

# 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

MAR 26 2020

Mr. Robert Hiltbrand  
Executive Deputy Commissioner  
NYS Office of Parks, Recreation, and  
Historic Preservation  
625 Broadway  
Albany, NY 12207

Re: Certificate of Completion and Reclassification from A to C  
Robert Moses Parkway-South Site  
Site No. 932166  
Niagara Falls, Niagara County

Dear Mr. Hiltbrand:

Congratulations on having satisfactorily completed the remedial program at the Robert Moses Parkway-South 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 Site Management Plan (SMP) is hereby approved, allowing the Certificate of Completion (COC) to be issued for the above-referenced site. This also results in the reclassification of the site from Class A to Class C.

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. In all cases, proof of filing must be provided to the Department within 30 days of receipt. 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; and
- Implement the Department-approved SMP which details the activities necessary to assure the performance, effectiveness, and protectiveness of the remedial program. You must report the results of these activities to the Department in a



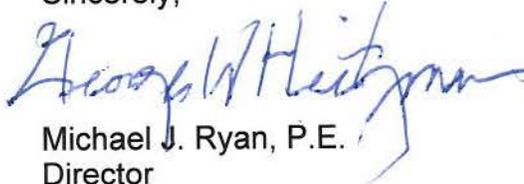
Department of  
Environmental  
Conservation

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 July 2021.

The Department will prepare and distribute to the Site Contact List a fact sheet describing the institutional and engineering controls that are required at the site, and notifications relating to the reclassification or delisting of the site on the Registry.

If you have any questions regarding the reclassification or any of the above tasks, please contact Benjamin McPherson at 716-851-7220.

Sincerely,



Michael J. Ryan, P.E.

Director

Division of Environmental Remediation

Enclosure

ec w/ enclosure:

Robert Hiltbrand – NYSOPRHP  
Andrew Giarrizzo – NYSOPRHP  
Kathleen Martens – NYSOPRHP  
Anthony Palumbo – NYSOPRHP  
Christine Vooris – NYSDOH  
Sarita Wagh – NYSDOH  
Charlotte Bethoney – NYSDOH

ec w/o enc:

Benjamin McPherson – NYSDEC  
Chad Staniszewski – NYSDEC  
Andrea Caprio – NYSDEC  
Michael Cruden – NYSDEC  
Kelly Lewandowski – NYSDEC  
Jennifer Dougherty – NYSDEC



## 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 6NYCRR §375-1.9(f)-(g).

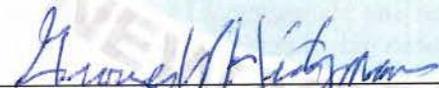
## CERTIFICATE MODIFICATION/REVOCATION

This Certificate of Completion may be modified or revoked by the Commissioner following notice and an opportunity for a hearing in accordance with 6NYCRR §375-1.9(e)(2) upon a finding that:

- (1) the remedial party has failed to manage the controls or monitoring in full compliance with the terms of the approved remedial program;
- (2) there has been a failure to comply with the terms and conditions of the order;
- (3) there was a misrepresentation of a material fact tending to demonstrate that the cleanup levels were reached;
- (4) the terms and conditions of any environmental easement have been intentionally violated or found to be not protective or enforceable;
- (5) for good cause;
- (6) environmental contamination at, on, under, or emanating from the site if, in light of such conditions, the site is no longer protective of public health or the environment, and the remedial party is not in good faith negotiating, and/or following its approval by the Department, implementing a work plan to achieve conditions at the site which are protective of public health and the environment;
- (7) non-compliance with the terms of the order, the remedial work plan, site management plan, or the certificate of completion after notice of the failure and reasonable opportunity to cure has been afforded to the remedial party by the Department as provided for at paragraph 375-1.9(e)(2);
- (8) fraud related to the remedial program for the site committed by the certificate holder;
- (9) a finding by the Department that a change in an environmental standard, factor, or criterion upon which the remedial work plan was based renders the remedial program implemented at the site no longer protective of public health or the environment, and the remedial party is not in good faith negotiating, and/or following its approval by the Department, implementing a work plan to achieve conditions at the site which are protective of public health and the environment; or
- (10) a change in the site's use subsequent to the Department's issuance of the certificate of completion, unless additional remediation is undertaken which shall meet the standard for protection of the public health and environment that applies to this site.

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.

Basil Seggos  
Commissioner  
New York State Department of Environmental Conservation

By:  Date: March 26, 2020  
Michael J. Ryan, P.E., Director  
Division of Environmental Remediation

**NOTICE OF CERTIFICATE OF COMPLETION**  
**Inactive Hazardous Waste Disposal Site Program**  
**Pursuant to 6 NYCRR Part 375-1.9(d)**

Robert Moses Parkway-South Site, Site ID No. 932166  
Site Address: SW Corner of Intersection of John B. Daly Blvd and Buffalo Ave  
City of Niagara Falls, Niagara County, Tax Map Identification Number(s): p/o 158.16-1-1

**PLEASE TAKE NOTICE**, the New York State Department of Environmental Conservation (Department) has issued a Certificate of Completion (Certificate) pursuant to 6 NYCRR Part 375 to NYS Office of Parks, Recreation, and Historic Preservation for an approximately 16.09-acre site located at the south-west Corner of Intersection of John B. Daly Blvd and Buffalo Ave in the City of Niagara Falls, 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 Order on Consent, as well as any other relevant information regarding the Site, that the remediation requirements set forth in ECL Article 27, Title 13 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 Declaration of Covenants and Restrictions granted pursuant to ECL Article 71, Title 36 which has been duly recorded in the Recording Office for Niagara County as Instrument #: 2019-15009.

**PLEASE TAKE NOTICE**, the Declaration of Covenants and Restrictions 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 Department, 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 Declaration of Covenants and Restrictions, SMP, and Certificate are complied with, the Certificate holder(s) shall be entitled to the liability limitation provided in 6 NYCRR Part 375-2.9. 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 6 NYCRR Part 375-

Robert Moses Parkway-South Site, #932166, SW Corner of Intersection of John B. Daly Blvd and Buffalo Ave, Niagara Falls, NY 14303

2.9. The liability limitation shall be subject to all rights reserved to the State by 6 NYCRR Part 375-2.9 and any other applicable provision of law.

**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 Declaration of Covenants and Restrictions as implemented, if applicable, is not protective or enforceable.

**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 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 Headquarters located at 270 Michigan Avenue, Buffalo, NY 14203, by contacting the Regional Environmental Remediation Engineer.

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

NYS Office of Parks, Recreation, and  
Historic Preservation

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:**  
NYS Office of Parks, Recreation, and Historic  
Preservation  
625 Broadway  
Albany, NY 12207



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
Site Management Form  
2/21/2020



**SITE DESCRIPTION**

**SITE NO.** 932166

**SITE NAME** Robert Moses Parkway-South Site

**SITE ADDRESS:** SW Corner of Intersection of John Daly Blvd ZIP CODE: 14303

**CITY/TOWN:** Niagara Falls

**COUNTY:** Niagara

**ALLOWABLE USE:** Commercial and Industrial

**SITE MANAGEMENT DESCRIPTION**

**SITE MANAGEMENT PLAN INCLUDES:**

IC/EC Certification Plan YES

Monitoring Plan YES

Operation and Maintenance (O&M) Plan NO

Periodic Review Frequency: 1 year

Periodic Review Report Submittal Date: 07/15/2021

**Description of Institutional Control**

**NYS OPRHP**

John Daly Blvd and Buffalo Ave

Deed Restriction

Block: 1

Lot: 1

Sublot:

Section: 158

Subsection: 16

S\_B\_L Image: p/o 158.16-1-1

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

**Description of Engineering Control**

**NYS OPRHP**

John Daly Blvd and Buffalo Ave

Deed Restriction

Block: 1

Lot: 1

Sublot:

Section: 158

Subsection: 16

S\_B\_L Image: p/o 158.16-1-1

Cover System

Monitoring Wells