DECLARATION OF COVENANTS, RESTRICTIONS AND ENVIRONMENTAL EASEMENT

This Declaration of Covenants, Restrictions and Environmental Easement is made this 7th day of September, 2016, by and between St. Lawrence County, a municipal corporation, having an address at 48 Court Street, Canton, New York ("Grantor"), and the People of the State of New York (the "Grantee"), acting through their Commissioner of the New York State Department of Environmental Conservation, with its Central Office located at 625 Broadway, Albany, New York 12233 ("Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner of real property located at the address of Newcomb Road in the Town of Lisbon, County of St. Lawrence and State of New York, known and designated on the tax map of the County Clerk of St. Lawrence as tax map parcel numbers: Section 49.004 Block 1 Lots 29 and 41, being the same as that property conveyed to Grantor by deeds dated June 10, 2016 and recorded in the St. Lawrence County Clerk's Office as Instrument #'s 2016-00009269 and 2016-00009270. The property subject to this Declaration of Covenants, Restrictions and Environmental Easement comprises approximately 210.0 +/- acres and is hereinafter more fully described in Exhibit A attached hereto, and made a part hereof together with any buildings and improvements thereon and appurtenances thereto (the "Property"); and

WHEREAS, the Property is part of the Sealand Restoration Superfund Site ("Site"), the location of a former waste disposal facility that the U.S. Environmental Protection Agency ("EPA"), pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9605, placed on the National Priorities List, as set forth in Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 C.F.R. Part 300, by publication in the Federal Register on August 27, 1990; and

WHEREAS, in a Record of Decision dated September 29, 1995 ("1995 ROD"), as modified by a November 2001 Explanation of Significant Differences ("2001 ESD"), EPA Region 2 selected, and the New York State Department of Environmental Conservation ("NYSDEC") concurred with, a response action for the Site;

WHEREAS, subsequent to the selection of the remedy set forth in the 1995 ROD, as modified, four five-year reviews of that remedial action were conducted, in August 1998, August 2003, August 2008, and September 2013, consistent with Section 121(c) of CERCLA, to assure that human health and the environment are being protected; and

WHEREAS, the response activities selected in the 1995 ROD, as modified by the 2001 ESD, as well as the five-year review recommendations, provided, in part, for certain institutional controls for the Site that:

(i) prohibit any use of the Property in the Land Use Restriction Area, as described in Exhibit B, that breaches the integrity of the cap on the former disposal cell area or the permeable
County: Site No: Order No:

reactive barrier, disturbs or disrupts the functions of the monitoring systems, or otherwise increases the potential hazard to human health or the environment; and

(ii) prohibit the extraction or use of groundwater from the Property until groundwater standards are met.

WHEREAS, the construction activities associated with the remedial action have been completed at the Site, and long-term monitoring activities are ongoing; and

WHEREAS, the parties hereto have agreed that Grantor shall grant to the Grantee a permanent Declaration of Covenants, Restrictions and an Environmental Easement pursuant to Article 71, Title 36 of the NYS Environmental Conservation Law, including but not limited to providing a right of access over the Property for purposes of implementing, facilitating and monitoring the response action; and to impose on the Property, restrictions that will run with the land for the purpose of protecting human health and the environment; and

WHEREAS, Grantor wishes to cooperate fully with the Grantee in the implementation of all response actions at the Site;

NOW, THEREFORE:

1. **Grant**: Grantor, on behalf of itself, its successors and assigns, for ten dollars and other good and valuable consideration, receipt whereof is hereby acknowledged, does hereby give, grant, covenant and declare in favor of the Grantee that the Site shall be subject to this Declaration of Covenants, Restrictions and Environmental Easement, and Grantor does further give, grant and convey to the Grantee the perpetual right to enforce said restrictions, covenants, right of access and Environmental Easement, all of which shall be of the nature and character, and for the purposes hereinafter set forth, with respect to the Site.

2. **Purpose**: It is the purpose of this instrument to convey to the Grantee real property rights, which will run with the land, facilitate the remediation of past environmental contamination and impose use restrictions and covenants to protect human health and the environment by reducing the risk of exposure to contaminants.

3. **Restrictions**: The following restrictions apply to the use of the Property, run with the land and are binding on the Grantor and its successors in title and assigns:

   (i) any use of the Property in the Land Use Restriction Area, as described in Exhibit B, that breaches the integrity of the cap on the former disposal cell area or the permeable reactive barrier, disturbs or disrupts the functions of the monitoring systems, or otherwise increases the potential hazard to human health or the environment is prohibited; and

   (ii) there shall be no extraction or use of groundwater from the Property until groundwater standards are met.
4. **Modification or termination of restrictions and covenants:** The restrictions specified in the preceding paragraph of this instrument may only be modified or terminated, in whole or in part, in writing, by the Grantee with prior written consent of EPA, provided, however, that any modification or termination of said restrictions shall not adversely affect the remedy selected by EPA and NYSDEC for the Site. If requested by the Grantor, such writing will be executed by Grantee in recordable form. Any request by Grantor for a modification or termination of this instrument shall be made in writing by Grantor to NYSDEC and to EPA in accordance with paragraph 15 of this instrument.

5. **Right of access:** Grantor hereby conveys to Grantee and to EPA a right of access to the Property at all reasonable times for the following purposes, which right of access shall run with the land and be binding on Grantor, its successors and/or assigns, and on any tenants or any other parties having an interest in and/or rights to the Property:

   a) Implementing the response actions in the 1995 ROD, as modified by the 2001 ESD;
   
   b) Verifying any data or information relating to the Site;
   
   c) Verifying that no action is being taken on the Property in violation of the terms of this instrument or of any federal or state environmental laws or regulations;
   
   d) Conducting investigations under CERCLA relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, and/or soils; and
   
   e) Implementing additional or new response actions under CERCLA.

6. **Reserved rights of Grantor:** Grantor hereby reserves unto itself, its successors, and assigns, all rights and privileges in and to the use of the Property which are not incompatible with the restrictions, rights, covenants and easements granted herein.

7. **Federal authority:** Nothing in this document shall limit or otherwise affect EPA's rights of entry and access or EPA's authority to take response actions under CERCLA, the NCP, or other federal law.
8. **State authority:** Nothing herein shall constitute a waiver of any rights the State may have pursuant to the Environmental Conservation Law, regulations and/or relevant provisions of statutory or common law.

9. **No public access and use:** No right of access or use by the general public to any portion of the Property is conveyed by this instrument.

10. **Public notice:** Grantor, on behalf of itself, its successors and assigns, agrees to include in each instrument conveying any interest in any portion of the Property, including but not limited to deeds, leases and mortgages, a notice that is in substantially the following form:

    **NOTICE:** THIS PROPERTY IS SUBJECT TO A DECLARATION OF COVENANTS, RESTRICTIONS AND ENVIRONMENTAL EASEMENT DATED ________, 20__, RECORDED IN THE _______ COUNTY CLERK’S OFFICE ON ________, 20__, IN BOOK ______, PAGE ______, AND HELD BY THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION PURSUANT TO TITLE 36, ARTICLE 71 OF THE ENVIRONMENTAL CONSERVATION LAW. THE DECLARATION OF COVENANTS, RESTRICTIONS AND ENVIRONMENTAL EASEMENT SHALL BE ENFORCEABLE BY THE PEOPLE OF THE STATE OF NEW YORK AND BY THE UNITED STATES OF AMERICA AS THIRD-PARTY BENEFICIARY.

   Within thirty (30) days of the date any such instrument of conveyance is executed, Grantor agrees to provide Grantee and EPA with a certified true copy of said instrument and, if it has been recorded in the public land records, its recording reference.

11. **Enforcement:** The Grantee shall be entitled to enforce the terms of this instrument by resort to specific performance. All remedies available hereunder shall be in addition to any and all other remedies at law or in equity, including CERCLA. Any forbearance, delay or omission to exercise Grantee’s rights under this instrument in the event of a breach of any term of this instrument shall not be deemed to be a waiver by the Grantee of such term or of any of the rights of the Grantee under this instrument.

12. **Damages:** Grantee shall also be entitled to recover damages for breach of any covenant or violation of the terms of this instrument.

13. **Waiver of certain defenses:** Grantor hereby waives any defense of laches, estoppel, or prescription.

14. **Covenants:** Grantor hereby covenants that the Grantor is lawfully seized in fee simple of the Property, that the Grantor has a good and lawful right and power to sell and convey it or any interest therein, and that the Property is free and clear of encumbrances.

15. **Notices:** Any notice, demand, request, consent, approval, or communication under this instrument that either party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:
To Grantor:

County of St. Lawrence
48 Court Street
Canton, New York 13617

To Grantee:

Office of General Counsel
NYS Department of Environmental Conservation
625 Broadway
Albany, New York 12233-5500

NYS Department of Environmental Conservation
Division of Environmental Remediation
Site Control
625 Broadway
Albany, New York 12233

A copy of each such communication shall also be sent to EPA in the same manner as to Grantor or Grantee, and addressed to the following two addressees:

U.S. Environmental Protection Agency
Emergency & Remedial Response Division
New York Remediation Branch
Attention: John DiMartino, Site Remedial Project Manager
290 Broadway, 20th Floor,
New York, New York 10007-1866

U.S. Environmental Protection Agency
Office of Regional Counsel
Attention: Margo Ludmer, Site Attorney
290 Broadway, 17th Floor,
New York, New York 10007-1866

16. Recordation: Grantor shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner of the New York State Department of Environmental Conservation or her/his authorized representative in the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

17. General provisions:

a) Controlling law: The interpretation and performance of this instrument shall, with respect to the Environmental Easement, be governed by the laws of the State of New York, and with respect to other matters, shall be governed by the laws of the United States or, if there are no applicable federal laws, by the law of the State of New York.

b) Liberal construction: Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the grant to effect the purpose of this instrument and the policy and purpose of CERCLA. If any provision of this instrument is found
to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

c) **Severability:** If any provision of this instrument, or the application of it to any person or circumstance, is found to be invalid, the remainder of the provisions of this instrument, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

d) **No forfeiture:** Nothing contained herein will result in a forfeiture or reversion of Grantor’s title in any respect.

e) **Successors:** The covenants, easements, terms, conditions, and restrictions of this instrument shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property. The term “Grantor”, wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as “Grantor” and their personal representatives, heirs, successors, and assigns. The term “Grantee”, wherever used herein, and any pronouns used in place thereof, shall mean the People of the State of New York acting through their Commissioner of NYSDEC or through any successor department or agency of the State of New York.

f) **Captions:** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

g) **Counterparts:** The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

h) **Third-Party Beneficiary:** Grantor and Grantee hereby agree that the United States, through EPA, shall be, on behalf of the public, a third-party beneficiary of the benefits, rights and obligations conveyed to Grantee in this instrument, provided that nothing in this instrument shall be construed to create any obligations on the part of EPA.
TO HAVE AND TO HOLD unto the Grantee and its assigns forever.

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

Executed this 6th day of September, 2016

GRANTOR:

By: __________________________

Title: Chairman
St. Lawrence County Board of Legislators

Grantor's Acknowledgment

STATE OF NEW YORK )
COUNTY OF St. Lawrence ) ss:

On the 6th day of September, in the year 2016, before me, the undersigned, personally appeared John Burke, 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 he executed the same in his capacity as Chairman St. Lawrence Co. Board of Legislators, and that by his signature on the instrument, the Grantor, upon behalf of which the individual acted, executed the instrument.

DEBRA A. SNELL
Notary Public, State of New York
No. 01SN6008334
Qualified in St. Lawrence County
Commission Expires June 8, 2018
THIS ENVIRONMENTAL EASEMENT AND DECLARATION OF RESTRICTIVE COVENANTS IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner.

By: Robert W. Schick, Director
   by Michael Ryan, Assistant Director
   Division of Environmental Remediation

Date: SEP 07 2016

Grantee's Acknowledgment

STATE OF NEW YORK )
   ) ss:
COUNTY OF )

On the 7th day of SEPTEMBER, in the year 2016 before me, the undersigned, personally appeared Michael Ryan, 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 he executed the same in his capacity as designee of the Commissioner of the State of New York Department of Environmental Conservation, and that by his signature on the instrument, the People of the State of New York, upon behalf of which the individual acted, executed the instrument.

PATRICK EUGENE FOSTER
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN KINGS COUNTY
NO. 02FO6279032
COMMISSION EXPIRES 03/18/2017

Notary Public - State of New York
EXHIBIT A
To
Environmental Easement and Declaration of Restrictive Covenants

Description of Property
Sealand Restoration Superfund Site
This Indenture,
Made the 28th day of May, Nineteen Hundred and Seventy-seven
Between WILIAM A. PLOUFFE and BLANCHE A. PLOUFFE
Route #2
Lisbon, New York 13658,
parties of the first part, and
SEA LAND RESTORATION, INCORPORATED
300 James Street
Clayton, New York 13624,
parties of the second part,

Know all men by these presents: That the parties of the first part, in consideration of the sum of One Dollar ($1.00), paid by the parties of the second part, do hereby grant and release unto the parties of the second part, its successors and assigns forever, all that certain TRACT OR PARCEL OF LAND, situated in the TOWN of Lisbon, COUNTY of St. Lawrence and STATE of New York in TIBBITT'S TRACT in Great Lot No. 1 and being parts of Lots Nos. 9 & 10 and bounded as follows: BEGINNING at a point in the northeasterly line of Great Lot No. 1, being the northeast corner of William Desell's 20 acre southerly part of said Lot No. 10 and running thence along the northerly line of said southerly part 260 W 13 ch and 42 lks to a cedar post on the westerly line of Great Lot No. 1; thence along said westerly line 24° 15' W 14 ch and 50 lks to a cedar post, the northeasterly corner of Lot No. 5; thence along the easterly line of a 2 rod road N 24° 15' W 7 ch and 33 lks to the southerly line of the Pray Road; thence along said line of the road N 67° 18' 6 ch 97 lks to a cedar post; thence from the center of a rail fence and stone wall & a corn
Motion thereof 3 360 14 ch & 94 lks to a cedar post and stones; thence N. 65° 11' 8 ch; 50 lks to a cedar post and stones on the easterly line of Great Lot No. 1; thence along said easterly line S. 24° 37' 7 ch 47 lks to the place of beginning. CONTAINING 20 acres of land.
EXCEPTING AND RESERVING all that tract or parcel of land situated in the Town of Lisbon, COUNTY of St. Lawrence and STATE of New York, in the TIBBITT'S TRACT in Great Lot No. 1 and bounded and described as follows: BEGINNING at a point in the southerly line of the Pray Road, said point being the point of intersection of said southerly line of said Pray Road with the westerly line of one Morrison and proceeding thence generally S. along the westerly said line of Morrison a distance of 100 ft. to a point; thence at right angles to a general westerly direction 100 ft. to a point; thence in a general northerly direction and parallel with the westerly line of said Morrison a distance of 100 ft. to the southerly line of said Pray Road; thence easterly along the southerly line of said Pray Road to the place of beginning. Being a portion of the premises conveyed by John N. Horley, as referred to Lucian Conant by deed dated July 1, 1910, and recorded on July 3, 1918, in the office of the Clerk of the County of St. Lawrence in Liber 192C of Deeds at Page 1736.
ALSO, all that tract or parcel of land, situated in the Town of Lisbon, COUNTY and STATE aforesaid, known and described as part of Lot No. 1 in TIBBITT'S TRACT and bounded south by land owned and occupied by Joseph Lantry, and being 20 acres lying immediately northerly of said Lantry's land, and bounded northerly by a line running parallel to said Lantry's line and extending across said Lot No. 1 of the TIBBITT'S TRACT, sufficiently northerly of said Lantry's northerly line to embrace 20 acres.
ALSO, all that other lot of land in Lot No. 2 of the TIBBITT'S TRACT in Lisbon aforesaid and bounded northerly by land of Elihu and Sylvester Sheldon, formerly E. Doty's South by land owned by Joseph Lantry's land; east by Great Lot No. 1 of the TIBBITT'S TRACT and west by Seymour lot now owned by acres more or less and more particularly described in a deed from George Conant to John Desell, dated August 27, 1850 and recorded in St. Lawrence County Clerk's Office.
ALSO, a strip 30 rods long along Sheldon's land and 2 rods wide from the northeast corner of the lot last above described lot extending to the
main road leading from Lisbon Center to Ogdensburg for the purpose of a road.

ALSO, all that tract or parcel of land situated in the Town of Lisbon, County of St. Lawrence and State of New York described as being subdivision of Lot No. 12 in the Tibbitt's Tract; BEGINNING at a cedar post and stones standing in the Court line which is also the westerly line of T. Dezell's second lot and is the northeasterly corner of the lot running from thence S 62° 9' W 25 chs to a post and stones, a corner of Charles Briggs lot; thence S 27° 20' E 9 chs 10 lks to a post and stones; thence W 62° 9' 78 lks to a post and stones standing in Tad's original line between Great Lots 2 & 3 and is another corner of Charles Briggs lot; thence along said line S 27° 30' E 31 chs 90 lks to a large cedar post standing 21 lks W 27° 31' W to a tamarack tree cornered and is the northwesterly corner of Sharp McFadden's lot; thence along said line N 62° 30' E 25 chs to a cedar post and stones' standing 5 lks northwesterly of a basswood sapling cornered, being another corner of said Sharp McFadden's lot; thence W 27° 30' S 31 chs 10 lks to a large cedar post standing in the southerly line of John Dezell's second lot; thence along said line S 62° 31' W 78 lks to an old cedar post, the southerly corner of George Parish, Resutra. Purchased from Tibbitt's standing in the Court line; thence along said Court line W 27° 20' W 6 chs 10 lks to the place of beginning. CONTAINING 100 acres of land, EXCEPTING AND RESERVING a certain parcel of 10 acres hereinafter sold to Andrew Eagen by Joseph Longtree.

ALSO that other parcel in said town, BEGINNING at a cedar post the northwest corner of said Mile Square No. 7 of the 4th Range, and being part of lot No. 1 and running from thence along the northerly line thereof N 64° 15' & 15 chs 72 lks to the center of the highway leading from the Craig road to George Chamber's corners; thence a southerly course along the center of said highway 8 chs 25 lks to a point; thence a westerly course 4 chs to a point; thence an westerly course 7 chs 50 lks to a point in the northerly line of Lot No. 2; thence along said northerly line of said lot No. 2 S 64° 30' W 3 chs 70 lks to the northwest corner thereof standing on the northerly line of said mile square; thence along said mile line N 25° 45' W 13 chs 35' lks to the place of beginning. CONTAINING 12.51 acres of land.

EXCEPTING AND RESERVING all that tract or parcel of land situated in Mile Square No. 7 of the 4th Range in the Town of Lisbon, County of St. Lawrence, State of New York, being a portion of Lot No. 7 in said Mile Square, and being a portion of a parcel of land containing 12.51 acres described in the deed from Herbert Dezell to Warren F. Varden, dated March 26, 1974 and recorded in the St. Lawrence County Clerk's Office in Lisbon 889 of Deeds at page 33 and being more precisely described as follows: BEGINNING at a point in the centerline of the pavement of the McFadden Road (also called, say point being the northwesterly corner of the above mentioned Varden 12.51 acre parcel and run from thence along the centerline of the pavement of said McFadden Road, being the northerly bounds of said Varden 12.51 acre parcel, 510' 00" in a distance of 344.50 ft. to a point, said point being a corner of the aforesaid 12.51 acre parcel; thence along the bounds of said Varden 12.51 acre parcel, being also the northerly bounds of premises hereinafter conveyed by Howell Martin to Howell T. Martin and Patricia Ann Martin by deed dated November 14, 1972 and recorded in the St. Lawrence County Clerk's Office in Lisbon 375 of Deeds at Page 103, S 74° 35' 04" W a distance hereinafter mentioned; thence continuing on the same course along said point marked by an iron pipe set on the date of survey Varden-Martin boundary S 74° 35' 04" W a distance of 227.67 ft. to a point mentioned at the northwesterly corner of said Martin premises being also a corner of said Varden 12.51 acre parcel; thence along the northerly bounds of said Martin premises and along the bounds of the aforesaid Varden 12.51 acre parcel S 09° 00' 18" W a distance of 311.11 ft.
Witnunherein with the appurtenances and all the estate and rights of the part less of the first part in and to said premises.

All and sundry 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 as follows:

First. That the premises of the second party shall quietly enjoy the said premises;

Second. That said premises of the first party shall forever warrant the title to said premises.

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

In Presence of

[Signature]

[Name]

[Address]

[City, State]

[Date]

[Notary Public]
EXHIBIT B
To
Environmental Easement and Declaration of Restrictive Covenants

Description of Land Use Restriction Area
Sealand Restoration Superfund Site
AREA OF LAND AND RESOURCE-USE RESTRICTION
CAP, PERMEABLE REACTIVE BARRIER WALL, MONITORING WELLS, AND PIEZOMETERS
Sealand Restoration Site - Liebon, New York