
PERIODIC REVIEW REPORT

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

BUFFALO, NEW YORK

July 2024

4331.000

Prepared for:

1093 Group, LLC

Prepared By:



Roux Environmental Engineering and Geology, DPC
2558 Hamburg Turnpike, Suite 300
Buffalo, NY 14218

PERIODIC REVIEW REPORT

399 Ohio Street Site

Table of Contents

| | | |
|------------|---|----------|
| 1.0 | INTRODUCTION..... | 1 |
| 1.1 | Site Background..... | 1 |
| 1.2 | Remedial History | 1 |
| 1.3 | Compliance | 2 |
| 1.4 | Recommendations..... | 2 |
| 2.0 | SITE OVERVIEW..... | 3 |
| 3.0 | REMEDY PERFORMANCE | 4 |
| 4.0 | INSTITUTIONAL AND ENGINEERING CONTROLS..... | 5 |
| 4.1 | Engineering and Institutional Control Requirements and Compliance | 5 |
| | 4.1.1 Institutional Controls..... | 5 |
| | 4.1.2 Engineering Controls | 5 |
| 4.2 | Annual Inspection and Certification Program | 5 |
| 5.0 | CONCLUSIONS AND RECOMMENDATIONS..... | 8 |
| 6.0 | DECLARATION/LIMITATION..... | 9 |

PERIODIC REVIEW REPORT

399 Ohio Street Site

Table of Contents

FIGURES

| | |
|----------|---------------------------------|
| Figure 1 | Site Location and Vicinity Map |
| Figure 2 | Site Plan |
| Figure 3 | Cover System Layout and Details |

APPENDICIES

| | |
|------------|---|
| Appendix A | Institutional & Engineering Controls Certification Form |
| Appendix B | Site Photolog |

1.0 INTRODUCTION

Roux Environmental Engineering and Geology, DPC (Roux) 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). It should be noted that Roux acquired TurnKey Environmental Restoration, LLC in July 2023, and is relying upon consulting activities completed by TurnKey prior to acquisition.

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 April 27, 2021 to June 12, 2024 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-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 two (2) existing buildings, with associated parking and landscaped areas.

1.2 Remedial History

The 399 Ohio Street Site 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 Compliance

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

1.4 Recommendations

No modifications to the current SMP 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.

Redevelopment activities were completed in 2017, including the mixed use commercial and residential building (northern end), asphalt parking, concrete, landscaped areas, and sand and stone rip-rap areas.

3.0 REMEDY PERFORMANCE

Post-remedial annual site inspections have been completed at the Site in accordance with the SMP. The Site inspection including a walk-over of the 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 site inspections 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.

A SMP Errata was submitted and approved in February 2022.

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. Details of the cover system elements are provided on Figure 3.

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.

Annual site inspections were completed April 09, 2021, June 28, 2022, April 20, 2023, and June 12, 2024.

At the time of the site inspections, the property was being used as a mixed-use residential apartment and commercial (office – retail), 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 inspections. No observable use of groundwater was noted during the Site inspection.

It should be noted that in May 2023, a pile of No. 3 stone was identified on-Site. It was determined that the clean stone was imported to the Site by a contractor working on the Buffalo River boat dock. The docks are outside of the BCP boundary, and the pile was surplus material that was not removed after project completion. As the pile was staged within the BCP boundary, the Department requested that an import request be prepared and submitted and subsequently approved. The pile is still present and is used as needed for maintenance of stone covered areas.

Various storage containers and surface areas are located in the 399 Ohio Street portion of the site along the river and are used seasonally for retail vending (e.g., boat tours and food vending). A portion of the sand court is covered with artificial turf (surface covering only).

Minor surface grass thinning-bare spots were noted at various locations along the eastern boundary berm. Landscape maintenance will be performed. Additional vegetation within areas of asphalt parking will be maintained.

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 from the June 2024 site inspection.

At the time of the site inspection, the Site was compliant with the SMP requirements.

5.0 CONCLUSIONS AND RECOMMENDATIONS

Conclusions and recommendations are as follows:

- No modifications are recommended at this time.
- At the time of the site inspections, the Site was compliant with engineering and institutional control requirements.

6.0 DECLARATION/LIMITATION

Roux Environmental Engineering and Geology DPC (and former 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 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 Roux.

FIGURES



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. | C915287 | | |
| Site Name 399 Ohio Street Site | | | |
| Site Address: 399 Ohio Street | | Zip Code: 14204 | |
| City/Town: Buffalo | | | |
| County: Erie | | | |
| Site Acreage: 5.000 | | | |
| Reporting Period: April 27, 2021 to April 27, 2024 | | | |
| June 12, 2024 | | | |
| | | YES | NO |
| 1. | Is the information above correct? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| If NO, include handwritten above or on a separate sheet. | | | |
| 2. | Has some or all of the site property been sold, subdivided, merged, or undergone a tax map amendment during this Reporting Period? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. | Has there been any change of use at the site during this Reporting Period (see 6NYCRR 375-1.11(d))? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4. | Have any federal, state, and/or local permits (e.g., building, discharge) been issued for or at the property during this Reporting Period? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| If you answered YES to questions 2 thru 4, include documentation or evidence that documentation has been previously submitted with this certification form. | | | |
| 5. | Is the site currently undergoing development? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

| | | Box 2 | |
|---|--|-------------------------------------|--------------------------|
| | | YES | NO |
| 6. | Is the current site use consistent with the use(s) listed below? Restricted-Residential, Commercial, and Industrial | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 7. | Are all ICs in place and functioning as designed? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| IF THE ANSWER TO EITHER QUESTION 6 OR 7 IS NO, sign and date below and DO NOT COMPLETE THE REST OF THIS FORM. Otherwise continue. | | | |
| A Corrective Measures Work Plan must be submitted along with this form to address these issues. | | | |
| _____ Signature of Owner, Remedial Party or Designated Representative | | _____ Date | |

Box 2A

YES NO

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

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)

YES NO

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**ParcelOwnerInstitutional Control

122.10-2-23

1093 Group, LLC

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

Ground Water Use Restriction
Landuse Restriction

122.10-2-24

1093 Group, LLC

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

Box 4**Description of Engineering Controls**ParcelEngineering Control

122.10-2-23

Cover System

122.10-2-24

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 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. 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.

William Paladino at 295 Main St, Ste 700, Buffalo NY
print name print business address
14203

am certifying as Owner (Owner or Remedial Party)

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

[Signature] Manager 1093 Group LLC 7/8/24
Signature of Owner, Remedial Party, or Designated Representative Date
Rendering Certification

EC CERTIFICATIONS

Box 7

Qualified Environmental Professional Signature

I certify that all information in Boxes 4 and 5 are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.

I Nathan Munley at 2558 Hamburg Turnpike, Buffalo NY 14210,
print name print business address

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



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

Stamp
(Required for PE)

7/10/24
Date



INSPECTOR'S DAILY REPORT

Page of

| | |
|------------------------------|--------------------------|
| CONTRACTOR: | JOB NO.: |
| CLIENT: <i>1093 Comp LLC</i> | DATE: <i>28 Jan 2022</i> |

| | |
|------------------------------------|-------------------------------|
| LOCATION: <i>399 Ohio St. Site</i> | DAY: <i>Su</i> M Tu W Th F Sa |
| WEATHER: | TEMP: °F START: END: |

WORK PERFORMED:

Annual Site Inspection

- Blue Bldg Area - fence intact / asphalt good*
- Grassy along Ohio - good / minor areas of bare / little grass in Run*
- Main Parking area - Roving + material storage contains asphalt & gravel areas in good / fair condition - intact*
- Embankment at Run - Sage Stone - good*
- Buildg - near concrete + structure - good*
- Side Sand lot / court - good*
- Buildg Parking lot + islands good - landscape maintained*
- Grass berm / landscape along Ohio / Bldg - good*

| | |
|-----------------|---------------|
| TEST PERFORMED: | QA PERSONNEL: |
| | SIGNATURE: |



INSPECTOR'S DAILY REPORT

Page of

| | |
|-------------|----------------------------|
| CONTRACTOR: | JOB NO.: |
| CLIENT: | DATE: <i>20 April 2023</i> |

| | |
|----------------------------------|------------------------|
| LOCATION: <i>399 Ohio Street</i> | DAY: Su M Tu W Th F Sa |
| WEATHER: | TEMP: °F |
| | START: END: |

WORK PERFORMED:

2023 Site Inspection

301 - Nathan Ave
Brkldg, asphalt, concrete p/t sidewalk,
sand volleyball acc - good condition
- Transforms, grass areas - good

399 - asphalt - fair to good
- Rep Rep - good condition
- Roving stage on surface

Blere Bldg - Southman
- Fence, Bldg, asphalt - good condition

| | |
|--------------------------|---------------|
| TEST PERFORMED: <i>M</i> | QA PERSONNEL: |
| | SIGNATURE: |



INSPECTOR'S DAILY REPORT

Page of

| | |
|-------------|--------------------|
| CONTRACTOR: | JOB NO.: |
| CLIENT: | DATE: 12 June 2024 |

| | |
|--------------------------------|------------------------|
| LOCATION: 399 Ohio Street Site | DAY: Su M Tu W Th F Sa |
| WEATHER: | TEMP: °F START: END: |

WORK PERFORMED:

2024 Site Inspection

Blue Bldg - Fence good - asphalt lot - good
 - mow grass / bare spots on lawn

399 Parking lot - Rowy back storage along
 river behind Blue Bldg - very overgrown

- Storage contain / pallets / old docks / trailers
 stayed on surface

- Asphalt - fair to good - no underlying exposure

- Clean 3's still present

- Rip Rap - good w/ docks beyond in River

- Boat house

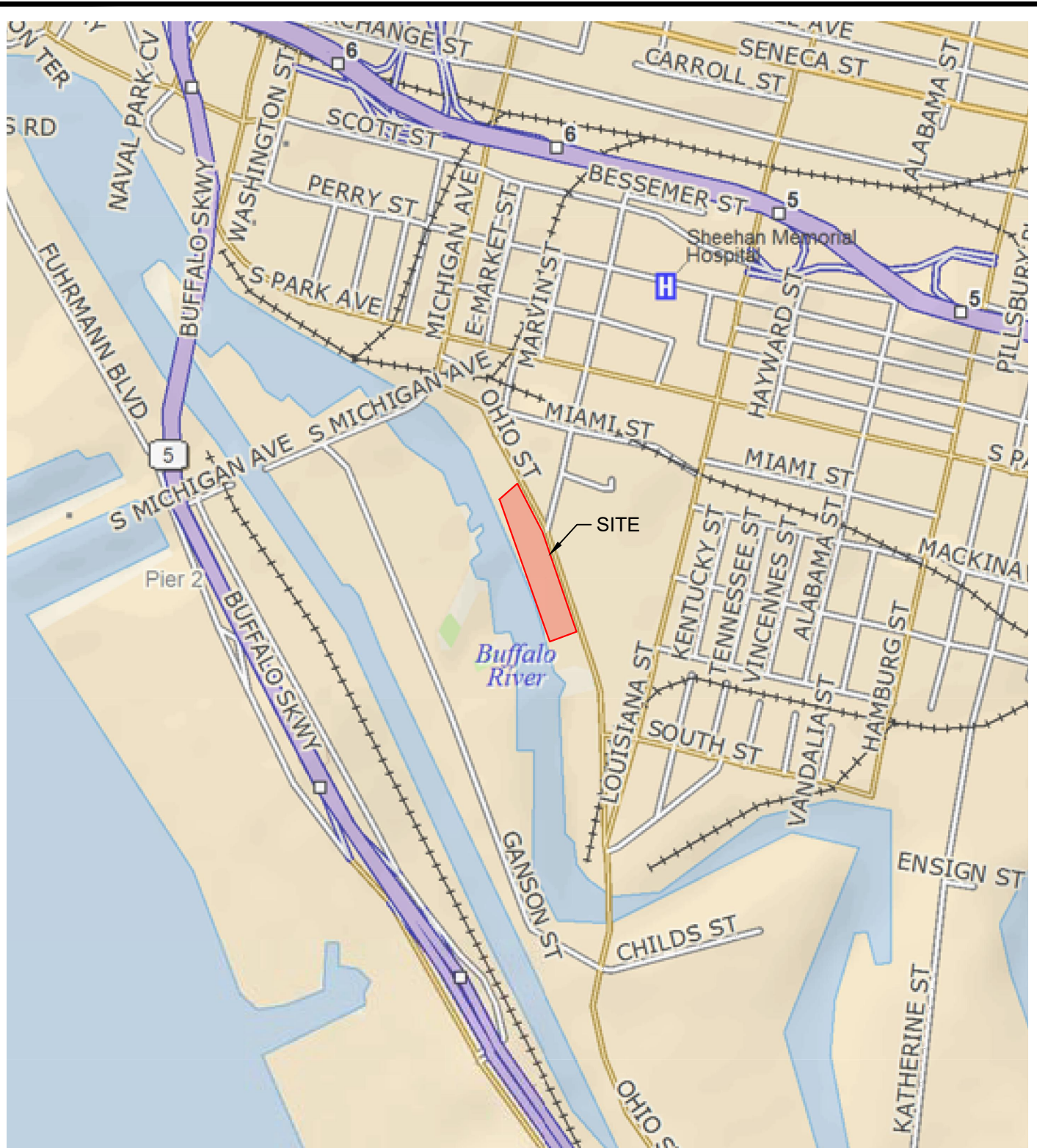
301 Building - Concrete porch / patio - good

- Turf + sand area - good

- side parking lot - good

- Landscape + Ohio St bar - good

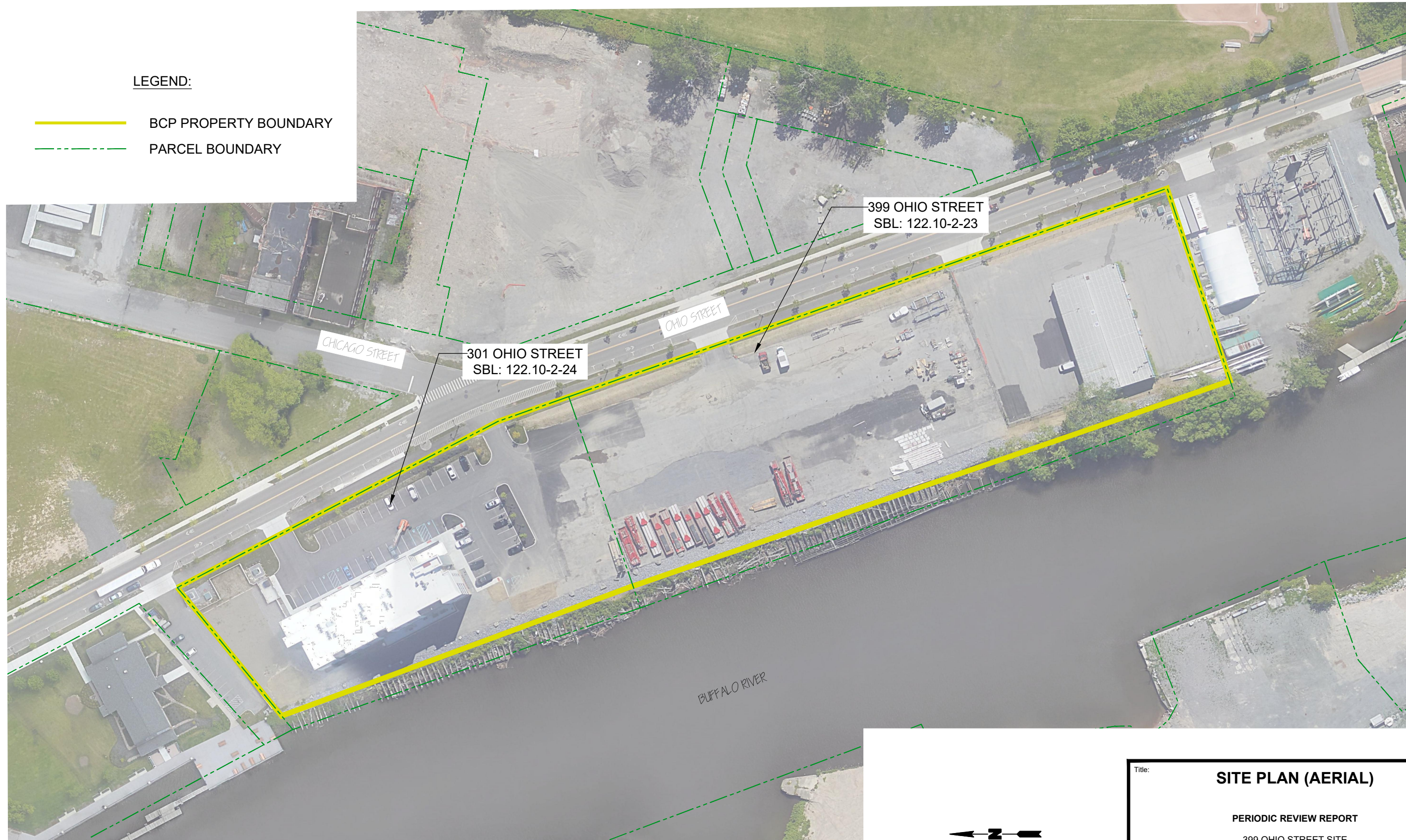
| | |
|-----------------|---------------|
| TEST PERFORMED: | QA PERSONNEL: |
| | SIGNATURE: |



| | | |
|---|---|------------------------|
| <p>Title: SITE LOCATION AND VICINITY MAP</p> | | |
| <p>PERIODIC REVIEW REPORT</p> | | |
| <p>399 OHIO STREET SITE BUFFALO, NEW YORK</p> | | |
| <p>Prepared for:</p> | | <p>1093 GROUP, LLC</p> |
| | <p>Compiled by:</p> | <p>Date: JULY 2024</p> |
| | <p>Prepared by: CMC</p> | <p>Scale: AS SHOWN</p> |
| | <p>Project Mgr: NTM</p> | <p>Project:</p> |
| | <p>File: FIGURE 1; SITE LOCATION AND VICINITY MAP.DWG</p> | |
| | | <p>1</p> |

LEGEND:

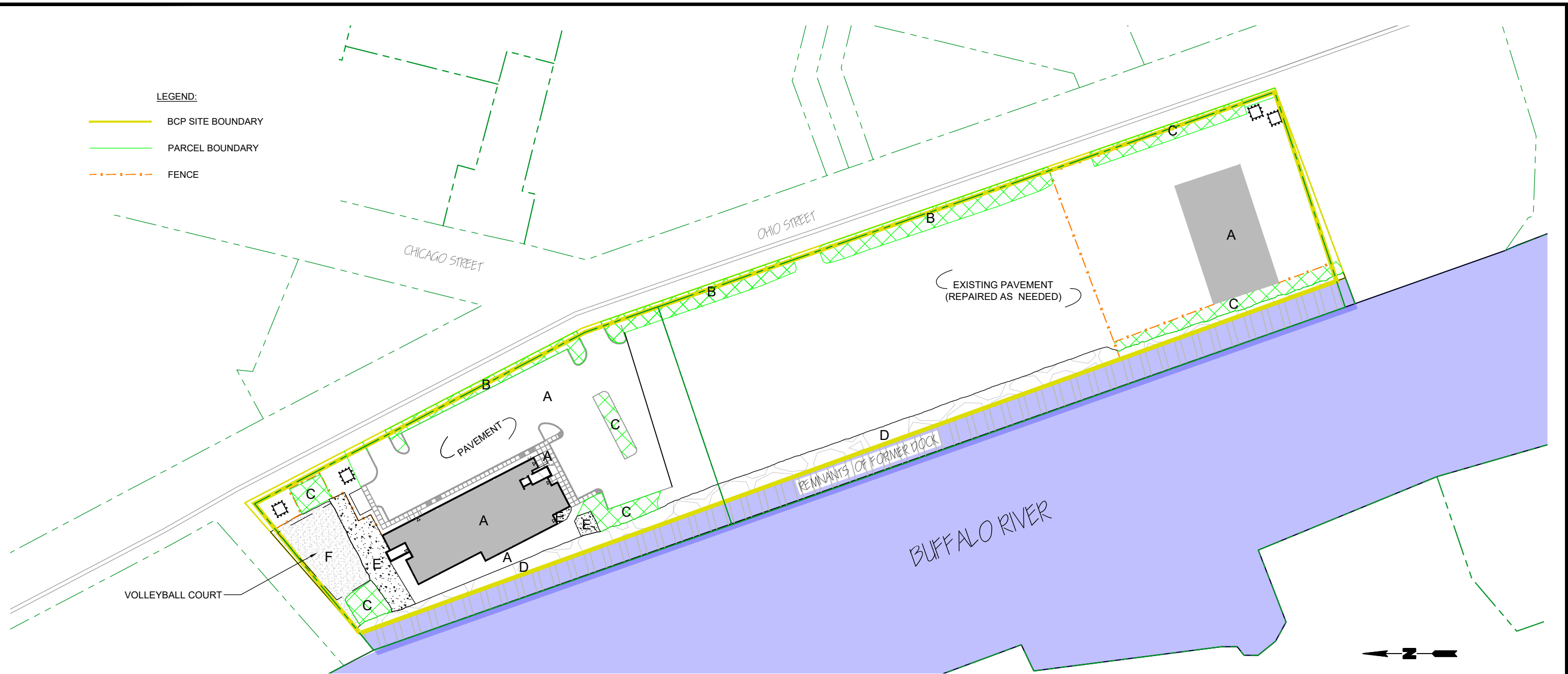
- BCP PROPERTY BOUNDARY
- - - PARCEL BOUNDARY



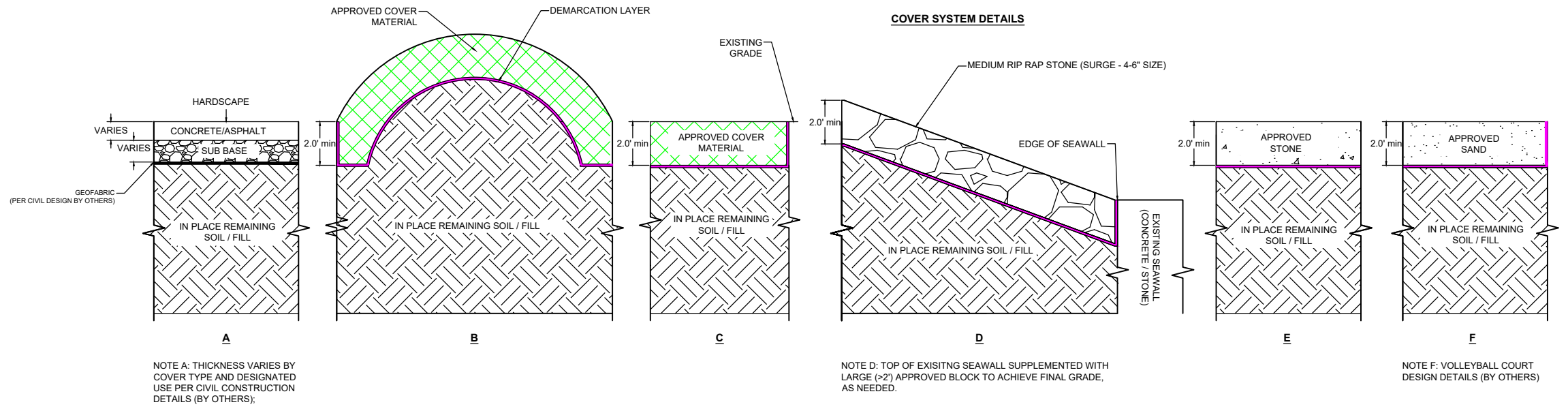
| | | |
|---|-----------------|--------------------|
| Title: SITE PLAN (AERIAL) | | |
| PERIODIC REVIEW REPORT | | |
| 399 OHIO STREET SITE BUFFALO, NEW YORK | | |
| Prepared for: 1093 GROUP, LLC | | |
| Compiled by: | Date: JULY 2024 | FIGURE 2 |
| Prepared by: CMC | Scale: AS SHOWN | |
| Project Mgr: NTM | Project: | |
| File: FIGURE 2; SIT PLAN.DWG | | |

F:\CAD\TURNKEY\ELICOTT DEVELOPMENT\399 OHIO STREET BCP\PRR\FIGURE 2; SIT PLAN.DWG

F:\CAD\TurnKey\Ellcott Development\399 Ohio Street BCP(SMP)2022 Update\Figure 7; Planned Cover System Layout and Detail rev NTM.dwg



- LEGEND:**
- BCP SITE BOUNDARY
 - PARCEL BOUNDARY
 - - - FENCE



NOTE: COVER SYSTEM KEYED-IN AT TRANSITIONS FROM HARDSCAPE AND/OR SITE BOUNDARY (24-INCH MINIMUM PER DER-10)

| | | |
|---|----------------------------|----------------------------|
| <p>Title: COVER SYSTEM LAYOUT AND DETAILS</p> <p>Periodic Review Report</p> <p>399 OHIO STREET SITE BCP SITE NO. C915287 BUFFALO, NEW YORK</p> | | |
| <p>Prepared for: 1093 GROUP, LLC</p> | | |
| <p>Compiled by:</p> | <p>Date: DECEMBER 2016</p> | <p>FIGURE 3</p> |
| <p>Prepared by: CMC</p> | <p>Scale: AS SHOWN</p> | |
| <p>Project Mgr: NTM</p> | <p>Project: 4331.</p> | |
| <p>File: FIGURE 7; PLANNED COVER SYSTEM LAYOUT AND DETAIL REV NTM.DWG</p> | | |

APPENDIX A

INSTITUTIONAL & ENGINEERING CONTROLS CERTIFICATION FORM

APPENDIX B

SITE PHOTO LOG

SITE PHOTOGRAPHS

Photo 1:



Photo 2:



Photo 3:



Photo 4:



- Photo 1: Site Inspection – Mixed cover system along southern side of building (looking north).
Photo 2: Site Inspection – Mixed cover along eastern side of Building (looking north)
Photo 3: Site Inspection – Parking lot 301 Ohio area (looking south).
Photo 4: Site Inspection – Cover along eastern property boundary of the Site (looking north)

SITE PHOTOGRAPHS

Photo 5:



Photo 6:



Photo 7:



Photo 8:



- Photo 5: Site Inspection – Northern area of Site – Concrete patio and sand-synthetic turf area (looking south).
Photo 6: Site Inspection – Rip rap stone cover along the Buffalo River (looking south).
Photo 7: Site Inspection – Rip rap stone cover along Buffalo River (looking north)
Photo 8: Site Inspection – 399 Ohio portion asphalt cover (looking north).

SITE PHOTOGRAPHS

Photo 9:



Photo 10:



Photo 11:



Photo 12:



Photo 9: Site Inspection - Pile of Clean No. 3 stone (399 Parking Lot area with storage containers (looking north)

Photo 10: Site Inspection – Trailer and material pallet surface storage (399 Parking lot area) (looking west).

Photo 11: Site Inspection – Cover and fence along the eastern boundary (looking south).

Photo 12: Site Inspection – Asphalt cover inside fence around Blue Bldg. (looking south).