

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

DEC 29 2015

Diamond Hurwitz Scrap, LLC
Mr. Steve B. Olgin
267 Marilla Street
Buffalo, NY 14220

Re: Certificate of Completion
Site Name: ENRX, Inc. - Voelker Analysis Site
Site No.: C915150
Tax Map ID No: 112.14-3-2.1
Property County: Erie

Dear Mr. Olgin:

Congratulations on having satisfactorily completed the remedial program at ENRX, Inc.-Voelker Analysis Site. Enclosed please find an original, signed Certificate of Completion (COC). The New York State Department of Environmental Conservation (DEC) 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 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 copy of the recorded notice should be provided to DEC's project manager. 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. Please return the proof of recording to:

Chief, Site Control Section
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, NY 12233-7020



Department of
Environmental
Conservation

- Provide the notice of the COC to the Document Repositories within 10 days of issuance of the COC. DEC will develop a 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; and
- 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 2017.

If you have any questions regarding any of these items, please contact the project manager for this site, David Locey at 716-851-7220.

Sincerely,



Robert W. Schick, P.E.

Director

Division of Environmental Remediation

Enclosures

ec: Steve B. Olgin, Diamond Hurwitz Scrap, LLC
Deborah J. Chadsey, Esq., Kavinoky Cook LLP
William Heitzenrater, AFI Environmental
Steven Leitten, AFI Environmental
Krista Anders, DOH
Matt Forcucci, DOH
Michael Ryan, DEC
Michael Cruden, DEC
David Locey, DEC
Chad Staniszewski, EC
Michael Cruden, DEC
David Stever, DEC
Dolores Tuohy, DEC
Andrew Guglielmi, DEC

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)
CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name

Diamond Hurwitz Scrap, LLC

Address

267 Marilla Street, Buffalo, NY 14220

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 5/3/12 **Agreement Execution:** 6/12/12 **Agreement Index** C915150-05-12

SITE INFORMATION:

Site No.: C915150 **Site Name:** ENRX, Inc. - Voelker Analysis

Site Owner: Diamond Hurwitz Scrap, LLC

Street Address: 766 New Babcock Street

Municipality: Buffalo **County:** Erie **DEC Region:** 9

Site Size: 0.840 Acres

Tax Map Identification Number(s): 112.14-3-2.1

Percentage of site located in an EnZone: 100 %

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 20 %.

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 18 %.

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 Erie County as File 2015259562 at Book/Page D11289/6034.

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.

Basil Seggos
Acting Commissioner
New York State Department of Environmental Conservation

By:  Date: December 29, 2015
Robert W. Schick, P.E., Director
Division of Environmental Remediation

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

ENRX, Inc.-Voelker Analysis, Site No. C915150
766 New Babcock Street, Buffalo, New York 14206
City of Buffalo, Erie County, Tax Map Identification Number 112.14-3-2.1

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 Diamond Hurwitz Scrap, LLC for a parcel approximately 0.84 acres in size, located at 766 New Babcock Street in the City of Buffalo and Erie County.

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):

- 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 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 Erie County as File 2015259562 at Book/Page D11289/6034.

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.

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.

ENRX, Inc. - Voelker Analysis, Site #C915150, 766 New Babcock Street, Buffalo, NY

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 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 DEC's Region 9 located at 270 Michigan Avenue, Buffalo, NY 14203, by contacting the Regional Environmental Remediation Engineer.

WHEREFORE, the undersigned has signed this Notice of Certificate

Diamond Hurwitz Scrap, 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:
Diamond Hurwitz Scrap, LLC
267 Marilla Street
Buffalo, New York 14220



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
 12/15/2015



SITE DESCRIPTION

SITE NO. C915150

SITE NAME ENRX, Inc. - Voelker Analysis

SITE ADDRESS: 766 New Babcock Street **ZIP CODE:** 14206

CITY/TOWN: Buffalo

COUNTY: Erie

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: 04/30/2017

Description of Institutional Control

Diamond Hurwitz Scrap, LLC
 267 Marilla Street
766 New Babcock Street
 Environmental Easement
 Block: 3
 Lot: 2
 Sublot: 1
 Section: 112
 Subsection: 14
 S_B_L Image: 112.14-3-2.1
 Ground Water Use Restriction
 IC/EC Plan
 Landuse Restriction
 Monitoring Plan
 O&M Plan
 Site Management Plan
 Soil Management Plan

Description of Engineering Control

Diamond Hurwitz Scrap, LLC

267 Marilla Street

766 New Babcock Street

Environmental Easement

Block: 3

Lot: 2

Sublot: 1

Section: 112

Subsection: 14

S_B_L Image: 112.14-3-2.1

Cover System

Groundwater Containment

Groundwater Treatment System

Vapor Mitigation

Exhibit A
Site Description

SCHEDULE "A" PROPERTY DESCRIPTION

DEED- RECORDED IN LIBER 11183 OF DEEDS PAGE 5771

PARCEL I

All that tract or parcel of land, being situate in the City of Buffalo, County of Erie and State of New York, being Part of Lot No. 59, Township 10, Range 8 of the Buffalo Creek Reservation, bounded and described as follows:

Beginning at a point in the easterly line of Hannah Street at the distance of 380 feet southerly measured along said easterly line of Hannah Street from the southerly line of William Street; thence running southerly along the easterly line of Hannah Street 60 feet; thence easterly at right angles with Hannah Street 117 feet to the westerly line of Babcock Street; thence northeasterly along the westerly line of Babcock Street to the southeast corner of lands conveyed to Harry Farthing and Charles T. Farthing, devisees of Elizabeth Farthing, deceased, Olive M. Farthing, wife of said Harry Farthing and Thomas Farthing to Adam Schwarzott by deed dated July 17, 1900, and recorded in the Erie County Clerk's Office in Liber 897 of Deeds at Page 322, August 15, 1900, at 3:31 PM; thence westerly along the southerly line of lands so conveyed to the place of beginning, containing 0.2 acres more or less.

PARCEL II

Also, all that tract or parcel of land, being situate in the City of Buffalo, County of Erie and State of New York, being Part of Lot No. 59, Township 10, Range 8 of the Buffalo Creek Reservation, bounded and described as follows:

Beginning at a point in the easterly side of Hannah Street, distance 160 feet south of the southerly line of William Street, running thence southerly and along the easterly line of Hannah Street 220 feet; thence easterly and at right angles with Hannah Street 146.50 feet to a point on the westerly side of Babcock Street; thence northeasterly and along the westerly line of Babcock Street 79.35 feet; thence northwesterly at right angles to the said westerly line of Babcock Street 84 feet to a point 104.66 feet east of said Hannah Street; thence north on a line 104.66 feet east of Hannah Street 48.81 feet; thence westerly and parallel with William Street 54.10 feet; thence northerly and parallel with Hannah Street 61 feet and thence westerly and parallel with William Street 50 feet to the point or place of beginning, containing 0.5 acres more or less.

PARCEL III

Also, all that tract or parcel of land, being situate in the City of Buffalo, County of Erie and State of New York, being Part of Lot No. 59, Township 10, Range 8 of the Buffalo Creek Reservation, bounded and described as follows:

Beginning at a point in the east line of Hannah Street, 40 feet wide, distant 221.00 feet southerly from the intersection of the east line of Hannah Street with the southerly line of William Street; thence easterly and parallel with the southerly line of William Street 104.66 feet to an easterly line of lands conveyed to Richard F. Ball and Marion E. Stradtman by Deed recorded in the Erie County Clerk's Office in Liber 6430 of Deeds at Page 85, which point is the principle point of beginning; thence easterly and parallel with the southerly line of William Street 119.82

feet to the northwesterly line of Babcock Street; thence southwesterly along the northwesterly line of Babcock Street 98 feet to the northeasterly line of lands conveyed to said Ball and Stradtman by Deed recorded in the Erie County Clerk's Office in Liber 6430 of Deeds at page 85; thence northwesterly along the northeasterly line of lands so conveyed 84.52 feet to an easterly line of lands so conveyed; thence northerly along the said line of Ball of Stradtman's lands 48.81 feet to the principle place of beginning, containing 0.2 acres more or less.

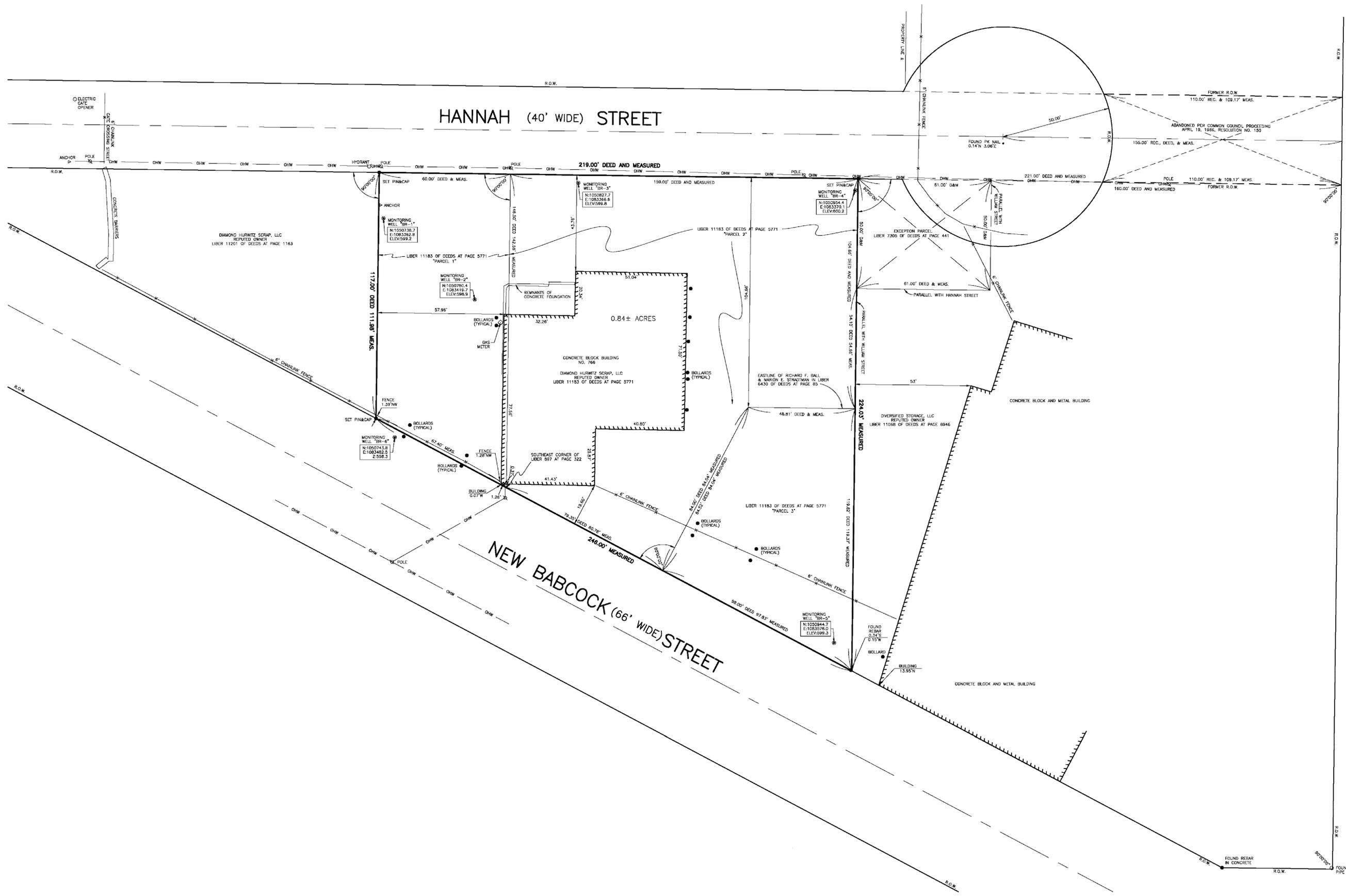
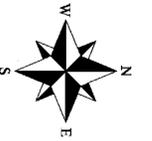
PERIMETER LEGAL DESCRIPTION ALL PARCELS

All that tract or parcel of land, situated in the City of Buffalo, County of Erie and State of New York, being Part of Lot No. 59, Township 10, Range 8 of the Buffalo Creek Reservation, being more particularly described as follows:

Beginning at a point in the east line of Hannah Street, 40 feet wide, at a distance of 221.00 feet southerly from the intersection of the east line of Hannah Street with the southerly line of William Street; thence southerly continuing along the easterly line of Hannah Street, a distance of 219.00 feet to a point; thence easterly at right angles to the east line of Hannah Street, a distance of 111.98 feet to a point in the northwest line of New Babcock Street; thence northeasterly along the said northwest line of New Babcock Street, a distance of 246.00 feet to a point in a line drawn at right angles to Hannah Street from the point of beginning; thence westerly at right angles to Hannah Street, a distance of 224.03 feet to the point of beginning, containing 0.84 Acres more or less

Exhibit B

Site Survey



HANNAH (40' WIDE) STREET

NEW BABCOCK (66' WIDE) STREET

WILLIAM (66' WIDE) STREET

Copies from the original of this survey map, not marked with the original of the Land Surveyor's seal, shall not be considered a valid true copy, and should be assumed to be an unauthorized copy.

Unauthorized alteration or addition to a survey map bearing a licensed Land Surveyor's seal is a violation of section 7209, subdivision 2, of the New York State Education Law.

This survey was prepared without the benefit of an abstract of title and is subject to any statement of facts that may be revealed by an examination of such.

ALL UNDERGROUND UTILITY LOCATIONS ARE APPROXIMATE. BEFORE YOU DIG, DRILL, OR BLAST, CALL UFPO AT 1-800-962-7962.

COORDINATES SHOWN HEREON ARE "NAD83" FOR NEW YORK STATE - WEST ZONE ELEVATIONS SHOWN HEREON ARE "NAVD88"

Survey Date	Revision Date	Comment
6/21/2013		Initial field survey
	7/17/2013	Set (3) property corner markers
	7/17/2013	Observed position of (8) man wells

Map of Survey
 Part of Lot 59 Township 10 Range 8 B.C.R.
 City of Buffalo
 County of Erie
 State of New York

LAWRENCE J. ZYGAJ, PLS, PC
 NYS Land Surveyor - License No. 049714-1
 222 Bear Road, Cawlesville, New York 14037
 Office: (585) 652-8483 Fax: (585) 652-1137
 L.J.Zyga@rochester.rr.com

Date: 6/21/2013 Scale: 1" = 20' Drawn by: L.J.Z
 Job No.: 13062 Drawing: 130621.dwg Checked by: L.J.Z

Copyright 2013 Lawrence J. Zyga, PLS, PC All rights reserved.