

FILE COPY

STATE OF NEW YORK : DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
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In the Matter of the Development and  
Implementation of A Remedial Investigation,  
Feasibility Study for an Inactive Hazardous  
Waste Disposal Site Under Article 27,  
Title 13 of the Environmental Conservation  
Law of the State of New York (the "ECL") by:

ORDER  
ON  
CONSENT

R. D. SPECIALTIES, INC.

Respondent

Site I.D.#828065  
Index #B8-0124-86-01

-----X  
WHEREAS:

1. The New York State Department of Environmental Conservation (the "Department") is responsible for the enforcement of Article 27, Title 13 of the ECL entitled "Inactive Hazardous Waste Disposal Sites".
2. Respondent, R. D. Specialties, Inc. is a corporation organized and existing under the laws of the State of New York, which is located in Webster, New York.
3. Respondent owns property at 560 Salt Road in the Village of Webster (the " Site") a map of which is attached hereto as Appendix "A", at which the Respondent has been operating an industrial facility for the manufacturing of coating rods, some of which are chrome-plated.
4. Beginning in approximately 1966 and continuing until approximately 1985, some chromium electroplating wastes were disposed of at the Site.
5. Laboratory analysis performed on behalf of the Respondent during the course of a preliminary Site

Investigation determined that the chrome electroplating wastes generated at the facility exhibited the characteristic of E P toxicity for chromium, as that characteristic is defined in Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York ("6 NYCRR"), Part 371.3(e). Pursuant to §27-1301(1) of the ECL, the chrome electroplating wastes generated at the facility constitute hazardous waste.

6. The Department alleges:

a. That the Site is an inactive hazardous waste disposal site, as that term is defined in ECL Section 27-1301(2); and

b. That hazardous and industrial waste, hazardous waste constituents, and toxic degradation products at and in the vicinity of the Site constitute a significant threat to the environment.

7. Pursuant to ECL Section 27-1313(3)(a), whenever the Commissioner of Environmental Conservation (the "Commissioner") finds that hazardous wastes at an inactive hazardous waste site constitute a significant threat to the environment, he may order the owner of such site and/or any person responsible for the disposal of hazardous wastes at such site (i) to develop an inactive hazardous waste disposal site remedial program, subject to the approval of the Department, at such sites and (ii) to implement such program within reasonable time limits specified in the

order".

8. The Department and Respondent have agreed that it is in the public interest to settle this matter without commencing litigation, and the parties agree that the entry of this Order and the performance of any obligation pursuant hereto shall not be construed as an admission of liability or of any facts, nor an admission that the Site constitutes a significant threat to the environment, inasmuch as Respondent disputes the facts and conclusions contained herein, and this document represents a mutual settlement and compromise to avoid the uncertainties of litigation.

9. Respondent will plan and conduct, at Respondent's expense, a Remedial Investigation/Feasibility Study of the Site. In furtherance thereof, respondent has developed and submitted to the Department a detailed work plan for a Remedial Investigation/Feasibility Study for the Site. Such plan, which has been approved by the Department, is attached hereto and incorporated into this Order as Appendix "B".

10. The Department and Respondent acknowledge that the goal of this Order shall be that the Respondent implements the Remedial Investigation/Feasibility Study for the Site, as contained in Appendix "B".

11. Respondent consents to the issuance and entry of this Order, waives the right to a hearing herein as provided by law, except as provided in paragraph XXIX hereof, and agrees to be bound by the provisions, terms and conditions of this Order.

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

I. As used herein, "hazardous wastes" means those substances identified as hazardous wastes pursuant to Environmental Conservation Law §27-1301(1).

II. As used herein, "chromium wastes" means the chromium electroplating wastes generated at the facility which constitute hazardous wastes pursuant to ECL §27-1301(1) and 6 NYCRR Part 371.3(e).

III. As used in this Order, Requisite Technology means engineering, scientific and construction principles and practices which (a) are technologically feasible, and (b) will most effectively identify, mitigate and/or eliminate any present or potential future threat to the environment posed by the disposal of hazardous waste at or in the vicinity of the Site.

IV. Respondents shall undertake and complete at the Site the Remedial Investigation and Feasibility Study program as defined and described in Appendix "B", subject to the approval of the Department of any specific procedures and protocols that are not delineated in Appendix "B". All Departmentally approved procedures, protocols, modifications or revisions shall be deemed to constitute "Requisite Technology". All Departmentally approved modifications or revisions of Appendix "B", shall be in writing and incorporated herein as Appendix "C".

The failure of Respondent: (a) to submit or undertake

the field investigation and report, as contained within Appendix "B", or (b) in implementing Appendix "B", to undertake any procedures or protocols which are not fully delineated therein in accordance with Requisite Technology, shall constitute a default and a failure to perform an obligation pursuant to this Order and the ECL.

V. Within 90 days after the date specified for completion of the Remedial Investigation as provided pursuant to the Approved Work Plan, Respondent shall submit to the Department a Remedial Investigation report (the "Report"), founded upon its performance of the Remedial Investigation in accordance with the Approved Proposal. The Report shall include a copy of the Approved Proposal and all data and all other information generated in the performance of Respondent's obligations under the Remedial Investigation and shall also include, but shall not be limited to, the following specific information with respect to the Site and areas affected by the disposal of chromium wastes and the alleged disposal of other hazardous and industrial wastes at the Site:

a. A base map identifying property lines, major topographic features, contour lines and the location of all monitoring wells. Well casing and ground surface elevations will be surveyed and plotted on the base map using the nearest USGS benchmark as a reference;

b. A summary of all environmental conditions, including, but not limited to: Site drainage, stream flow

data, soil conditions, hydrogeologic characteristics, surface and groundwater quality; said summary to include maps, tables, graphics, and any other appropriate means of presenting all information;

c. All data collected during the Remedial Investigation and/or used in preparing the Report, including, but not limited to: soil boring logs, well data, and the results of chemical analyses performed on samples obtained during the Remedial Investigation; said data presented in tabulated and/or graphic form where appropriate;

d. A determination of the types and quantities of chromium wastes found to be present, as well as the horizontal and vertical extent of such wastes, which determination shall result in the preparation of a waste location and concentration map;

e. A study and evaluation of the hydrogeologic conditions at and in the vicinity of the Site;

f. A determination of the nature and extent of actual and potential release and migration of chromium wastes from the Site through surface water, groundwater, soil and sediment to areas at and in the vicinity of the Site.

g. A determination of the horizontal and vertical extent to which both on-Site and off-Site surface water, ground water, soil and sediment have been, are being or may be contaminated by chromium wastes;

h. To the extent possible, based upon the information generated by the Respondent and/or the Department during the performance of the Remedial Investigation, Respondent shall make the determinations, and assessments required in subparagraphs d, f, and g, with respect to other hazardous or industrial wastes shown to be present at the Site;

i. An assessment of the results of the Remedial Investigation and a determination of the current or potential impacts of any threat to the environment which exists, or may exist in the future, at and in the vicinity of the Site and further off-Site, as a result of the chromium wastes disposed of at the Site, and any other hazardous and industrial wastes which may be found to have been disposed of at the Site, and as a result of the determinations made pursuant to subparagraphs f, g and h above;

j. References to all scientific or technical literature used in the preparation of the Report;

k. Names, titles and disciplines of all professionals engaged in the preparation of the Report; and

l. The consultant's certification that the Remedial Investigation was performed in accordance with the Approved Work Plan.

VI. Within sixty (60) days after its receipt of the Report, the Department shall determine if the remedial Investigation was conducted, and the Report prepared in accordance with the terms of this Order, and shall provide

written notification to Respondent of its approval or disapproval of the Report.

If the Department disapproves the Report, the Department shall notify Respondent in writing of the Department's objections. Within thirty (30) days after its receipt of notice of disapproval, Respondent shall revise the Report and/or, if necessary, re-perform or supplement the Remedial Investigation in accordance with the terms, provisions and conditions of this Order and within thirty (30) days after its completion of any supplemental work, shall submit to the Department a Report which has been revised in accordance with the Department's objections (the "Revised Report").

Within fifteen (15) days after its receipt of the Revised Report, the Department shall determine if the revised Report is in accordance with the terms of this Order and shall provide written notification to Respondent of its approval or disapproval of the Revised Report.

If the Department disapproves the Revised Report, the Respondent may be found , after notice and an opportunity for hearing, to be in violation of this Order, for not having submitted an approvable report and/or conducted a Field Investigation in accordance with the terms of this Order.

The Report or the Revised Report, whichever is approved by the Department, shall become incorporated in and made a part of this Order, and shall be attached hereto as Appendix "D". Such Report shall hereafter be referred to as the "Approved Report".



VII. The Department reserves the right to require, in a separate proceeding or Order on Consent, a modification and/or amplification and expansion of the Remedial Investigation and Report by Respondent to address specific areas if the Department determines that further investigation is necessary, as a result of reviewing data generated during the course of the Remedial Investigation, and the Respondent reserves all rights and defenses it may have thereto.

VIII. Within sixty (60) days after receipt of the Department's approval of the report, or within such greater period as the Department may allow for good cause shown, Respondent shall submit to the Department a feasibility study (the "Feasibility Study") evaluating on-Site and off-Site remedial actions to eliminate all health and environmental hazards and potential hazards attributable to the Site, as identified in the Remedial Investigation.

The Feasibility Study shall be performed consistent with the Superfund Amendments and Reauthorization Act of 1986, and the EPA document entitled "Guidance For Conducting Remedial Investigations and Feasibility Studies under CERCLA" (March, 1988), and shall include, but not be limited to, the following:

a. A summary of all health and environmental hazards and potential hazards attributable to the Site.

b. As to each such hazard or potential hazard, a statement of the remedial actions necessary to eliminate the same, and a categorization into discrete elements of each such remedial action.

c. As to each such discrete element, a statement of the alternative technologies available to effectuate the same, and analyses thereof, including, but not limited to:

1. Unit cost estimates.
2. Operation and maintenance requirements and cost estimates.
3. Long-term integrity.
4. Timeliness of implementation.
5. Conformity to applicable law.

d. As to each discrete element, the selection of one alternative technology to effectuate same.

e. A certification that the Feasibility Study was prepared in accordance with the terms of this Order. Such certification must be made by a New York State licensed professional engineer in accordance with New York State Law.

IX. Within sixty (60) days after its receipt of the Feasibility Study, the Department shall determine if the Feasibility Study was prepared in accordance with the terms of this Order, and shall provide written notification of its approval or disapproval.

If the Department disapproves the Feasibility Study, the Department shall notify Respondent in writing of the Department's objections. Within thirty (30) days after its receipt of notice or disapproval, Respondent shall revise the Feasibility Study and shall submit to the Department a Feasibility Study which has been revised in accordance with the Department's objections (the "Revised Feasibility

Study").

Within fifteen (15) days after its receipt of the Revised Feasibility Study, the Department shall determine if the Revised Feasibility Study is in accordance with the terms of this Order, and shall provide written notification to Respondent of its approval or disapproval of the Revised Feasibility Study.

If the Department disapproves the revised Feasibility Study, the Respondent may be found, after notice and opportunity for a hearing, to be in violation of this Order, not having submitted an approvable Feasibility Study in accordance with the terms of this Order, and the Department may exercise its rights under applicable law to remedy the default.

The Feasibility Study or the Revised Feasibility Study, whichever is approved by the Department, shall become incorporated in and made a part of this Order, and shall be attached hereto as Appendix "E". Such Feasibility Study shall hereafter be referred to as the "Approved Feasibility Study".

X. The Department's disapproval of any reports or submissions required herein, shall not be based on de minimus deviations from the terms of this Order.

XI. The Department shall have the right to obtain for the purpose of comparative analysis "split samples" or "duplicate samples", at the Department's option, so long as it does not interfere with Respondent's performance of its

obligations hereunder, of all substances and materials sampled by Respondent pursuant to this Order. As used herein: "split samples" shall mean whole samples divided into aliquots; "duplicate samples" shall mean multiple samples, collected at the same time from exactly the same location, using the same sampling apparatus, collected into identical containers prepared identically, filled to the same volume, and thereafter identically handled and preserved.

XII. Respondent and the Department shall mutually agree on an appropriate date for the start of any excavating, drilling or sampling to be conducted pursuant to the terms of this Order, but in no case shall such activities be scheduled less than five (5) working days in advance of Respondent's notice to the Department of the proposed schedule for such activities. Such notice shall be in full satisfaction of the notice requirements of 6 NYCRR Part 375.9.

XIII. Respondent shall permit any duly designated officer, employee, consultant, contractor or agent of the Department, upon demonstration of proper credentials, to enter upon the Site or areas in the vicinity of the Site which may be under the control of Respondent, and any areas necessary to gain access thereto, for inspection purposes and for the purpose of making or causing to be made such sampling and tests as the Department deems necessary, and for ascertaining

Respondent's compliance with the provisions of this Order, so long as such access does not interfere with Respondent's fulfillment of its obligations under this Order.

XIV. Respondent shall retain a third-party professional consultant, contractor and/or laboratory to perform the technical, engineering and analytical obligations required by this Order.

XV. Respondent shall not suffer any penalty under any of the terms hereof, or be subject to any proceedings or actions for any remedy or relief, if it cannot comply with any requirements of the provisions hereof because of an act of God, war, riot or other condition as to which negligence or willful misconduct on the part of Respondent was not the proximate cause, provided, however, that Respondent shall notify the Department in writing as soon as reasonably possible after it obtains knowledge of any such condition and request an appropriate extension or modification of the provisions hereof.

XVI. Respondent shall use its best efforts to obtain whatever permits, easements, rights-of-way, rights-of-entry, approvals or authorizations which are necessary in order to perform the Remedial Investigation and all of Respondent's other obligations pursuant to this Order. The Department shall, consistent with its legal authority, cooperate with, and where shown to be necessary, assist Respondent in obtaining such permits, rights-of-way, rights-of-entry,

approvals or authorizations on a timely basis. All time limitations contained in the Order are subject to timely approval of any of the timely filed permit application.

XVII. A. Within ninety (90) days after acceptance by the Department of the Approved Feasibility Study, Respondents shall pay (if no written objection pursuant to subpart (B) is made) to the Department a sum of money not to exceed \$5,000, which represents the administrative costs incurred by the Department for its activities in association with the Remedial Investigation and Feasibility Study, including, but not limited to, reasonable costs incurred for:

(a) reviewing proposals, reports, plans and specifications and procedures and protocols submitted in accordance with this order;

(b) oversight by the Department of the implementation of the Remedial Investigation and Feasibility Study including, but not limited to, inspection of construction and monitoring and maintenance activities associated therewith;

(c) any other activities undertaken by the Department in relation to securing and overseeing implementation of the Remedial Investigation and Feasibility Study.

B. An accounting of such administrative costs shall be prepared by the Department and transmitted to the Respondents at the time the Department approves the Feasibility Study, and shall be made a part of this Order

and shall be attached hereto as Appendix "F". Respondent shall have forty-five (45) days to review said accounting and provide the Department with written notice of any objections. Any portion not objected to, shall be paid in accordance with subparagraph "A" above.

If the Respondent's objections to the administrative costs cannot be resolved by negotiations between the parties within forty-five days of the Department's receipt of the Respondent's written objections, the Respondent may, after notice and an opportunity for a hearing, be found to be in default of this Order.

XVIII. The failure of Respondent to comply with any provision of this Order shall constitute a default and a failure to perform an obligation under this Order and under the ECL; without prejudice, however, to the Respondent's right to contest any allegation that it has violated this Order.

XIX. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting (1) any legal or equitable rights or claims, actions, suits, causes of action or demands whatsoever that the Department may have against anyone other than Respondent, its directors, officers, employees, servants, agents, successors and assigns; (2) the Department's right to enforce, at law or in equity, the terms of this Order against Respondent, its directors, officers, employees, servants, agents, successors and assigns in the event that Respondent shall fail to

fulfill any of the terms hereof; (3) the Department's right to bring any action, at law or in equity against Respondent, its directors, officers, employees, servants, agents, successors and assigns with respect to areas or resources that may have been affected or contaminated as a result of the release or migration of any hazardous or industrial wastes demonstrated to be at or emanating from the Site, including but not limited to a claim for national resource damages; and (4) the Department's right to bring any action or proceeding against any responsible party to compel the development and implementation of an inactive hazardous waste disposal site remedial program for the Site and to obtain recovery of its costs in connection with the remedial program at the Site.

Until completion and review of the Feasibility Study, the Department agrees not to take any action against the Respondent that is inconsistent with the terms of this Order, provided Respondent is in compliance with all of its obligations hereinunder.

XX. The terms of this Order shall not be construed to prohibit the Commissioner or his duly authorized representative from exercising any summary abatement powers, either at common law or as granted pursuant to statute or regulation.

XXI. 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 the provisions hereof by Respondent, its directors, officers, employees, servants, agents, successors or assigns.

XXII. The effective date of this Order shall be the date this Order is signed by the Commissioner or his designee on behalf of the Department, after having been duly executed on behalf of the Respondent.

XXIII. If, for any reason, Respondent desires that any provision of this Order be changed, Respondent shall make timely written application therefore to the Commissioner setting forth reasonable grounds for the relief sought.

XXIV. Within 30 days after the effective date of this Order, Respondent shall file a Declaration of Covenants and Restrictions with the real property records of the Monroe County Clerk's Office, for the purpose of providing notice of this Order to all potential future purchasers of any portion of the Site.

XXV. In the event that Respondent proposes to convey the whole or any part of its ownership interest in the Sites, Respondent shall, not less than 30 days prior to the consummation of such proposed conveyance, notify the Department in writing of the identity of the transferee and of the nature and date of the proposed conveyance. In advance of such proposed conveyance, Respondent shall notify the transferee in writing, with a copy to the Department, of the applicability of this Order and Respondent's continuing

liability under this Order.

XXVI. A. All communication required hereby to be made between the Department and Respondent shall be made in writing and transmitted by United States Postal Service return receipt requested, or hand delivered to the address as listed hereinunder. All reports and submissions herein required shall be submitted in duplicate to each of the following addresses:

New York State Department of Environmental  
Conservation  
Division of Hazardous Waste Remediation  
Room 414  
50 Wolf Road  
Albany, New York 12233-0001

New York State Department of Environmental  
Conservation  
Division of Environmental Enforcement  
Room 618  
50 Wolf Road  
Albany, New York 12233-0001

New York State Department of Environmental  
Conservation  
6274 East Avon-Lima Road  
P.O. Box 57  
Avon, New York 14414

New York State Department of Environmental  
Conservation  
Division of Environmental Enforcement  
600 Delaware Avenue  
Buffalo, New York 14202-1073

B. Communication to be made from the Department to Respondent shall be made as follows:

Jean McCreary, Esq.  
Nixon, Hargrave, Devans & Doyle  
P. O. Box 1051  
Rochester, New York 14603

XXVII. The terms of this Order shall be deemed to bind Respondent, its officers, directors, agents, servants, employees, successors and assigns.

XXVIII. Nothing herein shall be construed to bind any entity not specifically bound by the terms of this Order.

XXIX. By consenting to this Order, or by taking any action pursuant to this Order, Respondent does not concede and reserves the right to contest the Department's allegation that the Site constitutes a significant threat to the environment. Nothing in this Order, is intended by Respondent to be an admission of fact or law, a waiver by, or estoppel against Respondent other than in an action by the Department to enforce the terms of this Order.

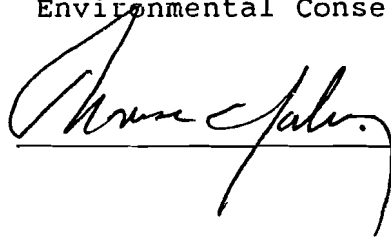
XXX. The provisions hereof shall constitute the complete and entire Order between Respondent and the Department concerning the Site. No understandings or agreements purporting to modify or vary the terms hereof shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestions or comments by the Department regarding reports, proposals, plans, specifications, schedules or any other writing submitted by Respondent shall be construed as relieving

Respondent of its obligations to obtain such formal approvals  
as may be required by this Order.

DATED: Albany, New York

*Dec. 10* , 1988

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



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CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of the foregoing Order, waives its right to a hearing as provided hereinabove, and agrees to be bound by the provisions, terms and conditions contained herein.

R. D. SPECIALTIES, INC.

BY: *D. Krasucki*  
TITLE: *President*  
DATE: *10/26/88*

State of New York       )  
County of                ) s.s.:

On this 21st day of October, 1988,  
before me personally came D. Krasucki  
to me known, who, being by me duly sworn, did depose  
and say that he resides in Webster, NY; that he  
is the President of R.D. Specialties, the  
corporation described in and which executed the foregoing  
instrument; that he knew the seal of said corporation;  
that the seal affixed to said instrument was such  
corporate seal; that it was so affixed by the order of  
the Board of Directors of said corporation, and that  
he signed his name thereto by like order.

*Jean H. McCreary*  
NOTARY PUBLIC

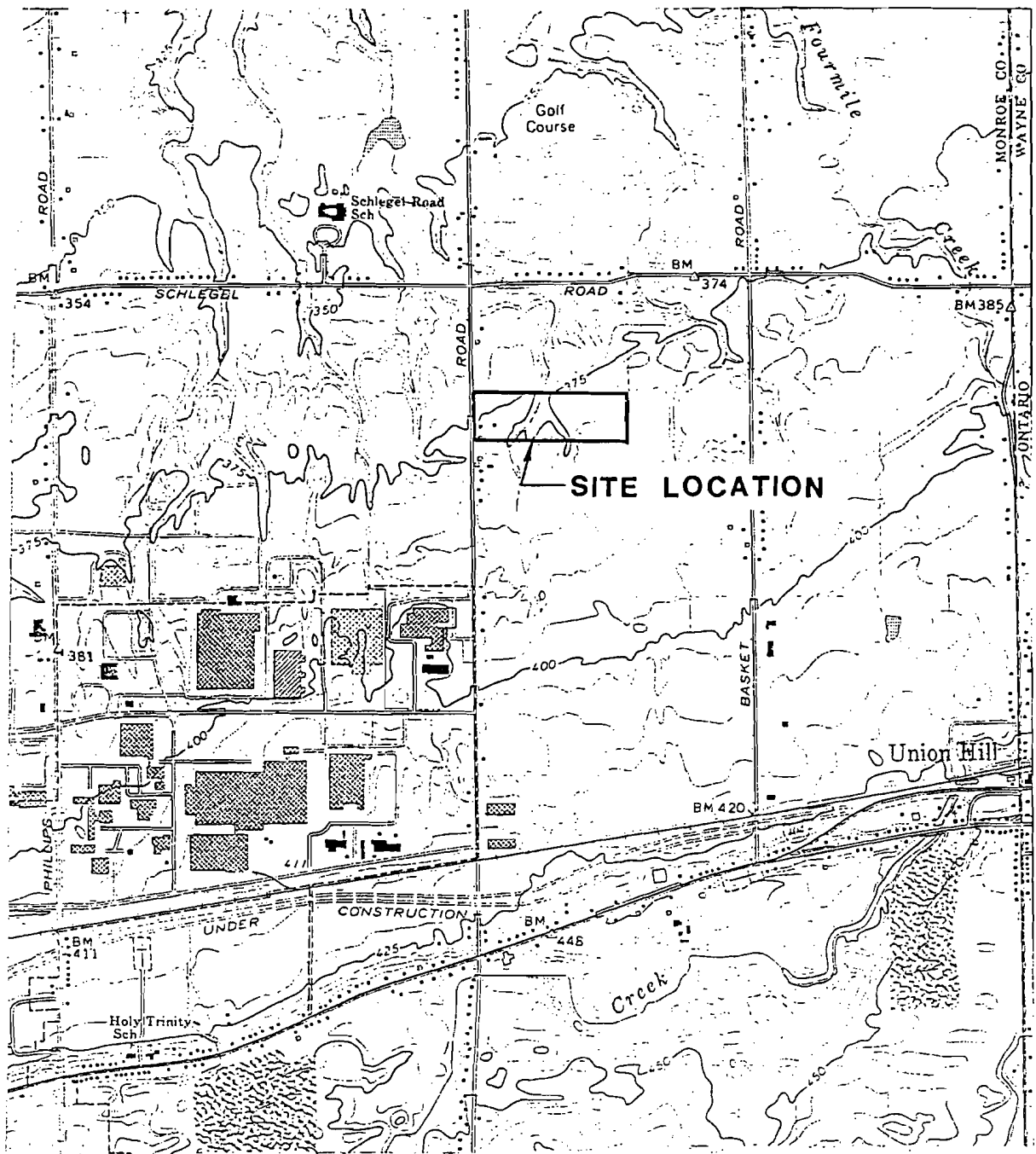
JEAN H. MCCREARY  
Notary Public in the State of New York  
MONROE COUNTY  
Commission Expires *Sept 89*

## APPENDIX A

### (Site Description)

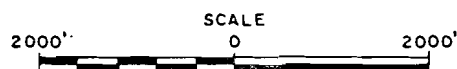
The R.D. Specialties, Inc. site, as legally described below, consists of that property which is described in the deed recorded at Liber 4987, Page 106, made the 3rd day of February, 1976, between Richard D. Krasucki and Grace M. Krasucki, his wife, to Richard D. Krasucki and Grace M. Krasucki, concerning the property located at 560 Salt Road, Webster, Monroe County, New York.

THAT TRACT OR PARCEL OF LAND, situate in the Town of Webster, County of Monroe, State of New York, being the south part of Lot 13 and the north part of Lot 11 in the Salt Tract, so-called, bounded and described as follows: Commencing at a point in the center line of Salt Road designated by an iron pin, which point is 1,872.50 feet south from the intersection of the center lines of the Schlegel and Salt Roads in the Town of Webster, County of Monroe, New York, which point is also the north-west corner of lands heretofore conveyed by Margaret F. Caire to Joseph C. Nowak and wife by deed recorded in Liber 2437 of Deeds, at page 128; thence (1) northerly in the center line of Salt Road a distance of 587.21 feet to the north-west corner of property conveyed to Margaret F. Caire by Walter M. Furman, Sr. by deed recorded in Liber 2079 of Deeds, at page 183; thence (2) easterly at an included angle of 89 Degrees 36 Minutes a distance of 1,911.36 feet to a point, which point is the north-east corner of said parcel of land conveyed to Margaret F. Caire by Walter M. Furman, Sr.; thence (3) southerly parallel to Salt Road and at an included angle of 90 Degrees 24 Minutes a distance of 587.21 feet to an iron pin, being also the north-east corner of said premises heretofore conveyed by Margaret F. Caire to Joseph C. Nowak and wife; thence (4) westerly along the north line of said premises conveyed to Joseph C. Nowak and wife and at an included angle of 89 Degrees 36 Minutes a distance of 1,911.36 feet to the place of beginning.



RI/FS WORK PLAN  
R.D. SPECIALTIES INC.  
WEBSTER, N.Y.

### SITE LOCATION MAP



BLASLAND & BOUCK  
ENGINEERS, P.C.