

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of a Second
Modification to an Existing
Brownfield Site Cleanup Agreement for
Tecumseh Redevelopment, Inc. Site
by: Benderson Development Company, LLC
for the Purpose of Adding

Second Brownfield Site
Cleanup Agreement
Modification

BCP#C915205
Index No. B9-0723-06-07

Steel Winds Project LLC

to the Existing Volunteer

WHEREAS, the New York State Department of Environmental Conservation (the "Department") is responsible for enforcement of the Environmental Conservation Law ("ECL") and such law provides the Department authority to enter into this Second Brownfield Site Cleanup Agreement Modification ("Second Modification");

WHEREAS, the Department and BQ Energy, LLC entered into a Brownfield Site Cleanup Agreement ("Agreement") and a Brownfield Site Cleanup Agreement Modification ("Modification I") for performance of a remedial program at property known as the Tecumseh Redevelopment, Inc. Site, located at 1951 Hamburg Turnpike, in the City of Lackawanna, Erie County. The Agreement, dated September 8, 2006, and Modification I, dated November 2, 2006, are attached as Exhibit "A" and are incorporated into this Second Modification;

WHEREAS, Steel Winds Project LLC, by a certified Brownfield Cleanup Program Amendment Application for Change in Party dated June 27, 2007, submitted a request to participate in the Brownfield Cleanup Program relative to the Site as a Volunteer, and together with BQ Energy, LLC is seeking Department approval to add Steel Winds Project LLC as a Volunteer to the existing Agreement and Modification I;

WHEREAS, the Department made a determination, based upon the information contained in the Application and the certifications made by the Applicant, that Applicant is eligible to participate in the Brownfield Cleanup Program as a Volunteer as defined in ECL 27-1405(1)(b).

NOW, THEREFORE, IN CONSIDERATION OF AND IN EXCHANGE FOR THE MUTUAL COVENANTS AND PROMISES, THE PARTIES AGREE TO THE FOLLOWING:

I. Brownfield Site Cleanup Agreement and Brownfield Site Cleanup Agreement Modification, Index #B9-0723-06-07, are hereby modified and amended to add Steel Winds Project LLC, c/o BQ Energy, 20 Jon Barrett Road, Patterson, New York, as a Volunteer for all purposes under the Agreement and Modification I, and Steel Winds

Project LLC together with BQ Energy, LLC, shall assume all duties and obligations as Volunteer after the effective date of this Second Modification.

II. Steel Winds Project LLC agrees to be bound by the terms of the Agreement, Modification I, and this Second Modification and agrees not to contest the authority or jurisdiction of the Department to enter into or enforce the Agreement, Modification I, and this Second Modification, and agrees not to contest the validity of either document.

III. Except as provided in this Second Modification, the Agreement and Modification I shall continue in full force and effect.

IV. No term, condition, understanding or agreement purporting to modify this Second Modification shall be binding unless subscribed to by both parties in accordance with the terms of the Agreement.

V. The effective date of this Second Modification shall be the date the Commissioner or the Commissioner's designee signs it.

DATED: _____, 2007

OCT 31 2007

ALEXANDER B. GRANNIS
COMMISSIONER
NEW YORK STATE DEPARTMENT OF
DEPARTMENT OF ENVIRONMENTAL
CONSERVATION AND TRUSTEE OF THE
STATE'S NATURAL RESOURCES

By:


Dale A. Desnoyers, Director
Division of Environmental Remediation

CONSENT BY VOLUNTEER

Volunteer hereby consents to the issuing and entering of this Second Brownfield Site Cleanup Agreement Modification , waives Volunteer's right to a hearing herein as provided by law, and agrees to be bound by this Modification.

By: PAUL CURRAN
BQ Energy, LLC

Title: MANAGING DIRECTOR

Date: 23 OCTOBER 2007

STATE OF NEW YORK)
) s.s.:
COUNTY OF PUTNAM)

On the 23 day of Oct, in the year 2007, before me, the undersigned, personally appeared PAUL CURRAN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity as MANAGING DIRECTOR, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Marie E. Baldassarri Notary Public
Signature and Office of individual taking acknowledgment

Marie E. Baldassarri
Notary Public State of New York
Commission Number 01BA6097541
Commissioned in Putnam County
Expires 08/25/2011

CONSENT BY VOLUNTEER

Volunteer hereby consents to the issuing and entering of this Second Brownfield Site Cleanup Agreement Modification, waives Volunteer's right to a hearing herein as provided by law, and agrees to be bound by this Modification.

By: Paul Curran
Steel Winds Project LLC

Title: PRESIDENT

Date: 23 OCTOBER 2007

STATE OF New York,
COUNTY OF Putnam) s.s.:

On the 23 day of Oct, in the year 2007, before me, the undersigned, personally appeared Paul Curran, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity as President, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Marie E. Baldassari Notary Public
Signature and Office of individual
taking acknowledgment

Marie E. Baldassari
Notary Public State of New York
Commission Number 01BA6097541
Commissioned in Putnam County
Expires 08/25/2011

Exhibit "A"