



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. C915228

Site Name 1132-1146 ~~Seneca St.~~

1122 - 1146 Seneca St.

Site Address: 1132-1146 Seneca Street Zip Code: 14210

City/Town: Buffalo

County: Erie

Site Acreage: 4.2

Reporting Period: December 28, 2010 to June 15, 2012

1. Is the information above correct?

YES NO

☐ ☒

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?
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information revealed that assumptions made in the Qualitative Exposure Assessment regarding offsite contamination are no longer valid?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. C915228

Box 3

Description of Institutional Controls

<u>Parcel</u>	<u>Owner</u>	<u>Institutional Control</u>
123-29-1-10	RSB Enterprises, LLC	IC/EC Plan Landuse Restriction Site Management Plan Soil Management Plan
123-29-1-11	RSB Enterprises, LLC.	IC/EC Plan Landuse Restriction Site Management Plan Soil Management Plan
123-29-1-12	RSB Enterprises, LLC	IC/EC Plan Landuse Restriction Site Management Plan Soil Management Plan

Box 4

Description of Engineering Controls

None Required

Not Applicable/No EC's

Engineering Control Details for Site No. C915228

Parcel: 123-29-1-10

EE restricts the property use to Industrial. Also prohibits the groundwater from being used for drinking water unless prior approval from DEC and DOH. SMP in place with Excavation Workplan to manage soils generated from future site work. Periodic certification required to verify that institutional controls remain in place and effective. There are no engineering controls associated with the remedy.

Parcel: 123-29-1-11

EE restricts the property use to Industrial. Also prohibits the groundwater from being used for drinking water unless prior approval from DEC and DOH. SMP in place with Excavation Workplan to manage soils generated from future site work. Periodic certification required to verify that institutional controls remain in place and effective. There are no engineering controls associated with the remedy.

Engineering Control Details for Site No. C915228

Parcel: 123-29-1-12

EE restricts the property use to Industrial. Also prohibits the groundwater from being used for drinking water unless prior approval from DEC and DOH. SMP in place with Excavation Workplan to manage soils generated from future site work. Periodic certification required to verify that institutional controls remain in place and effective. There are no engineering controls associated with the remedy.

Box 5

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. C915228

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 Daniel J Steger III at 28 WASSON ST. BUFFAL N.Y.
print name print business address (1132-1146 Seneca St.)

am certifying as Designated Rep. (Owner or Remedial Party)

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

Daniel J Steger III

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

7/6/2012
Date

Flexo Transparent, Inc.
28 Wasson Street
Buffalo, New York 14140

Periodic Review Report

1132 – 1146 Seneca Street Site
CITY OF BUFFALO, ERIE
COUNTY, NEW YORK
BCP Site # C915228

February 2012

06105002.0000

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1. Introduction

As a requirement of the New York State Department of Environmental Conservation (NYSDEC) Brownfield Cleanup Program, ARCADIS has prepared this Periodic Review Report (PRR) for the 1132 - 1146 Seneca Street Site (Site) (BCP Site # C915228) in Buffalo, New York. The Site was purchased by Flexo Transparent (Flexo), remediated under the BCP, and is now used as Flexo's warehouse facility. The Site comprises three adjacent properties; addresses 1122, 1132, and 1146 Seneca Street in Buffalo, New York. A single large building is present on the middle parcel. The warehouse building was formerly used as an electrical transformer manufacturing facility and historic records indicate that former brick and lumber manufacturing facilities once occupied the eastern (1146 Seneca) lot. This eastern lot was vacant land at the time that Flexo purchased it. The three-parcel Site totals 4.2 acres in size. Flexo's Site redevelopment included removal of contaminated soil and replacement with clean soil. The 4.2 acre Site is bounded to the north by a vacant lot, to the south by Seneca Street, to the east by single family residential properties, and to the west by the City of Buffalo Highway garage. The location of the Site is shown on Figure 1 and greater details of the Site property with lot lines and site features is provided on Figure 2.

2. Site Overview

Elevated concentrations of polychlorinated biphenyls (PCBs) were first detected on the 1132 Seneca Street property between October 1989 and November 1990. A Phase I Environmental Site Assessment (ESA) was completed by Malcolm Pirnie in September 2007 and listed several recognized environmental conditions (RECs) including; the presence of PCBs in soil near the loading dock, and reports of "oily/greasy" soil north of the transformer manufacturing building. A Phase II Investigation was completed by Malcolm Pirnie in March 2008 revealing elevated levels of PCBs and SVOCs within the Site soils.

Based on the confirmed presence of chemicals of concern in on-Site soil, Flexo Transparent volunteered to further investigate and cleanup the Site under the State's Brownfield Cleanup Program (BCP). As part of the BCP process, a Remedial Investigation was completed at the Site in 2009 to determine the degree and extent of contamination. Interim remedial measures were implemented concurrent with the RI and included removal of PCB-impacted soil from the loading dock and the area north of the Site building and a leaking underground storage tank from the 1132 Seneca Street property. A Remedial Work Plan (RWP) was prepared and approved by the NYSDEC in 2010 to clean up the remainder of the Site.

2.1 Remedial Activities

The site was remediated in 2010 to achieve a Track 2 level cleanup by removing soil/fill materials that contained constituents of concern at concentrations greater than the restricted Industrial Soil Cleanup Objectives (SCOs) and disposed at an off-site NYSDEC-permitted and approved disposal facility. The Track 2 level cleanup allows Flexo to forgo the use of engineering controls, such as a soil cover system. Institutional Controls (ICs) are required and in place and include restrictions on land use and groundwater use. The Site can only be used for industrial use, not commercial or residential and groundwater from beneath the Site may not be used without prior treatment and written permission of the NYSDEC. These ICs are recorded in an Environmental Easement which is a part of the Site Management Plan.

The Site remedial action included removal of PCB-impacted soil/fill from the 1122 and 1132 Seneca Street properties and the removal of benzo(a)pyrene (BAP)-impacted soil/fill from the 1146 Seneca Street property. Excavation, confirmation sampling, and backfilling with clean soil were performed as part of the removal process. Figure 3 illustrates the location and depth of impacted soil/fill removed from the Site to comply with the Remedial Work Plan.

Redevelopment activities at the Flexo Transparent facility have resulted in approximately 80 percent of the Site being covered by the Site building, paved parking, roadways, and walkways. Areas of the Site not covered by the building or pavement are fully vegetated. Figure 4 illustrates the current site features and types of surface coverage now in place.

The remedial actions are summarized in greater detail in the Final Engineering Report (Malcolm Pirnie, 2010a).

As a requirement of the BCP, post remedial obligations remain in place for the current Site owner (Flexo) as provided in the Site Management Plan (SMP) (Malcolm Pirnie, 2010). The SMP contains three primary parts as described below:

- Excavation Work Plan (EWP) – describes specific monitoring, sampling, and handling requirements to be followed during future on-Site excavation activity.

- The Environmental Easement – spells out, among other things, the owner obligations for; DEC's rights of Site access, implementation of the SMP, annual certification of institutional controls, and scheduled completion of a Periodic Review Report (PRR).
- Periodic Review Report (PRR) – including the Engineering Control/Institutional Controls (EC/IC) Certification Form to be completed for periodic certification of the institutional controls listed above.

2.2 Post Site Redevelopment Activities

In accordance with the Environmental Easement, all post-remedial excavations and handling of potentially impacted soil/fill that remain on the Site must be handled in accordance with the Excavation Work Plan (EWP) included in the SMP. ARCADIS personnel provided oversight, consultation, and documentation of Site redevelopment activities that involved excavation and handling of soil/fill. These activities are summarized in Table 1 and field data sheets are included in Appendix B.

Site excavation activities were observed and screened by a qualified environmental professional. Observations were documented on field data sheets, see Appendix B. Characterization sampling was performed a frequency of approximately one sample per up to 2,000 cubic yards. A total of 11 samples were collected between July 2010 and May 2011. Sample results are summarized in Table 2 and the laboratory analytical data reports are included in Appendix C. Based on the results of the required analytical testing, the excavated site soils were reused on site as subgrade soils within green space. No site soils were reused as utility trench backfill. Utility trenches were backfilled with clean crushed stone.

3. Site Inspection

A Site inspection was conducted on February 3, 2012. The site inspection consisted of a visual site walk-over to observe and photograph current site conditions and compliance with the institutional controls system. The site inspection indicates the Site is actively used by the Site owner for industrial warehouse purposes. Groundwater from beneath the Site is not used for any purpose and no excavations of soil/fill were currently taking place. Photographs taken during the February 3, 2012 Site inspection are included as Appendix A.

4. Compliance with Institutional Controls

Institutional Controls and Engineering Controls (IC/EC) currently enacted for the 1132-1146 Seneca Street Site include:

- Excavation Work Plan;
- Environmental Easement.

4.1 The Excavation Work Plan

The Excavation Work Plan (EWP) is designed to provide for the protection of human health and the environment during redevelopment and use of the Site. The EWP documents known Site background information and describes requisite handling procedures for subsurface contamination, if encountered. The EWP 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.
- Health and safety procedures for Site construction work.

Any construction or redevelopment activities that take place at the Site will follow the protocols outlined in the EWP.

4.2 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 Site. The easement was signed on September 15, 2010 and accepted by the State of New York on September 30, 2010. The easement stipulates that the property can be used for industrial purposes contingent upon the long-term implementation of the institutional controls summarized below:

- Site (Controlled Property) soil/fill that is excavated on the Controlled Property will be managed, characterized and properly disposed of in accordance with NYSDEC regulations, directives, and the Excavation Work 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 use of the Controlled Property will not be elevated to an unrestricted, residential, or commercial 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 institutional controls are unchanged and have remained in effect. Currently this is required annually.

4.3 IC Conclusions

As confirmed by the Site owners' implementation of the Excavation Work Plan during excavation activities, observations made by ARCADIS during the February 3, 2012 Site visit, and the owner-signed EC/IC Certification form, (Appendix D) the institutional controls required in the Environmental Easement are being followed by the Site owner and remain in effect.

4.4 References

Malcolm Pirnie. 2010a. *Final Engineering Report 1132-1146 Seneca Street Site Erie County, New York, NYSDEC Site Number: C915228*

Malcolm Pirnie. 2010b. *Remedial Investigation Report / Remedial Work Plan 1132-1146 Seneca Street Site Erie County, New York, NYSDEC Site Number: C915228.*

Malcolm Pirnie. 2010c. *Site Management Plan 1132 – 1146 Seneca Street Site City Of Buffalo, Erie County, New York, NYSDEC Site Number: BCP Site C915228.*

New York State Department of Environmental Conservation (NYSDEC). 2010. *DER-10 / Technical Guidance for Site Investigation and Remediation*