

Declaration of Covenants and Restrictions

THIS DECLARATION dated as of January 24, 2001, 2000 by Ischua Creek Holding Company, Inc., 4000 Commercial Avenue, Northbrook, Illinois, 60062 (Declarant).

RECITALS:

WHEREAS, Declarant is the owner of certain property locally known as a portion of Lot 38, Township 5, Range 5 of the Holland Land Company's Survey located in Machias, New York and legally described on Schedule A attached hereto and made a part hereof (Property); and

WHEREAS, the Property is subject to the provisions of a certain Order on Consent # B9-0335-90-05 dated July 25, 1993, between the New York State Department of Environmental Conservation (NYSDEC), the Town of Machias, and Declarant; and

WHEREAS, the Property has been impacted by the Machias Gravel Pit and is subject to restrictions and conditions as noted in the Record of Decision, dated November 1992, Schedule C, including monitoring which will continue on the Property until discontinued pursuant to NYSDEC approval.

Covenants and Restrictions

NOW, THEREFORE, in consideration of the foregoing premises, Declarant hereby declares the following:

1. No well for drinking water shall be drilled or otherwise constructed at, in or under the Property.
2. The provisions of this Declaration shall run with the Property and shall be binding upon Declarant and all others who may acquire an interest in the Property until such time as the groundwater has achieved applicable drinking water standards as confirmed in writing by the NYSDEC.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date first above written.

ISCHUA CREEK HOLDING COMPANY, INC.

By: Carl F. Koenemann
Its: Vice President

FEB 15 12:09 PM '01
CALIFORNIA COUNTY
CLERK

Illinois
STATE OF NEW YORK)
COOK) SS.:
COUNTY OF GATTARAUGUS)

On this 29th day of January, 2001, before me personally appeared
CARL F. KOEVENAULT to me known 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, that by his signature
on the instrument, the individual, or the person upon behalf of which the individual
acted, executed the instrument, and that such individual made such appearance
before the undersigned in the City of SCHAUMBURG County of COOK,
State of ILLINOIS.

Maryann Casper
Notary Public
BOS1 #1079518 v1



SCHEDULE A

Ischua Creek Holding Company, Inc.

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Machias, County of Cattaraugus, and State of New York, being part of Lot 38, Township 5, Range 5 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point on the east line of said Lot 38, distant eighty-two and no hundredths (82.00) feet north of the southeast corner of lands conveyed to Ischua Creek Holding Company, Inc. by deed filed in the Cattaraugus County Clerks Office in Liber 918 of Deeds at Page 34;

thence westerly at an interior angle of $90^{\circ} 00' 00''$, a distance of one hundred fifty-one and sixty five hundredths (151.65) feet to a point ;

thence northwesterly at an interior angle of $165^{\circ} 22' 22''$, a distance of one hundred five and four hundredths (105.04) feet to a point;

thence northwesterly at an interior angle of $179^{\circ} 58' 28''$, a distance of two hundred fifteen and thirty-six hundredths (215.36) feet to a point;

thence northwesterly at an interior angle of $177^{\circ} 06' 06''$, a distance of two hundred seventeen and fifty-seven hundredths (217.57) feet to a point of curvature;

thence westerly on a curve to the left having a radius of two hundred seventy-eight and no hundredths (278.00) feet, an arc length of two hundred thirty eight and thirty-four hundredths (238.34) feet to a point of tangency;

thence southwesterly, a distance of one hundred twenty-five and sixty-nine hundredths (125.69) feet to a point;

thence southwesterly at an interior angle of $176^{\circ} 00' 00''$, a distance of seventy and forty hundredths (70.40) feet to a point in the centerline of Very Road (49.5 feet wide) as described in said deed filed in the Cattaraugus County Clerks Office in Liber 918 of Deeds at Page 34;

thence northwesterly along the said centerline of Very Road, a distance of four hundred twenty-seven and thirty-three hundredths (427.33) feet to a point;

thence northeasterly at an interior angle of $58^{\circ} 52' 46''$, a distance of ninety and sixty-two hundredths (90.62) feet to a point;

thence northeasterly at an interior angle of $177^{\circ} 43' 31''$, a distance of three hundred thirty-two and eighty-seven hundredths (332.87) feet to a point;

thence northeasterly at an interior angle of $173^{\circ} 57' 53''$, a distance of two hundred seven and fifty-three hundredths (207.53) hundredths feet to a point;

thence northeasterly at an interior angle of $171^{\circ} 05' 11''$, a distance of one hundred seventy-nine and twenty-seven hundredths (179.27) feet to a point of curvature;

thence easterly on a curve to the right having a radius of one hundred fifty-five and no hundredths (155.00) feet, an arc length of ninety and fifty-four hundredths (90.54) feet to a point of tangency;

thence southeasterly, a distance of four hundred twenty-four and sixty-seven hundredths (424.67) feet to a point;

thence southeasterly at an interior angle of $163^{\circ} 12' 02''$, a distance of one hundred nineteen and twenty-nine hundredths (119.29) feet to a point;

thence southeasterly at an interior angle of $173^{\circ} 44' 29''$, a distance of one hundred thirty-four and ninety-seven hundredths (134.97) feet to a point;

thence southeasterly at an interior angle of $173^{\circ} 35' 00''$, a distance of eighty-nine and twenty-one hundredths (89.21) feet to a point on the said east line of Lot 38, said point also being on the east line of said lands conveyed to Ischua Creek Holding Company, Inc. by deed filed in the Cattaraugus County Clerks Office in Liber 918 of Deeds at Page 34;

thence southerly along the said east line of Lot 38, a distance of three hundred thirty-two and twenty-three hundredths (332.23) feet to the point or place of beginning, containing 13.0 acres of land more or less.