

*J. Ludlow*

**New York State Department of Environmental Conservation**  
**Division of Environmental Enforcement, Room 627**  
50 Wolf Road, Albany, New York 12233-5500  
(518) 457-2286



John P. Cahill  
Commissioner

September 30, 1999

Michael B. Gerrard, Esq.  
Arnold & Porter  
399 Park Avenue  
New York, New York 10022-4690

**RE: Utica Alloys, Inc. Site (#633047)**

Dear Mr. Gerrard:

Enclosed is a fully executed original copy of the Utica Alloys Remedial Investigation/  
Feasibility Study Order on Consent.

Thank you for your cooperation.

Very truly yours, .

*Dolores A. Tuohy*

Dolores A. Tuohy  
Associate Attorney



New York State Department of Environmental Conservation  
Division of Environmental Enforcement, Room 821  
80 Wolf Road, Albany, New York 12233-8800  
(518) 457-2288

bcc (letter only unless otherwise indicated):

- J. Ludlam - DER - w/ copy of Order
- D. Sweredoski - DER Region 6
- J. Swartwout - DER
- J. White - DER
- Daybook
- File

John P. Cahill  
Commissioner

September 30, 1999



Michael B. Gerard, Esq.  
Arnold & Porter  
390 Park Avenue  
New York, New York 10022-4690

RE: Utica Alloy, Inc. Site (983817)

Dear Mr. Gerard:

Enclosed is a fully executed original copy of the Utica Alloy Remedial Investigation  
Feasibility Study Order on Consent.

Thank you for your cooperation.

Very truly yours,

James A. Tudy  
Associate Attorney

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the  
Development and Implementation of a  
Remedial Investigation/Feasibility Study 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 # A6-0001-98-08

Utica Alloys, Inc. and  
Clearview Acres, Ltd.,

Respondents.

Site Code # 6-33-047

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. Clearview Acres, Ltd. and Utica Alloys, Inc. ("Respondents") are corporations organized under the laws of New York State. Respondent Clearview Acres, Ltd. owns property located adjacent to Leland Avenue in the City of Utica, New York which the Department has listed in its Registry of Inactive Hazardous Waste Disposal Sites (the "Registry") as site number 633047 (the "Site"). Respondent Utica Alloys, Inc. leases the Site and operates an industrial facility at the Site.
3. Pursuant to Order on Consent Index #A6-0326-95-03, dated October 12, 1995, Respondents undertook a Supplemental Investigation at the property subsequently listed in the Registry as the Site. At the time of the Supplemental Investigation, the Site was included in the definition of another inactive hazardous waste disposal site, the Universal Waste, Inc. site, which is listed in the Registry as site number 633009. A map showing the location of the Site in relation to the Universal Waste, Inc. site is attached to this Order and designated Appendix "A." Respondents' Supplemental Investigation identified PCBs in the Site's soils and concentrations of trichloroethylene in the Site's soils and groundwater.
4. Respondents have submitted to the Department and the Department has approved a detailed Remedial Investigation/Feasibility Study work plan, entitled "Remedial Investigation

and Interim Remedial Measures Alternatives Analysis, Utica Alloys, Inc.," dated May 1997 and July 1999, as revised in accordance with a letter from Stearns & Wheeler, LLC, dated September 8, 1999 ("RI/FS Work Plan"), which describes the methods and procedures to be implemented in performing an RI/FS for the Site. The RI/FS Work Plan, attached to this Order as Appendix "B," is incorporated as an enforceable part of this Order.

5. The Department has determined that the Site is an inactive hazardous waste disposal site, as that term is defined at ECL 27-1301.2, and presents a significant threat to the public health or environment. The Department has classified the Site as a Classification "2" pursuant to ECL 27-1305.4.b.

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

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

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

7. The Department and Respondents agree that the goals of this Order are for Respondents to (i) develop and implement a Remedial Investigation/Feasibility Study ("RI/FS") for the Site; and (ii) reimburse the State's administrative costs incurred after the effective date of this Order.

8. Respondents, having waived Respondents' right to a hearing herein with respect to the issuance and entry of this Order, as provided by law, and having consented to the issuance and entry of this Order, agree to be bound by its terms. Respondents consent to and agree not to contest the authority or jurisdiction of the Department to issue or enforce this Order, and agree not to contest the validity of this Order or its terms.

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

I. Performance and Reporting of Remedial Investigation

A. Within 30 days after the effective date of this Order, Respondents shall commence the Remedial Investigation.

B. Respondents shall perform the Remedial Investigation in accordance with the Department-approved RI/FS Work Plan.

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

D. Within the time frame set forth in the Department-approved RI/FS Work Plan, Respondents 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 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 Remedial Investigation Report is submitted, and appropriate USEPA and Department technical and administrative guidance documents;

(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.

II. Feasibility Study

A. In accordance with the schedule contained in the Department-approved RI/FS Work Plan, Respondents 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. Respondents 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 I.D.(2).

C. After the Department's approval of the Feasibility Study, Respondents 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 I.D.(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.

### III. Interim Remedial Measures

A. 1. Respondents may propose one or more Interim Remedial Measures ("IRMs") for the Site.

2. In proposing each IRM, Respondents 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 (an "IRM Work Plan").

3. Upon the Department's determination that the proposal is an appropriate IRM and 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 Respondents 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. Respondents shall then carry out such IRM in accordance with the requirements of the Department-approved IRM Work Plan, detailed documents and specifications, and this Order. Respondents shall notify the Department of any significant difficulties that may be encountered in implementing the Department-approved IRM Work Plan, detailed documents, or specifications. Respondent 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, Respondents shall have on-Site a full-time representative who is qualified to supervise the work done.

5. Within the time frame set forth in the schedule contained in the Department-approved IRM Work Plan, Respondents 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. If the performance of the Department-approved IRM includes construction activities, the final engineering report 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 Department-approved IRM during construction); and a certification by a professional engineer that all construction activities were completed in accordance with the Department-approved detailed documents and specifications for the IRM and that 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.

6. Upon the Department's approval of an IRM O&M Plan, Respondents shall implement the IRM O&M Plan in accordance with the requirements of the Department-approved IRM O&M Plan.

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

#### IV. Progress Reports

Respondents shall submit to the parties identified in Subparagraph XIII.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 Respondents or Respondents' contractors or agents in the previous month, including quality assurance/quality control information, whether conducted pursuant to this Order or conducted independently by Respondents;
- 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 future schedule for implementation of Respondents' obligations under the Order, and efforts made to mitigate those delays or anticipated delays;

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

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

#### V. Review of Submittals

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

2. a. If the Department disapproves a submittal, it shall so notify Respondents in writing and shall specify the reasons for its disapproval. Within 30 days after receiving written notice that Respondents' submittal has been disapproved, Respondents shall make a revised submittal to the Department that addresses and resolves all of the Department's stated reasons for disapproving the first submittal.

b. After receipt of the revised submittal, the Department shall notify Respondents in writing of its approval or disapproval. If the Department approves the revised submittal, it shall be incorporated into and become an enforceable part of this Order. If the Department disapproves the revised submittal, the Department shall notify Respondents in writing of the reasons for such disapproval. Within ten days of receipt of the Department's written disapproval of the revised submittal, Respondents may invoke the dispute resolution mechanism set forth in Paragraph VI. If Respondents fail to invoke dispute resolution within ten days of receipt of the Department's written disapproval of the revised submittal, the Department may consider Respondents to 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.

B. Respondents shall modify and/or amplify and expand a submittal upon the Department's direction to do so if the Department determines, as a result of reviewing data generated by an activity required under this Order or as a result of reviewing any other data or facts, that further work is necessary.

#### VI. Dispute Resolution

If the ALJ deems it necessary to convene a hearing, the taking of evidence shall be concluded as soon as practicable after Respondents submit a request for dispute resolution pursuant to this paragraph. In all proceedings hereunder:

- (1) The parties shall be the Department and Respondents.
- (2) Notice shall be provided to the Department by Respondents.
- (3) The burden of going forward to prove that the Department should not prevail shall be on Respondents.
- (4) The ALJ shall have all powers conferred by 6 NYCRR 622.12.
- (5) All proceedings conducted hereunder shall be stenographically recorded. Respondents shall arrange at Respondents' expense for an expedited stenographic transcript to be made within ten working days after the conclusion of the proceeding, and for the original and two copies of the transcript to be delivered to the ALJ.
- (6) The ALJ shall prepare a written summary of the documentation and testimony received during the proceeding, and a recommended decision. The summary and recommended decision shall be hand carried to the Department's representative and sent by certified mail, return receipt requested, and another copy by express mail to Respondents.
- (7) The ALJ's recommended decision shall become the final determination of the Commissioner unless, within ten working days from receipt of the recommended decision, either Respondents or the Department object in writing. Any objections shall be submitted in writing to the ALJ with a copy sent by express mail, telecopier or hand delivery to the other party, which shall serve and file in the same manner its response, if any, within five working days of receipt of the objections. Upon receipt of the objections and any response, the ALJ shall refer the matter to the Commissioner for final determination.
- (8) The final determination by the Commissioner shall be made as soon as practicable after receipt by him of the recommended decision by the ALJ.

VII. Penalties

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

B. Respondents shall not suffer any penalty under this Order or be subject to any proceeding or action 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. Respondents shall, within five days of when it obtains knowledge of any such condition, notify the Department in writing. Respondents shall include in such notice the measures taken and to be taken by Respondents to prevent or minimize any delays and shall request an appropriate extension or modification of this Order.

VIII. Entry upon Site

Respondents hereby consent to the entry upon the Site or areas in the vicinity of the Site which may be under the control of Respondents by any duly designated employee, consultant, contractor, or agent of the Department, bearing proper written identification, as may be reasonably necessary for the Department to verify Respondents' compliance with this Order. During periods when field activities are conducted pursuant to this Order, Respondents 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.

IX. Payment of State Costs

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

Bureau of Program Management  
Division of Environmental Remediation  
New York State Department of Environmental Conservation  
50 Wolf Road  
Albany, NY 12233-7010.

Personal service costs shall be documented by reports of Direct Personal Service, which shall identify the employee name, title, biweekly salary, and time spent (in hours) on the project during the billing period, as identified by an assigned time and activity code. Approved agency fringe benefit and indirect cost rates shall be applied. Non-personal service costs shall be summarized by category of expense (e.g., supplies, materials, travel, contractual) and shall be documented by expenditure reports.

B. Respondents' reimbursement of the State's expenses incurred in overseeing Respondents' implementation of all provisions of this Order, except Paragraph III (Interim Remedial Measures), shall not exceed \$38,000.00. If Respondents elect to propose IRMs in accordance with the provisions of Paragraph III, Respondents shall reimburse the State's administrative costs associated with such IRMs in accordance with the provisions of Subparagraph IX.A.

C. The Department reserves the right to seek reimbursement of all costs incurred by the State in relation to the Site prior to the effective date of this Order.

X. Department Reservation of Rights

A. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating, or in any way affecting any of the Department's civil, criminal, or administrative rights or authorities including, but not limited to, nor exemplified by, the right to recover natural resource damages against any party including Respondents and any right the Department may have to recover administrative costs. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating, or in any way affecting any of Respondents' defenses.

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

C. Respondents' consent to and compliance with this Order does not constitute, nor shall it be construed as, an admission of fact or liability by Respondents.

XI. Indemnification

Respondents shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless for all claims, suits, actions, damages, and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Order by Respondents and/or any of Respondents' directors, officers, employees, servants, agents, successors, and assigns. Said indemnification shall not include indemnification for gross negligence or willful misconduct on the part of the State of New York, the Department or their representatives and employees.

**XII. Public Notice**

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

B. If Respondents propose to convey the whole or any part of Respondents' ownership interest in the Site, Respondents shall, not fewer than 60 days before the date of conveyance, notify the Department in writing of the identity of the transferee and of the nature and proposed date of the conveyance and shall notify the transferee in writing, with a copy to the Department, of the applicability of this Order. No such notice shall be required, however, if the Site is delisted from the Registry.

**XIII. 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:

1. Communication from Respondents shall be sent to:

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

with copies to:

Director, Bureau of Environmental Exposure Investigation  
New York State Department of Health  
2 University Place  
Albany, New York 12203

Regional Director, Region 6  
New York State Department of Environmental Conservation  
State Office Building  
Watertown, New York 13601-3787

Dolores A. Tuohy, Esq.  
Division of Environmental Enforcement  
New York State Department of Environmental Conservation  
50 Wolf Road  
Albany, New York 12233-5500

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

Michael B. Gerrard, Esq.  
Arnold & Porter  
399 Park Avenue  
New York, New York 10022-4690

Joseph R. Jampietro  
Utica Alloys  
P.O. Box 53  
Utica, New York 13503

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

Four copies (one unbound) to Walter E. Demick, P.E.

Two copies to the Director, Bureau of Environmental Exposure Investigation.

One copy to Regional Director, Region 6.

One copy to Dolores A. Tuohy, Esq.

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

2. Within 30 days after the Department's approval of the RI/FS, Respondents shall submit one microfilm copy of the RI/FS to Director, Division of Environmental Remediation.

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

#### XIV. 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 Respondents are required to undertake under this Order are

ordinary and necessary expenses for the continued operation of Respondents.

B. Respondents 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 Department has approved Respondents' retention of Stearns & Wheeler, LLC, as consultant, and Severn Trent Laboratories for analytical services for the purposes of carrying out Respondents' obligations under this Order. The Department's approval of Severn Trent Laboratories shall terminate if Severn Trent Laboratories fails to continue to satisfy the New York State Department of Health's Environmental Laboratory Approval Program's Contract Laboratory Protocol certification requirements. The Department's approval of any other firms or individuals shall be obtained before the start of any activities for which Respondents and such firms or individuals will be responsible. The responsibility for the performance of the professionals retained by Respondents shall rest solely with Respondents.

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

D. Respondents shall make every reasonable attempt to notify the Department at least five working days in advance of any field activities to be conducted pursuant to this Order.

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

F. Respondents and Respondents' successors, and assigns shall be bound by this Order. Any change in ownership or corporate status of Respondents including, but not limited to, any transfer of assets or real or personal property shall in no way alter Respondents' responsibilities under this Order. Respondents shall oblige their officers, directors, employees, servants, and agents to comply with the relevant provisions of this Order in the performance of their designated duties on behalf of Respondents.

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

Respondents shall nonetheless be responsible for ensuring that Respondents' contractors and subcontractors perform the work in satisfaction of the requirements of this Order.

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

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

J. Nothing in this Order on Consent shall be construed to require disclosure of any document protected by the attorney-client privilege or the privileges for attorney-work product and material prepared in anticipation of litigation. Notwithstanding this provision, Respondents hereby acknowledges that there shall be no such attorney-work product, material prepared in anticipation of litigation or attorney-client privilege for sampling and analytical data generated with respect to the Site. In the event Respondents assert that any information is privileged, Respondents shall describe the information and the nature of the privilege asserted with sufficient clarity and particularity to place the Department on notice as to the basis of the claim.

K. 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.

L. 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 Respondents of Respondents' obligation to obtain such formal approvals as may be required by this Order.

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

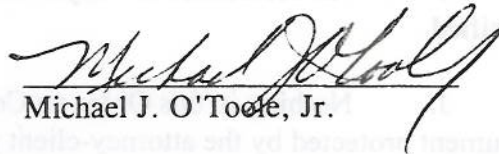
Walter E. Demick, P.E. and Dolores A. Tuohy, Esq.

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

DATED: 9/24/99

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

By:

  
Michael J. O'Toole, Jr.



CONSENT BY RESPONDENT UTICA ALLOYS, INC.

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: [Signature]  
(TYPE NAME OF SIGNER)  
JOSEPH R. ZIAMPINETTO

Title: PRESIDENT

Date: SEPTEMBER 14, 1999

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

On this 14<sup>th</sup> day of September, 1999, before me personally came Joseph R. Ziampietro, to me known, who being duly sworn, did depose and say that he resides in Manlius, NY; that he is the President of Utica Alloys, Inc., the corporation described in and which executed the foregoing instrument; that he knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by the order of the Board of Directors of said corporation and that he signed his name thereto by like order.

PAMELA J. VOGEL  
Registered #01V05041792  
Notary Public State of New York  
County of Oneida  
My Commission Expires April 10, 2001

[Signature]  
Notary Public

CONSENT BY RESPONDENT CLEARVIEW ACRES, LTD.

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:   
(TYPE NAME OF SIGNER)

JOSEPH R. DIAMPIETRO

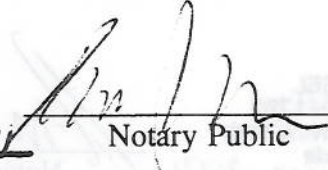
Title: PRESIDENT

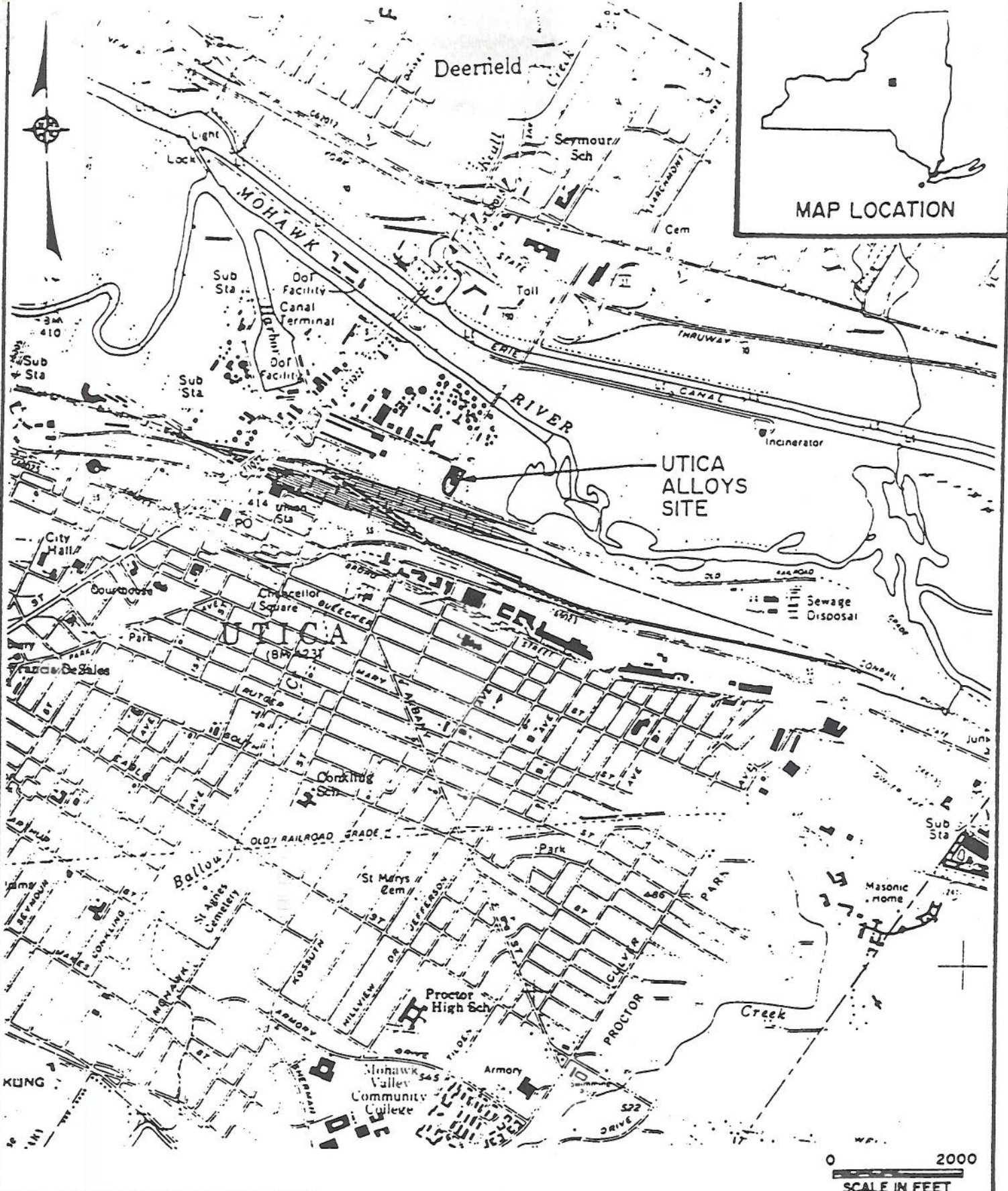
Date: SEPTEMBER 14, 1999

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

On this 14<sup>th</sup> day of September, 1999, before me personally came Joseph R. Diampietro, to me known, who being duly sworn, did depose and say that he resides in Manlius, NY; that he is the President of Clearview Acres, Ltd., the corporation described in and which executed the foregoing instrument; that he knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by the order of the Board of Directors of said corporation and that he signed his name thereto by like order.

PAMELA J. VOGEL  
Registered #01V05041792  
Notary Public State of New York  
County of Oneida  
My Commission Expires April 10, 2001

  
Notary Public



Source: NYSOT UTICA EAST QUADRANGLE

UTICA ALLOYS, INCORPORATED  
 UTICA, NEW YORK

**SITE LOCATION MAP**

**WFC** WILLIAM F. COULICH ASSOCIATES, P.C.  
 ENVIRONMENTAL ENGINEERS

FIGURE 1-1

