

Brownfield Cleanup Program Application

*592 Seneca Street Site
Buffalo, New York*

March 2021

0538-020-001

Prepared For:

Swan Street Railyard, LLC



Prepared By:



**Brownfield Cleanup Program Application
592 Seneca Street Site**

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Copies of the previous investigation(s) are provided in a separate folder on the full electronic submittal CD.



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 11*

Section I. Requestor Information - See Instructions for Further Guidance

DEC USE ONLY
BCP SITE #:

NAME Swan Street Railyard, LLC

ADDRESS 500 Seneca Street, Suite 504

CITY/TOWN Buffalo

ZIP CODE 14210

PHONE 716-845-6760

FAX 716-845-6764

E-MAIL cslater@cslaterlaw.com

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 that the site requires remediation and 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). Please do not submit paper copies of supporting documents.**

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	PAHs		
Metals	X		
Pesticides			
PCBs			
Other*			

*Please describe: _____

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

- **SAMPLE LOCATION** [See Appendix A; Section III](#)
- **DATE OF SAMPLING EVENT**
- **KEY CONTAMINANTS AND CONCENTRATION DETECTED**
- **FOR SOIL, HIGHLIGHT IF ABOVE REASONABLY ANTICIPATED USE** [See Figure 6](#)
- **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**

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):**

- | | | | |
|---|--|---|--|
| <input type="checkbox"/> Coal Gas Manufacturing | <input type="checkbox"/> Manufacturing | <input type="checkbox"/> Agricultural Co-op | <input type="checkbox"/> Dry Cleaner |
| <input type="checkbox"/> Salvage Yard | <input type="checkbox"/> Bulk Plant | <input type="checkbox"/> Pipeline | <input type="checkbox"/> Service Station |
| <input type="checkbox"/> Landfill | <input type="checkbox"/> Tannery | <input type="checkbox"/> Electroplating | <input type="checkbox"/> Unknown |

Other: Railroad track/yard operations _____

Section IV. Property Information - See Instructions for Further Guidance				
PROPOSED SITE NAME 592 Seneca Street Site				
ADDRESS/LOCATION 592 Seneca Street				
CITY/TOWN Buffalo		ZIP CODE 14210		
MUNICIPALITY(IF MORE THAN ONE, LIST ALL): City of Buffalo				
COUNTY Erie		SITE SIZE (ACRES) 2.42		
LATITUDE (degrees/minutes/seconds) 42 ° 52 ' 39.01 "		LONGITUDE (degrees/minutes/seconds) 78 ° 51 ' 14.96 "		
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
592 Seneca Street	111.82	8	1.22	2.42
1. Do the proposed site boundaries correspond to tax map metes and bounds? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If no, please attach an accurate map of the proposed site.				
2. Is the required property map attached to the application? See Figures 2, 3, & 4 <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (application will not be processed without map)				
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 <input checked="" type="checkbox"/> No <input type="checkbox"/> <div style="text-align: right; margin-right: 50px;">If yes, identify census tract : 164</div> <div style="margin-top: 10px;"> Percentage of property in En-zone (check one): <input type="checkbox"/> 0-49% <input type="checkbox"/> 50-99% <input checked="" type="checkbox"/> 100% </div>				
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)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, attach relevant supporting documentation.				
7. Are there any lands under water? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, these lands should be clearly delineated on the site map.				

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

None/unknown

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

Type

Issuing Agency

Description

None/unknown

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? ☐ Yes ☐ No

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? ☐ Yes ☐ No

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 Mr. David Franjoine			
ADDRESS 500 Seneca Street, Suite 504			
CITY/TOWN Buffalo		ZIP CODE 14204	
PHONE 716-447-7587	FAX 716-447-7593	E-MAIL dpfranjoine@fic-services.com	
NAME OF REQUESTOR'S CONSULTANT Mr. Thomas Forbes, P.E. Benchmark Environmental Engineering and Science, PLLC			
ADDRESS 2558 Hamburg Turnpike, Suite 300			
CITY/TOWN Buffalo		ZIP CODE 14218	
PHONE 716-856-0599	FAX 716-856-0583	E-MAIL tforbes@bm-tk.com	
NAME OF REQUESTOR'S ATTORNEY Mr. Craig A. Slater, Esq.			
ADDRESS 500 Seneca Street, Suite 504			
CITY/TOWN Buffalo		ZIP CODE 14204	
PHONE 716-845-6760	FAX 716-845-6764	E-MAIL cslater@cslaterlaw.com	
Section VI. Current Property Owner/Operator Information – if not a Requestor See Appendix B; Section VII			
CURRENT OWNER'S NAME Swan Street Railyard, LLC		OWNERSHIP START DATE: 12/21/2020	
ADDRESS 500 Seneca Street, Suite 504			
CITY/TOWN Buffalo		ZIP CODE 14204	
PHONE 716-845-6760	FAX 716-845-6764	E-MAIL cslater@cslaterlaw.com	
CURRENT OPERATOR'S NAME Same as owner			
ADDRESS Same as owner			
CITY/TOWN Same as owner		ZIP CODE Same as owner	
PHONE Same as owner	FAX Same as owner	E-MAIL Same as owner	
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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
2. Is the requestor subject to an existing order for the investigation, removal or remediation of contamination at the site? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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 ☒ No

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:

☐ 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? ☐ Yes ☒ No
If yes, please provide: Site # _____ Class # _____
3. Is / was the property subject to a permit under ECL Article 27, Title 9, other than an Interim Status facility? ☐ Yes ☒ No
If yes, please provide: Permit type: _____ EPA ID Number: _____
Date permit issued: _____ Permit expiration date: _____
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? ☐ Yes ☒ No
If yes, please provide: Order # _____
6. Is the property subject to a state or federal enforcement action related to hazardous waste or petroleum? ☐ Yes ☒ No
If yes, please provide explanation as an attachment.

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. **See Figure 9**
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

1. What is the current municipal zoning designation for the site? C-R

What uses are allowed by the current zoning? (Check boxes, below)

☐ Residential ☒ Commercial ☐ Industrial Neighboring Ttransition to Urban Core - N-1

If zoning change is imminent, please provide documentation from the appropriate zoning authority.

2. Current Use: ☐ Residential ☐ Commercial ☐ Industrial ☒ Vacant ☐ Recreational (check all that apply)

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.

3. Reasonably anticipated use Post Remediation: ☒ Residential ☒ Commercial ☐ Industrial (check all that apply) **Attach a statement detailing the specific proposed use.**

If residential, does it qualify as single family housing? ☐ Yes ☒ No

4. Do current historical and/or recent development patterns support the proposed use?

☒ Yes ☐ No

See Appendix B, Section X.

5. Is the proposed use consistent with applicable zoning laws/maps? Briefly explain below, or attach additional information and documentation if necessary.

☒ Yes ☐ No

See Appendix B, Section X

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

See Appendix B, Section X

XI. Statement of Certification and Signatures

(By requestor who is an individual)

If this application is approved, I hererby acknowledge and agree: (1) to execute a Brownfield Cleanup Agreement (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: _____ Signature: _____

Print Name: _____

(By a requestor other than an individual)

I hereby affirm that I am Authorized Member (title) of Swan Street Railyard, 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: March 17, 2021 Signature: [Signature]

Print Name: David Franjoine, Authorized Member

SUBMITTAL INFORMATION:

- **Two (2)** copies, one paper copy of the application form with original signatures and table of contents, and one complete electronic copy in final, non-fillable 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

PLEASE DO NOT SUBMIT PAPER COPIES OF SUPPORTING DOCUMENTS. Please provide a hard copy of ONLY the application form and a table of contents.

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 11 Not Applicable

Property is in Bronx, Kings, New York, Queens, or Richmond counties.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	<input type="checkbox"/> Yes <input type="checkbox"/> 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. <input type="checkbox"/> Yes <input type="checkbox"/> No	
2. Is the property upside down or underutilized as defined below?	Upside Down? <input type="checkbox"/> Yes <input type="checkbox"/> No Underutilized? <input type="checkbox"/> Yes <input type="checkbox"/> No
From ECL 27-1405(31): "Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.	
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)	
375-3.2: (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 (1) the proposed use is at least 75 percent for industrial uses; or (2) at which: (i) the proposed use is at least 75 percent for commercial or commercial and industrial uses; (ii) the proposed development could not take place without substantial government assistance, as certified by the municipality in which the site is located; and (iii) one or more of the following conditions exists, as certified by the applicant: (a) property tax payments have been in arrears for at least five years immediately prior to the application; (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 (c) there are no structures.	
"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.	

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: 592 Seneca Street Site
City: Buffalo

Site Address: 592 Seneca Street
County: Erie **Zip:** 14210

Tax Block & Lot

Section (if applicable): 111.82 **Block:** 8 **Lot:** 1.22

Requestor Name: Swan Street Railyard, LLC
City: Buffalo

Requestor Address: 500 Seneca Street, Suite 504
Zip: 14210 **Email:** cslater@cslaterlaw.com

Requestor's Representative (for billing purposes)

Name: Mr. David Franjoine
City: Buffalo

Address: 500 Seneca Street, Suite 504
Zip: 14204

Email: dpfranjoine@fic-services.com

Requestor's Attorney

Name: Mr. Craig A. Slater, Esq.
City: Buffalo

Address: 500 Seneca Street, Suite 504
Zip: 14204

Email: cslater@cslaterlaw.com

Requestor's Consultant

Name: Mr. Thomas Forbes, P.E. Benchmark Environmental Engineering and Science, PLLC
City: Buffalo

Address: 2558 Hamburg Turnpike, Suite 300
Zip: 14218

Email: tforbes@bm-tk.com

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

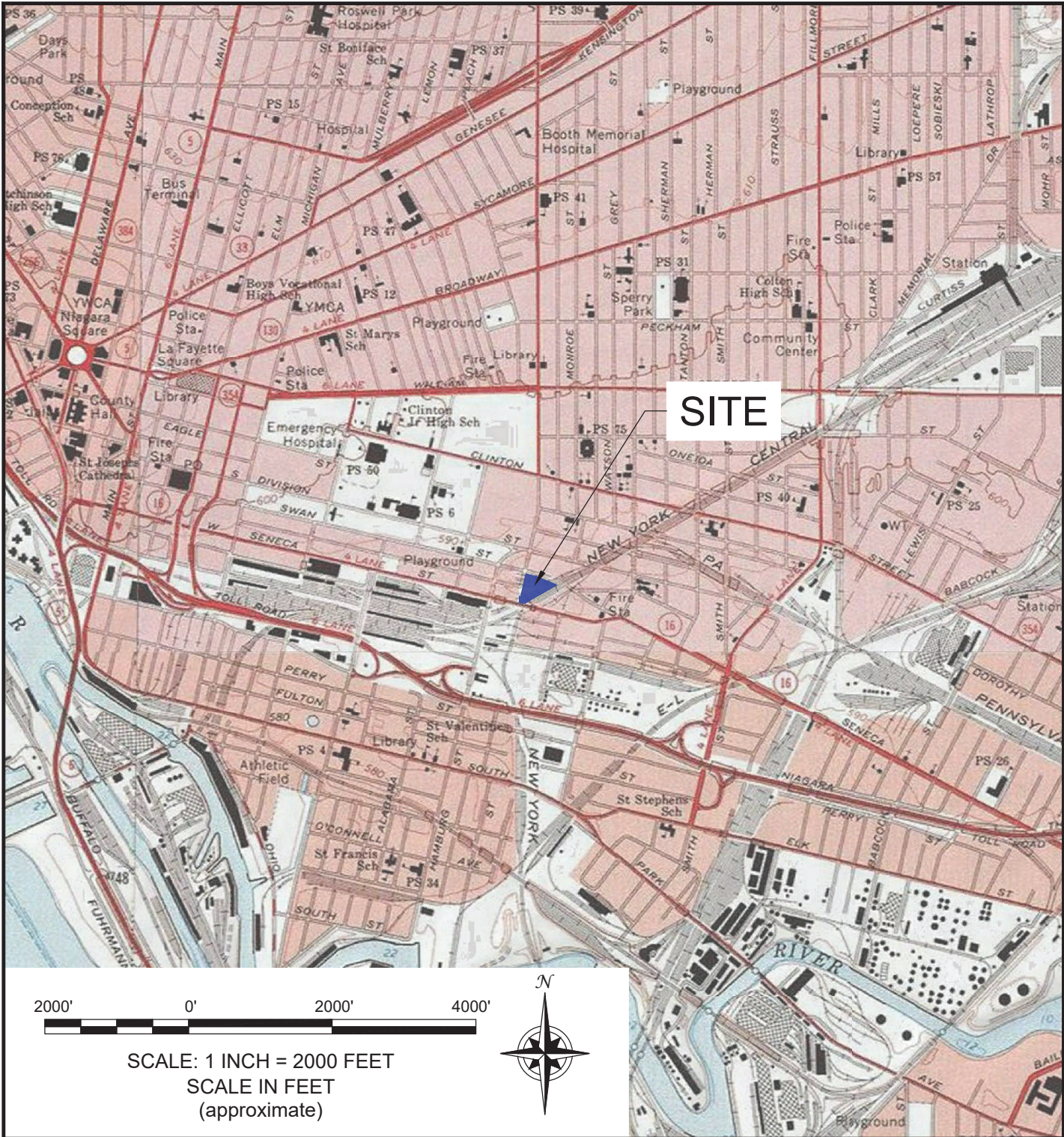
DER/OGC Determination: ☐ Agree ☐ Disagree ☐ Undetermined


Notes:

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	New York State Enzone Map
Figure 8	Zoning Map
Figure 9	Adjacent Property Owners
Figure 10	Soil Map

FIGURE 1




 <p>2558 HAMBURG TURNPIKE SUITE 300 BUFFALO, NY 14218 (716) 856-0599</p> <p>PROJECT NO.: 0538-020-001</p> <p>DATE: JULY 2020</p> <p>DRAFTED BY: CEH</p>	<h2>SITE LOCATION AND VICINITY MAP</h2> <p>BROWNFIELD CLEANUP PROGRAM APPLICATION</p> <p>592 SENECA STREET SITE</p> <p>BUFFALO, NEW YORK</p> <p>PREPARED FOR</p> <p>SWAN STREET RAILYARD, LLC</p>
--	---

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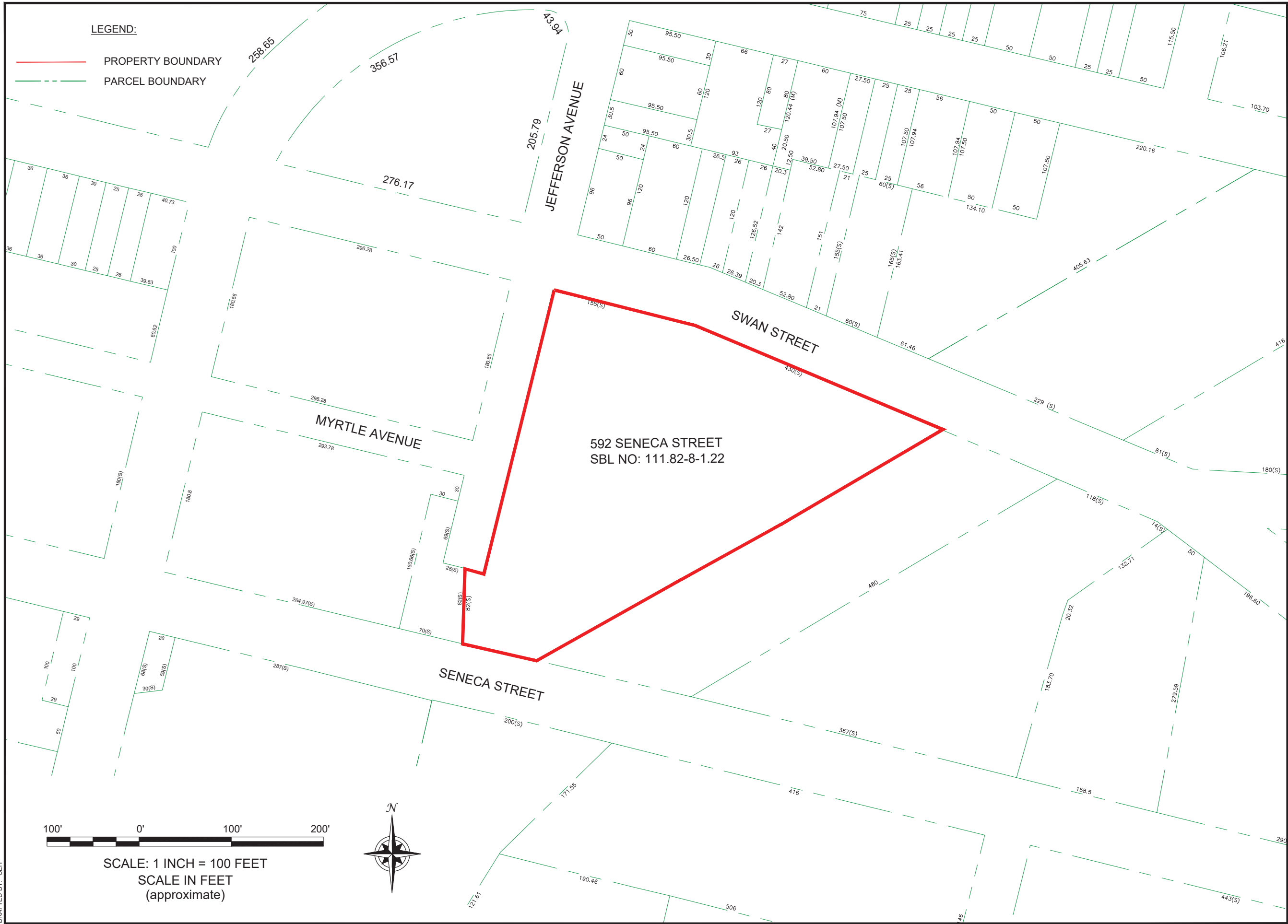
FIGURE 2



 <p>BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC</p>	<p>2558 HAMBURG TURNPIKE SUITE 300 BUFFALO, NY 14218 (716) 856-0599</p>	<p>SITE PLAN (AERIAL)</p> <p>BROWNFIELD CLEANUP PROGRAM APPLICATION</p> <p>592 SENECA STREET SITE</p> <p>BUFFALO, NEW YORK</p> <p>PREPARED FOR</p> <p>SWAN STREET RAILYARD, LLC</p>
	<p>PROJECT NO.: 0538-020-001</p>	
	<p>DATE: JULY 2020</p>	
	<p>DRAFTED BY: CEH</p>	

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DATE: JULY 2020
DRAFTED BY: CEH



TAX MAP

BROWNFIELD CLEANUP PROJECT APPLICATION
592 SENECA STREET SITE
BUFFALO, NEW YORK

PREPARED FOR
SWAN STREET RAILYARD, LLC

BENCHMARK
ENVIRONMENTAL
ENGINEERING &
SCIENCE, PLLC

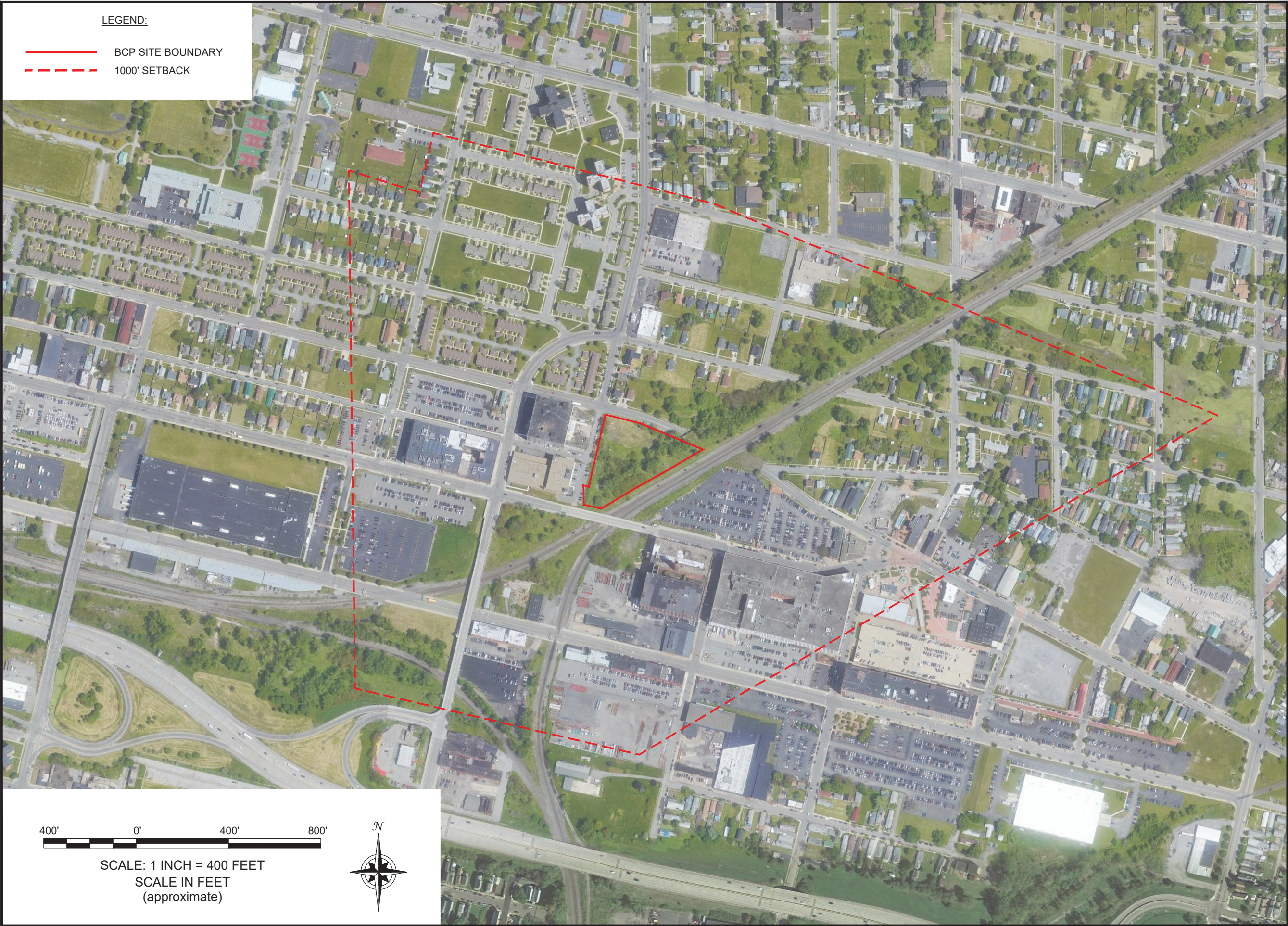
2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0599


JOB NO.: 0538-020-001

FIGURE 3

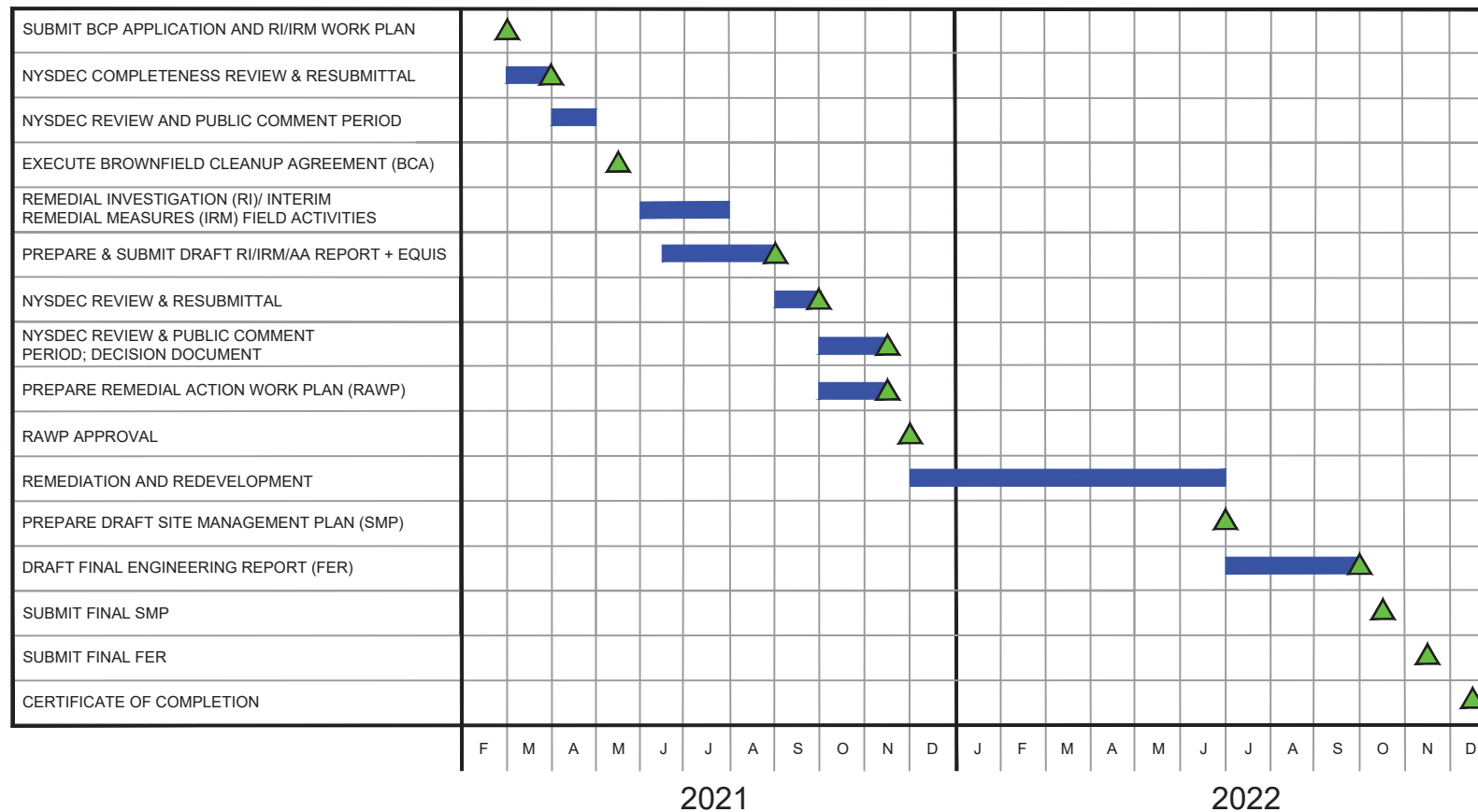
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DATE: JULY 2020
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PROPERTY BASE MAP (1000' SETBACK)	 2558 HAMBURG TURNPIKE SUITE 300 BUFFALO, NY 14218 (716) 856-0599
	BROWNFIELD CLEANUP PROGRAM APPLICATION 592 SENECA STREET SITE BUFFALO, NEW YORK
FIGURE 4	PREPARED FOR SWAN STREET RAILYARD, LLC
JOB NO.: 0538-020-001	
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PROJECT TASKS:



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

PROJECT NO.: 0538-020-001

DATE: JULY 2020

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PRELIMINARY PROJECT SCHEDULE

BROWNFIELD CLEANUP PROGRAM APPLICATION

592 SENECA STREET SITE

BUFFALO, NEW YORK

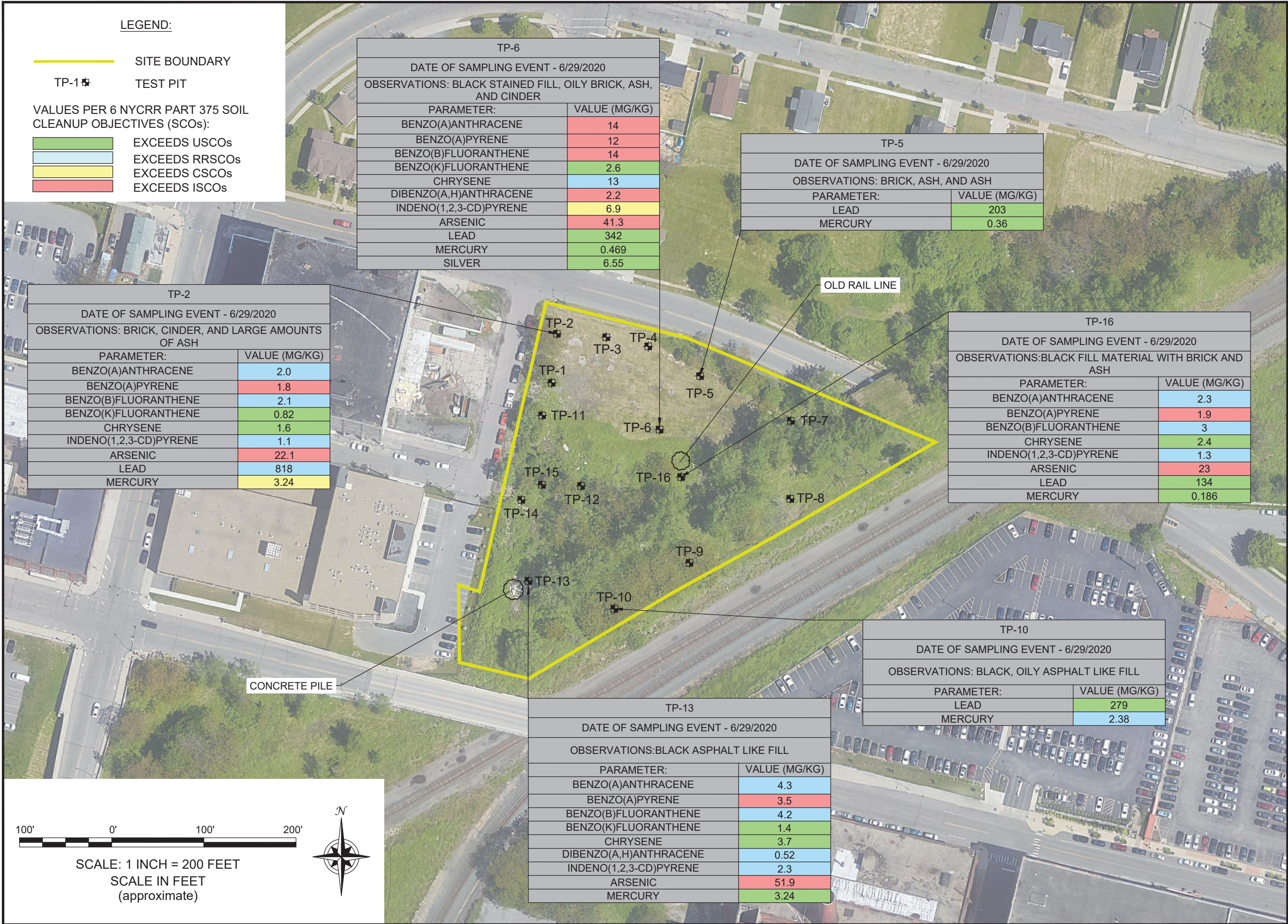
PREPARED FOR

SWAN STREET RAILYARD, LLC

FIGURE 5

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DATE: JULY 2020
DRAFTED BY: CEH



INVESTIGATION LOCATIONS AND AREAS OF CONCERN

BROWNFIELD CLEANUP PROGRAM APPLICATION
592 SENECA STREET SITE
BUFFALO, NEW YORK

BENCHMARK
ENVIRONMENTAL
ENGINEERING &
SCIENCE, PLLC
2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0599

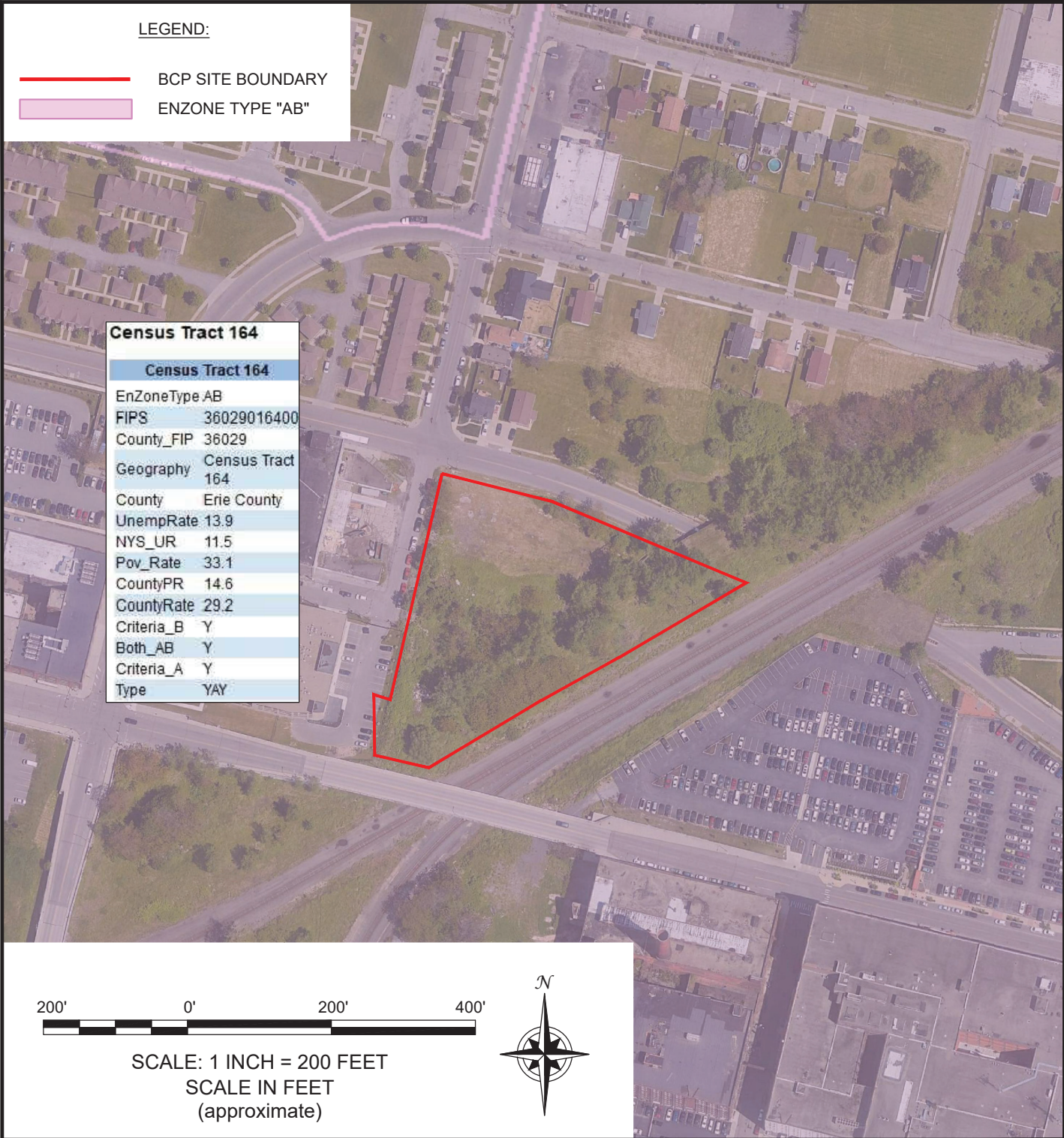
PREPARED FOR
SWAN STREET RAILYARD, LLC

JOB NO.: 0538-020-001

FIGURE 6

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FIGURE 7



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

PROJECT NO.: 0538-020-001

DATE: JULY 2020

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NEW YORK STATE ENZONE MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

592 SENECA STREET SITE

BUFFALO, NEW YORK

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FIGURE 8

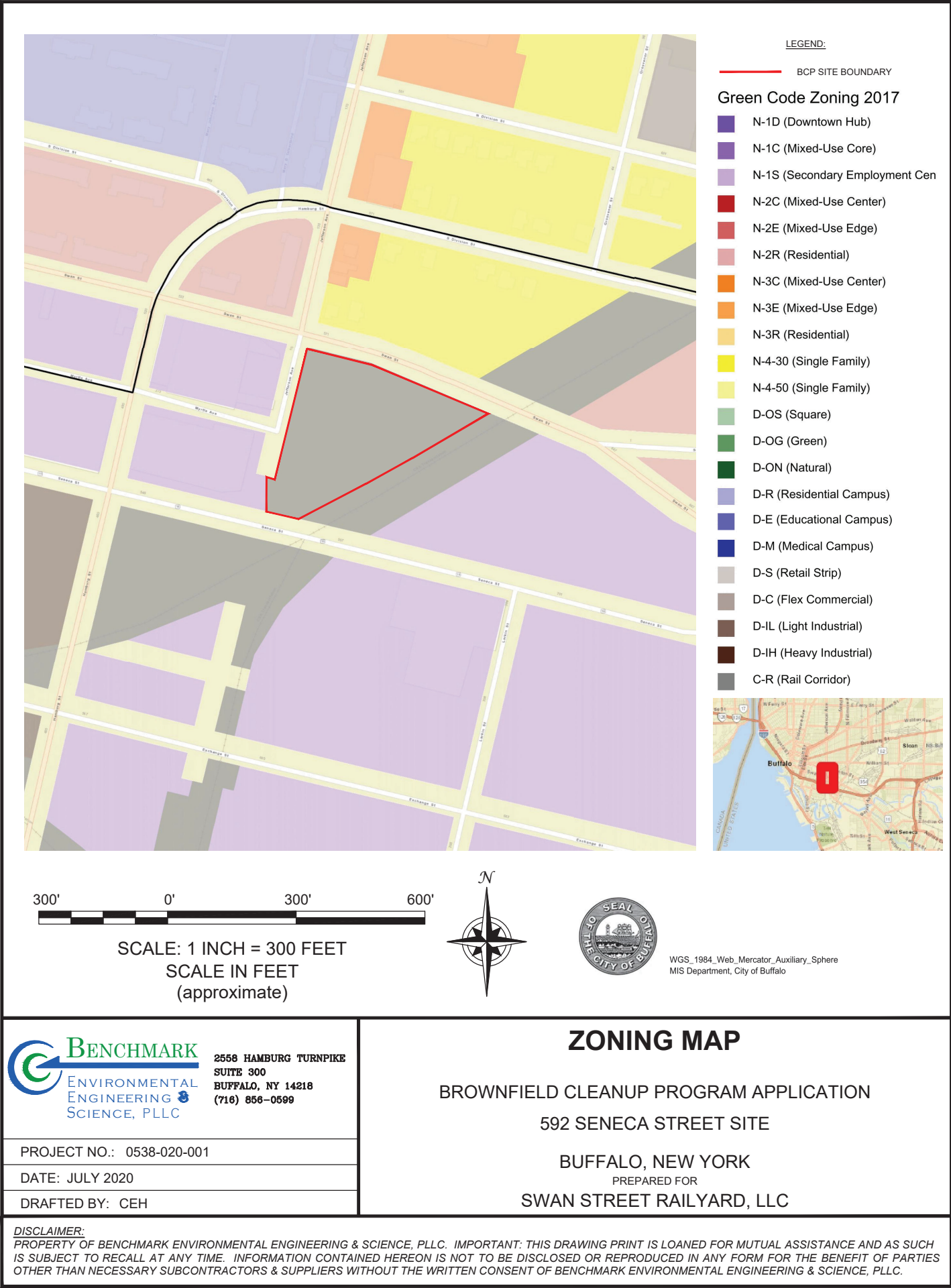
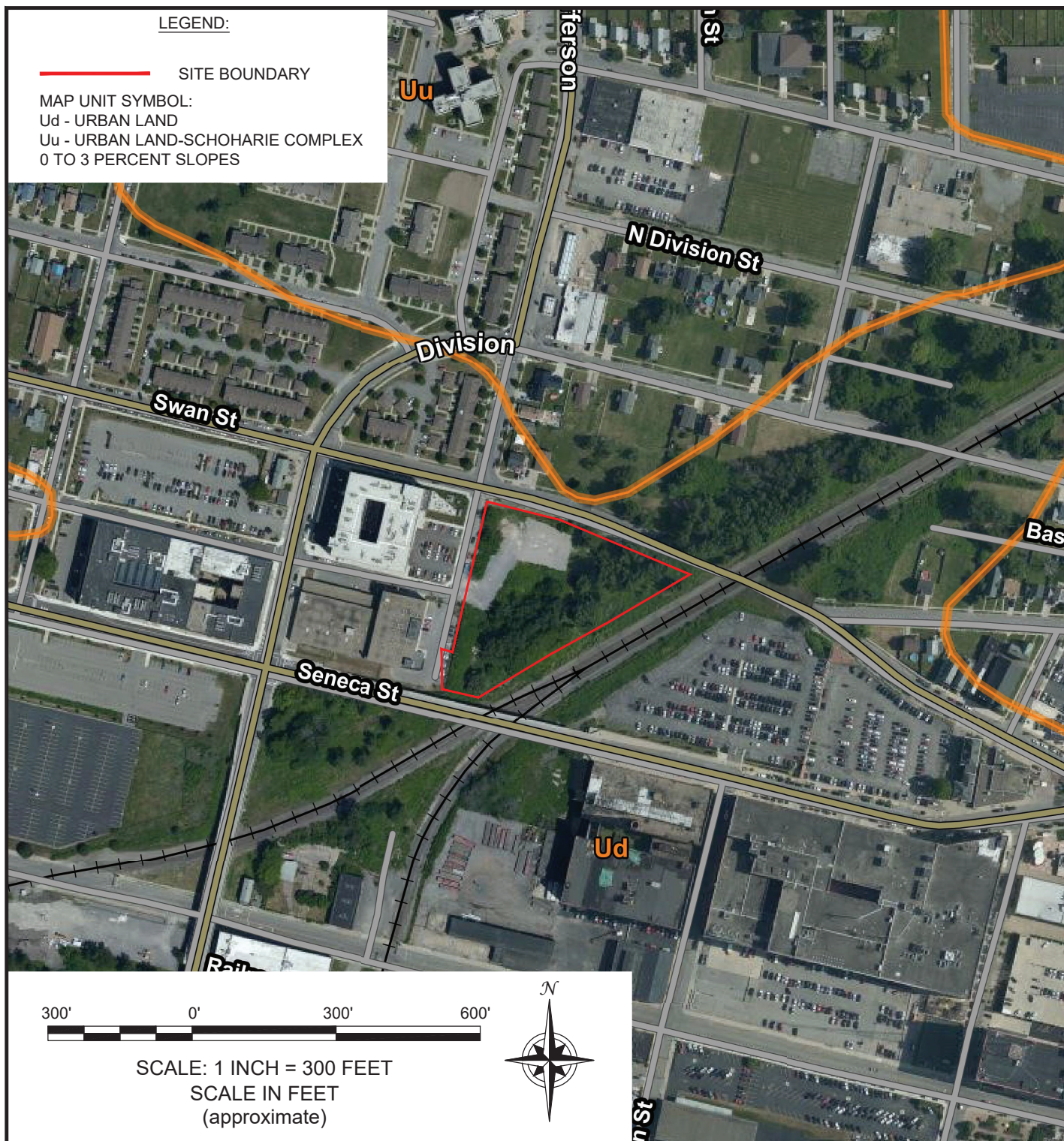


FIGURE 10



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

PROJECT NO.: 0538-020-001

DATE: JULY 2020

DRAFTED BY: CEH

SOIL MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

592 SENECA STREET SITE

BUFFALO, NEW YORK

PREPARED FOR

SWAN STREET RAILYARD, LLC

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BCP APPLICATION PART A – SECTIONS I - IV

SECTION I – REQUESTOR INFORMATION

SECTION II – PROJECT DESCRIPTION

SECTION III – PROPERTY’S ENVIRONMENTAL HISTORY

SECTION IV – PROPERTY INFORMATION

NYS CORPORATION & BUSINESS ENTITY DATABASE PRINTOUT

**MEMBER INFORMATION AND AUTHORIZATION TO EXECUTE -
UNANIMOUS WRITTEN CONSENT OF MEMBERS**

BCP Application – Part A

Section I – Section IV

592 Seneca Street Site

SECTION I – REQUESTOR INFORMATION

The New York State Department of State's (NYSDOS) Corporation & Business Entity Database print-out for Swan Street Railyard, LLC is attached.

Swan Street Railyard, LLC member/owner information is attached.

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

SECTION II – PROJECT DESCRIPTION

Swan Street Railyard, LLC, acting as a Volunteer, is willing to complete additional investigation and remediate the 592 Seneca Street Site (see Figures 1-4) under the NYS Brownfield Cleanup Program (BCP), and is submitting this BCP Application for eligibility acceptance into the program.

A preliminary project schedule is shown on Figure 5.

The Volunteer plans to redevelop the entire 2.42-acre Site as a mixed use commercial and residential development.

The Project will result in the remediation and redevelopment of an environmentally impacted Site located at the intersection of Swan Street and Jefferson Avenue in the City of Buffalo, Erie County, New York.

SECTION III – PROPERTY'S ENVIRONMENTAL HISTORY

A summary of the previous environmental investigation findings completed for the 592 Seneca Street Site (hereinafter, the "Project Site" or the "Site") are provided below.

BCP Application – Part A

Section I – Section IV

592 Seneca Street Site

July 2020 - Phase I Environmental Site Assessment (ESA)

Benchmark Environmental Engineering and Science, PLLC (Benchmark) completed a Phase I Environmental Site Assessment, dated July 2020, for the subject Site.

The Phase I ESA identified the following recognized environmental conditions (RECs):

- The history of the Site with former railroad areas with coal/coke storage and a coal yard due to the potential for environmental impacts.
- Based on historic operations, there is the potential for impacted fill materials.
- Miscellaneous materials including mounds of discarded tires, wooden pallets, piles of concrete, rail lines, etc. as such will require segregation and proper off-site disposal.
- The potential for miscellaneous urban fill materials from unknown sources is considered a REC due to the potential for contamination.
- Adjacent Spill Nos. 9106664 and 9106444 involving various drums containing PCBs and a fire that was extinguished due to the potential for PCB impacts at the Site.

Ltd. Phase II Environmental Investigation

Benchmark completed a Limited Phase II Environmental Investigation for the 592 Seneca Street Site in July 2020. The investigation consisted of sixteen test pits (TP-1 through TP-16) excavated across the Site.

Findings of the Phase II are detailed below:

- Fill material was identified at all 16 locations, consisting of varying amounts of ash, cinders, black sands, brick, coal, concrete, and wood debris. Old rail ties were identified on-Site.
- Elevated polycyclic aromatic hydrocarbons (PAHs) were detected exceeding Part 375 Industrial Use Soil Cleanup Objectives (ISCOs) in 4 of the 6 sampled locations. with multiple constituents exceeding the Commercial Use (CSCOs) and Restricted Residential Use (RRSCOs) also detected.
- Elevated metals, including arsenic, lead and mercury, were detected exceeding their ISCO, CSCO, and RRSCO in shallow fill across the Site. Arsenic was detected exceeding its ISCO in 4 of the 6 sampled locations.

BCP Application – Part A
Section I – Section IV
592 Seneca Street Site

Investigation locations and findings are shown on Figure 6.

SECTION IV – PROPERTY INFORMATION

Parcel Description

The 592 Seneca Street Site, subject to this BCP application, is located in a highly developed commercial and residential area in the City of Buffalo Erie County, New York (see Figures 1-3) and further identified as:

- 592 Seneca Street, SBL No. 111.82-8-1.22, +/- 2.4 acres

A tax map is provided as Figure 3. The boundaries of the BCP Site corresponds with the tax parcel boundaries.

According to NYSDEC Environmental Zone (EN-Zone) mapping, the Site is located within an EN-Zone Type AB designated census tract 164 (Figure 7).

Easements and Permits

Utilities are located in the right-of-way along Swan Street and Jefferson Avenue. The Site has access to municipal sanitary sewer, electric, natural-gas, and public potable water. Swan Street Railyard, LLC is not aware of any other easements or restrictions on the Site. There is an active rail line along the eastern property boundary.

Swan Street Railyard, LLC is not aware of any other 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.

Regulatory Listings

No regulatory listings were identified on the available databases for the subject Site.

BCP Application – Part A
Section I – Section IV
592 Seneca Street Site

Property Description Narrative

Location

The Site is located on the southeast corner of Jefferson Avenue and Swan Street, in a highly developed mixed use commercial and residential area of the City of Buffalo, Erie County New York. Recently multiple neighboring former commercial buildings have been redeveloped into mixed use commercial and residential developments.

The Site is bordered by Jefferson Avenue to the west (with converted residential beyond), Swan Street to the north (with residential and vacant beyond), active rail line along the eastern boundary, and vacant, rail and Seneca Street overpass (elevated) to the south (see Figure 2). Adjacent property owners are identified on Figure 9.

Site Features

The Site is currently vacant land.

Zoning and Land Use

According to the City of Buffalo Unified Development Ordinance (Buffalo Green Code 2017) the current zoning for the Site is defined as C-R (Rail corridor) and neighbored by Transition to Urban Core (N-1), which allows for mixed use development (see Figure 8). It should be noted that when the Buffalo Green Code was being drafted, the property was owned by CSX (see Part B, Section VI).

The Applicant is currently in the process of reviewing if a zoning variance will be necessary but based on recent multiple conversions of former commercial buildings to residential (across Jefferson Street), the planned development is consistent with the recent development patterns for this section of the City of Buffalo.

The surrounding parcel uses are as follows:

- north – commercial, residential, and vacant;

BCP Application – Part A

Section I – Section IV

592 Seneca Street Site

- south – vacant and railroad;
- east – rail line with commercial/residential;
- west – mixed use commercial and residential.

Past Use of the Site

Based on historic records and previous investigations, the Site was identified as having a history as railroad tracks/yards from at least the 1890s to the 1980s. Historic operations and buildings associated with the railroad tracks/yards include ice storage, coal, and coke storage. Railroad areas were previously built-up with fill materials from unknown sources, with railroad ties remaining on-Site.

Due to the Site's industrial history, previous investigations have identified PAHs and metals at concentrations exceeding RRSCOs, CSCOs, and ISCOs. Redevelopment of the Site for restricted residential use will require remediation to a Track 4 RRSCO prior to Site development.

Previous investigation reports are provided electronically on the enclosed CD.

Site Geology and Hydrogeology

The Site is located within the Erie-Ontario Lowlands, which is typified by little topographic relief, and gently slopes westward towards Lake Erie, except in the immediate vicinity of major drainage ways. The surficial geology of the Erie-Ontario Lowlands has developed from lacustrine deposits or till that may contain both limestone and shale. According to the United States Department of Agriculture (USDA) Web soil survey, Site soils are characterized as Urban land (Ud) Urban land is characterized where 80 percent or more of the soil surface is covered by asphalt, concrete, buildings, or other impervious structures, typical of an urban environment (Figure 10). The Site overlies the Skaneateles Formation, which is identified as Middle Devonian-aged medium/dark gray fossiliferous shale and mudrock.

BCP Application – Part A

Section I – Section IV

592 Seneca Street Site

Previous investigations have identified fill material on-Site ranging from approximately 0-8 fbgs, generally described as consisting of ash, cinders, black sands, brick, coal, concrete, and wood debris, underlain by assumed native (potentially reworked sandy lean clay to at least 13 fbgs. Bedrock was not encountered during previous investigations.

Regional and local groundwater likely flow south towards the Buffalo River and west towards Lake Erie. Local groundwater flow, however, may be influenced by subsurface features, such as utilities, former development, and localized subsurface fill conditions.

Additional work is required to investigate groundwater flow direction and quality at the Site.

Environmental Assessment Narrative

Past use of the site as railroad tracks/yards has impacted the Site. Figure 6 summarizes the environmental impacts identified in the previous investigations.

Soil – Fill materials consisting of ash, cinders, black sands, brick, coal, concrete, and wood debris were identified Site wide at varying depths ranging from 0 fbgs to 8 fbgs.

Laboratory analytical results indicate elevated PAHs exceeding RRSCOs, CSCOs, and ISCOs. Specifically, elevated benzo(a)anthracene exceeding its ISCO of 11 ppm (14 ppm at TP-6), benzo(a)pyrene exceeding its ISCO of 1.1 ppm (1.8 ppm at TP-2, 12 ppm at TP-6, 3.5 ppm at TP-13, and 1.9 ppm at TP-16), benzo(b)fluoranthene exceeding its ISCO of 11 ppm (14 ppm at TP-6), dibenzo(a,h)anthracene detected exceeding its ISCO of 1.1 ppm (2.2 ppm at TP-6), and indeno(1,2,3-cd)pyrene was detected exceeding its CSCO of 5.6 ppm (6.9 ppm at TP-6).

Elevated metals exceeding RRSCOs, CSCOs, and ISCOs. Specifically, arsenic was detected exceeding its ISCO of 16 ppm at TP-2 (22.1 ppm), TP-6 (41.3 ppm), TP-13 (51.9 ppm), and TP-16 (23 ppm). Elevated lead was detected exceeding its RRSCO of 400 ppm at TP-2 (818 ppm); and mercury was detected exceeding its CSCO of 2.8 ppm at TP-2 (3.24 ppm), and its RRSCO of 0.81 ppm at TP-10 (2.38 ppm).

BCP Application – Part A

Section I – Section IV

592 Seneca Street Site

Elevated laboratory soil analytical results exceeding the Restricted Residential Use SCOs (most likely reuse) were detected in 5 of the 7 analyzed sample locations.

Historic documents and previous investigation reports are provided electronically on the enclosed CD.

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through February 19, 2021.

Selected Entity Name: SWAN STREET RAILYARD, LLC

Selected Entity Status Information

Current Entity Name: SWAN STREET RAILYARD, LLC

DOS ID #: 5839960

Initial DOS Filing Date: SEPTEMBER 21, 2020

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)

THE SLATER LAW FIRM, PLLC
500 SENECA STREET, SUITE 504
BUFFALO, NEW YORK, 14204

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
SEP 21, 2020	Actual	SWAN STREET RAILYARD, 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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**UNANIMOUS WRITTEN CONSENT OF THE MEMBERS OF
SWAN STREET RAILYARD, LLC**

March 2, 2021

The undersigned being the holders of all of the membership interests of **Swan Street Railyard, LLC**, a New York limited liability company (the "**Company**"), hereby consents to the adoption of the following resolutions without a meeting and direct that this Consent be filed with the minutes of the Company:

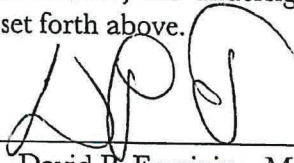
RESOLVED, that David P. Franjoine (an "**Authorized Person**") be, and hereby is, authorized, directed, and empowered, acting alone, in the name or on behalf of the Company, to execute the Brownfield Cleanup Program ("**BCP**") Application, the BCP Agreement, or any other documents or agreements necessary 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 owned by the Company located at 592 Seneca Street, Buffalo, New York; and it is hereby

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

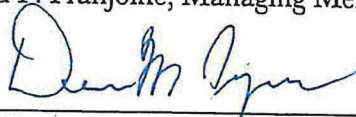
RESOLVED, that any acts of any officer of the Company and of any persons designated and authorized to act by any such officer of the Company, which acts would have been authorized by the foregoing resolutions except that such acts were taken prior to the adoption of such resolutions, are hereby severally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

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



David P. Franjoine, Managing Member



Dennis M. Franjoine, Member



Robert W. Zuchlewski, Member



Craig A. Slater, Member



Lan Kwai Fong, LLC, Member

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

DOCUMENT REPOSITORY CONFIRMATION

BCP Application – Part B

Section V – Section X

592 Seneca Street Site

SECTION VI – CURRENT PROPERTY OWNER/OPERATOR INFORMATION

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

Parcel Address	Use	Approx. Date(s)	Relationship to Applicant
592 Seneca Street			
Current Owner/Operator			
Swan Street Railyard, LLC 500 Seneca Street, Suite 504, Buffalo, New York 14204	Vacant	December 2020 to Current	Owner (Applicant)
Previous Owners/Operators			
Seneca Hamburg, LLC	Vacant land	2018 ~ 2020	No
CSX Transportation (Con-Rail and Penn Central) 500 Water St Jacksonville, FL 32202	Rail Corridor Vacant land	~1960 - 2018	No
Webster Citizens Ice Co., Kenny TF Coal & Coke, P.R.R.,	Railyard, Commercial	1926 ~ 1960	No
West Shore Freight Depot, Western N.Y. & Penn. R.R., W.S.R.R., numerous individual owners/occupants.	Railyard, Commercial and residential	Late 1800s ~ 1926	No

BCP Application – Part B

Section V – Section X

592 Seneca Street Site

SECTION VII – REQUESTOR ELIGIBILITY INFORMATION

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

The Applicant became involved with the property upon property acquisition in December 2020, and any liability for the Site will arise solely as a result of taking ownership.

Swan Street Railyard, LLC acted in due care with regard to the Site, by completing their environmental due diligence prior to purchase, which identified contamination due to historic use of the Site by others and are now applying to the NYS BCP for eligibility to further investigate and remediate the Site.

Based on the information above, Swan Street Railyard, LLC is entitled to Volunteer status under NY ECL27-1405(1)(b).

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. John Hood
Erie Co. Environment & Plan.
95 Franklin Street
Buffalo, NY 14202

BCP Application – Part B

Section V – Section X

592 Seneca Street Site

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

Mitch Nowakowski
Fillmore District Councilmember
65 Niagara Sq
Buffalo, NY 14202

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

BCP Application – Part B

Section V – Section X

592 Seneca Street Site

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

Document Repository:

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

BCP Application – Part B
Section V – Section X
592 Seneca Street Site

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 9).

Adjacent Property Address				Property Owner/Mailing Address
No	Street	S.B.L.	Property Description	
550	Seneca Street	111.81-4-1.1	Residential Apartments	551 Seneca Street LLC 500 Seneca Street Suite 504 Buffalo, NY
580	Seneca Street	111.81-4-3	Parking/Roadway	Seneca Hamburg LLC 500 Seneca Street Suite 504 Buffalo, NY
545	Swan Street	111.81-3-1	Commercial / Residential	A/P Lofts At Larkinvile 11555 N Meridian Street Carmel, IN
576	Swan Street	111.82-9-36.1	Residential	David K. Daniels 576 Swan Street Buffalo, NY
578	Swan Street	111.82-9-31.1	Residential	Willa D Mackey 578 Swan Street Buffalo, NY
540	Swan Street	111.19-3-1	Residential	Ellicott Houses Inc. 424 Swan Street Buffalo, NY
592	Swan Street	111.82-9-30	Vacant Residential Land	City of Buffalo
594	Swan Street	111.82-9-29	Vacant Residential Land	City of Buffalo
602	Swan Street	111.82-9-28	Vacant Residential Land	City of Buffalo
604	Swan Street	111.82-9-27	Vacant Residential Land	City of Buffalo
623	South Division Street	111.82-9-14.3	Vacant Industrial Land	Banderstate LLC 67 Crestwood Avenue Buffalo, NY
625	South Division Street	111.82-9-14.22	Vacant Industrial Land	Seneca Hamburg LLC 500 Seneca Street Buffalo, NY
--	--	111.82-8-1.21	Railroad	City of Buffalo
--	--	122.25-2-5.1	Railroad	City of Buffalo

BCP Application – Part B

Section V – Section X

592 Seneca Street Site

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 attached.

SECTION X – LAND USE FACTORS

1 – Current Zoning

The current zoning for the Site is C-R (Rail Corridor), neighboring Transition to Urban Core (N-1) per the Buffalo Green Code (see Figure 8). The planned redevelopment is mixed commercial and residential use. Based on recent neighboring residential development, the Applicant is reviewing if a zoning change will be required. If a zoning change is required, the supporting documentation will be provided to the Department.

2 – Current Use

The Site is currently vacant land. The Site has been vacant since the 1980s.

The Site historically was used commercially with rail lines from at least the 1890s to the 1980s.

3, 4, 5 and 6 – Planned Future Use

The Volunteer plans to redevelop the entire Site with a mixed use commercial and residential complex. The planned use is consistent with recent development patterns, as evidenced by the recent residential conversion of neighboring properties. The planned development is consistent with the City of Buffalo Master Plan and the Buffalo Green Code Transition to Urban (N-1).

From: [April Tompkins](#)
To: [Chester E. Hochreiter](#)
Subject: RE: Document Repository Request - 592 Seneca Street Site
Date: Wednesday, February 24, 2021 3:34:28 PM
Attachments: [02 - Document Repository Request - 592 Seneca Street Site.pdf](#)

Good afternoon Chester,

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 **592 Seneca Street Site**. These documents will be made available for public viewing at the **Central Library** and/or any other library of your choice. Please refer to our procedure below.

We prefer that you do not take and/or send documents to individual libraries. Please bring or send your document(s), and cover letter, to the Central Library and we will process according to our procedure and distribute to the location of your choice. **If you would like a confirmation that your document was received, you will need to include the request in your cover letter and provide an email address.**

Please keep the following in mind:

- Documents (including updates) for public viewing 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

- Documents are made available within three business days after receipt, excluding weekends and holidays. Documents for the Central/Downtown library are located on the first floor in the Information Services Department.
- 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.
- Documents that cannot be stapled, should be kept together spiral bound or in a ring binder. Please do not send 'loose' papers, especially if including a cd or flash drive.
- 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 or flash drives 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/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: Chester E. Hochreiter <chochreiter@bm-tk.com>
Sent: Wednesday, February 24, 2021 1:26 PM
To: April Tompkins <tompkinsa@buffalolib.org>
Subject: Document Repository Request - 592 Seneca Street Site

Dear Ms. Tompkins,

Please see the attached document repository request for the Brownfield Cleanup Program.

Thank you,
Chester Hochreiter
Benchmark & Turnkey Companies

DISCLAIMERS:

Confidentiality Notice: The information contained in this message is intended only for the use of the addressee, and may be confidential and/or privileged. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately.

Virus Warning: While reasonable precautions have been taken to protect against viruses in this message, we accept no responsibility for any damages arising from the potential presence of such viruses.

Contracts: Nothing in this message shall be construed as legally binding upon Benchmark or TurnKey.

Professional Opinions: Views expressed in this message may only be relied upon as professional opinion if and when provided by principals of the Companies to authorized representatives of the organization with which we have an active client-engineer relationship and when directly pertaining to a binding contract scope of work.

February 24, 2021

Ms. April Tompkins
Chief Operating Officer
Buffalo & Erie County Public Library
1 Lafayette Square
Buffalo, NY 14203

Re: Document Repository for Brownfield Cleanup Program
592 Seneca Street Site
Buffalo, New York

Dear Ms. Tompkins:

On behalf of our client, Benchmark Environmental Engineering & Science, PLLC would like to request the Buffalo & Erie County Public Library 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 that reads 'Chester Hochreiter'.

Chester E. Hochreiter
Environmental Engineer

File: 0538-020-001

Strong Advocates, Effective Solutions, Integrated Implementation

www.benchmarkturnkey.com

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phone: (716) 856-0599 | fax: (716) 856-0583