

# 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

DEC 14 2015

Mr. Sam Savarino  
500 Seneca Street, LLC  
95 Perry Street, Suite 104  
Buffalo, NY 14203

Re: Certificate of Completion  
Site Name: 500 Seneca Street Site  
Site No. C915273  
City of Buffalo, Erie County

Dear Mr. Savarino:

Congratulations on having satisfactorily completed the remedial program at the 500 Seneca 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 DEC'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. DEC will develop a fact sheet announcing the issuance of the COC and describing the institutional and engineering



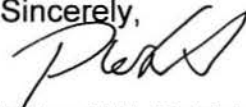
Department of  
Environmental  
Conservation

controls (IC/ECs), if any, that are required at the site and distribute it to the County Listserv within 10 days;

- Implement the DEC-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 DEC 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 DEC in April, 2017; 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 Maurice Moore, the project manager for this site, at (716)851-7220 or by email at [maurice.moore@dec.ny.gov](mailto:maurice.moore@dec.ny.gov).

Sincerely,



Robert W. Schick, P.E.

Director

Division of Environmental Remediation

Enclosures

ec: Tom Forbes, Benchmark Environmental Engineering & Science, PLLC  
Craig Slater, The Slater Law Firm  
Krista Anders, DOH  
Bridget Boyd, DOH  
Michael Ryan, DEC  
Michael Cruden, DEC  
Maurice Moore, DEC  
Chad Staniszewski, DEC  
David Stever, DEC  
Dolores Tuohy, DEC  
Andrew Guglielmi, DEC



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

**CERTIFICATE HOLDER(S):**

Name	Address
500 Seneca Street, LLC	95 Perry Street, Suite 104, Buffalo, NY 14203

**BROWNFIELD CLEANUP AGREEMENT:**

Application Approval: 4/11/13 Agreement Execution: 6/7/13 Agreement Index No.:C915273-04-13

Application Approval Amendment: none

Agreement Execution Amendment: none

**SITE INFORMATION:**

Site No.: C915273 Site Name: 500 Seneca Street Site  
Site Owner: 500 Seneca Street, LLC  
Street Address: 500 Seneca Street  
Municipality: Buffalo County: Erie DEC Region: 9  
Site Size: 1.874 Acres  
Tax Map Identification Number(s): 111.81-7-1  
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 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 2015119160 BK/PG D11281/83.

#### **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.

Basil Seggos  
Acting Commissioner  
New York State Department of Environmental Conservation

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

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

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

December 14, 2015

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

**500 Seneca Street Site, Site ID No. C915273**  
**500 Seneca Street, Buffalo, New York, 14204**  
**City of Buffalo, Erie County, Tax Map Identification Number(s) 111.81-7-1**

**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 500 Seneca Street, LLC for a parcel approximately 1.874 acres located at 500 Seneca 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):

- 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 File #2015119160 BK/PG 11281/83.

**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.



**500 Seneca Street Site, Site #C915273, 500 Seneca Street, Buffalo, New York, 14204**

**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**, 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 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 DEC'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

500 Seneca Street, LLC

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:**  
500 Seneca Street, LLC  
95 Perry Street, Suite 104  
Buffalo, NY 14203



**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**  
**Site Management Form**  
 12/2/2015



**SITE DESCRIPTION**

**SITE NO.** C915273

**SITE NAME** 500 Seneca Street Site

**SITE ADDRESS:** 500 Seneca Street **ZIP CODE:** 14204

**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: 04/30/2017

**Description of Institutional Control**

**500 Seneca Street, LLC**  
 95 Perry Street, Suite 104  
**500 Seneca Street**  
 Environmental Easement  
 Block: 7  
 Lot: 1  
 Sublot:  
 Section: 111  
 Subsection: 81  
 S\_B\_L Image: 111.81-7-1  
 Building Use Restriction  
 Ground Water Use Restriction  
 IC/EC Plan  
 Site Management Plan  
 Soil Management Plan

**Description of Engineering Control**

**500 Seneca Street, LLC**

95 Perry Street, Suite 104

**500 Seneca Street**

Environmental Easement

Block: 7

Lot: 1

Sublot:

Section: 111

Subsection: 81

S\_B\_L Image: 111.81-7-1

Cover System



# EXHIBIT A

Environmental Easement Description

**SCHEDULE "A" PROPERTY DESCRIPTION**

**Environmental Easement Description**

**For 500 Seneca Street Site**

**BCP Site No. C915273**

***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 No. 95, described as follows:

***BEGINNING*** at the point of intersection of the northerly line of Seneca Street with the easterly line of Spring Street: running thence easterly along the northerly line of Seneca Street, a distance of 453.29 feet to the point of intersection of the northerly line of Seneca Street with the westerly line of Hamburg Street: running thence northerly, an interior angle of  $90^{\circ}14'07''$ , along the westerly line of Hamburg Street, a distance of 180.00 feet to the point of intersection of the westerly line of Hamburg Street with the southerly line of Myrtle Avenue (formerly Folsom Street): running thence westerly, an interior angle of  $89^{\circ}45'53''$ , along the southerly line of Myrtle Avenue, a distance of 453.58 feet to the point of intersection of the southerly line of Myrtle Avenue with the easterly line of Spring Street: running thence southerly, an interior angle of  $90^{\circ}08'35''$  along the easterly line of Spring Street, a distance of 180.00 feet to the point of beginning, forming a closing angle of  $89^{\circ}51'25''$  and containing 1.874 acres of land.

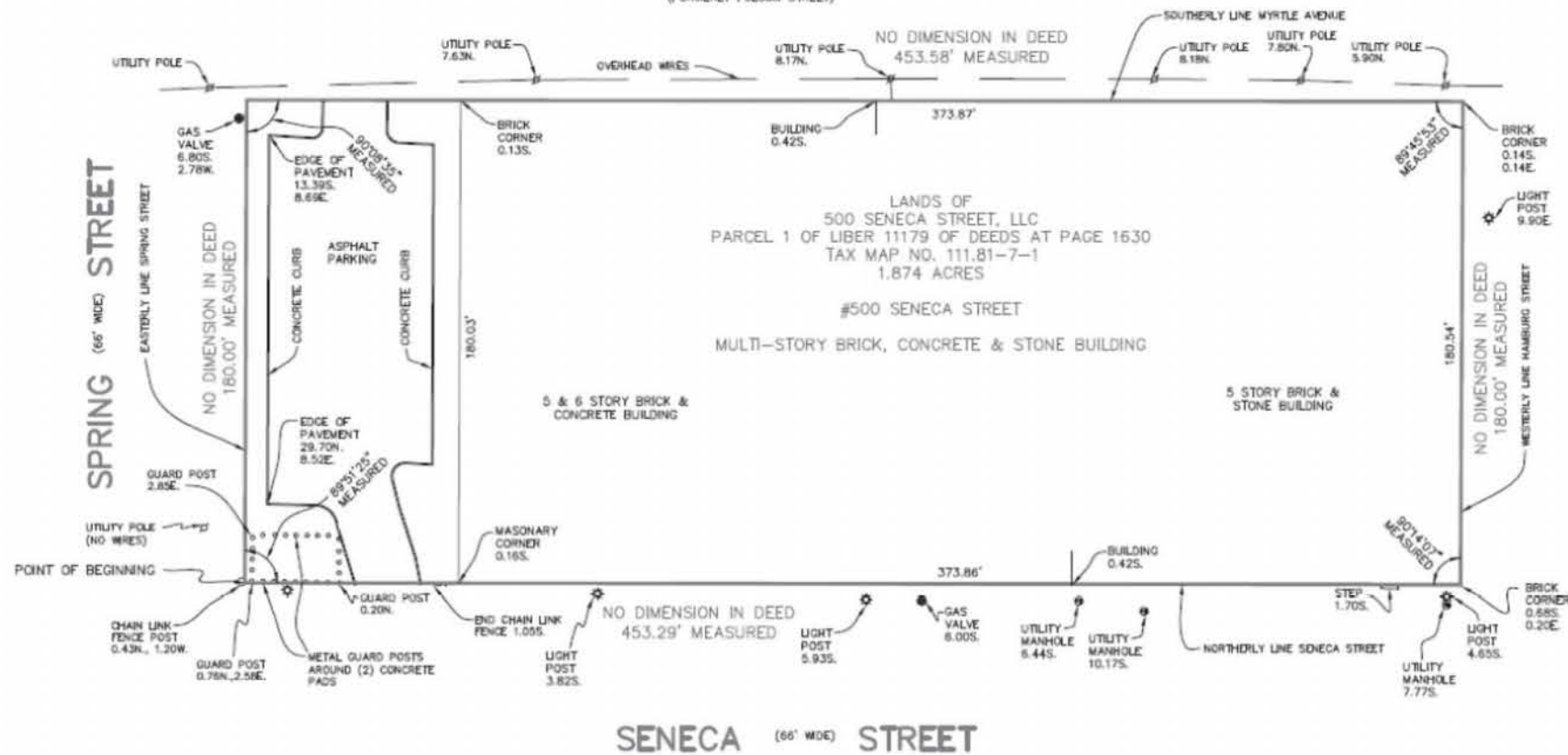
# EXHIBIT B

Site Survey





**MYRTLE (40' WIDE) AVENUE**  
(FORMERLY FOLSOM STREET)



**PROPERTY DESCRIPTION - PARCEL 1 OF LIBER 11179 OF DEEDS AT PAGE 1630**

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 No. 95, bounded and described as follows:

Beginning at the point of intersection of the northerly line of Seneca Street with the easterly line of Spring Street; running thence easterly along the northerly line of Seneca Street to the point of intersection of the northerly line of Seneca Street with the westerly line of Hamburg Street; running thence northerly along the westerly line of Hamburg Street to the point of intersection of the westerly line of Hamburg Street with the southerly line of Myrtle Avenue (formerly Folsom Street); running thence westerly along the southerly line of Myrtle Avenue to the point of intersection of the southerly line of Myrtle Avenue with the easterly line of Spring Street; running thence southerly along the easterly line of Spring Street to the point of beginning containing 1.874 acres of land.

**ENVIRONMENTAL EASEMENT AREA DESCRIPTION**

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 No. 95, bounded and described as follows:

Beginning at the point of intersection of the northerly line of Seneca Street with the easterly line of Spring Street; running thence easterly along the northerly line of Seneca Street, a distance of 453.29 feet to the point of intersection of the northerly line of Seneca Street with the westerly line of Hamburg Street; running thence northerly, an interior angle of 90°14'07", along the westerly line of Hamburg Street, a distance of 180.00 feet to the point of intersection of the westerly line of Hamburg Street with the southerly line of Myrtle Avenue (formerly Folsom Street); running thence westerly, an interior angle of 89°45'53", along the southerly line of Myrtle Avenue, a distance of 453.58 feet to the point of intersection of the southerly line of Myrtle Avenue with the easterly line of Spring Street; running thence southerly, an interior angle of 90°08'35" along the easterly line of Spring Street, a distance of 180.00 feet to the point of beginning, forming a closing angle of 89°51'25" and containing 1.874 acres of land.

- LEGEND**
- ⊕ - UTILITY POLE
  - ⊙ - GUARD POST
  - ⊙ - MANHOLE
  - ⊙ - GAS VALVE
  - ⊙ - LIGHT POST

ONLY VISIBLE UTILITY SERVICES AND/OR ENCUMBRANCES WERE LOCATED AND ARE SHOWN.

THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE AND IS SUBJECT TO ANY STATEMENT OF FACTS THAT MAY BE REVEALED BY AN EXAMINATION OF SUCH.

ONLY BOUNDARY SURVEY MAPS WITH THE SURVEYOR'S EMBOSSED SEAL ARE CONSIDERED TRUE AND CORRECT COPIES OF THE SURVEYOR'S ORIGINAL WORK AND OPINION.

ALTERING THIS DOCUMENT IS IN VIOLATION OF THE LAW EXCEPTING AS PROVIDED IN SECTION 7209, PART 2 OF THE NEW YORK STATE EDUCATION LAW.

THE ALTERATION OF BOUNDARY SURVEY MAPS BY ANYONE OTHER THAN THE ORIGINAL PREPARER IS MISLEADING, CONFUSING, AND NOT IN THE GENERAL WELFARE AND INTEREST OF THE PUBLIC.

**REFERENCE DATA**  
- ABSTRACT NO. 80304534, PREPARED BY TITELIFE INSURANCE COMPANY, DATED DECEMBER 13, 2009  
- SURVEY MAP NO. 09-553, PREPARED BY RAY L. SONNENBERGER, DATED DECEMBER 24, 2009.

I HEREBY CERTIFY THAT THIS SURVEY WAS COMPLETED ON MARCH 17 2015, FROM THE NOTES OF AN INSTRUMENT SURVEY COMPLETED ON MARCH 17, 2015 AND WAS PERFORMED UNDER MY SUPERVISION.

THIS MAP IS HEREBY CERTIFIED TO THE FOLLOWING:  
- NEW YORK STATE - DEPARTMENT OF ENVIRONMENTAL CONSERVATION



BAR SCALE

"This property is subject to an environmental easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the New York Environmental Conservation Law. The engineering and institutional controls for this Easement are set forth in more detail in the Site Management Plan (SMP). A copy of the SMP must be obtained by any party with an interest in the property. The SMP can be obtained from the NYS Department of Environmental Conservation, Division of Environmental Remediation, Site Control Section, 625 Broadway, Albany, NY 12233 or at [derweb@dec.ny.gov](mailto:derweb@dec.ny.gov)".



REVISED 3/23/15: AMEND ADDRESS & TITLE BLOCK

<b>SURVEY</b>		
LANDS OF 500 SENECA STREET, LLC #500 SENECA STREET, BUFFALO, NEW YORK PART OF OUT LOT NO. 95 CITY OF BUFFALO - COUNTY OF ERIE - STATE OF NEW YORK		
<b>CREEKSIDE BOUNDARY LAND SURVEYING, PLLC</b>		
1746 HIGGINS ROAD WARSAW, NEW YORK 14569 PHONE: 585-786-5640 EMAIL: <a href="mailto:mclark@creeksideboundary.com">mclark@creeksideboundary.com</a>		
SCALE: 1" = 40'	DATE: 3/17/2015	
DWN BY: MAC	CKD BY: MAC	JOB NO.: 111.81-7-1