

New York State Department of Environmental Conservation

Division of Environmental Remediation

Office of the Director, 12th Floor

625 Broadway, Albany, New York 12233-7011

Phone: (518) 402-9706 • Fax: (518) 402-9020

Website: www.dec.ny.gov



Joe Martens
Commissioner

DEC 30 2013

New Waverly Associates, LLC
Attention: Thomas J. Milo
566 Westchester Avenue
Rye Brook, NY 10573

Re: Certificate of Completion
Site Name: Former M. Argueso and Co., Inc
Site No. C360108
Village of Mamaroneck, Westchester County

Dear Mr. Milo:

Congratulations on having satisfactorily completed the remedial program at the Former M. Argueso and Co., Inc Site. Enclosed please find an original, signed Certificate of Completion. The New York State Department of Environmental Conservation (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.

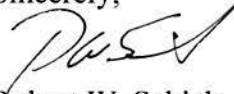
Please note that you are required to perform the following tasks:

- If you are the site owner, you must 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; or if you are a prospective purchaser of the site, you must record a notice of the COC within 30 days of the date that you acquire the site. If you are a non-owner, you must work with the owner to assure the notice of COC is recorded within the time frame specified. A standard notice form is attached to this letter;
- Place the notice of the COC in the document repository for the site within 10 days of issuance of the COC;
- 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, 2015; and
- You and your lessees must submit an annual report to the New York State Department of Taxation and Finance within one year and for each of the following eleven years after the execution of the Brownfield Site Cleanup Agreement. The Report must provide the information required by Chapter 390 of the Laws of 2008, Tax Law Section 171-s.

The Department will prepare and distribute to the Site Contact List a fact sheet describing the institutional and engineering controls that are required at the site.

If you have any questions regarding any of these items, please contact the project manager for this site, William T. Ports at 518-402-9662.

Sincerely,



Robert W. Schick, P.E.

Director

Division of Environmental Remediation

Enclosures

ec: Mark Millspaugh, Sterling Environmental (mark.millspaugh@sterlingenvironmental.com)
Kevin Young, Young, Sommer LLC (kyoung@youngsommer.com)
Krista Anders, DOH
Maureen Schuck, DOH
Nathan Walz, DOH
William Ports DEC
Amen Omorogbe DEC
George Heitzman DEC
Ben Conlon, DEC
Rosalie K. Rusinko, DEC

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)
CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name New Waverly Avenue Associates, LLC	Address 566 Westchester Avenue, Rye Brook, NY 10573
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BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 3/9/09 **Agreement Execution:** 4/9/09 **Agreement Index No.:** W3-1134-09-03

Application Approval Amendment: none **Agreement Execution Amendment:** none

SITE INFORMATION

Site No.: C360108 **Site Name:** Former M. Argueso and Co., Inc
Site Owner: New Waverly Avenue Associates, LLC
Street Address: 441, 442, 501, 513 Waverly Avenue
Municipality: Mamaroneck **County:** Westchester **DEC Region:** 3
Site Size: 1.0359 Acres
Tax Map Identification Number(s): 8-25-268.2, 8-25-273, 8-25-278, 8-25-33
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 25 %.
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 25 %.
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 Westchester County as 523243327.

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 received within such 30-day period, the Certificate shall be deemed modified or vacated on the 31st day after the Department's notice.

Joseph J. Martens
Commissioner
New York State Department of Environmental Conservation

By:



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

Date: December 30, 2013

NOTICE OF CERTIFICATE OF COMPLETION

Brownfield Cleanup Program

6 NYCRR Part 375-1.9(d)

Former M. Argueso and Co., Inc., Site ID No. C360108
441, 442, 501, 513 Waverly Avenue, Mamaroneck, NY, 105423
Mamaroneck, Westchester County, Tax Map Identification Number(s) 8-25-268.2, 8-25-273,
8-25-278, 8-25-33

PLEASE TAKE NOTICE, the New York State Department of Environmental Conservation (Department) has issued a Certificate of Completion (Certificate) pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law (ECL) to New Waverly Avenue Associates, LLC for a parcel approximately 1.036 acres located at the 441, 442, 501, 513 Waverly Avenue in the Town of Mamaroneck, Westchester 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 Brownfield Site Cleanup Agreement, as well as any other relevant information regarding the Site, that the remediation requirements set forth in ECL Article 27, Title 14 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):

- 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 Westchester County as Control Number 523243327.

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 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.

PLEASE TAKE NOTICE, the Certificate may entitle the Certificate holder(s) to tax credits in accordance with Tax Law Sections 21, 22 and 23.

Former M. Argueso and Co., Inc., C360108, 441,442,501,513 Waverly Avenue, Mamaroneck, NY

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 ECL Section 27-1419.5 and 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 , by contacting the Regional Environmental Remediation Engineer.

WHEREFORE, the undersigned has signed this Notice of Certificate

New Waverly Avenue Associates, LLC

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:
New Waverly Avenue Associates, LLC
566 Westchester Avenue
Rye Brook, New York 10573

12/03/09

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
12/20/2013

SITE DESCRIPTION

SITE NO. C360108

SITE NAME Former M. Argueso and Co., Inc

SITE ADDRESS: 441, 442, 501, 513 Waverly Avenue **ZIP CODE:** 10543

CITY/TOWN: Mamaroneck

COUNTY: Westchester

ALLOWABLE USE: Commercial and Industrial

SITE MANAGEMENT DESCRIPTION

SITE MANAGEMENT PLAN INCLUDES:	YES	NO
IC/EC Certification Plan		X
Monitoring Plan		X
Operation and Maintenance (O&M) Plan		X
Periodic Review Frequency:	X	
Periodic Review Report Submitted Date:		

Description of Institutional Control

New Waverly Avenue Associates, LLC

566 Westchester Avenue

441 Waverly Avenue

Environmental Easement

Block: 25

Lot: 278

Sublot:

Section: 8

Subsection:

S_B_L Image: 8-25-278

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

442 Waverly Avenue

Environmental Easement

Block: 25

Lot: 33

Sublot:

Section: 8

Subsection:

S_B_L Image: 8-25-33

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

501 Waverly Avenue

Environmental Easement

Block: 25

Lot: 273

Sublot:

Section: 8

Subsection:

S_B_L Image: 8-25-273

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

513 Waverly Avenue

Environmental Easement

Block: 25

Lot: 268.2

Sublot: 2

Section: 8

Subsection:

S_B_L Image: 8-25-268.2

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

Description of Engineering Control

New Waverly Avenue Associates, LLC

566 Westchester Avenue

441 Waverly Avenue

Environmental Easement

Block: 25

Lot: 278

Sublot:

Section: 8

Subsection:

S_B_L Image: 8-25-278

Cover System

442 Waverly Avenue

Environmental Easement

Block: 25

Lot: 33

Sublot:

Section: 8

Subsection:

S_B_L Image: 8-25-33

Cover System

501 Waverly Avenue

Environmental Easement

Block: 25

Lot: 273

Sublot:

Section: 8

Subsection:

S_B_L Image: 8-25-273

Cover System

513 Waverly Avenue

Environmental Easement

Block: 25

Lot: 268.2

Sublot: 2

Section: 8

Subsection:

S_B_L Image: 8-25-268.2

Cover System

SCHEDULE "A" PROPERTY DESCRIPTION**PARCEL A**

All that certain piece or parcel of land, situate, lying and being located in the Village and Town of Mamaroneck, County of Westchester, State of New York known and designated as portions of Lots 389 through 396 inclusive as shown on a certain map entitled "Waverly Subdivision of Grand Park, Mamaroneck, Westchester County, NY" made by Benjamin S. Olmstead, C.E. and filed in the Register's Office of Westchester County now the Westchester County Clerk's Office (Division of Land Records) on July 16, 1873 as Map No 594 and which portions of Lots are more particularly bounded and described as follows:

BEGINNING at a point formed by the intersection of the southeasterly side of Waverly Avenue with the division line between Lots 388 and 389 said point being distant 325.00 feet as measured along the southeasterly side of Waverly Avenue on a course of North 50 degrees 18 minutes 45 seconds East from the northeasterly side of Ogden Avenue as shown on the aforesaid filed Map No. 594;

RUNNING THENCE northeasterly along the southeasterly side of Waverly Avenue North 50 degrees 18 minutes 45 seconds East a distance of 187.50 feet to a point;

RUNNING THENCE through Lot 396 as shown on the aforesaid filed Map No. 594 South 39 degrees 41 minutes 15 seconds East a distance of 134.00 feet to a point;

RUNNING THENCE through Lots 396 through 389 inclusive, South 50 degrees 18 minutes 45 seconds West a distance of 187.50 feet to a point of the division line between Lots 388 and 389;

RUNNING THENCE along said division line North 39 degrees 41 minutes 15 seconds West a distance of 134.00 feet to the southeasterly side of Waverly Avenue, the point and place of **BEGINNING**.

PARCEL B

All that certain piece or parcel of land situate, lying and being located in the Village and Town of

Mamaroneck, County of Westchester, State of New York known and designated as Lots 313 through 320 inclusive shown on a certain map entitled "Waverly Subdivision of Grand Park, Mamaroneck, Westchester County, N.Y. made by Benjamin S. Olmstead, C.E. and filed in the Register's Office of Westchester County now the Westchester County Clerk's Office (Division of Land Records) on July 16, 1873 as Map No. 594 and which lots are more particularly bounded and described as follows:

BEGINNING at a point formed by the division line between Lots 312 and 313 and the northwesterly side of Waverly Avenue, said point being distant 375.00 feet as measured along the northwesterly side of Waverly Avenue on a course of North 50 degrees 18 minutes

45 seconds West from the northeasterly side of Ogden Avenue, as shown on a the aforesaid filed Map No. 594;

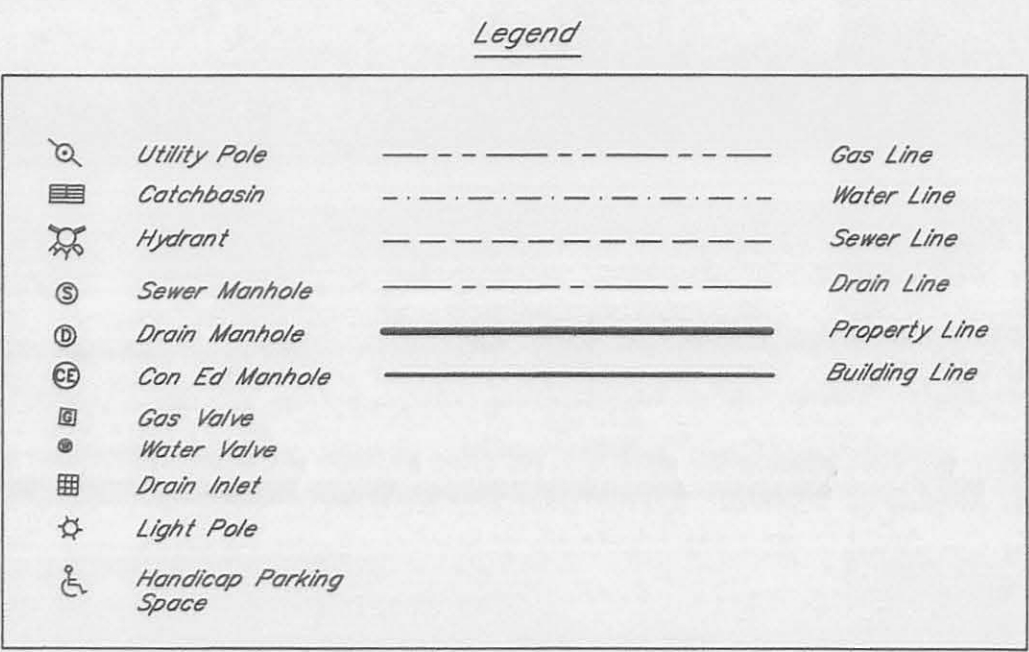
RUNNING THENCE from said point of beginning along the aforesaid division line between Lots 312 and 313, North 39 degrees 41 minutes 15 seconds West a distance of 100.00 feet to the southerly corner of Lot 236 as shown on the aforesaid filed Map No. 594;

RUNNING THENCE along said southeasterly side of Lots 236 through 243 inclusive and along the northwesterly side of Lots 313 through 320 inclusive, North 50 degrees 18 minutes 45 seconds East a distance of 200.00 feet to the northerly corner of Lot 320;

RUNNING THENCE along the northeasterly side of Lot 320 South 39 degrees 41 minutes 15 seconds East a distance of 100.00 feet to the northwesterly side of Waverly Avenue;

RUNNING THENCE along said northwesterly side of Waverly Avenue South 50 degrees 18 minutes 45 seconds West a distance of 200.00 feet to the division line between Lot 312 and 313, the point and place of BEGINNING.

EXHIBIT B



LDD 47617\dwn\48950 dwn