

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Office of the Director
625 Broadway, 12th Floor, Albany, New York 12233-7011
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www.dec.ny.gov

Mr. Mark Gregor
Manager, Environmental Quality
City of Rochester
City Hall
30 Church Street Room 300B
Rochester, New York 14614

MAR 17 2017

Re: Certificate of Completion
SAC No.: C303000
Orchard-Whitney Site
City of Rochester, Monroe County
Site Number E828123

Dear Mr. ^{Mark}Gregor:

Congratulations on having satisfactorily completed the Remediation phase of the environmental restoration project that the City of Rochester undertook with State Assistance funds provided pursuant to the 1996 Clean Water/Clean Air Bond Act. The New York State Department of Environmental Conservation (Department) has determined, based upon our inspection of the above-referenced site and upon our review of the documents you have submitted, that you completed the project in accordance with the terms and conditions of the above-referenced State Assistance Contract (SAC).

As a result, the Department is pleased to inform you that the Final Engineering Report is hereby approved, allowing the Certificate of Completion (COC) to be issued for the above referenced site. Enclosed please find an original, signed COC. The City of Rochester is hereby entitled to the benefit of the liability limitation provisions described in the New York State Environmental Conservation Law (ECL) 56-0509.

Please be advised that the significant benefits described in ECL 56-0509 are contingent upon the City of Rochester fulfilling all continuing obligations set forth in ECL Article 56, Title 5, accompanying regulations, and the above-referenced SAC, including but not limited to, the obligations involving reimbursement to the State if the municipality receives payments or other consideration with respect to the project; disposition of proceeds upon the sale, transfer, or lease of the property; ensuring that Department has access to the property; and providing complete notice of any proposed change of use, as defined in ECL 56-0511.



Department of
Environmental
Conservation

Please note that in addition to the requirements discussed above, you are required to perform the following tasks:

- 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, and provide the Department with proof of filing within 30 days of receipt. 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

- Place the notice of the COC in the document repository for the site within 10 days of issuance of the COC; and
- 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 in May 2018.

The Department will prepare and distribute to the Site Contact List a fact sheet announcing the issuance of the COC and describing the institutional and engineering controls, if any, that are required at the site.

The final payment under the SAC will be made after the execution of all necessary amendments, and the issuance of the COC.

If you have any questions, please do not hesitate to contact Todd M. Caffoe, P.E., the Department's project manager, at 585-226-5350.

Sincerely,



Robert W. Schick, P.E.

Director

Division of Environmental Remediation

Enclosure

ec w/ enclosure:

G. Andrus – Lu engineers (gregandrus@luengineers.com)

J. Forbes – COR (jane.forbes@cityofrochester.gov)

NYSDEC ENVIRONMENTAL RESTORATION PROGRAM (ERP)

CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name

City of Rochester

Address

30 Church Street, Rochester, NY 14614

SITE INFORMATION

Site No.: E828123 **Site Name:** Orchard-Whitney Site

State Assistance Contract No.: C303000

Site Owner: City Of Rochester

Street Address: 415 Orchard Street & 354 Whitney Street

Municipality: Rochester **County:** Monroe **DEC Region:** 8

Site Size: 4.073 Acres

Tax Map Identification Number(s): 105.66-3-24, 105.66-3-23

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 56, Title 5 of the New York State Environmental Conservation Law ("ECL") and 6NYCRR 375.

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 State Assistance Contract, 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 approved 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 ERP: Commercial and Industrial

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 Monroe County with recording identifier 201610250758.

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 56-0509. 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 56-0509. The liability limitation shall be subject to all rights reserved to the State by ECL Section 56-0509 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 56-0509(1) and 6NYCRR Part 375.

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 6NYCRR Part 375-1.9(e) upon a finding that:

(1) either the Municipality or the Municipality's successors or assigns have failed to comply with the terms and conditions of the State Assistance Contract;

(2) either the Municipality or the Municipality's successors or assigns failed to manage the controls or monitoring in full compliance with the terms of the remedial program;

(3) either the Municipality or the Municipality's successors or assigns made a misrepresentation of a material fact tending to demonstrate that the cleanup levels identified in the approved remedial work plan were reached;

(4) the terms and conditions of the environmental easement, if applicable, have been intentionally violated;

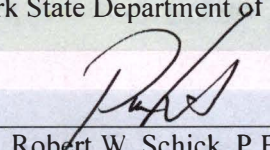
(5) the environmental easement as implemented, if applicable, is not protective or enforceable;
or

(6) 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 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:


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

Date:

MARCH 17, 2017

NOTICE OF CERTIFICATE OF COMPLETION
Environmental Restoration Program
Pursuant to 6 NYCRR Part 375-1.9(d)

Orchard-Whitney Site, Site ID No. E828123
354 Whitney Street and 415 Orchard Street, Rochester, New York 14614
City of Rochester, Monroe County
Tax Map Identification Number(s) **105.66-3-23 and 105.6-3-24**

PLEASE TAKE NOTICE, the New York State Department of Environmental Conservation (Department) has issued a Certificate of Completion (Certificate) pursuant to 6 NYCRR Part 375 to City of Rochester for a parcel approximately 4.073 acres located at 354 Whitney Street and 415 Orchard Street in the City of Rochester.

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 State Assistance Contract, as well as any other relevant information regarding the Site, that the remediation requirements set forth in ECL Article 56, Title 5 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):

- ☐ 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 Monroe County as 201610250758.

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 56-0509. 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 56-0509. The liability limitation shall be subject to all rights reserved to the State by ECL Section 56-0509 and any other applicable provision of law.

Orchard-Whitney Site, E828123, 354 Whitney Street and 415 Orchard Street

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 be only be transferred to the Certificate holder's successors or assigns upon transfer or sale of the Site as provided by 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 8 Headquarters at 6274 East Avon-Lima Road, Avon, New York 14414 by contacting the Regional Environmental Remediation Engineer.

WHEREFORE, the undersigned has signed this Notice of Certificate

City of Rochester

By: _____

Title: _____

Date: _____

STATE OF NEW YORK) SS:
COUNTY OF MONROE)

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:

City of Rochester
Mark Gregor, Manager Environmental Quality
30 Church Street, Room 300B
Rochester, New York 14614

12/03/09

Exhibit A
Site Description

SCHEDULE "A" PROPERTY DESCRIPTION

PARCEL A (354 WHITNEY STREET)

ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE CITY OF ROCHESTER, COUNTY OF MONROE, STATE OF NEW YORK, BEING PART OF TOWN LOT 62, 20,000 ACRE TRACT, TOWNSHIP 1, SHORT RANGE, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT AN IRON PIN IN THE EASTERLY LINE OF WHITNEY STREET WHICH IRON PIN IS LOCATED 499.44 FEET SOUTH OF THE INTERSECTION OF THE EASTERLY LINE OF WHITNEY STREET WITH THE SOUTH LINE OF LYELL AVENUE; THENCE

- 1) NORTHERLY ALONG THE EASTERLY LINE OF EASTERLY LINE OF WHITNEY STREET A DISTANCE OF 332.28 FEET TO A POINT; THENCE
- 2) EASTERLY AND MAKING AN INTERIOR ANGLE WITH THE LAST DESCRIBED COURSE OF 89°55'44" A DISTANCE OF 218.98 FEET TO A POINT; THENCE
- 3) NORTHERLY AND MAKING AN INTERIOR ANGLE WITH THE LAST DESCRIBED COURSE OF 270°04'00" A DISTANCE OF 48.43 FEET TO A POINT; THENCE
- 4) EASTERLY AND MAKING AN INTERIOR ANGLE WITH THE LAST DESCRIBED COURSE OF 90°01'10" A DISTANCE OF 128.51 FEET TO A POINT; THENCE
- 5) SOUTHERLY AND MAKING AN INTERIOR ANGLE WITH THE LAST DESCRIBED COURSE OF 90°00'00" A DISTANCE OF 200.20 FEET TO A POINT; THENCE
- 6) WESTERLY AND MAKING AN INTERIOR ANGLE WITH THE LAST DESCRIBED COURSE OF 90°00'20" A DISTANCE OF 40.20 FEET TO A POINT; THENCE
- 7) SOUTHERLY AND MAKING AN INTERIOR ANGLE WITH THE LAST DESCRIBED COURSE OF 270°00'40" A DISTANCE 132.45 FEET TO A POINT; THENCE
- 8) EASTERLY AND MAKING AN INTERIOR ANGLE WITH THE LAST DESCRIBED COURSE OF 269°57'00" A DISTANCE OF 26.08 FEET TO A POINT; THENCE
- 9) SOUTHEASTERLY ON A CURVE TO THE LEFT, HAVING A RADIUS OF 7.44 FEET, A DISTANCE OF 18.46 FEET TO A POINT, SAID POINT BEING 14 FEET FROM THE END OF COURSE #8 EXTENDED; THENCE
- 10) EASTERLY ON THE LINE OF COURSE #8 EXTENDED, A DISTANCE OF 20.43 FEET TO A POINT; THENCE
- 11) SOUTHERLY AND MAKING AN INTERIOR ANGLE WITH THE LAST DESCRIBED COURSE OF 90°00'00" A DISTANCE OF 20.58 FEET TO A POINT; THENCE
- 12) EASTERLY AND MAKING AN INTERIOR ANGLE WITH THE LAST DESCRIBED COURSE OF 270°00'00" A DISTANCE OF 118.06 FEET TO A POINT; THENCE
- 13) SOUTHERLY AND MAKING AN INTERIOR ANGLE WITH THE LAST DESCRIBED COURSE OF 89°43'50" A DISTANCE OF 28.18 FEET TO A POINT; THENCE
- 14) WESTERLY AND MAKING AN INTERIOR ANGLE WITH THE LAST DESCRIBED COURSE OF 90°10'10" A DISTANCE OF 485.84 FEET TO THE POINT AND PLACE OF BEGINNING.

CONTAINING AN AREA OF APPROXIMATELY 120,697 SQUARE FEET OR 2.771 ACRES MORE OR LESS.

PARCEL B (415 ORCHARD STREET)

ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE CITY OF ROCHESTER, COUNTY OF MONROE, STATE OF NEW YORK, BEING PART OF TOWN LOT 62, 20,000 ACRE TRACT, TOWNSHIP 1, SHORT RANGE, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WEST LINE OF ORCHARD STREET 192.42 FEET DISTANT SOUTH OF THE INTERSECTION OF THE INTERSECTION OF LYELL AVENUE WITH THE WEST LINE OF ORCHARD STREET; RUNNING THENCE THE FOLLOWING BEARINGS AND DISTANCES: THENCE

- 1) SOUTH ALONG THE WEST LINE OF ORCHARD STREET A DISTANCE OF 308.22 FEET TO ITS INTERSECTION WITH THE NORTH LINE OF LANDS NOW OR FORMERLY OF THE NEW YORK CENTRAL RAILROAD; THENCE
- 2) WEST AT AN INTERIOR ANGLE WITH COURSE No. 1 OF 89°53'50" AND ALONG THE NORTH LINE OF SAID NEW YORK CENTRAL RAILROAD LANDS A DISTANCE OF 42.49 FEET TO A POINT; THENCE
- 3) NORTH AT AN INTERIOR ANGLE WITH COURSE No. 2 OF 89°49'35" A DISTANCE OF 28.18 FEET; THENCE
- 4) WEST AT AN INTERIOR ANGLE WITH COURSE No. 3 OF 270°16'10" A DISTANCE OF 118.06 FEET; THENCE
- 5) NORTH AT AN INTERIOR ANGLE WITH COURSE No. 4 OF 90°00'00" A DISTANCE OF 20.58 FEET; THENCE
- 6) WEST AT AN INTERIOR ANGLE WITH COURSE No. 5 OF 270°00'00" A DISTANCE OF 20.43 FEET; THENCE
- 7) NORTHWESTERLY ON A CURVE TO THE RIGHT, A DISTANCE OF 18.23 FEET ON A CURVE HAVING A RADIUS OF 7.44 FEET; THENCE
- 8) WEST AND A CONTINUATION OF COURSE No. 6 A DISTANCE OF 26.08 FEET; THENCE
- 9) NORTH AT AN INTERIOR ANGLE WITH COURSE No. 8 OF 90°03'00" A DISTANCE OF 132.45 FEET; THENCE
- 10) EAST AT AN INTERIOR ANGLE WITH COURSE No. 9 OF 89°59'20" A DISTANCE OF 40.20; THENCE
- 11) NORTH AT AN INTERIOR ANGLE WITH COURSE No. 10 OF 269°59'40" A DISTANCE OF 126.20 FEET; THENCE
- 12) EAST AT AN INTERIOR ANGLE WITH COURSE No. 11 OF 90°11'30" A DISTANCE OF 180.86 FEET TO THE PLACE OF THE BEGINNING. THE LAST COURSE MAKING AN INTERIOR ANGLE WITH THE FIRST COURSE OF 89°46'51" TO THE POINT OR PLACE OF BEGINNING.

CONTAINING AN AREA OF APPROXIMATELY 56,702 SQUARE FEET OR 1.302 ACRES MORE OR LESS.

Exhibit B

Site Survey





NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
12/8/2016



SITE DESCRIPTION

SITE NO. E828123

SITE NAME Orchard-Whitney Site

SITE ADDRESS: 415 Orchard Street & 354 Whitney Street

ZIP CODE: 14606

CITY/TOWN: Rochester

COUNTY: Monroe

ALLOWABLE USE: Commercial and Industrial

SITE MANAGEMENT DESCRIPTION

SITE MANAGEMENT PLAN INCLUDES:	YES	NO
IC/EC Certification Plan	✓	<input type="checkbox"/>
Monitoring Plan	<input type="checkbox"/>	✓
Operation and Maintenance (O&M) Plan	<input type="checkbox"/>	✓

Periodic Review Frequency: 1 year

Periodic Review Report Submittal Date: 05/31/18

Description of Institutional Control

City of Rochester

354 Whitney Street

Environmental Easement

Block: 0003

Lot: 024

Sublot:

Section: 105

Subsection: 660

S_B_L Image: 105.6-3-24

Ground Water Use Restriction

Landuse Restriction

Site Management Plan

415 Orchard Street

Environmental Easement

Block: 0003

Lot: 023

Sublot:

Section: 105

Subsection: 660

S_B_L Image: 105.66-3-23

Ground Water Use Restriction

Landuse Restriction

Site Management Plan

Description of Engineering Control

City of Rochester

354 Whitney Street

Environmental Easement

Block: 0003

Lot: 024

Sublot:

Section: 105

Subsection: 660

S_B_L Image: 105.6-3-24

Cover System

Vapor Mitigation

415 Orchard Street

Environmental Easement

Block: 0003

Lot: 023

Sublot:

Section: 105

Subsection: 660

S_B_L Image: 105.66-3-23

Cover System

Vapor Mitigation