



# 2019 Periodic Review Report

Location:

Tecumseh Phase II Business Park – Site II-12  
2303 Hamburg Turnpike, Lackawanna, New York  
NYSDEC Site No. C915198L

Prepared for:

Buffalo & Erie County Industrial Land Development  
Corporation  
95 Perry Street, Suite 403  
Buffalo, New York

LaBella Project No. 2201208

May 2020

## Table of Contents

1.0	EXECUTIVE SUMMARY .....	1
1.1	Site Summary .....	1
1.2	Effectiveness of Remedial Program.....	2
1.3	Non-Compliance .....	2
1.4	Recommendations.....	2
2.0	SITE OVERVIEW .....	2
2.1	Site Description .....	2
2.2	Summary of Remedial Actions .....	2
3.0	PERFORMANCE, EFFECTIVENESS & PROTECTIVENESS OF THE REMEDY .....	3
4.0	INSTITUTIONAL/ENGINEERING CONTROL (IC/EC) PLAN COMPLIANCE REPORT .....	3
4.1	IC/EC Requirements and Compliance .....	3
4.1.1	IC Requirements-Site Restrictions .....	3
4.1.2	Engineering Control-Soil Cover System .....	4
4.2	IC/EC Certification.....	5
5.0	MONITORING PLAN COMPLIANCE REPORT .....	5
5.1	Requirements.....	5
5.2	Comparisons with Remedial Objectives .....	5
5.3	Monitoring Deficiencies .....	5
5.4	Monitoring Conclusions and Recommendations .....	6
6.0	OPERATION AND MAINTENANCE PLAN.....	6
7.0	CONCLUSIONS AND RECOMMENDATIONS.....	6
8.0	LIMITATIONS.....	6
9.0	REFERENCES.....	7

<b>Figures</b>	Figure 1 – Site Location Map
	Figure 2 – Phase II Business Park Site Plan
	Figure 3 – Site Plan

<b>Appendix 1</b>	Boundary Survey
<b>Appendix 2</b>	Cover Inspection Form
<b>Appendix 3</b>	Photographs
<b>Appendix 4</b>	Site Management Periodic Review Report-Institutional and Engineering Controls Certification Form

---

## 1.0 EXECUTIVE SUMMARY

---

This Periodic Review Report (PRR) is a required element of the approved Site Management Plan (SMP) for the Tecumseh Phase II Business Park Site II-12. This New York State Brownfield Cleanup Program (BCP) site was remediated in accordance with Brownfield Cleanup Agreement (BCA) Index No. B9-0696-05-06(B), which was executed on March 14, 2007 and amended on August 22, 2012, October 2, 2017 and December 20, 2017.

### 1.1 Site Summary

Site II-12 (hereafter referred to as the “Site”) encompasses approximately 12.02 acres of a former industrial site in the City of Lackawanna, Erie County, New York that was historically occupied by an integrated steel mill operated by the Bethlehem Steel Corporation (BSC). The Site is one of multiple parcels on the former BSC property acquired by the Buffalo and Erie County Industrial Land Development Corporation (ILDC) for redevelopment and use as a business park. Historically, 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 Site received a “No Further Assessment” designation from the U.S. Environmental Protection Agency (USEPA). 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. With NYSDEC’s approval, Tecumseh subdivided the Phase II Business Park into 12 individual BCP sites (Sites II-1, II-2, II-3, II-4, II-5, II-6, II-7, II-8, II-9, II-10, II-11 and II-12) in 2012. The original BCA was amended to cover Site II-1, with separate BCAs executed for the remaining 11 BCP sites (i.e., Sites II-2 through II-12).

The Remedial Investigation (RI) conducted 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 RI identified isolated groundwater impacts on portions of the Phase II Business Park property, but no such impacts were found on the Site. Several phases of remedial actions were undertaken on the Phase II Business Park property in accordance with Interim Remedial Measures (IRM) Work Plans approved by the NYSDEC in 2010 and 2017. Following completion of the remedial work, some contamination was left in the soil/fill of the Site, 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, polycyclic aromatic hydrocarbons (PAHs) and polychlorinated biphenyls (PCBs) to the approximate native soil depth of 12 feet below the ground surface. The remedial efforts also included development of a SMP to manage the remaining contamination at the Site in perpetuity or until extinguishment of the Environmental Easement that was placed on the Site in accordance with Environmental Conservation Law (ECL) Article 71, Title 36. The placement of a cover system comprised of 12 inches of clean soil, stone or NYSDEC-approved material, with a demarcation layer in all areas that are not paved or covered by concrete or structures was prescribed for the Site prior to occupancy. Additionally, a vapor barrier is required to be placed under any future structures designated for occupancy.

In 2017, the cover system was placed on the Site, the Site was acquired by the ILDC 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 Site, 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 Site. No changes to the SMP or the frequency of PRR submissions are recommended at this time.

## **2.0 SITE OVERVIEW**

---

### **2.1 Site Description**

The Site is part of a larger property owned by the ILDC and located at 2303 Hamburg Turnpike in the City of Lackawanna, New York. Figure 1 shows the approximate location of the ILDC property, Figure 2 depicts the configuration of the Phase II Business Park and all 12 individual BCP sites, and Figure 3 illustrates the configuration of the approximate 12.02 acre Site. The Site is bounded to the south by land currently under development and the former 54" Roll Mill building that constitutes BCP Site II-10; to the east by undeveloped land that constitutes BCP Site II-11; to the north by undeveloped land that constitutes BCP Site I-1; and to the west by the undeveloped portions of the Phase III Business Park property. A functioning rail corridor extends along the western margin of the Site, an asphalt road crosses the northwest corner of the Site, and a gravel access road for the Niagara Wind Substation and the former 54" Roll Mill building transects the west portion of the Site. Active and undeveloped industrial properties are located west of the Site, while commercial and residential properties are located east of the Site, beyond Fuhmann Boulevard and the Hamburg Turnpike (NY Route 5). Lake Erie is situated approximately 4,207 feet to the west of the Site, while Smoke Creek is located approximately 2,037 feet southwest of the Site.

Contaminant source areas in soil/fill on the Site were remediated and the remaining soil/fill on the Site 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, PAHs and PCBs to the approximate native soil depth of 12 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**

In accordance with a NYSDEC-approved IRM Work Plan, an IRM was completed at the Site in 2017 to address contaminant "hot spots" in soil/fill. This IRM involved the excavation and treatment of approximately 1,660 cubic yards of petroleum and PAH-impacted soil/fill from three areas of the Site in a bio-treatment area constructed on Site II-9. The remedial excavations were backfilled with

NYSDEC-approved bio-treated soils.

The final remedy implemented at the Site in 2017 involved the installation of a cover system in accordance with the NYSDEC-approved Remedial Action Work Plan (RAWP). The cover system installed at the Site is comprised of the following components:

1. A minimum of 12 inches of soil material authorized by NYSDEC via a Beneficial Use Determination (BUD) placed over a demarcation layer in areas that are not otherwise covered by rail lines, pavement or structures;
2. A minimum of 12 inches of railroad ballast within the rail corridor that extends along the western Site margin;
3. A minimum of 12 inches of crushed stone for the gravel access road for the Niagara Wind Substation and the former 54" Roll Mill building that transects the west portion of the Site; and
4. A minimum of 6 inches of asphalt pavement and sub-base on the access road that crosses the northwest corner of the Site.

In addition to the cover system, an environmental easement was placed on the Site, recorded with the Erie County Clerk and mandates compliance with the NYSDEC-approved SMP and all engineering and institutional controls placed on the Site. 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 treatment 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 SMP also requires that a vapor barrier be installed beneath any future structures designated for occupancy as a conservative measure to prevent sub-slab vapor intrusion.

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

---

All remedial actions prescribed in the RAWP for the Site were completed and the remedial goals were accomplished through the removal and treatment of soil/fill "hot spots" contaminated with petroleum and PAHs; and the installation of the Site-wide cover system to prevent exposure to remaining contamination in the subsurface.

As indicated below in Section 4.1.2, the Site cover system was inspected on March 24, 2020. Based on this inspection, the cover system is intact, functioning effectively throughout the Site and is protective of public health and the environment.

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

---

#### 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 Easement. The Environmental

Easement is described on the Boundary Survey of the Phase II Business Park Site, 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; and
- Data and information pertinent to site management of the Site must be reported at the frequency and in a manner defined in the SMP.

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

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

- The Site may only be used for commercial or industrial purposes as defined by Part 375-1.8(g), and that conform to local zoning laws;
- 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 Site owner 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 Site 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 a cover system that was previously placed over the Site. This cover system is comprised of a minimum of 12 inches of BUD-approved soil material overlaying a demarcation layer (orange plastic mesh material) in all areas of the Site that are not covered by: (1) existing access roads constructed with a minimum of 6 inches of asphalt pavement and sub-base material; (2) the rail lines that extend along the western Site margin and are constructed on 12 inches of railroad ballast; or (3) gravel access road for the Niagara Wind Substation and the former 54" Roll Mill building on the west portion of the Site constructed of a minimum of 12 inches of crushed stone. 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 March 24, 2020, Mr. Andrew Benkelman, EIT of LaBella conducted the annual Site inspection, which included traversing the Site on foot to observe the current conditions. The Cover Inspection Form is included herein as Appendix 2. Appendix 3 includes photographs taken during the Site inspection.

With the exception of the paved and gravel access roads, and the rail corridor, the Site is generally vacant and undeveloped, with vegetated soil cover occurring at the ground surface. At the time of the Site inspection, the cover system components were observed to be intact and functioning as intended. During the inspection, localized areas of cover material disturbance were observed in the vicinity of utility poles recently installed on the northwestern portion of the Site. The cover system appears to have been restored and functioning as designed.

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

The IC/EC Certification Form was completed in its entirety as all ICs/ECs are in place for the Site per the SMP. Appendix 4 includes the signed NYSDEC Site Management Periodic Review Report Notice-Institutional and Engineering Controls Certification Form.

### **5.0 MONITORING PLAN COMPLIANCE REPORT**

---

#### **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 system, 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**

---

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**

---

Annual inspection of the Site was performed on March 24, 2020 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 Form (Appendix 4), 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**

---

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 Buffalo and Erie County Industrial Land Development Corporation. Any reliance on this report by a third party is at such party's sole risk.

## 9.0 REFERENCES

---

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

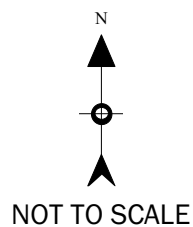
Site Management Plan for BCP Tecumseh Phase II Business Park, NYSDEC Site No. C915198 through C915198L, Turnkey Environmental Restoration, LLC, January 2014

Appendix H-10/H-12 - Site Management Plan for Tecumseh Phase II Business Park, NYSDEC Site No. C915198J (II-10) and C915198L (II-12), Turnkey Environmental Restoration, LLC, November 2017

Remedial Action Work Plan – Tecumseh Business Parks I and II, Turnkey Environmental Restoration, LLC in associations with Benchmark Environmental Engineering & Science, PLLC, June 2017

I:\ERIE COUNTY IND. DEV. AGENCY\2201208 - EIGHT BCP SITES INSPECTION\REPORTS\PRRS\SITE II-12\FINAL 2019 PRR\_SITE II-12 (C915198L) RRN EDITS.DOCX

## FIGURES



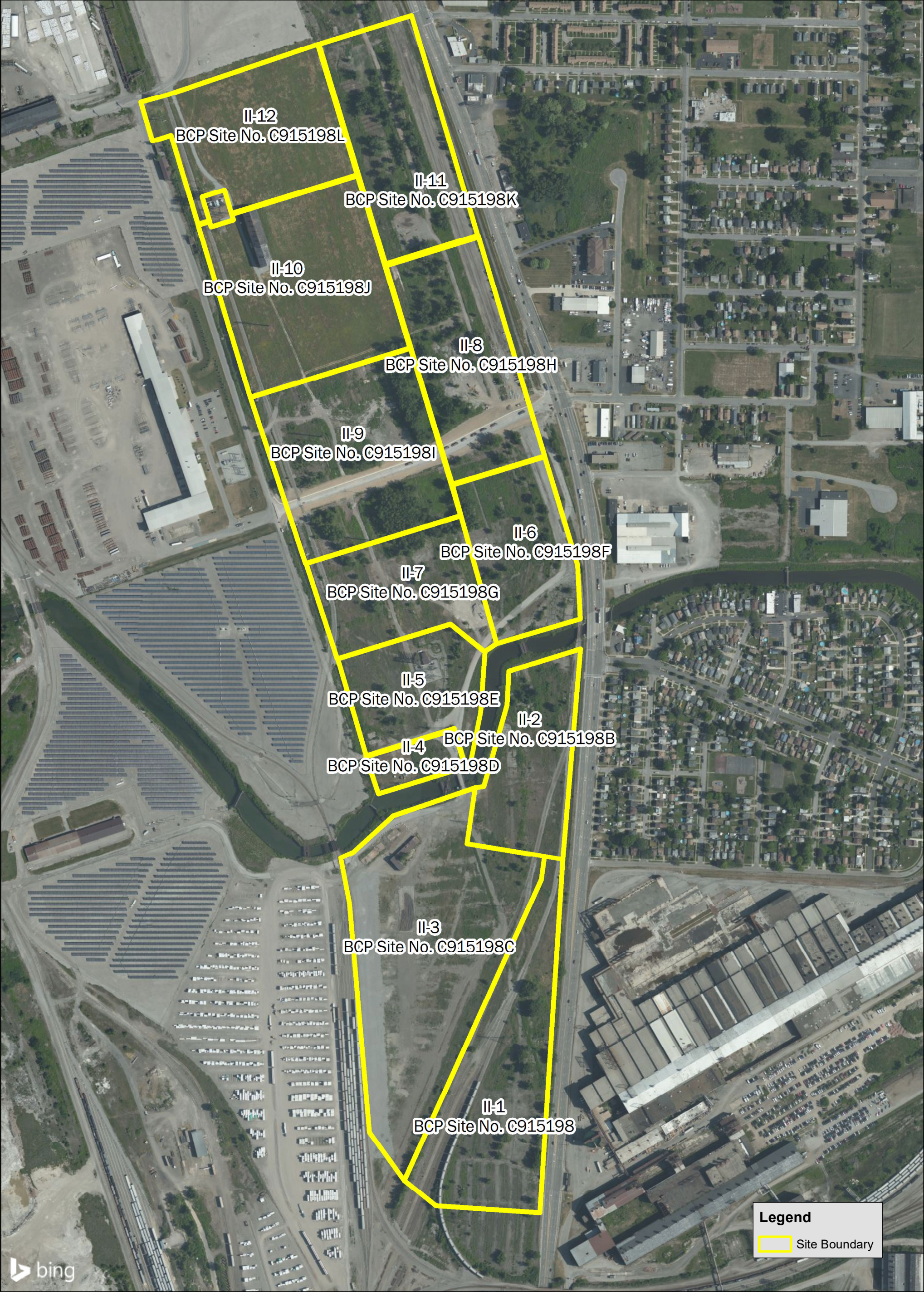
## FIGURE 1 SITE LOCATION MAP

Brownfield Cleanup Program  
Tecumseh Phase II Business Park  
Lackawanna, New York



PROJECT NO. 2201208





<p>PROJECT #/DRAWING #/ DATE</p> <div>2201208</div> <div>FIGURE 2</div> <p>4/2/2020</p>	<p>DRAWING NAME:</p> <p>PHASE II BUSINESS PARK</p>	<p>PROJECT:</p> <p>BROWNFIELD CLEANUP PROGRAM TECUMSEH PHASE II BUSINESS PARK LACKAWANNA, NEW YORK</p>	<div><div><div>N</div><div>W</div><div>E</div><div>S</div></div><div>0300600</div><div>Feet</div><div>1 inch = 417 feet</div><div>INTENDED TO PRINT AS: 11" X 17"</div></div> <div><div><div></div><div>LaBella</div><div>Powered by partnership.</div></div></div>
---	--	--	---





PROJECT #/DRAWING #/DATE: <div>2201208</div> <div>FIGURE 3</div> <div>4/2/2020</div>	DRAWING NAME: SITE PLAN	PROJECT: SITE II-12 BCP NO. C915198L TECUMSEH PHASE II BUSINESS PARK 2303 HAMBURG TURNPIKE LACKAWANNA, NEW YORK	<div><div><div>N</div><div>W</div><div>E</div><div>S</div></div><div>070140</div><div>Feet</div><div>1 inch = 167 feet</div><div>INTENDED TO PRINT AS: 8.5" X 11"</div></div> <div><div><div></div></div><div><b>LaBella</b> Powered by partnership.</div></div>
---	----------------------------	--	--

# APPENDIX 1

## Boundary Survey



# NOTES:

—ONLY COPIES FROM THE ORIGINAL OF THIS SURVEY MAP MARKED WITH THE SIGNATURE AND AN ORIGINAL OF THE LAND SURVEYOR'S SEAL SHALL BE CONSIDERED TO BE VALID TRUE COPIES.

—UNAUTHORIZED ALTERATION OR ADDITION TO ANY SURVEY DRAWING, DESIGN, SPECIFICATION, PLAN OR REPORT IS A VIOLATION OF SECTION 2209, PROVISION 2 OF THE NEW YORK STATE EDUCATION LAW.

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 NEW YORK ENVIRONMENTAL CONSERVATION LAW.

## ENVIRONMENTAL EASEMENT AREA ACCESS

THE DEC OR THEIR AGENT MAY ACCESS THE ENVIRONMENTAL EASEMENT AREA AS SHOWN HEREON THROUGH ANY EXISTING STREET ACCESS OR BUILDING INGRESS/EGRESS ACCESS POINT

THE ENGINEERING AND INSTITUTIONAL CONTROLS FOR THIS EASEMENT ARE SET FORTH IN THE SITE MANAGEMENT PLAN (SMP). A COPY OF THE SMP MUST BE OBTAINED BY ANY PARTY WITH AN INTEREST IN THE PROPERTY. THE SMP CAN BE OBTAINED FROM THE NYS DEPARTMENT OF ENVIRONMENTAL CONSERVATION, DIVISION OF ENVIRONMENTAL REMEDIATION, SITE CONTROL SECTION, 625 BROADWAY, ALBANY, NY 12233 OR AT DERWEB@GW.DEC.STATE.NY.US.

TRUE NORTH AT THE 78°35'  
MERIDIAN OF WEST LONGITUDE

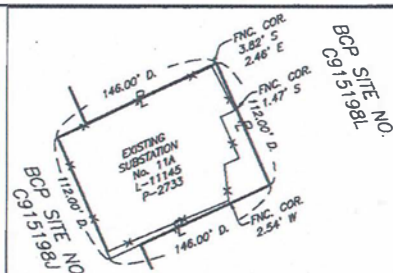
CITY OF LACKAWANNA  
TOWN OF HAMBURG

NORTHERLY LINE SOUTH BUFFALO RAILWAY COMPANY  
L-10118, P-113

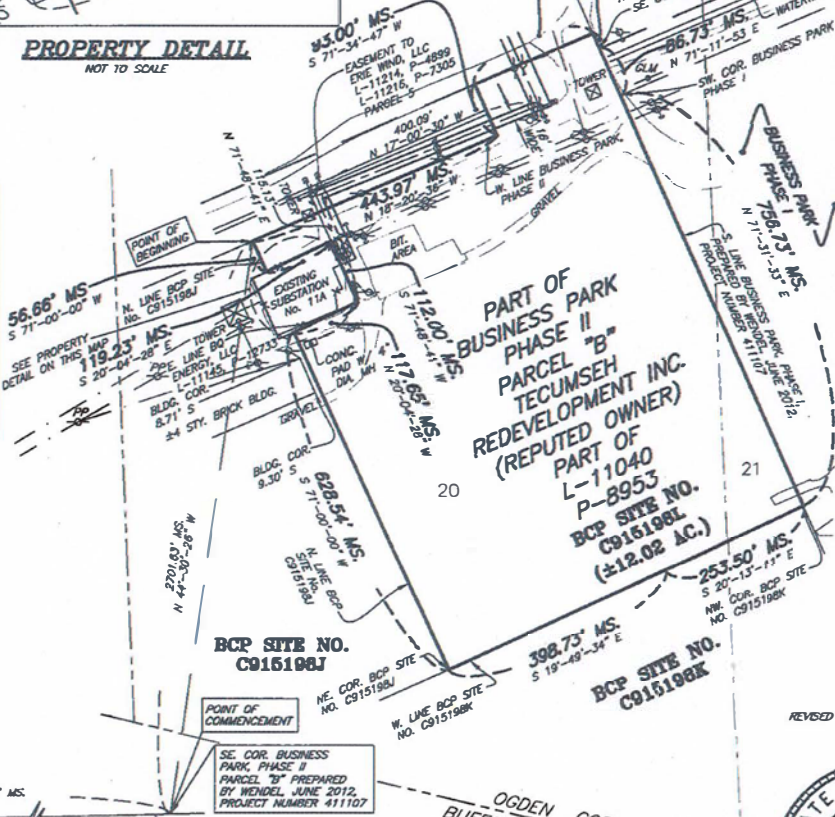
PARCEL ACQUIRED BY NEW YORK STATE DEPARTMENT OF TRANSPORTATION FOR CITY OF LACKAWANNA  
HAMBURG TURNPIKE S.H. NO. FAC 49-10  
MAP 305, PARCEL 306  
L-10960, P-2028

WENDEL PROJECT NUMBER: 411107  
DRAWING NAME: P12-12 C915198L.DWG

SEE ENVIRONMENTAL EASEMENT SURVEY DATED MAY 13, 2014, TITLE No. 1313-25073, FOR THE LOCATION OF SUBJECT PROPERTY WITHIN THE CONTROLLED SITE.



## PROPERTY DETAIL NOT TO SCALE



## ENVIRONMENTAL EASEMENT DESCRIPTION FOR BCP SITE NO. C915198L

ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE CITY OF LACKAWANNA, COUNTY OF ERIE AND STATE OF NEW YORK, BEING PART OF LOTS 20 AND 21 OF THE OGDEN GORE TRACT, BEING BCP SITE NUMBER C915198L, AS SHOWN ON A MAP OF "LAND TO BE CONVEYED TO BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION", PREPARED BY WENDEL, MAY 2017, PROJECT NUMBER 411110, (BEING PART OF WENDEL'S PROJECT No. 411107) BEING MORE PARTICULARLY BOUNDARY AND DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT IN THE WESTERLY HIGHWAY BOUNDARY OF THE HAMBURG TURNPIKE (ALSO KNOWN AS STATE ROUTE NO. 5), BEING 2884.21 FEET NORTH OF THE DIVISION LINE BETWEEN LANDS CONVEYED TO TECUMSEH REDEVELOPMENT INC. RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 11040 OF DEEDS AT PAGE 8953 ON THE NORTH, AND LANDS CONVEYED TO SOUTH BUFFALO RAILWAY COMPANY RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 10119 OF DEEDS AT PAGE 131 ON THE SOUTH, AS MEASURED ALONG THE WESTERLY HIGHWAY BOUNDARY OF THE HAMBURG TURNPIKE AS APPROVED BY NEW YORK STATE DEPARTMENT OF PUBLIC WORKS MAP 1, PARCEL 1, RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 5650 OF DEEDS AT PAGE 404 ALSO BY NEW YORK STATE DEPARTMENT OF TRANSPORTATION FOR THE CITY OF LACKAWANNA, S.H. NO. FAC 49-10, MAP 305, PARCEL 306, RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 10960 OF DEEDS AT PAGE 2028, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF SAID BUSINESS PARK PHASE II, PARCEL "B";

THENCE N 44°-30'-26" W, A DISTANCE OF 2701.63 FEET TO THE POINT OF BEGINNING, SAID POINT ALSO BEING THE WESTERLY LINE OF SAID BUSINESS PARK PHASE II, PARCEL B;

THENCE ALONG THE WESTERLY LINE OF SAID BUSINESS PARK PHASE II, PARCEL B, N 18°-20'-36" W, A DISTANCE OF 443.97 FEET TO A POINT;

THENCE S 71°-34'-47" W, A DISTANCE OF 93.00 FEET TO THE WESTERLY LINE OF SAID BUSINESS PARK PHASE II, PARCEL B;

THENCE ALONG THE WESTERLY LINE OF SAID BUSINESS PARK PHASE II, PARCEL B, N 18°-20'-36" W, A DISTANCE OF 214.85 FEET TO A POINT ON 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 1084;

THENCE ALONG THE SOUTH LINE OF SAID LANDS CONVEYED TO GATEWAY TRADE CENTER, INC., N 71°-41'-32" E, A DISTANCE OF 28.04 FEET TO THE SOUTHEAST CORNER OF GATEWAY TRADE CENTER, INC.;

THENCE EASTERLY N 71°-11'-53" E, A DISTANCE OF 86.73 FEET TO THE SOUTHWEST CORNER OF BUSINESS PARK PHASE I;

THENCE ALONG THE SOUTH LINE OF SAID BUSINESS PARK PHASE I, N 71°-31'-33" E, A DISTANCE OF 756.73 FEET TO THE NORTHWEST CORNER OF BCP SITE NUMBER C915198L;

THENCE ALONG THE WEST LINE OF BCP SITE NUMBER C915198L, S 20°-13'-11" E, A DISTANCE OF 253.50 FEET TO AN ANGLE POINT IN SAID LINE;

THENCE CONTINUING ALONG THE WEST LINE OF BCP SITE NUMBER C915198L, S 19°-49'-34" E, A DISTANCE OF 398.73 FEET TO THE NORTHEAST CORNER OF BCP SITE NUMBER C915198L;

THENCE ALONG THE NORTH LINE OF BCP SITE NUMBER C915198L, S 71°-00'-00" W, A DISTANCE OF 628.54 FEET TO A POINT IN THE EAST LINE OF LANDS CONVEYED TO BQ ENERGY, LLC BY DEED RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 11145 OF DEEDS AT PAGE 2733;

THENCE ALONG THE BOUNDARY OF SAID LANDS CONVEYED TO BQ ENERGY, LLC, THE FOLLOWING 3 COURSES AND DISTANCES:

1. N 20°-04'-28" W, A DISTANCE OF 117.85 FEET TO A POINT;
2. S 71°-48'-41" W, A DISTANCE OF 112.00 FEET TO A POINT;
3. S 20°-04'-28" E, A DISTANCE OF 119.23 FEET TO A POINT IN THE NORTH LINE OF BCP SITE NUMBER C915198L;

THENCE ALONG THE NORTH LINE OF BCP SITE NUMBER C915198L, S 71°-00'-00" W, A DISTANCE OF 56.66 FEET TO THE POINT OF BEGINNING, CONTAINING 12.02 ACRES OF LAND, MORE OR LESS.

ALTERATION OF THIS DOCUMENT, EXCEPT BY A LICENSED LAND SURVEYOR, IS ILLEGAL

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

PREPARED BY THE CONSULTANT

Wendel  
Corporate Park 375 Essjay Road, Suite 200  
Williamsville, New York 14221  
PHONE: 716.858.0766 FAX: 716.625.8925  
WEBSITE: www.wendelcorp.com  
Wendel WTD Architecture, Engineering, Surveying and Landscape Architecture P.C.

MAP OF LANDS OF  
BCA BOUNDARIES & PLANNED SUB-PARCELS BROWNFIELD CLEAN-UP PROGRAM  
IN BUSINESS PARK PHASE II

TO  
THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
SITUATE IN PART OF LOTS 20 & 21 OF THE OGDEN GORE TRACT  
TOWNSHIP 10, RANGE 8 OF THE HOLLAND LAND COMPANY'S SURVEY  
CITY OF LACKAWANNA, COUNTY OF ERIE, STATE OF NEW YORK  
T.M.# PART OF 141.11-1-1.111

200' 100' 50' 0' 200' 400'  
1 inch = 200 Feet

I HEREBY CERTIFY THAT THIS IS AN ACCURATE SURVEY MAP PREPARED UNDER MY DIRECTION, FROM AN ACTUAL SURVEY, PERFORMED IN ACCORDANCE TO THE STANDARDS AND PROCEDURES ADOPTED BY THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, SEPTEMBER 1989.

FIELD SURVEY COMPLETED JUNE 2012  
CHRISTOPHER J. SCOTT, LAND SURVEYOR #050708  
DATE 11/2/17

SHEET 1 of 1 CHECKED BY: CJS MAP NUMBER: BCP SITE NO. C915198L



**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**  
**Site Management Form**  
12/20/2017

**SITE DESCRIPTION**

**SITE NO.** C915198L

**SITE NAME** Site II-12 Tecumseh Phase II Business Park

**SITE ADDRESS:** 2303 Hamburg Turnpike **ZIP CODE:** 14218

**CITY/TOWN:** Lackawanna

**COUNTY:** Erie

**ALLOWABLE USE:** Commercial and Industrial

**SITE MANAGEMENT DESCRIPTION**

**SITE MANAGEMENT PLAN INCLUDES:** YES NO

IC/EC Certification Plan



Monitoring Plan



Operation and Maintenance (O&M) Plan



Periodic Review Frequency: once a year

Periodic Review Report Submitted Date: 04/29/2019

**Description of Institutional Control**

**Buffalo & Erie County ILDC**

95 Perry Street, Suite 403

**2303 Hamburg Turnpike**

Environmental Easement

Block: 1

Lot: 48

Sublot: 1

Section: 141

Subsection: 11

S\_B\_L Image: 141.11-1-48.1

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan



## Description of Engineering Control

**Buffalo & Erie County ILDC**

95 Perry Street, Suite 403

**2303 Hamburg Turnpike**

Environmental Easement

Block: 1

Lot: 48

Sublot: 1

Section: 141

Subsection: 11

S\_B\_L Image: 141.11-1-48.1

Cover System

## APPENDIX 2

### Cover Inspection Form

# Annual Site Inspection Form

**Tecumseh Phase II Business Park – Site II-12**  
**2303 Hamburg Turnpike, Lackawanna, New York**  
**NYSDEC Site No. C915198L**

Date: March 24, 2020

**Inspector:** Andrew Benkleman

Weather: Overcast, 45°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.

Undeveloped

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

Localized areas of cover disturbance were observed in the vicinity of utility poles recently installed on the northwest portion of the Site. The cover system appears to have been restored and functioning as designed.

SITE COVER EFFECTIVENESS: As Intended or Needs Repair

As Intended

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

Acceptable:   X   Unacceptable            describe:

## APPENDIX 3

### Photographs



Site from southeast corner facing northwest



Site from southwest corner facing northeast



Site from northeast corner facing southwest



North portion of Site from northwest corner



Site from northwest corner facing southeast



East Site boundary from the northeast corner





Site from north boundary facing south



Northwest portion of Site



Access road across west portion of Site



Railroad tracks across west portion of Site



Cover disturbance from installation of new utility pole

## APPENDIX 4

**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.**            **C915198L**

**Site Name** **Site II-12 Tecumseh Phase II Business Park**

Site Address: 2303 Hamburg Turnpike      Zip Code: 14218  
City/Town: Lackawanna  
County: Erie  
Site Acreage: 12.020

Reporting Period: April 28, 2019 to April 28, 2020

YES    NO

1. Is the information above correct? ☒    ☐

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

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

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

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

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

5. Is the site currently undergoing development? ☐    ☒

**Box 2**

YES    NO

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

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

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

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

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

\_\_\_\_\_  
Date

**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. C915198L****Box 3****Description of Institutional Controls**ParcelOwnerInstitutional Control**141.11-1-48.1**

Buffalo &amp; Erie County ILDC

Soil Management Plan  
IC/EC Plan  
Ground Water Use Restriction  
Landuse Restriction  
Monitoring Plan  
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**

Cover System

Engineering Control Description:

Soil cover, over 5 acres

**Periodic Review Report (PRR) Certification Statements**

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

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

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

YES NO

☒☐

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

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

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

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

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

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

YES NO

☒☐

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

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

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

\_\_\_\_\_  
Date

IC CERTIFICATIONS  
SITE NO. C915198L

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 Cappellino at 95 Perry St. Buffalo, NY 14203  
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.

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

5/15/2020  
Date

## IC/EC CERTIFICATIONS

Box 7

### Qualified Environmental Professional Signature

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

I ROBERT NAPIERALSKI at LABELLA ASSOCIATES, DPC  
print name print business address

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

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

\_\_\_\_\_  
Stamp  
(Required for PE)

5-19-20  
Date