

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Remedial Bureau E  
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July 1, 2015

Mr. Keith A. Nagel  
Tecumseh Redevelopment Inc.  
4020 Kinross Lakes Parkway  
Richfield, OH 44286

RE: Tecumseh Phase III-1 Business Park  
Site ID No. C915199, Lackawanna (C), Erie County  
No Further Action Decision Document

Dear Mr. Nagel:

The New York State Department of Environmental Conservation (Department) and the New York State Department of Health (NYSDOH) have reviewed the Interim Remedial Measure Remedial Work Plan (RWP) for the Tecumseh Phase III-1 Business Park Site dated August 2011 and prepared by Benchmark on behalf of Tecumseh Redevelopment Inc. The IRMWP is hereby approved. Please ensure that a copy of the approved IRMWP is placed in the document repository(ies). The draft plan should be removed.

Enclosed is a copy of the Department's Decision Document for the site. The remedy is to be implemented in accordance with this Decision Document. Please ensure that a copy of the Decision Document is placed in the document repository(ies).

Please contact the Department's Project Manager, Maurice Moore, at (716) 851-7220 or [maurice.moore@dec.ny.gov](mailto:maurice.moore@dec.ny.gov) at your earliest convenience to discuss next steps.

Sincerely,



Michael J. Cruden, P.E.  
Director  
Remedial Bureau E  
Division of Environmental Remediation

Enclosure

cc: R. Schick/M. Ryan, NYSDEC  
P. Foster, NYSDEC  
C. Staniszewski/M. Moore, NYSDEC, Region 9  
K. Anders/C. Bethoney/M. Forcucci, NYSDOH  
T. Forbes, P.E., Benchmark  
C. Slater, Esq., The Slater Law Firm

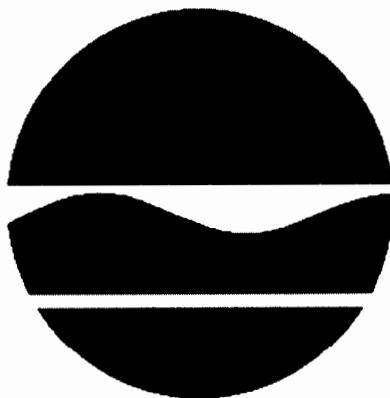


Department of  
Environmental  
Conservation

# **DECISION DOCUMENT**

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Site III-1 Tecumseh Phase III Business Park  
Brownfield Cleanup Program  
Lackawanna, Erie County  
Site No. C915199  
June 2015



Prepared by  
Division of Environmental Remediation  
New York State Department of Environmental Conservation

# **DECLARATION STATEMENT - DECISION DOCUMENT**

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Site III-1 Tecumseh Phase III Business Park  
Brownfield Cleanup Program  
Lackawanna, Erie County  
Site No. C915199  
June 2015

## **Statement of Purpose and Basis**

This document presents the remedy for the Site III-1 Tecumseh Phase III Business Park site, a brownfield cleanup site. The remedial program was chosen in accordance with the New York State Environmental Conservation Law and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR) Part 375.

This decision is based on the Administrative Record of the New York State Department of Environmental Conservation (the Department) for the Site III-1 Tecumseh Phase III Business Park site and the public's input to the proposed remedy presented by the Department.

## **Description of Selected Remedy**

During the course of the investigation certain actions, known as interim remedial measures (IRMs), were undertaken at the above referenced site. An IRM is conducted at a site when a source of contamination or exposure pathway can be effectively addressed before completion of the remedial investigation (RI) or alternatives analysis (AA). The IRM(s) undertaken at this site are discussed in Section 6.2.

Based on the implementation of the IRM(s), the findings of the investigation of this site indicate that the site no longer poses a threat to human health or the environment; therefore No Further Action is the selected remedy. The remedy may include continued operation of a remedial system if one was installed during the IRM and the implementation of any prescribed institutional controls/engineering controls (ICs/ECs) that have been identified as being part of the proposed remedy for the site.

## **Declaration**

The remedy conforms with promulgated standards and criteria that are directly applicable, or that are relevant and appropriate and takes into consideration Department guidance, as appropriate. The remedy is protective of public health and the environment.

**Michael J Cruden**

Digitally signed by Michael J Cruden  
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c=US  
Date: 2015.06.24 14:54:10 -04'00'

Date

Michael Cruden, Director  
Remedial Bureau E

# DECISION DOCUMENT

Site III-1 Tecumseh Phase III Business Park  
Lackawanna, Erie County  
Site No. C915199  
June 2015

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## **SECTION 1: SUMMARY AND PURPOSE**

The New York State Department of Environmental Conservation (the Department), in consultation with the New York State Department of Health (NYSDOH), has selected a remedy for the above referenced site. The disposal of contaminants at the site resulted in threats to public health and the environment that were addressed by actions known as interim remedial measures (IRMs), which were undertaken at the site. An IRM is conducted at a site when a source of contamination or exposure pathway can be effectively addressed before completion of the remedial investigation (RI) or alternative analysis (AA). The IRM undertaken at this site are discussed in Section 6.2.

Based on the implementation of the IRM, the findings of the investigation of this site indicate that the site no longer poses a threat to human health or the environment. The IRM conducted at the site attained the remediation objectives identified for this site, which are presented in Section 6.5, for the protection of public health and the environment. No Further Action is the selected remedy. A No Further Action remedy may include continued operation of any remedial system installed during the IRM and the implementation of any prescribed controls that have been identified as being part of the remedy for the site. This DD identifies the IRM conducted and discusses the basis for No Further Action.

The New York State Brownfield Cleanup Program (BCP) is a voluntary program. The goal of the BCP is to enhance private-sector cleanups of brownfields and to reduce development pressure on "greenfields." A brownfield site is real property, the redevelopment or reuse of which may be complicated by the presence or potential presence of a contaminant.

The Department has issued this document in accordance with the requirements of New York State Environmental Conservation Law and 6 NYCRR Part 375. This document is a summary of the information that can be found in the site-related reports and documents.

## **SECTION 2: CITIZEN PARTICIPATION**

The Department seeks input from the community on all remedies. A public comment period was held, during which the public was encouraged to submit comment on the proposed remedy. All comments on the remedy received during the comment period were considered by the Department in selecting a remedy for the site. Site-related reports and documents were made available for review by the public at the following document repositories:

Lackawanna Public Library

Attn: Jennifer Hoffman  
560 Ridge Road  
Lackawanna, NY 14218  
Phone: 716-823-0630

NYS DEC  
Attn: Maurice Moore  
270 Michigan Ave.  
Buffalo, NY 14203  
Phone: 716-851-7220

### **Receive Site Citizen Participation Information By Email**

Please note that the Department's Division of Environmental Remediation (DER) is "going paperless" relative to citizen participation information. The ultimate goal is to distribute citizen participation information about contaminated sites electronically by way of county email listservs. Information will be distributed for all sites that are being investigated and cleaned up in a particular county under the State Superfund Program, Environmental Restoration Program, Brownfield Cleanup Program, Voluntary Cleanup Program, and Resource Conservation and Recovery Act Program. We encourage the public to sign up for one or more county listservs at <http://www.dec.ny.gov/chemical/61092.html>

### **SECTION 3: SITE DESCRIPTION AND HISTORY**

#### **Location:**

Tecumseh Phase III-1 is one of 10 sub-parcels comprising the Tecumseh Phase III Business Park (Phase III) located at 2303 Hamburg Turnpike in the City of Lackawanna, Erie County. Situated in a former industrial area, Phase III is part a larger property that once included the Bethlehem Steel Company (BSC) identified on the Erie County Tax maps as SBL 141.11-1-50. Phase III is located to the west of Route 5 and the Tecumseh Phase II Business Park, to the south of Gateway Metroport and east of the remaining Former Bethlehem Steel Property.

#### **Site Features:**

Located at the southernmost portion within Phase III the site is a 14.62 acre sub-parcel with no remarkable or unique features. The mostly rectangular Phase III is approximately 5,500 feet long, averages 1,500 feet wide and is approximately 148.83 acres in size. Bisected by Smokes Creek, Phase III is flat, covered with slag fill and remnants of former steel manufacturing buildings and foundations. Most of the business park is vegetated with natural grasses, shrubs and poplar trees typical of a primary shrub-young forest ecosystem. Also typical are remnants of former steel manufacturing buildings and foundations. The entire BSC property is fenced with vehicle access limited to one automatic gate.

#### **Current Zoning and Land Use:**

Phase III and the site are zoned medium industrial. Current use of the site is as a lumber storage and transfer operation where bulk lumber arrives by rail and is transferred to trucks for shipment to wholesale/retail operations. Surrounding uses specific to the site include: adjacent to the eastern

side is a rail corridor with an ethylene rail to truck transfer station and to the south is a bulk metals recycling operation. Future use is anticipated to be a permanent transfer facility or similar operation.

#### Past Use of the Site:

Phase III-1 was formerly a portion of BSC's steelmaking operations. Specific processes and steelmaking facilities performed on or proximate to the site that contributed to soil impacts included:

- Slabyards
- Stool Straightening
- Stripper buildings
- Welding and tool supply
- Craneways

#### Site Geology and Hydrology:

The entire Phase III is mostly filled land with between two to eight feet of steel and iron-making slag as well as other fill material being used for backfill. Underlying the fill material are lacustrine silts and clays. At the site native material is encountered from about 12 to 14 feet below ground surface.

Bedrock is Middle Devonian age, Skaneateles Formation consisting of Levanna shales and Stafford limestone of the Hamilton Group. Bedrock varies from about 24 feet deep in the southeastern corner of the site to 45 feet deep near the northern border of Phase III.

Due to the porous nature of the slag/soil fill there is very little storm water retention, or surface runoff, as most of the precipitation seeps into the highly permeable slag/soil fill. Any surface waters flow northerly into Smokes Creek which discharges to the west into Lake Erie.

Groundwater, when encountered, is about 6 feet deep trending northerly and westerly toward Lake Erie.

A site location map is attached as Figure 1.

## **SECTION 4: LAND USE AND PHYSICAL SETTING**

The Department may consider the current, intended, and reasonably anticipated future land use of the site and its surroundings when evaluating a remedy for soil remediation. For this site, alternatives that restrict the use of the site to commercial use (which allows for industrial use) as described in Part 375-1.8(g) were evaluated in addition to an alternative which would allow for unrestricted use of the site.

A comparison of the results of the investigation to the appropriate standards, criteria and guidance values (SCGs) for the identified land use and the unrestricted use SCGs for the site contaminants is available in the Remedial Investigation (RI) Report.

## **SECTION 5: ENFORCEMENT STATUS**

The Applicant under the Brownfield Cleanup Agreement is a Volunteer. The Applicant does not have an obligation to address off-site contamination. However, the Department has determined that this site does not pose a significant threat to public health or the environment; accordingly, no enforcement actions are necessary.

## **SECTION 6: SITE CONTAMINATION**

### **6.1: Summary of the Remedial Investigation**

A remedial investigation (RI) serves as the mechanism for collecting data to:

- characterize site conditions;
- determine the nature of the contamination; and
- assess risk to human health and the environment.

The RI is intended to identify the nature (or type) of contamination which may be present at a site and the extent of that contamination in the environment on the site, or leaving the site. The RI reports on data gathered to determine if the soil, groundwater, soil vapor, indoor air, surface water or sediments may have been contaminated. Monitoring wells are installed to assess groundwater and soil borings or test pits are installed to sample soil and/or waste(s) identified. If other natural resources are present, such as surface water bodies or wetlands, the water and sediment may be sampled as well. Based on the presence of contaminants in soil and groundwater, soil vapor will also be sampled for the presence of contamination. Data collected in the RI influence the development of remedial alternatives. The RI report is available for review in the site document repository and the results are summarized in section 6.3.

The analytical data collected on this site includes data for:

- groundwater
- soil

#### **6.1.1: Standards, Criteria, and Guidance (SCGs)**

The remedy must conform to promulgated standards and criteria that are directly applicable or that are relevant and appropriate. The selection of a remedy must also take into consideration guidance, as appropriate. Standards, Criteria and Guidance are hereafter called SCGs.

To determine whether the contaminants identified in various media are present at levels of concern, the data from the RI were compared to media-specific SCGs. The Department has developed SCGs for groundwater, surface water, sediments, and soil. The NYSDOH has developed SCGs for drinking water and soil vapor intrusion. For a full listing of all SCGs see: <http://www.dec.ny.gov/regulations/61794.html>

#### **6.1.2: RI Results**

The data have identified contaminants of concern. A "contaminant of concern" is a contaminant that is sufficiently present in frequency and concentration in the environment to require evaluation for remedial action. Not all contaminants identified on the property are contaminants of concern. The nature and extent of contamination and environmental media requiring action are summarized below. Additionally, the RI Report contains a full discussion of the data. The contaminant(s) of concern identified at this site is/are:

arsenic  
mercury

benzo(a)pyrene  
dibenz[a,h]anthracene

Based on the investigation results, comparison to the SCGs, and the potential public health and environmental exposure routes, certain media and areas of the site required remediation. These media were addressed by the IRM described in Section 6.2. More complete information can be found in the RI Report and the IRM Construction Completion Report.

## **6.2: Interim Remedial Measures**

An interim remedial measure (IRM) is conducted at a site when a source of contamination or exposure pathway can be effectively addressed before issuance of the Decision Document.

The following IRM has been completed at this site based on conditions observed during the RI.

### **Interim Remedial Measure - Site Cover**

An Interim Remedial Measure implemented in October/November 2011 included the placement of a site cover over the entire site as all areas exceeded the applicable soil cleanup objectives (SCOs). The cover is a minimum of one foot in depth, consisting of 96,000 tons of Department approved beneficial use determination (BUD) slag placed over a demarcation layer. The slag brought to the site for cover meets the requirements for the commercial use of the site as set forth in 6 NYCRR Part 375-6.7(d).

## **6.3: Summary of Environmental Assessment**

This section summarizes the assessment of existing and potential future environmental impacts presented by the site. Environmental impacts may include existing and potential future exposure pathways to fish and wildlife receptors, wetlands, groundwater resources, and surface water. The RI report presents a detailed discussion of any existing and potential impacts from the site to fish and wildlife receptors.

### **Post Remediation:**

The nature and extent of metals contamination remaining is consistent with the former site use as a steel manufacturing facility. Remaining soil exceeds unrestricted and residential use site cleanup objectives (SCOs). When compared to the commercial SCOs, arsenic and mercury are found to exceed the SCOs. Arsenic was found ranging from 6.3 ppm to 25.7 ppm exceeding the commercial



SCO of 16 ppm in 6 of 7 of the samples. Mercury was found from 0.029 ppm to 4.8 ppm exceeding the commercial SCO of 2.8 ppm in only one sample. The only SVOCs exceeding commercial SCOs were benzo(a)pyrene from 0.055 ppm to 2.8 ppm with a SCO of 1 ppm and dibenzo(a,h)anthracene from 0.16 ppm to 0.6 ppm exceeding the SCO of 0.56 ppm. A cover system including approximately 96,000 tons of BUD approved slag, laid to a depth of greater than 12 inches, over a demarcation layer has been placed over the entire site preventing contact with the remaining soil.

Groundwater sampling for SVOCs, VOCs and metals indicates that groundwater at the site does not exceed groundwater quality standards (GwQS). However, the pH of groundwater slightly exceeds GwQS. Site groundwater is not used at the site and is restricted from use for either potable or non-potable purposes without treatment by an environmental easement.

#### **6.4: Summary of Human Exposure Pathways**

This human exposure assessment identifies ways in which people may be exposed to site-related contaminants. Chemicals can enter the body through three major pathways (breathing, touching or swallowing). This is referred to as *exposure*.

Measures are in place to prevent access and contact with contamination in soil. People are not drinking the contaminated groundwater because the area is served by a public water supply that is not affected by this site.

#### **6.5: Summary of the Remediation Objectives**

The objectives for the remedial program have been established through the remedy selection process stated in 6 NYCRR Part 375. The goal for the remedial program is to restore the site to pre-disposal conditions to the extent feasible. At a minimum, the remedy shall eliminate or mitigate all significant threats to public health and the environment presented by the contamination identified at the site through the proper application of scientific and engineering principles.

The remedial action objectives for this site are:

##### **Groundwater**

###### **RAOs for Public Health Protection**

- Prevent ingestion of groundwater with contaminant levels exceeding drinking water standards.

##### **Soil**

###### **RAOs for Public Health Protection**

- Prevent ingestion/direct contact with contaminated soil.

###### **RAOs for Environmental Protection**

- Prevent impacts to biota from ingestion/direct contact with soil causing toxicity or impacts from bioaccumulation through the terrestrial food chain.

## **SECTION 7: ELEMENTS OF THE SELECTED REMEDY**

Based on the results of the investigations at the site, the IRM that has been performed, and the evaluation presented here, the Department is proposing No Further Action as the remedy for the site. This No Further Action remedy includes the site cover system installed as an IRM (see Figure 2) and the implementation of ICs/ECs including; restricted use, prohibition of groundwater use, implementation of a Site Management Plan (SMP) and submission of a periodic review report. The Department believes that this remedy is protective of human health and the environment and satisfies the remediation objectives described in Section 6.5.

The elements of the IRM already completed and the institutional and engineering controls are listed below:

1. Green remediation principles and techniques will be implemented to the extent feasible in the site management of the remedy as per DER-31. The major green remediation components are as follows;

- Considering the environmental impacts of treatment technologies and remedy stewardship over the long term;
- Reducing direct and indirect greenhouse gases and other emissions;
- Increasing energy efficiency and minimizing use of non-renewable energy;
- Conserving and efficiently managing resources and materials;
- Reducing waste, increasing recycling and increasing reuse of materials which would otherwise be considered a waste.

2. A site cover installed as an IRM currently exists and will be maintained to allow for commercial use or industrial use of the site. Any site redevelopment will maintain a site cover, which may consist of structures such as buildings, pavement, sidewalks comprising the site development or other approved cover in areas where the upper one foot of exposed surface soil exceeds the applicable soil cleanup objectives (SCOs). Where cover is required it is a minimum of one foot of material, meeting the SCOs for cover material as set forth in 6 NYCRR Part 375-6.7(d) for commercial use. The cover has been placed over a demarcation layer. Fill material brought to the site met the requirements for the identified site use as set forth in 6 NYCRR Part 375-6.7(d).

3. Imposition of an institutional control in the form of an environmental easement is in place for the controlled property that:

- allows the use and development of the controlled property for commercial and industrial uses as defined by Part 375-1.8(g), although land use is subject to local zoning laws;
- restricts the use of groundwater as a source of potable or process water, without necessary water quality treatment as determined by the NYSDOH or County DOH;

- requires compliance with the Department approved Site Management Plan; and
- requires the remedial party or site owner to complete and submit to the Department a periodic certification of institutional and engineering controls in accordance with Part 375-1.8 (h)(3.)

4. A Site Management Plan is in place which includes the following:

a. an Institutional and Engineering Control Plan that identifies all use restrictions and engineering controls for the site and details the steps and media-specific requirements necessary to ensure the following institutional and/or engineering controls remain in place and effective:

Institutional Controls: The Environmental Easement discussed in Paragraph 3 above.

Engineering Controls: The cover discussed in Paragraph 2.

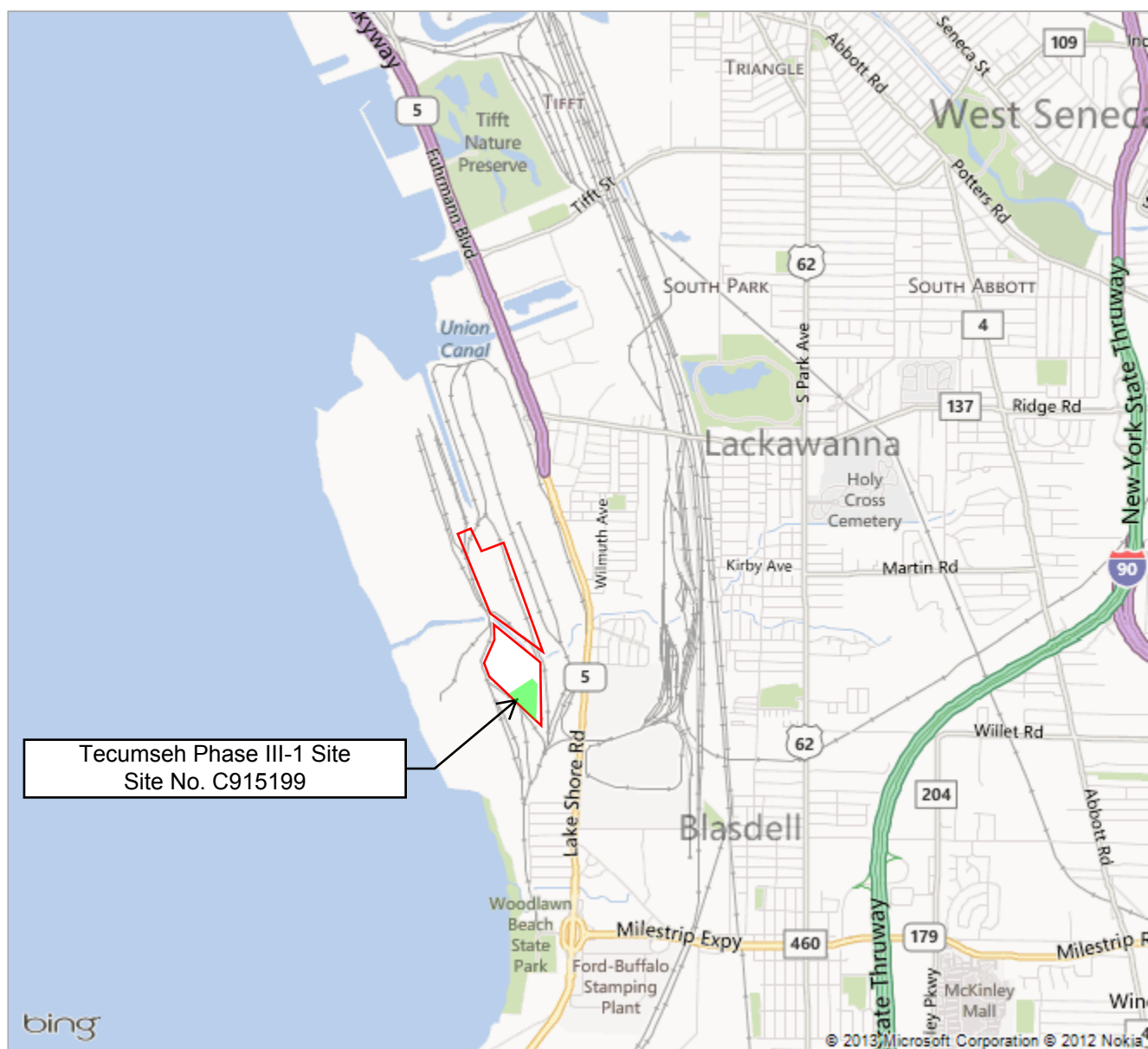
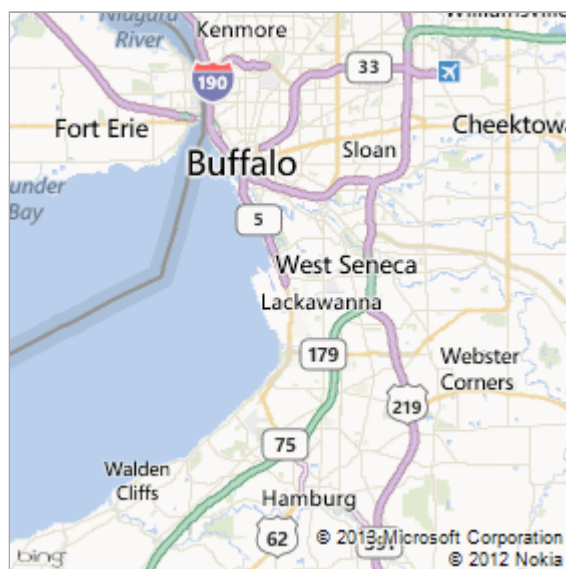
This plan includes, but is not limited to:

- an Excavation Plan which details the provisions for management of future excavations in areas of remaining contamination;
- provisions for the management and inspection of the identified engineering controls;
- maintaining site access controls and Department notification; and
- the steps necessary for the periodic reviews and certification of the institutional and/or engineering controls.

FIGURE 1

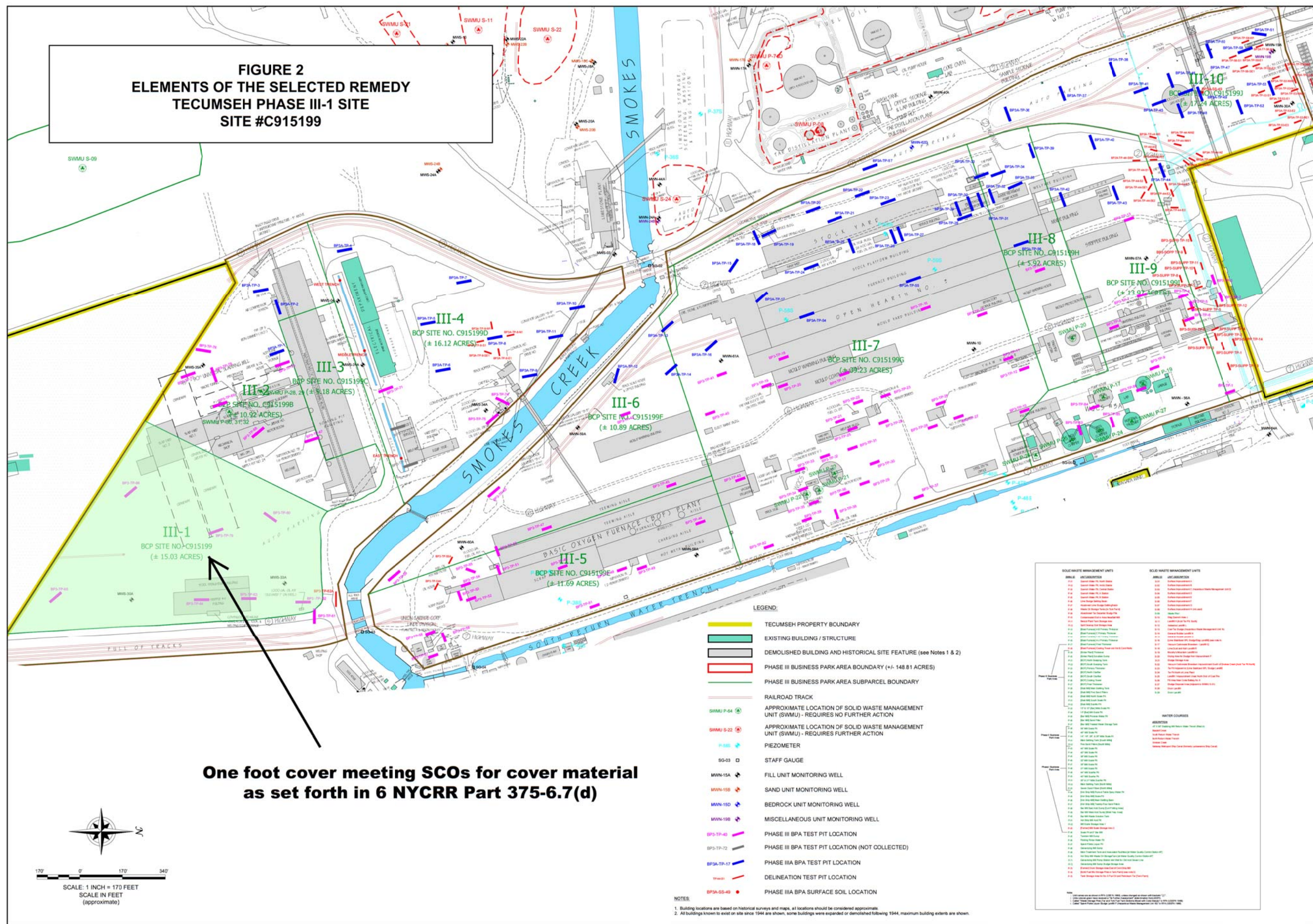
Site Location  
Tecumseh Phase III Business Park

Phase III-1 Site  
Site No. C915199

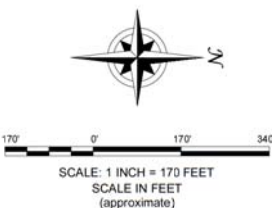




**FIGURE 2**  
**ELEMENTS OF THE SELECTED REMEDY**  
**TECUMSEH PHASE III-1 SITE**  
**SITE #C915199**



**One foot cover meeting SCOs for cover material  
as set forth in 6 NYCRR Part 375-6.7(d)**

[illegible]