**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**
**STATE SUPERFUND PROGRAM**
ECL §27-1301 *et seq.*

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In the Matter a Remedial Program for

**ORDER ON CONSENT AND ADMINISTRATIVE SETTLEMENT**
**Index No. CO 4-20160212-18**

**PFOA impacting the Village of Hoosick Falls Municipal Water Supply, private drinking water wells in the Town of Hoosick,**

and

**DEC Site Name:** **Saint-Gobain McCaffrey Street**
DEC Site No.: 442046
Site Address: 14 McCaffrey Street
Hoosick Falls, NY 12090
Rensselaer County

Hereinafter referred to as "McCaffrey Site" or "Site"

and

**DEC Site Name:** **Saint-Gobain Liberty Street Site**
DEC Site No.: 442048
Site Address: 1 Liberty Street
Hoosick Falls, NY 12090
Rensselaer County

Hereinafter referred to as "Liberty Site" or "Site"

by: Saint-Gobain Performance Plastics Corporation

and

Honeywell International Inc.

Hereinafter referred to as "Respondent" or "Respondents"

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1. A. The New York State Department of Environmental Conservation ("Department" or "DEC") is responsible for inactive hazardous waste disposal site remedial programs pursuant to Article 27, Title 13 of the Environmental Conservation Law ("ECL") and Part 375 of Title 6 of the Official Compilation of Codes, Rules and

Regulations ("6 NYCRR") and may issue orders consistent with the authority granted to the Commissioner by such statute.

B. The Department is responsible for carrying out the policy of the State of New York to conserve, improve and protect its natural resources and environment and control water, land, and air pollution consistent with the authority granted to the Department and the Commissioner by Article 1, Title 3 of the ECL.

C. This Order is issued pursuant to the Department's authority under, *inter alia*, ECL Article 27, Title 13 and ECL 3-0301.

2. By letter dated January 27, 2016, New York State Department of Health Commissioner Howard A. Zucker requested that the Department list perfluorooctanoic acid (PFOA) as a hazardous substance under 6 NYCRR Part 597.

3. On January 27, 2016, the Department added PFOA to the 6 NYCRR 597.3 list of hazardous substances by emergency regulation, thereby making PFOA a hazardous waste as defined by ECL 27-1301.1 and 6 NYCRR 375-1.2(w) during the period of such temporary emergency regulation and any re-adoption of same. The Department intends to promulgate a final rule making PFOA a 6 NYCRR 597.3 hazardous substance.

4. A. PFOA was detected in the Village of Hoosick Falls' ("Village") public drinking water supply wells, and the Village conducted a pilot study which demonstrated that granulated active carbon treatment effectively removed PFOA from the Village's water.

B. New York State Department of Health ("DOH") has commenced sampling of private water wells and the Department has commenced installation of Point-of-Entry Treatment ("POET") systems on private drinking water systems in and around the Town of Hoosick for any resident who requests a system.

C. Respondents and New York State, through the Department, and DOH, are committed to coordinating with the Village, the Town of Hoosick, and the USEPA in order to protect human health and the environment, provide drinking water that meets all applicable guidelines, rules, and regulations to residents, and protect groundwater in the region in as expedited a manner as possible.

5. Saint-Gobain Performance Plastics Corporation ("Respondent Saint-Gobain") is a California corporation doing business in the State of New York.

6. Respondent Saint-Gobain owns and operates the following properties in the Village, Town of Hoosick, Rensselaer County: a 6.44 acre facility at 14 McCaffrey Street with a Tax Map/Parcel Number of Section 37.6, Block 3, Lot 1 (McCaffrey Site) and an 11.4-acre facility at 1 Liberty Street (Liberty Site) with a Tax Map/Parcel Number

of Section 27.10, Block 9, Lot 20 (collectively the "Sites"). Maps showing the location of the Sites are attached as follows: McCaffrey Site is Exhibit A-1 and Liberty Site is A-2.

7. Respondent Honeywell International Inc. ("Respondent Honeywell") is a Delaware corporation whose predecessors, Allied-Signal Inc. and/or AlliedSignal Laminate Systems, Inc., owned and/or operated the Sites and other industrial facilities in and around the Village of Hoosick Falls.

8. The McCaffrey Site is currently listed in the Registry of Inactive Hazardous Waste Disposal Sites in New York State ("Registry") as Site Number 442046 with a Classification of 02 pursuant to ECL 27-1305.

9. The Department has not currently listed the Liberty Site in the New York State Registry of Inactive Hazardous Waste Disposal Sites ("Registry"), but has designated it Site Number 442048 and classified it as a potential site or "p-site," meaning that preliminary information suggests that the site and surrounding areas may be contaminated and that a Site Characterization is necessary.

10. The Village Municipal Water Supply ("MWS") is an off-site area impacted by PFOA contamination alleged by the Department to be associated with one or more inactive hazardous waste disposal sites, currently identified or unidentified, located in the Village and its vicinity.

11. Respondent Saint-Gobain, the DOH and the Village have been negotiating the terms of a commitment to undertake Interim Remedial Measures ("IRMs") to address PFOA contamination impacting the MWS.

12. The State has incurred costs in addressing PFOA contamination impacting the MWS. Additionally, the State has incurred costs in sampling private water wells and installing Point-of-Entry Treatment (POET) systems on private drinking water systems.

13. The presence of PFOA in private drinking water wells is alleged by the Department to be an off-site area impacted by PFOA contamination associated with one or more hazardous waste disposal sites, currently identified or unidentified, located in the Village and its vicinity.

14. Respondents consent to the issuance of this Order without (i) an admission or finding of liability, fault, wrongdoing, or violation of any law, regulation, permit, order, requirement, or standard of care of any kind whatsoever; (ii) an acknowledgment that there has been a release or threatened release of hazardous waste at or from the Sites or any other industrial facilities now or formerly owned or operated by Respondents, either identified or unidentified; and/or (iii) an acknowledgment that a release or threatened release of hazardous waste at or from the Sites constitutes a significant

threat to the public health or environment.

15. Solely with regard to the matters set forth below, Respondents hereby waive any right to a hearing as may be provided by law, consent to the issuance and entry of this Order, and agree to be bound by its terms. Respondents consent to and agree not to contest the authority or jurisdiction of the Department to issue or enforce this Order, and agree not to contest the validity of this Order or of its terms or the validity of data submitted to the Department by Respondents pursuant to this Order.

**NOW**, having considered this matter and being duly advised, **IT IS ORDERED THAT**:

I. Real Property

The locations addressed by this Order are the McCaffrey Site and Liberty Site. In addition, provisions are made to address the MWS and the private drinking water wells in the Town of Hoosick and Village of Hoosick Falls.

II. Initial Work Plans and Commitments

The elements of a full remedial program for an inactive hazardous waste disposal site are set forth in Appendix A of this Order ("Appendix A"). Initial elements of the work to be carried out pursuant to this Order are set forth in this Section. DEC shall have no authority under this Order to require Respondents to perform any work other than as expressly set forth herein, including Appendix A.

A. McCaffrey Site

1. The McCaffrey Site has been designated a "significant threat to public health or the environment." Therefore, one of the initial elements of work to be undertaken pursuant to this Order is a Remedial Investigation/Feasibility Study for the McCaffrey Site.

2. A proposed Remedial Investigation/Feasibility Study ("RI/FS") work plan shall be submitted to the Department within thirty (30) days after the effective date of this Order. The Department will make a good faith effort to provide comment to the Respondents within 30 (thirty) days of the work plan being submitted to the Department. Upon the Department's approval of the Work Plan, Respondents shall implement the Work Plan in accordance with the provisions of Paragraphs III.A and III.B of Appendix A.

The RI/FS Work Plan will include, but not be limited to, a study and assessment ("Study") of alternatives to eliminate or reduce PFOA in the MWS in the Village of Hoosick Falls. The Study will evaluate at least the following alternatives:

1. Creation of an alternate water supply for the Village of Hoosick Falls, including, but not limited to, a new well field, a surface water supply source, and interconnection with an existing municipal water supply system, or any combination of those alternatives;
2. Remediating and or treating the sources of PFOA to the groundwater and the MWS;
3. Upgrading the existing MWS beyond the Full Capacity System;
4. Continuation of the existing IRMs, including a full capacity GAC treatment system to address PFOA in the MWS for the permitted maximum daily flow ("Full Capacity System"); and
5. No Further Action.

The Respondents shall contract to conduct this Study with a contractor approved by the Department.

3. Upon the Department's approval of an RI/FS Work Plan, Respondents shall implement the Work Plan in accordance with the provisions of Paragraph III.A and III.B of Appendix A to this Order.

B. Liberty Site

1. A Proposed Site Characterization work plan for the Liberty Site shall be submitted to the Department within forty-five (45) days after the effective date of this Order. The Department will make a good faith effort to provide comment to the Respondents within 30 (thirty) days of the work plan being submitted to the Department. Upon the Department's approval of the Work Plan, Respondents shall implement the Work Plan in accordance with the provisions of Paragraph III.B of Appendix A.

2. If the Department lists the Liberty Site on the Registry with a "2" classification, Respondents shall undertake a Remedial Investigation/Feasibility Study for the Site in accordance with the terms of this Order.

C. IRM - Village of Hoosick Falls Municipal Water Supply Emergency Measures

1. a. Respondent Saint-Gobain has paid for the design and installation of a temporary granular activated carbon (GAC) water treatment system to address PFOA in the Village's municipal water supply system ("Temporary System"). The Temporary System was selected and designed as the best available technology to reach the lowest achievable levels of PFOA. The Temporary System is now fully operational and DOH announced on March 30, 2016 that repeated testing of the MWS shows non detection of PFOA. Respondents shall pay for all costs associated with the continued operation, monitoring and maintenance, and any additional modifications thereto, of the Temporary System by the Village until a full capacity treatment system is installed as per

Subparagraph 1.b below, as well as any outstanding installation costs. The State, and/or the Village, pursuant to DOH direction, intends to continue to monitor and sample the Temporary System. Respondents shall cooperate with the Village to assess and make appropriate modifications to ensure continued operation of the System.

b. Respondent Saint-Gobain shall cooperate with the Village regarding design, installation and operation of a full capacity GAC treatment system to address PFOA in the MWS for the permitted maximum daily flow ("Full Capacity System"). The design of the Full Capacity System was completed and was approved by DOH by letter dated April 5, 2016. The Full Capacity System was selected and designed as the best available technology to reach the lowest achievable levels of PFOA. It is expected that the Full Capacity System will be fully operational by December 31, 2016, subject to approval for use by DOH. Respondents shall request approval from DOH for use of the Full Capacity System ("Use Approval Request"). Prior to receiving DOH's approval of the Use Approval Request, and in no event later than November 18, 2016, Respondents shall submit to DEC and DOH an approvable sampling, monitoring, and carbon replacement protocol (Protocol Work Plan) for the Full Capacity System, which may be incorporated into a Site Management Plan. The Protocol Work Plan shall include an evaluation of all available monitoring data for, and experience with GAC systems on the Village's public water supply system, and shall provide for sampling at the water treatment plant at three locations - prior to the carbon filter system, in between the lead and lag filters, and after the lag filter - on a monthly basis at a minimum. All sampling data shall be made available to the public in a timely manner. Respondents shall pay, on a timely basis, for all costs associated with the design, installation, operation, monitoring and maintenance and any necessary additional modifications or assessments of the Full Capacity System, and all additional incidental operation and maintenance costs of the MWS caused by the installation of Full Capacity System. All submittals pursuant to this Subsection II.C.1.b shall be deemed submittals to DEC pursuant to this Order.

c. Respondents each reserve its rights to seek reimbursement for all costs it incurs associated with the Temporary System and the Full Capacity System against any and all other parties responsible under any and all applicable law.

D. <u>IRM - Temporary Provisions of Alternate Water</u>

1. Since November 2015, Respondent Saint-Gobain has been providing bottled water to residents of the Village and Town of Hoosick. Respondents will continue to pay to provide residents of the Village of Hoosick Falls with bottled water free of charge at the Tops Friendly Markets grocery store located at 21501 NY State Route 22, Hoosick Falls, NY 12090 ("Tops") until the Full Capacity System is installed and operational. In addition, Respondents will continue to pay to provide residents of the Town of Hoosick with bottled water free of charge at Tops provided such resident has requested a POET and such system is not yet operational. Pursuant to the

program, eligible residents of the Village and the Town of Hoosick Falls may receive up to, but not in excess of, five gallons of bottled water per day/per household. Respondents shall pay Tops directly for all such water. Respondents are not obligated under this Agreement to pay for any water that is obtained at any location other than Tops, unless the Respondents and the Village agree to additional providers in writing. To the extent certain Village and/or Town residents or businesses require more than five gallons of bottled water per day/per household, Respondents agree to provide additional water after a request and justification has been submitted to and approved by the Village Clerk. Respondents shall provide bottled water delivery services to aged and infirm Town of Hoosick and Village residents after a request and justification has been submitted to and approved by the Village Clerk.

2. Alternative Water for Certain Businesses/Facilities

a. The following businesses and other facilities connected to the MWS have been provided with a POET water system: Bagels & Brew Café, 30 Elm Street, Hoosick Falls, NY; St. Mary's Academy, 4 Parsons Avenue, Hoosick Falls, NY; The Center for Nursing and Rehabilitation, 21 Danforth Street, Hoosick Falls, NY; The Danforth Adult Care Center, 19 Danforth Street, Hoosick Falls, NY; Hoosick Falls Country Club; Bobinski Dental, Classic Street, Hoosick Falls, N.Y.; and Society of Saint Stanislaw, 12 Mechanic Street, Hoosick Falls, N.Y. Respondents will pay the full costs of maintenance until the Full Capacity System has been installed and approved for use by DOH. Respondents will pay for the full costs of removing these systems after the Full Capacity System has been installed and approved for use by DOH, and such systems shall be the property of Respondents.

b. Respondents shall provide Tops a POET water system and pay the full cost of maintenance and removal of the system.

3. Respondents each reserve its rights to seek reimbursement for all costs it incurs associated with the Temporary Provisions of Alternative Water against any and all other parties responsible under any and all applicable law.

E. IRM - Sampling and Installation and Maintenance of POET systems on private water supply wells

The Department and DOH has sampled certain private water supply wells for PFOA in and around the Town of Hoosick and Village, and the Department has installed POET systems on many of these wells. DOH and the Department intend to continue to sample and install POET systems based on requests from residents of the Town or Village.

F. The Department reserves the right to request the implementation or funding of any additional measures necessary to protect public health or the

environment including a biomonitoring program for residents of the Town of Hoosick and the Village.

III. Payment of State and Village Costs

A. Invoices for payment pursuant to this paragraph shall be sent to Respondents at the addresses designated below:

Edward Canning
Director, Environment, Health and Safety
Saint-Gobain Corporation
14 McCaffrey Street
Hoosick Falls, NY 12090

With a cc: to:

John McAuliffe, P.E.
Honeywell International, Inc.
301 Plainfield Road, Suite 330
Syracuse, New York 13212

B. 1. In accordance with Appendix A, Respondents shall pay certain past and future State Costs identified in this paragraph within 60 days of receipt of an invoice. Included as State Costs that are to be paid pursuant to this paragraph are the costs of the State's sampling of private water wells in and around the Town of Hoosick, the Village of Hoosick Falls, and the Bus Garage on River Road, the State's sampling of the Hoosick River, and other surface waters, the State's sampling of soils, the State's preliminary efforts to evaluate alternative water supplies, the State's personnel costs associated with the foregoing activities, the cost of negotiating this Order, the costs associated with overseeing, administering, or enforcing this Order, and the work performed and deliverables submitted by Respondents as required under this Order.

2. To the extent any such costs are paid to the State or reimbursed to the State from a third party, the State will not seek double recovery for those costs.

3. The Department reserves all rights to seek recovery of any costs not paid pursuant to this Order. Respondents reserve their rights to contest payment of any costs not set forth in paragraph III.B.1 above. The payment of State Costs under this Order in no way resolves any rights of the Department to seek reimbursement of additional unpaid state costs. The payment of state costs by Respondents in no way obligates Respondents to pay other state costs in the future. Any such payments shall not be construed as a waiver of any defense Respondents may have concerning costs.

4. In addition to the bases for contesting invoiced costs set forth in the provisions of 6 NYCRR 375-1.5 (b)(3)(v), Respondents may also contest an invoice pursuant to the dispute resolution provisions in Appendix A, under the additional basis that the costs sought are not covered under this Order pursuant to Paragraph III.B.1 above.

C. 1. The Village of Hoosick has indicated that it has incurred costs relating to the presence of PFOA alleged by the Department to be associated with one or more industrial facilities in and around the Village of Hoosick Falls, currently identified or unidentified. Within forty-five (45) Days after the effective date of this Consent Order, Respondents shall meet with the Village and negotiate for reimbursement to the Village of some or all of its past and future costs allegedly associated with the presence of PFOA in the Village's drinking water supply system.

2. The Department reserves its right to seek cost recovery in the event the Village and Respondents do not reach an agreement regarding Village costs. Respondents reserve their rights and defenses to contest any such action by the Department.

IV. Communications

A. All written communications required by this Consent Order shall be transmitted by United States Postal Service, by private courier service, by hand delivery, or by electronic mail.

1. Communication from Respondents shall be sent to:

William Daigle (1 hard copy (unbound for Work Plans) & 1 electronic copy)
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, NY 12233
william.daigle@dec.ny.gov

Krista Anders (electronic copy only)
New York State Department of Health
Bureau of Environmental Exposure Investigation
Empire State Plaza
Corning Tower Room 1787
Albany, NY 12237
krista.anders@doh.ny.gov

Dolores A. Tuohy, Esq. (correspondence only)
New York State Department of Environmental Conservation
Office of General Counsel
625 Broadway
Albany, New York 12233-1500
dolores.tuohy@dec.ny.gov

2. Communication from the Department to Respondents shall be sent to:

Respondent - Honeywell

Dale A. Desnoyers, Esq.
Allen & Desnoyers LLP
90 State Street, Suite 1009
Albany, New York 12207
dale@allendesnoyers.com

John McAuliffe, P.E.
301 Plainfield Road, Suite 330
Syracuse, New York 13212
john.mcauliffe@honeywell.com

Thomas Byrne, Esq.
Honeywell International Inc.
115 Tabor Road
Morris Plains, NJ 07950
tom.byrne@honeywell.com

Respondent Saint-Gobain:

Edward Canning
Director, Environment, Health and Safety
Saint-Gobain Corporation
14 McCaffrey Street
Hoosick Falls, NY 12090

Lauren P. Alterman, Esq.
Vice President, Environment Health and Safety
Saint-Gobain Corporation
20 Moores Road
Malvern, PA 19355

Christopher R. Gibson, Esq.
Archer & Greiner, P.C.
One Centennial Square
Haddonfield, NJ 08033

B. The Department and Respondents reserve the right to designate additional or different addressees for communication on written notice to the other. Additionally, the Department reserves the right to request that the Respondents provide more than one paper copy of any work plan or report.

C. Each party shall notify the other within ninety (90) days after any change in the addresses listed in this paragraph.

V. Miscellaneous

A. Appendix A - "Standard Clauses for All New York State Superfund Administrative Orders" is attached to and hereby made a part of this Order as if set forth fully herein.

B. In the event of a conflict between the terms of this Order (including any and all attachments thereto and amendments thereof) and the terms of Appendix A, the terms of this Order shall control.

C. The effective date of this Order is the day it is signed by the Commissioner or the Commissioner's designee.

D. Respondents each reserve all of its rights in law and equity to assert all claims and defenses that each Respondent has or may have against the other Respondent relating to claims for indemnification, contribution, cost recovery or any other statutory or common law legal theory to obtain payment, reimbursement, or a declaration of liability with respect to any costs, expenses, losses, or liabilities arising out of or related to any alleged PFOA contamination in the Village or Town of Hoosick, or both.

E. This Order shall not inure to the benefit of any third party. The existence of this Order or Respondents' compliance with it, shall not give rise to any presumption of law or finding of fact, or create any rights, or grant any cause of action, which shall inure to the benefit of any third party.

F. In the event this Order terminates pursuant to the provisions of Subparagraph XIV.A.1 of Appendix A, in addition to the provisions described in Subparagraph XIV.B that survive termination, the provisions of Paragraph II.C (IRM – Village of Hoosick Falls Municipal Water Supply Emergency Measures) and II.D (IRM – Temporary Provisions of Alternative Water) shall survive termination of this Order for as long as the ROD or Department requires the continuation of the provisions of Paragraph II.C (IRM - Village of Hoosick Falls Municipal Water Supply Emergency Measures) as a remedial measure.

G. This Order may be signed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts taken together shall constitute a single Order and be given full force and effect as such.



ED_001670_00043525-00012

**DATED:** June 3, 2016

BASIL SEGGOS
ACTING COMMISSIONER
NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION
By:

Robert W. Schick, P.E., Director
Division of Environmental Remediation

## CONSENT BY RESPONDENT SAINT-GOBAIN

Respondent Saint-Gobain hereby consents to the issuing and entering of this Order, waives its right to a hearing herein as provided by law, and agrees to be bound by this Order.

Thomas Kinisky

Date: June 1, 2016

STATE OF OHIO )
) ss:
COUNTY OF Portage )

On the 1 day of June, in the year 2016, before me, the undersigned, personally appeared Thomas Kinisky, 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.

Barbara Katusha
Signature and Office of individual taking acknowledgment

**BARBARA KATUSHA**
**NOTARY PUBLIC, STATE OF OHIO**
**My Commission Expires 8/23/2017**

## CONSENT BY RESPONDENT HONEYWELL

Respondent Honeywell hereby consents to the issuing and entering of this Order, waives its right to a hearing herein as provided by law, and agrees to be bound by this Order.

Date: 6/2/2016

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

On the 2nd day of June, in the year 2016, before me, the undersigned, personally appeared Donald E VanHook, 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.

Signature and Office of individual
taking acknowledgment

**CHRISTINA M. BAKER**
**Notary Public, State of New York**
**No. 01BA6301508**
**Qualified in Dutchess County**
**Commission Expires April 14, 2018**

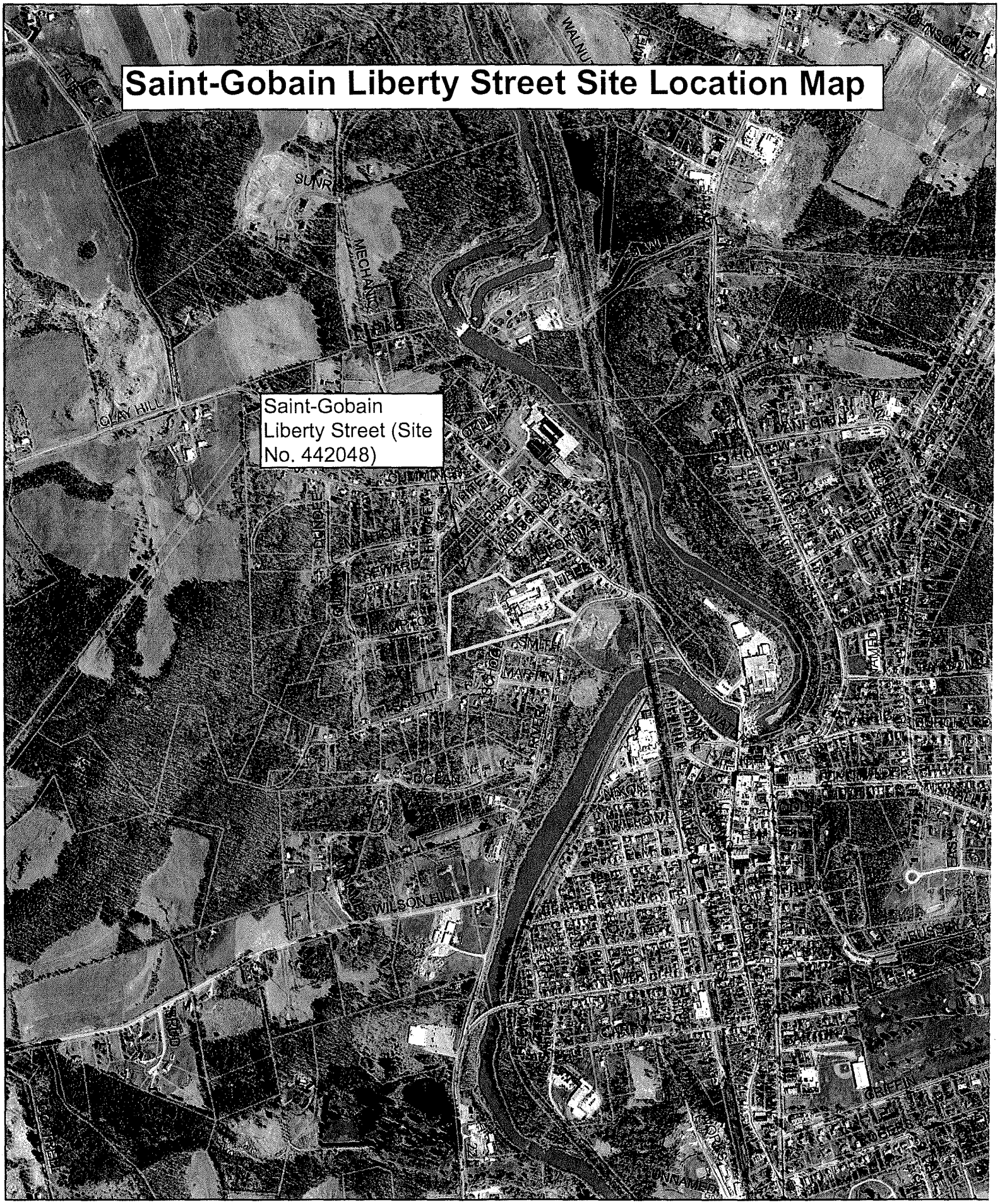
# Saint-Gobain McCaffrey Street Site Location Map

0 750 1,500 3,000 Feet

N

Exhibit A-1

# Saint-Gobain Liberty Street Site Location Map




0 750 1,500 3,000 Feet

N

Exhibit A-2

## EXHIBIT "B"

## RECORDS SEARCH REPORT

1. Detail all environmental data and information within Respondents' or Respondents' agents' or consultants' possession or control regarding environmental conditions at or emanating from the Site.

2. To the extent known by Respondents, a comprehensive list of all existing relevant reports with titles, authors, and subject matter, as well as a description of the results of all previous investigations of the Site and of areas immediately surrounding the Site which are or might be affected by contamination at the Site, including all available topographic and property surveys, engineering studies, and aerial photographs held by Respondents and Respondent's agents or consultants.

3. A concise summary of information held by Respondents and Respondents' agents and consultants with respect to:

(i) a history and description of the Site, including the nature of operations;

(ii) the types, quantities, physical state, locations, methods, and dates of disposal or release of hazardous waste at or emanating from the Site;

(iii) a description of current Site security (i.e. fencing, posting, etc.); and

(iv) the names and addresses of all persons responsible for disposal of hazardous waste, including the dates of such disposal and any proof linking each such person responsible with the hazardous wastes identified.

## APPENDIX A

## STANDARD CLAUSES FOR ALL NEW YORK STATE SUPERFUND ADMINISTRATIVE ORDERS

The parties to the State Superfund Order (hereinafter "Order") agree to be bound by the following clauses which are hereby made a part of the Order. The word "Respondent" herein refers to any party to the Order, other than the New York State Department of Environmental Conservation (hereinafter "Department").

I. Citizen Participation Plan

Within twenty (20) days after the effective date of this Order, Respondent shall submit for review and approval a written citizen participation plan prepared in accordance with the requirements of ECL §27-1417 and 6 NYCRR sections 375-1.10 and 375-3.10. Upon approval, the Citizen Participation Plan shall be deemed to be incorporated into and made a part of this Order.

II. Initial Submittal

Within thirty (30) days after the effective date of this Order, Respondent shall submit to the Department a Records Search Report prepared in accordance with Exhibit "B" attached to the Order. The Records Search Report can be limited if the Department notifies Respondent that prior submissions satisfy specific items required for the Records Search Report.

III. Development, Performance, and Reporting of Work Plans

A. Work Plan Requirements

All activities at the Site that comprise any element of an Inactive Hazardous Waste Disposal Site Remedial Program shall be conducted pursuant to one or more Department-approved work plans ("Work Plan" or "Work Plans") and this Order and all activities shall be consistent with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 C.F.R. Part 300, as required under CERCLA, 42 U.S.C. § 9600 *et seq*. The Work Plan(s) under this Order shall address both on-Site and off-Site conditions and shall be developed and implemented in accordance with 6 NYCRR § 375-1.6(a), 375-3.6, and 375-6. Subject to Subparagraph III.E.3, all Department-approved Work Plans shall be incorporated into and become enforceable parts of this Order. Upon approval of a Work Plan by the Department, Respondent shall implement such Work Plan in accordance with the schedule contained therein. Nothing in this Subparagraph shall mandate that any particular Work Plan be submitted.

The Work Plans shall be captioned as follows:

1. Site Characterization ("SC") Work Plan: a Work Plan which provides for the identification of the presence of any

hazardous waste disposal at the Site;

2. Remedial Investigation/ Feasibility Study ("RI/FS") Work Plan: a Work Plan which provides for the investigation of the nature and extent of contamination within the boundaries of the Site and emanating from such Site and a study of remedial alternatives to address such on-site and off-site contamination;

3. Remedial Design/Remedial Action ("RD/RA") Work Plan: a Work Plan which provides for the development and implementation of final plans and specifications for implementing the remedial alternative set forth in the ROD;

4. "IRM Work Plan" if the Work Plan provides for an interim remedial measure;

5. "Site Management Plan" if the Work Plan provides for the identification and implementation of institutional and/or engineering controls as well as any necessary monitoring and/or operation and maintenance of the remedy; or

6. "Supplemental" if additional work plans other than those set forth in II.A.1-5 are required to be prepared and implemented.

B. Submission/Implementation of Work Plans

1. Respondent may opt to propose one or more additional or supplemental Work Plans (including one or more IRM Work Plans) at any time, which the Department shall review for appropriateness and technical sufficiency.

2. Any proposed Work Plan shall be submitted for the Department's review and approval and shall include, at a minimum, a chronological description of the anticipated activities, a schedule for performance of those activities, and sufficient detail to allow the Department to evaluate that Work Plan.

i. The Department shall notify Respondent in writing if the Department determines that any element of a Department-approved Work Plan needs to be modified in order to achieve the objectives of the Work Plan as set forth in Subparagraph III.A or to ensure that the Remedial Program otherwise protects human health and the environment. Upon receipt of such notification, Respondent shall, subject to dispute resolution pursuant to Paragraph XV, modify the Work Plan.

ii. The Department may request, subject to dispute resolution pursuant to Paragraph XV, that Respondent submit additional or supplemental Work Plans for the Site to complete the current remedial phase within thirty (30) Days after the Department's written request.

3. A Site Management Plan, if necessary, shall be submitted in accordance with the schedule set forth in the IRM Work Plan or Remedial Work Plan.

4. During all field activities

conducted under a Department-approved Work Plan, Respondent shall have on-Site a representative who is qualified to supervise the activities undertaken in accordance with the provisions of 6 NYCRR 375-1.6(a)(3).

5. A Professional Engineer must stamp and sign all Work Plans other than SC or RI/FS Work Plans.

C. Submission of Final Reports and Periodic Reports

1. In accordance with the schedule contained in a Work Plan, Respondent shall submit a final report as provided at 6 NYCRR 375-1.6(b) and a final engineering report as provided at 6 NYCRR 375-1.6(c).

2. Any final report or final engineering report that includes construction activities shall include "as built" drawings showing any changes made to the remedial design or the IRM.

3. In the event that the final engineering report for the Site requires Site management, Respondent shall submit an initial periodic report by in accordance with the schedule in the Site Management Plan and thereafter in accordance with a schedule determined by the Department. Such periodic report shall be signed by a Professional Engineer or by such other qualified environmental professional as the Department may find acceptable and shall contain a certification as provided at 6 NYCRR 375-1.8(h)(3). Respondent may petition the Department for a determination that the institutional and/or engineering controls may be terminated. Such petition must be supported by a statement by a Professional Engineer that such controls are no longer necessary for the protection of public health and the environment. The Department shall not unreasonably withhold its approval of such petition.

4. Within sixty (60) days of the Department's approval of a Final Report, Respondent shall submit such additional Work Plans as is required by the Department in its approval letter of such Final Report. Failure to submit any additional Work Plans within such period shall be a violation of this Order.

D. Review of Submittals

1. The Department shall make a good faith effort to review and respond in writing to each submittal Respondent makes pursuant to this Order within sixty (60) Days. The Department's response shall include, in accordance with 6 NYCRR 375-1.6(d), an approval, modification request, or disapproval of the submittal, in whole or in part.

i. Subject to Subparagraph III.E.3 and upon the Department's written approval of a Work Plan, such Department-approved Work Plan shall be deemed to be incorporated into and made a part of this Order and shall be implemented in accordance with the schedule contained therein.

ii. If the Department modifies or requests modifications to a submittal, it shall specify the reasons for such modification(s). Within fifteen (15)

Days after the date of the Department's written notice that Respondent's submittal has been disapproved, Respondent shall notify the Department of its election in accordance with 6 NYCRR 375-1.6(d)(3). If Respondent elects to modify or accept the Department's modifications to the submittal, Respondent shall make a revised submittal that incorporates all of the Department's modifications to the first submittal in accordance with the time period set forth in 6 NYCRR 375-1.6(d)(3). In the event that Respondent's revised submittal is disapproved, the Department shall set forth its reasons for such disapproval in writing and Respondent shall be in violation of this Order unless it invokes dispute resolution pursuant to Paragraph XV and its position prevails. Failure to make an election or failure to comply with the election is a violation of this Order.

iii. If the Department disapproves a submittal, it shall specify the reasons for its disapproval. Within fifteen (15) Days after the date of the Department's written notice that Respondent's submittal has been disapproved, Respondent shall notify the Department of its election in accordance with 6 NYCRR 375-1.6(d)(4). If Respondent elects to modify the submittal, Respondent shall make a revised submittal that addresses all of the Department's stated reasons for disapproving the first submittal in accordance with the time period set forth in 6 NYCRR 375-1.6(d)(4). In the event that Respondent's revised submittal is disapproved, the Department shall set forth its reasons for such disapproval in writing and Respondent shall be in violation of this Order unless it invokes dispute resolution pursuant to Paragraph XV and its position prevails. Failure to make an election or failure to comply with the election is a violation of this Order.

2. Within thirty (30) Days after the Department's approval of a final report, Respondent shall submit such final report, as well as all data gathered and drawings and submittals made pursuant to such Work Plan, in an electronic format acceptable to the Department. If any document cannot be converted into electronic format, Respondent shall submit such document in an alternative format acceptable to the Department.

E. Department's Issuance of a ROD

1. Respondent shall cooperate with the Department and provide reasonable assistance, consistent with the Citizen Participation Plan, in soliciting public comment on the proposed remedial action plan ("PRAP"), if any. After the close of the public comment period, the Department shall select a final remedial alternative for the Site in a ROD. Nothing in this Order shall be construed to abridge any rights of Respondent, as provided by law, to judicially challenge the Department's ROD.

2. Respondent shall have 60 days from the date of the Department's issuance of the ROD to notify the Department in writing whether it will implement the remedial activities

required by such ROD. If the Respondent elects not to implement the required remedial activities, then this order shall terminate in accordance with Paragraph XIV.A. Failure to make an election or failure to comply with the election is a violation of this Order.

3. Nothing in this Order, in any submittal, or in any work plan(s) submitted pursuant to this Order shall modify, expand, reduce, or otherwise change the remedial activities (including site management) required by a ROD issued by the Department.

F. Institutional/Engineering Control Certification

In the event that the remedy for the Site, if any, or any Work Plan for the Site, requires institutional or engineering controls, Respondent shall submit a written certification in accordance with 6 NYCRR 375-1.8(h)(3) and 375-3.8(h)(2).

IV. Penalties

A. 1. Respondent's failure to comply with any term of this Order constitutes a violation of this Order, the ECL, and 6 NYCRR 375-2.11(a)(4). Nothing herein abridges Respondent's right to contest any allegation that it has failed to comply with this Order.

2. Payment of any penalties shall not in any way alter Respondent's obligations under this Order.

B. 1. Respondent shall not suffer any penalty or be subject to any proceeding or action in the event it cannot comply with any requirement of this Order as a result of any Force Majeure Event as provided at 6 NYCRR 375-1.5(b)(4). Respondent must use best efforts to anticipate the potential Force Majeure Event, best efforts to address any such event as it is occurring, and best efforts following the Force Majeure Event to minimize delay to the greatest extent possible. "Force Majeure" does not include Respondent's economic inability to comply with any obligation, the failure of Respondent to make complete and timely application for any required approval or permit, and non-attainment of the goals, standards, and requirements of this Order.

2. Respondent shall notify the Department in writing within five (5) Days of the onset of any Force Majeure Event. Failure to give such notice within such five (5) Day period constitutes a waiver of any claim that a delay is not subject to penalties. Respondent shall be deemed to know of any circumstance which it, any entity controlled by it, or its contractors knew or should have known.

3. Respondent shall have the burden of proving by a preponderance of the evidence that (i) the delay or anticipated delay has been or will be caused by a Force Majeure Event; (ii) the duration of the delay or the extension sought is warranted under the circumstances; (iii) best efforts were exercised to avoid and mitigate the effects of the delay; and (iv) Respondent complied with the requirements of Subparagraph IV.B.2 regarding timely notification.

4. If the Department agrees

that the delay or anticipated delay is attributable to a Force Majeure Event, the time for performance of the obligations that are affected by the Force Majeure Event shall be extended for a period of time equivalent to the time lost because of the Force majeure event, in accordance with 375-1.5(4).

5. If the Department rejects Respondent's assertion that an event provides a defense to non-compliance with this Order pursuant to Subparagraph IV.B, Respondent shall be in violation of this Order unless it invokes dispute resolution pursuant to Paragraph XV and Respondent's position prevails.

V. Entry upon Site

A. Respondent hereby consents, upon reasonable notice under the circumstances presented, to entry upon the Site (or areas in the vicinity of the Site which may be under the control of Respondent) by any duly designated officer or employee of the Department or any State agency having jurisdiction with respect to matters addressed pursuant to this Order, and by any agent, consultant, contractor, or other person so authorized by the Commissioner, all of whom shall abide by the health and safety rules in effect for the Site, for inspecting, sampling, copying records related to the contamination at the Site, testing, and any other activities necessary to ensure Respondent's compliance with this Order. Upon request, Respondent shall (i) provide the Department with suitable work space at the Site, including access to a telephone, to the extent available, and (ii) permit the Department full access to all non-privileged records relating to matters addressed by this Order. Raw data is not considered privileged and that portion of any privileged document containing raw data must be provided to the Department. In the event Respondent is unable to obtain any authorization from third-party property owners necessary to perform its obligations under this Order, the Department may, consistent with its legal authority, assist in obtaining such authorizations.

B. The Department shall have the right to take its own samples and scientific measurements and the Department and Respondent shall each have the right to obtain split samples, duplicate samples, or both, of all substances and materials sampled. The Department shall make the results of any such sampling and scientific measurements available to Respondent.

VI. Payment of State Costs

A. Within forty-five (45) days after receipt of an itemized invoice from the Department, Respondent shall pay to the Department a sum of money which shall represent reimbursement for State Costs as provided by 6 NYCRR 375-1.5 (b)(3)(i). Failure to timely pay any invoice will be subject to late payment charge and interest at a rate of 9% from the date the payment is due until the date the payment is made.

B. Costs shall be documented as provided by 6 NYCRR 375-1.5(b)(3). The Department shall not be required to provide any other documentation of

costs, provided however, that the Department's records shall be available consistent with, and in accordance with, Article 6 of the Public Officers Law.

C. Each such payment shall be made payable to the New York State Department of Environmental Conservation and shall be sent to:

Director, Bureau of Program Management
Division of Environmental Remediation
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-7012

D. The Department shall provide written notification to the Respondent of any change in the foregoing addresses.

E. If Respondent objects to any invoiced costs under this Order, the provisions of 6 NYCRR 375-1.5 (b)(3)(v) and (vi) shall apply. Objections shall be sent to the Department as provided under subparagraph VI.C above.

F. In the event of non-payment of any invoice within the 45 days provided herein, the Department may seek enforcement of this provision pursuant to Paragraph IV or the Department may commence an enforcement action for non-compliance with ECL '27-1423 and ECL 71-4003.

VII. Release and Covenant Not to Sue

Upon the Department's issuance of a Certificate of Completion as provided at 6 NYCRR 375-1.9 and 375-2.9, Respondent shall obtain the benefits conferred by such provisions, subject to the terms and conditions described therein.

VIII. Reservation of Rights

A. Except as provided at 6 NYCRR 375-1.9 and 375-2.9, nothing contained in this Order shall be construed as barring, diminishing, adjudicating, or in any way affecting any of the Department's rights or authorities, including, but not limited to, the right to require performance of further investigations and/or response action(s), to recover natural resource damages, and/or to exercise any summary abatement powers with respect to any person, including Respondent.

B. Except as otherwise provided in this Order, Respondent specifically reserves all rights and defenses under applicable law respecting any Departmental assertion of remedial liability and/or natural resource damages against Respondent, and further reserves all rights respecting the enforcement of this Order, including the rights to notice, to be heard, to appeal, and to any other due process. The existence of this Order or Respondent's compliance with it shall not be construed as an admission of liability, fault, wrongdoing, or breach of standard of care by Respondent, and shall not give rise to any presumption of law or finding of fact, or create any rights, or grant any cause of action, which shall inure to the benefit of any third party. Further, Respondent reserves such rights as it may have to seek and obtain contribution, indemnification, and/or any

other form of recovery from its insurers and from other potentially responsible parties or their insurers for past or future response and/or cleanup costs or such other costs or damages arising from the contamination at the Site as may be provided by law, including but not limited to rights of contribution under section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B).

IX. Indemnification

Respondent shall indemnify and hold the Department, the State of New York, the Trustee of the State's natural resources, and their representatives and employees harmless as provided by 6 NYCRR 375-2.5(a)(3)(i).

X. Public Notice

A. Within thirty (30) Days after the effective date of this Order, Respondent shall provide notice as required by 6 NYCRR 375-1.5(a). Within sixty (60) Days of such filing, Respondent shall provide the Department with a copy of such instrument certified by the recording officer to be a true and faithful copy.

B. If Respondent proposes to transfer by sale or lease the whole or any part of Respondent's interest in the Site, or becomes aware of such transfer, Respondent shall, not fewer than forty-five (45) Days before the date of transfer, or within forty-five (45) Days after becoming aware of such conveyance, notify the Department in writing of the identity of the transferee and of the nature and proposed or actual date of the conveyance, and shall notify the transferee in writing, with a copy to the Department, of the applicability of this Order. However, such obligation shall not extend to a conveyance by means of a corporate reorganization or merger or the granting of any rights under any mortgage, deed, trust, assignment, judgment, lien, pledge, security agreement, lease, or any other right accruing to a person not affiliated with Respondent to secure the repayment of money or the performance of a duty or obligation.

XI. Change of Use

Applicant shall notify the Department at least sixty (60) days in advance of any change of use, as defined in 6 NYCRR 375-2.2(a), which is proposed for the Site, in accordance with the provisions of 6 NYCRR 375-1.11(d). In the event the Department determines that the proposed change of use is prohibited, the Department shall notify Applicant of such determination within forty-five (45) days of receipt of such notice.

XII. Environmental Easement

A. If a Record of Decision for the Site relies upon one or more institutional and/or engineering controls, Respondent (or the owner of the Site) shall submit to the Department for approval an Environmental Easement to run with the land in favor of the State which complies with the requirements of ECL Article 71, Title 36, and 6 NYCRR 375-1.8(h)(2). Upon acceptance of the Environmental Easement by the State, Respondent shall comply with the requirements of 6 NYCRR 375-1.8(h)(2).

B. If the ROD provides for no action other than implementation of one or more institutional controls, Respondent shall cause an environmental easement to be recorded under the provisions of Subparagraph XII.A.

C. If Respondent does not cause such environmental easement to be recorded in accordance with 6 NYCRR 375-1.8(h)(2), Respondent will not be entitled to the benefits conferred by 6 NYCRR 375-1.9 and 375-2.9 and the Department may file an Environmental Notice on the site.

XIII. Progress Reports

Respondent shall submit a written progress report of its actions under this Order to the parties identified in Subparagraph IV.A.1 of the Order by the 10th day of each month commencing with the month subsequent to the approval of the first Work Plan and ending with the Termination date as set forth in Paragraph XIV, unless a different frequency is set forth in a Work Plan. Such reports shall, at a minimum, include: all actions relative to the Site during the previous reporting period and those anticipated for the next reporting period; all approved activity modifications (changes of work scope and/or schedule); all results of sampling and tests and all other data received or generated by or on behalf of Respondent in connection with this Site, whether under this Order or otherwise, in the previous reporting period, including quality assurance/quality control information; information regarding percentage of completion; unresolved delays encountered or anticipated that may affect the future schedule and efforts made to mitigate such delays; and information regarding activities undertaken in support of the Citizen Participation Plan during the previous reporting period and those anticipated for the next reporting period.

XIV. Termination of Order

A. This Order will terminate upon the earlier of the following events:

1. Respondent's election in accordance with Paragraph III.E.2 not to implement the remedial activities required pursuant to the ROD. In the event of termination in accordance with this Subparagraph, this Order shall terminate effective the 5th Day after the Department's receipt of the written notification, provided, however, that if there are one or more Work Plan(s) for which a final report has not been approved at the time of Respondent's notification of its election not to implement the remedial activities in accordance with the ROD, Respondent shall complete the activities required by such previously approved Work Plan(s) consistent with the schedules contained therein. Thereafter, this Order shall terminate effective the 5th Day after the Department's approval of the final report for all previously approved Work Plans; or

2. The Department's written determination that Respondent has completed all phases of the Remedial Program (including Site Management), in which event the termination shall be effective on the 5th Day after the date of

the Department's letter stating that all phases of the remedial program have been completed.

B. Notwithstanding the foregoing, the provisions contained in Paragraphs VI and IX shall survive the termination of this Order and any violation of such surviving Paragraphs shall be a violation of this Order, the ECL, and 6 NYCRR 375-2.11(a)(4), subjecting Respondent to penalties as provided under Paragraph IV so long as such obligations accrued on or prior to the Termination Date.

C. If the Order is terminated pursuant to Subparagraph XIV.A.1, neither this Order nor its termination shall affect any liability of Respondent for remediation of the Site and/or for payment of State Costs, including implementation of removal and remedial actions, interest, enforcement, and any and all other response costs as defined under CERCLA, nor shall it affect any defenses to such liability that may be asserted by Respondent. Respondent shall also ensure that it does not leave the Site in a condition, from the perspective of human health and environmental protection, worse than that which existed before any activities under this Order were commenced. Further, the Department's efforts in obtaining and overseeing compliance with this Order shall constitute reasonable efforts under law to obtain a voluntary commitment from Respondent for any further activities to be undertaken as part of a Remedial Program for the Site.

XV. Dispute Resolution

A. In the event disputes arise under this Order, Respondent may, within fifteen (15) Days after Respondent knew or should have known of the facts which are the basis of the dispute, initiate dispute resolution in accordance with the provisions of 6 NYCRR 375-1.5(b)(2).

B. All cost incurred by the Department associated with dispute resolution are State costs subject to reimbursement pursuant to this Order.

C. Nothing contained in this Order shall be construed to authorize Respondent to invoke dispute resolution with respect to the remedy selected by the Department in the ROD or any element of such remedy, nor to impair any right of Respondent to seek judicial review of the Department's selection of any remedy.

XVI. Miscellaneous

A. Respondent agrees to comply with and be bound by the provisions of 6 NYCRR Subparts 375-1 and 375-2; the provisions of such Subparts that are referenced herein are referenced for clarity and convenience only and the failure of this Order to specifically reference any particular regulatory provision is not intended to imply that such provision is not applicable to activities performed under this Order.

B. The Department may exempt Respondent from the requirement to obtain any state or local permit or other authorization for any activity conducted pursuant to this Order in accordance

with 6 NYCRR 375-1.12(b), (c), and (d).

C. 1. Respondent shall use best efforts to obtain all Site access, permits, easements, approvals, institutional controls, and/or authorizations necessary to perform Respondent's obligations under this Order, including all Department-approved Work Plans and the schedules contained therein. If, despite Respondent's best efforts, any access, permits, easements, approvals, institutional controls, or authorizations cannot be obtained, Respondent shall promptly notify the Department and include a summary of the steps taken. The Department may, as it deems appropriate and within its authority, assist Respondent in obtaining same.

2. If an interest in property is needed to implement an institutional control required by a Work Plan and such interest cannot be obtained, the Department may require Respondent to modify the Work Plan pursuant to 6 NYCRR 375-1.6(d)(3) to reflect changes necessitated by Respondent's inability to obtain such interest.

D. The paragraph headings set forth in this Order are included for convenience of reference only and shall be disregarded in the construction and interpretation of any provisions of this Order.

E. 1. The terms of this Order shall constitute the complete and entire agreement between the Department and Respondent concerning the implementation of the activities required by this Order. No term, condition, understanding, or agreement purporting to modify or vary any term of this Order shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestion, or comment by the Department shall be construed as relieving Respondent of Respondent's obligation to obtain such formal approvals as may be required by this Order. In the event of a conflict between the terms of this Order and any Work Plan submitted pursuant to this Order, the terms of this Order shall control over the terms of the Work Plan(s). Respondent consents to and agrees not to contest the authority and jurisdiction of the Department to enter into or enforce this Order.

2. i. Except as set forth herein, if Respondent desires that any provision of this Order be changed, Respondent shall make timely written application to the Commissioner with copies to the parties listed in Subparagraph IV.A.1.

ii. If Respondent seeks to modify an approved Work Plan, a written request shall be made to the Department's project manager, with copies to the parties listed in Subparagraph IV.A.1.

iii. Requests for a change to a time frame set forth in this Order shall be made in writing to the Department's project attorney and project manager; such requests shall not be unreasonably denied and a written response to such requests shall be sent to Respondent promptly.

F. 1. If there are multiple parties

signing this Order, the term "Respondent" shall be read in the plural, the obligations of each such party under this Order are joint and several, and the insolvency of or failure by any Respondent to implement any obligations under this Order shall not affect the obligations of the remaining Respondent(s) under this Order.

2. If Respondent is a partnership, the obligations of all general partners (including limited partners who act as general partners) under this Order are joint and several and the insolvency or failure of any general partner to implement any obligations under this Order shall not affect the obligations of the remaining partner(s) under this Order.

3. Notwithstanding the foregoing Subparagraphs XVI.F.1 and 2, if multiple parties sign this Order as Respondents but not all of the signing parties elect to implement a Work Plan, all Respondents are jointly and severally liable for each and every obligation under this Order through the completion of activities in such Work Plan that all such parties consented to; thereafter, only those Respondents electing to perform additional work shall be jointly and severally liable under this Order for the obligations and activities under such additional Work Plan(s). The parties electing not to implement the additional Work Plan(s) shall have no obligations under this Order relative to the activities set forth in such Work Plan(s). Further, only those Respondents electing to implement such additional Work Plan(s) shall be eligible to receive the release and covenant not to sue referenced in Paragraph VII.

G. Respondent shall be entitled to receive contribution protection and/or to seek contribution to the extent authorized by ECL 27-1421(6) and 6 NYCRR 375-1.5(b)(5).

H. Any time limitations set forth in Section 113(g)(1) of CERCLA, as amended, 42 U.S.C. § 9613(g)(1), Section 1012(h)(2) of the Oil Pollution Act, as amended, 33 U.S.C. § 2712(h)(2), the Federal Water Pollution Control Act, the New York Navigation Law, the New York Environmental Conservation Law, or any other federal or state statute or regulation with respect to potential claims for natural resource damages against Respondent or any other time limitations for the filing of potential natural resource damages claims against Respondent under any other applicable state or federal law are tolled in their entirety from the effective date of this Order until termination of this Order.

I. Unless otherwise expressly provided herein, terms used in this Order which are defined in ECL Article 27 or in regulations promulgated thereunder shall have the meaning assigned to them under said statute or regulations.

J. Respondent's obligations under this Order represent payment for or reimbursement of response costs, and shall not be deemed to constitute any type of fine or penalty.

K. Respondent and Respondent's successors and assigns shall be bound

by this Order. Any change in ownership or corporate status of Respondent shall in no way alter Respondent's responsibilities under this Order.

L. This Order may be executed for the convenience of the parties hereto, individually or in combination, in one or more counterparts, each of which shall be deemed to have the status of an executed original and all of which shall together constitute one and the same.