

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of a Remedial Program for
Catskill Former Manufactured Gas Plant
under Article 27, Title 14 of the
Environmental Conservation Law

BROWNFIELD SITE
CLEANUP AGREEMENT:

MODIFICATION ONE

by Central Hudson Gas & Electric Corporation

Index # A4-0553-0606

Site # C420027

SINCE it has come to the attention of both parties to the above-captioned Agreement that the description of the "site" in that Agreement is incorrect; and

SINCE both parties to the above-captioned Agreement wish to correct this mutual mistake by providing the correct description of the Site,

THE PARTIES AGREE TO THE FOLLOWING:

I. The map attached to this modification to the above-captioned Agreement, appearing as Exhibit "A" to this modification, substitutes for the map appearing in Exhibit "A" to the above-captioned Agreement.

II. The third, fourth, and fifth WHEREAS clauses of the above-captioned Agreement are revised to read as follows:

WHEREAS, by a certified application filed on March 22, 2006 ("Application"), Applicant Central Hudson Gas and Electric Corporation ("CHGE" or the "Applicant"), submitted a request to participate in the Brownfield Cleanup Program ("BCP") relative to properties located at 135 Water Street ("Area A"), 126 Water Street ("Area B"), and Water Street (no numbered address apparent) ("Area C") in the Village of Catskill, Greene County, New York, part of a former manufactured gas plant ("MGP") site ("MGP Site") formerly owned and/or operated by CHGE and/or its predecessors or affiliates from about 1858 to 1925, at which, *inter alia*, coal tar and associated hazardous substances ("MGP Related Contamination") were, or may have been, disposed at various times in the past; and

WHEREAS, the Department has accepted the application for real property, consisting of the above three (3) properties identified by the Applicant by their Tax Map numbers as: Area A (approximately 0.235 acre) - SBL #156.78-3-1 (owned by Michael Ferro); Area B (0.087 acre) - SBL # 156.78-3-3 (owned by Thomas B. Thornton); and Area C (1.2 acres) - SBL # 156.78-2-40 (owned by Willis Vermilyea) (together, the "Site") and further described in metes and bounds on Exhibit "A." A map of the Site showing its general location is attached as part of Exhibit "A"; and

WHEREAS, according to the Application and information provided by the Applicant, the current use of the Site is: (1) Area A: A

vacant gravel-covered lot; (2) Area B: a commercial building containing the Water Street Art Studio; and (3) Area C: The parcel is improved with a paved parking lot that appears to be in good condition. No other site uses are apparent. The intended use of the Site is industrial, consistent with present and past uses; and

III. The descriptions of Areas A, B, and C as described in Exhibit "A" to the above-captioned Agreement are revised to read as follows and supersede any descriptions of these Areas in the above-captioned Agreement:

1. Area A

Southern portion of SBL #156.78-3-1

Acreage: Approximately 0.235 acre

Address: Southern portion of 135 Water Street

Owner: Michael Ferro

Metes & bounds description: Beginning at a point on the westerly bounds along Water Street, said point being S06°29'30"E 97.27 feet from the intersection with the westerly bounds of the intersection of the aforementioned bounds of Water Street and the southerly bounds of Canal Street, said intersection also being the northeast corner of a brick building located on the parcel to the north of the parcel herein described; running thence from said point of beginning and along the westerly bounds of Water Street; thence, S06°29'30"E 76.88 feet to a point and lands now or formerly of Catskill Manor LLC; running thence along said lands S85°14'04"W 139.32 feet to a point and the easterly bank of Catskill Creek; running thence along the easterly bank of said creek the following three courses: N02°23'58"W 12.11 feet to a point, running thence N03°21'16"E 42.81 feet to a point, running thence N10°47'32"E 23.25 feet to a point; running thence through lands now or formerly of Hudson River Development Corporation N85°14'50"E 124.21 feet to the point and place of beginning, containing 0.235 acre of land, as shown on a survey map prepared by Santo Associates Land Surveying & Engineering, P.C., as Drawing Number 6898CHGE, dated November 14, 2008.

2. Area B

SBL #156.78-3-3

Acreage: Approximately 0.087 acre

Address: 126 Water Street

Owner: Thomas B. Thornton

Metes & bounds description: Beginning at a point in the easterly bounds of Water Street, said point being the northwest corner of the parcel herein described and the southwest corner of the lands of Thomas B. Thornton, Inc. said point of beginning also being the southwest corner of the three story brick building, known as the "theater building" and the point of beginning being further described as being S10°34'24"E 57.51 feet from the intersection of the easterly bounds of Water Street with the southerly bounds of Canal Street, said point being the northwest corner of the aforementioned "theater building;" running thence from said point of beginning and along the lands of Thomas B. Thornton, Inc. and along

the south face of the above referenced building N79°41'42"E 49.94 feet to a point; thence leaving said building and running along the remnants of a chain link fence and continuing along lands of Thomas B. Thornton, Inc., S09°55'24"E 56.53 feet to an iron pipe (found); thence continuing along said lands S79°50'18"W 49.94 feet to a point in the easterly bounds of Water Street; running thence along the easterly bounds of Water Street N05°55'22"E 56.40 feet to the point and place of beginning, containing 3,820 square feet of land.

3. Area C

Southern portion of SBL #156.78-2-40

Acreage: 1.20

Address: Water Street (no numbered address apparent)

Owner: Willis Vermilyea

Metes & bounds description: Beginning at a point in the westerly line of Water Street distant 221.5 feet northerly from the corner formed by the intersection of the westerly line of Water Street with the northerly line of Canal Street; running thence S86°18'W, along the northerly line of lands formerly of Central Hudson Gas and Electric Corporation, 147.8 feet; running thence N11°41'W, along the easterly line of lands now or formerly of Boice Motor Co.; running thence N67°32'E, along the lands now or formerly of Boice Motor Co., 136 feet to the westerly line of Water Street; running thence S22°42'E, along the westerly line of Water Street, 119.46 feet to a corner; and running thence S2°00'E, along the westerly line of Water Street, 60 feet to the point or place of beginning.

IV. Subparagraph XII.A of the above-captioned Agreement is hereby revised to read as follows:

A. All written communications required by this Agreement shall be transmitted by United States Postal Service, by private courier service, or hand delivered.

1. Communication from Applicant shall be sent to:

Amen Omorogbe, Project Manager
New York State Department of
Environmental Conservation
Division of Environmental Remediation
Remedial Bureau C, 11th Floor
625 Broadway
Albany, NY 12233-7014
(1 bound copy, 1 unbound copy and 1 disk)

Al Geisendorfer
New York State Department of
Environmental Conservation
Division of Environmental Remediation
Regional Headquarters
1150 Westcott Road

Schenectady, NY 12306-2014
(1 bound copy)

Bruce Donovan
Bureau of Environmental Exposure
Investigation
New York State Department of Health
Flanigan Square
547 River Street
Troy, New York 12180-2216
(2 bound copies and 1 disk)

and

Charles E. Sullivan, Jr., Esq., Associate

Counsel

New York State Department of
Environmental Conservation
625 Broadway, 14th Floor
Albany, NY 12233-1500
(Correspondence and progress reports only)

2. Communication from the Department to
Applicant shall be sent to:

Mr. Wayne Mancroni
Central Hudson Gas & Electric
Corporation
284 South Avenue
Poughkeepsie, New York 12601-
4879

Nancy Gensky
ARCADIS
30 West Monroe, Suite 1710
Chicago, Illinois 60603-2404

V. All provisions, terms, and conditions of the above-captioned Agreement, except as set forth in Paragraphs I, II, III, and IV of this modification to the above-captioned Agreement, remain in full force and effect.

VI. The effective date of this modification to the above-captioned Agreement is the date it is signed by the Commissioner or the Commissioner's designee.

DATED: JUN 25 2009

Alexander B. Grannis, Commissioner
New York State Department of Environmental
Conservation

By: 

Dale A. Desnoyers, Director
Division of Environmental Remediation

CONSENT BY APPLICANT

Applicant hereby consents to the issuing and entering of this modification to the above-captioned Agreement, waives its right to a hearing herein as provided by law, and agrees to be bound by this modification to the above-captioned Agreement.

CENTRAL HUDSON GAS & ELECTRIC CORPORATION

By: Paul E. Haering

Title: Vice President Engineering & Environmental Services

Date: 6/18/09

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

On the 18th day of June, in the year 2009, before me, the undersigned, personally appeared PAUL HAERING, 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.

Carol Anne Wilson
Notary Public State of New York

CAROL ANNE WILSON
Notary Public, State of New York
No. 01 W16206203
Qualified in Dutchess County
Term Expires May 18, 2013

EDMS 234532, v2

EXHIBIT “A”

**Metes & Bounds Descriptions
and
Map of Site**

Three parcels make up the proposed Site and are designated as Areas A, B and C on the attached map ("Attachment 1"). The Metes and Bounds description of each parcel is:

1. Area A

Southern portion of SBL #156.78-3-1

Acreage: Approximately 0.235 acre

Address: Southern portion of 135 Water Street

Owner: Michael Ferro

Metes & bounds description: Beginning at a point on the westerly bounds along Water Street, said point being $S06^{\circ}29'30''E$ 97.27 feet from the intersection with the westerly bounds of the intersection of the aforementioned bounds of Water Street and the southerly bounds of Canal Street, said intersection also being the northeast corner of a brick building located on the parcel to the north of the parcel herein described; running thence from said point of beginning and along the westerly bounds of Water Street; thence, $S06^{\circ}29'30''E$ 76.88 feet to a point and lands now or formerly of Catskill Manor LLC; running thence along said lands $S85^{\circ}14'04''W$ 139.32 feet to a point and the easterly bank of Catskill Creek; running thence along the easterly bank of said creek the following three courses: $N02^{\circ}23'58''W$ 12.11 feet to a point, running thence $N03^{\circ}21'16''E$ 42.81 feet to a point, running thence $N10^{\circ}47'32''E$ 23.25 feet to a point; running thence through lands now or formerly of Hudson River Development Corporation $N85^{\circ}14'50''E$ 124.21 feet to the point and place of beginning, containing 0.235 acre of land, as shown on a survey map prepared by Santo Associates Land Surveying & Engineering, P.C., as Drawing Number 6898CHGE, dated November 14, 2008.

2. Area B

SBL #156.78-3-3

Acreage: Approximately 0.087 acre

Address: 126 Water Street

Owner: Thomas B. Thornton

Metes & bounds description: Beginning at a point in the easterly bounds of Water Street, said point being the northwest corner of the parcel herein described and the southwest corner of the lands of Thomas B. Thornton, Inc. said point of beginning also being the southwest corner of the three story brick building, known as the "theater building" and the point of beginning being further described as being $S10^{\circ}34'24''E$ 57.51 feet from the intersection of the easterly bounds of Water Street with the southerly bounds of Canal Street, said point being the northwest corner of the aforementioned "theater building;" running thence from said point of beginning and along the lands of Thomas B. Thornton, Inc. and along the south face of the above referenced building $N79^{\circ}41'42''E$ 49.94 feet to a point; thence leaving said building and running along the remnants of a chain link fence and continuing along lands of Thomas B. Thornton, Inc., $S09^{\circ}55'24''E$ 56.53 feet to an iron pipe (found); thence continuing along said lands $S79^{\circ}50'18''W$ 49.94 feet to a point in the easterly bounds of Water Street; running thence along the easterly bounds of Water Street $N05^{\circ}55'22''E$ 56.40 feet to the point and place of beginning, containing 3,820 square feet of land.

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