

# 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. Paul Neureuter  
791 Washington Street, LLC  
4 Centre Drive  
Orchard Park, NY 14127

DEC 26 2019

Mr. Peter L. Krog, Sr.  
847 Main Street, LLC  
4 Centre Drive  
Orchard Park, NY 14127

Re: Certificate of Completion  
Former Trico Plant  
791 Washington Street  
Buffalo, Erie County  
Site No.: C915281

Dear Mr. Neureuter and Mr. Krog:

Congratulations on having satisfactorily completed the remedial program at the Former Trico Plant 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:

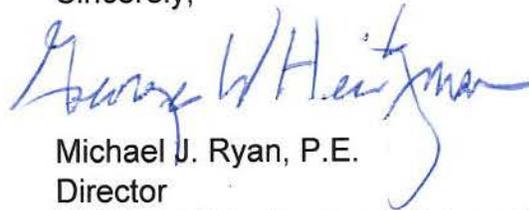
- If you are the site owner, you must record a notice of the COC in the recording office for the county (or counties) where any portion of the site is located within 30 days of issuance of the COC; or if you are a prospective purchaser of the site, you must record a notice of the COC within 30 days of 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 Jaspal S. Walia at (716) 851-7220.

Sincerely,



Michael J. Ryan, P.E.

Director

Division of Environmental Remediation

Enclosure

ec w/ enclosure:

Ms. Christine Vooris, NYSDOH

Ms. Scarlett McLaughlin, NYSDOH

Mr. Stephen Lawrence, NYSDOH

Mr. Paul Neureuter, [pneureuter@kroggrp.com](mailto:pneureuter@kroggrp.com)

Mr. Peter L. Krog, Sr., [plkrog@krogcorp.com](mailto:plkrog@krogcorp.com)

Mr. Thomas Forbes, Benchmark Environmental Engineering & Science, PLLC,  
[TForbes@bm-tk.com](mailto:TForbes@bm-tk.com)

Mr. Craig Slater, The Slater Law Firm, PLLC, [CSlater@CSlaterLaw.com](mailto:CSlater@CSlaterLaw.com)

Mr. Matt Gokey, [matthew.gokey@tax.ny.gov](mailto:matthew.gokey@tax.ny.gov)

Mr. Matt Culotti, [matthew.culotti@tax.ny.gov](mailto:matthew.culotti@tax.ny.gov)

ec w/o enc.:

Mr. Michael Cruden, NYSDEC

Mr. Jaspal S. Walia, NYSDEC

Mr. Stanley Radon, NYSDEC

Mr. Chad Staniszewski, NYSDEC

Ms. Jennifer Dougherty, Esq., NYSDEC

Ms. Kelly Lewandowski, NYSDEC

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

**CERTIFICATE HOLDER(S):**

**Name**

791 Washington Street, LLC

847 Main Street, LLC

**Address**

4 Centre Drive, Orchard Park, NY 14127

4 Centre Drive, Orchard Park, NY 14127

**BROWNFIELD CLEANUP AGREEMENT:**

**Application Approval:** 10/15/13

**Agreement Index No.:** C915281-10-13

**Agreement Execution:** 10/24/13

**Application Approval Amendment:** 2/16/17

**Application Approval Amendment:** 7/17/19

**Agreement Execution Amendment:** 2/16/17

**Agreement Execution Amendment:** 7/17/19

**SITE INFORMATION:**

**Site No.:** C915281 **Site Name:** Former Trico Plant

**Site Owner:** 791 Washington Street, LLC

**Street Address:** 791 Washington Street

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

**Site Size:** 2.110 Acres

**Tax Map Identification Number(s):** 111.31-1-1.11

**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:** 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 Book of Deeds 11352, Page 76.

### **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: Michael J. Ryan Date: 12/26/19

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)**

Former Trico Plant., Site ID No. C915281  
791 Washington Street., Buffalo, NY 14203  
Buffalo, Erie County, Tax Map Identification Number: 111.31-1-1.11

**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 791 Washington Street, LLC and 847 Main Street, LLC for a parcel approximately 2.11 acres located at 791 Washington 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 Book of Deeds 11352, Page 76.

**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

Former Trico Plant, Site ID No. C915281  
791 Washington Street., Buffalo, NY 14203

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, NY 14203, by contacting the Regional Environmental Remediation Engineer.

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

791 Washington 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 acknowledgement  
taking acknowledgment

**Please record and return to:**  
Mr. Paul Neureuter  
791 Washington Street, LLC  
4 Centre Drive  
Orchard Park, NY 14127

# **Exhibit A**

## **Metes and Bounds**

**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 Outer Lots Nos. 146 and 147 in said City, bounded and described as follows:

BEGINNING at the point of intersection of the easterly line of Washington Street (as a street 66 feet wide) with the northerly line of Goodell Street (as a street 66 feet wide), said easterly line of Washington Street forming an interior angle of  $89^{\circ} 15' 45''$  with the northerly line of Goodell Street as measured in the northeasterly quadrant formed by said street lines; thence easterly and along the northerly line of Goodell Street, a distance of 265.43 feet to the intersection of said northerly line of Goodell Street with the westerly line of Ellicott Street (as a street 66 feet wide); thence northerly and along the westerly line of Ellicott Street, said westerly line of Ellicott Street forming an interior angle of  $90^{\circ} 44' 46''$  as measured in the northwest quadrant formed by said street lines, a distance of 329.50 feet to the intersection of the westerly line of Ellicott Street with the northerly face of the northerly main wall of a 6-story brick building standing on premises herein described; thence westerly and along the northerly face of the northerly main wall of said 6-story brick building standing on premises herein described, said line forming an exterior angle of  $90^{\circ} 27' 34''$  as measured in the northwesterly quadrant with the westerly line of Ellicott Street, a distance of 125.76 feet to the westerly exterior face of the westerly wall of a 4-story brick building standing on that parcel situate to the east and north of premises herein described; thence northerly and along the westerly face of the westerly wall of the aforesaid 4-story brick building and forming an exterior angle of  $89^{\circ} 53' 18''$  as measured in the northeasterly quadrant formed by said westerly wall and the last described course, a distance of 30.45 feet to the intersection of the aforesaid westerly face of the 4-story brick building with the northerly line of former Burton Street (as a street 30 feet wide, now closed by #231 CCP November 28, 1978); thence westerly and along the northerly line of former Burton Street, a distance of 139.53 feet to a point in the aforementioned easterly line of Washington Street; thence southerly and along the easterly line of Washington Street, a distance of 361.70 feet to the point or place of beginning.

Containing 2.110 acres, be the same, more or less.

# **Exhibit B**

## **Site Survey**





**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**  
**Site Management Form**  
 12/23/2019



**SITE DESCRIPTION**

**SITE NO.** C915281

**SITE NAME** Former Trico Plant

**SITE ADDRESS:** 791 Washington Street ZIP CODE: 14203

**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	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Monitoring Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Operation and Maintenance (O&M) Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Periodic Review Frequency: once a year

Periodic Review Report Submitted Date: 04/30/2021

**Description of Institutional Control**

**791 Washington Street, LLC**

4 Centre Drive

**791 Washington Street**

Environmental Easement

Block: 1

Lot: 1

Sublot: 11

Section: 111

Subsection: 31

S\_B\_L Image: 111.31-1-1.11

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

O&M Plan

Site Management Plan

Soil Management Plan

**Description of Engineering Control**

**791 Washington Street, LLC**

4 Centre Drive

**791 Washington Street**

Environmental Easement

Block: 1

Lot: 1

Sublot: 11

Section: 111

Subsection: 31

S\_B\_L Image: 111.31-1-1.11

Cover System

Vapor Mitigation