

Rensselaer County  
Frank J Merola  
County Clerk  
Troy, New York 12180



Volm-8082 Pg-94

Instrument Number: 2017- 00509222

As  
Agreement

Recorded On: January 31, 2017

Parties: EASTMAN KODAK CO

To

STERLING DRUG SITE 3

Billable Pages: 7

Recorded By: SNEERINGER PROVOST & REDGRAVE

Num Of Pages: 8

Comment: DECLARATION

**\*\* Examined and Charged as Follows: \*\***

Deed Agreement	75.00	Coversheet	5.00
Recording Charge:	80.00		

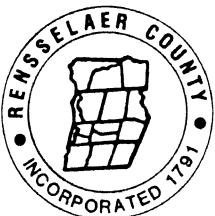
**\*\* THIS PAGE IS PART OF THE INSTRUMENT \*\***

I hereby certify that the within and foregoing was recorded in the Clerk's Office For: Rensselaer County, NY

**File Information:**

**Record and Return To:**

Document Number:	2017- 00509222	SMPR
Receipt Number:	1057690	
Recorded Date/Time:	January 31, 2017 03:31:56P	TROY NY
Book-Vol/Pg:	Bk-R VI-8082 Pg-94	
Cashier / Station:	R H / Cashier Station 3	



Frank J. Merola  
Rensselaer County Clerk

## DECLARATION of COVENANTS and RESTRICTIONS

**THIS COVENANT** is made the 2nd day of November, 2016, by Eastman Kodak Company, a corporation organized and existing under the laws of the State of New Jersey and having an office for the transaction of business at 343 State Street, Rochester, New York 14650-1265.

WHEREAS, Sterling Drug Site 3 (Site #442011) (the "Site"), including Operable Unit 2 addressing off-Site contamination, is the subject of an Order on Consent and Administrative Settlement, Index #A4-0624-08-09 ("Order"), executed by NPEC Inc. as part of the New York State Department of Environmental Conservation's (the "Department's") Inactive Hazardous Waste Disposal Site Remedial Program.

WHEREAS, an off-Site parcel of real property located at the address of Riverside Avenue Extension (Tax Map #165.-1-25.2) in the Town of East Greenbush, County of Rensselaer, State of New York, is the same as (or part of) that property conveyed to Eastman Kodak Company by NPEC Inc. by deed dated April 9, 2014 and recorded on April 29, 2014 in the Rensselaer County Clerk's Office in Liber 7136 of Deeds, Page 210, and being more particularly described in Schedule "A", attached to this declaration and made a part hereof, and hereinafter referred to as "the Property."

WHEREAS, the Department approved a remedy to eliminate or mitigate all significant threats to the environment presented by the contamination disposed at the Site (the "Remedy") and such Remedy requires that the Property be subject to restrictive covenants.

WHEREAS, the Order committed NPEC Inc. to long-term obligations associated with the Property, and Eastman Kodak Company has assumed NPEC's obligations pursuant to the Order.

NOW, THEREFORE, Eastman Kodak Company, for itself and its successors and/or assigns, covenants that:

First, the Property subject to this Declaration of Covenants and Restrictions is as shown and identified as Tax Map Parcel # 165.-1-25.2 on a map attached to this declaration as Schedule "B" and made a part hereof.

Second, unless prior written approval by the Department or, if the Department shall no longer exist, any New York State agency or agencies subsequently created to protect the environment of the State and the health of the State's citizens, hereinafter referred to as "the Relevant Agency," is first obtained, where contamination remains at the Property subject to the provisions of the Site Management Plan ("SMP"), there shall be no construction, use, or occupancy of the Property that results in the disturbance or excavation of the Property which results in unacceptable human exposure to contaminated groundwater. The SMP may be obtained from the New York State

*SMR*  
*Rt to*  
*Debra Williams*  
*Harter Secret*  
*1600 Bausch Lomb Place*  
*Rochester, NY 14604*

Department of Environmental Conservation, Division of Environmental Remediation,  
Site Control Section, 625 Broadway, Albany, NY 12233.

Third, the owner of the Property shall not disturb, remove, or otherwise interfere with the installation, use, operation, and maintenance of any monitoring locations required for the Remedy, which are described in the SMP, unless in each instance the owner first obtains a written waiver of such prohibition from Eastman Kodak Company, if it continues to exist, and the Department or Relevant Agency.

Fourth, the use of groundwater underlying the Property is prohibited without necessary water quality treatment as determined by the New York State Department of Health or the Rensselaer County Department of Health to render it safe for use as drinking water, process water, including irrigation, or other purposes, and the user must first notify and obtain written approval to do so from the Department or Relevant Agency.

Fifth, prior to the construction of any enclosed structure at the Property, the owner of the Property shall either (i) conduct a vapor intrusion evaluation to determine whether mitigation measures are necessary to eliminate potential exposure to vapors in the structure, or (ii) install a vapor intrusion mitigation system, including a vapor barrier and passive sub-slab depressurization system that is capable of being converted to an active system, as an element of the structure's foundation. Prior to undertaking the above activities, notification must be made and a work plan provided for approval to the NYSDOH and the Department or Relevant Agency, which approval shall not be unreasonably withheld.

Sixth, the owner of the Property shall provide information to Eastman Kodak Company to assist it in carrying out its obligation to provide periodic certifications that are prepared and submitted by a professional engineer or environmental professional acceptable to the Department or Relevant Agency and will certify that the institutional and engineering controls put in place are unchanged from the previous certification, comply with the SMP, and have not been impaired.

Seventh, the owner of the Property shall provide access, with reasonable prior notice, to agents, employees, or other representatives of the State of New York to assure compliance with these covenants and restrictions and to Eastman Kodak Company to assist it in carrying out its obligation to provide periodic certifications to the Department or Relevant Agency.

Eighth, the owner of the Property shall provide Eastman Kodak Company and the Department or Relevant Agency sixty days prior notice of any proposed: transfer of an interest in the Property; erection of a structure on or paving of the Property; creation of a park or recreational facility; or any activity that is likely to disrupt or expose contamination or increase direct human or environmental exposure or will or may tend to prevent or significantly interfere with the Remedy.

Ninth, the owner of the Property shall continue in full force and effect any institutional controls required for the Remedy and maintain such controls, unless the owner first obtains permission to discontinue such controls from Eastman Kodak Company, if it continues to exist, and the Department or Relevant Agency, in compliance with the approved SMP, which is incorporated and made enforceable hereto, subject to modifications as approved by Eastman Kodak Company, if it continues to exist, and the Department or Relevant Agency.

Tenth, this Declaration is and shall be deemed a covenant that shall run with the land and shall be binding upon all future owners of the Property, and shall provide that the owner and its successors and assigns consent to enforcement by the Department or Relevant Agency of the prohibitions and restrictions that the Order requires to be recorded, and hereby covenant not to contest the authority of the Department or Relevant Agency to seek enforcement.

Eleventh, any deed of conveyance of the Property, or any portion thereof, shall recite, unless the Department or Relevant Agency has consented to the termination of such covenants and restrictions, that said conveyance is subject to this Declaration of Covenants and Restrictions.

IN WITNESS WHEREOF, the undersigned has executed this instrument the day written below.

By:

Print Name: A. Richard Szembrot

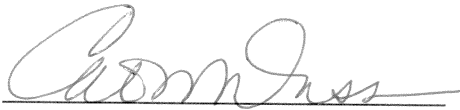
Title: Director Health, Safety and Environment

Date: November 2, 2016

# Grantor's Acknowledgement

STATE OF NEW YORK )  
COUNTY OF MONROE )

On the 2nd day of November, in the year 2016, before me, the undersigned personally appeared A. Richard Szembrot, personally known to me or proved to me on the basis of satisfactory evidence to 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.



Notary Public, State of New York

CATHERINE M. DASSON  
NOTARY PUBLIC in the State of New York  
MONROE COUNTY  
My Commission Expires 10-31-17

## SCHEDULE "A"

### Tax Map #165.-1-25.2

**ALL THAT TRACT OR PARCEL OF LAND** situate in the Town of East Greenbush, County of Rensselaer and State of New York, bounded and described according to a map entitled "Map of Property to be Conveyed by Penn Central Transportation Company to Sterling Drug, Inc." made by Edward W. Boutelle & Son, dated March 3, 1988 and made a part hereof, designated thereon as Parcel B; VIZ:

BEGINNING at a point to the easterly line of land conveyed to the Hudson River Railroad Company by Declaration of Trust dated June 12, 1865 and recorded in the Office of the Rensselaer County Clerk in Book 129, page 97, at its point of intersection with the northerly line of a permanent easement (125) feet in width granted Niagara Mohawk Power Corporation by Agreement dated March 20, 1952 and recorded in the Office of the Rensselaer County Clerk in Book 903, page 23; said point of beginning also being (2088.51) feet northerly measured along lands of said railroad from a point in the division line between lands on the north now or formerly owned by the party of the first part and Lands on the south now or formerly of Louis and Bevier Hasbrouck, said division line being more fully shown on a map entitled "MAP OF PROPERTY OF LOUIS AND BEVIER HASBROUCK" dated March 5, 1969, and made by Edward W. Boutelle and Son, Civil Engineers and Surveyors, filed in said Clerk's Office on October 24, 1973 as Map # 1973-84 and Nap "N.Y.C.R.R., Buffalo and East Mohawk Division, Main Line; Map Showing road to be Dedicated to the Town of East Greenbush, and establishing the boundary Lines of the Respective Properties of the Various Property Owners as Indicated Hereon, 3.82 miles South of Rensselaer, dated December 5, 1935, office of General Land and Tax Agent, New York, NY" said Map being attached to and made a part of an agreement between The New York Central Railroad Company and others, dated December 23, 1935 and recorded in said Clerk's office February 23, 1936 in Book 557 of Deeds at Page 1, said point also being (80.20) feet south 80 degrees 03 minutes 48 seconds West measured along the prolongation of said division line from its point of intersection with the Centerline of the revised location of said Hudson River Railroad Company, at centerline Station 731+609; thence running from said point of beginning South 81 degrees 37 minutes 00 seconds West along the northerly line of said power company easement (624.71) feet to a point in the easterly line of Riverside Avenue Extension as the same is shown on the above map and as set forth in said agreement recorded February 13, 1936 in Book 557 of Deeds at Page 1; thence along the easterly line of said Riverside Avenue Extension North 12 degrees 56 minutes 13 seconds West (882.41) feet to a point in the southerly line of a second permanent easement granted Niagara Mohawk Corporation by Agreement dated November 24, 1964 and recorded in the Office of the Rensselaer County Clerk in Book 1144, page 441; thence along the southerly line of said last mentioned easement North 80 degrees 57 minutes 37 seconds East (23.16) feet and South 89 degrees 54 minutes 23 seconds East (434.60) feet to a point in the easterly line of lands of the aforesaid Hudson River Railroad Company; thence along said last mentioned lands South 24 degrees 53 minutes 23 seconds East (850.90) feet to the point of beginning.

**SCHEDULE "B"**

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