

# 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](http://www.dec.ny.gov)

January 12, 2017

Mr. Anthony P. LoRusso  
295 Maryland, LLC  
366 Elmwood Avenue  
Buffalo, NY 14222

Re: Revised Certificate of Completion  
Site No.: C915242  
Site: 295 Maryland Street  
Buffalo, Erie County

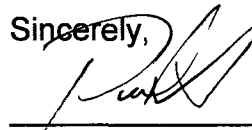
Dear Mr. LoRusso:

It has come to the Department's attention that the original Certificate of Completion (COC) for the above referenced site included an error, listing a current parcel owner as Anthony P LoRusso. The attached COC has been revised to indicate the entire site is owned by 295 Maryland, LLC. The revised COC includes the same issuance date as the original.

Please promptly return the original COC to Jennifer Dougherty at 270 Michigan Ave, Buffalo, NY 14203. We will discard the original COC.

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

Sincerely,



Robert W. Schick, P.E.

Director

Division of Environmental Remediation



Department of  
Environmental  
Conservation

ec w/ enclosure:

K. Anders, NYS DOH

S McLaughlin, NYSDOH

T. Forbes, Benchmark – [tforbes@benchmarkturnkey.com](mailto:tforbes@benchmarkturnkey.com)

C. Slater, Slater Law Firm - [cslater@cslaterlaw.com](mailto:cslater@cslaterlaw.com)

ec w/o enc.:

M. Cruden, NYSDEC

C. Staniszewski, NYS DEC

A. Lopes, NYSDEC

J. Dougherty, NYSDEC

G. Heitzman, NYSDEC

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

**CERTIFICATE HOLDER(S):**

**Name**

295 Maryland, LLC

**Address**

366 Elmwood Avenue, Buffalo, NY 14222

**BROWNFIELD CLEANUP AGREEMENT:**

**Application Approval:** 5/31/11    **Agreement Execution:** 7/14/11    **Agreement Index No.:** C915242-05-11

**Application Approval Amendment:** none

**Agreement Execution Amendment:** none

**SITE INFORMATION:**

**Site No.:** C915242 **Site Name:** 295 Maryland Street

**Site Owner:** 295 Maryland, LLC

**Street Address:** 295 Maryland Street

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

**Site Size:** 1.48 Acres

**Tax Map Identification Number(s):** 111.21-8-1.1, 111.21-8-3.111

**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 28 %.

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 28 %.

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 2015254443 and BK/PG D11289/2985.

#### **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**

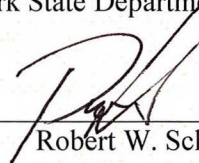
This Certificate of Completion may be modified or revoked by the Commissioner following notice and an opportunity for a hearing in accordance with ECL Section 27-1419 and 6NYCRR Part 375-1.9(e) upon a finding that:

- (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:



Robert W. Schick, P.E., Director  
Division of Environmental Remediation

Date: December 16, 2016