

Periodic Review Report

441 Ohio Street Site
(BCP Site No. C915285)
Buffalo, New York

August 2018

0292-018-001

Prepared For:

441 Ohio Street LLC

Prepared By:



PERIODIC REVIEW REPORT

**441 OHIO STREET SITE
(BCP SITE No. C915285)**

BUFFALO, NEW YORK

August 2018

0292-018-001

Prepared for:

441 OHIO STREET, LLC

Prepared By:



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

PERIODIC REVIEW REPORT

441 Ohio Street Site (C915285)

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1.0 INTRODUCTION

Benchmark Environmental Engineering and Science, PLLC (Benchmark) has prepared this Periodic Review Report (PRR), on behalf of 441 Ohio Street, LLC, to summarize the post-remedial status of New York State Department of Environmental Conservation (NYSDEC) Brownfield Cleanup Program (BCP) 441 Ohio Street (C915285).

This PRR has been prepared in accordance with the NYSDEC DER-10 *Technical Guidance for Site Investigation and Remediation* (May 2010) and the NYSDEC's Institutional and Engineering Controls (IC/EC) Certification Form has been prepared for the Site. This PRR and the associated IC/EC Form (see Appendix A) have been completed for the post-remedial period from March 30, 2017 to August 30, 2018.

1.1 Site Background

The BCP Site is located at 441 Ohio Street (aka 9 South Street), in the City of Buffalo, Erie County, New York (see Figures 1 and 2).

The 1.8 acre BCP Site is bounded by South Street to the north, roadway access and parking lot area to the south, parking lot with Ohio Street beyond to the east, and the Buffalo River to the west (see Figures 1 and 2).

The site was historically used for warehousing purposes. The previous warehouse building was constructed in 1892 and condemned in 2011. Previous site occupants historically included Erie Railroad Flour Warehouse, Erie Railroad Exchange – Lake and Transfer Warehouse, Great Lakes Paper Stock, Inc., Seaboard Great Lakes, Buffalo Waterfront Corp., and Erie Railroad Corp.

1.2 Remedial History

441 Ohio Street, LLC entered into a Brownfield Cleanup Agreement (BCA) on April 30, 2014 with the NYSDEC to investigate and remediate the Site. 441 Ohio Street, LLC completed the investigation and remediation of the Site under the supervision of the NYSDEC and NYSDOH. The Remedial Investigation (RI) was performed between February 2015 and July 2016, and remedial activities were completed in January 2017.

The remedial program was successful in achieving the remedial objectives for the Site, and the Site Management Plan (SMP) and Final Engineering Report (FER) were

approved by the Department. The NYSDEC issued the Certificate of Completion (COC) for the Site on March 30, 2017.

1.3 Compliance

At the time of the Site inspection, the Site was compliant with the NYSDEC-approved Site Management Plan (SMP).

1.4 Recommendations

Based on the results of the site inspection and certification, Benchmark makes the following recommendations:

- Modification of the annual certification reporting requirement from annual to triennial (every three years).

Beyond those changes described above, no modifications to the current SMP are recommended at this time.

2.0 SITE OVERVIEW

Previous environmental investigations completed at the Site identified contamination from past uses of the Site that required remediation. 441 Ohio Street, LLC entered into the BCP to further investigate and remediate the Site for future redevelopment. The remedial activities were completed between February 2016 and January 2017, including:

- Excavation and off-site disposal of impacted soil/fill and historic railroad ties.
- Construction and maintenance of a cover system consisting of the new building, pavement (asphalt and concrete), and soil cover in all other areas at a minimum of two-feet-thick over the demarcation layer, to prevent human exposure to remaining contaminated soil/fill remaining at the Site.

The Site Management Plan (SMP) and Final Engineering Report (FER) were approved in March 2017. The Certificate of Completion (COC) was issued for the Site on March 30, 2017.

3.0 REMEDY PERFORMANCE

The site inspection completed during the current reporting period indicates that the controls are in-place and functioning as intended in accordance with the SMP. Details related to work completed during the reporting period are provided below.

The completed IC/EC Certification forms and site photographs are included in Appendices A and B, respectively.

4.0 SITE MANAGEMENT PLAN

A SMP was prepared and approved by the Department in March 2017. The SMP provides a detailed description of all procedures required, including: (1) implementation and management of all Institutional and Engineering Controls; and (2) performance of periodic inspections, certification of results, and submittal of Periodic Review Reports.

A brief description of the SMP components is presented below.

4.1 Institutional and Engineering Control (IC/EC) Plan

As detailed in the SMP, several Engineering and Institutional Controls (EC/ICs) need to be maintained as a requirement of the BCA for the Site.

4.1.1 *Engineering Controls*

- Cover System – The cover system is being maintained in compliance with the SMP.

4.1.2 *Institutional Controls*

- Groundwater-Use Restriction – the use of groundwater for potable and non-potable purposes is prohibited without additional treatment;
- Land-Use Restriction: The controlled property may be used for restricted residential, commercial and industrial use; and,
- Implementation of the SMP.

4.2 Annual Inspection and Certification Program

The Annual Inspection and Certification Program outlines requirements for certifying and attesting that the institutional controls and engineering controls 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.

Inspection of the Site was conducted by benchmark on August 3, 2018. At the time of the inspection, the Site was being used as a residential apartment building, with surface parking, concrete sidewalks, and landscaped areas. No observable indication of intrusive activities was noted during the Site inspection, and no observable use of groundwater was noted during the Site inspection.

The completed Site Management Periodic Review Report Notice – Institutional and Engineering Controls Certification Form is included in Appendix A. A photographic log of the August 2018 Site inspection is included in Appendix B.

4.3 Cover System – Surface Modifications

During this reporting period, modification of the cover system was completed. As previously noticed to the Department, modification was primarily limited to completion of redevelopment design elements, including concrete patio along the western side of the building, and landscape plantings that were previously unable to be completed due to seasonal weather limitation. It should be noted that there was no disturbance beneath the demarcation layer as part of the surface cover modification.

Between June and October 2017, 441 Ohio Street, LLC completed planned landscaping and construction of concrete patio. Benchmark completed routine site inspections of the cover system modifications throughout the process.

Details of the concrete patio (designed by other) were previously provided to the Department. Photo documentation of the surface modification are provided in the photolog (see Appendix B). Revised cover system drawings and details are attached.

4.3.1 Imported Materials

During the reporting period, the following materials were imported to the Site.

Topsoil – Approximately 200 cubic yards of DEC approved topsoil was brought to the Site from Rammer Nursery located on Genesee Street, Lancaster NY. The topsoil was analyzed in accordance with the SMP and DER-10 requirements. The Request to Import Soil was submitted to the DEC Project Manager for review and approved on May 24, 2017.

5.0 CONCLUSIONS AND RECOMMENDATIONS

Conclusions and recommendations are as follows:

- At the time of the site inspection, the Site was compliant with engineering and institutional control requirements.

The following modifications are recommended for the Site.

- Modification of the annual certification reporting requirement from annual to triennial (every three years).

6.0 DECLARATION/LIMITATION

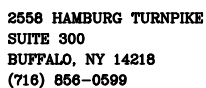
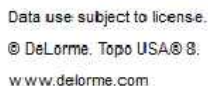
Benchmark Environmental Engineering and Science, PLLC personnel conducted the annual site inspection for BCP Site No. C915285, located in Buffalo, New York, according to generally accepted practices. This report complied with the scope of work provided to 441 Ohio Street, LLC by Benchmark Environmental Engineering & Science, PLLC.

This report has been prepared for the exclusive use of 441 Ohio Street, LLC. The contents of this report are limited to information available at the time of the site inspection. The findings herein may be relied upon only at the discretion of 441 Ohio Street, LLC. Use of or reliance upon this report or its findings by any other person or entity is prohibited without written permission of Benchmark Environmental Engineering and Science, PLLC.

7.0 REFERENCES

1. New York State Department of Environmental Conservation. *DER-10; Technical Guidance for Site Investigation and Remediation*. May 2010.
2. *Site Management Plan, 441 Ohio Street Site, BCP Site No. C915285, Buffalo, New York*, dated March 2017, prepared by Benchmark Environmental Engineering and Science, PLLC.
3. *Final Engineering Report, 441 Ohio Street Site, BCP Site No. C915285, Buffalo, New York*, dated March 2017, prepared by Benchmark Environmental Engineering and Science, PLLC.

FIGURES



DRAFTED BY: CMC

441 OHIO STREET, LLC

DISCLAIMER:
PROPERTY OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC. IMPORTANT: THIS DRAWING PRINT IS LOANED FOR MUTUAL ASSISTANCE AND AS SUCH IS SUBJECT TO RECALL AT ANY TIME. INFORMATION CONTAINED HEREON IS NOT TO BE DISCLOSED OR REPRODUCED IN ANY FORM FOR THE BENEFIT OF PARTIES OTHER THAN NECESSARY SUBCONTRACTORS & SUPPLIERS WITHOUT THE WRITTEN CONSENT OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC.

LEGEND:

- PROPERTY BOUNDARY
- - - PARCEL BOUNDARY

BUFFALO RIVER



SCALE: 1 INCH = 80 FEET
SCALE IN FEET
(approximate)



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

PROJECT NO.: 0292-018-001

DATE: AUGUST 2018

DRAFTED BY: CMC



SITE PLAN (AERIAL)

PERIODIC REVIEW REPORT

441 OHIO STREET SITE
BCP SITE NO. C915285
BUFFALO, NEW YORK

PREPARED FOR
441 OHIO STREET, LLC

FIGURE 2

DISCLAIMER: PROPERTY OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC. & TURNKEY ENVIRONMENTAL RESTORATION, LLC IMPORTANT: THIS DRAWING PRINT IS LOANED FOR MUTUAL ASSISTANCE AND AS SUCH IS SUBJECT TO RECALL AT ANY TIME. INFORMATION CONTAINED HEREON IS NOT TO BE DISCLOSED OR REPRODUCED IN ANY FORM FOR THE BENEFIT OF PARTIES OTHER THAN NECESSARY SUBCONTRACTORS & SUPPLIERS WITHOUT THE WRITTEN CONSENT OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC & TURNKEY ENVIRONMENTAL RESTORATION, LLC.

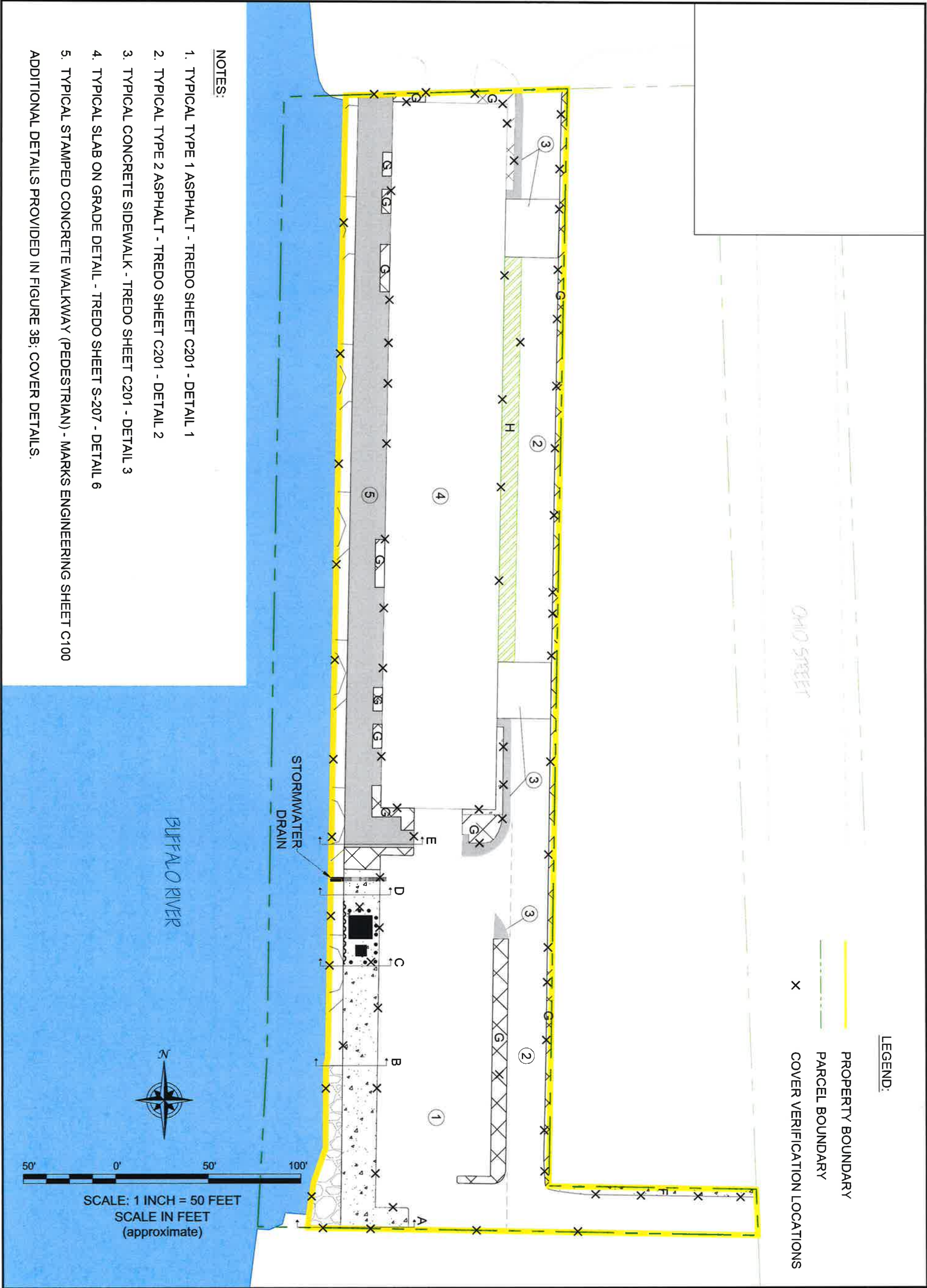


FIGURE 3A

**COVER SYSTEM LAYOUT
(RECORD DRAWING)**

PERIODIC REVIEW REPORT

441 OHIO STREET SITE
BCP SITE NO. C915285
BUFFALO, NEW YORK

PREPARED FOR
441 OHIO STREET, LLC



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

JOB NO.: B0292-018-001

DATE: AUGUST 2018
DRAFTED BY: CMC

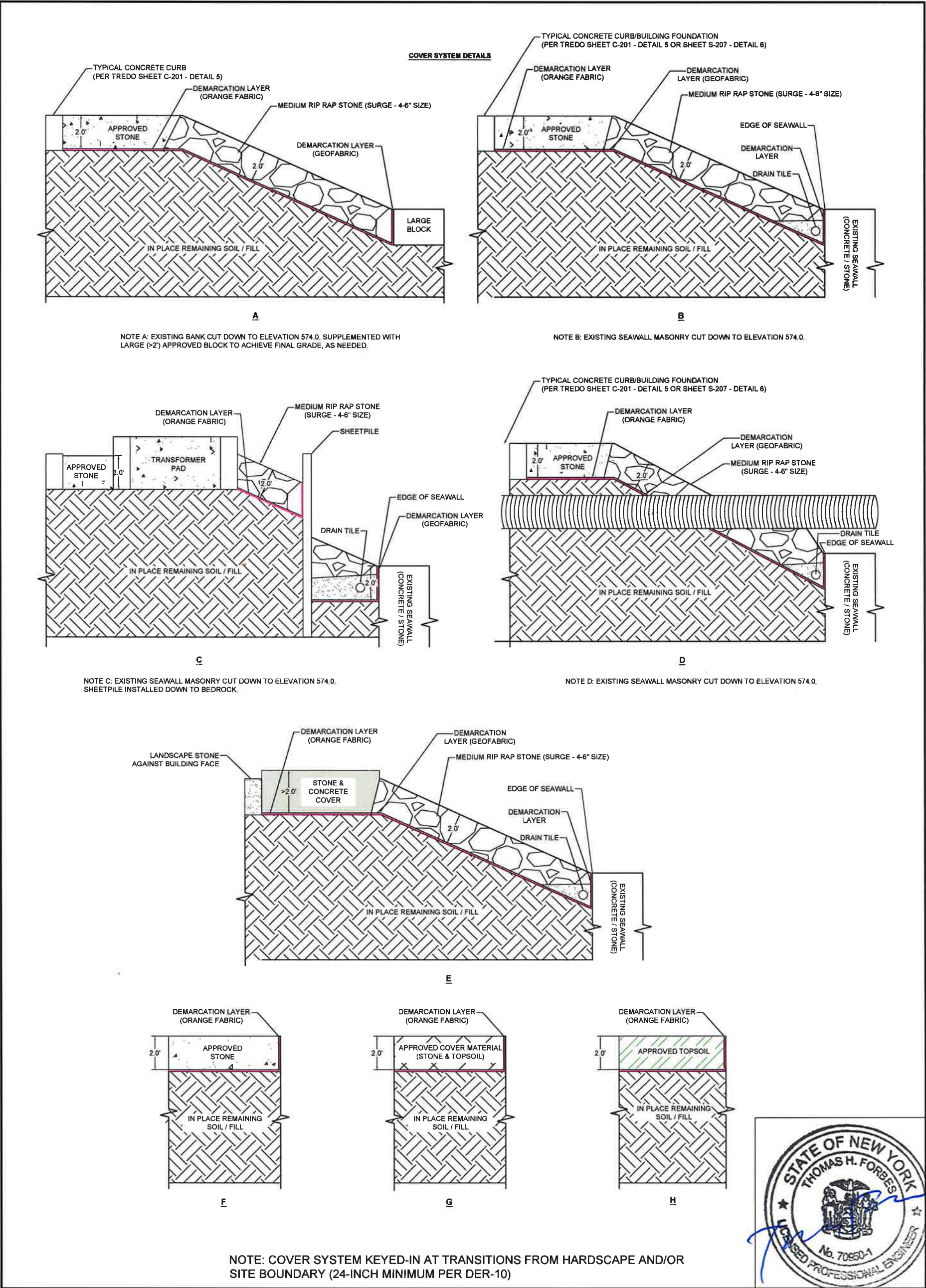


FIGURE 3B

**COVER SYSTEM DETAIL
(RECORD DRAWING)**
PERIODIC REVIEW REPORT
441 OHIO STREET SITE
BCP SITE NO. C915285
BUFFALO, NEW YORK
PREPARED FOR
441 OHIO STREET, LLC



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
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JOB NO.: B0292-018-001

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BUFFALO RIVER

ASSUMED CENTERLINE - APPROX.
CHANNEL WIDTH 250'

89+00

88+00

87+00

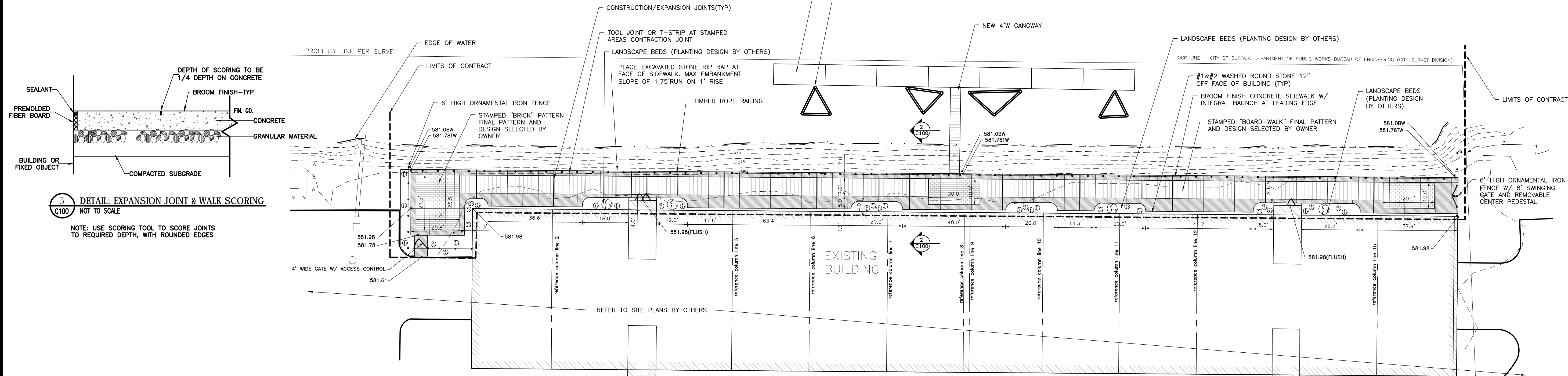
86+00

APPROXIMATELY 1100' DOWNSTREAM OF THE OHIO STREET BRIDGE
ASSUMED STATION - 89+00

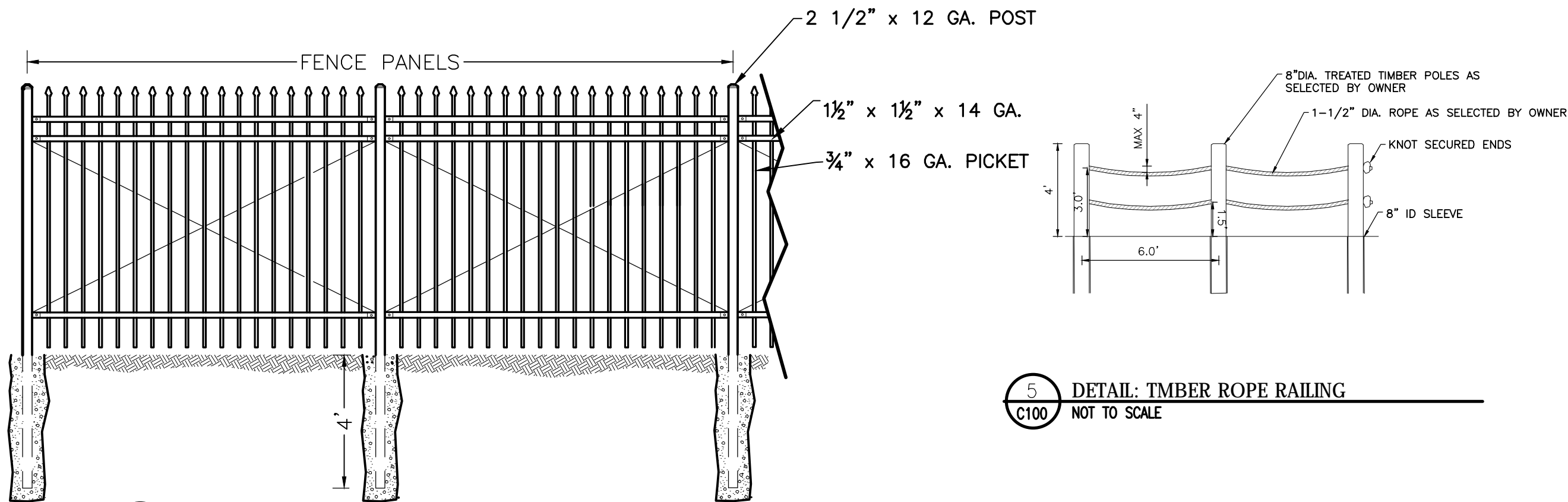
WATER SURFACE ELEVATION RECORDED 10/18/2013 - 571.88 NAVD88
BY LAWRENCE J. ZYGAL PLS PER SURVEY DATED 10/4/2013
FLOOD ELEVATION PER FEMA - 580.5 NAVD88

(6) NEW 8'X20' FLOATING DOCK SECTIONS WITH LESS THAN 25 BOAT SLIPS
MEAN SURFACE ELEV = 574.0
MAX ELEV = 582.75 (FLOOD)

EX PILINGS TOP ELEV = 581.5 (TYP)

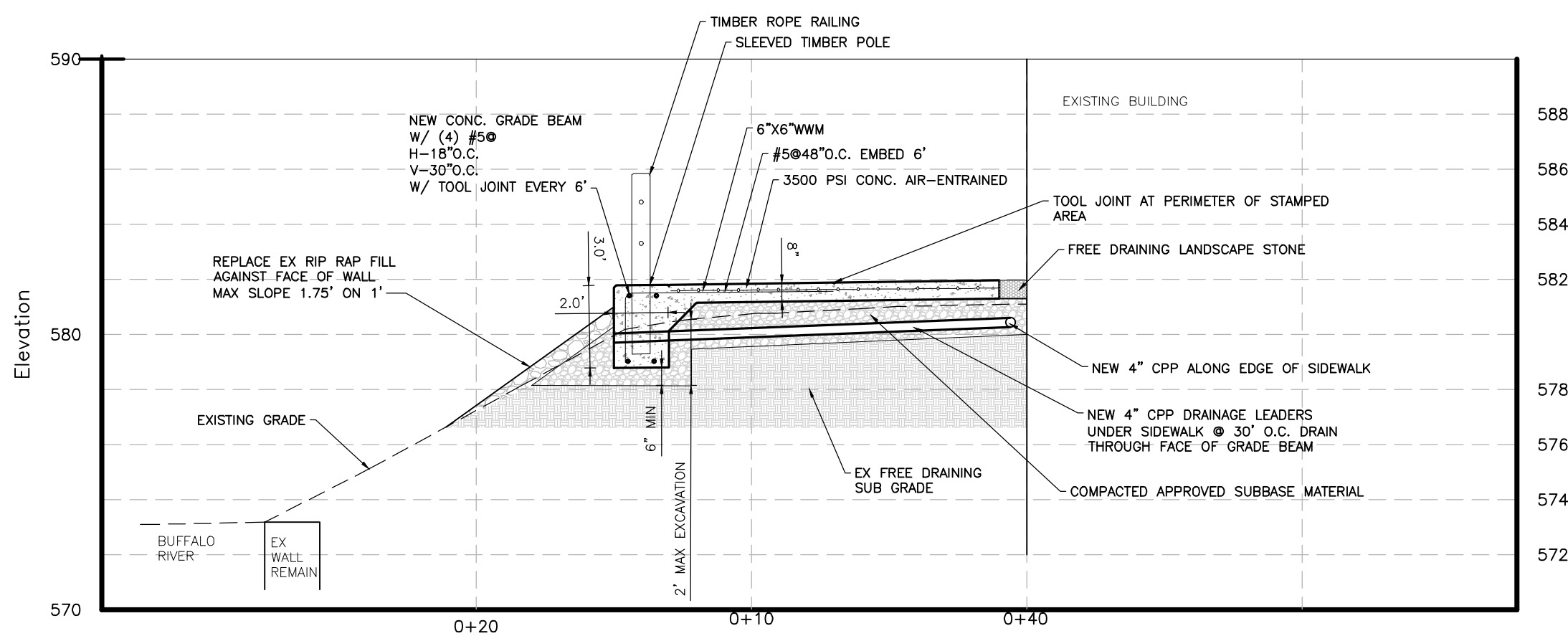


1 SITE PLAN
C100 1"=20'



4 DETAIL: ORNAMENTAL ALUMINUM FENCE
C100 NOT TO SCALE

5 DETAIL: TIMBER ROPE RAILING
C100 NOT TO SCALE



2 SIDEWALK SECTION
C100 1"=5'

Legend:
○ Iron pin or pipe found
● Benchmark
● Utility pole
● Hydrant
● Light pole
--- EXISTING ---
--- PROPOSED ---
--- Utility Lines ---
--- Property line ---
--- Easement line ---
--- R.O.W. line ---
--- Contour ---
--- Drainage ---
--- Fence Line ---
--- Contour Line ---

NO.	DATE	DESCRIPTION OF REVISION OR APPROVAL	BY

PLANS PREPARED FOR:
BUFFALO RIVER LANDING
RIVERSIDE IMPROVEMENTS
ONE SOUTH STREET
CITY OF BUFFALO
STATE OF NEW YORK
COUNTY OF ERIE

DRAWING TITLE: SITE PLAN	
DRAWN BY:	DRW
DESIGNED BY:	BAM
CHECKED BY:	BAM
SCALE:	1"=20'
JOB NO.:	17-041
DATE:	06/14/2017
TAX MAP#:	NA

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



Site Details

Box 1

Site No. C915285

Site Name 441 Ohio Street Site

Site Address: 9 South Street **Zip Code:** 14203
City/Town: Buffalo
County: Erie
Site Acreage: 1.8

Reporting Period: March 30, 2017 to July 30, 2018

- | | 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/ECs in place and functioning as designed? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

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

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

Signature of Owner, Remedial Party or Designated Representative

Date

Box 2A

YES NO

8. Has any new information revealed that assumptions made in the Qualitative Exposure Assessment regarding offsite contamination are no longer valid?

☐ ☒

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. C915285

Box 3

Description of Institutional Controls

Parcel

122.14-1-1

Owner

441 Ohio Street, LLC

Institutional Control

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

The remedy achieves a Track 4 restricted residential cleanup at a minimum and includes the imposition of an environmental easement and a site management plan as described below.

- Environmental Easement

Imposition of an environmental easement for the controlled property that:

- o requires the remedial party or site owner to complete and submit to the Department a periodic certification of institutional and engineering controls in accordance with Part 375-1.8 (h)(3);
- o allows the use and development of the controlled property for restricted residential, commercial and industrial uses as defined by Part 375-1.8(g), although land use is subject to local zoning laws;
- o restricts the use of groundwater as a source of potable or process water, without necessary water quality treatment as determined by the NYSDOH or County DOH; and
- o requires compliance with the Department approved Site Management Plan.

- Site Management Plan

A Site Management Plan which includes the following:

- o an Institutional and Engineering Control Plan that identifies all use restrictions and engineering controls for the site and details the steps and media-specific requirements necessary to ensure the following institutional and/or engineering controls remain in place and effective:

Institutional Controls: (ICs) discussed in Paragraph 5.

Engineering Controls: discussed in engineering control description.

This plan includes, but may not be limited to:

- an Excavation Plan which details the provisions for management of future excavations in areas of remaining contamination;
- descriptions of the provisions of the environmental easement including any land use and groundwater use restrictions;
- provisions for the management and inspection of the identified engineering controls Paragraph 3 and 4;
- maintaining site access controls and Department notification; and
- the steps necessary for the periodic reviews and certification of the institutional and/or engineering controls.

Box 4

Description of Engineering Controls

Cover System

1. SITE COVER

A site cover was installed to allow for restricted residential use of the site. The cover consists either of the structures such as buildings and improvements such as pavement, sidewalks comprising the site development or a soil cover in areas where the upper two feet of exposed surface soil exceeds the applicable soil cleanup objectives (SCOs). Where the soil cover was installed, it consists of a minimum of two feet of soil placed over a demarcation layer, with the upper six inches of soil of sufficient quality to maintain a vegetative layer. Soil cover material, including any fill material brought to the site, will meet the SCOs for cover material as set forth in 6 NYCRR Part 375-6.7(d).

2. RETAINING WALL AND RIVER EMBANKMENT

The site remediation involved partial reuse of the existing former building foundation wall along the river as an integral part of the final remedy to structurally support and separate remaining contaminated material from the Buffalo River. Reuse of the former foundation wall involved partial removal of the wall, sloping back the embankment, and stabilizing the embankment with rock armor and soil cover.

For the segment of the riverbank previously covered with concrete rubble armored embankment, the concrete rubble was removed, the embankment was sloped back to a more stable slope configuration, and stabilizing the embankment with rock armor.

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. C915285

Box 6

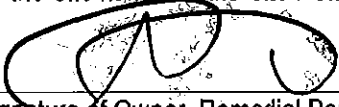
SITE OWNER OR DESIGNATED REPRESENTATIVE SIGNATURE

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 Samuel Savarino at 500 Seneca Street, Buffalo New York
print name print business address

am certifying as Owner Representative (Owner or Remedial Party)

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


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

9/14/18
Date

IC/EC CERTIFICATIONS

Site No. C915285

Box 7

Professional Engineer 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 Thomas H. Forbes at Benchmark Environmental Engineering & Science, PLLC
print name print business address

am certifying as a Professional Engineer for the Owner

(Owner or Remedial Party)


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



Stamp
(Required for PE)

9-27-18
Date

APPENDIX B

PHOTOGRAPHIC LOG

SITE PHOTOGRAPHS

Photo 1:

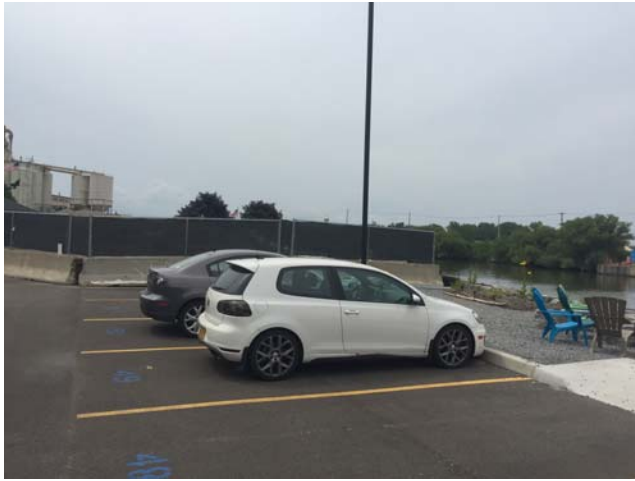


Photo 2:



Photo 3:



Photo 4:



Photo 1: Inaccessible portion of the site due to jersey barriers and fencing for Buffalo River Project.

Photo 2: Parking lot (looking north).

Photo 3: Parking lot and parking lot island with landscaping (looking north).

Photo 4: Concrete walkway and landscaping along the southwest corner of the on-site building (looking northwest).

SITE PHOTOGRAPHS

Photo 5:



Photo 6:

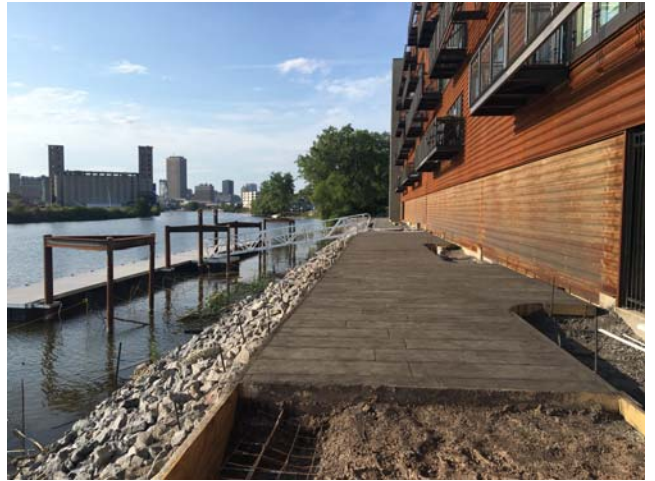


Photo 7:



Photo 8:



Photo 5: Concrete dock launch pad construction along the western portion of the Site (looking north).

Photo 6: Stamped concrete construction along the western portion of the Site (looking north).

Photo 7: Stamped concrete, landscape bed, and stone drainage cover at southwest corner of building (looking northeast).

Photo 8: New concrete boardwalk along the western side of the on-site building (looking north).

SITE PHOTOGRAPHS

Photo 9:



Photo 10:



Photo 11:



Photo 12:



Photo 9: New concrete boardwalk along the western side of the property with greenspace areas (looking south).

Photo 10: New concrete boardwalk and rip-rap stone cover along the western portion of the site (looking south).

Photo 11: Stone and greenspace cover north of the on-site building (looking east).

Photo 12: Stone and landscape cover north of the on-site building (looking east).

SITE PHOTOGRAPHS

Photo 13:



Photo 14:



Photo 15:



Photo 16:



Photo 13: Landscape cover along eastern side of the on-site building (looking south).

Photo 14: Asphalt driveway and landscape cover along the eastern side of the building (looking south).

Photo 15: Asphalt and landscape cover along the eastern side of the building (looking south).

Photo 16: Landscape and concrete cover at southeast corner of the building (looking east).