



September 08, 2022

Ms. Elizabeth Kaptein  
NYSDEC Region 8  
6274 East Avon-Lima Road  
Avon, New York 14414

Re: 2022 Periodic Review Report  
NYSDEC BCP Site No. C828135  
1440 Empire Boulevard, Penfield, New York  
LaBella Project No. 2223231

Dear Ms. Kaptein,

LaBella Associates, D.P.C. ("LaBella") is pleased to submit this Periodic Review Report (PRR) for the 1440 Empire Boulevard Site located at in the town of Penfield, Monroe County, New York (herein after referred to as "the Site"). The Site is enrolled in the New York State Department of Environmental Conservation's (NYSDEC's) Brownfield Cleanup Program (BCP), NYSDEC Site No. C828135. The Site location can be found in Figure 1 attached to this report.

LaBella was retained by Waters Edge 2 Apartments, LLC to assist in the monitoring and reporting requirements associated with the Site Management Plan (SMP) dated August 2012 and modified June 2014 for the Site. In accordance with the requirements in the SMP and NYSDEC DER-10 Technical Guidance for Site Investigation and Remediation dated May 2010, and the guidelines provided by NYSDEC, an annual inspection was conducted of all remedial components installed at the Site. The site-wide inspection was performed on July 15, 2022. The 2022 Site-wide inspection form including descriptions of inspection activities/observations is attached as Appendix 1. The results of the annual inspection are also summarized below. Note that this PRR certification period is between July 16, 2021 and July 16, 2022.

#### Background/History

The Site was historically used as a sand quarry and later as an unpermitted disposal area for construction and demolition (C&D) debris from the late 1940's to the early 1980's. A Phase I Environmental Site Assessment (ESA) was completed in December 2000 at the Site by Sear-Brown which reportedly identified several Recognized Environmental Conditions (RECs) including the presence of drums, fill and C&D debris. In February 2001, Sear-Brown conducted a Phase II Environmental Test Pit Program which reportedly identified semi-volatile organic compounds (SVOCs), metals, polychlorinated biphenyl (PCB) Arochlor 1254, VOCs and ash fill. Additional investigations were completed by Passero Associates in November and December of 2002 which reportedly identified SVOCs and Arochlor 1254 above NYCRR Part 375 Soil Cleanup Objectives (SCOs). A remedial investigation report (RIR) dated December 2011 by Passero Associates identified SVOCs, PCBs, pesticides and metals at concentrations exceeding NYCRR Part 375 Unrestricted Use and Restricted Residential Use SCOs. No significant contamination of groundwater, soil vapor or surface soils was reportedly identified during the RIR.

The Site was remediated in accordance with the remedy selected by the NYSDEC in the NYSDEC Decision Document dated December 2012. Remedial Actions performed at the Site included



excavation of soil/fill with elevated contaminant concentrations, construction and maintenance of a soil cover system, execution and recording of an Environmental Easement, and development and implementation of a Site Management Plan. The Certificate of Completion (COC) for the Site was issued on June 30, 2014.

### **Institutional Controls**

Institutional controls at the Site are implemented to maintain engineering controls, prevent future exposure to remaining contamination at the Site and limit Site use. Institutional controls at the Site include:

- Compliance with Environmental Easement and the SMP
- Engineering Controls must be operated and maintained as specified in the SMP
- Engineering Controls must be inspected at a frequency and in a manner defined in the SMP
- Data and information pertinent to Site Management of the Controlled Property must be reported at the frequency and in a manner defined in the SMP
- The Site may only be used for restricted residential use provided that engineering controls and institutional controls are employed
- The property cannot be used for a higher level use without additional remediation and amendment of the Environmental Easement
- All future activities on the property that will disturb remaining contamination must be conducted in accordance with the SMP
- Vegetable gardens and farming on the property are prohibited
- The Site owner or remedial party will submit to the NYSDEC written certification of controls at the Site annually or at an alternate period of time that the NYSDEC may allow.

The inspection found the Site is being used for restricted residential use and engineering controls were in place. Groundwater is not observed being used and no vegetable gardens or farming was observed. Engineering controls have been inspected as outlined in the SMP.

The Annual Inspection Form can be found in Appendix 1 of this report. The results of the annual inspection are further described below. Photographs taken during the Site inspection are included in Appendix 2.

### **Engineering Controls**

The engineering control currently in place at the Site is the Site cover system. The purpose of the cover system is to prevent exposure to remaining soil contamination at the Site.

### **Annual Site Inspection**

The Site remains developed with several occupied apartment buildings and continues to be used for restricted-residential use. The cover system is intact and consists of building slabs, asphalt parking areas, concrete walkways and vegetated soil. The cover system appears to be functioning as designed.

A small area of the cover was disturbed during the certification period. Specifically, an electrical line was installed from a transformer on-site to connect electric car charges located outside the BCP boundary. LaBella was not present during the work; however, the following information was reported to LaBella:

- Work completed for the electrical line included excavation of a trench approximately 60-ft in



- length and 1-ft wide to a depth of 18-inches below ground surface (bgs).
- The trench was completed proximate to the transformer through a garden bed and asphalt parking lot area.
- No demarcation layer was encountered during the work.
- Material was temporarily staged next to the trench and backfilled in the same locations it was taken out.
- No material was imported to site for backfill or removed from the Site during the work.
- Following installation, the asphalt was repaired.

Based on the SMP and subsequent PRR updates, the location of work should have approximately 2-ft of clean cover in the area. Refer to Figure 2 showing the location of the work

The Site-wide Inspection Form completed as part of the inspection is included as Appendix 1. Photos taken of the Site and cover system on the date of the inspection are included as Appendix 2.

#### Certifications

The completed institutional and engineering controls certification forms are included as Appendix 3.

#### General Site Assessment

The Site use remains restricted residential use as described in 6NYCRR Part 375. The institutional and engineering controls for the property remain in place and appear to be functioning as designed.

No new conclusions regarding site contamination were made based on observations during the Site inspection. It is recommended that the frequency of inspections (annually) remain the same; however, it is recommended that submission of the PRR and associated certifications be reduced to every 5 years conforming with the SMP. No recommendations are made regarding the remedy and/or monitoring plan.

If you have any questions, or require additional information, please do not hesitate to contact me at (585) 770-2552.

Sincerely,

LABELLA ASSOCIATES, P.C.



Alexander Brett, EIT  
Project Engineer



# *Figures*



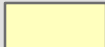


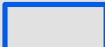




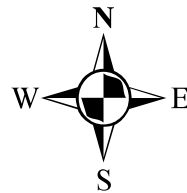


**Legend**

 Electrical Line Install

 Site Boundary

NOTES:  
1) The Site Boundary was obtained from the NYSDEC-approved Site Management Plan dated August 2012 and Modified June 2014 and was georeferenced from Site features; therefore the Site Boundary displayed is considered approximate.  
2) Trench was measured from Site features and is consider approximate.  
3. Electrical line was installed 18-inches bgs in an approximately 1-ft wide trench for two car chargers off-site. Material removed was used for backfill in the same location it was taken and asphalt was repaired.



0 65  
Feet  
1 inch = 65 feet

INTENDED TO PRINT AS: 11" X 17"

CLIENT:

Waters Edge 2  
Apartments LLC

PROJECT:

2021 Annual Site  
Inspection Report

NYSDEC Site C828135  
1440 Empire Boulevard  
Penfield, NY  
DRAWING NAME:

Electrical Line  
Installation Location

PROJECT #/DRAWING #/ DATE

2223231

FIGURE 2

9/7/2022

# ***Appendix 1***

*2022 Site-wide Inspection Form*



## SITE-WIDE INSPECTION FORM

NAME OF INSPECTOR: Alex Brett

COMPANY OF INSPECTOR: LaBella

DATE OF INSPECTION: July 15, 2022

CURRENT USE OF SITE: Residential Apartment Buildings (Restricted-Residential)

HAS A CHANGE OF USE OCCURRED SINCE THE LAST CERTIFICATION?

YES ☒ NO IF YES, THEN

EXPLAIN:

GENERAL DESCRIPTION OF COVER: Soil, and impervious surfaces  
(concrete, asphalt, building slabs)

HAS THE COVER BEEN PENETRATED? YES ☒ NO IF YES,  
THEN EXPLAIN:

Small trench shaped cut in asphalt near northern portion of site boundary, will follow up with owner to determine work completed.

HAVE ANY STRUCTURES BEEN CONSTRUCTED ON THE SITE SINCE THE  
LAST INSPECTION? YES ☒ NO IF YES, THEN

EXPLAIN:

HAVE COVER CONDITIONS CHANGED SINCE THE LAST INSPECTION?

YES ☒ NO IF YES, THEN

EXPLAIN:

# ***Appendix 2***

*2022 Inspection Photograph Log*







Photo 1 (7/15/22): View of the Site facing southeast taken from northwestern portion of Site.



Photo 2 (7/15/22): View facing southwest taken from north corner of building 800 (right)



Photo 3 (7/15/22): View of Building 700 facing southeast. Taken standing southeast of building 800



Photo 4 (7/15/22): View facing northeast between building 700 (left) and Empire Blvd (right)





Photo 5 (7/15/22): View facing northeast taken along sidewalk between building 700 (right) and building 800 (left)



Photo 6 (7/15/22): View facing northeast taken along roadway between building 700 (right) and building 800 (left).





Photo 7 (7/15/22): View facing northwest, facing entrance of building 800.



Photo 8 (7/15/22): View facing southeast taken northeast of building 700 with view of building 700 (left)





Photo 9 (7/15/22): View facing north, building 900 in center



Photo 10 (7/15/22): View facing northwest between building 800 (left) and building 900 (right)





Photo 11 (7/15/22): View facing northeast corner of Site taken from the northeast side of building 900.



Photo 12 (7/15/22): View facing northeast taken with building 900 (right). Small trench location center in asphalt.

# ***Appendix 3***

*Institutional and Engineering Controls Certification Form*





## Site Details

**Site No. C828135**

### Box 1

**Site Name 1440 Empire Boulevard**

Site Address: 1440 Empire Boulevard      Zip Code: 14580  
City/Town: Penfield  
County: Monroe  
Site Acreage: 4.738

Reporting Period: July 16, 2021 to July 16, 2022

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"/> |

**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? ☒ ☐  
Restricted-Residential, 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 \_\_\_\_\_

**Box 2A**

YES NO

8. Has any new information revealed that assumptions made in the Qualitative Exposure Assessment regarding offsite contamination are no longer valid? ☐ ☒

**If you answered YES to question 8, include documentation or evidence that documentation has been previously submitted with this certification form.**

9. Are the assumptions in the Qualitative Exposure Assessment still valid?  
(The Qualitative Exposure Assessment must be certified every five years) ☒ ☐

**If you answered NO to question 9, the Periodic Review Report must include an updated Qualitative Exposure Assessment based on the new assumptions.**

**SITE NO. C828135****Box 3****Description of Institutional Controls**ParcelOwnerInstitutional Control**108.06-1-8.2**

Waters Edge 2 Apartments LLC

Ground Water Use Restriction  
Soil Management Plan  
Landuse Restriction  
Building Use Restriction  
Site Management Plan  
IC/EC Plan

Soil Management Plan  
Site Management Plan

Imposition of an institutional control in the form of an environmental easement for the controlled property that:

- requires the remedial party or site owner to complete and submit to the Department a periodic certification of institutional and engineering controls in accordance with Part 375-1.8 (h)(3);
- allows the use and development of the controlled property for restricted residential, commercial and industrial uses as defined by Part 375-1.8(g), although land use is subject to local zoning laws;
- restricts the use of groundwater as a source of potable or process water, without necessary water quality treatment as determined by the NYSDOH or County DOH;
- requires compliance with the Department approved Site Management Plan.

A Site Management Plan is required, which includes the following:

- an Institutional and Engineering Control Plan that identifies all use restrictions and engineering controls for the site and details the steps and media-specific requirements necessary to ensure the following institutional and/or engineering controls remain in place and effective:

Institutional Controls: Environmental Easement

Engineering Controls: The soil cover system.

This plan includes, but may not be limited to:

- an Excavation Plan which details the provisions for management of future excavations in areas of remaining contamination;
- provisions for the management and inspection of the identified engineering controls; and
- the steps necessary for the periodic reviews and certification of the institutional and/or engineering controls.

**Box 4****Description of Engineering Controls**



Parcel

**108.06-1-8.2**

Engineering Control

Cover System

Cover System

A site cover currently exists and will be maintained to allow for restricted residential use of the site. Any site redevelopment will maintain a site cover, which may consist either of the structures such as buildings, pavement, sidewalks comprising the site development or a soil cover in areas where the upper two feet of exposed surface soil will exceed the applicable soil cleanup objectives (SCOs). Where a soil cover is required it will be a minimum of two feet of soil, meeting the SCOs for cover material as set forth in 6 NYCRR Part 375-6.7(d) for restricted residential use. The soil cover will be placed over a demarcation layer, with the upper six inches of the soil of sufficient quality to maintain a vegetation layer. Any fill material brought to the site will meet the requirements for the identified site use as set forth in 6 NYCRR Part 375-6.7(d).

**Box 5**

**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;

It was reported that an electrical line was installed for a electric car charger which involved minor excavation (i.e., no demarcation was encountered and excavation was 18-inches deep). The excavated material was placed back in the same trench from which it was removed and the asphalt was repaired.

(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. C828135

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 Ami Notis at 986 Monroe Ave Rochester, NY 14620,  
print name print business address

am certifying as Manager (Owner or Remedial Party)

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

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

08/15/2022  
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, Daniel Noll at LaBella Associates, D.P.C.  
300 State Street, Rochester NY,  
print name print business address

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



*D. P. Noll*

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

Stamp  
(Required for PE)

9/8/2022  
Date