



Office of the Genesee County Clerk

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RETT: 1618 \$.00

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RECEIPT: 6540 FEE: \$53.00

GENESEE COUNTY CLERK

LIBER: 841 PAGE: 558

Type/Print LEGIBLY - Black Ink: After Recordation Return this Document to:

Town of Batavia

June Vukman, Supervisor

3833 W. Main Rd., Batavia NY 14020

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THE SPACE BELOW IS RESERVED FOR THE COUNTY CLERK REQUIRED RECORDING INFORMATION

DOCUMENT TYPE

Easement

TAX DISTRICT

Batavia/T

Pages to Validate

7(6)

MORTGAGE RECORDING TAX RECEIPT

CROSS REFERENCES

Total Amount Secured By Mortgage:

\$ *

BASIC \$

~ L _____ P _____ Yr _____

LOCAL \$

~ L _____ P _____ Yr _____

ADDTL \$

~ L _____ P _____ Yr _____

SPECIAL \$

~ L _____ P _____ Yr _____

~ L _____ P _____ Yr _____

- ☐ 1-2 Family Clause Applicable
- ☐ Mortgage Tax Affidavit Attached
- ☐ To be Apportioned
- ☐ Mortgage Tax Exempt
- ☐ Recapture Obligation Included *

TOTAL TAX \$

State of New York }

County of Genesee }

I do hereby certify that I have received the amounts cited above on the within Mortgage,
being the amount of the Recording Tax imposed thereon and paid at the time of recording.

Genesee County Clerk

DO NOT DETACH THIS PAGE FROM THE DOCUMENT:

This page constitutes the County Clerk's Endorsement as Required by Section 319 of the Real Property Law of New York State.

Genesee County Clerk

THIS SPACE RESERVED FOR COUNTY CLERK NOTES

DECLARATION of EASEMENTS and COVENANTS and RESTRICTIONS

THIS EASEMENT and COVENANT, made the th 10 day of June 2005, by the Town of Batavia, New York (the "Town") with offices at 3833 West Main Street Road, Batavia, New York 14020.

WHEREAS, the Town is the owner of property where an inactive hazardous waste disposal site was located on Harloff Road in the Town of Batavia, County of Genesee, State of New York, and which is part of the lands conveyed by Evelyn Harloff to the Town by deed dated December 22, 1967, and recorded in the Genesee County Clerk's Office in Book 403 of Deeds at Page 181 and being more particularly described in Appendix "A", attached to this Declaration and made a part hereof, and hereinafter referred to as "the Batavia Landfill Site" or "the Site;" and

WHEREAS, the Batavia Landfill Site was listed on the National Priorities List of hazardous substances releases promulgated pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended ("CERCLA"); and

WHEREAS, the United States Environmental Protection Agency ("USEPA") selected a remedy in a Record of Decision for the Batavia Landfill Site on June 6, 1995; and

WHEREAS, the Site is the subject of a Consent Decree between the United States of America and the State of New York, on the one hand, and the City of Batavia, New York, the Town, and NL Industries, Inc., among other potentially responsible parties, (collectively "the potentially responsible parties") on the other hand, and the Consent Decree was entered in the United States District Court for the Western District of New York, as Civil Action 00-CV-0838E, on December 28, 2000; and

WHEREAS, the potentially responsible parties have implemented the remedy for the Site in accordance with the Record of Decision and the Consent Decree; and

WHEREAS, the Consent Decree requires institutional controls to ensure protection of the remedy for the Site and continued access for the governments; and

WHEREAS, the Consent Decree requires that a Notice to Successors-in-Title be filed with the Registry of Deeds or other appropriate office, Genesee County, State of New York, which shall provide notice of the Consent Decree and the requirements of the remedy; and

WHEREAS, the Consent Decree requires that the Site be subject to certain easements and restrictive covenants.

NOW THEREFORE, the Town, for itself and its successors and/or assigns, covenants that:

First, the property subject to this Declaration of Easements and Covenants and Restrictions ("Declaration") is as shown on a map attached to this Declaration as Appendix "B" and made a part hereof, and consists of the Batavia Landfill Site, which is part of the property described in Appendix "A" to this Declaration.

Second, unless prior written approval by the USEPA, or any successor department or agency, is first obtained, the Owner shall use best efforts to ensure that no person shall engage in any activity that will, or that reasonably is anticipated to, interfere with or adversely affect the integrity or protectiveness of the remedial measures implemented or to be implemented at the Site.

Third, the owner of the Site shall not install or utilize wells for potable water within the area of groundwater contamination at the Site.

Fourth, the owner of the Site shall not engage in any construction or other activities that would threaten the integrity of the wetlands created and maintained on or adjacent to the Site.

Fifth, the owner of the Site shall not engage in any construction or other activities on the Site that would threaten the integrity of the cap installed over the landfill at the Site.

Sixth, the owner of the Site will not extract, consume, expose or utilize the groundwater underlying the Site in any way, except for sampling for the monitoring of contamination levels pursuant to a plan approved by the USEPA, and/or treatment and discharge consistent with the Record of Decision for the Site.

Seventh, the United States of America on behalf of the USEPA and the Department of Interior ("DOI"), and the State of New York, on behalf of the Department of Environmental Conservation ("NYSDEC") and their assigns, are hereby granted an irrevocable permanent and continuing right of access at all reasonable times to the Site for purposes of inspecting the monitoring and maintenance activities, verifying compliance with the remedial activities required by the Record of Decision and the Consent Decree, confirming that no action has been or is being taken on the Site in violation of the Consent Decree, conducting investigations relating to wetlands at and near the Site, and performing or implementing any activity relating to a response action at the Site pursuant to CERCLA.

Eighth, the United States of America, through USEPA and DOI and New York State through the NYSDEC shall be, on behalf of the public, third-party beneficiaries of the benefits, rights and obligations in this Declaration, provided that nothing in this Declaration shall be construed to create any obligations on the part of USEPA, DOI or NYSDEC.

Ninth, 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 Site.

Tenth, any deed of conveyance of the Site, or any portion thereof, shall recite, unless the USEPA, or any successor department or agency, has consented to the termination of such easements, covenants and restrictions, that said conveyance is subject to this Declaration of Easements and Covenants and Restrictions.

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

Town of Batavia, New York

By: June C Vukman
June C. Vukman

Its: Supervisor

State of New York)
) ss:
County of Genesee)

On this 10th day of June, 2005, before me personal appeared June C. Vukman 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 she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Teresa M. Morasco
Notary Public

TERESSA M. MORASCO
Notary Public, State of New York
Qualified in Genesee County
Commission Expires October 22, 2005

APPENDIX A

PROPERTY DESCRIPTION FOR ALL
LANDS CONVEYED TO THE TOWN

ALL THAT PART of the following described Parcels of Land lying North of the New York State Thruway, which part or parcel hereby conveyed consists of approximately ninety (90) acres of land;

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Batavia, County of Genesee and State of New York, being Lot 2, Section 11, Township 12, Range 2, of the Holland Purchase, containing 126 (126) Acres of land more or less.

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Batavia, County of Genesee and State of New York, being the East part of Lot 4, Section 11, Township 12, Range 2, Holland Purchase, bounded as follows:

East by Lot 13, Section 8, and by Lot 2, Section 11, 61 chains 40 links; South by Lot 3, 9 chains 19 links; West by land deeded by Wilhem Willink and others to Henry Thompson, 61 chains 45 links; and North by Tonawanda Reservation, 9 chains 2 links. Containing 56 Acres, be the same more or less.

Being and intending to be part of the premises conveyed to Evelyn Harloff, by deed recorded in the Genesee County Clerk's Office, on February 15, 1955, in Liber 309 of Deeds at page 533.

This conveyance is made and accepted subject to agreement recorded in the Genesee County Clerk's Office on September 15, 1906, in Liber 204 of Deeds at page 450; easement recorded in the Genesee County Clerk's Office on October 18, 1960, in Liber 343 of Deeds at page 110; and lease recorded in the Genesee County Clerk's Office on November 19, 1964, in Liber 377 of deeds at page 255, and party of the first part hereby conveys all her rights titles and interest in and to said lease insofar as said lease covers the premises herein conveyed.

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APPENDIX B

MAP OF SITE

