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March 12, 2013

Reference No. 630992

Mr. David S. Szymanski  
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
270 Michigan Avenue  
Buffalo, NY 14203

Dear Mr. Szymanski:

Re: Periodic Review Report  
NYSDEC Site ID V00625-9  
Buffalo Brake Beam  
Lackawanna, New York

CRA Infrastructure & Engineering, Inc. (CRA I &E) has prepared the Periodic Review Report (PRR) for the Buffalo Brake Beam on behalf of the current owner, FCSM, LLC. The PRR is attached. Please contact me if you have any questions regarding this submission.

Yours truly,

CRA Infrastructure & Engineering, Inc.

Katherine B. Galanti  
Project Manager

KBG/ck/630992-Szymanski-001

Encl.

cc: J. Pohlman, Esq.

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Equal  
Employment Opportunity  
Employer

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REGISTERED COMPANY FOR  
**ISO 9001**  
ENGINEERING DESIGN



**CONESTOGA-ROVERS  
& ASSOCIATES**

## **2013 PERIODIC REVIEW REPORT**

**Buffalo Brake Beam Property  
400 Ingham Avenue  
Lackawanna, New York**

**Prepared for:  
FCSM, LLC**

**PREPARED BY:**  
**CONESTOGA-ROVERS & ASSOCIATES**  
285 DELAWARE AVENUE, SUITE 500  
BUFFALO, NEW YORK 14202

**MARCH 2013  
REF. NO. 630992 (1)**

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## 1.0 INTRODUCTION

The Buffalo Brake Beam Property (Site) is located at 400 Ingham Avenue in Lackawanna, New York (Figure 1.1). The property and facility are currently owned and operated by FCSM, LLC (FCSM). Investigation and remediation of the Buffalo Brake Beam Site was completed under a Voluntary Cleanup Agreement (VCA) between the Site Owners at the time (Rigel Enterprises, Inc.) and the New York State Department of Environmental Conservation (NYSDEC). Under this program, soils with residual contamination above NYSDEC cleanup objectives were allowed to remain in place on Site, provided that a Soil Management Plan (SMP) was developed to set guidelines for management of impacted soils during future Site activities. An SMP was developed to ensure implementation and management of the institutional controls (ICs) and engineering controls (ECs) in place at the Site. This Periodic Review Report (PRR) has been prepared to certify that site management activities are being conducted in accordance with the SMP.

The Remedial Action Final Report, dated April 19, 2004, summarized remedial investigations and actions completed at the Site prior to entering into the VCA. Two on-Site areas that contain residual contaminated soils and three areas that may contain residual contaminated soils were identified. These five areas are shown on Figure 1.2 and are as follows:

- Area 1: Soil contaminated with lead paint residuals
- Area 2: Soil contaminated with gasoline spill residuals
- Area 3: Soil potentially contaminated with gasoline spill residuals
- Area 4: Soil potentially contaminated with fuel oil residuals
- Area 5: Soil potentially contaminated with transformer oil residuals

Based on the locations and relatively low concentrations of contaminants present at these five areas, there was determined to be no risk to human health or the environment for the contemplated use of the property and no further remedial actions were required.

Institutional and engineering controls (i.e., a cover system) have been imposed on the Site and are contained in the Declaration of Covenants and Restrictions which was recorded with the Erie County Clerk on August 6, 2004.

An SMP dated April 19, 2004 was prepared to set guidelines for management of soil material during any future activities that would breach the cover system at the Site. The SMP also required annual certification of the SMP (aka: "Periodic Review Report" (PRR) and "Certification of Institutional and Engineering Controls").

After review and acceptance of the August 2010 Annual Certification submittal, the NYSDEC issued a letter dated December 29, 2010 to FCSM adjusting the reporting requirement from annual to triennial (every three years). Therefore, certification of the SMP and of the institutional and engineering controls is now required every three years rather than annually. This PRR covers the reporting period December 16, 2009 through December 16, 2012.

The report is organized as follows:

- Section 1 – Introduction: The background and brief remedial history of the Site.
- Section 2 – Engineering and Institutional Controls: The ECs/ICs for this site are described.
- Section 3 – Inspections and Maintenance Activities: Activities performed during the current reporting period and their results.
- Section 4 – Conclusions and Recommendations: Conclusions and recommendations based upon data and results of the previous inspections.

## **2.0     ENGINEERING AND INSTITUTIONAL CONTROLS**

Engineering controls are required to protect human health and the environment because areas of residual contaminated soil and potentially contaminated soil are present at the Site. Figure 1.2 shows the Site layout.

### **2.1     ENGINEERING CONTROLS (ECs)**

The purpose of the EC systems is to eliminate the potential for human contact with fill material, prevent percolation of precipitation through the impacted fill, and eliminate the potential for contaminated runoff from the site. The existing concrete floors of the crane room and the building addition serve as a cover system for the area contaminated with gasoline spill residuals (Area 2). Per the Remedial Action Final Report, cover systems were not required to be constructed at any of the other four areas. In the event that a cover system is required in the future, it must be constructed in accordance with the SMP.

### **2.2     INSTITUTIONAL CONTROLS (ICs)**

The purpose of the ICs is to:

- i)     Implement, maintain, and monitor the ECs.
- ii)    Prevent future exposure to remaining on-Site contamination by controlling disturbance of the impacted soils.
- iii)   Limit the use and development of the Site for restricted commercial use, excluding day care, child care, and medical care uses.

The ICs that have been established for the Site must be:

- In compliance with the Declaration of Covenant and Restrictions and the SMP by the Grantor (currently FCSM) and the Grantor's successors and assigns.
- Operated and maintained as specified in the SMP.
- Inspected at a frequency and in a manner defined in the SMP.

Data and information pertinent to management of the Site must be reported at the frequency and in a manner defined in the SMP.

Adherence to the ICs is required by the Declaration of Covenant and Restrictions. The ICs may not be discontinued without an amendment to or extinguishment of the Declaration of Covenant and Restrictions.

As required by the Declaration of Covenant and Restrictions, the Site has a series of ICs in the form of Site restrictions. The Site restrictions that apply are:

- The Site may not be used for a higher level of use, such as unrestricted or restricted residential use, without additional remediation and amendment of the Declaration of Covenant and Restrictions, as approved by the NYSDEC.
- All future activities on the property that will disturb remaining impacted material must be conducted in accordance with the SMP.
- The Site owner or remedial party will submit to the NYSDEC a written statement that certifies, under penalty of perjury, that: (1) controls employed at the Site are unchanged from the previous certification or that any changes to the controls were approved by the NYSDEC; and, (2) nothing has occurred that impairs the ability of the controls to protect public health and the environment or that constitute a violation or failure to comply with the SMP.
- The groundwater beneath the property may not be used for potable or non-potable purposes.



### 3.0 INSPECTIONS

The SMP originally required annual certification of the SMP (aka: "Periodic Review Report" (PRR) and "Certification of Institutional and Engineering Controls"). The NYSDEC issued a letter dated December 29, 2010 to FCSM adjusting the reporting requirement from annual to triennial (every three years). Therefore, certification of the SMP and of the institutional and engineering controls is now required every three years rather than annually.

The PRR must be submitted to the NYSDEC, including a certification that the institutional controls are still in place, have not been altered and are still effective; that the remedy and protective cover have been maintained; and that conditions at the Site are protective of public health and the environment in a manner consistent with that contemplated by the Remedial Action Final Report.

This PRR covers the reporting period December 16, 2009 through December 16, 2012. The inspection was completed February 2013.

#### 3.1 CRANE ROOM FLOOR COVER SYSTEM (AREA 2)

The Crane Room building floor slab and building serve as a cover system for the area contaminated with gasoline spill residuals (Area 2). The floor slab and building were visually inspected for cracks and deterioration. The concrete surfaces were free of cracks and deterioration and appeared in good condition.

No corrective action is necessary for the cover system at this time.

#### 3.2 AREA POTENTIALLY CONTAMINATED WITH TRANSFORMER OIL RESIDUALS (AREA 5)

The SMP required that in the event that the transformers were removed or the building demolished, that the stone and soil from the floor be sampled and managed in accordance with the SMP. The transformers were removed by the former property owner, Rigel Enterprises, as a condition of the sale of the property to FCSM. Soil samples were collected in 2008. The samples were analyzed for polychlorinated biphenyls (PCBs). The concentrations were below the 6NYCRR Part 375 Restricted Use - Industrial Soil Cleanup Objectives for PCBs. The results were submitted with the

Annual Soil Management Certification dated June 2008. There were no changes observed in Area 5 since the previous reporting period.

No corrective action is necessary in Area 5 at this time.

### **3.3        AREA 1, AREA 3, AND AREA 4**

There are currently no constructed cover systems required for Area 1, Area 3, and Area 4. These areas are inspected to confirm that soils have not been disturbed and that no excavation or construction activities have occurred that would have required management of impacted soils.

There was no evidence of soil disturbance or excavation activities in these Areas and no corrective action is necessary at this time.

#### 4.0 CONCLUSIONS AND RECOMMENDATIONS

The annual inspections and monitoring activities performed during this reporting period have determined that:

- i) The existing cover system in Area 2 is in good condition with no deficiencies noted.
- ii) The transformers located in Area 5 were removed, soil samples were collected from the area beneath the transformers, and PCB concentrations were below the 6 NYCRR Part 375 Restricted Use – Industrial Soil Cleanup Objectives.
- iii) No excavation or construction activities have occurred in Area 1, Area 3, or Area 4 that would have required management of impacted soils.

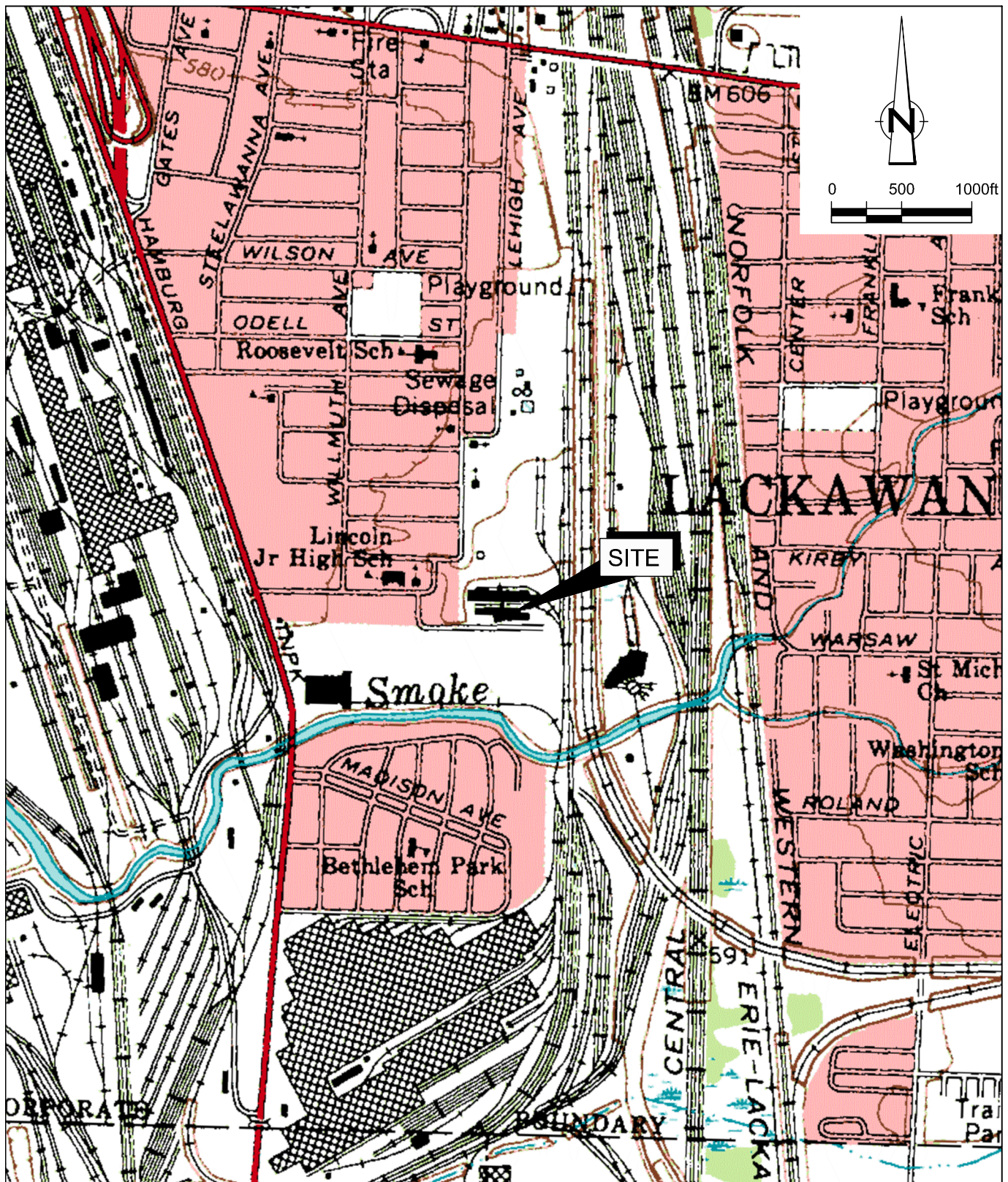
Based on these observations, it is concluded that the remedial action continues to be effective. No deficiencies were noted and corrective action is not necessary at this time.

## 5.0 CERTIFICATION

The NYSDEC Site Management Periodic Review Report Notice, Institutional and Engineering Controls Certification Form is provided in Appendix A.

## FIGURES





SOURCE: USGS 7.5 MINUTE SERIES, TOPO QUAD: BUFFALO SE, NY 1965

figure 1.1

SITE LOCATION MAP  
BUFFALO BRAKE BEAM PROPERTY  
SITE NO. V00625-9  
*Lackawanna, New York*





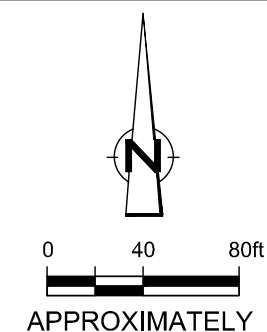
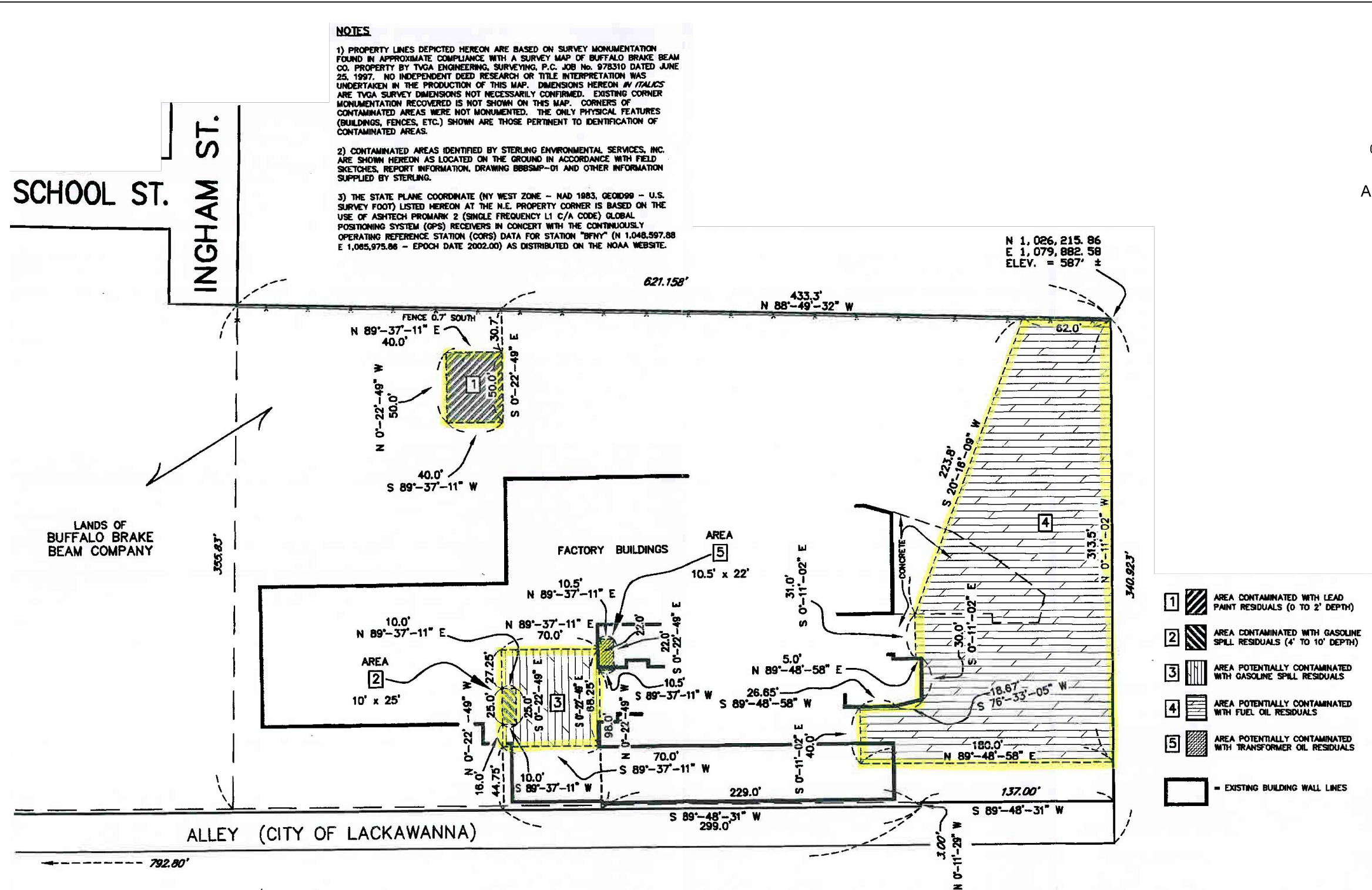


figure 1.2  
SITE LAYOUT  
BUFFALO BRAKE BEAM PROPERTY  
SITE NO. V00625-9  
Lackawanna, New York



## APPENDIX A

### INSTITUTIONAL AND ENGINEERING CONTROLS CERTIFICATION FORM





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



<b>Site No.</b> V00625	<b>Site Details</b>	<b>Box 1</b>
<b>Site Name</b> Buffalo Brake Beam Property		
Site Address: 400 Ingham Avenue      Zip Code: 14218- City/Town: Lackawanna County: Erie Site Acreage: 8.1		
Reporting Period: December 16, 2009 to December 16, 2012		
		YES      NO
1. Is the information above correct?		<input checked="" type="checkbox"/> <input type="checkbox"/>
If NO, include handwritten above or on a separate sheet.		
2. Has some or all of the site property been sold, subdivided, merged, or undergone a tax map amendment during this Reporting Period?		<input type="checkbox"/> <input checked="" type="checkbox"/>
3. Has there been any change of use at the site during this Reporting Period (see 6NYCRR 375-1.11(d))?		<input type="checkbox"/> <input checked="" type="checkbox"/>
4. Have any federal, state, and/or local permits (e.g., building, discharge) been issued for or at the property during this Reporting Period?		<input type="checkbox"/> <input checked="" type="checkbox"/>
<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"/>

	<b>Box 2</b>
	YES      NO
6. Is the current site use consistent with the use(s) listed below? Industrial	<input checked="" type="checkbox"/> <input type="checkbox"/>
7. Are all ICs/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

**SITE NO. V00625**

**Box 3**

**Description of Institutional Controls**

Parcel

Owner

Institutional Control

**141.680-1-8.100**

FCSM, LLC, Attn: Frank Pericozzi

Ground Water Use Restriction  
Landuse Restriction  
Soil Management Plan

**Box 4**

**Description of Engineering Controls**

Parcel

Engineering Control

**141.680-1-8.100**

Cover System

**Engineering Control Details for Site No. V00625**

**Parcel: 141.680-1-8.100**

Declaration of Covenants and Restrictions - Filed with Erie County Clerk's Office 08/06/2004.

### 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. V00625

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 FRANK PERICOTZI at 400 INGHAM AVE LACK NY 14218  
print name print business address

am certifying as OWNER (Owner or Remedial Party)

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

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

2/19/13  
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 ROBERT G. ADAMS at CRA INFRASTRUCTURE & ENGINEERING  
print name print business address

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

Robert G. Adams

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



3/12/13  
Date