

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Office of the Director
625 Broadway, 12th Floor, Albany, New York 12233-7011
P: (518) 402-9706 | F: (518) 402-9020
www.dec.ny.gov

December 24, 2024

R. Donald Benson
351 Franklin Street LLC
130 South Union Street, Suite 300
Olean, NY 14760
DBENSON@BENSON-CONSTRUCTION.COM

Re: Certificate of Completion
351 Franklin Street Site,
Olean (C), Cattaraugus County
Site No.: C905047

Dear R. Donald Benson:

Congratulations on having satisfactorily completed the remedial program at the 351 Franklin Street 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. Please return the hard copy of the proof of recording to:

Benjamin McPherson
New York State Department of Environmental Conservation
Division of Environmental Remediation
700 Delaware Avenue
Buffalo, NY 14209



- 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 2026.

If you have any questions, please do not hesitate to contact Benjamin McPherson, NYSDEC's project manager, at 716-851-7220 or benjamin.mcperson@dec.ny.gov.

Sincerely,

Andrew Guglielmi

Andrew Guglielmi
Division Director
Division of Environmental Remediation

Enclosure

ec w/ enclosure:

C. Vooris – NYSDOH, christine.vooris@health.ny.gov
Sara Bogardus – NYSDOH, sara.bogardus@health.ny.gov
Kristin Kulow – NYSDOH, kristin.kulow@health.ny.gov
Michael Lesakowski – Roux, mlesakowski@rouxinc.com
Sandra Nasca, Esq. – Knoer Group, snasca@knoergroup.com
Matt Gokey, NYSDTF, matthew.gokey@tax.ny.gov
Paul Takac, NYSDTF, paul.takac@tax.ny.gov

ec w/o enc.:

Michael Cruden – NYSDEC, michael.cruden@dec.ny.gov
Andrea Caprio – NYSDEC, andrea.caprio@dec.ny.gov
Benjamin McPherson – NYSDEC, benjamin.mcperson@dec.ny.gov
Michael Murphy, Esq. – NYSDEC, michael.murphy1@dec.ny.gov
Gregory Scholand, Esq. – NYSDEC, gregory.scholand@dec.ny.gov
Kelly Lewandowski – NYSDEC, kelly.lewandowski@dec.ny.gov

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)

CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name

351 Franklin Street LLC

Address

130 SOUTH UNION STREET, Suite 300, Olean, NY 14760

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 11/25/20 **Agreement Execution:** 12/14/20

Agreement Index No.: C905047-11-20

Application Amendment Approval: 8/30/23

Agreement Amendment Execution: 8/30/23

SITE INFORMATION:

Site No.: C905047 **Site Name:** 351 Franklin Street Site

Site Owner: 351 Franklin Street LLC

Street Address: 351 Franklin Street

Municipality: Olean **County:** Cattaraugus

DEC Region: 9

Site Size: 6.35 Acres

Tax Map Identification Number(s): p/o 94.040-1-29.1

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:

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 Cattaraugus County as Instrument No. 202409404.

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 6 NYCRR 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 6 NYCRR 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.

Sean Mahar
Interim Commissioner
New York State Department of Environmental Conservation

By: Andrew Guglielmi Date: 12/24/24

Andrew O. Guglielmi, Director
Division of Environmental Remediation

Exhibit A

Site Description

SCHEDULE "A" PROPERTY DESCRIPTION

Easement Description

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Olean, Cattaraugus County, State of New York, being part of Lot 4, Section 5, Township 2, Range 4 of the Holland Land Company's Survey, also being a portion of Blocks 65 and 66 of the Olean Depot Plat, according to a map by Joseph Mann, Esq., in 1853, a copy of which is on file in the Cattaraugus County Clerk's Office, bounded and described as follows:

BEGINNING at a point 49.76' south of the intersection of the centerline of Franklin Street with the west bounds of Lot 4, Section 5, thence through the lands of 351 Franklin Street LLC N 56-33-55 E, a distance of 251.47' to a point; thence N 57-35-05 E, a distance of 422.35' to a point, thence S 32-47-48 E along the southwest bounds of lands now or formerly of DST Properties NY LLC, a distance of 351.40' to a pin found, thence S 57-22-12 W along the north bounds of lands now or formerly of Southern Tier Rail Authority, a distance of 899.76' to a capped rebar set, thence N 00-08-29 E along the west bounds of Lot 4, Section 5 (which is the east bounds of lands now or formerly of Nipperland Properties, LLC) a distance of 415.60' to the point of beginning;

Contains 6.35 acres of land.

Deed Description

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Olean, Cattaraugus County, State of New York, being part of Lot 4, Section 5, Township 2, Range 4 of the Holland Land Company's Survey, also being a portion of Blocks 65 and 66 of the Olean Depot Plat, according to a map by Joseph Mann, Esq., in 1853, a copy of which is on file in the Cattaraugus County Clerk's Office, bounded and described as follows:

BEGINNING at the intersection of the centerline of Franklin Street with the west bounds of Lot 4, Section 5, thence along said centerline of Franklin Street on a curve to the left having a radius of 93.20 an arc distance of 63.47', a chord of N 73-17-12 E, 62.25' to a point; thence N 56-33-17 E, a distance of 163.37' to a point; thence N 57-35-03 E, a distance of 422.63' to a point, thence S 32-47-48 E along the southwest bounds of lands now or formerly of DST Properties NY LLC, a distance of 376.40' to a pin found, thence S 57-22-12 W along the north bounds of lands now or formerly of Southern Tier Rail Authority, a distance of 899.76' to a capped rebar set, thence N 00-08-29 E along the west bounds of Lot 4, Section 5 (which is the east bounds of lands now or formerly of Nipperland Properties, LLC) a distance of 467.07' to the point of beginning;

Contains 6.74 acres of land.

Exhibit B

Site Survey

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

351 Franklin Street Site, Site ID No. C905047
351 Franklin Street, Olean, NY, 14760
City of Olean, Cattaraugus County, Tax Map Identification Number: p/o 94.040-1-29.1

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 351 Franklin Street LLC for a parcel approximately 6.35 acres located at 351 Franklin Street in Olean, Cattaraugus 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 Cattaraugus County as Instrument No. 202409404.

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 limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law.

351 Franklin Street Site, Site ID No. C905047
351 Franklin Street, Olean, NY, 14760

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 9 Office located at 700 Delaware Avenue, Buffalo, NY 14209, by contacting the Regional Environmental Remediation Engineer, or at <https://www.dec.ny.gov/data/DecDocs/C905047>.

WHEREFORE, the undersigned has signed this Notice of Certificate.

351 Franklin Street 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:
351 Franklin Street LLC
130 South Union Street, Suite 300
Olean, NY 14760



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
11/25/2024



SITE DESCRIPTION

SITE NO. C905047

SITE NAME 351 Franklin Street Site

SITE ADDRESS: 351 Franklin Street ZIP CODE: 14760

CITY/TOWN: Olean

COUNTY: Cattaraugus

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: 04/30/2026

Description of Institutional Control

351 Franklin Street LLC

130 South Union Street, Suite 300

351 Franklin Street

Environmental Easement

Block: 1

Lot: 29

Sublot: 1

Section: 94

Subsection: 040

S_B_L Image: p/o 94.040-1-29.1

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

Description of Engineering Control

351 Franklin Street LLC

130 South Union Street, Suite 300

351 Franklin Street

Environmental Easement

Block: 1

Lot: 29

Sublot: 1

Section: 94

Subsection: 040

S_B_L Image: p/o 94.040-1-29.1

Cover System

Groundwater Containment

Monitoring Wells

Vapor Mitigation