

CORNING

Karen L. Douglas
Division Counsel
Litigation Manager

Corning Incorporated
One Riverfront Plaza
Corning, NY 14831

t 607-974-7366
f 607-974-8262
dougaskl@corning.com
www.corning.com

June 27, 2014

Via Federal Express

Benjamin Conlon, Esq.
New York State Department of Environmental Conservation
Office of General Counsel
625 Broadway,
Albany, NY 12233-1500

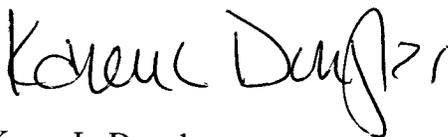
RE: Study Area No. 851046

Dear Mr. Conlon:

On June 24, 2014, we sent to you the Administrative Order on Consent ("Order"), along with Exhibits A (Map of Study Area), B (Department-approved Study Area Characterization Work Plan and Schedule "Work Plan"), and D (Department-approved Citizen Participation Plan), as executed on June 23, 2014 by Corning Incorporated. Appendix A (Health and Safety Plan) of the Work Plan enclosed with the June 24, 2014 correspondence was erroneously marked "draft." We enclose in this correspondence the corrected Work Plan, for which the "draft" labeling of Appendix A has been removed. There is no other change to the entirety of the Work Plan. Please accept our apology for any inconvenience this has caused.

We are also sending today via Federal Express to Greg MacLean of NYSDEC Region 8 and Krista Anders of NYSDOH, the corrected Work Plan, as described above, in the quantity and form specified in Section IV.A.1 of the Order.

Sincerely,



Karen L. Douglas

Enclosure

cc: Jean H. McCreary, Nixon Peabody, w/enclosures
Michael L. Ford, Corning Incorporated, w/enclosures

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
STATE SUPERFUND PROGRAM
ECL §27-1301 *et seq.*

In the Matter a Remedial Program for

**ORDER ON CONSENT AND
ADMINISTRATIVE SETTLEMENT**

Index No. B8 XXXXXX

B8-0835-14-07

DEC Name: Study Area
DEC No.: 851046
Address: Corning, NY
Steuben County

Hereinafter referred to as "Study Area"

by:

Corning Incorporated

Hereinafter referred to as "Respondent"

1. A. The New York State Department of Environmental Conservation ("Department") is responsible for inactive hazardous waste disposal site remedial programs pursuant to Article 27, Title 13 of the Environmental Conservation Law ("ECL") and Part 375 of Title 6 of the Official Compilation of Codes, Rules and Regulations ("6 NYCRR") and may issue orders consistent with the authority granted to the Commissioner by such statute.

B. 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.

C. This Order is issued pursuant to the Department's authority under, *inter alia*, ECL Article 27, Title 13 and ECL 3-0301, and, subject to Paragraph 3, resolves any alleged liability to the State as provided at 6 NYCRR 375-1.5(b)(5).

2. The Study Area is not currently listed in the Registry of Inactive Hazardous Waste Disposal Sites in New York State.

3. Respondent has entered into this Order without (i) any admission or finding of liability, fault, wrongdoing, or violation of any law, regulation, permit, order, requirement, or standard of care of any kind whatsoever; (ii) any acknowledgment that there has been a release or threatened release of hazardous waste at or from the Study Area; and/or (iii) any acknowledgment that a release or threatened release of hazardous waste at or from the Study Area constitutes a significant threat to the public health or environment.

4. Solely with regard to the matters set forth below, Respondent hereby waives any right to a hearing as may be provided by law, consents to enter into this Order, and agrees to be bound by its terms. Respondent consents to and agrees not to contest the authority or jurisdiction of the Department to issue or enforce this 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.

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

I. Real Property

The Study Area subject to this Order has been assigned number 851046, is the area bounded by Pyrex Street on the west, E. Pulteney Street on the north, Post Creek on the east and the Chemung River on the south as depicted on the Map which is attached as Exhibit "A". The Parties to this Order acknowledge that Respondent does not currently own or have control over any part of the Study Area.

II. Initial Work

1. It is understood and agreed that Respondent has only consented to implementation of the Department-approved Study Area Characterization Work Plan (which Work Plan and approval letter are attached as Exhibit "B") to identify on-site conditions at the Study Area. The Study Area Characterization Work shall be commenced within ten (10) days after the effective date of this Order and in accordance with the schedule set forth in the approved Study Area Characterization Work Plan. For purposes of this Initial Work, and submission of the Study Area Characterization Report, the Department accepts Respondent's consultant, Weston Solutions, Inc., as an approved Environmental Professional.
2. Fifteen (15) days after the effective date of this Order, Respondent shall submit to the Department a Records Search Report pursuant to attached Exhibit "C". Respondent is not required to disclose attorney-client communications or materials prepared pursuant to privilege.
3. Respondent shall implement the Department-approved Citizen Participation Plan which is attached hereto as Exhibit "D".
4. In the event the owner or occupant of any property within the Study Area refuses to grant access to Respondent to perform sampling despite reasonable efforts of Respondent and the Department to secure access, Respondent shall not be required to conduct sampling on such property. Respondent will propose to the Department a suitable alternative location for such sampling.
5. This Order shall terminate upon the Department's acceptance of the Respondent's Study Area Characterization Report. Notwithstanding the foregoing, during or at the

conclusion of the Initial Work Respondent may propose an Interim Remedial Measure Work Plan.

III. Payment of State Costs

Invoices shall be sent to Respondent at the following address:

Corning Incorporated
Attn: Karen L. Douglas
Division Counsel – Litigation Manager
One Riverfront Plaza (MP-HQ-E2-10)
Corning, NY 14831

In addition to the requirement to pay future state costs as set forth in Appendix "A", within forty-five (45) Days after the effective date of this Consent Order, Respondent shall pay to the Department reimbursement for past State Costs incurred on or after December 1, 2013 (which is acknowledged to be prior to the effective date of this Consent Order) provided that the Department has provided an invoice substantiating its State Costs within fifteen (15) Days after the effective date of this Consent Order.

IV. 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:

(1 hard copy (unbound for work plans) & 1 electronic copy)
New York State Department of Environmental Conservation
Division of Environmental Remediation
6274 Avon-Lima Rd. (Rtes. 5 and 20)
Avon, NY 14414-9516
Attn: Greg MacLean
gbmaclea@gw.dec.state.ny.us

Krista Anders (electronic copy only)
New York State Department of Health
Bureau of Environmental Exposure Investigation
Empire State Plaza
Corning Tower Room 1787
Albany, NY 12237
kma06@health.state.ny.us

Benjamin Conlon, Esq. (correspondence only)
New York State Department of Environmental Conservation
Office of General Counsel
625 Broadway,
Albany, NY 12233-1500
bxconlon@gw.dec.state.ny.us

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

Corning Incorporated
Attn: Karen L. Douglas
Division Counsel – Litigation Manager
One Riverfront Plaza (MP-HQ-E2-10)
Corning, NY 14831

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 I.

V. Miscellaneous

A. Appendix A - "Standard Clauses for All New York State State Superfund Orders" is attached to and hereby made a part of this Order as if set forth fully herein. For purposes of this Order, the term "Site" as used in Appendix A shall be deemed to mean "Study Area."

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.

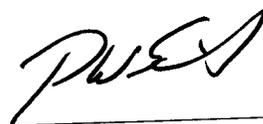
C. The effective date of this Order is the 10th day after it is signed by the Commissioner or the Commissioner's designee.

DATED:

JUN 27 2014

JOE MARTENS
COMMISSIONER
NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By:



Robert W. Schick, P.E., Director
Division of Environmental Remediation

CONSENT BY RESPONDENT

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

Corning Incorporated

By: Thomas G. Capek

Title: V.P. Mfg. & Chief Engineer

Date: June 23, 2014

STATE OF NEW YORK)
) ss:
COUNTY OF STEUBEN)

On the 23rd day of June in the year 2014, before me, the undersigned, personally appeared Thomas G. Capek (full name) personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Acknowledgment by a corporation, in New York State:

On the 23rd day of June in the year 2014, before me, the undersigned, personally appeared Thomas G. Capek (full name) personally known to me who, being duly sworn, did depose and say that he/she/they reside at HP ME 03, 1 Museum Way, Corning, NY 14831 (full mailing address) and that he/she/they is (are) the VP, Manuf. Tech. & Chief Engineer (president or other officer or director or attorney in fact duly appointed) of Corning Incorporated, the corporation described in and which executed the above instrument; and that he/she/they signed his/her/their name(s) thereto by the authority of the board of directors of said corporation.

CHRISTINE JACKSON-SULLIVAN
Notary Public, State of New York
Steuben County No. 4978988
Term Expires March 18, 2015

Christine Jackson Sullivan
Notary Public, State of New York

EXHIBIT "A"

Map of Study Area



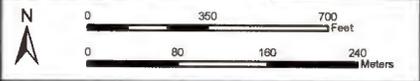
Legend
 Study Area Boundary Based on 1937 Quit Claim Deed

NOTES
 Base Imagery: ESRI, DigitalGlobe, GeoEye
 Mapping Service, 2011
 Coordinate System: NAD 1983 State Plane
 New York Central Feet
 Datum: NAD83 Units: Feet

Study Area
 Corning NY



Study Area



Document Name: CPP_Appendix_F_Study_Area.MXD
 6/27/2014

EXHIBIT "B"

[Department-approved Study Area Characterization Work Plan and Schedule]

EXHIBIT "C"

RECORDS SEARCH REPORT

1. Detail all environmental data and information within Respondent's or Respondent's agents' or consultants' possession or control regarding environmental conditions at the Study Area.
2. A comprehensive list of all existing relevant reports with titles, authors, and subject matter, as well as a description of the results of all previous investigations of the Study Area, including all available topographic and property surveys, engineering studies, and aerial photographs, to the extent any of the foregoing are within Respondent's or Respondent's consultants' possession or control.
3. A concise summary of information held by Respondent and Respondent's consultants with respect to:
 - (i) a history and description of the Study Area, including the nature of operations;
 - (ii) the types, quantities, physical state, locations, methods, and dates of disposal or release of hazardous waste at the Study Area; (iii) a description of current Study Area security (i.e. fencing, posting, etc.); and
 - (iii) the names and addresses of all persons responsible for disposal of hazardous waste, including the dates of such disposal and any proof linking each such person responsible with the hazardous wastes identified.

EXHIBIT "D"

[Department-approved Citizen Participation Plan]

Citizen Participation Plan
Study Area Bounded by Pyrex Street, E. Pulteney Street,
Post Creek, and the Chemung River
NYSDEC Project ID 851046

Corning, New York

June 2014

Contents

1.0 Introduction and Overview	1-1
2.0 Background and Project Description	2-1
2.1 Study Area History	2-1
2.2 Project Description	2-2
3.0 Citizen Participation Activities	3-1
3.1 Document Repository	3-1
3.2 Mailing List	3-1
3.3 Points of Contact	3-2
3.4 Telephone Inquiry Line and E-mail Address	3-2
3.5 Website	3-3
3.6 Summaries of Technical Reports	3-3
3.7 Public Notices	3-3
3.8 Public Comment Periods and Comment Responses	3-3
3.9 Meetings	3-4
3.10 Media Notification	3-4
3.11 Elected State and Federal and Local Officials Briefings	3-4
3.12 Revise the CP Plan	3-4
4.0 References	4-1

List of Appendices

Appendix A Project Contacts

Appendix B Document Repositories

Appendix C List of Available Documents

Appendix D Project Contact List

Appendix E Glossary

Appendix F Study Area Map

1.0 Introduction and Overview

This document presents the Citizen Participation (CP) Plan for a Study Area located in the City of Corning, New York that is bounded by Pyrex Street on the west, E. Pulteney Street on the north, Post Creek on the east and the Chemung River on the south (Study Area). The Study Area, shown on Figure 1 (Appendix F), is situated along the northern bank of the Chemung River, northwest of the confluence with Post Creek. The Study Area consists of approximately 180 acres of land, and currently is occupied by the Corning-Painted Post East High School (including the area of the former Kent Phillips School), the Corning Christian Academy, the Memorial Stadium and field, the Corning Firehouse Frontage, a residential area consisting of over 200 residences and one public park, and flood control areas along the Chemung River and Post Creek. During construction activities as a part of the expansion and improvements to the Corning-Painted Post East High School, fill material that the School District described as containing ash, brick, and glass waste (fill) was discovered in portions of the Study Area.

On June 27, 2014, Corning Incorporated and the New York State Department of Environmental Conservation (NYSDEC) entered into an Order on Consent and Administrative Settlement (Order) to conduct additional environmental sampling to assess the nature and extent of fill that may be encountered within the Study Area. The scope of the environmental study is outlined in the *Study Area Characterization Work Plan for the Study Area Bounded by Pyrex Street, E. Pulteney Street, Post Creek, and the Chemung River* (the Work Plan; Weston, 2014).

The Order also requires the development of a CP Plan for the Study Area, in accordance with ECL §27-1417 and 6 NYCRR sections 375-1.10 and 375-3.10. Corning is committed to informing and involving the public during the course of the environmental study presented in the Work Plan, and will work with the NYSDEC and the New York State Department of Health (NYSDOH) to accomplish this goal. This CP Plan describes the minimum CP activities to be conducted during the environmental study; additional community outreach may also occur based on community feedback.

2.0 Background and Project Description

In 2012 and 2013, the Corning-Painted Post East High School excavated subsurface materials during its expansion activities which it described as consisting of small pieces of broken glass, brick and ash in its August 27, 2012 report. As a result of these findings, Corning Incorporated is working with the NYSDEC and the NYSDOH, along with the Corning-Painted Post School District, to conduct additional environmental sampling to identify the extent of these fill materials in the Study Area and to understand the nature of these materials. This section provides background information regarding the Study Area and a description of the environmental project planned.

2.1 Study Area History

The City of Corning has a long history of manufacturing, and is world renowned for its glassmaking. Historical references indicate that, in the late 1800s and early 1900s, the City of Corning was home to a large brick manufacturer and more than sixty (60) former glass manufacturers. The most enduring of these enterprises is Corning Incorporated, whose history dates back to 1868 when the company founder established the Corning Flint Glass Works in Corning, New York. While the company has grown and expanded through the years and changed names to Corning Glass Works and currently to Corning Incorporated, the corporate headquarters has remained in Corning, New York.

In the late 1800s, coal was the primary fuel source in the Corning, New York area, and most of the local industries used coal to heat their furnaces. In the early 1900s natural gas was introduced to the region, and Corning Glass Works, along with many other industries and municipalities, started converting their fuel sources to natural gas. The exact years during which this conversion occurred for Corning Glass Works are not known.

During the years when coal was widely used by various industrial and domestic entities as a fuel source, it was not uncommon practice for the construction and demolition debris, including brick, ash, and other materials, to be used as fill to improve drainage and to fill in low lying areas as an aid to development.

Through a title search of property deeds, it was found that the Study Area was located on part of lands previously owned by Corning Homes, Inc., which had acquired these properties in 1920 from the heirs of the then-deceased founder of Corning Flint Glass Works. The deeds for these properties contained a condition that allowed Corning Glass Works to maintain structures, buildings and "ash dumps as now located" on the properties. Despite a thorough review of available historical documents and public records, Corning Incorporated has not, to date, located any maps or records that depict the potential location, if any, of the "ash dumps" as referenced in the deeds (i.e., as of 1920). In 1937, Corning Homes, Inc. sold portions of the properties with the same conditional language included, which has never been extinguished. Therefore, the Study Area has been established as the boundary of the 1937 deed, which is bounded by Pyrex Street on the west, E. Pulteney Street on the north, Post Creek on the east and the northern bank of the Chemung River, northwest of the confluence with Post Creek as illustrated on Figure 1 (Appendix F).

2.2 Project Description

Corning Incorporated has retained an experienced expert technical consultant, Weston Solutions, Inc. to implement an environmental study of the Study Area in accordance with the NYSDEC-approved Work Plan (Weston, 2014). The study will assess the nature and extent of fill material that may be encountered within the Study Area and evaluate potential exposure pathways by conducting a geophysical survey to identify areas where potential fill may be present; completing soil borings in areas where this fill may be identified with a thorough visual inspection and reporting of the materials encountered; collecting surface and subsurface soil samples for analytical testing; and installing and sampling groundwater monitoring wells. After the sampling is complete, Corning Incorporated will report the findings and work with the NYSDEC, NYSDOH, and the school district to determine whether any further action is necessary.

3.0 Citizen Participation Activities

This section describes the CP program for the Study Area. The program meets the requirements set forth in NYSDEC Program Policy No. 23, the *Citizen Participation Handbook for Remedial Programs*. The program will be implemented by Corning Incorporated, with oversight and input from the NYSDEC and NYSDOH. The following paragraphs describe the required or suggested minimum CP activities for the project; additional CP activities may be considered based on community feedback.

3.1 Document Repository

A document repository is a file of documents pertaining to the environmental study of a Study Area and the associated citizen participation programs, which is made available for public review. The file is typically maintained in a nearby public building to provide access at times and a location convenient to the public.

For the Study Area, document repositories will be established, and will include the following documents, as available:

- Consent Order
- CP Plan
- Fact Sheets
- Preliminary Study Area Characterization Work Plan
- Preliminary Study Area Characterization Summary Report
- Other materials (e.g., information sheets, notices, etc.)

Two repositories will be established for the Study Area: (1) the Southeast Steuben County Library, and (2) the NYSDEC Regional Office. The addresses for these repositories are listed in Appendix B.

3.2 Mailing List

A key element of the CP Plan is a mailing list of stakeholders, the community, and interested citizens in an area. Direct mailings of information allow people to review the information provided at their convenience (i.e., rather than in a public forum). These mailings also facilitate the distribution of information to everyone who needs or wants to be kept informed about the project.

A mailing list has been established for the Study Area (referred to as the Project Contact List), which is composed of two components:

- Property owners for properties within the proposed Study Area, and
- Other interested parties.

The contact information for interested parties (second bullet) is provided in Appendix D; property owner contact information is maintained confidentially in project files. Corning Incorporated will maintain and update the mailing list information regularly throughout the project.

3.3 Points of Contact

Several points of contact have been established for the project. The public is encouraged to contact any of the project staff listed below.

Technical Information:

Gregory B. MacLean, P.E.
NYS Department of Environmental Conservation
Division of Environmental Remediation, Region 8
6274 East Avon-Lima Road
Avon, NY 14414
Phone: (585) 226-5356
Email: gbmaclea@gw.dec.ny.us

Study Area-Related Health Information:

Melissa A. Doroski, MPH
New York State Department of Health
Empire State Plaza, Corning Tower Room #1787
Albany, NY 12237
Phone: 518-402-7860
Email: BEEI@health.state.ny.us

Citizen Participation:

Linda Vera
Regional Citizen Participation Specialist
NYS Department of Environmental Conservation
Region 8
6274 East Avon-Lima Road
Avon, NY 14414
Phone: (585) 226-5324
Email: ljvera@gw.dec.state.ny.us

3.4 Telephone Inquiry Line and E-mail Address

Corning Incorporated will establish a toll free telephone number to receive and respond to questions from the public:

(Toll free) 866-256-1902

Also, Corning Incorporated will establish an e-mail address for community members to ask a question in writing:

StudyArea@Corning.com

3.5 Print Media (Fact Sheets)

Printed communications materials, such as fact sheets, newsletters or brochures, are one of several citizen participation tools used to provide information to the community about a project. Fact sheets are typically two to four pages in length, and portray a specific topic of interest in community-friendly (non-technical) terms. Pictures and graphics are used as much as possible to enhance the fact sheet and more simply communicate key information.

The NYSDEC will prepare Fact Sheets at certain key milestones of the project in accordance with NYSDEC Program Policy No. 23 (the *Citizen Participation Handbook for Remedial Programs*). In addition, Corning Incorporated will prepare additional informative newsletters and/or fact sheets and periodically distribute these materials to interested individuals and organizations. For example, Corning Incorporated newsletters/fact sheets may contain articles on the status of the environmental project, listings of recently issued documents, names of individuals to contact for more information, and descriptions of study techniques or technologies or project milestones. The newsletters/fact sheets will be used to increase community awareness and knowledge of the project and its status. All fact sheets will be reviewed and approved by the NYSDEC before they are distributed to entities on the Study Area contact list.

3.6 Website

In today's society, providing information on the Internet about a Study Area is an effective means of communication. Most community members have some access to the Internet (at home, at work, or at a public library), and this can be an important communications vehicle for consolidated, accurate, and up-to-date information and visuals.

NYSDEC and Corning will each establish a website for the project, and each will announce the addresses via a fact sheet.

3.7 Summaries of Technical Reports

A summary (in the form of a fact sheet) will be provided after each technical report has been finalized to communicate the facts about the project in simple terms and to enhance understanding. It is important that technical reports articulate a realistic and understandable view of the work being done and the potential risks or exposures involved; however, it is also important that a community be able to understand the issues in lay terms.

3.8 Public Notices

As required by NYSDEC Program Policy, formal public notices will be published to inform stakeholders and community members of certain milestones or events concerning the project. These notices will be placed in a local newspaper of general circulation, and will appear in a prominent position in the paper with adequate time for the community to plan participation.

3.9 Public Comment Periods and Comment Responses

If requested by the NYSDEC, the public will be given an opportunity to comment on certain project documents and to receive comment responses from Corning Incorporated and the NYSDEC. Under NYSDEC program policy, the public would be allowed 30 to 45 days to comment on a particular document.

Formal comment response documents would be prepared by Corning Incorporated and the NYSDEC, and provided to the public. In this manner, the public will obtain direct feedback on their comments, and will understand how the comments are being incorporated into final decisions being made regarding the project.

3.10 Meetings

Public or town meetings will be held as appropriate (e.g., to announce major milestones during the project), or as requested by the NYSDEC or the community. Such meetings will include (as appropriate) posters, exhibits, and displays that give audience members graphic representations of project activities, findings, or program schedules. These materials will provide perspective to the community with respect to a study of this nature.

Public meetings will be held in a convenient and central location to the community. Meeting times and locations would be determined with input from local community leaders, and will be announced in local newspapers and/or a mailing to the community.

3.11 Media Notification

Media releases will be developed at key milestones of the program and distributed to local newspapers and other media outlets that may express interest. Media contacts are listed in Appendix D. Media briefings can also be arranged if media representatives have the need for additional background information on the project.

3.12 Elected State and Federal and Local Officials Briefings

Briefings to state and federal elected officials and local officials will be scheduled as needed or requested to communicate significant events during the project. Such briefings will keep these leaders involved and informed as to the progress of activities on the project. These briefings will also give officials the opportunity to ask questions or resolve any concerns.

3.13 Revise the CP Plan

During the course of implementing the CP Plan, Corning Incorporated and the NYSDEC may identify additional community needs, issues, or concerns regarding the Study Area that are not currently addressed in this CP Plan. As such, the CP Plan will be updated as needed, or at least every three years.

4.0 References

Weston, 2014. Study Area Characterization Work Plan, Study Area Bounded by Pyrex Street, E. Pulteney Street, Post Creek, and the Chemung River, prepared for Corning, Incorporated, Corning, New York; prepared by Weston Solutions, Inc., West Chester, Pennsylvania 19380; June 2014.

Appendix A

Project Contacts

For additional information about the program, the public is encouraged to contact any of the New York State project staff listed below.

Technical Information:

Greg MacLean, P.E.
Division of Environmental Remediation
NYSDEC – Region 8
6274 East Avon-Lima Road
Avon, NY 14414
Phone: (585) 226-5356
Email: gbmaclea@gw.dec.ny.us

Study Area-Related Health Information:

Melissa A. Doroski, MPH
New York State Department of Health
Empire State Plaza, Corning Tower Room #1787
Albany, NY 12237
Phone: 518-402-7860
Email: BEEI@health.state.ny.us

Citizen Participation:

Linda Vera
Regional Citizen Participation Specialist
NYSDEC – Region 8
6274 East Avon-Lima Road
Avon, NY 14414
Phone: (585) 226-5324
Email: ljvera@gw.dec.state.ny.us

Appendix B

Document Repositories

Two document repositories have been established to provide the public with convenient access to important project documents and other information. This information will include reports, data and information gathered and developed during the course of the assessment and evaluation of conditions surrounding the Study Area. These repositories can be found at the following locations:

Southeast Steuben County Library

300 Nasser Civic Center Plaza

Corning, NY, 14830

Phone: (607) 936-3713

Contact: (reference librarian) for an appointment

Hours: Monday 9:00am-6:00 pm
Tuesday 9:00am-8:00pm
Wednesday 9:00am-6:00pm
Thursday 9:00am-8:00pm
Friday 9:00am-6:00pm

NYSDEC Region 8 Office

6274 Avon-Lima Rd. (Rtes. 5 and 20)

Avon, NY 14414-9516

Contact: Linda Vera at (585) 226-5324 for an appointment

Hours: Monday through Friday 8:30am-4:45pm

Appendix C

List of Available Documents

According to the NYSDEC, the following documents are available at the document repositories listed in Appendix B of this CPP:

- Order on Consent and Settlement Agreement DEC No. 851056, dated June 27, 2014
- Study Area Characterization Work Plan, (Weston, June 2014
- Citizen Participation Plan, dated June 27, 2014

Within the initial months of the project, Corning Incorporated will also provide copies of the following documents for the document repositories:

- Fact Sheets prepared and distributed to the Project Contact List

Additional documents not listed above will be placed in the designated repositories as the program for this Study Area develops.

Appendix D

Project Contact List

The following contact list has been developed to help keep the community informed about and involved in the project activities relating to the Study Area. The list includes local, regional and state officials; local media; civic, business, and environmental organizations; and others. The Project Contact List will be reviewed periodically and updated as appropriate.

Note: The property owner and resident portion of the list is maintained confidentially in project files, not in a CP Plan or repositories.

Environmental Groups

Friends of the Chemung River Watershed
111 N. Main St.
Elmira, N.Y. 14901

Media

Stella Dupree, Managing Editor
The Leader
34 West Pulteney St.
Corning, N.Y., 14830

Lois Wilson, Managing Editor
Star-Gazette
201 Baldwin St., P.O. Box
Elmira, N.Y., 14902

News Director
WETM-TV
101 East Water Street
Elmira, N.Y., 14901

News Director
WENY-TV
474 Old Ithaca Road
Horseheads, N.Y., 14845

News Director
YNN
815 Erie Blvd. East
Syracuse, N.Y., 13210

Associated Press
Albany Bureau
P.O. Box 11010
Albany, N.Y., 12211

Local Officials

City of Corning

Honorable Richard P. Negri, Mayor
City of Corning
1 Nasser Civic Center Plaza
Corning, N.Y., 14830

Mark Ryckman, City Manager
City of Corning
1 Nasser Civic Center Plaza
Corning, N.Y., 14830

Councilman Steven Maio
City of Corning
1 Nasser Civic Center Plaza
Corning, N.Y., 14830

Councilman Lee Welles
City of Corning
1 Nasser Civic Center Plaza
Corning, N.Y., 14830

Councilman Chris Karam
City of Corning
1 Nasser Civic Center Plaza
Corning, N.Y., 14830

Councilman William Boland
City of Corning
1 Nasser Civic Center Plaza
Corning, N.Y., 14830

Councilman Frank Muccini
City of Corning
1 Nasser Civic Center Plaza
Corning, N.Y., 14830

Councilman Frank Coccho
City of Corning
1 Nasser Civic Center Plaza
Corning, N.Y., 14830

Councilman James J. Nelson
City of Corning
1 Nasser Civic Center Plaza
Corning, N.Y., 14830

Councilman Ross Cavallaro
City of Corning
1 Nasser Civic Center Plaza
Corning, N.Y., 14830

Corning-Painted Post School District

Michael Ginalski, Superintendent
165 Charles St.
Painted Post, N.Y., 14870

Jeffrey Delorme, Assistant Superintendent
165 Charles St.
Painted Post, N.Y., 14870

Dr. Dale Wexell, Board President
372 W. Second St.
Corning, N.Y., 14830

Nancy Arkin
2868 Downing St.
Big Flats, N.Y., 14814

Kristine Belanger
57 Pine Drive
Painted Post, N.Y., 14870

Steuben County Officials

Honorable George J. Welch
Steuben County Legislature
3 East Pulteney Square
Bath, N.Y., 14810

Joe Dubendorfer, Chairman
Corning Planning and Zoning Commission
35 Roosevelt St
Corning, N.Y., 14830

Salvatore Trentanelli, Police Chief
1 Nasser Civic Center Plaza
Corning, N.Y., 14830

Neil Bulkley
23 Brown Road
Corning, N.Y., 14830

Mary Franklin
411 N. Hamilton St.
Painted Post, N.Y., 14870

Janelle Meteer
10777B Skyline Drive
Corning, N.Y., 14830

Virginia Schultz
134 Thompson Drive
Painted Post, N.Y., 14870

Dr. James Webb
102 High Road
Corning, N.Y., 14830

Victoria Zingler
2 Knollbrook Lane East
Painted Post, N.Y., 14870

Honorable Hilda T. Lando
Steuben County Legislature
3 East Pulteney Square
Bath, N.Y., 14810

Honorable Joseph J. Hauryski, Chairman
Steuben County Legislature
3 East Pulteney Square
Bath, N.Y., 14810

Mark R. Alger, County Administrator
Steuben County Office Building
3 East Pulteney Square
Bath, N.Y., 14810

Brenda Mori, Clerk
Steuben County Legislature
3 East Pulteney Square
Bath, N.Y., 14810

Judith M. Hunter, Clerk Steuben County
County Clerk's Building
3 East Pulteney Square
Bath, N.Y., 14810

State Officials

Paul D'Amato
Regional Director
NYSDEC Region 8
6274 East Avon-Lima Road
Avon, N.Y., 14414

Dennis Harkawik, Esq.
Regional Attorney
NYSDEC Region 8
6274 East Avon-Lima Road
Avon, N.Y., 14414

Benjamin Conlon, Esq.
Bureau Chief – Remediation Bureau
NYSDEC Office of General Counsel
625 Broadway
14th Floor
Albany, N.Y., 12233

State Elected Officials

Senator Thomas F. O'Mara
333 Water St., Suite 301
Elmira, N.Y., 14902

Amy R. Dlugos
Steuben County Planning Department
3 East Pulteney Square
Bath, N.Y., 14810

Vincent Spagnoletti, Commissioner
Steuben Public Works Department
3 East Pulteney Square
Bath, N.Y., 14810

Victoria Fuerst, Director
Public Health and Nursing Services
3 East Pulteney Square
Bath, N.Y., 14810

Wendy G. Flaitz, Director
Real Property Tax Service Agency
3 East Pulteney Square
Bath, N.Y., 14810

Greg MacLean, P.E.
Division of Environmental Remediation
NYSDEC Region 8
6274 East Avon-Lima Road
Avon, N.Y., 14414

Bart Putzig
Division of Environmental Remediation
NYSDEC Region 8
6274 East Avon-Lima Road
Avon, N.Y., 14414

Linda Vera
Regional Citizen Participation Specialist
NYSDEC Region 8
6274 East Avon-Lima Road
Avon, N.Y., 14414

Melissa A. Doroski, MPH
New York State Department of Health
Empire State Plaza, Corning Tower Room
#1787
Albany, NY 12237

Assemblyman Philip A. Palmesano
105 E. Steuben St.
Bath, N.Y., 14810

Federal Elected Officials

Honorable Charles Schumer
United States Senate
322 Hart Senate Building
Washington D.C., 20510

Honorable Kirsten Gillibrand
United States Senate
478 Russell
Washington, D.C., 20510

Other Interested Parties

Corning Christian Academy
Richard A. Cornfield, Principal
11 Aisne St.
Corning, NY 14830

Congressman Tom Reed
United States House of Representatives
1504 Longworth House Office Building
Washington, D.C., 20515

Appendix E

Glossary

Term	Definition
Availability Session	A scheduled gathering of project staff and members of the public in a casual setting, without a formal presentation or agenda but usually focusing on a specific aspect of an environmental study.
Citizen Participation	A program of planning and activities to encourage communication among people affected by or interested in the project and the government agencies and other parties responsible for an environmental study.
Citizen Participation Plan	A Citizen Participation Plan describes the citizen participation activities that will be conducted during a specific project's environmental study.
Comment Period	A period for the public to review and comment about various documents. For example, a 30-day comment period is provided when NYSDEC determines it to be necessary.
Consent Order	A legal and enforceable agreement negotiated between NYSDEC and a potential responsible party. The order sets forth agreed upon terms by which the potential responsible party will undertake an environmental study and pay for the NYSDEC's costs to oversee the study. The Consent Order includes a schedule for implementing the agreed scope of the study.
Document Repository	A document repository is a file of documents pertaining to the environmental study of a Study Area and the associated citizen participation programs, which is made available for public review. The file is typically maintained in a nearby public building to provide access at times and a location convenient to the public.
Fact Sheet	A written discussion about part or all of an environmental project, prepared by NYSDEC or the potential responsible party and provided to the public. A fact sheet may focus on: a particular element of a project; opportunities for public involvement; availability of a report or other information, or announcement of a public meeting or comment period . A fact sheet may be mailed to all or part of a project's contact list, distributed at meetings, placed in a document repository and/or sent on an "as requested" basis.
New York State Department of Health	Agency within the executive branch of New York State government which: performs health-related inspections at suspected hazardous waste sites; conducts health assessments to determine potential risk from environmental exposure; reviews risk assessments; conducts health-related community outreach around sites; and reviews remedial actions to assure that public health concerns are adequately addressed.
NYSDEC Project Manager	An NYSDEC staff (usually an engineer, geologist or hydro geologist) responsible for the day-to-day administration of an environmental project. The Project Manager works with legal, health, citizen participation and

Term	Definition
Public Meeting	other staff to accomplish project-related goals and objectives. A scheduled gathering of NYSDEC staff and potential responsible party staff with the public to give and receive information, ask questions and discuss concerns about a study area. Staff from multiple NYSDEC divisions and legal and health staff often also attend. A public meeting, unlike an availability session , generally features a formal presentation and a detailed agenda.

Appendix F
Study Area Map



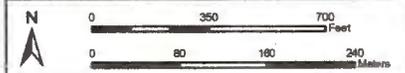
Legend
 Study Area Boundary Based on 1937 Quit Claim Deed

NOTES
 Base Imagery: ESRI, DigitalGlobe, GeoEye
 Mapping Service: 2011
 Coordinate System: NAD 1983 State Plane
 New York Central Feet
 Datum: NAD83. Units: Feet

Study Area
 Corning NY



Study Area
Document Name: CPP_Appendix_F_Study_Area.MXD
6/27/2014



APPENDIX "A"

EXCERPTS FROM STANDARD CLAUSES FOR ALL NEW YORK STATE STATE SUPERFUND ORDERS

The parties to the Order on Consent and Administrative Settlement (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").

I. Citizen Participation Plan

Respondent submitted for review and approval a written citizen participation plan prepared in accordance with the requirements of ECL §27-1417 and 6 NYCRR sections 375-1.10 and 375-3.10, which the Department has approved. The Citizen Participation Plan shall be deemed to be incorporated into and made a part of this Order.

II. Initial Submittal

Within fifteen (15) days after the effective date of this Order, Respondent shall submit to the Department a Records Search Report prepared in accordance with Exhibit "C" attached to the Order. The Records Search Report can be limited if the Department notifies Respondent that prior submissions satisfy specific items required for the Records Search Report.

III. Development, Performance, and Reporting of Work Plans

A. Work Plan Requirements

All activities at the Study Area shall be conducted pursuant to one or more Department-approved work plans ("Work Plan" or "Work Plans") and this Order and all activities shall be consistent with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 C.F.R. Part 300, as required under CERCLA, 42 U.S.C. § 9600 *et seq.* The Work Plan(s) under this Order shall address the Study Area and shall be developed and implemented in accordance with 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. Study Area Characterization ("SC") Work Plan: a Work Plan which provides for the identification of the presence of any hazardous waste disposal at the Site;
2. "IRM Work Plan" if the Respondent elects to propose 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 of the main body of this Order are proposed by Respondent 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 this Order. Upon receipt of such notification, Respondent shall, subject to dispute resolution pursuant to Paragraph XV, modify the Work Plan.

ii. The Department may request, subject to dispute resolution pursuant to Paragraph XV, that Respondent submit additional or supplemental Study Area Characterization Work Plans within thirty (30) Days after the Department's written request.

3. If Respondent proposes an IRM Work Plan, a Study Area Management Plan, if necessary, shall be submitted in accordance with the schedule set forth in the IRM Work Plan.

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

C. Submission of Final Reports and Periodic Reports

1. In accordance with the schedule contained in a Work Plan, Respondent shall submit a final Study Area Characterization Report.

2. If Respondent proposes an IRM, any final report or final engineering report that includes construction activities, shall include "as built" drawings showing any changes made as part of the IRM.

3. If Respondent proposes an IRM, and in the event that a construction completion report for the Study Area requires management of the Study Area, Respondent shall submit an initial periodic report by in accordance with the schedule in the Study Area 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.

D. Institutional/Engineering Control Certification

In the event that Respondent proposes any IRM for the Study Area that 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).

E. Review of Submittals

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

i. 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.

ii. 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 XV and its position prevails. Failure to make an election or failure to comply with the election is a violation of this Order.

iii. 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 XV 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.

IV. Penalties

A. 1. Respondent's failure to comply with any term of this Order constitutes a violation of this Order, the ECL, and 6 NYCRR 375-2.11(a)(4). 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 IV.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 IV.B, Respondent shall be in violation of this Order unless it invokes dispute resolution pursuant to Paragraph XV and Respondent's position prevails.

V. Entry upon Site

A. Respondent shall use best efforts, upon reasonable notice under the circumstances presented, to obtain permission from owners of property within the Study Area to consent to entry upon the Study Area 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 Commissioner, all of whom shall abide by the health and safety rules in effect for the Study Area, for inspecting, sampling, copying records related to the subject matter of this Order, 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 near the Study Area, 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 once validated is not considered privileged and that portion of any privileged document containing raw data must be provided to the Department. 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 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.

VI. 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 as provided 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 VI.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 IV or the Department may commence an enforcement action for non-compliance with ECL '27-1423 and ECL 71-4003.

VII. Release and Covenant Not to Sue

Upon the Department's issuance of a Certificate of Completion as provided at 6 NYCRR 375-1.9 and 375-2.9, Respondent shall obtain the benefits conferred by such provisions, subject to the terms and conditions described therein.

VIII. Reservation of Rights

A. Except as provided at 6 NYCRR 375-1.9 and 375-2.9, 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, Respondents 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 Site as may be provided by law, including but not limited to rights of contribution under section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B).

IX. 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).

X. Public Notice

Public Notice shall be provided in accordance with the Department-approved Citizen Participation Plan and the Department-approved Study Area Characterization Work Plan.

XI. Change of Use

Intentionally omitted. [Respondent does not own or control the Study Area.]

XII. Environmental Easement

Intentionally omitted. [Respondent does not own or control the Study Area.]

XIII. 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 XIV, unless a different frequency is set forth in a Work Plan. Such reports shall, at a minimum, include: all actions relative to the Site 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 Site, 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.

XIV. Termination of Order

A. This Order will terminate as provided in Section II.5 of the main body of this Order.

XV. 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 ROD 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.

XVI. Miscellaneous

A. Respondent agrees to comply with and be bound by the provisions of 6 NYCRR Subparts 375-1 and 375-2; the provisions of such Subparts that are referenced herein are referenced for clarity and convenience only and the failure of this Order to specifically reference any particular regulatory provision is not intended to imply that such provision is not applicable to activities performed under this Order.

B. The Department may exempt Respondent from the requirement to obtain any state or local permit or other authorization for any activity conducted pursuant to this Order in accordance with 6 NYCRR 375-1.12(b), (c), and (d).

C. 1. Respondent shall use best efforts to obtain all Site 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.

D. 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.

E. 1. The terms of this Order, including its attachments, 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.

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.

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.

F. Respondent shall be entitled to receive contribution protection and/or to seek contribution to the extent authorized by ECL 27-1421(6) and 6 NYCRR 375-1.5(b)(5).

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.