

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

Mr. Mark Croce
Buffalo Development Corporation
257 Franklin Street
Buffalo, New York 14202

DEC 28 2017

Re: Certificate of Completion
432 Pearl Street Site
Buffalo, Erie County
Site No. C915237

Dear Mr. Croce:

Congratulations on having satisfactorily completed the remedial program at the 432 Pearl Street Site. 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:

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 2019.

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

Sincerely,



Michael J. Ryan, P.E.
Assistant Director
Division of Environmental Remediation

cc w/ enclosure:

E. Melnyk

J. Dougherty

M. Croce – Buffalo Development Corporation (markcroce@gmail.com)

L. Riker – Benchmark (lriker@benchmarkees.com)

S. Nasca – Knoer Group (snasca@knoergroup.com)

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)
CERTIFICATE OF COMPLETION

| | |
|---------------------------------|----------------------------------------|
| Name | Address |
| Buffalo Development Corporation | 257 Franklin Street, Buffalo, NY 14202 |

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 9/12/07 **Agreement Execution:** 12/21/07 **Agreement Index No.:**C915237-10-10

Application Approval Amendment: none

Agreement Execution Amendment: none

SITE INFORMATION:

Site No.: C915237 **Site Name:** 432 Pearl Street
Site Owner: Buffalo Development Corporation
Street Address: 432 Pearl Street
Municipality: Buffalo **County:** Erie **DEC Region:** 9
Site Size: 0.700 Acres
Tax Map Identification Number(s): 111.38-2-20.1, 111.38-2-4.1
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: Restricted-Residential, 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 Book 11271, Page 1836.

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.

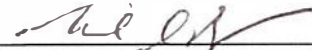
CERTIFICATE MODIFICATION/REVOCATION

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: 12/28/17

Michael J. Ryan, P.E., Assistant Director
Division of Environmental Remediation

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

432 Pearl Street, Site ID No. C915237
432 Pearl Street, Buffalo, New York 14202
City of Buffalo, Erie County
Tax Map Identification Numbers: **111.38-2-4.1; 111.38-2-20.1**

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 Buffalo Development Corporation for a parcel approximately 0.45 acres located at 432 Pearl Street and for a non-contiguous parcel approximately 0.25 acres located at the 267 Franklin Street in the City of Buffalo, Erie County (total area sum of 0.70 acres).

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):

- Unrestricted Use, as set forth in 6 NYCRR 375-1.8(g)(1)i
- 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 Book 11271 and Page 1836.

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 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

432 Pearl Street Site, Site No. C915237, 432 Pearl Street, Buffalo, NY 14202

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, 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 revoked if the Environmental Easement as implemented, if applicable, is not protective or enforceable.

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

PLEASE TAKE NOTICE, the Certificate may 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, a copy of the Certificate can be reviewed at the NYSDEC's Region 9 located at 270 Michigan Avenue, Buffalo, New York 14203, by contacting the Regional Environmental Remediation Engineer.

WHEREFORE, the undersigned has signed this Notice of Certificate

Buffalo Development Corporation

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:
Mark Croce
Buffalo Development Corp.
257 Franklin Street
Buffalo, New York 14202

EXHIBIT A

Property Description Subject to Easement

BCP Site No. C915237

SBL Nos. 111.38-2-20.1 & 111.38-2-4.1

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being part of Outer Lot 18, bounded and described as follows:

BEGINNING at a point in the easterly line of Franklin Street (66 feet wide), distant 80.00 feet northerly from the southerly line of Outer Lot 18, said point having a record distance of 313 feet northerly from the northerly line of Chippewa Street;

THENCE easterly along a line at right angles to said line of Franklin Street, a distance of 110 feet to the westerly line of Asbury Alley (11 feet wide record, 13.85 feet wide measured);

THENCE northerly along the westerly line of Asbury Alley, a distance of 101.58 feet to a point, said point being distant 53.50 feet southerly from the south line of Outer Lot 19;

THENCE westerly along a line drawn parallel with the south line of Outer Lot 19, a distance of 110 feet to a point on the easterly line of Franklin Street;

THENCE southerly along the easterly line of Franklin Street, a distance of 101.58 feet to the point of beginning.

Said parcel containing 0.25 acres, more or less.

ALSO ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie, State of New York, being part of Outer Lot number 18 and being more particularly described as follows:

BEGINNING at a point in the westerly line of Pearl Street distant 262.00 feet northerly of the north line of Chippewa Street;

THENCE westerly and parallel to Chippewa Street 110.00 feet to the easterly line of Asbury Alley;

THENCE northerly, along the easterly line of Asbury Alley and parallel to Pearl Street 177.40 feet to a point;

THENCE easterly, parallel to Chippewa Street 110.00 feet to the westerly line of Pearl Street;

THENCE southerly and along the westerly line of Pearl Street 177.40 feet to the point of place of beginning.

Said parcel containing an area of 0.45 acres, more or less.

EXHIBIT B

Property/Easement Survey



THE ENGINEERING AND INSTITUTIONAL CONTROLS FOR THIS EASEMENT ARE SET FORTH IN THE SITE MANAGEMENT PLAN (SMP). A COPY OF THE SMP MUST BE OBTAINED BY ANY PARTY WITH AN INTEREST IN THE PROPERTY FROM THE ENVIRONMENTAL CONSERVATION DIVISION OF ENVIRONMENTAL CONSERVATION DIVISION, DIVISION OF ENVIRONMENTAL CONSERVATION, 625 BROOKHAVEN AVENUE, ALBANY, N.Y. 12243 OR AT 518-862-6700.

THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL EASEMENT HELD BY THE STATE OF NEW YORK, ENVIRONMENTAL CONSERVATION DIVISION, DIVISION OF ENVIRONMENTAL CONSERVATION, PURSUANT TO TITLE 38 OF ARTICLE 71 OF THE NEW YORK ENVIRONMENTAL CONSERVATION LAW.

Engineering and Institutional Controls
ROP Site No. 015327

As shown on the attached site plan, the property is subject to an environmental easement held by the State of New York, Environmental Conservation Division, Division of Environmental Conservation, pursuant to Title 38 of Article 71 of the New York Environmental Conservation Law. The easement is for the purpose of protecting the property from development that would be inconsistent with the environmental easement.

Engineering and Institutional Controls
ROP Site No. 015327

As shown on the attached site plan, the property is subject to an environmental easement held by the State of New York, Environmental Conservation Division, Division of Environmental Conservation, pursuant to Title 38 of Article 71 of the New York Environmental Conservation Law. The easement is for the purpose of protecting the property from development that would be inconsistent with the environmental easement.

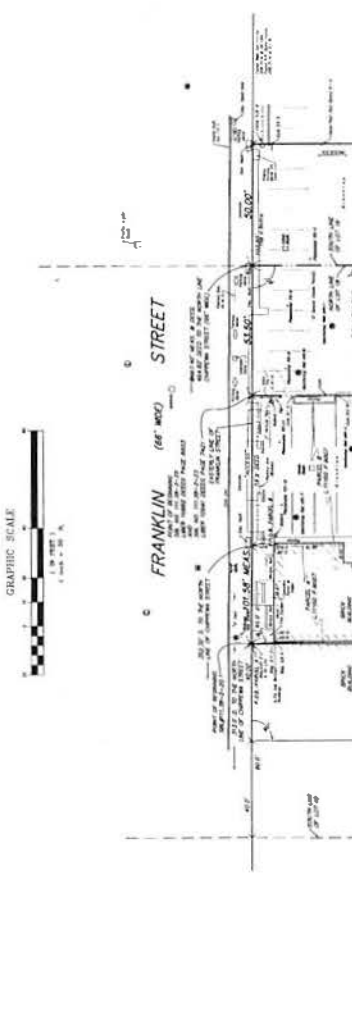
RECORDING LEGAL DESCRIPTIONS

ROP Site No. 015327
ROP Site No. 015328

ENVIRONMENTAL LEGAL DESCRIPTION

ROP Site No. 015327

The property is located in the City of Albany, County of Albany, State of New York, and is bounded by Franklin Street to the north, Pearl Street to the east, and Albany Alley to the south. The property is subject to an environmental easement held by the State of New York, Environmental Conservation Division, Division of Environmental Conservation, pursuant to Title 38 of Article 71 of the New York Environmental Conservation Law.



ENVIRONMENTAL LEGAL DESCRIPTION

ROP Site No. 015328

The property is located in the City of Albany, County of Albany, State of New York, and is bounded by Franklin Street to the north, Pearl Street to the east, and Albany Alley to the south. The property is subject to an environmental easement held by the State of New York, Environmental Conservation Division, Division of Environmental Conservation, pursuant to Title 38 of Article 71 of the New York Environmental Conservation Law.



RECORDING LEGAL DESCRIPTIONS

ROP Site No. 015327

The property is located in the City of Albany, County of Albany, State of New York, and is bounded by Franklin Street to the north, Pearl Street to the east, and Albany Alley to the south. The property is subject to an environmental easement held by the State of New York, Environmental Conservation Division, Division of Environmental Conservation, pursuant to Title 38 of Article 71 of the New York Environmental Conservation Law.



RECORDING LEGAL DESCRIPTIONS

ROP Site No. 015328

The property is located in the City of Albany, County of Albany, State of New York, and is bounded by Franklin Street to the north, Pearl Street to the east, and Albany Alley to the south. The property is subject to an environmental easement held by the State of New York, Environmental Conservation Division, Division of Environmental Conservation, pursuant to Title 38 of Article 71 of the New York Environmental Conservation Law.

LEGEND

| | |
|------------------------|-------------------|
| ENVIRONMENTAL EASEMENT | --- (dashed line) |
| PROPOSED LOT LINES | --- (solid line) |
| EXISTING LOT LINES | --- (solid line) |
| EXISTING EASEMENTS | --- (solid line) |
| EXISTING BUILDINGS | --- (solid line) |
| EXISTING DRIVEWAYS | --- (solid line) |
| EXISTING UTILITIES | --- (solid line) |
| EXISTING CURBS | --- (solid line) |
| EXISTING SIDEWALKS | --- (solid line) |
| EXISTING STAIRS | --- (solid line) |
| EXISTING FENCES | --- (solid line) |
| EXISTING WALLS | --- (solid line) |
| EXISTING DOORS | --- (solid line) |
| EXISTING WINDOWS | --- (solid line) |
| EXISTING ROOFS | --- (solid line) |
| EXISTING FOUNDATIONS | --- (solid line) |
| EXISTING STRUCTURES | --- (solid line) |
| EXISTING UTILITIES | --- (solid line) |
| EXISTING CURBS | --- (solid line) |
| EXISTING SIDEWALKS | --- (solid line) |
| EXISTING STAIRS | --- (solid line) |
| EXISTING FENCES | --- (solid line) |
| EXISTING WALLS | --- (solid line) |
| EXISTING DOORS | --- (solid line) |
| EXISTING WINDOWS | --- (solid line) |
| EXISTING ROOFS | --- (solid line) |
| EXISTING FOUNDATIONS | --- (solid line) |
| EXISTING STRUCTURES | --- (solid line) |

GENERAL NOTES

1. THE PROPERTY IS SUBJECT TO AN ENVIRONMENTAL EASEMENT HELD BY THE STATE OF NEW YORK, ENVIRONMENTAL CONSERVATION DIVISION, DIVISION OF ENVIRONMENTAL CONSERVATION, PURSUANT TO TITLE 38 OF ARTICLE 71 OF THE NEW YORK ENVIRONMENTAL CONSERVATION LAW.

2. THE EASEMENT IS FOR THE PURPOSE OF PROTECTING THE PROPERTY FROM DEVELOPMENT THAT WOULD BE INCONSISTENT WITH THE ENVIRONMENTAL EASEMENT.

3. THE EASEMENT IS SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN THE SITE MANAGEMENT PLAN (SMP).

4. A COPY OF THE SMP MUST BE OBTAINED BY ANY PARTY WITH AN INTEREST IN THE PROPERTY FROM THE ENVIRONMENTAL CONSERVATION DIVISION OF ENVIRONMENTAL CONSERVATION DIVISION, DIVISION OF ENVIRONMENTAL CONSERVATION, 625 BROOKHAVEN AVENUE, ALBANY, N.Y. 12243 OR AT 518-862-6700.

ALBANY LAND TITLE SURVEY

Prepared by:
Millard Mackay & Deles
LAND SURVEYORS, L.L.P.
100 STATE STREET, 10TH FLOOR
ALBANY, N.Y. 12243-3000
PHONE: 518-862-6700
FAX: 518-862-6701
WWW: WWW.MILLARDMACKAY.COM

DATE: 01/15/2014
SCALE: 1" = 20'

PROJECT NO.: 14-001
JOB NO.: 14-001-001



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
 12/8/2017



SITE DESCRIPTION

SITE NO. C915237
SITE NAME 432 Pearl Street
SITE ADDRESS: 432 Pearl Street **ZIP CODE:** 14202
CITY/TOWN: Buffalo
COUNTY: Erie
ALLOWABLE USE: Restricted-Residential, 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: once a year
 Periodic Review Report Submitted Date: 04/29/2019

Description of Institutional Control

Buffalo Development Corporation
 257 Franklin Street
267 Franklin Street
 Environmental Easement
 Block: 2
 Lot: 20
 Sublot: 1
 Section: 111
 Subsection: 38
 S_B_L Image: 111.38-2-20.1
 Building Use Restriction
 Ground Water Use Restriction
 IC/EC Plan
 Landuse Restriction
 Monitoring Plan
 Site Management Plan
 Soil Management Plan

432 Pearl Street

Environmental Easement

Block: 2

Lot: 4

Sublot: 1

Section: 111

Subsection: 38

S_B_L Image: 111.38-2-4.1

Building Use Restriction

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

Description of Engineering Control

Buffalo Development Corporation

257 Franklin Street

267 Franklin Street

Environmental Easement

Block: 2

Lot: 20

Sublot: 1

Section: 111

Subsection: 38

S_B_L Image: 111.38-2-20.1

Cover System

Vapor Mitigation

432 Pearl Street

Environmental Easement

Block: 2

Lot: 4

Sublot: 1

Section: 111

Subsection: 38

S_B_L Image: 111.38-2-4.1

Cover System