

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)
CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name

Benley Enterprises, Inc.

Address

89 Ocean Avenue, East Rockaway, NY 11518

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 2/17/06 **Agreement Execution:** 3/22/06

Agreement Index No.: W1-1085-06-01

Application Approval Amendment: none

Agreement Execution Amendment: none

SITE INFORMATION:

Site No.: C130157 **Site Name:** Minute Man Cleaners

Site Owner: Dennis Manley

Street Address: 89 Ocean Avenue

Municipality: East Rockaway **County:** Nassau **DEC Region:** 1

Site Size: 0.177 Acres

Tax Map Identification Number(s): 42-69-214

Percentage of site located in an EnZone: 0 - 49 %

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 27, Title 14 of the New York State Environmental Conservation Law ("ECL").

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 Brownfield Site Cleanup Agreement, 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 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 BCP: Commercial and Industrial

Cleanup Track: Track 4: Restricted use with site-specific soil cleanup objectives

Tax Credit Provisions for Entities Taxable Under Article 9, 9-A, 32, and 33:

Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 12 %.

Tangible Property Credit Component Rate is 12 %.

Tax Credit Provisions for Entities Taxable Under Article 22 & S Corporations:

Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 10 %.

Tangible Property Credit Component Rate is 10 %.

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 Nassau County as Liber book D 13129: pages 756-765.

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 27-1421. 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 27-1421. The liability limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 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 27-1419.5 and 6NYCRR Part 375-1.9.

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 ECL Section 27-1419 and 6NYCRR Part 375-1.9(e) upon a finding that:

- (1) either the Applicant or the Applicant's successors or assigns have failed to comply with the terms and conditions of the Brownfield Site Cleanup Agreement;
- (2) the Applicant made a misrepresentation of a material fact tending to demonstrate that it was qualified as a Volunteer;
- (3) either the Applicant or the Applicant's successors or assigns made a misrepresentation of a material fact tending to demonstrate that the cleanup levels identified in the Brownfield Site Cleanup Agreement were reached;
- (4) there is good cause for such modification or revocation;
- (5) either the Applicant or the Applicant's successors or assigns failed to manage the controls or monitoring in full compliance with the terms of the remedial program;
- (6) the terms and conditions of the environmental easement have been intentionally violated or found to be not protective or enforceable.

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:  Effective Date: 12/30/15

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

Exhibit A
Site Description

SCHEDULE "A" PROPERTY DESCRIPTION

BEGINNING at a point on the southerly side of Atlantic Avenue, where the same is intersected by the easterly end of a curve having a radius of 17 feet which curve connects to the southerly side of Atlantic Avenue and the easterly side of Ocean Avenue,

RUNNING THENCE, along the southerly side of Atlantic Avenue South 75 degrees 31 minutes East 43.76 feet to the channel,

RUNNING THENCE, along the same the following four courses and distances;
(1) South 13 degree 51 minutes, west 56.93 feet (2) North 71 degrees 16 minutes West 16.50 feet (3) South 14 degrees 45 minutes West 50.35 feet (4) South 14 degrees 50 minutes West 28.95 feet;

RUNNING THENCE North 75 degrees 31 minutes west 60.76 feet to the present easterly side of Ocean Avenue;

RUNNING THENCE, Northerly along the present along the easterly side of Ocean Avenue along a curve to the left having a Radius of 753.31 feet a length of 77.61 feet;

CONTINUING ALONG the east side of Ocean Avenue, North 20 degrees 21 minutes 16 seconds East a distance of 43.31

RUNNING THENCE along an arc to the right having a radius of 17.0 feet a length of 24.96 feet to the southerly side of Atlantic Avenue to the true point or place of beginning.

Exhibit B

Site Survey

