

Brownfield Cleanup Program Application

7416 Niagara Falls Boulevard Site
Niagara Falls, New York

March 2015

0105-014-004

Prepared for:

93 NYRPT, LLC



Prepared by:



2558 Hamburg Turnpike, Buffalo, New York | phone: (716) 856-0635 | fax: (716) 856-0583



NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
BROWNFIELD CLEANUP PROGRAM (BCP)

ECL ARTICLE 27 / TITLE 14



08/2013

DEPARTMENT USE ONLY
BCP SITE #:

Section I. Requestor Information

NAME **93 NYRPT, LLC**

ADDRESS **7978 Cooper Creek Boulevard, Suite 100**

CITY/TOWN **University Park, Florida**

ZIP CODE **34201**

PHONE **(914)360-7224**

FAX **(914)359-1836**

E-MAIL **dhb@benderson.com**

Is the requestor authorized to conduct business in New York State (NYS)?

☒ Yes ☐ No

-If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the [NYS Department of State's Corporation & Business Entity Database](#). A print-out of entity information from the database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS.

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

See Attachment 1 ☒ Yes ☐ No

NAME OF REQUESTOR'S REPRESENTATIVE **James A. Boglioli, Esq.**

ADDRESS **570 Delaware Avenue**

CITY/TOWN **Buffalo**

ZIP CODE **14202**

PHONE **(716) 878-9601**

FAX **(716) 886-1026**

E-MAIL **jmb@benderdson.com**

NAME OF REQUESTOR'S CONSULTANT **Michael Lesakowski**

ADDRESS **2558 Hamburg Turnpike, Suite 300**

CITY/TOWN **Buffalo**

ZIP CODE **14218**

PHONE **(716) 856-0599**

FAX **(716) 856-0583**

E-MAIL **mlesakowski@benchmarkturnkey.com**

NAME OF REQUESTOR'S ATTORNEY **Craig Slater, Esq.**

ADDRESS **26 Mississippi Street, Suite 400**

CITY/TOWN **Buffalo**

ZIP CODE **14203**

PHONE **(716) 845-6760**

FAX **(716) 845-6764**

E-MAIL **cslater@cslaterlaw.com**

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

☐ PARTICIPANT

A requestor who either 1) was the owner of the site at the time of the disposal of hazardous waste or discharge of petroleum or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

☒ VOLUNTEER

A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

NOTE: By checking this box, the requestor certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; and iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.

Requestor Relationship to Property (check one):

☐ Previous Owner ☒ Current Owner ☐ Potential /Future Purchaser ☐ Other _____

If requestor is not the site owner, requestor will have access to the property throughout the BCP project. ☐ Yes ☐ No

-Proof of site access must be submitted for non-owners

Section II. Property Information**Check here if this application is to request significant changes to property set forth in an existing BCA:** ☐

Existing BCP site number: _____

PROPERTY NAME **7416 Niagara Falls Blvd Site**ADDRESS/LOCATION **7416 Niagara Falls Blvd** CITY/TOWN **Niagara Falls** ZIP CODE **14304**

MUNICIPALITY(If more than one, list all):

Niagara FallsCOUNTY **Niagara County**SITE SIZE (ACRES) **6.42**LATITUDE (degrees/minutes/seconds) **N 43 ° 5 ' 25.01 "**LONGITUDE (degrees/minutes/seconds) **W 78 ° 58 ' 40.34 "**HORIZONTAL COLLECTION METHOD: ☐ SURVEY ☐ GPS ☒ MAPHORIZONTAL REFERENCE DATUM: **NAD 83 W**

COMPLETE TAX MAP INFORMATION FOR ALL TAX PARCELS INCLUDED WITHIN THE PROPERTY BOUNDARIES. ATTACH REQUIRED MAPS PER THE APPLICATION INSTRUCTIONS.

Parcel Address

Parcel No.

Section No.

Block No.

Lot No.

Acreage

Site consists of a portion of 3 parcels and an abandon street.

All information could not be included in the space provided.

See Attachment 2 for details.

1. Do the property boundaries correspond to tax map metes and bounds?

See Attachment 2

☐ Yes☒ No

If no, please attach a metes and bounds description of the property.

2. Is the required property map attached to the application? (application will not be processed without map)

☒ Yes☐ No

3. Is the property part of a designated En-zone pursuant to Tax Law § 21(b)(6)?

☐ Yes☒ No

For more information please see Empire State Development's website.

If yes, identify area (name) _____

Percentage of property in En-zone (check one):

☐ 0-49%☐ 50-99%☐ 100%

4. Is this application one of multiple applications for a large development project, where the development

☐ Yes☒ No

project spans more than 25 acres (see additional criteria in BCP application instructions)? If yes, identify name of properties in related BCP applications: _____

5. Property Description Narrative:

See Attachment 2.

6. List of Existing Easements (type here or attach information)

Easement HolderDescription

NONE/Unknown

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

TypeIssuing AgencyDescription

NONE/Unknown

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

Initials of each Requestor: SHB

Section III. Current Property Owner/Operator InformationOWNER'S NAME **93 NYRPT, LLC**ADDRESS **7978 Cooper Creek Boulevard, Suite 100**CITY/TOWN **University Park, Florida**ZIP CODE **34201**PHONE **(941)360-7224**FAX **(941)359-1836**E-MAIL **dhb@benderdson.com**OPERATOR'S NAME **93 NYRPT, LLC**ADDRESS **7978 Cooper Creek Boulevard, Suite 100**CITY/TOWN **University Park, Florida**ZIP CODE **34201**PHONE **(716)878-9626**FAX **(716)886-1026**E-MAIL **jmb@benderdson.com****Section IV. Requestor Eligibility Information (Please refer to ECL § 27-1407)**

If answering "yes" to any of the following questions, please provide an explanation as an attachment.

- | | | |
|--|------------------------------|--|
| 1. Are any enforcement actions pending against the requestor regarding this site? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 2. Is the requestor subject to an existing order relating to contamination at the site? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 4. Has the requestor been determined to have violated any provision of ECL Article 27? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 5. Has the requestor previously been denied entry to the BCP? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving contaminants? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 7. Has the requestor been convicted of a criminal offense that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 8. Has the requestor knowingly falsified or concealed material facts or knowingly submitted or made use of a false statement in a matter before the Department? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9(f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

Section V. Property Eligibility Information (Please refer to ECL § 27-1405)

- | | | |
|--|------------------------------|--|
| 1. Is the property, or was any portion of the property, listed on the National Priorities List?
If yes, please provide relevant information as an attachment. | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 2. Is the property, or was any portion of the property, listed on the NYS Registry of Inactive Hazardous Waste Disposal Sites?
If yes, please provide: Site # _____ Class # _____ | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 3. Is the property subject to a permit under ECL Article 27, Title 9, other than an Interim Status facility?
If yes, please provide: Permit type: _____ EPA ID Number: _____
Date permit issued: _____ Permit expiration date: _____ | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 4. Is the property subject to a cleanup order under navigation law Article 12 or ECL Article 17 Title 10?
If yes, please provide: Order # _____ | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 5. Is the property subject to a state or federal enforcement action related to hazardous waste or petroleum?
If yes, please provide explanation as an attachment. | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

Section VI. Project DescriptionWhat stage is the project starting at? ☒ Investigation ☐ Remediation

Please attach a description of the project which includes the following components: See Attachment 3 for details.

- Purpose and scope of the project
- Estimated project schedule

Section VII. Property's Environmental History

To the extent that existing information/studies/reports are available to the requestor, please attach the following:

1. Environmental Reports See Attachment 4

A Phase I environmental site assessment report prepared in accordance with ASTM E 1527 (American Society for Testing and Materials: Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process), and all environmental reports related to contaminants on or emanating from the site.

If a final investigation report is included, indicate whether it meets the requirements of ECL Article 27-1415(2): ☐ Yes ☐ No

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

Contaminant Category	Soil	Groundwater	Surface Water	Sediment	Soil Gas
Petroleum	X				
Chlorinated Solvents					
Other VOCs	X				
SVOCs	X				
Metals	X				
Pesticides	X				
PCBs					
Other*	X				

*Please describe: herbicides

3. SUSPECTED CONTAMINANTS: INDICATE SUSPECTED CONTAMINANTS AND THE MEDIA WHICH MAY HAVE BEEN AFFECTED. PROVIDE BASIS FOR ANSWER AS AN ATTACHMENT.

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

*Please describe:

4. INDICATE KNOWN OR SUSPECTED SOURCES OF CONTAMINANTS (CHECK ALL THAT APPLY). PROVIDE BASIS FOR ANSWER AS AN ATTACHMENT.

- ☐ Above Ground Pipeline or Tank
 ☐ Lagoons or Ponds
 ☐ Underground Pipeline or Tank
 ☐ Surface Spill or Discharge
☐ Routine Industrial Operations
 ☒ Dumping or Burial of Wastes
 ☐ Septic tank/lateral field
 ☐ Adjacent Property
☐ Drums or Storage Containers
 ☐ Seepage Pit or Dry Well
 ☐ Foundry Sand
 ☐ Electroplating
☐ Coal Gas Manufacture
 ☐ Industrial Accident
 ☒ Unknown

Other:

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

- ☐ Coal Gas Manufacturing
 ☐ Manufacturing
 ☐ Agricultural Co-op
 ☐ Dry Cleaner
 ☐ Salvage Yard
 ☐ Bulk Plant
☐ Pipeline
 ☐ Service Station
 ☐ Landfill
 ☐ Tannery
 ☐ Electroplating
 ☒ Unknown

Other:

6. PROVIDE A LIST OF PREVIOUS PROPERTY OWNERS AND OPERATORS WITH NAMES, LAST KNOWN ADDRESSES AND TELEPHONE NUMBERS AS AN ATTACHMENT. DESCRIBE REQUESTOR'S RELATIONSHIP, IF ANY, TO EACH PREVIOUS OWNER AND OPERATOR. IF NO RELATIONSHIP, PUT "NONE".

Section VIII. Contact List Information

Please attach, at a minimum, the names and addresses of the following: See Attachment 5

1. The chief executive officer and planning board chairperson of each county, city, town and village in which the property is located.
2. Residents, owners, and occupants of the property and properties adjacent to the property.
3. Local news media from which the community typically obtains information.
4. The public water supplier which services the area in which the property is located.
5. Any person who has requested to be placed on the contact list.
6. The administrator of any school or day care facility located on or near the property.
7. In cities with a population of one million or more, the local community board if the proposed site is located within such community board's boundaries (*note: per the 2010 census, New York City is the only city in NY with a population over one million).
8. The location of a document repository for the project (e.g., local library). In addition, attach a copy of a letter sent to the repository acknowledging that it agrees to act as the document repository for the property.

Section IX. Land Use Factors (Please refer to ECL § 27-1415(3))

1. Current Use: ☐Residential ☐Commercial ☐Industrial ☒Vacant ☐Recreational (check all that apply)
Provide summary of business operations as an attachment.

2. Intended Use Post Remediation: ☐Unrestricted ☐Residential ☒Commercial ☐Industrial (check all that apply)
Provide specifics as an attachment.

3. Do current historical and/or recent development patterns support the proposed use? (See #14 below re: discussion of area land uses)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
--	---

4. Is the proposed use consistent with applicable zoning laws/maps? See Attachment 2	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
--	---

5. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, designated Brownfield Opportunity Area plans, other adopted land use plans?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
--	---

6. Are there any Environmental Justice Concerns? (See §27-1415(3)(p)).	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
--	---

7. Are there any federal or state land use designations relating to this site?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
--	---

8. Do the population growth patterns and projections support the proposed use?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
--	---

9. Is the property accessible to existing infrastructure?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
---	---

10. Are there important cultural resources, including federal or state historic or heritage sites or Native American religious sites within ½ mile? See Attachment 7	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
---	---

11. Are there important federal, state or local natural resources, including waterways, wildlife refuges, wetlands, or critical habitats of endangered or threatened species within ½ mile? See Attachment 7	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
---	---

12. Are there floodplains within ½ mile? See Attachment 7	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
--	---

13. Are there any institutional controls currently applicable to the property?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
--	---

14. Describe the proximity to real property currently used for residential use, and to urban, commercial, industrial, agricultural, and recreational areas in an attachment. See Attachment 7	
--	--

15. Describe the potential vulnerability of groundwater to contamination that might migrate from the property, including proximity to wellhead protection and groundwater recharge areas in an attachment. See Attachment 7	
--	--

16. Describe the geography and geology of the site in an attachment. See Attachment 7	
--	--

Section X. Statement of Certification and Signatures

(By an requestor other than an individual)

I hereby affirm that I am the Manager (title) of 93MYAPT, LLC (entity); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction. If this application is approved, I acknowledge and agree to the general terms and conditions set forth in DER-32 *Brownfield Cleanup Program Applications and Agreements* and to execute a Brownfield Cleanup Agreement (BCA) within 60 days of the date of DEC's approval letter. I also agree that in the event of a conflict between the general terms and conditions of participation set forth in DER-32 and the terms contained in a site-specific BCA, the terms in the BCA shall control. I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

Date: 3/25/15 Signature: [Signature] (CSAB) Print Name: David H. Baldauf

SUBMITTAL INFORMATION:

Three (3) complete copies are required.

- Two (2) copies, one paper copy with original signatures and one electronic copy in Portable Document Format (PDF) on a CD, must be sent to:
Chief, Site Control Section
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, NY 12233-7020
- One (1) paper copy must be sent to the DEC regional contact in the regional office covering the county in which the site is located. Please check our website for the address of our regional offices.

FOR DEPARTMENT USE ONLY

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



LIST OF SUPPLEMENTAL INFORMATION

NYSDEC Brownfield Cleanup Program Application

7416 Niagara Falls Boulevard Site

Niagara Falls, New York

Attachment No.	Section No.	Section Title	Question No.	Description
1	I	Requestor Information	--	Signature Resolution NYS Department of State Corporation & Business Entity Database
2	II	Property Information	--	Figure 1 - Site Location and Vicinity Map (USGS) Figure 2 - Site Plan (Aerial)
			1 - 4	Figure 3 - Parcel Map Figure 4 - Tax Map Figure 5 - Property Base Map (1,000' set back) Quitclaim Deed and Schedule A - August 18, 2014 Warranty Deed with Lien Covenant and Schedule A - October 21, 2015 City of Niagara Falls, City Council Resolution No. 2015-11 City of Niagara Falls, City Council Resolution No. 2015-19 Metes and Bounds Description & Exhibit Map
			5	Property Description Figure 6 - Nearby Land Use / Zoning Map Figure 7 - Adjacent Property Owners Map
3	V	Project Eligibility Information		Project Description & Eligibility for Acceptance into BCP
	VI	Project Description		Figure 8 - Estimated Project Schedule
4	VII	Property's Environmental History	1	Previous Environmental Reports Summary
			5	Past Land Uses
			6	List of Previous Property Owners and Operators
5	VIII	Contact List Information	1, 3 - 8	Brownfield Site Contact List
			2	Adjacent Property Owner List
6	VIII	Document Repository	8	Document Repository Confirmation Letter
7	IX	Land Use Factors	1, 3 & 14	Land Use Factors & Adjacent Land Use
			4	see Figure 6 in Attachment 2
			10	Figure 9 - Cultural Resources
			11	Figure 10 - Natural Resource Map
			12	Figure 11 - Wetland & Floodplain Map Wetland Assessment, 7416 Niagara Falls Blvd, Environmental Resources, LLC
			15	Groundwater Vulnerability Assessment
			16	Site Geography/Geology Figure 12 - Soils Map

ATTACHMENT 1

BCP Application – Section I

REQUESTER INFORMATION

SIGNATURE RESOLUTION FOR 93 NYRPT, LLC

NYS DEPT OF STATE CORPORATION & BUSINESS ENTITY DATABASE

RESOLVED, that Mr. David H. Baldauf, Esq., Manager of 93 NYRPT, LLC (Company) be hereby authorized and empowered to sign a Brownfield Cleanup Agreement (BCA) for property referred to as the 7416 Niagara Falls Boulevard Site with New York State Department of Environmental Conservation (NYSDEC), in the name of and on behalf of this Company.

The undersigned hereby certify that he is the duly qualified Manager and custodian of the books and records of 93 NYRPT, LLC, a corporation duly formed pursuant to the laws of the State of New York, and that the foregoing is a true record of a resolution duly adopted by the Members at a meeting of 93 NYRPT, LLC and that said meeting was held in accordance with state law and the Bylaws of the above-named Corporation on February 24, 2015, and that said resolution is now in full force and effect without modification or rescission.

IN WITNESS WHEREOF, I have executed my name as Manager of the above-named Company this ____ day of _____, 2015.

[Signature] DAVID H. BALDAUF Manager (CAB)
(Signature) (Print Name) (Title)

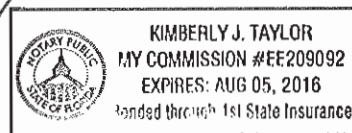
ACKNOWLEDGMENT

(STATE OF FLORIDA)

(COUNTY OF MANATEE)

On the 24th day of February in the year 2015, before me, the undersigned, a Notary Public in and for said State, personally appeared DAVID H. BALDAUF, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) 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 the behalf of which the individual(s) acted, executed the instrument.

[Signature]
Notary Public



NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through February 2, 2015.

Selected Entity Name: 93 NYRPT, LLC

Selected Entity Status Information

Current Entity Name: 93 NYRPT, LLC

DOS ID #: 4571922

Initial DOS Filing Date: MAY 05, 2014

County: ERIE

Jurisdiction: NEW YORK

Entity Type: DOMESTIC LIMITED LIABILITY COMPANY

Current Entity Status: ACTIVE

Selected Entity Address Information

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

93 NYRPT, LLC

7978 COOPER CREEK BOULEVARD

SUITE 100

UNIVERSITY PARK, FLORIDA, 34201

Registered Agent

DAVID H. BALDAUF

570 DELAWARE AVENUE

BUFFALO, NEW YORK, 14202

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability

companies must include the name(s) and address (es) of the original members, however this information is not recorded and only available by [viewing the certificate](#).

***Stock Information**

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

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
MAY 05, 2014	Actual	93 NYRPT, LLC

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

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

[Search Results](#) [New Search](#)

[Services/Programs](#) | [Privacy Policy](#) | [Accessibility Policy](#) | [Disclaimer](#) | [Return to DOS](#)
[Homepage](#) | [Contact Us](#)

ATTACHMENT 2

BCP Application – Section II

PROPERTY INFORMATION

PROPERTY DESCRIPTION

FIGURE 1; SITE LOCATION AND VICINITY MAP

FIGURE 2; SITE PLAN (AERIAL)

FIGURE 3; PARCEL MAP

FIGURE 4; TAX MAP

FIGURE 5; PROPERTY BASE MAP

FIGURE 6; NEARBY LAND USE/ ZONING MAP

FIGURE 7; ADJACENT PROPERTY OWNERS MAP

QUITCLAIM DEED & SCHEDULE A – AUGUST 18, 2015

WARRANTY DEED WITH LIEN COVENANT & SCHEDULE A – OCTOBER 21, 2015

CITY OF NIAGARA FALLS, CITY COUNCIL RESOLUTION No. 2015-11

CITY OF NIAGARA FALLS, CITY COUNCIL RESOLUTION No. 2015-19

METES & BOUNDS DESCRIPTION AND EXHIBIT MAP

ATTACHMENT 2
BCP Application Section II
Property Information
7416 Niagara Falls Boulevard Site

SECTION II - QUESTIONS 1-4

PARCEL DESCRIPTION

The subject site (hereinafter, the “7416 Niagara Falls Blvd Site” or the “Site”) consists of a portion of three (3) parcels and a portion of an abandon street (see Figures 1 through 4) in the City of Niagara Falls, New York. Specifically, the 7416 Niagara Falls Blvd Site collectively comprising approximately 6.42 acres consists of:

- 1.72 acres of the northern portion of SBL No. 160.08-3-14: 7416 Niagara Falls Blvd
- 2.59 acres of the northern portion of SBL No. 160.08-3-13.1: 7570 Niagara Falls Blvd
- 1.29 acres of SBL No. 160.08-3-13.2: 855 76th Street
- 0.82 areas of the northern portion of abandoned 76th Street

The current owner of the approximate 6.42-acre property that comprises the 7416 Niagara Falls Blvd Site, subject to this BCP Application, is 93 NYRPT, LLC based on the Quitclaim Deed dated August 18th, 2014 and Warranty Deed with Lien Covenant dated October 21, 2014 (attached hereto). As indicated, the 7416 Niagara Falls Blvd Site is a 6.42-acre portion of a larger approximate 19.332-acre tract of land that was transferred from Niagara County Industrial Development Agency (NCIDA) to Randall Benderson 1993-1 Trust on August 18, 2014, then subsequently transferred from Randall Benderson 1993-1 Trust to 93 NYRPT, LLC (Applicant) on October 21, 2014. For clarity, the property limits of the 19.332 acre parcel as described in Schedule A of the aforementioned deeds and the property limits of the 7416 Niagara Falls Blvd Site are depicted on Figures 3 and 4.

Additionally, the City Council of the City of Niagara Falls had the required public hearing regarding the abandonment of a portion of 76th Street in the Council Chambers in City Hall on February 17, 2015 (Resolution No. 2015-11 is included in Attachment 2). In a subsequent meeting of the City Council on March 2, 2015, it was resolved that the portion of 76th Street

ATTACHMENT 2
BCP Application Section II
Property Information
7416 Niagara Falls Boulevard Site

(included within this BCP Application Site) was abandoned for redevelopment as stated in Resolution No. 2015-19, which is included herein.

93 NYRPT, LLC plans to combine the land that comprises the approximate 6.42-acre 7416 Niagara Falls Blvd Site into one (1) legal tax parcel with one tax identification number. This will be completed at a later date.

The 7416 Niagara Falls Blvd Site is located in a historically commercial and residential use area of the City of Niagara Falls (see Figure 5). The Site is bound by Niagara Falls Boulevard, the Pita & Grill Restaurant, the southern portion of 76th Street and Dunn Tire to the south; The Super 8 Motel the east, vacant land to the north; and a commercial plaza to the west (see Figure 6). Adjacent property owners are identified on Figure 6.

The Site is not currently located within an En-Zone.

SECTION II - QUESTION 5

PROPERTY DESCRIPTION NARRATIVE

The 7416 Niagara Falls Blvd Site is currently improved with a gravel access drive (formerly a portion of 76th Street), a landscaped soil/fill berm, and green space. The area immediately to the west was developed in the late 1990s as Target Store as part of the larger commercial plaza. With the exception of these features, no known development has been identified on the 7416 Niagara Falls Boulevard Site.

In January 2014, an environmental investigation was conducted by TurnKey Environmental Restoration, LLC (TurnKey) to assess the soil quality within the soil/fill berm located in the north central portion of the Site. Nine (9) test pits were completed and soil/fill samples from each test pit were submitted for laboratory analysis. Elevated concentrations of volatile

ATTACHMENT 2
BCP Application Section II
Property Information
7416 Niagara Falls Boulevard Site

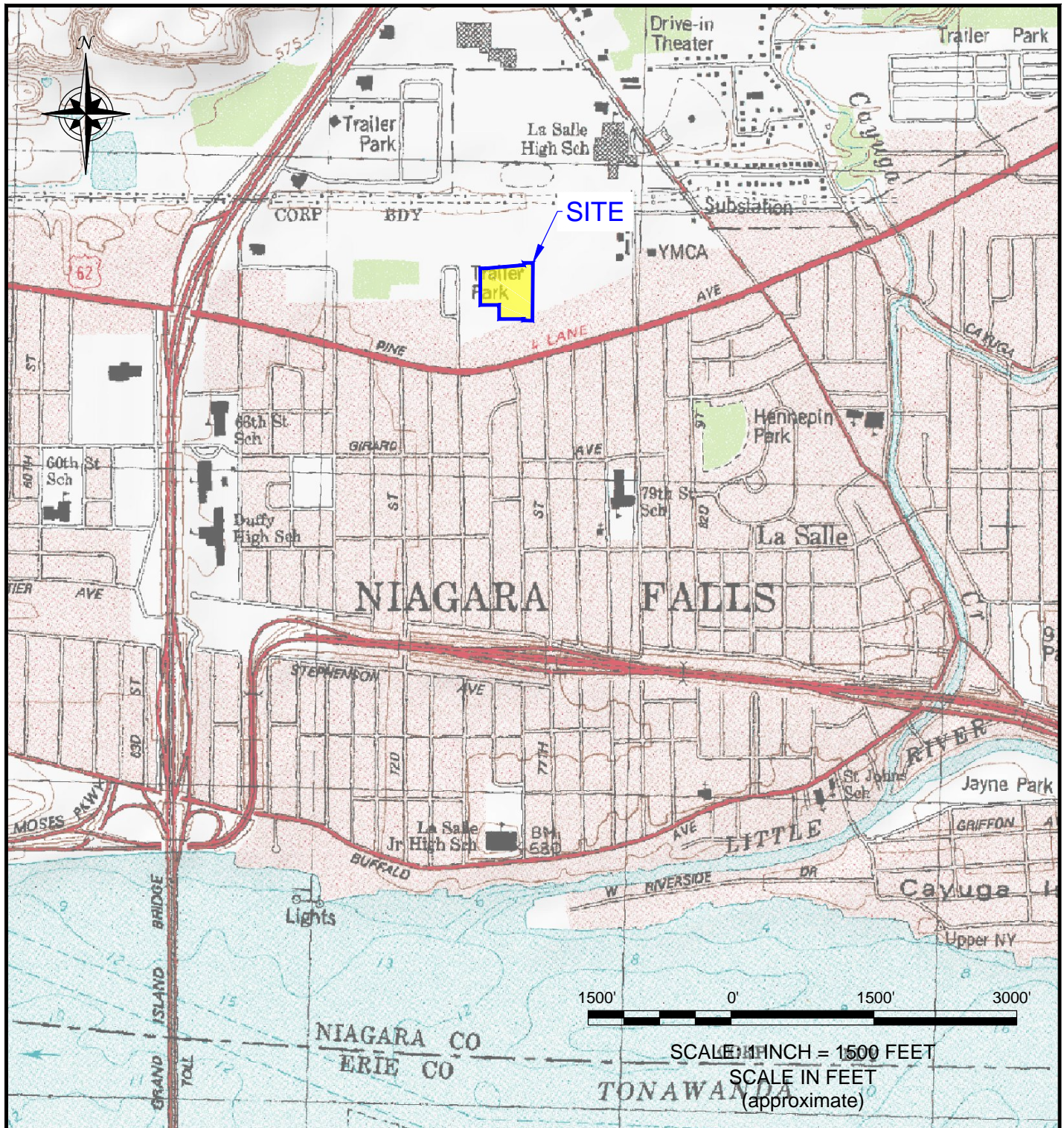
organic compounds (VOCs), semi-volatile organic compounds (SVOCs), metals, pesticides, and herbicides were detected in exceedance of the NYSDEC Part 375 Unrestricted, Residential, and/or Commercial Use Soil Cleanup Objectives (SCOs). Investigation summary table and a figure showing the locations of the test pits are included in Attachment 4. The source of the impacted soil/fill has not been identified.

Questions 6 and 7

No easements were identified.

Based on review of the on-line NYSDEC Environmental Site Database and USEPA ECHO database, no permits were issued for the Site.

FIGURE 1



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

SITE LOCATION & VICINITY MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

7416 NIAGARA FALLS BOULEVARD SITE
NIAGARA FALLS, NEW YORK

PREPARED FOR

93 NYRPT, LLC

PROJECT NO.: 0105-014-004

DATE: FEBRUARY 2015

DRAFTED BY: BLR

DISCLAIMER:

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



FIGURE 2

SITE PLAN
BROWNFIELD CLEANUP PROGRAM APPLICATION

7416 NIAGARA FALLS BOULEVARD SITE
NIAGARA FALLS, NEW YORK
PREPARED FOR
93 NYRPT, LLC

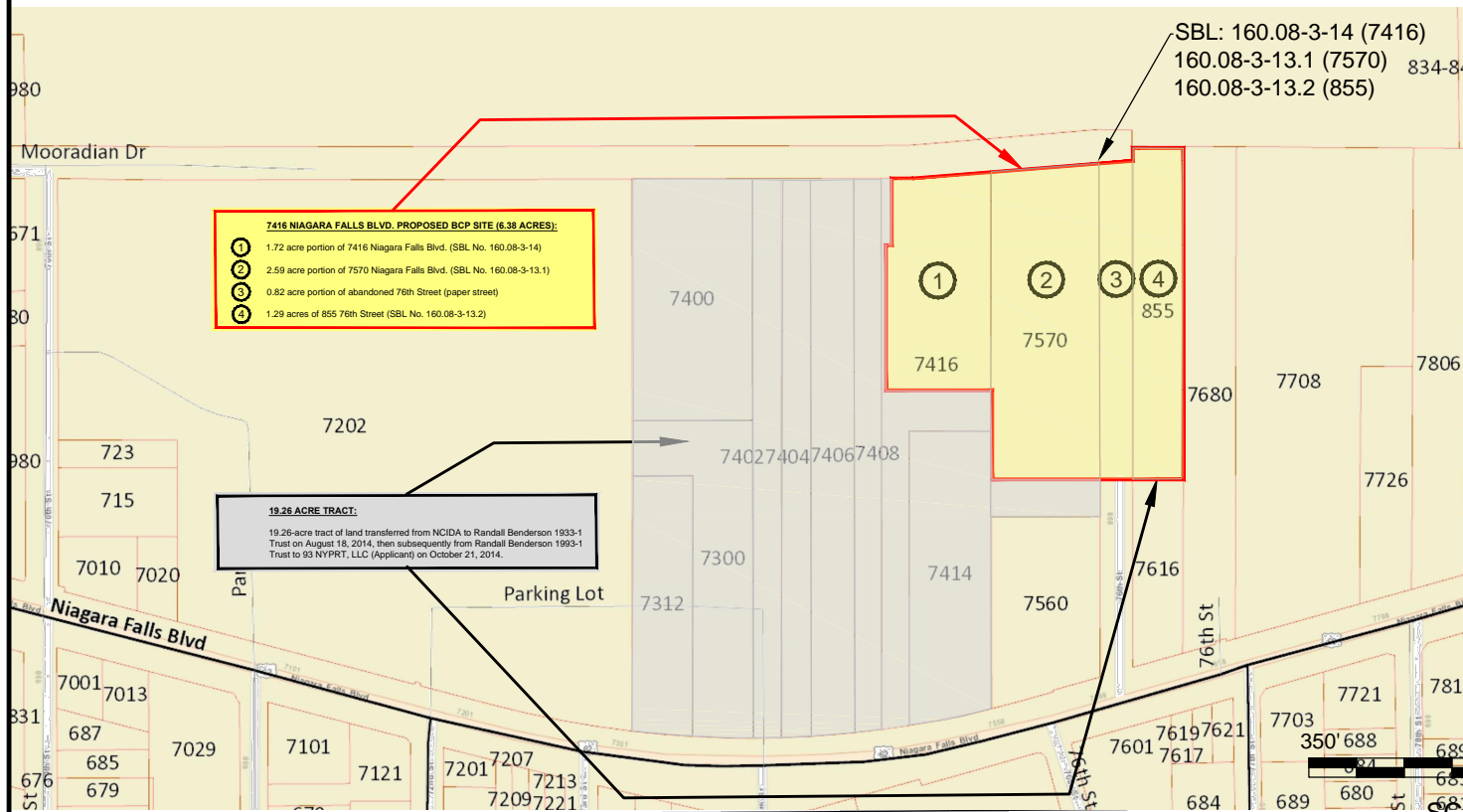

2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0635

JOB NO.: 0105-014-004

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



Niagara County On-Line Mapping Application



Legend

Streets and Highways

- Interstate
- Primary State Road
- Secondary State Road
- County Road
- Local Road

Parcels



0' 350' 700'

SCALE: 1 INCH = 350 FEET

SCALE IN FEET

(approximate)

**NIAGARA COUNTY
DEPARTMENT OF REAL PROPERTY SERVICES**

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.



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

PROJECT NO.: 0105-014-004

DATE: MARCH 2015

DRAFTED BY: BLR/RFL

PARCEL MAP BROWNFIELD CLEANUP PROGRAM APPLICATION

**7416 NIAGARA FALLS BOULEVARD SITE
NIAGARA FALLS, NEW YORK**

PREPARED FOR
93 NYPRT, LLC

FIGURE 3

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

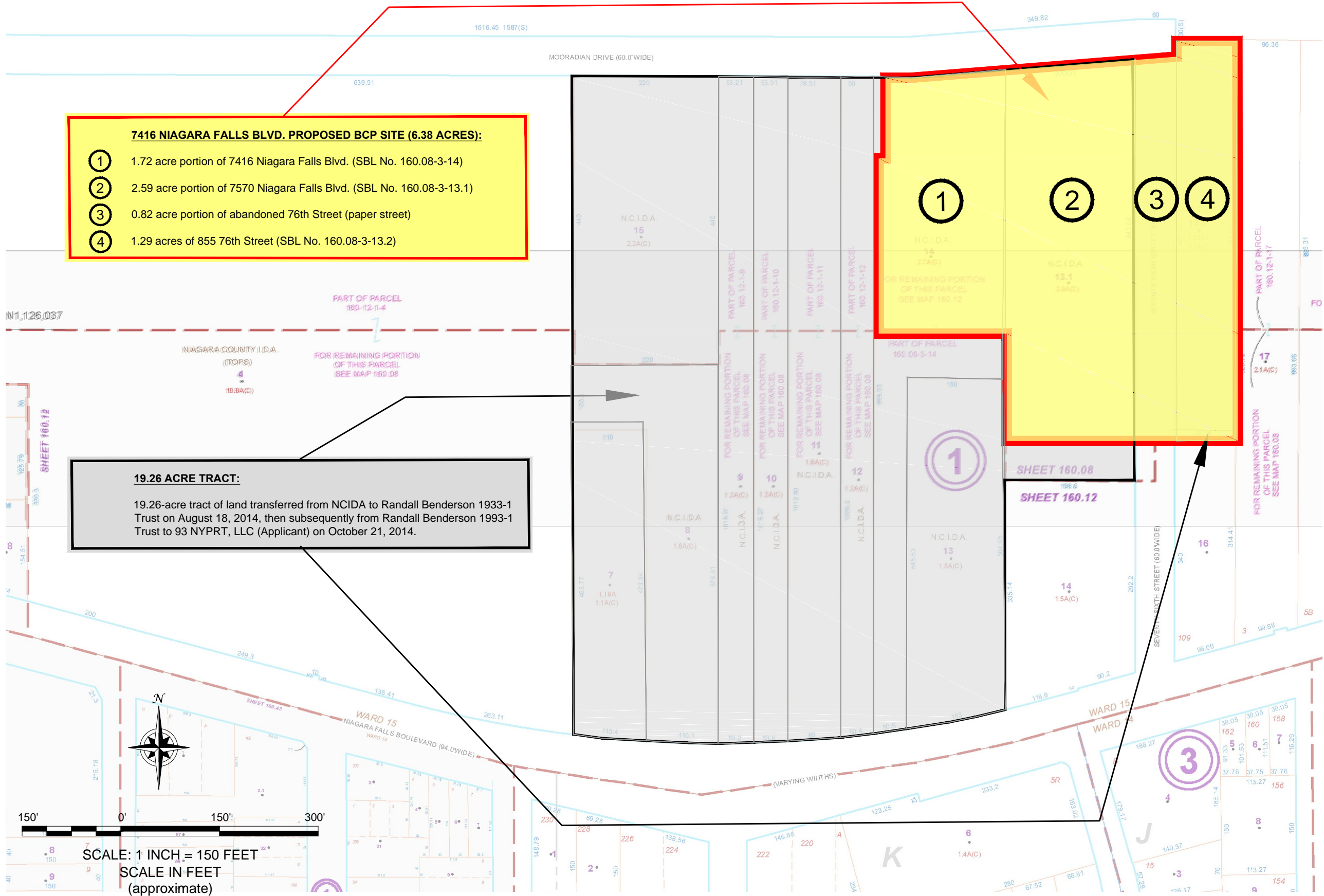


FIGURE 4

TAX MAP
BROWNFIELD CLEANUP PROGRAM APPLICATION
7416 NIAGARA FALLS BOULEVARD
NIAGARA FALLS, NEW YORK

PREPARED FOR
93 NYPRT, LLC



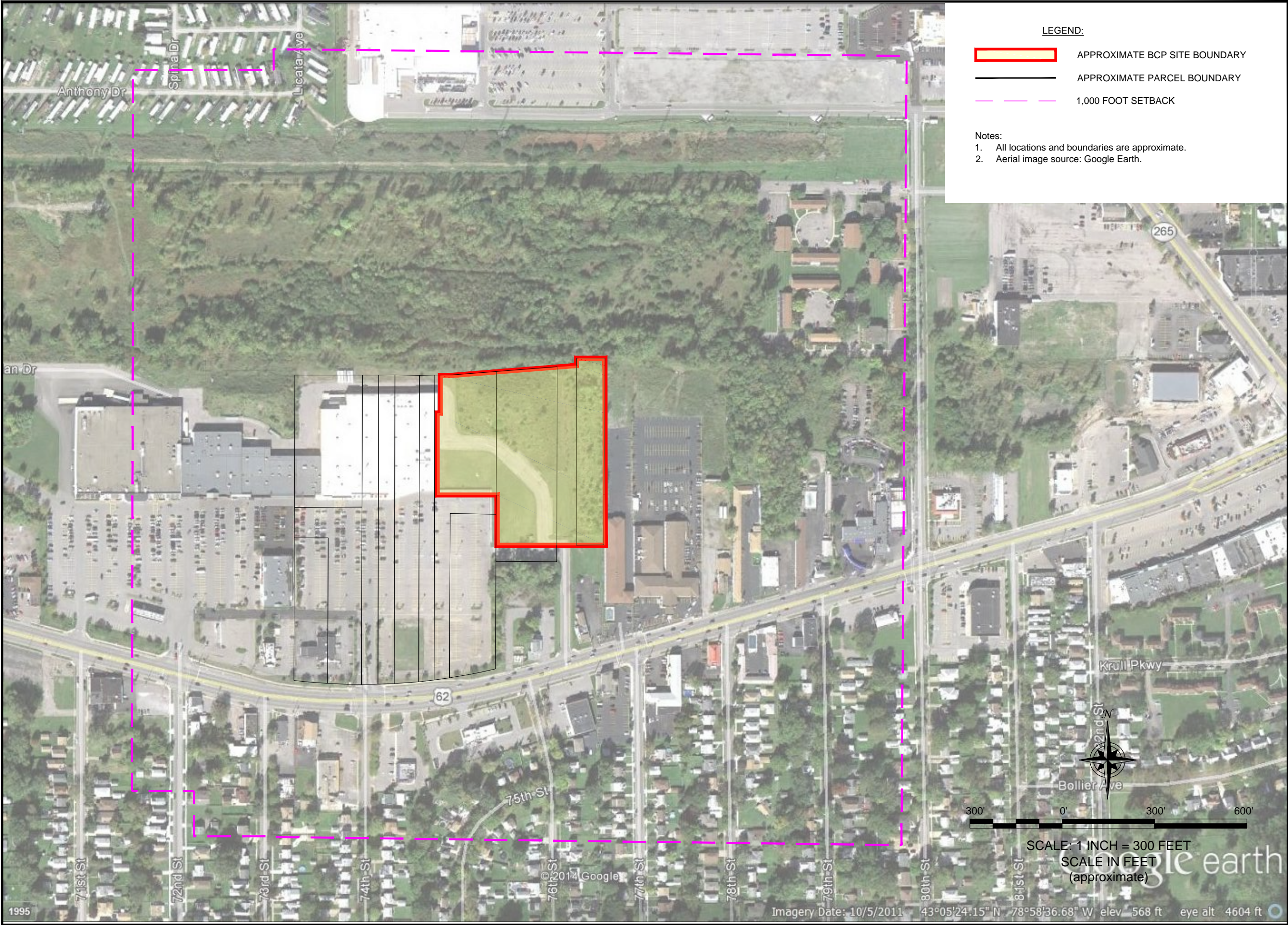
2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0635

JOB NO.: 0105-014-004

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

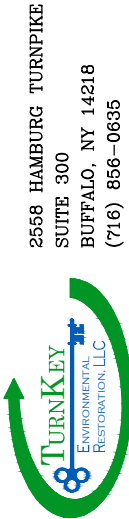
F:\CADD\TurnKey\Benderson\7416 Niagara Falls BLVD\BCP application\Figure 5: Property Basemap (1,000' Setback).dwg

DATE: MARCH 2015
DRAFTED BY: SP/RFL



PROPERTY BASEMAP (1,000' SETBACK)
BROWNFIELD CLEANUP PROGRAM APPLICATION

7416 NIAGARA FALLS BOULEVARD SITE
NIAGARA FALLS, NEW YORK
PREPARED FOR
93 NYRPT, LLC



JOB NO.: 0105-014-004

FIGURE 5

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

FIGURE 6

Schedule 8: Official Zoning Map

Residential

R1 - Detached Single

- R1-A
- R1-B
- R1-C
- R1-D

R2 - Doubles

- R2-A
- R2-B

R3 - Multi-Family

- R3-A
- R3-B
- R3-C

R4 - Heritage

- R4

Commercial

C1 - Neighborhood

- C1-A
- C1-B
- C1-C

C2 - Traditional

- C2-A
- C2-B

C3 - General

- C3

Downtown

D1 - Downtown

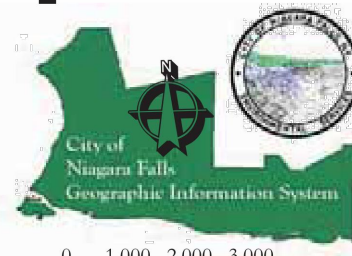
- D1-A
- D1-B
- D1-C
- D1-D

D2 - Gorge View

- D2-A
- D2-B

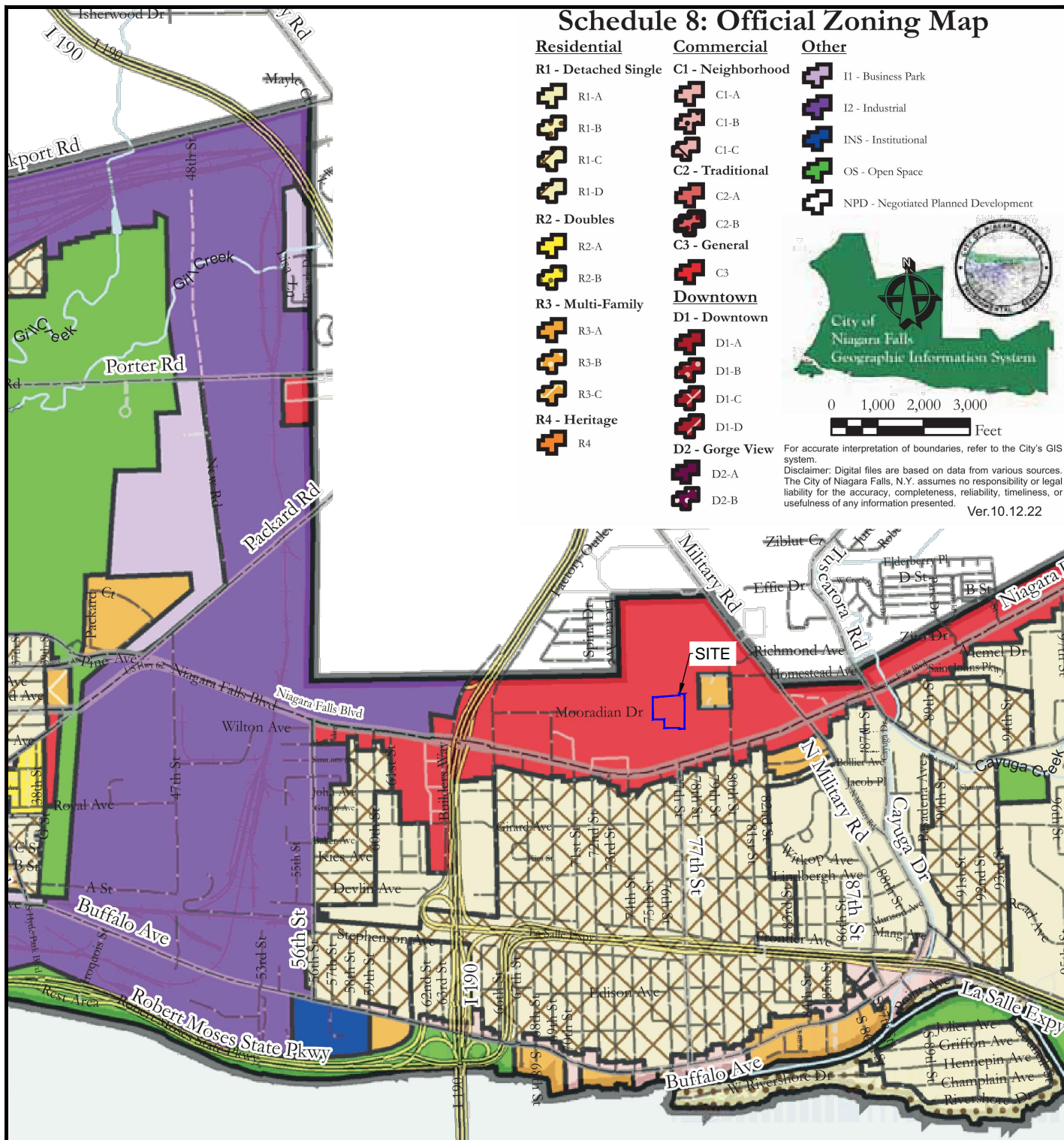
Other

- I1 - Business Park
- I2 - Industrial
- INS - Institutional
- OS - Open Space
- NPD - Negotiated Planned Development



For accurate interpretation of boundaries, refer to the City's GIS system.
 Disclaimer: Digital files are based on data from various sources. The City of Niagara Falls, N.Y. assumes no responsibility or legal liability for the accuracy, completeness, reliability, timeliness, or usefulness of any information presented.

Ver.10.12.22



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

ZONING MAP **BROWNFIELD CLEANUP PROGRAM APPLICATION**

7416 NIAGARA FALLS BOULEVARD SITE
 NIAGARA FALLS, NEW YORK

PREPARED FOR

93 NYRPT, LLC

PROJECT NO.: 0105-014-004

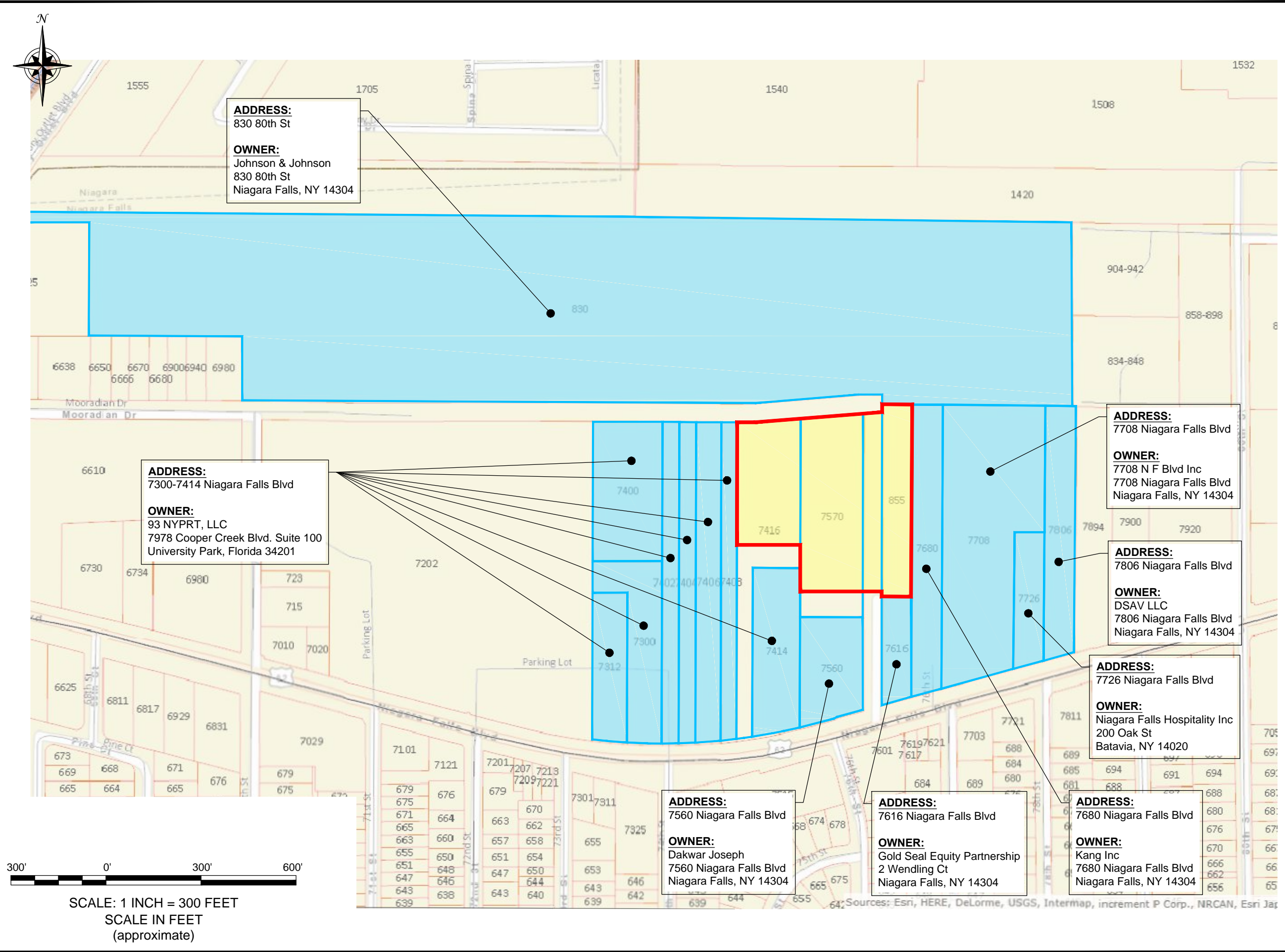
DATE: MARCH 2015

DRAFTED BY: BLR/RFL

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

F:\CAD\TurnKey\Benderson\7416 Niagara Falls BLVD\BCP application\Figure 7, Adjacent Property Owners.dwg

DATE: JANUARY 2015
DRAFTED BY: SPF



ADJACENT PROPERTY OWNERS
BROWNFIELD CLEANUP PROGRAM APPLICATION
7416 NIAGARA FALLS BOULEVARD SITE
NIAGARA FALLS, NEW YORK

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

TURNKEY
ENVIRONMENTAL
RESTORATION, LLC

JOB NO.: 0105-014-004

PREPARED FOR
93 NYPRT, LLC

FIGURE 7

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

QUITCLAIM DEED (INDIVIDUAL OR CORPORATION)

STANDARD NYBTU FORM 8009

CAUTION: THIS AGREEMENT SHOULD BE PREPARED BY AN ATTORNEY AND REVIEWED BY ATTORNEYS FOR SELLER AND PURCHASER BEFORE SIGNING.

THIS INDENTURE, made the 18th day of August, two thousand and fourteen,

between

Niagara County Industrial Development Agency, with offices located at 6311 Inducon Corporate Drive, Suite One. Sanborn, New York 14132-9009

party of the first part, and

Ronald Benderson and David H. Baldauf as Trustees under a Trust Agreement dated September 22, 1993 known as the Randall Benderson 1993-1 Trust, 570 Delaware Avenue, Buffalo, New York 14202

party of the second part,

WITNESSETH, that the party of the first part, in consideration of ONE AND NO MORE DOLLARS (\$1.00 & NO MORE), lawful money of the United States, paid by the party of the second part, does hereby remise, release and quitclaim unto the party of the second part, its successors and assigns of the party of the second part forever,

See attached Schedule A

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

This deed is not given for the purpose of defrauding creditors of the grantor(s) and does not render the grantor(s) insolvent.

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, its successors and assigns of the party of the second part forever.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the costs of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

2014216526

NYSBA PRACTICE FORMS 3/98

2014-18644

10/30/2014 12:51:47 PM

4 Pages

DEED

RE067.08

-1-

Wayne F. Jagow, Niagara County Clerk

Clerk: BH

The word "party" shall be construed as if it read "party" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

NIAGARA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By:


Samuel M. Ferraro, Executive Director


STATE OF NEW YORK)

) SS. :

COUNTY OF NIAGARA)

On the 18th day of August in the year 2014 before me, the undersigned, a notary public in and for said state, personally appeared **Samuel M. Ferraro**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) 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 this/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


Mark J. Gabriele
Qualified in Niagara county
No. 4948558
Notary Public, State of New York
My Commission Expires 03/20/2015

SCHEDULE "A"

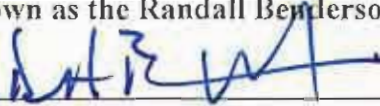
ALL THAT TRACT OR PARCEL OF LAND situate in the City of Niagara Falls, County of Niagara, State of New York, being part of Lot Number 9, Township 13, Range 9 of the Holland Land ~~Company's~~ Survey being further described as follows:

BEGINNING at the intersection of the westerly line of lands conveyed to Joseph Dakwar by Deed recorded in the Niagara County Clerk's Office in Liber 2117 of Deeds at Page 353 and the northerly bounds of Niagara Falls Boulevard as now laid out; THENCE westerly along the northerly bounds of Niagara Falls Boulevard along a curve to the right having a radius of 1862.86 feet, an arc distance of 659.25 feet to the easterly line of lands conveyed to Johnson by Deed recorded in the Niagara County Clerk's Office in Liber 2003 of deeds at Page 36; THENCE N 00°-12'-05" E and along the east line of lands conveyed to Johnson by aforesaid deed, a distance of 1004.62 feet to a point in the southerly bounds of Mooriadan Drive Ext.; THENCE S 89°-50'-07" E and along the southerly bounds of Mooriadan Drive Ext. a distance of 446.44 feet to an angle point in said bounds; THENCE N 85°-20'-58" E and continuing easterly along the southerly bounds of Mooriadan Drive Ext., a distance of 345.72 feet to the westerly bounds of 76th Street; THENCE S 00°-10'-47" W and along the westerly bounds of 76th Street, a distance of 643.94 feet to the north east corner of lands conveyed to Joseph Dakwar by aforesaid deed; THENCE N 89°-49'-13" W and along the northerly line of Joseph Dakwar by the aforesaid deed, a distance of 198.60 feet to the north west corner of Joseph Dakwar by aforesaid deed; THENCE S 00°-10'-47" W and along the west line of Joseph Dakwar, a distance of 349.46 feet to the place or point of beginning, containing 18.04 acres of land, more or less.

ALSO that parcel of land described as follows; Beginning at a point in the easterly bounds of 76th Street at a distance of 340.00 feet northerly of the northerly bounds of Niagara Falls Boulevard as measured along the easterly bounds of 76th Street; THENCE N 00°-10'-47" E and along the easterly bounds of 76th Street, a distance of 608.20 feet to a point on the south line of lands conveyed to Johnson by deed recorded in the Niagara County Clerk's Office in Liber 864 of Deeds at Page 340; THENCE N 89°-21'-58" E and along the south bounds of Johnson by aforesaid deed, a distance of 92.59 feet to the north west corner of lands conveyed to "E" El Binkley by Deed recorded in the Niagara County Clerk's Office in Liber 636 of Deeds at Page 69; THENCE S 00°-10'-47" W and along the west line of Binkley by aforesaid deed, a distance of 607.47 feet to a point; THENCE N 89°-49'-13" W, a distance of 92.59 feet to the place or point of beginning, containing 1.292 acres of land more or less, having a total acreage of 19.332 acres, more or less.

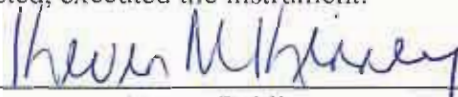
IN WITNESS WHEREOF, the said Grantor has hereunto set hand and seal the day and year first above written.

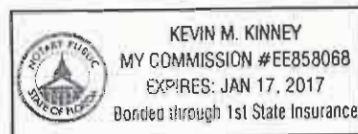
Ronald Benderson and David H. Baldauf as Trustees
under a Trust Agreement dated September 22, 1993
known as the Randall Benderson 1993-1


By: David H. Baldauf, Trustee

STATE OF FLORIDA)
)ss:
COUNTY OF MANATEE)

On the 21st day of October in the year 2014 before me, the undersigned, a notary public in and for said state, personally appeared David H. Baldauf, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) 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



5

Record and Return to:

Benderson Development Company, LLC
7978 Cooper Creek Blvd., #100
University Park, FL 34201
Attention: Legal Department

2014216526

2014-18645
10/30/2014 12:51:47 PM
5 Pages
DEED

Wayne F. Jagow, Niagara County Clerk

Clerk: BH

WARRANTY DEED WITH LIEN COVENANT

THIS INDENTURE, made this 21st day of October, 2014

Between **Ronald Benderson and David H. Baldauf as Trustees under a Trust Agreement dated September 22, 1993 known as the Randall Benderson 1993-I Trust**, having an address of 7978 Cooper Creek Blvd, Suite 100, University Park, Florida 34201, ("Grantor") and **93 NYRPT, LLC**, a New York limited liability company, having an address of 7978 Cooper Creek Blvd., Suite 100, University Park, FL 34201 ("Grantee").

WITNESSETH, that the said Grantor, in consideration of One and No More Dollars (\$1.00 and no more) lawful money of the United States, paid by Grantee, does hereby grant, convey and release unto Grantee, its successors and assigns forever the premises more particularly described as follows:

See Exhibit "A" attached herein.

TOGETHER with the appurtenances and all the estate and rights of the Grantor in and to the said premises.

TO HAVE AND TO HOLD, the above granted premises unto the Grantee, and its successors and assigns forever.

AND the said Grantor does covenant with said Grantee as follows:

- FIRST:** That the Grantee shall quietly enjoy the said premises.
- SECOND:** That the said Grantor will forever WARRANT the title to said premises.
- THIRD:** Subject to the trust fund provisions of the section thirteen of the lien law.

Ronald Benderson and David H. Baldauf as Trustees
under a Trust Agreement dated September 22, 1993
known as the Randall Benderson 1993-1 Trust

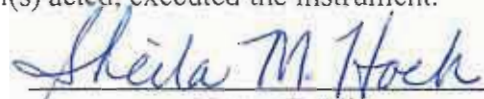

By: Ronald Benderson, Trustee *WPM*

STATE OF NEW YORK)

)ss:

COUNTY OF ERIE)

On the 2nd day of October in the year 2014 before me, the undersigned, a notary public in and for said state, personally appeared Ronald Benderson, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) 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

SHEILA M. HOCH
Notary Public, State of New York
Qualified in Erie County
Commission Expires May 28, 2018

SCHEDULE "A"

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Niagara Falls, County of Niagara, State of New York, being part of Lot Number 9, Township 13, Range 9 of the Holland Land Company's Survey being further described as follows:

BEGINNING at the intersection of the westerly line of lands conveyed to Joseph Dakwar by Deed recorded in the Niagara County Clerk's Office in Liber 2117 of Deeds at Page 353 and the northerly bounds of Niagara Falls Boulevard as now laid out; THENCE westerly along the northerly bounds of Niagara Falls Boulevard along a curve to the right having a radius of 1862.86 feet, an arc distance of 659.25 feet to the easterly line of lands conveyed to Johnson by Deed recorded in the Niagara County Clerk's Office in Liber 2003 of deeds at Page 36; THENCE N 00°-12'-05" E and along the east line of lands conveyed to Johnson by aforesaid deed, a distance of 1004.62 feet to a point in the southerly bounds of Mooriadan Drive Ext.; THENCE S 89°-50'-07" E and along the southerly bounds of Mooriadan Drive Ext. a distance of 446.44 feet to an angle point in said bounds; THENCE N 85°-20'-58" E and continuing easterly along the southerly bounds of Mooriadan Drive Ext., a distance of 345.72 feet to the westerly bounds of 76th Street; THENCE S 00°-10'-47" W and along the westerly bounds of 76th Street, a distance of 643.94 feet to the north east corner of lands conveyed to Joseph Dakwar by aforesaid deed; THENCE N 89°-49'-13" W and along the northerly line of Joseph Dakwar by the aforesaid deed, a distance of 198.60 feet to the north west corner of Joseph Dakwar by aforesaid deed; THENCE S 00°-10'-47" W and along the west line of Joseph Dakwar, a distance of 349.46 feet to the place or point of beginning, containing 18.04 acres of land, more or less.

ALSO that parcel of land described as follows; Beginning at a point in the easterly bounds of 76th Street at a distance of 340.00 feet northerly of the northerly bounds of Niagara Falls Boulevard as measured along the easterly bounds of 76th Street; THENCE N 00°-10'-47" E and along the easterly bounds of 76th Street, a distance of 608.20 feet to a point on the south line of lands conveyed to Johnson by deed recorded in the Niagara County Clerk's Office in Liber 864 of Deeds at Page 340; THENCE N 89°-21'-58" E and along the south bounds of Johnson by aforesaid deed, a distance of 92.59 feet to the north west corner of lands conveyed to "E" El Binkley by Deed recorded in the Niagara County Clerk's Office in Liber 636 of Deeds at Page 69; THENCE S 00°-10'-47" W and along the west line of Binkley by aforesaid deed, a distance of 607.47 feet to a point; THENCE N 89°-49'-13" W, a distance of 92.59 feet to the place or point of beginning, containing 1.292 acres of land more or less, having a total acreage of 19.332 acres, more or less.

I hereby certify that the following Resolution was adopted at a Meeting of the City Council held on February 2, 2015:

RESOLUTION NO. 2015 -11

RESOLUTION RELATIVE TO CALLING FOR A PUBLIC HEARING
FOR THE ABANDONMENT OF A PORTION OF
76TH STREET, NORTH OF NIAGARA FALLS BOULEVARD

BY: Council Chairman Andrew Touma

WHEREAS, the adjoining property owner has requested the abandonment of a portion of 76th Street, north of Niagara Falls Boulevard; and

WHEREAS, the Planning Board of the City of Niagara Falls has recommended against the granting of this abandonment; and

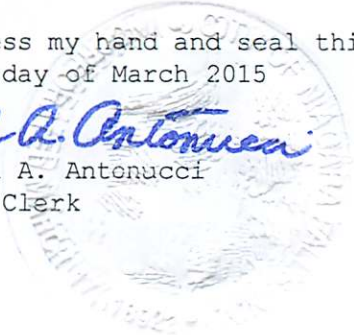
WHEREAS, this Council declares its intention to abandon said portion of 76th Street.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Niagara Falls, that a public hearing be held relative to the abandonment of the aforementioned street portion, said public hearing to be held at a meeting of the Council to be held at the Council Chambers in City Hall on February 17, 2015 at 6:00 p.m. standard time and the City Clerk is hereby directed to publish notice of intention to discontinue and abandon the said street portion in the official newspaper once a week for two (2) successive weeks preceding February 17, 2015.

Witness my hand and seal this
20th day of March 2015



Carol A. Antonucci
City Clerk



I hereby certify that the following Resolution was adopted at a Meeting of the City Council held on March 2, 2015:

RESOLUTION No. 2015- 19

RELATIVE TO THE ABANDONMENT OF A PORTION OF
76TH STREET, NORTH OF NIAGARA FALLS BOULEVARD

BY: Council Chairman Andrew Touma

WHEREAS, the City Council of the City of Niagara Falls desires to abandon a portion of 76th Street, north of Niagara Falls Boulevard, in order to facilitate the development of the real estate; and

WHEREAS, the City Council did, by resolution, give notice of its intention to abandon a portion of the aforementioned street portion and did direct the City Clerk to publish notice of such intention and that a public hearing would be held by the City Council at its meeting to be held in the Council Chambers on March 2, 2015 at 6:00 p.m. eastern standard time and advise that all persons interested would be heard on that said time and place; and

WHEREAS, the hearing was duly held on March 2, 2015 at 6:00 p.m. eastern standard time in regards to said abandonment.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Niagara Falls, New York, that a portion of 76th Street, north of Niagara Falls Boulevard, is hereby abandoned, the said abandoned street portion subject, however, to reservation of right of and for the City of Niagara Falls, the Niagara Falls Water Board and any utility companies, their successors and assigns to use, maintain, repair, replace and continue to maintain their services and operations in said abandoned street. The said street portion is bounded and described as follows:

ALL THAT TRACT OR PARCEL OF LAND situated in the City of Niagara Falls, County of Niagara, State of New York, being part of Lot Number 9, Township 13, Range 9 of the Holland Land Company's Survey being further described as follows:

Commencing at the intersection of the westerly line of lands conveyed to Joseph Dakwar by Deed recorded in the Niagara County Clerk's Office in Liber 2117 of Deeds at Page 353 and the northerly bounds of Niagara Falls Blvd as now laid out;

Thence northerly along the westerly line of lands conveyed to Dakwar at a bearing of N 0° 05' 16" E, a distance of 348.75' to a point;

Thence easterly along the northerly lines of lands conveyed to Dakwar at a bearing S 89° 54' 44" E, a distance of 198.60' to a point;

Thence northerly along the westerly line of 76th Street at a bearing of N 0° 05' 16" E, a distance of 204.63' to a point said point being the true point of beginning;

Thence northerly along the westerly lines of 76th Street as currently laid out a bearing of N 0° 05' 16" E, a distance of 439.31' to a point;

Thence easterly along a line having a bearing of S 89° 54' 44" E, a distance of 60.00' to a point;

Thence southerly along the easterly line of 76th Street as currently laid out a bearing of S 0° 05' 16" W, a distance of 439.56' to a point;

Thence westerly along a line having a bearing of N 89° 54' 44" W, a distance of 60.00' to a point said point being the true point of beginning; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be filed in the Office of the Clerk of the County of Niagara and that the Mayor may sign deeds or other documents desirable to effectuate this abandonment.

Witness my hand and seal this
20th day of March 2015

Carol A. Antonucci

Carol A. Antonucci
City Clerk

PROPOSED REMEDIATION EASEMENT

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Niagara Falls, County of Niagara, State of New York, being part of Lot 9, Township 13, range 9 of the Holland Land Company's Survey, more particularly bounded and described as follows:

BEGINNING at a point in the southerly boundary of Mooradian Drive Extension distant 1520.72 feet easterly of the easterly boundary of 70th Street, as measured along the southerly boundary of Mooradian Drive extension.

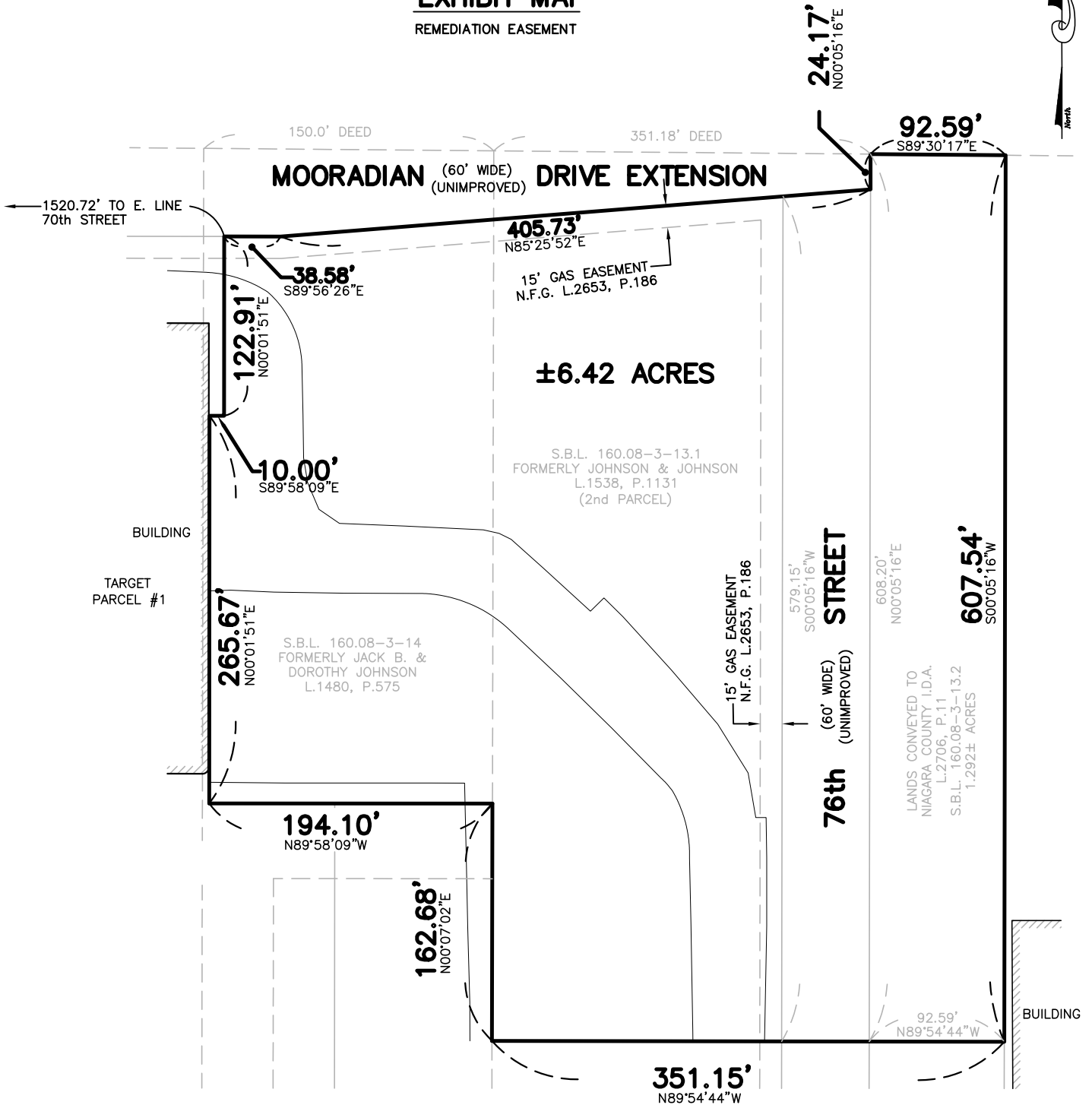
Thence the following 10 courses and distances

1. S89°56'26"E, 38.58 feet;
2. N85°25'52"E, 405.73 feet;
3. N00°05'16"E, 24.17 feet;
4. S89°30'17"E, 92.59 feet;
5. S00°05'16"W, 607.54 feet
6. N89°54'44"W, 351.15 feet
7. N00°07'02"E, 162.68 feet;
8. N89°58'09"W, 194.10 feet;
9. N00°01'51"E, 265.67 feet;
10. S89°58'09"E, 10.00 feet;

Thence N00°01'51"E, 122.91 feet to the point or place of beginning containing 6.42 acres of land more or less.

File: N:\2014\14NY144 Subdivision-Niagara Consumer Sq\4 - Technical Data\CADD Drawings\NE PARCEL EXHIBIT MAP 3-18-15.dwg, Plot Date: 3/20/2015, By: PIETROWSKI JASON M., Plot Style: FULL-BLACK.CTB

EXHIBIT MAP
REMEDATION EASEMENT



NOTE: UNAUTHORIZED ALTERATION OR ADDITION TO ANY SURVEY, DRAWING, DESIGN SPECIFICATION PLAN OR REPORT IS A VIOLATION OF SECTION 7209 PROVISION 2 OF THE NEW YORK STATE EDUCATION LAW.

REVISION	
DATE	DESCRIPTION

SBL No. _____

KHEOPS
ARCHITECTURE, ENGINEERING
& SURVEY, DPC

300 Pearl Street, Suite 100
Buffalo, New York 14202
P. 716.849.8739
F. 716.856.0981
WWW.KHEOPSDPC.COM

DRAWN BY JMP SCALE 1"=100' JOB NO. _____
CHECKED BY DRH FIELD DATE _____
CAD FILE EXHIBIT OFFICE DATE _____

BOOK 407 PAGE 19 MAP 62119-RE

ATTACHMENT 3

BCP Application – Section V & VI

PROPERTY ELIGIBILITY INFORMATION

PROJECT DESCRIPTION & ELIGIBILITY STATEMENT

PROJECT DESCRIPTION

FIGURE 8 - ESTIMATED PROJECT SCHEDULE

ATTACHMENT 3
BCP Application Sections V and VI
Project Description and BCP Eligibility Statement
7416 Niagara Falls Boulevard Site

PROJECT DESCRIPTION

The 7416 Niagara Falls Boulevard Site is currently undeveloped with the exception of a small portion of asphalt parking associated with the Target parking lot, a gravel access drive, a soil/fill pile covering approximately 1.8 acres (estimated at 40,000 CY), and green space. The soil/fill pile on-site contains elevated levels of polynuclear aromatic hydrocarbons (PAHs), metals, and pesticides which complicates future redevelopment/reuse of the property.

The Site is located in a historically commercial and residential use area of the City of Niagara Falls. The Site is bound by Niagara Falls Boulevard, the Pita & Grill Restaurant, the southern portion of 76th Street and Dunn Tire to the south; The Super 8 Motel the east, vacant land to the north; and a commercial plaza to the west.

The proposed project will convert the environmentally-impaired site to productive use. The redevelopment includes the construction of a 65,000 square foot commercial building and associated parking and landscaping for use as a Burlington Coat Factory Store. The project will create approximately 40 temporary construction jobs during building construction and approximately 20 permanent commercial-retail jobs after the store is opened.

TurnKey Environmental Restoration, LLC (TurnKey) completed an environmental investigation in January 2014 to assess the soil quality within the soil/fill berm located in the north central portion of the Site. Nine (9) test pits were completed and soil/fill samples from each test pit were submitted for laboratory analysis. Elevated concentrations of volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), metals, pesticides, and herbicides were detected in exceedance of the NYSDEC Part 375 Unrestricted, Residential, and/or Commercial Use Soil Cleanup Objectives (SCOs). Investigation summary table and a figure showing the locations of the test pits are included in Attachment 4. The source of the impacted soil/fill has not been identified.

ATTACHMENT 3
BCP Application Sections V and VI
Project Description and BCP Eligibility Statement
7416 Niagara Falls Boulevard Site

The Applicant, acting as a Volunteer, upon acceptance into the BCP, is willing to pursue investigation, cleanup and redevelopment of the Site. The Applicant has prepared a Remedial Investigation (RI), Interim Remedial Measure (IRM) and Alternative Analysis Report (AAR) Work Plan that will be provided separately, which details the planned RI, IRM and AA activities. The findings of the previous investigation, RI and IRM, will be used to complete an AA, which will evaluate the remedial options to address impacted areas that require remediation, under a commercial redevelopment scenario.

This Project will result in the remediation and redevelopment of an idle, underutilized, environmentally-impaired Site along a targeted area of the City of Niagara Falls for redevelopment to productive use. It will create temporary construction jobs and permanent commercial-retail jobs after the store is opened.

ELIGIBILITY FOR ACCEPTANCE INTO THE BROWNFIELD CLEANUP PROGRAM

The Site meets the definition of a “Brownfield site” as set forth in New York State Environmental Conservation Law (the “ECL”). The ECL Section 27-1405(2) defines a “Brownfield site” as “any real property, the development or reuse of which may be complicated by the presence or potential presence of a contaminant”. The regulations in 6NYCRR 375-3.3(a)(1) reiterate that a brownfield site has two elements and adds a “reasonable basis” test to each:

- (1) A brownfield site has two elements:
 - (i) There must be confirmed contamination on the property or a reasonable basis to believe that contamination is likely to be present on the property (the “Contamination Element”); and,
 - (ii) There must be a reasonable basis to believe that the contamination or potential presence of contamination may be complicating the development, use or reuse of the property (the “Complication Element”)

ATTACHMENT 3
BCP Application Sections V and VI
Project Description and BCP Eligibility Statement
7416 Niagara Falls Boulevard Site

Moreover, the New York State Department of Environmental Conservation BCP Eligibility Guidance dated March 2005, which is incorporated into the Brownfield Cleanup Program Guide establishes several factors that the Department considers in evaluating whether the Contamination Element and the Complication Element exist.

The Contamination Element

The Department considers the following factors with respect to the Contamination Element; to the extent they are relevant to the proposed Site:

- (A) The nature and extent of known or suspected contamination;
- (B) Whether contaminants are present at levels that exceed standards, criteria or guidance;
- (C) Whether contamination on the proposed site is historical fill material or exceeds background levels;
- (D) Whether there are or were industrial or commercial operations at the proposed site which may have resulted in environmental contamination; and/or,
- (E) Whether the proposed site has previously been subject to closure, a removal action, an interim or final remedial action, corrective action or any other cleanup activities performed by or under the oversight of the State or Federal government.

The Contamination Element of the BCP Eligibility Test has clearly been met in this application because:

- A. The previous investigation has established that the on-site soil/fill pile has been impacted by contaminants that will need to be address prior to Site redevelopment;
- B. The contaminated soil/fill pile, evidenced by analytical sample results, exceed the Part 375 SCOs and are complicating redevelopment efforts; and
- C. The Site has not previously been subject to cleanup activities by or under the oversight of State or Federal agencies.

ATTACHMENT 3
BCP Application Sections V and VI
Project Description and BCP Eligibility Statement
7416 Niagara Falls Boulevard Site

The Complication Element

The Department considers the following factors with respect to the Complication Element; to the extent they are relevant to the proposed Site:

- (A) Whether the proposed site is idled, abandoned or underutilized;
- (B) Whether the proposed site is unattractive for redevelopment or reuse due to the presence or reasonable perception of contamination;
- (C) Whether properties in the immediate vicinity of the proposed site show indicators of economic distress such as high commercial vacancy rates or depressed property values; and/or,
- (D) Whether the estimated cost of any necessary remedial program is likely to be significant in comparison to the anticipated value of the proposed site as redeveloped or reused.

The Complication Element of the BCP Eligibility Test has clearly been met in this application because the proposed Site is unattractive for redevelopment or reuse due to the presence of contamination. This factor is clearly established by the following:

- A. The Site is currently vacant and underutilized in a highly commercial area of the City of Niagara Falls;
- B. The Site is currently unattractive for redevelopment or reuse due to the presence of approximately 40,000 cyds of contaminated soil/fill pile present in the northern central portion of the Site;
- C. The estimated cost of a proposed remedial program with regard to the Site is significant in comparison to the value of the Site (i.e., the estimated cost of investigation and remediation is higher than the value of the property).

The Requestor as a Volunteer

A BCP applicant may be either a “Participant” or a “Volunteer.”

A “Participant” is an applicant who either (i) was the owner of the site at the time of the disposal or discharge of contaminants; or (ii) is otherwise responsible according to applicable principles of statutory or common law liability, unless such person’s liability arises

ATTACHMENT 3
BCP Application Sections V and VI
Project Description and BCP Eligibility Statement
7416 Niagara Falls Boulevard Site

solely as a result of such person's ownership or operation of or involvement with the site subsequent to the disposal or discharge. NY ECL 27-1405(1)(a). This definition is repeated verbatim at 6 NYCRR 375-3.2(b)(1) and is paraphrased in the Brownfield Cleanup Program Guide at Section 2.4(1)(A).

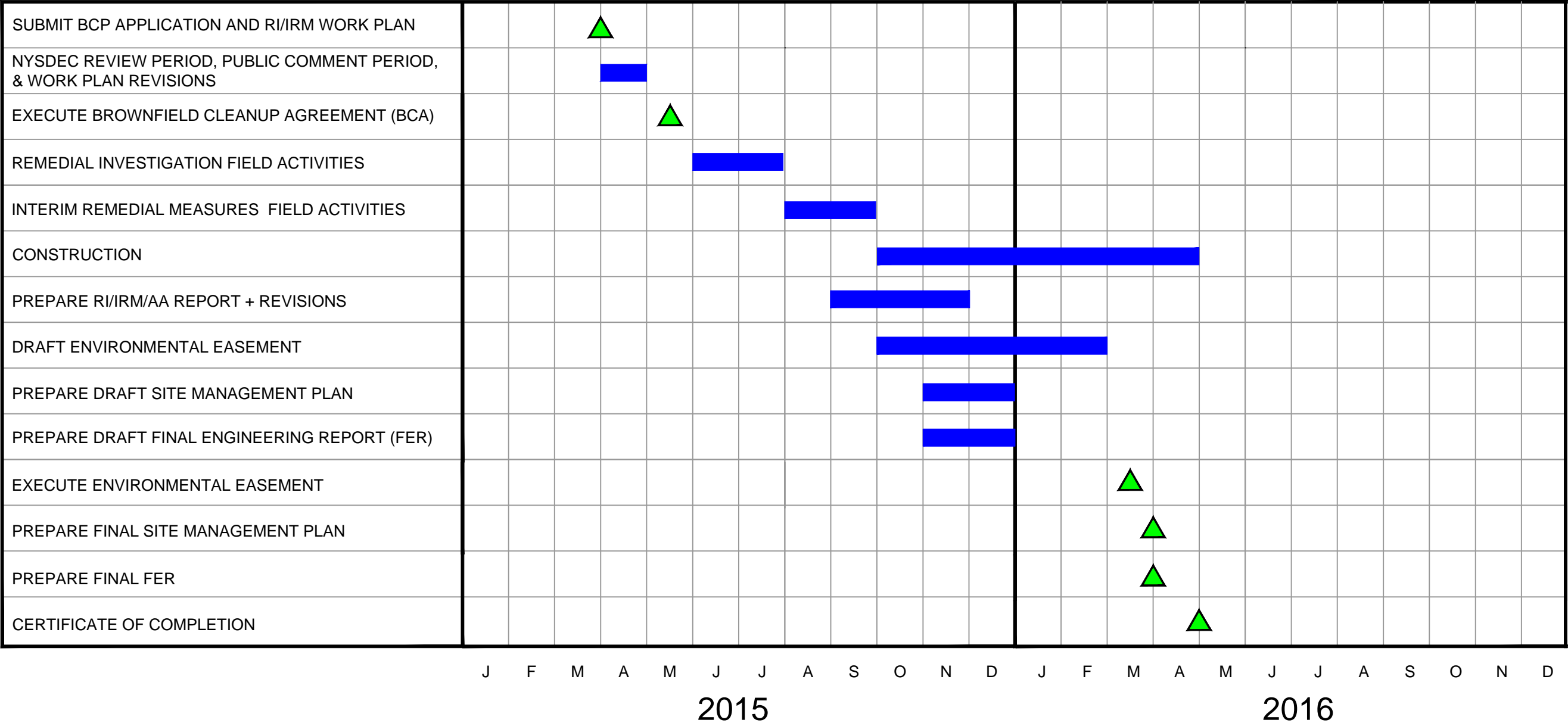
A "Volunteer" is an applicant other than a participant, including a person whose liability arises solely as a result of such person's ownership or operation of or involvement with the site subsequent to the disposal or discharge of contaminants provided that such person exercises appropriate care with respect to the contamination. NY ECL 27-1405(1)(b). This definition is repeated verbatim at 6 NYCRR 375-3.2(b)(2) and is paraphrased in the Brownfield Cleanup Program Guide at Section 2.4(1)(B).

Since the Applicant became involved with the property after the disposal or discharge of contaminants, and has exercised appropriate care with respect to the contamination, it is entitled to Volunteer status under NY ECL27-1405(1)(b).

Based on the foregoing and as further set forth in this BCP application, the Site meets the Contamination Element and the Complication Element tests. As such, the Site qualifies as a Brownfield Site eligible for participation in the BCP, with the Applicant as a Volunteer, because (A) there is confirmed contamination at the Site, and (B) the contamination is complicating the redevelopment and re-use of the Site.

F:\CAD\TurnKey\Benderson\7416 Niagara Falls BL VDI\BCP application\Figure 8: Estimated Project Schedule REV.dwg

PROJECT TASKS:



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 858-0635



JOB NO.: 0105-014-004

ESTIMATED PROJECT SCHEDULE

BROWNFIELD CLEANUP PROGRAM APPLICATION
7416 NIAGARA FALLS BOULEVARD SITE
NIAGARA FALLS, NEW YORK
PREPARED FOR
93 NYRPT, LLC

FIGURE 8

ATTACHMENT 4

BCP Application – Section VII

PROPERTY ENVIRONMENTAL HISTORY

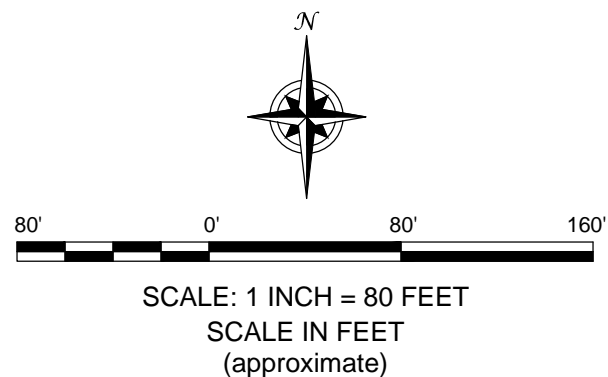
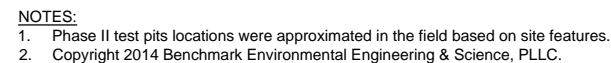
PREVIOUS ENVIRONMENTAL SUMMARY

LIST OF PREVIOUS AND CURRENT PROPERTY OWNERS AND OPERATORS

ATTACHMENT 4
BCP Application Section VII
Previous Environmental Investigations
7416 Niagara Falls Boulevard Site

A summary of the previous environmental investigations completed for the Site is presented below.

- TurnKey Environmental Restoration, LLC (TurnKey) completed an environmental investigation in January 2014 to assess the soil quality within the soil/fill berm located in the north central portion of the Site. Nine (9) test pits were completed and soil/fill samples from each test pit were submitted for laboratory analysis. Elevated concentrations of volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), metals, pesticides, and herbicides were detected in exceedance of the NYSDEC Part 375 Unrestricted, Residential, and/or Commercial Use Soil Cleanup Objectives (SCOs). Investigation summary tables and a figure showing the locations of the test pits are included in Attachment 4. The source of the impacted soil/fill has not been identified.



SOIL PILE ENVIRONMENTAL INVESTIGATION

7416 NIAGARA FALLS BOULEVARD SITE
NIAGARA FALLS, NEW YORK
PREPARED FOR
BENDERSON DEVELOPMENT COMPANY, LLC



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

JOB NO.: 0105-014-004

FIGURE 1

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



TABLE 1

**TEST PIT & QUALITATIVE SOIL SCREENING SUMMARY
7416 NIAGARA FALLS BLVD.
NIAGARA FALLS, NY**

Location	Test Pit Depth	Maximum PID Scan	Analysis & Depth Interval		Depth (fbgs) and Soil Description
	(fbgs)		VOCs ¹	Others ²	
Test Pit Locations					
TP-1	14	ND	9-11	0-14	0-5' Brown sandy clay; 5-14' dark clay w/ decaying vegetation, odor
TP-2	22	ND	NS	NS	0-4' Brown sandy clay; 4-8' Dark sandy clay w/ fill material (concrete pieces); 8-22' Dark clay w/ decaying vegetation (odors)
TP-3	15	ND	8-10	0-15	0-6' Brown sandy clay; 6-10' Dark clay w/ pockets of sandy gravel, and fill material; 10-15' Dark clay w/ decaying vegetation and wood w/ odors
TP-4	20	10 ppm (6-10') ND elsewhere	6-8	5-12	0-4' Brown sandy clay; 4-6' Dark sandy gravel w/ fill, water pocket at 6'; 6-10' Dark clay w/ decaying vegetation, moist, fill (concrete, brick, pipe); 10-20' Dark clay w/ gravel, decaying vegetation, odor, pieces of concrete
TP-5	14	ND	4-6	4-12	0-4' Brown sandy clay w/ gravel; 4-6' Dark clay w/ fill debris, brick, pipe, and concrete, sulfur odor; 6-14' Dark sandy clay, decaying vegetation w/odor
TP-6	25	10 ppm (10-15') ND elsewhere	12-14	10-20	0-6' Brown sandy clay; 6-10' Dark sandy clay w/ gravel; 10-15' Dark clay w/ fill (concrete, brick, pipe, asphalt) decaying vegetation; 15-25 Dark clay w/ fill and gravel
TP-7	25	ND	NS	NS	0-8' Brown sandy clay; 8-18' Dark clay w/gravel, fill (concrete, brick) decaying vegetation; 18-25 Brown clay w/sand and gravel
TP-8	10	ND	NS	NS	0-3' Brown sandy clay w/concrete pieces; 3-6' Fill concrete w/dark clay, sulfur odor; 6-10' Dark clay w/ gravel and fill (concrete, brick)
TP-9	8	ND	4-6	4-8	0-6' Brown sandy clay; 6-8' Dark sandy clay w/decaying vegetation w/odor

Notes

1) VOCs means Volatile Organic Compounds.

2) Others means Target Compound List Semi volatile Organic Compounds, Polychlorinated Biphenyl (PCBs), Target Analyte Metals, Pesticides, Herbicides

3) ND means not detected above background

4) PPM means parts per million

5) NS means not sampled



TABLE 2
SOIL ANALYTICAL SUMMARY
7416 NIAGARA FALLS BLVD.
NIAGARA FALLS, NY

PARAMETER ¹	Unrestricted Use SCOs ²	Residential Use SCOs ³	Commercial Use SCOs ⁴	Sample Location (Depth)											
				TP-01 (9-11)	TP-01 (0-14)	TP-03 (8-10)	TP-03 (0-15)	TP-04 (6-8)	TP-04 (5-12)	TP-05 (4-6)	TP-05 (4-12)	TP-06 (12-14)	TP-06 (10-20)	TP-09 (4-6)	TP-09 (4-8)
Volatile Organic Compounds (VOCs) - mg/Kg ⁵															
2-Butanone (MEK)	0.12	100	500	0.0083 J *	--	0.0063 J *	--	ND	--	0.0087 J *	--	0.011 J *	--	0.012 J *	--
Acetone	0.05	100	500	0.037	--	0.027 J	--	0.02 J	--	0.043	--	0.071	--	0.067	--
Benzene	0.06	2.9	44	ND	--	0.0027 J	--	0.0039 J	--	0.0024 J	--	ND	--	ND	--
Chlorobenzene	1.1	100	500	ND	--	0.0076	--	0.002 J	--	0.003 J	--	ND	--	ND	--
Semi-Volatile Organic Compounds (SVOCs) - mg/Kg ⁵															
2-Methylnaphthalene	--	--	--	--	0.066 J	--	0.0087 J	--	0.079 J	--	0.12 J	--	0.019 J	--	36 J
3-Methylphenol/4-Methylphenol	--	--	--	--	ND	--	ND	--	ND	--	ND	--	ND	--	4.2 J
Acenaphthene	20	100	500	--	0.089 J	--	0.0068 J	--	0.22 J	--	0.26 J	--	0.046 J	--	96
Acenaphthylene	100	100	500	--	0.0083 J	--	ND	--	ND	--	ND	--	ND	--	ND
Anthracene	100	100	500	--	0.2	--	0.011 J	--	0.55 J	--	0.79 J	--	0.097 J	--	210
Benzo(a)anthracene	1	1	5.6	--	0.38	--	ND	--	1.2 J	--	1.5 J	--	0.24 J	--	260
Benzo(a)pyrene	1	1	1	--	0.31	--	0.05 J	--	0.95 J	--	1.2 J	--	0.19 J	--	220
Benzo(b)fluoranthene	1	1	5.6	--	0.4	--	0.076 J	--	1.4 J	--	1.7 J	--	0.25 J	--	270
Benzo(ghi)perylene	100	100	500	--	0.16 J	--	ND	--	ND	--	ND	--	ND	--	140
Benzo(k)fluoranthene	0.8	1	56	--	0.19	--	0.031 J	--	0.58 J	--	0.63 J	--	0.13 J	--	130
Biphenyl	--	--	--	--	0.015 J	--	ND	--	0.015 J	--	ND	--	ND	--	ND
Carbazole	--	--	--	--	0.093 J	--	0.0081 J	--	0.24 J	--	0.26 J	--	ND	--	100
Chrysene	1	1	56	--	0.36	--	0.064 J	--	1.2 J	--	1.4 J	--	0.25 J	--	240
Dibenzo(a,h)anthracene	0.33	0.33	0.56	--	ND	--	ND	--	ND	--	ND	--	ND	--	38 J
Dibenzofuran	7	14	350	--	0.075 J	--	ND	--	0.14 J	--	0.23 J	--	0.28 J	--	69
Fluoranthene	100	100	500	--	0.77	--	0.1 J	--	2.7	--	3.3	--	0.5	--	540
Fluorene	30	100	500	--	0.12 J	--	ND	--	0.25 J	--	0.41 J	--	ND	--	100
Indeno(1,2,3-cd)pyrene	0.5	0.5	5.6	--	0.18 J	--	0.036 J	--	0.58 J	--	0.67 J	--	0.11 J	--	120
Naphthalene	12	100	500	--	0.24	--	0.011 J	--	0.16 J	--	0.27 J	--	0.036 J	--	110
Phenanthrene	100	100	500	--	0.66	--	0.06 J	--	2.1	--	2.9	--	0.4 J	--	570
Pyrene	100	100	500	--	0.62	--	0.083 J	--	2	--	2.3	--	0.36 J	--	490
TAL Metals - mg/kg															
Aluminum	--	--	--	--	5840	--	8460	--	9590	--	10300	--	8970	--	12000
Arsenic	13	16	16	--	2.6	--	4.6	--	9.3	--	12.2	--	6.4	--	6.9
Barium	350	350	400	--	40	--	61.4	--	174	--	167	--	380	--	79.4
Beryllium	7.2	14	590	--	0.31	--	0.44	--	0.45	--	0.54	--	0.58	--	0.54
Cadmium	2.5	2.5	9.3	--	ND	--	0.37	--	0.46	--	0.2 J	--	0.78	--	0.14 J
Calcium	--	--	--	--	46000	--	20400	--	64900	--	42200	--	44600	--	23700
Chromium	30	36	1500	--	9.6	--	49.7	--	548	--	59.6	--	65.9	--	27.4
Cobalt	--	--	--	--	5.4	--	8.1	--	8.2	--	9.9	--	8.3	--	10.2
Copper	50	270	270	--	12.9	--	19.4	--	45.1	--	51.4	--	27	--	37
Iron	--	--	--	--	12000 B	--	15200 B	--	15100 B	--	18200 B	--	14100 B	--	19100 B
Lead	63	400	1000	--	7.5	--	30	--	135	--	108	--	78.3	--	68.3
Magnesium	--	--	--	--	12100 B	--	8240 B	--	31600 B	--	13600 B	--	20400 B	--	12200 B
Manganese	1600	2000	10000	--	297 B	--	384 B	--	497 B	--	448 B	--	766 B	--	372 B
Mercury	0.18	0.81	2.8	--	1.6	--	0.24	--	24.6	--	175	--	7	--	124
Nickel	30	140	310	--	13.4	--	19.5	--	22.9	--	26.7	--	22	--	26.8
Potassium	--	--	--	--	910	--	966	--	1340	--	1550	--	1250	--	1180
Selenium	3.9	36	1500	--	ND	--	ND	--	0.69 J	--	ND	--	ND	--	ND
Sodium	--	--	--	--	92.5 J	--	110 J	--	206	--	169	--	148 J	--	120 J
Vanadium	--	--	--	--	14.9	--	17.7	--	26	--	22.9	--	20.5	--	23.5
Zinc	109	2200	10000	--	40.5 B7	--	147	--	171 B7	--	180 B7	--	302 B7	--	141 B7
Pesticides and Herbicides - mg/Kg ⁵															
2,4,5-T	--	--	--	--	ND	--	ND	--	ND	--	ND	--	0.0085 J	--	ND
4,4'-DDD	0.0033	2.6	92	--	ND	--	0.0049 J	--	0.012 J	--	0.012 J	--	0.011 J	--	0.012 J
4,4'-DDE	0.0033	1.8	62	--	0.0059 J	--	0.0066 J	--	0.021 J	--	0.017 J	--	0.015 J	--	0.022 J
4,4'-DDT	0.0033	1.7	47	--	0.0096 J B	--	0.01 J B	--	ND	--	0.024 J B	--	0.022 J B	--	0.023 J B
Aldrin	0.005	0.019	0.68	--	0.0081 J	--	ND	--	ND	--	ND	--	0.01 J B	--	ND
alpha-BHC	0.02	0.097	0.68	--	0.0051 J	--	0.0066 J	--	0.032 J	--	0.021 J	--	0.024 J	--	0.011 J
beta-BHC	0.036	0.072	3	--	0.0089 J B	--	0.012 J B	--	0.089 B	--	0.047 B	--	0.088 B	--	0.016 J B
delta-BHC	0.04	100	500	--	0.0059 J B	--	0.0059 J B	--	0.016 J B	--	0.014 J B	--	0.012 J B	--	0.011 J B
Dieldrin	0.005	0.039	1.4	--	ND	--	0.0049 J	--	ND	--	ND	--	ND	--	ND
Endosulfan sulfate	2.4	4.8	200	--	ND	--	ND	--	0.01 J	--	ND	--	ND	--	ND
Endrin	0.014	2.2	89	--	ND	--	ND	--	ND	--	0.011 J	--	ND	--	ND
Endrine ketone	--	--	--	--	ND	--	ND	--	ND	--	ND	--	0.013 J B	--	0.014 J B
gamma-BHC (Lindane)	0.1	0.28	9.2	--	0.0049 J	--	0.005 J	--	0.012 J	--	0.013 J	--	0.014 J	--	0.012 J
gamma-Chlordane	--	--	--	--	ND	--	0.0076 J	--	ND	--	ND	--	ND	--	ND
Heptachlor	0.042	0.42	15	--	ND	--	ND	--	0.024 J	--	ND	--	ND	--	ND
Methoxychlor	--	--	--	--	ND	--	0.011 J	--	0.019 J	--	0.018 J	--	ND	--	ND

Notes:
1. Only those parameters detected at a minimum of one sample location are presented in this table; all other compounds were reported as non-detected.

2. Values per NYSDEC Part 375 Unrestricted Soil Cleanup Objectives (SCOs).

3. Values per NYSDEC Part 375 Restricted-Residential Soil Cleanup Objectives (SCOs).

4. Values per NYSDEC Part 375 Commercial Soil Cleanup Objectives (SCOs).

5. Sample results were reported by the laboratory in ug/kg and converted to mg/kg for comparisons to SCOs.

Definitions:

ND = Parameter not detected above laboratory detection limit.

"--" = No value available for the parameter or parameter not analyzed.

J = Estimated value; result is less than the sample quantitation limit but greater than zero.

B = Compound was found in the associated blank as well as the sample.

B7 = Parameter detected in associated blank at or above method reporting limit. Concentration in the sample was 10 times greater than in the blank.

* = Laboratory Control Sample exceeds the control limits.

Bold = Result exceeds Unrestricted use SCOs.

Bold = Result exceeds Residential use SCOs.

Bold = Result exceeds Commercial use SCOs.

ATTACHMENT 4
BCP Application Section VII
Listing of Previous Property Owners
7416 Niagara Falls Boulevard Site

INTRODUCTION

Reasonable attempts were made to attain complete previous site owner contact information. The following table lists the current and previous property owners/operators:

Parcel Address	Date(s)	Relationship to Applicant
7416 Niagara Falls Blvd., Niagara Fall, SBL# 160.08-3-14		
Current Owner/Operator		
93 NYRPT, LLC 7978 Cooper Creek Blvd, Suite 100 University Park, Florida 34201 (914) 360-7224	October 21, 2014 to current	Applicant
Previous Owner/Operator		
Randall Benderson 1993-1 Trust 570 Delaware Avenue Buffalo, NY 14202 (716) 878-9601	August 18, 2014 to October 21, 2014	Predecessor of 93 NYRPT, LLC
Niagara County Industrial Development Agency 6311 Inducon Corporate Drive Sanborn, NY 14132 (716) 278-8750	Unknown to August 18, 2014	None
Jack B. & Dorothy Johnson 7416 Niagara Falls Blvd Niagara Falls, NY	Unknown	None
7570 Niagara Falls Blvd, Niagara Falls, SBL # 160.08-3-13.1		
Current Owner/Operator		
93 NYRPT, LLC 7978 Cooper Creek Blvd, Suite 100 University Park, Florida 34201 (914) 360-7224	October 21, 2014 to current	Applicant
Previous Owner/Operator		
Randall Benderson 1993-1 Trust 570 Delaware Avenue Buffalo, NY 14202 (716) 878-9601	August 18, 2014 to October 21, 2014	Predecessor of 93 NYRPT, LLC

ATTACHMENT 4
BCP Application Section VII
Listing of Previous Property Owners
7416 Niagara Falls Boulevard Site

Niagara County Industrial Development Agency 6311 Inducon Corporate Drive Sanborn, NY 14132 (716) 278-8750	Unknown to August 18, 2014	None
Jack B. & Dorothy Johnson 7416 Niagara Falls Blvd Niagara Falls, NY	Unknown	None
855 76th Street, Niagara Falls SBL # 160.08-3-13.2		
Current Owner/Operator		
93 NYRPT, LLC 7978 Cooper Creek Blvd, Suite 100 University Park, Florida 34201 (914) 360-7224	October 21, 2014 to current	Applicant
Previous Owner/Operator		
Randall Benderson 1993-1 Trust 570 Delaware Avenue Buffalo, NY 14202 (716) 878-9601	August 18, 2014 to October 21, 2014	Predecessor of 93 NYRPT, LLC
Niagara County Industrial Development Agency 6311 Inducon Corporate Drive Sanborn, NY 14132 (716) 278-8750	Unknown to August 18, 2014	None
Jack B. & Dorothy Johnson 7416 Niagara Falls Blvd Niagara Falls, NY	Unknown	None
Paper Street Portion of 76th Street, Niagara Falls		
Current Owner/Operator		
93 NYRPT, LLC 7978 Cooper Creek Blvd, Suite 100 University Park, Florida 34201 (914) 360-7224	March 2, 2015 to current	Applicant

ATTACHMENT 4
BCP Application Section VII
Listing of Previous Property Owners
7416 Niagara Falls Boulevard Site

Previous Owner/Operator		
City of Niagara Falls 745 Main Street P.O. Box 69 Niagara Falls, NY 14302-0069 (716) 286-4300	From time of construction until March 2, 2015	None

ATTACHMENT 5

BCP Application – Section VIII

BROWNFIELD SITE CONTACT LIST

ADJACENT PROPERTY OWNERS LIST

BROWNFIELDS SITE CONTACT LIST

Attachment 5
BCP Application Section VIII
Contact List Information; Adjacent Property Owners List
7416 Niagara Falls Boulevard Site
Brownfield Cleanup Program Application

Adjacent Property Address				Property Owner Mailing Address
No.	Street	Property Type	Property Use	
7408	Niagara Falls Blvd	Commercial	Retail Plaza	93 NYRPT, LLC 7978 Cooper Creek Boulevard, Suite 100 University Park, Florida 34201
7414	Niagara Falls Blvd	Commercial	Retail Plaza	93 NYRPT, LLC 7978 Cooper Creek Boulevard, Suite 100 University Park, Florida 34201
7515	Niagara Falls Blvd	Commercial	Fast food (Wendy's)	GLR Holdings LLC 20 N. Union Rd Rochester, NY 14607
7560	Niagara Falls Blvd	Commercial	Restaurant (Sophie's Pita & Grill)	Joseph Dakwar 7560 Niagara Falls Blvd Niagara Falls, NY 14304
7601	Niagara Falls Blvd	Commercial	Auto Parts Retail (Advanced Auto Parts)	Advance Stores Company 7601 Niagara Falls Blvd Niagara Falls, NY 14304
7616	Niagara Falls Blvd	Commercial	Auto Tire Retail & Repair (Dunn Tire)	Gold Seal Equity Partnership 2 Wendling Ct Lancaster, NY 14086
7680	Niagara Falls Blvd	Commercial	Motel (Super 8 Hotel)	Kang Inc 7680 Niagara Falls Blvd Niagara Falls, NY 14304
830	80th St	Commercial	Vacant	Johnson & Johnson Walter S. Johnson Building Co. Inc. 6688 Mooradian Dr Niagara Falls, NY 14304

ATTACHMENT 5
BCP Application Section VIII
Contact List Information
7416 Niagara Falls Boulevard Site

Niagara County Contacts:

Chairman William Ross
Niagara County Legislature
6761 Walmore Road
Niagara Falls, NY 14304

Clerk Mary Jo Tamburlin
Niagara County Legislature
175 Hawley Street
Lockport, NY 14094

Wayne Jagow
Niagara County Clerk
PO Box 461
Lockport, NY 14095

Mr. Samuel M. Ferraro, Exec. Dir.
Niagara Co. Ind. Dev. Agency
6311 Inducon Corporate Drive
Sanborn, NY 14132

Amy Fisk, Env. Sr. Planner
Niagara Co. Econ. Dev.
6311 Inducon Corporate Dr.
Sanborn, NY 14132

Daniel Stapleton, Director
Niagara County Health Dept.
5467 Upper Mountain Rd, Suite 100
Lockport, NY 14094

Mr. Jeffery M. Glatz
Niagara County Manager
59 Park Avenue
Lockport, NY 14094

Mr. Owen T. Steed
Niagara Co. Legislature #4
2907 Aaron Griffin Way
Niagara Falls NY 14305

Mr. Jonathan Schultz, Director
Niagara Co. Emergency Services
5574 Niagara Street
PO Box 496
Lockport, NY 14095-0496

Mr. Tim Balunis, Chairman
Niag. Co. Emergency Planning
175 Hawley Street
Lockport, NY 14094

City of Niagara Falls

Mayor Paul Dyster
745 Main Street
P.O. Box 69
Niagara Falls, NY 14302-0069

Gerald Grose
Niagara Falls Water Board
5815 Buffalo Avenue
Niagara Falls, NY 14304

Ms. Carol Antonucci
Niagara Falls City Clerk
745 Main Street
Niagara Falls, NY 14302

Robert Buzzelli, City Engineer III
City Hall Room 303
745 Main Street
Niagara Falls, NY 14302

Alan Nusbaum
Environmental Services
745 Main Street
Niagara Falls, NY 14302

Ms. Donna Dowhite-Owens
Niagara Falls City Admin.
4010 Barton Street
Niagara Falls, NY 14305

ATTACHMENT 5
BCP Application Section VIII
Contact List Information
7416 Niagara Falls Boulevard Site

Local News Media:

ATTN: Aaron Besecker
The Buffalo News
1 News Plaza
Buffalo, NY 14240

WKBW-TV
7 Broadcast Plaza
Buffalo, NY 14202

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

ATTN: Env. News Desk
WGRZ TV - CH. 2
259 Delaware Avenue
Buffalo, NY 14202

ATTN: Environmental News Desk
WIVB - CH. 4
2077 Elmwood Avenue
Buffalo, NY 14207

ATTN: Michael Desmond
WNED, Env. News Desk
PO 1263, Horizons Plaza
Buffalo, NY 14240

ATTN: Tracey Drury
Business First
465 Main Street
Buffalo, NY 14203-1793

Environmental News Desk
The Niagara Gazette
310 Niagara Street
Niagara Falls, NY 14302

ATTN: Mike Hudson, Editor
Niagara Falls Reporter
1625 Buffalo Ave
Niagara Falls, NY 14303

ATTN: News Director
WLVL 1340
PO Box 477
Lockport, NY 14095-0477

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

Supplier of Potable Water:

Richard B. Coleman
Chief Water Plant Operator
Niagara County Water District
5450 Ernest Road
PO Box 315
Lockport, NY 14905-0315

Document Repository:

Niagara Falls Public Library
La Salle Branch
8728 Buffalo Avenue
Niagara Falls, NY 14304

ATTACHMENT 5
BCP Application Section VIII
Contact List Information
7416 Niagara Falls Boulevard Site

Nearby Schools:

Principal Diane Coty
Seventy Ninth Street School
551 79th Street
Niagara Falls, NY 14304

Principal Ronald Buggs
Niagara Catholic High School
520 66th Street
Niagara Falls, NY 14304

Principal Maria Chille-Zafuto
Cataract Elementary School
6431 Girard Avenue
Niagara Falls NY 14304

Principal Chris Riso
St Dominic Savio Middle School
504 66th Street
Niagara Falls, NY 14304

Principal Jeannine Fortunate
Catholic Academy of Niagara Falls
1055 N. Military Road
Niagara Falls, NY 14304

Other Interested Groups:

Joe Gardella
BEMC
176 Admiral Road
Buffalo, NY 14216

Brian Smith
Citizens' Campaign for the Env.
227 McConkey Drive
Tonawanda, NY 14223

Citizens' Environmental
Coalition
33 Central Avenue
Albany, NY 12210

Jill Spisiak Jedlicka, Director
Buffalo Niagara Riverkeeper
1250 Niagara Street
Buffalo, NY 14213

Charles Lamb
Sierra Club – Niagara Region
335 Walnut Lane
Youngstown, NY 14174

ATTACHMENT 6

BCP Application – Section VIII

DOCUMENT REPOSITORY

DOCUMENT REPOSITORY CONFIRMATION LETTER



January 21, 2015

Ms. Linda Girrizzo
Library Director
Niagara Falls Public Library
La Salle Branch
8728 Buffalo Avenue
Niagara Falls, NY 14304

Re: Document Repository for Brownfield Cleanup Program
7416 Niagara Falls Boulevard Site
Niagara Falls, New York

Dear Ms. Girrizzo:

As we discussed, thank you for agreeing to the Niagara Falls Public Library – La Salle Branch acting as the document repository for the above-referenced Site. In the future, we will be sending various documents relating to the Site that should be made available for public review upon request.

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

Sincerely,
TurnKey Environmental Restoration, LLC

A handwritten signature in blue ink, appearing to read "Cliff Boron".

Christopher Boron
Sr. Project Manager

File: 0105-014-004

ATTACHMENT 7

BCP Application – Section IX

LAND USE FACTORS

INTRODUCTION

NATURAL & CULTURAL RESOURCES

ADJACENT LAND USE

POTENTIAL VULNERABILITY OF GROUNDWATER TO CONTAMINATION

REGIONAL GEOGRAPHY/GEOLOGY

SITE GEOGRAPHY/GEOLOGY

FIGURE 9; CULTURAL RESOURCES

FIGURE 10; NATURAL RESOURCE MAP

FIGURE 11; WETLAND & FLOODPLAIN MAP

FIGURE 12; SOIL MAP

**WETLAND ASSESSMENT, 7416 NIAGARA FALLS BOULEVARD, CITY OF
NIAGARA FALLS, ENVIRONMENTAL RESOURCES, LLC**

ATTACHEMENT 7
BCP Application Section IX
Land Use Factors
7416 Niagara Falls Boulevard Site

LAND USE FACTORS

INTRODUCTION

The following provides a brief summary of the Site:

- The Site is located in a historically industrial and commercial area of Niagara Falls, Niagara County, New York.
- The Site is undeveloped vacant land adjacent to a commercial plaza.
- The planned future use of the Site is consistent with the local zoning which is commercial (C3) as shown on Figure 6. The Site is also proposed to be commercial use (Burlington Coat Factory) consistent with the adjacent plaza which is also zoned commercial (C3) as shown on Figure 6.
- In accordance with §27-1415(3)(p), there are no environmental justice concerns associated with the project.
- There are no State or Federal land use designations related to the property.
- The Site has access to municipal utilities including: natural gas, municipal sewer, electric and public water.
- There are no known Institutional Controls (ICs) for the Site.

NATURAL AND CULTURAL RESOURCES

- Per New York States Historical Preservation Office, no National Register listed historical sites are located within 0.5 miles of the subject Site (see Figure 12).
- According to the NYSDEC's Environmental Resource Mapper (ERM) there are no rare plants or animals listed for the area encompassing the Site (see Figure 13).

ATTACHEMENT 7
BCP Application Section IX
Land Use Factors
7416 Niagara Falls Boulevard Site

- There are State wetlands and a wetland check zone located on the Site according to the NYSDEC Environmental Resource Mapper. Federal wetlands appear to be present at the northwest corner of 855 76th Street parcel.

A wetland assessment was completed at the Site by Environmental Resources, LLC. A copy of the wetland assessment letter dated February 18, 2015 has been included with Attachment 7. According to the field wetland assessment completed, it does not appear that there is any state or federal wetlands on the Site. The field assessment identified the possible presence of New York State Freshwater Wetlands TW-3 beyond the northern boundary of the Site.

- No significant Coastal Fish and Wildlife Habitats were identified in the vicinity of the Site (see Figure 10).
- Surrounding land use including the Site is currently used for commercial purposes except to the north where the land is undeveloped as shown on Figures 5 and 6.

ADJACENT LAND USE

The Site consists of a 6.42-acres located in a commercial area of Niagara Falls, New York. The Site is bound by vacant land to the north, a Quality Inn to the east, Dunn Tire and a restaurant to the South and the Target Plaza to the west. Adjacent property owners are identified on Figure 7. Current land use is shown on Figures 5 and 6.

POTENTIAL VULNERABILITY OF GROUNDWATER TO CONTAMINATION

Several PAHs, mercury and alpha-BHC (pesticide) were detected on-Site above their respective 6NYCRR Part 375 Protection of Groundwater Soil Cleanup Objectives (SCOs).

ATTACHEMENT 7
BCP Application Section IX
Land Use Factors
7416 Niagara Falls Boulevard Site

Currently, there are no known deed restrictions on the use of groundwater at the Site. Municipal water is available to the Site and surrounding properties. The municipal water is supplied by the Niagara Falls Water Board.

Groundwater Flow

Based on area topography and proximity to the Niagara River, groundwater likely flows in a south to southwesterly direction.

Recommendations

Further work is required to investigate groundwater quality. Five (5) groundwater monitoring wells to assess groundwater flow and groundwater quality are proposed to be advanced during the RI.

REGIONAL GEOLOGY/HYDROGEOLOGY

The Site is located within the Eastern Lake Section of the Central Lowland physiographic province (a.k.a, Erie-Ontario lake plain or Lake Erie-Niagara River Basin), which is typified by little topographic relief, except in the immediate vicinity of major drainage ways. The lack of relief in the area is the result of pre-glacial erosion of bedrock and subsequent topographic modification by glaciation, and is typical of an abandoned lakebed (formerly glacial Lake Tonawanda). The geology of the basin consists of unconsolidated deposits (predominantly of glacial origin) overlying Silurian- and Devonian-age sedimentary bedded or layered bedrock. The naturally occurring unconsolidated deposits in the area consist of the following three types: alluvial silt, sand, and gravel deposited during comparatively recent geologic time; lacustrine sediments composed primarily of silt, sand, and clay deposited during the late Pleistocene Epoch; and glacial till, a heterogeneous mixture of particles (i.e., clay, silt, sand, gravel, and cobbles) deposited directly from glacial ice during the Pleistocene Epoch.

ATTACHEMENT 7
BCP Application Section IX
Land Use Factors
7416 Niagara Falls Boulevard Site

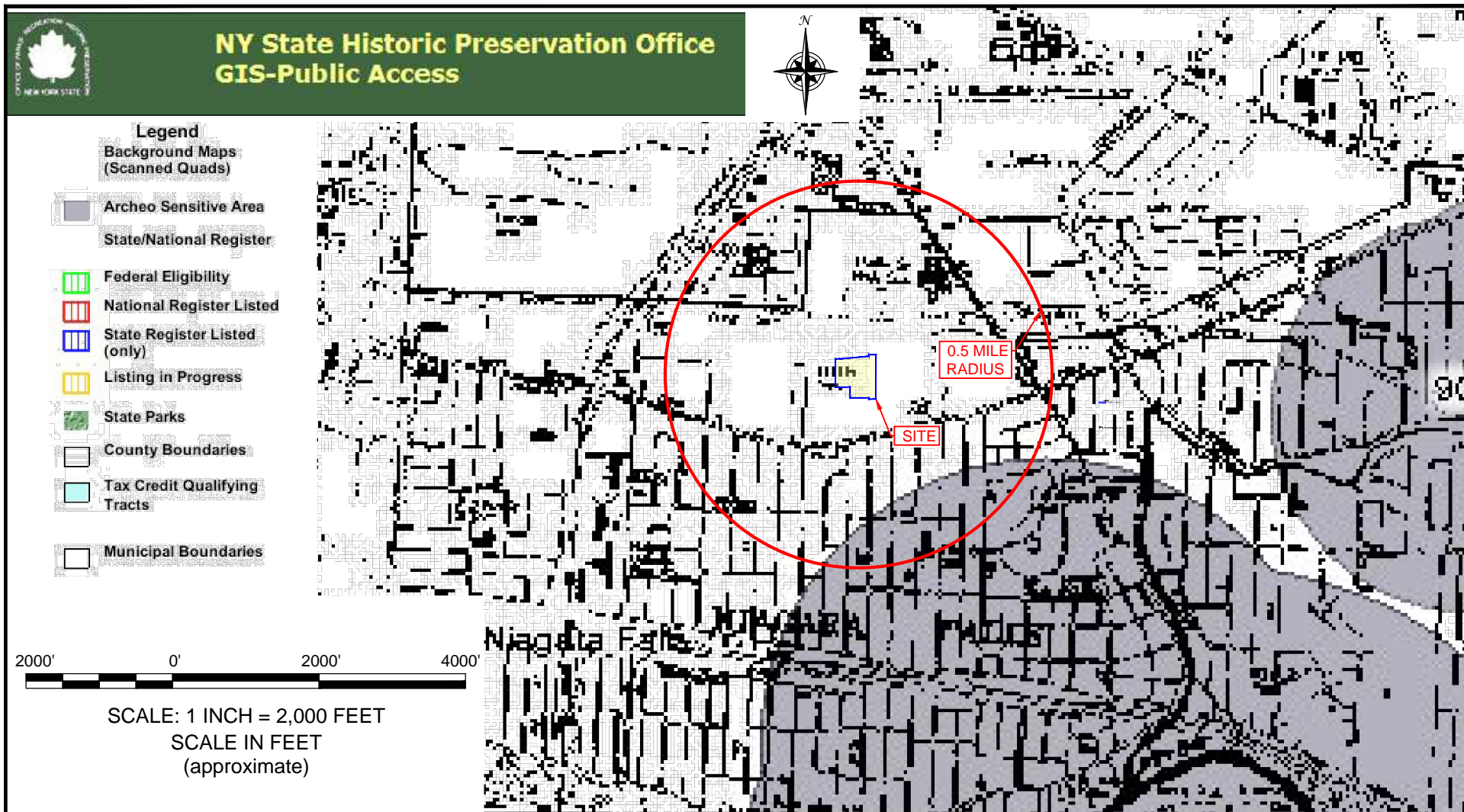
Native soils at the Site were classified as sandy lean clay with silt and fine sand filled desiccations (i.e., healed). According to the Niagara County Soil Survey, the soil type at the Site is the Canandaigua silt loam.

The Niagara Falls region is underlain by Silurian and Devonian age stratified limestone, dolomite, and shale of marine origin. The bedrock is virtually flat lying, with a gentle dip to the south of only about 30 to 40 feet per mile and exhibits only very gentle folding. The bedrock surface was deeply eroded by weathering and stream action prior to glaciation and by glacial scour during glaciation. The carbonate rocks and the shale are nearly impermeable as homogeneous rock; however, due to regional tectonic stresses the bedrock is vertically and horizontally fractured, providing openings for the storage and transmission of groundwater.

The primary bedrock type that forms the bedrock surface in the northern part of the Lake Erie-Niagara River Basin is the fine- to coarse-grained Lockport Dolomite; a white or grey, magnesium-rich sedimentary rock resembling limestone, but harder and more resistant. The Lockport Dolomite extends into New York for 200 miles from Niagara County to Herkimer County.

Site Geology/Hydrogeology

Native soils at the Site were classified as sandy lean clay with silt and fine sand filled desiccations (i.e., healed). According to the Niagara County Soil Survey, the soil type at the Site is the Canandaigua silt loam (see Figure 12). Site groundwater and hydrogeology will be further investigated during the RI.



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

PROJECT NO.: 0105-014-004

DATE: FEBRUARY 2015

DRAFTED BY: BLR

CULTURAL RESOURCES MAP

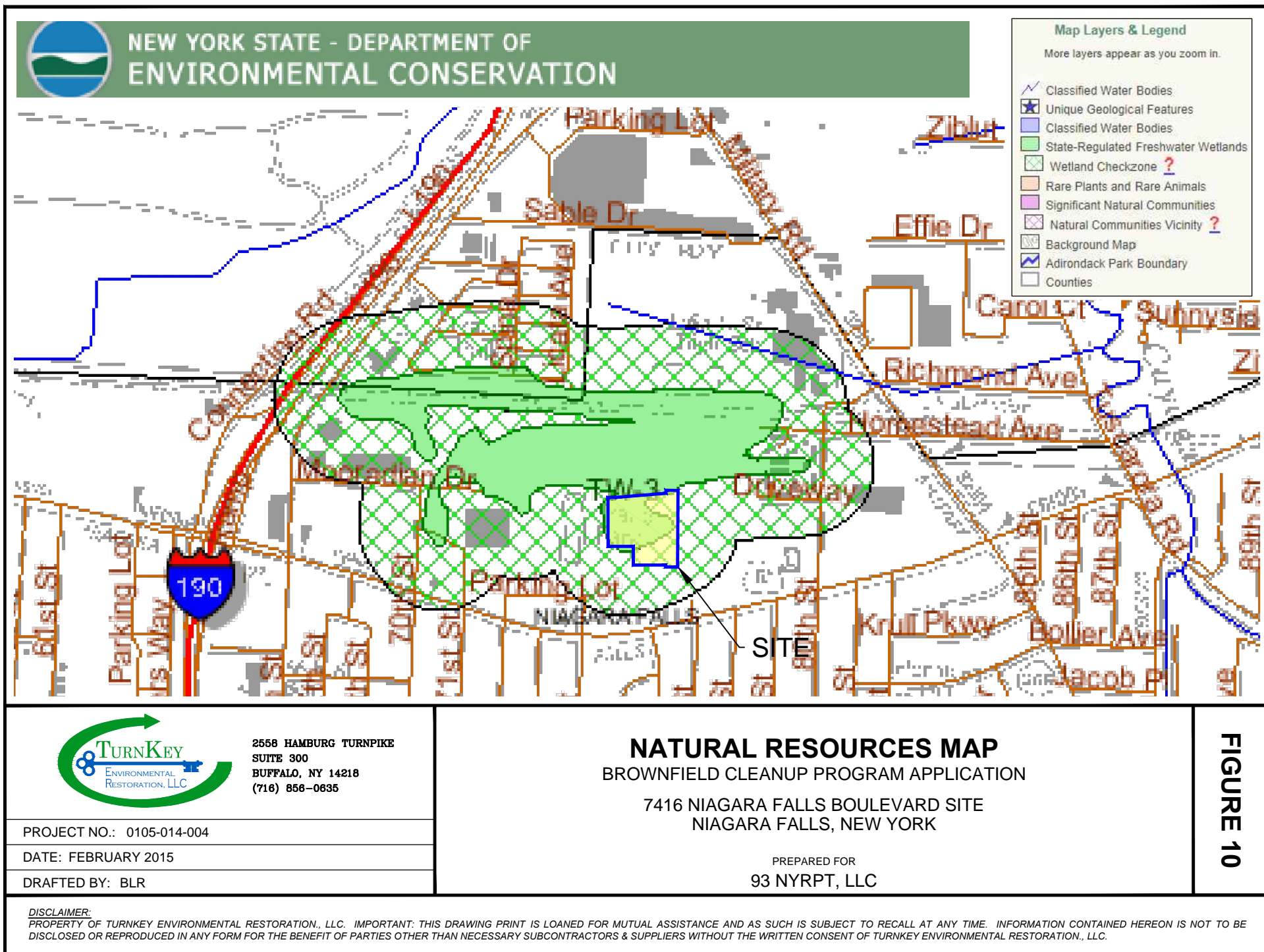
BROWNFIELD CLEANUP PROGRAM APPLICATION

7416 NIAGARA FALLS BOULEVARD SITE
NIAGARA FALLS, NEW YORK

PREPARED FOR
93 NYRPT, LLC

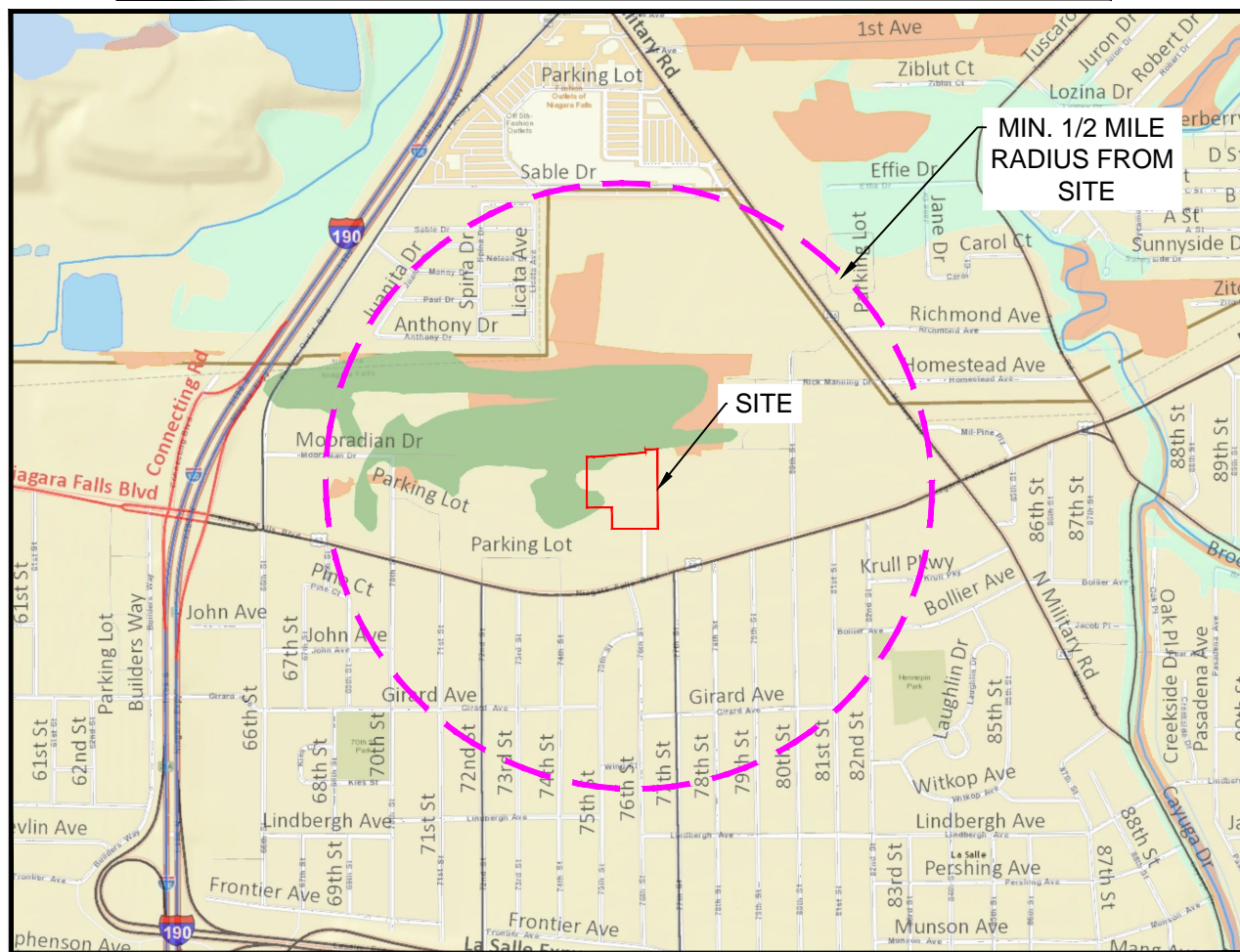
FIGURE 9

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





Niagara County On-Line Mapping Application



Legend

Streets and Highways

- Interstate
- Primary State Road
- Secondary State Road
- County Road
- Local Road

Parcels

Streams

- Lakes / Ponds
- DEC Wetlands
- National Wetlands Inventory
- FEMA Floodplains



2,000' 0' 2,000' 4,000'

SCALE: 1 INCH = 2,000 FEET
SCALE IN FEET
(approximate)



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

PROJECT NO.: 0105-014-004

DATE: MARCH 2015

DRAFTED BY: BLR/RFL

WETLAND & FLOODPLAIN MAP

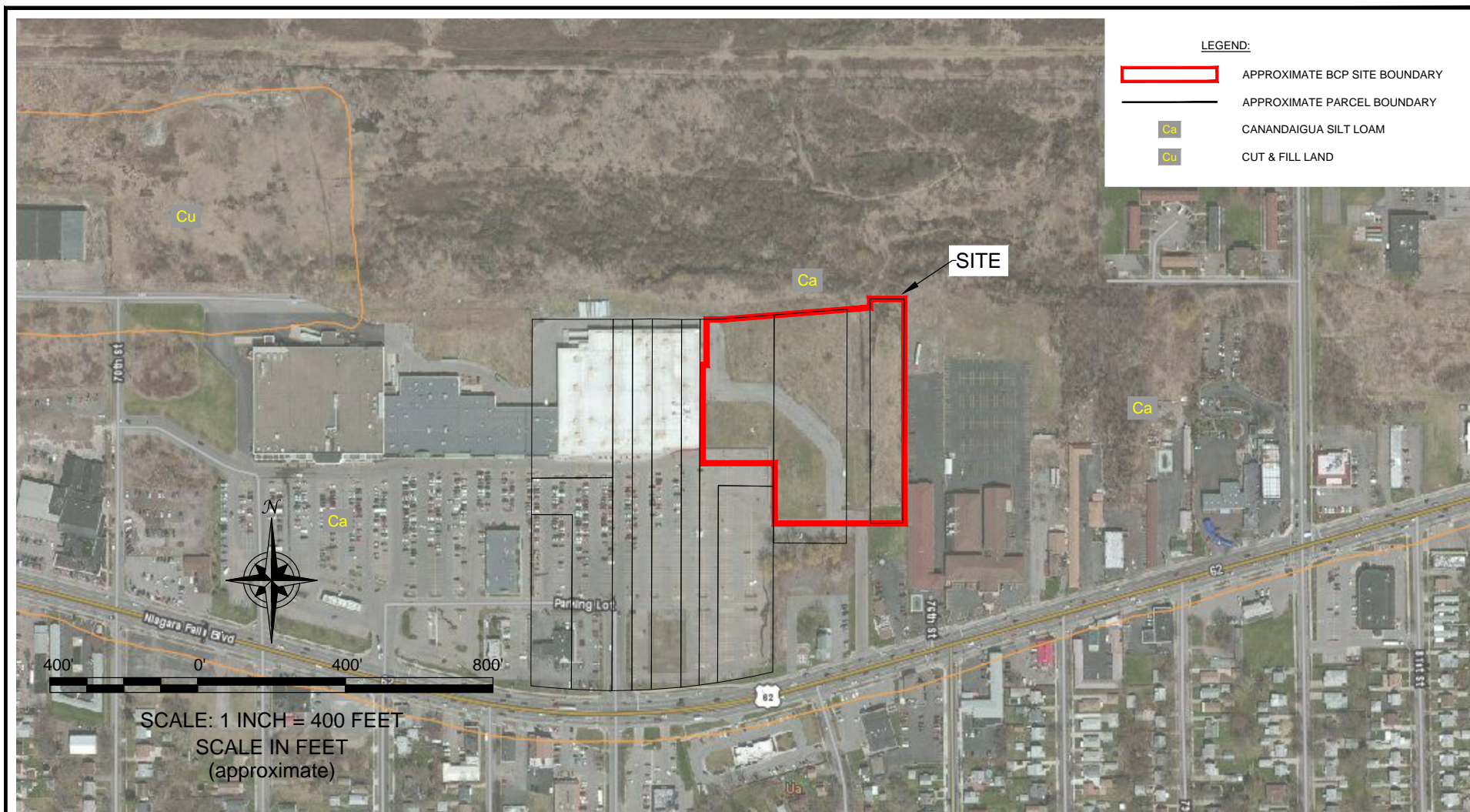
BROWNFIELD CLEANUP PROGRAM APPLICATION

7416 NIAGARA FALLS BOULEVARD SITE
NIAGARA FALLS, NEW YORK

PREPARED FOR
93 NYRPT, LLC

FIGURE 11

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



LEGEND:

- APPROXIMATE BCP SITE BOUNDARY
- APPROXIMATE PARCEL BOUNDARY
- Ca CANANDAIGUA SILT LOAM
- Cu CUT & FILL LAND



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

PROJECT NO.: 0105-014-004

DATE: MARCH 2015

DRAFTED BY: RFL

SOIL MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

7416 NIAGARA FALLS BOULEVARD SITE
NIAGARA FALLS, NEW YORK

PREPARED FOR
93 NYRPT, LLC

FIGURE 12

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



ENVIRONMENTAL RESOURCES, LLC
CONSULTING SERVICES

February 18, 2015

Mr. Matt Oates
Benderson Development Company, LLC
570 Delaware Avenue
Buffalo, New York 14202

Subject: Wetlands Assessment, 7416 Niagara Falls Boulevard, City of Niagara Falls New York.

Dear Mr. Oates:

At your request, Environmental Resources, LLC (ERS) conducted a records review and field wetlands assessment of the above referenced 6± acre project site. The purpose of our investigation was to determine potential encumbrances imposed by state and/or federal jurisdictional wetlands, or other Waters of the U.S.

Our wetlands assessment is based on the following:

- Review of the National Wetlands Inventory Map (NWI) - Tonawanda West, NY Quadrangle;
- Review of the NYS Freshwater Wetlands Map – Tonawanda West, NY Quadrangle;
- Review of the Niagara County Soil Survey (1972);
- January 6, 2015 field wetlands assessment (approximately one-inch of snow cover) to observe the presence of wetland vegetation and indicators of wetland hydrology in accordance with the methodology described in the *Interim Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Regions* (the *Corps Manual*) and New York State Department of Environmental Conservation *Wetland Delineation Manual*.

RESULTS

U.S. Fish & Wildlife - National Wetlands Inventory (www.fws.gov/wetlands/Wetland-Mapper)

This mapping website indicates there to be no suspected wetlands or stream channels on the project site.

NYS Department of Environmental Conservation Freshwater Wetlands Mapping (www.dec.ny.gov)

This map indicates NYS Freshwater Wetland TW-3 to occur beyond the north boundary of the project site.

Mr. Matt Oates
February 18, 2015
7416 Niagara Falls Boulevard, Wetlands Assessment
Page 2

Niagara County Soil Survey

The Niagara County Soil Survey indicates there to be no mapped water courses on the site, and the site soils to be comprised of the following:

- Ca—Canandaigua silt loam consists of deep, nearly level, poorly drained soils that occur in low depressions that receive runoff, formed in lacustrine deposits of silt, fine sand, and some clay. The Canandaigua soil series are mapped in the east and northeast portions of the site.

The USDA Natural Resource Conservation Service (USDA SCS, 1989) has determined the Canandaigua soil series to be a hydric soil.

Existing Site Conditions

The study area occurs on the north side of the Niagara Falls Boulevard thoroughfare in an area of significant commercial developments. The site is bordered by commercial developments to the east, west, and south, and by undeveloped mapped wetlands (NYS Freshwater Wetland TW-3) to the north.

Evidence suggests that the site has been altered in the past, likely during the development of adjacent commercial parcels to the east and west. Alterations include the presence of a large soil stockpile, site grading, paved access drives, and the excavation of small drainage swales. The site is currently characterized by old-field grasses and forbs, with occasional tree saplings and shrubs.

Based on our field wetlands assessment, it does not appear that there are any state or federal wetlands on the 7416 Niagara Falls Boulevard project site. However, our field assessment identified the possible presence of New York State Freshwater Wetlands TW-3 just beyond the site's north boundary line. Based on conditions observed on January 6, it does not appear that TW-3 occurs on the study area.

The excavated drainage ditches appear to be non-jurisdictional conveyance swales that direct runoff off-site into TW-3.

Should you have any questions please feel free to contact me.

Sincerely,
Environmental Resources, LLC



Gene Pellett
Professional Wetlands Scientist