

Periodic Review Report

*3 Gates Circle Site
BCP Site No. C915272
3 Gates Circle
Buffalo, New York*

March 2020

0309-014-001

Prepared For:

Montante/Morgan Gates Circle LLC



Prepared By:



In Association with:



PERIODIC REVIEW REPORT

MARCH 11, 2019 TO MARCH 11, 2020

3 GATES CIRCLE SITE
(BCP SITE No. C915272)

BUFFALO, NEW YORK

March 2020

0309-014-001

Prepared for:

Montante/Morgan Gates Circle LLC

Prepared By:



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PERIODIC REVIEW REPORT

March 11, 2019 to March 11, 2020

3 Gates Circle Site (C915272)

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PERIODIC REVIEW REPORT

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3 Gates Circle Site (C915272)

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Appendix A	Institutional & Engineering Controls Certification Form
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1.0 INTRODUCTION

Benchmark Environmental Engineering and Science, PLLC (Benchmark), in association with TurnKey Environmental Restoration, LLC (TurnKey) has prepared this Periodic Review Report (PRR) to summarize the post-remedial status of the New York State Department of Environmental Conservation (NYSDEC) Brownfield Cleanup Program (BCP) 3 Gates Circle Site No. C915272, located in the City of Buffalo, Erie County, New York (see Figure 1).

This PRR has been prepared in accordance with the NYSDEC DER-10 *Technical Guidance for Site Investigation and Remediation* (May 2010; Ref. 1); and the NYSDEC's Institutional and Engineering Controls (IC/EC) Certification Form has been prepared for the Site. This PRR and the associated IC/EC Form (see Appendix A) have been completed for the post-remedial period from March 11, 2019 to March 11, 2020.

1.1 Site Background

Gates Circle Holdings, LLC (GCH) entered into a Brownfield Cleanup Agreement (BCA) with NYSDEC on March 19, 2013, amended in October 2014, to investigate and remediate the approximate 6.9-acre Site formerly located at 3 Gates Circle (address discussed later in this section), in the City of Buffalo, County of Erie, New York. BCP site activities were performed in accordance with Brownfield Cleanup Agreement (BCA) Index#C915272-02-13.

The Site is located in the County of Erie, New York and is identified as a portion of Block 4 and Lot 1 on the City of Buffalo Tax Map # 89.79 per Erie County Tax Map records. The Site is bounded by Lafayette Street and Gates Circle to the north, commercial buildings and a parking ramp to the south, Linwood Avenue to the east, and Delaware Avenue to the west (see Figures 1 and 2).

The Site operated as a commercial/medical facility dating back to the early 1900s and continuing until March 2012. When it closed, the Site consisted of 13 interconnected buildings covering most of the Site. These buildings were primarily used for patient care and hospital administration operations, but included other supporting facilities (i.e., laboratories, research facilities, staff housing, auditorium, and a kitchen). The Power Plant located on the southeast corner of the property contained boilers, cooling towers, backup generators, and a

maintenance area for buildings and grounds equipment. The Power Plant was connected to the main campus via an underground tunnel. The historic backup generator and boiler fuel underground storage tanks (USTs) were located proximate to the former Power Plant.

After the remedial investigation and remedial activities were completed under the BCP (further discussed in Section 1.2) but prior to the start of redevelopment, five (5) buildings were demolished as well as portions of 3 other buildings. On May 10, 2016, 1.35 acres of the 6.9 acres Site was sold by GCH to Episcopal Church Home and Affiliates Life Care Community, Inc. d/b/a Canterbury Woods (Canterbury Woods, see Figure 2). The 1.35-acre area located in the northwestern portion of the Site was redeveloped as an assisted living facility. The southern and eastern portions of the Site are still awaiting redevelopment and five (5) former Millard Fillmore hospital buildings remain in the northeastern portion. Two (2) new roadways, the Lancaster Avenue Extension and Lafayette Connector were constructed and are substantially complete (see Figure 2).

In March 2017, the remaining 5.55-acre parcel owned by GCH was subdivided (see Figure 2) and the ownership transferred to Montante/Morgan Gates Circle LLC (M/MGC). Notice of Transfer of Certificate of Completion was filed with the Erie County Clerk's Office on May 3, 2017. The table below identifies the new property addresses, associated SBL Numbers, acreage and owner information.

Address	SBL Number	Acreage	Owner
1 Gates Circle	89.79-4-1.1	1.35	Episcopal Church Home and Affiliates Life Care Community, Inc.
1285 Delaware Ave	89.79-4-1.5	1.96	M/MGC
1291 Delaware Ave	89.79-4-1.4	0.77	M/MGC
1299 Delaware Ave	89.79-4-1.6	0.3	M/MGC
865 Lafayette Ave	89.79-4-1.2	0.48	M/MGC
630 Linwood Ave	89.79-4-1.3	2.04	M/MGC

1.2 Remedial History

In August 2008, the two (2) No. 6 fuel oil USTs associated with the Power Plant were removed along with accessible contamination (approximately 962 tons). Due to the presence of impacts beneath the Power Plant foundation, a groundwater remediation system was installed to collect and pretreat perched groundwater impacted by No. 6 fuel oil.

A Remedial Investigation (RI) was performed as part of the BCP in October 2014 to characterize the nature and extent of contamination at the Site. The results of the RI are described in detail in the Remedial Investigation/Alternatives Analysis (RI/AA) Report (Ref. 2). Generally, the RI determined the following contaminants of concern (COCs) in Site soil/fill were present: polycyclic aromatic hydrocarbons (PAHs), mercury, and No. 6 fuel oil. Groundwater was not identified as a concern.

The RI/AA Report recommended remediation of five (5) areas, with cover system placement recommended as the final remedial measure under a Restricted-Residential Track 4 Cleanup approach. Additional requirements included development and adherence to a Site Management Plan (SMP, Ref. 3) and filing of an Environmental Easement to restrict use of the property to restricted residential, commercial, and industrial applications and to place other limitations on post-redevelopment activities.

Remedial activities completed at the Site were conducted in accordance with the IRM Work Plan (Ref. 4) dated January 29, 2015 and the Decision Document (Ref. 5) dated May 28, 2015. The remedial program was successful in achieving the remedial objectives for the Site. An Environmental Easement restricting end use of the Site and enforcing adherence to the SMP was recorded in October 2015. The remedial activities were documented in the Final Engineering Report (FER, Ref. 6) dated November 2015. The Site received its Certificate of Completion (COC) on December 10, 2015. The following remedial activities were completed at the Site:

- Approximately 635 tons of SVOC-impacted soil/fill was removed from three (3) locations in the central and southern central portions of the Site. The three (3) excavations had horizontal dimensions ranging from 25 to 50 ft and were advanced to depths of 3 to 4.5 fbs.
- Approximately 191 tons of mercury-impacted soil/fill was removed from one (1) location in the southern central portion of the Site. The 40 by 40 ft excavation was completed to a depth of approximately 3 fbs. An additional 30 by 20 ft excavation was completed from approximately 3 to 6 fbs in the southern/central portion of the larger mercury excavation where black petroleum-like globules and odors were observed.

- Approximately 2,434 tons of No. 6 fuel oil-impacted (grossly impacted) soil/fill and stone was removed from beneath the former Power Plant building after its partial demolition. The 150 by 75 ft excavation was completed to depths ranging from 1 to 5 feet below the former basement, based on the thickness of the impacted bedding stone. The native clay soil did not appear to have been impacted by the No. 6 fuel oil due to the low permeability of the clay and high viscosity of the fuel oil.
- After the RI/AA was completed, NYSDEC requested additional soil/fill samples from the greenspace areas to remain as part of the cover system. SVOCs (specifically PAHs) only were detected above their respective Restricted Residential Soil Cleanup Objectives (RRSCOs) in five (5) of the six (6), 0 to 6-inch topsoil samples collected. Topsoil excavations were completed in five (5) areas around the perimeter of the Site to a depth of 6-inches. Approximately 918 tons of SVOC-impacted topsoil was removed, disposed off-site, and replaced with 6-inches of 2-inch crusher run stone.

Upon receiving the COC, redevelopment activities commenced within the 1.35-acre parcel (1 Gates Circle) for construction of the Canterbury Woods 6-story assisted living facility. During redevelopment approximately 306 tons of material was disposed off-site because the material contained solid waste and/or was impacted. The solid waste and/or impacted materials was generated from site redevelopment activities to establish subgrade in the northern portion of the Site.

The Canterbury Woods building has a footprint of approximately 21,480 square feet and provides hardscape cover in the form of concrete foundation and slab. Additional hardscape cover also consisted of six (6) elevated terraces, two (2) parking lots, and sidewalks around the building. A vegetated soil cover system was used in the non-hardscape areas of the 1.35-acre Canterbury Woods parcel. The vegetated soil cover system was constructed of a minimum of 2-feet of DER-10 compliant materials which consisted of 6-inches of imported topsoil or 9-inches of washed #2 stone overlying 18-inches to 15-inches of imported 2-inch crushed stone over a demarcation layer (orange mesh) to separate the cover system from existing Site soil/fill. The Canterbury Woods redevelopment activities were completed in August 2017.

M/MGC also placed a final “top coat” asphalt layer on the Lafayette Avenue Connector, installed 1,750 square feet of side walk hardscape and placed 6-inches of imported top soil to complete the final 2-foot cover of green space along the western side of the Lafayette Avenue Connector.

Figure 3 identifies the updated cover system for the Site. SMP activities were observed by Benchmark and TurnKey personnel to verify conformance with the SMP.

1.3 Compliance

The Canterbury Woods redevelopment, the vacant portions of the Site, and the five (5) former Millard Fillmore hospital buildings still awaiting redevelopment remain in compliance with the SMP, as the cover system is in place (see Figure 3).

1.4 Recommendations

Redevelopment activities will continue at the Site in the next monitoring period (assumed to be March 11, 2020 through March 11, 2021). We recommend that the redevelopment activities continue to be conducted in accordance with the SMP and that the SMP be updated to include the redevelopment/cover system changes once they are completed.

2.0 SITE OVERVIEW

The Site was remediated under the BCP (as discussed in Section 1.2). The remediated property is subject to a comprehensive, site-wide SMP which identifies requirements for monitoring and maintenance of engineering and institutional controls and procedures for post-remedial excavation and related activities.

No redevelopment activities occurred at the Site within the March 11, 2019 to March 11, 2020 reporting period.

The area surrounding the Site has not significantly changed. A residential development was constructed across Linwood Avenue to the east of the Site at the corner of Linwood Avenue and Lafayette Avenue.

3.0 REMEDY PERFORMANCE

A post-remedial site inspection involving a walk-over of the Site covered by this PRR was performed by Christopher Boron, P.G. on February 24, 2020 to visually observe and document the use of the Site for restricted residential, commercial, and/or industrial use, confirm absence of site groundwater use, inspect the cover system integrity, and verify conformance with other requirements under the SMP.

The site inspection completed during this reporting period indicates that the Site is in compliance and the controls in-place are functioning as intended in accordance with the SMP.

The completed IC/EC Certification forms and site photographs taken during the inspection are included in Appendices A and B, respectively.

4.0 SITE MANAGEMENT PLAN

A site-wide SMP was prepared for the Site and approved by the Department in November 2015. Key components of the SMP are described below.

4.1 Institutional and Engineering Control (IC/EC) Plan

Since remaining contaminated soil/fill exists beneath the site, Institutional Controls and Engineering Controls (IC/ECs) are required to protect human health and the environment. The Engineering and Institutional Control Plan describes the procedures for the implementation and management of all IC/ECs at the Site. At the time of the site inspection, the Site is compliant with all engineering and institutional control requirements.

4.1.1 Institutional Controls (ICs)

The Site has a series of Institutional Controls in the form of site restrictions. Adherence to these Institutional Controls is required by the Environmental Easement. Site restrictions that apply to the Controlled Property are:

- The property may be used for restricted residential; commercial, industrial uses, subject to local zoning laws;
- All ECs must be operated and maintained as specified in the SMP;
- The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Erie Department of Health to render it safe for use as drinking water or for industrial purposes, and the user must first notify and obtain written approval to do so from the Department;
- All future activities on the property that will disturb remaining contaminated material must be conducted in accordance with the SMP;
- Operation, maintenance, monitoring, inspection, and reporting of the soil cover system shall be performed as defined in the SMP;
- Access to the site must be provided to agents, employees or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by the Environmental Easement;
- Vegetable gardens and farming on the property are prohibited;

4.1.2 Engineering Controls (ECs)

Engineering controls at the Site include:

- Cover System – Exposure to remaining contamination in soil/fill at the Site is prevented by a final cover system placed over the site. This cover system is comprised of a minimum of 24 inches of clean soil (with underlying demarcation layer), asphalt pavement, concrete-covered sidewalks, concrete basement building slabs, or crushed stone that was placed over the remedial excavation areas and/or to adjust grades at the Site. The cover system must be maintained in compliance with the SMP.

4.2 Excavation Work Plan

An Excavation Work Plan (EWP) was included in the NYSDEC-approved SMP for the Site. The EWP provides guidelines for the management of soil/fill material during intrusive activities. Future intrusive work that will penetrate the cover or cap, or encounter or disturb the remaining contamination, including any modifications or repairs to the existing cover system, will be performed in compliance with the EWP.

4.2.1 Site Redevelopment Activities

No redevelopment activities occurred during the past reporting period. We note that soil from the Canterbury Woods excavation activities that was sampled and requested for on-site use (Benchmark February 8, 2016 letter to NYSDEC and approved by NYSDEC via email dated February 10, 2016) remain in two (2) small stockpiles (approximately 5 yards each) in the eastern portion of the Site for reuse when redevelopment activities continue.

4.2.2 Exported Materials

A crushed concrete pile (beneficial use determination (BUD) material) from the former hospital buildings processed on-site during demolition was formerly stockpiled in the southwestern portion of the Site on top of the cover system. The approximate 5,000 cubic yard pile of crushed concrete was removed from the Site during the reporting period in May 2019 and transported to the former Buffalo Corporation Area A Site (NYSDEC BCP Site

No. C915230) for reuse under an approval from Mr. Eugene Melnyk, P.E. (via email to Benchmark on May 23, 2019, see Appendix C).

4.2.3 Imported Materials

No materials were imported to the Site during the past reporting period.

4.3 Annual Inspection and Certification Program

The Annual Inspection and Certification Program outlines requirements for certifying and attesting that the institutional controls and engineering controls employed on the Site are unchanged from the original design and/or previous certification. The Annual Certification includes a Site Inspection and completion of the NYSDEC's IC/EC Certification Form. The Site inspection is intended to verify that the IC/ECs are in place, effective, and performing as designed, that nothing has occurred that would impair the ability of the controls to protect the public health and environment, that nothing has occurred that would constitute a violation or failure to comply with any operation and maintenance plan for such controls, and that access is available to the Site to evaluate continued maintenance of such controls.

Inspection of the Site was conducted by Mr. Christopher Boron, P.G. of TurnKey Environmental Restoration, LLC on February 24, 2020, a Qualified Environmental Professional (QEP) per 6NYCRR Part 375.12. At the time of the inspection, no construction activities were being performed. Existing cover systems (see Figure 3) are performing as intended. Additional redevelopment activities are planned for 2020. Upcoming redevelopment projects that disturb the existing cover system are subject to the NYSDEC-approved SMP.

No observable indication of intrusive activities was noted during the Site inspection beyond those described in Section 4.2. The assisted living building which was constructed utilizes the local municipal water supply, and no observable use of groundwater was noted during the Site inspection.

The completed Site Management Periodic Review Report Notice – Institutional and Engineering Controls Certification Form is included in Appendix A. A photographic log of the Site inspection is included in Appendix B.

4.4 Operation, Monitoring and Maintenance Plan

The remedy for the Site does not rely on any mechanical systems such as sub-slab depressurization or soil vapor extraction, to protect public health and the environment. Therefore, an Operation and Maintenance Plan is not required.

5.0 CONCLUSIONS AND RECOMMENDATIONS

Conclusions for this reporting period and recommendations for the next reporting period are as follows:

- No redevelopment activities occurred during the past reporting period. Existing cover systems are performing as intended; therefore, the Site is compliant.
- If redevelopment activities involving cover system modification or import/export of soil or stone materials occur in the next reporting period they will be subject to the SMP. In areas subject to redevelopment, Site access will be restricted via construction fencing and will be limited to authorized construction personnel.

The following modifications are recommended for the Site:

- No modifications are recommended at this time.

6.0 DECLARATION/LIMITATION

Personnel under direct supervision of Benchmark conducted the annual site inspection for BCP Site No. C915272, located in Buffalo, New York, according to generally accepted practices. This report complied with the scope of work provided to M/MGC by Benchmark.

This report has been prepared for the exclusive use of the M/MGC. The contents of this report are limited to information available at the time of the site inspection. The findings herein may be relied upon only at the discretion of M/MGC. Use of or reliance upon this report or its findings by any other person or entity is prohibited without written permission of Benchmark.

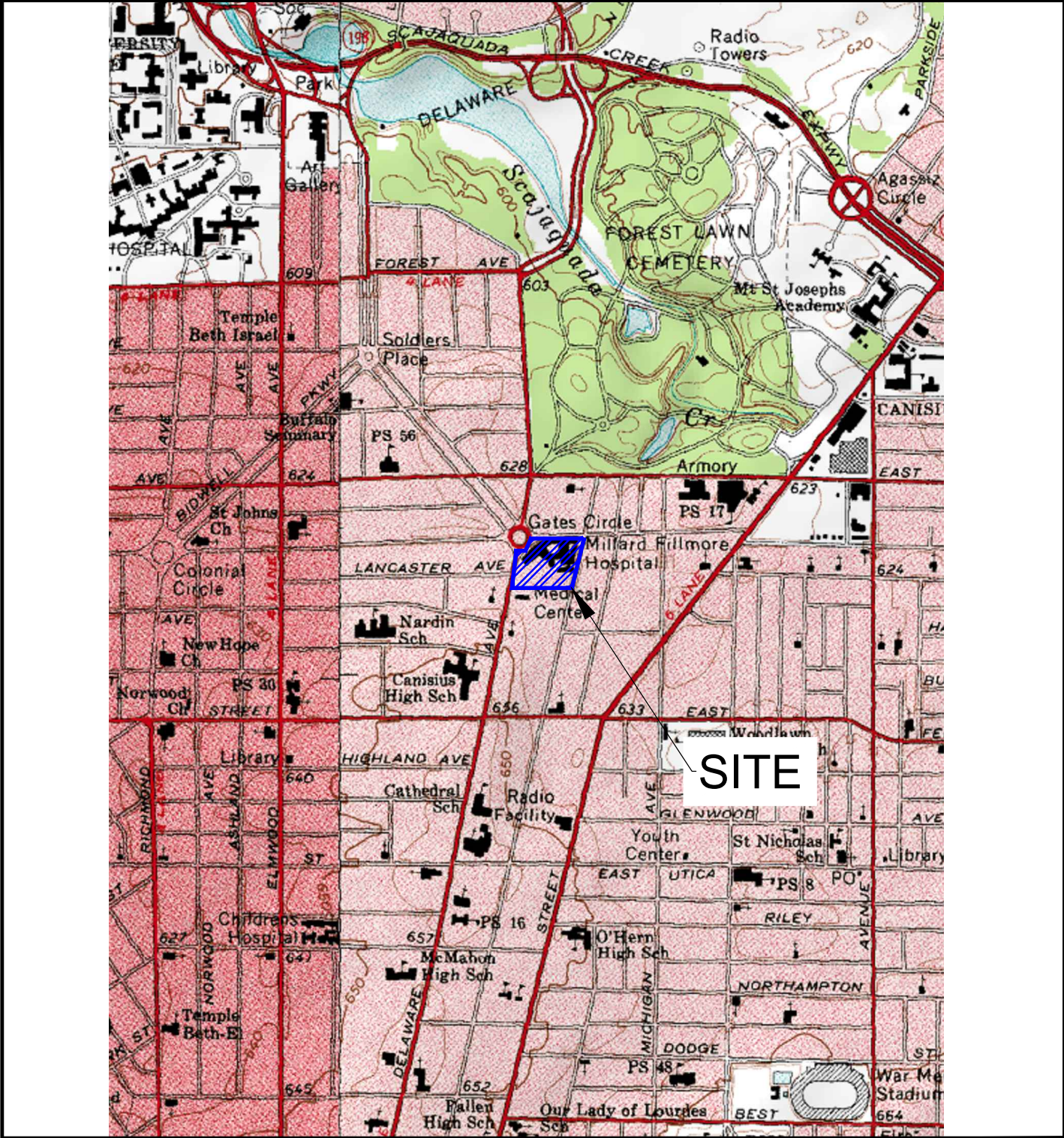
7.0 REFERENCES

1. New York State Department of Environmental Conservation. *DER-10; Technical Guidance for Site Investigation and Remediation*. May 2010.
2. *Remedial Investigation/ Alternatives Analysis Report, 3 Gates Circle Site, BCP Site No. C915272, Buffalo, New York*, dated February 2015, revised May 2015, prepared by Benchmark Environmental Engineering & Science, PLLC.
3. *Site Management Plan, 3 Gates Circle Site, Erie County, Buffalo, New York, NYSDEC Site No. C915272*, dated November 2015, prepared by Benchmark Environmental Engineering & Science, PLLC.
4. *3 Gates Circle BCP Site (C915272), Interim Remedial Measure Work Plan*, dated November 26, 2014, prepared by Benchmark Environmental Engineering & Science, PLLC.
5. *Remedial Investigation/ Alternative Analysis Report & Decision Document, 3 Gates Circle, Site ID No. C915272, Buffalo, Erie County*, dated May 28, 2015, prepared by New York State Department of Environmental Conservation.
6. *Final Engineering Report, 3 Gates Circle Site, BCP Site No. C915272, Buffalo, New York*, dated November 2015, prepared by Benchmark Environmental Engineering and Science, PLLC.

FIGURES

FIGURE 1

F:\CAD\Benchmark\Gates Circle Holdings\PRR\Figure 1_Site Location & Vicinity.dwg, 2/19/2020 1:04:29 PM



2558 HAMBURG TURNPIKE, SUITE 300, BUFFALO, NY 14218, (716) 856-0599

SITE LOCATION AND VICINITY MAP

PERIODIC REVIEW REPORT

3 GATES CIRCLE SITE
BCP SITE NO. C915272
BUFFALO, NEW YORK

PREPARED FOR

MONTANTE / MORGAN GATES CIRCLE LLC

PROJECT NO.: 0309-014-001

DATE: FEBRUARY 2020

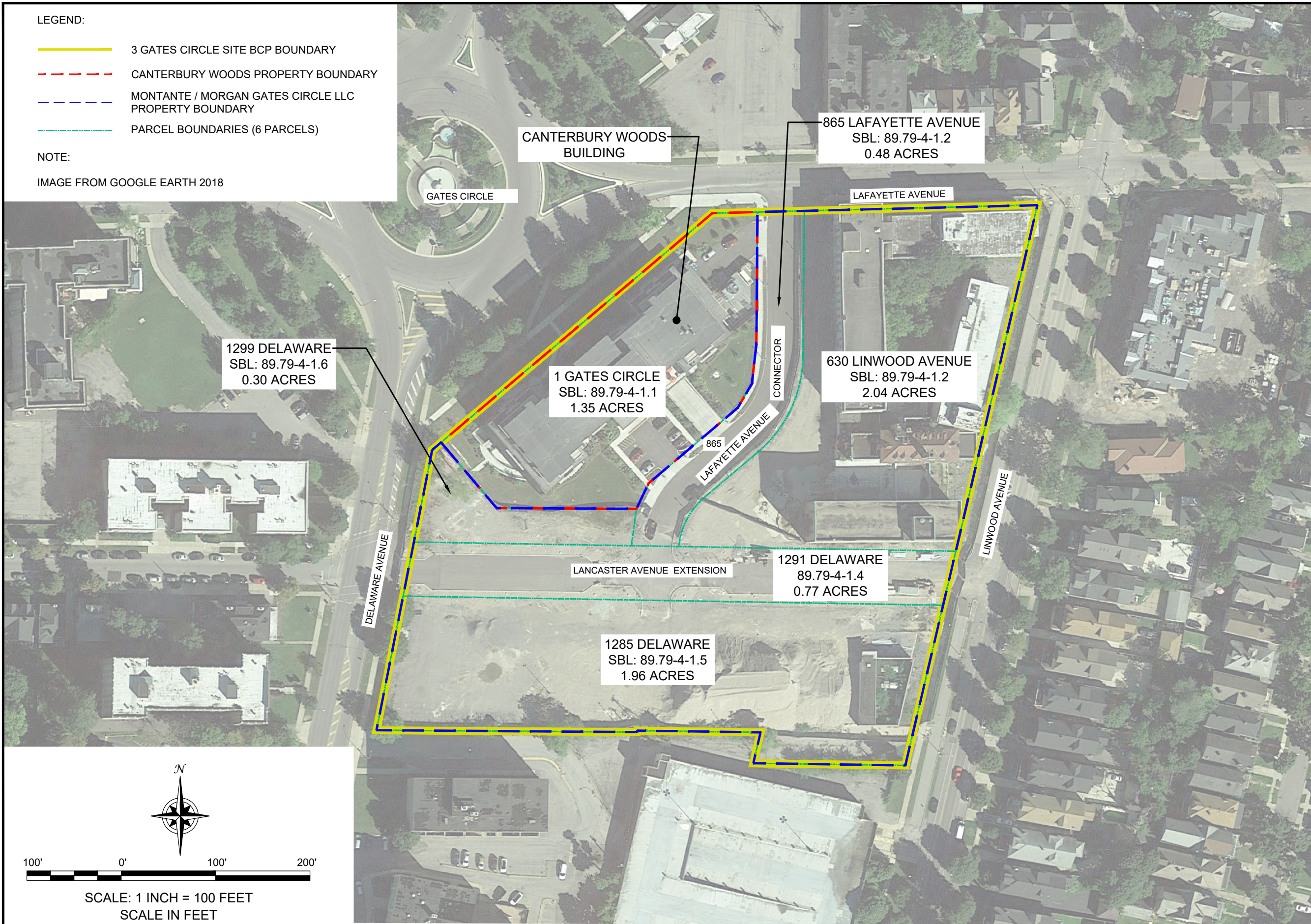
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LEGEND:

- 3 GATES CIRCLE SITE BCP BOUNDARY
- - - CANTERBURY WOODS PROPERTY BOUNDARY
- - - MONTANTE / MORGAN GATES CIRCLE LLC PROPERTY BOUNDARY
- - - PARCEL BOUNDARIES (6 PARCELS)

NOTE:
IMAGE FROM GOOGLE EARTH 2018



1299 DELAWARE
SBL: 89.79-4-1.6
0.30 ACRES

1 GATES CIRCLE
SBL: 89.79-4-1.1
1.35 ACRES

865 LAFAYETTE AVENUE
SBL: 89.79-4-1.2
0.48 ACRES

630 LINWOOD AVENUE
SBL: 89.79-4-1.2
2.04 ACRES

1291 DELAWARE
89.79-4-1.4
0.77 ACRES

1285 DELAWARE
SBL: 89.79-4-1.5
1.96 ACRES



SCALE: 1 INCH = 100 FEET
SCALE IN FEET
(approximate)

SITE PLAN

PERIODIC REVIEW REPORT

3 GATES CIRCLE SITE
BCP SITE NO. C915272
BUFFALO, NEW YORK

PREPARED FOR
MONTANTE / MORGAN GATES CIRCLE LLC

JOB NO.: 0309-014-001



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FIGURE 2

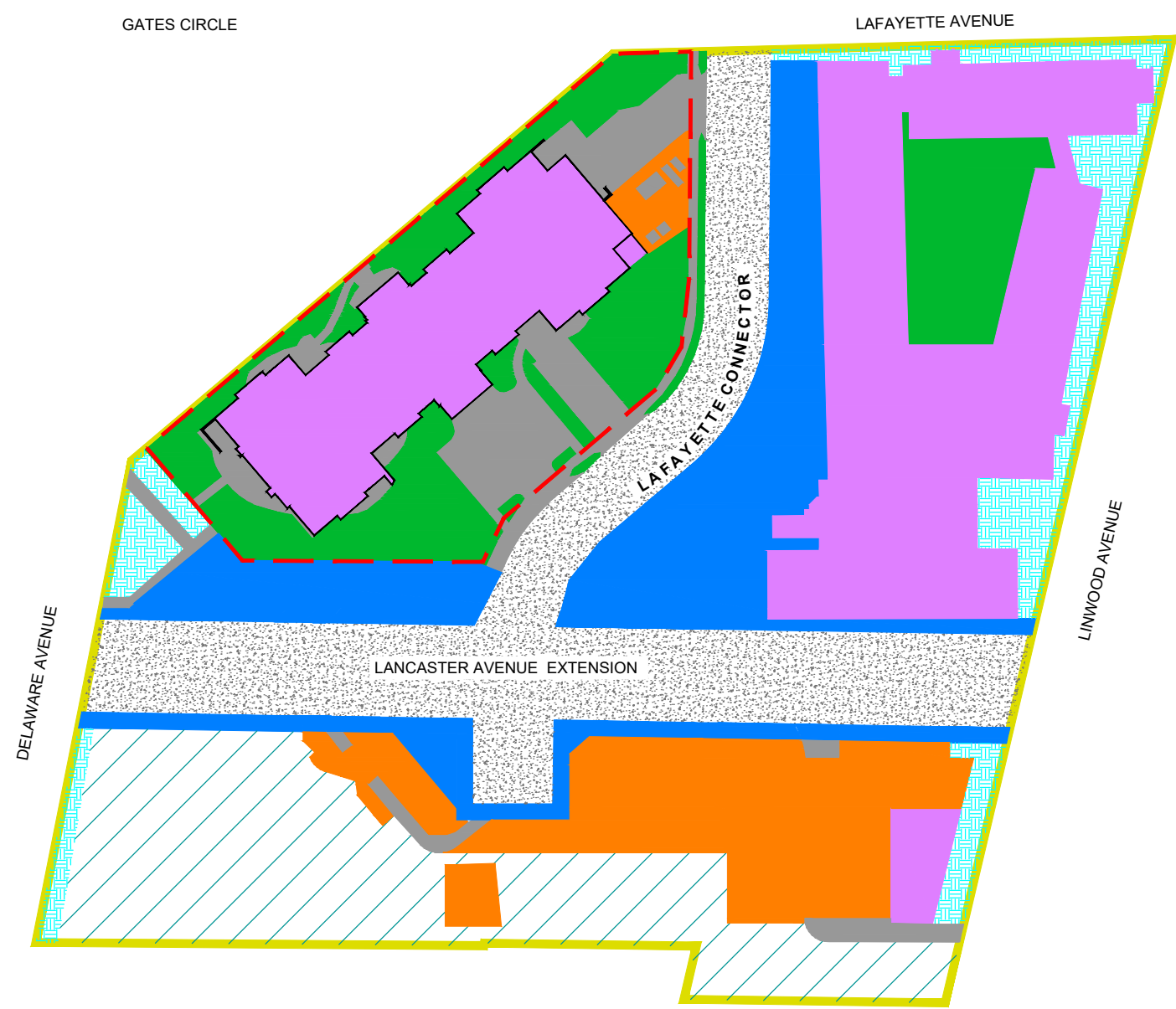
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LEGEND:

-  BCP AND PROPERTY BOUNDARY
-  CANTERBURY WOODS PARCEL
-  6" ACCEPTABLE STONE COVER AND APPROVED SOIL COVER
-  VEGETATIVE COVER
-  BUILDING COVER
-  ACCEPTABLE 2' STONE COVER
-  CONCRETE SIDEWALK AND ASPHALT PARKING/DRIVEWAY COVER
-  EXISTING ASPHALT
-  NEW ROADWAY COVER SYSTEM
-  PORTION OF SITE UNDERGOING REDEVELOPMENT FINAL COVER NOT ESTABLISHED



SCALE: 1 INCH = 100 FEET
SCALE IN FEET
(approximate)



ONGOING REDEVELOPMENT SITE COVER SYSTEM

PERIODIC REVIEW REPORT
3 GATES CIRCLE SITE
BCP SITE NO. C915272
BUFFALO, NEW YORK
PREPARED FOR
MONTANTE / MORGAN GATES CIRCLE LLC



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JOB NO.: 0309-014-001

FIGURE 3

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APPENDIX A

INSTITUTIONAL & ENGINEERING CONTROLS CERTIFICATION FORMS

Box 2A

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

YES NO



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. C915272

Box 3

Description of Institutional Controls

Parcel

Owner

Institutional Control

89.79-4-1.1

Episcopal Church Home & Affiliates Life

Ground Water Use Restriction
Soil Management Plan
Landuse Restriction
Site Management Plan
O&M Plan
IC/EC Plan

1. Prohibition of use of groundwater.
2. Land use restriction for Restricted Residential, Commercial or Industrial use.
3. Soil Management or Excavation Work Plan for any future intrusive work.

89.79-4-1.2

Montante/Morgan 865 Lafayette LLC

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

1. Prohibition of use of groundwater.
2. Land use restriction for Restricted Residential, Commercial or Industrial use.
3. Soil Management or Excavation Work Plan for any future intrusive work.

89.79-4-1.3

Montante/ Morgan 630 Linwood LLC

Ground Water Use Restriction
Soil Management Plan
Landuse Restriction
Site Management Plan
O&M Plan
IC/EC Plan

1. Prohibition of use of groundwater.
2. Land use restriction for Restricted Residential, Commercial or Industrial use.
3. Soil Management or Excavation Work Plan for any future intrusive work.

89.79-4-1.4

Montante/Morgan 1291 Delaware LLC

Ground Water Use Restriction
Soil Management Plan
Landuse Restriction
Site Management Plan
O&M Plan
IC/EC Plan

1. Prohibition of use of groundwater.
2. Land use restriction for Restricted Residential, Commercial or Industrial use.
3. Soil Management or Excavation Work Plan for any future intrusive work.

89.79-4-1.5

Montante/Morgan 1285 Delaware LLC

Ground Water Use Restriction
Soil Management Plan
Landuse Restriction
Site Management Plan
O&M Plan
IC/EC Plan

1. Prohibition of use of groundwater.
2. Land use restriction for Restricted Residential, Commercial or Industrial use.
3. Soil Management or Excavation Work Plan for any future intrusive work.

89.79-4-1.6

Montante/Morgan 1299 Delaware LLC

Ground Water Use Restriction
Soil Management Plan
Landuse Restriction
Site Management Plan
O&M Plan
IC/EC Plan

1. Prohibition of use of groundwater.
2. Land use restriction for Restricted Residential, Commercial or Industrial use.
3. Soil Management or Excavation Work Plan for any future intrusive work.

Box 4

Description of Engineering Controls

<u>Parcel</u>	<u>Engineering Control</u>
89.79-4-1.1	Cover System 1. Monitoring and maintenance of the cover system.
89.79-4-1.2	Cover System 1. Monitoring and maintenance of the cover system.
89.79-4-1.3	Cover System 1. Monitoring and maintenance of the cover system.
89.79-4-1.4	Cover System 1. Monitoring and maintenance of the cover system.
89.79-4-1.5	Cover System 1. Monitoring and maintenance of the cover system.
89.79-4-1.6	Cover System 1. Monitoring and maintenance of the cover system.

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. C915272

Box 6

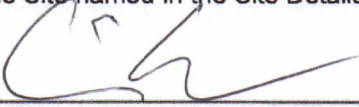
SITE OWNER OR DESIGNATED REPRESENTATIVE SIGNATURE

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 Christian Campos at 2760 KENMORE AVENUE
TONAWANDA, NY 14150
print name print business address

am certifying as Montante / Morgan Gates Circle LLC (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

3/26/2020
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 Christopher Boron, P.G. at 2558 Hamburg Turnpike, Suite 300, Buffalo, NY. 14218
print name print business address

am certifying as a Qualified Environmental Professional for the Montante/Morgan Gates Circle LLC
(Owner or Remedial Party)


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

Stamp
(Required for PE)

3/23/2020
Date

APPENDIX B

PHOTOGRAPHIC LOG

SITE PHOTOGRAPHS

Photo 1:



Photo 2:



Photo 3:



Photo 4:



Photo 1: Lancaster Avenue Extension with a new top coat of asphalt, looking west.

Photo 2: Stone cover system on the eastern side of the Site along Linwood Avenue, looking north

Photo 3: Stone cover system covered by snow on the northeastern portion of the Site along Lafayette Avenue, looking west.

Photo 4: Asphalt cover system on the southwestern portion of the site, looking south.

SITE PHOTOGRAPHS

Photo 5:



Photo 6:



Photo 7:



Photo 8:



Photo 5: Vegetated and concrete cover system on the north center portion of the Site, looking southwest.

Photo 6: Vegetated and concrete cover system on northwest portion of the Site, looking northeast.

Photo 7: Vegetated cover system in central west portion of the Site, looking northwest.

Photo 8: Concrete, vegetated, and asphalt cover system in the central portion of Site, looking northeast.

APPENDIX C

NYSDEC CORRESPONDANCE

From: [Melnyk, Eugene W \(DEC\)](#)
To: [Tom H. Forbes](#)
Cc: [Forgette, Efrat S \(DEC\)](#); [Walia, Jaspal \(DEC\)](#); [Staniszewski, Chad \(DEC\)](#); [Joe Jacobi](#)
Subject: RE: Gates Circle/Buffalo Color BUD Application
Date: Thursday, May 23, 2019 3:53:28 PM
Attachments: [image001.gif](#)
[image002.gif](#)
[BUD Notification of Reuse - May 2019.pdf](#)

Tom:

The BUD for the crushed concrete from the Gate Circle BCP Site (C915272) is accepted for use as structural fill at the Buffalo Color Area A site (C915230) under the following conditions:

1 - the fill is placed under a BCP compliant cover system meeting commercial use remediation criteria (one foot of clean cover or hardscape that meets local building code and requirements for the intended use), and

2 - is not used as a surface cover exposed to human contact or the environment or is susceptible to migration through erosion.

Erosion and sediment controls will be necessary for preventing migration of erosion sediment from the fill stockpile currently at the Buffalo Color Area A site. The crushed concrete fill shall remain segregated from other imported fills and soils to the site. Any intrusive activities below the existing covers at the site requires adherence to the Excavation Plan in the Site Management Plan in-place for the site.

If you have any questions regarding the above, please contact us.

Sincerely
Gene

Eugene Melnyk, PE
Remediation Engineer, Division of Environmental Remediation

New York State Department of Environmental Conservation
270 Michigan Avenue, Buffalo, NY 14203
P: 716-851-7220 | F: 716-851-7226 | eugene.melnyk@dec.ny.gov

www.dec.ny.gov |  | 

From: Tom H. Forbes <TForbes@benchmarkturnkey.com>
Sent: Thursday, May 23, 2019 9:05 AM
To: Melnyk, Eugene W (DEC) <eugene.melnyk@dec.ny.gov>
Subject: FW: Gates Circle/Buffalo Color BUD Application

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