Cortlandt ~~Tottman~~ Environmental File
B1

New York State Department of Environmental Conservation
Division of Environmental Remediation
Bureau of Eastern Remedial Action, Room 242
50 Wolf Road, Albany, New York 12233-7010
Phone: (518) 457-7924 FAX: (518) 457-4198

John P. Cahill
Commissioner

November 1, 2000

Douglas Grimmer, CPM, RPA
Property Manager
The Baker Companies
485 Washington Avenue
Pleasantville, NY 10570

Dear Mr. Grimmer:

RE: Magna Metals Site No. 360003
FOIL Request

As per your request, attached is a copy of the Order on Consent for the remedial investigation of the above-mentioned site. There are 26 pages and the Department charges $0.25 per page. Please send a check payable to "NYSDEC" for $6.50 and send it directly to me.

If you have any questions, please call me at 518-457-7924.

Sincerely,

Sally W.W. Dewes, P.E.
Environmental Engineer 2
Bureau of Eastern Remedial Action
Division of Environmental Remediation

cc:w/o enc. D. Livingston
R. Earl
M. Sarnacki

Marc 11/3/00

There is a Work Plan but it hasn't been signed by ~~the~~ both parties yet so they won't forward it. Doug

mm04.wpd/1

COPY

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the
Development and Implementation
of a Remedial Investigation/Feasibility
Study for an Inactive Hazardous Waste
Disposal Site, Under Article 27, Title 13,
and Article 71, Title 27 of the
Environmental Conservation Law
of the State of New York by
by

ISC PROPERTIES, INC.,
Respondent.

ORDER
ON
CONSENT

INDEX # W3-0010-81-01

Site Code #3-60-003

WHEREAS,

1. The New York State Department of Environmental Conservation (the "Department") is responsible for enforcement of Article 27, Title 13 of the Environmental Conservation Law of the State of New York ("ECL"), entitled "Inactive Hazardous Waste Disposal Sites." This Order is entered into pursuant to the Department's authority under ECL Article 27, Title 13 and ECL 3-0301.

2. ISC Properties, Inc. ("Respondent"), is a corporation organized and existing under the laws of the State of New York. Respondent is the former owner of real property located east of Furnace Brook, on Furnace Dock Road in Peekskill, the Town of Cortlandt, County of Westchester, otherwise denoted as Tax Lot Section 012 Block 1 Lot 11 (hereinafter referred to as the "Magna Metals Site" or "the Site"). Magna Metals conducted plating operations at the Site until 1979. A map of the Site is incorporated as Appendix "A" of this Order.

3. The Department alleges that the Site is an inactive

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hazardous waste disposal site, as that term is defined at ECL 27-1301.2. The Site has been listed in the Registry of Inactive Hazardous Waste Disposal Sites in New York State as Site Number 360003. The Department has classified the Site as a Classification "2" pursuant to ECL 27-1305.4.b.

4. A. Pursuant to ECL 27-1313.3.a, whenever the Commissioner of Environmental Conservation (the "Commissioner") "finds that hazardous wastes at an inactive hazardous waste disposal site constitute a significant threat to the environment, he may order the owner of such site and/or any person responsible for the disposal of hazardous wastes at such site (i) to develop an inactive hazardous waste disposal site remedial program, subject to the approval of the department, at such site, and (ii) to implement such program within reasonable time limits specified in the order."

B. Any person under order pursuant to ECL 27-1313.3.a has a duty imposed by ECL Article 27, Title 13 to carry out the remedial program committed to under order. ECL Section 71-2705 provides that any person who fails to perform any duty imposed by ECL Article 27, Title 13 shall be liable for civil, administrative and/or criminal sanctions.

C. The Department also has the power, inter alia, to provide for the prevention and abatement of all water, land, and air pollution. ECL 3-0301.1.i.

5. The Department and Respondent agree that the goals of this Order are for Respondent to (i) develop and implement

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a Remedial Investigation ("RI"), and prepare and submit a Feasibility Study ("FS"), (collectively "RI/FS") for the Site; and (ii) reimburse the State's administrative costs in accordance with paragraph XII of this Order.

6. Respondent, having waived Respondent's right to a hearing herein as provided by law, and without acknowledging any liability or responsibility for the acts alleged by the Department at this Site and under this Order, and having consented to the issuance and entry of this Order, agrees to be bound by its terms. Respondent consents to and agrees not to contest the authority or jurisdiction of the Department to issue or enforce this Order, and agrees not to contest the validity of this Order or its terms.

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

I. Initial Submittal

Within 30 days after the effective date of this Order, Respondent shall submit to the Department a list of all data within Respondent's possession or control regarding environmental conditions on-Site and off-Site, and other information described below, and the Department will inform the Respondent if such data have been previously provided to the Department. The Respondent shall submit to the Department all data which the Department indicates that it has not received within 30 days of such notification. The data and other information shall include:

A. A brief history and description of the Site, including the types, quantities, physical state, location, and dates of disposal of hazardous waste including methods of disposal and spillage of such wastes;

B. A concise summary of information held by Respondent and Respondent's attorneys and consultants with respect to all persons, other than employees of Respondent, responsible for such disposal of hazardous wastes, including but not limited to names, addresses, dates of disposal and any proof linking each such person responsible with hazardous wastes identified pursuant to Subparagraph I.A; and

C. A comprehensive list and copies 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 areas in the vicinity of the Site, including copies of all available topographic and property surveys, engineering studies and aerial photographs.

II. <u>RI/FS Work Plan Contents and Submittals</u>

Respondents have submitted to the Department a Work Plan for a RI/FS entitled "Remedial Investigation/Feasibility Study Work Plan for the Magna Metal Site, August 1995." This RI/FS Work Plan shall be approved concurrently with the signing of this Order by the Commissioner or his designee. The Approved RI/FS Work Plan shall be attached as "Appendix B" and incorporated into this Order.

III. <u>Performance and Reporting of Remedial Investigation</u>

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A. Within 90 days after the Department's approval of the RI/FS Work Plan, Respondent shall commence the Remedial Investigation, unless Respondent is unable to obtain access to the Site in accordance with Paragraph XI. In such case, Respondent shall commence the Remedial Investigation within 60 days after access to the Site is obtained.

B. Respondent shall perform the Remedial Investigation in accordance with the Department-approved RI/FS Work Plan.

C. During the performance of the Remedial Investigation, Respondent shall have on-Site a full-time representative who is qualified to supervise the work done.

D. Within the time frame set forth in the RI/FS Work Plan, Respondent shall prepare a Remedial Investigation Report that shall:

(1) include all data generated and all other information obtained during the Remedial Investigation;

(2) provide all of the assessments and evaluations set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") [42 U.S.C. 9601 et seq.], as amended, the National Contingency Plan ("NCP") of March 8, 1990 [40 CFR Part 300], the USEPA guidance document entitled "Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA," dated October 1988, and any subsequent revisions to that guidance document in effect at the time the RI/FS Work Plan is

submitted, and appropriate USEPA and Department technical and administrative guidance documents;

(3) identify any additional data that must be collected; and

(4) include a certification by the individual or firm with primary responsibility for the day to day performance of the Remedial Investigation that all activities that comprised the Remedial Investigation were performed in full accordance with the Department-approved RI/FS Work Plan.

IV. Feasibility Study

A. Within 90 days after receipt of the Department's approval of the Remedial Investigation Report, Respondent shall submit a Feasibility Study evaluating on-Site and off-Site remedial actions to eliminate, to the maximum extent practicable, all health and environmental hazards and potential hazards attributable to hazardous waste disposal at the Site. The Feasibility Study shall be prepared by and have the signature and seal of a professional engineer who shall certify that the Feasibility Study was prepared in accordance with this Order.

B. Respondent shall perform and prepare the Feasibility Study in accordance with the Department-approved RI/FS Work Plan and in a manner consistent with CERCLA, the NCP, and the guidance documents identified in Subparagraph III.D.(2).

C. Within 30 days after the Department's approval

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of the Feasibility Study, Respondent shall cooperate with the Department in soliciting public comment on the RI/FS and the proposed remedial action plan identified therein, in accordance with CERCLA, the NCP, the guidance documents identified in Subparagraph III.D.(2), and with any Department policy and guidance documents in effect at the time the public comment period is initiated.

After the close of the public comment period, the Department shall select a final remedial alternative for the site in a Record of Decision ("ROD").

V. Interim Remedial Measures

Respondent may propose interim remedial measures ("IRMs") for the Site on an as-needed basis. In proposing each IRM, Respondent shall submit to the Department an IRM Work Plan which includes a chronological description of the anticipated IRM activities together with a schedule for the performance of those activities. Upon the Department's determination that the proposal is an appropriate interim remedial measure and upon the Department's approval of such IRM Work Plan, the IRM Work Plan shall be incorporated into and become an enforceable part of this Order; and Respondent shall submit to the Department for its review and (as appropriate) approval, in accordance with the schedule contained in the Department-approved IRM Work Plan, detailed documents and specifications prepared, signed, and sealed by a professional engineer to implement the Department-approved

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IRM. Such documents shall include a health and safety plan, contingency plan, and (if the Department requires such) a citizen participation plan that incorporates appropriate activities outlined in the Department's publication, "New York State Inactive Hazardous Waste Citizen Participation Plan," dated August 30, 1988, and any subsequent revisions thereto.

Respondent shall then carry out such IRM in accordance with the requirements of the approved IRM Work Plan, detailed documents and specifications, and this Order. Within the schedule contained in the Department-approved IRM Work Plan, Respondent shall submit to the Department a final engineering report prepared by a professional engineer that includes a certification by that individual that all activities that comprised the IRM were performed in full accordance with the Department-approved IRM Work Plan, detailed documents and specifications, and this Order. Within the schedule contained in the Department-approved IRM Work Plan, Respondent shall submit to the department a report or reports documenting the performance of the IRM. Respondent shall notify the Department of any significant difficulties that may be encountered in implementing the Department-approved IRM Work Plan, detailed documents, or specifications and shall not modify any obligation unless first approved by the Department.

VI. <u>Progress Reports</u>

Respondent shall submit to the parties identified in

Subparagraph XIV.B in the numbers specified therein copies of written quarterly progress reports that: (i) describe the actions which have been taken toward achieving compliance with this Order during the previous quarter; (ii) include all results of sampling and tests and all other data received or generated by Respondent or Respondent's contractors or agents in the previous quarter, including quality assurance/quality control information, whether conducted pursuant to this Order or conducted independently by Respondent; (iii) identify all work plans, reports, and other deliverables required by this Order that were completed and submitted during the previous quarter; (iv) describe all actions, including, but not limited to, data collection and implementation of work plans, that are scheduled for the next quarter and provide other information relating to the progress at the Site; (v) include information regarding percentage of completion, unresolved delays encountered or anticipated that may affect the future schedule for implementation of Respondent's obligations under the Order, and efforts made to mitigate those delays or anticipated delays; (vi) include any modifications to any work plans that Respondent has proposed to the Department or that the Department has approved; and (vii) describe all activities undertaken in support of the Citizen Participation Plan during the previous quarter and those to be undertaken in the next quarter. Respondent shall submit these progress reports to the Department by the tenth day of every quarter following the

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effective date of this Order.

VII. Review of Submittals

A. (1) The Department shall review each of the submittals Respondent makes pursuant to this Order to determine whether it was prepared, and whether the work done to generate the data and other information in the submittal was done, in accordance with this Order and generally accepted technical and scientific principles. The Department shall notify Respondent in writing of its approval or disapproval of the submittal, except for the Health and Safety Plan. All Department-approved submittals shall be incorporated into and become an enforceable part of this Order.

(2) (a) If the Department disapproves a submittal, it shall so notify Respondent in writing and shall specify the reasons for its disapproval. Within 30 days after receiving written notice that Respondent's submittal has been disapproved, Respondent shall make a revised submittal to the Department that addresses and resolves all of the Department's stated reasons for disapproving the first submittal.

(b) After receipt of the revised submittal, the Department shall notify Respondent in writing of its approval or disapproval. If the Department disapproves the revised submittal, unless Respondent requests an opportunity to respond to the Department's objections pursuant to the Dispute Resolution Paragraph, infra. Respondent shall be in violation of this Order and the Department may take any

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action or pursue whatever rights it has pursuant to any provision of statutory or common law. If the Department approves the revised submittal, it shall be incorporated into and become an enforceable part of this Order.

B. Respondent shall modify and/or amplify and expand a submittal upon the Department's direction to do so if the Department determines, as a result of reviewing data generated by an activity required under this Order or as a result of reviewing any other data or facts, that further work is necessary.

VIII. Dispute Resolution Concerning Submittals

If the Department disapproves a revised submittal, Respondent shall be in violation of this Order unless, within 10 days of receipt of the Department's written notice of disapproval, Respondent notifies the Department in writing that it would like to meet with the Director of the Division of Hazardous Waste Remediation ("the Director") in order to discuss the Department's objections and Respondent is available to meet immediately thereafter. At this meeting, Respondent shall be given an opportunity to present its responses to the Department's objections, and the Director shall have the authority to modify and/or withdraw such objections. Respondent shall revise the submittal in accordance with the Department's specific comments, as modified, except for those which have been withdrawn by the Director, and shall submit a revised Report ("the second

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revised submittal"). The period of time within which the submittal must be revised as specified by the Department in its notice of disapproval shall control unless the Department revises the time frame during the meeting referenced above.

After receipt of the second revised submittal, the Department shall notify the Respondent in writing of its approval or disapproval of the second revised submittal.

If the second revised submittal fails to address the Department's specific comments, as modified, and the Department disapproves the revised Report for this reason, Respondent shall be in violation of this Order and the ECL.

The invocation of formal dispute resolution procedures under this Section shall not of itself extend, postpone or affect in any way any obligation of the Respondent under this Order, except that payment of stipulated penalties with respect to the disputed matter shall be stayed pending resolution of the dispute pursuant to this Section. In the event that the Respondent does not prevail on the disputed issue and Respondent does not comply with the Director's decision, stipulated penalties shall be assessed and paid as provided in Section IX.

IX. Penalties

(1) Except as provided in paragraph VIII, Dispute Resolution Concerning Submittals, Respondent's failure to comply with any term of this Order within 10 days of receipt of a Department notice of violation shall be a violation of

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this Order and the ECL.

(2) Respondent shall be liable for payment to the Department of the sums set forth below as stipulated penalties for each day or part thereof that Respondent is in violation of the terms of this Order. The Department shall notify Respondent in writing that Respondent is in violation of this Order and Respondent shall have 10 days to correct the violation. No penalties shall accrue unless Respondent has failed to correct the violation by the tenth day. Such sums shall be due and payable within 15 days after receipt of notification from the Department assessing the penalties. If such payment is not received within 15 days after Respondent receives such notification from the Department, interest shall be payable at the annual rate of nine per centum on the overdue amount from the day on which it was due through, and including, date of payment. Penalties shall be paid by certified check or money order, made payable to "New York State Department of Environmental Conservation" and shall be delivered personally or by certified mail, return receipt requested, to the Director, Division of Environmental Enforcement, N.Y.S.D.E.C., 50 Wolf Road, Albany, New York 12233-5500. Payment of the penalties shall not in any way alter Respondent's obligation to complete performance under the terms of this Order. Stipulated penalties shall be due and payable under Subparagraph IX.A.(2) pursuant to the following schedule:

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Period of Non-Compliance	Penalty Per Day
First through 15th day	$ 1,500
16th through 30th day	$ 3,000
31st day and thereafter	$ 5,000

X. Force Majeure

Respondent shall not suffer any penalty under this Order or be subject to any proceeding or action for any remedy or relief if it cannot comply with any requirements of this Order because of an act of God, war, or riot or because of any condition or event beyond the control of Respondent or its agent or agents carrying out Respondent's obligations under this Order. Respondent shall notify the Department in writing within five days of when it obtains knowledge of any such condition and request an appropriate extension or modification of this Order. Any obligation of Respondent shall be extended for as long as it is so prevented from complying with any condition or requirement in the Order.

Increased costs or expenses of any work to be performed under this Order, the financial inability of Respondent to perform such work, the failure of Respondent to make complete and timely application for any required approval or permit, the failure of Respondent to obtain access for the Department, and nonattainment of the goals, standards and requirements of this Order do not constitute conditions or events warranting the relief set forth in this paragraph.

XI. Entry upon Site

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The Department acknowledges that the Respondent is no longer the owner of the Site. Respondent shall use its best efforts to obtain an access agreement with the present owner of the Site within 45 days of the effective date of this Order to implement the requirements of this Order. Additionally, if access is required to perform this Order, Respondent shall use its best efforts to obtain access agreements with the owners of any areas in the vicinity of the Site identified in the Work Plan within 45 days of the effective date of this Order or within 45 days of the date the Department notifies the Respondent in writing that additional access beyond that identified in the Work Plan is needed. Respondent shall attempt to include in all such agreements access for any duly designated employee, consultant, contractor, or agent of the Department or any State agency for purposes of inspection, sampling, and testing and to ensure Respondent's compliance with this Order. If such access agreements are not obtained within the time specified herein, Respondent shall notify the Department in writing within 7 days and shall include in that notification a summary of the steps it has taken to obtain access. Should Respondent, using best efforts, fail to secure access to the Site or areas in the vicinity of the Site, the Department may, as it deems appropriate, assist Respondent in obtaining

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access. Respondent shall reimburse the Department within 30 days, in accordance with the procedures in Paragraph IX.A(2) for all costs incurred by the Department in obtaining access, including, but not limited to, attorneys fees. "Access" for the purposes of this Paragraph includes easements, rights-of-way, and rights-of-entry. Respondent shall not deny the Department or any State agency access to the Site or areas in the vicinity of the Site which the Department or any State agency is authorized to enter.

XII. Payment of State Costs

The Respondent shall pay, without prejudice, to the Department $10,000.00 toward past State costs. Such payment shall be made within 30 days of the effective date of this Order.

XIII. Department Reservation of Rights

A. Except as specifically provided in this Order, nothing contained in this Order shall be construed as barring, diminishing, adjudicating, or in any way affecting any rights the Department may have including, but not limited to nor exemplified by, the following (provided that the enumeration of the following items in this Order shall not be deemed to create rights that did not previously exist):

1. the Department's right to bring any action or proceeding against anyone other than Respondent and/or any of Respondent's directors, officers, employees, servants, agents, successors, and assigns;

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2. the Department's right to enforce this Order against Respondent and/or any of Respondent's directors, officers, employees, servants, agents, successors, and assigns if Respondent fails to satisfy any of the terms of this Order;

3. the Department's right to bring any action or proceeding against Respondent and/or any of Respondent's directors, officers, employees, servants, agents, successors, and assigns with respect to claims for natural resources damages as a result of the release or threatened release of hazardous substances or constituents at or from the Site or areas in the vicinity of the Site;

4. the Department's right to bring any action or proceeding against Respondent and/or any of Respondent's directors, officers, employees, servants, agents, successors, and assigns with respect to hazardous substances that are present at the Site or that have migrated from the Site;

5. the Department's right to require Respondent and/or any of Respondent's directors, officers, employees, servants, agents, successors, and assigns to develop and implement IRMs for the Site;

6. the Department's right to gather information and enter and inspect property and premises; and

7. the Department's right to bring any action or proceeding to recover its administrative costs and/or expenses (past and future) related to the Site.

B. Nothing contained in this Order shall be

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construed to prohibit the Commissioner or his duly authorized representative from exercising any summary abatement powers.

XIV. Indemnification

Respondent shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless for all claims, suits, actions, damages, and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Order by Respondent and/or any of Respondent's directors, officers, employees, servants, agents, successors, and assigns, except where the Department (or its agents et. al.) have acted in a grossly negligent manner. Respondent shall indemnify the Department, the State of New York, and their representatives and employees in subsequent third party litigation, except where the Department (or its agents et. al.) have acted in a grossly negligent manner.

XV. Public Notice

Within 20 days after the effective date of this Order, Respondent shall file a copy of this Order with the Westchester County Clerk to give all parties who may acquire any interest in the Site notice of this Order.

XVI. Communications

A. All written communications required by this Order shall be transmitted by United States Postal Service, by private courier service, or hand delivered as follows:

Communication from Respondent shall be sent to the

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Department's Attorney:

Rosalie K. Rusinko, Esq.
Division of Environmental Enforcement
NYS Department of Environmental Conservation
200 White Plains Road - 5th Floor
Tarrytown, New York 10591-5805

with a copy to the Department's project manager:

Daniel Bendell
Div. of Hazardous Waste Remediation
New York State Department of Environmental Conservation
Region 3
21 South Putt Corners Road
New Paltz, New York 12561-1696

B. Copies of work plans and reports shall be submitted as follows:

1. Four copies (one unbound) to:
Daniel Bendell
Div. of Hazardous Waste Remediation
New York State Department of Environmental Conservation
Region 3
21 South Putt Corners Road
New Paltz, New York 12561-1696

2. Two copies to:
G. Anders Carlson, Ph.D.
Director, Bureau of Environmental Exposure Investigation
New York State Department of Health
2 University Place - Room 205
Albany, New York 12203

3. One copy to:
Michael J. O'Toole, Jr.
Director, Div. of Hazardous Waste Remediation
New York State Department of Environmental Conservation
50 Wolf Road - Room 212
Albany, New York 12233-7010

4. One copy to:
Rosalie K. Rusinko, Esq.
Division of Environmental Enforcement

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New York State Department of
Environmental Conservation
200 White Plains Road - 5th Floor
Tarrytown, New York 10591-5805

C. Within 30 days of the Department's approval of any report submitted pursuant to this Order, Respondent shall submit to Daniel Bendell a computer readable magnetic media copy of the approved report in American Standard Code for Information Interchange (ASCII) format or in Wordperfect 5.1 format.

D. Communication to be made from the Department to the Respondent shall be sent to:

Joel Sachs, Esq.
Keane & Beane, P.C.
1 North Broadway
White Plains, New York 10601

with copies to:

Edward S. Wactlar, Esq.
Blau Kramer Wactlar & Lieberman, P.C.
100 Jericho Quadrangle
Jericho, New York 11753

and

Mark Sielski, Project Manager
Foster Wheeler Environmental Corporation
1290 Wall Street West
P.O. Box 661
Lyndhurst, New Jersey 07071-0661

E. The Department and Respondent reserve the right to designate additional or different addressees for communication or written notice to the other.

XVII. Respondent's Reservation of Rights

Nothing herein shall be deemed an admission or acknowledgment by Respondent of liability or responsibility

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for past, present or future conditions existing at the Site or any off-Site condition allegedly caused by conditions on the Site under federal, state or local law. Respondent specifically reserves the right to challenge or contest any determination of liability or responsibility for past, present or future conditions at the Site or off the Site resulting from the Site.

XVIII. Miscellaneous

A. All activities and submittals required by this Order shall address both on-Site and off-Site contamination resulting from the disposal of hazardous waste at the Site.

B. Respondent shall retain professional consultants, contractors, laboratories, quality assurance/quality control personnel and data validators acceptable to the Department to perform the technical, engineering and analytical obligations required by this Order. The experience, capabilities and qualifications of the firms or individuals selected by Respondent shall be submitted to the Department within 10 days after the effective date of this Order. The Department's approval of these firms or individuals shall be obtained prior to initiation of any activities for which Respondent and such firms or individuals will be responsible.

C. The Department shall have the right to obtain split samples, duplicate samples, or both, of all substances and materials sampled by Respondent, and the Department also

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shall have the right to take its own samples. Respondent shall make available to the Department the results of all sampling and/or tests or other data generated by Respondent with respect to implementation of this Order and shall submit these results in the progress reports required by this Order.

D. Respondent shall notify the Department at least 10 working days in advance of any field activities to be conducted pursuant to this Order.

E. Respondent shall use best efforts to obtain all permits, approvals, or authorizations necessary to perform Respondent's obligations under this Order.

F. Respondent and Respondent's successors, and assigns shall be bound by this Order. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall in no way alter Respondent's responsibilities under this Order. Respondent's officers, directors, employees, servants, and agents shall be obliged to comply with the relevant provisions of this Order in the performance of their designated duties on behalf of Respondent.

G. Respondent shall provide a copy of this Order to each contractor hired to perform work required by this Order and to each person representing Respondent with respect to the Site and shall condition all contracts entered into hereunder upon performance in conformity with the terms of this Order. Respondent or Respondent's contractors shall

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provide written notice of this Order to all subcontractors hired to perform any portion of the work required by this Order. Respondent shall nonetheless be responsible for ensuring that Respondent's contractors and subcontractors perform the work to be done under this Order in accordance with this Order.

H. All references to "professional engineer" in this Order are to an individual registered as a professional engineer in accordance with Article 145 of the New York State Education Law. If such individual is a member of a firm, that firm must be authorized to offer professional engineering services in the State of New York in accordance with Article 145 of the New York State Education Law.

I. All references to "days" in this Order are to calendar days unless otherwise specified.

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

K. (1) The terms of this Order shall constitute the complete and entire Order between Respondent and the Department concerning the Site. 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 regarding

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any report, proposal, plan, specification, schedule, or any other submittal shall be construed as relieving Respondent of Respondent's obligation to obtain such formal approvals as may be required by this Order.

(2) If Respondent desires that any provision of this Order be changed, Respondent shall make timely written application, signed by the Respondent, to the Commissioner setting forth reasonable grounds for the relief sought. Copies of such written application shall be delivered or mailed to:

Rosalie K. Rusinko, Esq.
Division of Environmental Enforcement
NYS Department of Environmental Conservation
200 White Plains Road - 5th Floor
Tarrytown, New York 10591-5805

and

Daniel Bendell
Div. of Hazardous Waste Remediation
New York State Department of Environmental Conservation
Region 3
21 South Putt Corners Road
New Paltz, New York 12561-1696

L. The effective date of this Order shall be the date it is signed by the Commissioner or his designee.

DATED: 5/21/96, New York
, 1996

MICHAEL D. ZAGATA
Commissioner
New York State Department of Environmental Conservation

By:

Michael J. O'Toole, Jr.

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CONSENT BY RESPONDENT

ISC PROPERTIES, INC.

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

By: _____

Title: Vice President

Date: 4/8/96

STATE OF NEW YORK)
) s.s.:
COUNTY OF NASSAU)

On this 8th day of April, 1996, before me personally came Allen Kaden, to me known, who being duly sworn, did depose and say that he resides in Jericho; that he is the Vice President of FSC Properties, Inc., the corporation described in and which executed the foregoing instrument; that he knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by the order of the Board of Directors of said corporation and that he signed his name thereto by like order.

_____

Notary Public

LISA DVOSKIN
Notary Public, State of New York
No. 01DV5039708
Qualified in Suffolk County
Commission Expires February 21, 1997

BCLP05175