

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

---

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

ORDER  
ON  
CONSENT  
INDEX # W2-0081-97-06

National Railroad Passenger Corp.,  
New Jersey Transit Corp.,  
Respondents.

*This Order relates  
to OU-1*

Site Code # 2-41-006

---

WHEREAS,

1. The New York State Department of Environmental Conservation (the "Department") is responsible for enforcement of Article 27, Title 13 of the Environmental Conservation Law of the State of New York ("ECL"), entitled "Inactive Hazardous Waste Disposal Sites." This Order is issued pursuant to the Department's authority under, inter alia, ECL Article 27, Title 13 and ECL 3-0301.
2. Respondent National Railroad Passenger Corp. ("Amtrak") is a corporation organized and existing under the laws of the District of Columbia, with offices in Washington, D.C.
3. Respondent New Jersey Transit Corp. ("New Jersey Transit") is a State agency of the State of New Jersey, with offices in Newark, New Jersey.
4. Respondent Amtrak owns real property located at 39-29 Honeywell Street, in Long Island City, Queens County, New York, known as Sunnyside Yard (the "Site"). Railroad rolling stock has been maintained and operated on portions of the Site for over seventy-five (75) years. Amtrak has owned the Site since April 1, 1976. Prior to Amtrak's ownership, the Site was owned for less than one day (on April 1, 1976) by the Consolidated Rail Corporation ("Conrail"); and before that by the Pennsylvania Tunnel and Terminal Railroad Company, a subsidiary of the Pennsylvania Railroad ("Pennsylvania RR") and of its corporate successor, the Penn Central Transportation Company ("Penn Central"). Prior to September 29, 1961, a portion of the Site was owned by the Long Island Rail Road Company.
5. Pursuant to agreements entered into in December 1982 and November 1983, Respondent New Jersey Transit contracted with Respondent Amtrak for the maintenance, storage and staging at the Site of railroad rolling stock owned and operated by New Jersey Transit. Pursuant to these agreements, Amtrak furnished all labor and facilities required for the performance of the maintenance services. From 1961 through December 31, 1982, the

state of New Jersey and/or New Jersey Transit contracted during various periods with Pennsylvania RR, Penn Central and Conrail for the maintenance, storage, staging and operation at the Site of railroad rolling stock used in commuter service between Pennsylvania Station, New York City, and points in New Jersey. Prior to 1961, neither the State of New Jersey nor New Jersey Transit had any involvement with respect to the maintenance, storage, staging, or operation of railroad rolling stock at the Site.

6. The Department has determined that railroad operations at the Site resulted in the disposal of hazardous wastes in certain areas of the Site, including various hydrocarbons and polychlorinated biphenyls ("PCB's").

7. The Department has further determined that operation of diesel fuel storage tanks, which occurred prior to 1984 in a portion of the Site, (hereinafter referred to as the "Diesel Fuel Storage Area") resulted in a leakage of petroleum hydrocarbons in and near the Diesel Fuel Storage Area. A map of the Site is attached to this Order as Appendix A.

8. The Site is an inactive hazardous waste disposal site, as that term is defined at ECL 27-1301.2. The Site has been listed in the Registry of Inactive Hazardous Waste Disposal Sites in New York State as Site Number 2-41-006. The Department has classified the Site as a Classification "2" pursuant to ECL 27-1305.4.b.

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

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

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

10. Amtrak has undertaken a project which will provide high speed passenger train service from Washington, D.C. to Boston with three-hour service between New York City and Boston. The project includes the construction of a maintenance facility in New York City at the Site. The new facility will be called the High Speed Trainset Facility (HSTF) Service and Inspection (S&I) Building. The contractors for the construction of the HSTF S&I Building are Bombardier Corporation, GEC Alstom Transportation, Inc., and STVCS Joint Venture.

11. Based upon the complexities of the Site, the Department has decided to address the Site in six Operable Units ("OUs"). Operable Unit 1 (OU-1) which is covered under this Order is designated as the soils above the water table within the footprint of the proposed HSTF S&I Building.

12. Following a period of public comment, the Department selected a final remedial alternative for OU-1 of the Site in a Record of Decision ("ROD for OU-1"). The ROD for OU-1, attached to this Order as Appendix "B", is incorporated as an enforceable part of this Order.

13. The Department and Respondents agree that the goals of this Order are for Respondents to (i) develop and implement, in accordance with the ROD for OU-1, an inactive hazardous waste disposal site remedial program ("Remedial Program") for OU-1 that shall include design and implementation, and operation, maintenance and monitoring of the selected remedial alternative; and (ii) reimburse the State's administrative costs.

14. Respondents having made no admissions, but having waived their rights to a hearing with regard to the terms of this Order, as provided by law, and having consented to the issuance and entry of this Order, agree to be bound by its terms. 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.

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

I. OU-1 Remedial Design Contents

A. Within such period of time after the ROD is signed that the Department shall prescribe in writing, Respondent shall submit to the Department a remedial design to implement the remedial alternative for OU-1 selected by the Department in the ROD for OU-1 (the "OU-1 Remedial Design"). The OU-1 Remedial Design shall be prepared by and have the signature and seal of a professional engineer who shall certify that the OU-1 Remedial Design was prepared in accordance with this Order.

B. The OU-1 Remedial Design shall include the following:

1. A detailed description of the remedial objectives and the means by which each element of the selected remedial alternative will be implemented to achieve those objectives, including, but not limited to:

- a. the construction and operation of any structures;
- b. the collection, destruction, treatment, and/or disposal of

hazardous wastes and substances and their constituents and degradation products, and of any soil or other materials contaminated thereby;

c. physical security and posting of the Site;

d. quality control and quality assurance procedures and protocols to be applied during implementation of the Remedial Construction; and

e. monitoring which integrates needs which are present on-Site and off-Site during implementation of the Department-selected remedial alternative.

2. "Biddable Quality" documents for the Remedial Design including, but not limited to, documents and specifications prepared, signed, and sealed by a professional engineer. These plans shall satisfy all applicable local, state and federal laws, rules and regulations;

3. A time schedule to implement the Remedial Design;

4. The parameters, conditions, procedures, and protocols to determine the effectiveness of the Remedial Design;

5. A contingency plan to be implemented if any element of the Remedial Design fails to achieve any of its objectives or otherwise fails to protect human health or the environment;

6. A health and safety plan for the protection of persons at and in the vicinity of the Site during construction and after completion of construction. This plan shall be prepared in accordance with 29 CFR 1910 by a certified health and safety professional; and

7. A citizen participation plan which incorporates appropriate activities outlined in the Department's publication, "New York State Inactive Hazardous Waste Citizen Participation Plan," dated August 30, 1988, and any subsequent revisions thereto, and 6 NYCRR Part 375.

## II. OU-1 Remedial Construction

A. Within 60 days after the Department's approval of the OU-1 Remedial Design, Respondents shall commence construction of the Department-approved OU-1 Remedial Design.

B. Respondents shall implement the OU-1 Remedial Design in accordance with the Department-approved OU-1 Remedial Design.

C. During implementation of all construction activities identified in the OU-1 Remedial Design, Respondents shall have on-Site a full-time representative who is qualified to supervise the work done.

D. Within 60 days after completion of the construction activities identified in the Department-approved OU-1 Remedial Design, Respondent shall submit to the Department "as-built" drawings and a final engineering report (each including all changes made to the OU-1 Remedial Design during construction); and a certification that the OU-1 Remedial Design was implemented and that all construction activities were completed in accordance with the Department-approved OU-1 Remedial Design and were personally witnessed by him or her or by a person under his or her direct supervision. The "as built" drawings, final engineering report, and certification must be prepared, signed, and sealed by a professional engineer.

E. After receipt of the "as-built" drawings, final engineering report, and certification, the Department shall notify Respondents in writing whether the Department is satisfied that all construction activities have been completed in compliance with the Department-approved Remedial Design for OU-1.

F. If, based on new information, the Department concludes that any element of the Department-approved OU-1 Remedial Program fails to achieve its objectives or otherwise fails to protect human health or the environment, Respondents shall take whatever action the Department determines necessary to achieve those objectives or to ensure that the OU-1 Remedial Program otherwise protects human health and the environment.

G. Once the Department is satisfied that all construction activities have been completed in compliance with the Department-approved Remedial Design for OU-1, the Department shall forbear from bringing any action, proceeding, or suit against any lender in connection with the HSTF S&I Building ("Lender") and Bombardier Corporation, GEC Alstom Transportation, Inc., and STVCS Joint Venture, the contractors building the HSTF S&I Building ("Contractors") and their successors, and assigns that are not a party responsible under law for the remediation of hazardous substances disposed of at the area of the Site subject to OU-1 as of date of this Order for the further investigation and remediation of the area of the Site subject to OU-1 based upon the release or threatened release at the area of the Site subject to OU-1 of any hazardous substance (as that term is defined at 42 USC 9601[14]), petroleum, or petroleum product located at the area of the Site subject to OU-1, as of the effective date of this Order and that the Lender and Contractor did not themselves place, or suffer to be placed, at the area of the Site subject to OU-1. In addition to notifying Lender and Contractors in writing that it so satisfied, the Department shall simultaneously provide Lender and Contractors with a separate written letter memorializing its forbearance.

### III. Progress Reports

Respondents shall submit to the parties identified in Subparagraph XII.A in the numbers specified therein copies of written quarterly progress reports, typically one to two pages in length, that:

A. describe the actions which have been taken toward achieving compliance with this Order during the previous quarter;

B. include all results of sampling and tests and all other data for OU-1 received or generated by Respondents or Respondents' contractors or agents in the previous quarter, including quality assurance/quality control information, whether conducted pursuant to this Order or conducted independently by Respondents. Respondents, however, with respect to any sampling and test results and data for which privilege may be claimed, will disclose such results or data but need not disclose (a) the privileged mental impressions, conclusions, opinions or legal theories that are Respondents' attorneys' or (b) Respondents' communications to Respondents' attorneys seeking legal counsel, and Respondents' attorneys' communications with Respondents;

C. identify all work plans, reports, and other deliverables required by this Order that were completed and submitted during the previous quarter;

D. describe all actions, including, but not limited to, data collection and implementation of work plans, that are scheduled for the next quarter and provide other information relating to the progress in OU-1;

E. include information regarding percentage of completion, unresolved delays encountered or anticipated that may affect the future schedule for implementation of Respondents' obligations under the Order, and efforts made to mitigate those delays or anticipated delays;

F. include any modifications to any work plans for OU-1 that Respondents have proposed to the Department or that the Department has approved; and

G. describe all activities undertaken in support of the Citizen Participation Plan during the previous quarter and those to be undertaken in the quarter.

Respondents also shall allow the Department to attend, and shall provide the Department at least seven days advance notice of, any of the following: prebid meetings, job progress meetings, substantial completion meeting and inspection, and final inspection and meeting.

#### IV. Review of Submittals

A. 1. The Department shall review each of the submittals Respondents make pursuant to this Order to determine whether it was prepared, and whether the work done to generate the data and other information in the submittal was done, in accordance with this Order and generally accepted technical and scientific principles. The Department shall notify Respondents in writing of its approval or disapproval of the submittal, except for the submittals discussed in Subparagraph I.B.7. All Department-approved submittals shall be incorporated into and become an enforceable part of this Order.

2. a. If the Department disapproves a submittal, it shall so notify Respondents in writing and shall specify the reasons for its disapproval. Within 10 days of receiving written notice of the Department's disapproval and if Respondents so request, the Department will meet with Respondents to discuss the disapproval. Within 60 days after such meeting or if no meeting is requested within 60 days after receiving written notice that Respondents' submittal has been disapproved, Respondents shall make a revised submittal to the Department that addresses and resolves all of the Department's stated reasons for disapproving the first submittal.

b. After receipt of the revised submittal, the Department shall notify Respondents in writing of its approval or disapproval and shall specify the reasons for any disapproval. If the Department disapproves the revised submittal, Respondents shall be in violation of this Order, and the Department may take any action or pursue whatever rights it has pursuant to any provision of statutory or common law. If the Department approves the revised submittal, it shall be incorporated into and become an enforceable part of this Order.

B. Respondents shall modify and/or amplify and expand a submittal upon the Department's direction to do so if the Department determines, as a result of reviewing data generated by an activity required under this Order or as a result of reviewing any other data or facts, that further work is necessary to accomplish the goals of this Order. Any such direction by the Department shall be in writing, and shall state with particularity the basis and reasons that such modification, amplification and or expansion is necessary.

#### V. Compliance

A. Respondent's failure to comply with any term of this Order constitutes a violation of this Order and the ECL.

B. Respondents shall not suffer any penalty under this Order or be subject to any proceeding or action for any remedy or relief if they cannot comply with any requirement of this Order because of an act of God, war, riot, or because of any condition or event beyond the control of Respondents or their agent or agents carrying out Respondents' obligations under this Order including, but not limited to, judicial intervention or intervening action or order of a competent governmental entity or court. Respondents shall, within five business

days of when they obtain knowledge of any such condition, notify the Department in writing and request an appropriate extension or modification of this Order. Respondents shall include in such notice the measures taken and to be taken by Respondents to prevent or minimize any delays and shall request an appropriate extension or modification of this Order. Failure to give such notice within such five business-day period constitutes a waiver of any claim that a delay is not subject to penalties. Respondents shall have the burden of proving that an event is a defense to compliance with this Order pursuant to Subparagraph V.A.

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

#### VI. Entry upon Site

Respondents hereby consent to the entry upon the Site or areas in the vicinity of the Site which may be under the control of Respondents by any duly designated employee, consultant, contractor, or agent of the Department or any State agency for purposes of inspection, sampling, and testing and to ensure Respondents' compliance with this Order. Such duly designated state employee, consultant or agent shall observe all applicable health and safety precautions and requirements, including those set out in the health and safety plan for the Site and the Federal Railroad Administration required railway worker training program. During Remedial Construction, Respondents shall provide the Department with suitable office space, if available, at the Site, including access to a telephone, and shall permit the Department full access to all records relating to matters addressed by this Order and job meetings.

#### VII. Payment of State Costs

Within 30 days after receipt of an itemized invoice from the Department, Respondents shall pay to the Department a sum of money which shall represent reimbursement for the State's expenses including, but not limited to, direct labor, fringe benefits, indirect costs, travel, analytical costs, and contractor costs incurred by the State of New York for work related to OU-1 from the date of the ROD for OU-1, August 13, 1997, as well as for reviewing and revising submittals made pursuant to this Order, overseeing activities conducted pursuant to this Order, collecting and analyzing samples, and administrative costs associated with this Order. Such payment shall be made by corporate check payable to the Department of Environmental Conservation. Payment shall be sent to:

Bureau of Program Management  
Division of Environmental Remediation  
N.Y.S.D.E.C.  
50 Wolf Road  
Albany, NY 12233-7010.



Personal service costs shall be documented by reports of Direct Personal Service, which shall identify 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. Approved agency fringe benefit and indirect cost rates shall be applied. Non-personal service costs shall be summarized by category of expense (e.g., supplies, materials, travel, contractual) and shall be documented by expenditure reports.

**VIII. Department Reservation of Rights**

A. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating, or in any way affecting any of the Department's civil, criminal, or administrative rights or authorities.

B. Nothing contained in this Order shall be construed to prohibit the Commissioner or his duly authorized representative from exercising any summary abatement powers.

**IX. Indemnification**

Respondents 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 Respondents and/or any of Respondents' directors, officers, partners, employees, servants, agents, successors, and assigns.

**X. Public Notice**

If Respondents propose to convey the whole or any part of Respondents' ownership interest in the area of the Site covered by OU-1, Respondents shall, not fewer than 60 days before the date of conveyance, notify the Department in writing of the identity of the transferee and of the nature and proposed date of the conveyance and shall notify the transferee in writing, with a copy to the Department, of the applicability of this Order.

**XI. Institutional Controls and Deed Restriction**

A. No later than 30 days after the approval of the New York City Department of Finance of final tax lot numbers creating a separate tax lot on the New York City tax map for the area of the Site subject to OU-1, Respondents shall file a restrictive covenant with the Office of the New York City Registrar to run with the land that shall prohibit the land from being used for residential purposes (except for the development of air rights in compliance with Railroad Law §51-a.1) without the express written approval of the New York State Departments of Environmental Conservation and Health.

B. Respondents shall maintain appropriate security measures to control access to the area of the Site subject to OU-1.

**XII. Communications**

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

**(a) Communication from Respondents shall be sent to the Department's attorney:**

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

**with copy to the Department's Project Manager:**

Hari Agrawal  
Project Manager/Region 2  
New York State Department of Environmental Conservation  
Division of Environmental Remediation  
One Hunters Point Plaza  
47-40 21st Street  
Long Island City, NY 11101

**(b) Copies of work plans and reports shall be submitted as follows:**

**1. Four copies (one unbound) to:**

Hari Agrawal  
Project Manager/ Region 2  
New York State Department of Environmental Conservation  
Division of Environmental Remediation  
One Hunters Point Plaza  
47-40 21st Street  
Long Island City, NY 11101

**2. Two copies to:**

G. Anders Carlson, Ph.D  
Director/Bureau of Environmental Exposure Investigation  
New York State Department of Health  
2 University Place  
Albany, NY 12203

3. Michael J. O'Toole Jr., P.E.  
Director, Division of Environmental Remediation  
New York State Department of  
Environmental Conservation  
50 Wolf Rd.  
Albany, NY 12233-7010

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

B. Communication to be made from the Department to Respondents shall be sent to:

1. Charles S. Warren, Esq.  
Robinson, Silverman, Pearce, Aronsohn, Berman, L.L.P.  
1290 Avenue of the Americas  
New York, NY 10104

2. Jared I. Roberts, Esq.  
Amtrak Law Department  
60 Massachusetts Ave. N. E.  
Washington, D.C. 20002

3. Steven M. Jurow  
New Jersey Transit Corp.  
One Penn Plaza East  
Newark, NJ 07105-2248

C. 1. Within 30 days of the Department's approval of any report submitted pursuant to this Order, Respondent shall submit to Director, Division of Hazardous Waste Remediation, a computer readable magnetic media copy of the approved report in American Standard Code for Information Interchange (ASCII) format.

2. Within 30 days after its approval of the drawings and submittals described in Subparagraph II.D of this Order, Respondent shall submit one microfilm copy (16 millimeter roll film M type cartridge) of such Department-approved drawings and submittals, as well as all other Department-approved submittals. Respondents shall submit same to Director, Division of Environmental Remediation

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

### **XIII. Miscellaneous**

A. All activities and submittals required by this Order shall address contamination in OU-1 resulting from the disposal of hazardous wastes at the Site.

B. Respondents shall retain professional consultants, contractors, laboratories, quality assurance/quality control personnel, and, if necessary, third party data validators acceptable to the Department to perform the technical, engineering, and analytical obligations required by this Order. The experience, capabilities, and qualifications of the firms or individuals selected by Respondents shall be submitted to the Department within 30 days after the effective date of this Order. The Department's approval of these firms or individuals shall be obtained before the start of any activities for which Respondents and such firms or individuals will be responsible. The responsibility for the performance of the professionals retained by Respondents shall rest solely with Respondents. Respondents retain the right to select or change firms or individuals in their sole discretion.

C. The Department shall have the right to obtain split samples, duplicate samples, or both, of all substances and materials sampled by Respondents, and the Department also shall have the right to take its own samples. Respondents shall make available to the Department the results of all sampling and/or tests or other data generated by Respondents with respect to implementation of this Order and shall submit these results in the progress reports required by this Order. The Department shall make available to the Respondents split samples and the results of all sampling and/or other data generated by the Department with respect to implementation of this Order.

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

E. Unless exempted by 6 NYCRR 375-1.7, Respondents shall use best efforts to obtain all permits, easements, rights-of-way, rights-of-entry, approvals, or authorizations necessary to perform Respondents' obligations under this Order. For purposes of this Paragraph, "best efforts" includes the payments of reasonable sums of money in consideration. If any access required to perform this Order is not obtained despite best efforts within 45 days of the effective date of this Order, or within 45 days of the date the Department notifies Respondents in writing that additional access beyond that previously secured is necessary, Respondents shall promptly notify the Department, and shall include in that notification a summary of the steps the Respondents have taken to attempt to obtain access. The Department may, as it deems appropriate, assist Respondent in obtaining access. Respondents shall reimburse the Department, in accordance with the Procedure in Paragraph IX, Payment of State Costs, for all costs incurred by the Department in obtaining access, including, but not limited to, attorney fees.

F. Respondents and Respondents' officers, directors, agents, servants, employees, successors, and assigns shall be bound by this Order. Any change in ownership or corporate status of Respondents including, but not limited to, any transfer of assets or real

or personal property shall in no way alter Respondents' responsibilities under this Order. Respondents' officers, directors, employees, servants, and agents shall be obliged to comply with the relevant provisions of this Order in the performance of their designated duties on behalf of Respondents.

G. Respondents shall provide a copy of this Order to each contractor hired to perform work required by this Order and to each person representing Respondents with respect to the Site and shall condition all contracts entered into in order to carry out the obligations identified in this Order upon performance in conformity with the terms of this Order. Respondents or Respondents' contractors shall provide written notice of this Order to all subcontractors hired to perform any portion of the work required by this Order. Respondents shall nonetheless be responsible for ensuring that Respondents' contractors and subcontractors perform the work in satisfaction of the requirements of this Order.

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

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

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

K. 1. The terms of this Order constitute the complete and entire Order concerning the remediation of OU-1 of the Site as an inactive hazardous waste disposal site. No term, condition, understanding, or agreement purporting to modify or vary any term of this Order shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestion, or comment by the Department regarding any report, proposal, plan, specification, schedule, or any other submittal shall be construed as relieving Respondents of Respondents' obligation to obtain such formal approvals as may be required by this Order.

2. If Respondents desire that any provision of this Order be changed, Respondents shall make timely written application, signed by Respondents, to the Commissioner setting forth reasonable grounds for the relief sought. Copies of such written application shall be delivered or mailed to Rosalie K. Rusinko and to Hari Agrawal.

L. The effective date of this Order is the date the Commissioner or his designee signs it.

DATED:

*2/9/98*

John P. Cahill  
Commissioner  
New York State Department  
of Environmental Conservation

By:

  
Michael J. O'Toole, Jr.

CONSENT BY RESPONDENT

National Railroad Passenger Corp.

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

National Railroad Passenger Corp.

By: Robert T. Noonan

Title: SR. DIR. - ENV. CONTROL + IND. HYGIENE

Date: 1/26/98

DISTRICT OF COLUMBIA )  
  ) s.s.:  
CITY OF WASHINGTON )

On this 26<sup>th</sup> day of January, 1998, before me personally came ROBERT T. NOONAN to me known, who being duly sworn, did depose and say that he resides in MARYLAND; that he is the SR. DIR. ENV. CONTR. & IND. HYGIENE of NATIONAL RAILROAD PASSENGER "AMTRAK", the corporation described in and which executed the foregoing instrument; that he knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by the order of the Board of Directors of said corporation and that he signed his name thereto by like order.

Anita L. Marin  
Notary Public  
MY COMMISSION EXPIRES: 4/14/2007

CONSENT BY RESPONDENT

New Jersey Transit Corp.

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

New Jersey Transit Corp.

By:

*[Handwritten Signature]*

Title:

*Mgr. Environmental*

Date:

*Jan. 27, 1998*

STATE OF NEW JERSEY )

COUNTY OF *Essex* )

) s.s.:

On this *27<sup>th</sup>* day of *January*, 19*98*, before me personally came *Steve Jurew*, to me known, who being duly sworn, did depose and say that he resides in *34 Semeter Rd Glen Ridge N.J.*; that he is the *Manager of Environmental Services of New Jersey Corp.*, the corporation described in and which executed the foregoing instrument; that he knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by the order of the Board of Directors of said corporation and that he signed his name thereto by like order.

*[Handwritten Signature]*  
Notary Public

**Lucrezia White**  
**A Notary Public Of New Jersey**  
**My Commission Expires July 24, 2000**