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July 15, 2016

VIA EMAIL and FIRST CLASS MAIL

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

RE: BCP Application to Amend BCA
Northeast Treaters of New York, LLC
BCP #C420029

Dear Sir/Madam:

Enclosed is a completed Brownfield Cleanup Program ("BCP") Amendment Application ("Amendment No. 2") for the above-referenced BCP Site. The enclosed Amendment serves two purposes. First, Northeast Treaters of New York, LLC ("NET") is seeking to expand the existing BCP Site to incorporate an additional 0.156 acres of property. Second, NET is seeking to modify the description of the property(ies) listed in the Brownfield Cleanup Agreement to reflect recent changes to the tax maps.

By way of background, NET's original Brownfield Cleanup Program ("BCP") Application ("BCP Application"), submitted in October 2014, identified 1.68 acres on Tax Map No. 104.00-4-30, located at 796 Schoharie Turnpike, Athens, as the entire BCP Site. In July 2015, NET bought a parcel adjoining Tax Map No. 104.00-4-30. This adjoining property at 722 Schoharie Turnpike consisted of 24.7 acres with a house, identified as Tax Map No. 104.00-4-40. In July 2015, NET submitted its first BCP amendment application ("Amendment No. 1") seeking to expand the original 1.68 acre BCP Site on 796 Schoharie Turnpike to incorporate 2.2 acres from the recently acquired property at 722 Schoharie Turnpike.

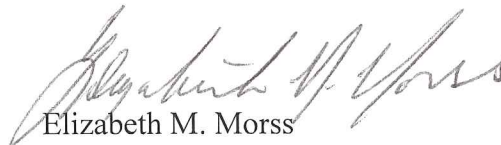
Concurrently, NET applied to the Town of Athens to subdivide the house and five acres from the 24.7 parcel. The remaining 19.7 acres of 722 Schoharie Turnpike (Tax Map No. 104.00-4-40) was joined to the existing NET property (Tax Map No. 104.00-4-30). A lot line adjustment reflecting this change was obtained from the Town of Athens. The new combined 32± acre parcel is now identified by the Town of Athens as 796 Schoharie Turnpike, Tax Map No. 104.00-4-44.

NET now seeks to 1) expand the BCP Site to incorporate 0.156 acre of property at the southern end of the existing BCP Site to include the entire berm and riprap implemented as part of the remedial program for the NET site. This small piece of land was not included in NET's previous July 2015 amendment application; and 2) revise the existing BCP Site identified as a combined 3.9 acres on Tax Map No. 104.00-4-30 and Tax Map No. 104.00-4-40 to 4.056± acres on 796 Schoharie Turnpike, Tax Map No. 104.00-4-44 consistent with the changes to the tax map designations outlined above.

The new BCP Site has been surveyed and a revised metes and bounds with draft survey are attached as Attachment A. The 0.156 acre of property represents a small portion of berm and riprap which was constructed outside the existing BCP Site. The addition of this small 0.156 acre of property is necessary to ensure that the entire area covered by the remedial cap is captured within the BCP Site.

Please contact me or Allyssa Moody at 518-438-9907 ext. 253 with any questions or concerns. Thank you for your attention to this matter.

Very truly yours,



Elizabeth M. Morss

KMY/atm

Enclosures

cc via email only:

Jim Quinn, NYSDEC

Dolores Tuohy, NYSDEC

Walter Wintsch, NYSDEC

Bridget Boyd, NYSDOH

Brad Wenskoski, NYSDOH

Justin Deming, NYSDOH

David Reed, Northeast Treaters

Greg Christy, Northeast Treaters

Kevin Young, Young Sommer



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: C420029

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)?

☐

Yes

☐

No

- 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 & 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.

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?

☐

Yes

☐

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 and 722 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
722 Schoharie Turnpike, Athens	104.00-4-40	104.00	4	40	2.22

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: 0.156

ADDITIONAL PARCELS:

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
796 Schoharie Turnpike, Athens	104.00-4-44	104.00	4	44	0.156

☐ 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
Please answer questions below and provide documentation necessary to support answers.	
1. Is at least 50% of the site area located within an environmental zone pursuant to Tax Law 21(6)? Please see DEC's website 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>From ECL 27-1405(31):</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>From 6 NYCRR 375- 3.2(a) as of July 1, 2015:</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

Existing Agreement Information	
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.

Statement of Certification and Signatures: New Requestor(s) (if applicable)

(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: 7/8/16 Signature: [Signature]

Print Name: DAVID A. REED

(Entity) Northeast Treeters of New York, LLC

I hereby affirm that I am President (title) of Northeast Treeters 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: 7/8/16 Signature: [Signature]

Print Name: DAVID A. REED

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Status of Agreement:

☐

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 contamination.

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

FOR DEPARTMENT USE ONLY

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

PROJECT MANAGER: _____

ATTACHMENT A

July 14, 2016

A Description of Brownfield Cleanup Area on Lands of Northeast Treathers of New York, LLC

A portion of a parcel or piece of land situate, lying and being in the Town of Athens, County of Greene and State of New York, said property is shown on a map entitled "Brownfield Cleanup Program Site Prepared for Northeast Treathers of New York, LLC", prepared by Santo Associates Land Surveying and Engineering, PC, dated June 8, 2016, and revised through July 14, 2016, drawing number 7892-BCA said portion is more particularly described as follows:

Beginning at a point marked by an iron rebar found at the most northerly corner of lands now or formerly of Charles and Heather Ford, Liber 731 page 176, said point of beginning is N45°12'01"E a distance of 262.63 feet from the northeasterly side of Schoharie Turnpike;

Proceeding thence through lands now or formerly of Northeast Treathers of New York, LLC, Liber 848, page 62, the following eight courses and distances:

1. N70°28'53"W a distance of 60.13 feet to a point,
2. N23°56'56"E a distance of 435.32 feet to a point,
3. N14°17'34"E a distance of 143.71 feet to a point,
4. S62°40'00"E a distance of 210.00 feet to a point,
5. S20°01'45"E a distance of 184.71 feet to a point,
6. S22°29'00"W a distance of 292.00 feet to a point,
7. S67°12'44"E a distance of 45.00 feet to a point and
8. S20°23'09"W a distance of 130.00 feet to a point on the northerly line of the aforementioned Charles and Heather Ford;

Thence the following two courses along lands of said Ford:

1. N65°02'08"W a distance of 190.00 feet to a point marked by an iron pipe found and
2. N70°29'13"W a distance of 124.78 feet to the point and place of beginning.

Containing 4.056 acres of land be it the same more or less.

End of description.

