

Take care,

John

John B. Hood | Chief Environmental Compliance Specialist Erie County | Environment & Planning  
95 Franklin St., Room 1074 | Buffalo, NY 14202 P:+1(716)858-7897<tel:+1(716)858-7897> | F:+1(716)858-7713<tel:+1(716)858-7713>  
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## APPENDIX 5

**Site Management Periodic Review Report Notice-Institutional and  
Engineering Controls Certification Form**



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



**Site Details**

**Box 1**

**Site No.**            **C915197L**

**Site Name**   **Bethlehem Shoreline Trail**

Site Address: 2303 Hamburg Turnpike      Zip Code: 14218  
City/Town: Lackawanna  
County: Erie  
Site Acreage: 6.690

Reporting Period: April 17, 2020 to July 17, 2021

YES    NO

1. Is the information above correct? ☒      ☐

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

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

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

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

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

5. Is the site currently undergoing development? ☐      ☒

**Box 2**

YES    NO

6. Is the current site use consistent with the use(s) listed below? ☒      ☐  
Commercial and Industrial

7. Are all ICs in place and functioning as designed? ☒      ☐

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

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

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

\_\_\_\_\_  
Date

**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? ☐ ☒

**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. C915197L

**Box 3****Description of Institutional Controls**ParcelOwnerInstitutional Control~~141.11-1-48.1 (portion of)~~

County of Erie c/o Comm. of Env. &amp; Plan.

141.11-1-48.132

IC/EC Plan  
Ground Water Use Restriction  
Soil Management Plan  
Landuse Restriction  
Site Management Plan

Institutional Control Description:

Adherence to Site Management Plan (SMP)  
Restriction to commercial re-use  
Prohibition of groundwater use  
Allowance for Departmental access  
Requires a Periodic Review and Report

**Box 4****Description of Engineering Controls**ParcelEngineering Control~~141.11-1-48.1 (portion of)~~

141.11-1-48.132

Cover System

Engineering Control Description:

Site Cover

**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 Engineering Control 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. For each Engineering control listed in Box 4, I certify by checking "YES" below that all of the following statements are true:

(a) The 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. C915197L

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 Hood at 95 Franklin St  
print name print business address

am certifying as Owner (Owner or Remedial Party)

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

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

16 Aug 2021  
Date

## 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 ANDREW BENKLEMAN at LABELLA ASSOCIATES 300 PEARL ST. BUFFALO NY  
print name print business address 14202

am certifying as a Qualified Environmental Professional for the REMEDIAL PARTY  
(Owner or Remedial Party)



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

Stamp  
(Required for PE)

8/16/21  
Date



**60-Day Advance Notification of Site Change of Use, Transfer of  
Certificate of Completion, and/or Ownership**

Required by 6NYCRR Part 375-1.11(d) and 375-1.9(f)

To be submitted at least 60 days prior to change of use to:

Chief, Site Control Section  
New York State Department of Environmental Conservation  
Division of Environmental Remediation, 625 Broadway  
Albany NY 12233-7020

**I. Site Name:** Erie County Shoreline Trail Bethlehem Steel **DEC Site ID No.** C915197L

**II. Contact Information of Person Submitting Notification:**

Name: LaBella Associates DPC on behalf of Erie County Department of Environment and Planning  
Address1: 300 Pearl St, Buffalo, NY 14202  
Address2: \_\_\_\_\_  
Phone: 716-551-6281 E-mail: abenkleman@labellapc.com

**III. Type of Change and Date:** Indicate the Type of Change(s) (check all that apply):

- ☐ Change in Ownership or Change in Remedial Party(ies)  
☐ Transfer of Certificate of Completion (CoC)  
☒ Other (e.g., any physical alteration or other change of use)

Proposed Date of Change (mm/dd/yyyy): 08/13/2021

**IV. Description:** Describe proposed change(s) indicated above and attach maps, drawings, and/or parcel information.

Update the SBL # for the Sites to 141.11-1-48.132

If "Other," the description must explain and advise the Department how such change may or may not affect the site's proposed, ongoing, or completed remedial program (attach additional sheets if needed).

No change in use or owner. Change will not affect the sites' completed remedial program.

**V. Certification Statement:** Where the change of use results in a change in ownership or in responsibility for the proposed, ongoing, or completed remedial program for the site, the following certification must be completed (by owner or designated representative; see §375-1.11(d)(3)(i)):

I hereby certify that the prospective purchaser and/or remedial party has been provided a copy of any order, agreement, Site Management Plan, or State Assistance Contract regarding the Site's remedial program as well as a copy of all approved remedial work plans and reports.

Name: \_\_\_\_\_  
(Signature)

(Date)

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(Print Name)

Address1:

Address2:

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

**VI. Contact Information for New Owner, Remedial Party, or CoC Holder:** If the site will be sold or there will be a new remedial party, identify the prospective owner(s) or party(ies) along with contact information. If the site is subject to an Environmental Easement, Deed Restriction, or Site Management Plan requiring periodic certification of institutional controls/engineering controls (IC/ECs), indicate who will be the certifying party (attach additional sheets if needed).

☐ Prospective Owner ☐ Prospective Remedial Party ☐ Prospective Owner Representative

Name: \_\_\_\_\_

Address1:

Address2:

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

Certifying Party Name:

Address1:

Address2:

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

**VII. Agreement to Notify DEC after Transfer:** If Section VI applies, and all or part of the site will be sold, a letter to notify the DEC of the completion of the transfer must be provided. If the current owner is also the holder of the CoC for the site, the CoC should be transferred to the new owner using DEC's form found at <http://www.dec.ny.gov/chemical/54736.html>. This form has its own filing requirements (see 6NYCRR Part 375-1.9(f)).

Signing below indicates that these notices will be provided to the DEC within the specified time frames. If the sale of the site also includes the transfer of a CoC, the DEC agrees to accept the notice given in VII.3 below in satisfaction of the notice required by VII.1 below (which normally must be submitted within 15 days of the sale of the site).

Within 30 days of the sale of the site, I agree to submit to the DEC:

1. the name and contact information for the new owner(s) (see §375-1.11(d)(3)(ii));
2. the name and contact information for any owner representative; and
3. a notice of transfer using the DEC's form found at <http://www.dec.ny.gov/chemical/54736.html> (see §375-1.9(f)).

Name: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Print Name)

Address1: \_\_\_\_\_

Address2: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_



### Continuation Sheet

☐ Prospective Owner/Holder ☐ Prospective Remedial Party ☐ Prospective Owner Representative  
Name: \_\_\_\_\_

Address1: \_\_\_\_\_

Address2: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

☐ Prospective Owner/Holder ☐ Prospective Remedial Party ☐ Prospective Owner Representative  
Name: \_\_\_\_\_

Address1: \_\_\_\_\_

Address2: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

☐ Prospective Owner/Holder ☐ Prospective Remedial Party ☐ Prospective Owner Representative  
Name: \_\_\_\_\_

Address1: \_\_\_\_\_

Address2: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

☐ Prospective Owner/Holder ☐ Prospective Remedial Party ☐ Prospective Owner Representative  
Name: \_\_\_\_\_

Address1: \_\_\_\_\_

Address2: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

☐ Prospective Owner/Holder ☐ Prospective Remedial Party ☐ Prospective Owner Representative  
Name: \_\_\_\_\_

Address1: \_\_\_\_\_

Address2: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

☐ Prospective Owner/Holder ☐ Prospective Remedial Party ☐ Prospective Owner Representative  
Name: \_\_\_\_\_

Address1: \_\_\_\_\_

Address2: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_



## Instructions for Completing the 60-Day Advance Notification of Site Change of Use, Transfer of Certificate of Completion (CoC), and/or Ownership Form

Submit to: Chief, Site Control Section, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany NY 12233-7020

### Section I

#### Description

Site Name

Official DEC site name.  
(see <http://www.dec.ny.gov/cfm/externalapps/derexternal/index.cfm?pageid=3>)

DEC Site ID No.

DEC site identification number.

### Section II

#### Contact Information of Person Submitting Notification

Name

Name of person submitting notification of site change of use, transfer of certificate of completion and/or ownership form.

Address1

Street address or P.O. box number of the person submitting notification.

Address2

City, state and zip code of the person submitting notification.

Phone

Phone number of the person submitting notification.

E-mail

E-mail address of the person submitting notification.

### Section III

#### Type of Change and Date

Check Boxes

Check the appropriate box(s) for the type(s) of change about which you are notifying the Department. Check all that apply.

Proposed Date of Change

Date on which the change in ownership or remedial party, transfer of CoC, or other change is expected to occur.

### Section IV

#### Description

Description

For each change checked in Section III, describe the proposed change.  
Provide all applicable maps, drawings, and/or parcel information.  
If "Other" is checked in Section III, explain how the change may affect the site's proposed, ongoing, or completed remedial program at the site.  
Please attach additional sheets, if needed.

## Section V Certification Statement

*This section must be filled out if the change of use results in a change of ownership or responsibility for the proposed, ongoing, or completed remedial program for the site. When completed, it provides DEC with a certification that the prospective purchaser has been provided a copy of any order, agreement, or State assistance contract as well as a copy of all approved remedial work plans and reports.*

Name	The owner of the site property or their designated representative must sign and date the certification statement. Print owner or designated representative's name on the line provided below the signature.
Address1	Owner or designated representative's street address or P.O. Box number.
Address2	Owner or designated representative's city, state and zip code.
Phone	Owner or designated representative's phone number.
E-Mail	Owner or designated representative's E-mail.

## Section VI Contact Information for New Owner, Remedial Party, and CoC Holder (if a CoC was issued)

*Fill out this section only if the site is to be sold or there will be a new remedial party. Check the appropriate box to indicate whether the information being provided is for a Prospective Owner, CoC Holder (if site was ever issued a COC), Prospective Remedial Party, or Prospective Owner Representative. Identify the prospective owner or party and include contact information. A Continuation Sheet is provided at the end of this form for additional owner/party information.*

Name	Name of Prospective Owner, Prospective Remedial Party or Prospective Owner Representative.
Address1	Street address or P.O. Box number for the Prospective Owner, Prospective Remedial Party, or Prospective Owner Representative.
Address2	City, state and zip code for the Prospective Owner, Prospective Remedial Party, or Prospective Owner Representative.
Phone	Phone number for the Prospective Owner, Prospective Remedial Party or Prospective Owner Representative.
E-Mail	E-mail address of the Prospective Owner, Prospective Remedial Party or Prospective Owner Representative.

***If the site is subject to an Environmental Easement, Deed Restriction, or Site Management Plan requiring periodic certification of institutional controls/engineering controls (IC/EC), indicate who will be the certifying party(ies). Attach additional sheets, if needed.***

Certifying Party

Name                      Name of Certifying Party.

Address1                      Certifying Party's street address or P.O. Box number.

Address2                      Certifying Party's city, state and zip code.

Phone                      Certifying Party's Phone number.

E-Mail                      Certifying Party's E-mail address.

## **Section VII                      Agreement to Notify DEC After Property Transfer/Sale**

***This section must be filled out for all property transfers of all or part of the site. If the site also has a CoC, then the CoC shall be transferred using DEC's form found at <http://www.dec.ny.gov/chemical/54736.html>***

***Filling out and signing this section of the form indicates you will comply with the post transfer notifications within the required timeframes specified on the form. If a CoC has been issued for the site, the DEC will allow 30 days for the post transfer notification so that the "Notice of CoC Transfer Form" and proof of it's filing can be included. Normally the required post transfer notification must be submitted within 15 day (per 375-1.11(d)(3)(ii)) when no CoC is involved.***

Name                      Current property owner must sign and date the form on the designated lines. Print owner's name on the line provided.

Address1                      Current owner's street address.

Address2                      Current owner's city, state and zip code.