

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Office of the Director
625 Broadway, 12th Floor, Albany, New York 12233-7011
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www.dec.ny.gov

Transmitted via e-mail and US Mail

Mr. Michael Ciaravino
City Manager
City of Newburgh
83 Broadway
Newburgh, NY 12550

NOV 14 2016

Re: Certificate of Completion,
SAC No.: C301355, C303491
Provan Ford Site, Site No. B00127
City of Newburgh, Orange County

Dear Mr. Ciaravino,

Congratulations on having satisfactorily completed the Remediation phase of the environmental restoration project that the City of Newburgh 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 Newburgh 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 Newburgh fulfilling all continuing obligations set forth in ECL Article 56, Title 5, accompanying regulations, and the above-referenced SACs, 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.



Department of
Environmental
Conservation

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 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

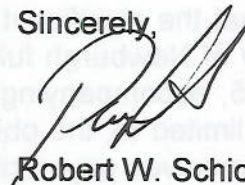
- Place the notice of the COC in the document repository for the site within 10 days of issuance of the COC; and
- Implement the Department-approved Site Management Plan (SMP) which details the activities necessary to assure the performance, effectiveness, and protectiveness of the remedial program; 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 January 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 William Bennett, the Department's project manager, at (518) 402-9662.

Sincerely,



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

Enclosure

ec w/ enclosure:

- M. Ciaravino, City of Newburgh (mciaravino@cityofnewburgh-ny.gov)
- K. Anders, NYSDOH (krista.anders@health.ny.gov)
- A. Perretta, NYSDOH (anthony.perretta@health.ny.gov)
- M. Schuck, NYSDOH (maureen.schuck@health.ny.gov)

ec w/o enc:

- W. Bennett/file (william.bennett@dec.ny.gov)
- D. Crosby (david.crosby@dec.ny.gov)
- G. Heitzman (george.heizman@dec.ny.gov)
- E. Moore, Region 3 (edward.moore@dec.ny.gov)
- A. Guglielmi, OGC (andrew.guglielmi@dec.ny.gov)
- J. Morris, City of Newburgh (jmorris@cityofnewburgh-ny.gov)
- A. Church, City of Newburgh (achurch@cityofnewburgh-ny.gov)
- D. Glen, City of Newburgh (dglen@cityofnewburgh-ny.gov)
- D. Lattanzi, First Environment (ddl@firstenvironment.com)
- J. Barone, Tooher & Barone, LLP (jbarone@tabllp.com)

NYSDEC ENVIRONMENTAL RESTORATION PROGRAM (ERP)
CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name	Address
City of Newburgh	83 Broadway, Newburgh, NY 12550

SITE INFORMATION

Site No.: B00127 **Site Name:** Provan/Ford Site
State Assistance Contract No.: C301355
C303491

Site Owner: City Of Newburgh
Street Address: 146-172 Mill Street
Municipality: Newburgh (C) **County:** Orange **DEC Region:** 3
Site Size: 3.083 Acres
Tax Map Identification Number(s): 43-3-7.1

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 Orange County with recording identifier 20160046471.

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;

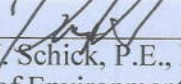
(5) the environmental easement as implemented, if applicable, is not protective or enforceable;

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

Date: November 14, 2016

NOTICE OF CERTIFICATE OF COMPLETION

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

Provan Ford Site, Site ID No. B00127
146-172 Mill Street, Newburgh, NY 12550
City of Newburgh, Orange County, Tax Map Identification Number: 43-3-7.1

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 the City of Newburgh for a parcel approximately 3.083 acres in size located at 146-172 Mill Street in the City of Newburgh, Orange 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):

- 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 Environmental Easement granted pursuant to ECL Article 71, Title 36 which has been duly recorded in the Recording Office for Orange County as 2016-0046471.

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.

Provan Ford Site, Site ID No. B00127, 146-172 Mill Street, Newburgh, NY 12550

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 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, the Certificate may be revoked if the Environmental Easement as implemented, if applicable, is not protective or enforceable.

PLEASE TAKE NOTICE, a copy of the Certificate can be reviewed at the NYSDEC's Region 3 Office located at 21 S Putt Corners Road, New Paltz, NY 12561 by contacting the Regional Environmental Remediation Engineer.

WHEREFORE, the undersigned has signed this Notice of Certificate

City of Newburgh

By: _____

Title: _____

Date: _____

STATE OF NEW YORK) SS:
COUNTY OF ORANGE)

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.

Please record and return to:

Signature and Office of individual
Taking acknowledgement

Michael Ciaravino
City Manager
City of Newburgh
83 Broadway
Newburgh, NY 12550



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Site Management Form

9/16/2016



SITE DESCRIPTION

SITE NO. B00127

SITE NAME Provan/Ford Site

SITE ADDRESS: 146-172 Mill Street ZIP CODE: 12550

CITY/TOWN: Newburgh (C)

COUNTY: Orange

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 checked="" type="checkbox"/>	<input type="checkbox"/>

Periodic Review Frequency: 1 year

Periodic Review Report Submittal Date: 01/30/2018

Description of Institutional Control

City of Newburgh

146-172 Mill St.

Environmental Easement

Block: 3

Lot: 7

Sublot: 1

Section: 43

Subsection:

S_B_L Image: 43-3-7.1

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

O&M Plan

Site Management Plan

Soil Management Plan



Description of Engineering Control



City of Newburgh

146-172 Mill St.

Environmental Easement

Block: 3

Lot: 7

Sublot: 1

Section: 43

Subsection:

S_B_L Image: 43-3-7.1

Cover System

Vapor Mitigation

SITE MANAGEMENT DESCRIPTION		ALLOWABLE USE: Commercial and Industrial
YES	NO	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	ICRC Definition Plan
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Monitoring Plan
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Operation and Maintenance (O&M) Plan
		Periodic Review Frequency: 1 year
		Periodic Review Report Submit Date: 07/03/2018
Description of Institutional Control		City of Newburgh 146-172 Mill St. Environmental Easement Block 3 Lot 7 Sublot 1 Section 43 Subsection S_B_L Image 43-3-7.1 Ground Water Use Restriction ICRC Plan Leachate Restriction Monitoring Plan O&M Plan Site Management Plan Soil Management Plan

Exhibit A – Description of Property

ALL THAT PARTS OF THE LAND, INCLUDING BUILDINGS AND IMPROVEMENTS THEREON ERECTED, SITUATE LYING AND BEING IN THE CITY OF NEWBURGH, COUNTY OF ORANGE AND STATE OF NEW YORK, KNOWN AND DESIGNATED AS LOT 11, BLOCK 7, SECTION 43 AS SHOWN ON THE CITY OF NEWBURGH TAX MAP, BOUND AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE CORNER FORMED BY THE INTERSECTION OF THE SOUTHWESTERLY SIDE OF DEYO PLACE WITH THE WASTERLY SIDE OF SOUTH ROBINSON AVENUE ALSO KNOWN AS US ROUTE 9W, SAID POINT WHOSE COORDINATES IN NAD83 ARE 528173.38 OF THE NEW YORK STATE PLANE COORDINATE SYSTEM EAST ZONE NAD83 (2011 SURVEY BOUNDLINE); THENCE RUN N07° 12' E ALONG THE EASTERLY SIDE OF SOUTH ROBINSON AVE A DISTANCE OF 64.00 FEET TO A POINT ON A CIRCULAR CURVE WHOSE RADIIUS POINT BEARS 105° 57' 48" W FROM SAID POINT OF INTERSECTION;

THENCE RUN ALONG THE DIVISION LINE BETWEEN THE HEREIN DESCRIBED PARCEL AND THE LANDS NOW OR FORMERLY OR GENER AS DESCRIBED IN LIBER 156 OF DEEDS AT PAGE 181, NORTHEASTERLY ALONG THE GAUGE LINE ON THE REMAINS OF THE WEST RAIL OF THE ELBE RAILROAD, THE ARC OF A CIRCULAR CURVE TO THE LEFT HAVING FOR ITS ELEMENTS A RADIIUS OF 407.82 FEET AND A CENTRAL ANGLE OF 12° 39' 00" FOR A DISTANCE OF 111.42 FEET TO A POINT;

THENCE RUN S87° 02' 12" E ACROSS TO THE GAUGE LINE ON THE REMAINS OF THE EAST RAIL OF THE ELBE RAILROAD A DISTANCE OF 64.00 FEET TO A POINT OF A CIRCULAR CURVE WHOSE RADIIUS POINT BEARS 105° 57' 48" W FROM SAID POINT OF INTERSECTION;

THENCE RUN ALONG THE DIVISION LINE BETWEEN THE LAST MENTIONED LAND AND ALSO ALONG THE LANDS NOW OR FORMERLY FORMERLY INTERESTS I.L.C. AS DESCRIBED IN LIBER 11363 OF DEEDS AT PAGE 404, NORTHEASTERLY ALONG THE GAUGE LINE ON THE REMAINS OF THE EAST RAIL, AN ARC OF A CIRCULAR CURVE TO THE LEFT HAVING FOR ITS ELEMENTS A RADIIUS OF 412.82 FEET AND A CENTRAL ANGLE OF 12° 39' 00" FOR A DISTANCE OF 252.81 FEET TO A POINT ON THE SOUTHERLY SIDE OF DICKSON STREET (50 FEET WIDE);

THENCE RUN S87° 48' E ALONG THE SOUTHERLY LINE OF DICKSON STREET A DISTANCE OF 107.25 FEET TO THE CORNER AT THE INTERSECTION WITH THE WESTERLY LINE OF MILL STREET;

SCHEDULE "A" PROPERTY DESCRIPTION

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, WITH BUILDINGS AND IMPROVEMENTS THEREON ERECTED, SITUATE, LYING AND BEING IN THE CITY OF NEWBURGH, COUNTY OF ORANGE AND STATE OF NEW YORK, KNOWN AND DESIGNATED AS LOT 7.1, BLOCK 3, SECTION 43 AS SHOWN ON THE CITY OF NEWBURGH TAX MAP, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE CORNER FORMED BY THE INTERSECTION OF THE SOUTHEASTERLY SIDE OF DEYO PLACE WITH THE EASTERLY SIDE OF SOUTH ROBINSON AVENUE ALSO KNOWN AS US ROUTE 9W, SAID POINT WHOSE COORDINATES N 969325.37 E 623037.39 OF THE NEW YORK STATE PLANE COORDINATES SYSTEM EAST ZONE NAD83/ (2011) SURVEY BASELINE:

THENCE RUN N04° 52' 12"E ALONG THE EASTERLY SIDE OF SOUTH ROBINSON AVE A DISTANCE OF 64.60 FEET TO A POINT ON A CIRCULAR CURVE WHOSE RADIUS POINT BEARS N26°57'44"W FROM SAID POINT OF INTERSECTION;

THENCE RUN ALONG THE DIVISION LINE BETWEEN THE HEREIN DESCRIBED PARCEL AND THE LANDS NOW OR FORMERLY OF GEHLER AS DESCRIBED IN LIBER 1954 OF DEEDS AT PAGE 981, NORTHEASTERLY ALONG THE GAUGE LINE ON THE REMAINS OF THE WEST RAIL OF THE ERIE RAILROAD, THE ARC OF A CIRCULAR CURVE TO THE LEFT HAVING FOR ITS ELEMENTS A RADIUS OF 407.95 FEET AND A CENTRAL ANGLE OF 15°39'09" FOR A DISTANCE OF 111.45 FEET TO A POINT;

THENCE RUN S85° 05' 15"E ACROSS TO THE GAUGE LINE ON THE REMAINS OF THE EAST RAIL OF THE ERIE RAILROAD A DISTANCE OF 6.62 FEET TO A POINT OF A CIRCULAR CURVE WHOSE RADIUS POINT BEARS N40°46'49"W FROM SAID POINT OF INTERSECTION;

THENCE RUN ALONG THE DIVISION LINE BETWEEN THE LAST MENTIONED LAND AND ALSO ALONG THE LANDS NOW OR FORMERLY ROBINALLEY ENTERPRISES LLC, AS DESCRIBED IN LIBER 11363 OF DEEDS AT PAGE 634, NORTHEASTERLY ALONG THE GAUGE LINE ON THE REMAINS OF THE EAST RAIL AN ARC OF A CIRCULAR CURVE TO THE LEFT HAVING FOR ITS ELEMENTS A RADIUS OF 412.65 FEET AND A CENTRAL ANGLE OF 35°24'59" FOR A DISTANCE OF 255.07 FEET TO A POINT ON THE SOUTHERLY SIDE OF DICKSON STREET (50 FEET WIDE);

THENCE RUN S85° 07' 48"E ALONG THE SOUTHERLY LINE OF DICKSON STREET A DISTANCE OF 207.75 FEET TO THE CORNER AT THE INTERSECTION WITH THE WESTERLY LINE OF MILL STREET;

THENCE RUN S06° 04' 57"W ALONG THE WESTERLY LINE OF MILL STREET A DISTANCE OF 435.17 FEET TO POINT, A DISTANCE OF 272.40 FEET NORTHERLY FROM THE CORNER FORMED WITH THE INTERSECTION WITH THE SOUTHEASTERLY SIDE OF DEYO PLACE;

THENCE RUN ALONG THE DIVISION LINE BETWEEN THE HEREIN DESCRIBED PARCEL AND THE LANDS NOW OR FORMERLY OF ALVA EDISON PROJECT, LLC AS DESCRIBED IN LIBER 13963 OF DEEDS AT PAGE 1900, S85° 06' 03"W A DISTANCE OF 317.45 FEET TO POINT ON THE SOUTHEASTERLY SIDE OF DEYO PLACE:

THENCE RUN N43° 58' 03"W A DISTANCE OF 113.99 FEET ALONG SAID SIDE TO THE POINT OR PLACE OF BEGINNING.

CONTAINING 3.083 ACRES MORE OR LESS.

THENCE RUN S62° 06' 37" W ALONG THE WESTERLY LINE OF MILL STREET A DISTANCE OF 452.17 FEET TO POINT, A DISTANCE OF 272.80 FEET NORTHEASTLY FROM THE CORNER POINT OF SAID TRACT TO POINT B, THE

Exhibit B – Site Survey

THENCE RUN ALONG THE DIVISION LINE BETWEEN THE HEREIN DESCRIBED PARCEL AND THE LANDS NOW OR FORMERLY OF ALVA EDISON PROJECT, LLC AS DESCRIBED IN LIBER 13847 OF DEEDS AT PAGE 1988, 2827, 2937 W 33° W A DISTANCE OF 214.43 FEET TO POINT ON THE SOUTHEASTERLY SIDE OF DEYO PLACE.

THENCE RUN N42° 28' 57" W A DISTANCE OF 113.98 FEET ALONG SAID SIDE TO THE POINT OR PLACE OF BEGINNING.

CONTAINING 2.89 ACRES MORE OR LESS.

