

STATE OF NEW YORK:  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the Implementation of Corrective Action for a Hazardous Waste Management Facility, pursuant to Article 27, Title 9 of the Environmental Conservation Law of the State of New York by:	
<b>LOCKHEED MARTIN CORPORATION,</b>	ORDER ON CONSENT Index Number:
Respondent	CO 6-20080321-5

WHEREAS:

1. The New York State Department of Environmental Conservation (the "Department" or "NYSDEC") is responsible for enforcement of the Environmental Conservation Law of the State of New York ("ECL"). This Order is issued pursuant to the Department's authority under that law, including ECL Article 3, ECL Article 17, Title 9 of ECL Article 27, and Title 27 of ECL Article 71.
2. The Department has the power, *inter alia*, to provide for the prevention and abatement of all water, land, and air pollution. ECL 3-0301(1)(i).
3. The Department is charged with jurisdiction over the maintenance of the quality of the waters of the State of New York, and over the management of the State Pollutant Discharge Elimination System ("SPDES") permits issued pursuant to Article 17 of the ECL and regulations promulgated thereunder.
4. Respondent Lockheed Martin Corporation ("Lockheed Martin") is a corporation duly organized under the laws of the State of Maryland, and conducts business in the State of New York. Lockheed Martin is a successor by merger to Martin Marietta Corporation ("MMC"), which acquired General Electric Corporation's ("GE") aerospace business.

5. In the early 1950s, GE acquired 55 acres of undeveloped land located at 525 French Road in Utica, New York to construct a 500,000-square foot manufacturing plant. The land, with the exception of the West Lot site described in paragraph 6 below, and the manufacturing plant located thereon constitute the facility subject to this Order (the "Facility"). The Facility is bordered by the Utica Industrial Park on the north, French Road on the east and Chenango Road on the south. A New York State Department of Transportation maintenance facility is located west of the Facility on Chenango Road. A site map is attached to this Order as Attachment 1.

6. A portion of the land acquired by GE in the 1950s which is contiguous to the Facility contains a Class 4 Inactive Hazardous Waste Disposal Site, the GE West Lot site ID# 633036, where GE reportedly dumped and burned spent solvents during the 1950s and 1960s. The GE West Lot site ID# 633036 is not a part of the Facility subject to this Order.

7. Production operations conducted by GE at the manufacturing plant included manufacturing, assembly, and testing of electrical components for the defense and aerospace industries. These production operations were maintained by GE until April 1993, when the Facility was acquired by MMC. In March 1995, MMC merged with Lockheed Corporation to form Lockheed Martin, which continued to own and operate the Facility.

8. Production activities at the manufacturing plant ceased in May 1996, after Pinnacle Park Inc acquired ownership of the Facility on March 18, 1996, and Lockheed Martin subsequently decommissioned and vacated the manufacturing plant in September 30, 1996. ConMed Corporation ("ConMed"), a company that manufactures and distributes surgical equipment and supplies, now

occupies the manufacturing plant and is the beneficial owner of the Facility. ConMed leases the facility from its current owner, the Oneida County Industrial Development Agency.

9. Although Lockheed Martin no longer owns the Facility, Lockheed Martin has retained the responsibility for implementing the environmental remediation activities, and has cooperated with the Department in performing work at the Facility.

10. Groundwater in the area of the northeast corner of the main manufacturing building (referred to as the Solvent Dock Area) and the area along the northern perimeter drainage ditch has a history of impacts from volatile organic compounds ("VOCs"). Beginning in 1991, GE, MMC, and Lockheed Martin voluntarily completed investigations in these and other areas under the Department's guidance.

11. In November 1994, Blasland, Bouck & Lee, Inc. ("BBL") completed an investigation of the storm sewer in the general vicinity of the Solvent Dock Area. This investigation determined that the discharge of VOC-impacted groundwater into the drainage ditch and the infiltration of VOC-impacted groundwater from the Solvent Dock Area into the storm sewer beneath the main manufacturing building resulted in the detectable presence of VOCs in the storm sewer.

12. In May 1995, BBL completed a Storm Sewer Investigation Report, which recommended that the impacted portion of the storm sewer flow be collected, treated, and discharged to meet proposed SPDES VOC effluent limitations. An evaluation of remedial design alternatives to address the source of VOCs entering the storm sewer system that would remediate the impacted groundwater was completed by BBL (in accordance with NYSDEC recommendations). The results of this evaluation were presented in the Storm Sewer Basis of Design Report prepared by BBL in

1995.

13. Based on this report, and with the Department's concurrence, BBL completed the final design of the Facility ground-water collection and treatment system in October 1995. Construction of the system was completed in June 1996. The groundwater collection and treatment system collects groundwater from the Solvent Dock Area and the northern perimeter drainage ditch area, conveys the collected groundwater to a treatment building for removal of VOCs by a low-profile air stripper, and discharges the treated effluent to the municipal storm water system.

14. In addition, BBL developed a hydraulic and chemical groundwater monitoring program to evaluate the efficacy of the groundwater collection and treatment system for the Solvent Dock Area. BBL has modified this program (as presented in the Ground-Water Sampling and Analysis Work Plan [BBL, 1998]), through monthly and quarterly verbal and written correspondence with the NYSDEC to accommodate the changing conditions over the life cycle of the project.

15. Based upon the afore-mentioned evaluations, the Department has identified several areas of concern that need to be addressed at the Facility. These areas are more precisely described in Section 1.1 of the Corrective Measures Implementation Plan (Attachment 2 of this Order).

16. The Facility had interim status as a hazardous waste management facility, as that term is defined at 6 NYCRR 370.2(b)(89), and is subject to the New York State laws and regulations governing hazardous waste.

17. The Respondent conducted operations which subject the Facility to ECL Article 27, Title 9 and the 6 NYCRR Part 370 *et seq.* regulations promulgated pursuant thereto.

18. Pursuant to ECL 71-2727(3)(b), whenever on the basis of any information the

Commissioner determines that there is or has been a release of hazardous waste or constituents into the environment from a facility which has or has had interim status but which did not receive a final status permit, the Commissioner may issue an order requiring corrective action.

19. Respondent consents to the issuance of this Order in order to fulfill its obligation under ECL Article 27, Title 9 and ECL 71-2727(3)(b) to perform corrective action relating to the Facility ("Corrective Action"). The Department finds that resolution of all issues relating to the performance of Corrective Action relating to the Facility, undertaken in accordance with the terms of this Order, is in the public interest.

20. The Department and Respondent agree that the goals of this Order are for Respondent to:

- a. Implement any required Corrective Action at the Facility in a timely and effective manner; and
- b. Provide assurance of financial responsibility for completing such Corrective Action.

21. Respondent waives its right to a hearing as provided by law, consents to the issuance and entry of this Order and agrees to be bound by its terms.

22. Pursuant to ECL §72-0402.1(f)(v), Lockheed Martin shall not be liable for any hazardous waste program fees for waste generated under this Order.

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

I. Corrective Action

A. Respondent shall comply with the Corrective Action requirements set forth in Attachments 2 and 3 (3-1 and 3-2) of this Order.

B. Respondent shall conduct the activities set forth in Attachments 2 and 3 (3-1 and 3-2), and any other investigation and remediation at the Facility as may be required by the Department.

II. Financial Assurance

A. Within forty-five (45) days of the effective date of this Order, Respondent shall provide assurance of financial responsibility for completing such Corrective Action, in conformance with the requirements and criteria for financial assurance set forth in 6 NYCRR 373-2.8. While this Order remains in effect, the financial assurance will be subject to adjustment for inflation as provided for in 6 NYCRR Part 373-2.8(e).

B. If Respondent fails to perform the Corrective Action obligations set forth in Attachments 2 and 3 (3-1 and 3-2) of this Order, then, pursuant to the requirements of applicable law and this Order, the Department may contract to have such Corrective Action performed and obtain reimbursement from the established financial assurance.

III. Enforcement and Force Majeure

A. Respondent's failure to comply with any term of this Order shall constitute a violation of this Order and the ECL. If Department staff determines that Respondent has failed to comply with this Order, then Department staff shall notify Respondent in writing. Payment of any penalty shall not in any way alter Respondent's obligation to comply with

any term of this Order or to complete performance under the terms of this Order. The payment of stipulated penalties as set forth in paragraph IV. below shall not limit the Department's right to seek such other relief as may be authorized by law.

B. Respondent shall not suffer any penalty under any of the provisions, terms and conditions hereof, or be subject to any proceedings or actions for any remedy or relief, if Respondent cannot comply with any requirements of the provisions hereof because of an Act of God, war, riot, or other catastrophe as to which negligence or willful misconduct on the part of Respondent was not foreseen or a proximate cause, provided, however, that the Respondent shall immediately notify the Department in writing, when it obtains knowledge of any such condition and shall request an appropriate extension or modification of the provisions hereof. Respondent will adopt all reasonable measures to prevent or minimize any delay.

C. Failure to give such notice constitutes a waiver of any claim that Respondent's failure to comply is attributable to a force majeure event. Written notification shall be sent to the Regional Solid and Hazardous Materials Engineer and the Director, Bureau of Radiation and Hazardous Site Management, at the respective addresses provided in paragraph X. Respondent shall include in such notice, to the extent known at the time, the measures taken and to be taken by Respondent to prevent or minimize any delays. Respondent shall have the burden of proving by a preponderance of the evidence that a force majeure event has occurred and, consequently, is a defense to compliance with this Order pursuant to this subparagraph III.B. of this Order.

IV. Stipulated Penalties

A. If Respondent fails to comply with any term or condition set forth in this Order in the time or manner specified herein, then Respondent shall be liable for payment to the Department of the sums set forth below as stipulated penalties for each day or part thereof that Respondent is in violation of any term or condition of this Order. Stipulated penalties shall be due and payable pursuant to the following schedule:

<u>PERIOD OF NONCOMPLIANCE</u>	<u>PENALTY PER DAY</u>
1st day through 15th day	\$500.00
16th day through 30th day	\$1,000.00
31st day and each day thereafter	\$2,000.00

B. Stipulated penalties shall begin to accrue on the first day Respondent is in violation of a term or condition of this Order and shall continue to accrue through the final day of correction of any violation. Such sums shall be due and payable within sixty days after receipt of notification from the Department assessing the stipulated penalties. If such payment is not received within sixty days after Respondent receives such notification from the Department, interest shall be payable at the rate specified by the New York Civil Practice Law and Rules for interest on a judgment on the overdue amount from the day on which it was due through, and including, the date of payment. Stipulated penalties shall be paid by certified check or money order, made payable to New York State Department of Environmental Conservation, and shall be delivered personally or by certified mail, return receipt requested, to Hazardous Waste Compliance Counsel, Office of General Counsel, N.Y.S.D.E.C., 625 Broadway, 14th Floor, Albany, N.Y. 12233-5500. Payment of the



stipulated penalties shall not in any way alter Respondent's obligation to complete performance under the terms of this Order. The payment of stipulated penalties as set forth above shall not limit the Department's right to seek such other relief as may be authorized by law.

V. Submissions

A. All reports and submissions required by this Order shall be made to the Regional Solid and Hazardous Materials Engineer, and the Director of the Bureau of Radiation and Hazardous Site Management at the respective addresses provided in paragraph X. Respondent shall be responsible for the content of any submissions made pursuant to this Order. Submission of any documentation containing assertions of fact shall be considered an affirmative representation by Respondent that the documentation contains no misrepresentation of fact.

B. Respondent will make a good faith effort to adhere to all Department-imposed deadlines and the implementation schedules agreed to in all currently approved work plans related to the facility as well as any subsequent work plans and monitoring plans required by the Department for this facility. If there is a delay in the submission of a plan or report, Respondent will notify the Department in advance of the due date with a proposed new due date for Department approval and an explanation why the plan or report has been delayed.

C. The Department shall review each of the submissions Respondent makes pursuant to this Order to determine whether it was prepared, and whether the work done to generate the

data and other information in the submission was done, in accordance with this Order and with generally accepted technical and scientific principles. The Department shall notify Respondent in writing of its approval or disapproval of each submission. All Department-approved submissions shall be incorporated into and become an enforceable part of this Order. Approval by the Department shall not be unreasonably withheld or delayed by the Department.

D. If the Department disapproves a submission, it shall so notify Respondent in writing and specify the reasons for its disapproval. Within forty-five days, and subject to Respondent's ability to request additional time prior to the expiration of said forty-five days, after receiving written notice that Respondent's submission has been disapproved, Respondent shall make a revised submission to the Department that addresses and resolves all of the Department's stated reasons for disapproving the first submission. After receipt of the revised submission, the Department, without unreasonable delay, shall notify Respondent in writing of its approval or disapproval. If the Department approves the revised submission, it shall be incorporated into and become an enforceable part of this Order. If the Department disapproves the revised submission, the Department and Respondent will conduct good faith negotiations to resolve the issues between them during the course of the next twenty-one business days. If the issues are not resolved to the Department's satisfaction, the Department shall so notify Respondent in writing within such twenty-one business day period, and Respondent shall be in violation of this Order, unless it has invoked the dispute resolution mechanism set forth below in paragraph VII. within ten days of receipt of the Department's

written notice that issues have not been resolved.

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

F. Respondent shall be in violation of this Order if any submission is of such poor quality that it does not constitute a good faith effort to comply with the provisions of this Order or if Respondent fails to implement or comply with any requirement of any approved submission.

G. Within thirty (30) days of the effective date of this Order, Respondent shall submit to the Department for approval a Citizen Participation Plan that outlines the citizen participation activities to be conducted during the remedial activities at the Facility.

VI. Reservation of Rights

A. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting any of the Department's civil, criminal, or administrative rights or authorities, including but not limited to, nor exemplified by, the right to recover natural resource damages against any party, including Respondent.

B. Nothing contained in this Order shall be construed to prohibit the Commissioner or the Commissioner's designee from exercising any summary abatement powers pursuant to ECL 71-0301.

VII. Dispute Resolution

A. If the Department disapproves a revised submission under subparagraph V.C. or demands additional work under subparagraph V.D. of this Order, Respondent shall be in violation of this Order unless, within ten business days after receipt of the Department's notice of failure to resolve issues regarding a submission or demand for additional work, Respondent serves on the Regional Solid and Hazardous Materials Engineer and the Director of the Bureau of Radiation and Hazardous Site Management at the respective addresses provided in paragraph X., a written request for the appointment of an Administrative Law Judge ("ALJ") to resolve the dispute between the Department and Respondent, and files with the Department a written statement of the issues in dispute, the relevant facts upon which the dispute is based, all factual data, analysis or opinion supporting Respondent's position, and all supporting documentation on which Respondent relies (hereinafter called the Statement of Position). Subject to the Force Majeure provisions of paragraph III.B., if Respondent fails to serve such a request within such ten business day period, the Department's proposed determination, as set forth in the Department's notice of failure to resolve issues regarding a submission or demand for additional work, shall become final and Respondent will not contest such a determination.

B. In the event that Respondent serves the Department with its Statement of Position in accordance with subparagraph VII.A. of this Order, the Department shall appoint an ALJ from its Office of Hearings and Mediation Services to decide the dispute between the parties, and shall serve upon Respondent its Statement of Position, including supporting documentation no later than ten business days after receipt of Respondent's Statement of

Position. The Department shall notify Respondent in writing of the identity of the ALJ so appointed as soon as practicable. Respondent shall have seven business days after receipt of the Department's Statement of Position within which to serve upon the Department a reply to the Department's Statement of Position, and in the event Respondent serves such a reply, the Department shall have seven business days after receipt of Respondent's reply to the Department's Statement of Position within which to serve upon Respondent the Department's reply to Respondent's reply to the Department's Statement of Position. In the event that the periods for exchange of Statements of Position and replies may cause a delay in the work being performed under this Order, the time periods to resolve the dispute between the Department and Respondent may be shortened upon and in accordance with notice by the Department as agreed to by Respondent.

C. The Department shall maintain an administrative record of any dispute being addressed under this paragraph VII. The record shall include the submission(s) and any revisions, any correspondence exchanged by the parties during the time periods set forth in paragraphs V. and VII. of this Order, the Statements of Position and replies of each party served pursuant hereto, and any other relevant information. The record shall be available for review of all parties and the public.

D. Upon review of the administrative record as developed pursuant to this paragraph VII., the ALJ shall issue a final decision and order resolving the dispute. Before making such decision and order, the ALJ, in his or her sole discretion, may require the parties to attend and present evidence at an oral hearing with regard to any issue in the administrative record

concerning which the ALJ believes further evidence needs to be presented to enable him or her to make his or her decision on that issue. Any such oral hearing shall be conducted pursuant the applicable procedures set forth in 6 NYCRR 622. With respect to the final determination of the ALJ, Respondent shall have those rights granted pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York, provided that a petition is filed within forty-five days of receipt of the final decision and order issued by the ALJ, acting as the Commissioner's designee. If no such petition is filed within such forty-five day period, Respondent shall comply with the final decision rendered by the ALJ in connection with the dispute occasioned by the Department's disapproval of a submission or demand for additional work. If such a petition is filed, Respondent shall comply with the final decision rendered by the ALJ unless Respondent duly obtains a stay from the court in such Article 78 proceeding pursuant to CPLR Section 7805. If the final decision of the Court on appeal is in favor of the Department, Respondent shall be deemed to be in violation of this Order as of the date of the ALJ's final decision, if the Court determines that Respondent lacked a reasonable basis for believing it would prevail on the disputed issue(s).

E. In any dispute to be resolved by an ALJ pursuant to this paragraph VII., the party which invoked the procedures set forth in this paragraph VII. shall have the burden of proving by a preponderance of the evidence that its position should prevail. However, Respondent shall bear the burden of proof regarding all affirmative defenses; and any party making a motion shall bear the burden of proof on that motion.

F. The invocation of the dispute resolution procedures stated in this paragraph VII. shall

constitute an election of remedies by Respondent, and such election of this remedy shall constitute a waiver of any and all other remedies which may otherwise be available to Respondent regarding the specific issue or issues in dispute.

G. During the pendency of the dispute resolution process, Respondent shall continue to perform all work required under the Order other than those specific items of work subject to the dispute, and the performance of which depends upon those specific items of work subject to the dispute.

VIII. Access

A. Respondent does not own or occupy the Facility, but has access to the Facility pursuant to an Access Easement executed by Respondent and Pinnacle Park, Inc. on March 18, 1996 (the "Access Easement"), which is binding upon the current owner, and any of its successors or assigns. To the extent permitted under the Access Easement, Respondent hereby consents to the entry upon areas of the Facility which are under the control of Respondent at times reasonable under the circumstances by any duly designated employee, consultant, contractor, or agent of the Department or any State agency having jurisdiction for purposes of inspection, sampling, and testing and to ensure Respondent's compliance with this Order. Upon request, Respondent shall permit the Department full access to all records relating to matters addressed by this Order and to job meetings held in connection with the work performed under this Order.

B. To the extent permitted under the Access Easement, Respondent further agrees to provide access to areas of the Facility to any duly designated employee, consultant,

contractor, or agent of the Department or any State agency for the Department to implement any corrective measures not performed or adequately performed by Respondent.

IX. Indemnification

Respondent shall indemnify and hold the Department, the State of New York, and its representatives and employees harmless from 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 or its directors, officers, employees, servants, agents, successors, and assigns.

X. Communications

A. All written communications required by this Order shall be transmitted by United States Postal Service, by private courier service, or by hand delivery.

1. Communications to the Department shall be sent to:

Edward Blackmer, P.E.  
Regional Solid & Hazardous Materials Engineer  
New York State Department of Environmental Conservation  
317 Washington Street  
Watertown, NY 13601

Larry A. Rosenmann  
Division of Solid & Hazardous Materials  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233-7258

Gregory Rys  
New York State Department of Health  
Herkimer Field Office  
5665 Star Route 5  
Herkimer, NY 13350



Christopher H. Horan, Esq.  
Office of General Counsel  
New York State Department of Environmental Conservation  
625 Broadway, 14th Floor  
Albany, NY 12233-5500

Copies of Work plans and reports shall be sent to:

1. 1 copy: Larry A. Rosenmann
2. 1 copy: Gregory Rys

2. Communication to Respondent shall be sent to:

Mary P. Morningstar, Esq.  
Lockheed Martin Corporation  
Assistant General Counsel, Environmental Law  
6801 Rockledge Drive  
Bethesda, MD 20817

Thomas D. Blackman  
Lockheed Martin Corporation  
Project Lead, Environmental Remediation  
6801 Rockledge drive  
Bethesda, MD 20817

Virginia C. Robbins, Esq.  
Bond, Schoeneck & King, PLLC  
One Lincoln Center  
Syracuse, NY 13202

B. The Department and Respondent reserve the right to designate additional or different addressees for communication on written notice to the other given in accordance with this paragraph X., provided that neither the Department nor Respondent shall be entitled to designate more than a total of five addressees each.

XI. Public Notice

A. Within thirty days after the effective date of this Order, Respondent shall obtain the consent and signature of the owner of the Facility and file a Notice of Order, which is attached to this Order as Attachment "4", with the real property records of the Oneida County Clerk to give all parties who may acquire any interest in the Facility notice of this Order. Such Notice may only be terminated or amended upon written notification from the Department pursuant to paragraph XII of this Order that Respondent has satisfactorily fulfilled its obligations under this Order.

B. Respondent shall provide the Department with a copy of such instrument(s) required under this paragraph XI. certified by the Oneida County Clerk to be a true and faithful copy of the instrument(s) as recorded in the Office of the Oneida County Clerk.

C. If Respondent were to acquire an ownership interest in the Facility in the future and propose to convey the whole or any part of its ownership interest in the Facility, Respondent shall, not fewer than thirty (30) days before the date of conveyance, notify the Department in writing of the identity of the transferee and of the nature and proposed date of the conveyance and shall notify the transferee in writing, with a copy to the Department, of the applicability of this Order, provided that the notification requirement set forth in this subparagraph XI.C. shall not apply to: (1) easements and licenses granted by Respondent regarding the Property; or (2) changes in ownership resulting from corporate restructuring on the part of Respondent. The notification requirement set forth in this subparagraph XI.C. shall terminate no later than the date Respondent receives notice from the Department pursuant to paragraph XII. of

this Order that the Department is satisfied that no further work is necessary under this Order.

The Department shall not unreasonably withhold its approval of the proposed transfer of ownership.

D. Within forty-five (45) days of Respondent's receipt of the Department's notification pursuant to paragraph XII. of this Order of its approval of the final report relating to the final corrective measures, Respondent shall request the consent of the then current owner of the Facility to record an instrument with the Oneida County Clerk, to run with the land, that shall require Respondent and Respondent's successors, including successors-in-title and assigns, to continue in full force and effect such institutional and engineering controls the Department may require Respondent to put into place and maintain; and that shall provide that Respondent, on behalf of itself and its successors (including successors-in-title) and assigns, consents to the enforcement by the Department (or if at such time the Department shall no longer exist, any New York State Department, bureau, or other entity replacing the Department) of such controls, and covenants not to contest such enforcement.

## XII. Termination of Order

A. This Order will terminate upon the Department's written determination that the Respondent has completed all phases of the final corrective measures program, in which event, the termination shall be effective on the fifth (5th) day after the Department issues its approval of the final report relating to the final corrective measures program.

B. The Department shall notify Respondent in writing of its determination that no further work is required in connection with this Order, that the Order has terminated in

accordance with its own terms, and that Respondent, as well as its successors and assigns, has and have no further obligations under this Order. Upon receipt of such writing, Respondent shall obtain the consent and signature of the then owner of the Facility and file a Termination of Notice of Order with the Oneida County Clerk, as set forth in subparagraph XI.A. of this Order. The Department shall not unreasonably withhold or delay such notice.

C. Respondent's indemnification obligation under paragraph IX. of this Order shall survive the termination of this Order.

### XIII. Modification

If Respondent desires that any provision of this Order be changed, Respondent shall make timely written application to the Department setting forth reasonable grounds for the relief sought. Copies of such written application shall be delivered or mailed to: Director, Bureau of Radiation and Hazardous Site Management, the Regional Solid & Hazardous Materials Engineer, and Hazardous Waste Compliance Counsel, New York State Department of Environmental Conservation at the respective addresses provided in paragraph X. of this Order. If the Department grants the application, then the Department shall not unreasonably withhold or delay its approval.

### XIV. Entire Order

All Attachments to this Order are hereby incorporated into and constitute enforceable parts of this Order. The terms of this Order constitute the complete and entire Order the Department issued to Respondent covering Corrective Action under ECL Article 27, Title 9 for the Facility. No term, condition, understanding, or Order purporting to modify or vary any term of this Order, except as provided for herein in subparagraph V.B, shall be binding unless made in writing and subscribed by

the party to be bound. No informal advice, guidance, suggestion, or comment by the Department regarding any report, proposal, plan, specification, schedule, or any other submissions shall be construed as relieving Respondent of its obligation to obtain such formal approvals as may be required by this Order.

XV. Effective Date

The effective date of this Order shall be the date that the Commissioner or the Commissioner's designee signs it. The Department will provide Respondent (or Respondent's counsel), with a fully executed copy of this Order as soon as practicable after the Commissioner or the Commissioner's designee signs it.

XVI. Miscellaneous

A. Respondent hereby certifies that it has fully and accurately disclosed or made available to the Department all relevant information known to it and all relevant information in the possession or control of its officers, directors, employees, contractors, and agents which relates to, identifies or describes contamination of soils and groundwater and any other environmental concerns at the Facility.

B. Respondent shall retain professional consultants, contractors, laboratories, and quality assurance/quality control personnel acceptable to the Department to perform the technical, engineering, and analytical obligations required by this Order. Such acceptance by the Department shall not be unreasonably withheld or delayed by the Department. Respondent shall consult with the Department prior to selection of a laboratory to be used pursuant to such work plans required by this Order; however, any laboratory that possesses New York

certification for the specified analytical methods shall be presumptively approved. The responsibility for the performance of the professionals retained by Respondent shall rest solely with Respondent.

C. The Department shall have the right to obtain split samples, duplicate samples, or both, of all substances and materials sampled by Respondent, and the Department also shall have the right to take its own samples. Respondent shall make available to the Department the results of all sampling, tests or other data generated by Respondent with respect to implementation of this Order or conducted independently by Respondent. Respondent shall have the right to obtain split samples, duplicate samples, or both of all substances and materials sampled by the Department, and the Department shall promptly make available to Respondent the results of all sampling, tests or other data generated by the Department with respect to this Order.

D. Respondent shall use best efforts to obtain all permits, easements, rights-of-way, rights-of-entry, approvals, or authorizations necessary to perform its obligations under this Order. If any access required to perform this Order is not obtained despite best efforts within 45 days of the Department's approval of the pertinent work plan or phase, e.g., RFI, or within 45 days of the date the Department notifies Respondent in writing that additional access beyond that previously secured is necessary, Respondent shall promptly notify the Department, and shall include in that notification a summary of the steps Respondent has taken to attempt to obtain access. For purposes of this paragraph XVI.D., "best efforts" includes the payment of reasonable sums of money in consideration for obtaining same. The

Department may, consistent with all laws, rules, regulations, and policies, assist Respondent in obtaining access, as it deems appropriate.

E. Respondent and its successors (including successors-in-title and assigns shall be bound by this Order. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property, shall in no way alter Respondent's responsibilities under this Order. Respondent shall require that its officers, directors, employees, servants, and agents comply with the relevant provisions of this Order in the performance of their designated duties on behalf of Respondent.

F. Respondent shall provide a copy of this Order to each contractor hired to perform work required by this Order and to each person representing Respondent with respect to groundwater monitoring at the Facility and shall condition all contracts entered into, in order to carry out the obligations identified in this Order, upon performance in conformity with the terms of this Order. Respondent and its contractors shall provide written notice of this Order to all subcontractors hired to perform any portion of the work required by this Order. Respondent shall nonetheless be responsible for ensuring that its contractors and subcontractors perform the work in satisfaction of the requirements of this Order.

G. Respondent shall notify the Department at least ten calendar days in advance of any field activities to be conducted pursuant to this Order.

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

I. Respondent and Respondent's officers, directors, employees, servants, agents, lessees, and corporate successors, and assigns hereby affirmatively waive any right they had, have, or may have to make a claim pursuant to Article 12 of the Navigation Law with respect to the Facility, and further release and hold harmless the New York State Environmental Protection and Spill Compensation Fund from any and all legal or equitable claims, suits, causes of action, or demands whatsoever that any of same has or may have with respect to the Facility.

J. All references to "days" in this Order are to calendar days unless otherwise specified.

K. In the event of an inconsistency between the provisions of any attachment or appendix of this Order and any term, condition, or provision contained in paragraphs I. through XVI.J. of this Order, the term, condition, or provision contained in that paragraph, and not that in any attachment or appendix of this Order, shall control.

DATED: October 3, 2008  
Albany, New York

ALEXANDER B. GRANNIS  
COMMISSIONER  
NEW YORK STATE DEPARTMENT  
OF ENVIRONMENTAL CONSERVATION

BY: DL  
VAL WASHINGTON  
DEPUTY COMMISSIONER



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.

Lockheed Martin Corporation,

By:

Kenneth H. Meashey  
Kenneth H. Meashey  
[TYPE NAME OF SIGNATORY]

Title:

Vice President, Energy, Environment, Safety + Health

Date:

September 19, 2008

STATE OF MARYLAND

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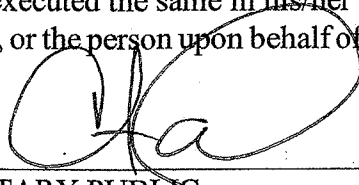
COUNTY OF

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STATE OF MARYLAND  
COUNTY OF MONTGOMERY

On the 19<sup>th</sup> day of September in the year 2008, before me, the undersigned, personally appeared Kenneth Meashey, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

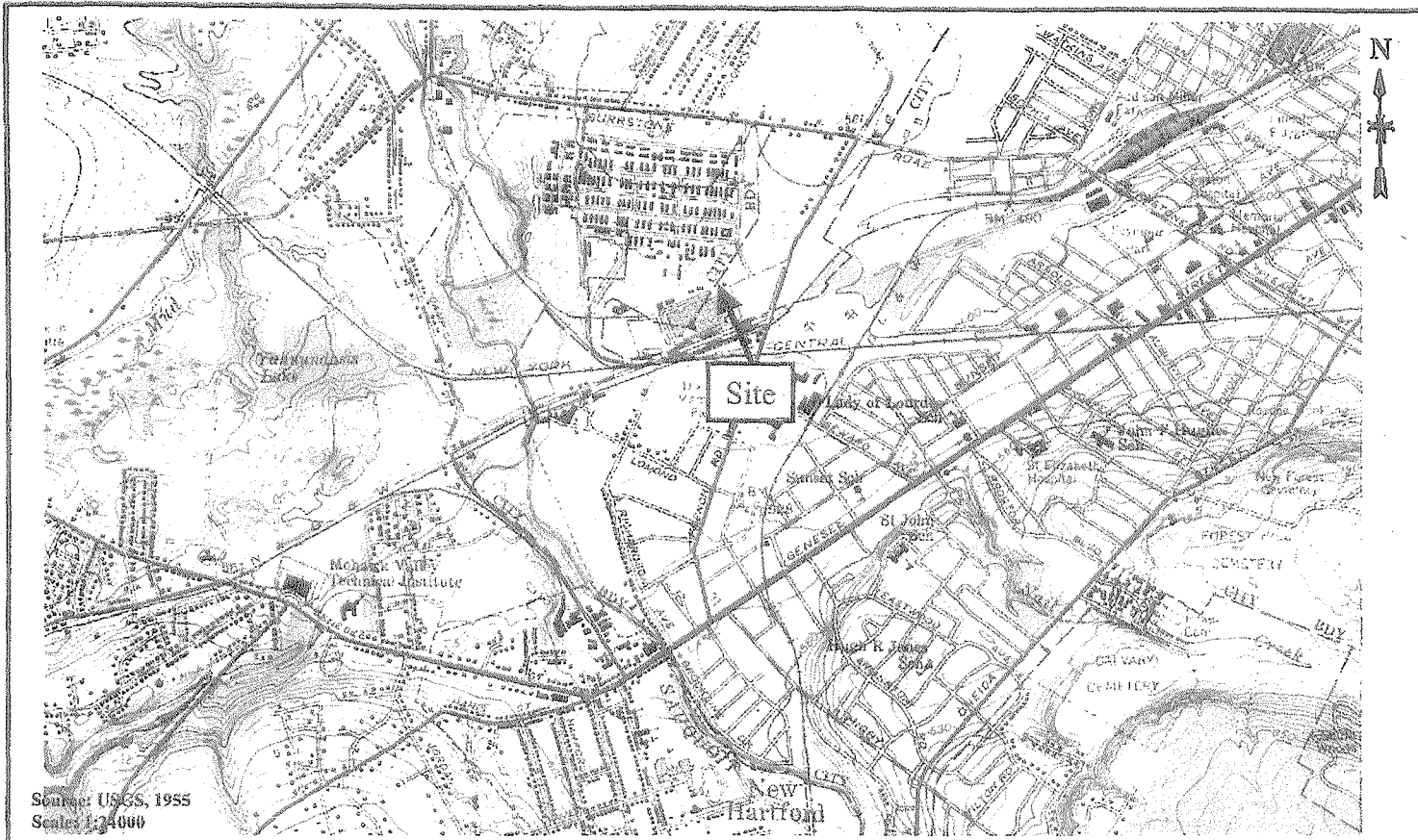


NOTARY PUBLIC

Crystal A. Brown  
Notary Public  
My Commission Expires April 10, 2010

**ATTACHMENT 1**  
**SITE MAP**

Former Lockheed Martin Facility,  
525 French Road  
Utica, New York



Source: USGS, 1955  
 Scale: 1:24000



441 New Karner Rd. Suite 4  
 Albany, New York, 12205  
 Tel: 518/452-7826 Fax: 518/452-4398

**Site Location**

Solvent Dock Area

UTICA, NEW YORK

PROJECT MANAGER	DRAWING NUMBER
M. Sanford	
CHECKED BY	PROJECT NUMBER
J. Bonsteel	AY000265.0014
DATE DRAWN	FIGURE NUMBER
July 27, 2005	1

**Attachment 2**  
**Corrective Measures Implementation Plan**  
**Former Lockheed Martin Facility,**  
**525 French Road Utica, New York**

**September 4, 2008**

**Corrective Measures Implementation Plan  
Former Lockheed Martin Facility,  
525 French Road Utica, New York**

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## **1.0 INTRODUCTION**

### **1.1 Purpose**

The purpose of this Corrective Measures Implementation Plan ("Implementation Plan" or the "Plan") is to present requirements for corrective action, including corrective action beyond the Facility boundary where necessary to protect human health and/or the environment, for all historic releases of hazardous wastes, including hazardous constituents, from the Former Lockheed Martin Facility, 525 French Road Utica, New York (the "Facility" or the "Site".)

The Plan addresses further investigation and corrective measure requirements for the following Areas of Concern (AOCs):

- AOC 1 - Groundwater
- AOC 2 - Soil Vapor / Indoor Air
- AOC 3 - Soil
- AOC 4 - Existing Remedial System (Groundwater Collection and Treatment System)
- AOC 5 - Miscellaneous Tanks
- Corrective Measures Study / Corrective Measures Implementation

This Plan also discusses remedial goals, remedial criteria, and termination requirements for each potentially impacted media: surface water, ground water, soil vapor / indoor air and soils.

### **1.2 Background**

The Facility is located at 525 French Road in Utica New York. The Site is bordered by the Utica Industrial Park on the north, French Road on the east, Chenango Road on the south and a New York State Department of Transportation maintenance facility west of the Site along Chenango Road. A portion of the original property contains a Class 4 Hazardous Waste Disposal Facility, the GE West Lot site ID# 633036, where General Electric reportedly dumped and burned spent solvents during the 1950's and 1960's. This portion of the property is a not part of the Facility subject to this order.

In the early 1950s, the General Electric Company (GE) acquired 55 acres of undeveloped land on French Road in Utica, New York to construct a 500,000-square foot manufacturing plant. Production operations conducted by GE at this plant included manufacturing, assembly, and testing of electrical components for the defense and aerospace industries. These production operations were maintained by GE until April 1993, when the Facility was acquired by Martin Marietta Corporation (MMC). In March 1995, MMC merged with Lockheed Corporation to form Lockheed Martin Corporation (LMC), which continued to own and operate the Facility. Production activities ceased in May 1996 and LMC subsequently decommissioned and vacated the Facility in October 1996. ConMed Inc., a company that manufactures and distributes surgical equipment and supplies, now occupies the Facility. ConMed leases the Facility from its current owner, the Oneida County Development Agency. Although LMC no longer owns the property,

LMC has retained the responsibility for implementing the environmental remediation activities.

Groundwater in the area of the northeast corner of the main manufacturing building (referred to as the Solvent Dock Area) and the area along the northern perimeter drainage ditch has been historically impacted by volatile organic compounds (VOCs). Beginning in 1991, GE, MMC, and LMC completed investigations in these areas. In November 1994, Blasland, Bouck & Lee, Inc. (BBL) completed an investigation of the Facility storm sewer in the general vicinity of the Solvent Dock Area. Through this investigation it was determined that VOCs detected in the storm sewer were attributable to the discharge of VOC-impacted groundwater into the drainage ditch and infiltration of VOC-impacted groundwater from the Solvent Dock Area into the storm sewer beneath the Facility main building.

In May 1995, BBL completed a Storm Sewer Investigation Report, which recommended that the impacted portion of the storm sewer flow be collected, treated, and discharged to meet proposed State Pollutant Discharge Elimination System (SPDES) VOC effluent limitations. An evaluation of remedial design alternatives to address the source of VOCs entering the storm sewer system that would remediate the impacted groundwater was completed by BBL (in accordance with NYSDEC recommendations). The results of this evaluation were presented in the Storm Sewer Basis of Design Report (BBL, 1995).

Based on this report, BBL completed the final design of the French Road Facility Ground-Water Collection and Treatment System in October 1995. Construction of the system was completed in June 1996. The groundwater collection and treatment system collects groundwater from the Solvent Dock Area and the northern perimeter drainage ditch area, conveys the collected groundwater to a treatment building for removal of VOCs by a low-profile air stripper, and discharges the treated effluent to the municipal storm water system.

In addition, a hydraulic and chemical groundwater monitoring program to evaluate the efficacy of the groundwater collection and treatment system for the Solvent Dock Area was developed. This program, as presented in the Ground-Water Sampling and Analysis Work Plan (BBL, 1998), has been modified through monthly and quarterly verbal and written correspondence with the NYSDEC to accommodate the changing conditions over the life cycle of the project. The hydraulic and water quality monitoring program for groundwater was suspended with the concurrence of NYSDEC considering the anticipated implementation of this Plan.

### **1.3 Areas of Concern**

Based upon these evaluations the Department has identified several Areas of Concern (AOCs) that need to be addressed at the Site. The potential impacts from these areas and the actions required to address them are specified in Table 1 that follows:

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<sup>1</sup> The term soil vapor includes soil vapor beneath a building slab

**Table 1**  
 Summary of Investigations and Schedule for the Corrective Measures Study  
 Required for the  
 Former Lockheed Martin Facility,  
 525 French Road, Utica, New York

<b>Area of Concern</b>	<b>Required Actions</b>
<p><b>AOC 1 - Groundwater</b></p> <p><u>Potential Impacts to</u>            Groundwater            Surface Water            Soil Vapor / Indoor Air</p>	<p>No later than 30 days after the effective date of this Order, Respondent shall submit to the Department for review and approval a groundwater investigation work plan to be implemented in accordance with the schedule specified therein. No later than 30 days after the Department's written approval of the work plan, Respondent shall commence the groundwater investigation.</p>
<p><b>AOC 2 – Soil Vapor Migration and Indoor Air</b></p> <p><u>Potential Impacts to</u>            Soil Vapor / Indoor Air</p>	<p>No later than 30 days after the effective date of this Order, Respondent shall submit to the Department for review and approval a revised "<i>Work Plan for the Interim Corrective Measure</i>" originally submitted to the Department on 25 August 2006. The revised work plan shall update the design components of the sub slab depressurization system (SDS) presented in the original work plan based on current information, including the results of the pilot test and recent vapor intrusion study conducted by Respondent. No later than 30 days after the Department's written approval of the work plan, Respondent shall commence construction of the SDS in accordance with the schedule specified therein. The SDS shall be constructed and operated in accordance with the Department-approved revised work plan.</p>
<p><b>AOC 3 – Soil</b></p> <p><u>Potential Impacts to</u>            Soils</p>	<p>No later than 30 days after the effective date of this Order, Respondent shall submit to the Department for review and approval a soil investigation work plan to be implemented in accordance with the schedule specified therein. No later than 30 days after the Department's written approval of the work plan, Respondent shall commence the soil investigation.</p>



**Table 1**  
 Summary of Investigations and Schedule for the Corrective Measures Study  
 Required for the  
 Former Lockheed Martin Facility,  
 525 French Road, Utica, New York

<b>Area of Concern</b>	<b>Required Actions</b>
<p><b>AOC 4 – Existing Remedial System (Groundwater Collection and Treatment System)</b></p> <p><u>Potential Impacts to</u>            Groundwater            Surface Water</p>	<p>No later than 60 days after the effective date of this Order, Respondent shall submit to the Department for review and approval a work plan to evaluate performance of the Groundwater Collection and Treatment System (GCTS). This work plan shall describe tasks that will provide information necessary to evaluate the efficacy of the GCTS and provide the basis to recommend system upgrades that may be necessary to achieve environmental protection. The work plan shall include by reference the <i>“Work Plan for Storm Sewer Bedding Investigation, Former Lockheed Martin French Road Facility, Utica, New York”</i> dated 24 August 2006. No later than 30 days after the Department’s written approval of the work plan, Respondent shall commence field work in accordance with the schedule specified therein.</p>
<p><b>AOC 5 - Miscellaneous Tanks**</b></p> <p><u>Potential Impacts to</u>            Groundwater            Soil</p>	<p>No later than 60 days after the effective date of this Order, Respondent shall submit to the Department for review and approval a tank status report with the results of a file review and evaluation of the current status of storage tanks that do not have closure documentation. If further investigation of any tank(s) is warranted, the tank status report will include a work plan for an investigation of the storage tank(s) to identify any contaminant releases related to the tank(s). If further investigation is not warranted, the tank status report shall state the basis for the conclusion.</p> <p>If the tank status report includes a work plan, Respondent shall commence work in accordance with the schedule specified therein no later than 30 days after the Department's written approval of the total report or the specific work plan.</p>

<p><b>Corrective Measures Study / Corrective Measures Implementation</b></p>	<p>No later than March 15, 2009, Respondent shall submit to the Department for review and approval a corrective measures study (CMS) prepared in accordance with the corrective measures scope of work included as Attachment 5 of this Order.</p> <p>The CMS shall include the results of the investigations described herein and recommendations for corrective measures. Furthermore, with respect to AOC 2, the CMS shall include recommendations for continued operation of the SDS and/or upgrades to the SDS as may be necessary in the context of the final vapor intrusion remedy. With respect to AOC 4, the CMS shall include recommendations for (i) continued operation and maintenance of the GCTS that will keep the system operating at a level equivalent to, or better than, that being achieved under the current operational requirements* or (ii) upgrades to the system or (iii) system replacement in the context of a final groundwater remedy. With respect to AOC 5, the CMS will include recommendations for corrective actions as may be necessary to address tank-related impacts. The CMS shall include a monitoring plan that will demonstrate performance of the corrective measure(s) recommended for each AOC.</p>
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\*O&M of the GW system is currently conducted under the "Ground-Water Collection and Treatment System Operation and Maintenance Manual" (BBL, May 1996, Revised February 1998) Groundwater monitoring related to the system is conducted under the "Solvent Dock and Northern Perimeter Ditch Area Ground-Water Sampling and Analysis Work Plan" (BBL, June 1996, Revised February 1998).

\*\* This includes the ten above and below ground tanks numbered 15 – 19 and 27 – 31 identified in the October 1995 Phase I Environmental Site Assessment as "IN USE" and any other tanks that are not actively being used and have not been decommissioned in a manner approved by the Department.

## **2.0 CORRECTIVE MEASURES ADDRESSING SURFACE WATER - AOCs 4 & 5**

The potential sources of surface water contamination at the Site are defined in a number of reports including:

- Storm Sewer Investigation Report (May 1995)
- Phase I Environmental Site Assessment, French Road Facility (October 1995)

### **2.1 Remedial Goals / Criteria**

The remedial goal for surface water is that no contaminants are discharged into surface waters on the Site or within the Site in a manner that poses a threat to human health or the environment.

The remedial criterion for surface water is that surface water discharged from the Site meets the approved discharge limits allowed under an active State Pollution Discharge Elimination System (SPDES) permit.

### **2.2 Termination**

Surface water discharge monitoring must continue as long as a SPDES permit is required by the Department.

## **3.0 CORRECTIVE MEASURES ADDRESSING GROUNDWATER - AOCs 1, 4, & 5**

The nature and extent of groundwater contamination at the Site is defined in a number of study reports including:

- Phase I Environmental Site Assessment, French Road Facility (October 1995); and
- Annual groundwater monitoring reports

### **3.1 Remedial Goals / Criteria**

The remedial goal is that groundwater complies with applicable state and federal groundwater water quality standards or guidance values.

The remedial criterion is that Site related groundwater contaminants do not pose a threat to human health or the environment.

### **3.2 Termination**

Corrective measures must continue until the remedial criterion is met.

## **4.0 CORRECTIVE MEASURES ADDRESSING SOIL VAPOR / INDOOR AIR**

### **AOCs 1 & 2**

The nature, extent and proposed interim corrective measure for contaminated soil vapor, sub-slab vapors and indoor air vapor are described in a number of plans and reports including:

- Vapor Intrusion Study, ConMed Facility 424 French Road, Utica, New York; EarthTech; May 1, 2006
- Supplemental Vapor Intrusion Study - Work Plan for Interim Corrective Measure, Solvent Dock Area, Former Lockheed Martin French Road Facility, Utica New York; Arcadis; March 14, 2007
- Vapor Intrusion Study for the Solvent Dock Area, Former Lockheed Martin French Road Facility, Arcadis, August 2007

### **4.1 Remedial Goals and Criteria**

The remedial goal for soil vapor/indoor air is compliance with all applicable state or federal standards and guidance values.

The remedial criterion for Site-related soil vapor/indoor air contamination is that no unacceptable risk is present and human health is protected.

### **4.2 Termination**

Mitigation measures for soil vapor/indoor air must continue until the remedial criterion is met.

## **5.0 CORRECTIVE MEASURES ADDRESSING SOIL - AOCs 3 & 5**

Investigations regarding contaminated soils on the Site are planned and will be conducted under this consent order.

### **5.1 Remedial Goals and Criteria**

The remedial goal is that contaminated soil on the Site or soil that has migrated from the Site does not exceed applicable state and federal regulatory limits or guidance values.

The remedial criteria for contaminated soil above applicable state and federal regulatory limits or guidance values include:

Contaminated soils must be appropriately managed to prevent human exposure and migration from the Site.

All areas where contaminated soils are known to exist must be subject to a Site Management Plan that includes requirements for: monitoring and maintenance of the cover materials, and proper disposal of any contaminated soils that are excavated at the Site.

If contaminated soils are temporarily exposed during construction at the Site, access must be restricted and appropriate measures must be taken to reduce or prevent blowing soils in accordance with the site management plan and a Community Air Monitoring Plan prepared in accordance with requirements of the New York State Department of Health.

### **5.2 Termination**

Corrective measures must continue until the remedial criteria are met.

**ATTACHMENT 3-1  
CORRECTIVE ACTION REQUIREMENTS**

**CORRECTIVE ACTION REQUIREMENTS  
FOR SOLID WASTE MANAGEMENT UNITS AND  
AREAS OF CONCERN**

**FORMER LOCKHEED MARTIN FRENCH ROAD FACILITY  
UTICA, NEW YORK**

**A. APPLICABILITY**

1. Statute. Article 71, Title 27, Section 71-2727 requires corrective action, including corrective action beyond the facility boundary where necessary to protect human health and/or the environment, for all releases of hazardous wastes, including hazardous constituents, from the facility, which includes solid waste management units (SWMUs) and areas of concern (AOCs).

2. Solid Waste Management Units and Areas of Concern. The conditions of these requirements apply to:

- (a) All the SWMUs and AOCs listed in Table 1 which is Attachment 3-2 of this Order;
- (b) Any additional SWMU(s) and AOC(s) identified during the course of groundwater monitoring, field investigations, environmental audits or other means as described in Condition C of these requirements;
- (c) SWMUs and AOCs located on-site and/or off-site listed in Table 1 of the Corrective Measures Implementation Plan, Attachment 2 of this Order.

3. Implementation Plan The Corrective Measures required under the Order are more fully specified in the Corrective Measures Implementation Plan, Attachment 2 to this Order.

**B. STANDARD CONDITIONS FOR CORRECTIVE ACTION**

1. Work Plans. All work plans submitted pursuant to the Order shall include:

- (a) Quality Assurance/Quality Control protocols to ensure that data generated is valid and supported by documented procedures;
- (b) A schedule for starting specific tasks, completing the work and submitting progress and final reports; and
- (c) Plans for the treatment, storage, discharge or disposal of wastes to be generated by activities described therein.

2. Quality Assurance/Quality Control

The minimum Quality Assurance/Quality Control data and information that must be delivered with all sample analyses pursuant to the Order are tabulated in Attachment 3-3 of these requirements.

- 3. Health/Safety Plans. The Respondent shall develop health and safety plans that will be implemented to ensure that the health and safety of project personnel, plant personnel and the general public are protected. These Health and Safety Plans must comply with applicable federal, state and local requirements; and must be submitted to the Commissioner. These plans are not subject to approval by the Commissioner.
- 4. Guidance Documents. When preparing the submissions described in these Requirements, the Respondent shall take account of applicable guidance documents issued by the United States Environmental Protection Agency (EPA) and the New York State Department of Environmental Conservation (DEC).
- 5. Prior Submissions. The Respondent, its successors (including successors-in-interest) and/or assigns may have already submitted portions of information, plans, or reports required by the Order and its Attachments to the Commissioner pursuant to the terms of previous applications, consent orders, or plans. For those items the Respondent contends were submitted to the Commissioner, the Respondent may cite the specific document(s) it believes adequately addresses each of the individual items requested by the Order and its Attachments. The references, by document(s) shall be placed in the appropriate sections of the submissions that require the referenced information and data. If the Commissioner determines that the Department does not possess any of the referenced information, plans, or reports that the Respondent claims were previously submitted, the Commissioner will notify the Respondent and the Respondent shall submit the referenced documents within the time frame specified in the notification.

6. Compliance Schedule For Interim Corrective Measures (ICMs).

(a) If, at any time, the Commissioner determines that a release or, based on site-specific circumstances, a threatened release of hazardous wastes, including hazardous constituents from a SWMU, an AOC or a combination of SWMUs and/or AOCs poses a threat to human health or the environment, or that such condition jeopardizes the Respondent's or current Facility owner's ability to comply with any governmental permit, a focused interim corrective measures study shall be submitted to the Commissioner for approval within sixty (60) calendar days of notice of such a determination. This study shall consider, among other relevant factors, the character, the extent, direction, the rate of release, the proximity to population, the exposure pathways, the effects of delayed action, and the evaluations of appropriate ICM(s) or the selection of a pragmatic and presumptive ICM. Upon approval of the study by the Commissioner, the Respondent shall implement the required ICM as specified by the Commissioner. Should a selected ICM involve an engineered action, e.g., pump and treat, then its design, implementation schedule and subsequent construction completion certification shall require approvals by the Commissioner. Nothing herein precludes the Respondent from taking immediate action to address the conditions described herein and promptly notifying the Commissioner.

(b) In the event the Respondent discovers a release or, based on circumstances, a threatened release of hazardous waste, including hazardous constituents, from a SWMU, an AOC, or a combination of SWMUs and/or AOCs, that poses a threat to human health or the environment, the Respondent shall identify interim corrective measures to mitigate this threat. The Respondent shall immediately summarize the nature and magnitude of the actual or potential threat and nature of the ICM being considered and notify the Commissioner. Within sixty (60) calendar days of notifying the Commissioner, the Respondent shall submit to the Commissioner for approval, a focused CMS study and follow the progression of events identified in Condition B. 6(a) above.

(c) The following factors may be considered by the Commissioner or the Respondent in determining the need for interim corrective measures:

1. Time required to develop and implement a final corrective measure;
2. Actual and potential exposure of human and environmental receptors;
3. Actual and potential contamination of groundwater and ecosystems;



4. Concentration of hazardous constituents in soils that have the potential to migrate to the air, groundwater or surface water; and
5. Other situations that may pose threats to human health and/or the environment.

7. Determination of No Further Action.

(a) The Respondent need not undertake corrective action at any SWMU(s) and/or AOC(s) identified in Table-1 (Attachment 3-2) as No Further Action, provided there is no evidence of the release(s) of hazardous waste(s) or constituent(s) from the SWMU(s) and/or AOC(s) threatening human health and/or the environment.

(b) Respondent may request that the Commissioner modify the Order to terminate the subsequent corrective action requirements for an individual SWMU, AOC or combination of SWMUs or AOCs if Respondent can provide data which demonstrates that no hazardous wastes including hazardous constituents released from the SWMU(s) and/or AOC(s), pose a threat to human health or the environment.

(c) If, based upon review of the Respondent's request and other relevant information, the Commissioner determines that the release(s) or suspected release(s) investigated either are non-existent or do not pose a threat to human health or the environment, the Commissioner may grant the requested modification for No Further Action.

(d) If new information or analysis indicates that release(s) or likely release(s) of hazardous waste including hazardous constituents could pose a threat to human health and/or the environment, a determination of No Further Action shall not preclude the Commissioner from:

1. Modifying the Order at a later date to require the Respondent to perform such investigations as necessary to comply with the requirements of the Order and its related attachments; and
2. Requiring continual or periodic monitoring of air, soil, groundwater, or surface water/sediment or subsurface gas, if necessary, to protect human health and/or the environment.

8. Progress Reports

The Respondent shall submit quarterly progress reports beginning the first full calendar quarter after the effective date of this Order. The progress reports shall contain the following information:

1. A summary of the work completed during the reporting period;
2. A summary of findings made during the reporting period;
3. A summary of changes made during the reporting period;
4. A summary of contacts made with representatives of the local community and public interest groups during the reporting period;
5. A summary of problems encountered during the reporting period and actions taken to rectify problems;
6. Changes in personnel conducting or managing the Corrective Measures Study during the reporting period;
7. A summary of the work planned for the next reporting period; and
8. If requested by DEC, copies of laboratory data generated during the reporting period.

9. Compliance with Governmental Requirements. During investigative activities, interim corrective measures, and final corrective measures (including, but not limited to, equipment decommissioning, excavation and unit demolition) required under the Order, the Respondent shall ensure that the transportation, treatment, storage, discharge, and disposal of all contaminated materials generated as a result of such activities (including, but not limited to, soils, sediments, liquids, tanks, pipes, pumps, rubble, debris, and structural materials) are performed in an environmentally sound manner pursuant to all applicable federal, state and local requirements and that is protective of public health and the environment. Nothing in the Order shall be construed to require the Respondent to proceed in a manner which is in violation of any such requirements.

10. Notifications.

- (a) Notification of groundwater contamination. If, at any time, the Respondent discovers that Facility related hazardous constituents in groundwater have migrated beyond the Facility boundary in concentrations

that exceed action levels, the Respondent shall provide written notice within fifteen (15) calendar days of discovery to the Commissioner and any person who owns or resides on the land overlying the contaminated groundwater.

(b) Notification of air contamination. If, at any time, the Respondent discovers hazardous constituents in air that may have been released from a SWMU or AOC at the Facility and are migrating to areas beyond the Facility boundary in concentrations that pose a threat to human health or the environment, the Respondent shall take the following actions within fifteen (15) calendar days of such discovery:

1. Provide written notification to the Commissioner;
2. Initiate any actions that may be necessary to provide notice to all individuals who have or may have been subject to continuous, long-term exposure to such constituents. These individuals may include the current owner or occupant of the Facility, residences or any other potentially impacted facility.

(c) Notification of residual contamination. If hazardous wastes or hazardous constituents in solid waste management units or areas of concern, or which have been released from a SWMU or AOC, will remain in or on the land, including groundwater, after the Order has terminated, the Commissioner may require the Respondent to use its best efforts to ensure that the then owner of the Facility records a notation in the deed to the Facility property, or in some other instrument which is normally examined during title search that will, in perpetuity, notify any potential purchaser of the property of the types, concentrations, and locations of such hazardous wastes or hazardous constituents. The Commissioner may require such notice as part of the corrective measures selection process.

**C. COMPLIANCE SCHEDULE FOR ASSESSMENT OF NEWLY IDENTIFIED SWMUS AND AOCs.**

1. Notification of Assessment. The Respondent shall notify the Commissioner, in writing, of any additional SWMU(s) and/or AOC(s) not listed in the Order or the Corrective Measures Implementation Plan (Attachment 2 of the Order) which are identified during the course of groundwater monitoring, field investigations environmental audits, soil gas or indoor air sampling, or other means within fifteen (15) calendar days after discovery. However, except for providing notice to the Commissioner as described above of newly identified SWMUs and/or AOCs not listed in the Order or

the Corrective Measures Implementation Plan, the Respondent shall have no liability for the newly identified SWMUs and/or AOCs unless they arise from releases of hazardous wastes, including hazardous constituents, from the Facility occurring on or before March 18, 1996.

2. SWMU/AOC Assessment Report. Within sixty (60) calendar days after notifying the Commissioner, the Respondent shall submit a SWMU/AOC Assessment Report. This Report must provide, at a minimum, the following information for each newly identified SWMU/AOC:

- (a) Type and function of unit/area;
- (b) Location of each unit/area on a topographic map of appropriate scale;
- (c) Dimensions, capacities, and structural descriptions of the unit/area (supply available engineering drawings)
- (d) Dates that the unit/area was operated;
- (e) Description of the wastes that were placed or spilled at the unit/area;
- (f) Description of any known releases from the unit/area (to include groundwater data, soil analyses, air monitoring data, and/or surface water/sediment data);
- (g) The results of any sampling and analysis required for the purpose of determining whether releases of hazardous wastes including hazardous constituents, have occurred, are occurring, or are likely to occur from the unit/area; and
- (h) Whether this unit/area, individually or in combination with other units/areas described in Condition A.2. is a significant source of contaminant release.

3. SWMU/AOC Sampling and Analysis Plan. Within sixty (60) calendar days after submittal of the SWMU/AOC Assessment Report required in Condition C.2., the Respondent shall submit to the Commissioner for approval a plan in accordance with the most recent version of the NYS RCRA Quality Assurance Project Plan Guidance, for any sampling and analysis of groundwater, land surface and subsurface strata, surface water/sediment or air, as necessary to determine whether a release of hazardous waste, including hazardous constituents from such unit(s) and/or area(s) has occurred, is likely to have occurred, or is likely to occur. The SWMU/AOC Sampling and Analysis Plan must demonstrate that the sampling

and analyses program, if applicable, is capable of yielding representative samples and must include parameters sufficient to identify migration of hazardous waste, including hazardous constituents, from the newly-discovered SWMU(s) and/or AOC(s) to the environment.

4. Subsequent Assessment Actions. Following submission of the SWMU/AOC Assessment Sampling and Analysis Plan set forth in Condition C.3., subsequent activities for the Plan shall proceed in accordance with the following schedule:
  - (a) Meeting between the Respondent, and the Department to discuss Plan comments, as appropriate, and
  - (b) Submission of a revised Plan to the Commissioner for approval within thirty (30) calendar days of the above-described meeting. (If the above referenced meeting is determined not to be necessary, the Respondent shall submit a revised Plan to the Commissioner, according to a schedule specified by the Department, not to exceed forty-five (45) calendar days after Respondent's receipt of Plan comments from the Commissioner); and
  - (c) Begin implementation of the SWMU/AOC Sampling and Analysis Plan within thirty (30) calendar days following written approval from the Commissioner for the Plan.
5. SWMU/AOC Sampling and Analysis Report. Within thirty (30) calendar days of receipt by the Respondent of validated analytical data generated under the approved SWMU/AOC Sampling and Analysis Plan, the Respondent shall follow reporting requirements in the approved Plan and submit a SWMU/AOC Sampling and Analysis Report to the Commissioner. The Report shall describe all results obtained from the implementation of the approved Plan.
6. Assessment Conclusions. Based on the results of the SWMU/AOC Sampling and Analysis Report, the Commissioner shall determine the need for further investigations at the specific unit(s) covered in the SWMU/AOC Assessment Report. If the Commissioner determines that such investigations are needed, the Commissioner shall, by written notification, require the Respondent to prepare and submit for approval a RCRA Facility Investigation Work Plan, including an implementation schedule. This RFI Work Plan, its implementation schedule, the RFI Report, any subsequent CMS and ICM submission shall be made part of the Order. Following the implementation of the RFI Work Plan, the Respondent shall submit for approval the RFI Report. If the Commissioner after reviewing the RFI Report determines that a Corrective Measure Study (CMS) or an Interim Corrective Measure (ICM) is required, the Commissioner shall, by written notification, require the Respondent to prepare and submit for approval the CMS

and/or ICM, including implementation schedules. All approved submissions submitted pursuant to this condition shall be made part of the Order.

**D. COMPLIANCE SCHEDULE AND NOTIFICATION REQUIREMENTS FOR NEWLY-DISCOVERED RELEASES AT SWMUS AND AOCS.**

The Respondent shall notify the Commissioner, in writing, of any release(s) of hazardous wastes, including hazardous constituents, discovered during the course of groundwater monitoring, field investigation, environmental auditing, soil gas or indoor air sampling, or other activities no later than fifteen (15) calendar days after discovery. Such newly-discovered release(s) may be from the newly-identified unit(s)/area(s), from the unit(s)/area(s) for which, based on the findings of the RFI, the Commissioner had previously determined that no further investigation was necessary, or from the unit(s)/area(s) investigated as part of an RFI. Based on the information provided in the notification, the Commissioner shall determine the need for further investigation of the release(s). If the Commissioner determines that such investigations are needed, the Commissioner shall, by written notification, require the respondent to prepare a RCRA Facility Investigation Work Plan, including an implementation schedule. Following the implementation of the RFI Work Plan, the Respondent shall submit for approval the RFI Report. If the Commissioner after reviewing the RFI Report determines that a Corrective Measure Study (CMS) or an Interim Corrective Measure (ICM) is required, the Commissioner shall, by written notification, require the Respondent to prepare and submit for approval the CMS and/or ICM, including implementation schedules. All approved submissions submitted pursuant to this condition shall be made part of the Order.

**E. CORRECTIVE ACTION REQUIREMENTS.**

The requirements are specified in the Corrective Measures Implementation Plan (Attachment 2 to the Order).

1. Corrective Measure(s) Selection.

- (a) Based on the information presented in the CMS, and any further evaluations of additional corrective measures under this study, the Commissioner shall select the corrective measure(s) that at a minimum will meet the following standards:
- (b) Be protective of human health and the environment;
- (c) Attain media target cleanup levels selected by the Commissioner during the corrective measures selection process;

- (d) Control the source(s) of release(s) so as to reduce or eliminate, to the maximum extent practicable, further releases of hazardous waste, including hazardous constituents, that might pose a threat to human health and/or the environment; and
- (e) Meet all applicable waste management requirements.

2. Department Review and Approval.

In selecting the corrective measure(s) which meets the standards for corrective measures established under Condition E.1., the Commissioner shall consider the following evaluation factors, as appropriate:

- (a) Long-term reliability and effectiveness. Any potential corrective measure(s) may be assessed for the long-term reliability and effectiveness it affords, along with the degree of certainty that the corrective measure(s) will prove successful. Factors that shall be considered in this evaluation include:
  - 1. Magnitude of residual risks in terms of amounts and concentrations of hazardous waste, including hazardous constituents, remaining following implementation of the corrective measure(s), considering the persistence, toxicity, mobility and propensity to bioaccumulate of such hazardous wastes, including hazardous constituents;
  - 2. The type and degree of long-term management required, including monitoring and operation and maintenance;
  - 3. Potential for exposure of humans and environmental receptors to remaining hazardous wastes, including hazardous constituents, considering the potential threat to human health and/or the environment associated with excavation, transportation, redisposal or containment;
  - 4. Long-term reliability of the engineering and institutional controls, including uncertainties associated with land disposal of untreated hazardous wastes, including hazardous constituents, and their residuals; and
  - 5. Potential need for replacement of the corrective measure(s).
- (b) Reduction of toxicity, mobility or volume. A potential corrective measure(s) may be assessed as to the degree to which it employs treatment that reduces toxicity, mobility or volume of hazardous wastes, including hazardous constituents. Factors that shall be considered in such assessments include;

1. The treatment processes the corrective measure(s) employs and materials it would treat;
2. The amount of hazardous wastes, including hazardous constituents, that would be destroyed or treated;
3. The degree to which the treatment is irreversible;
4. The residuals that will remain following treatment, considering the persistence, toxicity, mobility and propensity to bio-accumulate of such hazardous wastes, including hazardous constituents; and
5. All concentration levels of hazardous waste, including hazardous constituents, in each medium that the corrective measure(s) must achieve to be protective of human health and the environment.

(c) The short-term effectiveness of a potential corrective measure(s) may be assessed considering the following:

1. Magnitude of reduction of existing risks;
2. Short-term risks that might be posed to the community, workers, or the environment during implementation of such a corrective measure(s), including potential threats to human health and/or the environment associated with excavation, transportation, and redisposal or containment; and
3. Time until full protection is achieved.

(d) Implementability. The ease or difficulty of implementing a potential corrective measure(s) may be assessed by considering the following types of factors:

1. Degree of difficulty associated with constructing the technology;
2. Expected operational reliability of the technologies;
3. Need to coordinate with and obtain necessary approvals and permits from other agencies;
4. Availability of necessary equipment and specialists;
5. Available capacity and location of needed treatment, storage and disposal services; and



6. Requirements for removal, decontamination, closure, or post-closure of units, equipment, devices or structures that will be used to implement the corrective measure(s).
- (e) Cost. The types of costs that may be assessed include the following:
- (a) Capital costs;
  - (b) Operation and maintenance costs;
  - (c) Net present value of capital and operation and maintenance costs; and
  - (d) Potential future corrective measure costs.

3. Modifications to the Remedial System.

If, after review of the performance monitoring data, the NYSDEC determines that the design or operation of any selected remedial options is not sufficient to achieve the remedial goals or criteria, Respondent will propose to the Department within 30 days, appropriate modifications to the design or operation of the systems, or pursue alternative remedial technologies as required by the Department and necessary to achieve the remedial criteria.

4. Order Modification for Corrective Measure(s).

Based on information the Respondent submits in the RFI Report, the CMS and other information, the Commissioner will propose the final corrective measure(s) and public notice for forty-five (45) calendar days a Statement of Basis (SB) discussing the proposed final Corrective Measure(s). After the close of the public notice period, the Commissioner, after taking all relevant comments into consideration, will select the final Corrective Measures. The final Corrective Measures shall be incorporated into and implemented through the Order on Consent.

**Attachment 3-2: Table 1**  
**CORRECTIVE ACTION REQUIREMENTS AND**  
**SOLID WASTE MANAGEMENT UNIT EVALUATION**

**FORMER LOCKHEED MARTIN FRENCH ROAD FACILITY**  
**UTICA, NEW YORK**

Attachment 3-2: Table 1: Corrective Action Requirements and Solid Waste Management Unit Evaluation

SWMU	Status Date	Area/Constituents of Concern	Status/Result	Documentation	Recommended Action(s)
Container (CSA) – 14,000 g tank	4/14/1992	Closure Identified in Comprehensive Permitting Report	Loss of Interim Status - Clean Closed – Permit Withdrawn	Comprehensive Permitting Report (NYSDEC 9/5/06)	No Action Required (Tank closed)
Tank – 2,000 g	4/14/1992	Closure Identified in Comprehensive Permitting Report	Loss of Interim Status - Clean Closed – Permit Withdrawn	Comprehensive Permitting Report (NYSDEC 9/5/06)	No Action Required (Tank closed)
Tank Treatment – 300,000 gpd	4/14/1992	Closure Identified in Comprehensive Permitting Report	Loss of Interim Status - Clean Closed – Permit Withdrawn	Comprehensive Permitting Report (NYSDEC 9/5/06)	No Action Required (Closed)
Tank Storage	11/8/1990	Refer to the Recommended Action(s)	Majority of tanks closed in accordance with NYSDEC requirements	Phase I ESA (1995)	No Action Required for tanks that have been closed/removed. As part of the work to be conducted under AOC 5 identified in Table 1 of the CMIP, determine the status of tanks that have not received closure.
Air Emissions (41 point sources)	Sep-96	Emissions from soldering, painting, metal finishing, spray cleaning, welding, testing as well as from chemical laboratory hoods and the ventilation of hazardous waste storage areas and boilers	Deactivated/dismantled/cleaned; Air Permit Termination (Sept. 20, 1996 Letter to NYSDEC)	Closure Report (Decommissioning and Decontamination (D&D) Report) (Sept. 1996)	No Action Required (Air Permit Terminated – emission sources cleaned/dismantled)
Hazardous Waste Storage/TSDF	11/8/1990	1,1,1-TCE, Freon waste, ammonium persulfate, sulfuric and nitric acids, spent cyanide, circuit board cuttings and trimmings, isopropanol, toluene, naphtha, EP toxic silver	RCRA Closure achieved for the haz waste storage area; facility terminated authority to operate TSDF	Phase I ESA (1995)	No Action Required – RCRA Closure completed
Hazardous Waste Drum Storage Area	11/8/1990	Closure documentation does not identify COCs	Closed	Phase I ESA (1995)	No Action Required – Storage Area Closed
Hazardous Waste Storage Tanks	Current (as of 11/07)	VOCs - Solvent Dock Area	On-Going	Subject of Solvent Dock Area Investigations	Continue Solvent Dock Area investigation in accordance with the Order On Consent. As part of the work to be conducted under AOC 5 identified in Table 1 of the CMIP, determine the status of tanks that have not received closure.
Process-Related ASTs (water and wastewater chemical feed tanks and gas storage tanks)	Sep-96	Water and wastewater chemical feed tanks, gas storage tanks	Decommissioned (Liquids, gases and residual solids removed; tanks closed)	Closure Report (Decommissioning and Decontamination (D&D) Report) (Sept. 1996)	No Action Required – ASTs Closed

Attachment 3-2: Table 1: Corrective Action Requirements and Solid Waste Management Unit Evaluation

pH Neutralization Plant	Sep-96	pH adjustment and oil/water separation system	Wet cleaned (not decommissioned); drained chemical storage tanks and piping and flushed with hot water; disconnected and left in place; interior floors received heavy industrial cleaning	Closure Report [Decommissioning and Decontamination (D&D) Report] (Sept. 1996)	No Action Required (systems cleaned; no records of releases)
Boiler House	Sep-96	PCBs and Lead	Heavy Industrial Cleaning & Concrete Remediation	Closure Report [Decommissioning and Decontamination (D&D) Report] (Sept. 1996)	No Action Required - Confirmatory concrete sampling conducted and was below established cleanup criteria
Substrate Plating Area	Sep-96	Lead	Heavy Industrial Cleaning with wipe samples	Closure Report [Decommissioning and Decontamination (D&D) Report] (Sept. 1996)	No Action Required - Samples below established cleanup criteria
R&R Mechanical Room	Sep-96	Sediment in sump sampled for PCBs, TCLP Metals, copper, nickel, thallium, zinc and USEPA hazardous waste F001 through F005 listed solvents	Sediment removed and transported off-site; sump cleaned by high pressure wash	Closure Report [Decommissioning and Decontamination (D&D) Report] (Sept. 1996)	No Action Required - no evidence of impacts from sediment to external receptors
Anechoic Chamber	Sep-96	Dirt & Grease on floor sampled for PCBs	Light Industrial Cleaning	Closure Report [Decommissioning and Decontamination (D&D) Report] (Sept. 1996)	No Action Required - Samples below established cleanup criteria
Solvent Dock	Sep-96	PCBs and Lead	Light Industrial Cleaning	Closure Report [Decommissioning and Decontamination (D&D) Report] (Sept. 1996)	No Action Required - Samples below established cleanup criteria
90-Day Hazardous Waste Storage Area	Sep-96	PCBs and Lead	Heavy Industrial Cleaning	Closure Report [Decommissioning and Decontamination (D&D) Report] (Sept. 1996)	No Action Required - Samples below established cleanup criteria
Receiving Dock	Sep-96	Concrete and sediment sampled for PCBs and lead	Heavy Industrial Cleaning	Closure Report [Decommissioning and Decontamination (D&D) Report] (Sept. 1996)	No Action Required - Confirmatory concrete sampling conducted and was below established cleanup criteria
Oil Pump House	Sep-96	PCBs	Heavy Industrial Cleaning	Closure Report [Decommissioning and Decontamination (D&D) Report] (Sept. 1996)	No Action Required - Samples below established cleanup criteria
Roof Penthouses	Sep-96	PCBs	Heavy Industrial Cleaning	Closure Report [Decommissioning and Decontamination (D&D) Report] (Sept. 1996)	No Action Required - Samples below established cleanup criteria
Metals Parts Manufacturing & Printed Board Areas	Sep-96	Sampling not completed due to concrete floor removal & replacement in 1991-1992	Light Industrial Cleaning	Closure Report [Decommissioning and Decontamination (D&D) Report] (Sept. 1996)	No Action Required
Radioactive Equipment Closeout Survey	Sep-96	ionizing source radiation	Not conducted (NYCRR v12 p38 does not require survey)	Closure Report [Decommissioning and Decontamination (D&D) Report] (Sept. 1996)	No Action Required

**Attachment 3-3**  
**COMPONENTS REQUIRED FOR RCRA ANALYTICAL DATA SUBMITTED TO  
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**  
**FORMER LOCKHEED MARTIN FRENCH ROAD FACILITY  
UTICA, NEW YORK**

The data deliverables package, as specified in the approved Quality Assurance Project Plan (QAPP) or in the approved work plan, are to be supplied with the analytical data. If the data deliverables are not specified, a category B or CLP data deliverables package, as specified in the latest version of the NYSDEC Analytical Services Protocol (ASP) are to be provided. The category B and CLP data deliverables packages are specified in Exhibit B of the NYSDEC ASP. Copies of the ASP, on CD, are available from the Standards and Analytical Support Section in the Bureau of Water Assessment and Management in the Division of Water. Section staff may be contacted by calling (518) 402-8179 or by email at [jrfagel@gw.dec.state.ny.us](mailto:jrfagel@gw.dec.state.ny.us). The data package shall be provided to the Department in PDF format on a CD, if possible. Laboratories that are able to provide either a category B or CLP data package are certified by NYS DOH ELAP in the CLP tier and can be found at <http://www.wadsworth.org/labcert/elap/clp.html>.

Category B or CLP data deliverables are required for closures and corrective action sampling. Category B or CLP data deliverables are acceptable for sampling conducted as part of routine groundwater monitoring. For long term groundwater monitoring, an abbreviated data package may suffice, with prior Department approval, since the variability of the data with time can be used as a QC check. In this case, the QAPP or groundwater monitoring plan shall specify the initial data deliverables, and what the reduced data deliverables shall be and when they would take effect. Data deliverables for trial burns must be category B, CLP or as specified in the approved QAPP. For long term projects under the same QAPP, a facility may request a change in the data deliverables package. Any change in data deliverables criteria would need to be approved by the RCRA QA Office.

# ATTACHMENT 4

## NOTICE OF ORDER

THIS NOTICE is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2008 by the Oneida County Industrial Development Agency (“OCIDA”), the conduit fee owner of real property and the improvements thereon associated with a manufacturing facility located at 525 French Road, Utica, New York, comprised in part by (a) a parcel situate in the City of Utica assigned Tax Map No./Tax Section 329.07, Block 1, Lot 1, and (b) a part of a parcel situate in the Town of New Hartford assigned Tax Map No./Tax Section 317.00, Block 1, Lot 8.1, being a portion of the premises conveyed by Pinnacle Park Inc. to the Oneida County Industrial Development Agency by deed dated March 1, 1997 and recorded on March 3, 1997 in the Oneida County Clerk’s Office, which parcels constitute the “Property,” which is the subject of this Notice, and which Property is shown on the map attached hereto as Exhibit A; and

WHEREAS, the Department of Environmental Conservation (“DEC”), by authorized signature, issued an Order to Lockheed Martin Corporation on its consent, Index # CO6-20080321-5 (the “Order”) on the \_\_\_\_\_ day of \_\_\_\_\_, 2008 concerning the performance of Corrective Action to remediate contamination present on the Property; and

WHEREAS, the Property does not include the adjacent unimproved real property known as the West Lot Site (DEC Site # 633036); and

WHEREAS, OCIDA agrees to give notice of the Order to all parties who may acquire any interest in the Property by filing this Notice with the Oneida County Clerk;

NOW, THEREFORE, OCIDA, for itself and for its successors and assigns, declares that:

1. This Notice of the Order is hereby given to all parties who may acquire any interest in the Property.

2. This Notice shall terminate only upon the filing by OCIDA, or its successors and assigns, of a Termination of Notice of Order after Lockheed Martin Corporation's having first received from the New York State Department of Environmental Conservation the notice of termination.

IN WITNESS WHEREOF, OCIDA has executed this Notice of Order by its duly authorized representative.

**ONEIDA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY**

Dated: \_\_\_\_\_

By: \_\_\_\_\_

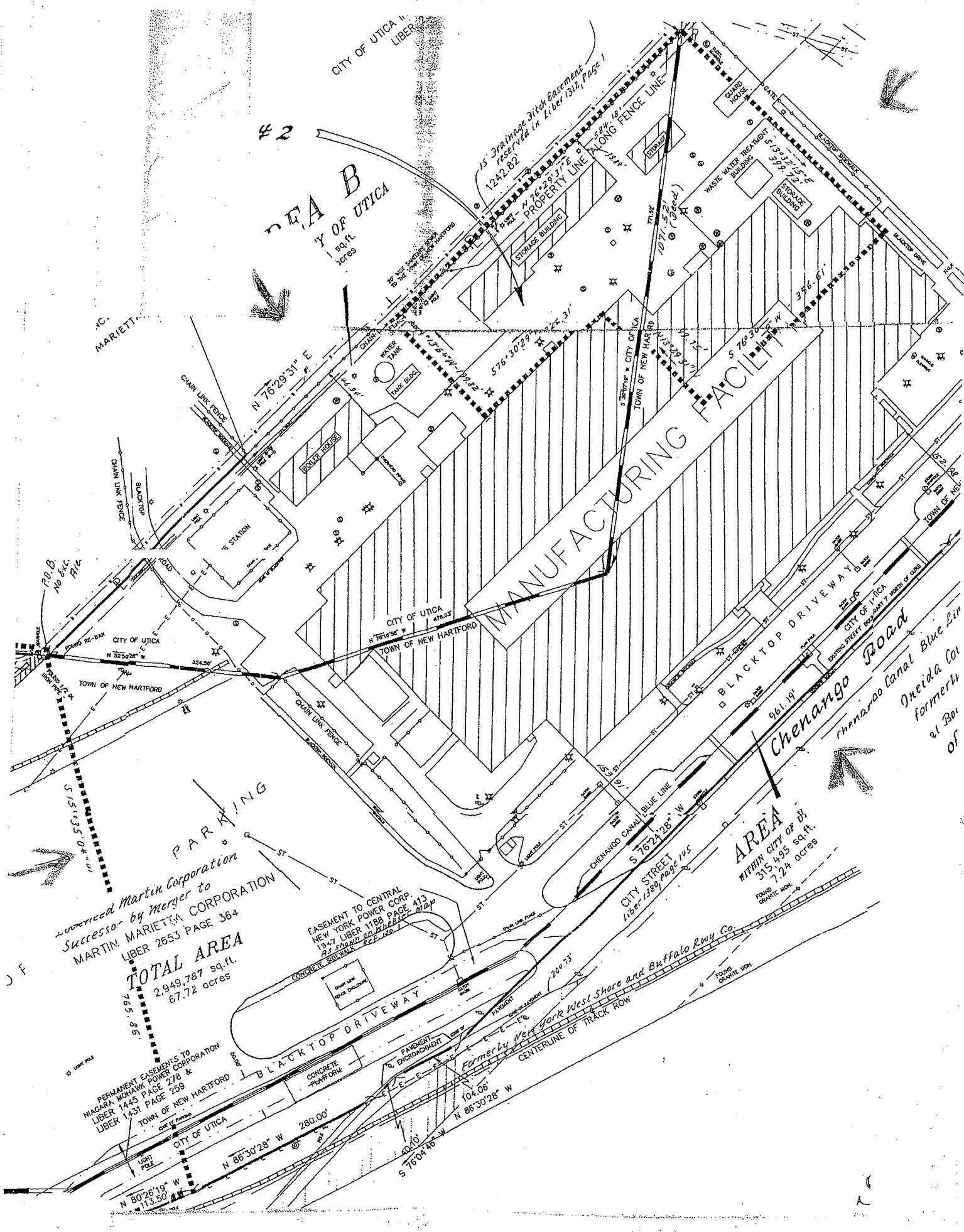
Title: \_\_\_\_\_

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

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public





**AREA B**  
 CITY OF UTICA  
 1242.82

**MANUFACTURING FACILITY**

**Chenango Road**  
 Formerly Canal Blue Line  
 Oneida Co  
 formerly  
 at Base  
 of

**TOTAL AREA**  
 2,949,787 sq. ft.  
 67.72 acres

**AREA**  
 WITHIN CITY OF UTICA  
 315,495 sq. ft.  
 7.24 acres

Successor by Merger to  
**MARTIN MARIETTA CORPORATION**  
 LIBER 2653 PAGE 364

PERMITS EASEMENTS TO  
 NIAGARA MOHAWK POWER CORPORATION  
 LIBER 1445 PAGE 278 &  
 LIBER 1431 PAGE 259  
 TOWN OF NEW HARTFORD

EASEMENT TO CENTRAL  
 NEW YORK POWER CORP.  
 1947 LIBER 1188 PAGE 413  
 22 SHOWING ON MAP

Formerly New York West Shore and Buffalo Rwy Co  
 CENTERLINE OF TRACK ROW

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# Attachment 5

## Corrective Measures Study

### Scope of Work

**Former Lockheed Martin French Road Facility  
Utica, New York**

#### **PURPOSE**

The purpose of this Corrective Measures Study (CMS) is to develop and evaluate the corrective action alternative(s) and to recommend the corrective measure(s) to be taken at the Former Lockheed Martin French Road Facility, 525 French Road, Utica, New York (the Facility). The Respondent shall furnish the personnel, materials, and services necessary to prepare the Corrective Measures Study, except as otherwise specified.

#### **SCOPE**

The Corrective Measures Study consists of four tasks:

#### **TASK I: IDENTIFICATION AND DEVELOPMENT OF THE CORRECTIVE MEASURES ALTERNATIVE(S)**

- A. Description of Current Situation
- B. Identification of the Corrective Measures Alternative(s)

#### **TASK II: EVALUATION OF THE CORRECTIVE MEASURES ALTERNATIVE(S)**

- A. Long-Term Effectiveness
- B. Reduction in the Toxicity, Mobility, or Volume of Wastes
- C. Short-Term Effectiveness
- D. Implementability
- E. Cost

#### **TASK III: JUSTIFICATION AND RECOMMENDATION OF THE CORRECTIVE MEASURE(S)**

#### **TASK IV: CORRECTIVE MEASURES STUDY REPORT**

## **TASK I: IDENTIFICATION AND DEVELOPMENT OF THE CORRECTIVE MEASURES ALTERNATIVE(S)**

In the CMS Report, Respondent shall identify, screen, and develop the alternative(s) for removal, containment, treatment, and/or other remediation of the contamination based on the remedial goals/criteria identified in Attachment 2.

### **A. Description of Current Situation**

Respondent shall provide the results and findings of the investigations described in Table 1 of Attachment 2 describing the current situation at the Facility and the known nature and extent of the contamination. In addition, Respondent shall describe any interim actions implemented or ongoing.

### **B. Identification of the Corrective Measures Alternative(s)**

Respondent shall identify the corrective measure alternative(s) that are applicable to the Facility and that will achieve the remedial goals/criteria. Technologies can be combined to form the overall corrective measures alternative(s). The alternative(s) will be screened against the following threshold criteria:

1. protection of human health and the environment;
2. attainment of remedial goals/criteria; and
3. controlling the sources.

Alternatives which do not meet these threshold criteria do not warrant further consideration.

## **TASK II: EVALUATION OF THE CORRECTIVE MEASURES ALTERNATIVE(S)**

Respondent shall describe each corrective measures alternative that passes through the initial screening in Task I and evaluate each alternative and its components relative to the following balancing criteria: long-term effectiveness; reduction in the toxicity, mobility, and volume of wastes; short-term effectiveness; implementability; and cost.

### **A. Long-Term Effectiveness**

Respondent shall demonstrate the expected effectiveness, reliability, and risk of failure of each alternative. In this demonstration, Respondent shall discuss the following:

1. The effectiveness of the alternative under analogous Site conditions;
2. The potential impact resulting from a failure of the alternative, including failures from uncontrollable changes at the Site (e.g., heavy rain storms, induced groundwater flow changes from off-site pumping wells); and
3. Estimates of the projected useful life of the alternative and of its component technologies.

B. Reduction in the Toxicity, Mobility or Volume of Wastes

As a general goal, preferred remedies employ techniques, such as treatment technologies, that are capable of eliminating or substantially reducing the inherent potential for the wastes in the contaminated media to cause future environmental releases or other risks to human health and the environment. There may be some situations where achieving substantial reductions in toxicity, mobility, or volume may not be practical or even desirable. Examples include large, municipal-type landfills, or wastes such as unexploded munitions which would be extremely dangerous to handle, and for which short-term risks of treatment outweigh potential long-term benefits.

To the extent practical, Respondent shall estimate how much each corrective measures alternative will reduce the waste's toxicity, volume, and/or mobility. Respondent shall complete this assessment through a comparison of initial Site conditions to expected post-corrective measure conditions.

C. Short-Term Effectiveness

The short-term effectiveness may be particularly relevant when Respondent will be conducting remedial activities in densely populated areas, or where waste characteristics are such that risks to workers or to the environment are high and special protective measures are needed. The Respondent shall consider the following types of factors: fire, explosion, exposure to hazardous substances, and potential threats associated with treatment, excavation, transportation, and redisposal, or containment of waste material.

D. Implementability

Respondent shall describe the implementability of each corrective measures alternative, including the relative ease of installation (constructability) and the time required to achieve a given level of response. Respondent shall include the following type of information:

1. The administrative activities needed to implement the alternative (e.g., permits, off-site approvals) and the length of time these activities will take;

2. The constructability, time for implementation, and time for beneficial results;
3. The availability of adequate off-site treatment, storage capacity, disposal services, needed technical services and materials; and
4. The availability of prospective technologies for each alternative.

E. Cost

Respondent shall develop an estimate of the cost of each alternative. Cost estimates shall include costs for engineering, site preparation, construction, materials, labor, sampling/analysis, waste management/disposal, permitting, health and safety measures, training, operation and maintenance, etc.

**TASK III: JUSTIFICATION AND RECOMMENDATION OF THE CORRECTIVE MEASURE(S)**

Respondent shall justify and recommend a corrective measures alternative(s) based on an evaluation of the balancing criteria. Such a recommendation shall include a description and supporting rationale for the proposed alternative(s), including how remedial goals/criteria are achieved and the proposed alternative(s) relationship to the decision factors discussed above. This recommendation shall include summary tables which allow the alternative(s) to be understood easily. The Respondent shall highlight tradeoffs among the balancing criteria for the alternative(s) under consideration. NYSDEC will select the corrective measures alternative(s) to be implemented, based on the results of Tasks I and II.

**TASK IV: CORRECTIVE MEASURES STUDY REPORT**

Respondent shall prepare a draft and final CMS Report presenting the results of Tasks I through III and recommending a corrective measures alternative(s). The CMS Report will include a schedule for implementation of the proposed corrective measures. The CMS report will be submitted to NYSDEC no later than March 15, 2009.