

New York State Department of Environmental Conservation
Division of Environmental Remediation, 12th Floor
625 Broadway, Albany, New York 12233-7011
Phone: (518) 402-9706 • FAX: (518) 402-9020
Website: www.dec.ny.gov



Alexander B. Grannis
Commissioner

Peter Krog
Seneca Market 1 LLC
4 Centre Drive
Orchard Park, New York 14127

DEC 31 2008

RE: Certificate of Completion
Seneca Market 1 LLC
Village of Watkins Glen, Schuyler,
Site# C849004

Dear Seneca Market 1 LLC:

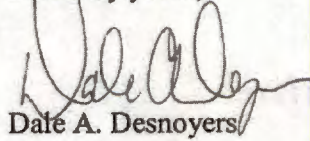
Congratulations on having satisfactorily completed the remedial program at the Seneca Market 1 LLC. Enclosed please find an original Certificate issued on December 31, 2008. The New York State Department of Environmental Conservation (NYSDEC) is pleased to inform you that the Final Engineering Report 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. A standard notice form is attached to this letter;
- You must 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;
- You must implement the Department-approved Site Management Plan (SMP) which details the activities necessary to assure the performance, effectiveness, and protectiveness of the remedial program; and you must report the results of these activities to the Department in a Periodic Review Report (PRR) which also includes any required IC/EC Certifications. The first PRR including the certification of the IC/ECs is due to the Department in June 2010.
- 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 Charlotte B. Theobald at 585-226-5354.

Sincerely yours,



Dale A. Desnoyers
Director
Division of Environmental Remediation

Enclosure

cc w/ enclosure:

Peter Krog (Krog Corporation)

Frank Pavia (Harris Beach)

cc w/o enc.

C. Theobald

B. Putzig

R. Knizek

Mark Sergott (NYSDOH)

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)
CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name

SENECA MARKET 1 LLC

Address

4 Centre Drive, Orchard Park

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 9/6/05 **Agreement Execution:** 11/7/05 **Agreement Index No.:**

B8-0699-05-08

SITE INFORMATION

Site No.: C849004 **Site Name:** Seneca Market 1, LLC site

Site Owner: SENECA MARKET 1 LLC

Site Location: Street Address: 16 Franklin Street

Municipality - Watkins Glen **County -** Schuyler **DEC Region -** 8

Site Size: 2.27Acres

Tax Map Identification Number(s): 65.09-2-56
65.09-2-58
65.09-2-59.1
65.09-2-61.22

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 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.

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 12 %.

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 10 %.

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; 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 Schuyler County on December 26, 2008 Liber 358 of Deeds, Page 319.

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

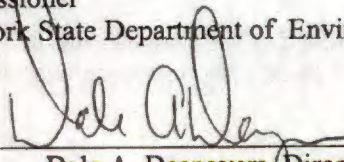
This Certificate of Completion may be modified or revoked by the Commissioner following notice and an opportunity for a hearing in accordance with ECL Section 27-1419 and 6NYCRR Part 375-1.9(e) upon a finding that:

- (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) 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;
- (5) the terms and conditions of the environmental easement have been intentionally violated; or
- (6) there is good cause for such modification or revocation.

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.

Alexander B. Grannis
Commissioner
New York State Department of Environmental Conservation

By:



Dale A. Desnoyers, Director
Division of Environmental Remediation

Date:

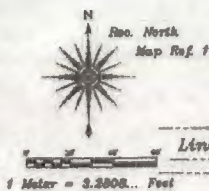
12/31/08

EXHIBIT A

PROPERTY DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND situate in the village of Watkins Glen, Town of Dix, Schuyler County, New York, and being more particularly bounded and described as follows:

BEGINNING at the intersection of the northerly limit of First Street and the westerly limit of Decatur Street; thence South along the northerly limit of First Street a distance of 400.57 feet to a point; thence North $22^{\circ} 31' 0''$ West a distance of 30.22 feet to a point; thence South $67^{\circ} 29' 0''$ West a distance of 100 feet to the easterly limit of North Franklin Street; thence northerly along the easterly limit of North Franklin Street to a point that is 175.78 feet north of the intersection of the easterly limit of North Franklin Street and the northerly limit of First Street; thence North $67^{\circ} 29' 0''$ East a distance of 100 feet to a point; thence North $22^{\circ} 31' 0''$ West a distance of 103.81 feet to a point; thence South $83^{\circ} 11' 56''$ East a distance of 87.29 feet to a point; thence North $16^{\circ} 18' 38''$ East a distance of 50.52 feet to a point; thence South $81^{\circ} 52' 17''$ East a distance of 142.91 feet to a point; thence South $86^{\circ} 12' 04''$ East a distance of 98.30 feet to a point; thence South $86^{\circ} 59' 15''$ East a distance of 87.41 feet to a point; thence South $87^{\circ} 41' 39''$ East a distance of 3.22 feet to the Westerly limit of Decatur Street; thence Southerly along the Westerly limit of Decatur Street; thence South $22^{\circ} 28' 44''$ East a distance of 120.19 feet to the Northerly limit of First Street, being the point or place of beginning; comprising an area $2.27 \pm$ acres.



Franklin Street
(varied width)

Lincoln Way (14' wide)

Village of Watkins Glen
Utility Easement "B" Map No. 10, 200
1988, N/P250 (see map ref. 98)

N/P
County of Schuyler
1988, 2000

N/P
Village of Watkins Glen, Inc.
1914, p222
NB 21, p221

sewerage/parking

sewerage/parking

AREA =
2.27 ACRES ±

First Street
(60' wide)

Decatur Street
(60' wide)

Legend of Symbols

- Point of Beginning
- now or formerly
- dead/mop/measured
- rebar found
- survey marker found
- P.K. nail found
- computed point
- utility pole
- guy wire anchor
- water valve
- gas valve
- sanitary manhole
- manhole
- drop inlet
- hydrant
- bollard
- flag pole
- fence line
- overhead wires
- landscape edging
- Right of Way line
- monitoring well
- blacktop (BL)
- concrete (conc.)

EXHIBIT B

Notes

- 1) Utilities shown are based on visible surface features only.
- 2) Easements shown herein have been located and plotted from various map references indicated herein.
- 3) All bearings and distances are dead (survey), measured (surveyed) and map updates dated 10/20/00.
- 4) The entire parcel is included in the Environmental Easement Area (2.27± Acres).
- 5) There are numerous indicators and road crossings not located as part of this survey.

References

- 1) Certificate of Title No. 5008-44081 by WCOB Title Insurance Company dated October 18, 2007.
- 2) Abstract No. 50082712 by WCOB Title Insurance Company dated September 24, 2008.

Easements and rights of way

Subject to easements, rights of way and other matters of record that a title report updated from September 24, 2008 may show.

- 1) Village of Watkins Glen: Liber 263 of page 25 dated October 16, 1987, and Liber 263 of page 263, recorded by a "Termination of Easement Agreement" made by the Village of Watkins Glen dated May 5, 2008, recorded in Liber 348 of page 342 on June 28, 2008.
- 2) Subject to a 30' wide right-of-way reserved to Consolidated Real Corporation in Liber 250 of page 25 at page 25, extending along the northerly side of the surveyed property.
- 3) Cross Easement Agreement between Seneca Market I, LLC and Seneca Market I, LLC dated January 10, 2007 and recorded in Liber 353 of page 114 on June 20, 2007.

Map References

- 1) "Map of Lands to be conveyed to Peter Krog & James Zander" by Robinson Surveying and Mapping dated November 21, 1991 and recorded in Liber 24 of page 63.
- 2) "Map of lands to be conveyed to Peter L. Krog" by Robinson Surveying and Mapping dated October 20, 1993.
- 3) "Map of lands of Robert A. Phibbs" by Robinson Surveying and Mapping dated October 16, 1993.
- 4) "Map of lands to be conveyed to Ontario Club, Ltd." by Robinson Surveying and Mapping dated November 21, 1991.
- 5) "Map of Lands for Seneca Market, LLC" by Robinson Surveying and Mapping dated October 10, 2001.
- 6) "Boundary Survey of Lands of County of Schuyler" (Seneca Harbor Lakeland Park), job #11812 prepared by Miller Assoc., dated February 10, 2005.
- 7) "Map of lands of Seneca Market I, LLC" made by Thomas G. Morris, P.L.S., last dated August 14, 2007.

To Seneca Market I, LLC and the People of the State of New York, acting through their Commissioner of the Department of Environmental Conservation: This is to certify that this map or plot and the survey on which it is based were made in accordance with the "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys," jointly established and adopted by ALTA and NSPS in 2005, and includes items 4.8, 10.11, and 12 of Table A thereof. Pursuant to the Accuracy Standards as adopted by ALTA and NSPS and in effect on the date of this certification, undersigned further certifies that in my professional opinion, as a land surveyor registered in the State of New York, the Relative Positional Accuracy of this survey does not exceed that which is specified therein.

Date: September 30, 2008

Registration No. 49584

Parcel Description

ALL THAT TRACT OR PARCEL OF LAND situated in the Village of Watkins Glen, Town of Dix, Schuyler County, New York, and being more particularly bounded and described as follows:

BEGINNING at the intersection of the northerly limit of First Street and the westerly limit of Decatur Street; thence South along the northerly limit of First Street a distance of 400.67 feet to a point; thence North 22° 31' 0" West a distance of 30.22 feet to a point; thence South 87° 29' 0" West a distance of 100 feet to the easterly limit of North Franklin Street; thence northerly along the easterly limit of North Franklin Street to a point that is 173.78 feet north of the intersection of the easterly limit of North Franklin Street and the northerly limit of First Street; thence North 87° 29' 0" East a distance of 100 feet to a point; thence North 22° 31' 0" West a distance of 103.81 feet to a point; thence South 83° 11' 56" East a distance of 87.28 feet to a point; thence North 15° 18' 38" East a distance of 50.52 feet to a point; thence South 81° 52' 17" East a distance of 142.91 feet to a point; thence South 88° 12' 04" East a distance of 98.30 feet to a point; thence South 88° 59' 15" East a distance of 87.41 feet to a point; thence South 87° 41' 39" East a distance of 3.22 feet to the westerly limit of Decatur Street; thence southerly along the westerly limit of Decatur Street; thence South 22° 25' 44" East a distance of 123.18 feet to the northerly limit of First Street, being the point or place of beginning; comprising an area of 2.27± acres.

Hotel Site - Tax Parcels 05.09-2-		
Current Deed References	L/P	Area
-58 Seneca Market I, LLC	347/475	6.13 Ac.
-59 Seneca Market I, LLC	355/127	1.78 Ac.
-59.1 Seneca Market I, LLC	350/418	8.20 Ac.
-61.22 Seneca Market I, LLC	348/232	0.18 Ac.

ALTA/ACSM Land Title Survey of the Lands Owned By Seneca Market I, LLC		
Scale: 1" = 20'	CS147SM2	Drawn by: TGM/ALH
Date: September 30, 2008	File No: 05.09-2-58, 59, 59.1 and 61.22	
16 North Franklin Street Village of Watkins Glen, Town of Dix, State of New York		
CRD:05147SM-9-29-08MERCEDES	Project No. CS147MGP	

This map prepared by
Thomas G. Morris
Professional Land Surveyor
300 South Franklin Street, Watkins Glen, NY 14891
Telephone: (607) 535-7643

Please record and return to:
Peter Krog
Seneca Market 1 LLC
4 Centre Drive
Orchard Park, New York 14127

NOTICE OF CERTIFICATE OF COMPLETION

State of New York
Schuyler County

The undersigned, being duly sworn, hereby deposes and states:

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) for the Seneca Market 1 LLC Site.

The Certificate was issued on December 31, 2008 to (Owner Name) for a parcel approximately 2.27 acres located at the 16 North Franklin Street in the Village of Watkins Glen, Schuyler County. A metes and bounds description of the Site subject to this Certificate is attached to the Certificate and to this Notice as Exhibit A.

The Certificate entitles the Certificate holder(s) 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.

A copy of the Certificate can be reviewed at the NYSDEC's Region 8 located at 6274 East Avon-Lima Road, Avon, New York 14414, by contacting the Regional Environmental Remediation Engineer.

This Notice of Certificate of Completion is being filed with the Schuyler Clerk's office in accordance with ECL Section 27-1419.8 to give all parties who may acquire any interest in the Site notice of the Certificate.

WHEREFORE, the undersigned has signed this Notice of Certificate

Peter Krog

By: _____

Title: _____

Date: _____

STATE OF NEW YORK)
) ss:
COUNTY OF)

On the _____ day of _____, in the year 200 , 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