

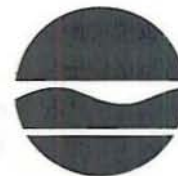
**New York State Department of Environmental Conservation**

**Division of Environmental Remediation, 12<sup>th</sup> Floor**

625 Broadway, Albany, New York 12233-7011

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

Website: www.dec.state.ny.us



Peter M. Iwanowicz  
Acting Commissioner

DEC 28 2010

Mr. Jon Williams  
South Buffalo Development LLC  
333 Ganson Street  
Buffalo, New York 14203

Re: Certificate of Completion  
Site Name: Buffalo Color Corporation Area C  
Site No.: C915231  
City of Buffalo, Erie County

Dear Mr. Williams:

Congratulations on having satisfactorily completed the remedial program at the Buffalo Color Corporation Area C site. Enclosed please find an original, signed Certificate of Completion. The New York State Department of Environmental Conservation (Department) 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. 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 issuance of the COC;
- 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 2012; 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.

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

Sincerely,

Dale A. Desnoyers  
Director

Division of Environmental Remediation

cc w/ enclosure:

Steve Bates – NYSDOH  
Nathan Freeman - NYSDOH  
D. Flynn – Phillips Lytle ( [dflynn@phillipslytle.com](mailto:dflynn@phillipslytle.com) )  
R. Galloway – Honeywell ( [rich.galloway@honeywell.com](mailto:rich.galloway@honeywell.com) )  
J. Scrabis – MACTEC ( [jmscrabis@mactec.com](mailto:jmscrabis@mactec.com) )

cc w/o enc.:

Michael Cruden  
Eugene Melnyk  
Martin Doster  
James Charles

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

**CERTIFICATE HOLDER(S):**

Name	Address
SOUTH BUFFALO DEVELOPMENT LLC	333 Ganson Street, Buffalo, NY 14203

**BROWNFIELD CLEANUP AGREEMENT:**

**Application Approval:** 4/1/09 **Agreement Execution:** 4/27/09 **Agreement Index No.:** B9-0784-08-06

**Application Approval Amendment:** none **Agreement Execution Amendment:** none

**SITE INFORMATION**

**Site No.:** C915231 **Site Name:** Buffalo Color Corporation Site Area C

**Site Owner:** SOUTH BUFFALO DEVELOPMENT LLC

**Street Address:** 229 Elk Street

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

**Site Size:** 6.030 Acres

**Tax Map Identification Number(s):** 122.12-1-30, 122.12-1-35, 122.12-1-36

**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 2010199446.

**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.

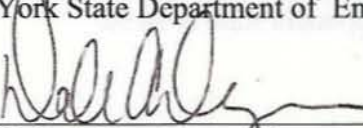
**CERTIFICATE MODIFICATION/REVOCATION**

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.

Peter M. Iwanowicz  
Acting Commissioner  
New York State Department of Environmental Conservation

By:  Date: **DEC 28 2010**  
Dale A. Desnoyers, Director  
Division of Environmental Remediation

**NOTICE OF CERTIFICATE OF COMPLETION**

**Brownfield Cleanup Program**

**6 NYCRR Part 375-1.9(d)**

(Site Name) Buffalo Color Corporation Area C, (Site ID No.) C915231  
(Site Address) 229 Elk Street, Buffalo New York

**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 South Buffalo Development LLC for a parcel approximately 6.03 acres located at 229 Elk 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.

*[Include the following paragraph if there is a groundwater use restriction]*

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 2010199446.

**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

**Buffalo Color Corporation Area C, Site # C915231, 229 Elk Street, City of Buffalo**

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

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

*(Applicant)*

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:**  
South Buffalo Development, LLC  
333 Ganson Street  
Buffalo, New York 14203

12/03/09



**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**  
**Site Management Form**  
 12/23/2010



**SITE DESCRIPTION**

**SITE NO.** C915231

**SITE NAME** Buffalo Color Corporation Site Area C

**SITE ADDRESS:** 229 Elk Street **ZIP CODE:** 14210

**CITY/TOWN:** Buffalo

**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 checked="" type="checkbox"/>	<input type="checkbox"/>

Periodic Review Frequency: once a year  YES  NO

First Periodic Review Date: 06/15/2012

**Description of Institutional Control**

**South Buffalo Development, LLC**

Part of 5 Babcock Street

Environmental Easement

Block: 1

Lot: 30

Sublot:

Section: 122

Subsection: 12

S\_B\_L Image: 122.12-1-30

Building Use Restriction

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

Lot: 35

Sublot:

Section: 122

Subsection: 12

S\_B\_L Image: 122.12-1-35  
Building Use Restriction

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

Lot: 36

Sublot:

Section: 122

Subsection: 16

S\_B\_L Image: 122.12-1-36  
Building Use Restriction

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

#### Description of Engineering Control

**South Buffalo Development, LLC**

Part of 5 Babcock Street

Environmental Easement

Block: 1

Lot: 30

Sublot:

Section: 122

Subsection: 12

S\_B\_L Image: 122.12-1-30  
Cover System

Lot: 35

Sublot:

Section: 122

Subsection: 12

S\_B\_L Image: 122.12-1-35  
Cover System

Lot: 36

Sublot:

Section: 122

Subsection: 16

S\_B\_L Image: 122.12-1-36  
Cover System



Certificate of Completion  
Exhibit A

**SCHEDULE "A" AND ENVIRONMENTAL EASEMENT DESCRIPTION**

229 Elk Street, 145 Prenatt Street, 5 Babcock Street  
City of Buffalo, Erie County, NY  
Section 122.12 Block 1 Lot(s) 30, 35 & 36

Area C

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie, State of New York, being part of Lot Nos. 134 and 137, Township 10, Range 8 of the Buffalo Creek Reservation, bounded and described as follows:

BEGINNING at a point of intersection of the southerly line of Elk Street with the westerly line of Lee Street;

Thence southerly along the westerly line of Lee Street, S13°45'01"W a distance of 709.59 feet more or less to the northerly line of Prenatt Street, said point being the north east corner of Prenatt Street as closed on September 9, 1955 and recorded in Liber 5836 of deeds at page 182, parcel B;

Thence southerly, along the east line of Prenatt Street as closed, S42°59'37"W a distance of 27.15 to a point, which point is the northeast corner of lands conveyed to the Buffalo Creek Railroad Company by deed filed in the Erie County Clerks Office in Liber 6040 of deeds at page 437;

Thence westerly along the north line of lands conveyed to the Buffalo Creek Railroad Company N63°37'29"W a distance of 143.31 feet to a point of curvature;

Thence continuing along the north line of lands conveyed to the Buffalo Creek Railroad Company by deed in Liber 6040 of deeds at Page 437 and Liber 1364 of deeds at Page 538, along a curve to the right with a radius of 330.00 feet, a delta of 62°32'03", an Arc Length of 360.17 feet and a chord bearing of N32°20'25"W a chord distance of 342.56 feet to a point on the east line of lands conveyed to said Buffalo Creek Railroad Company by deed recorded in Liber 250 of Deeds at Page 319, and the west line of Lot 137;

Thence northerly along said east line of Buffalo Creek Railroad Company's land as conveyed by deed recorded in Liber 250 of Deeds at Page 319, and the west line of Lot 137 N13°36'03"E a distance of 309.89 feet to a point, which point is the south corner of lands conveyed to the Buffalo Creek Railroad Company by deed filed in the Erie County Clerk's Office in Liber 1364 of Deeds at page 538;

Thence northeasterly along the Buffalo Creek Railroad Company lands on a record deed bearing of N26° 34' 36"E, and measured bearing of N 26°41'16"E a distance of 158.99 feet to the southerly line of Elk Street;

Thence easterly along the southerly line of Elk Street, S76°10'39"E a distance of 365.11 feet more or less to the point or place of beginning, Containing 6.027 acres more or less.





