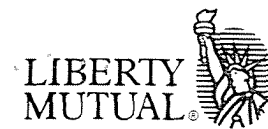


Preliminary Assessment
Bengart & Memel
Clinton Street
Buffalo, New York

Centerpointe Corporate Park
325 Essjay Road, Suite 210
Buffalo, NY 14221-8278
Telephone: 716-631-9140
800-457-9140



John S. Beedle
Claims Technical Specialist II
Property Loss

Liberty Mutual
Insurance Group/Boston

02-8710-90-PA
Rev. No. 0

COMPLETED

PRELIMINARY ASSESSMENT
BENGART & MEMEL
CLINTON STREET
BUFFALO, NEW YORK

PREPARED UNDER

TECHNICAL DIRECTIVE DOCUMENT NO. 02-8710-90
CONTRACT NO. 68-01-7346

FOR THE

ENVIRONMENTAL SERVICES DIVISION
U.S. ENVIRONMENTAL PROTECTION AGENCY

March 7, 1988

MAY 24 1988

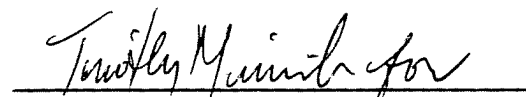
NUS CORPORATION
SUPERFUND DIVISION

RECEIVED
Hazardous Waste Control
Division of Hazardous
Waste Remediation

SUBMITTED BY

REVIEWED/APPROVED BY


DONNA J. RESTIVO
PROJECT MANAGER


RONALD M. NAMAN
FIT OFFICE MANAGER



02-8710-90-PA
Rev. No. 0

**POTENTIAL HAZARDOUS WASTE SITE
PRELIMINARY ASSESSMENT**

Bengart & Memel, Inc.
Site Name

NYD0013703319
EPA Site ID Number

1091 Clinton Street
Buffalo, New York 14206
Address

02-8710-90
TDD Number

Date of Site Visit: November 9, 1987

SITE DESCRIPTION

Bengart & Memel, Inc., a wholesaler of nonferrous scrap metals, is located in a commercial area of Buffalo, Erie County, New York. From 1950 to 1978, Bengart & Memel received defective and/or discontinued PCB transformers and capacitors. During that time, the transformers and capacitors were dismantled and sold for scrap. Wastes containing PCBs were inadvertently disposed of into the soil, groundwater, sewer system, and the surface water and oil runoff ditches located on the property. In 1978, overflow into the Buffalo sewer system was analyzed and PCBs were discovered. A remediation program was begun in 1981 by Malcolm Pirnie, Inc. for Bengart & Memel. An Order of Consent was issued by the New York State Department of Environmental Conservation (NYSDEC) in 1982. Contaminated soil was excavated from the site and placed in drums. These drums were either taken to a secure hazardous waste landfill, or underwent chemical treatment performed by Galson Research Corporation under a U.S. EPA research grant. In May 1987, the NYSDEC announced that remediation of the Bengart & Memel site was completed.

Groundwater is not used for drinking purposes in the area, and there is no migration route for surface water.

PRIORITY FOR FURTHER ACTION: High Medium No Further Action

RECOMMENDATIONS

No further action is recommended for this site. The site has been remediated under an Order on Consent issued by the NYSDEC in 1982. Soil was excavated and disposed of in a secure hazardous waste landfill or treated under a U.S. EPA-funded research grant.

Prepared by: Donna Restivo
of NUS Corporation

Date: March 7, 1988

NAME AND LOCATION

01 NAME (Legal, common, or descriptive name of site) 02 STREET, ROUTE NO., OR SPECIFIC LOCATION IDENTIFIER
Bengart & Memel 1091 Clinton Street
03 CITY 04 STATE 05 ZIP CODE 06 COUNTY 07 COUNTY CODE 08 CONG DIST.
Buffalo NY 14206 Erie 029 33
09 COORDINATES
LATITUDE LONGITUDE
4 20 5 2' 3 9" . N 0 7 80 5 0' 0 5" . W

10 DIRECTIONS TO SITE (Starting from nearest public road)

Take Rte. 190 (Niagara Thruway) to exit for Clinton Street (Rte. 354). Follow Clinton Street west approximately 1 mile. The site is on the left at 1091 Clinton Street.

III. RESPONSIBLE PARTIES

01 OWNER (if known) 02 STREET (Business, mailing, residential)
Bengart & Memel 1091 Clinton Street
03 CITY 04 STATE 05 ZIP CODE 06 TELEPHONE NUMBER
Buffalo NY 14206 (716) 856-4168
07 OPERATOR (if known and different from owner) 08 STREET (Business, mailing, residential)
09 CITY 10 STATE 11 ZIP CODE 12 TELEPHONE NUMBER
()

13 TYPE OF OWNERSHIP (Check one)

A. PRIVATE B. FEDERAL: _____ C. STATE D. COUNTY E. MUNICIPAL
(Agency name)
 F. OTHER: _____ G. UNKNOWN
(Specify)

14. OWNER/OPERATOR NOTIFICATION ON FILE (Check all that apply)

A. RCRA 3001 DATE RECEIVED: ___ / ___ / ___ B. UNCONTROLLED WASTE SITE (CERCLA 103 c) DATE RECEIVED: ___ / ___ / ___
 C. NONE

IV. CHARACTERIZATION OF POTENTIAL HAZARD

01 ON SITE INSPECTION BY (Check all that apply)
 YES DATE: 8 / / 85 A. EPA B. EPA CONTRACTOR C. STATE D. OTHER CONTRACTOR
 NO E. LOCAL HEALTH OFFICIAL F. OTHER: _____
(Specify)
CONTRACTOR NAME(S): _____

02 SITE STATUS (Check one)

A. ACTIVE B. INACTIVE C. UNKNOWN 03 YEARS OF OPERATION
1950 / Still Active UNKNOWN
BEGINNING ENDING

04 DESCRIPTION OF SUBSTANCES POSSIBLY PRESENT, KNOWN, OR ALLEGED

There are no hazardous substances present on site; the site has been remediated.

05 DESCRIPTION OF POTENTIAL HAZARD TO ENVIRONMENT AND/OR POPULATION

There is no potential hazard to the environment and/or population; the site has been remediated.

IV. PRIORITY ASSESSMENT

01 PRIORITY FOR INSPECTION (Check one. If high or medium is checked, complete Part 2 - Waste information and Part 3 - Description of Hazardous Conditions and Incidents)

A. HIGH (Inspection required promptly) B. MEDIUM (Inspection required) C. LOW (Inspection on time available basis) D. NONE

(No further action needed. complete current disposition form)

VI. INFORMATION AVAILABLE FROM

01 CONTACT 02 OF (Agency/Organization) 03 TELEPHONE NUMBER
Diana Messina U.S. Environmental Protection Agency (201) 321-6776
04 PERSON RESPONSIBLE FOR ASSESSMENT 05 AGENCY 06 ORGANIZATION 07 TELEPHONE NUMBER 08 DATE
Donna Restivo U.S. EPA NUS Corp. (201)225-6160 03 / 07 / 88

POTENTIAL HAZARDOUS WASTE SITE
PRELIMINARY ASSESSMENT
PART 2 - WASTE INFORMATION

1. IDENTIFICATION
01 STATE 02 SITE NUMBER
NY 0013703319

WASTE STATES, QUANTITIES, AND CHARACTERISTICS

PHYSICAL STATES (Check all that apply) 02 WASTE QUANTITY AT SITE 03 WASTE CHARACTERISTICS (Check all that apply)

<input checked="" type="checkbox"/> A. SOLID	<input type="checkbox"/> E. SLURRY	(Measures of waste quantities must be independent)	<input checked="" type="checkbox"/> A. TOXIC	<input type="checkbox"/> E. SOLUBLE	<input type="checkbox"/> I. HIGHLY VOLATILE
<input type="checkbox"/> B. POWDER, FINES	<input type="checkbox"/> F. LIQUID		<input type="checkbox"/> B. CORROSIVE	<input type="checkbox"/> F. INFECTIOUS	<input type="checkbox"/> J. EXPLOSIVE
<input type="checkbox"/> C. SLUDGE	<input type="checkbox"/> G. GAS		<input type="checkbox"/> C. RADIOACTIVE	<input type="checkbox"/> G. FLAMMABLE	<input type="checkbox"/> K. REACTIVE
<input type="checkbox"/> D. OTHER: _____ (Specify)			<input checked="" type="checkbox"/> D. PERSISTENT	<input type="checkbox"/> H. IGNITABLE	<input type="checkbox"/> L. INCOMPATIBLE

TONS
CUBIC YARDS Unknown
NO. OF DRUMS _____

III. WASTE TYPE

CATEGORY	SUBSTANCE NAME	01 GROSS AMOUNT	02 UNIT OF MEASURE	03 COMMENTS
SLU	SLUDGE			PCBs present on site were removed during remediation.
OLW	OILY WASTE	Unknown		
SOL	SOLVENTS			
PSD	PESTICIDES			
OCC	OTHER ORGANIC CHEMICALS			
IOC	INORGANIC CHEMICALS			
ACD	ACIDS			
BAS	BASES			
MES	HEAVY METALS			

IV. HAZARDOUS SUBSTANCES (See Appendix for most frequently cited CAS Numbers)

CATEGORY	02 SUBSTANCE NAME	03 CAS NUMBER	04 STORAGE/DISPOSAL METHOD	05 CONCENTRATION	06 MEASURE OF CONCENTRATION
OLW	PCBs		Unknown	Unknown	

V. FEEDSTOCKS (See Appendix for CAS Numbers)

CATEGORY	01 FEEDSTOCK NAME	02 CAS NUMBER	CATEGORY	01 FEEDSTOCK NAME	02 CAS NUMBER
FDS			FDS		
FDS			FDS		
FDS			FDS		
FDS			FDS		

VI. SOURCES OF INFORMATION (See specific references, e.g., state files, sample analysis, reports)

New York State Department of Environmental Conservation News Release, Remediation of Buffalo Scrapyard Completed, Henry G. Williams, Commissioner.

POTENTIAL HAZARDOUS WASTE SITE
PRELIMINARY ASSESSMENT
PART 3 - DESCRIPTION OF HAZARDOUS CONDITIONS AND INCIDENTS

1. IDENTIFICATION
01 STATE 02 SITE NUMBER
NY 0013703319

II. HAZARDOUS CONDITIONS AND INCIDENTS

01 A. GROUNDWATER CONTAMINATION 02 OBSERVED (DATE: _____) _ POTENTIAL _ ALLEGED
03 POPULATION POTENTIALLY AFFECTED: _____ 04 NARRATIVE DESCRIPTION

There is little potential for groundwater contamination. It is not likely that PCBs will migrate through the soil to the groundwater.

01 B. SURFACE WATER CONTAMINATION 02 OBSERVED (DATE: _____) _ POTENTIAL _ ALLEGED
03 POPULATION POTENTIALLY AFFECTED: _____ 04 NARRATIVE DESCRIPTION

There is no potential for surface water contamination; a migration route is not present.

01 C. CONTAMINATION OF AIR 02 OBSERVED (DATE: _____) _ POTENTIAL _ ALLEGED
03 POPULATION POTENTIALLY AFFECTED: _____ 04 NARRATIVE DESCRIPTION

There is no potential for air contamination; the site has been remediated.

01 D. FIRE/EXPLOSIVE CONDITIONS 02 OBSERVED (DATE: _____) _ POTENTIAL _ ALLEGED
03 POPULATION POTENTIALLY AFFECTED: _____ 04 NARRATIVE DESCRIPTION

There is no potential for fire/explosive conditions; the site has been remediated.

01 E. DIRECT CONTACT 02 OBSERVED (DATE: _____) _ POTENTIAL _ ALLEGED
03 POPULATION POTENTIALLY AFFECTED: _____ 04 NARRATIVE DESCRIPTION

There is no potential for direct contact; the site has been remediated.

01 F. CONTAMINATION OF SOIL 02 OBSERVED (DATE: _____) _ POTENTIAL _ ALLEGED
03 AREA POTENTIALLY AFFECTED: _____ (ACRES) 04 NARRATIVE DESCRIPTION

Contaminated soil has been excavated and treated under a U.S. EPA-funded research grant, or disposed of in a secure hazardous waste landfill.

01 G. DRINKING WATER CONTAMINATION 02 OBSERVED (DATE: _____) _ POTENTIAL _ ALLEGED
03 POPULATION POTENTIALLY AFFECTED: _____ 04 NARRATIVE DESCRIPTION

There is no potential for drinking water contamination. There is no migration route to the surface water and groundwater is not used for drinking purposes.

01 H. WORKER EXPOSURE/INJURY 02 OBSERVED (DATE: _____) _ POTENTIAL _ ALLEGED
03 WORKERS POTENTIALLY AFFECTED: _____ 04 NARRATIVE DESCRIPTION

There is no potential for worker exposure/injury; the site has been remediated.

01 I. POPULATION EXPOSURE/INJURY 02 OBSERVED (DATE: _____) _ POTENTIAL _ ALLEGED
03 POPULATION POTENTIALLY AFFECTED: _____ 04 NARRATIVE DESCRIPTION

There is no potential for population exposure/injury.

II. HAZARDOUS CONDITIONS AND INCIDENTS

01 J. DAMAGE TO FLORA 02 OBSERVED (DATE: _____) POTENTIAL ALLEGED
04 NARRATIVE DESCRIPTION

There is no potential for damage to flora; the site has been remediated.

01 K. DAMAGE TO FAUNA 02 OBSERVED (DATE: _____) POTENTIAL ALLEGED
04 NARRATIVE DESCRIPTION (Include name(s) of species)

There is no potential for damage to fauna; the site has been remediated.

01 L. CONTAMINATION OF FOOD CHAIN 02 OBSERVED (DATE: _____) POTENTIAL ALLEGED
04 NARRATIVE DESCRIPTION

There is no potential for contamination of the food chain; the site has been remediated.

01 M. UNSTABLE CONTAINMENT OF WASTES 02 OBSERVED (DATE: _____) POTENTIAL ALLEGED
(Spills/runoff/standing liquids/leaking drums)
03 POPULATION POTENTIALLY AFFECTED: _____ 04 NARRATIVE DESCRIPTION

PCB-contaminated wastes were dumped into an unlined pit on site, creating an unstable containment of wastes. However, the site has been remediated and the potential no longer exists.

01 N. DAMAGE TO OFFSITE PROPERTY 02 OBSERVED (DATE: _____) POTENTIAL ALLEGED
04 NARRATIVE DESCRIPTION

There is no damage to off-site property; the site has been remediated.

01 O. CONTAMINATION OF SEWERS, STORM DRAINS, WWTPs 02 OBSERVED (DATE: _____) POTENTIAL ALLEGED
04 NARRATIVE DESCRIPTION

In 1978, sewers and storm drains were discovered to be contaminated. However, no potential currently exists for contamination as the site has been remediated.

01 P. ILLEGAL/UNAUTHORIZED DUMPING 02 OBSERVED (DATE: _____) POTENTIAL ALLEGED
04 NARRATIVE DESCRIPTION

There is no potential for illegal/unauthorized dumping; the site is completely fenced.

05 DESCRIPTION OF ANY OTHER KNOWN, POTENTIAL, OR ALLEGED HAZARDS

No other known, potential, or alleged hazards.

III. TOTAL POPULATION POTENTIALLY AFFECTED: 0

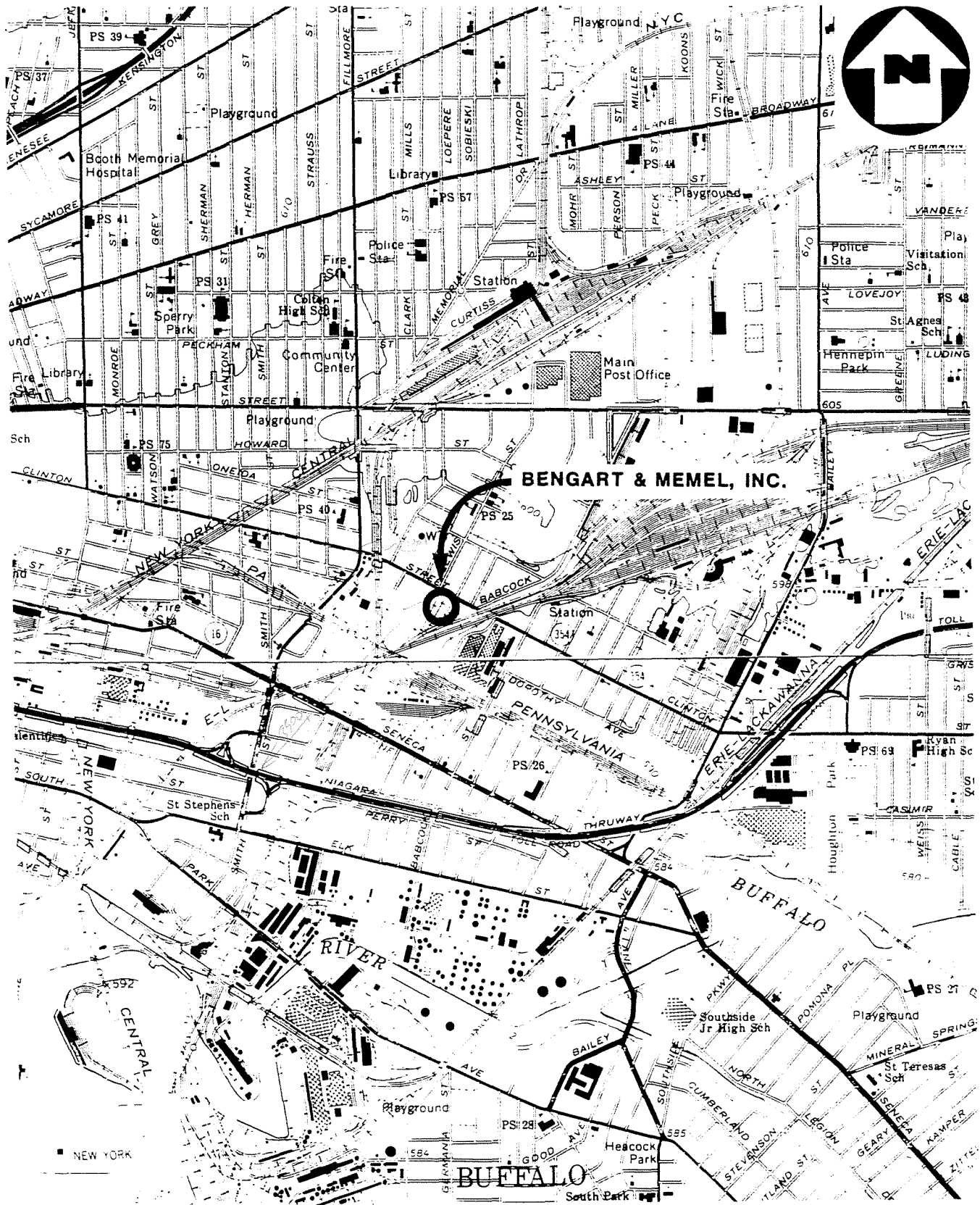
IV. COMMENTS

The NYSDEC announced in May 1987 that the remediation of the Bengart & Memel site was completed. Soils from the site were excavated. These soils were either disposed of in a secure hazardous waste landfill or treated under a U.S. EPA funded research grant.

V. SOURCES OF INFORMATION (Cite specific references. e.g., state files, sample analysis, reports)

New York State Department of Environmental Conservation, Order on Consent, January 8, 1982.
New York State Department of Environmental Conservation News Release, Remediation of Buffalo Scrapyard Completed, Henry G. Williams, Commissioner. U.S. EPA, Potential Hazardous Waste Site Identification, Bengart & Memel, December 2, 1980.

APPENDIX A
MAPS AND PHOTOGRAPHS

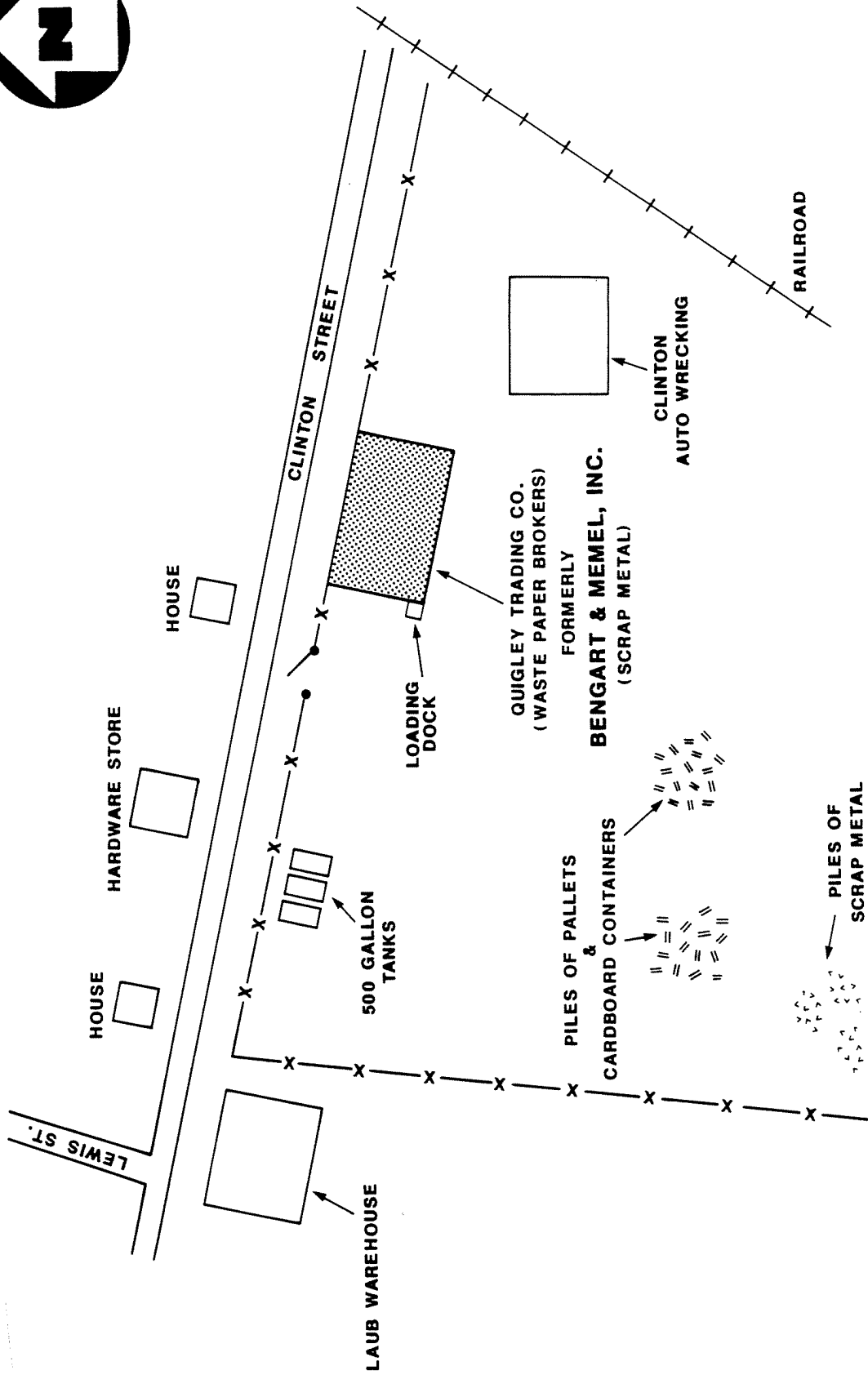
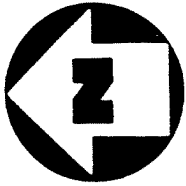


(QUAD) BUFFALO NE, N.Y.

SITE LOCATION MAP
BENGART & MEMEL, INC., BUFFALO, N.Y.

SCALE: 1" = 2000'





SITE MAP
BENGART & MEMEL, INC., BUFFALO, N.Y.
(NOT TO SCALE)

PHOTOGRAPH LOG

BENGART & MEMEL, INC.
BUFFALO, NEW YORK

NOVEMBER 9, 1987

BENGART & MEMEL, INC.
BUFFALO, NEW YORK
NOVEMBER 9, 1987

PHOTOGRAPH INDEX

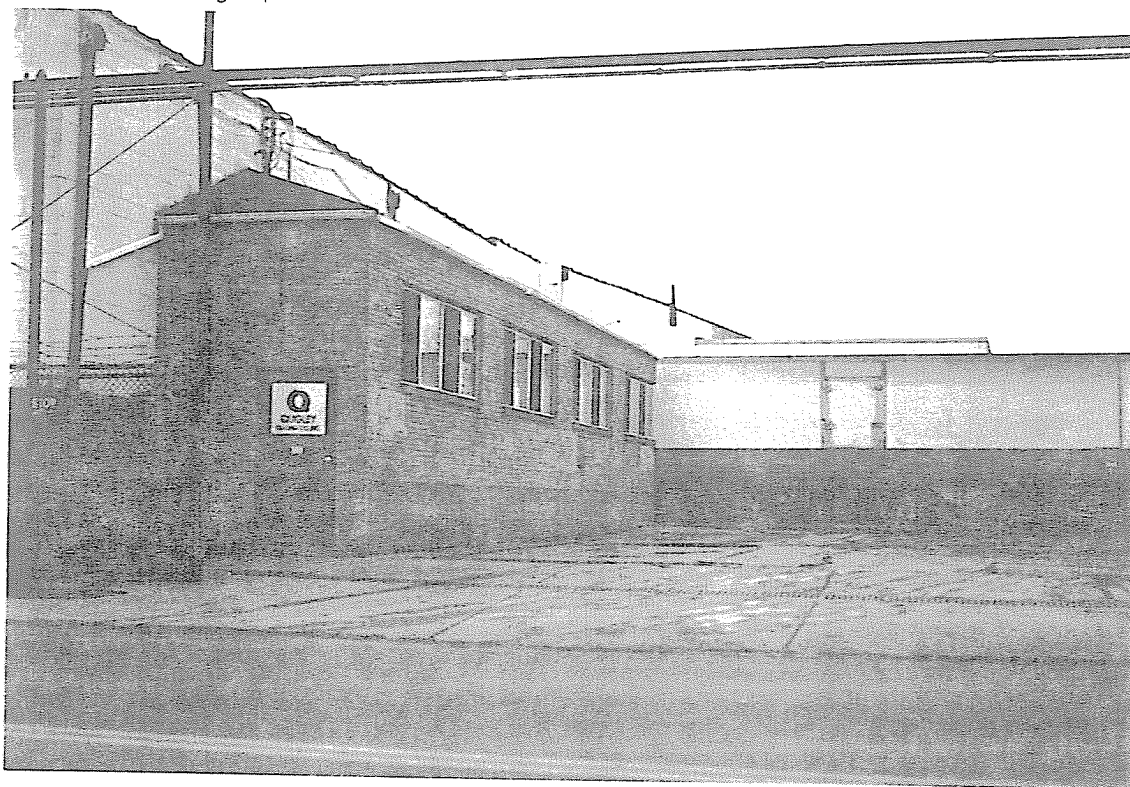
<u>Photo Number</u>	<u>Description</u>	<u>Time</u>
1P-1	View southwest along Clinton St., looking at the east end of the building.	1000
1P-2	View southeast off Clinton St., facing the front of the building.	1004
1P-3	View south off Clinton St., looking at the parking lot and debris.	1007
1P-4	View southwest off Clinton St., looking at the west end of the property.	1010

All Photographs taken by Donna Restivo.

BENGART & MEMEL, BUFFALO, NEW YORK

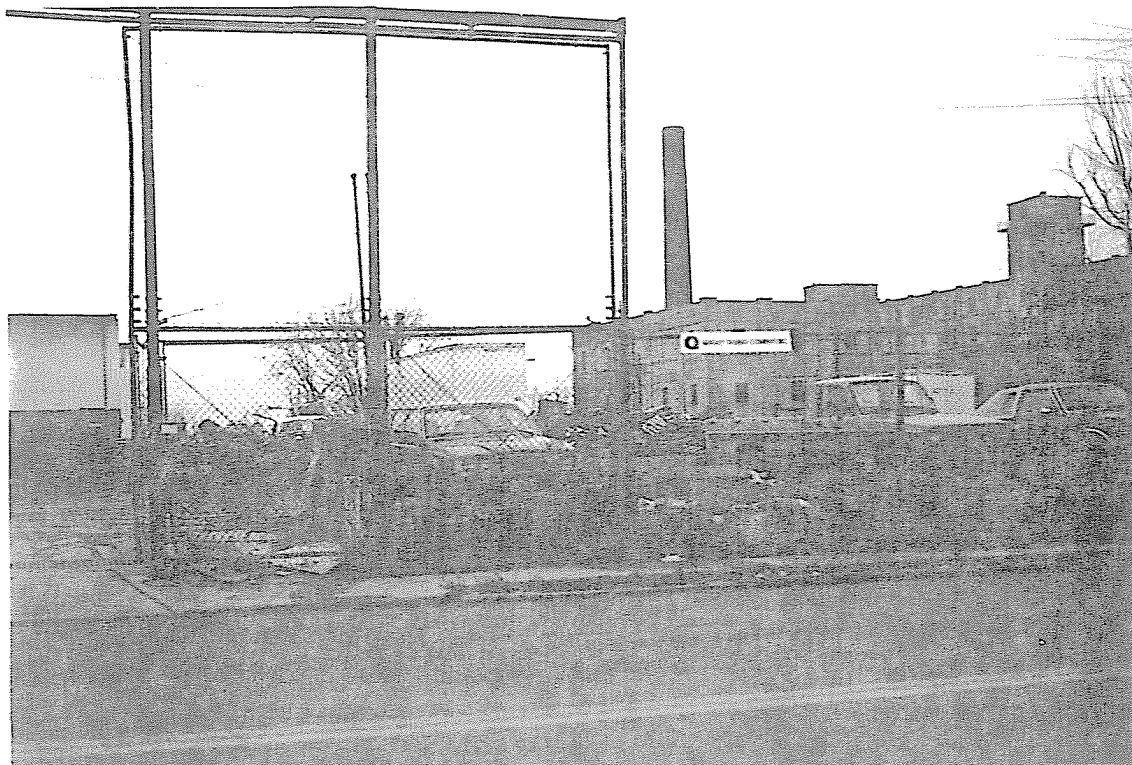


1P-1 November 9, 1987 1000
View southwest along Clinton St., looking at the east end of building.
Photographer: Donna Restivo.



1P-2 November 9, 1987 1004
View southeast off Clinton St., facing front of the building.
Photographer: Donna Restivo.

BENGART & MEMEL, BUFFALO, NEW YORK



1P-3 November 9, 1987 1007
View south off Clinton St., looking at the parking lot and debris.
Photographer: Donna Restivo.



1P-4 November 9, 1987 1010
View southwest off Clinton St., looking at the west end of the
property.
Photographer: Donna Restivo.

APPENDIX B
BACKGROUND INFORMATION

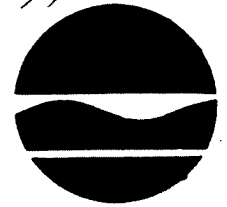
REGION 9-

BENGART & MEMEL

P. BUECHI

PAT

NEWS RELEASE



New York State Department of Environmental Conservation

Henry G. Williams
Commissioner

FOR IMMEDIATE RELEASE:

Remediation of Buffalo Scrapyard Completed

Regional Director John J. Spagnoli announced today that the remediation of the Bengart & Memel, Inc. site located at 1091 Clinton Street, Buffalo, New York has been completed.

Bengart & Memel, Inc. was a wholesaler of non-ferrous metals. During the period from 1950 to 1978, Bengart & Memel, Inc. dismantled transformers and capacitors containing PCB's (polychlorinated biphenyls), disposing of the PCB's on the plant site and thereby contaminating the site.

Remediation of the site was undertaken under the terms of a Consent Order executed in 1982. Remedial activities included the excavation of PCB contaminated soil, installation of a groundwater drain and treatment unit, and the paving of a portion of the site. Approximately half of the excavated soil was subjected to chemical treatment to reduce the PCB contamination. The chemical treatment was performed under a U.S. Environmental Protection Agency research grant by Galson Research Corporation of Syracuse, New York. Those soils not treated were disposed in a secure hazardous waste landfill.

Mr. Spagnoli noted that "although remediation of this site took longer than originally anticipated, we wanted to provide an opportunity for the research effort to be completed so that the experience gained at the Bengart & Memel site might be applied to other PCB contaminated sites".

FOR FURTHER INFORMATION CONTACT:

Mr. John Tygert
New York State Department of
Environmental Conservation
600 Delaware Avenue
Buffalo, NY 14202-1073
(716) 847-4585

MAY 13 1987

HQ



POTENTIAL HAZARDOUS WASTE SITE IDENTIFICATION

REGION 2 SITE NUMBER 1 NY 10334

NOTE: The initial identification of a potential site or incident should not be interpreted as a finding of illegal activity or confirmation that an actual health or environmental threat exists. All identified sites will be assessed under the EPA's Hazardous Waste Site Enforcement and Response System to determine if a hazardous waste problem actually exists.

A. SITE NAME BENGART-MEMEL B. STREET (or other identifier) 1091 CLINTON STREET

C. CITY BUFFALO D. STATE NY E. ZIP CODE - F. COUNTY NAME ERIE

G. OWNER/OPERATOR (if known) 1. NAME BENGART-MEMEL 2. TELEPHONE NUMBER -

H. TYPE OF OWNERSHIP (if known) 1. FEDERAL 2. STATE 3. COUNTY 4. MUNICIPAL 5. PRIVATE 6. UNKNOWN

I. SITE DESCRIPTION SCRAP METAL YARD RECEIVED TRANSFORMERS + CAPACITORS & PCB OIL.

J. HOW IDENTIFIED (i.e., citizen's complaints, OSHA citations, etc.) NY'S UPDATE LIST OF POTENTIAL HAZARDOUS DISP SITES K. DATE IDENTIFIED (mo., day, & yr.) 04/15/80

L. SUMMARY OF POTENTIAL OR KNOWN PROBLEM TRANSFORMERS + CAPACITORS CONTAINING PCB'S. CONTAMINATED SOIL + WATER. PCB OIL SPILLS FOUND IN BUFFALO CITY SEWER.

M. PREPARER INFORMATION 1. NAME ERNEST SCHMALZ 2. TELEPHONE NUMBER 264-1573 3. DATE (mo., day, & yr.) 12/02/80

January 181 - Glen Bailey
BENGART - MEMEL FILE : CROUNOLOGICAL REVIEW
fit in this area
These notes
Book #272

FRISCO - What is this

7/21/76 - RICHARD SWEENEY RECEIVED REPORT FROM MR. THOMAS KEN
MYSZKA (sp?) OF 108 FOLWER St., KENMORE RE: OILY PUDDLES
IN STREET & OILY DISCHARGE INTO BUFFALO SEWER SYSTEM,
FROM SALVAGE OPERATION ON CLINTON St. - B-M CO. SALVAGING
TRANSFORMERS UNDER BUFFALO USED CAR DEALER LICENSE # 18
MEL SANES - FOREMAN; HOWARD POPKIN - OWNER OF OPERATION
SITE INVESTIGATION BY SWEENEY.

7/23/76 : GRAB SAMPLE OF SEEPAGE FOR LAB ANALYSIS - PCB's ^{SUSP}
RE-INSPECTION SCHEDULED FOR 7/26/76. SAMPLE SENT TO NYS DH
LAB, ALBANY. (7/26 SAMPLE SENT TO ERIE PND LAB; NO
PCB'S FOUND IN SAMPLE. (INFRA-RED SPECTROSCOPY) R'D 9/16/76)

1/27/76 ALBANY LAB TELE. CONFIRM PCB'S :
1254 - 140 $\mu\text{g}/\text{g}$
1016 - 10 $\mu\text{g}/\text{g}$
1221 - 7.5 $\mu\text{g}/\text{g}$.

1/31/76 SWEENEY & POPKIN CONFERRED RE: SITE AND OPERATING CLEAN-UP.
STEPS REQUIRED (FROM CONCERNING LETTER 9/9/76, DEC.)

1. RUN-OFF DITCH OIL TO BE PLACED IN LABELED CONTAINERS &
DISPOSED OF BY AUTHORIZED DISPOSAL SERVICE
2. OPENED TRANSFORMERS ON SITE BE PUMPED OR SEALED.
REC. THAT SAMPLES BE ANALYZED FOR PCB'S.
3. I.D. PROCEDURE ESTABLISHED TO DETERMINE FUTURE PCB OILS.
CONTINUED MONITORING BY DEC FOR RUN-OFF & LEAKING.

1/27/76 FOLLOW-UP INSPECTION, GRAB SAMPLE FROM INTERCEPTING DITCH
TAKEN - SENT TO ALBANY LAB. SITE INSPECTION REVEALED:
BOOTH OIL COLLECTING TRANSFORMER FLUIDS.
ABOUT 70 TRANSFORMERS STORED ON SITE, MOSTLY COVERED,
6 TO 10 UNCOVERED
TOO MUCH OIL IN DITCH - MUST BE PUMPED
LETTER SENT INFORMING B-M (10/29/76)

1/25/77 : MEMO OF ANON. COMPLAINT TO ERIE COUNTY DEQ. - B-M HAD
~ 100 TRANSFORMERS. FROM NYS ELEC & GAS, ET AL.
BOOTH OIL CO. RECEIPTS SHOWN: 600 GALS. MARCH 18
800 GALS. MARCH 30
500 GALS. APRIL 5
COUNTY LAB FOUND NO PCB'S (I.R. SPECIA)

7/7/77 - INVESTIGATOR'S NOTES (NO NAME) ON CONTRACT PROCEDURES FOR TRANSFORMER SALVAGE

SOUTHGATE OIL SERVICES, ELMIRA, NY PAID 7¢/gal for used NYS Elec. & Gas TAKES BIDS ON "WHERE IS / AS IS" BASIS

SITE INVESTIGATION REVEALED SLIGHT OIL SHEEN ON SIDEWALKS;
> 1 INCH THICK LAYER OF OIL IN DITCH.

SAMPLE TAKEN & SENT TO ALBANY LAB. SAMPLE LOST IN LAB ACCIDENT. (REPORTED TO DEC 7/24/78)

1/22/78 - PHONE REPORT THAT BUFFALO SEWER AUTHORITY GOT REPORT THAT TRUCK TRANSPORTING TRANSFORMERS DROPPED LOAD ON STREET RESULTING IN SPILLAGE. TRACED TO B-M ED WOLFE OF BSA INVESTIGATING.

1/22/78 - SOUTHGATE OIL H.T. JULIAN "NO OIL WITH PCB'S IN THEM ARE ACCEPTED." SITE INVESTIGATION BY C.E. SHOEMAN OIL DRIPPINGS COLLECTED IN DITCH; WATER LEVEL THEN PUMPED TO BSA SEWERS (W/O PERMIT) THICKER OIL PUMPED TO TANK. LAB SAMPLES TAKEN (1) AT SEWERS, (2) FROM TANK (3) FROM DITCH. MEMO FROM C.E.S. TO SPEDD.

1/10/78 - PHONE REPORT FROM LAB - DITCH - 2000 PPM PCB'S; TANK - 120 PPM PCB'S, SEWER DISCHARGE 3000 PPM PCB'S.

1/11/78 - LETTER HAND DELIVERED TO THADDEUS KOZLOWSKI, V.P. OF BSA
(1) CEASE DISCHARGE TO BSA SEWERS. (SEPARATE BSA ORDER ALSO).
(2) PUMP DITCH & STORE ON PROPERTY
(3) NO REMOVAL OR TRANSPORTATION OF OIL ON PROPERTY.
CONFERENCE TO BE SCHEDULED FOR FURTHER REQUIREMENTS.

1/14/78 - NOTE TO FILE: E.P.A NOT TO BE NOTIFIED.

1/14/78 - CONFIRMATION LETTER OF CLEANUP PROCEDURES VERBALLY CONVEYED: (1.) EXTEND INTERCEPTING DITCH (2.) REPLACE SLAG DIKE W/ COMPACTED CLAY. (3.) EXTEND DIKE AT RIGHT ANGLES TO WITHIN STORM RUN-OFF (4.) INSTALL CONCRETE TO SUMP DRAINAGE TO DITCH. (5.) REMOVE 55 GAL STEEL DRUM USED FOR TRANSFORMER CONTENTS (6.) CONTRACT TO RANJOY RAKO

AT 694-1212 (CHEM-TROL POLLUTION SERVICES - ONLY LOCAL APPROVED STOR.
FACILITY FOR PCB) (7.) HAVE VACUUM TRUCK EMPTY HOLDING TANK
(8) DRAIN DITCH TO THEN-CAPACITY OF TRUCK.

USE STORAGE TANK TO DRAIN DITCH, REPEAT TRUCK
OPERATION AS NECESSARY. — — —
REFERRAL TO BURKE FOR COURSE OF ACTION ON PERM. SOLUTION.

REQUESTS FOR LAB ANALYSIS W/ CHAIN OF CUSTODY FROM
COLLECTOR TO COURIER (UNNAMED) PHOTO'S.

1/15/78- ~~RECALL~~ MEETING W/ POPKIN (B-M) SPEED'S NOTES

1/17/78- LETTER CONFIRMING AGREEMENTS AT MEETING. (MORE PHOTO

- (1) ELIMINATE ALL DISCHARGE TO PUBLIC SEWERS
REMOVE IMPROVISED 55 GAL DRUM STORM RECTACLE &
SEAL CONNECTING SEWER W/ CONCRETE (BY 8/16 - WEATHER P. ^{PHOTO CONFIR.})
- (2) ON SITE CONTAINMENT OF STORAGE YARD DRAINAGE
PENDING CHEM. ANALYSIS & APPROPRIATE DISPOSAL MEASURES.
EXTENSION OF INTERCEPTOR DITCH & TANKAGE TO PREVENT
OVERFLOW.
- (3) ISOLATE TRANSFORMER SALVAGE, TANK FLUIDS AND
HOLD FOR ANALYSIS & APPROVAL OF DISPOSAL.
- (4) AGREED DELAY IN CLAY DIKING FOR SOIL & SEDIMENT
ANALYSIS PERTAINING TO WORKER EXPOSURE HAZARD
- (5) EFFORTS TO IDENTIFY SOURCE OF PCB'S (BY B-M) TO
CONTINUE.

ARRANGEMENTS FOR OFF-SITE STORAGE & DISPOSAL BY APPROVED
METHOD TO BE MADE.

1/24/78- ON SITE INSPECTION (SPEED) OLD DITCH HAD HIGH
LEVEL (SAME AS 8/11/75); NEW DITCH 10-12" FLUID. OILY SL
COVERING.

1/30/78- LEGAL REFERRAL MEMO TO BURKE

CITES VIOL. TIED 5, § 17-05W; DISCHARGE OF TOXIC MAT. (PCB) INTO
CLASSIFIED GROUND WATER.

RECOMMENDED ACTION: \$15,000 PENALTY, SUSPEND ALL BUT \$1,000 (DUE TO C
OF CLEAN-UP). ORDER REMOVAL OF LIQUID & TRANSFER TO
PROPER FACILITY, SUBMIT REMEDIAL PROGRAM & SCHEDULE FOR
DECONTAMINATION.

8/31/78 - ON SITE INSPECTION - W BSA crew.
(8-11-78 BUFFALO LAB REPORT SHOWED PCB)
NEW SAMPLES TAKEN. RECREA LAB SAMPLES TAKEN.
POPKIN (B-M). (SAMPLES SHARED)
DELIVERED SAMPLES TO LANIGHAM, E.C. LAB.
POPKIN REPORTED OSHA SAMPLES TAKEN; OSHA ORDER
NOT TO PUMP FROM DITCH w/o 48 HOURS NOTICE AND OSHA
REP THERE.

PHOTOS.

11/78 - CHECK ON LAB RESULTS FROM BUFFALO LAB TO CONFIRM
REPORT RELIABILITY, CONTENT, - OK.

2/7/78 - INTER OFFICE MEMO - RE: CONFLICTS W U.M. FRIEDMAN
CONCERNING TIME ALLOCATION / PUBLICATION, ETC.

2/8/78 - SUMMARY OF ~~PRE~~ MEETING W PUBLIC OFFICIALS;
PARTICIPATION BY OTHERS DEFERRED TO FOLLO.

1/8/78 - NOTE TO FILE: E.P.A. WANTS COM OF C.D.
NEWCO ANNEX II (DRY PCB'S) APPROVED
DOT REGS governed by handling method.
NO E.P.A. approval needed for Annex III site; only
compliance necessary.

1/8/78 - FILE SUMMARY SENT TO FRIEDMAN.
(NOTES GIVE BETTER REVIEW OF PERSONNEL INVOLVED)

1/8/78 - LETTER FROM B-M; RECREA RESEARCH INC. RETAINED FOR
ASSISTANCE.

1/8/78 - MEMO TO HEALTH DEPT. REGARDING POSSIBLE CONTAMINATION OF
PUBLIC LAND FROM SITE. STATES NO SOIL SAMPLES YET TAKEN

1/8/78 - PHONED IN LAB REPORT FROM LANIGHAM.
2 TYPES OF METHOD RESULTS - ALL SHOW PCB.

9/11/78 - Lt. SKALSKI OF BUREAU OF FIRE PREVENTION SUGGESTED
ISSUING CITATIONS TO B-M UNDER FLAMMABLE LIQUID ORD.
REQUESTED TO HOLD OFF PENDING PRE-HEARING CONFERENCE -

9/11/78 - COMM. OF PUBLIC WORKS ADVISED OF SITUATION. (Ltr.)

9/12/78 - REPORT OF ON SITE INVESTIGATION FOLLOWING REPORT OF
OVERFLOW FLOODING STREET & SIDEWALK (RECENT HEAVY RAIN)
DITCH EXCESSIVELY FULL.

SOUTHGATE OIL, INC. TANK TRUCK IN YARD (#15039)

PHOTOS

CONCLUSIONS: (1) RUN-OFF CONTAINED SIGNIFICANT OIL
(2) DIKES & DITCHES NOT ADEQUATE
(3) RECOMMEND CONTACT W SOUTHGATE OIL RE: NO REMOVAL $4\frac{1}{2}$ APPROX
(4) SUBSTITUTIONS OF 17-0825 VIOLATION

9/13/78 - NEW LEGAL REFERRAL - COPIES OF REFERRAL PAPERWORK IN FILE
INCLUDES REPORT OF ON-SITE VISIT 9/13.

PERSONAL COMPLAINT BY HENRY A. ZIONKOWSKI, LOCAL BARBER.
NEWSPAPER REPORT ON SITE. COURIER-EXPRESS SEP. 14
EVENING NEWS "

9/16/78 - ADDITIONAL RUN-OFF AT SITE FOLLOWING RAINS.

9/18/78 - SAME - DITCH LEVEL OF FLUID LOWER - NOT PUMPED.

9/25/78 - SUMMARY OF EPA REQUIREMENTS - POPKIN TOLD OF STEPS
NECESSARY TO COMPLY.

9/21/78 - INSPECTION BY SUCENY. NO VISIBLE RUN-OFF; DITCH WATER
LEVEL APPROX. EVEN W SIDEWALK.

9/19/78 - PRE HEARING CONFERENCE

EPA ANNEX III TYPE FACILITY FOR FLUID STORAGE
NEED TO PERFORM STUDIES, BORINGS, ETC. (TO BE REVIEWED)
TENTATIVE SCHEDULE ESTABLISHED.

SEE SEP. 27 MEMO FOR DETAILS. (B-M'S PROPOSED ORDER INCL)

9/27/78 - MEMO CONCERNING PARAMETERS FOR CLEAN UP OPERATIONS.

- 9/27/78- INSPECTION OF STORAGE FACILITY FOR EPA ANNUAL COMPLIANCE. NEEDS (1) WATER TIGHT ROOF (AWAITING INSPECTION OF ROOFING CONTRACTOR)
- (2) INTERIOR CLAY DIKES COVERED W PLASTIC AT EXPANSION JOINT AND CRACKS IN ALLEGED 8" CONCRETE FLOOR
 - (3) PERIMETER CEILING W CEMENT ALONG S & W WALLS.
 - (4) PROPER LABELS FOR DRUMS (ORDERED FROM ELHIRA PRINTER).
- REVIEW OF RECORD & INSPECTION PROCEDURES.

10/3/78- BORING SITES MAPPED OUT.

10/4/78 COMPLAINT VIA ED WOLF, BSA REGARDING OIL RUN OFF BY MR. BLENBONOKY of SUPERIOR FOOD KING; ON SITE INSPECTION FOUND INSIGNIFICANT RUN-OFF.

10/9/78 RECRA PROPOSAL FOR SITE ASSESSMENT PROCEDURES, APPROVED 10/11.

10/13/78- ON SITE VISIT OBSERVED PROGRESS OF ASSESSMENT.

1/8/78- LETTER TO B-M CONCERNING PCB'S IN TANK TRUCK, ORDERED TO DRAIN & STORE, FOLLOWING FINAL APPROVAL OF STORAGE FACILITIES. CONFIRMING LAB REPORT.

1/8/78- REVISION OF COMPLIANCE SCHEDULE - SIGNED REVISED SCHEDULE REQUESTED

1/8/78- REPORT FROM RECRA ON SPLIT SAMPLES OF TANKER OIL. REQUESTED COMPARISON OF NOTES W LANIGHAN TO ASSESS RELIABILITY OF SOIL SAMPLE TESTS RECEIVED.

1/27/78- NOTE FROM BURK REQUESTING McMAHON OR REP. AT 11/2 MEETING W RECRA; WOULD THEN DEFINE SCOPE OF PCB CONTAMINATION.

2/27/78- REQUEST BY SOUTHGATE FOR PROCEDURES TO CLEAN AND REMOVE TANKER.

1/14/78- MEETING W RECRA, REQUEST FOR DELAY ON SCHEDULE.

- 4/15/78 - RECEIVED LAB REPORTS FOR 8/16 SAMPLES.
- 11/2/78 - PRELIMINARY REPORT FROM RECRA.
- 11/22/78 - LETTER TO COUNCILMAN BAILOS REVIEWING STATUS.
INCLUDES NEED TO TEST SEWER LINES BY RECRA.
- 2/4/78 - RECRA REQUESTED FURTHER DELAY.
BURKE NEVER RECEIVED REQUESTED SIGNED REVISED SCHEDULE;
REQUESTED RECRA TO DEAL THRU ATTY BENGART.
- 2/19/78 - MEETING ON FINAL REPORT. PROPOSED ACTION.
- 1/16/79 - LETTER TO BSA - APPROVAL OF B-M PROPOSAL TO
FILTER WASTEWATER DRAINED FROM BARREL THROUGH
ACTIVATED CARBON FILTERS AND DISCHARGE INTO SEWER SYS.
CONCERN OVER SPILLAGE/DRAINAGE OF PCB OILS.
- 1/17/79 - NOTES FOLLOWING COMPLAINT & "HUSH UP" ACCUSATION
GENERAL REVIEW
- 1/18/79 - BSA MEMO - BM USING absorbent pads to catch
overflow. RESPONSE TO CHARGES & ASSESSMENT OF
PENALTIES FROM B.S.A. (B.S.A. MONITORING SITE)
- 4/16/79 - LETTER FROM ATTY BENGART - CONFIRMS INTENTION TO
ESTABLISH PERMANENT "SAFE" FACILITY PENDING ENCLIN APPROVAL
- 1/12/79 - LETTER, ANONYMOUS COMPLAINT ON BM SITE.
- 1/29/79 - B.S.A. INVESTIGATOR'S REPORT - PREPARATIONS FOR ACT. CHAR
- 1/17/79 - LETTER FROM NYS DH. - GENERAL UNCONCERN FOR AIR TRANSPORT OF
PCB'S TO NEIGHBORING PUBLIC.
- 1/14/79 - LETTER REVIEWING STATUS; REQUIRING B-M TO DRESS SEWER LINE
FOR PCB CONTAMINATED SLUDGE.
- 5/13/80 - LETTER W/ NOTE STATING SEWER NOT DRESSED; UNION WON'T PERMIT
PCB EXPOSURE.

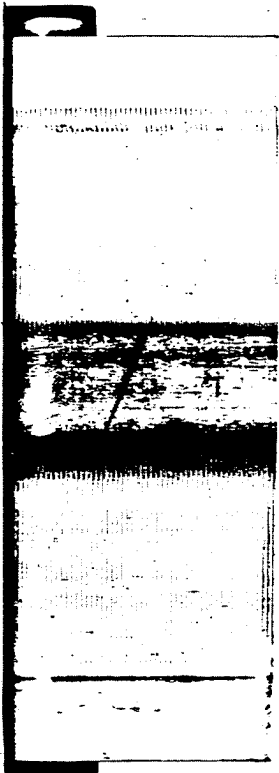
9/13/89 Letter from B-H requesting info & co-operation. Re. Final engineering plans.

Proposed Measures:

- (1) Remove 12" soil along sidewalks on Clew St. & refill w clean soil. - seeding
- (2) Install concrete pad for transformer storage area.
- (3) Construction of confining berms and storm water runoff system into B.S.A. system
- (4) Additional clean fill in areas of low contamination.

Other considerations: worker safety measures, continued monitoring to gauge success.

ENCON wants impervious seal under concrete pad.



A. TRAYEBS, ET

M. Bouché *J. McManis*

STATE OF NEW YORK : DEPARTMENT OF ENVIRONMENTAL CONSERVATION
-----X

In the Matter of the Abatement of a
Significant Threat to the Environment
Caused by the Disposal of Hazardous
Wastes by

ORDER
ON
CONSENT

RECEIVED

HOWARD POPKIN,

Index #917T010682

Respondent.

NOV 19 1977

NO. 100-1000000000

RECEIVED

SENT TO

WHEREAS:

1. The New York State Department of Environmental Conservation (the "Department") is responsible for the enforcement of Article 27, Title 13, of the Environmental Conservation Law (the "ECL"), entitled "Inactive Hazardous Waste Disposal Sites".

2. Pursuant to that Title, 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 . . . any person responsible for the disposal of hazardous wastes at such site (a) to develop an inactive hazardous waste disposal site remedial program, subject to the approval of the department, at such site, and (b) to implement such program within reasonable time limits specified in the order."

3. Respondent is currently the President of Bengart & Memel, Inc., located at 1091 Clinton Street, Buffalo, New York. Bengart & Memel, Inc. is a subsidiary of GCF, Inc.

4. Bengart & Memel, Inc. was formerly known as Bengart, Memel & Company, a wholesaler of non-ferrous scrap metals, founded

by Respondent in 1950. Respondent was a partner of Bengart, Memel & Company, which formerly owned the property located at 1091 Clinton Street, Buffalo, New York (the "Property"). Bengart, Memel & Company became Bengart & Memel, Inc. on February 1, 1979, and Bengart & Memel, Inc. has continued in the business of wholesaling non-ferrous metals.

5. From about 1950 through 1978, Bengart, Memel & Company received defective and/or discontinued "polychlorinated biphenyl ("PCB") transformers and capacitors" and "PCB-contaminated transformers and capacitors", as those terms are defined in the federal regulations promulgated pursuant to the Toxic Substances Control Act ("TSCA"). These transformers and capacitors were dismantled and sold for scrap by Bengart, Memel & Company.

6. During the period that Bengart, Memel & Company received and dismantled PCB and PCB-contaminated transformers and capacitors at the Property, Respondent asserts that PCB and PCB-contaminated wastes were inadvertently disposed of into the soil of the Property, into ground water, into the sewer system of the Buffalo Sewer Authority (the "BSA"), and into surface water and oil runoff interceptor collection ditches located on that portion of the Property which is known as and hereinafter referred to as "Lot No. 33". Lot No. 33, which is more specifically described in Appendix "A" hereto, is currently owned solely by Respondent.

7. The property thus constitutes the final disposal site for PCB and PCB-contaminated wastes.

8. PCB and PCB-contaminated wastes are hazardous wastes as that term is defined in Section 27-1301 of the ECL, which wastes persist in the environment and pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

9. On at least two occasions, the interceptor ditches described in Paragraph 6 hereof overflowed, causing liquids contaminated by PCBs to run off the Property, onto Clinton Street, and into the BSA sewer system. One such overflow occurred on July 21, 1976. A soil sample taken from an interceptor ditch on Lot No. 33 was tested and found to contain PCBs in a concentration of 157.5 micrograms per gram. A second overflow occurred on May 22, 1978. A sample of the overflow was tested and was found to contain PCBs in a concentration of 3,175 milligrams per liter.

10. The Property is located within the limits of the City of Buffalo in a densely populated area. The interceptor ditches located on Lot No. 33 border on a sidewalk on Clinton Street, which contains pedestrian traffic.

11. The Department alleges that the inactive hazardous waste disposal site at the Property (the "Site"), therefore, constitutes a significant threat to the environment pursuant to Section 27-1313 of the ECL.

12. Respondent hereby consents to the issuing and entering of this Order, waives his right to a hearing herein, and agrees to be bound by the terms, provisions and conditions hereof. Respondent further consents that the Department is in no way

barred from the initiation against any person of further proceedings which may arise due to violations of the ECL which are not incorporated herein.

13. Respondent has cooperated with the Department by developing a proposed remedial program for the Property and has submitted a report of Malcolm Pirnie, Inc. dated May 5, 1981, to the Department for its review and approval. The Malcolm Pirnie report has generally formed the basis for the remedial program requirements outlined in Appendix "B" hereto.

14. Respondent hereby acknowledges that the purpose of this Order shall be the termination of any and all hazardous waste disposal and storage activities at the Site and the development, implementation, monitoring and maintenance of an inactive hazardous waste disposal site remedial program that will ensure the prevention of contamination of the environment resulting from hazardous waste disposal activities previously undertaken at the Site.

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

I. Within thirty (30) days after the effective date of this Order, Respondent shall:

(a) Submit proof of compliance with all regulations of the United States Environmental Protection Agency (the "EPA") governing PCBs by certifying accomplishment of the following actions:

(1) Store all containers with PCBs in a proper storage area;

(2) Properly label all drums and "leachate" storage tanks containing PCB-contaminated oils;

(3) Construct and maintain adequate curbing around the area where containers with PCBs are stored;

(4) Provide a Spill Prevention Control and Countermeasures plan for all PCB-contaminated materials stored in containers with a capacity greater than 660 gallons;

(5) Maintain records documenting all materials which have been and will be added to containers in storage and the dates when such containers have been and will be placed into storage; and

(6) Properly mark and label the area where containers with PCBs are stored.

(b) Install a float-activated pump for each surface water and oil runoff interceptor ditch, along with permanent piping connecting the pumps to the existing "leachate" treatment system's feed storage tank.

(c) Submit written plans and specifications and operating procedures for the existing "leachate" treatment system currently located on the Site.

The Department reserves the right to require Respondent to submit further information, as necessary, to determine compliance with the provisions of this Paragraph.

II. Respondent shall undertake an inactive hazardous waste disposal site remedial program at the Site (the "Remedial Program"). Within ninety (90) days after the effective date of this Order, Respondent shall submit in writing to the Department a

proposed plan for the Remedial Program (the "Proposed Plan"), which shall include, but not be limited to, the actions set forth in Appendix "B", attached hereto and made a part hereof, and which shall also contain specific details on the methods and procedures by which Respondent shall fulfill the requirement to undertake the Remedial Program. Such methods and procedures shall include, but not be limited to, detailed engineering plans and specifications, sampling and analytical protocols, and monitoring and maintenance activities.

III. The Department shall have the right of approval or disapproval of the Proposed Plan.

IV. Within sixty (60) days after receipt of the Proposed Plan, the Department shall issue its approval or disapproval. If the Department disapproves the Proposed Plan, the Department shall state the reasons for such disapproval in writing. In specifying the reasons for its disapproval, the Department shall specify what additional information, evaluation, testing or analysis it will require, if any, and the time limit for the performance of the additional work. Within that time period, Respondent shall furnish the Department with a revised plan for the Remedial Program (the "Revised Plan"). If, upon review of the Revised Plan, the Department finds that it fails to meet, or is inconsistent with, the requirements of the Department, the Department may modify the Revised Plan to include plans, specifications, procedures, protocols and other actions which meet the requirements of the Department and which shall be binding upon

Respondent in carrying out the Remedial Program. The approved plan for the Remedial Program (the "Approved Plan") shall become incorporated into this Order, shall be made a part hereof and shall be attached hereto as Appendix "D".

V. Respondent shall commence implementation of the Approved Plan no later than September 1, 1982. However, Respondent shall commence the excavation described in Paragraph II of Appendix "B" hereto no later than May 1, 1982. Further, Respondent may only implement that portion of the Approved Plan contained in Paragraph I (B) of Appendix "B" hereto if Respondent shall have obtained certification from EPA for the Property to be used as a demonstration site for the application of sodium glycolate reagent for in situ treatment of PCB-contaminated soil, and written proof of said EPA certification shall have been submitted to the Department, by September 1, 1982.

VI. Respondent shall not be in default of compliance with this Order if Respondent is unable to comply with any provision of this Order because of the action of a national or local government body or court, an act of God, war, strike, riot or catastrophe as to any of which the negligence or willful misconduct on the part of Respondent was not the proximate cause. Respondent shall apply in writing to the Department immediately upon obtaining knowledge of any such event and shall request an appropriate modification of this Order. It is expressly understood that the failure of EPA to certify the Property for use as a demonstration site for the application of sodium glycolate reagent for in situ treatment of PCB-contaminated soil prior to September 1, 1982 shall not be deemed an event which excuses Respondent from compliance with the requirements of this Order.

VII. If, for any reason, Respondent desires that any provision of this Order be changed, Respondent shall make timely written application to the Department setting forth reasonable grounds for the relief sought, and the Department shall not unreasonably withhold the grant of the relief requested. However, no change or modification to this Order shall be made or be effective except as may be specifically set forth in writing by the Department.

VIII. Notwithstanding any of the provisions of this Order to the contrary, the Department reserves the right to pursue whatever relief it deems necessary, including, but not limited to, the initiation of legal proceedings to compel Respondent to perform all work required by this Order. Further, the Department reserves the right to pursue whatever relief it deems necessary, including, but not limited to, requiring additional remedial work at the Site and/or imposing any penalty provided for by law, in the event that any contamination of the environment or other violation of law attributable to Respondent not otherwise covered by this Order is discovered at or in the vicinity of the Site.

IX. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting (a) any legal or equitable rights or claims, actions, suits, causes of action or demands whatsoever that the Department may have against anyone other than Respondent and (b) the Department's right to bring any action of any kind with respect to areas or resources that may have been affected as a result of the release or migration of hazardous wastes from the Site.

X. Any appendix or exhibit attached to this Order shall be deemed to be a part of this Order and shall be fully enforceable against Respondent.

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

XII. All reports and submissions herein required shall be made to the Remediation Section, Division of Solid Waste, New York State Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233-0001. Copies of all such documents shall be sent to the Hazardous Waste Disposal Site Compliance Team, New York State Department of Environmental Conservation, 600 Delaware Avenue, Buffalo, New York 14202.

XIII. All methods and procedures implemented by Respondent in carrying out the Remedial Program must be executed through the application of Requisite Remedial Technology. "Requisite Remedial Technology" as used herein shall mean those engineering and construction practices which will most effectively protect the public health and environment by the identification, investigation, abatement and cleaning up of any contamination at the Site or in the vicinity thereof.

XIV. Commencing with the effective date of this Order, Respondent, either individually or on behalf of Bengart & Memel, Inc., shall not buy, accept or receive (a) any PCB transformers or capacitors or (b) PCB-contaminated transformers or capacitors which have not been drained of all liquids. Should Respondent, either individually or on behalf of Bengart & Memel, Inc., buy, accept or receive PCB-contaminated transformers or capacitors which have been drained, Respondent shall perform more frequent testing of the collected runoff from the asphalt pad than as

stated in Paragraph VI (C) of Appendix "B" hereto. This testing shall include, at a minimum, testing surface runoff four times per year instead of annually. Should any of the test results exceed the BSA Sewer Use Permit requirements, discharge of the runoff shall be immediately discontinued, and the runoff shall be treated in the "leachate" treatment system referred to in Paragraph V of Appendix "B" hereto, prior to discharge.

XV. Respondent shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless from all claims, suits, actions, damages, and costs arising out of or resulting from the fulfillment or attempted fulfillment of the terms, provisions and conditions of this Order by Respondent, his employees or agents.

XVI. Upon Respondent's execution of this Order, Respondent shall pay to the Department, by certified check, a sum of money which represents restitution to the Department of the expenses incurred by the Department in investigating the conditions at the Site and in issuing this Order to Respondent, and restitution to the Department of the expenses estimated by the Department to be incurred by it in connection with all of the Department's future activities associated with the Site, including, but not limited to, expenses to be incurred for (a) review of all documents submitted by Respondent in connection with the Remedial Program; (b) supervision by the Department of the Implementation of the Remedial Program, including, among other things, inspection of construction and monitoring and maintenance activities associated therewith; (c) legal activities undertaken by the Department, as necessary, relating to this Order; and (d) any other activities

undertaken by the Department in relation to securing and overseeing implementation of the Remedial Program. The sum of money to be paid by Respondent to the Department hereunder is set forth in Appendix "C", which is attached hereto and hereby made a part hereof.

XVII. In the event that Respondent proposes to convey the whole or any part of his ownership interest in the Property or any portion thereof to any other party, Respondent shall notify the Department in writing, not less than 30 days prior to the consummation of such conveyance, of the identity of such other party and the nature and date of the proposed conveyance. In advance of such proposed conveyance, Respondent shall notify such other party in writing, with a copy sent to the Department, concerning the applicability of this Order.

XVIII. Respondent shall, within 30 days after the effective date of this Order, file a Declaration of Covenants and Restrictions with the real property records of the Erie County Clerk's Office putting all future purchasers of any portion of the Property in which Respondent has an ownership interest on notice of this Order. Said Declaration must indicate that any successor in title to any such portion of the Property shall be responsible for preparing and/or implementing the Approved Plan and the Remedial Program.

XIX. Respondent shall obtain, on a timely basis, all permits, easements, rights-of-way, rights-of-entry, approvals or other authorizations which are necessary to carry out any of Respondent's

obligations pursuant to this Order. Respondent shall promptly notify the Department in the event of Respondent's inability to obtain any of such authorizations on a timely basis.

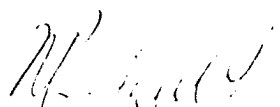
XX. Respondent shall permit any duly designated officer, employee, consultant, contractor or agent of the Department to enter the Property in order to inspect the Property, to make or cause to be made such tests as are determined by the Department to be necessary, and to ascertain Respondent's compliance or noncompliance with this Order.

XXI. The provisions of this Order shall be deemed to bind Respondent, his agents, employees, successors and assigns, and all persons, firms and corporations acting under or for Respondent.

DATED: Albany, New York JAN 13 1982

ROBERT F. FLACKE
Commissioner
New York State Department of
Environmental Conservation

By:



M. Peter Lanahan
First Deputy Commissioner

TO: Howard Popkin

JAN 13 1982

This Indenture,

Made the 6th day of August Nineteen Hundred and Seventy-nine
Between HOWARD A. POPKIN, residing at 144 Tristan Lane,
Williamsville, New York,

party of the first part, and

GCT, INC., a New York corporation having its place of business at
105 Beulah Street in the City of Buffalo, County of Erie, and
State of New York, party of the second part

Witnesseth, that the said party of the first part, in consideration of
ONE and 00/100 (\$ 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 that Tract or Parcel of Land, situate in the City of Buffalo,
County of Erie and State of New York, being parts of Lots Numbers thirty-two (32)
and thirty-three (33) of the Lovejoy and Erslie Tract, Township ten (10), Range
eight (8) of the Buffalo Creek Reservation and bounded as follows:

BEGINNING at a point in the southerly line of Clinton Street distant ninety-
nine and seventy-five hundredths (99.75) feet west of the easterly line of said
Lot Number thirty-three (33) said point of beginning being the northwesterly
corner of land conveyed to Walter Zoladz by deed recorded in Erie County Clerk's
Office in Liber 3003 of Deeds at Page 97, June 25, 1940; thence southerly parallel
with the east line of said Lot Number thirty-three (33) and along the westerly
line of land conveyed to Walter Zoladz by the aforementioned deed six hundred
fifty-one and five tenths (651.5) feet to lands of the Erie Railroad Company;
thence northeasterly along said railroad lands one hundred forty-six and twenty-
one hundredths (146.21) feet to the easterly line of said Lot Number thirty-
three (33); thence northerly along the easterly line of said Lot Number thirty-
three (33) about forty-eight (48) feet to the southwesterly corner of land
conveyed to Walter Zoladz by deed recorded in Erie County Clerk's Office in
Liber 5020 of Deeds at Page 38, November 2, 1951; thence northeasterly along the
southerly line of land conveyed to Walter Zoladz by last above mentioned deed
about two hundred ten (210) feet to an angle in the southerly line of land conveyed
by said last mentioned deed; thence northeasterly in a straight line to a point
in the southerly line of Clinton Street distant six (6) feet east of the east
rail of Track B as extended to said southerly line of Clinton Street; thence
westerly along said southerly line of Clinton Street to the point or place of
beginning.

EXCEPTING THEREFROM ALL THAT TRACT OR PARCEL OF LAND, situate in the City of
Buffalo, County of Erie and State of New York, being part of Lot No. 33 of
Lovejoy and Erslies Tract bounded and described as follows:

BEGINNING at the intersection of the southerly line of Clinton Street with
the easterly line of Lot No. 33; thence westerly along said southerly line of
Clinton Street 99.75 feet to a point 99 feet easterly from the intersection of
the southerly line of Clinton Street with the east line of land conveyed to
Thomas Echat by deed recorded in the Erie County Clerk's Office in Liber 320 of
Deeds at Page 166; running thence southerly along a line parallel with the east
line of Lot No. 33, 180 feet to a point; running thence easterly at right angles
99.75 feet to a point in the east line of Lot No. 33; running thence northerly
along the east line of Lot No. 33, 190 feet to the place of beginning.

RECEIVED
\$ 132.50
REAL ESTATE
SEP 7 1979
TRANSFER TAX
LINE
3/4 COUNTY

100 8123-272

This Indenture,

Made the 6th day of August Nineteen Hundred and Seventy-nine
Mel WELSH HOWARD A. POPKIN, residing at 144 Tristan Lane,
Williamsville, New York,

party of the first part, and

GCP, INC., a New York corporation having its place of business at
105 Nicholas Street in the City of Buffalo, County of Erie, and
State of New York, party of the second part

Witnesseth, that the said party of the first part, in consideration of
ONE and 00/100 ----- Dollars,
(\$ 1.00 - ~~more~~) 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 that Tract or Parcel of Land, situate in the City of Buffalo,
County of Erie and State of New York, being parts of Lots Numbers thirty-two (32)
and thirty-three (33) of the Lovejoy and Esilie Tract, Township Ten (10), Range
eight (8) of the Buffalo Creek Reservation and bounded as follows:

BEGINNING at a point in the southerly line of Clinton Street distant ninety-
nine and seventy-five hundredths (99.75) feet west of the easterly line of said
Lot Number thirty-three (33) said point of beginning being the northwesterly
corner of land conveyed to Walter Zoladz by deed recorded in Erie County Clerk's
Office in Liber 3003 of Deeds at Page 97, June 25, 1940; thence southerly parallel
with the east line of said Lot Number thirty-three (33) and along the westerly
line of land conveyed to Walter Zoladz by the aforementioned deed six hundred
fifty-one and five tenths (651.5) feet to lands of the Erie Railroad Company;
thence northeasterly along said railroad lands one hundred forty-six and twenty-
one hundredths (146.21) feet to the easterly line of said Lot Number thirty-
three (33); thence northerly along the easterly line of said Lot Number thirty-
three (33) about forty-eight (48) feet to the southwesterly corner of land
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about two hundred ten (210) feet to an angle in the southerly line of land conveyed
by said last mentioned deed; thence northeasterly in a straight line to a point
in the southerly line of Clinton Street distant six (6) feet east of the east
rail of Track B as extended to said southerly line of Clinton Street; thence
westerly along said southerly line of Clinton Street to the point or place of
beginning.

EXCEPTING THEREFROM ALL THAT TRACT OR PART OF LAND, situate in the City of
Buffalo, County of Erie and State of New York, being part of Lot No. 33 of
Lovejoy and Esilies Tract bounded and described as follows:

BEGINNING at the intersection of the southerly line of Clinton Street with
the easterly line of Lot No. 33; thence westerly along said southerly line of
Clinton Street 99.75 feet to a point 99 feet easterly from the intersection of
the southerly line of Clinton Street with the east line of land conveyed to
Thomas Esch by deed recorded in the Erie County Clerk's Office in Liber 3.0 of
Deeds at Page 106; running thence southerly along a line parallel with the east
line of Lot No. 33, 180 feet to a point; running thence easterly at right angles
99.75 feet to a point in the east line of Lot No. 33; running thence northerly
along the east line of Lot No. 33, 180 feet to the place of beginning.

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APPENDIX B

REMEDIAL PROGRAM REQUIREMENTS

- I. Treatment of contaminated areas at and in the vicinity of test pits.¹

At the following locations, Respondent shall perform one of the following two remedial alternates, as set forth in subparagraphs A and B hereof:

- A. Excavation, disposal of material and backfilling.

- (1) A circular area of 10 feet in diameter shall be excavated at the location of the following test pits, to the depth indicated:

Test Pit	Excavation Depth (feet)	Excavation ₃ Volume (yd ³)
4	0.5	5.8
5	2.0	23.3
6	1.0	11.6
8	1.0	11.6
9	1.0	11.6
10	1.0	11.6
13	1.5	17.4

- (2) All excavated material shall be disposed of in accordance with current federal regulations governing the disposal of PCB and PCB-contaminated materials (materials with PCB concentrations in excess of 50 ppm under TSCA).
- (3) The excavated areas shall be backfilled with suitable material (consisting of at least 50 percent loam or an equivalent substitute), subject to the Department's approval.

*1 Those areas around test pits investigated by Wehran Engineering Corp. and RECRA Research, Inc., as reported in their "Hydrogeologic Investigation of the Bengart, Memel & Company Property," dated November 10, 1978, containing concentrations of PCBs in the soil in excess of 50 micrograms per gram (ug/g), which is equivalent to 50 parts per million (ppm).

~~_____~~
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~~_____~~

B. Application of sodium glycolate reagent for in situ treatment of PCB-contaminated soil in all areas described in subdivision 1 of subparagraph A of this Paragraph I, all soils excavated and stored on the Property as described in subparagraph A of Paragraph II of this Appendix "B", the transformer storage area located on Lot. No. 33, and all other PCB and PCB-contaminated materials excavated or collected and thereafter stored on the Property prior to the effective date of this Order. For the purposes of this Order, the sodium glycolate reagent process shall be deemed to have remediated the foregoing locations if the PCB concentration therein has been reduced to less than 50 ppm. ~~_____~~

~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~

- II. Excavation, disposal of material, and backfilling of areas adjacent to the sidewalk:
 - A. The area between the street curb and the fence, on either side of the existing sidewalk located on the south side of Clinton Street, extending from the western limit of the main access driveway to a point 10 feet west of the western line of the Property, shall be excavated to a depth of 12 inches.
 - B. All material excavated from the area described in subparagraph A of this Paragraph II shall be stored in containers on the Property for future treatment, or shall be disposed of, all in accordance with current federal regulations governing the storage and disposal of PCB and PCB-contaminated materials under TSCA.
 - C. The excavated area shall be backfilled with suitable material (consisting of at least 50 percent loam or an equivalent substitute), subject to the Department's approval.
- III. Installation of asphalt pad and surface drainage facilities:
 - A. The transformer storage area located on Lot No. 33 shall be covered with an asphalt pad at least 8 1/2 inches thick.
 - B. The asphalt pad shall conform to highway standards H20-44 and HS20-44 and shall be capable of supporting 32 kip axle loads. The asphalt surface shall be maintained in good repair.

- C. The area which must be covered with the asphalt pad shall extend a minimum distance of 90 feet in a southerly direction and 100 feet in an easterly direction from the existing fence near the northwest corner of the Property.
- D. Respondent may extend the asphalt pad easterly to the edge of the Property's driveway. If Respondent so extends the asphalt pad, the soil excavated from this additional area may be used as fill elsewhere on the Property so long as a composite soil sample taken from depths of 0, 6 and 12 inches at the center of the area to be excavated, contains less than 50 micrograms per gram of PCBs. All fill used on the Property from the excavated area must be covered with at least six inches of virgin soil comprised of at least 50% loam or an equivalent substitute.
- E. The asphalt pad shall include a six-inch curb around its perimeter, and there must be a suitable provision to collect spills around the "leachate" treatment system referred to in Paragraph V of this Appendix "B".
- F. The asphalt pad shall be sloped to direct surface runoff into a catch basin or manhole and "tight joint" pipeline connection to the sewer system of the BSA.
- G. An oil trap shall be installed on the Property between the catch basin or manhole and the sewer so as to insure that no oil shall be discharged into the BSA sewer system.

H. Surface drainage facilities for the area east of the asphalt pad (between the pad and the existing main building) shall be installed as proposed in the Conceptual Engineering Report of Malcolm Pirnie, Inc., dated May 5, 1981, and connected to the catch basin or manhole, as indicated in F above, with "tight joint" pipe.

IV. Subsurface drainage system:

- A. An underdrain collection system shall be installed on the surface of the glaciolacustrine clay layer (approximately three feet below the surface), and shall, at a minimum, extend along the western and northern borders of the asphalt pad. The underdrain collection system shall also continue along the northern fenceline to the western edge of the existing access driveway.
- B. The underdrain collection system shall be sloped in such a way as to channel all ground water into a single sampling and storage manhole or tank adjacent to the "leachate" treatment system. Such storage manhole or tank shall be separate from the surface runoff catch basin or manhole referred to in Paragraph III of this Appendix "B". The ground water collection manhole or tank shall contain a permanently installed pump system to transfer collected ground water into the "leachate" treatment system. No other outlet to this manhole or tank shall be constructed without the approval of the Department.

C. Piezometers shall be placed in the trench containing the underdrain collection system to allow measurement of the ground water depth in the trench. Such measurement will indicate whether the underdrain collection system has become clogged.

V. "Leachate" treatment system:

- A. Design criteria, plans, specifications, and operating procedures for the previously installed "leachate" treatment system shall be submitted to the Department for approval.
- B. The operating procedures shall include provisions which are consistent with TSCA regulations governing the disposal of PCB-contaminated spent carbon and cartridge filter media.
- C. Discharge of the treated "leachate" to the sewer system shall be in accordance with requirements of the BSA.
- D. Any other disposal of the treated "leachate" shall be subject to the approval of the Department.

VI. Testing, monitoring and maintenance:

- A. The discharge of collected surface runoff and ground water to the sewer system shall be subject to a Sewer Use Permit issued by the BSA. A copy of said permit shall be submitted to the Department.
- B. At the time of two rain events longer than one hour in duration, and which also occur at least one month apart, the collected surface runoff shall be sampled

after the first hour of said rain events, and analyzed for total PCB concentration. Should both analyses meet the PCB concentration limits of the Sewer Use Permit, the testing frequency may be decreased to once per year after a rain event of one hour or more in duration. Should any result exceed the PCB concentration limits of the Sewer Use Permit, discharge of surface runoff to the sewer system shall be immediately discontinued. All such surface runoff shall then be treated in the "leachate" treatment system prior to discharge. Said treatment shall continue until two successive tests, at least one month apart, indicate that PCB concentrations in the untreated surface runoff meet Sewer Use Permit requirements.

- C. Collected, untreated ground water shall be tested twice, at least one month apart. Testing shall not occur until completion of the excavation and construction phase of the Remedial Program. If both samples of untreated ground water indicate PCB concentrations which meet the Sewer Use Permit requirements, the ground water may be discharged to the sewer without treatment. Thereafter, untreated ground water shall be tested annually for PCB concentrations for a period of 30 years following the execution of this Order. Should any test result indicate a PCB concentration in excess of the Sewer Use Permit requirements, all ground

water shall be collected and treated until two successive results satisfying the requirements of the Sewer Use Permit occur, from tests taken at least one month apart.

- D. All testing shall be for total PCB concentration to a minimum detectability of 0.1 micrograms per liter (ug/l). The requirements for yearly testing may be reviewed by Respondent at the end of five years, at which time application may be made to the Department for a reduction of the testing frequency.
- E. All elements of the Remedial Program shall be monitored and maintained by Respondent for a period of not less than 30 years from the effective date of this Order. As used herein, "monitoring" means those activities undertaken to measure the effectiveness and condition of the Remedial Program and to ascertain whether wastes are being released from or are migrating from the Site. As used herein, "maintenance" means those routine activities undertaken to ensure the continued efficacy of the Remedial Program.

VII. **Site disturbance during or after execution of the Remedial Program:**

- A. Soil shall not be excavated or removed from the Site without the written approval of the Department.
- B. Excavation of soil for any building or foundation on the Site must be approved in advance by the Department. Approval by the Department shall be dependent upon the

results of soil analyses to determine total PCB concentrations at 6-inch intervals to a depth of 2 feet, at test pits located at points to be determined by the Department.

VIII. Storage facility:

- A. All disposal, marking, storage and record keeping requirements pursuant to TSCA regulations governing PCBs shall be complied with.
- B. All containers having PCB or PCB-contaminated materials must be disposed of in an EPA-licensed hazardous waste disposal facility within one year after the effective date of this Order.

APPENDIX C

Expense Summary

Albany Office to 6/17/81, 99 man hours	\$1,394.00
Buffalo Office to 5/29/81, 212.25 man hours	\$2,223.20
Buffalo Miscellaneous Expense	\$ 61.84
Total Travel Expense	\$ 642.19
Future Costs (Plan Review, Observe Construction, Monitor, Travel (From 7/1/81)	\$2,173.09
GRAND TOTAL EXPENSE	\$6,493.32

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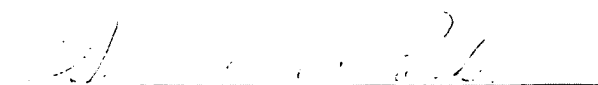
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NUS CORPORATION
REGION II

SENT TO _____

Consent by Respondent

Respondent hereby consents to the issuing and entering of the foregoing Order, waives his right to a hearing herein as provided by law, and agrees to be bound by the provisions, terms and conditions contained herein.

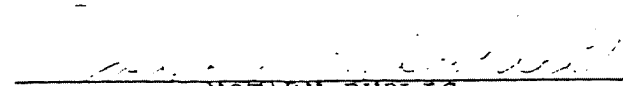


HOWARD POPKIN

Date: _____

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

On this _____ day of _____, 19____, before me personally came Howard Popkin, to me known, who being by me duly sworn, did depose and say that he resides in _____, and that he executed the foregoing order.



NOTARY PUBLIC

JOSEPH M. HELMBRECHT
Notary Public, State of New York
Qualified in Erie County
My Commission Expires March 30, 19____