

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Office of the Director  
625 Broadway, 12th Floor, Albany, New York 12233-7011  
P: (518) 402-9706 | F: (518) 402-9020  
www.dec.ny.gov

DEC 17 2015

Mr. Lucian Visone  
Rock One Development, LLC  
10151 Main Street  
Clarence, New York 14031

Re: Certificate of Completion  
Site Name: 600 River Road Apartments  
Site No. C932161  
City of North Tonawanda, Niagara County

Dear Mr. Visone:

Congratulations on having satisfactorily completed the remedial program at the 600 River Road BCP Site. Enclosed please find an original, signed Certificate of Completion (COC). The New York State Department of Environmental Conservation (DEC) is pleased to inform you that the Final Engineering Report is hereby approved, allowing the COC to be issued for the above-referenced site.

Please note that you are required to perform the following tasks:

- If you are the site owner, you must record a notice of the COC in the recording office for the County (or Counties) where any portion of the site is located within 30 days of issuance of the COC; or if you are a prospective purchaser of the site, you must record a notice of the COC within 30 days of the date that you acquire the site. A copy of the recorded notice should be provided to DEC's project manager. If you are a non-owner, you must work with the owner to assure the notice of COC is recorded within the time frame specified. A standard notice form is attached to this letter. Please return the proof of recording to:

Chief, Site Control Section  
New York State Department of Environmental Conservation  
Division of Environmental Remediation  
625 Broadway  
Albany, NY 12233-7020

- Provide the notice of the COC to the Document Repositories within 10 days of issuance of the COC. DEC will develop a fact sheet announcing the issuance of the COC and describing the institutional and engineering controls (IC/ECs), if any, that are required at the site and distribute it to the County Listserv within 10 days;

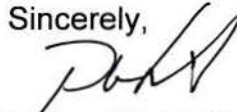


Department of  
Environmental  
Conservation

- Implement the DEC-approved Site Management Plan (SMP) which details the activities necessary to assure the performance, effectiveness, and protectiveness of the remedial program; and you must report the results of these activities to DEC in a Periodic Review Report (PRR) which also includes any required IC/EC Certifications. The site IC/ECs are identified on the attached Site Management Form. The first PRR including the certification of the IC/ECs is due to the Department in April 2017.

If you have any questions regarding any of these items, please contact the project manager for this site, Mr. Timothy Dieffenbach, at 716-851-7220.

Sincerely,



Robert W. Schick, P.E.

Director

Division of Environmental Remediation

Enclosures

ec: Peter Morton, Panamerican Environmental, Inc.  
Craig Slater, Esq., The Slater Law Firm  
Krista Anders, DOH  
Bridgette Boyd, DOH  
Timothy Dieffenbach, DEC  
Gregory Sutton, DEC  
Michael Cruden, DEC  
Dolores Tuohy, DEC  
Jennifer Dougherty, DEC  
Andrew Guglielmi, DEC

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)  
*CERTIFICATE OF COMPLETION*

**CERTIFICATE HOLDER(S):**

<b>Name</b>	<b>Address</b>
Rock One Development, LLC	10151 Main Street, Clarence, NY 14031

**BROWNFIELD CLEANUP AGREEMENT:**

**Application Approval:** 5/29/13 **Agreement Execution:** 10/18/13 **Agreement Index No.:**C932161-05-13

**Application Approval Amendment:** none

**Agreement Execution Amendment:** none

**SITE INFORMATION:**

**Site No.:** C932161 **Site Name:** 600 River Road Apartments  
**Site Owner:** Rock One Development, LLC  
**Street Address:** 600 River Road  
**Municipality:** North Tonawanda **County:** Niagara **DEC Region:** 9  
**Site Size:** 5.952 Acres  
**Tax Map Identification Number(s):** 181.16-1-21.13  
**Percentage of site located in an EnZone:** 0 - 49 %

A description of the property subject to this Certificate is attached as Exhibit A and a site survey is attached as Exhibit B.

**CERTIFICATE ISSUANCE**

This Certificate of Completion, hereinafter referred to as the "Certificate," is issued pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law ("ECL").

This Certificate has been issued upon satisfaction of the Commissioner, following review by the Department of the final engineering report and data submitted pursuant to the Brownfield Site Cleanup Agreement, as well as any other relevant information regarding the Site, that the applicable remediation requirements set forth in the ECL have been or will be achieved in accordance with the time frames, if any, established in the remedial work plan.

The remedial program for the Site has achieved a cleanup level that would be consistent with the following categories of uses (actual site use is subject to local zoning requirements):

**Allowable Uses under the BCP:** Restricted-Residential, Commercial, and Industrial  
**Cleanup Track:** Track 4: Restricted use with site-specific soil cleanup objectives

**Tax Credit Provisions for Entities Taxable Under Article 9, 9-A, 32, and 33:**

Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 28 %.  
Tangible Property Credit Component Rate is 12 %.

**Tax Credit Provisions for Entities Taxable Under Article 22 & S Corporations:**

Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 28 %.  
Tangible Property Credit Component Rate is 10 %.

The Remedial Program includes use restrictions or reliance on the long term employment of institutional or engineering controls which are contained in the approved Site Management Plan and an Environmental Easement granted pursuant to ECL Article 71, Title 36 which has been duly recorded in the Recording Office for Niagara County as 2014-15381.

#### **LIABILITY LIMITATION**

Upon issuance of this Certificate of Completion, and subject to the terms and conditions set forth herein, the Certificate holder(s) shall be entitled to the liability limitation provided in ECL Section 27-1421. The liability limitation shall run with the land, extending to the Certificate holder's successors or assigns through acquisition of title to the Site and to a person who develops or otherwise occupies the Site, subject to certain limitations as set forth in ECL Section 27-1421. The liability limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law.

#### **CERTIFICATE TRANSFERABILITY**

This Certificate may be transferred to the Certificate holder's successors or assigns upon transfer or sale of the Site as provided by ECL Section 27-1419.5 and 6NYCRR Part 375-1.9.

#### **CERTIFICATE MODIFICATION/REVOCATION**

This Certificate of Completion may be modified or revoked by the Commissioner following notice and an opportunity for a hearing in accordance with ECL Section 27-1419 and 6NYCRR Part 375-1.9(e) upon a finding that:

- (1) either the Applicant or the Applicant's successors or assigns have failed to comply with the terms and conditions of the Brownfield Site Cleanup Agreement;
- (2) the Applicant made a misrepresentation of a material fact tending to demonstrate that it was qualified as a Volunteer;
- (3) either the Applicant or the Applicant's successors or assigns made a misrepresentation of a material fact tending to demonstrate that the cleanup levels identified in the Brownfield Site Cleanup Agreement were reached;
- (4) there is good cause for such modification or revocation;
- (5) either the Applicant or the Applicant's successors or assigns failed to manage the controls or monitoring in full compliance with the terms of the remedial program;
- (6) the terms and conditions of the environmental easement have been intentionally violated or found to be not protective or enforceable.

The Certificate holder(s) (including its successors or assigns) shall have thirty (30) days within which to cure any deficiency or to seek a hearing. If the deficiency is not cured or a request for a hearing received within such 30-day period, the Certificate shall be deemed modified or vacated on the 31st day after the Department's notice.

Basil Seggos  
Acting Commissioner  
New York State Department of Environmental Conservation

By:  Date: December 17, 2015  
Robert W. Schick, P.E., Director  
Division of Environmental Remediation

**NOTICE OF CERTIFICATE OF COMPLETION**  
**Brownfield Cleanup Program**  
**6 NYCRR Part 375-1.9(d)**

**600 River Road Apartments, Site ID No. C932161**  
**600 River Road, North Tonawanda, NY, 14120**  
**Tax Map Identification Number: 181.16-1-21.13**

**PLEASE TAKE NOTICE**, the New York State Department of Environmental Conservation (Department) has issued a Certificate of Completion (Certificate) pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law (ECL) to Rock One Development, LLC for a parcel approximately 5.952 acres located at the 600 River Road in the City of North Tonawanda, Niagara County.

**PLEASE TAKE NOTICE**, the Certificate was issued upon satisfaction of the Commissioner, following review by the Department of the final engineering report and data submitted pursuant to the Brownfield Site Cleanup Agreement, as well as any other relevant information regarding the Site, that the remediation requirements set forth in ECL Article 27, Title 14 have been or will be achieved in accordance with the time frames, if any, established in the remedial work plan.

**PLEASE TAKE NOTICE**, the remedial program for the Site has achieved a cleanup level that would be consistent with the following categories of uses (actual site use is subject to local zoning requirements):

- Unrestricted Use, as set forth in 6 NYCRR 375-1.8(g)(1)i
- Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)i.
- Restricted Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)ii.
- Commercial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iii.
- Industrial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iv.

Further, the use of groundwater is restricted and may not be used, unless treated in accordance with the requirements provided by the New York State Department of Health, or a local County Health Department with jurisdiction in such matters and such is approved by the Department as not inconsistent with the remedy.

**PLEASE TAKE NOTICE**, since the remedial program relies upon use restrictions or the long term employment of institutional or engineering controls; such institutional or engineering controls are contained in an Environmental Easement granted pursuant to ECL Article 71, Title 36 which has been duly recorded in the Recording Office for Niagara County as Instrument # 2014-15381.

**PLEASE TAKE NOTICE**, the Environmental Easement requires that the approved site management plan (SMP) for this property be adhered to. The SMP, which may be amended from time to time, may include sampling, monitoring, and/or operating a treatment system on the property, providing certified reports to the NYSDEC, and generally provides for the management of any and all plans and limitations on the property. A copy of the SMP is available upon request by writing to the Department's Division of Environmental Remediation, Site Control Section, 625 Broadway, Albany, New York 12233.

**PLEASE TAKE NOTICE**, provided that the Environmental Easement, SMP and Certificate are complied with, the Certificate holder(s) shall be entitled to the liability limitation provided in ECL Section 27-1421. The liability limitation shall run with the land, extending to the Certificate holder's successors or assigns through acquisition of title to the Site and to a person who develops or otherwise occupies the Site, subject to certain limitations as set forth in ECL Section 27-1421. The liability limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law.

**600 River Road Apartments, Site ID No. C932161  
600 River Road, North Tonawanda, Niagara County, NY, 14120**

**PLEASE TAKE NOTICE**, the Certificate may entitle the Certificate holder(s) to tax credits in accordance with Tax Law Sections 21, 22 and 23.

**PLEASE TAKE NOTICE**, any change of use of the site, as defined in 6 NYCRR 375, must be preceded by notice to the Department in accordance with 6 NYCRR 375-1.11(d). A transfer of any or all of the property constitutes a change of use.

**PLEASE TAKE NOTICE**, the Certificate may only be transferred to the Certificate holder's successors or assigns upon transfer or sale of the Site as provided by ECL Section 27-1419.5 and 6 NYCRR Part 375-1.9. Failure to comply with the regulatory requirements for transfer **WILL** bar the successors and assigns from the benefits of the Certificate.

**PLEASE TAKE NOTICE**, the Certificate may be modified or revoked by the Commissioner as set forth in the applicable regulations.

**PLEASE TAKE NOTICE**, the Certificate may be revoked if the Environmental Easement as implemented, if applicable, is not protective or enforceable.

**PLEASE TAKE NOTICE**, a copy of the Certificate can be reviewed at DEC's Region 9 office located at 270 Michigan Avenue, Buffalo, New York, by contacting the Regional Environmental Remediation Engineer.

**WHEREFORE**, the undersigned has signed this Notice of Certificate

Rock One Development, LLC

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF NEW YORK        ) SS:  
COUNTY OF                )

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Signature and Office of individual  
taking acknowledgment

**Please record and return to:**  
Mr. Lucian Visone  
Rock One Development, LLC  
10151 Main Street  
Clarence, New York 14031



**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**  
**Site Management Form**  
 12/9/2015



**SITE DESCRIPTION**

**SITE NO.** C932161

**SITE NAME** 600 River Road Apartments

**SITE ADDRESS:** 600 River Road ZIP CODE: 14120-6809

**CITY/TOWN:** North Tonawanda

**COUNTY:** Niagara

**ALLOWABLE USE:** Restricted-Residential, Commercial, and Industrial

**SITE MANAGEMENT DESCRIPTION**

SITE MANAGEMENT PLAN INCLUDES:	YES	NO
IC/EC Certification Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Monitoring Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Operation and Maintenance (O&M) Plan	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Periodic Review Frequency: once a year

Periodic Review Report Submitted Date: 04/30/2017

**Description of Institutional Control**

**Rock One Development, LLC**  
 10151 Main Street  
**600 River Road**  
 Environmental Easement  
 Block: 1  
 Lot: 21  
 Sublot: 13  
 Section: 181  
 Subsection: 16  
 S\_B\_L Image: 181.16-1-21.13  
 Ground Water Use Restriction  
 IC/EC Plan  
 Landuse Restriction  
 Monitoring Plan  
 Site Management Plan  
 Soil Management Plan

**Description of Engineering Control**

**Rock One Development, LLC**

10151 Main Street

**600 River Road**

Environmental Easement

Block: 1

Lot: 21

Sublot: 13

Section: 181

Subsection: 16

S\_B\_L Image: 181.16-1-21.13

Cover System



# **Exhibit A**

## **Property Description**

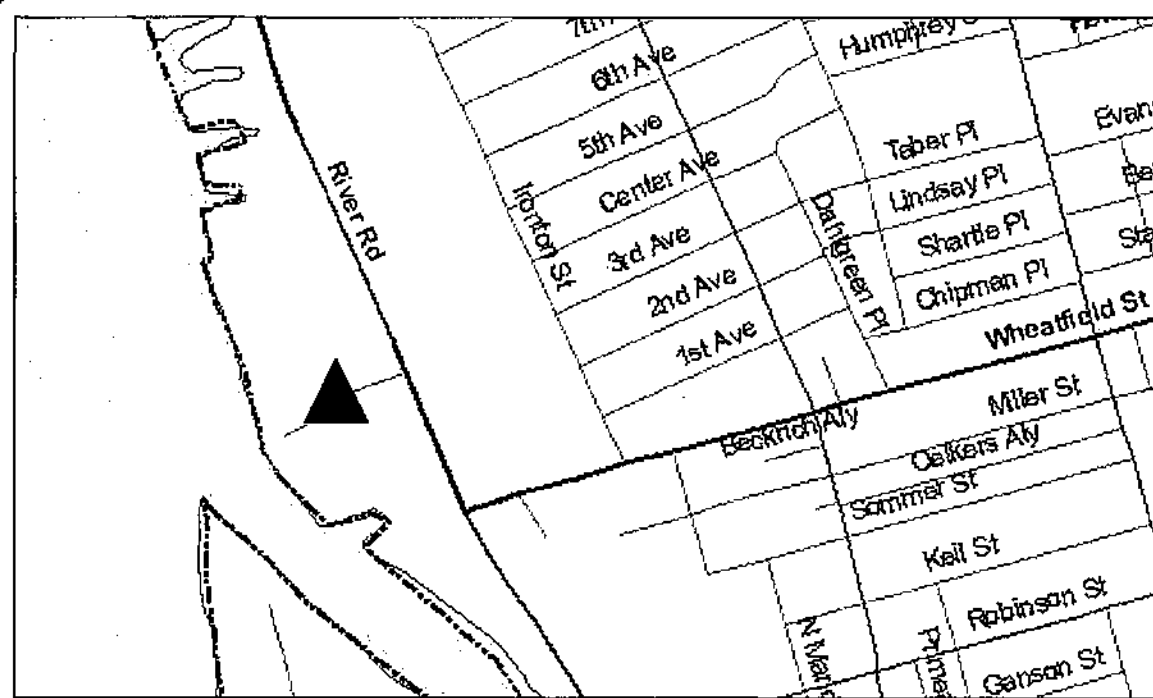
**Environmental Easement Description**  
**For 600 River Road Site**  
**BCP Site No. C932161**

***ALL THAT TRACT OR PARCEL OF LAND***, situate in the city of North Tonawanda, County of Niagara and State of New York being part of Lot 75 of the Mile Reserve, bounded and described as follows:

***BEGINNING*** at a point in the west line of River Road as now laid out, distant southerly 1087.84 feet from the north line of premises conveyed by deed recorded in the Niagara County Clerk's Office in Liber 1653 of Deeds at page 224; thence southerly along the westerly line of River Road, 24° 18' 46" East, 134.50 feet to an angle point therein; thence along the westerly line of River Road, South 23° 13' 50" East, a distance of 100.50 feet to a point; thence South 66° 3' 45" West, a distance of 429.10 feet to a point; thence South 23° 13' 50" East, a distance of 220.83 feet to a point; thence South 59° 55' 51" West, a distance of 308.57 feet to a point; thence North 53° 19' West, a distance of 111.78 feet to a point; thence North 15° 14' 50" West, a distance of 395.90 feet to a point; thence North 66° 3' 46" East, a distance of 734.01 feet to the westerly line of River Road being the point or place of beginning.

# **Exhibit B**

## **Site Survey**



Site Location Map  
Not To Scale

**RECORD LEGAL DESCRIPTION FOR 600 RIVER ROAD**

ALL THAT TRACT OR PARCEL OF LAND situate in the City of North Tonawanda, County of Niagara, State of New York, being part of Lot 75 of the Mile Reserve, bounded and described as follows:

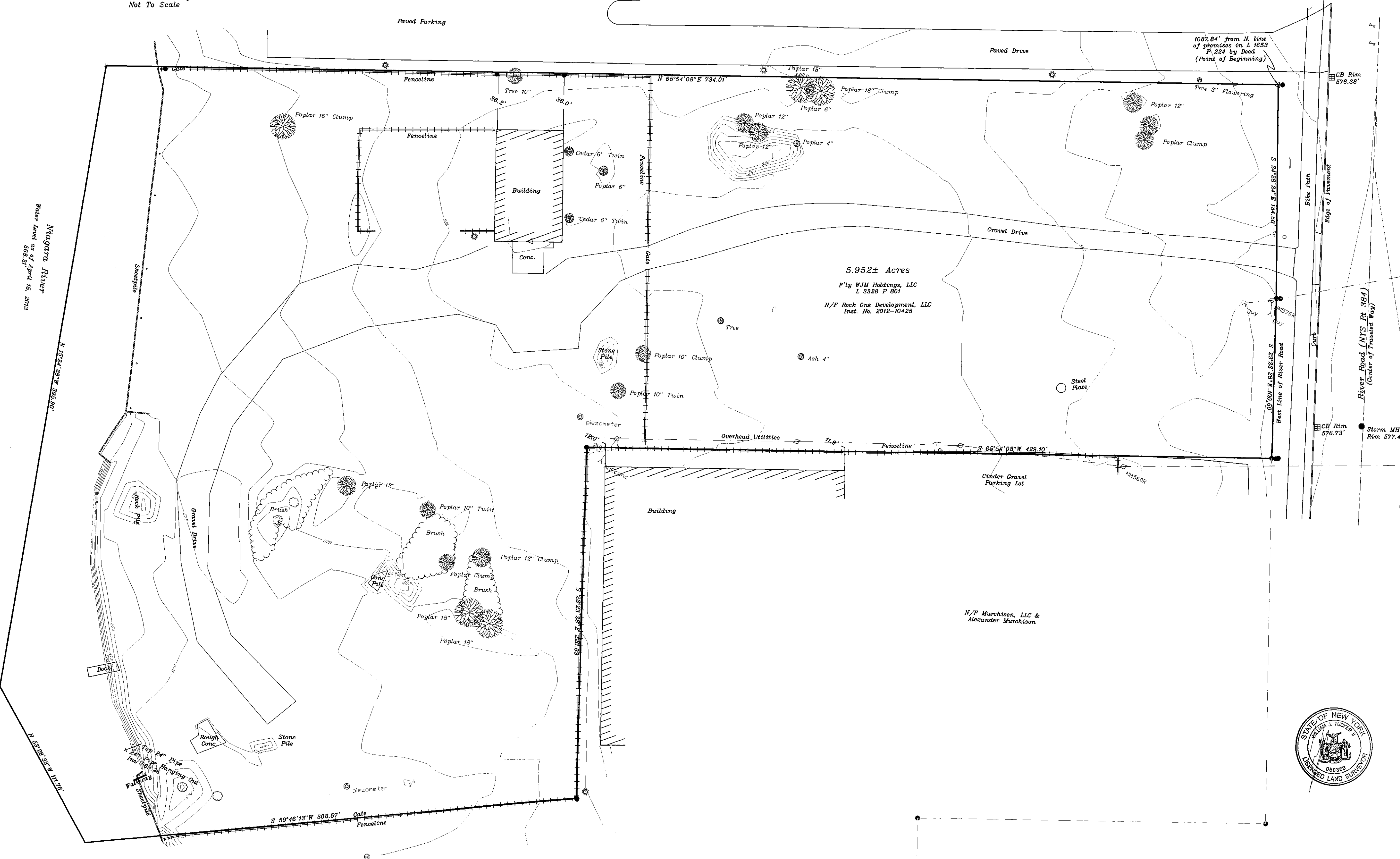
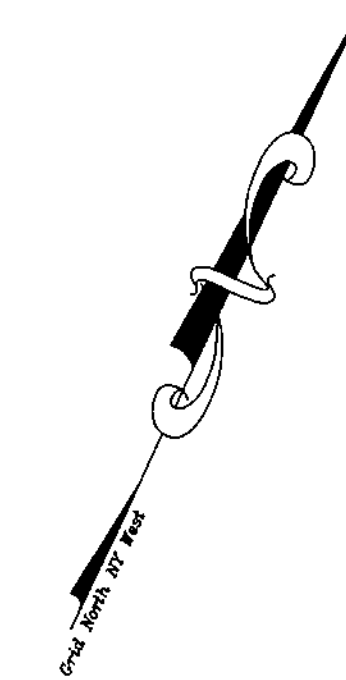
Beginning at a point in the west line of River Road, as now laid out, distant southerly 1087.84 feet from the north line of premises conveyed by deed recorded in the Niagara County Clerk's office in Liber 1653 of Deeds at Page 224. Thence southerly along the westerly line of River Road 24°18'46" East a distance of 134.50 feet to an angle point therein; Thence along the westerly line of River Road, South 23°13'50" East a distance of 100.50 feet to a point; Thence South 66°03'46" West a distance of 429.10 feet to a point; Thence South 23°13'50" East a distance of 220.83 feet to a point; Thence South 59°55'51" West a distance of 308.57 feet to a point; Thence North 53°19' West a distance of 111.78 feet to a point; Thence North 15°14'50" West a distance of 395.90 feet to a point; Thence North 66°03'46" East a distance of 734.01 feet to the westerly line of River Road being the point or place of beginning.

**ENVIRONMENTAL EASEMENT DESCRIPTION FOR 600 RIVER ROAD  
BASED ON RECORD LEGAL DESCRIPTION**

ALL THAT TRACT OR PARCEL OF LAND situate in the City of North Tonawanda, County of Niagara, State of New York, being part of Lot 75 of the Mile Reserve, bounded and described as follows:

Beginning at a point in the west line of River Road, as now laid out, distant southerly 1087.84 feet from the north line of premises conveyed by deed recorded in the Niagara County Clerk's office in Liber 1653 of Deeds at Page 224. Thence southerly along the westerly line of River Road 24°18'46" East a distance of 134.50 feet to an angle point therein; Thence along the westerly line of River Road, South 23°13'50" East a distance of 100.50 feet to a point; Thence South 66°03'46" West a distance of 429.10 feet to a point; Thence South 23°13'50" East a distance of 220.83 feet to a point; Thence South 59°55'51" West a distance of 308.57 feet to a point; Thence North 53°19' West a distance of 111.78 feet to a point; Thence North 15°14'50" West a distance of 395.90 feet to a point; Thence North 66°03'46" East a distance of 734.01 feet to the westerly line of River Road being the point or place of beginning.

N/F Wellness Partners 624, LLC  
Inst. No. 2010-02423



**General Notes**

**Legend**

- Found Pipe
- Found Rebar
- ▲ Railroad Spike
- ⊥ Street Sign
- ⊥ Water Valve
- ⊥ Gas Valve
- ⊥ Tall Light Pole
- Tree
- Sanitary Sewer Manho
- Storm Manhole
- ⊥ Catchbasin
- ⊥ Fire Hydrant
- ⊥ Guy Wire Anchor
- ⊥ Utility Pole
- Steel Post
- Bollard

**Notes:**

This survey was prepared for Lou Visone.

This map of survey dated April 18, 2013, was prepared from an instrument survey, with field work completed on April 15, 2013.

This survey was prepared for the parties and purpose indicated hereon. Any extension of the use beyond the purpose agreed to, exceeds the scope of the engagement.

It is a violation of New York State Education Law for any person, unless acting under the direction of a licensed surveyor, to alter an item in any way.

Only copies of this survey marked with an original signature and an original embossed or ink seal are the product of the land surveyor.

This plan NOT valid with an Affidavit of No Change.

This survey was prepared without the benefit of an up to date abstract of title and is subject to any state of facts revealed by an examination of such.

Lands on this survey are based on the references as indicated and a survey map prepared by Kenneth D. Wisotki dated January 10, 2012.

Distance shown are deduced and measured, unless otherwise indicated.

Elevations are referenced to NAVD83 by GPS Observation.

Symbols are graphical representations and not to scale.

Only visible utility services and/or encumbrances were located and shown.

Remove not the ancient landmark, which thy fathers have set. From 22:28  
Cursed be he that removeth his neighbor's landmark. And the people shall say Amen. Deuteronomy 27:17

Survey by William J Tucker, II PLS #50369  
Clear Creek Land Surveying, L.L.C.  
P.O. Box 435, Springville, N.Y. 14141  
Phone 716-592-5800 Fax 716-592-5566

2014-07-09 Added Legal Descriptions and Site Map

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Project: 13-012 Visone

Date: April 18, 2013

Scale: 1"=30'

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Firm Name and Address

Clear Creek Land Surveying, LLC  
PO Box 435  
Springville, NY 14141  
ph. 716-592-5800  
fax 716-592-5566

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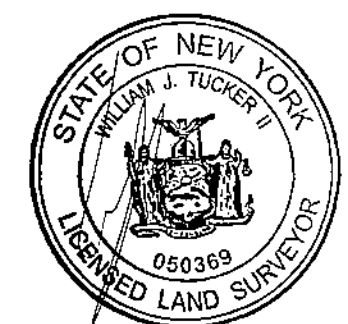
Project Name and Address

Lands Surveyed:  
Boundary & Topographical  
Survey of #600 River Road  
Part of Lot 75 Mile Reserve  
City of North Tonawanda  
Niagara County  
State of New York

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GRAPHIC SCALE

1 inch = 30 ft.



# City of North Tonawanda

OFFICE OF THE CITY ATTORNEY  
CITY HALL  
216 PAYNE AVENUE  
NORTH TONAWANDA, N.Y. 14120-5489

SHAWN P. NICKERSON  
CITY ATTORNEY

TELEPHONE  
(716) 695-8590  
FAX (716) 695-8592

KATHERINE D. ALEXANDER  
ASSISTANT CITY ATTORNEY

January 8, 2015

NYS Dept. of Environmental Conservation  
Division of Environmental Remediation  
Office of the Director, 12<sup>th</sup> Floor  
625 Broadway  
Albany, NY 12233-7011

ATT: Robert W. Schick, PE, Director  
Division of Environmental Remediation

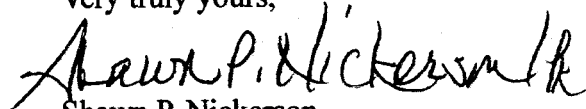
RE: Certificate of Completion  
815 River Road Investigation Site – North Tonawanda/Niagara County  
NYSDEC Site No.: B00178  
SAC No.: C304546

Dear Mr. Schick:

Enclosed, per the instructions in your letter of December 30, 2014, is the Notice of Certificate of Completion in the above-referenced matter, which was filed in the Niagara County Clerk's office on January 7, 2015, as well as the receipt from the Niagara County Clerk's office for the filing.

Should you have any questions or need anything further, please feel free to call.

Very truly yours,



Shawn P. Nickerson  
City Attorney

SPN/lk  
Encs.

cc: Gregory Sutton, DEC  
Benjamin Conlon, Esq., DEC  
Arthur Pappas, Mayor  
Dale W. Marshall, PE, City Engineer

**NOTICE OF CERTIFICATE OF COMPLETION  
Environmental Restoration Program  
Pursuant to 6 NYCRR Part 375-1.9(d)**

**ORIGINAL FILED**

**JAN 7 2015**

**WAYNE F. JAGOW  
NIAGARA COUNTY CLERK**

**815 River Road Site, Site ID No. B00178  
815 River Road, North Tonawanda New York 14120  
North Tonawanda, Niagara County, Tax Map Identification Number 181.12-119**

**PLEASE TAKE NOTICE**, the New York State Department of Environmental Conservation (Department) has issued a Certificate of Completion (Certificate) pursuant to 6 NYCRR Part 375 to North Tonawanda for a parcel approximately 0.86 +/- acres located at 815 River Road in the City of North Tonawanda, Niagara County.

**PLEASE TAKE NOTICE**, the Certificate was issued upon satisfaction of the Commissioner, following review by the Department of the final engineering report and data submitted pursuant to the State Assistance Contract, as well as any other relevant information regarding the Site, that the remediation requirements set forth in ECL Article 56, Title 5 have been or will be achieved in accordance with the time frames, if any, established in the remedial work plan.

**PLEASE TAKE NOTICE**, the remedial program for the Site has achieved a cleanup level that would be consistent with the following categories of uses (actual site use is subject to local zoning requirements):

- Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)i.
- Restricted Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)ii.
- Commercial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iii.
- Industrial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iv.

Further, the use of groundwater is restricted and may not be used, unless treated in accordance with the requirements provided by the New York State Department of Health, or a local County Health Department with jurisdiction in such matters and such is approved by the Department as not inconsistent with the remedy.

**PLEASE TAKE NOTICE**, since the remedial program relies upon use restrictions or the long term employment of institutional or engineering controls; such institutional or engineering controls are contained in an Environmental Easement granted pursuant to ECL Article 71, Title 36 which has been duly recorded in the Recording Office for Niagara County as 2014-19693.

**PLEASE TAKE NOTICE**, the Environmental Easement requires that the approved site management plan (SMP) for this property be adhered to. The SMP, which may be amended from time to time, may include sampling, monitoring, and/or operating a treatment system on the property, providing certified reports to the NYSDEC, and generally provides for the management of any and all plans and limitations on the property. A copy of the SMP is available upon request by writing to the Department's Division of Environmental Remediation, Site Control Section, 625 Broadway, Albany, New York 12233.

**PLEASE TAKE NOTICE**, provided that the Environmental Easement and Certificate are complied with, the Certificate holder(s) shall be entitled to the liability limitation provided in ECL Section 56-0509. The liability limitation shall run with the land, extending to the Certificate holder's successors or assigns through acquisition of title to the Site and to a person who develops or otherwise occupies the Site, subject to certain limitations as set forth in ECL Section 56-0509. The liability limitation shall be subject to all rights reserved to the State by ECL Section 56-0509 and any other applicable provision of law.

**PLEASE TAKE NOTICE**, any change of use of the site, as defined in 6 NYCRR 375, must be preceded by notice to the Department in accordance with 6 NYCRR 375-1.11(d). A transfer of any or all of



NIAGARA COUNTY CLERK  
WAYNE F. JAGOW

RECEIPT

Receipt Date: 01/07/2015 04:01:59 PM

RECEIPT # 2015222925

Recording Clerk: MKS

Cash Drawer: CASH4

Rec'd Frm: SHAWN P. NICKERSON

Rec'd In Person

Instr#: 2015-00245

DOC: MISCELLANEOUS

OR Party: NYS DEPT OF ENVIRONMENTAL  
CONSERVATION

EE Party: NYS DEPT OF ENVIRONMENTAL  
CONSERVATION

Recording Fees

Cover Page	\$0.00
Recording Fee	\$0.00
Cultural Ed	\$0.00
Records Management - County	\$0.00
Records Management - State	\$0.00

DOCUMENT TOTAL: ----> \$0.00

Receipt Summary

TOTAL RECEIPT: ---->	\$0.00
TOTAL RECEIVED: ---->	\$0.00
CASH BACK: ---->	<u>\$0.00</u>

815 River Road Site, Site ID No. B00178, 815 River Road, North Tonawanda New York 14120  
the property constitutes a change of use.

PLEASE TAKE NOTICE, the Certificate may be only be transferred to the Certificate holder's successors or assigns upon transfer or sale of the Site as provided by 6 NYCRR Part 375-1.9. Failure to comply with the regulatory requirements for transfer WILL bar the successors and assigns from the benefits of the Certificate.

PLEASE TAKE NOTICE, the Certificate may be modified or revoked by the Commissioner as set forth in the applicable regulations.

PLEASE TAKE NOTICE, the Certificate may be revoked if the Environmental Easement as implemented, if applicable, is not protective or enforceable.

PLEASE TAKE NOTICE, a copy of the Certificate can be reviewed at the NYSDEC's Region 9 located at 270 Michigan Avenue, Buffalo, New York 14203 by contacting the Regional Environmental Remediation Engineer.

WHEREFORE, the undersigned has signed this Notice of Certificate

City of North Tonawanda

By: Arthur H. Pappas

Title: MAYOR

Date: 1/7/15

STATE OF NEW YORK ) SS:  
COUNTY OF )

On the 7 day of January, in the year 2015, before me, the undersigned, personally appeared Arthur G. Pappas personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

[Signature]  
Signature and Office of individual  
taking acknowledgment

Please record and return to:  
City of North Tonawanda  
216 Payne Ave., City Hall  
North Tonawanda, New York 14120

12/03/09

**SHAWN P. NICKERSON**  
NOTARY PUBLIC, STATE OF NEW YORK  
QUALIFIED IN NIAGARA COUNTY  
MY COMMISSION EXPIRES 2/2/18



# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Office of the Director  
625 Broadway, 12th Floor, Albany, New York 12233-7011  
P: (518) 402-9706 | F: (518) 402-9020  
www.dec.ny.gov

December 17, 2021

Enterprise Lumber & Silo, LLC  
Kelley D. Culp-Burton  
2528 Nicole Drive  
Wheatfield, NY 14304

Re: Certificate of Completion  
211 Main Street  
Site No. C932171  
North Tonawanda, Niagara County

Dear Ms. Culp-Burton:

Congratulations on having satisfactorily completed the remedial program at the 211 Main Street BCP Site. Enclosed please find an original, signed Certificate of Completion (COC). The New York State Department of Environmental Conservation (Department) is pleased to inform you that the Final Engineering Report is hereby approved, allowing the COC to be issued for the above-referenced site.

Please note that you are required to perform the following tasks:

- If you are the site owner, you must record a notice of the COC in the recording office for the County (or Counties) where any portion of the site is located within 30 days of issuance of the COC; or if you are a prospective purchaser of the site, you must record a notice of the COC within 30 days of the date that you acquire the site. A copy of the recorded notice should be provided to the Department's project manager. If you are a non-owner, you must work with the owner to assure the notice of COC is recorded within the time frame specified. A standard notice form is attached to this letter.
- Provide electronic copies of the recorded Notice and proof of recording to the Department's project manager. Please return the hard copy of the proof of recording to:

Glenn M. May, Project Manager  
New York State Department of Environmental Conservation  
Division of Environmental Remediation  
270 Michigan Avenue  
Buffalo, NY 14203



- Provide the Notice of Certificate of Completion to the Document Repositories within 10 days of issuance of the COC. The Department will develop a fact sheet announcing the issuance of the COC and describing the institutional and engineering controls (IC/ECs), if any, that are required at the site and distribute it to the County Listserv within 10 days.

If you have any questions regarding any of these items, please contact Mr. Glenn M. May at 716-851-7220.

Sincerely,

*Susan Edwards*

Susan Edwards, P.E.  
Acting Division Director  
Division of Environmental Remediation

ec w/ enclosure:

K. D. Culp-Burton – Applicant, [kcburton@kcb-architecture.com](mailto:kcburton@kcb-architecture.com)  
M. Romanowski – Rupp Baase Pfalzgraf Cunningham LLC,  
[Romanowski@ruppbaase.com](mailto:Romanowski@ruppbaase.com)  
C. Vooris – NYSDOH, [Christine.Vooris@health.ny.gov](mailto:Christine.Vooris@health.ny.gov)  
C. Bethoney – NYSDOH, [charlotte.bethoney@health.ny.gov](mailto:charlotte.bethoney@health.ny.gov)  
G. Rys – NYSDOH, [gregory.rys@health.ny.gov](mailto:gregory.rys@health.ny.gov)  
M. Gokey, [matthew.gokey@tax.ny.gov](mailto:matthew.gokey@tax.ny.gov)  
P. Takac, [paul.takac@tax.ny.gov](mailto:paul.takac@tax.ny.gov)

ec w/o enc.:

G. May - NYSDEC, R9  
S. Radon - NYSDEC, RHWG, R9  
M. Cruden - NYSDEC, Bureau Director, Remedial Section E  
C. Bower - OGC, Albany

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)  
*CERTIFICATE OF COMPLETION*

**CERTIFICATE HOLDER(S):**

**Name**

Enterprise Lumber & Silo, LLC

**Address**

2528 Nicole Drive, Wheatfield, NY 14304

**BROWNFIELD CLEANUP AGREEMENT:**

**Application Approval:** 4/2/18 **Agreement Execution:** 5/15/18

**Agreement Index No.:** C932171-03-18

**Application Approval Amendment:** none

**Agreement Execution Amendment:** none

**SITE INFORMATION:**

**Site No.:** C932171 **Site Name:** 211 Main Street

**Site Owner:** Enterprise Lumber & Silo, LLC

**Street Address:** 211 Main Street

**Municipality:** North Tonawanda

**County:** Niagara

**DEC Region:** 9

**Site Size:** 0.670 Acres

**Tax Map Identification Number(s):** 185.05-1-80.21

**Percentage of site located in an EnZone:** 0 - 49 %

A description of the property subject to this Certificate is attached as Exhibit A and a site survey is attached as Exhibit B.

**CERTIFICATE ISSUANCE**

This Certificate of Completion, hereinafter referred to as the "Certificate," is issued pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law ("ECL").

This Certificate has been issued upon satisfaction of the Commissioner, following review by the Department of the Final Engineering Report and data submitted pursuant to the Brownfield Site Cleanup Agreement, as well as any other relevant information regarding the site, that the applicable remediation requirements set forth in the ECL have been or will be achieved in accordance with the time frames, if any, established in the remedial work plan.

The remedial program for the site has achieved a cleanup level that would be consistent with the following categories of uses (actual site use is subject to local zoning requirements):

**Allowable Uses under the BCP:** Unrestricted, Residential, Restricted-Residential, Commercial, and Industrial  
**Cleanup Track:** Track 1: Unrestricted use

**Tax Credit Provisions:**

Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 50 %.

Tangible Property Credit is 15%. Comprised of 10% Base, 5% Track 1.

Dependent upon the project being developed in a manner consistent with the approved Brownfield Cleanup Program application, additional rate increases may be available if the site is developed as affordable housing (5%), if the Certificate Holder receives a separate Determination of Conformance with the BOA from the Secretary of State (5%), or if the site is used primarily for manufacturing activities (5%) not to exceed a maximum 24 %.

No Environmental Easement has been granted pursuant to ECL Article 71, Title 36 as there are no use restrictions and there is no reliance on the long-term employment of institutional controls.

### **LIABILITY LIMITATION**

Upon issuance of this Certificate of Completion, and subject to the terms and conditions set forth herein, the Certificate holder(s) shall be entitled to the liability limitation provided in ECL Section 27-1421. The liability limitation shall run with the land, extending to the Certificate holder's successors or assigns through acquisition of title to the site and to a person who develops or otherwise occupies the site, subject to certain limitations as set forth in ECL Section 27-1421. The liability limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law.

### **CERTIFICATE TRANSFERABILITY**

This Certificate may be transferred to the Certificate holder's successors or assigns upon transfer or sale of the site as provided by ECL Section 27-1419.5 and 6NYCRR Part 375-1.9.

### **CERTIFICATE MODIFICATION/REVOCATION**

This Certificate of Completion may be modified or revoked by the Commissioner following notice and an opportunity for a hearing in accordance with ECL Section 27-1419 and 6NYCRR Part 375-1.9(e) upon a finding that:

- (1) either the Applicant or the Applicant's successors or assigns have failed to comply with the terms and conditions of the Brownfield Site Cleanup Agreement;
- (2) the Applicant made a misrepresentation of a material fact tending to demonstrate that it was qualified as a Volunteer;
- (3) either the Applicant or the Applicant's successors or assigns made a misrepresentation of a material fact tending to demonstrate that the cleanup levels identified in the Brownfield Site Cleanup Agreement were reached;
- (4) there is good cause for such modification or revocation.

The Certificate holder(s) (including its successors or assigns) shall have thirty (30) days within which to cure any deficiency or to seek a hearing. If the deficiency is not cured or a request for a hearing is not received within such 30-day period, the Certificate shall be deemed modified or vacated on the 31st day after the Department's notice.

Basil Seggos  
Commissioner  
New York State Department of Environmental Conservation

By: Susan Edwards Date: 12/17/2021

Susan Edwards, P.E., Acting Director  
Division of Environmental Remediation

**NOTICE OF CERTIFICATE OF COMPLETION**  
**Brownfield Cleanup Program**  
**6 NYCRR Part 375-1.9(d)**

211 Main Street, Site ID No. C932171  
211 Main Street, North Tonawanda, Niagara County, New York, 14120  
North Tonawanda, Niagara County, Tax Map Identification Number 185.05-1-80.21

**PLEASE TAKE NOTICE**, the New York State Department of Environmental Conservation (Department) has issued a Certificate of Completion (Certificate) pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law (ECL) to Enterprise Lumber & Silo, LLC for a parcel approximately 0.670 acres in size located at 211 Main Street in the City of North Tonawanda, Niagara County.

**PLEASE TAKE NOTICE**, the Certificate was issued upon satisfaction of the Commissioner, following review by the Department of the final engineering report and data submitted pursuant to the Brownfield Site Cleanup Agreement, as well as any other relevant information regarding the Site, that the remediation requirements set forth in ECL Article 27, Title 14 have been or will be achieved in accordance with the time frames, if any, established in the remedial work plan.

**PLEASE TAKE NOTICE**, the remedial program for the Site has achieved a cleanup level that would be consistent with the following categories of uses (actual site use is subject to local zoning requirements):

- Unrestricted Use, as set forth in 6 NYCRR 375-1.8(g)(1)i
- Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)i.
- Restricted Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)ii.
- Commercial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iii.
- Industrial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iv.

**PLEASE TAKE NOTICE**, provided that the Certificate is complied with, the Certificate holder(s) shall be entitled to the liability limitation provided in ECL Section 27-1421. The liability limitation shall run with the land, extending to the Certificate holder's successors or assigns through acquisition of title to the site and to a person who develops or otherwise occupies the site, subject to certain limitations as set forth in ECL Section 27-1421. The liability limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law.

**PLEASE TAKE NOTICE**, the Certificate may entitle the Certificate holder(s) to tax credits in accordance with Tax Law Sections 21, 22 and 23.

**PLEASE TAKE NOTICE**, the Certificate may only be transferred to the Certificate holder's successors or assigns upon transfer or sale of the Site as provided by ECL Section 27-1419.5 and 6 NYCRR Part 375-1.9. Failure to comply with the regulatory requirements for transfer **WILL** bar the successors and assigns from the benefits of the Certificate.

**PLEASE TAKE NOTICE**, the Certificate may be modified or revoked by the Commissioner as set forth in the applicable regulations.

**PLEASE TAKE NOTICE**, a copy of the Certificate can be reviewed at the NYSDEC's Region 9 located at 270 Michigan Avenue, Buffalo, New York, 14203, by contacting the Regional Environmental Remediation Engineer, or at <https://www.dec.ny.gov/data/DecDocs/C932171>.

**211 Main Street, Site ID No. C932171  
211 Main Street, North Tonawanda, Niagara County, New York, 14120**

**WHEREFORE**, the undersigned has signed this Notice of Certificate

Enterprise Lumber & Silo, LLC

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF NEW YORK        ) SS:  
COUNTY OF                )

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Signature and Office of individual  
taking acknowledgment

**Please record and return to:**  
Enterprise Lumber & Silo, LLC  
Kelley D. Culp-Burton  
2528 Nicole Drive  
Wheatfield, NY 14304

**EXHIBIT A**  
**METES & BOUNDS**

**ALL THAT TRACT OR PARCEL OF LAND**, situate in the City of North Tonawanda, County of Niagara and State of New York, known and distinguished as being part of Lot 81 of the Niagara River Reservation (so called) bounded and described as follows:

**COMMENCING** at a point in the east line of Main Street, 88.52 feet southerly from its intersection with the south line of Thompson Street; thence southerly along the east line of Main Street, 305.09 feet to a point; thence easterly at right angles to the west line of lands formerly owned by The New York Central Railroad 104.01 feet to the said west line of said railroad company's land; thence northerly along the west line of said railroad company's land, 283.05 feet to a point in a line parallel with the south line of Thompson Street and a chord distance from the south line of Thompson Street of 82.84 feet; thence westerly and parallel with the south line of Thompson Street 206.52 feet to the point or place of beginning.

**EXCEPTING THEREFROM ALL THAT TRACT OR PARCEL OF LAND**, situate in the City of North Tonawanda, County of Niagara and State of New York, known and distinguished as being part of Lot 81 of the Niagara River Reservation (so called) bounded and described as follows:

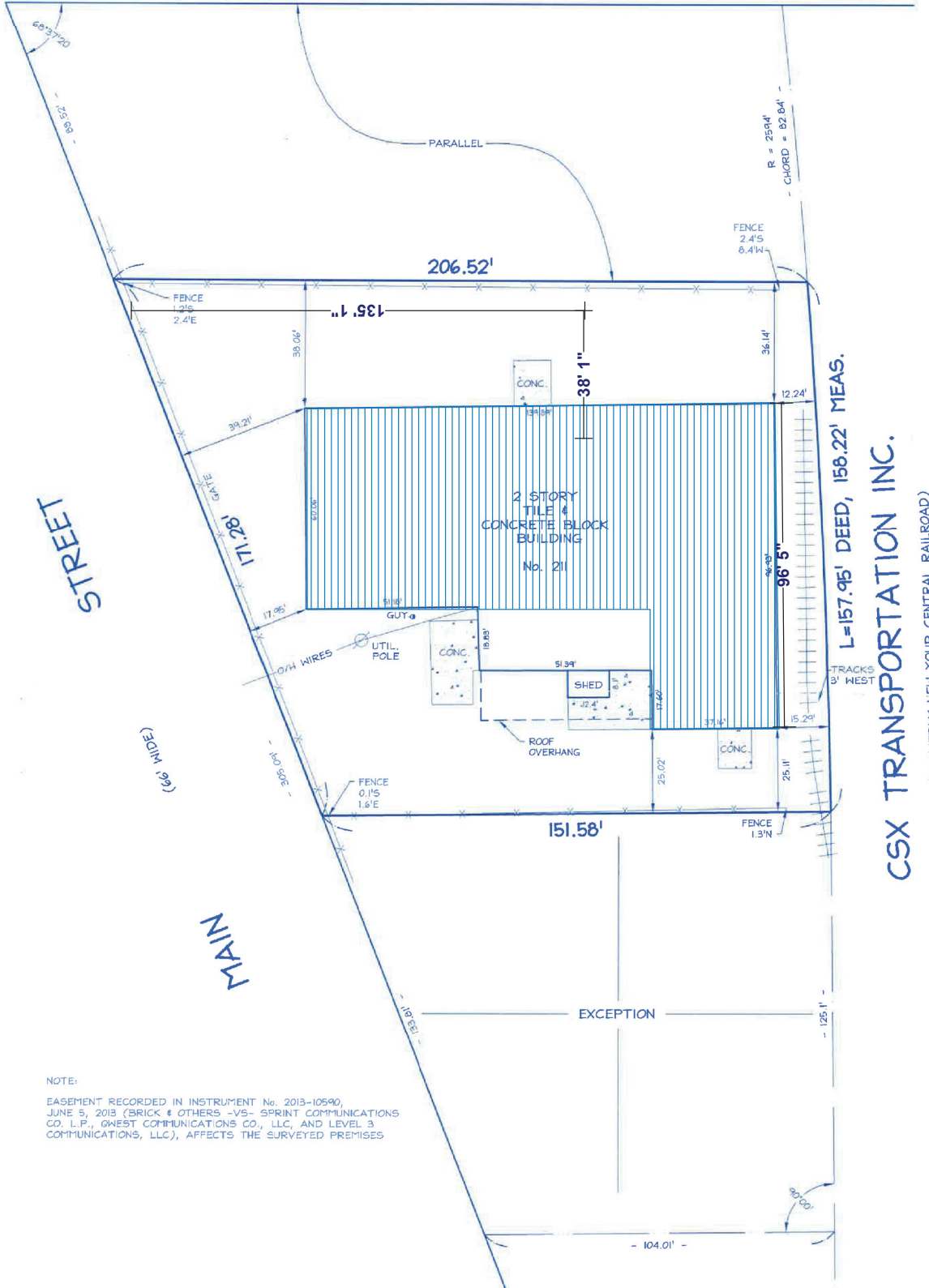
**COMMENCING** at a point in the east line of Main Street, 259.8 feet southerly from its intersection with the south line of Thompson Street; thence southerly along the east line of Main Street 133.81 feet to a point running thence easterly at right angles to the west line of lands formerly owned by the New York Central Railroad 104.01 feet to the said west line of said railroad company's lands; thence northerly along the west line of said railroad company's land 125.1 feet to a point; thence westerly at right angles to the west line of the railroad company's lands 151.58 feet to the point or place of beginning.



**EXHIBIT B**  
**SITE SURVEY MAP**



# THOMPSON (66' WIDE) STREET



**NOTE:**

EASEMENT RECORDED IN INSTRUMENT No. 2013-10590, JUNE 5, 2013 (BRICK & OTHERS -VS- SPRINT COMMUNICATIONS CO. L.P., GWEST COMMUNICATIONS CO., LLC, AND LEVEL 3 COMMUNICATIONS, LLC), AFFECTS THE SURVEYED PREMISES

NO IRONS SET OR FOUND AT PROPERTY CORNERS UNLESS NOTED HEREON.

This survey was prepared without the benefit of an abstract of title and is subject to any state of facts that may be revealed by an examination of such.

Unauthorized alterations or additions to any survey, drawing, design, specification, plan or report is a violation of section 7209, provision 2 of the New York State Education Department.

PART OF LOT 81, NIAGARA RIVER RESERVATION		TOWNSHIP :	RANGE :	
LOCATION : CITY OF NORTH TONAWANDA		COUNTY OF NIAGARA	STATE OF NEW YORK	SCALE: 1" = 30'
KIND	DATE	REQUESTED BY		JOB NO.
SURVEY	06/06/16	BRICK, BRICK & ELMER, P.C.		16J4-0220



84 Sweeney Street, Suite C-13  
North Tonawanda, NY 14120  
Ph: (716) 692-0800 Fax: (716) 389-0491



**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**  
**Site Management Form**  
 12/14/2021



**SITE DESCRIPTION**

**SITE NO.      C932171**

**SITE NAME 211 Main Street**

SITE ADDRESS: 211 Main Street      ZIP CODE: 14120

CITY/TOWN:    North Tonawanda

COUNTY:    Niagara

ALLOWABLE USE:    Unrestricted, Residential, Restricted-Residential, Commercial, and Industrial

**SITE MANAGEMENT DESCRIPTION**

SITE MANAGEMENT PLAN INCLUDES:      YES    NO

- IC/EC Certification Plan
- Monitoring Plan
- Operation and Maintenance (O&M) Plan

Periodic Review Frequency:

Periodic Review Report Submitted Date:

**Description of Institutional Control**

**Description of Engineering Control**