



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II

JACOB K. JAVITS FEDERAL BUILDING

NEW YORK, NEW YORK 10278-0012

RECEIVED

DEC -1 1993

Region 4  
Headquarters

October 1, 1993

BY REGULAR MAIL

Jeffrey Lacey, Esq.  
Director, Division of Environmental  
Enforcement  
New York State Department of  
Environmental Conservation  
50 Wolf Road  
Albany, NY 12233-0001

Re: Richardson Hill Road Landfill Site, Sidney, New York

Dear Mr. Lacey:

Enclosed please find a copy of two (2) separate orders that the U.S. Environmental Protection Agency ("EPA") recently issued to Amphenol Corporation and AlliedSignal Inc. ("Respondents"), with respect to the Richardson Hill Road Landfill Site. Each order was issued pursuant to Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9606(a).

On September 22, 1993, EPA entered into and issued an administrative order on consent to Respondents. On September 30, 1993, EPA issued a unilateral administrative order to Respondents.

I trust that the enclosed orders will answer any questions you may have concerning this matter. However, if you have any questions, please do not hesitate to call me at (212) 264-6455.

Yours truly,

*Juan M. Fajardo*

Juan M. Fajardo  
Assistant Regional Counsel  
Office of Regional Counsel

Enclosures

cc: Michael O'Toole, P.E.



UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION II

-----X  
IN THE MATTER OF :  
THE RICHARDSON HILL ROAD :  
LANDFILL SITE :  
SIDNEY, NEW YORK :  
:  
Amphenol Corporation, and :  
AlliedSignal Inc., :  
:  
Respondents :  
-----X

ADMINISTRATIVE ORDER ON  
CONSENT FOR REMOVAL ACTION

Index Number II CERCLA-93-0214

Proceeding Under Section  
106(a) of the Comprehensive  
Environmental Response,  
Compensation, and Liability  
Act, as amended, 42 U.S.C.  
§9606(a)

## I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Order on Consent ("Order") is entered into voluntarily by the United States Environmental Protection Agency ("EPA") and the Amphenol Corporation and AlliedSignal Inc. (hereinafter, the "Respondents"). This Order provides for the performance of a removal action by Respondents at the Richardson Hill Road Landfill Site ("Site"), which is located in Sidney, Delaware County, New York.

2. This Order is issued pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9606(a), and delegated to the Administrator of EPA on January 23, 1987, by Executive Order No. 12580 (52 Federal Register 2926, January 29, 1987) and further delegated to the EPA Regional Administrators by EPA Delegation Nos. 14-14-A and 14-14-C.

3. EPA has notified the New York State Department of Environmental Conservation ("NYSDEC") of this Order pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

4. Respondents' execution of and participation in this Order shall not constitute or be construed as an admission of liability or of EPA's Findings of Fact and Conclusions of Law or determinations contained in this Order except in a proceeding to enforce the terms of this Order. Respondents agree to comply with and be bound by the terms of this Order. Respondents further agree that they will not contest the basis or validity of this Order or its terms.

## II. PARTIES BOUND

5. This Order applies to and is binding upon Respondents and their successors and assigns. Respondents agree to instruct their officers, directors, employees and agents involved in the performance of the Work required by this Order to cooperate in carrying out Respondents' obligations under this Order. Respondents agree that their officers, directors, employees, and agents involved in the performance of the Work required by this Order shall take all necessary steps to accomplish the performance of said Work in accordance with this Order. The individuals who have signed this Order on behalf of Respondents certify that they are authorized to bind Respondents to this Order. Any change in the ownership or corporate status of Respondents, including, but not limited to, any transfer of assets or real or personal property, shall not alter the responsibilities that Respondents have under this Order.

6. Respondents shall provide a copy of this Order to any

prospective owners or successors before a controlling interest in Respondents' assets, property rights, or stock are transferred to a prospective owner or successor.

### III. DEFINITIONS

7. Unless otherwise expressly provided herein, terms used in this Order which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or its implementing regulations. Whenever terms listed below are used in this Order or in an attachment to this Order, the following definitions shall apply:

a. "Day" means a calendar day unless otherwise expressly stated. "Working day" shall mean a day other than a Saturday, Sunday, or Federal holiday. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business on the next working day.

b. "Hazardous substance" shall have the meaning provided in Section 101(14) of CERCLA, 42 U.S.C. §9601(14).

c. "Party" or "Parties" means the United States Environmental Protection Agency and/or Respondents.

d. "Waste" means (1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any "pollutant or contaminant" under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (3) any "solid waste" under Section 1004(27) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6903(27); and (4) any mixture containing any of the constituents noted in (1), (2) or (3), above.

e. "Work" means all work and other activities required by and pursuant to this Order.

### IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

8. The Site is located approximately two and one-half (2.5) miles south-southwest of Sidney Center, New York. The Site runs along the western side of Richardson Hill Road near the boundary line of the Town of Sidney and the Town of Masonville, Delaware County, New York. The Site includes an inactive landfill (the "Richardson Hill Road Landfill" or "Landfill"), which includes a waste oil pit, and all areas at which or to which hazardous substances that have been released at or from the Landfill have migrated or come to be located.

9. The Site is on the National Priorities List, 40 CFR Part 300, Appendix B, which has been established pursuant to Section 105(a)(8)(B) of CERCLA, 42 U.S.C. § 9605(a)(8)(B).

10. The Bendix Corporation generated hazardous substances which were disposed of at the Site.

11. The Bendix Corporation merged into the Allied Corporation on April 1, 1985. AlliedSignal Inc. (hereinafter, "Allied") is the successor to the Allied Corporation. As successor to the Bendix Corporation, Allied owned and operated the manufacturing facility formerly owned and operated by the Bendix Corporation in Sidney, Delaware County, New York. This facility generated hazardous substances which were disposed of at the Site.

12. After the merger of the Bendix Corporation into Allied, the Sidney, New York facility became known as the Bendix Connector Operations of Amphenol Products, and was under the management control of the Amphenol Products Division, a division of Allied. In December 1986, the Amphenol Products Division, including the Bendix Connector Operations of Amphenol Products, was incorporated as the Amphenol Corporation ("Amphenol") and became a subsidiary of Allied. On June 2, 1987, Allied sold Amphenol to LPL Investments Inc.

13. The Site constitutes a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

14. The Bendix Corporation arranged for the disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances at the Site, within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3). Respondents are successors in interest to The Bendix Corporation, and are thus responsible parties under Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

15. A Site Inspection Report prepared by Fred C. Hart Associates ("Hart Report") for EPA, dated March 12, 1982, revealed the presence of, among other things, polychlorinated biphenyls ("PCBs"), trichloroethylene ("TCE"), and vinyl chloride in the waste oil pit located at the Site. According to the Hart Report, TCE and PCBs were also found in the soil of the drainage ditch and in the water and sediments of two beaver ponds located downgradient from the landfill and the waste oil pit (hereinafter, the "South Pond"). The New York State Health Department also detected TCE in residential wells near the Site.

16. On July 22, 1987, EPA entered into an administrative order on consent with Respondents requiring them to undertake a remedial investigation and feasibility study ("RI/FS") with respect to the Site. The RI/FS is currently proceeding.

17. On April 22, 1993, a resident of Sidney, New York notified EPA that he had observed dead animals in the area of the South Pond at the Site. On April 26, 1993, EPA's On-Scene Coordinator ("OSC") and Environmental Response Team ("ERT") visited the Site

and confirmed the presence of dead animals.

18. On April 29, 1993, ERT collected water samples from the South Pond and removed dead animals found in or around the South Pond and the North Pond for the purpose of performing autopsies. The OSC and ERT observed a large oily sheen on the west bank of and in the South Pond. Based on these observations, and on data from the Interim Technical Memoranda prepared by O'Brien & Gere for Amphenol during the remedial investigation of the Site, EPA concluded that hazardous substances including, inter alia, PCBs, TCE and vinyl chloride, are seeping from the Richardson Hill Road Landfill into the South Pond.

19. Accordingly, EPA provided Amphenol with the opportunity to enter into an administrative order on consent for the purpose of performing an emergency removal action at the Site. Amphenol declined. On June 21, 1993, EPA issued a unilateral administrative order to Amphenol requiring Amphenol to, among other things, place absorbent booms and absorbent pads in the South Pond for purposes of capturing hazardous substances. To date, Amphenol has fully complied with EPA's June 21, 1993 administrative order.

20. Pursuant to Amphenol's request, EPA did not name Allied as a recipient of the June 21, 1993 administrative order.

21. In June 1993, ERT issued a preliminary report. The report was based on ERT's April 29, 1993 Site inspection and on the results generated from the samples taken during that Site inspection. The report concludes that "the mortality of minnows within the South Pond is related to the release of contaminants from the Richardson Hill Road Landfill Site." Moreover, the report states that the "continued release of contaminants from this site does pose a current and immediate threat to the environment within the South Pond, and the wildlife which may use this site in a transient manner."

22. The Agency for Toxic Substances and Disease Registry (hereinafter, "ATSDR"), in a memorandum dated June 23, 1993, concludes that "water from springs #1 and #3 that is used for household purposes other than drinking...may pose a public health threat." As a result, ATSDR recommends that action be taken to "[p]revent exposure of residents to contaminants...in water from springs #1 and #3." In addition, the ATSDR memorandum states that while "spring #2 contains low levels" of contaminants, those "levels may change over time." Thus, ATSDR recommends monitoring of spring #2. Springs #1, #2 and #3 are located east of the "North Area" at the Site. Spring #1 is located on the west side of Richardson Hill Road, and springs #2 and #3 are located on the east side of Richardson Hill Road. The locations of springs #1, #2 and #3 are also identified in the May 1993 draft Remedial Investigation Report submitted to EPA by Amphenol.

23. In a memorandum dated June 30, 1993, the U.S. Department of Fish and Wildlife's Bureau of Environmental Protection urges EPA to take "immediate action to prevent future wildlife mortalities."

24. On July 6, 1993, EPA issued a Removal Site Evaluation (hereinafter, "RSE") for the Richardson Hill Road Landfill Site. The RSE concludes that there is an ongoing release of hazardous substances into the environment from the Richardson Hill Road Landfill. The RSE states that providing bottled water to residences that use "springs #1 and #3, may not be protective of public health." As a result, the RSE recommends that an "intensive residential water use survey and verification sampling" take place "followed by installation of whole house treatment units."

25. PCBs, TCE and vinyl chloride are hazardous substances within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

26. Exposure to the various hazardous substances present at the Site by direct contact, inhalation, or ingestion may cause a variety of adverse human health effects.

27. The disposal of hazardous substances at the Site and their migration to surrounding soil, sediments, groundwater, and surface water constitute a "release" within the meaning of Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

28. Respondents are persons as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

29. Respondents have been given an opportunity to discuss with EPA the basis for issuance of this Order and its terms.

#### V. DETERMINATIONS

30. The conditions present at the Site constitute a threat to public health, welfare, or the environment based upon factors set forth in Section 300.415(b)(2) of the National Contingency Plan ("NCP"). These factors include, but are not limited to, actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants; and actual or potential contamination of drinking water supplies or sensitive ecosystems.

31. The actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

32. The actions required by this Order are necessary to protect the public health or welfare or the environment, are in the public interest, and are not inconsistent with CERCLA and the NCP, 40 CFR Part 300.

## VI. ORDER

33. Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and other information available to EPA, it is hereby ordered and agreed that Respondents shall undertake a response action at the Site in accordance with the requirements specified below. All activities specified below shall be initiated and completed as soon as possible even though maximum time periods for their completion are specified herein.

### Designation of Contractor and Project Coordinator

34. Within five (5) days after the effective date of this Order, Respondents shall select a Project Coordinator and submit the proposed Project Coordinator's name, address, telephone number, and qualifications to EPA. The Project Coordinator shall be responsible for oversight of the implementation of this Order. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site work. The Project Coordinator shall have technical expertise sufficient to adequately oversee all aspects of the work contemplated by this Order. EPA retains the right to disapprove of any Project Coordinator proposed by Respondents. If EPA disapproves of a proposed Project Coordinator, Respondents shall propose a different Project Coordinator and shall notify EPA of that person's name, address, telephone number, and qualifications within seven (7) days following EPA's disapproval. Receipt by Respondents' approved Project Coordinator of any notice or communication from EPA relating to this Order shall constitute receipt by Respondents. Respondents may change their Project Coordinator, subject to approval by EPA as set forth in this paragraph. Respondents shall notify EPA at least seven (7) days before such a change is made. The initial notification may be orally made but it shall be promptly followed by a written notice.

35. Respondents shall retain a contractor to perform the Work. Respondents shall notify EPA of the name and qualifications of a proposed contractor within five (5) days of the effective date of this Order. Respondents shall also notify EPA of the name and qualifications of any other contractor or subcontractor proposed to perform work under this Order at least ten (10) days prior to commencement of such work.

36. EPA retains the right to disapprove of any, or all, of the contractors and/or subcontractors proposed by the Respondents to conduct the Work. If EPA disapproves of any of Respondents' proposed contractors to conduct the Work, Respondents shall propose a different contractor within seven (7) days of EPA's disapproval.

37. Respondents shall provide a copy of this Order to each contractor and subcontractor approved and retained to perform the work required by this Order. Respondents shall state, in all



contracts or subcontracts entered into for work required under the provisions of this Order, that such contractors or subcontractors, including their agents and employees, shall perform activities required by such contracts or subcontracts in compliance with this Order and all applicable laws and regulations. Respondents shall be responsible for ensuring that their contractors and subcontractors perform the work contemplated herein in accordance with this Order.

38. Respondents shall direct all submissions required by this Order to the EPA On-Scene Coordinator by certified mail at the address provided in paragraph 45 below.

#### Description of Work

39. Within five (5) days of the date of EPA's approval of the Project Coordinator and Contractor pursuant to paragraphs 34 and 35 of this Order, Respondents shall submit a Sampling Plan (hereinafter, "Plan") for EPA review and approval. The Plan shall address those residences that utilize springs #1, #2 and #3 as a water source. The Plan shall govern the retrieval of samples at the tap of those affected residences and shall include the following:

- a. state the number of samples to be taken, the number of sampling events to be performed, and the methodology for the analyses to be performed;
- b. a monitoring program designed to establish contaminant concentrations during peak precipitation and dry periods, and a Quality Assurance/Quality Control ("QA/QC") program that is consistent with EPA guidance;
- c. hazardous substances to be analyzed which shall include, among other things, volatiles, semi-volatiles and pesticides;
- d. a sampling program (not a one-time sampling event) for follow-up sampling in the event that sampling results do not meet or exceed the Removal Action Levels set forth in EPA's Office of Solid Waste and Emergency Response ("OSWER") guidance document #9360.1-01 dated April 8, 1991, and/or other drinking water standards found at 40 C.F.R. Part 141; and
- e. a schedule for implementing the Plan.

40. EPA reserves the right to split samples at any time during the sampling events.

41. Within ten (10) days of the date of EPA's approval of the Project Coordinator and Contractor pursuant to paragraphs 34 and 35 of this Order, Respondents shall submit a Work Plan

(hereinafter, "Work Plan") for EPA review and approval. The Work Plan shall govern the installation of whole in-house water treatment units for those residences utilizing springs #1 and #3 as a water source. The Work Plan shall also govern the installation of whole in-house water treatment units for those residences that utilize spring #2 as a water source if the results from the samples, taken pursuant to paragraph 39 above, warrant their inclusion. In addition, the Work Plan shall include the following:

- a. a description of the units;
- b. a description of the efficiency rating and ability to remove the volatile, semi-volatile and pesticide compounds found at the tap;
- c. a description of the construction/installation procedure as it relates to the individual dwelling;
- d. a description of the long term operation and maintenance program associated with the individual units in order to maintain the efficiency rating; and
- e. a schedule for the implementation of the Work Plan, which shall, among other things, provide for completion of implementation of the Work Plan, with respect to springs #1 and #3, within 90 days of EPA's approval of the Work Plan.

42. EPA either will approve the plans referred to in paragraphs 39 and 41 above (Sampling Plan and Work Plan), or will require modifications thereto pursuant to paragraphs 48-50, below. Those plans shall be deemed to be incorporated into and shall be enforceable parts of this Order, upon their approval by EPA.

43. Within ten (10) days after EPA's approval of the Sampling Plan and/or the Work Plan referred to respectively in paragraphs 39 and 41 above, Respondents shall commence implementation of the EPA-approved plan(s). Respondents shall fully implement the EPA-approved plan(s) in accordance with the terms and schedules therein and in accordance with this Order.

On-scene Coordinator, Other Personnel, and Modifications to  
EPA-Approved Work Plan

44. All activities required of Respondents under the terms of this Order shall be performed only by well-qualified persons possessing all necessary permits, licenses, and other authorizations required by federal, state, and local governments, and all work conducted pursuant to this Order shall be performed in accordance with prevailing professional standards.

45. The current EPA On-Scene Coordinator ("OSC") for the Site is:

Jack Harmon, Removal Action Branch, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, 2890 Woodbridge Avenue, Building 209 (MS-211), Edison, N.J. 08837, (908) 906-6841. EPA will notify the Project Coordinator if EPA's On-Scene Coordinator should change.

46. EPA, including the OSC, will conduct oversight of the implementation of this Order. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other response action undertaken by EPA or Respondents at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

47. As appropriate during the course of implementation of the actions required of Respondents pursuant to this Order, Respondents or thier consultants or contractors, acting through the Project Coordinator, may confer with EPA concerning the required actions. Based upon new circumstances or new information not in the possession of EPA on the date of this Order, the Project Coordinator may request, in writing, EPA approval of modification(s) to the EPA-approved Work Plan. Only modifications approved by EPA in writing shall be deemed effective. Upon approval by EPA, such modifications shall be deemed incorporated in this Order and shall be implemented by Respondents.

#### Plans and Reports Requiring EPA Approval

48. If EPA disapproves or otherwise requires any modifications to any plan, report or other item required to be submitted to EPA for approval pursuant to this Order, Respondents shall have fourteen (14) days from the receipt of notice of such disapproval or the required modifications to correct any deficiencies and resubmit the plan, report, or other written document to EPA for approval, unless a shorter or longer period is specified in the notice. Any notice of disapproval will include an explanation of why the plan, report, or other item is being disapproved. Respondents shall address each of the comments and resubmit the plan, report, or other item with the required changes within the time stated above. At such time as EPA determines that the plan, report, or other item is acceptable, EPA will transmit to Respondents a written statement to that effect.

49. If any plan, report, or other item required to be submitted to EPA for approval pursuant to this Order is disapproved by EPA, even after being resubmitted following Respondents' receipt of EPA's comments on the initial submittal, Respondents shall be deemed to be out of compliance with this Order. If any resubmitted plan, report, or other item, or portion thereof, is disapproved by EPA, EPA may again direct Respondents to make the necessary modifications thereto, and/or EPA may amend or develop the item(s) and recover the costs from Respondents of doing so.

Respondents shall implement any such item(s) as amended or developed by EPA.

50. EPA shall be the final arbiter in any dispute regarding the sufficiency or acceptability of all documents submitted and all activities performed pursuant to this Order. EPA may modify those documents and/or perform or require the performance of additional work unilaterally in accordance with law.

51. All plans, reports and other submittals required to be submitted to EPA pursuant to this Order, upon approval by EPA, shall be deemed to be incorporated in and shall be an enforceable part of this Order.

#### Reporting

52. During the implementation of this Order, Respondents shall provide written progress reports to EPA every two weeks which fully describe all actions and activities undertaken pursuant to this Order. Such progress reports shall, among other things, (a) describe the actions taken toward achieving compliance with this Order during the previous two-week period, (b) include all results of sampling and tests and all other data received by Respondents during that period in the implementation of the Work required hereunder, (c) describe all actions which are scheduled for the next two-week period, (d) include other information relating to the progress of work as is customary in the industry, and (e) include information regarding percentage of completion, all delays encountered or anticipated that may affect the future schedule for completion of the Work required hereunder, and a description of all efforts made to mitigate those delays or anticipated delays.

53. Respondents shall include in the biweekly progress reports required in paragraph 52 above, a schedule for the field activities which are expected to occur pursuant to this Order during the upcoming month. Respondents shall, in addition, provide EPA with at least one week advance notice of any change in that schedule.

54. The Final Report referred to in paragraph 56 below, and other documents submitted by Respondents to EPA which purport to document Respondents' compliance with the terms of this Order shall be signed by a responsible official of Respondents. For purposes of this paragraph, a responsible official is an official who is in charge of a principal business function.

55. The Work Plan, the Final Report, and other documents required to be submitted to EPA under this Order shall be sent to the following addressees:

3 copies to:

Jack Harmon  
U.S. Environmental Protection Agency  
2890 Woodbridge Avenue  
Bldg 209 (MS-211)  
Edison, NJ 08837  
Attention: Richardson Hill Road Landfill Site  
On-Scene Coordinator

1 copy to:

Chief, New York/Caribbean Superfund Branch  
Office of Regional Counsel  
United States Environmental Protection Agency  
26 Federal Plaza, Room 437  
New York, New York 10278  
Attention: Richardson Hill Road Landfill Site  
Attorney

2 copies to:

Michael J. O'Toole, P.E.  
Director, Division of Hazardous Waste Remediation  
New York State Department of Environmental  
Conservation  
50 Wolf Road, Room 212  
Albany, New York 12233-7010  
Attention: Richardson Hill Road Landfill Site  
Program Manager

56. Within thirty (30) days after completion of all removal activities required under this Order, Respondents shall submit for EPA review and approval a Final Report summarizing the actions taken to comply with this Order. The Final Report shall conform, at a minimum, with the requirements set forth in Section 300.165 of the NCP, entitled "OSC Reports." The Final Report shall include:

- a. a synopsis of all Work performed under this Order;
- b. a detailed description of all EPA-approved modifications to the Sampling Plan and/or Work Plan which occurred during Respondents' performance of the Work required under this Order;
- c. a presentation of the analytical results of all sampling and analyses performed, including QA/QC data and chain of custody records;
- d. accompanying appendices containing all relevant documentation generated during the work;

- e. an accounting of expenses incurred by the Respondents at the Site; and
- f. the following certification signed by a person who supervised or directed the preparation of the Final Report:

"I certify that the information contained in and accompanying this certification is true, accurate, and complete."

57. EPA either will approve the Final Report or will require modifications thereto pursuant to paragraphs 48-50 above.

#### Oversight

58. During the implementation of the requirements of this Order, Respondents and their contractor(s) and subcontractors shall be available for such conferences with EPA and inspections by EPA or its authorized representatives as EPA may determine are necessary to adequately oversee the work being carried out or to be carried out by Respondents, including inspections at the Site and at laboratories where analytical work is being done hereunder.

59. Respondents and their employees, agents, contractor(s) and consultant(s) shall cooperate with EPA in its efforts to oversee Respondents' implementation of this Order.

#### Community Relations

60. Respondents shall cooperate with EPA in providing information relating to the work required hereunder to the public. As requested by EPA, Respondents shall participate in the preparation of all appropriate information disseminated to the public; participate in public meetings which may be held or sponsored by EPA to explain activities at or concerning the Site; and provide a suitable location for public meetings, as needed.

#### Access to Property and Information

61. EPA, NYSDEC and their designated representatives, including, but not limited to, employees, agents, contractor(s) and consultant(s) thereof, shall be permitted to observe the Work carried out pursuant to this Order. Respondents shall at all times permit EPA, NYSDEC, and their designated representatives full access to and freedom of movement at the Site and any other premises where Work under this Order is to be performed for purposes of inspecting or observing Respondents' progress in implementing the requirements of this Order, verifying the information submitted to EPA by Respondents, conducting investigations relating to contamination at the Site, or for any other purpose EPA determines to be reasonably related to EPA oversight of the implementation of this Order.

62. Where action under this Order is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall use their best efforts to obtain access agreements from the present owners within twenty (20) days of the effective date of this Order for purposes of implementing the requirements of this Order. Such agreements shall provide access not only for Respondents, but also for EPA and its designated representatives or agents, as well as NYSDEC and its designated representatives or agents. Such agreements shall specify that Respondents are not EPA's representative with respect to liability associated with Site activities. If such access agreements are not obtained by Respondents within the time period specified herein, Respondents shall immediately notify EPA of their failure to obtain access and shall include in that notification a summary of the steps Respondents has taken to attempt to obtain access. Subject to the United States' non-reviewable discretion, EPA may use its legal authorities to obtain access for Respondents, may perform those response actions with EPA contractors at the property in question, or may terminate the Order if Respondents cannot obtain access agreements. If EPA performs those tasks or activities with EPA contractors and does not terminate the Order, Respondents shall perform all other activities not requiring access to that property. Respondents shall integrate the results of any such tasks undertaken by EPA into its reports and deliverables.

63. Respondents shall provide EPA with access to all records and documentation related to the conditions at the Site, hazardous substances found at or released from the Site, and the actions conducted pursuant to this Order. All data, information and records created, maintained, or received by Respondents or their contractor(s) or consultant(s) in connection with implementation of the Work under this Order, including, but not limited to, contractual documents, invoices, receipts, work orders and disposal records shall, without delay, be made available to EPA upon request. EPA shall be permitted to copy all such documents. Respondents shall submit to EPA upon receipt the results of all sampling or tests and all other data generated by Respondents or their contractor(s), or on the Respondents' behalf, during implementation of this Order.

64. Upon request by EPA, Respondents shall provide EPA or its designated representatives with duplicate and/or split samples of any material sampled in connection with the implementation of this Order.

65. Notwithstanding any other provision of this Order, EPA hereby retains all of its information gathering, access, and inspection authority under CERCLA, RCRA and any other applicable statute or regulations.

### Record Retention, Documentation, Availability of Information

66. Respondents shall preserve all documents and information relating to Work performed under this Order, or relating to the hazardous substances found on or released from the Site, for ten years following completion of the removal actions required by this Order. At the end of the ten year period, Respondents shall notify EPA thirty (30) days before any such document or information is destroyed, that such documents and information are available for inspection. Upon request, Respondents shall provide EPA with the originals or copies of such documents and information.

67. All documents submitted by Respondents to EPA in the course of implementing this Order shall be available to the public unless identified as confidential by Respondents pursuant to 40 CFR Part 2, Subpart B, and determined by EPA to merit treatment as confidential business information in accordance with applicable law. In addition, EPA may release all such documents to NYSDEC, and NYSDEC may make those documents available to the public unless Respondent conforms with applicable New York law and regulations regarding confidentiality. Respondents shall not assert a claim of confidentiality regarding any monitoring or hydrogeologic data, any information specified under Section 104(e)(7)(F) of CERCLA, or any other chemical, scientific or engineering data relating to the Work performed hereunder.

### Compliance With Other Laws

68. All actions required pursuant to this Order shall be performed in accordance with all applicable local, state, and federal laws and regulations except as provided in CERCLA §121(e)(1), 42 U.S.C. §9621(e)(1), and 40 CFR §300.415(i). In accordance with 40 CFR §300.415(i), all on-Site actions required pursuant to this Order shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements ("ARARs") under federal environmental or state environmental or facility siting laws. (See "Superfund Removal Procedures: Guidance on the Consideration of ARARs During Removal Actions," OSWER Directive No. 9360.3-02, August 1991).

69. Except as provided in Section 121(e)(1) of CERCLA, 42 U.S.C. §9621(e)(1), and the NCP, no permit shall be required for any portion of the Work required hereunder that is conducted entirely on-Site. Where any portion of the Work requires a federal or state permit or approval, Respondents shall submit timely applications and shall take all other actions necessary to obtain and to comply with all such permits or approvals. This Order is not, nor shall it be construed to be, a permit issued pursuant to any federal or state statute or regulation.



### Emergency Response and Notification of Releases

70. Upon the occurrence of any event during performance of the Work required hereunder which, pursuant to Section 103 of CERCLA, 42 U.S.C. §9603, requires reporting to the National Response Center [(800) 424-8802], Respondents shall immediately orally notify the Chief of the Removal Action Branch of the Emergency and Remedial Response Division of EPA, Region II, at (908) 321-6621, or the EPA Region II Emergency 24-hour Hot Line at (908) 548-8730, of the incident or Site conditions. Respondents shall also submit a written report to EPA within seven (7) days after the onset of such an event, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. The reporting requirements of this paragraph are in addition to, not in lieu of, reporting under CERCLA Section 103, 42 U.S.C. §9603, and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004.

71. In the event of any action or occurrence during Respondents' performance of the requirements of this Order which causes or threatens to cause a release of a hazardous substance or which may present an immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action to prevent, abate, or minimize the threat and shall immediately notify EPA as provided in the preceding paragraph. Respondents shall take such action in accordance with applicable provisions of this Order including, but not limited to, the Health and Safety Plan. In the event that EPA determines that (a) the activities performed pursuant to this Order, (b) significant changes in conditions at the Site, or (c) emergency circumstances occurring at the Site pose a threat to human health or the environment, EPA may direct Respondents to stop further implementation of any actions pursuant to this Order or to take other and further actions reasonably necessary to abate the threat.

72. Nothing in the preceding paragraph shall be deemed to limit any authority of the United States to take, direct, or order all appropriate action to protect human health and the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances on, at, or from the Site.

### Reimbursement of Costs

73. Respondents hereby agree to reimburse EPA for: (a) all direct and indirect costs incurred by EPA in overseeing Respondents' implementation of the requirements of this Order, (b) all direct and indirect costs incurred by EPA in connection with obtaining access for Respondents in accordance with paragraph 62 above, and (c) all other direct and indirect costs incurred by EPA in connection with the implementation of this Order. EPA will

periodically send billings to Respondents for the aforementioned costs. The billings will be accompanied by a printout of cost data in EPA's financial management system and by a calculation of EPA's indirect costs. Respondents shall, within thirty (30) days of receipt of each such billing, remit a cashier's or certified check for the amount of those costs, made payable to the "Hazardous Substance Superfund."

74. The payments that Respondents are required to make pursuant to the preceding paragraph shall be mailed to the following address:

EPA - Region II  
Attn: Superfund Accounting  
P.O. Box 360188M  
Pittsburgh, PA 15251

Each check shall reference the name of the Site (the "Richardson Hill Road Landfill Site") and the index number of this Order. A copy of each check and of the accompanying transmittal letter shall be sent to the EPA addressees identified in paragraph 55 above.

#### Force Majeure

75. "Force majeure", for purposes of this Order, is defined as any event arising from causes beyond the control of Respondents and of any entity controlling, controlled by, or under common control with Respondents, including their contractors and subcontractors, that delays the timely performance of any obligation under this Order notwithstanding Respondents' best efforts to avoid the delay. The requirement that Respondents exercise "best efforts to avoid the delay" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event (1) as it is occurring and (2) following the potential force majeure event, such that the delay is minimized to the greatest extent practicable. Examples of events that are not force majeure events include, but are not limited to, increased costs or expenses of any work to be performed under this Order or the financial difficulty of Respondents to perform such work.

76. If any event occurs or has occurred that may delay the performance of any obligation under this Order, whether or not caused by a force majeure event, Respondents shall notify by telephone the EPA On-Scene Coordinator or, in his absence, the Chief of the Removal Action Branch of the Emergency and Remedial Response Division of EPA Region II within 48 hours of when Respondents knew or should have known that the event might cause a delay. In addition, Respondents shall notify EPA in writing within seven (7) calendar days after the date when Respondents first became aware or should have become aware of the circumstances which may delay or prevent performance. Such

written notice shall be accompanied by all available and pertinent documentation, including third-party correspondence, and shall contain the following: (a) a description of the circumstances, and Respondent's rationale for interpreting such circumstances as being beyond its control (should that be Respondents' claim); (b) the actions (including pertinent dates) that Respondents have taken and/or plans to take to minimize any delay; and (c) the date by which or the time period within which Respondents propose to complete the delayed activities. Such notification shall not relieve Respondents of any of their obligations under this Order. Respondents' failure to timely and properly notify EPA as required by this paragraph shall constitute a waiver of Respondents' right to claim an event of force majeure. The burden of proving that an event constituting a force majeure has occurred shall rest with Respondents.

77. If EPA determines that a delay in performance of a requirement under this Order is or was attributable to a force majeure, the time period for performance of that requirement shall be extended as deemed necessary by EPA. Such an extension shall not alter Respondents' obligation to perform or complete other tasks required by the Order which are not directly affected by the force majeure. Respondents shall use their best efforts to avoid or minimize any delay or prevention of performance of their obligations under this Order.

#### Stipulated and Statutory Penalties

78. If Respondents fail, without prior EPA approval, to comply with any of the requirements or time limits set forth in or established pursuant to this Order, and such failure is not excused under the terms of paragraphs 75 and 76 above (Force Majeure), Respondents shall, upon demand by EPA, pay a stipulated penalty to EPA in the amount indicated below for each day of noncompliance:

#### Days After Required Date

#### Stipulated Penalty

1 to 15 days	\$ 1,000.00/day
16 to 40 days	\$ 2,000.00/day
41 days and beyond	\$ 4,000.00/day

Any such penalty shall accrue as of the first day after the applicable deadline has passed and shall continue to accrue until the noncompliance is corrected. Such penalties shall be due and payable thirty (30) days following receipt of a written demand from EPA. Payment of any such penalty to EPA shall be made by cashier's or certified check made payable to the "Hazardous Substance Superfund," with a notation of the index number of this Order, and shall be mailed to the address set forth in paragraph 74 above. A letter stating the basis for the penalties, the name and address of Respondents, the name of the Site, and the EPA Region number shall accompany any such payment; a copy of the

letter and the check shall be mailed to the EPA addressees listed in paragraph 55 above. Respondents shall pay interest on any amounts overdue under this paragraph. Such interest shall begin to accrue on the first day that the respective payment is overdue. Interest shall accrue at the rate of interest on investments of the Hazardous Substances Superfund, in accordance with Section 107(a) of CERCLA.

79. Even if violations are simultaneous, separate penalties shall accrue for separate violations of this Order. Penalties accrue and are assessed per violation per day. Penalties shall accrue regardless of whether EPA has notified Respondents of a violation or act of noncompliance. The payment of penalties shall not alter in any way Respondents' obligation to complete the performance of the Work required under this Order.

80. Notwithstanding any other provision of this Order, failure of Respondents to comply with any provision of this Order may subject Respondents to civil penalties of up to twenty-five thousand dollars (\$25,000) per violation per day, as provided in Section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1), unless such failure to comply is excused by EPA under the terms of paragraphs 75-76 above. Respondents may also be subject to punitive damages in an amount at least equal to and not more than three times the amount of any costs incurred by the United States as a result of such failure to comply with this Order, as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Should Respondents violate this Order or any portion thereof, EPA may carry out the required actions unilaterally, pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, and/or may seek judicial enforcement of this Order pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606.

#### Reservation of Rights

81. Nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, from taking other legal or equitable action as it deems appropriate, or from requiring the Respondent in the future to perform additional activities pursuant to CERCLA or any other applicable law. EPA reserves the right to bring an action against Respondents under Section 107 of CERCLA, 42 U.S.C. § 9607, for recovery of any response costs incurred by the United States related to this Order or the Site and not reimbursed by Respondents.

#### Other Claims

82. By issuance of this Order, the United States and EPA assume

no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents or Respondents' employees, agents, contractors, or consultants in carrying out any action or activity pursuant to this Order. The United States or EPA shall not be held out as or deemed a party to any contract entered into by the Respondents or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Order.

83. Nothing in this Order constitutes or shall be construed as a satisfaction of or release from any claim or cause of action against the Respondents or any person not a party to this Order for any liability that Respondents or other persons may have under CERCLA, other statutes, or the common law, including but not limited to any claims of the United States for injunctive relief, costs, damages, and interest under Sections 106(a) and 107 of CERCLA, 42 U.S.C. §§ 9606(a) and 9607. Nothing herein shall constitute a finding that Respondents are the only responsible parties with respect to the release and threatened release of hazardous substances at and from the Site.

84. Nothing in this Order shall affect any right, claim, interest, defense, or cause of action of any party hereto with respect to third parties.

85. Nothing in this Order shall be construed to constitute preauthorization under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2), and 40 CFR § 300.700(d).

86. Respondents hereby waive any rights they may have to seek reimbursement pursuant to Sections 106(b)(2), 111 and/or 112 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9611, 9612, or any other provision of law, either directly or indirectly, from EPA or the Hazardous Substance Superfund of costs incurred by Respondents in complying with this Order.

#### Indemnification

87. Respondents agree to indemnify, save, and hold harmless the United States, its agencies, departments, officials, agents, contractors, subcontractors, employees, and representatives from any and all claims or causes of action arising from or on account of acts or omissions of Respondents, their employees, officers, directors, agents, servants, receivers, trustees, successors, assigns, or any other persons acting on behalf of Respondents or under its control, as a result of the fulfillment or attempted fulfillment of the terms and conditions of this Order by Respondents.

88. Respondents waive all claims against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any

contract, agreement, or arrangement between Respondents and any person for performance of Work on or relating to the Site, including, but not limited to, claims on account of construction delays. In addition, Respondents shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Respondents and any person for performance of Work on or relating to the Site, including but not limited to, claims on account of construction delays.

89. Further, the Respondents agree to pay the United States all costs it incurs including, but not limited to, attorneys fees and other expenses of litigation and settlement arising from, or on account of, claims made against the United States based on acts or omissions of Respondents, their officers, directors, employees, agents, contractors, subcontractors, and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Order.

#### Insurance

90. At least seven (7) days prior to commencing any Work at the Site, Respondents shall submit to EPA a certification that Respondents or their contractors and subcontractors have adequate insurance coverage or have indemnification for liabilities for injuries or damages to persons or property which may result from the activities to be conducted by or on behalf of Respondents pursuant to this Order. Respondents shall ensure that such insurance or indemnification is maintained for the duration of the Work required by this Order.

#### Modifications

91. This Order may be amended by mutual agreement of EPA and Respondents. Such amendments shall be in writing and shall have as their effective date that date on which such amendments are signed by EPA.

92. No informal advice, guidance, suggestion, or comment by EPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondents shall relieve Respondents of their obligation to obtain such formal approval as may be required by this Order and to comply with all requirements of this Order unless it is formally modified.

#### Termination and Satisfaction


93. Upon a determination by EPA (following its receipt of the Final Report referred to in paragraph 56 above) that the Work required pursuant to this Order has been fully carried out in accordance with this Order, EPA will so notify Respondents in writing.

Effective Date and Effect of Consent

94. This Order shall become effective on the date of its receipt by Respondents. All times for performance of actions or activities required herein will be calculated from said effective date.

95. By signing and taking actions under this Order, Respondents do not necessarily agree with the Findings of Fact and Conclusions of Law contained herein. Respondents do not admit any legal liability or waive any defenses or causes of action with respect to issues addressed in this Order, except as otherwise provided in this Order. However, Respondents agree not to contest the authority or jurisdiction of the Regional Administrator of EPA Region II to issue this Order, and Respondents also agree not to contest the validity or terms of this Order in any action to enforce its provisions.

U.S. ENVIRONMENTAL PROTECTION AGENCY

  
WILLIAM J. MUSZYNSKI, P.E.  
Acting Regional Administrator  
U.S. Environmental Protection Agency  
Region II

Sept. 22, 1993  
Date of Issuance

CONSENT

The Respondent named below has had an opportunity to confer with EPA to discuss the terms and the issuance of this Order. The Respondent hereby consents to the issuance of this Order and to its terms. Furthermore, the individual signing this Order on behalf of Respondent certifies that he or she is fully and legally authorized to agree to the terms and conditions of this Order and to bind Respondent.

AMPHENOL CORPORATION

  
(Signature)

Sep 20, 1993  
(Date)

SAMUEL S. WALDO  
(Printed Name of Signatory)

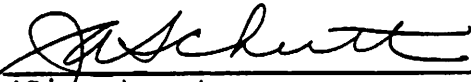
DIRECTOR, ENVIRONMENTAL AFFAIRS  
(Title of Signatory)



CONSENT

The Respondent named below has had an opportunity to confer with EPA to discuss the terms and the issuance of this Order. The Respondent hereby consents to the issuance of this Order and to its terms. Furthermore, the individual signing this Order on behalf of Respondent certifies that he or she is fully and legally authorized to agree to the terms and conditions of this Order and to bind Respondent.

ALLIEDSIGNAL INC.

  
(Signature)

September 16, 1993  
(Date)

James A. Schutt  
(Printed Name of Signatory)

Director, Manufacturing Services  
(Title of Signatory)

IN THE MATTER OF THE RICHARDSON  
HILL ROAD LANDFILL SITE  
SIDNEY, NEW YORK

## Respondents

Proceeding Under Section 106(a) :  
of the Comprehensive Environmental :  
Response, Compensation, and Liability :  
Act, as amended, 42 U.S.C. §9606(a) :

# ADMINISTRATIVE ORDER

Index Number  
II-CERCLA-93-0217

1. This Administrative Order (hereinafter, "Order") is issued to the Amphenol Corporation and AlliedSignal Inc. (hereinafter, "Respondents") and provides for the performance of a removal action by Respondents at the Richardson Hill Road Landfill Site ("Site"), which is located in Sidney, Delaware County, New York.

2. This Order is issued pursuant to the authority vested in the President of the United States under Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9606(a), which authority was delegated to the Administrator of the United States Environmental Protection Agency ("EPA") on January 23, 1987, by Executive Order No. 12580 (52 Federal Register 2926, January 29, 1987) and further delegated to the EPA Regional Administrators by EPA Delegation Nos. 14-14-A and 14-14-C.

3. EPA has notified the New York State Department of Environmental Conservation ("NYSDEC") of this Order pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

4. Unless otherwise expressly provided herein, terms used in this Order which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or its implementing regulations. Whenever terms listed below are used in this Order or in an attachment to this Order, the following definitions shall apply:

a. "Day" means a calendar day unless otherwise expressly stated. "Working day" shall mean a day other than a Saturday, Sunday, or Federal holiday. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or Federal Holiday, the period shall run until the close of business on the next working day.

b. "Hazardous substance" shall have the meaning provided in Section 101(14) of CERCLA, 42 U.S.C. §9601(14).

c. "Party" or "Parties" means the United States Environmental Protection Agency and/or Respondent.

d. "Waste" means (1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any "pollutant or contaminant" under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (3) any "solid waste" under Section 1004(27) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6903(27); and (4) any mixture containing any of the constituents noted in (1), (2) or (3), above.

e. "Work" means all work and other activities required by and pursuant to this Order.

### III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

5. The Site is located approximately two and one-half (2.5) miles south-southwest of Sidney Center, New York. The Site runs along the western side of Richardson Hill Road near the boundary line of the Town of Sidney and the Town of Masonville, Delaware County, New York. The Site includes an inactive landfill (the "Richardson Hill Road Landfill" or "Landfill"), which includes a waste oil pit, and all areas at which or to which hazardous substances that have been released at or from the Landfill have migrated or come to be located.

6. The Site is on the National Priorities List, 40 CFR Part 300, Appendix B, which has been established pursuant to Section 105(a)(8)(B) of CERCLA, 42 U.S.C. § 9605(a)(8)(B).

7. The Bendix Corporation generated hazardous substances which were disposed of at the Site.

8. The Bendix Corporation merged into the Allied Corporation on April 1, 1985. AlliedSignal Inc. (hereinafter "Allied") is the successor to the Allied Corporation. As successor to the Bendix Corporation, Allied owned and operated the manufacturing facility formerly owned and operated by the Bendix Corporation in Sidney, Delaware County, New York. This facility generated hazardous substances which were disposed of at the Site.

9. After the merger of the Bendix Corporation into Allied, the

Sidney, New York facility became known as the Bendix Connector Operations of Amphenol Products, and was under the management control of the Amphenol Products Division, a division of Allied. In December 1986, the Amphenol Products Division, including the Bendix Connector Operations of Amphenol Products, was incorporated as the Amphenol Corporation ("Amphenol") and became a subsidiary of Allied. On June 2, 1987, Allied sold Amphenol to LPL Investments Inc.

10. The Site constitutes a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

11. The Bendix Corporation arranged for the disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances at the Site, within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3). Respondents are successors in interest to The Bendix Corporation, and are thus responsible parties under Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

12. A Site Inspection Report prepared by Fred C. Hart Associates ("Hart Report") for EPA, dated March 12, 1982, revealed the presence of, among other things, polychlorinated biphenyls ("PCBs"), trichloroethylene ("TCE"), and vinyl chloride in the waste oil pit located at the Site. According to the Hart Report, TCE and PCBs were also found in the soil of the drainage ditch and in the water and sediments of two beaver ponds located downgradient from the Landfill and the waste oil pit (hereinafter, the "South Pond"). The New York State Health Department also detected TCE in residential wells near the Site.

13. On July 22, 1987, EPA issued an administrative order on consent to Respondents requiring them to undertake a remedial investigation and feasibility study ("RI/FS") with respect to the Site. The RI/FS is currently proceeding.

14. On April 22, 1993, a resident of Sidney, New York notified EPA that he had observed dead animals in the area of the South Pond at the Site. On April 26, 1993, EPA's On-Scene Coordinator ("OSC") and Environmental Response Team ("ERT") visited the Site and confirmed the presence of dead animals.

15. On April 29, 1993, ERT collected water samples from the South Pond and removed dead animals found in or around the South Pond and the North Pond for the purpose of performing autopsies. The OSC and ERT observed a large oily sheen on the west bank of and in the South Pond. Based on these observations, and on data from the Interim Technical Memoranda prepared by O'Brien & Gere for Amphenol during the remedial investigation of the Site, EPA concluded that hazardous substances including, inter alia, PCBs, TCE and vinyl chloride, are seeping from the Richardson Hill Road Landfill into the South Pond.

16. Accordingly, EPA provided Amphenol with the opportunity to enter into an administrative order on consent for the purpose of performing an emergency removal action at the Site. Amphenol declined. On June 21, 1993, EPA issued a unilateral administrative order to Amphenol requiring Amphenol to, among other things, place absorbent booms and absorbent pads in the South Pond for purposes of capturing hazardous substances.

17. Pursuant to Amphenol's request, EPA did not name Allied as a recipient of the June 21, 1993 administrative order.

18. In June 1993, ERT issued a preliminary report. The report was based on ERT's April 29, 1993 Site inspection and on the results generated from the samples taken during that Site inspection. The report concludes that "the mortality of minnows within the South Pond is related to the release of contaminants from the Richardson Hill Road Landfill Site." Moreover, the report states that the "continued release of contaminants from this site does pose a current and immediate threat to the environment within the South Pond, and the wildlife which may use this site in a transient manner."

19. By letter dated June 16, 1993, the United States Department of the Interior, Fish and Wildlife Service, informed EPA that the Site poses "an immediate, toxic threat to aquatic organisms" and as such, recommended that "the USEPA consider a prompt removal of major VOC and PCB sources."

20. On June 17, 1993, EPA's Water Management Division issued a memorandum stating that the "site poses a substantial threat to the surrounding environment due to continued seepage/discharge from the [Richardson Hill Road Landfill]."

21. In a memorandum dated June 30, 1993, the New York State Department of Environmental Conservation's Division of Fish and Wildlife, Bureau of Environmental Protection, urged EPA to take "immediate action to prevent future wildlife mortalities and further releases of hazardous wastes."

22. On July 6, 1993, EPA issued a Removal Site Evaluation (hereinafter, "RSE") for the Richardson Hill Road Landfill Site. The RSE concludes, inter alia, that there is an ongoing release of hazardous substances from the Richardson Hill Road Landfill into the South Pond and that this release is causing a significant adverse impact on ecological receptors. Source removal as well as a limited pump and treat system designed to control plume migration are, in addition to other actions, recommended in the RSE.

23. On July 7, 1993, EPA's Biological Technical Assistance Group (hereinafter, "BTAG") issued a memorandum stating that "an immediate removal action for the waste oil pit is warranted."

24. On September 22, 1993, EPA issued an administrative order on consent that requires Respondents to, among other things, conduct sampling at the tap at certain residences in the vicinity of the Site and install whole in-house water treatment units at certain residences.

25. PCBs, TCE and vinyl chloride are hazardous substances within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

26. Exposure to the various hazardous substances present at the Site by direct contact, inhalation, or ingestion may cause a variety of adverse human health effects.

27. The disposal of hazardous substances at the Site and their migration to surrounding soil, sediments, groundwater, and surface water constitute a "release" within the meaning of Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

28. Respondents are persons as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

29. The Work required by this Order is intended as an interim or "early" response action, and is not intended to serve as a permanent remedy for this Site.

#### IV. DETERMINATIONS

30. The conditions present at the Site constitute a threat to public health, welfare, or the environment based upon factors set forth in Section 300.415(b)(2) of the National Contingency Plan ("NCP"). These factors include, but are not limited to, actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants; and actual or potential contamination of drinking water supplies or sensitive ecosystems.

31. The actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

32. The actions required by this Order are necessary to protect the public health or welfare or the environment, are in the public interest, and are consistent with CERCLA and the NCP, 40 CFR Part 300.

#### V. ORDER

33. Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and other information available to EPA, it is hereby ordered that Respondents shall undertake a response action at the Site in accordance with the requirements specified below. All activities specified below shall be initiated and completed as

soon as possible even though maximum time periods for their completion are specified herein.

#### Designation of Contractor and Project Coordinator

34. Within five (5) days after the effective date of this Order, Respondents shall select a Project Coordinator and submit the proposed Project Coordinator's name, address, telephone number, and qualifications to EPA. The Project Coordinator shall be responsible for oversight of the implementation of this Order. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site work. The Project Coordinator shall have technical expertise sufficient to adequately oversee all aspects of the work contemplated by this Order. EPA retains the right to disapprove of any Project Coordinator proposed by Respondents. If EPA disapproves of a proposed Project Coordinator, Respondents shall propose a different Project Coordinator and shall notify EPA of that person's name, address, telephone number, and qualifications within seven (7) days following EPA's disapproval. Receipt by Respondents' approved Project Coordinator of any notice or communication from EPA relating to this Order shall constitute receipt by Respondents. Respondents may change their Project Coordinator, subject to approval by EPA as set forth in this paragraph. Respondents shall notify EPA at least seven (7) days before such a change is made. The initial notification may be orally made but it shall be promptly followed by a written notice.

35. Respondents shall retain a contractor to perform the Work. Respondents shall notify EPA of the name and qualifications of the proposed contractor within ten (10) days of the effective date of this Order. Respondents shall also notify EPA of the name and qualifications of any other contractor or subcontractor proposed to perform work under this Order at least ten (10) days prior to commencement of such work.

36. EPA retains the right to disapprove of any, or all, of the contractors and/or subcontractors proposed by the Respondents to conduct the Work. If EPA disapproves of any of Respondents' proposed contractors to conduct the Work, Respondents shall propose a different contractor within seven (7) days of EPA's disapproval.

37. Respondents shall provide a copy of this Order to each contractor and subcontractor approved and retained to perform the work required by this Order. Respondents shall state, in all contracts or subcontracts entered into for work required under the provisions of this Order, that such contractors or subcontractors, including their agents and employees, shall perform activities required by such contracts or subcontracts in compliance with this Order and all applicable laws and regulations. Respondents shall be responsible for ensuring that their contractors and subcontractors perform the work contemplated herein in accordance

with this Order.

38. Respondents shall direct all submissions required by this Order to the EPA On-Scene Coordinator by certified mail at the address provided in paragraph 50 below.

#### Description of Work

39. Within twenty (20) days of the effective date of this Order, Respondents shall submit to EPA for review and approval a detailed work plan (hereinafter, the "Work Plan") for the excavation and removal of waste material and contaminated soil and debris in the waste oil pit and hot spots located at soil borings SB-10 and B-16. The depth of such excavation shall be 14 feet in all of the waste oil pit and 12 feet in the hot spots located at soil borings SB-10 and B-16; provided that the Work Plan may propose the cessation of excavation at a higher depth if appropriate field screening or other analyses show a substantial drop-off of contaminant levels at a higher depth, such that the residual contaminant levels do not, as determined by EPA, present an immediate concern, for purposes of the scope of this interim response action. The locations of the waste oil pit and the aforementioned hot spots are shown on figures 7 and 8 attached hereto as Appendix I (B-16 is shown on figure 7, while SB-10 is shown on figure 8). The Work Plan shall, at a minimum, contain the following:

- a) Site Operations Plan that includes proposed removal activities, Site logistics, description of the areas to be excavated, anticipated volume of waste material to be excavated, excavation strategy, site preparation and layout details, equipment which will be used, and critical personnel. The Site Operations Plan shall also include a staging plan for the storage of containers prior to their off-Site (or, if approved by EPA, on-Site) disposal and/or treatment.
- b) Schedule for the implementation and completion of all field work that is to be performed pursuant to the Work Plan. The Schedule shall ensure that all such field work is completed within six (6) months of this Order's effective date. The Schedule shall also include critical milestones, such as the date that field work is to begin, the anticipated return date of analytical results, and an off-Site (or, if appropriate, on-Site) treatment and/or disposal time frame.
- c) Disposal Plan to govern the sampling and analysis for disposal characteristics of all excavated materials, and the off-Site (or, if appropriate, On-Site) disposal and/or treatment of the excavated materials. The Disposal Plan shall include a strategy for obtaining



representative samples from said materials as well as a disposal analytical strategy and a strategy for the quick turnaround of analytical data. In addition, with respect to off-Site disposal, the Disposal Plan shall include the identification of Resource Conservation and Recovery Act ("RCRA") permitted Treatment Storage and Disposal Facilities ("TSDFs") that Respondents anticipate will receive said materials. The identification of RCRA facilities shall be in compliance with paragraph 73 below.

- d) Exploratory Boring Plan and Field Testing Plan. The Exploratory Boring Plan shall be designed to determine: i) whether substantial drop-offs of contaminant levels exist in the waste oil pit and in hot spots located at soil borings SB-10 and B-16, and if so, at what locations; and ii) whether grossly contaminated waste material or soil or debris remains after excavation, as described above, of contaminated materials from the waste oil pit and the aforementioned hot spots. If such gross contamination does remain, EPA may direct Respondents to conduct further excavation under this Order. In addition, the Field Testing Plan shall include the name and description of each piece of field equipment and/or instrument that will be used. Any and all field equipment and/or instruments selected shall ensure, among other things, the quick turnaround of sampling results; particular attention should be given to direct read-out equipment and/or instruments.
- e) Quality Assurance/Quality Control ("QA/QC") plan, including a description of Chain of Custody procedures shall be prepared in accordance with EPA's "Test Methods for Evaluating Solid Waste" (SW-846), 3d ed.; and "Interim Guidelines and Specifications for Preparing Quality Assurance Project Plans" (QAMS-005-80); and "Sampling QA/QC and Data Validation Procedures" (OSWER Directive Number 9360.4-01); and "Environmental Response Team Standard Operating Procedures," (OSWER Directive Number 9360.4-02 through 9360.4-08). Respondents shall provide EPA with the quality assurance/quality control procedures to be followed by all sampling teams and laboratories performing data collection and/or analysis.
- f) Health and Safety Plan to address Site activities for the protection of all personnel on-Site and nearby populations. The Health and Safety Plan shall satisfy the requirements of 29 CFR Part 1910.120, Hazardous Waste Operations Standards, and EPA's "Standard Operating Safety Guides" (OSWER, 1988).

40. EPA either will approve the Work Plan, or will require modifications thereto pursuant to paragraphs 53 through 56 below.

Upon its approval by EPA, the Work Plan shall be deemed to be incorporated into and shall be an enforceable part of this Order.

41. Within ten (10) days after EPA's approval of the Work Plan, Respondents shall commence implementation of the EPA-approved Work Plan. Respondents shall fully implement the EPA-approved Work Plan in accordance with the terms and schedule therein and in accordance with this Order.

42. Within twenty (20) days of the effective date of this Order, Respondents shall submit a work plan (hereinafter, "Work Plan II") to EPA for the design and implementation of an on-Site system to address the light non-aqueous phase liquid ("LNAPL") as well as the free phase liquid which is present in the groundwater plume that is migrating towards the South Pond. The purpose of the system shall be to mitigate the migration of contaminated water into the South Pond. Therefore, the system shall be designed to contain and remove LNAPL and to remove and treat free phase liquid that is migrating towards the South Pond. The system shall achieve at least the following objectives:

- a) LNAPL shall be actively removed and temporarily stored on-Site. The LNAPL shall then be profiled and disposed at a RCRA-permitted and CERCLA-approved treatment, storage and disposal facility;
- b) the system shall be able to handle peak flows, such as spring runoff;
- c) the system shall be constructed and operational within two (2) months from the date that EPA approves Work Plan II;
- d) the system shall be able to maintain its integrity for at least five (5) years; and
- e) the free phase liquid which is present in the plume shall be pumped and treated by a treatment method approved by EPA for this action, and released back into the South Pond.

43. Work Plan II shall include the following:

- a) Site Operations Plan that includes proposed removal activities, Site logistics, site preparation and layout details, a detailed description of the system's design (including the proposed treatment method), flow rates, pumping capacity (which must equal flow rates), and a staging plan for the storage of the removed LNAPL prior to off-Site disposal;
- b) Schedule for the implementation and completion of all work that shall be performed pursuant to Work Plan II.

The Schedule shall also include critical milestones, such as the date that field work is to begin, the anticipated return date of analytical results, and an off-Site disposal time frame for the removed LNAPL;

- c) Sampling and Analytical Plan that ensures that the separated water has attained the needed degree of treatment (as verified through the use of gas chromatography) for, among others, the following compounds: oil; PCBs; 1,2-dichloroethene; trichloroethene; xylenes; toluene; 1,1,1-trichloroethane; methylene chloride; vinyl chloride; 1,1-dichloroethene; 1,1-dichloroethane; chloroform; chlorobenzene; ethylbenzene; 2-butanone; and acetone. The Sampling and Analytical Plan shall include a sampling plan with a duration of five (5) years from the date of EPA's approval of Work Plan II;
- d) Quality Assurance/Quality Control ("QA/QC") plan, including a description of Chain of Custody procedures shall be prepared in accordance with EPA's "Test Methods for Evaluating Solid Waste" (SW-846), 3d ed.; and "Interim Guidelines and Specifications for Preparing Quality Assurance Project Plans" (QAMS-005-80); and "Sampling QA/QC and Data Validation Procedures" (OSWER Directive Number 9360.4-01); and "Environmental Response Team Standard Operating Procedures," (OSWER Directive Number 9360.4-02 through 9360.4-08). Respondents shall provide EPA with the quality assurance/quality control procedures to be followed by all sampling teams and laboratories performing data collection and/or analysis; and
- e) Health and Safety Plan to address Site activities for the protection of all personnel on-Site and nearby populations. The Health and Safety Plan shall satisfy the requirements of 29 CFR Part 1910.120, Hazardous Waste Operations Standards, and EPA's "Standard Operating Safety Guides" (OSWER, 1988).

44. EPA either will approve Work Plan II, or will require modifications thereto pursuant to paragraphs 53 through 56 below. Upon its approval by EPA, Work Plan II shall be deemed to be incorporated into and shall be an enforceable part of this Order.

45. Within ten (10) days after EPA's approval of Work Plan II, Respondents shall commence implementation of the EPA-approved Work Plan II. Respondents shall fully implement the EPA-approved Work Plan II in accordance with the terms and schedule therein and in accordance with this Order.

46. Nothing in this Order shall preclude EPA from issuing a separate administrative order to Respondents under Section 106 of

CERCLA or any other provision of law or from initiating other proceedings to require Respondents to perform or pay the costs of additional soil/waste excavation and disposal, or additional containment or removal of groundwater contamination beyond that required pursuant to this Order.

47. Respondents shall notify EPA of the names and addresses of all off-Site waste treatment, storage, or disposal facilities selected by Respondents to receive wastes from the Site. Respondents shall provide such notification to EPA at least five (5) days prior to off-Site shipment of such wastes.

48. At the time of completion of all activities required by this Order, demobilization shall include sampling and proper disposal or decontamination of protective clothing, remaining laboratory samples taken pursuant to this Order, and any equipment or structures constructed to facilitate the cleanup.

On-scene Coordinator, Other Personnel, and Modifications to  
EPA-Approved Work Plan

49. All activities required of Respondents under the terms of this Order shall be performed only by well-qualified persons possessing all necessary permits, licenses, and other authorizations required by federal, state, and local governments, and all work conducted pursuant to this Order shall be performed in accordance with prevailing professional standards.

50. The current EPA On-Scene Coordinator ("OSC") for the Site is: Jack Harmon, Removal Action Branch, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, 2890 Woodbridge Avenue, Building 209 (MS-211), Edison, N.J. 08837, (908) 906-6841. EPA will notify the Project Coordinator if EPA's On-Scene Coordinator should change.

51. EPA, including the OSC, will conduct oversight of the implementation of this Order. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other response action undertaken by EPA or Respondents at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

52. As appropriate during the course of implementation of the actions required of Respondents pursuant to this Order, Respondents or their consultants or contractors, acting through the Project Coordinator, may confer with EPA concerning the required actions. Based upon new circumstances or new information not in the possession of EPA on the date of this Order, the Project Coordinator may request, in writing, EPA approval of modification(s) to the EPA-approved Work Plan. Only modifications approved by EPA in writing shall be deemed effective. Upon approval by EPA, such modifications shall

be deemed incorporated in this Order and shall be implemented by Respondents.

#### Plans and Reports Requiring EPA Approval

53. If EPA disapproves or otherwise requires any modifications to any plan, report or other item required to be submitted to EPA for approval pursuant to this Order, Respondents shall have fourteen (14) days from the receipt of notice of such disapproval or the required modifications to correct any deficiencies and resubmit the plan, report, or other written document to EPA for approval, unless a shorter or longer period is specified in the notice. Any notice of disapproval will include an explanation of why the plan, report, or other item is being disapproved. Respondents shall address each of the comments and resubmit the plan, report, or other item with the required changes within the time stated above. At such time as EPA determines that the plan, report, or other item is acceptable, EPA will transmit to Respondents a written statement to that effect.

54. If any plan, report, or other item required to be submitted to EPA for approval pursuant to this Order is disapproved by EPA, even after being resubmitted following Respondents' receipt of EPA's comments on the initial submittal, Respondents shall be deemed to be out of compliance with this Order. If any resubmitted plan, report, or other item, or portion thereof, is disapproved by EPA, EPA may again direct Respondents to make the necessary modifications thereto, and/or EPA may amend or develop the item(s) and recover the costs from Respondents of doing so. Respondents shall implement any such item(s) as amended or developed by EPA.

55. EPA shall be the final arbiter in any dispute regarding the sufficiency or acceptability of all documents submitted and all activities performed pursuant to this Order. EPA may modify those documents and/or perform or require the performance of additional work unilaterally.

56. All plans, reports and other submittals required to be submitted to EPA pursuant to this Order, upon approval by EPA, shall be deemed to be incorporated in and shall be an enforceable part of this Order.

#### Reporting

57. During the implementation of this Order, Respondents shall provide written progress reports to EPA every two weeks which fully describe all actions and activities undertaken pursuant to this Order. Such progress reports shall, among other things, (a) describe the actions taken toward achieving compliance with this Order during the previous two-week period, (b) include all results of sampling and tests and all other data received by

Respondent during that period in the implementation of the Work required hereunder, (c) describe all actions which are scheduled for the next two-week period, (d) include other information relating to the progress of work as is customary in the industry, (e) include the Certificates of Destruction referred to in paragraph 75 below, and (f) include information regarding percentage of completion, all delays encountered or anticipated that may affect the future schedule for completion of the Work required hereunder, and a description of all efforts made to mitigate those delays or anticipated delays.

58. Respondents shall include in the biweekly progress reports required in paragraph 57 above, a schedule for the field activities which are expected to occur pursuant to this Order during the upcoming month. Respondents shall, in addition, provide EPA with at least one week advance notice of any change in that schedule.

59. The Final Report referred to in paragraph 61 below, and other documents submitted by Respondents to EPA which purport to document Respondents' compliance with the terms of this Order shall be signed by a responsible official of Respondents. For purposes of this paragraph, a responsible official is an official who is in charge of a principal business function.

60. The Work Plan, Work Plan II, the Final Report, and other documents required to be submitted to EPA under this Order shall be sent to the following addressees:

3 copies to:

Jack Harmon  
U.S. Environmental Protection Agency  
2890 Woodbridge Avenue  
Bldg 209 (MS-211)  
Edison, NJ 08837  
Attention: Richardson Hill Road Landfill Site  
On-Scene Coordinator

1 copy to:

Chief, New York/Caribbean Superfund Branch  
Office of Regional Counsel  
United States Environmental Protection Agency  
26 Federal Plaza, Room 437  
New York, New York 10278  
Attention: Richardson Hill Road Landfill Site  
Attorney

2 copies to:

Michael J. O'Toole, P.E.  
Director, Division of Hazardous Waste Remediation  
New York State Department of Environmental  
Conservation  
50 Wolf Road, Room 212  
Albany, New York 12233-7010  
Attention: Richardson Hill Road Landfill Site  
Program Manager

61. Within thirty (30) days after completion of all removal activities required under this Order, Respondents shall submit for EPA review and approval a Final Report summarizing the actions taken to comply with this Order. The Final Report shall conform, at a minimum, with the requirements set forth in Section 300.165 of the NCP, entitled "OSC Reports." The Final Report shall include:

- a. a synopsis of all Work performed under this Order;
- b. a detailed description of all EPA-approved modifications to the Work Plan and to Work Plan II which occurred during Respondents' performance of the Work required under this Order;
- c. a listing of quantities and types of materials removed from the Site or handled on-Site;
- d. a discussion of removal, treatment and disposal options considered for those materials;
- e. a listing of the ultimate destination of those materials;
- f. a presentation of the analytical results of all sampling and analyses performed, including QA/QC data and chain of custody records;
- g. accompanying appendices containing all relevant documentation generated during the work (e.g., manifests, invoices, bills, contracts, and permits).
- h. an accounting of expenses incurred by the Respondents at the Site; and
- i. the following certification signed by a person who supervised or directed the preparation of the Final Report:

"I certify that the information contained in and accompanying this certification is true, accurate, and complete."

62. EPA either will approve the Final Report or will require modifications thereto pursuant to paragraphs 53 through 56, above.

#### Oversight

63. During the implementation of the requirements of this Order, Respondents and their contractor(s) and subcontractors shall be available for such conferences with EPA and inspections by EPA or its authorized representatives as EPA may determine are necessary to adequately oversee the work being carried out or to be carried out by Respondents, including inspections at the Site and at laboratories where analytical work is being done hereunder.

64. Respondents and their employees, agents, contractor(s) and consultant(s) shall cooperate with EPA in its efforts to oversee Respondents' implementation of this Order.

#### Community Relations

65. Respondents shall cooperate with EPA in providing information relating to the work required hereunder to the public. As requested by EPA, Respondents shall participate in the preparation of all appropriate information disseminated to the public; participate in public meetings which may be held or sponsored by EPA to explain activities at or concerning the Site; and provide a suitable location for public meetings, as needed.

#### Access to Property and Information

66. EPA, NYSDEC and their designated representatives, including, but not limited to, employees, agents, contractor(s) and consultant(s) thereof, shall be permitted to observe the Work carried out pursuant to this Order. Respondents shall at all times permit EPA, NYSDEC, and their designated representatives full access to and freedom of movement at the Site and any other premises where Work under this Order is to be performed for purposes of inspecting or observing Respondents' progress in implementing the requirements of this Order, verifying the information submitted to EPA by Respondents, conducting investigations relating to contamination at the Site, or for any other purpose EPA determines to be reasonably related to EPA oversight of the implementation of this Order.

67. Where action under this Order is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall use their best efforts to obtain access agreements from the present owners within twenty (20) days of the effective date of this Order for purposes of implementing the requirements of this Order. Such agreements shall provide access not only for Respondents, but also for EPA and its designated representatives or agents, as well as NYSDEC and its designated representatives or agents. Such agreements shall specify that Respondents are not EPA's representative with respect to liability



associated with Site activities. If such access agreements are not obtained by Respondents within the time period specified herein, Respondents shall immediately notify EPA of their failure to obtain access and shall include in that notification a summary of the steps Respondents has taken to attempt to obtain access. Subject to the United States' non-reviewable discretion, EPA may use its legal authorities to obtain access for Respondents, may perform those response actions with EPA contractors at the property in question, or may terminate the Order if Respondents cannot obtain access agreements. If EPA performs those tasks or activities with EPA contractors and does not terminate the Order, Respondents shall perform all other activities not requiring access to that property. Respondents shall integrate the results of any such tasks undertaken by EPA into their reports and deliverables.

68. Respondents shall provide EPA with access to all records and documentation related to the conditions at the Site, hazardous substances found at or released from the Site, and the actions conducted pursuant to this Order. All data, information and records created, maintained, or received by Respondents or their contractor(s) or consultant(s) in connection with implementation of the Work under this Order, including, but not limited to, contractual documents, invoices, receipts, work orders and disposal records shall, without delay, be made available to EPA upon request. EPA shall be permitted to copy all such documents. Respondents shall submit to EPA upon receipt the results of all sampling or tests and all other data generated by Respondents or their contractor(s), or on the Respondents' behalf, during implementation of this Order.

69. Upon request by EPA, Respondents shall provide EPA or its designated representatives with duplicate and/or split samples of any material sampled in connection with the implementation of this Order.

70. Notwithstanding any other provision of this Order, EPA hereby retains all of its information gathering, access, and inspection authority under CERCLA, RCRA and any other applicable statute or regulations.

#### Record Retention, Documentation, Availability of Information

71. Respondents shall preserve all documents and information relating to Work performed under this Order, or relating to the hazardous substances found on or released from the Site, for ten years following completion of the removal actions required by this Order. At the end of the ten year period, Respondents shall notify EPA thirty (30) days before any such document or information is destroyed, that such documents and information are available for inspection. Upon request, Respondents shall provide EPA with the originals or copies of such documents and information.

72. All documents submitted by Respondents to EPA in the course of implementing this Order shall be available to the public unless identified as confidential by Respondents pursuant to 40 CFR Part 2, Subpart B, and determined by EPA to merit treatment as confidential business information in accordance with applicable law. In addition, EPA may release all such documents to NYSDEC, and NYSDEC may make those documents available to the public unless Respondent conforms with applicable New York law and regulations regarding confidentiality. Respondents shall not assert a claim of confidentiality regarding any monitoring or hydrogeologic data, any information specified under Section 104(e)(7)(F) of CERCLA, or any other chemical, scientific or engineering data relating to the Work performed hereunder.

#### Off-Site Shipments

73. All hazardous substances, pollutants, or contaminants removed from the Site pursuant to this Order for off-Site treatment, storage, or disposal shall be treated, stored, or disposed of in compliance with (a) Section 121(d)(3) of CERCLA, 42 U.S.C. §9621(d)(3), (b) the EPA "Revised Procedures for Implementing Off-Site Response Actions," OSWER Directive Number 9834.11, November 13, 1987, (c) the EPA "Superfund Removal Procedures" (OSWER 1988), (d) RCRA, (e) the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §2601, et seq., and (f) all other applicable federal and state requirements.

74. If hazardous substances from the Site are to be shipped outside of New York State, Respondents shall provide prior notification of such out-of-state waste shipments in accordance with OSWER Directive 9330.2-07. At least five (5) working days prior to out-of-state waste shipments, Respondents shall notify the environmental agency of the accepting state of the following: (a) the name and location of the facility to which the wastes are to be shipped; (b) the type and quantity of waste to be shipped; (c) the expected schedule for the waste shipments; (d) the method of transportation and name of transporter; and (e) treatment and/or disposal method of the waste streams.

75. Certificates of destruction must be provided to EPA upon Respondents' receipt of such. These certificates must be included in the biweekly progress reports.

#### Compliance With Other Laws

76. All actions required pursuant to this Order shall be performed in accordance with all applicable local, state, and federal laws and regulations except as provided in CERCLA §121(e)(1), 42 U.S.C. §9621(e)(1), and 40 CFR §300.415(i). In accordance with 40 CFR §300.415(i), all on-Site actions required pursuant to this Order shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements

("ARARs") under federal environmental or state environmental or facility siting laws. (See "Superfund Removal Procedures: Guidance on the Consideration of ARARs During Removal Actions," OSWER Directive No. 9360.3-02, August 1991).

77. Except as provided in Section 121(e)(1) of CERCLA, 42 U.S.C. §9621(e)(1), and the NCP, no permit shall be required for any portion of the Work required hereunder that is conducted entirely on-site. Where any portion of the Work requires a federal or state permit or approval, Respondents shall submit timely applications and shall take all other actions necessary to obtain and to comply with all such permits or approvals. This Order is not, nor shall it be construed to be, a permit issued pursuant to any federal or state statute or regulation.

#### Emergency Response and Notification of Releases

78. Upon the occurrence of any event during performance of the Work required hereunder which, pursuant to Section 103 of CERCLA, 42 U.S.C. §9603, requires reporting to the National Response Center [(800) 424-8802], Respondents shall immediately orally notify the Chief of the Removal Action Branch of the Emergency and Remedial Response Division of EPA, Region II, at (908) 321-6621, or the EPA Region II Emergency 24-hour Hot Line at (908) 548-8730, of the incident or Site conditions. Respondents shall also submit a written report to EPA within seven (7) days after the onset of such an event, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. The reporting requirements of this paragraph are in addition to, not in lieu of, reporting under CERCLA Section 103, 42 U.S.C. §9603, and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004.

79. In the event of any action or occurrence during Respondents' performance of the requirements of this Order which causes or threatens to cause a release of a hazardous substance or which may present an immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action to prevent, abate, or minimize the threat and shall immediately notify EPA as provided in the preceding paragraph. Respondent shall take such action in accordance with applicable provisions of this Order including, but not limited to, the Health and Safety Plan. In the event that EPA determines that (a) the activities performed pursuant to this Order, (b) significant changes in conditions at the Site, or (c) emergency circumstances occurring at the Site pose a threat to human health or the environment, EPA may direct Respondents to stop further implementation of any actions pursuant to this Order or to take other and further actions reasonably necessary to abate the threat.

80. Nothing in the preceding paragraph shall be deemed to limit any authority of the United States to take, direct, or order all appropriate action to protect human health and the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances on, at, or from the Site.

#### General Provisions

81. This Order applies to and is binding upon Respondents and their successors and assigns. Any change in the ownership or corporate status of Respondents, including, but not limited to, any transfer of assets of real or personal property, shall not alter the responsibilities that Respondents have under this Order.

82. Respondents are jointly and severally responsible for carrying out all activities required by this Order. Compliance or noncompliance by one of the Respondents with any provision of this Order shall not excuse or justify noncompliance by the other Respondent.

83. Respondents shall provide a copy of this Order to any prospective owners or successors before a controlling interest in Respondents' assets, property rights, or stock are transferred to the prospective owner or successor.

84. No informal advice, guidance, suggestion, or comment by EPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondents shall relieve Respondents of their obligation to obtain such formal approval as may be required by this Order and to comply with all requirements of this Order unless it is formally modified.

85. Any delay in performance of this Order that, in EPA's judgment, is not properly justified by Respondents under the terms of paragraph 86 below, shall be considered a violation of this Order. Any delay in performance of this Order shall not affect Respondents' obligations to perform all obligations fully under the terms and conditions of this Order.

86. Respondents shall notify EPA of any delay or anticipated delay in performing any requirement of this Order. Such notification shall be made by telephone to EPA's OSC within forty-eight (48) hours after Respondents first knew or should have known that a delay might occur. Respondents shall adopt all reasonable measures to avoid or minimize any such delay. Within five (5) business days after notifying EPA by telephone, Respondents shall provide written notification fully describing the nature of the delay, any justification for the delay, any reason why Respondents should not be held strictly accountable for failing to comply with any relevant requirements of this Order, the measures planned and taken to minimize the delay, and a schedule for implementing the measures that have been or will be taken to mitigate the effect of the delay. Increased cost or expense associated with the

implementation of the activities called for in this Order is not a justification for any delay in performance.

#### Enforcement and Reservation of Rights

87. Notwithstanding any other provision of this Order, failure of Respondents to comply with any provision of this Order may subject Respondent to civil penalties of up to twenty-five thousand dollars (\$25,000) per violation per day, as provided in Section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1). Respondents may also be subject to punitive damages in an amount at least equal to and not more than three times the amount of any costs incurred by the United States as a result of such failure to comply with this Order, as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Should Respondents violate this Order or any portion thereof, EPA may carry out the required actions unilaterally, pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, and/or may seek judicial enforcement of this Order pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606.

88. Nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, from taking other legal or equitable action as it deems appropriate, or from requiring the Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law. EPA reserves the right to bring an action against Respondents under Section 107 of CERCLA, 42 U.S.C. § 9607, for recovery of any response costs incurred by the United States related to this Order or the Site.

#### Other Claims

89. By issuance of this Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents or Respondents' employees, agents, contractors, or consultants in carrying out any action or activity pursuant to this Order. The United States or EPA shall not be held out as or deemed a party to any contract entered into by the Respondents or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Order.

90. Nothing in this Order constitutes or shall be construed as a satisfaction of or release from any claim or cause of action against the Respondents or any person not a party to this Order for any liability that Respondents or other persons may have under CERCLA, other statutes, or the common law, including but not

limited to any claims of the United States for injunctive relief, costs, damages, and interest under Sections 106(a) and 107 of CERCLA, 42 U.S.C. §§ 9606(a) and 9607. Nothing herein shall constitute a finding that Respondents are the only responsible parties with respect to the release and threatened release of hazardous substances at and from the Site.

91. Nothing in this Order shall affect any right, claim, interest, defense, or cause of action of any party hereto with respect to third parties.

92. Nothing in this Order shall be construed to constitute preauthorization under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2), and 40 CFR § 300.700(d).

#### Insurance

93. At least seven (7) days prior to commencing any Work at the Site, Respondents shall submit to EPA a certification that Respondents or their contractors and subcontractors have adequate insurance coverage or have indemnification for liabilities for injuries or damages to persons or property which may result from the activities to be conducted by or on behalf of Respondents pursuant to this Order. Respondents shall ensure that such insurance or indemnification is maintained for the duration of the Work required by this Order.

#### Termination and Satisfaction

94. Upon a determination by EPA (following its receipt of the Final Report referred to in paragraph 61 above) that the Work required pursuant to this Order has been fully carried out in accordance with this Order, EPA will so notify Respondents in writing.

#### Opportunity to Confer, Effective Date

95. This Order shall be effective six (6) days after receipt by Respondents, unless a conference is timely requested pursuant to paragraph 96 below. If such conference is timely requested, this Order shall become effective one (1) day following the date the conference is held, unless the effective date is modified by EPA. All times for performance of ordered activities shall be calculated from this effective date.

96. Respondents may, within five (5) days after receipt of this Order, request a conference with EPA to discuss this Order. If requested, the conference shall occur within three (3) days of Respondents' request for a conference.

97. The purpose and scope of the conference shall be limited to issues involving the implementation of the work required by this Order and the extent to which Respondents intend to comply with


this Order. This conference is not an evidentiary hearing, and does not constitute a proceeding to challenge this Order. It does not give Respondents a right to seek review of this Order or to seek resolution of potential liability, and no official stenographic record of the conference will be made. At any conference held pursuant to Respondents' request, Respondents may appear in person or by an attorney or other representative.

98. A request for a conference must be made by telephone to Juan M. Fajardo, Esq., Assistant Regional Counsel, Office of Regional Counsel, EPA Region II, telephone (212) 264-6455, followed by written confirmation mailed that day to Mr. Fajardo and the OSC at the addresses set forth in paragraph 60 of this Order.

Notice of Intent to Comply

99. Respondents shall provide, not later than two (2) days after the effective date of this Order, written notice to EPA stating whether they will comply with the terms of this Order. If Respondent does not unequivocally commit to perform the work required by this Order, it shall be deemed to have violated this Order and to have failed or refused to comply with this Order. Respondents' written notice shall describe, using facts that exist on or prior to the effective date of this Order, any "sufficient cause" defenses asserted by Respondent under Sections 106(b) and 107(c)(3) of CERCLA. The absence of a response by EPA to the notice required by this paragraph shall not be deemed to be an acceptance of Respondents' assertions.

U.S. ENVIRONMENTAL PROTECTION AGENCY

  
WILLIAM J. MUSZYNSKI, P.E.  
Acting Regional Administrator  
U.S. Environmental Protection Agency  
Region II

9/30/87  
Date of Issuance





FIGURE 7

RICHARDSON HILL ROAD  
MUNICIPAL LANDFILL SITE

WASTE PIT  
CHARACTERIZATION MAP

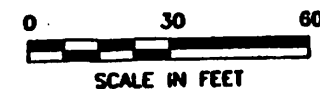


LEGEND

- OVERBURDEN WELL LOCATION
- ⊕ BEDROCK MONITORING WELL LOCATION
- SURFACE SOIL SAMPLE LOCATION
- BORING LOCATION
- ▲ TCL SAMPLE LOCATION
- ▨ WASTE PIT AREA
- AIR MONITORING LOCATIONS

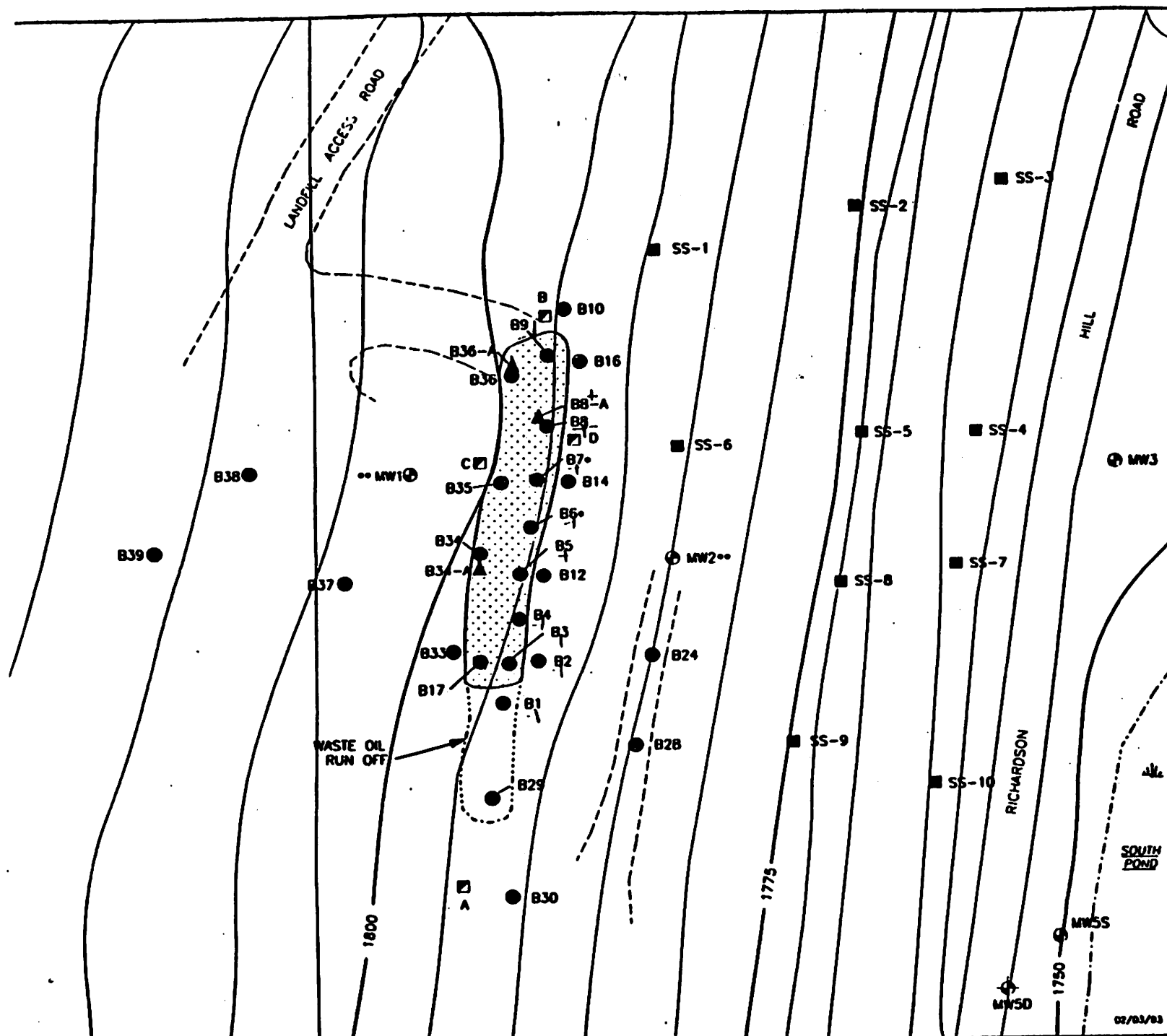
NOTE:

- TCL SOIL SAMPLES WERE ALSO COLLECTED IN BORING B6 AND B7
- SOIL BORINGS COMPLETED AS MONITORING WELLS



**O'BRIEN & GERI**  
ENGINEERS, INC.

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FIGURE 8

RICHARDSON HILL ROAD  
MUNICIPAL LANDFILL SITE

MONITORING WELL  
AND SOIL BORING  
LOCATION MAP

