

# 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 23 2019

1827 Fillmore LLC  
Attn: Thomas J. Quatroche, Jr.  
462 Grider Street  
Buffalo, NY 14215

1827 Fillmore LLC  
Attn: Stephen M. Gary, Sr.  
462 Grider Street  
Buffalo, NY 14215

Re: Certificate of Completion  
1827 Fillmore Avenue  
Site No. C915279  
City of Buffalo, Erie County

Dear Gentlemen:

Congratulations on having satisfactorily completed the remedial program at the 1827 Fillmore Avenue 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 2021.

If you have any questions regarding any of these items, please contact David Locey at (716) 851-7220 or [david.locey@dec.ny.gov](mailto:david.locey@dec.ny.gov).

Sincerely,



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

Enclosure

ec w/ enclosure:

Thomas J. Quatroche, Jr., [tquatroc@ecmc.edu](mailto:tquatroc@ecmc.edu)  
Stephen M. Gary, Sr., [sgary@ecmc.edu](mailto:sgary@ecmc.edu)  
Christine Vooris, [Christine.Vooris@health.ny.gov](mailto:Christine.Vooris@health.ny.gov)  
Charlotte Bethoney, [Charlotte.Bethoney@health.ny.gov](mailto:Charlotte.Bethoney@health.ny.gov)  
Steven Berninger, [Steven.Berninger@health.ny.gov](mailto:Steven.Berninger@health.ny.gov)  
Matt Gokey, [matthew.gokey@tax.ny.gov](mailto:matthew.gokey@tax.ny.gov)  
Paul Takac, [paul.takac@tax.ny.gov](mailto:paul.takac@tax.ny.gov)  
John T. Kolaga, [kolaga@ruppbaase.com](mailto:kolaga@ruppbaase.com)  
Thomas Forbes, [tforbes@benchmarkturnkey.com](mailto:tforbes@benchmarkturnkey.com)  
Bryan Mayback, [bmayback@turnkeyllc.com](mailto:bmayback@turnkeyllc.com)  
Michael Lesakowski, [mlesakowski@turnkeyllc.com](mailto:mlesakowski@turnkeyllc.com)

ec w/o enc.:

David Locey, [david.locey@dec.ny.gov](mailto:david.locey@dec.ny.gov)

Jeffrey Dyber, [jeffrey.dyber@dec.ny.gov](mailto:jeffrey.dyber@dec.ny.gov)

Michael Cruden, [michael.cruden@dec.ny.gov](mailto:michael.cruden@dec.ny.gov)

Chad Staniszewski, [chad.staniszewski@dec.ny.gov](mailto:chad.staniszewski@dec.ny.gov)

Jennifer Dougherty, [jennifer.dougherty@dec.ny.gov](mailto:jennifer.dougherty@dec.ny.gov)

Kelly Lewandowski, [kelly.lewandowski@dec.ny.gov](mailto:kelly.lewandowski@dec.ny.gov)

Tom Forbes, [TForbes@bm-tk.com](mailto:TForbes@bm-tk.com)

Mike Lesakowski, [MLesakowski@bm-tk.com](mailto:MLesakowski@bm-tk.com)

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

**CERTIFICATE HOLDER(S):**

<b>Name</b>	<b>Address</b>
1827 Fillmore LLC	462 Grider Street, Buffalo, NY 14215

**BROWNFIELD CLEANUP AGREEMENT:**

<b>Application Approval:</b> 8/18/17	<b>Agreement Execution:</b> 11/8/17
<b>Agreement Index No.:</b> C915279-10-17	
<b>Application Approval Amendment:</b> 9/5/19	<b>Agreement Execution Amendment:</b> 9/5/19

**SITE INFORMATION:**

**Site No.:** C915279    **Site Name:** 1827 Fillmore Avenue  
**Site Owner:** 1827 Fillmore LLC  
**Street Address:** 1827 Fillmore Avenue  
**Municipality:** Buffalo    **County:** Erie    **DEC Region:** 9  
**Site Size:** 17.110 Acres  
**Tax Map Identification Number(s):** 90.13-1-11  
**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:**  
Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 25%.  
Tangible Property Credit is 15%. Comprised of 10% Base, 5% EnZone

Dependent upon the project being developed in a manner consistent with the approved Brownfield Cleanup Program application, additional rate increases may be available if the site is developed as affordable housing (5%), if the Certificate Holder receives a separate Determination of Conformance with the BOA from the Secretary of State (5%), or if the site is used primarily for manufacturing activities (5%) not to exceed a maximum 24%.

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 of Deeds 11349, Page 5013.

#### **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: 12/23/19

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

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

1827 Fillmore Avenue, Site ID No. C915279  
1827 Fillmore Avenue, Buffalo, NY 14214  
Buffalo, Erie County, Tax Map Identification Number 90.13-1-11

**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 1827 Fillmore LLC for a parcel approximately 17.11 acres in size, located at 1827 Fillmore Avenue 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 Book of Deeds 11349, Page 5013.

**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.

*1827 Fillmore Avenue, Site # C915279, 1827 Fillmore Avenue , Buffalo, NY*

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

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

1827 Fillmore 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:**  
1827 Fillmore LLC  
Attn.: Thomas J. Quatroche, Jr.  
462 Grider Street  
Buffalo, NY 14215

**Exhibit A**  
**Site Description**

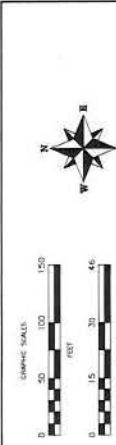
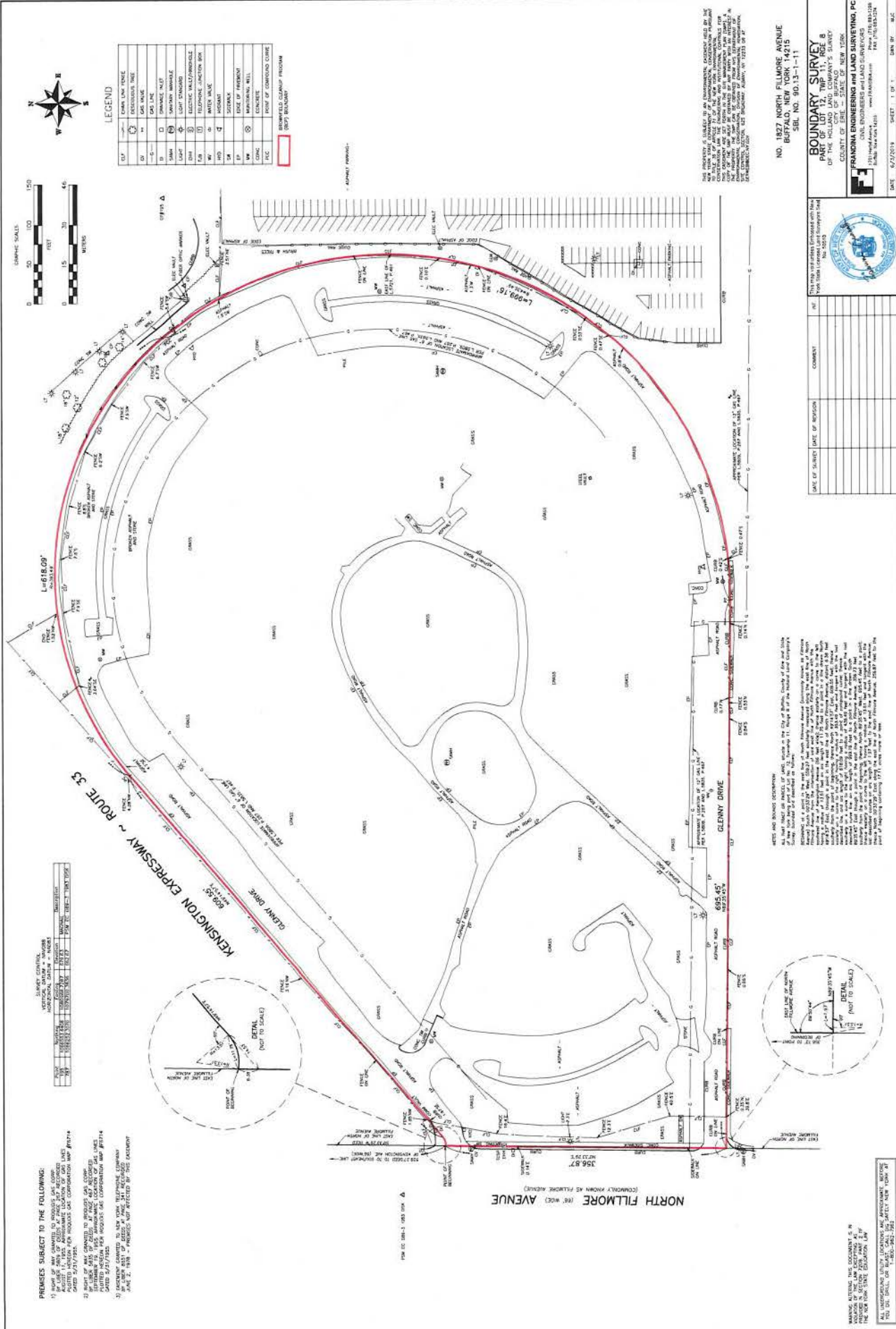


**SCHEDULE "A" PROPERTY DESCRIPTION**

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie and State of New York being part of Lot No. 12, Township 11, Range 8 of the Holland Land Company's Survey, bounded and described as follows: BEGINNING at a point in the east line of North Fillmore Avenue (commonly known as Fillmore Avenue) South 00°33'29" West, 559.27 feet southerly measured along the east line of North Fillmore Avenue from the intersection of said east line of North Fillmore Avenue with the southeast line of Kensington Avenue (66 feet wide); thence easterly on a curve to the left having a radius of 13.51 feet an arc length of 11.75 feet to a point in a line drawn North 49°14'57" East, through a point in the east line of North Fillmore Avenue, distant 6.38 feet southerly from the point of beginning, thence North 49°14'57" East, 609.55 feet; thence easterly on a curve to the right having a radius of 393.49 feet and tangent with the last described line, and arc length of 618.09 feet to a point of compound curve; thence southerly on a curve to the right having a radius of 436.49 feet and tangent with the last described curve line, an arc length of 999.16 feet to a point in a line drawn South 89°35'45" East through a point in the east line of North Fillmore Avenue, 356.73 feet southerly from the point of beginning; thence North 89°35'45" West, 695.45 feet to a point; thence westerly on a curve to the left having a radius of 13.51 feet and tangent with the last described course an arc length of 1.97 feet to the east line of North Fillmore Avenue; thence North 00°33'29" East along the east line of North Fillmore Avenue, 356.87 feet to the point of beginning containing 17.11 acres more or less.

**Exhibit B**

**Site Survey**



**LEGEND**

CLF	CONCRETE CURB
CS	CONCRETE SIDEWALK
DR	DRAINAGE DITCH
GA	GAS METER
GL	GAS LINE
Q	QUANTITY METER
EM	ELECTRIC METER
EL	ELECTRIC MAIN
EW	ELECTRIC WIRE
W	WATER METER
WL	WATER LINE
CO	CONCRETE
SI	SILO
PF	POINT OF INTERSECTION
EM	EMERALD MOUNTAIN
CE	CONCRETE
CR	CORNER
CR	CONCRETE
CR	CORNER
CR	CONCRETE
CR	CORNER
CR	CONCRETE
CR	CORNER
CR	CONCRETE
CR	CORNER
CR	CONCRETE
CR	CORNER

**NO. 1827 NORTH FILLMORE AVENUE**  
**BUFFALO, NEW YORK 14215**  
**SBL. NO. 90.13-1-11**

**BOUNDARY SURVEY**  
 OF THE LOT 13, TRACT 1, BLOCK 8  
 OF THE HOLLAND LAND COMPANY'S SURVEY  
 COUNTY OF CHEEKS, STATE OF NEW YORK

**FRANKINA ENGINEERING AND LAND SURVEYING, P.C.**  
 CIVIL ENGINEERS AND LAND SURVEYORS  
 1201 W. HENRI AVENUE, SUITE 200  
 BUFFALO, NEW YORK 14202  
 DATE: 6/2/2019 SHEET: 1 OF 1 DRAWN BY: ELC  
 JOB NO.: 4310 SCALE: 1" = 40' CHECKED BY: RF

**Romanne Frandino, P.E., L.S.**

**NETS AND BOUNDARY DESCRIPTION:**

The boundary of the subject lot is as shown on the attached plan. It is bounded on the north by North Fillmore Avenue, on the east by Kensington Expressway, on the south by the boundary of Lot 12, and on the west by the boundary of Lot 14. The lot area is 1.565 acres, more or less. The survey was conducted on June 2, 2019, and the results are shown on the attached plan. The bearings and distances are given in feet and decimal fractions of a foot. The bearings are given in degrees, minutes and seconds, and the distances are given in feet and decimal fractions of a foot. The survey was conducted in accordance with the provisions of Article 8 of Chapter 36 of the Laws of the State of New York, and the rules and regulations of the Board of Regents of the State of New York. The survey was conducted by Frankina Engineering and Land Surveying, P.C., a professional corporation organized under the laws of the State of New York. The survey was conducted by ELC, a duly licensed professional engineer and land surveyor, who is a member of the New York State Board of Regents. The survey was conducted in accordance with the provisions of Article 8 of Chapter 36 of the Laws of the State of New York, and the rules and regulations of the Board of Regents of the State of New York. The survey was conducted by Frankina Engineering and Land Surveying, P.C., a professional corporation organized under the laws of the State of New York. The survey was conducted by ELC, a duly licensed professional engineer and land surveyor, who is a member of the New York State Board of Regents. The survey was conducted in accordance with the provisions of Article 8 of Chapter 36 of the Laws of the State of New York, and the rules and regulations of the Board of Regents of the State of New York. The survey was conducted by Frankina Engineering and Land Surveying, P.C., a professional corporation organized under the laws of the State of New York. The survey was conducted by ELC, a duly licensed professional engineer and land surveyor, who is a member of the New York State Board of Regents. The survey was conducted in accordance with the provisions of Article 8 of Chapter 36 of the Laws of the State of New York, and the rules and regulations of the Board of Regents of the State of New York.

**PREMISES SUBJECT TO THE FOLLOWING:**

- 1) RIGHT OF WAY GRANTED TO ROGERS GAS COMPANY.
- 2) RIGHT OF WAY GRANTED TO BRONX GAS COMPANY.
- 3) RIGHT OF WAY GRANTED TO BRONX GAS COMPANY.
- 4) RIGHT OF WAY GRANTED TO BRONX GAS COMPANY.
- 5) RIGHT OF WAY GRANTED TO BRONX GAS COMPANY.
- 6) RIGHT OF WAY GRANTED TO BRONX GAS COMPANY.
- 7) RIGHT OF WAY GRANTED TO BRONX GAS COMPANY.
- 8) RIGHT OF WAY GRANTED TO BRONX GAS COMPANY.
- 9) RIGHT OF WAY GRANTED TO BRONX GAS COMPANY.
- 10) RIGHT OF WAY GRANTED TO BRONX GAS COMPANY.

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
Site Management Form  
12/9/2019

SITE DESCRIPTION

SITE NO. C915279

SITE NAME 1827 Fillmore Avenue

SITE ADDRESS: 1827 Fillmore Avenue ZIP CODE: 14214

CITY/TOWN: Buffalo

COUNTY: Erie

ALLOWABLE USE: Commercial and Industrial

SITE MANAGEMENT DESCRIPTION

SITE MANAGEMENT PLAN INCLUDES:	YES	NO
IC/EC Certification Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Monitoring Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Operation and Maintenance (O&M) Plan	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Periodic Review Frequency: once a year

Periodic Review Report Submitted Date: 04/30/2021

Description of Institutional Control

1827 Fillmore, LLC

462 Grider Street

1827 Fillmore Avenue

Environmental Easement

Block: 1

Lot: 11

Sublot:

Section: 90

Subsection: 13

S\_B\_L Image: 90.13-1-11

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

**Description of Engineering Control**

**1827 Fillmore, LLC**

462 Grider Street

**1827 Fillmore Avenue**

Environmental Easement

Block: 1

Lot: 11

Sublot:

Section: 90

Subsection: 13

S\_B\_L Image: 90.13-1-11

Cover System