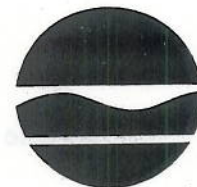


**New York State Department of Environmental Conservation**  
**Division of Environmental Remediation, 12<sup>th</sup> Floor**  
625 Broadway, Albany, New York 12233-7011  
Phone: (518) 402-9706 • FAX: (518) 402-9020  
Website: www.dec.ny.gov



Alexander B. Grannis  
Commissioner

Honorable Michael W. Tucker  
Mayor  
City of Lockport  
1 Locks Plaza  
Lockport, NY 14094

JUN 26 2009

RE: Certificate of Completion, SAC No. C301765  
Richmond Avenue Project  
Lockport (C), Niagara County  
Site No. B00154  
SAC Type: Investigation/Remediation

Dear Mayor Tucker:

Congratulations on having satisfactorily completed the Remediation phase of the environmental restoration project that the City of Lockport 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(s).

As a result, the Department is pleased to inform you that the Site Investigation/Remedial Alternatives 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 Lockport 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 Lockport fulfilling all continuing obligations set forth in ECL Article 56, Title 5, accompanying regulations, and the above-referenced SAC(s), 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:

- 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. A standard notice form is enclosed with this letter;
- Provide a notice of the COC and a fact sheet describing the institutional and engineering controls (IC/EC) that are required at the site to the Site Contact list within 10 days of issuance of the COC; and
- Implement the Department-approved Soil 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 enclosed Site Management Form. The first PRR including the certification of the IC/ECs is due to the Department in December 2010. A copy of the PRR is enclosed for your reference.

If you have any questions, please do not hesitate to contact Jeff Konsella, the Department's project manager, at (716) 851-7220.

Sincerely,



Dale A. Desnoyers

Director

Division of Environmental Remediation

cc: G. Litwin, NYSDOH  
M. Forcucci, NYSDOH  
R. Fedigan, NYSDOH

bec: D. Desnoyers  
J. Konsella, NYSDEC, Region 9  
G. Sutton, NYSDEC, Region 9  
Y. Ward  
R. Knizek

bcc: eDocs/file

L:/Region 9 Correspondence/letter.b00154.2009-06-30.COC\_CoverLtr.wpd



**NOTICE OF CERTIFICATE OF COMPLETION**  
**Environmental Restoration Program**  
**Richmond Avenue Site , Site ID No.B00154**  
**Canal, Church, and Niagara Streets, City of Lockport**

**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 of the New York State Environmental Conservation Law (ECL) to the City of Lockport for a parcel approximately 2 acres, located at various addresses on Canal, Church, and Niagara Streets, in the City of Lockport.

**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 Brownfield Site Cleanup Agreement, 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 6NYCRR 375-1.8(g)(2)i.
- ☐ Restricted Residential Use, as set forth in 6NYCRR 375-1.8(g)(2)ii.
- ☒ Commercial Use, as set forth in 6NYCRR 375-1.8(g)(2)iii.
- ☐ Industrial Use, as set forth in 6NYCRR 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 Niagara County as Receipt No. 200910967.

**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.



**Richmond Avenue Site , Site ID No.B00154  
Canal, Church, and Niagara Streets, City of Lockport**

**PLEASE TAKE NOTICE**, any change of use of the site, as defined in 6NYCRR 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 6NYCRR 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 9 located at 270 Michigan Ave, Buffalo, NY 14203, by contacting the Regional Environmental Remediation Engineer.

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

(Applicant)

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF NEW YORK ) SS:  
COUNTY OF )

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 200\_, 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:**  
(Applicant)  
(Applicant address)



NYSDEC ENVIRONMENTAL RESTORATION PROGRAM (ERP)

**CERTIFICATE OF COMPLETION**

**CERTIFICATE HOLDER(S):**

**Name**

CITYOF LOCKPORT

**Address**

1 Locks Plaza, Lockport

**SITE INFORMATION**

**Site No.:** B00154 **Site Name:** Richmond Avenue Project

**State Assistance Contract No.:** C301765

**Site Owner:** Cityof Lockport

**Street Address:** Canal, Church, and Niagara Streets

**Municipality:** Lockport **County:** Niagara **DEC Region:** 9

**Site Size:** 2.00 Acres

**Tax Map Identification Number(s):** 109.54-2-14, 109.54-2-15, 109.54-2-16, 109.54-2-17, 109.54-2-18,  
109.54-2-19, 109.54-2-21, 109.54-2-24, 109.54-2-30

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; 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 Niagara County with recording identifier 2009-08129.

**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.

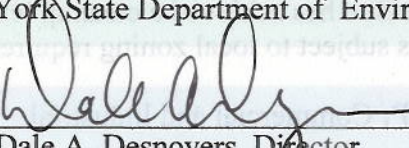
The Certificate holder(s) (including its successors or assigns) shall have thirty (30) days within which to cure any deficiency or to seek a hearing. If the deficiency is not cured or a request for a hearing received within such 30-day period, the Certificate shall be deemed modified or vacated on the 31st day after the Department's notice.

Alexander B. Grannis

Commissioner

New York State Department of Environmental Conservation

By:

  
Dale A. Desnoyers, Director

Division of Environmental Remediation

Date:

6/26/09





**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
DIVISION OF ENVIRONMENTAL REMEDIATION  
Site Briefing Report**



<b>Site Code</b>	B00154	<b>Site Name</b>	Richmond Avenue Project	
<b>Classification</b>	A	<b>Address</b>	Canal, Church, and Niagara Streets	
<b>Region</b>	9	<b>City</b>	Lockport	<b>Zip</b> 14094
<b>Latitude</b>	43.1706	<b>Town</b>	Lockport (c)	
<b>Longitude</b>	-78.6942	<b>County</b>	Niagara	<b>Project Manager</b> Jeffrey Konsella
<b>Site Type</b>			<b>Estimated Size</b>	2.0000

### Site Description

The site is a 2-acre triangular-shaped site which is immediately adjacent to the Erie Barge Canal along Richmond Avenue. The site consists of nine separate tax parcels which contain either vacant or underutilized buildings located at 49, 51, 53, 57, 69, and 79 Canal Street, 16 and 18 Church Street, and 3 Niagara Street. Previous uses of these parcels include: automotive repair, gasoline service station, automotive sales, dry cleaner, machine shop, junkyard, leather manufacturing, and miscellaneous manufacturing operations. Through Environmental Restoration Program (ERP), the City of Lockport completed a Site Investigation in 2003. Concurrent with the Site Investigation, Interim Remedial Measures (IRMs) were completed to remove site wastes, refuse, tanks and contaminated soils. A Record of Decision was issued in May 2004 confirming that no further remedial action was necessary. The City plans to redevelop the site for commercial and public green space uses. The environmental easement was filed by the City on 5-12-09.

<b>Contaminants of Concern (Including Materials Disposed)</b>	<b>Quantity Disposed</b>
ARSENIC	UNKNOWN
CHROMIUM	UNKNOWN
LEAD	UNKNOWN
MERCURY	UNKNOWN
UNKOWN	UNKNOWN

**Analytical Data Available for :**

**Applicable Standards Exceeded for:**

### Site Environmental Assessment

The previous use of the site as an automotive repair and service station likely resulted in the impacts to site soils. The primary contaminants released at the site included metals (lead, arsenic, chromium, mercury) and petroleum compounds. Site soils were the only impacted media. Overburden groundwater was not encountered during the investigation and IRM work. An IRM was completed in 2003 that removed tanks and impacted soils from the site. The 2003 SI/RAR concluded that the IRM was successful in eliminating all significant environmental threats posed by this site. The 2004 ROD included institutional control requirements such as property use restrictions, a soils management plan, and periodic certification of the remedy.

### Site Health Assessment

The site is located in a commercial area of Lockport. All nearby residents are served by public water so exposures via drinking water are not expected. Potential exposures have been eliminated by the

excavation and off-site disposal of contaminated site soils.

## Remedy Description and Cost

### Remedy Description for Operable Unit 00

This property is one of nine adjacent properties that made up the Richmond Avenue ERP project. The 2004 ROD required institutional control requirements such as: an environmental easement, compliance with the approved soils management plan, and periodic certification of remedy effectiveness. The land use restriction in the easement specifies that the property may be used for commercial and industrial uses. The easement also specifies that the existing site surfaces (soils, asphalt, concrete, buildings, etc) be maintained and function as a cover system on the property.

**Total Cost** \$0

**Capital Cost** \$0

**OM&M Cost** \$200

### Issues / Recommendations

### Remedy Description for Operable Unit 01

The remedy for this site included performance of several IRMs, including removal and off-site disposal of: 195 tons of hazardous (lead) soils; 1,300 tons of non-haz. metals contaminated soils; 600 tons of petroleum contaminated soils; 1 above ground tank and 2 underground storage tanks; 1 hydraulic lift. In addition, some site buildings were demolished to conduct the remedial work.

**Total Cost** \$610,000

**Capital Cost** \$610,000

**OM&M Cost** \$0

### Issues / Recommendations