

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 17 2015

Mr. Lucian Visone
Rock One Development, LLC
10151 Main Street
Clarence, New York 14031

Re: Certificate of Completion
Site Name: 600 River Road Apartments
Site No. C932161
City of North Tonawanda, Niagara County

Dear Mr. Visone:

Congratulations on having satisfactorily completed the remedial program at the 600 River Road BCP Site. Enclosed please find an original, signed Certificate of Completion (COC). The New York State Department of Environmental Conservation (DEC) 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 DEC'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. DEC will develop a 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;

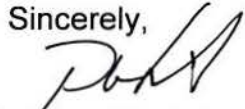


Department of
Environmental
Conservation

- Implement the DEC-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 DEC 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 in April 2017.

If you have any questions regarding any of these items, please contact the project manager for this site, Mr. Timothy Dieffenbach, at 716-851-7220.

Sincerely,



Robert W. Schick, P.E.

Director

Division of Environmental Remediation

Enclosures

cc: Peter Morton, Panamerican Environmental, Inc.
Craig Slater, Esq., The Slater Law Firm
Krista Anders, DOH
Bridgette Boyd, DOH
Timothy Dieffenbach, DEC
Gregory Sutton, DEC
Michael Cruden, DEC
Dolores Tuohy, DEC
Jennifer Dougherty, DEC
Andrew Guglielmi, DEC

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)
CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name

Rock One Development, LLC

Address

10151 Main Street, Clarence, NY 14031

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 5/29/13 **Agreement Execution:** 10/18/13 **Agreement Index No.:** C932161-05-13

Application Approval Amendment: none

Agreement Execution Amendment: none

SITE INFORMATION:

Site No.: C932161 **Site Name:** 600 River Road Apartments

Site Owner: Rock One Development, LLC

Street Address: 600 River Road

Municipality: North Tonawanda **County:** Niagara **DEC Region:** 9

Site Size: 5.952 Acres

Tax Map Identification Number(s): 181.16-1-21.13

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 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 12 %.

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 10 %.

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 Niagara County as 2014-15381.

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 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
Acting Commissioner
New York State Department of Environmental Conservation

By:



Robert W. Schick, P.E., Director
Division of Environmental Remediation

Date: December 17, 2015

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

600 River Road Apartments, Site ID No. C932161
600 River Road, North Tonawanda, NY, 14120
Tax Map Identification Number: 181.16-1-21.13

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 Rock One Development, LLC for a parcel approximately 5.952 acres located at the 600 River Road in the City of North Tonawanda, Niagara 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 Niagara County as Instrument # 2014-15381.

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.

**600 River Road Apartments, Site ID No. C932161
600 River Road, North Tonawanda, Niagara County, NY, 14120**

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, 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 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, the Certificate may be revoked if the Environmental Easement as implemented, if applicable, is not protective or enforceable.

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

WHEREFORE, the undersigned has signed this Notice of Certificate

Rock One Development, LLC

By: _____

Title: _____

Date: _____

STATE OF NEW YORK)
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:

Mr. Lucian Visone
Rock One Development, LLC
10151 Main Street
Clarence, New York 14031



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
12/9/2015



SITE DESCRIPTION

SITE NO. C932161

SITE NAME 600 River Road Apartments

SITE ADDRESS: 600 River Road ZIP CODE: 14120-6809

CITY/TOWN: North Tonawanda

COUNTY: Niagara

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: 04/30/2017

Description of Institutional Control

Rock One Development, LLC

10151 Main Street

600 River Road

Environmental Easement

Block: 1

Lot: 21

Sublot: 13

Section: 181

Subsection: 16

S_B_L Image: 181.16-1-21.13

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

Description of Engineering Control

Rock One Development, LLC

10151 Main Street

600 River Road

Environmental Easement

Block: 1

Lot: 21

Sublot: 13

Section: 181

Subsection: 16

S_B_L Image: 181.16-1-21.13

Cover System

Exhibit A

Property Description

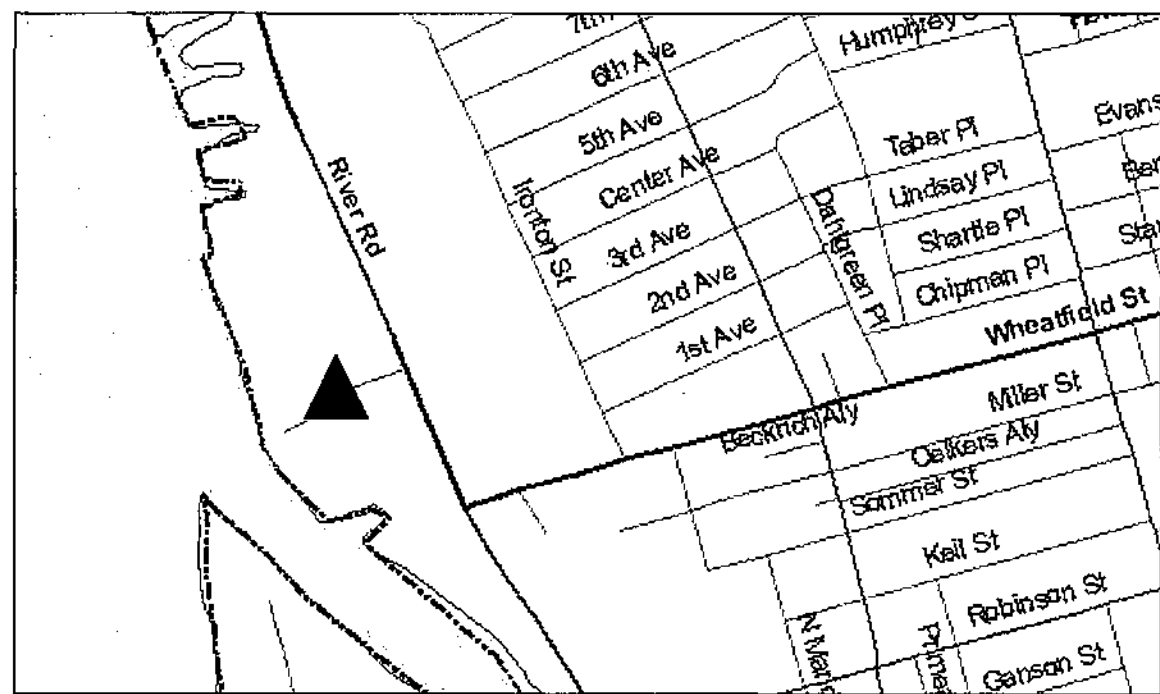
Environmental Easement Description
For 600 River Road Site
BCP Site No. C932161

ALL THAT TRACT OR PARCEL OF LAND, situate in the city of North Tonawanda, County of Niagara and State of New York being part of Lot 75 of the Mile Reserve, bounded and described as follows:

BEGINNING at a point in the west line of River Road as now laid out, distant southerly 1087.84 feet from the north line of premises conveyed by deed recorded in the Niagara County Clerk's Office in Liber 1653 of Deeds at page 224; thence southerly along the westerly line of River Road, $24^{\circ} 18' 46''$ East, 134.50 feet to an angle point therein; thence along the westerly line of River Road, South $23^{\circ} 13' 50''$ East, a distance of 100.50 feet to a point; thence South $66^{\circ} 3' 45''$ West, a distance of 429.10 feet to a point; thence South $23^{\circ} 13' 50''$ East, a distance of 220.83 feet to a point; thence South $59^{\circ} 55' 51''$ West, a distance of 308.57 feet to a point; thence North $53^{\circ} 19'$ West, a distance of 111.78 feet to a point; thence North $15^{\circ} 14' 50''$ West, a distance of 395.90 feet to a point; thence North $66^{\circ} 3' 46''$ East, a distance of 734.01 feet to the westerly line of River Road being the point or place of beginning.

Exhibit B

Site Survey



Site Location Map
Not To Scale

RECORD LEGAL DESCRIPTION FOR 600 RIVER ROAD

ALL THAT TRACT OR PARCEL OF LAND situate in the City of North Tonawanda, County of Niagara, State of New York, being part of Lot 75 of the Mile Reserve, bounded and described as follows:

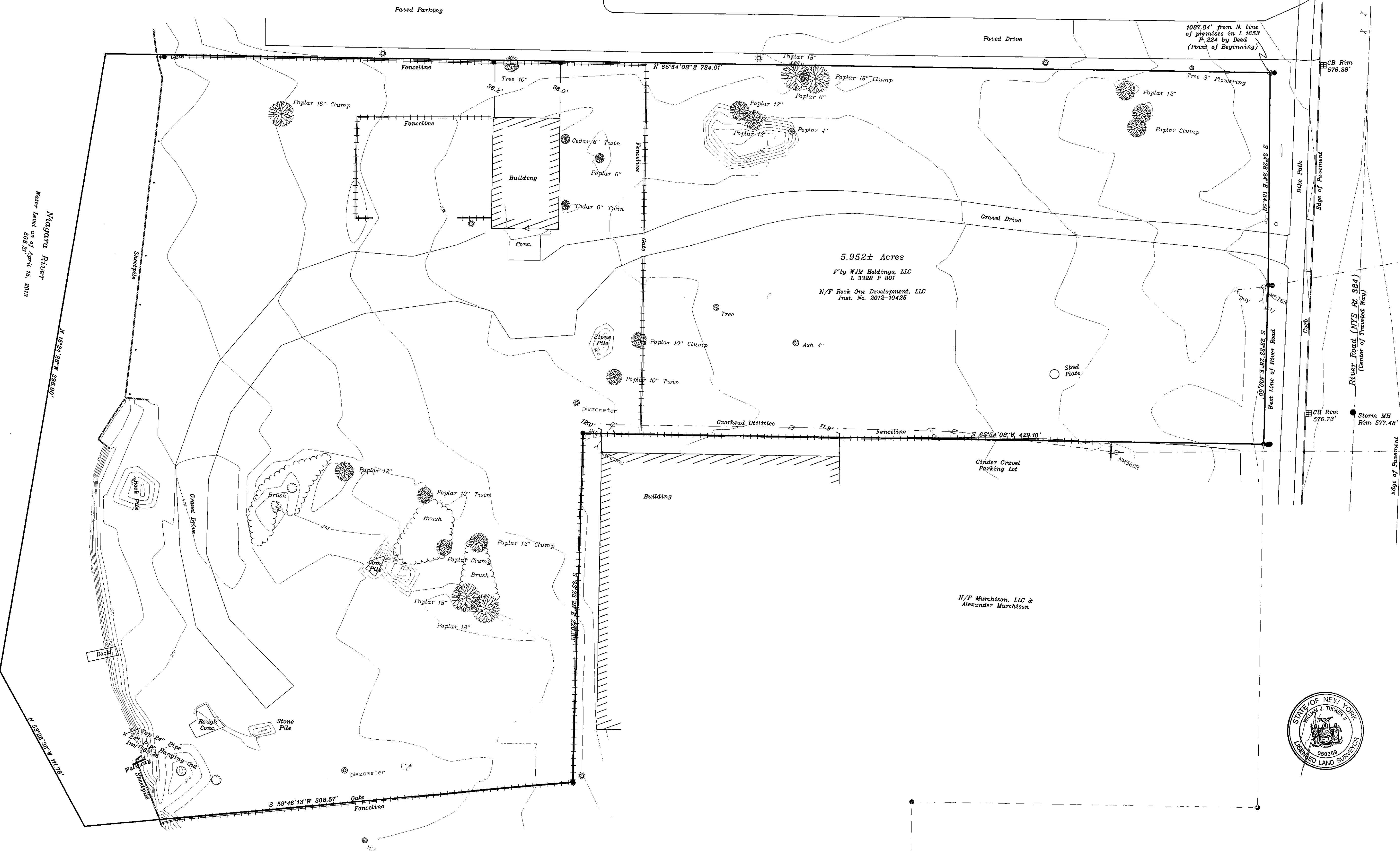
Beginning at a point in the west line of River Road, as now laid out, distant southerly 1087.84 feet from the north line of premises conveyed by deed recorded in the Niagara County Clerk's office in Liber 1653 of Deeds at Page 224. Thence southerly along the westerly line of River Road 24'18"46" East a distance of 134.50 feet to an angle point therein; Thence along the westerly line of River Road, South 23°13'50" East a distance of 100.50 feet to a point; Thence South 66°03'46" West a distance of 429.10 feet to a point; Thence South 23°13'50" East a distance of 220.83 feet to a point; Thence South 59°55'51" West a distance of 308.57 feet to a point; Thence North 53°19' West a distance of 111.78 feet to a point; Thence North 15°14'50" West a distance of 395.90 feet to a point; Thence North 66°03'46" East a distance of 734.01 feet to the westerly line of River Road being the point or place of beginning.

**ENVIRONMENTAL EASEMENT DESCRIPTION FOR 600 RIVER ROAD
BASED ON RECORD LEGAL DESCRIPTION**

ALL THAT TRACT OR PARCEL OF LAND situate in the City of North Tonawanda, County of Niagara, State of New York, being part of Lot 75 of the Mile Reserve, bounded and described as follows:

Beginning at a point in the west line of River Road, as now laid out, distant southerly 1087.84 feet from the north line of premises conveyed by deed recorded in the Niagara County Clerk's office in Liber 1653 of Deeds at Page 224. Thence southerly along the westerly line of River Road 24'18"46" East a distance of 134.50 feet to an angle point therein; Thence along the westerly line of River Road, South 23°13'50" East a distance of 100.50 feet to a point; Thence South 66°03'46" West a distance of 429.10 feet to a point; Thence South 23°13'50" East a distance of 220.83 feet to a point; Thence South 59°55'51" West a distance of 308.57 feet to a point; Thence North 53°19' West a distance of 111.78 feet to a point; Thence North 15°14'50" West a distance of 395.90 feet to a point; Thence North 66°03'46" East a distance of 734.01 feet to the westerly line of River Road being the point or place of beginning.

N/F Wellness Partners 624, LLC
Inst. No. 2010-02423



General Notes

Legend

- Found Pipe
- Found Rebar
- Railroad Spike
- Street Sign
- Water Valve
- Gas Valve
- Tall Light Pole
- Tree
- Sanitary Sewer Manhole
- Storm Manhole
- Catchbasin
- Fire Hydrant
- Cuy Wire Anchor
- Utility Pole
- Steel Post
- Bollard

Notes:

This survey was prepared for Lou Visone.

This map of survey dated April 18, 2013, was prepared from an instrument survey, with field work completed on April 15, 2013.

This survey was prepared for the parties and purpose indicated hereon. Any extension of the use beyond the purpose agreed to, exceeds the scope of the engagement.

It is a violation of New York State Education Law for any person, unless acting under the direction of a licensed surveyor, to alter an item in any way.

Only copies of this survey marked with an original signature and an original embossed or ink seal are the product of the land surveyor.

This plan NOT valid with an Affidavit of No Change.

This survey was prepared without the benefit of an up to date abstract of title and is subject to any state of facts revealed by an examination of such.

Lands on this survey are based on the references as indicated and a survey map prepared by Kenneth D. Witschi dated January 10, 2012.

Distance shown are decided and measured, unless otherwise indicated.

Elevations are referenced to NAVD83 by GPS Observation.

Symbols are graphical representations and not to scale.

Only visible utility services and/or encumbrances were located and shown.

Remove not the ancient landmark, which thy fathers have set. Prov. 22:28
Cursed be he that removeth his neighbor's landmark. And the people shall say Amen. Deuteronomy 19:14

Survey by William J. Tucker, II PLS #50369
Clear Creek Land Surveying, L.L.C.
P.O. Box 435, Springville, NY 14141
Phone 716-592-5800 Fax 716-592-5566

2014-07-09 Added Legal Descriptions and Site Map

Project: 13-012 Visone

Date: April 18, 2013

Scale: 1"=30'

Firm Name and Address

Clear Creek Land
Surveying, LLC
PO Box 435
Springville, NY 14141
ph. 716-592-5800
fax 716-592-5566

Project Name and Address

Lands Surveyed:
Boundary & Topographical
Survey of #600 River Road

Part of Lot 75 Mile Reserve
City of North Tonawanda
Niagara County
State of New York

