

**Cobey, LLC
One Ship Canal Parkway
Buffalo, New York 14218**

Periodic Review Report

**Cobey, LLC Site
Buffalo, New York
BCP Site #C915202**

September 2011

6245001

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1. Introduction

ARCADIS (formerly Malcolm Pirnie, Inc.) has prepared this Periodic Review Report (PRR) for the Cobey, LLC (Cobey) Site as a requirement of the New York State Department of Environmental Conservation (NYSDEC) Brownfield Cleanup Program. The Site is part of the Buffalo Lakeside Commerce Park (BLCP) in Buffalo, New York. The Site is located along the southern perimeter of the BCLP and consists of approximately 12.3 acres. The location of the Site is shown on Figure 1.

Previous investigations have determined that on-site surface and subsurface soil/fill is identified as the single media of concern. The remedial investigation of the Site performed under the BCP determined that the soil/fill contained SVOCs at concentrations in excess of regulatory criteria applicable at that time (NYSDEC TAGM 4046 Recommended Soil Cleanup Objectives (RSCOs)), and or urban background concentrations. Also, the metals arsenic, barium, cadmium, chromium, lead, mercury, selenium, silver, and cyanide were detected at concentrations above the TAGM RSCOs and/or expected background concentrations. The presence, concentration and distribution of these constituents appear to be attributable to the contents of the soil/fill material underlying the entire Site rather than a former or current on-Site contaminant source.

The remedial program at the Site consisted of covering the entire site to isolate the underlying soil/fill material. The cover materials consist of asphalt in areas of paved parking lots and Site driveways, concrete slab foundation beneath the Site building, concrete walkways, and a 12-inch thick layer of clean soil, in low use green-space areas.

The cover system inspection indicates that the various cover system components are in-place and functioning as intended. A few areas of the existing soil cover system require minor action to prevent the functionality and effectiveness of the cover system from being compromised over time. Based on the results of this annual periodic inspection, as well as the preceding three annual inspections which confirm a cover system in good condition that is well maintained, a change in the frequency of inspection and PRR submittals is recommended. A tri-annual inspection period is recommended. As provided in the Site Management Plan, the Site owner is obligated to comply with the Soil/Fill Management Plan, the Operation, Monitoring, and Maintenance Work Plan, and the Environmental Easement.

2. Site Overview

The Site is a 12.3 acre parcel located in the southwestern corner of the BCLP. As shown on Figure 2, the Site is bordered on the west by New York State Route 5, to the south by the Lackawanna Commerce Park, to the east by CSX railroad tracks, and north by property owned by the Buffalo Urban Development Corporation (BUDC).

Previous investigations of the on-site surface and subsurface soil/fill identified elevated SVOC concentrations in excess of NYSDEC guidance criteria in place at the time of investigation (TAGM 4046 Recommended Soil Cleanup Objectives (RSCOs), and or urban background concentrations). Also, metals that included arsenic, barium, cadmium, chromium, lead, mercury selenium, silver, and cyanide were detected at concentrations above the TAGM RSCOs and/or accepted background concentrations.

As a prerequisite for occupancy, one or more institutional and/or engineering controls were implemented. Accordingly, the entire Site was covered with a final cover system as required in the Remedial Action Work Plan (Malcolm Pirnie, 2006). This cover system was installed to eliminate the potential for human contact with the soil/fill material. The cover material at the site consists of a barrier layer that may include a combination of one or more of the following protective layers:

- a minimum of 12-inches of clean soil;
- four inches of asphalt;
- four inches of concrete with a minimum gravel sub-base thickness of six inches placed in newly paved areas of the Site, including the Site building.

During advancement of the Cobey building foundation footers using a caisson drill, oily soil/fill material was observed at one of the caisson borings identified as location D-20. The impacted soil/fill was stockpiled, characterized, and disposed of offsite with NYSDEC approval at a permitted landfill. The location of where the impacted soil/fill was encountered is illustrated as point A on Figure 3.

A remnant of a buried steel vessel was encountered during Site development activities that included the excavation of utility trenches and building footers. In accordance with the soil handling protocols described in the NYSDEC-approved Soil/Fill Management Plan, the vessel and surrounding impacted soil/fill were removed as part of the Site redevelopment. The volume of soil/fill removal from within and around the steel vessel

was approximately 51 tons. Figure 3 illustrates the approximate location from where the vessel and related impacted soil/fill were removed. A combined total of 67.68 tons of impacted soil were removed and disposed off-Site at a permitted landfill. The removal work was completed with NYSDEC oversight and approval.

The entire Site was covered to isolate the underlying soil/fill material using asphalt, concrete, or a 12-inch thick layer of clean soil.

The soil cover was installed in areas where vehicular use is not anticipated. Prior to placement of the soil cover, a demarcation layer was rolled out over the entire area. The demarcation layer is composed of a fine polypropylene mesh made by Internet® that is bright orange in color with a mesh size of 3/4" x 5/8". The soil cover system installed at the Site is comprised of borrow soil from off Site locations that were tested and confirmed "clean" in accordance with the Soil/Fill Management Plan.

3. Remedy Performance

Annual inspections have been conducted at the Cobey Site since 2008. The site inspections consisted of a visual site walk-over to observe and photograph the integrity of the cover systems including sloughing, cracks, settlement, erosion, distressed vegetation, and damaged cover system. The August 26, 2011 site inspection indicates that the various cover system components are functioning as intended. No deficiencies in the cover system have been noted, only areas needing minor improvements to improve the grass cover have been identified to prevent future damage (i.e.: potential erosion) to the soil cover system. The Site inspection report and photographs are included as Appendix A and Appendix B, respectively.

4. IC / EC Plan Compliance Report

Institutional Controls and Engineering Controls (IC/EC) currently enacted for the Cobey Site include:

- Soil/Fill Management Plan;
- Operation, Monitoring, and Maintenance Work Plan;
- Environmental Easement.

4.1 The Soil/Fill Management Plan

The Soil/Fill Management Plan (S/FMP) is designed to provide for the protection of human health and the environment during redevelopment and use of the Site. The S/FMP documents known Site background information and describes requisite handling procedures for subsurface contamination, if encountered. The S/FMP establishes protocols to be implemented during the following events for redevelopment and infrastructure improvements. The protocols provide for and include:

- Sampling, handling, excavation and grading of on-Site soils.
- Standards for soil/fill acceptability from off-Site sources for use as on-Site backfill, subgrade fill, or cover material.
- Erosion and dust control.
- Installation of fencing and other Site access control devices.
- Health and safety procedures for Site construction work.

Any construction or redevelopment activities that take place at the Cobey Site will follow the protocols outlined in the S/FMP.

4.2 Operation, Monitoring, and Maintenance Work Plan

The Operation, Monitoring, and Maintenance Work Plan describes the conditions and procedures for maintaining the physical components of the completed Site redevelopment and defines requisite elements for this annual inspection and certification.

4.3 Environmental Easement

An Environmental Easement pursuant of Title 36 to Article 71 of the New York State Environmental Conservation Law, and the NYSDEC was granted for the Cobey site. The easement was signed on June 26, 2006 and accepted by the State of New York on September 6, 2006. The easement stipulates that the property can be used for commercial and industrial purposes contingent upon the long-term implementation of the institutional and engineering controls summarized below:

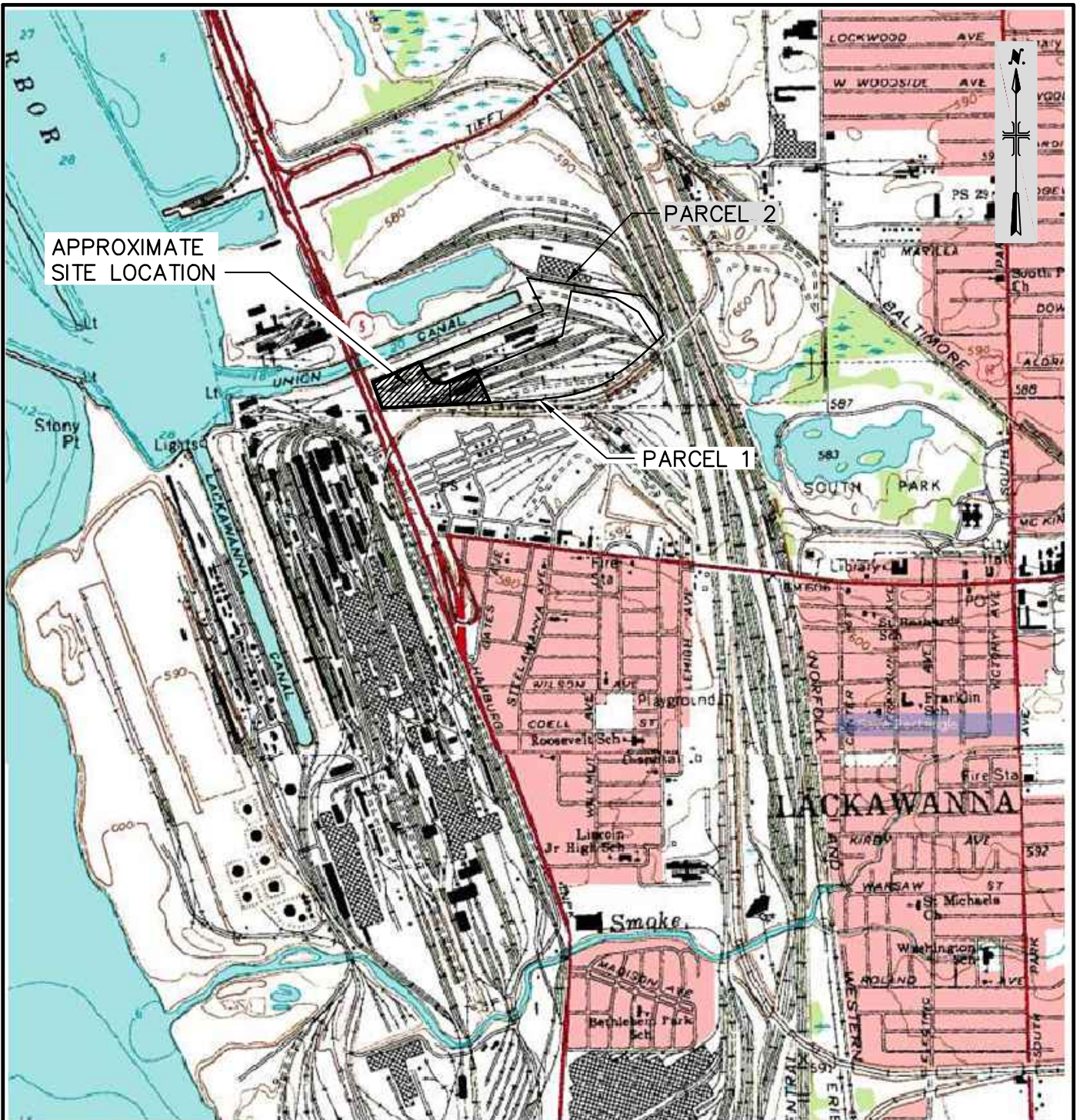
- Site (Controlled Property) soil/fill must be covered with a NYSDEC-approved barrier layer that may include structures, concrete, asphalt, or a minimum of 12-inches of clean soil.
- Site (Controlled Property) soil/fill that is excavated below the barrier layer on the Controlled Property will be managed, characterized and properly disposed of in accordance with NYSDEC regulations, directives, and the Soil/Fill Management Plan.
- Site (Controlled Property) groundwater may not be used unless rendered safe for drinking or industrial use, as appropriate, subsequent to obtaining permission from the regulatory agency.
- Use of the Controlled Property for day care, child or medical care is prohibited without an express written waiver from the governing regulatory agency.
- The above stated engineering controls may not be discontinued, and use of the Controlled Property will not be elevated to an unrestricted or residential property without an amendment or extinguishment of the Environmental Easement.
- Until such time that the Environmental Easement is extinguished, the property deed and all instruments of conveyance related to the Controlled Property will state in 15-point bold font type that "This property is subject to an environmental easement held by the New York State Department of Environmental Conservation pursuant of Title 36 to Article 71 of the Environmental Conservation Law".
- All leases, licenses or other instruments granting use of the Controlled Property will be subject to the Environmental Easement.
- The owner of the Controlled Property will submit a written statement to the NYSDEC that certifies that all approved engineering controls are unchanged and have remained in effect. Currently this is required annually.

4.4 IC/EC Conclusions and Recommendations

All IC/EC for the Cobey Site have been implemented in accordance with the NYSDEC approved Environmental Easement. To date, four annual inspections conducted at the Site during 2008, 2009, 2010, and 2011 indicate that the cover system is intact and functioning as intended. It is recommended that the additional steps shown below be taken to maintain the integrity of the soil cover system. These steps include:

- Placing a permanent barrier at the pavement edge along the turn of the main entrance to prevent vehicles from driving off paved surfaces and causing damage to vegetative cover.
- Removal of wooden pallets and other debris from the grass followed by enhancement of the top soil and reseeded this area at the southern edge of the eastern paved loading area, see photo #10.
- Enhancement of the top soil and reseeded with grass at the few remaining areas north and northwest of the office building due to poor quality topsoil conditions; see photo 022 in Appendix B.

User: dewyer Spec: PIRNIE STANDARD File: F:\3198005\CADD\3198F002.DWG Scale: 1:1 Date: 08/30/2011 Time: 08:45 Layout: Layout1



0 0.7 1.4 2.1 2.8 3.5 km

0 0.4 0.8 1.2 1.6 2 mi

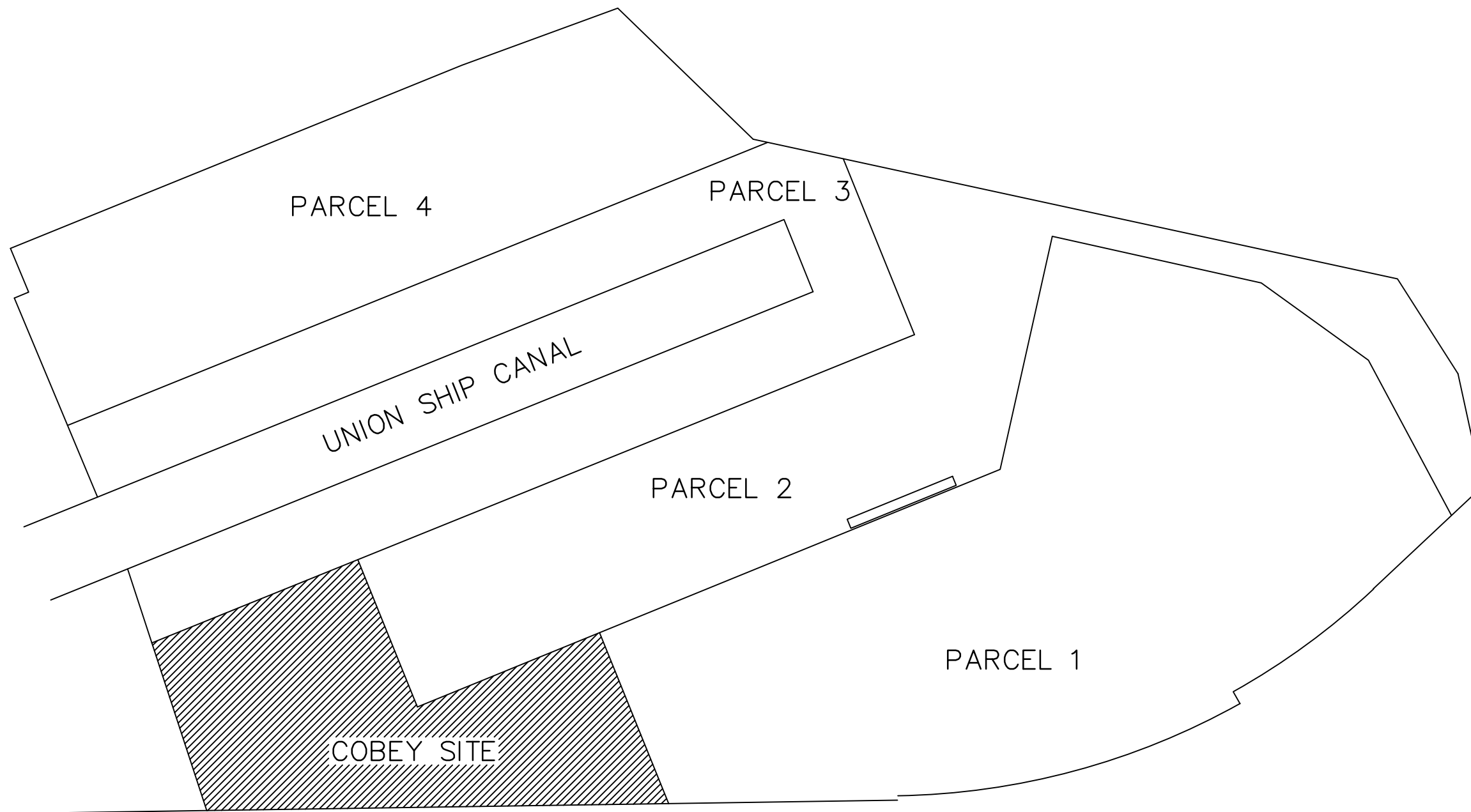


08/11 06245001.0000

COBEY LLC (PORTIONS
OF PARCELS 1 AND 2)
BUFFALO, NEW YORK

FIGURE 1
SITE LOCATION MAP

XREFS: .\11x17TBLK-A.dwg IMAGES: None
User: dewyer Spec: PIRNIE STANDARD File: F:\3198005\CADD\3198F008.DWG Scale: 1:1 Date: 08/30/2011 Time: 08:54 Layout: Layout1



SCALE: 1 INCH = 200 FEET

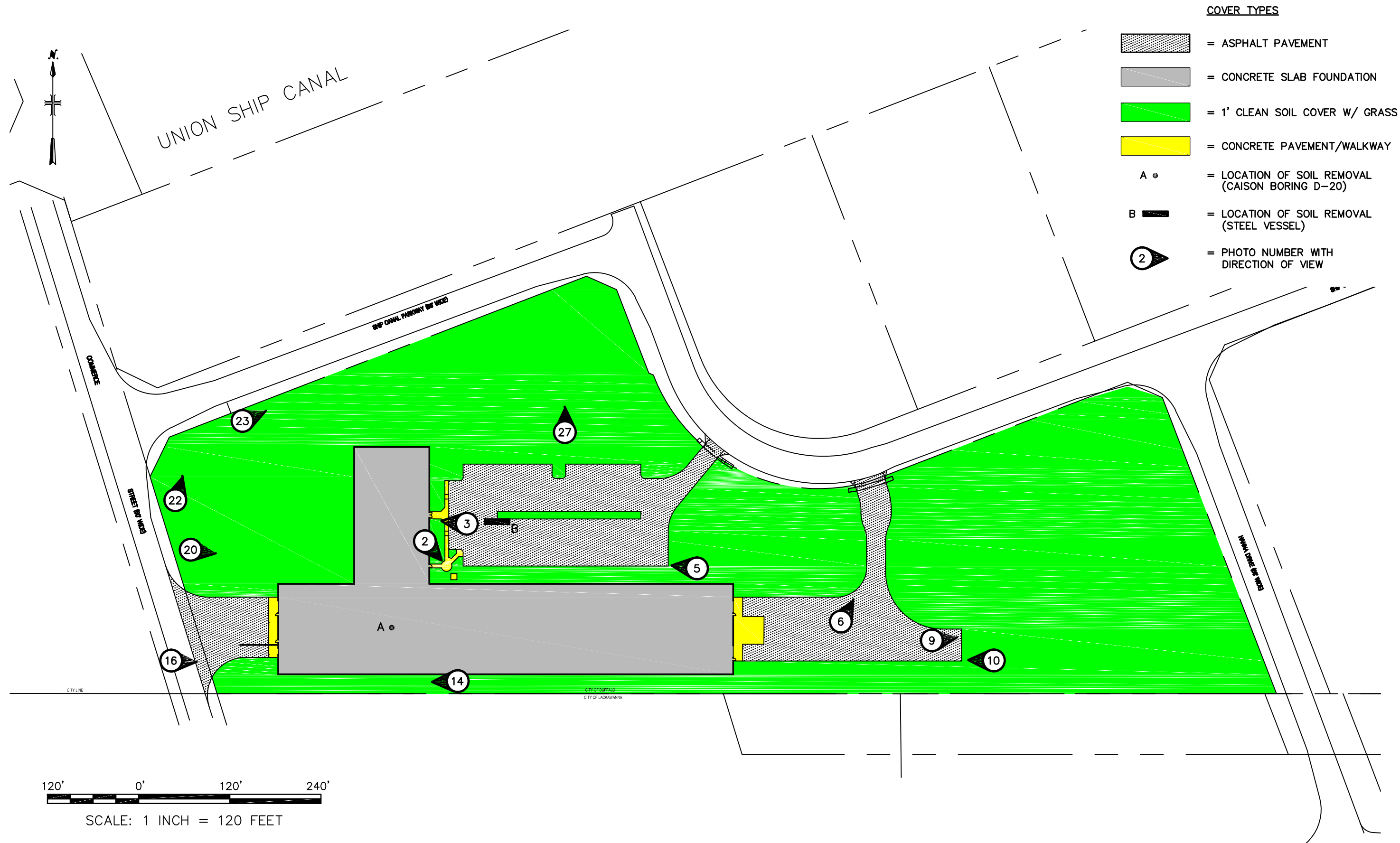


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COBEY, LLC
PERIODIC REVIEW REPORT
BUFFALO, NEW YORK

FIGURE 2
BUFFALO LAKESIDE COMMERCE PARK
PARCEL MAP

User: dewyer Spec: PIRNIE STANDARD File: F:\6245001 COBEY, LLC\CADD\6245F003.DWG Scale: 1:1 Date: 08/30/2011 Time: 09:39 Layout: Layout1



6245F003



PERIODIC REVIEW REPORT
BUFFALO, NY
COBEY, LLC SITE

SITE COVER SYSTEM
2011 INSPECTION PHOTOS

ARCADIS
AUGUST 2011
FIGURE 3



Appendix A

Environmental Inspection Form

ENVIRONMENTAL INSPECTION FORM

COBEY, LLC
(BCP Site # C915202)

Property Name: Cobey, LLC Site Inspection Date: August 26, 2011

Property Address: One Ship Canal Parkway

City: Buffalo State: New York Zip Code: 14218

Property ID: (Tax Assessment Map)

Section-Block-Lot no's: 132.19-2-1, 132.19-2-2, and 132.20-2-13

Total Acreage: approximately 12.0

Weather (during inspection): Temperature: ~80° F

Conditions: Sunny

SIGNATURE:

The findings of this inspection were discussed with appropriate personnel, corrective actions were identified and implementation was mutually agreed upon:

Inspector: Jim Richert Date: 8-26-11

Next Scheduled Inspection Date: Summer 2012 (requested extension to 2014)

SECURITY AND ACCESS

- | | <u>Yes</u> | <u>No</u> |
|---|------------|-----------|
| 1. Access controlled by perimeter fencing? | | NA |
| Are there sections of the fence material damaged or missing? | | |
| Are the fence or gate post foundations structurally sound? | | |
| 2. "No Trespass" signs posted in appropriate languages? | | NA |
| Are the signs securely attached to the fencing or posts? | | |
| Are there sufficient signs; are the signs adequately spaced around the perimeter of the property? | | |
| 3. Is there evidence of trespassing? | _____ | __N__ |
| Is there evidence of illegal dumping? | _____ | __N__ |

COVER & VEGETATION

- | | | |
|---|-----------------------|-------|
| 4. Final cover in acceptable condition? | __Y__ | _____ |
| Is there evidence of sloughing, erosion, ponding or settlement? | _____ | __N__ |
| Is there evidence of unintended traffic; rutting? | __Y ⁽ⁿ⁾ __ | _____ |
| Is there evidence of distressed vegetation/turf? | __Y ⁽ⁿ⁾ __ | _____ |

	Yes	No
5. Final cover sufficiently covers soil/fill material?	<u>Y^{ea}</u>	<u> </u>
Are there cracks visible in the soil or pavement?	<u> </u>	<u>__N__</u>
Is there evidence of erosion in the stormwater channels or swales?	<u> </u>	<u>__N__</u>
Is there damage to the synthetic erosion control fabric in the channels or swales?		NA

ACTIVITY ON SITE

6. Any activity on site that mechanically disturbed soil cover?	<u> </u>	<u>__N__</u>
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ADDITIONAL FACILITY INFORMATION

Development on or near the site? (Specify size and type: c.g., residential, 40 acres, well and septic)

No

COMMENTS

Item

(1) Minor erosion from vehicles cutting corners of pavement, see photo #006, recommend placing a large boulder at pavement edge of turn to prevent vehicles from driving off paved surfaces and causing damage.

(2) There remain just a few areas with incomplete grass cover due to poor quality topsoil conditions, see photo 022 for example. Recommend adding quality top soil and reseeding these areas.

ATTACHMENTS

1. Site Sketch
2. Photographs



Appendix **B**

Photographic Log



Infrastructure · Water · Environment · Buildings

PHOTOGRAPHIC LOG

Project: Cobey LLC Site – Annual Site Cover System Inspection		Location: Buffalo, New York	Project No. 06245001.0000
Photo No. 002	Date: 08-26-11		
Direction Photo Taken: Southeast			
Description: Refreshed gravel landscape mulch.			



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PHOTOGRAPHIC LOG

Project: Cobey LLC Site – Annual Site Cover System Inspection		Location: Buffalo, New York	Project No. 06245001.0000
Photo No. 003	Date: 08-26-11		
Direction Photo Taken: West			
Description: Main entrance with landscaping.			



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PHOTOGRAPHIC LOG

Project: Cobey LLC Site – Annual Site Cover System Inspection		Location: Buffalo, New York	Project No. 06245001.0000
Photo No. 005	Date: 08-26-11		
Direction Photo Taken: Northwest			
Description: View of main paved parking lot and surrounding lawn.			



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PHOTOGRAPHIC LOG

Project: Cobey LLC Site – Annual Site Cover System Inspection		Location: Buffalo, New York	Project No. 06245001.0000
Photo No. 006	Date: 08-26-11		
Direction Photo Taken: Northeast			
Description: Damaged grass cover from traffic cutting corner at main entrance.			



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PHOTOGRAPHIC LOG

Project: Cobey LLC Site – Annual Site Cover System Inspection		Location: Buffalo, New York	Project No. 06245001.0000
Photo No. 009	Date: 08-26-11		
Direction Photo Taken: East			
Description: Storage pods placed on pavement.			



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PHOTOGRAPHIC LOG

Project: Cobey LLC Site – Annual Site Cover System Inspection		Location: Buffalo, New York	Project No. 06245001.0000
Photo No. 010	Date: 08-26-11		
Direction Photo Taken: West			
Description: Grass cover impacted by pallets and debris at east end of site.			



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PHOTOGRAPHIC LOG

Project: Cobey LLC Site – Annual Site Cover System Inspection		Location: Buffalo, New York	Project No. 06245001.0000
Photo No. 014	Date: 08-26-11		
Direction Photo Taken: West			
Description: Complete grass cover behind main plant.			



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PHOTOGRAPHIC LOG

Project: Cobey LLC Site – Annual Site Cover System Inspection		Location: Buffalo, New York	Project No. 06245001.0000
Photo No. 016	Date: 08-26-11		
Direction Photo Taken: East			
Description: Pavement and grass cover at western loading dock.			



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PHOTOGRAPHIC LOG

Project: Cobey LLC Site – Annual Site Cover System Inspection		Location: Buffalo, New York	Project No. 06245001.0000
Photo No. 020	Date: 08-26-11		
Direction Photo Taken: East			
Description: West lawn with planted trees.			



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PHOTOGRAPHIC LOG

Project: Cobey LLC Site – Annual Site Cover System Inspection		Location: Buffalo, New York	Project No. 06245001.0000
Photo No. 022	Date: 08-26-11		
Direction Photo Taken: Northeast			
Description: One of two areas of incomplete grass cover due to high stone content soil north of the building.			



Infrastructure · Water · Environment · Buildings

PHOTOGRAPHIC LOG

Project: Cobey LLC Site – Annual Site Cover System Inspection		Location: Buffalo, New York	Project No. 06245001.0000
Photo No. 023	Date: 08-26-11		
Direction Photo Taken: East			
Description: View of north sidewalk and lawn.			



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PHOTOGRAPHIC LOG

Project: Cobey LLC Site – Annual Site Cover System Inspection		Location: Buffalo, New York	Project No. 06245001.0000
Photo No. 027	Date: 08-26-11		
Direction Photo Taken: North			
Description: One of several newly-planted replacement trees.			



Appendix C

Certification Form



Enclosure 1
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. C915202		
Site Name Cobey-Buffalo Lakeside Commerce Park-Parcels 1&2		
Site Address: 1 Ship Canal Parkway Zip Code: 14218		
City/Town: Buffalo		
County: Erie		
Site Acreage: 12.3		
Reporting Period: June 08, 2010 to June 08, 2011		
		YES NO
1. Is the information above correct?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
If NO, include handwritten above or on a separate sheet.		
2. Has some or all of the site property been sold, subdivided, merged, or undergone a tax map amendment during this Reporting Period?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Has there been any change of use at the site during this Reporting Period (see 6NYCRR 375-1.11(d))?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Have any federal, state, and/or local permits (e.g., building, discharge) been issued for or at the property during this Reporting Period?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If you answered YES to questions 2 thru 4, include documentation or evidence that documentation has been previously submitted with this certification form.		
5. Is the site currently undergoing development?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Box 2		
		YES NO
6. Is the current site use consistent with the use(s) listed below? Commercial and Industrial	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Are all ICs/ECs in place and functioning as designed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
IF THE ANSWER TO EITHER QUESTION 6 OR 7 IS NO, sign and date below and DO NOT COMPLETE THE REST OF THIS FORM.		
A Corrective Measures Work Plan must be submitted along with this form to address these issues.		
Signature of Owner, Remedial Party or Designated Representative _____		Date _____

SITE NO. C915202

Box 3

Description of Institutional Controls

<u>Parcel</u>	<u>Owner</u>	<u>Institutional Control</u>
132.19-1-13	9505 Main Street LLC	Building Use Restriction Ground Water Use Restriction Landuse Restriction Site Management Plan Soil Management Plan
132.19-2-1	9505 Main Street LLC	Building Use Restriction Ground Water Use Restriction Landuse Restriction Site Management Plan Soil Management Plan
132.19-2-2	9505 Main Street LLC	Building Use Restriction Ground Water Use Restriction Landuse Restriction Site Management Plan Soil Management Plan

Box 4

Description of Engineering Controls

<u>Parcel</u>	<u>Engineering Control</u>
132.19-1-13	Cover System
132.19-2-1	Cover System
132.19-2-2	Cover System

Control Description for Site No. C915202

Parcel: 132.19-1-13

Institutional Controls: Environmental Easement - Site Management Plan; Ground water use restriction; Land use restriction; Soil Management Plan; Building Use Restriction.

Engineering Controls: Cover System.

Parcel: 132.19-2-1

Institutional Controls: Environmental Easement - Site Management Plan; Ground water use restriction; Land use restriction; Soil Management Plan; Building Use Restriction.

Engineering Controls: Cover System.

Parcel: 132.19-2-2

Institutional Controls: Environmental Easement - Site Management Plan; Ground water use restriction; Land use restriction; Soil Management Plan; Building Use Restriction.

Engineering Controls: Cover System.

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.**

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. C915202

Box 6

SITE OWNER OR DESIGNATED REPRESENTATIVE SIGNATURE

I certify that all information and statements in Boxes 2 and/or 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 MICHAEL DURIGIN at 1 SHIP CANAL PKWY, BUFFALO, NY
print name print business address

am certifying as OWNER'S DESIGNATE (Owner or Remedial Party)

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

[Signature]
Signature of Owner or Remedial Party Rendering Certification

8/30/11
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.

ARCADIS
I KENT R. McMANUS at 50 Fountain Plaza, Suite 600, Buffalo, NY 14202
print name print business address

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

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

