

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

DEC 24 2019

1665 Main Street Group, LLC
Attn: Nicholas Sinatra
617 Main Street, Suite 350
Buffalo, New York 14203
Nick@sinatraandcompany.com

Re: Certificate of Completion
Main and East Balcom Street Site
Site #C915306
Buffalo (C), Erie County

Dear Mr. Sinatra:

Congratulations on having satisfactorily completed the remedial program at the Main and East Balcom Street Site. 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:

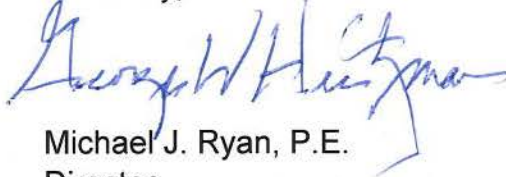
- If you are the site owner, you must record a notice of the COC in the recording office for the county (or counties) where any portion of the site is located within 30 days of issuance of the COC; or if you are a prospective purchaser of the site, you must record a notice of the COC within 30 days of the date that you acquire the site. A copy of the recorded notice should be provided to the Department's project manager. 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. Please return the proof of recording to:

Chief, Site Control Section
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, NY 12233-7020

- Provide the notice of the COC 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 2021.

If you have any questions regarding any of these items, please contact David Locey at (716) 851-7220 or david.locey@dec.ny.gov.

Sincerely,



Michael J. Ryan, P.E.

Director

Division of Environmental Remediation

Enclosure

ec w/ enclosure:

Christine Vooris, Christine.Vooris@health.ny.gov

Charlotte Bethoney, Charlotte.Bethoney@health.ny.gov

Renata Ockerby, renata.ockerby@health.ny.gov

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

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

ec w/o enc.:

David Locey, david.locey@dec.ny.gov

Jeffrey Dyber, jeffrey.dyber@dec.ny.gov

Michael Cruden, michael.cruden@dec.ny.gov

Chad Staniszewski, chad.staniszewski@dec.ny.gov

Jennifer Dougherty, jennifer.dougherty@dec.ny.gov

Kelly Lewandowski, kelly.lewandowski@dec.ny.gov

Craig Slater, cslater@cslaterlaw.com

Tom Forbes, TForbes@bm-tk.com

Mike Lesakowski, MLesakowski@bm-tk.com

Nate Munley, NMunley@bm-tk.com

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)
CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name

1665 Main Street Group, LLC

Address

617 Main Street, Suite 350, Buffalo, NY 14203

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 9/1/16

Agreement Index No.: C915306-08-16

Application Approval Amendment: 8/28/17

Agreement Execution: 10/21/16

Agreement Execution Amendment: 8/28/17

SITE INFORMATION:

Site No.: C915306 **Site Name:** Main and East Balcom Street Site

Site Owner: 1665 Main Street Group, LLC

Street Address: 1661 Main Street

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

Site Size: 0.993 Acres

Tax Map Identification Number(s): Portion of 100.24-4-14.1

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: Restricted-Residential, Commercial, and Industrial

Cleanup Track: Track 4: Restricted use with site-specific soil cleanup objectives

Tax Credit Provisions:

Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 28%.

Tangible Property Credit is 15%. Comprised of 10% Base, 5% EnZone

Dependent upon the project being developed in a manner consistent with the approved Brownfield Cleanup Program application, additional rate increases may be available if the site is developed as affordable housing (5%), if the Certificate Holder receives a separate Determination of Conformance with the BOA from the Secretary of State (5%), or if the site is used primarily for manufacturing activities (5%) not to exceed a maximum 24%.

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 Book of Deeds 11336, Page 2759.

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:

12/24/19

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)

Main and East Balcom Street Site, Site ID No. C915306
1661 Main Street, Buffalo, NY 14209
Buffalo, Erie County, Tax Map Identification Number: Portion of 100.24-4-14.1

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 1665 Main Street Group, LLC for a parcel approximately 0.993 acres in size, located at 1661 Main Street in the City of Buffalo, 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):

- 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.

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 Erie County as Book of Deeds 11336, Page 2759.

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.

Main and East Balcom Street Site, Site #C915306, 1661 Main Street, Buffalo, NY

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

WHEREFORE, the undersigned has signed this Notice of Certificate

1665 Main Street 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:
1665 Main Street Group, LLC
Attn.: Nicholas Sinatra
617 Main Street, Suite 350
Buffalo, NY 14203

Exhibit A

Site Description

SCHEDULE "A" PROPERTY DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being part of Lot 38, Township 11, Range 8 of the Holland Land Company's Survey, bounded and described as follows;

BEGINNING at a point on the southeast line of Main Street (99' wide) distant 36.70 feet measured (36.58' record) northeast of its intersection with the north line of Michigan Avenue (66' wide); thence northeasterly along the southeast line of Main Street, a distance of 352.23 feet to a point, said point being 35.05 feet southwest of East Balcom Street, as measured along the southeast line of Main Street; thence southeasterly along a line perpendicular to the southeast line of Main Street, a distance of 52.0 feet; thence northeasterly along a line parallel with the southeast line of Main Street, a distance of 35.05 feet to a point on the southwest line of East Balcom Street, said point being distant 52.0 feet southeast of the southeast line of Main Street; thence southeasterly along the southwest line of East Balcom Street, a measured distance of 97.64 feet to an angle point therein; thence easterly along the south line of East Balcom Street, a distance of 82.08 feet to a point, said point being 240.0 feet west of Masten Avenue (66' wide) as measured along the south line of East Balcom Street; thence southerly along a line parallel with the west line of Masten Avenue, a distance of 101.17 feet to a point on the north line of lands now or formerly conveyed to S.V.R. Watson, as recorded in the Erie County Clerk's Office in Liber 283 of deeds at page 397; thence westerly along the north line of said lands conveyed to Watson, a distance of 30.0 feet; thence northerly along a line parallel with the west line of Masten Avenue, a distance of 1.16 feet; thence westerly along a line parallel with the south line of East Balcom Street, a distance of 30.0 feet; thence southerly along a line parallel with the west line of Masten Avenue, a distance of 1.15 feet to a point on the north line of said lands conveyed to Watson; thence westerly along the north line of said lands conveyed to Watson, a distance of 233.22 feet to a point distant 39.79 feet southeast of the southeast line of Main Street, as measured perpendicular therefrom; thence southwesterly along a line parallel with the southeast line of Main Street and distant 39.79 feet therefrom, a distance of 110.49 feet; thence southeasterly along a line perpendicular to the southeast line of Main Street, a distance of 0.12 feet; thence southwesterly along a line a distance of 28.17 feet to a point distant 40.25 feet southeast of the southeast line of Main Street, as measured perpendicular therefrom; thence

southwesterly along a line a distance of 36.15 feet to a point distant 17.03 feet southeast of the southeasterly line of Main Street, as measured perpendicular therefrom; thence southwesterly along a line a distance of 14.57 feet to a point distant 13.04 feet southeast of the southeast line of Main Street, as measured perpendicular therefrom; thence northwesterly along a line perpendicular to the southeast line of Main Street, a distance of 13.04 feet to the Point of Beginning, containing 43,249.19 square feet (0.9929 acres) more or less.

Exhibit B

Site Survey



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
 12/17/2019



SITE DESCRIPTION

SITE NO. C915306

SITE NAME Main and East Balcom Street Site

SITE ADDRESS: 1661 Main Street **ZIP CODE:** 14209

CITY/TOWN: Buffalo

COUNTY: Erie

ALLOWABLE USE: 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: 04/30/2021

Description of Institutional Control

1665 Main Street Group, LLC

617 Main Street

1661 Main Street

Environmental Easement

Block: 4

Lot: 14

Sublot: 1

Section: 100

Subsection: 24

S_B_L Image: Portion of 100.24-4-14:1

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

Description of Engineering Control

1665 Main Street Group, LLC

617 Main Street

1661 Main Street

Environmental Easement

Block: 4

Lot: 14

Sublot: 1

Section: 100

Subsection: 24

S_B_L Image: Portion of 100.24-4-14.1

Cover System