



OFFICE OF THE SCHENECTADY COUNTY CLERK

620 STATE STREET
SCHENECTADY, NY 12305-2114
PHONE (518) 388-4220
FAX (518) 388-4224

Cara M. Ackerley
County Clerk

Instrument Number - 202307111
Recorded On 2/7/2023 At 2:04:11 PM

- * Instrument Type - EASEMENT
- * Book/Page - DEED/2102/436
- * Total Pages - 10
- Invoice Number - 1157279
- * Document Number - 2023-560
- * Grantor - MOORE ROBERT S

User ID: TMH

***RETURN DOCUMENT TO:**
THOMAS B HAYNER ESQ
670 FRANKLIN STREET
STE 704
SCHENECTADY, NY 12305

* Grantee - PEOPLE OF THE STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

* FEES

NY LAND SUR	\$4.75
NY LAND COMP SUR	\$14.25
CO GENERAL REVENUE	\$75.00
CO LAND SUR	\$0.25
CO LAND COMP SUR	\$0.75
TOTAL PAID	\$95.00

TRANSFER TAX

Real Estate Transfer Tax Num - 2360
Transfer Tax Amount - \$ 0.00

I hereby CONFIRM that this document is
Recorded in the Schenectady County Clerk's Office
in Schenectady, New York

CMackerley

Cara M. Ackerley
Schenectady County Clerk

THIS IS AN ENDORSEMENT PAGE

Do Not Detach

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

* - Information denoted by an asterisk may change during the verification process and may not be reflected on this page.

INSTRUMENT NUMBER - 202307111



ENVIRONMENTAL EASEMENT GRANTED PURSUANT TO ARTICLE 71, TITLE 36
OF THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW

THIS INDENTURE made this 5th day of January, 2023, between Owner(s) Robert S. Moore, having an office at 1410 Division Street, Charlton, NY 12019, County of Saratoga, State of New York (the "Grantor"), and The People of the State of New York (the "Grantee"), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner", or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233,

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties ("sites") that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment; and

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of Environmental Easements as an enforceable means of ensuring the performance of operation, maintenance, and/or monitoring requirements and the restriction of future uses of the land, when an environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to perform properly and be effective, or which requires groundwater use or soil management restrictions; and

WHEREAS, the Legislature of the State of New York has declared that Environmental Easement shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law ("ECL") which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

WHEREAS, Grantor, is the owner of real property located at the address of 445 Duane Avenue in the City of Schenectady, County of Schenectady and State of New York, known and designated on the tax map of the County Clerk of Schenectady as tax map parcel numbers: Section 49.58 Block 3 Lot 20.311, being the same as that property conveyed to Grantor by deed dated March 10, 2021 and recorded in the Schenectady County Clerk's Office in Instrument No. 202113117. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 2.04 +/- acres, and is hereinafter more fully described in the Land Title Survey dated January 25, 2021 prepared by Michael D. Rozeski, which will be attached to the Site Management Plan. The Controlled Property description is set forth in and attached hereto as Schedule A; and

WHEREAS, the Department accepts this Environmental Easement in order to ensure the protection of public health and the environment and to achieve the requirements for remediation established for the Controlled Property until such time as this Environmental Easement is extinguished pursuant to ECL Article 71, Title 36; and

NOW THEREFORE, in consideration of the mutual covenants contained herein and the terms and conditions of Order on Consent Index Number: CO 4-20221004-123. Grantor conveys to Grantee a permanent Environmental Easement pursuant to ECL Article 71, Title 36 in, on, over, under, and upon the Controlled Property as more fully described herein ("Environmental Easement").

1. Purposes. Grantor and Grantee acknowledge that the Purposes of this Environmental Easement are: to convey to Grantee real property rights and interests that will run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of this Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of operation, maintenance, and/or monitoring requirements; and to ensure the restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional and Engineering Controls. The controls and requirements listed in the Department approved Site Management Plan ("SMP") including any and all Department approved amendments to the SMP are incorporated into and made part of this Environmental Easement. These controls and requirements apply to the use of the Controlled Property, run with the land, are binding on the Grantor and the Grantor's successors and assigns, and are enforceable in law or equity against any owner of the Controlled Property, any lessees and any person using the Controlled Property.

A. (1) The Controlled Property may be used for:

Commercial as described in 6 NYCRR Part 375-1.8(g)(2)(iii) and Industrial as described in 6 NYCRR Part 375-1.8(g)(2)(iv)

The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Schenectady County Department of Health to render it safe for use as drinking water or for industrial purposes, and the user must first notify and obtain written approval to do so from the Department.

B. The Controlled Property shall not be used for Residential or Restricted Residential purposes as defined in 6NYCRR 375-1.8(g)(2)(i) and (ii), and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. The SMP describes obligations that the Grantor assumes on behalf of Grantor, its successors and assigns. The Grantor's assumption of the obligations contained in the SMP which may include sampling, monitoring, and/or operating a treatment system, and providing certified reports to the NYSDEC, is and remains a fundamental element of the Department's determination that the Controlled Property is safe for a specific use, but not all uses. The SMP may be modified in accordance with the Department's statutory and regulatory authority. The Grantor and all successors and assigns, assume the burden of complying with the SMP and obtaining an up-to-date version of the SMP from:

Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, New York 12233
Phone: (518) 402-9553

D. Grantor must provide all persons who acquire any interest in the Controlled Property a true and complete copy of the SMP that the Department approves for the Controlled Property and all Department-approved amendments to that SMP.

E. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of ECL Article 71, Title 36 of the ECL, the property deed and all subsequent instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

This property is subject to an Environmental Easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation Law.

F. Grantor covenants and agrees that this Environmental Easement shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

G. Grantor covenants and agrees that it shall, at such time as NYSDEC may require, submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury, in such form and manner as the Department may require, that:

(1) the inspection of the site to confirm the effectiveness of the institutional and engineering controls required by the remedial program was performed under the direction of the individual set forth at 6 NYCRR Part 375-1.8(h)(3).

(2) the institutional controls and/or engineering controls employed at such site:
(i) are in-place;
(ii) are unchanged from the previous certification, or that any identified changes to the controls employed were approved by the NYSDEC and that all controls are in the Department-approved format; and

(iii) that nothing has occurred that would impair the ability of such control to protect the public health and environment;

(3) the owner will continue to allow access to such real property to evaluate the continued maintenance of such controls;

(4) nothing has occurred that would constitute a violation or failure to comply with any site management plan for such controls;

(5) the report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;

(6) to the best of his/her knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and

(7) the information presented is accurate and complete.

3. Right to Enter and Inspect. Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor's Rights. Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Property, all rights as fee owner of the Property, including:

A. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement;

B. The right to give, sell, assign, or otherwise transfer part or all of the underlying fee interest to the Controlled Property, subject and subordinate to this Environmental Easement;

5. Enforcement

A. This Environmental Easement is enforceable in law or equity in perpetuity by Grantor, Grantee, or any affected local government, as defined in ECL Section 71-3603, against the owner of the Property, any lessees, and any person using the land. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel, or waiver. It is not a defense in any action to enforce this Environmental Easement that: it is not appurtenant to an interest in real property; it is not of a character that has been recognized traditionally at common law; it imposes a negative burden; it imposes affirmative obligations upon the owner of any interest in the burdened property; the benefit does not touch or concern real property; there is no privity of estate or of contract; or it imposes an unreasonable restraint on alienation.

B. If any person violates this Environmental Easement, the Grantee may revoke the Certificate of Completion with respect to the Controlled Property.

C. Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall set forth how Grantor can cure such breach or suspected breach and give Grantor a reasonable amount of time from the date of receipt of notice in which to cure. At the expiration of such period of time to cure, or any extensions granted by Grantee, the Grantee shall notify Grantor of any failure to adequately cure the breach or suspected breach, and Grantee may take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement, including the commencement of any proceedings in accordance with applicable law.

D. The failure of Grantee to enforce any of the terms contained herein shall not be deemed a waiver of any such term nor bar any enforcement rights.

6. Notice. Whenever notice to the Grantee (other than the annual certification) or approval

from the Grantee is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing the following information:

County, NYSDEC Site Number, NYSDEC Brownfield Cleanup Agreement, State Assistance Contract or Order Number, and the County tax map number or the Liber and Page or computerized system identification number.

Parties shall address correspondence to: Site Number: 447032
Office of General Counsel
NYSDEC
625 Broadway
Albany New York 12233-5500

With a copy to: Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, NY 12233

All notices and correspondence shall be delivered by hand, by registered mail or by Certified mail and return receipt requested. The Parties may provide for other means of receiving and communicating notices and responses to requests for approval.

7. Recordation. Grantor shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

8. Amendment. Any amendment to this Environmental Easement may only be executed by the Commissioner of the New York State Department of Environmental Conservation or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

9. Extinguishment. This Environmental Easement may be extinguished only by a release by the Commissioner of the New York State Department of Environmental Conservation, or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

10. Joint Obligation. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

11. Consistency with the SMP. To the extent there is any conflict or inconsistency between the terms of this Environmental Easement and the SMP, regarding matters specifically addressed by the SMP, the terms of the SMP will control.

Remainder of Page Intentionally Left Blank

IN WITNESS WHEREOF, Grantor has caused this instrument to be signed in its name.

Robert S. Moore:

By: Robert S. Moore

Print Name: Robert S Moore

Title: owner Date: 10/27/22

Grantor's Acknowledgment

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

On the 27th day of October, in the year 2022, before me, the undersigned, personally appeared Robert S. Moore, 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.

Thomas B. Hayner
Notary Public - State of New York

THOMAS B. HAYNER
Notary Public, State of New York
Qualified in Schenectady County
No. 1720025
Commission Expires 6/30/2023

THOMAS B. HAYNER
Notary Public, State of New York
Qualified in Schenectady County
No. 1723025
Commission Expires 6/30/2023

THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting by and Through the Department of Environmental Conservation as Designee of the Commissioner,

By: *Andrew Guglielmi*
Andrew Guglielmi, Director
Division of Environmental Remediation

Grantee's Acknowledgment

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

On the 5th day of January, in the year 2023 before me, the undersigned, personally appeared Andrew O. Guglielmi, 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/ executed the same in his/her/ capacity as Designee of the Commissioner of the State of New York Department of Environmental Conservation, and that by his/her/ signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Jennifer Andaloro
Notary Public - State of New York

JENNIFER ANDALORO
Notary Public, State of New York
No. 02AN6098246
Qualified in Albany County
Commission Expires January 14, 2024

SCHEDULE "A" PROPERTY DESCRIPTION

SUGGESTED LEGAL DESCRIPTION OF LANDS of ROBERT MOORE ON DUANE AVENUE

ALL THAT CERTAIN TRACT, PIECE OR PARCEL OF LAND SITUATE, LYING AND BEING IN THE CITY AND COUNTY OF SCHENECTADY AND STATE OF NEW YORK, OFF THE EASTERLY SIDE OF DUANE AVENUE (FORMERLY BRANDYWINE AVENUE) BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING at a point in the Easterly line of Duane Avenue (formerly Brandywine Avenue), said point being In the division line between lands now or formerly of the City of Schenectady (Book 1287 of deeds at Page 0136) on the South and lands now or formerly of Robert Moore on the North; THENCE North 10°51'11" West, along said Easterly line of Duane Avenue, a distance of 267.75 feet to a point in the division line between lands now or formerly B. Edwards (Book 1700 of Deeds at Page 341) on the North and the herein described parcel on the South; THENCE North 63°25'10" East, along said division line a distance of 140.64 feet to a point; THENCE North 13°08'20" west, along said lands, a distance of 10.00 feet to a point; THENCE North 63°25'10 East along lands now or formerly of B. Shivrattan (Book 1707 of Deeds at Page 964) and lands now or formerly of S. Premchon (Book 1525 of Deeds at Page 746), a distance of 52.41 feet to a point; THENCE South 42°45' 50"East, along said lands of Premchon, lands of Grecko (Book 1428 of Deeds at Page 57), Conyers (Book 1645 of Deeds at Page 361), Abdalla & Ali (Book 1694 of Deeds at Page 170) H.V. Doin (Book 950 of Deeds at Page 1203), Cecil (Book 1669 of Deeds at Page 558), J.A. & S. L. Smith (Book 1083 of Deeds at Page 435), Moore (Book 1810 of Deeds at Page 141) and through lands now or formerly of R.S. Moore (Book 1669 of Deeds at Page 724), a distance of 387.90 feet to a point in a Northeast line of said lands of the City of Schenectady; THENCE North 51°15'40" West, along the same, a distance of 100.02 feet to a point; THENCE South 75° 14' 00" West, along said division line between lands of the City of Schenectady and the herein described parcel 276.60 feet to the Point and Place of Beginning. Containing 2.04 acres of land, more or less.

Rec'd and Return

Thomas G. Hayner

690 Franklin Street Suite 204

Schenectady N.Y.

12305

7018 1130 0001 7664 1057

U.S. Postal Service™
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Certified Mail Fee	\$ 4.15	Postmark Here
Extra Services & Fees (check box, add fee as appropriate)		
<input checked="" type="checkbox"/> Return Receipt (hardcopy)	\$ 3.35	
<input type="checkbox"/> Return Receipt (electronic)	\$	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$	
<input type="checkbox"/> Adult Signature Required	\$	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$	
Postage	.84	
Total Postage and Fees	8.34	

Sent To
 Hon. Gary R. McCarthy
 Street and Apt. No., or PO Box No.
 105 Jay St., Rm 111
 City, State, ZIP+4®
 Schenectady, N.Y. 12305

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 1130 0001 7663 7739

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OFFICIAL USE

Certified Mail Fee	\$ 4.15	Postmark Here
Extra Services & Fees (check box, add fee as appropriate)		
<input type="checkbox"/> Return Receipt (hardcopy)	\$ 3.35	
<input type="checkbox"/> Return Receipt (electronic)	\$	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$	
<input type="checkbox"/> Adult Signature Required	\$	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$	
Postage	.84	
Total Postage and Fees	8.34	

Sent To
 Andrew Koldin, Esq.
 Street and Apt. No., or PO Box No.
 105 Jay St., Room 201
 City, State, ZIP+4®
 Schenectady, NY 12305

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

CERTIFIED MAIL®

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 Hon. Gary R. McCarthy
 105 Jay Street, Room 111
 Schenectady, New York
 12305

2. Article Number (Transfer from service label)
 7018 1130 0001 7664 1057

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 Sara Hughes Agent Addressee

B. Received by (Printed Name)
Sara Hughes C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Adult Signature Priority Mail Express®
 Adult Signature Restricted Delivery Registered Mail™
 Certified Mail® Registered Mail Restricted Delivery
 Certified Mail Restricted Delivery Signature Confirmation™
 Collect on Delivery Signature Confirmation Restricted Delivery
 Collect on Delivery Restricted Delivery Registered Mail Restricted Delivery (over \$500)

PS Form 3811, July 2020 PSN 7530-02-000-9053 Domestic Return Receipt

CERTIFIED MAIL®

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 Andrew Koldin, Esq.
 105 Jay Street
 Room 201
 Schenectady, NY 12305

2. Article Number (Transfer from service label)
 7018 1130 0001 7663 7739

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 Sara Hughes Agent Addressee

B. Received by (Printed Name)
Sara Hughes C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Adult Signature Priority Mail Express®
 Adult Signature Restricted Delivery Registered Mail™
 Certified Mail® Registered Mail Restricted Delivery
 Certified Mail Restricted Delivery Signature Confirmation™
 Collect on Delivery Signature Confirmation Restricted Delivery
 Collect on Delivery Restricted Delivery Registered Mail Restricted Delivery (over \$500)

return receipt

PS Form 3811, July 2020 PSN 7530-02-000-9053 Domestic Return Receipt

MOYNIHAN & HAYNER
670 FRANKLIN STREET
2ND FLOOR, SUITE 204
SCHENECTADY, NEW YORK 12305-1594
T: (518) 346-4291 F: (518) 346-4292
tom@moynihanhayner.com

COPY

THOMAS B. HAYNER

NEIL W. MOYNIHAN
(1955-2015)

February 22, 2023

CERTIFIED MAIL RETURN RECEIPT

Hon. Gary R. McCarthy
105 Jay Street, Room 111
Schenectady, New York 12305

RE: NYSDEC and Robert S. Moore

Dear Mayor:

I am enclosing a copy of the recorded Environmental Easement for the former Kenwood Cleaners site directed by DEC.

Very truly yours,

Thomas B. Hayner

TBH/bg

Enc.

cc: Andrew Koldin, Esq.

Corporation Counsel (Certified – Return Receipt)

Robert S. Moore

Office of General Counsel – DEC

Real Estate\m\Moore, Robert S. Moore-ltr. Hon. Gary R. McCarthy-2-22-23