

Danielle E. Mettler-LaFeir
Partner



May 18, 2020

VIA OVERNIGHT DELIVERY & EMAIL

Bradford Burns, Esq.
New York State Department
of Environmental Conservation
Office of General Counsel
625 Broadway
Albany, NY 12233-1500
email: (Bradford.Burns@dec.ny.gov)

Re: Recorded Declaration of Covenants and Restrictions
Site Name: Crosman Corporation Site
Site No.: 835012
Site Address: 7629 Routes 5 and 20, Town of East Bloomfield, NY

Dear Mr. Burns:

Enclosed please find a copy of the Declaration of Covenants and Restrictions for the above-referenced site, which was recorded with the Ontario County Clerk on May 13, 2020.

Thank you for your attention to this matter. Please let me know if you have any questions.

Very truly yours,

/s/ Danielle E. Mettler-LaFeir
Danielle E. Mettler-LaFeir

Enclosure

cc: (via email only)
S. Garlick, NYSDEC
T. Caffoe, NYSDEC
T. Walsh, Barclay Damon LLP
W. Popham (Arcadis)
A. Richardson (Arcadis)
T. Martin (MAFGRP)
B. Mosier (MAFGRP)



Ontario County Clerk Recording Page

Return To

Stewart Title Insurance Company - Upstate

Matthew J. Hoose, County Clerk

Ontario County Clerk
20 Ontario Street
Canandaigua, New York 14424
(585) 396-4200

Document Type: **DECLARATION**

Receipt Number: 493204

Grantor (Party 1)
CROSMAN CORPORATION

Grantee (Party 2)

Fees	
Recording Fee	\$20.00
Pages Fee	\$30.00
State Surcharge	\$20.00
Total Fees Paid:	\$70.00

Control #: 202005130107

Property located in **Town of East Bloomfield**

State of New York
County of Ontario

Recorded on May 13th, 2020 at 4:52:59 PM
in Liber **01450** of **Deeds**
beginning at page **0324**, ending at page **0329**, with a
total page count of **6**.

Ontario County Clerk

This sheet constitutes the Clerk's endorsement required by section 319 of the Real Property Law of the State of New York

DECLARATION of COVENANTS and RESTRICTIONS

THIS COVENANT is made the 4th day of May 2020, by Crosman Corporation, a corporation organized and existing under the laws of the State of Delaware and having an office for the transaction of business at 7629 Routes 5 and 20, East Bloomfield, New York 14443.

WHEREAS, the Crosman Corporation Site, (Site # 835012) is the subject of an Order on Consent executed by Crosman Corporation and New Coleman Holdings, Inc. (collectively, the "Respondents") as part of the New York State Department of Environmental Conservation's (the "Department's") State Superfund Program, namely that parcel of real property located at the address of 7629 Routes 5 and 20 (Tax Map ID# 080.00-1-04.000), Town of East Bloomfield, County of Ontario, State of New York, being the same as (or part of) that property conveyed to Crosman Corporation by Crosman Products, Inc., by deed(s) dated August 27, 1990, and recorded on September 13, 1990 at the Ontario County Clerk in Liber 900, Page 1065, and being more particularly described in Schedule "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, Crosman Corporation, for itself and its successors and/or assigns, covenants that:

First, the Property subject to this Declaration of Covenants and Restrictions is as described in Schedule "A" and made a part hereof.

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," is first obtained, where contamination remains at the Property subject to the provisions of the Site Management Plan ("SMP"), including any and all Department-approved amendments to the SMP, there shall be no construction, use or occupancy of the Property that results in the disturbance or excavation of the Property which threatens the integrity of the engineering controls or which results in unacceptable human exposure to contaminated soils. An up-to-date version of the SMP may be obtained from the New York State Department of Environmental Conservation, Division of Environmental Remediation, Site Control Section, 625 Broadway, Albany, New York, 12233 or DERWEB@dec.ny.gov.

Third, the owner of the Property shall not disturb, remove, or otherwise interfere with the installation, use, operation, and maintenance of engineering controls required for

Record & Return to:
Barclay Damon LLP
2000 Five Star Bank Plaza
100 Chestnut Street
Rochester NY 14604

the Remedy, which are described in the SMP, unless in each instance the owner first obtains a written waiver of such prohibition from the Department or Relevant Agency.

Fourth, the owner of the Property shall prohibit the Property from ever being used for purposes other than for Commercial use as described in 6 NYCRR Part 375-1.8(g)(2)(iii) or Industrial use as described in 6 NYCRR Part 375-1.8(g)(2)(iv), consistent with zoning, without the express written waiver of such prohibition by the Department or Relevant Agency.

Fifth, the use of groundwater underlying the Property as drinking water is prohibited without necessary water quality treatment as determined by the New York State Department of Health or the Ontario County Department of Health to render it safe for use as drinking water, and the user must first notify and obtain written approval to so use the groundwater as drinking water from the Department; provided, however, that this prohibition is inapplicable to the continued use of the groundwater underlying the Property as non-contact cooling and process water with subsequent discharge primarily pursuant to a State Pollution Discharge Elimination System permit (presently, SPDES Permit No.: NY-0103039) to an unnamed tributary of Fish Creek, but also to an extent, with subsequent discharge to the East Bloomfield Publicly Owned Treatment Works.

Sixth, the owner of the Property shall, at such time as the Department may require pursuant to the SMP, provide a periodic certification, prepared and submitted by a professional engineer or environmental professional acceptable to the Department or Relevant Agency, which will certify that the institutional and engineering controls put in place are unchanged from the previous certification, comply with the SMP, and have not been impaired, unless one or both of the Respondents have already provided such periodic certification which has been accepted by the Department pursuant to the SMP.

Seventh, the owner of the Property shall continue in full force and effect any institutional and engineering controls required by the Remedy, which are described in the SMP, unless the owner first obtains permission to discontinue such controls from the Department or Relevant Agency, in compliance with the approved SMP, which is incorporated and made enforceable hereto, subject to modifications as approved by the Department or Relevant Agency.

Eighth, 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 Department or Relevant Agency of the prohibitions and restrictions that the Order on Consent requires to be recorded, and hereby covenant not to contest the authority of the Department or Relevant Agency to seek enforcement.

Ninth, access to the Property must be provided to agents, employees or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by this Declaration of Covenants and Restrictions.

Tenth, the potential for vapor intrusion must be evaluated for any buildings developed on the Property, and any potential impacts that are identified must be monitored or mitigated.

Eleventh, any deed of conveyance of the Property, or any portion thereof, shall recite, unless the Department or 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.

Crosman Corporation
By: [Signature]

Print Name: Daniel J. Maier

Title: Vice President of Finance Date: 05/04, 2020

Grantor's Acknowledgment

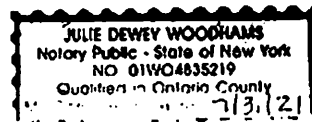
STATE OF NEW YORK)
)ss:
COUNTY OF ONTARIO)

On the 4 day of May in the year 2020, before me, the undersigned, personally appeared Daniel Maier, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

[Signature]
Signature

Notary Stamp & Expiration Date: 7/31/21

Notary Public State of New York



SCHEDULE "A"

to

**Declaration of Covenants and Restrictions
For Crosman Corporation Site
Site No. 835012****METES AND BOUNDS DESCRIPTION OF RESTRICTED PROPERTY
AS FILED IN ONTARIO COUNTY CLERK'S OFFICE
AT LIBER 900 PAGE 1065**

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, with the buildings and improvements thereon erected, situate, lying and being in the Lot Nos. 28 and 44, Township 10, Range 4, Town of East Bloomfield, County of Ontario and State of New York, bounded and described as follows:

BEGINNING at an iron pipe on the south line of New York State Highway (Routes 5 and 20), on the west line of land formerly owned by Charles Page and now reputedly owned by John Toomey, and

RUNNING THENCE South 8 degrees 32 minutes West along land reputedly owned by said Toomey, 1635.15 feet to an iron pipe at the northeast corner of land reputedly owned by David Hamlin;

THENCE North 80 degrees 26 minutes West along land reputedly owned by said Hamlin, 1231.60 feet to an iron pipe at the southeast corner of land formerly owned by Bridget McDonnell and Bertha M. McKeon and now reputedly owned by Alvin Ayres;

THENCE North 8 degrees 22 minutes East along land reputedly owned by said Ayres, 1764.70 feet to an iron pipe at the southwest corner of land formerly owned by Luella Olmstead, and now reputedly owned by Konrad Meier;

THENCE the following courses and distances along land reputedly owned by said Meier, South 81 degrees 51 minutes East 361.02 feet to an iron pipe and North 8 degrees 57 seconds East 86.55 feet to an iron pipe on the south line of the aforesaid highway;

THENCE South 66 degrees 06 minutes East along the south line of said highway, 907.40 feet to the point or place of **BEGINNING**.

**METES AND BOUNDS DESCRIPTION OF RESTRICTED PROPERTY
(AS MEASURED)
IN THE INSTRUMENT SURVEY COMPLETED BY
FISHER ASSOCIATES, P.E., L.S. OCTOBER 23, 2018
BEING AND INTENDING TO DESCRIBE THE SAME PROPERTY AS THE
ABOVE LEGAL DESCRIPTION**

All that tract or parcel of land situate in Town Lots 28 and 44, Township 10, Range 4, Town of East Bloomfield, County of Ontario, State of New York, bounded and described as follows:

Beginning at a point in the southerly highway boundary of the existing New York Route 5 and US Route 20 (99.0' wide), at its intersection with the division line between the lands now or formerly of Crosman Corporation (Tax ID No. 80.00-1-4) on the west and the lands now or formerly of Lynn Farash LLC (Tax ID No. 80.00-1-5.013) on the east; thence

1. South 00°24'24" East along the easterly line of Crosman Corporation (Tax ID No. 80.00-1-4) a distance of 1635.16 feet to a point on the division line between the lands now or formerly of Crosman Corporation (Tax ID No. 80.00-1-4) on the north and the lands now or formerly of John Lane and Kelly Lane (Tax ID No. 79.00-3-9.1) on the south; thence
2. North 89°22'24" West along the last mentioned division line, a distance of 1231.60 feet to a point on the division line between the lands now or formerly of Crosman Corporation (Tax ID No. 80.00-1-4) on the east and the lands now or formerly of Duane A. Ayers and Paulette M. Ayers (Tax ID No. 80.00-1-2.21) on the west; thence
3. North 00°34'24" West along the last mentioned division line a distance of 1764.70 feet to a point on the division line between the lands now or formerly of Crosman Corporation (Tax ID No. 80.00-1-4) on the south and the lands now or formerly of Gregory T. Hart and Melissa L Hart (Tax ID No. 80.00-1-3) on the north; thence
4. Easterly and Northerly along the last mentioned division line the following two (2) courses and distances:
 1. North 89°12'36" East, a distance of 361.02 feet to a point; thence
 2. North 00°01'36" East, a distance of 86.55 feet to a point in the southerly highway boundary of the existing New York Route 5 and 20 (99.0' wide); thence
5. South 75°01'24" East along the southerly highway boundary of the existing New York Route 5 and US Route 20 (99.0' wide), a distance of 907.38 feet to the point of beginning, being 49.684+ acres.

