

New York State Department of Environmental Conservation

Division of Environmental Remediation, 12th Floor

625 Broadway, Albany, New York 12233-7011

Phone: (518) 402-9706 • FAX: (518) 402-9020

Website: www.dec.state.ny.us



Alexander B. Grannis
Commissioner

DEC 30 2009

Mr. Michael Yount
NOCO Energy Corp.
700 Grand Island Boulevard
Tonawanda, New York 14150

Re: Certificate of Completion
Site Name: NOCO S#41
Site #: C915211
Site Address: 1055 Genesee Street, Buffalo

Dear Mr. Yount:

Congratulations on having satisfactorily completed the remedial program at the NOCO #S41 Site. Enclosed please find an original, signed Certificate of Completion. The New York State Department of Environmental Conservation (NYSDEC) 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 the date of this letter; 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 standard notice form is attached to this letter;
- Provide a notice of the COC and a fact sheet describing the institutional and engineering controls (IC/EC) that are required at the site to the Brownfield Site Contact list within 10 days of the date of this letter;
- 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 June 2011; and

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)
CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name

NOCO ENERGY CORP.

Address

2440 Sheridan Drive, Tonawanda, NY 14150

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 6/13/07 **Agreement Execution:** 7/9/07 **Agreement Index No.:** B9-0741-07-04

SITE INFORMATION

Site No.: C915211 **Site Name:** NOCO #S41

Site Owner: NOCO Express Properties, LLC

Street Address: 1055 Genesee Street

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

Site Size: 0.73Acres

Tax Map Identification Number(s): 100.76-5-1

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 2: Restricted use with generic 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; 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 2009254868.

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

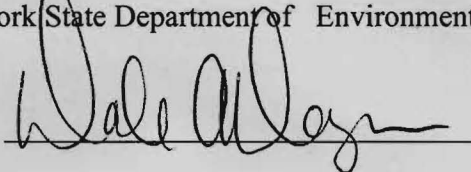
This Certificate of Completion may be modified or revoked by the Commissioner following notice and an opportunity for a hearing in accordance with ECL Section 27-1419 and 6NYCRR Part 375-1.9(e) upon a finding that:

- (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.

Alexander B. Grannis
Commissioner
New York State Department of Environmental Conservation

By:



Date:

12/30/09

SCHEDULE "A" PROPERTY DESCRIPTION

Address: 1055 Genesee Street, Buffalo, NY

Erie County

Tax Map: 100.76-5-1

Attachment A

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being part of Lot No. 5, Township 11, Range 8 of the Holland Land Company's Survey, described as follows:

Beginning at a point in the easterly line of Fillmore Avenue as a 100 foot wide right of way, distant 50 feet northerly from its intersection with the northerly line of Peterson Street as a 49.5 foot wide right of way, (which point of beginning is also the northwest corner of lands conveyed to Central Oil Company Inc. by deed recorded in Erie County Clerk's Office in Liber 1355 of Deeds page 405); running thence northerly along the easterly line of Fillmore Avenue 247.52 feet to its intersection with the southerly line of Genesee Street; running thence easterly along the southerly line of Genesee Street 130.47 feet to the northeast corner of the lands secondly described in a certain deed from John G. Bilz as executor of the last will and testament of Anna Maria Baczhold, deceased, to August Aichinger and Mary his wife dated December 10, 1910 and recorded in said Clerk's Office in Liber 1170 of Deeds page 102; running thence southerly along the easterly line of said land so described in said deed to August Aichinger and Mary his wife, as aforesaid, 150 feet to the northerly line of lands conveyed by August Aichinger and Mary his wife to Joseph J. Stoll by deed dated June 1, 1911 and recorded in said Clerk's Office in Liber 1204 of Deeds page 66; running thence westerly along the northerly line of said lands so conveyed to Joseph J. Stoll, as aforesaid, .17 of a foot more or less to the westerly line of the lands so conveyed to Joseph J. Stoll, as aforesaid; running thence southerly along the said westerly line of said lands so conveyed to Joseph Stoll, as aforesaid 147.21 feet to the northerly line of Peterson Street; thence southwesterly along the northerly line of Peterson Street 47.63 feet to the easterly line of lands so conveyed to the Central Oil Company Inc.; thence northerly along the easterly line of lands so conveyed to the Central Oil Company Inc. 9.07 feet to the northeast corner of lands so conveyed to the Central Oil Company Inc.; thence westerly along the northerly line of lands so conveyed to the Central Oil Company Inc., 72 feet to the easterly line of Fillmore Avenue at the point or place of beginning.

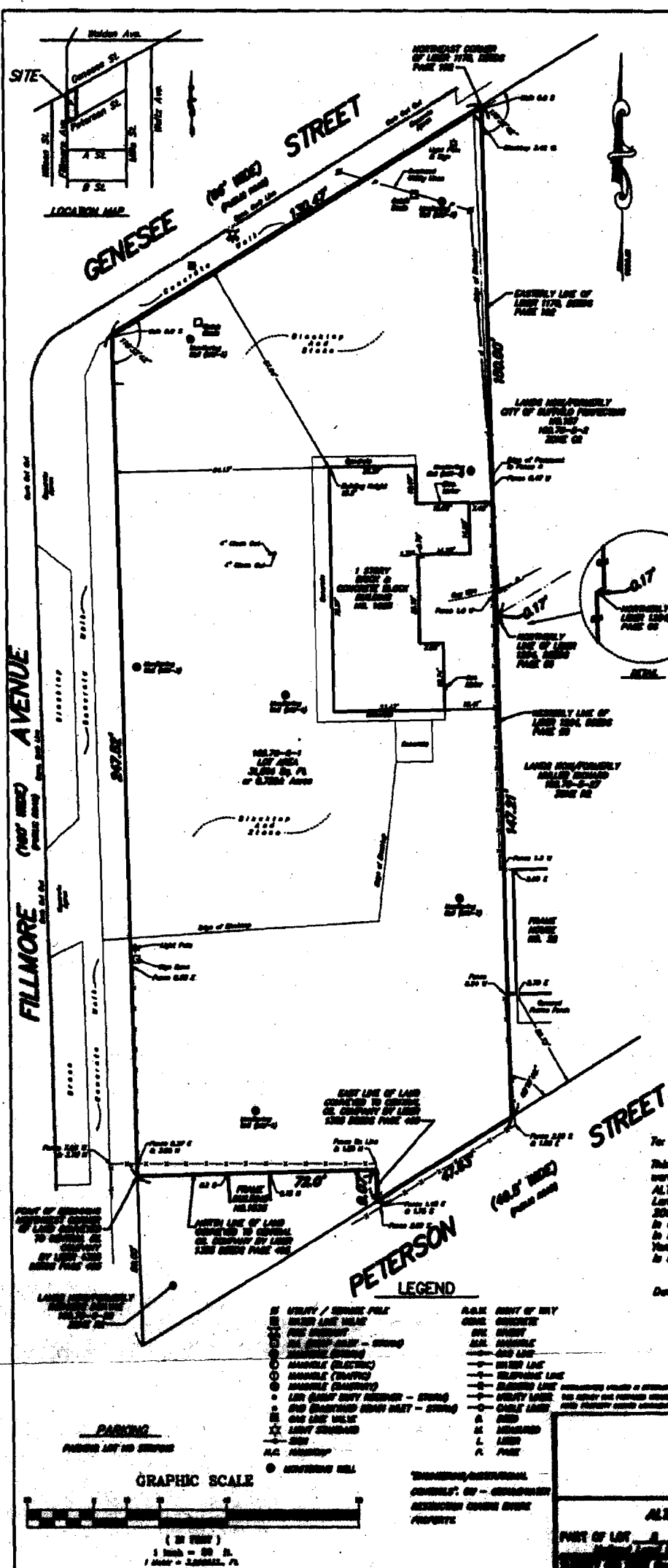
TOGETHER with the appurtenances and all the estate and rights of the Grantor in and to said premises.

TO HAVE AND TO HOLD the premises herein granted unto the Grantee, its successors and assigns forever.

AND the said Grantor covenants that it has not done or suffered anything whereby the said premises have been incumbered in any way whatever.

This parcel containing 31,604 Sq. Ft. or 0.726 Acres more or less

This parcel conveyed to NOCO Motor Fuels, Inc. in Liber 10566 of Deeds at page 432.



LEGAL DESCRIPTION

ALL THAT TRACT OR PARCELS OF LAND situate in the City of Buffalo, County of Erie and State of New York, being part of Lot No. 2, Township 11, Range 2 of the Indian Land Commission's Survey described as follows:

standing at a point on the eastern line of Flange Avenue on a 100 foot wide strip of land adjacent to the north forty from the boundary with the eastern line of Flange Avenue. Point on 44.8 feet and also right of way (width) point of beginning is also the southeast corner of lands conveyed to John S. Gorman by deed recorded in San Diego County Clerk's Office in Liber 1282 of Grantee page 4482, running thence northerly along the eastern line of Flange Avenue 200.00 feet to its intersection with the eastern line of Gorman Street, running thence easterly along the eastern line of Gorman Street 116.00 feet to the southeast corner of the tract of 100 feet wide strip of land on the east side and intersection of Jones Road (hereinafter, hereinafter, to August 1939) and thence its width about December 10, 1939 and according to said Clerk's Office in Liber 1170 of Grantee page 588, running thence northerly along the eastern line of said land as described in said deed to August 1939) and thence its width, an abstract 100 feet to the northern line of lands owned by John S. Gorman as shown on the map attached hereto and according to said Clerk's Office in Liber 1282 of Grantee page 4482, running thence northerly along the northern line of said lands as conveyed to Joseph A. Pitts on abstract 17 of a 100 acre or less to the western line of the lands as conveyed to Joseph A. Pitts on abstract 17 of a 100 acre or less, thence northerly along the said western line of said lands as conveyed to Joseph A. Pitts on abstract 17 of a 100 acre or less, thence easterly along the eastern line of said lands as conveyed to Joseph A. Pitts on abstract 17 of a 100 acre or less, thence southerly along the northern line of Flange Avenue 200.00 feet to the eastern line of lands as conveyed to the State of California, thence northerly along the eastern line of lands as conveyed to the State of California on 12.00 feet to the southeast corner of lands owned by John S. Gorman as shown on the map attached hereto and according to said Clerk's Office in Liber 1282 of Grantee page 4482, thence easterly along the eastern line of lands as conveyed to the State of California on 12.00 feet to the eastern line of Flange Avenue at the point or place of beginning.

TRANSFER with the appurtenances and all the estate and rights of the donor in and to said premises.

TO HAVE AND TO HOLD the premises herein granted unto the Grantee, his successors and assigns forever.

ADD the said Greater comments that it has not done or suffered anything thereby the said petitioners have been humiliated in our own children.

This parcel containing 31,894 Sq. Ft. or 0.726 Acres more or less
This parcel conveyed to 10222 Motor Pools, Inc. in Liber 18896 of Bonds at page 43

ENCROACHMENTS

Notes: Forams located along the east and south property lines may overprint, depending on orientation.

ENVIRONMENTAL EASTMENT AREA

SAME AS LEGAL DESCRIPTION

NOTES

AS OF THE DATE OF THIS SURVEY THERE WAS NO FIELD EVIDENCE OF THE USE OF A ROAD WHICH WOULD BRING ONE OF LAWELL

AS OF THE DATE OF THIS SURVEY THERE WAS NO FIELD EVIDENCE OF STEAK AS A CARRIER

ZONING & SETBACK INFORMATION

CITY OF BUFFALO

**FURNISHES IN FORM OF (COMMUNITY BUSINESS SURVEY)
TWO PER CENT ANNUAL INCREASE SAME AS IN THE CH DISTRICT
ANNUAL INCREASE UNDER ONE PERCENT NOT TO EXCEED 20 PER**

CONCLUSIONS

3. THERE SHALL NOT BE CONTRACTS, AGREEMENTS, OR OTHER WRITTEN PARTS OF THE SLAVE FURNISHING OR LOANING AS AN AGREEMENT, THE FIRST TWO PARAGRAPHS OF SUCH A CONTRACT SHALL APPLY TO THE CONTRACT, BUT THIS FURNISHING SHALL NOT BE OBLIGATED TO SIGNIFY A FURTHER WRITTEN ORDER THAN THE SIGNATURE OF ANY PERSONS ORDERING IN THE FIRST SLAVE FURNISHING ON THE DATE OF SIGNATURE OF THE FIRST ORDER.

[illegible]

ROOF TILE INSURANCE COMPANY
AN ANNUAL REPORT EFFECTIVE JANUARY 31, 2000
SCHEDULE B, SECTION 2

14.) PARALLEL BETWEEN THE LINES OF FENCES AND THE LINES OF RECORD 1974.
(PLOTED ON GRADING)

SURVEYOR'S CERTIFICATION

For New York State -- Department of Environmental Conservation


This is to certify that this map or plot and the survey on which it is based were made in accordance with the Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, fully established and adopted by American Land Title Association and the National Society of Professional Surveyors in 2000. Pursuant to the Accuracy Standards as adopted by ALTA and NSPS and in effect on the date of this certification, the undersigned further certifies that it is his/her opinion, as a land surveyor registered in the State of New York, that the Relative Accuracy of this survey does not exceed that which is specified therein.

7-11-2014

Order For C. Miller

Frank C. Butler Rochester, N.Y. 14657

11/4/78 - FBI REC REQUIREMENTS
12/4/78 - ASSIGNED FILE SEARCH
6/1/79 - 6888 AIR MAIL BILLS & MILE OF PAYMENT

	<p> WILLIAM BLUMBERG & SONS LAND SURVEYORS, L.P. 100 WEST 10TH BUTTELA, NEW YORK 10011 PHONE (212) 633-2040 - FAX (212) 633-2041 </p>	<p> MAP NO. 7 STATE OF NEW YORK COUNTY OF ... TOWN OF ... SECTION ... ALL RIGHTS RESERVED </p>
<p align="center">ALLEGHENY LAND TITLE SURVEY</p>		
<p> PART OF LOT ... SECTION ... TOWNSHIP ... RANGE ... OF THE ... COUNTY OF ... STATE OF ... </p>		

NOTICE OF CERTIFICATE OF COMPLETION

Brownfield Cleanup Program

6 NYCRR Part 375-1.9(d)

NOCO #S41, Site# C915211

1055 Genesee Street, Buffalo, NY 14212

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 NOCO Energy Corp. for a parcel approximately 0.75 acres located at the 1055 Genesee Street in the City of Buffalo, 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.

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 CTRL#:2009254868, BK/PG:D11175/2301.

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

NOCO #S41, C915211, 1055 Genesee Street, Buffalo, NY 14212

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 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, NY 14203-2999, by contacting the Regional Environmental Remediation Engineer.

WHEREFORE, the undersigned has signed this Notice of Certificate

NOCO Energy Corp.

By: _____

Title: _____

Date: _____

STATE OF NEW YORK) SS:
COUNTY OF ERIE)

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:

NOCO Energy Corp. _____
2440 Sheridan Drive _____
Tonawanda, NY 14150 _____

12/03/09

SCHEDULE "A" PROPERTY DESCRIPTION

Address: 1055 Genesee Street, Buffalo, NY

Erie County

Tax Map: 100.76-5-1

Attachment A

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being part of Lot No. 5, Township 11, Range 8 of the Holland Land Company's Survey, described as follows:

Beginning at a point in the easterly line of Fillmore Avenue as a 100 foot wide right of way, distant 50 feet northerly from its intersection with the northerly line of Peterson Street as a 49.5 foot wide right of way, (which point of beginning is also the northwest corner of lands conveyed to Central Oil Company Inc. by deed recorded in Erie County Clerk's Office in Liber 1355 of Deeds page 405); running thence northerly along the easterly line of Fillmore Avenue 247.52 feet to its intersection with the southerly line of Genesee Street; running thence easterly along the southerly line of Genesee Street 130.47 feet to the northeast corner of the lands secondly described in a certain deed from John G. Bilz as executor of the last will and testament of Anna Maria Baeczhold, deceased, to August Aichinger and Mary his wife dated December 10, 1910 and recorded in said Clerk's Office in Liber 1170 of Deeds page 102; running thence southerly along the easterly line of said land so described in said deed to August Aichinger and Mary his wife, as aforesaid, 150 feet to the northerly line of lands conveyed by August Aichinger and Mary his wife to Joseph J. Stoll by deed dated June 1, 1911 and recorded in said Clerk's Office in Liber 1204 of Deeds page 66; running thence westerly along the northerly line of said lands so conveyed to Joseph J. Stoll, as aforesaid, .17 of a foot more or less to the westerly line of the lands so conveyed to Joseph J. Stoll, as aforesaid; running thence southerly along the said westerly line of said lands so conveyed to Joseph Stoll, as aforesaid 147.21 feet to the northerly line of Peterson Street; thence southwesterly along the northerly line of Peterson Street 47.63 feet to the easterly line of lands so conveyed to the Central Oil Company Inc.; thence northerly along the easterly line of lands so conveyed to the Central Oil Company Inc. 9.07 feet to the northeast corner of lands so conveyed to the Central Oil Company Inc.; thence westerly along the northerly line of lands so conveyed to the Central Oil Company Inc., 72 feet to the easterly line of Fillmore Avenue at the point or place of beginning.

TOGETHER with the appurtenances and all the estate and rights of the Grantor in and to said premises.

TO HAVE AND TO HOLD the premises herein granted unto the Grantee, its successors and assigns forever.

AND the said Grantor covenants that it has not done or suffered anything whereby the said premises have been incumbered in any way whatever.

This parcel containing 31,604 Sq. Ft. or 0.726 Acres more or less

This parcel conveyed to NOCO Motor Fuels, Inc. in Liber 10566 of Deeds at page 432.



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
12/24/2009



SITE DESCRIPTION

SITE NO. C915211

SITE NAME NOCO #S41

SITE ADDRESS: 1055 Genesee Street **ZIP CODE:** 14212

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: Annually

First Periodic Review Date: June 2011

Description of Institutional Control

NOCO Energy Express Properties, LLC

1055 Genesee Street

Environmental Easement

Block: 5

Lot: 1

Sublot:

Section: 100

Subsection: 76

S_B_L Image: 100.76-5-1

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

Description of Engineering Control

NONE