



July 14, 2015

Chief, Site Control Section  
New York State Department of Environmental Conservation  
Division of Environmental Remediation  
625 Broadway  
Albany, New York 12233-7020

RE: Northeast Treaters of New York, LLC  
BCP #C420029  
STERLING File #2014-08

Dear Sir/Madam:

Enclosed is a completed Brownfield Cleanup Program (BCP) Amendment Application for the above-referenced BCP Site. Northeast Treaters of New York, LLC (NET) is seeking to expand the BCP Site at 796 Schoharie Turnpike in Athens, New York to incorporate 2.2 acres of recently acquired property at 722 Schoharie Turnpike.

NET operates a wood treatment facility at the BCP Site, which it plans to remediate under the BCP in anticipation of upgrading its production facilities and wood treatment operations. During investigation of the BCP Site, low concentrations of arsenic and chromium were detected on the property immediately adjoining the BCP Site to the north and east. The property at 722 Schoharie Turnpike consists of 24.7 acres with a house. The house is located at the furthest edge of the property from the current BCP Site and is currently unoccupied. NET bought the house and adjoining land (which was on the market) to facilitate possible future remedial activities. NET has since subdivided the house and five acres from the parcel. The remaining 19.7 acres has been joined to the existing NET property and a lot line adjustment reflecting this change was recently obtained from the Town of Athens. Going forward, NET has asked the Town of Athens to rezone the 19.7 acre parcel as light industrial. This would be consistent with the current zoning of the NET facility.

With the enclosed application, NET is seeking to expand the existing 1.68 acre BCP Site to incorporate 2.2 acres from the recently acquired property at 722 Schoharie Turnpike. A site map depicting the change to the site boundaries, together with a USGS 7.5 minute quadrangle map on which the property appears, are included with the application. Note that the proposed new boundary of the BCP Site, which is depicted on the attached map in red, has not yet been surveyed. Sterling Environmental Engineering, P.C. (STERLING) has added the new boundary to an existing survey map and will commission an additional survey, if requested by the New York State Department of Environmental Conservation (NYSDEC).

The 2.2 acres represent the portion of the recently acquired land that contains arsenic at levels exceeding the residential use soil cleanup objective (SCO) of 16 parts per million (ppm). This change will unite the existing BCP Site with the adjoining contaminated property and facilitate possible remedial activity going forward. Note that the levels of contamination on the newly acquired property are relatively low and the soil on the newly acquired 19.7 acres meet the unrestricted use SCO for arsenic of 13 ppm at and beyond approximately 250 feet from the northern and eastern boundaries of the existing BCP Site.

*“Serving our clients and the environment since 1993”*

Please call Kevin Young at Young/Sommer LLC, 518-438-9907, ext. 225 should you have any questions about the enclosed application.

Very truly yours,  
  
STERLING ENVIRONMENTAL ENGINEERING, P.C.

Thomas M. Johnson, CPG  
Senior Hydrologist  
[Thomas.Johnson@Sterlingenvironmental.com](mailto:Thomas.Johnson@Sterlingenvironmental.com)

TMJ/ls  
Email/First Class Mail  
Enclosure

cc: Jim Quinn, NYSDEC (Email Only)  
Dolores Tuohy, NYSDEC (Email Only)  
Walter Wintsch, NYSDEC (Email Only)  
Bridget Boyd, NYSDOH (Email Only)  
Brad Wenskoski, NYSDOH (Email Only)  
Justin Deming, NYSDOH (Email Only)  
David Reed, Northeast Treaters, Athens, NY (Email Only)  
Greg Christy, Northeast Treaters, Athens, NY (Email Only)  
Kevin Young, Young Sommer (Email Only)  
Beth Morss, Young Sommer (Email Only)

**BROWNFIELD CLEANUP PROGRAM (BCP)  
APPLICATION TO AMEND BROWNFIELD CLEANUP  
AGREEMENT AND AMENDMENT**



Department of  
Environmental  
Conservation

## BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION TO AMEND BROWNFIELD CLEANUP AGREEMENT AND AMENDMENT

### PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

Check the appropriate box below based on the nature of the amendment modification requested:

Amendment to [check one or more boxes below]

- Add
- Substitute
- Remove
- Change in Name

applicant(s) to the existing Brownfield Cleanup Agreement [*Complete Section I-IV below and Part II*]

Does this proposed amendment involve a transfer of title to all or part of the brownfield site?  Yes  No

If yes, pursuant to 6 NYCRR Part 375-1.11(d), a Change of Use form should have been previously submitted. If not, please submit this form with this Amendment. See <http://www.dec.ny.gov/chemical/76250.html>

- Amendment to modify description of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Sections I and V below and Part II*]
- Amendment to Expand or Reduce property boundaries of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Section I and V below and Part II*]
- Sites in Bronx, Kings, New York, Queens, or Richmond counties ONLY:** Amendment to request determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit. Please answer questions on the supplement at the end of the form.
- Other (explain in detail below)

Please provide a brief narrative on the nature of the amendment:

**\*Please refer to the attached instructions for guidance on filling out this application\***

Section I. Existing Application Information			
BCP SITE NAME: Northeast Treaters of New York, LLC		BCP SITE NUMBER: C420 029	
NAME OF CURRENT APPLICANT(S): Northeast Treaters of New York LLC			
INDEX NUMBER OF EXISTING AGREEMENT: C420029-12-14		DATE OF EXISTING AGREEMENT: 12/31/14	
Section II. New Requestor Information (if no change to Current Applicant, skip to Section V)			
NAME			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
Is the requestor authorized to conduct business in New York State (NYS)? <input type="checkbox"/> Yes <input type="checkbox"/> No			
<ul style="list-style-type: none"> <li>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 (DOS) Corporation &amp; Business Entity Database. A print-out of entity information from the DOS database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS.</li> </ul>			
NAME OF NEW REQUESTOR'S REPRESENTATIVE			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
NAME OF NEW REQUESTOR'S CONSULTANT (if applicable)			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
NAME OF NEW REQUESTOR'S ATTORNEY (if applicable)			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
Requestor must submit proof that the party signing this Application and Amendment has the authority to bind the Requestor. This would be documentation from corporate organizational papers, which are updated, showing the authority to bind the corporation, or a Corporate Resolution showing the same, or an Operating Agreement or Resolution for an LLC. Is this proof attached? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Describe Requestor's Relationship to Existing Applicant:			

**Section III. Current Property Owner/Operator Information (only include if new owner/operator or new existing owner/operator information is provided, and highlight new information)**

OWNER'S NAME (if different from requestor)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

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

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

**Section IV. Eligibility Information for New 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?  Yes  No
2. Is the requestor presently subject to an existing order for the investigation, removal or remediation relating to contamination at the site?  Yes  No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site?  Yes  No  
Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.
4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the subject law; ii) any order or determination; iii) any regulation implementing ECL Article 27 Title 14; or iv) any similar statute, regulation of the state or federal government? If so, provide an explanation on a separate attachment.  Yes  No
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as name, address, Department assigned site number, the reason for denial, and other relevant information.  Yes  No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting of contaminants?  Yes  No
7. Has the requestor been convicted of a criminal offense i) involving the handling, storing, treating, disposing or transporting of contaminants; or ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state?  Yes  No
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of the Department, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to the Department?  Yes  No
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9(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?  Yes  No
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order?  Yes  No
11. Have all known bulk storage tanks on-site been registered with DEC?  Yes  No

THE NEW 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:

PARTICIPANT

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.

VOLUNTEER

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 disposal of hazardous waste or discharge of petroleum.

NOTE: By checking this box, a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.

If a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site, submit a statement describing why you should be considered a volunteer – be specific as to the appropriate care taken.

Requestor's Relationship to Property (check one):

Prior Owner  Current Owner  Potential /Future Purchaser  Other \_\_\_\_\_

If requestor is not the current site owner, **proof of site access sufficient to complete the remediation must be submitted.** Proof must show that the requestor will have access to the property before signing the BCA and throughout the BCP project, including the ability to place an easement on the site Is this proof attached?  Yes  No

**Note: a purchase contract does not suffice as proof of access.**

**Section V. Property description and description of changes/additions/reductions (if applicable)**

ADDRESS 796 Schoharie Turnpike

CITY/TOWN Athens

ZIP CODE 12015

TAX BLOCK AND LOT (TBL) (in existing agreement )

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
796 Schoharie Turnpike, Athens	104.00-4-30	104.00	4	30	1.68

Check appropriate boxes below:

- Changes to metes and bounds description or TBL correction
- Addition of property (may require additional citizen participation depending on the nature of the expansion – see attached instructions)

Approximate acreage added: 2.22 acres

ADDITIONAL PARCELS:

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
722 Schoharie Turnpike, Athens	104.00-4-40	104.00	4	40	2.22

- Reduction of property

Approximate acreage removed: \_\_\_\_\_

PARCELS REMOVED:

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage

If requesting to modify a metes and bounds description or requesting changes to the boundaries of a site, please attach a revised metes and bounds description, survey, or acceptable site map to this application.

**Supplement to the Application To Amend Brownfield Cleanup Agreement And Amendment - Questions for Sites Seeking Tangible Property Credits in New York City ONLY.**

Property is in Bronx, Kings, New York, Queens, or Richmond counties.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Please answer questions below and provide documentation necessary to support answers.</b>	
1. Is at least 50% of the site area located within an environmental zone pursuant to Tax Law 21(6)? Please see <a href="#">DEC's website</a> for more information.	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Is the property upside down as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p><b>From ECL 27-1405(31):</b></p> <p>"Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.</p>	
3. Is the project an affordable housing project as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p><b>From 6 NYCRR 375- 3.2(a) as of July 1, 2015:</b></p> <p>(a) "Affordable housing project" means, for purposes of this part, title fourteen of article twenty seven of the environmental conservation law and section twenty-one of the tax law only, a project that is developed for residential use or mixed residential use that must include affordable residential rental units and/or affordable home ownership units.</p> <p>(1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, that defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants' households annual gross income.</p> <p>(2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, that sets affordable units aside for tenants at a defined maximum percentage of the area median income.</p> <p>(3) "Area median income" means, for purposes of this subdivision, the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development, or its successor, for a family of four, as adjusted for family size.</p>	

PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

<b>Existing Agreement Information</b>	
BCP SITE NAME: Northeast Treaters of New York, LLC	BCP SITE NUMBER: C420029
NAME OF CURRENT APPLICANT(S): Northeast Treaters of New York, LLC	
INDEX NUMBER OF EXISTING AGREEMENT: C420029-12-14	
EFFECTIVE DATE OF EXISTING AGREEMENT: 12/31/14	

Declaration of Amendment:

By the Requestor(s) and/or Applicant(s) signatures below, and subsequent signature by the Department, the above application to amend the Brownfield Cleanup Agreement described above is hereby approved. 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.

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.

<b>Statement of Certification and Signatures: New Requestor(s) (if applicable)</b>
(Individual)  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. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.  Date: _____ Signature: _____  Print Name: _____
(Entity)  I hereby affirm that I am (title _____) of (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 am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law. _____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.  Date: _____ Signature: _____  Print Name: _____

**Statement of Certification and Signatures: Existing Applicant(s) (an authorized representative of each applicant must sign)**

(Individual)

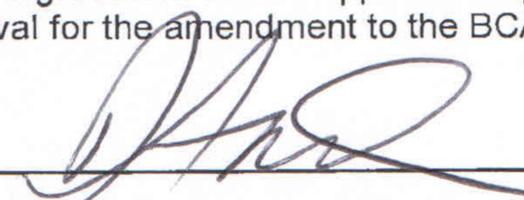
I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

(Entity)

I hereby affirm that I am President (title) of Northwest Treasures of New York, LLC (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. DAVID A. REED signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 7/14/15 Signature: 

Print Name: DAVID A. REED

**REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT**

Status of Agreement:

<input type="checkbox"/> <b>PARTICIPANT</b> 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.	<input type="checkbox"/> <b>VOLUNTEER</b> 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.
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Effective Date of the Original Agreement:

Signature by the Department:

DATED:

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By:

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

**SUBMITTAL INFORMATION:**

- **Two (2) copies, one hard copy with original signatures and one electronic copy in Portable Document Format (PDF) 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

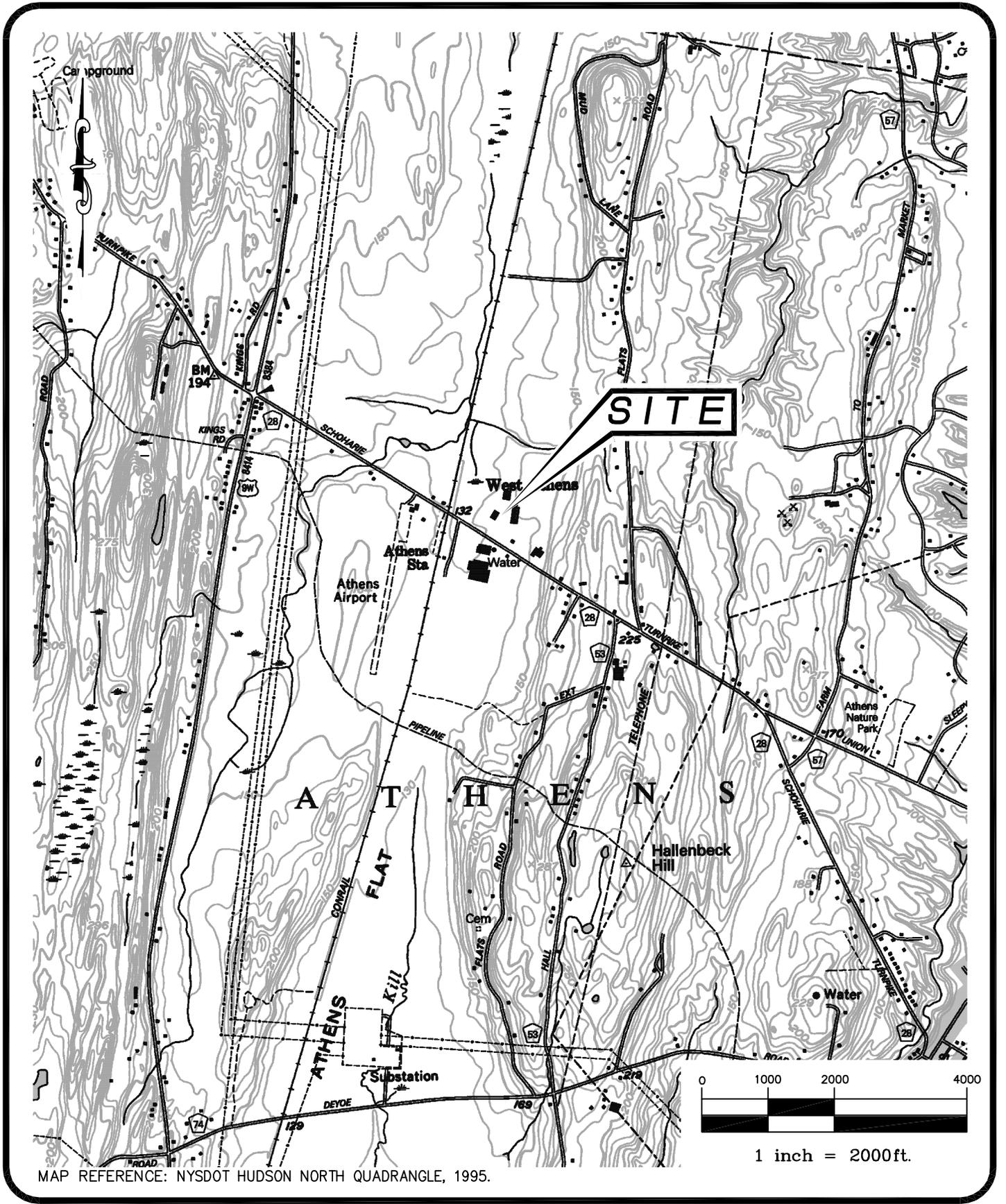
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**FOR DEPARTMENT USE ONLY**

**BCP SITE T&A CODE:** \_\_\_\_\_ **LEAD OFFICE:** \_\_\_\_\_

**PROJECT MANAGER:** \_\_\_\_\_

## **SITE MAP**



MAP REFERENCE: NYSDOT HUDSON NORTH QUADRANGLE, 1995.

# STERLING

Sterling Environmental Engineering, P.C.

24 Wade Road • Latham, New York 12110

## SITE LOCATION MAP NORTHEAST TREATERS SCHOHARIE TURNPIKE

TOWN OF ATHENS

GREENE CO., N.Y.

PROJ. No.: 2014-08

DATE:

4/6/15

SCALE:

1" = 2000'

DWG. NO. 2014-08015

FIGURE

1

**PROPOSED  
BROWNFIELD CLEANUP PROGRAM (BCP)  
BOUNDARY MAP**



**DRAWING REFERENCES**

- "Survey and Map of Lands Property Conveyed by Erich A. Schubert & Karl O. Nie to Cross, Austin & Ireland Lumber Co.", prepared by Frank Ambrosio, dated February 1975, and filed on May 16, 1975 in the Greene County Clerk's Office in EASI-H 123-1098.
- "Survey and Map of Lands of David Hazen", Prepared by Santo Associates, P.C., dated November 5, 1995, drawing number 3917.
- "Proposed Boundary Line Change Between Tax Parcels 104.00-4-30 and 104.00-4-40 Prepared for Northeast Treaters, LLC", prepared by Ostertag Land Surveying, P.C., dated May 27, 2015, and revised June 25, 2015, drawing number 5596.

REPUTEDLY  
CENTRAL HUDSON GAS  
AND ELECTRIC  
LIBER 363 PAGE 446  
104.00-4-39

LANDS OF  
NORTHEAST TREATERS OF  
NEW YORK, LLC.  
LIBER 848 PAGE 62  
104.00-4-30  
**13.17±ACRES**  
MAP REFERENCE 1

Approximate Location of New Brownfield  
Cleanup Area Boundary (3.9 Acres)

REPUTEDLY  
DAVID C. HAZEN AND  
BELKIS P. HAZEN  
104.00-4-40  
**19.01±ACRES**  
MAP REFERENCES 2 & 3

REPUTEDLY  
JAMES SCHMIDT AND  
DENISE V. SCHMIDT  
104.00-4-42.1

REPUTEDLY  
DAVID C. HAZEN AND  
BELKIS P. HAZEN  
104.00-4-40  
**5.01±ACRES**

**MAP NOTES**

- North orientation and bearing base per map reference 1.
- This drawing was prepared from an actual field survey performed in May and June of 2015.
- No underground structures are shown on this drawing. All underground utilities shall be identified and marked on the ground prior to excavation and/or construction.
- The purpose of this drawing is to show brownfield cleanup area.
- This survey has been tied to the survey shown in map reference 1. This survey also shows property line information from map references 2 and 3.
- Tax map numbers: Town of Athens 104.00-4-30 and 104.00-4-40.
- A boundary line change is underway between tax parcels 104.00-4-30 and 104.00-4-40. When that has been executed, the line between the 13.17±acre parcel and the 19.01±acre parcel can be removed. The sum of the remaining parcel will be 32.18± acres.

COPYRIGHT © 2015 OSTERTAG LAND SURVEYING, P.C.  
UNAUTHORIZED ALTERATION OR ADDITION TO A SURVEY MAP BEARING A LICENSED LAND SURVEYOR'S SEAL IS A VIOLATION OF SECTION 7209, SUBDIVISION 2, OF THE NEW YORK STATE EDUCATION LAW.  
ONLY COPIES FROM THE ORIGINAL OF THIS SURVEY MARKED WITH AN ORIGINAL OF THE LAND SURVEYOR'S EMBOSSED SEAL AND SIGNED IN RED INK SHALL BE CONSIDERED VALID TRUE COPIES.

**BCA BCP SITE**  
PREPARED FOR  
**NORTHEAST TREATERS OF NEW YORK, LLC**

Town of Athens, Greene County, New York State

Jeff M. Ostertag, PLS  
License number: 50101

Ostertag Land Surveying, P.C.  
P.O. Box 385, 538 Rte 9W  
Glenmont, New York 12077-03851

REVISION RECORD	
DATE	DESCRIPTION

DRAWN BY: JMO	FILENAME: Northeast.dwg Layout4	SCALE: 1" = 100'
CHECKED BY: JMO	DATE: June 30, 2015	DRAWING NO: 5598

