

# New York State Department of Environmental Conservation

## Division of Environmental Remediation

Office of the Director, 12th Floor

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DEC 30 2013



Joe Martens  
Commissioner

Mr. Michael DePriest  
Delta-Sonic CarWash Systems, Inc.  
570 Delaware Avenue  
Buffalo, New York 14202

RE: Certificate of Completion  
Site Name: 348 Langner Road Site  
Site No.: C915256  
West Seneca, New York, Erie County

Dear Mr. DePriest:

Congratulations on having satisfactorily completed the remedial program at the 348 Langner Road 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. 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 enclosed to this letter;
- You and your lessees must submit an annual report to the New York State Department of Taxation and Finance within one (1) year and for each of the following eleven (11) 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 the project manager for this site, Anthony Lopes, at 716-851-7220.

Sincerely,

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

Enclosures

ec: Michael Lesakowski, Benchmark ([mlesakowski@benchmarkturnkey.com](mailto:mlesakowski@benchmarkturnkey.com))  
Craig Slater, Esq., The Slater Law Firm, PLLC ([cslater@cslaterlaw.com](mailto:cslater@cslaterlaw.com))  
Michael DePriest, Delta-Sonic CarWash Systems, Inc. ([mikedepriest@benderson.com](mailto:mikedepriest@benderson.com))  
Krista Anders, DOH  
Matt Forcucci, DOH  
Michael Ryan, DEC  
Ben Conlon, DEC  
Andrew Guglielmi, DEC  
Anthony Lopes, DEC  
Martin Doster, DEC  
David Stever, DEC  
Michael Cruden, DEC  
George Heitzman, DEC



No Environmental Easement has been granted pursuant to ECL Article 71, Title 36 as there are no use restrictions and there is no reliance on the long-term employment of institutional controls.

#### **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/REVOCAION**

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:



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

Date: December 30, 2013

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

**348 Langner Road, Site ID No.: C915256**  
**350 Langner Road, West Seneca, New York, 14224**  
**Erie, Tax Map Identification Numbers: 143.05-2-1.11 and 143.05-2-9**

**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 Delta-Sonic CarWash Systems, Inc., Michael DePreist for a parcel approximately 2.6 acres located at 350 Langner Road in the Town of West Seneca, 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.

**PLEASE TAKE NOTICE**, provided that the Certificate is 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.

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**, the Certificate may entitle the Certificate holder to tax credits in 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 only be transferred to the Certificate holders, 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.

**348 Langner Road Site, C915256, 350 Langner Road West Seneca, NY**

**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 NYSDECs Region 9 office located at 270 Michigan Avenue, Buffalo, NY 14203, by contacting the Regional Environmental Remediation Engineer.

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

Delta-Sonic CarWash Systems, Inc.

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

STATE OF NEW YORK        ) SS:  
COUNTY OF                 )

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 2013, 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:**  
Delta-Sonic CarWash Systems, Inc.  
Michael DePreist  
570 Delaware Avenue  
Buffalo, NY 14202

## Exhibit A

### 348 LANGNER ROAD BCP AREA LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND situated in the Town of West Seneca, County of Erie and State of New York; described as part of Lots 293 & 294, Township 10, Range 7 of the Buffalo Creek Reservation Survey. Bounded and described as follows:

Beginning at a point in the intersection of the south line of Ridge Road as now laid out by Appropriation by N.Y. State filed under Map 17, Parcel 22 and in Liber 4614 of Deeds at Page 550 as filed in the Erie County Clerk's Office with the westerly line of Langner Road as relocated by Map 14, Parcel 18;  
Thence southerly along the westerly line of said Langner Road a distance of 129.78 feet to an angle point;  
Thence continuing southerly along the westerly line of said Langner Road at an interior angle of  $154^{\circ}30'0''$ , a distance of 124.28' feet to a point;  
Thence westerly along a line at an interior angle of  $129^{\circ}05'40''$ , a distance of 47.65 feet to a point in the centerline of Langner Road (as originally laid out 49.5 feet wide);  
Thence southerly along the centerline of said Langner Road as originally laid out at an exterior angle of  $94^{\circ}17'50''$ , a distance of 140.09 feet to a point;  
Thence westerly along a line at a bearing of north  $82^{\circ}07'37''$  west, a distance of 238.21 feet to a point;  
Thence northwesterly along a line at a bearing of north  $58^{\circ}10'45''$  west, a distance of 103.51 feet to a point in the east line of the Niagara Lockport & Ontario Power Company as per Liber 1519 of Deeds at Page 271 and Liber 1726 of Deeds at Page 40;  
Thence northeasterly along the east line of said Niagara Lockport & Ontario Power Company at a bearing of north  $31^{\circ}57'02''$  east, a distance of 299.12 feet to a point in the south line of said Ridge Road as now laid out;  
Thence easterly along the south line of said Ridge Road as now laid out at an interior angle of  $125^{\circ}27'17''$ , a distance of 188.15 feet to a point in the westerly line of said Langner Road as originally laid out;  
Thence northerly along the westerly line of said Langner Road as originally laid out at an exterior angle of  $101^{\circ}07'17''$ , a distance of 10.00 feet to a point;  
Thence easterly along a line at an interior angle of  $93^{\circ}10'24''$ , a distance of 24.79 feet to the centerline of said Langner Road as originally laid out;  
Thence southerly along the centerline of said Langner Road as originally laid out at an interior angle of  $86^{\circ}49'36''$ , a distance of 9.93 feet to a point in the south line of said Ridge Road as now laid out;  
Thence easterly along the south line of said Ridge Road as now laid out at an exterior angle of  $81^{\circ}47'50''$ , a distance of 140.86 feet to the point and place of beginning.

This parcel containing 114,284 Sq. Ft. or 2.624 acres more or less.

Being the same property described in Deed from RB-3 Associates to Delta Sonic Carwash Systems, Inc. dated 5/14/2010, and recorded in the Erie County Clerk's Office in Liber 11181 of Deeds at page 8953, and property described in Deed from RB-3 Associates to Delta Sonic Carwash Systems, Inc. dated 10/30/1997, and recorded in the Erie County Clerk's Office in Liber 10924 of Deeds at page 2565, and property described in Deed from Benderson Development Company, Inc. to Delta Sonic Carwash Systems, Inc. dated 2/22/1976, and recorded in the Erie County Clerk's Office in Liber 8368 of Deeds at page 145, and roadway as abandoned and described in Abandonment Application of Delta Sonic Carwash Systems, inc. from Town of West Seneca in Deed dated 12/22/1986, and recorded in the Erie County Clerk's Office in Liber 9683 of Deeds at page 182.  
(being original SBL #143.05-2-1.11)

And also being the same property described in Deed from Albert R. Scotch to Delta Sonic Carwash Systems, Inc. dated 10/9/1986, and recorded in the Erie County Clerk's Office in Liber 9629 of Deeds at page 184.  
(being original SBL #143.05-2-9)





