## 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 I F: (518) 402-9020 www.dec.ny.gov

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

DEC 12 2016

Mr. Timothy M. Ryan Lackawanna Solar Land LLC and Steel Sun 2 LLC 47 S. Hamilton Street Poughkeepsie, NY 12601

Re:

Certificate of Completion Site No. C915199B Site III-2 Tecumseh Phase III Business Park Lackawanna (c), Erie County

Dear Mr. Nagel and Mr. Ryan:

Congratulations on having satisfactorily completed the remedial program at the Site III-2 Tecumseh Phase III 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. Please return the proof of recording to:

NEW YORK STATE OF OPPORTUNITY

Department of Environmental Conservation 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, 2018.

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

Sincerely

Róbert W. Schick, P.E. Director Division of Environmental Remediation

ec w/ enclosure:

- T. Ryan Lackawanna Solar Land LLC, tim.ryan@bgenergy.com
- T. Ryan Steel Sun 2 LLC, tim.ryan@bgenergy.com
- C. Slater, Slater Law, cslater@cslaterlaw.com
- S. Nasca, Knoer Group, snasca@knoergroup.com
- D. Flynn, Phillips Lytle, dflynn@phillipslytle.com
- T. Forbes, Benchmark, tforbes@benchmarkturnkey.com
- K. Anders NYSDOH
- S. Bogardus NYSDOH

ec w/o enc.:

- M. Moore
- C. Staniszewski
- M. Cruden
- K. Draves
- G. Heitzman

# NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP) CERTIFICATE OF COMPLETION

# **CERTIFICATE HOLDER(S):**

#### Name

Tecumseh Redevelopment, Inc. Lackawanna Solar Land LLC Steel Sun 2 LLC

## Address

4020 Kinross Lakes Parkway, Richfield, OH 4428649 S. Hamilton Street, Poughkeepsie, NY 1260149 S. Hamilton Street, Poughkeepsie, NY 12601

#### **BROWNFIELD CLEANUP AGREEMENT:**

Application Approval: 12/15/06 Agreement Execution: 3/14/07 Agreement Index No.:B9-0696-05-06(C)

Application Approval Amendment: 8/22/12 Application Approval Amendment: 11/7/16 Agreement Execution Amendment: 8/22/12 Agreement Execution Amendment: 11/7/16

# SITE INFORMATION:

Site No.: C915199B Site Name: Site III-2 Tecumseh Phase III Business Park Site Owner: Tecumseh Redevelopment Inc. Street Address: 2303 Hamburg Turnpike

Municipality: Lackawanna County: Erie DEC Region: 9 Site Size: 10.240 Acres Tax Map Identification Number(s): 141.11-1-50

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 No. 2014137592 bk11266/pg5467.

## 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: December 12, 2016

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)

## Site III-2 Tecumseh Phase III Business Park, Site ID No. C915199B 2303 Hamburg Turnpike, Lackawanna, NY 14218 Lackawanna (C), Erie County, Tax Map Identification Number(s) 141.11-1-50

**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., Lackawanna Solar Land LLC and Steel Sun 2 LLC for a parcel approximately 10.24 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):

- $\Box$  Unrestricted Use, as set forth in 6 NYCRR 375-1.8(g)(1)i
- $\square$  Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)i.
- $\Box$  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 <u>No. 2014137592 bk11266/pg5467</u>.

**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

# ENVIRONMENTAL EASEMENT DESCRIPTION FOR BCP SITE No. C915199B

ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE CITY OF LACKAMANNA, COUNTY OF ERIE AND STATE OF NEW YORK, BEING PART OF LOTS 16 AND 17 OF THE OGDEN GORE TRACT, AND LOT 23 OF THE BUFFALO CREEK RESERVATION, TOWNSHIP 10, RANGE 8 OF THE HOLLAND LAND COMPANY'S SURVEY, BEING BCP SITE NUMBER C915199B, AS SHOWN ON A MAP OF BUSINESS PARK PHASE III, PREPARED BY WENDEL, JUNE 2012, PROJECT NUMBER 411107, BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WESTERLY HIGHWAY BOUNDARY OF THE HAMBURG TURNPIKE (ALSO KNOWN AS STATE ROUTE NO. 5) AS APPROPRIATED BY NEW YORK STATE DEPARTMENT OF PUBLIC WORKS, MAP 1, PARCEL 1 AND AS RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 5650 OF DEEDS, PAGE 404, AND THE MUNICIPAL BOUNDARY LINE BETWEEN THE CITY OF LACKAWANNA (TO THE NORTH) AND THE TOWN OF HAMBURG (TO THE SOUTH), SAUD POINT ALSO BEING ON THE NORTHERLY BOUNDARY OF LANDS CONVEYED TO THE SOUTH BUFFALD RALWAY COMPANY BY DEED RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 10119 OF DEEDS AT PAGE 131;

THENCE ALONG THE NORTHERLY LINE OF SAID SOUTH BUFFALO RAILWAY COMPANY, N 86"-32"-54 W, A DISTANCE OF 507.02 FEET TO A POINT;

THENCE CONTINUING ALONG THE NORTHERLY LINE OF SAID SOUTH BUFFALD RAILWAY COMPANY, N 56"-55"-40" W, A DISTANCE OF 1562.32 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING ALONG THE NORTHERLY LINE OF SAID SOUTH BUFFALO RAILWAY COMPANY, N 56-55'-40" W, A DISTANCE OF 658.99 FEET TO A POINT;

THENCE CONTINUING ALONG THE NORTHERLY LINE OF SAID SOUTH BUFFALO RAILWAY COMPANY, S 65"--43"--40" W, A DISTANCE OF 100.14 FEET TO THE SOUTHWEST CORNER OF BUSINESS PARK PHASE III, PARCEL "A" AS SHOWN ON SAID MAP PREPARED BY WENDEL;

THENCE ALONG THE WEST LINE OF BUSINESS PARK PHASE III, PARCEL "A", N 24"-58'-39" W, A DISTANCE OF 310.46 FEET TO A POINT OF CURVATURE;

THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 679.12 FEET, AN ARC LENGTH OF 49.05 FEET, A CHORD BEARING OF N 22"-54'--31" W, AT A DISTANCE OF 49.03 FEET TO THE SOUTHWEST CORNER OF BCP SITE NUMBER C915189D;

THENCE ALONG THE SOUTH LINE OF SAID BOP SITE NUMBER C915199D, N 71"-17"-28" E, A DISTANCE OF 250.81 FEET TO THE NORTHWESTERLY CORNER OF BOP SITE NUMBER C915199C;

THENCE ALONG THE WESTERLY LINE OF BCP SITE NUMBER C915199C, S 18-42-32"E, A DISTANCE OF 245.68 FEET TO THE SOUTHWEST CORNER OF BCP SITE NUMBER C915199C;

THENCE ALONG THE SOUTHERLY LINE OF BCP SITE NUMBER C915199C, N 71"-17"-28" E, A DISTANCE OF 673.28 FEET TO A POINT;

THENCE ALONG THE EASTERLY LINE OF BCP SITE NUMBER C915199C, N 18"-42'-32" W, A DISTANCE OF 215.72 FEET TO A POINT;

THENCE ALONG THE SOUTHERLY LINE OF BCP SITE NUMBER C195199C, N 71'-17'-28" E, A DISTANCE OF 95.91 FEET TO A POINT OF CURVATURE;

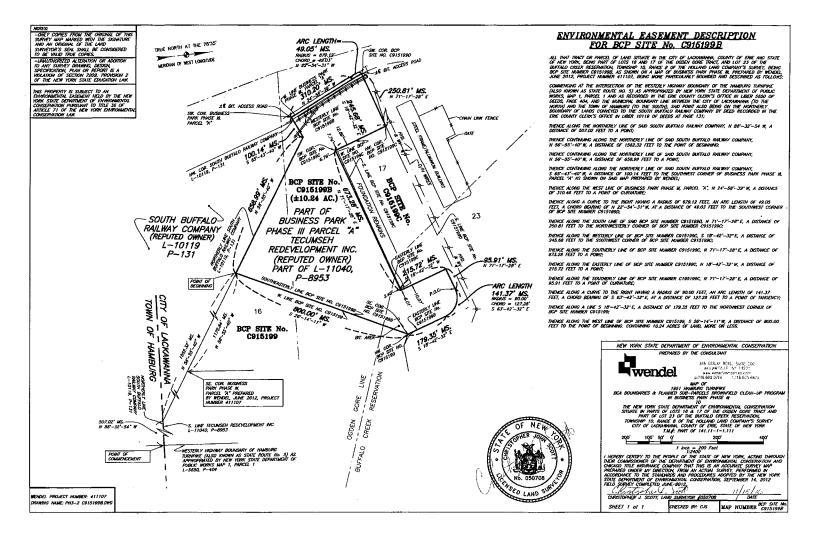
THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 90.00 FEET, AN ARC LENGTH OF 141.37 FEET, A CHORD BEARING OF S 63"-42"-32" E, AT A DISTANCE OF 127.28 FEET TO A POINT OF TANGENCY;

THENCE ALONG A LINE S 18"-42"-32" E, A DISTANCE OF 179.35 FEET TO THE NORTHWEST CORNER OF BCP SITE NUMBER C915199;

THENCE ALONG THE WEST LINE OF BOP SITE NUMBER C915189, \$ 26"-14"-11" W, A DISTANCE OF BOD.00 FEET TO THE POINT OF BEGINNING. CONTAINING 10.24 ACRES OF LAND, MORE OR LESS.

# EXHIBIT B

Site Survey



	Site Management Form 12/1/2016
SITE NO.	SITE DESCRIPTION C915199B
SITE NAME	Site III-2 Tecumseh Phase III Business Park
SITE ADDRE	ESS: 2303 Hamburg Turnpike ZIP CODE: 14218
CITY/TOWN	: Lackawanna
COUNTY:	Erie
ALLOWABLE	E USE: Commercial and Industrial
	· · · · · · · · · · · · · · · · · · ·
	SITE MANAGEMENT DESCRIPTION
SITE MANAG	GEMENT PLAN INCLUDES: YES NO
Monitorir	ertification Plan ng Plan n and Maintenance (O&M) Plan
Periodic Rev	iew Frequency: once a year
Periodic Rev	iew Report Submitted Date: 04/30/2018
<u></u>	Description of Institutional Control
020 Kinross <b>2303 Hamb</b> Environme Block: 1	edevelopment Inc. Lakes Parkway urg Turnpike ental Easement :: 50 Sublot: Section: 141 Subsection: 11 S_B_L Image: 141.11-1-50 Ground Water Use Restriction IC/EC Plan Landuse Restriction Monitoring Plan Site Management Plan

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# **Description of Engineering Control**

## Tecumseh Redevelopment Inc.

4020 Kinross Lakes Parkway **2303 Hamburg Turnpike** Environmental Easement Block: 1 Lot: 50 Sublot: Section: 141 Subsection: 11 S\_B\_L Image: 141.11-1-50 Cover System