

# New York State Department of Environmental Conservation

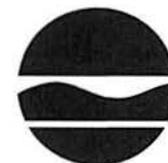
## Division of Environmental Remediation

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](http://www.dec.ny.gov)



Joe Martens  
Commissioner

DEC 23 2014

74 Wallabout LLC  
Attn: Mr. Simon Dushinsky  
505 Flushing Avenue - Suite 1D  
Brooklyn, NY 11205

Northland LLC  
Attn: Mr. Paul Pollak  
175 Hewes Street  
Brooklyn, NY 11211

Starwood LLC  
Attn: Ms. Judy Weiss  
543 Bedford Avenue  
Brooklyn, NY 11249

Re: Certificate of Completion  
Site Name: Former Arkansas Company, Inc.  
Site No.: C224172  
74 Wallabout St., Brooklyn, NY

Dear Mr. Dushinsky, Mr. Pollak and Ms. Weiss:

Congratulations on having satisfactorily completed the remedial program at the Former Arkansas Company, Inc. Site No. C224172. Enclosed please find an original, signed Certificate of Completion. The New York State Department of Environmental Conservation (DEC) 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.

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. 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;
- Place the notice of the COC in the document repository for the site within 10 days of issuance of the COC;
- 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 the Department in a Periodic Review Report (PRR) which also includes any required IC/EC Certifications.

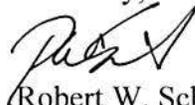
The site IC/ECs are identified on the attached Site Management Form. The first PRR including the certification of the IC/ECs is due to DEC in April, 2016; and

- You and your lessees must submit an annual report to the New York State Department of Taxation and Finance within one year and for each of the following eleven years after the execution of the Brownfield Site Cleanup Agreement. The Report must provide the information required by Chapter 390 of the Laws of 2008, Tax Law Section 171-s.

DEC will prepare and distribute to the Site Contact List a fact sheet describing the institutional and engineering controls that are required at the site.

If you have any questions regarding any of these items, please contact the project manager for this site, Jonathan Greco at (518) 402-9694.

Sincerely,



Robert W. Schick, P.E.

Director

Division of Environmental Remediation

Enclosures

ec: Krista Anders, DOH  
Bridgette Boyd, DOH  
Michael Ryan, DEC  
Robert Cozzy, DEC  
Jonathan Greco, DEC  
Janet Brown, DEC  
Jane O'Connell, DEC  
John Byrne, DEC  
Benjamin Conlon, DEC  
Andrew Guglielmi, DEC

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)  
*CERTIFICATE OF COMPLETION*

**CERTIFICATE HOLDER(S):**

<b>Name</b>	<b>Address</b>
74 Wallabout LLC	505 Flushing Avenue - Suite 1D, Brooklyn, NY 11205
Northland LLC	175 Hewes Street, Brooklyn, NY 11211
Starwood LLC	543 Bedford Avenue, Brooklyn, NY 11249

**BROWNFIELD CLEANUP AGREEMENT:**

**Application Approval:** 4/18/13    **Agreement Execution:** 5/17/13    **Agreement Index No.:**C224172-04-13

**Application Approval Amendment:** 11/26/14                      **Agreement Execution Amendment:** 11/26/14

**SITE INFORMATION:**

**Site No.:** C224172    **Site Name:** Former Arkansas Company, Inc. Site

**Site Owner:** 74 Wallabout LLC

**Street Address:** 74 Wallabout Street

**Municipality:** Brooklyn    **County:** Kings    **DEC Region:** 2

**Site Size:** 0.890 Acres

**Tax Map Identification Number(s):** 2261-1

**Percentage of site located in an Eligible EnZone:** 0-49%\* (\*Site is within a Category B EnZone only, which is ineligible for enhanced tax credits based upon Brownfield Agreement execution date)

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 Kings County as 2014000400247.

#### **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.

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

By:  Date: December 23, 2014  
Robert W. Schick, P.E., Director  
Division of Environmental Remediation

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

**Former Arkansas Company, Inc. Site; Site ID No. C224172**  
**74 Wallabout St., Brooklyn, NY 11211**  
**New York City, Kings County, Block 2261, Lot 1**

**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 74 Wallabout LLC, Northland LLC, and Starwood LLC for a parcel approximately .89 acres, located at 74 Wallabout Street in Brooklyn, Kings County, NY.

**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):

- Residential Use, as set forth in 6 NYCRR Part 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 Kings County as CFRN# 2014000400247.

**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.

Former Arkansas Company, Inc. Site; Site ID No. C224172; 74 Wallabout St., Brooklyn, NY 11211

**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 be 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 the NYSDEC's Region 2 offices, located at 1 Hunter's Point Plaza, 47-40 21st Street, Long Island City, NY 11101-5407 by contacting the Regional Environmental Remediation Engineer.

**WHEREFORE**, the undersigned has signed this Notice of Certificate

74 Wallabout LLC

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:**  
74 Wallabout LLC  
Attn: Mr. Simon Dushinsky  
505 Flushing Avenue-Suite 1D  
Brooklyn, NY 11205

Northland LLC

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:**

Northland LLC  
Attn: Mr. Paul Pollak  
175 Hewes Street  
Brooklyn, NY 11211

Starwood LLC

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:**

Starwood LLC  
Attn: Ms. Judy Weiss  
543 Bedford Avenue  
Brooklyn, NY 11249



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
 Site Management Form  
 12/9/2014



**SITE DESCRIPTION**

SITE NO. C224172

SITE NAME Former Arkansas Company, Inc. Site

SITE ADDRESS: 74 Wallabout Street ZIP CODE: 11211

CITY/TOWN: Brooklyn

COUNTY: Kings

ALLOWABLE USE: Restricted-Residential, Commercial, and Industrial

**SITE MANAGEMENT DESCRIPTION**

SITE MANAGEMENT PLAN INCLUDES: YES NO

IC/EC Certification Plan	<input checked="" type="checkbox"/>	
Monitoring Plan	<input checked="" type="checkbox"/>	
Operation and Maintenance (O&M) Plan	<input checked="" type="checkbox"/>	

Periodic Review Frequency: once a year

Periodic Review Report Submitted Date: 04/30/2016

**Description of Institutional Control**

**74 Wallabout LLC**

505 Flushing Avenue, Suite 1D

**74 Wallabout Street**

Environmental Easement

Block: 2261

Lot: 1

Sublot:

Section:

Subsection:

S\_B\_L Image: 2261-1

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

**Description of Engineering Control**

**74 Wallabout LLC**

505 Flushing Avenue, Suite 1D

**74 Wallabout Street**

Environmental Easement

Block: 2261

Lot: 1

Sublot:

Section:

Subsection:

S\_B\_L Image: 2261-1

Cover System

Vapor Mitigation

## **EXHIBIT A**

**SCHEDULE "A" PROPERTY DESCRIPTION**

BLOCK 2261 LOT 1  
74 WALLABOUT STREET

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

BEGINNING at the southeasterly corner of Wallabout Street and Kent Avenue;

THENCE southerly along the easterly side of Kent Avenue, 200.04 feet;

THENCE easterly parallel with Flushing Avenue, 198.67 feet;

THENCE northerly parallel with Kent Avenue, 200 feet to the southerly side of Wallabout Street;

THENCE westerly along the southerly side of Wallabout Street, 193.17 feet (deed), 190.75' feet (actual), to the point or place of BEGINNING.

AREA OF LOT = 38,852.99 SQ. Ft = 0.8919 ACRE

**EXHIBIT B**

