

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 potential restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional and Engineering Controls. The following controls 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. The Controlled Property may be used for commercial and industrial use as long as the following long-term engineering controls are employed and the land use restrictions specified below are adhered to :

1. All Engineering Controls must be operated and maintained as specified in the Site Management Plan (SMP);
2. All Engineering Controls on the Controlled Property (the Site) must be inspected and certified at a frequency and in a manner defined in the SMP;
3. Groundwater, soil vapor, and other environmental or public health monitoring must be performed as defined in the SMP;
4. Data and information pertinent to Site Management for the Controlled Property must be reported at the frequency and in a manner defined in the SMP;
5. On-Site environmental monitoring devices, including but not limited to groundwater monitoring wells must be protected and replaced as necessary to ensure continued functioning in the manner specified in the SMP;
6. Compliance with this Environmental Easement by the Grantor and the Grantor's successors and adherence to all elements of the SMP is required;
7. A composite cover system consisting of concrete building foundation, concrete sidewalks, a vapor barrier beneath the building, one foot of topsoil cover in areas not covered with the building, concrete or asphalt, and asphalt parking surfaces must be inspected, certified, operated and maintained as required in the SMP;
8. The Sub-Slab Depressurization System under the building structure at the site, must be inspected, certified, operated and maintained as required in the SMP;
9. Engineering Controls may not be discontinued without an amendment or extinguishment of the Environmental Easement and without obtaining approval from the Department.

The Controlled Property has a series of Institutional Controls in the form of Site restrictions. Adherence to these Institutional Controls is required under the Environmental Easement. Site restrictions that apply to the Controlled Property are:

1. Vegetable gardens, residences (single and multi family homes), and farming on the Controlled Property are prohibited;

2. Use of groundwater underlying the Controlled Property is prohibited without treatment rendering it safe for the intended use. Approval by the New York State Department of Health must be obtained prior to such intended use;
3. All future activities on the Controlled Property that will disturb residual contaminated material (any soil/fill material below the cover system) are prohibited unless they are conducted in accordance with the soil management provisions in the SMP;
4. The Controlled Property may be used for commercial and industrial use only provided the long-term Engineering and Institutional Controls included in the SMP remain in use;
5. The one foot of topsoil soil cover, asphalt-paved surfaces, concrete-paved surfaces, and the building itself, act as a cover system at the Controlled Property. Disturbances and incidental damage to this cover system shall be repaired upon discovery in a manner that complies with the SMP. If the type of cover system changes from that which existed prior to disturbances or incidental damage, the cover system must be implemented as required in the SMP.
6. Any new buildings developed on the Controlled Property must be constructed with a vapor mitigation system, prior to occupancy. The vapor mitigation system shall be operated and maintained until such time as the NYSDEC and NYSDOH deems it is no longer needed.
7. The Grantor and its successors and assigns must provide a periodic certification of institutional and engineering controls, prepared and submitted by a professional engineer or such other expert acceptable to the Department, until the Department notifies the property owner in writing that this certification is no longer needed. This submittal would: (a) contain certification that the institutional controls and engineering controls put in place are still in place and are either unchanged from the previous certification or are compliant with Department-approved modifications; (b) allow the Department access to the site; and (c) state that nothing has occurred that would impair the ability of the control to protect public health or the environment, or constitute a violation or failure to comply with the site management plan unless otherwise approved by the Department.

B. Grantor shall provide all persons who acquire any interest in the Controlled Property a true and complete copy of the Site Management Plan that the Department has approved for the Controlled Property and all Department-approved amendments to that Site Management Plan.

The Grantor hereby acknowledges receipt of a copy of the NYSDEC-approved Site Management Plan, dated September, 2008 ("SMP") and all Department-approved amendments to the SMP. 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 on the Controlled Property, 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. Upon notice of not less than thirty (30) days the Department in exercise of its discretion and consistent with applicable law may revise the SMP. The notice shall be a final agency determination. 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:

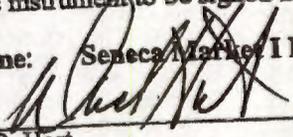
Regional Remediation Engineer: or
Region 8,
NYS DEC
6274 Avon-Lima Road
(Routes 5-20)
Avon, NY 14414-9519

Site Control Section
Division of Environmental Remediation
NYS DEC
625 Broadway
Albany, NY 12233

County: SCHUYLER Site No: C 849004 BCA Index No: B8-0699-05-08/Code-849002

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

Grantor's Name: Seneca Marble I LLC

By: 
David P. Hart

Title: Managing Member Date: 12/4/08

By: 
Peter L. Krog

Title: Managing Member Date: 12/2/08

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

by:


Alexander B. Grannis, Commissioner

SCHEDULE "A"
PROPERTY DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND situate in the Village of Watkins Glen, Town of Dix, Schuyler County, New York, and being more particularly bounded and described as follows:

BEGINNING at the intersection of the northerly limit of First Street and the westerly limit of Decatur Street; thence South along the northerly limit of First Street a distance of 400.57 feet to a point; thence North $22^{\circ}31'0''$ West a distance of 30.22 feet to a point; thence South $67^{\circ}29'0''$ West a distance of 100 feet to the easterly limit of North Franklin Street; thence northerly along the easterly limit of North Franklin Street to a point that is 175.78 feet north of the intersection of the easterly limit of North Franklin Street and the northerly limit of First Street; thence North $67^{\circ}29'0''$ East a distance of 100 feet to a point; thence North $22^{\circ}31'0''$ West a distance of 103.81 feet to a point; thence South $83^{\circ}11'56''$ East a distance of 87.29 feet to a point; thence North $16^{\circ}18'38''$ East a distance of 50.52 feet to a point; thence South $81^{\circ}52'17''$ East a distance of 142.91 feet to a point; thence South $86^{\circ}12'04''$ East a distance of 98.30 feet to a point; thence South $86^{\circ}59'15''$ East a distance of 87.41 feet to a point; thence South $87^{\circ}41'39''$ East a distance of 3.22 feet to the Westerly limit of Decatur Street; thence Southerly along the Westerly limit of Decatur Street; thence South $22^{\circ}28'44''$ East a distance of 120.19 feet to the Northerly limit of First Street, being the point or place of beginning; comprising an area of $2.27 \pm$ acres.

