STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the Violations of the Environmental Conservation Law ("ECL") of the State of New York, and Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York ("6 NYCRR") by:

Hillcrest Industries, Inc. **40 Favor Street** **Attica, New York 14011** **(Wyoming County)**	**Order on Consent** **File No. 12-47** **R9-20120806-98**

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1. The New York State Department of Environmental Conservation ("Department") is an Executive Agency of the State of New York ("State") with jurisdiction over the environmental policy and programs of the State pursuant to, *inter alia*, the New York State Environmental Conservation Law ("ECL") 3-0301. This Order is issued pursuant to the Department's enforcement authority under ECL Article 71.

2. ECL Article 17 confers jurisdiction upon the Department over the abatement and prevention of pollution of State waters pursuant to ECL 17-0101, *et seq.*, and 6 NYCRR Part 750, *et seq.* and, pursuant to ECL 17-0801 *et seq.*, authorizes the Department to protect the waters of the State through administration of the State Pollution Discharge Elimination System ("SPDES") program.

3. ECL Article 17, Titles 3 and 10, authorizes the Department to regulate the storage and handling of petroleum in the State.

4. ECL Article 19 sets forth certain provisions governing the control, abatement and prevention of air pollution in the State of New York and provides for the promulgation of codes, rules, and regulations therefore and the enforcement thereof by the Department which, under such authority, has promulgated Part 200 *et seq.*

5. ECL Article 24 sets forth certain requirements governing the preservation, protection of conservation of freshwater wetlands and regulates the use and development thereof to prevent their despoliation and destruction and, pursuant to ECL Section 3-0301, empowers the Department to adopt and promulgate rules and regulations governing the protection and management of wetlands.

6. ECL Article 27 sets forth requirements governing the collection, treatment, and disposal of refuse and other solid waste and empowers the Department to adopt and promulgate solid waste management rules and regulations thereunder in 6 NYCRR Part

360, which rules and regulations govern the operation of solid waste management facilities in the State of New York.

7. Respondent Hillcrest Industries, Inc., owns and operates a manufacturing facility for the production of abrasive blasting media (sandblasting materials) and reflective glass beads (the "Facility"). The Facility is located at 40 Favor Street, Village of Attica, Wyoming County, New York. A portion of Freshwater Wetland AT-6 is situated within the boundaries of Respondent's property.

8. Respondent, in support of its process for producing abrasive blasting media, operates under Beneficial Use Determination No. 745-9-61 ("BUD"), issued pursuant to 6 NYCRR Part 360-1.15, for procurement of wet bottom boiler slag and use of such slag as a raw material in the manufacturing process. The BUD limits storage of slag to 90 days and limits the quantity to 5,000 tons.

9. Respondent also operates pursuant to Division of Air State Facility Permit No. 9-5622-00067/00001, which sets forth requirements for controlling air emissions from its operations through the use of particulate control devices, including, but not limited to, baghouses, drop boxes, and cyclones.

10. The violations set forth in this Order were noted during inspections by Department staff on April 4, 2012, June 13, 2012, and June 14, 2012, July 10, 2012, September 19, 2012, October 2, 2012, October 9, 2012, October 26 2012, and October 29th 2012.

11. Respondent, in operating its manufacturing facility without a State Pollutant Discharge Elimination System (SPDES) Multi-Sector General Stormwater Permit for industrial activities directly related to manufacturing, processing or raw material storage areas at an industrial plant, is in violation of ECL Section 17-0807(4).

12. Respondent, as owner of a petroleum storage facility having a capacity of over 1,100 gallons, failed to register said Facility as required by 6 NYCRR 612.2(a)(1).

13. Respondent, in violation of 6 NYCRR 612.2(e), failed to have on its premises an accurate and visibly displayed registration certificate for its petroleum bulk storage tank facility.

14. Respondent has failed to meet closure requirements for its tank, denominated as unregistered tank number 3, in violation of 6 NYCRR 613.9(b).

15. Respondent, in violation of 6 NYCRR 613.3(b), has failed to permanently mark the fill ports with appropriate color coding for unregistered tank numbers 1, 2, 3, 4, and 5.

16. Respondent, in violation of 6 NYCRR 614.10, has failed to provide an impermeable area underneath its above ground tank, denominated as unregistered tank number 2, which was installed subsequent to December 27, 1986.

17. Respondent, in violation of 6 NYCRR 614.11, failed to install a proper monitoring system at unregistered above ground tank number 2.

18. Respondent has failed to conduct monthly inspections at unregistered above ground tank numbers 1, 2, 3, 4, and 5 in violation of 6 NYCRR 613.6(a).

19. Respondent, in violation of 6 NYCRR 613.3(c)(3)(ii), failed to clearly mark the design capacity, working capacity and identification number on the tank and at the gauge for above ground unregistered tank numbers 1, 2, 3, 4, and 5.

20. Based on the following observations the Department has concluded that Respondent has failed to properly maintain operating equipment and particulate control devices, including, but not limited to, baghouses, cartridge filters, drop boxes, and cyclones, for controlling air emissions associated with its abrasive blasting media process and reflective glass bead manufacturing process in violation of 6 NYCRR Part 200.7, as follows:

- Glass Bead Furnace #1, emission point 00005 – During the July 10, 2012 inspection, material fallout and visible emissions of approximately 5% opacity were observed from the furnace exhaust.
- Glass Feed to Furnace #1 – During the July 10, 2012 inspection, glass was observed leaking from the glass conveying pipes and splitters that feed glass to bead furnace #1.
- Rotary Dryer Baghouse, emission point 00001 – During the July 10, 2012 inspection, 10-15% opacity from the exhaust of this baghouse was observed, along with a 3 inch by 1 inch hole in the cyclone.
- Bucket Elevator for Grit Sizing Process – Several pipes connecting to the top of the bucket elevator that feeds the grit sizing line were emitting grit material near the top of the elevator during the July 10, 2012 inspection.
- Cartridge Filter for Grit Sizing Process – The cartridge filter unit at the east end of the slag and glass sizing equipment collects dust from some of the sizing equipment and exhausts inside the building. Both glass and slag are processed through the

grinders and screens. Visible emissions from the exhaust of the cartridge filter, which is inside the building, were observed during the July 10, 2012 inspection.

- Grit Sizing Process – The grit sizing system, which consists of drying, grinding and sizing operations, crushes slag and glass down to the needed size and collects dust through a variety of baghouses and a cartridge filter. The dust in this work environment is excessive causing dust to be exhausted outside by the general ventilation system.
- General Room Ventilation in Sizing Area – Fugitive dust from the grit sizing process and particulates exhausted from the cartridge filter discussed above are vented by the large general room ventilation fan in the south east corner of the main building. This 3-4 foot diameter fan, which is located approximately 15 feet from the exhaust of the cartridge filter, has furnace filters on the inside of the building but still exhausted a visible plume of particulates.
- Slag and glass processing and conveying equipment – This equipment has not been maintained to minimize fugitive particulate emissions.

21. Respondent operated both glass bead furnaces in such a way, that when the glass feed and burners were turned off, visible emissions of particles and small chunks of glass were exhausted out the emission points as the exhaust fans cooled the equipment down. This was observed from furnace 2 on October 26, 2012 and from furnace 1 on October 29, 2012. These are violations of 6 NYCRR Part 201-1.8 which prohibits the reintroduction of collected air contaminants to the atmosphere.

22. Respondent allowed dust collected in the furnace cyclones to free fall five feet, at which time it became reentrained, drifted outside and was released to the environment on October 26, 2012. This is a violation of 6 NYCRR Part 201-1.8 which prohibits the reintroduction of collected air contaminants to the atmosphere.

23. The Department has alleged that Respondent's stockpile of glass and other mixed materials intended for use in its manufacturing process has generated air emissions and odors that unreasonably interfere with the comfortable enjoyment of life and property in the area surrounding its facility in violation of 6 NYCRR Part 211.1.

24. Respondent's staff dumped minus-70 fines into a dump truck with a bucket loader which created a large cloud of dust on October 29, 2012 in violation of 6 NYCRR Part 211.1.

25. Respondent has not maintained records of dust and visible emission observations, in violation of Air State Facility Permit No. 9-5622-00067/00001 conditions 1-1, 1-2, 1-3, 1-4 and 1-9.

26. Respondent has not maintained records of inspections to ensure that all trucks are equipped with tarps that are functioning properly or inspections of the air cleaner dust storage area, in violation of Air State Facility Permit No. 9-5622-00067/00001 conditions 13 and 1-10, and 6NYCRR Part 211.2.

27. Respondent placed waste material as much as thirty feet into the regulated 100-foot adjacent area surrounding Freshwater Wetland AT-6 in violation of Part 663.4(d)(20).

28. Respondent, in disposing of waste from recyclable handling and recovery facilities at the Facility, disposed of solid waste in violation of 6 NYCRR Part 360-1.5(a)(2).

29. Respondent has stored more than 5,000 tons of slag and has stored slag for over 90 days, in violation of 6 NYCRR 360-1.5.

30. ECL Section 71-1929 imposes a penalty not to exceed Thirty-Seven Thousand Five Hundred ($37,500) Dollars per day for each violation of Article 17, the rules promulgated thereunder and any permits or orders issued thereto.

31. ECL Section 71-2103(1) imposes a maximum civil penalty of Eighteen Thousand ($18,000) Dollars for the initial violation and an additional penalty of not more than Fifteen Thousand ($15,000) Dollars per day for violations of Article 19, including any rule or regulation promulgated thereunder. In the case of a second or any further violation, the liability shall be for a penalty not to exceed Twenty-Six Thousand Dollars for said violation and an additional penalty not to exceed Twenty-Two Thousand Five Hundred Dollars for each day during which such violation continues.

32. ECL Section 71-2303 imposes a civil penalty of up to Eleven Thousand ($11,000) Dollars for any violation of Article 24, or any order or permit issued pursuant thereto, or any rule or regulation promulgated thereunder.

33. ECL Section 71-2703(1)(b)(ii) imposes a maximum civil penalty not to exceed Twenty-Two Thousand Five Hundred Dollars for each violation and an additional penalty of not more than Twenty-Two Thousand Five Hundred Dollars for each day during which such violation continues, for a violation of Title 3 or 7 of article 27 of this chapter, or any rule or regulation promulgated pursuant thereto, which causes the release of more than ten cubic yards of solid waste into the environment.

34. Respondent, without admitting any liability and on a *nolo contendere* basis, has affirmatively waived its rights to a hearing on these matters as provided by law and consents to the issuance and entry of this Order and agrees to be bound by the provisions, terms and conditions contained herein.

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

I. CIVIL PENALTY

A. With respect to the violations set forth in this Order, the Department hereby assesses against Respondent a civil penalty in the amount of Four Hundred Thousand Dollars ($400,000), of which One Hundred Thousand Dollars ($100,000) shall be paid to perform an Environmental Benefit Project (EBP). The terms of the EBP are set forth in Paragraph I(B) below. In accordance with paragraph IV(E)(4) of the Commissioner's Civil Penalty Policy dated June 20, 1990, Respondent has demonstrated inability to pay a penalty. Thus, payment of the remaining Three Hundred Thousand Dollars ($300,000) shall be suspended during the term of this Order provided that Respondent fully and timely complies with the deadlines imposed by this Order, or as they may be modified from time to time by the Department. The Department may, however, vacate the suspension and assess the penalty, or any part of it, for a violation of the provisions, terms or conditions of this Order, including the Schedule of Compliance attached as Schedule A to this Order. In the event that Respondent fails to comply with this Order, payment of the suspended penalty or such portion thereof as the Department may specify will be made by Respondent within 15 days after service of a notice of noncompliance demanding such payment. Service of such notice may be by personal service or by certified mail, return receipt requested, or, if such service is refused or cannot be completed, by ordinary mail. The suspended portion of the penalty shall be extinguished upon Respondent's full compliance with the terms and conditions of this Order. This provision shall not limit the Department's right to seek other remedies provided by law and the applicable regulations for violations of this Order on Consent and ECL Articles 17, 19, 24, 27 and regulations, respectively.

B. Environmental Benefit Project: Respondent shall undertake an environmental benefit project ("EBP"), which the parties agree is intended to secure significant environmental or public health protection and improvements. Respondent shall make installment payments to an escrow account. The escrow account will be established

to receive and disburse funds for the benefit of the Village of Attica to be used for improvements to the pool and replacement of playground equipment located in Veterans Memorial Park, on the east side of Exchange Street, north of Meadow Lane in the Village of Attica. Disbursements from funds in the escrow account will be as agreed upon by Respondent and the Village of Attica to reimburse the Village up to $100,000 for its costs related to Veterans Memorial Park improvements. If the Veterans Memorial Park improvements are completed for less than $100,000, the Respondent shall, at the sole discretion and direction of the Department, either pay the remaining balance as penalty, or implement one or more additional, Department-approved EBPs, having a cost no less than the remaining balance.

1. Within thirty (30) days of making a disbursement, Respondent shall submit documentation of the disbursement to the Department.

2. Within thirty (30) days of completion of the final disbursement, Respondent must complete and submit to the Department an affidavit of completion, as set forth in Schedule B, together with an accounting of costs.

3. Any statements, whether oral or written, that Respondent (or a third party at the request of the Respondent) makes with respect to the EBP will include language stating that the project was undertaken as part of the resolution of an enforcement matter brought by the Department for applicable violation(s).

C. Installment Payments: The installment payments shall be due as follows:

1.. One Thousand Dollars ($1,000) shall be deposited in the escrow account and proof of deposit shall be sent simultaneously with this executed Order to the Regional Attorney, NYSDEC, 270 Michigan Avenue, Buffalo, New York 14203.

2. $1,000 per month for four (4) months shall be deposited to the escrow account beginning on the one month anniversary of the order and proof of deposit shall be delivered to the Regional Attorney, NYSDEC, 270 Michigan Avenue, Buffalo, New York 14203 each month within five business days of the anniversary date of the executed Order.

3. Five Thousand Dollars ($5,000) per month for nineteen (19) months shall be deposited in the escrow account beginning on the six (6) month anniversary date of this Order and proof of such deposit shall be delivered each month

within five business days of the anniversary date of the executed Order to the Regional Attorney, NYSDEC, 270 Michigan Avenue, Buffalo, New York 14203.

II. STIPULATED PENALTIES

In the event Respondent fails to meet the deadlines set forth in Schedule A of this Order, the Department shall be entitled to judgment against Respondent. Unavoidable non-compliance may be excused pursuant to the recordkeeping and reporting requirements set forth in 6 NYCRR 201-1.4. Respondent hereby consents to entry of judgment in New York State Supreme Court for a stipulated penalty for each day of such violation of this Order. Said stipulated penalties shall be in the following amounts.

Period of non-compliance	Penalty per day
1st day through 30th day	$100
31st day through 59th day	$200
Each day beyond the 60th day	$500

The stipulated penalty shall become due and payable, and may be entered as a judgment, upon ten (10) days notice to Respondent. Respondent's compliance with this Order and Schedule A is not a contingent activity that can be avoided by the payment of stipulated penalties. In the event the Respondent breaches any provisions, term or condition of this Order, the Department reserves the right to take any other actions to which it is entitled by law including actions or penalties in addition to those delineated herein.

III. ON-SITE ENVIRONMENTAL MONITOR (OEM)

A. Respondent shall designate an employee as the site Environmental Compliance Officer (ECO). The ECO shall have responsibility to monitor the site for compliance with the provisions of this Order and Department issued permits as well as to advise Respondent of additional required regulatory reporting, monitoring or activities that Respondent must or could take to mitigate the overall environmental impact of Respondents business.

B. The Respondent shall fund environmental monitoring services to be performed by a third party contractor, as approved by the Department, within 90 days of the effective date of this Order. Said contractor will perform monitoring services including, but not limited to, the following:

1. Coordinate with the ECO and oversee compliance monitoring to ensure adherence to the requirements of Schedule A, attached to and included with this Order

2. Perform inspections in furtherance of its compliance monitoring

3. Provide regular reports of its observations to the Department, at a minimum, on a quarterly basis

C. Respondent shall fund the OEM on a quarterly basis, with funding due at the beginning of each quarter.

D. Failure to make the required payments to the third party contractor shall be a violation of this Order.

IV. SUBMISSIONS

The Respondent shall send all documentation required by this Order to the Department at the following address, unless otherwise noted:

NYSDEC, Region 9
270 Michigan Avenue
Buffalo, New York 14203
Attn: Regional Engineer

V. ACCESS

For purposes of monitoring or determining compliance with this Order, employees and agents of the Department shall be provided access to any facility, site or non-privileged records owned, operated, controlled or maintained by Respondent that are related to matters covered by this Order, in order to inspect and/or perform any other lawful duty or responsibility.

VI. SETTLEMENT AND RESERVATION OF RIGHTS

A. Upon completion of all obligations created in this Order, all claims for civil or administrative penalties concerning the violations described herein shall be deemed resolved, satisfied and discharged against Respondent. Any failure by Respondent to fully comply with the terms of this Order may subject Respondent to further enforcement for the events of non-compliance described herein.

B. Except as set forth in "VI.A " above, nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting any of the civil, administrative or criminal rights of the Department or of the Commissioner or his

designee (including, but not limited to, nor exemplified by, the rights to recover natural resources damages and to exercise any summary abatement powers) or authorities with respect to any party, including Respondent.

C. Compliance with this Order shall not excuse nor be a defense to charges of any event of non-compliance with the ECL or any regulation or permit issued thereunder which may occur subsequent to the effective date of this Order.

D. This Order shall not be construed as being in settlement of events regarding which the Department lacks knowledge or notice and the Department reserves the right to require Respondent to take any additional measures deemed necessary by the Department to protect human health or the environment.

VII. INDEMNIFICATION

Respondent shall indemnify and hold harmless the Department, the State of New York, and their representatives and employees for all claims, suits, actions, damages and costs of every nature and description arising out of or resulting from the fulfillment or attempted fulfillment of this Order by Respondent and its successors (including successors in title) and assigns.

VIII. FORCE MAJEURE

A. Respondent shall not be in default of the provisions of this Order, if its non-compliance is directly attributable to an act of God, war, insurrection, terrorism, strike, judicial injunction, failure of a federal or state agency or authority to issue any necessary permit or approval in a timely fashion where, in accordance with applicable law or regulations, Respondent has timely submitted a complete application and all necessary supporting information and are otherwise entitled to such permit or approval, catastrophic condition or other circumstance that is entirely beyond Respondent's control, and where Respondent has made all good faith efforts to comply with the provisions of this Order at issue ("force majeure"). If such a force majeure event occurs, Respondent shall be entitled to an extension of the Schedule A deadlines, limited to the period of time caused by such event that placed compliance with a provision of this Order beyond Respondent's control. Penalties for the failure to satisfy any Order requirement, due to a force majeure event, can be excused only under the terms of this decretal paragraph, and only where Respondent took all steps reasonably necessary to avoid or mitigate the delay, and strictly complied with the notice requirements of this paragraph, and that the delay is limited to an amount of

time equal to the period of delay directly attributable to the force majeure. As a condition precedent to obtaining any relief under this provision, Respondent shall notify the Department in writing that a force majeure event has occurred, no later than twenty days after the date the Respondent knew or should have known of the occurrence of any force majeure event. Respondent shall include in such notice the measures taken and to be taken by Respondent to prevent or minimize any compliance delays and shall request an appropriate extension or modification of the applicable deadlines under this Order. Failure to give such notice within the twenty day period constitutes a waiver of the ability to invoke force majeure as a defense to stipulated penalties.

B. Whenever a deadline in the Schedule A is missed, pursuant to a force majeure event or otherwise, Respondent shall exercise its best effort to recoup all lost time, including where appropriate, the payment of expenses for overtime, double shifts or additional contractors or consultants, or alternative methods to the extent allowable under local law.

IX. BINDING EFFECT

The provisions of this Order shall inure to the benefit of and be binding upon the Department and Respondent and its successors and (including successors in title) and assigns.

X. MODIFICATION

No change or modification to this Order shall become effective except as specifically set forth in writing and approved by the Commissioner or a duly authorized representative. For proposed modifications to any deadline set forth in Order or Schedule A, Respondent shall submit a written request to the Department at least thirty (30) days prior to the deadline setting forth the reasonable grounds for the relief sought.

XI. ENTIRE ORDER

The provisions of this Order constitute the complete and entire Order issued to the Respondent concerning the resolution of the violations set forth in this Order. No term, condition, understanding or agreement purporting to modify or vary any term hereof shall be binding unless made in writing and subscribed by the party to be bound. No informal oral or written advice, guidance, suggestion or comment by the Department regarding any report, proposal, plan, specification, schedule, comment or statement made

or submitted by Respondent shall be construed as relieving Respondent of its obligations to obtain such formal approvals as may be required by this Order.

XII. EFFECTIVE DATE

The effective date of this Order is the date that the Commissioner or his designee signs it. The Department will provide Respondent (or Respondent's counsel) with a fully executed copy of this Order as soon as practicable after the Commissioner or his designee signs it.

XIII. AUTHORITY TO SIGN

The person signing this Order represents that he/she has the full authority to bind the Respondent.

DATED: March 29, 2013
Buffalo, New York

Joseph J. Martens
Commissioner
New York State Department of
Environmental Conservation

by: Abby M. Snyder
Abby M. Snyder
Regional Director

CONSENT BY RESPONDENT

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

Hillcrest Industries, Inc

By: Christina Kirsch

Title: President

Date: 3-28-13

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

On this 28th day of March in the year 2013 before me, the undersigned, personally appeared Christina Kirsch, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

ROBERT E. KNOER
Notary Public, State of New York
Qualified in Erie County
My Commission Expires March 31, ____

SCHEDULE A

ITEM	DUE DATE
1. Complete and submit to the Department a Notice of Intent (NOI) for a Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (GP-0-12-001). Guidance is available at http://www.dec.ny.gov/chemical/62803.html The NOI is to be submitted to the following address: NYSDEC Division of Water Bureau of Water Permits, 4th Floor 625 Broadway Albany, NY 12233-3505	Within 120 days of effective date of Order (EDO)
2. Perform required interim stormwater management activities, and complete and implement the Interim Storm Water Pollution Prevention Plan, as outlined in the Department's November 28, 2012 letter.	Completed
3. Cease and desist all deposition of recyclables and other material within Wetland AT-6 and its regulated 100-foot adjacent area located in the southwestern portion of the Hillcrest Industries, Inc. property (see enclosed map showing locations of Wetland AT-6 boundary, 100-foot adjacent area boundary, and fill/disturbed areas). For any future regulated activities within the wetland or adjacent area, apply for an Article 24 Freshwater Wetlands Permit and do not proceed until a permit is issued by this Department.	Completed
4. Ensure that the existing silt fence located between the recyclables pile and Wetland AT-6 is effectively preventing sediment deposition within Wetland AT-6. Reinforce the silt fence with staked straw bales and/or wire mesh, as may be necessary to ensure that it is capable of withstanding disturbances associated with the recyclables pile and its removal. Maintain the silt fence until all material is removed from the 100-foot adjacent area and vegetation is fully established. Silt fence must then be removed from the 100-foot adjacent area.	Ongoing
5. a. Remove all recyclables and other material from the 100-foot adjacent area (covering approximately 0.10 acre) in the area located approximately 200 feet southwest of the Hillcrest Industries facility (see enclosed map). Properly process or dispose of all material. b. Restore this disturbed area, as well as a second	a. August 1, 2013

disturbed area located approximately 300 feet to the southeast (see enclosed map) to the original grade and ensure that topsoil is on the surface to support the growth of vegetation.	b. September 1, 2013
6. The two areas subject to this enforcement action shall be re-vegetated to the satisfaction of this Department. Exposed soils within the two disturbed areas shall be seeded at the manufacturer's recommended rate with Northeast Upland Wildflower/Restoration Erosion Mix (STCMX-2 from Southern Tier Consulting [585-968-3120]) or an equivalent seed mix approved by this Department. Mulch the seeded areas with a weed-free straw at a rate of 2,500 pounds per acre. As an alternative, seed may be applied by hydro-seeding with a seed and wood fiber hydro-mulch combination.	September 1, 2013
7. Plant a minimum of 10 trees and 10 shrubs in the 0.10-acre fill area located approximately 200 feet southwest of the Hillcrest Industries facility plus an additional 5 trees and 5 shrubs in the second disturbed area located approximately 300 feet to the southeast. The tree plantings must be No. 3 container stock (3-5 feet tall) or larger and consist of a mix of at least three of the following species: northern red oak, bur oak, shagbark hickory, American sycamore, American hornbeam, and red maple. The shrub plantings must be No. 3 container stock (3-5 feet tall) or larger and consist of a mix of at least three of the following species: gray dogwood, silky dogwood, shadblow serviceberry, witch hazel, black chokeberry, common elderberry, and choke cherry.	October 1, 2013
8. Fence and clearly label the boundary of the 100-foot adjacent area surrounding Wetland AT-6 within the Hillcrest Industries site. The 100-foot adjacent area must then be left undisturbed in perpetuity (i.e., no mowing, clearing of vegetation, or other disturbance).	90 days after completion of removal of recyclables
9. Within two days of completing the remediation work, notify Chuck Rosenburg at the DEC's Buffalo Office (716-851-7010, cprosenb@gw.dec.state.ny.us) to arrange for an inspection.	Within two days of the completion of Item 7
10. A plan to address the processing or removal of the waste plastic, paper and glass piles must be submitted and include methods to control pile temperature to prevent fire, fugitive odors and dust. a.) Implement the plan pursuant to the approved schedule contained in the plan.	Piles have been processed and plan must be submitted within 30 days of EDO
11. a.) Glass waste removed from the furnaces can	a.) Completed

only be trommelled when it is wet. b.) Submit a plan for approval to properly manage and control fugitive emissions from the processing of glass fallout from the furnaces.	b.) Within 30 days of EDO
12. No fugitive dust, particulates or material in excess of regulatory standards may be released to the environment from material handling systems at any time: a) All conveying and emission control equipment must be inspected daily and leaks repaired immediately. b) Roof areas must be swept clean of any accumulated material as necessary.	Immediately and on-going
13. Minus 70 material must be stored in containers or in bags to prevent reentrainment. The existing minus 70 stockpile must be covered at all times.	Completed and on-going/ Existing minus 70 stockpile has been removed
14. Comply with emission limits, monitoring, recordkeeping, and reporting requirements in the air permit, as specified in the Notice of Violations.	Immediately and on-going
15. Conduct particulate compliance testing of emission points (EPs) 00001 Building baghouse, EP 00005 (furnace 1) and EP 00006 (furnace 2). All particulate emissions shall be treated as "A" rated per 6 NYCRR Part 212 for control efficiency determination: a.) submit testing protocol b.) conduct emission testing c.) submit stack test report	a.) Completed b.) Within 30 days of protocol approval c.) Within 30 days of completing testing
16. Inspect daily and repair all dust control equipment (baghouses, filters, cyclones, drop boxes, etc.) that exhaust outside so there are no visible emissions. If visible emissions continue, a demonstration of compliance with the particulate limit, control efficiency and opacity standard will be required. Record and submit inspection findings and work performed.	Immediately and on-going
17. Identify and describe all long term and short term storage piles and roadways that may be the source of odors and/or fugitive dust, approximate size of the storage piles and what methods of dust control are used and will be used to minimize fugitive dust from the piles and roadways.	Within 30 days of EDO
18. All emissions from the main building must vent through acceptable emission control devices. The building must be under negative pressure and demonstrate compliance with the principles of EPA Method 204, Criteria for and Verification of a	Work is almost complete and must be completed within 30 days of EDO

Permanent or Temporary Total Enclosure.	
19. Submit a proposal and schedule to add filtration systems to both glass bead furnaces for review and approval.	Completed, filters are in use.
20. Submit an inspection, operation, and preventive maintenance plan for the equipment and systems that convey the grit and glass through the processing plant and to the furnaces that are outside.	Within 30 days of EDO
21. Submit a maintenance and monitoring plan for all emission control equipment.	Within 60 days of EDO
22. Submit an updated Air State Facility permit application to reflect the operations and equipment on site. Particulate emissions shall be treated as an "A" rated contaminant.	Within 180 days of EDO
23. a.) Cease acceptance of any additional coal slag b) Cover all coal slag that is stored on site. c.) Ship all coal slag that has been stored on site for more than 90 days to an authorized facility. d.) Alternatively to shipping all slag stored for more than 90 days to an authorized facility, submit a request to modify the Beneficial Use Determination to allow covered storage of up to 5,000 tons of slag beyond 90 days and manage any currently stored slag in excess of 5,000 tons in accordance with Item 23.b above.	a). Completed b.) Within 30 days of EDO c.)Within 180 days of EDO d.) Within 30 days of EDO
24. Submit a detailed plan describing all of the operations that occur at the site. This plan shall be completed by a Professional Engineer licensed to practice in NYS. This plan shall include: a. A description of each process and the type of material used in each process. b. An estimate of the amount of each material used in each process. c. A site map that identifies all of the materials stored on site. The map shall identify the type and amount of material in each storage area. d. An identification of who owns each type of material stored on-site. e. An estimate of the amount of money required to remove all of the stored materials from the site. f. Identification of issues that need to be addressed in a Best Management Practices Plan, including startup and shutdown of the furnaces.	Within 180 days of EDO
25. Submit a Best Management Practices Plan.	Within 180 days of EDO

26. Submit a plan to evaluate the cap of the closed landfill underneath the glass pile. This plan shall be completed by a Professional Engineer licensed to practice in NYS.	Within 180 days of EDO
27. Submit a plan for proper storage and processing of all materials at the site. This plan shall provide for storage and processing on paved areas with bunkers used to separate and contain different storage piles. This plan shall provide estimated material processing rates and must also identify the maximum size of each storage pile. This plan shall limit the amount of materials stored on-site to a maximum six month supply. This plan shall be completed by a Professional Engineer licensed to practice in NYS.	Within 180 days of EDO
28. Remove all unprocessed glass (mixed with paper and plastic) from the site.	All glass has been processed
29. Complete evaluation of the closed landfill cap. This work shall be completed under the overview of a Professional Engineer licensed to practice in NYS.	Within 90 days of Department's approval of Plan in Item 26
30. Submit results of the cap evaluation along with a proposed remedial action plan and schedule as needed. This evaluation and plan shall be prepared by a Professional Engineer licensed to practice in NYS.	30 days after completion of Item 29
31. Complete remediation of closed landfill cap as identified in the proposed remedial action plan.	Within 90 days of approval remediation plan by DEC
32. Submit a report that documents that the work identified in the remedial action plan was completed in accordance with the approved plan. This report shall be completed by a Professional Engineer licensed to practice in NYS.	Within 30 days of completion of remediation activities
33. Submit a monthly report that details the progress made toward meeting this compliance schedule. This report shall include a list, including quantities, of all materials shipped off-site during the previous month. Receipts or shipping papers shall be provided for both.	By the 10th of each month
34. Respondent must submit documentation regarding the remaining petroleum bulk storage tanks to establish that tanks are below the 1100 gallon limit required for registration.	Within 30 days of EDO
35. Respondent must submit documentation showing proper disposal of any petroleum bulk storage tanks removed from the site.	Within 30 days of EDO

36. Remove all glass/paper/plastic stored at the Attica Sand and Gravel pit.	Within 180 days of effective date of Order.
37. Enclose or stop using the bucket elevator and green screener on the grinding room roof that processes material for the grit grinding line.	May 31, 2013

SCHEDULE B

AFFIDAVIT OF COMPLETION

Name: **Hillcrest Industries**
Case No: **R9-20120806-98; File No. 12-47**

[NAME OF RESPONDENT'S AUTHORIZED REPRESENTATIVE], being duly sworn, deposes and says as follows, subject to the penalty of law:

1. I am employed by [NAME OF RESPONDENT] ("Respondent') and hold the title of [TITLE/POSITION] with Respondent. I have held this position with Respondent since [DATE]. My general job duties include [BRIEF DESCRIPTION OF DUTIES].
2. I am authorized to make this affidavit on behalf of Respondent in this matter.
3. On behalf of Respondent I hereby certify the following:
    1. Respondent is not otherwise legally required to perform the Environmental Benefit Project ("the EBP") required by the Order on Consent dated _____ in this matter ("the Order").
    2. Respondent did not already intend to perform the activities that comprise the EBP.
    3. Documentation of the completion of the EBP and of the expenditures for implementation of the EBP is attached hereto.
    4. Respondent has fulfilled the requirements of the Order in relation to the EBP.

BY: _____

TITLE: _____

DATED: _____

Sworn to before me this
_____ day of _____ 20 _____.

_____
NOTARY PUBLIC