

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

THIS INDENTURE made this 17th day of July, 2024, between Owner(s) County of Chenango Industrial Development Agency, (the "Fee Owner") having an office at 15 South Broad Street, Norwich, New York 13815, and The New York Susquehanna and Western Railway Corporation, (the "Tenant"), having an office at 1 Railroad Avenue, Cooperstown, New York 13326 (and together with Fee Owner, 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 Lee Avenue/Route 23 known as the Lee Avenue Railroad Area in the City of Norwich, County of Chenango and State of New York, known and designated on the tax map of the County Clerk of Chenango as tax map parcel numbers: Section 136.65 Block 6 Lot 37.1, being a portion of the property conveyed to Grantor by deed dated April 27, 1982 and recorded in the Chenango County Clerk's Office in Liber and Page 608/167. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 1.478 acres +/- acres, and is hereinafter more fully described as the North and South Parcel in the Land Title Survey dated October 18, 2017 prepared by Ammon A. Bush, L.L.S., 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, Tenant, has a 10-year leasehold interest in a portion of the Controlled Property by means of a Lease and Operating Agreement dated effective as of August 28, 2013;

and

WHEREAS, the Remedial Party is Hercules LLC, Located at the address of 1979 Atlas Street, Columbus, Ohio 43228. Hercules LLC is the successor by conversion and name change from Hercules Incorporated, which was identified as the Respondent in the Order on Consent Index Number R7-04787-12-06; 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: R7-0787-12-06, 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:

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

(2) All Engineering Controls must be operated and maintained as specified in the Site Management Plan (SMP);

(3) All Engineering Controls must be inspected at a frequency and in a manner defined in the SMP;

(4) The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Chenango 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;

(5) Groundwater and other environmental or public health monitoring must be performed as defined in the SMP;

(6) Data and information pertinent to Site Management of the Controlled Property must be reported at the frequency and in a manner defined in the SMP;

(7) All future activities on the property that will disturb remaining contaminated material must be conducted in accordance with the SMP;

(8) Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in the SMP;

(9) Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical components of the remedy shall be performed as defined in the SMP;

(10) Access to the site must be provided to agents, employees or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by this Environmental Easement.

B. The Controlled Property shall not be used for Residential, Restricted Residential or Commercial purposes as defined in 6NYCRR 375-1.8(g)(i), (ii) and (iii), 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 certifying under penalty of perjury, in such form and manner as the Department may require, that:

- (1) 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;
- (2) the owner will continue to allow access to such real property to evaluate the continued maintenance of such controls;
- (3) nothing has occurred that would constitute a violation or failure to comply with any site management plan for such controls; and
- (4) the information presented is accurate and complete.

3. Right to Enter and Inspect. Grantee, its agents, employees, or other representatives of the Remedial Party and 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: 709014
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.

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

County of Chenango Industrial Development Agency:

By: 

Print Name: Salvatore Testani

Title: President & CEO Date: 7/9/24

Grantor's Acknowledgment

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

On the 9th day of July, in the year 20 24, before me, the undersigned, personally appeared Salvatore Testani, 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.


Notary Public - State of New York

BARBARA A. KNOWLES
Notary Public, State of New York
No. 01KN6347368
Qualified in Chenango County
My Commission Expires August 29, 2024

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

The New York Susquehanna and Western Railway

Corporation: By: 

Print Name: NATHAN P. FANNO

Title: PRESIDENT

Date: 6-7-2024

Grantor Tenant's Acknowledgment

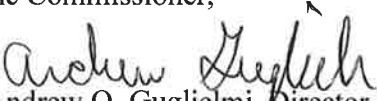
STATE OF NEW YORK)
) ss:
COUNTY OF OTSEGO)

On the 7th day of June, in the year 2024, before me, the undersigned, personally appeared NATHAN P. FANNO, 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.


Notary Public - State of New York

Rebecca A Sheldon
Notary Public, State of New York
Qualified in Otsego County
#01SH6292168
Commission Expires 11/04/25

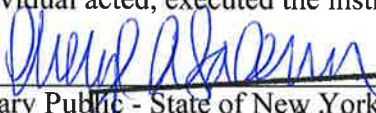
THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner,

By: 
Andrew O. Guglielmi, Director Division of
Environmental Remediation

Grantee's Acknowledgment

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

On the 17th day of July, in the year 2024, 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.


Notary Public - State of New York
Cheryl A. Salem
Notary Public State of New York
Registration No. 01SA0002177
Qualified in Albany County
My Commission Expires March 3, 2027

SCHEDULE "A" PROPERTY DESCRIPTION

Surveyors Description

Environmental Easement Area

Rexford Street, Village of Norwich, Chenango County, NY

Portion of TM# 136.65-6-37.1

North Parcel:

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Norwich, County of County of Chenango and State of New York more particularly described as follows:

BEGINNING at a point on the northerly street boundary of Rexford Street, at its intersection with the division line between the lands now or formerly of the Chenango County Industrial Development Agency (Bk.608 Pg.167) on the east and the lands now or formerly of Nathaniel O. Ford & Jesi S. Unger (Instr. No. 2016-00000208) on the west;

Thence along said division line the following two (2) courses and distances:

- 1) North 04°15'29" West, a distance of 176.49 feet to a 3" x 3" concrete monument found;
- 2) South 82°16'16" West, a distance of 61.55 feet to a point at its intersection with the easterly boundary of the lands now or formerly of John D. Natoli & Kim M. Natoli (Bk.775 Pg.884);

Thence North 01°41'16" East along the division line between the herein described parcel on the east and the said lands now or formerly of John D. Natoli & Kim M. Natoli (Bk.775 Pg.884), the easterly extents of Tillman Avenue and the lands now or formerly of Craig A. Arts (Bk.790 Pg.841) on the west, a distance of 233.32 feet to a point at its intersection with the southerly boundary of the lands now or formerly of Victoria J. Conron (Instr. No. 2010-00001025);

Thence North 85°47'16" East along the division line between the herein described parcel on the south and the said lands now or formerly of Victoria J. Conron (Instr. No. 2010-00001025) on the north, a distance of 20.11 feet to a point;

Thence continuing North 85°47'16" East through the lands now or formerly of the Chenango County Industrial Development Agency (Bk.608 Pg.167), passing through a 3" x 3" concrete monument found at 0.35 feet, a total distance of 130.69 feet to a point on the easterly boundary of the herein described parcel and the westerly boundary of the lands now or formerly of NYIPM, LLC (Instr. No. 2016-00001613);

Thence South 01°41'16" West along the division line between the herein described parcel on the west and the said lands now or formerly of NYIPM, LLC (Instr. No. 2016-00001613) on the east, a distance of 402.29 feet to a point at its intersection with the said northerly street boundary of Rexford Street;

Thence South 82°05'16" West along said street boundary a distance of 72.01 feet to the point or place of beginning, said parcel containing 48,597 square feet or 1.116 acres of land more or less.

South Parcel:

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Norwich, County of Chenango and State of New York more particularly described as follows:

BEGINNING at a point on the southerly street boundary of Rexford Street, at its intersection with the division line between the lands now or formerly of the Chenango County Industrial Development Agency (Bk.608 Pg.167) on the west and the lands now or formerly of the Northeast Classic Car Museum (Instr. No. 2016-00000413) on the east;

Thence South 01°34'40" East along said division line, a distance of 181.21 feet to a point;

Thence South 85°45'16" West through the lands now or formerly of the Chenango County Industrial Development Agency (Bk.608 Pg.167), a distance of 66.36 feet to a point on the division line between the said lands now or formerly of the Chenango County Industrial Development Agency on the east and the lands now or formerly of Bryan T. Van Houten & Sarah E. Van Houten (Instr. No. 2017-00000547) on the west, said point being witnessed by a 3" x 3" concrete monument found 0.19 feet southeasterly of said point;

Thence continuing South 85°45'16" West along the last mentioned division line a distance of 27.15 feet to a point at its intersection with the division line between the herein described parcel on the east and the lands now or formerly of Eileen H. Snider (Instr. No. 2012-00000832) on the west;

Thence North 01°41'16" East along the last mentioned division line a distance of 176.60 feet to a point at its intersection with the said southerly street boundary of Rexford Street;

Thence North 82°05'16" East along said street boundary a distance of 83.85 feet to the point or place of beginning, said parcel containing 15,763 square feet or 0.362 acres of land more or less.

Being a portion of the lands conveyed by New York Susquehanna and Western Railway Corporation as grantor to the County of Chenango Industrial Development Agency as grantee in a deed recorded in the Chenango County Clerk's office on April 30th 1982 in book 608 of deeds at page 167