

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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

November 28, 2017

**SENT VIA FIRST CLASS MAIL AND BY  
ELECTRONIC MAIL**

Mr. Thomas F. Walsh, Esq.  
Barclay Damon, LLP  
2000 Five Star Bank Plaza  
100 Chestnut Street  
Rochester, NY 14604

**RE: Order on Consent and Administrative Settlement  
Index No.: 851057-05-17  
Site Name: City of Corning Sewer Right of Way  
Site No.: 851057**

Dear Mr. Walsh:

Enclosed to complete your files is a copy of the fully executed Order on Consent and Administrative Settlement referencing the site located at East End of Hammond Street, Corning, Steuben County and the City of Corning.

If you have any questions or concerns relating to this matter, please contact attorney Benjamin Conlon at 518-402-9538.

Sincerely,



Maria Mastroianni  
Remediation Bureau  
Office of General Counsel

Enclosure

ec: Larry Wagner, City of Corning Public Works  
[larryfwagner@stny.rr.com](mailto:larryfwagner@stny.rr.com)

Kevin Ignaszak, Stantec Consulting Services, Inc.  
[Kevin.ignaszak@stantec.com](mailto:Kevin.ignaszak@stantec.com)



Department of  
Environmental  
Conservation

Bryan J. Maggs, Esq., Barclay Damon, LLP  
[bmaggs@barclaydamon.com](mailto:bmaggs@barclaydamon.com)

K. Cloyd, NYSDEC  
J. Lynch, NYSDEC  
B. Conlon, Esq., NYSDEC  
M. Ryan, NYSDEC  
M. Cruden, NYSDEC

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

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In the Matter a Remedial Program for

**ORDER ON CONSENT AND  
ADMINISTRATIVE SETTLEMENT  
Index No. 851057-05-17**

**DEC Site Name: City of Corning Sewer Right of Way**

DEC Site No.: 851057

Site Address: East End of Hammond Street  
Corning, NY 14830  
Steuben County

Hereinafter referred to as "Site"

by: The "City of Corning" Hereinafter referred to as "Respondent"

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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 resolves Respondent's liability to the State as provided at 6 NYCRR 375-1.5(b)(5).

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

3. Respondent consents to the issuance of this Order without (i) an admission or finding of liability, fault, wrongdoing, or violation of any law, regulation, permit, order, requirement, or standard of care of any kind whatsoever; (ii) an acknowledgment that there has been a release or threatened release of hazardous waste at or from the Site; and/or (iii) an acknowledgment that a release or threatened release of hazardous waste at or from the Site 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 the issuance and entry of 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 Site subject to this Order has been assigned number 851057, consists of approximately 0.800 acres, and is as follows:

Subject Property Description (Exhibit "A" is a map of the Site)

Tax Map/Parcel No.: Section 318 Subsection 14 Block 3 Lot 78  
East end of Hammond Street  
Corning, NY 14830  
Owner: City of Corning

Tax Map/Parcel No.: Section 318 Subsection 14 Block 3 Lot 79  
East end of Hammond Street  
Corning, NY 14830  
Owner: State of New York

Tax Map/Parcel No.: Section 318 Subsection 00 Block 1 Lot 89  
East end of Hammond Street  
Corning, NY 14830  
Owner: New York State Flood Control

II. Initial Work Plan

The Interim Remedial Measure ("IRM") Work Plan attached hereto and incorporated herein as Exhibit B shall be implemented in accordance with a schedule to be submitted to the Department within thirty (30) days after the effective date of this Order.

III. 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:

Kelly Cloyd (1 hard copy (unbound for work plans) & 1 electronic copy)  
Department of Environmental Conservation  
Division of Environmental Remediation  
6274 East Avon-Lima Road Avon, NY 14414



[kelly.cloyd@dec.ny.gov](mailto:kelly.cloyd@dec.ny.gov)

James Lynch  
100 N. Main St, Suite 104  
Elmira NY 14901  
[James.lynch@dec.ny.gov](mailto:James.lynch@dec.ny.gov)

Scott Foti (electronic copy only)  
Department of Environmental Conservation  
6274 East Avon-Lima Road Avon, NY 14414  
[Scott.Foti@dec.ny.gov](mailto:Scott.Foti@dec.ny.gov)

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](mailto:kma06@health.state.ny.us)

Ben Conlon, Esq. (correspondence only)  
New York State Department of Environmental Conservation  
Office of General Counsel  
625 Broadway  
Albany, NY 12233  
[bxconlon@gw.dec.state.ny.us](mailto:bxconlon@gw.dec.state.ny.us)

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

Larry Wagner  
Superintendent of Public Works  
City of Corning  
500 Civic Center Plaza  
Corning, New York 14830  
[LarryFWagner@stny.rr.com](mailto:LarryFWagner@stny.rr.com)

Kevin Ignaszak, P.E.  
Principal  
Stantec Consulting Services Inc.  
61 Commercial Street, Suite 100  
Rochester, New York 14614-1009  
[Kevin.Ignaszak@Stantec.com](mailto:Kevin.Ignaszak@Stantec.com)

Bryan J. Maggs, Esq.  
Barclay Damon, LLP

243 Lake Street  
Elmira, NY 14901

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.

IV. Miscellaneous

A. Appendix A - "Additional Clauses for Order" is attached to and hereby made a part of this Order as if set forth fully herein.

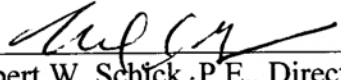
B. In the event of a conflict between the terms of this Order (including any and all attachments thereto and amendments thereof) and the terms of Appendix A, the terms of this Order shall control.

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

DATED: 11/28/17

BASIL SEGGOS  
COMMISSIONER  
NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION

By:

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

Michael Ryan, Asst. Director

### CONSENT BY RESPONDENT

Respondent, City of Corning, hereby consents to the issuing and entering of this Order without further notice, waives its right to hearing herein, and agrees to be bound by the terms, conditions and provisions contained in this Order.

By (Signature): *ML* Title: CITY MANAGER/CEO  
Print Name: MARK L RYCKMAN Date: 11/6/17

### ACKNOWLEDGEMENT

STATE OF NEW YORK )  
COUNTY OF STEUBEN )ss:

On the 6 day of November, 2017, before me personally came Mark Ryckman to me known, who, being by me duly sworn, did depose and say that s/he resides in City of Corning; that s/he is the City Manager of the City of Corning, the municipal entity described in and which executed the above instrument; and that s/he signed his/her name thereto by authority of the City Council of said municipality.

*Diana L. Hill*

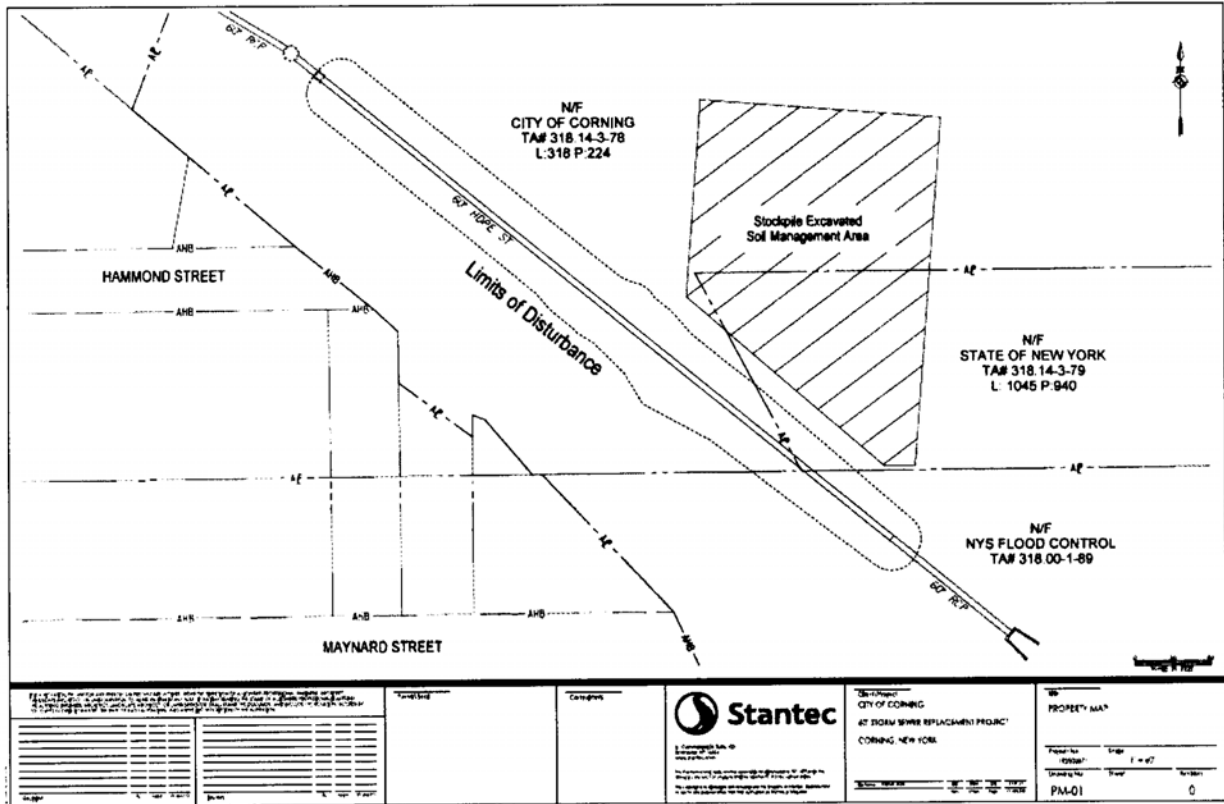
Notary Public

Signature and Office of individual taking acknowledgement



# EXHIBIT "A"

## Map



**EXHIBIT "B"**

**Interim Remedial Measure Work Plan**

**Interim Remedial Measure Work Plan  
60" Storm Sewer Replacement Project  
City of Corning, Steuben County,  
New York**



Prepared for:

City of Corning Department of Public Works  
500 Nasser Civic Center Plaza  
Corning, NY 14830

Prepared by:

Stantec Consulting Services, Inc.  
61 Commercial Street  
Rochester, New York 14614

April, 2016

January, 2017 (Revision 1)

November, 2017 (Revision 2)

**INTERIM REMEDIAL MEASURE WORK PLAN  
60" STORM SEWER REPLACEMENT PROJECT  
CITY OF CORNING, STEUBEN COUNTY,  
NEW YORK**

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60" STORM SEWER REPLACEMENT PROJECT  
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**REFERENCES (PROVIDED UNDER SEPARATE COVER)**

1. DRAWING SET-CITY OF CORNING, NEW YORK DEPARTMENT OF PUBLIC WORKS, 60" STORM SEWER REPLACEMENT PROJECT PHASE 2





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60" STORM SEWER REPLACEMENT PROJECT  
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## **CERTIFICATION**

I, Kevin Ignaszak of Stantec Consulting Services Inc., certify that I am currently a NYS-registered professional engineer and that this Interim Remedial Measure Work Plan was prepared in accordance with applicable statutes and regulations and in substantial conformance with the DER Technical Guidance for Site Investigation and Remediation (DER-10).



\_\_\_\_\_  
Signature

November 10, 2017

Date



**INTERIM REMEDIAL MEASURE WORK PLAN  
60" STORM SEWER REPLACEMENT PROJECT  
CITY OF CORNING, STEUBEN COUNTY,  
NEW YORK**

## **Executive Summary**

Stantec Consulting Services Inc. (Stantec) has prepared this Interim Remedial Measure Work Plan for the 60-inch Storm Sewer Replacement Project located southeast of Denison Park in the City of Corning, Steuben County, New York (the "Site").

The Work Plan was prepared on behalf of and at the request of the City of Corning (Corning). Corning is proposing to excavate, remove, and replace a 585 foot long, 25 foot deep, existing 60-inch diameter PVC pipe with a 60-inch reinforced concrete pipe at the same location and depth. The entire area where the pipe is situated was backfilled at the time of pipe installation in the early 1970s with fill from unknown locations. Stantec performed an environmental screening program of the fill adjacent to the pipe, with the findings summarized in the *Report – Soil Boring Environmental Screening; 60" Storm Sewer Replacement Project; City of Corning, Steuben County, New York* (dated January 6, 2016). Both hazardous and non-hazardous materials were identified that will be managed (characterized, disposed of, re-used, and capped) during the excavation. Corning has retained Stantec to prepare this Work Plan to implement proper worker and public safety requirements for the material management.

Various materials that have the potential to be contaminated will be handled during the excavation and restoration process. Approximately 16,400 cubic yards (CY) of existing fill material will be removed from the excavation area. It is assumed that five (5) percent of this volume (approximately 800 CY) will not meet the reuse criteria and will be properly disposed of off-Site. The bottom of the excavation space will then be filled with the slightly larger reinforced concrete pipe (185 CY larger) and granular pipe bedding and covering materials (~1,200 CY). Non-hazardous excavated fill will be used to fill the excavation to 24-inches below surface grade; however, due to the additional materials described previously, there will be approximately 1,750 CY of excess excavated fill material. The surface cap will consist of 20 inches of previously screened and separated spoils from the top 20-inches of the excavation of the existing pipe and covered with 4-inches of imported topsoil.

This report details handling, storage, sampling, and reuse or disposal of excavated fill, disposal of decontamination water, requirements to discharge groundwater and/or stormwater from the dewatered excavation, and testing requirements for clean imported fill. Additional safety precautions such as temporary fencing, decontamination facilities, a Site-specific Health and Safety Plan, and a Community Air Monitoring Plan are also detailed in the following sections. An estimated implementation schedule and a project contact list are included as guidance material.

Lastly, after the excavation and related tasks are complete a final report will be generated to describe in detail the volumes of excavated and clean fill and groundwater and/or stormwater that were handled, stored, sampled, reused, and/or disposed of. Details about the final report are included at the end of this Work Plan.



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60" STORM SEWER REPLACEMENT PROJECT  
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**Abbreviations & Acronyms**

ASP	Analytical Services Protocol
bgs	below ground surface
Corning	City of Corning
CAMP	Community Air Monitoring Plan
CCR	Construction Completion Report
CY	cubic yard(s)
DER-10	DER Technical Guidance for Site Investigation and Remediation
ELAP	Environmental Laboratory Approval Program
in.	inch
ft.	feet
HASP	Health and Safety Plan
IRM	Interim Remedial Measure
MS/MSD	matrix spike/matrix spike duplicate
mg/kg	milligram/kilogram
NYCRR	New York Codes, Rules, and Regulations
NYSDEC	New York State Department of Environmental Conservation
NYSDOH	New York State Department of Health
PID	photoionization detector
PCBs	polychlorinated biphenyls
poly	polyethylene
POGW	Protection of Groundwater
QA/QC	quality assurance/quality control
RR	"Restricted Residential"
SCO	Soil Cleanup Objective
SVOCs	semi-volatile organic compounds
Stantec	Stantec Consulting Services Inc.
TCLP	Toxicity Characteristic Leaching Procedure
USEPA	United States Environmental Protection Agency
VOCs	volatile organic compounds



**INTERIM REMEDIAL MEASURE WORK PLAN  
60" STORM SEWER REPLACEMENT PROJECT  
CITY OF CORNING, STEUBEN COUNTY,  
NEW YORK**

Background Section  
November 2017

## **1.0 BACKGROUND**

Stantec Consulting Services Inc. (Stantec) has prepared this Interim Remedial Measure Work Plan (Work Plan) for excavation and replacement of approximately 585 linear feet (ft.) of existing 60 inch (in.) storm sewer pipe located along the western bank of the Chemung River, southeast of Denison Park, in the City of Corning, Steuben County, New York (the "Site"). The Work Plan was prepared on behalf of and at the request of the City of Corning (Corning).

The Site is located within the southern portion a lot that currently contains athletic fields (see Figure 1). The Site is mostly owned by Corning with approximately 130 ft. of the eastern portion being owned by the State of New York and New York State Flood Control. The sewer's alignment is in the southeast to northwest direction, parallel to and just north of an elevated flood control soil berm (in Reference 1). Currently the sewer pipe is structurally failing. Corning is proposing to excavate, remove, and replace the 585 ft. long, 25 ft. deep, existing 60-in. diameter PVC pipe with a 60-in. reinforced concrete pipe at the same location and depth. The entire area where the pipe is situated was backfilled at the time of installation in the early 1970s with fill from unknown locations.

### **1.1 ENVIRONMENTAL SCREENING RESULTS**

Stantec performed an environmental screening program of the fill adjacent to the sewer, with the findings summarized in the *Report – Soil Boring Environmental Screening; 60" Storm Sewer Replacement Project; City of Corning, Steuben County, New York* (dated January 6, 2016). The environmental screening program included ten (10) test borings along the northeast and southwest sides of the section of sewer proposed for excavation. The results of the screening program are as follows:

- No staining, odors, elevated photoionization detector (PID) readings, elevated ratemeter (radioactivity) readings, or other indications of contaminant impacts in fill were observed during the environmental screening program;
- The Toxicity Characteristic Leaching Procedure (TCLP) volatile organic compounds, semi-volatile organic compounds, pesticides, and herbicides analyzed were not detected above laboratory reporting limits in any samples;
- Polychlorinated biphenyls (PCBs) were detected at seven (7) of the boring locations but the total PCB concentrations were below the 1 milligram/kilogram (mg/kg, which is equivalent to parts per million) total PCB regulatory Soil Cleanup Objective (SCO);



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- Total Cyanide was detected in four (4) of the borings but the detected concentrations were below the applicable New York State Department of Environmental Conservation (NYSDEC) "Restricted Residential" (RR) and/or "Protection of Groundwater" (POGW) SCOs; and
- Several locations exhibited concentrations of metals exceeding NYSDEC RR and/or POGW SCOs. The exceedances include arsenic (5 locations), barium (1 location), copper (1 location), lead (5 locations), and mercury (1 location). Of note are the concentrations of lead at five (5) locations (ranging from 730 mg/kg to 1,000 mg/kg, compared to the 400 mg/kg RR SCO and 450 mg/kg POGW SCO) and copper at one location (1,500 mg/kg, compared to the 270 mg/kg RR SCO and 1,720 mg/kg POGW SCO). Only one fill sample indicated a concentration which exceeded the Hazardous Waste threshold. The fill sample from test boring B-4 exhibited a leachable lead concentration result which exceeded the threshold for Hazardous Waste (24 mg/l compared to the 5 mg/l regulatory standard). Quality assurance laboratory analyses performed on the project duplicate sample did not indicate that lab contamination was a factor.

Refer to Table 1, Summary of Laboratory Analytical Results for Soil Samples, for detailed environmental screening analytical results. Due to the results of the environmental screening program, Corning retained Stantec to prepare this Work Plan to implement proper worker and public safety requirements for the material management (characterization, disposal, re-use, and cap) during the excavation.

## **1.2 PROJECT OBJECTIVES**

The objectives of this Work Plan are to provide the actions that are proposed to take place to complete the project, including the following:

- General Site preparation activities;
- Procedures for screening fill during excavation with a PID;
- Procedures to collect and submit fill samples for waste characterization laboratory analysis;
- Procedures for management and disposal of fill that, per the results of waste characterization testing, falls above hazardous waste contaminant levels (see Section 2.6.4);
- Procedures for management of fill that does not exceed hazardous waste contaminant levels and will be reused on-Site;
- Procedures for screening spoils from the top of the excavation for reuse as part of the 2 ft. surface cap;
- Recommendations for groundwater and/or stormwater management; and
- Recommendations for health and safety procedures and requirements, including a Health and Safety Plan (HASP) and Community Air Monitoring Plan (CAMP) for implementation by others; and



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- Procedures for Citizen Participation Activities involving the distribution of a Fact Sheet to municipal officials, local media, and adjacent property owners.



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## **2.0 EXCAVATION**

All excavation activities shall be performed in general conformance with NYSDEC's DER-10 guidance document. Additional permits that may be required are discussed in Section 2.2 of this document, and applicable permits shall be filed for by the Contractor or Stantec, based on the client's preference. A Site-specific HASP and CAMP must also be created by the Contractor for the excavation work; recommendations for the HASP and CAMP can be found in Sections 2.4 and 2.5, respectively. All excavation activities shall be performed in accordance with this Work Plan, the HASP, and the CAMP.

### **2.1 PERMITS**

The required permits, if any, shall be obtained from the appropriate agencies or municipalities by the Contractor or Stantec prior to commencement of work. These may include (but may not be limited to) a Flood Control Land Use Permit per New York State Environmental Conservation Law, Article 16, Section 0107.13, an excavation permit, hydrant use permit, and a water discharge permit. In addition, wastes removed from the Site, whether hazardous or non-hazardous, must be transported by a permitted waste hauler(s) to a properly permitted disposal facility.

### **2.2 PROPOSED SEQUENCE OF EXCAVATION**

The sequence of the environmental portions of the excavation work will include:

- Preparation of stockpile staging area and vehicle decontamination area for segregation and on-Site storage of excavated materials, staging of drums or a water tank for collection and management of excavation water, and designation of the route and procedures for eventual egress from the Site of waste container transport vehicles;
- Performance of health & safety and community air monitoring in accordance with this Work Plan;
- Excavation of the top 20-inches of the proposed sewer alignment, screening to 1-inch minus to remove garbage, metal, and miscellaneous debris, and staging for reuse as part of the surface cap. The segregated waste will be characterized and properly disposed of with the excess spoils;
- Excavation of fill to a bottom depth of approximately 25 ft. below ground surface (bgs). With 1 ft. on 1 ft. side slopes and a 6 ft. wide base, it is anticipated that the overall excavation area will cover approximately 34,000 sq. ft. A schematic cross section of the anticipated fill excavation is shown on the drawing MSD-1 in Reference 1;



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- Excavation of an estimated 625 sq. ft. of known hazardous waste centered around environmental screening boring location B-4 (see Reference 1), from 18 to 19.5 ft. bgs, to be stockpiled separately from all other excavated material;
- Fill screening both by visual means and with the use of a PID to assess the extent of material that may be contaminated (Section 2.3.3);
- Excavated fill will be loaded using a backhoe and dump trucks into stockpiles (maximum 175 cubic yards [CY], 250 tons per stockpile) where it will be staged, sampled, and characterized as necessary prior to either reuse in the excavation or transportation for disposal off-Site. If any grossly-contaminated material is noted, it shall be staged separately from apparently uncontaminated material;
- Collection and appropriate management of excavation water and other waste liquids (Section 2.3.4);
- Fill characterization of each stockpile to evaluate whether reuse or disposal of the fill is appropriate (Section 2.6.1);
- Import of new granular material that will provide pipe bedding for the new 60 in. storm sewer pipe, general backfill, and will provide 1 ft. of cover to the pipe;
- After the pipe is replaced, backfilling to 2 ft. bgs with fill that does not qualify as hazardous material (Section 2.8.1);
- After fill is replaced, install the 24-inch surface cap comprised of a demarcation layer, 20-inches of previously excavated and screened spoils (Section 2.8), and 4-inches of topsoil; and
- Off-Site disposal of contaminated fill, liquid wastes, and other wastes (Sections 2.7).

## **2.3 TEMPORARY EXCAVATION FACILITIES**

### **2.3.1 Temporary Fence**

A temporary excavation fence shall be erected around the perimeter of proposed Site-related work, including the excavation and stockpile staging areas described below. The purpose of the fencing will be to prevent unauthorized entry into the Site. Backfilling shall be performed as soon as is reasonably practicable following completion of the excavation; however, fencing shall be in place at all times until the excavation is brought to grade and Site restoration is complete. Warning signage shall be incorporated on the temporary fencing.

### **2.3.2 Decontamination Facilities**

A temporary decontamination pad shall be used to decontaminate earthwork-related equipment to prevent cross-contamination from the excavation to public areas (roads, highways, support trailer, vehicles, etc.). Trucks and equipment leaving the Site that have come





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in contact with fill must have their tires, undercarriage, tracks, bucket, etc. cleaned to remove any fill materials prior to departing the Site. Refer to the figure GNP-01 in Reference 1 for egress routes for vehicles to minimize contamination of tires. Decontamination shall include pressure washing utilizing clean water from a hydrant (a hydrant use permit will be required) or an alternate Engineer-approved source of potable water.

The decontamination pad shall be constructed of polyethylene sheeting with a sump for the purpose of collecting wash water. The decontamination pad must be covered when not in use to limit collection of stormwater. Wash water shall be stored on-Site in 55 gallon drums or a storage tank.

Stored wash water is to be sampled according to Section 2.6.2 and disposed of on-Site or off-Site in accordance with Section 2.7. If disposed on-Site, the water shall be discharged to the footprint of the excavation after it has been backfilled but prior to placing the 2 ft. soil cap. Accumulated sediments shall be sampled according to Section 2.6.1 and disposed of accordingly (if non-hazardous disposed of on-Site, and if hazardous disposed of off-Site). The decontamination pad construction materials will be disposed of off-Site as municipal solid waste at the completion of the project.

### **2.3.3 Stockpile Staging Area**

Staging areas for the excavated fill stockpiles shall be constructed and maintained in the areas shown on drawings MSD-2 and GNP-1 in Reference 1. Each staging area shall be comprised of a 4-inch base layer constructed of imported gravel with 4 in. by 4 in. timber berms or other approved alternative at its perimeter to prevent runoff of potentially collected stormwater. Each staging area shall not exceed 25 ft. by 30 ft. (approximately 750 square ft.), with a limit of 175 CY (about 250 tons) per stockpile. Stockpiles are to be a maximum 6 ft. high. The first two (2) feet of soil excavated shall be separated from the remainder of the excavated soil within the stockpile staging area and screened to 1-inch minus to remove garbage, metal, and debris. It will then be staged for reuse as the 20-inch layer directly below the finish topsoil and above the demarcation layer. The soil will only be allowed for reuse if no visible evidence of garbage, metal, and debris is present. Segregated wastes shall be properly disposed of off-Site with excess spoils. Refer to drawing MSD-02 in Reference 1 for details.

Once a stockpile is started, during non-working hours and during events of heavy rainfall it must be covered with tarps or additional poly sheeting that are secured or weighed down at the edges and corners. The Contractor shall limit the amount of fill exposed at any given time to the greatest extent possible. Stockpiles shall be routinely inspected and damaged covers shall be promptly repaired or replaced. They must be inspected a minimum of once each week and after each storm event. Results of inspections shall be recorded in a logbook and be made available to NYSDEC for inspection, if desired. If sufficient free liquid drains from fill excavated



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from below the water table, measures shall be taken to collect free liquid and transfer it to the project wastewater storage tank.

Stockpiles, covered and bermed as necessary, shall be staged to segregate any grossly-contaminated excavated fill from general fill. Segregation of grossly-contaminated fill will be based on visual observation and field monitoring (PID screening). For the field monitoring, grab samples shall be collected from every 10<sup>th</sup> loader/bucket for headspace screening with a PID equipped with a 10.6 eV lamp. Based on the results of the visual and PID screenings, environmental personnel shall direct the excavator whether or not to segregate the excavated materials into a separate stockpile. Environmental field personnel must record the results of the visual observations and PID screenings and the evaluation of general fill or grossly contaminated fill on Table 2, Material Management Tracking Table. Separate stockpiles will be used to sort the following three classes of material: general fill, screened one-inch minus surface cap fill, and grossly contaminated fill. Prior to receiving the results of waste characterization sampling, segregation of fill shall be based on the following criteria:

- Fill exhibiting PID readings of 51 ppm and above and/or fill with an observed sheen and/or odor shall be managed as grossly contaminated fill requiring off-Site disposal at a non-hazardous or hazardous waste landfill until waste characterization laboratory results are reported;
- Fill exhibiting PID readings of 0 to 50 ppm shall be managed as general fill to be classified as non-hazardous waste until waste characterization laboratory results are reported to evaluate its reuse, or if found hazardous, disposal off-Site; and
- Screened one-inch minus surface cap fill shall meet all the segregation criteria for fill exhibiting PID readings of 0 to 50 ppm plus have no visible evidence of garbage, metal and debris present.

Based on the results of the environmental screening performed in December 2015, it shall be assumed that all excavated stockpiles will contain fill that does not exceed the standards and SCOs detailed in Section 2.6.4; therefore, fill in all stockpiles shall be listed as non-hazardous unless and until there is analytical data that demonstrates that the fill contains levels of contaminants that exceed those standards. Fill staged in the stockpiles shall be analyzed as specified in Section 2.6.1 to demonstrate the classification of the fill and evaluate the method in which the fill may be reused or disposed. Disposal methods and facilities for the contaminated fill must be determined by the results of waste characterization sampling and analysis. Refer to Section 2.7 for information on waste characterization and disposal.



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### **2.3.4 Excavation Dewatering**

Should groundwater and/or stormwater infiltrate the excavation, it shall be pumped out (as required to allow work to take place) and stored on-Site in a storage tank, similar to the decontamination wash water, but separate from the wash water. The schedule for the excavation was planned to minimize precipitation that may enter the excavation; however, when significant amounts of precipitation enter the excavation they must be removed and stored with the groundwater.

Excavated fill will be staged on-Site during the excavation activities on a gravel base and poly-covered stockpiles. Measures shall be taken both to collect any stormwater that comes in contact with excavated material in the staging area and to minimize collection of uncontaminated precipitation water. Stormwater that does collect in the staging area shall be transferred and containerized with water from the excavation.

Steel or poly storage tanks of sufficient capacity shall be kept on-Site during the excavation activities in order to manage the water. All containerized fluids must be sampled using the procedure outlined in Section 2.6.2, and depending on the results, water shall either be discharged to the Site or disposed of off-Site, in accordance with applicable regulations. See Section 2.7 for details.

## **2.4 HEALTH AND SAFETY PLAN**

A HASP describes personal safety protection standards and procedures to be followed by excavation personnel and subcontractors during the planned activities. The Contractor shall be responsible for generating his own Site-specific HASP that includes the following elements:

- OSHA 29 CFR 1910.120 (40-hr HAZWOPER) trained, qualified, designated personnel;
- Emergency route(s) to local hospital(s); and
- Proper personal protective equipment for all personnel coming in contact with the fill, and drums or other proper storage for containerizing after use and for the disposal of these items.

It is also recommended that the Contractor address all OSHA excavation-specific rules and regulations in the HASP. The Contractor shall perform all work in accordance with their HASP.

## **2.5 COMMUNITY AIR MONITORING PLAN**

The Contractor shall follow the Site-specific CAMP included as Appendix A to this Work Plan. This CAMP and all Contractor activities pertaining to it shall conform to the requirements established by NYSDEC and NYSDOH in DER-10.



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### **2.5.1 Dust Control**

While the tentative excavation schedule is planned to minimize precipitation entering the excavation, this may result in dry conditions that require dust control. If required, the Contractor shall be responsible for implementing dust suppression measures. In the event that dry, windy, and/or heavy traffic conditions increase dust to an unacceptable level according to the CAMP, one or more of the dust suppression techniques detailed in the CAMP must be utilized to lessen the risk of high particulate levels.

## **2.6 WASTE CHARACTERIZATION SAMPLES**

### **2.6.1 Fill Samples**

Waste characterization fill samples shall be obtained from each stockpile to demonstrate that it does not contain hazardous waste. Samples shall be obtained at the frequency of one sample per stockpile. It is currently estimated that 116 samples (110 plus 6 duplicate samples) will be collected and submitted for laboratory analyses. The actual number of samples will be determined by the number of stockpiles that are generated. Any equipment that is used for fill sampling must either be disposed of as non-hazardous waste or decontaminated by washing with Alconox (or equivalent) solution and a tap water rinse. Any sediment that accumulated in decontamination facilities shall be sampled at a similar frequency to the stockpiles.

Based upon the analytical results from the environmental screening program, all waste characterization material samples, including the required quality assurance/quality control (QA/QC) samples (see Section 2.6.5), shall be submitted for analysis of TCLP metals (United States Environmental Protection Agency (USEPA) SW-846 Method 1331, 3015, and 7470A), PCBs (Method 8082A), pH and ignitability. Grossly contaminated fill will also require samples for analysis of TCLP volatiles. Laboratory analyses must be performed by a laboratory accredited pursuant to the New York State Department of Health (NYSDOH) Environmental Laboratory Approval Program (ELAP).

#### **2.6.1.1 Alternate Excess Fill Samples**

As an alternate to disposing of excess non-hazardous fill material, Corning may sample and haul excess excavated fill to a clean, off-Site location. It is estimated that there will be approximately 1,750 CY of excess material. The material will be sampled for VOCs, semi-volatile organic compounds, pesticides, herbicides, PCBs, and metals. If found to be non-impacted the fill may be taken off-Site as clean un-regulated fill. The decision to alternately sample and reuse this material elsewhere will be evaluated by Corning during the course of the excavation.



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## **2.6.2 Water Samples**

Waste characterization water samples shall be obtained from each storage vessel to demonstrate whether or not the water will need to be disposed of off-Site or can be discharged to the excavation footprint on-Site. All water samples, including the required QA/QC samples, must be submitted to a NYSDOH ELAP-certified laboratory for analysis of Target Compound List (TCL) and Commissioner's Policy (CP)-51 List VOCs.

## **2.6.3 Clean Imported Soil**

The clean imported material shall meet the allowable constituent levels for Restricted Residential use provided in DER-10, Appendix 5, unless the material is determined to be exempt from sampling per DER-10, Section 5.4(e)5. Exempt materials include washed gravel, rock, stone, and recycled concrete and brick not exhibiting fines. Restricted Residential constituent levels specified in DER-10 Appendix 5 are included as Appendix B to this Work Plan.

Samples of the clean imported soil shall be collected at the required frequency to confirm that the material meets the levels specified in Appendix B. Where a compound is detected which is not on the appended table, the on-Site environmental monitor shall consult with NYSDEC to determine an allowable constituent level.

A minimum of one (1) sample shall be collected and analyzed from every new source. To analyze for volatile organic compounds (VOCs), grab (discrete) samples are allowed. To analyze for semi-volatile organic compounds (SVOCs), inorganics, PCBs, and pesticides compoSite samples must be collected. The compoSite samples shall meet the requirements established in DER-10, Section 5.4(e)10; specifically, compoSite samples must be comprised of 3-5 discrete samples from different locations in the volume of soil to be tested. Samples shall be collected at the frequency of:

- Seven (7) discrete samples (VOCs) and two (2) compoSite samples (SVOCs, Inorganics, PCBs, and pesticides) for the 1<sup>st</sup> 1,000 CY, and
- Two (2) discrete samples and one (1) compoSite sample for each additional 1,000 CY.

Imported soil shall also meet the requirements of 6 NYCRR 375-6.7(d), and it must be free of extraneous waste.

## **2.6.4 Results Evaluation**

Sample analytical results shall be compared to the following criteria:

- Metals: NYSDEC, Title 6 of the New York Codes, Rules, and Regulations (NYCRR) Part 371.3 Characteristics for Hazardous Waste; and



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- PCBs: SCOs for RR and POGW specified in NYSDEC's Part 375 Environmental Remediation Program regulations, and NYSDEC CP-51 Supplemental SCOs.

Any sample (and its related stockpile or water storage vessel) that exceeds the hazardous levels specified in the soil cleanup guidelines shall be classified as hazardous, and must be handled, treated, and/or disposed of accordingly. Any sample (and its related stockpile) that exceeds 1 ppm for total PCBs, but less than 50 ppm total PCBs, will still be considered non-hazardous. Prior to disposal the PCB exceedance will be discussed with the selected non-hazardous landfill to ensure that they are properly permitted to accept the PCB waste. Analytical reports shall be prepared in accordance with the NYSDEC Analytical Services Protocol (ASP) Category B requirements. A data usability evaluation will not be required for the material management of this excavation.

### **2.6.5 Quality Assurance/Quality Control Sampling**

Field QA/QC samples to be collected include field duplicates. Field duplicates shall be collected at a rate of one per twenty (20) stockpile field samples collected.

## **2.7 WASTE CHARACTERIZATION AND DISPOSAL**

Wastes anticipated include the following:

- Excavated fill that is characterized as hazardous by the waste characterization laboratory analysis;
- Segregated garbage, metal, and debris from the one-inch minus screened surface cap fill;
- Containerized groundwater and/or stormwater resulting from excavation dewatering;
- Decontamination fluids;
- Polyethylene sheeting, sampling materials, and PPE; and
- Construction and demolition debris generated during demolition of the existing pavement.

Disposal of wastes shall be conducted in accordance with applicable regulations. Analyses performed on each of the waste streams will be dictated by requirements of the disposal facility(s). Excavated fill shall be stockpiled to facilitate discrete sampling for characterization analyses. Wastes shall be transported only by permitted haulers. Contaminated waste disposal will include the following:

- Excavated, staged, and confirmed hazardous waste shall be disposed off-Site in accordance with applicable regulations at a permitted, hazardous waste disposal facility;
- Non-hazardous solid waste generated during remedial activities shall be disposed off-Site at a NYSDEC-Part 360 permitted disposal landfill; and



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- Containerized water (groundwater and stormwater collected from the excavation, decontamination rinse water, and free liquids collected from fill staging) that is confirmed non-hazardous shall be discharged to the excavation footprint after it has been backfilled but prior to placement of the 2 ft. soil cap. If the containerized water is found to exhibit a sheen or odor, it shall be disposed of off-Site at a permitted facility. If found to be hazardous, the containerized water shall be properly transported and disposed of off-Site at a properly permitted facility.

## **2.8 SITE RESTORATION**

The excavation fill that tested as non-hazardous during waste characterization sampling shall be backfilled into the excavation in the same general strata from which it was removed to 2 ft. bgs. A demarcation layer shall then be installed. The demarcation layer shall consist of orange plastic snow fence to allow infiltration of precipitation.

### **2.8.1 Surface Cap**

The next 20 in. of the excavation shall be completed with the previously screened and segregated material from the first two feet of excavation spoils. This material shall be demonstrated to be sufficiently free of contamination through prior analytical data, additional sampling and analysis if required, and exhibits no visible evidence of garbage, metal, or debris. The material to be used for backfilling shall be approved of by the NYSDEC project manager prior to use as backfill.

The top 4 in. of the excavation shall be completed with imported topsoil that meets the requirements set forth in the Contract Documents.

The topsoil surface of the excavation shall be regraded and resurfaced to match the existing surfaces, be they roadway, athletic fields, or grass. Details for grading and resurfacing are discussed in the Contract Documents.

## **2.9 REPORT**

Following the completion of the excavation and restoration activities, a Construction Completion Report (CCR) shall be drafted. The CCR shall include the following:

- Total volumes of fill excavated, reused, disposed of as nonhazardous and hazardous, and accompanying laboratory results to support the reuse and disposal options of each stockpile;
- Total volume of clean imported fill and accompanying laboratory results to support its use as the Site cap;



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- Total volume of water (including decontamination, dewatered excavation groundwater, and collected stormwater) contained and discharged, as well as accompanying laboratory results to support the discharge of the water;
- Water treatment techniques, volume treated and discharged, and accompanying laboratory results to support its final discharge (if applicable);
- Summary of the CAMP;
- Field notes (including Table 2) and photographs of the excavation, stockpiling, and filling;
- Any alternative stockpiling, treatment, and/or disposal means undertaken to properly contain and dispose of any grossly contaminated stockpiles (if applicable); and
- Summary of Citizen Participation Activities.

The CCR shall be submitted to NYSDEC within 90 days of the completion of excavation restoration activities.

### **3.0 IMPLEMENTATION SCHEDULE**

Excavation activities shall be initiated within 90 days of the Department's approval of this Work Plan. However, obtaining an Article 16 Land Use Permit may cause a delay in the start of the excavation activities. It is anticipated that once the Work Plan is approved, approximately two months will be needed to prepare bid documents, obtain contractor bids and required permits, and negotiate terms with the selected contractor. It is anticipated that on-Site remedial activities would be performed in the drier months of the year (June through September). This time period could be advantageous as being likely to have relatively low water-table conditions. It is estimated that the total project duration will be approximately three (3) months.

### **4.0 PROJECT ORGANIZATION**

A project contact list is provided in Table 3 on the following page.





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**Table 3 Project Contact List**

Larry Wagner	City of Corning	Superintendent of the Department of Public Works	607-962-0340 x1302	LarryFWagner@stny.rr.com
Sean Miller	Stantec	Civil Engineer, Transportation	585-413-5260	sean.miller@stantec.com
Kevin Ignaszak	Stantec	Principal, Environmental Services	585-413-5355	kevin.ignaszak@stantec.com
Kelly Cloyd	NYSDEC	Division of Environmental Remediation	585-226-5351	kelly.cloyd@dec.ny.gov
Melissa Doroski	NYSDOH	Public Health Specialist	518-402-7860	BEEI@health.ny.gov
Contractor	T.B.D.	T.B.D.	--	--
On-Site Environmental Monitor	T.B.D.	T.B.D.	--	--



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## **5.0 CITIZEN PARTICIPATION**

Citizen Participation activities will involve generating a Fact Sheet regarding the Interim Remedial Measure and coordinating its distribution with the NYSDEC's Regional Citizen Participation Specialist. The Fact Sheet will be distributed to municipal officials, local media, and adjacent property owners.

A certification of mailing will be sent by Corning to the NYSDEC project manager following the distribution of the Fact Sheet and notice that includes:

1. Certification that the Fact Sheet was mailed;
2. The date it was mailed;
3. A copy of the Fact Sheet; and
4. A list of recipients (contact list).

No changes will be made to the Fact Sheet that is approved and authorized for release by NYSDEC without written consent of the NYSDEC. No other information, such as brochures and flyers, will be included with the Fact Sheet mailing.



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**TABLES**

**TABLES**







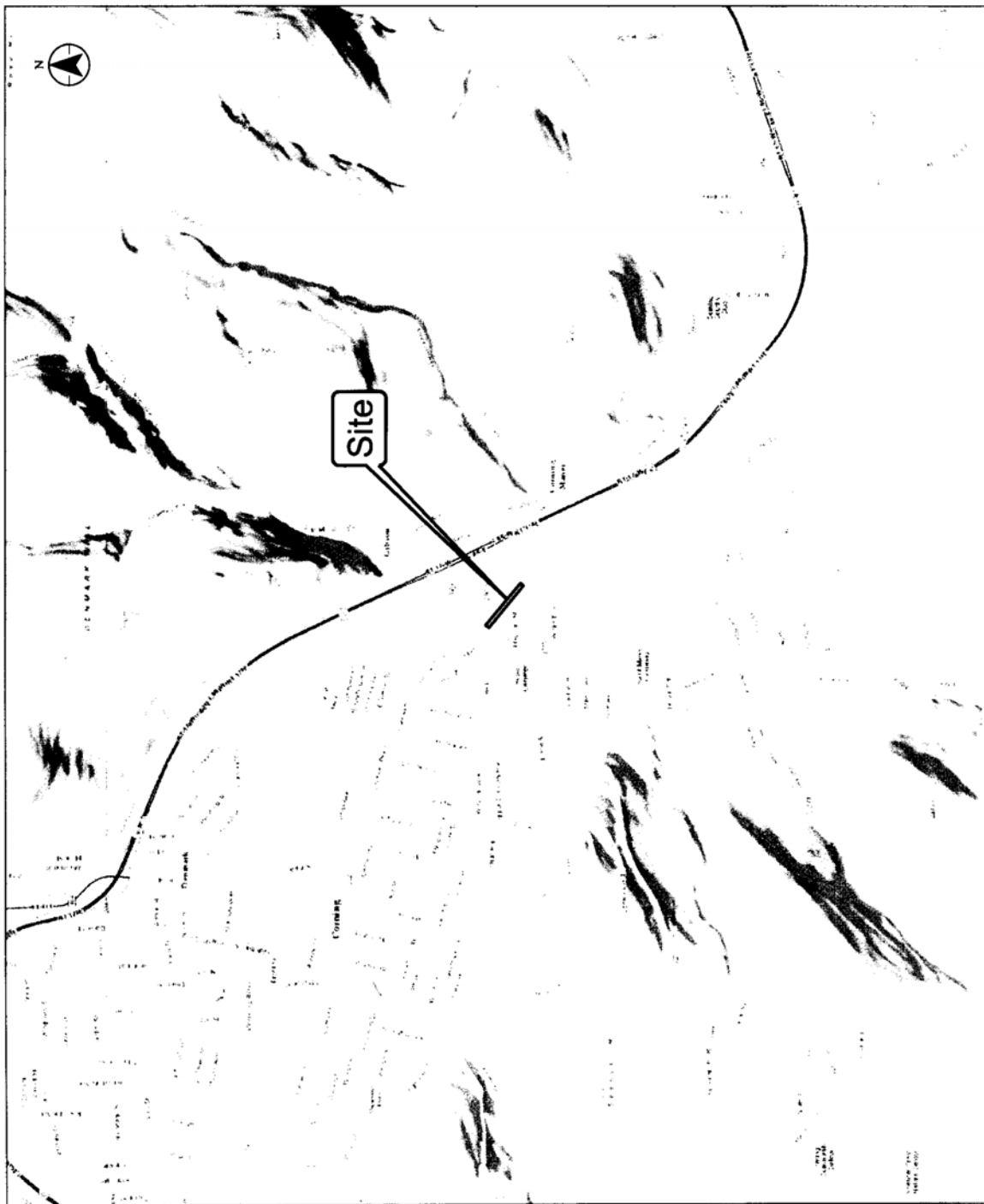


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FIGURES

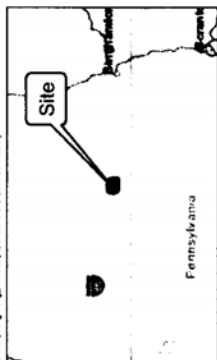
**FIGURES**





Coordinate System: NAD 1983 StatePlane New York Central FIPS 3102 Feet

Service Layer Credits: Sources: Esri, DeLorme, NAVTEQ, USGS, Intermap, PC, NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), Swire, 2013



Project Location:	Prepared by	APL	on 2015-11
CITY OF CORNING	Technical Review by	AG	on 2015-11
STURSEN COUNTY*,	Independent Review by	LL	on 2016-03
NEW YORK			19250337L

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Figure No.

1

## Site Location Map

Source: *Forster*, assumes no responsibility for data submitted in electronic format. The recipient accepts full responsibility for verifying the accuracy and completeness of the data. No one, including any copiers, is to be held responsible for any errors or omissions in the data.



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**APPENDIX A**

**APPENDIX A**  
Community Air Monitoring Plan





**COMMUNITY AIR MONITORING PLAN**  
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## **OVERVIEW**

A Community Air Monitoring Plan (CAMP) requires real-time monitoring for volatile organic compounds (VOCs) and particulates (i.e., dust) at the downwind perimeter of the designated work area when ground intrusive activities are in progress at the Site (southeast of Denison Park in the City of Corning, Steuben County, New York). This CAMP was generated from the Generic CAMP provided in the New York State Department of Environmental Conservation DER-10 Guidance. The CAMP is not intended for use in establishing action levels for worker respiratory protection. Rather, its intent is to provide a measure of protection for the downwind community (i.e., off-site receptors, including residences and businesses and on-site workers not directly involved with the subject work activities) from potential airborne contaminant and particulate releases as a direct result of the excavation work activities. The action levels specified herein require increased monitoring, corrective actions to abate emissions, and/or work shutdown. Additionally, the CAMP helps to confirm that work activities did not spread contamination off-site through the air.

Reliance on the CAMP should not preclude simple, common-sense measures to keep dust and odors at a minimum around the Site.

## **COMMUNITY AIR MONITORING PLAN**

Real-time air monitoring for VOCs and particulate levels at the perimeter of the work area shall be performed continuously during all ground intrusive activities:

- The **perimeter** of the work area shall encompass all active excavation work and all exposed sub-surface material both in the excavation and in the stockpile area, and
- **Ground intrusive activities** include fill/soil/waste excavation and handling.

In order to ensure the validity of the VOC and particulate level measurements performed, there must be appropriate Quality Assurance/Quality Control (QA/QC). It is the responsibility of the Contractor to adequately implement QA/QC practices to include operator training, periodic instrument calibration (no less than once per week), daily instrument performance (span) checks, and a record keeping plan.

All readings must be recorded and be available State (Department of Environmental Conservation (DEC) and Department of Health (DOH)) and County Health personnel to review. Ten to fifteen (10-15) minute readings must be recorded on the attached sheet for the entirety of the work day. Additionally, all data must be continuously logged by the temporary VOC and particulate monitoring equipment while they are deployed at the Site. Equipment data must be downloaded at least weekly and sent to the environmental monitor for inclusion as an Appendix to the Construction Completion Report and for availability should the DEC or DOH request to view the files.



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**VOC MONITORING**

VOC concentrations should be monitored continuously at the downwind perimeter of the work area. Upwind concentrations should be measured at the start of each workday and periodically thereafter to establish background conditions, particularly if wind direction changes. The monitoring work should be performed using a photoionization detector (PID) with a 10.6 eV lamp, capable of calculating 15 minute running average concentrations.

**VOC RESPONSE LEVELS**

1. If the ambient air concentration of VOCs at the downwind perimeter of the work area exceeds 5 parts per million (ppm) above background for the 15 minute average, work activities must be temporarily halted and monitoring continued.
  - a. If the VOC level readily decreases (per instantaneous readings) below 5 ppm over background, work activities can resume with continued monitoring.
  - b. If VOC level persists in excess of 5 ppm over background but less than 25 ppm work activities must be halted, the source of vapors identified, corrective actions taken to abate emissions, and monitoring continued. After these steps, work activities can resume, provided that the VOC level 200 feet downwind of the work zone, or half the distance to the nearest residential structure, whichever is less, is below 5 ppm over the background for the 15 minute average.
2. If the VOC level is above 25 ppm at the perimeter of the work area, activities must be shutdown.

**PARTICULATE MONITORING**

Particulate concentrations should be monitored continuously at both the upwind and downwind perimeters of the work area at temporary particulate monitoring stations. The particulate monitoring should be performed using real-time monitoring equipment capable of measuring particulate matter less than 10 micrometers in size (PM-10) and capable of integrating over a period of 15 minutes (or less) for comparison to the airborne particulate action level. The equipment must be equipped with an audible alarm to indicate exceedance(s) of the action level. In addition, fugitive dust migration should be visually assessed during all work activities. The temporary particulate monitoring stations shall also meet the following performance standards:

1. Objects to be measured: dust, mists, or aerosols;
2. Measurement ranges: 0.001 to 400,000  $\mu\text{g}/\text{m}^3$ ;
3. Precision (2-sigma) at constant temperature:  $\pm 10 \text{ g}/\text{m}^3$  for 1 second averaging, and  $\pm 1.5 \text{ g}/\text{m}^3$  for 60 second averaging;
4. Accuracy:  $\pm 5\%$  of reading  $\pm$  precision (referred to gravimetric calibration with SAE fine test dust (mmd = 2 to 3,  $\text{g} = 2.5$ , as aerosolized));
5. Resolution: 0.1% of reading or  $1 \text{ g}/\text{m}^3$ , whichever is larger;
6. Particle size range of maximum response: 0.1-10;
7. Total number of data points in memory: 10,000;

8. Logged data: each data point with average concentration, time/date, and data point number;
9. Run summary: overall average, maximum concentrations, time/date of maximum, total number of logged points, start time/date, total elapsed time (run duration), STEL concentration and time/date occurrence, averaging (logging) period, calibration factor, and tag number;
10. Alarm averaging time (user selectable): real-time (1-60 seconds) or STEL (15 minutes), alarm required;
11. Operating time: 48 hours (fully charged NiCd battery), continuously with charger;
12. Operating temperature: -10 to 50° C (14 to 122° F); and
13. Particulate levels will be monitored upwind and immediately downwind at the working site and integrated over a period not to exceed 15 minutes.

#### **PARTICULATE RESPONSE LEVELS AND ACTIONS**

1. If the downwind PM-10 particulate level is 100 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) greater than background (upwind perimeter) for the 15-minute period **or** if airborne dust is observed leaving the work area, then dust suppression techniques must be employed. Work may continue with dust suppression techniques, provided that downwind PM-10 particulate levels do not exceed 150  $\mu\text{g}/\text{m}^3$  above the upwind level **and** provided that no visible dust is migrating from the work area.

The following techniques have been shown to be effective for controlling generation and migration of dust during construction activities:

- a. Applying water on haul roads;
- b. Wetting equipment and excavation faces;
- c. Spraying water on buckets during excavation and dumping;
- d. Hauling materials in properly tarped or watertight containers;
- e. Restricting vehicle speeds to 10 mph; and
- f. Covering excavated areas and material after excavation activity ceases.

When techniques involving water application are used, care must be taken not to use excess water, which can result in unacceptably wet conditions. Using atomizing sprays will prevent overly wet conditions, conserve water, and provide an effective means of suppressing the fugitive dust.

2. If, after implementation of dust suppression techniques, downwind PM-10 particulate levels are greater than 150  $\mu\text{g}/\text{m}^3$  above the upwind level, work must be stopped and re-evaluated. Work can resume, provided that dust suppression measures and other controls are successful in reducing the downwind PM-10 particulate concentration to within 150  $\mu\text{g}/\text{m}^3$  of the upwind level **and** in preventing visible dust migration. Due to weather conditions there may be situations where dust suppression is rendered ineffective. As stated above, until PM-10 particulate levels are reduced **and** visible dust migration is eliminated work shall be halted.



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**APPENDIX B**

**APPENDIX B**  
**DER-10 Allowable Constituent Levels  
for Imported Soil**



## Appendix 5

### Allowable Constituent Levels for Imported Fill or Soil

#### Subdivision 5.4(e)

Source: This table is derived from soil cleanup objective (SCO) tables in 6 NYCRR 375. Table 375-6.8(a) is the source for unrestricted use and Table 375-6.8(b) is the source for restricted use.

Note: For constituents not included in this table, refer to the contaminant for supplemental soil cleanup objectives (SSCOs) in the Commissioner Policy on Soil Cleanup Guidance. If an SSCO is not provided for a constituent, contact the DER PM to determine a site-specific level.

Constituent	Unrestricted Use	Residential Use	Restricted Residential Use	Commercial or Industrial Use	If Ecological Resources are Present
<b>Metals</b>					
Arsenic	13	16	16	16	13
Barium	350	350	400	400	433
Beryllium	7.2	14	47	47	10
Cadmium	2.5	2.5	4.3	7.5	4
Chromium, Hexavalent <sup>1</sup>	1 <sup>3</sup>	19	19	19	1 <sup>3</sup>
Chromium, Trivalent <sup>1</sup>	30	36	180	1500	41
Copper	50	270	270	270	50
Cyanide	27	27	27	27	NS
Lead	63	400	400	450	63
Manganese	1600	2000	2000	2000	1600
Mercury (total)	0.18	0.73	0.73	0.73	0.18
Nickel	30	130	130	130	30
Selenium	3.9	4	4	4	3.9
Silver	2	8.3	8.3	8.3	2
Zinc	109	2200	2480	2480	109
<b>PCBs/Pesticides</b>					
2,4,5-TP Acid (Silvex)	3.8	3.8	3.8	3.8	NS
4,4'-DDE	0.0033 <sup>3</sup>	1.8	8.9	17	0.0033 <sup>3</sup>
4,4'-DDT	0.0033 <sup>3</sup>	1.7	7.9	47	0.0033 <sup>3</sup>
4,4'-DDD	0.0033 <sup>3</sup>	2.6	13	14	0.0033 <sup>3</sup>
Aldrin	0.005	0.019	0.097	0.19	0.14
Alpha-BHC	0.02	0.02	0.02	0.02	0.04 <sup>4</sup>
Beta-BHC	0.036	0.072	0.09	0.09	0.6
Chlordane (alpha)	0.094	0.91	2.9	2.9	1.3
Delta-BHC	0.04	0.25	0.25	0.25	0.04 <sup>4</sup>
Dibenzofuran	7	14	59	210	NS
Dieldrin	0.005	0.039	0.1	0.1	0.006
Endosulfan I	2.4 <sup>2</sup>	4.8	24	102	NS
Endosulfan II	2.4 <sup>2</sup>	4.8	24	102	NS
Endosulfan sulfate	2.4 <sup>2</sup>	4.8	24	200	NS
Endrin	0.014	0.06	0.06	0.06	0.014
Heptachlor	0.042	0.38	0.38	0.38	0.14
Lindane	0.1	0.1	0.1	0.1	6
Polychlorinated biphenyls	0.1	1	1	1	1

Constituent	Unrestricted Use	Residential Use	Restricted Residential Use	Commercial or Industrial Use	If Ecological Resources are Present
<b>Semi-volatile Organic Compounds</b>					
Acenaphthene	20	98	98	98	20
Acenaphthylene	100	100	100	107	NS
Anthracene	100	100	100	500	NS
Benzo(a)anthracene	1	1	1	1	NS
Benzo(a)pyrene	1	1	1	1	2.6
Benzo(b)fluoranthene	1	1	1	1.7	NS
Benzo(g,h,i)perylene	100	100	100	500	NS
Benzo(k)fluoranthene	0.8	1	1.7	1.7	NS
Chrysene	1	1	1	1	NS
Dibenz(a,h)anthracene	0.33 <sup>3</sup>	0.33 <sup>3</sup>	0.33 <sup>3</sup>	0.56	NS
Fluoranthene	100	100	100	500	NS
Fluorene	30	100	100	386	30
Indeno(1,2,3-cd)pyrene	0.5	0.5	0.5	5.6	NS
m-Cresol(s)	0.33 <sup>3</sup>	0.33 <sup>3</sup>	0.33 <sup>3</sup>	0.33 <sup>3</sup>	NS
Naphthalene	12	12	12	12	NS
o-Cresol(s)	0.33 <sup>3</sup>	0.33 <sup>3</sup>	0.33 <sup>3</sup>	0.33 <sup>3</sup>	NS
p-Cresol(s)	0.33	0.33	0.33	0.33	NS
Pentachlorophenol	0.8 <sup>3</sup>	0.8 <sup>3</sup>	0.8 <sup>3</sup>	0.8 <sup>3</sup>	0.8 <sup>3</sup>
Phenanthrene	100	100	100	500	NS
Phenol	0.33 <sup>3</sup>	0.33 <sup>3</sup>	0.33 <sup>3</sup>	0.33 <sup>3</sup>	30
Pyrene	100	100	100	500	NS
<b>Volatile Organic Compounds</b>					
1,1,1-Trichloroethane	0.68	0.68	0.68	0.68	NS
1,1-Dichloroethane	0.27	0.27	0.27	0.27	NS
1,1-Dichloroethene	0.33	0.33	0.33	0.33	NS
1,2-Dichlorobenzene	1.1	1.1	1.1	1.1	NS
1,2-Dichloroethane	0.02	0.02	0.02	0.02	10
1,2-Dichloroethene(cis)	0.25	0.25	0.25	0.25	NS
1,2-Dichloroethene(trans)	0.19	0.19	0.19	0.19	NS
1,3-Dichlorobenzene	2.4	2.4	2.4	2.4	NS
1,4-Dichlorobenzene	1.8	1.8	1.8	1.8	20
1,4-Dioxane	0.1 <sup>3</sup>	0.1 <sup>3</sup>	0.1 <sup>3</sup>	0.1 <sup>3</sup>	0.1
Acetone	0.05	0.05	0.05	0.05	2.2
Benzene	0.06	0.06	0.06	0.06	70
Butylbenzene	12	12	12	12	NS
Carbon tetrachloride	0.76	0.76	0.76	0.76	NS
Chlorobenzene	1.1	1.1	1.1	1.1	40
Chloroform	0.37	0.37	0.37	0.37	12
Ethylbenzene	1	1	1	1	NS
Hexachlorobenzene	0.33 <sup>3</sup>	0.33 <sup>3</sup>	1.2	3.2	NS
Methyl ethyl ketone	0.12	0.12	0.12	0.12	100
Methyl tert-butyl ether	0.93	0.93	0.93	0.93	NS
Methylene chloride	0.05	0.05	0.05	0.05	12



<b>Volatile Organic Compounds (continued)</b>					
Propylbenzene-n	3.9	3.9	3.9	3.9	NS
Sec-Butylbenzene	11	11	11	11	NS
Tert-Butylbenzene	5.9	5.9	5.9	5.9	NS
Tetrachloroethene	1.3	1.3	1.3	1.3	2
Toluene	0.7	0.7	0.7	0.7	36
Trichloroethene	0.47	0.47	0.47	0.47	2
Trimethylbenzene-1,2,4	3.6	3.6	3.6	3.6	NS
Trimethylbenzene-1,3,5	8.4	8.4	8.4	8.4	NS
Vinyl chloride	0.02	0.02	0.02	0.02	NS
Xylene (mixed)	0.26	1.6	1.6	1.6	0.26

All concentrations are in parts per million (ppm)

NS = Not Specified

**Footnotes:**

<sup>1</sup> The SCO for Hexavalent or Trivalent Chromium is considered to be met if the analysis for the total species of this contaminant is below the specific SCO for Hexavalent Chromium.

<sup>2</sup> The SCO is the sum of endosulfan I, endosulfan II and endosulfan sulfate.

<sup>3</sup> For constituents where the calculated SCO was lower than the contract required quantitation limit (CRQL), the CRQL is used as the Track 1 SCO value.

<sup>4</sup> This SCO is derived from data on mixed isomers of BHC.

**INTERIM REMEDIAL MEASURE WORK PLAN  
60" STORM SEWER REPLACEMENT PROJECT  
CITY OF CORNING, STEUBEN COUNTY,  
NEW YORK**

**REFERENCES**

**REFERENCES**

1. DRAWING SET-CITY OF CORNING, NEW YORK DEPARTMENT OF PUBLIC WORKS, 60" STORM SEWER REPLACEMENT PROJECT PHASE 2



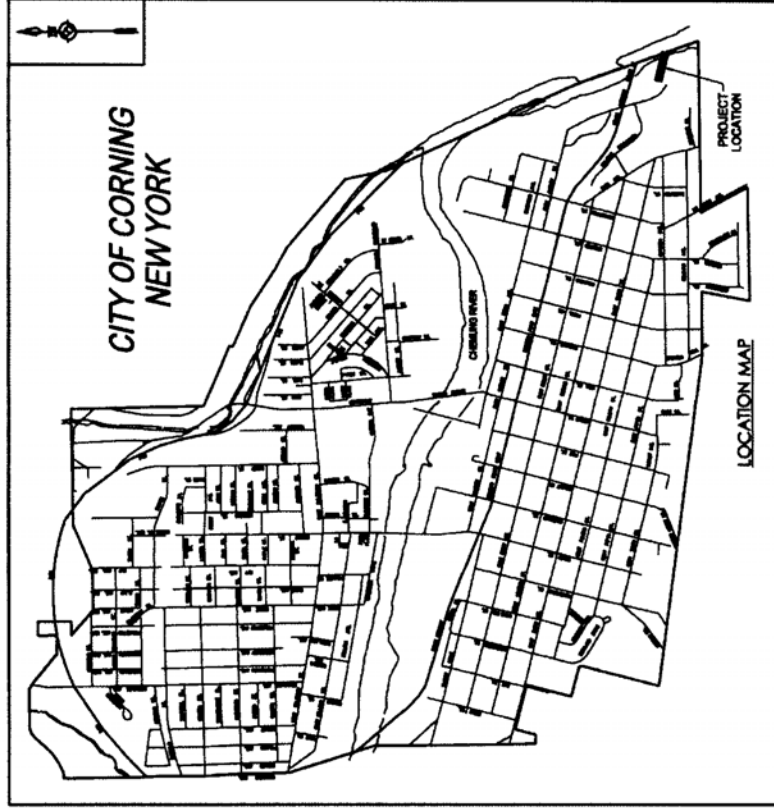
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# CITY OF CORNING, NEW YORK



## DEPARTMENT OF PUBLIC WORKS

### 60" STORM SEWER REPLACEMENT PROJECT PHASE 2



CITY OF CORNING

APPROVED BY:

LARRY F. WAGNER  
SUPERINTENDENT  
DEPARTMENT OF PUBLIC WORKS

DATE: 11-03-2017

RECOMMENDED BY:

*[Signature]*

DATE: 11-03-2017



**Stantec**

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DATE ISSUED: 11-03-2017 DRAWING NO.: COVER SHEET NO.: 1 of 13

IF A CONTRACTOR HAS BEEN AWARDED A CONTRACT FOR THE CONSTRUCTION OF A PROJECT, THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF CORNING AND THE STATE OF NEW YORK. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF CORNING AND THE STATE OF NEW YORK. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF CORNING AND THE STATE OF NEW YORK.

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STANDARD SQUARE FOOT (PLANS)	ITEM PAYMENT UNIT: ESTIMATE OF QUANTITIES SHEET	EQUIVALENT NOMENCLATURE: (SPECS/PROPOSAL)
"	"	INCHES
LF	LF	LINEAR FEET
sq	sq	SQUARE FEET
sq in	SQIN	SQUARE INCHES
sf	SF	SQUARE FEET
sq yd	SY	SQUARE YARD
ac	AC	ACRES
cy	CT	CUBIC YARD
gal	GAL	GALLON
lb	LB	POUND
ton	TON	TON
EA	EA	EACH
INTWO	INTWO	INTERSECTION WIDTH
LS	LS	LEAP SUM



### SEWER NOTES

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GENERAL NOTES

CORNING, NEW YORK

Project No. 192500371	Scale NONE	Sheet	Revision
Drawing No.			

# Drainage Structure Table

Structure Number	Northing	Easting	T.O. Elev	Invert	Grate Style	Structure Type	Size	Notes	Description of Work
DS-3	778178.83	807743.52	---	841.66	---	10.0 DIA. MH	80.00	NO WORK REQUIRED	
DS-3A	778178.83	807743.52	---	841.66	---	10.0 DIA. MH	80.00	CONNECT NEW 8" RCP TO STRUCTURE AND CONNECT TO 8" RCP INSTALLED IN PHASE 1	
DS-4	778113.12	807824.78	851.39	851.37	ROUND	4 DIA. MH	4.0	REPLACE EXISTING CATCH BASIN. CONNECT NEW 12" PVC TO NEW 8" RCP WITH INVERT TEE. REINFORCE EXIST. 12" STEEL PIPE IN CATCH BASIN. RECONNECT EXISTING 12" STEEL PIPE WITH NEW 12" PVC PIPE TO NEW 8" RCP WITH INVERT TEE. REINFORCE EXIST. 12" STEEL PIPE IN CATCH BASIN. CONNECT TO EXIST. 12" PIPE.	
DS-4A	778113.12	807824.77	851.39	851.37	ROUND	4 DIA. MH	4.0	REINFORCE EXIST. 12" STEEL PIPE IN CATCH BASIN. CONNECT TO EXIST. 12" PIPE.	
DS-5	778113.12	807824.78	851.39	851.37	ROUND	4 DIA. MH	4.0	REINFORCE EXIST. 12" STEEL PIPE IN CATCH BASIN. CONNECT TO EXIST. 12" PIPE.	
DS-5A	778113.12	807824.78	851.39	851.37	ROUND	4 DIA. MH	4.0	REINFORCE EXIST. 12" STEEL PIPE IN CATCH BASIN. CONNECT TO EXIST. 12" PIPE.	
DS-6	778113.12	807824.78	851.39	851.37	ROUND	4 DIA. MH	4.0	REINFORCE EXIST. 12" STEEL PIPE IN CATCH BASIN. CONNECT TO EXIST. 12" PIPE.	
DS-6A	778113.12	807824.78	851.39	851.37	ROUND	4 DIA. MH	4.0	REINFORCE EXIST. 12" STEEL PIPE IN CATCH BASIN. CONNECT TO EXIST. 12" PIPE.	
DS-7	778113.12	807824.78	851.39	851.37	ROUND	4 DIA. MH	4.0	REINFORCE EXIST. 12" STEEL PIPE IN CATCH BASIN. CONNECT TO EXIST. 12" PIPE.	
DS-7A	778113.12	807824.78	851.39	851.37	ROUND	4 DIA. MH	4.0	REINFORCE EXIST. 12" STEEL PIPE IN CATCH BASIN. CONNECT TO EXIST. 12" PIPE.	

PAYMENT WILL BE MADE UNDER THE FOLLOWING CONDITIONS:

1. ALL TOP OF DRAINAGE AND INVERTS ARE BASED ON UNADJUSTED ELEVATIONS. THE CONTRACTOR SHALL FIELD VERIFY ALL ELEVATIONS PRIOR TO INSTALLATION OF ANY STRUCTURE.
2. ALL TOP OF DRAINAGE AND INVERTS ARE BASED ON UNADJUSTED ELEVATIONS. THE CONTRACTOR SHALL FIELD VERIFY ALL ELEVATIONS PRIOR TO INSTALLATION OF ANY STRUCTURE.
3. ALL TOP OF DRAINAGE AND INVERTS ARE BASED ON UNADJUSTED ELEVATIONS. THE CONTRACTOR SHALL FIELD VERIFY ALL ELEVATIONS PRIOR TO INSTALLATION OF ANY STRUCTURE.

# Sanitary Manhole Table

Sanitary Manhole Number	Northing	Easting	T.O. Elev	Invert	Grate Style	Structure Type	Size	Notes	Description of Work
SM-1	778121.15	807802.05	---	841.66	---	10.0 DIA. MH	80.00	NO WORK REQUIRED	
SM-1A	778121.15	807802.05	---	841.66	---	10.0 DIA. MH	80.00	CONNECT NEW 8" RCP TO STRUCTURE AND CONNECT TO 8" RCP INSTALLED IN PHASE 1	

PAYMENT WILL BE MADE UNDER THE FOLLOWING CONDITIONS:

1. ALL TOP OF DRAINAGE AND INVERTS ARE BASED ON UNADJUSTED ELEVATIONS. THE CONTRACTOR SHALL FIELD VERIFY ALL ELEVATIONS PRIOR TO INSTALLATION OF ANY STRUCTURE.
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Client/Project  
CITY OF CORNING  
87 STORM SEWER REPLACEMENT PROJECT  
CORNING, NEW YORK

Title  
MISCELLANEOUS TABLES

Project No.  
172000371

Scale  
NONE

Drawing No.  
MST-1

Revision  
5 of 14

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Contractor  
Corning, New York

Permit No.  
172000371

Revision  
5 of 14

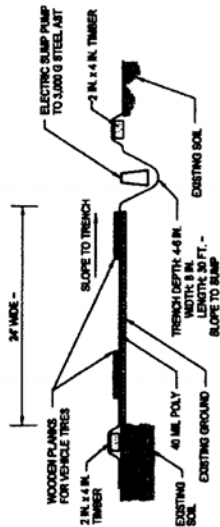
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# GENERAL ENVIRONMENTAL NOTES

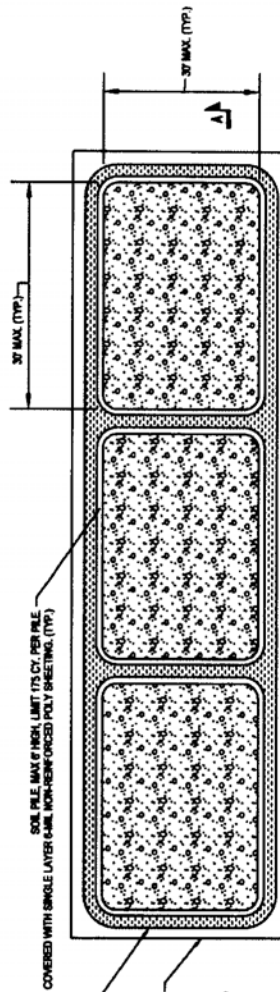
1. BERM SHALL BE CONSTRUCTED USING CLEAN TIMBERS.
2. SOIL PILES SHALL BE SPACED TO ALLOW ACCESS FOR PERIODIC LOADOUT BACK TO EXCAVATION OR TO LANDFILL, DEPENDING ON SAMPLING RESULTS.
3. SOIL PILES SHALL BE PLACED ON A MINIMUM OF 4 INCHES OF CLEAN IMPORTED SUBGRADE MATERIAL.
4. EXCAVATED MATERIAL SHALL BE LOADED IN MANAGEABLE VOLUMES TO PREVENT SPILLAGE DURING HANDLING AND TRANSPORTING. ANY SPILLED MATERIAL SHALL BE CLEANED UP IMMEDIATELY AND NOT REUSED IN THE PROJECT.
5. STOCKPILES SHALL BE FENCED, UNPROTECTED AND DAMAGED COVER SHALL BE REMOVED IMMEDIATELY. STOCKPILES SHALL BE COVERED WITH A MINIMUM OF 4 INCHES OF CLEAN IMPORTED SUBGRADE MATERIAL. STOCKPILES SHALL BE INSPECTED AND REINSPECTED AT MINIMUM ONCE EACH WEEK AND AFTER EVERY EVENT. RESULTS OF INSPECTIONS SHALL BE RECORDED IN A LOGBOOK AND AVAILABLE FOR INSPECTION BY REQUEST.
6. SOIL SHALL BE SCREENED WITH PRO AND SEGREGATED BASED ON THE FOLLOWING CRITERIA:
  - a. SOILS EXHIBITING PRO READINGS OF 0 TO 50 PPM SHALL BE PLACED IN GENERAL FILL SOIL CONTAINMENT BERM PILE.
  - b. SOILS EXHIBITING PRO READINGS OF 50 PPM AND GREATER SHALL BE PLACED IN SEGREGATED "GROSSLY CONTAMINATED" CONTAINMENT BERM PILE.
7. ALL WASTE SHALL BE TRANSPORTED OFF-SITE AS SOON AS POSSIBLE FOLLOWING RECEIPT OF WASTE CHARACTERIZATION MATERIAL ANALYSIS AND DISPOSED BY AN APPROVED WASTE MANAGEMENT FACILITY. WASTE SHALL BE TRANSPORTED IN A DISPOSAL BE ITATED UNLESS THAT IT NEEDS FOLLOWING RECEIPT OF WASTE CHARACTERIZATION RESULTS.



- NOTE:
1. PRO SIZE IN FT. LIMIT 1/2 IN. MAX.
  2. CONTRACTOR SHALL BE RESPONSIBLE FOR COLLECTING AND CONTAMINATION MONITORING ON A DAILY BASIS.
  3. MONITORING CONCENTRATIONS IN SOIL SHALL BE LESS THAN 50 PPM, AROUND EXISTING TRENCH, TRENCH PILE.
  4. CONTRACTOR SHALL MAINTAIN RECORD MONITORING PRO FOR DURATION OF PROJECT AS REQUIRED.

## DECONTAMINATION PAD DETAIL

NOT TO SCALE



## NOTE:

1. THREE SOIL PILES SHOWN AS EXAMPLES OF SITE LAYOUT. CONTRACTOR SHALL ADJUST SIZE AND NUMBER OF SOIL PILE BERMS TO ACCOMMODATE VOLUMES ENCOUNTERED BASED ON REQUIRED SOIL SEGREGATION CRITERIA LISTED IN GENERAL NOTES BELOW.

## SOIL CONTAINMENT BERM - PLAN VIEW

NOT TO SCALE



## SOIL CONTAINMENT BERM - SECTION VIEW A-A

NOT TO SCALE



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IF A VOLUME OF 1000 CUBIC FEET OF SOIL IS FOUND TO BE CONTAMINATED, THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE REMEDIATION OF THE SOIL. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE REMEDIATION OF THE SOIL. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE REMEDIATION OF THE SOIL.

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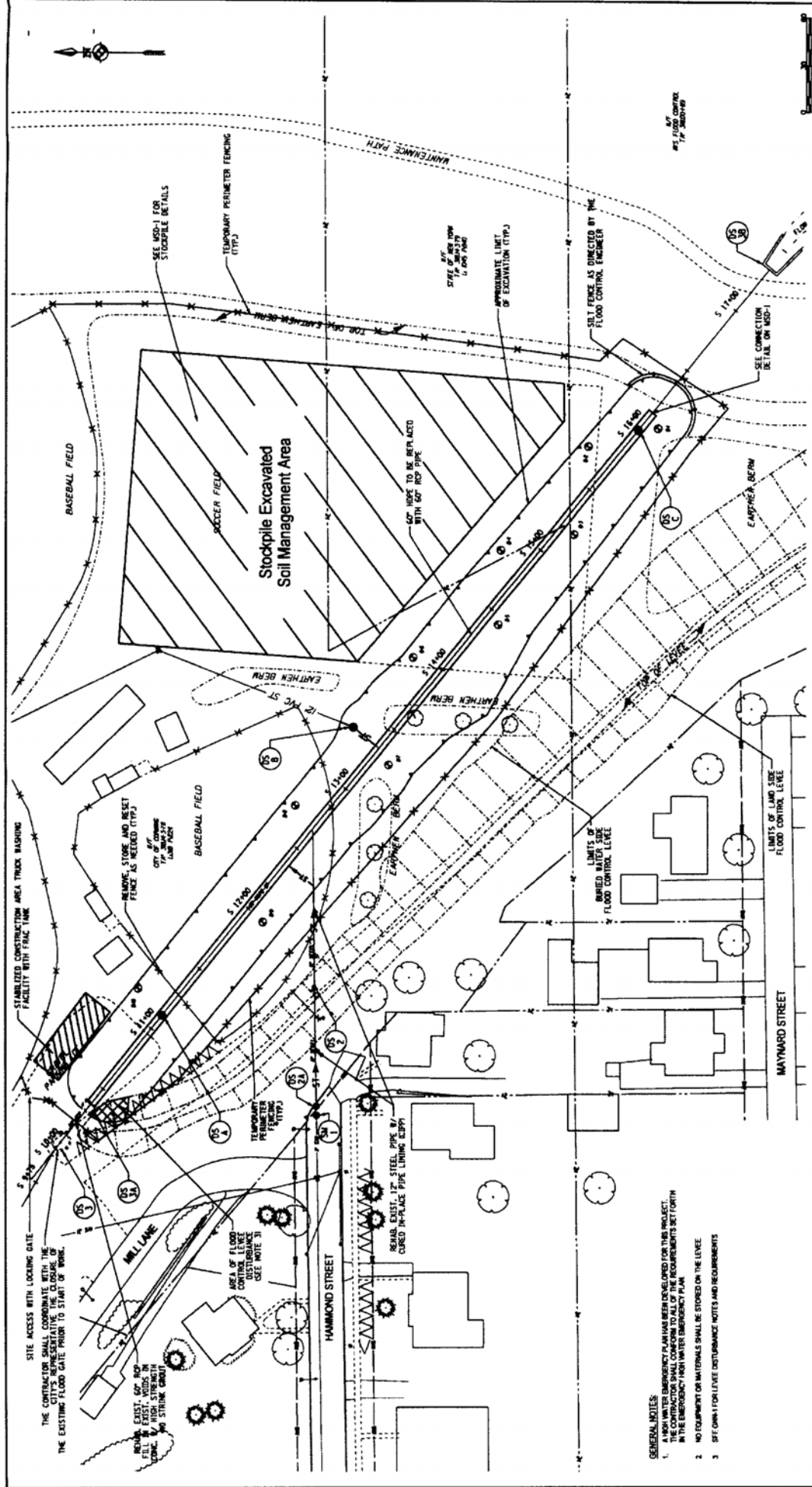
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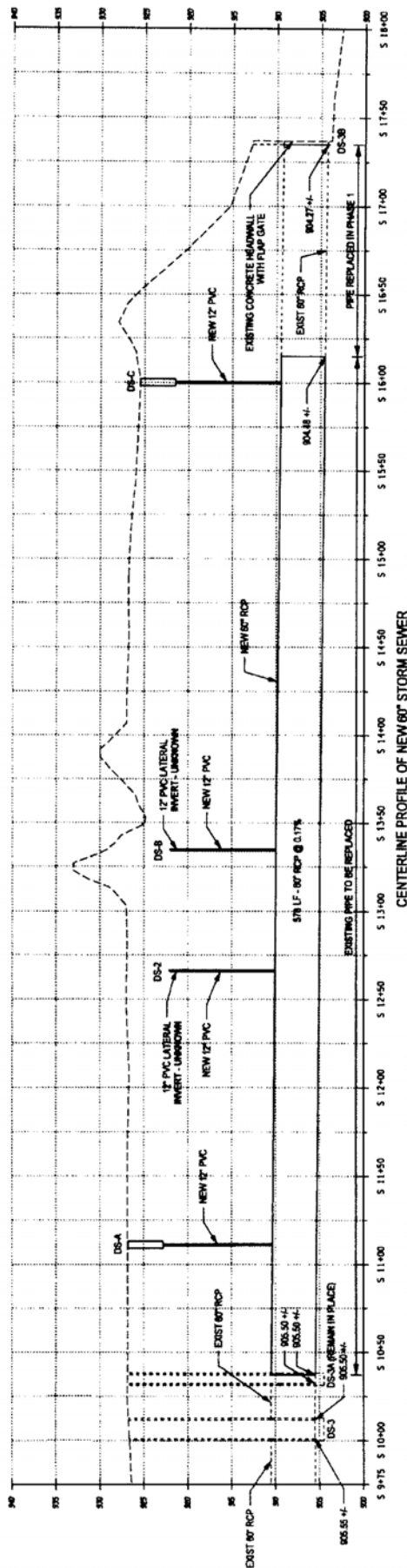
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Project No.	Scale	Revision	
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Permit-Sect



### Consultants



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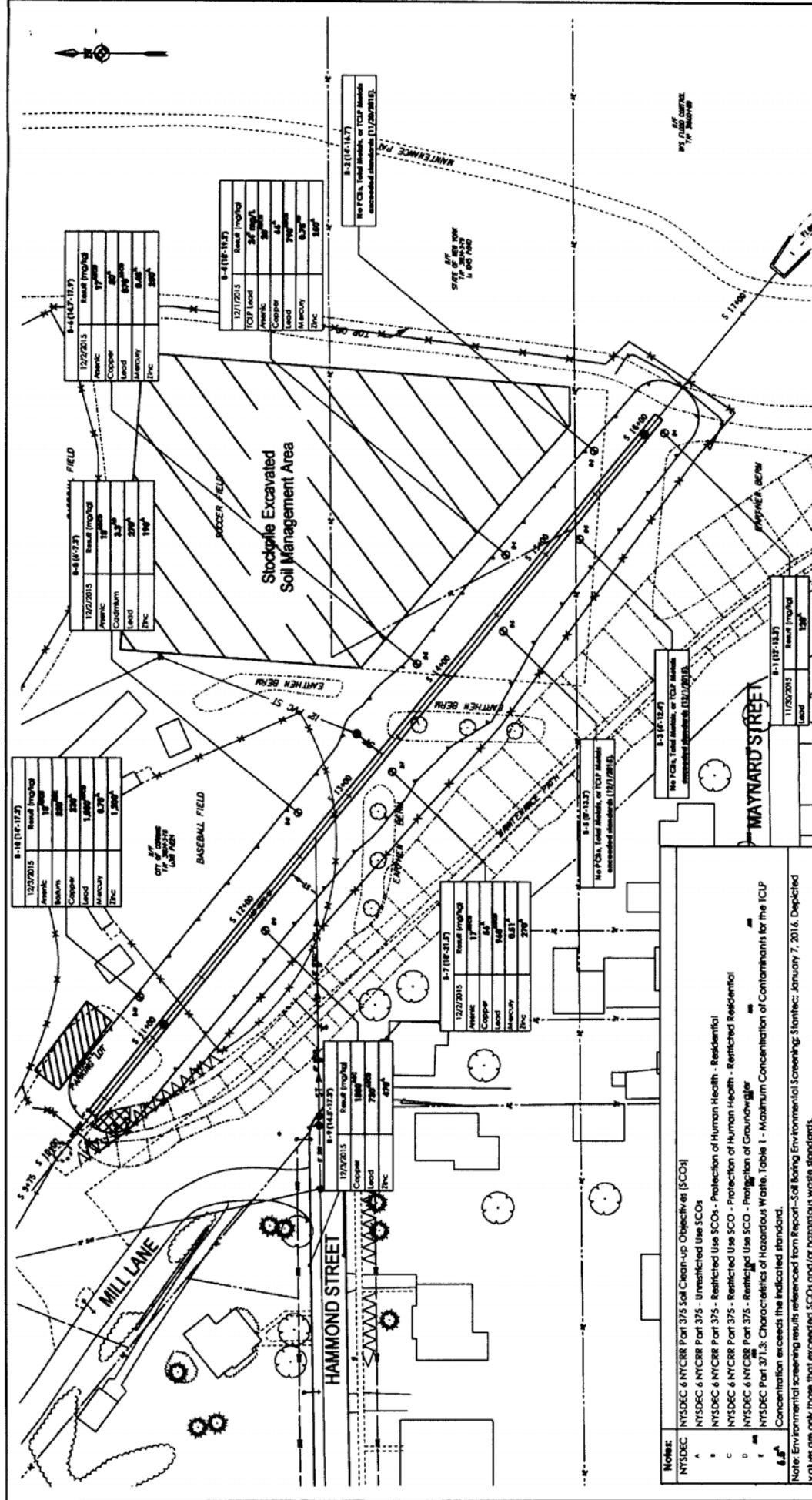
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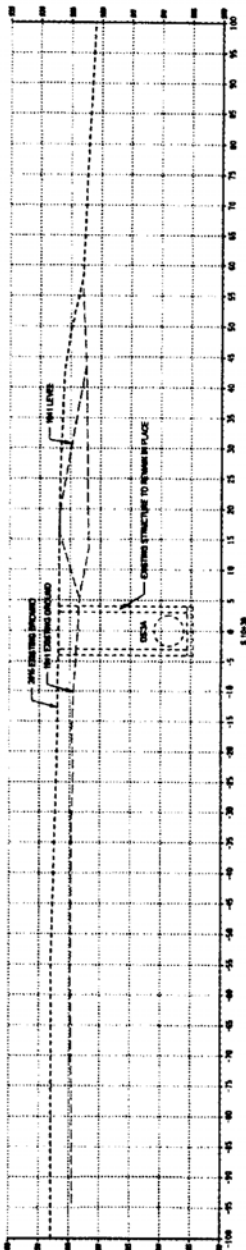
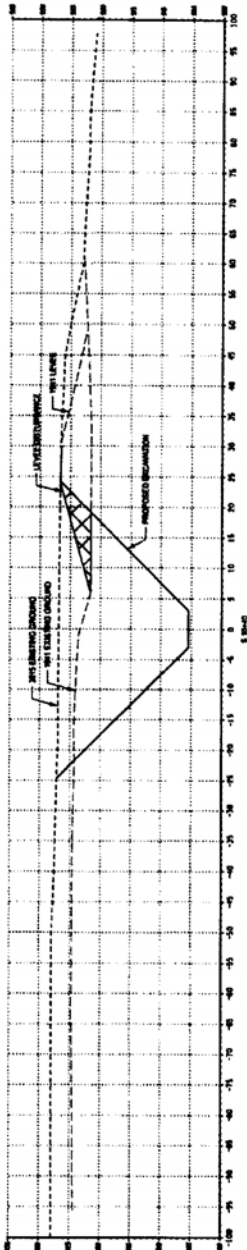
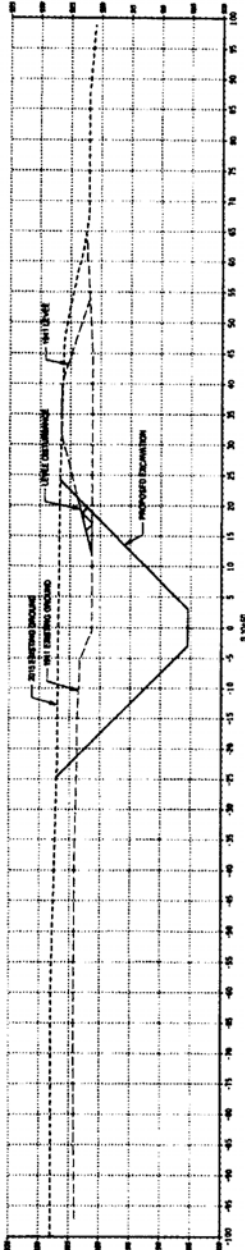
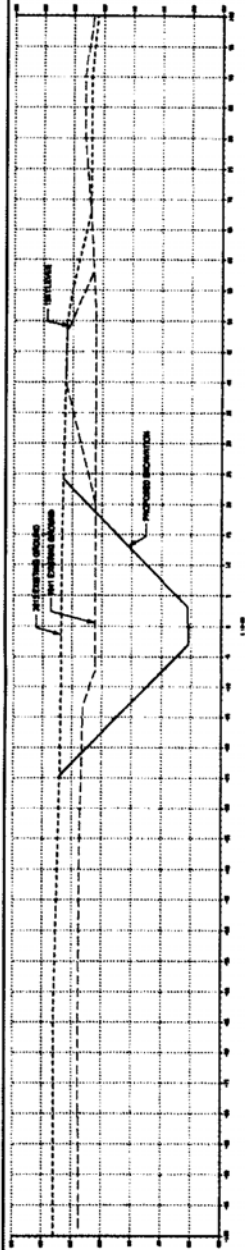
City/Project  
CITY OF CORNING  
STORM SEWER REPLACEMENT  
CORNING, NEW YORK

Life

Project No. 192500371	Scale	H: 1"= 30' V: 1"=6'
Drawing No.	Sheet	Revision



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REVISIONS

NO.	DATE	BY	APP'D	REASON
1	11/15/00			ISSUED FOR PERMIT



Consent

**Stantec**

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CORNING, NEW YORK

Project No. 195000371  
Drawing No. XSC-1  
Scale 1"=10'  
Sheet 13 of 14  
Revision 0

Title  
CROSS SECTION  
LEVEE DISTURBANCE

**APPENDIX "A"**

**ADDITIONAL CLAUSES FOR ORDER**



## APPENDIX A

### ADDITIONAL CLAUSES FOR ORDER

The parties to the State Superfund Order (hereinafter "Order") to which this Appendix A is attached agree to be bound by the following clauses which are hereby made a part of the Order.

#### I. Citizen Participation Plan

Within twenty (20) days after the effective date of this Order, Respondent shall submit for review and approval a written Fact Sheet describing the IRM and a distribution list setting forth the mailing information for local officials, interested parties and residents living adjacent to the Site, which Respondent shall prepare in consultation with the Department's Regional Citizen Participation Specialist. Upon approval by the Department, the Fact Sheet shall be distributed to local officials, interested parties and residents adjacent to the Site.

#### II. Initial Submittal (Not Applicable)

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

##### A. Work Plan Requirements

All activities at the Site that comprise any element of an Inactive Hazardous Waste Disposal Site Remedial Program 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 only address on-Site conditions and any Work Plan in addition to the IRM Work Plan attached to the Order as Exhibit B shall be developed and implemented in accordance with 6 NYCRR § 375-1.6(a), 375-3.6, and 375-6. Subject to Subparagraph III.E.3., 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.

(Not Applicable)

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

1. Respondent may opt to propose one or more additional or supplemental Work Plans (including one or more additional or supplemental 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. The Department shall notify Respondent in writing if the Department determines that any element of a Department-approved Work Plan needs to be modified in order to achieve the objectives of the Work Plan as set forth in Subparagraph III.A or to ensure that the Remedial Program otherwise protects human health and the environment. Upon receipt of such notification, Respondent shall, subject to dispute resolution pursuant to Paragraph XV, modify the Work Plan.

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

4. A Professional Engineer must stamp and sign all additional or supplemental Work Plans other than SC or RI/FS Work Plans.

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

1. In accordance with the schedule contained in a Work Plan, Respondent shall submit a final engineering report as provided at 6 NYCRR 375-1.6(c), which for the IRM Work Plan shall be called the "Construction Completion Report".

2. The final engineering report shall include "as built" drawings showing any changes made to the remedial design or the IRM.

#### D. 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 sixty (60) Days. 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. Subject to Subparagraph III.E.3 and 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), or if the submittal is an additional or supplemental Work Plan that Respondent has opted to propose, Respondent may withdraw such submittal.

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 or, in the case of a submittal that is an additional or supplemental Work Plan that Respondent has opted to propose, Respondent withdraws such submittal.

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), or if the submittal is an additional or supplemental Work Plan that Respondent has opted to propose, Respondent its election to withdraw such submittal. 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 or, in the case of a submittal that is an additional or supplemental Work Plan that Respondent has opted to propose, Respondent withdraws such submittal

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

#### E. Department's Issuance of a ROD (Not Applicable)

#### IV. Penalties

A. 1. Respondent's failure to comply with any term of this Order constitutes a breach of this Order. Nothing herein abridges Respondent's right to contest any allegation that it has failed to comply with 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 breach of this Order unless it invokes dispute resolution pursuant to Paragraph XV and Respondent's position prevails.

#### V. Entry upon Site

A. Respondent hereby consents, upon reasonable notice under the circumstances presented, to entry upon the Site (or areas in the vicinity of the Site which may be under the control of Respondent) by any duly designated officer or employee of the Department 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 Site, for inspecting, sampling, copying records related to the contamination at the Site, testing, and any other activities necessary to ensure Respondent's compliance with this Order. Upon request, Respondent shall (i) provide the Department with suitable work space at the Site, including access to a telephone, to the extent available, and (ii) permit the Department full access to all non-privileged records relating to matters addressed by this Order. Raw data is not considered privileged and that portion of any privileged document containing raw data must be provided to the Department. In the event Respondent is unable to obtain any authorization from third-party property owners

necessary to perform its obligations under this Order, the Department may, consistent with its legal authority, assist in obtaining such authorizations.

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

#### VI. Payment of State Costs (Not Applicable)

#### 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, Respondent specifically reserves all rights and defenses under applicable law respecting to contest, defend against, dispute or disprove any actions, proceedings, allegations, assertions, determination or order of the Department, including any Departmental assertion of remedial liability and/or natural resource damages against Respondent, and further reserves all rights and defenses 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

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

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

#### XI. Change of Use

Respondent shall notify the Department at least sixty (60) days in advance of any change of use, as defined in 6 NYCRR 375-2.2(a), which is proposed for the Site, in accordance with the provisions of 6 NYCRR 375-1.11(d). In the event the Department determines that the proposed change of use is

prohibited, the Department shall notify Respondent of such determination within forty-five (45) days of receipt of such notice.

#### XII. Environmental Easement (Not Applicable)

#### 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 IRM 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. Progress reports shall be submitted quarterly during design phase, and monthly after the start of construction until completion of the construction activities.. Progress reports will not be issued following completion of the construction activities pending completion of the Construction Completion Report. 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 during the previous reporting period and those anticipated for the next reporting period.

#### XIV. Termination of Order

A. This Order will terminate upon the earlier of the following events:

The Department's written determination that Respondent has completed implementation of the IRM Work Plan or Respondent's decision to withdraw an additional or supplemental Work Plan that Respondent had opted to propose, in which event the termination shall be effective on the 5th Day after the date of the Department's letter stating that all phases of the IRM Work Plan have been completed or the 5th Day after the date of Respondent's letter

withdrawing the additional or supplemental Work Plan that Respondent had opted to propose.

B. Notwithstanding the foregoing, the provisions contained in Paragraph IX shall survive the termination of this Order and any violation of such surviving Paragraph shall be a breach of this Order, so long as such obligations accrued on or prior to the Termination Date.

C. Respondent shall also ensure that it does not leave the Site in a condition, from the perspective of human health and environmental protection, worse than that which existed before any activities under this Order were commenced.

#### 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).

#### XVI. Miscellaneous

A. The provisions of 6 NYCRR Subparts 375-1 and 375-2 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. 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 the IRM Work Plan and all Department-approved additional or supplemental 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.

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 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. (Not Applicable)

G. 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).

H. Any time limitations set forth in Section 113(g)(1) of CERCLA, as amended, 42 U.S.C. § 9613(g)(1), Section 1012(h)(2) of the Oil Pollution Act, as amended, 33 U.S.C. § 2712(h)(2), the Federal

Water Pollution Control Act, the New York Navigation Law, the New York Environmental Conservation Law, or any other federal or state statute or regulation with respect to potential claims for natural resource damages against Respondent or any other time limitations for the filing of potential natural resource damages claims against Respondent under any other applicable state or federal law are tolled in their entirety from the effective date of this Order until termination of this Order.

I. 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.

J. Respondent's obligations under this Order shall not be deemed to constitute any type of fine or penalty.

K. 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.

L. 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.