

**NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION**

In the Matter of the
Development and Implementation
of Remedial Programs for
Former Alternative Gas Plants and
Hortonsphere Locations under
Article 27, Title 13 of the
Environmental Conservation Law
by

KeySpan Gas East Corporation d/b/a
KeySpan Energy Delivery Long Island,

Respondents.

**ORDER ON CONSENT
and
ADMINISTRATIVE
SETTLEMENT**

Index # A1-0595-08-07

Eleven
Sites

WHEREAS,

1. A. The New York State Department of Environmental Conservation ("Department") 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 3, Title 3 of the ECL.

C. This Order on Consent and Administrative Settlement ("Order & Settlement Agreement") is issued pursuant to the Department's authority under, *inter alia*, ECL Article 27, Title 13, ECL Article 71, Title 27, and ECL § 3-0301, and resolves Respondent's liability to the State as provided at 6 NYCRR 375-1.5(b)(5) under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980", as amended ("CERCLA"), 42 U.S.C. § 9601 *et seq.*, and State law to the extent set forth herein. It is the intent of the Department and KeySpan Energy Delivery Long Island ("KeySpan" or the "Respondent") that Respondent may seek cost recovery, under CERCLA §107 (a), 42 U.S.C. § 9607,(a), or contribution under CERCLA § 113 (f)(3)(B) , 42 U.S.C. § 9613(f)(3)(B), to the maximum extent available under applicable law, from persons not parties to this Order & Settlement Agreement to the extent set

forth in Subparagraph XIV.I. Such efforts by Respondent will be supported by the Department in such manner as the Department reasonably deems appropriate.

2. KeySpan is a New York corporation with offices at One MetroTech Center, Brooklyn, New York 11201.

3. A. Respondent is the owner or formerly owned and/or operated alternative gas plants at the following locations (the Area of Responsibility within each location shall be referred to herein individually as "Site"; collectively as "Sites") and which are the subject of this Order & Settlement Agreement: Suffolk County: Saltaire, Southold and East Hampton. These locations are more particularly described in Exhibit "A" attached hereto and are not currently listed in the *Registry of Inactive Hazardous Waste Disposal Sites in New York*. Another alternative gas plant and holder location currently owned by Respondent, Glenwood Landing (Site # V00351) in Nassau County is the subject of Voluntary Cleanup Agreement R1-0001-01-01.

B. Respondent is the owner and operator, or formerly owned and/or operated, Hortonspheres at the following locations (the Area of Responsibility within each location shall be referred to herein individually as "Site"; collectively as "Sites") and which are also the subject of this Order & Settlement Agreement: Nassau County: Bellemore, Lynbrook, Manhasset and Oyster Bay; Suffolk County: East Hampton, Pinelawn/Farmingdale, Port Jefferson and Riverhead. The East Hampton Hortonsphere is the only location which currently operates a Hortonsphere facility. These locations are more particularly described in Exhibit "A" attached hereto and are not currently listed in the *Registry of Inactive Hazardous Waste Disposal Sites in New York*.

C. The Department and KeySpan recognize that implementation of this Order & Settlement Agreement will expedite the investigation and, if necessary, remediation, of the Sites. The Department and Respondent further agree that the settlement set forth herein will avoid potentially prolonged and complicated litigation, and that this Order & Settlement Agreement is mutually acceptable, fair, reasonable, and in the public interest.

D. The Department and Respondent acknowledge that Respondent is regulated by the Public Service Commission ("PSC") of the State of New York. Costs incurred for site investigation and remediation activities must be reviewed and approved by the PSC in order to be considered for recovery through rates. The Department will support Respondent's position that any necessary and appropriate response actions by Respondent were required to address Respondent's liability for such activities.

4. A. The Department alleges that Respondent is a "covered person" as defined in CERCLA § 107(a), 42 U.S.C. § 9607(a), that each Site is a "facility" as defined in CERCLA § 101(9), 42 U.S.C. § 9601(9) and that Respondent is liable to the State of New York under CERCLA § 107(a) for the response actions related to investigation work activities required by this Order & Settlement Agreement.

B. Respondent consents to the Department's issuance of this Order & Settlement Agreement with respect to the Sites listed in Paragraphs 3.A and 3.B above, and on Exhibit "A"

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 any of the Sites; or (iii) an acknowledgment that a release or threatened release of hazardous waste at or from any of the Sites constitutes a significant threat to the public health or the environment.

5. Solely with regard to the matters set forth below, Respondent hereby waives any right to a hearing as may be provided by law, consents to the issuance and entry of this Order & Settlement Agreement, and 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 & Settlement Agreement, and agrees not to contest the validity of this Order & Settlement Agreement or its terms or the validity of data submitted to the Department by Respondent pursuant to this Order & Settlement Agreement.

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

I. Initial Submittal- Records Search Reports

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

II. Development, Performance, and Reporting of Work Plans

A. Work Plans

All activities at any 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") for each Site and this Order & Settlement Agreement, 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 & Settlement Agreement shall address both on-Site and off-Site conditions and shall be developed and implemented in accordance with 6 NYCRR Part 375-1.6(a). All Department-approved Work Plans shall be incorporated into and become enforceable parts of this Order & Settlement Agreement. Upon approval of a Work Plan by the Department, Respondent shall implement such Work Plan in accordance with the schedule contained in such Work Plan. Nothing in this Subparagraph shall mandate that any particular Work Plan be submitted.

Each Work Plan submitted for each Site shall use one of the following captions on the cover page:

1. "Site Characterization Work Plan" ("SC Work Plan"): a Work Plan whose objective is to identify the presence of any hazardous waste disposed of at the Site;
2. "Remedial Investigation/Feasibility Study Work Plan" ("RI/FS Work Plan"): a Work Plan whose objective is to perform a Remedial Investigation and a Feasibility Study;
3. "Interim Remedial Measure Work Plan" ("IRM Work Plan"): a Work Plan whose objective is to provide for an Interim Remedial Measure;
4. "Remedial Design/Remedial Action Work Plan" ("RD/RA Work Plan"): a Work Plan whose objective is to provide for the development and implementation of final plans and specifications for implementing the remedial alternative set forth in the Record of Decision ("ROD"); or
5. "Site Management Work Plan" ("SM Work Plan"): a Work Plan whose objective is to identify and implement the institutional and engineering controls required for the Site, as well as any necessary monitoring and/or operation and maintenance of the remedy.

B. Submission/Implementation of Work Plans

1. (a) The first Work Plan for each of the Sites referred to in Paragraphs 3.A and 3.B and listed on Exhibit "A" shall be an SC Work Plan which shall be submitted to the Department within sixty (60) days after the effective date of this Order & Settlement Agreement. The SC Work Plans shall provide the Areas of Responsibility boundaries for each of the locations listed in Exhibit "A", and for the locations shown on the maps appended to Exhibit "A".

(b) The Department may request that Respondent submit additional or supplemental Work Plans for each of the Sites. Within thirty (30) Days after the Department's written request, Respondent shall advise the Department in writing whether it will submit and implement the requested additional or supplemental Work Plan for the Site or whether it elects to terminate this Order & Settlement Agreement with respect to the Site pursuant to Paragraph XIII. If Respondent elects to submit and implement such Work Plan, Respondent shall submit the requested Work Plan within sixty (60) Days after such election. If Respondent elects to terminate this Order & Settlement Agreement with respect to the Site or fails to make a timely election, this Order & Settlement Agreement shall terminate with respect to the Site pursuant to Paragraph XIII.

(c) 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.

(d) Any request made by the Department under Subparagraph II.B.1.(b) shall be subject to dispute resolution pursuant to Paragraph XII.

2. A Professional Engineer must stamp and sign all Work Plans other than a Work Plan for an RI/FS or an SC.

3. Pursuant to 6 NYCRR 375-1.6(a)(3), during all field activities conducted pursuant to this Order & Settlement Agreement, Respondent shall have on-Site a representative who is qualified to supervise the activities undertaken. Such representative may be an employee or a consultant retained by Respondent to perform such supervision.

C. Modifications to Work Plans

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 II.A or to ensure that the Remedial Program otherwise protects human health and the environment. Upon receipt of such notification, Respondent shall, subject to Respondent's right to terminate with respect to a Site pursuant to Paragraph XIII, provide written notification as provided at 6 NYCRR 375-1.6(d)(3) as to whether it will modify the Work Plan, or invoke dispute resolution.

D. Submission of Final Reports and Annual 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 annual report by the 1st Day of the month following the anniversary of the start of the Site management. Such annual 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.

E. Review of Submittals other than Progress Reports and Health and Safety Plans

1. The Department shall make a good faith effort to review and respond in writing to each submittal Respondent makes pursuant to this Order & Settlement Agreement within sixty (60) Days. The Department's response shall include an approval, modification or disapproval of the submittal in accordance with 6 NYCRR 375.1-6(d).

2. If the Department requests modification or disapproves a submittal, it shall specify the reasons for its requested modification or disapproval in writing in accordance with 6 NYCRR 375.1-6(d)(3) or (4). Within fifteen (15) Days after the date of the Department's written notice that Respondent's submittal has been disapproved or a modification was requested, Respondent shall elect, in accordance with 6 NYCRR 375.1-6(d)(3) or (4), to either (i) modify the submittal to address the Department's comments, (ii) invoke dispute resolution pursuant to Paragraph XII, or (iii) in the event the rejected submittal is a Work Plan submitted prior to the Department's approval of the RD/RA Work Plan, terminate this Order & Settlement Agreement with respect to the Site pursuant to Paragraph XIII. If Respondent elects to modify the submittal, Respondent shall, within thirty (30) Days after such election, make a revised submittal that addresses all of the Department's stated reasons for disapproving the first submittal. 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 & Settlement Agreement unless it invokes dispute resolution pursuant to Paragraph XII and its position prevails. Failure to make an election or failure to comply with the election is a violation of this Order & Settlement Agreement.

3. 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.

F. Department's Issuance of a ROD

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

G. Release and Covenant Not to Sue

Upon (i) the Department's issuance of a Certificate of Completion pursuant to 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 in such provisions.

III. Progress Reports

Respondent shall submit written progress reports for each Site to the parties identified in Subparagraph XI.A.1 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, unless a different frequency is set forth in a Work Plan. Such reports shall, at a minimum, include: all actions taken pursuant to this Order & Settlement Agreement during the reporting period and those anticipated for the upcoming reporting period; all approved modifications to work plans and/or

schedules; all results of sampling and tests and all other data received or generated by or on behalf of Respondent in connection with the Site, during the reporting period, including quality assurance/quality control information; and information regarding percentage of completion, unresolved delays encountered or anticipated that may affect the future schedule, efforts made to mitigate such delays, information regarding activities undertaken in support of the Citizen Participation Plan during the reporting period and those anticipated for the upcoming reporting period and the name of the Department Project Manager for the Site.

IV. Penalties

A. 1. Respondent's failure to comply with any term of this Order & Settlement Agreement constitutes a violation of this Order & Settlement Agreement, the ECL, and 6 NYCRR Part 375. Nothing herein abridges Respondent's right to contest any allegation that it has failed to comply with this Order & Settlement Agreement.

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

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 & Settlement Agreement as a result of any Force Majeure Event as provided at 6 NYCRR 375-1.5(b)(4). The requirement that Respondent exercise best efforts to fulfill the obligation includes using 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 & Settlement Agreement.

2. Respondent shall notify the Department in writing within five (5) days of the onset of any Force Majeure Event in accordance with 6 NYCRR 375-1.5(b)(4). 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. 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).

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

V. Entry upon Site

A. Respondent hereby consents, 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 & Settlement Agreement, 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 & Settlement Agreement. Upon request, Respondent shall (i) provide the Department with suitable office space at each of the Sites, including access to a telephone and internet service, to the extent available, and (ii) permit the Department full access to all non-privileged records relating to matters addressed by this Order & Settlement Agreement. 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 & Settlement Agreement, 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 past State Costs as provided at 6 NYCRR 375-1.5(b)(3).

B. 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, other than those identified in Subparagraph VI.A, for work performed at or in connection with the Sites through and including the Termination Date, as provided at 6 NYCRR 375-1.5(b)(3).

C. Personal service costs shall be documented as provided by 6 NYCRR 375-1.5(b)(3)(ii). 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.

D. Invoices for State Costs shall be sent to Respondent at the following address:

Lawrence Liebs
KeySpan Corporation
One MetroTech Center
Brooklyn, New York 11201

E. Each such payment shall be made payable to the Department of Environmental Conservation and shall be sent to:

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

F. Each party shall provide written notification to the other within ninety (90) Days of any change in the foregoing addresses.

G. Respondent may contest invoiced costs pursuant to 6 NYCRR 375-1.5(b)(3)(v) and (vi).

H. If any negotiable instrument submitted to the Department pursuant to this Order & Settlement Agreement is not honored when presented for payment, Respondent shall be in violation of this Order & Settlement Agreement, provided that (i) the Department gives Respondent written notice of same, and (ii) the Department does not receive a certified check or bank check in the amount of the uncollected funds within fourteen (14) Days after the date of the Department's written notification.

VII. Reservation of Rights

A. Except as provided in 6 NYCRR 375-1.9 and 375-2.9, nothing contained in this Order & Settlement Agreement 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 & Settlement Agreement, 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 & Settlement Agreement, including the rights to notice, to be heard, to appeal, and to any other due process. The existence of this Order & Settlement Agreement 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 cost recovery, 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 to cost recovery under CERCLA § 107 (a), 42 U.S.C. § 9607(a) or contribution under CERCLA §113(f)(3)(B), 42 U.S.C. § 9613(f)(3)(B) to the maximum extent available under applicable law.

VIII. Indemnification

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

IX. Public Notice

A. Within thirty (30) days after the effective date of this Order & Settlement Agreement, Respondent shall record a Notice of Order and provide a written Notice of Order to any prospective purchaser or lessee of any interest in the Site as required by 6 NYCRR 375-1.5(a)(1) for Sites owned by Respondent. For Sites not owned by Respondent, Respondent shall provide a written Notice of Order to the owner of the Site within thirty (30) days as required by 6 NYCRR 375-1.5(a)(2) and apprise such owner of the requirements of 6 NYCRR 375-1.5(a)(2)(ii) and (iii).

B. If Respondent proposes to convey, transfer by sale or lease the whole or any part of Respondent's ownership interest in the Site, or becomes aware of such conveyance, transfer or lease, Respondent shall, not fewer than forty-five (45) Days before the date of such conveyance, transfer or lease, or within forty-five (45) Days after becoming aware of such conveyance, whichever shall be applicable, 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 & Settlement Agreement. 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.

X. Environmental Easement

A. If a Department-approved final engineering report for a 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 an 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 X.A. 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.

XI. Communications

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

1. Communication from Respondent shall be sent to:

Walter Parish, P.E.
Regional Hazardous Waste Remediation Engineer
Division of Environmental Remediation
Region One
New York State Department of Environmental Conservation
50 Circle Road
Stony Brook, New York 11790-3409
(2 bound copies, 1 unbound copy, in electronic format via email, and 1 disk)

with copies to:

Donald W. R. Miles
Public Health Specialist
Chief, Long Island/ATSDR Section
Bureau of Environmental Exposure Investigation
New York State Department of Health
Flanigan Square
547 River Street
Troy, New York 12180-2216
(2 bound copies)

Guy T. Bobersky, P.E.
Chief, Remedial Section A
Division of Environmental Remediation
New York State Department of Environmental Conservation
625 Broadway
Albany, NY 12233-7015
(All communications in electronic format via email only)

Chittibabu Vasudevan, Ph.D, P.E.
Director, Remedial Bureau A
Division of Environmental Remediation
New York State Department of Environmental Conservation
625 Broadway
Albany, NY 12233-7015
(Correspondence only)

Regional Director
Region One
NYS Dept of Environmental Conservation
SUNY at Stony Brook
50 Circle Road
Stony Brook, Long Island NY 11790-3409
(Correspondence only)

Larry S. Eckhaus, Senior Attorney
Division of Environmental Enforcement
Superfund & Brownfields Restoration Bureau
NYS Dept of Environmental Conservation
625 Broadway, 14th Floor
Albany, NY 12233-5500
(Correspondence only)

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

Lawrence Liebs
KeySpan Corporation
One MetroTech Center
Brooklyn, New York 11201

with copy to:

Donna Riccobono, Esq.
KeySpan Corporation
One MetroTech Center
Brooklyn, New York 11201
(Correspondence only)

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

C. Each party shall notify the other within ninety (90) Days after any change in the addresses in this Paragraph XI or in Paragraph VI.

XII. Dispute Resolution

A. In the event disputes arise under this Order & Settlement Agreement, 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). Nothing contained in this Order & Settlement Agreement 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 with respect to each Site.

XIII. Termination of Order & Settlement Agreement

A. This Order & Settlement Agreement will terminate with respect to a Site upon the earlier of the following events:

1. Respondent's election to terminate with respect to a Site pursuant to Subparagraphs II.B.1.b, II.C or II.E.2 so long as such election is made prior to the Department's approval of the RD/RA Work Plan for that Site. In the event of termination in accordance with this Subparagraph XIII.A.1, this Order & Settlement Agreement with respect to such Site shall terminate effective the 5th Day after the Department's receipt of the written notification terminating this Order & Settlement Agreement with respect to such Site or the 5th Day after the time for Respondent to make its election has expired, whichever is earlier, provided, however, that if there are one or more Work Plan(s) with respect to such Site for which a final report has not been approved at the time of Respondent's notification of its election to terminate this Order & Settlement Agreement with respect to such Site pursuant to Subparagraphs II.B.1.b or II.E.2 or its failure to timely make such an election pursuant to Subparagraphs II.B.1.b or II.E.2, Respondent shall promptly complete the activities required by such previously approved Work Plan(s) consistent with the schedules contained therein. Thereafter, this Order & Settlement Agreement shall terminate with respect to such Site effective the 5th Day after the Department's approval of the final report for all previously approved Work Plans with respect to such Site; or

2. the Department's written determination that Respondent has completed all phases of the Remedial Program (including Site Management) for all the Sites, in which event the termination with respect to all Sites shall be effective on the 5th Day after the date of the Department's approval of the final report relating to the final phase of the Remedial Programs for all the Sites.

B. Notwithstanding the foregoing, the provisions contained in Paragraphs VI and VIII shall survive the termination of this Order & Settlement Agreement and any violation of such surviving Paragraphs shall be a violation of this Order & Settlement Agreement, 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 & Settlement Agreement is terminated with respect to a Site or all Sites pursuant to Subparagraph XIII.A.1, neither this Order & Settlement Agreement nor its termination shall affect any liability of Respondent may have 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 & Settlement Agreement were commenced. Further, the Department's efforts in obtaining and overseeing compliance with this Order & Settlement Agreement 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.

XIV. 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 & Settlement Agreement 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. Respondent shall retain professional consultants, contractors, laboratories, quality assurance/quality control personnel, and third party data validators ("Respondent's Contractors") acceptable to the Department to perform its obligations under this Order & Settlement Agreement. If the Department has not previously approved Respondent's Contractors for the work required by this Order & Settlement Agreement, Respondent shall submit the Contractors' qualifications to the Department a minimum of thirty (30) Days before the start of any activities for which each such Contractor will be responsible. The Department's approval of each such Contractor shall be obtained prior to the start of work by that Contractor. The responsibility for the performance of all Contractors retained by Respondent shall rest solely with Respondent. Subject to the requirements of this Subparagraph, Respondent retains the right to select or change firms or individuals in its sole discretion.

C. Respondent shall allow the Department to attend and shall notify the Department at least seven (7) Days in advance of any field activities as well as any pre-bid meetings, job progress meetings, the substantial completion meeting and inspection, and the final inspection and meeting; nothing in this Order & Settlement Agreement shall be construed to require Respondent to allow the Department to attend portions of meetings where privileged matters are discussed.

D. 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 & Settlement Agreement in accordance with 6 NYCRR 375-1.12(b), (c), and (d).

E. 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 & Settlement Agreement, 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.

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

G. 1. The terms of this Order & Settlement Agreement shall constitute the entire agreement between the Department and Respondent concerning implementation of the activities required by this Order & Settlement Agreement. No term, condition, understanding, or agreement purporting to modify or vary any term of this Order & Settlement Agreement 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 & Settlement Agreement. In the event of a conflict between the terms of this Order & Settlement Agreement and any Work Plan submitted pursuant to this Order & Settlement Agreement, the terms of this Order & Settlement Agreement 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 & Settlement Agreement.

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

iii. Requests for a change to a time frame set forth in this Order & Settlement Agreement 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.

H. 1. If there are multiple parties signing this Order & Settlement Agreement, the term "Respondent" shall be read in the plural, the obligations of each such party under this Order & Settlement Agreement are joint and several, and the insolvency of or failure by any Respondent to implement any obligations under this Order & Settlement Agreement shall not affect the obligations of the remaining Respondent(s) under this Order & Settlement Agreement.

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

3. Notwithstanding the foregoing Subparagraphs XIV.H.1 and 2, if multiple parties sign this Order & Settlement Agreement 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 & Settlement Agreement 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 & Settlement Agreement 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 & Settlement Agreement 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 Liability Limitation referenced in Paragraph VI.

I. To the extent authorized under 6 NYCRR 375-1.5(b)(5), CERCLA § 113, 42 U.S.C. § 9613, New York General Obligations Law § 15-108, and any other applicable law, Respondent shall be deemed to have resolved its liability to the State for purposes of contribution protection provided by CERCLA § 113(f)(2), 42 U.S.C. § 9613(f)(2) for "matters addressed" pursuant to and in accordance with this Order & Settlement Agreement. "Matters addressed" in this Order & Settlement Agreement shall mean all response actions taken by Respondent to implement this Order & Settlement Agreement for the Sites and all response costs incurred and to be incurred by any person or party in connection with the work performed under this Order & Settlement Agreement, which costs have been paid by Respondent, including reimbursement of State Costs pursuant to this Order & Settlement Agreement. Furthermore, by entering into Order & Settlement Agreement, Respondent is entitled to seek cost recovery under CERCLA § 107 (a), 42 U.S.C. § 9607(a) or contribution under CERCLA § 113(f)(3)(B), 42 U.S.C. § 9613(f)(3)(B) to the maximum extent available under applicable law.

J. Unless otherwise expressly provided herein, terms used in this Order & Settlement Agreement which are defined in ECL Article 27, Title 13, ECL Article 71, Title 36, or in 6 NYCRR Part 375 shall have the meaning assigned to them under said statute or regulations.

K. Respondent's obligations under this Order & Settlement Agreement represent performance of work or payment of response costs, and shall not be deemed to constitute any type of fine or penalty.

J. Respondent and Respondent's successors and assigns shall be bound by this Order & Settlement Agreement. Any change in ownership or corporate status of Respondent shall in no way alter Respondent's responsibilities under this Order & Settlement Agreement.

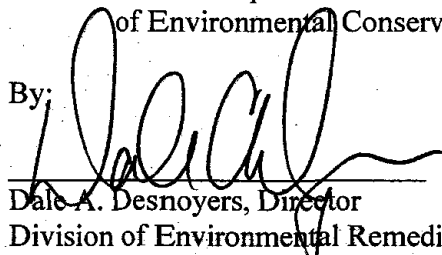
L. This Order & Settlement Agreement may be executed for the convenience of the parties hereto, individually or in combination, in one or more counterparts, each of which shall be deemed to have the status of an executed original and all of which shall together constitute one and the same.

M. The effective date of this Order & Settlement Agreement is the 10th Day after the date the Commissioner or the Commissioner's designee signs this Order & Settlement Agreement.

DATED: AUG 24 2007

ALEXANDER B. GRANNIS,
COMMISSIONER
New York State Department
of Environmental Conservation

By:



Dale A. Desnoyers, Director
Division of Environmental Remediation

CONSENT BY RESPONDENT

Respondent KeySpan Gas East Corporation d/b/a KeySpan Energy Delivery Long Island, hereby consent to the issuing and entering of this Order on Consent and Administrative Settlement, waives Respondent's right to a hearing herein as provided by law, and agrees to be bound by this Order on Consent and Administrative Settlement.


By: Joseph F. Dorsey

Title: SVP & Chief Financial Officer

Date: 8/21/07

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

On the 21st day of August, in the year 2007, before me, the undersigned, personally appeared Joseph F. Dorsey, 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

CHRISTOPHER R. DORSEY
Notary Public, State of New York
No. 01DO6118200
Qualified in Nassau County
Commission Expires December 13, 2008

Exhibit "A"

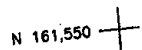
KeySpan

Descriptions of KeySpan Alternative Gas & Hortonsphere Locations & Maps* of Locations included in Paragraphs 4.A and 4.B

#	Names	County & Tax Map Information	Location	Site: Area of Responsibility
Alternative Gas Plant Locations				
1	Saltaire - acetylene gas	Suffolk County Section: 004 Block: 0001 Lot: 011	340 feet southeast of the intersection of Beacon Walk & Lighthouse Promenade Saltaire, NY 11706	TBD*
2	Southold - acetylene gas	Suffolk County Section: 062 Block: 3 Lot: 06	370 Hobart Rd East Shore, NY 11971	TBD*
3	East Hampton - gasoline cracking	Suffolk County Section: 8 Block: 0002 Lot: 48.1	57 Buells Lane East Hampton, NY 11937	TBD*
Former & Active Hortonsphere Locations				
4	Bellemore	Nassau County Section: 56 Block: 168 Lot: 327	Newbridge Rd & Grand Ave N/O LIRR, S of Substation Bellemore, NY 11710	TBD*
5	East Hampton (active)	Suffolk County Section: 2 Block: 1 Lot: 15	Intersection of Race Lane & Railroad Avenue East Hampton, NY 11937	TBD*
6	Lynbrook	Nassau County Section: 38 Block: 97 Lots: 255/256/264	Ocean Ave & Merrick Rd Lynbrook, NY	TBD*
7	Manhasset	Nassau County Section: 2 Block: 347 Lots: 16	43 High Street Manhasset, NY 11030	TBD*

8	Oyster Bay	Nassau County Section: 27 Block: 29 Lot: 13	21 Willow Place Oyster Bay, NY	TBD*
9	Pinelawn/Farmingdale	Suffolk County Section: 50 Block: 1 Lot: 1.1	Between 1607 & 1611 Broad Hollow Rd (Route 110) East Farmingdale, NY 11735	TBD*
10	Port Jefferson	Suffolk County Section: 012 Block: 6 Lot: 3	West Broadway Street (Route 25A) Port Jefferson, NY 11777	TBD*
11	Riverhead	Suffolk County Section: 135 Block: 2 Lot: 002	East Side of un-named service road/south of West Main Street Riverhead, NY 11901	TBD*

* **Note:** The boundaries of the Areas of Responsibility ("Sites") for each of the locations, and for the locations shown on the attached maps, will be provided by KeySpan in the SC Work Plans.



Bellmore Former
Hortonsphere Site

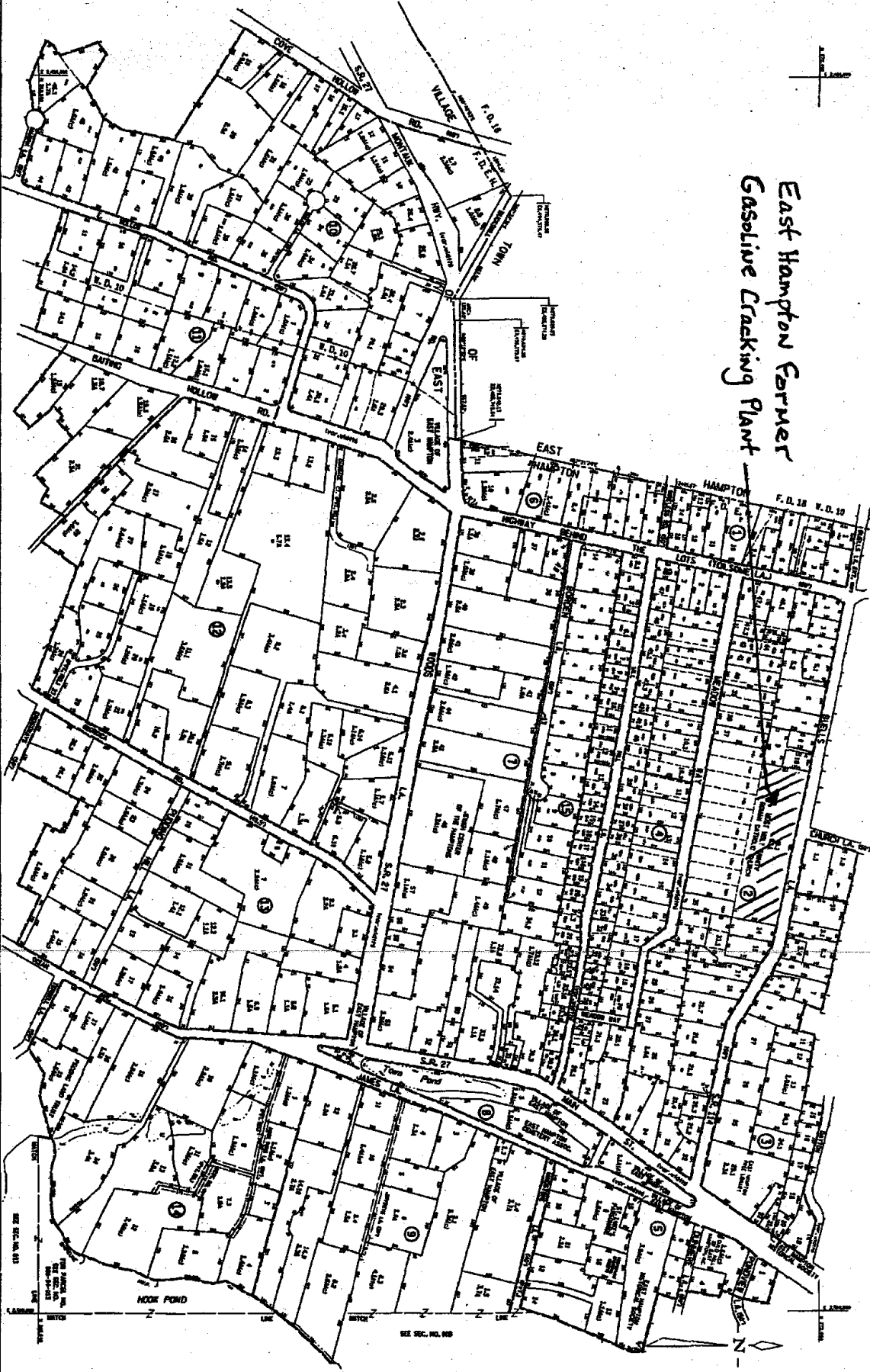
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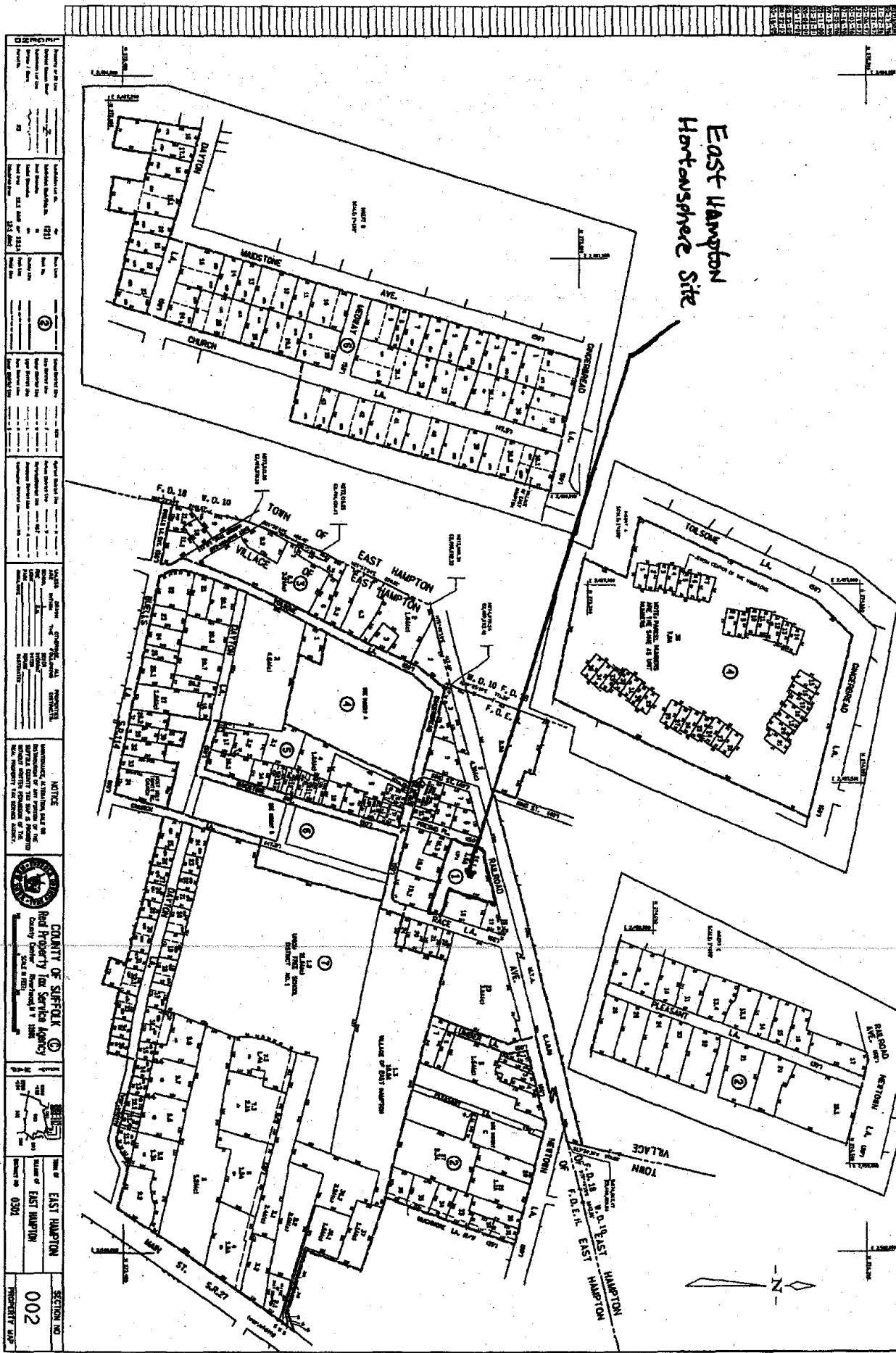
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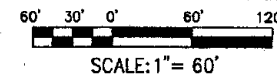
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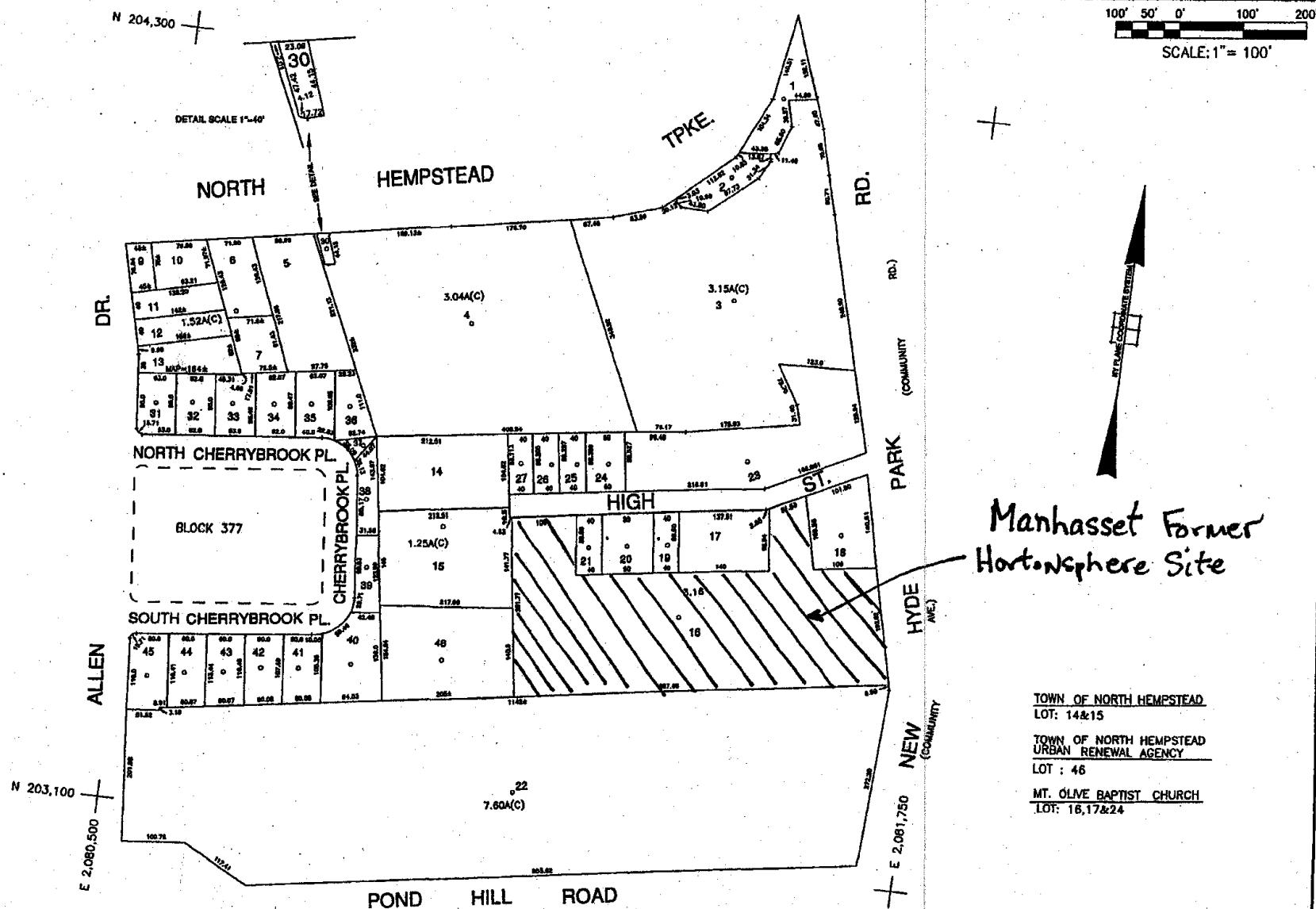
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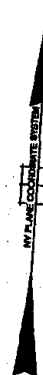
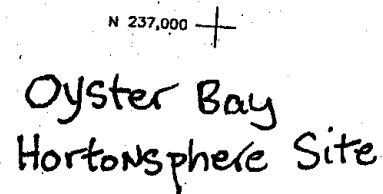
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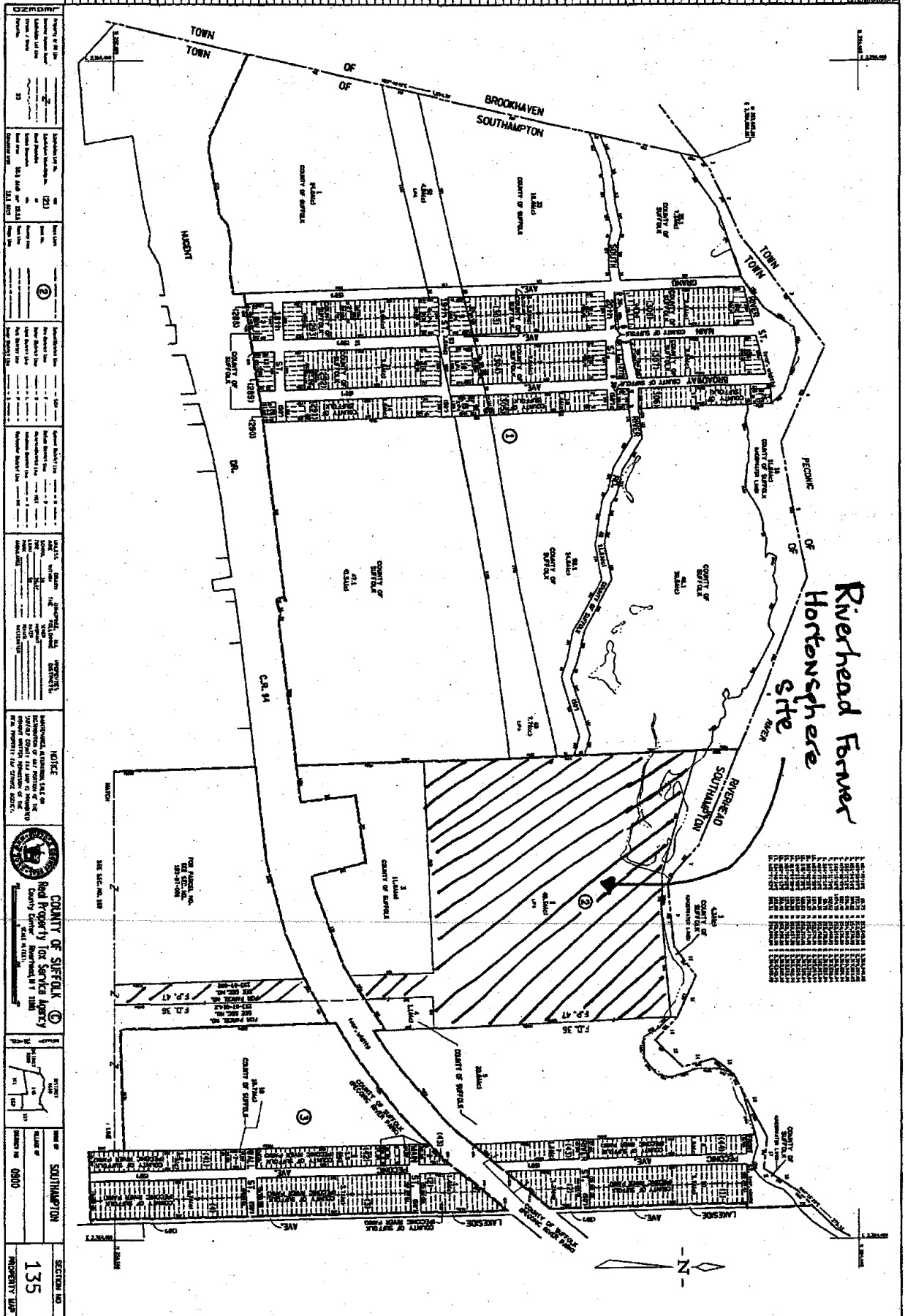


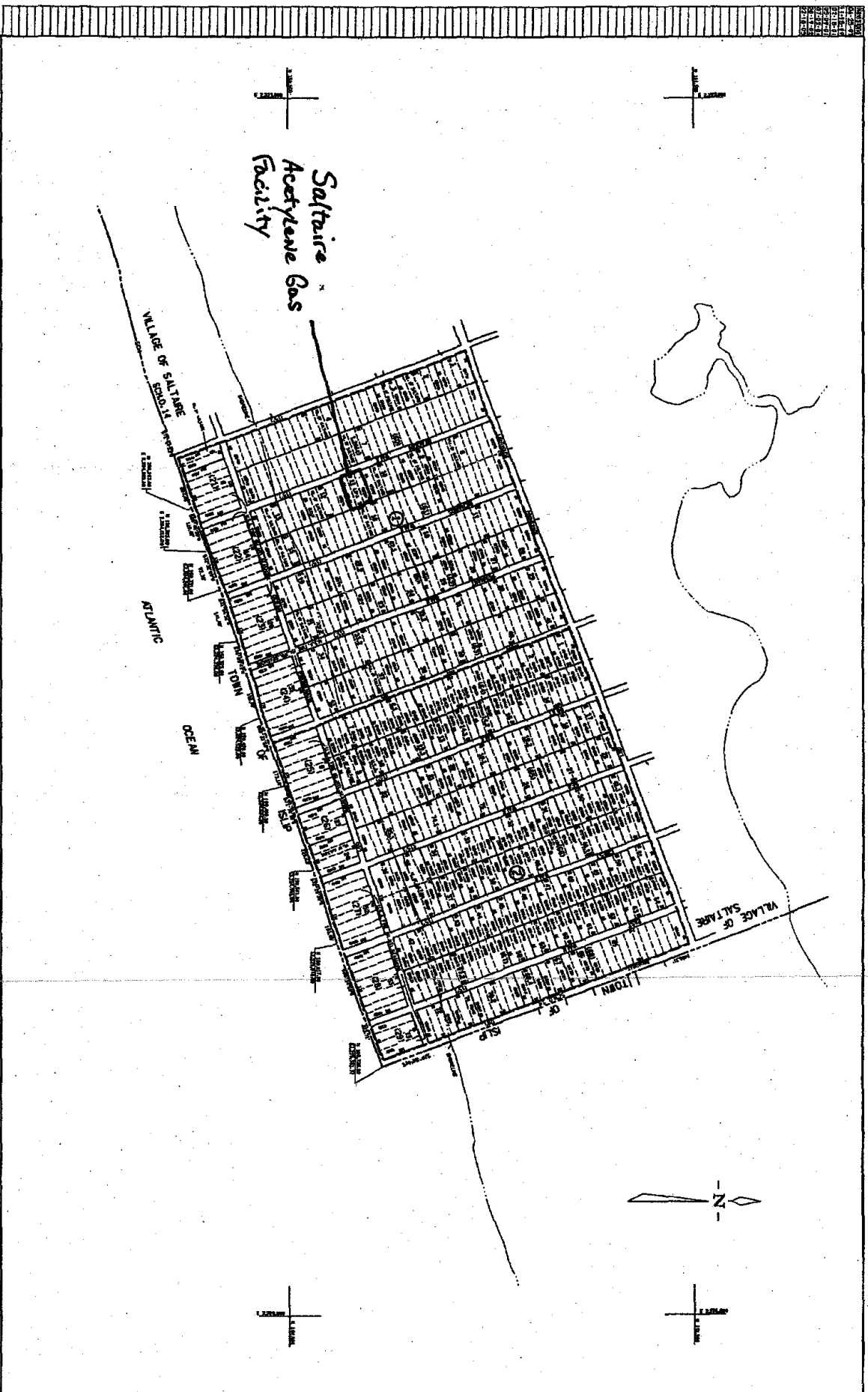


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PROPERTY Address: 1000-062-00-02-00-005-002 Section: 062 Subsection: 005		OWNER Name: [Blank] Address: [Blank] City: [Blank]	
DEVELOPER Name: [Blank] Address: [Blank] City: [Blank]		ENGINEER Name: [Blank] Address: [Blank] City: [Blank]	
DATE Date: [Blank]		SCALE Scale: 1" = 100'	
PROJECT Project: [Blank]		REMARKS Remarks: [Blank]	

Southold Acetylene
Gas Plant

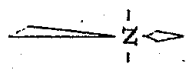
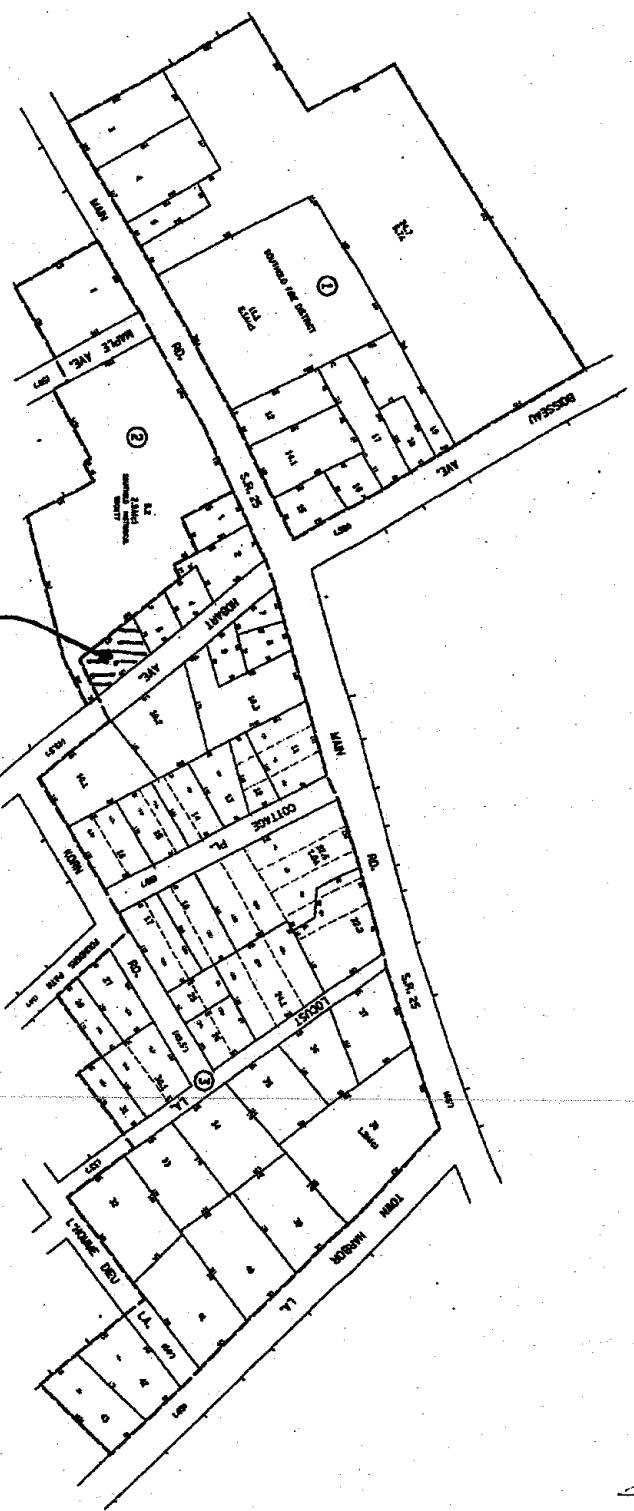


EXHIBIT "B"

RECORDS SEARCH REPORT

1. Detail all environmental data and information within Respondent's or Respondent's agents' or consultants' possession or control regarding environmental conditions at or emanating from the Site.
 2. 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.
 3. A concise summary of information held by Respondent and Respondent's attorneys 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.
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