

CHRISTOPHER L. JACOBS, ERIE COUNTY CLERK

PHILLIPS LYTLE - ATT LINDA MORGAN

ACCOUNT #: 1732

RECEIPT: 12001085  
DATE: 1/4/2012 TIME: 11:36:54 AM

DUPLICATE RECEIPT

ITEM - 01 740  
RECD: 1/4/2012 11:36:54 AM  
FILE: 2012002158 BK/Pg D 11215/1036  
NEW YORK STATE DEPT OF ENVIRONMENTAL CONSERV  
ATION

SOUTH BUFFALO DEVELOPMENT LLC  
Recording Fees  
Sub. Total                    85.50                    85.50

TOTAL DUE  
PAID TOTAL                    \$85.50  
PAID ESCROW                    \$85.50  
   85.50

REC BY: Diane  
COUNTY RECORDER

**FILED**

JAN 04 2009

ERIE COUNTY  
CLERK'S OFFICE

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

**Buffalo Color Corporation Area E, Site ID No. C915232**

**100 (f/k/a) Lee Street; 339 Elk Street; 427 Elk Street; 5 Babcock Street, 98 Maurice Street**

**City of Buffalo, Erie County Tax Map Identification Number(s):**

**122.12-1-9.11; 122.12-1-9.13; 122.12-1-12.1; 122.12-1-30; 122.12-1-31**

**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 15.8 acres located at 85 Lee 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 6NYCRR 375-1.8(g)(2)i.
- Restricted Residential Use, as set forth in 6NYCRR 375-1.8(g)(2)ii.
- Commercial Use, as set forth in 6NYCRR 375-1.8(g)(2)iii.
- Industrial Use, as set forth in 6NYCRR 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 2011251418; Liber 11213, Page 7172.

**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 E, Site # C915232, 100 (f/k/a 85) Lee Street, 339 Elk St.;  
427 Elk St.; 5 Babcock St.; 98 Maurice St., 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: Jon M. Williams

Title: By its Manager SBD Holdings I, Inc.  
Jon M. Williams, President SBD Holdings I, Inc.

Date: January 3, 2012

STATE OF NEW YORK ) SS:  
COUNTY OF Erie )

On the 3rd day of January, in the year 2012 before me, the undersigned, personally appeared Jon M. Williams 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.

Nancy L. Blatnik  
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

NANCY L. BLATNIK  
Notary Public, State of New York  
Qualified to Perform Notary Public Duties  
My Commission Expires 12/03/2013

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:**

**Execution:** 4/27/09    **Agreement Index No.:** B9-0785-08-09

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

**SITE INFORMATION**

**Site No.:** C915232    **Site Name:** Buffalo Color Corporation Area E Site

**Site Owner:** SOUTH BUFFALO DEVELOPMENT, LLC

**Street Address:** 100 Lee Street (l/k/a 85 Lee Street) et. al.

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

**Site Size:** 15.800 Acres

**Tax Map Identification Number(s):** 122.12-1-12.1, 122.12-1-30, 122.12-1-31, 122.12-1-9.11, 122.12-1-9.13

**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 2011251418, Liber 11213, pg 7172.

#### **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**

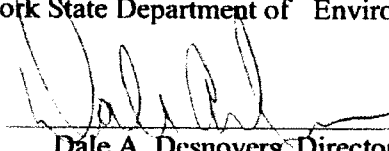
This Certificate of Completion may be modified or revoked by the Commissioner following notice and an opportunity for a hearing in accordance with ECL Section 27-1419 and 6NYCRR Part 375-1.9(e) upon a finding that:

- (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:



Dale A. Desnoyers, Director  
Division of Environmental Remediation

Date: DEC 30 2011

Certificate of Completion  
Exhibit A

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

339 Elk Street - 122.12-1-9.13  
100 Lee Street - 122.12-1-9.11  
127 Elk Street - 122.12-1-12.1  
5 Babcock Street - 122.12-1-30  
98 Maurice Street- 122.12-1-31  
City of Buffalo, Erie County, NY

Area E

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. 133, 193, 194, 195, 196 and 197 of the Buffalo Creek Reservation, and more particularly bounded and described as follows:

BEGINNING at the intersection of the easterly line of Lee Street with the northerly line of former Prenatt Street;

Thence along the easterly line of Lee Street a record bearing of N.13° 38' 00"E and measured bearing of N.13°45'01"E a distance of 525.93 feet to the southerly line of lands conveyed to Elk-Lee LLC by deed filed in the Erie County Clerks Office in Liber 11106 of deeds at page 9020;

Thence parallel with the south line of Elk Street S.76°10'39"E east and along the southerly line of Elk-Lee LLC, a distance of 831.47 feet to the westerly line of the former Maurice Street;

Thence N.13°45'01"E along the former west line of Maurice Street and along the east line of Elk-Lee, LLC a distance of 197.00 to the south line of Elk Street;

Thence N.13°45'01"E along the south line of Elk Street a distance of 260.00 feet to the westerly line of Orlando Street;

Thence S.13°45'01"W along the westerly line of Orlando street a distance of 757.00 feet to a point on the North line of the former Prenatt Street;

Thence S.76°10'39"E along the former north line of Prenatt Street a distance of 300.00 feet to the west line of Babcock Street;

Thence S.13°45'01"W along the west line of Babcock street a distance of 33.00 feet to the north east 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 N.71°48'22"W along the north line of lands conveyed to The Buffalo Creek Railroad Company a distance of 170.56 feet to a point in the west line lot 197 distant 20 feet southerly, measured along the west line of Lot 197 from the north line of the former Prenatt Street;

Thence N.76°10'39"W parallel with the north line of the former Prenatt Street, along the north line of lands conveyed to The Buffalo Creek Railroad Company a distance of 660.00 feet to a point in the west line lot 97 distant 20 feet southerly, measured along the west line of Lot 196 from the north line of the former Prenatt Street;

Thence N.75°10'16"W along the north line of lands conveyed to The Buffalo Creek Railroad Company a distance of 398.50 feet to a point in the west line lot 195 distant 13 feet southerly, measured along the west line of Lot 195 from the north line of the former Prenatt Street;

Thence N.71°53'01"W along the north line of lands conveyed to The Buffalo Creek

Railroad Company a distance of 100.89 feet to a point in a line drawn parallel with and 25 feet southerly measured at right angles from the north line of the former Prenatt Street;

Thence N.63°37'29"W along the north line of lands conveyed to The Buffalo Creek Railroad Company a distance of 77.02 feet to a point in the west line of the street closing (Prenatt Street) as described in deed filed in the Erie County Clerks Office in Liber 5836 of deeds at page 182, parcel A;

Thence N.43°02'06" along the west line of the street closing (Prenatt Street) as described in deed filed in the Erie County Clerks Office in Liber 5836 of deeds at page 182, parcel A a distance of 26.10 feet to the point or place of beginning.

#### EXCEPTING

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. 133, according to a map and survey of a part of the Buffalo Creek Reservation adjoining the City of Buffalo, made by Lovejoy & Emslie, said lot being in Township 10, Range 8 of the Holland Land Company's Survey, more particularly described as follows:

Beginning at a point in the north line of Prenatt Street, said point being 30.47 feet, measured easterly from the point of intersection of the northerly line of Prenatt Street with the easterly line of Lee Street;

Thence northerly at right angles to the northerly line of Prenatt Street N.26°22'30"E a distance of 30 feet to a point;

Thence easterly in a strait line parallel with and distant 30 feet at right angles from the north line of Prenatt Street S.63°37'29"E a distance of 135 feet deed, 129.84 feet measure more or less to a point in the east line of Lot 133;

Thence southerly along the east line of Lot 133 S.13°45'01"W a distance of 28.50 feet to a point in the north line of Prenatt Street;

Thence westerly along the north line of Prenatt Street N.76°10'39"W a distance of 10.02 feet to an angle point in the north line of Prenatt Street;

Thence continuing along the north line of Prenatt street N.63°37'29"W a distance of 126.29 feet more or less to the Point or Place of Beginning.

#### Portion of Area E

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie, State of New York, being part of Lot No. 133 of the Buffalo Creek Reservation, and more particularly bounded and described as follows:

BEGINNING at the intersection of the easterly line of Lee Street with the Southerly line of Elk street;

Thence easterly along the south line of Elk Street on a record deed bearing of S76° 17' 40"E and a measured bearing of S76°10'39"E a distance of 85.00 feet to a point;

Thence southerly on a record deed bearing of S13° 38' 00"W and measured bearing of S13°45'01"W a distance of 53.00 feet to a point;

Thence westerly on a record deed bearing N76° 17' 40"W and measured bearing of N76°10'39"W a distance of 85.00 feet to a point on the east line of Lee Street;

County: Erie

Site No: C 915232

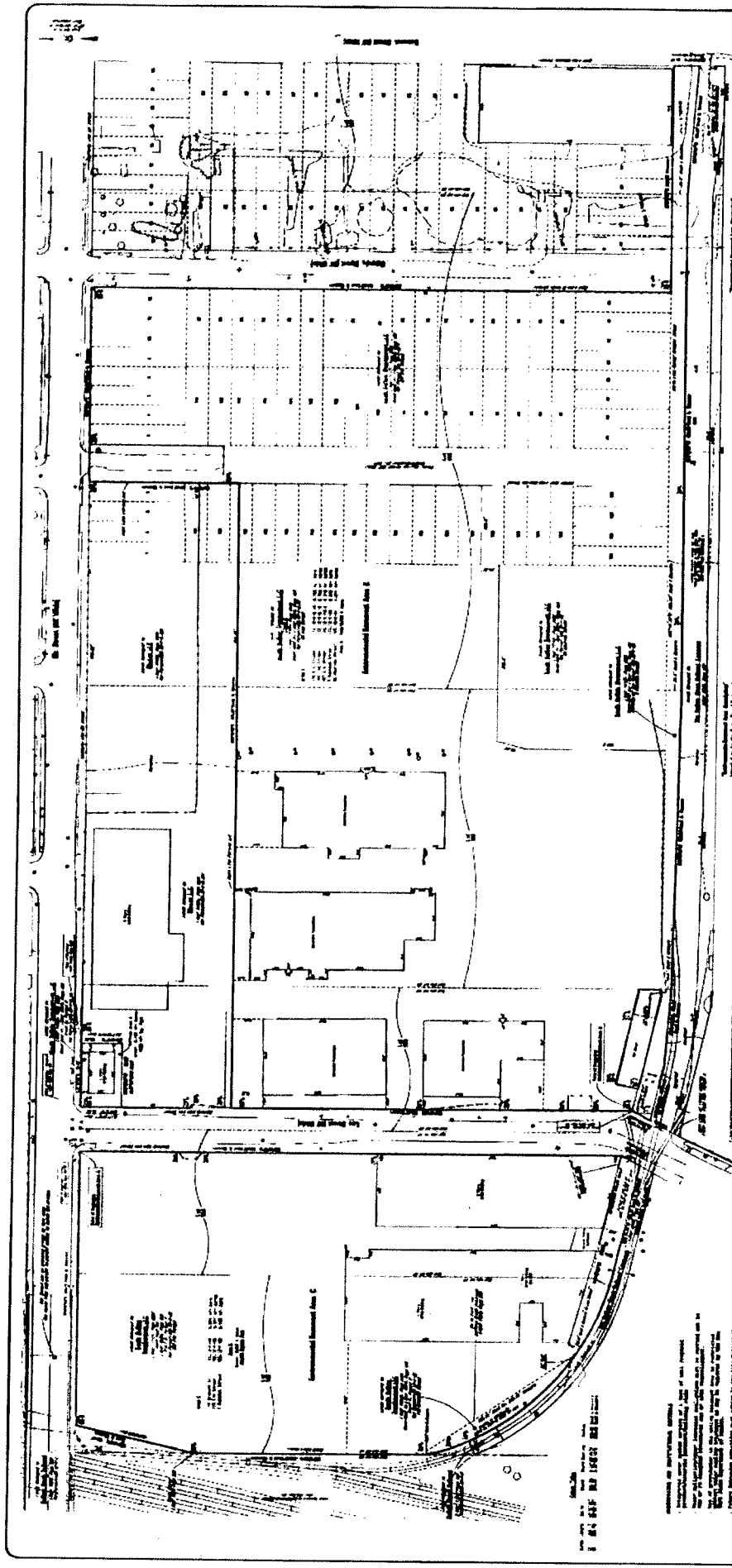
BCA Index No: B9- 0785-08-09

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Thence northerly along the east line of Lee Street on a record bearing of  
N63° 44' 30"W and measured bearing of N13°45'01"E a distance of 53.00 feet to the Point or  
Place of Beginning, Containing 0.103 Acre more or less

SURVEY



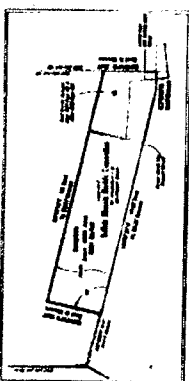


**NOTES**

1. ALL DIMENSIONS ARE IN FEET AND INCHES.
2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
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**Project Information**

Project Name: \_\_\_\_\_

Client: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip: \_\_\_\_\_

Scale: \_\_\_\_\_

Date: \_\_\_\_\_

Drawn by: \_\_\_\_\_

Checked by: \_\_\_\_\_

Approved by: \_\_\_\_\_

**Legend**

\_\_\_\_\_ Existing Building Footprint

\_\_\_\_\_ Proposed Building Footprint

\_\_\_\_\_ Existing Parking

\_\_\_\_\_ Proposed Parking

\_\_\_\_\_ Existing Site Boundary

\_\_\_\_\_ Proposed Site Boundary

\_\_\_\_\_ Existing Roadway

\_\_\_\_\_ Proposed Roadway

\_\_\_\_\_ Existing Utility

\_\_\_\_\_ Proposed Utility

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