

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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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 of the State of New York  
by

ORDER  
ON  
CONSENT

ARO CORPORATION

Respondent

SITE #9-15-147  
INDEX #B9-0353-90-11

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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 entered into under authority of ECL §27-1301 et seq. and §§71-2705(1) and 71-2727.

2. The Department alleges that ARO Corporation ("Respondent") owns an inactive hazardous waste disposal site at 3695 Broadway, Cheektowaga, County of Erie, New York, identified by the Department as the ARO Corporation Site (the "Site"). Respondent is a corporation organized and existing under the laws of the State of New York, and is duly authorized to do business in New York.

3. The Department has determined that the Site is an inactive hazardous waste disposal site, as that term is defined at ECL Section 27-1301(2). The Site has been listed in the

Registry of Inactive Hazardous Waste Disposal Sites in New York State as Site Number 9-15-147.

4. Pursuant to ECL Section 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."

5. Respondent has submitted, and the Department has approved, a Remedial Investigation/Feasibility Study Work Plan, attached as Appendix "A" and incorporated into this Order.

6. The Department and Respondent agree that the goal of this Order shall be the implementation of a Remedial Investigation/Feasibility Study by Respondent for the Site addressing on-Site and off-Site contamination in accordance with Appendix "A" and the development and implementation of an interim remedial program for the Site, if appropriate.

7. Respondent, without admitting any liability and without making any admission of law or fact, having waived its right to a hearing herein as provided by law, and having consented to the issuance and entry of this Order, agrees to be bound by its terms.

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

I. Respondent shall retain duly licensed professional consultants, contractors and laboratories 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 for approval prior to initiation of any activities for which the Respondent and their consultants will be responsible.

II. Within 30 working days after the effective date of this Order, Respondents shall submit to the Department all data within their possession or control regarding environmental conditions on-Site and off-Site related to the Site and other information described below, to the extent that such data have not previously been provided to the Department. The data and information shall include:

a. a brief history and description of the Site, including the types, quantities, physical state, location and dates of any known or suspected disposal of hazardous waste at the Site, and names of any "responsible parties,"; and

b. a description of the results of all previous investigations conducted by Respondent or other investigations Respondent is aware of concerning the Site and areas in the vicinity of the Site, including copies of all available

topographic and property surveys, engineering studies and aerial photographs.

III. The Department may request that Respondent implement an Interim Remedial Program and that Respondent submit to the Department a work plan, which includes time frames, for completion of an Interim Remedial Program (the "IRM Work Plan") certified by an individual registered to practice professional engineering by the State of New York that the Work Plan meets the requirements of all applicable statutes and regulations if the Department, after consultation with the Respondent, determines such a program is appropriate.

IV. The Department shall notify Respondent in writing of its approval or disapproval of any IRM Work Plan that is submitted, such approval not to be unreasonably withheld. If the Department approves the IRM Work Plan, Respondent shall perform the Interim Remedial Program in accordance with it.

If the Department disapproves an IRM Work Plan that is submitted by the Respondent, the Department shall notify Respondent in writing of the Department's specific objections. Within the time period specified in the notice of disapproval, Respondent shall revise the IRM Work Plan in accordance with the Department's specific comments and submit a revised IRM Work Plan.

The Department shall notify Respondent in writing of its approval or disapproval of the revised IRM Work Plan, such approval not to be unreasonably withheld. If the Department

approves the revised IRM Work Plan, Respondent shall perform the Interim Remedial Program in accordance with the revised IRM Work Plan.

If the Department disapproves the revised IRM Work Plan, the Respondent shall be in violation of this Order. Disapproval of the revised IRM Work Plan shall constitute final Department action for purposes of Article 78 of the New York Civil Practice Law and Rules.

Any approved IRM Work Plan shall be attached as Appendix "B" and incorporated into this Order.

V. In accordance with the time schedule contained in any approved IRM Work Plan, Respondent shall, under the oversight of the Department, perform the Interim Remedial Program and submit the status reports and other deliverables (as defined in the IRM Work Plan) and the IRM Report. The IRM Report shall include data generated and all other information generated during performance of the Interim Remedial Program. During the field work associated with any Interim Remedial Program, Respondent shall have on-Site a full-time representative who is qualified to inspect the work. The IRM Report shall include all data generated and all other information obtained during the Interim Remedial Program.

VI. After receipt of any IRM Report, the Department shall determine if the Interim Remedial Program was conducted and the IRM Report prepared in accordance with the IRM Work Plan and this Order, and shall notify Respondent in writing of its

approval or disapproval of the IRM Report, such approval not to be unreasonably withheld.

If the Department disapproves the IRM Report, the Department shall notify Respondent in writing of the Department's specific objections. Respondent shall revise the IRM Report and/or re-perform or supplement the Interim Remedial Program in accordance with the Department's specific comments and shall submit a revised IRM Report. The period of time within which the IRM Report must be revised or the Interim Remedial Program re-performed or supplemented shall be reasonable and shall be specified by the Department in its notice of disapproval. The Respondent shall, at a minimum, have 30 working days in which to submit a revised IRM Report.

After receipt of the revised IRM Report, the Department shall notify the Respondent in writing of its approval or disapproval of the revised IRM Report, such approval not be unreasonably withheld.

If the Department disapproves the revised IRM Report, the Respondent shall be in violation of this Order. Disapproval of the revised IRM Report shall constitute final Department action for purposes of Article 78 of the Civil Practice Laws and Rules of New York State.

Any approved IRM Report shall be attached as Appendix "C" and incorporated into this Order.

VII. The Department reserves the right to seek a modification and/or amplification and expansion of any Interim

Remedial Program and IRM Report by Respondent if the Department reasonably determines, as a result of reviewing any data or facts that further IRM work is necessary to accomplish the goals of this Order.

VIII. Respondent shall operate, maintain and monitor all elements of any Interim Remedial Program as approved by the Department.

IX. In accordance with the time schedule contained in Appendix "A", Respondent shall perform the Remedial Investigation and submit the status reports and other deliverables (as defined in the Work Plan) and the Remedial Investigation Report. During field activities associated with the Remedial Investigation, Respondent shall have on-Site a full-time representative who is qualified to inspect the work. The Report shall include all data generated and all other information obtained during the Remedial Investigation, provide all of the assessments and evaluations set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sections 9601 et seq., as amended ("CERCLA"), the National Contingency Plan ("NCP") then in effect, and the USEPA guidance document entitled "Guidance For Conducting Remedial Investigations and Feasibility Studies under CERCLA" dated October 1988 and any subsequent revisions thereto, and identified Department policy and procedures and identify any additional data that must be collected to accomplish the goals of this Order. The Remedial Investigation shall be prepared and

certified by an individual or member of a firm which is authorized to offer engineering services in accordance with Article 145 of the New York State Education Law who shall certify that all activities that comprised the Remedial Investigation were performed in full accordance with the approved Work Plan and this Order.

X. After receipt of the Report, the Department shall determine if the Remedial Investigation was conducted and the Report prepared in accordance with the Work Plan and this Order, and shall notify Respondent in writing of its approval or disapproval of the Report, such approval not to be unreasonably withheld.

If the Department disapproves the Report, the Department shall notify Respondent in writing of the Department's objections. Respondent shall revise the Report and/or re-perform or supplement the Remedial Investigation in accordance with the Department's specific comments and shall submit a revised Report. The period of time within which the Report must be revised or the Remedial Investigation re-performed or supplemented shall be reasonable and specified by the Department in its notice of disapproval. The Respondent shall, at a minimum, have 30 working days in which to submit a revised Report.

After receipt of the revised Report, the Department shall notify the Respondent in writing of its approval or disapproval



of the revised Report, such approval not to be unreasonably withheld.

If the Department disapproves the revised Report, the Respondent shall be in violation of this Order. Disapproval of the revised Report shall constitute final Department action for purposes of Article 78 of the Civil Practice Law and Rules of New York State.

The approved Report shall be attached as Appendix "D" and incorporated into this Order.

XI. The Department reserves the right to seek a modification and/or an amplification and expansion of the Remedial Investigation and Report by Respondent if the Department reasonably determines, as a result of reviewing data generated by the Remedial Investigation or as a result of reviewing any other data or facts, that further work is necessary to accomplish the goals of this order.

XII. Within the time period specified in the RI/FS Work Plan, Respondent shall submit a Feasibility Study evaluating on-Site and off-Site remedial actions to eliminate, to the maximum extent practicable, all health and environmental hazards and potential hazards attributable to the Site.

The Feasibility Study shall be prepared and certified by an individual registered to practice professional engineering by the State of New York, and approved by the Department who may be an employee of Respondent, or an individual or member of a firm

which is authorized to offer engineering services in accordance with Article 154 of the New York State Education Law.

The Feasibility Study shall be performed in a manner that is consistent with CERCLA, the NCP then in effect, the USEPA interim final guidance document entitled "Guidance For Conducting Remedial Investigation and Feasibility Studies Under CERCLA" dated October 1988 and any subsequent revisions thereto and appropriate technical and administrative guidelines identified by the Department.

XIII. After receipt of the Feasibility Study, the Department shall determine if the Feasibility Study was prepared in accordance with the Work Plan and this Order, and shall provide Respondent with written notification of its approval or disapproval, such approval not to be unreasonably withheld.

If the Department disapproves the Feasibility Study, the Department shall notify Respondent in writing of the Department's specific objections. Within a reasonable time period specified in the notice of disapproval, Respondent shall revise the Feasibility Study in accordance with the Department's specific comments and submit a revised Feasibility Study. Respondent shall have a reasonable period of time in which to submit the revised Feasibility Study which shall be a minimum of 30 working days.

After receipt of the revised Feasibility Study, the Department shall notify Respondent in writing of its approval or

disapproval of the revised Feasibility Study, such approval not to be unreasonably withheld.

If the Department disapproves the revised Feasibility Study, the Respondent shall be in violation of this Order. Disapproval of the revised Feasibility Study shall constitute final Department action for purposes of Article 78 of the Civil Practice Law and Rules of New York State.

The approved Feasibility Study shall be attached as Appendix "E" and incorporated into this Order.

XIV. The Department shall have the right, at its request, to obtain split samples, duplicate samples, or both, of all substances and materials sampled by Respondent. The Department shall also have the right to take its own samples, and Respondent shall have the right to obtain split samples of such samples at its own expense.

XV. Respondent shall provide notice to the Department at least 10 working days in advance of the commencement of any field activities to be conducted pursuant to this Order.

XVI. Respondent shall use its best efforts to obtain whatever federal and local permits, easements, rights-of-way, rights-of-entry, approvals or authorizations are necessary to perform Respondent's obligations under this Order. Respondent shall promptly notify the Department of any difficulties it encounters in the process of obtaining such authorizations. If Respondent is unable to obtain such permits, easements, rights-of-way, rights-of-entry, approvals or authorizations, the

Department shall assist Respondent in obtaining such authorizations and the Department shall grant appropriate time extensions for the fulfillment of Respondent's obligations under this Order.

XVII. Respondent shall, during regular business hours, permit any duly designated employee, consultant, contractor or agent of the Department or any State agency to reasonably enter upon the Site or areas in the vicinity of the Site which may be under the control of Respondent for purposes of inspection, sampling and testing and to assure Respondent's compliance with this Order. The Department agrees that any such persons will comply with the approved health and safety plan that is a part of this Order. During implementation of the Remedial Program, Respondent shall provide the Department with suitable office space at the Site, including access to a telephone, and shall permit the Department full access to all records and job meetings pertaining to any Interim Remedial Measure and the Remedial Investigation and Feasibility Study.

XVIII. 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 an act of God, war, riot or because of any condition or event entirely beyond control of Respondent, its agent or agents carrying out Respondent's obligations under this Order. Respondent shall promptly notify the Department in writing when it obtains knowledge of any such condition and request an appropriate

extension or modification of this Order, which request shall not be unreasonably denied or withheld by the Department.

XIX. The failure of the Respondent to comply with any term of this Order shall be a violation of this Order and the ECL.

XX. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting any of the Department's rights, which include, but are not limited to, the following:

a. the right to bring any action or proceeding against anyone other than Respondent, its directors, officers, employees, servants, agents, successors and assigns;

b. the right to enforce this order against Respondent, its directors, officers, employees, servants, agents, successors and assigns in the event that Respondent shall fail to satisfy any of the terms hereof;

c. the right to bring any action or proceeding against Respondent, its directors, officers, employees, servants, agents, successors and assigns with respect to claims for natural resources damages as a result of the release or threatened release of hazardous substances or constituents at or from the Site or areas in the vicinity of the Site, and;

d. the right to bring any action or proceeding against Respondent, its directors, officers, employees, servants, agents successors and assigns or any responsible party with respect to hazardous substances that are present at the site or that have migrated from the site and present a significant threat to human

health or the environment, including the right to compel implementation of a remedial program for the Site (including remedial design, remedial action and operation and maintenance) and to obtain its costs in connection with the Site.

XXI. This Order shall not be construed to prohibit the Commissioner or his duly authorized representative from exercising any summary abatement powers.

XXII. 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, its directors, officers, employees, servants, agents, successors or assigns. Such indemnification shall not apply to such damages or costs which result from the negligence or willful misconduct of the Department, its agents, servants or contractors.

XXIII. Within 30 days after receipt of an itemization of costs from the Department, Respondents shall pay to the Department a sum of money which shall represent reimbursement for the Department's expenses including, but not limited to, labor, overhead, travel, analytical costs and contractor costs incurred by the State of New York for negotiating this Order, reviewing and revising submittals made pursuant to this Order, overseeing activities conducted pursuant to this Order, and

collecting and analyzing samples. This payment shall not exceed \$25,000.00.

Itemization of the costs shall include an accounting of personal services indicating the employee name, title, bi-weekly salary and time spent (in hours) on the project during the billing period, as identified by an assigned time and activity code. This information shall be documented by the Department's quarterly reports of Direct Personal Service. The Department's approved fringe benefit and indirect cost rates shall be applied. Non-personal service costs shall be summarized by category of expense (supplied, materials, travel, contractual) and shall be documented by the New York State Office of the State Comptroller's quarterly expenditure reports.

Such payment shall be made by certified check payable to the New York State Department of Environmental Conservation for payment into the Hazardous Waste Remedial Fund established under Section 97-b of the State Finance Law. Payment shall be sent to the Director, Division of Hazardous Waste Remediation, N.Y.S.D.E.C., 50 Wolf Road, Albany, New York 12233.

XXIV. The effective date of this order shall be the date it is signed by the Commissioner or his designee.

XXV. If Respondent desires that any provision of this Order be changed, it shall make timely written application signed by the Respondent to the Commissioner, setting forth reasonable grounds for the relief sought. A copy of such

written application shall be delivered or mailed to the Department project manager for the Site.

XXVI. Within 30 days after the effective date of this Order, Respondent shall file a Declaration of Covenants and Restrictions with the Erie County Clerk to give all parties who may acquire any interest in the Site notice of this Order.

XXVII. In the event Respondent proposes to convey the whole or any part of its interest in the Site, Respondent shall, not fewer than 60 days prior to the proposed conveyance, notify the Department in writing of the identify of the transferee and of the nature and date of the proposed conveyance and shall notify the transferee in writing, with a copy to the Department, of the applicability of this order.

XXVIII. Respondent shall participate in the preparation of any written materials and shall implement a citizen participation program in coordination with and subject to the approval of the Department. The citizen participation program shall be consistent with the Department's publication entitled "New York State Inactive Hazardous Waste Site Citizen Participation Plan".

XXIX. All written communications required by this order shall be transmitted by United State Postal Service, by private courier service, or hand delivered as follows:

A. Communication from Respondent shall be made as follows:



1. Director, Division of Hazardous Waste Remediation  
New York State Department of Environmental Conservation  
50 Wolf Road  
Albany, New York 12233
2. Director, Bureau of Environmental Exposure Investigation  
New York State Department of Health  
2 University Place  
Albany, New York 12203
3. Regional Engineer  
Region 9  
New York State Department of Environmental Conservation  
270 Michigan Avenue  
Buffalo, New York 14203-2999
4. Division of Environmental Enforcement  
New York State Department of Environmental Conservation  
270 Michigan Avenue  
Buffalo, New York 14203-2999

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

1. Four copies to the Director, Division of Hazardous Waste Remediation
2. Two copies to the Director, Bureau of Environmental Exposure Investigation
3. One copy to Regional Engineer

C. Communication to be made from the Department to the Respondent shall be made as follows:

Mr. David Cushman  
Capsule Environmental Engineering, Inc.  
1970 Oakcrest Avenue  
St. Paul, Minnesota 55113

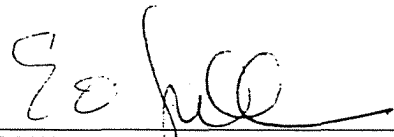
Richard Demings  
General Manager  
The ARO Corporation  
3695 Broadway  
Buffalo, New York 14227

David P. Flynn, Esq.  
Phillips, Lytle, Hitchcock, Blaine & Huber  
One Marine Midland Center - Suite 3400  
Buffalo, New York 14203-2887

XXX. The terms of this Order shall be deemed to bind Respondent, and its successors and assigns. Respondent's officers, directors, agents, servants and employees shall be obliged to comply with the relevant terms of this Order in performance of their designated duties on behalf of Respondent.

XXXI. The terms hereof shall constitute the complete and entire Order between Respondent and the Department concerning the Site. No term, condition, understanding or agreement purporting to modify or vary the terms hereof 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 its obligations to obtain such formal approvals as may be required by this Order.

DATED: , New York  
1992

  
\_\_\_\_\_  
EDWARD O. SULLIVAN  
Deputy Commissioner  
New York State Department of  
Environmental Conservation

## CONSENT BY RESPONDENT

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

ARO CORPORATION

By :

Richard C. Demmings

(Type Name of Signer)

Title:

General Manager

Date:

January 31, 1992

STATE OF NEW YORK )

—

S. S. :

County OF

;

On this 31st day of January, 19 92,

before me personally came Richard C. Demmings

to me known, who being duly sworn, did depose and say that he

resides in Orchard Park, New York ; that

he is the General Manager of the

ARO corporation described in and which executed the foregoing instrument; that he knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by the order of the Board of Directors of said corporation and that he signed his name thereto by like order.

**CAROL GERACE**  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires \_\_\_\_\_

NOTARY PUBLIC

270 Michigan Avenue, Buffalo, NY 14203-2999

February 28, 1992

CERTIFIED MAIL

David P. Flynn, Esq.  
Phillips, Lytle, Hitchcock,  
Blaine & Huber  
3400 Marine Midland Center  
Buffalo, NY 14203

Re: ARO Corporation, New York State Inactive Hazardous Waste  
Disposal Site No. 915147  
Final Signed RI/FS Consent Order

Dear Mr. Flynn:

I enclose the final signed copy of the above-referenced  
Order. You will note that the effective date of this Order is  
February 21, 1992.

I am available to address any questions which arise  
concerning this order.

Very truly yours,

151

Cheryl A. Peterson  
Senior Attorney  
Division of Environmental  
Enforcement

CAP/mf  
A:P49aro

Enclosure

bcc: M. Doster - NYSDEC Region 9  
A. Carlson - NYSDOH Albany  
W. Mugden - USEPA Region 2



April 23, 1992

Mr. David Locey  
Assistant Sanitary Engineer  
Region 9  
New York State Department of  
Environmental Conservation  
270 Michigan Avenue  
Buffalo, New York 14203

Re: The Aro Corporation  
Buffalo, New York  
DHWR Site #915147

Dear Mr. Locey:

This letter is to confirm that Capsule/Aro has complied with Section II of the Order on Consent for The Aro Corporation, 3695 Broadway Avenue, Buffalo, New York. Section II concerns the submittal of a project data package for previous on-site and off-site environmental work.

Capsule has previously submitted to the New York State Department of Environmental Conservation (NYSDEC), project reports outlining environmental investigations prior to the development the Remedial Investigation (RI) Work Plan. The Draft Interim Ground Water and Soil Investigation (February 1991) with Supplement 1 (March 1991) were submitted to the NYSDEC and are included in the approved RI Work Plan as Appendix 1. Capsule believes these reports satisfy the requirements outlined in Section II, paragraphs A and B.

David Flynn (Phillips, Lytle, Hitchcock), Ingersoll-Rand legal counsel for The Aro Corporation, RI Project, is currently in the process of filing the Declaration of Covenants and Restrictions on the property deed Clerk. This requirement is outlined in the Order on Consent in Section XXVI. The NYSDEC will be notified once this has been completed.

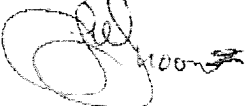
CAPSULE ENVIRONMENTAL ENGINEERING, INC.		
FAX TRANSMITTAL		
Date: 4-24-92	Time: 1:55 PM	No. Pages 2
To: DAVID LOCEY	From: TONY GROCVNS	
Co: NYSDEC	Phone: 612/636 2644	
Fax No: 716-851-7008	Fax: 612/636-3106	

Mr. David Locey  
Page Two  
April 23, 1992

If you have any questions or comments on the completion of these  
Sections of the Order on Consent, please call me at 800-328-8246.

Sincerely,

CAPSULE ENVIRONMENTAL ENGINEERING, INC.



Anthony D. Grooms  
Environmental Specialist

ADG:mmf

cc: D. Flynn/Phillips, Lytle, Hitchcock  
D. Demmings/Aro, Buffalo, New York  
J. Nash/Capsule

128-98-313-05



## New York State Department of Environmental Conservation

## MEMORANDUM

TO: Michael J. O'Toole, Jr., Director, Division of Hazardous Waste Remediation  
FROM: Edward R. Belmore, Bureau Director, Bureau of Western Remedial Action  
SUBJECT: Order on Consent - ARO Corporation, Site No. 9-15-147

DATE:

FEB 19 1992

A handwritten signature in cursive script, reading "Edward R. Belmore".

The ARO Corporation site is a Region 9 lead site and David Locey is the project manager. The attached Work Plan and Consent Order have been reviewed by the regional staff and is acceptable.

If you have any questions, please contact Martin Doster at 716/851-7220.

Attachment

cc: M. Doster ✓



PHILLIPS, LYTLE, HITCHCOCK, BLAINE & HUBER

ATTORNEYS AT LAW

3400 MARINE MIDLAND CENTER, BUFFALO, NEW YORK 14203

TELECOPIER (716) 852-6100

(716) 847-8400

February 3, 1992

Joseph P. Ryan, Esq.  
Assistant Counsel  
Division of Environmental Enforcement  
New York State Department of  
Environmental Conservation  
600 Delaware Avenue  
Buffalo, NY 14202

Re: The ARO Corporation

Dear Joe:

Enclosed please find duplicate originals of the Order on Consent pertaining to The ARO Corporation Plant Site, which have been executed by ARO. Because of the length of the work plan attachment, I have enclosed one copy of the work plan, which includes the following letters of amendment/clarification appended thereto:

1. November 7, 1991 letter from New York State Department of Health to New York State Department of Environmental Conservation;
2. November 15, 1991 letter from New York State Department of Environmental Conservation to Capsule Environmental Engineering;
3. November 26, 1991 letter from Capsule Environmental Engineering to New York State Department of Environmental Conservation; and
4. January 1, 1992 letter from Capsule Environmental Engineering to New York State Department of Environmental Conservation.

PHILLIPS, LYTLE, HITCHCOCK, BLAINE & HUBER

Joseph P. Ryan, Esq.

- 2 -

February 3, 1992

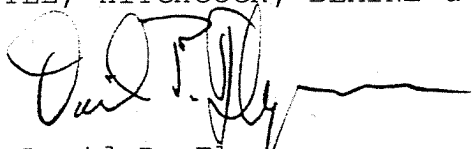
The revised work plan dated August 30, 1991, together with these several letters of amendment/clarification, constitute the work plan attachment to the Order.

Once the Department has executed the Order, please return one of the originals to me. If you have any questions, please feel free to contact me.

Very truly yours,

PHILLIPS, LYTLE, HITCHCOCK, BLAINE & HUBER

By

  
David P. Flynn

WAwa

Enclosures

DPF92-066

cc: Mr. Richard Demmings (w/o encl.)  
Mr. David Cushman (w/o encl.)

270 Michigan Avenue, Buffalo, New York 14203-2999

January 14, 1992

David P. Flynn, Esq.  
Phillips, Lytle, Hitchcock, Blaine & Huber  
3400 Marine Midland Center  
Buffalo, New York 14203

Re: Aro Corporation - Order on Consent  
Site #9-15-147, Index #B9-0353-90-11

Dear Mr. Flynn:

Enclosed please find duplicate originals of an Order on Consent for the implementation of a Remedial Investigation/Feasibility Study at the above referenced site. Please have your client execute both and return to me. I will forward them to the Commissioner for signature.

Please append to each Order on Consent a copy of the approved Work Plan and Amendments as outlined in correspondence from Capsule Environmental Engineering, Inc. dated November 26, 1991 (D. Cushman, Capsule to D. Locey) and January 1, 1992 (A. Grooms, Capsule to D. Locey). Per the terms of the Order on Consent, the Work Plan as amended shall be incorporated in said Order.

If you have any questions, please call me.

Very truly yours,

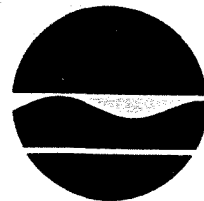
Joseph P. Ryan  
Assistant Counsel  
Division of Environmental  
Enforcement

JPR:jab  
R201ARO

Enclosures

cc: D. Locey

DL/ File  
New York State Department of Environmental Conservation



Thomas C. Jorling  
Commissioner

MEMORANDUM

TO: Joseph Ryan, DEE  
FROM: David Locey, DHWR *DL*  
SUBJECT: ARO Corporation - DHWR Site #915147 - Revised RI Work Plan  
August 30, 1991  
DATE: January 10, 1992

The New York State Department of Health and Divisions of the DEC have completed their review of the subject work plan and amendments to that plan, as outlined in correspondence from Capsule Environmental Engineering, Inc. dated November 26, 1991 (D. Cushman, Capsule to D. Locey) and January 1, 1992 (A. Grooms, Capsule to D. Locey). The work plan as amended is acceptable. Please convey our acceptance to the responsible party. If I can be of further assistance, call extension 7298. Copies of the correspondence from Capsule are attached.

cc: w/attachments  
Mr. Christopher Allen  
Mr. Arthur Fossa/V.J. Thakkar  
Mr. Rich Koeppicus  
Ms. Lani Rafferty - DOH

w/o attachments:  
Mr. Martin Doster

MIDOSTER

DPL

good job

P. Baerli  
Dano

Edward O. Sullivan, Deputy Commissioner  
David Markell, Director - Div. Environmental Enforcement  
Order on Consent - Aro Corporation - Site #915147

Attached for your review, approval and signature is an Order on Consent for a Remedial Investigation/Feasibility Study (RI/FS) and possible Interim Remedial Measure (IRM) at the above-referenced site.

Briefly, this site is a manufacturing facility located in the Town of Cheektowaga, Erie County. The site has been used as a manufacturing facility since 1955 and the plant currently manufactures life support equipment, cryogenic storage vessels, breathing regulators and package integrity test equipment. Manufacturing processes at the site have caused trichlorethylene contamination of soil and groundwater. The Respondent had previously conducted a number of limited investigations at the site and now is prepared, under this Order, to implement the RI/FS in accordance with the Department-approved Work Plan.

This Order calls for the implementation of the approved Work Plan. The RI/FS is intended to further characterize site geology and hydro-geology and to identify the types, magnitude, extent and source of contamination in the soil and groundwater. The RI/FS will also be used to identify interim remedial actions that could be undertaken to control contaminate migration. The Order also calls for reimbursement of expenses to the Department for administrative and oversight costs up to a maximum of \$25,000.00.

This Order was negotiated by Joseph Ryan, Field Unit Leader with the DEE's Buffalo Field Unit. The Work Plan was negotiated through Region 9 Division of Hazardous Waste Remediation personnel, more particularly, Mr. David Locey.

cc: Mr. M. Gerstman  
Mr. J. Spagnoli  
Mr. J. Lacey  
Mr. J. Ryan  
Mr. M. O'Toole  
Ms. A. Armater