

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

Honorable Robert Palmieri
Mayor, City of Utica
1 Kennedy Plaza
Utica, NY 13502

MAR 4 2019

Re: Certificate of Completion,
SAC No.: C301961
26-28 Whitesboro Street, City of Utica
Oneida County, Site No. B00063

Dear Mayor Palmieri:

Congratulations on having satisfactorily completed the Remediation phase of the environmental restoration project that the City of Utica 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 Utica 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 Utica 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 (see the enclosed ERP Site Disposition Form); 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:

- 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



Department of
Environmental
Conservation

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, NY 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 May 2, 2020.

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 David Chiusano, the Department's project manager, at (518) 402-9813.

Sincerely,



Michael J. Ryan, P.E.
Assistant Director
Division of Environmental Remediation

cc w/ enclosure:

C. Vooris – NYSDOH

G. Rys – NYSDOH

K. Harnett – RP Attorney; khartnett@cityofutica.com

ec w/o enc:

D. Chiusano

D. Harrington

M. Cruden

P. Taylor

K. Lewandowski

J. Andaloro

NYSDEC ENVIRONMENTAL RESTORATION PROGRAM (ERP)

CERTIFICATE OF COMPLETION

Name

City of Utica

Address

Utica City Hall

1 Kennedy Plaza, Utica, NY 13502

SITE INFORMATION

Site No.: B00063 **Site Name:** 26-28 Whitesboro Street

State Assistance Contract No.: C301961

Site Owner: City of Utica

Street Address: 14-18 Whitesboro St., Whitesboro St. (No Address Number), 26-28 Whitesboro Street, 30-34 Whitesboro St, Water St. (Various 3 Parcels – No Address Numbers)

Municipality: Utica

County: Oneida

DEC Region: 6

Site Size: 1.532 Acres

Tax Map Identification Number(s): 318.8-1-42 (Water St.)
318.8-1-43 (Water St.)
318.8-1-44 (14-18 Whitesboro St.)
318.8-1-45 (Whitesboro St.)
318.8-1-46 (26-28 Whitesboro St.)
318.8-1-47 (Water St.)
318.8-1-48 (30-34 Whitesboro St.)

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 6NYCRR 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 Oneida County with recording identifier R2018-001553.

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 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:



Michael J. Ryan, P.E., Director
Division of Environmental Remediation

Date:

3/4/19

NOTICE OF CERTIFICATE OF COMPLETION
Environmental Restoration Program
Pursuant to 6 NYCRR Part 375-1.9(d)

26-28 Whitesboro Street, Site ID No. B00063

**Various Parcels: 14-18 Whitesboro St., Whitesboro St. (No Address Number), 26-28
Whitesboro Street, 30-34 Whitesboro St, Water St. (3 Parcels – No Address Numbers),
City of Utica, NY, 13502**

**Utica, Oneida County, Tax Map Identification Numbers 318.8-1-42; 318.8-1-43; 318.8-1-44;
318.8-1-45; 318.8-1-46; 318.8-1-47; 318.8-1-48**

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 the City of Utica for a parcel approximately 1.532 acres located at the 26-28 Whitesboro in the City of Utica in Oneida 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 an Environmental Easement granted pursuant to ECL Article 71, Title 36 which has been duly recorded in the Recording Office for Oneida County as R2018-001553.

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 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.

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 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 6 located at 317 Washington St. Watertown, NY 12601 by contacting the Regional Environmental Remediation Engineer.

WHEREFORE, the undersigned has signed this Notice of Certificate

City of Utica

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

2/20/19

Please record and return to:

Mayor Robert Palmieri

1 Kennedy Plaza

Utica, NY 13502

Exhibit A

Site Description

SCHEDULE "A" PROPERTY DESCRIPTION

SURVEYOR'S DESCRIPTION:

ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE CITY OF UTICA, COUNTY OF ONEIDA AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

Beginning at an iron rod on the northerly highway boundary of Whitesboro Street, said iron rod standing at the intersection of the northerly highway boundary of Whitesboro Street with the easterly boundary of National Building Restoration Corp. (Now or Formerly), as described in a Warranty Deed dated July 1, 1991 and filed in the Oneida County Clerks Office in Liber 2593 of Deeds at Page 85; said point of beginning being further described as standing therein distant **S69°26'00"E 72.57 feet** as measured along the northerly highway boundary of Whitesboro Street from the intersection of the northerly highway boundary of Whitesboro Street with the easterly highway boundary of Hotel Street; thence **N27°50'30"E 211.84 feet** along the easterly boundary of National Building Restoration Corp. to an iron rod standing on the nominal southerly highway boundary of Water Street; thence **S61°34'03"E 173.97 feet** along the nominal southerly highway boundary of Water Street to a point; thence **S59°27'32"E 86.55 feet** continuing along the nominal southerly highway boundary of Water Street to a point; thence **S61°47'28"E 63.00 feet** still along the nominal southerly highway boundary of Water Street to an iron rod standing on the westerly boundary of The Boilermaker Road Race, Inc. (Now or Formerly); thence **S33°28'00"W 54.00 feet** along the westerly boundary of The Boilermaker Road Race, Inc. to an iron rod standing on the southerly boundary of The Boilermaker Road Race, Inc.; thence **S56°32'00"E 73.00 feet** along the southerly boundary of The Boilermaker Road Race, Inc. to an iron rod standing on the westerly highway boundary of Division Street; thence **S33°28'00"W 94.00 feet** along the westerly highway boundary of Division Street to an iron rod standing on the northerly highway boundary of Whitesboro Street; thence **N67°26'00"W 108.88 feet** along the northerly highway boundary of Whitesboro Street to an iron rod; thence **N62°51'00"W 11.55 feet** continuing along the northerly highway boundary of Whitesboro Street to an iron rod standing on the westerly highway boundary of Whitesboro Street; thence **S27°08'30"W 7.57 feet** along the westerly highway boundary of Whitesboro Street to an iron rod standing on the northerly highway boundary of Whitesboro Street; thence **N69°26'00"W 263.80 feet** along the northerly highway boundary of Whitesboro Street to the point and place of beginning.

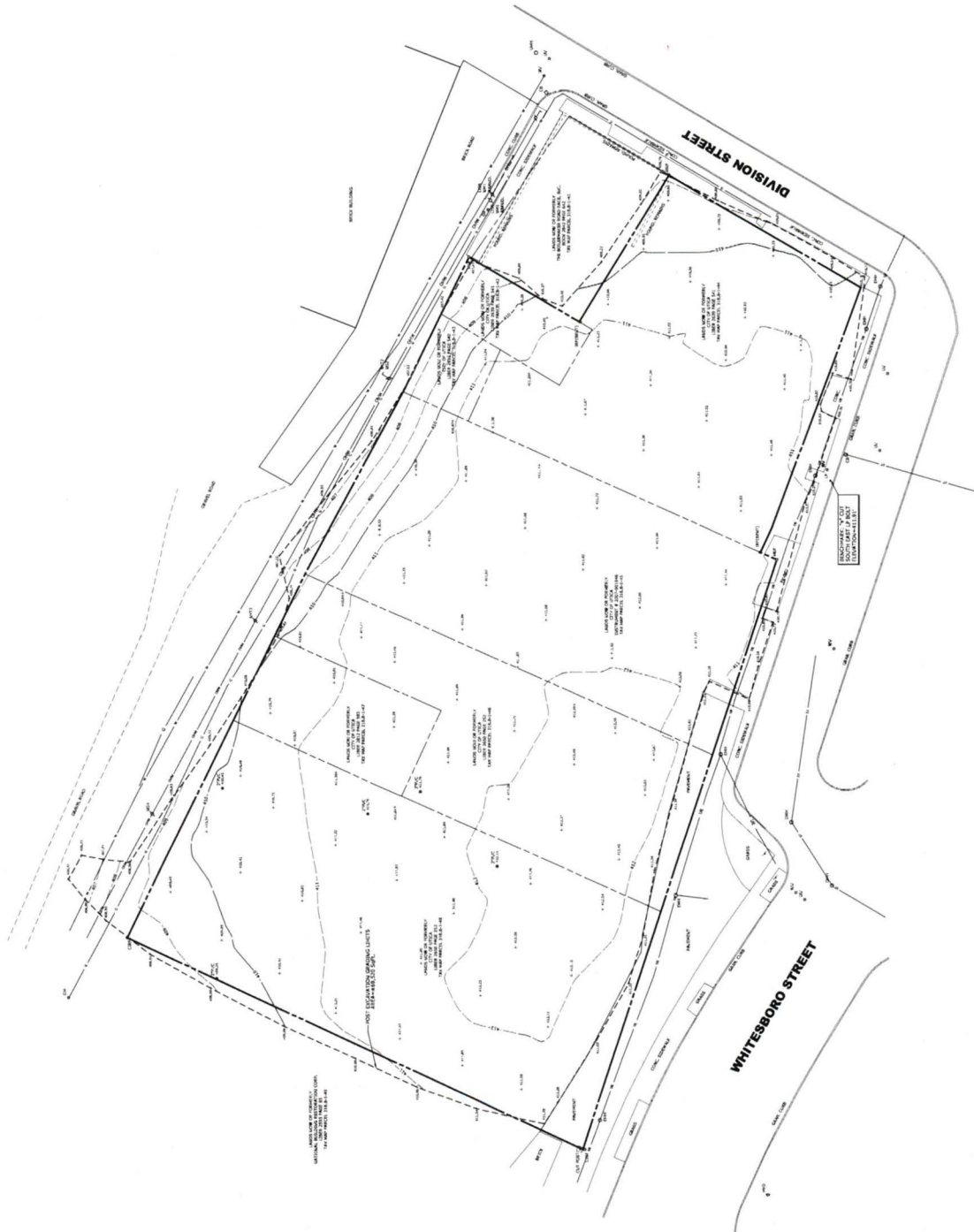
The above described parcel containing **1.532 acres** (66,722.7 Sq. Ft.) of land, more or less.

Subject to any easements, covenants or restrictions of record.

The property is subject to an environmental easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the New York Environmental Conservation Law. The engineering and institutional controls for this Easement are set forth in more detail in the Site Management Plan (SMP). A copy of the SMP must be obtained by any party with an interest in the property. The SMP can be obtained from NYS Department of Environmental Conservation, Division of Environmental Remediation, Site Control Section, 625 Broadway, Albany, NY 12233 or at derweb@dec.ny.gov.

Exhibit B

Site Survey

[illegible][illegible][illegible][illegible]

ONLY COPIES OF THIS MAP SIGNED IN RED INK AND EMBOSSED WITH THE SEAL OF AN OFFICER OF C.I. MALE ASSOCIATES OR A DESIGNATED REPRESENTATIVE SHALL BE CONSIDERED TO BE A VALID TRUE COPY.



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
1/7/2019



SITE DESCRIPTION

SITE NO. B00063

SITE NAME 26-28 Whitesboro Street

SITE ADDRESS: 26-28 Whitesboro Street ZIP CODE: 13502

CITY/TOWN: Utica

COUNTY: Oneida

ALLOWABLE USE: 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: 1 year

Description of Institutional Control

City of Utica

14-18 Whitesboro Street

Environmental Easement

Block: 1

Lot: 44

Sublot:

Section: 318

Subsection: 8

S_B_L Image:

Ground Water Use Restriction

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

26-28 Whitesboro Street

Environmental Easement

Block: 1

Lot: 46

Sublot:

Section: 318

Subsection: 8

S_B_L Image:

Ground Water Use Restriction

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

30-34 Whitesboro Street

Environmental Easement

Block:

Lot: 48

Sublot:

Section: 318

Subsection: 8

S_B_L Image:

Ground Water Use Restriction

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

Water Street (No Street Number)

Environmental Easement

Block: 1

Lot: 42

Sublot:

Section: 318

Subsection: 8

S_B_L Image:

Ground Water Use Restriction

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

Lot: 43

Sublot:

Section: 318

Subsection: 8

S_B_L Image:

Ground Water Use Restriction

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

Lot: 47

Sublot:

Section: 318

Subsection: 8

S_B_L Image:

Ground Water Use Restriction

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

Whitesboro Street (No Street Number)

Environmental Easement

Block: 1

Lot: 45

Sublot:

Section: 318

Subsection: 8

S_B_L Image:

Ground Water Use Restriction

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

Description of Engineering Control

City of Utica

14-18 Whitesboro Street

Environmental Easement

Block: 1

Lot: 44

Sublot:

Section: 318

Subsection: 8

S_B_L Image:

Cover System

Fencing/Access Control

Monitoring Wells

26-28 Whitesboro Street

Environmental Easement

Block: 1

Lot: 46

Sublot:

Section: 318

Subsection: 8

S_B_L Image:

Cover System

Fencing/Access Control

Monitoring Wells

30-34 Whitesboro Street

Environmental Easement

Block:

Lot: 48

Sublot:

Section: 318

Subsection: 8

S_B_L Image:

Cover System

Fencing/Access Control

Monitoring Wells

Water Street (No Street Number)

Environmental Easement

Block: 1

Lot: 42

Sublot:

Section: 318

Subsection: 8

S_B_L Image:

Cover System

Fencing/Access Control

Monitoring Wells

Lot: 43

Sublot:

Section: 318

Subsection: 8

S_B_L Image:

Cover System

Fencing/Access Control

Monitoring Wells

Lot: 47

Sublot:

Section: 318

Subsection: 8

S_B_L Image:

Cover System

Fencing/Access Control

Monitoring Wells

Whitesboro Street (No Street Number)

Environmental Easement

Block: 1

Lot: 45

Sublot:

Section: 318

Subsection: 8

S_B_L Image:

Cover System

Fencing/Access Control

Monitoring Wells

