**ENVIRONMENTAL EASEMENT CHECKLIST**

**SITE No. \_\_\_\_\_\_\_\_\_\_\_\_**

The following requirements and attachments must be included as part of the submission to the Department for an Environmental Easement. Upon completion of the review, an attorney must sign the checklist indicating that they have fully completed the checklist. The Department will not accept submissions which have not been signed as being accurate and complete by both the Remedial Party and Attorney. Where the property owner is not the Remedial Party, the Department also requires the Owner to sign the checklist.

1. **Special Circumstances**

The last owner search was completed and the deed transfer is by Quit Claim or other restricted transfer deed 􀀀 Yes 􀀀 No

The property in the Brownfield Cleanup Agreement includes lands under water 􀀀 Yes 􀀀 No

The property has multiple owners 􀀀 Yes 􀀀 No

If you answered “Yes” to any of these items, contact the Department’s Environmental Easement contact person for a determination as to whether further title work is necessary.

1. **Verification of ownership of the property**

* Authorized “Person” is signatory on the Easement.
* Current Deed has been reviewed and correct name of owner has been verified.
* Verification reviewed and included for authority to sign Easement.
* Updated copies of legal organizational documents have been reviewed and are included. Examples of the appropriate documentation will include, for:
* corporations: articles of incorporation, organizational agreements, minutes of annual meetings, resolutions, authorities for signature;
* partnerships: a copy of the partnership agreement; verification that necessary parties are participating in the Easement;
* trusts: trust agreement, affidavit of no change in the trust; and
* estates: estate letters, powers of attorney.

1. **Verification of Property Subject to Easement**

* Description of the property in the Easement and DEC Agreement/Order/SAC matches description of property in the deed, (Separate submittal must be included to explain to the satisfaction of the Department why there is any discrepancy). .
* The Tax Map identifier (SBL) matches on all documents.

1. **Survey Review**

* Survey includes metes and bounds description.
* Survey includes a graphic scale.
* Survey includes physical Address and is consistent with the DEC Agreement/Order/SAC.

**5) Review of Easement**

􀀀 Attorney certifies Easement is in the form provided by the Department and that entries

have been made only in those sections where authorized.

􀀀 Verification that the proper party has signed the Easement. Acknowledgement is in the

proper form, notary stamp is clear and has a current expiration date.

􀀀 Name, property address, SBL, engineering controls/institutional controls, SMP references

and any information that was inserted into the Easement form has been verified as correct

and accurate.

􀀀 Two original Easements have been signed by the proper party.

**6) Submissions**

􀀀 The Environmental Easement Package being submitted to the Department includes the

applicable documents set forth in Attachment A.

**PLEASE READ THE FOLLOWING CAREFULLY**

The Owner and the Owner’s attorney understand and acknowledge that the New York State Department

of Environmental Conservation will rely on each and every answer in this statement: (1) to determine

whether the Easement Package can be reviewed in a timely fashion; and (2) to determine whether the

Easement Package should be approved. The Owner and the Owner’s attorney understand and

acknowledge that any false statement or misrepresentation herein will constitute cause for the revocation

of the Certificate of Compliance issued in reliance on this checklist and accompanying documentation.

The Owner and the Owner’s attorney further acknowledge that the failure to provide the Department

with valid and enforceable Environmental Easement on the property may be grounds for the Department

to revoke any Certificate of Completion for the site..

1. **Review of Title Commitment**

* Title Commitment is no more than 6 months old.
* Title Commitment expressly identifies the correct owner of the property (see Section 1).
* Title commitment is reviewed to determine all others with an interest in the property (See Schedules A and B of the Title Commitment).
* Certification Page verifies who is in Title and it is precisely the same person/entity that will execute the Easement.
* Schedule A has been reviewed and the correct legal description has been reviewed and compared with the deed and survey to resolve any discrepancies.
* Schedule B has been reviewed:
* for exceptions, which must be satisfied;
* to assure that copies of all encumbrances are attached to the title report, or identified so notices can be sent;
* to assure that any judgments, tax warrants, have been satisfied or disposed of, and documentation that they have been satisfied or disposed of is provided;
* to assure that all proof requirements (i.e. death certificate, certificate of incorporations, estate papers, powers of attorney, etc.) have been satisfied and documentation is provided; and
* for mortgages on the property, to assure that all have been identified.
* Proposed title insurance policy is underwritten by a NYS licensed title insurance company.
* Title Insurance is in the amount of at least $35,000 with the State (The People of the State of New York acting through their Commissioner of the Department of Environmental Conservation) listed as the insured.
* **Title insurance insures the specific property covered by the Easement, not necessarily all the property subject of the NYSDEC agreement, therefore the description of the surveyor is crucial and must be on the face of the survey.**
* Title Company and attorney certify that the signatures of the identified grantors on the Easement satisfy the legal requirements to provide the State with an Environmental Easement.
* Title Company letter is included that it will issue the policy upon either the time that Easement is delivered, or recorded, depending on the County requirements.

1. **Review of Easement**

* Attorney certifies Easement is in the form provided by the Department and that entries have been made only in those sections where authorized.
* Draft notice and list of parties required to be mailed to match those appearing under Schedule “B” exceptions. The information to be included both in the draft notice sent for review and to the actual notice sent out to parties are (a) the exception number and (b) the recorded information such as liber and page or instrument number, etc. List of parties is complete and consistent with Title report.
* Verification that proper party has signed the Easement.
* Acknowledgement is in the proper form, notary stamp is clear and has a current expiration date.
* Name, property address, SBL, engineering controls/institutional controls, SMP references and any information that was inserted into the Easement form has been verified as correct and accurate.
* Two original Easements have been signed by the proper party.
* Once recorded, the attorney certifies that the appropriate information will be put on the notices and the notices will be served on all parties identified in the title report within 60 days and the proof of service and notices will be provided to NYSDEC within 90 days. In addition a copy of the notice and certification of service on the parties will be filed in the County Clerk’s office.

1. **Submissions**

* The Environmental Easement Package being submitted to the Department includes the applicable documents set forth in Attachment A.

**PLEASE READ THE FOLLOWING CAREFULLY**

The Remedial Party and the Remedial Party's attorney and Owner, all understand and acknowledge that the New York State Department of Environmental Conservation will rely on each and every answer in this statement: (1) to determine whether the Easement Package can be reviewed in a timely fashion; and (2) to determine whether the Easement Package should be approved. The Remedial Party and the Remedial Party's attorney further understand and acknowledge that any false statement or misrepresentation herein will constitute cause for the revocation of the Certificate of Compliance issued in reliance on this checklist and accompanying documentation.

**Statement of Accuracy and Signatures**

I have reviewed the information being submitted in relation to this Environmental Easement and this information, to the best of my knowledge and belief, is accurate and correct.

1) By Remedial Party’s attorney:

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2) By Remedial Party:

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_ Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3) By Owner (where Owner is not the Remedial Party):

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_ Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attachment

**Attachment A**

Documents required for a complete Environmental Easement package:

1. Copy(ies) of current deed(s).
2. Copy of Tax map.
3. Complete title report (commitment), current within the last six months.
4. Title Company letter that it will issue policy/Pro forma Policy.
5. All documentation needed to resolve any remaining title exceptions.
6. Complete list of all parties that will be sent notice in lieu of subordinations, including a copy of the draft notice.
7. Two original easements and an electronic version submitted to both the project manager and project attorney.
8. Proof of authority to obligate owner of property as set forth in “Verification of ownership of property” on the Easement checklist.
9. Legal description of the easement area in a Department approved electronic form (i.e., Word).
10. Signed Survey, two full size copies; one to be attached to the SMP and one for OGC; and an electronic survey for review to both the project manager and project attorney.
11. Attorney Checklist with certification signed by attorney and owner.