

## ENVIRONMENTAL EASEMENT AND DECLARATION OF COVENANTS AND RESTRICTIONS

This Environmental Easement and Declaration of Covenants and Restrictions is made this 21<sup>st</sup> day of July, 2010, by and between the Village of West Winfield, a municipal corporation, 179 South Street, West Winfield, New York 13491 ("Grantor"), and the People of the State of New York, acting through their Commissioner of the New York State Department of Environmental Conservation with its Central Office located at 625 Broadway, Albany, New York 12233 ("Grantee").

### WITNESSETH:

WHEREAS, Grantor is the owner of a parcel of land located in the Village of West Winfield, County of Herkimer, State of New York, more particularly described on Exhibit A attached hereto and made a part hereof together with any buildings and improvements thereon and appurtenances thereto (the "Property"); and

WHEREAS, the Property is part of the Hiteman Leather Superfund Site ("Site"), the location of a former tannery and leather manufacturing facility which the U.S. Environmental Protection Agency ("EPA"), pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9605, placed on the National Priorities List, as set forth in Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 C.F.R. Part 300, by publication in the Federal Register on January 19, 1999; and

WHEREAS, in a Record of Decision dated September 28, 2006 ("ROD") as modified by Explanations of Significant Difference dated June and September 2008 ("ESDs"), EPA Region II selected, and the New York State Department of Environmental Conservation ("NYSDEC") concurred with response actions for the Site ("CERCLA response actions"), which provided, in part for the following actions: excavation of contaminated soil hot spots from the former tannery property, contaminated wetland sediments, and contaminated riverbank soils and sediments at the toe of the riverbank; consolidation of the excavated soils and sediments on the former tannery property; placement of a site-wide soil cover; monitoring; and institutional controls (i) restricting future development/use of the Site where consolidated material has been placed as shown on Exhibit B, (ii) prohibiting excavation below the site-wide soil cover (including the restricted area noted above) unless the activities are in accordance with an EPA(with NYSDEC concurrence)-approved Site Management Plan, and (iii) restricting the use of groundwater in the semi-confining unit as a source of potable or process water unless groundwater quality standards have been met.

WHEREAS, the construction activities associated with the remedial action have been completed at the Site and long term monitoring activities are ongoing; and

WHEREAS, the parties hereto have agreed that Grantor shall grant to the Grantee a permanent Environmental Easement pursuant to Article 71, Title 36 of the Environmental Conservation Law, covenant with respect to restrictions on the use of the Property, and provide a right of access to the Property in favor of Grantee and EPA, all of which shall run with the land, for purposes of implementing, facilitating and monitoring the CERCLA response actions in order to protect human health and the environment; and

WHEREAS, Grantor wishes to cooperate fully with the Grantee in the implementation of all response actions at the Site;

NOW, THEREFORE:

1. Grant: Grantor, on behalf of itself, its successors and assigns, for ten dollars and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby give, grant and convey to Grantee an Environmental Easement pursuant to Article 71, Title 36 of the Environmental Conservation Law, and Grantor does further covenant and declare in favor of the Grantee that the Property shall be subject to this Environmental Easement and that the Property shall be further subject to the restrictions and covenants on use and rights of access set forth below, and Grantor does further give, grant and convey to the Grantee the perpetual right to enforce said restrictions and covenants, which shall be of the nature and character and for the purposes hereinafter set forth, with respect to the Property.
2. Purpose: It is the purpose of this instrument to convey to the Grantee real property rights, which will run with the land, facilitate the remediation of past environmental contamination and impose use restrictions and covenants to protect human health and the environment by reducing the risk of exposure to contaminants.
3. Restrictions on Use: The following restrictions apply to the use of the Property, run with the land and are binding on the Grantor and its successors in title and assigns:  
(i) there shall be no future development or use of the Site where consolidated material has been placed<sup>1</sup> nor shall excavation below the Site-Wide Soil Cover as set forth in Exhibit B<sup>2</sup> be permitted unless, in each such instance, the activities are in accordance with a Site Management Plan approved by EPA with the concurrence of NYSDEC; (ii) there shall be no use of the groundwater from the semi-confining unit underlying the Property as a source of potable or process water unless such groundwater meets quality standards established under federal and state laws and regulations for the intended use; (iii) no intrusive activities are permitted in the wetlands on the Property<sup>3</sup>; and (iv) no portion of the Property may be used for residential purposes.
4. Modification or termination of restrictions and covenants: The restrictions specified in the preceding paragraph of this instrument may only be modified or terminated, in whole or in part, in writing, by the Grantee, provided, however, that EPA shall be provided with 30 days notice in

<sup>1</sup> See Exhibit B (Sheet 3) for an as-built survey of the Property which depicts the restricted area as "Restricted Use Area (Consolidation Area)" (Engineering Control No. 2) and with GPS coordinates of corners also shown on survey metes and bounds description of restricted area.

<sup>2</sup> See Exhibit B (Sheet 3) for Site-Wide Soil Cover Area (Engineering Control No. 1) also shown with metes and bounds description of restricted area.

<sup>3</sup> See Exhibit B (Sheet 3) for delineation of the wetlands at the Site.

advance of any modification or termination of said restrictions, and provided further that no modification or termination shall adversely affect the CERCLA response actions for the Site. If requested by the Grantor, such writing will be executed by Grantee in recordable form.

5. Right of access: Grantor hereby conveys to Grantee and to EPA a right of access to the Property at all reasonable times for the following purposes that shall run with the land and be binding on Grantor, its successors and /or assigns, and on any tenants or any other parties having an interest and/or rights to the Property:
  - a) Implementing the CERCLA response actions for the Site;
  - b) Verifying any data or information relating to the Site;
  - c) Verifying that no action is being taken on the Property in violation of the terms of this instrument or of any federal or state environmental laws or regulations;
  - d) Conducting investigations under CERCLA relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, soils; and
  - e) Implementing additional or new response actions under CERCLA.
6. Reserved rights of Grantor: Grantor hereby reserves unto itself and its successors and assigns all rights and privileges in and to the use of the Property which are not incompatible with the restrictions, rights, covenants and easements granted herein.
7. Federal authority: Nothing in this document shall limit or otherwise affect EPA's rights of entry and access or EPA's authority to take response actions under CERCLA, the NCP, or other federal law.
8. State authority: Nothing herein shall constitute a waiver of any rights the State may have pursuant to the Environmental Conservation Law, regulations and/or relevant provisions of statutory or common law.
9. No public access and use: No right of access or use by the general public to any portion of the Property is conveyed by this instrument.
10. Public notice: Grantor, on behalf of itself, its successors and assigns, agrees to include in each instrument conveying any interest in any portion of the Property, including but not limited to deeds, leases and mortgages, a notice which is in substantially the following form:

**NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO ENVIRONMENTAL EASEMENT AND DECLARATION OF COVENANTS AND RESTRICTIONS, DATED \_\_\_\_\_, 20\_\_, RECORDED IN THE HERKIMER COUNTY CLERK'S OFFICE ON \_\_\_\_\_, 20\_\_, IN BOOK \_\_\_\_\_, PAGE \_\_\_\_\_, IN FAVOR OF, AND**

**ENFORCEABLE BY, THE PEOPLE OF THE STATE OF  
NEW YORK AND BY THE UNITED STATES OF  
AMERICA AS THIRD-PARTY BENEFICIARY.**

Within thirty (30) days of the date any such instrument of conveyance is executed, Grantor agrees to provide Grantee and EPA with a certified true copy of said instrument and, if it has been recorded in the public land records, its recording reference.

11. Enforcement: The Grantee shall be entitled to enforce the terms of this instrument by resort to specific performance. All remedies available hereunder shall be in addition to any and all other remedies at law or in equity, including CERCLA. Any forbearance, delay or omission to exercise Grantee's rights under this instrument in the event of a breach of any term of this instrument shall not be deemed to be a waiver by the Grantee of such term or of any of the rights of the Grantee under this instrument.
12. Damages: Grantee shall also be entitled to recover damages for breach of any covenant or violation of the terms of this instrument including any impairment to the remedial action that increases the cost of the selected response action for the Site as a result of such breach or violation.
13. Waiver of certain defenses: Grantor hereby waives any defense of laches, estoppel, or prescription.
14. Covenants: Grantor hereby covenants that the Grantor is lawfully seized in fee simple of the Property, that the Grantor has a good and lawful right and power to sell and convey it or any interest therein, and that the Property is free and clear of encumbrances.
15. Notices: Any notice, demand, request, consent, approval, or communication under this instrument that any party desires or is required to give hereunder, shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor:

Village of West Winfield  
PO Box 308  
West Winfield, New York 13491

And/ or to such other address as Grantor may, by notice, specify for itself or for any successor or assign

To Grantee:

Office of General Counsel  
NYS Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233-5500

NYS Department of Environmental Conservation  
Division of Environmental Remediation  
Site Control  
625 Broadway  
Albany, New York 12233

A copy of each such communication shall also be sent to EPA in the same manner as to Grantor or Grantee, and addressed to the following two addressees:

U.S. Environmental Protection Agency  
Emergency & Remedial Response Division  
Western New York Remediation Branch  
Attention: Hiteman Leather Superfund Site Remedial Project Manager  
290 Broadway, 20<sup>th</sup> Floor,  
New York, New York 10007-1866

U.S. Environmental Protection Agency  
Office of Regional Counsel  
Attention: Hiteman Leather Superfund Site Attorney  
290 Broadway, 17<sup>th</sup> Floor,  
New York, New York 10007-1866

16. General provisions:

a) Controlling law: The interpretation and performance of this instrument shall, with respect to the Environmental Easement, be governed by the laws of the State of New York, and with respect to other matters, shall be governed by the laws of the United States or, if there are no applicable federal laws, by the law of the State of New York.

b) Liberal construction: Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the grant to effect the purpose of this instrument and the policy and purpose of CERCLA. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

c) Severability: If any provision of this instrument, or the application of it to any person or circumstance, is found to be invalid, the remainder of the provisions of this instrument, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

d) Entire agreement: This instrument sets forth the entire agreement of the parties with respect to rights and restrictions created hereby, and supersedes all prior discussions, negotiations, understandings, or agreements relating thereto, all of which are merged herein.

e) No forfeiture: Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

f) 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.

g) Successors: The covenants, easements, terms, conditions, and restrictions of this instrument shall be binding upon, and inure to the benefit of, the parties hereto and their

respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property. The term "Grantor", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantor" and their personal representatives, heirs, successors, and assigns. The term "Grantee", wherever used herein, and any pronouns used in place thereof, shall mean the People of the State of New York acting through their Commissioner of NYSDEC or through any successor department or agency of the State of New York.

h) Captions: The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

i) Counterparts: The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

j) Third-Party Beneficiary: Grantor and Grantee hereby agree that the United States, through EPA, shall be, on behalf of the public, a third-party beneficiary of the benefits, rights and obligations conveyed to Grantee in this instrument; provided that nothing in this instrument shall be construed to create any obligations on the part of EPA.

TO HAVE AND TO HOLD unto the Grantee and its assigns forever.

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

Executed this 12<sup>th</sup> day of July, 2010.

GRANTOR:

Village of West Winfield

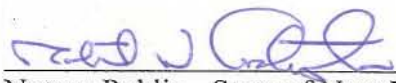
By: \_\_\_\_\_

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

**Grantor's Acknowledgment**

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

On the 12<sup>th</sup> day of July, in the year 2010, before me, the undersigned, personally appeared Andrew D. Bryce, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as Mayor of the Village of West Winfield, and that by his signature on the instrument, the Grantor Village of West Winfield, upon behalf of which the individual acted, executed the instrument.

  
Notary Public - State of New York

ROBERT W. APPLGATE  
Notary Public, State of New York  
No. 4700102  
Qualified in Herkimer County  
Commission Expires 6-30-2011

**THIS ENVIRONMENTAL PROTECTION EASEMENT AND DECLARATION OF RESTRICTIVE COVENANTS 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: Dale A. Desnoyers  
Dale A. Desnoyers, Director  
Division of Environmental Remediation

Date: July 21 2010

**Grantee's Acknowledgment**

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

On the 21<sup>st</sup> day of July, in the year 2010, before me, the undersigned, personally appeared Dale A. Desnoyers, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as Designee of the Commissioner of the State of New York Department of Environmental Conservation, and that by his signature on the instrument, the People of the State of New York, upon behalf of which the individual acted, executed the instrument.

David J. Chiusano  
Notary Public - State of New York

**David J. Chiusano**  
**Notary Public, State of New York**  
**No. 01CH5032146**  
**Qualified in Schenectady County**  
**Commission Expires August 22, 2014**



**EXHIBIT A**  
**To**  
**Environmental Easement and Declaration of Restrictive Covenants**

**Description of Property**  
**Hiteman Leather Superfund Site**

All that tract or parcel of land situate in Lot No. 1 of Bayard's Patent, Village of West Winfield, Town of Winfield County of Herkimer, State of New York, and being more precisely described as follows:

Statements:

1. All set monuments are 5/8-inch by 30-inch reinforcement rod, extending 0.5 feet above grade with a 1 3/8-inch diameter red plastic cap, marked "THEW-ASSOCIATES UTICA, NY" (herein after referred to as a 5/8-inch rebar).
2. The parcel of land described herein is intended to be the same premises conveyed by Cheri A. Newton to the Village of West Winfield by deed dated October 25, 2002 and recorded in the Herkimer County Clerk's Office on January 5, 2004 in Liber 933 of Deeds at Page 163 and the same premises conveyed by Lisa A. Davis to the Village of West Winfield by deed dated October 25, 2002 and recorded in the Herkimer County Clerk's Office on January 5, 2004 in Liber 933 of Deeds at Page 169.
3. Reference to an adjoining landowner does not necessarily imply senior title. The adjoining landowners are cited for reference only, unless otherwise noted.

**Commencing** at a MAG nail set in the centerline of New York State Route 51 (State Highway 1573), said MAG Nail being set over the center of a 60-inch corrugated metal pipe for the Saw Mill Race Creek, said MAG being 8± feet distant easterly measured at right angles from Station 12+31± of the survey baseline for the reconstruction of State Highway 1573 (1989), said MAG nail having New York State plane coordinates (NAD83 - East Zone) of 1,475,665.15 feet North and 306,519.60 feet East;

thence North 12 degrees 03 minutes 42 seconds West, along the centerline of New York State Route 51, a distance of 192.74 feet to a point; said point being 5± feet distant easterly measured at right angles from Station 10+38± of said survey baseline;

thence South 83 degrees 51 minutes 34 seconds West a distance of 22.24 feet to a 5/8-inch rebar set on the westerly bounds of New York State Route 51, said rebar being 17± feet distant westerly, measured at right angles from Station 10+32± of said survey baseline, said rebar also being at the northeasterly corner of a parcel of land conveyed by John W. and Mary S. Mathey to William H. and Ellen J. Burdick by deed dated May 18, 1965 and recorded in the Herkimer County Clerk's Office on May 19, 1965 in Liber 574 of Deeds at Page 854, said rebar having New York State plane coordinates (NAD83 - East Zone) of 1,475,850.85 feet North and 306,457.30 feet East; said rebar also being the **Point of Beginning**.

thence continuing South 83 degrees 51 minutes 34 seconds West, along the northerly line of William H. and Ellen J. Burdick, a distance of 243.99 feet to a 5/8-inch rebar set on the easterly side of Saw Mill Race Creek;

thence continuing South 83 degrees 51 minutes 34 seconds West, along the northerly line of William H. and Ellen J. Burdick, a distance of 30.0 feet, more or less, to the centerline of Saw Mill Race Creek;

thence downstream, along the centerline of Saw Mill Race Creek, as it winds and turns, a distance of 335 feet, more or less, (chord: North 89 degrees 07 minutes 03 seconds West, 264.76 feet), to the southeasterly corner of a parcel of land conveyed by Dominick Castronover to Dominick and Ethel M. Castronover by deed dated November 12, 1993 and recorded in the Herkimer County Clerk's Office on November 12, 1993 in Liber 809 of Deeds at Page 243;

thence along the easterly line of Dominick and Ethel M. Castronover, the following courses and distances:

North 15 degrees 45 minutes 40 seconds East a distance of 20.0 feet, more or less, to a 5/8-inch rebar set on the northerly side of Saw Mill Race Creek;

Continuing North 15 degrees 45 minutes 40 seconds East a distance of 209.80 feet to a 5/8-inch rebar set on the southerly side of the Unadilla River;

Continuing North 15 degrees 45 minutes 40 seconds East a distance of 40.0 feet, more or less to a point in the centerline of the Unadilla River;

thence downstream along the centerline of the Unadilla River, as it winds and turns, a distance of 354 feet, more or less, (chord: South 73 degrees 10 minutes 11 seconds West, 338.95 feet) to the southeasterly corner of the West Winfield Cemetery (no deed reference found);

thence along the easterly line of the West Winfield Cemetery, the following courses and distances:

North 49 degrees 06 minutes 17 seconds West a distance of 113.4 feet, more or less, to a found 5/8-inch rebar with a 1-inch diameter yellow plastic cap marked "CT Male" (extends 0.5 feet above grade);

North 49 degrees 13 minutes 38 seconds West a distance of 200.68 feet to a found 5/8-inch rebar with a 1-inch diameter yellow plastic cap marked "CT Male" (flush with grade);

North 04 degrees 38 minutes 22 seconds East a distance of 387.83 feet to a found 5/8-inch rebar with a 1-inch diameter yellow plastic cap marked "CT Male" (flush with grade);

North 49 degrees 33 minutes 56 seconds East a distance of 144.78 feet, to a 55-inch diameter Maple tree located on the westerly line of a parcel of land conveyed by Caroline E. Marshall to the County of Herkimer, by deed dated July 28, 1931 and recorded in the Herkimer County Clerk's Office on September 5, 1931 in Liber 302 of Deeds at Page 150, said course passing over a found 5/8-inch rebar with a 1-inch diameter yellow plastic cap marked "CT Male" (flush with grade) found at a distance of 140.27 feet;

thence South 10 degrees 45 minutes 22 seconds East, along the westerly line of the County of Herkimer, a distance of 11.24 feet, to a 4-inch by 4-inch concrete monument found at the southwesterly corner of the County of Herkimer, said concrete monument also being on the westerly line of a parcel of land conveyed by Louise Pavlot to Gordon H. and Carol M. Wheelock by deed dated June 10, 1977 and recorded in the Herkimer County Clerk's Office on June 13, 1977 in Liber 651 of Deeds at Page 457,

thence along the westerly, southerly, and easterly line of Gordon H. and Carol M. Wheelock, the following courses and distances:

South 10 degrees 45 minutes 22 seconds East a distance of 142.37 feet to a found 5/8-inch rebar with a 1-inch diameter yellow plastic cap marked "CT Male" (flush with grade);

North 84 degrees 35 minutes 05 seconds East a distance of 147.88 feet to a set 5/8-inch rebar;

North 08 degrees 15 minutes 25 seconds West a distance of 4.79 feet to a 5/8 inch rebar set at the southwesterly corner of a parcel of land conveyed by Donald G. Gardner, Sue E. Saunders, Carol L. Gardner, Judith M. Candee, Kathleen A. Clarke, and Stephen C. Gardner to Stephen C. Gardner and Donald W. Gardner by deed dated February 23, 2005 and recorded in the Herkimer County Clerk's Office on May 23, 2005 as Instrument No. 2005-00117054;

thence North 84 degrees 35 minutes 05 seconds East, in part along the southerly line of Stephen C. Gardner and Donald W. Gardner and in part along the southerly line of a parcel of land conveyed by Edward W. Clark to Elma R. Clark by deed dated January 31, 1994 and recorded in the Herkimer County Clerk's Office on February 2, 1994 in Liber 811 of Deeds at Page 524, a distance of 144.54 feet to a 5/8-inch rebar set at the southwesterly corner of a parcel of land conveyed by Frederick R. Jones to Ernest P. and Laura L. Eaton by deed dated May 28, 2008 and recorded in the Herkimer County Clerks Office on May 30, 2008 as Instrument 2008-00144492;

thence South 84 degrees 44 minutes 43 seconds East, along the southerly line of Ernest P. and Laura L. Eaton, a distance of 38.75 feet to a 5/8-inch rebar set at the southwesterly corner of a parcel of land conveyed by Eugene D. Cole to Mickey LLC, by deed dated September 10, 2001 and recorded in the Herkimer County Clerk's Office on January 3, 2002 in Liber 902 of Deeds at Page 339;

thence North 84 degrees 33 minutes 59 seconds East, along the southerly line of Mickey, LLC, a distance of 45.00 feet to a 5/8-inch rebar set at the southwesterly corner of a parcel of land conveyed by Daniel B. Jones and Darrin H. Jones to Center State Development, LLC by deed dated December 20, 2007 and recorded in the Herkimer County Clerk's Office on December 26, 2007 as Instrument No. 2007-00141411;

thence North 85 degrees 44 minutes 48 seconds East, along the southerly line of Center State Development, LLC, a distance of 50.02 feet to a 5/8-inch rebar set at the southwesterly corner of a parcel of land conveyed by Immanuel Congregational Church and Harmony Society of West Winfield to the Village of West Winfield by deed dated May 16, 1966 and recorded in the Herkimer County Clerk's Office on May 16, 1966 in Liber 581 of Deeds at Page 254;

thence North 88 degrees 24 minutes 51 seconds East, along the southerly line of the Village of West Winfield, a distance of 95.58 feet to a 5/8-inch rebar set at the northwesterly corner of a parcel of land conveyed by Richard J. and Rita J. Fabozzi to Robert J. and Phyllis Jean Feldman by deed dated August 7, 1985 and recorded in the Herkimer County Clerk's Office on August 13, 1985 in Liber 701 of Deeds at Page 842;

thence South 08 degrees 57 minutes 00 seconds East, in part along the westerly line of Robert J. and Phyllis Jean Feldman, in part along the westerly line of a parcel of land conveyed by Jane Ambrose Bisby to the Village of West Winfield by deed dated October 1, 1909 and recorded in the Herkimer County Clerk's Office on October 4, 1909 in Liber 201 of Deeds at Page 531; and in part along the westerly line of a parcel of land conveyed by Kenneth H. and Dorothy M. Edwards to Christopher B. Edwards by deed dated July 27, 2005 and recorded in the Herkimer County Clerk's Office on August 3, 2005 as Instrument No. 2005-00118989, a distance of 160.06 feet to a found 5/8-inch rebar;

thence North 82 degrees 19 minutes 58 seconds East, along the southerly line of Christopher B. Edwards, a distance of 197.92 feet to a 3/8-inch drill hole found in the westerly side of a

concrete sidewalk on the westerly bounds of New York State Route 51, said drill hole being 27± feet distant westerly, measured at right angles from Station 4+47± of said survey baseline;

thence along the westerly bounds of New York State Route 51, the following courses and distance;

South 10 degrees 24 minutes 30 seconds East a distance of 401.09 feet to a point, said point being 23± feet distant westerly, measured at right angles from Station 8+47± of said survey baseline;

South 14 degrees 01 minutes 21 seconds East a distance of 63.07 feet to a point, said point being 20± feet distant westerly, measured at right angles from Station 9+10± of said survey baseline;

South 12 degrees 41 minutes 18 seconds East a distance of 126.23 feet to the **Point of Beginning.**

To contain 12.511 acres of land more or less, as surveyed by Robert H. Korosec, Licensed Land Surveyor No. 050578.

The above-mentioned coordinates, bearings and distances are referenced to the North American Datum of 1983 (NAD83) and projected on the New York State Plane Coordinate System (East Zone).

BEING the "measured description" by Robert H. Korosec, Licensed Land Surveyor No. 050578, of the property, notwithstanding variations from the record description of the same property as described in the deed from Hiteman Leather Company Incorporated, as grantor, to Erle F. Davis, as grantee dated August 28, 1969 and recorded in the Herkimer County Clerk's Office on August 28, 1969 in Liber 603 of Deeds at Page 371.

**EXHIBIT B**

**To**

**Environmental Easement and Declaration of Restrictive Covenants**

**Description of Portions of Property Where Development or Use has been Restricted  
Hiteman Leather Superfund Site**

**Environmental Easement Area**

**Beginning** at a 5/8-inch rebar with a 1-inch diameter yellow plastic cap marked "CT Male" found at the southwesterly corner of a parcel of land conveyed by Louise Pavlot to Gordon H. and Carol M. Wheelock by deed dated June 10, 1977 and recorded in the Herkimer County Clerk's Office on June 13, 1977 in Liber 651 of Deeds at Page 457, said rebar having New York State plane coordinates (NAD83 - East Zone) of 1,476,521.98 feet North and 305,601.55 feet East;

thence along the southerly and easterly lines of Gordon H. and Carol M. Wheelock, the following courses and distances:

North 84 degrees 35 minutes 05 seconds East a distance of 147.88 feet to a set 5/8-inch rebar;

North 08 degrees 15 minutes 25 seconds West a distance of 4.79 feet to a 5/8 inch rebar set at the southwesterly corner of a parcel of land conveyed by Donald G. Gardner, Sue E. Saunders, Carol L. Gardner, Judith M. Candee, Kathleen A. Clarke, and Stephen C. Gardner to Stephen C. Gardner and Donald W. Gardner by deed dated February 23, 2005 and recorded in the Herkimer County Clerk's Office on May 23, 2005 as Instrument No. 2005-00117054;

thence North 84 degrees 35 minutes 05 seconds East, in part along the southerly line of Stephen C. Gardner and Donald W. Gardner and in part along the southerly line of a parcel of land conveyed by Edward W. Clark to Elma R. Clark by deed dated January 31, 1994 and recorded in the Herkimer County Clerk's Office on February 2, 1994 in Liber 811 of Deeds at Page 524, a distance of 144.54 feet to a 5/8-inch rebar set at the southwesterly corner of a parcel of land conveyed by Frederick R. Jones to Ernest P. and Laura L. Eaton by deed dated May 28, 2008 and recorded in the Herkimer County Clerks Office on May 30, 2008 as Instrument 2008-00144492;

thence South 84 degrees 44 minutes 43 seconds East, along the southerly line of Ernest P. and Laura L. Eaton, a distance of 38.75 feet to a 5/8-inch rebar set at the southwesterly corner of a parcel of land conveyed by Eugene D. Cole to Mickey LLC, by deed dated September 10, 2001 and recorded in the Herkimer County Clerk's Office on January 3, 2002 in Liber 902 of Deeds at Page 339;

thence North 84 degrees 33 minutes 59 seconds East, along the southerly line of Mickey, LLC, a distance of 45.00 feet to a 5/8-inch rebar set at the southwesterly corner of a parcel of land conveyed by Daniel B. Jones and Darrin H. Jones to Center State Development, LLC by deed dated December 20, 2007 and recorded in the Herkimer County Clerk's Office on December 26, 2007 as Instrument No. 2007-00141411;

thence North 85 degrees 44 minutes 48 seconds East, along the southerly line of Center State Development, LLC, a distance of 24.62 feet to a point;

thence through the lands of The Village of West Winfield, generally with a 4-foot high chainlink fence, the following courses and distances:

South 04 degrees 39 minutes 52 seconds East a distance of 231.78 feet to a fence corner;

South 77 degrees 49 minutes 01 seconds East a distance of 48.99 feet to a fence corner;

North 66 degrees 06 minutes 00 seconds East a distance of 44.83 feet to a fence corner;

South 06 degrees 52 minutes 47 seconds East a distance of 68.46 feet to a fence corner;

North 85 degrees 53 minutes 24 seconds East a distance of 20.49 feet to a fence corner;

South 66 degrees 10 minutes 16 seconds East a distance of 42.15 feet to a fence corner;

North 81 degrees 48 minutes 05 seconds East a distance of 187.39 feet to a point, said point being 9.44 feet distant westerly, measured at right angles from the westerly bounds of New York State Route 51;

thence continuing through the lands of The Village of West Winfield, generally with a post and chain fence, the following courses and distances:

South 09 degrees 52 minutes 33 seconds East a distance of 88.00 feet to a point, said point being 10.26 feet distant westerly, measured at right angles from the westerly bounds of New York State Route 51;

South 10 degrees 01 minutes 36 seconds East a distance of 70.00 feet to a point, said point being 10.72 feet distant westerly, measured at right angles from the westerly bounds of New York State Route 51;

South 09 degrees 55 minutes 57 seconds East a distance of 31.00 feet to a point, said point being 10.98 feet distant westerly, measured at right angles from the westerly bounds of New York State Route 51;

thence South 22 degrees 55 minutes 33 seconds East, a distance of 50.66 feet to a point on the northerly bank of the Unadilla River, said point also being on the westerly bounds of New York State Route 51, said point being 23± feet distant westerly, measured at right angles, from Station 8+38± of the survey baseline for the reconstruction of State Highway 1573 (1989);

thence continuing through the lands of The Village of West Winfield along the northerly bank of the Unadilla River, as it winds and turns, a distance of 800 feet, more or less, to a point, on the easterly line of The West Winfield Cemetery (chord: South 86 degrees 54 minutes 46 seconds West a distance of 763.23 feet);

thence along the westerly line of The West Winfield Cemetery, the following course and distances:

North 49 degrees 06 minutes 17 seconds West a distance of 89.54 feet to a found 5/8-inch rebar with a 1-inch diameter yellow plastic cap marked "CT Male" (extends 0.5 feet above grade);

North 49 degrees 13 minutes 38 seconds West a distance of 200.68 feet to a found 5/8-inch rebar with a 1-inch diameter yellow plastic cap marked "CT Male" (flush with grade);

North 04 degrees 38 minutes 22 seconds East a distance of 292.00 feet to a point;

thence North 75 degrees 17 minutes 05 seconds East a distance of 151.59 feet to the **Point of Beginning**.

To contain 7.51 acres of land more or less, as surveyed by Robert H. Korosec, Licensed Land Surveyor No. 050578.

The above-mentioned coordinates, bearings and distances are referenced to the North American Datum of 1983 (NAD83) and projected on the New York State Plane Coordinate System (East Zone).

**"Site-Wide Soil Cover Area" (Engineering Control No. 1)**

**Beginning** at a 5/8-inch rebar with a 1-inch diameter yellow plastic cap marked "CT Male" found at the southwesterly corner of a parcel of land conveyed by Louise Pavlot to Gordon H. and Carol M. Wheelock by deed dated June 10, 1977 and recorded in the Herkimer County Clerk's Office on June 13, 1977 in Liber 651 of Deeds at Page 457, said rebar having New York State plane coordinates (NAD83 - East Zone) of 1,476,521.98 feet North and 305,601.55 feet East;

thence along the southerly and easterly lines of Gordon H. and Carol M. Wheelock; the following courses and distances:

North 84 degrees 35 minutes 05 seconds East a distance of 147.88 feet to a set 5/8-inch rebar;

North 08 degrees 15 minutes 25 seconds West a distance of 4.79 feet to a 5/8 inch rebar set at the southwesterly corner of a parcel of land conveyed by Donald G. Gardner, Sue E. Saunders, Carol L. Gardner, Judith M. Candee, Kathleen A. Clarke, and Stephen C. Gardner to Stephen C. Gardner and Donald W. Gardner by deed dated February 23, 2005 and recorded in the Herkimer County Clerk's Office on May 23, 2005 as Instrument No. 2005-00117054;

thence North 84 degrees 35 minutes 05 seconds East, in part along the southerly line of Stephen C. Gardner and Donald W. Gardner and in part along the southerly line of a parcel of land conveyed by Edward W. Clark to Elma R. Clark by deed dated January 31, 1994 and recorded in the Herkimer County Clerk's Office on February 2, 1994 in Liber 811 of Deeds at Page 524, a distance of 144.54 feet to a 5/8-inch rebar set at the southwesterly corner of a parcel of land conveyed by Frederick R. Jones to Ernest P. and Laura L. Eaton by deed dated May 28, 2008 and recorded in the Herkimer County Clerks Office on May 30, 2008 as Instrument 2008-00144492;

thence South 84 degrees 44 minutes 43 seconds East, along the southerly line of Ernest P. and Laura L. Eaton, a distance of 38.75 feet to a 5/8-inch rebar set at the southwesterly corner of a parcel of land conveyed by Eugene D. Cole to Mickey LLC, by deed dated September 10,

2001 and recorded in the Herkimer County Clerk's Office on January 3, 2002 in Liber 902 of Deeds at Page 339;

thence North 84 degrees 33 minutes 59 seconds East, along the southerly line of Mickey, LLC, a distance of 45.00 feet to a 5/8-inch rebar set at the southwesterly corner of a parcel of land conveyed by Daniel B. Jones and Darrin H. Jones to Center State Development, LLC by deed dated December 20, 2007 and recorded in the Herkimer County Clerk's Office on December 26, 2007 as Instrument No. 2007-00141411;

thence North 85 degrees 44 minutes 48 seconds East, along the southerly line of Center State Development, LLC, a distance of 24.62 feet to a point;

thence through the lands of The Village of West Winfield, generally with a 4-foot high chainlink fence, the following courses and distances:

South 04 degrees 39 minutes 52 seconds East a distance of 231.78 feet to a fence corner;

South 77 degrees 49 minutes 01 seconds East a distance of 48.99 feet to a fence corner;

North 66 degrees 06 minutes 00 seconds East a distance of 44.83 feet to a fence corner;

South 06 degrees 52 minutes 47 seconds East a distance of 68.46 feet to a fence corner;

North 85 degrees 53 minutes 24 seconds East a distance of 20.49 feet to a fence corner;

South 66 degrees 10 minutes 16 seconds East a distance of 42.15 feet to a fence corner;

North 81 degrees 48 minutes 05 seconds East a distance of 187.39 feet to a point, said point being 9.44 feet distant westerly, measured at right angles from the westerly bounds of New York State Route 51;

thence continuing through the lands of The Village of West Winfield, generally with a post and chain fence, the following courses and distances:

South 09 degrees 52 minutes 33 seconds East a distance of 88.00 feet to a point, said point being 10.26 feet distant westerly, measured at right angles from the westerly bounds of New York State Route 51;

South 10 degrees 01 minutes 36 seconds East a distance of 70.00 feet to a point, said point being 10.72 feet distant westerly, measured at right angles from the westerly bounds of New York State Route 51;

South 09 degrees 55 minutes 57 seconds East a distance of 31.00 feet to a point, said point being 10.98 feet distant westerly, measured at right angles from the westerly bounds of New York State Route 51;

thence South 22 degrees 55 minutes 23 seconds East a distance of 50.66 feet to a point on the northerly bank of the Unadilla River, said point also being on the westerly bounds of New York State Route 51, said point being 23± feet distant westerly, measured at right angles, from Station 8+38± of the survey baseline for the reconstruction of State Highway 1573 (1989);

thence continuing through the lands of The Village of West Winfield, the following courses and distances:



westerly along the northerly bank of the Unadilla River, as it winds and turns, a distance of 792 feet, more or less, to a point in a rip rap stone apron at the southerly corner of the wetlands (chord: South 87 degrees 17 minutes 54 seconds West a distance of 757.43 feet);

North 07 degrees 15 minutes 01 seconds West a distance of 45.0 feet to a point;

North 25 degrees 22 minutes 03 seconds West a distance of 69.0 feet to a point;

North 05 degrees 06 minutes 19 seconds West a distance of 62.0 feet to a point;

North 07 degrees 25 minutes 00 seconds East a distance of 116.0 feet to a point;

North 05 degrees 12 minutes 35 seconds East a distance of 55.0 feet to a point;

North 06 degrees 06 minutes 09 seconds East a distance of 136.0 feet to a point;

North 50 degrees 31 minutes 13 seconds West a distance of 63.0 feet to the **Point of Beginning**.

To contain 5.74 acres of land more or less, as surveyed by Robert H. Korosec, Licensed Land Surveyor No. 050578.

The above-mentioned coordinates, bearings and distances are referenced to the North American Datum of 1983 (NAD83) and projected on the New York State Plane Coordinate System (East Zone).

**"Restricted Use Area (Consolidation Area)" (Engineering Control No. 2)**

**Commencing** at a 5/8-inch rebar with a 1-inch diameter yellow plastic cap marked "CT Male" found at the southwesterly corner of a parcel of land conveyed by Louise Pavlot to Gordon H. and Carol M. Wheelock by deed dated June 10, 1977 and recorded in the Herkimer County Clerk's Office on June 13, 1977 in Liber 651 of Deeds at Page 457, said rebar having New York State plane coordinates (NAD83 - East Zone) of 1,476,521.98 feet North and 305,601.55 feet East;

thence North 84 degrees 35 minutes 05 seconds East, along the southerly line of Gordon H. and Carol M. Wheelock, a distance of 147.88 feet to a set 5/8-inch rebar;

thence South 41 degrees 08 minutes 37 seconds East, through the lands of The Village of West Winfield, a distance of 12.0 feet to a point, said point having New York State plan coordinates (NAD83 - East Zone) of 1,476,526.90 feet North and 305,756.66 feet East, said point also being the **Point of Beginning**;

thence continuing through the lands of The Village of West Winfield, the following courses and distances:

South 87 degrees 51 minutes 33 seconds East a distance of 220 feet to a point;

South 02 degrees 17 minutes 14 seconds East a distance of 214 feet to a point;  
North 88 degrees 46 minutes 09 seconds West a distance of 232 feet to a point;  
North 10 degrees 12 minutes 05 seconds West a distance of 130 feet to a point;  
North 16 degrees 36 minutes 34 seconds East a distance of 93 feet to the  
**Point of Beginning.**

To contain 1.2 acres of land, more or less, as surveyed by Robert H. Korosec, Licensed Land Surveyor No. 050578.

The above-mentioned coordinates, bearings and distances are referenced to the North American Datum of 1983 (NAD83) and projected on the New York State Plane Coordinate System (East Zone).

**EXHIBIT C**  
**To**  
**Environmental Easement and Declaration of Restrictive Covenants**

**Survey Showing Property and Portions of Property Where Development or Use has been  
Restricted**  
**Hiteman Leather Superfund Site**

See Survey "ALTA/ACSM Land Title survey Former Hiteman Leather Property 173 South Street, Village of West Winfield" prepared by Robert H. Korosec, Licensed Land Surveyor No. 050578 (said survey consisting of 4 Sheets), certified to New York State Department of Environmental Conservation, filed in the Herkimer County Clerk's Office.