

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

Mr. John Cappellino
Buffalo and Erie County Industrial Land Development Corporation
95 Perry Street, Suite 403
Buffalo, NY 14203

DEC 28 2017

Mr. Keith A. Nagel
Tecumseh Redevelopment Inc.
4020 Kinross Lakes Parkway
Richfield, OH 44286

Re: Certificate of Completion
Site II-10 Tecumseh Phase II Business Park
Lackawanna (c), Erie County
Site No. C915198J

Dear Mr. Cappellino and Mr. Nagel:

Congratulations on having satisfactorily completed the remedial program at the Site II-10 Tecumseh Phase II Business Park. Enclosed please find an original, signed Certificate of Completion (COC). The New York State Department of Environmental Conservation (Department) 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 the Department'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.



Department of
Environmental
Conservation

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

- Provide the notice of the COC to the Document Repositories within 10 days of issuance of the COC. The Department 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;
- 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 site IC/ECs are identified on the attached Site Management Form. The first PRR including the certification of the IC/ECs is due to the Department in April 2019.

If you have any questions regarding any of these items, please contact Maurice Moore at (716) 851-7220.

Sincerely,



Michael J. Ryan, P.E.
Assistant Director
Division of Environmental Remediation

cc w/ enclosure:

M. Moore
K. Draves
K. Nagel – Tecumseh Redevelopment Inc., keith.nagel@arcelormittal.com
J. Cappelino – Buffalo and Erie County Industrial Land Development Corp.,
jcappell@ecidany.com
T. Forbes – Benchmark; TForbes@benchmarkturnkey.com
R. Napieralski – LaBella; RNapieralski@LaBellaPC.com
R. Murray – HarrisBeach; bmurray@harrisbeach.com
M. Nisengard – Harter, Secrest & Emery; mnisengard@hselaw.com

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)
CERTIFICATE OF COMPLETION

Name

Tecumseh Redevelopment Inc.

Address

4020 Kinross Lakes Parkway, Richfield, OH 44286

Buffalo and Erie County Industrial Land Development Corporation 95 Perry Street, Suite 403, Buffalo, NY 14203

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 1/9/07 **Agreement Execution:** 3/14/07 **Agreement Index No.:** B9-0696-05-06(B)

Application Approval Amendment: 8/8/12

Agreement Execution Amendment: 8/22/12

Application Approval Amendment: 9/15/17

Agreement Execution Amendment: 10/2/17

Application Approval Amendment: 12/14/17

Agreement Execution Amendment: 12/20/17

SITE INFORMATION:

Site No.: C915198J **Site Name:** Site II-10 Tecumseh Phase II Business Park

Site Owner: Buffalo and Erie County Industrial Land Development Corporation

Street Address: 2303 Hamburg Turnpike

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

Site Size: 15.780 Acres

Tax Map Identification Number(s): 141.11-1-48.1

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 20 %.

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 18 %.

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 2014137591 BK/PG D11266/5455.

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.

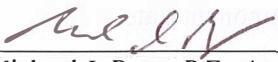
CERTIFICATE MODIFICATION/REVOCATION

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 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.

Basil Seggos
Commissioner
New York State Department of Environmental Conservation

By:  Date: 12/28/17
Michael J. Ryan, P.E., Assistant Director
Division of Environmental Remediation

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

Site II-10 Tecumseh Phase II Business Park, Site ID No. C915198J
2303 Hamburg Turnpike, Lackawanna, NY 14218
Lackawanna (C), Erie County, Tax Map Identification Number(s) 141.11-1-48.1

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 Tecumseh Redevelopment Inc. and Buffalo and Erie County Industrial Land Development Corporation for a parcel approximately 15.78 acres located at 2303 Hamburg Turnpike in the City of Lackawanna, 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 No. 2014137591 BK/PG D11266/5455.

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

**Site II-10 Tecumseh Phase II Business Park, Site #C915198J,
2303 Hamburg Turnpike, Lackawanna, NY 14218**

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 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 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

Buffalo and Erie County Industrial Land Development Corporation

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:

Buffalo and Erie County Industrial Land Development Corporation
95 Perry Street, Suite 403
Buffalo, NY 14203

EXHIBIT A

Environmental Easement Description

ENVIRONMENTAL EASEMENT DESCRIPTION

FOR BCP SITE No. C915198J

ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE CITY OF LACKAWANNA, COUNTY OF ERIE AND STATE OF NEW YORK, BEING PART OF LOTS 18 AND 20 OF THE OGDEN GORE TRACT, AND PART OF LOT 24 OF THE BUFFALO CREEK RESERVATION, TOWNSHIP 10, RANGE 8 OF THE HOLLAND LAND COMPANY'S SURVEY, BEING BCP SITE NUMBER C915198J, AS SHOWN ON A MAP OF "LAND TO BE CONVEYED TO BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION", PREPARED BY WENDEL, MAY 2017, PROJECT NUMBER 411110 (BEING PART OF WENDEL'S PROJECT No. 411107), BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT IN THE WESTERLY HIGHWAY BOUNDARY OF THE HAMBURG TURNPIKE (ALSO KNOWN AS STATE ROUTE NO. 5), BEING 2884.21 FEET NORTH OF THE DIVISION LINE BETWEEN LANDS CONVEYED TO TECUMSEH REDEVELOPMENT INC. RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 11040 OF DEEDS AT PAGE 8953 ON THE NORTH, AND LANDS CONVEYED TO SOUTH BUFFALO RAILWAY COMPANY RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 10119 OF DEEDS AT PAGE 131 ON THE SOUTH, AS MEASURED ALONG THE WESTERLY HIGHWAY BOUNDARY OF THE HAMBURG TURNPIKE AS APPROPRIATED BY NEW YORK STATE DEPARTMENT OF PUBLIC WORKS MAP 1, PARCEL 1, RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 5650 OF DEEDS AT PAGE 404 ALSO BY NEW YORK STATE DEPARTMENT OF TRANSPORTATION FOR THE CITY OF LACKAWANNA, S.H. NO. FAC 48-10, MAP 305, PARCEL 306, RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 10960 OF DEEDS AT PAGE 2028, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF SAID BUSINESS PARK PHASE II, PARCEL "B";

THENCE N 56°-02'-56" W, A DISTANCE OF 1900.78 FEET TO THE POINT OF BEGINNING, SAID POINT ALSO BEING THE NORTHWEST CORNER OF BCP SITE NUMBER C915198I AND THE WEST LINE OF SAID BUSINESS PARK PHASE II, PARCEL "B";

THENCE ALONG THE WESTERLY LINE OF SAID BUSINESS PARK PHASE II, PARCEL B, N 18°-20'-36" W, A DISTANCE OF 862.60 FEET TO THE SOUTHWEST CORNER OF BCP SITE NUMBER C915198L;

THENCE ALONG THE SOUTH LINE OF BCP SITE NUMBER C915198L, N 71°-00'-00" E, A DISTANCE OF 56.66 FEET TO A POINT IN THE WEST LINE LANDS CONVEYED TO BQ ENERGY, LLC. BY DEED RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 11145 OF DEEDS AT PAGE 2733;

THENCE ALONG THE WEST LINE OF SAID LANDS CONVEYED TO BQ ENERGY, LLC., S 20°-04'-28" E, A DISTANCE OF 26.77 FEET TO A POINT;

THENCE CONTINUING ALONG THE SOUTH LINE OF LANDS CONVEYED TO BQ ENERGY, LLC., N 71°-48'-41" E, A DISTANCE OF 112.00 FEET TO A POINT;

THENCE CONTINUING ALONG THE EAST LINE OF LANDS CONVEYED TO BQ ENERGY, LLC., N 20°-04'-28" W, A DISTANCE OF 28.36 FEET TO A POINT IN THE SOUTH LINE OF BCP SITE NUMBER C915198L;

THENCE ALONG THE SOUTH LINE OF BCP SITE NUMBER C915198L, N 71°-00'-00" E, A DISTANCE OF 628.54 FEET TO A POINT IN THE WEST LINE OF BCP SITE NUMBER C915198K;

THENCE ALONG THE WEST LINE OF BCP SITE NUMBER C915198K, S 18°-45'-42" E, A DISTANCE OF 390.91 FEET TO THE NORTHWEST CORNER OF BCP SITE NUMBER C915198H;

THENCE ALONG THE WEST LINE OF BCP SITE NUMBER C915198H, S 18°-25'-01" E, A DISTANCE OF 473.30 FEET TO THE NORTHEAST CORNER OF BCP SITE NUMBER C915198I;

THENCE ALONG THE NORTH LINE OF BCP SITE NUMBER C915198I, S 71°-07'-01" W, A DISTANCE OF 800.60 FEET TO THE POINT OF BEGINNING; CONTAINING 15.78 ACRES OF LAND, MORE OR LESS.

EXHIBIT B

Site Survey

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
12/20/2017

SITE DESCRIPTION

SITE NO. C915198J

SITE NAME Site II-10 Tecumseh Phase II Business Park

SITE ADDRESS: 2303 Hamburg Turnpike **ZIP CODE:** 14218

CITY/TOWN: Lackawanna

COUNTY: Erie

ALLOWABLE USE: Commercial and Industrial

SITE MANAGEMENT DESCRIPTION

SITE MANAGEMENT PLAN INCLUDES:	YES	NO
IC/EC Certification Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Monitoring Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Operation and Maintenance (O&M) Plan	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Periodic Review Frequency: once a year

Periodic Review Report Submitted Date: 4/29/2019

Description of Institutional Control

Buffalo & Erie County ILDC

95 Perry Street, Suite 403

2303 Hamburg Turnpike

Environmental Easement

Block: 1

Lot: 48

Sublot: 1

Section: 141

Subsection: 11

S_B_L Image: 141.11-1-48.1

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

Description of Engineering Control

Buffalo & Erie County ILDC

95 Perry Street, Suite 403

2303 Hamburg Turnpike

Environmental Easement

Block: 1

Lot: 48

Sublot: 1

Section: 141

Subsection: 11

S_B_L Image: 141.11-1-48.1

Cover System