PERIODIC REVIEW REPORT REPORTING PERIOD MARCH 22, 2022 TO MARCH 22, 2023

1827 FILLMORE AVENUE SITE BCP SITE NO. C915279 BUFFALO, NEW YORK

April 2023 B0421-023-001

Prepared for:

1827 Fillmore, LLC

424 Main Street, Suite 2000 Buffalo, NY 14202

Prepared by:



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

PERIODIC REVIEW REPORT

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1.0 Introduction

Benchmark Civil/Environmental Engineering & Geology, PLLC (Benchmark) has prepared this Periodic Review Report (PRR) on behalf of 1827 Fillmore LLC to summarize the post-remedial status of New York State Department of Environmental Conservation (NYSDEC) Brownfield Cleanup Program (BCP) Site No. C915279 located in the City of Buffalo, Erie County, New York (see Figure 1).

This PRR has been prepared in accordance with NYSDEC DER-10 Technical Guidance for Site Investigation and Remediation (Ref. 1) and is based on the information contained within the November 2019 Site Management Plan (SMP; Ref. 2). Appendix A includes the Institutional and Engineering Control (IC/EC) Certification Form completed based on the Site inspection performed March 9, 2023.

This PRR and associated certifications have been completed to document post-remedial activities at the Site for the March 22, 2022 to March 22, 2023 reporting period.

1.1 Site Background

The Site is located at 1827 Fillmore Avenue in Erie County, City of Buffalo, New York and identified as SBL No. 90.13-1-11 (hereinafter referred to as the Site). The 17.11-acre Site is bounded by the Kensington Expressway (Route 33) to the north; Buffalo Public School #89, Dr. Lydia T. Wright School of Excellence, and athletic fields to the south; Erie County Medical Center (ECMC) and Buffalo Public School #84 to the east; and Fillmore Avenue to the west (see Figure 2).

The Site is primarily vegetated with one asphalt road along the southern boundary. The eastern portion of the Site is currently used by ECMC as a parking area constructed in 2019 as part of the final cover system. The Site was used as a stone quarry from at least 1917 through at least 1927. Sometime between the 1940s and 1950s, the stone quarry was backfilled with unknown fill materials. The seven-story Kensington Heights Towers Apartments were constructed in 1958 and demolished in October 2018. Five similar buildings that were part of the Kensington Heights Towers Apartments were demolished circa 2012. The Site has been vacant since the 1980s. Historic operations impacted on-site soil with polycyclic aromatic hydrocarbons (PAHs) and lead.



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1.2 Remedial History

#C915279-10-17, with the NYSDEC in November 2017 to investigate and remediate the 17.11-acre Site located in the City of Buffalo, Erie County, New York. Upon entry into the BCP, Benchmark completed a Remedial Investigation (RI) in accordance with the approved RI Work Plan dated November 2017 (Ref. 3) and three approved supplemental Work Plans including February 2018 Supplemental Remedial Investigation Work Plan (Ref. 4), April 2018 Emerging Contaminants Groundwater Sampling Work Plan (Ref. 5), and June 2018 Supplemental Remedial Investigation Work Plan for Bedrock Drilling Activities (Ref. 6). RI and Supplemental RI activities were performed November to December 2017, July 2018, and May 2018. On-site field activities included soil boring advancement; test pit excavations (across the Site and within two soil/fill mounds); surface soil/fill sampling; overburden and bedrock monitoring well installation; and groundwater quality sample collection. Based on the findings of the RI, Benchmark prepared and completed the January 2019 Remedial Investigation/Alternatives Analysis (RI/AA) Report (Ref. 7) and May 2019 Remedial Action Work Plan (RAWP; Ref. 8).

The final remedial measures included in-situ stabilization, excavation of soil/fill exceeding Part 375 commercial soil cleanup objectives (CSCOs), and placement of acceptable cover material in areas not otherwise covered by asphalt roadway or pavement as detailed in the November 2019 SMP (Ref. 2) and December 2019 Final Engineering Report (FER; Ref. 9). BCP Site activities were performed in accordance with the BCA and the property was remediated to a NYSDEC Part 375 Commercial Use Track 4 cleanup.

1.3 Compliance

At the time of the annual Site inspection (March 9, 2023), the Site was fully compliant with the NYSDEC-approved SMP (Ref. 2). Minor disturbance of the vegetated cover, likely by animal creating pathways under the snow cover, was observed; however, these areas will fill in as the growing season progresses. Additionally, the vegetated cover system along the edge of the parking lot area was scraped away, likely during snow removal activities. These areas will be reseeded once the growing season begins. No excavation work was observed during the Site inspection for this PRR reporting period.



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2.0 SITE OVERVIEW

Previous environmental investigations were completed and identified contamination from past uses of the Site that required remediation. 1827 Fillmore LLC entered the BCP to further investigate and remediate the Site for future redevelopment. The remedial activities completed in 2019 included:

- In-situ stabilization of approximately 3,091 cubic yards of characteristic hazardous lead soil/fill using Portland cement in remedial areas SB-21 and TP-13.
- Excavation and off-site disposal of contaminant source areas, including soil exceeding the site-specific action levels (SSALs) of 3,900 ppm for lead and total PAHs exceeding 500 ppm. Approximately 2,200 tons of soil was removed and disposed off-site; this amount includes approximately 160 tons of soil exceeding the 6NYCRR Part 371 hazardous toxicity characteristic for lead in remedial area SB-21, which was treated in-situ and rendered non-hazardous prior to disposal.
- Construction of a soil cover system consisting of a minimum of one foot of soil placed over a demarcation layer, with the upper six inches of soil of sufficient quality to maintain a vegetative layer to prevent human exposure to remaining contaminated soil/fill remaining at the Site.

The remedial program was successful in achieving the remedial objectives for the Site. An Environmental Easement restricting end use of the Site and enforcing adherence to the SMP was executed by the Department on July 26, 2019, and filed with the Erie County Clerk on September 6, 2019. The FER was approved in December 2019. Concurrently, the Site received a Certificate of Completion (COC) from NYSDEC on December 23, 2019.



3.0 REMEDY PERFORMANCE

A post-remedial inspection involving a walk-over of the Site was performed by Ms. Lori Riker, P.E. of Benchmark on March 9, 2023, to visually observe and document Site conditions for commercial use, confirm absence of Site groundwater use, and verify conformance with other requirements under the SMP. Ms. Riker was accompanied by NYSDEC representatives Ms. Megan Kuczka (Project Manager) and Mr. Michael Keller. The Site inspection confirmed that the controls are in-place and functioning as intended in accordance with the SMP. Minor disturbances of the vegetated cover system were observed. The areas likely created by animal pathways under the snow cover will fill in as the growing season progresses. The vegetated cover system disturbance along the parking lot likely scraped away during snow removal will be reseeded once the growing season begins. No excavation work was observed during the Site inspection for this PRR reporting period.

Appendix A includes the completed IC/EC Certification Form. Appendix B includes photographs taken during the March 9, 2023 Site inspection.



4.0 SITE MANAGEMENT PLAN

An SMP was prepared for the Site and approved by the NYSDEC in November 2019. Key components of the SMP are described below.

4.1 Institutional and Engineering Control (IC/EC) Plan

Since soil/fill containing constituents above CSCOs and residual groundwater impacts exist beneath the Site, institutional and engineering controls (IC/ECs) are required to protect public health and the environment. The IC/EC Plan describes the procedures for the implementation and management of all IC/ECs at the Site.

4.1.1 Institutional Controls

The Site has a series of institutional controls (ICs) in the form of Site restrictions as indicated below. Adherence to these ICs is required by the Environmental Easement.

- Allows the use and development of the controlled property for commercial and industrial uses as defined by Part 375-1.8(g), although land use is subject to local zoning laws.
- Requires compliance with the NYSDEC-approved SMP.
- Restricts the use of groundwater underlying the Site as a source of potable water, without necessary water quality treatment as determined by the NYS Department of Health (NYSDOH) or the Erie County DOH.
- Data and information pertinent to Site management must be reported at the frequency and in a manner as defined in the SMP.
- All future activities that will disturb remaining contaminated material must be conducted in accordance with the SMP.
- Operation, maintenance, monitoring, inspection, and reporting of any physical component of the remedy shall be performed as defined in the SMP.
- Access to the Site must be provided to agents, employees, or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by the Environmental Easement.

ICs identified in the Environmental Easement may not be discontinued without an amendment to or extinguishment of the Environmental Easement.

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4.1.2 Engineering Controls

A cover system has been installed at the Site to prevent exposure to remaining soil/fill contamination above CSCOs. The cover system is comprised of the following (see Figure 3):

- Vegetated Soil Cover most of the Site is covered by a vegetated soil cover system. The vegetated soil cover consists of a minimum of 12 inches of DER-10 compliant soil placed over a demarcation layer, with the upper six inches of soil of sufficient quality to maintain a vegetative layer to prevent human exposure to contaminated soil/fill remaining at the Site.
- Asphalt Paved Road the existing and repaired asphalt roadway along the southern property boundary.
- Asphalt Parking Lot the area associated with the ECMC asphalt parking lot on the eastern portion of the Site. The cover system in this area consists of asphalt pavement and sub-base underlain by geotextile fabric.

4.2 Excavation Work Plan

An Excavation Work Plan (EWP) was included in the approved SMP for the Site. The EWP provides guidelines for the management of soil/fill during any future intrusive actives. Any intrusive work that may disturb remaining contamination during maintenance or redevelopment work on the Site must be performed in compliance with the EWP and must also be conducted in accordance with a site-specific Health and Safety Plan (HASP) and Community Air Monitoring Plan (CAMP) meeting the minimum requirements of the sample HASP and CAMP included with the SMP.

4.3 Annual Inspection and Certification Program

The Annual Inspection and Certification Program outlines requirements for certifying and attesting that the IC/ECs employed on the Site are unchanged from the original design and/or previous certification. The Annual Certification includes a Site inspection and completion of the NYSDEC's IC/EC Certification Form. The Site inspection is intended to verify that the IC/ECs:

- Are in place and effective.
- Are performing as designed.



- That nothing has occurred that would impair the ability of the controls to protect the public health and environment.
- That nothing has occurred that would constitute a violation or failure to comply with any operation and maintenance plan for such controls.
- Access is available to the Site to evaluate continued maintenance of such controls.

Formal inspection of the Site was conducted on March 9, 2023 by Ms. Lori Riker, P.E. of Benchmark, who was accompanied by NYSDEC. Ms. Riker meets the requirements of a Qualified Environmental Professional (QEP) per 6NYCRR Part 375-1.2. At the time of the inspection, the Site was fully compliant with the NYSDEC-approved SMP. Minor disturbance of the vegetated cover, likely by animal creating pathways under the snow cover, was observed; however, these areas will fill in as the growing season progresses. Additionally, the vegetated cover system along the edge of the parking lot area was scraped away, likely during snow removal activities. These areas will be reseeded once the growing season begins. No excavation work was observed during the Site inspection for this PRR reporting period.

Appendix A includes the completed Site Management PRR Notice – Institutional and Engineering Controls Certification Form. Appendix B provides a photographic log of the conditions at the time of the Site inspection.

4.4 Operation and Maintenance Plan

The Site remedy does not rely on any mechanical systems (e.g., sub-slab depressurization systems, groundwater pump and treat, or soil vapor extraction systems) to protect public health and the environment; therefore, an Operation and Maintenance (O&M) Plan is not required for the Site.



5.0 GROUNDWATER MONITORING

The SMP requires annual groundwater monitoring, subject to evaluation and recommendations after Year 1, as noted on Table 11 of the SMP. The 2021 PRR recommended discontinuance of groundwater monitoring at the Site since all dissolved lead concentrations were reported as non-detect or well below the NYSDEC Class GA groundwater quality standard (GWQS) during the October 2020 post-remedial monitoring event. The NYSDEC's June 23, 2021 PRR acceptance letter stated that groundwater sampling cessation will be re-assessed following one additional sampling round in October 2023.



6.0 CONCLUSIONS AND RECOMMENDATIONS

6.1 Conclusions

The Site complied with the SMP at the time of the March 9, 2023 inspection. Minor disturbance of the vegetated cover, likely by animal creating pathways under the snow cover, was observed; however, these areas will fill in as the growing season progresses. Additionally, the vegetated cover system along the edge of the parking lot area was scraped away, likely during snow removal activities. These areas will be reseeded once the growing season begins. No excavation work was observed during the Site inspection for this PRR reporting period.

6.2 Recommendations

The following modification is recommended for the Site:

• Reseeding the area proximate the parking lot once the growing season begins.



7.0 DECLARATION/LIMITATION

This PRR has been prepared for the exclusive use of 1827 Fillmore LLC. The contents of this PRR are limited to information available at the time of the Site inspection. The findings herein may be relied upon only at the discretion of 1827 Fillmore LLC. Use of or reliance upon this PRR or its findings by any other person or entity is prohibited without written permission of Benchmark Civil/Environmental Engineering & Geology, PLLC.



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8.0 REFERENCES

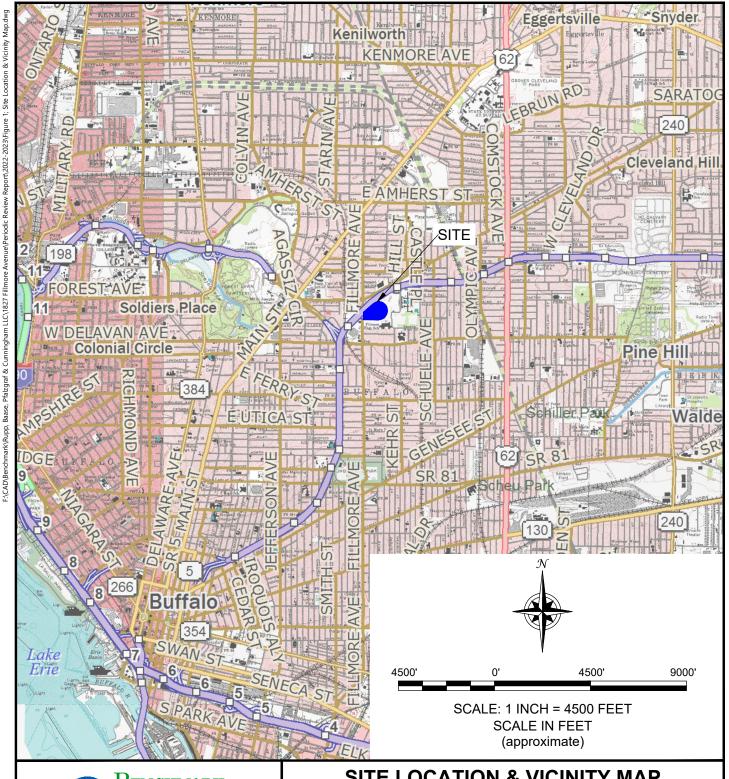
- 1. New York State Department of Environmental Conservation. DER-10/Technical Guidance for Site Investigation and Remediation. May 2013.
- 2. Benchmark Environmental Engineering and Science, PLLC. Site Management Plan, 1827 Fillmore Avenue Site, Buffalo, New York. November 2019
- 3. Benchmark Environmental Engineering and Science, PLLC. Remedial Investigation Work Plan, 1827 Fillmore Avenue Site, Buffalo, New York. November 2017.
- 4. Benchmark Environmental Engineering and Science, PLLC. Supplemental Remedial Investigation Work Plan, 1827 Fillmore Avenue Site, Buffalo, New York. February 2018.
- 5. Benchmark Environmental Engineering and Science, PLLC. Emerging Contaminants Groundwater Sampling Work Plan, 1827 Fillmore Avenue Site, Buffalo, New York. April 2018.
- 6. Benchmark Environmental Engineering and Science, PLLC. Supplemental Remedial Investigation Work Plan for Bedrock Drilling Activities, 1827 Fillmore Avenue Site, Buffalo, New York. June 2018.
- 7. Benchmark Environmental Engineering and Science, PLLC. Remedial Investigation/ Alternative Analysis Report, 1827 Fillmore Avenue Site, Buffalo, New York. January 2019.
- 8. Benchmark Environmental Engineering and Science, PLLC. Remedial Action Work Plan, 1827 Fillmore Avenue Site, Buffalo, New York. May 2019.
- 9. Benchmark Environmental Engineering and Science, PLLC. Final Engineering Report, 1827 Fillmore Avenue Site, Buffalo, New York. December 2019.



FIGURES



FIGURE 1





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

PROJECT NO.: 0421-023-001

DATE: MARCH 2023 DRAFTED BY: CMS

SITE LOCATION & VICINITY MAP

PERIODIC REVIEW REPORT

1827 FILLMORE AVENUE SITE BCP SITE NO. C915279 **BUFFALO, NEW YORK**

PREPARED FOR

1827 FILLMORE LLC

<u>DISCLAIMER:</u>
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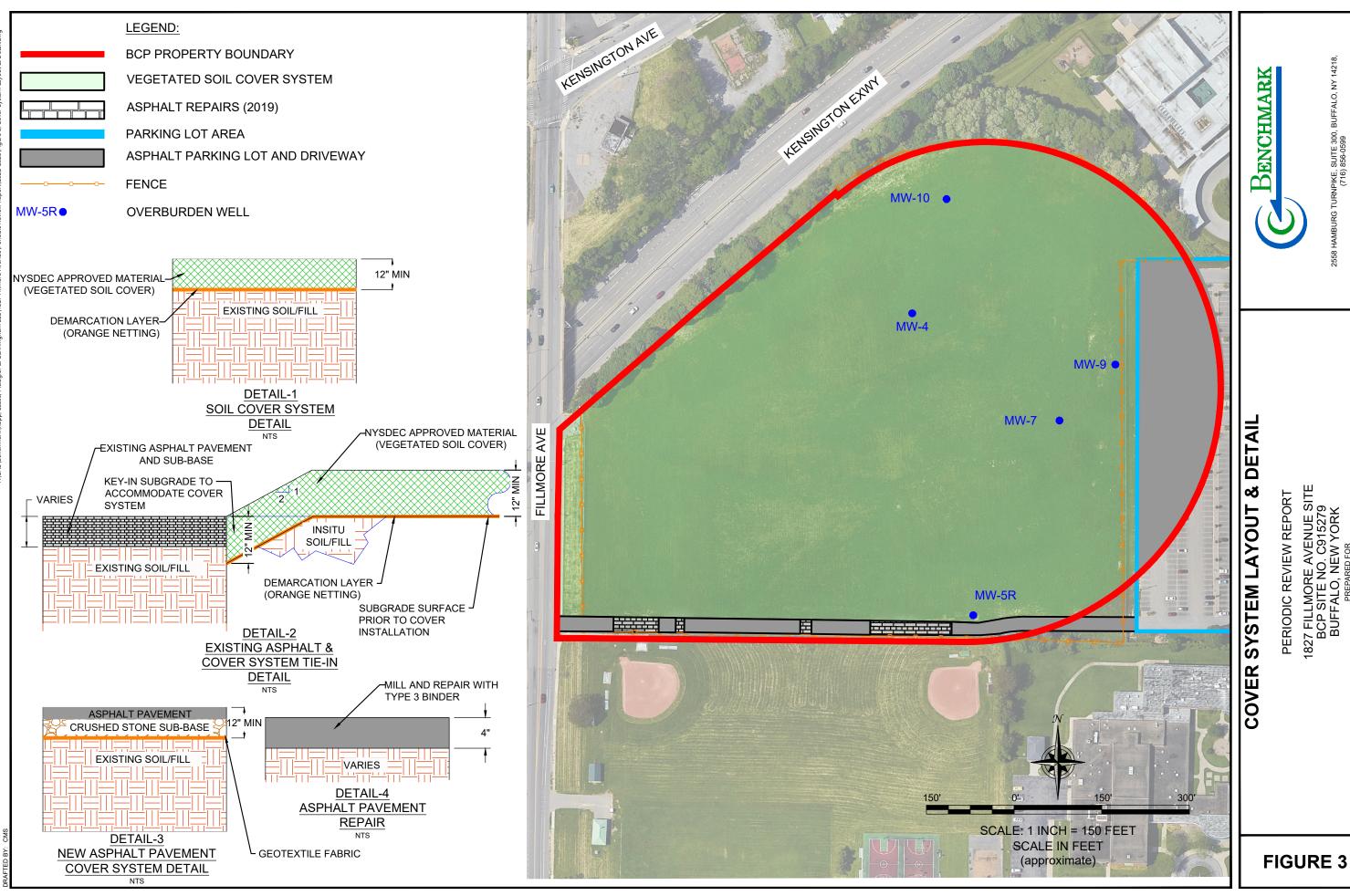
SITE PLAN (AERIAL)

PERIODIC REVIEW REPORT

1827 FILLMORE AVENUE SITE BCP SITE NO. C915279 BUFFALO, NEW YORK PREPARED FOR 1827 FILLMORE LLC

2558 HAMBURG TURNPIKE, SUITE 300, (716) 856-0599 JOB NO.: 0421-023-001

FIGURE 2



1827 FILLMORE AVENUE SITE BCP SITE NO. C915279 BUFFALO, NEW YORK

0421-023-00

.. 0 N

JOB

APPENDIX A

INSTITUTIONAL & ENGINEERING CONTROLS CERTIFICATION FORM





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



Sit	e No.	C915279	Site Details		Box 1	
Sit	e Name 18	27 Fillmore Avenue				
Cit Co	e Address: y/Town: Bu unty:Erie e Acreage:		Zip Code: 14214			
Re	porting Perio	od: March 22, 2022 to M	larch 22, 2023			
					YES	NO
1.	Is the infor	mation above correct?			X	
	If NO, inclu	de handwritten above or	on a separate sheet.			
2.		or all of the site property nendment during this Re	been sold, subdivided, merged, or porting Period?	r undergone a		X
3.		peen any change of use RR 375-1.11(d))?	at the site during this Reporting Pe	eriod		X
4.	•	ederal, state, and/or loca e property during this Re	al permits (e.g., building, discharge porting Period?	e) been issued		X
			s 2 thru 4, include documentation is a submitted with this cert			
5.	Is the site of	currently undergoing dev	elopment?			X
					Box 2	
					YES	NO
6.		ent site use consistent wi al and Industrial	th the use(s) listed below?		X	
7.	Are all ICs	in place and functioning	as designed?	X		
	IF TI		R QUESTION 6 OR 7 IS NO, sign ar HE REST OF THIS FORM. Otherwi		ınd	
A	Corrective M	easures Work Plan mus	t be submitted along with this for	m to address th	nese iss	ues.
Sig	nature of Ow	ner, Remedial Party or D	esignated Representative	Date		

		Box 2	A
		YES	NO
8.	Has any new information revealed that assumptions made in the Qualitative Exposure Assessment regarding offsite contamination are no longer valid?		X
	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)	X	
	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. C915279	Во	x 3
Ī	Description of Institutional Controls		
Parce 90.13		<u>l</u>	
	Soil Management F Landuse Restrictio Monitoring Plan	Site Management Plan	
- prof	use must be maintained as commercial or industrial; nibition against groundwater use without treatment; npliance with an excavation work plan; and undwater monitoring		
		Bo	κ 4

Engineering Control

Cover System

Description of Engineering Controls

- soil and pavement site cover system; and - in-situ stabilized soil/fill

Parcel 90.13-1-11

	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 compete. 	1
	YES NO	
	\mathbf{X}	
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;	l
	(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	
	${f X}$	
	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.	
	Details of Owner Bornellist Borton of Decimals of Bornels of Bornels of Control	
	Signature of Owner, Remedial Party or Designated Representative Date	

IC CERTIFICATIONS SITE NO. C915279

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.

Andrew L. Davis	462 Grider Street, Buffalo, N at 1827 Fillmore LLC	NY 14215
print name	print business addr	ress
am certifying asOwne	er	(Owner or Remedial Party)
for the Site named in the Site Details S	ection of this form.	
andrew Davis		4/4/2023
Signature of Owner, Remedial Party, o	r Designated Representative	Date

EC CERTIFICATIONS SITE NO. C915279

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.

punishable as a Class "A" misdeme	inor, pursuant to Section 210.45 of the Penal Law.
ILori E. Riker, P.E. print name	Benchmark Civil/Environmental Engineering & Geology PLLC at 2558 Hamburg Turnpike, Suite 300, Buffalo, NY 14218 print business address
am certifying as a Qualified Enviror	nental Professional for theOwner
Signature of Qualified Environment the Owner or Remedial Party, Rene	

APPENDIX B

SITE PHOTO LOG



SITE PHOTOGRAPHS

Photo 1:



Photo 3:



Photo 2:



Photo 4:



Annual Site Inspection (March 9, 2023)

Photo 1: Vegetated soil cover and eastern fence line (looking north).

Photo 2: Paved access road and vegetated soil cover (looking west)

Photo 3: Paved access road and vegetated soil cover (looking north)

Photo 4: Paved access road, vegetated soil cover, and fence along Fillmore Ave. (looking north)



SITE PHOTOGRAPHS

Photo 5:





Photo 6:



Photo 8:



Annual Site Inspection (March 9, 2023)

Photo 5: Vegetated soil cover (looking west)

Photo 6: Vegetated cover along northwest boundary (looking northeast)

Photo 7: Vegetated soil cover (looking south)

Photo 8: Vegetated soil cover and eastern fence line (looking south)



SITE PHOTOGRAPHS

Photo 9:



Photo 10:



Photo 11:



Photo 12:



Annual Site Inspection (March 9, 2023)

Photo 9: Vegetated soil cover (looking east)

Photo 10: Paved parking lot (looking south)

Photo 11: Minor erosion of vegetated cover

Photo 12: Erosion of cover along paved parking lot likely due to snow plow activities

