

Periodic Review Report

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

BUFFALO, NEW YORK

July 2014

0235-014-001

Prepared By:



PERIODIC REVIEW REPORT
for the

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

BUFFALO, NEW YORK

July 2014

0235-013-001

Prepared for:

257 W. GENESEE, LLC

Prepared By:



Benchmark Environmental Engineering & Science, PLLC
2558 Hamburg Turnpike, Suite 300
Buffalo, NY 14218
(716)856-0599

PERIODIC REVIEW REPORT

257 W. Genesee, LLC Sites

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PERIODIC REVIEW REPORT

257 W. Genesee, LLC Sites

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1.0 INTRODUCTION

Benchmark Environmental Engineering & Science, PLLC (Benchmark) has prepared this Periodic Review Report (PRR) on behalf of 257 W. Genesee, LLC to summarize the post-remedial status of New York State Department of Environmental Conservation (NYSDEC) Brownfield Cleanup Program (BCP) Site Nos. C915194, C915195, and C915203.

This PRR has been prepared in accordance with NYSDEC's DER-10 *Technical Guidance for Site Investigation and Remediation* (Ref. 1), whereby one PRR is prepared when multiple parcels comprise the redeveloped Site. The NYSDEC's Institutional and Engineering Controls Certification Forms have been prepared for each individual Site (see Appendix A). This PRR and the associated inspections forms have been completed for the June 15, 2013 to June 16, 2014 reporting period.

1.1 Background

The 257 W. Genesee, LLC property (Site) encompasses three adjoining BCP Sites. The three parcels include: (1) the Former Buffalo Service Center Site (C915194); (2) the Buffalo Urban Renewal Agency (BURA) West Site (C915195); and (3) the 4 New Seventh Street Site (C915203) (see Figures 1 and 2).

The Former Buffalo Service Center (C915194) and the BURA West (C915195) parcels were the former location of the Buffalo Gas Light Company's (predecessor to National Fuel Gas) Manufactured Gas Plant (MGP), which operated from approximately 1848 to 1948. Site investigations revealed that the century of industrial use on these parcels resulted in contamination of the soil/fill and groundwater with certain petroleum organics and cyanide. The 4 New Seventh Street (C915203) parcel was the location of a former coal storage yard until approximately 1900; a gasoline service station from 1927-1966; and various commercial/industrial operations. Impacts at this parcel were primarily related to former petroleum storage and distribution operations.

The three parcels were remediated concurrently under the NYSDEC BCP for redevelopment as an office building complex (HealthNow). Additional details relative to the history and remedial activities conducted at each of the parcels are discussed in Section 2.0.

2.0 SITE OVERVIEW

The Site is comprised of three former industrial/commercial properties located in the City of Buffalo, New York (see Figure 1). The Site is bordered by Fourth Street to the west, West Genessee Street to the south, and Seventh Street to the east; the Waterfront School borders the Site to the north (see Figure 2). A brief description of the three parcels is presented below.

2.1 Former Buffalo Service Center & BURA West Properties

The former Buffalo Service Center (BSC) property (BCP Site No. C915194) is an approximately 4.9-acre parcel located at the corner of West Genessee and Seventh Streets. The BURA West property (BCP Site No. C915195) is an approximately 1.7-acre parcel located west of the BSC property along Fourth Street. The BSC and BURA West properties were the location of the former Buffalo Gas Light Company MGP that operated from approximately 1848 to 1948.

Previous environmental site investigations revealed the presence of: volatile organic compounds (VOCs), specifically benzene, toluene, ethylbenzene, and xylene (BTEX); semi-volatile organic compounds (SVOCs), primarily polycyclic aromatic hydrocarbons (PAHs); and cyanide in on-site soil and groundwater.

In June 2005, remedial efforts under the BCP began with the excavation and off-site disposal of approximately 153,000 tons of contaminated soil/fill followed by backfilling the excavation with clean material. Remedial activities at the former BSC and BURA West properties were completed in September 2006. All impacted soil/fill above cleanup levels was removed, and in 2006 the NYSDEC determined that the Site “no longer poses a significant threat to the environment.” Certificates of Completion (COCs) were issued for the two properties in November 2006.

2.2 New Seventh Street Property

The 4 New Seventh Street property (BCP Site No. C915203) is comprised of an approximate 1.7-acre parcel located east of the BSC property along Seventh Street. The New Seventh Street parcel was formerly a coal shed and storage yard until approximately 1900.

From 1927-1966, this parcel housed gasoline service stations. Various other commercial/industrial operations have also been located on the property. Environmental site investigations conducted on-site revealed the presence of petroleum-based VOCs and SVOCs in soil/fill and groundwater.

Remedial activities under the BCP began in May 2006 with excavation and off-site disposal of approximately 6,600 tons of contaminated soil/fill followed by backfilling the excavation with clean material. All impacted soil/fill within the property boundaries was removed to meet cleanup levels. A COC was issued for the Site in December 2006.

3.0 SITE MANAGEMENT PLAN

A combined Site Management Plan (SMP) was prepared by ESC Engineering of New York, P.C., for the Buffalo Service Center and BURA West properties and approved by the NYSDEC in October 2006. A separate SMP was prepared by Lender Consulting Services (LCS) for the 4 New Seventh Street Site in December 2006. The SMPs include a Groundwater Monitoring Plan, a Soil/Fill Management Plan, and a copy of the Environmental Easements. A brief description of the components of the SMP is presented below.

3.1 Groundwater Monitoring Plan

As a component of the NYSDEC-approved SMPs, post-remedial groundwater monitoring was required for the Site on a quarterly basis for two years following completion of the remedial activities. A total of 10 monitoring wells on and outside of the Site were sampled and analyzed for petroleum-based organic compounds per the SMP requirements, with quarterly groundwater monitoring results forwarded to the NYSDEC following each event. Groundwater monitoring began in August 2007, and the eighth quarterly groundwater monitoring event was completed by WSP Engineering (WSP) in May 2009. Wells MW-03 and MW-09 were slated for sampling under both the ESC SMP for the former BSC and BURA West parcels as well as the LCS SMP for the 4 New Seventh Street parcel; therefore, they were sampled under both programs. As such, duplicate samples were collected from these well locations each quarter. MW-04 exhibited a thin layer of light non-aqueous phase liquid (LNAPL) during the initial monitoring event and was therefore excluded from subsequent sampling due to the likelihood for positive bias from this layer. The LNAPL is believed to be attributable to residual off-site impact west of the property boundary which was addressed through offsite remedial excavation works by other responsible parties (see Section 3.2).

The Eighth Quarterly Groundwater Monitoring Report (prepared by WSP) presented trend analyses for wells MW-01, MW-03, BCP-MW-04, BCP-MW-05, and MW-09. Excluding MW-04, the remaining locations exhibited non-detectable or sufficiently low concentrations to preclude the need for trend evaluation. In general, concentrations dropped over the 2-year period at most locations, with notable exception at off-site well MW-09 where the concentration trend analysis showed an increase in the benzene concentration.

Based on the MW-09 results, a Pre-Design Investigation Report and Chemical Oxidation Enhanced Bioremediated Work Plan (July 2009) was prepared by WSP. The Work Plan proposed the injection of Klozer CR® in the vicinity of MW-09. NYSDEC approved the subsequent Work Plan, and the injection was performed in August 2009. Post-injection groundwater monitoring was initiated as part of the Work Plan, including quarterly monitoring for one year at MW-09 and semi-annual monitoring for one year at MW-01 and MW-03. WSP conducted the first round of groundwater monitoring for MW-09, MW-01, and MW-03 in November 2009. The final round of groundwater monitoring was performed in August 2010. A performance monitoring report was prepared by WSP in October 2010. Based on the monitoring data, WSP recommended two additional quarters of data from MW-09, and no further action from monitoring wells MW-01 and MW-03.

Concurrently, BCP-MW-02 was decommissioned with NYSDEC approval in January 2010. Monitoring wells BCP-MW-05 and PZ-10 were decommissioned with NYSDEC approval in June 2010. Due to the results of the quarterly groundwater monitoring previously conducted and ongoing remediation at MW-09, the NYSDEC requested additional sampling of BCP-MW-04. Monitoring well BCP-MW-04 was sampled in May 2011. Since all concentrations were non-detect during the May 2011 monitoring event, the NYSDEC approved termination of monitoring at BCP-MW-04.

Sampling at off-site well MW-09 was performed by WSP in June, September, and November 2011. The November 2011 sampling event followed redevelopment of the well, as reduced yield and inconsistent results in September indicated that the well screen was partially clogged. Redevelopment was unsuccessful and in December 2011 well MW-09 was replaced with a well MW-09R. Well MW-09R was sampled in February 2012, completing the monitoring requirements for the Site.

Groundwater sampling data for MW-09 and other monitoring locations were previously transmitted to the NYSDEC by the responsible parties and summarized with the 2011 and 2012 PRRs.

3.2 Soil/Fill Management Plan

A Soil/Fill Management Plan (SFMP) was included in the NYSDEC-approved SMPs for the Site. The SFMP provides guidelines for the management of soil and fill material

during any future intrusive activities that disturb soil/fill greater than 12 inches below surface-grade. A passive vapor barrier was installed into the foundation slab of the office buildings during construction.

No intrusive activities requiring management of on-site soil or fill material, or the placement of backfill materials occurred during the monitoring period.

3.3 Institutional Control Requirements and Compliance

As detailed in the Environmental Easements filed with the Erie County, New York, several Institutional Controls (ICs) need to be maintained as a requirement of the BCAs for the Site. All three properties encompassing the Site are subject to the same ICs:

- Land-Use Restriction: The controlled property may be used for commercial and/or industrial use;
- Implementation of the SMP including the Groundwater Monitoring Plan, Soil/Fill Management Plan, and Monitoring Plan; and
- Groundwater-Use Restriction: The use of groundwater for potable and non-potable purposes is prohibited.

Benchmark conducted a Site Inspection of the exterior of the property on May 27, 2014. At the time of the Site Inspection, the property was being used as a large office building complex with an elevated parking ramp, surface parking, paved walkways, and landscaped grassy areas. No observable indication of intrusive activities was noted during the Site Inspection. The facility grounds manager confirmed no intrusive activities or soil import occurred during the subject PRR reporting period. The office complex is on municipal water supply, and no observable use of groundwater was noted during the Site Inspection. Appendix B includes completed Institutional and Engineering Controls Certification Forms for the Site. Appendix C presents a photographic log of the Sites during the May 2014 Site Inspection.

4.0 CONCLUSIONS AND RECOMMENDATIONS

Benchmark has made the following conclusions and recommendations for the reporting period June 15, 2013 to June 15, 2014:

- At the time of the Site Inspection (May 27, 2014), the Site was in compliance with both SMPs.

5.0 DECLARATION/LIMITATION

Benchmark Environmental Engineering & Science, PLLC personnel conducted the annual site inspections for BCP Site Nos. C915194, C915195, and C915203 in Buffalo, New York in accordance with generally accepted practices. This report complies with the scope of work provided to 257 W. Genesee, LLC by Benchmark Environmental Engineering and Science, PLLC.

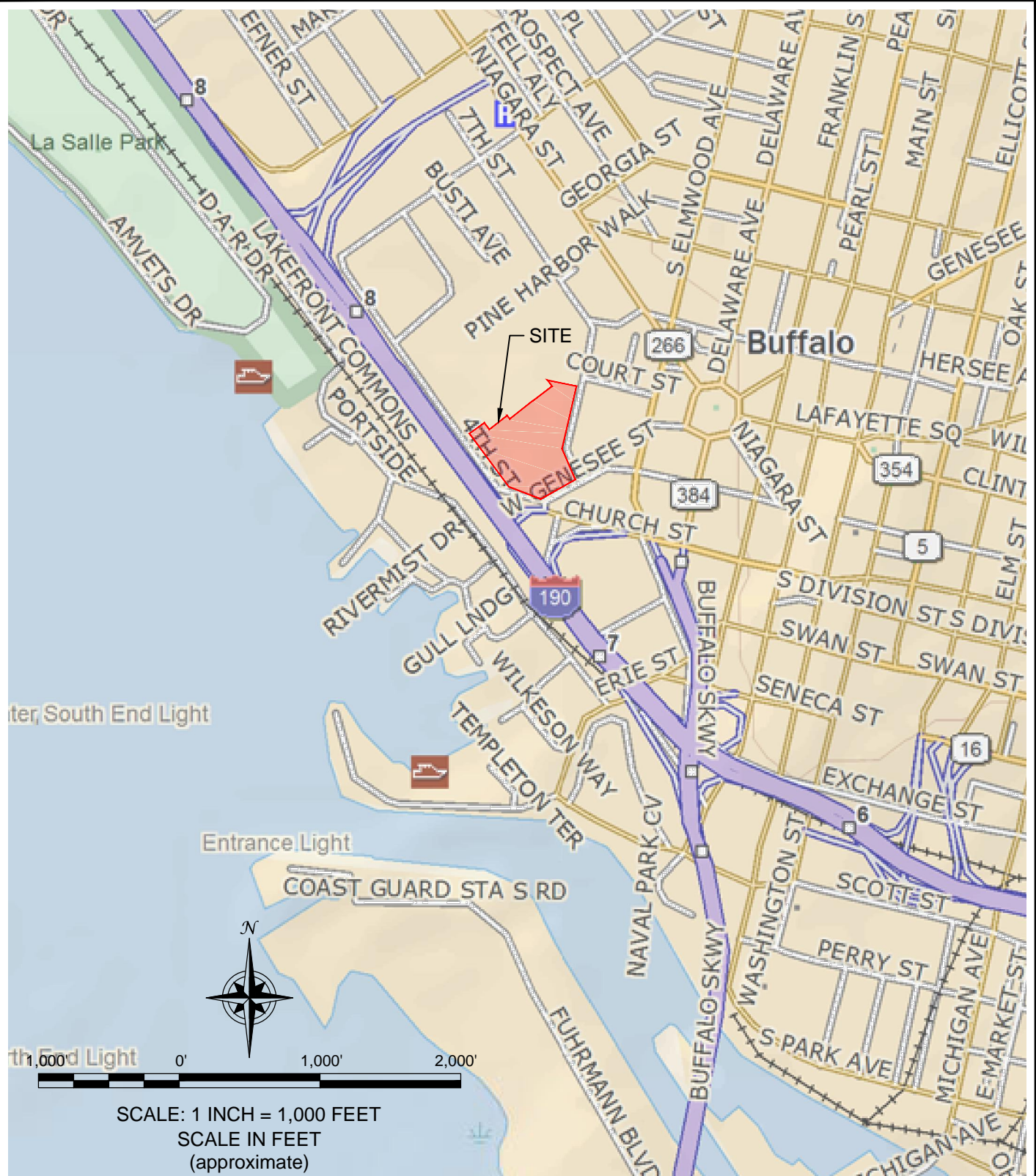
This report has been prepared for the exclusive use of 257 W. Genesee, LLC. The contents of this report are limited to information available at the time of the Site Inspection. The findings herein may be relied upon only at the discretion of 257 W. Genesee, LLC. Use of or reliance upon this report or its findings by any other person or entity is prohibited without written permission of Benchmark Environmental Engineering and Science, PLLC.

6.0 REFERENCES

1. New York State Department of Environmental Conservation. *DER-10; Technical Guidance for Site Investigation and Remediation*. May 2010.
2. *Pre-Design Investigation Report, Buffalo Service Center, Buffalo, NY*, dated February 2004, prepared by The RETEC Group, Inc.
3. *Limited and Focused Subsurface Investigation, Seventh Street Site and Fourth Street Site, Buffalo, New York*, dated February 2005, prepared by LCS, Inc.
4. *Limited and Focused Subsurface Investigation, Seventh Street Site and Fourth Street Site, Buffalo, New York*, dated April 2005, prepared by LCS, Inc.
5. *Remedial Investigation Work Plan for 4 New Seventh Street, Buffalo, New York*, prepared by LCS, Inc. and Benchmark Environmental Engineering & Science, PLLC, January 2006.
6. *Interim Remedial Measures Work Plan for Brownfield Cleanup Program - 4 New Seventh Street, Buffalo, New York*, prepared by LCS, Inc. and Benchmark Environmental Engineering & Science, PLLC, February 2006.
7. *Final Engineering Report for Interim Remedial Measures - 4 New Seventh Street, Buffalo, New York*, prepared by LCS, Inc. and Benchmark Environmental Engineering & Science, PLLC, August 2006
8. *Final Remedial Action Report Brownfield Cleanup Program – Former Buffalo Service Center Site (C915194), Buffalo Urban Renewal Agency West Site (C915195) Buffalo, New York*, prepared by ESC Engineering of New York, P.C., October 2006
9. *Final Site Management Plan – Former Buffalo Service Center Site (C915194), Buffalo Urban Renewal Agency West Site (C915195), Fourth and West Genesee Streets, Buffalo, New York*, prepared by ESC Engineering of New York, P.C., October 2006
10. *Site Management Plan - 4 New Seventh Street, Buffalo, New York*, prepared by LCS, Inc. and Benchmark Environmental Engineering & Science, PLLC, December 2006.

FIGURES

FIGURE 1



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0599

PROJECT NO.: 0235-013-001

DATE: MAY 2013

DRAFTED BY: JGT

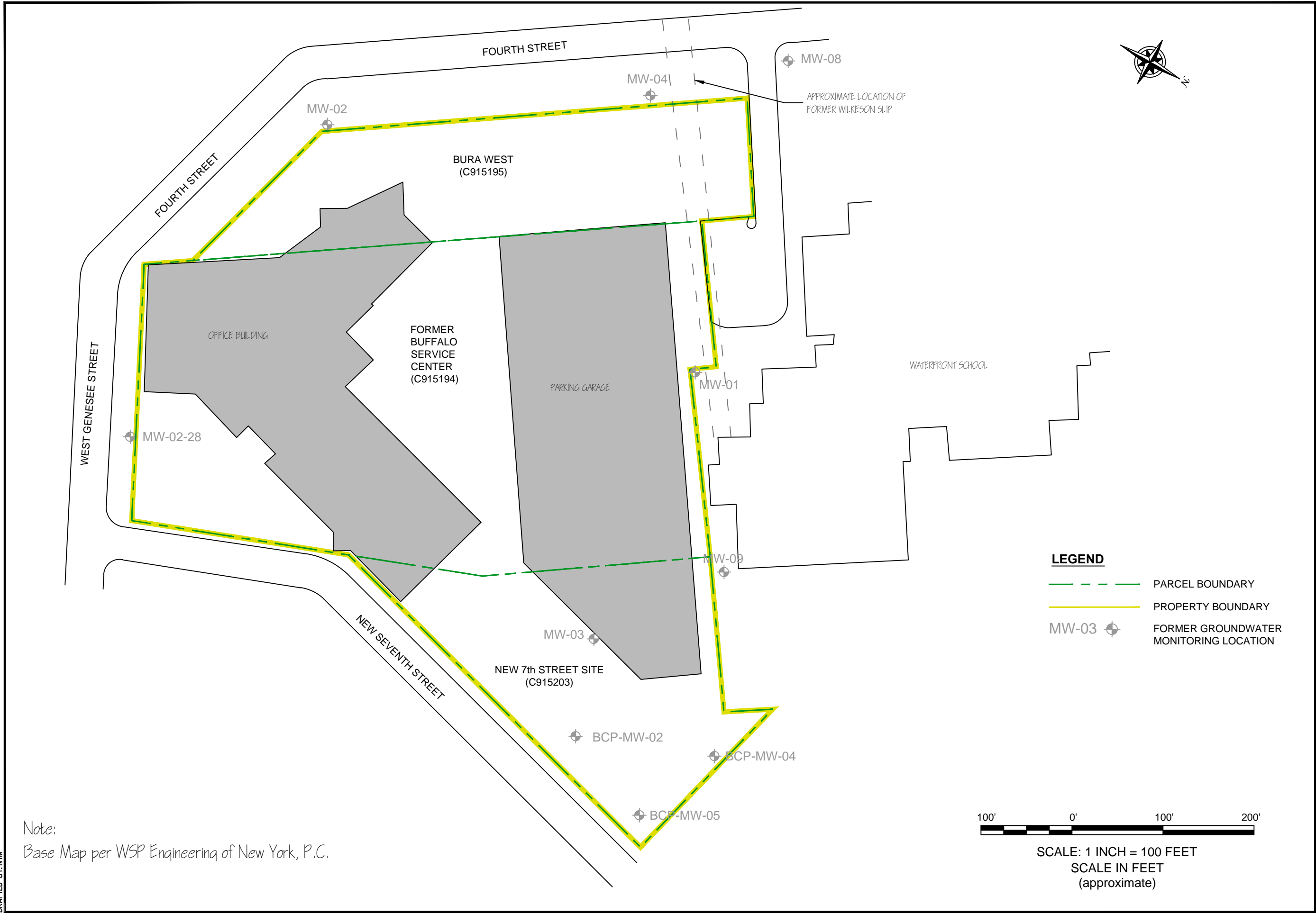
SITE LOCATION AND VICINITY MAP

PERIODIC REVIEW REPORT

FORMER BUFFALO SERVICE CENTER, BURA WEST
AND NEW SEVENTH STREET SITES
BUFFALO, NEW YORK

PREPARED FOR

257 WEST GENESEE STREET, LLC



BENCHMARK
ENVIRONMENTAL
ENGINEERING &
SCIENCE, PLLC

2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0599

JOB NO.: 0235-014-001

SITE PLAN

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

FIGURE 2

APPENDIX A

INSTITUTIONAL & ENGINEERING CONTROL (IC/EC) CERTIFICATION FORMS



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



| Site Details | | Box 1 |
|---|-------------------------------------|-------------------------------------|
| Site No. | C915194 | |
| Site Name Former Buffalo Service Station | | |
| Site Address: 249 West Genesee Street Zip Code: 14202 | | |
| City/Town: Buffalo | | |
| County: Erie | | |
| Site Acreage: 4.9 | | |
| Reporting Period: June 15, 2013 to June 15, 2014 | | |
| | | YES NO |
| 1. Is the information above correct? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| If NO, include handwritten above or on a separate sheet. | | |
| 2. Has some or all of the site property been sold, subdivided, merged, or undergone a tax map amendment during this Reporting Period? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. Has there been any change of use at the site during this Reporting Period (see 6NYCRR 375-1.11(d))? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4. Have any federal, state, and/or local permits (e.g., building, discharge) been issued for or at the property during this Reporting Period? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| If you answered YES to questions 2 thru 4, include documentation or evidence that documentation has been previously submitted with this certification form. | | |
| 5. Is the site currently undergoing development? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| | | Box 2 |
| | | YES NO |
| 6. Is the current site use consistent with the use(s) listed below? Commercial and Industrial | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 7. Are all ICs/ECs in place and functioning as designed? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| IF THE ANSWER TO EITHER QUESTION 6 OR 7 IS NO, sign and date below and DO NOT COMPLETE THE REST OF THIS FORM. Otherwise continue. | | |
| A Corrective Measures Work Plan must be submitted along with this form to address these issues. | | |
| Signature of Owner, Remedial Party or Designated Representative | | Date |

| | | Box 2A | |
|---|---|-------------------------------------|-------------------------------------|
| | | YES | NO |
| 8. | Has any new information revealed that assumptions made in the Qualitative Exposure Assessment regarding offsite contamination are no longer valid? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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) | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| If you answered NO to question 9, the Periodic Review Report must include an updated Qualitative Exposure Assessment based on the new assumptions. | | | |

| SITE NO. C915194 | | Box 3 |
|---|---------------------|---|
| Description of Institutional Controls | | |
| <u>Parcel</u> | <u>Owner</u> | <u>Institutional Control</u> |
| 110.60-2-2.1 | 257 W. Genesee, LLC | Ground Water Use Restriction Soil Management Plan O&M Plan Landuse Restriction Site Management Plan |
| i) Use of groundwater for potable and non-potable purposes is prohibited. ii) Implementation of Operation, Monitoring, and Maintenance Plan and Soil/Fill Management Plan. | | |
| | | Box 4 |
| Description of Engineering Controls | | |
| None Required | | |
| Not Applicable/No EC's | | |

Periodic Review Report (PRR) Certification Statements

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

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

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

YES NO

☒ ☐

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

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

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

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

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

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

YES NO

☒ ☐

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

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

Signature of Owner, Remedial Party or Designated Representative

Date

IC CERTIFICATIONS
SITE NO. C915194

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 Leigh J. Brown at 2325 E. Camelback Rd. #1100 Phoenix, AZ 85016
print name print business address

am certifying as Authorized Agent (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

June 23, 2014
Date

Authorized Agent of COLE RENT ADVISORS, III, LLC
MANAGER OF COLE HX BUFFALO, NY, LLC SOLE
MEMBER OF 257 W. GREENLEE, LLC



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



Site No. C915195 Site Details

Box 1

Site Name Buffalo Urban Renewal Agency West Property

Site Address: 257 West Genesee Street Zip Code: 14202
City/Town: Buffalo
County: Erie
Site Acreage: 1.7

Reporting Period: June 15, 2013 to June 15, 2014

- | | YES | NO |
|---|-------------------------------------|-------------------------------------|
| 1. Is the information above correct? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| If NO, include handwritten above or on a separate sheet. | | |
| 2. Has some or all of the site property been sold, subdivided, merged, or undergone a tax map amendment during this Reporting Period? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. Has there been any change of use at the site during this Reporting Period (see 6NYCRR 375-1.11(d))? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4. Have any federal, state, and/or local permits (e.g., building, discharge) been issued for or at the property during this Reporting Period? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| If you answered YES to questions 2 thru 4, include documentation or evidence that documentation has been previously submitted with this certification form. | | |
| 5. Is the site currently undergoing development? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Box 2

- | | YES | NO |
|--|-------------------------------------|--------------------------|
| 6. Is the current site use consistent with the use(s) listed below? Commercial and Industrial | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 7. Are all ICs/ECs in place and functioning as designed? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

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

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

Signature of Owner, Remedial Party or Designated Representative

Date

SITE NO. C915195

Box 3

Description of Institutional Controls

Parcel

Owner

Institutional Control

110.60-2-2.1

257 W. Genesee, LLC

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

- i) Use of groundwater for potable and non-potable purposes is prohibited.
- ii) Implementation of Operation, Monitoring, and Maintenance Plan and Soil/Fill Management Plan.
- iii) Property shall remain as commercial/industrial use only

Box 4

Description of Engineering Controls

None Required

Not Applicable/No EC's

Periodic Review Report (PRR) Certification Statements

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

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

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

YES NO

☒ ☐

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

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

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

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

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

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

YES NO

☒ ☐

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

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

Signature of Owner, Remedial Party or Designated Representative

Date

IC CERTIFICATIONS
SITE NO. C915195

Box 6

SITE OWNER OR DESIGNATED REPRESENTATIVE SIGNATURE

I certify that all information and statements in Boxes 1, 2, and 3 are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.

I Leigh J. Brown at 235 E. Camelback Rd #1100 Phoenix, AZ 85016
print name print business address

am certifying as Authorized Agent (Owner or Remedial Party)

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

Leigh J. Brown

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

June 23, 2014
Date

Authorized Agent of Cole REIT Advisors III, LLC
Manager Cole AM Buffalo NY, LLC sole
member of 257 W. Genesee, LLC



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



| Site Details | | Box 1 |
|---|-------------------------------------|-------------------------------------|
| Site No. | C916203 | |
| Site Name 4 New Seventh Street Site | | |
| Site Address: 4 New Seventh Street Site | | Zip Code: 14202 |
| City/Town: Buffalo | | |
| County: Erie | | |
| Site Acreage: 1.7 | | |
| Reporting Period: June 15, 2013 to June 15, 2014 | | |
| | | YES NO |
| 1. Is the information above correct? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| If NO, include handwritten above or on a separate sheet. | | |
| 2. Has some or all of the site property been sold, subdivided, merged, or undergone a tax map amendment during this Reporting Period? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. Has there been any change of use at the site during this Reporting Period (see 6NYCRR 375-1.11(d))? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4. Have any federal, state, and/or local permits (e.g., building, discharge) been issued for or at the property during this Reporting Period? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| If you answered YES to questions 2 thru 4, include documentation or evidence that documentation has been previously submitted with this certification form. | | |
| 5. Is the site currently undergoing development? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| | | Box 2 |
| | | YES NO |
| 6. Is the current site use consistent with the use(s) listed below? Commercial and Industrial | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 7. Are all ICs/ECs in place and functioning as designed? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| IF THE ANSWER TO EITHER QUESTION 6 OR 7 IS NO, sign and date below and DO NOT COMPLETE THE REST OF THIS FORM. Otherwise continue. | | |
| A Corrective Measures Work Plan must be submitted along with this form to address these issues. | | |
| Signature of Owner, Remedial Party or Designated Representative | | Date |

| | | |
|---|--|--|
| | | Box 2A |
| <p>8. Has any new information revealed that assumptions made in the Qualitative Exposure Assessment regarding offsite contamination are no longer valid?</p> <p style="margin-left: 40px;">If you answered YES to question 8, include documentation or evidence that documentation has been previously submitted with this certification form.</p> | <p>YES</p> <p><input type="checkbox"/></p> | <p>NO</p> <p><input checked="" type="checkbox"/></p> |
| <p>9. Are the assumptions in the Qualitative Exposure Assessment still valid? (The Qualitative Exposure Assessment must be certified every five years)</p> <p style="margin-left: 40px;">If you answered NO to question 9, the Periodic Review Report must include an updated Qualitative Exposure Assessment based on the new assumptions.</p> | <p><input checked="" type="checkbox"/></p> | <p><input type="checkbox"/></p> |

| SITE NO. C915203 | | Box 3 | | | | | | |
|--|---------------------|---|---------------|--------------|------------------------------|--------------|---------------------|---|
| <p style="text-align: center;">Description of Institutional Controls</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; width: 30%;"><u>Parcel</u></th> <th style="text-align: left; width: 30%;"><u>Owner</u></th> <th style="text-align: left; width: 40%;"><u>Institutional Control</u></th> </tr> </thead> <tbody> <tr> <td>110.60-2-2.1</td> <td>257 W. Genesee, LLC</td> <td> Ground Water Use Restriction Soil Management Plan Landuse Restriction Site Management Plan </td> </tr> </tbody> </table> <p>i) Operation, Monitoring, and Maintenance Plan and Soil/Fill Management Plan ii) Use of groundwater for potable and non-potable purposes is prohibited. iii) unrestricted or residential use is prohibited.</p> | | | <u>Parcel</u> | <u>Owner</u> | <u>Institutional Control</u> | 110.60-2-2.1 | 257 W. Genesee, LLC | Ground Water Use Restriction Soil Management Plan Landuse Restriction Site Management Plan |
| <u>Parcel</u> | <u>Owner</u> | <u>Institutional Control</u> | | | | | | |
| 110.60-2-2.1 | 257 W. Genesee, LLC | Ground Water Use Restriction Soil Management Plan Landuse Restriction Site Management Plan | | | | | | |

| |
|---|
| Box 4 |
| <p style="text-align: center;">Description of Engineering Controls</p> <p>None Required</p> <p>Not Applicable/No EC's</p> |

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. C915203

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 Leigh J. Brown at 2325 E. Canalway Rd #100, Phoenix, AZ 85016
print name print business address

am certifying as Authorized Agent (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


JUNE 23, 2014
Date


AUTHORIZED AGENT OF COLE RETT ADVISORS, LLC
MANAGER OF COLE HN BUFFALO NY, LLC SOLE
MEMBER OF 257 W. GENESEE LLC

APPENDIX B


SITE PHOTOGRAPHIC LOG (MAY 27, 2014)


PHOTOGRAPHIC LOG

| | | | |
|--|-------------------------|---|---------------------|
| Client Name: | | Site Location: 257 W Genesee Street, LLC Site Buffalo, NY | Project No.: |
| Photo No. 1 | Date 05/27/14 |  | |
| Direction Photo Taken: North | | | |
| Description: Site Conditions - Visitor Surface Lot (looking north) | | | |


| | | |
|---|-------------------------|--|
| Photo No. 2 | Date 05/27/14 |  |
| Direction Photo Taken: | | |
| Description: Site Conditions- East Side of Parking Garage | | |


PHOTOGRAPHIC LOG

| | | | |
|--|-----------------------------|---|---------------------|
| Client Name: | | Site Location: 257 W Genesee Street, LLC Site Buffalo, NY | Project No.: |
| Photo No. 3 | Date 05/27/14 |  | |
| Direction Photo Taken: South | | | |
| Description: Site Conditions- Office Building (looking South from New Seventh Street) | | | |


| | | |
|--|-----------------------------|--|
| Photo No. 4 | Date 05/27/14 |  |
| Direction Photo Taken: Southwest | | |
| Description: Northern Property Boundary (looking Southwest from New Seventh Street) | | |


PHOTOGRAPHIC LOG

| | | | |
|---|-----------------------------|---|---------------------|
| Client Name: | | Site Location: 257 W Genesee Street, LLC Site Buffalo, NY | Project No.: |
| Photo No. 5 | Date 05/27/14 |  | |
| Direction Photo Taken: West | | | |
| Description: Site Conditions- drive between garage and building complex, looking west | | | |

| | | |
|--|-----------------------------|--|
| Photo No. 6 | Date 05/27/14 |  |
| Direction Photo Taken: South | | |
| Description: Site Conditions- Berm area on 4th Street; looking south | | |

PHOTOGRAPHIC LOG

| | | | |
|---|-----------------------------|---|---------------------|
| Client Name: | | Site Location: 257 W Genesee Street, LLC Site Buffalo, NY | Project No.: |
| Photo No. 7 | Date 05/27/14 |  | |
| Direction Photo Taken: East | | | |
| Description: Site Conditions - Building Façade; looking east along 257 W. Genesee | | | |

| | | |
|---|-----------------------------|--|
| Photo No. 8 | Date 05/27/14 |  |
| Direction Photo Taken: East | | |
| Description: Site Conditions- looking east at entrance to garage from Fourth Street | | |

PHOTOGRAPHIC LOG

| | | | |
|---|-------------------------|---|---------------------|
| Client Name: | | Site Location: 257 W Genesee Street, LLC Site Buffalo, NY | Project No.: |
| Photo No. 9 | Date 05/27/14 |  | |
| Direction Photo Taken: East -Southeast | | | |
| Description: Site Conditions- Detention pond area looking east-southeast. | | | |

| | | |
|--|-------------------------|--|
| Photo No. 10 | Date 05/27/14 |  |
| Direction Photo Taken: South | | |
| Description: Site Conditions- Courtyard area on New Seventh Street looking south | | |