

2020-2023 Periodic Review Report (PRR)

for the:

**125 Main Street Site
Buffalo, New York 14203
NYSDEC BCP Site No. C915262**

**April 2023
(Revised June 2023)**

prepared for:

Benderson Development Co. LLC
570 Delaware Ave.
Buffalo, New York 14202

prepared by:



ENGINEERING +
ENVIRONMENTAL

EnSol, Inc.
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A. Figures and Drawings

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- ALTA/ASCM Land Title Survey (TVGA, November 2013)
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B. Completed Institutional Control (IC) and Engineering Control (EC) Certification Form

1. Executive Summary

1.1 Purpose

This Periodic Review Report (PRR) is required as an element of the remedial program at the 125 Main Street Site (hereinafter referred to as the “site”) under the New York State (NYS) Brownfield Cleanup Program (BCP) administered by the New York State Department of Environmental Conservation (NYSDEC). The site was remediated in accordance with Brownfield Cleanup Agreement (BCA) Index# C915262-05-12, Site # C915262, which was executed on August 16, 2012. A Certificate of Completion (COC) was issued on December 30, 2013.

This PRR is prepared for the reporting period March 16, 2020 through March 16, 2023.

1.2 Site Background and History

The site is located at the intersection of Washington St. and Scott St. in the City of Buffalo, Erie County, New York. The approximately 1.82-acre site is comprised of two separate parcels, identified as parcels D1 and D2. Both parcels were developed by Harbor District Associates, LLC (HDA). The parcels were sold to HDA on April 4, 2014 by Erie Canal Harbor Development Corporation. Parcel D1 is currently used as office, hotel, and retail space. Parcel D2 is currently vacant, open space. See the Location Vicinity Map (**Appendix A**) for the site location.

Phase I and II environmental site assessments (ESA’s) and subsurface investigations conducted at the site (2007-2013) revealed evidence of subsurface contamination, including elevated concentrations of semi-volatile organic compounds (SVOCs) and metals above NYSDEC Part 375 Commercial Use soil cleanup objectives (SCOs). Based on the information gathered during previous assessments and investigations, an interim remedial measure (IRM) was conducted at the site during 2013. The IRM included the removal of contaminated soil/fill from a portion of Parcel D1. Additional remedial measures included the installation of a cover system, preparation of a Site Management Plan (SMP), and the execution of an environmental easement. See the IRM and Cover System Details (**Appendix A**) for the location of the IRM and approximate soil/fill thickness.

1.3 Effectiveness of the Remedial Program

During the reporting period March 16, 2020 through March 16, 2023, the remedial objectives have been met. This assessment is based on an evaluation and assessment (discussed further in Section 4) of the site remedial measures (i.e., cover system, SMP). Additionally, the remedial measures currently in-place appear to be able to achieve the ultimate remedial objectives for the site.

1.4 Compliance

No areas of non-compliance were identified during this reporting period.

1.5 Recommendations

Based on our evaluation of the effectiveness of the remedial program and the site's compliance with major elements of the SMP, no changes to the SMP, frequency of PRR submittals, or discontinuance of site management are recommended.

2. Site Overview

2.1 Site and Remedial History

The site is located in the City of Buffalo, County of Erie, New York and is an approximately 1.82-acre area bounded by a depressed railroad track and Interstate I-190 to the north, Scott St. to the south, Washington St. to the east, and Main St. to the west (see **Appendix A** – Figures and Drawings).

The site is comprised of two separate parcels, identified as parcels D1 and D2. Parcel D1 is the main development parcel and is approximately 1.61 acres. Parcel D2 is approximately 0.21 acres and is located south of D1 along Scott St. Parcel D1 has been re-developed into an office, hotel, and retail building. Parcel D2 is currently vacant, open space. The site is located in a district of the local zoning map labeled as Institutional/Light Industrial; however, residential uses are also permitted in this district.

The site was once occupied by commercial storefronts, a restaurant, a junk yard, a contractor's yard, the American Bit Brace Factory, a machine shop, the Cooper and Sibley Paper Box factory, a boot and shoe manufacturer, a tin shop, a paint shop, a patent medicine manufacturer, and a wire works. Quay Street once ran east and west through the central area of the site, parallel to the Hamburg Canal. The Lehigh Valley Railroad passenger terminal was once located in the southern end of the site, atop the Hamburg Canal which had been backfilled between 1899 and 1925. The office building was constructed in 1960 and was once the location of the NYS Dept. of Transportation, with three underground storage tanks (USTs) installed beneath the paved parking areas for gasoline, diesel and fuel oil. The three USTs were removed and successfully remediated in 2008. Prior uses that appear to have led to site contamination include machining and painting operations that occurred on site and the storage and use of petroleum and other fossil fuels.

Prior to remediation and re-development activities, several investigations were conducted at the site to evaluate previous site history and subsurface soil and groundwater quality. Previous investigations performed at the site included:

- Phase I Environmental Site Assessment (URS, May 2007);
- Phase II Environmental Site Assessment (URS, November 2007);
- Underground Storage Tank Closure Report (Lender, December 2008);
- Phase IB Cultural Resources Investigation (Panamerican, December 2009); and
- Supplemental Phase II Investigation (Benchmark, November 2011).
- Remedial Investigation (Benchmark/EnSol, 2012/2013).

Based upon investigations conducted to date, the primary contaminants of concern include SVOCs and metals. The contaminants were found in both of the parcels that comprise the site and at similar concentrations.

2.2 2013 Site Remediation Program

Phase I and II ESA's and subsurface investigations conducted at the site (2007-2013) revealed evidence of subsurface contamination, including elevated concentrations of SVOCs and metals above NYSDEC Part 375 Commercial Use soil cleanup objectives SCOs. Based on the information gathered during previous assessments and investigations, an IRM was performed at the site (Parcel D1) during 2013. This included the removal of contaminated soil/fill from a portion of Parcel D1. Additional remedial measures implemented at both parcels included the installation of a cover system, preparation of an SMP, and the execution of an environmental easement. See the IRM and Cover System Details and the ALTA/ACSM Survey (Appendix A) for additional information on site remediation and cover system details.

It should be noted that the cover system noted on the IRM and Cover System Details drawing (Appendix A) includes a cross-section of the asphalt and concrete cover system installed on the east half of Parcel D2. This NYSDEC-approved cover system was a result of asphalt space previously occupied by a site trailer replaced with concrete.

3. Remedy Evaluation and Effectiveness

The site was remediated in accordance with the remedy selected by the NYSDEC in the Decision Document dated October 28, 2013. The following are the components of the selected remedy:

- Construction and maintenance of cover systems to prevent human exposure to remaining contaminated soil/fill remaining at the site. There are four separate cover systems that are installed and maintained at the site. Within the IRM area of Parcel D1, the cover system is comprised of a geotextile fabric demarcation layer, a minimum of 11 inches of clean stone fill, and a five-inch concrete slab. The cover system placed in the remaining areas of Parcel D1, outside of the IRM area, is comprised of a geotextile fabric demarcation layer, a minimum of 12 inches of clean stone fill, one inch of sand, and three inch concrete pavers. The cover system on the east half of Parcel D2 is comprised of a geotextile fabric demarcation layer, 20 inches of clean stone fill, and approximately four inches of asphalt. Also on the east half of Parcel D2, as approved by the NYSDEC, concrete was placed in lieu of asphalt when the project trailer was removed from the site in 2014. The cover system on the west half of Parcel D2 consists of a geotextile fabric demarcation layer, 20 inches of clean stone fill, four inches of topsoil, and a layer of sod.
- Execution and recording of an environmental easement to restrict land use and prevent future exposure to any contamination remaining at the site. The environmental easement for the site was executed by the Department on December 6, 2013, and filed with the Erie County Clerk on December 13, 2013.
- Development and implementation of a SMP for long term management of remaining contamination as required by the Environmental Easement, which includes plans for: (1) Institutional Controls (ICs) and Engineering Controls (ECs) and (2) reporting.
- Periodic inspection and certification of the institutional and engineering controls.

It should be noted that starting in July 2019, Parcel D2 has been used as an equipment and materials lay-down yard for nearby City of Buffalo construction projects. The 4” topsoil and sod portion of the cover system on the western half of Parcel D2 was removed to facilitate the temporary use of the parcel as a lay-down yard. The underlying 20” stone layer and geotextile demarcation layer portions of the cover system remain in-place. A 4” layer of stone was added to replace the removed 4” topsoil and sod portion of the cover system. As part of the contractor’s (Cerrone) contract with the City of Buffalo, the site is maintained to prevent stormwater runoff and is also required to be restored to previous conditions upon completion of the construction project which is currently forecasted to be at the end of the 2023 construction season.

On March 30, 2023, EnSol conducted a site inspection to evaluate the integrity and performance of the site cover systems installed at Parcels D1 and D2. Based on our inspection, the cover systems for both parcels appear to be in good condition and performing as intended. During our evaluation, EnSol also reviewed the SMP for compliance. No deficiencies with regard to site management were noted.

During the reporting period March 16, 2020 through March 16, 2023, the remedial objectives have been met. This assessment is based on an evaluation of the site remedial measures (i.e., cover system, SMP). Additionally, the remedial measures currently in-place appear to be able to achieve the ultimate remedial objectives for the site.

4. IC/EC Plan Compliance Report

4.1 IC/EC Requirements and Compliance

In accordance with the Decision Document, the following are the remedial measures selected for the site:

Institutional Controls

1. *Groundwater Use Restriction*

Description and Objective - Prohibits the use of groundwater for potable water supply(s) without proper treatment and approval(s).

Current Status – In-place. The site is located within an area that utilizes public water service.

Recommended Corrective Measures – No deficiencies noted and no corrective measures recommended.

2. *Soil Management Plan*

Description and Objective - Will provide provisions to ensure that any ground intrusive activities conducted at the Site in the future will be conducted in a safe and environmentally responsible manner with respect to contaminants of potential concern (COPCs) remaining in site-related soils and groundwater.

Current Status – In-place. During the current reporting period, there have been no intrusive activities conducted at the site.

Recommended Corrective Measures – No deficiencies noted and no corrective measures recommended.

3. *Land Use Restriction (Environmental Easement)*

Description and Objective - Includes legal property use restrictions ensuring the protection of public health and the environment by prohibiting more restrictive uses of the property as well as use of groundwater without proper treatment and approvals.

Current Status – In-place. There have been no changes to the land use for the site.

Recommended Corrective Measures – No deficiencies noted and no corrective measures recommended.

4. *Site Management Plan (SMP)*

Description and Objective - The SMP includes three major components; the IC/EC Plan detailing controls intended to eliminate potential exposure pathways to COPCs remaining in site-related soil/fill and groundwater, an Excavation Work Plan detailing required methods for handling site soils if future excavation work is required, and the Site Monitoring Plan describing inspection and monitoring activities that will be required to ensure that IC/ECs remain in-place and are effective.

Current Status – In-place. No change to the SMP as all elements remain applicable.

Recommended Corrective Measures – No deficiencies noted and no corrective measures recommended.

5. *IC/EC Plan*

Description and Objective - Institutional controls at the site consist of restrictions on land use which allow Restricted Residential and/or Commercial land use of the property, but prevent more restrictive land uses such as Unrestricted Use. There will also be restrictions on groundwater use that would prohibit the use of groundwater for potable water supply(s) without proper treatment and approval(s). Engineering controls at the site consist of physical barriers to eliminate potential exposure pathways to COPCs still present in site-related soils and groundwater.

Current Status – In-place. No change to the IC/EC Plan as all elements remain applicable.

Recommended Corrective Measures – No deficiencies noted and no corrective measures recommended.

Engineering Controls

1. Cover System

Description and Objective - Construction and maintenance of cover systems to prevent human exposure to remaining contaminated soil/fill remaining at the site. There are four separate cover systems that are installed and maintained at the site. Within the IRM area of Parcel D1, the cover system is comprised of a geotextile fabric demarcation layer, a minimum of 11 inches of clean stone fill, and a five-inch concrete slab. The cover system placed in the remaining areas of Parcel D1, outside of the IRM area, is comprised of a geotextile fabric demarcation layer, a minimum of 12 inches of clean stone fill, one inch of sand, and three-inch concrete pavers. The cover system on the east half of Parcel D2 is comprised of a geotextile fabric demarcation layer, 20 inches of clean stone fill, and approximately four inches of asphalt. Also on the east half of Parcel D2, as approved by the NYSDEC, concrete was placed in lieu of asphalt when the project trailer was removed from the site in 2014. The cover system on the west half of Parcel D2 consists of a geotextile fabric demarcation layer, 20 inches of clean stone fill, four inches of topsoil, and a layer of sod.

Current Status – In-place. The cover systems for each parcel is in good condition and appear to be working effectively.

Recommended Corrective Measures – No deficiencies noted and no corrective measures recommended.

4.2 IC/EC Certification

The completed IC/EC Certification Form for the reporting period March 16, 2020 through March 16, 2023 is included as **Appendix B**.

5. Overall PRR Conclusions and Recommendations

During the reporting period March 16, 2020 through March 16, 2023, the remedial objectives have been met. This assessment is based on an evaluation of the site remedial measures (i.e., cover system, SMP). Additionally, the remedial measures currently in-place appear to be able to achieve the ultimate remedial objectives for the site.

Based on our evaluation of the effectiveness of the remedial program and the site's compliance with major elements of the SMP, no major changes to the SMP, frequency of PRR submittals, or discontinuance of site management are recommended.

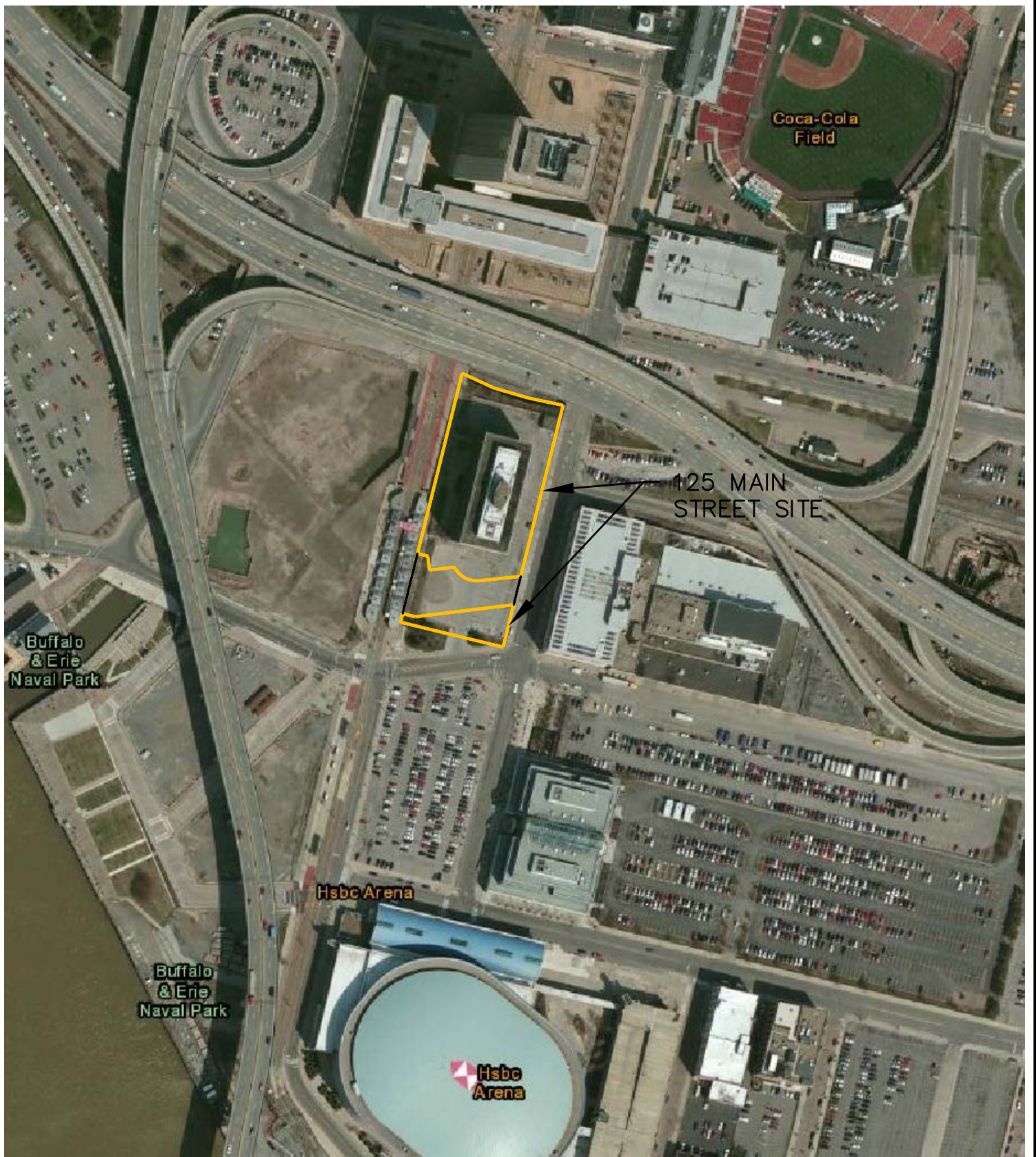
Appendix A

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Figures and Drawings

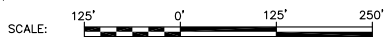


NOTES:

- 1. SOURCE: U.S. FISH AND WILDLIFE SERVICES

LEGEND:

- PARCEL BOUNDARY
- BCP BOUNDARY



VICINITY LOCATION MAP

125 MAIN STREET SITE

HARBOR DISTRICT ASSOCIATES, LLC
CITY OF BUFFALO, STATE OF NEW YORK

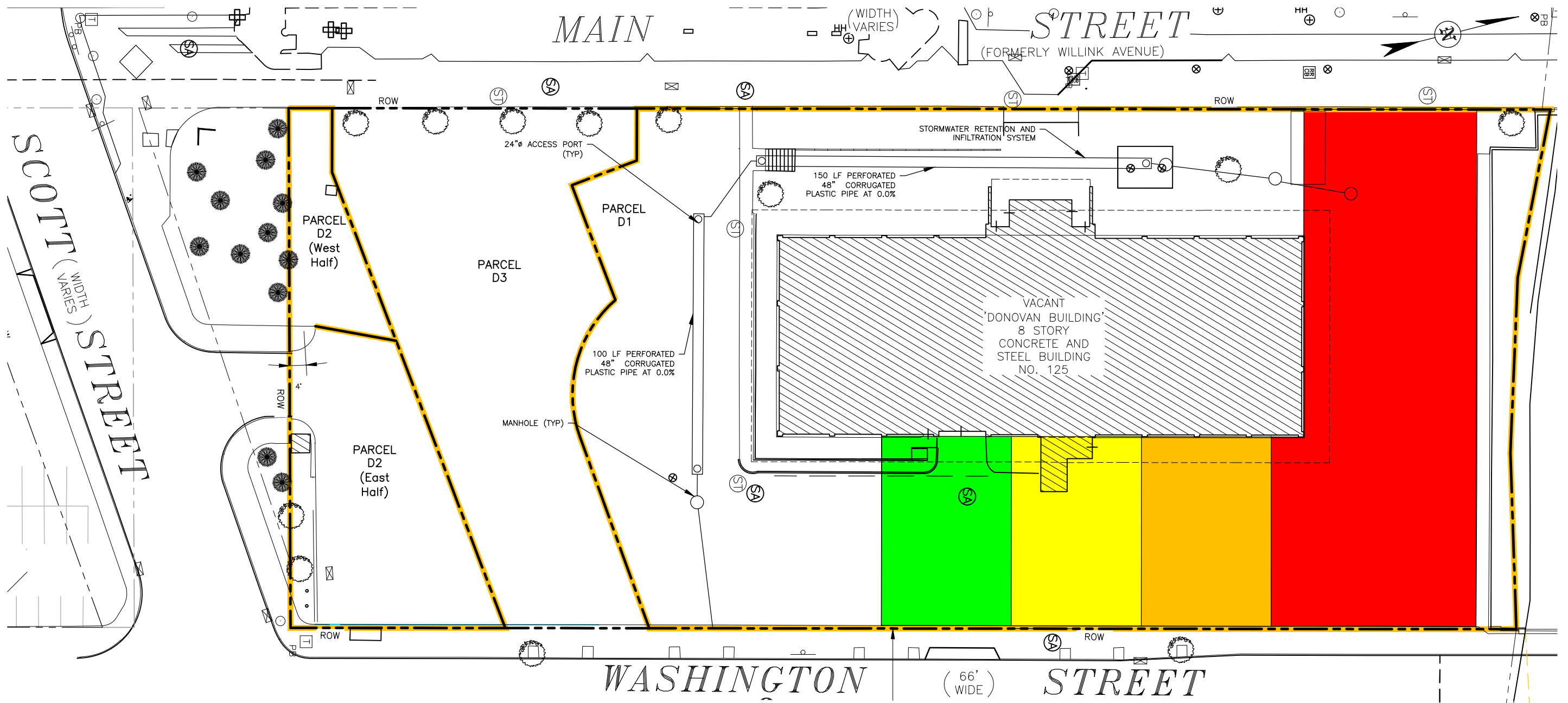
EnSol, Inc.
Environmental Solutions

661 MAIN STREET
NIAGARA FALLS, NY 14301
PHONE (716) 285-3920
FAX (716) 285-3928

FIGURE
2

MAY 2013

PN: 12-0069-3

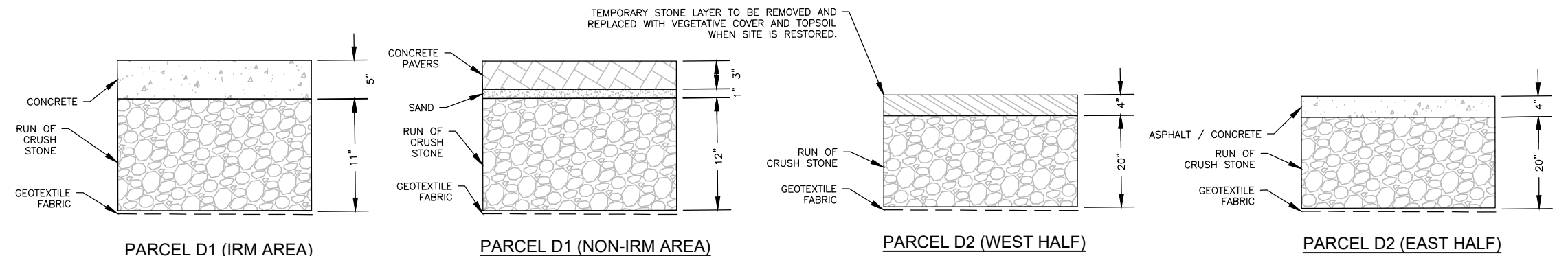


LEGEND:
 - - - - - APPROXIMATE PARCEL BOUNDARY
 ——— BCP BOUNDARY

APPROXIMATE IRM EXCAVATION DEPTH (BELOW GROUND SURFACE)

- 0'-3'
- 3'-6'
- 6'-9'
- 9'-12'

- NOTES:**
1. BASE MAP PROVIDED BY FOIT ALBERT ASSOCIATES.
 2. PROPERTY BOUNDARY LINES SHOWN HEREON ARE APPROXIMATE AND FOR REFERENCE ONLY.



COVER SYSTEMS
NTS

REVISION	BY	DATE
REVISE PARCEL D2 COVER SYSTEM DETAILS AND AREA LABELS	STS	6/6/23
REVISE PARCEL D2 COVER SYSTEM DETAILS	JMS	8/18/20
REVISE PARCEL D2 COVER SYSTEM DETAILS	AMW	10/22/13

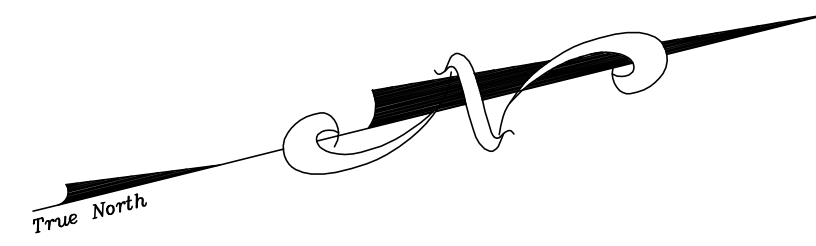
EnSol, Inc.
Environmental Solutions

661 MAIN STREET
 NIAGARA FALLS, NY 14301
 PHONE (716) 285-3920 FAX (716) 285-3928

PROJECT NO:	12-0069-5
SCALE:	
DWG:	12-0069-F06-IRM And Cover Systems Details-R3.dwg
DES. BY:	JCD
DRW. BY:	JCD
CHK. BY:	DJP
DATE:	AUGUST 2013

TITLE:	IRM AND COVER SYSTEM DETAILS		
PROJECT:	125 MAIN STREET SITE BUFFALO, NEW YORK		
PREPARED FOR:	HARBOR DISTRICT ASSOCIATES, LLC		
CITY OF BUFFALO	COUNTY OF ERIE	STATE OF NEW YORK	

FIGURE
6



SYMBOL LEGEND

	GAS VALVE
	SANITARY MANHOLE
	STORM MANHOLE
	ELECTRIC MANHOLE
	WATER VALVE
	HYDRANT
	TELEPHONE MANHOLE
	TELEPHONE VAULT
	CATCH BASIN
	DRAINAGE STRUCTURE
	LIGHT POLE
	2 HEAD LIGHT POLE
	UNIDENTIFIED MANHOLE

GENERAL NOTES

- The subject property is located in Zone X (area determined to be outside 500-year floodplain) per FIRM (Flood Insurance Rate Map), Community Panel No. 360230 0010 G, effective date August 23, 1998.
- The utilities shown have been located from field survey information and existing drawings; the surveyor makes no guarantee that the underground utilities shown comprise all such utilities in the area, either in service or abandoned; the surveyor further does not warrant that the underground utilities shown are in the exact location indicated though they are located as accurately as possible from information available. The surveyor has not physically located the underground utilities. The contractor shall confirm the location of all utilities prior to the commencement of any excavation.
- The subject property has vehicle access to Washington Street, a public street.

**SCHEDULE "A"
ENVIRONMENTAL EASEMENT
PROPERTY DESCRIPTION
L. 11253, P. 3414**

Parcel 1
ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being part of Inner Lots Nos. 1, 2 and 215 and part of Outer Lot No. 83 and being a portion of lands now or formerly conveyed to the Erie Canal Harbor Development Corporation by deed recorded in the Erie County Clerks Office in Liber 11140 of Deeds at Page 8014, and as shown on a map entitled "Parcel Map" prepared by Folt-Albert Associates Architecture, Engineering and Surveying, P.C., Buffalo, NY, dated November 17, 2011 and revised February 25, 2013, and being more particularly bounded and described as follows:

COMMENCING at a point on the east line of Main Street (width varies) at its intersection with the north line of Scott Street (width varies), said point being the southwest corner of lands conveyed to the Erie Canal Harbor Development Corporation by deed recorded in the Erie County Clerks Office in Liber 11140 of Deeds at Page 8014;

Thence N 13° 54' 34" E along the said east line of Main Street, a distance of 133.70 feet to the POINT OF BEGINNING;

Thence continuing N 13° 54' 34" E along the said east line of Main Street, a distance of 350.73 feet to the northwest corner of said lands conveyed to the Erie Canal Harbor Development Corporation;

Thence easterly along the north line of said lands conveyed to the Erie Canal Harbor Development Corporation, the following three (3) courses and distances:

- S 65° 11' 12" E, a distance of 65.70 feet to a point;
- S 73° 45' 17" E, a distance of 67.42 feet to a point;
- S 78° 05' 06" E, a distance of 67.70 feet to the west line of Washington Street (66' wide), said point also being the northeast corner of said lands conveyed to the Erie Canal Harbor Development Corporation;

Thence S 13° 54' 32" W along the said west line of Washington Street, a distance of 332.93 feet to a point;

Thence N 83° 56' 11" W, a distance of 78.12 feet to a point;

Thence on a curve to the right having a radius of 48.11 feet, an arc length of 57.74 feet, a chord bearing of N 61° 40' 57" W, a chord length of 54.34 feet to a point;

Thence S 83° 02' 04" W, a distance of 47.10 feet to a point;

Thence N 06° 57' 56" W, a distance of 26.72 feet to a point;

Thence S 76° 03' 40" W, a distance of 19.97 feet to the POINT OR PLACE OF BEGINNING, containing 70,266 square feet or 1.61 acres of land, more or less.

PARCEL 2
ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being part of Outer Lot No. 83 and being a portion of lands now or formerly of the City of Buffalo known as Scott Street and also being a portion of lands now or formerly conveyed to the Erie Canal Harbor Development Corporation by deed recorded in the Erie County Clerks Office in Liber 11140 of Deeds at Page 8014 and as shown on a map entitled "Parcel Map" prepared by Folt-Albert Associates Architecture, Engineering and Surveying, P.C., Buffalo, NY, dated November 17, 2011 and revised February 25, 2013, and being more particularly bounded and described as follows:

BEGINNING at a point on the east line of Main Street (width varies) at its intersection with the north line of Scott Street (width varies), said point being the southwest corner of lands conveyed to the Erie Canal Harbor Development Corporation by deed recorded in the Erie County Clerks Office in Liber 11140 of Deeds at Page 8014;

Thence N 13° 54' 34" E along the said east line of Main Street, a distance of 16.69 feet to a point;

Thence S 76° 05' 28" E, a distance of 24.60 feet to a point;

Thence N 83° 02' 03" E, a distance of 187.23 feet to the west line of Washington Street (66' wide);

Thence S 13° 54' 32" W along the said west line of Washington Street, a distance of 82.49 feet to the said north line of Scott Street;

Thence N 76° 21' 21" W along the said north line of Scott Street, a distance of 192.54 feet to the POINT OR PLACE OF BEGINNING, containing 9,074 square feet or 0.21 acre of land, more or less.

SCHEDULE B NOTES:
The commitment for title insurance issued by Stewart Title Insurance Company, dated July 12, 2013 and Redated September 19, 2013, as BA13-4355(DEC) (4th Amended) contains the following exceptions which are survey matters:

- Rights of the City of Buffalo with respect to any sewers, drains or water pipes or mains located within the boundaries of the former Hamburg Canal Strip reserved in Deed made by City of Buffalo to Pioneer Real Estate Company dated March 4, 1912 and recorded March 4, 1912 in Liber 1199 of Deeds at Page 246. Affects premises as shown.
- Easement rights of the City of Buffalo and the Buffalo Sewer Authority in and to a 28 foot wide Sewer Line Easement as set forth on Transfer of Jurisdiction Map No. 31, Parcel No. 3. Affects premises as shown.
- Easement rights of the City of Buffalo Sewer Authority in and to a 20 foot wide Permanent Easement running from Main Street to Washington Street along the end east side of the building located on premises as shown on State of New York map for the State Office Building Site - City of Buffalo. Affects premises, shown.
- Boundary Line and Wall Agreement made by Harbor District Associates, LLC with Erie Canal Harbor Development Corporation dated May 8, 2013 and recorded in the Erie County Clerk's Office May 23, 2013 in Liber 11246 of Deeds at page 4602. Affects premises as shown.
- Easement granted to National Fuel Gas Distribution Corporation recorded in the Erie County Clerk's Office August 30, 2013 in Liber 11252 of Deeds at page 2598. Affects premises as shown.

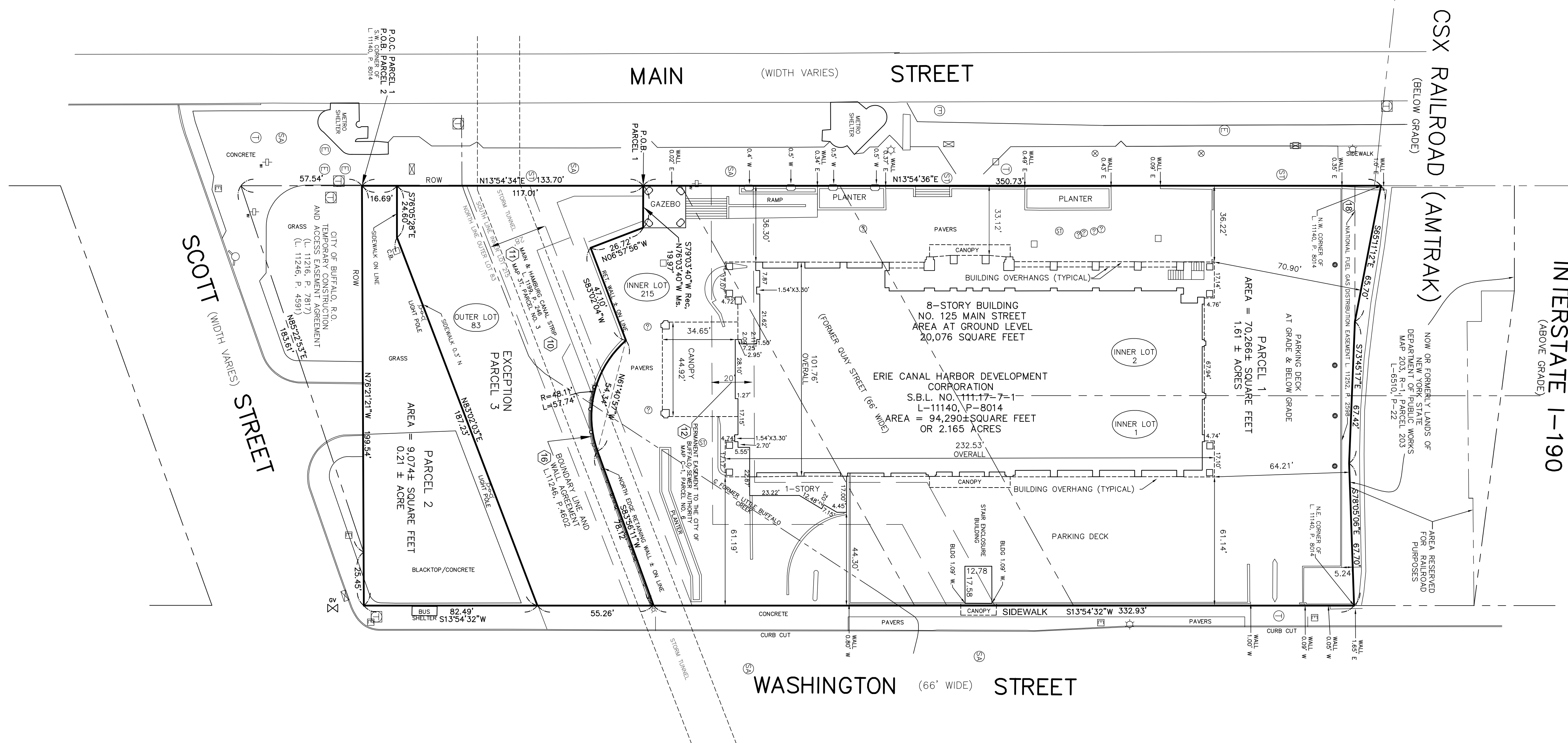
SURVEY CERTIFICATION

TO: 1. THE PEOPLE OF THE STATE OF NEW YORK STATE ACTING THROUGH THEIR COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
2. ERIE CANAL HARBOR DEVELOPMENT CORPORATION
3. STEWART TITLE INSURANCE COMPANY

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE "MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS," JOINTLY ESTABLISHED AND ADOPTED BY ALTA, ACSM AND NSPS IN 2011 AND PURSUANT TO THE ACCURACY STANDARDS (AS ADOPTED BY ALTA AND ACSM AND IN EFFECT ON THE DATE OF THIS CERTIFICATION), THE UNDERSIGNED FURTHER CERTIFIES THAT IN MY PROFESSIONAL OPINION, THE RELATIVE POSITIONAL ACCURACY OF THIS SURVEY DOES NOT EXCEED THAT WHICH IS SPECIFIED THEREIN.

Douglas R. Haber
DOUGLAS R. HABER
PROFESSIONAL LAND SURVEYOR N.Y.S.P.L.S. NO. 050204

DATED: November 25, 2013



This property is subject to an Environmental Easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation Law.

ENVIRONMENTAL EASEMENT AREA ACCESS
The DEC or their agent may access the Environmental Easement Area as shown hereon through any existing street access or building ingress/egress access point.

THE ENGINEERING AND INSTITUTIONAL CONTROL for the Easement are set forth in more detail in the Site Management Plan ("SMP"). A copy of the SMP must be obtained by any party with an interest in the property. The SMP may be obtained from the New York State Department of Environmental Conservation Division of Environmental Remediation, Site Control Section, 625 Broadway, Albany, NY 12233 or at derweb@gw.dec.state.ny.us.


ENGINEERING / INSTITUTIONAL CONTROLS

- All Engineering controls must be operated and maintained as specified in the SMP.
- All Engineering Controls on the Controlled Property must be inspected at a frequency and in a manner defined in the SMP.
- Groundwater monitoring and other environmental or public health monitoring must be performed as defined in the SMP.
- Groundwater use restriction - The use of the groundwater underlying the property is prohibited without treatment rendering it safe for intended use.
- Vapor intrusion - The potential for vapor intrusion must be evaluated for any buildings developed on the Site; and any potential impacts that are identified must be monitored or mitigated.
- Vegetable gardens and farming on the property are prohibited.
- Land Use - The property may only be used for Restricted Residential as described in 6NYCRR Part 375-1.8(g)(2)(ii), Commercial as described in 6NYCRR Part 375-1.8(g)(2)(iii) and Industrial as described in 6NYCRR Part 375-1.8(g)(2)(iv).

<p>NEW YORK COUNTY OF ERIE CITY OF BUFFALO</p> <p>ALTA/ACSM LAND TITLE SURVEY 125 MAIN STREET NYSDEC SITE NUMBER: C915262 Part of Inner Lots 1, 2 & 215 Part of Outer Lot 83</p> <p>MAP NUMBER: 62091</p>	<p>Field Date: 11/15/2013 Office Date: 11/25/2013 Job No.: Drawn by: MWW Checked by: DRH Dwg Scale: 1" = 30' File Name: 62091 ALTA.DWG Vert:</p>	<p>DESIGNED BY: DRAWN BY: CHECKED BY: DWG SCALE: FILE NAME: VERT:</p>	<p>DESIGNED BY: DRAWN BY: CHECKED BY: DWG SCALE: FILE NAME: VERT:</p>	<p>DESIGNED BY: DRAWN BY: CHECKED BY: DWG SCALE: FILE NAME: VERT:</p>	<p>DESIGNED BY: DRAWN BY: CHECKED BY: DWG SCALE: FILE NAME: VERT:</p>
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Appendix B

EnSol, Inc.



ENGINEERING + ENVIRONMENTAL

Completed Institutional Control (IC) and Engineering Control (EC) Certification Form



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.	C915262		
Site Name 125 Main Street Site			
Site Address: 125 Main Street		Zip Code: 14204	
City/Town: Buffalo			
County: Erie			
Site Acreage: 1.820			
Reporting Period: March 16, 2020 to March 16, 2023			
		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? Restricted-Residential, Commercial, and Industrial	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.	Are all ICs 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?

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. C915262

Box 3

Description of Institutional Controls

*BAI
6/8/23
Ensol, Inc.*

Parcel

Owner

Institutional Control

~~part of 111.17-7-1~~ Erie Canal Harbor Development Corp.

111.17-7-1.2 Harbor District Associates, LLC

111.17-7-1.3 Harbor District Associates, LLC

Ground Water Use Restriction
Soil Management Plan
Landuse Restriction
Site Management Plan
IC/EC Plan

Prohibition against use of groundwater without treatment
Site use must be maintained as restricted residential

Box 4

Description of Engineering Controls

Parcel

Engineering Control

~~part of 111.17-7-1~~ 111.17-7-1.2

111.17-7-1.3

Cover System

Cover system of pavement and soil over the entire site, approx. 1.82 acres

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 Engineering Control 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. For each Engineering control listed in Box 4, I certify by checking "YES" below that all of the following statements are true:

(a) The 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. C915262**

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 Patrick Colern at Benderson Development Co. LLC 570 Delaware Ave., Buffalo, NY 14202,
print name print business address

am certifying as Designated Owner Representative (Owner or Remedial Party)

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



4/11/2023

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

Date

EC CERTIFICATIONS

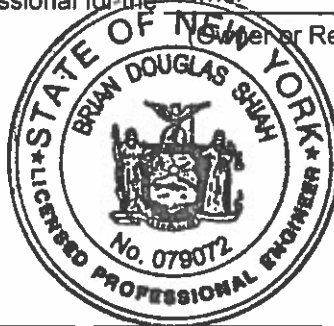
Box 7

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.

I Brian D. Shiah, P.E. at EnSol, Inc., 661 Main St., Niagara Falls, NY 14301
print name print business address

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



Brian D. Shiah

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

Stamp (Required for PE)

4/11/23

Date