

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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In the Matter of the  
Development and Implementation  
of a Remedial Investigation/Feasibility  
Study for an Inactive Hazardous Waste  
Disposal Site, Under Article 27, Title 13,  
and Article 71, Title 27 of the  
Environmental Conservation Law  
of the State of New York by  
by

George Saines, Inc.,  
Respondent.

ORDER  
ON  
CONSENT  
INDEX # W3-0142-99-05

Site Code # 3-36-034

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WHEREAS,

1. The New York State Department of Environmental Conservation (the "Department") is responsible for enforcement of Article 27, Title 13 of the Environmental Conservation Law of the State of New York ("ECL"), entitled "Inactive Hazardous Waste Disposal Sites." This Order is issued pursuant to the Department's authority under, inter alia, ECL Article 27, Title 13 and ECL 3-0301.
2. George Saines, Inc. ("Respondent"), a corporation organized and existing under the laws of the State of New York, owns property located at 17 Industrial Place, Town of Middletown, County of Orange, State of New York, (the "Site"). The Site was operated from 1962 to 1987 by Lubricant Packaging & Supply Co., Inc., a corporation which was organized under the laws of the State of New York and which was dissolved by proclamation on September 27, 1995. A map of the Site is attached as Appendix "A."
3. The Site is an inactive hazardous waste disposal site, as that term is defined at ECL 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 3-36-034. The Department has classified the Site as a Classification "2" pursuant to ECL 27-1305.4.b.
4. A. Pursuant to ECL 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."
  - B. Any person under order pursuant to ECL 27-1313.3.a has a duty imposed by ECL Article 27, Title 13 to carry out the remedial program committed to under order.

ECL 71-2705 provides that any person who fails to perform any duty imposed by ECL Article 27, Title 13 shall be liable for civil, administrative and/or criminal sanctions.

C. The Department also has the power, inter alia, to provide for the prevention and abatement of all water, land, and air pollution. ECL 3-0301.1.i.

5. The Department and Respondent agree that the goals of this Order are for Respondent to (i) develop and implement a Remedial Investigation/Feasibility Study ("RI/FS") for the Site; and (ii) reimburse the State's administrative costs.

6. Respondent having made no admissions, but 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. 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.

7. Nothing contained in this Order shall be construed as, and neither Respondent's consent to the issuance of this Order nor Respondent's compliance with this Order shall be construed as an admission by Respondent. Respondent does not admit any of the facts or conclusions of law contained in this Order. Respondent does not admit any liability or violation of law to the Department or to any other governmental entity or third parties regarding any matter addressed in this Order except that Respondent agrees, in regard to the State, not to challenge data generated during the course of the investigation.

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

I. RI/FS Work Plan Contents and Submittals

A. Within 90 days after the effective date of this Order, Respondent shall submit to the Department, based upon the Scope of Work attached as Appendix "B," a detailed work plan describing the methods and procedures to be implemented in performing an RI/FS for the Site ("RI/FS Work Plan").

B. (1) The RI/FS Work Plan shall include, but not be limited to, the following:

a. A chronological description of the anticipated RI/FS activities together with a schedule for the performance of these activities.

b. A Sampling and Analysis Plan that shall include:

(i) A quality assurance project plan that describes the quality assurance and quality control protocols necessary to achieve the initial data quality objectives. This plan shall designate a data validation expert and must describe such

individual's qualifications and experience.

(ii) A field sampling plan that defines sampling and data gathering methods in a manner consistent with the "Field Methods Compendium," OSWER Directive 9285.2-11 (draft June 1993), as supplemented by the Department.

c. A health and safety plan to protect persons at and in the vicinity of the Site during the performance of the RI/FS which shall be prepared in accordance with 29 CFR 1910 and all other applicable standards by a certified health and safety professional. Respondent shall add supplemental items to this plan necessary to ensure the health and safety of all persons at or in the vicinity of the Site during the performance of any work pursuant to this Order.

d. A citizen participation plan that is, at a minimum, consistent with the Department's publication, "Citizen Participation In New York's Hazardous Waste Site Remediation Program: A Guidebook," dated June 1998, and any subsequent revisions thereto, and 6 NYCRR Part 375.

(2) The RI/FS Work Plan shall incorporate all elements of a RI/FS as set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") [42 USC 9601 *et seq.*], as amended, the National Contingency Plan ("NCP") of March 8, 1990 [40 CFR Part 300], the USEPA guidance document entitled "Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA," dated October 1988, and any subsequent revisions to that guidance document in effect at the time the RI/FS Work Plan is submitted, and appropriate USEPA and Department technical and administrative guidance documents.

## II. Performance and Reporting of Remedial Investigation

A. Respondent shall commence the Remedial Investigation in accordance with the schedule contained in the Department-approved RI/FS Work Plan.

B. Respondent shall perform the Remedial Investigation in accordance with the Department-approved RI/FS Work Plan.

C. During the performance of the Remedial Investigation, Respondent shall have on-Site a full-time representative who is qualified to supervise the work done.

D. Within the time frame set forth in the Department-approved RI/FS Work Plan, Respondent shall prepare a Remedial Investigation Report that shall:

(1) include all data generated and all other information obtained during the Remedial Investigation:

(2) provide all of the assessments and evaluations set forth in CERCLA,

the NCP, and the guidance documents identified in Subparagraph I.B.2;

(3) identify any additional data that must be collected; and

(4) include a certification by the individual or firm with primary responsibility for the day to day performance of the Remedial Investigation that all activities that comprised the Remedial Investigation were performed in full accordance with the Department-approved RI/FS Work Plan.

### III. Feasibility Study

A. In accordance with the schedule contained in the Department-approved RI/FS Work Plan, Respondent shall submit a complete Feasibility Study evaluating on-Site and off-Site remedial actions to eliminate, to the maximum extent practicable, all health and environmental hazards and potential hazards at the Site. The Feasibility Study shall be prepared by and have the signature and seal of a professional engineer who shall certify that the Feasibility Study was prepared in accordance with this Order.

B. Respondent shall perform and prepare the Feasibility Study in accordance with the Department-approved RI/FS Work Plan and in a manner consistent with CERCLA, the NCP, and the guidance documents identified in Subparagraph I.B.2.

C. After the Department's approval of the Feasibility Study, Respondent shall cooperate and assist the Department in soliciting public comment on the RI/FS and on the proposed remedial action plan, in accordance with CERCLA, the NCP, the guidance documents identified in Subparagraph I.B.2, and with any 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 alternative for the site in a Record of Decision ("ROD").

### IV. Interim Remedial Measures

A. 1. Respondent may propose one or more IRMs for the Site.

2. In proposing each IRM, Respondent shall submit to the Department a work plan that includes a chronological description of the anticipated IRM activities together with a schedule for performance of those activities (an "IRM Work Plan" for that Site).

3. Upon the Department's determination that the proposal is an appropriate IRM and upon the Department's approval of such work plan, the IRM Work Plan shall be incorporated into and become an enforceable part of this Order; and Respondent shall submit to the Department for its review and (as appropriate) approval, in accordance with the schedule contained in the Department-approved IRM Work Plan, detailed documents and specifications prepared, signed, and sealed by a professional

engineer to implement the Department-approved IRM. Such documents shall include a health and safety plan, contingency plan, and (if the Department requires such) a citizen participation plan that incorporates appropriate activities outlined in the Department's publication, "Citizen Participation In New York's Hazardous Waste Site Remediation Program: A Guidebook," dated June 1998, and any subsequent revisions thereto, and 6 NYCRR Part 375. Respondent shall then carry out such IRM in accordance with the requirements of the approved IRM Work Plan, detailed documents and specifications, and this Order. Respondent shall notify the Department of any significant difficulties that may be encountered in implementing the Department-approved work plan, detailed documents, or specifications and shall not modify any obligation unless first approved by the Department.

4. During implementation of all construction activities identified in the Department-approved IRM Work Plan, Respondent shall have on-Site a full-time representative who is qualified to supervise the work done.

5. Within the schedule contained in the Department-approved IRM Work Plan, Respondent shall submit to the Department a final engineering report prepared by a professional engineer that includes a certification by that individual that all activities that comprised the Department-approved IRM were completed in accordance with the Department-approved IRM Work Plan and this Order.

a. If the performance of the Department-approved IRM encompassed construction activities, the final engineering report also shall include a detailed post-remedial operation and maintenance plan ("IRM O&M Plan"); "as-built" drawings and a final engineering report (each including all changes made to the Remedial Design during construction); and a certification by a professional engineer that the IRM was implemented and all construction activities were completed in accordance with the Department-approved detailed documents and specifications for the IRM and all such activities were personally witnessed by him or her or by a person under his or her direct supervision. The IRM O&M Plan, "as built" drawings, final engineering report, and certification must be prepared, signed, and sealed by a professional engineer.

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

6. After receipt of the final engineering report and certification, the Department shall notify Respondent in writing whether the Department is satisfied that the IRM was completed in compliance with the Department-approved IRM Work Plan and design.

#### V. Progress Reports

Respondent shall submit to the parties identified in Subparagraph XIII.B in the

numbers specified therein copies of written monthly progress reports that:

- A. describe the actions which have been taken toward achieving compliance with this Order during the previous month;
- B. include all results of sampling and tests and all other data received or generated by Respondent or Respondent's contractors or agents in the previous month, including quality assurance/quality control information, whether conducted pursuant to this Order or conducted independently by Respondent;
- C. identify all work plans, reports, and other deliverables required by this Order that were completed and submitted during the previous month;
- D. describe all actions, including, but not limited to, data collection and implementation of work plans, that are scheduled for the next month and provide other information relating to the progress at the Site;
- E. include information regarding percentage of completion, unresolved delays encountered or anticipated that may affect the future schedule for implementation of Respondent's obligations under the Order, and efforts made to mitigate those delays or anticipated delays;
- F. include any modifications to any work plans that Respondent has proposed to the Department or that the Department has approved; and
- G. describe all activities undertaken in support of the Citizen Participation Plan during the previous month and those to be undertaken in the next month. Respondent shall submit these progress reports to the Department by the tenth day of every month following the effective date of this Order.

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

VI. Review of Submittals

- A. 1. 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.

2. a. If the Department disapproves a submittal, it shall so notify Respondent in writing and shall specify the reasons for its disapproval. Within 45 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.

b. 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, unless Respondent requests an opportunity to respond to the Department's objections pursuant to the dispute resolution procedure, Paragraph VI.C, 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.

B. Subject to the dispute resolution procedure in Paragraph VI.C, 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.

C. If the Department disapproves a revised submittal, Respondent shall be in violation of this Order unless, within 10 days of receipt of the Department's notice of disapproval, Respondent serves the Department a request for an appointment of an Administrative Law Judge ("ALJ"), and a written statement of the issues in dispute, the relevant facts upon which the dispute is based, and factual data, analysis or opinion supporting its position, and all supporting documentation on which Respondent relies (hereinafter called the "Statement of Position"). The Department shall serve its Statement of Position, including supporting documentation no later than ten (10) business days after receipt of Respondent's Statement of Position. Respondent shall have ten (10) business days after receipt of the Department's Statement of Position within which to serve upon the Department a reply to the Department's Statement of Position, and in the event Respondent serves such a reply, the Department shall have ten (10) business days after receipt of Respondent reply to the Department's Statement of Position within which to serve upon Respondent the Department's reply to Respondent's reply to the Department's Statement of Position. In the event that the periods for exchange of Statements of Position and replies may cause delay in the work being performed under this Order, the time periods may be shortened upon and in accordance with notice by the Department as agreed to by Respondent.

An administrative record of any dispute under this Subparagraph shall be maintained by the Department. The record shall include the Statement of Position of each party served pursuant to the preceding Subparagraph, and any relevant information. The record shall be available for review by all parties and, consistent with the Freedom of Information Law (New York Public Officers Law Article 6), the public.

Upon review of the administrative record as developed pursuant to this Subparagraph, the ALJ shall issue a final decision and order resolving the dispute. Respondent shall revise the submittal in accordance with the Department's specific comments, as may be modified by the ALJ and except for those which have been withdrawn by the ALJ, and shall submit a revised submittal. The period of time in which the submittal must be revised as specified by the Department in its notice of disapproval shall control unless the ALJ revises the time frame in the ALJ's final decision and order resolving the dispute.

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

If the revised submittal fails to address the Department's specific comments, as modified, and the Department disapproves the revised submittal for this reason, Respondent shall be in violation of this Order and the ECL.

In review by the ALJ of any dispute pursued under this Subparagraph, Respondent shall have the burden of proving that the Department's position should not prevail.

With respect to the final decision of the ALJ, Respondent shall have those rights granted pursuant to Article 78 of the Civil Practice Law and Rules of New York (CPLR), provided that the petition is filed within thirty (30) days of Respondent's receipt of the final decision and order being issued by the ALJ.

The invocation of the procedures stated in this Paragraph shall not extend, postpone, or modify Respondent's obligation under this Order with respect to any disputed items, unless and until the Department agrees or a court determines otherwise.

## VII. Penalties

A. 1. Respondent's failure to comply with any term of this Order constitutes a violation of this Order and the ECL.

2. Respondent shall be liable for payment to the Department of the sums set forth below as stipulated penalties for each day or part thereof that Respondent is in violation of the terms of this Order. All penalties begin to accrue on the first day Respondent is in violation of the terms of this Order and continue to accrue through the final day of correction of any violation. Such sums shall be due and payable within 15 days after receipt of notification from the Department assessing the penalties. If such payment is not received within 15 days after Respondent receives such notification from the Department, interest shall be payable at the annual rate of nine per centum on the overdue amount from the day on which it was due through, and including, date of payment. Penalties shall be paid by certified check or money order, made payable to "New York State Department of Environmental Conservation" and shall be delivered personally or by certified mail, return receipt requested, to the Director, Division of Environmental



Enforcement, N.Y.S.D.E.C., 50 Wolf Road, Albany, New York 12233-5500. Payment of the penalties shall not in any way alter Respondent's obligation to complete performance under the terms of this Order. Stipulated penalties shall be due and payable under Subparagraph VII.A.2 pursuant to the following schedule:

For any violation of the reporting requirement contained in Paragraph III of this Order:

<u>Period of Non-Compliance</u>	<u>Penalty Per Day</u>
First through 15th day	\$ 25
16th through 30th day	\$ 50
31st day and thereafter	\$ 100

For any other violation of the terms of this Order:

<u>Period of Non-Compliance</u>	<u>Penalty Per Day</u>
First through 15th day	\$ 250
16th through 30th day	\$ 500
31st day and thereafter	\$ 750

B. Respondent shall not suffer any penalty under this Order or be subject to any proceeding or action if it cannot comply with any requirement hereof because of war, riot, or an unforeseeable disaster arising exclusively from natural causes which the exercise of ordinary human prudence could not have prevented. Respondent shall, within five days of when it obtains knowledge of any such condition, notify the Department in writing. Respondent shall include in such notice the measures taken and to be taken by Respondent to prevent or minimize any delays and shall request an appropriate extension or modification of this Order. Failure to give such notice within such five-day period constitutes a waiver of any claim that a delay is not subject to penalties. Respondent shall have the burden of proving that an event is a defense to compliance with this Order pursuant to Subparagraph VII.B.

#### VIII. 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.

#### IX. Payment of State Costs

Within 30 days after receipt of an itemized invoice from the Department, Respondent shall pay to the Department a sum of money which shall represent reimbursement for the State's expenses including, but not limited to, direct labor, fringe benefits, indirect costs, travel, analytical costs, and contractor costs incurred by the State of

New York 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. Respondent's obligation to reimburse the State for expenses incurred in any one year under this Paragraph commencing from the effective date of this Order shall not exceed \$18,000.00 per year. However, the Department may aggregate its billing for more than one year. Such payment shall be made by certified check payable to the Department of Environmental Conservation and shall be sent to:

Bureau of Program Management  
Division of Environmental Remediation  
New York State Department of Environmental Conservation  
50 Wolf Road  
Albany, NY 12233-7010.

Personal service costs shall be documented by reports of Direct Personal Service, which shall identify the employee name, title, biweekly salary, and time spent (in hours) on the project during the billing period, as identified by an assigned time and activity code. Approved agency fringe benefit and indirect cost rates shall be applied. Non-personal service costs shall be summarized by category of expense (e.g., supplies, materials, travel, contractual) and shall be documented by expenditure reports.

X. Department Reservation of Rights

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 (including, but not limited to, nor exemplified by, the right to recover natural resource damages) or authorities.

B. Nothing contained in this Order shall be construed to prohibit the Commissioner or his duly authorized representative from exercising any summary abatement powers.

XI. Indemnification

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.

XII. Public Notice

A. Within 30 days after the effective date of this Order, Respondent shall file a Declaration of Covenants and Restrictions with the Clerk of the County wherein the Site is

located to give all parties who may acquire any interest in the Site notice of this Order.

B. If Respondent proposes to convey the whole or any part of Respondent's ownership interest in the Site, Respondent shall, not fewer than 60 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.

XIII. Communications

A. 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. Communication from Respondent shall be sent to:

Alicia Thorne  
New York State Department of Environmental Conservation  
Division of Environmental Remediation, Region 3  
21 South Putt Corners Road  
New Paltz, NY 12561-1696

with copies to:

G. Anders Carlson, Ph.D.  
Director, Bureau of Environmental  
Exposure Investigation  
New York State Department of Health  
Flanigan Square  
547 River Street  
Troy, New York 12180

Rosalie K. Rusinko, Esq.  
New York State Department of  
Environmental Conservation  
Division of Environmental Enforcement  
200 White Plains Road - 5th Floor  
Tarrytown, New York 10591

2. Communication to be made from the Department to Respondent shall be sent to:

Douglas H. Zamelis, Esq.  
Hancock & Estabrook, LLP  
1500 Mony Tower I  
Box 4976  
Syracuse, New York 13221

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

Four copies (one unbound) to Alicia Thorne.

Two copies to G. Anders Carlson, Ph.D.

One copy to Rosalie K. Rusinko, Esq.

C. 1. Within 30 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.

2. Within 30 days after the Department's approval of the RI/FS, Respondent shall submit one microfilm copy of the RI/FS to Director, Division of Environmental Remediation.

D. The Department and Respondent reserve the right to designate additional or different addressees for communication or written notice to the other.

#### XIV. Miscellaneous

A. All activities and submittals required by this Order shall address both on-Site and off-Site contamination resulting from the disposal of hazardous wastes at the Site.

B. 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 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.

C. 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.

D. Respondent shall notify the Department at least 10 working days in advance of any field activities to be conducted pursuant to this Order.

with copy to:

Steven J. Saines  
257 Midland Place  
Logan, OH 4318-1234

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

Four copies (one unbound) to Alicia Thorne.

Two copies to G. Anders Carlson, Ph.D.

One copy to Rosalie K. Rusinko, Esq.

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C. 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.

D. Respondent shall notify the Department at least 10 working days in advance of any field activities to be conducted pursuant to this Order.

E. Respondent shall obtain all permits, easements, rights-of-way, rights-of-entry, approvals, or authorizations necessary to perform Respondent's obligations under this Order.

F. Respondent and Respondent's successors, and assigns shall be bound by this Order. Respondent through its officers, directors, agents, servants, employees, successors, and assigns shall be responsible for implementing the terms of 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.

G. Respondent shall provide a copy of this Order to each contractor hired to perform work required by this Order and to each person representing Respondent with respect to the Site and shall condition all contracts entered into in order to carry out the obligations identified in this Order upon performance in conformity with the terms of this Order. Respondent or Respondent's contractors shall provide written notice of this Order to all subcontractors hired to perform any portion of the work required by this Order. Respondent shall nonetheless 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. All references to "days" in this Order are to calendar days unless otherwise specified.

J. The paragraph headings set forth in this Order are included for convenience of reference only and shall be disregarded in the construction and interpretation of any of the provisions of this Order.

K. 1. 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.

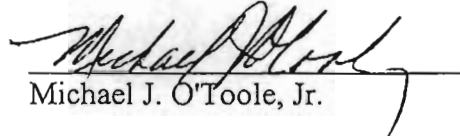
2. If Respondent desires that any provision of this Order be changed, Respondent shall make timely written application, signed by Respondent, to the Commissioner setting forth reasonable grounds for the relief sought. Copies of such written application shall be delivered or mailed to Rosalie K. Rusinko, Esq. and to Alicia Thorne.

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

DATED: 3/31/2009

JOHN P. CAHILL, COMMISSIONER  
New York State Department  
of Environmental Conservation

By:

  
Michael J. O'Toole, Jr.

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.

George Saines, Inc.

By: *George Saines*  
George Saines

Title: President

Date: March 9, 2000

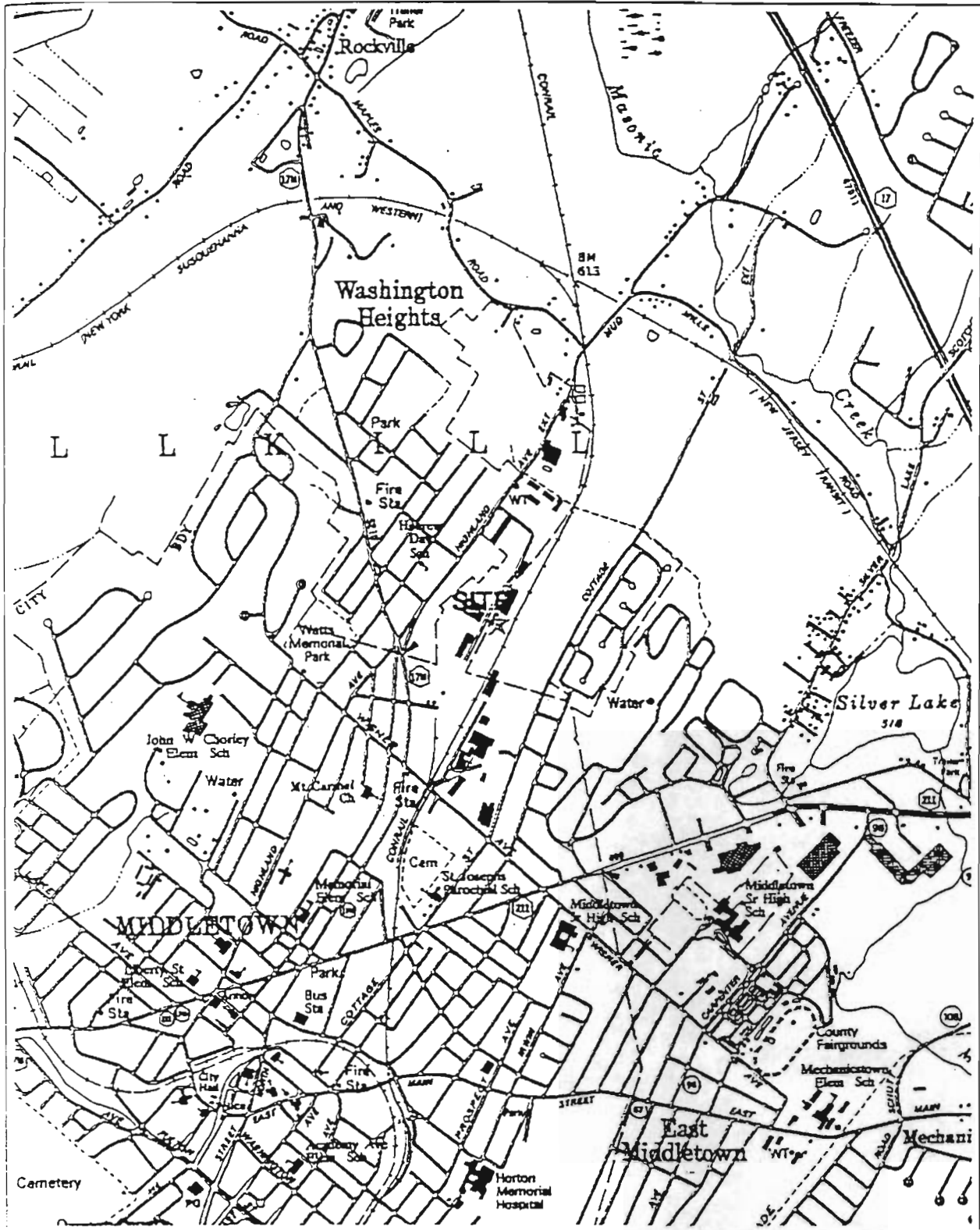
STATE OF NEW YORK )  
  ) s.s.:  
COUNTY OF ORANGE )

On this 9 day of March, 2000, before me, the undersigned, personally appeared George Saines, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

*Joyce A. Beirne*  
Notary Public

JOYCE A BEIRNE  
Notary Public, State of New York  
No. 01BE5034727  
Qualified in Orange County  
Commission Expires 10-17-00

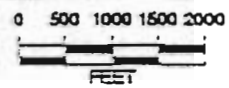




**Site Location Map**

336034 Lubricant Packaging Co.

NYS DOT Planimetric Quadrangle(s):  
MIDDLETOWN



Scale 1:24,000

# **Remedial Investigation Scope of Work**

**for the  
Lubricant Packaging Site  
Middletown, New York  
January, 2000**

## **1.0 Introduction**

Briefly discuss the regulatory history of the Lubricant Packaging Site (LPS) and the reasons for performing a remedial investigation (RI).

## **2.0 Background**

A brief LPS history, description of location, and geology, largely taken from the Phase II Investigation Report.

## **3.0 Scope of Work**

A listing of remedial investigation tasks to be performed, not necessarily in chronological order. This RI proposes to:

1. Investigate and prepare a preliminary list of possible remedial technologies which may be applied to the site following the implementation of the RI and FS.
2. Conduct an interview with past employees of LPS to help narrow the search for the source/sources of contamination at the site.
3. Contact adjacent property owners to attempt to obtain access to data and/or coordinate data sharing. At a minimum, the Risdon Corporation (formerly Guild Molders) & the General Switch Corporation will be contacted.
4. Design and implement an RI soil sampling plan. The plan will have the capability of further defining the horizontal and vertical extent of 1,1,1 TCA soil contamination at LPS. The soil sampling plan will obtain a relatively large number of subsurface soil samples at discrete depths using split spoon sampling technology or similar method. The samples will be collected and screened, using a VOC sensitive instrument and/or analyzed using chlorinated solvent field testing instruments. Following the initial VOC screening and/or field analysis round of dozens of soil samples, representative soil samples will be recollected using USEPA & NYSDEC soil sampling protocol. These samples will be sent to the laboratory for VOC analysis. The RI

investigation will have the capability of defining the vertical and areal extent of contamination in the saturated and unsaturated soils. Representative cross sections will be provided in sufficient detail to allow the quantification of the soil volume to be remediated as well as display the groundwater elevations, soil profiles, and soil and groundwater contaminant concentrations."

5. Install one additional monitoring well. This well will be screened in an horizon 10 to 20 feet beneath the underlying bedrock surface. A location along a down gradient property line is the preferred position for this well (i.e. in the vicinity of LMW-1). Should the ground water in this well yield relatively low levels of contamination, decommissioning this well will be considered in order to avoid a pathway for future migration of contaminants into the saturated bedrock zone.

6. Collect ground water samples from the existing four monitoring wells and the newly installed bedrock monitoring well. Ground water elevation data will be collected prior to using USEPA/NYSDEC protocols to sample, store and ship samples to a laboratory for VOC analysis.

7. Conduct aquifer characterization tests on the new and existing monitoring wells at LPS. This may include a pump test and/or slug tests for individual wells. The purpose of these tests is to determine the hydraulic properties of subsurface soil and rock materials beneath LPS.

8. Digitize the site map and past analytical data in order to facilitate the illustration of analytical results in the RI report. This task will also better prepare LPS to analyze remedial technologies in the future.

9. Analyze the field, laboratory and aquifer test data.

10. Prepare an RI report for submission to NYSDEC.

#### **4.0 Soil Sampling Plan**

Provide a map and protocol details for this plan.

#### **5.0 Monitoring Well Installation Plan**

Provide details on the proposed method of drilling and construction of the new bedrock monitoring well.

#### **6.0 Ground Water Sampling Plan**

Provide protocol details for this plan.

#### **7.0 Laboratory Analytical Plan**

Provide laboratory procedures, methods, etc. for this plan.

#### **8.0 Quality Assurance Plan**

Provide QA/QC procedures; develop a data usability summary report.

#### **9.0 Health and Safety Plan**

Provide a revision of the Health and Safety Plan used for the Phase II Investigation.

#### **10.0 Citizen Participation Plan**

Prepare a Citizen Participation Plan according to the "Citizen Participation in New York's Hazardous Waste Site Remediation Program Guidebook."

#### **11.0 Schedule & Personnel Qualifications**

Provide a proposed schedule for the implementation of the RI along with a list of the personnel who will directly participate in the planning, implementation and/or analysis of RI work.