

Brownfield Cleanup Program Application

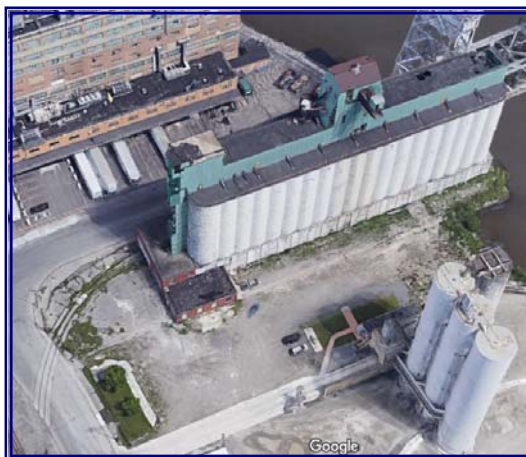
Buffalo RiverWorks Site (C915352)
Buffalo, New York

August 2019, Revised September 2019

0476-018-001

Prepared For:

Ketry RE LLC



Prepared By:





BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION FORM

DEC requires an application to request major changes to the description of the property set forth in a Brownfield Cleanup Agreement, or "BCA" (e.g., adding a significant amount of new property, or adding property that could affect an eligibility determination due to contamination levels or intended land use). Such application must be submitted and processed in the same manner as the original application, including the required public comment period. **Is this an application to amend an existing BCA?**

Yes

No

If yes, provide existing site number: _____

PART A (note: application is separated into Parts A and B for DEC review purposes) *BCP App Rev 10*

Section I. Requestor Information - See Instructions for Further Guidance

DEC USE ONLY
BCP SITE #:

NAME

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

Is the requestor authorized to conduct business in New York State (NYS)? Yes No

- 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 Corporation & Business Entity Database](#). A print-out of entity information from the database must be submitted to the New York State Department of Environmental Conservation (DEC) with the application to document that the requestor is authorized to do business in NYS. **Please note:** If the requestor is an LLC, the members/owners names need to be provided on a separate attachment. **See Appendix A; Section I**

Do all individuals that will be certifying documents meet the requirements detailed below? Yes No

- Individuals that will be certifying BCP documents, as well as their employers, meet the requirements of Section 1.5 of [DER-10: Technical Guidance for Site Investigation and Remediation](#) and Article 145 of New York State Education Law. **Documents that are not properly certified will be not approved under the BCP.** **See Appendix A; Section I**

Section II. Project Description

1. What stage is the project starting at? Investigation Remediation

NOTE: If the project is proposed to start at the remediation stage, a Remedial Investigation Report (RIR) at a minimum is required to be attached, resulting in a 30-day public comment period. If an Alternatives Analysis and Remedial Work Plan are also attached (see DER-10 / Technical Guidance for Site Investigation and Remediation for further guidance) then a 45-day public comment period is required.

2. If a final RIR is included, please verify it meets the requirements of Environmental Conservation Law (ECL) Article 27-1415(2): Yes No **Not Applicable**

3. Please attach a short description of the overall development project, including:

- the date that the remedial program is to start; and **See Appendix A; Section II**
- the date the Certificate of Completion is anticipated. **See Figure 5**

Section III. Property's Environmental History**See Appendix A; Section III**

All applications **must include** an Investigation Report (per ECL 27-1407(1)). The report must be sufficient to establish contamination of environmental media on the site above applicable Standards, Criteria and Guidance (SCGs) based on the reasonably anticipated use of the property.

To the extent that existing information/studies/reports are available to the requestor, please attach the following (***please submit the information requested in this section in electronic format only***):

1. **Reports:** an example of an Investigation Report is a Phase II Environmental Site Assessment report prepared in accordance with the latest American Society for Testing and Materials standard (ASTM E1903). **Please submit a separate electronic copy of each report in Portable Document Format (PDF).**

2. SAMPLING DATA: INDICATE KNOWN CONTAMINANTS AND THE MEDIA WHICH ARE KNOWN TO HAVE BEEN AFFECTED. LABORATORY REPORTS SHOULD BE REFERENCED AND COPIES INCLUDED.

Contaminant Category	Soil	Groundwater	Soil Gas
Petroleum			
Chlorinated Solvents			
Other VOCs			
SVOCs			
Metals			
Pesticides			
PCBs			
Other*			

***Please describe:** _____

3. FOR EACH IMPACTED MEDIUM INDICATED ABOVE, INCLUDE A SITE DRAWING INDICATING:

- **SAMPLE LOCATION**
- **DATE OF SAMPLING EVENT**
- **KEY CONTAMINANTS AND CONCENTRATION DETECTED**
- **FOR SOIL, HIGHLIGHT IF ABOVE REASONABLY ANTICIPATED USE**
- **FOR GROUNDWATER, HIGHLIGHT EXCEEDANCES OF 6NYCRR PART 703.5**
- **FOR SOIL GAS/ SOIL VAPOR/ INDOOR AIR, HIGHLIGHT IF ABOVE MITIGATE LEVELS ON THE NEW YORK STATE DEPARTMENT OF HEALTH MATRIX**

See Appendix A; Section III**See Figure 6**

THESE DRAWINGS ARE TO BE REPRESENTATIVE OF ALL DATA BEING RELIED UPON TO MAKE THE CASE THAT THE SITE IS IN NEED OF REMEDIATION UNDER THE BCP. DRAWINGS SHOULD NOT BE BIGGER THAN 11" X 17". THESE DRAWINGS SHOULD BE PREPARED IN ACCORDANCE WITH ANY GUIDANCE PROVIDED.

ARE THE REQUIRED MAPS INCLUDED WITH THE APPLICATION?*

(*answering No will result in an incomplete application)

Yes**No**

4. INDICATE PAST LAND USES (CHECK ALL THAT APPLY):

Coal Gas Manufacturing
Salvage Yard
Landfill

Manufacturing
Bulk Plant
Tannery

Agricultural Co-op
Pipeline
Electroplating

Dry Cleaner
Service Station
Unknown

Other: _____

Section IV. Property Information - See Instructions for Further Guidance				
PROPOSED SITE NAME				
ADDRESS/LOCATION				
CITY/TOWN		ZIP CODE		
MUNICIPALITY(IF MORE THAN ONE, LIST ALL):				
COUNTY		SITE SIZE (ACRES)		
LATITUDE (degrees/minutes/seconds) ° ' "		LONGITUDE (degrees/minutes/seconds) ° ' "		
Complete tax map information for all tax parcels included within the proposed site boundary. If a portion of any lot is proposed , please indicate as such by inserting "P/O" in front of the lot number in the appropriate box below, and only include the acreage for that portion of the tax parcel in the corresponding far right column.ATTACH REQUIRED MAPS PER THE APPLICATION INSTRUCTIONS.				
Parcel Address	Section No.	Block No.	Lot No.	Acreage
See Appendix A; Section IV				
1. Do the proposed site boundaries correspond to tax map metes and bounds? If no, please attach an accurate map of the proposed site.			Yes	No
2. Is the required property map attached to the application? (application will not be processed without map)			See Figures 2, 3 & 4	Yes No
3. Is the property within a designated Environmental Zone (En-zone) pursuant to Tax Law 21(b)(6)? (See DEC's website for more information)			Yes	No
If yes, identify census tract : _____				
Percentage of property in En-zone (check one): 0-49% 50-99% 100%				
4. Is this application one of multiple applications for a large development project, where the development project spans more than 25 acres (see additional criteria in BCP application instructions)? Yes No				
If yes, identify name of properties (and site numbers if available) in related BCP applications:_____				
5. Is the contamination from groundwater or soil vapor solely emanating from property other than the site subject to the present application?			Yes	No
6. Has the property previously been remediated pursuant to Titles 9, 13, or 14 of ECL Article 27, Title 5 of ECL Article 56, or Article 12 of Navigation Law? If yes, attach relevant supporting documentation.			Yes	No
7. Are there any lands under water? If yes, these lands should be clearly delineated on the site map.			Yes	No

Section IV. Property Information (continued)

8. Are there any easements or existing rights of way that would preclude remediation in these areas?
If yes, identify here and attach appropriate information. Yes No

Easement/Right-of-way Holder

Description

9. List of Permits issued by the DEC or USEPA Relating to the Proposed Site (type here or attach information)

Type

Issuing Agency

Description

10. Property Description and Environmental Assessment – **please refer to application instructions for the proper format of each narrative requested.**

See Appendix A; Section IV

Are the Property Description and Environmental Assessment narratives included in the **prescribed format**?

Yes No

Note: Questions 11 through 13 only pertain to sites located within the five counties comprising New York City

11. Is the requestor seeking a determination that the site is eligible for tangible property tax credits? Yes No

If yes, requestor must answer questions on the supplement at the end of this form.

Not Applicable

12. Is the Requestor now, or will the Requestor in the future, seek a determination that the property is Upside Down?

Not Applicable

13. If you have answered Yes to Question 12, above, is an independent appraisal of the value of the property, as of the date of application, prepared under the hypothetical condition that the property is not contaminated, included with the application?

Not Applicable

NOTE: If a tangible property tax credit determination is not being requested in the application to participate in the BCP, the applicant may seek this determination at any time before issuance of a certificate of completion by using the BCP Amendment Application, except for sites seeking eligibility under the underutilized category.

If any changes to Section IV are required prior to application approval, a new page, initialed by each requestor, must be submitted.

Initials of each Requestor: _____

BCP application - PART B (note: application is separated into Parts A and B for DEC review purposes)

Section V. Additional Requestor Information See Instructions for Further Guidance		DEC USE ONLY BCP SITE NAME: _____ BCP SITE #: _____	
NAME OF REQUESTOR'S AUTHORIZED REPRESENTATIVE			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
NAME OF REQUESTOR'S CONSULTANT			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
NAME OF REQUESTOR'S ATTORNEY			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
Section VI. Current Property Owner/Operator Information – if not a Requestor			
CURRENT OWNER'S NAME		OWNERSHIP START DATE: 323 Ganson: 9/26/18 339 Ganson: 9/26/18 395 Ganson: 9/25/18	
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
CURRENT OPERATOR'S NAME			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
PROVIDE A LIST OF PREVIOUS PROPERTY OWNERS AND OPERATORS WITH NAMES, LAST KNOWN ADDRESSES AND TELEPHONE NUMBERS AS AN ATTACHMENT. DESCRIBE REQUESTOR'S RELATIONSHIP, TO EACH PREVIOUS OWNER AND OPERATOR, INCLUDING ANY RELATIONSHIP BETWEEN REQUESTOR'S CORPORATE MEMBERS AND PREVIOUS OWNER AND OPERATOR. IF NO RELATIONSHIP, PUT "NONE". See Appendix B; Section VI			
IF REQUESTOR IS NOT THE CURRENT OWNER, DESCRIBE REQUESTOR'S RELATIONSHIP TO THE CURRENT OWNER, INCLUDING ANY RELATIONSHIP BETWEEN REQUESTOR'S CORPORATE MEMBERS AND THE CURRENT OWNER.			
Section VII. Requestor Eligibility Information (Please refer to ECL § 27-1407) See Appendix B; Section VII			
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 subject to an existing order for the investigation, removal or remediation of contamination at the site? Yes No			
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator. Yes No			

Section VII. Requestor Eligibility Information (continued)

4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the ECL Article 27; ii) any order or determination; iii) any regulation implementing 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, DEC 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 DEC, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to DEC? 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

Suspect
UST fill port

THE REQUESTOR MUST CERTIFY THAT HE/SHE IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL 27-1405 (1) BY CHECKING ONE OF THE BOXES BELOW: See Appendix B; Section VII

PARTICIPANT

A requestor who either 1) was the owner of the site at the time of the disposal of hazardous waste or discharge of petroleum 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 hazardous waste or discharge of petroleum.

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.

Section VII. Requestor Eligibility Information (continued)

Requestor Relationship to Property (check one):

Previous 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 **Not Applicable**

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

Section VIII. Property Eligibility Information - See Instructions for Further Guidance

1. Is / was the property, or any portion of the property, listed on the National Priorities List?
If yes, please provide relevant information as an attachment. Yes No
2. Is / was the property, or any portion of the property, listed on the NYS Registry of Inactive Hazardous Waste Disposal Sites pursuant to ECL 27-1305?
If yes, please provide: Site # _____ Class # _____ Yes No
3. Is / was the property subject to a permit under ECL Article 27, Title 9, other than an Interim Status facility?
If yes, please provide: Permit type: _____ EPA ID Number: _____
Date permit issued: _____ Permit expiration date: _____ Yes No
4. If the answer to question 2 or 3 above is yes, is the site owned by a volunteer as defined under ECL 27-1405(1)(b), or under contract to be transferred to a volunteer? Attach any information available to the requestor related to previous owners or operators of the facility or property and their financial viability, including any bankruptcy filing and corporate dissolution documentation. Yes No
Not Applicable
5. Is the property subject to a cleanup order under Navigation Law Article 12 or ECL Article 17 Title 10?
If yes, please provide: Order # _____ Yes No
6. Is the property subject to a state or federal enforcement action related to hazardous waste or petroleum?
If yes, please provide explanation as an attachment. Yes No

Section IX. Contact List Information See Appendix B; Section IX

To be considered complete, the application must include the Brownfield Site Contact List in accordance with [DER-23 / Citizen Participation Handbook for Remedial Programs](#). Please attach, at a minimum, the names and addresses of the following:

1. The chief executive officer and planning board chairperson of each county, city, town and village in which the property is located.
2. Residents, owners, and occupants of the property and properties adjacent to the property.
3. Local news media from which the community typically obtains information.
4. The public water supplier which services the area in which the property is located.
5. Any person who has requested to be placed on the contact list.
6. The administrator of any school or day care facility located on or near the property.
7. The location of a document repository for the project (e.g., local library). **If the site is located in a city with a population of one million or more, add the appropriate community board as an additional document repository.** In addition, attach a copy of an acknowledgement from each repository indicating that it agrees to act as the document repository for the site.

Section X. Land Use Factors See Appendix B; Section X	
<p>1. What is the current municipal zoning designation for the site? _____</p> <p>What uses are allowed by the current zoning? (Check boxes, below)</p> <p style="text-align: center;">Residential Commercial Industrial</p> <p>If zoning change is imminent, please provide documentation from the appropriate zoning authority.</p>	
<p>2. Current Use: Residential Commercial Industrial Vacant Recreational (check all that apply)</p> <p>Attach a summary of current business operations or uses, with an emphasis on identifying possible contaminant source areas. If operations or uses have ceased, provide the date.</p>	
<p>3. Reasonably anticipated use Post Remediation: Residential Commercial Industrial (check all that apply) Attach a statement detailing the specific proposed use.</p> <p>If residential, does it qualify as single family housing? Not Applicable Yes No</p>	
4. Do current historical and/or recent development patterns support the proposed use?	Yes No
5. Is the proposed use consistent with applicable zoning laws/maps? Briefly explain below, or attach additional information and documentation if necessary.	Yes No
6. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, or other adopted land use plans? Briefly explain below, or attach additional information and documentation if necessary.	Yes No

XI. Statement of Certification and Signatures

(By a requestor other than an individual)

I hereby affirm that I am Managing Member (title) of Ketry RE LLC (entity); that I am authorized by that entity to make this application and execute the Brownfield Cleanup Agreement (BCA) and all subsequent amendments; that this application was prepared by me or under my supervision and direction. If this application is approved, I acknowledge and agree: (1) to execute a BCA within 60 days of the date of DEC's approval letter; (2) to the general terms and conditions set forth in the *DER-32, Brownfield Cleanup Program Applications and Agreements*; and (3) that in the event of a conflict between the general terms and conditions of participation and the terms contained in a site-specific BCA, the terms in the site-specific BCA shall control. Further, 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.

Date: 9-19-19

Signature: 

Print Name: Earl Ketry

SUBMITTAL INFORMATION:

- **Two (2)** copies, one paper copy with original signatures and one electronic copy in Portable Document Format (PDF), must be sent to:
 - Chief, Site Control Section
 - New York State Department of Environmental Conservation
 - Division of Environmental Remediation
 - 625 Broadway
 - Albany, NY 12233-7020

FOR DEC USE ONLY

BCP SITE T&A CODE: _____ LEAD OFFICE: _____

Supplemental Questions for Sites Seeking Tangible Property Credits in New York City ONLY. Sufficient information to demonstrate that the site meets one or more of the criteria identified in ECL 27 1407(1-a) must be submitted if requestor is seeking this determination.

BCP App Rev 10

Not Applicable

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 NYS Tax Law 21(b)(6)? Please see DEC's website for more information.	Yes	No
2. Is the property upside down or underutilized as defined below?	Upside Down?	Yes No
	Underutilized?	Yes No
<p>From ECL 27-1405(31):</p> <p>"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.</p> <p>From 6 NYCRR 375-3.2(I) as of August 12, 2016: (Please note: Eligibility determination for the underutilized category can only be made at the time of application)</p> <p>375-3.2:</p> <p>(I) "Underutilized" means, as of the date of application, real property on which no more than fifty percent of the permissible floor area of the building or buildings is certified by the applicant to have been used under the applicable base zoning for at least three years prior to the application, which zoning has been in effect for at least three years; and</p> <p>(1) the proposed use is at least 75 percent for industrial uses; or</p> <p>(2) at which:</p> <p>(i) the proposed use is at least 75 percent for commercial or commercial and industrial uses;</p> <p>(ii) the proposed development could not take place without substantial government assistance, as certified by the municipality in which the site is located; and</p> <p>(iii) one or more of the following conditions exists, as certified by the applicant:</p> <p>(a) property tax payments have been in arrears for at least five years immediately prior to the application;</p> <p>(b) a building is presently condemned, or presently exhibits documented structural deficiencies, as certified by a professional engineer, which present a public health or safety hazard; or</p> <p>(c) there are no structures.</p> <p>"Substantial government assistance" shall mean a substantial loan, grant, land purchase subsidy, land purchase cost exemption or waiver, or tax credit, or some combination thereof, from a governmental entity.</p>		

Supplemental Questions for Sites Seeking Tangible Property Credits in New York City (continued)

3. If you are seeking a formal determination as to whether your project is eligible for Tangible Property Tax Credits based in whole or in part on its status as an affordable housing project (defined below), you must attach the regulatory agreement with the appropriate housing agency (typically, these would be with the *New York City Department of Housing, Preservation and Development*; the *New York State Housing Trust Fund Corporation*; the *New York State Department of Housing and Community Renewal*; or the *New York State Housing Finance Agency*, though other entities may be acceptable pending Department review). **Check appropriate box, below:**

Project is an Affordable Housing Project - Regulatory Agreement Attached;

Project is Planned as Affordable Housing, But Agreement is Not Yet Available*
(*Checking this box will result in a “pending” status. The Regulatory Agreement will need to be provided to the Department and the Brownfield Cleanup Agreement will need to be amended prior to issuance of the CoC in order for a positive determination to be made.);

This is Not an Affordable Housing Project.

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.

BCP Application Summary (for DEC use only)**Site Name:****City:****Site Address:****County:****Zip:****Tax Block & Lot****Section (if applicable):****Block:****Lot:****Requestor Name:****City:****Requestor Address:****Zip:****Email:****Requestor's Representative (for billing purposes)****Name:****Address:****City:****Zip:****Email:****Requestor's Attorney****Name:****Address:****City:****Zip:****Email:****Requestor's Consultant****Name:****Address:****City:****Zip:****Email:****Percentage claimed within an En-Zone:****0%****<50%****50-99%****100%****DER Determination:**

Agree

Disagree

Requestor's Requested Status:**Volunteer****Participant****DER/OGC Determination:**

Agree

Disagree

Notes:**For NYC Sites, is the Requestor Seeking Tangible Property Credits:**

Yes

No

Does Requestor Claim Property is Upside Down:

Yes

No

DER/OGC Determination:

Agree

Disagree

Undetermined

Notes:**Does Requestor Claim Property is Underutilized:**

Yes

No

DER/OGC Determination:

Agree

Disagree

Undetermined

Notes:**Does Requestor Claim Affordable Housing Status:**

Yes

No

Planned, No Contract

DER/OGC Determination:

Agree

Disagree

Undetermined

Notes:

**NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
BROWNFIELD CLEANUP PROGRAM (BCP)
INSTRUCTIONS FOR COMPLETING A BCP APPLICATION**

The New York State Department of Environmental Conservation (DEC) strongly encourages all applicants to schedule a pre-application meeting with DEC staff to review the benefits, requirements, and procedures for completing a project in the BCP. Contact your [Regional office](#) to schedule a meeting. To add a party to an existing BCP Agreement and/or Application, use the [BCP Agreement Amendment Application](#). **See guidance at the end of these instructions regarding the determination of a complete application.**

SECTION I REQUESTOR INFORMATION

Requestor Name

Provide the name of the person(s)/entity requesting participation in the BCP. (If more than one, attach additional sheets with requested information. If an LLC, the members/owners names need to be provided on a separate attachment). The requestor is the person or entity seeking DEC review and approval of the remedial program.

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 in the [NYS Department of State's Corporation & Business Entity Database](#). A print-out of entity information from the database must be submitted to DEC with the application, to document that the requestor is authorized to do business in NYS.

Address, etc.

Provide the requestor's mailing address, telephone number; fax number and e-mail address.

Document Certification

All documents, which are prepared in final form for submission to DEC for approval, are to be prepared and certified in accordance with Section 1.5 of [DER-10](#). Persons preparing and certifying the various work plans and reports identified in Section 1.5 include:

- New York State licensed professional engineers (PEs), as defined at 6 NYCRR 375-1.2(aj) and paragraph 1.3(b)47. Engineering documents must be certified by a PE with current license and registration for work that was done by them or those under their direct supervision. The firm by which the PE is employed must also be authorized to practice engineering in New York State;
- qualified environmental professionals as defined at 6 NYCRR 375-1.2(ak) and DER-10 paragraph 1.3(b)49;
- remedial parties, as defined at 6 NYCRR 375-1.2(ao) and DER-10 paragraph 1.3(b)60; or
- site owners, which are the owners of the property comprising the site at the time of the certification.

SECTION II PROJECT DESCRIPTION

As a separate attachment, provide complete and detailed information about the project, including the purpose of the project, the date the remedial program is to start, and the date the Certificate of Completion is anticipated..

**NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

SECTION III

PROPERTY'S ENVIRONMENTAL HISTORY

Please follow instructions on application form.

SECTION IV

PROPERTY INFORMATION

Proposed Site Name

Provide a name for the proposed site. The name could be an owner's name, current or historical operations (i.e. ABC Furniture) or the general location of the property. Consider whether the property is known by DEC by a particular name, and if so, use that name.

Site Address

Provide a street address, city/town, zip code, and each municipality and county in which the site is located. .

Site Size

Provide the approximate acreage of the site.

GIS Information

Provide the latitude and longitude for the approximate center of the property. Show the latitude and longitude in degrees, minutes and seconds.

Tax Parcel Information

Provide the tax parcel address/section/block/lot information and map. Tax map information may be obtained from the tax assessor's office for all tax parcels that are included in the property boundaries. Attach a county tax map with identifier numbers, along with any figures needed to show the location and boundaries of the property. Include a USGS 7.5 minute quad map on which the property appears and clearly indicate the proposed site's location.

1. Tax Map Boundaries

State whether the boundaries of the site correspond to the tax map boundaries. If no, a metes and bounds description of the property must be attached. The site boundary can occupy less than a tax lot or encompass portions of one or more tax lots and may be larger or smaller than the overall redevelopment/reuse project area. A site survey with metes and bounds will be required to establish the site boundaries before the Certificate of Completion can be issued.

2. Map

Provide a property base map(s) of sufficient detail, clarity and accuracy to show the following: i) map scale, north arrow orientation, date, and location of the property with respect to adjacent streets and roadways; and ii) proposed brownfield property boundary lines, with adjacent property owners clearly identified.

**NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

SECTION IV (continued)

3. En-zone

Is any part of the property in an En-zone? If so, what percentage? For information on En-zones, please see [DEC's website](#).

4. Multiple applications

Generally, only one application can be submitted, and one BCA executed, for a development project. In limited circumstances, the DEC may consider multiple applications/BCAs for a development project where 1) the development project spans more than 25 acres; 2) the approach does not negatively impact the remedial program, including timing, ability to appropriately address areas of concern, and management of off-site concerns; and 3) the approach is not advanced to increase the value of future tax credits (i.e., circumvent the tax credit caps provided under New York State Tax Law Section 21).

10. Property Description Narrative

Provide a property description in the format provided below. Each section should be no more than one paragraph long.

Location

Example: "The XYZ Site is located in an {urban, suburban, rural} area." {Add reference points if address is unspecific; e.g., "The site is approximately 3.5 miles east of the intersection of County Route 55 and Industrial Road."}

Site Features:

Example: "The main site features include several large abandoned buildings surrounded by former parking areas and roadways. About one quarter of the site area is wooded. Little Creek passes through the northwest corner."

Current Zoning and Land Use: (Ensure the current zoning is identified.)

Example: "The site is currently inactive, and is zoned for commercial use. The surrounding parcels are currently used for a combination of commercial, light industrial, and utility right-of-ways. The nearest residential area is 0.3 miles east on Route 55."

Past Use of the Site: include source(s) of contamination and remedial measures (site characterizations, investigations, Interim Remedial Measures, etc.) completed outside of the current remedial program (e.g., work under a petroleum spill incident).

Example: "Until 1992 the site was used for manufacturing wire and wire products (e.g., conduit, insulators) and warehousing. Prior uses that appear to have led to site contamination include metal plating, machining, disposal in a one-acre landfill north of Building 7, and releases of wastewater into a series of dry wells."

When describing the investigations/actions performed outside of the remedial program, include the major chronological remedial events that lead to the site entering a remedial program. The history should include the first involvement by government to address hazardous waste/petroleum disposal. Do not cite reports. Only include remedial activities which were implemented PRIOR to the BCA. Do not describe sampling information.

**NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

SECTION IV (continued)

Property Description Narrative (continued)

Site Geology and Hydrogeology:

As appropriate, provide a very brief summary of the main hydrogeological features of the site including depth to water, groundwater flow direction, etc.

Environmental Assessment

The goal of this section is to describe the nature and extent of contamination at the site. When describing the nature of contamination, identify just the primary contaminants of concern (i.e., those that will likely drive remedial decisions/actions). If there are many contaminants present within a group of contaminants (i.e., volatile organic compounds, semivolatile organic compounds, metals), identify the group(s) and one or two representative contaminants within the group. When addressing the extent of contamination, identify the areas of concern at the site, contaminated media (i.e., soil, groundwater, etc.), relative concentration levels, and a broad-brush description of contaminated areas/depths.

The reader should be able to know if contamination is widespread or limited and if concentrations are marginally or greatly above Standards, Criteria and Guidance (SGCs) for the primary contaminants. If the extent is described qualitatively (e.g., low, medium, high), representative concentrations should be given and compared with appropriate SCGs. For soil contamination, the concentrations should be compared with the soil cleanup objectives (SCOs) for the intended use of the site.

A typical Environmental Assessment would look like the following:

Based upon investigations conducted to date, the primary contaminants of concern for the site include cadmium and trichloroethene (TCE).

Soil - Cadmium is found in shallow soil, mostly near a dry well at the northeast end of the property. TCE is found in deeper soil, predominantly at the north end of the site. Concentrations of cadmium found on site (approximately 5 ppm) slightly exceed the soil cleanup objective (SCO) for unrestricted use (2.5 ppm). Concentrations of TCE found on site (5 ppm to 300 ppm) significantly exceed the soil cleanup objectives for the protection of groundwater (0.47 ppm).

Groundwater - TCE and its associated degradation products are also found in groundwater at the north end of the site, moderately exceeding groundwater standards (typically 5 ppb), with a maximum concentration of 1500 ppb. A moderate amount of TCE from the site has migrated 300 feet down-gradient off-site. The primary contaminant of concern for the off-site area is TCE, which is present at a maximum concentration of 500 ppb, at 10 feet below the groundwater table near Avenue A.

Soil Vapor & Indoor Air - TCE was detected in soil vapor at elevated concentrations and was also detected in indoor air at concentrations up to 1,000 micrograms per cubic meter.

If any changes to Section IV are required prior to application approval, a new page, initialed by each requestor, must be submitted.

SECTION V

ADDITIONAL REQUESTOR INFORMATION

Representative Name, Address, etc.

Provide information for the requestor's authorized representative. This is the person to whom all correspondence, notices, etc. will be sent, and who will be listed as the contact person in the BCA. Invoices will be sent to the representative of Applications determined to be Participants unless another contact name and address is provided with the application.

Consultant and Attorney Name, Address, etc.

Provide requested information.

**NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

**SECTION VI CURRENT PROPERTY OWNER/OPERATOR INFORMATION
(IF NOT A REQUESTOR)**

Owner Name, Address, etc.

Provide requested information of the current owner of the property. List all parties holding an interest in the Property and, if the Requestor is not the current owner, describe the Requestor's relationship to the current owner.

Operator Name, Address, etc.

Provide requested information of the current operator (if different from the requestor or owner).

Provide a list of previous property owners and operators with names, last known addresses, telephone numbers and the Requestor's relationship to each owner and operator as a separate attachment

SECTION VII REQUESTOR ELIGIBILITY INFORMATION

As a separate attachment, provide complete and detailed information in response to any eligibility questions answered in the affirmative. It is permissible to reference specific sections of existing property reports; however, it is requested that such information be summarized. For properties with multiple addresses or tax parcels, please include this information for each address or tax parcel.

SECTION VIII PROPERTY ELIGIBILITY INFORMATION

As a separate attachment, provide complete and detailed information in response to the following eligibility questions answered in the affirmative. It is permissible to reference specific sections of existing property reports; however, it is requested that that information be summarized.

1. CERCLA / NPL Listing

Has any portion of the property ever been listed on the National Priorities List (NPL) established under CERCLA? If so, provide relevant information.

2. Registry Listing

Has any portion of the property ever been listed on the New York State Registry of Inactive Hazardous Waste Disposal Sites established under ECL 27-1305? If so, please provide the site number and classification. See the Division of Environmental Remediation (DER) [website](#) for a database of sites with classifications.

3. RCRA Listing

Does the property have a Resource Conservation and Recovery Act (RCRA) TSDF Permit in accordance with the ECL 27-0900 *et seq*? If so, please provide the EPA Identification Number, the date the permit was issued, and its expiration date. Note: for purposes of this application, interim status facilities are not deemed to be subject to a RCRA permit.

4. Registry / RCRA sites owned by volunteers

If the answer to question 2 or 3 above is yes, is the site owned by a volunteer as defined under ECL 27-1405(1)(b), or under contract to be transferred to a volunteer? Attach any information available to the requestor related to previous owners or operators of the facility or property and their financial viability, including any bankruptcy filing and corporate dissolution documentation.

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SECTION VIII (continued)

5. Existing Order

Is the property subject to an order for cleanup under Article 12 of the Navigation Law or Article 17 Title 10 of the ECL? If so, please provide information on an attachment. Note: if the property is subject to a stipulation agreement, relevant information should be provided; however, property will not be deemed ineligible solely on the basis of the stipulation agreement.

6. Enforcement Action Pending

Is the property subject to an enforcement action under Article 27, Titles 7 or 9 of the ECL or subject to any other ongoing state or federal enforcement action related to the contamination which is at or emanating from the property? If so, please provide information on an attachment.

SECTION IX CONTACT LIST INFORMATION

Provide the names and addresses of the parties on the Site Contact List (SCL) and a letter from the repository acknowledging agreement to act as the document repository for the proposed BCP project.

SECTION X LAND USE FACTORS

In addition to eligibility information, site history, and environmental data/reports, the application requires information regarding the current, intended and reasonably anticipated future land use.

1. This information consists of responses to the "land use" factors to be considered relative to the "Land Use" section of the BCP application. The information will be used to determine the appropriate land use in conjunction with the investigation data provided, in order to establish eligibility for the site based on the definition of a "brownfield site" pursuant to ECL 27-1405(2).
2. This land use information will be used by DEC, in addition to all other relevant information provided, to determine whether the proposed use is consistent with the currently identified, intended and reasonably anticipated future land use of the site at this stage. Further, this land use finding is subject to information regarding contamination at the site or other information which could result in the need for a change in this determination being borne out during the remedial investigation.

SECTION XI SIGNATURE PAGE

The Requestor must sign the application, or designate a representative who can sign. The requestor's consultant or attorney cannot sign the application. If there are multiple parties applying, then each must sign a signature page. 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 entity's name must appear exactly as given in the NYS Department of State's Corporation & Business Entity Database.

**NEW YORK STATE
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DETERMINATION OF A COMPLETE APPLICATION

1. The first step in the application review and approval process is an evaluation to determine if the application is complete. To help ensure that the application is determined complete, requestors should review the list of [common application deficiencies](#) and carefully read these instructions.
2. DEC will send a notification to the requestor within 30 calendar days of receiving the application, indicating whether such application is complete or incomplete.
3. An application must include the following information relative to the site identified by the application, necessary for making an eligibility determination, or it will be deemed incomplete. **(Please note: the application as a whole requires more than the information outlined below to be determined complete).** The application must include:
 - a. for all sites, an investigation report sufficient to demonstrate the site requires remediation in order to meet the requirements of the program, and that the site is a brownfield site at which contaminants are present at levels exceeding the soil cleanup objectives or other health-based or environmental standards, criteria or guidance adopted by DEC that are applicable based on the reasonably anticipated use of the property, in accordance with applicable regulations. Required data includes site drawings requested in Section III, #3 of the BCP application form.
 - b. for those sites described below, documentation relative to the volunteer status of all requestors, as well as information on previous owners or operators that may be considered responsible parties **and** their ability to fund remediation of the site. This documentation is required for:
 - i. real property listed in the registry of inactive hazardous waste disposal sites as a class 2 site, which may be eligible provided that DEC has not identified any responsible party for that property having the ability to pay for the investigation or cleanup of the property prior to the site being accepted into the BCP; or
 - ii. real property that was a hazardous waste treatment, storage or disposal facility having interim status pursuant to the Resource Conservation and Recovery Act (RCRA) program, which may be eligible provided that DEC has not identified any responsible party for that property having the ability to pay for the investigation or cleanup of the property prior to the site being accepted into the BCP.
 - c. for sites located within the five counties comprising New York City, in addition to (a) and if applicable (b) above, if the application is seeking a determination that the site is eligible for tangible property tax credits, sufficient information to demonstrate that the site meets one or more of the criteria identified in ECL 27 1407(1-a). **If this determination is not being requested in the application to participate in the BCP, the applicant may seek this determination at any time before issuance of a certificate of completion, using the BCP Amendment Application, except for sites seeking eligibility under the underutilized category.**
 - d. for sites previously remediated pursuant to Titles 9, 13, or 14 of ECL Article 27, Title 5 of ECL Article 56, or Article 12 of Navigation Law, relevant documentation of this remediation.

**NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

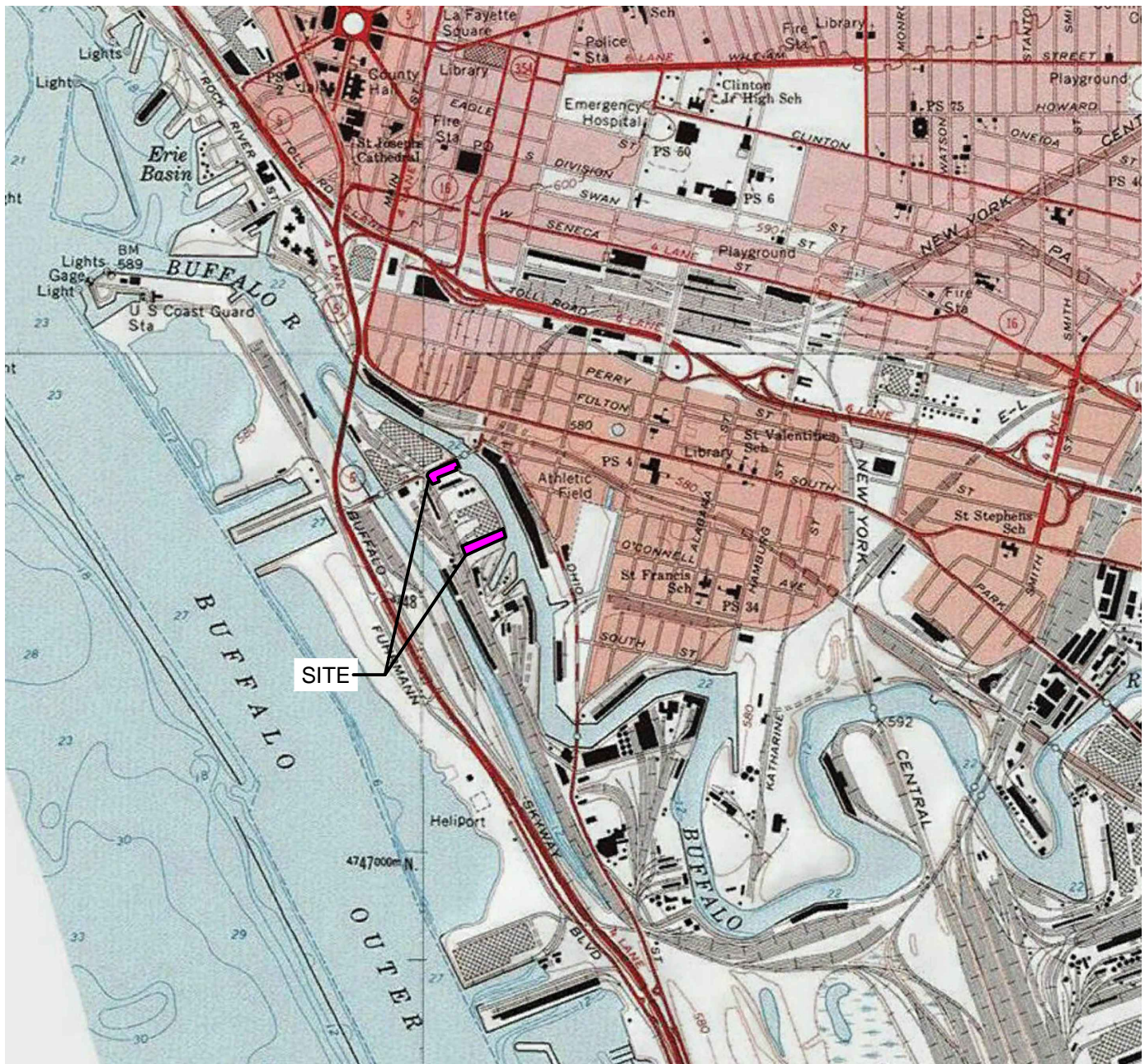
DETERMINATION OF A COMPLETE APPLICATION (continued)

4. If the application is found to be incomplete:
 - a. the requestor will be notified via email or phone call regarding minor deficiencies. The requestor must submit information correcting the deficiency to DEC within the 30-day review time frame; or
 - b. the requestor will receive a formal Letter of Incomplete Application (LOI) if an application is substantially deficient, if the information needed to make an eligibility determination identified in #4 above is missing or found to be incomplete, or if a response to a minor deficiency is not received within the 30-day period. The LOI will detail all of the missing information and request submission of the information. If the information is not submitted within 30 days from the date of the LOI, the application will be deemed withdrawn. In this case, the requestor may resubmit the application without prejudice.
5. If the application is determined to be complete, DEC will send a Letter of Complete Application (LOC) that includes the dates of the public comment period. The LOC will:
 - a. include an approved public notice to be sent to all parties on the Contact List included with the application;
 - b. provide instructions for publishing the public notice in the newspaper on the date specified in the letter, and instructions for mailing the notice to the Contact List;
 - c. identify the need for a certification of mailing form to be returned to DEC along with proof of publication documentation; and
 - d. specify the deadline for publication of the newspaper notice, which must coincide with, or occur before, the date of publication in the Environmental Notice Bulletin (ENB).
 - i. DEC will send a notice of the application to the ENB. As the ENB is only published on Wednesdays, DEC must submit the notice by the Wednesday before it is to appear in the ENB.
 - ii. The mailing to parties on the Contact List must be completed no later than the Tuesday prior to ENB publication. If the mailings, newspaper notice and ENB notice are not completed within the time-frames established by the LOC, the public comment period on the application will be extended to insure that there will be the required comment period.
 - iii. Marketing literature or brochures are prohibited from being included in mailings to the Contact List.

FIGURES

Figure 1	Site Location & Vicinity Map
Figure 2	Site Plan (Aerial)
Figure 3	Tax Map
Figure 4	Property Base Map (1,000' Setback)
Figure 5	Preliminary Project Schedule
Figure 6	Investigation Locations & Areas of Concern
Figure 7	EN-Zone Map
Figure 8	BOA Map
Figure 9	Zoning Map
Figure 10	Adjacent Property Owners
Figure 11	USDA Soil Type Map

FIGURE 1



SITE LOCATION AND VICINITY MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

BUFFALO RIVERWORKS SITE
BUFFALO, NEW YORK

PREPARED FOR
KETRY RE LLC



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

PROJECT NO.: 0476-018-001

DATE: JUNE 2019

DRAFTED BY: CMS

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FIGURE 2	SITE PLAN (AERIAL)	 2558 HAMBURG TURNPIKE SUITE 300 BUFFALO, NY 14218 (716) 856-0599
	<p>BROWNFIELD CLEANUP PROGRAM APPLICATION</p> <p>BUFFALO RIVERWORKS SITE</p> <p>BUFFALO, NEW YORK</p> <p>PREPARED FOR KETRY RE LLC</p> <p>JOB NO.: B0476-018-001</p>	

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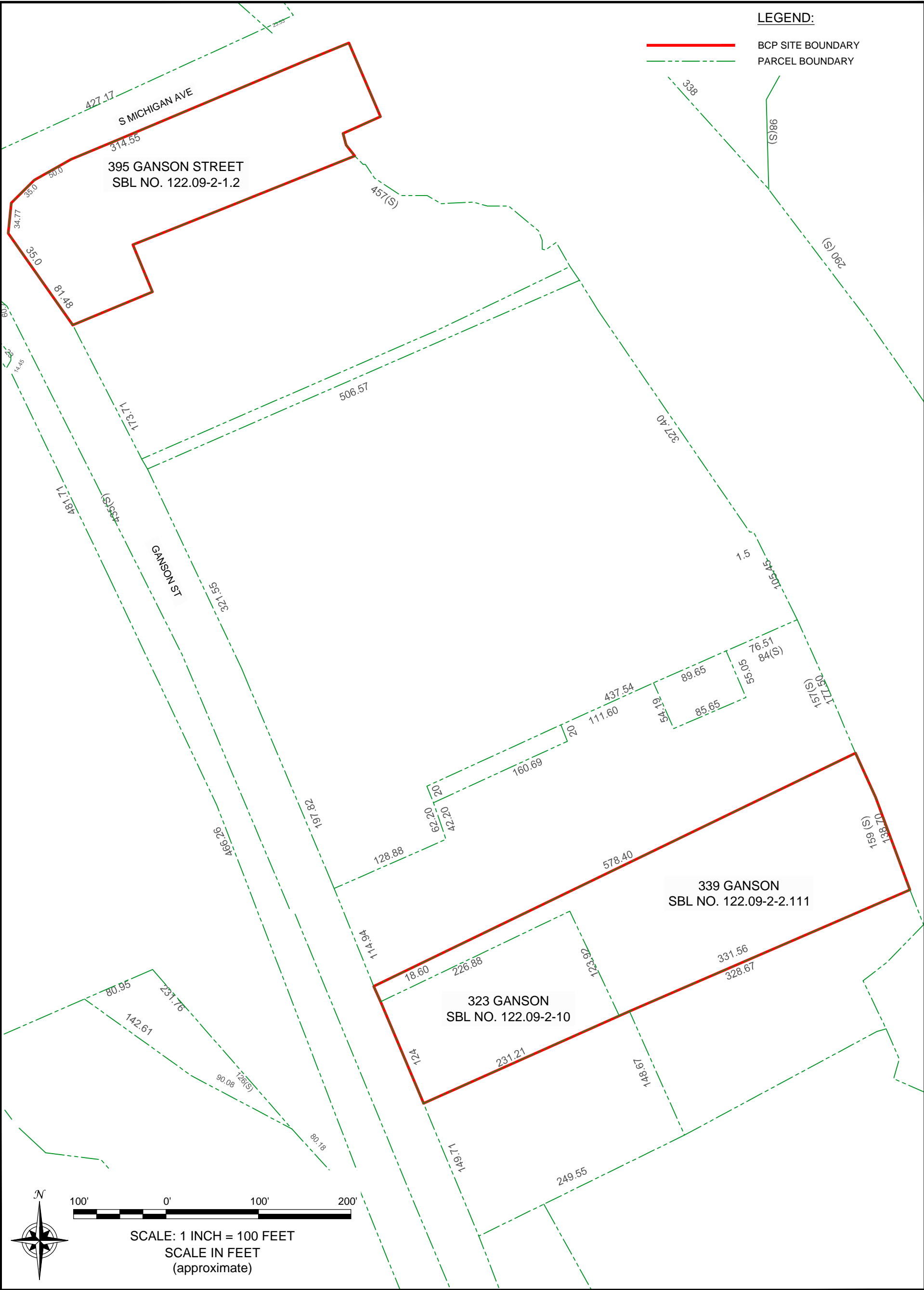


FIGURE 3	TAX MAP	BENCHMARK Environmental Engineering & Science, PLLC 2558 HAMBURG TURNPIKE SUITE 300 BUFFALO, NY 14218 (716) 856-0599	
	BROWNFIELD CLEANUP PROGRAM APPLICATION		JOB NO.: B0476-018-001
	BUFFALO RIVERWORKS SITE BUFFALO, NEW YORK		
	PREPARED FOR KETRY RE LLC		
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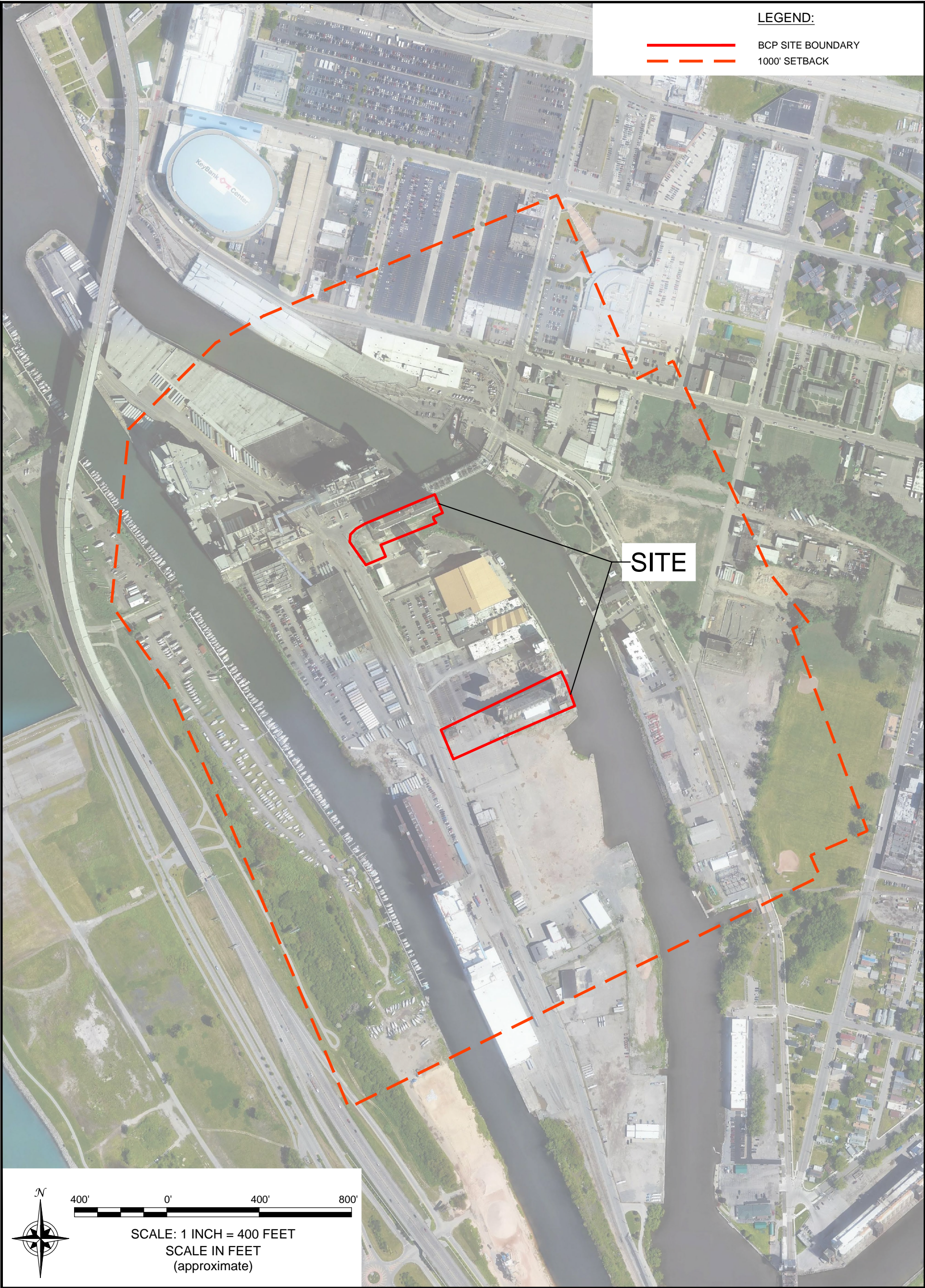
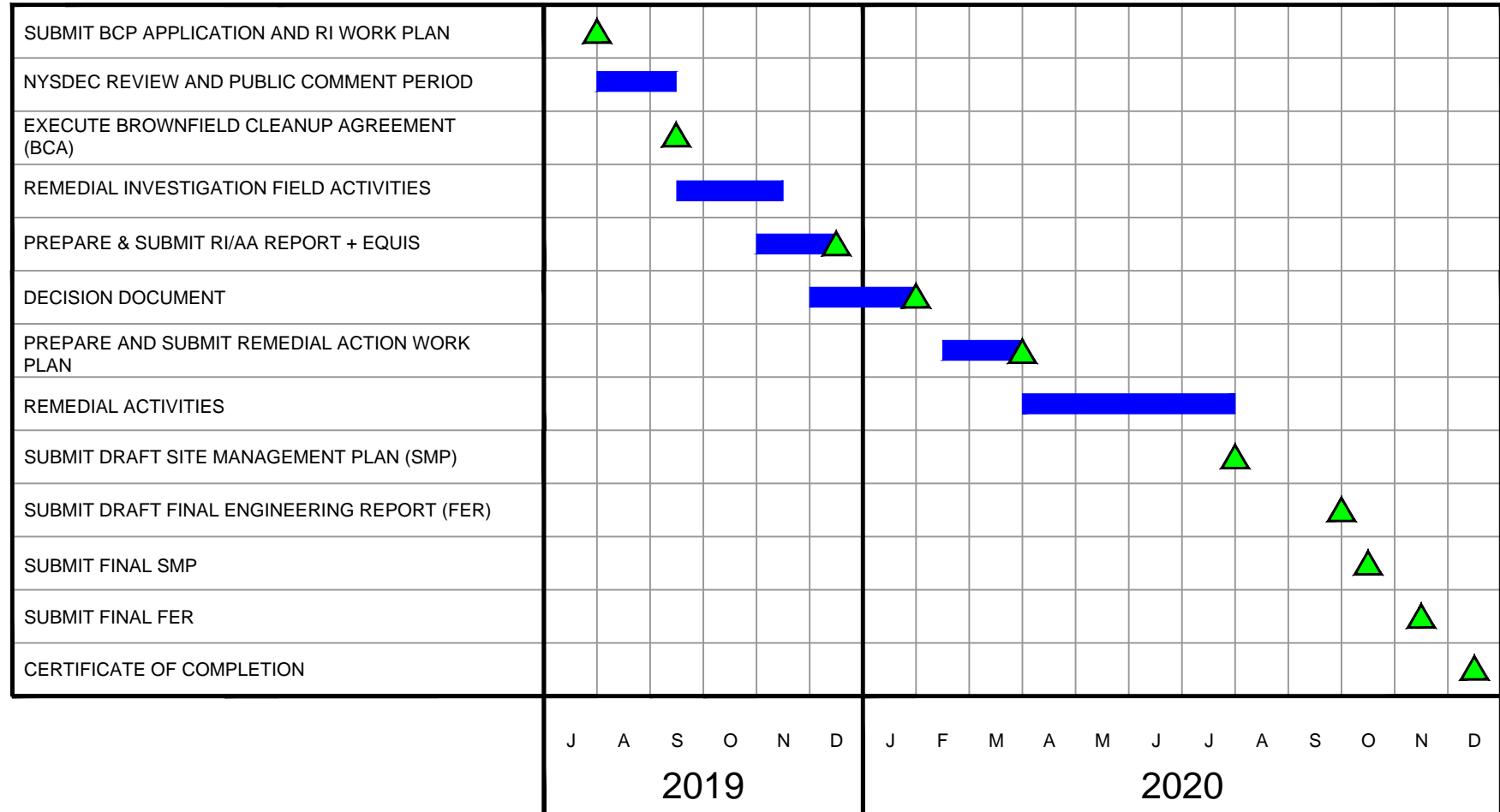


FIGURE 4	PROPERTY BASE MAP (1000' SETBACK)	BENCHMARK Environmental Engineering & Science, PLLC 2558 HAMBURG TURNPIKE SUITE 300 BUFFALO, NY 14218 (716) 856-0599
	<p>BROWNFIELD CLEANUP PROGRAM APPLICATION</p> <p>BUFFALO RIVERWORKS SITE</p> <p>BUFFALO, NEW YORK</p> <p>PREPARED FOR</p> <p>KETRY RE LLC</p> <p>JOB NO.: B0476-018-001</p>	
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PROJECT TASKS:



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

PROJECT NO.: 0476-018-001

DATE: JUNE 2019

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PRELIMINARY PROJECT SCHEDULE

BROWNFIELD CLEANUP PROGRAM APPLICATION

BUFFALO RIVERWORKS SITE
BUFFALO, NEW YORK

PREPARED FOR
KETRY RE LLC

FIGURE 5

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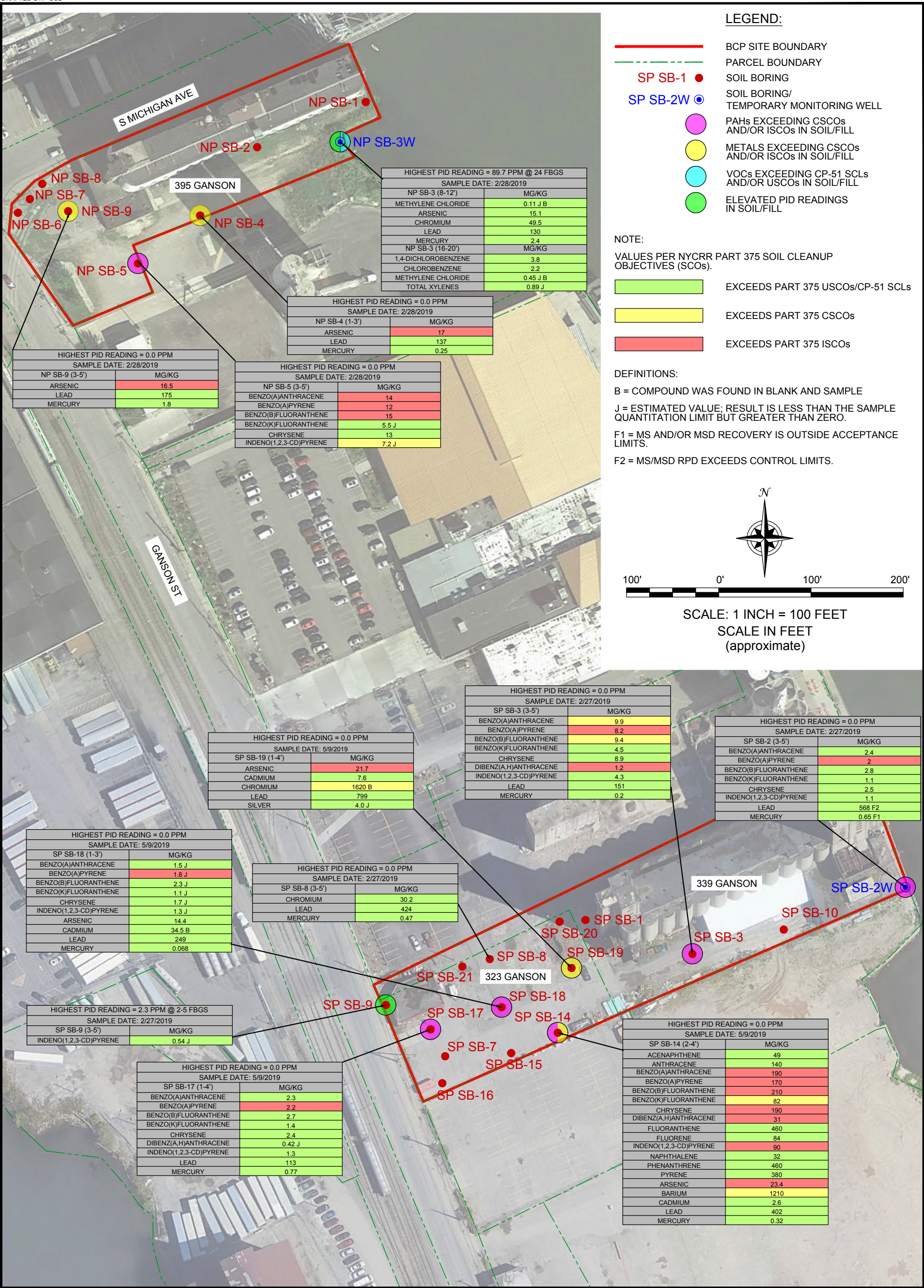


FIGURE 6

INVESTIGATION LOCATIONS AND AREAS OF CONCERN

BROWNFIELD CLEANUP PROGRAM APPLICATION
BUFFALO RIVERWORKS SITE
BUFFALO, NEW YORK

PREPARED FOR
KETRY RE LLC



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

JOB NO.: 0476-018-001



FIGURE 7

NEW YORK STATE ENZONE MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION
BUFFALO RIVERWORKS SITE
BUFFALO, NEW YORK

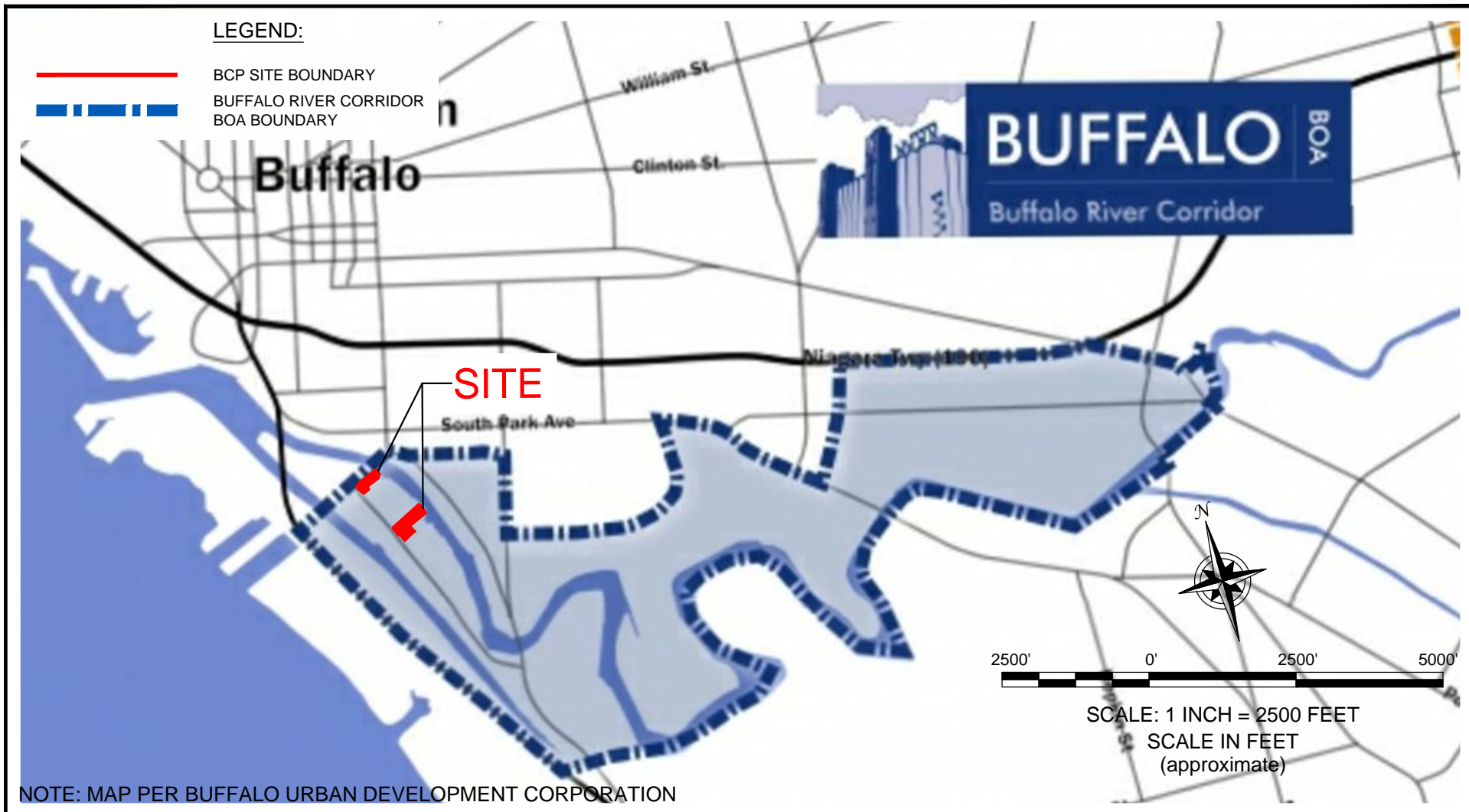
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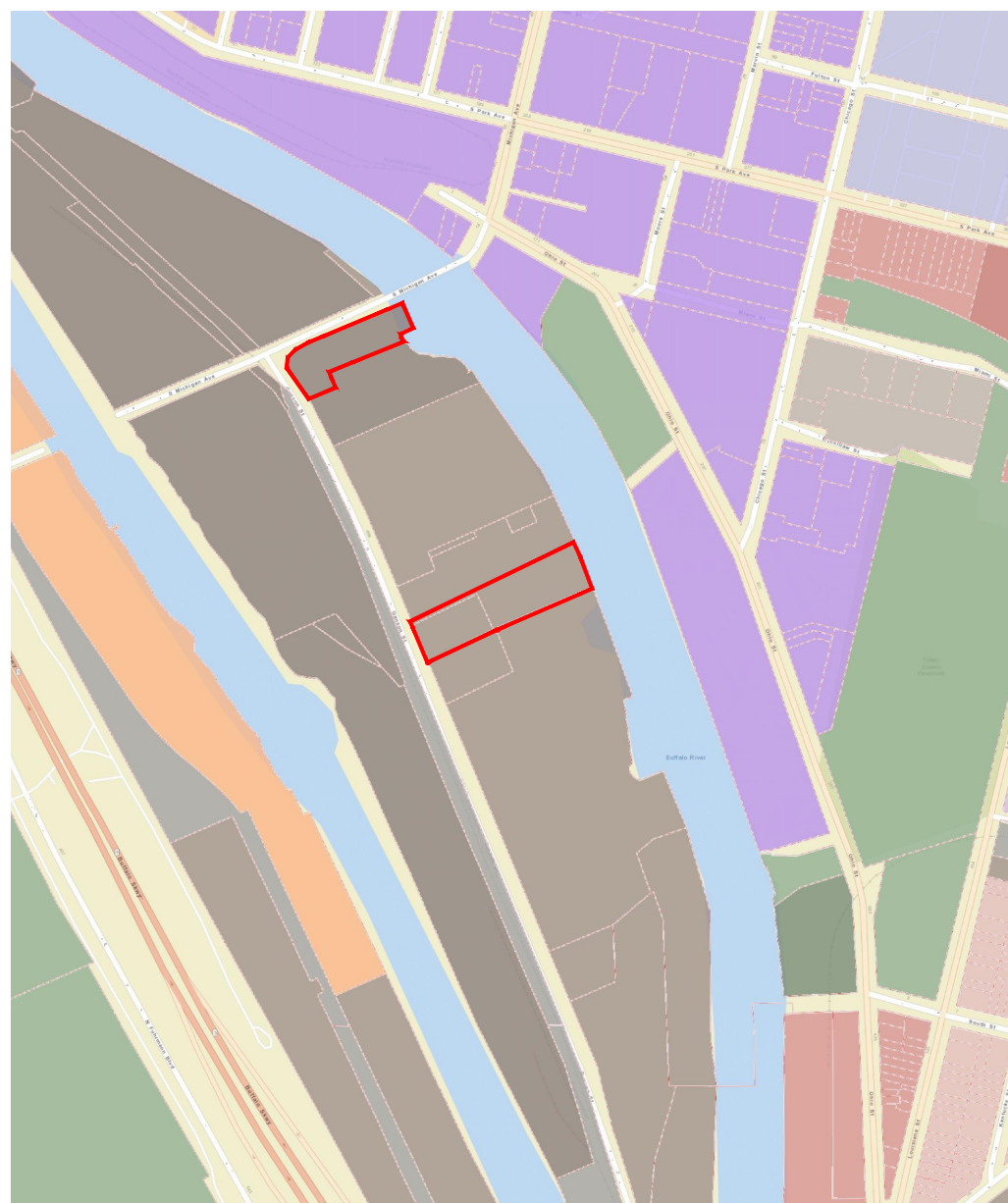
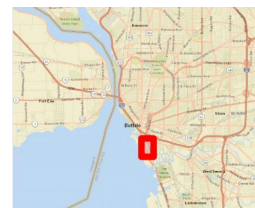
<div><div><div><div>BENCHMARK</div><div>Environmental Engineering & Science, PLLC</div></div></div><div><div>2558 HAMBURG TURNPIKE</div><div>SUITE 300</div><div>BUFFALO, NY 14218</div><div>(716) 856-0599</div></div></div>	<div><div>BUFFALO RIVER CORRIDOR</div><div>BROWNFIELD OPPORTUNITY AREA MAP</div><div>BROWNFIELD CLEANUP PROGRAM APPLICATION</div><div><div>BUFFALO RIVERWORKS SITE</div><div>BUFFALO, NEW YORK</div></div><div><div>PREPARED FOR</div><div>KETRY RE LLC</div></div></div>	<div>FIGURE 8</div>
<div>PROJECT NO.: B0476-018-001</div>		
<div>DATE: JUNE 2019</div>		
<div>DRAFTED BY: CMS</div>		
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FIGURE 9**LEGEND:**

BCP SITE BOUNDARY

Green Code Zoning 2017

- N-1D (Downtown Hub)
- N-1C (Mixed-Use Core)
- N-1S (Secondary Employment Cen)
- N-2C (Mixed-Use Center)
- N-2E (Mixed-Use Edge)
- N-2R (Residential)
- N-3C (Mixed-Use Center)
- N-3E (Mixed-Use Edge)
- N-3R (Residential)
- N-4-30 (Single Family)
- N-4-50 (Single Family)
- D-OS (Square)
- D-OG (Green)
- D-ON (Natural)
- D-R (Residential Campus)
- D-E (Educational Campus)
- D-M (Medical Campus)
- D-S (Retail Strip)
- D-C (Flex Commercial)
- D-IL (Light Industrial)
- D-IH (Heavy Industrial)
- C-R (Rail Corridor)

World Street Map

600' 0' 600' 1200'

SCALE: 1 INCH = 600 FEET
SCALE IN FEET
(approximate)



WGS_1984_Web_Mercator_Auxiliary_Sphere
MIS Department, City of Buffalo



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

PROJECT NO.: 0476-018-001

DATE: JUNE 2019

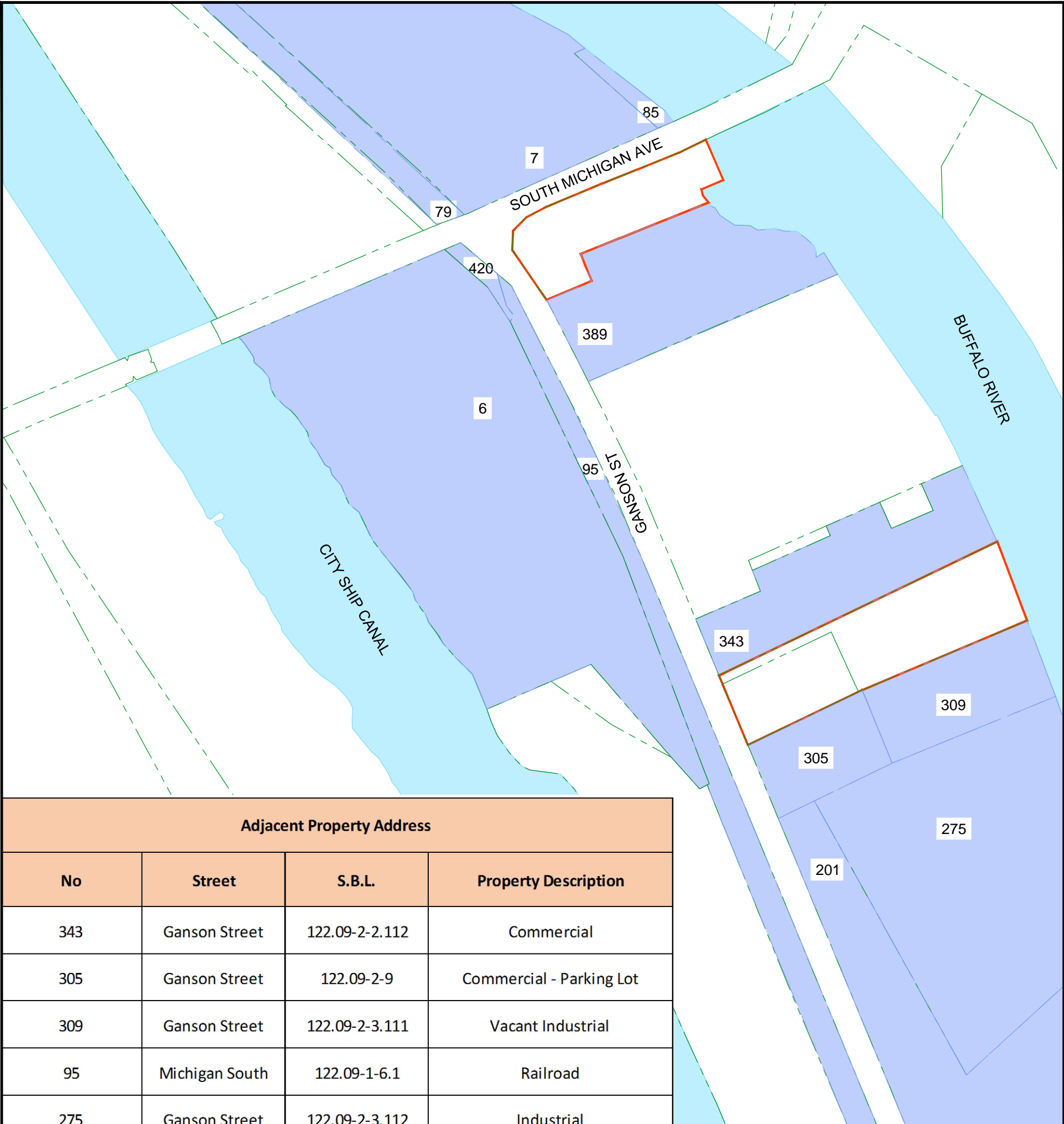
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ZONING MAP**BROWNFIELD CLEANUP PROGRAM APPLICATION****BUFFALO RIVERWORKS SITE
BUFFALO, NEW YORK**

PREPARED FOR
KETRY RE LLC

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Adjacent Property Address			
No	Street	S.B.L.	Property Description
343	Ganson Street	122.09-2-2.112	Commercial
305	Ganson Street	122.09-2-9	Commercial - Parking Lot
309	Ganson Street	122.09-2-3.111	Vacant Industrial
95	Michigan South	122.09-1-6.1	Railroad
275	Ganson Street	122.09-2-3.112	Industrial
201	Ganson Street	122.09-2-3.113	Commercial
389	Ganson Street	122.09-2-1.11	Commercial/Industrial
6	City Ship Canal	122.09-1-3	Commercial/Industrial
420	Ganson Street	122.09-1-6.2	Railroad
79	Buffalo River	122.05-12-1	Industrial
7	Michigan South	122.05-12-3	Industrial
85	Buffalo River	122.05-12-2	Waterbody

LEGEND:

BCP SITE BOUNDARY

PARCEL BOUNDARY

200' 0' 200' 400'

SCALE: 1 INCH = 200 FEET
SCALE IN FEET
(approximate)

FIGURE 10

ADJACENT PROPERTY OWNERS

BROWNFIELD CLEANUP PROGRAM APPLICATION

BUFFALO RIVERWORKS SITE

BUFFALO, NEW YORK

PREPARED FOR

KETRY RE LLC

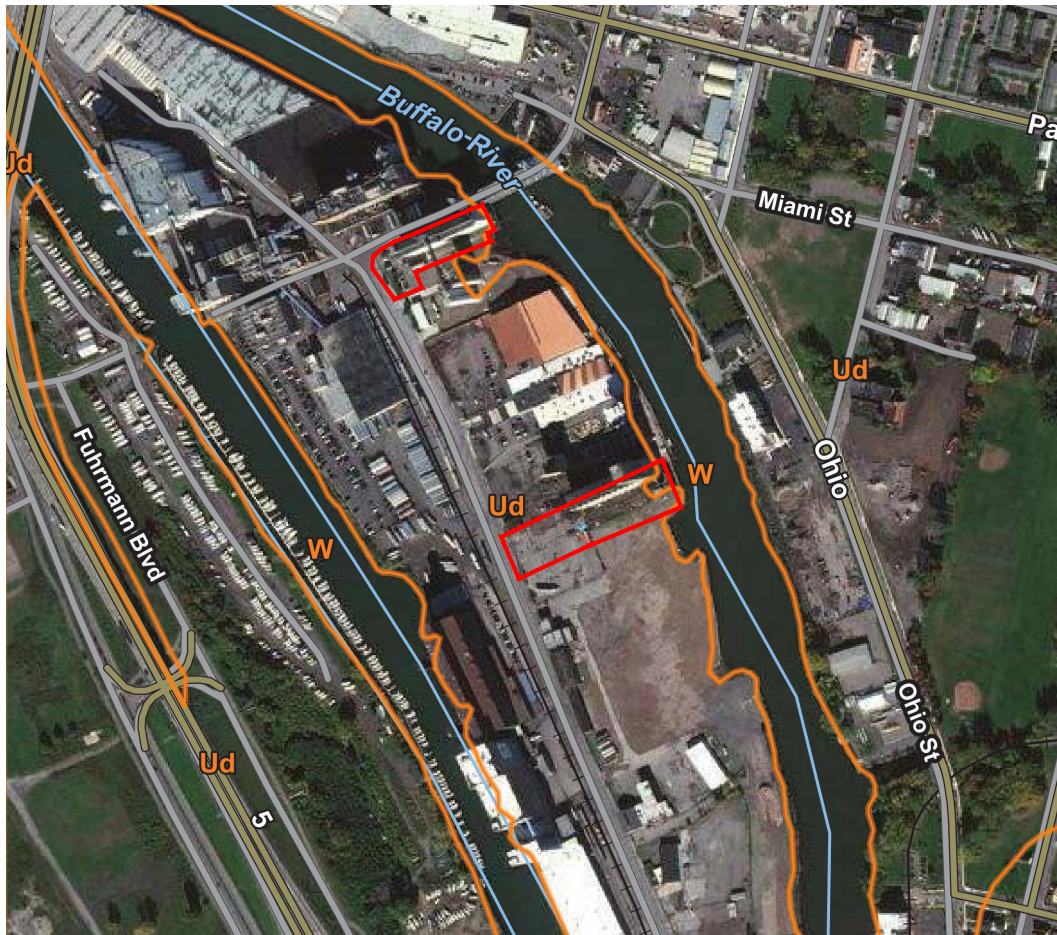
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FIGURE 11

Soil Map—Erie County, New York



Natural Resources
Conservation Service

Web Soil Survey
National Cooperative Soil Survey

LEGEND:

— BCP SITE BOUNDARY

MAP UNIT SYMBOL

Ud - URBAN LAND
W - WATER



SCALE: 1 INCH = 600 FEET
SCALE IN FEET
(approximate)



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

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DRAFTED BY: CCB

SOIL MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

BUFFALO RIVERWORKS SITE
BUFFALO, NEW YORK

PREPARED FOR
KETRY RE LLC

DISCLAIMER:
PROPERTY OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC. IMPORTANT: THIS DRAWING PRINT IS LOANED FOR MUTUAL ASSISTANCE AND AS SUCH IS SUBJECT TO RECALL AT ANY TIME. INFORMATION CONTAINED HEREON IS NOT TO BE DISCLOSED OR REPRODUCED IN ANY FORM FOR THE BENEFIT OF PARTIES OTHER THAN NECESSARY SUBCONTRACTORS & SUPPLIERS WITHOUT THE WRITTEN CONSENT OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC.

APPENDIX A

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**EXHIBIT A1 – KETRY RE LLC NYS CORPORATION & BUSINESS ENTITY
DATABASE INFORMATION**

EXHIBIT A2 - OWNER ORGANIZATIONAL CHART

EXHIBIT A3 –SIGNATURE RESOLUTION

**EXHIBIT A4 – CITY OF BUFFALO ONLINE ASSESSMENT ROLL SYSTEM
(OARS) TAX PARCEL DETAIL REPORT**

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SECTION I – REQUESTOR INFORMATION

Applicant, Ketry RE LLC, is authorized to conduct business in New York State. A copy of the New York State Corporation and Business Entity Database printout for Ketry RE LLC is attached as Exhibit A1.

Ketry RE LLC is the current owner of the Site. Mr. Earl Ketry is the sole member and owner of Ketry RE LLC. The organizational chart is attached as Exhibit A2.

Exhibit A3 is the Signature Resolution, which identifies Earl Ketry as the authorized member of Ketry RE LLC and the authorized person to execute documents or agreements necessary under the Brownfield Cleanup Program (BCP). Joe Jacobi will be the requestor's authorized representative for the project.

Benchmark Environmental Engineering and Science, PLLC (Benchmark), a registered NYS engineering firm, and licensed NYS Professional Engineer (PE) will be acting as the Engineer of Record for this BCP project.

SECTION II – PROJECT DESCRIPTION

Ketry RE LLC, acting as a Volunteer, is willing to complete additional investigation and remediate the Site (see Figures 1-4) under the NYS BCP and is submitting this BCP Application for eligibility acceptance into the program.

Ketry RE LLC has prepared a Remedial Investigation Work Plan (RIWP) for concurrent submittal with the BCP Application and is prepared to complete a Remedial Investigation (RI) upon acceptance into the BCP.

A preliminary project schedule is shown on Figure 5.

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The ±3-acre Site consists of a 1.1-acre Northern Property (395 Ganson Street) and a 1.9-acre Southern Property (323 and 339 Ganson Street). The redevelopment plans have not been finalized; however, the Volunteer plans to redevelop the entire ±3-acre Site in a commercial capacity including bait and tackle sporting store, first floor retail with 10-12 second floor apartment units, and a parking garage.

The Project will result in the remediation, redevelopment, and reuse of an environmentally-impacted Site located on Ganson Street in the City of Buffalo, New York.

SECTION III – PROPERTY’S ENVIRONMENTAL HISTORY

A summary of the previous environmental investigation findings completed for the Buffalo RiverWorks Site (hereinafter, the “Project Site” or the “Site”) is provided below.

Phase I Environmental Site Assessments

Benchmark completed two separate Phase I ESAs, one for the Northern Property and one for Southern Property, both dated, January 2019.

The following provides a summary of historic Site uses and recognized environmental conditions (RECs) identified for the planned BCP Site through Benchmark’s review of historic sources including Sanborn maps, city directories, regulatory documents and municipal records.

NORTHERN PROPERTY SUMMARY

Note that Benchmark’s Phase I ESA for the Northern Property, 395 Ganson Street, also included the south adjacent 389 Ganson Street; however, the 389 Ganson Street parcel is not currently part of the proposed BCP Site. Below is a summary of the RECs in relation to the 395 Ganson Street parcel (Northern Property).

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The history of the Northern Property is as follows:

Approximate Years	Reported or Suspected Use	Owner/Occupant
1889 to present	<p>Industrial. The Site has historically been used as a linseed oil factory/storage facility and a grain milling, storage, and processing operation. In addition, the Site historically included railroad tracks and a boat dock/slip (Kellogg Slip/Pratt and Wadham Slip) that was backfilled with fill materials from unknown origins.</p> <p>The Site has an extensive tank history. Historic Sanborn maps indicate the presence of process tanks such as multiple bulk linseed oil and other oil storage tanks. Municipal records indicate one 1,000-gallon gasoline underground storage tank (UST) installed in 1955 and one 4,000-gallon diesel fuel UST installed in 1959. Proper tank removal documentation is unavailable. An additional historic municipal record indicates ten 55-gallon oil drums located on-Site, presumably on the first floor room of the silo building.</p>	<p>Previous owners/occupants: Spencer Kellogg, N.Y.C.R.R. Co., A.M. McLeod, Buffalo Leasing Inc., Geo. J. Meyer Malt & Grain Corp., Division of Triangle Trans., F&M Schaefer Brewing Co., Esso, Buffalo Leasing Division of Triangle Trans. Co.</p> <p>Current Owner/occupant: Ketry RE LLC</p>

Benchmark's investigation revealed the following RECs in connection with the Northern Property:

- The long history of on-Site industrial operations with various associated equipment/materials, railroad tracks, process tanks, and the reasonably anticipated historic use and storage of hazardous/regulated materials.
- The Site has an extensive petroleum UST history; sufficient tank closure documentation is unavailable.
- Fill materials due to the potential for impacts, especially as a former dry dock/boat slip that covered a large portion of the Site was filled in with fill materials from unknown origins.
- Railroad tracks due to the potential for impacts.

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SOUTHERN PROPERTY SUMMARY

Note that Benchmark’s Phase I ESA and Phase II Environmental Investigation for the Southern Property also included the south adjacent parcel, 305 Ganson Street; however, this parcel is not currently part of the proposed BCP Site.

The history of the Southern Property is as follows:

Approximate Years	Reported or Suspected Use	Owner/Occupant
At least 1889 through 1935	The Site was a portion of a lumber yard with a planing mill and engine room in at least 1889 and a portion of a warehouse and shipyard operation with railroad tracks and former commercial/industrial buildings from at least 1889 through approx. 1935.	C.T. Wilson’s Lumber Yard, R. Mills Dry Docks and Shipyard, Commercial Transportation Co., and Buffalo Drydock Co.
At least 1935 to current	Industrial and commercial. The Site/existing buildings were a portion of the greater Co Operative GLF Mills Inc. with grain elevators, car pullers/motor houses, engine/motor rooms, and railroad tracks. The larger existing building was formerly used as a grain elevator (abandoned between 1968 and 1972) and remains vacant. The smaller existing building was formerly used as a firehouse and is currently used as a workshop and storage facility. In addition, historic on-Site operations included vehicle washing/pressure washing operations from at least 1998 through at least 2001.	Previous owners/operators include Merchant and Shippers, Spencer Kellogg Sons Co., J.W. Cowper, 339 Ganson Group LLC, 8112 Group Inc., Ontario Specialty Contracting Inc. Current owner/operator: Ketry RE LLC.

Two spill incidents were identified for 323 Ganson Street, as follows:

- Spill No. 9502204, dated May 1, 1995, involved a sheen on the Buffalo River from floor washing discharges into a storm drain that outflows into the river. New York State Department of Environmental Conservation (NYSDEC) memo notes further indicate housekeeping issues with oil changes, waste oil storage and an aboveground diesel tank. The spill is classified as “closed” by the NYSDEC.
- Spill No. 0111436, dated March 4, 2002, involved an oil release from a transformer and is classified as “closed” by the NYSDEC.

The spill incidents described above were associated with housekeeping issues and incidental spillage. Neither spill incident resulted in significant cleanup or remediation activities at the Site.

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Benchmark's investigation revealed the following RECs in connection with the Southern Property:

- The long history of on-Site industrial operations including a lumber yard, shipyard, grain silos/elevators and grain milling/malting with various associated equipment/materials, railroad tracks and the reasonably anticipated historic use and storage of hazardous/regulation materials. In addition, historic operations included vehicle wash/pressure wash operations and the 1995 spill incident detailed above (Spill No. 9502204) associated with the Site suggests vehicle repair with oil changes, etc.
- The capped suspect fill port as such is suspected by Benchmark to be associated with an UST.
- The miscellaneous piping noted at the Site as the nature of the pipes is unknown.
- Fill materials due to the potential for impacts, especially as a former dry dock/boat slip was filled in with fill materials from unknown origins.
- Railroad tracks due to the potential for impacts.

Phase II Environmental Investigation Report

Benchmark completed a Phase II Environmental Investigation over the entire planned BCP Site and documented the findings in a report, dated March 2019. As previously indicated, Benchmark's Phase II work included borings on the south adjacent 305 Ganson Street parcel; however, this parcel is not currently part of the planned BCP Site. Benchmark's Phase II on the planned BCP Site consisted of 15 direct-push soil borings (SBs) including nine soil borings completed on the Northern Property (NP SB-1 through NP SB-9) and six soil borings completed at the Southern Property (SP SB-1 through SP SB-3 and SP SB-7 through SP-SB-9). The locations are shown on Figure 6. Findings of the Benchmark Phase II are detailed below:

- The Site has a long commercial and industrial history with operations including a shipyard, grain silos/elevators, grain milling/malting, a linseed oil factory. Various equipment/materials, railroad tracks, process tanks and petroleum USTs were identified in connection with former operations. In addition, boat dock/slips located

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on-Site were previously backfilled and brought to grade with fill materials from unknown origins.

- The highest photoionization detector (PID) reading identified during the work (89.7 parts per million, ppm) was identified at NP SB-3 in a former boat dock/slip area. Black staining and petroleum-like odors were identified at NP SB-3. As further detailed below, low level volatile organic compound (VOC) exceedances were identified in soil/fill at NP SB-3. No analytical VOC concerns were identified in groundwater NP SB-3. The second highest PID reading (2.3 ppm) was identified proximate to a suspect fill port for a presumed UST (unknown location/disposition) at SP SB-9; slight petroleum-like odors were also noted.
- Benchmark's investigation identified non-native black granular fill materials consisting of cinders, brick, coal, concrete, and/or glass of varying thickness across the Site at depths ranging between 2 feet below ground surface (fbgs) and 13 fbgs. A minimal amount of slag was noted intermingled with fill material at certain borings (SP SB-3, NP SB-2, and NP SB-3).
- Analytical results indicate the presence of fill materials impacted by polycyclic aromatic hydrocarbons (PAHs) and metals across the Site with concentrations exceeding 6NYCRR Part 375 Unrestricted Soil Cleanup Objectives (USCOs), Commercial SCOs (CSCOs) and Industrial SCOs (ISCOs). To a lesser extent, VOCs were identified in soil/fill at concentrations exceeding NYSDEC Commissioner Policy 51 (CP-51) Soil Cleanup Levels (SCLs) and USCOs at NP SB-3.
- Polychlorinated biphenyls (PCBs) were not detected at concentrations above laboratory detection limits in the six soil/fill samples selected for analysis.
- VOC concentrations in groundwater samples were either not detected above laboratory detection limits or were at concentrations below Groundwater Quality Standards (GWQS).

Supplemental Phase II Activities

On May 9, 2019, Benchmark completed supplemental Phase II activities on the Southern Property consisting of advancement of nine additional direct-push soil borings designated SP SB-10, SP SB-14 through SP SB-16 and SP SB-17 through SP SB-21. Soil/fill samples were selected for laboratory analysis of PAHs and Resource Conservation and Recovery Act

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(RCRA) metals from four soil boring locations (SP SB-14 and SP SB-17 through SP SB-19) at depths ranging from 1 to 4 fbs.

Laboratory analytical results indicate one or more individual PAHs at concentrations exceeding USCOs, CSCOs and/or ISCOs in three of the four soil/fill samples at SP SB-14, SP SB-17, SP SB-18 and SP SB-19. The highest total PAH concentration of 2,695 milligrams per kilogram (mg/kg) was identified in a former boat slip area at SP SB-14.

Regarding metals, arsenic exceeds its ISCO at SP SB-14 and SP SB-19. Barium and chromium exceed their respective CSCOs at SP SB-14 and SP SB-19, respectively. Additional metals (i.e., cadmium, lead, mercury and/or silver) exceeded their respective USCOs in all soil/fill samples.

Environmental reports are provided as separate PDF files on the enclosed CD.

SECTION IV – PROPERTY INFORMATION

Parcel Description

The Buffalo RiverWorks Site, subject to this BCP Application, is located in a highly developed commercial and industrial area in the City of Buffalo, Erie County, New York (see Figures 1 and 2). The Site totals approximately ± 3 -acres (± 1.1 -acre Northern Property, ± 1.9 -acre Southern Property). The Site is currently improved with three structures; Building 1 is located on the Northern Property and Buildings 2 and 3 are located on the Southern Property. The ± 3 -acre Site consists of three parcels as follows:

Northern Property

- 395 Ganson Street, SBL 122.09-2-1.2, 1.1-acres

Southern Property

- 323 Ganson Street, SBL 122.09-2-10, 0.6-acres
- 339 Ganson Street, SBL 122.09-2-2.111, 1.3-acres

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The City of Buffalo Online Assessment Roll System (OARS) tax parcel detail reports for the Site parcels are provided for reference in Exhibit A4.

According to NYSDEC Environmental Zone (EN-Zone) mapping, the Site is located in the US Census Tract 5 and is a NYS designated EN-Zone Type A (see Figure 7), which is indicative of the economic conditions of the surrounding area. Type A EN-Zones include a poverty rate of at least 20% and unemployment rate of at least 125% of the State average. within an EN-Zone area.

The Site is located within the limits of the Buffalo River Corridor Brownfield Opportunity Area (see Figure 8).

The Site was not identified in the NYSDEC Petroleum Bulk Storage (PBS) or Remediation databases.

Easements and Permits

Ketry RE LLC is not aware of any formal enforcement action, civil judicial or administrative enforcement cases in connection with the subject property. In addition, based on information gathered to date, there are no institutional controls recorded for the Site. Utilities are located in the right-of-ways along Ganson Street and Michigan Street located west and north of the Site, respectively. The Site is supplied with municipal sanitary sewer, electric, natural-gas, and public potable water. Ketry RE LLC is not aware of any other easements or restrictions on the Site.

Location

The Site is located along Ganson Street and the Buffalo River in a highly developed commercial and industrial area of the City of Buffalo, Erie County, New York.

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Site Features

The Site is currently improved with three structures; Building 1 is located on the Northern Property and Buildings 2 and 3 are located on the Southern Property. Building 1 is a vacant grain silo/elevator and storage facility, Building 2 is a workshop and storage facility, and Building 3 is a vacant grain silo/elevator and storage facility. Portions of Building 3 are currently used for recreational purposes. The remainder of the Site includes asphalt areas, gravel areas, and to a lesser extent, green space on the Northern Property of the Site. A portion of the Buffalo River is located east adjacent to the Site. Railroad tracks are located west of the Site.

Zoning and Land Use

As detailed above, the Site is primarily vacant/unoccupied at this time except for portions of the existing buildings being used for a workshop, storage and recreational purposes. According to the City of Buffalo Property Viewer Application, the Northern Property project area is zoned as Heavy Industrial (D-IH) and the Southern Property project area is zoned as Light Industrial (D-IL) (Figure 9). Allowable uses under these zoning classifications, as per City of Buffalo, Chapter 496, Unified Development Ordinance (January 2017), include industrial and commercial uses such as civic, lodging, retail and service, employment, agricultural, transportation, and infrastructure. As such, the planned reuse of the Site in a commercial capacity is consistent with the City of Buffalo Green Code, Land Use Plan (January 2017) zoning for the area.

The Site is bordered by industrial properties to the north and south, Ganson Street, industrial facilities, and railroad tracks to the west, and the Buffalo River to the east (see Figure 4). Adjacent property owners are identified on Figure 10.

Past Use of the Site

The Site has a long commercial and industrial history with operations including lumber yards, dry docks/shipyards, grain silos/elevators, grain milling/malting, and a linseed oil

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factory. Various equipment/materials, railroad tracks, process tanks and petroleum USTs were identified in connection with former operations (a suspect fill port for an unknown UST remains at 323 Ganson Street). In addition, boat dock/slips located on-Site were previously backfilled and brought to grade with fill materials from unknown origins.

Site Geology and Hydrogeology

The Site is located within the Lake Erie-Niagara River major drainage basin, which is typified by little topographic relief that gently slopes westward towards Lake Erie and the Buffalo River, except in the immediate vicinity of major drainage ways. According to the United States Department of Agriculture (USDA) Web soil survey, Site soils are characterized as Urban Land (Ud) (see Figure 11). Soils characterized as urban land (Ud) are covered by asphalt, concrete, buildings, or other impervious structures, typical of an urban environment. Previous investigations have identified the Site geology as non-native black granular fill materials of varying thickness across the Site at depths ranging between 2 fbgs and 13 fbgs overlying native soils consisting of sandy lean clay to a depth of at least 28 fbgs. Fill materials encountered during this investigation consisted of gravel or clay with sand and/or black granular material mixed with cinders, brick, coal, concrete, and/or glass. A minimal amount of slag was noted intermingled with fill material at certain borings (SP SB-3, NP SB-2, and NP SB-3).

Groundwater was encountered during the drilling work at all soil borings at varying depths generally ranging between 3 fbgs to 9 fbgs. Bedrock was not encountered during the work. Groundwater flow is likely to the east toward the Buffalo River. Local groundwater flow, however, may be influenced by subsurface features, such as excavations, utilities, and localized fill-conditions.

Additional work is required to investigate groundwater flow direction and quality at the Site. Additional monitoring wells to assess and characterize groundwater flow patterns and quality are planned to be installed during the Remedial Investigation.

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Environmental Assessment Narrative

The Site has a long commercial and industrial history with operations including lumber yards, a shipyard, grain silos/elevators, grain milling/malting, and a linseed oil factory. Various equipment/materials, railroad tracks, process tanks and petroleum USTs were identified in connection with former operations. In addition, boat dock/slips located on-Site were previously backfilled and brought to grade with fill materials from unknown origins.

The Site is underlain by urban fill impacted by PAHs and metals yielding concentrations above 6NYCRR Part 375 USCOs, CSCOs and/or ISCOs. To a lesser extent, elevated PID readings were identified at NP SB-3 (89.7 ppm) proximate to the former boat dock/slip area and at SP SB-9 (2.3 ppm) proximate to a suspect fill port for a presumed UST (unknown location/disposition). Low levels of VOC exceedances were identified in soil/fill at NP SB-3, and no analytical VOC concerns were identified in groundwater NP SB-3. The impacts identified at the Site are reasonably attributed to historic operations, tanks and backfill materials from unknown origins. Figure 6 summarizes environmental impacts at the Site. Additional information relative to environmental impacts at the Site is provided below:

Soil – Benchmark completed a Phase II investigation in February 2019 and a supplemental Phase II in June 2019 (discussed in Section III of Appendix A). The laboratory analytical results indicate elevated concentrations of PAHs and metals exceeding the CSCOs and ISCOs (i.e., the applicable SCOs for the intended Site reuse), as follows:

PAHs

Laboratory analytical results detected PAHs at or above their respective Part 375 CSCOs or ISCOs at six investigation locations, NP SB-5, SP SB-2, SP SB-3, SP SB-14, SP SB-17, SP SB-18. The contaminants and their respective exceedances were identified in the soil/fill material at these locations.

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- Benzo(a)anthracene exceeded its CSCO at one location (SP SB-3) and exceeded its ISCO at two locations (NP SB-5 and SP SB-14).
- Benzo(a)pyrene exceeded its ISCO at six locations (NP SB-5, SP SB-2, SP SB-3, SP SB-14, SP SB-17, SP SB-18).
- Benzo(b)fluoranthene exceeded its CSCO at one location (SP SB-3) and exceeded its ISCO at two locations (NP SB-5 and SP SB-14).
- Dibenzo(a,h)anthracene exceeded its ISCO at two locations (SP SB-3 and SP SB-14).
- Indeno(1,2,3-cd)pyrene exceeded its CSCO at one location (NP SB-5) and exceeded its ISCO at one location (SP SB-14).
- Benzo(k)fluoranthene exceeded its CSCO at one location (SP SB-14).
- Chrysene exceeded its ISCO at one location (SP SB-14).

Metal Analytes

Metal analytes were detected above their respective CSCOs and/or ISCOs at four investigation locations, NP SB-4, NP SB-9, SP SB-14, and SP SB-19.

- Arsenic exceeded its ISCO at four locations (NP SB-4, NP SB-9, SP SB-14, and SP SB-19).
- Barium exceeded its CSCO at one location (SP SB-14).
- Chromium exceeded its CSCO at one location (SP SB-19).

VOC Analytes

VOCs including 1,4-dichlorobenzene, chlorobenzene, and methylene chloride were detected above their respective USCOs at NP SB-3. Total xylenes, a petroleum-related VOC, exceeded its respective CP-51 SCL and USCO at NP SB-3.

Groundwater – No VOCs were identified in groundwater at concentrations above Class GA GWQS.

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through June 18, 2019.

Selected Entity Name: KETRY RE LLC

Selected Entity Status Information

Current Entity Name: KETRY RE LLC

DOS ID #: 5401610

Initial DOS Filing Date: AUGUST 29, 2018

County: ERIE

Jurisdiction: NEW YORK

Entity Type: DOMESTIC LIMITED LIABILITY COMPANY

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

KETRY RE LLC

278 MAIN ST.

WEST SENECA, NEW YORK, 14224

Registered Agent

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this

information is not recorded and only available by
[viewing the certificate.](#)

***Stock Information**

# of Shares	Type of Stock	\$ Value per Share
No Information Available		

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
AUG 29, 2018	Actual	KETRY RE LLC

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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BUFFALO RIVERWORKS SITE

ORGANIZATIONAL CHART

Volunteer Applicant - Property Owner

KETRY RE LLC

278 MAIN STREET
WEST SENECA, NEW YORK 14224

Managing Member/Owner

EARL KETRY

278 MAIN STREET
WEST SENECA, NEW YORK 14224

KETRY RE LLC

UNANIMOUS WRITTEN CONSENT OF MEMBERS

July 20, 2019

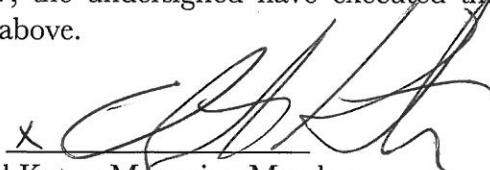
The undersigned being the holder of all of the membership interest of **KETRY RE LLC**, a New York limited liability company (the "**Company**"), hereby jointly consent to the adoption of the following resolutions without a meeting and direct that this Consent be filed with the minutes of the Company:

RESOLVED, that Earl Ketry (an "**Authorized Person**") be, and hereby is, authorized, directed, and empowered, acting alone, in the name or on behalf of the Corporation, to execute the Brownfield Cleanup Program ("**BCP**") Application, the BCP Agreement, or any other documents or agreements necessary to enter and participate in the New York State Department of Environmental Conservation's Brownfield Cleanup Program (Environmental Conservation Law Article 27, Title 14) for property located at 323, 339, and 395 Ganson Street (SBL Nos. 122.09-2-10, 122.09-2-2.111, and 122.09-2-1.2, respectively), Buffalo, New York; and be it further

RESOLVED, that the Authorized Person is hereby authorized, empowered and directed to take all such action on behalf of the Corporation as they may deem necessary, appropriate or advisable to carry out the intent and purposes of the foregoing resolutions; and be it further

RESOLVED, that any acts of any officer of the Corporation and of any persons designated and authorized to act by any such officer of the Corporation, which acts would have been authorized by the foregoing resolutions except that such acts were taken prior to the adoption of such resolutions, are hereby severally ratified, confirmed, approved and adopted as acts of the Corporation.

IN WITNESS WHEREOF, the undersigned have executed this Unanimous Written Consent as of the date first set forth above.


x _____
Earl Ketry, Managing Member



Property: 323 GANSON, Buffalo, 14203
SWIS: 140200 SBL: 122.09-2-10

Assessment	
Total	\$33,000.00
Total Land	\$13,000.00
County Taxable (Erie)	\$33,000.00
Town Taxable	\$33,000.00
School Taxable	\$33,000.00
Village Taxable	\$0.00
Equalization Rate	68%
Level of Assessment	64%
Full Market Value	\$51,562.50

Structure		Property Description	
Site 1 of 1		Type	Commercial
Building 1 of 2		Use	449 - Other Storage
Section 1 of 1		Ownership Code	-
		Zoning	D-IL
		Road Type	-
		Water Supply	3 - Comm/public
		Utilities	4 - Gas & elec
		School District	Buffalo School - 140200
		Neighborhood Code	8400
		Census Tract	
		Council	
Boeck # - Description	0212 - 1 sty office load sup		
Construction Quality	2		
Gross Floor Area	2123		
Number of Stories	1		
Story Height	14		
Year Built / Effective Year Built	1935 / 1935		
Condition	3 - Normal		
Building Perimeter	183		
Basement Perimeter	0		
Basement SQFT	0		
Number of Elevators	0		
Air Conditioning %	0		
Sprinkler %	0		
		Last Property Sale	
		Sale Date	9/26/2018 11:54:15 AM
		Sale Price	\$1,800,000.00
		Useable Sale	YES
		Arms Length	YES
		Prior Owner Name	8112 Group Inc,
		Deed Book	11335
		Deed Page	23
		Deed Date	9/26/2018

Commercial Site Uses			
Site #	Commercial Use	Total Units	Total Rentable Area (sqft.)
1	Dstr warehouse	1	4,800
1	Parking lot	77	0
1	Walk-up off	1	2,123

Improvements						
Site #	Description	Quantity	Condition	Year Built	SQFT	Dimensions
1	LP4 - Pavng-asphalt	0	Normal	1935	17300	0X0

Land						
Site #	Land Type	Acres	Front	Depth	SQFT	Soil Rating
1	01 - Primary	0.65	124	0	28402	Land: 1 Rating:

Owner Information					
Owner Name	Address 1	Address 2	Unit Name	Unit Number	City/State/Zip
Ketry RE LLC,	278 Main St				West Seneca NY 14224

Exemptions					
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Code Description	Amount	Exemption %	Start Year	End Year
No Exemptions				
Special Districts				
Code Description	Type	Primary Units	Secondary Units	Amount
SEWER - Sewer	A	0	0	\$33,000.00



Property: 339 GANSON, Buffalo, 14203
SWIS: 140200 SBL: 122.09-2-2.111

Assessment	
Total	\$36,150.00
Total Land	\$27,300.00
County Taxable (Erie)	\$36,150.00
Town Taxable	\$36,150.00
School Taxable	\$36,150.00
Village Taxable	\$0.00
Equalization Rate	68%
Level of Assessment	64%
Full Market Value	\$56,484.38

Structure		Property Description	
Site 1 of 1		Type	Industrial
Building 1 of 0		Use	710 - Manufacture
Section 1 of 0		Ownership Code	-
		Zoning	D-IL
		Road Type	-
		Water Supply	3 - Comm/public
		Utilities	4 - Gas & elec
		School District	Buffalo School - 140200
		Neighborhood Code	8400
		Census Tract	
		Council	
Boeck # - Description	-	Last Property Sale	
Construction Quality		Sale Date	
Gross Floor Area		Sale Price	
Number of Stories		Useable Sale	NO
Story Height		Arms Length	NO
Year Built / Effective Year Built	/	Prior Owner Name	
Condition	-	Deed Book	
Building Perimeter		Deed Page	
Basement Perimeter		Deed Date	
Basement SQFT			
Number of Elevators			
Air Conditioning %			
Sprinkler %			

Commerical Site Uses			
Site #	Commercial Use	Total Units	Total Rentable Area (sqft.)
1	Row storage	36	389,408
1	Parking lot	7	0

Improvements						
Site #	Description	Quantity	Condition	Year Built	SQFT	Dimensions
1	LP4 - Pavng-asphlt	1	Normal	2016	1640	0X0

Land						
Site #	Land Type	Acres	Front	Depth	SQFT	Soil Rating
1	01 - Primary	1.3	0	0	56628	Land: 1 Rating:

Owner Information					
Owner Name	Address 1	Address 2	Unit Name	Unit Number	City/State/Zip
Ketry RE LLC,	278 Main St				West Seneca NY 14224

Exemptions				
Code Description	Amount	Exemption %	Start Year	End Year

No Exemptions				
Special Districts				
Code Description	Type	Primary Units	Secondary Units	Amount
SEWER - Sewer	A	0	0	\$36,150.00



Property: 395 GANSON, Buffalo, 14203
SWIS: 140200 SBL: 122.09-2-1.2

Assessment	
Total	\$200,000.00
Total Land	\$50,000.00
County Taxable (Erie)	\$200,000.00
Town Taxable	\$200,000.00
School Taxable	\$200,000.00
Village Taxable	\$0.00
Equalization Rate	68%
Level of Assessment	64%
Full Market Value	\$312,500.00

Structure	
Site 1 of 1	
Building 1 of 1	
Section 1 of 1	
Boeck # - Description	0884 - Heavy indust warehouse conc
Construction Quality	2
Gross Floor Area	19040
Number of Stories	1
Story Height	20
Year Built / Effective Year Built	1965 / 1965
Condition	1 - Poor
Building Perimeter	794
Basement Perimeter	0
Basement SQFT	0
Number of Elevators	0
Air Conditioning %	0
Sprinkler %	0

Property Description	
Type	Industrial
Use	710 - Manufacture
Ownership Code	-
Zoning	D-IH
Road Type	-
Water Supply	3 - Comm/public
Utilities	4 - Gas & elec
School District	Buffalo School - 140200
Neighborhood Code	8400
Census Tract	
Council	

Last Property Sale	
Sale Date	9/25/2018 9:46:37 AM
Sale Price	\$345,000.00
Useable Sale	YES
Arms Length	YES
Prior Owner Name	Sandstone Springs LLC,
Deed Book	11334
Deed Page	8974
Deed Date	9/25/2018

Commerical Site Uses			
Site #	Commercial Use	Total Units	Total Rentable Area (sqft.)
1	Elevators	1	297,856

Improvements						
Site #	Description	Quantity	Condition	Year Built	SQFT	Dimensions
1	FS1 - Silo-con stv	1	Poor	1961	895000	895000X1

Land						
Site #	Land Type	Acres	Front	Depth	SQFT	Soil Rating
1	01 - Primary	1.09	0	0	47480	Land: 1 Rating:

Owner Information					
Owner Name	Address 1	Address 2	Unit Name	Unit Number	City/State/Zip
Ketry RE LLC,	278 Main St				West Seneca NY 14224

Exemptions				
Code Description	Amount	Exemption %	Start Year	End Year
No Exemptions				

Special Districts				
Code Description	Type	Primary Units	Secondary Units	Amount
SEWER - Sewer	A	0	0	\$200,000.00

APPENDIX B

BCP APPLICATION PART B – SECTION V - XI

SECTION VI – CURRENT PROPERTY OWNER/OPERATOR INFORMATION

SECTION VII – REQUESTOR ELIGIBILITY

SECTION IX – CONTACT LIST

SECTION X – LAND USE FACTORS

EXHIBIT B1 - DOCUMENT REPOSITORY CONFIRMATION

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BCP Application – Part B
Section V – Section X
Buffalo RiverWorks Site

SECTION VI – CURRENT PROPERTY OWNER/OPERATOR INFORMATION

Reasonable attempts were made to attain complete information regarding current and previous site owners and operators. Available information for the current and previous owners/operators is provided in the table below, as available.

Property Owner/Occupant Information	Approx. Date(s)	Relationship to Applicant
Ketry RE LLC - Owner 278 Main Street West Seneca, NY 14224 (323, 339, 395 Ganson Street)	September 2018 ~ Current	Applicant/Owner
339 Ganson Group LLC (323 & 339) - Owner Sandstone Springs LLC (395) - Owner	April 2018 ~ September 2018	None – No relationship
8112 Group LLC (323 & 339) - Owner Sandstone Springs LLC (395) - Owner	2015 ~ April 2018	None – No relationship
Great Lakes Fishing Inc. (323 & 339) - Owner Sandstone Springs LLC (395) - Owner	2013 ~ 2015	None – No relationship
Great Lakes Fishing Inc. (323) - Owner Not Listed (339 & 395)	2009 ~ 2013	None – No relationship
Ontario Specialty Contracting Inc. (323) - Owner Contractors Equipment Rental (323) - Occupant Not Listed (339 & 395)	2008 ~ 2009	None – No relationship
A Plus Pressure Wash/Rose Industrial Services/Truck Services of Hamburg (323) - Occupant Not Listed (339 & 395)	2003 ~ 2008	None – No relationship
A Plus Pressure Wash/Rose Industrial Services/Truck Services of Hamburg (323) - Occupant Great Lakes Fishing Club (339) - Owner Not Listed (395)	2002 ~ 2003	None – No relationship
A Plus Pressure Wash/Rose Industrial Services/Truck Services of Hamburg (323) - Occupant Great Lakes Fishing Club (339) – Owner and Occupant Not Listed (395)	2001 ~ 2002	None – No relationship

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Roses Pressure Wash (323) - Occupant Great Lakes Fishing Club (339) – Owner Not Listed (395)	1998 ~ 2001	None – No relationship
Integrated Waste Systems Rolloff Division (323) - Occupant Great Lakes Fishing Club -(339) – Owner and Occupant Not Listed (395)	1992 ~ 1998	None – No relationship
Vacant (323) Great Lakes Fishing Club (339) – Owner and Occupant Not Listed (395)	1989 ~ 1992	None- No relationship
Vacant (323) Not Listed (339 & 395)	1985 ~ 1989	None – No Relationship
Not Listed (323 & 395) Eastern Weigh & Inspection Bureau (339) – Occupant	1946 ~ 1985	None – No relationship
Not Listed (323 & 395) Paget Car Cooperage Co (339) - Occupant	1935 ~ 1946	None – No relationship
Not Listed (323 & 395) Niagara Frontier Car Inspection (339) - Occupant	1930 ~ 1935	None – No relationship

SECTION VII – REQUESTOR ELIGIBILITY INFORMATION

The Applicant, Ketry RE LLC, qualifies as a “Volunteer” in accordance with NY ECL 27-1405(1)(b) and 6NYCRR 375-3.2(b)(2).

PAH and metal impacts are present at the Site. To a lesser extent, VOC impacts are also present at the Site. The impacts identified at the Site are reasonably attributed to fill materials from unknown origins and historic industrial operations.

Since the Applicant and its member became involved with the property after disposal or discharge of contaminants, and has no relationship with the previous owners/operators of the Site, Ketry RE LLC is entitled to Volunteer status under NY ECL27-1405(1)(b).

Regarding Item 11 related to the presence of a storage tank, an unknown capped pipe, possibly a fill port for an unregistered UST, is present on the Southern Property west of Building 2. As detailed in the RI Work Plan, the nature of this pipe will be further assessed via line tracing methodology.

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SECTION IX – CONTACT LIST INFORMATION

Site Contact List

The following is the contact list for the subject property. Each contact will be sent fact sheets throughout the project's duration.

Erie County Contacts:

Honorable Mark Poloncarz
Erie County Executive
95 Franklin Street
Buffalo, NY 14202

Erie County Legislator Lynne Dixon
District 9
92 Franklin Street
Buffalo, NY 14202

Commissioner Thomas R. Hersey, Jr.
Erie Co. Environment & Planning
95 Franklin Street
Buffalo, NY 14202

Mr. Paul Kranz
Erie Co. Environment & Plan.
95 Franklin Street
Buffalo, NY 14202

Mr. Robert M. Graber
Erie County Legislature Clerk
25 Delaware Avenue
Buffalo, NY 14202

Mr. Steve Weathers
ECIDA
95 Perry Street
Buffalo, NY 14203

Commissioner Gale Burstein, MD
Erie County Health Department
95 Franklin Street, Room 931
Buffalo, NY 14202

Commissioner Daniel Neaverth, Jr.
Erie County Local Emergency
45 Elm Street
Buffalo, NY 14203

City of Buffalo Contacts:

Byron Brown, Mayor
City of Buffalo
65 Niagara Sq
Buffalo, NY 14219

David A. Rivera
Niagara District Councilmember
1504 City Hall
Buffalo, NY 14202

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James K. Morrell, Chairman
City of Buffalo
Planning Board
901 City Hall
Buffalo, NY 14219

Supplier of Potable Water:

Erie County Water Authority
295 Main Street #350
Buffalo, NY 14203

Local News Media:

Buffalo News
ATTN: Ms. Aaron Besecker
1 News Plaza
Buffalo, NY 14240

WGRZ TV - Ch. 2
ATTN: Ms. Maria Sisti
259 Delaware Avenue
Buffalo, NY 14202

WIVB - Ch. 4
2077 Elmwood Avenue
Buffalo, NY 14207

WKBW News Channel 7
7 Broadcast Plaza
Buffalo, NY 14202

WJYE
ATTN: Environmental News Desk
1700 Rand Building
Buffalo, NY 14203

Business First
ATTN: Anne Marie Franczyk
465 Main Street
Buffalo, NY 14203-1793

WBEN News Radio 930
Entercom Radio of Buffalo
500 Corporate Pkwy, Suite 200
Buffalo, NY 14226

WNED, Environmental News Desk
P.O. Box 1263, Horizons Plaza
Buffalo, NY 14240

Other Interested Parties:

WNY Director

APPENDIX B
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Buffalo RiverWorks Site

Citizens Environmental Coalition
543 Franklin Street
Buffalo, NY 14202-1109

Document Repository:

Ms. April Tompkins
Re: Repository Documents
Buffalo & Erie County Public Library
1 Lafayette Square
Buffalo, NY 14203

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Adjacent Property Owners

Information for the residents, owners, and occupants of the properties adjacent to the Site are provided in the table below (see Figure 10).

Adjacent Property Address			Property Owner Mailing Address
No.	Street	Property Use	
389	Ganson	Commercial - Manufacture	St Marys Cement Inc (US) 55 Industrial Street Toronto, ON M4G 3W9 Canada
343	Ganson	Commercial - Manufacture	Buffalo RiverWorks LLC 278 Main Street West Seneca, NY 14224
305	Ganson	Commercial – Parking Lot	GS Real Estate WNY LLC 333 Ganson Street Buffalo, NY 14203
309	Ganson	Industrial - Vacant	Ganson Group LLC 295 Main Street Buffalo, NY 14203
95	Michigan South	Commercial - Railroad	Con-Rail BFLO CRK RR PO Box 8499 Philadelphia, PA 19103
275	Ganson	Industrial - Vacant	2018 Group LLC 295 Main Street Buffalo, NY 14203

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201	Ganson	Commercial - Warehouse	Ganson Group LLC 295 Main Street Buffalo, NY 14203
420	Ganson	Industrial - Vacant	General Mills Properties PO Box 1113 Minneapolis, MN 55440 1113
7	Michigan South	Commercial - Manufacture	General Mills Properties PO Box 1113 Minneapolis, MN 55440 1113
85	Buffalo River	Industrial - Vacant	City of Buffalo 1202 City Hall Buffalo, NY 14202

Document Repository

The Buffalo and Erie County Library – Central Branch has agreed to act as the document repository for the proposed BCP Site. A letter of acknowledgement from the repository is included in Exhibit B1.

SECTION X – LAND USE FACTORS

1 – Current Zoning

The current zoning for the Site is D-IL - Light Industrial (parcels 323, and 339 Ganson Street) and D-IH – Heavy Industrial (parcel 395 Ganson Street) (see Figure 9). The planned redevelopment is consistent with the City of Buffalo Green Code assigned zoning.

2 – Current/Historic Use

The Site is improved with three structures; Building 1 is located on the Northern Property and Buildings 2 and 3 are located on the Southern Property. Building 1 is a vacant grain silo/elevator and storage facility, Building 2 is a workshop and storage facility, and Building 3 is a vacant grain silo/elevator and storage facility. Historic grain silo/elevator operations within Buildings 1 and 3 apparently ceased in the 1980s. Portions of Building 3 are currently

APPENDIX B
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Buffalo RiverWorks Site

used for recreational purposes. The remainder of the Site includes asphalt areas, gravel areas, and to a lesser extent, green space on the Northern Property of the Site. A portion of the Buffalo River is located east adjacent to the Site.

Based on historic records and previous studies, the Site has a long commercial and industrial history with operations including lumber yards (at least 1889), dry docks/shipyards (at least 1889 through at least 1925), grain silos/elevators with grain milling/malting (at least 1889 through the 1980s), and a linseed oil factory (at least 1925 through at least 1951). Various equipment/materials, railroad tracks, process tanks and petroleum USTs were identified in connection with former operations (a suspect fill port for an unknown UST remains at 323 Ganson Street). In addition, boat dock/slips located on-Site were previously backfilled and brought to grade with fill materials from unknown origins. The Site is underlain by urban fill impacted by PAHs and metals yielding concentrations above 6NYCRR Part 375 CSCOs and ISCOs. To a lesser extent, soil/fill on the southeast portion of the Northern Property is impacted by VOCs above their respective CP-51 SCLs/USCOs. No VOC impacts were identified in groundwater at the Site. The impacts identified at the Site are reasonably attributed to historic industrial operations and fill materials from unknown origins.

3, 4, 5 and 6 – Planned Future Use

The anticipated future intended Site use will include a bait and tackle sporting store, retail with 10-12 second floor apartment units, and a parking garage.

The intended future Site use in a commercial capacity is consistent with current and anticipated future zoning. The Site and surrounding properties have a commercial and industrial history. The proposed project supports recent development patterns and current land use requirements.



June 24, 2019

Ms. Carol Ann Batt
Chief Operating Officer
Buffalo & Erie County Public Library
1 Lafayette Square
Buffalo, NY 14203

Re: Document Repository for Brownfield Cleanup Program
Buffalo RiverWorks Site
Buffalo, New York

Dear Ms. Batt:

On behalf of our client, Benchmark Environmental Engineering & Science, PLLC would like to request the Buffalo & Erie County Public Library – Central Branch to act as the document repository for the above-referenced Site. In the future, we will be sending various documents relating to the Site that should be made available for public review upon request.

Please contact me if you have questions or require additional information.

Sincerely,
Benchmark Environmental Engineering & Science, PLLC

A handwritten signature in blue ink, appearing to read 'C. Bukowski'.

Caroline Bukowski
Environmental Engineer

File: B0476-018-001

www.benchmarkturnkey.com

2558 Hamburg Turnpike, Suite 300 | Buffalo, NY 14218
phone: (716) 856-0599 | fax: (716) 856-0583

From: [April Tompkins](#)
To: [Caroline C. Bukowski](#)
Subject: FW: Document Repository Request - Buffalo RiverWorks Site
Date: Thursday, June 27, 2019 4:52:27 PM
Attachments: [B1-Documnet Repository Request Central Branch.pdf](#)

Good afternoon Caroline,

Per your request, this is to inform you that the Buffalo and Erie County Public Library will be the repository for all document(s) submitted by your company for the Brownfield Cleanup Program at the **Buffalo RiverWorks Site, Buffalo, New York**. These documents will be made available for public review at the Central (downtown) Public Library and/or any other library of your choice. Please refer to our procedure below.

We prefer that you do not take documents to individual libraries. Please bring or send your document(s) to the Central Library and we will process according to our procedure and distribute to the location of your choice.

Please keep the following in mind:

- Documents (including updates) for public review should be either brought in person (to my attention) to the Central Library's administrative reception desk located on the second floor or sent via mail carrier. Documents sent via e-mail will not be accepted. The mailing address is:

Attention: April Tompkins
Re: Repository Documents
Buffalo and Erie County Public Library
1 Lafayette Square
Buffalo, NY 14203

Note: Please remove (and inform your colleagues) Carol Batt's name and title from future correspondence (attachments, etc.) and replace with my mailing address information above. Carol retired and is no longer with the Library.

- Documents for the Central/Downtown library are made available on the first floor in the Information Services Department within a day or two after receipt. If received by Friday morning, they are usually made available the following Monday.
- If you would like the document(s) distributed at **libraries other than Central**, you will need to send or give us the appropriate quantity of copies with labels regarding their destination(s). We will distribution accordingly. We do not make copies for distribution.
- You have the choice regarding the format (hard copy print and / or disk) you wish to submit. If submitting in both formats, please be sure that they are titled/labeled accordingly. **If CD's are included, please secure to the corresponding printed document(s) to prevent it from**

getting lost or separated. Although CD-ROMs cannot be used on public library computers, patrons may bring in their personal laptop to view the disc in-house. If optional, an alternative is the availability to go online using a provided link for patrons to read/review/print. Patrons are not allowed to take original repository documents out of the Library.

If you still have any questions/concerns, please feel free to contact me by replying to this e-mail or by phone at 716-858-7129. Thank you.

Regards,
April

April Tompkins, Sr. Library Clerk
Office of Chief Operating Officer & Technical Support
Buffalo and Erie County Public Library
1 Lafayette Square | Buffalo, NY 14203
Voice: 716-858-7129 | Fax: 716-858-6211
E-mail: tompkinsa@buffalolib.org

From: Caroline C. Bukowski <CBukowski@benchmarkturnkey.com>
Sent: Monday, June 24, 2019 12:51 PM
To: April Tompkins <tompkinsa@buffalolib.org>
Subject: Document Repository Request - Buffalo RiverWorks Site

April,

Attached is a letter of transmittal request that the Buffalo and Erie County Library act as the document repository for the **Buffalo RiverWorks Site**. Please respond at your earliest convenience. Let me know if you have any questions.

Thank you,
Caroline

Caroline C. Bukowski
Engineer

Benchmark Environmental Engineering & Science, PLLC
2558 Hamburg Turnpike, Suite 300, Buffalo, NY 14218
www.benchmarkees.com

Phone: (716) 856-0599
Direct Dial: (716) 331-0625
Facsimile: (716) 856-0583
E-mail: cbukowski@benchmarkees.com

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