PROPOSED DECISION DOCUMENT

285-295 Niagara Street Site
Brownfield Cleanup Program
Buffalo, Erie County
Site No. C915259
July 2013

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

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SECTION 1: SUMMARY AND PURPOSE OF THE PROPOSED PLAN

The New York State Department of Environmental Conservation (the Department), in consultation with the New York State Department of Health (NYSDOH), is proposing 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 IRMs 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. The IRM(s) 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 remedy proposed by this Proposed Decision Document (PDD). A No Further Action remedy may include continued operation of any remedial system 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. This PDD identifies the IRM(s) 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 Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR) Part 375. This document is a summary of the information that can be found in the site-related reports and documents in the document repositories identified below.

SECTION 2: CITIZEN PARTICIPATION

The Department seeks input from the community on all Proposed Decision Documents. This is an opportunity for public participation in the remedy selection process. The public is encouraged

to review the reports and documents, which are available at the following repositories:

Buffalo & Erie County Public Library
Attn: Mary Jean Jakubowski
1 Lafayette Square
Buffalo, NY 14203
Phone: (716) 858-8900

New York State Department of Environmental Conservation
Attn: Chad Staniszewski
270 Michigan Avenue
Buffalo, NY 14203
Phone: (716) 851-7220

A public comment period has been set from:

7/17/2013 to 8/30/2013

Written comments may be sent through 8/30/2013 to:

Chad Staniszewski
NYS Department of Environmental Conservation
Division of Environmental Remediation
270 Michigan Ave
Buffalo, NY 14203-2915
crstanis@gw.dec.state.ny.us

The proposed remedy may be modified based on new information or public comments. Therefore, the public is encouraged to review and comment on the proposed remedy identified herein.

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: This site is comprised of two (2) adjoining parcels totaling approximately 0.68 acres and is located in a highly urbanized area of the City of Buffalo. The site is bounded by Niagara

Street to the west, Fell Alley to the east, commercial properties to the north, and a large residential apartment building complex to the south.

Site Features: There is one multi-story building, an asphalt parking area, gravel parking area and driveways on the site.

Current Zoning/Use(s): The site is zoned for general commercial use, however, the site is currently unoccupied. Land use surrounding the site includes commercial, residential, and some vacant properties.

Historic Uses(s): The northern portion of the site has a history of manufacturing and commercial operation. It was utilized as a carriage manufacturing operation, including a blacksmith shop, and painting and varnishing operation since 1889. Around 1900 a bicycle manufacturer operated the southern portion of the parcel including a machine shop and metal plating operation.

The southern portion of the site was utilized as an automobile filling station and car wash since 1961. Several underground storage tanks and two dispensing islands were associated with the filling station.

Site Geology and Hydrogeology: The site is located in the Lake Erie-Niagara River basin.
The surface of the site is covered by buildings and asphalt overlying reddish-brown sandy lean clay. Remedial excavation backfill includes rounded cobbles/gravel and crushed concrete. Groundwater was encountered approximately 6 feet below ground surface and generally flows to the west/southwest.

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, an alternative which allows for unrestricted use of the site was evaluated.

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

SECTION 5: ENFORCEMENT STATUS

The Applicant(s) under the Brownfield Cleanup Agreement is a/are Volunteer(s). The Applicant(s) does/do 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:

- air
- groundwater
- soil
- indoor air
- sub-slab vapor

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:

Petroleum Products

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(s) 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(s) has/have been completed at this site based on conditions observed during the RI.

IRM - Building Demolition and Soil Excavation

Based on prior site investigations, as well as the initial results of the RI, it was determined that soil in the southern half of the site was impacted with gasoline from historic underground storage tanks (previously removed). A series of IRMs were conducted in 2012 which included demolition and off-site disposal of two on-site buildings; removal and off-site recycling of approximately 374 tons of non-impacted asphalt and concrete; and excavation of approximately 4,360 tons of non-hazardous petroleum-impacted soil for off-site biotreatment. During the IRM excavation activities, two abandoned underground storage tanks (USTs) where discovered. The 100 gallon and 500 gallon steel tanks were inspected, cleaned and recycled. In addition, approximately 20,000 gallons of groundwater from on-site excavations was extracted, stored in a temporary on-site storage tank and discharged to the sewer under an approved temporary discharge permit from the Buffalo Sewer Authority (BSA). Approximately 4,268 tons of recycled concrete backfill, originating from a Department registered facility, was brought on-site to backfill the excavations.

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.

Nature and Extent of Contamination:

Prior to Remediation:

Prior to entering the Brownfield Cleanup Program, the NYSDEC Spills Program identified volatile organic compound (VOC) contamination in soil associated with historic gasoline underground storage tanks (USTs). In 2009, two 4,000 gallon and one 6,000 gallon gasoline USTs, along with 2,962 tons of accessible contaminated soil, were removed from the site. VOC impacted soil that was not accessible at the time of tank excavation (adjacent to property line/under buildings/etc) was removed from the site under the current BCP project.

Soil - The remedial investigation completed as part of the Brownfield Cleanup Program confirmed VOC contamination in soil beneath the two smaller on-site buildings and along Fell Alley on the southern half of the site. Low level pesticide contamination (4,4'-DDE and 4,4'-DDT) marginally exceeding unrestricted criteria was identified in the gravel/cobble material used to backfill the prior tank excavation. No soil contamination was identified under the remaining on-site building located in the northern portion of the site.

Groundwater - Groundwater was not substantially impacted by soil contamination. Groundwater concentrations of 1,3,5-trimethylbenzene, xylene and nickel marginally exceed groundwater standards in one monitoring well formerly located at the upgradient boundary of the site.

Soil Vapor and Indoor Air - Soil vapor and indoor air sample results did not exceed action levels outlined in the NYSDOH guidance document 'Guidance for Evaluating Soil Vapor Intrusion in the State of New York' dated October 2006. Indoor air concentrations of petroleum contaminants were consistent with background indoor air concentrations typically found in homes in New York State.

Post-Remediation:

Remediation at the site is complete. Prior to remediation, the primary contaminants of concern were petroleum related VOCs in soil located in the southern half of the site. The contamination was addressed by a series of interim remedial measures in 2012.

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.*

The site is remediated and presents no exposure concerns.

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:

Soil

RAOs for Public Health Protection

- Prevent ingestion/direct contact with contaminated soil.
- Prevent inhalation of or exposure from contaminants volatilizing from contaminants in soil.

SECTION 7: ELEMENTS OF THE PROPOSED 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. The Department believes that this remedy is protective of human health and the environment and satisfies the remediation objectives described in Section 6.5.

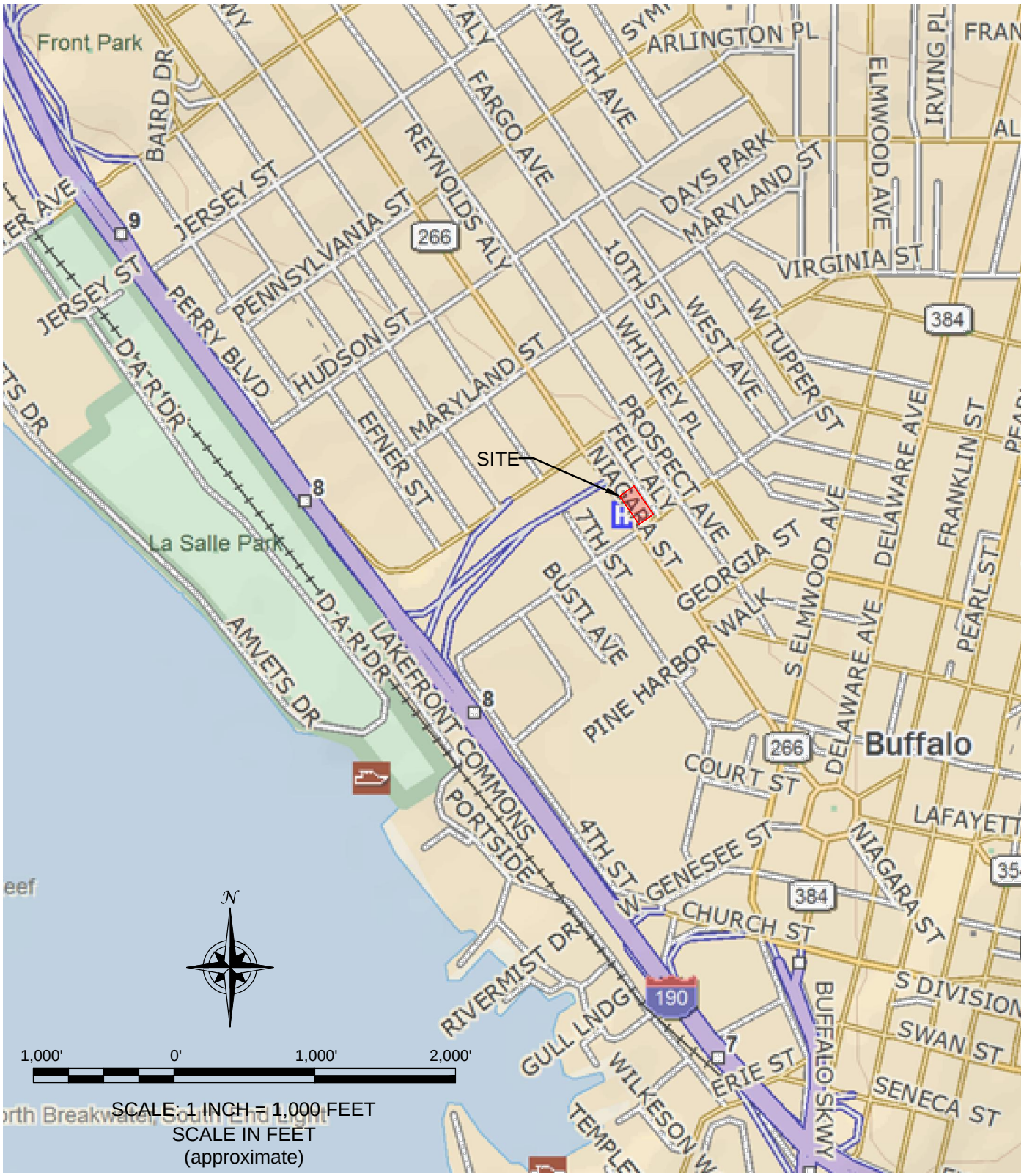
The elements of the IRM already completed are listed below:

Building Demolition:
Two on-site buildings were demolished to allow for excavation of underlying contaminated soil.

Excavation:
On-site soils exceeding unrestricted SCOs, as defined by 6 NYCRR Part 375-6.8, have been excavated and transported off-site for treatment and reuse. One minor exception is low level pesticide contamination (4,4'-DDE and 4,4'-DDT) marginally exceeding unrestricted criteria in the gravel/cobble material previously used as backfill in prior tank excavations. Approximately 2,900 cubic yards of soil was removed from the site. On-site soil which did not exceed SCOs and off-site clean fill meeting the requirements of DER-10, Appendix 5 were used to replace the excavated soil and establish the designed grades at the site.

Figure 1: Site Location Map

FIGURE 1



F:\CAD\TurnKey\LoFaso\285-295 Niagara Street\Remedial Investigation Report\Figure 1; Site Location and Vicinity Map - JGT.dwg

TurnKey Environmental Restoration, LLC
2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0635

PROJECT NO.: 0236-001-102

DATE: JANUARY 2013

DRAFTED BY: JGT

SITE LOCATION AND VICINITY MAP

RI/IRM/AA REPORT

285-295 NIAGARA STREET SITE

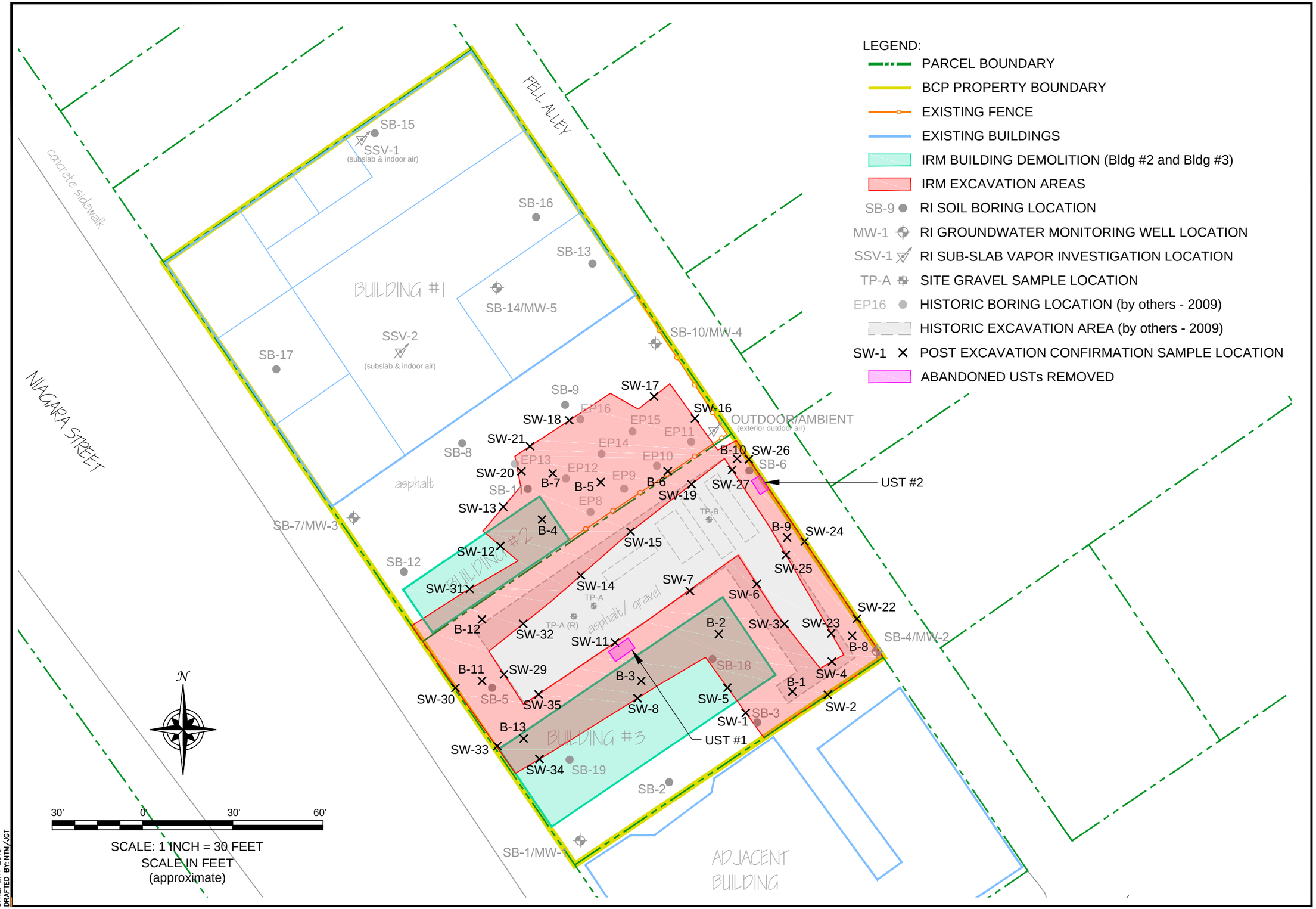
BUFFALO. NEW YORK

PREPARED FOR

285 NIAGARA OPERATING CO., LLC

Figure 2: Elements of the Remedy

F:\CAD\TurnKey\LoFaso\285-295 Niagara Street\Remedial Investigation Report\RI Report Base Map.dwg



DATE: MAY 2013
DRAFTED BY: NTM/JGT

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IRM ACTIVITIES

RI/IRM/AA REPORT
285-295 NIAGARA STREET SITE
BUFFALO, NEW YORK
PREPARED FOR
285 NIAGARA OPERATING CO., LLC

FIGURE