



Harter Secret & Emery LLP

ATTORNEYS AND COUNSELORS

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November 21, 2008

VIA: UPS NEXT DAY AIR

Chief, Site Control Section
Attn: Barbara Wolosen
NYS Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, New York 12233-7020

Re: Brownfield Cleanup Program (BCP) – 9154 Group, LLC (Applicant)
Amendment Application for Change in Party
Niagara Street and Pennsylvania Avenue, Buffalo
BCP Site No. 915223; Index No. Existing Agreement B9-0759-01-11
Our File No. 095009.2

Dear Ms. Wolosen:

With respect to the above-captioned BCP Site, please find enclosed our client's completed and fully executed BCP Amendment Application for Change in Party, bearing the signatures of both Requestor and Applicant entities.

Very truly yours,

HARTER, SECRET & EMERY LLP

Craig A. Slater

DIRECT DIAL: 716-845-4223
E-MAIL: CSLATER@HSELAW.COM

CAS:jp
Enclosure

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**NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**



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

07/07

Section I. Existing Application Information		
BCP SITE NAME: Niagara Street and Pennsylvania Avenue BCP SITE NUMBER: C 915223		
NAME OF CURRENT APPLICANT(S): 9154 Group, LLC		
INDEX NUMBER OF EXISTING AGREEMENT (if applicable): B9-0759-01-11		
Section II. Requestor Information		
NAME 1093 Group, LLC		
ADDRESS 295 Main Street, Suite 210		
CITY/TOWN Buffalo		ZIP CODE 14203-2219
PHONE 716-854-0060	FAX 716-852-2829	E-MAIL cstewart@ellicottdevelopment.com
NAME OF REQUESTOR'S REPRESENTATIVE Corey Stewart		
ADDRESS c/o 1093 Group, LLC, 295 Main Street, Suite 210		
CITY/TOWN Buffalo		ZIP CODE 14203-2219
PHONE 716-854-0060	FAX 716-852-2829	E-MAIL cstewart@ellicottdevelopment.com
NAME OF REQUESTOR'S CONSULTANT Turn Key Environmental Restoration, LLC		
ADDRESS 727 Exchange Street, Suite 624		
CITY/TOWN Buffalo		ZIP CODE 14210
PHONE 716-856-0599	FAX 716-856-0583	E-MAIL mlesakowski@turnkeyllc.com
NAME OF REQUESTOR'S ATTORNEY Craig A. Slater, Esq., Harter Secrest & Emery LLP		
ADDRESS Twelve Fountain Plaza, Suite 400		
CITY/TOWN Buffalo		ZIP CODE 14202-2293
PHONE 716-853-1616	FAX 716-853-1617	E-MAIL cslater@hselaw.com
<p>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:</p> <p><input type="checkbox"/> 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.</p> <p><input checked="" type="checkbox"/> 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.</p> <p>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.</p>		

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Section II. Requestor Information (Continued)

Requestor's Relationship to Property (check one):

 Prior Owner
 Current Owner
 Potential /Future Purchaser
 Other _____

If requestor is not the site owner, requestor will have access to the property throughout the BCP project.
 (Note: proof of site access must be submitted for non-owners)

 Yes No

Describe Requestor's Relationship to Existing Applicant:

1093 Group, LLC and 9154 Group, LLC are held by Ellicott Development Company ("Ellicott").

Briefly Describe Basis for Submitting this Amendment Application:

The basis for submitting this application is so that the tax credits associated with this brownfields clean-up will be directed to the appropriate LLC pursuant to Ellicott's internal accounting allocation of costs and assets.

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

OWNER'S NAME (if different from requestor) 9154 Group, LLC

ADDRESS 295 Main Street, Suite 210

CITY/TOWN Buffalo

ZIP CODE 14203-2219

PHONE 716-854-0060

FAX 716-852-2829

E-MAIL cstewart@ellicottdevelopment.com

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

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 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 MANAGER (title) of 1093 GROUP, 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 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: 11/18/08 Signature: [Signature] Print Name: William A. Paladino

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 MANAGER (title) of 9154 GROUP, 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. If an Agreement exists, _____ will execute an Amendment to that Agreement if this Application for an Amendment is approved.

Date: 11/18/08 Signature: CARL P. PALADINO Print Name: [Signature]

SUBMITTAL INFORMATION:

Three (3) complete copies are required.

- Two (2) copies, one paper copy with original signatures and one electronic copy in Portable Document Format (PDF) on a CD or diskette, 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.ny.gov/about/776.html>

FOR DEPARTMENT USE ONLY

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

PROJECT MANAGER: _____