

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the
Development and Implementation
of a Remedial Program for an
Inactive Hazardous Waste Disposal
Site, Under Article 27, Title 13,
and Article 71, Title 27 of the
Environmental Conservation Law
of the State of New York
by

ORDER
ON
CONSENT
INDEX #B8-0015-91-07

CORNING INCORPORATED, f/k/a,
CORNING GLASS WORKS;
WESTINGHOUSE ELECTRIC CORPORATION; AND
EDWARD ALLEN

Respondents.

Site Code # 851001

WHEREAS,

1. The New York State Department of Environmental Conservation (the "Department") is responsible for the enforcement of Article 27, Title 13 of the Environmental Conservation Law of the State of New York ("ECL"), entitled "Inactive Hazardous Waste Disposal Sites". This Order is entered into pursuant to the Department's authority under inter alia, ECL Article 27, Title 13, ECL Section 3-0301, and is a State administrative settlement with the meaning of § 113(f) of CERCLA (42 U.S.C. Section 9613(f)).

2. Respondent Corning Incorporated, f/k/a, Corning Glass Works ("Corning") is a corporation organized and existing under the laws of the State of New York whose principal office is located in Corning, New York.

3. Respondent Westinghouse Electric Corporation ("Westinghouse") is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania whose principal

office is located in Pittsburgh, Pennsylvania, and regularly does business within the State of New York and owns, maintains and operates industrial facilities within the State of New York.

4. Respondents Corning and Westinghouse are referred to as "Generator Respondents".

5. Respondent Edward Allen is the present owner and the former owner and operator, at all times relevant to this Order, of property located on Bailey Creek Road in the town of Corning, Steuben County, New York, known as the Edward Allen Landfill (the "Site"), a map of which is attached hereto as Appendix "A".

6. A. In the course of their operations the Department alleges the Generator Respondents were among the entities which utilized the Site for the disposal of a variety of different kinds of waste among which were hazardous wastes.

B. The Generator Respondents allege that the use of the site by the Generator Respondents was, at the time of disposal, entirely lawful.

7. The Department has determined that the Site is an inactive hazardous waste disposal site, as that term is defined at ECL Section 27-1301.2, and presents a significant threat to the public health or environment. The Site has been listed in the Registry of Inactive Hazardous Waste Disposal Sites in New York State as Site Number 851001. The Department has

classified the Site as a Classification "2" pursuant to ECL Section 27-1305.4.b.

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

B. Any person under order pursuant to ECL Section 1313.3.a has a duty imposed by Article 27, Title 13 to carry out the remedial program committed to under order.

C. The Department also has the power, pursuant to the ECL, to provide for the prevention and abatement of all water, land, and air pollution.

9. A. Respondents Corning and Westinghouse entered into an Order on Consent, Index #B8-0015-84-01, with the Department on September 24, 1987 (the "RI/FS Consent Order"). Pursuant to the RI/FS Consent Order Respondents Corning and Westinghouse performed a Remedial Investigation/Feasibility Study for the Site.

B. The Department affirms that Respondents Corning and Westinghouse have fulfilled all affirmative obligations

under and imposed by the RI/FS Consent Order. Furthermore, with the exception of any obligation to indemnify the Department or to pay Department costs the Department releases Respondents Corning and Westinghouse from all liability under the RI/FS Consent Order, and covenants not to sue Respondents Corning and Westinghouse thereon.

10. Following a period of public comment, the Department selected a final remedial alternative for the Site in a Record of Decision ("ROD") on March 2, 1992. The ROD is attached to this Order as Appendix "B" and shall be an enforceable part hereof.

11. The Department and Respondents agree that the goal of this Order is for Respondents to (i) develop and implement an inactive hazardous waste disposal site remedial program ("Remedial Program") for the Site, consistent with the NCP, that shall include design and implementation, and operation, maintenance and monitoring of the selected remedial alternative.

12. Without the admission, adjudication or finding of liability or of any issue of law or fact, and solely for the purpose of the entry and implementation of this Order, Respondents, having hereby waived their right to a hearing as provided by law for those matters expressly addressed in this Order, consent to this Order and consent to and agree not to contest the authority or jurisdiction of the Department to enter into or enforce this Consent Order.

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

I. All activities and submittals required by this Order shall address, as appropriate, both the contamination at the Site and the off-Site contamination identified and addressed in the Remedial Investigation/Feasibility Study.

II. Review of consultants

Respondents shall retain professional consultants, contractors, laboratories, quality assurance/quality control personnel and data validators that are acceptable to the Department to perform the technical, engineering and analytical obligations required by this Order. Furthermore, activities performed during the Remedial Program, pursuant to this Order, shall be under the direction and supervision of a qualified Project Management Consultant. The experience, capabilities and qualifications of the Project Management Consultant shall be submitted to the Department within 30 days of the effective date of this Order. Furthermore, the experience, capabilities and qualifications of any other firms or individuals selected by Respondents to perform any key engineering, consulting or laboratory analytical activities as part of the Remedial Program shall be submitted to the Department for approval at least 15 days before such firm or individual performs such activities. The Department's approval of these firms or individuals shall be obtained prior to initiation of any activities for which the Respondents and such firms or

individuals will be responsible and the Department's approval shall not be unreasonably withheld.

III. Review of Submittals

A. (1) The Department shall review each of the submittals Respondents makes pursuant to this Order to determine whether it was prepared, and whether the work done to generate the data and other information in the submittal was done, in accordance with this Order and generally and currently accepted engineering principles and practices as well as the generally and currently accepted principles and practices of the environmental remediation industry. The Department shall notify Respondents in writing of its approval or disapproval of each submittal. The Department shall make reasonable efforts to provide such notification within thirty days of receipt of the submittal by the project manager for the site. All Department-approved submittals shall be attached to and shall become an enforceable part of, this Order.

(2) (a) If the Department disapproves a submittal, it shall so notify Respondents in writing and shall specify, in detail, the reasons for its disapproval. Within 30 days (or such longer time period as is designated by the Department in its written notice) after receiving written notice that its submittal has been disapproved, Respondents shall make a revised submittal to the Department that addresses and resolves all of the Department's stated reasons for disapproving the first submittal. Respondent may request

additional time for making revised submittals and the Department shall not unreasonably deny such request.

(b) After receipt of the revised submittal, the Department shall notify Respondents in writing of its approval or disapproval. The Department shall make reasonable efforts to provide such notification within thirty days of receipt of the revised submittal by the project manager for the site. If the Department disapproves the revised submittal, unless within ten days of receipt of written notice of disapproval Respondent requests an opportunity to respond to the Department's objections pursuant to the Dispute Resolution provision in Paragraph XIV of this Order, Respondents shall be in violation of this Order and the Department may take any action or pursue whatever rights it has pursuant to any provision of statutory or common law. If the Department approves the revised submittal, it shall be incorporated into and become an enforceable part of this Order.

B. The Department may require Respondents to modify and/or amplify and expand a submittal if the Department reasonably determines, as a result of reviewing data generated by an activity required under this Order or as a result of reviewing any other data or facts, that further work is necessary. Respondents hereby agree to perform such additional work, if, and to the extent that, such additional work is reasonably necessary to implement and complete the remedy specified in the ROD. If Respondents disagree with the

Department requirement of modification, amplification or expansion they shall nevertheless perform such additional work subject to the Dispute Resolution provision in Paragraph XIV.G. of this Order. Respondents shall be in violation of this Order unless they perform the additional work or within the 10 day period following written notification by the Department of the requirement of modification, amplification and/or expansion they invoke the Dispute Resolution provision in Paragraph XIV.G.

IV. Remedial Design Contents

A. Within 45 days after the effective date of this Order, Respondents shall submit a work plan for the preparation of the following documents:

(1) a Preliminary Remedial Design Report to implement the Department-selected remedial alternative at the Site (the "Preliminary Design"). This Preliminary Design will include the conceptual design, permit requirements, the design parameters to be used in the Remedial Design and a work plan for any environmental sampling or interim remedial measures which are required by the ROD.

(2) an Initial Remedial Design (the "Initial Design"). The Initial Design shall include the first draft of design drawings and specifications.

(3) the Final Remedial Design (the "Final Design").

B. The Preliminary Design, the Initial Design and Final Design shall be prepared and certified by an engineer licensed to practice by the State of New York, who may be an employee of Respondents, or an individual or member of a firm which is authorized to offer engineering services in accordance with Article 145 of the New York State Education Law (a "licensed engineer").

C. The Preliminary Design, the Initial Design and the Final Design (the "Remedial Design") Remedial Design shall include as appropriate the following:

1. The means by which each essential element of the selected remedial alternative will be implemented including, but not limited to:

a. the collection, destruction, treatment and/or disposal of hazardous wastes and their constituents and degradation products, and any soil or other materials contaminated thereby;

b. the collection, destruction, treatment, and/or disposal of contaminated groundwater, leachate and air;

c. physical security and posting of the Site;

d. health and safety of persons living and/or working at or in the vicinity of the Site;

e. quality control and quality assurance procedures and protocols to be applied during implementation of the Remedial Design; and

f. monitoring which integrates needs which are present on-Site and off-Site during implementation of the Department-selected remedial alternative.

2. "Biddable Quality" documents for the Remedial Design including, but not limited to, documents and specifications prepared and certified by a licensed engineer. These plans shall satisfy all applicable local, state and federal laws, rules and regulations;

3. A time schedule for implementation of the Remedial Design;

4. The parameters, conditions, procedures, and protocols to determine the effectiveness of the Remedial Design, including a schedule for periodic sampling of groundwater monitoring wells on-Site and off-Site;

5. A description of operation, maintenance, and monitoring activities to be undertaken after the Department has approved construction of the Remedial Design, including the number of years during which such activities will be performed;

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

7. A health and safety plan for the protection of persons at and in the vicinity of the Site during construction and after completion of construction. This plan shall be prepared in accordance with 29 C.F.R. 1910 by a certified health and safety professional.

V. Remedial Design Construction

A. Within 90 days of the Department's approval of the Final Design, Respondents shall commence its construction by awarding the construction contract.

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

C. During implementation of all construction activities identified in the Remedial Design, Respondents shall have on-Site a full-time representative who is qualified to inspect the work done.

D. Within 90 days after completion of the construction activities identified in the Remedial Design, Respondents shall submit "as-built" drawings, a final engineering report (each including all changes made to the Remedial Design during construction), a final operation, maintenance and monitoring plan, and a certification that construction was completed in accordance with the approved Remedial Design. This certification shall be provided by a licensed engineer.

E. The Department shall review and inspect the progress of the Remedial Program, and shall provide verbal or

written comments concerning the progress to Respondents' consultant when deemed appropriate or necessary by the Department. If the Department identifies any noncompliance with the Remedial Design the Department shall make reasonable efforts to provide verbal or written notice to Respondents within 60 days of discovery of such noncompliance. After receipt of the "as-built" drawings, final engineering report and certification, the Department shall notify Respondents in writing whether it is satisfied that all construction activities have been completed in compliance with the Remedial Design. The Department shall make reasonable efforts to review the "as-built" drawings, final engineering report and certification and provide written comments to Respondent within sixty days of receipt of such documents by the project manager for the site.

F. Prior to its acceptance and approval of the engineer's certification that construction was completed in accordance with the approved Remedial Design, the Department may require the Respondent to modify the Remedial Design and Construction if the Department reasonably determines that such modification is necessary due to:

(1) environmental conditions on-Site or off-Site which are related to the presence of hazardous wastes at the Site and were unknown to the Department at the time of the ROD, or

(2) information received, in whole or in part, after the Department's issuance of the ROD, where such unknown environmental conditions or such information indicates that the Remedial Program is not protective of human health or the environment.

G. If the Department concludes that any element of the Remedial Program fails to achieve its objectives or otherwise fails to protect human health or the environment, the Department may require Respondents to take whatever action which is within the Department's legal authority to require and which is necessary to achieve those objectives or to ensure that the Remedial Program otherwise protects human health and the environment. Respondents shall have the right within a 10 day period following receipt of notice of any such requirement to invoke the dispute resolution provision in Paragraph XIV of this Order.

VI. Reporting Requirements

Respondents shall submit to each individual on a contact list to be developed by the Department and Respondents a copy of a written monthly progress report that: (i) describes the actions which have been taken toward achieving compliance with this Order during the previous month; (ii) includes a summary of all results of sampling and tests and all other data received or generated by Respondents or their contractors or agents in the previous month in connection with the performance of the Remedial Program, whether conducted pursuant to this

Order or conducted independently by Respondents; (iii) identifies all work plans, reports and other deliverables required by this Order which were completed and submitted during the previous month; (iv) describes all actions, including, but not limited to, data collection and implementation of work plans, which are scheduled for the next month and provide other information relating to the progress at the Site; (v) includes information regarding percentage of completion, unresolved delays encountered or anticipated that may affect the future schedule for implementation of the Respondents' obligations under the Order, and description of efforts made to mitigate those delays or anticipated delays; (vi) includes any modifications to any work plans that Respondents have proposed to the Department or that have been approved by the Department; and (vii) describes all activities undertaken in support of the Citizen Participation Plan during the previous month and those to be undertaken in the next month. Respondents shall submit the progress report to the individuals on the contact list by the tenth day of every month following the effective date of this Consent Order.

VII. Penalties

A. (1) Except with respect to any extensions allowed by the Department in writing, or to the extent excused by the Paragraph VII.B of this Order, the failure of any Respondent to comply with any term of this Order shall be a violation of this Order.

(2) Respondents, or, in the case of an express individual obligation, the non-complying Respondent shall be liable for payment of the sums set forth below as stipulated penalties for each day or part thereof that such Respondent is or Respondents are in material violation of the terms of this Order. Respondent Edward Allen shall be liable for payment of stipulated penalties only for material violations of those tasks under the Consent Order which are solely his responsibility. All penalties begin to accrue on the first day such Respondent is in violation of the terms of this Order and continue to accrue through the final day of correction of any violation. Such sums shall be due and payable within 45 days of receipt of notification from the Department assessing the penalties. If such payment is not received within 45 calendar days after such Respondent receives such notification from the Department, and Respondents do not invoke the Dispute Resolution Provisions of this Order, within 10 days of receipt of notification of penalty assessment, interest shall be payable at the annual rate of six percent on the overdue amount from the day on which it was due through, and including, date of payment. Penalties shall be paid by check or money order, made payable to "New York State Department of Environmental Conservation" and shall be delivered personally or by certified mail, return receipt requested, to the Director, Division of Environmental Enforcement, N.Y.S.D.E.C., 50 Wolf Road, Albany, New York 12233-5500. Except when excused or waived in writing

by the Department, payment of the penalties shall not in any way alter such Respondent's obligation to complete performance under the terms of this Order. Stipulated penalties shall be due and payable under this paragraph pursuant to the following schedule:

Class I Noncompliance Penalty Schedule

<u>Day</u>	<u>Penalty Per Day</u>
1 - 15	\$ 5,000
16 - 30	10,000
31 - and beyond	15,000

For the purposes of this Order, Class I Noncompliance shall be defined only as the failure to submit the Final Design on the date required by any applicable schedule.

Class II Noncompliance Penalty Schedule

<u>Day</u>	<u>Penalty Per Day</u>
1 - 30	\$ 500
31 - and beyond	\$1,000

For the purpose of this Order, Class II Noncompliance shall be defined as either of the following:

- ° Failure to submit any deliverable other than the Final Design in accordance with any applicable schedule; and
- ° Failure to perform any other activities necessary to the performance of the Remedial Program in accordance with the applicable schedule and this Order.

B. Respondents shall not suffer any penalty under this Order or be subject to any proceeding or action, if they cannot comply with any requirement hereof because of an act of God, war, riot or other event beyond Respondents' control. An act of God is an unforeseeable disaster arising exclusively from natural causes which the exercise of ordinary human prudence could not have prevented. Respondents shall, within five days of obtaining knowledge of any such condition, notify the Department in writing. Respondents shall include in such notice the measures taken and to be taken by Respondents to prevent or minimize any delays and shall request an appropriate extension or modification of this Order. Failure to give such notice in a timely manner shall constitute a waiver of any claim that a delay is not subject to penalties. Respondents shall have the burden of proving that an event is a defense to compliance with this Order pursuant to this subparagraph.

VIII. Entry upon Site

A. Respondent Edward Allen hereby consents to the entry upon the Site or areas in the vicinity of the Site which are under his control by any designated employee, consultant, contractor or agent of the Generator Respondents, or by any duly designated employee, consultant, contractor, or agent of the Department or any State agency for purposes of inspection, sampling, and testing and to ensure Respondents' compliance with this Order. Respondents shall provide the Department with reasonable access to a telephone at the site, and shall permit

the Department reasonable access to all records and job meetings.

B. To the extent that Respondents require access to land other than land owned by Edward Allen to properly perform the Remedial Program, Respondents will use reasonable efforts to obtain access agreements from the present owners or lessees within 45 days of the effective date of this Order, or, if the need for access to particular properties does not become evident to Respondents before the effective date of this Order, then within 45 days of the date on which the need for such access become evident. Such access agreements shall provide reasonable access for the Department, its contractors and oversight officials, and Respondents, their contractors and authorized representatives. In the event that Respondents are not able to obtain such access agreements, Respondents shall promptly notify the Department regarding all efforts to, and the inability to, obtain such access.

IX. Payment of Department Costs

Within 30 days after receipt of an itemized invoice from the Department, Respondents shall pay to the Department a sum of money not to exceed \$145,000.00 which shall represent reimbursement for the Department's expenses including, but not limited to, direct labor, overhead, travel, analytical costs, and contractor costs incurred by the State of New York for work performed at the Site to date, as well as for negotiating this Order, reviewing and revising submittals made pursuant to this

Order, overseeing activities conducted pursuant to this Order, and collecting and analyzing samples. Such payment shall be made by check payable to the Department of Environmental Conservation. Payment shall be sent to the Bureau of Program Management, Division of Hazardous Waste Remediation, N.Y.S.D.E.C., 50 Wolf Road, Albany, NY 12233. Itemization of the costs shall include an accounting of personal services indicating the employee name, title, biweekly salary, and time spent (in hours) on the project during the billing period. The Department's approved fringe benefit and indirect cost rates shall be applied. Non-personal service costs shall be summarized by category of expense (e.g., supplies, materials, travel, contractual).

X. Department Reservation of Rights

A. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting any of the Department's rights including, but not limited to, the following:

1. the Department's right to bring any action or proceeding against anyone other than Respondents, their employees, servants, agents, successors, and assigns;
2. the Department's right to enforce this Order against Respondents, their employees, servants, agents, successors and assigns in the event any Respondent fails to satisfy any of the terms hereof;

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

4. the Department's rights to gather information and to enter and inspect property and premises.

B. Respondents reserve any and all rights at laws, in equity or otherwise with respect to the Department, the Site and this Order.

C. If, after review, the Department accepts and approves the engineer's certification that construction of the Remedial Program was completed in accordance with the approved Remedial Design, then, unless the Department determines that a supplementary remedial program is required, and except for the provisions of Paragraphs IV(C)(6), V(G), VII, X and XI hereof, and except for the future Operation and Maintenance of the site, reimbursement of Department expenditures at the Site, and any Natural Resource Damage claims that may arise, such acceptance shall constitute a release for each and every claim, demand, remedy or action whatsoever against Respondents and their respective directors, officers, employees, agents, successors and assigns, which the Department has or may have pursuant to Article 27, Title 13 of the ECL relative to or arising from the disposal of hazardous wastes at the Site; provided, however, that the Department specifically reserves

all of its rights concerning, and any such release and satisfaction shall not extend to, any investigation or remediation the Department deems necessary due to:

(1) environmental conditions on-site or off-site which are related to the disposal of hazardous wastes at the Site and were unknown to the Department at the time of its issuance of the ROD; or

(2) information received, in whole or in part, after the Department's issuance of the ROD, and such unknown environmental conditions or information indicates that the Remedial Program is not protective of human health or the environment. The Department shall notify the Respondents of such environmental conditions or information and its basis for determining that the Remedial Program is not protective of human health and the environment.

This release shall inure only to the benefit of the Respondents, and their respective directors, officers, employees, agents, successors and assigns and such beneficiaries shall be automatically entitled to such contribution protection as may be available under State or Federal law, including, without limitation, Section 113 of CERCLA.

Nothing herein shall be construed as barring, diminishing, adjudicating or in any way affecting any legal or equitable rights or claims, actions, suits, causes of action or demands whatsoever that the Department may have against anyone

other than Respondents, and their respective directors, officers, employees, agents, successors and assigns.

D. Nothing contained in this Order shall be construed to prohibit the Commissioner or his duly authorized representative from exercising any summary abatement powers with respect to the Site whenever the commissioner finds, after investigation, that any person is causing, engaging in or maintaining a condition or activity concerning, relating to, or affecting the Site which, in the judgment of the commissioner, presents an imminent danger to the health or welfare of the people of the State or results in or is likely to result in irreversible or irreparable damage to natural resources, and relates to the prevention and abatement powers of the commissioner and it therefore appears to be prejudicial to the interests of the people of the state to delay action until an opportunity for a hearing can be provided.

XI. Indemnification

Respondents shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless for all claims, suits, actions, damages and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Order by Respondents, their directors, officers, employees, servants, agents, successors or assigns. Respondents shall not indemnify the Department or the State of New York for unlawful, willful

or malicious acts or omissions on the part of the State, State agencies or their officers, employees or agents.

XII. Public Notice

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

B. If Respondent Edward Allen proposes to convey the whole or any part of his ownership interest in the Site, he shall, not fewer than 60 days prior to the date of conveyance, notify the Department in writing of the identity of the transferee and of the nature and proposed date of the conveyance and shall notify the transferee in writing, with a copy to the Department, of the applicability of this Order.

C. Respondent Edward Allen shall record in the office of the Steuben County Clerk such deed restrictions as are determined by the Department following discussion with the Respondents to be necessary and appropriate to implement the Remedial Action Plan set forth in the Record of Decision for the Site.

XIII. Communications

All written communications required by this Order shall be transmitted by United States Postal Service, by private courier service, or hand delivered as follows:

Communication from Respondents shall be sent to:

1. Director, Division of Hazardous Waste Remediation
New York State Department of Environmental Conservation
50 Wolf Road
Albany, New York 12233
2. Director, Bureau of Environmental Exposure Investigation
New York State Department of Health
2 University Place
Albany, New York 12203
3. Regional Director
New York State Department of Environmental Conservation
6274 E. Avon-Lima Road
Avon, New York 14414
4. Division of Environmental Enforcement - Buffalo Field Unit
New York State Department of Environmental Conservation
270 Michigan Avenue
Buffalo, New York 14203

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

1. Two copies to the Director, Bureau of Environmental Exposure Investigation.
2. Five copies to the Director, Division of Hazardous Waste Remediation.
3. One copy to the Regional Director.
4. One copy to the Field Unit.

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

John L. Cherill
Corning Incorporated
Corning, New York 14831
Phone: (607) 974-6398
FAX: (607) 974-6119

Leo M. Brausch
Project Manager
Westinghouse Electric Corporation
11 Stanwix Street
Pittsburgh, PA 15222
Phone: (412) 642-3284
FAX: (412) 642-3318

Edward Allen
Bailey Creek Road
Corning, New York 14830

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

XIV. Miscellaneous

A. The Department shall have the right to obtain split samples, duplicate samples, or both, of all substances and materials sampled by Respondents, and the Department also shall have the right to take its own samples. The Department shall make reasonable efforts to notify Respondents two days in advance of taking split or duplicate samples or its own samples. Respondents shall make available to the Department the results of all sampling and/or tests or other data generated by Respondents with respect to implementation of this Order by submitting such results in the status reports required by this Order.

B. Respondents shall notify the Department at least 10 working days, or less if approved by the Department, in advance of any key engineering or construction field activities to be conducted pursuant to this Order.

C. To the extent that Respondents necessarily require permits, easements, rights-of-way, rights-of-entry, approvals, or authorizations to perform Respondents' obligations under this Order, Respondents will use reasonable efforts to obtain such permits, easements, rights-of-way, rights-of-entry, approvals, or authorizations. In the event that Respondents are not able to obtain such permits, easements, rights-of-way, rights-of-entry, approvals, or authorizations, Respondents shall promptly notify the Department regarding all efforts to, and the inability to, obtain such access.

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

E. Respondents shall provide a copy of this Order to each contractor hired to perform work required by this Order and to each person representing Respondents with respect to the Site and shall condition all contracts entered into hereunder upon performance in conformity with the terms of this Order. Respondents or their contractors shall provide written notice

of this Order to all subcontractors hired to perform any portion of the work required by this Order. Respondents shall nonetheless be responsible for ensuring that their contractors and subcontractors perform the work contemplated herein in accordance with this Order.

F. (1) The terms hereof shall constitute the complete and entire Order between Respondents and the Department concerning the Site. No term, condition, understanding, or agreement purporting to modify or vary the terms hereof shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestion or comment by the Department regarding any report, proposal, plan, specification, schedule or any other submittals shall be construed as relieving Respondents of their obligations to obtain such formal approvals as may be required by this Order.

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

Maura C. Desmond, Esq.
Division of Environmental Enforcement
New York State Department of Environmental
Conservation
27 Michigan Avenue
Buffalo, New York 14203

G. (1) Whenever the dispute resolution mechanism is authorized under this Consent Order, the following is the procedure to be used: Respondents shall request to meet with the Director of the Division of Hazardous Waste Remediation ("the Director") in order to discuss the Department's determination or requirement. At this meeting, Respondents shall be given an opportunity to present responses to the Department's determination or requirement, and the Director shall have the authority to modify and/or withdraw such determination or requirement.

(2) Following such meeting Respondents shall (a) revise any submittal in accordance with the Department's specific comments as modified, except for those which have been withdrawn by the Director and shall submit a revised submittal or (b) undertake any action required by the Department, and as may be modified by the Director. The period of time within which the submittal must be revised or the required action taken will be the period specified by the Department in its notice of determination or requirement unless the Department revised the time frame during the meeting referenced above. After receipt of the revised submittal or performance of any required action by Respondents, the Department shall notify Respondents in writing of its approval or disapproval. If the Department determination is one of disapproval Respondents

shall be in violation of this Order and the ECL. Such Department determination is a final Department decision.

(3) The invocation of formal dispute resolution procedures under this Section shall not of itself extend, postpone or affect in any way any obligation under this Order, except that payment of stipulated penalties with respect to the disputed matter shall be stayed pending resolution of the dispute pursuant to this Section. Notwithstanding the stay of payment, stipulated penalties shall accrue from the first day of noncompliance with any applicable provision of this Order. Penalties shall not accrue during the period of time following Respondents' request to meet with the Director until the Director issues a decision concerning the subject of that meeting. In the event that the Respondents do not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Paragraph VII of this Order.

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

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

J. The parties hereto may sign this Order by counterpart.

DATED: *Albany*, New York
February 11, 1993

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

By:



Ann Hill DeBarbieri
Deputy Commissioner

CONSENT BY RESPONDENT

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

CORNING INCORPORATED, f/k/a,
CORNING GLASS WORKS

By: M. Ann Gosnell
(Type Name of Signer)

Title: Assistant Secretary

Date: December 10, 1992

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

On this 10th day of December, 19 92, before me personally came M. Ann Gosnell, to me known, who, being by me duly sworn, did depose and say that he resides in Painted Post, New York; that he is the Assistant Secretary of Corning Incorporated, the corporation described in and which executed the foregoing instrument; that he knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by the order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

Susan R. Bocek
Notary Public

SUSAN R. BOCEK
Notary Public, State of New York
Qualified in Steuben County
No. 4874610
My Commission Expires November 3, 1994

CONSENT BY RESPONDENT

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

WESTINGHOUSE ELECTRIC CORPORATION

By: 
(Type Name of Signer) SAMUEL R. PITTS

Title: VICE PRESIDENT, ENVIRONMENTAL AFFAIRS

Date: 12-23-92

Commonwealth Pa.

STATE OF NEW YORK)
COUNTY OF Allegheny) S.S.:

On this 23rd day of DECEMBER, 1992, before me personally came SAMUEL R. PITTS, to me known, who, being by me duly sworn, did depose and say that he resides in PITTSBURGH, PENNSYLVANIA; that he is the VICE PRESIDENT, ENVIRONMENTAL AFFAIRS of WESTINGHOUSE ELECTRIC CORP., the corporation described in and which executed the foregoing instrument; that he knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by the order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

Rebecca S. Hickman
Notary Public

Notarial Seal
Rebecca S. Hickman, Notary Public
Pittsburgh, Allegheny County
My Commission Expires Oct. 30, 1995
Member, Pennsylvania Association of Notaries

THE HOUSE OF COMMONS

IN THE MATTER OF THE PETITION OF THE
MEMBERS OF THE HOUSE OF COMMONS
FOR THE REPEAL OF THE
ACTS RELATIVE TO THE
MARRIAGE OF THE

MEMBERS OF THE HOUSE OF COMMONS

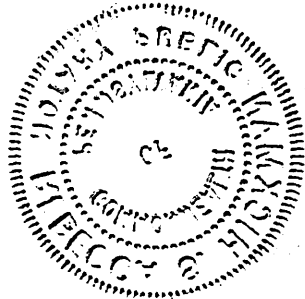
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MEMBERS OF THE HOUSE OF COMMONS

MEMBERS OF THE HOUSE OF COMMONS

MEMBERS OF THE HOUSE OF COMMONS

MEMBERS OF THE HOUSE OF COMMONS



CONSENT BY RESPONDENT

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

By: Edward P. Allen
EDWARD ALLEN

Title: _____

Date: _____

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

On this 14th day of January, 1993,
before me personally came Edward Allen, to me
known, and known to me to be the same person described in and
who executed the within instrument and he duly acknowledged to
me that he executed the same.

CHRISTOPHER J. THOMAS
Notary Public, State of New York
Steuben County, No. 4966825
Commission Expires May 14, 1994

Christopher J. Thomas
Notary Public