

AGREEMENT

REC'D 2/15/90
MLD

THIS AGREEMENT, made effective the _____ day of January, 1990, by and between the TOWN OF ELLICOTTVILLE (hereinafter the "TOWN"), a municipal corporation having its offices at 1 West Washington Street, Ellicottville, New York 14731, and SIGNORE, INC. (hereinafter "SIGNORE"), a domestic corporation having its principal place of business at Jefferson Street, Ellicottville, New York 14731, in the manner following:

RECITALS

A. SIGNORE owns and operates a manufacturing plant located in the Village and Town of Ellicottville, New York.

B. TOWN, by and through Town of Ellicottville Water District No. 1 (the WATER DISTRICT), provides potable water to properties generally situate in the southwest segment of the TOWN.

C. It has been determined that the private water supplies of various residential and other properties situate in the TOWN, outside of the WATER DISTRICT, have been contaminated by trichloroethylene (TCE) and other volatile organic compounds (VOCs).

D. SIGNORE has been identified by the New York State Department of Environmental Conservation as a probable responsible party (PRP) in regard to such contamination.

E. The parties have agreed and intend hereby to agree to effect a replacement of the private water supply to such properties by annexing them to the WATER

DISTRICT and connecting them to the TOWN's municipal water supply system.

AGREEMENT

NOW, THEREFORE, in consideration of the covenants each to the other herein contained, the parties do hereby agree as follows:

1. SIGNORE agrees as follows:

1.1. That SIGNORE has retained the services of Ground Water Associates which has identified the parcels of real property which have had their supplies contaminated as aforesaid and those residential properties for which the water supply should be replaced. This identified list of affected properties has been supplied to the Town and County Health Department.

1.2. SIGNORE will immediately retain the services of a professional engineer licensed to practice in the State of New York to prepare a design of the water facilities necessary to service the affected properties and plans and specifications for the construction thereof. Such Engineer shall also obtain all necessary approvals for water line extensions from the Cattaraugus County Health Department and other public agencies. Such design, plans and specifications shall be completed and submitted to the Cattaraugus County Health Department and the TOWN for approval and obtain necessary approvals for waterline extension on or before _____, 1990.

1.3. Immediately following the extension of the WATER DISTRICT by the TOWN as hereinafter provided, SIGNORE shall construct and install water mains extending from the TOWN's present water system to all of such residential properties

and shall construct and install service lines and interior plumbing necessary to connect such mains to the dwellings affected hereby for those dwellings whose owners approve such installation as hereinafter provided. The construction and emplacement of such water main or mains, service lines and interior plumbing shall be subject to the inspection and approval of the Town Engineer and such work shall be completed in accordance with such plans and specifications and to the satisfaction of the TOWN. The construction of such water mains will be completed not later than December 31, 1990. The construction and installation of service lines and interior plumbing at such dwellings shall be completed within such reasonable period time as may be determined by SIGNORE and the New York State Department of Environmental Conservation.

1.4. SIGNORE shall be solely responsible for all costs incurred by the parties hereto, or either of them, and by the WATER DISTRICT in the performance of this agreement. Specifically, but not in limitation of the aforementioned covenant, SIGNORE agrees to pay or reimburse the TOWN, as the TOWN may elect, for all costs incurred in the extension of the WATER DISTRICT, for inspections made by the TOWN and for all costs incurred in the process of obtaining easements or rights-of-way is necessary in order to accomplish the work herein described.

1.5. SIGNORE hereby expressly assumes full responsibility for all damages and injury that may result to any person or persons or to any property by reason of the aforementioned construction and emplacement of water lines and agrees and covenants to indemnify and save harmless the TOWN and the WATER DISTRICT against all loss and damage, including damage to person or property, arising from any act by, or negligence of, SIGNORE or its agents or employees or the engineer and contractor or their agents or employees, while engaged in the performance of the work herein described or arising from accident or any injury not caused by the direct negligence of the TOWN or the WATER DISTRICT.

2. The TOWN hereby agrees as follows:

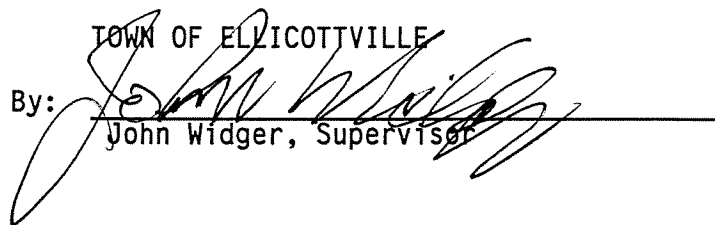
2.1. The TOWN will take all necessary steps to extend the boundaries of the WATER DISTRICT sufficiently to encompass the properties for which replacement water supplies are required.

2.2. The Town Engineer will inspect the installation and construction of water mains, service lines and interior plumbing constructed and/or emplaced by SIGNORE in order to ascertain that the work is done in accordance with the plans and specifications prepared by the Town Engineer and the requirements of the WATER DISTRICT.

2.3. The TOWN's WATER DISTRICT will provide and maintain all necessary meters for the metering of water to such residential properties.

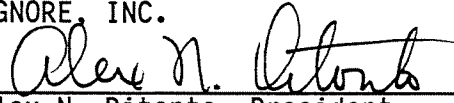
3. It is understood and agreed that all rights-of-way for water lines, all mainlines and all service lines located in such rights-of-way shall be owned and maintained by the TOWN, by and through the WATER DISTRICT. It is further understood and agreed that the owners of each accepting effected properties shall own and maintain all service lines and interior plumbing constructed by SIGNORE according to the terms hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their duly authorized representatives, effective the day and year first above written.

TOWN OF ELLICOTTVILLE
By: 
John Widger, Supervisor

SIGNORE, INC.

By:



Alex N. Ditonto, President

R E C E I V E D

FEB 15 1990

N.Y.S. DEPT. OF
ENVIRONMENTAL CONSERVATION
REGION 9

by and between

TOWN OF ELLICOTTVILLE

and

SIGNORE, INC.

AGREEMENT

BRADY, BROOKS & SMITH
ATTORNEYS AND COUNSELORS AT LAW

GROUND WATER ASSOCIATES, INC.

321-129

771 Brooksedge Plaza Drive, Westerville, Ohio 43081 (614) 882-3136

March 15, 1991

Mr. Gregory P. Sutton, P.E.
New York State Department of Environmental
Conservation
600 Delaware Street
Buffalo, New York 14202

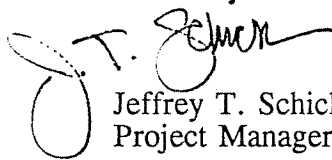
RE: **WORK PLAN:** On-Site Interceptor Well, RI/FS Project, Signore, Inc., Ellicottville,
New York - NYSDEC Project No. 905023

Dear Mr. Sutton:

Enclosed please find the Work Plan for the On-Site Interceptor Well which incorporates your December 4, 1990 comments on the November 12, 1990 Draft Work Plan. The On-Site Interceptor Well is specified in Section 6.3.7 of the February 1990 Work Plan for the Remedial Investigation/Feasibility Study Project being conducted by Signore, Inc. in Ellicottville, New York. We will begin this work upon notification of approval of this Work Plan. If you have any questions, please call.

Sincerely,

GROUND WATER ASSOCIATES, INC.


Jeffrey T. Schick
Project Manager

JTS:js

- cc: Mr. Theodore Meyers - NYSDEC Div. of Water, Buffalo
- Director, NYSDEC Div. of Env. Enforcement, Albany
- Mr. James Moras - NYSDEC Div. of Haz. Waste Remed., Albany
- Mr. Glenn Bailey - NYSDEC Div. of Env. Enforcement, Buffalo
- Mr. Cameron O'Connor - NYSDOH
- Ms. Loni Rafferty - NYSDOH Bureau of Env. Exposure Invest.
- Mr. Chester Halgas - Cattaraugus County Dept. of Health
- Mr. Frank Bianco - Village of Ellicottville
- Mr. Mark Alianello - Town of Ellicottville
- Mr. Alex Ditonto - Signore, Inc.
- Mr. James Fitzpatrick - Signore, Inc.
- Mr. Howard Shapiro - Lozier Architects/Engineers

WORK PLAN

ON-SITE INTERCEPTOR WELL SYSTEM

*SIGNORE RI/FS PROJECT
ELLCOTTVILLE, NEW YORK*

March 15, 1991

INTRODUCTION

This document presents the Work Plan for the On-Site Interceptor Well System at the Signore, Inc. Facility in Ellicottville, New York. The On-Site Interceptor Well is part of the Interim Remedial Measures implemented to mitigate ground water contamination related to the Signore Facility.

The Work Plan for the Remedial Investigation/Feasibility Study (RI/FS) Project being conducted by Signore includes a task entitled, "Pumping Test Well Installation and Aquifer Testing", under Section 6.3.7 of the Work Plan. The scope of work of this task includes the following.

- Install and develop a test interceptor well.
- Prepare detailed plans and specifications for a temporary air stripping tower.
- Prepare a work plan for conducting an aquifer test outlining the duration of the test, the planned discharge rate, wells to monitor, water level data collection frequency and sampling frequency.
- Conduct the approved aquifer test and air stripping evaluation test.

As stated in the RI/FS Work Plan, the results from the aquifer test and air stripping evaluation were needed to design the On-Site Interceptor Well System, consisting of an interceptor well, treatment and discharge system along the downgradient (southern) boundary of the Signore Facility to capture off-site migration of ground water contamination. However, the information that currently exists from the drilling, installation and ground water sampling of the on-site and RI/FS monitoring wells and from the evaluation of the Town Well Interceptor Well is sufficient to design the On-Site Interceptor Well System without performing the aquifer test using a test recovery well.

SCOPE OF WORK

The following tasks have been developed to evaluate, design, install, test and document the On-Site Interceptor Well System.

Task 1 - Basis of Design Report

Information from the drilling, installation, water level measurements and ground water sampling of the on-site and RI/FS monitoring wells and information from the aquifer testing for the Town Well Interceptor Well will be evaluated to select the conceptual design for the On-Site Interceptor Well System. A capture zone analysis will be performed select the optimal recovery production rate. This conceptual design and information supporting the design will be documented in a Basis of Design Report, which will include the following.

- Well design: location, depth, diameter, screen setting, slot size and gravel pack.
- Influent (recovered ground water) characteristics: expected contaminant constituents and concentrations.
- Discharge limitations.
- Treatment requirements: effluent characteristics, treatment processes (air stripping) and removal efficiency requirements.
- Discharge design and location.

Task 2 - Plans and Specifications

After approval of the Basis of Design Report by the NYSDEC, detailed Plans and Specifications will be developed for the On-Site Interceptor Well System including the interceptor well, discharge piping, submersible pump and controls, treatment system and effectiveness testing plan. The design of the well (location, depth, diameter, screen setting, slot size, gravel pack and planned production rate) will be based on the evaluation of the hydrogeologic and ground water quality information presented in the Basis of Design Report. The treatment system (air

stripping) design will be based on the influent flow rate and contaminant concentrations, required discharge limitations and proposed removal efficiencies.

The Plans and Specifications will also include the proposed effectiveness testing plan to monitor the effectiveness and select the optimal pumping rate for the interceptor well. The plan will outline the details of an aquifer test and air stripping test, including: duration of the test; pumping rate; monitoring wells to monitor; frequency of water level monitoring; frequency of sampling from the interceptor well and effluent of air stripper; laboratory analyses to be performed on the samples; and location of discharge. A discussion on evaluating emissions from the air stripper, either by sampling or modeling, will also be presented in the plan. As requested by the NYSDEC, the effectiveness monitoring plan will be submitted at least 30 days prior to any scheduled testing.

It is anticipated that the On-Site Interceptor Well will be located along the southern boundary of the Signore Facility between the EW-1 and EW-2 monitoring well clusters. The design will probably be similar to the Town Well Interceptor Well (a 16 by 10-inch well, approximately 50 feet total depth with 10 feet of screen), designed to pump from 200 to 400 gallons per minute.

Task 3 - Interceptor Well System Installation

After approval of the Plans and Specifications by the NYSDEC, bids will be requested and contractor(s) will be selected to: (1) drill and install the interceptor well; (2) fabricate, deliver and install the air stripper; and (3) construct the discharge piping and controls. All installation work will be supervised by Lozier/Ground Water Associates personnel to ensure that the work is done according to the Plans and Specifications.

Task 4 - Effectiveness Testing

The effectiveness test will be performed after the On-Site Interceptor Well System is installed and after approval of the Effectiveness Testing Plan by the NYSDEC. As requested by the NYSDEC, a minimum of 30 days notification will be given so that NYSDEC personnel can witness the test. The test, including the water level measurements and sampling, will be supervised by Lozier/Ground Water Associates personnel.

Task 5 - Documentation Report and Monitoring Plan

A report documenting the On-Site Interceptor Well System installation and testing will be prepared. This report will be submitted within 30 days after receipt of laboratory analyses from samples collected during the testing, anticipated to be 60 days after completion of the testing. The report will include as-builts of the system and will document the results of the aquifer testing and air stripper testing. A capture zone analysis will be performed based on the results of the testing to select the pumping rate for the interceptor well.

Also submitted with the Documentation Report will be a proposed discharge monitoring plan for testing the effluent concentrations from the interceptor after treatment and before discharge. The plan will include method and location of sample collection, frequency of sampling, laboratory analyses for samples collected and reporting requirements.

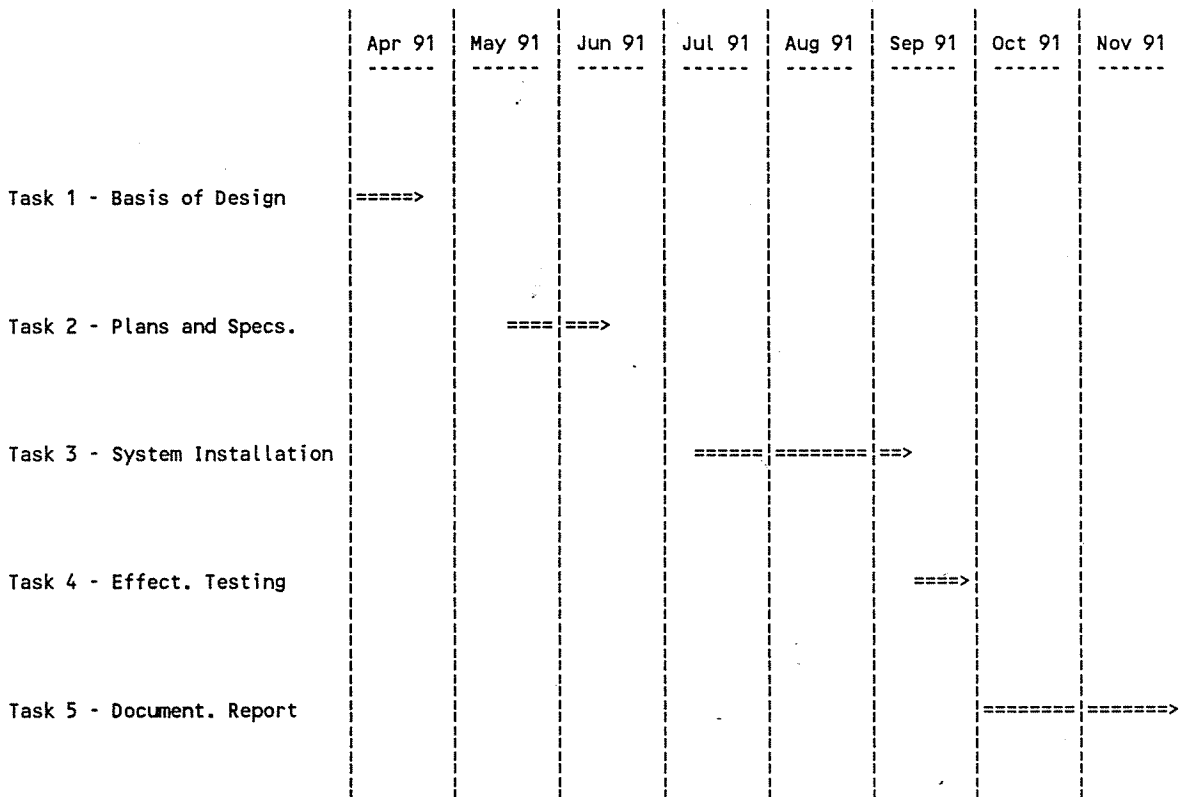
SCHEDULE

The schedule for the On-Site Interceptor Well System project is presented on the enclosed figure. As shown, three weeks review time for the NYSDEC are built in after submittals. If any change in this Work Plan becomes necessary, approval will be requested and received from the NYSDEC before implementing the change.

PROJECT SCHEDULE

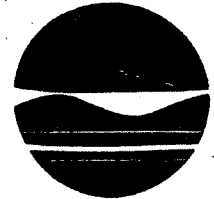
ON-SITE INTERCEPTOR WELL SYSTEM INSTALLATION AND TESTING

SIGNORE FACILITY - ELLICOTTVILLE, NEW YORK



New York State Department of Environmental Conservation
600 Delaware Avenue, Buffalo, New York 14202

cc



Thomas C. Jorling
Commissioner

March 29, 1991

Mr. Jeffery Schick
Groundwater Associates, Inc.
771 Brooksedge Plaza Drive
Westerville, Ohio 43081

Dear Mr. Schick:

On-site Interceptor Well Workplan
Signore Inc. Site No. 905023
Ellicottville (V), Cattaraugus County

This Office has completed a review of the above noted workplan dated March 15, 1991. The workplan as submitted is found to be acceptable. Please note that any changes to this document shall be submitted in writing to the Department for review and approval prior to implementation.

I have also taken the liberty of enclosing Air Permit forms. These forms should be completed during the Basis of Design task to ensure that all the information required by the Department's Division of Air Resources has been provided. The information provided by these forms will be used in the development of a monitoring program for any air discharges from the ground water treatment system.

I look forward to receiving the Basis of Design report the week of April 21, 1991. If you have any questions please feel free to contact me at (716)847-4585.

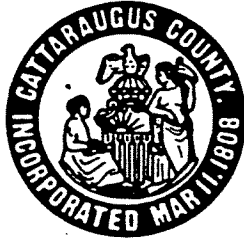
Sincerely,

Gregory P. Sutton, P.E.
Environmental Engineer II

cc: Mr. Martin Doster
Mr. James McGarry
Mr. Glen Bailey
Mr. Larry Clare
Mr. Cameron O'Connor
Mr. Gary Beck
Mr. James Moras
Ms. Lani Rafferty
Mr. James Fitzpatrick

6PS
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CATTARAUGUS COUNTY



DEPARTMENT OF HEALTH
Established 1923

JAMES M. GARVEY, M.D., M.P.H.
Commissioner
WILLIAM E. McILWAINE
Administrator

1701 Lincoln Avenue, Suite 4010
Olean, New York 14760-1154
(716) 373-8050

September 14, 1990

Mr. Jeffrey T. Schick
Project Manager
Ground Water Associates, Inc.
771 Brooksedge Plaza Drive
Westerville, Ohio 43081

Subject: Donlen Drive Area Water Main Approval
Town of Ellicottville

Dear Mr. Schick:

We have received and reviewed your September 6, 1990 letter and the final plans and specifications from Lozier and find them to be acceptable. Therefore, this project which consists of 8" ductile iron pipe to serve the Donlen Drive area is approved this date subject to the following conditions:

1. That the facilities be constructed in accordance with the approved plans and specifications.
2. That the designing engineer certify construction compliance with the approved plans and specifications to this office, the Town of Ellicottville, and the Department of Environmental Conservation.
3. That Ground Water Associates provide a record of homes connected to municipal water mains in the TCE impacted area to this office, the Department of Environmental Conservation, and the Town of Ellicottville.
4. That only potable municipal water be served to the impacted homes connected.
5. That the Town of Ellicottville accept the public facilities and be responsible for operation and maintenance before service to the impacted homes is provided.

6. That the Town of Ellicottville inspect impacted connected homes that retain individual well supplies at least annually to ascertain that physical separation prevents contaminated well water from backflowing into the municipal system.

Very truly yours,



Chester R. Halgas, P. E.
Director of Environmental Health

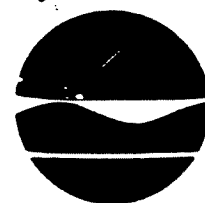
CRH/kb

cc: Thomas Bruno - CCHD Little Valley
Thomas Walker - NYSHD Rochester
Cameron O'Connor - NYSHD BRO
Gregory Sutton - DEC BRO
Mark Alianello - Town of Ellicottville
Alex Ditonto - Signore, Inc.
Howard Shapiro - Lozier Architects/Engineers

FILE

New York State Department of Environmental Conservation
600 Delaware Avenue, Buffalo, New York 14202

December 4, 1990



Thomas C. Jorling
Commissioner

Mr. Jeffery Schick
Groundwater Associates, Inc.
771 Brooksedge Plaza Drive
Westerville, Ohio 43081

Dear Mr. Schick:

Town Well Interceptor Well
Discharge Monitoring Plan
Signore Inc. Site No. 905023
Ellicottville (V), Cattaraugus Co.

This Office has completed a review of the above noted report dated November 28, 1990. Please note that the purpose of the monitoring plan is two fold. In addition to providing an accurate measurement of the discharge of pollutants to the receiving water body, the interceptor well also acts to provide a monitoring program of the contamination in the aquifer. For this reason, it is necessary that in lieu of USEPA method 8240, USEPA method 524.2 be used to analyzed for the volatile organic parameters. This will allow detection of volatile organic compounds at concentrations below the MCL values and will also correspond to previous analysis performed on the adjacent IRM wells.

In accordance with the requirements of Section 3.6.1 of the Workplan entitled "Interim Remedial Measures, Signore Site", dated May 1990, we find the subject monitoring plan to be acceptable.

If you have any questions please feel free to contact me at (716)847-4585.

Sincerely,

Gregory P. Sutton, P.E.
Environmental Engineer II

cc: ~~Mr. Martin Doster~~ 12-5-90
Mr. Cameron O'Connor
Mr. Chester Halgas
Mr. James Moras
Ms. Loni Rafferty
Mr. James McGarry
Mr. Glen Bailey
Mr. Larry Clare
Mr. John Krajewski
Mr. Mark Alianello
Mr. James Fitzpatrick

GROUND WATER ASSOCIATES, INC.

321-129

771 Brooksedge Plaza Drive, Westerville, Ohio 43081 (614) 882-3136

November 28, 1990

Mr. Gregory P. Sutton, P.E.
New York State Department of Environmental
Conservation
600 Delaware Street
Buffalo, New York 14202

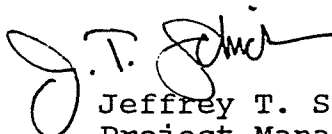
RE: Town Well Interceptor Well Discharge Monitoring Plan, Signore
IRM Project, Ellicottville, New York - NYSDEC Project No.
905023

Dear Mr. Sutton:

Enclosed please find the Town Well Interceptor Well Discharge Monitoring Plan for the Signore, Inc. Interim Remedial Measures Project in Ellicottville, New York. This plan incorporates the changes in the November 1, 1990 draft that we discussed in our November 2, 1990 phone conversation. The monitoring parameters and discharge limits in this Plan are as developed by the NYSDEC Division of Water and presented in your October 4, 1990 letter. If you have any questions, please call.

Sincerely,

GROUND WATER ASSOCIATES, INC.



Jeffrey T. Schick
Project Manager

JTS:js

cc: Mr. Theodore Meyers - NYSDEC Div. of Water, Buffalo
Director, NYSDEC Div. of Env. Enforcement, Albany
Mr. James Moras - NYSDEC Div. of Haz. Waste Remed., Albany
Mr. Glenn Bailey - NYSDEC Div. of Env. Enforcement, Buffalo
Mr. Cameron O'Connor - NYSDOH
Ms. Loni Rafferty - NYSDOH Bureau of Env. Exposure Invest.
Mr. Chester Halgas - Cattaraugus County Dept. of Health
Mr. Frank Bianco - Village of Ellicottville
Mr. Mark Alianello - Town of Ellicottville
Mr. Alex Ditonto - Signore, Inc.
Mr. James Fitzpatrick - Signore, Inc.
Mr. Howard Shapiro - Lozier Architects/Engineers

MONITORING PLAN

*TOWN WELL INTERCEPTOR WELL
DISCHARGE*

*SIGNORE IRM PROJECT
ELLCOTTVILLE, NEW YORK*

November 28, 1990

Introduction

As part of the Interim Remedial Measures (IRM) Project being conducted by Signore, Inc. in Ellicottville, New York, an Interceptor Well is being installed upgradient of the Town Well. The installation of the Interceptor Well and associated pumping and discharge system is described in the October 29, 1990 Plans and Specifications for the Interceptor Well and Pumping System, prepared by Hydro Group, Inc. for Lozier/Ground Water Associates. The hydrogeologic assessment done to justify this Interceptor Well is described in the August 27, 1990 Interceptor Well Assessment Report prepared by Lozier/Ground Water Associates.

The purpose of the Interceptor Well is to capture volatile organic contaminants upgradient of the Town Well to reduce the levels of these contaminants in the Town Well to below State standards. As stated in the Interceptor Well Assessment Report, the Town Well has been contaminated by low levels of volatile organic chemicals, with only trichloroethene (TCE) and 1,1,1-trichloroethane (TCA) found at concentrations above New York State Department of Environmental Conservation (NYSDEC) Maximum Contaminant Levels (MCLs). The Town Well has been sampled 16 times over the period from March 25, 1987 to July 16, 1990. The mean, minimum and maximum concentrations in micrograms per liter (ug/l) for TCE and TCA measured in these 16 rounds of samples are listed below.

	<u>mean</u>	<u>minimum</u>	<u>maximum</u>
TCE	8.9 ug/l	7.0 ug/l	12 ug/l
TCA	4.5 ug/l	2.5 ug/l	7.0 ug/l

As shown, the concentrations of TCE have ranged between 7.0 and 12 ug/l, all above the MCL of 5 ug/l. The concentrations of TCA have ranged between 2.5 and 7.0 ug/l, with only 2 of the 16 samples above the MCL of 5 ug/l. The only other volatile organic that has been detected in the Town Well has been cis-1,2-dichloroethene (DCE) and of the 16 rounds of samples, only 4 samples had a detectable concentration of 1 ug/l.

In addition to monitoring for volatile organics, the NYSDEC requires monitoring for selected metals. The most recent sampling for metals in the Town Well was May 4, 1988; the results are listed below.

arsenic	-	not detected
barium	-	0.26 mg/l
cadmium	-	not detected
chromium	-	not detected
lead	-	not detected
mercury	-	not detected
selenium	-	not detected
silver	-	not detected
fluoride	-	not detected

Sampling Location and Frequency

Grab samples from the Interceptor Well discharge will be collected at the sampling tap in the meter pit adjacent to the well.

Samples will be collected for the first six months after pumping starts according to the following schedule; two times per month (bimonthly) for TCE, TCA and tetrachloroethene and once per month for other volatiles and metals.

The sampling results for the first six months will be reviewed and evaluated to set the subsequent monitoring frequency. The following monitoring frequency may be implemented after six months of pumping with the prior approval of the NYSDEC.

- Sample monthly for TCE and TCA
- Sample semi-annually for other volatiles and metals

Monitoring Parameters

The Interceptor Well discharge samples will be analyzed by a New York State Department of Health ELAP laboratory for the following list of selected volatile organics and metals.

volatile organics
chloroethane
1,1-dichloroethane
1,2-trans-dichloroethene
tetrachloroethene
1,1,1-trichloroethane
trichloroethene
vinyl chloride

metals
aluminum, dissolved
chromium, total
copper, total
iron, total
lead, total
nickel, total
zinc, total

The analyses of the volatile organics will be done using USEPA Method 8240 and the analyses of the metals will be done using USEPA 200-series Methods. In addition to the above laboratory analyses, field determinations of pH, specific conductance and temperature will also be measured each time a sample is collected.

Discharge Limitations

The discharge from the Interceptor Well will have the following limitations.

	<u>Max.¹, ug/l</u>	<u>Mo.Ave.², ug/l</u>
chloroethane	170	--
1,1-dichloroethane	30	--
1,2-trans-dichloroethene	30	--
tetrachloroethene	40	1
1,1,1-trichloroethane	20	--
trichloroethene	40	11
vinyl chloride	50	--
aluminum, dissolved	100	--
chromium, total	180	--
copper, total	10	--
iron, total	300	--
lead, total	3	--
nickel, total	86	--
zinc, total	None ³	--

¹ maximum concentration for any single sampling event.

² maximum monthly average concentration for constituents measured twice per month with a nondetectable concentration equal to 0.0 for calculating average.

³ no concentration limit, parameter should just be monitored.

Reporting Requirements

For the first six months after pumping starts, the sampling results will be submitted by the end of the month for the previous month's monitoring. At the end of six months, a summary report for the first six months will be submitted prior to a meeting with the NYSDEC to discuss the subsequent long-term monitoring plan. Assuming that subsequent monitoring is as described above, monthly sampling for TCE and TCA and semi-annually for the other volatiles and metals, a monitoring report will be submitted twice per year, within 45 days after the semi-annual sampling round.

If at any time, any of the constituents monitored are measured at a concentration above the discharge limits, the NYSDEC will be immediately notified and the discharge will be resampled for the particular constituent of concern. If the resampling confirms the concentration above discharge limits, the NYSDEC will be immediately notified to determine an appropriate action.

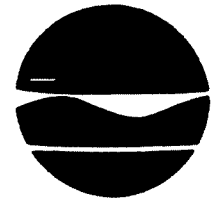
Monitoring results and any required reports will be submitted to the following address.

N.Y.S. Department of Environmental Conservation
600 Delaware Avenue
Buffalo, New York 14202
Attn: Regional Hazardous Waste Engineer

As the Interceptor Well is operated, it may be necessary or appropriate to modify portions or all of this Monitoring Plan. If Signore concludes that modifications to this Plan are warranted, recommended changes will be submitted in writing to the NYSDEC for review and approval prior to implementation.

FILE

New York State Department of Environmental Conservation
 600 Delaware Avenue, Buffalo, New York 14202



Thomas C. Jorling
 Commissioner

December 4, 1990

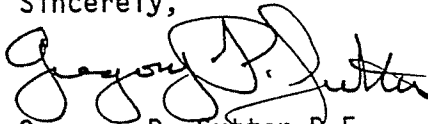
Mr. Jeffery Schick
 Groundwater Associates, Inc.
 771 Brooksedge Plaza Drive
 Westerville, Ohio 43081

Dear Mr. Schick:

Septic Tank Cleaning Workplan
 Signore Inc. Site No. 905023
 Ellicottville (V), Cattaraugus Co.

This Office has completed a review of the above noted workplan dated November 28, 1990. The workplan as submitted is found to be acceptable. Please note that any changes to this document shall be submitted in writing to the Department for review and approval prior to implementation. In addition, as stated in the workplan the work will commence as soon as possible and that this Department and the Cattaraugus County Department of Health will be notified two weeks prior to the commencement of any work at the site.

If you have any questions please feel free to contact me at (716)847-4585.

Sincerely,

 Gregory P. Sutton, P.E.
 Environmental Engineer II

- cc: ~~Mr. Martin Doster~~ ¹²⁻⁵⁻⁹⁰
 Mr. Cameron O'Connor
 Mr. Chester Halgas
 Mr. James Moras
 Ms. Loni Rafferty
 Mr. James McGarry
 Mr. Glen Bailey
 Mr. Larry Clare
 Mr. John Krajewski
 Mr. Mark Alianello
 Mr. James Fitzpatrick

GROUND WATER ASSOCIATES, INC.

321-129

771 Brooksedge Plaza Drive, Westerville, Ohio 43081 (614) 882-3136

November 28, 1990

Mr. Gregory P. Sutton, P.E.
New York State Department of
Environmental Conservation
600 Delaware Avenue
Buffalo, New York 14202

RE: **WORK PLAN** - Septic Tank Cleaning, Signore Facility,
Ellicottville, New York

Dear Mr. Sutton:

This letter presents the Work Plan for cleaning two septic tanks in the Signore, Inc. Facility Plant in Ellicottville, New York. This modification of the November 5, 1990 Work Plan incorporates the comments in your November 6, 1990 letter.

The Signore Facility is presently connected to the Village of Ellicottville sanitary sewer system. However, in the past the sanitary wastes from the Plant were discharged into an on-site septic tank system that consisted of several septic tanks in series with the outfall to Plum Creek. During the field work for the Remedial Investigation/Feasibility Study Project being conducted by Signore, two septic tanks in the Plant were identified and sampled. These tanks, designated Tank No. 4 and Tank No. 2, are located in the central part of the Plant, as shown on the map of the Plant in Attachment A to this letter. The concrete lids for these tanks are flush with the Plant floor and sealed. Therefore, samples from these tanks were collected by drilling a 1-inch hole through the lid and drawing samples through a 1/2-inch plastic tube. Fluid and sludge samples were collected from Tank No. 2 and only a sludge sample was collected from Tank No. 4 due to insufficient fluid in the tank. The fluid and sludge samples were analyzed for volatile organics as water and soil samples, respectively. The analytical results of these samples are presented in Attachment B to this letter and summarized below in parts per million (ppm).

	<u>Tank No. 4</u> <u>sludge, ppm</u>	<u>Tank No. 2</u> <u>sludge, ppm</u>	<u>fluid, ppm</u>
trichloroethene	2.6	3.4	0.46
toluene	-	0.19	-
ethylbenzene	-	0.75	0.05
total xylenes	-	4.8	0.31

Mr. Gregory P. Sutton, P.E.

NYSDEC

Buffalo, New York

Page Two

November 28, 1990

Because of the presence of trichloroethene in the samples from these tanks, even though at relatively low concentrations, the decision was made to remove the fluid and sludge contents, clean the tanks and fill them with concrete to prevent the possibility that these tanks could be a source of ground water contamination beneath the Plant. Specifically, the cleaning and backfilling of the septic tanks will be accomplished in the following steps.

1. The concrete lid covering the septic tank will be removed using a jackhammer.
2. After removing the lid, the cleaning crew will remove the fluid and sludge from the septic tank using a vacuum and shovels. The sludge will be collected in 55-gallon drums.
3. After the material is removed, the tank will be cleaned with a power steam cleaner. The fluids from the steam cleaning will be collected in 55-gallon drums.
4. After steam cleaning, the concrete lid will be broken and placed into the bottom of the tank. The tank will be filled with concrete to the grade of the Plant floor.
5. The sludge material collected in 55-gallon drums will be appropriately disposed. The steam cleaning fluid in 55-gallon drums will be sampled for volatile organics and then disposed into the sanitary sewer pending approval from the Village of Ellicottville to accept this material for treatment.

To perform the above tasks, the cleaning crew will be working inside of the tank. The Contractor will be responsible for developing a Site Specific Health and Safety Plan (HSP) to comply with all OSHA or other regulations for Working in Confined Spaces. The HSP will include provisions for monitoring the breathing space for the presence of volatile organics around the tanks during the cleaning activities. The work will be performed over a weekend to minimize impact to Plant employees. In addition, exhaust from any vacuum equipment used to remove material from the tanks will be vented outside the Plant.

Mr. Gregory P. Sutton, P.E.
NYSDEC
Buffalo, New York

Page Three

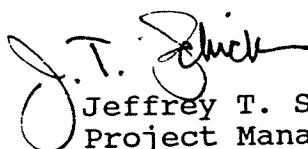
November 28, 1990

Signore proposes to use SLC Consultants/Constructors of Lockport, New York as the Contractor to perform this work. The work will be scheduled at the earliest possible weekend. We will provide the NYSDEC and Cattaraugus County Department of Health with a minimum of two weeks notice prior to the work being performed.

If you have any questions regarding this plan, please call.

Sincerely,

GROUND WATER ASSOCIATES, INC.



Jeffrey T. Schick
Project Manager

JTS:js

cc: Mr. Theodore Meyers - NYSDEC Div. of Water, Buffalo
Director, NYSDEC Div. of Env. Enforcement, Albany
Mr. James Moras - NYSDEC Div. of Haz. Waste Remed., Albany
Mr. Glenn Bailey - NYSDEC Div. of Env. Enforcement, Buffalo
Mr. Cameron O'Connor - NYSDOH
Ms. Loni Rafferty - NYSDOH Bureau of Env. Exposure Invest.
Mr. Chester Halgas - Cattaraugus County Dept. of Health
Mr. Frank Bianco - Village of Ellicottville
Mr. Mark Alianello - Town of Ellicottville
Mr. Alex Ditonto - Signore, Inc.
Mr. James Fitzpatrick - Signore, Inc.
Mr. Howard Shapiro - Lozier Architects/Engineers

11/28/90

ATTACHMENT A

SEPTIC TANK LOCATIONS

SIGNORE FACILITY, ELLICOTTVILLE, NEW YORK



1969



TANK NO. 1

TANK NO. 2

STREAM

BLDG. ADDITIONS
SIGNORE DIVISION
A.V.M. CORP. INC.
 NO SCALE JACK W.
 10-17-79

Borden Plant 12,800 Square Foot Main Plant 163,960 Square Foot

IRFFERSON ST.

September 6, 1989

CERTIFIED MAIL

Harold J. Ruttenberg
Signore, Inc.
403 Bellefield Tower
100 North Bellefield Avenue
Pittsburgh, PA 15213

Re: Order on Consent, Index #B9-0258-89-03
Site #905023

Dear Mr. Ruttenberg:

Attached is a fully endorsed Order on Consent regarding the Ellicottville facility remediation program. This Order was signed by the Commissioner on August 28. The proposed Work Plans required by the Order are currently under review. The Interim Remedial Programs shall continue to be reviewed and evaluated as new information is developed.

Sincerely,



Glen R. Bailey
Senior Attorney
Division of Environmental
Enforcement

GRB/mf

cc: (w/attach.)
Lang Marsh
M. O'Toole
D. Markell
R. Tramontano
J. Spagnoli
M. Doster

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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

ORDER
ON
CONSENT

INDEX #B9-0258-89-03
SITE #905023

SIGNORE, INC.

Respondent

WHEREAS,

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

2. SIGNORE, INC. ("Respondent"), is a corporation organized under the laws of the State of New York and owns and operates an industrial manufacturing facility located at 45 Jefferson Street in the Village of Ellicottville in Cattaraugus County, New York (the "Site").

3. The Department has determined that the Site is an inactive hazardous waste disposal site, as that term is defined at ECL Section 27-1301(2) and presents a significant threat to the public health or environment. The site has been listed in the Registry of Inactive Hazardous Waste Disposal Sites in New York State as Site Number 905023. The Department has classified the Site as a Classification "2" pursuant to ECL Section 27-1305(4)(b).

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

5. The Department and Respondent agree that the goals of this Order shall be the development and implementation of Interim Remedial Measures by Respondent, and a Remedial Investigation/Feasibility Study at the Site.

6. Respondent, without any admission of law or fact, having waived its right to a hearing herein as provided by law, and having consented to the issuance and entry of this Order, agrees to be bound by its terms.

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

I. All activities and submittals required by this Order shall address both on-Site and off-Site contamination and shall be in accordance with Requisite Remedial Technology. As used in this Order, Requisite Remedial Technology means the proper application of scientific and engineering

principles and practices, subject to the Department's approval, which will identify and mitigate or eliminate any present or potential threat to the public health or environment posed by the presence of hazardous waste at the Site and any release or threatened release of hazardous waste at or from the Site.

II. Respondent shall retain professional consultants, contractors and laboratories acceptable to the Department to perform the technical, engineering and analytical obligations required by this Order. The experience, capabilities and qualifications of the firms or individuals selected by Respondent shall be submitted to the Department for approval prior to initiation of any activities for which the Respondent and their consultants will be responsible.

III. Within 60 days after the effective date of this Order, Respondent shall submit to the Department a detailed plan for the implementation of Interim Remedial Measures and for the implementation of a Remedial Investigation/ Feasibility Study (the "Work Plan"). The Work Plan shall describe the methods and procedures to be implemented to accomplish the scope of work necessary to accomplish the following tasks:

A. Assure that the Town of Ellicottville public water supply distributed to the public from the Town's well located south of the Village complies with the applicable quality standards for public water supplies;

B. Provide for the supply of public water to those

IRM

residences whose private wells fail to meet the standards applicable to public water supplies due to the presence of chlorinated organics; and

C. Implement a Remedial Investigation and Feasibility Study at the Site.

April 13, 1990
The Department shall notify Respondent in writing of its approval or disapproval of the Work Plan. If the Department approves the Work Plan, Respondent shall perform all work in accordance with it.

If the Department disapproves the Work Plan, the Department shall notify Respondent in writing of the Department's objections. Within 45 days after receipt of notice of disapproval, Respondent shall revise the Work Plan in accordance with the Department's specific comments, and shall submit a revised Work Plan.

The Department shall notify Respondent in writing of its approval or disapproval of the revised Work Plan. If the Department approves the revised Work Plan, Respondent shall perform the Interim Remedial Measures and the Remedial Investigation/Feasibility Study in accordance with the Work Plan.

If the Department disapproves the revised Work Plan, the Respondent shall be deemed to be in violation of this Order. The Work Plan, if approved by the Department, shall be attached as Appendix "A" and incorporated into this Order.

IV. In accordance with the time schedule contained in the approved Work Plan, Respondent shall perform the Interim

Remedial Measures and the Remedial Investigation and submit the status reports and other deliverables (as defined in the Work Plan) and the Remedial Investigation Report. During the implementation of the Work Plan, Respondent shall have on-Site a full-time representative who is qualified to inspect the work. The Report shall include all data generated and all other information obtained during implementation of the Interim Remedial Measures and the Remedial Investigation, provide all of the assessments and evaluations set forth in CERCLA, the NCP then in effect, and the USEPA draft guidance document entitled "Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA," dated March 1988 and any subsequent revisions thereto and appropriate technical and administrative guidelines and identify any additional data that must be collected. The Report shall be prepared and certified by an engineer licensed to practice by the State of New York, who may be an employee of Respondent, or an individual or member of a firm which is authorized to offer engineering services in accordance with Article 145 of the New York State Education Law, who shall certify that all activities that comprised the Remedial Investigation were performed in full accordance with the approved Work Plan.

V. After receipt of the Report, the Department shall determine if the Interim Remedial Measures and the Remedial Investigation were conducted and the Report prepared in accordance with the Work Plan and this Order, and shall

notify Respondent in writing of its approval or disapproval of the Report.

If the Department disapproves the Report, the Department shall notify Respondent in writing of the Department's objections. Respondent shall revise the Report and/or reperform or supplement the Interim Remedial Measures or the Remedial Investigation in accordance with the Department's specific comments and shall submit a revised Report. The period of time within which the Report must be revised or any Interim Remedial Measure or the Remedial Investigation reperformed or supplemented shall be specified by the Department in its notice of disapproval.

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

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

The approved Report shall be attached as Appendix "B" and incorporated into this Order.

VI. The Department reserves the right to require a modification and/or an amplification and expansion of the Interim Remedial Measures and the Remedial Investigation and Report by Respondent if the Department determines, as a result of reviewing data generated by the activities pursuant to this Order or as a result of reviewing any other data or facts, that further work is necessary.

VII. Within 90 days after receipt of the Department's

approval of the Report, Respondent shall submit a 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 attributable to the Site. The Feasibility Study shall be prepared and certified by an engineer licensed to practice by the State of New York, and approved by the Department who may be an employee of Respondent, or an individual or member of a firm which is authorized to offer engineering services in accordance with Article 145 of the New York State Education Law.

The Feasibility Study shall be performed in a manner that is consistent with CERCLA, the NCP then in effect, and the guidance documents referred to in paragraph IV above.

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

If the Department disapproves the Feasibility Study, the Department shall notify Respondent in writing of the Department's objections. Within 45 days after receipt of notice of disapproval, Respondent shall revise the Feasibility Study in accordance with the Department's specific comments and submit a revised Feasibility Study.

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

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

The approved Feasibility Study shall be attached as Appendix "C" and incorporated into this Order.

IX. Within 60 days after the Department's approval of the Feasibility Study, the Department and Respondent shall solicit public comment on the Remedial Investigation/ Feasibility Study and the Interim Remedial Measures in accordance with CERCLA, the NCP, and any relevant Department policy and guidance documents in effect at the time the public comment period is initiated. After the close of the public comment period, the Department shall select a final remedial program for the site in a Record of Decision ("ROD"). The ROD shall be attached as Appendix "D" and incorporated into this Order.

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

The Remedial Design shall include the following:

a. A detailed description of the means by which each essential element of the Remedial Program will be performed,

to include but not be limited to:

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

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

3. physical security and posting of the Site;

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

5. quality control and quality assurance procedures and protocols to be applied during implementation of the Remedial Program; and

6. monitoring which integrates needs which are present both on-Site and off-Site during implementation of the Remedial Program.

- b. "Biddable Quality" documents for the Remedial Program, including plans and specifications prepared and certified by an engineer licensed to practice by the State of New York who may be an employee of the Respondent, or an individual or member of a firm which is authorized to offer engineering services in accordance with Article 145 of the New York State Education Laws. These plans shall satisfy all applicable local, state and federal laws, rules and regulations;

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

Remedial Program;

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

e. A description of operation, maintenance and monitoring activities to be undertaken following completion of the Remedial Program, including the number of years during which such activities will be performed.

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

g. A health and safety plan for the protection of persons at and in the vicinity of the Site during construction and after completion of the Remedial Program. The plan shall be prepared in accordance with 29 C.F.R. Section 1910 by a certified health and safety professional.

XI. After receipt of the Remedial Design, the Department shall notify Respondent in writing of its approval or disapproval of the Remedial Design. If the Department approves the Remedial Design, the Respondent shall implement the Remedial Program in accordance with it.

If the Department disapproves the Remedial Design, the Department shall notify Respondent in writing of the Department's objections. Within 45 days after receipt of notice of disapproval, Respondent shall revise the Remedial

Design in accordance with the Department's specific comments and submit a revised Remedial Design.

After receipt of the revised Remedial Design, the Department shall notify Respondent in writing of its approval or disapproval of the revised Remedial Design. If the Department approves the revised Remedial Design, Respondent shall implement the Remedial Program in accordance with it.

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

The approved Remedial Design shall be attached as Appendix "E" and incorporated into this Order.

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

Within 60 days after completion of the Remedial Program, Respondent shall submit as-built drawings, a final engineering report, final operation, maintenance and monitoring report reflecting all changes made during construction and a certification that the Remedial Program was completed in accordance with the approved Remedial Design, all by an engineer licensed to practice by the State of New York who may be an employee of the Respondent, or an

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

XIII. After receipt of the as-built drawings, final engineering report and certification, the Department shall notify Respondent in writing whether it is satisfied with the quality and completeness of the Remedial Program as being protective of human health and the environment.

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

XIV. Prior to its acceptance and approval of the engineer's certification that construction was completed in accordance with the approved Remedial Design, the Department may require the Respondent to modify the Remedial Design and Construction if the Department determines that such modification is necessary due to:

(1) environmental conditions on-Site or off-Site which are related to the presence of hazardous wastes at the Site and were unknown to the Department at the time of the effective date of this Order;

(2) information received, in whole or in part, after the effective date of this Order, where such unknown environmental conditions or information indicates that the

Remedial Program is not protective of human health or the environment.

XV. Respondent shall operate, maintain and monitor all elements of the Remedial Program for the period of years set forth in the approved Remedial Design, implement the contingency plan contained in the approved Remedial Design in the event any element of the Remedial Program fails after completion or otherwise fails to protect human health or the environment, and implement the health and safety plan contained in the approved Remedial Design after completion.

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

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

XVIII. Respondent shall be responsible for assuring that whatever permits, easements, rights-of-way, rights-of-entry, approvals or authorizations are necessary to perform Respondent's obligations under this Order are properly obtained.

XIX. Respondent shall permit any duly designated employee, consultant, contractor or agent of the Department or any State agency to enter upon the Site or areas in the vicinity of the Site which may be under the control of Respondent for purposes of inspection, sampling and testing

and to assure Respondent's compliance with this Order. During implementation of the Remedial Program, Respondent shall provide the Department with suitable office space at the site, including access to a telephone, and shall permit the Department full access to all records and job meetings.

XX. Respondent shall not suffer any penalty under this Order, or be subject to any proceeding or action, if it cannot comply with any requirements hereof because of an act of God, war or riot. Respondent shall immediately notify the Department in writing when it obtains knowledge of any such condition and request an appropriate extension or modification of this Order.

XXI. The failure of the Respondent to comply with any term of this Order shall be a violation of this Order and the ECL.

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

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

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

c. the Department's right to bring any action or

proceeding against Respondent, its directors, officers, employees, servants, agents, successors and assigns with respect to claims for natural resources damages as a result of the release or threatened release of hazardous wastes or constituents at or from the Site or areas in the vicinity of the Site, and;

d. the Department's right to bring any action or proceeding against Respondent, its directors, officers, employees, servants, agents, successors and assigns with respect to hazardous wastes that are present at the site or that have migrated from the site and present a significant threat to human health or the environment.

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

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

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

XXVI. If Respondent desires that any provision of this Order be changed, it shall make timely written application to the Commissioner, setting forth reasonable grounds for the

relief sought. A copy of such written application shall be delivered or mailed to:

Martin Doster, P.E.
New York State Department of
Environmental Conservation
Div. Hazardous Waste Remediation
600 Delaware Avenue
Buffalo, New York 14202

XXVI. Within 30 days after the effective date of this Order, Respondent shall file a Declaration of Covenants and Restrictions with the Cattaraugus County Clerk to give all parties who may acquire any interest in the Site notice of this Order.

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

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

A. Communication from Respondent shall be made as follows:

1. Director, Division of
Environmental Enforcement
New York State Department of
Environmental Conservation
50 Wolf Road
Albany, New York 12233

- 2. ⁽⁴⁾ Director, Division of Hazardous Waste Remediation
New York State Department of Environmental Conservation
50 Wolf Road
Albany, New York 12233
- 3. ⁽¹⁾ Director, Bureau of Environmental Exposure Investigation
New York State Department of Health
2 University Place
Albany, New York 12203
- 4. ⁽¹⁾ New York State Department of Environmental Conservation
Division of Environmental Enforcement
600 Delaware Avenue
Buffalo, New York 14202-1073
- 5. ~~1~~ John J. Spagnoli, Regional Director
New York State Department of Environmental Conservation - Region 9
600 Delaware Avenue
Buffalo, New York 14202-1073
- 6. ⁽⁵⁾ New York State Department of Environmental Conservation
Div. Hazardous Waste Remediation
Region 9
Attn: Martin Doster
600 Delaware Avenue
Buffalo, New York 14202-1073

*DOW R9
CCHD* { *DOW
LIB
WORKING
Reps*

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

- 1. ~~1~~ One copy to the Director, Division of Environmental Enforcement.
- 2. ⁽¹⁾ Two copies to the Director, Division of Hazardous Waste Remediation.
- 3. ⁽¹⁾ Two copies to the Director, Bureau of Environmental Exposure Investigation.
- 4. ~~1~~ One copy to Buffalo Field Unit
Division of Environmental Enforcement

5. Five copies to Region 9 Division of Hazardous Waste Remediation.

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

Harold J. Ruttenberg
Signore, Inc.
403 Bellefield Tower
100 North Bellefield Avenue
Pittsburgh, Pennsylvania 15213

D. The Department and Respondent respectively reserve the right to designate other or different addresses on notice to the other.

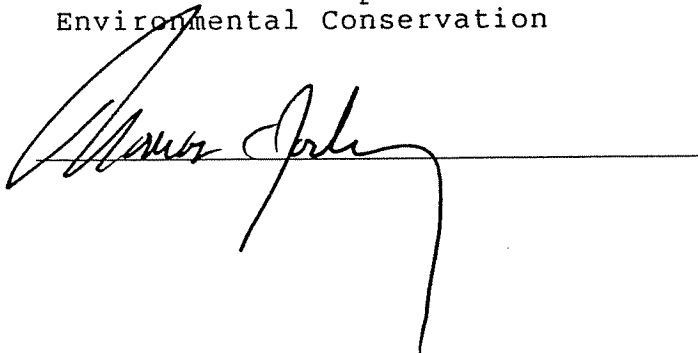
XXIX. Respondent, its officers, directors, agents, servants, employees, successors and assigns shall be bound by this Order.

XXX. The terms hereof shall constitute the complete and entire Order between Respondent and the Department concerning the Site. No terms, conditions, understandings or agreements purporting to modify or vary the terms hereof shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestions or comments by the Department regarding reports, proposals, plans, specifications, schedules or any other submittals

shall be construed as relieving Respondent of its obligations to obtain such formal approvals as may be required by this Order.

DATED: *Albany,* , New York
Aug 28 , 1989

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

A handwritten signature in black ink, appearing to read "Thomas Jorling", is written over a horizontal line. The signature is stylized and cursive.

CONSENT BY RESPONDENT

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

SIGNORE, INC.

By: Harold J. Ruttenberg
Harold J. Ruttenberg
(TYPE NAME OF SIGNER)

Title: Chairman, CEO and Treasurer

Date: August 2, 1989

COMMONWEALTH OF PENNSYLVANIA
~~STATE OF NEW YORK~~
) s.s.:
COUNTY OF ALLEGHENY

On this 2nd day of August, 1989,
before me personally came Harold J. Ruttenberg,
to me known, who being duly sworn, did depose and say that he
resides in Allegheny County, Pennsylvania; that
he is the Chairman, CEO and Treasurer of the
Signore, Inc. corporation described in and
which executed the foregoing instrument; that he knew the
seal of said corporation; that the seal affixed to said
instrument was such corporate seal; that it was so affixed by
the order of the Board of Directors of said corporation,
and that he signed his name thereto by like order.

Karen Lynn Lusky
NOTARY PUBLIC

KAREN LYNN LUSKY, Notary Public
Pittsburgh, Allegheny Co., PA
My Commission Expires Nov. 20, 1989

R E C E I V E D

SEP 6 1989

N.Y.S. DEPT. OF
ENVIRONMENTAL CONSERVATION
REGION 9

DRAFT

mt 6/16/89

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

What is the enforcement mechanism for requiring implementation of IRMS? Waplan?

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

ORDER ON CONSENT

INDEX #B9-0258-89-03 SITE #905023

by SIGNORE, INC.

Respondent

WHEREAS,

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

2. SIGNORE, INC. ("Respondent"), is a corporation organized under the laws of the State of New York and owns and operates an industrial manufacturing facility located at 45 Jefferson Street in the Village of Ellicottville in Cattaraugus County, New York (the "Site").

3. The Site is an inactive hazardous waste disposal site, as that term is defined at ECL Section 27-1301(2) and presents a significant threat to the public health or environment. The site has been listed in the Registry of Inactive Hazardous Waste Disposal Sites in New York State as Site Number 905023. The Department has classified the Site as a Classification "2" pursuant to ECL Section 27-1305(4)(b).

DRAFT

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

5. The Department and Respondent agree that the goals of this Order shall be the development and implementation of an Interim Remedial Measure by Respondent, and a Remedial Investigation/Feasibility Study at the Site. 6. Respondent, having waived its right to a hearing herein as provided by law, and having consented to the issuance and entry of this Order, agrees to be bound by its terms.

Plural?

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

I. All activities and submittals required by this Order shall address both on-Site and off-Site contamination and shall be in accordance with Requisite Remedial Technology. As used in this Order, Requisite Remedial Technology means the proper application of scientific and engineering

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principles and practices, subject to the Department's approval, which will identify and mitigate or eliminate any present or potential threat to the public health or environment posed by the presence of hazardous waste at the Site and any release or threatened release of hazardous waste at or from the Site.

II. Respondent shall retain professional consultants, contractors and laboratories acceptable to the Department to perform the technical, engineering and analytical obligations required by this Order. The experience, capabilities and qualifications of the firms or individuals selected by Respondent shall be submitted to the Department for approval prior to initiation of any activities for which the Respondent and their consultants will be responsible.

III. Within 60 days after the effective date of this Order, Respondent shall submit to the Department a detailed plan for the implementation of an Interim Remedial Measure and for the implementation of a Remedial Investigation/Feasibility Study (the "Work Plan"). The Work Plan shall describe the methods and procedures to be implemented to accomplish the scope of work presented in a letter to Martin L. Doster of the Department from Samuel M. Stowe of Groundwater Associates, Inc., dated May 10, 1989. A copy of that letter shall be attached to this Order as Appendix "A" and the letter is incorporated herein.

The Department shall notify Respondent in writing of its approval or disapproval of the Work Plan. If the Department

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approves the Work Plan, Respondent shall perform all work in accordance with it.

If the Department disapproves the Work Plan, the Department shall notify Respondent in writing of the Department's objections. Within 45 days after receipt of notice of disapproval, Respondent shall revise the Work Plan in accordance with the Department's specific comments, and shall submit a revised Work Plan.

The Department shall notify Respondent in writing of its approval or disapproval of the revised Work Plan. If the Department approves the revised Work Plan, Respondent shall perform the Interim Remedial Measure and the Remedial Investigation/Feasibility Study in accordance with the Work Plan.

If the Department disapproves the revised Work Plan, the Respondent shall be deemed to be in violation of this Order. The Work Plan, if approved by the Department, shall be attached as Appendix "B" and incorporated into this Order.

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

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

V. After receipt of the Report, the Department shall determine if the Interim Remedial Measure and the Remedial Investigation were conducted and the Report prepared in accordance with the Work Plan and this Order, and shall notify Respondent in writing of its approval or disapproval of the Report.

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

Completion date for
Item 7 RIFS

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by the Department in its notice of disapproval.

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

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

The approved Report shall be attached as Appendix "C" and incorporated into this Order.

VI. The Department reserves the right to require a modification and/or an amplification and expansion of the Interim Remedial Measure and the Remedial Investigation and Report by Respondent if the Department determines, as a result of reviewing data generated by the activities pursuant to this Order or as a result of reviewing any other data or facts, that further work is necessary.

60 VII. Within 90 days after receipt of the Department's approval of the Report, Respondent shall submit a 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 attributable to the Site. The Feasibility Study shall be prepared and certified by an engineer licensed to practice by the State of New York, and approved by the Department who may be an employee of Respondent, or an individual or member of a firm which is authorized to offer engineering services in accordance with Article 145 of the New York State Education Law.

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

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

If the Department disapproves the Feasibility Study, the Department shall notify Respondent in writing of the Department's objections. Within 45 days after receipt of notice of disapproval, Respondent shall revise the Feasibility Study in accordance with the Department's specific comments and submit a revised Feasibility Study.

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

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

The approved Feasibility Study shall be attached as Appendix "D" and incorporated into this Order.

IX. Within 60 days after the Department's approval of the Feasibility Study, the Department and Respondent shall

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solicit public comment on the Remedial Investigation/ Feasibility Study and the Interim Remedial Measure in accordance with CERCLA, the NCP, and any relevant Department policy and guidance documents in effect at the time the public comment period is initiated. After the close of the public comment period, the Department shall select a final remedial program for the site in a Record of Decision ("ROD"). The ROD shall be attached as Appendix "E" and incorporated into this Order.

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

The Remedial Design shall include the following:

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

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

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

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3. physical security and posting of the Site;
4. health and safety of persons living and/or working at or in the vicinity of the site;
5. quality control and quality assurance procedures and protocols to be applied during implementation of the Remedial Program; and
6. monitoring which integrates needs which are present both on-Site and off-Site during implementation of the Remedial Program.

b. "Biddable Quality" documents for the Remedial Program, including plans and specifications prepared and certified by an engineer licensed to practice by the State of New York who may be an employee of the Respondent, or an individual or member of a firm which is authorized to offer engineering services in accordance with Article 145 of the New York State Education Laws. These plans shall satisfy all applicable local, state and federal laws, rules and regulations;

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

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

e. A description of operation, maintenance and monitoring activities to be undertaken following completion

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of the Remedial Program, including the number of years during which such activities will be performed.

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

g. A health and safety plan for the protection of persons at and in the vicinity of the Site during construction and after completion of the Remedial Program. The plan shall be prepared in accordance with 29 C.F.R. Section 1910 by a certified health and safety professional.

XI. After receipt of the Remedial Design, the Department shall notify Respondent in writing of its approval or disapproval of the Remedial Design. If the Department approves the Remedial Design, the Respondent shall implement the Remedial Program in accordance with it.

If the Department disapproves the Remedial Design, the Department shall notify Respondent in writing of the Department's objections. Within 45 days after receipt of notice of disapproval, Respondent shall revise the Remedial Design in accordance with the Department's specific comments and submit a revised Remedial Design.

After receipt of the revised Remedial Design, the Department shall notify Respondent in writing of its approval or disapproval of the revised Remedial Design. If the Department approves the revised Remedial Design, Respondent shall implement the Remedial Program in accordance with it.

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

The approved Remedial Design shall be attached as Appendix "F" and incorporated into this Order.

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

Within 60 days after completion of the Remedial Program, Respondent shall submit as-built drawings, a final engineering report, final operation, maintenance and monitoring report reflecting all changes made during construction and a certification that the Remedial Program was completed in accordance with the approved Remedial Design, all by an engineer licensed to practice by the State of New York who may be an employee of the Respondent, or an individual or member of a firm which is authorized to offer engineering services in accordance with Article 145 of the New York State Education Law.

XIII. After receipt of the as-built drawings, final engineering report and certification, the Department shall notify Respondent in writing whether it is satisfied with the quality and completeness of the Remedial Program as being

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protective of human health and the environment.

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

XIV. Prior to its acceptance and approval of the engineer's certification that construction was completed in accordance with the approved Remedial Design, the Department may require the Respondent to modify the Remedial Design and Construction if the Department determines that such modification is necessary due to:

(1) environmental conditions on-Site or off-Site which are related to the presence of hazardous wastes at the Site and were unknown to the Department at the time of the effective date of this Order;

(2) information received, in whole or in part, after the effective date of this Order, where such unknown environmental conditions or information indicates that the Remedial Program is not protective of human health or the environment.

XV. Respondent shall operate, maintain and monitor all elements of the Remedial Program for the period of years set forth in the approved Remedial Design, implement the contingency plan contained in the approved Remedial Design in the event any element of the Remedial Program fails after

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completion or otherwise fails to protect human health or the environment, and implement the health and safety plan contained in the approved Remedial Design after completion.

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

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

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

XIX. Respondent shall permit any duly designated employee, consultant, contractor or agent of the Department or any State agency to enter upon the Site or areas in the vicinity of the Site which may be under the control of Respondent for purposes of inspection, sampling and testing and to assure Respondent's compliance with this Order.

During implementation of the Remedial Program, Respondent shall provide the Department with suitable office space at the site, including access to a telephone, and shall permit the Department full access to all records and job meetings.

XX. Respondent shall not suffer any penalty under this Order, or be subject to any proceeding or action, if it cannot comply with any requirements hereof because of an act

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of God, war or riot. Respondent shall immediately notify the Department in writing when it obtains knowledge of any such condition and request an appropriate extension or modification of this Order.

XXI. The failure of the Respondent to comply with any term of this Order shall be a violation of this Order and the ECL.

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

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

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

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

d. the Department's right to bring any action or proceeding against Respondent, its directors, officers,

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employees, servants, agents, successors and assigns with respect to hazardous wastes that are present at the site or that have migrated from the site and present a significant threat to human health or the environment.

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

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

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

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

Martin Doster, P.E.
New York State Department of
Environmental Conservation
Div. Hazardous Waste Remediation
600 Delaware Avenue
Buffalo, New York 14202

XXVI. Within 30 days after the effective date of this Order, Respondent shall file a Declaration of Covenants and

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Restrictions with the Cattaraugus County Clerk to give all parties who may acquire any interest in the Site notice of this Order.

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

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

A. Communication from Respondent shall be made as follows:

1. Director, Division of
Environmental Enforcement
New York State Department of
Environmental Conservation
50 Wolf Road
Albany, New York 12233
2. Director, Division of Hazardous Waste
Remediation
New York State Department of
Environmental Conservation
50 Wolf Road
Albany, New York 12233
3. Director, Bureau of Environmental
Exposure Investigation
New York State Department of Health
2 University Place
Albany, New York 12203

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4. New York State Department of Environmental Conservation
Division of Environmental Enforcement
600 Delaware Avenue
Buffalo, New York 14202-1073
5. John J. Spagnoli, Regional Director
New York State Department of Environmental Conservation - Region 9
600 Delaware Avenue
Buffalo, New York 14202-1073
6. New York State Department of Environmental Conservation
Div. Solid and Hazardous Waste - Reg 9
Attn: Martin Doster
600 Delaware Avenue
Buffalo, New York 14202-1073

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

1. One copy to the Director, Division of Environmental Enforcement.
2. Six copies to the Director, Division of Hazardous Waste Remediation.
3. Two copies to the Director, Bureau of Environmental Exposure Investigation.
4. One copy to Buffalo Field Unit
Division of Environmental Enforcement
5. One copy to Region 9 Regional Director

*Region is lead
I prefer to
have bulk of
copies for
distribution*

C. Communication to be made from the Department to the

Respondent shall be made as follows:

Harold J. Ruttenberg
Signore, Inc.
403 Bellefield Tower
100 North Bellefield Avenue
Pittsburgh, Pennsylvania 15213

D. The Department and Respondent respectively reserve the right to designate other or different addresses on notice

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to the other.

XXIX. Respondent, its officers, directors, agents, servants, employees, successors and assigns shall be bound by this Order.

XXX. The terms hereof shall constitute the complete and entire Order between Respondent and the Department concerning the Site. No terms, conditions, understandings or agreements purporting to modify or vary the terms hereof shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestions or comments by the Department regarding reports, proposals, plans, specifications, schedules or any other submittals shall be construed as relieving Respondent of its obligations to obtain such formal approvals as may be required by this Order.

DATED: , New York
, 1989

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

OP ?

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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

ORDER
ON
CONSENT

INDEX #B9-0258-89-03
SITE #905023

SIGNORE, INC.

Respondent

WHEREAS,

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

2. SIGNORE, INC. ("Respondent"), is a corporation organized under the laws of the State of New York and owns and operates an industrial manufacturing facility located at 45 Jefferson Street in the Village of Ellicottville in Cattaraugus County, New York (the "Site").

3. The Department has determined that the Site is an inactive hazardous waste disposal site, as that term is defined at ECL Section 27-1301(2) and presents a significant threat to the public health or environment. The site has been listed in the Registry of Inactive Hazardous Waste Disposal Sites in New York State as Site Number 905023. The Department has classified the Site as a Classification "2" pursuant to ECL Section 27-1305(4)(b).

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

5. The Department and Respondent agree that the goals of this Order shall be the development and implementation of Interim Remedial Measures by Respondent, and a Remedial Investigation/Feasibility Study at the Site.

6. Respondent, without any admission of law or fact, having waived its right to a hearing herein as provided by law, and having consented to the issuance and entry of this Order, agrees to be bound by its terms.

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

I. All activities and submittals required by this Order shall address both on-Site and off-Site contamination and shall be in accordance with Requisite Remedial Technology. As used in this Order, Requisite Remedial Technology means the proper application of scientific and engineering

principles and practices, subject to the Department's approval, which will identify and mitigate or eliminate any present or potential threat to the public health or environment posed by the presence of hazardous waste at the Site and any release or threatened release of hazardous waste at or from the Site.

II. Respondent shall retain professional consultants, contractors and laboratories acceptable to the Department to perform the technical, engineering and analytical obligations required by this Order. The experience, capabilities and qualifications of the firms or individuals selected by Respondent shall be submitted to the Department for approval prior to initiation of any activities for which the Respondent and their consultants will be responsible.

shorten time-frame — III. Within 60 days after the effective date of this Order, Respondent shall submit to the Department a detailed plan for the implementation of Interim Remedial Measures and for the implementation of a Remedial Investigation/Feasibility Study (the "Work Plan"). The Work Plan shall describe the methods and procedures to be implemented to accomplish the scope of work necessary to accomplish the following tasks:

(A) Assure that the Town of Ellicottville public water supply distributed to the public from the Town's well located south of the Village complies with the applicable quality standards for public water supplies;

(B) Provide for the supply of public water to those

residences whose private wells fail to meet the standards applicable to public water supplies due to the presence of chlorinated organics; and

(C.) Implement a Remedial Investigation and Feasibility Study at the Site.

The Department shall notify Respondent in writing of its approval or disapproval of the Work Plan. If the Department approves the Work Plan, Respondent shall perform all work in accordance with it.

If the Department disapproves the Work Plan, the Department shall notify Respondent in writing of the Department's objections. Within 45 days after receipt of notice of disapproval, Respondent shall revise the Work Plan in accordance with the Department's specific comments, and shall submit a revised Work Plan.

The Department shall notify Respondent in writing of its approval or disapproval of the revised Work Plan. If the Department approves the revised Work Plan, Respondent shall perform the Interim Remedial Measures and the Remedial Investigation/Feasibility Study in accordance with the Work Plan.

If the Department disapproves the revised Work Plan, the Respondent shall be deemed to be in violation of this Order. The Work Plan, if approved by the Department, shall be attached as Appendix "A" and incorporated into this Order.

IV. In accordance with the time schedule contained in the approved Work Plan, Respondent shall perform the Interim

Remedial Measures and the Remedial Investigation and submit the status reports and other deliverables (as defined in the Work Plan) and the Remedial Investigation Report. During the implementation of the Work Plan, Respondent shall have on-Site a full-time representative who is qualified to inspect the work. The Report shall include all data generated and all other information obtained during implementation of the Interim Remedial Measures and the Remedial Investigation, provide all of the assessments and evaluations set forth in CERCLA, the NCP then in effect, and the USEPA draft guidance document entitled "Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA," dated March 1988 and any subsequent revisions thereto and appropriate technical and administrative guidelines and identify any additional data that must be collected. The Report shall be prepared and certified by an engineer licensed to practice by the State of New York, who may be an employee of Respondent, or an individual or member of a firm which is authorized to offer engineering services in accordance with Article 145 of the New York State Education Law, who shall certify that all activities that comprised the Remedial Investigation were performed in full accordance with the approved Work Plan.

V. After receipt of the Report, the Department shall determine if the Interim Remedial Measures and the Remedial Investigation were conducted and the Report prepared in accordance with the Work Plan and this Order, and shall

notify Respondent in writing of its approval or disapproval of the Report.

If the Department disapproves the Report, the Department shall notify Respondent in writing of the Department's objections. Respondent shall revise the Report and/or reperform or supplement the Interim Remedial Measures or the Remedial Investigation in accordance with the Department's specific comments and shall submit a revised Report. The period of time within which the Report must be revised or any Interim Remedial Measure or the Remedial Investigation reperformed or supplemented shall be specified by the Department in its notice of disapproval.

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

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

The approved Report shall be attached as Appendix "B" and incorporated into this Order.

VI. The Department reserves the right to require a modification and/or an amplification and expansion of the Interim Remedial Measures and the Remedial Investigation and Report by Respondent if the Department determines, as a result of reviewing data generated by the activities pursuant to this Order or as a result of reviewing any other data or facts, that further work is necessary.

VII. Within 90 days after receipt of the Department's

60 days preferable

approval of the Report, Respondent shall submit a 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 attributable to the Site. The Feasibility Study shall be prepared and certified by an engineer licensed to practice by the State of New York, and approved by the Department who may be an employee of Respondent, or an individual or member of a firm which is authorized to offer engineering services in accordance with Article 145 of the New York State Education Law.

The Feasibility Study shall be performed in a manner that is consistent with CERCLA, the NCP then in effect, and the guidance documents referred to in paragraph IV above.

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

If the Department disapproves the Feasibility Study, the Department shall notify Respondent in writing of the Department's objections. Within 45 days after receipt of notice of disapproval, Respondent shall revise the Feasibility Study in accordance with the Department's specific comments and submit a revised Feasibility Study.

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

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

The approved Feasibility Study shall be attached as Appendix "C" and incorporated into this Order.

IX. Within 60 days after the Department's approval of the Feasibility Study, the Department and Respondent shall solicit public comment on the Remedial Investigation/ Feasibility Study and the Interim Remedial Measures in accordance with CERCLA, the NCP, and any relevant Department policy and guidance documents in effect at the time the public comment period is initiated. After the close of the public comment period, the Department shall select a final remedial program for the site in a Record of Decision ("ROD"). The ROD shall be attached as Appendix "D" and incorporated into this Order.

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

The Remedial Design shall include the following:

a. A detailed description of the means by which each essential element of the Remedial Program will be performed,

to include but not be limited to:

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

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

3. physical security and posting of the Site;

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

5. quality control and quality assurance procedures and protocols to be applied during implementation of the Remedial Program; and

6. monitoring which integrates needs which are present both on-Site and off-Site during implementation of the Remedial Program.

b. "Biddable Quality" documents for the Remedial Program, including plans and specifications prepared and certified by an engineer licensed to practice by the State of New York who may be an employee of the Respondent, or an individual or member of a firm which is authorized to offer engineering services in accordance with Article 145 of the New York State Education Laws. These plans shall satisfy all applicable local, state and federal laws, rules and regulations;

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

Remedial Program;

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

e. A description of operation, maintenance and monitoring activities to be undertaken following completion of the Remedial Program, including the number of years during which such activities will be performed.

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

g. A health and safety plan for the protection of persons at and in the vicinity of the Site during construction and after completion of the Remedial Program. The plan shall be prepared in accordance with 29 C.F.R. Section 1910 by a certified health and safety professional.

XI. After receipt of the Remedial Design, the Department shall notify Respondent in writing of its approval or disapproval of the Remedial Design. If the Department approves the Remedial Design, the Respondent shall implement the Remedial Program in accordance with it.

If the Department disapproves the Remedial Design, the Department shall notify Respondent in writing of the Department's objections. Within 45 days after receipt of notice of disapproval, Respondent shall revise the Remedial

Design in accordance with the Department's specific comments and submit a revised Remedial Design.

After receipt of the revised Remedial Design, the Department shall notify Respondent in writing of its approval or disapproval of the revised Remedial Design. If the Department approves the revised Remedial Design, Respondent shall implement the Remedial Program in accordance with it.

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

The approved Remedial Design shall be attached as Appendix "E" and incorporated into this Order.

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

Within 60 days after completion of the Remedial Program, Respondent shall submit as-built drawings, a final engineering report, final operation, maintenance and monitoring report reflecting all changes made during construction and a certification that the Remedial Program was completed in accordance with the approved Remedial Design, all by an engineer licensed to practice by the State of New York who may be an employee of the Respondent, or an

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

XIII. After receipt of the as-built drawings, final engineering report and certification, the Department shall notify Respondent in writing whether it is satisfied with the quality and completeness of the Remedial Program as being protective of human health and the environment.

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

XIV. Prior to its acceptance and approval of the engineer's certification that construction was completed in accordance with the approved Remedial Design, the Department may require the Respondent to modify the Remedial Design and Construction if the Department determines that such modification is necessary due to:

(1) environmental conditions on-Site or off-Site which are related to the presence of hazardous wastes at the Site and were unknown to the Department at the time of the effective date of this Order;

(2) information received, in whole or in part, after the effective date of this Order, where such unknown environmental conditions or information indicates that the

Remedial Program is not protective of human health or the environment.

XV. Respondent shall operate, maintain and monitor all elements of the Remedial Program for the period of years set forth in the approved Remedial Design, implement the contingency plan contained in the approved Remedial Design in the event any element of the Remedial Program fails after completion or otherwise fails to protect human health or the environment, and implement the health and safety plan contained in the approved Remedial Design after completion.

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

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

XVIII. Respondent shall be responsible for assuring that whatever permits, easements, rights-of-way, rights-of-entry, approvals or authorizations are necessary to perform Respondent's obligations under this Order are properly obtained.

XIX. Respondent shall permit any duly designated employee, consultant, contractor or agent of the Department or any State agency to enter upon the Site or areas in the vicinity of the Site which may be under the control of Respondent for purposes of inspection, sampling and testing

and to assure Respondent's compliance with this Order. During implementation of the Remedial Program, Respondent shall provide the Department with suitable office space at the site, including access to a telephone, and shall permit the Department full access to all records and job meetings.

XX. Respondent shall not suffer any penalty under this Order, or be subject to any proceeding or action, if it cannot comply with any requirements hereof because of an act of God, war or riot. Respondent shall immediately notify the Department in writing when it obtains knowledge of any such condition and request an appropriate extension or modification of this Order.

XXI. The failure of the Respondent to comply with any term of this Order shall be a violation of this Order and the ECL.

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

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

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

c. the Department's right to bring any action or

proceeding against Respondent, its directors, officers, employees, servants, agents, successors and assigns with respect to claims for natural resources damages as a result of the release or threatened release of hazardous wastes or constituents at or from the Site or areas in the vicinity of the Site, and;

d. the Department's right to bring any action or proceeding against Respondent, its directors, officers, employees, servants, agents, successors and assigns with respect to hazardous wastes that are present at the site or that have migrated from the site and present a significant threat to human health or the environment.

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

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

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

XXVI. If Respondent desires that any provision of this Order be changed, it shall make timely written application to the Commissioner, setting forth reasonable grounds for the

relief sought. A copy of such written application shall be delivered or mailed to:

Martin Doster, P.E.
New York State Department of
Environmental Conservation
Div. Hazardous Waste Remediation
600 Delaware Avenue
Buffalo, New York 14202

XXVI. Within 30 days after the effective date of this Order, Respondent shall file a Declaration of Covenants and Restrictions with the Cattaraugus County Clerk to give all parties who may acquire any interest in the Site notice of this Order.

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

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

A. Communication from Respondent shall be made as follows:

1. Director, Division of
Environmental Enforcement
New York State Department of
Environmental Conservation
50 Wolf Road
Albany, New York 12233

2. Director, Division of Hazardous Waste Remediation
New York State Department of Environmental Conservation
50 Wolf Road
Albany, New York 12233
3. Director, Bureau of Environmental Exposure Investigation
New York State Department of Health
2 University Place
Albany, New York 12203
4. New York State Department of Environmental Conservation
Division of Environmental Enforcement
600 Delaware Avenue
Buffalo, New York 14202-1073
5. John J. Spagnoli, Regional Director
New York State Department of Environmental Conservation - Region 9
600 Delaware Avenue
Buffalo, New York 14202-1073
6. New York State Department of Environmental Conservation
Div. Hazardous Waste Remediation
Region 9
Attn: Martin Doster
600 Delaware Avenue
Buffalo, New York 14202-1073

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

1. One copy to the Director, Division of Environmental Enforcement.
2. Two copies to the Director, Division of Hazardous Waste Remediation.
3. Two copies to the Director, Bureau of Environmental Exposure Investigation.
4. One copy to Buffalo Field Unit
Division of Environmental Enforcement

5. Five copies to Region 9 Division of Hazardous Waste Remediation.

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

Harold J. Ruttenberg
Signore, Inc.
403 Bellefield Tower
100 North Bellefield Avenue
Pittsburgh, Pennsylvania 15213

D. The Department and Respondent respectively reserve the right to designate other or different addresses on notice to the other.

XXIX. Respondent, its officers, directors, agents, servants, employees, successors and assigns shall be bound by this Order.

XXX. The terms hereof shall constitute the complete and entire Order between Respondent and the Department concerning the Site. No terms, conditions, understandings or agreements purporting to modify or vary the terms hereof shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestions or comments by the Department regarding reports, proposals, plans, specifications, schedules or any other submittals

shall be construed as relieving Respondent of its obligations to obtain such formal approvals as may be required by this Order.

DATED: , New York
 , 1989

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