

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the Alleged Violations of
Articles 3, 11, 15, 17, 24, 27 titles 7 and 13, and
Article 40 of the Environmental Conservation Law
of the State of New York, and of Title 6 Official
Compilation of Codes, Rule and Regulations
of the State of New York filed pursuant thereto

**CONSENT
ORDER**

Index No. D-7-0001-02-03

- by -

Honeywell International Inc.,
Respondent.

Site No. 7-34-076
(Solvay Wastebeds 9-15)

WHEREAS,

1. The New York State Department of Environmental Conservation (“the Department”) is an executive department of the State of New York with jurisdiction over the environmental policy and laws of this state and has the power to provide for the prevention and abatement of all water, land, and air pollution under, *inter alia*, the Environmental Conservation Law (“ECL”) §3-0301.1.i. The Department is also responsible for the enforcement of ECL articles 3, 11, 15, 17, 24, 27 titles 7 and 13, and articles 40 and 71.

2. Honeywell International Inc., formerly known, in part, as AlliedSignal Inc. and the Solvay Process Company (“Respondent”), is a corporation organized and existing under the laws of the State of Delaware and is a “person” as defined, *inter alia*, in ECL §§17-0105(1) and 27-0303(3), and at 6 NYCRR subparts 360-1.2(b)(117) and 750-1.2(64).

3. Respondent owns property in New York State located in the Towns of Geddes and Camillus, Onondaga County, and identified by Respondent as Wastebeds 9, 10, 11, 12, 13, 14 and 15. These Wastebeds occupy approximately 660 acres. Respondent also owns and/or operates a system of retention ponds, located east of Wastebed 12 (“Retention Ponds”), which form part of the drainage system for the Wastebeds. Respondent further owns and/or operates a corridor of low-lying and often saturated land that is situated between Wastebeds 9 and 10 to the east and Wastebed 11 to the west (“Interbed Area”). The Interbed Area is, by design, a part of the drainage system for Wastebeds 9-11.

4. Wastebeds 9-15 are collectively referred to herein as “Wastebeds 9-15” or “the Wastebeds.” The Wastebeds along with the Retention Ponds and the Interbed Area are referred to collectively as “the Site.” The approximate location of the Site is shown on the map attached to this Consent Order as Appendix A.

5. This Consent Order (or “Order”) is entered into pursuant to the Department’s authority under the following ECL provisions and regulations:

A. The authority to regulate the discharge of pollutants to the waters of the State of New York and to prohibit the pollution of the waters of the State pursuant to ECL §§ 17-0303, 17-0501, 17-0505, 17-0507, 17-0511, 17-0701(1)(a-c), 17-0803, and 17-0807 and pursuant to 6 NYCRR part 750, *et seq.* Pursuant to, *inter alia*, ECL § 71-1929, the Department has the authority to assess civil penalties and enjoin the continuation of any violations of these provisions and of any rule or regulation filed pursuant thereto;

B. The authority to regulate the disposal of solid waste pursuant to ECL article 27 title 7 and the regulations filed pursuant thereto at 6 NYCRR part 360, *et seq.* The Department has the authority pursuant to ECL § 71-2703 to assess civil penalties and enjoin the continuation of any violations of these provisions or any rule or regulation filed pursuant thereto;

C. The authority to prohibit changes in or disturbances to the course, channel or bed of any stream as well as the excavation or direct and indirect placement of fill or other materials below the mean high water level in any of the navigable waters of the State, or in wetlands that are adjacent to and contiguous at any point to any of the navigable waters of the State, pursuant to ECL article 15 title 5 and the regulations filed pursuant thereto at 6 NYCRR part 608, *et seq.* The Department has the authority pursuant to ECL § 15-0511 to order any person to remove or correct any prohibited filled materials and to take such other measures necessary to protect the environment at the owner's cost. Pursuant to ECL § 71-1101, *et seq.*, the Department may also assess civil penalties and enjoin the continuation of violations of these provisions or any rule or regulation filed pursuant thereto.

D. The authority to regulate freshwater wetlands pursuant to ECL article 24 and the regulations filed pursuant thereto at 6 NYCRR parts 662-665, *et seq.*; which includes the authority to require that any person apply for and secure a permit prior to undertaking activities described in ECL §§ 24-0701.2 and 24-0701.7. These activities are subject to regulation whether they occur upon the wetland itself or impinge upon or otherwise substantially affect the wetlands and are located not more than 100 feet from the boundary of such wetland, provided that a greater distance from any such wetland may be regulated where necessary to protect and preserve the wetland. The Department has the authority pursuant to ECL § 71-2301, *et seq.*, to assess civil penalties and to enjoin the continuation of violations of these provisions or any rule or regulation filed pursuant thereto and to restore the affected freshwater wetland to its condition prior to the violation.

E. The authority to prohibit deleterious or poisonous substances from being thrown or allowed to run into any waters of the State in quantities injurious to fish life, protected wildlife or waterfowl inhabiting those waters, or injurious to the propagation of fish, protected wildlife or waterfowl therein, pursuant to ECL § 11-0503(1). The Department also has the authority to prohibit the disposal of soil, refuse or other solid substances in any stream or tributary which is inhabited by trout pursuant to ECL § 11-0503(4). The Department has the authority pursuant to ECL § 71-0925, *et seq.*, to assess civil penalties for each offense and for

each fish killed in violation thereof.

F. The authority to regulate storage facilities which are used to contain hazardous substances pursuant to ECL article 40 and the regulations filed pursuant thereto at 6 NYCRR parts 595-599, *et seq.*. The Department has the authority pursuant to ECL § 71-4303 to assess civil penalties and enjoin the continuation of any violations of these provisions and of any rule or regulation filed pursuant thereto.

BACKGROUND

6. This Order is based on the following allegations of the Department:

A. Respondent owned and operated several manufacturing plants at its former Syracuse Works in the town of Geddes, Onondaga County, New York ("the Manufacturing Plants") from approximately 1881 until 1986. Among other chemical products, the Manufacturing Plants produced soda ash (sodium carbonate) and other alkalines using limestone and brine in a manufacturing method known as the Solvay Process.

B. Respondent's use of the Solvay Process generated an alkaline industrial waste stream known as Solvay Waste. Solvay Waste is the predominant material found in the wastebeds and it is primarily composed of calcium carbonate, calcium silicate, and magnesium hydroxide. Solvay Waste also includes calcium oxide-calcium chloride complex, salt, and calcium chloride. In addition, other waste streams from former plant operations including wastewaters and fly ash, as well as wastewater sludges from Anheuser Busch and the Metropolitan Syracuse Wastewater Treatment Plant were discharged into the wastebeds. These other waste streams contained other contaminants including volatile organic compounds, phenols, and metals including mercury. *See "Onondaga Lake RI/FS Site History Report" prepared for Honeywell by PTI Environmental Services July 1992 (pp. 73-77) and July 2005 Record of Decision for Onondaga Lake Bottom Subsite of the Onondaga Lake Superfund Site.*

C. Respondent constructed Wastebeds 9-15 for use as settling basins for the large volumes of Solvay Waste generated by the Manufacturing Plants. Wastebeds 9-11 were constructed in the early 1940's and were receiving Solvay Waste by 1944. Wastebeds 12 and 14 were constructed in or by 1968, Wastebed 13 was constructed in or by 1973, and Wastebed 15 was constructed in or by 1975. The material used to construct the containment berms surrounding Wastebeds 9-12 and 14 consisted of, to varying extents, Solvay Waste, native soils, and cinders.

D. Solvay Waste was generated in the form of a slurry which Respondent pumped to the Wastebeds where some of the solids settled out and accumulated.

E. The wastebed berms were designed to allow water and leachate to exit through gravel layers or drainage fixtures.

F. In addition to Solvay Waste, other types and sources of solid waste were disposed of in the Wastebeds by Respondent or with the permission of Respondent.

G. **Off-Site Impacts - the Surrounding Affected Area.** The liquid phase of the Solvay Waste and other wastes, once pumped to the Wastebeds was either actively decanted and discharged through engineered drainage systems and conveyances or was passively drained (migrated) to the Nine Mile Creek Valley and nearby Onondaga Lake.

The groundwater in this area of New York is classified as fresh (GA) versus saline pursuant to 6 NYCRR 701. The reach of Ninemile Creek stretching from the Amboy Dam to the mouth of Onondaga Lake, as well as the southeastern end of Onondaga Lake itself, are designated by the Department as "Class C" waters pursuant to 6 NYCRR 895.4. Class C waters are intended to be suitable for fishing and fish propagation.

H. As a result of the processes referenced above, the groundwater, surface water, stormwater, sediments, parts of stream banks, flood banks, wetlands and ground in the off-Site areas have become contaminated with Solvay Waste. By way of example, the quality of the storm water as well as the water column in the streams and the wetlands and groundwater in some off-Site areas have changed and continue to change, having become more saline, alkaline and laden with dissolved solids. The alkalinity, in turn, has caused and continues to cause, calcium chloride, a primary compound of Solvay Waste, to precipitate out and it is visible in various locations on and near the containment berms of the Wastebeds, in and along the banks and flood plain of Nine Mile Creek and in the below-specified wetlands.

I. The Site and the Surrounding Affected Area are out of compliance with the ECL articles and the NYCRR provisions that are set forth in **Appendix B** hereto.

7. **The Scope of this Order in Off-Site Areas.** The area that is "off-Site" with respect to the regulation of the Wastebeds, or Site, under the solid waste law, and that is included within the subject matter of this Order, includes: (i) the potentially impacted sediments, surface water, ground water, banks, and flood plains of Nine Mile Creek downstream of the Amboy Dam, of Geddes Brook near its confluence with Nine Mile Creek, and the two Unnamed Tributaries identified in Appendix A to this Order; and (ii) the potentially impacted wetlands near the Wastebeds, which include, without limitation, New York State Wetlands SYW 18, CAM 21, and CAM 26. The off-Site area to be addressed under this Order shall be referred to herein as the "Surrounding Affected Area". The approximate location of the above-referenced features in the Surrounding Affected Area are shown on the map that is attached hereto as Appendix A.

A. **The sediments and surface water of Nine Mile Creek that are within the Surrounding Affected Area** are presumed to begin at the location of the Amboy Dam, pending the results of the investigations to be undertaken pursuant to this Order, and end at the most upstream location of remedial work that is required to occur pursuant to the Record of

Decision issued by the Department in April 2009 for the federal Superfund and Inactive Hazardous Waste Disposal Site which shall be referred to herein as the “Geddes Brook/Nine Mile Creek Remedial Site, Operable Unit 1”.

B. **The banks and floodplain of Nine Mile Creek within the Surrounding Affected Area** are presumed to begin at the location of the Amboy Dam and end just downstream of the convergence of Geddes Brook with Nine Mile Creek and also include the Unnamed Tributaries. To the extent the stream banks and flood plain of Nine Mile Creek overlap with those in the Geddes Brook/Nine Mile Creek Remedial Site, the Surrounding Affected Area only includes the stream bank and flood plain on the side of the Creek that is contiguous with the Wastebeds. This area of overlap is shown on the map in Appendix A. Work under this Order in the area of overlap shall be coordinated with work under the April 2009 ROD for Geddes Brook/Nine Mile Creek Operable Unit 1 so that the goals of both this Order and the April 2009 ROD are met and the duplication of effort is avoided.

8. **Regulation of the Wastebeds by the Department.** The Site has been regulated by the Department in a number of ways to date, which include but are not limited to the following:

A. A State Pollution Discharge Elimination System (“SPDES”) permit was issued to Respondent for four stormwater outfalls associated with the Site, known as Outfalls 011, 017, 018 and 019. The SPDES Permit is identified as NY 000 2275 (the “SPDES Permit”) and the four outfalls are shown on the map in Appendix A. The SPDES Permit includes water pollution discharge limits for the stormwater from these outfalls as well as a Schedule of Compliance. The Seeps Mitigation Program and Measures, as referenced in the Compliance Schedule to the SPDES permit, is governed by Appendix E herein.

B. Respondent and the Town of Camillus are operating a construction and demolition landfill in Wastebed 15 at the Site pursuant to a third modification to a 1987 administrative consent order concerning Wastebeds 9-15 (Index No. R7-0058-85-11). The original order principally required site investigations pursuant to ECL Article 27 Titles 7 and/or 13. Under the first, second and third modifications to this order (effective dates in December 2000, November 2003 and May 2007), Respondent has been required to deposit the rent and tipping fees received from the Town of Camillus into a trust fund as a form of financial assurance to be used by Respondent for closure and post-closure care of Wastebed 15, Respondent’s other wastebeds, or as the Department shall direct Respondent concerning other Honeywell sites (refer to Para. III in the third modification to the 1987 consent order). The construction and demolition landfill operation in Wastebed 15 is not addressed by this Wastebeds Order. However, the closure and post-closure care of the remaining portion of this Wastebed following the cessation of such operation is subject to this Order.

C. The Wastebeds are listed as a “Class 3” site on the New York State Registry of Inactive Hazardous Waste Disposal Sites under Site Number # 7-34-076 pursuant to

ECL § 27-1301 *et seq.* Because the Department determined the Site did not pose a “significant threat” action under ECL article 27 Title 13 was deferred and the compliance issues associated with the closure of the Site were transferred to the Division of Water and the Division of Solid and Hazardous Materials within the Department.

D. Pursuant to a federal Consent Decree filed January 4, 2007 in the case of *State of New York and Thomas C. Jorling as Trustee of the Natural Resources v Allied-Signal Inc.* (89-CV-815), Respondent shall implement the selected remedy in the 2005 Record of Decision which states the majority of the dredged sediments will be disposed in one or more Sediment Consolidation Areas (SCAs) constructed on one (or more) of the Wastebeds. See July 2005 Record of Decision of Onondaga Lake Bottom Subsite of the Onondaga Lake Superfund Site, p.78. Pursuant to the ROD, the Department has determined that the SCA will be constructed on Wastebed 13. The sediment disposal operation in Wastebed 13 is not the subject of this Wastebeds Order. However, the closure and post-closure care of the remaining portion of Wastebed 13 following the cessation of such operation is subject to this Order.

9. **Respondent’s Additional Activities at the Site.** In addition to Respondent’s participation in the above-regulated activities, Respondent has undertaken several projects at the Site over the years, including the installation of a Leachate Collection and Conveyance System (“LCCS”) around three sides of the exterior perimeter of Wastebeds 12-15 in or around 1999, the construction of a salt marsh, and a biomass pilot study on Wastebed 13 beginning in the spring of 2004. Concerning the latter, willow and poplar trees were planted in three plots to evaluate stormwater uptake by the plantings and soil amendments designed to promote rapid cover and stormwater uptake by the willows and poplars. The goal of the pilot project is to help evaluate whether the evapotranspiration of stormwater by plants and amended soils may be used effectively in an alternative cap design for one or more of the Wastebeds as part of an overall capping and final closure system for the Site.

10. The Department and Respondent agree that the goals of this Consent Order are for Respondent to: (i) Design and implement a comprehensive final closure plan for the Site and the Surrounding Affected Area in accordance with ECL article 27 title 7, article 17, and the regulations filed pursuant to each; (ii) Include, as an element of the final closure plan, an alternative cap design consisting of soil amendments and evapotranspiration by plants on one or more of the Wastebeds, with the understanding and acceptance that the construction and maintenance of a conventional Part 360 landfill final cover system may be required in the event the alternative cover system does not sufficiently perform; (iii) Design and implement the interim measures and corrective action identified in Appendix E to this Order in order to promptly address significant sources of contamination in the near term; (iv) Bring the Site and the Surrounding Affected Area into compliance with ECL articles 17, 27 title 7, and 40 and the regulations filed pursuant to each; (v) Provide for the design and implementation of post-closure care at the Site and the Surrounding Affected Area; (vi) Investigate the Surrounding Affected Area and provide approvable alternatives for its restoration in accordance with ECL articles 11,

15, 17, 24, and 27 title 7 and the regulations filed pursuant to each with respect to impacts that are reasonably attributable to the Site; (vii) if a corrective measures and restoration plan (“Restoration Plan for the Surrounding Affected Area”) is agreed upon by Respondent and approved by the Department, implement such Restoration Plan; and (viii) Pay a penalty to the Department for past violations.

11. Respondent, having waived its right to a hearing as provided for by law with respect to this matter, and having consented to the issuance and entry of this Consent Order, agrees to be bound by its terms. Respondent consents to and agrees not to contest the authority or jurisdiction of the Department to issue or enforce this Consent Order, and agrees not to contest the validity of this Consent Order or its terms.

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

I. ACTIVITIES AND SCHEDULES

A. Initial Submittal. Within sixty (60) Days after the effective date of this Order, Respondent shall submit to the Department a “Records Search Report” prepared in accordance with Appendix D attached hereto concerning the transportation, storage, disposal, locations, delineations, and investigations of Solvay Waste and, more broadly, of disposed materials (whatever their constituents) at the Site and emanating or discharging from the Site to the Surrounding Affected Area. Respondent need not provide duplicates of prior submissions to the Department.

B. Respondent shall comply with the solid waste landfill closure requirements for the Site as set forth in Appendix E hereto, including the Interim Measures therein, and shall undertake the investigation and present approvable restoration alternatives for the Surrounding Affected Area pursuant to the terms and conditions in Appendix E.

C. Respondent shall comply with all of the ECL Article 17 and Article 15 terms and conditions in Appendix E. Respondent shall at all times comply with all applicable conditions in SPDES permit NY 000 2275.

D. Respondent shall comply with the stream protection and wetlands investigation requirements set forth in Appendix E hereto with respect to the Surrounding Affected Area.

E. Respondent shall comply with the above-ground chemical bulk storage requirements of ECL §40-0101 et seq. and its regulations with respect to the Site.

F. In performing the required compliance activities, Respondent shall strictly adhere to the compliance schedules and provisions set forth in all of the Appendices to this Order. All of the Appendices are hereby incorporated into and made an enforceable part of this Consent

Order. Any violation of the terms of any of the Appendices shall be a violation of the terms of this Consent Order.

G. Respondent shall retain professional consultants, contractors, laboratories, quality assurance/quality control personnel, and data validators to perform the technical, engineering, and analytical obligations required by this Consent Order. The names, experience, capabilities, and qualifications of the firms or individuals selected by Respondent shall be submitted to the Department within 10 days after the effective date of this Consent Order and within ten days after any changes in Respondent's selection of such firms or individuals. The responsibility for the performance of the professionals retained by Respondent shall rest solely with Respondent.

H. Respondent shall provide a copy of this Consent Order to each contractor hired to perform work required by this Consent Order and shall condition all contracts entered into for work required by this Consent Order upon performance in conformity with the terms of this Consent Order. Respondent or its contractor(s) shall provide written notice of this Consent Order to all subcontractors hired to perform any portion of the work required by this Consent Order. Respondent shall nonetheless be responsible for ensuring that Respondent's contractors and subcontractors perform the work to be done under this Consent Order in accordance with this Consent Order.

II. TERMINATION

This Consent Order shall be deemed satisfied and shall terminate when each of the following conditions has been fully satisfied: (1) Respondent's payment of the civil penalty set forth in Paragraph V.G and Appendix B hereto; and (2) Respondent's written certification pursuant to Subparagraph III.A.iv below, and DEC's written verification, of timely completion in accordance with Department-approved submissions and SPDES Permit NY 000 2275 of all of the compliance actions required by Paragraph I above.

III. PROGRESS REPORTS AND ADVANCE NOTICE OF MEETINGS, FIELD WORK

A. Progress Reports. 1. Respondent shall submit to the Department staff listed in Paragraph XIII of this Consent Order quarterly progress reports concerning the Site and the Surrounding Affected Area that: (i) describe the actions that have been taken toward achieving compliance with this Consent Order, including any closure or other construction activities, that may have occurred during the preceding three months; (ii) include the results of all sampling and tests, and all other data that are related to the Site and the Surrounding Affected Area and received or generated by Respondent or Respondent's contractors or agents in the previous period, including quality assurance/quality control information, whether such sampling and tests were conducted pursuant to this Consent Order or otherwise; (iii) identify all work plans, reports, and other deliverables required by this Consent Order that were completed and submitted during the previous reporting period; (iv) as to each task completed during the preceding reporting

period, certify with a signed statement as to whether the work in question was performed in compliance with the terms of this Consent Order, including any applicable and approved plans or proposals; (v) describe all actions, including, but not limited to, data collection and implementation of work plans, that are scheduled for the next reporting period and provide other information relating to compliance progress; (vi) 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 this Consent Order, and efforts made to mitigate those delays or anticipated delays; (vii) include any modifications to any work plans that Respondent has proposed to the Department or that the Department has approved; and (viii) any changes in personnel with direct responsibility for the performance or reporting of tasks required by this Consent Order.

2. Submittal of the required certification described in Subparagraph III.A.iv shall be considered an affirmative representation by the Respondent of the truth of its contents. Any false statement made therein shall be punishable pursuant to § 210.45 of the New York Penal Law, and as may be otherwise authorized by law. Failure to submit a required certification by the due date shall be a violation of this Consent Order.

3. Respondent shall submit the first of these progress reports to the Department by the 10th day of the third month following the effective date of this Consent Order, and by the 10th day of every third month thereafter.

B. Advance notice of meetings Respondent also shall allow the Department to attend, and shall provide the Department at least seven days advance notice of, any of the following: prebid meetings; preconstruction meetings; job progress meetings; substantial completion meetings and inspections; final inspection and meeting; and closure, post-closure, and operation, maintenance and monitoring meetings.

C. Advance notice of field work Respondent shall notify the Department at least 10 working days in advance of any field activities to be conducted pursuant to this Consent Order.

IV. REVIEW OF SUBMITTALS

A. 1. The Department shall review each of the submittals Respondent makes pursuant to this Consent Order to determine whether it is materially complete, and whether the work undertaken to generate the data and other information in the submittal was performed in accordance with this Consent Order, the relevant Department-approved work plan(s) and/or SPDES permit, and generally accepted technical and scientific principles. The Department shall notify Respondent in writing of its approval or disapproval of the submittal. Each Department-approved submittal shall be incorporated into and become an enforceable part of this Consent Order, and Respondent shall implement it in accordance with its schedule and terms as approved.

2. All initial draft work plans and reports that are submitted by Respondent

pursuant to Paragraph I herein shall describe the relevant project in detail. Each work plan shall include, but not be limited to, descriptions of any sampling protocols and testing methods to be employed; specifications for any equipment or mechanical devices to be used; specification of the statutory program(s) and requirement(s) it undertakes to satisfy; and a detailed schedule of project implementation which calls for the project to be completed by a specified time interval following approval of the work plan. Each work plan shall include a milestone date for the submission of the certification identified in Subparagraph III.A.1.iv for each submittal identified in the work plan. Each work plan shall also include estimates of the total cost for the project along with a breakdown of the cost of each component of the project.

3. If the Department disapproves an initial draft submittal, it shall so notify Respondent in writing and shall specify the reasons for its disapproval. Within fifteen days after receiving written notice that an initial draft submittal prepared pursuant to Appendix E to this Consent Order 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. For all submittals other than submittals prepared pursuant to Appendix E to this Consent Order, Respondent shall within sixty days after receiving written notice that an initial draft submittal has been disapproved make a revised submittal to the Department that addresses and resolves all of the Department's stated reasons for disapproving the first submittal. The deadlines for making revised submittals prepared pursuant to any requirement of this Consent Order may be extended by the Department if it agrees that additional time is necessary and appropriate to resolve any issues related to the initial draft submittal. All submittals made by the Respondent, including revised submittals, shall comply with this Consent Order, including all appendices.

4. After receipt of a 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 Consent Order. If the Department disapproves any revised submittal, unless Respondent invokes the Dispute Resolution provisions in Paragraph VI herein and Respondent's position prevails, Respondent shall be in violation of this Consent Order and the ECL and the Department may take any action or pursue whatever rights it has pursuant to this Order and any provision of statutory or common law, provided, however, that the Department may allow Respondent to submit an additional revised document if the Department determines that an additional submission by Respondent will likely resolve its concerns.

B. Upon the written request of Respondent, in the Department's sole discretion and upon the Department's specific approval given in writing after the effective date of this Consent Order, Respondent may rely on other prior submittals to fulfill or partially fulfill the requirements of this Consent Order.

C. The Department may, in accordance with applicable provisions of law, rule, or regulation, require Respondent to modify and/or amplify and expand a submittal, and to perform

any corresponding additional work required, if the Department determines, as a result of reviewing data generated by an activity required under this Consent Order or as a result of reviewing any other data or facts, that further work is necessary in order to meet the goals of this Order as set forth in paragraph 10. Respondent shall be obligated to take such action as the Department determines necessary pursuant to this paragraph, subject to Respondent's right to invoke Dispute Resolution, provided that the Department's requirements are consistent with this Order and do not materially expand Respondent's obligations under this Order. The implementation of a conventional Part 360 landfill final cover system shall not be considered to materially expand Respondent's obligations.

V. PENALTIES

A. Respondent's failure to comply with any term of this Consent Order that is not subject to dispute resolution under Paragraph VI of this Consent Order, or Respondent's failure to comply with any provision of this Consent Order that is subject to dispute resolution, but as to which Respondent has not timely invoked dispute resolution or has elected to dispute the Determination of the appropriate Division Director, shall constitute a violation of this Consent Order.

B. Stipulated penalties shall begin to accrue on the first day during which Respondent is in violation of this Consent Order, and shall continue to accrue until Respondent performs the required action necessary to comply with the terms of this Consent Order. In the event that the Department determines that Respondent is in violation of this Consent Order, the Department shall serve upon Respondent a Notice of Non-Compliance, which shall set forth the nature of the violation of this Consent Order and the calculation of the stipulated penalties due and demanded. Within twenty-one (21) calendar days after receipt of a Notice of Non-Compliance, Respondent shall deliver the full stipulated penalty amount due to the Department, at the address set forth in Appendix B. Respondent's check shall be made payable to the "New York State Department of Environmental Conservation." Neither the Department's demand for payment of a stipulated penalty, nor Respondent's payment thereof, shall discharge Respondent from the obligation to comply with any term or provision under this Consent Order. The payment of stipulated penalties as set forth above shall not limit the Department's right to seek other relief that may be available under this Consent Order and/or at law. In the event that Respondent does not pay the stipulated penalty within the 21 day period and does not contest the Notice of Non-Compliance, then this Consent Order together with the Notice of Non-Compliance may be filed in the State of New York, and in any other jurisdiction in which Respondent may reside, do business or have any assets, without the need for any further proceedings whatsoever and be enforced as a civil judgment for the total penalty amount set forth in the Notice of Non-Compliance.

C. In the event Respondent violates any provision in this Order, including those in the Appendices hereto and those in the work plans that are approved pursuant this Order, Respondent shall pay the following stipulated penalties:

<u>Period of Non-Compliance</u>	<u>Penalty Per Day</u>
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Day 1-30	\$ 1,500.00
Day 31-60	\$ 3,000.00
Day 61 and thereafter	\$ 7,500.00

D. In the event that Respondent wishes to contest any stipulated penalty that is assessed pursuant to this provision, or the facts on which such penalty is based, it must comply with the Dispute Resolution provision of this Consent Order. In the event Respondent invokes dispute resolution in accordance with Paragraph VI, payment of stipulated penalties will be determined in accordance with Paragraph VI.

E. In the event that Respondent violates any effluent limits set forth in SPDES Permit NY 000 2275, as a direct or indirect result of any missed milestone or requirement set forth in this Consent Order, for which a stipulated penalty is also paid pursuant to Paragraph V.A of this Consent Order, Respondent will also be independently liable under Paragraph V.B for its failure to meet the effluent limits.

F. For any penalty due pursuant to this Consent Order which is not paid by the specified due date, Respondent shall be liable for and shall pay interest from the due date at the rate specified by New York Civil Practice Law and Rules for interest on a judgment.

G. With respect to the past violations which are summarized, in part, in Appendix B hereto, Respondent is hereby assessed a civil penalty in an amount and in accordance with the terms set forth in Appendix B to this Order.

VI. DISPUTE RESOLUTION

The Department and Respondent recognize that during the course of the activities required by this Order, disputes may arise between the parties regarding the appropriateness of any disapproval by the Department of a required submittal by the Respondent, the conditions attached to the Department's approval of a required submittal, the rejection of a request by Respondent to modify this Order, determinations as to whether a Force Majeure Event has occurred, any other determinations by the Department under this Order, or regarding the Respondent's compliance with the terms of this Order. Should such a dispute arise, it shall be resolved as follows:

A. If the Department disapproves a submittal required by the Respondent under this Order, approves a required submittal with conditions that the Respondent deem unacceptable, makes a determination that the Respondent has violated this Order, or declines to agree to an Order modification requested by the Respondent, then the appropriate Division Director shall issue a written determination ("the Determination") to the Respondent setting forth the basis for

disapproval of the submittal, conditional approval of the submittal, other basis for determining that the Respondent has violated this Order, or the basis for not agreeing to a requested Order modification. If the Respondent disputes the Determination, Respondent may seek to resolve the dispute by requesting informal negotiations with the Department. Upon such a written request by the Respondent, the Department and the Respondent shall make reasonable efforts to resolve the dispute through informal negotiations. The Department shall make all good faith efforts to meet with and/or discuss the dispute in question with the Respondent, as soon as practicable. Unless both parties agree in writing otherwise, the time for informal negotiations shall terminate 45 days from the day Respondent receives the Determination.

B. The Respondent shall also have the right to challenge the Determination in an Article 78 proceeding in New York State Supreme Court for Onondaga County. To do so the Respondent must commence the Article 78 proceeding within 45 days of receiving the Determination. If such a proceeding is commenced, the Determination hereunder shall be deemed to be a final agency action. If the Respondent does not commence an Article 78 proceeding within 45 days of receiving the Determination, then the Respondent shall waive the right to challenge the Determination and the assessment of any penalties associated with that Determination. The parties may agree, in writing and on a case-by-case basis, to extend the 45-day period within which the Respondent must commence an Article 78 proceeding to challenge a particular Determination. The 45-day period for informal negotiation and for the Respondent to commence an Article 78 proceeding shall run concurrently. Respondent's remedies for dispute resolution under this Order shall be limited to the informal negotiations noted above and bringing an Article 78 proceeding in New York State Supreme Court for New York County. The Respondent shall have no right to any formal administrative review of a Determination.

C. In any Article 78 proceedings challenging a Determination, service of the petition and accompanying papers commencing the proceeding and all subsequent papers shall be made by the Respondent on the Department in accordance with Paragraph XIII below or to such other individuals as the Department shall designate pursuant thereto. Service on those individuals shall be deemed valid service on the Department.

D. In any Article 78 proceeding challenging a Determination that either disapproves a submittal required under this Order or approves a required submittal with conditions that the Respondent considers unacceptable, if the submittal is found to have been approvable as submitted or if the Department's conditions are determined to be arbitrary and capricious, then no penalties or interest may be assessed and subsequent milestone dates shall be extended appropriately, as agreed upon by the Respondent and the Department or as otherwise determined by the Court. If the submittal is found to have been properly disapproved, then penalties and interest shall be assessed from the date of the Determination, subject to the minimum notice requirements of this Order, and the subsequent milestone dates shall not be extended, unless otherwise agreed upon by the State and Respondent, or ordered by the Court, for good cause shown by the Respondent.

E. In any Article 78 proceeding challenging a Determination that rejects an Order modification requested by the Respondent, if the Determination is found to be arbitrary and capricious, then the modification shall be incorporated into this Order and no penalties or interest may be assessed and subsequent milestone dates shall be extended appropriately, as agreed upon by the Respondent and State or as otherwise determined by the Court. If the Determination rejecting the modification is found to have been properly disapproved, then penalties and interest shall be assessed from the date of the Determination, subject to the minimum notice requirements of this Order, and the subsequent milestone dates shall not be extended, unless otherwise agreed upon by the State and Respondent, or ordered by the Court, for good cause shown by the Respondent.

F. In any Article 78 proceeding challenging the Department's denial of Respondent's claim of a Force Majeure Event pursuant to Paragraph VII, if the Determination is found to be arbitrary and capricious, then no penalties or interest may be assessed, and subsequent milestone dates shall be extended pursuant to Paragraph VII or as otherwise determined by the Court upon a finding that the force majeure materially affects the Respondent's ability to meet subsequent milestones. If the Court does not find that the force majeure materially affects the Respondent's ability to meet subsequent milestones, then no subsequent milestone shall be extended, regardless of whether the Determination is found to be arbitrary and capricious. If the Respondent's claim of a Force Majeure Event is rejected, then penalties and interest shall be assessed from the date of the Determination, subject to the minimum notice requirements of this Order, and subsequent milestones shall not be extended.

G. In the case of any other Article 78 challenge by the Respondent to a determination by the Department issued hereunder, if the Determination is upheld then penalties and interest shall be deemed due and payable when originally assessed by the Department, subject to the minimum notice requirements of this Order. Regardless of whether or not the determination is upheld, the bringing of such a challenge by the Respondent, pursuant to this Paragraph VI.G, shall in no way result in an extension of any milestone dates under this Order.

H. The State shall have the right to enforce any obligation of the Respondent under this Order in New York State Supreme Court for Onondaga County. The Respondent consents to jurisdiction and venue in that Court and agrees that service of the papers commencing the action by the Department in accordance with Paragraph XIII shall be deemed valid and complete service on the Respondent.

VII. FORCE MAJEURE

Respondent shall not suffer any payable penalty under any of the provisions, terms, and conditions hereof, or be subject to any proceedings or actions for any remedy or relief, if Respondent cannot comply with any requirements of the provisions hereof because of an act of God, war, riot, or other catastrophe (including prohibitively extraordinary weather conditions that materially interfere with the implementation of this Order, which conditions must be above

and beyond normal severe weather conditions of this area) as to which negligence or willful misconduct on the part of Respondent was not foreseen or a proximate cause, provided, however, that the Respondent shall immediately notify the Department in writing, when it obtains knowledge of any such condition and shall request an appropriate extension or modification of the provisions hereof; Respondent will adopt all reasonable measures to prevent or minimize any delay.

VIII. ENTRY AND ACCESS BY THE RESPONDENT

Within 45 days of the effective date of this Order, Respondent shall obtain all permits, easements, rights-of-way, rights-of-entry, approvals, or other authorizations and forms of access that may be identified as of the effective date of this Order to be necessary to perform Respondent's obligations under this Consent Order in those portions of the Site and Surrounding Affected Area which are not owned or controlled by Respondent. Within 45 days of any subsequent date, if any, upon which a change in the scope of a submittal causes additional authorizations and forms of access by one or more additional owners to be necessary, Respondent shall obtain all such additional permits, easements, rights-of-way, rights-of-entry, approvals, or other authorizations and forms of access. If any such authorization or form of access is not obtained within the specified 45-day period, despite the use of best efforts to do so, Respondent shall notify the Department by the 45th day of the specified 45-day period. Respondent shall include in that notification a summary of the best efforts Respondent has taken to obtain the authorization or access. A finding that Respondent has failed to use best efforts within the specified 45-day period to secure the authorization or access shall be a violation of this Order. Based on the content and timely receipt of the 45-day notice required under this Subparagraph, the Department may, as it deems appropriate, assist Respondent in obtaining access. Respondent shall reimburse the Department for all costs incurred by the Department in obtaining access, including, but not limited to, attorneys fees of the Department.

IX. ENTRY AND ACCESS BY THE DEPARTMENT

A. Respondent hereby consents to entry upon the Site (or areas in the vicinity of the Site which may be under the control of Respondent) by any duly designated officer or employee of the Department, by any State agency having jurisdiction with respect to the requirements of this Order, and by any agent, consultant, contractor, or other person so authorized by the Commissioner, for the purposes of inspecting, sampling, copying records related to the contamination at or emanating from the Site, testing, and any other activities necessary to ensure Respondent's compliance with this Order. Upon request, Respondent shall (i) provide the Department with suitable work space at the Site, including access to an internet connection and a telephone, to the extent available, and (ii) permit the Department full access to all non-privileged records relating to the matters addressed by this Order. Raw data is not considered privileged and that portion of any privileged document containing raw data must be provided to the Department. Those entering the Site on behalf of the Department or the State shall abide by the health and safety rules in effect for the Site.

B. The Department shall have the right to take its own samples and scientific measurements and the Department and Respondent shall each have the right to obtain split samples, duplicate samples, or both, of all substances and materials sampled. The Department shall make the results of any such sampling and scientific measurements available to Respondent.

X. RESERVATION OF RIGHTS

A. Except as set forth in Paragraph XVI and this Paragraph, nothing contained in this Order shall be construed as barring, diminishing, adjudicating, or in any way affecting any of the Department's rights or authorities, including, but not limited to, the right to require performance of further investigations and/or response action(s), particularly with respect to the Surrounding Affected Area, to recover natural resource damages, and/or to exercise any summary abatement powers with respect to any person, including Respondent.

B. Except as otherwise provided in this Order, Respondent specifically reserves all rights and defenses under applicable law respecting any Departmental assertion of remedial liability and/or natural resource damages against Respondent, and further reserves all rights respecting the enforcement of this Order, including the rights to notice, to be heard, to appeal, and to any other due process. Respondent is entering into this Consent Order as a compromise of disputed claims and in doing so Respondent does not admit, accept, or intend to acknowledge any liability, wrongdoing or fault. The existence of this Order or Respondent's compliance with it shall not create any rights or grant any cause of action which shall inure to the benefit of any third party. Further, Respondent reserves such rights as it may have to seek and obtain contribution, indemnification, and/or any other form of recovery from its insurers and from other potentially responsible parties or their insurers for past or future response and/or cleanup costs or such other costs or damages arising from the contamination at the Site as may be provided by law, including but not limited to rights of contribution under section 113(f)(3)(B) of CERCLA, 42 U.S.C. §9613(f)(3)(B).

C. Nothing in this Consent Order or in the submittals required hereunder shall be construed as barring, adjudicating, or in any way resolving any claim, cause of action, or right that the State may have under CERCLA or common law arising from injuries to or loss of natural resources. In the event that Respondent asserts any defense to or entitlement to an offset or other credit against any such CERCLA or common law claim, cause of action, or right based upon the provisions of this Consent Order or any submittal required hereunder or upon work performed pursuant to such provisions, then with respect to such defense or claim of entitlement, the provisions of this Consent Order, and any submittal required hereunder, and the fact that the work was performed pursuant to such provisions, shall not create any presumption, including any presumption that the work constitutes or does not constitute under CERCLA or common law (i) restoration of natural resources that may be destroyed or damaged at the Site or Surrounding Affected Area; (ii) an enhancement of natural resources at the Site or the Surrounding Affected

Area, or (iii) mitigation for the loss of natural resources, if any, caused by the implementation of the work to be completed pursuant to this Consent Order and the submittals required hereunder.

XI. 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 Consent Order by Respondent and/or Respondent's directors, officers, employees, servants, agents, successors, and assigns; provided, however, that Respondent shall not be required to indemnify and hold the Department, the State of New York, and their representatives and employees harmless regarding any liability arising as a result of the gross negligence or willful or intentional misconduct by the State of New York and/or its representatives and employees during the course of any activities conducted pursuant to this Order. The Department shall provide written notice no less than 30 days prior to commencing a lawsuit seeking indemnification.

XII. PUBLIC NOTICE

A. Within 30 days after the effective date of this Consent Order, Respondent shall, for those portions of the Site and the Surrounding Affected Area for which it has an ownership interest: (i) file a copy of this Consent Order with the real property records of the Onondaga County Clerk's Office, for the purpose of providing notice of this Consent Order to all potential future purchasers of any portion of the Site or Surrounding Affected Area; and (ii) send a copy of the filed document to the Department. Respondent shall file a copy of this Consent Order and send a copy of the filed document to the Department for those portions of the Site and the Surrounding Affected Area to which it acquires an ownership interest after the effective date of this Consent Order within 30 days after acquiring that interest. For parcels for which an ownership interest may not be recorded with Onondaga County or Respondent is unable to determine the ownership, Respondent shall, within the applicable 30-day period noted within this Subparagraph XII.A, notify the Department in writing and propose for the Department's approval an alternative method of providing notice, which approval shall not be unreasonably withheld. Any rejection by the Department of Respondent's proposed method of notice is subject to Dispute Resolution.

B. If Respondent proposes to convey the whole or any part of Respondent's ownership interest, if any, in the Site or the Surrounding Affected Area, 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 Consent Order.

XIII. COMMUNICATIONS

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

B. Written communications from Respondent pursuant to this Consent Order shall be sent as follows:

New York State Department of Environmental Conservation
615 Erie Boulevard West
Syracuse, NY 13204-2400
Attention: Regional Water Engineer

Of the four copies, one shall be an unbound hard copy with associated figures; and one shall be an electronic copy on compact disk(s). The electronic copy shall contain all text, tables, figures and appendices in Portable Document Format (PDF).

New York State Department of Environmental Conservation
615 Erie Boulevard West
Syracuse, NY 13204-2400
Attention: Regional Engineer

New York State Department of Environmental Conservation
615 Erie Boulevard West
Syracuse, NY 13204-2400
Attention: Thomas Annal

New York State Department of Environmental Conservation
625 Broadway, 4th Floor
Albany, NY 12233-3505
Attention: Bureau of Water Permits, Wastewater Permits - Western Section

New York State Department of Environmental Conservation
625 Broadway, 9th Floor
Albany, NY 12233-3505
Attention: Division of Solid and Hazardous Materials

New York State Department of Environmental Conservation
Bureau of Habitat
1285 Fisher Avenue
Cortland, NY 13045
Attention: Joseph Eifert

New York State Department of Environmental Conservation
Division of Fish and Wildlife
1285 Fisher Avenue
Cortland, NY 13045
Attention: David Lemon

-cover correspondence only to:

New York State Department of Environmental Conservation
625 Broadway, 14th Floor
Albany, NY 12233-5500
Attention: Carol Conyers, Esq.

New York State Department of Environmental Conservation
615 Erie Boulevard West
Syracuse, NY 13204-2400
Attention: Margaret Sheen, Esq.

C. Correspondence (including Progress Reports) that do not contain data, reports or other deliverables need not be sent in electronic format and only one copy needs to be sent to each representative listed in Subparagraph XIII.B above. Except for two unbound hard copies (one hardcopy to be delivered to the Department's Region 7 Office and one hardcopy to be delivered to the Department's Central Office) all written communications required herein can be by electronic format, unless otherwise requested by the Department.

D. Communication to be made from the Department to Respondent pursuant to this Consent Order shall be made as follows:

Honeywell International Inc.
5000 Brittonfield Parkway, Suite 700
East Syracuse, NY 13057
Attn: John P. McAuliffe

-With a copy to: Brian Israel, Esq.
Arnold & Porter LLP
555 Twelfth Street, NW
Washington, DC 20004-1202

E. The Department and Respondent respectively reserve the right to designate other or different addressees or contacts on written notice to the other.

F. All data gathered for utilization during the performance of requirements of this Consent Order is to be transmitted to the Department in hard copy and electronic formats that are acceptable to the Department.

XIV. EFFECT OF ORDER

Respondent and Respondent's officers, directors, agents, servants, employees, successors, and assigns shall be bound by this Consent 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 Consent Order. Nothing contained in this Consent Order shall be construed as barring, diminishing, adjudicating, or in any way affecting the rights of any entity that is not a party to this Consent Order.

XV. PROFESSIONAL ENGINEER

All references to "professional engineer" in this Consent Order are to an individual registered as a professional engineer in accordance with article 145 of the New York State Education Law.

XVI. SETTLEMENT AND RESERVATION OF RIGHTS

A. Full compliance with this Consent Order shall settle all civil and administrative ECL claims and liabilities arising out of the on-Site allegations of violations that are set forth in this Order, up to the effective date of this Order. The foregoing sentence notwithstanding, if Respondent exercises its option under Appendix E of this Order not to implement some or all aspects of the Final Closure Plan addressing the Surrounding Affected Area, then the Department shall retain all rights it may have regarding the alleged off-site violations, including the rights to compel Respondent to implement those aspects of the Final Closure Plan that Respondent does not voluntarily undertake, and to compel Respondent to pay a civil penalty for such past and continuing violations.

B. The Department shall not institute any action or proceeding for penalties or other relief with respect to the matters addressed in this Consent Order so long as Respondent remains in compliance with this Consent Order. The matters addressed in this Consent Order are those identified in Paragraph 10. Any failure by Respondent to fully and timely comply with the terms of this Consent Order may subject it to further enforcement action.

XVII. AUTHORITY TO EXECUTE ORDER

The individual signatories to this Consent Order represent that they have the authority to bind the respective parties to this Consent Order and to execute this Consent Order on behalf of the respective parties.

XVIII. FORMAL TERMS

The Appendices to this Order are incorporated into and made an express part of this Order as though fully set forth herein. The terms of this Order shall constitute the complete and entire Consent Order between Respondent and the Department concerning the Site and the impacts to the Surrounding Affected Area that are attributable to the Site. No term, condition, understanding, or agreement purporting to modify or vary any term of this Consent Order shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestion, or comment by the Department regarding any report, proposal, plan, specification, schedule, or any other submittal shall be construed as relieving Respondent of Respondent's obligation to obtain such formal approvals as may be required by this Consent Order.

XIX. MODIFICATION

No change in this Order shall be effective except as set forth in written order of the Commissioner or the Commissioner's designee. In those instances in which the Respondent desires that any of the provisions, terms or conditions of this Order be changed, it shall make written application, setting forth the grounds for the relief sought, to the Commissioner, and such changes shall not become effective except as specifically set forth by written order of the Commissioner or the Commissioner's designee. Copies of such written application shall be delivered or mailed to the representatives set forth in Subparagraph XIII.B.

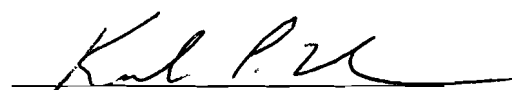
XX. EFFECTIVE DATE

The effective date of this Order shall be the date on which the Commissioner or the Commissioner's designee signs this Order.

Dated: November 5, 2010
Syracuse, New York

PETER M. IWANOWICZ
COMMISSIONER
NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

BY:


KENNETH P. LYNCH
Regional Director, Region 7
New York State Department of
Environmental Conservation

CONSENT BY RESPONDENT

Respondent, Honeywell International Inc., hereby consents to the issuing and entering of this Consent Order, waives its right to a hearing herein as provided by law, and agrees to be bound by this Consent Order.

By: John P. McAuliffe
Signature

John P. McAuliffe
Type Name

Title: Program Director
Type Title

Company: Honeywell International Inc.
Type Company

Date: 11/5/10

*)
) ss:
)

On the 5TH day of NOVEMBER in the year 2010, before me, the undersigned, personally appeared (Full name) JOHN P. McAULIFFE, personally known to me who, being duly sworn, did depose and say that he/she/they reside at (Full mailing address)

and that he/she/they is (are) the (Indicate whether President or other officer or director or attorney in fact duly appointed) _____ of the (Full legal name of corporation) _____, the corporation described in and which executed the above instrument; and that he/she/they signed his/her/their name(s) thereto by the authority of the board of directors of said corporation and that such individual made such appearance before the undersigned in the * *

Michael E. Barnholdt
MICHAEL E. BARNHOLDT
Notary Public, State of New York
Qualified in Onondaga County
Notary Public #0106160301
Commission Expires March 19, 2011

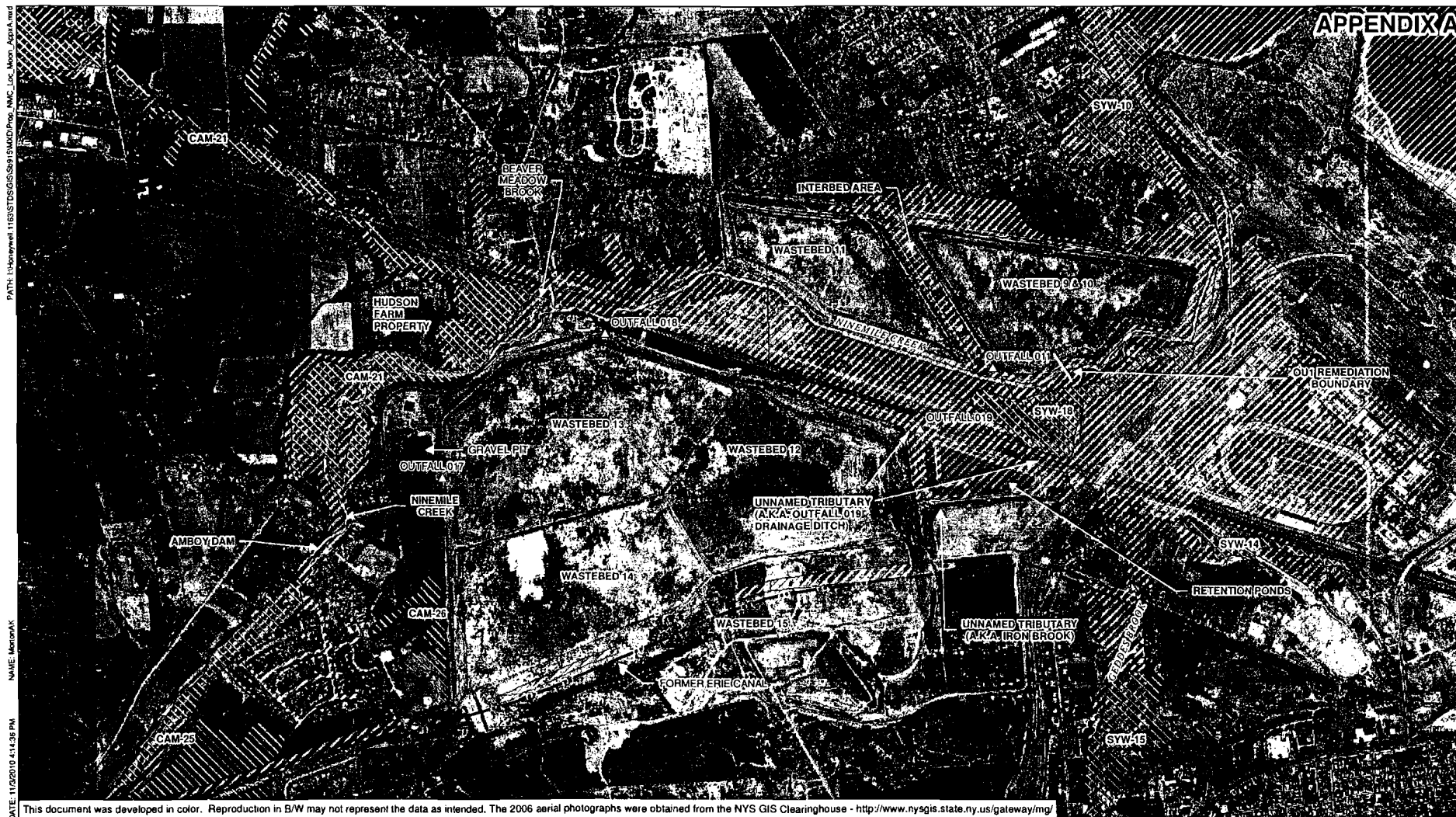
*(Insert the State [& County], District of Columbia, Territory, Possession, or Foreign Country, the acknowledgment was taken.)

** (Insert the city or other political subdivision and the state or country or other place the acknowledgment was taken.)

*** (Signature and office of individual taking acknowledgment)

APPENDIX A.

**Map showing the general location of Wastebeds 9-15 (including the Retention Ponds,
Interbed Area) and Surrounding Affected Area**

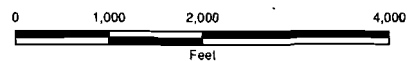


This document was developed in color. Reproduction in B/W may not represent the data as intended. The 2006 aerial photographs were obtained from the NYS GIS Clearinghouse - <http://www.nysgis.state.ny.us/gateway/mg/>

LEGEND

- △ PERMITTED OUTFALLS
- FORMER ERIE CANAL
- ▨ NYS FRESHWATER WETLAND
- 100-YR FEMA FLOOD ZONE

HONEYWELL WASTEBEDS 9-15 GEDDES AND CAMILLUS, NEW YORK



WASTEBEDS 9-15 AND SURROUNDING AREAS

NOVEMBER 2010
1163.441.46



APPENDIX B.

Alleged Violations; Penalties

As is identified in Subparagraph 6 of this Order, the Department alleges the Site and Surrounding Affected Area are substantially out of compliance with the ECL and Respondent is and has been in violation of numerous provisions of the ECL and its regulations. A summary of the violations is presented in the following list. As is identified in Subparagraphs Paragraph X.B of this Order, the Respondent disputes the allegations.

SPDES VIOLATIONS

SPDES Effluent Violations

SPDES effluent violations including exceedances for total dissolved solids, pH, total suspended solids, benzene from Outfalls 011M, 017M and 018M of Honeywell Waste Beds 9-15 in violation of ECL 17-0803.

SDPES Unpermitted Discharges

SPDES unpermitted discharges from Outfalls 17M, 18M and 19M, and active seeps from various Wastebeds -- some potentially emanating or having emanated from pipes and gravel layers within the containment berms of the Wastebeds -- in violation of ECL 17-0701 and 17-0803. Such discharges have impacted surface water quality.

SPDES Monitoring, Recording, and Recordkeeping Violations

SPDES violations of monitoring, recording, and reporting requirements for flow rate daily average and nitrogen, total ammonia daily max and average in violation of ECL 17-0815.

WATER QUALITY VIOLATIONS

Water Quality Violations involving contravention of Water Quality Standards for chlorides and total dissolved solids, including groundwater standards from Honeywell Waste Beds 9-15 in the immediate vicinity and downgradient of the Wastebeds in violation of ECL 17-0501 and 6 NYCRR §703 (for GA standards).

SOLID WASTE VIOLATIONS

Uncontrolled Leaching

Ongoing uncontrolled leaching from Honeywell Waste Beds 9-15 causing or contributing to the contravention of the water quality standards of ECL 17-0301 in violation of 6 NYCRR § 360.

Improper Closure

Failure to provide final cover or grading for proper closure for Honeywell Waste Beds 9-15 so as to prevent adverse environmental or health impacts, ponding, erosion, and infiltration of water in violation of Article 27, Title 7 and 6 NYCRR § 360.

Surface Water and Ground Water

Solid waste deposited in or allowed to enter surface waters or groundwater from Honeywell Waste Beds 9-15 in violation of 6 NYCRR § 360.

Surface Water and Ground Water

Solid waste allowed to drain or discharge into surface waters from Honeywell Waste Beds 9-15 without a SPDES permit and in contravention of ground water quality standards in violation of 6 NYCRR § 360.

PENALTY AND ENVIRONMENTAL BENEFIT PROJECTS

- I. With respect to the violations which are summarized, in part, above, Respondent is hereby assessed the following:
 - A. Payable penalty. One hundred thousand dollars (\$100,000.00) shall be paid to the Department within forty-five (45) days of the effective date of this Consent Order by delivering a certified check or wire transfer, made payable to the New York State Department of Environmental Conservation, to the Department's offices at 625 Broadway, 14th Floor, Albany, New York 12233-1500, Attention: Elissa Armater. Copies of the transmittal letter and check shall be simultaneously submitted to Carol Conyers, Esq. at the same address and to Margaret Sheen, Esq. at the address listed in Subparagraph XIII.B to the Order.
 - B. Subject to an arrangement between Respondent and the Town of Camillus, Respondent shall reimburse the Town of Camillus for its future engineering fees (for a period of 6 years from the effective date of this Order) incurred to review and comment on construction and design documents associated with the Sediment Containment Area (SCA) and the implementation of this Order ("Engineering Fees"). Respondent shall not be required by this Order to reimburse for Engineering Fees in excess of \$50,000 per year. Respondent's obligations to reimburse for Engineering Fees shall be limited to reasonable and appropriate oversight in support of the Lake-bottom remedy and/or this Order.
- II. With regard to any penalty due pursuant to this Consent Order which is not paid by the specified due date, Respondent shall be liable for and shall pay interest from the due date at the rate specified by the New York Civil Practice Law and Rules for interest on a judgment.
- III. In the event that Respondent fails to pay any penalty due pursuant to this Consent Order by the date due, Respondent consents to this Consent Order together with a notice of noncompliance specifying the amount due being filed and enforced by the Department as a civil judgment against the Respondent for the total penalty amount set forth in the notice of noncompliance, in the State of New York and in any other jurisdiction in which Respondent may reside, do business, or have any assets, without the need for any further proceedings whatsoever.
- IV. Environmental Benefit Projects (EBPs). In addition to the civil penalty set forth above, Respondent shall fund Environmental Benefit Projects as set forth below:

- A. Within 60 days of the execution of this Order, Respondents shall enter into a Memorandum of Understanding (MOU) with the Department which shall further delineate the EBPs and shall include a public participation schedule. The MOU will provide, among other things, a plan for public outreach to solicit comments on proposed EBPs. In addition, the MOU shall include a provision for substitution of equivalent EBPs in the event individual EBPs set forth below are determined not feasible by the Department. Upon execution, the MOU shall be an enforceable part of this Order.
- B. Among other things, the MOU shall specify that Respondent must implement EBPs that comply with the Department's Environmental Benefit Projects Policy (CP-37).
- C. Within 30 days of the execution of the MOU, unless the Department determines that additional time is warranted and grants an extension in writing, Respondent shall submit to the Department a description of and plan for EBPs that includes a schedule for implementation ("EBP Implementation Plan"), which is subject to the Department's review and approval.
- D. Respondent agrees to fund or otherwise implement the following EBPs:
 - 1. Design and construction of a boat launch located at the end of the Route 690 Exit on the southwest shore of Onondaga Lake. The boat launch will be constructed after completion of dredging and capping operations at Onondaga Lake, although the Parties will work to identify access opportunities prior to the construction of the boat launch to the extent practicable. After completion of the boat launch, the DEC will own, operate and maintain the boat launch facility as a public access site. The boat launch should include, at a minimum:
 - a. A double launch for trailer boat launching
 - b. A car top/kayak launch
 - c. At least 30 parking spots for cars and trailers
 - d. At least 30 parking spots for individual cars
 - e. A handicap accessible fishing platform or pier for deep water shoreline fishing.
 - 2. Funding of the Onondaga Lake Partnership's mudboil program in the amount of up to \$250,000 per year for a period of 5 years. The specific program shall be developed annually by the Onondaga Lake Partnership in consultation with the DEC;
 - 3. Working with the Town of Camillus, the Town of Geddes, and other interested parties, commence a public planning process to develop and design public access recreational opportunities as part of the closure of

Waste beds 9 -15; provided however that in no case shall this EBP require public access for more than 10% of the waste bed 9-15 property, nor shall this EBP require any construction activities without the consent of Honeywell and the Town of Camillus.

4. Providing of public access for fishing on limited portions of Honeywell's property located in the Town of Tully along Onondaga Creek and its tributaries. Access should include parking areas and trails where necessary to provide safe access. Said fishing access shall be provided for 3 years. In addition, Honeywell will undertake a study, in consultation with the DEC, of potential additional future recreational activities at its property in Tully, provided, however, nothing in this Order shall require Honeywell to provide access for such activities.
 5. Providing of public access for fishing and other recreational opportunities on Honeywell's property located along Nine Mile Creek in between the Amboy dam and Onondaga Lake. Access should include parking areas and trails where necessary to provide safe access. Said access shall be provided for a minimum of 5 years and shall be coordinated with remedial activities.
 6. Providing funding for or undertaking a study in coordination with the Department's Onondaga Lake TMDL process and assessment of final phosphorous and dissolved oxygen goals for the lake. The study shall focus on sediment work to help determine historic levels of phosphorous and dissolved oxygen in the lake. The scope of this study will incorporate existing data to the extent appropriate, and, in any event, shall not exceed \$150,000.
 7. Providing funding to a third party entity such as the Onondaga County Soil and Water Conservation District (or other such entity approved by the Department) for a storm water pollution control specialist for a period of three (3) years. The MOU will provide a process to develop an annual work plan, including specified tasks, for the storm water pollution control specialist; provided, however, in no case shall the work plan require more than \$100,000 in funding for any given year.
- E. Respondent shall make such changes to the EBP Implementation Plan as the Department may require, provided that the Department shall not require additional EBPs or expansions of the EBPs set forth above, except for substitution of EBPs as noted in IV.A.

Upon the Department's approval, the MOU and EBP Implementation Plan will be incorporated into Appendix C of this Order and made an enforceable part of this Order. The EBP(s) must be completed pursuant to the terms and scheduled date(s) provided in the MOU and EBP Implementation Plan.

- F. Respondent shall ensure that all EBP projects that are approved and administered hereunder shall meet the requirements of the Department's EBP Guidance. Respondent will provide the Department with quarterly written updates on the payments made pursuant to the EBP(s), beginning at the end of the first full quarter following the effective date of this Order. These quarterly written updates shall include an itemized list of all expenditures made from any EBP funds, copies of invoices, the remaining balance of funds, and shall track compliance with the EBP schedule, in accordance with the information provided by Respondent.
- G. With respect to each EBP, Respondent hereby certifies that Respondent: (i) is not required to fund the listed EBP by any law regulation or other legally binding obligation; (ii) is not required to fund the listed EBP as injunctive relief in this or any other case; (iii) has not received, is not presently negotiating to receive, and will not seek in the future to receive, credit in any other enforcement action or legal proceeding based upon funding the listed EBP; (iv) has not obtained and will not obtain any grant funds based upon the funding of the listed EBP; and (v) had not planned to fund the listed EBP, or any element thereof, at the time the violations were detected.
- H. Any written or formal public oral statement made by Respondent (or by a third party at the request of the Respondent) that is made after (i) the effective date of this Order concerning payment toward any EBP in Appendix C to this Order or (ii) the completion of any such EBP concerning any aspect of the EBP, shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the New York State Department of Environmental Conservation."

APPENDIX C.

Environmental Benefit Projects

Reserved for incorporation of MOU and EBP Implementation Plan

APPENDIX D.

Requirements for Records Search Report

1. Identify all environmental data and information in the possession or control of Respondent and Respondent's agents and consultants regarding environmental conditions at or emanating from the Site, including the Retention Ponds, the Interbed Area, and the Surrounding Affected Area, as defined in this Order.
2. Provide a comprehensive list of all existing relevant reports with titles, authors, and subject matter, as well as a description of the results of all previous investigations of the Site and of the areas surrounding the Site which are or might be affected by contamination and pollutants at the Site, including all available topographic and property surveys, engineering studies, and aerial photographs.
3. Provide a concise summary of information held by Respondent and Respondent's agents and consultants with respect to:
 - (i) a history and description of the Site and the Surrounding Affected Area, including the nature of operations;
 - (ii) the types, quantities, physical state, locations, methods, and dates of disposal or release of wastes or the discharges of pollutants at or from the Site;
 - (iii) a description of current Site security (i.e. fencing, posting, etc.); and
 - (iv) the names and addresses of all persons responsible for disposal of hazardous wastes and hazardous substances, including the dates of such disposal and any proof linking each such person responsible with the hazardous wastes identified.

APPENDIX E.

Schedule for Compliance with ECL Articles 11, 15, 17, 24, and 27 Title 7

Notwithstanding any transition provisions to the contrary, Respondent shall comply with the requirements of 6 NYCRR in effect on the date this Consent Order is signed by the Commissioner unless otherwise expressly provided herein.

I. CLOSURE INVESTIGATION WORK PLAN FOR SITE AND SURROUNDING AFFECTED AREA

A. Within 60 calendar days of the effective date of this Consent Order, Respondent shall submit to the Department for review and approval a Closure Investigation Work Plan pursuant to this Paragraph and the closure investigation requirements of 6 NYCRR § 360-2.15(a), including a schedule for implementation.

B. The Closure Investigation Work Plan shall address the Site and the Surrounding Affected Area (SAA), as these terms are defined in this Consent Order, and shall provide for the delineation of the nature and extent of past, current and potential releases, migration and/or deposition of Solvay Waste and/or other material off-Site from the Wastebeds in all media in order to determine the horizontal and vertical extent of the Surrounding Affected Area.

C. Respondent shall identify in the Closure Investigation Work Plan, without limitation, all interim investigation, interim abatement, and interim closure measures that have been, are currently, or are proposed to be implemented at the Site and in the SAA.

D. The Closure Investigation Work Plan shall address, without limitation:

1. The sampling and monitoring of all media (air, soil, sediment, surface water and ground water, leachate and macroinvertebrates) in accordance with 6 NYCRR § 360-2.15(a), § 608.7(b), and any other applicable regulation, such that (i) presence of Solvay Waste and other Wastebed material in the Surrounding Affected Area may be delineated and (ii) a long-term environmental monitoring network for the Site and Surrounding Affected Area may be established including macroinvertebrate sampling. Baseline characterization of the material within the Wastebeds shall not be required provided that sufficient analysis has already been performed and such analysis has been submitted to the Department or will be submitted to the Department pursuant to the Record Search Report in accordance with Appendix D. Prior submittals that are proposed as providing one or more aspects of the baseline characterization shall be identified and described as such in the Closure Investigation Work Plan. The Department reserves the right to require additional sampling within the Wastebeds should new information become available that would warrant further baseline characterization of the material within the Wastebeds. The sampling and monitoring program in the Closure Investigation shall address the Site and the SAA and shall include, but shall not be limited to:

a. A discussion of data quality assessment procedures including a comparison of results to applicable standards and guidance values;

b. An initial round of groundwater, surface water and leachate sampling shall be analyzed for expanded parameters as listed in Part 360-2.11(d)(6), plus Nitrite, with the exception that Mercury shall be analyzed using EPA Method 1631 and PCBs shall be analyzed using EPA Method 1668A(including Aroclor 1268). Macroinvertebrate sampling shall also be included. Surface water shall be analyzed for PCBs and pesticides using PISCES. Ambient weather shall be recorded and stream flow shall be monitored using data from the USGS gage station at State Fair Blvd; and

c. Wastebed 13. An enhanced monitoring well network, including overburden and bedrock wells, for the Sediment Consolidation Area (“SCA”) that has been approved to be constructed in Wastebed 13 pursuant to the federal Remedial Design/Remedial Action Consent Decree entered January 4, 2007 for the Onondaga Lake Bottom Superfund site (89-CV-815). A copy of the monitoring requirements for Wastebed 13, once approved in the Wastebeds 9-15 Closure Investigation Work Plan, shall be included as one or more appendices to the relevant Superfund work plan(s), design document(s), and operation, maintenance and monitoring plans associated with the SCA.

2. The mapping and characterization of the potentially impacted sediments, surface water, ground water, banks and flood plains; the toxicity testing of stream sediments; and the identification of vegetation and stream bed characteristics with respect to: Nine Mile Creek downstream of the Amboy Dam, Geddes Brook near its confluence with Nine Mile Creek, and the two Unnamed Tributaries, which are also known as Iron Brook and the Outfall 19 Drainage Ditch, respectively. The work plan shall incorporate protocols as referenced in the *United States Department of Agriculture National Water and Climate Center Technical Note 99-1 Stream Visual Assessment Protocol*. This work plan may include the components of Respondent’s “Settling Basin 9 through 15 Investigation Surrounding Affected Area Proposed Phase I Scope of Work” including Respondent’s Responses to Comments dated September 18, 2009 and September 28, 2009.

3. The identification of all unacceptable environmental and health impacts at the Site and in the SAA that will need to be addressed in an approvable Site Closure Plan pursuant to 6 NYCRR §360-2.15(c)(1), § 608.7(b), and any other applicable regulation;

4. The sampling and monitoring of all media at the Site and in the SAA sufficient to ensure that an adequate Site Closure Plan may be developed under 6 NYCRR § 360-2.15(c) and an SAA Closure and Restoration Plan that is consistent with Articles 11, 15, 17, 24, 27 title 7 and the regulations issued pursuant to each;

5. A schedule, setting forth milestone date intervals (as measured from the Closure Investigation Work Plan approval date) for completion of each task set forth in the Closure Investigation Work Plan; and

6. Throughout the duration of the Closure Investigation, the continued quarterly monitoring and reporting of groundwater, surface water, and leachate. These samples shall be analyzed once per year for expanded parameters as listed in 6 NYCRR § 360-2.11(d)(6), plus Nitrite, with the exception that Mercury shall be analyzed using EPA Method 1631 and PCB’s shall be analyzed using EPA Method 1668A (including Aroclor 1268); and for routine

parameters as listed in Part 360-2.11(d)(6) for the three remaining quarters. The reporting of the groundwater, surface water, and leachate results shall be within 90 days after each sampling event. Macroinvertebrate sampling and assessment will also be included, at intervals to be specified in the Closure Investigation Work Plan, comparing, except for the first year, results and analysis associated with the prior study years, detailed discussion of the current study year, and mapping of the above-referenced Nine Mile Creek stream segment, indicating any changes and improvements in the aquatic habitat. Surface water shall also be analyzed for PCBs and pesticides using PISCES. Ambient weather shall be recorded and stream flow shall be monitored using continuous flow recorders and the USGS gage station at State Fair Blvd. All results shall be presented and discussed with interpretation, conclusions, and recommendations in an annual report.

Until the monitoring program specified in the approved Final Site Closure Plan begins, the Respondent shall continue the monitoring and reporting program of Paragraph I.D.6.

E. Upon approval of the Closure Investigation Work Plan, Respondent shall carry out the tasks and produce the deliverables identified in the work plan in accordance with its terms, including the schedule and the sampling frequencies set forth therein.

II. CLOSURE INVESTIGATION REPORT

A. Within ninety (90) calendar days after completion of the tasks identified in the Closure Investigation Work Plan, Respondent shall submit to the Department for its review and approval a Closure Investigation Report ("Closure Investigation Report") concerning both the Site and the Surrounding Affected Area. The Closure Investigation Report shall comply with all applicable regulations and shall, without limitation:

1. Identify the results of the Closure Investigation and the conclusions drawn therefrom; summarize the environmental conditions identified in 6 NYCRR § 360-2.15(a)(5) including conditions of the benthic macroinvertebrate populations;
2. Delineate the nature and extent of past, current and potential release, migration, and deposition of Solvay Waste and/or other material off-Site from the Wastebeds in all media, and identify the horizontal and vertical extent of the Surrounding Affected Area;
3. Report on all unacceptable environmental and health impacts, including impacts on the benthic macroinvertebrate populations, at the Site and in the Surrounding Affected Area that are identified during the Closure Investigation and that will need to be addressed in the Final Closure Plans referenced in Paragraphs IV and V below.
4. Include interpretation and representation of results including mapping of all results generated in 1-3 above necessary to appropriately address those matters identified in 6 NYCRR § 608.7(b)(1).

5. Include a proposal of interim measures, separate and apart from those identified in Paragraph III of this Appendix E, that may abate and remove, where practicable, or else mitigate to the satisfaction of the Department all identified unacceptable environmental and health impacts, if any, and that may be implemented in whole or in part before implementation of approved Final Closure Plans.

B. The Closure Investigation Report shall include an evaluation of natural stream channel restoration using fluvial geomorphological methods for restoring the aquatic habitat of the reaches of Nine Mile Creek and Geddes Brook that are in the Surrounding Affected Area. The restoration methods shall take into account stream temperature, stream cover, and stream flow to support cold water (salmonid) fisheries.

III. INTERIM MEASURES

A. Respondent shall design, construct, operate and maintain the Interim Measures identified in Subparagraphs III.B, III.C and III.D in accordance with Paragraphs III.E, III.F and III.G below. The Interim Measures shall address violations through the abatement and removal where practicable, or else the mitigation to the satisfaction of the Department of both (i) the unacceptable environmental and health impacts, if any, that are associated with solid waste violations prohibited under ECL article 27 title 7, and (ii) the water quality violations that are prohibited under ECL article 17. Upon the Department's approval of any Interim Measure Work Plan, the Interim Measure Work Plan shall be incorporated into and become an enforceable part of this Consent Order.

B. An Interim Measure Work Plan for each of Subparagraphs III.B.1, III.B.2, and III.B.3 below shall be submitted to the Department within 60 days of the effective date of this Order and shall include a schedule for all tasks and deliverables.

1. Berm Stability and Erosion Control pursuant to 6 NYCRR § 360-2.7, § 360-2.13(q), and §§ 360-2.15(k)(3), (k)(6), and (k)(7).

a. Respondent shall submit for Department approval, a survey of all berms surrounding Wastebeds 9-15 that will identify (i) areas on the berms that may be undergoing or threatening to undergo erosion in an unacceptable manner which threatens berm stability or allows berm material to be deposited off-Site, and (ii) the means for stabilizing each area that is found to be structurally compromised or vulnerable.

b. Respondent shall submit for Department approval a plan for the design, construction, operation and maintenance of a Biotechnical Slope Protection Measure for the Site and, as appropriate, for the Surrounding Affected Area in accordance with the Department's August 2005 manual entitled, "New York State Standards and Specifications for Erosion and Sediment Control."

c. This Interim Measure shall combine structural measures with plant

science in order to mitigate to the satisfaction of the Department surface erosion on the exterior side slopes of the Wastebed containment berms. Depending on the composition and characteristics of the containment berms, the placement of an identifiable barrier between the berm and the clean fill and plantings may need to be installed.

d. The Interim Measure Work Plan Schedule shall call for the completion of construction within one year of the Department's approval of the Interim Measure design.

e. Respondent shall maintain and replace as necessary the vegetation used in the slope protection measures, ensure any identifiable barrier remains intact, and periodically assess the effectiveness and potential for additional or alternative vegetative covers for the exterior sides of the containment berms at the Site. The maintenance, replacement, and assessment tasks in this sub-paragraph may later be subsumed, as appropriate, under approved post-closure monitoring plan for the Site pursuant to a Final Closure Plan.

2. Seep Control pursuant to 6 NYCRR § 360-1.14(w); § 360-2.15(i). Respondent shall submit a work plan for an Interim Measure to mitigate to the satisfaction of the Department all seeps and the admixture of leachate in stormwater discharges from Outfalls 011, 017, 018, and 019 from seeps emanating from the Wastebed containment berms, from fissures, or from other unpermitted sources associated with the Site. The mitigation of seeps may require a variety of measures, including the installation of clay and/or geomembrane in addition to vegetation.

a. This Interim Measure work plan may call for seep mitigation work to be undertaken in phases, in accordance with the May 19, 2006 Seep Mitigation Schedule submitted to the Department for Outfalls 011, 017, 018, and 019.

b. The Respondent shall annually submit the reports and documents that detail the projects undertaken, the results of these projects, estimates of the reduction in leachate achieved by these projects, and sampling results demonstrating the reduction in leachate discharged through Outfalls 011, 017, 018, and 019. In addition, each report shall characterize any seeps noted during that phase, including locations, flow rates (if known), and sampling results and detail the efforts taken to mitigate these seeps.

c. All seeps and any admixture of leachate in stormwater shall be mitigated to the satisfaction of the Department within three years from the effective date of this Order such that the stormwater discharges from Outfalls 011, 017, 018, and 019 meet the applicable Chloride, Total Dissolved Solids, pH, and all other effluent limits as required by Article 17 of the ECL, 6 NYCRR § 360 and SPDES Permit NY 000 2275.

3. Leachate Collection and Conveyance System (LCCS) pursuant to 6 NYCRR § 360-2.15(i). Respondent shall submit a work plan for the Department's approval to evaluate the capacity, efficiency, and effectiveness of the existing LCCS. The evaluation shall include, but not be limited to, an analysis of the pipe size and pump size of the LCCS. Upon the

approval of the LCCS evaluation work plan by the Department and its implementation by Respondent, the Respondent shall submit a report summarizing the evaluation and recommending enhancement and/or replacement of the LCCS at the Site, based on this evaluation, in order to mitigate to the satisfaction of the Department the discharge of leachate to stormwater. Upon approval of the report by the Department, the Respondent shall submit a work plan for an interim measure to enhance and/or replace the LCCS at the Site based on this evaluation.

C. Upon the Department's written notification to Respondent that any other Interim Measure is to be performed, Respondent shall, within sixty (60) days thereof, submit to the Department a work plan ("Interim Measure Work Plan") which shall include a chronological description of the anticipated Interim Measure activities together with a schedule for the performance of those activities. Interim Measures proposed pursuant to this paragraph III.C shall be limited to Interim Measures designed to (i) maintain the integrity of the Wastebed berms, (ii) to reduce the admixture of leachate in surface water such that the stormwater discharges from Outfalls 011, 017, 018, and 019 meet all applicable effluent limits as required by Article 17 of the ECL, 6 NYCRR Part 360 and SPDES Permit NY 000 2275, (iii) to improve surface water quality, or (iv) any other appropriate Interim Measure based upon data collected as part of this Order or other pertinent information and data. No Interim Measure required pursuant to this paragraph III.C. shall require the placement of a final cover system over the Wastebeds.

D. Respondent may at any time submit a proposal to the Department for an Interim Measure. If the Department agrees that the proposed Interim Measure is appropriate, then Respondent shall submit to the Department an Interim Measure Work Plan within 30 days of such determination or such time as agreed to by the Department.

E. In accordance with the schedule contained in a Department-approved Interim Measure Work Plan incorporated into this Order, Respondent shall submit to the Department for its review and approval, detailed documents and specifications prepared, signed, and sealed by a professional engineer currently licensed to practice in New York State to implement the Department-approved Interim Measure. Such documents shall include health and safety plans, operation and monitoring (O&M) plans, and contingency plans, as well as a citizen participation plan (if the Department requires such) that incorporates appropriate activities. Respondent shall then carry out such Interim Measure in accordance with the requirements of the approved Interim Measure Work Plan, detailed documents and specifications, and this Order. During implementation of all construction activities identified in the Department-approved Interim Measure Work Plan, Respondent shall have on Site at all times a representative who is qualified to supervise the work done.

F. In accordance with the schedule contained in each Department-approved Interim Measure Work Plan incorporated into this Order, Respondent shall submit to the Department a final certification report ("Interim Measure Final Engineering Report and Certification") that has been prepared by a professional engineer and includes (i) a certification by the individual that all activities that comprised the Interim Measure were performed in full accordance with the Department-approved Interim Measure Work Plan, detailed documents and specifications, and this Order, and (ii) a comprehensive narrative, as-built drawings, results of all analysis and testing performed, daily reports from the project engineer, and a series of color photographs of major project features.

G. Subsequent to the submission of an Interim Measure Final Engineering Report and Certification, and within the schedule contained in each Department-approved Interim Measure Work Plan, Respondent shall submit to the Department, if applicable, an Operation and Maintenance Report or reports documenting the performance of the Interim Measure.

H. Respondent shall notify the Department of any significant difficulties that may be encountered in implementing each Department-approved Interim Measure Work Plan, detailed documents or specifications, and shall not modify any obligation unless first approved by the Department.

IV. FINAL SITE CLOSURE PLAN

A. Within ninety (90) calendar days after the Department's approval of the Closure Investigation Report, Respondent shall submit to the Department for its review and approval a Closure Plan for the Site as defined in Whereas paragraph 4 ("Site Closure Plan"). The Site Closure Plan shall be developed and certified by a New York State licensed professional engineer with experience acceptable to the Department. The format and content of the Site Closure Plan shall at a minimum satisfy the requirements of 6 NYCRR § 360-2.15(c), and shall include a post-closure monitoring and maintenance operation manual, which provides for the quarterly monitoring and reporting of the Site, in accordance with the requirements of 6 NYCRR § 360-2.15(k)(7) with the following modifications: monitoring and reporting of groundwater, surface water, and leachate shall be conducted once per year for expanded parameters as listed in § 360-2.11(d)(6), plus Nitrite, with the exception that Mercury shall be analyzed using EPA Method 1631 and PCBs shall be analyzed using EPA Method 1668A (including Aroclor 1268), and for routine parameters as listed in § 360-2.11(d)(6) for the remaining three quarters. The post-closure monitoring and maintenance operation manual shall also include the analysis of surface water for PCBs and pesticides using PISCES in addition to recording ambient weather and stream flow using data from the USGS gage station at State Fair Blvd. The Site Closure Plan shall also include provisions to eliminate all seeps, achieve compliance with SPDES Permit NY000 2275, and appropriately manage leachate from the Wastebeds.

B. Respondent shall complete the installation of a final cover consistent with 6 NYCRR § 360 pursuant to the Department-approved Site Closure Plan. Respondent may utilize an approved Evapotranspiration Cover ("ET Cover") (as further described in Respondent's Alternative Cover Conceptual Design Report (February 2009) and Respondent's response to comment letters dated June 2, 2009 and September 17, 2009) for the areas described in the Site Closure Plan. The salt marshes or wetland features that have been designed and constructed by Honeywell at the Site prior to the effective date of this Order, and the inclusion of such features in the Alternative Cover Conceptual Design Report, shall not and do not constitute an approval of same by the Department as an element or component of the Site Closure Plan. No further such features are to be constructed at the Site outside of the provisions of this Consent Order. Salt marsh or wetland features that have been previously constructed prior to the effective date of this Order on Wastebed 14 must be submitted as part of an Interim Measure Work Plan in accordance with Paragraph III. Proposals for any such future features must be submitted in the Site Closure Plan such that they may be evaluated by the Department and are subject to approval by the Department both as an alternative cap over the acreage they cover and as a means of storm

water management.

C. The Site Closure Plan shall include or cross-reference all plans approved by the Department for the closure of Wastebed 13 and Wastebed 15.

D. Annual Construction Plans

1. Within 30 days after receipt of the Department's Approval of the Final Site Closure Plan, Respondent shall submit to the Department for approval an Annual Construction Work Plan for the first year of cover construction. No later than January 15 following the first year of cover construction and each year thereafter, Respondent shall submit to the Department for review and approval an Annual Construction Work Plan for the following year in accordance with the requirements of this Section. Respondent shall continue to submit Annual Construction Work Plans as set forth in this paragraph until the final cover system approved pursuant to this Order is complete or until this Consent Order is otherwise terminated. Upon approval, each Annual Construction Work Plan shall become incorporated into and become an enforceable part of this Order.

2. Each Annual Construction Work Plan shall set forth plans and specifications for the following aspects of the construction planned for the following year: (i) the area in which cover construction is to be undertaken; (ii) the plans and specifications for the area of cover to be installed; (iii) a schedule for construction; and (iv) any maintenance activities that are to be conducted on areas of the final cover system approved pursuant to this Order that have already been completed. Annual Construction Work Plans shall be submitted in accordance with the approved Final Site Closure Plan. All plans and specifications shall provide sufficient detail to allow for the implementation of the applicable phase of cover construction without further design work.

E. Post-Closure Care: The Site Closure Plan shall define activities for a minimum of thirty (30) years beyond the date that placement of the final cover is completed. The post-closure care period will last for a minimum of 30 years and, unless otherwise approved by the Department, will continue thereafter until the Respondent demonstrates to the Department's satisfaction that the post-closure care period can be ended. Closure and post-closure activities for the Site shall be implemented and completed in accordance with the Department-approved Site Closure Plan.

F. Within sixty (60) days of the Department's approval of the Site Closure Plan, Respondent shall provide notice to the public that the Site Closure Plan is available for public comment. Notice shall be in the form of a fact sheet, approved by the Department, mailed to residents, interested parties, elected officials, and the media. The comment period shall begin seventy-five (75) days after the Department's approval of the Site Closure Plan. The fact sheet will identify the Site, summarize Site history, the history of the Surrounding Affected Area, the proposed Site Closure Plan, end uses, other pertinent information and announce a public meeting. The public meeting shall take place within the 30-day comment period. An official record of all comments received shall be compiled by Respondent and provided to the Department within 15 days after the close of the comment period. Based upon the comments, the Department may require revisions to the Site Closure Plan.

G. The Site Closure Plan shall include the following statement: "Should the Department determine, through inspection, report review, data evaluation or other information, that the alternative cover system is not sufficiently performing, then Respondent shall implement such additional actions required by the Department which may include the design, construction and maintenance of a conventional Part 360 landfill final cover system."

H. After approval of the Site Closure Plan by the Department and before the placement of the final cover is completed, should Respondent propose other alternate cover systems for a portion of the Site, the proposed modification shall be submitted to the Department for review pursuant to Paragraph IV of this Consent Order and such alternate cover system shall be in compliance with 6 NYCRR §360-2.14(a), shall be subject to approval by the Department and shall not delay the schedule of completion of the Final Closure Plan, as set forth herein and in the Final Closure Plan. Public notice of any such modification shall be performed in accordance with the provisions of Subparagraph IV.E of this Appendix.

V. OFF-SITE SURROUNDED AFFECTED AREA (SAA) CLOSURE AND RESTORATION PLAN

A. Within ninety (90) calendar days after the Department's approval of the Closure Investigation Report, Respondent shall submit to the Department for its review and approval an Off-Site SAA Closure and Restoration Plan (SAA Closure and Restoration Plan) for the Surrounding Affected Area. The SAA Closure and Restoration Plan shall be developed and certified by a New York State licensed professional engineer with experience acceptable to the Department. The format and content of the SAA Closure and Restoration Plan shall at a minimum satisfy the requirements of 6 NYCRR § 608, § 360-2.15(c), and any other applicable regulation and shall include a post-restoration monitoring and maintenance operation manual in accordance with the requirements of 6 NYCRR § 360-2.15(k)(7).

B. If, upon Department approval of the SAA Closure and Restoration Plan, Respondent declines to implement part or all of the approved SAA Closure and Restoration Plan, Respondent shall, within 30 days of the Department's approval of the SAA Closure and Restoration Plan, notify the Department in writing that it declines to implement part or all of the SAA Closure and Restoration Plan, and Respondent shall not be required under this Order to implement those aspects it has declined to undertake. The parties reserve all claims, rights, and defenses with respect to Respondent's implementation of the SAA Closure and Restoration Plan, the alleged and/or continuing off-site violations which Respondent declines to abate, including the rights to compel Respondent to implement those aspects of the SAA Closure and Restoration Plan that Respondent has declined to undertake under this Order and compel Respondent to pay a civil penalty for such past and continuing violations.

C. If Respondent agrees to implement all or part of the approved SAA Closure and Restoration Plan, Respondent shall, within sixty (60) days of the Department's approval of the SAA Closure and Restoration Plan, provide notice to the public that the SAA Closure and Restoration Plan shall be available for comment for at least thirty (30) days. Notice shall be in the form of a fact sheet, approved by the Department, and mailed to residents, interested parties, elected officials and the media. The comment period shall begin seventy-five (75) days after the

Department's approval of the SAA Closure and Restoration Plan. The fact sheet will summarize Surrounding Affected Area history, the proposed-SAA Closure and Restoration plan, end uses, any part of the SAA Closure Plan Honeywell has declined to implement, other pertinent information, and it shall announce a public meeting. The public meeting shall take place within the 30-day comment period. An official record of all comments received shall be compiled by Respondent and provided to the Department within 15 days after the close of the comment period. Based upon the comments, the Department may require revisions to the SAA Closure and Restoration Plan.

D. Restoration and post-restoration activities, including a post closure management plan where appropriate, shall be proposed, implemented, and completed in accordance with the Department-approved SAA Closure and Restoration Plan.

VI. CLOSURE CONSTRUCTION CERTIFICATION REPORT

A. Annual Interim Closure Construction Certification Reports. By March 1st of each year and until the Final Closure Construction Certification Report required by Subparagraph VI.B below is approved by the Department, Respondent shall submit to the Department an Interim Closure Construction Certification Report detailing any and all construction activities completed at the Site and the Surrounding Affected Area during the previous calendar year. This submission may be combined with the quarterly Progress Report to be submitted within this time frame pursuant to Paragraph III of this Consent Order.

B. Within 45 calendar days after completion of all construction activities identified in the Department-approved Closure Plan(s), Respondent shall submit to the Department for its review and approval a Final Closure Construction Certification Report. This Report shall, at a minimum, satisfy the requirements of 6 NYCRR § 360-2.15(d)(7), including, but not limited to, written certification attested to by an individual licensed to practice engineering in the State of New York, that all construction activities identified in the approved Closure Plan(s) were undertaken in accordance with the requirements of such Closure Plan, and were completed in accordance with the requirements of 6 NYCRR § 360, this Consent Order and conditions of Department approval.

VII. QUALITY CONTROL

During the implementation of the approved Closure Investigation, Interim Measures, and Closure Plans, Respondent's engineering consultant shall have an inspector onsite who shall be responsible for quality control and quality assurance. Respondent's engineering consultant shall certify that a Closure Plan approved pursuant to this Order was implemented in full accordance with its terms.

VIII. WASTEBEDS 13 AND 15

A. Wastebed 13. As is stated in Subparagraph 8.D to this Consent Order, Respondent may use Wastebed 13 to dispose of contaminated sediments from Onondaga Lake as part of the remedy issued for Onondaga Lake in July 2005 by the Department and the United

States Environmental Protection Agency under the State and federal Superfund laws and pursuant to a federal Consent Decree filed January 4, 2007 in the case of *State of New York and Thomas C. Jorling as Trustee of the Natural Resources v Allied-Signal Inc.* (89-CV-815). The disposal operation in the Sediment Consolidation Area (“SCA”) within Wastebed 13 is not the subject of this Wastebeds Order. Except as otherwise addressed herein, closure of the SCA shall be conducted pursuant to the January 4, 2007 Consent Decree and any amendment thereto. If any portion of Wastebed 13 is not covered by the SCA Final Cover System, Respondent shall close said portion pursuant to this Consent Order.

B. Wastebed 15. As is stated in Subparagraph 8.B to this Consent Order, Respondent and the Town of Camillus are operating an active construction and demolition landfill in Wastebed 15 at the Site pursuant to a third modification to a 1987 administrative consent order concerning Wastebeds 9-15 (Index No. R7-0058-85-11; the “Wastebed 15 Order”). Under the terms of the Wastebed 15 Order, the Town of Camillus may fill a specified number of acres in Wastebed 15 with construction and demolition (“C&D”) debris as part of the closure plan for Wastebed 15. As portions of Wastebed 15 are filled with C&D debris and reach “final elevation,” Respondent is obligated by the Wastebed 15 Order to implement a cover over the debris. The filling and covering of Wastebed 15 in stages may continue pursuant to the Wastebed 15 Order and any subsequent amendments or modifications thereto. If any portion of Wastebed 15 is not covered pursuant to the Wastebed 15 Order, Respondent shall close said portion pursuant to this Consent Order, but no such closure shall affect the integrity, operation or maintenance of the previously approved cover(s) over the debris in Wastebed 15 which were implemented pursuant to the Wastebed 15 Order.