

NEW YORK STATE 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
of the Environmental Conservation Law
by

SPECIAL METALS CORPORATION
Respondent.

**AMENDMENT NO. 2
TO
ORDER ON CONSENT
and
ADMINISTRATIVE
SETTLEMENT**

Index # B9-0737-07-02
Site # 907031

WHEREAS,

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 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. An Order on Consent and Administrative Settlement dated February 21, 2007 (the "Order") was issued pursuant to the Department's authority under, *inter alia*, ECL Article 27, Title 13 and ECL 3-0301, with respect to the Respondent's facility at 100 Willowbrook Avenue, Dunkirk, New York. This facility is commonly referred to as the Special Metals Corporation, Dunkirk Facility.

D. The parties entered into an Amendment to the Order on Consent, effective May 21, 2007, to redefine and expand the Site for purposes of the Order.

2. The purpose of this Amendment No. 2 to the Order, as agreed by the Department and Respondent, is to alter or delete provisions in order to reflect accurately the course of events as they took place during the remediation, and thus to eliminate confusing or superfluous references therein.

3. Respondent consents to the issuance of this Amendment No. 2 to the Order on Consent and Administrative Settlement without (i) an admission or finding of liability, 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; 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 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 Amendment No. 2 to the Order on Consent and Administrative Settlement, and agrees to be bound by the terms of the Order as further amended. Respondent consents to and agrees not to contest the authority or jurisdiction of the Department to issue or enforce the Order on Consent and Administrative Settlement as amended, and agrees not to contest the validity of the Order as herein amended or its terms or the validity of the data submitted to the Department pursuant to the Order as herein amended.

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

I. Department's Issuance of a ROD

Delete Paragraph II.F, entitled "Department's Issuance of a ROD," in the original Order, because the Department ultimately did not deem a ROD to be necessary.

II. Release and Covenant Not to Sue

A. Paragraph II.G. of the original Order reads as follows: "Upon (i) the Department's approval of either the RD/RA Work Plan Final Report or an IRM Work Plan Final Report evidencing that no further remedial action (other than OM&M activities) is required to meet the goals of the Remedial Program, and (ii) the Department's acceptance of any Environmental Easement required pursuant to Paragraph X, then, except for the provisions of Paragraphs VI and VIII, and except for future OM&M of the Site and any Natural Resource damage claims, such acceptance shall constitute a release and covenant not to sue for each and every claim, demand, remedy, or action whatsoever against Respondent, its directors, officers, employees, agents, servants, successors, and assigns (except successors and assigns who were responsible under law for the development and implementation of a Remedial Program at the Site prior to the effective date of this Order), ..."

B. From the beginning of the original Order's Paragraph II.G to the comma immediately following "pursuant to Paragraph X," substitute the following language:

"Upon the Department's approval of a Final Engineering Report that reflects the Respondent's completion of the Department's approved IRM evidencing that no further remedial action (other than OM&M activities) is required to meet the terms of the Department-approved Remedial Program, ..."

III. Environmental Easement

Delete Paragraph X of the original Order and substitute the following language as a new Paragraph X:

"Respondent shall record a Department-approved Environmental Easement in the Chautauqua County Clerk's Office to comply with the requirements of ECL Article 71, Title 36, 6 NYCRR 375-1.8(h)(2) and the Department-approved Remedial Program. Respondent shall provide the Department with a true and accurate copy of such instrument that shows the date of its recording within sixty (60) days after such recording."

IV. Miscellaneous

A. This Amendment No. 2 may be executed for the convenience of the parties hereto, individually or in combination, in one or more counterparts, each of which for all purposes shall be deemed to have the status of an executed original and all of which shall together constitute one and the same.

B. The effective date of this Amendment No. 2 to the Order on Consent and Administrative Settlement is the date the Commissioner or the Commissioner's designee signs this Amendment.

DATED:

JUL 10 2014

JOSEPH J. MARTENS

Commissioner

New York State Department
of Environmental Conservation

By:


Robert W. Schick, Director
Division of Environmental Remediation

Consent by Respondent

Respondent hereby consents to the issuing and entering of this Amendment No. 2 to Order on Consent and Administrative Settlement, Index #B9-0737-07-02, waives Respondent's right to a hearing herein as provided by law, and agrees to be bound by this Amendment.

Special Metals Corporation

By: Max J. Bleiler

Title: VP/GM Special Metals

Date: May 9, 2014

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

On the 9th day of May, in the year 2014, before me, the undersigned, personally appeared Max J. Bleiler, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name 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 the instrument.

Regina L. Martin
Signature and Office of individual
taking acknowledgment

REGINA L. MARTIN
Notary Public in the State of New York
appointed in Oneida County 01MA4739419
My Commission Expires January 31, 2017