

1-30-003A-001

New York State Department Of Environmental Conservation  
Division of Environmental Enforcement  
202 Mamaroneck Avenue - Room 304  
White Plains, N.Y. 10601-5381  
Telephone: (914) 761-3575



Thomas C. Jorling  
Commissioner

November 1, 1990

CERTIFIED MAIL/RRR

John Ohlmann  
Environmental Protection  
Grumman Aerospace Corporation  
Mail Stop: B08/30  
Bethpage, NY 11714-3580

Re: ORDER ON CONSENT  
GRUMMAN AEROSPACE CORP.  
Site # 1-30-003

Dear Mr. Ohlmann:

Enclosed is a fully executed Order on Consent providing for a Remedial Investigation/Feasibility Study at the Grumman Aerospace Corporation site. The Order was signed by Deputy Commissioner Edward O. Sullivan on October 25, 1990.

Thus, October 25, 1990, the effective date of the Order, should be used to calculate the timing of all submissions and activities pursuant to this Order on Consent unless otherwise specifically stated.

Thank you for your courtesy and cooperation in this project. The Department anticipates working harmoniously with you to implement the remediation of the site.

Very truly yours,

Alice M. McCarthy  
Assistant Counsel

AMCC/jg

Enclosure: Consent Order

## 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, of  
the Environmental Conservation  
Law of the State of New York  
by

ORDER  
ON  
CONSENT  
Index # W1-0018-81-01  
Site # 1-30-003

GRUMMAN AEROSPACE CORPORATION

Respondent.

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".

2. Grumman Aerospace Corporation ("Respondent"), a corporation organized and existing under the laws of the State of New York, is doing business in the State of New York. From approximately 1937 to present, Respondent/or its predecessor in interest, Grumman Aircraft Engineering Corporation (now Grumman Corporation), operated facilities on real property at Stewart Avenue, Bethpage, Town of Oyster Bay, County of Nassau

(the "Site"). A map of the Site as it currently exists is attached to this Order as "Appendix A". When used herein the word "Site" does not include any portions of said property owned by the United States Government and Respondent's obligations hereunder do not extend to such Government owned property.

3. The Site is an inactive hazardous waste disposal site, as that term is defined at ECL Section 27-1301(2) and has been listed in the Registry of Inactive Hazardous Waste Disposal Sites in New York State as Site Number 1-30-003. Pursuant to ECL Section 27-1305(4)(b) the Department has classified the Site as a "2": significant threat to the public health or environment - Action Required.

4. The Site has been classified as a "2" because a plume of volatile organic contaminants including trichlorethylene (TCE), a hazardous waste as the term is defined at ECL Section 27-1301(1), was detected at the Site in the groundwater at a concentration level of 4,798 ppb.

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5. Pursuant to ECL Section 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."

6. The Department and Respondent agree that the goals of this Order shall be the development and implementation of a Remedial Investigation/Feasibility Study for the Site by Respondent.

7. Respondent, having waived its right to a hearing herein as provided by law, and having consented to the issuance and entry of this Order, agrees to be bound by its terms.

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

I. All activities and submittals required by this Order shall address both on-Site and off-Site contamination attributable to Respondent's Site and shall be in accordance with Requisite Remedial Technology. As used in this Order, Requisite Remedial Technology means the proper application of scientific and engineering principles and practices, subject to the Department's approval, which will identify and mitigate or eliminate any present or potential threat to the public health or environment posed by the presence of hazardous waste at the Site and any release or threatened release of hazardous waste at or from the Site.

II. Respondent shall retain professional consultants, contractors and laboratories 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 within 30 days after the effective date of this order, consultant selection or contract execution, whichever is later, to the Department for approval prior to initiation of any activities for which the Respondent and their consultants will be responsible.

III. Within 60 days after the effective date of this Order, Respondent shall submit to the Department its scoping effort completed in accordance with EPA's "Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA", dated October 1988, and any subsequent revisions thereto, and appropriate technical and administrative guidelines. *Comp*

Respondent shall, within the same 60 days, submit all data within its possession or control regarding environmental conditions on-Site and off-Site, and other information described below, to the extent that such data have not previously been provided to the Department. 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; *Comp*

b. A concise summary of information held by the Respondent and its attorneys with respect to all persons responsible for such disposal of hazardous wastes. Person responsible or responsible party means any or all of the following:

- (1) the current owner and operator of the Site;
- (2) the owner and operator of the Site at the time or subsequent to the time any hazardous waste disposal occurred; *NA*
- (3) any person who generated any hazardous waste that was disposed of at the Site; *No + Decon*
- (4) any person who transported any hazardous waste to the Site; *GAC NAME*
- (5) any person who disposed of any hazardous waste at the Site; *NA*
- (6) any person who by contract, agreement or otherwise arranged for the transportation of any hazardous waste to the Site or the disposal of any hazardous waste at the Site; *NA*
- (7) any other person determined to be responsible according to applicable principles of statutory or common law liability.

Such information shall include, but not be limited to, names, addresses, dates of disposal and any proof linking each such person responsible with hazardous wastes identified pursuant to Paragraph III (a) herein;

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 property surveys and engineering studies. Respondent will

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*p. 20*

provide a complete inventory, listing title dates and subject matter, of all topographical and aerial photographs of the Site. Additionally Respondent shall submit representative copies of the topographical and aerial photographs listed. The Respondent will provide copies of any document covered by this paragraph if the Department so requests.

IV. Within 60 days after the effective date of this Order, Respondent shall submit to the Department a Work Plan for a Remedial Investigation/Feasibility Study.

The Work Plan shall address all elements of a Remedial Investigation/Feasibility Study as set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sections 9601 et seq., as amended ("CERCLA"), the National Contingency Plan then in effect ("NCP"), the USEPA draft guidance document entitled "Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA" dated October 1988, and any subsequent revisions thereto, and appropriate technical and administrative guidelines. In addition, the Work Plan shall include:

a. A Work Plan which shall consist of a chronological description of the anticipated RI/FS activities together with an anticipated schedule for the performance of these activities.

b. A Sampling and Analysis Plan which shall include:

(i) A Quality Assurance Project Plan that describes the quality assurance and quality control ("QAQC") protocols necessary to achieve the initial data quality objectives.

(ii) A Field Sampling Plan that defines the sampling and data gathering methods in a manner consistent with the "Compendium of Superfund Field Operations Method" (EPA/540/P-87/001, OSWER Directive 9355.0-14, December 1987) as supplemented by the Department.

c. A Health and Safety Plan for the protection of persons at and in the vicinity of the Site during the performance of the Remedial Investigation which shall be prepared in accordance with 29 C.F.R. Section 1910 by a certified health and safety professional.

d. A Citizen Participation Plan which is prepared in a manner consistent with the Department's publication "New York State Inactive Hazardous Waste Site Citizen Participation Plan".

v. The Department shall notify Respondent in writing of its approval or disapproval of the Work Plan.

If the Department disapproves the Work Plan, the Department shall notify Respondent in writing of the Department's objections. Within 45 days after receipt of notice of disapproval, Respondent shall revise the Work Plan in accordance with the Department's specific comments and submit a Revised Work Plan.

The Department shall notify Respondent in writing



of its approval or disapproval of the Revised Work Plan.

If the Department disapproves the Revised Work Plan, the Respondent shall be deemed to be in violation of this Order.

The Work Plan or the Revised Work Plan, whichever the Department approves (the "Approved Work Plan"), shall be attached as "Appendix B" and incorporated into this Order.

VI. In accordance with the time schedule contained in the Approved Work Plan, Respondent shall perform the Remedial Investigation and submit status reports and other deliverables (as defined in the Work Plan) and in the Remedial Investigation Report. During the Remedial Investigation, Respondent shall have on-site, full-time, a representative who is qualified to inspect the work. The Report shall include all data generated and all other information obtained during the Remedial Investigation, provide all of the assessments and evaluations set forth in CERCLA, the NCP then in effect, and in the guidance documents referred to above and identify any additional data that must be collected. The Remedial Investigation Report shall be prepared and certified by an engineer licensed to practice by the State of New York, approved by the Department. This engineer may be an employee of Respondent, or an individual or member of a firm which is authorized to offer engineering services in accordance with Article 145 of the New York State Education Law. The engineer shall certify that all activities that comprised the Remedial

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No 60 Day input req'd  
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Investigation were performed in full accordance with the Approved Work Plan.

VII. After receipt of the Remedial Investigation Report, the Department shall determine if the Remedial Investigation was conducted and the Report prepared in accordance with the Approved Work Plan and this Order, and shall notify Respondent in writing of its approval or disapproval of the Report.

If the Department disapproves the Report, the Department shall notify Respondent in writing of the Department's objections. Respondent shall revise the Report and/or reperform or supplement the Remedial Investigation in accordance with the Department's specific comments and shall submit a revised Report. The period of time within which the Report must be revised or the Remedial Investigation reperformed or supplemented shall be specified by the Department in its notice of disapproval.

After receipt of the Revised Report, the Department shall notify the Respondent in writing of its approval or disapproval of the Revised Report.

If the Department disapproves the Revised Report, the Respondent shall be deemed to be in violation of this Order.

The Report or the Revised Report, whichever the Department approves (the "Approved Report"), shall be attached as "Appendix C" and incorporated into this Order.

VIII. The Department reserves the right to require a

modification and/or an amplification and expansion of the Remedial Investigation and Report by Respondent if the Department determines, as a result of reviewing data generated by the Remedial Investigation or as a result of reviewing any other data or facts, that further work is necessary.

IX. Within 90 days after receipt of the Department's approval of the Report, Respondent shall submit a Feasibility Study evaluating on-Site and any necessary off-Site remedial actions to eliminate, to the maximum extent practicable, all health and environmental hazards and potential hazards attributable to the Site. The Feasibility Study shall be prepared and certified by an engineer licensed to practice by the State of New York, and approved by the Department. This engineer may be an employee of Respondent, or an individual or member of a firm which is authorized to offer engineering services in accordance with Article 145 of the New York State Education Law.

The Feasibility Study shall be performed in a manner that is consistent with CERCLA, the NCP then in effect, the USEPA draft guidance document entitled "Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA," dated October 1988 and any subsequent revisions thereto and appropriate technical and administrative guidelines.

X. After receipt of the Feasibility Study, the Department shall determine if the Feasibility Study was

prepared in accordance with this Order, and shall provide written notification of its approval, or disapproval if it was not so prepared.

If the Department disapproves the Feasibility Study, the Department shall notify Respondent in writing of the Department's objections. Within 45 days after receipt of notice of disapproval, Respondent shall revise the Feasibility Study in accordance with the Department's specific comments and submit a Revised Feasibility Study.

After receipt of the Revised Feasibility Study, the Department shall notify Respondent in writing of its approval or disapproval of the Revised Feasibility Study.

If the Department disapproves the Revised Feasibility Study, the Respondent shall be deemed to be in violation of this Order.

The Feasibility Study or the Revised Feasibility Study, whichever the Department approves (the "Approved Feasibility Study"), shall be attached as "Appendix D" and incorporated into this Order.

XI. Within 60 days after the Department's approval of the Feasibility Study, the Department and Respondent shall solicit public comment on the Remedial Investigation/ Feasibility Study and the Recommended Remedial Program in accordance with CERCLA, the NCP, any other applicable law, and any relevant 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 program for the Site in a Record of Decision ("ROD"). The ROD shall be attached as "Appendix E" and incorporated into this Order.

XII. If Respondent has complied with the terms of this Consent Order, after the Department's selection of the final remedial program and issuance of its ROD, the Department shall provide a 60-day period for negotiation of an Administrative Order on Consent covering a Remedial Program including the design and implementation of the ROD. If agreement is not reached during this period, the Department reserves the right to implement the corrective measures or other remedial response and to take any other appropriate actions under the New York Environmental Conservation Law, CERCLA, or any other available legal authority.

XIII. 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 shall also have the right to take its own samples.

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

XV. Respondent shall obtain whatever permits, easements, rights-of-way, rights-of-entry, approvals or authorizations that are necessary to perform Respondent's duties.

If the Respondent is unable to obtain access to lands, other than those owned by the Respondent, to perform its duties under this Order, the Respondent will immediately

give written notification to the Department. The Respondent will then make all reasonable efforts to obtain access. Reasonable efforts shall include the payment of money or the indemnification of third parties. If the Respondent is unable to secure access, it will provide the Department with full documentation of all efforts it has taken. The Department, after reviewing the efforts of the Respondent, may take any legal action within its power to secure access to the properties concerned.

XVI. Respondent shall permit any duly designated employee, consultant, contractor or agent of the Department or any State agency to enter upon the Site or areas in the vicinity of the Site which may be under the control of Respondent for purposes of inspection, sampling and testing and to assure Respondent's compliance with this Order. During implementation of the Field Activities, Respondent shall provide the Department with suitable office space at the Site, including access to a telephone, and shall permit the Department full access to all records and job meetings.

XVII. a) Within 30 days after the Department's approval of the Remedial Investigation Report, and after receipt of a detailed invoice from the Department, Respondent shall pay to the Department a sum of money which shall be determined by the Department. This sum shall represent reimbursement for the expenses including, but not limited to, direct labor, overhead, analytical costs, contractor costs, for any work incurred under Paragraph XV

by the State of New York for reviewing the Report, overseeing the Remedial Investigation, and for collecting and analyzing samples or securing Site access.

b) The invoice shall include itemization of the Department's expenses in the form of personal services indicating the employee name, title, biweekly salary and time spent (in hours) on the project during the billing period, as identified by an assigned time and activity code. This information shall be documented by the Department's quarterly reports of Direct Personal Service. The Department's approved fringe benefit and indirect cost rates shall be applied. Non-personal service costs shall be summarized by category of expense (supplies, materials, travel, contractual) and shall be documented by the New York State Office of the State Comptroller's quarterly expenditure reports."

c) Such payment shall be made to:

David L. Markell, Esq.  
Director, Div. of Env. Enforcement  
Department of Environmental Conservation  
50 Wolf Road - Room 422  
Albany, N.Y. 12233-5500

A photocopy of the check shall be sent to:

Alice M. McCarthy, Esq.  
Division of Environmental Enforcement  
Department of Environmental Conservation  
202 Mamaroneck Avenue Room 304  
White Plains, N.Y. 10601-5381

XVIII. Respondent shall not suffer any penalty under this Order, or be subject to any proceeding or action, if it cannot comply with any requirements hereof because of an act

of God, war or riot. Respondent shall immediately notify the Department in writing when it obtains knowledge of any such condition and request an appropriate extension or modification of this Order.

XIX. The failure of the Respondent to comply with any term of this Order shall be a violation of this Order and the ECL.

XX. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting:

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

b. the Department's right to enforce this Order against Respondent, its directors, officers, employees, servants, agents, successors and assigns in the event that Respondent shall fail to satisfy any of the terms hereof;

c. the Department's right to bring any action or proceeding against Respondent, its directors, officers, employees, servants, agents, successors and assigns with respect to claims for natural resources damages. These damages are for injury to, destruction, or loss of natural resources at the Site or in the vicinity of the Site resulting from the release or threatened release of hazardous wastes or constituents at the Site. Damages also include the reasonable costs of assessing such injury,



destruction, or loss resulting from such a release;

d. the Department's right to bring any action or proceeding against Respondent, its directors, officers, employees, servants, agents, successors and assigns with respect to hazardous wastes that are present at the Site or that have migrated from the Site and present a significant threat to human health or the environment.

XXI. This Order shall not be construed to prohibit the Commissioner or his duly authorized representative from exercising any summary abatement powers.

XXII. 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, its directors, officers, employees, servants, agents, successors or assigns.

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

XXIV. If Respondent desires that any provision of this Order be changed, it shall make timely written application for the Commissioner's consideration, setting forth reasonable grounds for the relief sought. Such written application shall be delivered or mailed to:

(1) Alice M. McCarthy, Esq.  
Division of Environmental Enforcement  
NYS Dept. of Environmental Conservation  
202 Mamaroneck Avenue Room 304  
White Plains, N.Y. 10601-5381

(2) and to the Project Manager as designated by the Department.

XXV. Within 30 days after the effective date of this Order, Respondent shall file a Declaration of Covenants and Restrictions with the Nassau County Clerk to give all parties who may acquire any interest in the Site notice of this Order.

XXVI. In the event Respondent proposes to convey the whole or any part of its ownership interest in the Site, Respondent shall, not fewer than 30 days prior to the proposed conveyance, notify the Department in writing of the identity of the transferee and of the nature and date of the proposed conveyance and shall notify the transferee in writing, with a copy to the Department, and the parties named in Paragraphs XXIX of the applicability of this Order.

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

XXVIII. All communications, correspondence and documents from Respondent to the Department shall be addressed to the Department's attorney:

Alice M. McCarthy, Esq.  
Division of Environmental Enforcement  
NYS Dept. of Environmental Conservation  
202 Mamaroneck Avenue Room 304  
White Plains, N.Y. 10601-5381

with a copy to the Project Manager as designated by the Department.

XXIX. Copies of Work Plans, Reports, and technical

documents required to be submitted under the order shall be sent to the following:

- One copy to: David L. Markell, Esq.  
Director, Div. of Environmental Enforcement  
NYS Dept. of Environmental Conservation  
50 Wolf Road - Room 422  
Albany, New York 12233-5500
- Six copies to: Michael J. O'Toole, Jr., P.E., Director  
Div. of Hazardous Waste Remediation  
NYS Department of Environmental Conservation  
50 Wolf Road - Room 212  
Albany, New York 12233-7010
- Two copies to: Ronald Tramontano, P.E.  
Director, Bureau of Environmental  
Exposure Investigation  
NYS Department of Health  
2 University Place  
Albany, New York 12203
- One copy to: Alice M. McCarthy, Esq.  
Division of Environmental Enforcement  
NYS Department of Environmental Conservation  
Division of Environmental Enforcement  
202 Mamaroneck Avenue Room 304  
White Plains, N.Y. 10601-5381
- One copy to: Harold Berger, Regional Director, Reg. 1  
For: Anthony Candela, P.E.  
SUNY Campus, Bldg. # 40  
Stony Brook, NY 11794

XXX. Communication to be made from the Department to the Respondent shall be made as follows:

John Ohlmann, Director  
Environmental Protection  
Grumman Aerospace Corporation  
Mail Stop: B08/30  
Bethpage, NY 11714-3580

XXXI. Respondent, its officers, directors, agents, servants, employees, successors and assigns shall be bound

by this Order.

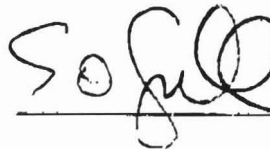
XXXII. The terms hereof shall constitute the complete and entire Order between Respondent and the Department concerning the Site. No terms, conditions, understandings or agreements purporting to modify or vary the terms hereof shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestions or comments by the Department regarding reports, proposals, plans, specifications, schedules or any other submittals shall be construed as relieving Respondent of its obligations to obtain such formal approvals as may be required by this Order.

DATED: Albany, New York

October 25, 1990

THOMAS C. JORLING  
Commissioner  
New York State Department of  
Environmental Conservation

By: EDWARD O. SULLIVAN  
Deputy Commissioner  
New York State Department of  
Environmental Conservation



TO: John Ohlmann  
Environmental Protection  
Grumman Aerospace Corporation  
Mail Stop B08/30  
Bethpage, New York 11714-3580

### CONSENT BY RESPONDENT

### GRUMMAN AEROSPACE CORPORATION

Respondent 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.

By: *[Signature]*  
(Print Name) D.G. Cassell  
Vice President, Grumman Corporation  
Title: for Grumman Aerospace Corporation  
(Print Title)  
Date: August 22, 1990

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

On this 22nd day of August, 1990, before me personally came Dean G. Cassell, to me known, who being duly sworn, did depose and say that he resides in West Islip, New York; that he is the Vice President of Grumman Corporation for Grumman Aerospace Corporation, the corporation described herein and which executed the foregoing instrument; that he knew the seal of said corporation; that the seal affixed to this 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.

*[Signature]*  
Notary Public

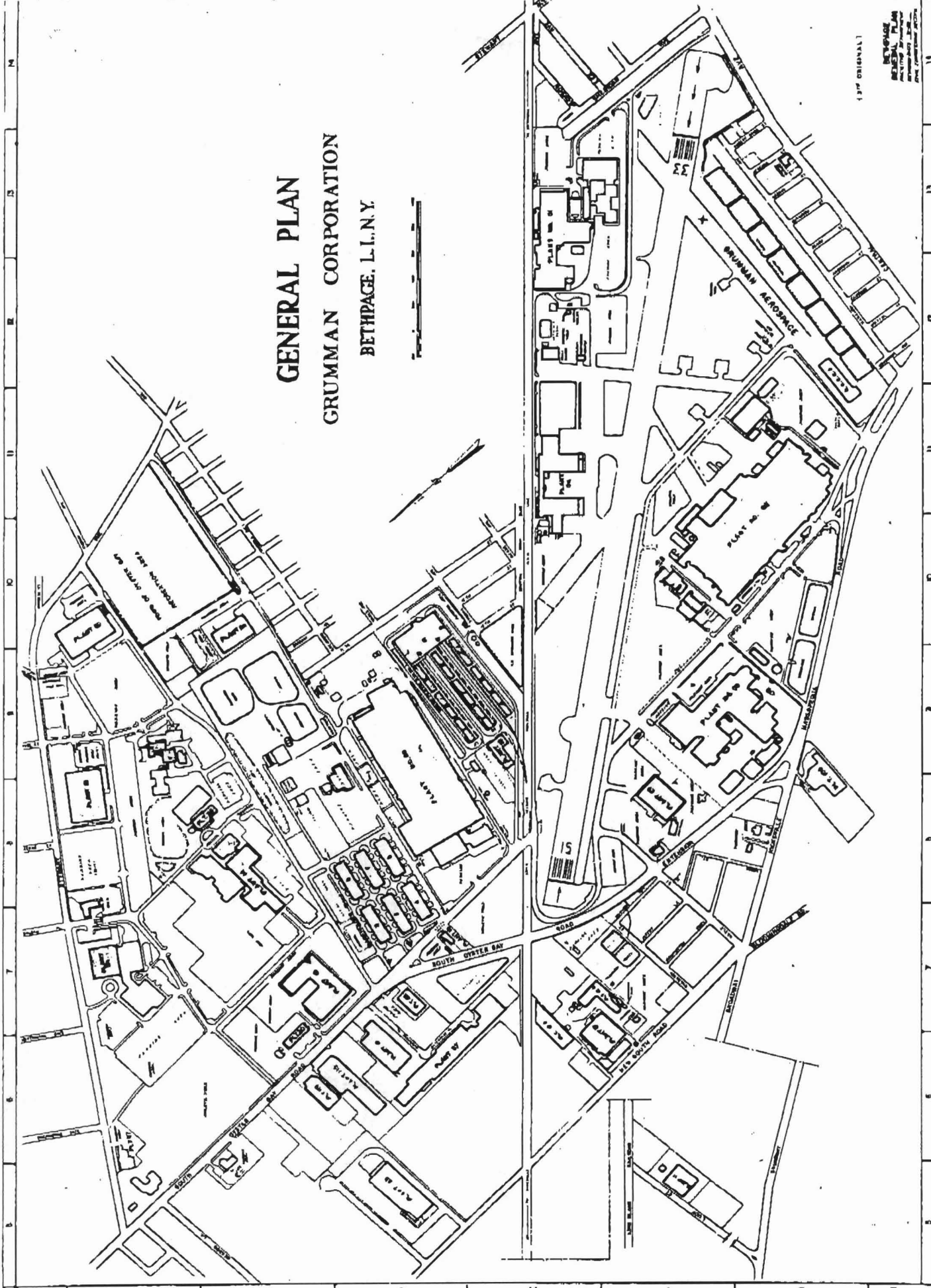
(AM-ORD-1/7 08/01/90)

**MADLINE ZEBROWSKI**  
NOTARY PUBLIC, State of New York  
No. 4643419  
Qualified in Nassau County  
Commission Expires 12/31/91

**GENERAL PLAN**  
**GRUMMAN CORPORATION**  
**BETHPAGE, L.I., N.Y.**



1 1/2" ORIGINAL  
 REVISIONS  
 GENERAL PLAN  
 BETHPAGE, L.I., N.Y.  
 DATE: 5/21/01



**APPENDIX "A"**

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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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, of  
the Environmental Conservation  
Law of the State of New York  
(the "ECL") by

ORDER ON CONSENT

Index # W1-0018-81-01  
Site # 130003

GRUMMAN AEROSPACE CORPORATION

Respondent.

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