



Department of
Environmental
Conservation

Brownfield Cleanup Program COC Process



May 22, 2019

Agenda

COC Process

Technical Lessons Learned

Appropriate Care

BCA Amendments

Environmental Easements

Backfill and Soil Cover
Material

SMP Template

Post COC Obligations



Handouts

Agenda

Milestones

Important Links

- Revised DER-32
- COC Process and Templates (Easement, Site Management Plan, Final Engineering Report
 - Survey & Title Requirements
 - Post-COC Documents & Procedures
- Electronic Data Deliverables



Site Information Sheets

- Verify Site Information
 - Exact Applicant Name
 - Contact information
 - Ownership
 - Acreage
 - En-Zone %
- Verify email addresses
- Markup and mail to derweb@dec.ny.gov
- PRINT NEATLY!
- **AVOID LAST MINUTE AMENDMENTS!**



Guide to the COC Process

Critical path and schedule of deliverables.

Submittals after the established dates:

- Will jeopardize the issuance of the COC by December 31st
- Will affect the timing of any tax credits.



Guide to the COC Process Reflects Recent Experience

Easement packages have been problematic

- Easement package is first submittal
- Resolve Title and Survey issues

Last minute amendments

Review of Draft Final Engineering Report

- Leave placeholders for incomplete items
 - Record drawings
 - Certifications

- FER Certification includes the Electronic Data Deliverable



Guide to the COC Process

Project deliverables should be developed on parallel tracks

However the sequence of approvals is as follows:

- Environmental Easement Documents are approved;
- the Site Management Plan is approved;
- the Environmental Easement is executed and recorded;
- the Final Engineering Report is developed, reviewed and, when “approvable”;
- the COC is issued.



Environmental Easement Track 2-4 and Conditional Track 1 Sites

Step 1 - The remedial party submits the supporting documentation (“Easement Package”)

- Request letters sent or about to be sent

Step 2 – DEC prepares the Environmental Easement



COC Milestone

- **June 1, 2019*** - Applicant Submits Complete Easement Package
 - Survey which defines “Easement Area”
 - Include Stub Search or Title Report
 - Include Attorney Checklist

*Earlier if special circumstances (Quit Claim deed, multiple owners, paper streets, lands under water, etc.)



COC Milestones

Applicant Executes Environmental Easement prepared by DEC

- **October 1, 2019**

DEC accepts easement

Environmental Easement Recorded and notices provided

- **October 15, 2019**



Site Management Plan

Plan for implementing

- Institutional Controls (ICs)
- Engineering Controls (ECs)
- Monitoring and/or operation and maintenance of the remedy after the COC is issued.

Site Management Plan

- Must be approved by DEC prior to approval of the Final Engineering Report
- Is referenced in the easement, but may be approved after easement is executed
- Requires coordination with NYSDOH
- Begin developing the SMP during the construction phase of the project

Final Engineering Report

- Final Engineering Report (FER) documents implementation of the complete remedial program
- Includes required certifications for the remedial program by the project Professional Engineer
 - Work is complete
 - SMP is approved
 - Easement is recorded
 - Data has been submitted electronically



Electronic Data Deliverables

- EDDs should be submitted as the data becomes available
- FER data appropriate for EDDs
 - Post-excavation sampling data
 - Confirmation sampling – Confirms that goals have been met
 - Documentation sampling – Documents remaining contamination if excavation is limited
 - Baseline groundwater monitoring data
 - Soil vapor intrusion data
 - **Emerging Contaminant Data**



EDD Tips

If inexperienced, consider outsourcing

Read the manual

Contact NYENVDATA@dec.ny.gov

Submit FER-related EDDs by October 1, 2019



Final Engineering Report

- Approval of the FER coincides with issuance of the COC
- Issued by DER Division Director to the remedial party



Professional Engineering Issues

- Individual currently licensed and registered in NYS
- Firm authorized by NYSED (except sole proprietorship)
- Direct contract with client
- Direct responsibility / supervision
- Review certification language early & carefully
- Details & links – Search “Professional Engineering”
<http://www.dec.ny.gov/regulations/90487.html>



COC Principles

- Only one Certificate of Completion will be issued per site
 - May comprise multiple Cleanup Tracks or Land Uses
- The Department will issue the Certificate of Completion to the remedial party or parties listed in the Brownfield Cleanup Agreement.

COC Milestones

Applicant submits Draft FER

- **October 1, 2019**

Applicant submits Final FER for Approval

- **November 15, 2019**



NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)
CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name	Address
HHM Properties LLC	47 River Road, Summit, NJ 07901
Lighthouse Landing Communities LLC	47 River Road, Summit, NJ 07901
Lighthouse Landing GP Investors LLC	47 River Road, Summit, NJ 07901
Lighthouse Landing Venture LLC	47 River Road, Summit, NJ 07901
LL Parcel A, LLC	47 River Road, Summit, NJ 07901
LL Parcel B, LLC	47 River Road, Summit, NJ 07901
LL Parcel C, LLC	47 River Road, Summit, NJ 07901
LL Parcel E, LLC	47 River Road, Summit, NJ 07901
LL Parcel F, LLC	47 River Road, Summit, NJ 07901
LL Parcel G, LLC	47 River Road, Summit, NJ 07901
LL Parcel H, LLC	47 River Road, Summit, NJ 07901
LL Parcel I, LLC	47 River Road, Summit, NJ 07901
LL Parcel K, LLC	47 River Road, Summit, NJ 07901
LL Parcel L, LLC	47 River Road, Summit, NJ 07901
LL Parcel M, LLC	47 River Road, Summit, NJ 07901
LL Parcel R, LLC	47 River Road, Summit, NJ 07901
LLV Properties LLC	47 River Road, Summit, NJ 07901
SHC Land Company LLC	47 River Road, Summit, NJ 07901
General Motors LLC	One General Motors Drive, Syracuse, NY 13206

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 6/2/04 Agreement Execution: 5/12/05 Agreement Index No.: A3-0514-0305

Application Approval Amendment: 12/31/10 Agreement Execution Amendment: 12/31/10

Application Approval Amendment: 4/2/13 Agreement Execution Amendment: 8/20/13

Application Approval Amendment: 3/7/14 Agreement Execution Amendment: 3/25/14

SITE INFORMATION

Site No.: C360070 Site Name: Former General Motors North Tarrytown West Parcel

Site Owner: Town of Mt. Pleasant Industrial Develop. Agency

Street Address: 199 Beckman Ave

Municipality: Sleepy Hollow County: Westchester DEC Region: 3

Site Size: 66.672 Acres

Tax Map Identification Number(s): 115.10-1-1, 115.15-1-1

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: Restricted-Residential, 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 12 %
 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 10 %
 Tangible Property Credit Component Rate is 10 %.

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 Westchester County as 533193301.

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/REVOCAION

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;

Thank You

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