

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 26, 2024

Laborers Way 1, LLC
Attention: Brad Termini
700 Second Street
Encinitas, CA 92024
rherrell@zephyrpartners.com

Re: Certificate of Completion
310 Ship Canal Site
Buffalo, Erie County
Site No. C915322

Dear Brad Termini:

Congratulations on having satisfactorily completed the remedial program at the 310 Ship Canal 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:

Taylor Monnin
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 the 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 Taylor Monnin, NYSDEC's project manager, at (716) 851-7227 or taylor.monnin@dec.ny.gov.

Sincerely,

Andrew Guglielmi

Andrew Guglielmi
Division Director
Division of Environmental Remediation

Enclosure

ec w/ enclosure:

Dan Riker – C&S Companies, driker@cscos.com
 Brian Wasilewski – C&S Companies, BWasilewski@cscos.com
 Marc Romanowski – Rupp Baase Pfalzgraf Cunningham LLC,
romanowski@ruppbaase.com
 Christine Vooris – NYSDOH, christine.vooris@health.ny.gov
 Shaun Surani – NYSDOH, shaun.surani@health.ny.gov
 Sara Bogardus – NYSDOH, sara.bogardus@health.ny.gov
 Matt Gokey, matthew.gokey@tax.ny.gov
 Paul Takac, paul.takac@tax.ny.gov

ec w/o enc.:

T. Monnin, B. McPherson, M. Cruden, G. Scholand, M. Murphy,
K. Lewandowski – NYSDEC

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)
CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER:

Name

Laborers Way 1, LLC

Address

700 Second Street, Encinitas, CA 92024

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 7/5/22 **Agreement Execution:** 7/8/22

Agreement Index No.: C915322-06-22

Application Amendment Approval: 12/29/23

Agreement Amendment Execution: 12/29/23

SITE INFORMATION:

Site No.: C915322 **Site Name:** 310 Ship Canal Site

Site Owner: Laborers Way 1, LLC

Street Address: 310 Ship Canal Parkway

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

Site Size: 5.11 Acres

Tax Map Identification Number(s): p/o 132.15-2-1

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: 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%), 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 11438, Page 3248.

LIABILITY LIMITATION

Upon issuance of this Certificate of Completion, and subject to the terms and conditions set forth herein, the Certificate holder 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 (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 Guglielmi Date: 12/26/2024

Andrew O. Guglielmi, Director
Division of Environmental Remediation

Exhibit A

Site Description

SCHEDULE "A" PROPERTY DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie, State of New York and being part of Lot 17, Township 10, Range 8, of the Ogden Gore Tract, bounded and described as follows:

BEGINNING AT A POINT on the west line of Ship Canal Parkway at the southwest corner of Sublot 4 as shown on a map for Buffalo Lakeside Commerce Park, Phase III A as filed in the Erie County Clerk's Office under Cover Map No. 3438;

RUNNING THENCE: S-69°-36'-19"-W, along the south line of said Sublot 4, a distance of 590.00 feet to the southwest corner thereof;

RUNNING THENCE: N-20°-23'-41"-W, along the west line of said Sublot 4, a distance of 323.79 feet to a point on the south line of a New York State Department of Environmental Conservation 100 foot wide wetland buffer boundary;

RUNNING THENCE: The following four (4) courses and distances along the south line of said wetland buffer boundary:

1. N-62°-04'-08"-E, a distance of 176.65 feet to a point;
 2. N-60°-43'-49"-E, a distance of 246.28 feet to a point;
 3. N-38°-10'-50"-E, a distance of 177.58 feet to a point;
 4. N-84°-20'-15"-E, a distance of 20.70 feet to a point on the west line of Ship Canal Parkway;
- RUNNING THENCE: S-20°-23'-41"-E, along the west line of Ship Canal Parkway, a distance of 472.27 feet to the POINT OR PLACE OF BEGINNING, containing 5.11 Acres, be the same, more or less.

SUBJECT TO easements, rights of way and restrictions of record.

BEING AND INTENDED TO BE a portion of lands conveyed to Buffalo Urban Development Corporation by deeds recorded in the Erie County Clerk's Office in Liber 11122 of Deeds at Page 3412 and in Liber 11122 of Deeds at Page 3416.

Exhibit B

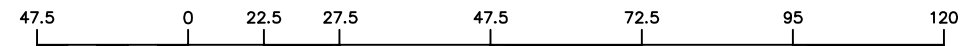
Site Survey

FUHRMANN BOULEVARD ARTERIAL (N.Y.S. ROUTE NO. 5)
(VARYING WIDTHS) (HAMBURG TURNPIKE)
(PUBLIC HIGHWAY)

LEGEND
— OE — OVERHEAD ELECTRIC
— UE — UNDERGROUND ELECTRIC
— OW — OVERHEAD GUY WIRE
— SS — SANITARY SEWER
— ST — STORM SEWER
— W — WATER
— X — CHAIN LINK FENCE
— P.P. — POWER POLE
— L.P. — LIGHT POLE
— C.B. — CATCH BASIN
— ST. M.H. — STORM MANHOLE
— SAN. M.H. — SANITARY MANHOLE
— MON. WELL — MONITORING WELL
— C.O. — CLEANOUT
— GAS MKR. — GAS MARKER
— UTL. BOX — UTILITY BOX
— G.P. — GUARD POST
— W.V. — WATER VALVE
— HYD. — HYDRANT
— ELEC. VAULT — ELECTRIC VAULT
— H.H. — ELECTRIC HAND HOLE
— E.B. — ELECTRIC BOX
— E.C.B. — ELECTRIC CONTROL BOX
— T.B. — TELEPHONE BOX
— COMM. BOX — COMMUNICATIONS BOX
— ELEC. H.H. — ELECTRIC HANDHOLE
— TEL. M.H. — TELEPHONE MANHOLE
— TRAF. M.H. — TRAFFIC MANHOLE
— M.H. — MANHOLE
— SIGN — SIGN
— TRANSF. — TRANSFORMER
— D.B. — DUB DOWN
— A.P. — ABOVE GROUND PIPE
— N.F.V. — NOT FIELD VERIFIED
— D. & M. — DEED, MAP & MEASURE
— D. & M. & M. — DEED, MAP ADDITION & MEASURE
— BCP BOUNDARY

GRAPHIC SCALE

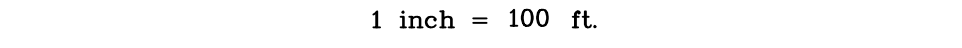
(IN METERS)



1 : 1200

GRAPHIC SCALE

(IN FEET)



1 inch = 100 ft.

NOTES

- 1) BEARINGS SHOWN REFER TO LANDS APPROPRIATED BY THE PEOPLE OF THE STATE OF NEW YORK FOR CITY OF BUFFALO ARTERIAL ROUTE, FUHRMANN BOULEVARD-HAMBURG TURNPIKE MAP NO. 333, PARCEL NO. 372 & MAP NO. 327, PARCEL NO'S 356-362, 366, 374 & 375.
- 2) SBL: CITY OF BUFFALO TAX MAP NO. 132.15-2-1
- 3) REFERENCE MAP: ALTA/NSPS LAND TITLE SURVEY PREPARED BY MCINTOSH & MCINTOSH, P.C. DATED APRIL 20, 2012, LAST RESURVEYED NOVEMBER 4, 2021 AND IDENTIFIED AS JOB NO. 7948-C

I HEREBY CERTIFY TO
LABORERS WAY, LLC, ITS SUCCESSORS AND/OR ASSIGNS,
LABORERS WAY, LLC,
STEWART TITLE INSURANCE COMPANY AND
HODGSON RUSS LLP
THAT IN MY PROFESSIONAL OPINION THIS SURVEY WAS PREPARED IN ACCORDANCE
WITH THE CURRENT CODE OF PRACTICE FOR LAND TITLE SURVEYS ADOPTED BY
THE NEW YORK STATE ASSOCIATION OF LAND SURVEYORS. THIS
SURVEY IS CERTIFIED TO THOSE NAMED ABOVE DURING THE PERIOD THAT THE
CURRENTLY ISSUED TITLE INSURANCE POLICY IS IN EFFECT. NO CERTIFICATION
WHATSOEVER IS EXTENDED TO SUBSEQUENT OWNERS, MORTGAGEES OR TITLE
INSURORS, UNLESS THIS SURVEY HAS BEEN RESURVEYED FOR THIS PURPOSE BY THE
SURVEYOR.

NOVEMBER 4, 2021

L.S.



NYSDEC BCP DESCRIPTION 310 SHIP CANAL PARKWAY NYSDEC BCP SITE NO. ?

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie, State of New York and being part of Lot 17, Township 10, Range 8, of the Ogden Gore Tract, bounded and described as follows:
BEGINNING AT A POINT on the west line of Ship Canal Parkway at the southeast corner of Sublot 4 as shown on a map for Buffalo Lakeside Commerce Park, Phase III A as filed in the Erie County Clerk's Office under Cover Map No. 3438;
RUNNING THENCE: S-69°-36'-19"-W, along the south line of said Sublot 4, a distance of 590.00 feet to the southwest corner thereof;
RUNNING THENCE: N-20°-23'-41"-W, along the west line of said Sublot 4, a distance of 323.79 feet to a point on the south line of a New York State Department of Environmental Conservation 100 foot wide wetland buffer boundary;
RUNNING THENCE: The following four (4) courses and distances along the south line of said wetland buffer boundary:
1. N-62°-04'-08"-E, a distance of 176.65 feet to a point;
2. N-60°-43'-49"-E, a distance of 246.28 feet to a point;
3. N-38°-10'-50"-E, a distance of 177.58 feet to a point;
4. N-84°-20'-15"-E, a distance of 20.70 feet to a point on the west line of Ship Canal Parkway;
RUNNING THENCE: S-20°-23'-41"-E, along the west line of Ship Canal Parkway, a distance of 472.27 feet to the POINT OR PLACE OF BEGINNING, containing 5.11 Acres, be the same, more or less. SUBJECT TO easements, rights of way and restrictions of record.
BEING AND INTENDED TO BE a portion of lands conveyed to Buffalo Urban Development Corporation by deeds recorded in the Erie County Clerk's Office in Liber 11122 of Deeds at Page 3412 and in Liber 11122 of Deeds at Page 3416.

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 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 CAN BE OBTAINED FROM NYS DEPARTMENT OF ENVIRONMENTAL CONSERVATION, DIVISION OF ENVIRONMENTAL REMEDIATION, SITE CONTROL SECTION, 625 BROADWAY, ALBANY, NY 12233 OR AT DERWEB@GW.DEC.NY.GOV.

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ALL RIGHTS RESERVED

NOTE: THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE AND IS SUBJECT TO ANY STATE OF FACTS THAT MAY BE REVEALED BY AN EXAMINATION OF SUCH.

RESURVEY	REVISION
	ADDED CERTIFICATION MAY 19, 2022
	ADDED NYSDEC SITE CONTROL NOTES MAY 9, 2024

LOCATION	SURVEY OF PART OF LOT-17, TWP.-10, R.-8 OF THE OGDEN GORE TRACT
CITY OF BUFFALO, ERIE COUNTY, NEW YORK	
REFERENCE MAPS FILED IN E.C.C.O. UNDER MAP COVER NO. 3438	
JOB No. 7948-4-EE	SCALE: 1" = 100'
DATE: NOVEMBER 4, 2021	

DRAWN	MASS
COMP.	JEM. III
DESC.	CADFILE 7948-4-EE.DWG

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

310 Ship Canal Site, Site ID No. C915322
310 Ship Canal Parkway, Buffalo, NY, 14218
Buffalo, Erie County, Tax Map Identification Number: p/o 132.15-2-1

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 Laborers Way 1, LLC for a portion of a parcel approximately 5.11 acres in size located at 310 Ship Canal Parkway in 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.
- ☐ 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, 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 11438, Page 3248.

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.

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.

310 Ship Canal Site, C915322
310 Ship Canal Parkway, Buffalo, NY, 14218

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 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 Ave, Buffalo, NY 14209, by contacting the Regional Environmental Remediation Engineer, or at <https://www.dec.ny.gov/data/DecDocs/C915322>.

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

Laborers Way 1, 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:
Laborers Way 1, LLC
700 Second Street
Encinitas, CA 92024



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
12/3/2024



SITE DESCRIPTION

SITE NO. C915322

SITE NAME 310 Ship Canal Site

SITE ADDRESS: 310 Ship Canal Parkway ZIP CODE: 14203

CITY/TOWN: Buffalo

COUNTY: Erie

ALLOWABLE USE: 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

Laborers Way 1, LLC

700 Second Street

310 Ship Canal Parkway

Environmental Easement

Block: 2

Lot: 1

Sublot:

Section: 132

Subsection: 15

S_B_L Image: portion of 132.15-2-1

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

O&M Plan

Site Management Plan

Soil Management Plan

Description of Engineering Control

Laborers Way 1, LLC

700 Second Street

310 Ship Canal Parkway

Environmental Easement

Block: 2

Lot: 1

Sublot:

Section: 132

Subsection: 15

S_B_L Image: portion of 132.15-2-1

Cover System

Vapor Mitigation