



Alcoa Corporate Center
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Pittsburgh, PA 15212-5858 USA
Tel: 1 412 553 1393
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May 26, 2016

Mr. Peter R. Taylor, P.E.
New York State Department of Environmental Conservation
317 Washington Street
Watertown, N.Y. 13601

RECEIVED
NYSDEC
MAY 27 2016
Environmental Quality
Region 6

**Re: Reynolds Metal Company Petition to remove Lower Raquette River Fishing Access Point
from Environmental Restrictive Covenant**

Dear Mr. Taylor:

Reynolds Metals Company ("Reynolds") was required by the New York State Department of Environmental Conservation ("Department") Order on Consent Index # A6-0291-92-12 ("Order") to file a Declaration of Restrictions ("Restrictions") with the St. Lawrence County Clerk's Office for the purpose of providing notice of this Order to all potential future purchasers of any portion of its property as listed in the Restrictions. The Restrictions were recorded in the St. Lawrence County's Clerk Office at Miscellaneous Records Book 35, page 73 on March 26, 1993 and constitute a covenant running with the land.

Reynolds constructed a recreational fishing project on a portion of Reynolds Parcel #14 land ("Property") in accordance with a natural resource damages Consent Decree (Case 7:13-cv-00337-NAM-TWD). Parcel #14 is included in the list of properties covered by the Restrictions. Reynolds desires to donate the Property and the fishing project to the Town of Massena and has conducted a Phase I Environmental Site Assessment of the Property. A hard copy and electronic copy of the Phase I report was provided to your office in August 2015. The assessment determined that no disposal or release of hazardous waste or contaminants occurred at this Property. As such, no environmental cleanup or remedial activities are needed or required at this Property for any reason, including but not limited to, as a result of the Order.

Therefore, Reynolds hereby petitions the Department pursuant to 6 NYCRR 375.2.7(f) to consent to remove the Property from the Restrictions which will allow the Property to be conveyed to the Town of Massena free and clear of this encumbrance, which in turn will pave the way for the Town to reuse the Property for a public fishing access to the Lower Raquette River. Enclosed is a "Consent to Discharge of Declaration of Covenants and Restrictions" document that would need to be filed in the St. Lawrence County land records evidencing the Department's consent requested by this petition. The document includes the Restrictions, and a map and legal description of the Property. Also enclosed is an additional electronic copy of the Phase 1 Environmental Site Assessment report for your convenience.

If you have any questions regarding this matter, please contact Mr. Patrick Cook at 412-553-2118.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kirk J. Gribben".

Kirk J. Gribben
Director, Remediation

Enc.

**CONSENT TO DISCHARGE OF
DECLARATION of COVENANTS and RESTRICTIONS**

THIS CONSENT TO DISCHARGE is given the ____ day of _____, 2016, by the New York State Department of Environmental Conservation.

WHEREAS, Reynolds Metals Company ("Reynolds"), a wholly-owned subsidiary of Alcoa Inc., owns an aluminum reduction plant ("Facility") having an address of 194 County Route 45, Massena, New York, 13662; and

WHEREAS, the Facility is the subject of an Order on Consent ("Consent Order") with the State of New York on March 01, 1993, (Index #A6-0291-92-12) imposing various requirements upon Reynolds with respect to environmental matters at the Facility; and

WHEREAS, as required by paragraph X. of the Consent Order, Reynolds created a "Declaration of Restrictions" (the "Restriction") attached hereto as Attachment "A," which subjected deeds as listed on Exhibit "A" of said Restriction, comprising the property inside the fence line of the Facility and property surrounding the Facility's fence line, to a requirement that any successor in title to all or any portion of this property be bound by the obligations of the Consent Order shown as Exhibit "B" of said Restriction. The Restriction, was recorded in the St. Lawrence County's Clerk Office at Miscellaneous Records Book 35, page 73 on March 26, 1993, and constituted a covenant running with the land; and

WHEREAS, Reynolds desires to convey a parcel of Facility property, depicted in Attachment "B" and described in Attachment "C," to the Town of Massena free and clear of said Restriction; and

WHEREAS, because the parcel to be conveyed to the Town of Massena is not impacted by environmental contaminants or pollutants, the New York State Department of Environmental Conservation has agreed to remove the Restriction from said parcel, so that upon execution of this "Consent to Discharge of Declaration of Covenants and Restrictions," said parcel shall be free and clear of said Restriction.

NOW, THEREFORE, the New York State Department of Environmental Conservation consents that any and all obligations, restrictions, limitations, burdens, requirements and/or conditions imposed by the "Declaration of Restrictions" attached hereto as Attachment "A" and recorded in the St. Lawrence County's Clerk Office at Miscellaneous Records Book 35, page 73, on March 26, 1993, shall be forever removed and discharged with respect to the parcel of property depicted in the Attachment "B" and described in the Attachment "C" so that said parcel is hereafter forever free and clear of said "Declaration of Restrictions."

IN WITNESS WHEREOF, the undersigned has executed this instrument by its duly authorized representative as of the day written below.

New York State
Department of Environmental Conservation

By: _____

Name: _____

Title: _____

STATE OF NEW YORK)
)ss.:
COUNTY OF ST. LAWRENCE)

On this ____ day of _____, 2016, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she signed the same in his/her capacity, and that by his/her signature on the instrument, the New York State Department of Environmental Conservation executed the instrument.

NOTARY PUBLIC

DECLARATION OF RESTRICTIONS

WHEREAS, by deeds listed on Exhibit A annexed hereto, Reynolds Metals Company is the owner in fee simple of certain real property located in the Town of Massena, County of St. Lawrence, State of New York, and being more particularly described in each of the deeds listed on Exhibit A, and

WHEREAS, such real property was the subject of an enforcement proceeding brought by the New York State Department of Environmental Conservation pursuant to Article 27, Title 13 of the New York State Environmental Conservation Law, and

WHEREAS, such proceeding was resolved by an Order on Consent dated March 1, 1993, a copy of which is annexed hereto as Exhibit B, and

WHEREAS, pursuant to the terms of such Order, Reynolds Metals Company is required to undertake certain response activities at the aforesaid site, and

WHEREAS, pursuant to the terms of Article X, A. of such Order, Reynolds Metals Company is required to file this Declaration of Restrictions with the St. Lawrence County Clerk's Office for the purpose of providing notice of this Order to all potential future purchasers of any portion of the aforesaid site.

WITNESSETH:

REYNOLDS METALS COMPANY hereby declares that all of the real property described in Exhibit A shall be held, sold, and conveyed subject to the covenants, conditions, and restrictions set forth in the Order on Consent annexed hereto, the obligations under such Order constituting a covenant running with the land. Such covenants shall be binding on all parties having any right, title, or interest in the real property described in Exhibit A, their heirs, successors, and assigns. All subsequent owners shall be deemed to covenant by acceptance of a deed, whether or not it shall be expressed in the deed, to be bound by the obligations of the Order on Consent annexed hereto.

IN WITNESS WHEREOF, Reynolds Metals Company has hereunto set its hand and seal on this 26th day of March, 1993.

REYNOLDS METALS COMPANY

By



Paul Rafki, Operations Manager
Reduction Division

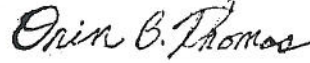
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Reds. BOOK 35 PAGE 73

Sworn to before me this 26th day of March, 1993.

Notary Public
FARMACER CLAMMARDEN 001322
NOTARY PUBLIC

My Commission Expires 2/28/97



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EXHIBIT A

DEEDS INTO REYNOLDS METALS COMPANY					
Tract	Grantor	Deed Dated	Date Recorded	Book	Page
1	J.B. & B. P. Tucker	04-15-57	04-17-57	608	344
2	Elihu & Shirley A. Chase	04-12-57	05-02-57	609	363
3	L. H. & M. T. Chase	04-13-57	05-02-57	609	359
4	C. K. & L. M. Tucker	05-20-57	06-10-57	612	189
5	Max, Jr., & V. F. Hampton	06-12-57	06-17-57	612	515
6	Kenneth & Marion Bourdon	05-22-57	07-09-57	614	221
7	C. A. & Thelma Haverstock	07-03-57	07-09-57	614	224
8	George E. Haverstock	07-03-57	07-09-57	614	230
9	Martha Ella Haverstock	07-03-57	07-09-57	614	227
10	Ethel Chase Haverstock	07-03-57	07-09-57	614	234
11	Joseph Premo, Jr.	07-10-57	07-15-57	614	511
12	Daniel W. Castleman	07-12-57	07-29-57	615	492
13	Gordon C. & Margaret Forbes	08-01-57	08-13-57	617	145
14	E. R. & W. P. Fregoe	08-07-57	08-13-57	617	139
15	W. S. Crapser & W. C. Ward	08-05-57	08-30-57	618	450
16	William & Flora Fregoe	08-09-57	09-10-57	619	245
17	Bert Haverstock	08-30-57	09-12-57	619	371
18	Errol Haverstock	08-30-57	09-12-57	619	377
19	Hugh H. & Mary C. Kingsley	08-12-57	09-18-57	620	34
20	Stanley J. & Ersel M. Logan	10-11-57	10-17-57	621	573
21	J. W. & K. C. Dignean	10-16-57	10-25-57	622	321
22	W. S. Crapser & W. C. Ward	10-22-57	10-31-57	623	22
23	Wm., Jr., & E. R. Fregoe	10-10-57	12-05-57	624	537
24	Myrtle Yandoh	08-29-57	12-11-57	625	112
25	Charles A. Fregoe	12-27-57	12-31-57	626	28
26	Grace T. Richards, et al	12-04-57		626	485
27	W. S. Crapser & W. C. Ward	02-20-58	04-07-58	630	54
28	L. H. & M. T. Chase	12-16-57	05-09-58	631	544
29	Elihu & Shirley A. Chase	01-27-58	05-09-58	631	541

DEEDS INTO REYNOLDS METALS COMPANY					
Tract	Grantor	Deed Dated	Date Recorded	Book	Page
30	M. F. & D. P. Stickney	01-10-58	07-10-58	635	405
32	Town of Massena	11-21-58	04-20-59	650	331
35	Cornwall Intntl. Bridge Co., Ltd.	09-13-61	11-22-61	696	459
36	St. Lawrence River Power Co.	05-20-59	01-22-62	699	304
37	St. Lawrence Seaway Dev. Corp.	03-21-62	04-02-62	701	432
39	Elihu & Shirley A. Chase	07-24-62	08-24-62	709	64
40	Thos. F. & Esther L. Beaulieu	09-25-62	12-10-62	714	255
41	W. S. Crapser & W. C. Ward	12-07-61		697	565
42	D. D. & Ruth M. McElerhan	05-20-63	07-22-63	723	378
43	S. I. & F. M. Lawrence	07-09-63	07-31-63	724	88
44	S. & B. Dillabough	08-23-63	10-07-63	727	286
45	Charles A. Fregoe	12-02-63	01-15-64	732	87
46	Alberta Blair	02-03-64	05-27-64	737	112
47	J. C. & K. M. Austin	07-15-64	07-16-64	739	546
48	Caroline Johnson	11-09-65	12-03-65	764	434
49	Lillian Planty	03-27-67	05-11-67	786	512
50	Harold & Marguerite Smith	12-29-67	01-05-68	798	467
51	Raymond W. & Rita LeBlanc	12-17-69	12-19-69	832	199
52	Ivan Smith	07-30-70	08-20-70	842	577
53	Harlan J. Cook	01-16-75	01-20-75	897 897	491
54	Juliette LaCourse	08-11-75	09-26-75	903	286
55	Alice Digneau	09-24-75	10-09-75	903	703
56	C. S. & F. R. Digneau	12-23-76	01-04-77	915	576
57	Ivan & Evelyn Bonneville	10-05-78	06-13-79	941	680
58	Harold & Ruth A. Dear	09-25-80	09-29-80	952	849
59	H. A. & J. S. Perry	10-01-83	11-04-83	977	965

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STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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 # A6-0291-92-12

REYNOLDS METALS COMPANY,
Respondent.

(Site Code # 645009)

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 entered into pursuant to the Department's authority under ECL Article 27, Title 13, ECL Article 71, Title 27 and ECL Section 3-0301.

2. A. Reynolds Metals Company ("Respondent"), is a corporation organized under the laws of the State of Delaware, and is doing business in the State of New York in that it owns and operates an aluminum reduction plant ("the Facility") on property in Massena, County of St. Lawrence, New York, bounded on the north by Haverstock Road (South Grasse River Road) and the St. Lawrence River; on the east by Conrail (formerly New York Central Railroad) and Haverstock Road; on the south by New York State Route 37 and the Racquette River. The Facility occupies about 7%, or 112 acres of the total plant property owned by Respondent. A map of the Facility is attached to and incorporated into this Order as Appendix A.

The property contains six inactive hazardous wastes sites which have been consolidated into a single listing in the New York State "Registry of Inactive Hazardous Waste Disposal Sites" under site number 645009. The Department has determined that disposal of hazardous wastes at these six sites (characteristics of these wastes include but are

not limited to PCBs, PAHs, aluminum, arsenic, cyanide, fluoride, sulfate, sodium, and magnesium) requires implementation of remedial and restorational measures to protect the public health and environment. The six sites now consolidated under site number 645009 are: Black Mud Pond, Landfill/Former Potliner Storage Area, Freshwater Wetlands, Potliner Pad, North Yard and Miscellaneous Areas:

1) The Black Mud Pond, on the west side of the facility, primarily contains byproduct from the processing of spent potliners for cryolite recovery. The Black Mud Pond ground water data has shown cyanide, fluoride, iron, magnesium, manganese, PCBs, phenols and sulfate in excess of New York State Groundwater Quality Standards or Guidance Values.

2) The Landfill/Former Potliner Storage area is located on the southwest corner of the facility. While operating, the site received industrial wastes, spent potliner waste and PCB-contaminated sewage sludge. Shallow groundwater flow is a migration pathway for contaminants from this area and discharges directly into the adjacent freshwater wetlands.

3) The Freshwater Wetlands area is located south and west of the Landfill/Former Potliner Storage area. The wetlands have been impacted by surface water, groundwater and sediment contamination (from PCBs and other contaminants), primarily from the Landfill and the Rectifier Yard.

4) The Potliner Pad area is a concrete surface structure located adjacent to the crusher building on the northwest side of the facility. It was historically used for storage of spent potliner materials. Sediments in drainage pathways and soils show evidence of contamination and groundwater which were determined to be in excess of Groundwater Quality Standards and Guidance Values.

5) The North Yard area is the location for the Heat Transfer Medium System which in the past pumped a fluid containing PCBs from the Pitch Pump House into the main plant. Although such fluids are no longer in use, through leaks and spills over the life of the system, high levels of PCBs and low levels of dioxin/dibenzofurans have accumulated in the soils in the North yard area. Other contaminants have been detected in the soils and in the groundwater in excess of Groundwater Quality Standards and Guidance values.

6) The Miscellaneous Areas contaminated with PCBs are located around Respondent's facility at the following sites:

- a. Rectifier Yard,

- b. Soil Stockpile,
- c. West Ditch Outfall,
- d. Area North of Haverstock Road,
- e. SPDES Point Discharge 006 Outfall, and
- f. SPDES Point Discharge 005 Diversion Area.

These areas are susceptible to contaminant migration via surface water runoff to either the Freshwater Wetlands or the St. Lawrence River.

B. On September 8, 1987, the Department and Respondent entered into a Consent Order (Index # A6-0119-87-08) to (i) develop and implement a remedial investigation and remedial program for past, current and/or potential future releases or migration of hazardous wastes from the Site; (ii) determine whether or not additional hazardous or industrial waste disposal sites were located on the property; (iii) evaluate alternatives for disposal of industrial and commercial wastes generated at the Facility; (iv) develop a Department-approved remedial program for inactive hazardous waste disposal sites identified at the property; and (v) develop closure plans or permitting schedules for any solid waste management units identified at the property.

C. Following execution of the September 8, 1987 Consent Order Respondent submitted several reports to the Department in furtherance of its obligations under the Consent Order, including but not limited to, a Phase I Remedial Investigation Report (Revision 2) dated March 31, 1989, a Risk Analysis Report (Revision 2) dated November 5, 1990, and a Revised Final Feasibility Study Report dated August 19, 1991.

3. On January 22, 1992, following a period of public comment on a Proposed Remedial Action Plan, the Department, by Deputy Commissioner Edward O. Sullivan, executed a final remedial alternative for the Site in a Declaration for Record of Decision ("ROD").

4. The Site is an inactive hazardous waste disposal Site, as that term is defined at ECL Section 27-1301.2, and the Department has classified the Site as a Classification "2" pursuant to ECL Section 27-1305.4(b), signifying that the site poses a "significant threat to the public health or environment - action required".

5. A. Pursuant to ECL Section 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 Section 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 Section 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 Section 3-0301.1(i).

6. The Department and Respondent hereby agree that the goals of this Order are for Respondent to (i) develop and implement, in accordance with the January 22, 1992 ROD, an inactive hazardous waste disposal site remedial program ("Remedial Program") for the Site that shall include design and implementation, operation, maintenance and monitoring of the remedial alternatives selected in the ROD; and (ii) reimburse the Department's actual administrative costs, as provided for in Paragraph VI herein.

7. Without having admitted any past or present violation of law, Respondent, having waived its right to a hearing herein as provided by law, and having consented to the issuance and entry of this Order, agrees to be bound by the terms of this Order.

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

I. Remedial Design Contents

A. Within 60 days after the effective date of this Order, Respondent shall submit to the Department a remedial design/remedial action ("RD/RA") work plan, containing a schedule for implementation of the RD/RA work plan, in accordance with Interim Final Guidance on EPA Oversight of Remedial Designs and Remedial Actions Performed by Potentially Responsible Parties (April 1990) to implement the remedial alternatives for the Site selected by the Department in the January 22, 1992 ROD. The RD/RA work plan shall be prepared by and have the signature and seal of a professional engineer who shall certify that it was prepared in accordance with this Order.

B. The Remedial Design shall include the following as described in the ROD and approved RD/RA work plan:

1. A detailed description of the remedial objectives and the means by which each essential 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. health and safety of persons living and/or working at or in the vicinity of the Site;
- f. quality control and quality assurance procedures and protocols to be applied during implementation of the Remedial Design;
- g. monitoring which integrates needs which are present on-Site and off-Site both during implementation of the Department-selected remedial alternative and for a specified number of years after construction of the Remedial Design has been approved by the Department, including a schedule for periodic sampling of on-Site and off-Site groundwater monitoring wells; and
- h. production of a study that determines the scope of applicable alternatives for the mitigation, restoration or recreation of the wetlands benefits and values lost due to contamination at the site and the implementation, upon approval by the Department, of the appropriate remedial alternative consistent with applicable laws, regulations and the ROD.

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 construct and implement the Remedial Design;

4. A construction Quality Control/Quality Assurance Plan developed in accordance with EPA Technical Guidance Document: Construction Quality Assurance for Hazardous Waste Land Disposal Facilities (October 1986), and as approved by the Department;

5. A detailed post-remedial operation and maintenance plan ("O & M

Plan"), prepared, signed and sealed by a professional engineer, to be undertaken after the construction of the Remedial Design, including provision for the number of years during which such activities will be performed;

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

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

8. 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 C.F.R. 1910 by a certified health and safety professional;

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

10. A mobilization and demobilization plan that addresses site security, site access control, decontamination procedures and health and safety.

II. Remedial Design Construction and Reporting

A. Upon the Department's approval of the Remedial Design, Respondent shall commence construction and implementation of the Remedial Design in accordance with the time schedule contained in the approved Remedial Design.

B. Respondent shall implement the Remedial Design in accordance with the Department-approved Remedial Design.

C. 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. Respondent must obtain written approval from the Department prior to any deviation from the approved Remedial Design, except that minor deviations may be orally requested by Reynolds' Project Manager and approved orally by the Department's Project Engineer, provided that Reynolds' Project Manager confirms said oral request in writing within 15 days of the request. The Department's Project Engineer shall provide written confirmation of his or her oral approval within 15 days of receiving Reynolds' written confirmation. Respondent shall not commence construction until the Department approves the actual site control measures instituted at the site as specified in the mobilization plans.

D. Within 90 days after completion of the construction activities identified

in the Remedial Design, Respondent shall submit to the Department "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 Remedial Design was implemented and all construction activities were completed in accordance with the Department-approved Remedial Design. The "as built" drawings, final engineering report and certification must be prepared, signed and sealed by a professional engineer.

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

F. Respondent shall: (i) operate, maintain and monitor all elements of the Remedial Program for the period of years set forth in the approved Remedial Design; (ii) implement the contingency plan contained in the approved Remedial Design in the event any essential element of the Remedial Design fails prior to or after completion, or otherwise fails to protect human health or the environment to the extent the Remedial Design was designed to achieve protection of human health and the environment; (iii) implement the health and safety plan contained in the approved Remedial Design after completion; and (iv) implement the O & M Plan in accordance with the requirements of the Department-approved O & M Plan.

G. If the Department concludes that any element of the Remedial Program fails to achieve its objectives or otherwise fails to protect human health or the environment, to the extent the Remedial Design was designed to achieve the same, and the implementation of applicable Remedial Design contingency plans does not correct such failures, it shall provide at least one opportunity for its representatives to meet with Reynolds' representatives to discuss and address, if possible, concerns or questions the Department may have. If, after such meeting, the Department concludes that Reynolds has not satisfactorily addressed the Department's determination that an element or elements of the Remedial Program or applicable contingency plan fails to achieve its objectives or otherwise fails to protect human health or the environment, to the extent the Remedial Design was designed to achieve the same, upon receipt of written notification from the Department, Reynolds shall, if the Department so directs, immediately cease and discontinue construction and/or operation of the remedial or contingency measure in issue. In addition, the Department may take any action or pursue whatever rights it has pursuant to any provision of statutory or common law.

H. Respondent must promptly submit to the Department reports and thorough summaries of any and all analytical data generated during the duration of the construction and implementation of the Remedial Design, including post-remedy actions, that pertain to hazardous waste disposal site remediation, either directly or indirectly, whether undertaken as a result of the approved Remedial Design or conducted independently by Respondent.

III. Progress Reports

Respondent shall submit, in accordance with paragraph XI, B and C, written monthly progress reports that:

- (i) describe the actions which have been taken toward achieving compliance with this Order during the previous month;
- (ii) include thorough summaries of all results of sampling and tests and all other data received or generated by Respondent, its contractors or agents in the previous month that pertain to hazardous waste site remediation, including quality assurance/quality control information, whether conducted pursuant to this Order or conducted independently by Respondent;
- (iii) identify all work plans, reports and other deliverables required by this Order that were completed and submitted during the previous month;
- (iv) 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;
- (v) include information regarding percentage of completion, unresolved delays encountered or anticipated that may affect the future schedule for implementation of the Respondent's obligations under the Order, and efforts made to mitigate those delays or anticipated delays;
- (vi) describe any modifications to any work plans that Respondent has proposed to the Department or that the Department has approved;
- (vii) describe all activities undertaken in support of the Citizen Participation Plan during the previous month and those to be undertaken in the next month;
- (viii) describe all events or incidents occurring in the course of implementing the health and safety plan, including but not limited to accidents requiring medical attention, or the filing of insurance claims for personal or bodily injury or damage to/loss of equipment, fixtures, goods and/or services or other property, violations, results of air monitoring and OSHA inspections;

(ix) supply the Department with copies of any photographs taken at the site of the construction and implementation of the Remedial Design; and

(x) each monthly progress report shall be signed by the on-site supervisor of the Remedial Design program before submitting such reports to the Department. Respondent shall submit a monthly progress report to the Department by the fifteenth day of each month, beginning the month following the effective date of this Order, until the Department has notified Respondent in writing that the Department is satisfied that all construction activities have been completed in compliance with the approved Remedial Design pursuant to paragraph II, E.

IV. Review of Submittals

A. 1. The Department shall review each of the submittals Respondent makes 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 Respondent in writing of its approval or disapproval of the submittal, except for the submittal discussed in Paragraph I, B, 8 (health and safety plan). All Department-approved submittals shall be incorporated into and become an enforceable part of this Order. The time necessary for the Department to review and respond to any submittal or revised submittal by Respondent shall not prejudice Respondent in meeting any schedule or deadline imposed by this Order, approved Work Plans or other approved submittals.

2. a. If the Department disapproves a submittal, it shall so notify Respondent in writing and shall specify the reasons for its disapproval. Within 30 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 approves the revised submittal, it shall be incorporated into and become an enforceable part of this Order. If the Department disapproves the revised submittal because it does not comply with the terms of this Order, 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 unless, within five business days of receipt of the Department's notice, Respondent requests that the matter be handled pursuant to Paragraph V. Respondent hereby reserves all rights available to it with respect to any such violation and does not hereby admit

to any liability or culpability with respect thereto.

c. In the event that Respondent requests that the matter be handled pursuant to Paragraph V, stipulated penalties pursuant to paragraph IV, C of this Order shall accrue but need not be paid during the review period. The review period, and hence the accrual of penalties, shall begin on the first day Respondent is in violation of this Order and shall end upon the entry of the Director's decision. The Department has the right to collect all penalties which accrued prior to and during the period of review unless Respondent finally prevails on appeal before the Director of the Division of Hazardous Waste Remediation or a court of competent jurisdiction. In the event of an appeal, these penalties shall no longer accrue and the accrued penalties shall be placed into an escrow account until the entry of a judgment by the court after all available opportunity for appeal has been exhausted.

B. The Department may require Respondent to modify and/or amplify and expand a submittal if the Department determines, as a result of reviewing data generated by an activity required under this Order or as a result of reviewing any other data or facts, that further work is necessary to comply with the ROD and meet the objectives of the Remedial Design and this Order.

C. Penalties

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 the 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, except as noted in Paragraph IV, A, 2, c, for Submittals. 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 9 percent 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 the 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 this subparagraph pursuant to the following schedule:

<u>Period of Non-Compliance</u>	<u>Penalty Per Day</u>
First through 15th day	\$ 2,500
16th through 30th day	\$ 5,000
31st day and thereafter	\$ 7,500

3. Upon the Department's notification of a violation of this Order, the parties shall endeavor to resolve such violations, if circumstances allow.

D. Force Majeure: 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 act of God, war, strike, work stoppage, riot or other condition as to which the negligence or willful misconduct on the part of Reynolds was not a proximate cause. Respondent shall, within five business 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 business 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 this subparagraph.

V. Dispute Resolution.

A. Any dispute between Respondent and the Department as to any obligation or requirement of this Order shall in the first instance be the subject of negotiation pursuant to this paragraph. Notwithstanding any other provision of this Order, dispute resolution measures provided for in this Paragraph shall not apply to (a) any matters that involve a ministerial act by Respondent, including but not limited to submittal and construction dates (i.e., acts that do not involve the exercise of personal judgment or discretion), or (b) a bad faith response to a requirement of this Order.

B. If either party believes that it has a dispute with the other party, within 10 business days of the date on which that dispute arises it shall give written notice thereof concisely describing the matter(s) in dispute. Representatives of both parties shall promptly confer and attempt expeditiously and in good faith to resolve the dispute. The negotiations may involve such consultation, communications and meetings as may be effective in satisfactorily resolving any dispute.

C. If the Respondent and the Department are unable to resolve the dispute

within 30 days after giving the written notice or other period of time as may be mutually agreed upon (the negotiating period), then, within ten business days after the expiration of the negotiating period, each party shall set forth its position in writing and submit the matter to the Director of the Division of Hazardous Waste Remediation (the "Director") for review. The Director's decision shall be the Department's final determination, shall be binding upon the Respondent unless Respondent applies for review with a court of competent jurisdiction within fifteen days of receipt of the Director's decision.

VI. 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 the 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. 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, except (i) communications which are privileged pursuant to Sections 3101 (c) and 4503(a) of the Civil Practice Law and Rules of the State of New York, (ii) presubmission draft documents prepared by Reynolds' consultant, (iii) internal cost estimates, (iv) budgets and (v) proprietary or trade secret information. The Department shall have full access to all raw data generated by Reynolds or its consultants even if the data is included in a draft report.

VII. Payment of Department Costs

Within 30 days after receipt of an itemized invoice from the Department, Respondent shall pay to the Department a sum of money which shall represent reimbursement for the Department's actual expenses including, but not limited to, direct labor, overhead, travel, analytical costs and contractor costs incurred by the State of New York for work performed at the Site since the effective date of the Record on Decision to date; as well as for negotiating this Order, reviewing and revising submittals made pursuant to this Order, overseeing activities conducted pursuant to this Order, and collecting and analyzing samples. Such payment shall be made by check payable to the Department of Environmental Conservation. Payment shall be sent to the Bureau of Program Management, Division of Hazardous Waste Remediation, N.Y.S.D.E.C., 50 Wolf Road, Albany, NY 12233-7010. Itemization of the costs shall include an accounting of personal services indicating the employee name, title, biweekly salary and time spent (in hours) on the project during the billing period. The Department's approved 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 the New York State Office of the State Comptroller's quarterly expenditure reports.

VIII. Department Reservation of Rights

A. Except as is specifically provided herein, nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting any of the Department's rights including, but not limited to or exemplified by, the following:

1. the Department's right to bring any action or proceeding against anyone other than Respondent and/or any of Respondent's directors, officers, employees, servants, agents, successors and assigns;

2. the Department's right to enforce this Order against Respondent and/or any of Respondent's directors, officers, employees, servants, agents, successors and assigns if Respondent fails to satisfy any of the terms of this Order;

3. the Department's right to bring any action or proceeding against Respondent and/or any of Respondent's directors, officers, employees, servants, agents, successors and assigns with respect to claims for natural resources damages as a result of the release or threatened release of hazardous substances or constituents at or from the Site or areas in the vicinity of the Site;

4. the Department's right to bring any action or proceeding against Respondent and/or any of Respondent's directors, officers, employees, servants, agents, successors and assigns with respect to hazardous substances that are present at the Site or that have migrated from the Site;

5. the Department's right to bring any criminal action against the Respondent and/or any of Respondent's directors, officers, employees, servants, agents, successors and assigns; and

6. the Department's right to gather information and enter and inspect property and premises.

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. Nothing contained in this Order shall constitute a waiver by Reynolds of any right it may have to challenge or take issue with the remedies reserved or available to the Department or any other party or in any way diminish or affect Reynolds' right to defend itself in any action.

IX. 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 Respondent's directors, officers, employees, servants, agents, successors and assigns; provided, however, that Reynolds does not assume any liability arising from the negligent or intentionally tortious acts or omissions of the Department, the State of New York, and their representatives and employees during the course of any activities conducted pursuant to this Order.

X. Public Notice

A. Within 30 days after the effective date of this Order, Respondent 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 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.

XI. Communications

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

1. Darrell Sweredoski, P.E.
D.E.C. Region 6
Hazardous Waste Remediation Engineer
State Office Building
Watertown, New York 13601

2. Philip G. Waite, P.E.
D.E.C. Region 6
Project Manager
State Office Building
Watertown, New York 13601

3. Director, Bureau of Environmental
Exposure Investigation
New York State Department of Health
2 University Place
Albany, New York 12203
4. Michael J. O'Toole, Jr., Director
D.E.C. Division of Hazardous Waste Remediation
Room 212
50 Wolf Road
Albany, New York 12233-7010
5. William G. Little, Esq.
D.E.C. Division of Environmental Enforcement
Albany Field Unit, Room 415
50 Wolf Road
Albany, New York 12233-5501

B. Copies of work plans and reports shall be submitted to the following offices at the addresses listed above:

1. Three copies to the Region 6 Hazardous
Waste Engineer.
2. Two copies to the Director, Bureau of
Environmental Exposure Investigation, Department of Health.
3. Four copies to the Division of Hazardous
Waste Remediation, Bureau of Central Remedial
Action.
4. One copy to the Albany Field Unit Attorney.

C. One copy of all work plans and reports shall be supplied to the
Akwesasne Mohawk Nation, c/o Ken Jock, Akwesasne Mohawk Health Services Community

Building, Hogansburg, New York 13655.

D. Within 30 days after the Department's approval of any report submitted pursuant to this Order, with the exception of drawings or other material not readily converted to magnetic media, Respondent shall submit to Darrell Sweredoski, Region 6 Hazardous Waste Remediation Engineer, a computer readable magnetic media copy (either a 5 1/4 inch or a 3 1/2 inch diskette media) of the approved report in American Standard Code for Information Interchange (ASCII) format.

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

Plant Manager
Reynolds Metals Company
P.O. Box 500
Massena, New York 13662

Remediation Project Director
Reynolds Metals Company
P.O. Box 500
Massena, New York 13662

Environmental Counsel
Law Department
Reynolds Metals Company
P.O. Box 27003
Richmond, Virginia 23261-7003

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

XII. Miscellaneous

A. All activities and submittals required by this Order shall address both on-Site and off-Site contamination resulting from the disposal of hazardous waste at the Site to the extent required by the Remedial Design.

B. Respondent shall retain professional consultants, contractors, laboratories, quality assurance/quality control personnel and data validators having all licenses and certifications required by law to perform the technical, engineering and

analytical obligations required by this Order. The experience, capabilities and qualifications of the firms or individuals selected by Respondent shall be submitted to the Department no less than 30 days before work is to be conducted. The Department's approval of these firms or individuals shall be obtained before the start of any activities for which the 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. Each party to this Order shall have the right to obtain split samples, duplicate samples or both, of all substances and materials sampled by the other party. Each party shall make available to the other party the results of all sampling and/or tests or other data generated by it with respect to implementation of this Order. Respondent shall submit the results of its sampling 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.

E. 1. Respondent shall use reasonable efforts to obtain in a timely and expeditious manner those permits, easements, rights-of-way, rights-of-entry, authorizations or approvals ("Approvals") from any governmental authority or other person as may be necessary to perform Respondent's obligations pursuant to this Order. Respondent shall not be obliged to accept any Approvals containing use restrictions on real property which prohibit or interfere with its performance of its obligations pursuant hereto or any other unreasonable provisions or restrictions, if it shall have used reasonable efforts without success to obtain the same without such provisions or use restrictions. For the purposes of this paragraph unreasonable provisions or restrictions shall include the payment of unreasonable amounts of money for easements or licenses. Respondent shall promptly notify the Department in the event of its inability to obtain such Approvals without such provisions or use restrictions on a timely basis, and/or its inability to obtain Approvals without prohibiting or interfering use restrictions, in which event the parties shall proceed as provided in subparagraph 2 hereof.

2. In such event, the Department shall use its best efforts, consistent with its legal authority, to assist in obtaining, as appropriate, all such Approvals which Respondent was unable to obtain without such unreasonable provisions or use restrictions on a timely basis, or was unable to obtain without prohibiting or interfering use restrictions. If Reynolds cannot obtain such authorizations on a timely basis, the time for performance of any obligation dependent upon such authorization shall be appropriately extended upon written request. If Reynolds cannot obtain such authorization, this Order may be

appropriately modified.

F. Within 60 days after the effective date of this Order Respondent shall provide a cost estimate for the Remedial Program and shall provide financial assurance for such requirements pursuant to one of the methods set forth in 6 NYCRR 373-2.8(d). Within sixty (60) days after the completion of the construction activities identified in the Remedial Design Respondent shall provide a cost estimate for the Operation and Maintenance Period, and shall provide financial assurance for such requirements pursuant to one of the methods set forth in 6 NYCRR 373-2.8(f).

G. Respondent and Respondent's officers, directors, agents, servants, employees, successors and assigns shall be bound by this Order. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall in no way alter Respondent's responsibilities under this Order.

H. Respondent shall provide a copy of this Order and all relevant attachments and/or appendices to each contractor hired to perform work required by this Order and to each person representing Respondent 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. Respondent or Respondent's contractors shall provide written notice of this Order to all subcontractors hired to perform any portion of the work required by this Order. Respondent shall nonetheless be responsible for ensuring that Respondent's contractors and subcontractors perform the work in satisfaction of the requirements of this Order.

I. 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.

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

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

L. 1. The terms of this Order shall constitute the complete and entire Order between Respondent and the Department concerning the Site. No term, condition, understanding or agreement purporting to modify or vary any term of this Order shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestion or comment by the Department regarding any report, proposal,

plan, specification, schedule or any other submittal shall be construed as relieving Respondent of its 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 the Respondent, to the Commissioner setting forth reasonable grounds for the relief sought. Copies of such written application shall be delivered or mailed to: William G. Little, Esq., Albany Field Unit, and Darrell Sweredoski, P.E., Region Six Hazardous Waste Remediation Engineer. Such applications for modification of this Order shall be promptly considered.

XIII. The effective date of this Order shall be the date it is signed by the Commissioner or his designee.

DATED: Albany, New York

March 1, 1993

THOMAS C. JORLING
Commissioner
New York State Department
of Environmental Conservation

By: 

Ann DeBarbieri
Deputy Commissioner

CONSENT BY RESPONDENT

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

Signature: 

Name(typed): P. Ratki

Title: Operations Manager, Reduction Division

Date: February 16, 1993

STATE OF VIRGINIA

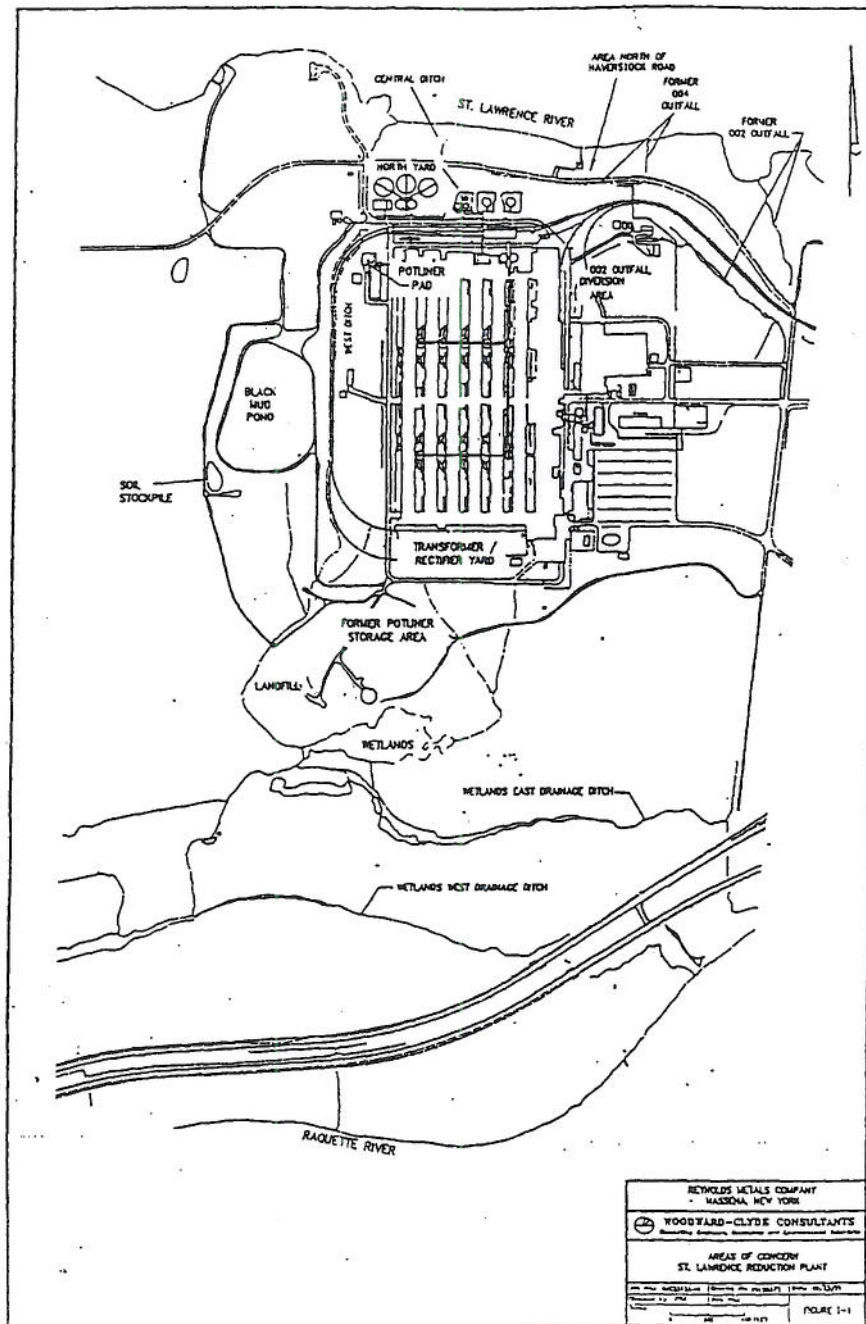
) s.s.:

COUNTY OF HENRICO

On this 16th day of February, 199³, before me personally came P. Ratki, to me known, who being duly sworn, did depose and say that he resides in Richmond, Virginia; that he is the Operations Manager, Reduction Div. of the Reynolds Metals Company described in and which executed the foregoing instrument; that he knew the seal of said Reynolds Metals Company; 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/her name thereto by like order.


Notary Public

My commission expires: August 31, 1995



"A"

ATTACHMENT C

Legal Description of Parcel A

All that tract or parcel of land situate in the Town of Massena, County of St. Lawrence, State of New York lying southerly of New York State Route 37 being described as follows:

Beginning at a point in the high water line on the northerly shore of the Raquette River, said point being the southwesterly corner of a parcel of land as conveyed to Reynolds Metals Company by Charles A. Fregoe by deed dated December 2, 1963 and recorded in the St. Lawrence County Clerk's office in Liber of Deeds 732 at page 87, and said point also being located South 07 degrees 16 minutes 49 seconds East a distance of 24.88 feet from a concrete monument with cap found, and running:

thence southwesterly up along the northerly high water line of the Raquette River as it winds and turns, said course having a tie chord bearing **South 34 degrees 26 minutes 58 seconds West** a distance of **792.64 feet** to a point in the high water line of the Raquette River;

thence **North 07 degrees 17 minutes 11 seconds West** a distance of **357.56 feet** to a point in the southerly bounds of a parcel of land as appropriated by the State of New York for the reconstruction of the Raquette River-Hogansburg, Pt. 1 State Highway 1861 as identified on Map 19 as Parcel 28, said point also being located at offset 169.4 feet right of Station 358+71.95 of the East Bound Baseline as shown on said Map 19;

thence **North 56 degrees 59 minutes 11 seconds East** along the southerly bounds of said Appropriation a distance of **217.18 feet** to a concrete monument found at offset 235.0' right of Station 360+79.00 feet of the East Bound baseline;

thence **North 24 degrees 29 minutes 41 seconds East** long the southeasterly bounds of said Appropriation a distance of **405.61 feet** to a concrete monument found (disturbed);

thence **North 40 degrees 34 minutes 23 seconds East** along the southerly bounds of the former Raquette River Road a distance of **159.70 feet** to a point in the westerly bounds of the former Charles A. Fregoe parcel cited above;

thence **South 07 degrees 16 minutes 49 seconds East** along the westerly bounds of said Charles A. Fregoe parcel a distance of **312.29 feet** to the point of beginning;

to contain an area of 3.61 acres of land, more or less, as surveyed by Stephen L. Chatelle, Land Surveyor Number 050094 of WCT Surveyors, P. C.;

Subject to and together with any easements, exceptions, conditions, covenants and claims and rights of record.

The above-mentioned bearings are based on New York State Grid North as determined by GPS observations during the month of May 2011.

Unauthorized alteration or addition to a survey may bearing a licensed land surveyor's seal is a violation of Section 7209, subdivision 2 of the New York State Education Law. Only copies made from the original of this survey signed and marked with an original of the surveyor's inked seal or embossed seal shall be considered to be valid and true copies.



- 1) North arrow and bearings above are based on NYS Plane Grid North, as determined by GPS observations
- 2) This map is based on an actual field survey directed by Stephen L. Chalala, Land Surveyor, completed in the month of April, 2015.
- 3) Reference Map: Map Number 18, Sheet 3 of 3, Charlotte River-Corpuscular, P.L. 10, R. No. 1861 St. Lawrence County, New York State Department of Public Works.

PREPARED BY
ECT SURVEYORS, P. C.
Kilbuck, Chastell, and Towne
871 Johnson Street, Suite 200, New York, NY 10017
Voice: 212/379-7830 Fax: 212/379-7831 Email: info@ectsurveys.com

MAP OF SURVEY PREPARED FOR
PARCEL A TO BE LEASED
TO THE TOWN OF MASSENA
LOWER RAQUETTE RIVER, MASSENA, NY
SECTION NO. TOWN OF MASSENA
COUNTY OF ST. LAWRENCE
STATE OF NEW YORK

DATE: 04/30/2013 SCALE: 1 inch = 60 feet
TAX MAP ID # 0-003-1-1.1 (part) FILE # 115-034
Document is public (unless otherwise specified on each record)