

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 23, 2020

Christopher Tao
Avery Group LLC
P.O. Box 815
Plandome, NY 11030

Re: Certificate of Completion
131-10 Avery Avenue
Flushing, Queens County
Site No. C241228

Dear Mr. Tao:

Congratulations on having satisfactorily completed the remedial program at the 131-10 Avery Avenue. 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 the Notice of Certificate of Completion 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 the Notice 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 is recorded within the time frame specified. A standard Notice of Certificate of Completion 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:

Javier Perez-Maldonado, Bureau B
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, NY 12233

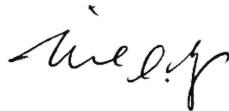


Department of
Environmental
Conservation

- 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;
- Implement the Department-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 the Department 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 2022.

If you have any questions regarding any of these items, please contact Javier Perez-Maldonado at 518-402-8172.

Sincerely,



Michael J. Ryan, P.E.

Director

Division of Environmental Remediation

Enclosure

ec w/ enclosure:

A. Sloto - SPR, asloto@sprlaw.com

D. Yudelson - SPR, dyudelson@sprlaw.com

S. Wang, P. E., swang@yu-associates.com

C. Vooris - NYSDOH, christine.vooris@health.ny.gov

S. McLaughlin - NYSDOH, scarlett.mclaughlin@health.ny.gov

S. Wagh - NYSDOH, sarita.wagh@health.ny.gov.

Matt Gokey, matthew.gokey@tax.ny.gov

Paul Takac, paul.takac@tax.ny.gov

ec w/o enc.:

J. Perez-Maldonado

J. Grathwol

G. Burke

J. O'Connell

M. Murphy

K. Lewandowski

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)

CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name

Avery Group LLC

Address

P.O. Box 815, Plandome, NY 11030

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 1/15/19

Agreement Execution: 1/30/19

Agreement Index No.: C241228-01-19

Application Approval Amendment: 11/2/20

Agreement Execution Amendment: 11/2/20

SITE INFORMATION:

Site No.: C241228 **Site Name:** 131-10 Avery Avenue

Site Owner: Avery Group LLC

Street Address: 131-10 Avery Avenue

Municipality: Flushing

County: Queens

DEC Region: 2

Site Size: 0.298 Acres

Tax Map Identification Number: 5076-61

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: Conditional Track 1: Unrestricted use, provided that the remedial goals for groundwater are achieved within five years of the date of the Certificate. If these goals are not achieved within five years, this Certificate shall be modified to a Track 2 Residential cleanup.

Tax Credit Provisions:

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

Tangible Property Credit at the time of this COC issuance is 0%.

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 Queens County as 2020000327795.

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 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:  Date: 12/23/2020

Michael J. Ryan, P.E., Director
Division of Environmental Remediation

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

131-10 Avery Avenue, Site ID No. C241228
131-10 Avery Avenue, NY 11355
Flushing, Queens County, Block, Lot: 5076-61

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 Avery Group LLC for a parcel approximately 0.298 acres located at 131-10 Avery Avenue in Flushing, Queens 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.

For Unrestricted or Residential Use, provided that the remedial goals for groundwater are achieved within five years of the date of the Certificate of Completion. If these goals are not achieved within five years, the Certificate of Completion shall be modified to a cleanup level consistent with Restricted Residential use.

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 Queens County as 2020000327795.

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 shall be entitled to the liability limitation provided in ECL Section

131-10 Avery Avenue, C241228, 131-10 Avery Avenue, Flushing, NY 11355

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, 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 be revoked if the Environmental Easement as implemented, if applicable, is not protective or enforceable.

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 2 office located at 47-40 21st Street, Long Island City, NY 11101, by contacting the Regional Environmental Remediation Engineer, or at <https://www.dec.ny.gov/data/DecDocs/C241228/>.

WHEREFORE, the undersigned has signed this Notice of Certificate

Avery Group 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:

Christopher Tao
Avery Group LLC
P.O. Box 815
Plandome, NY 11030

Exhibit A

Site Description

ENVIRONMENTAL EASEMENT LEGAL DESCRIPTION

131-10 AVERY AVENUE

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE BOROUGH AND COUNTY OF QUEENS, CITY AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE CORNER FORMED BY THE INTERSECTION OF THE EASTERLY SIDE OF 131ST STREET, 50 FEET WIDE, WITH THE SOUTHERLY SIDE OF AVERY AVENUE, 80 FEET WIDE;

RUNNING THENCE EASTERLY ALONG THE SOUTHERLY SIDE OF AVERY AVENUE, 208.20 FEET (DEED; 208.19 FEET ON TAX MAP);

THENCE SOUTHERLY AND PART OF THE DISTANCE THROUGH A PARTY WALL, 65 FEET;

THENCE WESTERLY PARALLEL WITH AVERY AVENUE, 191.32 FEET TO THE EASTERLY SIDE OF 131ST STREET;

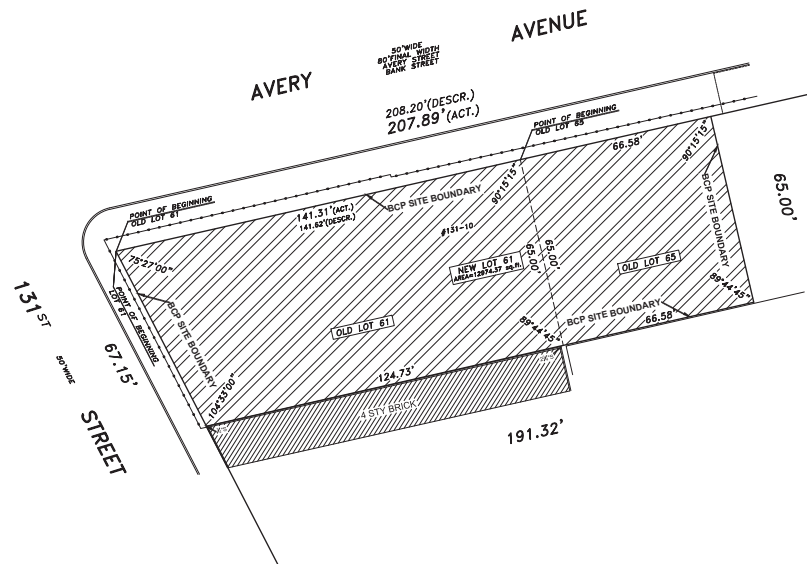
THENCE NORTHERLY ALONG EASTERLY SIDE OF 131ST STREET, 67.15 FEET TO THE CORNER, THE POINT OR PLACE OF BEGINNING.

AREA OF THE ENVIRONMENTAL EASEMENT: 12974.37 SQ. FT. = 0.2979 ACRE

Exhibit B

Site Survey

SCALE 1"=20'

[illegible][illegible]

—UNDERGROUND UTILITIES NOTES

UNDERGROUND, OVERHEAD AND GROUND LEVEL UTILITIES ARE NOT GUARANTEED AS TO ACCURACY, EXACT LOCATION, TYPE OR USE, ACTIVE OR INACTIVE. VERIFICATION IS MANDATORY WITH MUNICIPAL AGENCIES, PUBLIC AND PRIVATE UTILITY COMPANIES PRIOR TO TAKING TITLE AND/OR DESIGN WORK. BOUNDARIES ARE NOT GUARANTEED UNLESS SO NOTED.

ALL OPERATIONS OF UNDERGROUND FACILITIES AND ALL EXCAVATIONS ARE OBLIGATED TO COMPLY WITH ARTICLE 36 OF THE GENERAL BUSINESS LAW AND THE REGULATIONS OF THE CODE OF CONSTRUCTION (RUE LC 36) BEFORE ANY EXCAVATION OR DEMOLITION IS COMMENCED. EVERY EXCAVATOR IS REQUIRED BY THESE LAWS TO GIVE ADVANCE NOTICE TO EVERY OPERATOR OF UNDERGROUND FACILITIES OF HIS INTENT TO PERFORM EXCAVATION OR DEMOLITION WORK IN THE

LEGAL DESCRIPTION

OLD LOT 61

ALL THAT certain plot, piece or parcel of land, situate , lying and being in the Borough and County of Queens, City and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the easterly side of 131st Street, 50 feet wide, with the southerly side of Avery Avenue, 80 feet wide;

RUNNING THENCE easterly along the southerly side of Avery Avenue, 141.61 feet (Deed: 141.61 on Tax Map).

THENCE southerly and part of the distance through a party wall, 65 feet:

THENCE westerly parallel with Avery Avenue, 124.74 feet to the easterly side of 131st Street;

THENCE northerly along easterly side of 131st Street, 67.15 feet to the corner, the point or place of BEGINNING

Area of Old Lot 61: 8646.45 sq. ft = 0.1985 acre

OLD LOT 65

ALL THAT certain plot, piece or parcel of land, situate, lying and being in the Borough and County of Queens, City and State of New York, bounded and described as follows:

BEGINNING at the point on the southerly side Avery Avenue, 80 feet wide, distant 141.62 feet (Deed; 141.61 on Tax Map) easterly from the corner formed by the intersection of the southerly side of Avery Avenue and the easterly side of 131st

Street;

RUNNING THENCE easterly along the southerly side of Avery Avenue, 66.58 feet;

THENCE southerly and part of the distance through a party wall, 65 feet;

THENCE westerly parallel with Avery Avenue.66.58 feet :

THENCE northerly and part of the distance through a party wall, 65 feet to the point or place of BEGINNING

Area of Old Lot 65: 4327.92 sq. ft. = 0.0994 acre

ENVIRONMENTAL EASEMENT LEGAL DESCRIPTION (NEW LOT 61)

ALL THAT certain plot, piece or parcel of land, situate, lying and being in the Borough and County of Queens, City and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersect

side of Avery Avenue, 80 feet wide;

RUNNING THENCE easterly along the southerly side of Avery Avenue, 208.20 feet (Deed; 208.19 on Tax Map);

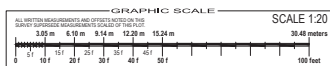
THENCE southerly and part of the distance through a party wall, 65 feet;

TUENCE westerly parallel with Avanti Avenue, 101.22 feet to the westerly side of 121st Street

THENCE westerly along eastern side of 531st Street, 67.15 feet to the corner, the point of place of BEGINNING.

Area of the Environmental Easement: 12974.37 sq ft = 0.2979 acre

- ENVIRONMENTAL EASEMENT



NOTE: This property is subject to an environmental easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the New York Environmental Conservation Law. The engineering and institutional controls for this Easement are set forth in the Site Management Plan (SMP). A copy of the SMP must be obtained by any party with an interest in the property. The SMP can be obtained from NYS Department of Environmental Conservation, Division of Environmental Remediation, Site Characterization, 625 Broadway, Albany, NY 12243 or at derweb@dec.ny.gov.



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
12/1/2020



SITE DESCRIPTION

SITE NO. C241228

SITE NAME 131-10 Avery Avenue

SITE ADDRESS: 131-10 to 131-18 Avery Avenue **ZIP CODE:** 11355

CITY/TOWN: Flushing

COUNTY: Queens

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: once a year

Periodic Review Report Submitted Date: 04/30/2022

Description of Institutional Control

Avery Group LLC

P.O. Box 815

131-10 Avery Avenue

Environmental Easement

Block: 5076

Lot: 61

Sublot:

Section:

Subsection:

S_B_L Image: 5076-61

Ground Water Use Restriction

IC/EC Plan

Land use Restriction

Monitoring Plan

Site Management Plan

Description of Engineering Control

Avery Group LLC

P.O. Box 815

131-10 Avery Avenue

Environmental Easement

Block: 5076

Lot: 61

Sublot:

Section:

Subsection:

S_B_L Image: 5076-61

In-situ Chemical Reduction