

**New York State Department of Environmental Conservation
Division of Environmental Remediation**

Office of the Director, 12th Floor

625 Broadway, Albany, New York 12233-7011

Phone: (518) 402-9706 • Fax: (518) 402-9020

Website: www.dec.ny.gov



Joe Martens
Commissioner

MAR 16 2012

Mr. Marc Smith
Supervisor Town of Lockport
Town of Lockport Town Hall
6560 Dysinger Road
Lockport New York, 14094

Re: Certificate of Completion
Site Name: Former Electruk Battery Site
Site No.: E932132
SAC No.: C303480
4922 IDA Park Drive
Lockport, Niagara County

Dear Supervisor Smith:

Congratulations on having satisfactorily completed the Remediation phase of the environmental restoration project that the Town of Lockport 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 Town of Lockport 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 Town of Lockport 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.

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. A standard notice form is attached to this letter;



- Provide a notice of the COC and a fact sheet describing the institutional and engineering controls (IC/EC) that are required at the site to the Site Contact list 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 October 2013. A copy of the PRR is attached for your reference.

The final payment will be made after the execution of all SAC amendments which may be required and the issuance of the COC.

If you have any questions, please do not hesitate to contact Mr. Michael J Hinton, the Department's project manager, at 716-851-7220.

Sincerely,

Robert W. Schick, P.E.

Acting Director

Division of Environmental Remediation

Enclosure

ec: S. Bates – NYSDOH
M. Forcucci – NYSDOH
M. Hinton
G. Sutton
M. Cruden
D. Stever

NYSDEC ENVIRONMENTAL RESTORATION PROGRAM (ERP)

CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name

TOWN OF LOCKPORT

Address

Lockport Town Hall, Lockport, NY 14094-7970

SITE INFORMATION

Site No.: E932132 **Site Name:** Former Electruk Battery Site

State Assistance Contract No.: C303480

Site Owner: Town Of Lockport

Street Address: 4922 IDA Park Drive

Municipality: Lockport **County:** Niagara **DEC Region:** 9

Site Size: 1.400 Acres

Tax Map Identification Number(s): 108.00-1-55

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 Niagara County with recording identifier 2012-00373.

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/REVOCAION

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

Joseph J. Martens
Commissioner
New York State Department of Environmental Conservation

By:


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

Date: 3/16/2012

NOTICE OF CERTIFICATE OF COMPLETION

Environmental Restoration Program

Pursuant to 6 NYCRR Part 375-1.9(d)

Former Electruk Battery, Site ID No: E932132

4922 IDA Park Drive Lockport, New York, 14094

Town of Lockport, Niagara County, Tax Map Identification Number 108.00-1-55

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 the Town of Lockport for a parcel approximately 1.4 acres located at the 4922 IDA Park Drive in the Town of Lockport, 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 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 Niagara County as 2012-00373.

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.

Former Electruk Battery Site, Site No. E932132 4922 IDA Park Drive Lockport NY 214094

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 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, 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 the NYSDEC's Region 9 office located at 270 Michigan Ave, Buffalo NY 14203 by contacting the Regional Environmental Remediation Engineer.

WHEREFORE, the undersigned has signed this Notice of Certificate

(Municipality)

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:

(Municipality)
(Municipality address)

12/03/09



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
3/5/2012



SITE DESCRIPTION

SITE NO. E932132
SITE NAME Former Electruk Battery Site

SITE ADDRESS: 4922 IDA Park Drive **ZIP CODE:** 14094
CITY/TOWN: Lockport
COUNTY: Niagara
ALLOWABLE USE: Commercial/Industrial

SITE MANAGEMENT DESCRIPTION

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

Periodic Review Frequency: 1 year
Periodic Review Report Submittal Date: 10/01/2013

Description of Institutional Control

Town of Lockport & Niagara County
4922 IDA Park Drive
Environmental Easement
Block: 1
Lot: 55
Sublot:
Section: 108
Subsection:
S_B_L Image: 108.00-1-55
Ground Water Use Restriction
IC/EC Plan
Landuse Restriction
Site Management Plan
Soil Management Plan

Description of Engineering Control

Not Applicable/No EC's

SCHEDULE "A" PROPERTY DESCRIPTION

Address of Property: 4922 I.D.A. Park Drive, Lockport, New York
Tax Map: 108.00-1-55

All that tract or parcel of land, situate in the Town of Lockport, County of Niagara and State of New York, being part of Lot 12, Township 14, Range 7 of the Holland Land Company's Survey, bounded and described as follows:

Beginning at a point in the west line of lands dedicated to the Town of Lockport by instrument recorded in Liber 1868 of Deeds at Page 268, distance 10 feet northerly from the intersection with the north line of lands dedicated to the Town of Lockport by instrument recorded in Liber 2287 of Deeds at Page 49;

Thence northerly along the west line of I.D.A. Drive, a distance of 193.99 feet to a point;

Thence westerly at right angles, a distance of 308.25 feet to a point;

Thence southerly at interior angle of $89^{\circ}51'06''$. A distance of 193.99 feet to a point;

Thence easterly at interior angle of $90^{\circ}08'54''$ and parallel with the north line of lands dedicated by the latter dedication hereinabove described, a distance of 307.75 feet to the point of beginning.

Containing 1.37 acres more or less.

SURVEY

Abstract of Property, No. 1113 A, Town of Niagara, New York
 (See page 108-109-1-10)

All the several parcels of land shown in the Town of Niagara, County of Niagara and State of New York, hereinafter called "the premises", are situated in the Township of Niagara, County of Niagara, State of New York, and are more particularly described as follows:

Beginning at a point in the west line of the lot of land shown in the Town of Niagara by reference to the map of the Town of Niagara, page 108-109-1-10, and extending from the intersection of the west line of said lot and the north line of the lot of land shown in the Town of Niagara by reference to the map of the Town of Niagara, page 108-109-1-10, a distance of 125.00 feet to a point;

Then westerly at right angles a distance of 125.00 feet to a point;

Then southerly at an angle of 90° 21' 45" a distance of 125.00 feet to a point;

Then easterly at an angle of 90° 21' 45" and parallel with the north line of land described by the first (1st) paragraph hereof a distance of 125.00 feet to the point of beginning.

Containing 1.24 acres more or less.

This property is subject to an Environmental Assessment under the New York State Department of Environmental Conservation pursuant to Title 20 of Article 24 of the New York Environmental Conservation Law.

THE ENGINEERING AND INSTITUTIONAL CONTROLS for the Easement are set forth in more detail 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 may be obtained from the New York State Department of Environmental Conservation, Division of Environmental Remediation, Site Control Section, 625 Broadway, Albany, NY 12233 or at <http://www.dec.state.ny.us>.

ENGINEERING / INSTITUTIONAL CONTROLS

These various methods of engineering controls shall be implemented in accordance with the applicable codes and regulations of the Department of Environmental Conservation, Division of Environmental Remediation, Site Control Section, 625 Broadway, Albany, NY 12233 or at <http://www.dec.state.ny.us>.

- **Soil Cover** - Any portion of the natural site cover, retained for the purposes of construction or utility work, shall be retained or replaced according to the Site Management Plan (SMP). Soil and vegetation shall be removed from the site and replaced with appropriate vegetation. The MDCR shall be notified and directions followed for management of surface water and any other non-hazardous materials of the natural site cover as provided in the SMP.
- **Land Use** - The use and development of the site is limited to Commercial and Industrial uses only.

ENVIRONMENTAL EASEMENT AREA ACCESS
THE USE OR THEIR AGENT MAY ACCESS THE ENVIRONMENTAL EASEMENT AREA AS SHOWN HEREON THROUGH ANY EXISTING STREET ACCESS OR BUILDING INGRESS/EGRESS ACCESS POINT.

SCHEDULE A - DEED DESCRIPTION & ENVIRONMENTAL EASEMENT AREA DESCRIPTION

Subject to the easement, easements, encumbrances and other interests shown on the attached map.

The portion of the parcel shown on the attached map, together with any other parcels, shall be used for the purposes of the Easement Area as shown hereon. The use of the Easement Area shall be limited to the uses and purposes set forth in the Easement Area Description. The use of the Easement Area shall not be limited by the zoning regulations of the Town of Lockport, New York. The use of the Easement Area shall not be limited by the environmental regulations of the State of New York. The use of the Easement Area shall not be limited by any other laws, regulations or ordinances. The use of the Easement Area shall not be limited by any other interests in the parcel.

GENERAL NOTES

1. All dimensions are in feet unless otherwise specified.
2. The boundary lines are shown as surveyed.
3. The area shown is subject to the Easement Area Description.
4. The use of the Easement Area shall be limited to the uses and purposes set forth in the Easement Area Description.
5. The use of the Easement Area shall not be limited by the zoning regulations of the Town of Lockport, New York.
6. The use of the Easement Area shall not be limited by the environmental regulations of the State of New York.
7. The use of the Easement Area shall not be limited by any other laws, regulations or ordinances.
8. The use of the Easement Area shall not be limited by any other interests in the parcel.

CERTIFICATION

I, the undersigned, being duly qualified, certify that the above is a true and correct copy of the original map, as shown to me by the client, and that the same is a true and correct copy of the original map, as shown to me by the client.

LEGEND

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ZONING

The property is zoned as follows: [Detailed zoning information]

FLOOD NOTE

The property is subject to the following flood hazards: [Detailed flood hazard information]

ENTERPRISE DRIVE

ENTERPRISE DRIVE (60' WIDE) (ENTERPRISE PARK SOUTH)

DRIVE

I.D.A. DRIVE (60' WIDE) (I.D.A. PARK DRIVE)

GRAPHIC SCALE



NEIGHBORHOOD MAP



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TOWN OF LOCKPORT MADISON COUNTY NEW YORK	ALTA/ACSM LAND TITLE SURVEY 4822 I.D.A. DRIVE LOCKPORT, NEW YORK PART OF LOT 12, TOWNSHIP 14, RANGE 7 OF THE HOLLAND LAND COMPANY'S SURVEY SITE 8932132	TVGA CONSULTANTS 1100 SOUTH MAIN LOCKPORT, NY 14094 P. 716.937.8800 F. 716.937.8800 www.tvga.com	Designed by: [Signature] Drawn by: [Signature] Checked by: [Signature] Date: 08/17/14		I, the undersigned, being duly qualified, certify that the above is a true and correct copy of the original map, as shown to me by the client, and that the same is a true and correct copy of the original map, as shown to me by the client.
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NIAGARA COUNTY CLERK
WAYNE F. JAGOW

RECEIPT

Create Time: 1/6/2012 2:22:26 PM
RECEIPT # 2012105215

Recording Clerk: TH
Account: cash2
Rec'd Frm: JUSTINE - CHICAGO
By Mail/In Person (M/P): P

Instr#: 2012-00373
DOC: EASEMENT
DEED STAMP: 2194
OR Party: TOWN OF LOCKPORT
EE Party: PEOPLE OF THE STATE OF NEW

DEEDTP

Cover Page	1	\$8.00
Recording Fee	19	\$62.00
Cultural Ed	1	\$14.25
Records Management - County	1	\$1.00
Records Management - State	1	\$4.75
TP584-2 (Public Utilities)	1	\$1.00

Transfer Tax
Transfer Tax \$0.00

Receipt Summary
TOTAL RECEIPT: ----> \$91.00
TOTAL RECEIVED: ----> \$91.00

Cash Back \$0.00

PAYMENTS

Check # 17093 -> \$91.00
SEAMAN JONES HOGAN & BROOKS