

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the Amendment of an existing Voluntary  
Cleanup Agreement for the **Former Churchville Ford, Inc.**  
Site by:

**Antonio Gabrielle and Joseph Ognibene,**

**Volunteers**

**AMENDMENT TO  
VOLUNTARY  
CLEANUP  
AGREEMENT**

Index # B8-0640-03-09  
Site # V00658-8

WHEREAS, the New York State Department of Environmental Conservation (the "Department") and Antonio Gabrielle and Joseph Ognibene (the "Volunteers") entered into a Voluntary Cleanup Agreement, dated September 29, 2003, bearing index # B8-0640-03-09 and site # V00658-8 (the "Agreement") relative to property located at the northwest corner of the intersection of South Main Street and Sanford Road in the Village of Churchville, County of Monroe, then described in the Agreement as Tax Map Parcel # 143.17-01-0001.121 (the "Site"), and

WHEREAS, the Volunteers were the current owners of the Site at the time the Agreement was executed and were owners of the Site at all time relevant to its development and operation, and

WHEREAS, the Site has since been acquired by other parties, including the NYS Department of Transportation (NYSDOT), which has constructed a road that bisects the Site, and the Site is now comprised of two separate tax parcels known as SBL# 143.17-1-50 and SBL# 143.17-1-51, in addition to the parcel owned by the NYSDOT and shown on the Monroe County Tax Map as "Sanford Road North", and

WHEREAS, Tax Map Parcel # 143.17-1-51 occupies the area of the Site south of Sanford Road North, and

WHEREAS, the VCA has proceeded to the remedy selection stage and the remedy will include environmental and/or institutional controls in the form of restrictions which will need to be placed only upon Tax Map Parcel # 143.17-1-50, which lies entirely north of Sanford Road North, and

WHEREAS, the areas occupied by Sanford Road North and Tax Map Parcel # 143.17-1-51 will not be subject to remediation or environmental or institutional controls as a result of the remedy selection process, and

WHEREAS, the Volunteers are desirous of amending the Agreement to redefine

the voluntary cleanup site to include only the area occupied by Tax Map Parcel # 143.17-1-50, and to exclude from the definition of the site the areas now identified as Sanford Road North and Tax Map Parcel # 143.17-1-51, and

WHEREAS, the Volunteers have sought the Department's approval to amend the Agreement to redefine "Site" for all purposes to include only the area shown as Monroe County Tax Map Parcel # 143.17-1-50, and to remove and exclude from the definition of "Site" the areas shown as Monroe County Tax Map Parcel # 143.17-1-51 and Sanford Road North;

WHEREAS, the Department has made a determination that the requested amendment of the site definition is consistent with the purpose of the Voluntary Cleanup Program and the Agreement,

NOW, THEREFORE, in consideration of and in exchange for the mutual covenants and promises, the parties agree as follows:

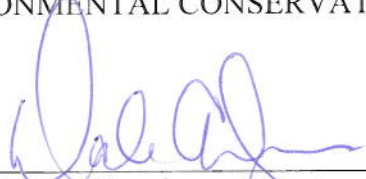
1. Paragraph I.C. of the Voluntary Cleanup Agreement, Index # B8-0640-03-09 and Site # V00658-8, is hereby amended to redefine, for all purposes, the definition of "Site" contained therein to be only the area occupied by the Monroe County Tax Map Parcel identified as SBL # 143.17-1-50 as shown on Exhibit "A" attached.
2. Paragraph I.C. of the Voluntary Cleanup Agreement, Index # B8-0640-03-09 and Site # V00658-8, is hereby amended to exclude from the definition of "Site" contained therein the areas occupied by Tax Parcel SBL# 143.17-1-51 and Sanford Road North, as shown on Exhibit "A" attached.
3. Voluntary Cleanup Agreement, Index # B8-0640-03-09, is hereby amended for the purpose of removing its original Exhibit "A" and replacing such exhibit with the Exhibit "A" attached to this Amendment.
4. The Volunteers hereby agree to be bound by the terms of Voluntary Cleanup Agreement Index # B8-0640-03-09 as herein amended and each consent and agree not to contest the authority or jurisdiction of the Department to enter into or enforce the Agreement and this Amendment, and each agree not to contest the validity of either document.
5. Except as elsewhere provided in this Amendment, Voluntary Cleanup Agreement Index # B8-0640-03-09 and the documents related thereto shall continue in full force and effect. Any amendment or other modification of this Amendment must be in writing and subscribed by the party to be bound.
6. The effective date of this Amendment shall be the date on which it is signed by the Commissioner or the Commissioner's designee.

DATED:

**APR 09 2009**

ALEXANDER B. GRANNIS  
COMMISSIONER  
NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION

By:



Dale A. Desnoyers, Director  
Division of Environmental  
Remediation



CONSENT BY VOLUNTEERS

Volunteers hereby consent 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 Agreement.

GAIL L. HUNTLY  
Notary Public, State of New York  
No. 4999836  
Qualified in Wayne County  
Commission Expires Jan. 6, 2011

ANTONIO GABRIELLE

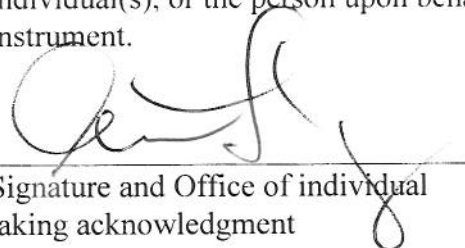


Title: \_\_\_\_\_

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

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

On the 18<sup>th</sup> day of March, 2009, before me, the undersigned, personally appeared Antonio Gabrielle, 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.



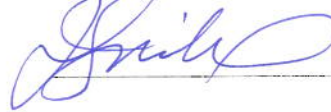
Signature and Office of individual  
taking acknowledgment

GAIL L. HUNTLY  
Notary Public, State of New York  
No. 4999836  
Qualified in Wayne County  
Commission Expires Jan. 6, 2011

CONSENT BY VOLUNTEERS

Volunteers hereby consent 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 Agreement.

JOSEPH OGNIBENE



Title: \_\_\_\_\_

Date: 3-9-09

STATE OF NEW YORK    }  
                                      } ss:  
COUNTY OF GENESEE    }

On the 9TH day of MARCH, 2009, before me, the undersigned, personally appeared JOSEPH OGNIBENE, 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.



Signature and Office of individual  
taking acknowledgment

BENIAMIN J. BONARIGO  
NOTARY PUBLIC, State of New York  
County of Genesee  
My Commission Expires 9/30, 20 10