

STATE OF NEW YORK: DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION

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

ORDER  
ON  
CONSENT

INDEX # A7-0383-9903

The City of Glens Falls,

Site # 5-57-003

Respondent.

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WHEREAS,

1. The New York State Department of Environmental Conservation (the "Department") is responsible for enforcement of Article 27, Title 13 of the Environmental Conservation Law of the State of New York ("ECL"), entitled "Inactive Hazardous Waste Disposal Sites." This Order is issued pursuant to the Department's authority under, inter alia, ECL Article 27, Title 13 and ECL 3-0301.

2. A. The City of Glens Falls ("Respondent"), owns and operated a municipal landfill at Luzerne Road, Queensbury, Warren County (hereinafter referred to as "the Site"), from 1961 through 1977. Respondent alleges, upon information and belief, the following conditions and circumstances with respect to the site: It is suspected, but not confirmed through documentary or other evidence, that private haulers disposed of capacitors at the Site containing PCB contaminated oils; preliminary investigations at the Site have confirmed the presence of PCBs in the groundwater downgradient of the Site and in shallow groundwater immediately adjacent to the Site; there was a reported disposal at the Site of 5 tons of ink sludge, a hazardous waste; with the exception of the reported ink sludge disposal, however, the preliminary studies did not identify or document any other particular instances of hazardous waste disposal at the site; in the period during which the landfill was operated, the Respondent did not maintain any gatehouse, scale or similar disposal records which would allow for the identification of any particular individual generator or transporter using the site for disposal, or of the volumes or types of waste disposed of at the site; further, while preliminary studies indicated the presence of PCBs in the groundwater downgradient of the Site, the groundwater monitoring data gathered to date is inconclusive as to whether the source of that release of PCBs is from the landfill Site or whether that release is from several

other contiguous sites in the immediate vicinity which are also Inactive Hazardous Waste Sites at which PCB disposal or encapsulation has been confirmed. A site map is attached as Appendix A to this Order.

3. The Site is an inactive hazardous waste disposal site, as that term is defined at ECL 27-1301.2, and, as such, has been statutorily deemed to present a significant threat to the public health or environment. The Site has been listed in the Registry of Inactive Hazardous Waste Disposal Sites in New York State as Site Number 557003. The Department has classified the Site as a Classification "2" pursuant to ECL 27-1305.4.b.

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

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

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

5. The Department and Respondent agree that the goals of this Order are for Respondent to develop and implement an inactive hazardous waste disposal site remedial program ("Remedial Program") for the Site that shall include a Remedial Investigation/Feasibility Study ("RI/FS"), design and implementation of the selected remedial alternative, and operation, maintenance and monitoring of the selected remedial alternative.

6. Respondent has consented to the issuance of this Order as a precondition to eligibility for financial assistance pursuant to ECL Article 52, Title 3. Pursuant to Respondent's obligations under ECL Article 52, Title 3, Respondent agrees to identify and place Respondent's insurers on notice of the Department's determination that the Site constitutes a significant threat to the environment and of the Department's claim, pursuant to ECL Article 27, Title 13, against Respondent. Respondent has agreed to exercise all reasonable efforts to obtain indemnification or a commitment to indemnify from its insurers. Further, Respondent has agreed to identify for the Department all

other responsible parties and to assist the Department in compelling other responsible persons to bear the cost of the Remedial Program at the Site.

7. Respondent, having waived its right to a hearing herein as provided by law, and having consented to the issuance of this Order, agrees to be bound by its terms. Respondent consents to and agrees not to contest the authority or jurisdiction of the Department to issue or enforce this Order, and agrees not to contest the validity of this Order or its terms.

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

I. Initial Submittal

Within 30 days after the effective date of this Order, Respondent shall submit to the Department all data within Respondent's possession or control regarding environmental conditions on-Site and off-Site, and other information described below, unless the Department advises Respondent that such data have previously been provided to the Department. The data and other information shall include:

A. A brief history and description of the Site, including the types, quantities, physical state, location, and dates of disposal of hazardous waste including methods of disposal and spillage of such wastes;

B. A summary of information held by Respondent and Respondent's attorneys and consultants with respect to all persons responsible for such disposal of hazardous wastes, including but not limited to names, addresses, dates of disposal and any proof linking each such person responsible with hazardous wastes identified pursuant to Subparagraph I.A.; and

C. A comprehensive list and copies of all existing relevant reports with titles, authors, and subject matter, as well as a description of the results of all previous investigations of the Site and areas in the vicinity of the Site, including copies of all available topographic and property surveys, engineering studies and aerial photographs.

II. State Assistance Contract Submittal

A. Within 30 days after the effective date of this Order, Respondent shall submit to the Department an application for State assistance pursuant to ECL Article 52, Title 3, and a resolution authorizing its execution of a contract for such State assistance.

B. Within 60 days after the effective date of this Order, Respondent shall submit to the Department an executed State Assistance Contract.

C. Within 90 days after the effective date of this Order and every six months thereafter (unless the Department informs Respondent otherwise), Respondent shall provide a written report to the Department of the efforts that it has made to obtain indemnification from its insurers and to assist the Department in compelling other responsible parties to bear the costs associated with the development and implementation of a Remedial Program at the Site.

### III. RI/FS Work Plan Contents and Submittals

A. Within 45 days after the effective date of this Order, Respondent shall submit to the Department a detailed work plan describing the methods and procedures to be implemented in performing an RI/FS for the Site ("RI/FS Work Plan").

B. 1. The RI/FS Work Plan shall include, but not be limited to, the following:

a. A chronological description of the anticipated RI/FS activities together with a schedule for the performance of these activities.

b. A Sampling and Analysis Plan that shall include:

(i) A quality assurance project plan that describes the quality assurance and quality control protocols necessary to achieve the initial data quality objectives. This plan shall designate a data validation expert and must describe such individual's qualifications and experience.

(ii) A field sampling plan that defines sampling and data gathering methods in a manner consistent with the "Field Methods Compendium," OSWER Directive 9285.2-11 (draft June 1993), as supplemented by the Department.

c. A health and safety plan to protect persons at and in the vicinity of the Site during the performance of the RI/FS which shall be prepared in accordance with 29 CFR 1910 and all other applicable standards by a certified health and safety professional. Respondent shall supplement this plan as necessary to ensure the health and safety of all persons at or in the vicinity of the Site during the performance of any work under this Order.

d. A citizen participation plan that is consistent with 6 NYCRR Part 375 and the publication *Citizen Participation in New York's Hazardous Waste Site Remediation Program: A Guidebook*, dated June 1998, and any subsequent revisions thereto.

e. A Responsible Party Search Plan to identify the name, address, dates of disposal, and proof of liability of all persons responsible for the disposal of hazardous wastes at the Site.

2. The RI/FS Work Plan shall incorporate all elements of a RI/FS as set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") [42 USC 9601 *et seq.*], as amended, the National Contingency Plan ("NCP") of March 8, 1990 [40 CFR Part 300], the USEPA guidance document entitled "Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA," dated October 1988, and any subsequent revisions to that guidance document in effect at the time the RI/FS Work Plan is submitted, and appropriate USEPA and Department technical and administrative guidance documents.

#### IV. Performance and Reporting of Remedial Investigation

A. Respondent shall commence and perform the Remedial Investigation in accordance with the Department-approved RI/FS Work Plan.

B. During the performance of the Remedial Investigation, Respondent shall have on-Site a full-time representative who is qualified to supervise the work done.

C. Within the time frame set forth in the Department-approved RI/FS Work Plan, Respondent shall prepare a Remedial Investigation Report that shall:

1. include all data generated and all other information obtained during the Remedial Investigation:

2. provide all of the assessments and evaluations set forth in CERCLA, the NCP, and the guidance documents identified in Subparagraph III.B.2;

3. identify any additional data that must be collected; and

4. include a certification by the individual or firm with primary responsibility for the day to day performance of the Remedial Investigation that all activities that comprised the Remedial Investigation were performed in full accordance with the Department-approved RI/FS Work Plan.

## **V. Feasibility Study**

A. In accordance with the schedule in the Department-approved RI/FS Work Plan, Respondent shall submit a complete Feasibility Study evaluating on-Site and off-Site remedial actions to eliminate, to the maximum extent practicable, all health and environmental hazards and potential hazards at the Site. The Feasibility Study shall be prepared by and have the signature and seal of a professional engineer who shall certify that the Feasibility Study was prepared in accordance with this Order.

B. Respondent shall perform and prepare the Feasibility Study in accordance with the Department-approved RI/FS Work Plan and in a manner consistent with CERCLA, the NCP, and the guidance documents identified in Subparagraph III.B.2.

C. After the Department's approval of the Feasibility Study, Respondent shall cooperate and assist the Department in soliciting public comment on the RI/FS and on the proposed remedial action plan, in accordance with CERCLA, the NCP, the guidance documents identified in Subparagraph III.B.2, and with any Department policy and guidance documents in effect at the time the public comment period is initiated. After the close of the public comment period, the Department shall select a final remedial alternative for the site in a Record of Decision ("ROD"). The ROD shall be incorporated into and become an enforceable part of this Order.

## **VI. Remedial Design Contents**

A. Unless the ROD selects the "no action" alternative, Respondent shall submit to the Department, within such period of time that the Department shall prescribe in writing, a remedial design to implement the remedial alternative for the Site as selected in the ROD (the "Remedial Design"). The Remedial Design shall be prepared by and have the signature and seal of a professional engineer who shall certify that the Remedial Design was prepared in accordance with this Order.

B. The Remedial Design shall include the following:

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

- a. the construction and operation of any structures;
- b. the collection, destruction, treatment, and/or disposal of hazardous wastes and substances and their constituents and degradation products, and of any soil or other materials contaminated thereby;

c. the collection, destruction, treatment, and/or disposal of contaminated groundwater, leachate, and air;

d. physical security and posting of the Site;

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

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

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

3. A time schedule to implement the Remedial Design;

4. The parameters, conditions, procedures, and protocols to determine the effectiveness of the Remedial Design, including a schedule for periodic sampling of groundwater monitoring wells on-Site and off-Site;

5. A description of operation, maintenance and monitoring activities to be undertaken after the Department has approved construction of the Remedial Design, including the criteria to be used to decide when an operation of the remedy may be discontinued.

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

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

8. A citizen participation plan which incorporates appropriate activities outlined in the Department's publication, *Citizen Participation in New York's Hazardous Waste Site Remediation Program: A Guidebook*, dated June 1998, and any subsequent revisions thereto, and 6 NYCRR Part 375.

## **VII. Remedial Construction**

A. Within such period of time after the Department's approval of the Remedial Design as the Department shall prescribe, Respondent shall commence construction of and implement the Department-approved Remedial Design.

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

C. Within 30 days after completion of the construction activities identified in the Department-approved Remedial Design, Respondent shall submit to the Department a detailed post-remedial operation and maintenance plan ("O&M Plan"); "as-built" drawings and a final engineering report (each including all changes made to the Remedial Design during construction); and a certification that the Remedial Design was implemented and that all construction activities were completed in accordance with the Department-approved Remedial Design and were personally witnessed by him or her or by a person under his or her direct supervision. The O&M Plan, "as built" drawings, final engineering report, and certification must be prepared, signed, and sealed by a professional engineer.

D. Upon the Department's approval of the O&M Plan, Respondent shall implement the O&M Plan in accordance with the requirements of the Department-approved O&M Plan.

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

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

## **VIII. Interim Remedial Measures**

A. 1. Respondent may propose one or more IRMs for the Site.

2. In proposing each IRM, Respondent shall submit to the Department a work plan that includes a chronological description of the anticipated IRM activities together with a schedule for performance of those activities ("IRM Work Plan").



6. After receipt of the final engineering report and certification, the Department shall notify Respondent in writing whether the Department is satisfied that the IRM was completed in compliance with the IRM Work Plan and design.

#### **IX. Progress Reports**

Respondent shall submit to the parties identified in Subparagraph XVI.B in the numbers specified therein copies of written monthly progress reports that:

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

B. include all results of sampling and tests and all other data received or generated by Respondent or Respondent's contractors or agents in the previous month, including quality assurance/quality control information, whether conducted pursuant to this Order or conducted independently by Respondent;

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

D. describe all actions, including, but not limited to, data collection and implementation of work plans, that are scheduled for the next month and provide other information relating to the progress at the Site;

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

F. include any modifications to any work plans that Respondent has proposed to the Department or that the Department has approved; and

G. describe all activities undertaken in support of the Citizen Participation Plan during the previous month and those to be undertaken in the next month. Respondent shall submit these progress reports to the Department by the tenth day of every month following the effective date of this Order.

#### **X. Review of Submittals**

A. 1. The Department shall review each of Respondent's submittals to determine whether it was prepared, and whether the work done to generate the data and other information in the submittal was done, in accordance with this Order and generally accepted technical and scientific principles. The Department shall notify

3. Upon the Department's determination that the proposal is an appropriate IRM and upon the Department's approval of such work plan, the IRM Work Plan shall be incorporated into and become an enforceable part of this Order; and Respondent shall submit to the Department for its review and (as appropriate) approval, in accordance with the schedule contained in the Department-approved IRM Work Plan, detailed documents and specifications prepared, signed, and sealed by a professional engineer to implement the Department-approved IRM. Such documents shall include a health and safety plan, contingency plan, and (if the Department requires such) a citizen participation plan that incorporates appropriate activities outlined in the Department's publication, "Citizen Participation in New York's Hazardous Waste Site Remediation Program: A Guidebook," dated June 1998, and any subsequent revisions thereto, and 6 NYCRR Part 375. Respondent shall then carry out such IRM in accordance with the requirements of the approved IRM Work Plan, detailed documents and specifications, and this Order. Respondent shall notify the Department of any significant difficulties that may be encountered in implementing the Department-approved work plan, detailed documents, or specifications and shall not modify any obligation unless first approved by the Department.

4. During implementation of all construction activities identified in the Department-approved IRM Work Plan, Respondent shall have on-Site a full-time representative who is qualified to supervise the work done.

5. Within the schedule contained in the Department-approved IRM Work Plan, Respondent shall submit to the Department a final engineering report prepared by a professional engineer that includes a certification by that individual that all activities that comprised the Department-approved IRM were completed in accordance with the Department-approved IRM Work Plan and this Order.

a. If the performance of the Department-approved IRM encompassed construction activities, the final engineering report also shall include a detailed post-remedial operation and maintenance plan ("IRM O&M Plan"); "as-built" drawings and a final engineering report (each including all changes made to the Remedial Design during construction); and a certification by a professional engineer that the IRM was implemented and all construction activities were completed in accordance with the Department-approved detailed documents and specifications for the IRM and all such activities were personally witnessed by him or her or by a person under his or her direct supervision. The IRM O&M Plan, "as built" drawings, final engineering report, and certification must be prepared, signed, and sealed by a professional engineer.

b. Upon the Department's approval of the IRM O&M Plan, Respondent shall implement the Department-approved IRM O&M Plan.

Respondent in writing of its approval or disapproval of the submittal, except for the submittals discussed in Subparagraph III.B.1.c and in Subparagraph VI.B.7. All Department-approved submittals shall be incorporated into and become an enforceable part of this Order.

2. a. If the Department disapproves a submittal, it shall so notify Respondent in writing and shall specify the reasons for its disapproval. Within 21 days after receiving written notice that Respondent's submittal has been disapproved, Respondent shall make a revised submittal to the Department that addresses and resolves all of the Department's stated reasons for disapproving the first submittal.

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

B. Respondent shall modify and/or expand a submittal upon the Department's direction if the Department determines that further work is necessary.

## XI. Violations

A. 1. Respondent's failure to comply with any term of this Order constitutes a violation of this Order and the ECL.

2. Respondent shall be liable for payment to the Department of the sums set forth below as stipulated penalties for each day or part thereof that Respondent is in violation of the terms of this Order. All penalties begin to accrue on the first day Respondent is in violation of the terms of this Order and continue to accrue through the final day of correction of any violation. Such sums shall be due and payable within 15 days after receipt of notification from the Department assessing the penalties. If such payment is not received within 15 days after Respondent receives such notification from the Department, interest shall be payable at the annual rate of nine per centum on the overdue amount from the day on which it was due through, and including, date of payment. Penalties shall be paid by certified check or money order, made payable to "New York State Department of Environmental Conservation" and shall be delivered personally or by certified mail, return receipt requested, to the Director, Division of Environmental Enforcement, N.Y.S.D.E.C., 50 Wolf Road, Albany, New York 12233-5500. Payment of penalties shall not in any way alter Respondent's obligation to complete performance under the terms of this Order. Stipulated penalties shall be due and payable under Subparagraph X.A.2 pursuant to the following schedule:

<u>Period of Non-Compliance</u>	<u>Penalty Per Day</u>
First through 15th day	\$ 5,000
16th through 30th day	\$ 10,000
31st day and thereafter	\$ 15,000

B. Respondent shall not suffer any penalty under this Order or be subject to any proceeding or action if it cannot comply with any requirement hereof because of war, riot, or an unforeseeable disaster arising exclusively from natural causes which the exercise of ordinary human prudence could not have prevented. Respondent shall, within five days of when it obtains knowledge of any such condition, notify the Department in writing. Respondent shall include in such notice the measures taken and to be taken by Respondent to prevent or minimize any delays and shall request an appropriate extension or modification of this Order. Failure to give such notice within such five-day period constitutes a waiver of any claim that a delay is not subject to penalties. Respondent shall have the burden of proving that an event is a defense to compliance with this Order pursuant to Subparagraph XI.B.

#### XII. Entry upon Site

Respondent hereby consents to the entry upon the Site or areas in the vicinity of the Site which may be under the control of Respondent by any duly designated employee, consultant, contractor, or agent of the Department or any State agency for purposes of inspection, sampling, and testing and to ensure Respondent's compliance with this Order. During Remedial Construction, Respondent shall provide the Department with suitable office space at the Site, including access to a telephone, and shall permit the Department full access to all records relating to matters addressed by this Order and job meetings.

#### XIII. Department Reservation of Rights

A. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating, or in any way affecting any of the Department's civil, criminal, or administrative rights including, but not limited to, the right to recover natural resource damages.

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

#### XIV. Indemnification

Respondent shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless for all claims, suits, actions,

damages, and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Order by Respondent and/or any of Respondent's directors, officers, employees, servants, agents, successors, and assigns.

XV. Public Notice

A. Within 30 days after the effective date of this Order, Respondent shall file a Declaration of Covenants and Restrictions with the Warren County Clerk to give all parties who may acquire any interest in the Site notice of this Order.

B. If Respondent proposes to convey the whole or any part of Respondent's ownership interest in the Site, Respondent shall, not fewer than 60 days before the date of conveyance, notify the Department in writing of the identity of the transferee and of the nature and proposed date of the conveyance and shall notify the transferee in writing, with a copy to the Department, of the applicability of this Order.

XVI. Communications

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

Communication from Respondent shall be sent to:

Craig Jackson, P.E.  
Division of Environmental Remediation  
New York State Department of Environmental Conservation  
50 Wolf Road  
Albany, New York 12233-7010

with copies to:

1. Director, Bureau of Environmental Exposure Investigation  
New York State Department of Health  
2 University Place  
Albany, New York 12203
2. Stuart Buchanan, Regional Director  
New York State Department of Environmental Conservation  
Route 86, PO Box 296  
Raybrook, NY 12977-0296

3. Anthony Quartararo, Esq  
New York State Department of Environmental Conservation  
Central Field Unit  
50 Wolf Road, Room 627  
Albany, NY 12233-5500

B. Copies of work plans and reports shall be submitted as follows:

1. Four copies (one unbound) to Craig Jackson  
Division of Environmental Remediation.
2. Two copies to the Director, Bureau of Environmental Exposure  
Investigation.
3. One copy to Stuart Buchanan

C. Within 30 days after the Department's approval of the RI/FS, Respondent shall submit to the Department one microfilm copy (16 millimeter roll film M type cartridge) of the Department-approved RI/FS. Within 30 days after its approval of the drawings and submittals described in Subparagraph VII.D of this Order, Respondent shall submit one microfilm copy (16 millimeter roll film M type cartridge) of such Department-approved drawings and submittals, as well as all other Department-approved submittals other than the Department-approved RI/FS. Such submissions shall be made to:

Director, Division of Environmental Remediation  
New York State Department of Environmental Conservation  
50 Wolf Road, Room 260  
Albany, New York 12233-7010.

D. Communication to be made from the Department to Respondent shall be sent to:

Hon. Robert Regan, Mayor  
City of Glens Falls  
City Hall  
42 Ridge Street  
Glens Falls, New York 12801-3610

With a copy to:

Jack R. Lebowitz, Special Counsel  
Lemery Mackrell Greisler, LLC  
10 Railroad Place  
Saratoga Springs, New York 12866-3033

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

XVII. Miscellaneous

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

2. All activities Respondent is required to undertake under this Order are ordinary and necessary expenses for the continued operation of Respondent.

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

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

D. Respondent shall notify the Department at least 10 working days in advance of any field activities to be conducted pursuant to this Order. Respondent also shall allow the Department to attend, and shall provide the Department at least seven days advance notice of, any of the following: prebid meetings, job progress meetings, substantial completion meeting and inspection, and final inspection and meeting.

E. Respondent shall obtain all permits, easements, rights-of-way, rights-of-entry, approvals, or authorizations necessary to perform Respondent's obligations under this Order.

F. Respondent and its officers, directors, agents, servants, employees, successors, and assigns shall be bound by this Order. Any change in ownership or corporate status of Respondent shall in no way alter Respondent's responsibilities under this Order. Respondent's officers, directors, employees, servants, and agents shall be obliged to comply with the relevant provisions of this Order in the performance of their designated duties on behalf of Respondent.

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

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

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

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

K. 1. No term, condition, understanding, or agreement purporting to modify or vary any term of this Order shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestion, or comment by the Department regarding any report, proposal, plan, specification, schedule, or any other submittal shall be construed as relieving Respondent of Respondent's obligation to obtain such formal approvals as may be required by this Order.

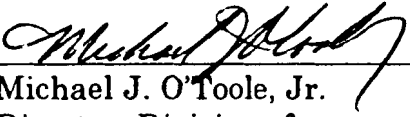


2. If Respondent desires that any provision of this Order be changed, Respondent shall make timely written application, signed by Respondent, to the Commissioner setting forth reasonable grounds for the relief sought. Copies of such written application shall be delivered or mailed to Mr. Jackson and to Mr. Quartararo.

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

Dated: Albany, New York  
March 31, 2000

JOHN P. CAHILL, Commissioner  
New York State Department of  
Environmental Conservation

By:   
Michael J. O'Toole, Jr.  
Director, Division of  
Environmental Remediation

## CONSENT BY RESPONDENT

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

By: Robert B

Title: MAYOR, CITY OF GLENS FALLS

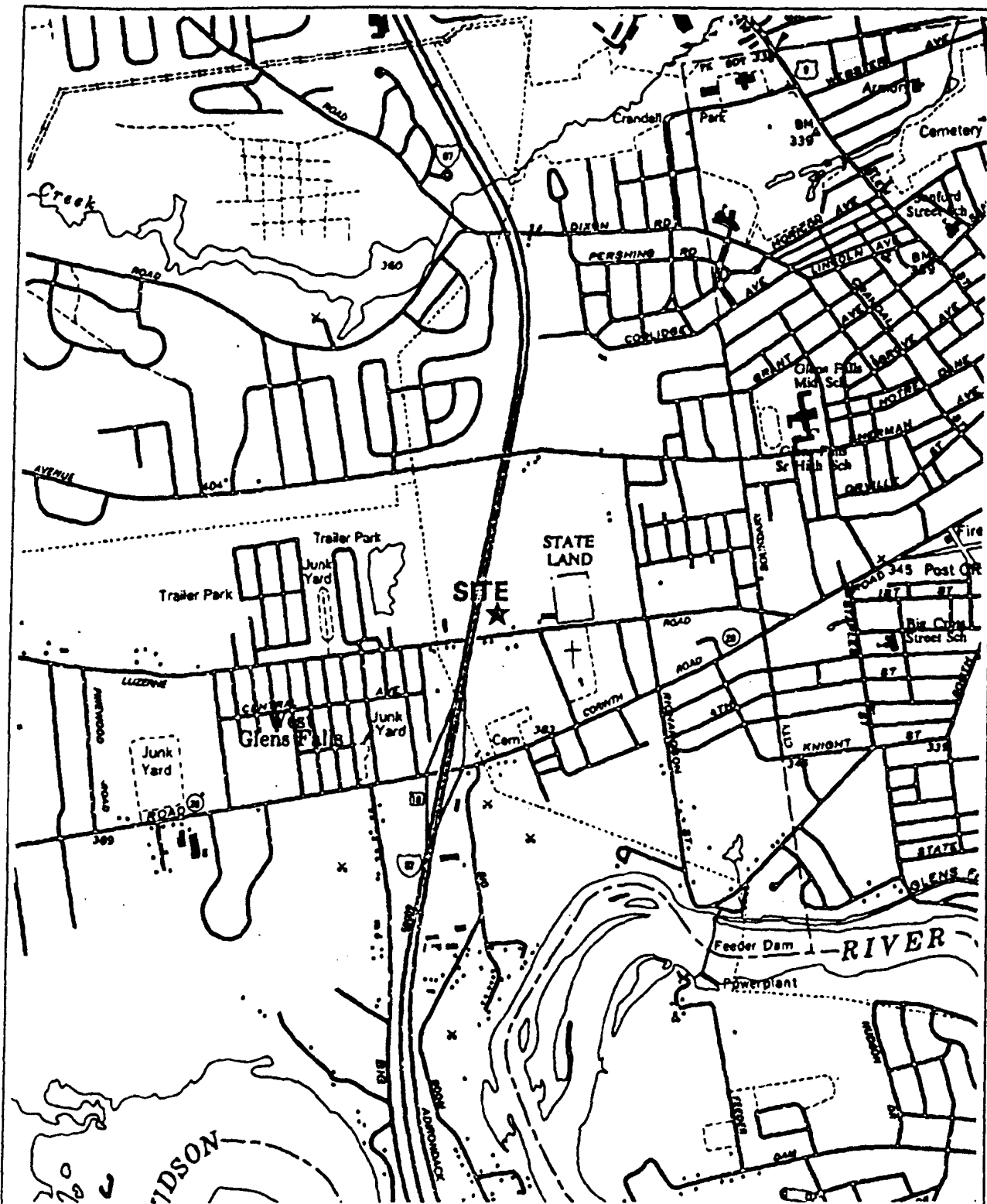
Date: 3 / 29 / 2000

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

On this 29<sup>th</sup> day of March, 1999, before me personally came Robert Regan, to me known, who being duly sworn, did depose and say that ~~he~~he resides in Glens Falls, New York; that ~~he~~he is the Mayor of the City of Glens Falls, the municipal corporation described in and which executed the foregoing instrument; that ~~he~~he knew the seal of said municipal corporation; that the seal affixed to said instrument was such municipal seal; that it was so affixed by the order of the City Council of said municipality and that ~~he~~he signed her/his name thereto by like order.

Jack R. Lebowitz  
Notary Public

JACK R. LEBOWITZ  
Notary Public, State of New York  
Qualified in Saratoga County  
My Commission Expires Jan. 20, 2001  
No. 02LE4885051



## Site Location Map

557003 Glens Falls Landfill

NYSOT Planimetric Quadrangle(s):



0 500 1000 1500 2000



Scale 1:24,000