

Period Review Report

3021 Orchard Park Road Site NYSDEC No. C915289 3021-3041 Orchard Park Road Orchard Park, New York

January 13, 2025

Prepared for:

Orchard Park 3021 Medical Properties, LLC 800 W Madison Street, Suite 400 Chicago, IL 60607

Prepared by:

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1. Introduction

Roux Environmental Engineering and Geology, D.P.C has prepared this Periodic Review Report (PRR), on behalf of Orchard Park 3021 Medical Properties, LLC (OP 3021) to summarize the post-remedial status of 3021 Orchard Park Road subject to the Site Management Plan (SMP; Ref. 1).

The 3021 Orchard Park Road Site (Site) is located at 3021- 3041 Orchard Park Road, Orchard Park, NY, and is owned by OP 3021. Originally a collection of various retail businesses, the Site was remediated under the Brownfield Cleanup Program (BCP), beginning in October of 2014, and was issued a Certificate of Completion (COC) in December of 2015. The Site is now a consolidated multi-disciplinary medical facility.

This PRR has been prepared for the Site in accordance with NYSDEC DER-10/Technical Guidance for Site Investigation and Remediation (Ref. 2). This PRR and the associated IC/EC Form (see Appendix A) have been completed for the post-remedial period from December 31, 2021 through December 31, 2024. Site photographs from the site inspection are included as Appendix B.

1.1 Site Background

In October 2014, 3021-3041 Orchard Park Road, LLC and Comprehensive Cancer Services Oncology, P.C. entered into a Brownfield Cleanup Agreement (BCA) with the New York State Department of Environmental Conservation (NYSDEC) to investigate and remediate an approximate 4.19-acre portion of a larger 5.06-acre parcel located in the Town of Orchard Park, County of Erie, New York. BCP site activities were performed in accordance with Brownfield Cleanup Agreement (BCA) Index #C915289-10-14, Site #C915289, which was executed on November 7, 2014. The BCP property, which is inclusive of the asphalted parking/driveway areas and on-site building and excludes the vegetated (grassed) areas along the outer perimeter of the Site, was remediated to restricted residential use.

On April 2, 2018, CCS Oncology, P.C. filed for Chapter 11 reorganizational bankruptcy, subsequently closing on April 27, 2018. 3021-3041 Orchard Park Road, LLC continued to own and maintain the Site in accordance with the BCA until January 13, 2021 when Orchard Park 3021 Medical Properties, LLC purchased the property and assumed responsibility for implementation of the SMP for the Site. Currently, the Site is being used as a consolidated multi-disciplinary medical facility.

The Site is located in the County of Erie, New York and is identified as Section 152.12 Block 02 and Lot 1.1 on the Orchard Park Tax Map #152.12 per Erie County Tax Map records. The BCP Site is bounded by Michael Road to the north, commercial property to the south (Rite Aid Pharmacy), commercial property (Walgreens Pharmacy) to the east, and Orchard Park Road to the west (see Figures 1 and 2).

1.2 Purpose/Scope

The SMP requires, among other things, periodic inspection, and certification that the institutional and engineering controls implemented at the Site remain in place and are functioning as designed. The existing

2024 Periodic Review Report 3021 Orchard Park Road Site

SMP requires that a site-wide inspection be completed at a minimum of once per year¹ to verify that the institutional and engineering controls established for the Site remain in place and are operating as intended and be documented in a PRR.

¹ Roux was contracted to complete a Site inspection and prepared the PRR in December 2024. Although Site inspections were required to be completed in 2022 and 2023, based on Roux's review of the previous PRR (Orion Environmental Solutions, LLC, March 2022) including the photographs from the 2021 inspection, it does not appear that any Site changes/modifications to the building, tenants, or cover system have occurred. Roux staff have driven by the Site numerous times in 2022 and 2023 (living in close proximity to the Site) and did not observe site activities or changes that would impact institutional or engineering controls. Additionally, no federal, state, or local permits were issued in the reporting period that would indicate changes to the interior and/or exterior of the Site.

2. Site Overview

The redevelopment of the Site was completed in accordance with the NYSDEC-approved SMP which identifies requirements for monitoring and maintenance of engineering and institutional controls; and procedures for excavation and related activities that may disturb the cover systems.

The Site redevelopment activities associated with SMP-related activities occurred between November 2014 and November 2015. No additional redevelopment or subsurface disturbance activities occurred after November 2015.

The area surrounding the Site has not significantly changed since the SMP was revised in 2022.

2.1 Investigation & Remedial History

The Site is located in a moderately developed commercial area of Orchard Park, New York. The Site is improved with a single-story, multi-unit commercial building and large parking lot. According to the Phase I Environmental Site Assessment (ESA) (Ref. 3), the commercial plaza historically housed a dry-cleaning tenant in the 3035 and 3039 Orchard Park Road tenant units between 1979 and 2008.

Previous investigations completed on the Site included a Limited and Focused Subsurface Soil and Groundwater Investigation (Ref. 4) and a Supplemental Phase II Environmental Investigation (Ref. 5). The LCS investigation was based on information reported in the Phase I ESA of a recognized environmental condition (REC) that the subject property was historically used as a dry cleaner. The investigation included the advancement of nine soil borings, six of which were converted into temporary monitoring wells. The investigation identified photoionization detector (PID) measurements above background at 53 of the 63 soil samples collected; solvent-type odors; and chlorinated volatile organic compounds (cVOCs, commonly associated with dry cleaning facilities) in two temporary monitoring wells in exceedance of their NYSDEC Class "GA" Ambient Water Quality Standards (GWQS). No analytes were detected in soil at concentrations in exceedance of NYSDEC Part 375 Soil Cleanup Objectives. Based on the findings, further investigation was recommended.

TurnKey Environmental Restoration, LLC completed an investigation which included six interior soil borings, three soil vapor samples (sub-slab, indoor, and outdoor), and five exterior borings/temporary monitoring wells. Results from this investigation generally indicated the following conditions: tetrachloroethene (PCE) was detected at a concentration above the Part 375 Protection of Groundwater Soil Cleanup Objective (SCO) at two boring locations; PCE was categorized as "IR" (identify sources and reduce exposures) in soil vapor; and, benzene, cis-1,2-dichloroethene (cis-1,2-DCE), PCE, trichloroethene (TCE), and vinyl chloride (VC) were detected in the groundwater above their respective GWQSs.

The Site was entered into the BCP and a BCP Remedial Investigation (RI) was performed from November 2014 to April 2015 to characterize the nature and extent of contamination at the Site. The results of the RI are described in detail in the Remedial Investigation/Interim Remedial Measures/Alternatives Analysis (RI/IRM/AA) Report (Ref. 6). In general, the RI determined that cVOCs were the contaminants of concern (COCs) in Site soil and/or groundwater.

The RI/IRM/AA Report recommended remediation of potentially cVOC-impacted soil/fill from the vault area, Porte Cochere footers, and storm sewer spoils. Additionally, removal of sediment from and replacement of an on-site catch basin followed by direct injection of groundwater treatment amendments in the vault area was recommended. Maintenance and repair, as necessary, of the existing asphalt covered driveways/parking lots and concrete pads was recommended as the final remedial measure under a Track 4 Cleanup approach. Additional requirements included development and adherence to a SMP and filing of an Environmental Easement to restrict use of the property to restricted residential, commercial, and industrial applications and to place other limitations on post-redevelopment activities.

The following Interim Remedial Measure (IRM) activities were performed to remediate the Site:

- Excavation and off-site disposal of 1,246.29 tons of potentially cVOC-impacted soil/fill from the vault area of the Site;
- Excavation and off-site disposal of 420.60 tons of non-impacted soil/fill generated from building
 interior utility trenching, Porte Cochere footer excavations, new roof storm drain installation, and
 excavation of nine topsoil/grass covered islands throughout the parking lot area;
- Removal of sediment from, followed by decontamination and disposal of, an on- site catch basin. A new concrete catch basin was installed;
- Targeted in-situ groundwater treatment in the vault area of the Site included 23 injection points from approximately 4 to 14 feet below ground surface;
- Non-PCB containing (less than 3 ppm) transformer removal and disposal;
- Asbestos abatement of floor tile, floor mastic, and carpet mastic.

The remedial program was successful in achieving the remedial objectives for the Site. An Environmental Easement restricting end use of the Site and enforcing adherence to the SMP was filed and approved in November 2015. The Final Engineering Report (FER) (Ref. 7) was approved in December 2015 by issuance of a Certificate of Completion (COC) by the NYSDEC in December 2015.

3. Site Management Plan

The SMP was approved by the Department in November 2015 and revised (Revision 1 dated August 2022) in September 2022. The SMP includes an IC/EC Plan, a Monitoring and Sampling Plan, an Operation & Maintenance (O&M) Plan, an Excavation Work Plan (EWP), and a copy of the Environmental Easement. A brief description of the components of the SMP are presented below.

3.1 IC/EC Plan

Since remaining contaminated soil/fill exists beneath the Site, Institutional Controls and Engineering Controls (IC/ECs) are required to protect human health and the environment. The Engineering and Institutional Control Plan describes the procedures for the implementation and management of all IC/ECs at the Site. At the time of the site inspection, the Site is compliant with the IC/EC requirements as shown in Figure 2 – Site Plan and Cover System.

3.1.1 Institutional Controls

The Site has a series of Institutional Controls in the form of site restrictions. Adherence to these Institutional Controls are required by the Environmental Easement. Site restrictions that apply to the Site are:

- The property may be used for restricted residential use.
- All ECs must be operated and maintained as specified in this SMP.
- All ECs must be inspected at a frequency and in a manner defined in the SMP.
- The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Erie Department of Health to render it safe for use as drinking water or for industrial purposes, and the user must first notify and obtain written approval to do so from the Department.
- Groundwater and other environmental or public health monitoring must be performed as defined in this SMP.
- Data and information pertinent to site management must be reported at the frequency and in a manner as defined in this SMP.
- All future activities that will disturb remaining contaminated material must be conducted in accordance with this SMP.
- Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in this SMP.
- Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical component of the remedy shall be performed as defined in this SMP.
- Access to the site must be provided to agents, employees, or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by the Environmental Easement.
- The potential for vapor intrusion must be evaluated for any buildings developed in the area within the IC boundaries, and any potential impacts that are identified must be monitored or mitigated.
- Vegetable gardens and farming on the site are prohibited.

3.1.2 Engineering Controls

Engineering controls at the Site include:

Cover System – Exposure to remaining contamination at the Site is prevented by a cover system
placed over the Site. This cover system is comprised of a minimum of 24-inches of clean soil,
asphalt pavement, concrete-covered sidewalks, and concrete building slabs.

3.1.3 Site Inspection & IC/EC Compliance

The Annual Certification includes a Site Inspection and completion of the NYSDEC-provided IC/EC Certification Form. Inspection of the Site was conducted by Mr. Christopher Boron, P.G. on December 27, 2024. At the time the inspection, the Site was being used as a consolidated multi-disciplinary medical facility, with asphalt surface parking, concrete sidewalks, and landscaped island areas. No observable indication of intrusive activities was noted during the Site inspection. The Site utilizes local municipal water supply, and no observable use of groundwater was noted during the Site inspection.

Appendix A includes the completed and QEP-certified IC/EC Form for the Site. Appendix B includes the Site Photographic Log.

3.2 Monitoring and Sampling Plan

The remedy for the Site does not rely on any mechanical systems such as sub-slab depressurization or soil vapor extraction, nor are there any long-term monitoring or sampling requirements, to protect public health and the environment.

3.3 Intrusive Activities

During the current reporting period, no site improvements were made.

An Excavation Work Plan (EWP) was included in the NYSDEC-approved SMP for the Site. The EWP provides guidelines for the management of soil and fill material during any future intrusive actives. Any intrusive work that will penetrate the cover or cap, or encounter or disturb the remaining contamination at the Site, including any modifications or repairs to the existing cover system and/or building foundation, must be performed in compliance with the EWP.

3.4 Post-Remedial Groundwater Monitoring

In a letter dated February 7, 2019, NYSDEC approved cessation of groundwater monitoring and decommissioning of the remaining on-site monitoring wells. As such, on December 5, 2019, wells MW-4A and MW-6 were decommissioned in general accordance with NYSDEC Commissioners Policy 43 (CP-43: *Groundwater Monitoring Well Decommissioning*), as documented in the January 2022 PRR.

4. Conclusions and Recommendations

Conclusions

- No redevelopment activities have occurred in the past reporting period.
- At the time of the Site inspection, the Site complied with the SMP. Specifically, the Site is fully
 compliant with the Institutional Controls including land-use restrictions, groundwater-use
 restrictions, and the soil/fill management plan component; and fully compliant with the Engineering
 Controls (Site cover system).
- If redevelopment activities involving cover system modification or import/export of soil or stone materials occur in the next reporting period they will be subject to the SMP.

Recommendations

- No modifications are recommended at this time.
- The next annual inspections should occur in fall 2025, fall 2026, and fall 2027 with PRR submittal after the 2027 reporting period.

5. Declaration/Limitation

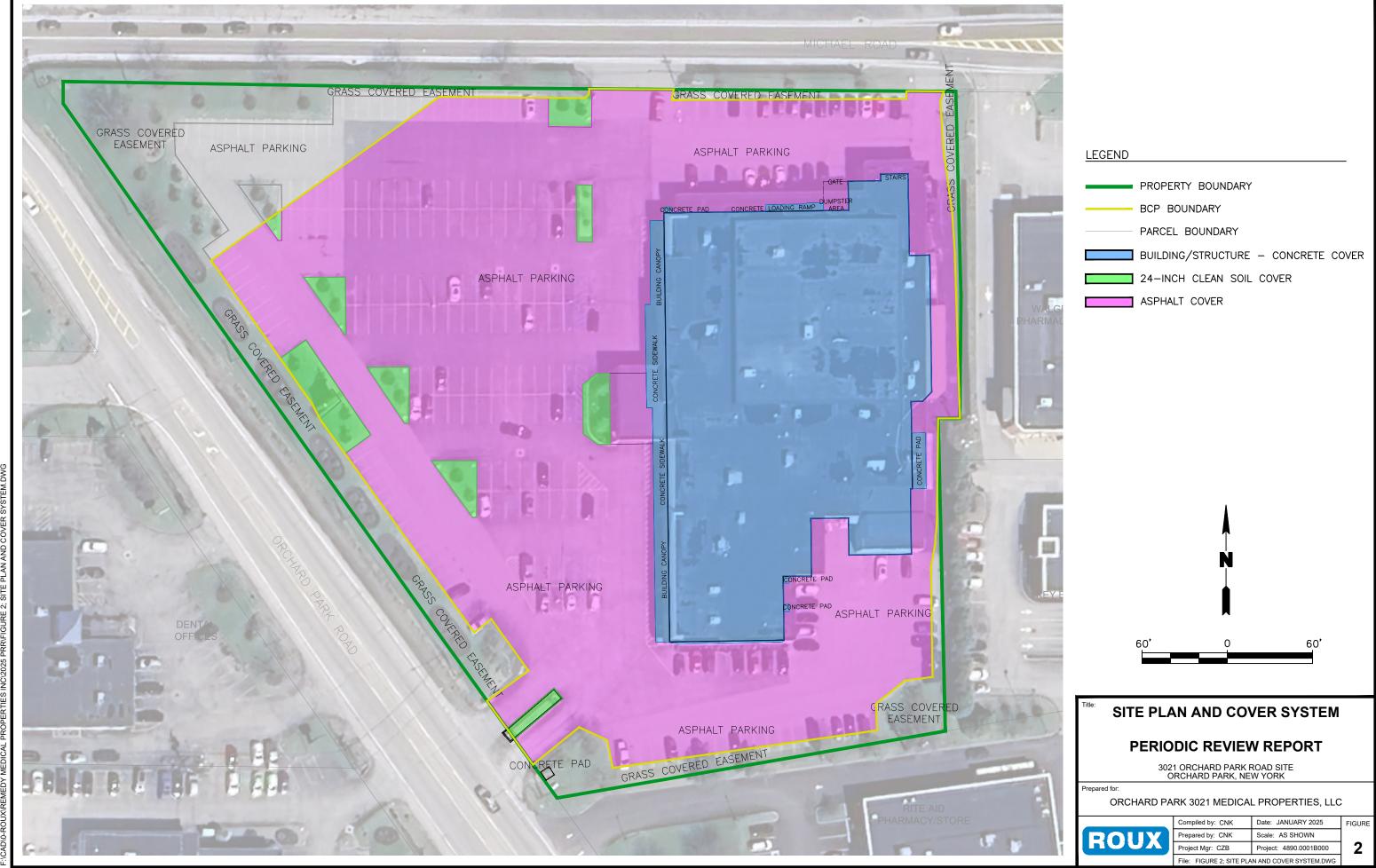
Roux personnel conducted the annual site inspection for NYSDEC Site No. C915289, located in Orchard Park, NY, according to generally accepted practices. This report complied with the scope of work provided to OP 3021 by Roux.

This report has been prepared for the exclusive use of OP 3021. 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 OP-3021. Use of or reliance upon this report or its findings by any other person or entity is prohibited without written permission of Roux.

References

- 1. Roux Environmental Engineering & Geology, DPC. Site Management Plan. 3021 Orchard Park Road Site, NYSDEC Site Number: C915289, 3021-3041 Orchard Park Road, Orchard Park New York. Revision 1 August 2022.
- 2. New York State Department of Environmental Conservation. *DER-10/Technical Guidance for Site Investigation and Remediation*. May 2010.
- 3. LCS Inc. ASTM E1527-05 All Appropriate Inquiries Phase I Environmental Site Assessment Report for the Property Identified as: Commercial Plaza, 3021-3041 Orchard Park Road, Orchard Park, New York. October 10, 2013.
- 4. LCS Inc. Limited and Focused Subsurface Soil and Groundwater Investigation Report for the Property Identified as; Commercial Plaza, 3021-3041 Orchard Park Road, Orchard Park, New York. May 14, 2014.
- 5. TurnKey Environmental Restoration, LLC. Supplemental Phase II Environmental Investigation, 3021-3041 Orchard Park Road, Orchard Park, New York. June 2014.
- 6. Benchmark Environmental Engineering & Science, PLLC and TurnKey Environmental Restoration, LLC. Remedial Investigation/ Interim Remedial Measures/ Alternatives Analysis Work Plan, 3021 Orchard Park Road Site, Orchard Park, New York. November 2014.
- 7. Benchmark Environmental Engineering & Science, PLLC. *Brownfield Cleanup Program, Final Engineering Report, 3021 Orchard Park Road Site, BCP Site No. C915289, Orchard Park, New York.*November 2015.

FIGURES



F:CAD)0-ROUXIREMEDY MEDICAL PROPERTIES INC\2025 PRR\FIGURE 2: SITE PLAN AND COVER SYS

APPENDIX A

INSTITUTIONAL & ENGINEERING CONTROLS CERTIFICATION FORM



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



Sit	e No.	C915289	Site Details	Box 1	
Sit	e Name 30	21 Orchard Park Road Site	•		
Cit Co	e Address: 3 y/Town: Or unty: Erie e Acreage:		Zip Code: 14127		
Re	porting Perio	od: December 31, 2021 to D	December 31, 2024		
				YES	NO
1.	Is the infor	mation above correct?		X	
	If NO, inclu	ude handwritten above or on	a separate sheet.		
2.		or all of the site property been mendment during this Report	en sold, subdivided, merged, or undergone ting Period?	e a	X
3.		been any change of use at th CRR 375-1.11(d))?	he site during this Reporting Period		X
4.	•	ederal, state, and/or local pe e property during this Report	ermits (e.g., building, discharge) been issu ting Period?	ed	X
	-		thru 4, include documentation or evide usly submitted with this certification fo		
5.	Is the site of	currently undergoing develop	oment?		X
				Box 2	
				YES	NO
6.		ent site use consistent with the Residential, Commercial, an	• •	X	
7.	Are all ICs	in place and functioning as	designed?	X	
	IF T		JESTION 6 OR 7 IS NO, sign and date belo REST OF THIS FORM. Otherwise continu		
A C	Corrective M	leasures Work Plan must be	submitted along with this form to addres	ss these issu	ies.
Sic	inature of Ou	vner Remedial Party or Desig	unated Representative Dat		

				Box 2	Α
o	Llee any new informatio	on revealed that assumptions made in the Qu	alitativa Evacaura	YES	NO
0.	Has any new information revealed that assumptions made in the Qualitative Exposure Assessment regarding offsite contamination are no longer valid?				X
	-	to question 8, include documentation or e as been previously submitted with this ce			
9.	 Are the assumptions in the Qualitative Exposure Assessment still valid? (The Qualitative Exposure Assessment must be certified every five years) 			X	
		o question 9, the Periodic Review Report n xposure Assessment based on the new as			
SITE	NO. C915289			Воз	c 3
ı	Description of Institution	onal Controls			
<u>Parce</u>	<u>.</u>	<u>Owner</u>	Institutional Contro	<u>l</u>	
portion of 152.12-2-1.1 Orchard		Orchard Park 3021 Medical Properties LLC	Ground Water Use Restriction Soil Management Plan Landuse Restriction Site Management Plan IC/EC Plan		tion
 Prohibition of use of groundwater. Land use restriction for Restricted Residential, Commercial or Industrial use. Soil Management or Excavation Work Plan for any future intrusive work. Soil vapor intrusion evaluation of any new buildings constructed on site. 					
				Воз	(4
ı	Description of Enginee	ring Controls			
Parce	<u> </u>	Engineering Control			
portio	on of 152.12-2-1.1				
1. Mo	nitoring and maintenance	Cover System e of the cover system.			

Box	5
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	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 certificate in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and the information presented is accurate and compete.			
	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. C915289

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.

Robert Burkitt	at	3021 Orchard Park Road, C	Orchard Park, New York 14127	
print na	me	print business addre	ess	
am certifying as	Agent for Owner		(Owner or Remedial Party)	
for the Site named in the Site Details Section of this form.				
	2.3 4	_ -	01/13/2025	
Signature of Owner Rendering Certificat	-	signated Representative	Date	

EC CERTIFICATIONS

Qualified Enviro	Box 7 onmental 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.				
	Roux Environmental Engineering & Geology, DPC			
Christopher Boron	2558 Hamburg Turnpike, Suite 300, Buffalo, New York 14218			
print name	print business address			
am certifying as a Qualified Environmental Professional for theOwner				
	(Owner or Remedial Party)			
Signature of Qualified Environmental Profes the Owner or Remedial Party, Rendering Ce				

APPENDIX B

SITE PHOTOGRAPHIC LOG

SITE PHOTOGRAPHS

Photo 1:



Photo 2:





Photo 4:



Photo 1: View of the asphalt cover on the west side of the Site, looking east.

Photo 2: View of the soil cover system (island) on western portion of the Site, looking west.

Photo 3: View of the soil cover system (island) at northwest corner of the Site, looking north.

Photo 4: View of the asphalt and soil cover near the southwest portion of the building, looking north.

3021 Orchard Park Road Site Orchard Park, NY, 14127

Photo Date: December 27, 2024



SITE PHOTOGRAPHS - December 2024

Photo 5:



Photo 7:



Photo 6:



Photo 8:



Photo 5: View of the asphalt cover on the east side of the building, looking north.

Photo 6: View of the asphalt cover on the east side of the building, looking south.

Photo 7: View of the asphalt cover south of the building, looking north.

Photo 8: View of the asphalt cover near the southwestern cover of the building, looking northwest.

3021 Orchard Park Road Site Orchard Park, NY, 14127

Photo Date: December 27, 2024



SITE PHOTOGRAPHS - December 2024

Photo 9:



Photo 10:



Photo 11:



Photo 12:



Photo 9: View of the asphalt cover along the southern portion of the Site, looking southwest.

Photo 10: View of the soil cover near southwestern corner of the Site, looking southwest.

Photo 11: View of the soil cover along the western central portion of the building, looking north.

Photo 12: View of the soil cover along the western central portion of the Site, looking west.

3021 Orchard Park Road Site Orchard Park, NY, 14127

Photo Date: December 27, 2024

