



**Department of  
Environmental  
Conservation**

**KATHY HOCHUL**

Governor

**AMANDA LEFTON**

Commissioner

December 18, 2025

CNH Industrial Baumaschinen GMBH  
Steven van Kooten Niekerk  
Benzstrasse 1  
74076 Heilbronn, Federal Republic of Germany

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Basket Place LLC  
Attn: Mr. Bernie Skalny, President  
34 Clinton Street  
Batavia, New York 14020  
[bskalny@willowgroupltd.com](mailto:bskalny@willowgroupltd.com)

Re: Certificate of Completion  
Ex-Eaton  
Batavia, Genesee County  
Site No. C819022

Dear CNH Industrial Baumaschinen GmbH:

Congratulations on having satisfactorily completed the remedial program at the Ex-Eaton site. Enclosed please find an original, signed Certificate of Completion (COC). The New York State Department of Environmental Conservation (NYSDEC) is pleased to inform you that the Final Engineering Report is hereby approved, allowing the 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 the Notice of Certificate of Completion 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 the Notice 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 is recorded within the time frame specified. A standard Notice of Certificate of Completion form is attached to this letter.

- Provide electronic copies of the recorded Notice and proof of recording to NYSDEC's project manager.
- Provide the Certificate of Completion fact sheet to the Document Repositories within 10 days of issuance of the COC. NYSDEC will develop the fact sheet announcing the issuance of the COC and describing the institutional and engineering controls (IC/ECs), if any, that are required at the site and distribute it to the County Listserv within 10 days;
- Implement NYSDEC-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 NYSDEC 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 NYSDEC in April 2027.

If you have any questions, please do not hesitate to contact Adam Morgan, NYSDEC's project manager, at [adam.morgan@dec.ny.gov](mailto:adam.morgan@dec.ny.gov) or (585) 226-5356.

Sincerely,

*Andrew Guglielmi*

Andrew Guglielmi  
Division Director  
Division of Environmental Remediation

Enclosure

ec w/ enclosure:

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NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)

*CERTIFICATE OF COMPLETION*

**CERTIFICATE HOLDER(S):**

**Name**

CNH Industrial Baumaschinen GmbH

**Address**

Benzstrasse 1, 74076 Heilbronn, Germany

**BROWNFIELD CLEANUP AGREEMENT:**

**Application Approval:** 3/20/19 **Agreement Execution:** 6/3/19

**Agreement Index No.:**C819022-03-19

**Application Amendment Approval:** none

**Agreement Amendment Execution:** none

**SITE INFORMATION:**

**Site No.:** C819022 **Site Name:** Ex-Eaton Site

**Site Owner:** Basket Place, LLC

**Street Address:** 34-40 Clinton Street

**Municipality:** Batavia **County:** Genesee

**DEC Region:** 8

**Site Size:** 22.850 Acres

**Tax Map Identification Number(s):** 85.009-1-14

**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:**

Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 25 %.

Tangible Property Credit is 10%. Comprised of 10% Base.

Dependent upon the project being developed in a manner consistent with the approved Brownfield Cleanup Program application, additional rate increases may be available if the site is developed as affordable housing (5%), if the Certificate Holder receives a separate Determination of Conformance with the BOA from the Secretary of State (5%), if the site is located in a disadvantaged community and not located in an EnZone (5%), if the site is developed as a renewable energy facility site (5%), or if the site is used primarily for manufacturing activities (5%) not to exceed a maximum 24 %.

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 Genesee County as Instrument # DE2024-1402.

## **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 finding any of the following:

- (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.

Amanda Lefton  
Commissioner  
New York State Department of Environmental Conservation

By: Andrew Guglielmi Date: 12/17/2025

Andrew O. Guglielmi, Director  
Division of Environmental Remediation

## **Exhibit A**

### **Site Description**

## SCHEDULE "A" PROPERTY DESCRIPTION

### Easement and Deed Description

All That Tract or Parcel of Land situate in the City of Batavia, County of Genesee and State of New York, and being part of Lots 10 and 12, Section 8, Township 12, Range 1 of the Holland Land Company Survey, bounded and described as follows:

Beginning at a point on the southerly boundary of Clinton Street (N.Y. Route 33) (Clinton Street being 66.0 feet wide), at the northeasterly corner of the lands described in a deed to Eaton, Yale and Towne, Inc., recorded in Liber 389 of Deeds at Page 66, which point of beginning is on the westerly line of lands conveyed to Harold K. and Doris Tootell recorded in Liber 318 of Deeds at Page 361.

Running thence South  $30^{\circ} 00' 00''$  East, along the westerly line of the said Tootell, a distance of 320.59 feet to the southwesterly corner thereof, which point is on the northerly line of the lands described in a deed to Eaton, Yale and Towne, Inc., recorded in Liber 333 of Deeds at Page 60.

Running thence North  $83^{\circ} 05' 30''$  East, along the northerly line of the said Eaton, Yale & Towne, Inc., lands last above referred to, a distance of 469.38 feet to the northeasterly corner thereof, which point is on the west line of lands now or formerly owned by Maurice B. and Mildred Nicholson.

Running thence South  $07^{\circ} 18' 12''$  East, along the west line of the said Nicholson and also along the east line of the lands described in a deed to Batavia Chamber of Commerce recorded in Liber 247 of Deeds at Page 72, a distance of 143.32 feet to the northwesterly corner of the lands described in a deed to Yale & Towne Manufacturing Co., Inc., recorded in Liber 364 of Deeds at Page 16.

Running thence South  $86^{\circ} 20' 42''$  East, along the northerly line of the said Yale & Towne Manufacturing Co., Inc., lands, a distance of 788.44 feet to the northeasterly corner thereof.

Running thence South  $03^{\circ} 32' 02''$  West, along the easterly line of the said Yale & Towne Manufacturing Co., Inc., lands, a distance of 443.60 feet to the southeasterly corner thereof, which point is on the northerly boundary of the Erie Railroad Company lands.

Running thence Westerly, along the northerly boundary of the Erie Railroad lands and on a curve to the left having a radius of 5,762.58 feet, an arc distance of 1,550.00 feet to a point of tangency.

Continuing thence South  $82^{\circ} 40' 20''$  West, along the northerly boundary of the Erie Railroad lands, a distance of 519.26 feet to the southwesterly corner of the lands described in a deed to Eaton Corporation recorded in Liber 418 of Deeds at Page 812.

Running thence the following courses and distances along the lines of the said Eaton Corporation lands as referred to above:

North  $65^{\circ} 07' 20''$  East, a distance of 97.08 feet to an angle therein.

North  $46^{\circ} 15' 00''$  East, a distance of 98.0 feet to an angle therein.

North  $20^{\circ} 45' 00''$  West, a distance of 133.0 feet to an angle therein.

North  $59^{\circ} 55' 00''$  East, a distance of 126.21 feet to a point on the westerly line of the lands described in a deed to Eaton, Yale & Towne, Inc., by deed recorded in Liber 415 of Deeds at Page 245.

Running thence North  $20^{\circ} 45' 00''$  West, along the westerly line of the Eaton Yale & Towne, Inc. lands last above referred to a distance of 117.23 feet to the northwesterly corner thereof;

Running thence North  $59^{\circ} 55' 00''$  East, along the northerly line of the Eaton Yale & Towne, Inc. lands by deed recorded in Liber 415 of Deeds at Page 245 a distance of 218.45 feet to the northeasterly corner thereof.

Running thence South  $30^{\circ} 05' 00''$  East, along the easterly line of the said Eaton Yale & Towne, Inc. lands and an extension thereof a distance of 110.22 feet to a point on a westerly line of the lands described in a deed to Eaton Yale & Towne, Inc. recorded in Liber 400 of Deeds at Page 410; said point being the southeasterly corner of the lands described in a deed to Niagara Mohawk Power Company recorded in Liber 328 of Deeds at Page 360.

Running thence the following courses and distances along the lines of the said Eaton Yale & Towne, Inc. lands as referred to above:

North  $35^{\circ} 00' 15''$  East, a distance of 21.0 feet to an angle therein.

North  $12^{\circ} 46' 49''$  East, a distance of 44.36 feet to an angle therein.

North  $59^{\circ} 57' 20''$  East, a distance of 17.0 feet to an angle therein.

North  $30^{\circ} 02' 40''$  West, a distance of 26.0 feet to an angle therein.

North  $59^{\circ} 57' 20''$  East, a distance of 9.79 feet to a northeasterly corner of the lands described in Liber 400 of Deeds at Page 410; which point is the southwesterly corner of the lands described in a deed to the City of Batavia recorded in Liber 400 of Deeds at Page 413.

Running thence North  $59^{\circ} 57' 20''$  East, along the southerly line of the said City of Batavia lands a distance of 52.21 feet to an angle therein.

Running thence South  $30^{\circ} 02' 40''$  East, along a westerly line of the said City of Batavia lands a distance of 26.0 feet to a southwesterly corner thereof.

Running thence North  $59^{\circ} 57' 20''$  East, along the southerly line of the said City of Batavia lands a distance of 20.0 feet to the southeasterly corner of the said City of Batavia lands.

Running thence North  $30^{\circ} 02' 40''$  West, along the easterly line of the said City of Batavia lands a distance of 268.0 feet to the northeasterly corner thereof; which point is on the southerly boundary of Clinton Street.

Running thence North  $60^{\circ} 00' 00''$  East, along the southerly boundary of Clinton Street a distance of 300.13 feet to the point of beginning.

**Exhibit B**

**Site Survey**



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

**Ex-Eaton Site, Site ID No. C819022**  
**34-40 Clinton Street, Batavia, NY, 14020**  
**City of Batavia, Genesee County, Tax Map Identification Number: 85.009-1-14**

**PLEASE TAKE NOTICE**, the New York State Department of Environmental Conservation (NYSDEC) has issued a Certificate of Completion (Certificate) pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law (ECL) to CNH Industrial Baumaschinen GmbH for a parcel approximately 22.85 acres located at 34-40 Clinton Street in the City of Batavia, Genesee County.

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

- 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 NYSDEC as not inconsistent with the remedy.

**PLEASE TAKE NOTICE**, 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 Genesee County as Instrument # DE2024-1402.

**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 NYSDEC'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

**Ex-Eaton Site, C19022  
34-40 Clinton Street, Batavia, NY,14020**

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**, any change of use of the site, as defined in 6 NYCRR 375, must be preceded by notice to NYSDEC 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 revoked if the Environmental Easement as implemented, if applicable, is not protective or enforceable.

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

**PLEASE TAKE NOTICE**, the Certificate may 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**, a copy of the Certificate can be reviewed at the NYSDEC's Region 8 Office located at 6274 E. Avon-Lima Rd. Avon NY 14414, by contacting the Regional Environmental Remediation Engineer, or at <https://www.dec.ny.gov/data/DecDocs/C819022/>.

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

Basket Place 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:**

CNH Industrial Baumaschinen GmbH  
Attn: Ronald G Hull, Esq.  
Heisman, Nunes & Hull, LLP  
1630 Empire Blvd, Suite 3B

**Ex-Eaton Site, C19022  
34-40 Clinton Street, Batavia, NY,14020**

Webster, NY 14580  
[rhull@hnhattorneys.com](mailto:rhull@hnhattorneys.com)



## NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

### Site Management Form

11/7/2025



### SITE DESCRIPTION

**SITE NO.** C819022

**SITE NAME** Ex-Eaton Site

**SITE ADDRESS:** 34-40 Clinton Street **ZIP CODE:** 14020

**CITY/TOWN:** Batavia

**COUNTY:** Genesee

**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: 04/30/2027

### Description of Institutional Control

#### **Basket Place, LLC**

34 Clinton Street

#### **34-40 Clinton Street**

Environmental Easement

Block: 1

Lot: 14

Sublot:

Section: 85

Subsection: 009

S\_B\_L Image: 85.009-1-14

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

O&M Plan

Site Management Plan

Surface Water Use Restriction

### **Description of Engineering Control**

**Basket Place, LLC**

34 Clinton Street

**34-40 Clinton Street**

Environmental Easement

Block: 1

Lot: 14

Sublot:

Section: 85

Subsection: 009

S\_B\_L Image: 85.009-1-14

Cover System

Fencing/Access Control

Groundwater Containment

Monitoring Wells

Vapor Mitigation