



Harter Secret & Emery LLP

ATTORNEYS AND COUNSELORS

WWW.HSELAW.COM

March 28, 2017

Ms. Mary Farmer
Town Clerk
Town of Urbana
PO Box 186
Hammondsport, New York 14840

Re: Environmental Declaration of Covenants and Restrictions
Former Urbana Landfill
Crows Nest Road, Town of Urbana, County of Steuben
Tax Map No. 103-00-01-005.100

Dear Ms. Farmer:

Attached please find a copy of the environmental Declaration of Covenants and Restrictions (the "Declaration") granted to the New York State Department of Environmental Conservation (the "Department") and filed with the County of Steuben:

On March 6, 2017,
By Steven and Tammy Perkins,
for property at Crows Nest Road, Town of Urbana, County of Steuben, State of New York,
Tax Map No.: 103.00-01-005.100,
Department Site No.: #851007.

This environmental Declaration limits future use of the above-referenced properties to commercial and industrial uses. Any on-site activity must be done in accordance with the Declaration and the Site Management Plan, which is incorporated into the Declaration. Department approval is also required prior to any groundwater use.

The Department requires that:

1. Whenever the Department is granted a Declaration, it shall provide each affected local government with a copy of such Declaration and shall also provide a copy of any documents modifying or terminating such Declaration.

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Page 2

2. Whenever an affected local government receives an application for a building permit or any other application affecting land use or development of land that is subject to a Declaration and that may related to or impact such Declaration, the affected local government shall notify the Department and refer such application to the Department. The Department shall evaluate whether the application is consistent with the Declaration and shall notify the affected local government of its determination in a timely fashion, considering the time frame for the local government's review of the application. The affected local government shall not approve the application until it receives approval from the department.

An electronic version of every Declaration that has been accepted by the Department is available to the public at: <http://www.dec.ny.gov/chemical/36045.html>. Please forward this notice to your building and/or planning departments, as applicable, to ensure your compliance with the Department's requirements. If you have any questions or comments regarding this matter, please do not hesitate to contact me.

Very truly yours,

Harter Secrest & Emery LLP



Leslie M. Mauro
DIRECT DIAL: 585 231 1367
EMAIL: LMAURO@HSELAW.COM

LMM:hlh
Attachments

cc: John Grathwol, New York State Department of Environmental Conservation, Region 4
Tom Forbes, Benchmark Environmental Engineering & Science, PLLC

STEUBEN COUNTY CLERK
JUDITH M. HUNTER

Receipt

Receipt Date: 03/21/2017 12:48:02 PM
RECEIPT # 20170009402

Recording Clerk: AH
Cash Drawer: CASH3
Rec'd Frm: STEWART TITLE
Rec'd In Person

Bk/Pg: 2641/230
DOC: DECLARATION
OR Party: PERKINS STEVEN
EE Party: NONE

Recording Fees	
Cover Page	\$5.00
Recording Fee	\$55.00
Cultural Ed	\$14.25
Records Management - County	\$1.00
Records Management - State	\$4.75

DOCUMENT TOTAL: ----> \$80.00

Receipt Summary

TOTAL RECEIPT: ---->	\$80.00
TOTAL RECEIVED: ---->	\$80.00

CASH BACK: ----> \$0.00

PAYMENTS

Check # 185637 ->	\$80.00
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HARTER SECREST & EMERY LLP

DECLARATION of COVENANTS and RESTRICTIONS

COPY

JPY THIS COVENANT is made the 6 day of March 2017, by Steven and Tammy Perkins, a natural person residing at 7883 Crows Nest Road, Urbana, NY 14840 and having an office for the transaction of business at same.

WHEREAS, Urbana Landfill (Site #851007) is the subject of an Order on Consent executed by Mercury Aircraft and the Town of Urbana 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 Crows Nest Road in the Town of Urbana, County of Steuben, State of New York, being the same as (or part of) that property conveyed to Steven and Tammi Perkins by Beverly J. Rice as executor of Anna P. Smith by deed(s) dated December 20, 1991 and recorded on the January 24, 1992 in Steuben County Clerk's Office in Liber and Page 1330 and 44, 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.

JPY
NOW, THEREFORE, Steven and Tammy Perkins, for itself and its successors and/or assigns, covenants that:

First, the Property subject to this Declaration of Covenants and Restrictions is as shown on a map attached to this declaration as Schedule "B" 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"), 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. The SMP may be obtained from the New York State Department of Environmental Conservation, Division of Environmental Remediation, Site Control Section, 625 Broadway, Albany, NY 12233.

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 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 as described in 6 NYCRR Part 375-1.8(g)(2)(iii) and Industrial as described in 6 NYCRR Part 375-1.8(g)(2)(iv)**

without the express written waiver of such prohibition by the Department or Relevant Agency.

Fifth, the use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Steuben County Department of Health to render it safe for use as drinking water or for industrial purposes, and the user must first notify and obtain written approval to do so from the Department.

Sixth, the owner of the Property shall 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.

Seventh, the owner of the Property shall continue in full force and effect any institutional and engineering controls required for the Remedy and maintain such controls, 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 Consent Decree requires to be recorded, and hereby covenant not to contest the authority of the Department or Relevant Agency to seek enforcement.

Ninth, 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.

By: Steven R Perkins & Tammy H Perkins

Print Name: Steven R. Perkins & Tammy H Perkins

Title: Owners Date: 3-6-17 3/6/17

Grantor's Acknowledgment

STATE OF NEW YORK)

) s.s.:

COUNTY OF Steuben)

On the 6 day of March, in the year 2017 before me, the undersigned, personally appeared Steven & Tammy Perkins, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name 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 signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Rhonda L Billmeyer

Notary Public State of New York

Rhonda L. Billmeyer
Notary Public, State of New York
County of Steuben

My Commission Exp. 09/04/2020

01016068224

SCHEDULE "A"

Enter Property Description

SCHEDULE A

DECLARATION OF COVENANTS AND RESTRICTIONS AND ENVIRONMENTAL EASEMENT AREA SURVEYOR'S DESCRIPTION OF 14.170 ACRE PARCEL CLOSED AND CAPPED LANDFILL PARCEL (WITHIN PARCEL 1)

ALL THAT TRACT OR PARCEL OF LAND situate in Township 5 Range 2 being a portion of Great Lot 16 in the Town of Urbana, County of Steuben and State of New York bounded and described as follows:

Beginning at a point in the north line of Crows Nest Road, said point being the following courses from the centerline intersection of Crows Nest Road and Van Ness Road:

North 83°29'36" West along the centerline of Crows Nest Road a distance of 405.55 feet to a point;
North 83°07'15" West along said centerline a distance of 163.05 feet to a point;
North 79°32'49" West along said centerline a distance of 188.25 feet to a point;
North 84°16'07" West along said centerline a distance of 213.43 feet to a point;
North 81°52'43" West along said centerline a distance of 163.84 feet to a point;
North 80°01'00" West along said centerline a distance of 367.66 feet to a point;
North 03°41'25" West a distance of 25.28 feet to the true point of beginning.
Thence the following bearings and distances through lands of the grantor;
Thence North 03°41'25" West a distance of 310.39 feet to a point;
Thence North 27°00'07" East a distance of 378.35 feet to a point;
Thence North 43°28'19" East a distance of 217.96 feet to a point;
Thence North 71°57'27" East a distance of 281.15 feet to a point;
Thence South 47°37'32" East a distance of 381.30 feet to a point;
Thence South 02°23'02" West a distance of 340.11 feet to a point;
Thence South 24°31'12" West a distance of 239.95 feet to a point;
Thence South 66°41'15" West a distance of 368.70 feet to a point;
Thence North 81°52'43" West along the north line of Crows Nest Road a distance of 31.14 feet to a point;
Thence North 80°01'00" West along the north line of Crows Nest Road a distance of 367.67 feet to a point.
Thence North 81°55'37" West along the north line of Crows Nest Road a distance of 5.57' feet to the point of beginning. Comprising an area of 14.170 Acres.

Subject to all right of ways and/or easements of record. Being a portion of the premises deeded by Beverly J. Rice as executor of Anna P. Smith to Steven Perkins and Tammi Perkins on December 20, 1991 recorded in Liber 1330 Page 44.

SCHEDULE "B"

