

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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

**MODIFIED ORDER ON
CONSENT¹**

Site No. 2-24-019A, Operable
Unit 1

Index No.: W2-1089-06-06

-by-

THE CITY OF NEW YORK, Respondent.

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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." The Department asserts that any person under order pursuant to ECL 27-1313.3.a has a duty imposed by ECL Article 27, Title 13 to carry out the Inactive Hazardous Waste Disposal Site Remedial Program committed to under order and the Department further asserts that ECL 71-2705 provides that any person who fails to perform any duty imposed by ECL Article 27, Title 13 shall be liable for civil, administrative, and/or criminal sanctions.

2. The Department also asserts that it has the authority, inter alia, to provide for the prevention and abatement of all water, land, and air pollution. *See, e.g.*, ECL 3 0301.1.i.

3. Respondent The City of New York ("City") is a municipal corporation organized under the laws of the State of New York and is the fee owner of a 260 acre industrial park located in the County of Kings, State of New York, which is commonly known as the Brooklyn Navy Yard.

4. The Respondent is obligated to undertake actions as set forth in the Order on Consent, dated October 2, 2006 (Index No. W2-1089-06-06, Site No. 2-24-019A, Operable Unit 1) (together with any and all attachments, "the October 2006 Order")

¹ The above caption is the original caption contained in the Order on Consent, executed October 2, 2006. In future documents, the caption shall be heretofore be modified in accordance with Articles I and II of this Modified Order on Consent.

5. The Department and the Respondent now desire to make certain administrative modifications to the October 2006 Order. The purposes of this modification are to (i) substitute National Grid NY for KeySpan as the referenced in the Order; (ii) modify the Site Number for administrative purposes; and (iii) modify certain site contact information.

6. Solely with regard to the matters set forth below and in the October 2006 Order, the Respondents hereby waive their right to a hearing herein as provided by law, consent to the issuance and entry of this Order, and agree to be bound by its terms. The Respondents consent to and agree not to contest the authority or jurisdiction of the Department to issue or enforce this Order, and agree not to contest the validity of this Order or its terms, or the validity of the data generated by the City pursuant to this Order.

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

ARTICLE I. KeySpan Energy Corporation was originally referred to in the October 2006 order, although was not a respondent. On August 24, 2007, National Grid USA acquired KeySpan Corporation and all its subsidiaries including KeySpan Energy Corporation. To properly reflect the new corporate parent, National Grid NY will be substituted for KeySpan where referenced in this order.

ARTICLE II. Site Number 2-24-019A, Operable Unit 1 shall henceforth be known and referred to as Site Number 2-24-019A and the site shall no longer be considered as an operable unit. The parties acknowledge and understand that the change in site number is for administrative purposes only and that all terms and conditions in the October 1996 Order pertaining to Site Number 2-24-019A, Operable Unit 1 shall remain in effect and now apply to Site No. 2-24-019A. The parties further understand that terms and condition in the October 1996 Order pertaining to Site No. 2-24-019A, Operable Unit 2 shall remain in effect and now apply to the site identified as Site No. 2-24-019B (with no operable unit designation).

ARTICLE III. Paragraph XI of the 2006 Order shall be modified to reflect changes to the site contact information. Going forward, all Communications to the Department of Environmental Conservation shall be sent by electronic copies only for all drafts, and one hard copy of all final documents, to:

Douglas MacNeal
Division of Environmental Remediation
New York State Department of Environmental Conservation
625 Broadway
Albany, NY 12233-7010
dkmacnea@gw.dec.state.ny.us

David H. Keehn, Esq.
Office of General Counsel
New York State Department of Environmental Conservation
dhkeehn@gw.dec.state.ny.us

with copies to

Bureau of Environmental Exposure Investigation
New York State Department of Health
Flanigan Square
547 River Street
Troy, New York 12180-2216

ARTICLE IV. Except for the Modifications set forth herein, the 2006 Order shall remain in full force and effect and the terms thereof and the obligations therein are incorporated herein and shall apply with the same force and effect to the provisions of this Modification. The terms of the October 2006 Order, including all appendices and subsequent modifications, are not otherwise modified or expanded in any way.

ARTICLE V. The terms hereof shall constitute the complete and entire Modification of the October 2006 Order. No term, condition, understanding or agreement purporting to modify the terms of the October 2006 Order shall be binding unless subscribed to by the parties in accordance with the terms of the October 2006 Order. The effective date of this Order Modification is the 10th Day after the date the Commissioner or the Commissioner's designee signs it.

DATED:

SEP 19 2011

JOSEPH MARTENS
Commissioner
New York State Department
of Environmental Conservation

By:



Director
Division of Environmental Remediation

CONSENT BY RESPONDENTS

Respondent City of New York 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.

CITY OF NEW YORK

By: [Signature]

Title: Senior Counsel

Date: 8/30/11

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

On the 30th day of August, in the year 2011, before me, the undersigned, personally appeared Daniel Greene, 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

[Signature]

CHRISTOPHER G. KING
Notary Public, State of New York
No. 02KI6069551
Qualified in New York County
Commission Expires Feb. 4, 20 14