

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of a Modification to a
Voluntary Cleanup Agreement
for: Former Steel and Coke Plant Site,
the Marilla Street Landfill and the
“August Feine Property”

Voluntary Cleanup
Agreement Modification

by:
Steelfields, LTD, Volunteer

Index #: B9-0525-97-11
Site #: V00133-9

WHEREAS, The New York State Department of Environmental Conservation (the “Department”) and Steelfields, LTD. (“Volunteer”) entered into Voluntary Cleanup Agreement, Index # B9-0525-97-11, on October 15, 2002, relative to property associated with the former operations of the LTV Steel Company, Inc. and The Hanna Furnace Corporation, in the City of Buffalo, County of Erie;

WHEREAS, Subparagraph I.A.4 of the Voluntary Agreement which is the definition of the “Site” includes a parcel known as “Area IV”;

WHEREAS, Volunteer conveyed Area IV of its ownership interest in the Site to Hydro-Air Components, Inc. on July 28, 2006, and recorded the transaction in the Office of the Erie County Clerk on August 4, 2006; and Hydro-Air Components, Inc. entered into Brownfield Site Cleanup Agreement B9-0716-06-05 with the Department on August 21, 2006, for the conveyed property, and, therefore, the Voluntary Agreement needs to be modified to exclude the conveyed property from the Site description;

WHEREAS, Volunteer agrees to be bound by the terms of this Modification and consents and agrees not to contest the authority or jurisdiction of the Department to enter into or enforce this Modification, and agrees not to contest the validity of this Modification;

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

- I. Subparagraph I.A.4 of the Voluntary Agreement is hereby modified to add the following language at the end of the definition of the Site:

Notwithstanding the foregoing property description and referenced Tax Map Parcel Numbers and maps, the Site shall not include that parcel of real property identified herein as Area IV which was conveyed to Hydro-Air Components, Inc. on July 28, 2006 and is described in the legal description included in Exhibit “A” of this Agreement

II. Exhibit "A" to this Modification includes a legal description of the parcel which is excluded from the Voluntary Agreement Site definition. Exhibit "A" of the Voluntary Agreement shall be modified to include this legal description of the excluded parcel.

III. This Modification shall control to the extent of a conflict between the provisions hereof and those of the Voluntary Agreement. Except as provided in this Modification, the Voluntary Agreement and the documents related thereto shall continue in full force and effect.

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

V. The effective date of this Modification shall be the date on which it is signed by the Commissioner or the Commissioner's designee.

DATED: MAR - 9 2007

CARL JOHNSON,
ACTING EXECUTIVE
DEPUTY COMMISSIONER
NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By:



Dale A. Desnoyers, Director
Division of Environmental Remediation

CONSENT BY VOLUNTEER

Volunteer hereby consents to the issuing and entering of this Amendment, waives Volunteer's right to a hearing herein as provided by law, and agrees to be bound by this Amendment.

Steelfields, LTD.

By: Richard H. Palumbo

Title: Treasurer

Date: 2-27-07

STATE OF NEW YORK)
) ss:
COUNTY OF Monroe)

On the 27th day of February, in the year 2007, before me, the undersigned, personally appeared Richard A. Palumbo personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Wanda A. Vanderlee
Signature and Office of individual
taking acknowledgment

WANDA A. VANDERLEE
Notary Public in the State of New York
Wayne County
Commission Expires December 15 2010

Exhibit "A"

EXHIBIT A

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie and State of New York, being part of the Ogden Gore Lot No. 17, and being more particularly described as follows:

BEGINNING at a point in the westerly line of Abby Street with the northerly line of Providence Street, which point is northerly 364.68 feet (more or less) measured along the westerly line of Abby Street from its intersection with the northerly line of Tiff Street and which point is also the southeasterly corner of Subdivision Lot No. 87 as shown on a map filed in the Erie County Clerk's Office under Cover No. 589; thence northerly along the westerly line of Abby Street, a distance of 879.14 feet more or less to the southeasterly corner of lands conveyed by Bethlehem Steel Corporation to Republic Steel Corporation under deed dated June 24, 1968 and recorded June 27, 1968 in the Erie County Clerk's Office in Liber 7482 of Deeds at page 400; thence westerly and along the southerly line of lands of aforesaid Republic Steel Corporation, 1635.95 feet more or less to the southeasterly corner of land conveyed by Krull to McClintic Marshall Construction Co. by deed recorded in the Erie County Clerk's Office in Liber 2070 of Deeds at page 130; thence continuing westerly along the south line of said land conveyed by Krull to McClintic Marshall Construction Co. to a point 77 feet easterly of the center line of the main track of the South Buffalo Railway as measured along said south line of land conveyed by Krull to McClintic Marshall Construction Co.; thence southerly along a line drawn parallel with and 77 feet easterly of the center line of the main track of the south Buffalo Railway 1163 feet to the northerly line of Tiff Street; thence easterly along the northerly line of Tiff Street 156.84 feet to a point in the northerly line of Tiff Street, 1142 feet west of the intersection of the northerly line of Tiff Street with the westerly line of Abby Street, as measured along the northerly line of Tiff Street; thence northerly 137.85 feet along the west line of Subdivision Lot No. 39 as shown under map filed in the Erie County Clerk's Office under Cover No. 589; thence westerly along a line drawn parallel to the north line of Tiff Street 45.45 feet; thence northerly at right angles and along the west line of Subdivision Lot No. 46, as shown under Map Cover No. 589 as filed in the Erie County Clerk's Office, a distance of 170.85 to a point; thence easterly and parallel with the northerly line of Tiff Street 8.23 feet to the west line of Subdivision Lot No. 130 as shown under map filed in the Erie County Clerk's Office under Cover No. 589, as extended southerly, thence northerly at right angles and along said west line of Subdivision Lot No. 130 extended southerly, 33.00 feet more or less to the southwest corner of said Subdivision Lot No. 130 and the northerly line of Providence Street; thence easterly along the northerly line of Providence Street which is also the southerly line of Subdivision Lots 87, and 91 through 130 inclusive as shown on a map filed in the Erie County Clerk's Office under Cover No. 589, a distance of 1307.43 feet to point in the westerly line of Abby Street at the point of beginning.