

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

Mr. Matt Horn
City Manager
47 Castle Street, City Hall
Geneva, New York 14456

AUG 30 2017

Re: Certificate of Completion
SAC No.: C303913
Market Basket Site
City of Geneva, Ontario County
Site No.: B00018

Dear Mr. Horn:

Congratulations on having satisfactorily completed the Remediation phase of the environmental restoration project that the City of Geneva undertook with State Assistance funds provided pursuant to the 1996 Clean Water/Clean Air Bond Act. The New York State Department of Environmental Conservation (Department) has determined, based upon our inspection of the above-referenced site and upon our review of the documents you have submitted, that you completed the project in accordance with the terms and conditions of the above-referenced State Assistance Contract (SAC).

As a result, the 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. Enclosed please find an original, signed COC. The City of Geneva is hereby entitled to the benefit of the liability limitation provisions described in the New York State Environmental Conservation Law (ECL) 56-0509.

Please be advised that the significant benefits described in ECL 56-0509 are contingent upon the City of Geneva fulfilling all continuing obligations set forth in ECL Article 56, Title 5, accompanying regulations, and the above-referenced SAC, including but not limited to, the obligations involving reimbursement to the State if the municipality receives payments or other consideration with respect to the project; disposition of proceeds upon the sale, transfer, or lease of the property; ensuring that Department has access to the property; and providing complete notice of any proposed change of use, as defined in ECL 56-0511.

Please note that in addition to the requirements discussed above, you are required to perform the following tasks:



Department of
Environmental
Conservation

- 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, and provide the Department with proof of filing within 30 days of receipt. 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, New York 12233-7020

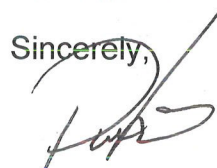
- Place the notice of the COC in the document repository for the site within 10 days of issuance of the COC; and
- Implement the Department-approved Site Management Plan (SMP) which details the activities necessary to assure the performance, effectiveness, and protectiveness of the remedial program; 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 June 2018.

The Department will prepare and distribute to the Site Contact List a fact sheet announcing the issuance of the COC and describing the institutional and engineering controls, if any, that are required at the site.

The final payment under the SAC will be made after the execution of all necessary amendments, and the issuance of the COC.

If you have any questions, please do not hesitate to contact Charlotte Theobald the Department's project manager, at 585-226-534 or via e-mail at charlotte.theobald@dec.ny.gov.

Sincerely,



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

Enclosure

cc w/ enclosure:

D. Meixell - dmeixell@plumleyeng.com
G. Eddington - gedding1@yahoo.com
C. Theobald
A. Guglielmi

NYSDEC ENVIRONMENTAL RESTORATION PROGRAM (ERP)

CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name

City of Geneva

Address

47 Castle Street, City Hall, Geneva, NY 14456

SITE INFORMATION

Site No.: B00018 **Site Name:** Market Basket Site

State Assistance Contract No.: C300940
C303913

Site Owner: City Of Geneva

Street Address: Corner of Gates Ave. & Lehigh Street

Municipality: Geneva (c) **County:** Ontario **DEC Region:** 8

Site Size: 2.475 Acres

Tax Map Identification Number(s): 90.15-4-67, 90.20-1-11

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 56, Title 5 of the New York State Environmental Conservation Law ("ECL") and 6 NYCRR 375.

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 State Assistance Contract, 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 approved 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 ERP: Commercial and Industrial

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 Ontario County with recording identifier 201306110068.

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 56-0509. 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 56-0509. The liability limitation shall be subject to all rights reserved to the State by ECL Section 56-0509 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 56-0509(1) and 6NYCRR Part 375.

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 Part 375-1.9(e) upon a finding that:

- (1) either the Municipality or the Municipality's successors or assigns have failed to comply with the terms and conditions of the State Assistance Contract;
- (2) either the Municipality or the Municipality's successors or assigns failed to manage the controls or monitoring in full compliance with the terms of the remedial program;
- (3) either the Municipality or the Municipality's successors or assigns made a misrepresentation of a material fact tending to demonstrate that the cleanup levels identified in the approved remedial work plan were reached;
- (4) the terms and conditions of the environmental easement, if applicable, have been intentionally violated;
- (5) the environmental easement as implemented, if applicable, is not protective or enforceable; or
- (6) 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:


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

Date: August 30, 2017

NOTICE OF CERTIFICATE OF COMPLETION

Environmental Restoration Program Pursuant to 6 NYCRR Part 375-1.9(d)

Market Basket Site, Site ID No. B00018

***63 Gates Avenue North & South Side & Lehigh Street, City of Geneva, New York, 14456
City of Geneva, Ontario County,***

Tax Map Identification Number(s): 90.15-4-67 and 90.20-1-11

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 City of Geneva for a parcel approximately 2.475 acres located at the 63 Gates Avenue North & South Side & Lehigh Street in the City of Geneva, Ontario 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 State Assistance Contract, as well as any other relevant information regarding the Site, that the remediation requirements set forth in ECL Article 56, Title 5 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.

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 a Deed Restriction granted pursuant to ECL Article 71, Title 36 which has been duly recorded in the Recording Office for Ontario County as 201306110068.

PLEASE TAKE NOTICE, the Deed Restriction 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 Deed Restriction, SMP and Certificate are complied with, the Certificate holder(s) shall be entitled to the liability limitation provided in ECL Section 56-0509. 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 56-0509. The liability limitation shall be subject to all rights reserved to the State by ECL Section 56-0509 and any other applicable provision of law.

Market Basket Site, B00018, 63 Gates Avenue North & South Side & Lehigh Street

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 Deed Restriction 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 8 located at 6274 East Avon-Lima Road, Avon, New York by contacting the Regional Environmental Remediation Engineer.

WHEREFORE, the undersigned has signed this Notice of Certificate

City of Geneva

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:

City of Geneva
Mr. Matt Horn
47 Castle Street, City Hall
Geneva, New York 14456

Exhibit A
Site Description

SCHEDULE "A"

Description

CITY OF GENEVA - PARCEL A

All that tract or parcel of land situate in the City of Geneva, County of Ontario, State of New York. All of which is shown on a map prepared by David M. Clark, PLS #049807, entitled "*Map Showing Lands Of City Of Geneva*" Job #2815.00. Last dated April 8, 2013. Being more particularly described as follows.

Beginning at a point, marked by an iron pin, at the intersection of the apparent easterly line of Lehigh Street and the apparent northerly line of Gates Avenue. Thence the following four (4) courses and distances.

1. Thence, N 00° 51' 50" W along the apparent easterly line of Lehigh Street a distance of 320.00 feet to a point, marked by an iron pin;
2. Thence, N 89° 08' 05" E along the southerly line of lands of the City of Geneva (L. 1106 P. 981) (Avenue E – Paper Street) a distance of 250.00 feet to a point, marked by an iron pin;
3. Thence, S 00° 51' 50" E along the westerly line of lands of the Ontario County IDA – Finger Lakes Railway (L. 956 P.501) (Ontario Street – Paper Street) a distance of 320.00 feet to a point, marked by an iron pin, in the apparent northerly line of Gates Avenue;
4. Thence, S 89° 08' 05" W along the apparent northerly line of Gates Avenue a distance of 250.00 feet back to the point of beginning.

Containing 80,000± Sq. Ft. or 1.837 Acres of land.

Subject to easements, rights of way or encumbrances of record, if any.

Intending to describe the lands conveyed to the City of Geneva by deed dated April 26, 1988 and recorded in the Ontario County Clerk's Office in liber 873 of deeds, page 783.

SCHEDULE "A"

Description

CITY OF GENEVA - PARCEL B

All that tract or parcel of land situate in the City of Geneva, County of Ontario, State of New York. All of which is shown on a map prepared by David M. Clark, PLS #049807, entitled **"Map Showing Lands Of City Of Geneva"** Job #2815.00. Last dated April 8, 2013. Being more particularly described as follows.

Beginning at a point, marked by an iron pipe, at the intersection of the apparent easterly line of Lehigh Street and the apparent southerly line of Gates Avenue. Thence the following six (6) courses and distances.

1. Thence, N 89° 08' 05" E along the apparent southerly line of Gates Avenue a distance of 309.31 feet to a point, marked by an iron pin;
2. Thence, S 00° 53' 00" E along the lands of the City of Geneva IDA (L. 1014 P. 805) (Ontario Street – Paper Street) a distance of 83.50 feet to a point;
3. Thence, S 89° 15' 44" W along the northerly line of lands of The Cracker Factory, Inc. (L. 1194 P. 415) a distance of 151.83 feet to a point;
4. Thence, S 00° 56' 16" E along the lands of The Cracker Factory, Inc. (L. 1194 P. 415) a distance of 12.78 feet to a point;
5. Thence, S 89° 03' 44" W along the northerly line lands of The Cracker Factory, Inc. (L. 1194 P. 415) a distance of 157.49 feet to a point, marked by an iron pin, in the apparent easterly line of Lehigh Street;
6. Thence, N 00° 53' 00" W along the apparent easterly line of Lehigh Street a distance of 96.14 back to the point of beginning.

Containing 27,777± Sq. Ft. or 0.638 Acres of land.

Subject to easements, rights of way or encumbrances of record, if any.

Intending to describe the lands conveyed to the City of Geneva by deed dated April 26, 1988 and recorded in the Ontario County Clerk's Office in liber 873 of deeds, page 786.

Exhibit B

Site Survey



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
2/14/2017



SITE DESCRIPTION

SITE NO. B00018

SITE NAME Market Basket Site

SITE ADDRESS: Corner of Gates Ave. & Lehigh Street ZIP CODE: 14456

CITY/TOWN: Geneva (C)

COUNTY: Ontario

ALLOWABLE USE: Commercial and Industrial

SITE MANAGEMENT DESCRIPTION

| SITE MANAGEMENT PLAN INCLUDES: | YES | NO |
|--------------------------------------|-------------------------------------|-------------------------------------|
| IC/EC Certification Plan | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Monitoring Plan | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Operation and Maintenance (O&M) Plan | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Periodic Review Frequency: 1 year

Periodic Review Report Submittal Date: 07/31/2018

Description of Institutional Control

City of Geneva

63 Gates Ave North side & Lehigh St

Deed Restriction

Block: 4

Lot: 67

Sublot:

Section: 90

Subsection: 15

S_B_L Image: 90.15-4-67

Ground Water Use Restriction

IC/EC Plan

Land Use Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

63 Gates Ave Southside & Lehigh St

Deed Restriction

Block: 1

Lot: 11

Sublot:

Section: 90

Subsection: 20

S_B_L Image: 90.20-1-11

Ground Water Use Restriction

IC/EC Plan

Land Use Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

Description of Engineering Control

Not Applicable/No EC's