
PERIODIC REVIEW REPORT

**399 OHIO STREET SITE
(BCP SITE NO. C915287)**

BUFFALO, NEW YORK

June 2018

0136-018-006

Prepared for:

1093 Group, LLC

Prepared By:



TurnKey Environmental Restoration, LLC
2558 Hamburg Turnpike, Suite 300
Buffalo, NY 14218

PERIODIC REVIEW REPORT

399 Ohio Street Site

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PERIODIC REVIEW REPORT

399 Ohio Street Site

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Appendix A Institutional & Engineering Controls Certification Form

Appendix B Site Photolog

1.0 INTRODUCTION

TurnKey Environmental Restoration, LLC (TurnKey) has prepared this Periodic Review Report (PRR), on behalf of 1093 Group, LLC to summarize the post-remedial status of New York State Department of Environmental Conservation (NYSDEC) Brownfield Cleanup Program (BCP) 399 Ohio Street Site (C915287), located in the City of Buffalo, Erie County, New York (Site; see Figure 1).

This PRR has been prepared in accordance with 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 completed for the Site (see Appendix A).

This PRR and the associated IC/EC form has been completed for the post-remedial activities at the Site for the December 27, 2016 to June 1, 2018 reporting period.

1.1 Site Background

The 399 Ohio Street Site was historically used for rail line right of way, material handling and shipping, equipment maintenance, and the use and storage of paints, solvents, thinners, greases, hydraulic oils and lubricants. More recently the property was used as a bus and trucking terminal and maintenance operations, including petroleum storage tanks and fuel dispensing pump(s), and the likely use and storage of automotive lubricants, oils, degreasers, solvents, grease, paints, thinners, and waste oils common for vehicle maintenance operations.

The 5.6 acre BCP Site is bound by Ohio Street to the east, the Buffalo river to the west, and commercial-recreational properties to the north and south. The site contains one existing building, with associated parking and landscaped areas.

1.2 Remedial History

The 399 Ohio Street Site encompasses approximately 5.6 acres of land which was previously developed as a bus and trucking terminal. Based on the historical use of the site, soil/fill was impacted with PAHs and metals cleanup. Remedial Action Activities including excavation followed by off-site disposal of contaminated soil/fill were completed at the site.

Continued monitoring of the cover system will be completed as part of the Site Management Plan (SMP).

1.3 Modifications

1093 Group, LLC subdivided the larger single tax parcel into two (2) tax parcels for redevelopment purposes. Copies of municipal records are provided in Appendix A.

Original parcel

- 399 Ohio Street, SBL 122.10-2-7.21; 5.65 acres

Subdivided parcels

- 399 Ohio Street, SBL 122.10-2-23; 3.53 acres
- 301 Ohio Street, SBL 122.10-2-24; 2.12 acres

1.4 Compliance

At the time of the Site inspection, the Site was compliant with the Department's approved SMP.

1.5 Recommendations

Based on the post-remedial status for the Site, TurnKey makes the following recommendation for the Site:

- Based on the high probability for snow/ice cover in March, it is recommended that the PRR reporting period end date be changed to June 1st. This later date would assure no hindrance at the site inspection due to snow or ice cover.
- Modification of the certification reporting requirement from annual to triennial (every three years).

No other modifications are recommended at this time.

2.0 SITE OVERVIEW

Previous environmental investigations identified environmental contamination on-Site that required remediation.

1093 Group, LLC entered into a Brownfield Cleanup Agreement (BCA) with the NYSDEC to investigate and remediate the Site. BCP investigation and remediation were completed during 2015 and 2016.

The remedial activities included:

- Excavation and off-Site disposal of petroleum contaminated soil/fill, and PAH and metals impacted soil/fill;
- Construction and maintenance of a cover system consisting of the existing building, pavement (asphalt), sidewalks, and minimum two feet of approved clean material placed on top of demarcation layer, to prevent human exposure to remaining soil/fill exceeding RRSCOs.

Remedial activities were completed in December 2016. The FER and SMP for the Site were approved by the Department, and the Certificate of Completion (COC) was issued for the Site on December 27, 2016.

3.0 REMEDY PERFORMANCE

Post-remedial annual inspections have been completed at the Site in accordance with the SMP. The Site inspection including a walk-over of the entire BCP Site to visually observe and document the use of the Site for restricted residential use, restriction of groundwater use, and conformance with the Site Management Plan (SMP). The 2018 site inspection indicates that the controls are in-place and functioning as intended in accordance with the SMP.

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

4.0 INSTITUTIONAL AND ENGINEERING CONTROLS

A SMP was prepared for the Site and approved by the Department in December 2016. The SMP provides a detailed description of all procedures required to manage remaining contamination at the Site after completion of the Remedial Action, 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 components of the SMP is presented below.

4.1 Engineering and Institutional Control Requirements and Compliance

As detailed in the Environmental Easements, several IC/ECs need to be maintained as a requirement of the BCA for the Site.

4.1.1 Institutional Controls

- Land-Use Restriction: The controlled property may be used for restricted residential, commercial and/or industrial use;
- Groundwater-Use Restriction – the use of groundwater is prohibited; and,
- Implementation of the SMP including the EWP.

4.1.2 Engineering Controls

- Cover System – The cover system, including building foundations, concrete sidewalks, concrete or asphalt driveways and parking areas, and landscaped vegetated areas are being maintained in compliance with the SMP.

4.2 Annual Inspection and Certification Program

The Annual Inspection and Certification Program outlines the requirements for the Site, to certify and attest that the institutional controls and/or engineering controls employed at the Site are unchanged from the previous certification. The Annual Certification will primarily consist of an annual Site Inspection to complete the NYSDEC's IC/EC Certification Form. The Site inspection will 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.

At the time of the site inspection, the property was being used as a mixed use apartment complex, with commercial-retail space available on the ground level, with surface parking, paved walkways and landscaped areas on the north end of the property; and commercial storage-office building on the south end of Site.

No observable indication of intrusive activities was noted during the Site inspection. 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 photolog of the Site 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.

- Based on the high probability for snow/ice cover in March, it is recommended that the PRR reporting period end date be changed to June 1st. This later date would assure no hindrance at the site inspection due to snow or ice cover.
- Modification of the certification reporting requirement from annual to triennial (every three years).

No other modifications are recommended at this time.

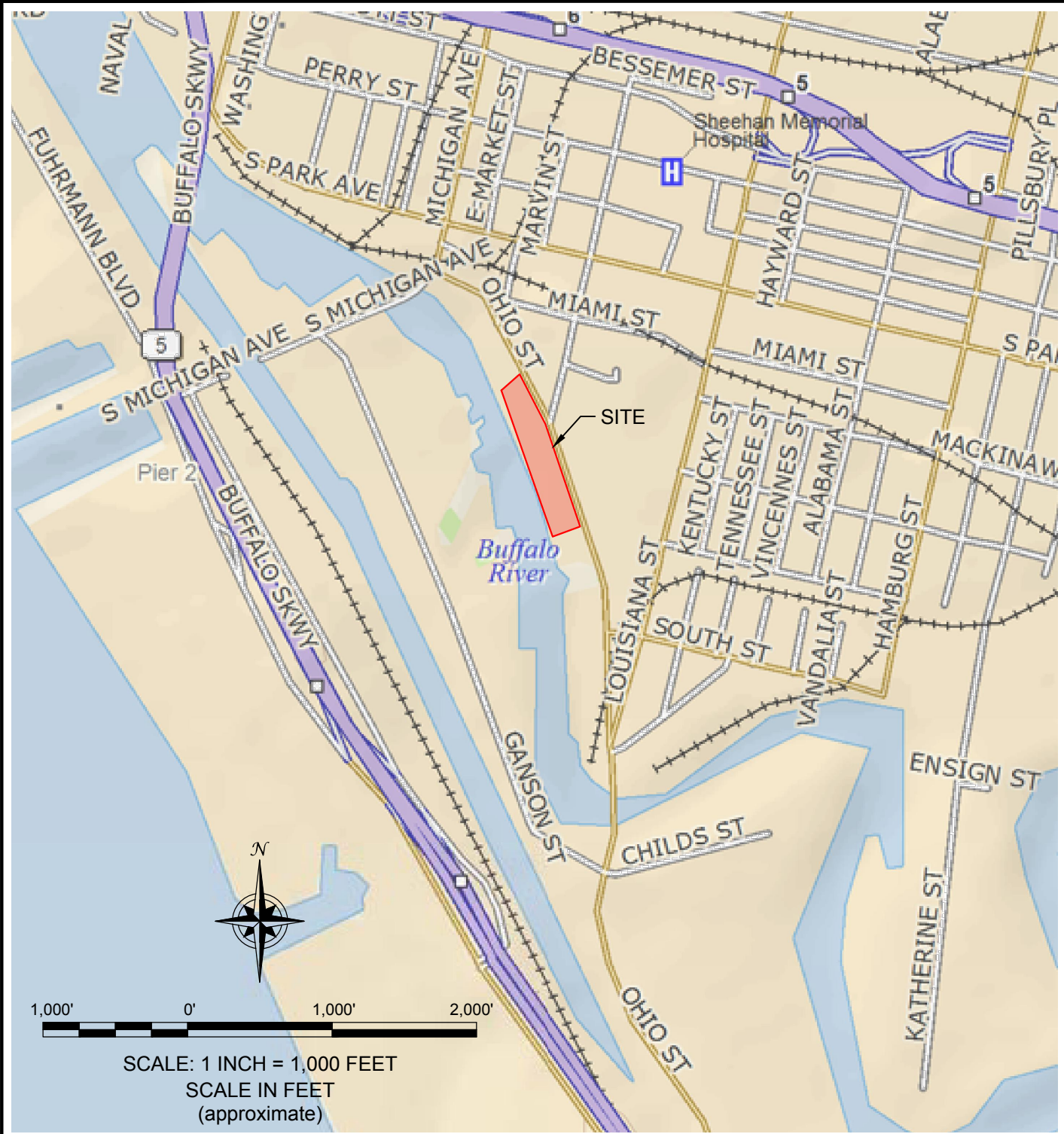
6.0 DECLARATION/LIMITATION

TurnKey Environmental Restoration, LLC personnel conducted the annual site inspections for the 399 Ohio Street Site No. C915287 and completed the PRR according to generally accepted practices. This report complied with the scope of work provided to 1093 Group, LLC by TurnKey Environmental Restoration, LLC.

This report has been prepared for the exclusive use of 1093 Group, 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 1093 Group, LLC. Use of or reliance upon this report or its findings by any other person or entity is prohibited without written permission of TurnKey Environmental Restoration, LLC.

FIGURES

FIGURE 1



BENCHMARK
ENVIRONMENTAL
ENGINEERING
SCIENCE, PLLC
2558 HAMBURG TURNPIKE, SUITE 300, BUFFALO, NY 14218, (716) 856-0599

TURNKEY
ENVIRONMENTAL
RESTORATION, LLC



PROJECT NO.: 0136-018-006
DATE: MAY 2018
DRAFTED BY: CMC

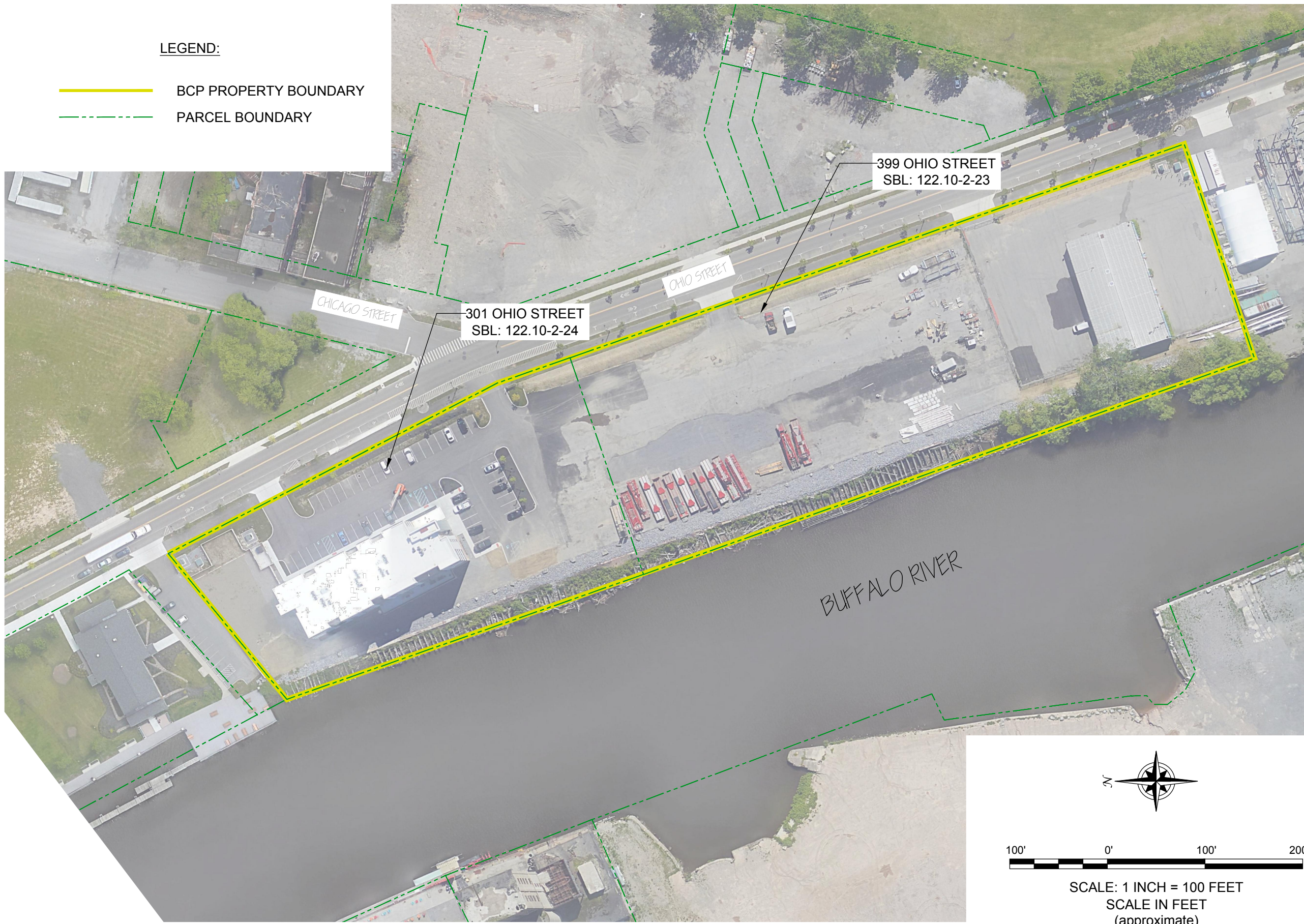
SITE LOCATION AND VICINITY MAP

PERIODIC REVIEW REPORT
399 OHIO STREET SITE
BUFFALO, NEW YORK
PREPARED FOR
1093 GROUP, LLC

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.

LEGEND:

-  BCP PROPERTY BOUNDARY
-  PARCEL BOUNDARY



SITE PLAN (AERIAL)

PERIODIC REVIEW REPORT
399 OHIO STREET SITE
BUFFALO, NEW YORK
PREPARED FOR
1093 GROUP, LLC



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

JOB NO.: 0136-018-006

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.

APPENDIX A

INSTITUTIONAL & ENGINEERING CONTROLS CERTIFICATION FORM

Box 2A

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

YES NO

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. C915287

Box 3

Description of Institutional Controls

Parcel

Owner

Institutional Control

122.10-2-7.21

1093 Group, LLC

Monitoring Plan
IC/EC Plan
Soil Management Plan
Site Management Plan

Ground Water Use Restriction
Landuse Restriction

Box 4

Description of Engineering Controls

Parcel

Engineering Control

122.10-2-7.21

Cover System

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. C915287

Box 6

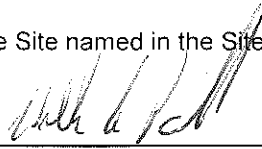
SITE OWNER OR DESIGNATED REPRESENTATIVE SIGNATURE

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 William Paladino at 295 Main Street, Suite 210
print name print business address

am certifying as Authorized Member (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

7/3/18
Date

IC/EC CERTIFICATIONS

Box 7

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 2558 Hamburg Tpke, Lackawanna, NY 14218,
print name print business address

am certifying as a Remedial Party
(Owner or Remedial Party)



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

Stamp
(Required for PE)

7-6-18
Date

DEPARTMENT OF ASSESSMENT AND TAXATION
 RM 101 CITY HALL 65 NIAGARA SQUARE
 BUFFALO, NY 14202-3385

APPORTIONMENT OF ASSESSMENT AND DIVISION OF TAXES FOR 2016-2017

NAME ADDRESS	ROLL SEC	DIST	BILL NUMBER SBL	FEET FRONT	DEPTH	ASSESSED ON STREET	SIDE	DISTANCE FROM COURSE	STREET		VALUATION	H N/H	CLASS CODE	CITY TAX	HALF TAX	SEWER
1093 Group, LLC 295 Main St. Ste 210 Buffalo, NY 14203	1	1	00373880 122.10-2-7.211	1127.16'	240.04'	399 Ohio	W	SW Cor	of Cincinnati	L = I = T = EX = TX =	114,100 29,900 144,000 0 144,000	N/H	449			
1093 Group, LLC 295 Main St. Ste 210 Buffalo, NY 14203	1	1	00373875 122.10-2-23	664.85'	240.04'	399 Ohio	W	462.31' S	of Cincinnati	L = I = T = EX = TX =	70,700 29,900 100,600 0 100,600	N/H	449			
1093 Group, LLC 295 Main St. Ste 210 Buffalo, NY 14203	1	1	00373878 122.10-2-24	462.31'	240.04'	301 Ohio	W	SW Cor	of Cincinnati	L = I = T = EX = TX =	43,400 0 43,400 0 43,400	N/H	330			
Deed: Liber 11288 Page 2182 Dated 11/17/2015																
											L = I = T = EX = TX =					

PLEASE TAKE NOTICE that, pursuant to the provisions of Section 28.21 of the Charter and Code of the City of Buffalo, an application has been made to the Commissioner of Assessment and Taxation to have the tax or assessment divided upon different portions of the property first above described;

That a division and apportionment has been made by the Commissioner of Assessment and Taxation and a copy thereof is herewith served upon you.

If within twenty (20) days no application shall have been made to the court, as provided in Section 28.22 of the Charter, the division and apportionment will be made on the assessment rolls and the Treasurer will receive and receipt for any portion of the tax or assessment so divided and apportioned, and any real property upon which the part paid is apportioned shall thereupon be discharged from the lien of the tax or assessment.

Dated, Buffalo, New York, November 24, 2015

DIVISION BY : J. Martz *Jm*

ENTERED ON TAX ROLLS _____

COMMISSIONER OF ASSESSMENT AND TAXATION

BY: *Chris Sarago-Royal*

AUTHORIZING SIGNATURE

Approved *Wade G. Bell*

Approved _____

Approved _____

APPENDIX B

SITE PHOTO LOG

SITE PHOTOGRAPHS

Photo 1:



Photo 2:



Photo 3:



Photo 4:



Photo 1: Site Inspection – Vegetative cover along northeast portion of the Site (looking north).

Photo 2: Site Inspection – Cover along eastern property boundary of the Site (looking south).

Photo 3: Site Inspection – Parking lot area (looking north).

Photo 4: Site Inspection – Vegetative and asphalt cover (looking west).

SITE PHOTOGRAPHS

Photo 5:



Photo 6:



Photo 7:



Photo 8:



Photo 5: Site Inspection – Stone cover along the western property boundary (looking south).

Photo 6: Site Inspection – rip rap stone cover along the Buffalo River (looking south).

Photo 7: Site Inspection – Asphalt cover (looking east).

Photo 8: Site Inspection – Asphalt and stone cover along the Buffalo River (looking north).

SITE PHOTOGRAPHS

Photo 9:



Photo 10:



Photo 11:



Photo 12:



Photo 9: Site Inspection – Bermed vegetative cover along the eastern boundary (looking north).

Photo 10: Site Inspection – Vegetative cover along the southeastern property boundary (looking south).

Photo 11: Site Inspection – Asphalt cover north of the utility garage on the southern portion of the site.

Photo 12: Site Inspection – Vegetative and asphalt cover near utility garage (looking south).