



**Department of
Environmental
Conservation**

KATHY HOCHUL
Governor

AMANDA LEFTON
Commissioner

December 18, 2025

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

Ronald G Hull, Esq.
Heisman, Nunes & Hull, LLP
1630 Empire Blvd, Suite 3B
Webster, NY 14580
rhull@hnhattorneys.com

Basket Place LLC
Attn: Mr. Bernie Skalny, President
34 Clinton Street
Batavia, New York 14020
bskalny@willowgrouppltd.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 or (585) 226-5356.

Sincerely,

Andrew Guglielmi

Andrew Guglielmi
Division Director
Division of Environmental Remediation

Enclosure

ec w/ enclosure:

Christoph Holtermann, christoph.holtermann@thyssenkrupp.com
Margaret Popek, Margaret.Popek@ghd.com
Richard Snyder, richard.snyder@ghd.com
Melissa M. Valle, mvalle@hselaw.com
C. Vooris – NYSDOH, christine.vooris@health.ny.gov
Julia Kenny, julia.kenney@health.ny.gov
Justin Deming, justin.deming@health.ny.gov
Matt Gokey, matthew.gokey@tax.ny.gov
Paul Takac, paul.takac@tax.ny.gov

ec w/o enc.:

Adam Morgan, adam.morgan@dec.ny.gov
David Pratt, david.pratt@dec.ny.gov
Michael Cruden, michael.cruden@dec.ny.gov
Greg Maclean, greg.maclean@dec.ny.gov

Clayton Hale, clayton.hale@dec.ny.gov
Michael Murphy, michael.murphy1@dec.ny.gov
Kelly Lewandowski, Kelly.lewandowski@dec.ny.gov

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° 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° 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 in on the west line of lands now or formerly owned by Maurice B. and Mildred Nicholson.

Running thence South 07° 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° 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° 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° 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° 07' 20" East, a distance of 97.08 feet to an angle therein.

North 46° 15' 00" East, a distance of 98.0 feet to an angle therein.

North 20° 45' 00" West, a distance of 133.0 feet to an angle therein.

North 59° 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° 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° 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° 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 descried 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° 00' 15" East, a distance of 21.0 feet to an angle therein.

North 12° 46' 49" East, a distance of 44.36 feet to an angle therein.

North 59° 57' 20" East, a distance of 17.0 feet to an angle therein.

North 30° 02' 40" West, a distance of 26.0 feet to an angle therein.

North 59° 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° 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° 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° 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° 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° 00' 00" East, along the southerly boundary of Clinton Street a distance of 300.13 feet to the point of beginning.

Exhibit B

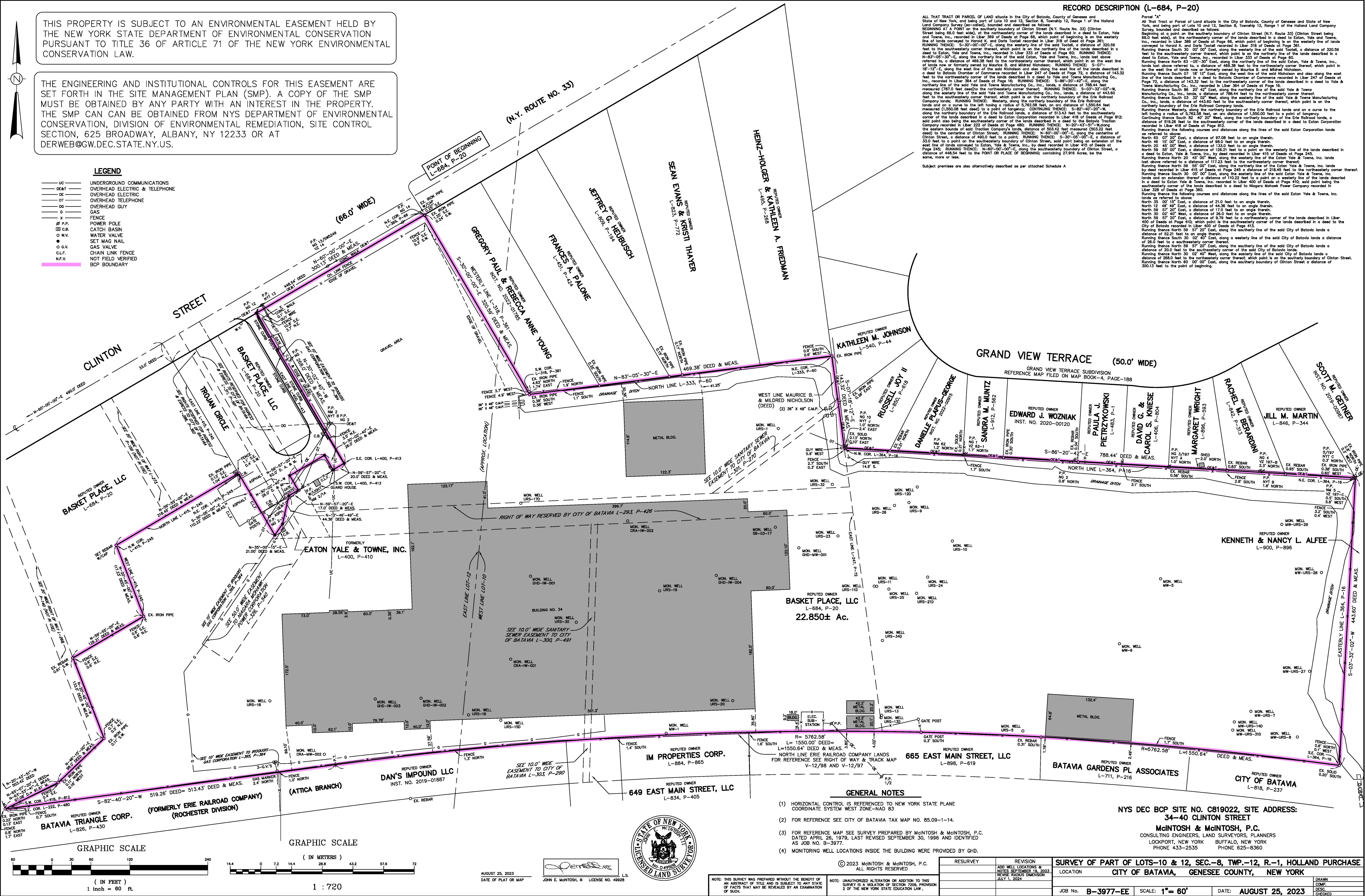
Site Survey

THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL EASEMENT HELD BY THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION PURSUANT TO TITLE 36 OF ARTICLE 71 OF THE NEW YORK ENVIRONMENTAL CONSERVATION LAW.

THE ENGINEERING AND INSTITUTIONAL CONTROLS FOR THIS EASEMENT ARE SET FORTH IN THE SITE MANAGEMENT PLAN (SMP). A COPY OF THE SMP MUST BE OBTAINED BY ANY PARTY WITH AN INTEREST IN THE PROPERTY. THE SMP CAN CAN BE OBTAINED FROM NYS DEPARTMENT OF ENVIRONMENTAL CONSERVATION, DIVISION OF ENVIRONMENTAL REMEDIATION, SITE CONTROL SECTION, 625 BROADWAY, ALBANY, NY 12233 OR AT DERWEB@G.W.DEC.STATE.NY.US.

LEGEND

- UC UNDERGROUND COMMUNICATIONS
- OE&T OVERHEAD ELECTRIC & TELEPHONE
- OE OVERHEAD ELECTRIC
- OT OVERHEAD TELEPHONE
- OG OVERHEAD GUY
- G GAS
- F FENCE
- P.P. POWER POLE
- C.B. CATCH BASIN
- W.V. WATER VALVE
- S.M. SET MAG NAIL
- G.V. GAS VALVE
- CL.F. CHAIN LINK FENCE
- NOT FIELD VERIFIED
- N.F.V. NOT FIELD VERIFIED
- BCP BOUNDARY



RECORD DESCRIPTION (L-684, P-20)

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 (as-called), bounded and described as follows:

BEGINNING AT A POINT on the southerly boundary of Clinton Street (N.Y. Route No. 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 368 of Deeds at Page 86, which point of beginning is on the westerly line of lands conveyed to Harold K. and Doris Tottel recorded in Liber 318 of Deeds at Page 361;

RUNNING THENCE: S-30°-00'-00"-E, along the westerly line of the said Tottel, a distance of 320.59 feet to the southeasterly 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: N-83°-05'-30"-E, along the northerly line of the said Eaton, Yale and Towne, Inc., lands last above referred to, a distance of 468.38 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: S-07°-18'-12"-E, along the west line of the said Nicholson and also along the west 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 northeasterly corner of the lands described in a deed to Yale and Towne Manufacturing Co., Inc., recorded in Liber 364 of Deeds at Page 16; RUNNING THENCE: S-08°-20'-42"-E, along the northerly line of the said Yale and Towne Manufacturing Co., Inc., lands, a distance of 788.44 feet measured (787.0 feet deed) to the southeasterly corner thereof; RUNNING THENCE: S-03°-32'-02"-W, along the westerly line of the said Yale and 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 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 1,550.64 feet measured (1,550.08 feet deed) to a point of tangency; CONTINUING THENCE: S-82°-40'-20"-W, along the northerly boundary of the Erie Railroad lands, a distance of 513.43 feet to the southeasterly corner of the lands described in a deed to Eaton Corporation recorded in Liber 418 of Deeds at Page 812; add point also being the southeasterly corner of the lands described in a deed to the Batavia Traction Company recorded in Liber 222 of Deeds at Page 480; RUNNING THENCE: N-20°-43'-51"-W, along the eastern boundary of said Traction Company's lands, a distance of 503.42 feet measured (503.22 feet deed) to the centerline of Clinton Street; RUNNING THENCE: N-80°-00'-00"-E, along the centerline of Clinton Street, a distance of 490.0 feet to a point; RUNNING THENCE: S-30°-05'-00"-E, a distance of 33.0 feet to a point on the southeasterly boundary of Clinton Street, add point being an extension of the east line of lands conveyed to Eaton, Yale & Towne, Inc., by deed recorded in Liber 415 of Deeds at Page 245; RUNNING THENCE: N-82°-00'-00"-E, along the southeasterly boundary of Clinton Street, a distance of 446.54 feet to the POINT OR PLACE OF BEGINNING, containing 27.916 Acres, be the same, more or less.

Subject premises are also alternatively described as per attached Schedule A

Parcel "A"

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 368 of Deeds at Page 86, which point of beginning is on the westerly line of lands conveyed to Harold K. and Doris Tottel recorded in Liber 318 of Deeds at Page 361;

Running thence South 30° 00' 00" East, along the westerly line of the said Tottel, a distance of 320.59 feet to the southeasterly 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° 05' 30" East, along the northerly line of the said Eaton, Yale & Towne, Inc., lands last above referred to, a distance of 468.38 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° 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 northeasterly 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 08° 20' 42" East, along the northerly line of the said Yale & Towne Manufacturing Co., Inc., lands, a distance of 788.44 feet to the southeasterly corner thereof;

Running thence South 03° 32' 02" West, along the westerly 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 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° 40' 20" West, along the northerly boundary of the Erie Railroad lands, a distance of 512.28 feet to the southeasterly 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 83° 07' 20" East, a distance of 97.08 feet to an angle therein;

North 46° 15' 00" East, a distance of 98.0 feet to an angle therein;

North 20° 45' 00" West, a distance of 133.0 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° 45' 00" West, along the westerly line of the said Eaton, Yale & Towne, Inc., lands last above referred to, a distance of 117.23 feet to the northeasterly corner thereof;

Running thence North 59° 25' 00" East, along the northerly line of the said Eaton, Yale & Towne, Inc., lands by deed recorded in Liber 415 of Deeds at Page 245, a distance of 216.84 feet to the northeasterly corner thereof;

Running thence South 30° 05' 00" East, along the easterly line of the said Eaton, Yale & Towne, Inc., lands and on an extension thereof a distance of 110.22 feet to a point on the westerly line of the lands described in a deed to Eaton, Yale & Towne, Inc., recorded in Liber 400 of Deeds at Page 410; add 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° 00' 15" East, a distance of 21.0 feet to an angle therein;

North 12° 48' 48" East, a distance of 44.36 feet to an angle therein;

North 59° 27' 20" East, a distance of 17.0 feet to an angle therein;

North 30° 02' 40" West, a distance of 28.0 feet to an angle therein;

North 59° 27' 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 southeasterly 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° 27' 20" East, along the southerly line of the said City of Batavia lands a distance of 28.0 feet to a southeasterly corner thereof;

Running thence South 02° 40' East, along a westerly line of the said City of Batavia lands a distance of 28.0 feet to a southeasterly corner thereof;

Running thence North 59° 27' 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° 02' 40" West, along the easterly line of the said City of Batavia lands a distance of 288.0 feet to the northeasterly corner thereof, which point is on the southerly boundary of Clinton Street;

Running thence North 80° 00' 00" East, along the southerly boundary of Clinton Street a distance of 300.13 feet to the point of beginning.

- GENERAL NOTES**
- HORIZONTAL CONTROL IS REFERENCED TO NEW YORK STATE PLANE COORDINATE SYSTEM WEST ZONE-NAD 83
 - FOR REFERENCE SEE CITY OF BATAVIA TAX MAP NO. 85.09-1-14.
 - FOR REFERENCE MAP SEE SURVEY PREPARED BY MCINTOSH & MCINTOSH, P.C. DATED APRIL 26, 1979, LAST REVISED SEPTEMBER 30, 1996 AND IDENTIFIED AS JOB NO. B-3977.
 - MONITORING WELL LOCATIONS INSIDE THE BUILDING WERE PROVIDED BY GH.D.

RESURVEY	REVISION	SURVEY OF PART OF LOTS-10 & 12, SEC.-8, TWP.-12, R.-1, HOLLAND PURCHASE	LOCATION
	ADD WELL LOCATIONS & NOTES SEPTEMBER 19, 2023 REVISE RADIAL DIMENSION JULY 1, 2024	CITY OF BATAVIA, GENESEE COUNTY, NEW YORK	
JOB No.	B-3977-EE	SCALE: 1"= 60'	DATE: AUGUST 25, 2023
DRAMA	COMP.	DESC.	CHECKED

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



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