

November 3, 2023

Ms. Megan Kuczka
Environmental Program Specialist 1
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

Dear Ms. Kuczka:

Roux Environmental Engineering & Geology, PLLC (Roux) has prepared this Institutional & Engineering Controls Certification for the reporting period of November 2, 2022 through November 2, 2023 for the above referenced Site. The Site received its Certificate of Completion (COC) on August 1st, 2018.

No Site activities were 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 receipt of COC as documented in the Excavation and Disposal Completion and Final Engineering Report dated June 1, 2018, prepared by Terracon Consultants – NY, Inc.

ExchangeRight Net Leased Portfolio 45 DST is the current owner, and has request that the correspondence regarding the Site, including the annual Periodic Review Report reminders be sent to:

Paul Lowry – Facilities Director – plowry@exchangeright.com

Janna Grigoryan – Assistant Facilities Director – jgrigoryan@exchangeright.com

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

Sincerely,

ROUX ENVIRONMENTAL ENGINEERING AND GEOLOGY, D.P.C.



Christopher Boron, P.G.
Principal Geologist

Attachments

cc: Avery Auman (ExchangeRight)



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



Site Details

Box 1

Site No. **E915188**

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: November 02, 2022 to November 02, 2023

YES NO

1. Is the information above correct? ☒ ☐

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? ☐ ☒

3. Has there been any change of use at the site during this Reporting Period (see 6NYCRR 375-1.11(d))? ☐ ☒

4. Have any federal, state, and/or local permits (e.g., building, discharge) been issued for or at the property during this Reporting Period? ☐ ☒

If you answered YES to questions 2 thru 4, include documentation or evidence that documentation has been previously submitted with this certification form.

5. Is the site currently undergoing development? ☐ ☒

Box 2

YES NO

6. Is the current site use consistent with the use(s) listed below? ☒ ☐
Commercial and Industrial

7. Are all ICs in place and functioning as designed? ☒ ☐

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 ControlsParcelOwnerInstitutional Control**141.43-1-6.1**

Exchangeright Net-Leased Portfolio 45DST

Ground Water Use Restriction
Soil Management Plan
Landuse RestrictionIC/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), revised 3/20/2017.
 - 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).

Description of Engineering ControlsParcelEngineering Control**141.43-1-6.1**

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 Engineering Control certification;

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

YES NO



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

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

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

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

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

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

YES NO



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

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

Signature of Owner, Remedial Party or Designated Representative

Date

IC CERTIFICATIONS
SITE NO. 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 J.P. Lowry at 1055 E. Colorado Blvd., Suite 310, Pasadena, CA 91106
print name print business address

am certifying as Owner's Representative (Owner or Remedial Party)

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

J. P. Lowry
Signature of Owner, Remedial Party, or Designated Representative
Rendering Certification

11/3/2023
Date

EC CERTIFICATIONS


Box 7

Qualified Environmental Professional Signature

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

I Christopher Boron at 2558 Hamburg Turnpike, Suite 300, Buffalo, NY 14218
print name print business address

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

 11/3/2023
Signature of Qualified Environmental Professional, for Stamp Date
the Owner or Remedial Party, Rendering Certification (Required for PE)

ATTACHMENT A

ENVIRONMENTAL INSPECTION FORM

6 Lots Site, Lackawanna, New York

Family Dollar

Property Name: Six Vacant Lots on Ridge Road Inspection Date: 9/26/2023

Property Address: 113-135 Ridge Road (121 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: 68° Conditions: Overcast

SIGNATURE:

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

Inspector: Christopher Boron Date: 9/26/2023

Next Scheduled Inspection Date: TBD in 2024

COVER & VEGETATION

1. Final cover in acceptable condition?	<u>X</u>	
Is there evidence of sloughing, erosion, ponding or settlement?	<u> </u>	<u>X</u>
Is there evidence of unintended traffic; rutting?	<u> </u>	<u>X</u>
Is there evidence of distressed vegetation/turf?	<u> </u>	<u>X</u>
	<u>Yes</u>	<u>No</u>
2. Final cover sufficiently covers soil/fill material?	<u>X</u>	
Are there cracks visible in the soil or pavement?	<u> </u>	<u>X</u>
Is there evidence of erosion in the storm water channels or swales?	<u> </u>	<u>X</u>
Is there damage to the synthetic erosion control fabric in the channels or swales?	<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): A gas station has been constructed to the east of the Site at the corner of Ridge Rd. and Wasson Ave. The property is about 0.5 acres in size.

COMMENTS

Item # The cover system appears to be in good condition

ATTACHMENTS

1. Site Sketch Not Applicable
2. Photographs Attached
3. Laboratory Report (s) Not Applicable

SITE PHOTOGRAPHS

Photo 1:



Photo 2:



Photo 3:



Photo 4:



Photo 1: Asphalt portion of cover system southwest of the building, looking northeast.

Photo 2: Landscaped portion of cover system north side of building, looking east.

Photo 3: Soil cover system and building on east side of Site, looking south.

Photo 4: Asphalt and concrete cover system south side of building, looking west.

SITE PHOTOGRAPHS

Photo 5:



Photo 6:



Photo 7:



Photo 5: Asphalt, concrete, and soil cover system south side of building, looking east.

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

Photo 7: Gas station, east of Site across Wasson Avenue, looking east.