

Commissioner's Office

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Certificate of Completion
Brattleboro Development Credit Corporation
SMS # 2018-4828
Long Falls Paperboard
Brattleboro, Vermont

I. Purpose and Applicability

This Certificate of Completion (Certificate) is issued by the Agency of Natural Resources (Agency) pursuant to its authority under 10 V.S.A. Chapter 159, Subchapter 3 (Brownfields Reuse and Environmental Liability Limitation Act); and § 35-904 of the Investigation and Remediation of Contaminated Properties Rule. This Certificate serves as an institutional control mechanism with the purpose of protection of human health and the environment from a former release(s) of hazardous materials at or from the subject property. Section VII of this Certificate creates legally enforceable restrictions on future uses of the subject property by the Applicant and Applicant's successors and assigns. Failure of the Applicant or any successors or assigns to maintain ongoing compliance with these restrictions may result in loss of liability protection afforded by 10 V.S.A. chapter 159, subchapter 3, and may be subject to additional enforcement action by the Agency pursuant to 10 V.S.A. chapter 201.

II. Legal Description of Property Subject to Certificate of Completion

This Certificate of Completion is issued for the Long Falls Paperboard property, SMS Site #2018-4828, located at 161-424 Wellington Road, Brattleboro, Vermont. The property subject to this Certificate of Completion is detailed in the Brattleboro Land Records Volume #457 Page #725.

III. Site History

The site consists of one parcel totaling 39.52 acres in size and includes an approximately 200,000 square foot fully operational paper manufacturing plant. The main paper plant was constructed in 1960, with several subsequent additions/renovations added to the building every decade until the late 1990s. Prior to 1960 the property was undeveloped and likely used for agricultural purposes.

IV. History and Ownership of the Site in the Brownfield Reuse and Environmental Liability Limitation Act (BRELLA) Program

BDCC submitted an application to the Brownfields Reuse and Environmental Liability Limitation Act (BRELLA) as a prospective purchaser of the Long Falls Paperboard property located at 161-424 Wellington Road in Brattleboro. The BRELLA application and supporting documents were submitted on December 27, 2018 and the determination of eligibility was granted on December 27, 2018. Furthermore, on December 20, 2018 the Agency executed an Exemption of Liability prior to BDCCs acquisition of the property, effective for a period of time while site investigation and cleanup activities are conducted, at which point the property is to be transferred to Long Falls Paperboard, LLC. BCCC purchased on the property on December 31, 2018.

V. Site Investigation Activities; Reports

The Vermont Department of Environmental Conservation (VTDEC) has received the following reports regarding site investigation and cleanup activities:

- Phase I Environmental Site Assessment, LE Environmental, December 12, 2018
- Phase II Environmental Site Assessment, Stone Environmental, October 14, 2019
- Corrective Action Investigation Report, LE Environmental, August 14, 2020
- Evaluation of Corrective Action Alternatives, LE Environmental, November 18, 2020
- Corrective Action Plan, LE Environmental, February 2, 2021
- Self-Implementing Cleanup Plan (SICP), LE Environmental, May 13, 2021
- Site Specific Quality Assurance Project Plan, LE Environmental, June 2, 2021
- Corrective Action Completion Report, LE Environmental, September 13, 2021
- File Review Summary – LFP #6 Fuel Oil Release, Stone Environmental, March 27, 2020
- Supplemental Site Investigation: LFP #6 Fuel Oil Release, Stone Environmental, March 2, 2021
- Well Abandonment & Waste Disposal Trip Report, Stone Environmental, September 13, 2021

The VT DEC has reviewed these reports, as well as other historic sampling data pertaining to the site, and determined that site investigation and remediation activities are complete. During investigation activities, it was determined that three distinct areas of concern (AOCs) were present at the site. The AOCs are identified as follows and further described in Section VI of this document:

- AOC-1: The earthen overflow holding basin connected to the wastewater settling lagoons (designed for treatment of the facilities process wastewater) contains sludge and clay liner material impacted with Poly Chlorinated Biphenyls (PCBs), Metals, Dioxins and per/polyfluoroalkyl substances (PFAS).
- AOC-2: Shallow soils near the railway spur and railway line are impacted with polycyclic aromatic hydrocarbons (PAHs) at levels above the Vermont residential soil standards, but below industrial (non-residential) soil standards.
- AOC-3: A subsurface plume of dense non-aqueous phase liquid (DNAPL) is present at the location of a former underground storage tank (UST) which formerly contained #6 fuel that was used as a heating source for the paper plant.

VI. Corrective Action and Remedial Activities

In accordance with the *Corrective Action Plan* submitted on February 2, 2021 and approved by the Agency on February 2, 2021, remediation activities intended to address the above mentioned contamination was completed between July 19, 2021 and August 16, 2021. The following activities were completed per the approved *Corrective Action Plan*:

- Excavation, transport and disposal of contaminated sludge and clay liner material from the overflow holding basin;
- Post-excavation confirmatory soil sampling and analysis;
- Clarifier pipe testing and overflow pipe closure and testing;
- Final grading and site restoration; and
- Restriction to groundwater impacted with petroleum contamination.

In addition to the corrective actions listed above related to AOC-1, the Agency oversaw a supplemental site investigation (SSI) to assess the past release of an unknown volume of #6 fuel oil that was discovered during removal of two USTs at AOC-3. The SSI was conducted to assess site hydraulic conditions, contaminant transport pathways and potential impacts to sensitive receptors.

After the Site Investigation activities and completion of corrective actions, the following environmental issues remain on-site:

- AOC-1: All of the sludge and clay liner material with contamination concentrations above the Vermont Soil Standards (VSS) and Toxic Substances Control Act (TSCA) threshold has been removed however one confirmatory soil sample CS-2 taken from the base of excavation reported Dioxin Toxicity Equivalency Quotient (TEQ) as 2,3,7,8-TCDD above the residential VSS but less than the nonresidential VSS. The duplicate sample from CS-2 had TEQ as 2,3,7,8-TCDD that was less than the residential VSS. The exceedance of Residential VSS is below 18" of clean fill material.
- AOC-2: Shallow soils near the railway spur and railway line are impacted with polycyclic aromatic hydrocarbons (PAHs) at levels above residential VSS but below industrial (non-residential) VSS.
- AOC-3: The residual DNAPL plume associated with the historic release of #6 fuel oil. Based on the DNAPLs high viscosity and low hydraulic conductivity, the DNAPL is immobile and primarily located beneath an impervious asphalt barrier therefore any potential risk to sensitive receptors is low. The lateral extents of the DNAPL plume has been surveyed by a licensed surveyor and is attached to this document.

A *Corrective Action Completion Report* for this site was prepared by LE Environmental and dated September 13, 2021; this report documents that all activities were performed in accordance with the approved *Corrective Action Plan* dated February 2, 2021. Deviations from the approved *Corrective Action Plan* include:

- During removal of the holding basin sludge and liner material it became apparent that the total excavation would exceed the 500 tons that was previously determined based on sludge and soil borings performed prior to commencement of cleanup activities

Based on the findings in the reports referenced in Section V of this document, and pursuant to the completion of activities identified in Section VI, the Agency has determined that no further investigation, abatement, removal, remediation, or monitoring activities are required to adequately protect human health and the environment. This decision is supported by the following findings:

- The continued use of the site as a paperboard manufacturing plant will not cause, contribute to, worsen, or delay any known releases or threatened releases of hazardous materials on the site.
- The releases that are not abated, removed, or remediated (i.e., residual contamination) do not pose an unacceptable risk to human health and the environment, and all applicable remediation standards are met.
- The land use restrictions detailed in Section VII of this document, are adequate to prevent sensitive receptor exposure to any residual on-site contamination.

VII. Land Use Restrictions

Pursuant to 10 V.S.A. § 6652(b) and § 35-904 of the Investigation and Remediation of Contaminated Properties Rule the Agency is requiring the implementation of certain Land Use Restrictions at this site based on the remaining environmental issues as outlined in this Certificate. Such use restrictions are necessary to ensure that future activities at the site do not interfere with response actions or in any way increase the ecological, human, or environmental risks at the site. The release of liability afforded by 10 V.S.A. § 6653 and this Certificate shall be contingent on ongoing compliance with the land use restrictions identified below: such release of liability shall not extend to any failure to comply with any of these restrictions.

LAND USE RESTRICTIONS FOR AOC-1 & AOC-2

- A. BDCC, and all successors and assigns, shall not take or authorize any of the following activities or actions in or near AOC-1 & AOC-2 without the prior express written consent from the Agency of Natural Resources to ensure the soils with impacts above the residential VSSs is properly managed:
1. Construction or any substantial improvements that would involve plowing, tilling, ditching, draining, diking, filling, excavating, dredging, mining or drilling, removal of topsoil, sand, gravel, rock, minerals or other materials;
- B. BDCC, and all successors and assigns, shall not use or allow the site to be used for residential use or for a day care center for the care of children.

LAND USE RESTRICTIONS FOR AOC-3

- A. BDCC, and all successors and assigns, shall not take or authorize any of the following activities or actions in or near AOC-3 as shown on the attached surveyed map without the prior express written consent from the Agency of Natural Resources:
1. Construction or any substantial improvements that would involve plowing, tilling, ditching, draining, diking, filling, excavating, dredging, mining or drilling, removal of topsoil, sand, gravel, rock, minerals or other materials;
 2. Construction activities which will materially change hydrogeologic conditions or will likely cause migration of contaminated groundwater;
 3. Installation of water supply wells;

BDCC, and all successors and assigns, shall permit Agency personnel to access the site at all reasonable times to inspect compliance with the land use restrictions identified herein, as well as to assess the need for, planning, or implementing additional response actions at or near the site. These environmental restrictions and rights of access shall run with the land, and any portion thereof, in perpetuity. BDCC shall incorporate these Land Use Restrictions, in full or by reference, into all leases, licenses, occupancy agreements, or any other instrument of transfer by which a right to use the Parcel, or any portion thereof, is conveyed.

These Land Use Restrictions may be modified or terminated in whole or in part only upon written agreement between BDCC, its successors or assigns, and the Agency, signed by the Agency and recorded in the Land Records in Brattleboro. The Agency may terminate, in whole or in part, these Restrictions when the Agency, in its sole discretion, determines that termination is necessary or that the purposes for which these Restrictions were created have been achieved.

VIII. Long Term Operation, Monitoring, Maintenance and Reporting

An annual inspection of AOC-1, AOC-2 & AOC-3 must be completed, and a report submitted to the VT ANR by October 1st of each year. The annual report must include a statement that the property owner/operator is complying with the above listed land use restrictions.

IX. Certificate of Completion; Release of Liability

The rights, obligations, covenants, and restrictions granted in this Certificate of Completion shall run with the land, and any portion thereof, and shall be binding on the Agency of Natural Resources and successor Agency, and shall inure to the benefit of BDCC and its authorized representatives, successors and assigns. All required assessment has been completed at this site and no further active remediation is required, with exception of the requirements in Sections VI and VII of this document and as provided in 10 V.S.A. § 6653.

This Certificate of Completion and all supporting documentation and exhibits shall be recorded in the Brattleboro Land Records for this property. Recording shall be completed in accordance with § 35-904(d) of the Investigation and Remediation of Contaminated Properties Rule. Once recording is complete and copies of all recorded documentation is provided to the Agency, the protection from liability provided in 10 V.S.A. § 6641, et. al. is in effect, pursuant to 10 V.S.A. §6653, failure to comply with the land use restrictions and/or the general obligations established in section 10 V.S.A. § 6644 shall be a basis for loss of liability protection afforded by this Certificate.



Signed: _____

9/27/2021

Date: _____

Peter Walke, Commissioner
Department of Environmental Conservation