

# New York State Department of Environmental Conservation

## Division of Environmental Remediation

Office of the Director, 12th Floor

625 Broadway, Albany, New York 12233-7011

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Joe Martens  
Commissioner

DEC 16 2013

Mr. Keith A. Nagel  
Tecumseh Redevelopment Inc.  
4020 Kinross Lakes Parkway  
Richfield, Ohio 44289

Mr. Barry Sonshine  
Welded Tube USA, Inc.  
Welded Tube USA Realty, LLC  
111 Rayette Road  
Concord, Ontario L4K 2E9

Re: Certificate of Completion  
Site III-7 Tecumseh Phase III Business Park  
Site No. C915199G  
City of Lackawanna, Erie County

Dear Applicants:

Congratulations on having satisfactorily completed the remedial program at the Site III-7 Tecumseh Phase III Business Park. Enclosed please find an original, signed Certificate of Completion. The New York State Department of Environmental Conservation (DEC) 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:

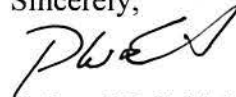
- If you are the site owner, you must record a notice of the COC in the recording office for the County (or Counties) where any portion of the site is located within 30 days of issuance of the COC; or if you are a prospective purchaser of the site, you must record a notice of the COC within 30 days of the date that you acquire the site. 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;
- Place the notice of the COC in the document repository for the site within 10 days of issuance of the COC;
- 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, 2015; and

- 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.

DEC will prepare and distribute to the Site Contact List a fact sheet describing the institutional and engineering controls that are required at the site.

If you have any questions regarding any of these items, please contact Maurice Moore, the Project Manager for this site, by telephone at (716) 851-7220 or by email at [mfmoore@gw.dec.state.ny.us](mailto:mfmoore@gw.dec.state.ny.us).

Sincerely,



Robert W. Schick, P.E.

Director

Division of Environmental Remediation

Enclosures

ec: Keith Nagel ([keith.nagel@arcelormittal.com](mailto:keith.nagel@arcelormittal.com))  
Barry Sonshine ([barry@weldedtube.com](mailto:barry@weldedtube.com))  
Krista Anders - DOH  
Matt Forcucci - DOH  
Michael Cruden, DEC  
Martin Doster, DEC  
Maurice Moore, DEC  
Kelly Lewandowski, DEC  
Patrick Foster, DEC  
George Heitzman, DEC



NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)  
**CERTIFICATE OF COMPLETION**

**CERTIFICATE HOLDER(S):**

**Name**

Welded Tube USA Realty, LLC  
Welded Tube USA, Inc.  
Tecumseh Redevelopment Inc.

**Address**

111 Rayette Road, Concord, Ontario L4K 2E9  
111 Rayette Road, Concord, Ontario L4K 2E9  
4020 Kinross Lakes Parkway, Richfield, OH 44289

**BROWNFIELD CLEANUP AGREEMENT:**

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

**Application Approval Amendment:** 8/20/12

**Agreement Execution Amendment:** 8/20/12

**SITE INFORMATION**

**Site No.:** C915199G **Site Name:** Site III-7 Tecumseh Phase III Business Park

**Site Owner:** Welded Tube USA Realty, LLC

**Street Address:** 2537 Hamburg Turnpike

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

**Site Size:** 39.230 Acres

**Tax Map Identification Number(s):** 141.15-1-1

**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 file no. 2013261303, Book/Page Deeds 11256/2215.

**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.

Joseph J. Martens  
Commissioner  
New York State Department of Environmental Conservation

By:  Date: December 16, 2013  
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-7 Tecumseh Phase III Business Park, Site ID No. C915199G**

**2537 Hamburg Turnpike, Lackawanna, New York, 14218**

**City of Lackawanna, Erie County, Tax Map Identification Number(s) 141.15-1-1**

**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 Welded Tube USA, Inc., Welded Tube USA Realty, LLC and Tecumseh Redevelopment Inc. for a parcel approximately 39.23 located at 2537 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):

- 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.

**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 #2013261303 BK/PG 11256/2215.

**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.

**PLEASE TAKE NOTICE**, the Certificate may entitle the Certificate holder(s) to tax credits in accordance with Tax Law Sections 21, 22 and 23.

**Site III-7 Tecumseh Phase III Business Park, Site No. C915199G  
2537 Hamburg Turnpike, Lackawanna, New York, 14218**

**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 be 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, New York 14203-2915, by contacting the Regional Environmental Remediation Engineer.

**WHEREFORE**, the undersigned has signed this Notice of Certificate:

Tecumseh Redevelopment, Inc.

By: Keith Nagel

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:**  
Tecumseh Redevelopment, Inc  
4020 Kinross Lakes Parkway  
Richfield, Ohio 44289

Continued on next page

**Site III-7 Tecumseh Phase III Business Park, Site No. C915199G  
2537 Hamburg Turnpike, Lackawanna, New York, 14218**

**WHEREFORE**, the undersigned has signed this Notice of Certificate:

Welded Tube USA, Inc., and Welded Tube USA Realty, LLC

By: Barry Sonshine

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:**  
Welded Tube USA, Inc., and  
Welded Tube USA Realty, LLC  
111 Rayette Road  
Concord, Ontario L4K 2E9





**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**  
**Site Management Form**  
 12/4/2013



**SITE DESCRIPTION**

**SITE NO.** C915199G

**SITE NAME** Site III-7 Tecumseh Phase III Business Park

**SITE ADDRESS:** 2537 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 type="checkbox"/>	<input checked="" type="checkbox"/>
Operation and Maintenance (O&M) Plan	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Periodic Review Frequency: once a year	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Periodic Review Report Submitted Date: 12/02/2013		

**Description of Institutional Control**

**Welded Tube USA Realty, LLC.**

111 Rayette Road  
**2537 Hamburg Turnpike**  
 Environmental Easement  
 Block: 1  
 Lot: 1  
 Sublot:  
 Section: 141  
 Subsection: 15  
 S\_B\_L Image: 141.15-1-1  
 Ground Water Use Restriction  
 IC/EC Plan  
 Landuse Restriction  
 Site Management Plan  
 Soil Management Plan

**Description of Engineering Control**



**Welded Tube USA Realty, LLC.**

111 Rayette Road

**2537 Hamburg Turnpike**

Environmental Easement

Block: 1

Lot: 1

Sublot:

Section: 141

Subsection: 15

S\_B\_L Image: 141.15-1-1

Cover System

Welded Tube Property Description

**SCHEDULE "A" PROPERTY DESCRIPTION**

PARCEL A:

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Lackawanna, County of Erie and State of New York being part of Lot No. 18 of the Ogden Gore Tract and part of Lot No. 24, Township 10, Range 8 of the Holland Land Company's Survey, and being BCP Site No. C915199G as shown on a survey of the Tecumseh Redevelopment, Inc., Business Park Phase III, Parcel "B" dated June 7, 2012, and made by Wendel, described as follows:

COMMENCING at the intersection of the westerly highway boundary of the Hamburg Turnpike (aka State Route No. 5) as appropriated by the State of New York by Notice of Appropriation recorded in the Erie County Clerk's Office in Liber 5650 of Deeds at page 404 and being Parcel No. 1 as shown on Map No. 1 and the municipal boundary line of the City of Lackawanna (to the North) and the Town of Hamburg (to the South), said point of intersection also being in the northerly line of lands conveyed to the South Buffalo Railroad Company by deed recorded in the Erie County Clerk's Office in Liber 10119 of deeds at page 131; thence N 22° 36' 14" W a distance of 2158.13 feet to the southeast corner of said Business Park Phase III, Parcel "B", said southeast corner being approximately 25 feet north from the existing northerly top of the high bank of Smokes Creek and in the westerly line of the South Return Water Trench; thence N 18° 20' 36" W along the easterly line of said Business Park Phase III, Parcel "B", said easterly line also being the westerly line of the aforesaid South Return Water Trench, a distance of 1327.70 feet to the principal point of beginning, said principal point of beginning being the southeast corner of BCP Site No. C915199G; running thence S 71° 39' 24" W a distance of 1036.13 feet to a point;

Thence N 48° 09' 58" W, a distance of 113.54 feet to a point;

Thence S 82° 08' 06" W, a distance of 124.50 feet to a point on the approximate center line of railroad tracks;

Thence along the approximate center line of said railroad tracks the following 5 courses and distances:

- (1) N 27° 51' 58" W, a distance of 325.00 feet to a point;
- (2) N 26° 40' 17" W, a distance of 130.00 feet to a point;
- (3) N 22° 56' 38" W, a distance of 120.00 feet to a point;
- (4) N 20° 21' 28" W, a distance of 138.87 feet to a point and

(5) N 18° 20' 36" W, a distance of 550.00 feet to the northwest corner of BCP Site No. C915199G;

Thence N 71° 41' 32" E, a distance of 1033.00 feet to a point;

Thence S 48° 01' 09" E, a distance of 180.00 feet to a point;

Thence N 71° 41' 32" E, a distance of 180.00 feet to a point in the easterly line of said Business Park Phase III, Parcel "B", said easterly line also being the westerly line of the South Return Water Trench;

Thence S 18° 20' 36" E along said easterly line of said Business Park Phase III, Parcel "B", said easterly line also being the westerly line of the aforesaid South Return Water Trench, a distance of 1221.54 feet to the principal point of beginning.



