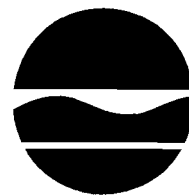


**New York State Department of Environmental Conservation**  
**Division of Environmental Remediation, 12<sup>th</sup> Floor**

625 Broadway, Albany, New York 12233-7011

**Phone:** (518) 402-9706 • **FAX:** (518) 402-9020

**Website:** [www.dec.state.ny.us](http://www.dec.state.ny.us)



Alexander B. Grannis,  
Commissioner

Mr. Michael DePriest  
NF-3rd Associates, LLC  
570 Delaware Avenue  
Buffalo, NY 14202

DEC 14 2007

RE: Certificate of Completion  
2250 Factory Outlet Blvd.  
Town of Niagara, Niagara County  
Site No. C932127

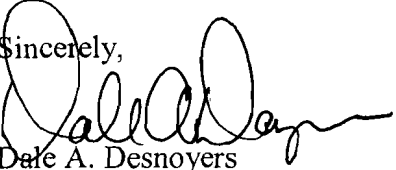
Dear Mr. DePriest:

The New York State Department of Environmental Conservation is pleased to inform you that the Final Engineering Report is hereby approved, allowing the Certificate of Completion to be issued for the above referenced site. Enclosed please find an original Certificate issued on December 13, 2007.

With the issuance of this Certificate, please note that the Environmental Conservation Law (ECL) requires the following:

- As required by ECL 27-1419.8, a notice of this Certificate must be recorded in the recording office for the County (or Counties) where any portion of the Site is located within 30 days of the date of issuance, if the Certificate is issued to the Site owner, or within 30 days of acquiring title to the Site, if the Certificate is issued to a prospective purchaser of the Site. A copy of the standard notice form is attached.
- As required by ECL 27-1417.3(i), if institutional and/or engineering controls (IC/ECs) are required at the site, a notice of this Certificate and a fact sheet describing such controls must be provided to the Brownfield Site Contact List within 10 days of the date of issuance.
- As required by ECL 27-1415.7, you are required to 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 report the results of these activities to the Department in a Periodic Review Report (PRR), which also includes any required IC/EC Certifications. The first PRR including the certification of the ICs/ECs, is due to the Department on July 31, 2009.

If you have any questions regarding any of these items, please contact Jeffrey Konsella at (716) 851-7220.

Sincerely,  
  
Dale A. Desnoyers  
Director  
Division of Environmental Remediation

cc: Mr. Craig Slater, Esq., Harter, Secrest & Emery LLP  
Mr. David Baldauf, NF-3rd Associates, LLC

ec w/o enc. Jeffrey Konsella, Reg. 9  
Gregory Sutton, Reg. 9  
Robert Knizek, BURE  
Matthew Forcucci, DOH Buffalo  
Maura Desmond, Reg. 9

**NEW YORK STATE  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
DIVISION OF ENVIRONMENTAL REMEDIATION**

**CERTIFICATE OF COMPLETION**

**Certificate Holder(s):**

**NF-3rd Associates, LLC  
570 Delaware Avenue  
Buffalo, NY 14202**

**Tax ID#: 20-0614431**

**Site Information:**

Site Name: 2250 Factory Outlet Blvd.  
Site Owner: NF-3rd Associates, LLC.  
Site Location: Street Address - 2250 Factory Outlet Blvd.  
Municipality - Town of Niagara  
County - Niagara

DER Site Number: C932127

**Site Description:**

The property located at 2250 Factory Outlet Blvd. (Niagara County Tax Map No. 145.20-1-1) is an approximate 5-acre parcel owned by NF-3rd. An approximate 1.81-acre portion of the greater 5-acre parcel is subject to the BCA with the NYSDEC. The property is bounded by Interstate I-190 to the west, a car dealership to the north, Military Road to the northeast, Factory Outlet Blvd. to the southeast, and an automobile oil and lube facility to the south.

A metes and bounds description of the property subject to this Certificate and a site survey are attached as Exhibit A.

**Tax Map Identification Number(s):**

The Site is an approximate 1.81 acre portion of the greater 5 acre property identified on Niagara County Tax Map as No. 145.20-1-1. The 1.81 acre portion is the subject of a Brownfield Cleanup Agreement with NYSDEC and is the subject of this Certificate.

Brownfield Site Cleanup Agreement: B9-0730-06-09

Effective Date of Brownfield Site Cleanup Agreement : December 29, 2006; Amended: June 6, 2007.

Is at least 50% of the Site located in an EnZone? ☐ yes ☒ no  
Is 100% of the Site located in an EnZone? ☐ yes ☒ no

## **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 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.

The remedial program for the Site has achieved a cleanup level that would be consistent with the following categories of uses:

- ☐ Unrestricted Use (Track 1)
- ☒ Restricted Use (Tracks 2, 3, and 4):
  - ☐ Residential
  - ☐ Restricted Residential
  - ☒ Commercial
  - ☐ Industrial

The Remedial Program includes use restrictions or reliance on 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 Niagara County as B 3422 P 195.

## **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.

## **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 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;

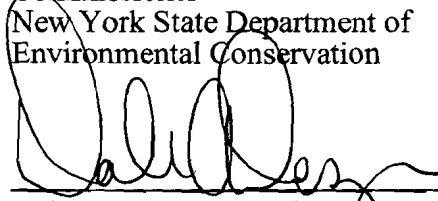
(3) either the Applicant or the Applicant's successors or assigns made a misrepresentation of a material fact tending to demonstrate that the cleanup levels identified in the Brownfield Site Cleanup Agreement were reached; or

(4) there is good cause for such modification or revocation.

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 received within such 30-day period, the Certificate shall be deemed modified or vacated on the 31<sup>st</sup> day after the Department's notice.

Alexander B. Grannis  
Commissioner  
New York State Department of  
Environmental Conservation

By:



Dale A. Desnoyers, Director  
Division of Environmental Remediation

Date of Issuance: 12/13/07

Please record and return to:  
Mr. David H. Baldauf  
NF-3rd Associates, LLC  
570 Delaware Avenue  
Buffalo, NY 14202

ORIGINAL FILED

JAN 3 - 2008

WAYNE F. JAGOW  
NIAGARA COUNTY CLERK

# NOTICE OF CERTIFICATE OF COMPLETION

State of New York  
Niagara County

The undersigned, being duly sworn, hereby deposes and states:

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) for the 2250 Factory Outlet Blvd. Site.

The Certificate was issued on December 13, 2007 to NF-3rd Associates, LLC for a parcel approximately 1.81 acres in size located at 2250 Factory Outlet Blvd. in the Town of Niagara, Niagara County. A metes and bounds description of the Site subject to this Certificate is attached to the Certificate as Schedule A.

The Certificate entitles the Certificate holder(s) 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.

A copy of the Certificate can be reviewed at the NYSDEC's Region 9 office located at 270 Michigan Avenue, Buffalo, New York by contacting the Regional Environmental Remediation Engineer.

This Notice of Certificate of Completion is being filed with the Niagara County Clerk's office in accordance with ECL Section 27-1419.8 to give all parties who may acquire any interest in the Site notice of the Certificate.

WHEREFORE, the undersigned has signed this Notice of Certificate

By: NF-3<sup>RD</sup> ASSOCIATES, LLC  
David H. Baldauf  
Title: Manager  
Date: \_\_\_\_\_

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF ERIE )

On the 26<sup>TH</sup> day of DECEMBER in the year 200 , before me, the undersigned, personally appeared DAVID H. BULAHUE, 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.

Sherry A. Kellogg  
Signature and Office of individual  
taking acknowledgment

**SHERRY A. KEKLA**  
Notary Public, State of New York  
Registration No. 01KE6018498  
Qualified in Erie County  
My Commission Expires January 11, 2011