

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 11 2012

Mr. Kurt Wendler
Sphere STP LLC
2836 Route 20 East
Cazenovia, NY 13035

Re: Certificate of Completion
Site Name: Skinner Automotive
Site No.: C622031
Village of Herkimer, Herkimer County

Dear Mr. Wendler:

Congratulations on having satisfactorily completed the remedial program at the Skinner Automotive. Enclosed please find an original, signed Certificate of Completion. The New York State Department of Environmental Conservation (DEC) 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.

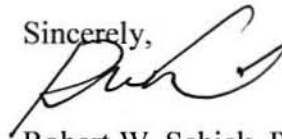
Please note that you are required to perform the following tasks:

- 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;
- 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 Brownfield Site Contact list within 10 days of issuance of the COC. DEC's Project Manager can assist with this task;
- Implement the DEC-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 DEC 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 DEC in March 2014; 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.

If you have any questions regarding any of these items, please contact the project manager, Parag Amin at 518-402-9662.

Sincerely,



Robert W. Schick, P.E.

Director

Division of Environmental Remediation

cc:

K. Anders - DOH
D. Ripstein/N. Freeman, DOH
P. Amin, DEC
D. Crosby, DEC
P. Taylor, DEC
M. Ryan, DEC
D. Schaefer, DEC

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)

CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name

Sphere STP LLC

Address

2836 Route 20 East, Cazenovia, NY 13035

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 5/29/12 **Agreement Execution:** 5/30/12 **Agreement Index No.:** C622031-06-12

Application Approval Amendment: none

Agreement Execution Amendment: none

SITE INFORMATION

Site No.: C622031 **Site Name:** Skinner Automotive

Site Owner: Sphere STP LLC

Street Address: 700 Mohawk Street

Municipality: Herkimer **County:** Herkimer **DEC Region:** 6

Site Size: 2.531 Acres

Tax Map Identification Number(s): 120.32-2-11

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 Herkimer County as 2012-00174567.

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;

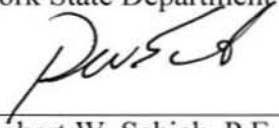
(5) either the Applicant or the Applicant's successors or assigns failed to manage the controls or monitoring in full compliance with the terms of the remedial program;

(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 11, 2012

NOTICE OF CERTIFICATE OF COMPLETION
Brownfield Cleanup Program
6 NYCRR Part 375-1.9(d)

Skinner Automotive, Site No. C622031
700 Mohawk Street, Herkimer, NY 13350, Village of Herkimer, Herkimer County
Tax Map Identification Number(s): Section: 120.32 Block: 2 and Lot No. 11

PLEASE TAKE NOTICE, the New York State Department of Environmental Conservation (DEC) has issued a Certificate of Completion (Certificate) pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law (ECL) to Sphere STP, LLC for a parcel approximately 2.531 located at the 700 Mohawk Street in the Village of Herkimer and Herkimer County.

PLEASE TAKE NOTICE, the Certificate was issued upon satisfaction of the Commissioner, following review by DEC 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):

- ☐ 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 DEC 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 County Clerk Office for Herkimer County as instrument number: 2012-00174567.

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 DEC's Division of Environmental Remediation, Site Control Section, 625 Broadway, Albany, New York 12233-7020.

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.

Skinner Automotive, C622031, 700 Mohawk Street, Herkimer NY 13350

PLEASE TAKE NOTICE, any change of use of the site, as defined in 6 NYCRR 375, must be preceded by notice to DEC 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 6 located at 317 Washington St. Watertown, NY 13601-3787, by contacting the Regional Environmental Remediation Engineer.

WHEREFORE, the undersigned has signed this Notice of Certificate

Sphere STP 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:
Sphere STP LLC
Kurt Wendler
2836 Route 20 East
Cazenovia, NY 13035

12/03/09

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
12/6/2012

SITE DESCRIPTION

SITE NO. C622031

SITE NAME Skinner Automotive

SITE ADDRESS: 700 Mohawk Street ZIP CODE: 13350

CITY/TOWN: Herkimer

COUNTY: Herkimer

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: once a year

Periodic Review Report Submitted Date: 02/11/2014

Description of Institutional Control

Sphere STP LLC

2836 Route 20 East

700 Mohawk Street

Environmental Easement

Block: 2

Lot: 11

Sublot:

Section: 120

Subsection: 32

S_B_L Image: 120.32-2-11

Ground Water Use Restriction

Landuse Restriction

Monitoring Plan

O&M Plan

Site Management Plan

Soil Management Plan

Description of Engineering Control

Sphere STP LLC

2836 Route 20 East

700 Mohawk Street

Environmental Easement

Block: 2

Lot: 11

Sublot:

Section: 120

Subsection: 32

S_B_L Image: 120.32-2-11

Cover System

Vapor Mitigation

SCHEDULE "A" PROPERTY DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE VILLAGE OF HERKIMER, TOWN OF HERKIMER, COUNTY OF HERKIMER AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

Beginning at a concrete nail on the northwesterly highway boundary of Mohawk Street (New York State Route #28), said concrete nail standing at the intersection of the northwesterly highway boundary of Mohawk Street with the southwesterly boundary of the lands of Conrail (New York Central Railroad – Formerly); thence S35°38'31"W 450.33 feet along the northwesterly highway boundary of Mohawk Street to a metal survey marker standing on the northerly highway boundary of lands appropriated for the New York State Thruway; thence S84°25'22"W 16.00 feet along the northerly highway boundary of lands appropriated for the New York State Thruway to a concrete monument standing on the northeasterly highway boundary of lands appropriated for the New York State Thruway; thence N59°46'10"W 27.60 feet along the northeasterly highway boundary of lands appropriated for the New York State Thruway to a metal survey marker standing on the northeasterly highway boundary of Fifth Avenue; thence N23°50'18"W 407.84 feet along the northeasterly highway boundary of Fifth Avenue to an iron rod standing on the southeasterly boundary of lands appropriated by the People of the State of New York by Map No. 397 – Parcel No. 432; thence N63°40'28"E 64.85 feet along the southeasterly boundary of lands appropriated by the People of the State of New York by Map No. 397 – Parcel No. 432 to an iron rod standing on the southerly boundary of the lands of Conrail; thence N87°04'16"E 222.28 feet along the southerly boundary of the lands of Conrail to a metal survey marker standing on the easterly highway boundary of Fourth Avenue (Formerly); thence S18°54'19"E 22.35 feet along the easterly highway boundary of Fourth Avenue to a metal survey marker standing on the southerly boundary of Sidney Nusbaum and Helaine Klein Nusbaum (Reputed Owner); thence N88°28'12"E 117.72 feet along the southerly boundary of lands reputedly owned by Sidney Nusbaum and Helaine Klein Nusbaum and then along the southerly boundary of the lands of Conrail to a metal survey marker standing on the southwesterly boundary of the lands of Conrail; thence S56°10'49"E 74.61 feet along the southwesterly boundary of the lands of Conrail to the point and place of beginning.

The above described parcel containing 2.531 acres (110,265.1 sq. ft.) of land, more or less.

GENERAL NOTES:

- Underground facilities, structures and utilities have been placed on this drawing from field locations, where visible or from recorded drawings provided to the undersigned. Therefore, locations should be considered approximate only. There may be other facilities or utilities, the existence of which are not known; for this reason, UFPO shall be contacted a minimum of 48 hours prior to any underground excavation.
- There was no evidence observed of any changes to any street right of way lines.

MAP REFERENCES:

- M.R. #1 "Map And Survey Showing Lands To Be Conveyed By Castle Car Co. Inc." Village Of Herkimer - Town Of Herkimer - Herkimer County - New York By Christopher S. Nash, L.L.S. No. 049163, Dated September 23, 1985 And Filed In The Herkimer County Clerk's Office On October 2, 1985 In Map Case JJ 50/20
- M.R. #2 "Map Showing Property Of Herkimer Hotel Inc." Marginal Road - Village Of Herkimer - Herkimer County - New York By W.S. Tiel, L.L.S. No. 31749, Dated August 5, 1961 And Filed In The Herkimer County Clerk's Office On November 20, 1961 As Parts 1 And 2 In Map Case KK9D-23
- M.R. #3 "Survey Map Showing Lands To Be Conveyed To Herkimer County Chapter NYSARC, Inc." Village Of Herkimer - Town Of Herkimer - Herkimer County - New York By Edward L. Beauchamp, Professional Land Surveyor, Dated August 24, 2001 And Filed In The Herkimer County Clerk's Office On September 17, 2001 In Map Case JJ27A30
- M.R. #4 "Map Of Riverwood Addition Located In The Village Of Herkimer, N.Y." Owned By Herkimer County Realty Corporation" Made By D.C. And C.L. Wood Dated 1915 And Filed In The Herkimer County Clerk's Office In Map Book 5, Page 21

LOCATION MAP:

NOT TO SCALE

DEED REFERENCE:

- D.R. #1 Hiram J. Skinner, Individually, And Hiram J. Skinner, Roger J. Skinner And Marie S. Guerra, as Trustees of the Hiram J. Skinner Revocable Trust amended and restated October 20, 2002 To Sphere STP LLC Warranty Deed - Dated: June 21, 2012 Liber 1443 Of Deeds At Page 959
- Subject to any Easements, Covenants or Restrictions of Record.

ZONING:

MUNICIPALITY	Village Of Herkimer
STATUTE	Zoned "C-2" General Commercial
Minimum Lot Size	N/A
Minimum Lot Width	N/A
Minimum Front Yard Setback	20 Feet
Minimum Side Yard Setback	8 Feet Each
Minimum Rear Yard Setback	35 Feet
Maximum Lot Coverage	40%
Maximum Building Height	40 Ft.

Zoning Requirements Were Obtained From The Village Of Herkimer Codes Enforcement Officer - Dave Kuehnle - office@village.herkimer.ny.us

SURVEYOR'S DESCRIPTION:

ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE VILLAGE OF HERKIMER, TOWN OF HERKIMER, COUNTY OF HERKIMER AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

Beginning at a concrete nail on the northwesterly highway boundary of Mohawk Street (New York State Route #28), said concrete nail standing at the intersection of the northwesterly highway boundary of Mohawk Street with the southwesterly boundary of the lands of Conrail (New York Central Railroad - Formerly); thence **S35°38'31"W 450.33 feet** along the northwesterly highway boundary of Mohawk Street to a metal survey marker standing on the northerly highway boundary of lands appropriated for the New York State Thruway; thence **S84°25'22"W 16.00 feet** along the northerly highway boundary of lands appropriated for the New York State Thruway to a concrete monument standing on the northwesterly highway boundary of lands appropriated for the New York State Thruway; thence **N59°46'10"W 27.60 feet** along the northwesterly highway boundary of lands appropriated for the New York State Thruway to a metal survey marker standing on the northwesterly highway boundary of Fifth Avenue; thence **N23°50'18"W 407.84 feet** along the northwesterly highway boundary of Fifth Avenue to an iron rod standing on the southeasterly boundary of lands appropriated by the People of the State of New York by Map No. 397 - Parcel No. 432; thence **N63°40'28"E 64.85 feet** along the southeasterly boundary of lands appropriated by the People of the State of New York by Map No. 397 - Parcel No. 432 to an iron rod standing on the southerly boundary of the lands of Conrail; thence **N87°04'16"E 222.28 feet** along the southerly boundary of the lands of Conrail to a metal survey marker standing on the easterly highway boundary of Fourth Avenue (Formerly); thence **S18°54'19"E 22.35 feet** along the easterly highway boundary of Fourth Avenue to a metal survey marker standing on the southerly boundary of Sidney Nusbaum and Helaine Klein Nusbaum (Reputed Owner); thence **N88°28'12"E 117.72 feet** along the southerly boundary of lands reputedly owned by Sidney Nusbaum and Helaine Klein Nusbaum and then along the southerly boundary of the lands of Conrail to a metal survey marker standing on the southwesterly boundary of the lands of Conrail; thence **S56°10'49"E 74.61 feet** along the southwesterly boundary of the lands of Conrail to the **point and place of beginning**.

The above described parcel containing **2.531± acres** (110,265.1 sq.ft.) of land, more or less.

Subject to any easements, covenants or restrictions of record.

This Survey has been revised with the benefit of a Owner's Commitment for Title Insurance, Title Number ETS-12-112 as prepared by Old Republic National Title Insurance Company, Dated June 6, 2012 and Title Report Commitment No. ETS-12-111, Dated July 16, 2012.

STATEMENT OF ENCROACHMENTS:

No Encroachments Affect Subject's Property

LEGEND:

- ⊙ Denotes Existing Iron Pin
- ⊗ Denotes Existing Iron Rod
- SR ⊙ Denotes Set Iron Rod
- CM ⊕ Denotes Existing Concrete Monument
- ⊙ Denotes Existing Power Pole
- ⊕ Denotes Existing Light Pole
- FH ⊙ Denotes Existing Fire Hydrant
- ⊕ Denotes Existing Old Light Pole
- ⊙ Denotes Existing Manhole
- ⊕ Denotes Existing Square Catch Basin
- ⊕ Denotes Overhead Power Pole Line (See Note #1)
- ⊕ Denotes Existing Valve
- Denotes Former Location Of Building On Site Before July 1, 2012

TOTAL ACREAGE THIS SURVEY IS "2.531± ACRES"

(110,265.1± Sq. Ft.)

"BOUNDARY SURVEY"

Tractor Supply Company

Lands Of

Sphere STP LLC

700 Mohawk Street
Village Of Herkimer - Town Of Herkimer - Herkimer County
State Of New York

Surveyor's Certification

THE UNDERSIGNED HEREBY CERTIFIES THAT THIS IS
AN ACCURATE MAP OF AN ACTUAL FIELD SURVEY
DATED: October 7, 2012 AND
THAT BOTH MAP AND SURVEY ARE CORRECT.

Bruce W. Snyder
Registered Land Surveyor No. 050195
In The State Of New York
Date Of Survey: October 12, 2012
Date Of Late Revision:
Project Number: 2012.053.001



"FIGURE #2"

4873 NYS Route 5, Vernon, NY 13476
Tel: 315.953.4200
Fax: 315.953.4202
Website: www.deltalandsurveyors.com

DELTA
ENGINEERS, ARCHITECTS, & LAND SURVEYORS

SCALE: 1" = 30 FEET

