

**2018-2021 Periodic Review Report (PRR)
for the
1501 College Ave. Site
Niagara Falls, New York**

NYSDEC BCP Site No. C932134

Prepared for:

Buffalo Fuel Corp.
4870 Packard Rd.
Niagara Falls, New York 14304

Prepared by:

EnSol, Inc.
661 Main Street
Niagara Falls, New York 14301

December 2021
Revised October 2022

EnSol PN 026-A0001-02

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1.0 EXECUTIVE SUMMARY

1.1 Purpose

This Periodic Review Report (PRR) is required as an element of the remedial program at the 1501 College Ave. Site (hereinafter referred to as the “Site”) under the New York State (NYS) Brownfield Cleanup Program (BCP) administered by the New York State Department of Environmental Conservation (NYSDEC or Department). The Site was remediated in accordance with Brownfield Cleanup Agreement (BCA) Index# B9-0757-07-10, Site # C932134, which was executed on December 13, 2007 and last amended on January 31, 2011. A Certificate of Completion (COC) was issued on December 31, 2012.

This PRR is prepared for the reporting period December 31, 2018 through December 31, 2021.

1.2 Site Background and Remedial History

The Site is located in the City of Niagara Falls, Niagara County, New York. The 12.4-acre Site comprises the following two adjoining parcels:

- 1501 College Avenue - SBL 130-18-2-19.
- 1655 College Avenue - SBL 130.18-2-3.212 (0.16-acre parcel).

The Site is bordered by National Grid (not RR) property immediately adjacent to College Avenue to the north, and 15th Street to the west (see **Appendix A, Figures 1 and 2**). The boundaries of the Site are more fully described in the Environmental Easement (see **Appendix B**).

The Site was used for heavy industrial manufacturing from at least 1910 to the mid-1980s, and at one time was part of a larger former Union Carbide Co. manufacturing complex.

A Phase I Environmental Site Assessment (ESA) of the Site was conducted in August 2007. The Phase I ESA identified several areas of concern, including: evidence of illegal dumping is obvious across the Site; various debris piles, automobile parts, abandoned automobiles, abandoned tanker trucks, drums of unknown liquid and solid contents, sacks of unknown granular or solid materials, aboveground storage tanks (ASTs), and household debris were located throughout the interior and exterior of the Site.

A Limited Preliminary Environmental Investigation was conducted at the Site in August 2007. The Limited Preliminary Environmental Investigation involved collecting four surface soil samples, one galbestos roof-covering sample and two debris pile samples. The samples indicated that polycyclic aromatic hydrocarbons (PAHs), metals, and polychlorinated biphenyls (PCBs) were present on-Site above the NYSDEC Part 375 Industrial Use soil cleanup objectives (SCOs).

The property owner, Santarosa Holdings, Inc. (Santarosa), elected to pursue cleanup and redevelopment of the Site under the New York State BCP. A Remedial Investigation/Alternatives Analysis Report (RI/AAR) Work Plan dated December 2007 was approved by the NYSDEC, with concurrence of the New York State Department of Health (NYSDOH), on January 4, 2008. An Interim Remedial Measures (IRM) Work Plan dated March 2008 was approved by the NYSDEC on June 11, 2008. Initial RI soil and groundwater sampling activities were performed at the Site in September and October 2010.

Based on the findings of the RI activities, TurnKey Environmental Restoration, LLC (TurnKey) and Santarosa met with the NYSDEC and NYSDOH in November 2010 and prepared an IRM Work Plan letter dated November 12, 2010 further describing the planned IRM activities. The IRM Work Plan letter was approved by NYSDEC on November 18, 2010. IRM activities were conducted at the Site from November 2010 through November 2012.

The RI was completed to characterize the nature and extent of contamination at the Site. Remedial investigation field activities included: advancement of soil boring and monitoring well installation; excavation of test pits; and surface soil, subsurface soil and groundwater sampling. The IRM fieldwork generally included: excavation and off-Site disposal of impacted soil/fill; demolition of all former buildings; removal and off-Site disposal of galbestos roofing material; loading and off-Site disposal of soil/fill/debris piles; removal of multiple drums and product containers; backfill of excavations with approved reutilization of on-Site building material for subgrade backfill; use of approved soil and recycled concrete backfill; Site restoration including surface grading and seeding; and placement of a composite cover system including areas covered by existing asphalt and concrete, recycled concrete and soil across the Site.

Based on the Alternatives Analysis evaluation, it was concluded that the completed IRMs, together with implementation of a Site Management Plan (SMP), satisfies the remedial action objectives and is protective of human health and the environment, and the IRM was selected as the final remedial approach for the 1501 College Avenue Site.

Currently, the Site is used for trailer and equipment storage, used tire and scrap tire storage, temporary storage of road millings and as an access roadway to the adjacent Construction and Demolition (C&D) Debris and waste tire processing facility operated by SGS Recovery.

1.3 Site Management Plan

The SMP for the Site was prepared in November 2012. The SMP details the use of Engineering and Institutional Controls (EC/ICs) to prevent public exposure to contaminated media remaining on-Site. The Engineering Controls at the Site consist of various cover systems placed throughout the Site to prevent exposure to contaminated soil and groundwater. In general, the soil cover systems comprise of a minimum of a 12-inch clean soil layer overlying an orange plastic mesh

demarcation layer. Refer to Section 2.0 for a detailed description of the cover systems. The SMP requires that Site-wide inspections of the cover system be conducted on an annual basis at minimum.

The SMP also identifies Institutional Controls as required by the Environmental Easement placed on the property on December 12, 2012. These Institutional Controls are:

- Compliance with the Environmental Easement and the SMP by the Grantor and the Grantor's successors and assigns;
- All Engineering Controls must be maintained as specified in the SMP;
- All Engineering Controls on the Controlled Property must be inspected at a frequency and in a manner defined in the SMP;
- Environmental or public health monitoring must be performed as defined in the SMP;
- Data and information pertinent to Site Management of the Controlled Property must be reported at the frequency and in a manner defined in the SMP;
- The property may only be used for industrial use provided that the long-term EC/ICs included in the SMP are employed;
- The property may not be used for a higher level of use, such as unrestricted, residential, restricted residential, or commercial use without additional remediation and amendment of the Environmental Easement, as approved by the NYSDEC;
- All future activities on the property that will disturb remaining contaminated material must be conducted in accordance with the SMP; and,
- Vegetable gardens and farming on the property are prohibited.

1.4 Effectiveness of the Remedial Program

During the reporting period December 31, 2018 through December 31, 2021, the remedial objectives have not been met. This assessment is based on an evaluation (discussed further in Section 3.0) of the Site remedial measures (i.e., cover system, SMP). Additionally, the remedial measures currently in-place do not appear to be able to achieve the ultimate ability of the remedial objectives for the Site. See Section 2.0 below for more detail.

1.5 Compliance

Several areas of non-compliance in the cover system(s) were identified during this reporting period. A Corrective Measures Work Plan (CMWP) (Appendix E) has been created to address the perimeter berms and cover system repairs. See Section 3.0 of the CMWP for further details. Once repaired, these areas will continue to be monitored and repaired, as necessary. See Section 2.0 for further details.

1.6 Recommendations

Based on our evaluation of the effectiveness of the remedial program and the Site's compliance with major elements of the SMP, no changes to the SMP, frequency of PRR submittals or discontinuance of Site management are recommended.

During the Site Inspection for the 2018-2021 PRR reporting period, conducted December 10, 2021, EnSol identified conditions needing corrective measures:

- Lack of vegetation on the perimeter berm running along the north, west, and south property boundaries.
- Tire rutting in high traffic areas;
- Ponding;
- A small (< 6" diameter) sinkhole; and
- Surface cracking of existing concrete and asphalt.

The following Corrective Measures (CMs) are proposed in the Corrective Measures Work Plan to address these conditions:

- Re-seed the berms with a suitable seed mixture
- Monitor vegetation growth periodically
- Restore sink hole and areas of ponding to final cover system conditions in accordance with the SMP
- Restore deficient areas of concrete and asphalt in accordance with the SMP

2.0 REMEDY EVALUATION AND EFFECTIVENESS

The Site was remediated in accordance with the remedy selected by the NYSDEC in the Decision Document dated November 2012. The following are the components of the selected remedy:

- Construction and maintenance of cover systems to prevent human exposure to remaining contaminated soil/fill remaining at the Site. The cover system comprises a combination of existing asphalt/concrete areas and a minimum of 12 inches of approved recycled concrete, recycled concrete block, and/or approved imported soil over the orange plastic mesh demarcation layer. Soil-covered berms were constructed along the Site boundaries. On-Site material was used for the subgrade berm material with NYSDEC approval. The subgrade material was overlain with orange demarcation mesh, and a minimum of 12 inches of approved soil was placed above the demarcation layer. No soil/fill from the Site was utilized as material for berms constructed on the adjacent redevelopment parcel (former Hazorb Site). See **Figure 6** in **Appendix A** for the locations and cross section details for the different cover system types.
- Execution and recording of an Environmental Easement to restrict land use and prevent future exposure to any contamination remaining at the Site. The Environmental Easement for the Site was executed by the Department on December 19, 2012, and filed with the Niagara County Clerk on December 21, 2012.
- Development and implementation of a SMP for long-term management of remaining contamination as required by the Environmental Easement, which includes plans for: (1) Institutional Controls (ICs) and Engineering Controls (ECs) and (2) reporting.
- Periodic inspection and certification of the institutional and engineering controls.

On December 10, 2021, EnSol, Inc. (EnSol) conducted a Site inspection to evaluate the integrity and performance of the Site cover systems. Based on our inspection, several areas of the cover systems for the Site appeared to be in poor condition and not performing as intended. The deficiencies included minor tire rutting in the soil/clay cover system in the high traffic areas located in the middle and southeast portion of the Site. These areas were a significant contribution to ponding observed throughout as well. A majority of the perimeter berm was unvegetated. However, seeding and tackifier appear to have been applied to the northern berm. Surface cracking and separation were observed on the existing concrete/asphalt cover at locations on the east half of the Site. A small sinkhole (less than 6" in diameter) was observed near a high traffic area at the center of the northern half of the Site. Refer to **Appendix C** which includes the December 10th Site Inspection Report and Photographs. These areas were discussed with the

property owner upon completion of the inspection. EnSol noted to the owner that the unvegetated berm was an issue observed during the 2018 inspection and also recommended monitoring the rutting and cracking and performing repairs, as necessary. During our evaluation, EnSol also reviewed the SMP for compliance. No deficiencies with regard to Site management were noted.

During the reporting period December 31, 2018 through December 31, 2021, the remedial objectives have not been fully met. This assessment is based on an evaluation of the Site remedial measures (i.e., cover system, SMP). In order to meet the remedial objectives for the Site, it is important to identify and correct deficiencies in a timely manner. The tire rutting, ponding, sinkhole, lack of perimeter berm vegetation, surface cracking and separation of existing concrete and asphalt shall be addressed by the owner in accordance with the Excavation Work Plan and Corrective Measures Work Plan. Upon completion of the repairs, the owner shall notify the Department and provide photographs. The corrections will be documented in the next PRR.

3.0 IC/EC REQUIREMENTS AND COMPLIANCE

In accordance with the Decision Document, the following are the remedial measures selected for the Site:

Institutional Controls

1. *Groundwater Use Restriction*

Description and Objective - Prohibits the use of groundwater for potable water supply(s) without proper treatment and approval(s).

Current Status – In-place. The Site is located within an area that utilizes public water service.

Recommended Corrective Measures – No deficiencies noted and no corrective measures recommended.

2. *Soil Management Plan*

Description and Objective - Provides provisions to ensure that any ground intrusive activities conducted at the Site in the future are conducted in a safe and environmentally responsible manner with respect to contaminants of potential concern (COPCs) remaining in Site-related soils and groundwater.

Current Status – In-place. During the current reporting period, no intrusive activities have been conducted at the Site.

Recommended Corrective Measures – No deficiencies noted and no corrective measures recommended.

3. *Landuse Restriction (Environmental Easement)*

Description and Objective - Includes legal property use restrictions ensuring the protection of public health and the environment by prohibiting more restrictive uses of the property as well as use of groundwater without proper treatment and approvals.

Current Status – In-place. There have been no changes to the land use for the Site.

Recommended Corrective Measures – No deficiencies noted and no corrective measures recommended.

4. *Site Management Plan (SMP)*

Description and Objective - The SMP includes three major components: the IC/EC Plan detailing controls intended to eliminate potential exposure pathways to COPCs remaining in Site-related soil/fill and groundwater, an Excavation Work Plan detailing required methods for handling Site soils if future excavation work is required, and the Site Monitoring Plan describing inspection and monitoring activities that will be required to ensure that IC/ECs remain in-place and are effective.

Current Status – In-place. No change to SMP as all elements remain applicable.

Recommended Corrections – No deficiencies noted. A Corrective Measures Work Plan has been created to address repairs to the cover system, as noted in Section 2.0 of this report.

5. *IC/EC Plan*

Description and Objective - Institutional controls at the Site consist of restrictions on land use which allow Industrial Use of the property, but prevent more restrictive land uses such as Residential, Restricted Residential or Commercial Use. There are restrictions on groundwater use that prohibit the use of groundwater for potable water supply(s) without proper treatment and approval(s). Engineering controls at the Site consist of physical barriers to eliminate potential exposure pathways to COPCs still present in Site-related soils and groundwater.

Current Status – In-place. No change to the IC/EC Plan as all elements remain applicable.

Recommended Corrective Measures – No deficiencies noted and no corrective measures recommended.

Engineering Controls

1. *Cover System*

Description and Objective - Construction and maintenance of cover systems to prevent human exposure to remaining contaminated soil/fill remaining at the Site. There are multiple separate cover systems that are installed and maintained at the Site (**Appendix A, Figure 6**). The cover system comprises a combination of existing asphalt/concrete areas and a minimum of 12 inches of approved recycled concrete, recycled concrete block, and/or approved imported soil over the orange plastic mesh demarcation layer. Soil-covered berms were constructed along the Site boundaries. On-Site material was used for the subgrade berm material with NYSDEC approval. The subgrade material was overlain with orange demarcation mesh, and a minimum of 12 inches of approved soil was placed above the demarcation layer.

Current Status – In-place. The cover systems for each parcel are in poor condition due to tire rutting, ponding, surface cracking and separation of concrete/asphalt observed throughout, and the presence of a small sinkhole.

Recommended Corrective Measures – A Corrective Measures Work Plan has been created to address the perimeter berms and other issues mentioned above. As stated in Section 2.0, minor rutting (soil/clay) and cracking (concrete/asphalt) observed during the December 10, 2021 Site inspection will continue to be monitored and repaired, as necessary, in order to keep the cover system intact. The owner initiated corrective actions in July 2022 and will complete them by December 31, 2022.

A completed IC/EC Certification Form, prepared for the reporting period December 31, 2018 through December 31, 2021, is included as Appendix D. The Corrective Measures Work Plan is included as Appendix E.

4.0 OVERALL PRR CONCLUSIONS AND RECOMENDATIONS

During the reporting period December 31, 2018 through December 31, 2021, the remedial objectives have not been fully met. This assessment is based on an evaluation of the Site remedial measures (i.e., cover system, SMP). To maintain the integrity of the cover system, a Corrective Measures Work Plan has been created to address the perimeter berms and other deficiencies identified with the cover system. The corrective actions schedule is presented in Section 3. Corrective Measures of the Corrective Measures Work Plan will maintain the ability of the cover system to satisfy the remedial objectives of the Site.

Based on our evaluation of the effectiveness of the remedial program and the Site's compliance with major elements of the SMP, no changes to the frequency of PRR submittals or discontinuance of Site management are recommended.

Appendix A

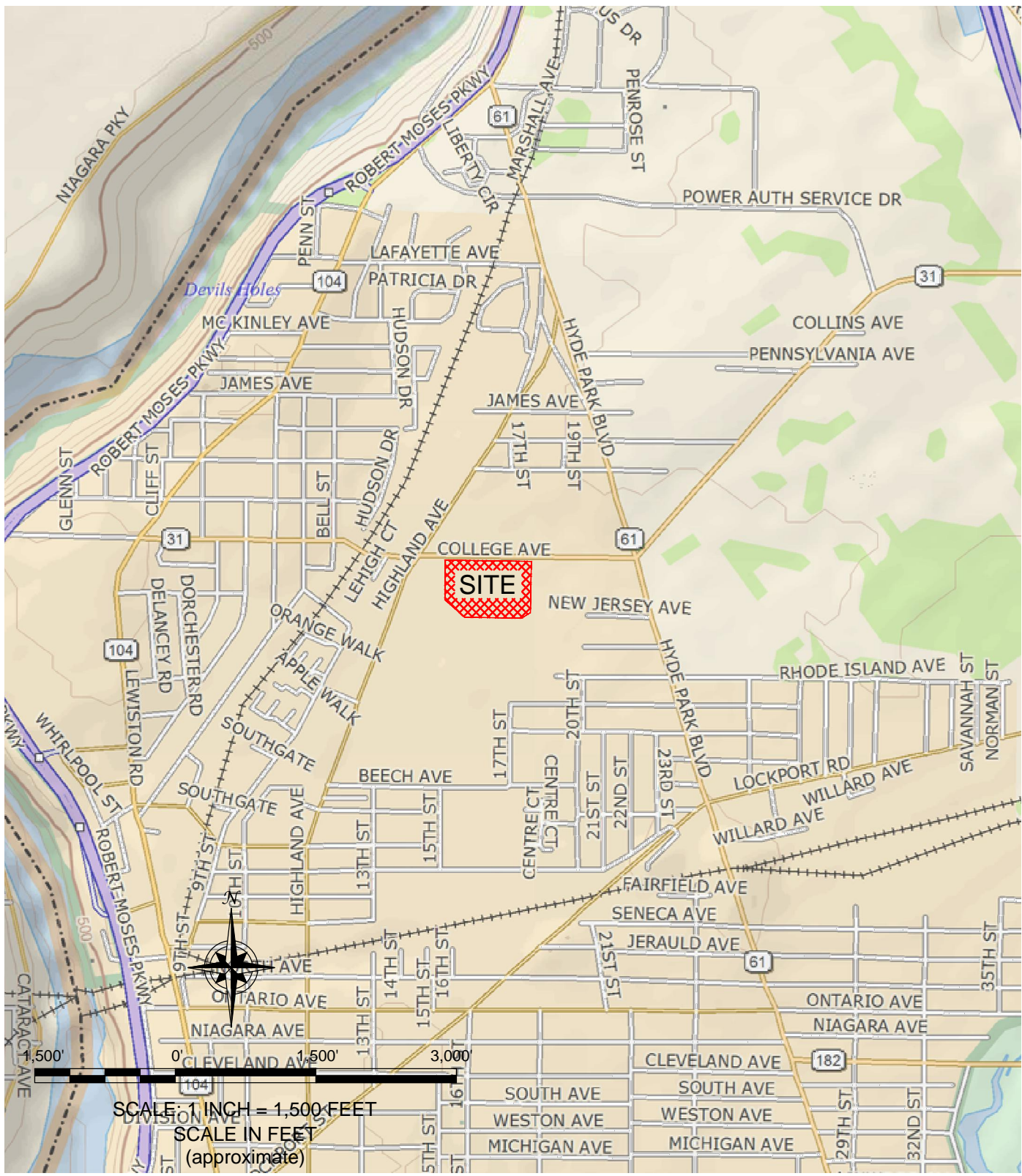
EnSol, Inc. *Environmental Solutions*

professional engineering - business consulting

Figures and Drawings

FIGURE 1

F:\CAD\TurnKey\Santorosa Holdings\Site Management Plan\Figure 1- Site Location and Vicinity Map - JGT.dwg



2558 HAMBURG TURNPIKE
 SUITE 300
 BUFFALO, NY 14218
 (716) 856-0635

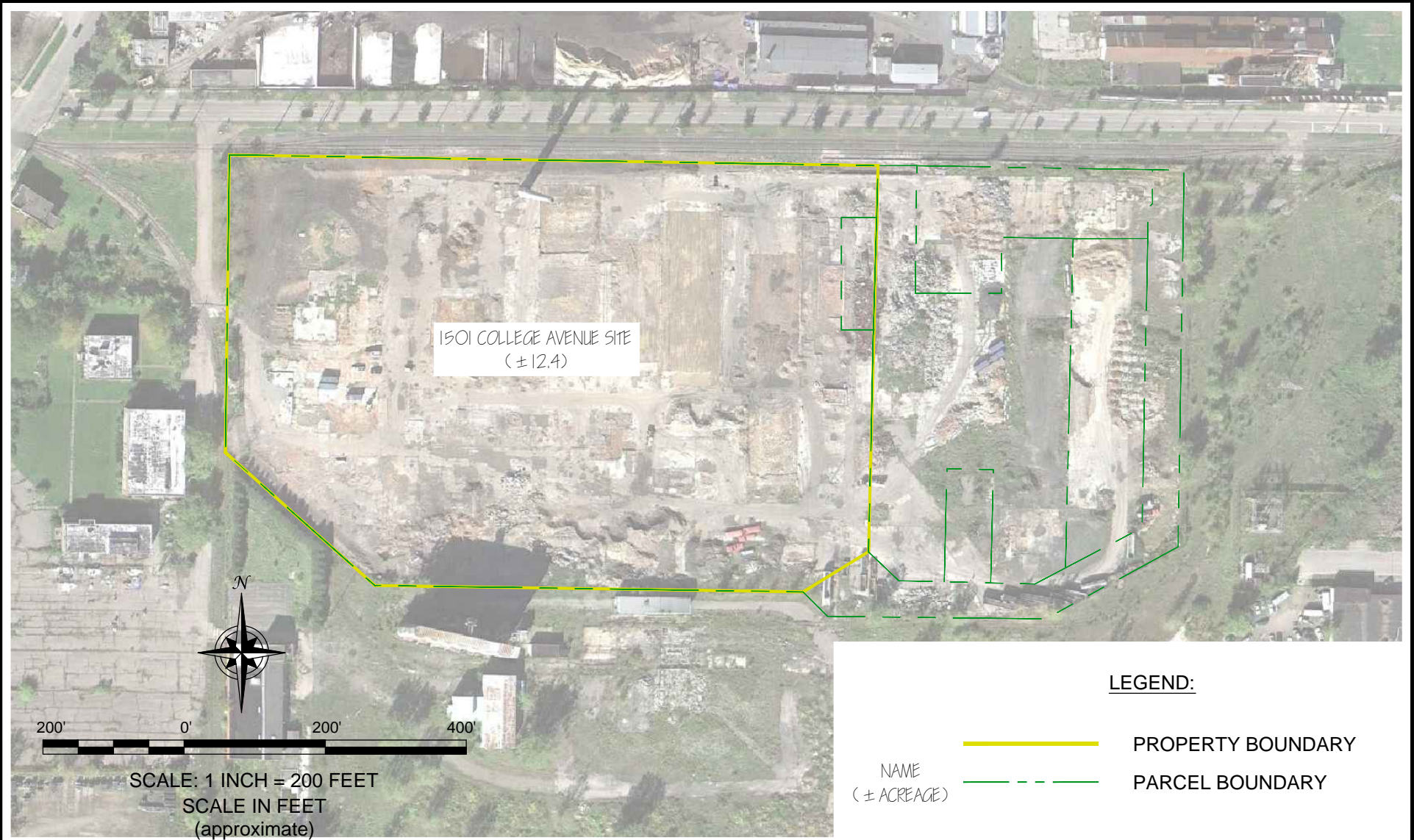
SITE LOCATION AND VICINITY MAP

SITE MANAGEMENT PLAN
 1501 COLLEGE AVENUE SITE
 NIAGARA FALLS, NEW YORK
 PREPARED FOR
 SANTAROSA HOLDINGS, INC

PROJECT NO.: 0140-001-105

DATE: OCTOBER 2012

DRAFTED BY: JGT



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0835

SITE PLAN (AERIAL)

SITE MANAGEMENT PLAN
1501 COLLEGE AVENUE SITE
NIAGARA FALLS, NEW YORK
PREPARED FOR
SANTAROSA HOLDINGS, INC

PROJECT NO.: 0140-001-105

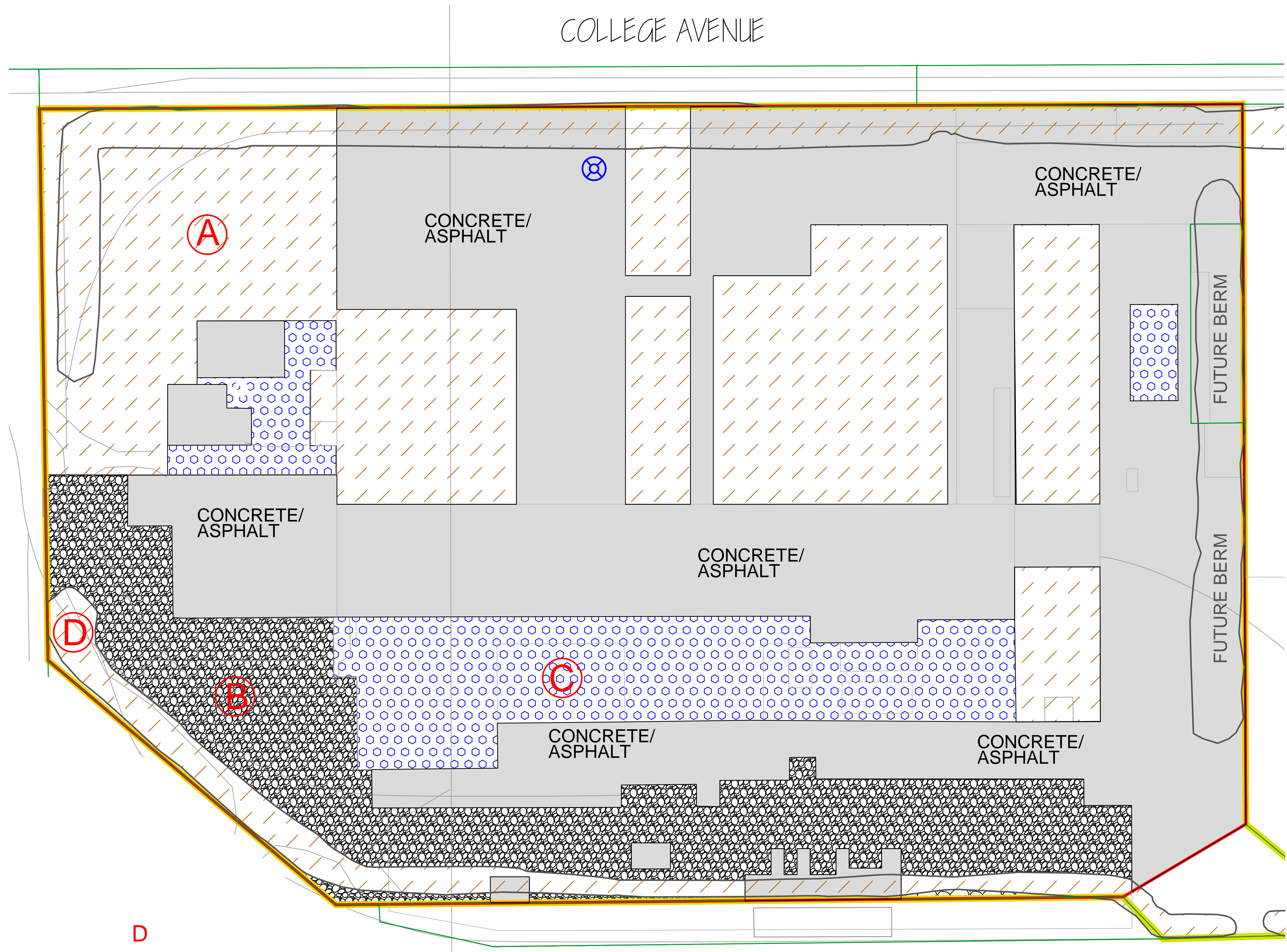
DATE: OCTOBER 2012

DRAFTED BY: JGT

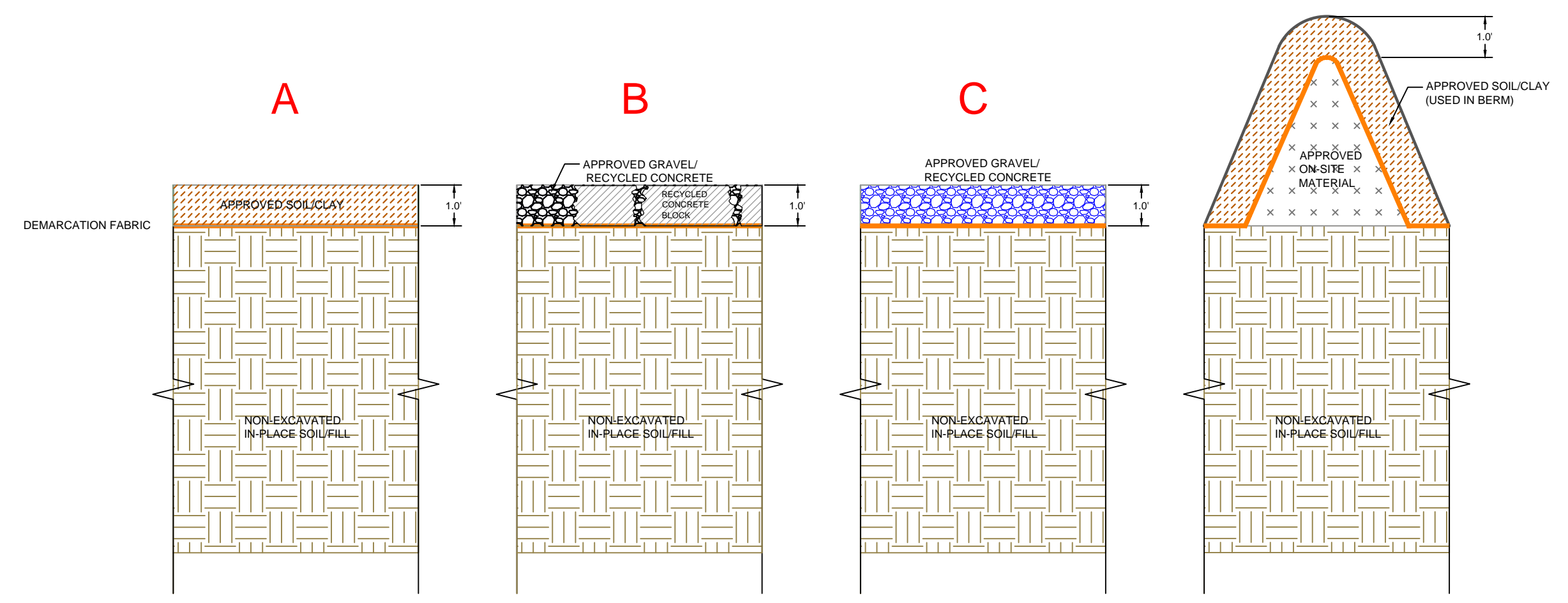
FIGURE 2

LEGEND:

- PROPERTY BOUNDARY
- PARCEL BOUNDARY
- HISTORIC RAILROAD TRACKS
- BCP PROPERTY BOUNDARY
- COVER SYSTEM - APPROVED SOIL/CLAY
- COVER SYSTEM - APPROVED RECYCLED CONCRETE / BLOCK
- COVER SYSTEM - APPROVED RECYCLED CONCRETE
- BERM LOCATION
- COVER SYSTEM - EXISTING CONCRETE/ASPHALT



**COVER SYSTEM DETAILS:
SCALE: 1" = 3'**



2558 HAMBURG TURNPIKE
10000 NY 14218
RUFFALO
(716) 856-0635
JOB NO.: 0140-001-105

REVISIONS		REMARKS
NO.	BY	DATE

DRAWN BY: JGT	DATE: OCTOBER 2012	CHECKED BY: NTM
APPROVED BY: MAL	<small>DISCLAIMER: BENCHMARK EES, P.L.L.C. IMPORTANT: THIS DRAWING PRINT IS LOANED FOR MUTUAL ASSISTANCE AND IS NOT TO BE REPRODUCED OR RECALCULATED IN ANY MANNER. ANY DISCREPANCY OR REVISIONS SHALL BE THE RESPONSIBILITY OF THE SUBCONTRACTORS & SUPPLIERS WITHOUT THE WRITTEN CONSENT OF BENCHMARK EES, P.L.L.C.</small>	

COVER SYSTEM LAYOUT AND DETAIL
 SITE MANAGEMENT PLAN
 1501 COLLEGE AVENUE SITE
 NIAGARA FALLS, NEW YORK
 PREPARED FOR
 SANTAROSA HOLDINGS, INC.

FIGURE 6

Appendix B

EnSol, Inc. *Environmental Solutions*

professional engineering - business consulting

Environmental Easement



NIAGARA COUNTY CLERK
WAYNE F. JAGOW

RECEIPT

Create Time: 12/21/2012 2:52:42 PM

RECEIPT # 2012141857

Recording Clerk: MKS

Account: cash4

Rec'd Frm: MICHAEL O MORSE

By Mail/In Person (M/P): P

Instr#: 2012-27063

DOC: EASEMENT

DEED STAMP: 2137

OR Party: SANTAROSA HOLDINGS INC

EE Party: PEOPLE OF THE STATE OF NEW

DEEDTP

Cover Page	1	\$8.00
Recording Fee	9	\$32.00
Cultural Ed	1	\$14.25
Records Management - County	1	\$1.00
Records Management - State	1	\$4.75
TP584-2 (Public Utilities)	1	\$1.00

Transfer Tax

Transfer Tax	\$0.00
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Receipt Summary

TOTAL RECEIPT: ---->	\$61.00
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TOTAL RECEIVED: ---->	\$61.00
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Cash Back	\$0.00
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PAYMENTS

Check # 2661 ->	\$61.00
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MICHAEL O MORSE

ENVIRONMENTAL EASEMENT GRANTED PURSUANT TO ARTICLE 71, TITLE 36
OF THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW

ORIGINAL FILED
NOV 21 2012

WAYNE F. JAGOW
NIAGARA COUNTY CLERK

THIS INDENTURE made this 19th day of December, 2012 between Owner(s) SANTAROSA HOLDINGS, INC., having an office at 4870 Packard Rd. in the City of Niagara Falls, County of Niagara, State of New York (the "Grantor"), and The People of the State of New York (the "Grantee."), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner", or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233,

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

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

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

WHEREAS, Grantor, is the owner of real property located at the address of 1501 College Ave. in the City of Niagara Falls, County of Niagara and State of New York, known and designated on the tax map of the County Clerk of Niagara County as tax map parcel numbers: Section 130.18 Block 2 Lot 19. Grantor is also the owner of real property located at the address of 1655 College Avenue known and designated on the tax map of the County Clerk of Niagara County as tax map parcel number: Section 130.18 Block 2 Lot 3.212. Both parcels being the same as that property conveyed to Grantor by deed dated August 11, 2011 and recorded in the Niagara County Clerk's Office in Instrument # 2011-13304. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 12.357 +/- acres, and is hereinafter more fully described in the ATLA / ACSM Land Title Survey dated August 3, 2012 and revised on November 15, 2012 and further revised on December 12, 2012 prepared by Apex Consulting Survey & Engineering Services, P.C., which will be attached to the Site Management Plan. The Controlled Property description is set forth in and attached hereto as Schedule A; and

WHEREAS, the Department accepts this Environmental Easement in order to ensure the protection of public health and the environment and to achieve the requirements for remediation

established for the Controlled Property until such time as this Environmental Easement is extinguished pursuant to ECL Article 71, Title 36; and

NOW THEREFORE, in consideration of the mutual covenants contained herein and the terms and conditions of Brownfield Cleanup Agreement Index Number: B9-0757-10 as amended by Amendment #1 dated January 31, 2011, Grantor conveys to Grantee a permanent Environmental Easement pursuant to ECL Article 71, Title 36 in, on, over, under, and upon the Controlled Property as more fully described herein ("Environmental Easement")

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

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

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

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

(3) All Engineering Controls must be inspected at a frequency and in a manner defined in the SMP.

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

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

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

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

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

(9) Access to the site must be provided to agents, employees or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by this Environmental Easement.

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

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

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

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

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

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

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

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

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

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

- (i) are in-place;
- (ii) are unchanged from the previous certification, or that any identified changes to the controls employed were approved by the NYSDEC and that all controls are in the Department-approved format; and
- (iii) that nothing has occurred that would impair the ability of such control to protect the public health and environment;

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

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

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

(6) to the best of his/her knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and

(7) the information presented is accurate and complete.

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

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

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

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

5. Enforcement

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

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

Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this

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

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

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

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

Parties shall address correspondence to: Site Number: C923134
Office of General Counsel
NYSDEC
625 Broadway
Albany New York 12233-5500

With a copy to: Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, NY 12233

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

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

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

9. Extinguishment. This Environmental Easement may be extinguished only by a release by the Commissioner of the New York State Department of Environmental Conservation, or the

Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

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

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

SANTAROSA HOLDINGS, INC.

By: 

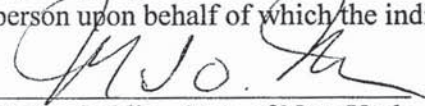
Print Name: Salvatore D. Santarosa _____

Title: President _____ Date: 12-17-12

Grantor's Acknowledgment

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

On the 14th day of December, in the year 2012, before me, the undersigned, personally appeared Salvatore D. Santarosa, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.


Notary Public - State of New York

Michael O. Morse
Notary Public - State of New York
Qualified in Erie County
My Commission Expires June 16, 20 14

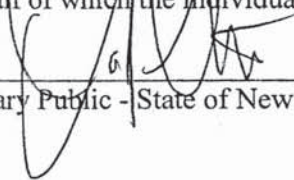
THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner,

By: 
Robert W. Schick, Director
Division of Environmental Remediation

Grantee's Acknowledgment

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

On the 19th day of December, in the year 2012, before me, the undersigned, personally appeared Robert W. Schick, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/ executed the same in his/her/ capacity as Designee of the Commissioner of the State of New York Department of Environmental Conservation, and that by his/her/ signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public - State of New York

David J. Chiusano
Notary Public, State of New York
No. 01CH5032146
Qualified in Schenectady County,
Commission Expires August 22, 2014

SCHEDULE "A" PROPERTY DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Niagara Falls, County of Niagara and State of New York being part of Lots 32 and 33 of The Mile Reservation and being more particularly bounded and described as follows:

BEGINNING at a point in the east Right Of Way of 15th Street (60' wide), said point being 30.0 feet south of the south right of way line of College Avenue (60' wide) (formerly Whirlpool Street); thence southerly along the east right of way line of 15th Street S 00° - 06' - 55" E a distance of 422.18 feet to a point; thence S 49° - 02' - 20" E a distance of 286.53 feet to a point; thence N 89° - 57' - 24" E , 606.12 feet to a point; thence N 58° - 52' - 35" E a distance of 113.33 feet to a point; thence N 00° - 11' - 48" E a distance of 550.98 feet to a point being 30.00 feet south of the south Right of Way of College Avenue as measured at right angles thereto, said point being in the south line of lands formerly of the Penn Central Railroad; thence N 90° - 00' - 00" W along the south line of lands of the Penn Central Railroad and parallel with the south Right of Way of College Avenue a distance of 922.25 feet to the point of beginning.

Containing 12.357+/- acres of land, more or less.

NEW YORK STATE D.E.C.
SITE: 1501 COLLEGE AVENUE
SITE CODE: C932134

REFERENCES:
LIBER 3423 PAGE 251, DESCRIBES S.B.L. NOS.
130.18-2-15, 16, 17, 3, 22, 3, 211, 3, 212 INCLUSIVE
REPUTED OWNER: SANTAROSA HOLDINGS, INC.
FILED 12/13/2007

MAP REFERENCES:
MICROFILM MAP BOOK 51, PAGES 5043, 5044, FILED 5/26/89
MICROFILM MAP BOOK 51, PAGES 4946, 4947, FILED 12/22/1987
MICROFILM MAP BOOK 53, PAGES 5390, 5391, FILED 3/1/1993
MICROFILM MAP BOOK 55, PAGES 5552, 5553, FILED 5/26/1989

NOTE: SUBJECT PROPERTY ZONING DESIGNATION
"M-2: HEAVY INDUSTRIAL DISTRICT"

THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL EASEMENT
HELD BY THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION PURSUANT TO TITLE 36 OF ARTICLE 71 OF THE
NEW YORK ENVIRONMENTAL CONSERVATION LAW.

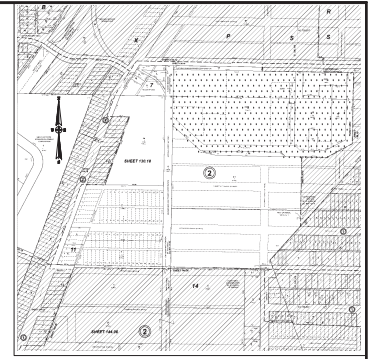
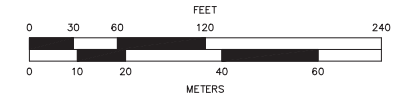
THE ENGINEERING AND INSTITUTIONAL CONTROLS FOR THIS EASEMENT
ARE SET FORTH IN THE SITE MANAGEMENT PLAN (SMP). A COPY OF
THE SMP MUST BE OBTAINED BY ANY PARTY WITH AN INTEREST IN
THE PROPERTY. THE SMP CAN BE OBTAINED FROM NYS DEPARTMENT
OF ENVIRONMENTAL CONSERVATION, DIVISION OF ENVIRONMENTAL
REMEDATION, SITE CONTROL SECTION, 625 BROADWAY, ALBANY, NY 12233
OR AT "derweb@gw.dec.state.ny.us".

NOTES:

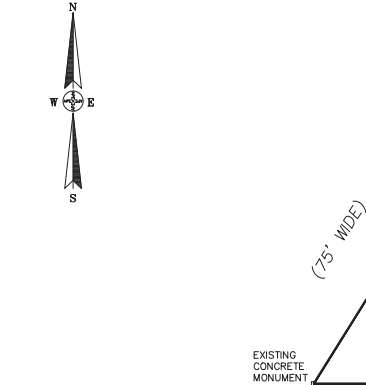
- 1. THE LOCATION OF UTILITIES SHOWN HEREON ARE FROM OBSERVED EVIDENCE OF ABOVE GROUND
APURTENANCES ONLY. THE SURVEYOR WAS NOT PROVIDED WITH UNDERGROUND PLANS
OR SURFACE GROUND MARKINGS TO DETERMINE THE LOCATION OF ANY SUBTERRANEAN USES.
2. THIS SURVEY HAS BEEN REVISED WITH THE BENEFIT OF ABSTRACT SEARCH NO. 30405
AS PREPARED BY CAPITAL ABSTRACT COMPANY, DATED FEBRUARY 16, 2011.
3. THERE WAS OBSERVABLE EVIDENCE OF EARTH MOVING WORK. CURRENTLY THERE IS NO
OBSERVABLE EVIDENCE OF BUILDING CONSTRUCTION OR BUILDING ADDITIONS AT THE SITE.
4. AT THE TIME OF THE SURVEY THERE WAS NO OBSERVABLE EVIDENCE OF SITE USE AS
A SOLID WASTE DUMP, SLUMP OR SANITARY LANDFILL.
5. THE BASIS OF BEARINGS FOR THIS SURVEY IS N 90°-00'-00" ALONG THE SOUTH LINE
OF COLLEGE AVENUE AS DESCRIBED IN THE RECORD DESCRIPTION.
6. CHAIN LINK FENCES & GATES ALONG THE PERIMETER OF THE SURVEYED PROPERTY VARY
AND ARE LOCATED ON THE SURVEYED PROPERTY AND ONTO ADJOINING PROPERTY.
7. THE SURVEYED PROPERTY IS CURRENTLY ACCESSED FROM 15TH STREET.

LEGEND:

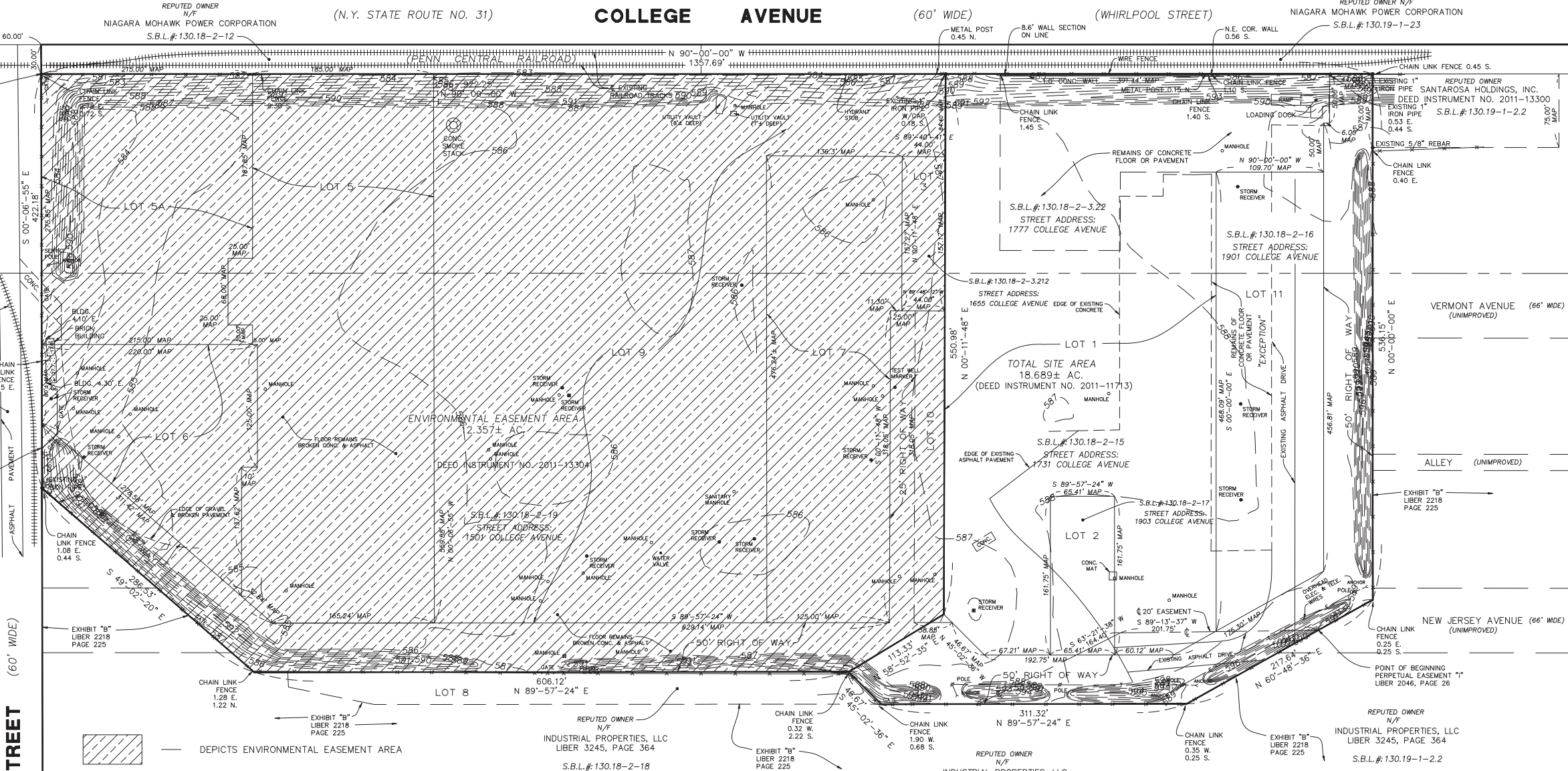
- HYD. - HYDRANT
POLE - UTILITY POLE
RCVR. - RECEIVER
M.H. - MANHOLE
< - POLE ANCHOR
W.V. - WATER VALVE
CONC. - CONCRETE
E - OVERHEAD ELECTRIC WIRES
T - OVERHEAD TELEPHONE WIRES
- - - - CHAIN LINK FENCE
- - - - EXISTING CONTOUR



SITE LOCATION MAP



HIGHLAND AVENUE



EASEMENTS, SERVITUDES, RIGHTS OF WAY,
ACCESS AND RECORD DOCUMENTS
CAPITAL ABSTRACT COMPANY ORDER NO. 30405
DATED FEBRUARY 16, 2011
SET OUT 12: EASEMENT TO NIAGARA MOHAWK POWER CORPORATION
FROM NIAGARA VEST, INC. RECORDED IN LIBER 2114 OF DEEDS AT PAGE 131
GRANTS THE RIGHT AND EASEMENT TO CONSTRUCT, MAINTAIN, OPERATE
ETC. AN ELECTRIC LINE WITH THE NECESSARY POLES, CABLES,
WIRES ETC. UPON AND ACROSS LANDS DESCRIBED IN
LIBER 2046 OF DEEDS AT PAGE 26. EXISTING POLES, GUY WIRES,
OVERHEAD WIRES ARE PLOTTED HEREON.

RECORD DESCRIPTION:
DEED INSTRUMENT NO. 2011-11713, FILED 07/14/2011.
CAPITAL ABSTRACT COMPANY NO. 30405, DATED FEBRUARY 16, 2011.

ENVIRONMENTAL EASEMENT DESCRIPTION
1501 COLLEGE AVENUE SITE, CODE NO. C932134
DEED INSTRUMENT NO. 2011-13304, FILED 08/12/2011
ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE CITY OF NIAGARA FALLS,
COUNTY OF NIAGARA, STATE OF NEW YORK, BEING PART OF LOTS 32 AND 33 OF
THE MILE RESERVE AND BEING MORE PARTICULARLY BOUNDED AND DESCRIBED
AS FOLLOWS:
BEGINNING AT A POINT IN THE EAST R.O.W. LINE OF 15TH STREET (60' WIDE),
30.00 FEET SOUTH OF THE SOUTH RIGHT OF WAY LINE OF COLLEGE AVENUE (60'
WIDE) (FORMERLY WHIRLPOOL STREET);
THENCE S 00 DEGREES 06' 55" E ALONG THE EAST RIGHT OF WAY OF 15TH
STREET, 422.18 FEET;

ENVIRONMENTAL EASEMENT DESCRIPTION
1501 COLLEGE AVENUE SITE, CODE NO. C932134
DEED INSTRUMENT NO. 2011-13304, FILED 08/12/2011
ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE CITY OF NIAGARA FALLS,
COUNTY OF NIAGARA, STATE OF NEW YORK, BEING PART OF LOTS 32 AND 33 OF
THE MILE RESERVE, BOUNDED AND DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT IN THE EAST RIGHT OF WAY OF 15TH STREET (60' WIDE),
SAID POINT BEING 30.00 FEET SOUTH OF THE SOUTH RIGHT OF WAY OF COLLEGE
AVENUE (60' WIDE) (FORMERLY WHIRLPOOL STREET);
THENCE SOUTHERLY ALONG THE EAST LINE OF 15TH STREET S 00°-06'-55" E
A DISTANCE OF 422.18 FEET TO A POINT;

CERTIFICATION
TO:
THE PEOPLE OF THE STATE OF NEW YORK ACTING THROUGH ITS COMMISSIONER OF THE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND TO CAPITAL ABSTRACT COMPANY
THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED
WERE MADE IN ACCORDANCE WITH THE 2011 MINIMUM STANDARD DETAIL REQUIREMENTS
FOR ALTA/ACSM LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA
AND NSPS, AND INCLUDES ITEMS 1, 2, 4, 6, 7(c), 7(b), 11(c), & 16 OF TABLE A THEREOF.
THE FIELD WORK WAS COMPLETED ON 8/3/12.
DATE OF MAP: 8/13/2012, REVISED 11/15/12; REVISED 12/12/12
CHRISTIAN J. VOSS, L.S.
NEW YORK STATE LICENSE NO. 050637



APEX CONSULTING
SURVEY & ENGINEERING SERVICES, P.C.
NIAGARA COUNTY
102 EAST AVENUE, LOCKPORT, NEW YORK 14094
Phone: (716) 439-0188 FAX: (716) 439-0189

PART OF LOTS 32 & 33 OF THE MILE RESERVE.
SITUATE IN THE CITY OF NIAGARA FALLS,
COUNTY OF NIAGARA AND STATE OF NEW YORK.
SCALE: 1" = 60' JOB NO. 10-130
DATE: 8/3/12 DWG. FILE: 10-130-ALTA.
DRAWN BY: CTA CHECKED BY: CJV
REVISIONS: 11/15/12: ADD SITE MANAGEMENT PLAN STATEMENT
11/15/12: OMIT FORMER LIBER AND PAGE REFERENCES; 12/12/12 S.B.L. NUMBER
CHRISTIAN J. VOSS, L.S.
N.Y.S. LICENSE NO. 050637

Appendix C

EnSol, Inc. *Environmental Solutions*

professional engineering – business consulting

Site Inspection Report and Photographs



Site Inspection Form

Property Name: 1501 College Ave. Project No.: 15-0047
 Client: Buffalo Fuel Corp.
 Property Address: 1501 College Ave. City, State: NE, NY Zip Code: 14305
 Preparer's Name: Sean Siuda Date/Time: 12/10/21 10:00-12:00

Final Surface Cover / Vegetation

In accordance with the Soil/Fill Management Plan, the integrity of the vegetative soil cover or other surface coverage (e.g., asphalt, concrete) over the entire Site must be maintained. The following documents the condition of the above.

1. Final Cover is in Place and in good condition? yes no N/A
 Cover consists of (mainly): soil/clay, concrete/asphalt, recycled concrete/block, perimeter berm.
2. Evidence of erosion? ^① yes no N/A
3. Cracks visible in pavement? ^② yes no N/A
4. Evidence of distressed vegetation/turf? ^③ yes no N/A
5. Evidence of unintended traffic and/or rutting? ^④ yes no N/A
6. Evidence of uneven settlement and/or ponding? ^⑤ yes no N/A
7. Damage to any surface coverage? yes no N/A

If yes to any question above, please provide more information below.

- ^① South face of North perimeter berm exhibits eroded surfaces. ^② Concrete pavement exhibits cracking throughout site. ^③ Majority of perimeter berm lacking vegetation. ^④ Rutting throughout most major traffic areas. ^⑤ Significant ponding in soil/clay areas.

Property Use Changes / Site Development

Has the property usage changed, or site been redeveloped since the last inspection?
 yes no N/A

If so, please list with date: _____

New Information

Has any new information been brought to the owner/inspector's attention regarding any and/or all engineering and institutional controls and their operation and effectiveness?

yes no N/A






Comments: _____

Notes and Comments

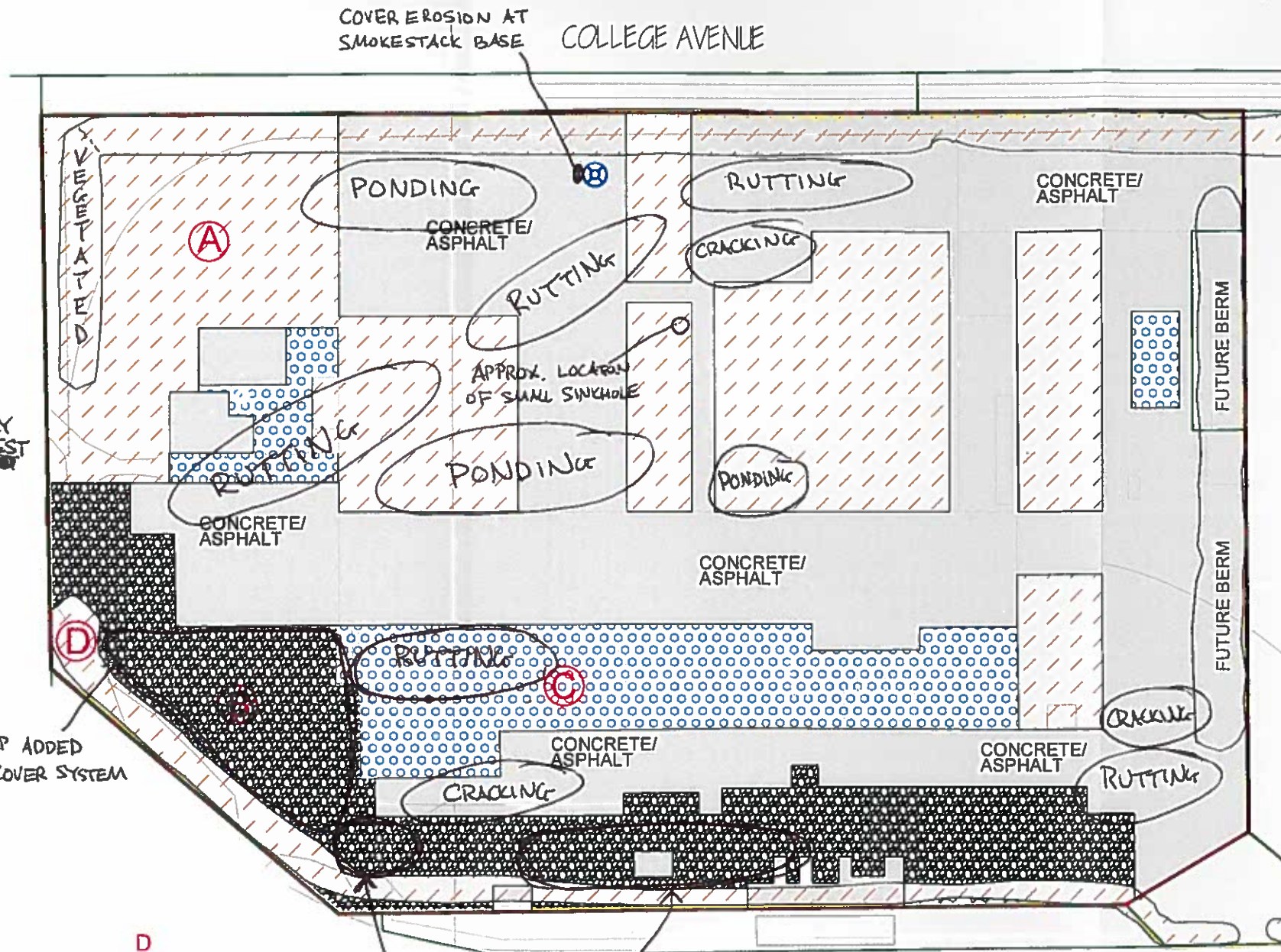
Continued lack of vegetation along perimeter berm, also noted in 2015 and 2018 PRR's. Small sinkhole (approx. 1' dia.) observed near center of site. Other erosion observed at base of smokestack.

12/10/21

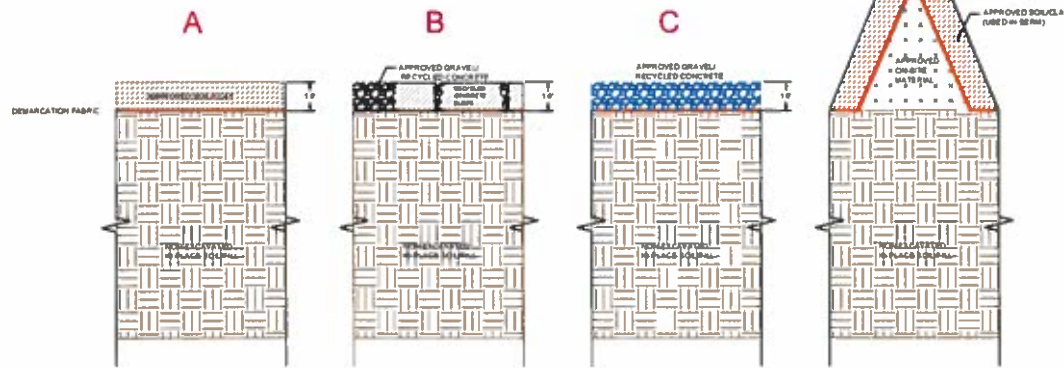
LEGEND:

-  PROPERTY BOUNDARY
-  PARCEL BOUNDARY
-  HISTORIC RAILROAD TRACKS
-  BCP PROPERTY BOUNDARY
-  COVER SYSTEM - APPROVED SOIL/CLAY
-  COVER SYSTEM - APPROVED RECYCLED CONCRETE / BLOCK
-  COVER SYSTEM - APPROVED RECYCLED CONCRETE
-  BERM LOCATION
-  COVER SYSTEM - EXISTING CONCRETE/ASPHALT

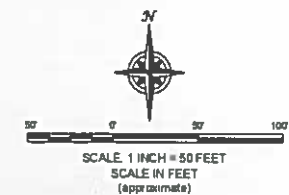

NOTE: PERIMETER BERM GENERALLY SPARSELY VEGETATED OR BARE, EXCEPT FOR NORTH WEST CORNER AS SHOWN.



COVER SYSTEM DETAILS:
SCALE: 1" = 3'



PAPER PULP STORAGE AREAS

TURNKEY Environmental Services, LLC
2658 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 888-0635
JOB NO. 0140-001-105

REVISIONS	
NO.	DATE

SEAL

DRAWN BY	ACT
DATE	OCTOBER 2012
CHECKED BY	NIM
APPROVED BY	MAL

DISCLAIMER: THE INFORMATION CONTAINED HEREIN IS FOR YOUR INFORMATION ONLY AND IS NOT TO BE USED AS A BASIS FOR ANY ACTION. THE INFORMATION CONTAINED HEREIN IS NOT TO BE USED AS A BASIS FOR ANY ACTION. THE INFORMATION CONTAINED HEREIN IS NOT TO BE USED AS A BASIS FOR ANY ACTION.

COVER SYSTEM LAYOUT AND DETAIL
SITE MANAGEMENT PLAN
1501 COLLEGE AVENUE SITE
NIAGARA FALLS, NEW YORK
prepared for
SANTAROSA HOLDINGS, INC.

FIGURE 6



Photo #1: Perimeter berm looking northeast.



Photo #2: Ponding near high-traffic areas.

EnSol, Inc.
 Environmental Solutions
 661 Main Street, Niagara Falls, NY 14301
 Ph: 716-285-3920 Fx: 716-285-3928

Prepared By : Sean Siuda
 Date Taken: 12/10/2021
 File Name : Project Photos

IC/EC Site Inspection

1501 College Ave. Site
Niagara Falls, NY

PROJECT PHOTOGRAPHS

1

Page No.

December 2021



Photo #3: Paper pulp storage area.



Photo #4 & 5: Additional paper pulp storage (left) and rutting in applied paper pulp (right).

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 Niagara Falls, NY

PROJECT
 PHOTOGRAPHS

2

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December 2021



Photo s #6 & 7: Frozen-over ponding areas on northwest portion of the Site.



Photos #8 & 9: Rutting/ponding on southwest portion of the Site.

EnSol, Inc.
 Environmental Solutions
 661 Main Street, Niagara Falls, NY 14301
 Ph: 716-285-3920 Fx: 716-285-3928

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1501 College Ave. Site
 Niagara Falls, NY

PROJECT
 PHOTOGRAPHS

3

Page No.

December 2021



Photos #10 & 11: Small sinkhole penetrating cover system (left). Separation of cover system at smokestack base (right).



Photos #12 & 13: Additional rutting in high traffic areas.

EnSol, Inc.
 Environmental Solutions
 661 Main Street, Niagara Falls, NY 14301
 Ph: 716-285-3920 Fx: 716-285-3928

Prepared By : Sean Siuda
 Date Taken: 12/10/2021
 File Name : Project Photos

IC/EC Site Inspection

1501 College Ave. Site
 Niagara Falls, NY

PROJECT
 PHOTOGRAPHS

4

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December 2021



Photos #14 & 15: Additional areas of ponding.



Photos #16 & 17: Areas of cracking concrete.

EnSol, Inc.
 Environmental Solutions
 661 Main Street, Niagara Falls, NY 14301
 Ph: 716-285-3920 Fx: 716-285-3928

Prepared By : Sean Siuda
 Date Taken: 12/10/2021
 File Name : Project Photos

IC/EC Site Inspection

1501 College Ave. Site
 Niagara Falls, NY

PROJECT
 PHOTOGRAPHS

5

Page No.

December 2021

Appendix D

EnSol, Inc. *Environmental Solutions*

professional engineering – business consulting

Completed IC/EC Certification Form



Enclosure 2
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Periodic Review Report Notice
Institutional and Engineering Controls Certification Form



Site Details

Box 1

Site No. **C932134**

Site Name 1501 College Avenue Site

Site Address: 1501 College Avenue Zip Code: 14304

City/Town: Niagara Falls

County: Niagara

Site Acreage: 12.357

Reporting Period: December 31, 2018 to December 31, 2021

- | | YES | NO |
|--|-------------------------------------|-------------------------------------|
| 1. Is the information above correct? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| If NO, include handwritten above or on a separate sheet. | | |
| 2. Has some or all of the site property been sold, subdivided, merged, or undergone a tax map amendment during this Reporting Period? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. Has there been any change of use at the site during this Reporting Period (see 6NYCRR 375-1.11(d))? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4. Have any federal, state, and/or local permits (e.g., building, discharge) been issued for or at the property during this Reporting Period? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| If you answered YES to questions 2 thru 4, include documentation or evidence that documentation has been previously submitted with this certification form. | | |
| 5. Is the site currently undergoing development? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Box 2

- | | YES | NO |
|---|-------------------------------------|--------------------------|
| 6. Is the current site use consistent with the use(s) listed below?
Industrial | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 7. Are all ICs in place and functioning as designed? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

IF THE ANSWER TO EITHER QUESTION 6 OR 7 IS NO, sign and date below and DO NOT COMPLETE THE REST OF THIS FORM. Otherwise continue.

A Corrective Measures Work Plan must be submitted along with this form to address these issues.

 Signature of Owner, Remedial Party or Designated Representative

 Date

Box 2A

YES NO

8. Has any new information revealed that assumptions made in the Qualitative Exposure Assessment regarding offsite contamination are no longer valid?

If you answered YES to question 8, include documentation or evidence that documentation has been previously submitted with this certification form.

9. Are the assumptions in the Qualitative Exposure Assessment still valid? (The Qualitative Exposure Assessment must be certified every five years)

If you answered NO to question 9, the Periodic Review Report must include an updated Qualitative Exposure Assessment based on the new assumptions.

SITE NO. C932134

Box 3

Description of Institutional Controls

Parcel

Owner

Institutional Control

130.18-2-19

Santarosa Holdings, Inc.

Ground Water Use Restriction
Landuse Restriction
Site Management Plan

Soil Management Plan

IC/EC Plan

Environmental Easement approved 12/19/2012 restricting use of groundwater and placing an Industrial use restriction on the property. Soil cover and/or existing concrete/pavement placed over residual soil contamination. Easement requires compliance with the Site Management Plan (SMP). Future intrusive activities and soil handling at the facility must be in accordance with the Excavation Work Plan found in the SMP. Environmental Easement Filed 12/21/2012 Intru#:2012-27063

130.18-2-3.212

Santarosa Holdings, Inc

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

Environmental Easement approved 12/19/2012 restricting use of groundwater and placing an Industrial use restriction on the property. Soil cover and/or existing concrete/pavement placed over residual soil contamination. Easement requires compliance with the Site Management Plan (SMP). Future intrusive activities and soil handling at the facility must be in accordance with the Excavation Work Plan found in the SMP. Environmental Easement Filed 12/21/2012 Intru#:2012-27063

Box 4

Description of Engineering Controls

Parcel

Engineering Control

130.18-2-19

Cover System
Fencing/Access Control

130.18-2-3.212

Cover System

Periodic Review Report (PRR) Certification Statements

1. I certify by checking "YES" below that:

- a) the Periodic Review report and all attachments were prepared under the direction of, and reviewed by, the party making the Engineering Control certification;
- b) to the best of my knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and the information presented is accurate and complete.

YES NO


2. For each Engineering control listed in Box 4, I certify by checking "YES" below that all of the following statements are true:

- (a) The Engineering Control(s) employed at this site is unchanged since the date that the Control was put in-place, or was last approved by the Department;
- (b) nothing has occurred that would impair the ability of such Control, to protect public health and the environment;
- (c) access to the site will continue to be provided to the Department, to evaluate the remedy, including access to evaluate the continued maintenance of this Control;
- (d) nothing has occurred that would constitute a violation or failure to comply with the Site Management Plan for this Control; and
- (e) if a financial assurance mechanism is required by the oversight document for the site, the mechanism remains valid and sufficient for its intended purpose established in the document.

YES NO

IF THE ANSWER TO QUESTION 2 IS NO, sign and date below and DO NOT COMPLETE THE REST OF THIS FORM. Otherwise continue.

A Corrective Measures Work Plan must be submitted along with this form to address these issues.



Signature of Owner, Remedial Party or Designated Representative



Date

**IC CERTIFICATIONS
SITE NO. C932134**

Box 6

SITE OWNER OR DESIGNATED REPRESENTATIVE SIGNATURE

I certify that all information and statements in Boxes 1,2, and 3 are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.

I _____ at _____,
print name print business address

am certifying as _____ (Owner or Remedial Party)

for the Site named in the Site Details Section of this form.

Signature of Owner, Remedial Party, or Designated Representative
Rendering Certification

Date

EC CERTIFICATIONS

Box 7

Qualified Environmental Professional Signature

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

I _____ at _____,
print name print business address

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

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

Stamp
(Required for PE)

Date

Appendix E

EnSol, Inc.



ENGINEERING + ENVIRONMENTAL

Corrective Measures Work Plan

**Corrective Measures Work Plan
for the
1501 College Ave. Site
Niagara Falls, New York**

NYSDEC BCP Site No. C932134

Prepared for:

Buffalo Fuel Corp.
4870 Packard Rd.
Niagara Falls, New York 14304

Prepared by:

EnSol, Inc.
661 Main Street
Niagara Falls, New York 14301

December 2021
Revised October 2022

EnSol PN 026-A0001-02

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1. Introduction

On behalf of Santarosa Holdings, Inc. (Santarosa), EnSol, Inc. (EnSol) has prepared this Corrective Measures Work Plan (CMWP) for the 1501 College Avenue site (Site). During the Periodic Review process, a deficiency was identified in one of the Engineering Controls (ECs) at the Site. As such, this CMWP has been developed in accordance with paragraphs 6.3(a)(6) and (7) of New York State Department of Environmental Conservation (NYSDEC or Department) Division of Environmental Remediation (DER)-10 “Technical Guidance for Site Investigation and Remediation”, effective June 18, 2010. The Site is part of the New York State (NYS) Brownfield Cleanup Program (BCP) administered by the NYSDEC. The Site was remediated in accordance with Brownfield Cleanup Agreement (BCA) Index# B9-0757-07-10, Site # C932134, which was executed on December 13, 2007, and last amended on January 31, 2011. A Certificate of Completion (COC) was issued on December 31, 2012.

This CMWP was prepared to address the following cover system issues identified during the December 2021 inspection for the PRR reporting period December 31, 2018 through December 31, 2021:

- Lack of vegetative cover on the Site perimeter berm;
- Tire rutting in high traffic areas;
- Ponding;
- A small (< 6” diameter) sinkhole; and
- Surface cracking of existing concrete and asphalt.

2. Background

2.1 Site Description

The Site is located in the City of Niagara Falls, Niagara County, New York. The 12.4-acre Site comprises the following two adjoining parcels:

- 1501 College Avenue - SBL 130-18-2-19.
- 1655 College Avenue - SBL 130.18-2-3.212 (0.16-acre parcel).

The Site is bordered by National Grid (not RR) property immediately adjacent to College Avenue to the north, and 15th Street to the west (see PRR **Appendix A, Figures 1 and 2**). The boundaries of the Site are more fully described in the Environmental Easement (see PRR **Appendix B**).

The Site was used for heavy industrial manufacturing from at least 1910 to the mid-1980s, and at one time was part of a larger former Union Carbide Co. manufacturing complex.

2.2 Regulatory Background

Santarosa elected to pursue cleanup and redevelopment of the Site under the New York State BCP. A Remedial Investigation/Alternatives Analysis Report (RI/AAR) Work Plan dated December 2007 was approved by the NYSDEC, with concurrence of the New York State Department of Health (NYSDOH), on January 4, 2008. An Interim Remedial Measures (IRM) Work Plan dated March 2008 was approved by the NYSDEC on June 11, 2008. Initial RI soil and groundwater sampling activities were performed at the Site in September and October 2010.

Based on the findings of the RI activities, TurnKey Environmental Restoration, LLC (TurnKey) and Santarosa met with the NYSDEC and NYSDOH in November 2010 and prepared an IRM Work Plan letter dated November 12, 2010 further describing the planned IRM activities. The IRM Work Plan letter was approved by NYSDEC on November 18, 2010. IRM activities were conducted at the Site from November 2010 through November 2012.

The RI was completed to characterize the nature and extent of contamination at the Site. Remedial investigation field activities included: advancement of soil boring and monitoring well installation, excavation of test pits, and surface soil, subsurface soil, and groundwater sampling. The IRM fieldwork

generally included: excavation and off-Site disposal of impacted soil/fill, demolition of all former buildings, removal and off-Site disposal of galbestos roofing material, loading and off-Site disposal of soil/fill/debris piles, removal of multiple drums and product containers, backfill of excavations with approved reutilization of on-Site building material for subgrade backfill, and use of approved soil and recycled concrete backfill. Site restoration including surface grading and seeding and placement of a composite cover system including areas covered by existing asphalt and concrete, recycled concrete and soil across the Site.

Based on the Alternatives Analysis evaluation, it was concluded that the completed IRMs, together with implementation of a Site Management Plan (SMP), satisfies the remedial action objectives and is protective of human health and the environment, and the IRM was selected as the final remedial approach for the 1501 College Avenue Site.

3. Corrective Measures

During the Site Inspection for the 2018-2021 PRR reporting period, conducted December 10, 2021, EnSol identified a lack of vegetation on the perimeter berm running along the north, west, and south property boundaries. Hydroseed and tackifier had been applied to the northern berm; however, no vegetation had been produced from it.

Other cover system deficiencies observed during the Site Inspection include tire rutting in high traffic areas throughout the Site, ponding within the rutting and adjacent areas, a small sink hole penetrating the cover system located near the center of the northern half of the Site, and surface cracking of the existing concrete and asphalt areas throughout the Site. These conditions are documented in the Site Inspection Report and Photographs, Appendix C of the PRR Report.

3.1 Corrective Measures

The following Corrective Measures (CMs) are proposed to address the deficiencies noted during the PRR Site Inspection:

- Lack of vegetative cover on the Site perimeter berm: The berms will have a minimum of 4” of topsoil placed/confirmed and re-seeded. The vegetation will be monitored monthly and maintained until it is established.
- Tire rutting in high traffic areas: Rutted areas will be graded with stone or other NYSDEC-approved material.
- Ponding and sinkhole: The sink hole and areas of ponding will be restored to final cover system conditions in accordance with the SMP
- Surface cracking of existing concrete and asphalt: The deficient areas of concrete and asphalt will be restored in accordance with the SMP

Prior to importing or reusing any restoration materials on-site, an Import Request will be submitted to the Department for review and approval.

3.2 Schedule

The proposed CMs will be implemented following approval of this CMWP by the Department. The anticipated schedule is as follows:

October 1 – December 31, 2022: Mobilization

- Regrade and compact cover material in areas of rutting and ponding
- Restore cover system of the sink hole area

- Restore areas of cracked concrete and asphalt

Fall 2022 or Spring 2023: Restore vegetation on berm

- Regrade berm cover soil to prepare for seeding
- Apply hydroseed with tackifier uniformly to all berms
- Apply straw and jute netting or hydraulic mulch
- Water to ensure soil is kept moist to a depth of 2 inches during the germination period
- Inspect cover weekly until vegetation is established. Water as needed.
- Inspect monthly thereafter. Promptly reseed any eroded areas or bare spots, mulch, and keep moist.

A memorandum documenting repair activities will be submitted to the Department within four weeks following completion of CMs.