

DECLARATION OF ENVIRONMENTAL RESTRICTION

This Declaration of Environmental Restriction, made as of the 11th day of June, 2003, by the Town of Southampton, a political subdivision of the State of New York (together with its successors and assigns, collectively "Owner"),

WITNESSETH: -

WHEREAS, Owner is the owner in fee simple of certain real property known as the North Sea Landfill and former sludge lagoons (the "Property") containing 2,128,985 square feet or 48.875 acres, more or less and being as shown on the County of Suffolk Real Property Tax Maps as District 0900, Section 078.00, Block 02.00 and a portion of Lot 074.001, more particularly described on Exhibit A (legal description) and Exhibit B (aerial photo with described area superimposed) attached hereto and made a part hereof;

WHEREAS, the United States Environmental Protection Agency ("EPA"), pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. § 9605, placed the Property on the National Priorities List due to the presence of certain contaminants on the Property;

WHEREAS, based on the Remedial Investigation and Feasibility Study conducted by the Town of Southampton, EPA selected a source control remedy for the site in a Record of Decision ("ROD") dated September 1989, attached hereto as Exhibit C and made a part hereof, and the State of New York concurred with the selected remedy;

WHEREAS, the EPA ROD required the Town of Southampton to conduct a number of remedial actions, which have been completed, and also required the Town of Southampton to place institutional controls on the Property restricting future uses;

WHEREAS, Owner intends that such use restrictions shall run with the Property, and be binding upon and enforceable against the Owner and Owner's successors and assigns;

NOW, THEREFORE, with respect to the Property, as identified in Exhibit A attached hereto and made a part hereof, Owner agrees as follows:

1. Restriction on Use. Owner shall not suffer or allow any development or other use of the Property that would create an unacceptably high risk to human health or the environment relating directly to the conditions that led to the issuance of the September 1989 ROD, without first obtaining the express written consent of EPA and the concurrence of the New York State Department of Environmental Conservation.

2. Termination & Modification. This Declaration of Environmental Restriction shall terminate or be modified only upon filing of an instrument, executed by EPA with the concurrence of the New York State Department of Environmental Conservation, in the office of the Clerk/Register of Deeds and Mortgages of Suffolk County, New York, expressly terminating or modifying this Declaration of Environmental Restriction.

IN WITNESS WHEREOF, Owner has executed this instrument as of the date first written above.

ATTEST:

TOWN OF SOUTHAMPTON

By: 

PATRICK A. HEANEY, SUPERVISOR

[Print name and title]

STATE OF NEW YORK)

) SS.:

COUNTY OF SUFFOLK)

On this 11th day of June, 2003, before me personally appeared Patrick Heaney, who is Supervisor of the Town of Southampton, the municipal corporation described herein, and who executed the foregoing instrument, to me known and known by me to be such Supervisor, and he by me being duly sworn, did depose and say that he is Supervisor of the Town of Southampton, that he works at 116 Hampton Road, Southampton, New York, and that he executed the foregoing instrument as such Supervisor for the purposes therein mentioned.

Notary Public

CLAYTON E. MATTS
NOTARY PUBLIC, STATE OF NEW YORK
NEL 01764899999
QUALIFIED IN SUFFOLK COUNTY
COMMISSION EXPIRES OCTOBER 21, 2011

Exhibit A

Legal Description of Property

April 21, 2003

Description of Deed Restriction Area at
North Sea Landfill, Town of Southampton

LKMA No. 02055.000

ALL that piece or parcel of land situate, lying and being at North Sea, Town of Southampton, County of Suffolk, State of New York being more particularly bounded and described as follows:

BEGINNING at a point on the division line between the Town of Southampton, North Sea Landfill, on the west and the Described Map A of the Peconic Shores Development, filed in the Office of the Clerk of Suffolk County on December 5, 1928 as Map No. 108, on the east, said point being the following courses and distances from the point on the easterly boundary of Majors Path where it is intersected by the southerly boundary of Great Hill Road:

EASTERLY along the last mentioned boundary, the following seven (7) courses and distances:

1. N.80°40'57"E., a distance of 162.14 feet to a point;
2. S.89°35'03"E., a distance of 203.33 feet to a point;
3. S.77°15'23"E., a distance of 93.61 feet to a point;
4. S.61°13'03"E., a distance of 149.02 feet to a point;
5. S.76°42'33"E., a distance of 172.89 feet to a point;
6. S.88°34'43"E., a distance of 283.93 feet to a point; and
7. N.75°16'47"E., a distance of 2.91 feet to a point on the aforementioned division line between the Lands of the Town of Southampton on the west and the Described Map A of the Peconic Shores Development on the east.

THENCE, S.09°06'43"E., continuing along the last mentioned division line, a distance of 320.18 feet to the point of beginning.

THENCE continue southerly along the last mentioned division line, the following two (2) courses and distances:

1. S.09°06'43"E., a distance of 409.24 feet to a point; and
2. S.05°45'06"E., a distance of 1,746.22 feet to a point.

THENCE westerly, northerly and easterly, through the lands of the Town of Southampton the following five (5) courses and distances:

1. S.84°14'54"W., a distance of 965.00 feet to a point;
2. N.05°45'06"W., a distance of 655.00 feet to a point;
3. S.84°14'54"W., a distance of 95.00 feet to a point;
4. N.05°45'06"W., a distance of 1,330.00 feet to a point; and
5. N.74°56'33"E., a distance of 1,049.83 feet to the point or place of beginning.

Containing 2,128,985 square feet or 48.875 acres, more or less and being as shown on the County of Suffolk Real Property Tax Maps as District 0900, Section 078.00, Block 02.00 and a portion of Lot 074.001.