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ATTORNEYS AND COUNSELORS
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November 26, 2001

Maura Desmond, Esq.
Senior Attorney
NYS DEC - Region 9
Division of Environmental Enforcement
270 Michigan Avenue
Buffalo, New York 14203-2999

RECEIVED

NOV 27 2001

N.Y.S. DEPT. OF
ENVIRONMENTAL CONSERVATION
DIV. ENVIRONMENTAL ENFORCEMENT
BUFFALO FIELD UNIT

Re: Farwell Landfill - Cattaraugus County
Our File No. 83235.2

Dear Ms. Desmond:

Pursuant to Paragraph XII A of the September 21, 2001 Order on Consent ("CO") in the above-referenced matter, please find the Notice of Order – New York State Department of Environmental Conservation, duly filed by the Cattaraugus County Clerk on November 20, 2001.

The document required by Paragraph XII C will be filed with the clerk as required by the CO, within thirty days after receipt by the County of the Department's notification pursuant to Subparagraph II F of the Order.

If you have any questions, feel free to contact me at any time.

Very truly yours,

HARTER, SECREST & EMERY LLP

Angela M. Demerle
Associate

DIRECT DIAL: 716-845-4222
E-MAIL: ADEMERLE@HSELAW.COM

AMD:mar
Enclosure

cc: David J. Rivet
Dennis T. Tobolski, Esq.
Morgan Graham, Esq.
Craig A. Slater, Esq.

4

**NOTICE OF ORDER -
NEW YORK STATE DEPARTMENT
OF ENVIRONMENTAL CONSERVATION**

The County of Cattaraugus, owner in fee simple of certain real property as described below, in accordance with the Order on Consent issued by New York State Department of Environmental Conservation on September 21, 2001, attached hereto as "Exhibit A" hereby gives notice of the entry of said Order to all parties who may acquire any interest in the Property which has been identified as Site Number 905024 in the New York State Department of Environmental Conservation's Registry of Inactive Hazardous Waste Disposal Sites and located in the Town of Ischua, County of Cattaraugus, New York (the "Site"), and as more fully described as follows:

The Property being part of deed descriptions attached hereto as Exhibits "B" and "C", the first parcel, in Deed identified as Exhibit B, dated September 25, 1973, recorded at Liber 742 of Deeds at Page 937, and identified as Tax Map No. 68.003-1-1; the second parcel, in Deed identified as Exhibit C, dated May 19, 1990, recorded at Liber 901 of Deeds at page 804, and identified as Tax Map No. 68-001-1-18.

IN WITNESS WHEREOF, the Chairman of the County of Cattaraugus has caused this Notice of Order to be executed this 20th day of November, 2001.

SUBSCRIBED AND SWORN TO
before me this 20th day
of November 2001.

Karen S. Burch
NOTARY PUBLIC

KAREN S. BURCH
Notary Public #4720539
Cattaraugus County, New York
Commission Expires 11/30/2002

Gerard J. Fitzpatrick
By: GERARD J. FITZPATRICK
Chair, Cattaraugus County
Legislature

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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

ORDER
ON
CONSENT
INDEX # B9-0489-96-02

Cattaraugus County, Respondent
and Alcas Corporation, Settling Party

Site Code #905024

WHEREAS,

1. The New York State Department of Environmental Conservation (the "Department") is responsible for enforcement of Article 27, Title 13 of the Environmental Conservation Law of the State of New York ("ECL"), entitled "Inactive Hazardous Waste Disposal Sites." This Order is issued pursuant to the Department's authority under, inter alia, ECL Article 27, Title 13, ECL 3-0301 and 42 U.S.C. Sec. 9601, et seq.
2. Cattaraugus County ("Respondent") is the owner and operator of the Site known as the Farwell Road Landfill (the "Site") located in the Town of Ischua, Cattaraugus County. The Department alleges that Alcas Corporation ("Settling Party") is a corporation or a successor corporation which disposed wastes at the Site. Settling Party has an agreement with Respondent concerning performance of work and other obligations under this Order.
3. The Site is an inactive hazardous waste disposal site, as that term is defined at ECL 27-1301.2, and presents a significant threat to the public health or environment. The Site has been listed in the Registry of Inactive Hazardous Waste Disposal Sites in New York State as Site Number 905024. The Department has classified the Site as a Classification "2" pursuant to ECL 27-1305.4.b.
4. A. Pursuant to ECL 27-1313.3.a, whenever the Commissioner of Environmental Conservation (the "Commissioner") "finds that hazardous wastes at an inactive hazardous waste disposal site constitute a significant threat to the environment, he may order the owner of such site and/or any person responsible for the disposal of hazardous wastes at such site (i) to develop an inactive hazardous waste disposal site remedial program, subject to the approval of the department, at such site, and (ii) to implement such program within reasonable time limits specified in the order."

B. Any person under order pursuant to ECL 27-1313.3.a has a duty imposed by ECL Article 27, Title 13 to carry out the remedial program committed to under order. ECL 71-2705 provides that any person who fails to perform any duty imposed by ECL Article 27, Title 13 shall be liable for civil, administrative and/or criminal sanctions.

C. The Department also has the power, inter alia, to provide for the prevention and abatement of all water, land, and air pollution. See, e.g., ECL 3-0301.1.i.

5. The Department issued a Remedial Investigation/Feasibility Study ("RI/FS") Consent Order on July 23, 1998 pursuant to which Respondent conducted a remedial investigation and prepared a feasibility study. Settling Party has an agreement with Respondent concerning performance of the RI/FS and was a settling party under the RI/FS Consent Order.

6. Pursuant to the RI/FS Consent Order the Department approved a Remedial Investigation Report and a Feasibility Study Report.

7. Following a period of public comment, the Department selected a final remedial alternative for the Site in a Record of Decision ("ROD") on March 31, 2000. The ROD, attached to this Order as Appendix "A," is incorporated as an enforceable part of this Order.

8. The Department, Respondent and Settling Party agree that the goals of this Order are for Respondent to (i) develop and implement, in accordance with the ROD and the Department-approved Farwell Landfill Comprehensive Document, which is attached to and incorporated into this Order as Appendix "B", an inactive hazardous waste disposal site remedial program ("Remedial Program") for the Site that shall include repair of the landfill cover, continued collection and off-Site treatment of landfill leachate, long-term groundwater monitoring, and filing of the required deed restrictions, and (ii) reimburse the State's administrative costs in accordance with Paragraph VIII of this Order.

9. Respondent and Settling Party neither admit nor deny the allegations herein. Respondent specifically denies having disposed of any hazardous wastes or hazardous substances at the Site.

10. Respondent and Settling Party, having waived their rights to a hearing herein as provided by law, and having consented to the issuance and entry of this Order, agree to be bound by the terms applicable to them. Respondent and Settling Party consent to and agree not to contest the authority or jurisdiction of the Department to issue or enforce this Order, and agree not to contest the validity of this Order or its terms.

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

I. Remedial Design Contents

A. In accordance with the attached Department-approved Farwell Landfill Comprehensive Document Respondent shall submit to the Department a remedial design to implement the remedial alternative for the Site selected by the Department in the ROD (the

"Remedial Design"). The Remedial Design shall be prepared by and have the signature and seal of a professional engineer who shall certify that the Remedial Design was prepared in accordance with this Order.

B. The Remedial Design shall include the following:

1. A detailed description of the remedial objectives and the means by which each element of the selected remedial alternative will be implemented to achieve those objectives, including, but not limited to:
 - a. the construction and operation of any structures;
 - b. the collection, destruction, treatment, and/or disposal of hazardous wastes and substances and their constituents and degradation products and of any soil or other materials contaminated thereby;
 - c. the collection, destruction, treatment, and/or disposal of contaminated groundwater, leachate, and air;
 - d. physical security and posting of the Site;
 - e. quality control and quality assurance procedures and protocols to be applied during implementation of the Remedial Construction; and
 - f. monitoring which integrates needs which are present on-Site and off-Site during implementation of the Department-selected remedial alternative.
2. "Biddable Quality" documents for the Remedial Design including, but not limited to, documents and specifications prepared, signed, and sealed by a professional engineer. These plans shall satisfy all applicable local, state and federal laws, rules and regulations;
3. A time schedule to implement the Remedial Design;
4. The parameters, conditions, procedures, and protocols to determine the effectiveness of the Remedial Design, including a schedule for periodic sampling of groundwater monitoring wells on-Site and off-Site;
5. A description of operation, maintenance, and monitoring activities to be undertaken after the Department has approved construction of the Remedial Design, including the number of years during which such activities will be performed (where appropriate), and a specific description of the criteria to be used to decide when an operation of the remedy may be discontinued.
6. A contingency plan to be implemented if any element of the Remedial Design fails to achieve any of its objectives or otherwise fails to protect human health or the

environment;

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

8. A citizen participation plan which incorporates appropriate activities outlined in the Department's publication "Citizen Participation in New York's Hazardous Waste Site Remediation Program: A Guidebook" dated June 30, 1998.

II. Remedial Construction

A. In accordance with the schedule in the Department-approved Remedial Design, Respondent shall commence construction of the Department-approved Remedial Design.

B. Respondent shall implement the Remedial Design in accordance with the Department-approved Remedial Design Work Plan.

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

D. Within 60 days after completion of the construction activities identified in the Department-approved Remedial Design Work Plan, Respondent shall submit to the Department "as-built" drawings and a final engineering report (each including all changes made to the Remedial Design during construction); and a certification that the Remedial Design was implemented and that all construction activities were completed in accordance with the Department-approved Remedial Design Work Plan and were personally witnessed by him or her or by a person under his or her direct supervision. The "as built" drawings, final engineering report, and certification must be prepared, signed, and sealed by a professional engineer.

E. Respondent shall implement the operation, monitoring and maintenance in accordance with the requirements of the Department-approved Farwell Landfill Comprehensive Document, and any Department-approved revisions thereto, and shall submit to the Department Monitoring, Maintenance and Operations performance reports in accordance with that document.

F. After receipt of the "as-built" drawings, final engineering report, and certification, the Department shall notify Respondent in writing whether the Department is satisfied that all construction activities have been completed in compliance with the Department-approved Remedial Design Work Plan.

G. If the Department concludes that any element of the Department-approved Remedial Program fails to achieve its objectives or otherwise fails to protect human health or the environment, Respondent shall take whatever action the Department determines necessary to achieve those objectives or to ensure that the Remedial Program otherwise protects human health

and the environment. If Respondent disagrees with the Department determination the Department and Respondent shall attempt in good faith to resolve the dispute informally. If within thirty (30) days of the Department's written notice of its determination the dispute cannot be resolved the Department may take any action or pursue whatever rights it has and Respondent may interpose any defense and/or assert any right in response.

III. Progress Reports

Respondent shall submit to the parties identified in Paragraph XIII in the numbers specified therein copies of written progress reports that:

- A. describe the actions which have been taken toward achieving compliance with this Order during the previous reporting period;
- B. include all results of sampling and tests and all other data received or generated by Respondent or Respondent's contractors or agents in the previous reporting period, including quality assurance/quality control information, whether conducted pursuant to this Order or conducted independently by Respondent;
- C. identify all work plans, reports, and other deliverables required by this Order that were completed and submitted during the previous reporting period;
- D. describe all actions, including, but not limited to, data collection and implementation of work plans, that are scheduled for the next reporting period and provide other information relating to the progress at the Site;
- E. include information regarding percentage of completion, unresolved delays encountered or anticipated that may affect the future schedule for implementation of Respondent's obligations under the Order, and efforts made to mitigate those delays or anticipated delays;
- F. include any modifications to any work plans that Respondent has proposed to the Department or that the Department has approved; and
- G. describe all activities undertaken in support of the Citizen Participation Plan during the previous reporting period and those to be undertaken in the next reporting period. Respondent shall submit these progress reports to the Department by the tenth day of every reporting period following the effective date of this Order.
- H. Reporting periods shall be monthly commencing with the effective date of this Order and continuing until Department approval of the final engineering report.

Reporting periods during Monitoring, Maintenance and Operations performance shall be in accordance with the Farwell Landfill Comprehensive Document.

Respondent also shall allow the Department to attend, and shall provide the Department at least seven days advance notice of, any of the following: prebid meetings, job progress meetings, substantial completion meeting and inspection, and final inspection and meeting.

IV. Review of Submittals

A. 1. The Department shall review each of the submittals Respondent makes pursuant to this Order to determine whether it was prepared, and whether the work done to generate the data and other information in the submittal was done, in accordance with this Order and generally accepted technical and scientific principles. The Department shall notify Respondent in writing of its approval or disapproval of the submittal, except for the submittal discussed in Subparagraph I.B.7. All Department-approved submittals shall be incorporated into and become an enforceable part of this Order.

2. a. If the Department disapproves a submittal, it shall so notify Respondent in writing and shall specify the reasons for its disapproval. Within 20 days after Respondent receives written notice of the Department disapproval Respondent may request a meeting with the Department to discuss this disapproval. Within 30 days after receiving written notice that Respondent's submittal has been disapproved if no meeting is held, or within 30 days after such meeting is held, Respondent shall make a revised submittal to the Department that addresses and resolves all of the Department's stated reasons for disapproving the first submittal or is otherwise consistent with any understandings reached at any meeting held pursuant to this Subparagraph.

b. After receipt of the revised submittal, the Department shall notify Respondent in writing of its approval or disapproval. If the Department approves the revised submittal, it shall be incorporated into and become an enforceable part of this Order. If the Department disapproves the revised submittal, Respondent shall be in violation of this Order and the Department may take any action or pursue whatever rights it has unless Respondent invokes the dispute resolution procedure set forth in Paragraph V of this Order within 30 days of receipt of written notice of Department disapproval.

B. Respondent shall modify and/or amplify and expand a submittal upon the Department's direction to do so if the Department determines, as a result of reviewing data generated by an activity required under this Order or as a result of reviewing any other data or facts, that further work is necessary.

V. Dispute Resolution

A. The Department and Respondent shall in the first instance attempt to resolve expeditiously and informally any disagreements which arise during implementation of this Order.

B. 1. If the Department disapproves a revised submittal, Respondent shall be in violation of this Order unless, within thirty (30) days after receipt of the Department's written

notice of disapproval of the revised submittal, Respondent serves on the Department a request for appointment of an Administrative Law Judge ("ALJ"), and a written statement setting forth the issues in dispute, the relevant facts upon which the dispute is based, and the factual data, analysis, or opinion supporting its position, and all supporting documentation on which Respondent relies (hereinafter after called the "Statement of Position"). The Department shall serve its Statement of Position, including supporting documentation no later than twenty (20) business days after receipt of Respondent's Statement of Position.

2. Respondent shall be given the opportunity to meet with the appointed ALJ and the Department to present their responses to the Department's disapproval. The time periods for service of Statements of Position may be shortened or extended in accordance with a written agreement between the Department and Respondent.

3. The Department shall maintain an administrative record of any dispute under this Paragraph. The record shall include the Statement of Position of each party served pursuant to the preceding Subparagraph and any relevant information. The record shall be available for review of all parties and the public in accordance with the Freedom of Information Law.

4. Upon review of the administrative record as developed pursuant to this Paragraph, the ALJ shall issue a final decision and order resolving the dispute. Respondent shall revise the submittal in accordance with the Department's specific comments, as may be modified by the ALJ and except for those which have been withdrawn by the ALJ, and shall submit a revised submittal. The length of time within which the submittal must be revised as specified by the Department in its notice of disapproval shall control unless the ALJ revises the time frame in the ALJ's final decision and order resolving the dispute.

5. After receipt of the revised submittal the Department shall notify Respondent in writing of its approval or disapproval of the revised submittal. If the revised submittal fails to address and resolve the Department's specific comments, as may be modified and/or withdrawn by the ALJ, and the Department disapproves the submittal for this reason, Respondent shall be in violation of this Order and the ECL.

6. In review by the ALJ of any dispute pursued under this Paragraph, Respondent shall have the burden of proving that there is no rational basis for the Department's position.

7. Respondent shall retain those rights available pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York ("CPLR"), provided that a petition under Article 78 is filed within thirty (30) days after the Respondent's receipt of the written decision and order issued by the ALJ.

8. The invocation of the procedures stated in this Paragraph shall not extend, postpone or modify Respondent's obligations under this Order with respect to any undisputed items unless and until the Department agrees or a court determines otherwise. Respondent shall

not be in violation of this Order for failure to perform tasks or obligations which are directly related to issues in dispute or which may be altered or revised in the resolution of issues in dispute.

9. The invocation of the procedures stated in this Paragraph shall constitute an election of remedies by Respondent, and such election of this remedy shall constitute a waiver of any and all other remedies which may otherwise be available to Respondent regarding the issue in dispute.

VI. Penalties

A. Respondent's failure to comply with any term of this Order constitutes a violation of this Order and the ECL.

B. Respondent shall not suffer any penalty under this Order or be subject to any proceeding or action if it cannot comply with any requirement hereof because of war, riot, or an unforeseeable disaster arising exclusively from natural causes which the exercise of ordinary human prudence could not have prevented. Respondent shall, within five days of when it obtains knowledge of any such condition, notify the Department in writing. Respondent shall include in such notice the measures taken and to be taken by Respondent to prevent or minimize any delays and shall request an appropriate extension or modification of this Order. Failure to give such notice within such five-day period constitutes a waiver of any claim that a delay is not subject to penalties. Respondent shall have the burden of proving that an event is a defense to compliance with this Order pursuant to Subparagraph VI.B.

VII. Entry upon Site

Respondent hereby consents to the entry upon the Site or areas in the vicinity of the Site which may be under the control of Respondent by any duly designated employee, consultant, contractor, or agent of the Department or any State agency for purposes of inspection, sampling, and testing and to ensure Respondent's compliance with this Order. The Department shall make reasonable efforts to provide reasonable notice in advance of any such entry. During Remedial Construction, Respondent shall provide the Department with access to a telephone. Respondent shall permit the Department full access to all records relating to matters addressed by this Order and to job meetings.

VIII. Payment of State Costs

A. 1. Within 45 days after receipt of an itemized invoice from the Department, Respondent shall pay to the Department a sum of money which shall represent reimbursement for the State's expenses including, but not limited to, direct labor, fringe benefits, indirect costs, travel, analytical costs, and contractor costs incurred by the State of New York for work related to the Site to the effective date of this Order, as well as for reviewing and revising submittals made pursuant to this Order, overseeing activities conducted pursuant to this Order, collecting and analyzing samples, and administrative costs associated with this Order.

2. Such invoice shall be sent to Respondent at the following address:

David J. Rivet
Commissioner
Cattaraugus County Department of Public Works
8810 Route 242
Little Valley, New York 14755

3. For the period commencing with the effective date of this Order until the written Department approval of the final engineering report and certification Respondent shall pay for the State's expenses incurred during that period up to the amount of \$20,000 per year. From the date of written Department approval of the final engineering report and certification until termination of operation and maintenance activities at the Site Respondent shall pay for the State's expenses up to the amount of \$7,500 per year.

B. Such payment shall be made by certified check payable to the Department of Environmental Conservation and shall be sent to:

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

C. Personal service costs shall be documented by reports of Direct Personal Service, which shall identify the employee name, title, biweekly salary, and time spent (in hours) on the project during the billing period, as identified by an assigned time and activity code. Approved agency fringe benefit and indirect cost rates shall be applied. Non-personal service costs shall be summarized by category of expense (e.g., supplies, materials, travel, contractual) and shall be documented by expenditure reports.

D. Each party shall provide written notification to the other within 90 days of any changes in the above addresses.

IX. Department Reservation of Rights

A. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating, or in any way affecting any of the Department's civil, criminal, or administrative rights (including, but not limited to, nor exemplified by, the right to recover natural resource damages) or authorities.

B. Nothing contained in this Order shall be construed to prohibit the Commissioner or the Commissioner's duly authorized representative from exercising any summary abatement powers.

X. Indemnification

Respondent shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless for all claims, suits, actions, damages, and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Order by Respondent and/or any of Respondent's directors, officers, employees, servants, agents, successors, and assigns provided, however, that Respondent shall not be required to indemnify and hold the Department, State of New York or their representatives and employees harmless for any claims, suits, actions, damages and costs of every name and description arising out of or resulting from the gross negligence or willful misconduct of the Department, the State of New York and their representatives and employees.

XI. Contribution Protection

1. Nothing in this Order shall be construed to create any rights in, or grant any cause of action to, any person not a party to this Order. The Department, Respondent and Settling Party expressly reserve any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action which each party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a party hereto.

2. With respect to potential actions or claims for contribution against Respondent and/or Settling Party for matters addressed in this Order, the Department agrees that Respondent and/or Settling Party are entitled to protection from any such contribution action and/or claim to the extent authorized by the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), §113(f)(2), 42 U.S.C. §9613(f)(2).

XII. Public Notice

A. Within 30 days after the effective date of this Order, Respondent shall file a Notice of Order with the Clerk of Cattaraugus County to give all parties who may acquire any interest in the Site notice of this Order and shall provide the Department with a copy with the date and time stamped by the Cattaraugus County Clerk.

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

C. Within 30 days after receipt of the Department's notification pursuant to Subparagraph II.F of this Order, Respondent shall record an instrument with the Cattaraugus County Clerk which cannot be removed without the Department's written approval, to run with the land, that shall require Respondent and its successors and assigns to implement and/or continue in full force and effect any institutional and engineering controls and/or operation and

maintenance required by this Order, the ROD, the Farwell Landfill Comprehensive Document and the Remedial Design.

XIII. Communications

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

1. Communication from Respondents shall be sent to:

Martin Doster, Region 9
Division of Environmental Remediation
New York State Department of Environmental Conservation
270 Michigan Avenue
Buffalo, New York

with copies to:

Gerald Rider, Jr.
Division of Environmental Remediation
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233

Gary Litwin, Bureau of Environmental Exposure Investigation
New York State Department of Health
Flanigan Square
547 River Street
Troy, New York 12180-2216

Division of Environmental Enforcement
New York State Department of Environmental Conservation
270 Michigan Avenue
Buffalo, New York 14203

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

David J. Rivet
Commissioner
Cattaraugus County Department of Public Works
8810 Route 242
Little Valley, New York 14755

Craig A. Slater, Esq.
Harter, Secrest & Emery
One HSBC Center
Suite 3550
Buffalo, New York 14203-2884

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

Four copies to Martin Doster, Division of Environmental Remediation.

One copy to Division of Environmental Remediation, Albany.

Two copies to Bureau of Environmental Exposure Investigation.

One copy to Division of Environmental Enforcement.

C. 1. Within 30 days of the Department's approval of any report submitted pursuant to this Order, Respondent shall submit to Director, Division of Environmental Remediation, a computer readable magnetic media copy of the approved report in American Standard Code for Information Interchange (ASCII) format.

2. Within 30 days after its approval of the drawings and submittals described in Subparagraph II.D of this Order, Respondent shall submit one microfilm copy (16 millimeter roll film M type cartridge) of such Department-approved drawings and submittals, as well as all other Department-approved submittals. Respondent shall submit same to Martin Doster.

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

XIV. Miscellaneous

A. All activities and submittals required by this Order shall address both on-Site and off-Site contamination resulting from the disposal of hazardous wastes at the Site.

B. Respondent shall retain professional consultants, contractors, laboratories, quality assurance/quality control personnel, and third party data validators acceptable to the Department to perform the technical, engineering, and analytical obligations required by this Order. The experience, capabilities, and qualifications of the firms or individuals selected by Respondent shall be submitted to the Department within 30 days after the effective date of this Order. The Department's approval of these firms or individuals shall be obtained before the start of any activities for which Respondent and such firms or individuals will be responsible. The Department's approval of any such individual or firm shall not be unreasonably withheld. The responsibility for the performance of the professionals retained by Respondent shall rest solely with Respondent.

C. The Department shall have the right to obtain split samples, duplicate samples, or both, of all substances and materials sampled by Respondent, and the Department also shall have the right to take its own samples. Respondent shall make available to the Department the results of all sampling and/or tests or other data generated by Respondent with respect to implementation of this Order and shall submit these results in the progress reports required by this Order.

D. Respondent shall notify the Department at least 10 working days in advance of any field activities to be conducted pursuant to this Order.

E. 1. Respondent shall use their best efforts to obtain all permits, easements, rights-of-way, rights-of-entry, approvals, or authorizations necessary to perform Respondent's obligations under this Order.

2. The Department may, at its option, assist Respondent to the extent authorized by law in the event such assistance is necessary to secure any such necessary off-Site permits, easements, rights-of-ways, rights-of-entries, approvals or authorizations needed to perform this Order.

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

G. Respondent shall provide a copy of this Order to each contractor hired to perform work required by this Order and to each person representing Respondent with respect to the Site and shall condition all contracts entered into in order to carry out the obligations identified in this Order upon performance in conformity with the terms of this Order. Respondent or Respondent's contractors shall provide written notice of this Order to all subcontractors hired to perform any portion of the work required by this Order. Respondent shall nonetheless be responsible for ensuring that Respondent's contractors and subcontractors perform the work in satisfaction of the requirements of this Order.

H. All references to "professional engineer" in this Order are to an individual registered as a professional engineer in accordance with Article 145 of the New York State Education Law. If such individual is a member of a firm, that firm must be authorized to offer professional engineering services in the State of New York in accordance with Article 145 of the New York State Education Law.

I. All references to "days" in this Order are to calendar days unless otherwise specified.

J. 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 of the provisions of this Order.

K. 1. 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 regarding any report, proposal, plan, specification, schedule, or any other submittal shall be construed as relieving Respondent of Respondent's obligation to obtain such formal approvals as may be required by this Order.

2. If Respondent or Settling Party desire that any provision of this Order be changed, Respondent or Settling Party shall make timely written application, signed by Respondent or Settling Party, to the Commissioner setting forth reasonable grounds for the relief sought. Copies of such written application shall be delivered or mailed to the Division of Environmental Enforcement and to the Site Project Manager.

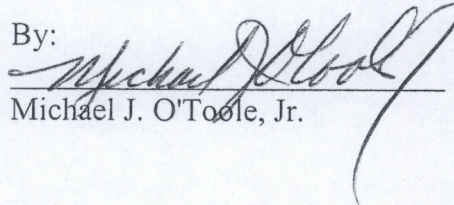
L. The effective date of this Order is the date the Commissioner or the Commissioner's designee signs it.

DATED:

9/2/10

ERIN M. CROTTY
Commissioner
New York State Department
of Environmental Conservation

By:


Michael J. O'Toole, Jr.

CONSENT BY RESPONDENT

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

CATTARAUGUS COUNTY

By: 

(TYPE NAME OF SIGNER)

Gerard J. Fitzpatrick

Title: Chair, Cattaraugus County Legislature

Date: August 22, 2001

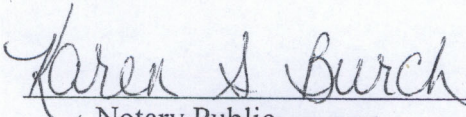
Authorized by Act 462-2001 of the Cattaraugus
County Legislature

STATE OF NEW YORK)

) s.s.:

COUNTY OF CATTARAUGUS)

On this 22nd day of August in the year 2001 before me, the undersigned, a notary public in and for said State, personally appeared Gerard J. Fitzpatrick personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed this instrument.



Notary Public
KAREN S. BURCH

Notary Public #4720539

Cattaraugus County, New York

Commission Expires 11/30/2002

CONSENT BY SETTLING PARTY

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

ALCAS CORPORATION

By: James E. Stitt
(TYPE NAME OF SIGNER)

James E. Stitt

Title: President & CEO

Date: September 11, 2001

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

On this 11th day of September in the year 2001 before me, the undersigned, a notary public in and for said State, personally appeared James E. Stitt, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed this instrument.

Janet C. Wood
Notary Public

JANET C. WOOD
Notary Public, State of New York
Resident of Allegany County
at time of appointment 2003
Commission Expires April 30, 19

04700

FORM 583X N. Y. DEED—WARRANTY with Lien Covenant

TITELAX REGISTERED U. S. PAT. OFFICE
TITLE LAW FIRM, PUBLISHED BY THE BUREAU OF REAL ESTATE

This Indenture

Made the 25th day of September

Nineteen Hundred and Seventy-three,

Between DONALD R. FARWELL and ARLENE J. FARWELL, his wife,
R. D. # 1, Hinsdale, New York 14743 (no street address),

parties of the first part, and
THE COUNTY OF CATTARAUGUS,
State of New York,

Witnesseth that the parties of the first part, in consideration of party of the second part,

ONE HUNDRED FIFTEEN THOUSAND-----Dollars (\$115,000.00)
lawful money of the United States,
paid by the party of the second part, do hereby grant and release unto the
party of the second part, its successors

and assigns forever, all THAT TRACT OR PARCEL OF LAND, situate in the Town of Ischua, County of Cattaraugus and State of New York, known and distinguished as a part of lot number forty-four, Township Three, Range Three of the Holland Land Company's Survey and bounded and described as follows: Beginning at the northeast corner of said lot; thence south on the lot line to the southeast corner of lands deeded by John H. Farwell to Jonathan Davis and Abram Farwell for mill purposes; thence westerly along the south bounds of said lot to the center of the highway; thence northerly along the center of the highway to the north bounds of lot forty-four; and from thence east on lot line to the place of beginning, be the same more or less, excepting and reserving however, the part thereof owned by the heirs at law or grantees of said Jonathan Davis in said mill property.

ALSO, CONVEYING ALL THAT TRACT OR PARCEL OF LAND situate in the Town, County and State aforesaid, known and distinguished as the north part of lot forty-four, township, range and survey as aforesaid and bounded; north by lot forty-five, thirty-eight chains, forty-one links; east by lot number nine, fourteen chains, seventy-five links; west by lot line, fourteen chains, seventy-five links; and south by a line parallel to the north bounds of said lot, thirty-eight chains, thirty-five links, to the place of beginning, containing fifty-six and three-fourths acres of land more or less. Excepting, however, therefrom all that part thereof which was deeded by John H. Farwell to Jonathan Davis and Abram M. Farwell for mill purposes.

ALSO CONVEYING ALL THAT TRACT OR PARCEL OF LAND situate in the Town, County and State aforesaid, known and distinguished as the north part of lot number thirty-six, Town Three, Range Three of said survey, bounded; north by lot thirty-seven, forty chains, sixty links; east by lot number twenty-eight, fourteen chains, seventy-five links; south by land deeded by the Holland Land Company to Jonathan Davis, forty chains, seventy-eight links; and west by lot number forty-four, fourteen chains, seventy-five links, containing sixty acres more or less.

ALSO CONVEYING ALL THAT TRACT OR PARCEL OF LAND, situate in the Town, County and State aforesaid and township and range aforesaid, bounded and described as follows: Beginning at the southwest corner of said lot, and thence north on lot line, thirty-four chains, sixty-three links to the southwest corner of lands formerly owned by Thaddeus Farwell; thence east on the south line of said Farwell's land to the center of the Ischua Creek; thence southerly along the center of said Ischua Creek to the south line of said lot; thence west on the lot line to the place of beginning, containing eighty-nine acres more or less.

FOREGOING PREMISES ARE ALSO BOUNDED AND DESCRIBED AS FOLLOWS:
ALL THAT TRACT OF PARCEL OF LAND, situate in the Town of Ischua, County of Cattaraugus and State of New York, being part of Lot 44 and 45, Township 3, Range 3 of the Holland Land Company's survey and bounded and described as follows:

Beginning at the southwest corner of Lot 45; thence North 0° 54' 30" east along the west bounds of Lot 45 a distance of 2,285.58 feet to a point; thence south 89° 51' 30" east a distance of 835.42 feet to a point in the center of the Pennsylvania Railroad; thence southerly along the centerline of said Railroad to the centerline of Farwell Road; thence North 75° 13' 30" east along said centerline a distance of 79.6 feet to the center of Ischua Creek; thence southerly along center of said creek a distance of 660+ to the south bounds of Lot 45 and north bounds of Lot 44; thence south 89° 0' east along said Lot line a distance of 170 feet to a point; thence south 21° 29' east a distance 378.84 feet to a point; thence south 89° 49' east a distance of 419.1 feet to a point in the east bounds of Lot 44; thence south 0° 11' west along the east bounds of Lot 44 a distance of 676.5 feet to a point; thence north 89° 49' west a distance of 115.5 feet to the centerline of Route 16; thence South 0° 38' 30" east along the centerline of Route 16 a distance of 818.81 feet to a point; thence north 89° 28' west a distance of 561.0 feet to a point; thence south 0° 32' west a distance of 162.0 feet to a point; thence north 89° 54' west a distance of 710.26 feet to a point in the centerline of the Pennsylvania Railroad thence southerly along the centerline of said railroad to the south bounds of Lot 44; thence south 89° 34' west along the south bounds of Lot 44 a distance of 1212.88 feet to the west bounds of Lot 44; thence north 0° 54' 30" east a distance of 3940.86 feet to the north bounds of Lot 44 and the point of beginning containing 230.70 acres of land more or less.

EXCEPTING AND RESERVING ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Ischua, County of Cattaraugus and State of New York, known and distinguished as being part of Lot No. 45, township 3, range 3 of the Holland Land Company Survey bounded and described as follows:
Beginning at a point in the centerline of Farwell Road on Lot No. 45 which said point is south 84° 18' 30" east, measured along the centerline of Farwell Road a distance of 1024.25 feet from the intersection of the centerline of Farwell Road and the west boundary line of Lot No. 45; thence south 4° 47' 30" west from the point of beginning 612.14 feet to a point; thence south 85° 51' 30" east a distance of 637.84 feet to a point in the centerline of the Pennsylvania Railroad right of way and which said point is 91.5 feet northerly, measured along the centerline of said Railroad from the intersection of said Railroad and the south boundary of Lot No. 45; thence northeasterly along the centerline of the right of way of the Pennsylvania Railroad to the intersection of the centerline of said Railroad and the centerline of said Farwell Road; thence south 82° 19' 30" west along the centerline of Farwell Road a distance of 313.94 feet to an angle point therein; thence north 64° 51' 30" west along the centerline of said Farwell Road a distance of 253.62 feet to an angle point in said Farwell Road; thence north 84° 18' 30" west along the centerline of Farwell Road a distance of 128.56 feet to the place and point of beginning containing 9.34 acres be the same more or less; all of the foregoing 9.34 acres more or less being a portion of the premises once described in a Deed dated May 4, 1973 Clement H. Farwell to Donald R. Farwell and Arlene J. Farwell recorded May 7, 1973 in Liber 738 of Deeds at Page 355.

The net acreage hereby described is calculated as follows:

Total-----	230.70
Less EXCEPTION-----	9.34
Net acres described-----	221.36 acres.

016182
CATTARAUGUS COUNTY
REAL ESTATE
TRANSFER TAX
STATE OF NEW YORK
Dept. of Taxation OCT-473
& Finance
\$ 00.00
PB 12210

Together with the appurtenances and all the estate and rights of the parties of the first part in and to said premises,

To have and to hold the premises herein granted unto the party of the second part, its successors and assigns forever.

And said parties of the first part

First, That the party of the second part shall quietly enjoy the said premises; covenants as follows:

Second, That said parties of the first part will forever warrant the title to said premises.

Third, That, in Compliance with Sec. 13 of the Lien Law, the grantors will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

In Witness Whereof, the parties of the first part have hereunto set their hands and seals the day and year first above written.

In Presence of

Donald R. Farwell
DONALD R. FARWELL
Arlene J. Farwell
ARLENE J. FARWELL



State of New York ss. On this 25th day of September
County of Allegany ss. Nineteen Hundred and Seventy-three,
before me, the subscriber, personally appeared

Donald R. Farwell and Arlene J. Farwell

to me personally known and known to me to be the same persons described in and who executed the within Instrument, and they acknowledged to me that they executed the same.

PETER R. SPRAGUE
Notary Public

PETER R. SPRAGUE
Notary Public, State of New York
Residing in Allegany Co. Clerk's No. 723
Commission Expires March 30, 1975

STATE OF NEW YORK SS.
COUNTY OF CATTARAUGUS
RECORDED Oct. 4, 1973
AT 11:36 AM IN LIBER 742
PAGE 937 OF 1000
AND EXAMINED

Miriam Tuckey CLERK

Exhibit C

Exhibit C



This Indenture,

May Nineteen Hundred and Ninety 19th day of
Between

DONALD R. FARWELL and ARLENE J. FARWELL, husband and wife, residing
at R.D. 1, Hinsdale, New York 14743

04283

parties of the first part, and

THE COUNTY OF CATTARAUGUS, a municipality with a place for the
transaction of buisness at Court Street, Little Valley, New York
14755

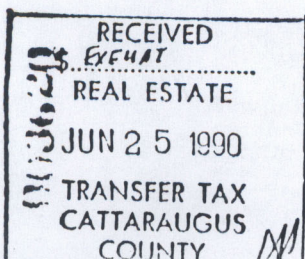
Witnesseth that the party of the first part, in consideration of the second part,

ONE ----- Dollar (\$ 1.00)

lawful money of the United States,
paid by the party of the second part, does hereby grant and release unto the
party of the second part, its successors and assigns forever, all

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Ischua,
County of Cattaraugus and State of New York, known and distinguished as being
part of Lot No. 45, Township 3, Range 3 of the Holland Land Company Survey
bounded and described as follows:

BEGINNING at a point in the centerline of Farwell Road on Lot No. 45
which said point is south 84° 18' 30" east, measured along the centerline of
Farwell Road a distance of 1024.25 feet from the intersection of the centerline
of Farwell Road and the west boundary line of Lot No. 45; thence south 4° 47' 30"
west from the point of beginning 612.14 feet to a point; thence south 85° 51' 30"
east a distance of 637.84 feet to a point in the centerline of the Pennsylvania
Railroad right of way and which said point is 91.5 feet northerly, measured along
the centerline of said Railroad from the intersection of said Railroad and the
south boundary of Lot No. 45; thence northeasterly along the centerline of the
right of way of the Pennsylvania Railroad to the intersection of the centerline
of said Railroad and the centerline of said Farwell Road; thence south 82° 19'
30" west along the centerline of Farwell Road a distance of 313.94 feet to an
angle point therein; thence north 64° 51' 30" west along the centerline of said
Farwell Road a distance of 253.62 feet to an angle point in said Farwell Road;
thence north 84° 18' 30" west along the centerline of Farwell Road a distance of
128.56 feet to the place and point of beginning. Containing 9.34 acres be the
same more or less; all of the foregoing 9.34 acres more or less being a portion
of the premises once described in a deed dated May 4, 1973 Clement H. Farwell to
Donald R. Farwell and Arlene J. Farwell recorded May 7, 1973 in Liber 738 of
Deeds at Page 355.



Together with the appurtenances and all the estate and rights of the parties of the first part in and to said premises,
To have and to hold the premises herein granted unto the party of the second part, and assigns forever.

And said parties of the first part

First, That the party of the second part shall quietly enjoy the said premises; covenant as follows:

Second, That said parties of the first part

will forever Warrant the title to said premises.

Third, That, in Compliance with Sec. 13 of the Lien Law, the grantor will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

In Witness Whereof, the parties of the first part have hereunto set their hand and seal the day and year first above written.

In Presence of

Donald R. Farwell
DONALD R. FARWELL

Arlene J. Farwell
ARLENE J. FARWELL

State of New York }
County of Cattaraugus } ss.

On this 19th day of May
Nineteen Hundred and Ninety

before me, the subscriber, personally appeared

DONALD R. FARWELL and ARLENE J. FARWELL

to me personally known and known to me to be the same person described in and
who executed the within Instrument, and the y acknowledged
to me that t he y executed the same.

Reginald W. Bulson
Notary Public 11/30/90
day of

State of New York }
County of } ss.

On this
Nineteen Hundred and

before me, the subscriber, personally appeared

to me personally known and known to me to be the same person described in and
who executed the within Instrument, and he acknowledged
to me that he executed the same.

Notary Public

Deed

Warranty With Lien Covenant

DONALD R. FARWELL and
ARLENE J. FARWELL

45-3/3

TO

COUNTY OF CATTARAUGUS
Att: Beth Newman

Dated,

19

STATE OF NEW YORK SS.
COUNTY OF CATTARAUGUS

RECORDED JUN 25, 1990
AT 2:03PM IN LIBER 901
PAGE 804 OF 804
AND EXAMINED

CLERK

Gloria Bilotta

Raymond W. Bulson
Attorney at Law

6 South Main Street
Portville, New York 14770