

# 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 10 2011

East River Realty Co., LLC  
Christine Leas  
Sive, Paget & Riesel, P.C.  
460 Park Avenue, 10<sup>th</sup> Floor  
New York, NY 10022

TRC Companies, Inc.  
Edward Malley  
1200 Wall Street West, 2<sup>nd</sup> Floor  
Lyndhurst, NJ 07071

Re: Certificate of Completion  
Site: Kips Bay Fuel Terminal (First Ave.prop)  
Site No.: C231014  
City of New York, New York County

Dear Ms. Leas and Mr. Malley:

Attached please find the re-issued Certificate of Completion for the above-noted property. As you know, additional parties were intended by the Applicant to be added to the Brownfield Cleanup Agreement prior to the issuance of the Certificate of Completion being issued. The Department agreed that these parties should be added to the agreement and has subsequently amended the Brownfield Cleanup Agreement. This re-issued Certificate of Completion accurately reflects the parties as per the amended Brownfield Cleanup Agreement.

If you have any questions regarding any of these items, please contact Ronnie Lee at 518-402-9768.

Sincerely,

Dale A. Desnoyers

Director

Division of Environmental Remediation

ec:

A. Hayes – ERRC ([ahayes@solo9w57.com](mailto:ahayes@solo9w57.com))  
G. Shaw – SCA ([gshaw@nycsca.org](mailto:gshaw@nycsca.org))  
S. Bates - NYSDOH  
D. Hettrick - NYSDOH  
R. Lee  
S. Dewes  
R. Cozzy  
J. O'Connell  
B. Conlon



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

**CERTIFICATE HOLDER(S):**

**Name**

TRC Companies, Inc.  
East River Realty Co., LLC  
616 First Realty Company, LLC

**Address**

1200 Wall Street West, 2<sup>nd</sup> Floor, Lyndhurst, NJ 07071  
9 West 57<sup>th</sup> Street, Suite 1610, New York, NY 10019  
c/o East River Realty Company, LLC, New York, NY

**BROWNFIELD CLEANUP AGREEMENT:**

**Execution:** 6/16/10    **Agreement Index No.:** A2-0515-0405

**Application Approval Amendment:** 12/8/11

**Agreement Execution Amendment:** 12/9/11

**SITE INFORMATION**

**Site No.:** C231014    **Site Name:** Kips Bay Fuel Terminal (First Ave.prop)

**Site Owner:** New York City School Construction Authority  
616 First Realty Company, LLC

**Street Address:** 616 First Avenue and 425 E. 35th St.

**Municipality:** New York County: New York    **DEC Region:** 2

**Site Size:** 1.600 Acres

**Tax Map Identification Number(s):** 967-1, 967-2

**Percentage of site located in an EnZone:** 0 - 49 %

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 12 %.

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 10 %.

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 New York County as 2011000329545 and 2011000329548.

#### **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**

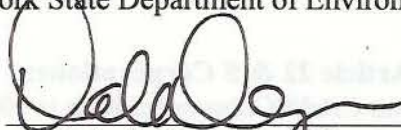
This Certificate of Completion may be modified or revoked by the Commissioner following notice and an opportunity for a hearing in accordance with ECL Section 27-1419 and 6NYCRR Part 375-1.9(e) upon a finding that:

- (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:

  
Dale A. Desnoyers, Director  
Division of Environmental Remediation

Date:

12/14/2011



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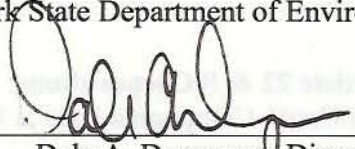
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