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October 25, 2017

Edward Flynn, AICP
Planning Division Director
Labella Associates, D.P.C.
300 State Street
Rochester, NY 14614
Sent via email: eflynn@labellapc.com

**RE: Wetland Reconnaissance – Town of Tonawanda Nomination Study
Town on Tonawanda, Erie County, New York
EDR Project No. 16112**

Dear Mr. Flynn:

At the request of Labella Associates D.P.C., Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, D.P.C. (EDR) conducted a wetland reconnaissance site visit at 11 parcels for potential sites of Phase I Environmental Site Assessments located in the Town of Tonawanda, Erie County, New York. This memorandum summarizes our review of background data, field visit and methodology, and findings.

Review of Background Data

EDR's review of existing wetland databases (National Wetland Inventory [NWI] and New York State Department of Environmental Conservation [NYSDEC] mapped wetlands and streams) indicate there are five NWI mapped wetlands intersecting the parcels of study. NYSDEC wetland and stream mapping shows no state-mapped wetlands intersecting/or within the vicinity of the parcels under investigation. NYSDEC stream mapping indicates the presence of a Class B protected stream intersecting parcel 33 (see Figure 2).

Field Visit and Methodology

On October 5th and 6th, 2017, an EDR field biologist visited the Project Site to perform a wetland reconnaissance site visit to determine if wetland or streams were present within the parcels of study. The identification of potential wetland areas was made based on the methodology described in the USACE Wetland Delineation Manual (Environmental Laboratory, 1987). The determination of potential wetland areas was also guided by the methodologies presented in the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region (Version 2.0) (USACE, 2012). Attention was given to the identification of potential hydrologic connections between wetlands and areas that could influence their jurisdictional status.

Findings

The wetland reconnaissance site visit revealed wetlands are present in the northern sector of the Project Site. Several parcels (11,12, and 33) are traversed by wetland features (see Figure 2 and 3). The character and description of each approximate wetland is described below and in Table 1.

Approximate Wetland 1 is a forested wetland (PFO) approximately 22 acres in size (See Figure 3). This wetland feature contains hydric vegetation including sensitive fern (*Onoclea sensibilis*), rush species (*Juncus* spp.), dogwood species (*Cornus* spp.), speckled alder (*Alnus incana*), and Red Maple (*Acer rubrum*) in the tree layer. The northwestern edge nearest to River Road is dominated by common reed (*Phragmites*) and sensitive fern. Soil samples revealed saturation, redox conditions, and the presence of surface water.

Approximate Wetland 2 is a palustrine emergent (PEM) wetland approximately 4 acres in size and is dominated by common reed with dogwood species along the southern edges. This wetland is part of a NYSDEC Class B protected stream segment which drains in a northeastern direction towards approximate wetland 3. Soil samples revealed saturation, redox conditions, and the presence of surface water.

Approximate Wetland 3 is also a PEM wetland approximately 0.13 acre in size dominated by common reed and dogwood species (*Cornus* spp.). Soil sampling indicate saturation, redox conditions, and the presence of surface water. Additionally, Approximate Wetland 3 appears to receive hydrology from a 15-acre NWI mapped PEM wetland 500 feet to the southwest, which shows hydrologic connections to Approximate Wetland 2.

Hydrology characteristics for all of the approximate wetlands consisted of some surface water, soil saturation beginning at the surface, and drainage patterns.

Table 1. Approximate Wetlands

Approximate Wetland	Wetland Type ¹	Wetland Area (acres)	Intersecting Parcels	Federal Jurisdiction ²	State Jurisdiction ³
1	PFO	22	11, 12	Yes	No
2	PEM	4	11	Yes	No
3	PEM	0.13	33	Yes	No

¹ Wetland community types noted are based upon the Cowardin et al classification system: PFO = Palustrine Forested, and PEM = Palustrine Emergent.

² Based on visual observation of hydrologic connectivity in the field, and review of available aerial and spatial data.

³ Based on area of delineated wetland, and existing NYSDEC mapping of freshwater wetlands. Final jurisdictional determination to be made by the NYSDEC.

Parcel Character

Parcels 32-36 & 61 appear to be utilized for storage of fill/construction materials which may influence wetland character. On April 28, 2017, EDR’s visual team captured aerial images via drone of parcels 32-33 for the developer’s forum. When compared to the parcel character investigated on the October 5-6 site visit, the size of fill piles are much larger than in the aerial images from earlier in the year.

Parcel 71 is currently under construction for a stream diversion/remediation project. Tonawanda Coke Corp. denied EDR field biologists access to the parcel. Based on NWI mapping and aerial imagery (Figure 2), riverine wetland is likely present on the parcel, although stream diversion systems have likely altered local hydrology.

Parcel 76 & 77 contain no evidence of wetland features. The parcels are occupied by vacant structures, rubble piles, and fill. Dominant vegetation species include sumac (*Rhus* sp.), common reed, and Quaking aspen (*Populus tremuloides*).

Conclusion

Based on the results of the wetland reconnaissance, there are three wetland areas located in the northern sector of the Project Site. The approximate wetland characteristics are mainly emergent, with one wetland (Approximate Wetland 1) containing forested wetland characteristics. No wetland features exhibit a distinct connection to other waters of the United States. Approximate Wetland 1 ultimately drains northeast to Two Mile Creek, a tributary of the Niagara River. According to Section 404 of the Clean Water Act, and specifically the *Raponos vs. the United States* & *Carabell vs. the United States* court cases, the USACE will assert jurisdiction over wetlands that are directly connected to non-navigable tributaries connected to a traditional navigable water. Since Two Mile Creek is a non-navigable tributary that drains to a traditional navigable water (i.e., Niagara River), any wetlands that drain into Two Mile Creek (i.e., Approximate Wetland 2 and 3) will be considered jurisdictional. Additionally, resulting from the *Raponos vs. the United States* & *Carabell vs. the United States* court cases, wetlands adjacent to non-navigable tributaries will require fact-specific analysis to determine if they have significant nexus with a traditional navigable water. Based on EDR's experience with the USACE, the agency will incorporate proximity to jurisdictional wetlands and streams, as well as hydrologic and ecological factors, when determining jurisdiction. Therefore, Approximate Wetlands 1, 2, 3, do not exhibit a direct hydrologic connection to other waters of the U.S., they will likely be considered jurisdictional by the USACE due to their proximity to jurisdictional waters of the U.S. To further identify jurisdictional wetlands on-site, a formal wetland delineation must be completed during the growing season.

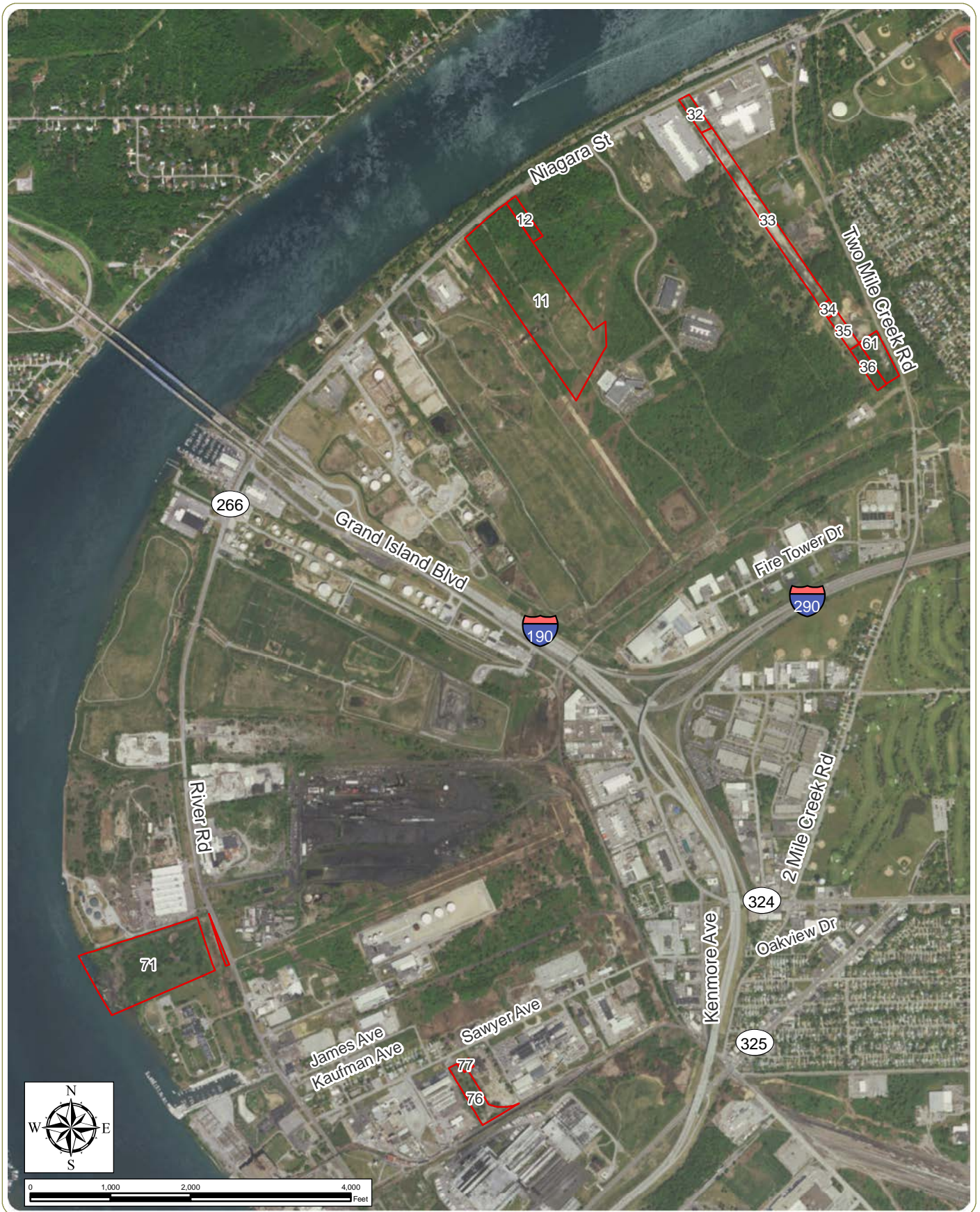
Please contact our office if you have any questions or require additional information.

Sincerely,

Ben Brazell
Principal of Environmental

Attachments:

- Figure 1: Project Site
- Figure 2: Mapped Wetlands and Streams
- Figure 3: Approximate Wetland Boundary

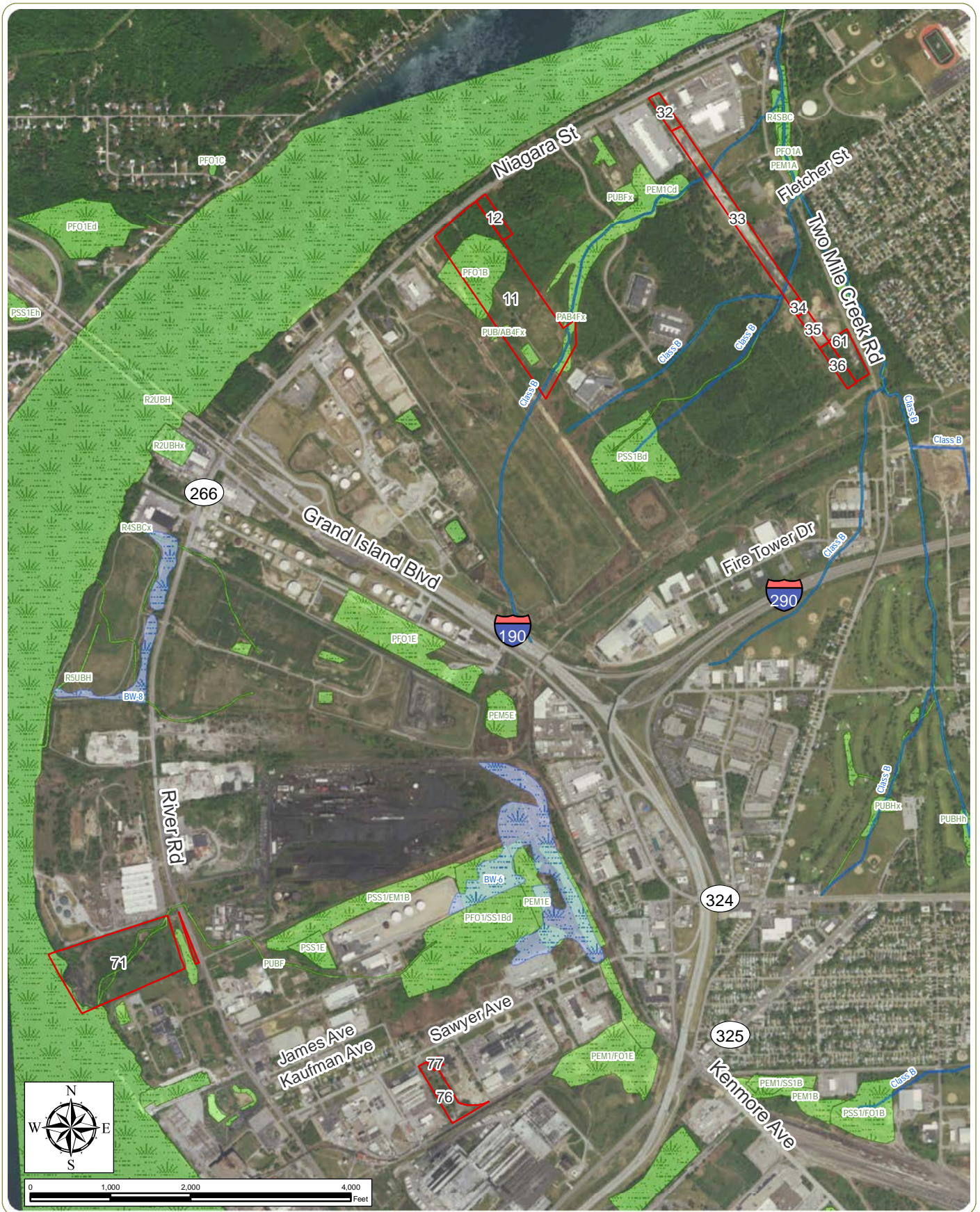


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Figure 1: Project Site

 Parcel Boundary

- Notes: 1. Basemap: ESRI ArcGIS Online "World Imagery" map service.
 2. This map was generated in ArcMap on October 25, 2017.
 3. This is a color graphic. Reproduction in grayscale may misrepresent the data.



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Figure 2: Mapped Wetlands and Streams

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- NYSDEC Protected Stream
- NWI Mapped Wetland
- NYSDEC Mapped Wetland
- Parcel Boundary



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Figure 3: Approximate Wetland Boundary

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-  Wetland Continues
-  Culvert Connection
-  Approximate Wetland
-  Parcel Boundary