

Scenic Hudson, Inc.

One Civic Center Plaza, Suite 200
Poughkeepsie, NY 12601-3157
Tel: 845 473 4440
Fax: 845 473 2648
email: info@scenichudson.org
www.scenichudson.org



January 22, 2013

Robert W. Schick, P.E.
Acting Director
NYS Department of Environmental Conservation
Division of Environmental Remediation
Office of the Director, 12th Floor
625 Broadway
Albany, NY 12233-7011



RE: Brownfields Cleanup Agreement Amendment
Site Name: Long Dock Beacon
Site No.: C314112
Amendment #1

Dear Mr. Schick:

Enclosed please find the signed letter acknowledging acceptance of the Amendment to the above-referenced Brownfield Cleanup Agreement and proof that the parties executing the amendment are authorized to bind the requestors.

Thank you.

Sincerely,

Margery D. Groten
Senior Project Manager

Enclosures

Cc: Mike Caruso
Ben Conlon
Rosalie Rusinko
Michael Ryan
William Bennet
Steven Polivy

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

August 30, 2012

Matthew Rudikoff (mrudikoff@rudikoff.com)
Foss Group Beacon, LLC
163 Delaware Avenue
Delmar, New York 12054



Re: **Brownfield Cleanup Agreement Amendment**
Site Name: Long Dock Beacon
Site No.: C314112
Amendment #1

Dear Applicant:

This letter is forwarded to your attention in response to the letter and amendment application submitted to amend the Brownfield Cleanup Agreement ("BCA" or "Agreement") signed on May 30, 2006. The application requested that the above referenced BCA be amended to remove a party, namely: Foss Group Beacon, LLC.

The above request is hereby granted and incorporated into and is enforceable pursuant to the subject Agreement effective the date of this letter. This Amendment is made in accordance with and subject to all of the BCA and all applicable guidance, regulations and state laws applicable thereto. All other substantive and procedural terms of the Agreement will remain unchanged and in full force and effect regarding the parties to the Agreement.

Please have authorized representatives counter sign this letter to acknowledge acceptance of the Amendment, along with proof that the parties executing the BCA Amendment are authorized to bind the Requestors. Please print this Amendment, have it signed, and send the original, with signatures, back to the Department at:

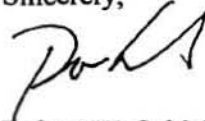
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway, 12th Floor
Albany, New York 12233-7011

Please keep a copy of the countersigned letter as proof of the BCA Amendment.

Nothing contained herein constitutes a waiver by the Department or the State of New York of any rights held in accordance with the Agreement or any applicable state and/or federal law or a release for any party from any obligations held under the Agreement or those same laws.


Please contact me if you have any questions in this regard. Thank you for your assistance in this matter.

Sincerely,



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

The following Applicants, in signing this letter, do hereby acknowledge and accept the amendments to the BCAs as set forth above:

 12/27/2012
Foss Group Beacon, LLC Date

NED FOSS
By: Name – please print

 1/16/13
The Scenic Hudson Land Trust, Inc. Date

Steve Rosenberg, Exec. Dir.
By: Name – please print

cc: Mike Caruso
Ben Conlon
Rosalie Rusinko
Michael Ryan
William Bennett
Edward Moore
Laura Zeppetelli
Elissa Armater
Kelly Lewandowski
Steven Polivy (steven.polivy@akerman.com)
Margery Groten (mgroten@scenichudson.org)

LIMITED LIABILITY COMPANY OPERATING AGREEMENT

OF

FOSS GROUP BEACON, LLC

CONTENTS

This Limited Liability Company Agreement dated as of JAN 23, 2008 is among FOSS GROUP BEACON, LLC (the "Company"), a limited liability company organized on August 13, 2001, pursuant to the New York Limited Liability Company Law, and each of the individuals and/or entities who have signed this Agreement and are listed on Schedule "A" annexed hereto, as Members.

ARTICLE VI RIGHTS AND DUTIES OF MEMBERS

6.1 Management Rights. All Members who have not Dissociated shall be entitled to vote on any matter submitted to a vote of the Members. The business of the Company shall be conducted under the exclusive management of the Managers, who shall have exclusive authority to act for the Company in all matters.

6.2 Management. The Managers shall be the Class A Members. The initial Managers shall be Edward C. "Ned" Foss, Matthew D. Rudikoff, Lawrence Linder, and John T. Basek. The Managers agree to devote such time and effort to the management of the business and affairs of the Company as shall be required to fulfill their obligations under this Agreement. The Managers shall be responsible for the day to day management and operations of the Company. Further, except as may otherwise be provided in this Agreement, all actions and decisions taken or made with respect to the sale or leasing of all or substantially all of the Company property, or the financing or refinancing of the Company property, any demands for additional Capital Contributions, and any decision as to the distribution of Net Cash Receipts or Capital Proceeds by the Company, shall be solely vested in and made by the Managers. Specifically, but not by way of limitation, the Managers shall be authorized in the name and on behalf of the Company:

(a) to acquire, sell, assign, convey, lease, mortgage or otherwise dispose of the property of the Company or any part thereof, including but not limited to a transfer of the rights required to implement the requirements of or monetize New Markets Tax Credits, New York State Brownfield Tax Credits, or any other type of financial or subsidy costs with the budget financing structure of the Company.

(b) To borrow money and, as security therefor, to mortgage, pledge or otherwise encumber the assets of the Company, and to amend, extend, prepay (in whole or in part) any such indebtedness and in connection therewith to execute and deliver, in the name and on behalf of the Company, such notes and other evidence of indebtedness, contracts, assignments, loan agreements, mortgages and other security instruments as the Managers deem proper, all on such terms and conditions as the Managers deem necessary or appropriate for the purposes of the Company.

=====

CLASS A MEMBERS:

Edward C. "Ned" Foss
Matthew D. Rudikoff
Lawrence Linder
John T. Basek

June 1, 2012

Matthew D Rudikoff is
authorized to sign all
BCP documents per the
operating agreement.

Ned Foss
member

Scenic Hudson, Inc.
One Civic Center Plaza, Suite 200
Poughkeepsie, NY 12601-3157
Tel: 845 473 4440
Fax: 845 473 2648
email: info@scenichudson.org
www.scenichudson.org



**RESOLUTION OF
THE BOARD OF DIRECTORS
OF
THE SCENIC HUDSON LAND TRUST, INC.**

I, Ned Sullivan, the duly elected and qualified assistant secretary of The Scenic Hudson Land Trust, Inc. (SHLT), corporation subject to the Not-for-Profit Corporation Law of New York State and qualified for tax exempt status under the federal internal revenue code, do hereby certify that the following resolution was adopted at a regular meeting of The Scenic Hudson Land Trust Board of Directors held on January 15, 2013 and is incorporated in the original minutes of said meeting and has not been altered, amended or revoked and is in full force and effect.

RESOLVED: The board of directors of The Scenic Hudson Land Trust, Inc. hereby authorizes SHLT to execute an amendment to the New York State Department of Environmental Conservation Brownfields Cleanup Agreement dated May 2006 on the Long Dock Beacon property, located in Beacon, Dutchess County, NY as described in the written proposal discussed by the board on January 15, 2013. The amendment shall be signed by one authorized signator. Authorized signators shall be the Executive Director or any other officer of the corporation. The Executive Director or any other officer of the corporation, alone, shall be authorized to sign amendment documents and all other forms necessary and appropriate to settle the amendment.



Ned Sullivan, Assistant Secretary

[Corporate Seal]

Authorization to Execute an Amendment to NYS DEC Brownfield Clean-up Agreement,
Long Dock
Resolution Approved January 15, 2013

Scenic Hudson, Inc.
One Oak Ridge Plaza, Suite 200
Briarcliff, NY 10512-1100
914-831-2700 ext.
Fax: 914-831-2700
info@scenichudson.org
www.scenichudson.org

RECEIVED

JUL 18 2012

Remedial Bu
Div of Environmental



July 16, 2012

William Bennett
Environmental Engineer 1
Remedial Bureau C
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, NY 12233-7020

Re: Brownfield Cleanup Program Amendment Application
W3-1038-04012

Dear Mr. Bennett:

Enclosed please find one hard copy with original signatures of an amendment application for change in party to the above-referenced BCA, one electronic copy in PDF format, and a paper copy.

I was unsure who to send this to and request that you forward it to the appropriate person in the division. In addition, we do not believe there is a regional contact in Region 3, so are not sure who to send it to there. Please advise. I have provided a copy if you wish to forward it to Region 3 yourself.

Please contact me if additional information is required.

Sincerely,

Margery Groten
Senior Project Manager

Cc: Dave Crosby
Matthew Rudikoff
Paul Ciminello
Steve Rosenberg

RECEIVED

JUL 19 2012

BUREAU OF
TECHNICAL SUPPORT



NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION



BROWNFIELD CLEANUP PROGRAM (BCP)
AMENDMENT APPLICATION FOR CHANGE IN PARTY

07/2010

Section I: Existing Application Information		
BCP SITE NAME: Long Dock Beacon		BCP SITE NUMBER: C314112
NAME OF CURRENT APPLICANT(S): Foss Group Beacon, LLC / The Scenic Hudson Land Trust, Inc., Co-Volunteers		
INDEX NUMBER OF EXISTING AGREEMENT (if applicable): W3-1038-04012		
Section II: Requestor Information		
NAME: Foss Group Beacon, LLC		
ADDRESS: 163 Delaware Avenue		
CITY/TOWN: Delmar NY		ZIP CODE: 12054
PHONE: 518 475 7202	FAX: NA	E-MAIL: mrudikoff@rudikoff.com
Is the requestor authorized to conduct business in New York State (NYS)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
<small>-If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's Corporation & Business Entity Database. A print-out of entity information from the database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS.</small>		
NAME OF REQUESTOR'S REPRESENTATIVE: NA		
ADDRESS:		
CITY/TOWN:		ZIP CODE:
PHONE:	FAX:	E-MAIL:
NAME OF REQUESTOR'S CONSULTANT: EcoSystems Strategies		
ADDRESS: 24 Davis Ave		
CITY/TOWN: Poughkeepsie NY		ZIP CODE: 12601
PHONE: 845 452 1658	FAX: 845 485 7083	E-MAIL: paul@ecosystemsstrategies.com
NAME OF REQUESTOR'S ATTORNEY: Steve Polivy		
ADDRESS: 850 Third Avenue		
CITY/TOWN: NY NY		ZIP CODE: 10022
PHONE: 212 822 2245	FAX: 212750 1107	E-MAIL: steven.polivy@akerman.com
THE REQUESTOR MUST CERTIFY THAT IT IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL §27-1405 (1) BY CHECKING ONE OF THE BOXES BELOW.		
<input type="checkbox"/> PARTICIPANT <input checked="" type="checkbox"/> VOLUNTEER		
<small>A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.</small>		
<small>A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.</small>		
<small>NOTE: By checking this box, the requestor certifies that he/she has exercised appropriate care with respect to the contamination found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; and iii) prevent or limit human, environmental, or natural resource exposure to any previously released contamination.</small>		

Section II: Requestor Information (Continued)

Requestor's Relationship to Property (check one):

☐ Prior Owner☐ Current Owner☐ Potential /Future Purchaser☒ Other

former tenant

If requestor is not the site owner, requestor will have access to the property throughout the BCP project. ☐ Yes ☒ No

(Note: proof of site access must be submitted for non-owners)

Describe Requestor's Relationship to Existing Applicant:

Co-Volunteer

Briefly Describe Basis for Submitting this Amendment Application:

FGB, LLC is withdrawing as Co-Volunteer because Property owner and BCP Co-Volunteer, The Scenic Hudson Land Trust, Inc. terminated the project site lease. Foss Group Beacon, LLC's rights to develop the Long Dock Beacon Hotel and Conference Center and any interest in the property have ended.

Section III: Current Site Owner/Operator Information (only include new information)

OWNER'S NAME (if different from requestor)

ADDRESS

CITY/TOWN

ZIP CODE 12601

PHONE

FAX

E-MAIL

OPERATOR'S NAME (if different from requestor or owner) same

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

Section IV: Eligibility Information for Requestor (Please refer to ECL 27-1407 for more detail)

If answering "yes" to any of the following questions, please provide an explanation as an attachment.

- | | | |
|--|------------------------------|--|
| 1. Are any enforcement actions pending against the requestor regarding this site? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 2. Is the requestor subject to an existing order relating to contamination at the site? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 4. Has the requestor been determined to have violated any provision of ECL Article 27? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 5. Has the requestor previously been denied entry to the BCP? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving contaminants? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 7. Has the requestor been convicted of a criminal offense that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 8. Has the requestor knowingly falsified or concealed material facts or knowingly submitted or made use of a false statement in a matter before the Department? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.8(f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

Statement of Certification and Signatures: Requestor

(Individual)

I acknowledge and agree to the general terms and conditions set forth in DER-32 *Brownfield Cleanup Program Applications and Agreements*. I also agree that in the event of a conflict between the general terms and conditions of participation set forth in DER-32 and the terms contained in a site-specific BCA, the terms in the BCA shall control. I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law.

Date: _____ Signature: _____ Print Name: _____

(Entity)

I hereby affirm that I am a Member (title) of Foss Group Beacon, LLC (entity); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I acknowledge and agree to the general terms and conditions set forth in DER-32 *Brownfield Cleanup Program Applications and Agreements*. I also agree that in the event of a conflict between the general terms and conditions of participation set forth in DER-32 and the terms contained in a site-specific BCA, the terms in the BCA shall control. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

Date: 6-8-2012 Signature: Matthew D. Rudikoff Print Name: Matthew D. Rudikoff, Member**Statement of Certification and Signatures: Existing Applicant**

(Individual)

I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. If an Agreement exists, I will execute an Amendment to that Agreement if this Application for an Amendment is approved.

Date: _____ Signature: _____ Print Name: _____

(Entity)

I hereby affirm that I am Exec. Director (title) of The Scenic Hudson Land Trust, Inc. (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. If an Agreement exists, The Scenic Hudson Land Trust, Inc. will execute an Amendment to that Agreement if this Application for an Amendment is approved.

Date: 6-14-12 Signature: [Signature] Print Name: Steve Rosenberg, Exec Dir.**SUBMITTAL INFORMATION:**

Three (3) complete copies are required.

- Two (2) copies, one hard copy with original signatures and one electronic copy in Portable Document Format (PDF) on a CD, must be sent to:
Chief, Site Control Section
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, NY 12233-7020
- One (1) paper copy must be sent to the DEC regional contact in the regional office covering the county in which the site is located. Please check DEC's website for the address of our regional offices:
<http://www.dec.state.ny.us/website/der/index.html>

FOR DEPARTMENT USE ONLY

BCP SITE T&A CODE: _____ LEAD OFFICE: _____

PROJECT MANAGER: _____

New York State Department of Environmental Conservation
Division of Environmental Remediation
Bureau of Technical Support, 11th Floor
625 Broadway, Albany, NY 12233-7020
Phone: (518) 402-9553 • Fax: (518) 402-9547
Website: www.dec.ny.gov



Joe Martens
Commissioner

July 20, 2012

Foss Group Beacon, LLC
Mr. Matthew Rudikoff
163 Delaware Avenue
Delmar, NY 12054

RE: Application for Amendment
Site Name: Long Dock Beacon
Site ID #: C314112

Dear Mr. Rudikoff:

The New York State Department of Environmental Conservation (Department) is in receipt of your amended application for change in party for participation in the Brownfield Cleanup Program (BCP) pursuant to ECL Section 27-1400 et seq. We are pleased to advise you that your application for amendment removing a party (Foss Group Beacon, LLC) has been determined to be complete.

Previously, you fulfilled your requirements of publishing the notice in a local newspaper servicing the site area as well as mailing the public notice to parties on the site contact list. Therefore, you are not required to do so as a condition of this Amendment.

Sincerely,

Kelly A. Lewandowski, P.E.
Chief
Site Control Section

KAL/BW/sjs

ec: W. Bennett, NYSDEC Project Manager
M. Ryan, NYSDEC, DER, Dir. Remedial Bureau C
E. Moore, NYSDEC, RHWE, Region 3
M. Caruso, NYSDEC, OGC Superfund and Voluntary Cleanup Bureau
R. Rusinko, NYSDEC, OGC, Region 3
M. Rudikoff, Foss Group Beacon, LLC
S. Rosenberg, The Scenic Hudson Land Trust, Inc.
S. Bolesky, NYSDEC, DER, Program Management
A. Daniels, NYSDEC, DER Office of the Director

cc w/pdf application:

D. Hasso, NYSOSC
K. Anders, NYS DOH