

October 2, 2017

**ATTENTION: Brian Humphrey**  
Division of Environmental Remediation  
Bureau of Technical Support, Site Control Section  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, NY 12233-7020

**RECEIVED**  
**OCT 04 2017**  
**BUR. OF TECH. SUPPORT**

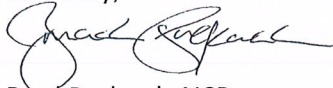
**Re: NYSDEC BCP Site No. C915302 ("1360 Niagara Street")**  
Application for Request to Amend Brownfield Cleanup Agreement  
Revision No. 1- 09.29.17

Dear Mr. Humphrey:

As per our discussion, please find attached two (2) original signed copies of the completed Application for Request to Amend the existing Brownfield Cleanup Agreement applicable to NYSDEC BCP Site No.C915302 commonly known as 1360 Niagara Street. Please note that the attached copies have been revised to include the proper acreage and SBL's for the applicable properties which comprise the BCP Site Boundary. Please review and do not hesitate to contact me with any further questions or concerns regarding our request for amendment.

Thank you for your time and consideration regarding this matter.

Sincerely,



Brad Packard, AICP  
Director of Development & Planning  
bpackard@ciminelli.com

Enc.



Department of  
Environmental  
Conservation

## BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION TO AMEND BROWNFIELD CLEANUP AGREEMENT AND AMENDMENT

### PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

Check the appropriate box below based on the nature of the amendment modification requested:

☐ Amendment to [check one or more boxes below]

- ☐ Add
- ☐ Substitute
- ☐ Remove
- ☐ Change in Name

applicant(s) to the existing Brownfield Cleanup Agreement [*Complete Section I-IV below and Part II*]

Does this proposed amendment involve a transfer of title to all or part of the brownfield site? ☐ Yes ☐ No

If yes, pursuant to 6 NYCRR Part 375-1.11(d), a Change of Use form should have been previously submitted. If not, please submit this form with this Amendment. See <http://www.dec.ny.gov/chemical/76250.html>

- ☒ Amendment to modify description of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Sections I and V below and Part II*]
- ☒ Amendment to Expand or Reduce property boundaries of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Section I and V below and Part II*]
- ☐ **Sites in Bronx, Kings, New York, Queens, or Richmond counties ONLY:** Amendment to request determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit. Please answer questions on the supplement at the end of the form.
- ☐ Other (explain in detail below)

Please provide a brief narrative on the nature of the amendment:

Please refer to the attached Exhibit "A" for a complete description of the amendment request.

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**\*Please refer to the attached instructions for guidance on filling out this application\***



<b>Section I. Existing Application Information</b>			
BCP SITE NAME: 1360 Niagara Street		BCP SITE NUMBER: C915302	
NAME OF CURRENT APPLICANT(S): 1360 Niagara Street Owner, LLC			
INDEX NUMBER OF EXISTING AGREEMENT: C915302-04-16 DATE OF EXISTING AGREEMENT: 12/15/16			
<b>Section II. New Requestor Information (if no change to Current Applicant, skip to Section V)</b>			
NAME			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
Is the requestor authorized to conduct business in New York State (NYS)? <input type="checkbox"/> Yes <input type="checkbox"/> No			
<ul style="list-style-type: none"> <li>If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's (DOS) Corporation &amp; Business Entity Database. A print-out of entity information from the DOS database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS.</li> </ul>			
NAME OF NEW REQUESTOR'S REPRESENTATIVE			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
NAME OF NEW REQUESTOR'S CONSULTANT (if applicable)			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
NAME OF NEW REQUESTOR'S ATTORNEY (if applicable)			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
Requestor must submit proof that the party signing this Application and Amendment has the authority to bind the Requestor. This would be documentation from corporate organizational papers, which are updated, showing the authority to bind the corporation, or a Corporate Resolution showing the same, or an Operating Agreement or Resolution for an LLC. Is this proof attached? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Describe Requestor's Relationship to Existing Applicant:			



**Section III. Current Property Owner/Operator Information (only include if new owner/operator or new existing owner/operator information is provided, and highlight new information)**

OWNER'S NAME (if different from requestor)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

OPERATOR'S NAME (if different from requestor or owner)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

**Section IV. Eligibility Information for New Requestor (Please refer to ECL § 27-1407 for more detail)**

If answering "yes" to any of the following questions, please provide an explanation as an attachment.

1. Are any enforcement actions pending against the requestor regarding this site? ☐ Yes ☐ No
2. Is the requestor presently subject to an existing order for the investigation, removal or remediation relating to contamination at the site? ☐ Yes ☐ No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? ☐ Yes ☐ No  
Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.
4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the subject law; ii) any order or determination; iii) any regulation implementing ECL Article 27 Title 14; or iv) any similar statute, regulation of the state or federal government? If so, provide an explanation on a separate attachment. ☐ Yes ☐ No
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as name, address, Department assigned site number, the reason for denial, and other relevant information. ☐ Yes ☐ No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting of contaminants? ☐ Yes ☐ No
7. Has the requestor been convicted of a criminal offense i) involving the handling, storing, treating, disposing or transporting of contaminants; or ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state? ☐ Yes ☐ No
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of the Department, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to the Department? ☐ Yes ☐ No
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9(f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application? ☐ Yes ☐ No
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order? ☐ Yes ☐ No
11. Are there any unregistered bulk storage tanks on-site which require registration? ☐ Yes ☐ No



THE NEW REQUESTOR MUST CERTIFY THAT IT IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL §27-1405 (1) BY CHECKING ONE OF THE BOXES BELOW:

☐ PARTICIPANT

A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.

☐ VOLUNTEER

A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

NOTE: By checking this box, a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.

**If a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site, submit a statement describing why you should be considered a volunteer – be specific as to the appropriate care taken.**

Requestor's Relationship to Property (check one):

☐ Prior Owner ☐ Current Owner ☐ Potential /Future Purchaser ☐ Other \_\_\_\_\_

If requestor is not the current site owner, **proof of site access sufficient to complete the remediation must be submitted.** Proof must show that the requestor will have access to the property before signing the BCA and throughout the BCP project, including the ability to place an easement on the site Is this proof attached? ☐ Yes ☐ No

**Note: a purchase contract does not suffice as proof of access.**

#### Section V. Property description and description of changes/additions/reductions (if applicable)

ADDRESS 1336, 1340 & 1360 Niagara Street

CITY/TOWN Buffalo

ZIP CODE 14213

TAX BLOCK AND LOT (TBL) (in existing agreement )

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
1336 Niagara Street	1	88.81	1	6	+/- .4872
1340 Niagara Street	2	88.81	1	7	+/- .4048
1360 Niagara Street	3	88.81	1	8	+/- .936

Check appropriate boxes below:



Changes to metes and bounds description or TBL correction



Addition of property (may require additional citizen participation depending on the nature of the expansion – see attached instructions)

Approximate acreage added: \_\_\_\_\_

**\*NOTE: Correction to Lot No.'s**



**ADDITIONAL PARCELS:**

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
1336 Niagara Street	1	88.81	1	8	+/- .4872
1340 Niagara Street	2	88.81	1	7	+/- .4048
1360 Niagara Street	3	88.81	1	6	+/- .936



Reduction of property

Approximate acreage removed: +/- .026

**PARCELS REMOVED:**

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
.026 Portion of 1360 Niagara Street Removed	3	88.81	1	6	+/- .910

If requesting to modify a metes and bounds description or requesting changes to the boundaries of a site, please attach a revised metes and bounds description, survey, or acceptable site map to this application.



# Supplement to the Application To Amend Brownfield Cleanup Agreement And Amendment - Questions for Sites Seeking Tangible Property Credits in New York City ONLY.

Property is in Bronx, Kings, New York, Queens, or Richmond counties.

☐ Yes ☐ No

Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.

☐ Yes ☐ No

**Please answer questions below and provide documentation necessary to support answers.**

1. Is at least 50% of the site area located within an environmental zone pursuant to Tax Law 21(6)?  
Please see [DEC's website](#) for more information.

☐ Yes ☐ No

2. Is the property upside down as defined below?

☐ Yes ☐ No

**From ECL 27-1405(31):**

"Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.

3. Is the project an affordable housing project as defined below?

☐ Yes ☐ No

From 6 NYCRR 375- 3.2(a) as of August 12, 2016:

(a) "Affordable housing project" means, for purposes of this part, title fourteen of article twenty seven of the environmental conservation law and section twenty-one of the tax law only, a project that is developed for residential use or mixed residential use that must include affordable residential rental units and/or affordable home ownership units.

(1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants' households annual gross income.

(2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which sets affordable units aside for home owners at a defined maximum percentage of the area median income.

(3) "Area median income" means, for purposes of this subdivision, the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development, or its successor, for a family of four, as adjusted for family size.



## PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

### Existing Agreement Information

BCP SITE NAME: 1360 Niagara Street

BCP SITE NUMBER: C915302

NAME OF CURRENT APPLICANT(S): 1360 Niagara Street Owner, LLC

INDEX NUMBER OF EXISTING AGREEMENT: C915302-04-16

EFFECTIVE DATE OF EXISTING AGREEMENT: December 15, 2016

### Declaration of Amendment:

By the Requestor(s) and/or Applicant(s) signatures below, and subsequent signature by the Department, the above application to amend the Brownfield Cleanup Agreement described above is hereby approved. This Amendment is made in accordance with and subject to all of the BCA and all applicable guidance, regulations and state laws applicable thereto. All other substantive and procedural terms of the Agreement will remain unchanged and in full force and effect regarding the parties to the Agreement.

Nothing contained herein constitutes a waiver by the Department or the State of New York of any rights held in accordance with the Agreement or any applicable state and/or federal law or a release for any party from any obligations held under the Agreement or those same laws.

### Statement of Certification and Signatures: New Requestor(s) (if applicable)

(Individual)

I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

(Entity)

I hereby affirm that I am (title \_\_\_\_\_) of (entity \_\_\_\_\_); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

\_\_\_\_\_ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_



**Statement of Certification and Signatures: Existing Applicant(s) (an authorized representative of each applicant must sign)**

(Individual)

I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

(Entity)

I hereby affirm that I am Manager (title) of 1360 Niagara Street Owner, LLC (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 9/29/17 Signature: Paul F. Ciminelli

Print Name: Paul F. Ciminelli

**REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT**

Status of Agreement:

☐

**PARTICIPANT**

A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.

☐

**VOLUNTEER**

A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.

**Effective Date of the Original Agreement:**

**Signature by the Department:**

**DATED:**

NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION

By:

Robert W. Schick, P.E., Director  
Division of Environmental Remediation

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**-EXHIBIT A-**  
**DESCRIPTION OF**  
**AMENDMENT REQUEST**

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**Please provide a brief narrative on the nature of the amendment:**

As noted at Section I of the Application, the Applicant is requesting the following Amendments to the existing Brownfield Cleanup Agreement ("BCA"):

**1. Amendment Request No. 1- Amendment to modify the description of the properties listed in the existing Brownfield Cleanup Agreement.**

Within the existing BCA, the Applicant had inadvertently misstated the Tax Block and Lot No. ("TBL") for two (2) of the properties that are included within the overall BCP Boundary. Specifically, the applicant is requesting an Amendment to correct the following:

- 1336 Niagara Street: The existing BCA shows the TBL for this property as 88.81-1-6 and it should be corrected to the actual TBL No. of 88.81-1-8.
- 1360 Niagara Street: The existing BCA shows the TBL for this property as 88.81-1-8 and it should be corrected to the actual TBL No. of 88.81-1-6.

**2. Amendment Request No. 2- Amendment to Reduce property boundaries of a property listed in the existing Brownfield Cleanup Agreement.**

The approved RIWP for the site consisted of establishing a 50' by 50' grid across the approximately 1.83 acre BCP Boundary which yielded 26 grid locations. Within the established cell grid, a direct push soil boring study was performed with advancements to 16' bgs or to the top of bedrock. Each soil sample was analyzed for VOC's, SVOC's, PCB's and metals. Ultimately, except for cell grid location "E-1", the Applicant successfully remediated and removed all prior contaminated soils within the BCP Boundary by excavating all grid locations to native soils and backfilling with imported DER-10 certified material. Please refer to the attached **Exhibit "B"** for a depiction of the grid sampling plan and location of Cell E-1. The RI determined that Cell E-1 contains a limited SVOC residential use exceedance for the PAH Chrysene. Please refer to the attached **Exhibit "C"** for the Subsurface Sampling Results in connection with Cell E-1. The Applicant is looking to achieve a Track 1 Level Cleanup that will provide for the removal of all contaminated soils across the BCP Boundary. The complication presented by attempting to excavate Cell E-1 to a depth of 12' bgs is that this cell in particular contains significant structural foundations which support the existing 4-story building and additional structural foundations which support an approximate 10' retaining wall for an adjacent public right of way. The Applicant is concerned that excavating to 12' bgs could potentially undermine both of these existing foundation systems. Ultimately, in an effort to avoid having to implement a segmented Track cleanup to accommodate the very small portion of the overall site at E-1, the Applicant is requesting to remove Cell E-1 from the existing BCP Boundary. The area to be removed represents approximately .026 acre of the 1.83 acre site (or 1.4% of the existing BCP Boundary). It is also important to note that the Applicant has voluntarily placed a soil cover system at Cell E-1 in accordance with DER-10 standards even though the property is proposed for removal from the existing BCP Boundary. The Soil Cover System plan and specifications are provided at the attached **Exhibit "D"**. The proposed Revised BCP Boundary Survey clearly depicting the proposed Cell E-1 exclusion area and new BCP Boundary request is provided at the attached **Exhibit "E"**.

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**-EXHIBIT B-**  
**BCP SITE BOUNDARY**  
**REMEDIAL INVESTIGATION GRID MAP**

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C&S Engineers, Inc.  
141 Elm Street  
Buffalo, New York 14203  
Phone: 716-847-1630  
Fax: 716-847-1454  
www.cscos.com



**GARRETT LEATHER  
REMEDIATION INVESTIGATION-  
INTERIM REMEDIAL MEASURES  
WORK PLAN  
BUFFALO, NEW YORK  
APRIL 2016**


**ESTIMATED  
EXCAVATION  
DEPTH**

FIGURE 1



**Grid Cell "E-1"**  
Native Soils: +/- 15' bgs  
SVOC Residential Exceedance Detection: +/- 12'

- 3'** Approximate Excavation Depth (feet below ground surface)
- Grid Location Needing Removal of Native Soil

**Legend**

- BCP Boundary
- Proposed Transformer PCB Samples
- Proposed Fill Sampling
- Proposed Perimeter Sample Location

- Native Sampling at 15 feet or above top of bedrock
- Native Sampling





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**-EXHIBIT C-**  
**GRID CELL E1**  
**SOIL SAMPLE RESULTS**

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TABLE 1: SOIL SAMPLE RESULTS - SUBSURFACE SAMPLING  
1360 NIAGARA STREET REMEDIAL INVESTIGATION  
BUFFALO, NEW YORK

EXHIBIT "C"

Location ID						D1	D1	D1	D1	D4	E1	E1	E2	E2	E3	E4
Sample Depth						3 - 3	4 - 4	5 - 5	12 - 12	1 - 1	3 - 4	12 - 12	1 - 1	2 - 2	0.5 - 0.5	0 - 1.5
Date Sampled	Unrestricted Use	Residential Use	Restricted Residential Use	Commercial Use	Industrial Use	02/17/2017	02/17/2017	02/17/2017	02/17/2017	02/16/2017	02/17/2017	02/17/2017	02/16/2017	02/16/2017	02/16/2017	02/16/2017
Sample Matrix						SO	SO	SO	SO	SO	SO	SO	SO	SO	SO	SO
Units						mg/kg	mg/kg	mg/kg	mg/kg	mg/kg	mg/kg	mg/kg	mg/kg	mg/kg	mg/kg	mg/kg
VOCs																
Acetone	0.05	100	100	500	1000	ND			0.0578	0.0414	ND	ND	ND		ND	0.0237
Ethylbenzene	1	30	41	390	780	ND			ND	ND	ND	ND	ND		ND	ND
Methylene Chloride	0.05	51	100	500	1000	ND			ND	ND	ND	ND	ND		ND	ND
Tetrachloroethylene (PCE)	1.3	5.5	19	150	300	ND			0.0337 M	ND	0.00629	0.0270	0.00488		ND	ND
Toluene	0.7	100	100	500	1000	ND			ND	ND	ND	ND	ND		ND	ND
Trichloroethylene (TCE)	0.47	10	21	200	400	ND			ND	ND	ND	ND	ND		ND	ND
1,3,5-Trimethylbenzene (Mesitylene)	8.4	47	52	190	380	ND			ND	ND	ND	ND	ND		ND	ND
trans-Chlordane		0.54				ND			ND	ND	ND	ND	ND		ND	ND
SVOCs																
Acenaphthene	20	100	100	500	1000	ND			ND	ND	ND	ND	ND		ND	ND
Acenaphthylene	100	100	100	500	1000	ND			ND	ND	ND	ND	ND		ND	ND
Anthracene	100	100	100	500	1000	ND			ND	ND	ND	ND	ND		ND	ND
Benzo(A)Anthracene	1	1	1	5.6	11	ND			ND	ND	ND	1.06	ND		ND	ND
Benzo(A)Pyrene	1	1	1	1	1.1	ND			ND	ND	ND	ND	ND		ND	0.166 J
Benzo(B)Fluoranthene	1	1	1	5.6	11	ND			ND	ND	ND	ND	ND		ND	0.212 J
Benzo(G,H,I)Perylene	100	100	100	500	1000	ND			ND	ND	ND	ND	ND		ND	ND
Benzo(K)Fluoranthene	0.8	1	3.9	56	110	ND			ND	ND	ND	ND	ND		ND	ND
Chrysene	1	1	3.9	56	110	ND			ND	ND	ND	1.79	ND		ND	0.189 J
Dibenz(A,H)Anthracene	0.33	0.33	0.33	0.56	1.1	ND			ND	ND	ND	0.334	ND		ND	ND
Fluoranthene	100	100	100	500	1000	ND			ND	ND	ND	ND	ND		ND	0.5
Fluorene	30	100	100	500	1000	ND			ND	ND	ND	ND	ND		ND	ND
Indeno(1,2,3-C,D)Pyrene	0.5	0.5	0.5	5.6	11	ND			ND	ND	ND	ND	ND		ND	ND
Naphthalene	12	100	100	500	1000	ND			ND	ND	ND	ND	ND		ND	ND
Phenanthrene	100	100	100	500	1000	ND			ND	ND	ND	ND	ND		ND	ND
Pyrene	100	100	100	500	1000	ND			ND	ND	ND	1.63	ND		ND	0.579
Pesticidies																
P,P'-DDE	0.0033	1.8	8.9	62	120	ND			ND	ND	ND	ND	ND		ND	0.00221 JP
P,P'-DDT	0.0033	1.7	7.9	47	94	ND			ND	ND	ND	ND	ND		ND	0.00348
P,P'-DDD	0.0033	2.6	13	92	180	ND			ND	ND	ND	ND	ND		ND	0.00200 J
Aldrin	0.005	0.019	0.097	0.68	1.4	ND			ND	ND	ND	ND	ND		ND	ND
Beta Bhc (Beta Hexachlorocyclohexane)	0.036	0.072	0.36	3	14	ND			ND	ND	ND	ND	ND		ND	ND
cis-Chlordane	0.094	0.91	4.2	24	47	ND			ND	ND	ND	ND	ND		ND	0.0888 P
Delta BHC (Delta Hexachlorocyclohexane)	0.04	100	100	500	1000	ND			ND	ND	ND	ND	ND		ND	ND
Dibenzofuran	7	14	59	350	1000	ND			ND	ND	ND	ND	ND		ND	ND
Dieldrin	0.005	0.039	0.2	1.4	2.8	ND			ND	ND	ND	ND	ND		ND	0.00163 JP
Alpha Endosulfan	2.4	4.8	24	200	920	ND			ND	ND	ND	ND	ND		ND	ND
Beta Endosulfan	2.4	4.8	24	200	920	ND			ND	ND	ND	ND	ND		ND	ND
Endosulfan Sulfate	2.4	4.8	24	200	920	ND			ND	ND	ND	0.00235 JP	ND		ND	0.00552 P
Endrin	0.014	2.2	11	89	410	ND			ND	ND	ND	0.00167 J	ND		ND	0.00722 P
PCBs																
PCB-1260 (Aroclor 1260)	0.1	1	1	1	25	ND			ND	ND	ND	ND	ND		ND	ND




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**-EXHIBIT D-**  
**GRID CELL E1**  
**SOIL COVER SYSTEM**  
**PLANS & SPECIFICATIONS**

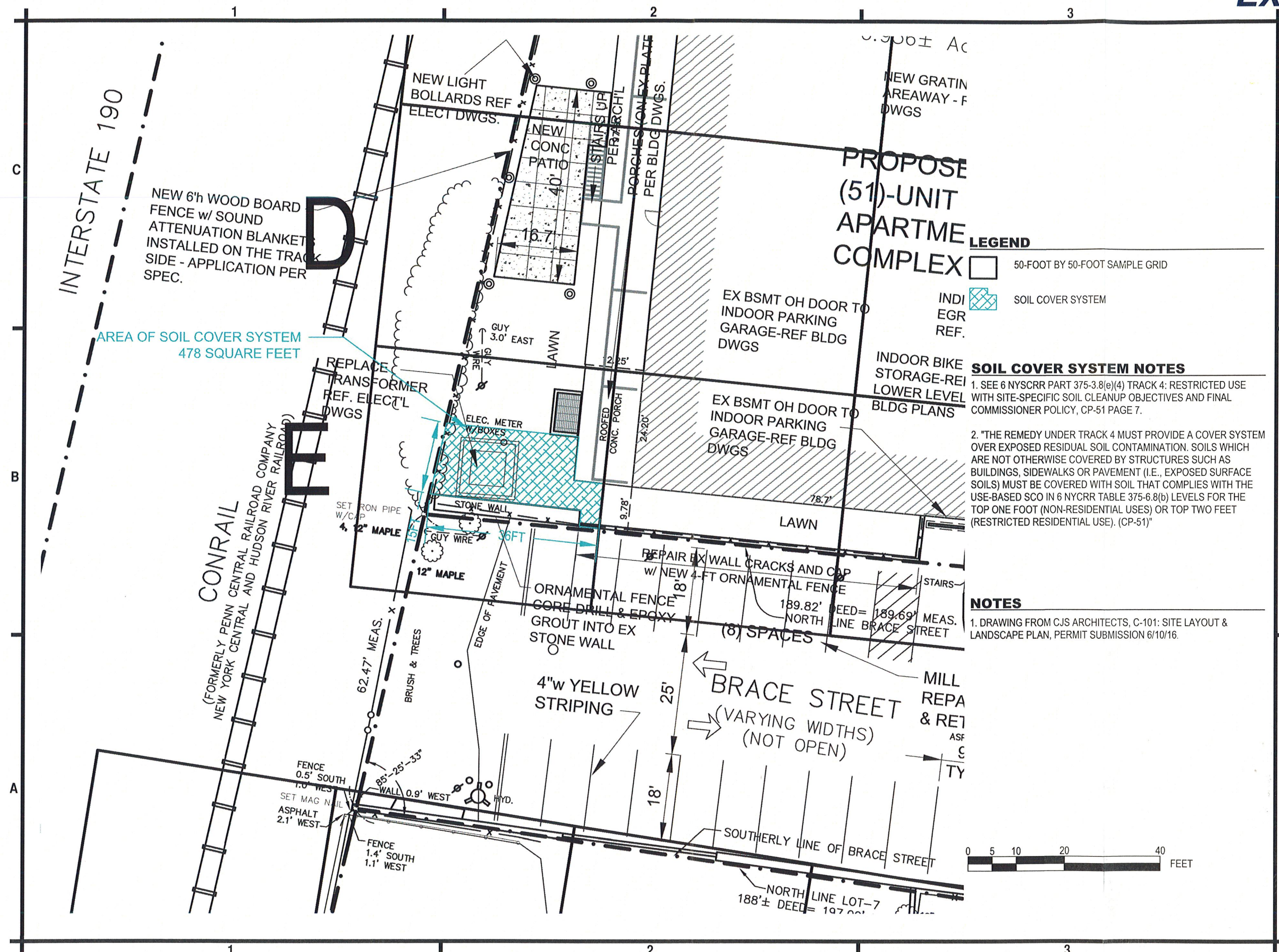
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MARK	DATE	DESCRIPTION
REVISIONS		
PROJECT NO: E67.018.002		
DATE: 3/30/2017		
DRAWN BY: C. MARTIN		
DESIGNED BY: C. MARTIN		
CHECKED BY: D. RIKER		
NO ALTERATION PERMITTED HEREON EXCEPT AS PROVIDED UNDER SECTION 7209 SUBDIVISION 2 OF THE NEW YORK EDUCATION LAW		

FIGURE 1





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**-EXHIBIT E-**  
**NYSDEC BCP SITE NO. C915302**  
**BOUNDARY AMENDMENT 1**  
**AS PREPARED BY**  
**MCINTOSH & MCINTOSH, P.C.**  
**09.14.17**

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**SURVEYORS DESCRIPTION 0.894± Ac. PARCEL**

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie, State of New York, and being part of Lots 6 and 7 of the Stevens Survey, bounded and described as follows:

BEGINNING AT A POINT on the west line of Niagara Street at the northeast corner of lands conveyed to Angelo Montante by deed recorded in the Erie County Clerk's Office in Liber 6415 of Deeds at Page 387;

RUNNING THENCE: Westerly, along the north line of said Montante lands, a distance of 88.01 feet to the northwest corner thereof;

RUNNING THENCE: Southerly, at an interior angle of 269°-23'-48" with the last described line and along the west line of said Montante lands, a distance of 47.27 feet to a point on the south line of Lot 6;

RUNNING THENCE: Westerly, at an interior angle of 89°-08'-30" with the last described line and along the south line of Lot 6 a distance of 126.55 feet to a point on the east line of Conrail, formerly Penn Central Railroad Company, New York Central and Hudson River Railroad;

RUNNING THENCE: Northerly, at an interior angle of 85°-25'-19" with the last described line and along the east line of said Conrail lands, a distance of 210.89 feet to a point on the south line of Brace Street;

RUNNING THENCE: Easterly, at an exterior angle of 85°-25'-33" with the last described line and along the south line of Brace Street, a distance of 197.00 feet to a point on the west line of Niagara Street;

RUNNING THENCE: Southerly, at right angles to the last described line and along the west line of Niagara Street, a distance of 160.69 feet to the POINT OR PLACE OF BEGINNING, containing 0.894 Acre, be the same, more or less.

**SURVEYORS DESCRIPTION 0.910± Ac. PARCEL**

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie, State of New York, and being part of Lots 9, 10 and 11 of the Stevens Survey, bounded and described as follows:

COMMENCING AT A POINT on the west line of Niagara Street at the northeast corner of lands conveyed to Angelo Montante by deed recorded in the Erie County Clerk's Office in Liber 6415 of Deeds at Page 387;

RUNNING THENCE: Northerly, along the west line of Niagara Street, a distance of 178.15 feet to an angle point therein;

RUNNING THENCE: Northerly, at an angle of 177°-17'-46" in the northwest and southwest quadrants with the last described line, a distance of 54.31 feet to the Point or Place of Beginning of the parcel herein described, said Point of Beginning also being on the north line of Brace Street;

RUNNING THENCE: Westerly, at an exterior angle of 89°-51'-03" with the last described line and along the north line of Brace Street, a distance of 153.69 feet to a point;

RUNNING THENCE: Westerly, parallel with the north line of Brace Street, a distance of 31.60 feet to a point on the east line of Conrail, formerly Penn Central Railroad Company, New York Central and Hudson River Railroad;

RUNNING THENCE: Northerly, at an exterior angle of 87°-25'-38" with the last described line and along the east line of said Conrail lands, a distance of 201.35 feet to a point;

RUNNING THENCE: Easterly, at an interior angle of 97°-16'-41" with the last described line, a distance of 159.87 feet to a point on the west line of Niagara Street;

RUNNING THENCE: Southerly, at right angles to the last described line and along the west line of Niagara Street, a distance of 233.00 feet to the POINT OR PLACE OF BEGINNING, containing 0.910 Acre, be the same, more or less.

SUBJECT to easements, rights of way and restrictions of record.

BEING AND INTENDED TO BE a portion of Parcel B of lands conveyed to 1360 Niagara Street Owner, LLC by deed recorded in the Erie County Clerk's Office in Liber 11291 of Deeds at Page 9036.

INTERSTATE 190

CONRAIL  
(FORMERLY PENN CENTRAL RAILROAD COMPANY  
NEW YORK CENTRAL AND HUDSON RIVER RAILROAD)

SEE EASEMENT AGREEMENT FOR VARIOUS  
ENCROACHING STRUCTURES (1314 NIAGARA STREET)  
& (1340 NIAGARA STREET), NO SPECIFIC LOCATION  
DESCRIBED. L-6620, P-469

SEE EASEMENT AGREEMENT FOR A  
CONCRETE BLOCK WALL  
L-10287, P-719

SEE AGREEMENT FOR JOINT DRIVEWAY USAGE  
L-7065, P-191 (NO SPECIFIC WIDTH)

APPROXIMATE LOCATION OF 20' WIDE  
EASEMENT TO NIAGARA MOHAWK POWER  
CORPORATION L-11310, P-3217

APPROXIMATE LOCATION OF 20' WIDE  
EASEMENT TO NIAGARA MOHAWK POWER  
CORPORATION L-11310, P-3217

**CITY BUFFALO PERFECTING TITLE**  
L-11086, P-2188

**LOT-5**

**LOT-6**

**LOT-7**

**LOT-8**

**LOT-9**

**LOT-10**

**LOT-11**

**1360 NIAGARA STREET OWNER, LLC**  
L-11291, P-9036  
39,938± Sq. Ft.  
0.894± Ac.

**1360 NIAGARA STREET**  
OWNER, LLC  
L-11291, P-9036  
39,622± Sq. Ft.  
0.910± Ac.

**HJM ENTERPRISES, LLC**  
L-11142, P-2923  
LOT-11

**THOMAS GILES KAVANAGH**  
L-11250, P-7516  
BLDG. NO. 1330

**NOTES**

1) REFERENCE MAP - SURVEY MAP PREPARED BY RICHARD W. SIEPEL, LICENSED LAND SURVEYOR, DATED JUNE 9, 1998, LAST REVISED JUNE 26, 1998 AND IDENTIFIED AS JOB NO. 98169.

2) SBL - CITY OF BUFFALO TAX MAP NO. 88.81-1-6, 7 & 8

3) FOR REFERENCE SEE RAILROAD VALUATION MAP FOR NEW YORK CENTRAL RAILROAD, NIAGARA BRANCH, V83/5.

4) NO FIELDWORK WAS DONE FOR THE BCP MAP REVISIONS.

NOTE: THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE AND IS SUBJECT TO ANY STATE OF FACTS THAT MAY BE REVEALED BY AN EXAMINATION OF SUCH.

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**LEGEND**

— UE — UNDERGROUND ELECTRIC  
— OT — OVERHEAD TELEPHONE  
— OE — OVERHEAD ELECTRIC  
— G — GAS  
— W — WATER  
— SS — SANITARY SEWER  
— UC — UNDERGROUND CATV  
— C.B. — CATCH BASIN  
⊙ SAN. M.H. — SANITARY MANHOLE  
⊙ W.V. — WATER VALVE  
△ HYD. — HYDRANT  
☆ L.P. — LIGHT POLE  
⊙ P.P. — POWER POLE  
⊙ G.V. — GAS VALVE  
⊙ G.P. — GUARD POST  
— SIGN —  
— — PROPERTY/EASEMENT BOUNDARY

**RESURVEY**  
APRIL 25, 2017

**REVISION**  
12/20/2015  
ADDED BCP BOUNDARY INFO.  
9/15/2017

**LOCATION**  
CITY OF BUFFALO, ERIE COUNTY, NEW YORK

**JOB NO.** 8662

**SCALE:** 1"= 20'

**DATE:** NOVEMBER 2, 2015

**BRANN**  
COMP.

**DESC.**  
CADFILE 9662-2017B0P

**GRAPHIC SCALE**  
( IN FEET )  
1 inch = 20 ft.

**GRAPHIC SCALE**  
( IN METERS )

**1 : 240**

**NYS DEC SITE NO. C915302 BCP BOUNDARY - AMENDMENT 1**  
**SITE ADDRESS: 1336, 1340 & 1360 NIAGARA STREET**

**McINTOSH & McINTOSH, P.C.**  
CONSULTING ENGINEERS, LAND SURVEYORS, PLANNERS  
LOCKPORT, NEW YORK BUFFALO, NEW YORK  
PHONE 434-9138 PHONE 625-8360

**LOCATION PLAN**  
NOT TO SCALE

**NOTES**

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**POINT OF BEGINNING**  
0.910± Ac. PARCEL

**POINT OF BEGINNING**  
PARCEL B

**POINT OF BEGINNING**  
PARCEL A & BRACE STREET PARCEL

**POINT OF COMMENCING**  
0.910± Ac. PARCEL

**POINT OF BEGINNING**  
0.894± Ac. PARCEL

**SURVEYORS DESCRIPTION**

**BRACE STREET**  
(VARYING WIDTHS)  
(PUBLIC RIGHT OF WAY)

**NIAGARA STREET**  
(99.0' WIDE)

**INTERSTATE 190**

**CONRAIL**  
(FORMERLY PENN CENTRAL RAILROAD COMPANY  
NEW YORK CENTRAL AND HUDSON RIVER RAILROAD)

**LOT-5**

**LOT-6**

**LOT-7**

**LOT-8**

**LOT-9**

**LOT-10**

**LOT-11**

**1360 NIAGARA STREET OWNER, LLC**  
L-11291, P-9036  
39,938± Sq. Ft.  
0.894± Ac.

**1360 NIAGARA STREET**  
OWNER, LLC  
L-11291, P-9036  
39,622± Sq. Ft.  
0.910± Ac.

**HJM ENTERPRISES, LLC**  
L-11142, P-2923  
LOT-11

**THOMAS GILES KAVANAGH**  
L-11250, P-7516  
BLDG. NO. 1330

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— SIGN —  
— — PROPERTY/EASEMENT BOUNDARY

**RESURVEY**  
APRIL 25, 2017

**REVISION**  
12/20/2015  
ADDED BCP BOUNDARY INFO.  
9/15/2017

**LOCATION**  
CITY OF BUFFALO, ERIE COUNTY, NEW YORK

**JOB NO.** 8662

**SCALE:** 1"= 20'

**DATE:** NOVEMBER 2, 2015

**BRANN**  
COMP.

**DESC.**  
CADFILE 9662-2017B0P

**GRAPHIC SCALE**  
( IN FEET )  
1 inch = 20 ft.

**GRAPHIC SCALE**  
( IN METERS )

**1 : 240**

**NYS DEC SITE NO. C915302 BCP BOUNDARY - AMENDMENT 1**  
**SITE ADDRESS: 1336, 1340 & 1360 NIAGARA STREET**

**McINTOSH & McINTOSH, P.C.**  
CONSULTING ENGINEERS, LAND SURVEYORS, PLANNERS  
LOCKPORT, NEW YORK BUFFALO, NEW YORK  
PHONE 434-9138 PHONE 625-8360

**LOCATION PLAN**  
NOT TO SCALE

**NOTES**

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**POINT OF BEGINNING**  
0.910± Ac. PARCEL

**POINT OF BEGINNING**  
PARCEL B

**POINT OF BEGINNING**  
PARCEL A & BRACE STREET PARCEL

**POINT OF COMMENCING**  
0.910± Ac. PARCEL

**POINT OF BEGINNING**  
0.894± Ac. PARCEL

**SURVEYORS DESCRIPTION**

**BRACE STREET**  
(VARYING WIDTHS)  
(PUBLIC RIGHT OF WAY)

**NIAGARA STREET**  
(99.0' WIDE)

**INTERSTATE 190**

**CONRAIL**  
(FORMERLY PENN CENTRAL RAILROAD COMPANY  
NEW YORK CENTRAL AND HUDSON RIVER RAILROAD)

**LOT-5**

**LOT-6**

**LOT-7**

**LOT-8**

**LOT-9**

**LOT-10**

**LOT-11**

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L-11291, P-9036  
39,938± Sq. Ft.  
0.894± Ac.

**1360 NIAGARA STREET**  
OWNER, LLC  
L-11291, P-9036  
39,622± Sq. Ft.  
0.910± Ac.

**HJM ENTERPRISES, LLC**  
L-11142, P-2923  
LOT-11

**THOMAS GILES KAVANAGH**  
L-11250, P-7516  
BLDG. NO. 1330

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**RESURVEY**  
APRIL 25, 2017

**REVISION**  
12/20/2015  
ADDED BCP BOUNDARY INFO.  
9/15/2017

**LOCATION**  
CITY OF BUFFALO, ERIE COUNTY, NEW YORK

**JOB NO.** 8662

**SCALE:** 1"= 20'

**DATE:** NOVEMBER 2, 2015

**BRANN**  
COMP.

**DESC.**  
CADFILE 9662-2017B0P

**GRAPHIC SCALE**  
( IN FEET )  
1 inch = 20 ft.

**GRAPHIC SCALE**  
( IN METERS )

**1 : 240**

**NYS DEC SITE NO. C915302 BCP BOUNDARY - AMENDMENT 1**  
**SITE ADDRESS: 1336, 1340 & 1360 NIAGARA STREET**

**McINTOSH & McINTOSH, P.C.**  
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LOCKPORT, NEW YORK BUFFALO, NEW YORK  
PHONE 434-9138 PHONE 625-8360

**LOCATION PLAN**  
NOT TO SCALE

**NOTES**

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**POINT OF BEGINNING**  
0.910± Ac. PARCEL

**POINT OF BEGINNING**  
PARCEL B

**POINT OF BEGINNING**  
PARCEL A & BRACE STREET PARCEL

**POINT OF COMMENCING**  
0.910± Ac. PARCEL

**POINT OF BEGINNING**  
0.894± Ac. PARCEL

**SURVEYORS DESCRIPTION**

**BRACE STREET**  
(VARYING WIDTHS)  
(PUBLIC RIGHT OF WAY)

**NIAGARA STREET**  
(99.0' WIDE)

**INTERSTATE 190**

**CONRAIL**  
(FORMERLY PENN CENTRAL RAILROAD COMPANY  
NEW YORK CENTRAL AND HUDSON RIVER RAILROAD)

**LOT-5**

**LOT-6**

**LOT-7**

**LOT-8**

**LOT-9**

**LOT-10**

**LOT-11**

**1360 NIAGARA STREET OWNER, LLC**  
L-11291, P-9036  
39,938± Sq. Ft.  
0.894± Ac.

**1360 NIAGARA STREET**  
OWNER, LLC  
L-11291, P-9036  
39,622± Sq. Ft.  
0.910± Ac.

**HJM ENTERPRISES, LLC**  
L-11142, P-2923  
LOT-11

**THOMAS GILES KAVANAGH**  
L-11250, P-7516  
BLDG. NO. 1330

**NOTES**

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**RESURVEY**  
APRIL 25, 2017

**REVISION**  
12/20/2015  
ADDED BCP BOUNDARY INFO.  
9/15/2017

**LOCATION**  
CITY OF BUFFALO, ERIE COUNTY, NEW YORK

**JOB NO.** 8662

**SCALE:** 1"= 20'

**DATE:** NOVEMBER 2, 2015

**BRANN**  
COMP.

**DESC.**  
CADFILE 9662-2017B0P

**GRAPHIC SCALE**  
( IN FEET )  
1 inch = 20 ft.

**GRAPHIC SCALE**  
( IN METERS )

**1 : 240**

**NYS DEC SITE NO. C915302 BCP BOUNDARY - AMENDMENT 1**  
**SITE ADDRESS: 1336, 1340 & 1360 NIAGARA STREET**

**McINTOSH & McINTOSH, P.C.**  
CONSULTING ENGINEERS, LAND SURVEYORS, PLANNERS  
LOCKPORT, NEW YORK BUFFALO, NEW YORK  
PHONE 434-9138 PHONE 625-8360

**LOCATION PLAN**  
NOT TO SCALE

**NOTES**

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**POINT OF BEGINNING**  
0.910± Ac. PARCEL

**POINT OF BEGINNING**  
PARCEL B

**POINT OF BEGINNING**  
PARCEL A & BRACE STREET PARCEL

**POINT OF COMMENCING**  
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**SURVEYORS DESCRIPTION**

**BRACE STREET**  
(VARYING WIDTHS)  
(PUBLIC RIGHT OF WAY)

**NIAGARA STREET**  
(99.0' WIDE)

**INTERSTATE 190**

**CONRAIL**  
(FORMERLY PENN CENTRAL RAILROAD COMPANY  
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**LOT-5**

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1) REFERENCE MAP - SURVEY MAP PREPARED BY RICHARD W. SIEPEL, LICENSED LAND SURVEYOR, DATED JUNE 9, 1998, LAST REVISED JUNE 26, 1998 AND IDENTIFIED AS JOB NO. 98169.

2) SBL - CITY OF BUFFALO TAX MAP NO. 88.81-1-6, 7 & 8

3) FOR REFERENCE SEE RAILROAD VALUATION MAP FOR NEW YORK CENTRAL RAILROAD, NIAGARA BRANCH, V83/5.

4) NO FIELDWORK WAS DONE FOR THE BCP MAP REVISIONS.

**POINT OF BEGINNING**  
0.910± Ac. PARCEL

**POINT OF BEGINNING**  
PARCEL B

**POINT OF BEGINNING**  
PARCEL A & BRACE STREET PARCEL

**POINT OF COMMENCING**  
0.910± Ac. PARCEL

**POINT OF BEGINNING**  
0.894± Ac. PARCEL

**SURVEYORS DESCRIPTION**

**BRACE STREET**  
(VARYING WIDTHS)  
(PUBLIC RIGHT OF WAY)

**NIAGARA STREET**  
(99.0' WIDE)

**INTERSTATE 190**

**CONRAIL**  
(FORMERLY PENN CENTRAL RAILROAD COMPANY  
NEW YORK CENTRAL AND HUDSON RIVER RAILROAD)

**LOT-5**

**LOT-6**

**LOT-7**

**LOT-8**

**LOT-9**

**LOT-10**

**LOT-11**

**1360 NIAGARA STREET OWNER, LLC**  
L-11291, P-9036  
39,938± Sq. Ft.  
0.894± Ac.

**1360 NIAGARA STREET**  
OWNER, LLC  
L-11291, P-9036  
39,622± Sq. Ft.  
0.910± Ac.

**HJM ENTERPRISES, LLC**  
L-11142, P-2923  
LOT-11

**THOMAS GILES KAVANAGH**  
L-11250, P-7516  
BLDG. NO. 1330

**NOTES**

1) REFERENCE MAP - SURVEY MAP PREPARED BY RICHARD W. SIEPEL, LICENSED LAND SURVEYOR, DATED JUNE 9, 1998, LAST REVISED JUNE 26, 1998 AND IDENTIFIED AS JOB NO. 98169.

2) SBL - CITY OF BUFFALO TAX MAP NO. 88.81-1-6, 7 & 8

3) FOR REFERENCE SEE RAILROAD VALUATION MAP FOR NEW YORK CENTRAL RAILROAD, NIAGARA BRANCH, V83/5.

4) NO FIELDWORK WAS DONE FOR THE BCP MAP REVISIONS.

NOTE: THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE AND IS SUBJECT TO ANY STATE OF FACTS THAT MAY BE REVEALED BY AN EXAMINATION OF SUCH.

NOTE: UNAUTHORIZED ALTERATION OR ADDITION TO THIS SURVEY IS A VIOLATION OF SECTION 7209, PROVISION 2 OF THE NEW YORK STATE EDUCATION LAW.

**LEGEND**

— UE — UNDERGROUND ELECTRIC  
— OT — OVERHEAD TELEPHONE  
— OE — OVERHEAD ELECTRIC  
— G — GAS  
— W — WATER  
— SS — SANITARY SEWER  
— UC — UNDERGROUND CATV  
— C.B. — CATCH BASIN  
⊙ SAN. M.H. — SANITARY MANHOLE  
⊙ W.V. — WATER VALVE  
△ HYD. — HYDRANT  
☆ L.P. — LIGHT POLE  
⊙ P.P. — POWER POLE  
⊙ G.V. — GAS VALVE  
⊙ G.P. — GUARD POST  
— SIGN —  
— — PROPERTY/EASEMENT BOUNDARY

**RESURVEY**