

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 17, 2021

Enterprise Lumber & Silo, LLC
Kelley D. Culp-Burton
2528 Nicole Drive
Wheatfield, NY 14304

Re: Certificate of Completion
211 Main Street
Site No. C932171
North Tonawanda, Niagara County

Dear Ms. Culp-Burton:

Congratulations on having satisfactorily completed the remedial program at the 211 Main Street BCP 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.
- 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:

Glenn M. May, Project Manager
New York State Department of Environmental Conservation
Division of Environmental Remediation
270 Michigan Avenue
Buffalo, NY 14203



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.

If you have any questions regarding any of these items, please contact Mr. Glenn M. May at 716-851-7220.

Sincerely,

Susan Edwards

Susan Edwards, P.E.
Acting Division Director
Division of Environmental Remediation

ec w/ enclosure:

K. D. Culp-Burton – Applicant, kcburton@kcb-architecture.com
M. Romanowski – Rupp Baase Pfalzgraf Cunningham LLC,
Romanowski@ruppbaase.com
C. Vooris – NYSDOH, Christine.Vooris@health.ny.gov
C. Bethoney – NYSDOH, charlotte.bethoney@health.ny.gov
G. Rys – NYSDOH, gregory.rys@health.ny.gov
M. Gokey, matthew.gokey@tax.ny.gov
P. Takac, paul.takac@tax.ny.gov

ec w/o enc.:

G. May - NYSDEC, R9
S. Radon - NYSDEC, RHWG, R9
M. Cruden - NYSDEC, Bureau Director, Remedial Section E
C. Bower - OGC, Albany

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)

CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name

Enterprise Lumber & Silo, LLC

Address

2528 Nicole Drive, Wheatfield, NY 14304

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 4/2/18 **Agreement Execution:** 5/15/18

Agreement Index No.: C932171-03-18

Application Approval Amendment: none

Agreement Execution Amendment: none

SITE INFORMATION:

Site No.: C932171 **Site Name:** 211 Main Street

Site Owner: Enterprise Lumber & Silo, LLC

Street Address: 211 Main Street

Municipality: North Tonawanda

County: Niagara

DEC Region: 9

Site Size: 0.670 Acres

Tax Map Identification Number(s): 185.05-1-80.21

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: Track 1: Unrestricted use

Tax Credit Provisions:

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

Tangible Property Credit is 15%. Comprised of 10% Base, 5% Track 1.

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 %.

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.

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: Susan Edwards Date: 12/17/2021

Susan Edwards, P.E., Acting Director
Division of Environmental Remediation

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

211 Main Street, Site ID No. C932171
211 Main Street, North Tonawanda, Niagara County, New York, 14120
North Tonawanda, Niagara County, Tax Map Identification Number 185.05-1-80.21

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 Enterprise Lumber & Silo, LLC for a parcel approximately 0.670 acres in size located at 211 Main Street in the City of North Tonawanda, Niagara 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.

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.

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 located at 270 Michigan Avenue, Buffalo, New York, 14203, by contacting the Regional Environmental Remediation Engineer, or at <https://www.dec.ny.gov/data/DecDocs/C932171>.

**211 Main Street, Site ID No. C932171
211 Main Street, North Tonawanda, Niagara County, New York, 14120**

WHEREFORE, the undersigned has signed this Notice of Certificate

Enterprise Lumber & Silo, 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:
Enterprise Lumber & Silo, LLC
Kelley D. Culp-Burton
2528 Nicole Drive
Wheatfield, NY 14304

EXHIBIT A
METES & BOUNDS

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of North Tonawanda, County of Niagara and State of New York, known and distinguished as being part of Lot 81 of the Niagara River Reservation (so called) bounded and described as follows:

COMMENCING at a point in the east line of Main Street, 88.52 feet southerly from its intersection with the south line of Thompson Street; thence southerly along the east line of Main Street, 305.09 feet to a point; thence easterly at right angles to the west line of lands formerly owned by The New York Central Railroad 104.01 feet to the said west line of said railroad company's land; thence northerly along the west line of said railroad company's land, 283.05 feet to a point in a line parallel with the south line of Thompson Street and a chord distance from the south line of Thompson Street of 82.84 feet; thence westerly and parallel with the south line of Thompson Street 206.52 feet to the point or place of beginning.

EXCEPTING THEREFROM ALL THAT TRACT OR PARCEL OF LAND, situate in the City of North Tonawanda, County of Niagara and State of New York, known and distinguished as being part of Lot 81 of the Niagara River Reservation (so called) bounded and described as follows:

COMMENCING at a point in the east line of Main Street, 259.8 feet southerly from its intersection with the south line of Thompson Street; thence southerly along the east line of Main Street 133.81 feet to a point running thence easterly at right angles to the west line of lands formerly owned by the New York Central Railroad 104.01 feet to the said west line of said railroad company's lands; thence northerly along the west line of said railroad company's land 125.1 feet to a point; thence westerly at right angles to the west line of the railroad company's lands 151.58 feet to the point or place of beginning.

EXHIBIT B
SITE SURVEY MAP

Successors to the records of Graf Land Surveyors
Successors to the records of James L. Shisler, Land Surveyor



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
12/14/2021



SITE DESCRIPTION

SITE NO. C932171

SITE NAME 211 Main Street

SITE ADDRESS: 211 Main Street **ZIP CODE:** 14120

CITY/TOWN: North Tonawanda

COUNTY: Niagara

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:

Periodic Review Report Submitted Date:

Description of Institutional Control

Description of Engineering Control