

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

December 30, 2022

Shalom Laine, Officer
Empire State Dairy LLC
3611 14th Avenue, Suite 215
Brooklyn, NY 11218
sl@bushburg.com

Abraham Hoffman, Officer
HP Brooklyn Dairy Housing Development Fund Company, Inc.
3611 14th Avenue, Suite 400
Brooklyn, NY 11218
construction@bushburg.com

Shalom Laine, Officer
2840 Atlantic LLC
3611 14th Avenue, Suite 400
Brooklyn, NY 11218
sl@bushburg.com

Re: Certificate of Completion
2840 Atlantic Avenue BCP Site
Brooklyn, Kings County
Site No. C224255

Dear Shalom Laine and Abraham Hoffman:

Congratulations on having satisfactorily completed the remedial program at the 2840 Atlantic Avenue Site. Enclosed please find an original, signed Certificate of Completion (COC). The New York State Department of Environmental Conservation (Department) 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 the Notice of Certificate of Completion 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 the Notice 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 is recorded within the time frame specified. A standard Notice of Certificate of Completion form is attached to this letter.



- Provide electronic copies of the recorded Notice and proof of recording to the Department's project manager. Please return the hard copy of the proof of recording to:

Steven M. Scharf, P.E., Project Engineer
Remedial Bureau A
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, NY 12233

- Provide the Notice of Certificate of Completion to the Document Repositories within 10 days of issuance of the COC. The Department 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;
- 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 April 2024.

If you have any questions, please do not hesitate to contact Steven M. Scharf, P.E. the Department's project engineer, at (518) 402-9702.

Sincerely,

Andrew Guglielmi

Andrew Guglielmi
Division Director
Division of Environmental Remediation

Enclosure
ec w/ enclosure:

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NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)

CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name

2840 Atlantic LLC
HP Brooklyn Dairy Housing Development Fund Company, Inc.
Empire State Dairy LLC

Address

3611 14th Avenue, Suite 400, Brooklyn, NY 11218
3611 14th Avenue, Suite 400, Brooklyn, NY 11218
3611 14th Avenue, Suite 215, Brooklyn, NY 11218

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 1/22/18

Agreement Execution: 4/16/18

Agreement Index No.: C224255-11-17

Application Amendment Approval: 9/24/18

Agreement Amendment Execution: 9/24/18

Application Amendment Approval: 1/31/19

Agreement Amendment Execution: 1/31/19

Application Amendment Approval: 11/21/22

Agreement Amendment Execution: 11/21/22

SITE INFORMATION:

Site No.: C224255 **Site Name:** 2840 Atlantic Avenue

Site Owner: Empire State Dairy LLC

Street Address: 2840 Atlantic Avenue

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

Site Size: 1.001 Acres

Tax Map Identification Number(s): 3964-8

Percentage of site located in an EnZone: 100 %

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: Multiple Cleanup Tracks

For a 0.9605-acre area – See Exhibits A and B

Allowable Uses under the BCP: Unrestricted, Residential, Restricted-Residential, Commercial, and Industrial

Cleanup Track: Conditional Track 1: Unrestricted use, provided that the remedial goals for soil vapor intrusion are achieved within five years of the date of the Certificate. If those goals are not achieved within five years, this Certificate shall be modified to a Track 2 Restricted Residential cleanup.

Tax Credit Provisions:

Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 50 %.

Eligibility for Tangible Property Credit is available through: EnZone.

Tangible Property Credit Component Rate is 20%. Comprised of 10% Base, 5 % EnZone, 5% Track 1.

For a 0.0403-acre area – See Exhibits A and B

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:

Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 28 %.

Eligibility for Tangible Property Credit is available through: EnZone.

Tangible Property Credit Component Rate is 15%. Comprised of 10% Base, 5 % EnZone.

Dependent upon the project being developed in a manner consistent with the approved Brownfield Cleanup Program application, additional rate increases may be available if the site is developed as affordable housing (5%), if the Certificate Holder receives a separate Determination of Conformance with the BOA from the Secretary of State (5%), or if the site is used primarily for manufacturing activities (5%) not to exceed a maximum 24 %.

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 2022000456068.

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; or
- (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 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: Andrew Guglielmi Date: 12/30/2022

Andrew O. Guglielmi, Director
Division of Environmental Remediation

Exhibit A
Site Description

SCHEDULE "A" PROPERTY DESCRIPTION

ALL that certain plot, piece or parcel of land, situated, 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 Atlantic Avenue and Schenck Avenue;

RUNNING THENCE southerly along the easterly side on Schenck Avenue, 235 feet;

THENCE easterly at right angles to Schenck Avenue, 100 feet;

THENCE northerly parallel with Schenck Avenue, 50 feet;

THENCE easterly at right angles to Schenck Avenue, 100 feet to the westerly side of Barbey Street;

THENCE northerly along the westerly side of Barbey Street, 201 feet to the southwesterly corner of Atlantic Avenue and Barbey Street;

THENCE westerly along the southerly side of Atlantic Avenue 200 feet 8 inches (deed) 200 feet 7 5/8 inches (survey) to the point or place of BEGINNING.

FOR INFORMATION PURPOSES ONLY, 2840 Atlantic Avenue, Brooklyn, NY 11207 a/k/a Block 3964 lot 8 on the KINGS County Tax Map.

For conveyancing only:

TOGETHER with all the right, title and interest of the party of the first part, of, in and to the land lying in the street in front of and adjoining said premises.

AREA- 43,600 SQ. FT. -1,0009 ACRE

**SCHEDULE "B" – UNRESTRICTED USE (CONDITIONAL TRACK 1)
EASEMENT AREA**

ALL that certain plot, piece or parcel of land, situated, 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 Atlantic Avenue and Schenck Avenue;

RUNNING THENCE southerly along the easterly side on Schenck Avenue, 235 feet;

THENCE easterly at right angles to Schenck Avenue, 100 feet;

THENCE northerly parallel with Schenck Avenue, 50 feet;

THENCE easterly at right angles to Schenck Avenue, 100 feet to the westerly side of Barbey street;

THENCE northerly along the westerly side of Barbey Street, 92 feet 11 inches to a point on the westerly side of Barbey Street;

THENCE westerly at right angles to Barbey Street 63 feet 5 inches;

THENCE northerly and parallel with Barbey Street 27 feet 9 inches;

THENCE easterly and at right angles with Barbey Street 63 feet 5 inches;

THENCE northerly along the westerly side of Barbey Street 80 feet 4 inches to intersection of the westerly side of Barbey Street and the southerly side of Atlantic Avenue;

THENCE westerly along the southerly side of Atlantic Avenue 200 feet 8 inches (deed) 200 feet 7 5/8 inches (survey) to the point or place of BEGINNING.

FOR INFORMATION PURPOSES ONLY, 2840 Atlantic Avenue, Brooklyn, NY 11207 a/k/a Block 3964 lot 8 on the KINGS County Tax Map.

AREA- 41,840.35 SQ. FT. 0.09605 ACRE

**SCHEDULE "C" RESTRICTED RESIDENTIAL (TRACK 4)
EASEMENT AREA**

ALL that certain plot, piece or parcel of land, situated, 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 intersection of the westerly side of Barbey Street and the southerly side of Atlantic Avenue;

RUNNING THENCE southerly along the westerly side of Barbey Street 80 feet 4 inches;

THENCE westerly and at right angles to Barbey Street 63 feet 4 inches;

THENCE southerly and parallel with Barbey Street 27 feet 9 inches;

THENCE easterly and at right angles to Barbey Street 63 feet 5 inches;

THENCE northerly along the westerly side of Barbey Street 27 feet 9 inches to the point or place of BEGINNING.

AREA- 1,759.64 SQ. FT. -0.0403 ACRE

Exhibit B
Site Survey



NOTICE OF CERTIFICATE OF COMPLETION
Brownfield Cleanup Program
6 NYCRR Part 375-1.9(d)
2840 Atlantic Ave, Site ID No. C224255
Brooklyn New York
Kings County, Tax Map Identification Number: Brooklyn Block 3964 Lot 8

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 2840 Atlantic LLC, Empire State Dairy LLC, HP Brooklyn Dairy Housing Development Fund Company, Inc. for a parcel approximately 1.001 acres located at 2840 Atlantic Avenue in Brooklyn, NY, Kings 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 a 0.9605-acre portion of 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.

PLEASE TAKE NOTICE, provided that the Certificate is 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.

PLEASE TAKE NOTICE, the remedial program for a 0.0403 -acre portion of 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.

2840 Atlantic Avenue, C224255
2840 Atlantic Avenue, Brooklyn, NY 11207

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, 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 2022000456068.

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.

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 entitle the Certificate holder(s) to tax credits in accordance with Tax Law Sections 21, 22 and 23.

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, a copy of the Certificate can be reviewed at the NYSDEC's Region 2 Office located at 40-47 21st Street, Long Island City, NY 11101, by contacting the Regional Environmental Remediation Engineer, or at <https://www.dec.ny.gov/data/DecDocs/C224255>.

2840 Atlantic Avenue, C224255
2840 Atlantic Avenue, Brooklyn, NY 11207

WHEREFORE, the undersigned has signed this Notice of Certificate

Empire State Dairy 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:
Empire State Dairy LLC
3611 14th Avenue
Suite 215
Brooklyn, NY 11218



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
12/29/2022



SITE DESCRIPTION

SITE NO. C224255

SITE NAME 2840 Atlantic Avenue

SITE ADDRESS: 2840 Atlantic Avenue ZIP CODE: 11207

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 ☒ ☐

Monitoring Plan ☒ ☐

Operation and Maintenance (O&M) Plan ☒ ☐

Periodic Review Frequency: once a year ☒ ☐

Periodic Review Report Submitted Date: 04/30/2024

Description of Institutional Control

Empire State Dairy LLC

3611 14th Street Suite 215

Atlantic Avenue

Environmental Easement

Block: 3964

Lot: 8

Sublot:

Section:

Subsection:

S_B_L Image: 3964-8

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

O&M Plan

Site Management Plan

Soil Management Plan

Description of Engineering Control

Empire State Dairy LLC

3611 14th Street Suite 215

Atlantic Avenue

Environmental Easement

Block: 3964

Lot: 8

Sublot:

Section:

Subsection:

S_B_L Image: 3964-8

Cover System

Monitoring Wells