

DECLARATION OF COVENANTS AND RESTRICTIONS

THIS COVENANT is made the 13th day of October, 2004, by the Town of Henrietta, having an office for the transaction of business at 475 Calkins Road, Henrietta, New York 14467.

WHEREAS, the former Henrietta Wastewater Treatment Plant is the subject of a Voluntary Agreement executed by the Town of Henrietta as part of the New York State Department of Environmental Conservation's (the "Department") Voluntary Cleanup Program, namely that parcel of real property located on 100 Karen Lee Drive in the Town of Henrietta, County of Monroe, State of New York, which is part of lands conveyed by R. Plato Schwartz to Town of Henrietta by deed dated April 8, 1955, and recorded in the Monroe County Clerk's Office on April 14, 1955, in Book 2957 of Deeds at Page 73, 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 Department approved a remedy to eliminate or mitigate all significant threats to the environment presented by the contamination disposed at the Property; and such remedy requires that the Property be subject to restrictive covenants,

NOW, THEREFORE, the Town of Henrietta, for itself and its successors and assigns, covenants that:

First, the Property subject to the Declaration is more particularly described in Appendix A and is shown on a map attached to this Declaration as Appendix B.

Second, unless prior written approval by the Department, 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," the owner of the Property shall not permit any disturbance of soil or fill at the Property unless in accordance with the Soil Management Plan dated September 2004, or unless a modification or exception to that Soil Management Plan is approved by the Relevant Agency.

Third, the owner of the Property shall prohibit the Property from ever being used for purposes other than for restricted commercial/restricted industrial without the express written waiver of such prohibition by the Relevant Agency.

Fourth, 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.

Fifth, 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 Property, and shall provide that the owner and its successors and assigns consent to enforcement by the Relevant Agency of the prohibitions and restrictions that Paragraph X of the Agreement require to be recorded,

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and hereby covenant not to contest the authority of the Relevant Agency to seek enforcement.

Sixth, and deed or conveyance of the Property, or any portion thereof, shall recite, unless the Relevant Agency has consented to the termination of such covenants and restrictions, that said conveyance is subject to this Declaration of Covenants and Restrictions.

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

Dated: 10/13/2004

James R. Breese
James R. Breese, Supervisor
Town of Henrietta

COUNTY OF MONROE)
STATE OF NEW YORK) ss:

On the 13th day of October in the year 2004 before me, the undersigned, personally appeared James R. Breese, 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 they executed the same in their capacity, and that by their signatures on the instrument, the individuals, or the person upon behalf of which the individual acted, executed the instrument.

Amber N. Hutchinson
Signature and Office of Individual Taking
Acknowledgment

AMBER N. HUTCHINSON
NOTARY PUBLIC, State of New York
Monroe County, No. 01HU6065324
Commission Expires 10/15/2005

Appendix A

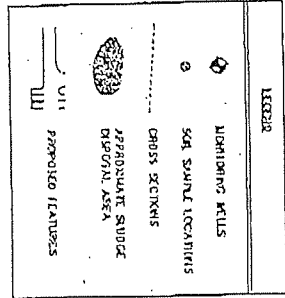
All that tract or parcel of land situate in Town Lot 2, 1st Range, Township 12, Range 7 of the Phelps and Gorham Purchase, Town of Henrietta, County of Monroe, State of New York. All as shown on a map prepared by Joseph C. Lu Engineering and Land Surveying, P.C. entitled, 100 Karenlee Drive Subdivision, and being more particularly bounded and described as follows:

Beginning at a point in the southerly and easterly boundary of the existing Karenlee Drive at it's intersection with the division line between the property of N/F Iaculli Associates, LP (TA #150.18 1-29.1) on the West and the lands of the Town of Henrietta (TA #150.18 1-3.1 on the East; thence

- 1) North 20° 52' 26" East along the easterly boundary of the existing Karenlee Drive (50 foot wide) and the easterly property of N/F Brandon S. and Pauline A. Kennedy (TA #150.18-1-29.2) a distance of 279.93 feet to a point on the southerly boundary of the existing New York State Barge Canal; thence
- 2) Along the southerly boundary of the existing New York State Barge Canal the following 4 courses and distances
 - A) South 69° 36' 54" East a distance of 211.87 feet to a point; thence
 - B) South 73° 23' 24" East a distance of 407.60 feet to a point; thence
 - C) South 77° 00' 24" East a distance of 329.64 feet to a point; thence
 - D) South 78° 37' 24" East a distance of 676.54 feet to a point; thence
- 3) South 11° 22' 36" West along the westerly line of the existing New York State Barge Canal a distance of 20.00 feet to a point; thence
- 4) Easterly, Southerly, Westerly, and Northerly along the last mentioned division line the following 5 courses and distances
 - A) South 78° 37' 24" East a distance of 819.67 feet to a point; thence
 - B) South 21° 03' 50" West a distance of 180.61 feet to a point; thence
 - C) South 88° 54' 41" West a distance of 969.25 feet to a point; thence
 - D) North 77° 47' 34" West a distance of 1,541.96 feet to a point; thence
 - E) North 20° 52' 26" East a distance of 191.07 feet to a point; thence

Comprising approximately 898,181.79 square feet (20.619 acres)

Appendix B



SITE PLAN
SCALE 1" = 200'

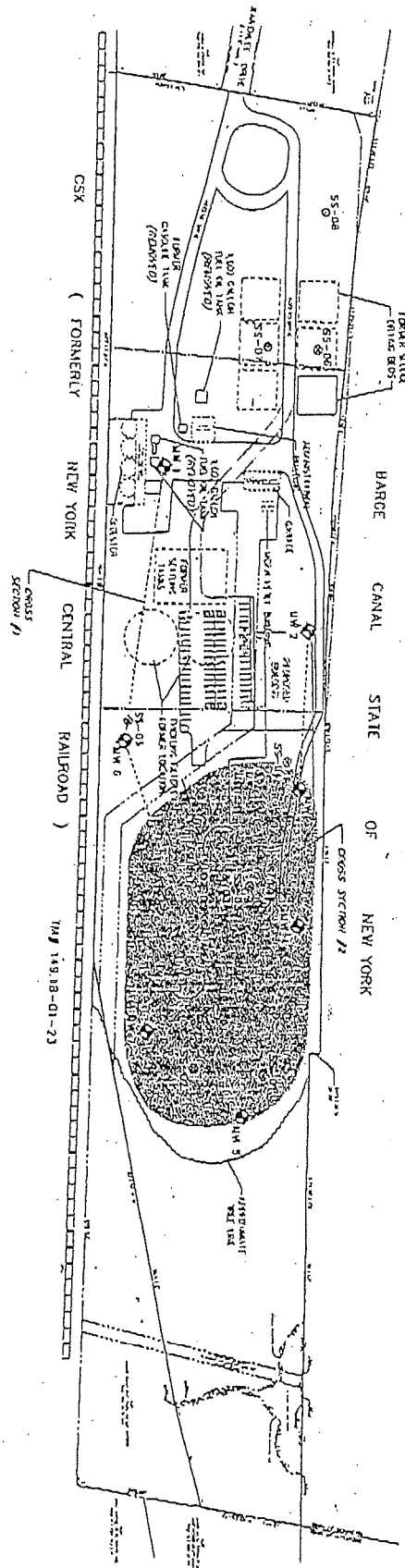


FIGURE 2

DESIGNED BY	SCALE 1"=200'
DRAWN BY	DATE 11/19/18
CHECKED BY	DATE 11/19/18
APPROVED BY	DATE 11/19/18
1 of 6	7

JOHN OF HENRIETTA

VOLUNTARY
CLEANUP
PROGRAM
TOWN OF HENRIETTA
COUNTY OF WARREN
STATE OF NEW YORK
11681 377-1450
FAX 11681 377-1155

ENVIRONMENTAL
ENGINEER
CIVIL AND ENVIRONMENTAL

DATE 11/19/18

DESIGNED BY
DRAFTSMAN
CHECKED BY
APPROVED BY

DATE 11/19/18