

# New York State Department of Environmental Conservation

## Division of Environmental Remediation

Office of the Director, 12th Floor

625 Broadway, Albany, New York 12233-7011

Phone: (518) 402-9706 • Fax: (518) 402-9020

Website: [www.dec.ny.gov](http://www.dec.ny.gov)



Joe Martens  
Commissioner

JAN 16 2015

Joseph Karten  
2350 Fifth Avenue Corp.  
309 East 94<sup>th</sup> Street, Ground Floor  
New York, NY 10128

Re: Certificate of Completion and Registry Reclassification  
Site Name: 2350 Fifth Ave., New York (aka, PS 141)  
Site No. 231004  
New York County, New York

Dear Mr. Karten:

Congratulations on having satisfactorily completed the remedial program at the 2350 Fifth Ave., New York (aka, PS 141) site. Enclosed please find an original, signed Certificate of Completion. The New York State Department of Environmental Conservation (DEC) is pleased to inform you that the Final Engineering Report is hereby approved, allowing the Certificate of Completion (COC) to be issued for the above-referenced site. This also results in the reclassification of the site on the Registry of Inactive Hazardous Waste Disposal Sites ("Registry").

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. 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. In all cases, proof of filing must be provided to DEC within 30 days of receipt. A standard notice form is attached to this letter.
- Place the notice of the COC in the document repository for the site within 10 days of issuance of the COC; and
- Implement the DEC-approved Site Management Plan (SMP) which details the activities necessary to assure the performance, effectiveness, and protectiveness of the remedial program. 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 DEC in May 2016.

DEC will prepare and distribute to the Site Contact List a fact sheet describing the institutional and engineering controls that are required at the site, and notifications relating to the reclassification or delisting of the site on the Registry.

If you have any questions regarding any of these items, please contact Bryan Wong, the project manager for this site at (718)-482-4905.

Sincerely,

A handwritten signature in black ink, appearing to read 'RWS', is positioned above the printed name.

Robert W. Schick, P.E.

Director

Division of Environmental Remediation

Enclosures

ec: Krista Anders, DOH  
Justin Deming, DOH  
Dawn Hettrick, DOH  
Michael Ryan, DEC  
Robert Cozzy, DEC  
Jane O'Connell, DEC  
Bryan Wong, DEC  
Louis Oliva, DEC  
Andrew Guglielmi, DEC  
Rosalie K. Rusinko, DEC



NYSDEC STATE SUPERFUND PROGRAM (SSF)  
*CERTIFICATE OF COMPLETION*

**CERTIFICATE HOLDER(S):**

**Name**

2350 Fifth Avenue Corp.

**Address**

309 East 94th Street, Ground Floor, New York, NY 10128

**SITE INFORMATION**

**Site No.:** 231004 **Site Name:** 2350 Fifth Ave., New York (aka, PS 141)

**Order on Consent:** Index No. W2-0792-11-04 **Order Execution Date:** 7/22/2011, amended 10/21/2014

**Site Owner:** 2350 Fifth Avenue Corp.

**Street Address:** 2340 & 2350 Fifth Avenue

**Municipality:** New York **County:** New York

**DEC Region:** 2

**Site Size:** 1.543 Acres

**Tax Map Identification Number(s):** 1739-22 (part of), 1739-33

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 6 NYCRR §375-1.9.

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 Order on Consent as well as any other relevant information regarding the Site, that the applicable remediation requirements set forth in the Environmental Conservation Law (ECL) and 6NYCRR Part 375 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:

**Allowable Uses under the SSF:** Restricted-Residential, Commercial, and Industrial

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 New York County with recording identifier 2014000423306.

**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 6NYCRR §375-2.9. 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 6NYCRR §375-2.9(d). The liability limitation shall be subject to all rights reserved to the State by ECL §27-1321 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 6NYCRR §375-1.9(f)-(g).

## **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 6NYCRR §375-1.9(e)(2) upon a finding that:

- (1) the remedial party has failed to manage the controls or monitoring in full compliance with the terms of the approved remedial program;
- (2) there has been a failure to comply with the terms and conditions of the order;
- (3) there was a misrepresentation of a material fact tending to demonstrate that the cleanup levels were reached;
- (4) the terms and conditions of any environmental easement have been intentionally violated or found to be not protective or enforceable;
- (5) for good cause;
- (6) environmental contamination at, on, under, or emanating from the site if, in light of such conditions, the site is no longer protective of public health or the environment, and the remedial party is not in good faith negotiating, and/or following its approval by the Department, implementing a work plan to achieve conditions at the site which are protective of public health and the environment;
- (7) non-compliance with the terms of the order, the remedial work plan, site management plan, or the certificate of completion after notice of the failure and reasonable opportunity to cure has been afforded to the remedial party by the Department as provided for at paragraph 375-1.9(e)(2);
- (8) fraud related to the remedial program for the site committed by the certificate holder;
- (9) a finding by the Department that a change in an environmental standard, factor, or criterion upon which the remedial work plan was based renders the remedial program implemented at the site no longer protective of public health or the environment, and the remedial party is not in good faith negotiating, and/or following its approval by the Department, implementing a work plan to achieve conditions at the site which are protective of public health and the environment; or
- (10) a change in the site's use subsequent to the Department's issuance of the certificate of completion, unless additional remediation is undertaken which shall meet the standard for protection of the public health and environment that applies to this site.

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.

Joseph J. Martens  
Commissioner  
New York State Department of Environmental Conservation

By:



Robert W. Schick, P.E., Director  
Division of Environmental Remediation

Date: JANUARY 16, 2015



**NOTICE OF CERTIFICATE OF COMPLETION**  
**Inactive Hazardous Waste Disposal Site Program**  
**Pursuant to 6 NYCRR Part 375-1.9(d)**

2350 Fifth Ave., New York (aka, PS 141), Site ID No. 231004  
2340 & 2350 Fifth Avenue, New York, NY 10037  
New York County, Tax Map Identification Number(s) Block 1739 Lots 33 and Part of Lot 22

**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 2350 Fifth Avenue Corp. for a parcel approximately 1.543 acres located at the 2340 and 2350 Fifth Avenue in the City of New York, New York 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 Order on Consent, as well as any other relevant information regarding the Site, that the remediation requirements set forth in ECL Article 27, Title 13 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.

**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 New York County as CRFN 2014000423306.

**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 6 NYCRR Part 375-2.9. 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 6 NYCRR Part 375-2.9. The liability limitation shall be subject to all rights reserved to the State by 6 NYCRR Part 375-2.9 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 the property constitutes a change of use.

*2350 Fifth Ave., New York (aka, PS 141), 231004, 2340 and 2350 Fifth Avenue, New York*

**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 2 located at 47-40 21<sup>st</sup> Street, Long Island city, New York 11101, by contacting the Regional Environmental Remediation Engineer.

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

2350 Fifth Avenue Corp.

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:**  
2350 Fifth Avenue Corp.  
Joseph Karten  
309 East 94<sup>th</sup> Street, Ground Floor  
New York, NY 10128

12/03/09



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
Site Management Form  
1/12/2015



SITE DESCRIPTION

SITE NO. 231004

SITE NAME 2350 Fifth Ave., New York (aka, PS 141)

SITE ADDRESS: 2340 & 2350 Fifth Avenue ZIP CODE: 10037

CITY/TOWN: New York

COUNTY: New York

ALLOWABLE USE: Restricted-Residential, Commercial, and Industrial

SITE MANAGEMENT DESCRIPTION

SITE MANAGEMENT PLAN INCLUDES:

IC/EC Certification Plan YES

Monitoring Plan YES

Operation and Maintenance (O&M) Plan YES

Periodic Review Frequency: 1 year

Periodic Review Report Submittal Date: 05/16/2016

Description of Institutional Control

2350 Fifth Avenue Corporation

2350 Fifth Avenue

Environmental Easement

Block: 1739

Lot: 22

Sublot:

Section:

Subsection:

S\_B\_L Image: 1739-22 (part of)

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

O&M Plan

Site Management Plan

Soil Management Plan

Lot: 33  
Sublot:  
Section:  
Subsection:  
S\_B\_L Image: 1739-33  
Ground Water Use Restriction  
IC/EC Plan  
Landuse Restriction  
Monitoring Plan  
O&M Plan  
Site Management Plan  
Soil Management Plan

#### Description of Engineering Control

##### **2350 Fifth Avenue Corporation**

2350 Fifth Avenue

Environmental Easement

Block: 1739

Lot: 22

Sublot:

Section:

Subsection:

S\_B\_L Image: 1739-22 (part of)

Air Sparging/Soil Vapor Extraction

Cover System

Vapor Mitigation

Lot: 33

Sublot:

Section:

Subsection:

S\_B\_L Image: 1739-33

Air Sparging/Soil Vapor Extraction

Cover System

Vapor Mitigation



**Legal Description**

**2350 Fifth Avenue (aka PS 141) Site No. 231004**

**2350 Fifth Avenue, New York, NY**

**Block 1739, Lot 33 and Part of Lot 22**

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY SIDELINE OF WEST 142ND STREET, SHOWN 60 FEET WIDE ON THE SECTIONAL MAP OF 117, WITH THE WESTERLY SIDELINE OF FIFTH AVENUE, SHOWN 100 FEET WIDE ON SAID SECTIONAL MAP, AND RUNS, THENCE:

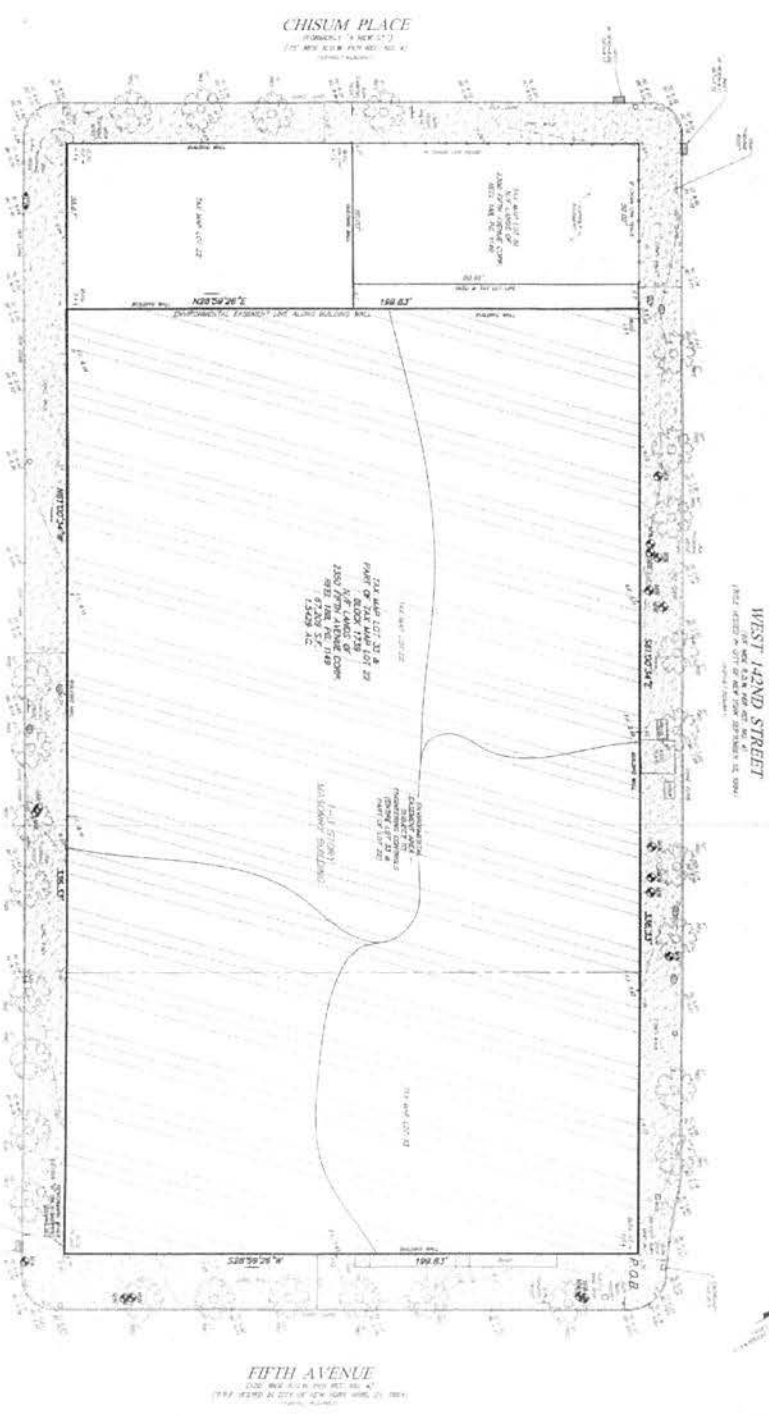
ALONG FIFTH AVENUE, SOUTH  $28^{\circ} 59' 26''$  WEST 199.83 FEET, TO ITS INTERSECTION WITH THE NORTHERLY SIDELINE OF WEST 141ST STREET, SHOWN 75 FEET WIDE ON SAID SECTIONAL MAP; THENCE

ALONG THE SAME, NORTH  $61^{\circ} 00' 34''$  WEST 336.33 FEET, TO A POINT; THENCE

THROUGH LANDS OF 2350 FIFTH AVENUE CORP., DESCRIBED IN REEL 188 AT PAGE 1149, ALONG A BUILDING WALL NORTH  $28^{\circ} 59' 26''$  EAST 199.83 FEET, TO A POINT IN THE SOUTHERLY SIDELINE OF WEST 142ND STREET; THENCE

ALONG THE SAME, SOUTH  $61^{\circ} 00' 34''$  EAST 336.33 FEET, TO THE POINT AND PLACE OF BEGINNING.

SYMBOLS	
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13. CONC. ASPHALT	14. CONC. ASPHALT
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95. CONC. ASPHALT	96. CONC. ASPHALT
97. CONC. ASPHALT	98. CONC. ASPHALT
99. CONC. ASPHALT	100. CONC. ASPHALT



**CHISUM PLACE**  
 142ND STREET  
 FIFTH AVENUE

**WEST 142ND STREET**  
 142ND STREET

**FIFTH AVENUE**  
 FIFTH AVENUE

**ENVIRONMENTAL EASEMENT PLAN**  
 TAX MAP LOT 33 & PART OF  
 TAX MAP LOT 22 - BLOCK 1739  
 2350 FIFTH AVENUE  
 BOROUGH OF MANHATTAN, NEW YORK CITY  
 CITY & STATE OF NEW YORK

**DPK CONSULTING**  
 141 Union Ave. 2nd Fl. Manhattan, NY 10018 P. 732-764-8100 F. 732-764-0990  
 NEW JERSEY CERTIFICATE OF AUTHORIZATION NO. 2404004200

Steven D. Parent  
 Professional Land Surveyor  
 No. 2404004200  
 STATE OF NEW JERSEY

James R. Watson  
 Professional Land Surveyor  
 No. 2404004200  
 STATE OF NEW JERSEY

**ENVIRONMENTAL EASEMENT PLAN**  
 TAX MAP LOT 33 & PART OF  
 TAX MAP LOT 22 - BLOCK 1739  
 2350 FIFTH AVENUE  
 BOROUGH OF MANHATTAN, NEW YORK CITY  
 CITY & STATE OF NEW YORK