

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)
CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name	Address
1093 GROUP, LLC	295 Main Street, Suite 210, Buffalo, NY 14203-2219

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 7/28/08 **Agreement Execution:** 10/15/08 **Agreement Index No.:** B9-0759-07-11

SITE INFORMATION

Site No.: C915223 **Site Name:** Niagara Street and Pennsylvania Avenue Site
Site Owner: 1093 GROUP, LLC
Street Address: 517 Niagara Street
Municipality: Buffalo **County:** Erie **DEC Region:** 9
Site Size: 0.27Acres
Tax Map Identification Number(s): 110.27-5-1.1
Percentage of site located in an EnZone: 100 %

A description of the property subject to this Certificate is attached as Attachment A and a site survey is attached as Attachment 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 2: Restricted use with generic 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 40 %.
Tangible Property Credit Component Rate is 20 %.

Tax Credit Provisions for Entities Taxable Under Article 22 & S Corporations:
Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 40 %.
Tangible Property Credit Component Rate is 18 %.

The Remedial Program includes use restrictions or reliance on 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 Erie County as 2009255053.

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) 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;
- (5) the terms and conditions of the environmental easement have been intentionally violated or found to be not protective or enforceable; or
- (6) 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 received within such 30-day period, the Certificate shall be deemed modified or vacated on the 31st day after the Department’s notice.

Alexander B. Grannis
Commissioner
New York State Department of Environmental Conservation

By: _____ Date: _____
Dale A. Desnoyers, Director
Division of Environmental Remediation