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# **PERIODIC REVIEW REPORT**

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

**BUFFALO, NEW YORK**

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August 2021

0292-021-001

Prepared for:

**441 OHIO STREET, LLC**

Prepared By:

Benchmark Civil/Environmental Engineering & Geology, PLLC  
2558 Hamburg Turnpike, Suite 300  
Buffalo, NY 14218

# PERIODIC REVIEW REPORT

## 441 Ohio Street Site (C915285)

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**441 Ohio Street Site (C915285)**

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## 1.0 INTRODUCTION

Benchmark Civil/Environmental Engineering and Geology, 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 July 30, 2018 to July 30, 2021.

### 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 certification reporting requirement from triennial (every three years) to every fifth year.

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 inspections completed during the reporting period indicates that the controls are in-place and functioning as intended in accordance with the SMP.

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

## 4.0 INSTITUTIONAL AND ENGINEERING CONTROLS

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 on April 7, 2020, and June 15, 2021. It should be noted that the 2020 site inspection was limited to publicly accessible exterior areas of the site due to conditions related to the novel coronavirus at that time.

At the time of the inspections, the Site was being used as a residential apartment building, with surface parking, concrete sidewalks, and landscaped areas. Electrical conduit was installed below the asphalt cover for installation of electric vehicle charging stations in the southern parking lot. No underlying soils were disturbed, no material was brought to the Site. Asphalt was restored after installation. No additional 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 inspection is included in Appendix B.

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

## 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 certification reporting requirement from triennial (every three years) to every fifth year (5-year cycle).

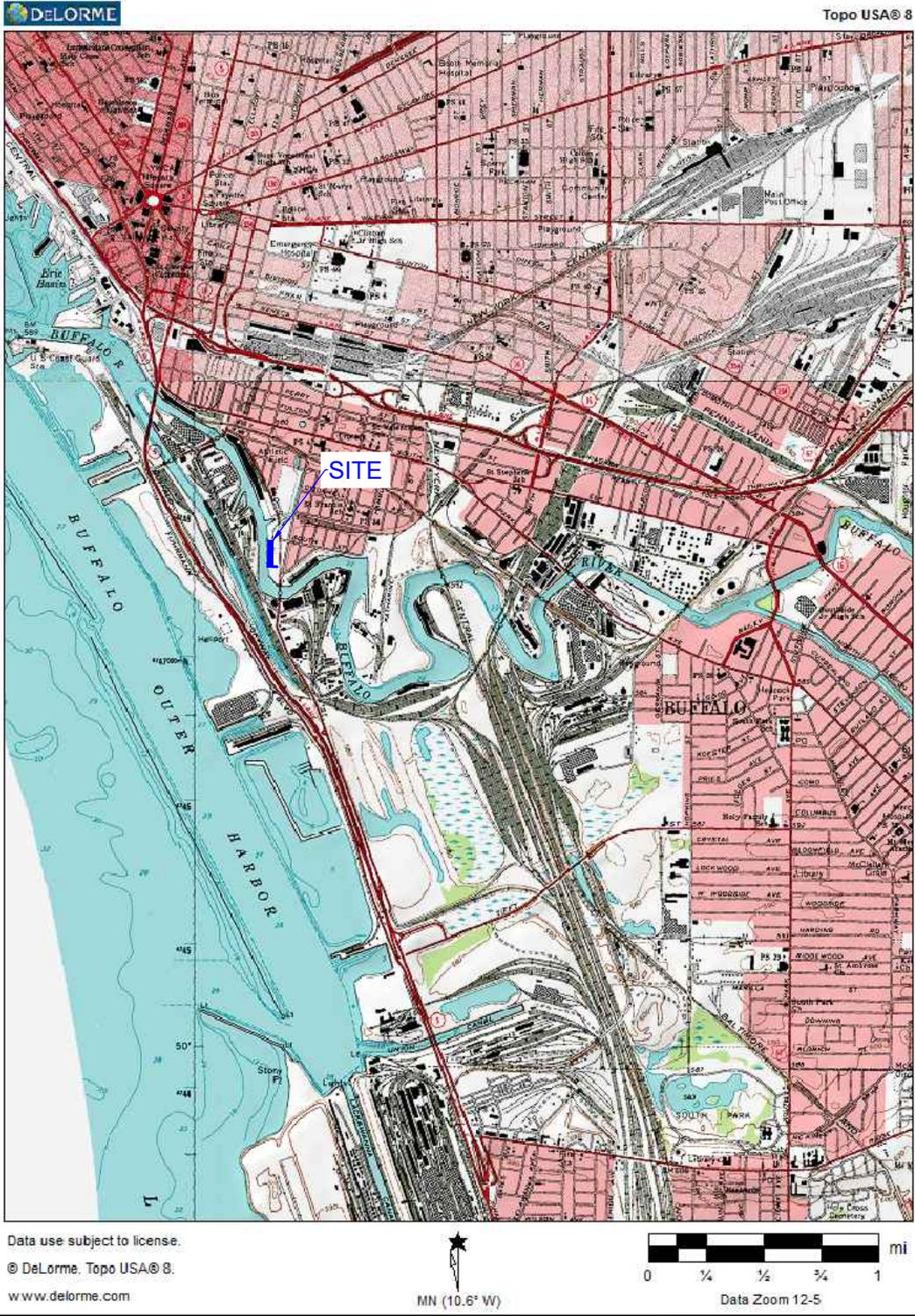
## 6.0 DECLARATION/LIMITATION

Benchmark Civil/Environmental Engineering and Geology, PLLC personnel conducted the site inspections 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 Civil/Environmental Engineering and Geology, PLLC.

# FIGURES

FIGURE 1



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

PROJECT NO.: 0292-021-001

DATE: AUGUST 2021

DRAFTED BY: CMC

## SITE LOCATION AND VICINITY MAP

PERIODIC REVIEW REPORT

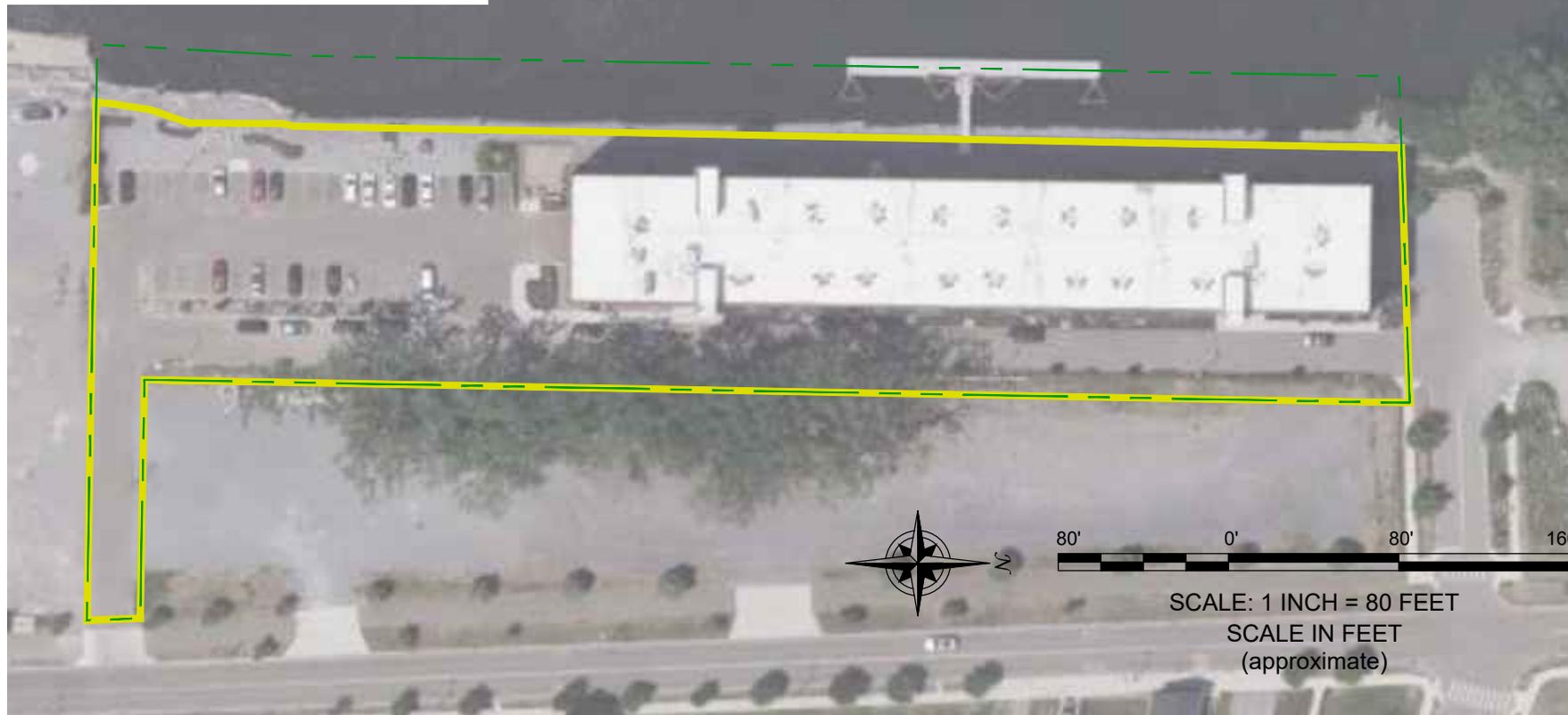
441 OHIO STREET SITE  
BCP SITE NO. C915285  
BUFFALO, NEW YORK

PREPARED FOR  
441 OHIO STREET, LLC

**DISCLAIMER:**  
PROPERTY OF BENCHMARK CIVIL/ENVIRONMENTAL ENGINEERING & GEOLOGY, 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:**

-  BCP BOUNDARY
-  PARCEL BOUNDARY



IN ASSOCIATION WITH



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

### 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**

PROJECT NO.: 0292-021-001

DATE: AUGUST 2021

DRAFTED BY: CMC

**DISCLAIMER: PROPERTY OF BENCHMARK CIVIL/ENVIRONMENTAL ENGINEERING & GEOLOGY, 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 CIVIL/ENVIRONMENTAL ENGINEERING & GEOLOGY, PLLC & TURNKEY ENVIRONMENTAL RESTORATION, LLC.**

# 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	
<b>Site No.</b>	<b>C915285</b>	<b>Box 1</b>
<b>Site Name 441 Ohio Street Site</b>		
Site Address: 9 South Street	Zip Code: 14203	
City/Town: Buffalo		
County: Erie		
Site Acreage: 1.780		
Reporting Period: July 30, 2018 to July 30, 2021		
		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"/>
<b>If you answered YES to questions 2 thru 4, include documentation or evidence that documentation has been previously submitted with this certification form.</b>		
5. Is the site currently undergoing development?		<input type="checkbox"/> <input checked="" type="checkbox"/>
		<b>Box 2</b>
		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"/>
<del><b>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.</b></del>		
<del><b>A Corrective Measures Work Plan must be submitted along with this form to address these issues.</b></del>		
_____ 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**ParcelOwnerInstitutional Control

122.14-1-1

441 Ohio Street, LLC

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 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. C915285

Box 6

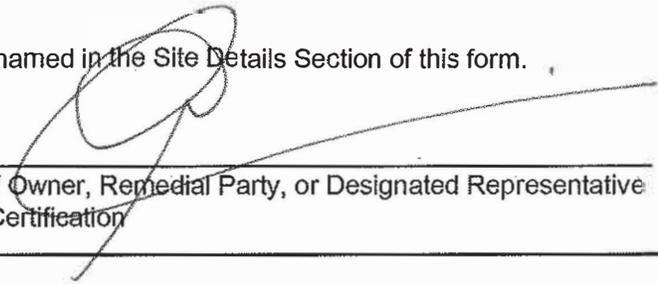
**SITE OWNER OR DESIGNATED REPRESENTATIVE SIGNATURE**

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 NY  
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

8/30/21  
Date

**EC CERTIFICATIONS**

**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 Forbes at 2558 Hamburg Turnpike Buffalo NY,  
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)

8-30-21  
Date

CONTRACTOR:	JOB NO.:
CLIENT: <i>444 Ohio Street</i>	DATE: <i>15 June 2021</i>

LOCATION:	DAY: <i>Su</i> M Tu W Th F Sa
WEATHER: <i>Clear</i>	TEMP: <i>60's</i> °F
START:	END:

**WORK PERFORMED:**

*2021 Annual Site Inspection*

- offsite construction along east side (Ohio St.)*
- DEC Retention/construction along northern boundary*

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- At grade parking (1st Floor Bldg) - good*
- Concrete Retention along bldg / River - good*
- landscape/stone across in good condition*
- Stone wall/cour along River - good condition*
- ↳ minor debris / tree (potential DEC encroachment)*

TEST PERFORMED:	QA PERSONNEL:
<i>[Signature]</i>	SIGNATURE:

# APPENDIX B

## PHOTOGRAPHIC LOG

## SITE PHOTOGRAPHS

Photo 1:



Photo 2:



Photo 3:



Photo 4:



Photo 1: Southern Parking Lot – Electric Charging Stations (looking south).

Photo 2: Southern Parking Lot and Access Road Parking lot (looking north).

Photo 3: Eastern Access Road (looking south).

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

## SITE PHOTOGRAPHS

Photo 5:



Photo 6:



Photo 7:



Photo 8:



Photo 5: At Grade Covered Parking.

Photo 6: Southwest Boundary (looking north)

Photo 7: Concrete and landscape bed along west side of building (looking north).

Photo 8: Concrete patio/walkway and stone embankment (looking north).

## SITE PHOTOGRAPHS

Photo 9:



Photo 10:



Photo 11:



Photo 12:



Photo 9: Concrete and stone embankment (looking south).

Photo 10: Northern property boundary – access to covered parking from South Street (looking east).

Photo 11: Offsite – Construction activities along boundary (looking east).

Photo 12: Offsite – Construction activities across South Street (DEC Launch).