

# 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

DEC 30 2014

Tecumseh Redevelopment Inc.  
c/o Mr. Keith A. Nagel  
4020 Kinross Lakes Parkway  
Richfield, OH 44289

Steel Sun, LLC  
c/o Mr. Timothy M. Ryan  
47 South Hamilton Street  
Poughkeepsie, NY 12601

Re: Certificate of Completion  
Site Name: Tecumseh Phase III-6 Business Park  
Site No. C915199F  
Lackawanna (c), Erie County

Dear Mr. Nagel and Mr. Ryan:

Congratulations on having satisfactorily completed the remedial program at the Tecumseh Phase III-6 Business Park. 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.

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

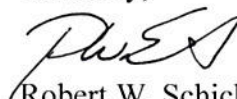
- If you are the site owner, you must record a notice of the COC in the recording office for the County (or Counties) where any portion of the site is located within 30 days of issuance of the COC; or if you are a prospective purchaser of the site, you must record a notice of the COC within 30 days of 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. 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;
- 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 DEC in April, 2016; and

- You and your lessees must submit an annual report to the New York State Department of Taxation and Finance within one year and for each of the following eleven years after the execution of the Brownfield Site Cleanup Agreement. The Report must provide the information required by Chapter 390 of the Laws of 2008, Tax Law Section 171-s.

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.

If you have any questions regarding any of these items, please contact the project manager for this site, Maurice Moore at (716) 851-7220 or [maurice.moore@dec.ny.gov](mailto:maurice.moore@dec.ny.gov).

Sincerely,



Robert W. Schick, P.E.

Director

Division of Environmental Remediation

Enclosures

cc: T. Ryan – Steel Sun, LLC  
Krista Anders, DOH  
Matt Forcucci, DOH  
Michael Ryan, DEC  
Michael Cruden, DEC  
Maurice Moore, DEC  
Martin Doster, DEC  
Patrick Foster, DEC  
Benjamin Conlon, DEC  
Andrew Guglielmi, DEC

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

**CERTIFICATE HOLDER(S):**

<b>Name</b>	<b>Address</b>
Tecumseh Redevelopment Inc.	4020 Kinross Lakes Parkway, Richfield, OH 44286
Steel Sun, LLC	47 South Hamilton Street, Poughkeepsie, NY 12601

**BROWNFIELD CLEANUP AGREEMENT:**

**Application Approval:** 12/15/06    **Agreement Execution:** 3/14/07    **Agreement Index No.:**B9-0696-05-06(C)

**Application Approval Amendment:** 8/20/12                      **Agreement Execution Amendment:** 8/20/12

**Application Approval Amendment:** 10/21/14                      **Agreement Execution Amendment:** 10/21/14

**SITE INFORMATION:**

**Site No.:** C915199F    **Site Name:** Site III-6 Tecumseh Phase III Business Park

**Site Owner:** Tecumseh Redevelopment Inc.

**Street Address:** 2303 Hamburg Turnpike

**Municipality:** Lackawanna    **County:** Erie    **DEC Region:** 9

**Site Size:** 10.890 Acres

**Tax Map Identification Number(s):** a portion of 141.11-1-50

**Percentage of site located in an EnZone:** 100 %

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:** 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 20 %.

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 18 %.

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 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 Erie County as no. 2014137592.

#### **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/REVOICATION**

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.

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

By:



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

Date:

DECEMBER 30, 2014

**NOTICE OF CERTIFICATE OF COMPLETION**

**Brownfield Cleanup Program**

**6 NYCRR Part 375-1.9(d)**

**Tecumseh Phase III-6 Business Park Site, Site ID No. C915199F**

**2537 Hamburg Turnpike, Lackawanna, New York, 14218**

**City of Lackawanna, Erie County, Tax Map Identification Number –portion of 141.11-1-50**

**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 Tecumseh Redevelopment Inc. and Steel Sun, LLC for a parcel approximately 10.89 acres located at 2303 Hamburg Turnpike in the City of Lackawanna, Erie 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):

- 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 Erie County as File #2014137592.

**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.

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

**Tecumseh Phase III-6 Business Park Site, Site No. C915199F  
2537 Hamburg Turnpike, Lackawanna, New York, 14218**

**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 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 the NYSDEC's Region 9 located at 270 Michigan Avenue Buffalo, New York 14203-2915, by contacting the Regional Environmental Remediation Engineer.

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

Tecumseh Redevelopment, Inc.

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:**  
Tecumseh Redevelopment Inc.  
4020 Kinross Lakes Parkway  
Richfield, OH 44286



**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**  
**Site Management Form**  
 12/17/2014



**SITE DESCRIPTION**

**SITE NO.** C915199F

**SITE NAME** Site III-6 Tecumseh Phase III Business Park

**SITE ADDRESS:** 2303 Hamburg Turnpike      **ZIP CODE:** 14218

**CITY/TOWN:** Lackawanna

**COUNTY:** Erie

**ALLOWABLE USE:** Commercial and Industrial

**SITE MANAGEMENT DESCRIPTION**

SITE MANAGEMENT PLAN INCLUDES:	YES	NO
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IC/EC Certification Plan	■	
Monitoring Plan	■	
Operation and Maintenance (O&M) Plan		■

Periodic Review Frequency: once a year

Periodic Review Report Submitted Date: 04/15/2016

**Description of Institutional Control**

**Tecumseh Redevelopment Inc.**

4020 Kinross Lakes Parkway

**2303 Hamburg Turnpike**

Environmental Easement

Block: 1

Lot: 50

Sublot:

Section: 141

Subsection: 11

S\_B\_L Image: 141.11-1-50

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

**Description of Engineering Control**

**Tecumseh Redevelopment Inc.**

4020 Kinross Lakes Parkway

**2303 Hamburg Turnpike**

Environmental Easement

Block: 1

Lot: 50

Sublot:

Section: 141

Subsection: 11

S\_B\_L Image: 141.11-1-50

Cover System



# EXHIBIT A

ENVIRONMENTAL EASEMENT  
DESCRIPTION FOR  
BCP SITE No. C915199F:

ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE CITY OF LACKAWANNA, COUNTY OF ERIE AND STATE OF NEW YORK, BEING PART OF LOT 24 OF THE BUFFALO CREEK RESERVATION, TOWNSHIP 10, RANGE 8 OF THE HOLLAND LAND COMPANY'S SURVEY, BEING BCP SITE NUMBER C915199F, AS SHOWN ON A MAP OF "BUSINESS PARK PHASE III", PREPARED BY WENDEL, JUNE 2012, PROJECT NUMBER 411107, BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WESTERLY HIGHWAY BOUNDARY OF THE HAMBURG TURNPIKE (ALSO KNOWN AS STATE ROUTE NO. 5) AS APPROPRIATED BY NEW YORK STATE DEPARTMENT OF PUBLIC WORKS, MAP NO. 1, PARCEL 1 AND RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 5650 OF DEEDS AT PAGE 404 AND THE MUNICIPAL BOUNDARY LINE BETWEEN THE CITY OF LACKAWANNA (TO THE NORTH) AND THE TOWN OF HAMBURG (TO THE SOUTH), SAID POINT ALSO BEING ON THE NORTHERLY BOUNDARY OF LANDS CONVEYED TO THE SOUTH BUFFALO RAILWAY COMPANY BY DEED RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 10119 OF DEEDS AT PAGE 131;

THENCE N 22°-36'-14" W A DISTANCE OF 2158.13 FEET TO A POINT ALSO BEING THE SOUTHEAST CORNER OF BUSINESS PARK PHASE III, PARCEL "B" AS SHOWN ON SAID MAP PREPARED BY WENDEL;

THENCE ALONG THE SOUTH LINE OF BUSINESS PARK PHASE III, PARCEL "B" THE FOLLOWING 3 COURSES AND DISTANCES:

1. S 48°-54'-49" W, A DISTANCE OF 140.81 FEET TO A POINT;
2. S 32°-40'-10" W, A DISTANCE OF 122.80 FEET TO A POINT;
3. S 78°-47'-59" W, A DISTANCE OF 128.86 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING ALONG THE SOUTH LINE OF BUSINESS PARK PHASE III, PARCEL "B" THE FOLLOWING 5 COURSES AND DISTANCES:

1. N 49°-35'-08" W A DISTANCE OF 112.15 FEET TO A POINT;
2. N 39°-56'-33" W A DISTANCE OF 635.45 FEET TO A POINT;
3. N 44°-32'-31" W A DISTANCE OF 243.09 FEET TO A POINT;
4. N 48°-25'-21" W A DISTANCE OF 710.19 FEET TO A POINT;
5. S 82°-08'-06" W A DISTANCE OF 103.82 FEET TO THE SE. COR. OF BCP SITE NUMBER C915199J;

THENCE ALONG THE EAST LINE OF BCP SITE NUMBER C915199J, N 27°-51'-58" W, A DISTANCE OF 26.61 FEET TO THE SOUTHWESTERLY CORNER OF BCP SITE NUMBER C915199G;

THENCE ALONG THE SOUTH LINE OF BCP SITE NUMBER C915199G,  
N 82°-08'-06" E, A DISTANCE OF 124.50 FEET TO A POINT;

THENCE CONTINUING ALONG THE SOUTH LINE OF BCP SITE NUMBER C915199G,  
S 48°-09'-58" E, A DISTANCE OF 113.54 FEET TO A POINT;

THENCE CONTINUING ALONG THE SOUTH LINE OF BCP SITE NUMBER C915199G,  
N 71°-39'-24" E, A DISTANCE OF 666.41 FEET TO THE NORTHWEST CORNER OF BCP  
SITE NUMBER C915199E;

THENCE ALONG THE WEST LINE OF BCP SITE NUMBER C915199E,  
S 19°-00'-00" E, A DISTANCE OF 1443.47 FEET TO THE POINT OF BEGINNING;  
CONTAINING 10.89 ACRES OF LAND MORE OR LESS.

