

2023

PERIODIC REVIEW REPORT

FOR

PIERCE ARROW SITE

1695, 1721, AND 1723 ELMWOOD AVENUE

NYSDEC SITE #C915308

CITY OF BUFFALO, ERIE COUNTY, NEW YORK

Prepared by:



C&S ENGINEERS, INC.

141 ELM STREET

BUFFALO, NEW YORK 14203

Prepared on Behalf of:

PIERCE ARROW KANAKA LLC

2150 WEHRLE DRIVE, SUITE 400

WILLIAMSVILLE, NEW YORK 14221

MAY 2023

REVISION 1

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ACRONYM LIST

AAR	ALTERNATIVES ANALYSIS REPORT
BCA	BROWNFIELD CLEANUP AGREEMENT
BCP	BROWNFIELD CLEANUP PROGRAM
BGS	BELOW GROUND SURFACE
DD	DECISION DOCUMENT
DER	DEPARTMENT OF ENVIRONMENTAL REMEDIATION
EC	ENGINEERING CONTROLS
HFM	HISTORIC FILL MATERIAL
IC	INSTITUTIONAL CONTROLS
NYSDEC	NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
NYSDOH	NEW YORK STATE DEPARTMENT OF HEALTH
PAH	POLYCYCLIC AROMATIC HYDROCARBONS
PCBs	POLYCHLORINATED BIPHENYLS
PPM	PARTS PER MILLION
RAOs	REMEDIAL ACTION OBJECTIVES
RI	REMEDIAL INVESTIGATION
SCOs	SOIL CLEANUP OBJECTIVES
SITE	2.898-ACRE PORTION OF FORMER PIERCE ARROW FACILITY, BUFFALO, NEW YORK
SMP	SITE MANAGEMENT PLAN
SVOCs	SEMI-VOLATILE ORGANIC COMPOUNDS
VOCs	VOLATILE ORGANIC COMPOUNDS

EXECUTIVE SUMMARY

C&S Engineers, Inc. (C&S) has prepared this 2023 Periodic Review Report for a 2.898-acre portion of the Pierce Arrow facility (hereinafter referred to as the Site) located at 1695, 1721 and 1723 Elmwood Avenue in Buffalo, New York.

Pierce Arrow Kanaka, LLC entered into a Brownfield Cleanup Agreement (BCA) on February 7, 2017 with the NYSDEC to remediate the Site. A figure showing the site location and boundaries of this site is provided in **Figure 1**. The boundaries of the site are more fully described in the metes and bounds site description that is part of the Environmental Easement provided in **Appendix A**.

On-site contamination was related to various historic activities associated to the operation of the Site as an automotive manufacturing facility. Contamination consists of historic unregulated deposition of urban fill in areas around the exterior of the buildings, sediment within pipes and trenches, and material within and adjacent to former petroleum storage tanks.

The remedy for the Site consisted of excavation of contaminated fill material around exterior portions of the Administrative and Garage Buildings to achieve Track 1 Level Cleanup standards. Remaining contamination is limited to historic fill material underneath the following areas:

- A portion on the northeast exterior corner of the Administrative Building property;
- The southern exterior portion of the Garage Building properties; and
- The footprint of the Garage Building.

Areas with remaining contamination will be monitored and maintained as specified in the approved Site Management Plan (SMP).

The SMP was prepared by C&S Engineers, Inc. (C&S) on behalf of Pierce Arrow Kanaka, LLC. , in accordance with the requirements of the NYSDEC's DER-10 ("Technical Guidance for Site Investigation and Remediation"), dated May 2010, and the guidelines provided by the NYSDEC. The SMP addresses the means for implementing the Intuition Controls (ICs) and/or Engineering Controls (ECs) that are required by the Environmental Easement for the Site. A summary of the SMP is provided below.

Site Identification: Pierce Arrow Site: 1695, 1721 and 1723 Elmwood Avenue
BCP Site No. C915308

Institutional Controls:	1. The property may be used for Restricted Residential Use.
	2. All ECs must be inspected at a frequency and in a manner defined in the SMP.
	3. The use of groundwater underlying the Site is prohibited without necessary water quality treatment as determined by the NYSDOH or the Erie County 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.
	4. Compliance with the Department approved Site Management Plan and Periodic Review Reporting is required.
	5. The remedial party or site owner is required to complete and submit a periodic certification of institutional and engineering controls to the Department in accordance with 6NYCRR Part 375-1.8(h)(3).
Engineering Controls:	1. Soil Cover System: A site cover has been installed and/or maintained over the Site in all areas exceeding applicable SCOs. The cover consists of hardscape (asphalt pavement and concrete floor slab).
Inspections:	Frequency:
1. Soil Cover Inspection	Annually
Monitoring:	
1. None	
Maintenance:	
1. Asphalt pavement and concrete floor repair	As needed

Site Identification: Pierce Arrow Site: 1695, 1721 and 1723 Elmwood Avenue
BCP Site No. C915308

Reporting:	Annually
1. Periodic Review Report	

The Institutional and Engineering Controls Certification form is provided in **Appendix C.**

1 SITE OVERVIEW

The Site is located in Buffalo, Erie County, New York and is identified as the SBL#'s in the following table (also see **Figure 1**).

Table 1-1: Site Description

<i>SBL</i>	<i>Address</i>	<i>Description</i>
78.77-2-6	1695 Elmwood Avenue	Administrative Building
78.72-2-2	1721 Elmwood Avenue	Garage Building
78.77-2-3	1723 Elmwood Avenue	Garage Building

The Site is an approximately a 2.898-acre area and is bounded by the Conrail Railroad to the north, Great Arrow Avenue joined with retail buildings to the south, Industrial buildings at 255 Great Arrow Avenue to the east, and Elmwood Avenue associated with residential buildings and restaurant to the west . The boundaries of the site are more fully described in **Appendix A – Environmental Easement**.

The owner of the site parcels at the time of issuance of this PRR is/are:

Pierce Arrow Kanaka, LLC.

2150 Wehrle Drive, Suite 400

Williamsville, NY 14221

The Site consists of the following: an Administration Building, and two conjoined single story buildings that make up the Garage Building. The Site is zoned commercial and has been redeveloped as apartments and tenant parking. Previous site occupants included tool and die manufacturing, cleaning compound manufacturing, garage, brazing and heat treatment, machine shop operations, dry cleaning, and office space.

The properties adjoining the Site and in the neighborhood surrounding the Site primarily include commercial and residential properties. The properties immediately south of the Site include retail and residential properties; the properties immediately north of the Site is primarily the Conrail railway system; the properties immediately east of the Site include commercial and industrial properties; and the properties to the west of the Site include retail and residential properties.

1.1 Geology and Hydrogeology

The Site is generally flat, although certain minor variations in elevation are present. The Site contains a mix of buildings, asphalt parking/driveway areas and landscaped areas containing trees.

The Site contains historic fill material (HFM) with thicknesses ranging from approximately one to five-and-a-half feet below grade, with an additional area of deep fill up to eight feet below grade. The area of deep fill is located to the immediate northeast of the Administration Building, occupies an estimated area ten feet by ten feet, and is likely related to some type of structure formerly located in this part of the Site.

HFM is defined as material coming from anthropogenic sources of the material re-worked to build a site to a defined grade. The HFM material at the Site contains:

- Crushed Rock
- Sand
- Silt
- Clay
- Plastics
- Metal
- Construction Debris
- Lumber
- Ash/Cinders
- Ceramics
- Bricks

Native soil encountered beneath the HFM consisted of soft to moderately stiff orange brown clay with some very stiff to extremely stiff reddish clay at deeper levels.

Groundwater was not directly observed when soil borings were completed due to the fine-grained nature of the soil. However, some borings exhibited moist to wet material at varying depths within the borings. The principal groundwater bearing zone beneath the Site is located between seven to nine feet and 16 to 18 feet below grade. Groundwater beneath the Site generally flows to the southwest. More specifically, groundwater in the northeastern portion of the Site appears to flow south-southwest while groundwater in the southwestern portion of the Site appears to flow southwest. The recorded groundwater levels were deeper in the northeastern portion (MW-3 and MW-4) than the southwestern portion (MW-1 and MW-2). Groundwater flow influences include local drainage features, building foundations, subsurface geology, and/or other local site features.

During site remediation, exterior groundwater monitoring wells were removed. One monitoring well inside the Garage Building might still exist.

1.2 Site History

The land comprising the Site was historically divided into small, mostly residential lots that were consolidated in the early 1900s to facilitate the development of the Pierce-Arrow Motor Car Company.

The Pierce-Arrow Motor Car Company once built the world's most luxurious automobiles at the Site in Buffalo, New York. Pierce Arrow cars were manufactured on this facility from 1906 to 1938. The Site includes the former Administrative Building which was used primarily as office space and the two buildings along the rail line which were used to test engines. Ancillary uses within these buildings

include aboveground and underground tanks for heating oil and gasoline storage, and coal storage. Since the closing of the Pierce Arrow facility, the Site has been used for commercial and industrial purposes. Past uses of the Site include the following:

- Tool and die manufacturing
- Cleaning compound manufacturing
- Garage, brazing and heat treatment
- Machine shop operations
- Dry cleaning
- Office space

Some remedial events were completed prior to Brownfield Cleanup Program sampling. On June 13, 2016, the NYSDEC was notified of an underground storage tank that was removed in November 2011 from the east side of the Administrative Building. The tank was removed and cut into pieces onsite. The tank size, contents, and removal of contaminated soil is unknown at this time, but is listed by NYSDEC as closed spill number 1602559. The spill file was closed on April 6, 2017.

Remedial alternatives for the property were evaluated within a July 2019 Alternative Analysis Report (AAR). Additional detailed information on the selected / preferred remedial alternative can be found within the Decision Document (DD).

1.3 Summary of Selected Remedy

As excerpted from the DD, elements of the selected remedy for the property include:

1. A remedial design program will be implemented to provide the details necessary for the construction, operation, optimization, maintenance, and monitoring of the remedial program. Green remediation principles and techniques will be implemented to the extent feasible in the design, implementation, and site management of the remedy as per DER-31.
2. Removal of Transformers – Three transformers located inside the Administrative Building will be properly drained of fluids and disposed/recycled off-site. The drained fluids will be sampled and properly disposed off-site.
3. Tank Closure – The 500-gallon underground storage tank (UST) located west of the Garage Building used for heating oil will be emptied, cleaned and properly abandoned in-place. Any removed liquid and sediment will be properly disposed off-site.
4. Clean Pipes with Oily Sediment – Cast iron pipes containing oily sediment located in the southwest area of the Garage Building will be cleaned out and sediment/liquid properly disposed of.
5. Remove Remaining Fill Material Inside UST Vault – Remove all fill material inside the UST vault located outside the northeastern corner of the

Administration Building. A sample will be collected underneath the vault to confirm Track 1 Unrestricted Use Soil Cleanup Objectives (SCOs) prior to backfilling vault in place.

6. Cover System – A site cover will be required to allow for Restricted Residential Use of the site in areas where the upper two feet of exposed surface soil will exceed the Restricted Residential SCOs. Where a soil cover is to be used it will be a minimum of two feet of soil placed over a demarcation layer, with the upper six inches of soil of sufficient quality to maintain a vegetative cover. Soil cover material, including any fill material brought to the site, will meet the SCOs for cover material for the use of the site as set forth in 6 NYCRR Part 375-6.7(d). Substitution of other materials and components may be allowed where such components already exist or are a component of the tangible property to be placed as part of site redevelopment. Such components may include, but are not necessarily limited to: pavement, concrete, paved surface parking areas, sidewalks, building foundations and building slabs.
7. Engineering and Institutional Controls – Imposition of an institutional control in the form of an Environmental Easement and a Site Management Plan, as described below, will be required over Track 4 areas of the site only. The remedy will achieve a Dual Track 1 Unrestricted Use and Track 4 Restricted Residential Use cleanup at a minimum and will include an environmental easement, and site management plan as described below.
8. Institutional Control – Imposition of an institutional control for the Track 4 areas in the form of an Environmental Easement for the controlled property which will:
 - a. Require the remedial party or site owner to complete and submit to the Department a periodic certification of institutional and engineering controls in accordance with Part 375-1.8 (h)(3);
 - b. Allow the use and development of the controlled property for restricted residential, commercial, or industrial use as defined by Part 375-1.8(g), although land use is subject to local zoning laws;
 - c. Restrict the use of groundwater as a source of potable or process water, without necessary water quality treatment as determined by the NYSDOH or County DOH; and
 - d. Require compliance with the Department approved Site Management Plan.
9. Site Management Plan – A Site Management Plan is required for the Track 4 areas, which includes the following:
 - a. An Institutional and Engineering Control Plan that identifies all use restrictions and engineering controls for the site and details the steps and media-specific requirements necessary to ensure the following institutional and/or engineering controls remain in place and effective.

- Institutional Controls:
 - The Environmental Easement discussed in Paragraph 8 above.
- Engineering Controls:
 - The soil cover discussed in Paragraph 6 above.

This plan includes, but may not be limited to:

- a. An Excavation Plan in the Track 4 areas which details the provisions for management of future excavations in areas of remaining contamination;
- b. Descriptions of the provisions of the environmental easement including any land use, and/or groundwater use restrictions;
- c. A provision that should a building foundation or building slab be removed in the future, a cover system consistent with that described in Paragraph 6 above will be placed in any areas where the upper two foot of exposed surface soil exceeds the applicable SCOs;
- d. Provisions for the management and inspection of the identified engineering controls;
- e. Maintaining site access controls and Department notification; and
- f. The steps necessary for the periodic reviews and certification of the institutional and/or engineering controls.

1.4 Nature and Extent of Remaining Contamination

The remedy for the Site consists of excavation of contaminated fill material around exterior portions of the Administrative and Garage Buildings to achieve Track 1 Level Cleanup standards. Remaining contamination will be limited to HFM underneath the following areas:

- A portion on the northeast exterior corner of the Administrative Building property;
- The southern exterior portion of the Garage Building properties; and
- The footprint of the Garage Building.

Areas with remaining contamination will be monitored and maintained with a soil cover system.

1.4.1 Soil

Northeast Corner of the Administrative Building Property

HFM and contaminated soil are present in this area from underneath the asphalt layer to a depth of nine feet below grade. Contaminated HFM extends horizontally from the footprint of the Administrative Building to the BCP/property boundary. The approximate area of contaminated material is 3,252 square feet.

Analytical results from the one fill sample collected in this area are summarized in the table below.

Table 1-2: Northeast Corner - Summary of Exceedances in Remaining Fill Material

Analyte	Concentration above SCOs (ppm)				
	UR	RS	RR	CM	IN
VOCs					
Acetone	0.11				
SVOCs / PAHs					
Benzo(a)anthracene					65
Benzo(a)pyrene					50
Benzo(b)fluoranthene					61
Benzo(k)fluoranthene			21		
Chrysene				56	
Dibenz(a,h)anthracene					8.7
Fluoranthene			120		
Indeno(1,2,3-cd)pyrene					32
Pyrene			100		
PCBs					
Aroclor 1254	0.416			1.41	
Aroclor 1260	0.212				
Pesticides					
P,P'-DDT	0.0451				
Metals					
Chromium	35				
Copper	64.6				
Lead			433		
Mercury				4.84	
Nickel	42.5				
Zinc	479				

Notes: UR = Unrestricted Use SCOs
RS = Residential Use SCOs
RR = Restricted Residential Use SCOs
CM = Commercial Use SCOs
IN = Industrial Use SCOs

Southern Portion of the Garage Building Properties

HFM and contaminated soil are present in this area from underneath the asphalt/brick layer to depths ranging from approximately two to five-and-a-half feet below grade. Contaminated HFM extends horizontally from the footprint of the

Garage Building to the BCP/property boundary. The approximate area of contaminated material is 9,083 square feet.

Analytical results from the four fill samples collected in this area are summarized in the table below.

**Table 1-3: Southern Portion – Garage Building Properties
Summary of Exceedances in Remaining Fill Material**

Analyte	Samples with Detections above SCOs					Low Concentration (ppm)	High Concentration (ppm)
	UR	RS	RR	CM	IN		
VOCs							
Acetone	2					1.5	8.8
Benzene	1					0.66	0.66
Toluene	1					2.7	2.7
Xylenes	2					3.8	6.8
SVOCs / PAHs							
Dibenz(a,h)anthracene			1			0.35	0.35
Metals							
Cadmium		1				3.91	3.91
Chromium	1					31.9	31.9
Copper	1					241	241
Lead	1					112	112
Mercury	1					0.24	0.24
Nickel	1					32.3	32.3
Zinc	2					126	850

Notes: UR = Unrestricted Use SCOs
RS = Residential Use SCOs
RR = Restricted Residential Use SCOs
CM = Commercial Use SCOs
IN = Industrial Use SCOs

Garage Building

Underneath the concrete slab of the building is approximately three inches to one-and-a-half feet of sub-base (silty sand) material followed by native clay. Eleven samples were collected from the sub-base material. Sub-base material extends horizontally throughout the footprint of the building. The approximate area of the sub-base material is 37,586 square feet.

**Table 1-4: Garage Building
Summary of Exceedances in Remaining Sub-Slab Soil**

Analyte	Samples with Detections above SCOs	Low Concentration (ppm)	High Concentration (ppm)

	UR	RS	RR	CM	IN		
VOCs							
Trichloroethylene	1					0.67	0.67
Vinyl Chloride	1					0.063	0.063
Xylenes	1					0.43	0.43
SVOCs / PAHs							
Benzo(a)anthracene			1			2.5	2.5
Benzo(a)pyrene					1	2	2
Benzo(b)fluoranthene			1			2.2	2.2
Benzo(k)fluoranthene		1				1.1	1.1
Chrysene		1				2	2
Indeno(1,2,3-cd)pyrene			1			1.1	1.1
PCBs							
No PCBs were detected at concentrations above SCOs							
Pesticides							
P,P'-DDE	1					0.0109	0.0109
P,P'-DDT	1					0.00334	0.00334
Metals							
Copper	1			1		72.3	352
Lead	3			1		68.6	1,090
Mercury				1		4.8	4.8
Selenium	1					4.6	4.6
Zinc	2					126	287

Notes: UR = Unrestricted Use SCOs
RS = Residential Use SCOs
RR = Restricted Residential Use SCOs
CM = Commercial Use SCOs
IN = Industrial Use SCOs

Sample locations documenting remaining contamination is presented in **Figure 2**.

1.4.2 Groundwater

No post remedial action groundwater sampling was conducted on-site. RI results identified concentrations of VOCs (acetone, 1-1-dichloroethane, benzene, and toluene) and metals (aluminum, iron, magnesium, manganese and sodium) that exceed NYSDEC standards. All monitoring wells with marginal concentrations of VOCs were located within and/or directly adjacent to the remedial excavation; therefore, the source of groundwater contamination has largely been removed and any residual contamination is expected to degrade over time. Post-excavation soil results clearly demonstrate that contaminated source material around the exterior of the buildings has been removed. Remaining concentrations of metals above NYSDEC standards are primarily limited to naturally occurring metals commonly found in regional groundwater.

2 IC/EC PLAN COMPLIANCE REPORT

2.1 IC/EC Requirements and Compliance

As stated in the 2019 Decision Document, the remedial action objectives (RAO) selected for this Site are:

Groundwater

RAOs for Public Health Protection

- Prevent ingestion of groundwater with contaminant levels exceeding drinking water standards.

Soil

RAOs for Public Health Protection

- Prevent ingestion/direct contact with contaminated soil.

RAOs for Environmental Protection

- Prevent migration of contaminants that would result in groundwater or surface water contamination.

2.1.1 Institutional Controls

The institutional controls for this Site are:

- The property may be used for Restricted Residential Use;
- All ECs must be operated and maintained as specified in the 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 County 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 the SMP;
- Data and information pertinent to site management must be reported at the frequency and in a manner as defined in the SMP;
- All future activities that will disturb remaining contaminated material must be conducted in accordance with the SMP;
- Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in the SMP;
- Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical component of the remedy shall be performed as defined in the 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; and
- Vegetable gardens and farming on the site are prohibited.

The Site has not changed owners and the land use of the Site has not changed. All institutional controls for this Site are in accordance with requirements of the Environmental Easement.

2.1.2 Engineering Controls

The engineering controls for this Site are:

- Cover System – A site cover has been installed and/or maintained over the Site in all areas exceeding applicable SCOs. The cover consists of hardscape (asphalt pavement and concrete floor slab). The extent of the cover system is shown on **Figure 3**.

All engineering controls for this Site are in accordance with requirements of the Environmental Easement.

2.2 IC/EC Certification

As required, the Site Management Periodic Review Report Notice – Institutional and Engineering Controls Certificate Form has been completed and a copy is provided in **Appendix C**.

3 SITE INSPECTION

3.1.1 Site reconnaissance of the property was performed on May 17, 2023. C&S conducted the site walkover to:

- Perform the annual site inspection, which included:
 - Review previous annual inspections;
 - Meet with the site representative to solicit comments/concerns regarding the operation of the Engineering Controls over the past 12 months;
 - Inspection of the property exterior cover system; and
 - Inspection of the property interior floor cover system.

3.2 Review of Institutional Controls

The following observations, related to the Site's ICs were noted at the time of the site reconnaissance:

- Construction onsite appears to be complete and tenants now occupy the Administrative Building. The Garage Building is being used for tenant parking.
- No groundwater was observed being used at the property. No potable or groundwater supply wells were observed.
- No new buildings or structures have been constructed at the property.
- No vegetable gardens or farming is being conducted at the property.

3.3 Review of Engineering Controls

The following observations, related to the ECs were noted during the site reconnaissance:

- A new storm water catch basin was staged next to the Garage Building. C&S reminded the owner that SMP excavation work plan will need to be followed for the future installation.
- An IBC tote was observed next to a dumpster adjacent to the Garage Building. The IBC tote appears to be empty and contained asphalt sealer. C&S reminded the owner that the IBC tote should be properly disposed.
- The asphalt surface of the parking lots was in good condition with no evidence of cracks, settlement, or deterioration.
- No excavation or importation of materials occurred to the areas under the Environmental Easement within the certifying period.

A copy of the Site Inspection Checklist is provided in **Appendix B**. A Photo Log is provided in **Appendix B**.

3.4 Soil Vapor Intrusion (SVI) Evaluation Waiver Request

On May 17, 2023, C&S submitted a response to a NYSDOH request for an SVI evaluation of the Site. At this time, C&S considers that the SVI evaluation is not warranted due to the following reasons:

- Volatile organic compounds were not identified as contaminants of concern in the Decision Document for the entire Site.
- There are no RAOs regarding soil vapor for the Track 4 areas.
- Based on the 2021 – 2022 PPR and 2022 – 2023 PRR, the Site has not changed owners and the land use of the Site has not changed. All institutional controls for this Site are in accordance with requirements of the Environmental Easement. Therefore, the Track 4 areas continue to be used as parking.
- All Track 4 areas are not being used as occupied space.

4 CONCLUSIONS

4.1 Compliance with Site Management Plan

The requirements of the Site Management Plan appear to be satisfied.

4.2 Performance and Effectiveness of the Remedy

The cover system remains fully intact and continues to provide protection for human health and the environment, as designed.

FIGURES

f:\Project\Q69 - pierce arrow, llc - joseph hecht\Q69001001 - pierce arrow bcp\planning-study\CADD\1 Project Site.dwg



Document Path: F:\Project\Q69 - Pierce Arrow, LLC - Joseph Hecht\Q69001001 - Pierce Arrow BCP\Planning-Study\GIS\RI\RI AREA SITE BOUNDARIES.mxd

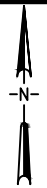
Legend

 BROWNFIELD CLEANUP PROGRAM (BCP) BOUNDARY

0 50 100 200 Feet



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Fax: 716-847-1454
www.cscos.com



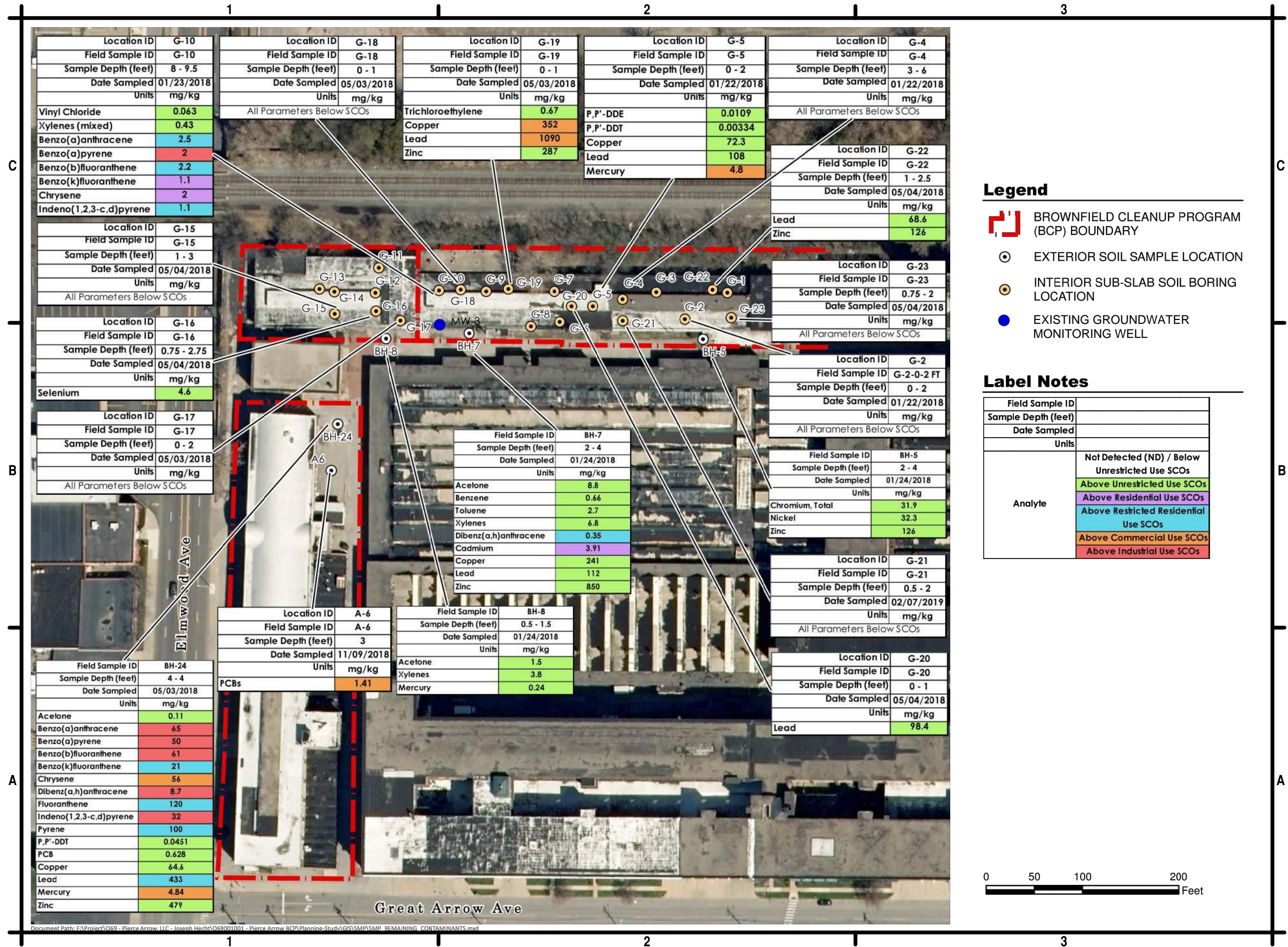
PIERCE ARROW SITE
BROWNFIELD CLEANUP PROGRAM
SITE NO. C915308
CITY OF BUFFALO, NEW YORK

MARK	DATE	DESCRIPTION
REVISIONS		
PROJECT NO:		Q69.001.002
DATE:		APRIL 3, 2018
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		

PROJECT AREA
AND SITE
BOUNDARIES

FIGURE 1

I:\Project\q69 - pierce arrow, llc - joseph hecht\q69001001 - pierce arrow bcp\planning-study\CADD\4-4 REMAINING CONTAMINATION.dwg



- Legend**
- BROWNFIELD CLEANUP PROGRAM (BCP) BOUNDARY
 - EXTERIOR SOIL SAMPLE LOCATION
 - INTERIOR SUB-SLAB SOIL BORING LOCATION
 - EXISTING GROUNDWATER MONITORING WELL

Label Notes

Field Sample ID	
Sample Depth (feet)	
Date Sampled	
Units	
Analyte	Not Detected (ND) / Below Unrestricted Use SCOs
	Above Unrestricted Use SCOs
	Above Residential Use SCOs
	Above Restricted Residential Use SCOs
	Above Commercial Use SCOs
	Above Industrial Use SCOs

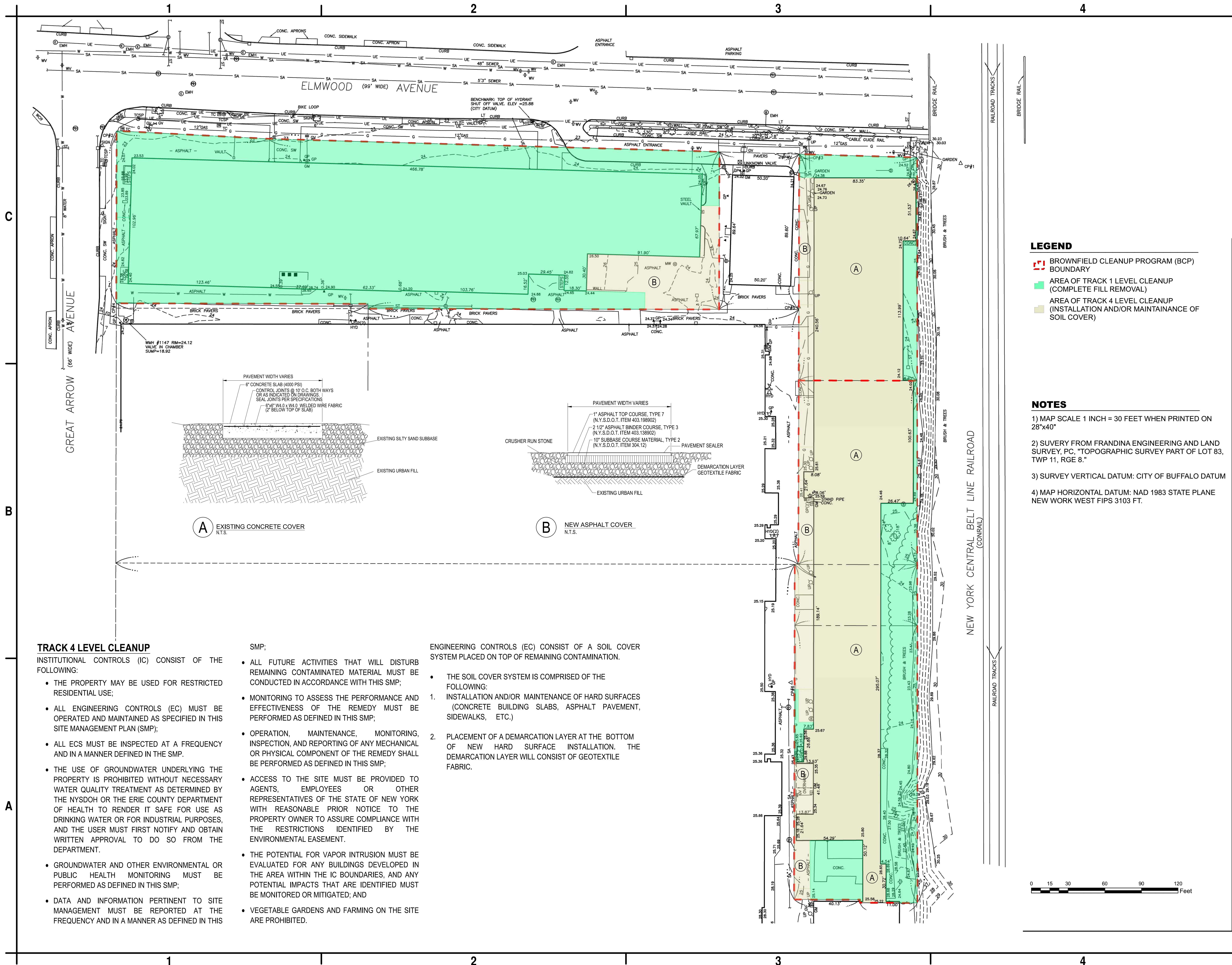
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PIERCE ARROW SITE
BROWNFIELD CLEANUP PROGRAM
SITE NO. C915308
CITY OF BUFFALO, NEW YORK

MARK	DATE	DESCRIPTION
REVISIONS		
PROJECT NO:	Q69.001.002	
DATE:	JULY 30, 2019	
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		

REMAINING SOIL CONTAMINATION

FIGURE 2



TRACK 4 LEVEL CLEANUP

INSTITUTIONAL CONTROLS (IC) CONSIST OF THE FOLLOWING:

- THE PROPERTY MAY BE USED FOR RESTRICTED RESIDENTIAL USE;
- ALL ENGINEERING CONTROLS (EC) MUST BE OPERATED AND MAINTAINED AS SPECIFIED IN THIS SITE MANAGEMENT PLAN (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 COUNTY 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; AND
- VEGETABLE GARDENS AND FARMING ON THE SITE ARE PROHIBITED.

ENGINEERING CONTROLS (EC) CONSIST OF A SOIL COVER SYSTEM PLACED ON TOP OF REMAINING CONTAMINATION.

- THE SOIL COVER SYSTEM IS COMPRISED OF THE FOLLOWING:
 1. INSTALLATION AND/OR MAINTENANCE OF HARD SURFACES (CONCRETE BUILDING SLABS, ASPHALT PAVEMENT, SIDEWALKS, ETC.)
 2. PLACEMENT OF A DEMARCATION LAYER AT THE BOTTOM OF NEW HARD SURFACE INSTALLATION. THE DEMARCATION LAYER WILL CONSIST OF GEOTEXTILE FABRIC.

LEGEND

- BROWNFIELD CLEANUP PROGRAM (BCP) BOUNDARY
- AREA OF TRACK 1 LEVEL CLEANUP (COMPLETE FILL REMOVAL)
- AREA OF TRACK 4 LEVEL CLEANUP (INSTALLATION AND/OR MAINTENANCE OF SOIL COVER)

NOTES

- 1) MAP SCALE 1 INCH = 30 FEET WHEN PRINTED ON 28"x40"
- 2) SUVERY FROM FRANDINA ENGINEERING AND LAND SURVEY, PC, "TOPOGRAPHIC SURVEY PART OF LOT 83, TWP 11, RGE 8."
- 3) SURVEY VERTICAL DATUM: CITY OF BUFFALO DATUM
- 4) MAP HORIZONTAL DATUM: NAD 1983 STATE PLANE NEW YORK WEST FIPS 3103 FT.



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

PIERCE ARROW
KANAKA LLC
2150 Wehrle Drive
Williamsville NY 14221

PIERCE ARROW SITE
BROWNFIELD CLEANUP PROGRAM
SITE NO. C915308

CITY OF BUFFALO, NEW YORK

MARK	DATE	DESCRIPTION
REVISIONS		
PROJECT NO: Q69.001.002		
DATE: AUGUST 28, 2019		
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		

SITE WIDE
COVER SYSTEM

FIGURE 3

APPENDICES

APPENDIX A

ENVIRONMENTAL EASEMENT

MICHAEL P. KEARNS, ERIE COUNTY CLERK
REF:

DATE: 11/27/2019
TIME: 9:06:30 AM
RECEIPT: 19200919 - DUPLICATE -

PARALEGAL SERVICES OF BUFFALO
ACCOUNT #: 9273

DUPLICATE RECEIPT

ITEM - 01 785
RECD: 11/27/2019 9:11:39 AM
FILE: 2019262690 BK/PG D 11353/3972
Deed Sequence: TT2019009207

PIERCE ARROW KANAKA LLC	95.50
Recording Fees	10.00
TP584	
Subtotal	105.50

TOTAL DUE	\$105.50
PAID TOTAL	\$105.50
PAID ESCROW	\$105.50

REC BY: Mary Grace
COUNTY RECORDER

FILED

NOV 27 2019

ENVIRONMENTAL EASEMENT GRANTED PURSUANT TO ARTICLE 71, TITLE 36

OF THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW

ERIE COUNTY
CLERK'S OFFICE

THIS INDENTURE made this 20th day of November, 2019, between Owner(s) Pierce Arrow Kanaka LLC, having an office at c/o Nidus Development, 2150 Wehrle Drive, Suite 400, Williamsville, New York 14221 (the "Grantor"), and The People of the State of New York (the "Grantee"), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner", or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233,

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties ("sites") that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment; and

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of Environmental Easements as an enforceable means of ensuring the performance of operation, maintenance, and/or monitoring requirements and the restriction of future uses of the land, when an environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to perform properly and be effective, or which requires groundwater use or soil management restrictions; and

WHEREAS, the Legislature of the State of New York has declared that Environmental Easement shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law ("ECL") which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

WHEREAS, Grantor, is the owner of real property located at the address of 1695 Elmwood Avenue in the City of Buffalo, County of Erie and State of New York, known and designated on the tax map of the County Clerk of Erie as tax map parcel numbers: Section 78.77 Block 2 Lot 6, being the same as that property conveyed to Grantor by deed dated December 28, 2017 and recorded in the Erie County Clerk's Office in Liber and Page 11323/6520.

WHEREAS, Grantor, is the owner of real property located at the address of 1721 Elmwood Avenue in the City of Buffalo, County of Erie and State of New York, known and designated on the tax map of the County Clerk of Erie as tax map parcel numbers: Section 78.77 Block 2 Lot 2, being the same as that property conveyed to Grantor by deed dated December 28, 2017 and recorded in the Erie County Clerk's Office in Liber and Page 11323/6520.

WHEREAS, Grantor, is the owner of real property located at the address of 1723 Elmwood Avenue in the City of Buffalo, County of Erie and State of New York, known and

designated on the tax map of the County Clerk of Erie as tax map parcel numbers: Section 78.77 Block 2 Lot 3, being the same as that property conveyed to Grantor by deed dated December 28, 2017 and recorded in the Erie County Clerk's Office in Liber and Page 11323/6520.

WHEREAS, the property subject to this Environmental Easement (the "Controlled Property") comprises approximately 1.136 +/- acres, and is hereinafter more fully described in the Land Title Survey dated February 2, 2017 and last revised October 15, 2018 prepared by Rosanne Frandina, L.L.S. of Frandina Engineering and Land Surveying, PC, which will be attached to the Site Management Plan. The Controlled Property description is set forth in and attached hereto as Schedule A; and

WHEREAS, the Department accepts this Environmental Easement in order to ensure the protection of public health and the environment and to achieve the requirements for remediation established for the Controlled Property until such time as this Environmental Easement is extinguished pursuant to ECL Article 71, Title 36; and

NOW THEREFORE, in consideration of the mutual covenants contained herein and the terms and conditions of Brownfield Cleanup Agreement Index Number: C915308-12-16, Grantor conveys to Grantee a permanent Environmental Easement pursuant to ECL Article 71, Title 36 in, on, over, under, and upon the Controlled Property as more fully described herein ("Environmental Easement").

1. Purposes. Grantor and Grantee acknowledge that the Purposes of this Environmental Easement are: to convey to Grantee real property rights and interests that will run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of this Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of operation, maintenance, and/or monitoring requirements; and to ensure the restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional and Engineering Controls. The controls and requirements listed in the Department approved Site Management Plan ("SMP") including any and all Department approved amendments to the SMP are incorporated into and made part of this Environmental Easement. These controls and requirements apply to the use of the Controlled Property, run with the land, are binding on the Grantor and the Grantor's successors and assigns, and are enforceable in law or equity against any owner of the Controlled Property, any lessees and any person using the Controlled Property.

A. (1) The Controlled Property may be used for:

**Restricted Residential as described in 6 NYCRR Part 375-1.8(g)(2)(ii),
Commercial as described in 6 NYCRR Part 375-1.8(g)(2)(iii) and Industrial
as described in 6 NYCRR Part 375-1.8(g)(2)(iv)**

(2) All Engineering Controls must be operated and maintained as specified in the Site Management Plan (SMP);

(3) All Engineering Controls must be inspected at a frequency and in a

manner defined in the SMP;

(4) The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Erie County 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;

(5) Groundwater and other environmental or public health monitoring must be performed as defined in the SMP;

(6) Data and information pertinent to Site Management of the Controlled Property must be reported at the frequency and in a manner defined in the SMP;

(7) All future activities on the property that will disturb remaining contaminated material must be conducted in accordance with the SMP;

(8) Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in the SMP;

(9) Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical components of the remedy shall be performed as defined in the SMP;

(10) 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 this Environmental Easement.

B. The Controlled Property shall not be used for Residential purposes as defined in 6NYCRR 375-1.8(g)(2)(i), and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. The SMP describes obligations that the Grantor assumes on behalf of Grantor, its successors and assigns. The Grantor's assumption of the obligations contained in the SMP which may include sampling, monitoring, and/or operating a treatment system, and providing certified reports to the NYSDEC, is and remains a fundamental element of the Department's determination that the Controlled Property is safe for a specific use, but not all uses. The SMP may be modified in accordance with the Department's statutory and regulatory authority. The Grantor and all successors and assigns, assume the burden of complying with the SMP and obtaining an up-to-date version of the SMP from:

Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, New York 12233
Phone: (518) 402-9553

D. Grantor must provide all persons who acquire any interest in the Controlled Property a true and complete copy of the SMP that the Department approves for the Controlled

Property and all Department-approved amendments to that SMP.

E. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of ECL Article 71, Title 36 of the ECL, the property deed and all subsequent instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

This property is subject to an Environmental Easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation Law.

F. Grantor covenants and agrees that this Environmental Easement shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

G. Grantor covenants and agrees that it shall, at such time as NYSDEC may require, submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury, in such form and manner as the Department may require, that:

(1) the inspection of the site to confirm the effectiveness of the institutional and engineering controls required by the remedial program was performed under the direction of the individual set forth at 6 NYCRR Part 375-1.8(h)(3).

(2) the institutional controls and/or engineering controls employed at such site:

- (i) are in-place;
- (ii) are unchanged from the previous certification, or that any identified changes to the controls employed were approved by the NYSDEC and that all controls are in the Department-approved format; and

(iii) that nothing has occurred that would impair the ability of such control to protect the public health and environment;

(3) the owner will continue to allow access to such real property to evaluate the continued maintenance of such controls;

(4) nothing has occurred that would constitute a violation or failure to comply with any site management plan for such controls;

(5) the report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;

(6) to the best of his/her 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

(7) the information presented is accurate and complete.

3. Right to Enter and Inspect. Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor's Rights. Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Property, all rights as fee owner of the Property, including:

A. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement;

B. The right to give, sell, assign, or otherwise transfer part or all of the underlying fee interest to the Controlled Property, subject and subordinate to this Environmental Easement;

5. Enforcement

A. This Environmental Easement is enforceable in law or equity in perpetuity by Grantor, Grantee, or any affected local government, as defined in ECL Section 71-3603, against the owner of the Property, any lessees, and any person using the land. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel, or waiver. It is not a defense in any action to enforce this Environmental Easement that: it is not appurtenant to an interest in real property; it is not of a character that has been recognized traditionally at common law; it imposes a negative burden; it imposes affirmative obligations upon the owner of any interest in the burdened property; the benefit does not touch or concern real property; there is no privity of estate or of contract; or it imposes an unreasonable restraint on alienation.

B. If any person violates this Environmental Easement, the Grantee may revoke the Certificate of Completion with respect to the Controlled Property.

C. Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall set forth how Grantor can cure such breach or suspected breach and give Grantor a reasonable amount of time from the date of receipt of notice in which to cure. At the expiration of such period of time to cure, or any extensions granted by Grantee, the Grantee shall notify Grantor of any failure to adequately cure the breach or suspected breach, and Grantee may take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement, including the commencement of any proceedings in accordance with applicable law.

D. The failure of Grantee to enforce any of the terms contained herein shall not be deemed a waiver of any such term nor bar any enforcement rights.

6. Notice. Whenever notice to the Grantee (other than the annual certification) or approval from the Grantee is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing the following information:

County, NYSDEC Site Number, NYSDEC Brownfield Cleanup Agreement, State Assistance Contract or Order Number, and the County tax map number or the Liber and Page or computerized system identification number.

Parties shall address correspondence to: Site Number: C915308
Office of General Counsel
NYSDEC
625 Broadway

Albany New York 12233-5500

With a copy to:

Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, NY 12233

All notices and correspondence shall be delivered by hand, by registered mail or by Certified mail and return receipt requested. The Parties may provide for other means of receiving and communicating notices and responses to requests for approval.

7. Recordation. Grantor shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

8. Amendment. Any amendment to this Environmental Easement may only be executed by the Commissioner of the New York State Department of Environmental Conservation or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

9. Extinguishment. This Environmental Easement may be extinguished only by a release by the Commissioner of the New York State Department of Environmental Conservation, or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

10. Joint Obligation. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

11. Consistency with the SMP. To the extent there is any conflict or inconsistency between the terms of this Environmental Easement and the SMP, regarding matters specifically addressed by the SMP, the terms of the SMP will control.

Remainder of Page Intentionally Left Blank

IN WITNESS WHEREOF, Grantor has caused this instrument to be signed in its name.

Pierce Arrow Kanaka LLC:

By: 

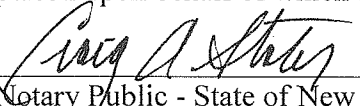
Print Name: GREG DANIEL

Title: Man. MEMBER Date: 11/8/19


Grantor's Acknowledgment

STATE OF NEW YORK)
) ss:
COUNTY OF Erie)

On the 8th day of November in the year 20 19, before me, the undersigned, personally appeared Greg Daniel, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.


Notary Public - State of New York
CRAIG A. SLATER
Notary Public, State of New York
Qualified in Erie County
Commission Expires October 31, 2022

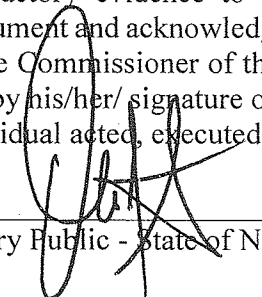
THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting by and Through the Department of Environmental Conservation as Designee of the Commissioner,

By: 
Michael J. Ryan, Director
Division of Environmental Remediation

Grantee's Acknowledgment

STATE OF NEW YORK)
) ss:
COUNTY OF ALBANY)

On the 20th day of November, in the year 2019 before me, the undersigned, personally appeared Michael J. Ryan, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/ executed the same in his/her/ capacity as Designee of the Commissioner of the State of New York Department of Environmental Conservation, and that by his/her/ signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public - State of New York

David J. Chiusano
Notary Public, State of New York
No. 01CH5032146
Qualified in Schenectady County
Commission Expires August 22, 2022

SCHEDULE "A" PROPERTY DESCRIPTION

EASEMENT DESCRIPTION

PORTION OF 1695 ELMWOOD AVENUE - SBL 78.77-2-6

BROWNFIELD CLEANUP PROGRAM SITE - NO. C915308 - TRACK 4

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie and State of New York, being part of Lot No. 83, Township 11, Range 8 of the Holland Land Company's Survey, described as follows:

COMMENCING at the intersection of the northerly line of Great Arrow Avenue with the easterly line of Elmwood Avenue (99' wide); thence northerly along the easterly line of Elmwood Avenue a record distance of 123.92 feet, 123.90 feet measured, to an angle point therein; thence continuing northerly along the easterly line of Elmwood Avenue making an interior angle with the last mentioned course of $181^{\circ}26'00''$, a distance of 369.50 feet to a point; thence easterly parallel with the northerly line of Great Arrow Avenue at an interior angle of $91^{\circ}32'$ a distance of 44.00 feet to the point of beginning; thence southerly at right angles a distance of 14.65 feet more or less to the northerly face of an existing building; thence easterly along said northerly building face a distance of 42.13 feet more or less to the northeast corner of said building; thence southerly along the easterly face of said building a distance of 44.21 feet to a point; thence easterly and parallel with the northerly line of Great Arrow Avenue, a distance of 43.94 feet to a point on the westerly line of lands conveyed by 1695 Elmwood Avenue Corporation to the United States by deed recorded in the Erie County Clerk's Office in Liber 3264 of Deeds at page 359; thence northerly at right angles a distance of 60.00 feet to the westerly at right angles a distance of 84.87 feet to the point or place of beginning containing 0.074 acres more or less.

EASEMENT DESCRIPTION

PORTIONS OF 1721 ELMWOOD AVENUE - SBL 78.77-2-2

AND 1723 ELMWOOD AVENUE - SBL 78.77-2-3

BROWNFIELD CLEANUP PROGRAM SITE - NO. C915308 - TRACK 4

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie and State of New York, being part of Lot No. 83, Township 11, Range 8 of the Holland Land Company's Survey, described as follows:

COMMENCING at the point of intersection of the easterly line of Elmwood Avenue (99' wide) with the southerly line of lands owned by the New York Central Belt Line Railroad Company, (now or formerly Conrail); thence easterly along the easterly line of Elmwood Avenue a distance of 95.50 feet to a point; thence easterly parallel with the northerly line of Great Arrow Avenue a distance of 335.68 feet to a point; thence southerly at right angles a distance of 3.0 feet to a point; thence easterly parallel with the northerly line of Great Arrow Avenue a distance of 101.95 feet to the point of beginning; thence northerly at right angles a distance of 3.4 feet to a point; thence easterly parallel with the northerly line of Great Arrow Avenue a distance of 27.0 feet to a point; thence northerly at right angles a distance of 12.1± feet to the south face of an existing building; thence easterly along a south building face a distance of 5.8 feet to a building corner; thence southerly along a west building face a distance of 5.88 feet to a southwest building corner; thence continuing southerly at right angles to the fourth course herein described a distance of 1.7± feet to the south line of lands described in Liber 3787 of deeds at page 451; thence easterly along said south line of lands a distance of 112.61 feet to a point, thence northerly at right angles a distance of 12.4 feet to a point; thence westerly at right angles a distance of 48.3 feet more or less to the east face of a building; thence northerly along said east building face a distance of 43.6 feet to a building corner; thence easterly along a south building face a distance of 50.12 feet to the centerline of a wall separating the building on Parcel "D" of Liber 11133, page 9260 from the building immediately to the east, thence northerly along said wall centerline a distance of 32.33 feet to the north face of a building, thence westerly along a north building face a distance of 1.1± feet to a northwest building corner; thence southerly along the westerly building face a distance of 11.0 feet to a building corner; thence westerly along the north face of said building a distance of 30.72 feet to a building corner; thence southerly along a west building face a distance of 4.54 feet to a building corner; thence westerly along a north building face a distance of 295.07 feet to a building corner; thence northerly along an east building face a distance of 26.47 feet to a northeast building corner; thence westerly along a north building face a distance of 100.63 feet to a northwest building corner; thence southerly along a west building face a distance of 8.62 feet to a building corner; thence westerly along a north building face a distance of 113.99 feet to a building corner; thence northerly along an east building face a distance of 10.64 feet to a northeast building corner; thence westerly along a north building face a distance of 51.53 feet to the northwest corner of said building; thence northerly a distance of 1.1± feet to the point on the southerly line of aforesaid railroad lands; thence westerly along the southerly line of said railroad lands a distance of 16.69 feet to the point of beginning containing 1.062 acres more or less.

APPENDIX B

SITE INSPECTION FORMS

Pierce Arrow Site
1695, 1721 and 1723 Elmwood Avenue

Inspector's Name: Cody Martin
Inspection Date: 17-May-23
Inspection Time: 10:00 AM

Weather Conditions: Fair
Temperature (°F): 52

Comments: Construction activities completed and residents occupy the buildings.

Pre Inspection Checklist

- Review previous annual inspections
- Meet with the site representative to solicit comments/concerns regarding the operation of the Engineering Controls over the past 12 months.

Comments:

Coordinated with owner.

Cover System - Floor Inspection

1. Walk all freely accessible floors

- Any visible cracks or settlement in the ground floors?
- Any other visible openings (unintended) in the ground floors?
- Draw approximate location of floor cracks/openings on site map.
- Note the length of the crack/opening.
- Note the width of the crack/opening.

Comments:

Ground floor are in good to fair condition will needed repairs completed.

Cover System - Exterior Inspection

1. Walk and inspect the entire perimeter of the Site.

2. Walk and inspect all of the paved areas (concrete and asphalt) of the Site.

- Are there any signs of significant cracks, settlement or deterioration of the paved areas?
- Has any of the pavement material been removed?
- Have any structures been constructed on the unpaved areas?
- Are there any signs of soil washing or erosion (gullies, soil washed out onto the pavement)?
- Are there any signs of intrusive activities (drilling, digging, trenching, grading, excavating, etc.)?

Comments:

New catch basin staged for install in Track 4 area. C&S remind owner of the requirements in the SMP for future excavations.

IBC tote that contained asphalt sealer next to dumpster. Reminded owner to properly dispose the tote.

Repair

Summarize needed/completed repairs to the Engineering Controls:

No new repairs needed.

Inspector's Signature:





View of Track 4 cover system adjacent to Administrative Building.



View of the Track 4 exterior cover on the east end of the Garage Building.



View of the Track 4 exterior cover on the south side of the Garage Building.



View of the Track 4 exterior cover on the south side of the Garage Building.



View of the Track 4 interior cover in the Garage Building.



View of the Track 4 interior cover in the Garage Building.



View of new storm water catch basin staged to be installed.



View of used asphalt sealer IBC tote.

APPENDIX C

INSTITUTIONAL AND ENGINEERING CONTROLS CERTIFICATION FORM

Site Details

Site No. C915308

Box 1

Site Name Pierce Arrow

Site Address: 1695, 1721 and 1723 Elmwood Avenue Zip Code: 14207

City/Town: Buffalo

County: Erie

Site Acreage: 2.898

Reporting Period: April 30, 2022 to April 30, 2023

YES NO

1. Is the information above correct?

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?

3. Has there been any change of use at the site during this Reporting Period (see 6NYCRR 375-1.11(d))?

4. Have any federal, state, and/or local permits (e.g., building, discharge) been issued for or at the property during this Reporting Period?

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?

Box 2

YES NO

6. Is the current site use consistent with the use(s) listed below?

7. Are all ICs in place and functioning as designed?

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?

☐☒

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. C915308**Box 3****Description of Institutional Controls**ParcelOwnerInstitutional Control**78.77-2-2**

Pierce Arrow Kanaka LLC

Ground Water Use Restriction
Landuse Restriction
Building Use Restriction
Site Management Plan
IC/EC Plan

78.77-2-3

Pierce Arrow Kanaka LLC

Ground Water Use Restriction
Landuse Restriction
Building Use Restriction
Site Management Plan
IC/EC Plan

78.77-2-6

Pierce Arrow Kanaka LLC

Ground Water Use Restriction
Landuse Restriction
Building Use Restriction
Site Management Plan
IC/EC Plan

Box 4**Description of Engineering Controls**ParcelEngineering Control**78.77-2-2**

Cover System

78.77-2-3

Cover System

78.77-2-6

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. C915308**

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 Gregory F Daniel at 2150 Wehrle Dr Ste 400, Williamsville, NY 14221,
print name print business address

am certifying as Owner (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

5/24/2023

Date

EC CERTIFICATIONS

Box 7

Qualified Environmental Professional Signature

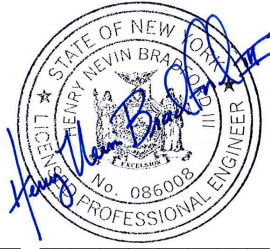
I certify that all information in Boxes 4 and 5 are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.

I H. Nevin Bradford, P.E. at C&S Engineers, Inc.
print name 141 Elm Street, Buffalo, NY
print business address

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



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



Stamp
(Required for PE)

May, 18, 2023

Date