



**THE SLATER  
LAW FIRM**

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April 6, 2017

Chief, Site Control  
NYS Department of Environmental Conservation  
Department of Environmental Remediation  
625 Broadway  
Albany, New York 12233-5500

Re: Site No. C915285  
**Notice of Filed Certificate of Completion**

Dear Sirs:

Please be advised that a Certificate of Completion in the above-entitled matter was filed in the Erie County Clerk's Office on April 5, 2017.

If you have any questions or need anything further please contact me anytime. Thank you.

Very truly yours,

The Slater Law Firm, PLLC

Craig A. Slater

DIRECT DIAL: (716) 845-6760  
E-MAIL: [CSLATER@CSLATERLAW.COM](mailto:CSLATER@CSLATERLAW.COM)

CAS : es  
Enclosure



PEGGY A. LAGREE, ACTING ERIE COUNTY CLERK  
REF:

DATE: 4/5/2017  
TIME: 9:13:52 AM  
RECEIPT: 17060694 - DUPLICATE -

PARALEGAL SERVICES OF BUFFALO  
ACCOUNT #: 9273

DUPLICATE RECEIPT

ITEM - 01 740  
RECD: 4/5/2017 9:19:08 AM  
FILE: 2017068233 BK/PG D 11311/5551  
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL C  
ONSERVATION  
441 OHIO STREET LLC  
Recording Fees 100.00  
Subtotal 100.00

TOTAL DUE	\$100.00
PAID TOTAL	\$100.00
PAID ESCROW	\$100.00

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REC BY: Janet H  
COUNTY RECORDER





**FILED**

APR - 5 2017

ERIE COUNTY  
CLERK'S OFFICE

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

**CERTIFICATE HOLDER(S):****Name**

441 Ohio Street, LLC

**Address**

500 Seneca Street, Suite 508, Buffalo, NY 14204

**BROWNFIELD CLEANUP AGREEMENT:****Application Approval:** 4/10/14 **Agreement Execution:** 4/30/14 **Agreement Index No.:** C915285-04-14**Application Approval Amendment:** none**Agreement Execution Amendment:** none**SITE INFORMATION:****Site No.:** C915285 **Site Name:** 441 Ohio Street Site**Site Owner:** 441 Ohio Street, LLC**Street Address:** 9 South Street**Municipality:** Buffalo **County:** Erie **DEC Region:** 9**Site Size:** 1.78 Acres**Tax Map Identification Number(s):** 122.14-1-1**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 BK/PG 11305/9096.

#### **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: MARCH 30, 2011



**NOTICE OF CERTIFICATE OF COMPLETION**

**Brownfield Cleanup Program**

**6 NYCRR Part 375-1.9(d)**

**441 Ohio Street, Site ID No. C915285**

**9 South Street, Buffalo, New York, 14203**

**City of Buffalo, Erie County, Tax Map Identification Number 122.14-1-1**

**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 441 Ohio Street, LLC for a parcel approximately 1.78 acres in size located at 9 South 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 11305/9096.

**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.



441 Ohio Street, Site # C915285, 9 South Street, Buffalo, New York 14203

**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, New York 14203, by contacting the Regional Environmental Remediation Engineer.

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

441 Ohio Street, LLC

By: [Signature]

Title: MANAGING MEMBER

Date: APRIL 3, 2017

STATE OF NEW YORK ) SS:  
COUNTY OF )

On the 3<sup>RD</sup> day of APRIL, in the year 2017, before me, the undersigned, personally appeared DAVID FRONZONI 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]  
Signature and Office of individual  
taking acknowledgment

**CRAIG A. SLATER**  
Notary Public, State of New York  
Qualified in Erie County  
Commission Expires October 31, 2018

**Please record and return to:**

441 Ohio Street, LLC  
Att: Mr. Samuel Savarino  
500 Seneca Street, Suite 508  
Buffalo, New York 14204



**EXHIBIT A: PROPERTY DESCRIPTION**

**ENVIRONMENTAL BASEMENT AREA - A PORTION OF PARCEL NO. 1 AND ALL OF PARCEL NO. 2**

**METES AND BOUNDS DESCRIPTION OF ENVIRONMENTAL BASEMENT:**

ALL TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie and State of New York, being part of Lots 22 and 26, bounded and described as follows:

**Exhibit A**

**Site Description**

BEGINNING AT A POINT IN THE WESTERLY LINE OF OHIO STREET, 66 FEET WIDE, DISTANCE 292.43 FEET SOUTHERLY AS MEASURED ALONG SAID WESTERLY LINE OF OHIO STREET FROM ITS ENTRY TO THE SOUTHERLY LINE OF SOUTH STREET, 66 FEET WIDE;

(1) THENCE SOUTHERLY, ALONG SAID WESTERLY LINE OF OHIO STREET, 27.04 FEET TO AN INTERSECTION WITH THE EASTERLY EXTENSION OF COURSE 3 OF PARCEL NO. 1;

(2) THENCE WESTERLY, ALONG SAID EASTERLY EXTENSION OF COURSE 3, MAKING AN INTERIOR ANGLE OF 86°51'18" WITH THE PRECEDING COURSE, 113.47 FEET TO THE SOUTHEASTERN CORNER OF SAID PARCEL 1;

(3) THENCE CONTINUING WESTERLY, ALONG SAID EXTENSION OF COURSE 3, A DISTANCE OF 141.63 FEET TO A POINT AT ELEVATION 272.4' ALONG THE BUFFALO RIVER;

THE FOLLOWING 4 COURSES AND DISTANCES ARE ALONG THE SAID ELEVATION OF 272.4':

(4) THENCE NORTHERLY, MAKING AN INTERIOR ANGLE OF 73°23'18" WITH THE PRECEDING COURSE, A DISTANCE OF 54.74 FEET TO AN ANGLE POINT;

(5) THENCE NORTHERLY, MAKING AN INTERIOR ANGLE OF 193°20'32" WITH THE PRECEDING COURSE, A DISTANCE OF 26.02 FEET TO AN ANGLE POINT;

(6) THENCE NORTHERLY, MAKING AN INTERIOR ANGLE OF 173°02'04" WITH THE PRECEDING COURSE, A DISTANCE OF 14.17 TO AN ANGLE POINT;

(7) THENCE NORTHERLY, MAKING AN INTERIOR ANGLE OF 101°29'01" WITH THE PRECEDING COURSE, A DISTANCE OF 2.50 FEET TO A POINT;

(8) THENCE NORTHERLY, MAKING AN EXTERIOR ANGLE OF 91°18'58" WITH THE PRECEDING COURSE, A DISTANCE OF 230.87 FEET TO A POINT IN THE NORTH LINE OF PARCEL 1;

(9) THENCE EASTERLY, ALONG THE NORTH LINE OF PARCEL 1, MAKING AN INTERIOR ANGLE OF 92°58'41" WITH THE PRECEDING COURSE, A DISTANCE OF 119.98 FEET TO A POINT AT THE NORTHEASTERN CORNER OF PARCEL 1;

**SCHEDULE "A" PROPERTY DESCRIPTION**

**ENVIRONMENTAL EASEMENT AREA - A PORTION OF PARCEL NO. 1 AND ALL OF PARCEL NO. 2**

**METES AND BOUNDS DESCRIPTION OF ENVIRONMENTAL EASEMENT:**

ALL TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie and State of New York, being part of Outer Lots 55 and 56, bounded and described as follows:

BEGINNING AT A POINT IN THE WESTERLY LINE OF OHIO STREET, 66 FEET WIDE, DISTANCE 599.43 FEET SOUTHERLY AS MEASURED ALONG SAID WESTERLY LINE OF OHIO STREET FROM ITS INTERSECTION WITH THE SOUTHERLY LINE OF SOUTH STREET, 66 FEET WIDE;

- 1) THENCE SOUTHERLY, ALONG SAID WESTERLY LINE OF OHIO STREET, 25.04 FEET TO AN INTERSECTION WITH THE EASTERLY EXTENSION OF COURSE 3 OF PARCEL NO. 1;
  - 2) THENCE WESTERLY, ALONG SAID EASTERLY EXTENSION OF COURSE 3, MAKING AN INTERIOR ANGLE OF 86°51'18" WITH THE PRECEDING COURSE, 113.47 FEET TO THE SOUTHEASTERLY CORNER OF SAID PARCEL 1;
  - 3) THENCE CONTINUING WESTERLY, ALONG SAID EXTENSION OF COURSE 3, A DISTANCE OF 141.63 FEET TO A POINT AT ELEVATION 575.4' ALONG THE BUFFALO RIVER;
- THE FOLLOWING 4 COURSES AND DISTANCES ARE ALONG THE SAID ELEVATION OF 575.4':
- 4) THENCE NORTHERLY, MAKING AN INTERIOR ANGLE OF 73°53'18" WITH THE PRECEDING COURSE, A DISTANCE OF 54.74 FEET TO AN ANGLE POINT;
  - 5) THENCE NORTHERLY, MAKING AN INTERIOR ANGLE OF 193°50'52" WITH THE PRECEDING COURSE, A DISTANCE OF 26.02 FEET TO AN ANGLE POINT;
  - 6) THENCE NORTHERLY, MAKING AN INTERIOR ANGLE OF 172°02'04" WITH THE PRECEDING COURSE, A DISTANCE OF 14.17 TO AN ANGLE POINT;
  - 7) THENCE NORTHERLY, MAKING AN INTERIOR ANGLE OF 101°29'01" WITH THE PRECEDING COURSE, A DISTANCE OF 2.50 FEET TO A POINT;
  - 8) THENCE NORTHERLY, MAKING AN EXTERIOR ANGLE OF 91°18'56" WITH THE PRECEDING COURSE, A DISTANCE OF 520.87 FEET TO A POINT IN THE NORTH LINE OF PARCEL 1;
  - 9) THENCE EASTERLY, ALONG THE NORTH LINE OF PARCEL 1, MAKING AN INTERIOR ANGLE OF 92°56'41" WITH THE PRECEDING COURSE, A DISTANCE OF 119.98 FEET TO A POINT AT THE NORTHEASTERLY CORNER OF PARCEL 1;



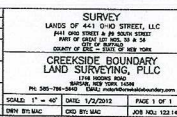
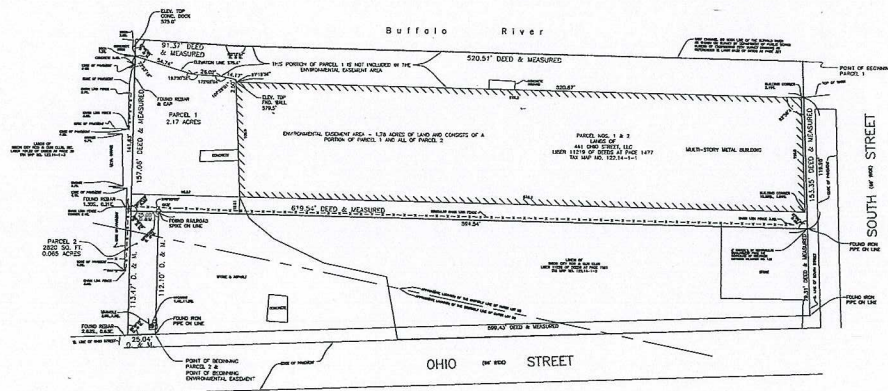
10) THENCE SOUTHERLY, ALONG THE EASTERLY LINE OF PARCEL 1, MAKING AN INTERIOR ANGLE OF 87°06'48" WITH THE PRECEDING COURSE, A DISTANCE OF 594.54 FEET TO THE NORTHWEST CORNER OF PARCEL 2;

11) THENCE EASTERLY, ALONG THE NORTHERLY LINE OF PARCEL 2, MAKING AN INTERIOR ANGLE OF 270°00'00", A DISTANCE OF 112.10 FEET TO THE POINT OR PLACE OF BEGINNING CONTAINING 1.78 ACRES OF LAND.

## **Exhibit B**

### **Site Survey**





"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 [enrweb@dec.ny.gov](mailto:enrweb@dec.ny.gov)."







NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
Site Management Form  
3/22/2017



**SITE DESCRIPTION**

**SITE NO.** C915285

**SITE NAME** 441 Ohio Street Site

**SITE ADDRESS:** 9 South 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



Monitoring Plan



Operation and Maintenance (O&M) Plan



Periodic Review Frequency: once a year

Periodic Review Report Submitted Date: 07/31/2018

**Description of Institutional Control**

**441 Ohio Street, LLC**

500 Seneca Street, Suite 508

**9 South Street**

Environmental Easement

Block: 1

Lot: 1

Sublot:

Section: 122

Subsection: 14

S\_B\_L Image: 122.14-1-1

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Site Management Plan

Soil Management Plan

Operation and Maintenance Plan

**Description of Engineering Control**

**441 Ohio Street, LLC**

500 Seneca Street, Suite 508

**9 South Street**

Environmental Easement

Block: 1

Lot: 1

Sublot:

Section: 122

Subsection: 14

S\_B\_L Image: 122.14-1-1

Cover System