

New York State Department of Environmental Conservation

Division of Environmental Remediation

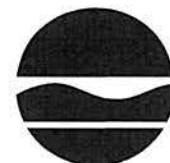
Office of the Director, 12th Floor

625 Broadway, Albany, New York 12233-7011

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

Website: www.dec.ny.gov

DEC 30 2014



Joe Martens
Commissioner

Linleigh Realty, L.P.
c/o Mr. John D. Holtz
133 Kilbourn Rd.
Rochester, NY 14618

Re: Certificate of Completion
Site Name: Holtz Porsche, Audi, Mazda
Site No.: C828181
Henrietta (T), Monroe County

Dear Mr. Holtz:

Congratulations on having satisfactorily completed the remedial program at the Holtz Porsche, Audi, Mazda site. 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.

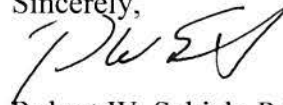
Please note that you are required to perform the following tasks:

- 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;
- Place the notice of the COC in the document repository for the site within 10 days of issuance of the COC;
- 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 April 2016; 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.

DEC 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, Matthew Gillette at 585-226-5308.

Sincerely,



Robert W. Schick, P.E.

Director

Division of Environmental Remediation

Enclosures

cc: P. Sylvestri – HSE
D. Engert - LaBella
Krista Anders, DOH
Bridget Boyd, DOH
Michael Ryan, DEC
Michael Cruden, DEC
Matthew Gillette, DEC
Bart Putzig, DEC
James Mahoney, DEC
Benjamin Conlon, DEC
Andrew Guglielmi, DEC

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)
CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name

Linleigh Realty, L.P.

Address

133 Kilbourn Road, Rochester, NY 14618

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 12/21/11 **Agreement Execution:** 2/7/12 **Agreement Index No.:** C828181-12-11

Application Approval Amendment: none

Agreement Execution Amendment: none

SITE INFORMATION:

Site No.: C828181 **Site Name:** Holtz Porsche, Audi, Mazda (PAM)

Site Owner: Garber Realty NY, LLC

Street Address: 3955 West Henrietta Road

Municipality: Henrietta **County:** Monroe **DEC Region:** 8

Site Size: 3.932 Acres

Tax Map Identification Number(s): 161.19-1-5.1

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 Monroe County as 201412090764.

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

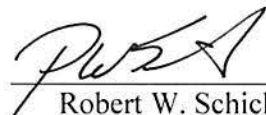
This Certificate of Completion may be modified or revoked by the Commissioner following notice and an opportunity for a hearing in accordance with ECL Section 27-1419 and 6NYCRR Part 375-1.9(e) upon a finding that:

- (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, 2014

NOTICE OF CERTIFICATE OF COMPLETION

Brownfield Cleanup Program

6 NYCRR Part 375-1.9(d)

Holtz Porsche, Audi, Mazda, Site ID No. C828181

3955 West Henrietta Road, Henrietta, NY 14623

Town of Henrietta, Monroe County, Tax Map Identification Number(s) 161.19-1-5.1

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 Linleigh Realty, L.P. for a parcel approximately 3.93 acres located at 3955 West Henrietta Road in the Town of Henrietta.

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):

- ☐ 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.

PLEASE TAKE NOTICE, provided that the Certificate is 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.

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 Monroe County as 201412090764.

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.

Holtz Porsche, Audi, Mazda, C828181, 3955 West Henrietta Road, Henrietta, NY 14623

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.

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 8 office located at 6274 East Avon-Lima Road, Avon, NY 14414 by contacting the Regional Environmental Remediation Engineer.

WHEREFORE, the undersigned has signed this Notice of Certificate

Garber Realty NY L.L.C.

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:

Mr. Richard J. Garber
Garber Realty NY, LLC
999 S. Washington St.
Saginaw, MI 48601



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
12/18/2014



SITE DESCRIPTION

SITE NO. C828181

SITE NAME Holtz Porsche, Audi, Mazda (PAM)

SITE ADDRESS: 3955 West Henrietta Road ZIP CODE: 14623

CITY/TOWN: Henrietta

COUNTY: Monroe

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: 04/15/2016

Description of Institutional Control

Linleigh Realty, L.P.

3955 West Henrietta Road

3955 West Henrietta Road

Environmental Easement

Block: 1

Lot: 5

Sublot: 1

Section: 161

Subsection: 19

S_B_L Image: 161.19-1-5.1

Building Use Restriction

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

Description of Engineering Control

Linleigh Realty, L.P.

3955 West Henrietta Road

3955 West Henrietta Road

Environmental Easement

Block: 1

Lot: 5

Sublot: 1

Section: 161

Subsection: 19

S_B_L Image: 161.19-1-5.1

Cover System

Exhibit A

Property Description

SCHEDULE "A" PROPERTY DESCRIPTION

3955 West Henrietta Road, Town of Henrietta (Tax Account 0161.19-1-5.1)

ALL THAT TRACT OR PARCEL OF LAND, situate in Town Lot 10, Fifth Range of Lots, Township 12, Range 7, Town of Henrietta, County of Monroe and State of New York, more particularly bounded and described as follows: Beginning at an iron pin the westerly highway line of West Henrietta Road, said point being 200 feet northerly from the northerly line of Bailey Road and being the northeast corner of premises to Refiners Oil Corporation by deed recorded in the Monroe County Clerk's Office in Liber 2922 of Deeds, page 498; thence

1. northerly and along said westerly line of West Henrietta Road a distance of 261.83 feet to an iron pin; thence
2. westerly on a course at 90° to course (1) a distance of 500 feet to an iron pin; thence
3. southerly on a course at 90° to course (2) a distance of 392.62 feet to an iron pin; thence
4. easterly on a course at 90° to course (3), a distance of 188.87 feet to an iron pin, being the northwest corner of premises conveyed to the Southland Corporation by deed recorded in the Monroe County Clerk's Office in Liber 4369 of Deeds, page 69; thence
5. easterly forming an interior angle with course (4) of 157° 12' a distance of 337.50 feet to the place of beginning.

EXCEPTING ALL THAT TRACT OR PARCEL OF LAND, appropriated by the State of New York by Appropriation recorded August 29, 1998 in Liber 9053 of Deeds, Page 423.

Exhibit B

Site Survey

