

Exhibit II:

Consent Order Entered in State of New York v. Blank et. al. on September 23, 1998

COPY

269

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT — N.D. OF N.Y.
FILED
SEP 22 1998
AT _____ O'CLOCK
Lawrence K. Baerman, Clerk — Syracuse

STATE OF NEW YORK,

Plaintiff,

v.

WALTER T. BLANK, ABALENE PEST CONTROL
SERVICE, INC., and ORKIN EXTERMINATING
COMPANY, INC.,

Defendants.

CONSENT ORDER

WALTER T. BLANK AND ABALENE PEST CONTROL
SERVICE, INC.,

Third-Party Plaintiffs,

Civil Action No.
88-CV-0163

Honorable Neal P.
McCurn

v.

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION, NEW ENGLAND MARINE
CONTRACTORS, INC., CAPITAL MUTUAL
INSURANCE CO., and NATIONAL UNION FIRE
INSURANCE CO. OF PITTSBURGH, PA.,

Third-Party Defendants.

I certify that this is a true
and correct copy of an original
document on file in this office.
Date 10/21/98 Lawrence K. Baerman, Clerk
U.S. District Court — N.D. NY
By Wm. J. Slott

WHEREAS, the parties have agreed that a final resolution and
dismissal of this action with prejudice is in the public
interest; and

WHEREAS, without any admission of liability, the parties
hereby agree to the issuance and entry of this Consent Order and
to be bound by its terms, provisions and conditions, and further
agree not to contest the validity of this Order; and

WHEREAS, the Court having reviewed the terms and conditions of this Consent Order, and having determined that they are reasonable, appropriate and in the public interest;

NOW, THEREFORE, it is hereby agreed by the parties and ordered by the Court as follows:

I. Definitions

Unless otherwise defined herein, all terms used in this Consent Order that are defined in Section 101 of the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601, shall have the meanings ascribed to them therein. Whenever those and the following terms are used in this Consent Order and in the Exhibits attached hereto, the following definitions shall also apply:

- A. The term "State" shall mean the State of New York.
- B. The term "Abalene" shall mean defendant Abalene Pest Control Service, Inc., and its successors and assigns.
- C. The term "Blank" shall mean defendant Walter T. Blank, and his successors and assigns.
- D. The term "Orkin" shall mean defendant Orkin Exterminating Company, Inc., and its successors and assigns.
- E. The term "insurers" shall mean third party defendants Capital Mutual Insurance Co. and National Union Fire Insurance Co., and any predecessors and/or successors.

- F. The term "Parties" shall mean the State of New York, the New York State Department of Environmental Conservation, defendants Blank, Abalene and Orkin, and third party defendants, Capital Mutual Insurance Co., National Union Fire Insurance Co. of Pittsburgh and any predecessors and/or successors.
- G. The term "Site" shall mean the property located at the intersection of Route 9/Saratoga Road and Reservoir Road in the Town of Moreau, Saratoga County, New York and shall include all contaminated areas at and in the vicinity of the Site, to the extent that such contamination resulted from pesticide operations at the Site.
- H. The term "CERCLA" shall mean the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act, 42 U.S.C. § 9601, et seq. (1986).
- I. The term "Consent Order" shall mean this Order and all Exhibits attached hereto.
- J. The term "CFR" shall mean the Code of Federal Regulations.
- K. The term "days" shall mean calendar days.
- L. The term "DEC" shall mean the New York State Department of Environmental Conservation and its Commissioner, its agents, representatives and employees, and any successor departments or agencies of the State.

- M. The term "DOH" shall mean the New York State Department of Health and its Commissioner, agents, representatives and employees.
- N. The term "DOL" shall mean the New York State Department of Law, the Attorney General of the State of New York, and its agents, representatives and employees.
- O. The term "ECL" shall mean the New York State Environmental Conservation Law.
- P. The term "effective date" shall mean the date this Consent Order is signed by the Court and entered in the Clerk's Office of the United States District Court for the Northern District of New York.
- Q. The term "natural resource damages" or "NRD" shall mean injury and damage to the natural resources of the State, including those defined in CERCLA Section 101(16), 42 U.S.C. § 9601(16).
- R. The terms "National Contingency Plan" and "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to CERCLA § 105, 42 U.S.C. § 9605, and codified in 40 C.F.R. Part 300.
- S. "On-property" areas shall refer to areas on the property located at the intersection of Route 9/Saratoga Road and Reservoir Road, Town Of Moreau, Saratoga County.

- T. "Off-property" areas shall refer to areas beyond the property lines of the property located at the intersection of Route 9/Saratoga Road and Reservoir Road, Town Of Moreau, Saratoga County.
- U. The term "Operation and Maintenance" or "O & M" shall mean all activity necessary to implement the Remedial Action and to maintain the effectiveness of the Remedial Action set forth in the Record of Decision.
- V. The term "Record of Decision" or "ROD" shall mean the January, 1996 decision by DEC setting forth the necessary remedial action chosen for the Site, and which incorporates by reference the administrative record in support of the decision. The ROD is attached to and incorporated into this Consent Order as Exhibit A.
- W. The term "Remedial Action" shall mean the activities undertaken and/or funded by defendant Orkin to clean up the Site and to otherwise implement the ROD in accordance with the DEC-approved Remedial Action Work Plan.
- X. The term "Remedial Action Work Plan" shall mean the planning and design documents developed pursuant to this Consent Order in order to fully implement the remedial action required in the ROD.

- Y. The term "Response Costs" shall mean all costs, direct and indirect, incurred by the parties in responding to and addressing the Site.
- Z. The terms "split samples" and "duplicate samples" shall mean, respectively, whole samples divided into aliquots and multiple samples collected at the same time from the same location at the Site.
- AA. The term "Third Party Action" shall mean the action captioned Walter T. Blank, et al. v. New York State Department of Environmental Conservation, et al.
- BB. The term "Town" shall mean the Town of Moreau.
- CC. The term "Waterline Fund" shall mean the funds held by the State of New York in an interest-bearing escrow account under an escrow agreement with defendants Orkin, Blank, and Abalene and third-party defendants Capital Mutual and National Union for the benefit of certain residences located near the Site for the purpose of providing a public water supply.

II. Objectives of the Parties

The purpose of this Consent Order is to effectuate and implement the appropriate Remedial Action at the Site as outlined in the Record of Decision; to protect public health and the environment by implementation of the ROD, which shall include design and implementation, operation, maintenance and monitoring of the selected remedial alternative as described in the ROD; to

implement and provide a waterline extension to the vicinity of the Site, subject to certain contingencies; to compensate the State in part for its response costs; to resolve certain claims among the parties; and to avoid further prolonged litigation and transaction costs. The parties desire to finally terminate this action with prejudice and, having consented to the entry of this Consent Order, agree to be bound by its terms and conditions.

III. Background

A. On February 16, 1988, the State of New York ("State") commenced an action pursuant to the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601, et seq., and the New York common law of public nuisance and restitution, against defendants Walter T. Blank, Abalene Pest Control Service, Inc. and Orkin Exterminating Company, Inc. arising from the release of hazardous substances to the environment at property located at the intersection of Route 9/Saratoga Road and Reservoir Road in the Town of Moreau, Saratoga County, New York formerly owned by defendants Blank and Abalene, and currently owned by defendant Orkin.

B. The State's complaint alleges that defendants are liable pursuant to CERCLA Section 107, 42 U.S.C. § 9607, for the release of hazardous substances to the environment and the resulting harm to the public welfare, health and environment of the State of New York, its citizens, and its natural resources. The State's complaint seeks recovery of the response costs

expended in removing, remediating, and otherwise addressing the release of hazardous substances at the Site, and also seeks abatement of a public nuisance and compensation for damages to the natural resources of the State.

C. The Site is listed on the New York Registry of Hazardous Waste Disposal Sites pursuant to ECL § 27-1305, and is classified as a "Class 2" site pursuant to 6 N.Y.C.R.R. Part 375, which is defined as one presenting a "significant threat to the public health or environment" requiring remedial action.

D. In March 1992, the State and Orkin entered an Interim Consent Order signed by the Court which required Orkin to perform a Remedial Investigation and Feasibility Study ("RI/FS") at and in the vicinity of the Site in order to assess the nature and extent of contamination and to propose appropriate remedial alternatives consistent with the National Contingency Plan ("NCP"), 40 CFR Part 300, and with the State Hazardous Waste Laws, ECL § 27-1313.

E. Thereafter, Orkin performed the RI/FS pursuant to the Interim Consent Order and confirmed the presence of hazardous substances at the Site. The RI/FS confirmed that these hazardous substances were found in both the soils and groundwater. The hazardous substances found at and in the vicinity of the Site are associated with the operation of a pesticide application business at the Site and the storage, disposal and transfer of pesticides there.

F. In September 1995, following completion of the RI/FS, the New York State Department of Environmental Conservation ("DEC") issued a Proposed Remedial Action Plan ("PRAP") consistent with the NCP, 40 C.F.R. Part 300, and with 6 N.Y.C.R.R. § 375-1.10. The PRAP identified the results of the investigation of the Site, and describes the remedial alternatives considered for the Site. The PRAP also identified the appropriate remedial alternative DEC selected to be implemented at the Site in order to protect public health and the environment.

G. On October 19, 1995 DEC held a public hearing to receive comments on the PRAP and the selected remedy. Members of the public and the Town provided comments at the meeting. The Town submitted formal written comments to DEC thereafter. All comments were duly considered by DEC.

H. In January, 1996, DEC issued the ROD identifying the preferred remedial action alternative to be implemented at the Site in order to protect human health and the environment. The ROD also addressed the public comments submitted on the PRAP.

I. The remedial action chosen by DEC in the ROD includes, among other things, excavation and removal of on and off-site soils; demolition and removal of on-site buildings; excavation and removal of underground storage tanks; cleaning and abandonment of on-site septic tanks; placement of a geotextile layer over a portion of an on-property area; placement of a topsoil cap over and seeding of the entire Site; and future

monitoring and maintenance of the Site. The ROD is incorporated herein and attached as Exhibit A.

J. In further support of the remedial action identified in the ROD, Orkin has proposed the implementation of a public waterline extension to serve certain residences in the vicinity of the Site, subject to certain contingencies as set forth in Section VI below.

IV. Court's Continuing Jurisdiction

The Court shall retain jurisdiction over the subject matter of this action and this Consent Order pursuant to 28 U.S.C. § 1331 and § 1345, and 42 U.S.C. § 9607 and § 9613. This Court also retains personal jurisdiction over the party signatories hereto. The parties hereby agree not to challenge the terms and conditions of this Consent Order or the Court's jurisdiction to enforce it and/or resolve disputes arising hereunder. The parties shall be authorized to resolve disputes concerning issues of interpretation of this Consent Order pursuant to Section XIV of this Consent Order.

V. Response Costs

A. In full satisfaction of the State's past response costs incurred in connection with the Site, and in full satisfaction of the State's future response costs, except in the event of a reopener as outlined in Section XVII, the third party defendants Capital Mutual Insurance Company ("Capital Mutual") and National

Union Fire Insurance Co. ("National Union"), insurers for defendants Blank and Abalene, shall pay to the State on behalf of defendants Blank and Abalene a total of \$90,000. Such payment shall be made within sixty (60) days of the effective date of this Consent Order by certified check payable to the New York State Department of Law and shall be forwarded to Maureen F. Leary, Assistant Attorney General, New York State Department of Law, Environmental Protection Bureau, The Capitol, Albany, New York 12224.

B. Capital Mutual and National Union further agree to pay Blank and Abalene a total of \$80,000 in full satisfaction of the Third Party Action. Settlement of the Third Party Action is memorialized in a separate agreement among Blank, Abalene, Capital Mutual and National Union which is hereby incorporated into this Consent Order by reference and attached hereto as Exhibit B. Such payments by Capital Mutual and National Union shall not constitute nor be construed as payment of a penalty, fine or monetary sanction.

C. Except in the event of a reopener as set forth below in Section XVII, the State hereby agrees not to seek from the defendants Abalene, Blank or Orkin, or their insurers further reimbursement for any costs including, but not limited to, costs incurred in the review or oversight of the remedial action at the Site to be implemented pursuant to this Consent Order. In the event that the State is required to enforce any term or condition of the Consent Order, the State reserves its rights to seek

additional response costs and attorneys fees for which the noncomplying party agrees it shall be liable if the State is the prevailing party in any such enforcement action.

VI. Waterline Extension

A. Waterline Fund.

Orkin hereby agrees to payment of \$170,000, and third-party defendants Capital Mutual and National Union hereby agree to payments on behalf of Blank and Abalene of \$15,000 each, to be made to the State and held in an interest bearing escrow account (hereinafter "Waterline Fund") for the benefit of residents living in the vicinity of the Site for the purpose of funding an extension of a public water supply line from Bluebird Road at Route 9 to certain residences located near the Site (the "Waterline Extension").

B. Contingencies.

- (1) Distribution of the Waterline Fund, totalling \$200,000 to the Town of Moreau shall be contingent upon the Town's agreement in writing, within 120 days of the effective date of this Order, to accept the Waterline Fund in full satisfaction of the cost of a six-inch public water supply line to the vicinity of the Site and in full settlement of the claims alleged in the action captioned Town of Moreau, the town Board of Moreau, R. Gardner Congdon, Supervisor of the Town of

Moreau v. Orkin Exterminating Company, Inc., Abalene Pest Control Service, Inc., Walter T. Blank and Janet Blank (Index No. ZC 49) now pending in New York Supreme Court, Saratoga County (hereinafter "Town of Moreau, et al. v. Orkin Exterminating Co., et al."). In no event shall any distribution of the Waterline Fund be made if the Town or any person challenges the ROD or this Consent Order in any action brought against the State and/or any other party herein. Distribution of the Waterline Fund pursuant to this section may be made upon the dismissal of such challenge to the ROD and/or Consent Order.

- (i) The Town's written agreement to accept the Waterline Fund pursuant to Section VI(B)(1) shall be provided to the DOL. The DOL shall forward the Town's written agreement to all signatories hereto as soon as practicable following receipt.
- (ii) Payments for the Waterline Fund made pursuant to this Section shall be made to the State within ninety (90) days of the date of this Consent Order, and shall be made by check payable to the New York State Department of Law and forwarded to the attention of Maureen F. Leary, Assistant Attorney General.
- (iii) Payments to the Waterline Fund made pursuant to this Section shall be placed and held in an

interest bearing escrow account held by the New York State Comptroller for the purpose of constructing the Waterline Extension for the benefit of certain residents living in the vicinity of the Site.

(2) The Waterline Fund and any accrued interest on the funds therein shall revert to Orkin, Blank, Capital Mutual and National Union under the following circumstances:

(i) Orkin's contribution to the Waterline Fund, which constitutes 85% of the Waterline Fund, and Orkin's pro rata share of any accrued interest shall revert to Orkin if (a) the Town does not agree in writing, within one hundred twenty (120) days of the effective date of this Order, to accept the Waterline Fund in full satisfaction of the cost of a six-inch public water supply distribution line to the vicinity of the Site and in full settlement of all claims against Orkin in the action captioned The Town of Moreau, et al. v. Orkin Exterminating Company, Inc., et al.;

(b) construction of the waterline now proposed by the General Electric Company to provide a public water supply line to Bluebird Road at Route 9 in the Town of Moreau (hereinafter "GE Waterline") is not completed and in use within five (5) years of

the effective date of this Consent Order; or
(c) the Town or its designee fails to complete the Waterline Extension referred to herein for residents living in the vicinity of the Site within two years of the completion of the GE Waterline.

- (ii) In the event that the Town of Moreau fails to utilize the full amount in the Waterline Fund for the Waterline Extension within two years of the completion of the GE Waterline, Orkin's 85% share of such remaining funds shall revert to Orkin, and all monies remaining in the Waterline Fund shall revert to Blank, Capital Mutual and National Union in three equal shares.
- (iii) In the event that the Town fails to accept the Waterline Fund, but prevails by settlement, judicial resolution or judgment in the case of The Town of Moreau, et al. v. Orkin Exterminating Company, Inc., et al., Index No. ZC 49, the monies remaining in the Waterline Fund after the reversion of funds to Orkin pursuant to this Section, shall be available for the purpose of paying such settlement, judicial resolution or judgment in favor of the Town in that action. The State shall distribute to the Town monies from the Waterline Fund upon receipt of a final settlement

agreement, stipulation or order, or upon receipt of a final judgment against Blank and/or Abalene in that action.

(iv) In the event that monies remain in the Waterline Fund after payment of any settlement or judgment in favor of the Town against Blank and/or Abalene, such monies including accrued interest shall revert to Blank, Capital Mutual and National Union in three equal shares.

(v) In the event that Blank and Abalene prevail in Town of Moreau, et al. v. Orkin Exterminating Co., et al., the monies remaining in the Waterline Fund, after the reversion of Orkin's share of such monies pursuant to this Section, shall revert to Blank, Capital Mutual and National Union in three equal shares.

C. Escrow Agreement. Within thirty (30) days of the date of the Consent Order, the parties hereby agree to enter into an escrow agreement to effectuate the terms of this Consent Order. The proposed escrow agreement is attached as Exhibit C, and the fully executed agreement shall become incorporated herein by reference.

D. Payments from the Waterline Fund.

(1) Upon application by the Town or its designee to the State, which application shall be supported by a signed contract to provide services to construct the Waterline

Extension for a specified amount or by invoices for payments made by the Town pursuant to the contract, the State shall pay out to the Town or its designee money from the Waterline Fund to be used for the Waterline Extension. Payment(s) from the Waterline Fund shall be made only upon approval by the State of the Town's application, which approval shall not be unreasonably withheld.

- (2) Upon application by the Town to the State, which application shall be supported by a signed settlement agreement or certified copy of a final judgment in favor of the Town against Blank and/or Abalene in the case of Town of Moreau, et al. v. Orkin Exterminating Company, Inc., et al. the State shall pay out to the Town from any remaining funds in the Waterline Fund, the amount of the agreed-upon settlement or judgment against Blank and/or Abalene, up to the full amount remaining in the Waterline Fund. In no event shall the State, or the Waterline Fund be liable for any amount in excess of the monies remaining in the Fund.

VII. Remedial Action Requirements

A. Remedial Action

- (1) Orkin agrees to finance and perform the remedial action set forth in the ROD in order to remediate the Site in compliance with the ROD and this Consent Order, including:

- A remedial design program to verify the components of the conceptual design and provide the details necessary for the construction, operation, maintenance, and monitoring of the Remedial Action.
- Institutional Controls, that is, a deed restriction on that portion of the Site that is marked by a geotextile layer and covered with 12 inches of topsoil.
- Abandonment of the drinking water well(s) on the property.
- Fence Removal.
- Building demolition of the on-property structures and off-property disposal in a permitted facility consistent with applicable solid and hazardous waste laws.
- Excavation of contaminated off-property soil. Soil determined to be contaminated with less than 100 parts per million (ppm) of total pesticides will be placed on the property in the northeast portion of the property and a soil cover put over it. Soil determined to be contaminated with greater than 100 ppm of total pesticides will be disposed of at a permitted facility consistent with applicable hazardous waste laws (see Exhibit C, figure 3-3). Excavated areas will be backfilled to original grade with clean soil.
- Excavation and removal of underground gasoline storage tank(s).

- Cleaning and in-place abandonment of septic tanks.
- Excavation of the contaminated soil found between the existing liners in the former disposal pit area, which will be removed and disposed of at a permitted facility consistent with applicable hazardous waste laws.
- Removal of soil in an area equivalent to a 20-30 foot diameter circle, three inches deep, around four isolated hot spots of elevated contamination on-property. These hot spots are located around boring locations B-6, B-9, LSS-4, and WSS-3 (see Exhibit B, figure 3-4). The configuration of these areas will be further delineated by confirmatory sampling. This soil will be removed and disposed of at a permitted facility consistent with applicable hazardous waste laws.
- Placement of a geotextile layer as a marker over the northeast portion of the Site that includes the former disposal pit area. In addition, 12 inches of topsoil will be placed on top of the geotextile layer and seeded.
- Spot Excavation around boring location B-1, B-3, and B-17, and placement of the soil in the northeast corner of the property under the geotextile layer and 12 inches of topsoil placed there (see Exhibit B, figure 3-4).
- Site grading and installation of a 6 inch topsoil cover over the entire site.

- A Maintenance and Monitoring plan will be developed for the Site addressing issues that include, but are not limited to, ground water monitoring, the continued integrity of the topsoil cover, and the effectiveness of the Remedial Action.

(2) Orkin agrees that all activities undertaken pursuant to the ROD and this Consent Order shall be performed in accordance with applicable requirements of State and federal laws and regulations, and shall be performed consistent with the NCP.

B. Remedial Action Work Plan

(1) Within ninety (90) days after the effective date of this Consent Order, Orkin shall submit to DEC a Remedial Action Work Plan for the implementation of the remedial action at the Site as set forth in the ROD (attached as Exhibit A). The Remedial Action Work Plan shall provide a design of the remedy set forth in the ROD, and shall set forth the manner in which the requirements of the ROD and this Consent Order will be achieved. Upon DEC's approval of the Remedial Action Work Plan, the approved Work Plan shall be incorporated into and become enforceable under this Consent Order.

(2) The Remedial Action Work Plan shall also include a description of the remedial objectives set forth in the ROD and the means by which the selected remedial alternative will be implemented in order to achieve those objectives. The Remedial Action Work Plan shall also include:

- (a) A schedule for completion of the remedial design and the remedial action;
- (b) A plan for the excavation, collection, destruction, treatment, and/or disposal of any soil, building or other materials contaminated thereby, as required by the ROD;
- (c) Physical security and posting of the Site during remediation and a plan to maintain site fencing until the remedial action is fully implemented;
- (d) Specifications for a Health and Safety Plan for persons working at the Site. The Plan shall be submitted within ninety (90) days of DEC's approval of the Remedial Action Work Plan and shall conform to applicable Occupational Safety and Health Administration regulations and standards including, but not limited to, 29 C.F.R. 1910.120;
- (e) Specifications for a Health and Safety Plan for the protection of persons residing in the vicinity of the Site from hazards relating to remediation. The plan shall be submitted within ninety (90) days of DEC's approval of the Remedial Action Work Plan and shall be prepared under the direction of and signed by a certified health and safety professional;
- (f) Quality control and quality assurance procedures and protocols to be applied during implementation of the remedy;

- (g) A monitoring and maintenance program for the Site covering the periods both during and after implementation of the selected remedy;
- (h) "Biddable Quality" documents for the Remedial Action, including, but not limited to, documents and specifications prepared, signed, and sealed by a professional engineer. These plans shall satisfy all applicable local, state and federal laws, rules and regulations;
- (i) The parameters, conditions, procedures, and protocols to determine the effectiveness of the Remedial Action, including a schedule for confirmatory sampling of on-property and off-property soils;
- (j) A description of operation, maintenance, and monitoring activities to be undertaken after DEC has approved the Remedial Action, including the length of time during which such activities will be performed and a schedule for DEC review of the need to continue such operation, maintenance and monitoring activities;
- (k) A contingency plan to be implemented if any element of the Remedial Action fails to achieve any of its objectives or otherwise fails to protect human health or the environment and an identification of the method of implementation; and
- (l) A citizen participation plan which incorporates appropriate activities outlined in DEC's publication,

"New York State Inactive Hazardous Waste Citizen Participation Plan" and 6 N.Y.C.R.R. Part 375.

(3) Within sixty (60) days of DEC's approval of the Remedial Action Work Plan, Orkin shall implement the Remedial Action in accordance with the approved Work Plan and schedule.

(4) Unless otherwise directed by the State, Orkin shall not commence physical Remedial Action activities at the Site prior to approval of the Remedial Action Work Plan. Site survey and sampling are not prohibited prior to approval of the Remedial Action Work Plan.

C. Operation, Maintenance, Monitoring and Site Reclassification

Orkin shall implement the remedial action, operation, maintenance and monitoring at the Site until the goals and objectives of the ROD and 6 N.Y.C.R.R. § 375-1.10 are achieved. Orkin shall monitor the Site following completion of the implementation of the remedial action in accordance with the maintenance and monitoring program approved by DEC, and/or until authorized by DEC to modify or terminate the maintenance and monitoring program. Upon termination of the monitoring and maintenance program, the classification of the Site on the New York Registry of Hazardous Waste Sites will be reevaluated by DEC upon Orkin's written application.

D. Remedial Action Supplementation

The Remedial Action Work Plan will be supplemented as necessary based on site-specific factors.

E. Certification of Submittals and Completion of Remedial Action

The submittals required by this Consent Order shall be prepared by and have the signature and seal of a New York State licensed professional engineer, who shall not be an employee of defendant Orkin, and shall be an individual or member of an independent firm which is authorized to offer engineering services in accordance with the provisions of the New York State Education Law governing professional engineers. The professional engineer shall certify that the submittals under the Remedial Action Work Plan were prepared in accordance with accepted engineering procedures. The professional engineer shall also certify that the Remedial Action Work Plan was fully implemented. Any deviations from the Remedial Action Work Plan shall be described in the certification by the professional engineer.

F. DEC Approval or Disapproval of Submissions

DEC shall notify Orkin in writing of its approval or disapproval of any submissions required by this Consent Order. All DEC-approved submissions shall be incorporated into and become an enforceable part of this Consent Order. If DEC disapproves a submission, it shall so notify Orkin and its consultants in writing and shall specify the reasons for its disapproval. Within 30 days after receiving written notice that a submission has been disapproved, Orkin shall revise and resubmit the submission which addresses and resolves the reasons for DEC's disapproval. If DEC disapproves the revised submission, the parties shall attempt to resolve any dispute

expeditiously in accordance with Section XIV of this Consent Order.

G. Employment of Persons to Perform Remedial Action

Orkin shall retain professional consultants, contractors and laboratories acceptable to the State to perform the technical, engineering and analytical obligations required by this Order and the ROD. During the remedial action, Orkin shall have available at the Site a full-time representative who is qualified to inspect the remedial action work performed pursuant to the Remedial Action Work Plan, the ROD and this Consent Order.

H. Site Access and Sampling

(1) Orkin shall permit any duly designated employee, consultant, contractor or agent of the State to enter upon the Site for purposes of inspection, sampling and testing, and to assure compliance with this Consent Order.

(2) Orkin shall obtain whatever permits, easements, rights-of-way, rights-of-entry, approvals or authorizations as may be necessary in order to perform the Remedial Action and comply with the terms of this Consent Order. If Orkin's good faith efforts to obtain such authorizations are unsuccessful, Orkin shall seek all reasonable and available legal and equitable means of access. Upon Orkin's request, the State may assist Orkin in securing such necessary rights of access.

(3) The State shall have the right to obtain any samples, including split samples, duplicate samples or separate samples of any substances and material at the Site or in off-site areas,

including those sampled by Orkin's consultant. The State and Orkin shall each have access to and share all data, field notes, logs and chemical analyses gathered pursuant to this Order as soon as they become available.

(4) No signatory to this Order shall unreasonably interfere with the completion of the implementation of the ROD.

I. Default In Compliance

If during the course of or following performance, the State observes any work that has not been conducted in accordance with the Remedial Action Work Plan, DEC shall promptly notify Orkin in writing of the default. Within twenty (20) working days of the State's notice, Orkin shall cure, or commence activities expediting cure of, the default and advise DEC in writing of the measures taken to cure such default or contest the alleged default pursuant to Section XIV of this Consent Order.

J. Remedial Action Report

At the completion point of the Remedial Action, Orkin shall submit a Remedial Action Report to DEC for review, comment and approval. The Remedial Action Report shall demonstrate that the remedial action was performed in accordance with the Work Plan and the ROD, and was in compliance with applicable State and federal laws. The Remedial Action Report shall be prepared under the direction of and signed by a New York State licensed professional engineer.

K. Notice to the State

(1) Orkin shall provide notice to the State of any excavating, drilling or sampling to be conducted at the Site at least five (5) working days prior to such activities.

(2) No informal advice, guidance, suggestions or comments by the State regarding reports, proposals, plans, specifications, schedules or any other writing submitted by defendants shall be construed as relieving defendants of obligations required by this Order. Any changes or modifications of the Work Plan must be in writing and approved by DEC. DEC shall respond as expeditiously as practicable to requests from Orkin for such changes or modifications so as to minimize increased costs to Orkin due to delays in the field. Where unanticipated field conditions necessitate a modification to the Work Plan, an initial request for modification may be made orally, as long as it is followed by a written request as soon as practicable. If Orkin submits a request for modification of the Work Plan in writing and, due to field exigencies, proceeds to take action consistent with the requested modification prior to DEC's written approval of such requested modification, Orkin acknowledges that such action will be at its own risk.

L. Notice Provisions

Unless otherwise agreed in writing, submissions with respect to the subject matter of this Consent Order shall be sent or caused to be sent to the following persons:

To the State:

(1) Five copies to:

Division of Hazardous Waste Remediation
NYS Department of Environmental Conservation
Region 5, Route 86
Ray Brook, New York 12233

Attn: Russell B. Mulvey

(2) Two copies to:

NYS Department of Health
Bureau of Environmental Exposure Investigation
2 University Place
Albany, New York 12237

Attn: Robert Montione and Gary Litwin

(3) One copy to:

NYS Department of Law
Environmental Protection Bureau
The Capitol
Albany, New York 12224

Attn: Maureen F. Leary, Esq.

To Orkin:

a. One copy to:

Orkin Exterminating Company, Inc.
2170 Piedmont Road
Atlanta, Georgia 30324

Attn: Joseph Malinowski

b. One copy to:

King & Spalding
191 Peachtree Street
Atlanta, Georgia 30303-1763

Attn: Patricia T. Barmeyer

To the Public:

a. One copy to:

The Crandall Library
251 Glen Street
Glens Falls, New York 12801

b. One copy to:

Clerk, Town of Moreau
61 Hudson Street
South Glens Falls, New York 12803

VIII. Stipulated Penalties

A. Orkin shall be liable for stipulated penalties as set forth below for failure to comply with the requirements of this Consent Order or the Approved Remedial Action Work Plan, including but not limited to meeting the schedule for implementation and completion of the Remedial Action, unless DEC and DOL shall agree in writing to excuse such non-compliance. The stipulated penalties shall accrue per violation per day for Orkin's failure to comply with any term or condition of this Consent Order.

The Penalty Per Violation Per Day Shall Be:

\$1,000 Plus Accrued Interest

B. In the event that DEC determines that Orkin has failed to comply with this Order or the approved Remedial Action Work Plan, DEC shall provide written notice to Orkin of such non-compliance and shall provide twenty (20) days to cure such non-compliance. In the event that Orkin fails to cure the non-

compliance, stipulated penalties shall begin to accrue the first day following this twenty (20) day period.

C. Stipulated penalties shall not accrue during (1) any period of disapproved submission; (2) any period attributable to a force majeure; (3) any period of delay attributable to DEC; or (4) any period of dispute resolution or of judicial review of such disputes except that if DEC is the prevailing party to the dispute, the Court in its discretion may assess stipulated penalties against Orkin accruing from the first day of non-compliance following the twenty (20) day period to cure as set forth in subsection B. of this section upon a finding that Orkin did not proceed in good faith.

D. All stipulated penalties shall be payable within thirty (30) days of DEC's demand for payment, which demand shall not be made until after the twenty (20) days provided for Orkin's cure and compliance.

E. Nothing herein shall be deemed to prevent the State from waiving the accrual and assessment of all or part of the stipulated penalties. Such waiver shall be made in writing and made only by the DOL.

F. Nothing herein shall prevent the State from instituting a proceeding to recover stipulated penalties and attorneys fees or to seek payment of penalties and attorneys fees in this proceeding in the event Orkin fails to pay such stipulated penalties.

G. Nothing in this Consent Order shall be construed as limiting or prohibiting the ability of the State to pursue any other remedies for Orkin's failure to comply with this Order, including but not limited to injunctive or other equitable relief.

IX. Force Majeure

The terms and conditions of this Consent Order shall be delayed or modified if Orkin cannot comply with the terms hereof because of an act of God or war, or other condition making compliance impossible despite Orkin's best efforts to achieve compliance, as to which the conduct of Orkin or its consultants was not the proximate cause; provided, however, that Orkin shall notify DEC in writing of such condition preventing compliance, within five (5) working days of the date when Orkin obtains knowledge of any such condition. Orkin shall also request an appropriate extension or modification of the provisions of this Order in writing to DEC and DOL.

X. Indemnification of the State

Orkin shall indemnify and hold the State of New York and its duly authorized agents, representatives and employees harmless from all claims, suits, actions, damages and costs of every name and description arising out of the negligent acts or omissions of Orkin or its consultant, officers, directors, employees or agents which cause any loss or asserted loss

arising out of activities performed pursuant to this Consent Order or the ROD. Under no circumstances shall Orkin or its consultants be deemed agents, representatives or employees of the State of New York.

XI. Releases

A. Release of Defendants

In consideration of the implementation of the remedial action and any necessary operation, monitoring and maintenance set forth herein and in the ROD, and in consideration of payment in full of the amount due under this Consent Order, and fulfillment of all other terms of this Order, the State hereby releases defendants Blank, Abalene and Orkin from the claims asserted in this action, and covenants not to sue or otherwise assert in this or any subsequent civil or administrative action, any claim against them for response costs or natural resource damages incurred by the State arising from the past release of hazardous substances at the Site. The State hereby agrees to dismissal of this action, with prejudice and without costs, including all causes of action asserted or which could have been asserted in the State's complaint arising from the past release of hazardous substances at the Site. This release is subject to the Court's continuing jurisdiction as outlined in Section IV.

B. Release of the State

Defendants Blank, Abalene and Orkin hereby release the State, its agents, representatives, and employees, from any and all claims or counterclaims raised in this action or which could have been raised as a result of any acts or omissions of any kind, and covenants not to sue or otherwise assert in this or any subsequent civil or administrative action any claim arising from or in connection with the Site. Defendants Blank, Abalene and Orkin hereby dismiss with prejudice and without costs all claims, counterclaims and/or cross claims asserted or which could have been asserted against the State in this action.

C. Release of Insurers

The State, Blank, Abalene and Orkin agree that the payments by Capital Mutual and National Union set forth in this Consent Order constitute full satisfaction of any claims they may have against Capital Mutual and National Union in connection with the Site.

D. Contingencies

As to each party, the foregoing releases shall be conditioned upon compliance by such party with the requirements of this Consent Order. This release is also conditioned upon the Court upholding the ROD and this Consent Order as to any challenge asserted by any person or entity.

XII. Reservation of Rights

A. Parties

Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting the rights, claims, interests, defenses, suits or causes of action that the State or any defendant may have against other entities, nor shall any provision of this Order be construed as creating or affecting the rights of third parties that are not signatories to it.

B. Defendants Blank, Abalene and Orkin

Except to the extent of the contribution protection provided in Section XVI of this Consent Order, nothing contained in this Order shall be deemed as barring, diminishing, adjudicating or in any way affecting the rights, claims, interest, defenses, actions, suits or causes of action that Blank, Abalene and Orkin may have against each other, in this and any other action.

C. Criminal Wrongdoing or Fraud

Nothing herein shall be deemed to release any party from liability for criminal wrongdoing or fraud.

D. Violations of Law

Nothing herein shall be deemed to release any party from liability for future violations of State or federal law, including but not limited to the future release of hazardous substances or any other violations that occur during implementation of the Remedial Action.

XIII. Default in Consent Order Obligations

If the State believes that any party to this Consent Order has defaulted in the performance of any term or condition of this Order, the State shall give written notice of such default, specifying the manner in which the default has occurred and providing a reasonable time not to exceed twenty (20) days for the defaulting party to remedy the default.

XIV. Dispute Resolution and Court's Continuing Jurisdiction

A. Any dispute that arises with respect to the meaning or application of this Consent Order, or to any action, plan, submission, schedule or modification of the Remedial Action Work Plan, or to any notice of disapproval by the State under this Order, shall be first subject to negotiations between the parties to the dispute. The parties to the dispute agree to consult in good faith and exercise their best efforts to resolve the dispute expeditiously and without resort to the Court's continuing jurisdiction. The period of good faith consultation and negotiation to resolve the dispute shall not extend beyond thirty (30) days from the date the dispute arises, unless the parties otherwise agree in writing.

B. All parties participating in any dispute resolution negotiations shall present a written proposal to resolve the dispute. During the period of any dispute, including during the period for consultation and negotiation, all obligations hereunder not dependent on the resolution of the dispute shall

be performed according to the schedule contained in the Approved Remedial Action Work Plan. The performance of all matters reasonably related to the dispute, and matters necessarily dependent thereon, shall be deferred during the pendency of efforts at dispute resolution, or during subsequent proceedings thereon.

C. At the end of thirty (30) days, or at the termination of unsuccessful informal negotiations, whichever is later, either party to the dispute may file with the Court a motion which shall describe the nature of the dispute, and provide supporting documents and shall include a proposal for its resolution. The Court shall retain jurisdiction over this case and any dispute arising hereunder. The Court, in its discretion, may hold an evidentiary hearing to aid in resolving any dispute. In determining the outcome of any dispute, the Court shall give due deference to the State's technical expertise. The Court's determination on the dispute shall be binding on all parties to this Consent Order and shall not be subject to appeal.

XV. Deed Restrictions and Notice to Successors-in-Title

A. Within thirty (30) days of the effective date of this Consent Order, Orkin shall file this Consent Order and a Declaration of Covenants and Restrictions with the Saratoga County Clerk to give all parties who may acquire any interest in the Site notice of this Order. Within thirty (30) days of the

entry of this Consent Order, defendant Orkin shall record a copy of this Consent Order with the Registry of Deeds of Saratoga County, State of New York. Each deed, title, or other instrument conveying an interest in the Site shall contain a notice stating that the property is subject to this Consent Order and shall reference the recorded location of the Consent Order and any restrictions applicable to the property under this Consent Order.

B. The obligations of Orkin with respect to the provisions of this Order shall be binding upon any and all persons who subsequently acquire any such interest or portion thereof in the Site (hereinafter "successor(s)-in-title").

C. In the event Orkin proposes to convey the whole or any part of its ownership interest in the Site, or in the event that title to the real property at the Site is conveyed, in whole or in part, to any other person by operation of law, Orkin shall, not fewer than sixty (60) days prior to the proposed conveyance, notify the DEC in writing of the identity of the transferee or successor in title, and of the nature and date of the transfer or conveyance. Orkin shall notify the transferee in writing, with a copy to DEC, of the applicability of this Consent Order to the property.

D. Orkin shall implement the work required by this Order whether or not it retains ownership of the Site.

E. At least thirty (30) days prior to the conveyance of any interest in the Site, Orkin and any successor(s)-in-title,

shall give written notice of this Consent Order to the grantee and written notice to the State of the proposed conveyance, including the name and address of the grantee. In the event of any such conveyance, Orkin's obligations under this Consent Order, including its obligations to provide or secure access to the Site, shall continue to be met. The grantee may perform some or all of the Work under this Consent Order only upon written approval by DEC. In no event shall the conveyance of an interest in property that includes, or is a portion of, the Site release or otherwise affect the liability of Orkin to comply with the Consent Order.

XVI. Contribution Protection

A. This Consent Order shall constitute the resolution of liability for response costs and NRD in a judicially approved settlement within the meaning of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2). By entering into and carrying out the terms of this Order, Blank, Abalene and Orkin have resolved all liability for the State's response costs and natural resource damages. Except as expressly provided, nothing herein shall be deemed to affect the right to contribution of Blank, Abalene or Orkin from any person.

B. Nothing in this Consent Order shall be construed to create any rights in, or grant any cause of action to, any person not a party to this Consent Order. Nothing herein shall be construed to affect the rights which any person not a

signatory to this Order may have under applicable law. Except to the extent of the contribution protection provided by this Section, each of the Parties expressly reserves any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action which each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a party hereto.

C. The Parties agree, and by entering this Consent Order this Court finds, that Orkin is entitled, as of the effective date of this Consent Order, to protection from contribution actions or claims as provided by CERCLA Section 113(f)(2), 42 U.S.C. 9613(f)(2) for all matters addressed in this Consent Order and in the March 13, 1992 Interim Order on Consent.

D. The Parties agree, and by entering this Consent Order this Court finds, that Defendants Blank and Abalene are entitled, as of the effective date of this Consent Order, to protection from contribution actions or claims as provided by CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2) for matters addressed in this Consent Order, to the extent of:

- any and all payments by Blank and/or Abalene for investigation and removal activities at or in connection with the Site, exclusive of any attorneys fees incurred;
- all payments made by Blank and/or Abalene for the provision of bottled water and water filters for

residents in the vicinity of the Site, including all payments for water sample analyses in connection with the water filtration program;

- all payments made by the insurers to DEC on behalf of Blank and Abalene pursuant to this Consent Order for past response costs; and
- all payments made by the insurers on their behalf to the Waterline Fund pursuant to this Consent Order.

E. Orkin, Blank, Abalene and the insurers agree that with respect to any suit or claim for contribution brought by them for matters related to this Consent Order they will notify the State in writing no later than 10 days after the initiation of such suit or claim.

F. Orkin, Blank, Abalene and the insurers also agree that with respect to any suit or claim for contribution brought against them for matters related to this Consent Order they will notify the State in writing within 10 days of service of the complaint on them. In addition, they shall notify the State within 10 days of service or receipt of any Motion for Summary Judgment and of receipt of any order from a court setting the case for hearing or trial.

XVII. Reopener

This Consent Order and any release provided herein by the State shall be reopened upon the occurrence of any of the following circumstances:

(1) The discovery that the completed Remedial Action is not protective of human health and the environment;

(2) The discovery of the release of hazardous substances from the Site which were not known or detected on or before the entry of this Order and which indicate that the Remedial Action is not protective of human health and the environment;

(3) The discovery of additional information of which DEC was not aware when issuing the ROD which demonstrates that the release of hazardous substances or the threat posed thereby are different than those reported in the RI/FS; or

(4) The discovery of any additional information demonstrating that the Site poses an imminent threat to public health and the environment.

XVIII. Challenges to the ROD and/or Consent Order

In the event that the ROD and/or this Consent Order are challenged, the requirement of the payment of monies pursuant to Sections V and VI(A) shall be stayed until such time as any challenge(s) to the ROD and/or Consent Order are finally resolved, including the exhaustion of any appeals or the termination of the time within which to appeal. In the event that the ROD and/or this Consent Order are successfully challenged by any person or entity including but not limited to by the Town of Moreau or any resident living in the vicinity of the Site, and judicially overturned or invalidated, this Consent Order shall be null and void as to each party hereto. In the

event that the ROD and/or Consent Order are upheld, and upon the exhaustion of any appeals therefrom or the termination of the time to appeal, payments required pursuant to Sections V and VI(A) shall be made within sixty (60) days of the Court's final determination or within sixty days of the exhaustion of any appeal or the termination of the time to appeal.

XIX. Signatories' Authorization

Each signatory to this Order certifies that he/she is fully authorized by the party he/she represents to enter into, execute and sign this Consent Order and to legally bind such party to the terms and conditions of this Order.

XX. Complete Agreement and Effective Date of Consent Order

This Consent Order and the Exhibits attached hereto constitute the complete agreement among the parties as ordered by the Court. No informal advice, guidance, suggestion, comment or communication by the State, its agents, representatives or employees shall be construed as relieving any party hereto of compliance with the terms of this Consent Order. This Order shall become effective on the date of the Court's approval and entry in the United States District Court for the Northern District of New York.

STATE OF NEW YORK
DENNIS C. VACCO
Attorney General of the
State of New York

Dated: March 5, 1996 By: Maureen F. Leary
MAUREEN F. LEARY
Assistant Attorney General
Bar Roll No. 501162
Attorney for the State
New York State Department of Law
Environmental Protection Bureau
The Capitol
Albany, New York 12224
(518) 474-7154

ORKIN EXTERMINATING COMPANY

Dated: _____
By: _____
JOSEPH MALINOWSKI
2170 Piedmont Road, N.E.
Atlanta, Georgia 30324

Dated: _____
By: _____
PATRICIA BARMeyer
King and Spalding
191 Peachtree Street
Atlanta, Georgia 30303-1763

WALTER T. BLANK AND ABALENE PEST CONTROL
SERVICE, INC.

Dated: _____
By: _____
PHILIP H. GITLEN
Whiteman, Osterman & Hanna
One Commerce Plaza
Albany, New York 12260

Dated: _____
By: _____
WALTER T. BLANK

STATE OF NEW YORK
DENNIS C. VACCO
Attorney General of the
State of New York

Dated:

March 5, 1996

By:

Maureen F. Leary
MAUREEN F. LEARY

Assistant Attorney General
Bar Roll No. 501162
Attorney for the State
New York State Department of Law
Environmental Protection Bureau
The Capitol
Albany, New York 12224
(518) 474-7154

ORKIN EXTERMINATING COMPANY

Dated:

By:

JOSEPH MALINOWSKI

2170 Piedmont Road, N.E.
Atlanta, Georgia 30324

Dated:

By:

PATRICIA BARMeyer

King and Spalding
191 Peachtree Street
Atlanta, Georgia 30303-1763

WALTER T. BLANK AND ABALENE PEST CONTROL
SERVICE, INC.

Dated:

April 3 1996

By:

Philip H. Gitlen
PHILIP H. GITLEN

Whiteman, Osterman & Hanna
One Commerce Plaza
Albany, New York 12260

Dated:

May 26

By:

Walter T. Blank
WALTER T. BLANK

ORKIN EXTERMINATING COMPANY

Dated: 2/26/96

By: Joseph Malinowski
JOSEPH MALINOWSKI
2170 Piedmont Road, N.E.
Atlanta, Georgia 30324

Dated: March 8, 1996

By: Patricia Barmeyer
PATRICIA BARMAYER
King and Spalding
191 Peachtree Street
Atlanta, Georgia 30303-1763

WALTER T. BLANK AND ABILENE PEST CONTROL SERVICE, INC.

Dated:

By: _____
PHILIP H. GITLEN
Whiteman, Osterman & Hanna
One Commerce Plaza
Albany, New York 12260

Dated:

By: _____
WALTER T. BLANK

NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

Dated:

By: _____
LEONARD SHEFT
Sheft and Sheft
908 Third Avenue, 12th Floor
New York, New York 10022-4737
OF PITTSBURGH, PA

Dated:

By: _____
GARRET LEPAW
AIG Technical Services, Inc.
80 Pine Street
Sixth Floor
New York, New York 10005

NATIONAL UNION FIRE INSURANCE COMPANY
OF PITTSBURGH, PA

Dated:

By: 

LEONARD SHEFT
Sheft and Sheft
908 Third Avenue, 12th Floor
New York, New York 10022-4737

Dated:

By: _____

RICHARD JOHNSON, JR.
AIG Technical Services, Inc.
80 Pine Street
Sixth Floor
New York, New York 10005

CAPITAL MUTUAL INSURANCE COMPANY

Dated:

By: _____

ALAN J. PIERCE
Hancock & Estabrook
MONY Tower 1
Post Office Box 4976
Syracuse, New York 13221-4976

Dated:

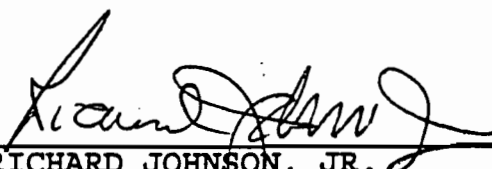
SO ORDERED:

Honorable Neal P. McCurn
United States District Judge

NATIONAL UNION FIRE INSURANCE COMPANY
OF PITTSBURGH, PA

Dated:

By: _____
LEONARD SHEFT
Sheft and Sheft
908 Third Avenue, 12th Floor
New York, New York 10022-4737

Dated: *March 8, 1996* By:  _____
RICHARD JOHNSON, JR.
AIG Technical Services, Inc.
80 Pine Street
Sixth Floor
New York, New York 10005

CAPITAL MUTUAL INSURANCE COMPANY

Dated:

By: _____
ALAN J. PIERCE
Hancock & Estabrook
MONY Tower 1
Post Office Box 4976
Syracuse, New York 13221-4976

Dated:

SO ORDERED:

Honorable Neal P. McCurn
United States District Judge

NATIONAL UNION FIRE INSURANCE COMPANY
OF PITTSBURGH, PA

Dated:

By: _____
LEONARD SHEFT
Sheft and Sheft
908 Third Avenue, 12th Floor
New York, New York 10022-4737

Dated:

By: _____
RICHARD JOHNSON, JR.
AIG Technical Services, Inc.
80 Pine Street
Sixth Floor
New York, New York 10005

CAPITAL MUTUAL INSURANCE COMPANY

Dated:

March 8, 1996

By: Alan J. Pierce
ALAN J. PIERCE
Hancock & Estabrook
MONY Tower 1
Post Office Box 4976
Syracuse, New York 13221-4976

Dated: Sept 27, 1998

SO ORDERED:

Neal P. McCurn

Honorable Neal P. McCurn
United States District Judge

LIST OF EXHIBITS TO CONSENT ORDER

- | | |
|-----------|--|
| EXHIBIT A | December, 1995 Record of Decision |
| EXHIBIT B | Release between Blank/Abalene and
Capital Mutual and National Union |
| EXHIBIT C | Waterline Fund Escrow Agreement |