

New York State Department of Environmental Conservation

Division of Environmental Remediation

Office of the Director, 12th Floor

625 Broadway, Albany, New York 12233-7011

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DEC 30 2013



Joe Martens
Commissioner

Mr. Michael DePriest
Delta-Sonic CarWash Systems, Inc.
570 Delaware Avenue
Buffalo, New York 14202

RE: Certificate of Completion
Site Name: 348 Langner Road Site
Site No.: C915256
West Seneca, New York, Erie County

Dear Mr. DePriest:

Congratulations on having satisfactorily completed the remedial program at the 348 Langner Road site. Enclosed please find an original, signed Certificate of Completion. The New York State Department of Environmental Conservation (Department) 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 enclosed to this letter;
- You and your lessees must submit an annual report to the New York State Department of Taxation and Finance within one (1) year and for each of the following eleven (11) 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.

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

Sincerely,

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

Enclosures

ec: Michael Lesakowski, Benchmark (mlesakowski@benchmarkturnkey.com)
Craig Slater, Esq., The Slater Law Firm, PLLC (cslater@cslaterlaw.com)
Michael DePriest, Delta-Sonic CarWash Systems, Inc. (mikede Priest@benderson.com)
Krista Anders, DOH
Matt Forcucci, DOH
Michael Ryan, DEC
Ben Conlon, DEC
Andrew Guglielmi, DEC
Anthony Lopes, DEC
Martin Doster, DEC
David Stever, DEC
Michael Cruden, DEC
George Heitzman, DEC

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)
CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name	Address
Delta-Sonic CarWash Systems, Inc.	570 Delaware Avenue, Buffalo, NY 14202

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 5/31/11 **Agreement Execution:** 8/9/11 **Agreement Index No.:** C915256-05-11

Application Approval Amendment: none

Agreement Execution Amendment: none

SITE INFORMATION

Site No.: C915256 **Site Name:** 348 Langner Road Site

Site Owner: Delta-Sonic CarWash Systems, Inc.

Street Address: 350 Langner Road

Municipality: West Seneca **County:** Erie **DEC Region:** 9

Site Size: 2.600 Acres

Tax Map Identification Number(s): 143.05-2-1.11 and 143.05-2-9

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. Note: The tax map ID numbers are the same parcel described previously in the BCP application as 143.05-2-1.111

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: Residential, 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 12 %.

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 10 %.

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;
- (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, 2013

NOTICE OF CERTIFICATE OF COMPLETION

Brownfield Cleanup Program

6 NYCRR Part 375-1.9(d)

348 Langner Road, Site ID No.: C915256

350 Langner Road, West Seneca, New York, 14224

Erie, Tax Map Identification Numbers: 143.05-2-1.11 and 143.05-2-9

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 Delta-Sonic CarWash Systems, Inc., Michael DePreist for a parcel approximately 2.6 acres located at 350 Langner Road in the Town of West Seneca, 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, 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.

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, the Certificate may entitle the Certificate holder 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 holders, 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.

348 Langner Road Site, C915256, 350 Langner Road West Seneca, NY

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 NYSDECs Region 9 office located at 270 Michigan Avenue, Buffalo, NY 14203, by contacting the Regional Environmental Remediation Engineer.

WHEREFORE, the undersigned has signed this Notice of Certificate

Delta-Sonic CarWash Systems, Inc._

By: _____

Title: _____

Date: _____

STATE OF NEW YORK) SS:
COUNTY OF)

On the _____ day of _____, in the year 2013, 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:
Delta-Sonic CarWash Systems, Inc.
Michael DePreist
570 Delaware Avenue
Buffalo, NY 14202

Exhibit A

348 LANGNER ROAD BCP AREA LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND situated in the Town of West Seneca, County of Erie and State of New York; described as part of Lots 293 & 294, Township 10, Range 7 of the Buffalo Creek Reservation Survey. Bounded and described as follows:

Beginning at a point in the intersection of the south line of Ridge Road as now laid out by Appropriation by N.Y. State filed under Map 17, Parcel 22 and in Liber 4614 of Deeds at Page 550 as filed in the Erie County Clerk's Office with the westerly line of Langner Road as relocated by Map 14, Parcel 18;
Thence southerly along the westerly line of said Langner Road a distance of 129.78 feet to an angle point;
Thence continuing southerly along the westerly line of said Langner Road at an interior angle of $154^{\circ}30'00''$, a distance of 124.28 feet to a point;
Thence westerly along a line at an interior angle of $129^{\circ}05'40''$, a distance of 47.65 feet to a point in the centerline of Langner Road (as originally laid out 49.5 feet wide);
Thence southerly along the centerline of said Langner Road as originally laid out at an exterior angle of $94^{\circ}17'50''$, a distance of 140.09 feet to a point;
Thence westerly along a line at a bearing of north $82^{\circ}07'37''$ west, a distance of 238.21 feet to a point;
Thence northwesterly along a line at a bearing of north $58^{\circ}10'45''$ west, a distance of 103.51 feet to a point in the east line of the Niagara Lockport & Ontario Power Company as per Liber 1519 of Deeds at Page 271 and Liber 1726 of Deeds at Page 40;
Thence northeasterly along the east line of said Niagara Lockport & Ontario Power Company at a bearing of north $31^{\circ}57'02''$ east, a distance of 299.12 feet to a point in the south line of said Ridge Road as now laid out;
Thence easterly along the south line of said Ridge Road as now laid out at an interior angle of $125^{\circ}27'17''$, a distance of 188.15 feet to a point in the westerly line of said Langner Road as originally laid out;
Thence northerly along the westerly line of said Langner Road as originally laid out at an exterior angle of $101^{\circ}07'17''$, a distance of 10.00 feet to a point;
Thence easterly along a line at an interior angle of $93^{\circ}10'24''$, a distance of 24.79 feet to the centerline of said Langner Road as originally laid out;
Thence southerly along the centerline of said Langner Road as originally laid out at an interior angle of $86^{\circ}49'36''$, a distance of 9.93 feet to a point in the south line of said Ridge Road as now laid out;
Thence easterly along the south line of said Ridge Road as now laid out at an exterior angle of $81^{\circ}47'50''$, a distance of 140.86 feet to the point and place of beginning.

This parcel containing 114,284 Sq. Ft. or 2.624 acres more or less.

Being the same property described in Deed from RB-3 Associates to Delta Sonic Carwash Systems, Inc. dated 5/14/2010, and recorded in the Erie County Clerk's Office in Liber 11181 of Deeds at page 8953, and property described in Deed from RB-3 Associates to Delta Sonic Carwash Systems, Inc. dated 10/30/1997, and recorded in the Erie County Clerk's Office in Liber 10924 of Deeds at page 2565, and property described in Deed from Benderson Development Company, Inc. to Delta Sonic Carwash Systems, Inc. dated 2/22/1976, and recorded in the Erie County Clerk's Office in Liber 8368 of Deeds at page 145, and roadway as abandoned and described in Abandonment Application of Delta Sonic Carwash Systems, inc. from Town of West Seneca in Deed dated 12/22/1986, and recorded in the Erie County Clerk's Office in Liber 9683 of Deeds at page 182.
(being original SBL #143.05-2-1.11)

And also being the same property described in Deed from Albert R. Scotch to Delta Sonic Carwash Systems, Inc. dated 10/9/1986, and recorded in the Erie County Clerk's Office in Liber 9629 of Deeds at page 184.
(being original SBL #143.05-2-9)



7. AREA DATA: 10/20/2020

[illegible]

AMEND: 11/17/13 - ADD LEGAL DESCRIPTION	
2013.2 BY	AMEND:
Mackay & Dellis	SURVEY DATE: 10-29-13
SURVEYED, LLP	DRAWING DATE: 10-29-13
NO. 4000 YORK ST.	SCALE: 1" = 30'
NEW YORK, NY 10018	"ALL RIGHTS RESERVED"
TEL: 212-693-1840 • FAX: 212-693-1811	THE FIRM'S DESIGN
PCN153256	NO PART OF THIS DRAWING MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN PERMISSION OF THE FIRM.
RANGE 26 OF THE	SER. NO. 143,055-2-77
COUNTY, N.Y.	

COPYRIGHT
Millard LAND
PHONE (716) 835-0900
NEW YORK STATE D.E.C. - BOB SITE
PART OF LOT - 292 SECTION - TOWNSHIP 10
SUNNY CREEK EMBANKMENT SURVEY - CONE
SURVEY OF 350 Linear Road from West Street

LEGEND

15	UTILITY / SERVICE POLE	ALLS. MOUNT OF MAY
16	NEED LANE IN LANE	CONC. CHOCOLATE
17	31 (ROAD INLET - STONE)	W/1. MARSHALL
18	32 (ROAD INLET - STONE)	W/1. MARSHALL
19	33 (ROAD INLET - STONE)	W/1. MARSHALL
20	34 (ROAD INLET - STONE)	W/1. MARSHALL
21	35 (ROAD INLET - STONE)	W/1. MARSHALL
22	36 (ROAD INLET - STONE)	W/1. MARSHALL
23	37 (ROAD INLET - STONE)	W/1. MARSHALL
24	38 (ROAD INLET - STONE)	W/1. MARSHALL
25	39 (ROAD INLET - STONE)	W/1. MARSHALL
26	40 (ROAD INLET - STONE)	W/1. MARSHALL
27	41 (ROAD INLET - STONE)	W/1. MARSHALL
28	42 (ROAD INLET - STONE)	W/1. MARSHALL
29	43 (ROAD INLET - STONE)	W/1. MARSHALL
30	44 (ROAD INLET - STONE)	W/1. MARSHALL
31	45 (ROAD INLET - STONE)	W/1. MARSHALL
32	46 (ROAD INLET - STONE)	W/1. MARSHALL
33	47 (ROAD INLET - STONE)	W/1. MARSHALL
34	48 (ROAD INLET - STONE)	W/1. MARSHALL
35	49 (ROAD INLET - STONE)	W/1. MARSHALL
36	50 (ROAD INLET - STONE)	W/1. MARSHALL
37	51 (ROAD INLET - STONE)	W/1. MARSHALL
38	52 (ROAD INLET - STONE)	W/1. MARSHALL
39	53 (ROAD INLET - STONE)	W/1. MARSHALL
40	54 (ROAD INLET - STONE)	W/1. MARSHALL
41	55 (ROAD INLET - STONE)	W/1. MARSHALL
42	56 (ROAD INLET - STONE)	W/1. MARSHALL
43	57 (ROAD INLET - STONE)	W/1. MARSHALL
44	58 (ROAD INLET - STONE)	W/1. MARSHALL
45	59 (ROAD INLET - STONE)	W/1. MARSHALL
46	60 (ROAD INLET - STONE)	W/1. MARSHALL
47	61 (ROAD INLET - STONE)	W/1. MARSHALL
48	62 (ROAD INLET - STONE)	W/1. MARSHALL
49	63 (ROAD INLET - STONE)	W/1. MARSHALL
50	64 (ROAD INLET - STONE)	W/1. MARSHALL
51	65 (ROAD INLET - STONE)	W/1. MARSHALL
52	66 (ROAD INLET - STONE)	W/1. MARSHALL
53	67 (ROAD INLET - STONE)	W/1. MARSHALL
54	68 (ROAD INLET - STONE)	W/1. MARSHALL
55	69 (ROAD INLET - STONE)	W/1. MARSHALL
56	70 (ROAD INLET - STONE)	W/1. MARSHALL
57	71 (ROAD INLET - STONE)	W/1. MARSHALL
58	72 (ROAD INLET - STONE)	W/1. MARSHALL
59	73 (ROAD INLET - STONE)	W/1. MARSHALL
60	74 (ROAD INLET - STONE)	W/1. MARSHALL
61	75 (ROAD INLET - STONE)	W/1. MARSHALL
62	76 (ROAD INLET - STONE)	W/1. MARSHALL
63	77 (ROAD INLET - STONE)	W/1. MARSHALL
64	78 (ROAD INLET - STONE)	W/1. MARSHALL
65	79 (ROAD INLET - STONE)	W/1. MARSHALL
66	80 (ROAD INLET - STONE)	W/1. MARSHALL
67	81 (ROAD INLET - STONE)	W/1. MARSHALL
68	82 (ROAD INLET - STONE)	W/1. MARSHALL
69	83 (ROAD INLET - STONE)	W/1. MARSHALL
70	84 (ROAD INLET - STONE)	W/1. MARSHALL
71	85 (ROAD INLET - STONE)	W/1. MARSHALL
72	86 (ROAD INLET - STONE)	W/1. MARSHALL
73	87 (ROAD INLET - STONE)	W/1. MARSHALL
74	88 (ROAD INLET - STONE)	W/1. MARSHALL
75	89 (ROAD INLET - STONE)	W/1. MARSHALL
76	90 (ROAD INLET - STONE)	W/1. MARSHALL
77	91 (ROAD INLET - STONE)	W/1. MARSHALL
78	92 (ROAD INLET - STONE)	W/1. MARSHALL
79	93 (ROAD INLET - STONE)	W/1. MARSHALL
80	94 (ROAD INLET - STONE)	W/1. MARSHALL
81	95 (ROAD INLET - STONE)	W/1. MARSHALL
82	96 (ROAD INLET - STONE)	W/1. MARSHALL
83	97 (ROAD INLET - STONE)	W/1. MARSHALL
84	98 (ROAD INLET - STONE)	W/1. MARSHALL
85	99 (ROAD INLET - STONE)	W/1. MARSHALL
86	100 (ROAD INLET - STONE)	W/1. MARSHALL

