

CITIZEN PARTICIPATION PLAN

**743 Main Street Buffalo
743 Main Street
City of Buffalo, New York
Tax Map ID No.: 111.30-3-5
Property County: Erie
Site No.: C915399**

Prepared for:

**Avalon Development
701 Seneca Street, Suite 200
Buffalo, NY 14210**

Prepared by:



**960 Busti Avenue, Suite B-150
Buffalo, New York 14213**

November 2024

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Note: The information presented in this Citizen Participation Plan was current as of the date of its approval by the New York State Department of Environmental Conservation. Portions of this Citizen Participation Plan may be revised during the site's investigation and cleanup process.

1.0 What is New York’s Brownfield Cleanup Program?

New York’s Brownfield Cleanup Program (BCP) works with private developers to encourage the voluntary cleanup of contaminated properties known as “brownfields” so that they can be reused and developed. These uses include recreation, housing, and business.

A *brownfield* is any real property that is difficult to reuse or redevelop because of the presence or potential presence of contamination. A brownfield typically is a former industrial or commercial property where operations may have resulted in environmental contamination. A brownfield can pose environmental, legal, and financial burdens on a community. If a brownfield is not addressed, it can reduce property values in the area and affect economic development of nearby properties.

The BCP is administered by the New York State Department of Environmental Conservation (NYSDEC) which oversees Applicants that conduct brownfield site investigation and cleanup activities. An Applicant is a person who has requested to participate in the BCP and has been accepted by NYSDEC. The BCP contains investigation and cleanup requirements, ensuring that cleanups protect public health and the environment. When NYSDEC certifies that these requirements have been met, the property can be reused or redeveloped for the intended use.

For more information about the BCP, go online at: <http://www.dec.ny.gov/chemical/8450.html>.

2.0 Citizen Participation Activities

Why NYSDEC Involves the Public and Why It Is Important?

NYSDEC involves the public to improve the process of investigating and cleaning up contaminated sites, and to enable citizens to participate more fully in decisions that affect their health, environment, and social wellbeing. NYSDEC provides opportunities for citizen involvement and encourages early two-way communication with citizens before decision makers form or adopt final positions.

Involving citizens affected and interest in site investigation and cleanup programs is important for many reasons. These include:

- Promoting the development of timely, effective site investigation and cleanup programs that protect public health and the environment
- Improving public access to, and understanding of, issues and information related to a site and that site’s investigation and cleanup process
- Providing citizens with early and continuing opportunities to participate in NYSDEC’s site investigation and cleanup process
- Ensuring that NYSDEC makes site investigation and cleanup decisions that benefit from input that reflects the interests and perspectives found within the affected community
- Encouraging dialogue to promote the exchange of information among the affected/interested public, State agencies, and other interested parties that strengthens trust among the parties, increases understanding of site and community issues and concerns, and improves decision making.

This Citizen Participation Plan (CPP) provides information about how NYSDEC will inform and involve the public during the investigation and cleanup of the site identified above. The

public information and involvement program will be carried out with assistance, as appropriate, from the Applicant.

Project Contacts

Attachment A identifies NYSDEC project contact(s) to which the public should address questions or request information about the site's investigation and cleanup program. The public's suggestions about this CPP and the CPP program for the site are always welcome. Interested people are encouraged to share their ideas and suggestions with the project contacts at any time.

Locations of Reports and Information

The locations of the reports and information related to the site's investigation and cleanup program also are identified in **Attachment A**. These locations provide convenient access to important project documents for public review and comment. Some documents may be placed on the NYSDEC web site. If this occurs, NYSDEC will inform the public in fact sheets distributed about the site and by other means, as appropriate.

Site Contact List

Attachment B contains the site contact list. This list has been developed to keep the community informed about, and involved in, the site's investigation and cleanup process. The site contact list will be used periodically to distribute fact sheets that provide updates about the status of the project. These will include notifications of upcoming activities at the site (such as fieldwork), as well as availability of project documents and announcements about public comment periods. The site contact list includes, at a minimum:

- chief executive officer and planning board chairperson of each county, city, town and village in which the site is located;
- residents, owners, and occupants of the site and properties adjacent to the site;
- the public water supplier which services the area in which the site is located;
- any person who has requested to be placed on the site contact list;
- the administrator of any school or day care facility located on or near the site for purposes of posting and/or dissemination of information at the facility;
- Location (s) of reports and information.

The site contact list will be reviewed periodically and updated as appropriate. Individuals and organizations will be added to the site contact list upon request. Such requests should be submitted to the NYSDEC project contact(s) identified in **Attachment A**. Other additions to the site contact list may be made at the discretion of the NYSDEC project manager, in consultation with other NYSDEC staff as appropriate.

CP Activities

The table at the end of this section identifies the CPP activities, at a minimum, that have been and will be conducted during the site's investigation and cleanup program. The flowchart in **Attachment C** shows how these CPP activities integrate with the site investigation and cleanup process. The public is informed about these CPP activities through fact sheets and notices distributed at significant points during the program. Elements of the investigation and cleanup process that match up with the CPP activities are explained briefly in Section 5.

- **Notices and fact sheets** help the interested and affected public to understand contamination issues related to a site, and the nature and progress of efforts to investigate and clean up a site.
- **Public forums, comment periods and contact with project managers** provide opportunities for the public to contribute information, opinions and perspectives that have potential to influence decisions about a site's investigation and cleanup.

The public is encouraged to contact project staff at any time during the site's investigation and cleanup process with questions, comments, or requests for information. This CPP may be revised due to changes in major issues of public concern identified in Section 3 or in the nature and scope of investigation and cleanup activities. Modifications may include additions to the site contact list and changes in planned citizen participation planning.

Technical Assistance Grant

NYSDEC must determine if the site poses a significant threat to public health or the environment. This determination generally is made using information developed during the investigation of the site, as described in Section 5.

If the site is determined to be a significant threat, a qualifying community group may apply for a Technical Assistance Grant (TAG). The purpose of a TAG is to provide funds to the qualifying group to obtain independent technical assistance. This assistance helps the TAG recipient to interpret and understand existing environmental information about the nature and extent of contamination related to the site and the development/implementation of a remedy.

An eligible community group must certify that its membership represents the interests of the community affected by the site, and that its members' health, economic well-being or enjoyment of the environment may be affected by a release or threatened release of contamination at the site. As of the date of declaration (page 2) was signed by the NYSDEC project manager, the significant threat determination for the site had not been made.

For more information about TAGs, go online at <http://www.dec.ny.gov/regulations/2590.html>

Note: The table identifying the citizen participation activities related to the site's investigation and cleanup program follows on the next page:

CITIZEN PARTICIPATION ACTIVITIES	TIMING OF CP ACTIVITIES
Application Process	
<ul style="list-style-type: none"> • Prepare site contact list • Establish document repositories • Publish notice in Environmental Notice Bulletin (ENB) announcing receipt of application and 30-day public comment period • Publish above ENB content in local newspaper • Mail above ENB content to site contact list • Conduct 30-day public comment period 	<p>At time of preparation of application to participate in the BCP.</p> <p>When NYSDEC determines that BCP application is complete. The 30-day public comment period begins on date of publication of notice in ENB. End date of public comment period is as stated in ENB notice. Therefore, ENB notice, newspaper notice, and notice to the site contact list should be provided to the public at the same time.</p>
After Execution of Brownfield Site Cleanup Agreement	
<ul style="list-style-type: none"> • Prepare Citizen Participation Plan (CPP) 	Before start of Remedial Investigation
Before NYSDEC Approves RIWP	
<ul style="list-style-type: none"> • Distribute fact sheet to site contact list about proposed RI activities and announcing 30-day public comment period about draft RI Work Plan • Conduct 30-day public comment period 	Before NYSDEC approves RI Work Plan. If RI Work Plan is submitted with application, public comment periods will be combined, and public notice will include fact sheet. Thirty-day public comment period begins/ends as per dates identified in fact sheet.
After Applicant Completes RI	
<ul style="list-style-type: none"> • Distribute fact sheet to site contact list that describes RI results 	Before NYSDEC approves RI Report
Before NYSDEC Approves RAWP	
<ul style="list-style-type: none"> • Distribute fact sheet to site contact list about proposed RWP and announcing 45-day public comment period • Public meeting by NYSDEC about proposed RWP (if requested by affected community or at discretion of NYSDEC project manager) • Conduct 45-day public comment period 	Before NYSDEC approves RWP. Forty-five-day public comment period begins/ends as per dates identified in fact sheet. Public meeting would be held within the 45-day public comment period.
Before Applicant Starts Cleanup Action	
<ul style="list-style-type: none"> • Distribute fact sheet to site contact list that describes upcoming cleanup action 	Before the start of cleanup action.
After Applicant Completes Cleanup Action	
<ul style="list-style-type: none"> • Distribute fact sheet to site contact list that announces that cleanup action has been completed and that summarizes the Final Engineering Report • Distribute fact sheet to site contact list announcing issuance of Certificate of Completion (COC) 	At the time NYSDEC approves Final Engineering Report. These two fact sheets are combined if possible if there is not a delay in issuing the COC.

3.0 Major Issues of Public Concern

This section of the CPP identifies major issues of public concern as they relate to the site. Additional major issues of public concern may be identified during the site's remedial process.

At this juncture the public has not identified major concerns with the project. In the event major concerns are expressed, future communication addressing those concerns will be issued to stakeholders.

4.0 Site Information

Note: please refer to the BCP Application and RIWP (and corresponding appendices) for more detailed information on the Site. Below is a summary of Site description, future use of Site, historical use of Site, and Site environmental history.

Site Description

The 0.3-acre Site includes one parcel (SBL: 111.30-3-5) and is bound by Main Street to the west, Washington to the east, a commercial and residential building to the south, and a commercial lot to the north. The Site is zone N-1C (Mixed-Use Core) in an area consisting primarily of commercial and industrial businesses. The Site is also in a designated En-Zone (Type B) for Census Tract 25.02 and is in a Disadvantaged Community. The Site is currently vacant containing no structures and bound by Main Street to the west, Washington to the east, a commercial and residential building to the south, and a commercial lot to the north.

Future Use of the Site

The anticipated future use of the Site is mixed use commercial and residential.

History of Site Use

The original Site once contained several separate residential structures and hotels from 1938-1962. The property then was used for auto parking, restaurants, and storage. Two gas tanks, presumably underground storage tanks were identified at the Site from the 1950's to the 1970's in the northwest corner along 1st Street. In 1987, the property was redeveloped with a two-story commercial building used as a retail store and graphics center and later became known as Smokin' Joe's Native Center. The property is currently vacant.

5.0 Remedial Cleanup Process

Application

The Applicant is applying for acceptance into New York's BCP as a Volunteer. This means that the Applicant is not responsible for the disposal or discharge of the contaminants or whose ownership or operation of the site took place after the discharge or disposal of contaminants. The Volunteer must fully characterize the nature and extent of contamination onsite, and must conduct a qualitative exposure assessment, a process that characterizes the actual or potential exposures of people, fish and wildlife to contaminants on the site and to contamination that has migrated from the site.

The Applicant in its Application proposes that the site will be used for mixed use commercial/residential purposes. To achieve this goal, the Applicant will conduct investigation and/or cleanup activities at the site with oversight provided by NYSDEC. The Brownfield Cleanup Agreement (BCA) to be executed by NYSDEC and the Applicant sets forth the responsibilities of each party in conducting these activities at the site.

Investigation

The Applicant will complete a RI as part of the BCP. NYSDEC will use the information in the investigation report to determine if the site poses a significant threat to public health or the environment. If the site is a significant threat, it must be cleaned up using a remedy selected by NYSDEC from an analysis of alternatives prepared by the Applicant and approved by NYSDEC. If the site does not pose a significant threat, the Applicant may select the remedy from the approved analysis of alternatives.

Interim Remedial Measures

An Interim Remedial Measure (IRM) is an action that can be undertaken at a site when a source of contamination or exposure pathway can be effectively addressed before the site investigation and analysis of alternatives are completed. If an IRM is likely to represent all or a significant part of the final remedy, NYSDEC will require a 30-day public comment period.

Remedy Selection

The Applicant will recommend in its application that action needs to be taken to address site contamination. Pending approval of the investigation report by the NYSDEC, the Applicant has proposed a remediation of impacted soil to meet at least restricted residential use.

The RI results will help develop a remedial approach which may include an IRM. When the Applicant submits the proposed Remedial Investigation Work Plan (RIWP) for approval, NYSDEC will announce the availability of the proposed plan for public review during a 45-day public comment period.

Cleanup Action

NYSDEC will consider public comments and revise the draft Remedial (IRM) Work Plan if necessary, before approving the proposed remedy. The New York State Department of Health (NYSDOH) must concur with the proposed remedy. After approval, the proposed remedy becomes the selected remedy.

The Applicant may then design and perform the cleanup action to address the site contamination. NYSDEC and NYSDOH will oversee the activities. When the Applicant completes cleanup activities, it will prepare a final engineering report that certifies that cleanup requirements have been achieved or will be achieved within a specific time frame. NYSDEC will review the report to be certain that the cleanup is protective of public health and the environment for the intended use of the site.

Certificate of Completion

When NYSDEC is satisfied that cleanup requirements have been achieved or will be achieved for the site, it will approve the final engineering report. NYSDEC then will issue a Certificate of Completion (COC) to the Applicant. The COC states that cleanup goals have been achieved and relieves the Applicant from future liability for site-related contamination, subject to certain conditions. The Applicant would be eligible to redevelop the site after it receives a COC.

Site Management

The purpose of site management is to ensure the safe reuse of the property if contamination will remain in place. Site management is the last phase of the site cleanup program. This phase begins when the COC is issued. Site management may be conducted by the Applicant under NYSDEC oversight, if contamination will remain in place. Site management incorporates any institutional and engineering controls required to ensure that the remedy implemented for the site remains protective of public health and the environment. All significant activities are detailed in a Site Management Plan.

An institutional control is a non-physical restriction on use of the site, such as a deed restriction that would prevent or restrict certain uses of the property. An institutional control may be used when the cleanup action leaves some contamination that makes the site suitable for some, but not all uses.

An engineering control is a physical barrier or method to manage contamination. Examples include: caps, covers, barriers, fences, and treatment of water supplies.

Site management also may include the operation and maintenance of a component of the remedy, such as a system that is pumping and treating groundwater. Site management continues until NYSDEC determines that it is no longer needed.

Attachment A

Project Contacts and Locations of Reports and Information

For information about the site's investigation and cleanup program, the public may contact any of the following project staff:

New York State Department of Environmental Conservation (NYSDEC):

Taylor Monnin

Division of Environmental Remediation
New York State Department of Environmental Conservation
700 Delaware Ave. Buffalo, NY 14209-2202
P: (716) 851-7220 | F: (716) 851-7226
Taylor.Monnin@dec.ny.gov
Region 9 Email: region9@dec.ny.gov

Gregory Scholand, Esq.
Office of General Counsel
New York State Department of Environmental Conservation
700 Delaware Ave. Buffalo, NY 14209-2202
(716)-851-7220
Gregory.Scholand@dec.ny.gov

New York State Department of Health (NYSDOH):

Christine Vooris
New York State Department of Health
Bureau of Environmental Exposure Investigation
Empire State Plaza
Corning Tower Room 1787
Albany, NY 12237
christine.vooris@health.ny.gov

Public Repository for Reports and Information:

Buffalo & Erie County Library
1 Lafayette Square
Buffalo, NY 14203



Attachment B
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

Daniel Castle, AICP County Environment and Planning Commissioner
Edward A. Rath County Office Building
95 Franklin Street, 16th Floor
Buffalo, NY 14202
Phone: (716) 858-8500

Erie County Legislator April N.M. Baskin District 2
790 East Delevan Avenue
Buffalo, NY 14215

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

Ms. Karen M. McCarthy
Erie County Legislature Clerk
25 Delaware Avenue
Buffalo, NY 14202

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

Commissioner Gale Burnstein, MD Erie County Health Department
95 Franklin Street, Room 931
Buffalo, NY 14203

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 Square
Buffalo, NY 14219

Brendan R. Mehaffy – Director of Planning
Executive Director
65 Niagara Square, Room 901
Buffalo, NY 14202

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

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

Supplier of Potable Water:

Buffalo Water Department
Veolia Water
2 Porter Avenue
Buffalo, NY 14201

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

Local News Media:

Buffalo News
1 News Plaza
Buffalo, NY 14240

WGRZ TV – Ch. 2
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
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

Nearby Schools and Daycares:

Ms. Dawn M. DiNatale, Principal
PS 30 Frank A. Sedita Academy
21 Lowell Street
Buffalo, NY 14213

Aakta Patel, Principal
PS 18 Dr. Antonia Pantoja Community School of Academic Excellence
750 West Avenue
Buffalo, NY 14213

Dr. William J. Mariana, Interim President D'Youville College
320 Porter Avenue
Buffalo, NY 14201

Ms. Florence Krieter, Principal
PS 212 Leonardo da Vinci High School
320 Porter Avenue
Buffalo, NY 14201

Lynn Piccirillo, Principal PS International School
141 Hoyt Street
Buffalo, NY 14213



Mrs. Anrea Todoro, School Leader West Buffalo Charter School
113 Lafayette Avenue
Buffalo, NY 14213

Director
Kids World Day Care Center, Inc.
921 Niagara Street
Buffalo, NY 14213

Director
Antwanayja Day Care Center
257 Massachusetts Avenue
Buffalo, NY 14213

Edu kids/Rich's Family Center Child Day Care Center
1200 Niagara Street
Buffalo, NY 14213
(716) 878-8006

Adjacent Property Owners

753 Main Street
Sidway Parking, LLC
12 W 37th Street
New York, NY 10018

775 Main Street
Nosnovets LLC
779 Washington Street
Buffalo, NY 14203

737 Main Street, LLC
701 Seneca Street
Buffalo, NY 14203

736 Main Street
Schmidt's Auto Service, Inc.
8604 Main Street
Williamsville, NY 14221

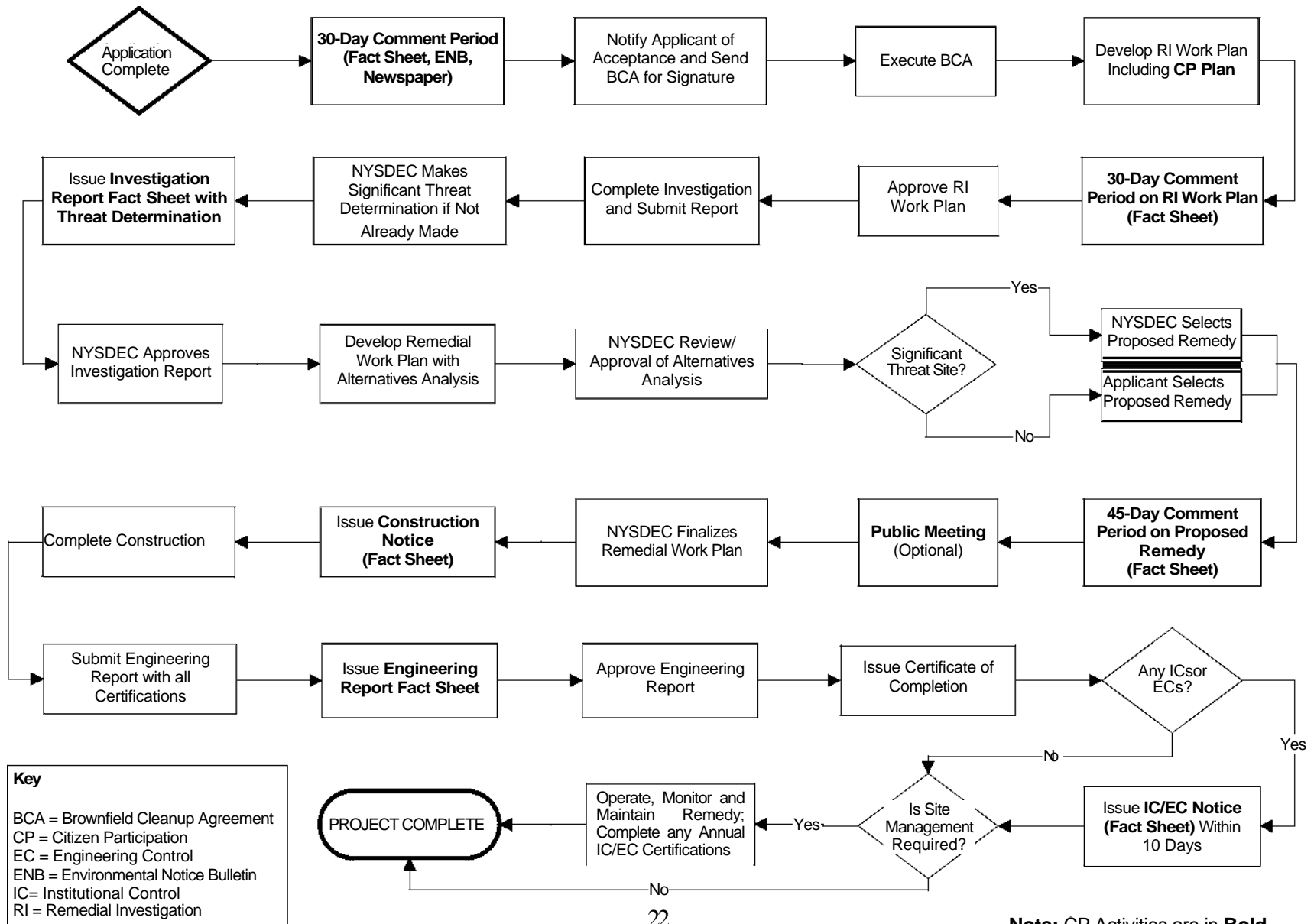
752 Main Street
Teck Associates Limited Partnership
23240 Chagrin Blvd. #515
Beachwood OH, 44122

Document Repository – See attached letter



Buffalo & Erie County library
1 Lafayette Square
Buffalo, NY 14203

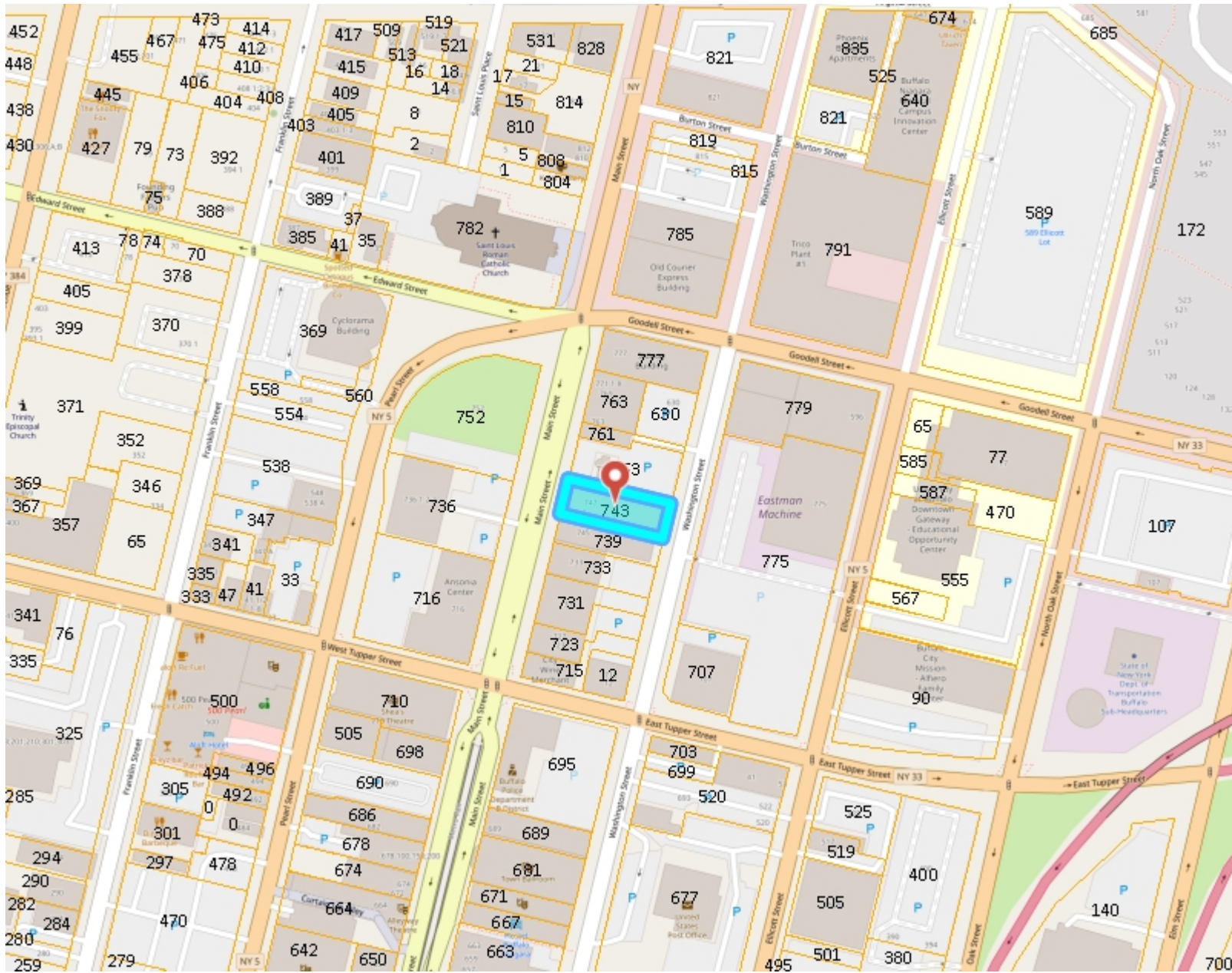
Attachment C
BCP Process Flowchart



Attachment D
PROJECT LOCATION MAP



Erie County On-Line Mapping Application



Legend

Parcels

0 0.07 0.1 Miles

WGS_1984_Web_Mercator_Auxiliary_Sphere
THIS MAP IS NOT TO BE USED FOR NAVIGATION

**ERIE COUNTY
DEPARTMENT OF ENVIRONMENT & PLANNING
OFFICE OF GIS**

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

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