



## NYSDEC BCP Application

Location:

4185 Military Road  
Niagara, New York

Prepared for:

Mr. David Stapleton  
4185 Military Road, Inc.  
5465 Upper Mountain Road  
Lockport, New York

LaBella Project No. 2192320

October 7, 2019

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# BROWNFIELD CLEANUP APPLICATION



## BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION FORM

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

☐

Yes

☒

No

If yes, provide existing site number: \_\_\_\_\_

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

#### Section I. Requestor Information - See Instructions for Further Guidance

DEC USE ONLY  
BCP SITE #:

NAME 4185 Military Road, Inc.

ADDRESS 5465 Upper Mountain Road

CITY/TOWN Lockport

ZIP CODE 14094

PHONE 716-691-6900

FAX

E-MAIL david@davidhomes.com

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

☒

Yes

☐

No

- If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the [NYS Department of State's Corporation & Business Entity Database](#). A print-out of entity information from the database must be submitted to the New York State Department of Environmental Conservation (DEC) with the application to document that the requestor is authorized to do business in NYS. **Please note:** If the requestor is an LLC, the members/owners names need to be provided on a separate attachment.

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

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

#### Section II. Project Description

1. What stage is the project starting at?

☒

Investigation

☐

Remediation

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

2. If a final RIR is included, please verify it meets the requirements of Environmental Conservation Law (ECL) Article 27-1415(2): ☐ Yes ☐ No

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

- the date that the remedial program is to start; and
- the date the Certificate of Completion is anticipated.



### Section III. Property's Environmental History

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

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

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

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

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

\*Please describe: \_\_\_\_\_

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

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

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

ARE THE REQUIRED MAPS INCLUDED WITH THE APPLICATION?\*

(\*answering No will result in an incomplete application)

☒ Yes ☐ No

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

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

Other: School, vacant land \_\_\_\_\_

Section IV. Property Information - See Instructions for Further Guidance				
PROPOSED SITE NAME Former Military Road School				
ADDRESS/LOCATION 4185 Military Road				
CITY/TOWN Niagara		ZIP CODE 14305		
MUNICIPALITY(IF MORE THAN ONE, LIST ALL): Town of Niagara				
COUNTY Niagara County		SITE SIZE (ACRES) 4.10		
LATITUDE (degrees/minutes/seconds) 43 ° 07 ' 28.48 "		LONGITUDE (degrees/minutes/seconds) 79 ° 001 ' 03.03 "		
<b>Complete tax map information for all tax parcels included within the proposed site boundary. If a portion of any lot is proposed , please indicate as such by inserting "P/O" in front of the lot number in the appropriate box below, and only include the acreage for that portion of the tax parcel in the corresponding far right column. ATTACH REQUIRED MAPS PER THE APPLICATION INSTRUCTIONS.</b>				
Parcel Address		Section No.	Block No.	Lot No.
4185 Military Road		131.14	2	17
1. Do the proposed site boundaries correspond to tax map metes and bounds? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If no, please attach an accurate map of the proposed site.				
2. Is the required property map attached to the application? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (application will not be processed without map)				
3. Is the property within a designated Environmental Zone (En-zone) pursuant to Tax Law 21(b)(6)? (See <a href="#">DEC's website</a> for more information) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, identify census tract : _____ Percentage of property in En-zone (check one): <input type="checkbox"/> 0-49% <input type="checkbox"/> 50-99% <input type="checkbox"/> 100%				
4. Is this application one of multiple applications for a large development project, where the development project spans more than 25 acres (see additional criteria in BCP application instructions)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, identify name of properties (and site numbers if available) in related BCP applications: _____				
5. Is the contamination from groundwater or soil vapor solely emanating from property other than the site subject to the present application? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
6. Has the property previously been remediated pursuant to Titles 9, 13, or 14 of ECL Article 27, Title 5 of ECL Article 56, or Article 12 of Navigation Law? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, attach relevant supporting documentation.				
7. Are there any lands under water? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, these lands should be clearly delineated on the site map.				

#### Section IV. Property Information (continued)

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

Easement/Right-of-way Holder

Description

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

Type

Issuing Agency

Description

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

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

☒ Yes ☐ No

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

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

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

12. Is the Requestor now, or will the Requestor in the future, seek a determination that the property is Upside Down? ☐ Yes ☐ No

13. If you have answered Yes to Question 12, above, is an independent appraisal of the value of the property, as of the date of application, prepared under the hypothetical condition that the property is not contaminated, included with the application? ☐ Yes ☐ No

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

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

Initials of each Requestor: \_\_\_\_\_

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

<b>Section V. Additional Requestor Information</b> <b>See Instructions for Further Guidance</b>		DEC USE ONLY BCP SITE NAME: _____ BCP SITE #: _____	
NAME OF REQUESTOR'S AUTHORIZED REPRESENTATIVE Mr. David Stapleton			
ADDRESS 5465 Upper Mountain Road			
CITY/TOWN Lockport		ZIP CODE 14094	
PHONE 716-818-0400	FAX	E-MAIL david@davidhomes.com	
NAME OF REQUESTOR'S CONSULTANT Mr. Adam Zebrowski, LaBella Associates, D.P.C			
ADDRESS 300 Pearl Street, Suite 130			
CITY/TOWN Buffalo		ZIP CODE 14202	
PHONE 716-840-2548	FAX 716-551-6282	E-MAIL azebrowski@labellapc.com	
NAME OF REQUESTOR'S ATTORNEY Mr. Ian Shavitz, Lippes Mathias Wexler Freidman LLP			
ADDRESS 1900 K Street, NW Suite 730			
CITY/TOWN Washington, D.C.		ZIP CODE	
PHONE 202-888-7610	FAX 202-888-7615	E-MAIL lshavitz@lippes.com	
<b>Section VI. Current Property Owner/Operator Information – if not a Requestor</b>			
CURRENT OWNER'S NAME		OWNERSHIP START DATE:	
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
CURRENT OPERATOR'S NAME			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
<b>PROVIDE A LIST OF PREVIOUS PROPERTY OWNERS AND OPERATORS WITH NAMES, LAST KNOWN ADDRESSES AND TELEPHONE NUMBERS AS AN ATTACHMENT. DESCRIBE REQUESTOR'S RELATIONSHIP, TO EACH PREVIOUS OWNER AND OPERATOR, INCLUDING ANY RELATIONSHIP BETWEEN REQUESTOR'S CORPORATE MEMBERS AND PREVIOUS OWNER AND OPERATOR. IF NO RELATIONSHIP, PUT "NONE".</b>			
<b>IF REQUESTOR IS NOT THE CURRENT OWNER, DESCRIBE REQUESTOR'S RELATIONSHIP TO THE CURRENT OWNER, INCLUDING ANY RELATIONSHIP BETWEEN REQUESTOR'S CORPORATE MEMBERS AND THE CURRENT OWNER.</b>			
<b>Section VII. Requestor Eligibility Information (Please refer to ECL § 27-1407)</b>			
If answering "yes" to any of the following questions, please provide an explanation as an attachment.			
1. Are any enforcement actions pending against the requestor regarding this site?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
2. Is the requestor subject to an existing order for the investigation, removal or remediation of contamination at the site?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

## Section VII. Requestor Eligibility Information (continued)

4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the ECL Article 27; ii) any order or determination; iii) any regulation implementing Title 14; or iv) any similar statute, regulation of the state or federal government? If so, provide an explanation on a separate attachment. ☐ Yes ☒ No
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as name, address, DEC assigned site number, the reason for denial, and other relevant information. ☐ Yes ☒ No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting of contaminants? ☐ Yes ☒ No
7. Has the requestor been convicted of a criminal offense i) involving the handling, storing, treating, disposing or transporting of contaminants; or ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state? ☐ Yes ☒ No
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of DEC, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to DEC? ☐ Yes ☒ No
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9 (f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application? ☐ Yes ☒ No
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order? ☐ Yes ☒ No
11. Are there any unregistered bulk storage tanks on-site which require registration? ☐ Yes ☒ No

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

### ☐ PARTICIPANT

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

### ☒ VOLUNTEER

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

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

**If a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site, submit a statement describing why you should be considered a volunteer – be specific as to the appropriate care taken.**



## Section VII. Requestor Eligibility Information (continued)

Requestor Relationship to Property (check one):

☐ Previous Owner ☒ Current Owner ☐ Potential /Future Purchaser ☐ Other \_\_\_\_\_

If requestor is not the current site owner, **proof of site access sufficient to complete the remediation must be submitted.** Proof must show that the requestor will have access to the property before signing the BCA and throughout the BCP project, including the ability to place an easement on the site. Is this proof attached?

☐ Yes ☐ No

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

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

1. Is / was the property, or any portion of the property, listed on the National Priorities List?  
If yes, please provide relevant information as an attachment. ☐ Yes ☒ No
2. Is / was the property, or any portion of the property, listed on the NYS Registry of Inactive Hazardous Waste Disposal Sites pursuant to ECL 27-1305? ☐ Yes ☒ No  
If yes, please provide: Site # \_\_\_\_\_ Class # \_\_\_\_\_
3. Is / was the property subject to a permit under ECL Article 27, Title 9, other than an Interim Status facility? ☐ Yes ☒ No  
If yes, please provide: Permit type: \_\_\_\_\_ EPA ID Number: \_\_\_\_\_  
Date permit issued: \_\_\_\_\_ Permit expiration date: \_\_\_\_\_
4. If the answer to question 2 or 3 above is yes, is the site owned by a volunteer as defined under ECL 27-1405(1)(b), or under contract to be transferred to a volunteer? Attach any information available to the requestor related to previous owners or operators of the facility or property and their financial viability, including any bankruptcy filing and corporate dissolution documentation. ☐ Yes ☐ No
5. Is the property subject to a cleanup order under Navigation Law Article 12 or ECL Article 17 Title 10? ☐ Yes ☒ No  
If yes, please provide: Order # \_\_\_\_\_
6. Is the property subject to a state or federal enforcement action related to hazardous waste or petroleum? ☐ Yes ☒ No  
If yes, please provide explanation as an attachment.

## Section IX. Contact List Information

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

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

## Section X. Land Use Factors

1. What is the current municipal zoning designation for the site? R-3

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

☒ Residential ☒ Commercial ☐ Industrial

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

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

**Attach a summary of current business operations or uses, with an emphasis on identifying possible contaminant source areas. If operations or uses have ceased, provide the date.**

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

If residential, does it qualify as single family housing?

☐ Yes ☒ No

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

☒ Yes ☐ No

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

☒ Yes ☐ No

See attached narrative

6. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, or other adopted land use plans? Briefly explain below, or attach additional information and documentation if necessary.

☒ Yes ☐ No

See attached narrative



## XI. Statement of Certification and Signatures

(By requestor who is an individual)

If this application is approved, I hererby acknowledge and agree: (1) to execute a Brownfield Cleanup Agreement (BCA) within 60 days of the date of DEC's approval letter; (2) to the general terms and conditions set forth in the [DER-32, Brownfield Cleanup Program Applications and Agreements](#); and (3) that in the event of a conflict between the general terms and conditions of participation and the terms contained in a site-specific BCA, the terms in the site-specific BCA shall control. Further, I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

(By a requestor other than an individual)

I hereby affirm that I am \_\_\_\_\_ (title) of \_\_\_\_\_ (entity); that I am authorized by that entity to make this application and execute the Brownfield Cleanup Agreement (BCA) and all subsequent amendments; that this application was prepared by me or under my supervision and direction. If this application is approved, I acknowledge and agree: (1) to execute a BCA within 60 days of the date of DEC's approval letter; (2) to the general terms and conditions set forth in the [DER-32, Brownfield Cleanup Program Applications and Agreements](#); and (3) that in the event of a conflict between the general terms and conditions of participation and the terms contained in a site-specific BCA, the terms in the site-specific BCA shall control. Further, I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

### SUBMITTAL INFORMATION:

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

**FOR DEC USE ONLY**  
**BCP SITE T&A CODE:** \_\_\_\_\_

**LEAD OFFICE:** \_\_\_\_\_

## XI. Statement of Certification and Signatures

(By requestor who is an individual)

If this application is approved, I hererby acknowledge and agree: (1) to execute a Brownfield Cleanup Agreement (BCA) within 60 days of the date of DEC's approval letter; (2) to the general terms and conditions set forth in the [DER-32, Brownfield Cleanup Program Applications and Agreements](#); and (3) that in the event of a conflict between the general terms and conditions of participation and the terms contained in a site-specific BCA, the terms in the site-specific BCA shall control. Further, I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

(By a requestor other than an individual)

I hereby affirm that I am \_\_\_\_\_ President \_\_\_\_\_ (title) of 4185 Military Road, Inc. (entity); that I am authorized by that entity to make this application and execute the Brownfield Cleanup Agreement (BCA) and all subsequent amendments; that this application was prepared by me or under my supervision and direction. If this application is approved, I acknowledge and agree: (1) to execute a BCA within 60 days of the date of DEC's approval letter; (2) to the general terms and conditions set forth in the [DER-32, Brownfield Cleanup Program Applications and Agreements](#); and (3) that in the event of a conflict between the general terms and conditions of participation and the terms contained in a site-specific BCA, the terms in the site-specific BCA shall control. Further, I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law

Date: 10/7/19

Signature: David M. Stapleton

Print Name: David M. Stapleton

### SUBMITTAL INFORMATION:

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

FOR DEC USE ONLY

BCP SITE T&A CODE: \_\_\_\_\_ LEAD OFFICE: \_\_\_\_\_

# NARRATIVE OF BCP APPLICATION

## SECTION I: REQUESTOR INFORMATION

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Requestors Name: 4185 Military Road, Inc.  
Requestor Primary Contact: Mr. David Stapleton

The New York State Department of State's Corporation & Business Entity Information is included in Appendix 1.

## SECTION II: PROJECT DESCRIPTION

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### ***Item 3: Project Description***

4185 Military Road, Inc. has proposed the redevelopment of an approximately 4.10-acre property currently consisting of a vacant school (Site). The Site is located at 4185 Military Road in the Town of Niagara and is situated to the east of Military Road. The Site is comprised of one tax parcel (SBL #131.14-2-17). The Site currently includes one Site Building, asphalt-paved parking spaces (impervious surfaces), and undeveloped land. Previous environmental assessments conducted at the Site have identified contamination in the surface soil, subsurface soil, and groundwater requiring investigation and development of remedial alternatives prior to redevelopment at the Site. In addition, building materials within the Site Building have been confirmed to contain asbestos.

It is anticipated that the Site will be redeveloped with a senior housing community. Redevelopment plans include demolition of the south and east portion of the Site Building, which were recently burned in an act of vandalism and are pending emergency demolition as of the date of this submission. The north portion of the Site Building will be renovated and integrated into the senior housing community redevelopment or demolished completely. It is anticipated that redevelopment plans will also potentially include green space, walking trails, picnic areas, etc.

The remedial program is anticipated to commence in December 2019 and the anticipated date of Certificate of Completion is December 2021.

## SECTION III: PROPERTY'S ENVIRONMENTAL HISTORY

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### ***Item 1: Investigation Reports***

A Phase I Environmental Site Assessment (ESA) report dated December 2, 2015 and a Phase II ESA report dated July 28, 2016 were completed for the Site by LaBella Associates, D.P.C. (LaBella). In addition, a Pre-Demolition Asbestos Inspection report dated June 5, 2019 was prepared for the Site by Aurora Environmental LLC. A copy of the Phase II ESA report is included in Appendix 2.

### ***Item 2: Sampling Data***

Based on the sampling data collected to date, soil samples collected from the Site have detected polycyclic aromatic hydrocarbons (PAHs), chromium, and lead at concentrations exceeding New York State Department of Environmental Conservation (NYSDEC) Part 375 Restricted Residential Soil Cleanup Objectives. Groundwater collected from the Site have identified concentrations of benzene exceeding Technical & Operations Guidance Series groundwater standards. Fill material exhibiting gamma radiation measurements in excess of 10,000 counts per minute were recorded from fill samples collected from beneath the asphalt parking lot located on the south portion of the Site. In



addition, building materials within the Site Building have been confirmed to contain asbestos. Tables summarizing the analytical results of the July 28, 2016 Phase II ESA are included within the Tables Appendix. The complete July 28, 2016 Phase II ESA report is included within Appendix 2.

### ***Item 3: Impacted Media Site Drawings***

Figures depicting the investigation locations related to the July 28, 2016 Phase II ESA are included within the Figure 1 and Figure 2. The complete the July 28, 2016 Phase II ESA is included within Appendix 2.

## **SECTION IV: PROPERTY INFORMATION**

---

### ***Tax Parcel Information***

A United States Geological Survey (USGS) 7.5 minute quadrangle Site location map is included as Figure 3. A tax map including the Site area is included as Figure 4.

### ***Item 2: Property Base Map***

A Site base map is included as Figure 4.

### ***Item 9: List of NYSDEC and USEPA Permits and Regulatory Listings***

No NYSDEC or United States Environmental Protection Agency (USEPA) permits or regulatory listings have been identified associated with the Site at this time, with the exception of the following records reviewed as part of LaBella's December 2, 2015 Phase I ESA.

NYSDEC Petroleum Bulk Storage (PBS) listing (#9-073725) and Spill listing (#0175146) were identified associated with the Site. According to NYSDEC Spill records, a truck struck a curb resulting in a saddle tank releasing approximately five-gallons of diesel fuel to the parking lot at the Site. The fire department cleaned the release and the spill was assigned a closed status on June 19, 2001. In addition, according to NYSDEC PBS records, one 6,000-gallon fuel oil underground storage tank (UST) was installed at the Site in 1950 and removed in 1987.

### ***Item 10: Property Description and Environmental Assessment***

#### **Location**

The Site is located in a suburban area to the east of Military Road.

#### **Site Features**

The Site consists of two-story 24,272 square foot vacant school building (Site Building). The remainder of the Site consists of an asphalt-paved parking area located south of the Site Building and undeveloped land located on the east portion of the Site.

#### **Current Zoning and Land Use**

According to the Town of Niagara Zoning Map, the Site is located in Residential-3 (R-3). The Site is currently not being utilized for any operations and includes a vacant school. The surrounding parcels are currently used for commercial, residential and road/utility right-of-ways.



### **Past Use of the Site**

The Site consisted of undeveloped land in at least 1875 and it appears that the Site was first developed with the Site Building in 1940 and utilized as a school until at least 1993. The Site has remained unoccupied since 1993. It should be noted that the 2015 Phase I ESA was unable to obtain records related to Site use from between 1875 and 1940.

### **Site Geology and Hydrogeology**

According to the United States Department of Agriculture (USDA) Web Soil Survey, the Site consists of Odessa silt clay loam. The Odessa series consists of very deep, somewhat poorly drained soils formed in a clayey lacustrine deposits. These soils are in moderately low areas on lake plains. Permeability is moderately slow in the surface layer and slow or very slow in the subsoil and substratum. Groundwater has been measured at the Site at depths between 2.31 and 6.97 feet below the ground surface (ft bgs). Groundwater is assumed to flow to the southwest.

### **Environmental Assessments**

LaBella completed a Phase I ESA report for the Site dated December 2, 2015. Based on the results of that assessment, LaBella identified the following recognized environmental conditions (RECs) associated with the Site.

- One suspect vent pipe and a large asphalt patch was observed proximate the southeast exterior of the Site Building. According to NYSDEC records, one 6,000-gallon fuel oil UST was installed at the Site in 1950 and closed/removed in 1987. As no other tank closure documentation was obtained (i.e. tank closure report, confirmatory soil sampling results, etc.), the status of the 6,000-gallon fuel oil UST and subsurface conditions proximate the 6,000-gallon fuel oil UST cannot be confirmed.

Based on the results of the Phase I ESA, LaBella completed a Phase II ESA Report for the Site dated July 28, 2016 to evaluate the following environmental concerns.

- One suspect vent pipe and a large asphalt patch was observed proximate the southeast exterior of the Site Building. According to NYSDEC records, one 6,000-gallon fuel oil underground storage tank (UST) was installed at the Site in 1950 and closed/removed in 1987. As no other tank closure documentation was obtained (i.e. tank closure report, confirmatory soil sampling results, etc.), the status of the 6,000-gallon fuel oil UST and subsurface conditions proximate the 6,000-gallon fuel oil UST cannot be confirmed.
- There is the potential for slag fill material containing TENORM to be present beneath the asphalt parking areas on the Site.
- A stockpile of fill of unknown origin was observed east of the Site Building subsequent to the completion of the Phase I ESA. There is the potential for this stockpile to contain contaminated fill material.





Based on the results of the Phase II ESA, LaBella concluded the following.

- Investigation in the vicinity of the suspect 6,000-gallon UST revealed that the UST is no longer present on the Site and no petroleum odor or staining was observed in the test pits excavated in this area.
- Acetone, PAHs, chromium, and lead were detected in surface soil and subsurface soil on the Site at concentrations that exceed commonly applied NYSDEC soil cleanup standards.
- Diesel fuel-type odors and elevated photoionization detector readings (PID) readings were observed in a sample from the stockpiled fill on the Site. This soil sample also contained concentrations of cadmium, lead, chromium, and one pesticide that exceeded commonly applied NYSDEC soil cleanup standards.
- Benzene was detected at concentrations exceeding the water quality standards (TOGS AWQS) in the samples collected from two of the monitoring wells (MW-1 and MW-4). The source of the benzene contamination is currently unknown, but may originate from an off-site source given that these wells appear to be up-gradient of the majority of the developed portion of the Site and no on-site sources were identified.
- Fill material exhibiting gamma radiation levels exceeding the measured Site background level was encountered in the asphalt and subbase material in test pit location TP-18 and TP-19. Gamma radiation levels measured in the other test pits and the test borings were generally less than two times the Site background level. The extent of the material exhibiting elevated gamma radiation levels is unknown.
- Concentrations of several chlorinated solvents were detected above New York State Department of Health (NYSDOH) recommended minimum action levels in both the sub-slab vapor and indoor air samples. No on-site source of the chlorinated solvents was evident based on the analysis of soil and groundwater samples from the Site. The source of the chlorinated solvents detected within the sub-slab vapor and indoor air samples is unknown. Additionally, several aromatic hydrocarbons commonly associated with gasoline were detected in the sub-slab soil vapor samples; however, the same compounds were also detected in the outdoor air sample. Although the source of the aromatic hydrocarbons detected within the sub-slab soil vapor samples is unknown, based on the detection of aromatic hydrocarbons within the outdoor air sample, such may be ambient outdoor air conditions (i.e. automotive exhaust, off-site air emissions, etc.).
- Based on the contents of the June 2015 Pre-demolition Asbestos Inspection report reviewed by LaBella, asbestos containing building materials were identified within the Site Building.

## SECTION VI: CURRENT PROPERTY OWNER/OPERATOR INFORMATION

---

### Previous Owners/Operators

#### *Owners*

Owner: Henery H. Pletcher  
Current Address: Unknown  
Contact Information: Unknown  
Relationship to Requestor: None





Owner: North End Land Company  
Current Address: Unknown  
Contact Information: Unknown  
Relationship to Requestor: None

Owner: the Niagara, Lockport and Ontario Power Company  
Current Address: Unknown  
Contact Information: Unknown  
Relationship to Requestor: None

Owner: Trustees of School District No. 2  
Current Address: Unknown  
Contact Information: Unknown  
Relationship to Requestor: None

Owner: Farkas Brothers Buildings Inc.  
Current Address: Unknown  
Contact Information: Unknown  
Relationship to Requestor: Partner

Owner: David Home Builders Inc.  
Current Address: P.O. Box 945, Hamburg, New York 14075  
Contact Information: 716-818-0400  
Relationship to Requestor: President

#### *Operators*

Operator: Trustees of School District No. 2  
Contact Information: Unknown  
Contact Information: Unknown  
Relationship to Requestor: None

It should be noted that no additional operations have been identified in the information reviewed to date which indicates that there has been an additional operator at the Site. The Site consisted of undeveloped land in at least 1875 and it appears that the Site was first developed with the Site Building in 1940 and utilized as a school until at least 1993. The Site has remained unoccupied since 1993.

The Current owner of the Site (4185 Military Road, Inc.) has owned the property since March 4, 2003.

## **SECTION VII: REQUESTOR ELIGIBILITY INFORMATION**

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### **Volunteer Statement**

4185 Military Road, Inc. liability arose solely as a result of ownership and involvement with the Site subsequent the release of VOCs, SVOCs and metals at the Site. 4185 Military Road, Inc. has maintained impermeable asphalt parking surfaces and building foundations limiting human,



environmental, and natural resource exposure to subsurface soil at the Site and groundwater. Additionally, the Site Building has remained vacant and Site access is currently controlled by a perimeter fence. 4185 Military Road, Inc. is pursuing entrance into the NYSDEC BCP to evaluate and implement an appropriate remedy for the Site. Neither 4185 Military Road, Inc. nor any of its members are related in whole or in part to any prior operators of the Site. As such, 4185 Military Road, Inc. meets the definition of a “volunteer” in accordance with ECL 27-1405.

## SECTION IX: CONTACT LIST INFORMATION

---

### Item 1: Municipal and County Contacts

Name	Department	Address
Mr. Lee Wallace	Town of Niagara Supervisor	5826 Grauer Road Niagara Falls, NY 14305
Mr. Charles Teixeira	Town of Niagara Deputy Supervisor	8205 Third Avenue Niagara Falls, NY 14304
Mr. Marc Carpenter	Town of Niagara Councilmen	3230 Wildwood Drive Niagara Falls, NY 14304
Mr. Samuel Gatto		4910 Isherwood Drive Niagara Falls, NY 14305
Mr. Richard Sirianni		4855 Miller Road Niagara Falls, NY 14304
Ms. Sylvia Virtuoso	Town of Niagara Clerk/Tax Collector	8009 Crestview Drive Niagara Falls, NY 14304
Mr. Michael Risman	Town of Niagara Attorney	140 Pearl Street Suite 100 Buffalo, NY 14202-4040

### Item 2: Adjacent Property Owners

Direction	Property Address	Owner Contact Information
North/East	4235 Military Road	CBB Limited Partnership PO Box 1027 Buffalo, NY 14240
South/East	Military Road	PASNY 5777 Lewiston Road Lewiston, NY 14092
West	4172 Military Road	Steven Richards 6305 Lawson Drive Niagara Falls, NY 14305
	4180 Military Road	Steven Richards 6305 Lawson Drive Niagara Falls, NY 14305
	4204 Military Road	Denise Hetrick 4325 Isherwood Drive Niagara Falls, NY 14305



**Item 3: Local News Media**

The Buffalo News  
One News Plaza  
P.O. Box 100  
Buffalo, NY 14240  
(716) 849-4444

**Item 4: Public Water Supplier**

Town of Niagara Water Department  
7105 Lockport Road  
Niagara Falls, NY 14305  
(716) 297-2150

**Item 5: Contact List**

Currently, no persons have requested to be placed on the Contact List.

**Item 6: Schools and Day Cares**

Children of Niagara Child Care  
4416 Military Road  
Niagara Falls, NY 14305  
(716) 297-6154

**Item 7: Document Repository**

Niagara Falls Public Library  
1425 Main Street  
Niagara Falls, NY 14305  
(716) 286-4894

The acknowledgement as document repository from the library is included in Appendix 4.

**SECTION X: LAND USE FACTORS**

---

**Item 2: Current Use**

The Site consisted of undeveloped land in at least 1875 and it appears that the Site was first developed with the Site Building in 1940 and utilized as a school until at least 1993. The Site has remained unoccupied since 1993.

**Item 3: Post Remediation Use**

It is anticipated that the Site will be redeveloped with a senior housing community. Redevelopment plans include demolition of the south and east portion of the Site Building, which were recently burned in an act of vandalism and are pending emergency demolition as of the date of this submission. The north portion of the Site Building will be renovated and integrated into the senior housing community redevelopment or demolished completely. It is anticipated that redevelopment plans will also potentially include green space, walking trails, picnic areas, etc.



**Item 5: Consistency with Zoning Maps**

The Site is located in an area designated as Residential-3 (R-3) according to the Town of Niagara zoning map. According to the Town of Niagara zoning code, R-3 permits single-family dwellings, two-family dwellings and multiple-family dwellings. Additionally, the following uses are permitted with a special permit: apartments, public utility uses, convalescent, nursing, retirement homes, assisted-living, special placement residences, planned unit developments, and mobile home parks.

**Item 6: Consistency with Land Use Plans**

*Town of Niagara Comprehensive Plan*

The anticipated redevelopment of the Site as a senior housing community is consistent with current Site zoning, as the Site is currently zoned as R-3 Multiple-Family Residential District. The Town of Niagara Comprehensive Plan's short-range and the long-range goals are to make the town a better place in which to live. A community forum for the Town of Niagara stated one of the town's weaknesses was the lack of senior housing options. As such, redevelopment of the Site as a senior housing community is consistent with the Town of Niagara Comprehensive Plan. Furthermore, Veteran's Memorial Park and the associated Calvin K. Richards Senior/Youth Activity Center is located west of the Site. Redevelopment of the Site with a senior housing community would be complementary to the adjacent Calvin K. Richards Senior/Youth Activity Center.

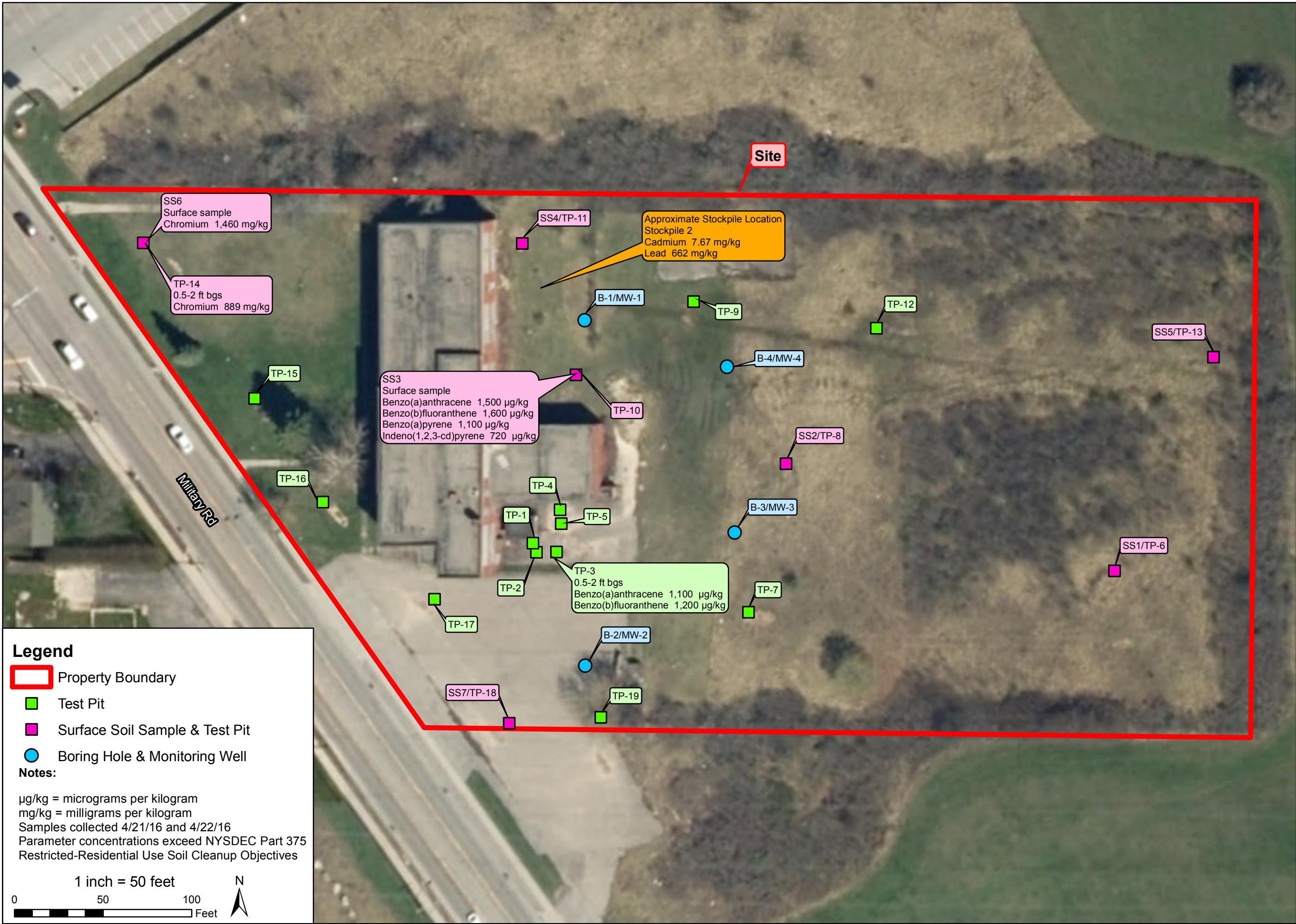
It should also be noted that this Site both the December 2, 2015 Phase I ESA and the July 28, 2016 Phase II ESA were engaged by the Niagara County Department of Economic Development (NCDED) using USEPA Brownfield Assessment Grant. Typically properties assessed through the NCDED managed grant are underutilized properties targeted by the NCDEDC for redevelopment.



## FIGURES



Path: I:\David Communities LLC\2192320 - 4185 Military Rd BCP\Reports\BCP App\Figures\MAP 2019.7.30.Fig1\_ImpactedSoil.mxd



## Legend

- Property Boundary
- Test Pit
- Surface Soil Sample & Test Pit
- Boring Hole & Monitoring Well

### Notes:

µg/kg = micrograms per kilogram  
mg/kg = milligrams per kilogram  
Samples collected 4/21/16 and 4/22/16  
Parameter concentrations exceed NYSDEC Part 375  
Restricted-Residential Use Soil Cleanup Objectives

1 inch = 50 feet

0 50 100 Feet



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F: (716) 551-6282  
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PROJECT/CLIENT

4185 MILITARY ROAD  
NIAGARA, NEW YORK

DRAWING TITLE

IMPACTED SOIL MAP

ISSUED FOR	RCN
REVIEW	SND
DATE: AUGUST 2019	REVIEWED BY: JD

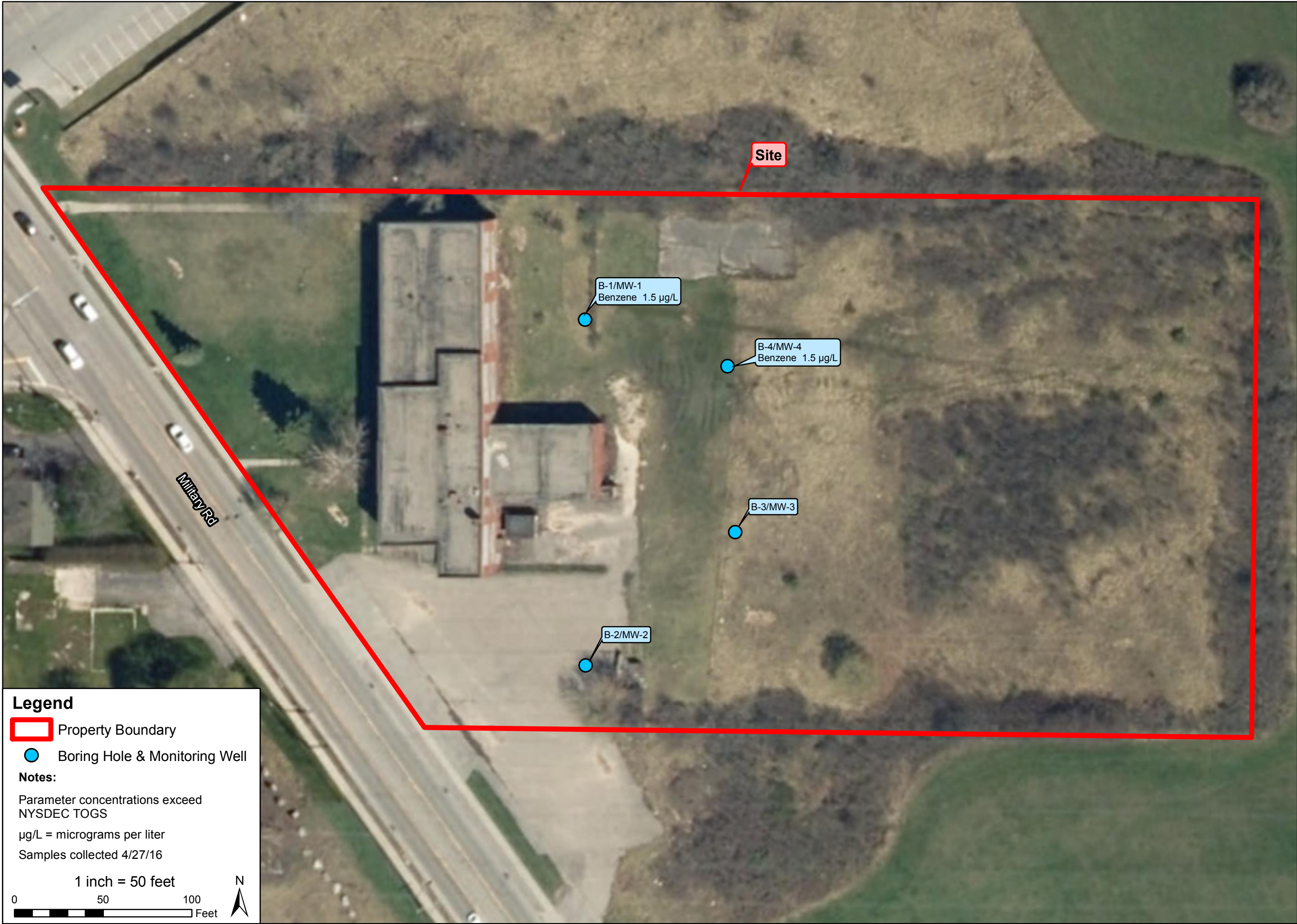
PROJECT/DRAWING NUMBER

2192320

FIGURE 1



Path: H:\Military Road\BCP App\Figures\MAP.2019.7.30.Fig2\_ImpactedGW.mxd



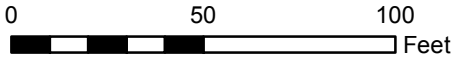
**Legend**

- Property Boundary
- Boring Hole & Monitoring Well

**Notes:**

Parameter concentrations exceed  
NYSDEC TOGS  
µg/L = micrograms per liter  
Samples collected 4/27/16

1 inch = 50 feet



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PROJECT/CLIENT

4185 MILITARY ROAD  
NIAGARA, NEW YORK

DRAWING TITLE

IMPACTED GROUNDWATER  
MAP

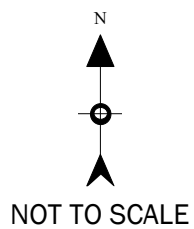
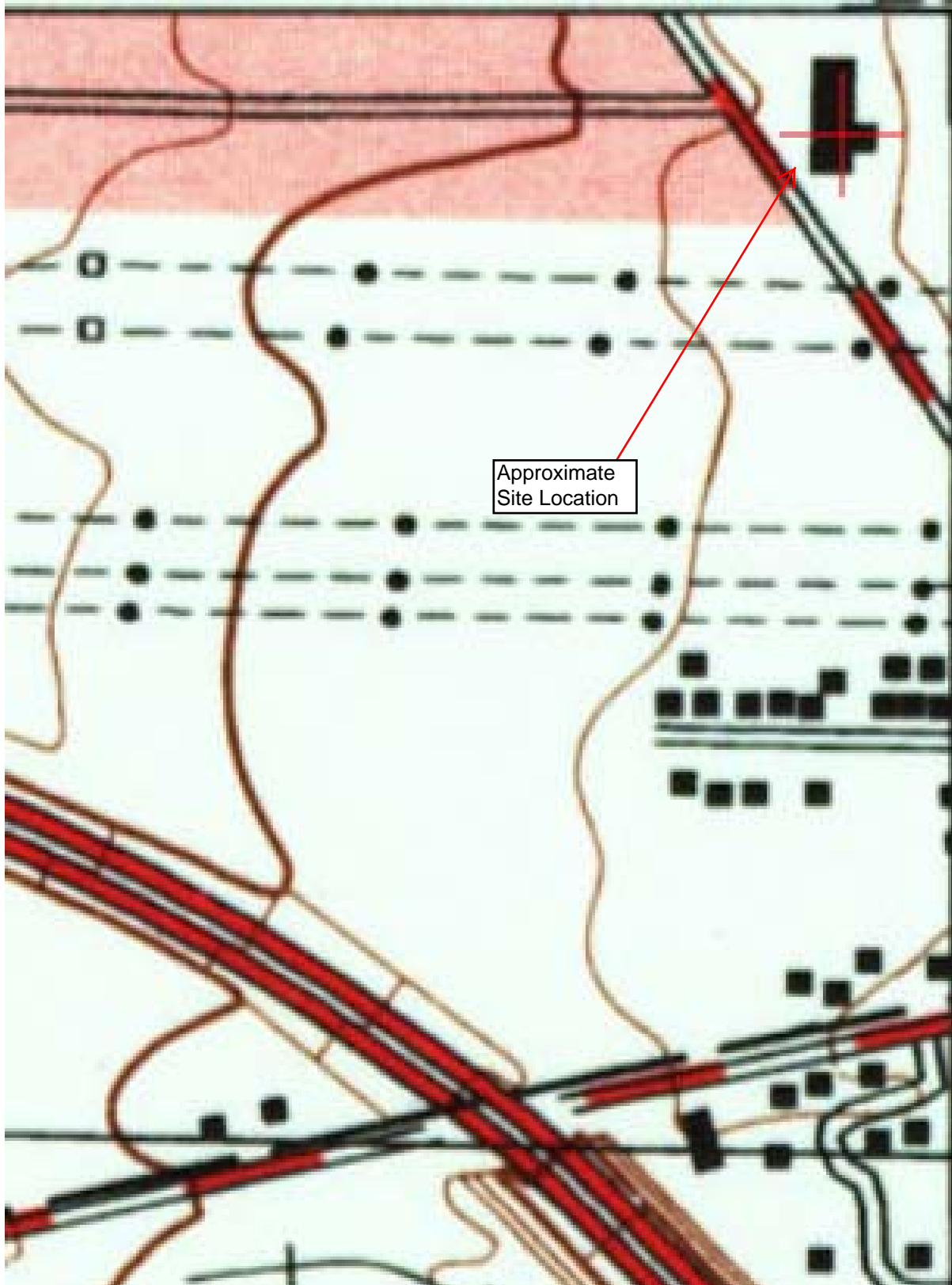
ISSUED FOR	DESIGNED BY	RCN
REVIEW	DRAWN BY	SND
DATE: AUGUST 2019	REVIEWED BY:	JD

PROJECT/DRAWING NUMBER

2192320

FIGURE 2





## FIGURE 3 SITE LOCATION MAP

4185 Military Road  
Niagara, New York



PROJECT NO. 2192320



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Property Boundary

Adjacent Properties

0100200

1 inch = 99 feet

Feet

N

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PROJECT CLIENT

4185 MILITARY ROAD  
NIAGARA, NEW YORK

DRAWING TITLE

SITE BASE MAP

ISSUED FOR  
REVIEW

DESIGNED BY  
RCN

DRAWN BY  
SD

DATE  
AUGUST 2019

REVIEWED BY  
JD

PROJECT/DRAWING NUMBER

2192320

FIGURE 4



# TABLES

**Table 1**  
**Former Military Road School**  
**4185 Military Road, Niagara, Niagara County, New York**  
**BCP Application**  
**Summary of Surface Soil/Fill Analytical Results**  
**(Detected Compounds Only)**

Sample ID	SS1	SS2	SS3	SS4	SS5	SS6	SS7	Dup	Restricted- Residential Use Soil Cleanup Objectives
Depth	Surface	Surface	Surface	Surface	Surface	Surface	Surface	SS1	
Sample Date	4/22/2016	4/22/2016	4/22/2016	4/22/2016	4/22/2016	4/22/2016	4/22/2016	4/22/2016	
<b>Volatile Organic Compounds (µg/kg)</b>									
Acetone							25.7		100,000
Methyl Acetate							7.7		NL
Methyl ethyl ketone (2-Butanone)							5.5		100,000
Toluene							2.3		100,000
m/p Xylenes	1.4	2.8						2.6	100,000
o Xylenes	1.3							2.3	100,000
Total TICs		5.2				1.5			NL
Total VOCs	2.7	8	0	0	0	1.5	41.2	4.9	NL
<b>Semi-Volatile Organic Compounds (µg/kg)</b>									
Acenaphthene			230	120					100,000
Anthracene			470	270		82.7			100,000
Benzo(a)anthracene		190	1,500	660		370			1,000
Benzo(b)fluoranthene		200	1,600	620		460			1,000
Benzo(k)fluoranthene		94.4	440	300		210			3,900
Benzo(g,h,i)perylene			540	200		170			100,000
Benzo(a)pyrene		140	1,100	490		330			1,000
Carbazole			250	130					NL
Chrysene		190	960	530		350			3,900
Dibenzo(a,h)anthracene			190	80.8					330
Dibenzofuran			140	87.2					NL
Diethylphthalate				420				490	NL
Dimethylphthalate			420		420	530	430		NL
Di-n-butylphthalate	490	360							NL
Fluoranthene		310	2,000	990		690			100,000
Fluorene			270	170					100,000
Indeno(1,2,3-cd)pyrene			720	270		200			500
2-Methylnaphthalene			100						NL
Naphthalene			280	100					100,000
Phenanthrene		270	1,500	1,000					100,000
Pyrene		260	1,900	800		570			100,000
Total TICs	11,790	10,950	9,070	13,910	4,747.6	19,450	8,400	11,860	NL
Total SVOCs	12,280	12,964	23,680	21,148	5,167.6	23,413	8,830	12,350	NL
<b>Pesticides / Herbicides (µg/Kg)</b>									
Lindane			1.9	6.4					1,300
<b>Metals (mg/kg)</b>									
Arsenic	5.6	11.8	3.32	5.71	5.31	5.22	4.58	5.89	16
Barium	80.8	37.3	31.7	114	113	94.1	98.8	85.5	400
Cadmium		0.245	0.486	0.644		0.677	0.737		4.3
Chromium	17.9	9.37	8	55.1	19.6	1,460	18.6	18.8	*110/180
Lead	17.8	30.1	75.9	63.3	12.6	27.4	19.8	18.7	400
Mercury	0.08	0.078	0.116	0.097	0.041	0.122	0.048	0.077	0.81
Selenium	0.63	0.805		0.511	0.824	0.469	0.413	0.816	180

NYDEC Part 375 Restricted-Residential Use Soil Cleanup Objectives, Tables 375-6.8(b) (December 2006)

NL=Not listed

Concentrations in gray exceed the Restricted-Residential Use SCOs

\* = Chromium hexavalent/Chromium trivalent

**Table 2**  
**Former Military Road School**  
**4185 Military Road, Niagara, Niagara County, New York**  
**BCP Application**  
**Summary of Subsurface Soil/Fill Analytical Results**  
**(Detected Compounds Only)**

Sample ID	TP-6D02	TP-8D46	TP-10D46	TP-11D24	TP-13D24	TP-14D02	TP-18D24	Restricted-
Depth	0.5-2 ft bgs	4-6 ft bgs	4-6 ft bgs	2-4 ft bgs	2-4 ft bgs	0.5-2 ft bgs	2-4 ft bgs	Residential Use Soil
Sample Date	4/21/2016	4/21/2016	4/22/2016	4/22/2016	4/22/2016	4/22/2016	4/22/2016	Cleanup Objectives
<b>Volatile Organic Compounds (µg/kg)</b>								
Acetone	85.2			28.2		26	66.1	100,000
Benzene		2.9			1.6	1.6		4,800
Ethylbenzene		1.1						4,100
Methylcyclohexane		5.9	0.93		1.1	3.9		NL
Methyl ethyl ketone (2-Butanone)	5.4					3.6	10	100,000
Toluene	1.1	5.9			1.7	2.5		100,000
m/p Xylenes	1.9	4.8			1.2	2.3		100,000
o Xylenes	0.91	1.8						100,000
Total TICs	191.9	4.4		29.3		1.5		NL
Total VOCs	286.41	26.8	0.93	57.5	5.6	41.4	76.1	NL
<b>Semi-Volatile Organic Compounds (µg/kg)</b>								
Anthracene						110		100,000
Benzo(a)anthracene						520		1,000
Benzo(b)fluoranthene						460		1,000
Benzo(k)fluoranthene						230		3,900
Benzo(g,h,i)perylene						180		100,000
Benzo(a)pyrene						350		1,000
Chrysene						340		3,900
Dimethylphthalate	420			470	390	440	500	NL
Fluoranthene						830		100,000
Indeno(1,2,3-cd)pyrene						190		500
Phenanthrene						490		100,000
Pyrene						710		100,000
Total TICs	19,080	5,069.8	4,470	5,402.7	4,090	10,360	12,240	NL
Total SVOCs	19,500	5,070	4,470	5,873	4,480	15,210	12,740	NL
<b>Pesticides / Herbicides (µg/Kg)</b>								
Lindane						0.86		1,300
<b>Metals (mg/kg)</b>								
Arsenic	5.63	5.62	4.34	4.94	5.16	5.3	4.7	16
Barium	75	104	110	118	108	81.8	128	400
Cadmium		0.492	0.369	0.171	0.389	0.741	0.238	4.3
Chromium	17.6	17.6	17.9	22.3	16.2	889	18.9	*110/180
Lead	18.2	10.2	9.09	14.1	9.02	43.7	9.55	400
Mercury	0.06	0.017	0.018	0.049	0.018	0.112	0.028	0.81
Seleunim	0.613			0.575		0.351	0.913	180

NYSDEC Part 375 Restricted-Residential Use Soil Cleanup Objectives, Tables 375-6.8(b) (December 2006)

NL=Not listed

Concentrations in gray exceed the Restricted-Residential Use SCOs

**Table 3**  
**Former Military Road School**  
**4185 Military Road, Niagara, Niagara County, New York**  
**BCP Application**  
**Summary of Subsurface Soil/Fill Proximate 6,000-Gallon Fuel Oil UST Analytical Results**  
**(Detected Compounds Only)**

Sample ID	TP-1D46	TP-3D02	TP-5-D24	Restricted- Residential Use Soil Cleanup Objectives
Depth	4-6 ft bgs	0.5-2 ft bgs	2-4 ft bgs	
Sample Date	4/21/2016	4/21/2016	4/21/2016	
Volatile Organic Compounds (µg/kg)				
Toluene			3.2	100,000
Total VOCs	0	0	3.2	NL
Semi-Volatile Organic Compounds (µg/kg)				
Acenaphthene		210		100,000
Anthracene		370		100,000
Benzo(a)anthracene		1,100		1,000
Benzo(b)fluoranthene		1,200		1,000
Benzo(k)fluoranthene		250		3,900
Benzo(g,h,i)perylene		340		100,000
Benzo(a)pyrene		790		1,000
Chrysene		690		3,900
Dibenzo(a,h)anthracene		130		330
Fluoranthene		1,600		100,000
Fluorene		200		100,000
Indeno(1,2,3-cd)pyrene		400		500
Phenanthrene		1,300		100,000
Pyrene		1,300		100,000
Total TICs	5,050	11,650.7	4,316	NL
Total SVOCs	5,050	21,530.7	4,316	NL

NYSDEC Part 375 Restricted-Residential Use Soil Cleanup Objectives, Tables 375-6.8(b) (December 2006)

NL=Not listed

Concentrations in gray exceed Restricted-Residential Use SCOs

**Table 4**  
**Former Military Road School**  
**4185 Military Road, Niagara, Niagara County, New York**  
**BCP Application**  
**Summary of Surface Soil/Fill Analytical Results**  
**(Detected Compounds Only)**

Sample ID	Stockpile 1	Stockpile 2	Restricted- Residential Soil Cleanup Objectives
Sample Date	4/22/2016	4/22/2016	
Volatile Organic Compounds (µg/kg)			
Benzene	2.1		4,800
Toluene	4.5	2.6	100,000
1,2,4-Trimethylbenzene	2.4		52,000
1,3,5-Trimethylbenzene		5	52,000
m/p Xylenes	3.1	5	100,000
Total TICs	79.4	2,640.0	NL
Total VOCs	91.5	2,652.6	NL
Semi-Volatile Organic Compounds (µg/kg)			
Total TICs	11,160	7,100	NL
Total SVOCs	11,160	7,100	NL
Pesticides / Herbicides (µg/Kg)			
4,4-DDE		6.5	8,900
4,4-DDT		2.9	7,900
4,4-DDD		2.2	13,000
Metals (mg/kg)			
Arsenic	3.57	9.14	16
Barium	70.4	211	400
Cadmium	0.201	7.67	4.3
Chromium	20.9	71.4	*110/180
Lead	23.3	662	400
Mercury	0.058	0.095	0.81
Seleunim	0.751	1.04	180

NYSDEC Part 375 Restricted-Residential Use Soil Cleanup Objectives, Tables 375-6.8(b) (December 2006)

NL=Not listed

Concentrations in gray exceed the Resitrcted-Residential SCOs

\* = Chromium hexavalent/Chromium trivalent



**Table 5**  
**Former Military Road School**  
**4185 Military Road, Niagara, Niagara County, New York**  
**BCP Application**  
**Summary of Groundwater Analytical Results**  
**(Detected Compounds Only)**

Sample ID	MW-1	MW-2	MW-3	MW-4	Dup	NYSDEC TOGS
Sample Date	4/27/2016	4/27/2016	4/27/2016	4/27/2016	4/27/2016	
Volatile Organic Compounds (µg/L)						
Acetone	21.9			27.1	21.7	50
Benzene	1.5	0.9	0.9	1.5	1	1.0
Carbon Disulfide	2.3	0.64	0.64	2.7	1.7	NL
Ethylbenzene	0.26	0.2		0.48	0.36	5.0
Methylcyclohexane		1	1.2	0.42		NL
Methyl ethyl ketone (2-Butanol)	7.8			9.3	6.3	50
Naphthalene				0.51		10
Toluene	2.7	1.8	1.7	3.3	2.3	5.0
1,2,4-Trimethylbenzene	0.65	0.50	0.54	1.3	1.2	5.0
m/p-Xylenes	1.4	1.0	1.2	2.3	1.7	5.0
o-Xylene	0.58			0.94	0.71	5.0
Total TICs						NL
Total VOCs	39.09	6.04	6.18	49.85	36.97	NL
Semi-Volatile Organic Compounds (µg/L)						
Acetophenone	2.8				2.6	NL
Benzaldehyde	3.2				5.5	NL
Diethylphthalate	2.8					50
Total TICs	490.8	183.5	384.3	625.7	473.3	NL
Total SVOCs	499.6	183.5	384.3	625.7	481.4	NL
Metals (µg/L)						
Barium	4.89	20.5	34.4	5.68		1,000
Cadmium	0.82			1.15	1.19	5.0
Chromium	2.98		1.3	1.13	1.66	50
Lead		6.06	7.62			25
Selenium	14.6	7.84	7.48	8.45	6.89	10

NYSDEC Division of Water Technical and Operational Guidance Series (TOGS) (1.1.1), Ambient Water Quality Standards and Guidance Values and Groundwater Effluent Limitations (June 1998)

NL=Not listed

No PCBs or Pesticides were detected in the groundwater samples analyzed

Concentrations in gray exceed NYSDEC TOGS

**Table 6**  
**Former Military Road School**  
**4185 Military Road, Niagara, Niagara County, New York**  
**BCP Application**  
**Summary of Soil Vapor Analytical Results**  
**(Detected Compounds Only)**

Sample ID	<sup>1</sup> OD1	<sup>1</sup> SS1	1D1	<sup>1</sup> SS2	ID2	<sup>1</sup> SS3	ID3
Location	Outdoor Air	Subslab Vapor	Indoor Air	Subslab Vapor	Indoor Air	Subslab Vapor	Indoor Air
Sample Date	4/21/2016	4/21/2016	4/21/2016	4/21/2016	4/21/2016	4/21/2016	4/21/2016
<b>Volatile Organic Compounds (µg/m<sup>3</sup>)</b>							
Dichlorodifluoromethane	1.58 J	1.29 J	1.88 J	1.93 J	1.88 J	1.58 J	1.83 J
Chloromethane	1.14	0.56 J	0.83 J		0.72 J	0.35 J	0.99 J
Trichlorofluoromethane	1.46 J	4.38	21.9	4.16	19.1	8.43 JD	25.3
Heptane	10.2 JD	23.8 D	1.27 J	23 D	0.41 J	7.38 JD	0.57 J
Carbon disulfide		2.37		4.67 JD		3.11	
Methylene Chloride						3.02 B	
Cyclohexane	7.92 JD	17.9 D	2.58	10.7 JD	1.86	7.23 JD	2.07
2-butanone	2.89	5.6 JD	0.53 J	2.57	0.35 J	1.65	0.74 J
Carbon tetrachloride	0.44	0.31	0.44	0.63	0.44	0.38	0.44
Benzene	15.3 JD	24.3	5.43	13.1 JD	3.19	16 D	3.51
Trichloroethene	0.32	1.56	0.27			0.32	
Toluene	92.7 D	266 D	15.40	40 D	7.16	79.9 D	8.29
Tetrachloroethene		0.41		1.29		0.27	
Ethyl benzene	6.08	12.2 JD		6.95		5.65	
m/p-xylene	9.56 JD	40.8 D		20.4 JD		13.9 JD	
o-xylene	6.52	13.5 JD		6.95		5.21	
Styrene	0.47 J	3.07				0.3 J	
1,3,5-Trimethylbenzene	1.08 J	4.38		1.67 J		1.03 J	
1,2,4-Trimethylbenzene	3.69	10.3 JD		4.92		3.74	
Naphthalene		0.84 J					
4-ethyltoluene	1.28 J	5.41		2.85		2.16 J	
Hexane	101 D	148 D	28.2	61 D	13.7	100 D	16.6
2,2,4-Trimethylpentane	20.6 JD	38.8	3.13	4.48	0.98 J	8.87 JD	1.17 J
1,2-Dichloropropane	0.55 J	2.26 J				0.51 J	
Methyl Methacrylate		5.73					
1,1,1-Trichloroethane				0.44			
1,1,2-Trichlorotrifluoroethane						0.54 J	
Total VOC	269.14	633.77	81.86	211.71	49.79	271.53	61.51

J=The analyte was positively identified; the associated numerical value is an approximate concentration of the analyte in the sample.

B=The analyte was identified in the Field Blank as well as the sample report.

D=Compound identified in an analysis at a secondary dilution factor.

µg/m<sup>3</sup> = micrograms per cubic meter

<sup>1</sup>Samples were diluted and re-analyzed due to high concentrations

# APPENDIX 1

## Requestor Entity Information & Deed Information

# NYS Department of State

## Division of Corporations

### Entity Information

The information contained in this database is current through August 7, 2019.

---

Selected Entity Name: 4185 MILITARY ROAD, INC.

Selected Entity Status Information

**Current Entity Name:** 4185 MILITARY ROAD, INC.

**DOS ID #:** 2852854

**Initial DOS Filing Date:** JANUARY 07, 2003

**County:** NIAGARA

**Jurisdiction:** NEW YORK

**Entity Type:** DOMESTIC BUSINESS CORPORATION

**Current Entity Status:** ACTIVE

Selected Entity Address Information

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

BRICK, BRICK & ELMER, P.C.

POST OFFICE BOX 604

91 TREMONT STREET

NORTH TONAWANDA, NEW YORK, 14120

**Chief Executive Officer**

DAVID M STAPLETON

PO BOX 945

HAMBURG, NEW YORK, 14075

**Principal Executive Office**

DAVID STAPLETON

4185 MILITARY ROAD

4623 PINECREST TERRACE

BOSTON, NEW YORK, 14057

**DO NOT DETACH - THIS IS PAGE 1 OF  
RECORDED DOCUMENT**

**LIBER 3229 PAGE 520**

**NIAGARA COUNTY CLERK RECORDING PAGE**

**OFFICE OF THE CLERK COUNTY OF NIAGARA**

**WAYNE F. JAGOW, COUNTY CLERK**

**County Courthouse, 175 Hawley Street, P.O. Box 461, Lockport, NY 14095**

**Phone (716) 439-7027**

**Fax (716) 439-7066**

**INSTRUMENT DATE** March 4, 2003

**DOCUMENT TYPE** Warranty Deed

**Parties: (Print Names In Full)**

**1<sup>st</sup> Part** Farkas Bros. Builders and David Home Builders

**2<sup>nd</sup> Part** 4185 Military Road, Inc.

**Town/City** Town of Niagara

**Return To:**

Brick, Brick & Elmer

(box)

**THIS SPACE RESERVED FOR COUNTY CLERK**

**MORTGAGE#** \_\_\_\_\_

**MORTGAGE AMOUNT**

**\$** \_\_\_\_\_

**( ) One/two family ( ) Other**

**[ ] Check if to be apportioned**

**DOCUMENT #** 1001932  
**BOOK** 3229 **PAGE** 520 *Deed*  
**NUMBER OF PAGES** 4  
**RECORDED** 03/04/2003 02:59:33 P.M.  
**RECEIPT #** 5489  
**PAID - COUNTY CLERK**  
**WAYNE F. JAGOW**

**RECORDING TAX RECEIPT**

**BASIC** \$ \_\_\_\_\_

**ADDITIONAL** \$ \_\_\_\_\_

**SPECIAL** \$ \_\_\_\_\_

**TOTAL** \$ \_\_\_\_\_

State of New York} ss

County of Niagara}

I do hereby certify that I have

Received on the within Mortgage, being

the amount of the Recording Tax

Imposed thereon & paid at recording.

**Dated** \_\_\_\_\_, 20\_\_\_\_

**Mortgage Tax Clerk of Niagara County**

**#** 4423  
**REAL ESTATE TRANSFER  
TAX**

**\$** 280.00

34102

**NIAGARA COUNTY**

## CORPORATION WARRANTY DEED WITH LIEN COVENANT

THIS INDENTURE, made the 4th day of March, 2003 <sup>36</sup>  
~~December, 2002~~

FARKAS BROS. BUILDERS, INC.  
 65 Ayrault Drive, Amherst, New York 14228  
 and

DAVID HOME BUILDERS, INC.  
 P.O. Box 327, Tonawanda, New York 14151,

Grantor(s), and

4185 Military Road <sup>36</sup>  
~~VANDERBILT PROPERTIES, INC.~~  
 P.O. Box 327  
 Tonawanda, New York 14151,

Grantee(s).

**WITNESSETH**, that the said Grantor(s), in consideration of One and More Dollars (\$1.00 and more), lawful money of the United States, paid by the Grantee(s), do(es) hereby grant and release unto the Grantee(s), its heirs and assigns forever.

SEE SCHEDULE "A" ATTACHED HERETO

**TOGETHER** with the appurtenances and all the estate and rights of the Grantor(s) in and to the said premises.

**TO HAVE AND TO HOLD**, the above granted premises unto the said Grantee(s).

**AND** the said Grantor(s) do(es) covenant with said Grantee(s) as follows:

**FIRST:** That the Grantee(s) shall quietly enjoy the said premises.

**SECOND:** That the Grantor(s) will forever WARRANT the title to said premises.

**THIRD:** Subject to the trust fund provisions of section thirteen of the lien law.

**FOURTH:** This conveyance is not of all or substantially all of the property of the Grantor and is made in the regular course of business actually conducted by the Grantor.

**IN WITNESS WHEREOF**, the Grantor(s) have hereunto set their hand(s) and seal(s) the day and year first above written.

FARKAS BROS. BUILDERS, INC.

by:

Jack Farkas  
 JACK FARKAS, PRESIDENT

David Stapleton  
 DAVID HOME BUILDERS, INC.

by:


DAVID STAPLETON,  
 PRESIDENT



STATE OF NEW YORK     )  
   ) ss.:  
 COUNTY OF ERIE         )

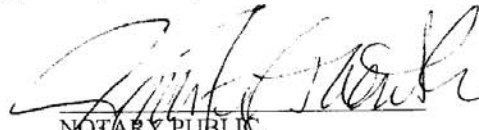
On the 30th day of December, 2002, before me, the undersigned, a notary public in and for said state, personally appeared JACK FARKAS, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that they (he) (she) executed the same in (his) (her) their capacity, and that by their (his)(her) signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual acted, executed the instrument.

SEYMOUR M. MASHUEL  
 Notary Public, State of New York  
 Qualified in Erie County  
 My Commission Expires March 30, 2006  
2/5/06

  
 NOTARY PUBLIC

STATE OF NEW YORK     )  
   ) ss.:  
 COUNTY OF ERIE         )

On the 14th day of March, 2003, before me, the undersigned, a notary public in and for said state, personally appeared DAVID STAPLETON, 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 they (he) (she) executed the same in (his) (her) their capacity, and that by their (his)(her) signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual acted, executed the instrument.

  
 NOTARY PUBLIC

RETURN TO:

JENNIFER GUENTHER  
 NOTARY PUBLIC STATE OF NEW YORK  
 QUALIFIED IN NIAGARA COUNTY  
 My Commission Expires June 24, 2006

## PARCEL "A":

1. ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Niagara, County of Niagara, State of New York, being a part of Lot No. 16, Township 13, Range 9 of the Holland Land Company's Purchase, more particularly described as follows:

BEGINNING at the point of intersection of the south line of Lot No. 16 with the easterly boundary line of Military Road; thence easterly along said lot line 620.94 feet to a point; thence northerly at right angles to said lot line 90 feet to a point; thence westerly at right angles on a line parallel to the south line of said Lot No. 16, 685.53 feet to a point in the easterly boundary line of Military Road; thence southeasterly along said easterly boundary line of Military Road 110.78 feet to a point, containing an area of 1.35 acres.

## PARCEL "B":

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Niagara, County of Niagara, and State of New York, being a part of Lot No. 11, Township 13, Range 9 of the Holland Land Company's Purchase and a part of premises heretofore conveyed to North End Land Company by Henry H. Pletcher, et al by deeds dated June 30 1905, and June 29, 1906, recorded in Niagara County Clerk's Office in Libers 307 and 322 of Deeds at pages 380 and 368 respectively, said parcel hereby conveyed being more particularly described as follows:

BEGINNING at the point of intersection of the north line of said Lot No. 11 with the northeasterly limit of Military Road; thence easterly along said lot line, making an angle of  $54^{\circ} 20' 4''$ , to southeast with Military Road, 401.16 feet; thence southerly at right angles 121.87 feet; thence westerly at right angles on a line parallel to the aforesaid lot line, 313.70 feet to the northeasterly line of Military Road; thence northwesterly along said road line 150 feet to the point of beginning, containing 1 acre of land.

## PARCEL "C":

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Niagara, County of Niagara, State of New York, being a part of Lot No. 11, Township 13, Range 9 of the Holland Land Company's Purchase and a part of premises heretofore conveyed to North End Land Company by Henry H. Pletcher et al, by Deeds dated June 30, 1905, and June 29, 1906, recorded in Niagara County Clerk's Office in Libers 307 and 322 of Deeds at pages 380 and 368 respectively, said parcel hereby conveyed being more particularly described as follows:

BEGINNING at a point in the easterly boundary line of Military Road, where same is intersected by the southerly boundary line of parcel of land conveyed by Niagara, Lockport and Ontario Power Company to Trustees of School District No. 3, Town of Niagara, Niagara County, New York, by deed dated November 15, 1929 recorded in Niagara County Clerk's Office in Liber 549 at page 66; thence from said point of beginning easterly along the southerly boundary of premises conveyed as aforesaid 313.70 feet to the southeast corner of premises so conveyed; thence northerly along the easterly boundary of premises conveyed as aforesaid, 121.87 feet to a point in the north line of said Lot No. 11, said point being at the northeast corner of premises conveyed as aforesaid; thence easterly along the north line of said Lot No. 11, 219.78 feet to a point; thence southerly at right angles to said lot line 211.87 feet to a point; thence westerly at right angles on a line parallel to the north line of said Lot No. 11, 468.89 feet to a point in the easterly boundary line of Military Road; thence northwesterly along said easterly boundary line of Military Road 110.78 feet to the point of beginning, containing 1.65 acres of land.

**Registered Agent**

NONE

This office does not record information regarding the names and addresses of officers, shareholders or directors of nonprofessional corporations except the chief executive officer, if provided, which would be listed above. Professional corporations must include the name(s) and address(es) of the initial officers, directors, and shareholders in the initial certificate of incorporation, however this information is not recorded and only available by [viewing the certificate](#).

**\*Stock Information**

# of Shares	Type of Stock	\$ Value per Share
200	No Par Value	

\*Stock information is applicable to domestic business corporations.

**Name History**

Filing Date	Name Type	Entity Name
JAN 07, 2003	Actual	4185 MILITARY ROAD, INC.

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

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

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## APPENDIX 2

### Phase II Environmental Site Assessment

Phase I ESA, Phase II ESA and Pre-Demolition Asbestos Inspection Report (within Phase I ESA appendices) included under separate cover.

## APPENDIX 3

### Document Repository Acknowledgement



## Dalton, Shannon

---

**From:** Sarah Potwin <spotwin@nioga.org>  
**Sent:** Wednesday, August 7, 2019 10:02 AM  
**To:** Dalton, Shannon  
**Subject:** Re: Document Repository

Certainly. This is a common practice.....now my question is : Main Branch and /or Lasalle branch? Which is closer to Military road.

Let me know.  
Sarah Potwin

On Wed, Aug 7, 2019 at 8:46 AM Dalton, Shannon <[SDalton@labellapc.com](mailto:SDalton@labellapc.com)> wrote:

**LaBella is involved in a Niagara Cleanup Program project associated with the remediation of a property on Military Street in the Town of Niagara. The project is overseen by the NYSDEC who required that project related documents be made available for public review. With that said we would like to use the main library as the document repository. Can someone please respond indicating we can submit project documents to your library?**

**Thanks!**

**Shannon Dalton**

LaBella Associates | Project Scientist



716-710-3043    **direct**

716-551-6281    **office**

300 Pearl Street, Suite 130

Buffalo, NY 14202

[labellapc.com](http://labellapc.com)

--

Sarah Potwin  
Executive Library Director  
Niagara Falls Public Library  
1425 Main Street  
Niagara Falls, New York 14303  
tel 716-286-4911 or 716-286-4914  
[www.niagarafallspubliclib.org](http://www.niagarafallspubliclib.org)

What are you reading? Currently reading [Range : why generalists triumph in a specialized world](#) by David Epstein.