

# 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 31 2019

Pierce Arrow Kanaka LLC  
Attn: Mr. Irv Levy  
2150 Wehrle Drive, Suite 400  
Williamsville, NY 14221

Re: Certificate of Completion  
Pierce Arrow  
Buffalo, Erie County  
Site Code C915308

Dear Mr. Levy:

Congratulations on having satisfactorily completed the remedial program at the Pierce Arrow 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



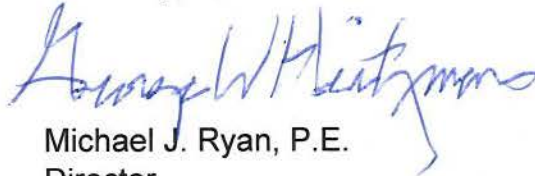
Department of  
Environmental  
Conservation

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 on April 30, 2021.

If you have any questions regarding any of these items, please contact Anthony Lopes at 716-851-7220.

Sincerely,



Michael J. Ryan, P.E.

Director

Division of Environmental Remediation

Enclosure

ec w/ enclosure:

Christine Vooris – NYSDOH, [Christine.Vooris@health.ny.gov](mailto:Christine.Vooris@health.ny.gov)

Charlotte Bethoney – NYSDOH, [Charlotte.Bethoney@health.ny.gov](mailto:Charlotte.Bethoney@health.ny.gov)

Kristen Kulow – NYSDOH, [Kristin.Kulow@health.ny.gov](mailto:Kristin.Kulow@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)

Cody Martin, [cmartin@cscos.com](mailto:cmartin@cscos.com)

Daniel Riker, [driker@cscos.com](mailto:driker@cscos.com)

Craig A. Slater, Esq., [cslater@cslaterlaw.com](mailto:cslater@cslaterlaw.com)

ec w/o enc.:

Anthony Lopes

Michael Cruden

Jeffrey Dyber

Stanley Radon

Chad Staniszewski

Jennifer Dougherty

Kelly Lewandowski



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 11353, Page 3972.

#### **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.

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

**CERTIFICATE HOLDER(S):**

**Name**

Pierce Arrow Kanaka LLC

**Address**

2150 Wehrle Drive, Suite 400, Williamsville, NY 14221

**BROWNFIELD CLEANUP AGREEMENT:**

**Application Approval:** 12/22/16

**Agreement Execution:** 2/7/17

**Agreement Index No.:** C915308-12-16

**Application Approval Amendment:** 10/4/19

**Agreement Execution Amendment:** 10/4/19

**SITE INFORMATION:**

**Site No.:** C915308 **Site Name:** Pierce Arrow

**Site Owner:** Pierce Arrow Kanaka LLC

**Street Address:** 1695, 1721 and 1723 Elmwood Avenue

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

**Site Size:** 2.898 Acres

**Tax Map Identification Number(s):** 78.77-2-2, 78.77-2-3, 78.77-2-6

**Percentage of site located in an EnZone:** 0 - 49%

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):

**Track 1 Area:** See Track 1 Areas in Exhibit A (1.768 acres)

**Allowable Uses under the BCP:** Unrestricted, Residential, Restricted Residential, Commercial, and Industrial

**Cleanup Track:** Track 1: Unrestricted use

**Tax Credit Provisions:**

Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 50%.

Tangible Property Credit is 15%. Comprised of 10% Base, 5% Track 1.

**Track 4 Area:** See Track 4 Areas in Exhibit A (1.13 acres)

**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:**

Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 28%.

Tangible Property Credit is 10%. Comprised of 10% Base.

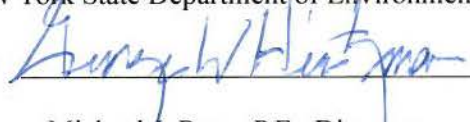


The Certificate holder(s) (including its successors or assigns) shall have thirty (30) days within which to cure any deficiency or to seek a hearing. If the deficiency is not cured or a request for a hearing is not received within such 30-day period, the Certificate shall be deemed modified or vacated on the 31st day after the Department's notice.

Basil Seggos  
Commissioner

New York State Department of Environmental Conservation

By:



Date:

12/31/19

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

# **Exhibit A**

1695 ELMWOOD AVENUE

SBL 78.77-2-6

BROWNFIELD CLEANUP PROGRAM SITE - NO. C915308 - TRACK 1

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. 83, Township 11, Range 8 of the Holland Land Company's Survey, described as follows:

BEGINNING at the intersection of the northerly line of Great Arrow Avenue with the easterly line of Elmwood Avenue (99' wide); thence northerly along the easterly line of Elmwood Avenue a record distance of 123.92 feet, 123.90 feet measured, to an angle point therein; thence continuing northerly along the easterly line of Elmwood Avenue making an interior angle with the last mentioned course of  $181^{\circ}26'00''$ , a distance of 369.50 feet to a point; thence easterly parallel with the northerly line of Great Arrow Avenue at an interior angle of  $91^{\circ}32'$  a distance of 44.00 feet to a point; thence southerly at right angles a distance of 14.65 feet more or less to the northerly face of an existing building; thence easterly along said northerly building face a distance of 42.13 feet more or less to the northeast corner of said building; thence southerly along the easterly face of said building a distance of 91.90 feet to a point; thence easterly along the northerly face of said building, a distance of 30.40 feet to a point; thence northerly at an interior angle of  $89^{\circ}59'29''$  a distance of 48.46 feet to a point; thence easterly at an exterior angle of  $91^{\circ}51'20''$  a distance of 13.57 feet to a point on the westerly line of lands conveyed by 1695 Elmwood Avenue Corporation to the United States by deed recorded in the Erie County Clerk's Office in Liber 3264 of Deeds at page 359; thence southerly at right angles to the northerly line of Great Arrow Avenue and along the westerly line of lands conveyed to the United States by the above mentioned deed, 227.14 feet to a northerly line of lands conveyed by 1695 Elmwood Avenue Corporation to Three Eighty Three Realty Corporation by deed recorded in the Erie County Clerk's Office in Liber 3121 of Deeds at page 565; thence westerly along said northerly line and parallel with the northerly line of Great Arrow Avenue, 4 feet to a northwest corner of lands so conveyed to Three Eighty Three Realty Corporation; thence southerly at right angles to the northerly line of Great Arrow Avenue a distance of 205.97 feet to the northerly line of Great Arrow Avenue; thence westerly along said northerly line of Great Arrow Avenue a distance of 141.00 feet to the point or place of beginning containing 1.411 acres more or less.

1695 ELMWOOD AVENUE

SBL 78.77-2-6

BROWNFIELD CLEANUP PROGRAM SITE - NO. C915308 - TRACK 4 (RESTRICTED RESIDENTIAL)

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. 83, Township 11, Range 8 of the Holland Land Company's Survey, described as follows:

COMMENCING at the intersection of the northerly line of Great Arrow Avenue with the easterly line of Elmwood Avenue (99' wide); thence northerly along the easterly line of Elmwood Avenue a record distance of 123.92 feet, 123.90 feet measured, to an angle point therein; thence continuing northerly

along the easterly line of Elmwood Avenue making an interior angle with the last mentioned course of  $181^{\circ}26'00''$ , a distance of 369.50 feet to a point; thence easterly parallel with the northerly line of Great Arrow Avenue at an interior angle of  $91^{\circ}32'$  a distance of 44.00 feet to the point of beginning; thence southerly at right angles a distance of 14.65 feet more or less to the northerly face of an existing building; thence easterly along said northerly building face a distance of 42.13 feet more or less to the northeast corner of said building; thence southerly along the easterly face of said building a distance of 91.90 feet to a point; thence easterly along the northerly face of said building, a distance of 30.40 feet to a point; thence northerly at an interior angle of  $89^{\circ}59'29''$  a distance of 48.46 feet to a point; thence easterly at an exterior angle of  $91^{\circ}51'20''$  a distance of 13.57 feet to a point on the westerly line of lands conveyed by 1695 Elmwood Avenue Corporation to the United States by deed recorded in the Erie County Clerk's Office in Liber 3264 of Deeds at page 359; thence northerly at right angles a distance of 60.00 feet to the westerly at right angles a distance of 84.87 feet to the point or place of beginning containing 0.108 acres more or less.

1721 ELMWOOD AVENUE - SBL 78.77-2-2

1723 ELMWOOD AVENUE - SBL 78.77-2-3

BROWNFIELD CLEANUP PROGRAM SITE - NO. C915308 - AREA "A" TRACK 1

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. 83, Township 11, Range 8 of the Holland Land Company's Survey, described as follows:

COMMENCING at the point of intersection of the easterly line of Elmwood Avenue (99' wide) with the southerly line of lands owned by the New York Central Belt Line Railroad Company, (now or formerly Conrail); thence easterly along the southerly line of said railroad lands a distance of 609.81 feet to the point of intersection of the southerly line of said railroad lands and the extension northerly of the center line of a wall separating the building immediately to the east thereof; thence southerly along the center line of said wall extended a distance of  $14.6\pm$  feet to the north face of a building thence westerly along the north building face a distance of  $1.1\pm$  feet to the northwest corner of said building; thence southerly along the westerly building face a distance of 11.0 feet to a building corner; thence westerly along the north face of said building a distance of 30.72 feet to a building corner; thence southerly along a west building face a distance of 4.54 feet to a building corner; thence westerly along a north building face a distance of 295.07 feet to a building corner; thence northerly along an east building face a distance of 26.47 feet to a northeast building corner; thence westerly along a north building face a distance of 100.63 feet to a northwest building corner; thence southerly along a west building face a distance of 8.62 feet to a building corner; thence westerly along a north building face a distance of 113.99 feet to a building corner; thence northerly along an east building face a distance of 10.64 feet to a northeast building corner; thence westerly along a north building face a distance of 51.53 feet to the northwest corner of said building; thence southerly along the west face of said building and the extension thereof a distance of 95.5 feet to the southerly line of lands conveyed as Parcel A in deed recorded in the Erie County Clerk's Office in Liber 11133 of Deeds at page 9260; thence westerly along said southerly line a distance of 19.2' to the easterly line of Delaware Avenue, said point being also the southwest corner of



said Parcel A; thence northerly along the easterly line of Delaware Avenue a distance of 96.50 feet to the point of beginning containing 0.299 acres more or less.

1723 ELMWOOD AVENUE - SBL 78.77-2-3

BROWNFIELD CLEANUP PROGRAM SITE - NO. C915308 - AREA "B" TRACK 1

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. 83, Township 11, Range 8 of the Holland Land Company's Survey, described as follows:

COMMENCING at the point of intersection of the easterly line of Elmwood Avenue (99' wide) with the southerly line of lands owned by the New York Central Belt Line Railroad Company, (now or formerly Conrail); thence southerly along the easterly line of Elmwood Avenue a distance of 96.50 feet to a point; thence easterly parallel with the northerly line of Great Arrow Avenue a distance of 335.68 feet to a point; thence southerly at right angles a distance of 3.0 feet to a point; thence easterly parallel with the northerly line of Great Arrow Avenue a distance of 101.95 feet to the point of beginning; thence continuing easterly parallel with the northerly line of Great Arrow Avenue a distance of 59.55 feet to a point; thence northerly at right angles a distance of 1.7± feet to the southwest corner of a building; thence northerly along the west face of said building a distance of 5.88 feet to a building corner; thence westerly along a south building face a distance of 26.86 feet to a building corner; thence northerly along an east building face a distance of 7.83 feet to a building corner; thence westerly along a south building face a distance of 5.8 feet to a point; thence southerly a distance of 12.1 feet to a point; thence westerly parallel with the northerly line of Great Arrow Avenue a distance of 27.0 feet to a point; thence southerly a distance of 3.4 feet to the point of beginning containing 0.009 acres more or less.

1723 ELMWOOD AVENUE - SBL 78.77-2-3

BROWNFIELD CLEANUP PROGRAM SITE - NO. C915308 - AREA "C" TRACK 1

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. 83, Township 11, Range 8 of the Holland Land Company's Survey, described as follows:

COMMENCING at the point of intersection of the easterly line of Elmwood Avenue (99' wide) with the southerly line of lands owned by the New York Central Belt Line Railroad Company, (now or formerly Conrail); thence easterly along the easterly line of Elmwood Avenue a distance of 95.50 feet to a point; thence easterly parallel with the northerly line of Great Arrow Avenue a distance of 335.68 feet to a point; thence southerly at right angles a distance of 3.0 feet to a point; thence easterly parallel with the northerly line of Great Arrow Avenue a distance of 274.11 feet to a point; thence northerly at right angles a distance of 12.4 feet to a point; thence westerly at right angles a distance of 48.3 feet more or less to the east face of a building; thence northerly along the east face of said building a distance of

43.6± feet to a building corner; thence easterly along a south building face a distance of 50.12 feet to a building corner; thence southerly a distance of 41.6 feet to the place of beginning containing 0.049 acres more or less.

1721 ELMWOOD AVENUE - SBL 78.77-2-2

1723 ELMWOOD AVENUE - SBL 78.77-2-3

**BROWNFIELD CLEANUP PROGRAM SITE - NO. C915308 - TRACK 4 (RESTRICTED RESIDENTIAL)**

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. 83, Township 11, Range 8 of the Holland Land Company's Survey, described as follows:

COMMENCING at the point of intersection of the easterly line of Elmwood Avenue (99' wide) with the southerly line of lands owned by the New York Central Belt Line Railroad Company, (now or formerly Conrail); thence southerly along the easterly line of Elmwood Avenue a distance of 96.50 feet to a point; thence easterly parallel with the northerly line of Great Arrow Avenue a distance of 19.2 feet to the point of beginning; thence easterly parallel with the northerly line of Great Arrow Avenue a distance of 316.48 feet to a point; thence southerly at right angles a distance of 3.0 feet to a point; thence easterly parallel with the northerly line of Great Arrow Avenue a distance of 101.95 feet; thence northerly at right angles a distance of 3.4 feet to a point; thence easterly parallel with the northerly line of Great Arrow Avenue a distance of 27.0 feet to a point; thence northerly at right angles a distance of 12.1± feet to the south face of an existing building; thence easterly along a south building face a distance of 5.8 feet to a building corner; thence southerly along a west building face a distance of 5.88 feet to a southwest building corner; thence continuing southerly at right angles to the fourth course herein described a distance of 1.7± feet to the south line of lands described in Liber 3787 of deeds at page 451; thence easterly along said south line of lands a distance of 112.61 feet to a point, thence northerly at right angles a distance of 12.4 feet to a point; thence westerly at right angles a distance of 48.3 feet more or less to the east face of a building; thence northerly along said east building face a distance of 43.6 feet to a building corner; thence easterly along a south building face a distance of 50.12 feet to the centerline of a wall separating the building on Parcel "D" of Liber 11133, page 9260 from the building immediately to the east, thence northerly along said wall centerline a distance of 32.33 feet to the north face of a building, thence westerly along a north building face a distance of 1.1± feet to a northwest building corner; thence southerly along the westerly building face a distance of 11.0 feet to a building corner; thence westerly along the north face of said building a distance of 30.72 feet to a building corner; thence southerly along a west building face a distance of 4.54 feet to a building corner; thence westerly along a north building face a distance of 295.07 feet to a building corner; thence northerly along an east building face a distance of 26.47 feet to a northeast building corner; thence westerly along a north building face a distance of 100.63 feet to a northwest building corner; thence southerly along a west building face a distance of 8.62 feet to a building corner; thence westerly along a north building face a distance of 113.99 feet to a building corner; thence northerly along an east building face a distance of 10.64 feet to a northeast building corner; thence westerly along a north building face a

distance of 51.53 feet to the northwest corner of said building; thence southerly along the west face of said building and the extension thereof a distance of 95.5 feet to the point of beginning containing 1.022 acres more or less.

**TOTAL TRACK 1 = 1.768 acres**

**TOTAL TRACK 4 = 1.13 acres**

**TOTAL ACREAGE = 2.898 acres**

# **Exhibit B**



**OF THE HOLLAND LAND COMPANY'S SURVEY**  
**CITY OF BUFFALO**  
**COUNTY OF ERIE - STATE OF NEW YORK**

 **FRANDINA ENGINEERING and LAND SURVEYING, P.C.**  
**CIVIL ENGINEERS and LAND SURVEYORS**

1701 Hurlst Avenue Phone: (716) 853-1211  
 Buffalo, New York 14213 FAX: (716) 853-1214

**DATE: 2/3/2017 SHEET: 1 OF 1 DRAW BY: MAC**  
**JOB NO.: 4360-2 SCALE: 1" = 40' CHECKED BY: JAC**

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

Pierce Arrow, Site ID No. C915308  
1695, 1721, and 1723 Elmwood Avenue, Buffalo, NY, 14207  
Buffalo, Erie County, Tax Map Identification Number 78.77-2-6, 78.77-2-2, 78.77-2-3

**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 Pierce Arrow Kanaka LLC for a parcel approximately 2.898 acres located at 1695, 1721, and 1723 Elmwood 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 a 1.768-acre portion of 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.

**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.

**PLEASE TAKE NOTICE**, the remedial program for a 1.130-acre portion of 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 11353, Page 3972.

**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.

**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 Ave, Buffalo, NY 14203, by contacting the Regional Environmental Remediation Engineer.

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

Pierce Arrow Kanaka 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:**  
Pierce Arrow Kanaka LLC  
Attn: Mr. Irv Levy  
2150 Wehrle Drive, Suite 400  
Williamsville, NY 14221





NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Site Management Form

12/18/2019



SITE DESCRIPTION

SITE NO. C915308

SITE NAME Pierce Arrow

SITE ADDRESS: 1695, 1721 and 1723 Elmwood Avenue ZIP CODE: 14207

CITY/TOWN: Buffalo

COUNTY: Erie

ALLOWABLE USE:

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: 04/25/2021

Description of Institutional Control

Pierce Arrow Kanaka LLC

2150 Wehrle Drive, Suite 400

1695 Elmwood Avenue

Environmental Easement

Block: 2

Lot: 6

Sublot:

Section: 78

Subsection: 77

S\_B\_L Image: 78.77-2-6

Building Use Restriction

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Site Management Plan

1721 Elmwood Avenue

Environmental Easement

Block: 2

Lot: 2  
Sublot:  
Section: 78  
Subsection: 77  
S\_B\_L Image: 78.77-2-2  
Building Use Restriction  
Ground Water Use Restriction  
IC/EC Plan  
Landuse Restriction  
Site Management Plan

**1723 Elmwood Avenue**  
Environmental Easement  
Block: 2

Lot: 3  
Sublot:  
Section: 78  
Subsection: 77  
S\_B\_L Image: 78.77-2-3  
Building Use Restriction  
Ground Water Use Restriction  
IC/EC Plan  
Landuse Restriction  
Site Management Plan

#### Description of Engineering Control

**Pierce Arrow Kanaka LLC**  
2150 Wehrle Drive, Suite 400  
**1695 Elmwood Avenue**  
Environmental Easement

Block: 2  
Lot: 6  
Sublot:  
Section: 78  
Subsection: 77  
S\_B\_L Image: 78.77-2-6  
Cover System

**1721 Elmwood Avenue**  
Environmental Easement  
Block: 2

Lot: 2  
Sublot:  
Section: 78  
Subsection: 77  
S\_B\_L Image: 78.77-2-2  
Cover System

**1723 Elmwood Avenue**  
Environmental Easement  
Block: 2

Lot: 3  
Section: 78 Subsection: 77 S\_B\_L Image: 78.77-2-3  
Cover System