

1-30-004 Marsden



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II

JACOB K. JAVITS FEDERAL BUILDING
NEW YORK, NEW YORK 10278-0012

JUL 12 1994

EXPRESS MAIL
RETURN RECEIPT REQUESTED

Mr. Sal Ervoilina, Director
Bureau of Eastern Remedial Action
Division of Hazardous Waste Remediation
New York State Department of
Environmental Conservation
50 Wolf Road
Albany, New York 12233-7010

Re: Hooker Chemical/Ruco Polymer - Unilateral Administrative Order (UAO)

Dear Mr. Ervoilina:

Enclosed is a copy of the UAO for Operable Unit One at the Hooker Chemical/Ruco Polymer site in Hicksville, New York for your records. EPA signed this Order on June 30, 1994 and sent to Occidental and Ruco on July 7, 1994.

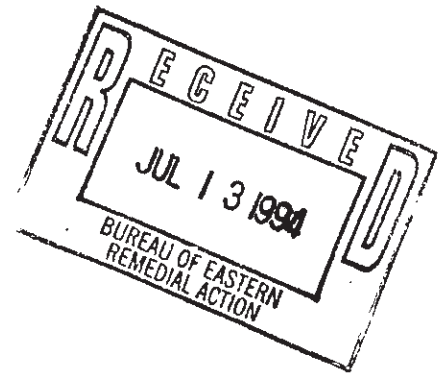
If you have any questions regarding this document please contact the Project Manager for this site, Dale. J. Carpenter at (212) 264-9342.

Sincerely yours,

Carole Petersen, Chief
New York/Caribbean Superfund Branch II

Enclosure

- cc: D. Drazan - EPA, ORC
- M. Chen, NYSDEC - Albany w/out enclosure
- K. Gupta, NYSDEC - Albany w/out enclosure
- T. Vicarson, NYSDOH w/out enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

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IN THE MATTER OF THE )
HOOKER CHEMICAL/RUCO POLYMER )
SUPERFUND SITE )
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Occidental Chemical Corp., )
Ruco Polymer Corp., )
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Respondents. )
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 )
Proceeding Under Section 106(a) of the )
Comprehensive Environmental Response, )
Compensation, and Liability Act of 1980,)
as amended (42 U.S.C. § 9606(a)). )
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U.S. EPA
Index Number
II CERCLA-94-0210

ADMINISTRATIVE ORDER
FOR REMEDIAL DESIGN AND REMEDIAL ACTION

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ADMINISTRATIVE ORDER
FOR REMEDIAL DESIGN AND REMEDIAL ACTION

I. INTRODUCTION AND JURISDICTION

1. This Order directs Occidental Chemical Corp. and Ruco Polymer Corp. (hereinafter collectively referred to as "Respondents") to perform the remedial design for the remedy described in the first operable unit ("OU 1") Record of Decision ("ROD") for the Hooker Chemical/Ruco Polymer (Hooker/Ruco) Superfund Site located in Hicksville, New York (hereinafter referred to as the "Site"), dated January 28, 1994, and to implement the design by performing the remedial action. This Order is issued to Respondents by the United States Environmental Protection Agency ("EPA") under the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9606(a). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580 (52 Fed. Reg. 2926, January 29, 1987), and was further delegated to EPA Regional Administrators on September 13, 1987 by EPA Delegation No. 14-14-B.

II. FINDINGS OF FACT

2. The Site is located in the Town of Hicksville in Nassau County, New York. The Site includes an active chemical manufacturing facility which is located on a 14 acre tract of land within an industrial park. This tract of land is bordered by the Long Island Railroad to the south and west, the Grumman Aerospace Corporation facilities to the east, and various commercial and industrial facilities to the north.

3. A residential area is situated directly west of the Site. The water table is approximately 50 feet below the ground surface. In the area surrounding the Site, water is supplied by public purveyors, so residents do not use private wells to supply their potable water. There are six public supply wells within a 1-mile radius of the Site. There are no significant surface water bodies in the vicinity of the Site.

4. The Site has been used for industrial purposes since 1945, at which time two companies occupied the Site, the Insular Chemical Company and the Rubber Corporation of America. In 1956 a polyvinyl chloride plant was built and was initially operated under the name of Insular Chemical Corporation. At that time the two companies, Insular Chemical Corporation and the Rubber Corporation of America occupied the Site. The two companies

eventually merged into the Rubber Corporation of America. In 1965, the company was purchased by the Hooker Chemical Company ("Hooker") and was known and operated as the Ruco Division. Hooker is currently known as the Occidental Chemical Corporation ("Occidental").

5. In March 1982, the employees of the Ruco Division bought, *inter alia*, the manufacturing facilities at the Site, and surrounding property. The operation became known as the Ruco Polymer Corporation ("Ruco Polymer"). Ruco Polymer currently owns the property and the facility is still active.

6. Since 1946, the facility has been used for the production of various polymers, including polyvinyl chloride ("PVC"), and currently manufactures such products as polyester, polyols, and powder coating resins.

7. During site operations between 1956 and 1975, industrial wastewaters (including such substances as vinyl chloride, trichloroethylene, barium and cadmium) were released into the soils, resulting in groundwater contamination downgradient from the Site and residual soil contamination at the facility.

8. From 1946 to 1978, the pilot plant at the Site utilized a heat transfer fluid called Therminol, which contained polychlorinated biphenyls ("PCBs"), which are hazardous substances as defined in Section 101(14) of CERCLA, 42 U.S.C. §9601(14). PCBs have been released into the soils adjacent to the pilot plant and within the Site. Some of the contaminated soil spread to surrounding areas by surface water run-off and truck traffic.

9. Ruco Polymer Corporation is the current owner and operator of the Site.

10. Occidental Chemical Corporation was an owner and operator of the Site at the time of the disposal of hazardous substances at the Site.

11. In 1984, the Site was proposed for inclusion on the National Priorities List ("NPL"), 40 CFR Part 300, Appendix B, which has been issued pursuant to Section 105(a)(8)(B) of CERCLA, 42 U.S.C. § 9605(a)(8)(B). The Site was added to the NPL in June, 1986.

12. On July 20, 1987, EPA sent special notice letters to Respondents pursuant to Section 122(e) of CERCLA, notifying them of their potential liability, and inviting them to agree to perform a Remedial Investigation and Feasibility Study ("RI/FS")

at the Site. After negotiations between EPA and Respondents were unsuccessful, EPA, through its contractor, Ebasco Services, Inc., prepared a RI/FS work plan.

13. After the RI/FS work plan was completed, Occidental agreed to perform the RI/FS, pursuant to an Administrative Order on Consent ("AOC") issued by EPA. The AOC (Index No. II CERCLA-80216) was issued to Occidental on September 21, 1988.

14. Since 1984 and independent of the RI/FS, Occidental has conducted several investigations to determine the extent of PCB contamination around the Site. The studies found that the soils contaminated with PCBs were found in four primary locations: a "direct spill area" adjacent to the pilot plant, a transport area, a recharge basin ("Sump 3"), and beneath an underground fuel storage tank.

15. In September 1989, field work commenced for the RI/FS. Field work was completed in February 1990, and Occidental submitted a draft Remedial Investigation ("RI") Report to EPA for its review. An initial review of the draft RI Report indicated that its findings support the PCB concentrations data found in the earlier studies performed by Occidental.

16. Following commencement of the RI/FS, EPA determined that the remediation of the Site should be accomplished by dividing the Site into two operable units. Operable unit 1 ("OU 1"), the subject of this Order, is concerned, *inter alia*, with remediating the soil and groundwater at, and beneath the Ruco Polymer facility, contaminated with volatile organic compounds ("VOCs"), semivolatile organic compounds ("SVOCs") and tentatively identified compounds ("TICs"). Operable unit 2 ("OU 2"), the subject of EPA's Administrative Order Index No. II CERCLA - 10216, was concerned with remediating the PCB-contaminated soils surrounding the pilot plant at the Site.

17. In November, 1989, Occidental submitted a Focused Feasibility Study ("FFS") which analyzed remedial alternatives to address the PCB-contaminated areas at the Site. The FFS was in lieu of a Feasibility Study ("FS") report for OU 2.

18. The FFS Report, a Risk Assessment and the Proposed Plan for OU 2 at the Site were released to the public for comment on July 31, 1990. A public comment period was held from July 31, 1990 to August 30, 1990.

19. On September 28, 1990, EPA issued a Record of Decision ("ROD") for OU 2 which describes the remedy selected to remediate the PCB-contaminated soils surrounding the pilot plant at the Site. The ROD includes a discussion of EPA's reasons for

selecting the remedy and a response to each of the significant comments submitted during the public comment period. The State of New York concurred on the ROD.

20. The major components of the selected remedy in the OU 2 ROD included the excavation of PCB-contaminated soils; the disposal of those soils off-Site at either a chemical waste landfill permitted under the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2601, et seq., or a federally-permitted incineration facility (depending upon the levels of PCBs in the soils); backfilling of the excavated areas with clean soil; and paving with asphalt as appropriate.

21. The OU 2 ROD is supported by an administrative record that contains the documents and information upon which EPA based the selection of the response action.

22. On December 20, 1990, EPA sent special notice letters to Respondents, inviting them to agree to perform or fund the remedial action work called for by the OU 2 ROD. EPA conducted negotiations with Occidental regarding a possible consent decree which would have provided for the company's performance of the remedial action, but those negotiations were unsuccessful.

23. On June 27, 1991, EPA issued a Unilateral Administrative Order directing the Respondents to perform the remedial design for the remedy described in the ROD for OU 2 and to implement the design by performing the remedial action.

24. The Remedial Design Work Plan for the OU 2 remedy was drafted by Occidental and the Final Remedial Design was approved by the EPA on April 28, 1992. Implementation of that design commenced in May, 1992 and was completed in March, 1993 when EPA approved the Final Remedial Action Report submitted by Occidental.

25. The RI Report for OU 1, which characterized the soil and groundwater contamination at the Ruco Polymer facility, was approved in December, 1992.

26. Occidental submitted the FS for OU 1 in April, 1993 which analyzed the remedial alternatives to address the contaminated soils and groundwater at the Ruco Polymer facility.

27. The Final RI/FS Reports, a Risk Assessment and a Proposed Plan for OU 1 of the Site were released to the public for comment on August 23, 1993. A public comment period was held from August 23, 1993 to September 22, 1993. At Ruco Polymer's request, this comment period was extended 30 days to October 22, 1993.

28. On January 28, 1994, EPA issued a ROD for OU 1 which describes the remedy selected to remediate the contaminated soils and groundwater at the Ruco Polymer facility. The OU 1 ROD includes a discussion of EPA's reasons for selecting the remedy and a response to each of the significant comments submitted during the public comment period. The State of New York concurred on the OU 1 ROD. A copy of the OU 1 ROD is attached hereto as Appendix A.

29. The major components of the selected remedy in the OU 1 ROD include: the pumping and treating of contaminated groundwater at the Site as a source control measure, the flushing of deeper soil contaminants and excavation of shallow contaminated soils. A portion of the treated groundwater from pumping will be recirculated through sump one (and possibly sump two) to flush the soils. The selected remedy also includes additional TIC analysis, the performance of treatability studies, monitoring of the groundwater extraction and treatment systems, and the use of institutional controls.

30. The OU 1 ROD is supported by an administrative record that contains the documents and information upon which EPA based the selection of the response action.

31. On February 4, 1994, Occidental informed EPA that it did not intend to negotiate a consent decree to implement the remedy called for by the OU 1 ROD. Instead, Occidental requested that EPA issue a Unilateral Administrative Order. Ruco Polymer has concurred with this request.

32. Actual or threatened releases of hazardous substances from the Site, if not addressed by implementing the response actions selected in the OU 1 ROD, may present an imminent and substantial endangerment to the public health, welfare or the environment.

III. CONCLUSIONS OF LAW

33. The Site is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

34. Respondents are "persons" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

35. Respondents are liable parties as defined in Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and are subject to this Order under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

36. The substances listed in paragraphs 7 and 8 are found at the Site and are "hazardous substances" as defined in Section

101(14) of CERCLA, 42 U.S.C. § 9601(14). These hazardous substances have been released at and from the Site into the environment.

37. The past and present disposal and migration of hazardous substances at and from the Site are a "release" as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

38. The actions required by this Order are necessary to protect the public health, welfare, and the environment.

IV. NOTICE TO THE STATE

39. Notice of this Order has been given to NYSDEC in accordance with section 106 of CERCLA, 42 U.S.C. § 9606.

V. DETERMINATION

40. Based on the FINDINGS OF FACT and CONCLUSIONS OF LAW set forth above and the entirety of the administrative record, the Regional Administrator has determined that the release or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health or welfare or the environment.

VI. ORDER

41. Based on the foregoing, Respondents are hereby ordered, jointly and severally, to comply with the following provisions, all documents incorporated by reference into this Order, and all schedules and deadlines in this Order, attached to this Order, or incorporated by reference into this Order.

VII. DEFINITIONS

42. Unless otherwise expressly provided herein, terms used in this Order which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or its implementing regulations. Whenever terms listed below are used in this Order in attachments to or documents incorporated by reference into this Order, the following definitions shall apply:

A. "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §9601, et seq.

B. "Day" means a calendar day unless expressly stated to be a working day. "Working day" shall mean a day other than a Saturday, Sunday, or Federal holiday. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or Federal Holiday, the period shall run until the close of business on the next working day.

C. "DEC" or "NYSDEC" means the New York State Department of Environmental Conservation.

D. "EPA" means the United States Environmental Protection Agency and any successor departments or agencies of the United States.

E. "Hazardous substance" shall have the meaning provided in Section 101(14) of CERCLA, 42 U.S.C. §9601(14).

F. "National Contingency Plan" or "NCP" means the National Oil and Hazardous Substances Pollution Contingency Plan promulgated under Section 105 of CERCLA, 42 U.S.C. §9605, published at 55 Fed. Reg. 8666 (1990), and codified at 40 C.F.R. Part 300, including any amendments thereto.

G. "Operation and Maintenance" or "O&M" means those activities required under this Order for the purpose of maintaining the effectiveness of the measures taken in the Remedial Action (as defined below) following the implementation of those measures.

H. "Party" or "Parties" means the United States of America and/or Respondents.

I. "PCBs" means polychlorinated biphenyls.

J. "Performance Standards" means those cleanup standards, standards of control, and other substantive requirements, criteria or limitations set forth in or referenced in the OU 1 ROD or which are otherwise approved by EPA in writing during the course of the Work. Requirements promulgated or modified after the issuance of the OU 1 ROD may become Performance Standards pursuant to Section 300.430(f)(1)(ii)(B) of the NCP.

K. "OU 1 ROD" means the Record of Decision document issued by EPA on January 28, 1994 (and all attachments thereto) in which the remedy for the first operable unit at the Site was selected by the Regional Administrator of EPA, Region II. The OU 1 ROD is attached to this Order as Appendix A, and is incorporated herein by reference.

L. "Remedial Action" or "RA" means the remedy authorized by the OU 1 ROD, as further delineated in this Order, and in the various EPA-approved plans referred to below.

M. "Remedial Design" or "RD" means those activities to be undertaken by Respondents to develop the final "Remedial Design Report" or "RD Report", including, but not limited to, the final plans and specifications and other components and requirements for the Remedial Action pursuant to the EPA-approved plans referred to below.

N. "Respondents" mean Occidental Chemical Corp. and Ruco Polymer Corp.

O. "Response Costs" means all costs, including direct costs, indirect costs, and accrued interest, incurred or to be incurred by the United States pursuant to any provision of CERCLA with regard to the Site.

P. "Site" means the Hooker Chemical/Ruco Polymer Superfund Site, located in the Town of Hicksville, Nassau County, New York. The Site includes the Ruco Polymer facility and all areas at which and to which hazardous substances that have been released at or from the facility have migrated or come to be located. The location of the Ruco Polymer facility is shown in Figure 1, attached hereto.

Q. "State" means the State of New York.

R. "Waste Material" means (1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. §9601(14); (2) any "pollutant or contaminant" under Section 101(33) of CERCLA, 42 U.S.C. §9601(33); (3) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. §6903(27); and (4) any mixture containing any of the constituents noted in (1), (2) or (3), above.

S. "Work" means all work and other activities required by and pursuant to this Order, including, but not limited to, implementation and Operation and Maintenance of the Remedial Action, and the preparation of the schedules, plans and reports required hereunder to be submitted in connection therewith.

VIII. NOTICE OF INTENT TO COMPLY

43. Respondents shall provide, not later than five (5) days after the effective date of this Order, written notice to EPA's Remedial Project Manager ("RPM") stating whether they will

comply with the terms of this Order. If Respondents do not unequivocally commit to perform the Work as provided by this Order, they shall be deemed to have violated this Order and to have failed or refused to comply with this Order. Respondents' written notice shall describe, using facts that exist on or prior to the effective date of this Order, any "sufficient cause" defenses asserted by Respondents under Sections 106(b) and 107(c)(3) of CERCLA. The absence of a response by EPA to the notice required by this paragraph shall not be deemed to be an acceptance of Respondents' assertions.

IX. PARTIES BOUND

44. This Order shall apply to and be binding upon Respondents and their directors, officers, employees, agents, successors and assigns. Respondents are jointly and severally responsible for carrying out all activities required by this Order. No change in the ownership, corporate status, or other control of Respondents shall alter any of the Respondents' responsibilities under this Order.

45. Respondents shall provide a copy of this Order to any prospective owners or successors before a controlling interest in Respondents' assets, property rights, or stock are transferred to the prospective owner or successor. Respondents shall provide a copy of this Order to each contractor, subcontractor, laboratory or consultant retained to perform any Work under this Order, within five (5) days after the effective date of this Order or on the date such services are retained, whichever date occurs later. Respondents shall also provide a copy of this Order to each person representing Respondents with respect to the Site or the Work and shall condition all contracts and subcontracts entered into hereunder upon performance of the Work in conformity with the terms and conditions of this Order. With respect to the activities undertaken pursuant to this Order, each contractor and subcontractor shall be deemed to be related by contract to the Respondents within the meaning of 107(b)(3) of CERCLA, 42 U.S.C. § 9607(b)(3). Notwithstanding the terms of any contract, Respondents are responsible to the United States for compliance with this Order and for ensuring that their contractors, subcontractors and agents comply with this Order, and perform any Work in accordance with this Order.

46. Within five (5) days after the effective date of this Order, Respondent Ruco Polymer shall record a copy or copies of this Order in the appropriate governmental office where land ownership and transfer records are filed or recorded, and shall ensure that the recording of this Order is indexed to the titles of each and every property at the Site so as to provide notice to

third parties of the issuance and terms of this Order with respect to those properties. Ruco Polymer shall, within fifteen (15) days after the effective date of this Order, send notice of such recording and indexing to EPA.

47. Not later than sixty (60) days prior to any transfer of any real property interest in any property included within the Site, Ruco Polymer shall submit a true and correct copy of the transfer document(s) to EPA, and shall identify the transferee by name, principal business address and effective date of the transfer.

X. WORK TO BE PERFORMED

48. Respondents shall give EPA fourteen (14) days advance notice of all field activities to be performed pursuant to this Order.

49. All of the Work to be performed by Respondents pursuant to this Order shall be under the direction and supervision of a qualified professional engineer licensed in the State of New York (hereinafter, the "Supervising Contractor"), the selection of which shall be subject to approval by EPA. Respondents shall notify EPA, in writing, of the name, title, and qualifications, of the Supervising Contractor proposed to be used in carrying out the Work within forty-five (45) days of the effective date of this Order. If at any time Respondents propose to change their Supervising Contractor, Respondents shall notify EPA, in writing as above, and shall obtain approval from EPA before the new Supervising Contractor performs, directs or supervises any work under this Order.

50. EPA will notify Respondents in writing of its approval or disapproval of a proposed Supervising Contractor. If EPA disapproves of the selection of any contractor as Supervising Contractor, Respondents shall submit to EPA a list of contractors, including the qualifications of each contractor, that would be acceptable to them within thirty days of receipt of EPA's disapproval of the contractor previously selected. EPA will provide written notice of the names of the contractor(s) that it approves. Respondents may select any approved contractor from that list and shall notify EPA of the name of the contractor selected within 21 days of EPA's designation of approved contractors.

51. The work to be performed by Respondents pursuant to this Order shall, at a minimum, achieve the requirements of the OU 1 ROD (including, but not limited to the Performance Standards) and be performed in a manner consistent with the OU 1

ROD. Nothing in this Order or the plans or other documents required to be submitted pursuant to this Order, or EPA's approval of those plans or other documents, constitutes a warranty or representation of any kind by EPA that compliance with those plans and this Order will achieve the requirements of the OU 1 ROD, and such compliance shall not foreclose EPA from seeking performance of additional work to achieve the Performance Standards or other requirements of the OU 1 ROD.

52. As described in greater detail below in this Section and the Statement of Work (SOW), attached hereto as Appendix B, the Work shall include, without limitation:

A. Installation of groundwater extraction wells to control the flow of contaminated groundwater from leaving the Ruco Polymer property and migrating downgradient. The exact location, number, size, depth and pumping rates of the extraction wells shall be determined through tests conducted during the Remedial Design. Existing monitoring wells on the Ruco Polymer property shall be used to monitor the performance of the groundwater extraction system and establish that sufficient control occurs. Additional monitoring wells may be required. The need for additional monitoring wells shall be evaluated and determined during the design and implementation of the groundwater extraction system.

B. Installation of a groundwater treatment system. Treatment of the extracted groundwater with an on-site treatment system shall be conducted to achieve the appropriate discharge standards. The exact combination and type of treatment technologies (i.e., granulated activated carbon, ultraviolet oxidation, flocculation, etc.), and their effectiveness on TICs shall be determined in the design phase through treatability studies. ~~Additional analyses of the TICs in the groundwater shall be conducted to identify the classes of chemical compounds that comprise the TICs.~~ If the results of the treatability studies indicate the discharge standards cannot be achieved, the selected treatment alternative will have to be revisited.

C. Installation of a discharge system to dispose of the majority of the treated groundwater. The discharge shall be to a sump to be constructed on the Ruco Polymer property, unless a more appropriate off-site location can be found by the Respondents, and approved by the EPA, for the discharge of the treated

groundwater. The majority of the discharge volume will need to be diverted to this proposed sump/discharge location to avoid overloading sumps one and two (see soil flushing below) and the groundwater extraction system. The discharged groundwater is expected to meet the appropriate discharge criteria through treatment (see treatment above).

D. Additional soil testing from the bottom of sump two to the water table to determine if contaminants are present in the soils, and comparison of the levels present to the soil cleanup criteria that are considered protective of groundwater quality. If contaminants are present above levels considered protective of the groundwater, the soils in sump two shall be addressed in the same manner as the soils in sump one.

E. Soil flushing for the deep soils in sump one, and possibly sump two (based on the results of the soil testing). The exact delineation of the areas to be flushed shall be performed during the design phase of the remedial action. The soils shall be flushed by a portion of the discharge of treated groundwater. The method of discharging the treated water shall be determined in the design phase. The contaminants flushed out by this process shall be recaptured by extraction wells. The exact location, depth, size and pumping rates of the extraction wells shall be determined during the remedial design phase.

~~Additional analyses of the TICs in the soil shall be conducted to identify the classes of chemical compounds that comprise the TICs. Treatability studies (e.g., soil column tests) shall also be performed on the soils to evaluate the effectiveness of soil flushing on TICs. The contaminant levels in the sumps shall be re-evaluated during periodic monitoring and at the five-year review to measure the progress of the flushing. In order to install the flushing system in sump one, the existing concrete storage tanks in that sump shall be removed and disposed of.~~

F. Additional soil testing in the area around monitoring well E to determine if contaminants are present. If contaminants are present above concentrations considered by EPA to be protective of groundwater quality, and exist in the shallow soils, the area around well E shall be addressed in the same manner as the former drum storage area. If the

contaminants are present in the deeper soils, further evaluation of potential remedial alternatives will occur.

G. Excavation of the soils in the former drum storage area and possibly the area around monitoring well E, to be determined by subsequent soil borings. Excavated soils shall be disposed of off-site. The extent of the excavation in the former drum storage area and the area around monitoring well E shall be based on the results of the soil samples collected during the Remedial Investigation and further sampling to be conducted during the pre-design or design phase.

H. Periodic monitoring of the groundwater extraction system to assure adequate control is maintained; periodic sampling of the groundwater treatment system discharge, to assure treatment standards are achieved; and periodic sampling of the groundwater and soils in sump one and possibly sump two (based on the results of the soil sampling) to measure the progress of the selected remedy in achieving the cleanup standards.

I. Institutional controls in the form of deed restrictions and groundwater use restrictions at the Ruco Polymer property. The deed restrictions shall restrict the Ruco Polymer property to industrial/commercial development only, as long as contaminants remain on the property above levels considered appropriate for residential development and the treatment systems are in place. Groundwater use restrictions in addition to the existing Nassau County Ordinance shall be implemented through deed restrictions as well. The use of groundwater shall be restricted until such time as the groundwater beneath the Site has been determined to be fully remediated.

53. Within sixty (60) days of the effective date of this Order, Respondents shall submit to EPA for review and approval a detailed plan (hereinafter, the "Remedial Design Work Plan" or "RD Work Plan") for design of the remedy set forth in the OU 1 ROD (Appendix A) and for implementing activities which are necessary for the proper completion of the remedial design ("RD") (e.g., RD sampling and analysis). The required elements of the RD Work Plan are detailed in the attached SOW.

54. EPA will either approve the RD Work Plan, or will require modifications of it in accordance with the procedures set forth in Section XV, below. Upon approval by EPA, the RD Work Plan shall be deemed incorporated into and become enforceable under this Order.

55. Upon approval of the RD Work Plan by EPA, after a reasonable opportunity for review and comment by the State, Respondents shall perform the RD and other activities required by the RD Work Plan (e.g., implementation of the SAMP). Respondents shall perform such work in accordance with the EPA-approved schedule for those activities. As detailed in the attached SOW, the RD shall include preparation of a Remedial Design Investigation Report and a Preliminary, Intermediate, Pre-final, and Final Remedial Design Report.

56. EPA will either approve or require modifications to the Remedial Design Reports in accordance with the procedures set forth in Section XV, below. Upon approval by EPA, the Final Remedial Design Report shall be deemed incorporated into and an enforceable part of this Order.

57. If performance of any subsequent phase of the work required herein necessitates alteration of the Final Remedial Design Report, the Respondents shall submit to EPA proposed amendments to the appropriate component of the RD Report, which, upon approval by EPA, shall be deemed incorporated into and made an enforceable part of this Order.

58. Within seventy-five (75) days of Respondents' receipt of EPA's statement of approval of the Final RD Report, the Respondents shall award a contract for Remedial Construction.

59. Within forty-five (45) days of the award of the Remedial Construction contract, the Respondents shall submit to EPA, in accordance with the attached SOW, any requests for modifications to the Final RD Report based on construction issues and a Site Management Plan ("SMP") for Remedial Construction. These deliverables will either be approved by EPA or require modification in accordance with the procedures set forth in Section XV, below.

60. At least thirty (30) days prior to the initiation of Remedial Construction, the Respondents shall submit the names and qualifications of the Independent Quality Assurance Team ("IQAT") for approval by EPA, as detailed in the attached SOW.

61. Upon receipt of EPA's written approval of the SMP for Remedial Construction and any requests for modification of the Final RD Report, the Respondents shall perform the Remedial Construction in accordance with the SMP and Final RD Report. During performance of the Remedial Construction, the Respondents may identify and request approval for field changes. The field changes will either be approved by EPA or require modification in accordance with the procedures set forth in Section XV, below.

62. Within sixty (60) days following the commencement of Remedial Construction, the Respondents shall submit to EPA a draft Initial Testing Program ("ITP") Plan, as detailed in the attached SOW. EPA will either approve the ITP Plan or require modification of it in accordance with the procedures set forth in Section XV, below.

63. No later than one hundred and twenty (120) days prior to the scheduled completion date of the Remedial Construction, the Respondents shall submit to EPA an Operation and Maintenance ("O&M") Plan for managing the groundwater and soils remediation, as detailed in the attached SOW. EPA will either approve the O&M Plan or require modification of it in accordance with the procedures set forth in Section XV, below.

64. Within five (5) working days of the completion of Remedial Construction, the Respondents shall submit to EPA a Notice of Completion for the Construction of the Remedial Action, as detailed in the attached SOW.

65. Within ten (10) working days of the completion of Remedial Construction, Respondents shall commence implementation of the EPA-approved ITP Plan. A pre-final inspection of the groundwater and soils remediation systems, as constructed in accordance with the EPA-approved RD, will be scheduled by EPA during the ITP.

66. Within ninety (90) days of the commencement of the implementation of the ITP Plan, the Respondents shall submit to EPA the Final Report for Construction of the Remedial Action, as detailed in the attached SOW. Approval or modification of the Final Report for Construction of the Remedial Action shall be in accordance with the procedures set forth in Section XV, below.

67. EPA will determine whether the Remedial Construction and ITP activities or any portion(s) thereof have been completed in accordance with the standards, specifications and reports required by this Order. If EPA determines that they have not been so completed, EPA will notify the Respondents in writing of those tasks which must be performed to complete the Remedial Construction and/or ITP activities. Respondents shall then implement the specified activities and tasks in accordance with the specifications and schedules established by EPA and shall then submit a further report on the specified activities and tasks and certification signed by a licensed professional engineer, within thirty (30) days after completion of the specified activities and tasks.

68. Respondents shall continue the ITP until EPA determines the groundwater and soils remediation systems to be operational and functional or unless otherwise notified by EPA.

69. Upon EPA's certification that the groundwater and soils remediation systems are operational and functional, the Respondents shall perform O&M in accordance with the EPA-approved O&M Plan.

70. Within thirty (30) days of the date on which all designated monitoring points have recorded readings less than or equal to the performance standards specified in the OU 1 ROD and SOW, or within 30 days of the date that EPA determines, in its sole discretion, that a waiver of one or more Performance Standards is warranted, the Respondents shall submit to EPA a Post-Remediation Monitoring ("PRM") Plan, as detailed in the attached SOW. EPA will either approve the PRM Plan or require modification of it in accordance with the procedures set forth in Section XV, below.

71. The Performance Standards for aquifer and soils restoration at the Site are included in Exhibit A of Appendix B of this Order. Exhibit A lists federal and state MCLs, ambient water quality standards, and other criteria for various chemicals, including contaminants detected in the Site's soils and groundwater. Respondents shall operate and maintain the groundwater and soils remediation systems until these Performance Standards for Site contaminants have not been exceeded for a period of two (2) consecutive years, or until EPA determines, in its sole discretion, following the implementation of contingency measures and long-term management measures, as outlined in the attached SOW, that O&M of the systems may be terminated.

72. Respondents shall submit to EPA a Notice of Completion and Final Report for O&M of the Remedial Action: (a) within sixty (60) days after meeting the Performance Standards for both the groundwater and soils remediation, as specified in the OU 1 ROD and the SOW, for two (2) consecutive years, or; (b) if long-term management measures are authorized by EPA for the groundwater and soils, within sixty (60) days of completion of those measures, or; (c) if the Performance Standards are met for only one of the remedial measures (soils or groundwater), while long-term management measures are required for the other, within sixty (60) days after the later of the date when the Performance Standards have been met for two (2) consecutive years and the long-term management measures have been completed.

73. EPA will determine whether the O&M (including any Contingency Measures or Long-term Management Measures) has been completed in accordance with the standards, specifications and reports required by this Order. If EPA determines that they have not been so completed, EPA will notify the Respondents in writing of those tasks which must be performed to complete the O&M (including any Contingency Measures or Long-term Management Measures). Respondents shall then implement the specified

activities and tasks in accordance with the specifications and schedules established by EPA and shall then submit a further report on the specified activities and tasks and certification signed by a licensed professional engineer, within forty-five (45) days after completion of the specified activities and tasks. Any modifications to the Final Report for O&M of the Remedial Action required by EPA shall be in accordance with the procedures set forth in Section XV of the Order.

74. Upon EPA's certification of completion of the O&M (including any Contingency Measures or Long-term Management Measures), the Respondents shall continue the Remedial Action with post-remediation monitoring in accordance with the EPA-approved PRM Plan.

75. Upon EPA's certification of completion of the O&M or EPA's approval of the PRM Plan, whichever comes later, the Respondents shall commence implementation of the post-remediation monitoring program for a period of two (2) years, in accordance with the PRM Plan. If, during post-remediation monitoring, contaminant concentrations increase above the Performance Standards, as specified in the OU 1 ROD and the SOW, or any alternate Performance Standards established by EPA as part of a Long-Term Management Plan, EPA will evaluate the need and may require Respondents to reinstate the groundwater and/or soils remediation systems.

76. Within ten (10) working days of the completion of post-remediation monitoring, the Respondents shall submit to EPA a Notice of Completion for Post-Remediation Monitoring, as detailed in the attached SOW.

77. Within sixty (60) days of the completion of post-remediation monitoring, the Respondents shall submit to EPA a Final Report for Post-Remediation Monitoring, as detailed in the attached SOW. Any modifications to the Final Report for Post-Remediation Monitoring required by EPA shall be in accordance with the procedures set forth in Section XV, below.

78. EPA will determine whether the post-remediation monitoring activities or any portion(s) thereof have been completed in accordance with the standards, specifications, and reports required by this Order. If EPA determines that post-remediation monitoring activities have not been so completed, EPA will notify the Respondents in writing of those tasks which must be performed to complete the Post-Remediation Monitoring. Respondents shall then implement the specified activities and tasks in accordance with the specifications and schedules established by EPA and shall then submit a further report on the specified activities and tasks and certification signed by a

licensed professional engineer, within thirty (30) days after completion of the specified activities and tasks. EPA will notify the Respondents in writing when Post-Remediation Monitoring activities have been completed in accordance with the requirements of this Order.

XI. FAILURE TO ATTAIN PERFORMANCE STANDARDS

79. In the event that EPA determines that additional response activities are necessary to meet applicable Performance Standards, EPA may notify the Respondents that additional response actions are necessary.

80. Unless otherwise stated by EPA, within thirty (30) days of receipt of notice from EPA that additional response activities are necessary to meet any applicable Performance Standards, the Respondents shall submit for approval by EPA a work plan for the additional response activities. The plan shall conform to the applicable requirements of Sections X, XVII, and XVIII of this Order. Upon EPA's approval of the plan pursuant to Section XV, Respondents shall implement the plan for additional response activities in accordance with the provisions and schedule contained therein.

XII. EPA PERIODIC REVIEW

81. Under Section 121(c) of CERCLA, 42 U.S.C. § 9621(c), and any applicable regulations, EPA may review the Site to assure that the Work performed pursuant to this Order adequately protects human health and the environment. Until such time as EPA certifies completion of the Work, the Respondents shall conduct the requisite studies, investigations, or other response actions as determined necessary by EPA in order to permit EPA to conduct the review under Section 121(c) of CERCLA. As a result of any review performed under this paragraph, the Respondents may be required to perform additional Work or to modify Work previously performed.

XIII. ADDITIONAL RESPONSE ACTIONS

82. EPA may determine that in addition to the Work identified in this Order and attachments to this Order, additional response activities may be necessary to protect human health and the environment. If EPA determines that additional response activities are necessary, EPA may require the Respondents to submit a work plan for additional response

activities. EPA may also require the Respondents to modify any plan, design, or other deliverable required by this Order, including any approved modifications.

83. Not later than thirty (30) days after receiving EPA's notice that additional response activities are required pursuant to this Section, the Respondents shall submit a work plan for the response activities to EPA for review and approval in accordance with Section XV below. Upon approval by EPA, the work plan is incorporated into this Order as a requirement of this Order and shall be an enforceable part of this Order. Upon approval of the work plan by EPA, the Respondents shall implement the work plan according to the standards, specifications, and schedule in the approved work plan. Respondents shall notify EPA of their intent to perform such additional response activities within seven (7) days after receipt of EPA's request for additional response activities.

XIV. ENDANGERMENT AND EMERGENCY RESPONSE

84. In the event of any action or occurrence during the performance of the Work which causes or threatens to cause a release of a hazardous substance or which may present an immediate threat to public health or welfare or the environment, the Respondents shall immediately take all appropriate action to prevent, abate, or minimize the threat, and shall immediately notify the RPM or, if the RPM is unavailable, the Chief of the New York/Caribbean Superfund Branch II of the Emergency and Remedial Response Division of EPA Region II. Respondents shall take such action in consultation with the RPM and in accordance with all applicable provisions of this Order, including but not limited to the Health and Safety Plan.

85. Nothing in the preceding paragraph shall be deemed to limit any authority of the United States to take, direct, or order all appropriate action to protect human health and the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances on, at, or from the Site.

XV. EPA REVIEW OF SUBMISSIONS

86. After review of any deliverable, plan, report or other item which is required to be submitted for review and approval pursuant to this Order, EPA may: (a) approve the submission; (b) approve the submission with modifications; (c) disapprove the submission and direct Respondents to re-submit the document after

incorporating EPA's comments; or (d) disapprove the submission and assume responsibility for performing all or any part of the response action. As used in this Order, the terms "approval by EPA," "EPA approval," or a similar term means the action described in subparagraphs (a) or (b) of this paragraph.

87. In the event of approval or approval with modifications by EPA, the Respondents shall proceed to take any action required by the plan, report, or other item, as approved or modified by EPA.

88. Upon receipt of a notice of disapproval or a request for a modification, the Respondents shall, within twenty-one (21) days or such other time as may be specified by EPA in its notice of disapproval or request for modification, correct the deficiencies and resubmit the plan, report, or other item for approval. Notwithstanding the notice of disapproval, or approval with modifications, the Respondents shall proceed, at the direction of EPA, to take any action required by any non-deficient portion of the submission.

89. If upon the first resubmission or upon any subsequent resubmission, the plan, report or other item is disapproved by EPA, the Respondents shall be deemed to be out of compliance with this Order. In the event that a resubmitted plan, report or other item, or portion thereof, is disapproved by EPA, EPA may again require that Respondents correct the deficiencies, in accordance with the preceding paragraphs of this Section. In addition, or in the alternative, EPA retains the right to amend or develop the plan, report or other item.

90. All plans, reports, and other submittals required to be submitted to EPA under this Order shall, upon approval by EPA, be deemed to be incorporated in and an enforceable part of this Order. In the event EPA approves a portion of a plan, report, or other item required to be submitted to EPA under this Order, the approved portion shall be deemed to be incorporated in and an enforceable part of this Order.

XVI. REPORTING REQUIREMENTS

91. A. In addition to any other requirement of this Order, the Respondents shall prepare and provide to EPA written monthly progress reports which: (1) describe the actions which have been taken toward achieving compliance with this Order during the previous month; (2) include all results of sampling and tests and all other data received by the Respondents during the previous month in the implementation of the Work; (3) describe all actions, data and plans which are projected to be commenced or

completed during the next month and provide other information relating to the progress of design and construction as is customary in the industry; (4) include information regarding percentage of completion, all delays encountered or anticipated that may affect the future schedule for completion of the Remedial Action, and a description of all efforts made to mitigate those delays or anticipated delays. These reports are to be submitted to EPA by the tenth day of every month following the effective date of this Order.

B. If the date for submission of any item or notification required by this Order falls upon a weekend or State or Federal holiday, the time period for submission of that item or notification is extended to the next working day following the weekend or holiday.

C. Upon the occurrence of any event during performance of the Work which, pursuant to Section 103 of CERCLA, requires reporting to the National Response Center, the Respondents shall, within twenty-four (24) hours, orally notify the EPA RPM, or, in the event of the unavailability of the EPA RPM, the Chief of the New York/Caribbean Superfund Branch II of the Emergency and Remedial Response Division of EPA Region II, in addition to the reporting required by Section 103. Within twenty (20) days of the onset of such an event, the Respondents shall furnish EPA with a written report setting forth the events which occurred and the measures taken, and to be taken, in response thereto.

D. All reports and other documents submitted by the Respondents to EPA (other than the monthly progress reports discussed above) which purport to document the Respondents' compliance with the terms of this Order shall be signed by a responsible corporate official of one or more of the Respondents.

XVII. QUALITY ASSURANCE, SAMPLING AND DATA ANALYSIS

92. Any QA/QC plan(s) submitted by the Respondents pursuant to this Order shall be completed in accordance with the most updated versions of: EPA publication "Test Methods for Evaluating Solid Wastes" ("SW-846") (November, 1986), the "Region II CERCLA Quality Assurance Manual" Revision 1, EPA Region II, (October 1989), and the EPA documents entitled "Interim Guidelines and Specifications for Preparing Quality Assurance Project Plans" (QAMS-005/80) and "Guidance for Preparation of Combined Work/Quality Assurance Project Plans for Environmental Monitoring" (USEPA, Office of Water Regulations and Standards, May 1984), or any revised versions thereof.

93. Respondents shall use QA/QC procedures in accordance with the QA/QC Plan(s) submitted and approved by EPA pursuant to this Order, and shall use standard EPA Chain of Custody procedures, as set forth in the National Enforcement Investigations Center Policies and Procedures Manual (November 1984), the National Enforcement Investigations Center Manual for the Evidence Audit (September 1981), and Section 1.3 of SW-846, or any amended versions thereof, while conducting all sample collection and analysis activities required pursuant to this Order. To provide quality assurance and maintain quality control, the Respondents shall:

A. Ensure that all contracts with laboratories used by the Respondents for the analysis of samples taken pursuant to this Order provide for access of EPA personnel and EPA-authorized representatives to assure the accuracy of laboratory results related to the Site;

B. Ensure that the laboratories utilized by the Respondents for the analysis of samples taken pursuant to this Order perform all analyses according to accepted EPA methods. Accepted EPA methods consist of those methods which are documented in the "Contract Lab Program Statement of Work for Inorganic Analysis" dated February, 1989 and the "Contract Lab Program Statement of Work for Organic Analysis", dated February 1988, and any amendments made thereto during the course of the implementation of this Order;

C. Ensure that all laboratories used by the Respondents for analysis of samples taken pursuant to this Order participate in an EPA or EPA-equivalent QA/QC program;

D. Ensure that the laboratories used by the Respondents for the analysis of samples taken pursuant to this Order analyze samples that EPA may submit to those laboratories for purposes of insuring that the laboratories meet EPA-approved QA/QC requirements.

94. Respondents shall notify EPA not less than fourteen (14) days in advance of any sample collection activity. At the request of EPA, the Respondents shall allow split or duplicate samples to be taken by EPA or its authorized representatives, of any samples collected by the Respondents with regard to the Site or pursuant to the implementation of this Order. In addition, EPA shall have the right to take any additional samples that EPA deems necessary.

XVIII. COMPLIANCE WITH APPLICABLE LAWS

95. All activities by the Respondents pursuant to this Order shall be performed in accordance with the requirements of all Federal and state laws and regulations. EPA has determined that the activities contemplated by this Order are consistent with the National Contingency Plan.

96. Except as provided in Section 121(e) of CERCLA and the NCP, no permit shall be required for any portion of the Work conducted entirely on-Site. Where any portion of the Work requires a Federal or state permit or approval, the Respondents shall submit timely applications and take all other actions necessary to obtain and to comply with all such permits or approvals.

97. This Order is not, and shall not be construed to be, a permit issued pursuant to any Federal or state statute or regulation.

98. A. All off-Site transfer, treatment, storage, or disposal of Waste Material by the Respondents must be in compliance with the applicable requirements of the Resource Conservation and Recovery Act, ("RCRA") 42 U.S.C. §6901, et seq., Section 121(d)(3) of CERCLA, 42 U.S.C. §9621(d)(3), the Toxic Substances Control Act, 15 U.S.C. §2601, et seq., as well as their implementing regulations, and all other applicable laws, including, but not limited to, 40 CFR Parts 262 and 263 and 6 NYCRR Part 372. Furthermore, the Respondents shall provide notice to EPA of any facilities that Respondents propose to use for such off-Site transfer, storage, treatment, or disposal at least five (5) business days prior to the commencement of any such use, and shall obtain approval by EPA's RPM of the use of such facilities. Any and all off-Site disposal activities conducted by the Respondents under this Order shall be performed in conformance with the NCP, and any amendments thereto, and Revised Procedures for Planning and Implementing Off-site Response Actions (U.S. EPA Office of Solid Waste and Emergency Response, November 13, 1987), and any amendments thereto.

B. If Waste Material from the Site is to be shipped to a waste management facility outside of New York State, the Respondents shall provide prior written notification to the appropriate state environmental official in the receiving facility's state (with a copy to the EPA RPM) of such shipment of Waste Material. However, this notification requirement shall not apply to any off-Site shipments when the total volume of all such shipments will not exceed 10 cubic yards. Respondents shall include in the written notification the following information:

(i) the name and location of the facility to which the Waste Material is to be shipped; (ii) the type and quantity of the Waste Material to be shipped; (iii) the expected schedule for the shipment of the Waste Material; and (iv) the method of transportation. Respondents shall provide such notification to the receiving facility's state and to EPA in writing as soon as practicable, but in any event at least ten (10) business days prior to the said shipments. Respondents shall notify the receiving facility's state of major changes in their shipment plan, such as a decision to ship the Waste Material to another facility within the same state.

XIX. REMEDIAL PROJECT MANAGER, NOTIFICATION

99. EPA has designated the following individual as its RPM for the Site:

Dale J. Carpenter
New York/Caribbean Superfund Branch II
Emergency and Remedial Response Division
U.S. Environmental Protection Agency
Region II
26 Federal Plaza, Room 747
New York, N.Y. 10278
(212) 264-9342

100. EPA has the unreviewable right to change its RPM. If EPA changes its RPM, EPA will inform the Respondents in writing of the name, address, and telephone number of the new Remedial Project Manager.

101. The RPM shall have the authority lawfully vested in a RPM and On-Scene Coordinator by the NCP. The RPM shall have authority, consistent with the NCP, to halt any work required by this Order and to take any necessary response action.

102. Within ten (10) days after the effective date of this Order, the Respondents shall designate a Project Coordinator and shall submit the name, address, telephone number, qualifications and job title of the Project Coordinator to EPA for review and approval. Respondents' Project Coordinator shall be responsible for overseeing Respondents' implementation of this Order. If the Respondents wish to change their Project Coordinator, the Respondents shall provide written notice to EPA five (5) days prior to changing the Project Coordinator, identifying the name and qualifications of the new Project Coordinator. Respondents' selection of a Project Coordinator shall be subject to EPA approval.

103. All plans, reports, notices and other documents required to be submitted to EPA under this Order shall be directed to the following individuals at the addresses specified below:

1 copy: Chief, New York/Caribbean Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region II
Room 437
26 Federal Plaza
New York, New York 10278

Attention: Hooker/Ruco Superfund Site Attorney

2 copies (or 10 copies if such communication is a plan or report):

Chief, New York/Caribbean Superfund Branch II
Emergency and Remedial Response Division
U.S. Environmental Protection Agency, Region II
26 Federal Plaza, Rm. 747
New York, N.Y. 10278

Attention: Hooker/Ruco Superfund Site
Project Manager

104. In addition, when submitting to EPA any written communication required hereunder, the Respondents shall simultaneously submit 2 copies of that communication (unless the given document is a plan or report, in which case 7 copies shall be submitted) to:

Director, Division of Hazardous Waste Remediation
New York State Department of Environmental
Conservation
50 Wolf Road
Albany, New York 12233-7010

Attention: Hooker/Ruco Superfund Site
Project Manager

XX. COMMUNITY RELATIONS

105. Respondents shall cooperate with EPA in providing information regarding the Work to the public. As requested by EPA, Respondents shall participate in the preparation of such information for distribution to the public and in public meetings which may be held or sponsored by EPA to explain activities at or relating to the Site.

XXI. SITE ACCESS AND DATA/DOCUMENT AVAILABILITY

106. A. Respondents shall allow EPA and its authorized representatives, including contractors and subcontractors, to enter and freely move about all property at the Site for purposes of monitoring the progress of activities taking place, verifying any data or information submitted to EPA, conducting investigations relating to contamination or conditions at the Site, obtaining samples at the Site, inspecting and copying records, operating logs, contracts, or other documents required to assess the Respondents' compliance with the Order, or for any other purpose reasonably related to EPA's oversight of the implementation of this Order. Respondents shall allow EPA and its authorized representatives to enter the Site, to inspect and copy all records, files, photographs, documents, sampling and monitoring data, and other writings related to work undertaken in carrying out this Order. Nothing herein shall be interpreted as limiting or affecting EPA's right of entry or inspection authority under Federal law.

B. To the extent that any area where Work is to be performed hereunder is presently owned by parties other than the Respondents, the Respondents shall use their best efforts to obtain access agreements from the present owners within forty-five (45) days of the effective date of this Order for purposes of implementing the requirements of this Order. Such agreements shall provide access not only for the Respondents, but also for EPA and its authorized representatives or agents, as well as DEC and its authorized representatives or agents. Such agreements shall specify that the Respondents are not EPA's representatives with respect to liability associated with Site activities. If such access agreements are not obtained by the Respondents within the time period specified herein, the Respondents shall immediately notify EPA of their failure to obtain access, and shall include in that notification a summary of the steps the Respondents have taken to attempt to obtain access. Subject to the United States' non-reviewable discretion, EPA may use its legal authorities to obtain access for the Respondents, may perform those response actions with EPA contractors at the property in question, or may terminate the Order if Respondents cannot obtain access agreements. If EPA performs those tasks or activities with contractors and does not terminate the Order, the Respondents shall perform all other activities not requiring access to that property. Respondents shall integrate the results of any such tasks undertaken by EPA into their reports and deliverables.

107. Respondents may assert a claim of business confidentiality covering part or all of the information submitted to EPA pursuant to the terms of this Order under 40 C.F.R. §

2.203, provided such claim is not inconsistent with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), or other provisions of law. This claim shall be asserted in the manner described by 40 C.F.R. § 2.203(b) and substantiated by the Respondents at the time the claim is made. Information determined to be confidential by EPA will be given the protection specified in 40 C.F.R. Part 2. If no such claim accompanies the information when it is submitted to EPA, it may be made available to the public by EPA or the State without further notice to the Respondents. Respondents shall not assert confidentiality claims with respect to any data related to Site conditions, sampling, or monitoring.

108. Respondents shall maintain for the period during which this Order is in effect an index of documents that the Respondents claim contain confidential business information. The index shall contain, for each document, the date, author, addressee, and subject of the document. Upon written request from EPA, the Respondents shall submit a copy of the index to EPA.

XXII. RECORD PRESERVATION

109. Respondents shall provide to EPA upon request, copies of all documents and information within their possession and/or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Order, including but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. Respondents shall also make available to EPA, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

110. Until ten (10) years after EPA provides notice pursuant to paragraph 127, below, of the satisfactory completion of the Work, the Respondents shall preserve and retain, and shall instruct their contractors, subcontractors, and anyone else acting on the Respondents' behalf with respect to the Site to preserve and retain all records, documents, and information of whatever kind, nature, or description now in their possession or control or which come into their possession or control that relate in any manner to the Site or the Work conducted at the Site. At the conclusion of this document retention period, the Respondents shall notify EPA at least ninety (90) days prior to the destruction of any such records, documents or information, and upon request by EPA, the Respondents shall deliver all such records, documents and information to EPA.

XXIII. DELAY IN PERFORMANCE

111. Any delay in performance of this Order that, in EPA's judgment, is not properly justified by the Respondents under the terms of this Section shall be considered a violation of this Order. Any delay in performance of this Order shall not affect the Respondents' obligations to perform all obligations fully under the terms and conditions of this Order.

112. Respondents shall notify EPA of any delay or anticipated delay in performing any requirement of this Order. Such notification shall be made by telephone to EPA's RPM within forty-eight (48) hours after the Respondents first knew or should have known that a delay might occur. Respondents shall adopt all reasonable measures to avoid or minimize any such delay. Within five (5) business days after notifying EPA by telephone, the Respondents shall provide written notification fully describing the nature of the delay, any justification for the delay, any reason why the Respondents should not be held strictly accountable for failing to comply with any relevant requirements of this Order, the measures planned and taken to minimize the delay, and a schedule for implementing the measures that have been or will be taken to mitigate the effect of the delay. Increased costs or expenses associated with implementation of the activities called for in this Order is not a justification for any delay in performance.

XXIV. ASSURANCE OF ABILITY TO COMPLETE WORK

113. Respondents shall demonstrate their ability to complete the Work required by this Order and to pay all claims that arise from the performance of the Work by obtaining and presenting to EPA within ninety (90) days of the effective date of this Order, one of the following; (1) a performance bond; (2) a letter of credit; (3) a guarantee by a third party; or (4) internal financial information to allow EPA to determine that the Respondents have sufficient assets available to perform the Work. Respondents shall demonstrate financial assurance in an amount no less than the estimate of cost for the remedial design and remedial action contained in the Record of Decision for the Site. If the Respondents seek to demonstrate ability to complete the remedial action by means of internal financial information, or by a guarantee of a third party, they shall resubmit such information annually, on the anniversary of the effective date of this Order. If EPA determines that such financial information is inadequate, the Respondents shall, within thirty (30) days after receipt of EPA's notice of determination, obtain and present to EPA for approval one of the other three forms of financial assurance listed above.

114. At least seven (7) days prior to commencing any work at the Site pursuant to this Order, the Respondents shall submit to EPA a certification that the Respondents or their contractors and subcontractors have adequate insurance coverage or have indemnification for liabilities for injuries or damages to persons or property which may result from the activities to be conducted by or on behalf of the Respondents pursuant to this Order. Respondents shall ensure that such insurance or indemnification is maintained for the duration of the Work required by this Order.

XXV. UNITED STATES NOT LIABLE

115. The United States, by issuance of this Order, assumes no liability for any injuries or damages to persons or property resulting from acts or omissions by the Respondents, or their directors, officers, employees, agents, representatives, successors, assigns, contractors, or consultants in carrying out any action or activity pursuant to this Order. Neither EPA nor the United States may be deemed to be a party to any contract entered into by the Respondents or their directors, officers, employees, agents, successors, assigns, contractors, or consultants in carrying out any action or activity pursuant to this Order.

XXVI. ENFORCEMENT AND RESERVATIONS

116. EPA reserves the right to bring an action against the Respondents under Section 107 of CERCLA, 42 U.S.C. § 9607, for recovery of any Response Costs incurred by the United States in connection with the Site. This reservation shall include but not be limited to past costs, future costs, direct costs, indirect costs, the costs of oversight, as well as accrued interest as provided in Section 107(a) of CERCLA.

117. Notwithstanding any other provision of this Order, at any time during the response action, EPA may perform its own studies, complete the response action (or any portion of the response action) as provided in CERCLA and the NCP, and seek reimbursement from the Respondents for its costs, or seek any other appropriate relief.

118. Nothing in this Order shall preclude EPA from taking any additional enforcement actions, including modification of this Order or issuance of additional orders, and/or additional remedial or removal actions as EPA may deem necessary, or from requiring the Respondents in the future to perform additional activities pursuant to CERCLA, or any other applicable law.

119. Notwithstanding any provision of this Order, the United States hereby retains all of its information gathering, inspection and enforcement authorities and rights under CERCLA, RCRA and any other applicable statutes or regulations.

120. Respondents shall be subject to civil penalties under Section 106(b) of CERCLA, 42 U.S.C. § 9606(b), of not more than \$25,000 for each day in which the Respondents willfully violate, or fail or refuse to comply with this Order without sufficient cause. In addition, failure to properly carry out response actions under this Order, or any portion hereof, without sufficient cause, may result in liability under Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3), for punitive damages in an amount at least equal to, and not more than three times the amount of any costs incurred by EPA as a result of such failure to take proper action.

121. Nothing in this Order shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person for any liability it may have arising out of or relating in any way to the Site.

122. If a court issues an order that invalidates any provision of this Order or finds that the Respondents have sufficient cause not to comply with one or more provisions of this Order, the Respondents shall remain bound to comply with all provisions of this Order not invalidated by the court's order.

XXVII. EFFECTIVE DATE AND COMPUTATION OF TIME

123. This Order shall be effective eleven (11) days after receipt by the Respondents, unless a conference is requested pursuant to paragraph 124, below. If such conference is timely requested, this Order shall become effective three (3) days following the date the conference is held, unless the effective date is modified by EPA. All times for performance of ordered activities shall be calculated from this effective date.

XXVIII. OPPORTUNITY TO CONFER

124. Respondents may, within ten (10) days after receipt of this Order, request a conference with EPA to discuss this Order. If requested, the conference shall occur within seven (7) days of the Respondents' request for a conference.

125. The purpose and scope of the conference shall be limited to issues involving the implementation of the Work required by this Order and the extent to which the Respondents

intend to comply with this Order. This conference is not an evidentiary hearing, and does not constitute a proceeding to challenge this Order. It does not give the Respondents a right to seek review of this Order, or to seek resolution of potential liability, and no official stenographic record of the conference will be made. At any conference held pursuant to the Respondents' request, the Respondents may appear in person or by an attorney or other representative.

126. Requests for a conference must be by telephone to Daniel Drazan, Esq., Office of Regional Counsel, Region II, telephone (212) 264-5345, followed by written confirmation mailed that day to Mr. Drazan and the RPM at the addresses set forth in Section XIX of this Order.

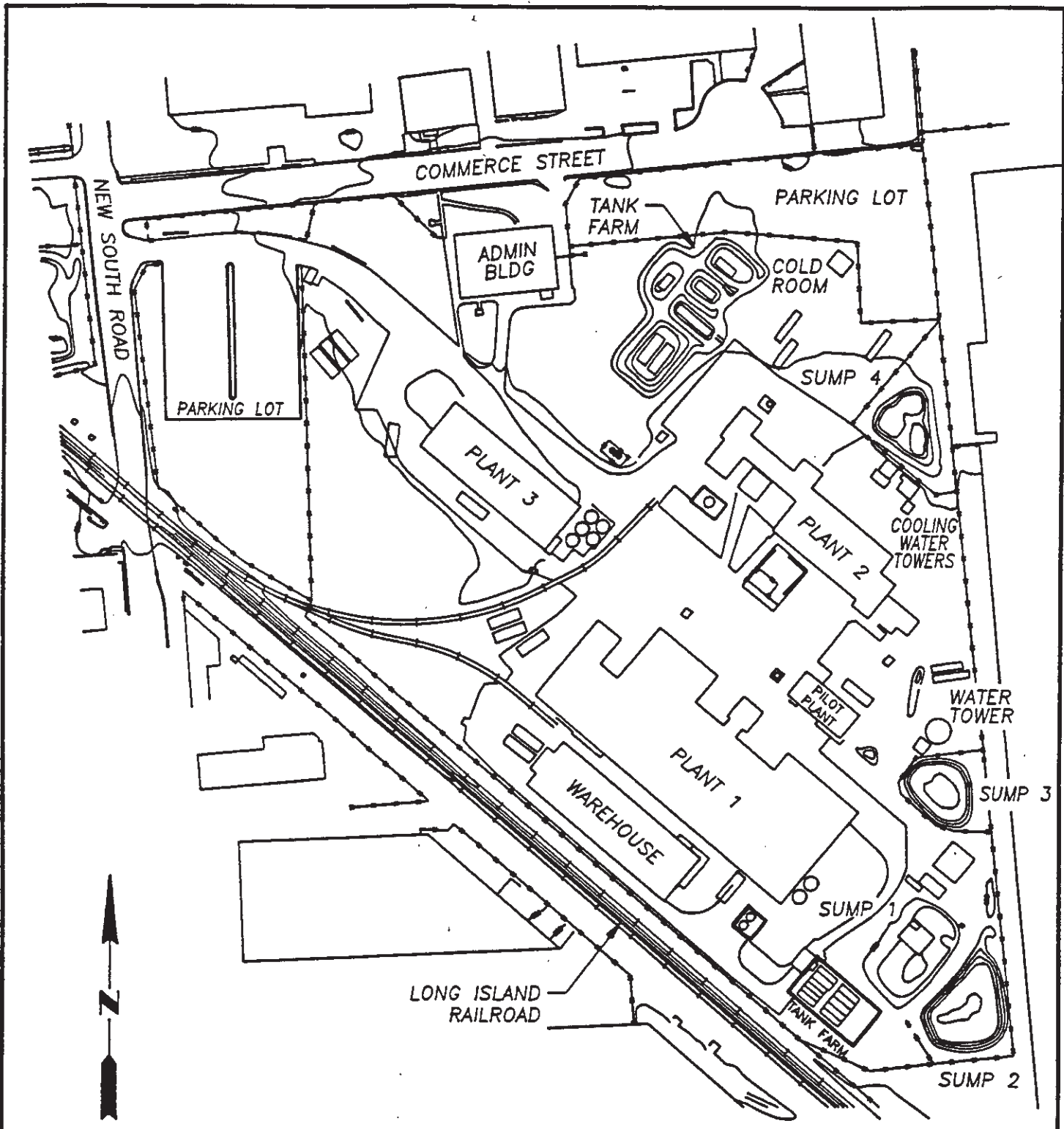
XXIX. TERMINATION AND SATISFACTION

127. This Order will be terminated by EPA if the Respondents demonstrate in writing and certify to the satisfaction of EPA that all Work and activities required under this Order, including any additional work required by EPA, have been performed fully in accordance with this Order and EPA has approved the certification in writing. Such an approval by EPA, however, shall not relieve the Respondents of any remaining obligations under the Order, including those requirements set forth in Section XXII regarding record preservation. Respondents' written submission under this paragraph shall include a sworn statement by a responsible corporate official(s) of one or more of the Respondents which states the following: "I certify that the information contained in or accompanying this submission is true, accurate and complete".

So Ordered, this 30th day of June, 1994.

BY: 

Jeanne M. Fox
Regional Administrator
U.S. Environmental Protection Agency



**OCCIDENTAL CHEMICAL CORPORATION
HOOKER/RUCO SITE
HICKSVILLE, NEW YORK**

**AERIAL SITE MAP
3-13-89**

| DATE | REVISED |
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PREPARED BY:
LEGGETTE, BRASHEARS & GRAHAM, INC.
 Professional Ground-Water Consultants
 72 Danbury Road
 Wilton, CT 06897
 (203) 762-1207



DATE: 5/4/92 **FIGURE:** 1