

November 18, 2019

Mr. David Locey  
Environmental Engineer  
NYSDEC Region 9  
Div. of Environmental Remediation  
270 Michigan Avenue  
Buffalo, New York 14203

Re: Institutional & Engineering Controls Certification  
Six Vacant Lots on Ridge Road (ERP Site No. E915188)  
113-135 Ridge Road, Lackawanna, New York 14218

Benchmark Environmental Engineering & Science, PLLC has prepared this Institutional & Engineering Controls Certification for the reporting period of August 2, 2018 through November 2, 2019 for the above referenced Site. This is the 1<sup>st</sup> annual certification period for the Site which received a Certificate of Completion (COC) on August 1<sup>st</sup>, 2018.

No Site activities we completed during this reporting period which involved the disturbance of the Site cover system (Engineering Control). Site activities related to soil/fill disturbance and/or the installation of the cover system were completed prior to this reporting period and documented in the Excavation and Disposal Completion and Final Engineering Report dated June 1, 2018 prepared by Terracon Consultants – NY, Inc.

The property was sold during the reporting period to Lexco, Inc. and the attached email from you indicates that the Department has received the required documentation (60-day Notice and recorded transfer of the COC) as required.

Please contact us if you have any questions or require additional information.

Sincerely,  
Benchmark Environmental Engineering & Science, PLLC



Christopher Boron, P.G.  
Sr. Project Manager



Thomas H. Forbes, P.E.  
Principal Engineer

Attachments

cc: D. Szymanski (NYSDEC – Region 9)  
L. Moura (Lexco, Inc.)

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**2558 Hamburg Turnpike, Suite 300 | Buffalo, NY 14218**  
**phone: (716) 856-0599 | fax: (716) 856-0583**

## Chris Z. Boron

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**From:** Locey, David (DEC) <david.locey@dec.ny.gov>  
**Sent:** Thursday, November 07, 2019 12:30 PM  
**To:** Chris Z. Boron  
**Subject:** RE: Six Vacant Lots, Site #E915188 - 113-135 Ridge Road, Lackawanna, NY  
**Attachments:** 60 day notice - change in use.pdf; 4-4-2019 recorded notice of COC transfer.pdf; email Change of Use - Six Vacant Lots on Ridge Rd (La....pdf; Email.ERP.E915188.2019-04-15.accepted-documentation\_of\_COC\_transfer.pdf

Chris,

DEC was provided with the necessary documentation – the 60-day notice and recorded transfer of the COC – to establish that the site had been sold.

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**From:** Chris Z. Boron <cboron@Turnkeyllc.com>  
**Sent:** 11-07-2019 10:38  
**To:** Locey, David (DEC) <david.locey@dec.ny.gov>  
**Subject:** FW: Six Vacant Lots, Site #E915188 - 113-135 Ridge Road, Lackawanna, NY

*ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.*

Hi David,

I left you a voice mail earlier today.

I see in the email below you sent the PRR reminder to our client (Lexco) in addition to Durban Group.

One of the questions on the cert form Box 1 Question 2 “Has some or all of the Site property been sold, subdivided..... during this reporting period”.

Our client purchased the property in February 2019, during the reporting period. Was the Department provided information needed to document this? Form state “**If you answered YES to questions 2 thru 4, include documentation or evidence that documentation has been previously submitted with this certification form**”.

Regards,

**Christopher Boron, P.G.**

*Sr. Project Manager*

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**From:** Lucia Moura <lumalex@aol.com>  
**Sent:** Wednesday, October 23, 2019 3:42 PM  
**To:** Chris Z. Boron <cboron@Turnkeyllc.com>  
**Cc:** jsimens@gwfglaw.com  
**Subject:** Fwd: Six Vacant Lots, Site #E915188 - 113-135 Ridge Road, Lackawanna, NY

hi chris,  
here is the correspondence from david locey from NYS.  
thanks,  
lucia

-----Original Message-----

From: Locey, David (DEC) <david.locey@dec.ny.gov>  
To: lumalex@aol.com <lumalex@aol.com>; glen.cherry@durbangroup.com <glen.cherry@durbangroup.com>  
Sent: Wed, Oct 16, 2019 2:02 pm  
Subject: Six Vacant Lots, Site #E915188 - 113-135 Ridge Road, Lackawanna, NY

When it's completed, please send the Periodic Review Report for the subject site to me. David Szymanski will be out of the office for an extended period.




If you have any questions, please contact me

**David P. Locey**

Assistant Engineer, Division of Environmental Remediation

**New York State Department of Environmental Conservation**

270 Michigan Avenue, Buffalo, NY 14203-2915  
P: 716-851-7220 | F: 716-851-7226 | [david.locey@dec.ny.gov](mailto:david.locey@dec.ny.gov)

[www.dec.ny.gov](http://www.dec.ny.gov) |  |  | 

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



**Site No.**            **E915188**

**Site Details**

**Box 1**

**Site Name** **Six Vacant Lots on Ridge Road**

Site Address: 113-135 Ridge Road    Zip Code: 14218  
 City/Town: Lackawanna  
 County: Erie  
 Site Acreage: 0.770

Reporting Period: August 2, 2018 to November 02, 2019

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

**Box 2**

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

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

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

\_\_\_\_\_  
 Signature of Owner, Remedial Party or Designated Representative

\_\_\_\_\_  
 Date

**Description of Institutional Controls**Parcel

141.43-1-6.1

Owner

Lackawanna FDS 715551, LLC

Institutional Control

Ground Water Use Restriction  
Soil Management Plan  
Landuse Restriction

IC/EC Plan  
Site Management Plan

## Institutional Controls:

- 1) Easement -
  - "May be used for Commercial use only..."
- 2) Operation, Monitoring and Maintenance Plan (Appendix H of the Site Investigation/Remedial Alternatives Report (May 2006)+ Addendum (April 11, 2008).
  - Soil Cover System of (minimum) one foot clean soil.
  - Groundwater Use prohibition
- 3) Soil/ Fill Management Protocols (Appendix G of the Site Investigation/Remedial Alternatives Report (May 2006)+ Addendum (April 11, 2008).

Box 4

**Description of Engineering Controls**Parcel

141.43-1-6.1

Engineering Control

## Cover System

A site-wide cover system is in place. A one-foot layer of clean soil, vegetation and landscaping mulch covers all areas of the site not covered by pavement or building foundations. The clean, imported soil met the requirements for commercial site use (ref Appendix 5 of DER-10). Pavement and the building slab were constructed consistent with industry standards and comprise a cover more than 6 inches thick.

### Periodic Review Report (PRR) Certification Statements

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

a) the Periodic Review report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;

b) to the best of my knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and the information presented is accurate and complete.

YES    NO  
   

2. If this site has an IC/EC Plan (or equivalent as required in the Decision Document), for each Institutional or Engineering control listed in Boxes 3 and/or 4, I certify by checking "YES" below that all of the following statements are true:

(a) the Institutional Control and/or Engineering Control(s) employed at this site is unchanged since the date that the Control was put in-place, or was last approved by the Department;

(b) nothing has occurred that would impair the ability of such Control, to protect public health and the environment;

(c) access to the site will continue to be provided to the Department, to evaluate the remedy, including access to evaluate the continued maintenance of this Control;

(d) nothing has occurred that would constitute a violation or failure to comply with the Site Management Plan for this Control; and

(e) if a financial assurance mechanism is required by the oversight document for the site, the mechanism remains valid and sufficient for its intended purpose established in the document.

YES    NO  
   

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

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

\_\_\_\_\_  
 Signature of Owner, Remedial Party or Designated Representative

\_\_\_\_\_  
 Date

IC CERTIFICATIONS  
SITE NO. E915188

Box 6

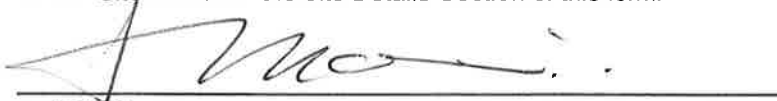
**SITE OWNER OR DESIGNATED REPRESENTATIVE SIGNATURE**

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

I Lucia Moura at 1681 Ocean Blvd, Rye, NH 03870  
print name print business address

PRESIDENT, LEXCO, INC  
am certifying as Owner (Owner or Remedial Party)

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



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

11/13/2019  
Date

IC/EC CERTIFICATIONS

Box 7

Qualified Environmental Professional Signature

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

I Thomas H. Forbes at 2558 Hamburg Turnpike Buffalo NY 14218  
print name print business address

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

[Signature] [Stamp] 11-8-19  
Signature of Qualified Environmental Professional, for Date  
the Owner or Remedial Party, Rendering Certification  
Stamp  
(Required for PE)





# ATTACHMENT A

## ENVIRONMENTAL INSPECTION FORM

6 Lots Site, Lackawanna, New York

Property Name: Six Vacant Lots on Ridge Rd Inspection Date: 11/7/19  
Property Address: 113-135 Ridge Road  
City: Lackawanna State: NY Zip Code: 14218  
Property ID: (Tax Assessment Map)  
Section: 141.43 Block: 1 Lot(s): 6.1  
Total Acreage: 0.77

Weather (during inspection): Temperature: 36° Conditions: Light Rain

SIGNATURE: Chris Boron

The findings of this inspection were discussed with appropriate personnel, corrective actions were identified and implementation was mutually agreed upon:

Inspector: Christopher Boron Date: 11/7/19  
Next Scheduled Inspection Date: TBD in 2020

### COVER & VEGETATION

1. Final cover in acceptable condition?

Is there evidence of sloughing, erosion, ponding or settlement?

Is there evidence of unintended traffic; rutting?

Is there evidence of distressed vegetation/turf?

<u>X</u>	<u>   </u>
<u>   </u>	<u>X</u>
<u>   </u>	<u>X</u>
<u>   </u>	<u>X</u>
Yes	No

2. Final cover sufficiently covers soil/fill material?

Are there cracks visible in the soil or pavement?

Is there evidence of erosion in the storm water channels or swales?

Is there damage to the synthetic erosion control fabric in the channels or swales?

<u>X</u>	<u>   </u>
<u>   </u>	<u>X</u>
<u>   </u>	<u>X</u>
<u>   </u>	<u>X</u>

### ACTIVITY ON SITE

3. Any activity on site that mechanically disturbed soil cover?

<u>   </u>	<u>X</u>
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### ADDITIONAL FACILITY INFORMATION

Development on or near the site? (Specify size and type):

It appears that a gas station is being constructed east of the site at the corner of Ridge Road and Wasson Avenue. Property is approximately 0.5 acres in size.

COMMENTS

Item #

This is the 1st annual inspection since Site was redeveloped as a Family Dollar store. Cover system appears to be in good condition.

ATTACHMENTS

1. Site Sketch NA
2. Photographs Attached
3. Laboratory Report (s) NA

## SITE PHOTOGRAPHS

Photo 1:



Photo 2:



Photo 3:



Photo 4:



Photo 1: Asphalt and soil cover system on west side of Site looking north.

Photo 2: Asphalt cover system on south side of building looking east.

Photo 3: Soil cover system on berm along west side of Site, looking south.

Photo 4: Landscaping/soil cover along north side of Site looking east.

## SITE PHOTOGRAPHS

Photo 5:



Photo 6:



Photo 7:



Photo 8:



Photo 5: Soil cover along east side of building looking south.

Photo 6: Asphalt and concrete cover system on south side of building looking west.

Photo 7: Concrete pad on south side of Site looking west.

Photo 8: Redevelopment activity east of the Site at corner of Ridge Road and Wasson Avenue looking east.