

---

In the Matter of the Investigation and  
Remediation of Real Property Pursuant to  
Article 12 of the Navigation Law, by the

**AGREEMENT FOR  
DISTRIBUTION OF  
PROCEEDS FROM TAX  
FORECLOSURE SALE**

**COUNTY OF STEUBEN**

---

**WHEREAS:**

1. The New York Environmental Protection and Spill Compensation Fund (the "Fund") was created by Navigation Law § 179. The Administrator of the Fund is authorized to settle claims on behalf of the Fund. (Navigation Law §180).

2. The County of Steuben ("County") is a county, as defined in County Law § 3, with its principal place of business located at Steuben County Office Building, 3 East Pulteney Sq., Bath NY 14810

3. Pursuant to Navigation Law Article 12, the Fund has expended cleanup and removal costs at the following property located in Steuben County:

"Dolliver Site"

- Owner: Karen B. Dolliver
- Address: 11998 State Route 63, Wayland, New York 14572
- Tax Map #: 014.00-02-003.000
- DEC Spill No: 16-03133 Fund PIN #: 08265
- Fund cleanup and removal costs: \$19,275.34
- Spill Cleanup Status: Closed

4. Navigation Law § 173 prohibits the discharge of petroleum, and Navigation Law § 181 provides that any person who discharges petroleum shall be strictly liable, without regard to fault, for all cleanup and removal costs.

5. The County is owed real property and school taxes, together with, as applicable, accrued interest and penalties, as of June 30, 2023, with respect to the Dolliver Site in the amount \$101,858.14.

6. The County has commenced and desires to complete an In Rem Tax Foreclosure proceeding ("Foreclosure Proceeding") pursuant to Real Property Tax Law ("RPTL") Article 11 with respect to the Dolliver Site.

7. The County is desirous of completing the Foreclosure Proceeding in order to return the Dolliver Site to the active tax rolls and obtain payment of some or all of the amounts owed for back taxes, fees, interest and penalties, but is concerned that, should the County take title to the Dolliver Site, the County may be deemed a responsible party under the strict liability provisions of Navigation Law Article 12.

8. To date, the Fund has no knowledge of any fact which indicates that the County is a responsible party under the strict liability provisions of Navigation Law Article 12 with respect to the Dolliver Site.

9. The Fund and the County, therefore, agree that this Agreement is warranted in order to achieve the following goals:

- a. Pursuant to Section III of this Agreement, Release of the County and its eligible successors and assigns, as defined in Section III from any and all liability relating to the Dolliver Site; and
- b. Distribution of auction sale proceeds obtained pursuant to the Foreclosure Proceeding conducted pursuant to RPTL Article 11 in consideration of a release of liability in accordance with Section III of this Agreement.

**NOW THEREFORE**, the Fund and the County agree as follows:

**I. Payment**

In consideration of this Agreement, the County shall pay to the Fund, with respect to each of the Spill Sites, a non-refundable payment of fifty percent (50%) of the auction sale price, at the time of the tax auction sale for the Dolliver Site, after taking title to the Dolliver Site in the Foreclosure Proceeding. Said payments will be made by the County within sixty (60) days following the County's tax auction sale and the completion of the sale of the Dolliver Site. Such payment shall be made payable to "Comptroller, State of New York" and the check memo line shall reference the Spill No. 16-03133, associated with the Dolliver Site. Said payment shall be delivered to the Fund in accordance with Section VI of this Agreement.

**II. Foreclosure Proceedings**

- A. To the extent allowed under Law and provided the County does not determine it should withdraw the Dolliver Site from the foreclosure pursuant to RPTL 1138, the County will complete an arm's length Foreclosure Proceeding pursuant to RPTL Article 11 as to the Dolliver Site. If the County does not complete the foreclosure proceeding and take title to the Dolliver Site, this Agreement shall terminate and there shall be no further obligation or liability to either party by reason of this Agreement with respect to the Dolliver Site.
- B. The County will, if title the Dolliver Site is acquired, hold a Public Auction by public outcry to the highest bidder on or about July 12, 2023 or at a subsequent date or by private sale with respect to the Dolliver Site. There will be no minimum bid required and the County may auction other properties, if any, at the same time, the proceeds of

which will not be subject to this Agreement. Unless sold by private sale, the County agrees that it will include the Dolliver Site in each of its Public Auctions until the Dolliver Site is sold.

- C. The County Board of Legislators has declared by local law that upon the final sale of any property at the Public Auction or by private sale, no further approval by the County is required.
- D. The purchaser of the Dolliver Site shall be required to execute a sworn affidavit attesting to the fact that said purchaser has no relationship, whether a business, contractual, familial or agency, with any of the parties deemed responsible according to applicable principles of statutory or common law for the discharge of petroleum on or at the Dolliver Site.
- E. Any release to the purchaser of the Dolliver Site, as specified in Section III of this Agreement, is conditioned on the purchaser of the Dolliver Site cleaning up and removing all solid waste.
- F. The County shall not deliver the tax deed to the purchaser of the Dolliver Site until the proceeds of the sale have been paid to the Fund pursuant to the terms of this Agreement.

### III. Release of Liability

- A. Upon completion of the Foreclosure Proceeding and after compliance by the County with Sections I and II.D of this Agreement, the Fund hereby, acquits, and forever discharges the County, its officers, employees, or agents from any legal or equitable rights, claims, actions, proceedings, suits, causes of action, liabilities or demands

which the State asserted or could have asserted against the County, for the cleanup and removal costs incurred by the State through the date of this Agreement, including interest thereon and applicable penalties, which specifically relate to the discharges of petroleum product known as Spill No. 16-03133.

- B. The releases set forth in Paragraphs 1 and 4 of this Section III of this Agreement shall extend to the successors or assigns of the County (hereinafter, "eligible successors and assigns"); provided, however, that it shall not extend, nor can it be transferred to any successors or assigns of the County who are persons deemed responsible according to applicable principles of statutory or common law or to a person with interest by either a business, contractual, familial or agency, relationship for the discharges of petroleum at the Dolliver Site.
- C. The Fund makes no agreements, promises, covenants, representations, or warranties regarding the past, present or future condition of the Dolliver Site, including but not limited to any contamination, or other effects, resulting either directly or indirectly from discharges at the Dolliver Site.
- D. By this Agreement, the Fund releases the County and any eligible successors and assigns from any and all claims, losses, costs and expenses, and liabilities, direct or indirect, that can be made by the State now or in the future under Article 12 of the Navigation Law or under any other State law, rule or regulation for clean-up costs associated with, arising out of, and/or relating to the condition of the Dolliver Site, including but not limited to any and all discharges occurring at or on or which existed at the Dolliver Site, prior to the date the County becomes the owner of the Dolliver

Site by reason of the Foreclosure Proceeding.

- E. The County and any eligible successors and assigns shall not have any responsibility for payment of any environmental liens which may have been filed against the Dolliver Site and the Fund agrees to issue a release of any environmental lien which has been filed against the Dolliver Site.
- F. The Fund further agrees that it shall not file any additional environmental liens against the Dolliver Site after the NYSDEC performs future remediation at the Dolliver Site or, if necessary, on adjacent properties.

IV. Reservation of Rights

- A. Except as provided in Section III of this Agreement, nothing contained in this Agreement shall be construed as barring, diminishing, adjudicating, or in any way affecting the rights of the Fund with respect to any party other than the County and its eligible successors and assigns with respect to the petroleum discharges at or migrating from the Dolliver Site.
- B. The Fund explicitly reserves all rights with respect to any person, including the County and its successors or assigns, who is responsible according to applicable principles of statutory or common law for any discharge of petroleum occurring at or on the Dolliver Site after the date upon which the County takes title to the Dolliver Site.

V. Miscellaneous

- A. By entering into this Agreement, the County certifies that, to the best of its knowledge and belief, it has not caused or contributed to a discharge of petroleum

the Dolliver Site.

- B. If the Fund determines that the information provided by the County is not materially accurate or complete or if the County otherwise fails to carry out its obligations under this Agreement, then this Agreement may be declared null and void and all rights that the Fund may have against the County shall thereby be reinstated.
- C. The County, for itself and its employees, agents, lessees, successors and assigns, affirmatively waives any right to make a claim against the Fund pursuant to Navigation Law Article 12 with respect to discharges at the Dolliver Site and hereby releases the State of New York from any and all present or future claims, with respect to discharges at the Dolliver Site.
- D. The provisions of this Agreement do not constitute and shall not be deemed a waiver of any right the County otherwise may have to seek and obtain contribution and/or indemnification from other potentially responsible parties or their insurers, or the County's insurers, for payments made previously or in the future for cleanup and removal costs.
- E. If any party to this Agreement desires that any provision of the Agreement be changed, that party shall make timely written application to all other parties to the Agreement, which application shall set forth the grounds for the relief sought.
- F. No term, condition, understanding or agreement purporting to modify or vary any term of this Agreement shall be binding unless made in writing and subscribed by all parties to the Agreement. No informal advice, guidance, suggestion or comment by the Fund regarding any report, proposal, plan, specification, schedule or any other

submittal shall be construed as relieving the County of the County's obligation to obtain such formal approvals as may be required by this Agreement.

G. The effective date of this Agreement shall be the date that the signature of the duly designated representative of the last of the parties thereto is affixed.

VI. Communications

All written communications required by this Agreement shall be transmitted by United States Postal Service, by private courier service, or hand delivered to the following and may, in addition, be made by electronic means:

*To the Fund:*

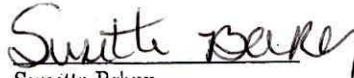
Patrick J. Holloway, Manager  
New York Environmental Protection and  
Spill Compensation Fund  
Office of the State Comptroller  
110 State Street  
Albany, New York 12236

*To the County:*

Jennifer Prossick  
County Attorney  
County Attorney's Office  
Steuben County Office Building  
3 East Pultency Square  
Bath, NY 14810

NEW YORK ENVIRONMENTAL  
PROTECTION AND SPILL  
COMPENSATION FUND  
Office of the New York State Comptroller  
110 State Street, 8<sup>th</sup> Floor  
Albany, New York 12236

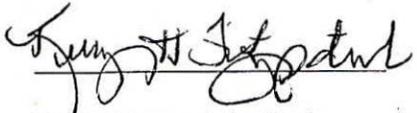
By:

  
Suzette Baker

Dated: July 24, 2024  
Albany, New York

**CONSENT BY COUNTY**

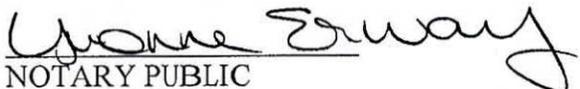
The County of Steuben hereby consents to the entering of this Agreement and agrees to be bound by the terms and conditions of this Agreement.

By:   
Title: Kelly Fitzpatrick, Chair  
County of Steuben Board of Legislators

Dated: July 3, 2024

STATE OF NEW YORK  
COUNTY OF STEUBEN

On this 3<sup>rd</sup> day of July \_\_, 2024, before me the undersigned, a Notary Public in and for said State, personally appeared Kelly Fitzpatrick, Chair of the Board of Legislators of Steuben County, 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 she executed the same in her capacity, and that by her signature on the instrument, the individual or the person or entity upon behalf of which the individual acted, executed this instrument.

  
NOTARY PUBLIC

YVONNE ERWAY  
NOTARY PUBLIC #01ER6153706  
State of NY, County of Steuben  
My commission expires October 16, 2026

**RESOLUTION  
STEUBEN COUNTY LEGISLATURE  
BATH, NEW YORK**

DATE APPROVED : 06/26/2023  
 PERM. NO. : 128-23

INTRO. NO. : 5-4  
 INTRO. DATE: 06/26/2023

INTRO. BY : G. Swackhamer                      SECONDED BY : A. Mullen

**VOTE:**

|             |               |         |                  |           |               |        |               |
|-------------|---------------|---------|------------------|-----------|---------------|--------|---------------|
| ROLL CALL   | <u>  X  </u>  | YES     | <u> 8831 </u>    | AMENDED   | <u>      </u> | LOST   | <u>      </u> |
| ADOPTED     | <u>  X  </u>  | NO      | <u>      0  </u> | TABLED    | <u>      </u> | W/DRWN | <u>      </u> |
| ACCLAMATION | <u>      </u> | ABSTN'D | <u>      0  </u> | POSTPONED | <u>      </u> |        | <u>      </u> |
|             |               | ABSENT  | <u>  527  </u>   | REF'D/COM | <u>      </u> |        | <u>      </u> |

**COMMITTEES:**

Finance      Y:   5        N:   0                        Y:             N:                             Y:             N:       

**TITLE:            AUTHORIZING THE CHAIRMAN TO SIGN AN AGREEMENT WITH THE NEW YORK ENVIRONMENTAL PROTECTION, SPILL COMPENSATION FUND REGARDING CERTAIN TAX DELINQUENT PROPERTIES IN STEUBEN COUNTY.**

**WHEREAS**, Steuben County has one (1) current tax delinquent property that tax foreclosure proceedings have been commenced against identified as follows:

1.     Owner:            Karen B. Dolliver  
                           11998 State Route 63  
                           Wayland, NY 14572  
                           TM #: 014.00-02-003.00

; and

**WHEREAS**, in order to facilitate redevelopment of the Site, the County desires to enter into an agreement with the Fund wherein the Fund would release its potential claims against the County, for past and future cleanup and removal costs incurred by the State, including interest thereon and applicable penalties prior to the County taking title to the Sites through tax foreclosure in consideration for fifty percent (50%) of any sale price at the foreclosure auction; and

**WHEREAS**, any release provided by the Fund to the County shall extend to the County's eligible successors or assigns with respect to each of the Sites, however, such release shall not extend, nor can it be transferred to any successors or assigns of the County at the Sites, if such successors in title are persons deemed legally responsible for the discharge of petroleum at the Sites, respectively.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Legislators authorizes the Chairman to sign an agreement with the New York Environmental Protection and Spill Compensation Fund, and any other agreements necessary, for these tax delinquent properties in Steuben County, upon approval of the County Attorney; and be it further

**RESOLVED**, certified copies of this resolution shall be forwarded to the Commissioner of Finance and the County Attorney.

STATE OF NEW YORK)                      ss.:  
 COUNTY OF STEUBEN)

I, the undersigned, Clerk of the Steuben County Legislature, DO HEREBY CERTIFY, that the foregoing is a copy of a resolution duly adopted by said County Legislature while in session in the Legislative Chambers in the Village of Bath, New York, June 26, 2023; that it is a correct transcript therefrom and of the whole of said original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and the seal of the said County Legislature at Bath, New York, June 29, 2023.


---

In the Matter of the Tax Sale Purchase of Property  
located at, **1998 State Route 63, Town of Wayland**  
Steuben County, New York  
Tax Map No. **014.00-02-003.000**

---

**AFFIDAVIT**

STATE OF NEW YORK )

ss.:

COUNTY OF STEUBEN )

\_\_\_\_\_, being duly sworn, deposes and says:

1. I am the purchaser of property located at 1998 State Route 63, Town of Wayland, Steuben County, New York and designated as Tax Map #: 014.00-02-003.000 (hereinafter, "Tax Sale Parcel") sold at the Steuben County tax sale auction on October \_\_\_\_, 2024.
2. I understand the New York State Environmental Protection and Spill Compensation Fund expended cleanup and removal costs in the amount of \$19,275.34 on the Tax Sale Parcel related to DEC Spill Number 16-03133, Fund PIN number 08265 and the spill cleanup status is now "closed."
3. I understand that the Tax Sale Parcel is subject to a specific Agreement between the County of Steuben and the New York State Environmental Protection and Spill Compensation Fund executed on July 24, 2024 and a copy of the executed Agreement was included in the 2024 Steuben County Delinquent Real Property Tax Auction book.
4. I have no relationship, whether business, contractual, familial or agency, with any party or parties which are or may be deemed responsible (according to applicable principles of statutory or common law) including, but not limited to, Karen B. Dolliver a/k/a Dolliver Property and all relevant predecessors in title, for any release or discharge of petroleum at or on the Tax Sale Parcel, as of the date of the tax sale purchase on October \_\_\_\_, 2024.
5. I further understand the sale of the Tax Sale Parcel is conditioned upon the purchaser

cleaning up and properly removing all solid waste, as described in Appendix A of the Notice to Bidders & Terms of Sale 2024 Steuben County Delinquent Real Property Tax Auction book. I understand that in order to encourage compliance with this term, the successful bidder must place on deposit with the County a sum of \$12,500. Said deposit is above and beyond the hammer price at the auction and will be held in escrow by the County until such time as a County representative inspects the Tax Sale Property and determines that all visible solid waste located at the property has been properly removed and lawfully disposed of at an appropriate solid waste disposal facility. Should the solid waste remain on the property twelve months subsequent to the date of the deed granting title to the successful bidder, said deposit will be forfeited to the County. Be on notice that the terms and requirements of this Paragraph 5 shall not affect, modify or negate the successful bidder's legal duties or obligations under applicable state and local laws or regulations with respect to the solid wastes located on the Tax Sale Parcel.

6. I declare under penalty of perjury, under the laws of the State of New York, that all statements contained above and any accompanying documents are true and correct, with full knowledge that all statements made herein are subject to investigation and that any false or fraudulent statements may be subject to penalties or imprisonment for up to 1 year.

\_\_\_\_\_  
Purchaser signature

\_\_\_\_\_  
Print name

Sworn to before me this  
\_\_\_\_ day of October 2024

\_\_\_\_\_  
Notary Public