

## NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of the General Counsel  
625 Broadway, 14th Floor, Albany, New York 12233-1500  
P: (518) 402-9185 | F: (518) 402-9018  
[www.dec.ny.gov](http://www.dec.ny.gov)

October 28, 2019

**SENT VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Matthew Walsh  
Manager – Corporate Workplace Safety & Environmental Compliance  
GTE Operations Support Incorporated  
One Verizon Way, VC33E039  
Basking Ridge, NJ 07920-1097

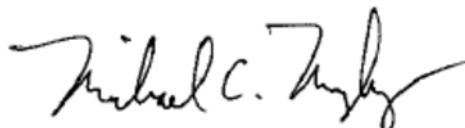
RE: RCRA Corrective Action Order on Consent  
Site Name: G.T.E. Products Corporation  
Site No.: 850003

Dear Mr. Walsh:

Enclosed, please find an original of the fully executed RCRA Corrective Action Order on Consent referencing the site name G.T.E. Products Corporation located at 50 Johnston Street, Seneca Falls, County of Seneca, New York.

If you have any further questions or concerns relating to this matter, please contact our office at (518) 408-0409.

Sincerely,



Michael C. Murphy, Esq.  
Remediation Bureau

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)  
ECL §27-0900 *et seq.*

In the Matter of Implementation of Corrective Action for a Hazardous Waste Management Facility, Pursuant to Article 27, Titles 9 and 13; and Article 71, Title 27 of the Environmental Conservation Law of the State of New York by:

**RCRA CORRECTIVE ACTION  
ORDER ON CONSENT  
Index No. CO 8-20190729-91**

**DEC Facility Name: G.T.E. Products Corporation**  
DEC Facility No.: 850003  
EPA RCRA ID No.: NYD002246015

**Facility Address:** 50 Johnston Street  
Seneca Falls, NY 11980  
Seneca County

Hereinafter referred to as "Facility" or "Site"

by: GTE Operations Support Incorporated

Hereinafter referred to as "Respondent"

1. A. The New York State Department of Environmental Conservation ("Department") is responsible for the Resource Conservation and Recovery Act (a/k/a the "Industrial Hazardous Waste Management Program") pursuant to Article 27, Title 9 of the Environmental Conservation Law ("ECL") and Parts 370 – 373 of Title 6 of the Official Compilation of Codes, Rules and Regulations ("6 NYCRR").

B. The Department may issue orders pursuant to, *inter alia*, ECL Article 27, Title 9 and ECL § 71-2727(3) consistent with the authority granted to the Commissioner requiring corrective action, including corrective action beyond the facility boundary where necessary to protect human health and the environment, for all releases of hazardous waste or constituents from any solid waste management unit at any treatment, storage or disposal facility which is either permitted or seeking a permit under Title 7 or 9 of ECL Article 27, or which has interim status according to regulations adopted thereunder, regardless of the time at which the waste was placed in such unit.

C. The Department is responsible for carrying out the policy of the State of New York to conserve, improve and protect its natural resources and environment and control water, land, and air pollution consistent with the authority granted to the Department and the Commissioner by Article 1, Title 3 of the ECL. The Department is also responsible for inactive hazardous waste disposal site remedial programs pursuant to Article 27, Title 13 of the ECL and 6 NYCRR Part 375 and may issue orders consistent with the authority granted to the Department and the Commissioner by such statute.

D. This Order is issued pursuant to the Department's authority under, *inter alia*, ECL Article 27, Titles 13 and 9, ECL § 3-0301 and ECL § 71-2727.

2. A. The Site, which encompasses approximately 64.2 acres, has been assigned EPA RCRA ID No. NYD002246015 and DEC Facility No. 850003.

B. The Site was initially developed by Rumsey Pump Company circa 1914. Sylvania Electric Products, Inc. ("Sylvania") acquired the Site prior to 1940 and began manufacturing television picture tubes at the Facility in 1948. Sylvania subsequently merged with General Telephone and eventually changed its name to GTE Products Corporation ("GTE"). GTE sold the Site to North American Philips Consumer Electronics Corporation ("Philips") in 1981. Philips sold the Site to the Seneca County Industrial Development Agency in 1989.

C. From 1948 to 1972, the Facility's sewers discharged roof drainage, stormwater, and process waters to Van Cleef Lake and the Seneca River/Barge Canal via several outfalls along the escarpment south of the Site. In 1971 and 1972, GTE segregated the sewer lines that handled non-process wastewater (storm water and floor drains) from those that handled process wastewater requiring treatment. At the same time GTE constructed an industrial wastewater treatment plant ("IWWTP"), and a sewer line was installed on the south side of the Facility to divert wastewater to the IWWTP. Facility wastewater was conveyed from the IWWTP to a settling lagoon prior to discharge to the Seneca River. The IWWTP and the settling lagoon were decommissioned by 1992.

D. Philips submitted a RCRA Part B application for the Site in 1984. Philips withdrew the Part B application in 1986 when Philips elected to close the hazardous waste management units, including the lagoons, incinerator, incinerator feed tanks and container storage areas, at the Site. Even though the permit was never issued, the decision to withdraw the Part B application triggered, among other things, RCRA Corrective Action at solid waste management units ("SWMUs") at the Site.

E. GTE and Philips conducted several soil, sediment, groundwater, and soil vapor investigations and interim corrective measures at the Site under its RCRA Corrective Action program. Based upon investigations, the primary contaminants of concern for this site include trichloroethene ("TCE"), its breakdown products (cis-1,2-dichloroethene and vinyl chloride), and cadmium. Soils and groundwater at the Site are contaminated with TCE. Sediments in Van Cleef Lake and the Seneca River are contaminated with heavy metals, primarily cadmium, nickel, and zinc.

F. In March 2018 the Department issued a Statement of Basis that presents the selected remedy for the Site. The Statement of Basis is attached to this Order as Exhibit B.

G. The Department and Respondent agree that the purpose of executing this comprehensive Order is to satisfy Respondent's RCRA Corrective Action obligations by implementing the remedy selected in the Statement of Basis for the Site.

3. Respondent consents to the issuance of this Order without (i) an admission or finding of liability, fault, wrongdoing, or violation of any law, regulation, permit, order, requirement, or standard of care of any kind whatsoever; and/or (ii) an acknowledgment that there has been a release or threatened release of hazardous waste at or from the Site. This Order does not constitute evidence that Respondent is or was an operator or owner of the Site, or that it is otherwise responsible for the Site under applicable law.

4. Solely with regard to the matters set forth below, (i) Respondent hereby waives any right to a hearing as may be provided by law, consents to the issuance and entry of this Order, and

agrees to be bound by its terms; and (ii) Respondent consents to and agrees not to contest the authority or jurisdiction of the Department to issue or enforce this Order, and agrees not to contest the validity of this Order or its terms or the validity of data submitted to the Department by Respondent pursuant to this Order. Respondent reserves the right to contest the authority or jurisdiction of the Department to issue future orders or take other actions against Respondent with regard to the site, on the basis that Respondent is not a current or former owner or operator of the site

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

**I. Facility**

The Site subject to this Order, which has been assigned EPA RCRA ID No. NYD002246015 and DEC Facility No. 850003, consists of approximately 64.2 acres, is located at 50 Johnston Street, Seneca Falls, Seneca County, New York and is described as follows:

**Subject Property Description (A Map of the Facility is attached as Exhibit "A")**

Tax Map of the Municipality of Seneca Falls  
Tax Map/Parcel No.: Section 7 Block 1 Lot 2

50 Johnston  
Street Seneca  
Falls, NY

Current Owner: Seneca County Industrial Development Agency

Under the site conceptual model developed in Respondent's Corrective Measures Study and its addendum (June 28, 2013 and October 11, 2016), the Site is divided into five areas of concern ("AOCs"):

- AOC 1 – Soil and groundwater in the area of Building 2 and Building 5.
- AOC 2 – Soil and groundwater in the area of Building 7 and Building 9.
- AOC 3 – Soil and groundwater south of Building 11.
- AOC 4 – Soil Vapor Intrusion Pathways.
- AOC 5 – Historical Outfalls.

AOCs 1 through 4, which are located entirely on-Site, comprise Operable Unit 1 ("OU1"), and AOC 5 and the canal sediments comprise Operable Unit 2 ("OU2"). OU2 consists of both on-Site and off-Site corrective actions.

**II. Submission of Work Plans and Reports**

- Respondent shall, within 90 days of the effective date of this Order, submit for the Department's review and approval a Corrective Action Work Plan for the implementation of the Statement of Basis. The Corrective Action Work Plan shall be prepared and submitted in accordance with the standards conditions in Appendix A.
- The Department may request, subject to dispute resolution pursuant to Paragraph XIII of Appendix A, that Respondent submit additional or supplemental Work

Plans for the Site to complete the corrective action relative to the Site.

- C. Pursuant to the standard conditions in Appendix A, Respondent may elect to submit additional work plans at any time.
- D. Upon the Department's written approval of a work plan, such Department-approved work plan shall be deemed to be incorporated into and made a part of this Order and shall be implemented in accordance with the schedule contained therein.
- E. In accordance with the schedule contained in a Work Plan, Respondent shall submit a final report that meets the requirements set forth at 6 NYCRR 375-1.6(b) and (c).

### III. RCRA Integration and Requirements

This Order, among other things, incorporates the requirements of 6 NYCRR 373-2.6(l) including corrective action and financial assurance and requirements, for the Site.

The investigative and remedial obligations under this Order are intended to, and if implemented in accordance with this Order shall, satisfy the corrective action requirements in 6 NYCRR 373-2.6(l). The Department and Respondent intend that any remedial action selected, implemented and/or completed under this Order shall be protective of human health and the environment such that remediation of releases covered by this Order shall obviate the need for further Corrective Action under RCRA as to those releases. Compliance with this Order, therefore, shall fulfill Respondent's RCRA corrective action obligations.

Provided the Department-approved remedial design achieves the remedial action objectives set forth in the Statement of Basis, Respondent's implementation to the Department's satisfaction of the Department-approved Corrective Action Work Plan will constitute Respondent's satisfactory performance of the RCRA Corrective Action requirements.

### IV. Financial Assurance

As the Site is a RCRA facility subject to Corrective Action, the Department pursuant to 6 NYCRR 373-2.6(l)(2) – (3) requires financial assurance for the remediation of contaminated soils and sediments and implementation of long-term groundwater treatment/recovery and monitoring.

Within thirty (30) days following the Department's approval of the Corrective Action Work Plan, Respondent shall provide to the Department a cost estimate and shall provide financial assurance for implementation of the Statement of Basis remedy and the operation, maintenance and monitoring of remedial systems pursuant to one of the methods set forth in 6 NYCRR Part 373-2.8(f). While this Order is in effect, the cost estimate will be subject to adjustment for inflation as provided in 6 NYCRR Part 373-2.8(e).

Respondent must maintain cost estimates for the post-closure care and for corrective action remedy implementation and maintenance in accordance with 6 NYCRR 373-2.8(e).

Respondent must provide, maintain and update its financial assurance mechanism(s), as necessary, in accordance with 6 NYCRR 373-2.8(f).

**V. Payment of State Costs**

Respondent shall pay future state oversight costs as set forth in Appendix "A." Invoices for future oversight costs only shall be sent to Respondent at the following address(es):

GTE Operations Support Incorporated  
Attn: Matthew Walsh  
One Verizon Way, VC33E039  
Basking Ridge, NJ 07920-1097  
[matthew.walsh@verizon.com](mailto:matthew.walsh@verizon.com)

**VI. Communications**

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

1. Communication from Respondent shall be sent to:

Christopher Magee (electronic copy)  
Department of Environmental Conservation  
Division of Environmental Remediation 625  
Broadway  
Albany, NY 12233  
[christopher.magee@dec.ny.gov](mailto:christopher.magee@dec.ny.gov)

Eamonn O'Neil (electronic copy only)  
New York State Department of Health  
Bureau of Environmental Exposure Investigation  
Empire State Plaza  
Corning Tower Room 1787  
Albany, NY 12237  
[eamonn.oneil@health.ny.gov](mailto:eamonn.oneil@health.ny.gov)

Michael C. Murphy, Esq. (correspondence only)  
Department of Environmental Conservation  
Office of General Counsel  
625 Broadway, 14<sup>th</sup> Floor Albany,  
New York 12233  
[michael.murphy1@dec.ny.gov](mailto:michael.murphy1@dec.ny.gov)

2. Communication from the Department to Respondent shall be sent to:

Matthew Walsh  
Manager – Corporate Workplace Safety & Environmental Compliance  
GTE Operations Support Incorporated  
One Verizon Way, VC33E039  
Basking Ridge, NJ 07920-1097  
[matthew.walsh@verizon.com](mailto:matthew.walsh@verizon.com)

B. The Department and Respondent reserve the right to designate additional or different addressees for communication on written notice to the other. Additionally, the Department reserves the right to request that the Respondent provide more than one paper copy of any work plan or report.

C. Each party shall notify the other within ninety (90) days after any change in the addresses listed in this paragraph or in Paragraph III.

**VII. Termination of Order**

This Order will terminate upon the Department's written determination that Respondent has completed all phases of the Corrective Action Program (including Site Management), in which event the termination shall be effective on the Fifth Day after the date of the Department's approval of the final report relating to the final phase of the Corrective Action Program.

**VIII. Miscellaneous**

A. Appendix A - "Standard Clauses for All New York State RCRA Corrective Action Orders" is attached to and hereby made a part of this Order as if set forth fully herein.

B. In the event of a conflict between the terms of this Order (including any and all attachments thereto and amendments thereof) and the terms of Appendix A, the terms of this Order shall control.

C. The effective date of this Order is the 10th day after it is signed by the Commissioner or the Commissioner's designee.

DATED:

OCT 17 2019

BASIL SEGGOS  
COMMISSIONER  
NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION

By:

  
Michael J. Ryan, Director  
Division of Environmental Remediation

## CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of this Order without further notice, waives any right to a hearing as may be provided by law, and agrees to be bound by the terms, conditions and provisions contained in this Order.

GTE Operations Support Incorporated

By: (Signature): Pam M. Cox

Print Name: Pam M. Cox

Title: Vice President

Date: 9-24-2019

State of NEW JERSEY)

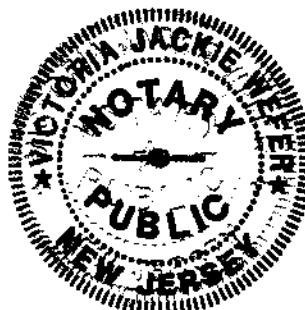
) s.s.:

County of SOMERSET)

On this 24<sup>th</sup> day of September, 2019, before me, the undersigned, personally appeared PAM M. COX, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that ~~she~~ executed the same in ~~her~~ capacity and that by ~~her~~ signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

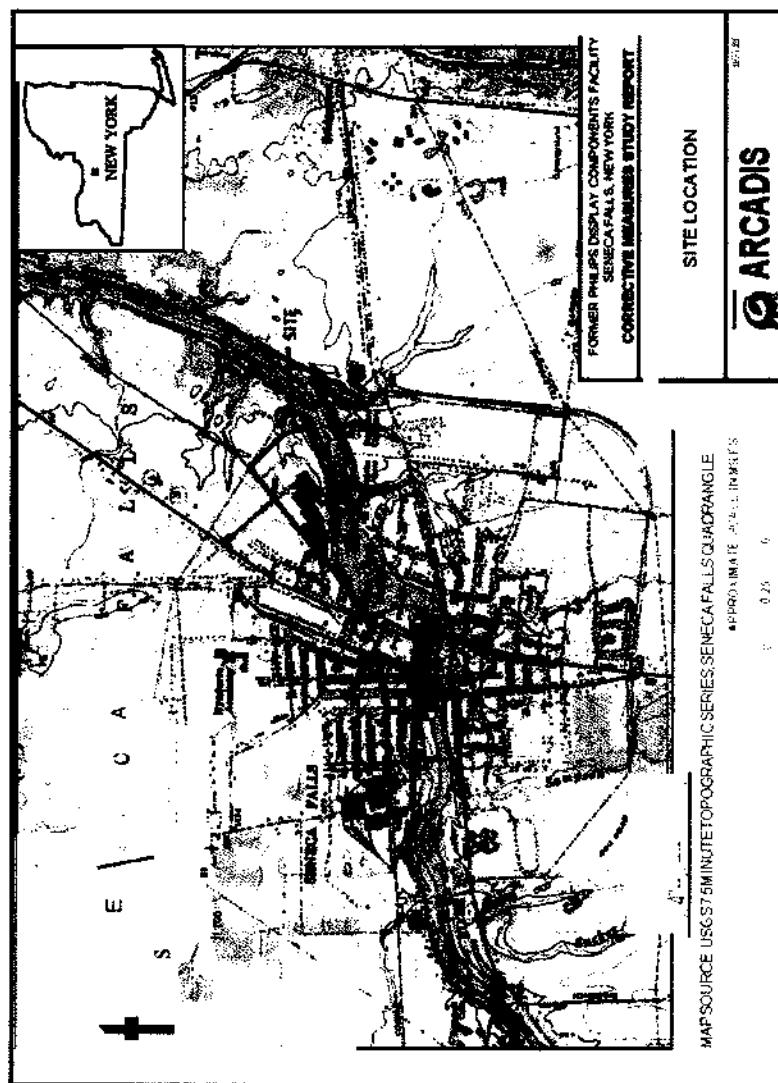
Victoria Jackie Wefer  
Notary Public

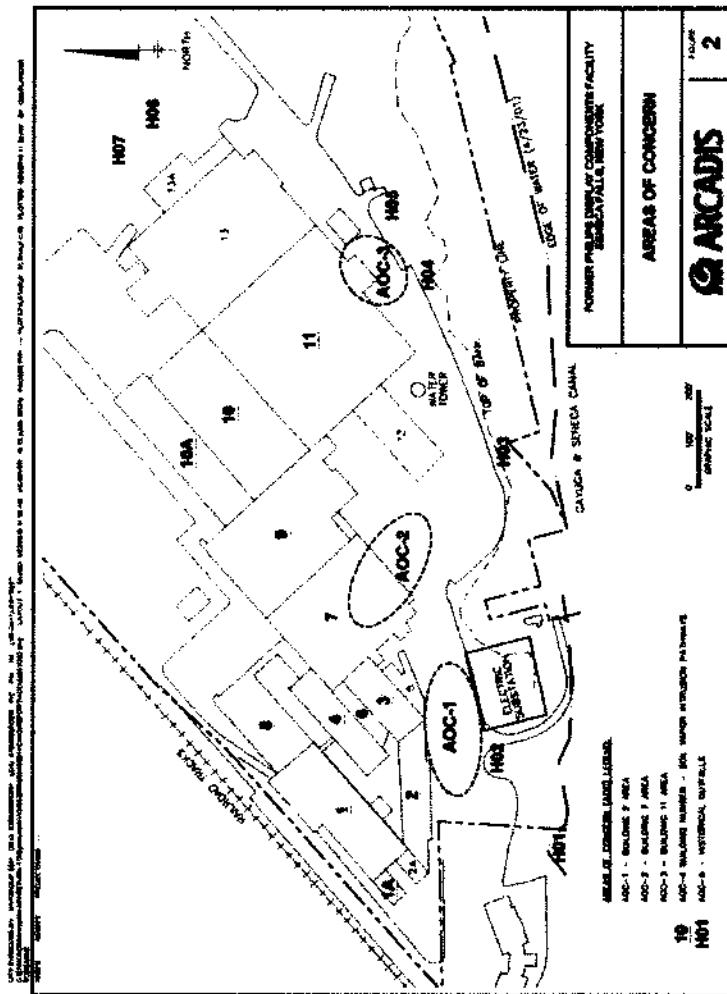
VICTORIA JACKIE WEFER  
NOTARY PUBLIC  
STATE OF NEW JERSEY  
ID # 2286112  
MY COMMISSION EXPIRES APRIL 2, 2022



**EXHIBIT "A"**

## SITE MAPS





**EXHIBIT "B"**

**STATEMENT OF BASIS**

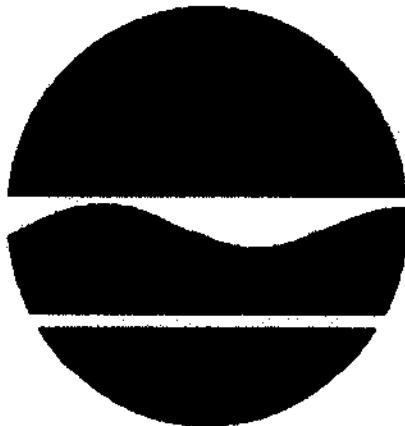
## **Statement of Basis**

**G.T.E. Products Corporation**

**Seneca Falls, Seneca County**

**Site No. 850003**

**March 2018**



**Prepared by**

**Division of Environmental Remediation**

**New York State Department of Environmental Conservation**

## **Statement of Basis**

**G.T.E. Products Corporation  
Seneca Falls, Seneca County  
Site No. 850003  
March 2018**

---

## **DECLARATION STATEMENT - RECORD OF DECISION**

---

### **Statement of Purpose and Basis**

This document presents the remedy for the GTE Products Corporation site, a RCRA site. The remedial program was chosen in accordance with the New York State Environmental Conservation Law and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR) Part 373.

This decision is based on the Administrative Record of the New York State Department of Environmental Conservation (the Department) for the GTE Products Corporation site and the public's input to the remedy presented by the Department. A listing of the documents included as a part of the Administrative Record is included in Appendix B of the ROD.

### **Description of Selected Remedy**

The elements of the remedy, as shown in Figure 2, for Operable Unit. No. 1 (OU1) are as follows:

1. A remedial design program will be implemented to provide the details necessary for the construction, operation, maintenance, and monitoring of the remedial program. Green remediation principals and techniques will be implemented to the extent feasible in the design, implementation, and site management of the remedy as per DER-31. The major green remediation components are as follows:

- Considering the environmental impacts of treatment technologies and remedy stewardship over the long-term;
- Reducing direct and indirect greenhouse gases and other emissions;
- Increasing energy efficiency and minimizing use of non-renewable energy;
- Conserving and efficiently managing resources and materials;
- Reducing waste, increasing recycling and increasing reuse of materials which would otherwise be considered a waste;
- Maximizing habitat value and creating habitat when possible;

- Fostering green and healthy communities and working landscapes which balance ecological, economic and social goals; and
- Integrating the remedy with the end use where possible and encouraging green and sustainable re-development.

## 2. Soil Vapor Intrusion Mitigation

On-site buildings will be required to have a sub-slab depressurization system, or other acceptable measures, to address the migration of harmful vapors into the building from soil and/or groundwater. The data presented in the Corrective Measures Study indicate that a soil vapor intrusion pathway is not present in Building 12, and that the potential for soil vapor intrusion in Buildings 13 and 13A is limited. Thus, soil vapor intrusion mitigation is not planned in Buildings 12, 13, and 13A.

## 3. In-Situ Thermal Treatment

Areas of soil which are contaminated with dense non-aqueous phase chlorinated solvents (DNAPL) within AOCs 1 and 3, except that below remaining buildings, will be addressed via In-Situ Thermal Treatment in the form of Electrical Resistance Heating (ERH) or Thermal Conductive Heating (TCH). In-Situ Thermal Remediation (ISTR) is an aggressive treatment option that heats the subsurface to volatilize Compounds of Potential Concern (COPC). Electrical Resistance Heating (ERH) is typically used to heat low permeability saturated and unsaturated zone soils. ERH passes three (3) phase electrical current between subsurface electrodes. The soil's resistance to the electrical current heats the soil causing the COPC to volatilize. The TCH process uses electrically powered in situ heater wells that span the vertical treatment interval. The COPC vapor can then be removed from the soil above the water table. The actual volume of soil to be treated shall be determined based on design phase sampling. A conceptual area to be treated within AOCs 1 and 3 is represented on Figure 8 of the Corrective Measures Study Addendum and Figure 3 of this Statement of Basis.

## 4. Monitored Natural Attenuation

Monitoring the natural attenuation of compounds of potential concern in AOC 1, 2 and 3 groundwater over the long-term and comparing results to predicted concentrations.

## 5. Limited Soil Excavation

Excavating unsaturated soil in AOCs 1, 2, and 3 with concentrations greater than commercial SCOs. On-site soils which do not exceed the Protection of Groundwater SCOs may be used above the water table to backfill the excavation or re-grade the site. Areas where soil is removed will be restored with backfill meeting the Protection of Groundwater SCOs and the vegetation will be reseeded. Clean fill meeting the Protection of Groundwater SCOs will be brought in to replace the excavated soil and establish the designed grades at the site. The unsaturated zone in the excavation area is between 3 and 5 feet thick. It is estimated that 15 cubic yards of material needs to be removed but the final volume will depend on end point sampling.

## 6. Cover System

A site cover will be required to allow for commercial or industrial use of the site. Any site redevelopment will maintain a site cover, which may consist either of the structures such as buildings, pavement, sidewalks comprising the site development or a soil cover in areas where the upper one foot of exposed surface soil will exceed the applicable soil cleanup objectives (SCOs). Where a soil cover is required it will be a minimum of one (1) foot of soil, meeting the SCOS for cover material as set forth in 6 NYCRR Part 375-6.7(d) for commercial use. The soil cover will be placed over a demarcation layer, with the upper six (6) inches of the soil of sufficient quality to maintain a vegetation layer.

For Operable Unit No. 2 (OU2): Historic Outfalls and Canal Sediments, the remedies are as follows:

### 1. Limited Soil Excavation

Excavating soil in AOC 5, the historic outfall ditches, with concentrations greater than commercial SCOS. AOC 5 soils that exist in drainage ditches beyond the limits of the former plant property will be remediated to residential clean-up objectives. A floodplain and bank restoration plan shall be included with the remedial design plan and will target restoration of removed vegetation and establishment of stable banks. Clean fill meeting the requirements of 6 NYCRR Part 375-6.7(d) (Protection of Ecological Resources) will be brought in to replace the excavated soil and establish the designed grades at the site

### 2. Sediments in the canal at the point where the outfall ravines enter the canal (up to the limits of the 100 year flood plain adjacent to the former plant) will be sampled and all sediments exceeding sediment criteria for the contaminants of concern will be removed up to the edge of the navigation channel. Restoration of the excavation will be completed if the removal will leave unstable sediments or canal bank.

### 3. Cover System

Cadmium in Van Cleef Lake sediment was reported at elevated concentrations, but is covered beneath at least six (6) inches of more recent sediment with lower cadmium concentrations. In very deep water (>20 ft.), potential exposure of biota and humans to cadmium in the lake will be limited if sediments remain undisturbed. A plan for monitoring the extent and integrity of clean sediment as a cover and contingencies in the case of its erosion or removal will be required.

Elements common to both OUs include:

- Institutional Controls;
  - Imposition of an institutional control in the form of an environmental easement for the controlled property that:
    - requires the remedial party or site owner to complete and submit to the Department a periodic certification of institutional and engineering controls in accordance with Part 375- 1.8 (h)(3);

- allows the use and development of the controlled property for commercial or industrial use as defined by Part 375-1.8 (g) (which includes warehousing and distribution), although land use is subject to local zoning laws;
  - restricts the use of groundwater as a source of potable or process water, without necessary water quality treatment as determined by the NYSDOH or County Department of Health; and
  - requires compliance with the Department-approved Site Management Plan.
- Engineering Controls;
  - The cover system, or other engineered systems to control exposure to contaminants remaining in OU-02 (the historic outfalls and Van Cleef Lake sediments). This plan includes, but may not be limited to:
    - An Excavation Plan which details the provisions for management of future excavations in areas of remaining contamination;
    - A provision for further investigation to refine the nature and extent of contamination in areas where access was previously hindered. Any necessary remediation will be completed prior to, or in association with, redevelopment;
    - A periodic evaluation of the integrity of clean sediment cover in Van Cleef Lake, and contingencies in the case of its erosion or other change in lake bottom conditions, or removal, will be required;
    - Provisions for the management and inspection of the identified engineering controls;
    - Maintaining site access controls and Department notification; and
    - The steps necessary for the periodic reviews and certification of the institutional and/or engineering controls.
- An Operation and Maintenance (O&M) Plan
  - An O&M Plan will be required to ensure continued operation, maintenance, optimization, monitoring, inspection, and reporting of any mechanical or physical components of the remedy (including the sediment cover in Van Cleef Lake). The plan includes, but is not limited to:
    - Procedures for operating and maintaining the remedy;
    - Compliance monitoring of treatment systems to ensure proper O&M as well as providing the data for any necessary permit or permit equivalent reporting;
    - Maintaining site access controls and Department notification; and
    - Providing the Department access to the site and O&M records.
- A Site Management Plan, which will include the following:
  - An Institutional and Engineering Control Plan that identifies all use restrictions and engineering controls for the site and details the steps and media-specific requirements necessary to assure all institutional and/or engineering controls remain in place and effective.

This plan includes, but may not be limited to:

- description of the provisions of the environmental easement including any on-site groundwater use restrictions;
- a provision that should the owners of adjacent properties request to have their properties sampled in the future, the NYSDEC, in consultation with the NYSDOH, shall assess the need for soil vapor intrusion sampling and take appropriate action;

- maintaining on-site access controls and Department notification;
- the steps necessary for the periodic reviews and certification of the institutional controls;
- a Monitoring Plan to assess the performance and effectiveness of the remedy. The plan includes, but may not be limited to:
  - Monitoring of groundwater to assess the performance and effectiveness of the remedy, including a provision for implementing actions recommended to address exposures;
  - Continued monitoring for soil vapor intrusion for existing buildings;
  - Monitoring for soil vapor intrusion for any buildings developed on the site, as may be required by the Institutional and Engineering Control Plan discussed above;
  - Monitoring of restoration and replacement of failed vegetation;
  - Provisions for monitoring to determine if soils remain contained and undisturbed;
  - Provisions for monitoring to determine if sediments remain contained and undisturbed; and
  - A schedule of monitoring and frequency of submittals to the Department.

#### New York State Department of Health Acceptance

The New York State Department of Health (NYSDOH) concurs that the remedy for this site is protective of human health.

#### Declaration

The selected remedy is protective of human health and the environment, complies with State and Federal requirements that are legally applicable or relevant and appropriate to the remedial action to the extent practicable, and is cost effective. This remedy utilizes permanent solutions and alternative treatment or resource recovery technologies, to the maximum extent practicable, and satisfies the preference for remedies that reduce toxicity, mobility, or volume as a principal element.

March 31, 2018

Date



Michael J. Ryan, P.E., Director  
Division of Environmental Remediation

## **Statement of Basis**

G.T.E. Products Corporation  
Seneca Falls, Seneca County  
Site No. 850003  
March 2018

---

### **SECTION 1: SUMMARY AND PURPOSE**

The New York State Department of Environmental Conservation (the Department), in consultation with the New York State Department of Health (NYSDOH), has a remedy for the above- referenced site. The disposal of contaminants at the site has resulted in threats to public health and the environment that would be addressed by the remedy. The disposal or release of contaminants at this site, as more fully described in this document, has contaminated various environmental media. The remedy is intended to attain the remedial action objectives identified for this site for the protection of public health and the environment. This Statement of Basis (SOB) identifies the remedy, summarizes the other alternatives considered, and discusses the reasons for proposing the remedy.

The Department has issued this document in accordance with the requirements of New York State Environmental Conservation Law and 6 NYCRR Part 373. This document is a summary of the information that can be found in the site-related reports and documents.

### **SECTION 2: CITIZEN PARTICIPATION**

The Department seeks input from the community on all remedies. A public comment period was held, during which the public was encouraged to submit comments on the remedy. All comments on the remedy received during the comment period were considered by the Department in selecting the final remedy for the site. Site-related reports and documents were available for review by the public at the following document repository: Seneca Falls Public Library at 47 Cayuga Street.

A public comment period was completed on March 30, 2018 (45 days).

#### **Receive Site Citizen Participation Information by Email**

Please note that the Department's Division of Environmental Remediation (DER) is "going paperless" relative to citizen participation information. The ultimate goal is to distribute citizen participation information about contaminated sites electronically by way of county email listservs. Information will be distributed for all sites that are being investigated and cleaned up in a particular county under the State Superfund Program, Environmental Restoration Program, Brownfield Cleanup Program, Voluntary Cleanup Program, and Resource Conservation and Recovery Act (RCRA) Program. We encourage the public to sign up for one or more county listservs at <http://www.dec.ny.gov/chemical/61092.html>.

### **SECTION 3: SITE DESCRIPTION AND HISTORY**

**Location:** The 64.2-acre site is located at 50 Johnston Street in the Village of Seneca Falls, Seneca County.

**Site Features:** The site is a complex of interconnected buildings constructed between 1914 and the 1970s. The buildings cover approximately 13 acres. Currently not all of the buildings are occupied. The remaining 51 acres are asphalt parking lots and roadways, grassy areas, and woods. Waste water was historically discharged from outfalls into drainage ditches which ran across portions of the site, into the Cayuga and Seneca Canal.

**Current Zoning/Uses:** The site is zoned M-1, Industrial. Adjacent properties are zoned either R-1 Single Family, M-1 Multiple Family, or A-1 Agricultural.

**Historic Use(s):** Prior to 1914 the site was undeveloped. From 1914 through the 1930s water pumps were manufactured on site. From the 1930s through the early 1950s black-and-white television components were manufactured on site. Manufacturing was converted to color-television components in the early 1950s. A waste water treatment plant (WWTP) was constructed in the early 1970s. Manufacturing operations ceased in 1986. With the cessation of manufacturing, the waste water treatment plant was decommissioned. Roof drainage and storm water were directed to the Cayuga and Seneca Canal through an outfall. In 1989, the Seneca County Industrial Development Agency acquired the site. From 1989 to the present, H.P. Neun Company, Inc., and later Seneca Falls Specialties & Logistics Company, Inc., leased the building complex from the Seneca County Industrial Development Agency for warehousing.

**Operable Units:** An operable unit represents a portion of a remedial program for a site that for technical or administrative reasons can be addressed separately to investigate, eliminate or mitigate a release, threat of release or exposure pathway resulting from the site contamination.

The site is divided into two Operable Units.

Operable Unit 1 (OU1) has been defined as the on-site RCRA corrective actions. Operable Unit 2 (OU2) is both on-site and off-site. It consists of the historic waste water outfalls and the canal sediments. Both Operable Units are the subject of this document.

**Site Geology and Hydrogeology:** Across the site, unconsolidated soils consisting of a discontinuous and variable thickness of urban fill (up to eight (8) feet but typically less than one (1) foot thick) overlie a very low permeability till (up to 45 feet thick). The till outcrops along the southern site boundary at an escarpment to the north of the Cayuga-Seneca Canal. The top of the escarpment is approximately 50 feet higher than the canal. The bedrock is Bertie Limestone. It outcrops along the southern site boundary to the north of the canal. The till is an unconfined, water-bearing unit with a water table 3 to 5 feet below the ground surface. Groundwater within the till flows south southeast toward the canal. Groundwater velocity is 2 to 4 feet per year.

A site location map is attached as Figure 1.

## **SECTION 4: LAND USE AND PHYSICAL SETTING**

The Department may consider the current, intended, and reasonably anticipated future land use of the site and its surroundings when evaluating a remedy for soil remediation. For this site, an alternative that restrict the use of the site to commercial or industrial use as described in Part 375-1.8(g) was evaluated.

A comparison of the results of the RCRA Facility Investigation (RFI) to the appropriate standards, criteria and guidance values (SCGs) for the identified land use for the site contaminants is available in the RFI and Corrective Measures Study (CMS) Reports.

## **SECTION 5: ENFORCEMENT STATUS**

### **Enforcement Status**

GTE Operations Support Incorporated has been identified as a Potentially Responsible Party for the site. After the remedy is selected, the Department will approach any identified PRPs to implement the selected remedy.

6 NYCRR Part 373 Hazardous Waste Management Permits include requirements for corrective action. Owners of RCRA facilities must investigate and, when appropriate, remediate releases of hazardous wastes and/or constituents to the environment. G.T.E. Products Corporation does not currently have a Hazardous Waste Management permit for this site. Corrective action activities are expected to be performed under the authority of a corrective action only order that the Department will negotiate upon the Statement of Basis issuance.

## **SECTION 6: SITE CONTAMINATION**

### **6.1: Summary of the RCRA Facility Investigation**

A RCRA Facility Investigation (RFI) serves as the mechanism for collecting data to:

- characterize site conditions;
- determine the nature of the contamination; and
- assess risk to human health and the environment.

The RFI is intended to identify the nature (or type) of contamination which may be present at a site and the extent of that contamination in the environment on the site, or leaving the site. The RFI reports on data gathered to determine if the soil, groundwater, soil vapor, indoor air, surface water or sediments may have been contaminated. Monitoring wells are installed to assess groundwater and soil borings or test pits are installed to sample soil and/or waste(s) identified. If other natural resources are present, such as surface water bodies or wetlands, the water and sediment may be sampled as well. Based on the presence of contaminants in soil and groundwater, soil vapor will also be sampled for the presence of contamination. Data collected in the RFI influence the development of remedial alternatives. The RFI report is available for review in the

site document repository and the results are summarized in Section 6.3.

The analytical data collected on this site includes data for:

- groundwater
- soil
- sediment
- indoor air
- sub-slab vapor

#### **6.1.1: Standards, Criteria, and Guidance (SCGs)**

The remedy must conform to promulgated standards and criteria that are directly applicable or that are relevant and appropriate. The remedy must also take into consideration guidance, as appropriate. Standards, Criteria and Guidance are hereafter called SCGs.

To determine whether the contaminants identified in various media are present at levels of concern, the data from the RFI were compared to media-specific SCGs. The Department has developed SCGs for groundwater, surface water, sediments, and soil. The NYSDOH has developed SCGs for drinking water and soil vapor intrusion. For a full listing of all SCGs see: <http://www.dec.ny.gov/regulations/61794.html>.

#### **6.1.2: Investigation Results**

The data have identified contaminants of concern. A "contaminant of concern" is a hazardous waste that is sufficiently present in frequency and concentration in the environment to require evaluation for remedial action. Not all contaminants identified on the property are contaminants of concern. The nature and extent of contamination and environmental media requiring action are summarized below. Additionally, the Corrective Measures Study (CMS)Report contains a full discussion of the data. The contaminant(s) of concern identified at this site is/are:

For OU1

- trichloroethene (TCE)
- cis-1,2-dichloroethene For OU2
- cadmium

The contaminant(s) of concern exceed the applicable SCGs for:

- groundwater
- soil
- indoor air
  - soil vapor intrusion
- sediment

## **6.2: Interim Corrective Measures**

An interim corrective measure (ICM) is conducted at a site when a source of contamination or exposure pathway can be effectively addressed before issuance of the Decision Document.

The following ICM is being conducted at this site based on conditions observed during the RFI.

### **Soil Vapor Intrusion Mitigation**

Where appropriate, consistent with the Guidance for Evaluating Soil Vapor Intrusion in the State of New York (NYSDOH 2006), actions have been taken to address the potential for exposure associated with soil vapor intrusion. Actions have included installing sub-slab depressurization (SSD) systems in on-site buildings, modifying heating and ventilation systems, and monitoring of indoor air.

Specifically, SSD systems have been installed and are operating in Buildings 1, 1A, 7, 8, 10, 10A, 11, and 11A. In addition, ventilation of the indoor air in the Building 9 crawl space and Building 2 basement area is ongoing. Quarterly indoor air monitoring within the buildings that have SSD systems or ventilation systems continue to demonstrate that TCE is still present in the indoor air above the New York State Department of Health guideline of 2 mcg/m<sup>3</sup> in air.

## **6.3: Summary of Environmental Assessment**

This section summarizes the assessment of existing and potential future environmental impacts presented by the site. Environmental impacts may include existing and potential future exposure pathways to fish and wildlife receptors, wetlands, groundwater resources, and surface water. The Corrective Measures Study report presents a detailed discussion of any existing and potential impacts from the site to fish and wildlife receptors. The nature and extent of contamination is further discussed in Exhibit A.

Under the site conceptual model developed in the Corrective Measures Study (June 28, 2013), the site has been divided into five areas of concern:

Area of Concern 1 – Building 2 Area. Chlorinated Volatile Compounds

Area of Concern 2 – Building 7 Area. Chlorinated Volatile Organic Compounds

Area of Concern 3 – Building 11 Area. Chlorinated Volatile Organic Compounds

Area of Concern 4 – Soil Vapor Intrusion Pathways. Chlorinated Volatile Organic Compounds

Area of Concern 5 – Historic Outfalls. Heavy Metals in Soil

AOCs 1 through 4 comprise OU1; AOC 5 and the canal sediments comprise OU2. AOC 4 is being addressed by the interim corrective measures, as discussed in Section 6.2.

Based upon investigations conducted to date, the primary contaminants of concern for this site include TCE, its breakdown products (cis-1,2-dichloroethene and vinyl chloride), and cadmium.

Soils are contaminated with dense non-aqueous phase chlorinated solvents (DNAPL) within AOCs 1 and 3, to the south of buildings 2 and 11. In total the area effected by DNAPL is estimated to be 6,400 square feet. In OU2, soils in the outfall areas between the outfalls and the canal are contaminated with heavy metals.

In groundwater, concentrations of TCE and its breakdown products, collectively termed volatile organic compounds (VOCs), exceed GA standards (typically 5 parts per billion (ppb)).

VOC concentrations in soil vapor and indoor air also exceed concentration that trigger a recommendation for mitigation in some buildings. Cadmium concentrations in some soil samples exceed the commercial clean-up objective (9.3 parts per million (ppm)).

Heavy metals contaminated sediments in the Cayuga – Seneca Canal. The distribution of metals both upstream and downstream of the historic outfalls, as well as vertically in the sediment column are tabulated in Exhibit A.

Sediments in Van Cleef Lake and the Cayuga-Seneca Canal are contaminated with heavy metals, primarily cadmium, nickel, and zinc. In general, areas with elevated zinc and nickel are generally co-located with cadmium. Therefore, cadmium is used as the primary contaminant targeted. Cadmium also appears to be locally sourced whereas nickel and zinc are in the upstream sediment transect.

#### **6.4: Summary of Human Exposure Pathways**

This human exposure assessment identifies ways in which people may be exposed to site-related contaminants. Chemicals can enter the body through three major pathways (breathing, touching or swallowing). This is referred to as *exposure*.

People may contact contaminants in soil if they dig below the surface or contact soil from the historic outfall ditches. People are not drinking contaminated groundwater because the area is served by a public water supply that is not affected by this contamination. Volatile organic compounds in the groundwater and soil may move into the soil vapor (air spaces within the soil), which in turn may move into overlying buildings and affect the indoor air quality. This process, which is similar to the movement of radon gas from the subsurface into the indoor air of buildings, is referred to as soil vapor intrusion. Environmental sampling has identified impacts associated with soil vapor intrusion at five on-site buildings and actions have been taken to address those impacts. Additional monitoring is needed to evaluate the effectiveness of those actions. The potential exists for people to inhale site contaminants in indoor air due to soil vapor intrusion in any future on-site building development and occupancy. Sampling indicates that soil vapor intrusion is not a concern for off-site structures.

#### **6.5: Summary of the Remediation Objectives**

The objectives for the remedial program have been established through the remedy selection process stated in 6 NYCRR Part 375. The goal for the remedial program is to restore the site to pre-disposal conditions to the extent feasible. At a minimum, the remedy shall eliminate or mitigate all significant threats to public health and the environment presented by the contamination identified at the site through the proper application of scientific and engineering principles.

The remedial action objectives for this site are:

**For OU1:**

**Groundwater**

**RAOs for Public Health Protection**

- Prevent contact with, or inhalation of volatiles, from contaminated groundwater.
- Prevent ingestion of groundwater with contaminant levels exceeding drinking water standards.

**RAOs for Environmental Protection**

- Restore groundwater aquifer to pre-disposal/pre-release conditions, to the extent practicable.
- Prevent the discharge of contaminants to surface water.
- Remove the source of ground or surface water contamination.

**Soil**

**RAOs for Public Health Protection**

- Prevent ingestion/direct contact with contaminated soil.
- Prevent inhalation of or exposure from contaminants volatilizing from contaminants in soil.

**RAOs for Environmental Protection**

- Prevent migration of contaminants that would result in groundwater or surface water contamination.
- Prevent impacts to biota from ingestion/direct contact with soil causing toxicity or impacts from bioaccumulation through the terrestrial food chain.

**Soil Vapor**

**RAOs for Public Health Protection**

- Mitigate impacts to public health resulting from existing, or the potential for, soil vapor intrusion into buildings at a site.

**For OU2:**

**Soil**

**RAOs for Public Health Protection**

- Prevent ingestion/direct contact with contaminated soil.

**RAOs for Environmental Protection**

- Prevent impacts to biota from ingestion/direct contact with soil causing toxicity or impacts from bioaccumulation through the terrestrial food chain.

## **Sediment**

### **RAOs for Public Health Protection**

- Prevent direct contact with contaminated sediments.
- Prevent surface water contamination which may result in fish advisories.

### **RAOs for Environmental Protection**

- Prevent releases of contaminant(s) from sediments that would result in surface water levels in excess of ambient water quality criteria.
- Prevent impacts to biota from ingestion/direct contact with sediments causing toxicity or impacts from bioaccumulation through the marine or aquatic food chain.

## **SECTION 7: ELEMENTS OF THE REMEDY**

To be selected, the remedy must be protective of public health and the environment, be cost-effective, comply with other statutory requirements, and utilize permanent solutions, alternative technologies or resource recovery technologies to the maximum extent practicable. The remedy must also attain the remedial action objectives identified for the site, which are presented in Section 6.5. Potential remedial alternatives for the site were identified, screened and evaluated in reports entitled Corrective Measures Study Report (June 2013) and Corrective Measures Study Report Addendum (October 2016). The alternatives that were considered for this site are presented in Exhibit B. A summary of the Remedial Alternatives Costs is included as Exhibit C. The basis for the Department's selection of the remedy is set forth in Exhibit D.

Based on the results of the investigations at this site, the interim corrective measures (ICMs) being performed and the evaluation presented here, the Department has selected the following remedial actions:

The elements of the remedy, as shown in Figure 2, for OU1 are as follows:

1. A remedial design program will be implemented to provide the details necessary for the construction, operation, maintenance, and monitoring of the remedial program. Green remediation principals and techniques will be implemented to the extent feasible in the design, implementation, and site management of the remedy as per DER-31. The major green remediation components are as follows:
  - Considering the environmental impacts of treatment technologies and remedy stewardship over the long-term;
  - Reducing direct and indirect greenhouse gases and other emissions;
  - Increasing energy efficiency and minimizing use of non-renewable energy;
  - Conserving and efficiently managing resources and materials;
  - Reducing waste, increasing recycling and increasing reuse of materials which would otherwise be considered a waste;
  - Maximizing habitat value and creating habitat when possible;

- Fostering green and healthy communities and working landscapes which balance ecological, economic and social goals; and
- Integrating the remedy with the end use where possible and encouraging green and sustainable re-development.

## 2. Soil Vapor Intrusion Mitigation

On-site buildings will be required to have a sub-slab depressurization system, or other acceptable measures, to address the migration of harmful vapors into the building from soil and/or groundwater. The data presented in the Corrective Measures Study indicate that a soil vapor intrusion pathway is not present in Building 12, and that the potential for soil vapor intrusion in Buildings 13 and 13A is limited. Thus, soil vapor intrusion mitigation is not planned in Buildings 12, 13, and 13A.

## 3. In-Situ Thermal Treatment

Areas of soil which are contaminated with dense non-aqueous phase chlorinated solvents (DNAPL) within AOCs 1 and 3, except that below remaining buildings, will be addressed via In-Situ Thermal Treatment in the form of Electrical Resistance Heating (ERH) or Thermal Conductive Heating (TCH). In-Situ Thermal Remediation (ISTR) is an aggressive treatment option that heats the subsurface to volatilize Compounds of Potential Concern (COPC). Electrical Resistance Heating (ERH) is typically used to heat low permeability saturated and unsaturated zone soils. ERH passes three (3) phase electrical current between subsurface electrodes. The soil's resistance to the electrical current heats the soil causing the COPC to volatilize. The TCH process uses electrically powered in situ heater wells that span the vertical treatment interval. The COPC vapor can then be removed from the soil above the water table. The actual volume of soil to be treated shall be determined based on design phase sampling. A conceptual area to be treated within AOCs 1 and 3 is represented on Figure 8 of the Corrective Measures Study Addendum and Figure 3 of this Statement of Basis.

## 4. Monitored Natural Attenuation

Monitoring the natural attenuation of compounds of potential concern in AOC 1, 2 and 3 groundwater over the long-term and comparing results to predicted concentrations.

## 5. Limited Soil Excavation

Excavating unsaturated soil in AOCs 1, 2, and 3 with concentrations greater than commercial SCOs. On-site soils which do not exceed the Protection of Groundwater SCOs may be used above the water table to backfill the excavation or re-grade the site. Areas where soil is removed will be restored with backfill meeting the Protection of Groundwater SCOs and the vegetation will be reseeded. Clean fill meeting the Protection of Groundwater SCOs will be brought in to replace the excavated soil and establish the designed grades at the site. The unsaturated zone in the excavation area is between 3 and 5 feet thick. It is estimated that 15 cubic yards of material needs to be removed but the final volume will depend on end point sampling.

## 6. Cover System

A site cover will be required to allow for commercial or industrial use of the site. Any site redevelopment will maintain a site cover, which may consist either of the structures such as buildings, pavement, sidewalks comprising the site development or a soil cover in areas where the upper one foot of exposed surface soil will exceed the applicable soil cleanup objectives (SCOs). Where a soil cover is required it will be a minimum of one (1) foot of soil, meeting the SCOS for cover material as set forth in 6 NYCRR Part 375-6.7(d) for commercial use. The soil cover will be placed over a demarcation layer, with the upper six (6) inches of the soil of sufficient quality to maintain a vegetation layer.

For Operable Unit No. 2 (OU2): Historic Outfalls and Canal Sediments, the remedies are as follows:

### 1. Limited Soil Excavation

Excavating soil in AOC 5, the historic outfall ditches, with concentrations greater than commercial SCOS. AOC 5 soils that exist in drainage ditches beyond the limits of the former plant property will be remediated to residential clean-up objectives. A floodplain and bank restoration plan shall be included with the remedial design plan and will target restoration of removed vegetation and establishment of stable banks. Clean fill meeting the requirements of 6 NYCRR Part 375-6.7(d) (Protection of Ecological Resources) will be brought in to replace the excavated soil and establish the designed grades at the site

### 2. Sediments in the canal at the point where the outfall ravines enter the canal (up to the limits of the 100 year flood plain adjacent to the former plant) will be sampled and all sediments exceeding sediment criteria for the contaminants of concern will be removed up to the edge of the navigation channel. Restoration of the excavation will be completed if the removal will leave unstable sediments or canal bank.

### 3. Cover System

Cadmium in Van Cleef Lake sediment was reported at elevated concentrations, but is covered beneath at least six (6) inches of more recent sediment with lower cadmium concentrations. In very deep water (>20 ft.), potential exposure of biota and humans to cadmium in the lake will be limited if sediments remain undisturbed. A plan for monitoring the extent and integrity of clean sediment as a cover and contingencies in the case of its erosion or removal will be required.

Elements common to both OUs include:

- Institutional Controls;
  - Imposition of an institutional control in the form of an environmental easement for the controlled property that:
    - requires the remedial party or site owner to complete and submit to the Department a periodic certification of institutional and engineering controls in accordance with Part 375- 1.8 (h)(3);

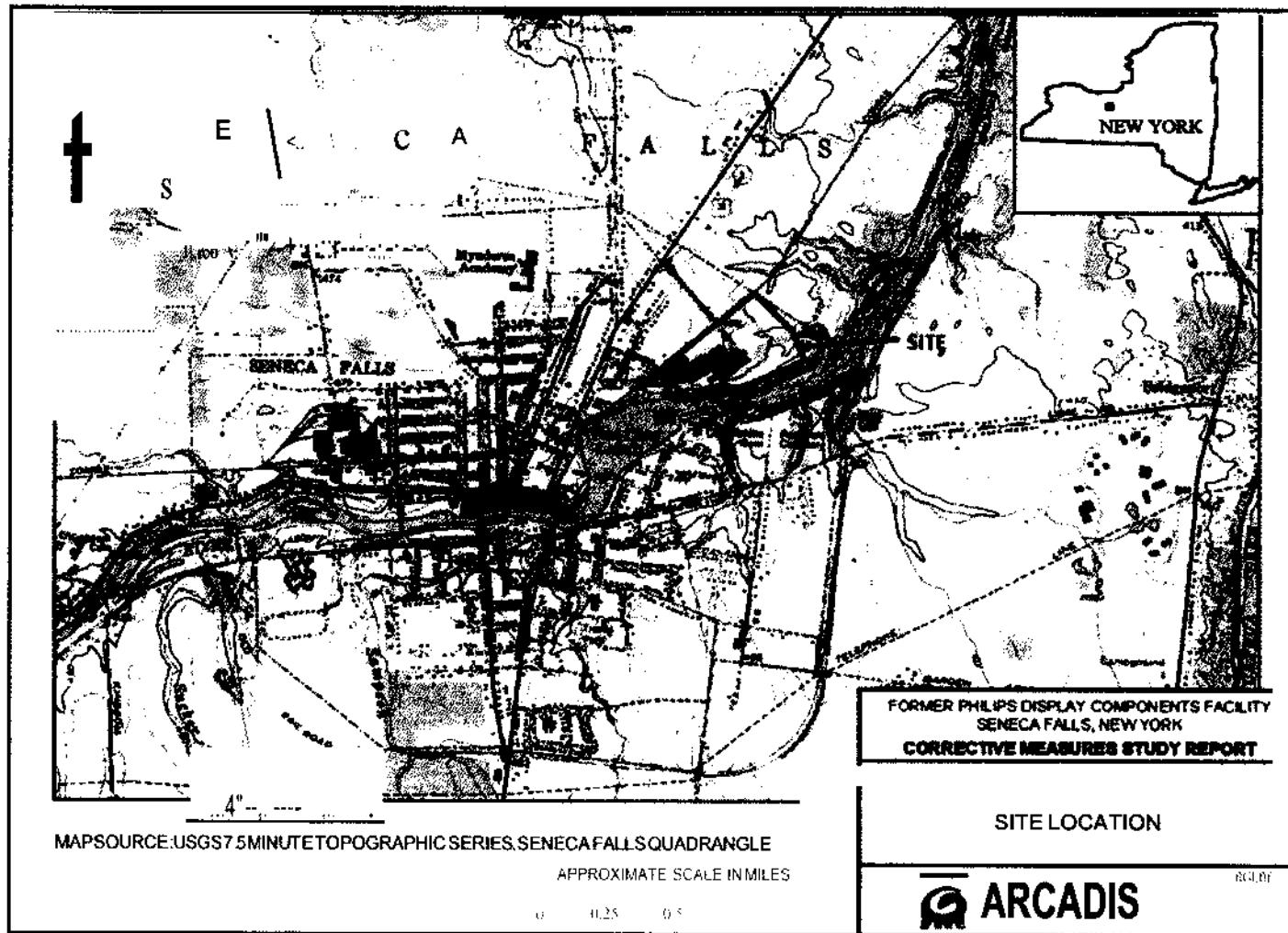
- allows the use and development of the controlled property for commercial or industrial use as defined by Part 375-1.8 (g) (which includes warehousing and distribution), although land use is subject to local zoning laws;
  - restricts the use of groundwater as a source of potable or process water, without necessary water quality treatment as determined by the NYSDOH or County Department of Health; and
  - requires compliance with the Department-approved Site Management Plan.
- Engineering Controls;
  - The cover system, or other engineered systems to control exposure to contaminants remaining in OU-02 (the historic outfalls and Van Cleef Lake sediments). This plan includes, but may not be limited to:
    - An Excavation Plan which details the provisions for management of future excavations in areas of remaining contamination;
    - A provision for further investigation to refine the nature and extent of contamination in areas where access was previously hindered. Any necessary remediation will be completed prior to, or in association with, redevelopment;
    - Periodic evaluation of the integrity of clean cover sediment in Van Cleef Lake and contingencies in the case of its erosion or other change in lake bottom conditions, or removal, will be required;
    - Provisions for the management and inspection of the identified engineering controls;
    - Maintaining site access controls and Department notification; and
    - The steps necessary for the periodic reviews and certification of the institutional and/or engineering controls.
- An Operation and Maintenance (O&M) Plan
  - An O&M Plan will be required to ensure continued operation, maintenance, optimization, monitoring, inspection, and reporting of any mechanical or physical components of the remedy (including the sediment cover in Van Cleef Lake). The plan includes, but is not limited to:
    - Procedures for operating and maintaining the remedy;
    - Compliance monitoring of treatment systems to ensure proper O&M as well as providing the data for any necessary permit or permit equivalent reporting;
    - Maintaining site access controls and Department notification; and
    - Providing the Department access to the site and O&M records.
- A Site Management Plan, which will include the following:
  - An Institutional and Engineering Control Plan that identifies all use restrictions and engineering controls for the site and details the steps and media-specific requirements necessary to assure all institutional and/or engineering controls remain in place and effective.

This plan includes, but may not be limited to:

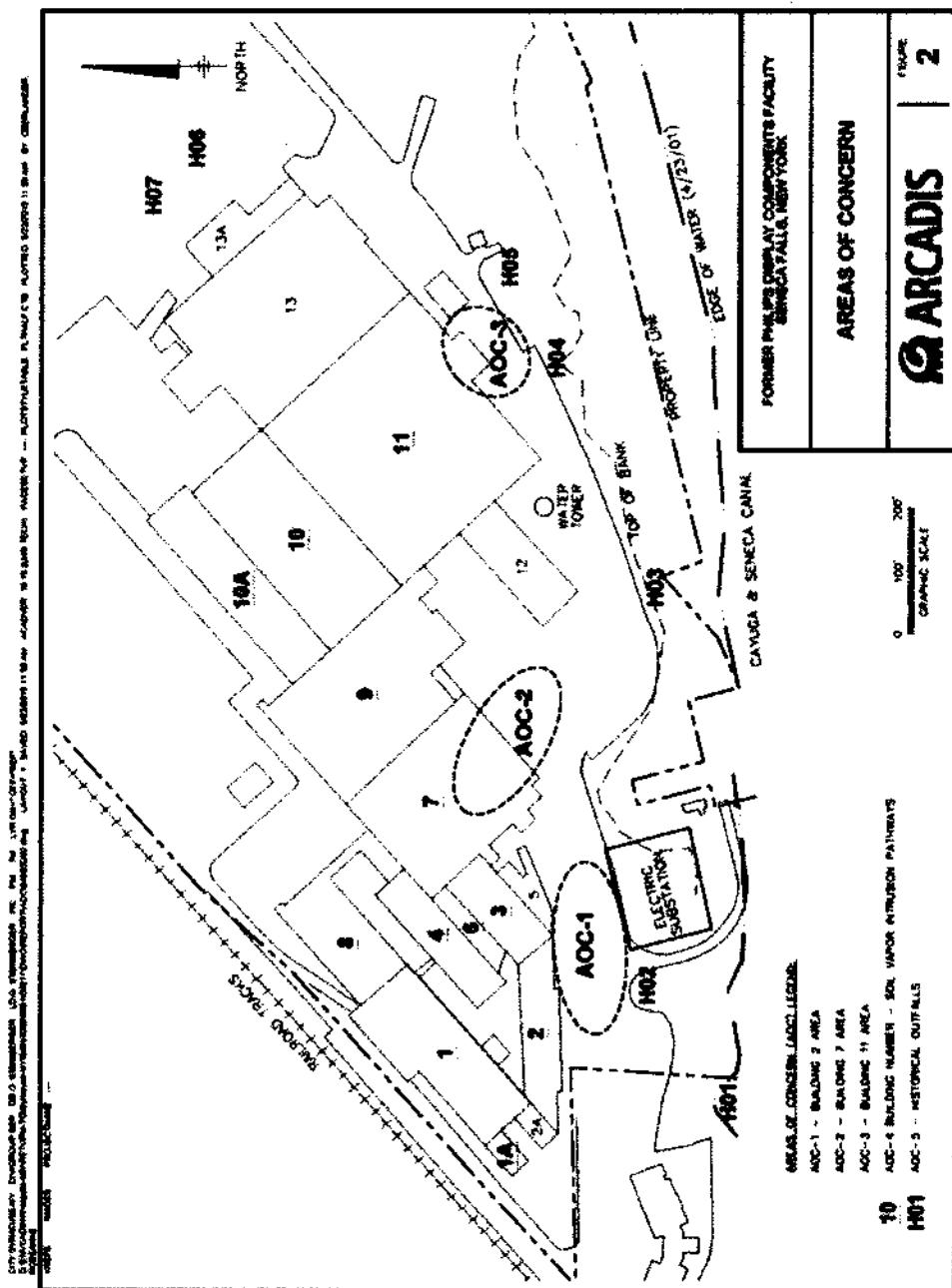
- description of the provisions of the environmental easement including any on-site groundwater use restrictions;
- a provision that should the owners of adjacent properties request to have their properties sampled in the future, the NYSDEC, in consultation with the NYSDOH, shall assess the need for soil vapor intrusion sampling and take appropriate action;

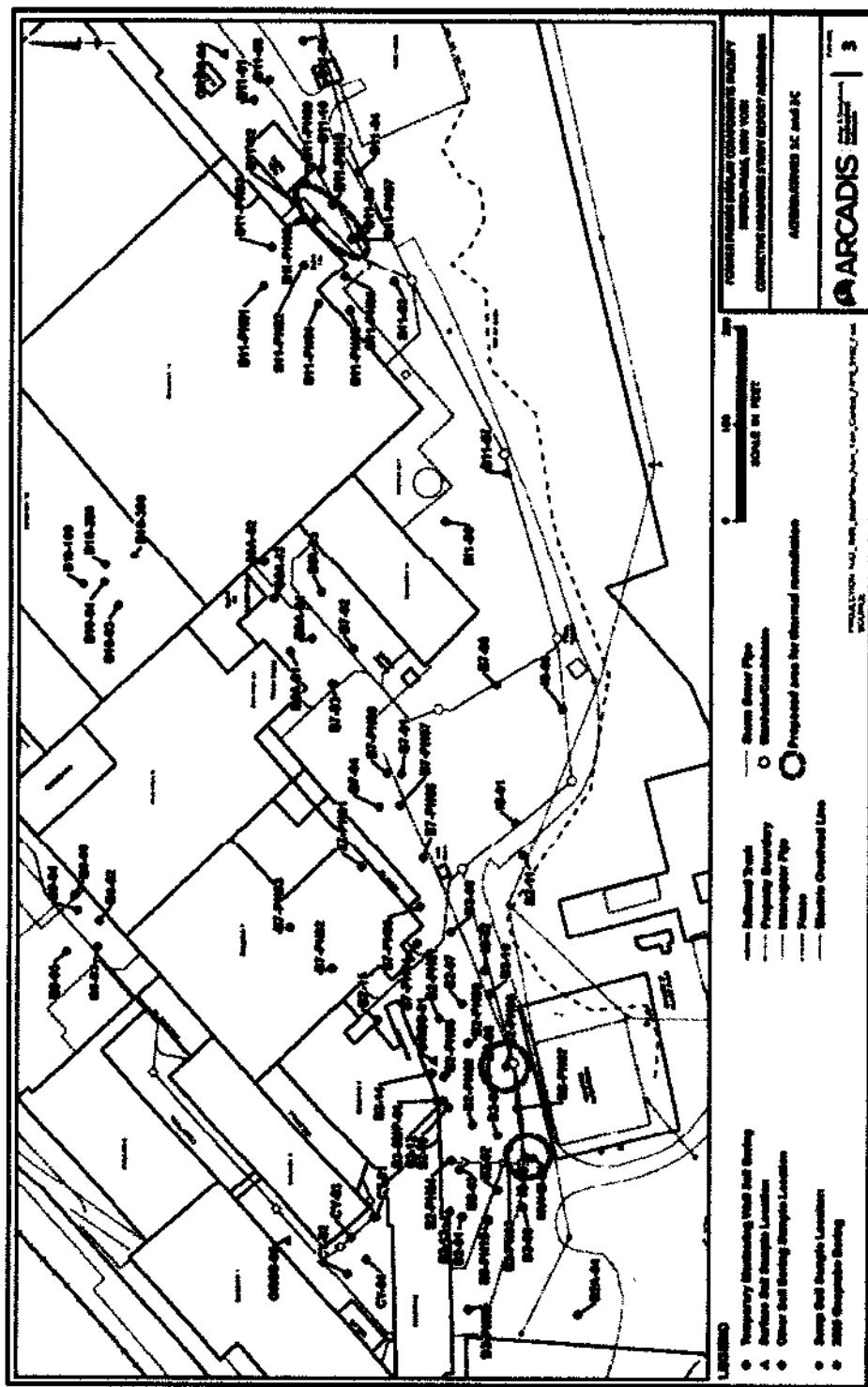
- maintaining on-site access controls and Department notification;
- the steps necessary for the periodic reviews and certification of the institutional controls;
- a Monitoring Plan to assess the performance and effectiveness of the remedy. The plan includes, but may not be limited to:
  - Monitoring of groundwater to assess the performance and effectiveness of the remedy, including a provision for implementing actions recommended to address exposures;
  - Continued monitoring for soil vapor intrusion for existing buildings;
  - Monitoring for soil vapor intrusion for any buildings developed on the site, as may be required by the Institutional and Engineering Control Plan discussed above;
  - Monitoring of restoration and replacement of failed vegetation;
  - Provisions for monitoring to determine if soils remain contained and undisturbed;
  - Provisions for monitoring to determine if sediments remain contained and undisturbed; and
  - A schedule of monitoring and frequency of submittals to the Department.

Pra  
9  
- gle  
- El.  
- J.  
G  
Nel  
See



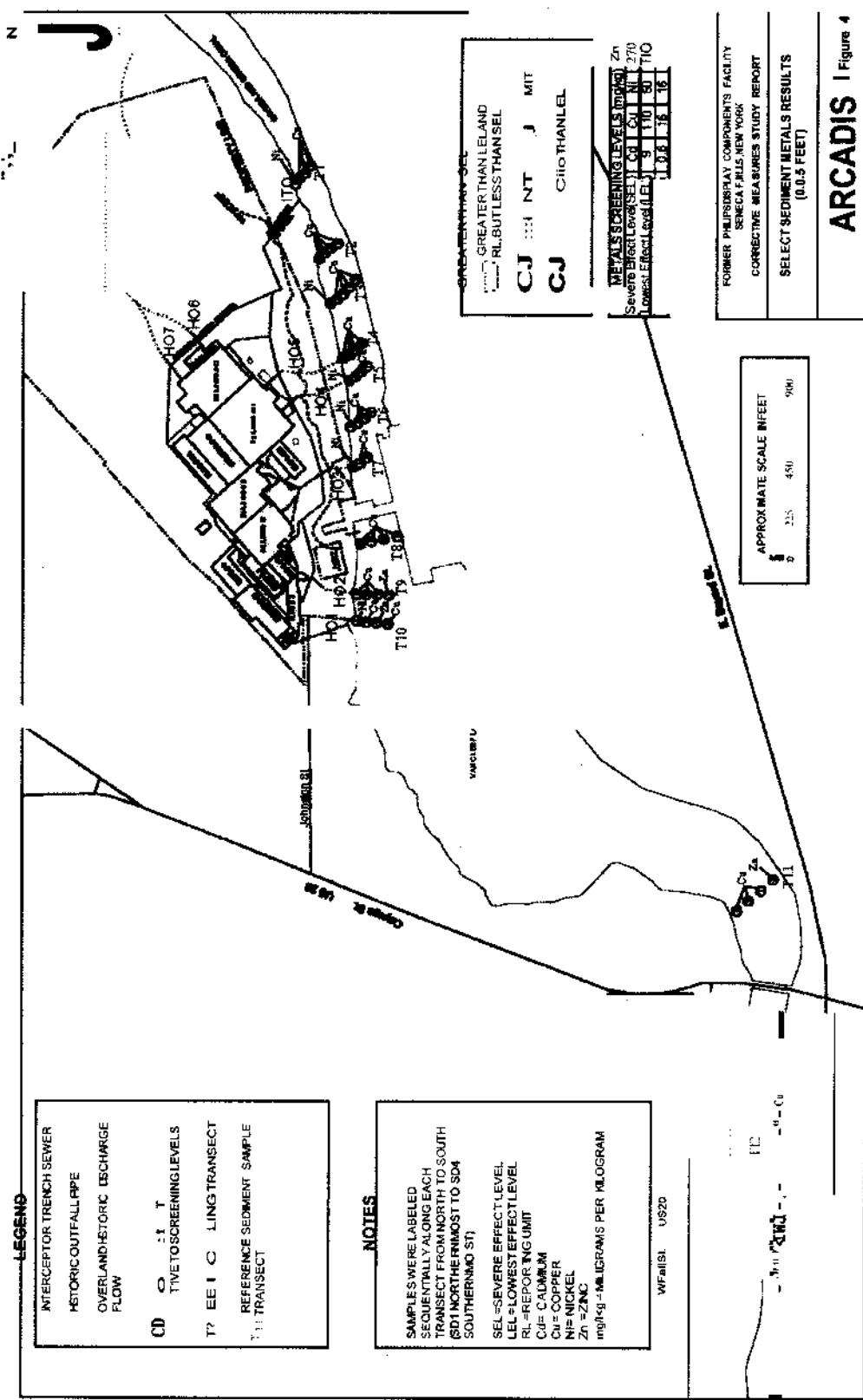
15  
... 00



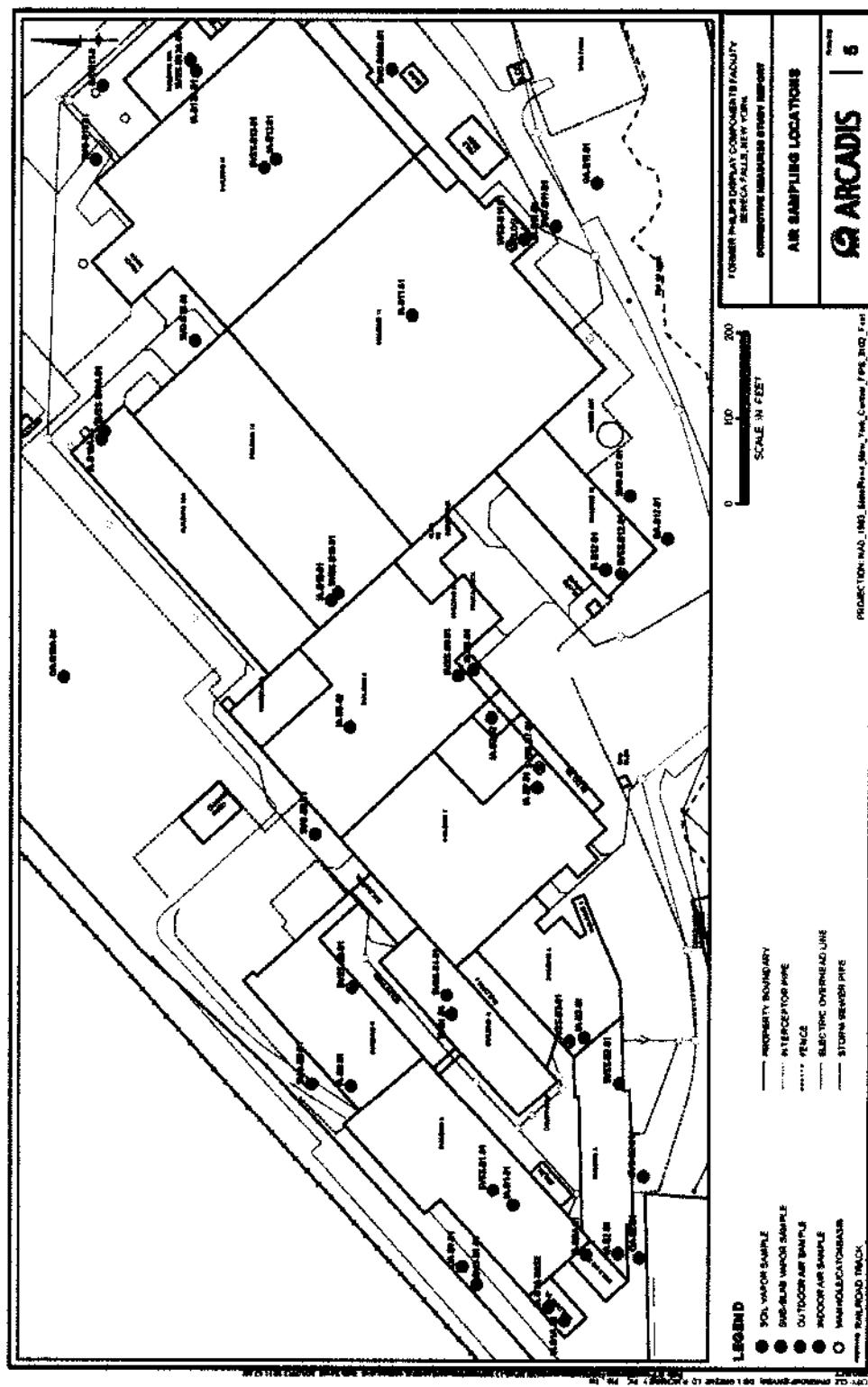


Note: Figure 3 - Corrective Measures Study Report Addendum October 11, 2016

### Areas for Thermal Remediation



ARCADIS | Figure 4



Note Figure 5: Sampling results can be found in Corrective Measures Study Report June 28, 2013

## **Exhibit A**

### **Nature and Extent of Contamination**

This section describes the findings of the RCRA Facility Investigation for all environmental media that were evaluated. As described in Section 6.1, samples were collected from various environmental media to characterize the nature and extent of contamination.

For each medium for which contamination was identified, a table summarizes the findings of the investigation. The tables present the range of contamination found at the site in the media and compares the data with the applicable SCGs for the site. The contaminants are arranged into two (2) categories; volatile organic compounds (VOCs) and inorganics (metals). For comparison purposes, the SCGs are provided for each medium that allows for unrestricted use. For soil, if applicable, the Restricted Use SCGs identified in Section 4 and Section 6.1.1 are also presented.

The key findings of the RCRA Facility Investigation (RFI), RFI Addenda, the Corrective Measures Study (CMS) and its addendum are that compounds of concern (COC) in soils that are at concentrations greater than commercial soil clean-up objectives (SCOs) are limited to three (3) isolated areas. Sediment and soil data also indicate that inorganic COCs are isolated in soil in former drainage ditches, or they are buried in sediments in the Seneca - Cayuga Canal beneath a natural cap of more recent sediment and, therefore, have a reduced potential for exposure. The total area in which COC concentrations are greater than Class GA Groundwater Standards is approximately 25 acres. COC concentrations in soil vapor generally coincide with elevated groundwater concentrations. These COC distributions, combined with historical site use and hydrogeologic conditions, form the basis for developing and evaluating corrective measure alternatives.

The nature and extent of concentrations in soil, groundwater, soil vapor, and sediment, and are organized into five (5) areas of concern (AOC) as described below. The details regarding the depth of sampling, locations, concentrations and comparison to the applicable standards, criteria and guidance (SCGs) can be found in the June 28, 2013 Corrective Measures Study.

- Areas of Concern 1, 2, and 3 (Buildings 2, 7, and 11 areas) – Elevated concentrations of VOCs in soil and groundwater including trichloroethene (TCE) and breakdown products. TCE was detected up to 3,100 ppm and cis-1,2-Dichloroethene up to 21,000 ppm in groundwater and TCE up to 8,100 ppm in soil;
- Area of Concern 4 (Soil Vapor Intrusion Pathways) – Elevated concentrations of VOCs in sub-slab vapor and indoor air. These are being addressed by existing and planned interim corrective measures (ICMs) discussed in Section 6.2;
- Area of Concern 5 (Historical Outfall) – Elevated metal concentrations in historic outfall (HO) drainage ditch soil; primarily cadmium, up to 78.3 ppm in soil.

### **Waste/Source Areas**

As described in the CMS Report, waste/source materials were identified at the site and are impacting groundwater, soil, sediment, and soil vapor.

Source areas are areas of concern at a site where substantial quantities of contaminants are found which can migrate and release significant levels of contaminants to another environmental medium. Wastes and Source Areas were identified at the site include: Areas of Concern 1, 2, and 3 (Building 2, 7, and 11 areas).

Soil investigations were completed at the site between 1999 and 2001 as part of the RFI (URS 2002). Additional soil investigations have been conducted since 2002 as part of RFI Addenda, the CMS, and ICM activities.

These investigations defined the nature and extent of residual contamination. Soil contamination was observed at concentrations above commercial SCOs and represent a potential source of groundwater contamination if left unaddressed.

TCE was reported in soil sampled in the Building 2 and 11 areas (AOCs 1 and 3) at concentrations that indicate the potential presence of Dense Non-Aqueous Phase Liquids (DNAPLs).

The waste/source areas identified will be addressed in the remedy selection process.

### **Groundwater**

Groundwater samples were collected from overburden and bedrock monitoring wells. VOCs have been reported at concentrations greater than NYSDEC Class GA Standards over approximately 25 acres of the site. The upper water-bearing zone is in a low permeability glacial till unit, and the VOCs dissolved within the groundwater migrate very slowly, on the order of a few feet per year. The extent of VOCs in groundwater and the low permeability of the till make it infeasible to remediate groundwater completely in the near term. The presence of degradation products indicate natural attenuation of the source material is occurring.

**Table 1 - Groundwater**

Detected Constituents	Concentration Range Detected (ppb) <sup>a</sup>	SCG <sup>b</sup> (ppb)	Frequency Exceeding SCG
Trichloroethene (TCE)	ND - 3,100	5	6/17
cis-1,2-Dichloroethene	ND - 21,000	5	6/17
Vinyl Chloride	ND - 290	2	4/17

a - ppb: parts per billion, which is equivalent to micrograms per liter, ug/L, in water.

b- SCG: Standard Criteria or Guidance - Ambient Water Quality Standards and Guidance Values (TOGs 1.1.1), 6 NYCRR Part 703, Surface water and Groundwater Quality Standards, and Part 5 of the New York State Sanitary Code (10 NYCRR Part 5).

The primary groundwater contaminants are trichloroethylene (TCE) and cis-1,2-dichloroethene (cis-1,2-DCE) associated with operation of the former television manufacturing facility. As noted on Figure 2 of the SOB, the groundwater contamination associated AOCs 1, 2 and 3 is the focus of remedial efforts.

Based on the findings of the Corrective Measures Study, the past disposal of hazardous waste has resulted in the contamination of groundwater. The site contaminants that are considered to be the primary contaminants of concern which will drive the remediation of groundwater to be addressed by the remedy proposal process are: TCE and cis-1,2-DCE.

### Soil

Soil samples were collected at the site during the Corrective Measures Study, from on-site locations to further delineate the source areas and the impacts of historic outfalls. Soil samples were collected in the vicinity of AOCs 1 through 3, and from drainage ditches associated with historic waste water discharges.

The Corrective Measures Study soil sampling results were compared to the applicable Soil Cleanup Objectives (SCOs) for protection of groundwater (PGW) and commercial restricted use, as discussed in Section 3, and indicate that the primary contaminants of concern on-site are VOCs and cadmium.

The VOC contamination exceeding the PGW and commercial SCOs was determined to exist to the south of the historic source area. The estimated area of soil VOC contamination is approximately 82,000 square feet and extends approximately 33 feet below ground surface, for a total volume of approximately 100,200 cubic yards.

**Table 2 – Soil**

Detected Constituents	Concentration Range Detected (ppm) <sup>a</sup>	PGW SCG <sup>b</sup> (ppm)	Frequency Exceeding PGW SCG	Commercial Use SCG <sup>c</sup> (ppm)	Frequency Exceeding Restricted Commercial SCG	Industrial Use SCG <sup>d</sup> (ppm)	Frequency Exceeding Restricted industrial SCG
Trichloroethene (TCE)	nd - 8,100	0.47	79 / 187	200	10 / 187	400	5 / 187
cis-1,2-Dichloroethene	nd - 20	0.25	25 / 187	500	0 / 187	1000	0 / 187
Cadmium <sup>e</sup>	nd - 78.3	4	4 / 43	9.3	3 / 43	60	1 / 43

a - ppm: parts per million, which is equivalent to milligrams per kilogram, mg/kg, in soil;

b - SCG: Part 375-6.8(b), Protection of Groundwater Soil Cleanup Objectives.

c - SCG: Part 375-6.8(b), Restricted Use Soil Cleanup Objectives for the Protection of Public Health for Commercial Use, unless otherwise noted.

d - SCG: Part 375-6.8(b), Restricted Use Soil Cleanup Objectives for the Protection of Public Health for Industrial Use, unless otherwise noted.

e - SCG: Part 375-6.8(b), Protection of Ecological Resources Soil Cleanup Objectives. Cadmium is not a compound of concern for GW.

Based on the findings of the Corrective Measures Study, the presence of VOCs and heavy metals have resulted in the contamination of soil. The site contaminants identified in soil which are considered to be the primary contaminants of concern, to be addressed by the remedy are, TCE, its associated degradation product cis-1,2-DCE and cadmium.

Cadmium and chlorinated solvent soil contamination, is associated with liquid waste disposal activity at the site. Metal soil contamination, with the exception of cadmium, is not considered a remedy driving contaminants of concern. Metals are not present in groundwater above standards so use based standards will be used to select the remedy.

### Sediments

Soil and sediment samples were collected during the Corrective Measures Study from the on-site drainage ditches and at locations upstream, and adjacent to the site along the Seneca River. The samples were collected to assess the potential for impacts to drainage ditch and river sediment from the site. The results indicate that soil in the on-site ditches and sediment in the Seneca River exceed the Department's SCGs for sediments for cadmium. The concentrations of metals of concern obtained in upstream locations were considered in determining site background. Thirteen (13) samples were collected from upstream locations and the maximum concentration detected was used as site-specific guidance in determining the site related metals of concern.

Figure 4 of the SOB shows the location used to evaluate sediment contamination.

**Table 3 – Seneca River Sediment****Transects 1 through 11 (Van Cleef Lake/Downstream)**

Sample Depth Below River Bottom	Concentration Range Detected <sup>a</sup>	Freshwater Sediment Guidance Value <sup>a</sup>	Frequency of Detections	Percentage of Detections
Cadmium <0.5 ft	ND - 9.3	Class A <1	37 of 45	75.56%
		Class B 1-5	7 of 45	15.56%
		Class C >5	4 of 45	8.89%
Copper <0.5 ft	4.63 - 49.6	Class A <32	24 of 45	53.33%
		Class B 32-150	21 of 45	46.67%
		Class C >150	0 of 45	0.00%
Copper >0.5 ft	5.39 - 49.6	Class A <32	19 of 45	42.22%
		Class B 32-150	15 of 45	33.33%
		Class C >150	11 of 45	24.44%
Nickle <0.5 ft	ND - 56.5	Class A <23	35 of 45	77.78%
		Class B 23-49	9 of 45	20.00%
		Class C >49	1 of 45	2.22%
Nickle >0.5 ft	ND - 40.4	Class A <23	31 of 45	67.19%
		Class B 23-49	10 of 45	22.22%
		Class C >49	4 of 45	0.00%
Zinc <0.5 ft	14.6 - 1430	Class A <120	19 of 45	42.22%
		Class B 120-460	25 of 45	55.56%
		Class C >460	1 of 45	2.22%

**Transect 12 (Upstream)<sup>b</sup>**

Sample Depth Below River Bottom	Concentration Range Detected <sup>a</sup>	Freshwater Sediment Guidance Value <sup>a</sup>	Frequency of Detection	Percentage of Detections
Cadmium <0.5 ft	ND - 9.3	Class A <1	4 of 4	100.00%
		Class B 1-5	0 of 4	0.00%
		Class C >5	0 of 4	0.00%
Copper <0.5 ft	4.63 - 49.6	Class A <32	1 of 4	25.00%
		Class B 32-150	3 of 4	75.00%
		Class C >150	0 of 4	0.00%
Copper >0.5 ft	5.39 - 107.3	Class A <32	0 of 9	0.00%
		Class B 32-150	0 of 9	0.00%
		Class C >150	0 of 9	0.00%
Nickel <0.5 ft	ND - 56.5	Class A <23	3 of 4	75.00%
		Class B 23-49	1 of 4	25.00%
		Class C >49	0 of 4	0.00%
Nickel >0.5 ft	ND - 40.8	Class A <23	0 of 9	0.00%
		Class B 23-49	0 of 9	0.00%
		Class C >49	0 of 9	0.00%
Zinc <0.5 ft	14.6 - 1430	Class A <120	0 of 4	0.00%
		Class B 120-460	4 of 4	100.00%
		Class C >460	0 of 4	0.00%

Notes:

- All concentrations and sediment guidance values are in mg/kg (ppm).
- Transect 12 was located upstream of the historic outfall discharges into the Seneca River.

The primary sediment contaminant is cadmium, associated with the historical waste water outfalls and surface soil in the historic outfall ditches. As noted on Figure 4, the primary soil and sediment contamination is found in the historic outfall drainage ditches and the Seneca River downstream of the discharge points of those ditches.

The copper, nickel and zinc found in sediments were also found in the upstream sediment samples and appears to be associated with a regional enrichment within the Seneca River. Therefore, these elements in sediment is not considered a site-specific contaminant of concern.

Based on the findings of Corrective Measures Study, the disposal of hazardous waste has resulted in the contamination of sediment. The site contaminant which is considered to be the primary contaminant of concern and which will drive the remediation of sediment to be addressed by the remedy selection process is cadmium.

### **Soil Vapor and Indoor Air**

The evaluation of the potential for soil vapor intrusion resulting from the presence of site related soil or groundwater contamination was evaluated by the sampling of soil vapor, sub-slab soil vapor, indoor and outdoor air.

#### **Pre-mitigation**

Trichloroethylene (TCE) has been identified in sub-slab vapor and indoor and outdoor air at the former Philips Display Components Facility. Concentrations of TCE were found in sub-slab vapor ranging from 2.7 to 160, 000 micrograms per cubic meter (mcg/m<sup>3</sup>). In the indoor air, TCE was found from non-detect at 0.21 mcg/m<sup>3</sup> to 210 mcg/m<sup>3</sup>.

Based on the results of the soil vapor intrusion investigation, sub-slab depressurization (SSD) systems were installed at Buildings 1, 1A, 7, 8, 10, 10A, 11, and 11A. In addition, ventilation of the indoor air in the Building 9 crawl space and Building 2 basement area is ongoing. Based on the lack of occupancy of Buildings 2, 2A, 3, 4, 5, and 6, measures to address potential exposure were deferred until those buildings become re-occupied.

#### **Post-mitigation:**

Quarterly indoor air monitoring within the buildings that have SSD systems or ventilation systems continue to demonstrate that TCE is still present in the indoor air above the New York State Department of Health guideline of 2 mcg/m<sup>3</sup> in air. Specifically, concentrations of TCE in the indoor air range from non-detect at 0.054 mcg/m<sup>3</sup> to 81 mcg/m<sup>3</sup>.

Figure 5 in the Statement of Basis shows the location of air/vapor samples.

Based on the concentration detected, and, soil vapor contamination identified during the RFI is being addressed in some buildings by the ICM described in Section 6.2, however; additional actions are necessary to address potential exposures via soil vapor intrusion in the remaining buildings on the site.

Based on the findings of the Remedial Investigation, the disposal of hazardous waste has resulted in the contamination of soil vapor. The site contaminants that are considered to be the primary contaminants of concern which will drive the remediation of soil vapor to be addressed by the remedy selection process are, trichloroethylene and its breakdown products.

## **Exhibit B**

### **Description of Remedial Alternatives**

The following alternatives were considered based on the remedial action objectives (see Section 6.5) to address the contaminated media identified at the site as described in Exhibit A.

For OU1

Soil Vapor/Indoor Air Contamination  
Dense Non-Aqueous Phase Liquids (DNAPL)  
Groundwater Contamination  
Soil Contamination

For OU2

Soil Contamination  
Sediment Contamination

#### **Alternative 1: No Action**

The No Action Alternative is evaluated as a procedural requirement and as a basis for comparison. This alternative leaves the site in its present condition and does not provide any additional protection to public health and the environment. There are no costs associated with this alternative.

#### **Alternative 2: Site Management**

The Site Management Alternative requires only institutional controls for the site. This alternative includes institutional controls, in the form of an environmental easement and a site management plan, necessary to protect public health and the environment from any contamination identified at the site. This alternative does not reduce the mass, toxicity or mobility of site contaminants, rather it avoids them through accepted management practices.

Present Worth: .....	\$90,000
Capital Cost: .....	\$35,000
Annual Costs: .....	\$ 7,900

#### **Alternative 3: Restoration to Pre-Disposal or Unrestricted Conditions**

This alternative achieves all of the SCGs discussed in Section 6.1.1 and Exhibit A and soil meets the unrestricted soil clean objectives listed in Part 375-6.8 (a). This alternative would include: demolition of all on-site structures, the excavation and off-site disposal of all soil contamination (including DNAPL) above the unrestricted soil cleanup objectives, in-situ thermal treatment of contaminated groundwater, and the dredging of cadmium contaminated sediments. There would be no site management, no restrictions, and no periodic review. This remedy will have no annual

cost, only the capital cost. Costs do not include that of temporarily relocating workers and/or acquiring new tenants for vacated spaces.

Present Worth.....	\$68,000,000
Capital Cost.....	\$68,000,000
Annual Cost .....	0

**Alternative 4: Cover System, In-Situ Thermal Treatment, Vapor Mitigation, Excavation, Monitored Natural Attenuation, Institutional Controls and Site Management**

This alternative would include:

**Site Cover**

A site cover in areas not occupied by buildings and will be maintained to allow for commercial use of the site. Any site redevelopment will maintain the existing site cover. The site cover may include paved surface parking areas, sidewalks or soil where the upper one foot of exposed surface soil meets the applicable soil cleanup objectives (SCOs) for commercial use. Any fill material brought to the site will meet the requirements for the identified site use as set forth in 6NYCRR part 375-6.7(d).

**In Situ Thermal Treatment**

In-Situ Thermal Treatment will be implemented to destroy or volatilize VOCs in the area indicated on Figure 3 of the SOB. The gases produced by the thermal treatment will be collected by vapor extraction wells and treated in an ex-situ treatment unit.

**Vapor Mitigation**

Any on-site buildings will be required to have a sub-slab depressurization system, or other acceptable measures, to address the migration of vapors into the building from soil and/or groundwater.

**Excavation**

Soils above the water table which exceed the Commercial SCOs will be excavated and transported off-site for disposal. Approximately 15 cubic yards of contaminated soil will be removed from the site.

Soils within the historic outfall drainage ditches which exceed the Commercial SCOs will be excavated and transported off-site for disposal. An exception will be made for ditches that cross over the sites property line. Ditches over the property line will be remediated to Residential SCOs. The volume of soil/sediment to be removed will be determined by sampling to be done during a design phase, and by access.

## Monitored Natural Attenuation

Groundwater contamination (remaining after active remediation) will be addressed with monitored natural attenuation (MNA). It is anticipated that contamination will decrease by half in a reasonable period of time (ten (10) years). Active remediation will be implemented if it appears that natural processes alone will not address the contamination.

This alternative includes institutional controls, in the form of an environmental easement, a site management plan, and an operation and maintenance plan necessary to protect public health and the environment.

Present Worth: .....	\$6,049,000
Capital Cost:.....	\$5,237,000
Annual Costs:.....	\$116,900

**Exhibit C****Remedial Alternative Costs**

<b>Remedial Alternative</b>	<b>Capital Cost (\$)</b>	<b>Annual Costs (\$)</b>	<b>Total Present Worth (\$)</b>
No Action	0	0	0
Site Management	35,000	7,900	90,000
Restore to Pre-disposal	68,000,000	0	68,000,000
Cover System, In-Situ Thermal Treatment, Vapor Mitigation, Excavation, Monitored Natural Attenuation, Institutional Controls and Site Management	5,240,000	117,000	6,049,000

## Exhibit D

### **SUMMARY OF THE REMEDY**

The Department is selecting Alternative 4, Cover System, In-Situ Thermal Treatment, Vapor Mitigation, Excavation, Monitored Natural Attenuation, Institutional Controls and Site Management as the remedy for this site. Alternative 4 will achieve the remediation goals for the site by removing contaminant mass (DNAPL), mitigating vapor intrusion, preventing exposure to contaminated historic outfall drainage ditch soils, allowing groundwater contamination to attenuate and preventing exposure to contaminated deep sediments in the Seneca River. The elements of this remedy are described in Section 7. The remedy is depicted in Figures 2 and 3 of the SOB.

### **Basis for Selection**

The remedy is based on the results of the Corrective Measures Study and the evaluation of alternatives. A detailed discussion of the evaluation criteria and comparative analysis is included in the Corrective Measures Study (2013) and Corrective Measures Study Addendum (2016) reports.

The first two evaluation criteria are termed "threshold criteria" and must be satisfied in order for an alternative to be chosen.

1. **Protection of Human Health and the Environment.** This criterion is an overall evaluation of each alternative's ability to protect public health and the environment.

The remedy (Alternative 4) will satisfy this criterion by mobilizing DNAPL from below the water table and moving it to the vadose zone where it is recovered using vacuum extraction. Alternative 4 addresses the source of the groundwater contamination, which is a threat to public health and the environment, and allows contamination in the groundwater to attenuate naturally. Alternative 4 also reduces exposure to soils contaminated with the compounds of concern (chlorinated solvent and cadmium) through limited excavation and removal, and maintaining the current site cover system. The vapor intrusion pathway is mitigated through sub-slab depressurization systems. Alternative 1 (No Action) does not provide any additional protection to public health and the environment and will not be evaluated further. Alternative 3, by removing all soil contaminated above the unrestricted soil cleanup objective, meets the threshold criteria. Alternatives 2 and 4 also comply with this criterion but to a lesser degree or with lower certainty. Alternatives 2 and 4 rely on a restriction of groundwater use at the site to protect human health. Alternative 3 may require a shorter-term restriction on groundwater use; however, the restriction would be removed with the attainment of pre-disposal conditions. The potential for soil vapor intrusion will be addressed by Alternatives 2, 3, and 4.

2. **Compliance with New York State Standards, Criteria, and Guidance (SCGs).** Compliance with SCGs addresses whether a remedy will meet environmental laws, regulations, and other standards and criteria. In addition, this criterion includes the consideration of guidance which the Department has determined to be applicable on a case-specific basis.

Alternative 4 complies with SCGs to the extent practicable. It addresses source areas of contamination and complies with the restricted use soil cleanup objectives at the surface through maintenance of a cover system and limited excavation and removal. It also creates the conditions necessary to restore groundwater quality to the extent practicable. Alternative 3 also complies with this criterion. Because Alternatives 2, 3 and 4 satisfy the threshold criteria, the remaining criteria are particularly important in proposing a final remedy for the site. It is expected Alternative 3 will achieve groundwater SCGs, while groundwater contamination above SCGs will remain on-site under Alternatives 2 and 4 for many years.

The next six (6) "primary balancing criteria" are used to compare the positive and negative aspects of each of the remedial strategies.

3. Long-Term Effectiveness and Permanence. This criterion evaluates the long-term effectiveness of the remedial alternatives after implementation. If wastes or treated residuals remain on-site after the remedy has been implemented, the following items are evaluated: 1) the magnitude of the remaining risks, 2) the adequacy of the engineering and/or institutional controls intended to limit the risk, and 3) the reliability of these controls.

Long-term effectiveness is best accomplished by those alternatives involving excavation of the contaminated soils and reduction in contaminant mass (Alternatives 3 and 4). Alternative 3 results in removal of almost all of the chemical contamination at the site and removes the need for property use restrictions and long-term monitoring. Alternative 4 will result in the removal of chlorinated solvent contaminants at the site from the soil below the water table, but it also requires an environmental easement, and long-term monitoring of the Natural Attenuation component. For Alternative 2, site management remains effective, but is less desirable in the long-term. Although groundwater beneath the site is not currently used, Alternatives 2, 3, and 4 would require an institutional groundwater use restriction until GA standards were achieved.

4. Reduction of Toxicity, Mobility or Volume. Preference is given to alternatives that permanently and significantly reduce the toxicity, mobility or volume of the wastes at the site.

Alternative 2 would control potential exposures with institutional controls only and will not reduce the toxicity, mobility or volume of contaminants remaining. Alternative 3, excavation and off-site disposal, reduces the toxicity, mobility and volume of on-site waste by transferring the material to an approved off-site location. However, depending on the disposal facility, the volume of the material would not be reduced. Alternative 4 requires the treatment of approximately 8,200 cubic yards of contaminated soil. The volume of the contaminated soil is reduced, the overwhelming majority of contamination from below the water table will be removed reducing toxicity and mobility. However, the consolidation area will contain residual contamination, entailing restrictions on the use of the property and long-term maintenance of the capped area. All alternatives except number three (3) would require groundwater use restrictions, however, groundwater has not been used at this site in the past and is not reasonably anticipated to be used in the future.

5. Short-Term Impacts and Effectiveness. The potential short-term adverse impacts of the remedial action upon the community, the workers, and the environment during the construction and/or implementation are evaluated. The length of time needed to achieve the remedial objectives is also estimated and compared against the other alternatives.

Alternatives 2 through 4 all would have short-term impacts which could be controlled, however, Alternative 2 would have the smallest impact. The time needed to attain the remediation goal of achieving commercial SCOs is the shortest for Alternative 4, Alternative 2 does not attempt to achieve these goals, rather, it limits exposure through site management.

6. Implementability. The technical and administrative feasibility of implementing each alternative are evaluated. Technical feasibility includes the difficulties associated with the construction of the remedy and the ability to monitor its effectiveness. For administrative feasibility, the availability of the necessary personnel and materials is evaluated along with potential difficulties in obtaining specific operating approvals, access for construction, institutional controls, and so forth.

Alternatives 2 and 4 are favorable in that they are readily implementable. Alternative 3 is also implementable, but the volume of soil excavated under this alternative would necessitate increased truck traffic on local roads for an extended period of time. Further, workers would be displaced while the buildings are removed and rebuilt. The excavation to achieve pre-release conditions required by Alternative 3 would also be logically challenging, as it would have to extend dozens of feet below the water table in AOCs 1 and 3.

7. Cost-Effectiveness. Capital costs and annual operation, maintenance, and monitoring costs are estimated for each alternative and compared on a present worth basis. Although cost-effectiveness is the last balancing criterion evaluated, where two (2) or more alternatives have met the requirements of the other criteria, it can be used as the basis for the final decision.

The costs of the alternatives vary significantly. Alternative 2 has a low cost, but the DNAPL and contaminated soil would not be addressed other than by institutional controls. With its large volume of soil to be handled, Alternative 3 (excavation to unrestricted SCOs and off-site disposal, as well as dredging the Seneca River) would have the highest cost. In-situ thermal treatment, limited shallow excavations, a natural cap on Seneca River sediments and a SSDS (Alternative 4) will be much less expensive than Alternative 3, yet it will provide equal protection of the groundwater resource. The benefits of Alternatives 3 and 4 are similar to each other, although the capital cost for Alternative 3 would be much higher than that of Alternative 4. The long-term maintenance cost of Alternative 4 would be higher than long-term maintenance under Alternative 3.

8. Land Use. When cleanup to pre-disposal conditions is determined to be infeasible, the Department may consider the current, intended, and reasonable anticipated future land use of the site and its surroundings in the selection of the soil remedy proposal.

Since the anticipated use of the site is industrial, Alternatives 2 and 4 would be less desirable because at least some contaminated soil would remain on the property whereas Alternative 3 would remove or treat the contaminated soil permanently. However, the residual contamination with

Alternative 4 will be controllable with implementation of a Site Management Plan. With Alternative 3, removing the soil to a depth of 33 feet below grade in area south of the current structures (AOCs 1, 2, and 3) soils exceeding commercial SCOs in the drainage ditches and dredging the bottom of the Seneca River to achieve sediment standards, most of the unsaturated overburden would be removed and restrictions on the site use would not be necessary.

The final criterion, Community Acceptance, is considered a "modifying criterion" and is taken into account after evaluating those above. It is evaluated after public comments on the Remedial Action Plan have been received.

9. Community Acceptance. Concerns of the community regarding the investigation, the evaluation of alternatives, and the SOB are evaluated. A responsiveness summary has been prepared that describes public comments received and the manner in which the Department will address the concerns raised.

Alternative 4 is being selected because, as described above, it satisfies the threshold criteria and provides the best balance of the balancing criterion.

## **APPENDIX A**

### **Responsiveness Summary**

# **RESPONSIVENESS SUMMARY**

**G.T.E. Products Corporation  
Operable Units No. 01 and 02**

**On-site RCRA corrective actions, historic waste water outfalls and the canal sediments.  
Resource Conservation and Recovery Act (RCRA)  
Seneca Falls, Seneca County, New York  
Site No. 850003**

The Draft Statement of Basis (SoB) for the G.T.E. Products Corporation site was prepared by the New York State Department of Environmental Conservation (the Department) in consultation with the New York State Department of Health (NYSDOH) and was issued to the document repositories on February 14, 2018. The SoB outlined the remedial measure proposed for the contaminated groundwater and soil vapor at the G.T.E. Products Corporation site.

The release of the SoB was announced by sending a notice to the public contact list, informing the public of the opportunity to comment on the proposed remedy. Copies of the SoB and its support documents were provided to the Document Repository located at the Seneca Falls Public Library.

A 45-day public comment period provided an opportunity for citizens to discuss their concerns, ask questions and comment on the proposed remedy. These comments have become part of the Administrative Record for this site. The public comment period for the SoB ended on March 30, 2018.

This responsiveness summary responds to all questions and comments raised during the public comment period. The following are the comments received, with the Department's responses:

**Greg Zellers - Seneca Falls Devolvement Corporation called the NYSDEC Project Manager and verbally submitted Comment 1.**

**Comment 1:** I read in the fact sheet that you (C. Magee) are the contact for this site. We would like some additional information on this project.

**Response 1:** A file has been made available to the Commenter via the Department's file transfer service. The file includes multiple site related documents including:

02/14/2018 Draft Statement of Basis (NYSDEC)  
03/23/1994 RCRA Facility Assessment (Chester Environmental)  
02/28/1995 Supplemental Sampling Visit Investigation Report (Chester Environmental)  
01/08/2002 Historical Chain of Title Report (O'Brien & Gere engineers Inc.)  
06/28/2002 RCRA Facility Investigation Report (URS)  
01/29/2003 RCRA Facility Investigation Report Addendum Parts 1 & 2 (URS)  
01/15/2004 Examination of Title Report (Public Audit)  
06/28/2013 Corrective Measures Study Report (Arcadis)  
10/11/2016 Corrective Measures Study Report Addendum (Arcadis)

Note, all of the above listed documents are also available at the site's document repository at the Seneca Falls Public Library.

**Mathew Walsh, Manager, Corporate Environmental, Health, Safety, and Compliance, GTEOSI, submitted a letter dated March 26, 2018 which contained comments 2 through 12.**

**Comment 2:** The SSD and ventilation systems in Buildings 1, 2, 7, 8, and 9 were installed and activated during the first quarter of 2017.

Installation of the new SSD system for Buildings 10 and 11 is underway. The IRM systems in these buildings are still operating. The piping system in Buildings 10 and 11 is complete, and we are currently installing the vacuum pumps, appurtenances, and controls (housed inside Building 9B). We anticipate starting the Buildings 10 and 11 SSD system in about 6 weeks. At that time, the upgrades and expansions to the SSD and ventilation systems described in the Sub-Slab Depressurization System Conceptual Design Report will be complete and operating.

**Response 2:** Thank you for the update. Comment noted.

**Comment 3:** Cover Page: The site name is listed as "G.T.E. Products Corporation." We suggest a change to "Former Philips Display Components Facility" to match previous documents prepared for this site. This change should be carried on throughout the document.

**Response 3:** According to the Division of Environmental Remediation's records, "GTE" is the actual remedial party and the site has been known by the current name (or something very similar) since 1983.

**Comment 4:** Section 3: Site Description and History - In the last sentence under "Historic Use(s)", "Viva Foam Products, Inc." should be changed to "Seneca Falls Specialties & Logistics Company, Inc.", which currently operates the facility.

**Response 4:** This change has been made to Statement of Basis document.

**Comment 5:** Section 5: Enforcement Status - The entity "Verizon GTE Operation Support Inc." does not exist and should be changed to the correct entity name: "GTE Operations Support Incorporated". GTE Operations Support Incorporated is not a PRP, but is performing the site cleanup through a business arrangement with Philips, the facility's former owner and operator between 1981 and 1989.

**Response 5:** Section 5 of the Statement of Basis has been updated to read "GTE Operations Support Incorporated has been identified as a Potentially Responsible Party for the site," consistent with the information presented in NYSDEC's Uniform Information System.

**Comment 6:** Section 6.1.2: Investigation Results and Section 6.3 Summary of Environmental Assessment - For consistency and accuracy, "RI Report" should be changed to "RFI Report" in these sections and in the remainder of the document.

**Response 6:** Section 6.1.2 has been modified to read “Corrective Measures Study (CMS) Report”, as that report contains the most complete tabulations of the data collected at the site, including that which was gathered for and reported in the RFI.

**Comment 7:** Section 6.3: Summary of Environmental Assessment - The fourth paragraph should be clarified as follows to avoid implying that cadmium is a breakdown product of TCE.

Based upon investigations conducted to date, the primary contaminants of concern for this site include TCE, its breakdown products (cis-1,2-dichlorothene and vinyl chloride), and cadmium.

**Response 7:** Section 6.3 has been modified to reflect the suggested change.

**Comment 8:** Section 6.4: Summary of Human Exposure Pathways - The first sentence of the second paragraph states *“People may contact contaminants in soil if they dig below the surface or occupy the historic outfalls.”* It is not possible to dig below the surface or occupy the historical outfalls because the pipes were sealed off and the outfalls no longer exist or are buried. This statement should be revised to refer to soil in the outfall ditches.

**Response 8:** It is physically possible to dig below the surface. The text of section 6.4 has been modified to read “...or contact soil from the historic outfall ditches.”

**Comment 9:** Section 7: Elements of the Proposed Remedy - The subsection on OU 1, part 2 – Soil Vapor Intrusion Mitigation, states that *“All on-site buildings will be required to have a sub-slab depressurization system, or other acceptable measures, to address migration of vapors into the building from soil and/or groundwater.”* This section should be revised to state that monitoring data presented in the Corrective Measures Study indicate that a soil vapor intrusion pathway is not present in Building 12, and that the potential for soil vapor intrusion in Buildings 13 and 13A is limited. Thus, soil vapor intrusion mitigation is not planned in Buildings 12, 13, and 13A.

**Response 9:** The text of Section 7, #2 has been modified to reflect the comment.

**Comment 10:** The subsection on OU 1, part 3 – In-Situ Thermal Treatment, suggests that electrical resistance heating (ERH) will be the method used to treat soils at the site. This section should be expanded to include a description of thermal conductive heating (TCH), and state that a decision regarding the thermal remediation method (e.g., ERH or TCH) will be made after pre-design engineering data are collected and evaluated.

**Response 10:** The text of the statement of Basis has been amended to reflect the comment.

**Comment 11:** The subsection OU 2, part 1 – Limited Soil Excavation, states that *“AOC 5 soils that exist in drainage ditches beyond the limits of the former plant property will be remediated to residential cleanup objectives.”* No drainage ditches extend beyond the plant property boundary in the areas of historic outfalls HO2 through HO5. The presence of drainage ditches outside the property boundary near historic outfalls HO1, HO6, and HO7 will be evaluated and if found, soil will be sampled to determine if remediation is necessary.

**Response 11:** The outfall ditches referred to as beyond the limits of the former plant property are HOs 1,6 and 7. No changes have been made to the Statement of Basis.

**Comment 12:** The subsection on OU 2, part 2, states that *“Sediments in the canal at the point where the outfall ravines enter the canal will be sampled and all sediments exceeding sediment criteria for the contaminants of concern will be removed up to the edge of the navigation canal.”* This section should be clarified to define the edge of the navigation canal as the 100-year floodplain boundary.

**Response 12:** Text was added to clarify that 6 NYCRR Part 373 Hazardous Waste Management Permits include requirements for corrective action. Owners of RCRA facilities must investigate and, when appropriate, remediate releases of hazardous wastes and/or constituents to the environment. G.T.E. Products Corporation does not operate site #850003 under a RCRA permit. Corrective action activities will be performed under the authority of an order that the Department hopes they can negotiate upon the finalization and signing of this Statement of Basis.

Text was also added to identify the 100 year flood plain as the limit for the application of sediment criteria.

**Comment 13:** Project Manager received a list of compounds titled “CHEMICALS USED IN PROCESSING AT PHILIPS ECG” via the US Postal Service from an unidentified party.

**Response 13:** This information will be taken into consideration during the upcoming Remedial Design.

## **APPENDIX B**

### **Administrative Record**

# **Administrative Record**

**G.T.E. Products Corporation  
Operable Units No. 01 and 02**

**On-site RCRA corrective actions, historic waste water outfalls and the canal sediments.  
Resource Conservation and Recovery Act (RCRA)  
Seneca Falls, Seneca County, New York  
Site No. 850003**

1. NYSDEC 02/14/2018 Draft Statement of Basis.
2. Arcadis 10/11/2016 Corrective Measures Study Report Addendum.
3. Arcadis. 2013. Corrective Measures Study Report. Former Philips Display Components Facility, Seneca Falls, New York. June, 2013.
4. Public Audit 01/15/2004 Examination of Title Report.
5. URS Corporation (URS) 01/29/2003 RCRA Facility Investigation Report Addendum Parts 1 & 2.
6. URS Corporation (URS). 2002. RCRA Facility Investigation, Former Phillips Display Components Facility, Seneca Falls, New York for GTE Operations Support Incorporated, Volume 1. June 2002.
7. O'Brien & Gere engineers Inc. 01/08/2002 Historical Chain of Title Report.
8. Chester Environmental 02/28/1995 Supplemental Sampling Visit Investigation Report.
9. Chester Environmental. 1994. Interim Sampling Visit Investigation. Former Philips Display Components Facility, Seneca Falls, New York. March, 1994.

**APPENDIX "A"**

**STANDARD CLAUSES FOR ALL NEW YORK STATE  
RCRA CORRECTIVE ACTION ORDERS**

## APPENDIX A

### STANDARD CLAUSES FOR ALL NEW YORK STATE CORRECTIVE ACTION ORDERS

The parties to the RCRA Corrective Action Order (hereinafter "Order") agree to be bound by the following clauses which are hereby made a part of the Order. The word "Respondent" herein refers to any party to the Order, other than the New York State Department of Environmental Conservation (hereinafter "Department"). For purposes of this Order, Respondent consents that certain provisions of 6 NYCRR 375 shall apply to the extent expressly provided herein.

#### I. Citizen Participation Plan

Within twenty (20) days after the effective date of this Order, Respondent shall submit for review and approval a written citizen participation plan prepared in accordance with Department guidance. Upon approval, the Citizen Participation Plan shall be deemed to be incorporated into and made a part of this Order.

#### II. Development, Performance, and Reporting of Work Plans

##### A. Work Plan Requirements

All activities at the Facility that comprise any element of corrective action shall be conducted pursuant to one or more Department-approved work plans ("Work Plan" or "Work Plans"). The Work Plan(s) under this Order shall address both on-Site and off-Site conditions and shall be developed and implemented in accordance with the provisions in 6 NYCRR § 375-1.6(a), 375-3.6, and 375-6. All Department-approved Work Plans shall be incorporated into and become enforceable parts of this Order. Upon approval of a Work Plan by the Department, Respondent shall implement such Work Plan in accordance with the schedule contained therein. Nothing in this Subparagraph shall mandate that any particular Work Plan be submitted.

The Work Plans shall be captioned as follows:

1. Corrective Action Work Plan: a Work Plan which provides for the development and implementation of final plans and specifications for implementing the remedial alternative set forth in the Statement of Basis (SOB);

2. IRM Work Plan: if the Work Plan provides for an interim remedial measure;
3. "Site Management Plan" if the Work Plan provides for the identification and implementation of institutional and/or engineering controls as well as any necessary monitoring and/or operation and maintenance of the remedy; or
4. "Supplemental" if additional work plans other than those set forth in II.A.1-5 are required to be prepared and implemented.

##### B. Submission/Implementation of Work Plans

1. Respondent may opt to propose one or more additional or supplemental Work Plans (including one or more IRM Work Plans) at any time, which the Department shall review for appropriateness and technical sufficiency.
2. Any proposed Work Plan shall be submitted for the Department's review and approval and shall include, at a minimum, a chronological description of the anticipated activities, a schedule for performance of those activities, and sufficient detail to allow the Department to evaluate that Work Plan.

- i. The Department shall notify Respondent in writing if the Department determines that any element of a Department-approved Work Plan needs to be modified in order to achieve the objectives of the Work Plan as set forth in Subparagraph II.A or to ensure that the corrective action otherwise protects human health and the environment. Upon receipt of such notification, Respondent shall, subject to dispute resolution pursuant to Paragraph XIII, modify the Work Plan.

- ii. The Department may request, subject to dispute resolution pursuant to Paragraph XIII, that Respondent submit additional or supplemental Work Plans for the Facility to complete the corrective action relative to the Facility within thirty (30) Days after the Department's written request.

3. A Site Management Plan, if necessary, shall be submitted in accordance with the schedule

set forth in the IRM Work Plan or Corrective Action Work Plan.

4. During all field activities conducted under a Department-approved Work Plan, Respondent shall have on-Site a representative who is qualified to supervise the activities undertaken in accordance with the provisions of 6 NYCRR 375-1.6(a)(3).

5. A Professional Engineer must stamp and sign all Work Plans other than Site Characterization or RFI/CMS Work Plans.

**C. Submission of Final Reports and Periodic Reports**

1. In accordance with the schedule contained in a Work Plan, Respondent shall submit a final report that meets the requirements set forth at 6 NYCRR 375-1.6(b) and (c).

2. Any final report or final engineering report that includes construction activities shall include "as built" drawings showing any changes made to the remedial design or the IRM.

3. In the event that the final engineering report for the Facility requires Site management, Respondent shall submit an initial periodic report in accordance with the schedule in the Site Management Plan and thereafter in accordance with a schedule determined by the Department. Such periodic report shall be signed by a Professional Engineer or by such other qualified environmental professional as the Department may find acceptable and shall contain a certification as provided at 6 NYCRR 375-1.8(h)(3). Respondent may petition the Department for a determination that the institutional and/or engineering controls may be terminated. Such petition must be supported by a statement by a Professional Engineer that such controls are no longer necessary for the protection of public health and the environment. The Department shall not unreasonably withhold its approval of such petition.

4. Within sixty (60) days of the Department's approval of a Final Report, Respondent shall submit such additional Work Plans as is required by the Department in its approval letter of such Final Report. Failure to submit any additional

Work Plans within such period shall be a violation of this Order.

**D. Review of Submittals**

i. The Department shall make a good faith effort to review and respond in writing to each submittal Respondent makes pursuant to this Order within sixty (60) Days. The Department's response shall be consistent with 6 NYCRR 375-1.6(d), and include an approval, modification request, or disapproval of the submittal, in whole or in part.

ii. Upon the Department's written approval of a Work Plan, such Department-approved Work Plan shall be deemed to be incorporated into and made a part of this Order and shall be implemented in accordance with the schedule contained therein.

iii. If the Department modifies or requests modifications to a submittal, it shall specify the reasons for such modification(s). Within fifteen (15) Days after the date of the Department's written notice that Respondent's submittal has been disapproved, Respondent shall notify the Department of its election in accordance with 6 NYCRR 375-1.6(d)(3). If Respondent elects to modify or accept the Department's modifications to the submittal, Respondent shall make a revised submittal that incorporates all of the Department's modifications to the first submittal in accordance with the time period set forth in 6 NYCRR 375-1.6(d)(3). In the event that Respondent's revised submittal is disapproved, the Department shall set forth its reasons for such disapproval in writing and Respondent shall be in violation of this Order unless it invokes dispute resolution pursuant to Paragraph XIII and its position prevails. Failure to make an election or failure to comply with the election is a violation of this Order.

iv. If the Department disapproves a submittal, it shall specify the reasons for its disapproval. Within fifteen (15) Days after the date of the Department's written notice that Respondent's submittal has been disapproved, Respondent shall notify the Department of its election in accordance with 6 NYCRR 375-1.6(d)(4). If Respondent elects to modify the submittal, Respondent shall make a revised submittal that addresses all of the Department's stated reasons for disapproving the first submittal in accordance with the time period set forth

in 6 NYCRR 375-1.6(d)(4). In the event that Respondent's revised submittal is disapproved, the Department shall set forth its reasons for such disapproval in writing and Respondent shall be in violation of this Order unless it invokes dispute resolution pursuant to Paragraph XIII and its position prevails. Failure to make an election or failure to comply with the election is a violation of this Order.

2. Within thirty (30) Days after the Department's approval of a final report, Respondent shall submit such final report, as well as all data gathered and drawings and submittals made pursuant to such Work Plan, in an electronic format acceptable to the Department. If any document cannot be converted into electronic format, Respondent shall submit such document in an alternative format acceptable to the Department.

#### E. Institutional/Engineering Control Certification

In the event that the SOB for the Facility, if any, or any Work Plan for the Facility, requires institutional or engineering controls, Respondent shall submit a written certification in accordance with 6 NYCRR 375-1.8(h)(3) and 375-3.8(h)(2).

#### III. Penalties

A. 1. Respondent's failure to comply with any term of this Order constitutes a violation of this Order and the ECL. Nothing herein abridges Respondent's right to contest any allegation that it has failed to comply with this Order.

2. Payment of any penalties shall not in any way alter Respondent's obligations under this Order.

B. 1. Respondent shall not suffer any penalty or be subject to any proceeding or action in the event it cannot comply with any requirement of this Order as a result of any Force Majeure Event as provided at 6 NYCRR 375-1.5(b)(4). Respondent must use best efforts to anticipate the potential Force Majeure Event, best efforts to address any such event as it is occurring, and best efforts following the Force Majeure Event to minimize delay to the greatest extent possible. "Force Majeure" does not include Respondent's economic inability to comply with any obligation, the failure of Respondent to make

complete and timely application for any required approval or permit, and non-attainment of the goals, standards, and requirements of this Order.

2. Respondent shall notify the Department in writing within five (5) Days of the onset of any Force Majeure Event. Failure to give such notice within such five (5) Day period constitutes a waiver of any claim that a delay is not subject to penalties. Respondent shall be deemed to know of any circumstance which it, any entity controlled by it, or its contractors knew or should have known.

3. Respondent shall have the burden of proving by a preponderance of the evidence that (i) the delay or anticipated delay has been or will be caused by a Force Majeure Event; (ii) the duration of the delay or the extension sought is warranted under the circumstances; (iii) best efforts were exercised to avoid and mitigate the effects of the delay; and (iv) Respondent complied with the requirements of Subparagraph III.B.2 regarding timely notification.

4. If the Department agrees that the delay or anticipated delay is attributable to a Force Majeure Event, the time for performance of the obligations that are affected by the Force Majeure Event shall be extended for a period of time equivalent to the time lost because of the Force Majeure Event, in accordance with 375-1.5(4).

5. If the Department rejects Respondent's assertion that an event provides a defense to non-compliance with this Order pursuant to Subparagraph III.B, Respondent shall be in violation of this Order unless it invokes dispute resolution pursuant to Paragraph XIII and Respondent's position prevails.

#### IV. Entry upon Facility

A. Respondent hereby consents, upon reasonable notice under the circumstances presented, to entry upon the Facility (or areas in the vicinity of the Facility which may be under the control of Respondent) by any duly designated officer or employee of the Department or any State agency having jurisdiction with respect to matters addressed pursuant to this Order, and by any agent, consultant, contractor, or other person so authorized by the Department, all of whom shall abide by the health and safety rules in effect for the Facility, for inspecting, sampling, copying records related to the

contamination at the Facility, 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 Facility, including access to a telephone, to the extent available, and (ii) permit the Department full access to all non-privileged records relating to 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 on a continuing basis within ninety (90) days of receipt of the data from the lab. In the event Respondent is unable to obtain any authorization from third-party property owners necessary to perform its obligations under this Order, the Department may, consistent with its legal authority, assist in obtaining such authorizations.

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.

#### V. Payment of State Costs

A. Within forty-five (45) days after receipt of an itemized invoice from the Department, Respondent shall pay to the Department a sum of money which shall represent reimbursement for State Costs. For purposes of this Order, State Costs shall be defined by 6 NYCRR 375-1.5 (b)(3)(i). Failure to timely pay any invoice will be subject to late payment charge and interest at a rate of 9% from the date the payment is due until the date the payment is made.

B. Costs shall be documented as provided by 6 NYCRR 375-1.5(b)(3). The Department shall not be required to provide any other documentation of costs, provided however, that the Department's records shall be available consistent with, and in accordance with, Article 6 of the Public Officers Law.

C. Each such payment shall be made payable to the New York State Department of Environmental Conservation and shall be sent to:

Director, Bureau of Program Management  
Division of Environmental Remediation  
New York State Department of Environmental  
Conservation  
625 Broadway  
Albany, New York 12233-7012

D. The Department shall provide written notification to the Respondent of any change in the foregoing addresses.

E. If Respondent objects to any invoiced costs under this Order, the provisions of 6 NYCRR 375-1.5 (b)(3)(v) and (vi) shall apply. Objections shall be sent to the Department as provided under subparagraph V.C above.

F. In the event of non-payment of any invoice within the 45 days provided herein, the Department may seek enforcement of this provision pursuant to Paragraph III or the Department may commence an enforcement action for non-compliance.

#### VI. Reservation of Rights

A. Except as provided at 6 NYCRR 375-1.9, 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), 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. The existence of this Order or Respondent's compliance with it shall not be construed as an admission of liability, fault, wrongdoing, or breach of standard of care by Respondent, and shall not give rise to any presumption of law or finding of fact, or 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 Facility 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).

#### VII. Indemnification

Respondent shall indemnify and hold the Department, the State of New York, the Trustee of the State's natural resources, and their representatives and employees harmless as provided by 6 NYCRR 375-2.5(a)(3)(i).

#### VIII. Public Notice

A. Within thirty (30) Days after the effective date of this Order, Respondent shall provide notice consistent with the requirements set forth in 6 NYCRR 375-1.5(a). Within sixty (60) Days of such filing, Respondent shall provide the Department with a copy of such instrument certified by the recording officer to be a true and faithful copy.

B. If Respondent proposes to transfer by sale or lease the whole or any part of Respondent's interest in the Facility, or becomes aware of such transfer, Respondent shall, not fewer than forty-five (45) Days before the date of transfer, or within forty-five (45) Days after becoming aware of such conveyance, notify the Department in writing of the identity of the transferee and of the nature and proposed or actual date of the conveyance, and shall notify the transferee in writing, with a copy to the Department, of the applicability of this Order. However, such obligation shall not extend to a conveyance by means of a corporate reorganization or merger or the granting of any rights under any mortgage, deed, trust, assignment, judgment, lien, pledge, security agreement, lease, or any other right accruing to a person not affiliated with Respondent to secure the repayment of money or the performance of a duty or obligation.

#### IX. Change of Use

Applicant shall notify the Department at least sixty (60) days in advance of any change of use

which is proposed for the Facility, in accordance with the provisions of 6 NYCRR 375-1.11(d). For purposes of this Order, "change of use" shall be as defined in 6 NYCRR 375-2.2(a). In the event the Department determines that the proposed change of use is prohibited, the Department shall notify Applicant of such determination within forty-five (45) days of receipt of such notice.

#### X. Environmental Easement

A. If a Statement of Basis (SOB) or other approved Work Plan for the Facility relies upon one or more institutional and/or engineering controls, Respondent (or the owner of the Facility) shall submit to the Department for approval an Environmental Easement to run with the land in favor of the State which complies with the requirements of ECL Article 71, Title 36, and 6 NYCRR 375-1.8(h)(2). Upon acceptance of the Environmental Easement by the State, Respondent shall comply with the requirements of 6 NYCRR 375-1.8(h)(2).

B. If the SOB provides for no action other than implementation of one or more institutional controls, Respondent shall cause an environmental easement to be recorded under the provisions of Subparagraph X.A.

C. If Respondent does not cause such environmental easement to be recorded in accordance with 6 NYCRR 375-1.8(h)(2), the Department may file an Environmental Notice on the Facility.

#### XI. Progress Reports

Respondent shall submit a written progress report of its actions under this Order to the parties identified in Subparagraph IV.A.1 of the Order by the 10th day of each month commencing with the month subsequent to the approval of the first Work Plan and ending with the Termination date as set forth in Paragraph XII, unless a different frequency is set forth in a Work Plan. Such reports shall, at a minimum, include: all actions relative to the Facility during the previous reporting period and those anticipated for the next reporting period; all approved activity modifications (changes of work scope and/or schedule); all results of sampling and tests and all other data received or generated by or on behalf of Respondent in connection with this Facility, whether under this Order or otherwise, in the previous

reporting period, including quality assurance/quality control information; information regarding percentage of completion; unresolved delays encountered or anticipated that may affect the future schedule and efforts made to mitigate such delays; and information regarding activities undertaken in support of the Citizen Participation Plan during the previous reporting period and those anticipated for the next reporting period.

## XII. Termination of Order

A. This Order will terminate upon the Department's written determination that Respondent has completed all phases of the Corrective Action Program (including Site Management), in which event the termination shall be effective on the 5th Day after the date of the Department's letter stating that all phases of the Corrective Action Program have been completed.

B. Notwithstanding the foregoing, the provisions contained in Paragraphs V and VII shall survive the termination of this Order and any violation of such surviving Paragraphs shall be a violation of this Order and the ECL, subjecting Respondent to penalties as provided under Paragraph III so long as such obligations accrued on or prior to the Termination Date.

## XIII. Dispute Resolution

A. In the event disputes arise under this Order, Respondent may, within fifteen (15) Days after Respondent knew or should have known of the facts which are the basis of the dispute, initiate dispute resolution in accordance with the provisions of 6 NYCRR 375-1.5(b)(2).

B. All cost incurred by the Department associated with dispute resolution are State costs subject to reimbursement pursuant to this Order.

C. Nothing contained in this Order shall be construed to authorize Respondent to invoke dispute resolution with respect to the remedy selected by the Department in the SOB or any element of such remedy, nor to impair any right of Respondent to seek judicial review of the Department's selection of any remedy.

## XIV. Financial Assurance

Within thirty (30) Days following the Department's approval of the Corrective Action Work Plan, Respondent shall provide to the Department a cost estimate and shall provide financial assurance for implementation of the Corrective Action Work Plan pursuant to one of the methods set forth in 6 NYCRR Part 373-2.8(f). While this Order is in effect, the cost estimate will be subject to adjustment for inflation as provided in 6 NYCRR Part 373-2.8(e).

## XV. Miscellaneous

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

B. 1. Respondent shall use best efforts to obtain all Facility access, permits, easements, approvals, institutional controls, and/or authorizations necessary to perform Respondent's obligations under this Order, including all Department-approved Work Plans and the schedules contained therein. If, despite Respondent's best efforts, any access, permits, easements, approvals, institutional controls, or authorizations cannot be obtained, Respondent shall promptly notify the Department and include a summary of the steps taken. The Department may, as it deems appropriate and within its authority, assist Respondent in obtaining same.

2. If an interest in property is needed to implement an institutional control required by a Work Plan and such interest cannot be obtained, the Department may require Respondent to modify the Work Plan pursuant to 6 NYCRR 375-1.6(d)(3) to reflect changes necessitated by Respondent's inability to obtain such interest.

C. Respondent shall notify the Department, in writing, of any additional Solid Waste Management Units (SWMUs) which are identified during the course of implementing any activities under this Order within thirty (30) Days of discovery. The Department may request additional remedial activities in accordance with Paragraph II.B.2.ii.

D. 1. The terms of this Order shall constitute the complete and entire agreement between the

Department and Respondent concerning the implementation of the activities required by this Order. No term, condition, understanding, or agreement purporting to modify or vary any term of this Order shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestion, or comment by the Department shall be construed as relieving Respondent of Respondent's obligation to obtain such formal approvals as may be required by this Order. In the event of a conflict between the terms of this Order and any Work Plan submitted pursuant to this Order, the terms of this Order shall control over the terms of the Work Plan(s). Respondent consents to and agrees not to contest the authority and jurisdiction of the Department to enter into or enforce this Order.

2. i. Except as set forth herein, if Respondent desires that any provision of this Order be changed, Respondent shall make timely written application to the Commissioner with copies to the parties listed in Subparagraph IV.A.1 of this Order.

ii. If Respondent seeks to modify an approved Work Plan, a written request shall be made to the Department's project manager, with copies to the parties listed in Subparagraph IV.A.1 of this Order.

iii. Requests for a change to a time frame set forth in this Order shall be made in writing to the Department's project attorney and project manager; such requests shall not be unreasonably denied and a written response to such requests shall be sent to Respondent promptly.

E. 1. If there are multiple parties signing this Order, the term "Respondent" shall be read in the plural, the obligations of each such party under this Order are joint and several, and the insolvency or failure by any Respondent to implement any obligations under this Order shall not affect the obligations of the remaining Respondent(s) under this Order.

2. If Respondent is a partnership, the obligations of all general partners (including limited partners who act as general partners) under this Order

are joint and several and the insolvency or failure of any general partner to implement any obligations under this Order shall not affect the obligations of the remaining partner(s) under this Order.

3. Notwithstanding the foregoing Subparagraphs XV.E.1 and 2, if multiple parties sign this Order as Respondents but not all of the signing parties elect to implement a Work Plan, all Respondents are jointly and severally liable for each and every obligation under this Order through the completion of activities in such Work Plan that all such parties consented to; thereafter, only those Respondents electing to perform additional work shall be jointly and severally liable under this Order for the obligations and activities under such additional Work Plan(s). The parties electing not to implement the additional Work Plan(s) shall have no obligations under this Order relative to the activities set forth in such Work Plan(s).

F. Respondent shall be entitled to receive contribution protection and/or to seek contribution to the extent authorized by law.

G. Unless otherwise expressly provided herein, terms used in this Order which are defined in ECL Article 27 or in regulations promulgated thereunder shall have the meaning assigned to them under said statute or regulations.

H. Respondent's obligations under this Order represent payment for or reimbursement of response costs, and shall not be deemed to constitute any type of fine or penalty.

I. Respondent and Respondent's successors and assigns shall be bound by this Order. Any change in ownership or corporate status of Respondent shall in no way alter Respondent's responsibilities under this Order.

J. This Order may be executed for the convenience of the parties hereto, individually or in combination, in one or more counterparts, each of which shall be deemed to have the status of an executed original and all of which shall together constitute one and the same.

### 1. HISTORICAL CHAIN OF TITLE

1. Sylvania Electric Products, Inc., a Massachusetts corporation acquired title to the property prior to 1940.

2. DEED:

RECORDED: 03-02-1959  
GRANTOR: Sylvania Electric Products, Inc., a Massachusetts corporation  
GRANTEE: Sylvania Electric Products, Inc., a Delaware corporation  
INSTRUMENT: Bk 287, Pg 193

3. DEED:

RECORDED: 06-27-1981  
GRANTOR: GTE Products Corporation, formerly known as GTE Sylvania Incorporated, formerly known as Sylvania Electric Products, Inc., a Delaware corporation, also formerly known as Sylvania Electric Products, Inc., a Massachusetts corporation  
GRANTEE: North American Philips Consumer Electronics Corporation, a Delaware corporation  
INSTRUMENT: Bk 388, Pg 1038

4. DEED:

RECORDED: 12-13-1989  
GRANTOR: North American Philips Corporation, successor in interest to North American Philips Consumer Electronics Corporation, a Delaware corporation  
GRANTEE: Seneca County Industrial Development Agency  
INSTRUMENT: Bk 462, Pg 272