

FINAL - SIGNED

1/16/90

STATE OF NEW YORK; DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the  
Development and Implementation of a  
Remedial Program for an Inactive  
Hazardous Waste Disposal Site,  
Under Article 27, Title 13,  
of the Environmental Conservation  
Law of the State of New York by:

ORDER  
ON  
CONSENT

INDEX # W1-0236-88-07

GENERAL INSTRUMENT CORPORATION

Respondent.

WHEREAS,

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

2. General Instrument Corporation (the "Respondent"), a corporation organized and existing under the laws of the State of Delaware, is authorized to do business in the State of New York. Respondent owns real property located at 600 West John Street, Hicksville, Town of Oyster Bay, County of Nassau (the "Site"). A map of the Site is attached to this Order as "Appendix A".

3. Respondent discovered an on Site leakage of hazardous substances (the "Leakage") from an underground storage tank and voluntarily reported the Leakage to the Department. Respondent undertook a cleanup of the Site under the supervision and approval of the Nassau County Department of Health (the

"Dept. of Health"). The Dept. of Health was overseeing the cleanup of the Site at the request of the Department.

Despite Respondent's cleanup efforts, hazardous wastes from the Leakage are still present on the Site.

4. The Site is an inactive hazardous waste disposal site, as that term is defined at ECL Section 27-1301(2) and presents a significant threat to the public health or environment. The Site has been listed in the Registry of Inactive Hazardous Waste Disposal Sites in New York State as Site Number 1-30-020. The Department has classified the Site as a Classification "2" pursuant to ECL Section 27-1305(4)(b).

5. Pursuant to ECL Section 27-1313(3)(a), whenever the Commissioner of Environmental Conservation (the "Commissioner") "finds that hazardous wastes at an inactive hazardous waste disposal site constitute a significant threat to the environment, he may order the owner of such site and/or any person responsible for the disposal of hazardous wastes at such site (i) to develop an inactive hazardous waste disposal site remedial program, subject to the approval of the Department, at such site, and (ii) to implement such program within reasonable time limits specified in the order."

6. The Department and the Respondent agree that the goals of this Order shall be the development and implementation of a Remedial Program for the Site by Respondent, which program

shall include a Remedial Investigation/Feasibility Study and design and implementation of the selected remedial alternative.

7. Respondent asserts that execution of this Order in no way constitutes an admission of fault or guilt by Respondent concerning the matters set forth in this Order.

8. Respondent having waived its right to a hearing herein as provided by law, and having consented to the issuance and entry of this Order, agrees to be bound by its terms.

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

I. All activities and submittals required by this Order shall address both on-Site and off-Site contamination, and shall be in accordance with Requisite Remedial Technology. As used in this Order, Requisite Remedial Technology means the proper application of scientific and engineering principles and practices, subject to the Department's approval, which will identify and mitigate or eliminate, to the maximum extent practicable, any present or potential threat to the public health or environment posed by the presence of hazardous waste at the Site and any release or threatened release of hazardous waste at or from the Site.

II. Respondent shall retain professional consultants, contractors and laboratories acceptable to the Department to perform the technical, engineering and analytical obligations

required by this Order. The experience, capabilities and qualifications of the firms or individuals selected by Respondent shall be submitted within 30 days after the effective date of this Order, consultant selection or contract execution, whichever is later, to the Department for approval prior to initiation of any activities for which the Respondent and their consultants will be responsible.

III. Within 60 days after the effective date of this Order, Respondent shall submit to the Department its scoping effort completed in accordance with EPA's "Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA", dated October 1988, and any subsequent revisions thereto, and appropriate technical and administrative guidelines.

Respondent shall, within the same 60 days, submit all data within its possession or control regarding environmental conditions on-Site and off-Site, and other information described below, to the extent that such data have not previously been provided to the Department. The data and other information shall include:

a. A brief history and description of the Site, including the types, quantities, physical state, location and dates of disposal of hazardous waste including methods of disposal and spillage of such wastes;

b. A concise summary of information held by Respondents and their attorneys with respect to all persons

*Who's doing this? →*

responsible for such disposal of hazardous wastes. Person responsible or responsible party means any or all of the following:

- (1) the current owner and operator of the Site;
- (2) the owner and operator of the Site at the time or subsequent to the time any hazardous waste disposal occurred;
- (3) any person who generated any hazardous waste that was disposed of at the Site;
- (4) any person who transported any hazardous waste to the Site;
- (5) any person who disposed of any hazardous waste at the Site;
- (6) any person who by contract, agreement or otherwise arranged for the transportation of any hazardous waste to the Site or the disposal of any hazardous waste at the Site;
- (7) any other person determined to be responsible according to applicable principles of statutory or common law liability.

Such information shall include, but not be limited to, names, addresses, dates of disposal and any proof linking each such person responsible with hazardous wastes identified pursuant to Paragraph III herein;

c. A comprehensive list and copies of all existing relevant reports with titles, authors and subject matter, as well as a description of the results of all previous investigations of the Site and areas in the vicinity of the Site, including copies of all available property surveys and engineering studies. Respondent will provide a complete inventory, listing title dates and subject matter, of all topographical and aerial photographs of the Site reasonable available. Additionally Respondent shall submit representative copies of the topographical and aerial photographs listed. The Respondent will provide copies of any document covered by this paragraph if the Department so requests.

IV. Within 60 days after the effective date of this Order, Respondent shall submit to the Department a Work Plan for a Remedial Investigation/Feasibility Study.

The Work Plan shall address all elements of a Remedial Investigation/Feasibility Study as set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sections 9601 et seq., as amended ("CERCLA"), the National Contingency Plan then in effect ("NCP"), the USEPA draft guidance document entitled "Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA", dated October 1988, and any subsequent revisions thereto, and appropriate technical and administrative guidelines. In addition, the Work Plan shall include:

a. A Work Plan which shall consist of a chronological description of the anticipated RI/FS activities together with an anticipated schedule for the performance of these activities.

b. A Sampling and Analysis Plan which shall include:

(i) A Quality Assurance Project Plan that describes the quality assurance and quality control ("QAQC") protocols necessary to achieve the initial data quality objectives.

(ii) A Field Sampling Plan that defines the sampling and data gathering methods in a manner consistent with the "Compendium of Superfund Field Operations Method" (EPA/540/P-87/001, OSWER Directive 9355.0-14, December 1987) as supplemented by the Department.

c. A Health and Safety Plan for the protection of persons at and in the vicinity of the Site during the performance of the Remedial Investigation which shall be prepared in accordance with 29 C.F.R. Section 1910 by a certified health and safety professional.

d. A Citizen Participation Plan which is prepared in a manner consistent with the Department's publication "New York State Inactive Hazardous Waste Site Citizen Participation Plan".

V. The Department shall notify Respondent in writing of its approval or disapproval of the Work Plan within 90 days after receipt of the Plan.

If the Department disapproves the Work Plan, the Department shall notify Respondent in writing of the Department's objections. Within 45 days after receipt of notice of disapproval, Respondent shall revise the Work Plan, addressing each of the Department's objections and submit a Revised Work Plan.

The Department shall notify Respondent in writing within 90 days of receipt of the Revised Work Plan of its approval or disapproval of the Revised Work Plan.

If the Department disapproves the Revised Work Plan, the Respondent shall be deemed to be in violation of this Order.

The Work Plan or the Revised Work Plan, whichever the Department approves (the "Approved Work Plan"), shall be attached as "Appendix B" and incorporated into this Order.

VI. In accordance with the time schedule contained in the Approved Work Plan, Respondent shall perform the Remedial Investigation and submit status reports and other deliverables (as defined in the Work Plan) and in the Remedial Investigation Report. During the Remedial Investigation, Respondent shall have on-site, full-time, a representative who is qualified to inspect the work. The Report shall include all data generated and all other relevant information obtained during the Remedial



Investigation, provide all of the assessments and evaluations set forth in CERCLA, the NCP then in effect, and in the guidance documents referred to above and identify any additional data that must be collected. The Report shall be prepared and certified by an engineer licensed to practice by the State of New York, approved by the Department. This engineer may be an employee of Respondent, or an individual or member of a firm which is authorized to offer engineering services in accordance with Article 145 of the New York State Education Law. The engineer shall certify that all activities that comprised the Remedial Investigation were performed in full accordance with the Approved Work Plan.

VII. After receipt of the Report, the Department shall determine if the Remedial Investigation was conducted and the Report prepared in accordance with the Approved Work Plan and this Order, and shall notify Respondent in writing, within 90 days of receipt of the Report, of its approval or disapproval of the Report.

If the Department disapproves the Report, the Department shall notify Respondent in writing of the Department's objections. Respondent shall revise the Report and/or reperform or supplement the Remedial Investigation in addressing the Department's objections and shall submit a revised Report. The period of time within which the Report must be revised or the Remedial Investigation reperformed or supplemented shall be

specified by the Department in its notice of disapproval. After receipt of the Revised Report, the Department shall notify the Respondent in writing, within 90 days of receipt of the Report, of its approval or disapproval of the Revised Report.

If the Department disapproves the revised Report, the Respondent shall be deemed to be in violation of this Order.

The Report approved by the Department (the "Approved Report") shall be attached as Appendix "C" and incorporated into this Order.

VIII. The Department reserves the right to require a modification and/or an amplification and expansion of the Remedial Investigation and Report by Respondent if the Department determines, as a result of reviewing data generated by the Remedial Investigation, or as a result of reviewing any other data or facts not available to the Department before the Report is submitted, that further work is necessary.

IX. Within 120 days after receipt of the Department's approval of the Report, Respondent shall submit a Feasibility Study evaluating on-Site and, if necessary, off-Site remedial actions to eliminate, to the maximum extent practicable, all health and environmental hazards and potential hazards attributable to the Site. The Feasibility Study shall be prepared and certified by an engineer licensed to practice by the State of New York, and approved by the Department. This engineer may be an employee of Respondent, or an individual or member of a

firm which is authorized to offer engineering services in accordance with Article 145 of the New York State Education Law.

The Feasibility Study shall be performed in a manner that is consistent with CERCLA, the NCP then in effect, the USEPA draft guidance document entitled "Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA," dated October 1988 and any subsequent revisions thereto and appropriate technical and administrative guidelines.

X. After receipt of the Feasibility Study, the Department shall determine if the Feasibility Study was prepared in accordance with this Order, and shall provide written notification, within 90 days of receipt of the Feasibility Study, of its approval or disapproval.

If the Department disapproves the Feasibility Study, the Department shall notify Respondent in writing of the Department's objections. Within 90 days after receipt of notice of disapproval, Respondent shall revise the Feasibility Study addressing each of the Department's objections and submit a Revised Feasibility Study.

After receipt of the Revised Feasibility Study, the Department shall notify Respondent in writing, within 90 days of receipt of the Revised Feasibility Study, of its approval or disapproval of the Revised Feasibility Study.

If the Department disapproves the Revised

Feasibility Study, the Respondent shall be deemed to be in violation of this Order.

The Feasibility Study or the Revised Feasibility Study, whichever the Department approves (the "Approved Feasibility Study"), shall be attached as "Appendix D" and incorporated into this Order.

XI. Within 90 days after the Department's approval of the Feasibility Study, the Department and Respondent shall solicit public comment on the Remedial Investigation/Feasibility Study and the Recommended Remedial Program in accordance with CERCLA, the NCP, and any other applicable law, any relevant Department policy, and guidance documents in effect at the time the public comment period is initiated. After the close of the public comment period, the Department shall select a final remedial program for the Site in a Record of Decision ("ROD"). The ROD shall be attached as "Appendix E" and incorporated into this Order.

XII. Unless the ROD recommends the "no action" alternative, Respondent shall submit a Remedial Design within 90 days after the ROD is signed. The Remedial Design shall be prepared and certified by an engineer licensed to practice by the State of New York and approved by the Department. This engineer may be an employee of Respondent, or an individual or member of a firm which is authorized to offer engineering services in accordance with Article 145 of the New York State Education Law.

The Remedial Design shall include the following:

a. A detailed description of the means by which each essential element of the Remedial Program will be performed, to the extent found to be necessary, to include but not be limited to:

1. the collection, destruction, treatment and/or disposal of hazardous wastes, and their constituents and degradation products, and any soil or other materials contaminated thereby;

2. the collection, destruction, treatment, and/or disposal of contaminated groundwater, leachate and air;

3. the physical security of and the posting of signs at the Site;

4. the health and safety of persons living and/or working at or in the vicinity of the site;

5. the Quality Control and Quality Assurance ("QAQC") procedures and protocols to be applied during implementation of the Remedial Program; and

6. the monitoring program which adequately assesses environmental conditions both on-Site and off-Site during the implementation of the Remedial Program.

b. "Biddable Quality" documents for the Remedial Program, including plans and specifications prepared and certified by an engineer licensed to practice by the State of New York and approved by the Department. The engineer may be an

employee of the Respondent, or an individual or member of a firm which is authorized to offer engineering services in accordance with Article 145 of the New York State Education Laws. These plans shall satisfy all applicable local, state and federal laws, rules and regulations;

c. A time schedule for the Remedial Program and provisions for periodic work-in-progress reports during the Remedial Program;

d. The parameters, conditions, procedures and protocols to determine the effectiveness of the Remedial Program, including a schedule for periodic sampling of groundwater monitoring wells on-Site and, if necessary, off-site;

e. An Operation, Maintenance and Monitoring ("O & M") Plan for the activities to be undertaken following completion of the Remedial Program, to the extent found to be necessary, including the number of years during which such activities will be performed.

f. A Contingency Plan to be implemented in the event that any element of the Remedial Program fails to operate in accordance with the Remedial Design or otherwise fails to protect human health or the environment; and

g. An evaluation of the need to take measures to provide for the protection of persons at and in the vicinity of the Site during construction and after completion of the Remedial Program and a plan for the implementation of such

measures, if necessary. The plan shall be prepared in accordance with 29 C.F.R. Section 1910 by a certified health and safety professional.

XIII. After receipt of the Remedial Design, the Department shall notify Respondent in writing, within 90 days of receipt of the Remedial Design, of its approval or disapproval of the Remedial Design.

If the Department disapproves the Remedial Design, the Department shall notify Respondent in writing, within a reasonable time, of the Department's objections. Within 60 days after receipt of notice of disapproval, Respondent shall revise the Remedial Design addressing each of the Department's objections and submit a Revised Remedial Design.

After receipt of the Revised Remedial Design, the Department shall notify Respondent in writing, within 90 days of receipt of the Revised Remedial Design, of its approval or disapproval of the Revised Remedial Design.

If the Department disapproves the Revised Remedial Design, Respondent shall be deemed to be in violation of this Order.

The Remedial Design or the Revised Remedial Design, whichever the Department approves (the "Approved Remedial Design"), shall be attached as Appendix F and incorporated into this Order.

XIV. Respondent shall implement the Remedial Program in accordance with the Approved Remedial Design. Respondent must obtain prior written approval from the Department prior to deviating from the Approved Remedial Design in any material way. During implementation of the Remedial Program, Respondent shall have on-Site, full time, a representative who is qualified to inspect the work.

Within 90 days after completion of the Remedial Program, Respondent shall submit as-built drawings, a Final Engineering Report, and a Final Operation, Maintenance and Monitoring Report. These reports shall reflect all changes made during construction and shall include a certification that the Remedial Program was completed in accordance with the Approved Remedial Design. The Reports shall be prepared by and the certification made by an engineer licensed to practice by the State of New York, and approved by the Department. This engineer may be an employee of the Respondent, or an individual or member of a firm which is authorized to offer engineering services in accordance with Article 145 of the New York State Education Law.

XV. Within 90 days of receipt of the as-built drawings, Final Engineering Report and certification, the Department shall notify Respondent in writing whether it is satisfied with the quality and completeness of the Remedial Program as being protective of human health and the environment.



If the Department concludes that any element of the Remedial Program fails to operate in accordance with the Remedial Design or otherwise fails to protect human health or the environment, the Department may take any action or pursue whatever rights it has pursuant to any provision of statutory or common law.

XVI. Prior to its acceptance and approval of the engineer's certification that construction was completed in accordance with the Approved Remedial Design, the Department may require the Respondent to modify the Remedial Design and Construction if the Department determines that such modification is necessary due to environmental conditions on-Site or off-Site which are related to the presence of hazardous wastes at the Site and which were unknown to the Department at the time of the effective date of this order.

XVII. Respondent shall operate, maintain and monitor all elements of the Remedial Program for the period of years set forth in the Approved Remedial Design, and, to the extent it is determined to be necessary, implement the Contingency Plan contained in the Approved Remedial Design in the event any element of the Remedial Program fails after completion or otherwise fails to protect human health or the environment, and implement the Health and Safety Plan contained in the Approved Remedial Design after completion.

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

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

XX. Respondent shall take all reasonable steps to obtain whatever permits, easements, rights-of-way, rights-of-entry, approvals or authorizations are necessary to perform Respondent's obligations under this Order. The Department will provide all reasonable assistance in this effort.

XXI. Respondent shall permit any duly designated employee, consultant, contractor or agent of the Department or any State agency to enter upon the Site or areas in the vicinity of the Site which may be under the control of Respondent for purposes of inspection, sampling and testing and to assure Respondent's compliance with this Order. During implementation of the Remedial Program, Respondent shall provide the Department with suitable office space at the Site, including access to a telephone, and shall permit the Department full access to all relevant records and job meetings.

XXII. A. Within 30 days after the Department's approval of the Remedial Investigation Report, or 30 days after receipt of an invoice from the Department, whichever is later,

Respondent shall pay to the Department a sum of money which shall be determined by the Department and which shall represent reimbursement for the expenses including, but not limited to, direct labor, overhead, analytical costs and contractor costs incurred by the State of New York for reviewing the Report and overseeing the Remedial Investigation. The sum due under this paragraph shall not exceed 4% of the cost of preparing the Remedial Design and the Remedial Investigation/Feasibility Study. Such payment shall be sent to:

David L. Markell, Esq.  
Director, Div. of Env. Enforcement  
Department of Environmental Conservation  
50 Wolf Road -- Room 609  
Albany, NY 12233-5500

B. Within 30 days of receipt of the Approved Remedial Design, or 30 days after receipt of an invoice from the Department, whichever is later, Respondent shall pay to the Department a sum of money to be determined by the Department, based upon an estimate of the costs of implementation of the construction and other elements of the Approved Remedial Design, which sum shall represent the total administrative expenses including but not limited to, direct labor, overhead, analytical costs and subcontractor costs estimated to be incurred by the Department for the Department's activities in association with the approval of the Feasibility Study and Remedial Design and the implementa-

tion of the Approved Remedial Design. These costs shall include, but are not limited to, all reasonable costs incurred for (1) reviewing proposals, reports, plans and specifications, procedures, protocols, and any document or information submitted in accordance with this Order; (2) technical observation by the Department of the implementation of the elements of the Approved Remedial Design, including but not limited to, observation of testing, construction, monitoring and maintenance activities associated therewith; (3) legal activities as necessary and (4) and other activities undertaken by the Department in relation to securing and overseeing implementation and monitoring of the elements of the Approved Remedial Design and carrying out the terms of this Order including but not limited to, transportation costs to and from the Site, room and board for Department representatives assigned to the Site, any payment made to county or state health departments for work performed by those agencies for the Department relative to this Order, staffing and contractual costs for topographic surveys and acquisitions and laboratory fees for analytical work ordered by the Department on any samples which the Department deems necessary. The sum due under this paragraph shall not exceed .4% of the cost of construction of the Approved Remedial Design. Such payment shall be sent to:

Director,

Division of Environmental Enforcement,

50 Wolf Road -- Room 609,  
Albany, NY 12233-5500.

XXIII. Respondent shall not suffer any penalty under this Order, or be subject to any proceeding or action, if it cannot comply with any requirements hereof because of an act of God, war or riot, or other condition as to which negligence or willful misconduct on the part of the Respondent was not a cause. Respondent shall immediately notify the Department in writing when it obtains knowledge of any such condition and request an appropriate extension or modification of this Order.

XXIV. The failure of the Respondent, other than a de minimis failure, to comply with any term of this Order shall be a violation of this Order and the ECL.

XXV. If the Department acknowledges that the implementation is complete and in accordance with the Approved Remedial Design, then, except for any post closure requirements and the requirements of paragraph XXVI, such acknowledgment shall constitute a full and complete satisfaction and release of each and every claim, demand, remedy or action whatever against Respondent, its officers and directors, which the Department has or may have pursuant to Article 27, Title 13 of the ECL, relative to or arising from the disposal of hazardous wastes at the Site.

This release shall inure only to the benefit of

Respondent, its officers, directors and employees, successors and assigns with respect to the aforesaid matter.

XXVI. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting:

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

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

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

d. the Department's right to bring any action or proceeding against Respondent, its directors, officers, employees, servants, agents, successors and assigns arising out of Respondent's disposal of hazardous waste at the site that

were unknown to the Department prior to the effective date of this Order.

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

XXVIII. Respondent shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless for all claims, suits, actions, damages and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Order by Respondent, its directors, officers, employees, servants, agents, successors or assigns.

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

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

(1) Louis A. Evans, Esq.

Division of Environmental Enforcement  
NYS Dept. of Environmental Conservation  
202 Mamaroneck Avenue -- Room 304  
White Plains, NY 10601-5381

(2) and to the Project Manager as designated by the Department.

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

XXXII. All written communications required by this Order shall be transmitted by United States Postal Service, by private courier service, or hand delivered as follows:

1. One Copy to:

David L. Markell, Director  
Division of Environmental Enforcement  
New York State Department of  
Environmental Conservation  
50 Wolf Road - Room 609  
Albany, New York 12233-5500

2. Six Copies to:

Michael J. O'Toole, Jr., P.C.  
Director, Division of Hazardous Waste  
Remediation  
New York State Department of  
Environmental Conservation  
50 Wolf Road - Room 212  
Albany, New York 12233-7010

3. Two copies to:

Ronald Tramontano, P.E., Director  
Bureau of Environmental  
Exposure Investigation  
New York State Department of Health  
2 University Place  
Albany, New York 12203



4. One copy to:

Louis A. Evans, Esq.  
Division of Environmental Enforcement  
New York State Department of  
Environmental Conservation  
202 Mamaroneck Avenue - Room 304  
White Plains, NY 10601-5381

5. One copy to:

Harold Berger, Director, Region 1  
New York State Department  
of Environmental Conservation  
Building #40  
SUNY  
Stony Brook, NY 11794

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

Charles S. Warren, Esq.  
Berle, Kass & Case  
45 Rockefeller Plaza  
New York, NY 10111

David Machlowitz, Esq.  
Assistant General Counsel  
General Instrument Corporation  
767 Fifth Avenue  
New York, NY 10153

XXXIV. Respondent, its officers, directors, agents,  
servants, employees, successors and assigns shall be bound by  
this Order. Nothing herein shall be construed to bind any  
other entity.

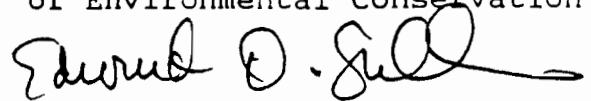
XXXV. The terms hereof shall constitute the complete  
and entire Order between Respondent and the Department concerning  
the Site. No terms, conditions, understandings or agreements  
purporting to modify or vary the terms hereof shall be binding  
unless made in writing and subscribed by the party to be bound.  
No informal advice, guidance, suggestions or comments by the

Department regarding reports, proposals, plans, specifications, schedules or any other submittals shall be construed as relieving Respondent of its obligations to obtain such formal approvals as may be required by this Order.

DATED: <sup>1990</sup> January 16, ~~1989~~  
New York, New York  
Albany

THOMAS C. JORLING  
Commissioner  
New York State Department of  
Environmental Conservation

By: EDWARD O. SULLIVAN  
Deputy Commissioner  
New York State Department  
of Environmental Conservation

  
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To: Charles S. Warren, Esq.  
Berle, Kass & Case  
45 Rockefeller Plaza  
New York NY 10111

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