
**FORMER IBM EAST FISHKILL FACILITY
DUTCHESS COUNTY
TOWN OF EAST FISHKILL, NEW YORK**

**2070 ROUTE 52
HOPEWELL JUNCTION, NEW YORK 12533**

Appendix N

Remedial System Optimization Table of Contents

NYSDEC Site Number: 314054
EPA Site Identification Number: NYD000707901

Revisions Summary:

| Revision # | Submitted Date | Summary of Revision | NYSDEC Approval Date |
|------------|----------------|--|----------------------|
| 0 | August 2017 | | |
| 1 | May 2021 | Updated organizational structure to December 2020 SMP template. Includes updates to reflect new ownership and property boundaries; remedial systems installations and operators. | |
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A Remedial Site Optimization (RSO) study will be conducted any time that the NYSDEC project manager or the remedial party requests in writing that an in-depth evaluation of the remedy is needed. An RSO may be appropriate if any of the following occur:

- The remedial actions have not met or are not expected to meet RAOs in the time frame estimated in the Decision Document;
- The management and operation of the remedial system is exceeding the estimated costs;
- The remedial system is not performing as expected or as designed;
- Previously unidentified source material may be suspected;
- Plume shift has potentially occurred;
- Site conditions change due to development, change of use, change in groundwater use, etc.;
- There is an anticipated transfer of the site management to another remedial party or agency; and
- A new and applicable remedial technology becomes available.

An RSO will provide a critique of a site's conceptual model, give a summary of past performance, document current cleanup practices, summarize progress made toward the site's cleanup goals, gather additional performance or media specific data and information and provide recommendations for improvements to enhance the ability of the present system to reach RAOs or to provide a basis for changing the remedial strategy.

REMEDIAL SYSTEM OPTIMIZATION FOR the Former IBM East Fishkill Facility

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**FORMER IBM EAST FISHKILL FACILITY
DUTCHESS COUNTY
TOWN OF EAST FISHKILL, NEW YORK**

**2070 ROUTE 52
HOPEWELL JUNCTION, NEW YORK 12533**

**Appendix O
Permits and or Permit Equivalent**

NYSDEC Site Number: 314054
EPA Site Identification Number: NYD000707901

Revisions Summary:

| Revision # | Submitted Date | Summary of Revision | NYSDEC Approval Date |
|------------|----------------|--|----------------------|
| 0 | August 2017 | | |
| 1 | May 2021 | Updated organizational structure to December 2020 SMP template. Includes updates to reflect new ownership and property boundaries; remedial systems installations and operators. | |
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 - O-3 Stormwater Permit (pending issuance, part of current SPDES Permit)
 - O-4 Consent Order, Case No. CO-1-20181004
-

LIST OF ABBREVIATIONS AND ACRONYMS

| | |
|--------|--|
| IBM | International Business Machines Corporation |
| iPark | iPark collectively refers to any and all iPark East Fishkill entities unless a specific iPark entity is referenced in the text or other documents associated with this ISMP. |
| GF | GlobalFoundries U.S. 2 LLC |
| NYSDEC | New York State Department of Environmental Conservation |
| NYSDOH | New York State Department of Health |
| USEPA | United States Environmental Protection Agency |

SUMMARY

On November 1, 2011, IBM entered into a 6NYCRR Part 373 Permit, (Permit No. 3-1328-00025/00249), EPA ID NYD000707901 (Part 373 Permit) with the NYSDEC to remediate the site. The 2011 Part 373 Permit addresses: (1) the storage and management of hazardous waste in containers; (2) the operation and maintenance of the Interim Corrective Measures (ICMs) for contaminated groundwater; (3) the monitoring and maintenance of the groundwater monitoring well network used to assess the performance of the interim corrective measures; and (4) financial assurance for closure and corrective action.

In February 2015, closure of the permitted storage rooms in Building 309 was initiated. This process was completed in April 2015 with submission of closure certification documentation to NYSDEC, and closure certification acceptance by NYSDEC on May 21, 2015. On May 28, 2015¹, the Part 373 Permit was modified pursuant to 6NYCRR 373-1.7(c)(15), the modification transitioned the permit to Corrective Action only. There are no longer any permitted hazardous waste management units at the facility.

On July 1, 2015, the Site was acquired by GLOBALFOUNDRIES U.S. 2 LLC (GF). On September 1, 2017, i.Park East Fishkill LLC and i.Park East Fishkill I LLC, purchased Lots 2, 3, 4, 6, 7, and 8. As site ownership changed, GlobalFoundries U.S. 2 LLC (GlobalFoundries)² and then i.Park East Fishkill LLC and i.Park East Fishkill I LLC were added to the 2011 Part 373 Permit as co-permittees. On September 1, 2017³, the Part 373 Permit was updated to reflect ownership transition to include i.Park East Fishkill I LLC for Lots 2 and 3 and i.Park East Fishkill LLC for Lots 4, 6, 7, and 8 and GF to retain Lots 1 and 5.

¹ New York State Department of Environmental Conservation, May 28, 2015, IBM East Fishkill Facility, Hudson Valley Research Park, NYSDEC Permit 3-1328-00025/00249, EPA ID No. NYD000707901, Minor Permit Modification.

² NYSDEC, July 1, 2015, Facility Permit Transfer IBM Corporation to GLOBALFOUNDRIES U.S. 2 LLC, East Fishkill Facility.

³ New York State Department of Environmental Conservation, September 1, 2017, IBM East Fishkill Facility, Hudson Valley Research Park, NYSDEC Permit 3-1328-00025/00249, EPA ID No. NYD000707901, Minor Permit Modification.

GF, i.Park East Fishkill LLC, and i.Park East Fishkill I LLC are listed as facility owners under the current NYSDEC Part 373 Permit, with IBM maintaining responsibility for Groundwater Corrective Action. **(Appendix O-1)**

IBM was issued a NYSDEC SPDES Permit with an effective date of July 1, 2008 which details the effluent limitations and monitoring requirements for the treated groundwater remediation discharges. Concurrent with the transfer and sale of the property from IBM to GF the SPDES Permit was transferred to GF and is currently in renewal **(Appendix O-2)**. A Stormwater Permit for the iPark properties is currently pending **(Appendix O-3)**.

On May 1, 2020, iPark East Fishkill LLC, iPark East Fishkill I LLC, IBM and GlobalFoundries entered into an Order on Consent, Case No. CO-1-20181004 (Consent Order) with the NYSDEC for violation of the 2011 Part 373 Permit and violation of the Environmental Conservation Law (ECL) Article 27, Title 9 as established in 6NYCRR 373-1.6(a)(1). Respondent i.Park (collectively i.Park East Fishkill LLC and i.Park East Fishkill I LLC) is the sole owner of the portion of the property that is the subject of noncompliance. Respondent iPark leased a property within its portion of the Site to a third party, which was operating a commercial business activity on a Site which was only authorized to have industrial activities. Respondent i.Park affirmatively stated that its actions, not the actions of Respondent IBM and Respondent GlobalFoundries was the cause of the violations. As such, Respondent i.Park was ordered to, in accordance with work plan(s) approved by NYSDEC, design, install, operate and maintain active sub-slab depressurization systems (SSD) in the ground floor of all indoor areas within the commercial use area. **(Appendix O-4)**

Any revision to this Appendix will be annotated as such with a new date and revision level and will be distributed to NYSDEC, the Site Owners and IBM.

- O-1 Part 373 Permit, 3-1328-00025/00249
 - O-1a 2011 Part 373 Permit, 3-1328-00025/00249
 - O-1b 2015 Minor Modification, Transition to to Corrective Action Only
 - O-1c 2017 Minor Modification
- O-2 SPDES Permit, NY0005096 (GlobalFoundries U.S. 2 LLC)
- O-3 Stormwater Permit (pending issuance, part of current SPDES Permit)
- O-4 Consent Order, Case No. CO-1-20181004

- O-1 Part 373 Permit, 3-1328-00025/00249
 - O-1a 2011 Part 373 Permit, 3-1328-00025/00249
 - O-1b 2015 Minor Modification, Transition to to Corrective Action Only
 - O-1c 2017 Minor Modification

O-1a 2011 Part 373 Permit, 3-1328-00025/00249



PERMIT
Under the Environmental Conservation Law (ECL)

Permittee and Facility Information

Permit Issued To:

INTERNATIONAL BUSINESS MACHINES
CORPORATION
NEW ORCHARD RD
ARMONK, NY 10504

Facility:

IBM EAST FISHKILL FACILITY, HUDSON
VALLEY RESEARCH PARK
2070 ST RTE 52
HOPEWELL JUNCTION, NY 12533

EMPIRE STATE DEVELOPMENT
CORPORATION
30 SOUTH PEARL ST
ALBANY, NY 12245
(800) 782-8369

Facility Application Contact:

STEVEN HAWKINS
IBM EAST FISHKILL, HUDSON VALLEY
RESEARCH PARK
2070 ST RTE 52
HOPEWELL JUNCTION, NY 12533-3507
(845) 894-1039

Facility Permit Contact:

RACHAEL SHATZ
EMPIRE STATE DEVELOPMENT CORP
633 THIRD AVE
NEW YORK, NY 10017

Facility Location: in EAST FISHKILL in DUTCHESS COUNTY

Facility Principal Reference Point: NYTM-E: 598.191 NYTM-N: 4599.739
Latitude: 41°32'35.8" Longitude: 73°49'21.9"

Authorized Activity: Permit renewal for the operation of a hazardous waste storage facility, with a total capacity of 150,700 gallons kept in drums in Building 309, rooms are 2, 7 and 8, as specified in Module III of this permit. Room 2 has a maximum of 1000 in 55-gallon drums; Room 7 has a maximum 1,352 in 55-, 20-, and 5-gallon drums; and Room 8 has a maximum of 388 in 55-gallon drums.

* 11/14/2011: Correction made to Condition 5 - Change the reference to 'Module III' to 'Module II.' - /s/
S. M. Fox *Steve M. Fox*

Permit Authorizations

Resource Conservation and Recovery Act - Under Article 27, Title 9

Permit ID 3-1328-00025/00249

(RCRA ID NYD000707901)

Renewal

Effective Date: 11/2/2011

Expiration Date: 11/1/2021

Non-RCRA Hazardous Waste Management - Under Article 27, Title 9

Permit ID 3-1328-00025/00248

Renewal

Effective Date: 11/2/2011

Expiration Date: 11/1/2021



NYSDEC Approval

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.

Permit Administrator: STUART M FOX, Deputy Chief Permit Administrator
Address: NYSDEC HEADQUARTERS
625 BROADWAY
ALBANY, NY 12233

Authorized Signature: Stuart M. Fox Date 11/ 2 /11

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Chief, EPA Region 2 RCRA Programs Branch

Permit Components

RESOURCE CONSERVATION AND RECOVERY ACT PERMIT CONDITIONS
NON-RCRA HAZARDOUS WASTE MANAGEMENT PERMIT CONDITIONS
GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS
NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS



RESOURCE CONSERVATION AND RECOVERY ACT PERMIT CONDITIONS

1. Conformance With Application This permit is based on the June 2011 application submission (herein referred to as the application) and that the facility will be operated as specified in the application. Any inaccuracies or incompleteness found in this information may be grounds for the suspension, revocation or modification of this permit and potential enforcement action. The Permittee must inform DEC of any deviation from or changes in the information in the application which would affect the Permittee's ability to comply with the applicable regulations or permit conditions.

2. Comply With Permit The permittee must comply with all terms and conditions of this permit. This permit consists of the conditions contained herein (including this and any attachments) and the applicable regulations contained in 6NYCRR (parts 370 through 373-2, 376 and 621 and 624).

The Permittee must comply with all State Regulations which pertain to the management of Toxicity Characteristic (TC) wastes as specified in Part 371.

3. Quality Control/Assurance Program The Permittee is responsible to verify that the Quality Control/Assurance Program (QA/QC) used by laboratories contracted by the Permittee to carry out analysis of the waste streams conform to the QA/QC procedures approved in this permit and thus, ensure the validity of the analytical data provided by these contract laboratories.

Only laboratories which are certified by the New York State Department of Health Environmental Laboratory Approval Program (ELAP) must be used for analysis performed by outside laboratories.

4. Waste Management The Permittee must manage the environmental support operations (i.e., waste removal, treatment, storage and off-site disposal) of all IBM tenants during the entire term of the lease.

The Permittee is authorized to accept and manage hazardous wastes from on-site IBM operations, and from on-site non-IBM tenant operations which the Permittee chooses to accept from.

The Permittee must have adequate knowledge and control of waste generation/management by all the tenants of the Hudson Valley Research Park in order to maintain regulatory compliance and environmental protection, including the prevention of future groundwater contamination.

The Permittee (IBM) is responsible for the appropriate controls at the Hudson Valley Research Park to ensure that the wastes generated by the tenants are properly characterized, managed, and disposed.

5. Site-Wide Groundwater Corrective Action Modules II and IX of this permit require the Permittee to undertake the site investigation and corrective action required by the Order on Consent dated April 27, 1981, captioned In the Matter of Compliance with Section 27-1313 of the Environmental Conservation Law ("ECL") by: International Business Machines Corporation (IBM). Therefore, as of and on the effective date of this permit, all Permittee's obligations arising under the Order on Consent are terminated and superseded by this permit.

6. Hazardous Waste Manifests The Permittee is responsible for completion of all required hazardous waste manifest documentation including the tenants.



7. Transportation of Containerized Waste The Permittee is responsible for the transportation of all the containerized hazardous waste generated by the Permittee and the tenants from the manufacturing building to the site waste container storage area (Building 309).

8. Proper Storage of Waste The containerized wastes must be placed into the appropriate storage room based on the waste characteristics, and the appropriate information must be entered in the Operating Record.

9. Groundwater Remediation The Permittee is responsible for the groundwater remediation programs at the Hudson Valley Research Park.

10. Hazardous Waste Reduction Plan The Permittee is responsible for the submission of a Hazardous Waste Reduction Plan (HWRP) including tenant operations. Each tenant is responsible for implementation of the HWRP for its projects, in accordance with applicable requirements. The Permittee will not be authorized to manage tenant wastes for any tenants which fail to comply with HWRP requirements.

11. Annual Hazardous Waste Report The Permittee is responsible for the Annual Hazardous Waste Report identifying IBM, the Permittee, as the generator of the hazardous waste (per manifest requirements) for the Hudson Valley Research Park.

12. Specified Modules and Attachments The permittee must operate the facility in strict accordance with the modules and attachments of this permit as specified below:

Modules

- I General Provisions, pages 1-14
- II Corrective Action Requirements, pages 1-56; and Appendixes II-A, II-B, II-C, II-D, II-E, II-F, AND II-G
- III Storage in Containers, page 1
- IX General Groundwater Monitoring Conditions, pages 1-6

Permit Application

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| | Exhibit 4F – Secondary Containment Capacity Calculations | |



| | | |
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NON-RCRA HAZARDOUS WASTE MANAGEMENT PERMIT CONDITIONS

1. Conformance With Plans All activities authorized by this permit must be in strict conformance with the permit application, plans and materials prepared by the permittee on June 2011; and with all of the above Resource Conservation and Recovery Act Permit Conditions.

GENERAL CONDITIONS - Apply to ALL Authorized Permits:

1. Facility Inspection by The Department The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71- 0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

2. Relationship of this Permit to Other Department Orders and Determinations Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

3. Applications For Permit Renewals, Modifications or Transfers The permittee must submit a separate written application to the Department for permit renewal, modification or transfer of this



permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Regional Permit Administrator
NYSDEC REGION 3 HEADQUARTERS
21 SOUTH PUTT CORNERS RD
NEW PALTZ, NY12561 -1620

4. Submission of Renewal Application The permittee must submit a renewal application at least 180 days before permit expiration for the following permit authorizations: Resource Conservation and Recovery Act, Non-RCRA Hazardous Waste Management.

5. Permit Modifications, Suspensions and Revocations by the Department The Department reserves the right to exercise all available authority to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

6. Permit Transfer Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision



under federal or state laws.

Item B: Permittee's Contractors to Comply with Permit

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

Item C: Permittee Responsible for Obtaining Other Required Permits

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

Item D: No Right to Trespass or Interfere with Riparian Rights

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

O-1b 2015 Minor Modification, Transition to Corrective Action Only

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Remedial Bureau E
625 Broadway, 12th Floor, Albany, NY 12233-7017
P: (518) 402-9813 | F: (518) 402-9819
www.dec.ny.gov

May 28, 2015

Mr. Gary Marone
Manager of Environmental Engineering
International Business Machines Corporation
East Fishkill Facility, Hudson Valley Research Park
2070 Route 52
Hopewell Junction, NY 12533

Re: IBM East Fishkill Facility, Hudson Valley Research Park
NYSDEC Permit No. 3-1328-00025/00249
EPA ID No. NYD000707901
Minor Permit Modification Request

Dear Mr. Marone,

The New York State Department of Environmental Conservation (Department) has completed a review of the April 28, 2015 permit modification request to remove the conditions applicable to an operating facility and to transition the permit to a Corrective Action only permit. The permit is being modified to grant this request.

This permit modification is a minor modification pursuant to 6 NYCRR 373-1.7(c)(15). The modification transitions the permit to Corrective Action only.

Enclosure 1 of this letter will replace the language found under Authorized Activities as found on Page 1 of 7 of the permit effective on November 2, 2011. Enclosure 2 of the letter will replace the Resource Conservation and Recovery Act Permit Conditions as found on pages 3, 4 and 5 of 7 of the permit. Please remove Module III of the Permit and the Sections of the Permit Application which are identified as no longer applicable in Enclosure 1 and in the revised Module 1, from your copy of the permit. Please keep Enclosure 1 and Enclosure 2 with the copy of your permit as a replacement for those sections of the Permit pages 1 to 7.

Enclosed with this letter you will find the revised sections of the permit including revised Module 1, and, revised sections of Volume 2 of the Permit Renewal Application, including, the Part A Permit Application, Section 1.0, Section 2.0, including a revised figure 2-2, and Figure 7-4. Please remove the Modules and Sections of the Permit Application identified in this paragraph and insert the revised sections enclosed.

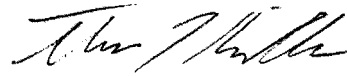
The Contingency Plan (Appendix VI) must be maintained as a stand-alone document – and is applicable to the “less than 90 days” storage areas.



Department of
Environmental
Conservation

If you have any questions, please contact me (518) 402-9013 or at thomas.killeen@dec.ny.gov.

Sincerely,



Thomas J. Killeen, P.E.
Chief, RCRA Permitting Section

ecc: R. Duggan, IBM East Fishkill
S. Danskin, IBM East Fishkill
H. Wilkie, Albany
A. Czuhanych, Albany
D. Whitehead, Region 3
M. O'Connor, Region 3
A. Everett, EPA
W. Palomino, EPA

ENCLSORUE 1

Authorized Activity: The permit based on the modification of May 28, 2015, now authorizes the permittee to conduct ongoing corrective action activities as defined in the pages of the permit.

ENCLOSURE 2
RESOURCE CONSERVATION AND RECOVERY ACT PERMIT CONDITIONS

1. Conformance With Application This permit is based on the June 2011 application submission (herein referred to as the application) and that the facility will be operated as specified in the application. Any inaccuracies or incompleteness found in this information may be grounds for the suspension, revocation or modification of this permit and potential enforcement action. The Permittee must inform DEC of any deviation from or changes in the information in the application which would affect the Permittee's ability to comply with the applicable regulations or permit conditions.

2. Comply With Permit The permittee must comply with all terms and conditions of this permit. This permit consists of the conditions contained herein (including this and any attachments) and the applicable regulations contained in 6NYCRR (parts 370 through 373-2, 376 and 621 and 624).

The Permittee must comply with all State Regulations which pertain to the management of Toxicity Characteristic (TC) wastes as specified in Part 371.

3. Quality Control/Assurance Program The Permittee is responsible to verify that the Quality Control/Assurance Program (QA/QC) used by laboratories contracted by the Permittee to carry out analysis of the waste streams conform to the QA/QC procedures approved in this permit and thus, ensure the validity of the analytical data provided by these contract laboratories.

Only laboratories which are certified by the New York State Department of Health Environmental Laboratory Approval Program (ELAP) must be used for analysis performed by outside laboratories.

4. Reserved

5. Site-Wide Groundwater Corrective Action Modules II and IX of this permit require the Permittee to undertake the site investigation and corrective action required by the Order on Consent dated April 27, 1981, captioned In the Matter of Compliance with Section 27-1313 of the Environmental Conservation Law ("ECL") by: International Business Machines Corporation (IBM). Therefore, as of and on the effective date of this permit, all Permittee's obligations arising under the Order on Consent are terminated and superseded by this permit.

6. Hazardous Waste Manifests The Permittee is responsible for completion of all required hazardous waste manifest documentation including the tenants.

7. Reserved

8. Reserved

9. Groundwater Remediation The Permittee is responsible for the groundwater remediation programs at the Hudson Valley Research Park.

ENCLOSURE 2
RESOURCE CONSERVATION AND RECOVERY ACT PERMIT CONDITIONS

10. Hazardous Waste Reduction Plan The Permittee is responsible for the submission of a Hazardous Waste Reduction Plan (HWRP) including tenant operations. Each tenant is responsible for implementation of the HWRP for its projects, in accordance with applicable requirements. The Permittee will not be authorized to manage tenant wastes for any tenants which fail to comply with HWRP requirements.

11. Annual Hazardous Waste Report The Permittee is responsible for the Annual Hazardous Waste Report identifying IBM, the Permittee, as the generator of the hazardous waste (per manifest requirements) for the Hudson Valley Research Park.

12. Specified Modules and Attachments The permittee must operate the facility in strict accordance with the modules and attachments of this permit as specified below:

Modules

- I General Provisions, pages 1-14
- II Corrective Action Requirements, pages 1-56; and Appendixes II-A, II-B, II-C, II-D, II-E, II-F, and II-G
- III¹ Storage in Containers, page 1
- IX General Groundwater Monitoring Conditions, pages 1-6

Permit Application

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| | Exhibit 4E - Automatic Doorway Spill Barrier Data Sheet | |
| | Exhibit 4F - Secondary Containment Capacity Calculations | |
| 5.0 | Corrective Action Program | 5-1 |
| 6.0 ¹ | Procedures to Prevent Hazardous | 6-1 – 6-16 |
| | Exhibit 6A - Example Facility Inspection Checklists | |
| 7.0 ¹ | Hazardous Waste Contingency Plan | 7-1 |
| | Exhibit 7 A - Spill Emergency Equipment and Materials | |
| | Exhibit 7B - Coordination Agreements | |
| 8.0 ¹ | Personnel Training | 8-1 – 8-7 |

ENCLOSURE 2
RESOURCE CONSERVATION AND RECOVERY ACT PERMIT CONDITIONS

| | | |
|------------------|---|-------------|
| | Exhibit 8A - Job Titles and Descriptions | |
| | Exhibit 8B - Examples of Hazardous Waste Training Certificates | |
| 9.0 ² | Closure Plan and Financial Requirements | 9-1 – 9-5 |
| | Exhibit 9A - Closure Cost Estimate | |
| | Exhibit 9B - Documentation of Financial Assurance | |
| 10.0 | Other State and Federal Laws | 10-1 – 10-3 |
| 11.0 | Certification | 11-1 |

Notes:

- ¹ The Modules and Permit noted above are no longer in effect.
- ² Only Exhibit 9B of Section 9.0, Documentation of Financial Assurance remains in effect, the documents listed in Exhibit 9B, of the permit, or the latest Department approved financial assurance mechanisms will be in effect.

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
DIVISION OF SOLID & HAZARDOUS MATERIALS
PART 373 PERMIT MODULE I - GENERAL PROVISIONS**

IBM Corporation East Fishkill Facility
Hudson Valley Research Center
2070 Route 52
Hopewell Junction, New York 12533
EPA ID No. NYD000707901

This permit authorizes only the hazardous waste units identified in this permit as permitted units. **This permit does not authorize other units to operate.**

If this Permit conflicts with Regulations which are in effect on the date of final issuance of this Permit, the more stringent requirement applies.

A. EFFECT OF PART 373 PERMIT

The Permittee must comply with all terms and conditions of this Permit. This Permit consists of: the conditions contained herein, the attachments to this Permit, sections of the Permit Application referenced herein, any subsequent Department approved changes to the attachments and referenced sections of that Application, and the applicable regulations contained in 6NYCRR Parts 370 through 374, 376, 621 and 624 that are referenced herein. The applicable regulations or requirements are those which are in effect on the date of final issuance of this Permit, except for those requirements not included in the permit which:

- (1) Become effective by statute, including amendments thereto;
- (2) Are promulgated under 6NYCRR Part 376, as modified (Land Disposal Restrictions);
- (3) Are promulgated under 6NYCRR 373-3.27, 373-3.28, and 373-3.29, as modified (air emission standards); and
- (4) Are other requirements promulgated under 6NYCRR 373-1.6(e).

The Permittee is required to conduct corrective action in accordance with the conditions of this Permit. Any storage, treatment, or disposal of hazardous waste is prohibited unless exempt from 6NYCRR Part 373. Issuance of this Permit does not authorize any injury to persons or property, any invasion of other private rights, or any infringement of federal, State or local laws or regulations.

The hazardous waste activities which are authorized by this Permit are listed in the Modules

referenced below:

IBM is currently conducting a Corrective Measures Program to monitor, collect, and treat contaminated groundwater at the East Fishkill Facility. The current Corrective Measures Program is addressing remedial work in the following Areas of Concern (AOCs): Area A, Area B, Area D, Area C Landfill Area, Building 322 (B/322) Area, Building 330 (B/330) Area, the Southeast Quadrant (SEQ) and the deeper bedrock.

All plans, specifications and schedules required by the terms of this Permit and all subsequent amendments to those documents are incorporated by reference into this Permit, upon approval, when required, or acceptance by the Department, unless the Department specifically specifies otherwise in writing. Upon incorporation, the provisions of each such document will be binding upon the Permittee and have the same legal force and effect as the requirements of this Permit.

B. PERMIT APPLICATION

The Permittee's Hazardous Waste **Part A** Permit Application is attached to and incorporated by reference into this Permit. The Permit Application documents listed below are also incorporated by reference into this Permit. These documents are made part of this Permit, are binding upon the Permittee and have the same legal force and effect as the requirements of this Permit.

| DOCUMENTS INCORPORATED BY REFERENCE |
|--|
| New York State Department of Environmental Conservation 6 NYCRR Part 373 Permit Renewal Application - Volume 1 - Permit Modules |
| New York State Department of Environmental Conservation 6 NYCRR Part 373 Permit Renewal Application - Volume 2- Permit Renewal Application |

| | | |
|---------|---|----------------------------------|
| Section | New York State Department of Environmental Conservation 6 NYCRR Part 373 Permit Renewal Application - Volume 2- Permit Renewal Application | |
| 0 | MAJOR/MINOR MODIFICATIONS | |
| | Part A Permit Application | |
| 1 | Introduction | |
| 2 | Facility Description | |
| 3 | Waste Analysis Plan | No longer in effect ¹ |
| 4 | Process Information | No longer in effect ¹ |
| 5 | Corrective Action Program | |
| 6 | Procedures to Prevents Program | No longer in effect ¹ |
| 7 | Hazardous Waste Contingency Plan | No longer in effect ¹ |
| 8 | Personnel Training | No longer in effect ¹ |
| 9 | Closure Plan and Financial Requirements ² | |
| 10 | Other State and Federal Laws | |
| 11 | Certification | |

¹ Where subsequent sections of the permit modules refer to these sections of the permit application, those provisions of the permit modules are no longer in effect.

² Only Exhibit 9B of Section 9.0, Documentation of Financial Assurance remains in effect, the documents listed in Exhibit 9B, of the permit, or the latest Department approved financial assurance mechanisms will be in effect.

Future modifications to this Permit, including modifications to the Permit Application documents incorporated into this Permit, shall be addressed according to 6NYCRR 373-1.7. The Permittee must submit copies to the Regional Permit Administrator and as required in Section H of this Module, of the replacement: pages, sections, and/or attachments to the permit application along with the application request for a permit modification. The Permittee shall place a revision date on all pages submitted as part of the proposed permit modification application.

The Permittee must provide and maintain a log of all modifications made to this Permit, including modifications made to the Permit Application documents that are made part of this Permit. The log shall contain at a minimum the following information regarding an approved modification: (1) the name of the specific documents being modified (e.g., contingency plan, security requirements, hazardous waste unit operations, etc.); (2) the pertinent page, section, and/or attachment of this Permit and Permit Application documents subject to modification; (3) the revision date of the modifications; (4) a brief statement regarding the nature of the modifications; and (5) the effective date of the modification to this Permit. The Permittee shall place the log at the beginning of this Permit along with a copy of the Department's approval letter(s), when applicable.

Upon receipt of a permit modification issued by the Department, the Permittee must update the log and replace the pages, sections, and/or attachments in the Permit and Permit Application with the modified pages, sections, and/or attachments in the permit copy maintained by the Permittee

C. GENERAL REQUIREMENTS FOR THIS PART 373 PERMIT

The Permittee must comply with 6NYCRR Subpart 373-1 as follows:

1. General 6NYCRR 373-1.1

- a) 6NYCRR 373-1.1(b) - Applicability;
- b) 6NYCRR 373-1.1(c) - Safeguarding Information;
- c) 6NYCRR 373-1.1(f) - Uniform Procedures;
- d) 6NYCRR 373-1.1(g) - Enforcement;
- e) 6NYCRR 373-1.1(h) - Severability; and
- f) 6NYCRR 373-1.1(i) - Terms Used.

2. Requirement for Permit 6NYCRR 373-1.2

6NYCRR 373-1.2(d) requires owners and operators of hazardous waste management facilities to have a Part 373 permit during the active life of a unit/s, including the closure period and during the post-closure care period, with few exceptions. See Section D.7. of this permit below.

3. Signatories to Permit Applications and Reports 6NYCRR 373-1.4(a)(5)

- a) 6NYCRR 373-1.4(a)(5)(i) - Applications;
- b) 6NYCRR 373-1.4(a)(5)(ii) - Reports;

- c) 6NYCRR 373-1.4(a)(5)(iii) - Changes to authorization; and
 - d) 6NYCRR 373-1.4(a)(5)(iv) - Certification.
4. Recordkeeping 6NYCRR 373-1.4(g)
5. Permit Conditions 6NYCRR 373-1.6
- a) 6NYCRR 373-1.6(a) - Conditions applicable to all permits;
 - b) 6NYCRR 373-1.6(a)(1) - Duty to Comply;
 - c) 6NYCRR 373-1.6(a)(2) - Duty to reapply;
 - d) 6NYCRR 373-1.6(a)(3) - Need to halt or reduce activity not a defense;
 - e) 6NYCRR 373-1.6(a)(4) - Duty to mitigate;
 - f) 6NYCRR 373-1.6(a)(5) - Proper operation and maintenance;
 - g) 6NYCRR 373-1.6(a)(6) - Permit actions;
 - h) 6NYCRR 373-1.6(a)(7) - Property rights;
 - i) 6NYCRR 373-1.6(a)(8) - Duty to provide information;
 - j) 6NYCRR 373-1.6(a)(9)(i) through (iv) - Inspection and entry;
 - k) 6NYCRR 373-1.6(a)(10)(i) through (iii) - Monitoring and records;
 - l) 6NYCRR 373-1.6(a)(11) - Signatory Requirements;
 - m) 6NYCRR 373-1.6(a)(12)(i) through (xi) - Reporting requirements;
 - n) 6NYCRR 373-1.6(a)(13) - Information repository (also see section C.9.a)(3) of this Permit below),
 - o) 6NYCRR 373-1.6(c) - Establishing Permit conditions;
 - p) 6NYCRR 373-1.6(d)(1)(i) through (iii) - Schedules of compliance;
The Permittee must comply with the compliance schedules listed in Module - II Corrective Action Requirements and the special conditions of this permit.
 - q) 6NYCRR 373-1.6(d)(2)(i) through (iv) - Alternative schedules of compliance.
6. Requirements for recording and reporting of monitoring results 6NYCRR 373-1.6(b)

The Permittee must comply with the recording, reporting and monitoring requirements listed in this permit.

The Permittee must use, maintain and install monitoring equipment and methods and report monitoring results as specified in this Permit (including the permit application) and 6NYCRR Subpart 373-2. The Permittee must conduct required monitoring with the type, intervals and frequency sufficient to yield data which are representative of the monitoring activity including, when appropriate, continuous monitoring.

7. Permit Modifications 6NYCRR 373-1.7

- a) 6NYCRR 373-1.7(a) - Transfer of Permits;
- b) 6NYCRR 373-1.7(b) - Modification of Permits;
- c) 6NYCRR 373-1.7(c) - Minor Modifications of RCRA Delegated Permits;
- d) 6NYCRR 373-1.7(d) - Major Modifications;
- e) 6NYCRR 373-1.7(e) - Announcement of Determinations;
- f) 6NYCRR 373-1.7(f) - Temporary Authorizations; and
- g) 6NYCRR 373-1.7(g) - Newly Regulated Wastes and Units.

8. Expiration and Continuation of Permits 6NYCRR 373-1.8

This permit shall be in effect for a fixed term not to exceed Ten years. Complete applications for permit renewal must be submitted at least 180 days before the expiration date of this Permit pursuant to 6NYCRR 373-1.8(b) to the addresses in Section H of this Permit module below. Renewal applications with a significant change (as defined in paragraph 373-1.10(a)(1) of this Subpart) are subject to the requirements of section 373-1.10 of this Subpart, (also see section C.9., Public Participation, of this Permit module below).

Prior to processing the renewal application the Department will determine whether the application is complete. In order for the renewal application to be complete the Permittee must:

- a) Satisfy the general requirements for complete application contained in 6 NYCRR Part 621 (Uniform Procedure Regulations)
- b) Include all information required, both general and specific to the type of the facility in accordance with the laws, regulations and analytical requirements in effect at the time.

At any time during the review of the renewal application the Department may request in writing any additional information which is necessary for determining the completeness of the application. Failure to provide such information by the date specified in the request may be grounds for denial of the application and the extension allowed pursuant to **401.2.** of the **State Administrative Procedures Act.**

Should the Permittee cease the hazardous waste management activities allowed by this Permit prior to the expiration of this Permit, then, the Permittee must continue to comply with the

applicable corrective action conditions and requirements stipulated in this Permit (**refer to Module II Corrective Action**). In addition, the Permittee shall submit a renewal application pursuant to 6NYCRR Subpart 373-1.8(b) prior to this Permit's expiration unless and until all the Permittee's corrective action obligations have been completed. In the alternative, the Permittee may execute an order on consent for corrective action pursuant to Environmental Conservation Law (ECL) Section 71-2727(3) with the Commissioner at least 180 days prior to the expiration date of this Permit.

9. Public Participation (including 6NYCRR 373-1.10)

a) Expanded Public Participation (6NYCRR 373-1.10)

- (1) 6NYCRR 373-1.10(b) Public Notice Requirements at the Application Stage
- (2) 6NYCRR 373-1.10(c) Information Repository.

East Fishkill Public Library
Attn: Steven Cook
380 Route 376
Hopewell Junction, New York 12533

The permittee shall establish and maintain an Information Repository at the East Fishkill Public Library. The permittee will continue to maintain the information repository for the life of the Permit or until otherwise notified by the Department.

The repository shall contain a copy of the final approved Part 373 Permit application, approved documents such as plans, reports, risk assessments, etc., this Part 373 Permit Fact Sheet, public notices pertaining to the Part 373 Permit, copies of correspondence including enclosures and attachments from the effective date of the Permit between the Department and the permittee pertaining to the Permit or to compliance.

The permittee shall provide a written notice of the availability of the information repository to all individuals on the facility mailing list within one month from the effective date of this Permit (except to those previously notified within one year prior to the effective date of the Permit) and to all individuals on the facility mailing list one year before the expiration date of this Permit.

b) Other public participation activities to consider to maintain good community relations:

- (1) Public Meetings

(2) Citizens Advisory Group Meetings

D. FINAL STATUS STANDARDS FOR THIS PART 373 PERMIT

The Permittee must comply with 6NYCRR Subpart 373-2, and the referenced sections of the Permit Application, as follows:

1. General 6NYCRR 373-2.1

- a) 6NYCRR 373-2.1(a) - Purpose, Scope and Applicability; and
- b) 6NYCRR 373-2.1(c) - Imminent Hazard Action.

2. General Facility Standards 6NYCRR 373-2.2

- a) 6NYCRR 373-2.2(a) - Applicability;
- b) 6NYCRR 373-2.2(b) - Facility ownership transfer;
- c) 6NYCRR 373-2.2(d) - Required Notices;
- d) 6NYCRR 373-2.2(e) - General Waste Analysis (Section 3.0 of the Permit Application);
- e) 6NYCRR 373-2.2(f) - Security (Section 6.1 of the Permit Application);
- f) 6NYCRR 373-2.2(g) - General inspection requirements (Section 6.2 of the Permit Application);
- g) 6NYCRR 373-2.2(h) - Personnel training (Section 8.0 of the Permit Application);
- h) 6NYCRR 373-2.2(i) - General requirements for ignitable, reactive, or incompatible wastes (Section 6.5 of the Permit Application);

3. Preparedness and Prevention 6NYCRR 373-2.3

The Permittee must comply with Section 6.3 of the Permit Application and 6NYCRR 373-2.3 as follows:

- a) 6NYCRR 373-2.3(a) - Applicability;
- b) 6NYCRR 373-2.3(b) - Design and operation of facility;
- c) 6NYCRR 373-2.3(c) - Required equipment;
- d) 6NYCRR 373-2.3(d) - Testing and maintenance of equipment;

- e) 6NYCRR 373-2.3(e) - Access to communications or alarm system;
- f) 6NYCRR 373-2.3(f) - Required aisle space; and
- g) 6NYCRR 373-2.3(g) - Arrangements with local authorities.

4. Contingency Plan and Emergency Procedures 6NYCRR 373-2.4

The Permittee must comply with Section 7.0 of the Permit Application and 6NYCRR 373-2.4 as follows:

- a) 6NYCRR 373-2.4(a) - Applicability;
- b) 6NYCRR 373-2.4(b) - Purpose and implementation of contingency plan;
- c) 6NYCRR 373-2.4(c) - Content of contingency plan;
- d) 6NYCRR 373-2.4(d) - Copies of contingency plan;
- e) 6NYCRR 373-2.4(e) - Amendment of contingency plan;
- f) 6NYCRR 373-2.4(f) - Emergency coordinator; and
- g) 6NYCRR 373-2.4(g) - Emergency Procedures.

5. Manifest System, Recordkeeping and Reporting 6NYCRR 373-2.5

- a) 6NYCRR 373-2.5(a) - Applicability;
- b) 6NYCRR 373-2.5(b) - Manifest requirements;
- c) 6NYCRR 373-2.5(c) - Operating record;
- d) 6NYCRR 373-2.5(d) - Availability, retention, and disposition of records;
- e) 6NYCRR 373-2.5(e) - Annual report;
- f) 6NYCRR 373-2.5(f) – Un-manifested waste report; and
- g) 6NYCRR 373-2.5(g) - Additional reports.

The Permittee must retain for inspection by the Department the permit modification log required by Section B, the operating record, documentation to demonstrate compliance with the financial requirements of this Permit, the referenced sections of the Permit Application that are made part of this Permit, and any subsequent Department approved changes to the contents of that Application.

These documents include, but are not limited to, the most recent Department approved: waste analysis plan; contingency plan; closure plan(s); groundwater monitoring plan(s); security, inspection, and personnel training requirements; and final engineering documents for all hazardous waste treatment, storage, and disposal units subject to this Permit and for all ongoing

corrective action remedies pertinent to solid waste management units and areas of concern either remediated or being remediated pursuant to this Permit.

6. Releases from Solid Waste Management Units 6NYCRR 373-2.6

The Permittee must comply with all the applicable provisions stipulated in 6NYCRR 373-2.6(a) through (k) for regulated units and with 6NYCRR 373-2.6 (l) for corrective action at solid waste management units; comply with the conditions stipulated in **Module II - Corrective Action Requirements for Solid Waste Management Units and Areas of Concern**; and comply with the groundwater monitoring plan approved by the Department, including all subsequent revisions approved by the Department that address the means to implement and achieve compliance with the aforementioned conditions for site-wide contaminated groundwater.

7. Closure and Post-Closure 6NYCRR 373-2.7

The Permittee must comply with Section 9.0 of the Permit Application and 6NYCRR 373-2.7 for the closure and post-closure care of the hazardous waste management unit(s) (i.e., container storage area), as follows:

- a) 6NYCRR 373-2.7(a) - Applicability;
- b) 6NYCRR 373-2.7(b) - Closure performance standard;
- c) 6NYCRR 373-2.7(c) - Closure plan; amendment to plan;
- d) 6NYCRR 373-2.7(d) - Closure; time allowed for closure;
- e) 6NYCRR 373-2.7(e) - Disposal or decontamination of equipment, structures and soils;
- f) 6NYCRR 373-2.7(f) - Certification of closure and survey plat;
- g) 6NYCRR 373-2.7(g) - Post-closure care and use of property;
- h) 6NYCRR 373-2.7(h) - Post-closure plan; amendment of plan;
- i) 6NYCRR 373-2.7(i) - Post-closure notices; and
- j) 6NYCRR 373-2.7(j) - Certification of completion of post-closure care.

The final and specific choice of sampling points, number of samples, type of sampling to be performed and analysis for verification of the effectiveness of decontamination will be determined at the time of closure by NYSDEC. These determinations will be based upon the past history of operating practices and types of wastes handled at the facility. The operating record, the record of spills, the types of waste released, location of spills in the facility and the condition of secondary containment systems will also provide data to be used in these determinations. The flexibility afforded by this approach will allow compliance with closure regulations and requirements that will be in effect at the time of closure.

Different sampling procedures may be considered at closure and the locations and the total number of samples required will be determined based on the information gathered at the time of closure. The verification of decontamination will be based on NYSDEC's regulatory clean up standards at the time of closure.

8. Financial Requirements 6NYCRR 373-2.8

The Permittee must comply with Section 9.0 of the Permit Application, Module II, Appendix II-G, and 6NYCRR Subpart 373-2.8 for meeting the financial requirements for corrective action when required, as follows:

- a) 6NYCRR 373-2.8(a) - Applicability;
- b) 6NYCRR 373-2.8(b) - Definition of terms as used in this section;
- c) 6NYCRR 373-2.8(c) - Cost estimates for closure;
- d) 6NYCRR 373-2.8(d) - Financial assurance for closure;
- e) 6NYCRR 373-2.8(e) - Cost estimate for post-closure care; and
- f) 6NYCRR 373-2.8(f) - Financial assurance for post-closure care.
- g) 6NYCRR 373-2.8(g) - Use of a mechanism for financial assurance of both closure and post-closure care;
- h) 6NYCRR 373-2.8(h) - Liability requirements;
- i) 6NYCRR 373-2.8(i) - Incapacity of owners or operators, guarantors, or financial institutions;
- j) 6NYCRR 373-2.8(j) - Wording of the instruments;

The Permittee must obtain approval in writing from the Department prior to any change to the instrument/s and/or mechanism/s; e.g., type of instrument/s and/or mechanism/s, the issuing company/institution/s and/or a reduction in the dollar amount/s.

Whenever the cost estimate increases the Permittee must obtain financial assurance to cover the increase.

- k) 6NYCRR 373-2.6(l) - Corrective action for solid waste management units;

The Permittee must update cost estimates annually, update financial assurance for same, record the changes in the operating record and submit to the Department to the addresses listed in Section H of this Permit module a written a summary of the changes on or before the anniversary date of this Permit or per the required actions of Part 373-2.8(c)(2), which

reads in part: For owners and operators using the financial test or corporate guarantee., the closure cost estimate must be updated for inflation within 30 days after the close of the firm's fiscal year and before submission of updated information to the commissioner as specified in section 373-2.8(d)(5)(iii) of this Part.

9. Air Emission Standards 6NYCRR 373-2.27, 373-2.28 and 373-2.29

The Permittee must comply with Section 4.0 of the Permit Application and all applicable requirements of 6NYCRR 373-2.27, 373-2.28 and 373-2.29 as follows:

- a) 6NYCRR 373-2.27 Air Emission Standards for Process Vents; and
- b) 6NYCRR 373-2.28 Air Emission Standards for Equipment Leaks.
- c) 6NYCRR 373-2.29 Air Emission Standards for Tanks, Surface Impoundments, and Containers.

E. LAND DISPOSAL RESTRICTIONS

The Permittee must comply with all applicable provisions in the current 6NYCRR Part 376 for the land disposal of hazardous waste except for hazardous waste generated by remediation or corrective action activities for placement in an on-site corrective action management unit (CAMU) approved by the Commissioner.

F. WASTE ANALYSIS AND QUALITY ASSURANCE

The Permittee must obtain representative samples of wastes and other materials to be analyzed pursuant to this Permit. The Permittee must perform the sampling and analysis required by this Permit in accordance with Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication SW-846 (Third Edition (November 1986), as amended by Updates: I (July 1992), II (September 1994), IIA (August 1993), IIB (January 1995), III (December 1996), and IIIA (April 1998), and later approved revisions), hereinafter referred to as SW-846; Appendix 19 of 6NYCRR Part 371; or an equivalent method approved by the Department.

The Permittee shall conduct a quality assurance program to ensure that the sampling, analysis and monitoring data are technically accurate and statistically valid. The quality assurance program must be in accordance with Chapter One and the requirements of applicable method(s) of SW-846, or an equivalent method approved by the Department.

As required by ECL 03-0119, any laboratory (Permittee or contract) used by the Permittee to

perform analysis pursuant to this Permit must be certified by the New York State Department of Health Environmental Laboratory Approval Program (ELAP) in the appropriate categories of analysis, if ELAP issues certifications in such categories. If the Permittee uses a contract laboratory to perform analysis required by this Permit, then the Permittee shall inform the laboratory in writing that it must operate under the waste analysis and quality assurance provisions of this Permit.

G. ORAL REPORTS

The oral reports required by 6NYCRR 373-1.6(a)(12)(vi) and 373-2.4(g)(4)(ii) must be made to both the Department using the New York State 24 - hour oil and hazardous material spill notification number (800) 457-7362 and the National Response Center using its 24-hour number (800) 424-8802, or any designated telephone numbers which may subsequently replace those listed above.

Note: Any spill that contains the Reportable Quantity, (RQ) for any of the hazardous substance listed in 6NYCRR Part 597.2, must be reported to the Department within 24 hours of discovery per 6NYCRR Part 595.3. If a release has been reported pursuant to 6NYCRR Part 595.3, that would satisfy the above requirement for an oral report to the Department.

H. PLANS, REPORTS, SPECIFICATIONS, IMPLEMENTATION, RENEWAL AND MODIFICATION APPLICATIONS, AND OTHER SUBMITTALS

1. All submittals required by the Permit must be submitted to the addresses listed below.
 - a) One (1) electronic copy of all submittals to:

Regional Remediation Engineer
New York State Department of Environmental Conservation
Region 3 Office
21 South Putt Corners
New Paltz, NY 12561;

Chief, RCRA Programs Branch
Division of Environmental Planning and Protection

U.S. Environmental Protection Agency, Region II
290 Broadway [22nd floor]
New York, NY 10007-1866;

and

Supervisor, RCRA Permitting Section
Division of Environmental Remediation
New York State Department of Environmental Conservation
625 Broadway
Albany, NY 12233-7017

- b) Two (2) copies of all submittals *pertaining to the waste reduction requirements of Section I* to:

Director, Bureau of Waste Reduction and Recycling
Division of Materials Management
New York State Department of Environmental Conservation
625 Broadway
Albany, NY 12233-7253

- c) One (1) copy and an electronic version of all submittals including corrective action documents and groundwater monitoring plans to:

Chief, Remedial Bureau E
Division of Environmental Remediation
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-7017

- d) One copy of Applications to renew or modify this Permit must be submitted to the following, in addition to the above addresses:

Regional Permit Administrator
NYS Department of Environmental Conservation
Region 3 Office
21 South Putt Corners
New Paltz, NY 12561

2. The Permittee shall submit plans, reports, specifications, implementation schedules and any subsequent amendments required by this Permit to the Department for review and comment. If the Department determines that any plan, report, specification, schedule or respective amendment required by this Permit is deficient either in whole or in part, the Permittee shall either promptly respond to the comments or make revisions to the submission consistent with the Department's comments. Within a reasonable time frame specified by the Department, a final plan, report, specification, schedule or respective amendment shall be submitted to the Department for approval. An extension of the due date for any submittal may be granted by the Department based on the Permittee's documentation that sufficient justification for the extension exists.

I. WASTE REDUCTION REQUIREMENTS

The Permittee shall comply with the requirements of Article 27, Title 9, Section 27-0908 of the New York State Environmental Conservation Law. All reports and submittals required by Section 27-0908 to be submitted to the Commissioner shall be sent to the addresses specified in Section H above.

J. DEFINITIONS

For the purpose of this Permit, terms used herein shall have the same meaning as those in 6NYCRR 370 through 374 and 376 and the terms defined in this Permit, unless this Permit specifically states otherwise. Where terms are not otherwise defined, the meaning associated with such terms shall be as defined by a standard dictionary reference or the generally accepted scientific or industrial meaning of the term.

1. Action Levels. For purposes of this Permit, action levels are hazardous constituent concentrations for a specific environmental medium which if exceeded indicate a potential threat to human health or the environment. The exceedance of action levels may trigger further investigations, studies, and corrective measures. Where available, action levels are based on appropriate promulgated standards established for a specific environmental medium. When promulgated standards are not available, action levels can be media-specific hazardous constituent concentrations derived from non-promulgated human health risk data or environmental risk data with the latter levels being protective of aquatic life or wildlife. An action level may be set at the background level for a hazardous constituent for which data are inadequate to set a human health or environmental health-based level.

2. Areas of Concern (AOC). Pursuant to the authority granted by 6NYCRR 373-1.6(c)(2), an area of concern has been defined for purposes of this Permit to mean an area at the facility, or an off-site area, which is not at this time known to be a solid waste management unit (SWMU), where hazardous waste and/or hazardous constituents are present, or are suspected to be present, as a result of a release from the facility. The term shall include areas of potential or suspected contamination as well as actual contamination. Such area(s) may require study and a determination of what, if any, corrective action may be necessary. All permit references to and conditions for SWMUs shall apply to areas of concern.

3. Environment. Pursuant to ECL Article 27, Title 9, Section 27-0901, environment means any water, water vapor, any land including land surface or subsurface, air, fish, wildlife, biota and all other natural resources.

4. Release. For purposes of this Permit, release includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment of any hazardous waste, including hazardous constituents, unless expressly authorized under the terms of this Permit or otherwise permitted under law (e.g., SPDES permitted discharges).

5. Solid Waste Management Unit (SWMU). For purposes of this Permit, SWMU includes any discernible unit at which solid wastes have been placed at any time, irrespective of whether the unit was intended for the management of hazardous or solid wastes. Such units include any area at the facility at which solid wastes have been routinely and systematically released.

O-1c 2017 Minor Modification



Department of Environmental Conservation

Application For Permit Transfer and Application for Transfer of Pending Application

NOTE: Please read ALL instructions before completing this application. Please TYPE or PRINT clearly in ink.

PART 1 - TRANSFEREE (New Owner/Operator/Lessee/Applicant) Completes:

1. List Permit Number(s) And Their Effective And Expiration Dates: 3-1328-00025/00249 (Exp. 11/1/2021) NY 0000707693 707901
List Pending Application Number(s): None
2. Name Of Transferee: i.Park East Fishkill I LLC
Telephone Number (Daytime): (203) 661-0055
Transferee is a/an: (check all that apply) [X] Owner [] Operator [] Lessee [] Applicant
Mailing Address: 485 West Putnam Avenue
Email: JCotter@nationalresources.com
Post Office City, State, Zip Code: Greenwich, CT 06830
Taxpayer ID Number: 82-1381943

3. Name Of Facility/Project: iPark East Fishkill I LLC
Location (or Street Address, P.O. City, State, Zip Code, if applicable): Intersection of NYS Route 52 & Lime Kiln Road, Lots 2 and 3 (B/320A, 2070 Route 52, Hopewell Junction, 12533)
County: Dutchess
4. Facility Contact Name: Joseph Cotter
Telephone Number (Daytime): (203) 661-0055
Mailing Address: 485 West Putnam Avenue
Email: JCotter@nationalresources.com
Post Office City, State, Zip Code: Greenwich, CT 06830

5. Has Work Begun On The Project? Yes [] No [X] If "No," proposed starting date: N/A Approximate completion date: N/A
If there will be any modifications to the current or proposed operation or construction, the transferee must attach a statement specifying the details.

6. CERTIFICATION: This certifies that the Transferee seeks to be the legally responsible party for operations or project development either authorized by the permits identified above or proposed in applications identified above. The Transferee has a copy of the permit(s) and/or application(s) and understands and will comply with all conditions in the referenced permit(s) and supports the content of referenced application(s). Facility operations/project scope/discharges/emissions will remain the same as authorized or as proposed in pending applications. Further, I hereby affirm that under penalty of perjury that information provided on this form and all attachments submitted herewith is true to the best of my knowledge and belief. False statements made herein are punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.
Printed Name and Title of Transferee: Joseph Cotter, President
Signature of Transferee: [Signature] Date: 7/24/17

PART 2 - TRANSFEROR (Present or Former Owner/Operator/Lessee/Applicant) Completes:

1. Name Of Transferor: GLOBALFOUNDRIES U.S. 2 LLC
Telephone Number (Daytime): (845) 894-5700
If other than an individual, provide Taxpayer ID Number: 47-3796721
Mailing Address: 2070 Route 52
Email: gary.marone@globalfoundries.com
Post Office City, State, Zip Code: Hopewell Junction, NY 12533

2. Name Of Facility/Project, if different from Facility Name in Part 1:
3. CERTIFICATION: This certifies that ownership, operation, or a lease for the facility identified in Part 1 of this form [X] will be / [] was conveyed to the party identified as the Transferee on ~August 7, 2017 (date). I affirm that this conveyance includes the rights and obligations of the permits, approvals, or applications identified above.
Printed Name and Title of Transferor: Patrick Flaherty, GF Site Operations Manager Mitch Meyers, IBM Mgr., Environmental Remediation
Signature of Transferor: [Signature] Date: 3/5/17

PART 3 - PERMIT TRANSFER VALIDATION SECTION Department Of Environmental Conservation Completes:

[X] Transfer of permit approved, effective as of 09-01-17. Transferee subject to conditions of original permit, without exception.
[] Transfer of permit approved, with the following modifications or contingencies related to this Permit Transfer:
[] See attached revised permit page(s):
[] Transfer of application approved. See attached for additional information required.
[] Transfer denied, new application required. Please complete the enclosed permit application and return it to the undersigned Regional Permit Administrator at the address listed on the reverse side of this form.
Rebecca Crist SIGNATURE DATE 09-01-2017



Department of Environmental Conservation

Application For Permit Transfer and Application for Transfer of Pending Application

NOTE: Please read ALL instructions before completing this application. Please TYPE or PRINT clearly in ink.

PART 1 - TRANSFEREE (New Owner/Operator/Lessee/Applicant) Completes:

1. List Permit Number(s) And Their Effective And Expiration Dates: 3-1328-00025/00249 (Exp. 11/1/2021) NYD000707893 707901 List Pending Application Number(s): None
2. Name Of Transferee: i.Park East Fishkill LLC Telephone Number (Daytime): (203) 661-0055 Transferee is a/an: (check all that apply) [X] Owner [] Operator [] Lessee [] Applicant
Mailing Address: 485 West Putnam Avenue Email: JCotter@nationalresources.com
Post Office City, State, Zip Code: Greenwich, CT 06830 Taxpayer ID Number: 47-1110831

3. Name Of Facility/Project: i.Park East Fishkill LLC Location (or Street Address, P.O. City, State, Zip Code, if applicable): Intersection of NYS Rte 52 & Lime Kiln Road, Lots 4, 6 - 8 (B/330D, 2070 Rte 52, Hopewell Junction, NY 12533)
4. Facility Contact Name: Joseph Cotter Telephone Number (Daytime): (203) 661-0055
Mailing Address: 485 West Putnam Avenue Email: JCotter@nationalresources.com
Post Office City, State, Zip Code: Greenwich, CT 06830
Town / Village / City: Town of East Fishkill County: Dutchess

5. Has Work Begun On The Project? Yes [] No [X] If "No," proposed starting date: N/A Approximate completion date: N/A
If there will be any modifications to the current or proposed operation or construction, the transferee must attach a statement specifying the details.

6. CERTIFICATION: This certifies that the Transferee seeks to be the legally responsible party for operations or project development either authorized by the permits identified above or proposed in applications identified above. The Transferee has a copy of the permit(s) and/or application(s) and understands and will comply with all conditions in the referenced permit(s) and supports the content of referenced application(s). Facility operations/project scope/discharges/emissions will remain the same as authorized or as proposed in pending applications. Further, I hereby affirm that under penalty of perjury that information provided on this form and all attachments submitted herewith is true to the best of my knowledge and belief. False statements made herein are punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.
Printed Name and Title of Transferee Joseph Cotter, President
Signature of Transferee [Signature] Date 7/24/17

PART 2 - TRANSFEROR (Present or Former Owner/Operator/Lessee/Applicant) Completes:

1. Name Of Transferor: GLOBALFOUNDRIES U.S. 2 LLC Telephone Number (Daytime): (845) 894-5700 If other than an individual, provide Taxpayer ID Number: 47-3796721
Mailing Address: 2070 Route 52 Email: gary.marone@globalfoundries.com
Post Office City, State, Zip Code: Hopewell Junction, NY 12533

2. Name Of Facility/Project, if different from Facility Name in Part 1:
3. CERTIFICATION: This certifies that ownership, operation, or a lease for the facility identified in Part 1 of this form [X] will be / [] was conveyed to the party identified as the Transferee on ~August 7, 2017 (date). I affirm that this conveyance includes the rights and obligations of the permits, approvals, or applications identified above.
Printed Name and Title of Transferor Patrick Flaherty, GF Site Operations Manager Mitch Meyers, IBM Mgr., Environmental Remediation
Signature of Transferor [Signature] Date 31 Jul 17

PART 3 - PERMIT TRANSFER VALIDATION SECTION - Department Of Environmental Conservation Completes:

- [X] Transfer of permit approved, effective as of 09-01-2017. Transferee subject to conditions of original permit, without exception.
[] Transfer of permit approved, with the following modifications or contingencies related to this Permit Transfer:

- [] See attached revised permit page(s):
[] Transfer of application approved. See attached for additional information required.
[] Transfer denied, new application required. Please complete the enclosed permit application and return it to the undersigned Regional Permit Administrator at the address listed on the reverse side of this form.

Rebecca S. Crist SIGNATURE DATE 09-01-2017
NYSDEC PERMIT ADMINISTRATOR SIGNATURE DATE

copies to:

FOR DEC USE ONLY

FOR DEC USE ONLY

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 3
21 South Putt Corners Road, New Paltz, NY 12561-1620
P: (845) 256-3054 | F: (845) 255-4659
www.dec.ny.gov



Department of
Environmental
Conservation

YOUR PERMIT IS ENCLOSED

IMPORTANT NOTICE TO ALL PERMITTEES

The requested transfer has been issued. Enclosed is the corresponding "Application for Permit Transfer" executed by the New York State Department of Environmental Conservation (DEC). A copy of this approval must be attached to the referenced permit. The DEC permit number & program ID number noted on the transfer form are important and should be retained for your records. These numbers should be referenced on all correspondence related to the permit, and on any future applications for permits associated with this facility/project area.

Please note the expiration date of the permit. Applications for permit renewal should be made well in advance of the expiration date (minimum of 30 days) and submitted to the Regional Permit Administrator. For SPDES, Solid Waste, and Hazardous Waste Permits, renewals must be made at least 180 days prior to the expiration date.

It is the Department's understanding that the owners for the facility are now GlobalFoundaries U.S. 2 LLC, I.Park East Fishkill LLC, and I.Park East Fishkill I LLC, while IBM Corporation remains the operator in regards to the Hazardous Waste (RCRA) Permit. The DEC records have been updated to reflect this.

If you have any technical questions regarding the permit, please contact Thomas Killeen, with DEC's Division of Environmental Remediation, at (518) 402-9814. If you have any questions regarding this permit transfer, you may contact the Regional Permit Administrator John W. Petronella at (845) 256-3041.

Rebecca S. Crist
Division of Environmental Permits

Attachments: Transfer form for Hazardous Waste (RCRA) Permit 3-1328-00025/00249

Ecc: Gary Marone, GlobalFoundaries U.S. 2 LLC
J. Cotter, I.Park East Fishkill LLC & I.Park East Fishkill I LLC
Dean Chartrand, IBM Corporation
Wilfredo Palomino, US EPA
Town of East Fishkill
Thomas Killeen, NYSDEC Division of Environmental Remediation, Albany
Jess LaClair, NYSDEC Division of Environmental Remediation, Albany
Maryanne O'Connor, NYSDEC Division of Environmental Remediation, Region 3



Department of
Environmental
Conservation

O-2 SPDES Permit, NY0005096 (GlobalFoundries U.S. 2 LLC)

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 3
21 South Putt Corners Road, New Paltz, NY 12561
P: (845)256-3054 | F: (845)255-4659
www.dec.ny.gov

FILE COPY

December 29, 2017

Gary Marone
GLOBALFOUNDRIES
Hudson Valley Research Park
2070 Route 52
Hopewell Junction, NY 12533

Re: Extension of Suspension of Permit Application
SPDES Waste Water Discharge Permit 3-1328-00025/00002
East Fishkill Facility, Hudson Valley Research Park, East Fishkill, Dutchess County


Dear Mr. Marone:

Thank you for agreeing to an additional 90-day suspension of permit processing to allow for additional technical review. This mutually agreed suspension will expire March 29th, 2018.

Please sign below and return to the Department before COB December,29 2017.

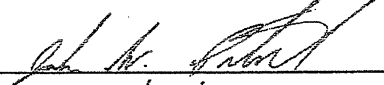
Do not hesitate to contact me if you have any additional questions.

Sincerely,


John W. Petronella
Regional Permit Administrator

GLOBALFOUNDRIES 2 LLC and The New York State Department of Environmental Conservation mutually agree to an extension of the suspension of permit application processing until December 31st, 2017 for SPDES Waste Water Discharge Permit 3-1328-00025/00002

John W. Petronella for the New York State Department of Environmental Conservation


Date: 12/29/2017

Gary Marone for GLOABALFOUNDRIES 2 LLC 

Date: 12/29/2017



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
State Pollutant Discharge Elimination System (SPDES)
DISCHARGE PERMIT

Industrial Code: 3471
 Discharge Class (CL): 03
 Toxic Class (TX): T
 Major Drainage Basin: 13
 Sub Drainage Basin: 04
 Water Index Number: H-95-9
 Compact Area:

SPDES Number: NY - 000 5096
 DEC Number: 3-1328-00025/00002
 Effective Date (EDP): July 1, 2008
 Expiration Date (ExDP): June 30, 2013
 Modification Dates:(EDPM) April 19, 2011

This SPDES permit is issued in compliance with Title 8 of Article 17 of the Environmental Conservation Law of New York State and in compliance with the Clean Water Act, as amended, (33 U.S.C. §1251 et.seq.)(hereinafter referred to as "the Act").

PERMITTEE NAME AND ADDRESS

Name: Empire State Development Corp.
 Street: 633 Third Avenue
 City: New York

Attention: Rachel Shatz
 State: NY Zip Code: 10017-6754

is authorized to discharge from the facility described below:

FACILITY NAME AND ADDRESS

Name: IBM Corp. - East Fishkill Facility
 Location (C,T,V): East Fishkill (T) County: Dutchess
 Facility Address: 2070 Route 52, Bldg. 325
 City: Hopewell Junction State: NY Zip Code: 12533-3507

NYTM -E: From Outfall No.: 001 at Latitude: 41 ° 32 ' 26 " & Longitude: 73 ° 49 ' 53 " Class: C(T)

into receiving waters known as: Gildersleeve Brook
 and; (list other Outfalls, Receiving Waters & Water Classifications) 002-007,012,016-034: Trib. To Gildersleeve Bk (c);008-011, 035-049: Gildersleeve Bk.; 014, 050: Wiccopee Creek (CT)

in accordance with: effluent limitations; monitoring and reporting requirements; other provisions and conditions set forth this permit; and 6 NYCRR Part 750-1.2(a) and 750-2.

DISCHARGE MONITORING REPORT (DMR) MAILING ADDRESS

Mailing Name: IBM East Fishkill
 Street: Building 325 Z/325 2070 Route 52
 City: Hopewell Junction
 Responsible Official or Agent: Scott Danskin

State: NY Zip Code: 12533-3507
 Phone: 845-892-1675

This permit and the authorization to discharge shall expire on midnight of the expiration date shown above and the permittee shall not discharge after the expiration date unless this permit has been renewed, or extended pursuant to law. To be authorized to discharge beyond the expiration date, the permittee shall apply for permit renewal not less than 180 days prior to the expiration date shown above.

DISTRIBUTION:

- R. Coriale, E. Shirkey, DEC
- J. Sansalone, DEC
- C. Jamison, DEC
- Dutchess Co. Health
- EPA, R. II
- S. Hawkins, IBM

| | |
|--|---------------|
| Permit Administrator: Alexander F. Ciesiuk, Jr. | |
| Address: 21 South Putt Corners Road New Paltz, NY 12561 | |
| Signature: <i>Alexander F. Ciesiuk, Jr.</i> | Date: 4/19/11 |

4/19/11

PERMIT LIMITS, LEVELS AND MONITORING

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| OUTFALL No. | WASTEWATER TYPE | RECEIVING WATER | EFFECTIVE | EXPIRING |
|-------------|---|--------------------|-----------|----------|
| 001 | Process, Sanitary & Treated Groundwater | Gildersleeve Brook | EDM | 05/01/08 |

| PARAMETER | MINIMUM | MAXIMUM | UNITS | SAMPLE FREQUENCY | SAMPLE TYPE | FOOTNOTES (FN) |
|-----------|---------|---------|-------|------------------|-------------|----------------|
| pH | 6.5 | 8.5 | SU | Weekly | Grab | |

| PARAMETER | COMPLIANCE LIMIT | | MONITORING ACTION LEVEL | | UNITS | SAMPLE FREQUENCY | SAMPLE TYPE | FN |
|---|------------------|------------|-------------------------|---------|---------------|------------------|-------------|----|
| | Monthly Avg. | Daily Max. | TYPE I | TYPE II | | | | |
| Flow | 6.0 | Monitor | | | MGD | Continuous | Recorded | |
| Aluminum, Total | NA | 1.0 | | | mg/l | Weekly | 24 hr Comp. | |
| Arsenic, Total | NA | .1 | | | mg/l | Weekly | 24 hr Comp. | |
| Chromium, Total | NA | .5 | | | mg/l | Weekly | 24 hr Comp. | |
| Chromium, Hexavalent | NA | .013 | | | mg/l | Weekly | 24 hr Comp. | |
| Cobalt, Total | NA | .006 | | | mg/l | Weekly | 24 hr Comp. | |
| Copper, Total | NA | 3 | | | lbs/day | Weekly | 24 hr Comp. | |
| Cyanide, Total | NA | .06 | | | mg/l | Weekly | 24 hr Comp. | |
| Fluoride | NA | 7.3 | | | mg/l | Weekly | 24 hr Comp. | |
| Lead, Total | NA | .08 | | | mg/l | Weekly | 24 hr Comp. | |
| Molybdenem, Total | NA | 3.75 | | | mg/l | Weekly | 24 hr Comp. | |
| Palladium, Total | NA | .1 | | | mg/l | Weekly | 24 hr Comp. | |
| Tin, Total | NA | 2.0 | | | mg/l | Weekly | 24 hr Comp. | |
| Titanium, Total | NA | .53 | | | mg/l | Weekly | 24 hr Comp. | |
| Tungsten, Total | NA | 3.75 | | | mg/l | Weekly | 24 hr Comp. | |
| Zinc, Total | NA | .36 | | | mg/l | Weekly | 24 hr Comp. | |
| Solids, Total Suspended | 25 | 40 | | | mg/l | Weekly | 24 hr Comp. | |
| CBOD | NA | 8.0 | | | mg/l | Weekly | 24 hr Comp. | 1 |
| Ammonia (as NH ₃) (Apr - Oct) | 1.3 | Monitor | | | mg/l | Weekly | 24 hr comp. | |
| Ammonia (as NH ₃) (Nov - Mar) | 2.7 | Monitor | | | mg/l | Weekly | 24 hr Comp. | |
| Fecal Coliform | 200 | 400 | | | MPN/ 100ml | Weekly | Grab | 2 |

1. Analysis shall be 20th edition, Standard Methods for the Examination of Water and Wastewater, procedure 5210 (B.4.E.6).
2. Membrane filter method is acceptable.
3. All metals may be analyzed by ICP-AES Method EPA 200.7 (ref e-mail J. Harrington to R. Clarke dated 9/27/03)

4/19/11

PERMIT LIMITS, LEVELS AND MONITORING

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| OUTFALL No. | WASTEWATER TYPE | RECEIVING WATER | EFFECTIVE | EXPIRING |
|-----------------|---|--------------------|-----------|----------|
| 001 - Continued | Process, Sanitary & Treated Groundwater | Gildersleeve Brook | EDM | 05/01/08 |

| PARAMETER | COMPLIANCE LIMIT | | MONITORING ACTION LEVEL | | UNITS | SAMPLE FREQUENCY | SAMPLE TYPE | FN |
|-------------------------------------|------------------|------------|-------------------------|---------|-------|------------------|-------------|----|
| | Monthly Avg. | Daily Max. | TYPE I | TYPE II | | | | |
| Solids, Settleable | NA | .1 | | | ml/l | Weekly | Grab | |
| Chlorine Residual (In Contact Tank) | .5 minimum | NA | | | mg/l | Weekly | Grab | |
| Chlorine, Total Residual | NA | .1 | | | mg/l | Weekly | Grab | |
| Dissolved Oxygen | | | | | mg/l | Weekly | Grab | 3 |
| Copper, Dissolved | NA | Monitor | | | mg/l | Quarterly | 24 hr Comp. | |
| Zinc, Dissolved | NA | Monitor | | | mg/l | Quarterly | 24 hr Comp. | |
| Cis - 1,2, Dichloroethylene | NA | 10 | | | ug/l | Monthly | Grab | |
| Methyl Tert Butyl Ether (MTBE) | NA | 10 | | | ug/l | Monthly | Grab | |
| Dichlorodifluoromethane | NA | 10 | | | ug/l | Monthly | Grab | |
| Tetrachloroethylene | NA | 1.2 | | | ug/l | Monthly | Grab | |
| N - Methyl - 2 - pyrrolidone | NA | 20 | | | ug/l | Monthly | Grab | |
| Germanium, Total | | | | .5 | mg/l | Quarterly | 24 hr Comp. | |
| Hafnium, Total | | | | .2 | mg/l | Quarterly | 24 hr Comp. | |
| Iron, Total | | | | 2.5 | mg/l | Quarterly | 24 hr Comp. | |
| Nickel, Total | | | | .15 | mg/l | Quarterly | 24 hr Comp. | |
| Rhenium, Total | | | | .8 | mg/l | Quarterly | 24 hr Comp. | |
| Ruthenium, Total | | | | .5 | mg/l | Quarterly | 24 hr Comp. | |
| Silver, Total | | | | .1 | mg/l | Quarterly | 24 hr Comp. | |
| Tantalum, Total | | | | .2 | mg/l | Quarterly | 24 hr Comp. | |
| Acetone | | | | 5 | ug/l | Quarterly | Grab | |
| Bromobenzene | | | | 5 | ug/l | Quarterly | Grab | |

4. Daily Minimum, Daily Average, and Daily Maximum values shall be reported.

4/19/11

PERMIT LIMITS, LEVELS AND MONITORING

| OUTFALL No. | WASTEWATER TYPE | | | | RECEIVING WATER | EFFECTIVE | EXPIRING | |
|--------------|-------------------------|------------|-------------------------|---------|-----------------|------------------------------------|---------------|----|
| 014 | Oil Storage Containment | | | | Wiccoppe Creek | EDM | 05/01/08 | |
| PARAMETER | ENFORCEABLE LIMIT | | MONITORING ACTION LEVEL | | UNITS | SAMPLE FREQUENCY | SAMPLE TYPE | FN |
| | Monthly Avg. | Daily Max. | TYPE I | TYPE II | | | | |
| Flow | NA | Monitor | | | gpd | Monthly during Period of Discharge | Instantaneous | |
| Oil & Grease | NA | 15 | | | mg/l | Monthly during Period of Discharge | Grab | |

| OUTFALL Nos. | WASTEWATER TYPE | | | | RECEIVING WATER | EFFECTIVE | EXPIRING |
|--------------------|-----------------|--|--|--|--------------------|-----------|----------|
| 017, 035, 043, 050 | Storm Runoff | | | | Gildersleeve Brook | EDM | 05/01/08 |

| PARAMETER | ENFORCEABLE LIMIT | | MONITORING ACTION LEVEL | | UNITS | SAMPLE FREQUENCY | SAMPLE TYPE | FN |
|--------------|-------------------|------------|-------------------------|---------|-------|--------------------------------------|---------------|----|
| | Monthly Avg. | Daily Max. | TYPE I | TYPE II | | | | |
| Flow | NA | Monitor | | | gpd | Quarterly during Period of Discharge | Instantaneous | |
| Oil & Grease | NA | 15 | | | mg/l | Quarterly during Period of Discharge | Grab | |

4/19/11

TOXICITY TESTING PROGRAM, TIER 1 - ACUTE TEST

The Department has determined that an acute effluent toxicity monitoring program is required. The permittee shall implement the program as follows:

Effluent Toxicity Monitoring Requirements

| Outfall Number | Effluent Parameters (Units) | Reason for Testing Requirement | Sample Frequency | Sample Type |
|----------------|-----------------------------|--|--|----------------------------------|
| 001 | Toxicity (% Effluent) | The possibility of complex or synergistic interactions of chemicals. | Quarterly For a period of one year during calendar years ending in 3 and 8. | 24 hr. Composite/ static renewal |

- (a) The effluent toxicity monitoring program shall begin in January of the years noted in the table above. Subsequent modification or renewal of this permit does not reset or revise the deadline(s) set forth in the preceding sentence unless a new deadline is set explicitly by such modification or renewal.
- (b) The results of each toxicity test shall be submitted no later than 60 days following the end of each test period. These reports shall be submitted to the NYS DEC Regional Water Engineer at 200 White Plains Road, 5th Floor, Tarrytown, NY 10591-5805, and to the Toxicity Testing Unit, Bureau of Watershed Assessment and Research, 625 Broadway, Albany, NY 12233-3502.
- (c) Effluent Toxicity shall mean the toxicity of the effluent in acute static renewal tests specified as Tier 1 testing in *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms*, Fourth Edition, EPA/600/4-90/027F (1993) or most recent edition (herein referred to as the EPA Acute Manual). Both a vertebrate and invertebrate species shall be used for the tests. Where the outfall being tested discharges to estuarine or ocean waters, the marine organisms shall be tested. Where the outfall being tested discharges to fresh waters, freshwater organisms shall be tested. Dilution water shall be collected according to the EPA Acute Manual. Receiving water shall be used as dilution water unless the Department approves a different source. Effluent sampling and holding shall be done as outlined in the EPA Acute Manual, and should consist of 24 hour composite samples. Any deviation from procedures in the EPA Acute Manual requires prior written approval by the Department.
- (d) The 48-hour EC₃₀ and 48-hour LC₅₀ in % Effluent for both a vertebrate and an invertebrate species shall be determined and reported in accordance with the specified frequency. The 48-hour EC₃₀ and 48-hour LC₅₀ in % Effluent shall be compared to the Instream Waste Concentration (IWC) of the effluent calculated based on the daily average effluent flow at the time of the test and the critical flow in **Gildersleeve Brook** of .17 cubic feet per second (cfs).
- (e) Where practicable, monitoring of chemical and physical parameters limited in this permit shall be coordinated so that the resulting analysis is also representative of the sample used for toxicity testing.
- (f) Discharges which use chlorination as part of the waste treatment process for disinfection should be dechlorinated prior to toxicity testing or samples shall be taken immediately prior to the chlorination system.
- (g) In accordance with NYSDEC guidance, the Department may require the permittee to conduct additional toxicity testing. If such additional testing is necessary, the permittee shall be notified in writing by the NYS DEC Regional Water Engineer. The written notification shall include the reason(s) why such testing is required.

4/19/11

TOXICITY TESTING PROGRAM, TIER 2 - CHRONIC TEST

Effluent Toxicity Monitoring Requirements

| Outfall Number | Effluent Parameters (Units) | Reason for Testing Requirement | Sample Frequency | Sample Type |
|----------------|-----------------------------|--|---|---------------------------------|
| 001 | Toxicity (% Effluent) | The possibility of complex or synergistic interactions of chemicals. | As directed by the Regional Water Engineer. | 24 hr. Composite/static renewal |

- (a) The permittee shall implement this effluent toxicity monitoring program beginning in the first month of the first full calendar quarter, i.e. January, April, July, or October, that is within 3 months of written notification from the NYSDEC Regional Water Engineer that chronic toxicity testing is necessary. The written notification will include the reasons why the chronic toxicity testing program is necessary and the sample frequency.
- (b) The results of each toxicity test shall be submitted no later than 60 days following the end of each test period. These reports shall be submitted to the NYS DEC Regional Water Engineer at 200 White Plains road, 5th Floor, Tarrytown, NY 10591-5805, and to the Toxicity Testing Unit, Bureau of Watershed Assessment and Research, 625 Broadway, Albany, NY 12233-3502.
- (c) Effluent toxicity shall mean the toxicity of the effluent in chronic static renewal tests as specified in *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, Third Edition, EPA/600/4-91/002 (1994), the EPA Chronic Manual for Marine Organisms (EPA/600/4-91/003(1994), or the most recent editions (herein referred to as the EPA Chronic Manuals). Both a vertebrate and invertebrate species shall be used for the tests. Where the outfall being tested discharges to estuarine or ocean waters, marine organisms shall be tested. Where the outfall being tested discharges to fresh waters, freshwater organisms shall be tested. Each test run shall be 'bracketed' with a test of pure effluent and a test of effluent diluted sufficiently such that at least one diluted sample shows no toxic effects. Appropriate dilutions between the endpoints shall be tested to allow calculation of the Maximum Allowable Waste Concentration. Dilution water shall be collected according to the EPA Chronic Manuals. Receiving water shall be used as dilution water unless the Department approves a different source. Effluent sampling and holding shall be done as outlined in of the EPA Chronic Manuals. Any deviation from procedures in the EPA Chronic Manuals requires prior written approval by the Department.
- (d) The Maximum Allowable Waste Concentration (MAWC) in % Effluent, for both a vertebrate and an invertebrate species, shall be determined and reported. The MAWC in % Effluent shall be compared to the calculated Instream Waste Concentration (IWC) of the effluent. The IWC in % Effluent shall be determined using the daily average effluent flow at the time of sampling and a critical receiving water flow of .17 cubic feet per second for **Gildersleeve Brook**.
- (e) Where practicable, monitoring of chemical and physical parameters limited in this permit shall be coordinated so that the resulting analysis is also representative of the samples used for toxicity testing.
- (f) Discharges which use chlorination as part of the waste treatment process for disinfection should be dechlorinated prior to toxicity testing or samples shall be taken immediately prior to the chlorination system.
- (g) In accordance with NYSDEC guidance, the Department may require the permittee to conduct additional toxicity testing. If such additional testing is necessary, the permittee shall be notified in writing by the NYS DEC Regional Water Engineer. The written notification shall include the reason(s) why such testing is required.

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TOXICITY REDUCTION EVALUATION COMPLIANCE SCHEDULE

- (a) In accordance with Department guidance on whole effluent toxicity monitoring and control, the Department will evaluate the results of acute and/or chronic toxicity testing of discharges authorized by this permit. Based on this evaluation, the Department may require the permittee to perform a Toxicity Reduction Evaluation (TRE). Should a TRE be required, the permittee shall be notified in writing by the NYS DEC Regional Water Engineer. The written notification shall include the reasons why the TRE is required.
- (b) Within 60 days of the date of the written notification from the NYS DEC Regional Water Engineer in (a), the permittee shall submit an approvable proposal for Toxicity Reduction Evaluation to the Bureau of Watershed Assessment and Research, 625 Broadway, Albany, NY 12233-3502. The TRE proposal shall be directed towards identifying the source of the toxicity, describing procedures to reduce the toxicity to an acceptable level, identifying monitoring parameters suitable for insuring control of the toxicity, and proposing a schedule for completing the TRE.
- (c) Within 14 days of receipt of written approval of the TRE proposal from the DEC Regional Water Engineer, the permittee shall implement the approved TRE proposal in accordance with the approved schedule.
- (d) The completed TRE, including data findings and recommendations for corrective action, permit limits, and proposed self-monitoring requirements shall be submitted to the Bureau of Watershed Assessment and Research at the address noted in (b) on this page. The Department will review the TRE and may modify the permit, in accordance with applicable law & regulation, to incorporate one or more of the following: substance specific numerical limits, toxicity limits, monitoring requirements, and/or a schedule of compliance that will ensure acceptable toxicity levels of the effluent.

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SPECIAL CONDITIONS - BEST MANAGEMENT PRACTICES

1. The permittee shall develop a Best Management Practices (BMP) plan to prevent, or minimize the potential for, release of significant amounts of toxic or hazardous pollutants to the waters of the State through plant site runoff; spillage and leaks; sludge or waste disposal; and storm water discharges including, but not limited to, drainage from raw material storage. If a BMP plan has not already been approved, a completed BMP plan shall be submitted **WITHIN 6 MONTHS OF THE EFFECTIVE DATE OF PERMIT MODIFICATION** to the Regional Water Engineer at the address shown on the Recording, Reporting and Additional Monitoring Requirements. The BMP plan shall be implemented within 6 months of submission, unless a different time frame is approved by this Department.
2. Subsequent modifications to or renewal of this permit does not reset or revise the deadline set forth in (1) above, unless a new deadline is set explicitly by such permit modification or renewal.
3. The permittee shall review all facility components or systems (including material storage areas; in-plant transfer, process and material handling areas; loading and unloading operations; storm water, erosion, and sediment control measures; process emergency control systems; and sludge and waste disposal areas) where toxic or hazardous pollutants are used, manufactured, stored or handled to evaluate the potential for the release of significant amounts of such pollutants to the waters of the State. In performing such an evaluation, the permittee shall consider such factors as the probability of equipment failure or improper operation, cross-contamination of storm water by process materials, settlement of facility air emissions, the effects of natural phenomena such as freezing temperatures and precipitation, fires, and the facility's history of spills and leaks. For hazardous pollutants, the list of reportable quantities as defined in 40 CFR, Part 117 may be used as a guide in determining significant amounts of releases. For toxic pollutants, the relative toxicity of the pollutant shall be considered in determining the significance of potential releases.

The review shall address all substances present at the facility that are listed as toxic pollutants under Section 307(a)(1) of the Clean Water Act or as hazardous pollutants under Section 311 of the Act or that are identified as Chemicals of Concern by the Industrial Chemical Survey.

4. Whenever the potential for a significant release of toxic or hazardous pollutants to State waters is determined to be present, the permittee shall identify Best Management Practices that have been established to minimize such potential releases. Where BMPs are inadequate or absent, appropriate BMPs shall be established. In selecting appropriate BMPs, the permittee shall consider typical industry practices such as spill reporting procedures, risk identification and assessment, employee training, inspections and records, preventive maintenance, good housekeeping, materials compatibility and security. In addition, the permittee may consider structural measures (such as secondary containment and erosion/sediment control devices and practices) where appropriate.
5. Development of the BMP plan shall include sampling of waste stream segments for the purpose of toxic "hot spot" identification. The economic achievability of effluent limits will not be considered until plant site "hot spot" sources have been identified, contained, removed or minimized through the imposition of site specific BMPs or application of internal facility treatment technology. For the purposes of this permit condition a "hot spot" is a segment of an industrial facility; including but not limited to soil, equipment, material storage areas, sewer lines etc.; which contributes elevated levels of problem pollutants to the wastewater and/or storm water collection system of that facility. For the purposes of this definition, problem pollutants are substances for which treatment to meet a water quality or technology requirement may, considering the results of waste stream segment sampling, be deemed unreasonable. For the purposes of this definition, an elevated level is a concentration or mass loading of the pollutant in question which is sufficiently higher than the concentration of that same pollutant at the compliance monitoring location so as to allow for an economically justifiable removal and/or isolation of the segment and/or B.A.T. treatment of wastewaters emanating from the segment.

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SPECIAL CONDITIONS - BEST MANAGEMENT PRACTICES, CONTINUED

6. The BMP plan shall be documented in narrative form and shall include any necessary plot plans, drawings or maps. Other documents already prepared for the facility such as a Safety Manual or a Spill Prevention, Control and Countermeasure (SPCC) plan may be used as part of the plan and may be incorporated by reference. USEPA guidance for development of storm water elements of the BMP is available in the September 1992 manual "Storm Water Management for Industrial Activities," USEPA Office of Water Publication EPA 832-R-92-006 (available from NTIS, (703)487-4650, order number PB 92235969). A copy of the BMP plan shall be maintained at the facility and shall be available to authorized Department representatives upon request. As a minimum, the plan shall include the following BMP's:
- | | | |
|-------------------------------------|----------------------------|--------------------------------|
| a. BMP Committee | e. Inspections and Records | i. Security |
| b. Reporting of BMP Incidents | f. Preventive Maintenance | j. Spill prevention & response |
| c. Risk Identification & Assessment | g. Good Housekeeping | k. Erosion & sediment control |
| d. Employee Training | h. Materials Compatibility | l. Management of runoff |
7. The BMP plan shall be reviewed annually and shall be modified whenever: (a) changes at the facility materially increase the potential for significant releases of toxic or hazardous pollutants, (b) actual releases indicate the plan is inadequate or (c) a letter from the Regional Water Engineer highlights inadequacies in the plan..

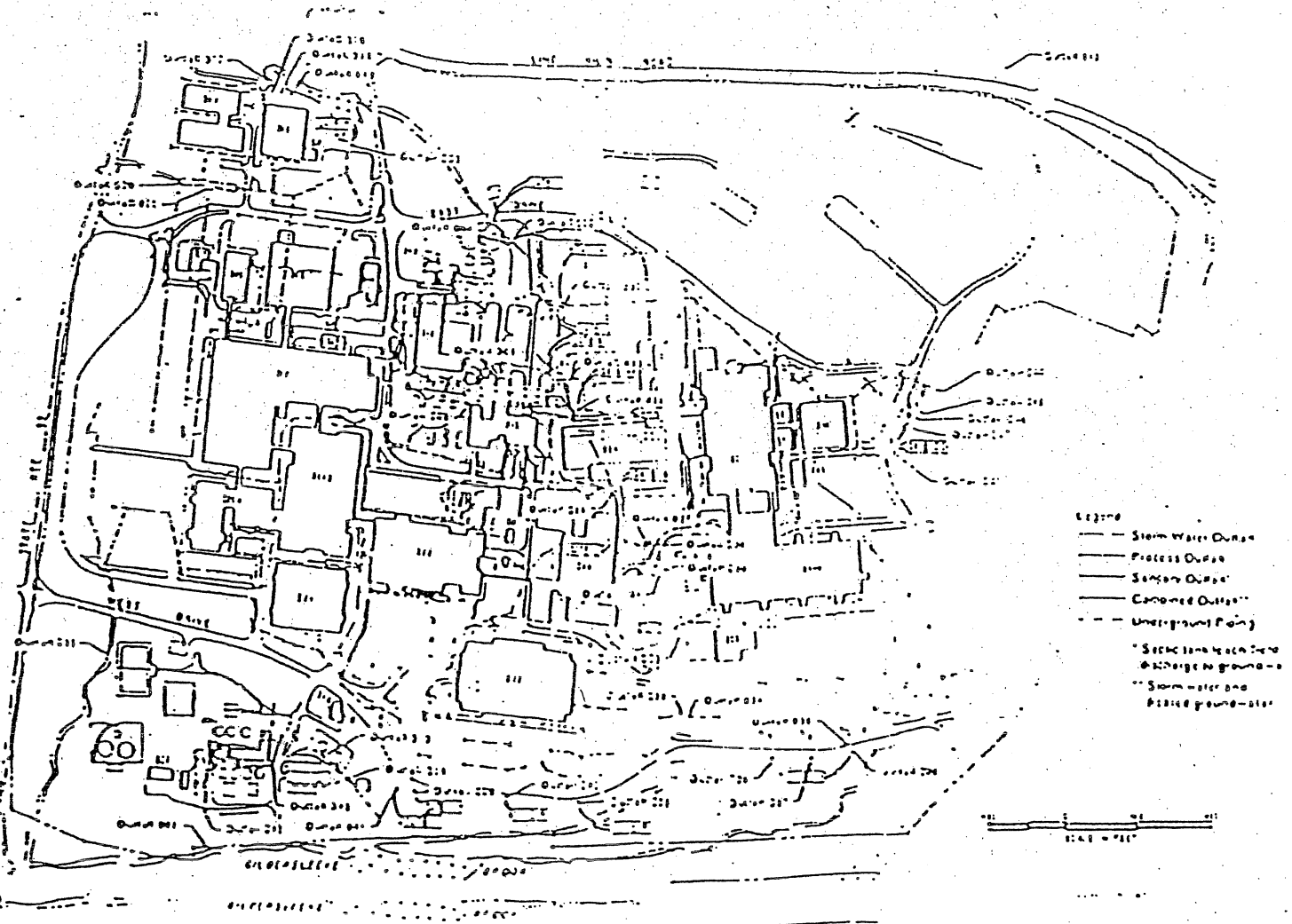
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MONITORING LOCATIONS

The permittee shall take samples and measurements, to comply with the monitoring requirements specified in this permit, at the location(s) specified below:

Monitoring Locations for Outfalls 001 - 013, and 016 -048

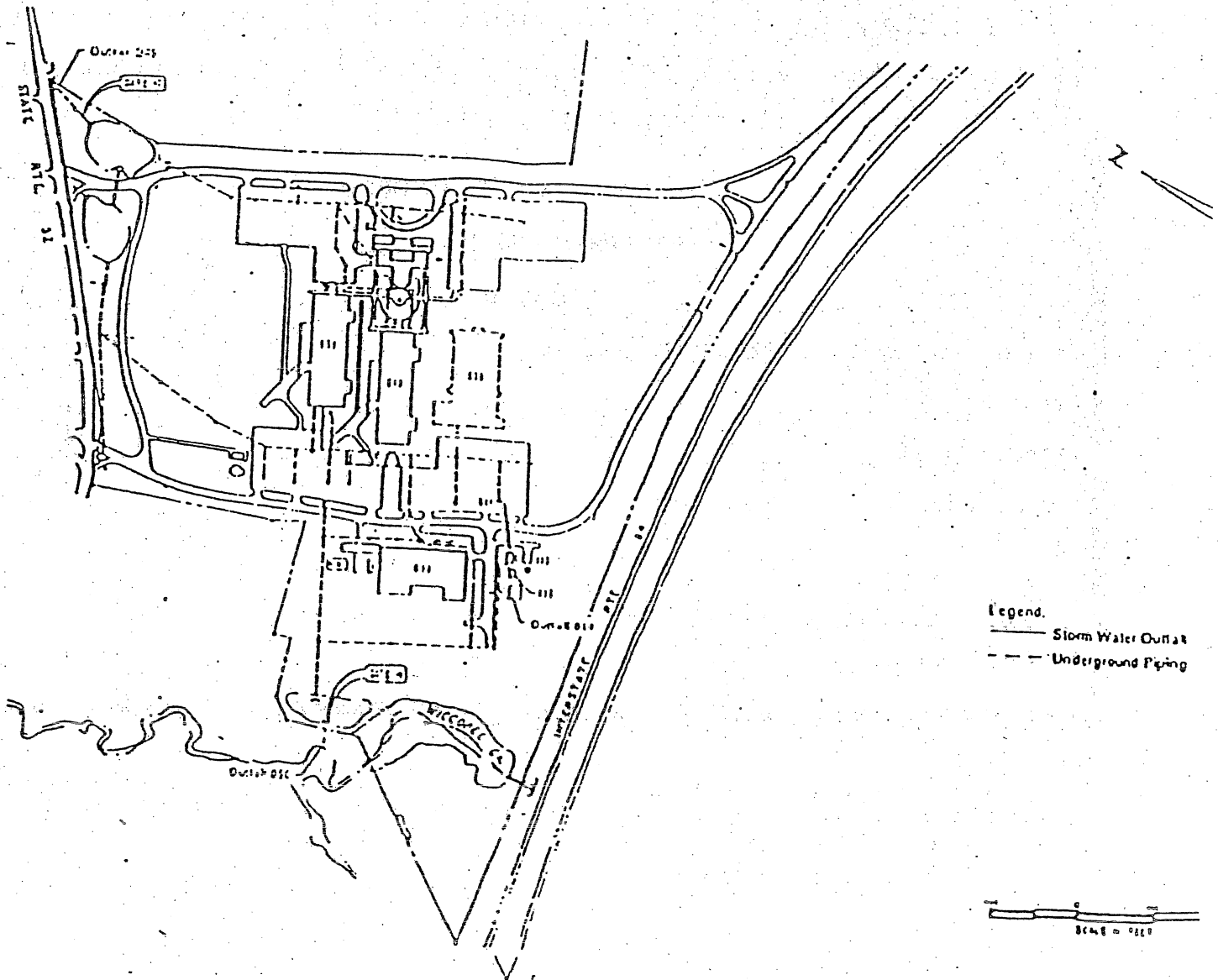


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MONITORING LOCATIONS

The permittee shall take samples and measurements, to comply with the monitoring requirements specified in this permit, at the location(s) specified below:

Monitoring Locations for Outfalls 014, 049 and 050



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DISCHARGE NOTIFICATION REQUIREMENTS

- (a) Except as provided in © and (f) of these Discharge Notification Act requirements, the permittee shall install and maintain identification signs at all outfalls to surface waters listed in this permit. Such signs shall be installed before initiation of any discharge.
- (b) Subsequent modifications to or renewal of this permit does not reset or revise the deadline set forth in (a) above, unless a new deadline is set explicitly by such permit modification or renewal.
- (c) The Discharge Notification Requirements described herein do not apply to outfalls from which the discharge is composed exclusively of storm water, or discharges to ground water.
- (d) The sign(s) shall be conspicuous, legible and in as close proximity to the point of discharge as is reasonably possible while ensuring the maximum visibility from the surface water and shore. The signs shall be installed in such a manner to pose minimal hazard to navigation, bathing or other water related activities. If the public has access to the water from the land in the vicinity of the outfall, an identical sign shall be posted to be visible from the direction approaching the surface water.

The signs shall have **minimum** dimensions of eighteen inches by twenty four inches (18" x 24") and shall have white letters on a green background and contain the following information:

N.Y.S. PERMITTED DISCHARGE POINT

SPDES PERMIT No.: NY _____

OUTFALL No. : _____

For information about this permitted discharge contact:

Permittee Name: _____

Permittee Contact: _____

Permittee Phone: () - ### - #####

OR:

NYSDEC Division of Water Regional Office Address :

NYSDEC Division of Water Regional Phone: () - ### - #####

- (e) For each discharge required to have a sign in accordance with a), the permittee shall, concurrent with the installation of the sign, provide a repository of copies of the Discharge Monitoring Reports (DMRs), as required by the **RECORDING, REPORTING AND ADDITIONAL MONITORING REQUIREMENTS** page of this permit. This repository shall be open to the public, at a minimum, during normal daytime business hours. The repository may be at the business office repository of the permittee or at an off-premises location of its choice (such location shall be the village, town, city or county clerk's office, the local library or other location as approved by the Department). In accordance with the **RECORDING, REPORTING AND ADDITIONAL MONITORING REQUIREMENTS** page of your permit, each DMR shall be maintained on record for a period of three years.
- (f) If, upon November 1, 1997, the permittee has installed signs that include the information required by 17-0815-a(2)(a) of the ECL, but do not meet the specifications listed above, the permittee may continue to use the existing signs for a period of up to five years, after which the signs shall comply with the specifications listed above.
- (g) The permittee shall periodically inspect the outfall identification signs in order to ensure that they are maintained, are still visible and contain information that is current and factually correct.

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PERMIT LIMITS, LEVELS AND MONITORING DEFINITIONS

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| OUTFALL | WASTEWATER TYPE | RECEIVING WATER | EFFECTIVE | EXPIRING | | |
|---------------------------------|---|--|--|--|---|---|
| | This cell describes the type of wastewater authorized for discharge. Examples include process or sanitary wastewater, storm water, non-contact cooling water. | This cell lists classified waters of the state to which the listed outfall discharges. | The date this page starts in effect. (e.g. EDP or EDPM) | The date this page is no longer in effect. (e.g. ExDP) | | |
| PARAMETER | MINIMUM | MAXIMUM | UNITS | SAMPLE FREQ. | SAMPLE TYPE | |
| e.g. pH, TRC, Temperature, D.O. | The minimum level that must be maintained at all instants in time. | The maximum level that may not be exceeded at any instant in time. | SU, °F, mg/l, etc. | | | |
| PARA-METER | EFFLUENT LIMIT | PRACTICAL QUANTITATION LIMIT (PQL) | ACTION LEVEL | UNITS | SAMPLE FREQUENCY | SAMPLE TYPE |
| | Limit types are defined below in Note 1. The effluent limit is developed based on the more stringent of technology-based limits, required under the Clean Water Act, or New York State water quality standards. The limit has been derived based on existing assumptions and rules. These assumptions include receiving water hardness, pH and temperature; rates of this and other discharges to the receiving stream; etc. If assumptions or rules change the limit may, after due process and modification of this permit, change. | For the purposes of compliance assessment, the analytical method specified in the permit shall be used to monitor the amount of the pollutant in the outfall to this level, provided that the laboratory analyst has complied with the specified quality assurance/quality control procedures in the relevant method. Monitoring results that are lower than this level must be reported, but shall not be used to determine compliance with the calculated limit. This PQL can be neither lowered nor raised without a modification of this permit. | Type I or Type II Action Levels are monitoring requirements, as defined below in Note 2, that trigger additional monitoring and permit review when exceeded. | This can include units of flow, pH, mass, Temperature, concentration. Examples include µg/l, lbs/d, etc. | Examples include Daily, 3/week, weekly, 2/month, monthly, quarterly, 2/yr and yearly. | Examples include grab, 24 hour composite and 3 grab samples collected over a 6 hour period. |

Note 1: DAILY DISCHARGE.: The discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for the purposes of sampling. For pollutants expressed in units of mass, the 'daily discharge' is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the 'daily discharge' is calculated as the average measurement of the pollutant over the day.

DAILY MAX.: The highest allowable daily discharge. **DAILY MIN.:** The lowest allowable daily discharge.

MONTHLY AVG: The highest allowable average of daily discharges over a calendar month, calculated as the sum of each of the daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

7 DAY ARITHMETIC MEAN (7 day average): The highest allowable average of daily discharges over a calendar week.

30 DAY GEOMETRIC MEAN: The highest allowable geometric mean of daily discharges over a calendar month, calculated as the antilog of: the sum of the log of each of the daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

7 DAY GEOMETRIC MEAN: The highest allowable geometric mean of daily discharges over a calendar week.

RANGE: The minimum and maximum instantaneous measurements for the reporting period must remain between the two values shown.

Note 2: ACTION LEVELS: Routine Action Level monitoring results, if not provided for on the Discharge Monitoring Report (DMR) form, shall be appended to the DMR for the period during which the sampling was conducted. If the additional monitoring requirement is triggered as noted below, the permittee shall undertake a short-term, high-intensity monitoring program for the parameter(s). Samples identical to those required for routine monitoring purposes shall be taken on each of at least three consecutive operating and discharging days and analyzed. Results shall be expressed in terms of both concentration and mass, and shall be submitted no later than the end of the third month following the month when the additional monitoring requirement was triggered. Results may be appended to the DMR or transmitted under separate cover to the same address. If levels higher than the Action Levels are confirmed, the permit may be reopened by the Department for consideration of revised Action Levels or effluent limits. The permittee is not authorized to discharge any of the listed parameters at levels which may cause or contribute to a violation of water quality standards. **TYPE I:** The additional monitoring requirement is triggered upon receipt by the permittee of any monitoring results in excess of the stated Action Level. **TYPE II:** The additional monitoring requirement is triggered upon receipt by the permittee of any monitoring results that show the stated action level exceeded for four of six consecutive samples, or for two of six consecutive samples by 20 % or more, or for any one sample by 50 % or more.

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RECORDING, REPORTING AND ADDITIONAL MONITORING REQUIREMENTS

- a) The permittee shall also refer to the General Conditions (Part II) of this permit for additional information concerning monitoring and reporting requirements and conditions.
- b) The monitoring information required by this permit shall be summarized, signed and retained for a period of three years from the date of the sampling for subsequent inspection by the Department or its designated agent. **Also, monitoring information required by this permit shall be summarized and reported by submitting;**

(if box is checked) completed and signed Discharge Monitoring Report (DMR) forms for each 1 month reporting period to the locations specified below. Blank forms are available at the Department's Albany office listed below. The first reporting period begins on the effective date of this permit and the reports will be due no later than the 28th day of the month following the end of each reporting period.

(if box is checked) an annual report to the Regional Water Engineer at the address specified below. The annual report is due by February 1 and must summarize information for January to December of the previous year in a format acceptable to the Department.

(if box is checked) a monthly "Wastewater Facility Operation Report..." (form 92-15-7) to the:

Regional Water Engineer and/or County Health Department or Environmental Control Agency specified below

Send the **original** (top sheet) of each DMR page to:

Department of Environmental Conservation
Division of Water
Bureau of Water Compliance Programs
625 Broadway
Albany, New York 12233-3506

Phone: (518) 402-8177

Send the **first copy** (second sheet) of each DMR page to:

Department of Environmental Conservation
Regional Water Engineer
21 South Putts Road
New Paltz, New York 10591-5805

Phone: (845) 256-3019

Send an **additional copy** of each DMR page to:

- c) Noncompliance with the provisions of this permit shall be reported to the Department as prescribed in the attached General Conditions (Part II)
- d) Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.
- e) If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring shall be included in the calculations and recording of the data on the Discharge Monitoring Reports.
- f) Calculation for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.
- g) Unless otherwise specified, all information recorded on the Discharge Monitoring Report shall be based upon measurements and sampling carried out during the most recently completed reporting period.
- h) Any laboratory test or sample analysis required by this permit for which the State Commissioner of Health issues certificates of approval pursuant to section five hundred two of the Public Health Law shall be conducted by a laboratory which has been issued a certificate of approval. Inquiries regarding laboratory certification should be sent to the Environmental Laboratory Accreditation Program, New York State Health Department Center for Laboratories and Research, Division of Environmental Sciences, The Nelson A. Rockefeller Empire State Plaza, Albany, New York 12201.

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES)
DISCHARGE PERMIT**

**GENERAL CONDITIONS
(PART II)**

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1. GENERAL PROVISIONS

- a. This permit, or a true copy, shall be kept readily available for reference at the wastewater treatment facility.
- b. A determination has been made on the basis of a submitted application, plans, or other available information, that compliance with the specified permit provisions will reasonably protect classified water use and assure compliance with applicable water quality standards. Satisfaction of permit provisions notwithstanding, if operation pursuant to the permit causes or contributes to a condition in contravention of State water quality standards, or if the Department determines, on the basis of notice provided by the permittee and any related investigation, inspection or sampling, that a modification of the permit is necessary to prevent impairment of the best use of the waters or to assure maintenance of water quality standards or compliance with other provisions of ECL Article 17, or the Act, the Department may require such a modification and may require abatement action to be taken by the permittee and may also prohibit the noticed act until the permit has been modified.
- c. All discharges authorized by this permit shall be consistent with the terms and conditions of this permit. Facility expansion or other modifications, production increases, product changes, product process modifications, and wastewater collection, treatment and disposal system changes which will result in new or increased discharges of pollutants into the waters of the state must be reported by submission of a new SPDES application, in which case the permit may be modified accordingly. The discharge of any pollutant, not identified and authorized, or the discharge of any pollutant more frequently than, or at a level in excess of, that identified and authorized by this permit shall constitute a violation of the terms and conditions of this permit. Facility modifications, process modifications, or production decreases which result in decreased discharges of pollutants must be reported by submission of written notice to the permit-issuing authority, in which case the permit-issuing authority may require the permittee to submit a new SPDES application.
- d. The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.
- e. If the discharge(s) permitted herein originate within the jurisdiction of an interstate water pollution control agency, then the permitted discharge(s) must also comply with any applicable effluent standards or water quality standards promulgated by that interstate agency.
- f. The permittee must comply with all terms and conditions of this permit. Any permit noncompliance constitutes a violation of the Environmental Conservation Law and the Clean Water Act and is grounds for: enforcement action; for permit suspension, revocation and modification; and for denial of a permit renewal application.
- g. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, the permittee shall promptly submit such facts or information.
- h. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- i. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- j. The Clean Water Act provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed \$25,000 per day of such violations. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, or 308 of the Clean Water Act is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than three years, or both.
- k. The filing of a request by the permittee for a permit modification, revocation, transfer, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- l. The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, suspending, or revoking this permit, or to determine compliance with this permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by this permit.

m. Nothing in this permit relieves the permittee from a requirement to obtain other permits required by law, including, but not limited to:

- (1) an air contamination source permit/certification under 6NYCRR Part 201;
- (2) a waste transporter permit under 6NYCRR Part 364; or
- (3) a radioactive waste discharge permit under 6NYCRR Part 380.

2. SPECIAL REPORTING REQUIREMENTS FOR EXISTING MANUFACTURING, COMMERCIAL, MINING, AND SILVICULTURAL DISCHARGERS

All existing manufacturing, commercial, mining and silvicultural dischargers must notify the Department as soon as they know or have reason to believe:

- a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not specifically controlled in the permit, pursuant to General Provision 1 (c) herein. For the purposes of this section, recurrent accidental or unintentional spills or releases shall be considered to be a discharge on a frequent basis.
- b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - (1) 500 micrograms/liter;
 - (2) 1.0 milligram/liter for antimony;
 - (3) five times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR §122.21(g)(7); or
 - (4) the level established by the Department in accordance with 40 CFR §122.44(f).
- c. That they have begun or expect to begin to use, or manufacture as an intermediate or final product or by-product, any toxic pollutant which was not reported in the permit application under 40 CFR §122.21(g)(9) and which is being or may be discharged to waters of the state.

3. EXCLUSIONS

- a. The issuance of this permit by the Department and the receipt thereof by the Applicant does not supersede, revoke or rescind an order or modification thereof on consent or determination by the Commissioner issued heretofore by the Department or any of the terms, conditions or requirements contained in such order or modification thereof unless specifically intended by said order.
- b. The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations; nor does it obviate the necessity of obtaining the assent of any other jurisdiction as required by law for the discharge authorized.
- c. This permit does not authorize or approve the construction of any onshore or offshore physical structures or facilities or the undertaking of any work in any navigable waters.
- d. Oil and hazardous substance liability: The imposition of responsibilities upon, or the institution of any legal action against the permittee under Section 311 of the Clean Water Act shall be in conformance with regulations promulgated pursuant to Section 311 governing the applicability of Section 311 of the Clean Water Act to discharges from facilities with NPDES permits.

4. MODIFICATION, SUSPENSION, REVOCATION

- a. If the permittee fails or refuses to comply with any requirement in this permit, such noncompliance shall constitute a violation of the permit for which the Commissioner may modify, suspend, or revoke the permit after notice and opportunity for hearing and take direct enforcement action pursuant to law. When, at any time during or prior to a period for compliance, the permittee announces or otherwise lets it be known, or the Commissioner on reasonable cause determines, that the permittee will not make the requisite efforts to achieve compliance with an interim or final requirement, the Commissioner may modify, suspend or revoke the permit and take direct enforcement action pursuant to law, without waiting for expiration of the period for compliance with such requirements.

- b. After notice and opportunity for a hearing, the Department may modify, suspend or revoke this permit in whole or in part during its term for cause including, but not limited to, the following:
- (1) violation of any provision of this permit; or
 - (2) obtaining this permit by misrepresentation or failure to disclose fully all relevant facts at any time; or materially false or inaccurate statements or information in the application or the permit; or
 - (3) a change in any physical circumstances, requirements or criteria applicable to discharges, including, but not limited to:
 - (i) standards for construction or operation of the discharging facility;
 - (ii) the characteristics of the waters into which such discharge is made;
 - (iii) the water quality criteria applicable to such is made;
 - (iv) the classification of such waters; or
 - (v) effluent limitations or other requirements applicable pursuant to the Act or State Law.
 - (4) a determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification, a suspension, or revocation.
 - (5) violation of any order of the Commissioner or provision of ECL or regulation promulgated thereunder, which is related to the permitted activity.
 - (6) Newly discovered material information or material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of this permit.
- c. If any applicable toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under section 307(a) of the Clean Water Act for a toxic pollutant and that a standard or prohibition is more stringent than any limitation on the pollutant in the permit, the Department shall institute proceedings to modify the permit in order to achieve conformance with the toxic effluent standard or prohibition and in conformance with ECL 17-0809.

5. REPORTING NONCOMPLIANCE

- a. Anticipated noncompliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- b. Twenty-four hour reporting. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written noncompliance report shall also be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written noncompliance report shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent the noncompliance and its reoccurrence.
- (1) The following shall be included as information which must be reported within 24 hours under paragraph (b) above:
 - (i) any unanticipated bypass which violates any effluent limitation in the permit;
 - (ii) any upset which violates any effluent limitation in the permit;
 - (iii) violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours.
 - (iv) any unusual situation, caused by a deviation from normal operation or experience (e.g. upsets, bypasses, inoperative treatment process units, spills or illegal chemical discharges or releases to the collection system) which create a potentially hazardous condition.
 - (v) any dry weather overflow(s).
 - (2) The Department may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(3) Reports required by this section shall be filed with the Department's regional office having jurisdiction over the permitted facility. During weekends, oral noncompliance reports, required by this paragraph, may be made at (518) 457-7362.

- c. Other noncompliance. The permittee shall report all instances of noncompliance not otherwise required to be reported under this section or other sections of this permit, with each submitted copy of its Discharge Monitoring Reports until such noncompliance ceases. Such noncompliance reports shall contain the information listed in paragraph (b) of this section.
- d. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

6. INSPECTION AND ENTRY

The permittee shall allow the Commissioner of the Department, the EPA Regional Administrator, the County Health Department, or their authorized representatives, upon the presentation of credentials and other documents as may be required by law, to:

- a. enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b. have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit, including records maintained for purposes of operation and maintenance;
- c. inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit;
- d. sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act or Environmental Conservation Law, any substances or parameters at any location; and
- e. enter upon the property of any contributor of wastewater to the system under authority of the permittee's Sewer Use Ordinance (municipalities) or Regulations.

7. TRANSFER OF PERMIT

- a. A permit is transferable only with prior written approval of the Department.
- b. To transfer a permit to a new owner or operator, written application must be made to the Department. Application for Permit Transfer forms can be obtained from, and must be submitted to, the appropriate regional office of the Department's Division of Regulatory Affairs.
- c. In order for operation of the facility to continue without interruption, application must be made at least 30 days in advance of the transfer.
- d. If, when the ownership or operation is transferred, the volume or composition of the facility discharge will be altered, a new application for permit may be required.

8. PERMIT RENEWAL

- a. Any permittee who wishes to continue to discharge after the expiration date of a permit shall apply for renewal of its permit no later than 180 days prior to the permit's expiration date (unless permission for a later date has been granted by the Department) by submitting any forms, fees, or supplemental information which may be required by the Department. Upon request, the Department shall provide the permittee with specific information concerning the forms, fees, and supplemental information required.
- b. When a permittee has made timely and sufficient application for the renewal of a permit or a new permit with reference to any activity of a continuing nature, the existing permit does not expire until the application has been finally determined by the Department, and, in case the application is denied or the terms of the new permit limited, until the last day for seeking review of the Department order or a later date fixed by order of the reviewing court, provided that this subdivision shall not affect any valid Department action then in effect summarily suspending such permit.
- c. A municipality applying for a permit (renewal) shall submit evidence that it is enforcing an up-to-date enacted Sewer Use Ordinance which was approved by the Department.

- d. A municipality applying for a permit (renewal) shall have an approved method of residuals disposal in compliance with Part 6-NYCRR 360 and 364.
- e. A municipality receiving industrial waste shall submit evidence that it is operating (or implementing) its industrial pretreatment program in accordance with Part 6 NYCRR 651.53(f).

9. SPECIAL PROVISIONS - NEW OR MODIFIED DISPOSAL SYSTEMS OR SERVICE AREAS

- a. Prior to construction of any new or modified waste disposal system or modification of a facility or service area generating wastewater which could alter the design volume of, or the method or effect of treatment or disposing of the sewage, industrial waste or other wastes, from an existing waste disposal system, the Permittee shall submit to the Department or its designated field office for review, an approvable engineering report, plans, and specifications which have been prepared by a person or firm licensed to practice Professional Engineering in the State of New York.
- b. The construction of the above new or modified disposal system shall not start until the Permittee receives written approval of the system from the Department or its designated field office.
- c. The construction of the above new or modified disposal system shall be under the general supervision of a person or firm licensed to practice Professional Engineering in New York State. Upon completion of construction, that person or firm shall certify to the Department or its designated field office that the system has been fully completed in accordance with the approved engineering report, plans and specifications, permit and letter of approval; and the permittee shall receive written acceptance of such certificate from the Department or designated field agency prior to commencing discharge.
- d. The Department and its designated field offices review wastewater disposal system reports, plans, and specifications for treatment process capability only, and approval by either office does not constitute approval of the system's structural integrity.

10. MONITORING, RECORDING, AND REPORTING

10.1 GENERAL

- a. The permittee shall comply with all recording, reporting, monitoring and sampling requirements specified in this permit and such other additional terms, provisions, requirements or conditions that the Department may deem to be reasonably necessary to achieve the purposes of the Environmental Conservation Law, Article 17, the Act, or rules and regulations adopted pursuant thereto.
- b. Samples and measurements taken to meet the monitoring requirements specified in this permit shall be representative of the quantity and character of the monitored discharges. Composite samples shall be composed of a minimum of 8 grab samples, collected over the specified collection period, either at a constant sample volume for a constant flow interval or at a flow-proportioned sample volume for a constant time interval, unless otherwise specified in Part I of this permit. For GC/MS Volatile Organic Analysis (VOA), aliquots must be combined in the laboratory immediately before analysis. At least 4 (rather than 8) aliquots or grab samples should be collected over the specified collection period. Grab sample means a single sample, taken over a period not exceeding 15 minutes.
- c. Accessible sampling locations must be provided and maintained. New sampling locations shall be provided if existing locations are deemed unsuitable by the Department or its designated field agency.
- d. Actual measured values of all positive analytical results obtained above the Practical Quantitation Limit (PQL)¹ for all monitored parameters shall be recorded and reported, as required by this permit; except, where parameters are limited in this permit to values below the PQL, actual measured values for all positive analytical results above the Method Detection Limit (MDL)² shall be reported.

¹ Practical Quantitation Limit (PQL) is the lowest level that can be measured within specified limits of precision and accuracy during routine laboratory operations on most effluent matrices.

² Method Detection Limit (MDL) is the level at which the analytical procedure referenced is capable of determining with a 99% probability that the substance is present. This value is determined in distilled water with no interfering substances present. The precision at this level is +/- 100%.

- e. The permittee shall periodically calibrate and perform manufacturer's recommended maintenance procedures on all monitoring and analytical instrumentation to insure accuracy of measurements. Verification of maintenance shall be logged into the daily record book(s) of the facility. The permittee shall notify the Department's regional office immediately if any required instrumentation becomes inoperable. In addition, the permittee shall verify the accuracy of their measuring equipment to the Department's Regional Office annually.
- f. The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit, shall upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years per violation or by both. If a conviction of such person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or by both.

10.2 SIGNATORIES AND CERTIFICATION

- a. All reports required by this permit shall be signed as follows:
 - (1) for a corporation: by a responsible corporate officer. For the purposes of this section, a responsible corporate officer means:
 - (i) a president, secretary, treasurer, or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making function for the corporation, or
 - (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (2) for a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
 - (3) for a municipality, state, federal, or other public agency: by either a principal or executive officer or ranking elected official. For purposes of this section, a principal executive officer of a federal agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency; or
 - (4) a duly authorized representative of the person described in items (1), (2), or (3). A person is a duly authorized representative only if:
 - (i) the authorization is made in writing by a person described in paragraph (a)(1), (2), or (3) of this section;
 - (ii) the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and
 - (iii) the written authorization is submitted to the Department.
- b. Changes to authorization: If an authorization under subparagraph (a)(4) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of subparagraph (a)(4) of this section must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.
- c. Certification: Any person signing a report shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision, in accordance with a system, designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the permit or persons who manage the

system, or those persons directly responsible for gathering the information; the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

- d. The Clean Water Act provides that any person who knowingly makes any material false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of such person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or by both.

10.3 RECORDING OF MONITORING ACTIVITIES AND RESULTS

- a. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.
- b. Records of monitoring information shall include:
- (1) the date, exact place, and time of sampling or measurements;
 - (2) the individual(s) who performed the sampling or measurements;
 - (3) the date(s) analyses were performed;
 - (4) the individual(s) who performed the analyses;
 - (5) the analytical techniques or methods used; and
 - (6) the results of such analyses.

10.4 TEST AND ANALYTICAL PROCEDURES

- a. Monitoring and analysis must be conducted using test procedures promulgated, pursuant to 40 CFR Part 136, except:
- (1) should the Department require the use of a particular test procedure, such test procedure will be specified in Part I of this permit.
 - (2) should the permittee desire to use a test method not approved herein, prior Department approval is required, pursuant to paragraph (b) of this section.
- b. Application for approval of test procedures shall be made to the Department's Regional Permit Administrator (see Part 1, page 1 for address), and shall contain:
- (1) the name and address of the applicant or the responsible person making the discharge, the DEC permit number and applicable SPDES identification number of the existing or pending permit, name of the permit issuing agency name and telephone number of applicant's contact person;
 - (2) the names of the pollutants or parameters for which an alternate testing procedure is being requested, and the monitoring location(s) at which each testing procedure will be utilized;
 - (3) justification for using test procedures, other than those approved in paragraph (a) of this section; and
 - (4) a detailed description of the alternate procedure, together with:
 - (i) references to published studies, if any, of the applicability of the alternate test procedure to the effluent in question;
 - (ii) information on known interferences, if any; and

(5) a comparability study, using both approved and the proposed methods. The study shall consist of 8 replicates of 3 samples from a well mixed waste stream for each outfall if less than 5 outfalls are involved, or from 5 outfalls if 5 or more outfalls are involved. Four (4) replicates from each of the samples must be analyzed using a method approved in paragraph (a) of this section, and four of the replicates of each sample must be analyzed using the proposed method. This results in 24 analyses per outfall up to a maximum of 120 analyses per permit. A statistical analysis of the data must be submitted that shall include, as a minimum:

- (i) calculated statistical mean and standard deviation;
- (ii) a test for outliers at the mean ± 3 standard deviations level. Where an outlier is detected, an additional sample must be collected and 8 replicates of the sample must be analyzed as specified above;
- (iii) a plot distribution with frequency counts and histogram;
- (iv) a test for equality among with-in sample standard deviation;
- (v) a check for equality of pooled with-in sample variance with an F-Test;
- (vi) a t-Test to determine equality of method means; and

copies of all data generated in the study.

Additional information can be obtained by contacting the Bureau of Technical Services & Research (NYSDEC, 50 Wolf Road, Albany, New York 12233 - 3502).

11. DISPOSAL SYSTEM OPERATION AND QUALITY CONTROL

11.1 GENERAL

- a. The disposal system shall not receive or be committed to receive wastes beyond its design capacity as to volume and character of wastes treated, nor shall the system be materially altered as to: type, degree, or capacity of treatment provided; disposal of treated effluent; or treatment and disposal of separated scum, liquids, solids or combination thereof resulting from the treatment process without written approval of the Department of Environmental Conservation or its designated field office.
- b. The permittee shall, at all times, properly operate and maintain all facilities and systems of treatment and control (or related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes as a minimum, the following: 1) A preventive/corrective maintenance program. 2) A site specific action orientated operation and maintenance manual for routine use, training new operators, adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.
- c. When required under Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6NYCRR 650), sufficient personnel meeting qualifications for operators of sewage treatment works as required therein and additional maintenance personnel shall be employed to satisfactorily operate and maintain the treatment works.
- d. The permittee shall not discharge floating solids or visible foam.

11.2 BYPASS

a. Definitions:

- (1) "Bypass" means the intentional or unintentional diversion of waste stream(s) around any portion of a treatment facility for the purpose or having the effect of reducing the degree of treatment intended for the bypassed portion of the treatment facility.
- (2) "Severe property damage" means substantial damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which would not reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. Bypass not exceeding limitations:

The permittee may allow any bypass to occur which does not cause effluent limitations to be violated, but only if it also is for essential maintenance, repair or replacement to assure efficient and proper operation. These bypasses are not subject to the provisions of paragraph (c) and (d) of this section, provided that written notice is submitted prior to bypass (if anticipated) or as soon as possible after bypass (if unanticipated), and no public health hazard is created by the bypass.

c. Notice:

- (1) Anticipated bypass - If the permittee knows in advance of the need for a bypass, it shall submit prior written notice, at least forty five (45) days before the date of the bypass.
- (2) Unanticipated bypass - The permittee shall submit notice of an unanticipated bypass as required in Section 5, paragraph b. of this Part (24 hour notice).

d. Prohibition of bypass:

- (1) Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:
 - (i) bypass was unavoidable to prevent loss of life, personal injury, public health hazard, or severe property damage;
 - (ii) there were no feasible alternatives to the bypass such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal period of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance or if designed and installed backup equipment which could have prevented or mitigated the impact of the bypass is not operating during the bypass; and
 - (iii) the permittee submitted notices as required under paragraph (c) of this section and, excepting emergency conditions, the proposed bypass was accepted by the Department.

11.3 UPSET

a. Definition:

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

b. Effect of an upset:

An upset constitutes an affirmative defense to an action brought for noncompliance with such permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c. Conditions necessary for a demonstration of upset:

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operation logs, or other relevant evidence that:

- (1) an upset occurred and that the permittee can identify the cause(s) of the upset;
- (2) the permitted facility was at the time being properly operated; and
- (3) the permittee submitted notice of the upset as required in Section 5, paragraph b of this part (24 hour notice).

(4) the permittee complied with any remedial measures required under Section 5, paragraph d of this part.

d. Burden of proof:

In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

11.4 SPECIAL CONDITION - DISPOSAL SYSTEMS WITH SEPTIC TANKS

If a septic tank is installed as part of the disposal system, it shall be inspected by the permittee or his agent for scum and sludge accumulation at intervals not to exceed one year's duration, and such accumulation will be removed before the depth of either exceeds one-fourth (1/4) of the liquid depth so that no settleable solids or scum will leave in the septic tank effluent. Such accumulation shall be disposed of in an approved manner.

11.5 SLUDGE DISPOSAL

The storage or disposal of collected screenings, sludges, other solids, or precipitates separated from the permitted discharges and/or intake or supply water by the permittee shall be done in such a manner as to prevent creation of nuisance conditions or entry of such materials into classified waters or their tributaries, and in a manner approved by the Department. Any live fish, shellfish, or other animals collected or trapped as a result of intake water screening or treatment should be returned to their water body habitat. The permittee shall maintain records of disposal on all effluent screenings, sludges and other solids associated with the discharge(s) herein described. The following data shall be compiled and reported to the Department or its designated field office upon request:

- a. the sources of the materials to be disposed of;
- b. the approximate volumes, weights, water content and (if other than sewage sludge) chemical composition;
- c. the method by which they were removed and transported, including the name and permit number of the waste transporter; and
- d. their final disposal locations.

12. CONDITIONS APPLICABLE TO A PUBLICLY OWNED TREATMENT WORKS (POTW)

12.1 GENERAL

- a. All POTWs must provide adequate notice to the Department of the following:
 - (1) any new introduction of pollutants into the POTW from an indirect discharger which would be subject to sections 301 or 306 of the Clean Water Act if it were directly discharging those pollutants; and
 - (2) any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
 - (3) For purposes of this paragraph, adequate notice shall include information on:
 - (i) the quality and quantity of effluent introduced into the POTW; and
 - (ii) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
- b. Dry weather overflows are prohibited. The occurrence of any dry weather overflow constitutes a bypass exceeding limitations as defined in Section 11.2 of this Part and shall be promptly abated and reported to the Department in accord with Section 5 of this Part. The permittee shall inspect all overflow facilities at least twice per year (once each spring and fall) during periods of dry weather flow to ensure they are functioning properly. Records of all inspections shall be maintained for inspection by the Department or its designated representative

- c. The permittee shall identify all inflow to the tributary system and remove excessive infiltration/inflow to an extent which is economically feasible.
- d. The permittee shall enact, maintain and enforce an up-to-date and effective Sewer Use Ordinance which has been approved by the Department.
- e. New connections to a publicly owned sewer system or a privatized municipal sewer system are prohibited when the permittee is notified by the Department:
 - (1) that the discharge(s) regulated by this permit create(s) or is likely to create a public health or potential public health hazard, a contravention of water quality standards or the impairment of the best use of waters, as determined by the Commissioner; or
 - (2) that the discharge(s) regulated by this permit exceeded the permit limit for a specific parameter, including flow, in four of any six consecutive month periods or exceeded a permit limit by 1.4 (1.2 for toxics) times the permit limit in two of any six consecutive month periods; or
 - (3) that the permittee has failed or is likely to fail to carry out, meet or comply with any requirement of this permit, compliance schedule, order of the Department, judicial order, or consent decree.
- f. The provisions provided for in e. above shall remain in effect until the Permittee can demonstrate to the Department's satisfaction and approval that adequate available capacity exists in the plant and that the facility is in full compliance with all of effluent limitations required by this permit.

12.2 NATIONAL PRETREATMENT STANDARDS: PROHIBITED DISCHARGES

a. General prohibitions:

Pollutants introduced into POTW's by a non-domestic source shall not pass through the POTW or interfere with the operation or performance of the works or disposal of sludge. These general prohibitions and the specific prohibitions in paragraph (b) of this section apply to all non-domestic sources introducing pollutants into a POTW whether or not the source is subject to other National Pretreatment Standards or any national, State, or local Pretreatment Requirements.

b. Specific prohibition:

In addition, the following pollutants shall not be introduced into a POTW:

- (1) pollutants which create a fire or explosion hazard in the POTW;
- (2) pollutants which will cause corrosive structural damage to the POTW, but in no case discharge with pH lower than 5.0 unless the works is specifically designed to accommodate such discharges;
- (3) solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference;
- (4) any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a Discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.
- (5) heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW Treatment Plant exceeds 40° C (104° F) unless the Approval Authority, upon request of the POTW, approves alternate temperature limits.

c. When Specific Limits Must be Developed by a POTW:

- (1) POTW's developing POTW Pretreatment Programs pursuant to §403.8 shall develop and enforce specific limits to implement the prohibitions listed in §403.5(a) and (b).
- (2) All other POTW's shall, in cases where pollutants contributed by User(s) result in interference or Pass-Through, and such violation is likely to recur, develop and enforce specific effluent limits for Industrial User(s), and all other users, as appropriate, which, together with appropriate changes in the POTW Treatment Plant's Facilities or operation, are necessary to ensure renewed and continued compliance with the POTW's SPDES permit or sludge use or disposal practices.

(3) Specific effluent limits shall not be developed and enforced without individual notice to persons or groups who have requested such notice and an opportunity to respond.

d. Local Limits:

Where specific prohibitions or limits on pollutants or pollutant parameters are developed by a POTW in accordance with paragraph (c) above, such limits shall be deemed Pretreatment Standards for the purposes of §307(d) of the Act.

e. EPA and State Enforcement Actions:

If, within 30 days after notice of an Interference or Pass Through violation has been sent by EPA or DEC to the POTW, and to persons or groups who have requested such notice, the POTW fails to commence appropriate enforcement action to correct the violation, EPA and DEC may take appropriate enforcement action.

O-3 Stormwater Permit (pending issuance, part of current SPDES Permit)

O-4 Consent Order, Case No. CO-1-20181004

**STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

-----X
In the Matter of Violations of Article 27
of the New York State Environmental Conservation Law,
and Title 6 of the Official Compilation of Codes, Rules
and Regulations of the State of New York

**ORDER ON CONSENT
Case No. CO 1-20181004
EPA ID No. NYD000707901**

- By -

I.PARK EAST FISHKILL LLC,
Respondent,

I.PARK EAST FISHKILL I LLC,
Respondent,

INTERNATIONAL BUSINESS MACHINES CORPORATION,
Respondent, and

GLOBALFOUNDRIES U.S. 2 LLC,
Respondent.

-----X
WHEREAS:

Parties and Jurisdiction

1. The New York State Department of Environmental Conservation (the "Department") is vested with jurisdiction to enforce laws governing hazardous waste management pursuant to Article 27, Title 9 of the Environmental Conservation Law ("ECL") and the rules and regulations promulgated thereunder at Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York ("6 NYCRR").

2. This Order is issued pursuant to the Department's enforcement authority under Article 71 of the ECL.

3. Respondent, i.Park East Fishkill LLC ("Respondent i.Park EF"), is a foreign limited liability company authorized to do business in New York State with an address for service of process listed with the New York State Department of State as 80 State Street, Albany, New York, 12207-2543.

4. Respondent, i.Park East Fishkill I LLC ("Respondent i.Park (I)"), is a foreign limited liability company authorized to do business in New York State with an address for

service of process listed with the New York State Department of State as 80 State Street, Albany, New York, 12207-2543.

5. Respondent, International Business Machines Corporation (“Respondent IBM”), is a domestic business corporation with an address for service of process listed with the New York State Department of State as International Business Machines Corporation, New Orchard Road, Armonk, New York, 10504.

6. Respondent, GLOBALFOUNDRIES U.S. 2 LLC (“Respondent Global”), is a foreign limited liability company authorized to do business in New York State with an address for service of process listed with the New York State Department of State as C/O Corporation Service Company, 80 State Street, Albany, New York, 12207-2543.

7. Respondent i.Park EF and Respondent i.Park (I) will hereinafter be refer to jointly as “Respondent i.Park”.

8. Respondent i.Park, Respondent IBM, and Respondent Global will hereinafter be referred to jointly as “Respondents.”

9. Respondents own and/or operate all or a portion of a facility located in the Town of East Fishkill, Dutchess County, New York 12533 bordered to the north by State Route 52, to the east by County Highway 27, and to the south by Interstate 84 (“Site”).

10. Each Respondent is a person, and an owner and/or operator as defined pursuant to 6 NYCRR 370.2(b)(136); 6 NYCRR 370.2(b)(137); and 6 NYCRR 370.2(b)(141).

Applicable Law

11. Respondents are subject to New York State laws, rules and regulations governing solid and hazardous waste, specifically Article 27 of the ECL and the regulations promulgated thereunder.

12. Respondents are also subject to NYSDEC Part 373 Corrective Action Permit 3-1323-0025/00249 (“Part 373 Permit”) for the Site.

Facts

13. The Site is a Class 2 inactive hazardous waste disposal site, designated by the Department as Site #314054.

14. Respondent Global, and Respondent i.Park each own a portion of the Site. Respondent i. Park EF is the sole owner of the portion of the property that is the subject of noncompliance. Respondent IBM is the operator with regard to the Part 373 Permit;

Respondent IBM does not own any portion of the Site or operate any portion of the Site other than as the “operator” with regard to the Part 373 Permit.

15. Before September 15, 2018, Respondent i.Park EF leased a property within its portion of the Site to Sloop Brewing Co.

16. On September 15, 2018, Sloop Brewing Co. opened its business to the public, operating a tasting room and a restaurant at the Site.

17. On September 21, 2018, Department Staff notified Respondent i.Park EF that, due to Sloop Brewing Co.’s operations, Respondent i.Park EF was in violation of the Part 373 Permit for allowing the operation of a commercial business activity on a Site only authorized to have industrial activities.

18. On November 1, 2018, Department Staff again notified Respondent i.Park EF that, due to Sloop Brewing Co.’s operations, Respondent i.Park EF was in violation of the Part 373 Permit, as well as ECL Article 27, Title 9, and its implementing regulations at 6 NYCRR Parts 370 *et seq.*

19. On November 28, 2018, Department Staff met with Respondents and informed them that, due to Sloop Brewing Co.’s operations, Respondents were in violation of the Part 373 Permit, as well as ECL Article 27, Title 9, and its implementing regulations at 6 NYCRR Parts 370 *et seq.*

Violations

20. Respondent i.Park EF’s actions, as set forth herein, constitute violations of Respondents’ Part 373 Permit as set forth in Appendix A attached to this Order. Any violation of a Part 373 Permit is also a violation of ECL article 27, Title 9 as established in 6 NYCRR 373-1.6(a)(1). The violations contained in Appendix A are hereby incorporated as enforceable terms of this Order on Consent.

Applicable Penalty Provisions

21. Pursuant to ECL § 71-2705, any person who violates any of the provisions of, or who fails to perform any duty imposed by Article 27, Title 9, 11, or 13 or any rule or regulation promulgated thereto, shall be liable for penalties of up to \$37,500 per day per violation.

22. Respondent i.Park EF affirmatively states that its actions, not the actions of Respondent IBM and Respondent Global was the cause of the violations.

23. Respondents affirmatively waive their right to a hearing in this matter in the manner as provided by law, consents to the issuance of this Order and agrees to be bound by the terms, provisions and conditions contained herein.

NOW, THEREFORE, HAVING CONSIDERED THIS MATTER AND BEING DULY ADVISED, IT IS ORDERED THAT:

I. COMPLIANCE

- A. Respondents have as of the date hereof submitted to the Department a statement, signed by each Respondent, agreeing to change the deed restrictions on the relevant portions of the Site, as set forth in Exhibit A (which is a map of the designated area attached hereto) (“Exhibit A area”), from industrial use to commercial use subject to Respondent iPark EF satisfying all the requirements of this Order and related work plans or other work products, and complying with the terms of the i.Park 84 Commercial Uses Agreement entered into by the Respondents.
- B. In accordance with a work plan(s) approved by the Department, and in addition to the requirements of Section C immediately below, i.Park EF shall design, install, operate, and maintain active (i.e., fan- or blower-powered) sub-slab depressurization systems (SSD) in the ground floor of all indoor areas of the Exhibit A area prior to occupancy of such areas. These systems must be installed in accordance with Department-approved work plans and within 180 days of such Department approval.
- C. Respondent i.Park EF must comply with the approved workplans as attached as Exhibit B for performing necessary testing and remedial work at the Exhibit A area to meet all commercial use standards.
 - a. Building 330C Sloop Brewing – Respondent iPark EF submitted the *Full-Scale Sub Slab Depressurization System Design Report – Sloop Brewery*, dated June 18, 2019. The Department and Department of Health (collectively ‘the Departments’) sent comments on August 2, 2019. Respondent iPark EF submitted the *Revised Full-Scale Sub Slab Depressurization System Design Report – Sloop Brewery*, dated August 14, 2019. The Department sent a response letter dated September 20, 2019, requiring additional indoor air sampling. Respondent iPark EF submitted *Addendum #1 to the Revised Full-*

Scale Sub Slab Depressurization System Design Report - Sloop Brewery, dated November 19, 2019, to the

Department describing proposed indoor air sampling following installation of the sub slab depressurization system.

- b. Open Area – Respondent iPark EF submitted a workplan, dated March 6, 2019, to sample the grassy areas and the parking lot in the Exhibit A area, and the Department conditionally approved that workplan on March 15, 2019. The *Site Investigation Report – Sloop Brewery / B338*, dated April 26, 2019, was approved by the Department on June 7, 2019 with the additional conditions requiring that the soil cover be maintained and the parking lots to be repaved and then maintained.
- c. Building 338 – Respondent iPark EF submitted the *Sub-Slab Vapor Investigation Report - Building 338*, dated July 17, 2019, and the Department conditionally approved the report on September 12, 2019 and directed that an additional vapor intrusion investigation would be required before occupancy was allowed. Respondent iPark EF submitted the revised *Sub-Slab Vapor Investigation Report - Building 338*, dated September 16, 2019, to address the Department’s comment.
 - i. Building 339 - Respondent iPark EF submitted the *B339 Pre-Construction Sampling Work Plan*, dated September 10, 2019 which described the planned vapor intrusion assessment. The Department conditionally approved the work plan on September 26, 2019. iPark EF submitted the revised *Building 339 Pre-Construction Sampling Work Plan*, dated September 26, 2019, to address comments in the Department’s September 26, 2019 letter, and the Department approved the revised work plan on September 27, 2019. Respondent iPark EF submitted the *Building 339 Pre-Construction Sampling Summary Report* dated October 23, 2019. Respondent iPark EF submitted the *B339 Vapor Mitigation System Basis of Design*, dated November 7, 2019, and the Department is in the process of reviewing it. Respondent iPark EF submitted an *Indoor Air Quality Testing Plan*, dated November 20, 2019, and an *Indoor Air Quality Testing Summary*

Report, dated December 6, 2019. The Department approved the testing report in a December 13, 2019 letter

- D. A Professional Engineer must certify, stamp and sign any subsequent work plans and any other subsequent technical submissions. The work plans shall include, among other things, a provision for monthly progress reports until the termination date of this Order. The work plans shall be in accordance with Department regulations and requirements.
- E. Once approved by the Department, compliance with the work plan and schedule required in this Section, shall constitute compliance with the ECL and 6 NYCRR solely with regards to the violations alleged in Appendix A.
- F. Respondent i.Park EF shall be authorized to allow the the commercial use of the Exhibit A area in the interim period, provided that it timely complies with the requirements of this Order and completes any and all necessary investigation and remediation including those described in the work plan. Upon completion of the investigation and remediation, the Department may issue an amended Statement of Basis for the Exhibit A area, which will detail any and all remedial work required for Respondent i.Park EF to complete to allow for commercial use of such area.
- G. Within 45 days of the Department's issuance of a major permit modification, including the amended Statement of Basis, Respondents shall submit to the Department a request to modify the Part 373 Permit for the Facility to allow for the commercial use of the Exhibit A area.
- H. Respondent i.Park must obtain approval in writing from the Department for any new proposed uses or activities on the Site, including but not limited to any new tenant uses or activities, prior to any and all construction or fitting up or any other activity related to the commencement of that new activity. The Department's review and approval shall take into consideration the proposed activities' use classification (i.e., industrial, commercial, etc.) and the current use restrictions in place at the Site.
- I. Respondent i.Park EF must submit to the Department the requisite 60-day notice for any new proposed use or activities on the Site, including but not limited to any new tenant uses or activities, prior to any and all construction or fitting up or any other activity related to the commencement of that new activity, and otherwise comply with the Department's requirements.

II. CIVIL PENALTY

Respondent i.Park EF shall pay a penalty for the cited violations in the amount of **FIFTY THOUSAND DOLLARS (\$50,000.00)**.

The civil penalty shall be paid within thirty (30) days of the Department's execution of this Order, by check made payable to the order of the "New York State Department of Environmental Conservation," with the enclosed invoice and the Case Number of this Order on Consent written in the memo section of the check. The check shall be sent to the Department of Environmental Conservation, Division of Management and Budget Services, 625 Broadway, 10th Floor, Albany, NY 12233-4900.

The original signed and notarized Order on Consent, along with any applicable submissions, shall be sent to the Department of Environmental Conservation, Office of General Counsel, 625 Broadway 12233, Attention: Benjamin Conlon.

III. RELEASE, SETTLEMENT AND RESERVATION OF RIGHTS

This Order shall be in full satisfaction and settlement of all civil and administrative claims that could be asserted by the Department against Respondents, their directors, trustees, officers, servants, agents, employees, successors and assigns, for those violations specifically set forth herein, provided, however, that this Order shall not be construed as being in settlement of events regarding which the Department lacks knowledge. Nothing contained in this Order shall be construed as otherwise barring, diminishing, adjudicating or in any way affecting any of the civil, administrative, or criminal rights of the Department or of the Commissioner or the Commissioner's designee, including, but not limited to, nor exemplified by, the rights to recover natural resources damages and to exercise any summary abatement powers, with respect to any party, including Respondents. The Department reserves the right to require Respondents to undertake any additional measures required to protect human health or the environment and the Department's rights to exercise its authorities under law to protect human health and the environment or to otherwise require compliance with the law.

IV. ACCESS

For the purpose of monitoring or determining compliance with this Order, duly authorized representatives of the Department shall be provided access to the Site, sites, or records owned, controlled or maintained by Respondents at the Site related to the Exhibit A

area, in order to inspect and/or perform such tests as the Department may deem appropriate, to copy such records, to take photographs, or to perform any other lawful duty or responsibility. Such duly authorized representatives shall comply with Respondents' health and safety and confidentiality requirements.

V. FAILURE, DEFAULT, VIOLATION OF ORDER, AND STIPULATED PENALTIES

Respondents' failure to comply with any applicable provision, term or condition of this Order shall constitute a default and a failure to perform an obligation under this Order and shall be deemed to be a violation of both this Order and the ECL. Discovery of any of the violations cited in this Order or Appendix A during a future visit to or inspection of the Site shall constitute a repeat violation, a violation of this Order, the ECL, and 6 NYCRR, subjecting Respondent i.Park EF to any penalty provided for by this Order, or by state or federal law.

The penalty assessed to Respondent i.Park EF in the Order constitutes a debt owed to the State of New York. Failure to pay the assessed penalty, or any part thereof, in accordance with the schedule contained in the Order, may result in referral to the New York State Attorney General for collection of the entire amount owed (including the assessment of interest, and a charge to cover the cost of collecting the debt), or referral to the New York State Department of Taxation and Finance, which may offset any tax refund or other monies that may be owed to you by the State of New York by the penalty amount. Any suspended and/or stipulated penalty provided for in this Order will constitute a debt owed to the State of New York when and if such penalty become due.

Respondent i.Park EF shall be responsible for stipulated penalties in the amount of one thousand DOLLARS (\$1,000.00) per day for failure to comply with this Order. "Compliance" by Respondent i.Park EF shall include completion of all payments and activities required under this Order, or any plan, report or other deliverable approved under this Order and within the specified time schedules established by and approved under this Order.

VI. FINANCIAL ASSURANCE

To ensure the full and final completion of the requirements of this Order, Respondent i.Park EF shall establish, within 90 days of the effective date of this order, and maintain financial assurance of a performance guarantee, initially in the amount of 100,000 DOLLARS (\$100,000), for the benefit of the Department. The performance guarantee, which must be satisfactory in form and substance to the Department, shall be in the form of one or more of

the mechanisms provided in 6 NYCRR 373-2.8(d).

VII. FORMAL TERMS

No terms, conditions, understanding or agreements purporting to modify or vary the terms of this Order shall be binding unless made in writing pursuant to the procedure set forth in Paragraph X below. No informal oral or written advice, guidance, suggestions or comments by the Department regarding reports, proposals, plans, specifications, schedules or any other writing submitted by Respondents, shall be construed as relieving Respondents' obligation to obtain such formal approvals as may be required by the terms of this Order on Consent.

VIII. INDEMNIFICATION

Respondents shall indemnify and hold the Department, the State of New York, their representatives, employees, agents and contractors 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, their directors, officers, trustees, employees, servant, agents, successors (including successors in title) and assigns to the extent that they are not caused by negligent or reckless acts.

IX. BINDING EFFECT

Respondents and Respondents' successors, and assigns shall be bound by this Order. Respondents through their officers, directors, agents, servants, employees, successors, and assigns shall be responsible for implementing the terms of 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.

Within thirty (30) days of any change in ownership or corporate status, the Department must be notified of the change. This notification will specify the nature of the change in status, and the name and address of the new responsible party. Once notified of the change, the Department will mail this Order to the new respondent. The Order will then be executed and notarized by the new respondent in the same manner as the original. All terms and conditions contained herein will then be applicable to the new respondent.

X. MODIFICATION

In those instances in which Respondents desire that any of the provisions, terms or conditions of this Order be changed, Respondents shall make written application, setting forth the grounds for the relief sought, and such changes shall not become effective except as specifically set forth by written order of the Commissioner or Commissioner's designee.

XI. COMMUNICATIONS

All communications required by this Order to the Department shall be transmitted to:

Benjamin Conlon
NYS Department of Environmental Conservation
Office of General Counsel
625 Broadway
Albany, NY 12233-1500
Benjamin.Conlon@dec.ny.gov

Jessica LaClair
NYS Department of Environmental Conservation
Central Office
625 Broadway
Albany, NY 12233-1500
Jess.LaClair@dec.ny.gov

Copies of all correspondence to Respondents under this Order on Consent shall be provided to:

Joseph Cotter
National Resources
485 West Putnam Avenue
Greenwich, CT 06830
JCotter@nationalresources.com

Dean Chartrand
Corporate Environmental Affairs
IBM Corporation
8976 Wellington Road
Manassas, VA 20109
Chartd@us.ibm.com

Steve Groseclose
GLOBALFOUNDRIES
400 Stone Break Rd Extension
Malta, NY 12020
Steve.Groseclose@globalfoundries.com

The Department and Respondents, respectively, reserve the right to designate other or different addressees on written notice to the other.

XII. FORCE MAJEURE

Respondents shall not suffer any penalty under this Order, or be deemed to be in violation hereof or be subject to any proceeding or action if any Respondents' compliance with any requirement hereof is rendered impossible by a natural event, war, strike, work stoppage, delays attributable to any governmental body other than the Department in issuing permits or approvals needed by the Site, riot or other catastrophe as to which negligence or misconduct on the part of any Respondent was not the proximate cause; provided, however, that Respondent shall make its best efforts to comply nonetheless and shall, within seventy-two (72) hours, notify the Department by telephone and in writing, pursuant to the communications paragraph set forth in Paragraph XI of this Order, after obtaining knowledge of any such condition or event, and shall request an appropriate extension or modification of this Order.

XIII. ENTIRE ORDER

This Order shall constitute the entire agreement and inure to the benefit of and be binding upon the Department and Respondents, their agents, employees, successors and assigns, and all persons, firms, or corporations acting subordinate thereto, with respect to settlement of the violations specifically referenced herein. No term, condition, understanding or agreement purporting to modify or vary any term hereof shall be binding unless made in writing pursuant to Paragraph XI of this Order, and subscribed by the party to be bound.

XIV. EFFECTIVE AND TERMINATION DATES

The effective date of this Order on Consent shall be the date it is signed by the Commissioner or Commissioner's designee. This Order on Consent shall terminate upon Respondents' strict and timely compliance with all of its terms, including but not limited to the Department's issuance of modifications to the Part 373 Permit; The Department will provide Respondents (or Respondents' counsels) with a fully executed copy of this Order as soon as practicable after the Commissioner or the Commissioner's designee signs it.

Dated: Albany, New York
May 1, 2020

Basil Seggos, Commissioner
N.Y.S. Department of Environmental Conservation



By:

David Vitale, Director
Division of Materials Management

CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of this Order without further notice, waives its right to a hearing herein, and agrees to be bound by the terms, conditions and provisions contained in this Order.

I.PARK EAST FISHKILL LLC, Respondent

By (Signature): _____

Print Name: Joseph Cotter

Title: President

Date: April 2, 2020

AKNOWLEDGMENT

STATE OF NEW YORK)

) ss:

COUNTY OF WESTCHESTER)

On the 2nd day of April in the year 2020 before me personally came JOSEPH COTTER to me known, who, being by me duly sworn, did depose and say that s/he resides in Greenwich, CT; that s/he is an officer I.PARK EAST FISHKILL LLC; namely the President of I.PARK EAST FISHKILL LLC; that s/he is authorized by the governing body of said corporation to sign on behalf of the corporation; and the s/he did sign the foregoing instrument on behalf of, and with the authority to bind, said corporation. DSC

Notary Public

Signature and Office of individual taking acknowledgment

DANIEL SCHUYLER
Notary Public, State of New York
No. 01SC5084025
Qualified in Orange County
Commission Expires Aug. 25, 2021


I.PARK EAST FISHKILL I LLC, Respondent

By (Signature): _____

Print Name: Joseph Cotter

Title: President

Date: April 2, 2020



ACKNOWLEDGMENT

STATE OF NEW YORK)

) ss:

COUNTY OF WESTCHESTER)

On the 2nd day of April in the year 2020 before me personally came JOSEPH COTTER to me known, who, being by me duly sworn, did depose and say that s/he resides in Greenwich, CT; that s/he is an officer I.PARK EAST FISHKILL I LLC; namely the President of I.PARK EAST FISHKILL I LLC; that s/he is authorized by the governing body of said corporation to sign on behalf of the corporation; and the s/he did sign the foregoing instrument on behalf of, and with the authority to bind, said corporation.



Notary Public

Signature and Office of individual taking acknowledgment

DANIEL SCHUYLER
Notary Public, State of New York
No. 01SC5034925
Qualified in Orange County
Commission Expires Aug. 25, 2021

CONSENT BY RESPONDENT

Respondent International Business Machines Corporation hereby consents to the issuing and entering of this Order without further notice, waives its right to a hearing herein, and agrees to be bound by the terms, conditions and provisions contained in this Order. The undersigned further hereby declares that they have been given the authority to bind the Respondent to the requirements of this Order.

International Business Machines Corporation

Digitally signed by Edan
Dionne
Date: 2020.04.06 06:33:58
-04'00'

Edan Dionne

By [signature]: _____

Signature of Authorized Representative

Print name: Edan Dionne

Title: Vice President, Environmental, Energy &
Chemical Management Programs, IBM Corporate
Environmental Affairs

Date: _____

ACKNOWLEDGMENT

STATE OF NEW YORK)

) ss:

COUNTY OF)

On the _____ day of _____, in the year 2020, before me, the undersigned, personally appeared _____, 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.

Notary Public

If you are unable to secure notarization, you must sign the statement below.

In signing this document, I acknowledge under penalty of perjury that I understand the contents and purpose of this document; the signature above is my own and I signed willingly. I am aware that any false statement made herein is punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law of the State of New York.

Edan

Digitally signed by
Edan Dionne
Date: 2020.04.06
06:34:26 -04'00'

Dionne

Edan Dionne

Appendix A - List of Hazardous Waste Violations

Site: i.Park East Fishkill LLC

EPA ID No. NYD000707901

Beginning Date of Violation: September 15, 2018

1. 6 NYCRR Part 373-1.6(a)(1)—Respondent i.Park EF violated the conditions of their Part 373 Corrective Action Permit for NYD000707901. Specifically, Respondent i.Park EF violated Section 7 of the Statement of Basis, which allows the use and development of the Site for “industrial use.” This violation refers to Sloop Brewing Co.’s operation of a tasting room and restaurant at the Site, which constitutes a commercial use rather than an industrial use.

Exhibit B

The following is a list of the documents referenced in the Order which represent work remaining to be completed:

Building 330C (Sloop Brewing)

- *Revised Full-Scale Sub Slab Depressurization System Design Report – Sloop Brewery*, prepared by GZA GeoEnvironmental, dated August 14, 2019.
- Letter from NYSDEC to iPark, *SSDS Design Report – Sloop Brewery*, dated September 20, 2019.
- *Full-Scale Sub Slab Depressurization System Design Report – Sloop Brewery Addendum No. 1*, prepared by GZA GeoEnvironmental, dated November 19, 2019.

Open Area

- *Site Investigation Report – Sloop Brewing / B338*, prepared by GZA GeoEnvironmental, dated April 26, 2019.
- Letter from NYSDEC to iPark, *Site Investigation Report – Sloop Brewery / Building 338*, dated June 7, 2019.

Building 338

- Letter from NYSDEC to iPark, *Sub-Slab Vapor Investigation Report – Building 338*, dated September 12, 2019.
- *Revised Building 338 Sub-Slab Vapor Investigation Report*, prepared by GZA GeoEnvironmental, dated September 16, 2019.

Building 339

- *Building 339 Pre-Construction Sampling Summary Report*, prepared by Walden Environmental Engineering, PLLC, dated October 23, 2019.
- *Revised Building 339 Vapor Mitigation System Basis of Design*, prepared by Walden Environmental Engineering, PLLC, dated November 7, 2019.
- *Building 339 – Jane Bakes, Indoor Air Quality Testing Plan*, prepared by Walden Environmental Engineering, PLLC, dated November 20, 2019.

- Letter from NYSDEC to iPark, *Building 339 – Jane Bakes Indoor Air Quality Testing Plan*, dated November 22, 2019.
- *B339 Jane Bakes Indoor Air Quality Testing Summary Report*, prepared by Walden Environmental Engineering, PLLC, dated December 6, 2019.
- Letter from NYSDEC to iPark, *B339 Jane Bakes Indoor Air Quality Testing Summary Report*, dated December 13, 2019.

**FORMER IBM EAST FISHKILL FACILITY
DUTCHESS COUNTY
TOWN OF EAST FISHKILL, NEW YORK**

**2070 ROUTE 52
HOPEWELL JUNCTION, NEW YORK 12533**

Appendix P
Request to Import Reuse Fill Material Form

NYSDEC Site Number: 314054
EPA Site Identification Number: NYD000707901

Revisions Summary:

| Revision # | Submitted Date | Summary of Revision | NYSDEC Approval Date |
|------------|----------------|--|----------------------|
| 0 | August 2017 | | |
| 1 | May 2021 | Updated organizational structure to December 2020 SMP template. Includes updates to reflect new ownership and property boundaries; remedial systems installations and operators. | |
| | | | |
| | | | |

TABLE OF CONTENTS

UPDATE TABLE..... ii
1.0 APPLICABILITY 1

LIST OF ATTACHMENTS

- P-1 Request to Import/Reuse Fill or Soil Form (NYSDEC, revised August 2014)

1.0 APPLICABILITY

All materials proposed for import onto the site will be approved by the qualified environmental professional, as defined in 6 NYCRR Part 375, and will be in compliance with provisions in this SMP prior to receipt at the site.

A Request to Import/Reuse Fill or Soil form, provided as **Attachment P-1**, will be prepared and submitted to the NYSDEC project manager allowing a minimum of 5 business days for review.



**NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**



Request to Import/Reuse Fill or Soil

This form is based on the information required by DER-10, Section 5.4(e). Use of this form is not a substitute for reading the applicable Technical Guidance document.

SECTION 1 – SITE BACKGROUND

The allowable site use is:

Have Ecological Resources been identified?

Is this soil originating from the site?

How many cubic yards of soil will be imported/reused?

If greater than 1000 cubic yards will be imported, enter volume to be imported:

SECTION 2 – MATERIAL OTHER THAN SOIL

Is the material to be imported gravel, rock or stone?

Does it contain less than 10%, by weight, material that would pass a size 80 sieve?

Is this virgin material from a permitted mine or quarry?

Is this material recycled concrete or brick from a DEC registered processing facility?

SECTION 3 - SAMPLING

Provide a brief description of the number and type of samples collected in the space below:

Example Text: 5 discrete samples were collected and analyzed for VOCs. 2 composite samples were collected and analyzed for SVOCs, Inorganics & PCBs/Pesticides.

If the material meets requirements of DER-10 section 5.5 (other material), no chemical testing needed.

SECTION 3 CONT'D - SAMPLING

Provide a brief written summary of the sampling results or attach evaluation tables (compare to DER-10, Appendix 5):

Example Text: Arsenic was detected up to 17 ppm in 1 (of 5) samples; the allowable level is 16 ppm.

If Ecological Resources have been identified use the "If Ecological Resources are Present" column in Appendix 5.

SECTION 4 – SOURCE OF FILL

Name of person providing fill and relationship to the source:

Location where fill was obtained:

Identification of any state or local approvals as a fill source:

If no approvals are available, provide a brief history of the use of the property that is the fill source:

Provide a list of supporting documentation included with this request:

The information provided on this form is accurate and complete.

Signature

Date

Print Name

Firm