



CATTARAUGUS COUNTY
OFFICE OF THE COUNTY ATTORNEY

905024

Scan —

DENNIS V. TOBOLSKI
County Attorney

NICHOLAS A. DICERBO, SR.
First Assistant County Attorney

NICHOLAS A. DICERBO, JR.
Second Assistant County Attorney

July 14, 2003

Maura C. Desmond, Senior Attorney
New York State Department of Environmental Conservation
270 Michigan Avenue
Buffalo, New York 14203-2999

**Re: Declaration of Covenants and Restrictions, Farwell Landfill, New
York State Inactive Hazardous Waste Disposal Site No. 905024,
Ischua (T) Cattaraugus County**

Dear Ms. Desmond:

Enclosed herewith please find a copy of the above-referenced document which has been recorded in the Cattaraugus County Clerk's Office.

We were waiting for the recorded copy to be returned from the Clerk's Office.

Sincerely,

Dennis V. Tobolski

Dennis V. Tobolski, Esq.
County Attorney

JLM

DVT/JLM
Enclosures
cc: David Rivet, Commissioner DPW

RECEIVED

JUL 15 2003

N.Y.S. DEPT. OF
ENVIRONMENTAL CONSERVATION
DIV. ENVIRONMENTAL ENFORCEMENT
BUFFALO FIELD OFFICE

(32)

RECORDED ON THE 5 DAY OF June 2003
AT 9:46 O'CLOCK A M
IN LIBER 1024 OF Deeds
AT PAGE 1042 AND EXAMINED

1024 1042

James K. Griffith
CATTARAUGUS COUNTY CLERK

SPACE RESERVED FOR COUNTY CLERK'S USE ONLY

ENT

COUNTY OF CATTARAUGUS
OFFICE OF THE CLERK
JAMES K. GRIFFITH, COUNTY CLERK
303 COURT STREET, LITTLE VALLEY, NY 14755

PHONE: (716) 938-9111 EXT. 2297

FAX: (716) 938-6009

CATTARAUGUS COUNTY CLERK RECORDING PAGE

INSTRUMENT# 05403

NUMBER OF PAGES 9
(INCLUDING THIS PAGE)

INDEX Deed

KIND Declar

DESCRIPTION Restrict

TAX DISTRICT 15

CHECK IF A TAX AFFIDAVIT FILED

CHECK IF IS OR TO BE PRINCIPALLY
IMPROVED BY A 1 OR 2 FAMILY
RESIDENCE OR DWELLING.

SERIAL #

REAL ESTATE TRANSFER TAX

\$
RECEIVED

1 / 1
CATTARAUGUS COUNTY

MORTGAGE #

RECORDING TAX RECEIPT

BASIC \$

SPECIAL \$

ADDITIONAL \$

DATED THIS DAY OF

JAMES K. GRIFFITH, CO. CLERK
RECORDING OFFICER OF CATTARAUGUS COUNTY

THIS SHEET CONSTITUTES THE CLERK'S ENDORSEMENT REQUIRED BY SECTION 319 OF THE REAL PROPERTY TAX LAW OF THE STATE OF NY

DO NOT DETACH

RECEIPT # 84690
Catt Co Atty

REFERENCES
742-937 ✓
901-804 ✓

ESC

CAC

DECLARATION of COVENANTS and RESTRICTIONS

THIS COVENANT, made the 14th day of May, 2003, by the COUNTY OF CATTARAUGUS, a corporation organized and existing under the laws of the State of New York and having an office for the transaction of business at 303 Court Street, Little Valley, New York 14755.

WHEREAS, the COUNTY OF CATTARAUGUS is the owner of an inactive hazardous waste disposal site which is listed in the Registry of Inactive Hazardous Waste Disposal Sites in New York State as Site Number 905024, located in the Town of Ischua, County of Cattaraugus, State of New York, which is part of lands conveyed by Donald R. Farwell and Arlene J. Farwell to the County of Cattaraugus by deed dated September 25, 1973 and recorded in the Cattaraugus County Clerk's Office on October 4, 1973 in Book 742 of Deeds at Page 937 and by deed dated May 19, 1990 and recorded in the Cattaraugus County Clerk's Office on June 25, 1990 in Book 901 of Deeds at Page 804, and being more particularly described in Appendix "A," attached to this declaration and made a part hereof, and hereinafter referred to as "the Property"; and

WHEREAS, the Property is the subject of a consent order issued by the New York State Department of Environmental Conservation to the COUNTY OF CATTARAUGUS; and

WHEREAS, the New York State Department of Environmental Conservation set forth a remedy to eliminate or mitigate all significant threats to the environment presented by hazardous waste disposal at the Site in a Record of Decision ("ROD") dated March 30, 2001, and such ROD or the Work Plan for the implementation of the ROD required that the Property be subject to restrictive covenants.

NOW, THEREFORE, the COUNTY OF CATTARAUGUS, for itself and its successors and/or assigns, covenants

First, the Property subject to this Declaration of Covenants and Restrictions is as shown on a map attached to this declaration as Appendix "B" and made a part hereof, and consists of that property owned by the County of Cattaraugus described in the first Whereas, supra.

Second, unless prior written approval by the New York State Department of Environmental Conservation or, if the Department shall no longer exist, any New York State agency or agencies subsequently created to protect the environment of the State and the health of the State's citizens, hereinafter referred to as "the Relevant Agency," is first obtained, no person shall engage in any activity that will, or that reasonably is anticipated to, prevent or interfere significantly with any proposed, ongoing or completed program at the Property or that will, or is reasonably foreseeable to, expose the public health or the environment to a significantly increased threat of harm or damage.

Third, the owner of the Property shall maintain the cap covering the Property by maintaining its grass cover or, after obtaining the written approval of the Relevant Agency, by capping the Property with another material.

Fourth, the owner of the Property shall prohibit the Property from ever being used for purposes other than for solid waste management facilities as defined in New York State County Law Section 226-b, without the express written waiver of such prohibition by the Relevant Agency.

Fifth, the owner of the Property shall prohibit the use of the groundwater underlying the Property without treatment rendering it safe for drinking water or industrial purposes, as appropriate, unless the user first obtains permission to do so from the Relevant Agency.

RECORDED
JUN 11 2003
CATARAUGUS COUNTY
CLERK'S OFFICE
LITTLE VALLEY, NY

[illegible]

04700

FORM 583X N. Y. DEED-WARRANTY with Lien Covenant

TUTTLEMANX REGISTERED U. S. PAT. OFFICE
TITLE LAW PRINT, PUBLISHED BY THE STATE OF NEW YORK

This Indenture

Made the 25th day of September

Nineteen Hundred and Seventy-three,

Between DONALD R. FARWELL and ARLENE J. FARWELL, his wife,
R. D. # 1, Hinsdale, New York 14743 (no street address),

parties of the first part, and

THE COUNTY OF CATTARAUGUS,
State of New York,

Witnesseth that the parties of the first part, in consideration of party of the second part,

ONE HUNDRED FIFTEEN THOUSAND-----Dollars (\$115,000.00)
lawful money of the United States,
paid by the party of the second part, do hereby grant and release unto the
party of the second part, its successors

and assigns forever, all THAT TRACT OR PARCEL OF LAND, situate in the Town of Ischua, County of Cattaraugus and State of New York, known and distinguished as a part of Lot number forty-four, Township Three, Range Three of the Holland Land Company's Survey and bounded and described as follows: Beginning at the northeast corner of said lot; thence south on the lot line to the southeast corner of lands deeded by John H. Farwell to Jonathan Davis and Abram Farwell for mill purposes; thence westerly along the south bounds of said lot to the center of the highway; thence northerly along the center of the highway to the north bounds of lot forty-four; and from thence east on lot line to the place of beginning, be the same more or less, excepting and reserving however, the part thereof owned by the heirs at law or grantees of said Jonathan Davis in said mill property.

ALSO, CONVEYING ALL THAT TRACT OR PARCEL OF LAND situate in the Town, County and State aforesaid, known and distinguished as the north part of lot forty-four, township, range and survey as aforesaid and bounded; north by lot forty-five, thirty-eight chains, forty-one links; east by lot number nine, fourteen chains, seventy-five links; west by lot line, fourteen chains, seventy-five links; and south by a line parallel to the north bounds of said lot, thirty-eight chains, thirty-five links, to the place of beginning, containing fifty-six and three-fourths acres of land more or less. Excepting, however, therefrom all that part thereof which was deeded by John H. Farwell to Jonathan Davis and Abram M. Farwell for mill purposes.

ALSO CONVEYING ALL THAT TRACT OR PARCEL OF LAND situate in the Town, County and State aforesaid, known and distinguished as the north part of lot number thirty-six, Town Three, Range Three of said survey, bounded; north by lot thirty-seven, forty chains, sixty links; east by lot number twenty-eight, fourteen chains, seventy-five links; south by land deeded by the Holland Land Company to Jonathan Davis, forty chains, seventy-eight links; and west by lot number forty-four, fourteen chains, seventy-five links, containing sixty acres more or less.

ALSO CONVEYING ALL THAT TRACT OR PARCEL OF LAND, situate in the Town, County and State aforesaid and township and range aforesaid, bounded and described as follows: Beginning at the southwest corner of said lot, and thence north on lot line, thirty-four chains, sixty-three links to the southwest corner of lands formerly owned by Thaddeus Farwell; thence east on the south line of said Farwell's land to the center of the Ischua Creek; thence southerly along the center of said Ischua Creek to the south line of said lot; thence west on the lot line to the place of beginning, containing eighty-nine acres more or less.

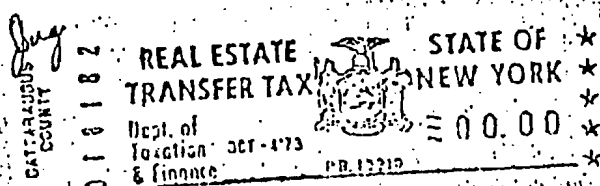
FOREGOING PREMISES ARE ALSO BOUNDED AND DESCRIBED AS FOLLOWS:
ALL THAT TRACT OF PARCEL OF LAND, situate in the Town of Ischua, County of Cattaraugus and State of New York, being part of Lot 44 and 45, Township 3, Range 3 of the Holland Land Company's survey and bounded and described as follows:

Beginning at the southwest corner of Lot 45; thence North $0^{\circ} 54' 30''$ east along the west bounds of Lot 45 a distance of 2285.58 feet to a point; thence south $89^{\circ} 51' 30''$ east a distance of 835.42 feet to a point in the center of the Pennsylvania Railroad; thence southerly along the centerline of said Railroad to the centerline of Farwell Road; thence North $75^{\circ} 13' 30''$ east along said centerline a distance of 79.6 feet to the center of Ischua Creek; thence southerly along center of said creek a distance of 660+ to the south bounds of Lot 45 and north bounds of Lot 44; thence south $89^{\circ} 49'$ east along said Lot line a distance of 170 feet to a point; thence south $21^{\circ} 29'$ east a distance 378.84 feet to a point; thence south $89^{\circ} 49'$ east a distance of 419.1 feet to a point in the east bounds of Lot 44; thence south $0^{\circ} 11'$ west along the east bounds of Lot 44 a distance of 676.5 feet to a point; thence north $89^{\circ} 49'$ west a distance of 115.5 feet to the centerline of Route 16; thence South $0^{\circ} 38' 30''$ east along the centerline of Route 16 a distance of 818.81 feet to a point; thence north $89^{\circ} 28'$ west a distance of 561.0 feet to a point; thence south $0^{\circ} 32'$ west a distance of 162.0 feet to a point; thence north $89^{\circ} 54'$ west a distance of 710.26 feet to a point in the centerline of the Pennsylvania Railroad thence southerly along the centerline of said railroad to the south bounds of Lot 44; thence south $89^{\circ} 34'$ west along the south bounds of Lot 44 a distance of 1212.88 feet to the west bounds of Lot 44; thence north $0^{\circ} 54' 30''$ east a distance of 3940.86 feet to the north bounds of Lot 44 and the point of beginning containing 230.70 acres of land more or less.

EXCEPTING AND RESERVING ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Ischua, County of Cattaraugus and State of New York, known and distinguished as being part of Lot No. 45, township 3, range 3 of the Holland Land Company Survey bounded and described as follows: Beginning at a point in the centerline of Farwell Road on Lot No. 45 which said point is south $84^{\circ} 18' 30''$ east, measured along the centerline of Farwell Road a distance of 1024.25 feet from the intersection of the centerline of Farwell Road and the west boundary line of Lot No. 45; thence south $4^{\circ} 47' 30''$ west from the point of beginning 612.14 feet to a point; thence south $85^{\circ} 51' 30''$ east a distance of 637.84 feet to a point in the centerline of the Pennsylvania Railroad right of way and which said point is 91.5 feet northerly, measured along the centerline of said Railroad from the intersection of said Railroad and the south boundary of Lot No. 45; thence northeasterly along the centerline of the right of way of the Pennsylvania Railroad to the intersection of the centerline of said Railroad and the centerline of said Farwell Road; thence south $82^{\circ} 19' 30''$ west along the centerline of Farwell Road a distance of 313.94 feet to an angle point therein; thence north $64^{\circ} 51' 30''$ west along the centerline of said Farwell Road a distance of 253.62 feet to an angle point in said Farwell Road; thence north $84^{\circ} 18' 30''$ west along the centerline of Farwell Road a distance of 128.56 feet to the place and point of beginning containing 9.34 acres be the same more or less; all of the foregoing 9.34 acres more or less being a portion of the premises once described in a Deed dated May 4, 1973 Clement H. Farwell to Donald R. Farwell and Arlene J. Farwell recorded May 7, 1973 in Liber 738 of Deeds at Page 355.

The net acreage hereby described is calculated as follows:

Total-----	230.70
Less EXCEPTION-----	9.34
Net acres described-----	221.36 acres.



Together with the appurtenances and all the estate and rights of the parties of the first part in and to said premises,

To have and to hold the premises herein granted unto the party of the second part, its successors, and assigns forever.

And said parties of the first part

covenant s as follows:
First, That the party of the second part shall quietly enjoy the said premises;

Second, That said parties of the first part

will forever Warrant the title to said premises.

Third, That, in Compliance with Sec. 13 of the Lien Law, the grantor s will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

In Witness Whereof, the parties of the first part have hereunto set their hands and seals the day and year first above written.

In Presence of

Donald R. Farwell

DONALD R. FARWELL

Arlene J. Farwell

ARLENE J. FARWELL

State of New York ss. On this 25th day of September
County of Allegany ss. Nineteen Hundred and Seventy-three,
before me, the subscriber, personally appeared

Donald R. Farwell and Arlene J. Farwell

to me personally known and known to me to be the same persons described in and who executed the within instrument, and they acknowledged to me that they executed the same.

Peter H. Sprague
Notary Public

PETER H. SPRAGUE
Notary Public, State of New York
Residing in Allegany Co. Clerk's No. 729
Commission Expires March 30, 1975

STATE OF NEW YORK SS.
COUNTY OF CATTARAUGUS
RECORDED Oct. 4, 1973
AT 11:36 AM IN LIBER 742
PAGE 937 OF Deeds
AND EXAMINED

Myrnetta Flucke CLERK

LIBER 1024 PAGE 1047

Form 1683S N.Y. DEED-WARRANTY with Lien Covenant

LIBER 901 PAGE 804

BRONX INDEED SUPPLY INC. PUBLISHER 79 NOWLAN ROAD
P.O. BOX 1824, BRONX, NEW YORK 10462-1824

This Indenture, Made the 19th day of May Nineteen Hundred and Ninety Between

DONALD R. FARWELL and ARLENE J. FARWELL, husband and wife, residing at R.D. 1, Hinsdale, New York 14743

parties of the first part, and

THE COUNTY OF CATTARAUGUS, a municipality with a place for the transaction of buisness at Court Street, Little Valley, New York 14755

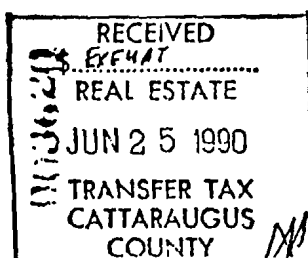
Witnesseth that the party of the first part, in consideration of

ONE ----- Dollar (\$ 1.00)

lawful money of the United States, paid by the party of the second part, does hereby grant and release unto the party of the second part, its successors and assigns forever, all

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Ischua, County of Cattaraugus and State of New York, known and distinguished as being part of Lot No. 45, Township 3, Range 3 of the Holland Land Company Survey bounded and described as follows:

BEGINNING at a point in the centerline of Farwell Road on Lot No. 45 which said point is south 84° 18' 30" east, measured along the centerline of Farwell Road a distance of 1024.25 feet from the intersection of the centerline of Farwell Road and the west boundary line of Lot No. 45; thence south 4° 47' 30" west from the point of beginning 612.14 feet to a point; thence south 85° 51' 30" east a distance of 637.84 feet to a point in the centerline of the Pennsylvania Railroad right of way and which said point is 91.5 feet northerly, measured along the centerline of said Railroad from the intersection of said Railroad and the south boundary of Lot No. 45; thence northeasterly along the centerline of the right of way of the Pennsylvania Railroad to the intersection of the centerline of said Railroad and the centerline of said Farwell Road; thence south 82° 19' 30" west along the centerline of Farwell Road a distance of 313.94 feet to an angle point therein; thence north 64° 51' 30" west along the centerline of said Farwell Road a distance of 253.62 feet to an angle point in said Farwell Road; thence north 84° 18' 30" west along the centerline of Farwell Road a distance of 128.56 feet to the place and point of beginning. Containing 9.34 acres be the same more or less; all of the foregoing 9.34 acres more or less being a portion of the premises once described in a deed dated May 4, 1973 Clement H. Farwell to Donald R. Farwell and Arlene J. Farwell recorded May 7, 1973 in Liber 738 of Deeds at Page 355.



Together with the appurtenances and all the estate and rights of the part ies of the first part in and to said premises,

To have and to hold the premises herein granted unto the part y of the second part, and assigns forever.

And said part ies of the first part

First, That the party of the second part shall quietly enjoy the said premises; covenant as follows:

Second, That said part ies of the first part

will forever Warrant the title to said premises.

Third, That, in Compliance with Sec. 13 of the Lien Law, the grantor will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

In Witness Whereof, the part ies of the first part have hereunto set their hand and seal the day and year first above written.

In Presence of

Donald R. Farwell
DONALD R. FARWELL

Arlene J. Farwell
ARLENE J. FARWELL

State of New York } ss.
County of Cattaraugus

On this 19th day of May
Nineteen Hundred and Ninety

before me, the subscriber, personally appeared

DONALD R. FARWELL and ARLENE J. FARWELL

to me personally known and known to me to be the same person described in and who executed the within instrument, and they acknowledged to me that they executed the same.

Reginald W. Bulson
Notary Public 11/30/90

State of New York } ss.
County of

On this
Nineteen Hundred and

before me, the subscriber, personally appeared

to me personally known and known to me to be the same person described in and who executed the within instrument, and he acknowledged to me that he executed the same.

Notary Public

Beed

Warranty With Lien Covenant

DONALD R. FARWELL and
ARLENE J. FARWELL

45-3/3

TO

COUNTY OF CATTARAUGUS

Att: Bell New Mail

19

Dated,

STATE OF NEW YORK SS.
COUNTY OF CATTARAUGUS

RECORDED *Jun 25, 1990*

AT 2:03 PM IN USER 901

PAGE 804 OF *Side*

AND EXAMINED

CLERK

Glenn Bilotta

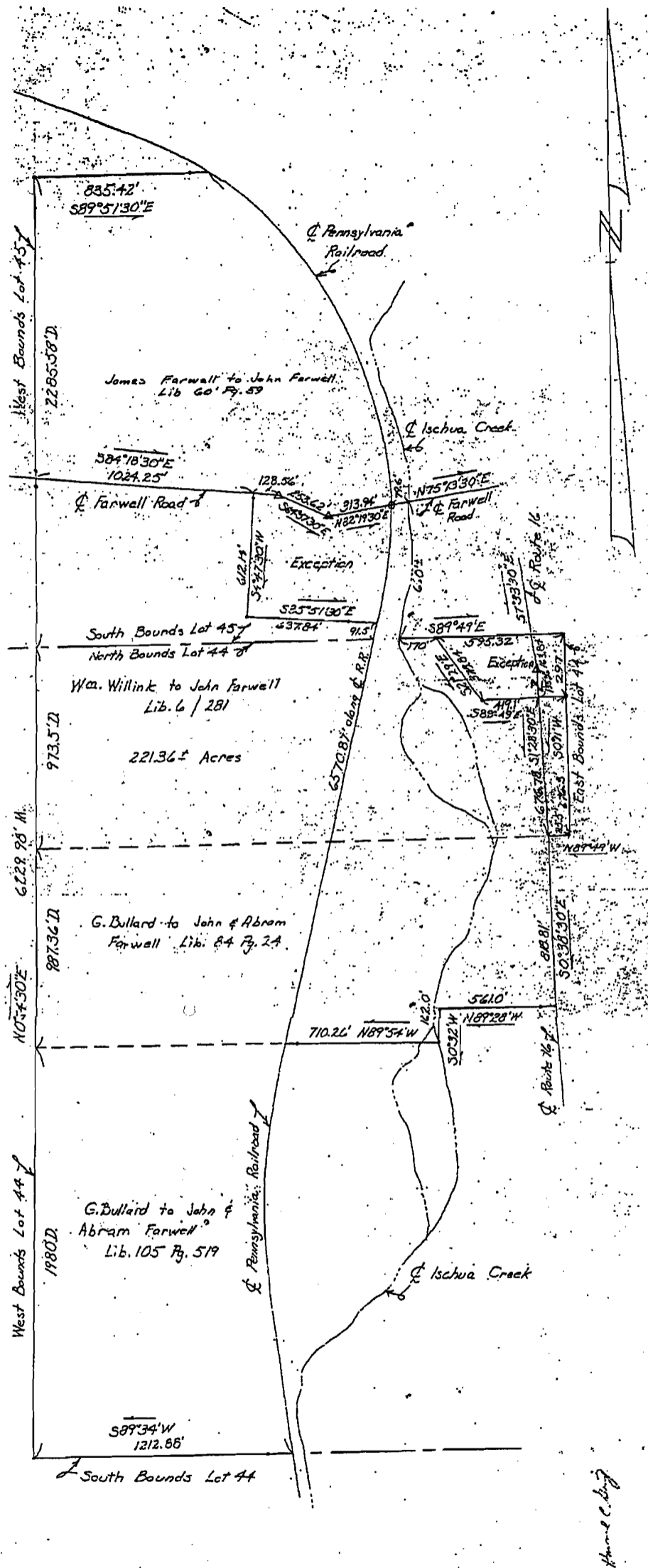
Raymond W. Bulson

Attorney at Law

6 South Main Street

Portville, New York 14770

LIB: 301 PAGE 805



Note: • Indicates Iron Pin

MAP OF LANDS IN THE TOWN OF ISCHUA, CATTARAUGUS COUNTY, NEW YORK
 Lots 44 & 45, T.3, R.3 H.C. Scale: 1" = 400' August 17, 1973

Survey & Map by: Howard C. Gerwitz P.L.S. 15376
 741 Main Street
 West Valley, New York