
In the Matter of Alleged Violation of the
Environmental Conservation Law (ECL)
Article 17 and Title 6 of the Codes, Rules and
Regulations of the State of New York
(6 NYCRR), Part 703.5

**AMENDED AND
SUPPLEMENTAL ORDER**

BUSH INDUSTRIES, INC.
Jamestown, New York
(Chautauqua County)

File No.: 96-07
R9-4314-96-06

Respondent

WHEREAS:

1. The Department and Respondent entered into Order on Consent, File No. 96-07 (R9-4314-96-06), effective March 30, 1999 ("Order");
2. Respondent has completed the action items 1-6 identified on Schedule A to the Order;
3. Department has been awaiting input from the U.S. Environmental Protection Agency ("EPA") relative to Respondent's Remediation Report, and EPA has recently communicated with the Department that it agrees with the recommended course of action presented in the Remediation Report;
4. Department has approved Respondent's Remediation Report, which is attached hereto as Exhibit A;
5. Respondent agrees to implement the recommended course of action presented in the Remediation Report, as more specifically detailed in Schedule A to this Amended and Supplemental Order and the Work Plan attached thereto;

NOW, THEREFORE, THE DEPARTMENT AND RESPONDENT AGREE TO
AMEND AND SUPPLEMENT THE ORDER IN CONSIDERATION OF AND IN

EXCHANGE FOR THE MUTUAL CONSIDERATION PROVIDED BY THE PARTIES AS SET FORTH IN THE ORDER AND THE SUPPLEMENTAL MUTUAL CONSIDERATION SUPPLIED BY THE PARTIES IN THIS AMENDED AND SUPPLEMENTAL ORDER, AS FOLLOWS:

I. The Department and Respondent agree that Respondent has satisfied and completed all of the actions and items identified on Schedule A to the Order.

II. The Department and Respondent agree that Respondent shall implement the actions and items identified on Schedule A to this Amended and Supplemental Order and the Work Plan attached thereto in accordance with the timeframes set forth therein.

III. The Department and Respondent agree that paragraphs II, III, VI, VII, VIII, IX and X of the Order remain in full force and effect and are applicable to the work contemplated by Schedule A to this Amended and Supplemental Order and the Work Plan attached thereto.

IV. The Department and Respondent agree that paragraphs I, IV, V, XI and XII of the Order are of no further force or effect.

V. The Order and this Amended and Supplemental Order shall terminate upon the completion of the items identified on Schedule A to this Amended and Supplemental Order and the Work Plan attached thereto.

VI. The effective date of this Amended and Supplemental Order is the date on which it is executed by the Commissioner or his designee.

DATED: Buffalo, New York
Sept 10, 2007

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By: Abbey M. Angles

CONSENT BY RESPONDENT

Respondent, Bush Industries, Inc., hereby consents to the issuing and entering of this Amended and Supplemental Order.

Dated: SEPT. 5, 2007

BUSH INDUSTRIES, INC.

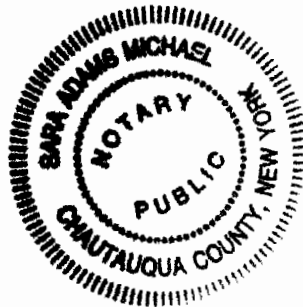
By: Neil Frederick

NEIL FREDERICK - TREASURER
Name and Title of Signatory

Neil Frederick
Type Name of Signatory

STATE OF NEW YORK)
) SS.:
COUNTY OF Chautauque)

On the 5th day of September, 2007, before me, the undersigned, personally appear Neil Frederick, Treasurer, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed within the instrument and acknowledged to me that he/she/they executed the same in his/her/their capacities, and that his/her/their signature(s) on the instruments, the individuals or the person on behalf of which the individuals acted, executed the instrument.



DDDcd
Doc # 01-1654530.1

Sara Adams Michael
Notary Public
SARA ADAMS MICHAEL, #01AD5061056
Notary Public, State of New York
Qualified in Chautauque County
My Commission Expires May 28, 20 10

Schedule A

Item	Date
<p>1. Respondent shall submit an approvable work plan pertaining to the Bush Industries property which is in accordance with the following Little Valley (hw905026) site work plans, prepared for USEPA:</p> <ul style="list-style-type: none">- Quality Assurance Project Plan (QAPP) addendum dated September 2006;- Final Remedial Action Work Plan dated October 2006. <p>Both USEPA work plans were prepared by Tetra Tech EC, Inc. under Contract Number 68-W-90-214 and were provided to Bush Industries' consultant by USEPA/Tetra Tech EC, Inc.</p>	<p>Done. Attached.</p>
<p>2. Respondent shall sample the following wells once a year:</p> <ul style="list-style-type: none">BIA-MW-D1BIA-MW-D2BIA-MW-2BIA-MW-3BIA-MW-6BIA-MW-8Alternate BIA-MW-5 <p>The methods and analytes should be the same as USEPA's methods and analytes as described in the QAPP Addendum dated September 2006. Third party data validation is required to be performed and reported.</p>	<p>Per attached Work Plan.</p>

<p>3. The Monitored Natural Attenuation (MNA) groundwater remedy will be monitored for effectiveness and must include the following, which should be documented in a summary report:</p> <ul style="list-style-type: none"> -Whether natural attenuation is occurring according to expectations (i.e., concentrations are decreasing over time) -Whether expansion of the plume is minimal to nonexistent (laterally or vertically downgradient) -Whether any additional receptors are impacted -Whether any new releases of contaminants to the environment are detected (i.e. spike in concentrations) -Whether cleanup objective levels are being attained <p>The yearly summary report will also include:</p> <ul style="list-style-type: none"> -Tables of current and historical volatile organic compounds (VOC) and MNA/water quality sampling data for the monitoring wells and piezometers sampled during the event -Maps showing the sampling locations -Water Table or piezometric head maps -Time-series plots of VOC concentrations of each of the Bush Industries monitoring wells on individual plots - Executive summary, text and conclusions. 	<p>90 days from the completion of the yearly groundwater sampling, per the attached Work Plan.</p>
--	--