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

December 23, 2024

2929 Main, LLC Attn: F. James McGuire 455 Cayuga Road, Suite 100 Buffalo, NY 14225 eric@mcg-dev.com

Main and Hertel LLC Attn: David Freeman 1425 North University Avenue Provo, UT 84604 dave@blackfishinvestments.com

Re: Certificate of Completion

Site Name: Main and Hertel City of Buffalo, Erie County

Site No.: C915318

Dear Applicants:

Congratulations on having satisfactorily completed the remedial program at the Main and Hertel site. Enclosed please find an original, signed Certificate of Completion (COC). The New York State Department of Environmental Conservation (NYSDEC) 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 the Notice of Certificate of Completion 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 the Notice within 30 days of the date that you acquire the site. If you are a non-owner, you must work with the owner to assure the Notice is recorded within the time frame specified. A standard Notice of Certificate of Completion form is attached to this letter.
- Provide electronic copies of the recorded Notice and proof of recording to NYSDEC's project manager. Please return the hard copy of the proof of recording to:



Andrew Zwack
New York State Department of Environmental Conservation
Division of Environmental Remediation
700 Delaware Avenue
Buffalo, NY 14209

- Provide the Certificate of Completion fact sheet to the Document Repositories within 10 days of issuance of the COC. NYSDEC will develop the 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 NYSDEC-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 NYSDEC 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 NYSDEC in April 2026.

If you have any questions, please do not hesitate to contact Andrew Zwack, NYSDEC's project manager, at (716) 851-7220 or Andrew.Zwack@dec.ny.gov.

Sincerely,

Andrew Guglielmi

Andrew Guglielmi
Division Director
Division of Environmental Remediation

Enclosure

ec w/ enclosure:

Marc Romanowski – Rupp Pfalzgraf LLC, romanowski@rupppfalzgraf.com Christopher Boron – Roux Environmental, cboron@rouxinc.com C. Vooris – NYSDOH, christine.vooris@health.ny.gov Sara Bogardus – NYSDOH, sara.bogardus@health.ny.gov

Daniel Tucholski – NYSDOH, daniel.tucholski@health.ny.gov

Matt Gokey, matthew.gokey@tax.ny.gov

Paul Takac, paul.takac@tax.ny.gov

ec w/o enc.:

M. Cruden, B. McPherson, A. Zwack, M. Murphy, G. Scholand, K. Lewandowski - NYSDEC

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP) $CERTIFICATE\ OF\ COMPLETION$

CERTIFICATE HOLDER(S):

Name Address

Main and Hertel LLC 1425 N. University Avenue, Provo, UT 84604 2929 Main, LLC 455 Cayuga Road, Suite 100, Buffalo, NY 14225

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 7/6/17 **Agreement Execution:** 8/17/17

Agreement Index No.: C915318-06-17

Application Amendment Approval: 8/4/22 Agreement Amendment Execution: 8/4/22

Application Amendment Approval: 10/30/24 Agreement Amendment Execution: 10/30/24

SITE INFORMATION:

Site No.: C915318 Site Name: Main and Hertel

Site Owner: 2929 Main, LLC

Street Address: 2929-2939 Main Street

Municipality: Buffalo County: Erie DEC Region: 9

Site Size: 4.94 Acres

Tax Map Identification Number(s): 79.70-5-1.1 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):

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.

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%), if the site is located in a disadvantaged community and not located in an EnZone (5%), if the site is developed as a renewable energy facility site (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 at Book 11439, Page 3133.

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 finding any of the following:

- (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.

Sean Mahar

Interim Commissioner

New York State Department of Environmental Conservation

By: Andrew Guglislmi Date: 12/23/2024

Andrew O. Guglielmi, Director

Division of Environmental Remediation

Exhibit A Site Description

SCHEDULE "A" PROPERTY DESCRIPTION

Deed and Easement 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. 46, Township 11, Range 8 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point in the southeasterly line of Main Street, distant 340.80 feet southwesterly from the point of intersection of the said southeasterly line of Main Street with the southwesterly line of land conveyed to the Suspension Bridge and Erie Junction Railroad Co. (now or formerly Erie Railroad Co.) by deed dated July 18, 1870 and recorded in the Erie County Clerk's Office in Liber 250 of Deeds at page 608, said point of beginning also being the southwesterly corner of lands conveyed to the Rock Oil Corporation by deed dated September 5, 1950 and recorded in the Erie County Clerk's Office in Liber 4837 of Deeds at page 308;

THENCE southwesterly along the southeasterly line of Main Street, 275.62 feet to a point;

THENCE southeasterly at right angles to said southeasterly line of Main Street 516.30 feet to a point in a line drawn at right angles to the southwesterly line of lands of said Erie Railroad Co., said point being 289.92 feet southwesterly from the intersection of said right angle line and said southwesterly line of said Railroad's lands (as measured along said right angle line) said right angle line intersecting the southwesterly line of said Railroad's lands at a point 750 feet southeasterly from the intersection of said southwesterly line of said Railroad's lands with the southeasterly line of Main Street;

THENCE southwesterly along the continuation of said last described southwesterly line, .07 of a foot to a point;

THENCE southeasterly along a straight line, 224 feet to a point in a line drawn at right angles to the southwesterly line of said Railroad's lands, which point is distant 181.89 feet to the southwesterly from the southwesterly line of said Railroad's lands and which right angle line is distant 946.20 feet southeasterly from the southeasterly line of Main Street (as measured along the southwesterly line of said Railroad's lands);

THENCE easterly at an interior angle of 118 degrees 51 minutes 10 seconds, 181.89 feet to the southwesterly line of said Railroad's lands;

THENCE northwesterly along the said southwesterly line of said Railroad's lands, 362.25 feet to a point, which is 583.95 feet southeasterly from the intersection of the southwesterly line of said Railroad's lands and the southeasterly line of Main Street;

THENCE westerly at right angles and along the southeasterly line of lands conveyed to Smith and Sons Corporation by deed recorded in the Erie County Clerk's Office in Liber 1666 of Deeds at page 241, 89.26 feet to the southwesterly corner of lands so conveyed to Smith and Sons Corporation;

THENCE northwesterly in a straight line 177.23 feet more or less to a point 332.15 feet from the southeasterly line of Main Street, measured along a line parallel with the southwesterly line of

said Railroad's lands, said parallel line intersecting the southeasterly line of Main Street 200 feet southwesterly from the intersection of said southeasterly line of Main Street with the southwesterly line of said Railroad's lands;

THENCE northerly along said parallel line, 213.92 feet to the northeasterly corner of lands conveyed to the Rock Oil Corporation, as aforesaid;

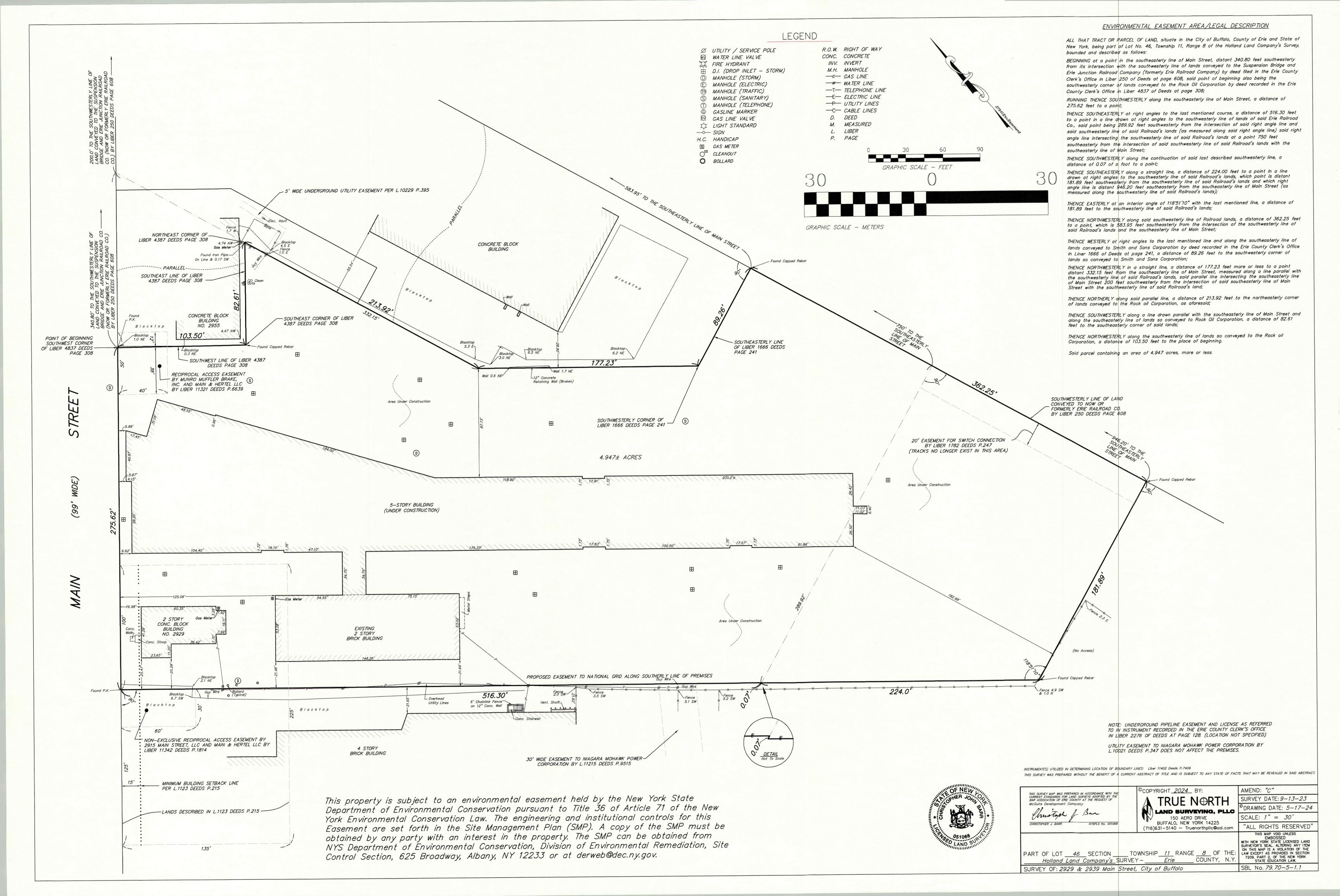
THENCE southwesterly parallel with the southeasterly line of Main Street and along the southeasterly line of lands so conveyed to Rock Oil Corporation, 82.61 feet to the southeasterly corner of said lands;

THENCE northwesterly along the southwesterly line of lands so conveyed to the Rock Oil Corporation, 103.50 feet to the place of beginning.

This parcel containing 4.947 Acres more or less.

Exhibit B

Site Survey



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

Main and Hertel, Site ID No. C915318 2929-2939 Main Street, Buffalo, NY, 14214 City of Buffalo, Erie County, Tax Map Identification Number: 79.70-5-1.1

PLEASE TAKE NOTICE, the New York State Department of Environmental Conservation (NYSDEC) has issued a Certificate of Completion (Certificate) pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law (ECL) to 2929 Main, LLC and Main and Hertel LLC for a parcel approximately 4.947-acres located at 2929-2939 Main Street in the City of Buffalo, Erie County.

PLEASE TAKE NOTICE, the Certificate was issued upon satisfaction of the Commissioner, following review by NYSDEC 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.
\boxtimes	Restricted Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)ii
\boxtimes	Commercial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iii.
\boxtimes	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 NYSDEC as not inconsistent with the remedy.

PLEASE TAKE NOTICE, 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 at Book 11439, Page 3133.

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 NYSDEC'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.

Main and Hertel, Site ID No. C915318 2929-2939 Main Street, Buffalo, NY, 14214

PLEASE TAKE NOTICE, any change of use of the site, as defined in 6 NYCRR 375, must be preceded by notice to NYSDEC 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 700 Delaware Avenue, Buffalo, NY 14209, by contacting the Regional Environmental Remediation Engineer, or at https://www.dec.ny.gov/data/DecDocs/C915318/.

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

Buffalo, NY 14225

	2929 Main, LLC
	By:
	Title:
	Date:
personally appeared, personally appeared	, in the year 20, before me, the undersigned, ersonally known to me or proved to me on the basis of whose name is (are) subscribed to the within instrument and ted the same in his/her/their capacity(ies), and that by the individual(s), or the person upon behalf of which the t.
Signature and Office of individual taking acknowledgment	Please record and return to: 2929 Main, LLC Attn: F. James McGuire 455 Cayuga Road, Suite 100



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION Site Management Form

12/5/2024



SITE DESCRIPTION

SITE NO. C915318

SITE NAME Main and Hertel

SITE ADDRESS: 2929-2939 Main Street ZIP CODE: 14214

CITY/TOWN: Buffalo

COUNTY: Erie

ALLOWABLE USE: Restricted-Residential, Commercial, and Industrial

SITE MANAGEMENT DESCRIPTION

SITE MANAGEMENT PLAN INCLUDES: YES NO

IC/EC Certification Plan

Monitoring Plan

Operation and Maintenance (O&M) Plan

Periodic Review Frequency: once a year

Periodic Review Report Submitted Date: 04/30/2026

Description of Institutional Control

2929 Main, LLC

455 Cayuga Road, Suite 100
2929-2939 Main Street
Environmental Easement
Block: 5
Lot: 1
Sublot: 1
Section: 79

Subsection: 70 S_B_L Image: 79.70-5-1.1

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction
Monitoring Plan

O&M Plan

Site Management Plan Soil Management Plan

Description of Engineering Control

2929 Main, LLC

455 Cayuga Road, Suite 100
2929-2939 Main Street

Environmental Easement

Block: 5

Lot: 1

Sublot: 1

Section: 79

Subsection: 70

S_B_L Image: 79.70-5-1.1

Cover System

Monitoring Wells

Vapor Mitigation