STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of a Field Investigation to Identify Any Threat to the Environment Caused by the Disposal of Industrial and Hazardous Wastes by

RITE OFF, INC.,

Respondent

ORDER ON CONSENT

Index # W1-007487-06

WHEREAS,

1. The New York State Department of Environmental Conservation (the "Department") is responsible for the enforcement of Article 27, Title 13, of the Environmental Conservation Law of the State of New York (the "ECL"), entitled "Inactive Hazardous Waste Disposal Sites".

2. Rite Off, Inc., (the "Respondent"), is a corporation organized and existing under the laws of the State of New York, and is doing business in the State of New York in that Respondent manufactures aerosol cleaners, disinfectants and household insecticides in Suffolk County.

3. Respondent's sole share holder, Howard Rapps, owns property at 1545 5th Industrial Court, Bayshore, Suffolk County, New York (the "Site"). A map of the Site is attached hereto and is hereby incorporated into this Order as Appendix "A".

4. Between December 1986 and June 1987, Respondent disposed of certain hazardous and industrial wastes at the Site

5. The Site is an inactive hazardous waste disposal site, as that term is defined in ECL Section 27-1301(2).

6. The Department and Respondent acknowledge that the goals of this Order shall be that Respondent shall develop and implement a field investigation program to:

(i) determine the nature of the wastes and the areal extent and vertical distribution of the wastes disposed of at the Site;

(ii) identify any past, current and/or potential future releases or migration of hazardous waste, as that term is defined in ECL Section 27-1301(1), and/or industrial waste, from the site to other on-Site and off-Site areas; and

(iii) evaluate the on-Site and off-Site impacts of such migration upon the environment.

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 provisions, terms and conditions hereof.

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

I. All investigations, proposals, reports, plans, remedial programs, and supplements and revisions thereto required by this Order shall address both on-Site and off-Site contamination caused by the disposal of hazardous and industrial wastes at and in the vicinity of the Site, and shall be prepared, designed and executed in accordance with Requisite Technology. As used in this Order, Requisite Technology means engineering, scientific and construction principles and practices subject to the Department's approval, which (a) are technologically feasible, and (b) will most effectively identify any present or potential future threat to the environment posed by the disposal of hazardous and industrial wastes at and in the vicinity of the Site.

The failure of Respondent to submit or undertake a proposal, report, field investigation, or any supplement or revision thereof, which is in accordance with Requisite Technology shall constitute a violation of this Order.

II. As used herein, "hazardous wastes" shall mean hazardous wastes, any hazardous constituents thereof, and any toxic degradation products of such wastes and of such constituents.

III. Respondent shall undertake a field investigation of the Site and of areas off-Site affected by the disposal on the Site of hazardous and industrial wastes (the "Field Investigation").

IV. Within 60 days after the effective date of this Order,

Respondent shall submit to the Department a proposed written scope of work (the "Proposal") outlining the nature and extent of the work to be undertaken in conducting the Field Investigation. At a minimum, the Proposal shall meet the requirements of the generic workplan attached hereto as Appendix "B" and shall include the names of the consulting firm(s), contractor(s) and laboratory to be performing the work.

V. Within 30 days after receipt of the Proposal, the Department shall provide written notification to Respondent of its approval or disapproval of the Proposal. If the Department approves the Proposal, Respondent shall perform the Remedial Investigation in accordance with the Proposal.

If the Department disapproves the Proposal, then within 30 days after receipt of the Department's objections to the Proposal, Respondent shall revise the Proposal in accordance with the terms, provisions and conditions of this Order and shall submit to the Department a Proposal which has been revised in accordance with the Department's objections (the "Revised Proposal").

Within 30 days after receipt of the Revised Proposal, the Department shall provide written notification to Respondent of its approval or disapproval of the Revised Proposal. If the Department approves the Revised Proposal, Respondent shall perform the Field Investigation in accordance with the Revised Proposal.

If the Department disapproves the Revised Proposal,

the Respondent shall be in violation of this Order, not having submitted an approvable proposal in accordance with the terms, provisions, and conditions of this Order.

The approved Proposal or the approved Revised Proposal shall be attached hereto and shall be incorporated into this Order as Appendix "C". Such Proposal shall hereafter be referred to as the "Approved Proposal".

VI. Within 120 days from receipt of approval of the Proposal, Respondent shall submit to the Department a Field Investigation report (the "Report"), founded upon its performance of the Field Investigation in accordance with the Approved Proposal. The Report shall include a copy of the Approved Proposal and all data generated, and all other information obtained, during the Field Investigation and completed site hazard ranking score sheets.

VII. Within sixty (60) days after its receipt of the Report, the Department shall determine if the Field Investigation was conducted, and the Report prepared in accordance with the terms, provisions and conditions of this Order, and shall provide written notification to Respondent 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. Within thirty (30) days after its receipt of notice

of disapproval, Respondent shall revise the Report and/or reperform or supplement the Field Investigation in accordance with the terms, provisions and conditions of this Order and shall submit to the Department a Report which has been revised in accordance with the Department's objections (the "Revised Report").

Within fifteen (15) days after its receipt of the Revised Report, the Department shall determine if the Revised Report is in accordance with the terms, provisions and conditions of this Order and shall provide written notification to Respondent of its approval or disapproval of the Revised Report.

If the Department disapproves the Revised Report, the Respondent shall be in violation of this Order, not having submitted an approvable report and/or conducted a Field Investigation in accordance with the terms, provisions and conditions of this Order.

VIII. The Department reserves the right to require a modification and/or an amplification and expansion of the Field Investigation and Report by Respondent to address specific off-Site areas if the Department determines that further off-Site investigation is necessary, as a result of reviewing data generated by the Field Investigation or as a result of reviewing other data or facts. The Report shall be attached hereto and shall be incorporated into this Order as Appendix "C".

IX. The Department shall review the Report and shall use the Report as the basis of the development of the Site Hazard Ranking Score assigned to the Site for State Superfund Site ranking purposes.

X. The Department shall have the right to obtain for the purpose of comparative analysis "split samples" or "duplicate samples", at the Department's option, of all substances and materials sampled by Respondent pursuant to this Order. As used herein: "split samples" shall mean whole samples divided into aliquots; "duplicate samples" shall mean multiple samples, collected at the same time from exactly the same location, using the same sampling apparatus, collected into identical containers prepared identically, filled to the same volume, and thereafter identically handled and preserved.

XI. Respondent shall provide notice to the Department of any excavating, drilling or sampling to be conducted pursuant to the terms of this Order at least five (5) working days in advance of such activities.

XII. Respondent shall permit any duly designated officer, employee, consultant, contractor or agent of the Department to enter upon the Site or areas in the vicinity of the Site which may be under the control of Respondent, and any areas necessary to gain access thereto, for inspection purposes and for the purpose

of making or causing to be made such sampling and tests as the Department deems necessary, and for ascertaining Respondent's compliance with the provisions of this Order.

XIII. Respondent shall obtain whatever permits, easements, rights-of-way, rights-of-entry, approvals or authorizations which are necessary in order to perform the Field Investigation and all of Respondent's other obligations pursuant to this Order.

XIV. Respondent shall retain a third-party professional consultant, contractor, and/or laboratory to perform the technical, engineering and analytical obligations required by this Order. Said consultant, contractor, and/or laboratory shall have demonstrable experience, capabilities and qualifications in the type of work which they will be performing.

XV. Respondent shall not suffer any penalty under any of the provisions, terms and conditions hereof, or be subject to any proceedings or actions for any remedy or relief, if it cannot comply with any requirements of the provisions hereof because of an act of God, war, riot, or other condition as to which negligence or willful misconduct on the part of Respondent was not a proximate cause, provided, however, that Respondent shall immediately notify the Department in writing when it obtains knowledge of any such condition and request an appropriate extension or modification of the provisions hereof.

XVI. The Department reserves any and all of its rights to seek recoupment of any and all of its direct and indirect expenses regarding this Site including, but not limited to, sampling and laboratory analysis costs.

XVII. The failure of Respondent to comply with any provision of this Order shall constitute a default and a failure to perform an obligation under this Order and under the ECL.

XVIII. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting (1) any legal or equitable rights or claims, actions, suits, causes of action or demands whatsoever that the Department may have against anyone other than Respondent, its directors, officers, employees, servants, agents, successors and assigns; (2) the Department's right to enforce, at law or in equity, the terms and conditions of this Order against Respondent, its directors, officers, employees, servants, agents, successors and assigns in the event that Respondent shall fail to fulfill any of the provisions hereof; and (3) the Department's right to bring any action at law or in equity against Respondent, its directors, officers, employees, servants, agents, successors and assigns with respect to areas or resources that may have been affected or contaminated as a result of the release or migration of hazardous or industrial wastes from the Site or from areas in the vicinity of the Site. Nothing herein shall be construed as affecting the Department's right to commence any action or proceeding to which it may be entitled in

connection with, relating to, or arising out of Respondent's disposal of hazardous or industrial wastes at the Site.

XIX. The terms of this Order shall not be construed to prohibit the Commissioner or his duly authorized representative from exercising any summary abatement powers, either at common law or as granted pursuant to statute or regulation.

XX. 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 the provisions hereof by Respondent, its directors, officers, employees, servants, agents, successors or assigns.

Respondent shall not be called upon to indemnify or be in any way responsible for the acts, errors, or omissions of the Department, its officers, agents or employees nor any direct or consequential damages that may arise from the Department's conduct or lack of it. The Department, its officers, agents and employees are at no time acting in any representative capacity for Respondent.

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

XXII. If, for any reason, Respondent desires that any provision of this Order be changed, Respondent shall make timely written application therefor to the Commissioner, setting forth reasonable grounds for the relief sought.

XXIII. Within 30 days after the effective date of this Order, Respondent shall file a Declaration of Covenants and Restrictions with the real property records of the Suffolk County Clerk's Office, for the purpose of providing notice of this Order to all potential future purchasers of any portion of the Site. Said Declaration must indicate that any successor in title to any portion of the Site shall be responsible for implementing the provisions of this Order.

XXIV. In the event that Respondent proposes to convey the whole or any part of its ownership interest in the Site, Respondent shall, not less than 30 days prior to the consummation of such proposed conveyance, notify the Department in writing of the identity of the transferee and of the nature and date of the proposed conveyance. In advance of such proposed conveyance, Respondent shall notify the transferee in writing, with a copy to the Department, of the applicability of this Order.

XXV. A. All communication required hereby to be made between the Department and Respondent shall be made in writing and transmitted by United States Postal Service return

receipt requested or hand delivered to the addresses in paragraph B hereinunder.

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

1. Two copies to: Mr. Michael J. O'Toole, Acting Director
Dept. of Environmental Conservation
Div. of Hazardous Substances Remediation
50 Wolf Road - Room 212
Albany, New York 12233-4010

2. Two copies to: Rocky J. Piaggione, Esq.
Dept. of Environmental Conservation
Division of Environmental Enforcement
202 Mamaroneck Avenue Room 304
White Plains, New York 10601-5381

3. Two copies to: Mr. Harold Berger, Regl. Director, Region 1
Dept. of Environmental Conservation
Building # 40 - SUNY
Stony Brook, New York 11794

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

Joseph L. Kaufman, Esq.
P.O. Box 248
Babylon, New York 11702

and

Howard Rapps, President
Rite Off, Inc.
1545 5th Industrial Court
Bay Shore, New York 11706

D. The Department and Respondent respectively reserve the right to designate other or different addresses on notice to the other.

E. No informal advice or guidance by the Department's officers or employees or representatives upon any plan, report, proposal, study or other document, or modifications or additions thereto, submitted by Respondent to the Department, shall relieve Respondent of any obligation it may have to obtain the Department's formal written approval of the same.

XXVI. The provisions of this Order shall be deemed to bind Respondent, its officers, directors, agents, servants, employees, successors and assigns.

XXVII. Nothing herein shall be construed to bind any entity not specifically bound by the terms of this Order.

XVIII. The provisions 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 writing submitted by Respondent shall be construed as relieving Respondent to its obligations to obtain such formal approvals as may be required by this Order.

DATED: Albany, New York
March 30, 1988

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

TO: Joseph L. Kaufman, Esq.
P.O. Box 248
Babylon, N.Y. 11702

Howard Rapps
President
Rite Off, Inc.
1545 5th Industrial Court
Bay Shore, N.Y. 11706

CONSENT BY RESPONDENT

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 the provisions, terms and conditions contained in this Order.

RITE OFF, INC.

By: Howard Rapps

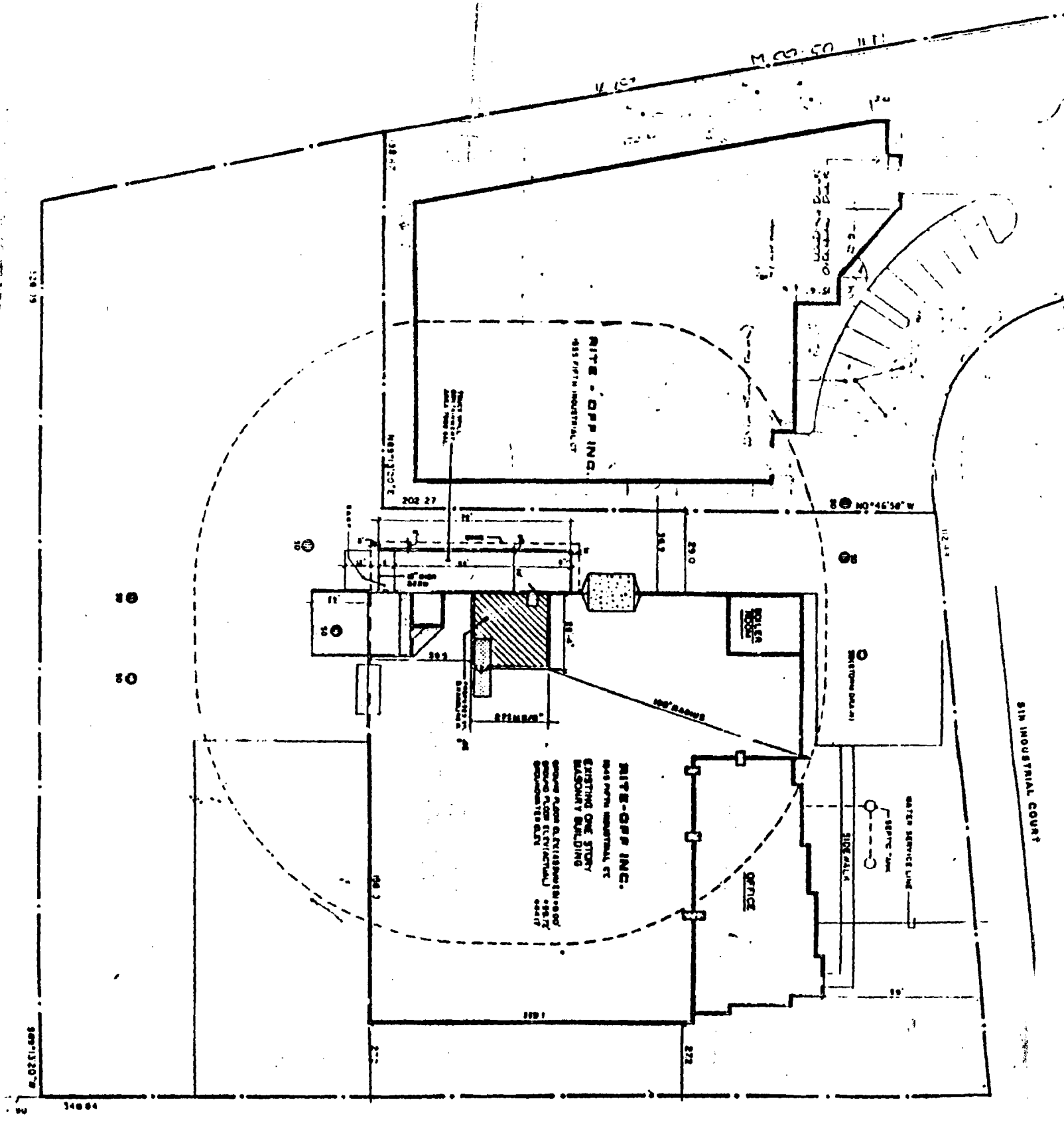
Title: President

Date: 2/9/88

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

On this 9 day of February, 1988, before me personally came Howard Rapps, to me known, who being duly sworn, did depose and say that he resides in Babylon, New York; that he is the President of the Rite-Off, Inc. 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.

Joseph L. Kaufman
Notary Public
JOSEPH L. KAUFMAN
NOTARY PUBLIC, STATE OF NEW YORK
No. 52-4506428
Qualified in Suffolk County
Commission Expires ~~March 30, 19~~ May 31, 1989


RITE - OFF INC.
RITE-OFF INC.
EXISTING ONE STORY
BASEMENT BUILDING
OFFICE
S 89°46'30" W
202.27
100' RADIUS
8TH INDUSTRIAL COURT

"APPENDIX A"