

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

-----  
In the Matter of the Implementation of an Inactive Hazardous Waste Disposal Site  
Remediation Program Under Article 27, Title 13 and Article 71, Title 27 of the Environmental  
Conservation Law of the State of New York by Glaro, Inc., Respondent, for Registry Site  
Code #1-52-124

ORDER ON CONSENT INDEX NO. W1-0722-97-07

-----  
WHEREAS,

1. This Order is issued pursuant to the Department's authority under, *inter alia*, ECL Article 27, Title 13 and ECL 3-0301.

2. Glaro, Inc. ("Respondent") is a New York organized corporation owning property located at 735 Old Willets Path, Hauppauge, New York (the "Site"). The Site is a Class "2" inactive hazardous waste disposal site listed in the New York State Registry of Inactive Hazardous Waste Disposal Sites as site number 1-52-124.

3. Following a period of public comment, the Department selected a remedial program for the Site in a Record of Decision ("ROD"). The ROD, attached to this Order as Appendix "A," is incorporated as an enforceable part of this Order. The Department and Respondent agree that the goal of this Order are for Respondent to implement the remedial program identified in the ROD (the Site's "Remedial Program").

4. Respondent, having waived Respondent's 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. Respondent consents to and agrees not to contest the authority or jurisdiction of the Department to issue or enforce this Order, and agrees not to contest the validity of this Order or its terms.

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

I. Remedial Construction:

A. Respondent shall submit the required Remedial Design and shall implement the Remedial Construction in accordance with the schedule in the Department-approved Remedial Design Work Plan attached to this Order as Appendix "B." During implementation of all construction activities identified in the Remedial Design, Respondent shall have on-Site a full-time representative qualified to supervise the work done. Respondent shall submit progress reports and a draft operations and maintenance plan ("O&M" Plan) containing the matters identified in Appendix "B" in accordance with the schedule contained in such Appendix.

B. Within 30 calendar days after completion of the construction activities identified in Appendix "B", Respondent shall submit to the Department a Remedial Design

Implementation Completion Report that shall contain those matters that are identified in Appendix "B" that pertain to the Remedial Design Implementation Completion Report and that shall be prepared, signed, and sealed by a professional engineer. After approval of the Remedial Design Implementation Completion Report, the Department shall notify Respondent in writing whether the Department is satisfied that all construction activities have been completed in compliance with the Department-approved Remedial Design. If the Department concludes that any element of the Department-approved Remedial Program fails to achieve its objectives or otherwise fails to protect human health or the environment, Respondent shall take whatever action the Department determines necessary to achieve those objectives or to ensure that the Remedial Program otherwise protects human health and the environment. Within 30 days of the Department's approval of the Remedial Design Implementation Completion Report, Respondent shall record an instrument with the Suffolk County Clerk, to run with the land, that shall prohibit the use of the groundwater underlying the Site without treatment rendering it safe for drinking water or industrial purposes, as appropriate, unless the user first obtains permission to do so from the Department, or if at such time the Department shall no longer exist, any New York State department, bureau, or other entity replacing the Department. Respondent shall provide the Department with a copy of such instrument certified by the Suffolk County Clerk to be a true and faithful copy of the instrument as recorded in the Office of the Suffolk County Clerk.

C. Upon the Department's approval of the O&M Plan, Respondent shall implement the O&M Plan in accordance with the requirements of the Department-approved O&M Plan.

D. Respondent also shall allow the Department to attend, and shall provide the Department at least seven calendar days advance notice of, any of the following: prebid meetings, job progress meetings, substantial completion meeting and inspection, and final inspection and meeting.

E. The Department shall review each of the submittals Respondent makes pursuant to this Order to determine whether it was prepared, and whether the work done to generate the data and other information in the submittal was done, in accordance with this Order and generally accepted technical and scientific principles. The Department shall notify Respondent in writing of its approval or disapproval of the submittal. All Department-approved submittals shall be incorporated into and become an enforceable part of this Order. If the Department disapproves a submittal, it shall so notify Respondent in writing and shall specify the reasons for its disapproval. Within 30 calendar days after receiving written notice that Respondent's submittal has been disapproved, Respondent shall make a revised submittal to the Department that addresses and resolves all of the Department's stated reasons for disapproving the first submittal. After receipt of the revised submittal, the Department shall notify Respondent in writing of its approval or disapproval. If the Department disapproves the revised submittal, Respondent shall be in violation of this Order and the Department may take any action or pursue whatever rights it has pursuant to any provision of statutory or common law. If the Department approves the revised submittal, it shall be incorporated into and become an

enforceable part of this Order. Respondent shall modify and/or amplify and expand a submittal upon the Department's direction to do so if the Department determines, as a result of reviewing data generated by an activity required under this Order or as a result of reviewing any other data or facts, that further work is necessary.

II. Penalties: Respondent's failure to comply with any term of this Order constitutes a violation of this Order and the ECL.

III. Entry upon Site: Respondent hereby consents to the entry upon the Site or areas in the vicinity of the Site which may be under the control of Respondent by any duly designated employee, consultant, contractor, or agent of the Department or any State agency for purposes of inspection, sampling, and testing and to ensure Respondent's compliance with this Order. During Remedial Construction, Respondent shall provide the Department with suitable office space at the Site, including access to a telephone, and shall permit the Department full access to all records relating to matters addressed by this Order and job meetings.

IV. Payment of State Costs: The Department hereby reserves its right to recover the State's expenses for work related to the Site to the effective date of this Order, as well as for reviewing and revising submittals made pursuant to this Order, overseeing activities conducted pursuant to this Order, collecting and analyzing samples, and administrative costs associated with this Order.

V. Miscellaneous:

A. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating, or in any way affecting any of the Department's civil, criminal, or administrative rights or authorities. Nothing contained in this Order shall be construed to prohibit the Commissioner or his duly authorized representative from exercising any summary abatement powers.

B. 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 and/or any of Respondent's directors, officers, employees, servants, agents, successors, and assigns.

C. Within 30 calendar days after the effective date of this Order, Respondent shall file a Declaration of Covenants and Restrictions with the Suffolk County Clerk to give all parties who may acquire any interest in the Site notice of this Order. Additionally, if Respondent proposes to convey the whole or any part of Respondent's ownership interest in the Site, Respondent shall, not fewer than 60 calendar days before the date of conveyance, notify the Department in writing of the identity of the transferee and of the nature and proposed date of the conveyance and shall notify the transferee in writing, with a copy to the

Department, of the applicability of this Order.

D. All written communications required by this Order (including submissions of plans and reports) shall be transmitted by United States Postal Service, by private courier service, or hand delivered as follows in the following numbers: (1) Communication from Respondent shall be sent to: Rosalie K. Rusinko, Esq.; New York State Department of Environmental Conservation; 200 White Plains Road, 5th Floor; Tarrytown, New York 10591-5805 (one copy), with copies to: Director, Bureau of Environmental Exposure Investigation; New York State Department of Health; 2 University Place; Albany, New York 12203 (two copies), to Jeffrey E. Trad, P.E.; Division of Environmental Remediation; New York State Department of Environmental Conservation; 50 Wolf Road; Albany, New York 12233-7010 (three copies, one unbound), and to Robert Knizek, P.E.; Division of Environmental Remediation; New York State Department of Environmental Conservation; 50 Wolf Road; Albany, New York 12233-7010 (one copy). (2) Communication to be made from the Department to Respondent shall be sent to: Mr. Michael B. Glass, Chief Executive Officer; Glaro, Inc.; 735 Old Willets Path; Hauppauge, New York 11788. Within 30 calendar days of the Department's approval of any report submitted pursuant to this Order, Respondent shall submit to Director, Division of Environmental Remediation, a computer readable magnetic media copy of the approved report in American Standard Code for Information Interchange (ASCII) format. Within 30 calendar days after its approval of the Remedial Design Construction Report, Respondent shall submit one microfilm copy (16 millimeter roll film M type cartridge) of such Department-approved drawings and submittals, as well as all other Department-approved submittals. Respondent shall submit same to Director, Division of Environmental Remediation; New York State Department of Environmental Conservation; 50 Wolf Road; Albany, New York 12233-7010. The Department and Respondent reserve the right to designate additional or different addressees for communication or written notice to the other.

E. Respondent shall retain professional consultants, contractors, laboratories, quality assurance/quality control personnel, and third party data validators acceptable to the Department to perform the technical, engineering, and analytical obligations required by this Order. The experience, capabilities, and qualifications of the firms or individuals selected by Respondent shall be submitted to the Department within 30 calendar days after the effective date of this Order. The Department's approval of these firms or individuals shall be obtained before the start of any activities for which Respondent and such firms or individuals will be responsible. The responsibility for the performance of the professionals retained by Respondent shall rest solely with Respondent.

F. 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 also shall have the right to take its own samples. Respondent shall make available to the Department the results of all sampling and/or tests or other data generated by Respondent with respect to implementation of this Order and shall submit these results in the progress reports required by

this Order.

G. Respondent shall notify the Department at least 10 calendar days in advance of any field activities to be conducted pursuant to this Order; and shall obtain all permits, easements, rights-of-way, rights-of-entry, approvals, or authorizations necessary to perform Respondent's obligations under this Order. Respondent and Respondent's officers, directors, agents, servants, employees, successors, and assigns shall be bound by this Order. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall in no way alter Respondent's responsibilities under this Order. Respondent's officers, directors, employees, servants, and agents shall be obliged to comply with the relevant provisions of this Order in the performance of their designated duties on behalf of Respondent. Respondent shall be responsible for ensuring that Respondent's contractors and subcontractors perform the work in satisfaction of the requirements of this Order.

H. All references to "professional engineer" in this Order are to an individual registered as a professional engineer in accordance with Article 145 of the New York State Education Law. If such individual is a member of a firm, that firm must be authorized to offer professional engineering services in the State of New York in accordance with Article 145 of the New York State Education Law.

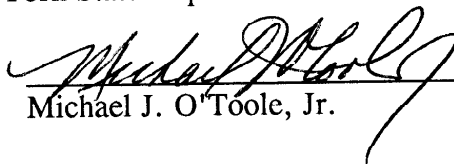
I. No term, condition, understanding, or agreement purporting to modify or vary any term of this Order shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestion, or comment by the Department regarding any report, proposal, plan, specification, schedule, or any other submittal shall be construed as relieving Respondent of Respondent's obligation to obtain such formal approvals as may be required by this Order. If Respondent desires that any provision of this Order be changed, Respondent shall make timely written application, signed by Respondent, to the Commissioner setting forth reasonable grounds for the relief sought. Copies of such written application shall be delivered or mailed to Ms. Rusinko and to Mr. Trad.

J. The effective date of this Order is the date the Commissioner or his designee signs it.

DATED: 2/6/98

JOHN P. CAHILL  
Commissioner  
New York State Department of Environmental Conservation

By:

  
Michael J. O'Toole, Jr.

7

CONSENT BY RESPONDENT

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

Glaro, Inc.  
By: Michael B Glass  
Michael B. Glass, Chief Executive Officer  
Date: 25 Nov 97

STATE OF NEW YORK    )  
  ) s.s.:  
COUNTY OF Suffolk    )

On this 25<sup>th</sup> day of November, 1997, before me personally came Michael B. Glass, to me known, who being duly sworn, did depose and say that he is the Chief Executive Officer of Glaro, Inc., the corporation described in and which executed the foregoing instrument; that he knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by the order of the Board of Directors of said corporation and that he signed his name thereto by like order.

[Signature]  
Notary Public

**DANIEL J. ROBERTS**  
**Notary Public, State of New York**  
**No. 30-4701031**  
**Qualified in Nassau County**  
**Commission Expires February 23, 1998**