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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

REGION III

IN THE MATTER OF:)	
Fulton Financial Realty Company))	FINAL ADMINISTRATIVE ORDER
)	ON CONSENT
)	
)	U.S. EPA Docket Number:
)	RCRA-III-042-CA
)	
1695 State Street)	
East Petersburg, Pennsylvania)	Proceeding under Section
)	3008(h) of the Resource
EPA I.D. No. PAD 08 243 4747)	Conservation and Recovery
)	Act, as amended, 42 U.S.C.
RESPONDENT)	Section 6928(h).

I. JURISDICTION

This Final Administrative Order on Consent ("Consent Order" or "Order") is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 3008(h) of the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as "RCRA"), 42 U.S.C. Section 6928(h). The authority vested in the Administrator has been delegated to the Regional Administrators by EPA Delegation Nos. 8-31 and 8-32 dated March 6, 1986.

On January 30, 1986, the EPA granted the Commonwealth of Pennsylvania (the "State") authorization to operate a hazardous waste program in lieu of EPA, pursuant to Section 3006(b) of RCRA, 42 U.S.C. Section 6926(b). The State, however, does not have authority to enforce Section 3008(h) of RCRA.

This Consent Order is issued to Fulton Financial Realty Company, a subsidiary of Fulton Financial Corporation, the owner of the facility, (hereinafter "Respondent"). The facility is located at 1695 State Street, East Petersburg, Pennsylvania (hereinafter the "Facility" or the "Site"). Respondent consents to and agree not to contest EPA's jurisdiction to issue this Consent Order and to enforce its terms. Further, Respondent consent to and will not contest EPA's jurisdiction to: compel compliance with this Consent Order in any subsequent enforcement proceedings, either administrative or judicial; require

Respondent's full or interim compliance with the terms of this Consent Order; or impose sanctions for violations of this Consent Order.

II. PARTIES BOUND

1. This Consent Order shall apply to and be binding upon EPA, Respondent and its agents, successors and assigns.

2. No change in ownership of any property covered by this Consent Order, or in corporate or partnership status of Respondent, shall in any way alter, diminish, or otherwise affect Respondent's obligations under this Consent Order.

3. Respondent shall provide a copy of this Consent Order to all supervisory personnel, contractors, subcontractors, laboratories, and consultants retained to conduct or monitor any portion of the work performed pursuant to this Consent Order within seven calendar (7) days of the effective date of this Consent Order or date of such retention, whichever is later. All supervisory personnel, contractors, subcontractors, laboratories consultants, and other persons retained to perform any work required under this Consent Order shall require such persons to perform the work in accordance with the requirements of this Consent Order and for ensuring that all contractors, supervisory personnel and agents comply with this Consent Order. Notwithstanding the terms of any contract, Respondent is responsible for complying with this Consent Order and for ensuring that all contractors, subcontractors, laboratories, consults, supervisory personnel and agents comply with this Consent Order.

4. In the event of any change in ownership or operation of the Facility and/or in the event of any change in majority ownership or control of the Respondent, Respondent shall notify EPA in writing of the nature of any such change no later than fifteen (15) calendar days after the effective date of such change. In addition, Respondent shall provide a copy of this Consent Order to any successor to the Respondent and/or to the Facility at least fifteen (15) calendar days prior to the effective date of such change.

III. STATEMENT OF PURPOSE

In entering into this Consent Order, the mutual objectives of EPA and Respondent are: (1) to perform Interim Measures ("IM") at the Facility to prevent or relieve threats to human health or the environment; (2) to perform a RCRA Facility Investigation ("RFI") to determine sufficiently the nature and extent of identifiable release(s) of hazardous wastes and/or hazardous constituents at or from the Facility; and (3) to

perform a Corrective Measures Study ("CMS") to identify and evaluate alternatives for corrective action necessary to prevent or mitigate identifiable migration or releases of hazardous wastes and/or hazardous constituents at or from the Facility.

IV. FINDINGS OF FACT

1. Respondent is a company which is doing business in the Commonwealth of Pennsylvania and is a person as defined in Section 1004(15) of RCRA, 42 U.S.C. Section 6903(15).
2. Respondent is an equitable owner of a hazardous waste management facility ("Facility") located at 1695 State Street in East Petersburg, Pennsylvania.
3. From the early 1950's to 1977, a photochemical etching business and a fuse assembly business were operated on site by Hamilton Watch Company.
4. Units on the Facility property which managed wastes as a result of the etching operations included three membrane-lined (unlined prior to 1977) surface impoundments, a drum storage area, a sludge disposal pit, and a wastewater treatment system. Two septic system seepage beds near the southern corner of the Facility are visible on aerial photographs as early as 1957. Three underground vaults are located on the Facility property. See Attachment F for map indicating the location of the above units.
5. From 1977 to 1984 Lancaster Metal Science Corporation ("LMS") operated a photochemical etching business at the Facility.
6. Lancaster Industrial Development Authority ("LIDA") acquired the property in 1979 and entered into an Installment Sale Agreement with Respondent in May of 1979.
7. On August 14, 1980, LMS submitted to EPA a Notification of Hazardous Waste Activity, for the Facility, pursuant to 3010 of RCRA, 42 U.S.C. Section 6930. In the Notification, LMS identified itself as a generator of hazardous waste and as an owner/operator of a treatment, storage and/or disposal facility for hazardous waste. EPA assigned the Facility the EPA Identification Number PAD 08 234 4747.
8. LMS operated the Facility as a hazardous waste management facility on and after November 19, 1980, the applicable date which renders facilities subject to interim status requirements or the requirement to have a permit under Sections 3004 and 3005 of RCRA, 42 U.S.C. Sections 6924 and 6925.

9. On November 6, 1980 LMS submitted a Part A Permit Application to EPA. In the Part A Permit Application, LMS indicated that it treated and stored the following hazardous wastes at the Facility:
 - a. Hazardous wastes from non-specific sources identified at 40 C.F.R. Section 261.32 (F001 and F006);
 - b. Hazardous wastes exhibiting the characteristic of corrosivity (D002); and
 - c. Commercial chemical products, manufacturing chemical intermediates, off-specification commercial chemical products, or manufacturing chemical intermediates identified at 40 C.F.R. Section 261.33(f) (U134).
10. On July 23, 1981, EPA sent to LMS a letter acknowledging that the Facility qualified for interim status.
11. On August 12, 1986, LMS and the Pennsylvania Department of Environmental Resources ("PaDER") sampled groundwater monitoring wells located around surface impoundments at the Facility and from a sump at the Facility. Sampling analysis results showed the presence of halogenated solvents and associated breakdown products, including trichloroethylene, perchloroethylene, toluene, and chloroform in the groundwater in the downgradient wells and the sump.
12. On September 25, 1987, EPA issued Respondent and LMS an Administrative Order pursuant to Section 3013 of RCRA, 42 U.S.C. Section 6934, ("3013 Order"), U.S. Docket Number RCRA-III-007 AM, to investigate the nature and extent of releases of hazardous wastes at the Facility.
13. On March 25, 1988, Respondent and LMS submitted to EPA a report entitled "Proposal for Investigation of Potential Contamination at the Former Lancaster Metals Science Facility". A revised proposal was submitted to EPA on June 9, 1988. The proposal as revised will hereinafter be referred to as the RCRA Investigation ("RI"). The RI listed the following hazardous waste management units at the Facility:
 - a. a wastewater treatment system for elementary neutralization;
 - b. three membrane-lined surface impoundments to store metal hydroxide;
 - c. a drum storage area for spent acids and spent ferric

chloride; and

- d. a wastewater treatment effluent discharge.
14. On June 27, 1988 EPA approved the RI Workplan required by the 3013 Order. In February 1989, Respondent and LMS submitted to EPA the RI report summarizing the investigation of contamination at the Facility.
15. EPA obtained the following information from the February 1989 and the August 1990 Final RI Reports entitled "Investigation of Contamination at the Former Lancaster Metals Science Facility":
- a. The major direction of groundwater flow at the site varies seasonally from south to south-southwest.
- b. Trichloroethylene ("TCE") is the predominant contaminant in the groundwater at the Facility.
- c. A summary of the groundwater monitoring data from monitoring well M-10 is listed below in Table I. Well M-10 is located in the vicinity of the former Hamilton Drum Storage Area and the Former Hamilton Sludge Disposal Pit. All results are in parts per billion.

TABLE I

Groundwater Sampling Data

	10/18/88	12/05/89	6/27/90
trichloroethylene	10,000	310	1500
perchloroethylene	260	13	<100
toluene	60	54	<50
chloroform	31	<5	<50
1,1,1-trichloroethane	550	180	<100

- d. Groundwater samples obtained during the sampling event of October 18 and 19, 1988 from wells M-2, M-3, M-4 which are located downgradient of the three surface impoundments contain 8 ppb TCE in M-2, 8 ppb TCE in M-3, and 58 ppb TCE in M-4.
- e. The level of TCE in the groundwater exceeds the maximum contaminant level ("MCL") for drinking water (5 ppb) over an undefined area at and potentially beyond the western edge of the Facility property. The MCL as applicable herein and defined in 40 C.F.R. Part 141, Subpart A is the maximum permissible level of a contaminant in water which is delivered to the free flowing outlet of the ultimate user of a public water

system, except in the case of turbidity where the maximum permissible level is measured at the point of entry to the distributed system.

- f. During the sampling event of October 18 and 19, 1988, the sump in the basement of the Operational Area contained 130 ppb of TCE. This sump collects shallow groundwater from the Facility.

See Attachment F for map indicating the location of the above monitoring wells.

- 16. There are potential human and environmental receptors near Respondent's Facility, including those described below:
 - a. A well, a reservoir, and a spring which are part of the East Petersburg Municipal Water Company are located within one mile east of the Facility. The East Petersburg Municipal Water Company supplies about 2500 people with drinking water.
 - b. A public water supply well, currently not in use, is located approximately 4,000 feet southeast of the facility.
 - c. Two offsite private water supply wells downgradient of the Facility contain small concentrations of chloroform and 1,1,1-trichloroethane. These residents are currently serviced by the East Petersburg Municipal Water Company.
- 17. The substances referred to in paragraphs 11 and 15 above are "hazardous wastes" as defined in Section 1004(5) of RCRA, 42 U.S.C. § 6903(5) and 40 C.F.R. Section 261.3 and are "hazardous constituents" as defined in 40 C.F.R. Part 261, Appendix VIII.
- 18. The substances referred to in paragraphs 11 and 15 above have the potential to directly impact the human and environmental receptors described in paragraph 16 above via the medium of groundwater.
- 19. The substances identified in paragraphs 11 and 15 above may pose a threat to human health and the environment. Human health impacts for some of the substances as described below are taken from "Chemical, Physical, and Biological Properties of Compounds Present at Hazardous Waste Sites" (EPA, 1985). Specifically:
 - a. TCE is carcinogenic to mice after oral administration, producing hepatocellular carcinomas (National Cancer Institute 1976, National Toxicology Program 1982). It was found to be mutagenic using several microbial assay

systems. TCE has been shown to cause renal toxicity, hepatotoxicity, neurotoxicity, and dermatological reactions in animals following chronic exposure to levels greater than 2000 milligrams per cubic meter for six months. The MCL for TCE is 5 ppb and the 10^{-6} cancer risk for this substance is 0.9 ppb. The 10^{-6} is the cancer risk probability of an individual developing cancer over a lifetime as a result of exposure to the potential carcinogen.

- b. Chloroform caused an increase in kidney epithelial tumors in rats and in hepatocellular carcinomas in mice. In addition there is suggestive evidence from epidemiological studies that exposure to chloroform and other trihalomethanes is associated with an increased incidence of bladder tumors in humans. Other toxic effects of chloroform include central nervous system depression, eye, skin, and gastrointestinal irritation and damage to the liver, heart, and kidney. The MCL for trihalomethanes (class of organics including chloroform) is 100 ppb and the 10^{-6} cancer risk for chloroform is 0.2 ppb.
- c. Perchloroethylene (PCE, tetrachloroethylene) induced liver tumors when administered orally to mice and was found to be mutagenic using a microbial assay system. Reproduction toxicity was observed in pregnant rats and mice exposed to high concentrations. Animals exposed by inhalation to tetrachloroethylene exhibited liver, kidney, and central nervous system damage. The MCL for this substance is 5 ppb and the 10^{-6} cancer risk level is 1.4 ppb.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

1. Respondent is a "person" within the meaning of Section 1004(15) of RCRA, 42 U.S.C. Section 6903(15).
2. Respondent is the equitable owner of a facility authorized to operate under Section 3005(e) of RCRA, 42 U.S.C. Section 6925(e).
3. Certain wastes found at the Facility are hazardous wastes within the meaning of Section 3008(h) of RCRA, 42 U.S.C. Section 6928(h).
4. There is or has been a release of hazardous wastes into the environment from a Facility within the meaning of Section 3008(h) of RCRA, 42 U.S.C. Section 6928(h).
5. The actions required by this Consent Order are

necessary to protect human health and the environment.

VI. WORK TO BE PERFORMED

EPA acknowledges that Respondent may have completed some of the tasks required by this Consent Order and that Respondent may have available some of the information and data required by this Consent Order. This previous work may be used to meet the requirements of this Consent Order, upon submission to and formal approval by EPA. Accordingly, specific tasks identified in Attachments A, B, C, may be fulfilled by Respondent's submission and EPA approval of Respondent's previously accumulated data.

Pursuant to Section 3008(h) of RCRA, 42 U.S.C. Section 6928(h), Respondent agrees to and is hereby ordered to perform the following acts in the manner and by the dates specified herein. All work undertaken pursuant to this Consent Order shall be developed and performed in accordance with, at a minimum: the Scope of Work for Interim Measure(s) set forth in Attachment A; the Scope of Work for a RCRA Facility Investigation set forth in Attachment B; the Scope of Work for a Corrective Measures Study set forth in Attachment C; the Health and Safety Plan set forth in Attachment D; the Scope of Work for a Waste Minimization Plan set forth in Attachment E; RCRA, its implementing regulations, and relevant EPA guidance documents. All Scopes of Work and other Attachments to this Consent Order are incorporated herein by reference. If Respondent establishes, and EPA agrees, that a specific subtask is inapplicable, Respondent will not be expected to comply with that subtask. Such approval or agreement shall not be unreasonably withheld. Relevant EPA guidance may include, but is not limited to, the "RCRA Facility Investigation (RFI) Guidance" (Interim Final, May 1989, EPA 530/SW-88-028), "RCRA Ground Water Monitoring Technical Enforcement Guidance Document" (OSWER Directive 9950.1, September 1986), "Test Methods For Evaluating Solid Waste" (SW-846, November 1986), "Construction Quality Assurance for Hazardous Waste Land Disposal Facilities" (EPA 530/SW-85-031, July 1986), and "OWRS Guidance for Preparation of QA Project Plans" (OWRS QA-1, May 1984). "Risk Assessment Guidance for Superfund Volume I, Human Health Evaluation Manual & Volume II, Environmental Evaluation Manual Interim Final" (EPA/540/1-89/022 and 001), March 1989.

"Days" as used herein shall mean calendar days unless otherwise specified.

A. INTERIM MEASURES ("IM")

1. Within forty-five (45) calendar days of the effective date of this Consent Order, Respondent shall submit an IM Source Removal Workplan which will protect human health and the

environment from releases from the LMS drum storage area, the Hamilton sludge disposal pit, the wastewater treatment system which includes the wastewater treatment effluent discharge area and the sump discharge area. The IM Source Removal Workplan shall be consistent with and integrated into any long-term remediation at the Facility to the extent practicable. Upon receipt of EPA approval of the IM Source Removal Workplan, Respondent shall implement the approved IM Source Removal Workplan in accordance with the mutually agreed to requirements and schedules contained therein.

2. If at any time during the pendency of this Consent Order Respondent obtains or discovers information concerning a release of any hazardous waste or hazardous constituent at or from the Facility into the environment in addition to or different from that described in Section IV, "Findings of Fact" above, Respondent shall immediately, but in no case later than forty-eight (48) hours, notify EPA orally of such release and in writing within five (5) calendar days of providing oral notification. The notification shall describe as much as it is known or suspected to be at that particular time, the nature and extent of the release and any threat or potential threat to human health or the environment posed by such release. If EPA determines that corrective action for such release is necessary to protect human health or the environment, EPA shall so notify the Respondent. Within fifteen (15) calendar days of receipt of such notice from EPA, Respondent shall submit to EPA for approval an IM Workplan which identifies Interim Measures which will protect human health and the environment from such release and which are consistent with and integrated into any long-term remediation at the Facility to the extent practicable.

3. The IM Source Removal Workplan required in paragraph 1 above and each IM Workplan required pursuant to this Consent Order shall be developed in accordance with the IM Scope of Work in Attachment A to this Order. The IM Source Removal Workplan and each IM Workplan required pursuant to this Consent Order shall document the procedures to be used by Respondent for the implementation of Interim Measures and shall include, but not be limited to, a Community Relations Plan and IM Objectives. With each IM Workplan required pursuant to this Consent Order, including but not limited to the IM Source Removal Workplan, Respondent shall submit in accordance with Attachment A to this Consent Order: an IM Investigation Program, IM Design Program, IM Construction Quality Assurance Plan, and Reporting Requirements.

4. Concurrent with submission of each IM Workplan required pursuant to this Consent Order, Respondent shall submit to EPA an IM Health and Safety Plan in accordance with Attachment D of this Consent Order.

5. Upon receipt of EPA approval of any IM Workplan,

Respondent shall implement the approved IM Workplan in accordance with the mutually agreed to requirements and schedules contained therein.

B. RCRA FACILITY INVESTIGATION ("RFI")

1. Within ninety (90) calendar days of the effective date of this Consent Order, Respondent shall submit to EPA for approval a Description of the Current Conditions at the Facility ("Description"). This Description shall be developed in accordance with the RFI Scope of Work contained in Attachment B.

2. Within ninety (90) calendar days of the effective date of this Consent Order, Respondent shall submit to EPA for approval a Pre-Investigation Evaluation of Corrective Measure Technologies ("Evaluation"). This Evaluation shall be developed in accordance with the RFI Scope of Work contained in Attachment B.

3. Within ninety (90) calendar days of the effective date of this Consent Order, Respondent shall submit to EPA a Workplan for a RCRA Facility Investigation ("RFI Workplan"). The RFI Workplan is subject to approval by EPA and shall be developed in accordance with, at a minimum, the RFI Scope of Work contained in Attachment B, RCRA, its implementing regulations, and relevant EPA guidance documents.

4. The RFI Workplan shall be designed to determine the presence, magnitude, full extent, direction, and rate of movement of any hazardous wastes and/or hazardous constituents. These areas should include but may not be limited to the Hamilton Drum Storage Area, the Operational Area, and the three lined Surface Impoundments. The RFI Workplan shall document the procedures Respondent shall use to conduct those investigations necessary to: (A) characterize the potential pathways of contaminant migration; (B) characterize the source(s) of contamination; (C) define the degree and extent of contamination; (D) identify actual or potential human and ecological receptors and; (E) support the development of alternatives from which a corrective measure(s) will be selected by EPA. A specific schedule for expeditious implementation of all activities shall be included in the RFI Workplan.

5. In accordance with the provisions of Attachment B hereto the RFI Workplan shall include: (A) a Project Management Plan; (B) a Data Collection Quality Assurance Plan; (C) a Data Management Plan; (D) a Community Relations Plan; and provide for the submission of a draft and final RFI Reports.

6. Concurrent with submission of an RFI Workplan, Respondent shall submit to EPA an RFI Health and Safety Plan in

accordance with Attachment D to this Consent Order.

7. Upon receipt of EPA approval of the RFI Workplan, Respondent shall implement the EPA-approved RFI Workplan in accordance with the mutually agreed to terms and schedule contained therein. Upon completion of implementation of the RFI Workplan, Respondent shall submit to EPA for approval an RFI Report and if EPA deems necessary a Laboratory and Bench Scale Studies Report in accordance with the requirements and schedule contained in the RFI Workplan.

C. CORRECTIVE MEASURES STUDY ("CMS")

1. Within ninety (90) calendar days of receipt of EPA approval of the RFI Final Report, Respondent shall submit to EPA for approval a Draft CMS Report in accordance with the CMS Scope of Work in Attachment C.

2. Within forty-five (45) calendar days of receipt of EPA's comments on the Draft CMS Report, Respondent shall submit to EPA the CMS Final Report, revised to respond to comments received from and/or remedy deficiencies identified by EPA on the Draft Corrective Measures Study Report.

D. PUBLIC COMMENT AND PARTICIPATION

1. After approval of the Final CMS Report, EPA shall make both the RFI Final Report and the CMS Report, a description of EPA's proposed corrective measure(s) and EPA's justification for proposing selection of such corrective measure(s) (the "Statement of Basis") available to the public for review and comment for thirty (30) calendar days.

2. Following the public review and comment period, EPA shall notify Respondent of the corrective measure selected by EPA in a Record of Decision ("ROD"). If the corrective measure(s) selected by EPA after consideration of public comments differs significantly from the corrective measure(s) recommended in the Statement of Basis, EPA will explain on the ROD the Basis for such difference.

E. CORRECTIVE MEASURE(S) IMPLEMENTATION

Upon completion of the selection by EPA of the corrective measure(s) and issuance of the ROD, EPA may provide Respondent with an opportunity to negotiate the terms of an administrative order on consent for implementation of such corrective measure(s). Nothing in this provision shall limit EPA's authority to implement the selected corrective measure(s) or to

take any other appropriate action under RCRA, the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. Section 9601 et seq. ("CERCLA"), or any other available legal authority, including issuance of a unilateral administrative order or the filing of a civil judicial action seeking a judicial order directing Respondent to implement the selected corrective measure(s).

F. WASTE MINIMIZATION PLAN

1. In the event Respondent commences operation of the Facility prior to termination of this Consent Order in accordance with Section XXIV of this Consent Order, Respondent shall comply with the provisions of this Section VI.F. Within one hundred and eighty (180) calendar days of the commencement of Facility operations, Respondent shall submit to EPA for comment and review a plan to minimize the generation of hazardous waste at the Facility (the "Waste Minimization Plan" or "Plan"). Respondent will not be required to submit a Waste Minimization Plan unless the Facility commences operations. This Plan shall be developed in accordance with Scope of Work for a Waste Minimization Plan contained in Attachment E and shall describe procedures to minimize the volume, mobility and toxicity of hazardous waste generated at the Facility.

2. Within sixty (60) calendar days after receipt of EPA's comments on the Waste Minimization Plan, Respondent shall submit to EPA a revised Plan incorporating EPA's comments to the extent practicable. Concurrent with such submission, Respondent shall implement the Waste Minimization Plan, as revised, in accordance with the requirements and schedule contained therein.

3. Respondent shall review, assess the effectiveness of and revise the Waste Minimization Plan, as appropriate, on an annual basis to further reduce the volume, mobility and/or toxicity of the hazardous waste generated at the Facility. During the effective life of this Consent Order, Respondent shall submit an annual Waste Minimization Report to EPA. Such Waste Minimization Report shall be prepared and submitted to EPA by March 1 of each year and shall include: an assessment of the effectiveness of Respondent's existing Plan; a description of the changes in volume, mobility and toxicity of waste actually achieved during the year in comparison to previous years; the identification of areas where potential improvements in waste minimization at the Facility may be achieved; a copy of all revisions to the Waste Minimization Plan; an explanation and description of how such revision(s) have enabled the Respondent to further minimize the volume, mobility and/or toxicity of the hazardous waste generated at the Facility, and, any anticipated revision to the Plan along with the projected changes in volume, mobility and/or toxicity of the waste generated as a result of

implementing such revision(s).

G. SUBMISSIONS/EPA APPROVAL/ADDITIONAL WORK

1. EPA will review Respondent's IM and RFI Workplans, RFI and CMS Draft Reports and any other documents submitted pursuant to Attachments A, B, and C of this Consent Order, with the exception of progress reports ("Submissions") and will notify Respondent in writing of EPA's approval or disapproval of each such Submission. In the event of EPA's disapproval, EPA shall specify in writing any deficiencies in the Submission. Respondents first submission and EPA's disapproval of such shall not be subject to the dispute resolution procedures of Section XV, below.

2. Within forty-five (45) calendar days of receipt of EPA's comments on the Submission, except for fifteen (15) days for IM Workplan, Respondent shall submit to EPA for approval a revised Submission ("Revised Submission") which responds to any comments received and remedies any deficiencies identified by EPA. In the event that EPA disapproves of the revised submission, Respondent may invoke the dispute resolution procedures of Section XV, below. In the event EPA disapproves the Revised Submission, EPA reserves the right to revise such Submission and seek to recover from Respondent the costs thereof in accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA") and other applicable law. Any submission approved by EPA under this Consent Order shall be deemed incorporated into and made an enforceable part of this Consent Order.

3. Beginning with the first day of the second full month following the effective date of this Consent Order, and every two months thereafter on the first day of the month, throughout the effective period of this Consent Order, Respondent shall provide EPA with bimonthly (every two months) progress reports. The bimonthly progress reports shall contain the information required in the relevant Scope(s) of Work attached hereto.

4. Four (4) copies of all Submissions required by this Consent Order shall be hand-delivered or sent by Certified Mail, Return Receipt Requested, to the Project Coordinator designated pursuant to Section XII, "PROJECT COORDINATOR," below.

5. All work performed pursuant to this Consent Order shall be under the direction and supervision of a professional engineer or geologist with expertise in hazardous waste site investigation. Respondent shall submit to EPA, in writing, the name, title, and qualifications of the engineer or geologist and of any contractors or subcontractors to be used in carrying out the terms of this Consent Order, within ten (10) calendar days of the effective date of this

Consent Order or within ten (10) calendar days of retention of such person(s). Notwithstanding Respondent's selection of an engineer, geologist, contractor or subcontractor, nothing herein shall relieve Respondent of its obligation to comply with the terms and conditions of this Consent Order. Respondent shall notify EPA ten (10) calendar days prior to changing its engineer or geologist, and/or contractors or subcontractors to be used in carrying out the terms of this Consent Order and shall submit to EPA in writing, the name, title, and qualifications of such person(s).

6. EPA may determine that certain tasks and deliverables including, but not limited to, investigatory work or engineering evaluation require additional work. These tasks and deliverables may or may not have been in the IM or RFI Workplans. When new findings indicate that such additional work is necessary, EPA shall request, in writing, that Respondent perform the additional work and shall specify the basis and reasons for EPA's determination that additional work is necessary. Within fifteen (15) calendar days after the receipt of such request, Respondent shall have the opportunity to meet or confer with EPA to discuss the additional work EPA has requested. In the event that Respondent agrees to perform the additional work, this Consent Order shall be modified in accordance with Section XXI, "SUBSEQUENT MODIFICATION," below, and such work shall be performed in accordance with this Consent Order. In the event Respondent fails to perform the additional work, EPA reserves the right to order Respondent to perform such additional work; to perform such additional work itself and to seek to recover from Respondent all costs of performing such additional work; and/or to disapprove the IM Workplan, the RFI Workplan, the RFI Report and/or the CMS Report.

VII. QUALITY ASSURANCE

Throughout all sample collection and analysis activities, Respondent shall use EPA-approved quality assurance, quality control, and chain-of-custody procedures, as specified in the approved Workplans. In addition, Respondent shall:

1. Ensure that laboratories used by Respondent for analyses perform such analyses according to the EPA methods included in "Test Methods for Evaluating Solid Waste" (SW-846, November 1986) or other methods deemed satisfactory to EPA. If methods other than EPA methods are to be used, Respondent shall submit all protocols to be used for analyses to EPA for approval at least thirty (30) calendar days prior to the commencement of analyses and shall obtain EPA approval prior to the use of such protocols.

2. Ensure that laboratories used by Respondent for analyses participate in a quality assurance/quality control program equivalent to that which is followed by EPA. As part of such a program, and upon request by EPA, such laboratories shall perform analyses of samples provided by EPA to demonstrate the quality of the analytical data.

3. Inform the EPA Project Coordinator at least fourteen (14) calendar days in advance of any laboratory analysis regarding which laboratory will be used by Respondent and ensure that EPA personnel and EPA-authorized representatives have reasonable access to the laboratories and personnel used for analysis.

VIII. PUBLIC REVIEW OF ADMINISTRATIVE RECORD

The Administrative Record supporting the issuance of this Consent Order will be available for public review on Mondays through Fridays, from 9:00 a.m. to 5:00 p.m., by contacting the EPA Project Coordinator, Cheryl Atkinson, at:

U.S. Environmental Protection Agency
841 Chestnut Building (3HW64)
Philadelphia, Pennsylvania 19107
Telephone # 215-597-3217

IX. ON-SITE AND OFF-SITE ACCESS

1. EPA and/or its authorized representatives shall have the authority to enter and freely move about all property at the Facility during the effective dates of this Consent Order for the purposes of, inter alia: interviewing Facility personnel and contractors; inspecting records, operating logs, and contracts related to the Facility; reviewing the progress of Respondent in carrying out the terms of this Consent Order; conducting such tests, sampling or monitoring as EPA or its Project Coordinator deem necessary; using a camera, sound recording, or other documentary type equipment; and verifying the reports and data submitted to EPA by Respondent. Respondent shall permit such persons to inspect and copy all records, files, photographs, documents, and other writings, including all sampling and monitoring data, that pertain to work undertaken pursuant to this Consent Order.

2. To the extent that work required by this Consent Order, or by any EPA-approved Workplan prepared pursuant hereto, must be done on property not owned or controlled by Respondent, Respondent shall use its best efforts to obtain site access agreements from the present owner(s) and/or lessee(s) of such property, as appropriate, within thirty (30) calendar days of receipt of EPA approval of any Workplan pursuant to this Order which requires work on such property. For purpose of this paragraph, "best efforts" shall include, at a minimum, but shall not be limited to: a) a certified letter from Respondent to the present owner(s) or lessee(s) of such property requesting access agreements to permit Respondent, EPA and its authorized representatives access to such property; b) the payment of reasonable sums of money in consideration of access. "Reasonable

sums of money" means the fair market value of the right of access necessary to implement the requirements of this Consent Order. In the event that such agreements for access are not obtained within thirty (30) calendar days after receipt of EPA approval of any Workplan submitted pursuant to this Consent Order which requires work on property which is not owned or controlled by Respondent, Respondent shall notify EPA, in writing, within seven (7) calendar days after inability to obtain such agreements, regarding both the efforts undertaken to obtain access and the inability to obtain such agreements. If EPA determines that despite the exercise of its best efforts, Respondent has been unable to obtain such access from the owner or lessee, as appropriate, of such property, Respondent shall be relieved of its obligation to obtain access to such property from such owner or lessee. In the event that Respondent fails to obtain off-site access, EPA, in its discretion, may assist Respondent in obtaining off-site access for Respondent. Respondent shall reimburse EPA for all cost incurred in obtaining access, including, but not limited to, attorneys fees.

3. Nothing in this Consent Order limits or otherwise affects EPA's right of access and entry pursuant to applicable law, including, but not limited to, RCRA and CERCLA.

X. SAMPLING AND DATA/DOCUMENT AVAILABILITY

1. Respondent shall submit to EPA the results of all sampling and/or tests or other data generated by, or on behalf of, Respondent in accordance with the requirements of this Consent Order and the Attachments appended hereto and incorporated herein.

2. Respondent shall notify EPA in writing at least fourteen (14) calendar days in advance of any field activities, such as well drilling, installation of equipment, or sampling. At the request of EPA, Respondent shall provide or allow EPA or its authorized representatives to take split or duplicate samples of all samples collected by Respondent pursuant to this Consent Order. Nothing in this Consent Order shall limit or otherwise affect EPA's authority to collect samples pursuant to applicable law, including, but not limited to, RCRA and CERCLA.

3. Respondent may assert a business confidentiality claim covering all or part of any information submitted to EPA pursuant to this Consent Order in the manner described in 40 C.F.R. Section 2.203(b). Any assertion of confidentiality shall be adequately substantiated by Respondent when the assertion is made in accordance with 40 C.F.R. Section 2.204(e)(4). Information subject to a confidentiality claim shall be disclosed only to the extent and by the means of the procedures set forth in 40 C.F.R.

Part 2, Subpart B. If no such confidentiality claim accompanies the information when it is submitted to EPA, it may be made available to the public by EPA without further notice to Respondent. Respondent shall not assert any confidentiality claim with regard to any physical, sampling, monitoring, or analytical data.

XI. RECORD PRESERVATION

Respondent agrees that it shall preserve, during the pendency of this Consent Order and for minimum of at least six (6) years after its termination, all data, records and documents in its possession or in the possession of its divisions, officers, directors, employees, agents, contractors, successors, and assigns which relate in any way to this Consent Order or to hazardous waste management and/or disposal at the Facility. After six (6) years, Respondent shall make such records available to EPA for inspection or shall provide copies of any such records to EPA. Respondent shall notify EPA at least thirty (30) calendar days prior to the proposed destruction of any such records, and shall provide EPA with a reasonable opportunity to inspect, copy and/or take possession of any such records. Nothing in this Section XI shall in any way limit the authority of EPA under Section 3007 of RCRA, 42 U.S.C. Section 6927.

XII. PROJECT COORDINATOR

1. EPA hereby designates Cheryl Atkinson as the EPA Project Coordinator. Within ten (10) calendar days of the effective date of this Consent Order, Respondent shall designate a Project Coordinator and shall notify EPA, in writing, of the Project Coordinator it has selected. Each Project Coordinator shall be responsible for overseeing the implementation of the Consent Order. The EPA Project Coordinator will be EPA's primary designated representative at the Facility. To the maximum extent possible, all communications between Respondent and EPA, and all documents, reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Consent Order, shall be directed through the Project Coordinators.

2. The parties agree to provide at least seven (7) calendar days written notice prior to changing Project Coordinators.

3. If EPA determines that conditions at the Facility, whether or not in compliance with this Consent Order, have caused or may cause a release or threatened release of hazardous wastes, hazardous constituents, hazardous substances, pollutants or contaminants, which threaten or may pose a threat to the public

health or welfare or to the environment, EPA may direct, in writing, that Respondent stop further implementation of this Consent Order for such period of time as may be needed to abate any such release or threatened release and/or to undertake any action which EPA determines is necessary to abate such release or threatened release.

4. The absence of the EPA Project Coordinator from the Facility shall not be cause for the delay or stoppage of work.

XIII. NOTIFICATION

Unless otherwise specified, reports, correspondence, approvals, disapprovals, notices, or other submissions relating to or required under this Consent Order shall be in writing and shall be sent as follows:

1. Four copies of all documents to be submitted to the EPA shall be sent to:

Cheryl Atkinson (3HW64)
U.S. EPA Region III
841 Chestnut Building
Philadelphia, PA 19107

2. Documents to be submitted to Respondent shall be sent to:

I. Norman Gerlach, R.A.
Vice-President
Fulton Financial Corporation
P.O. Box 4887
Lancaster, PA 17604

3. One copy of all documents to be submitted to EPA shall also be sent to:

Robert Benvin
Manager of Facilities Permit Application Section
Commonwealth of Pennsylvania
Department of Environmental Resources
Waste Management Program
Southcentral Regional Office
One Ararat Boulevard
Harrisburg, PA 17110

4. Any notice, report, certification, data presentation, or other document submitted by Respondent pursuant to this Consent Order which discusses, describes, demonstrates, supports any finding or makes any representation concerning Respondent's compliance or noncompliance with any requirement of this Consent Order shall be certified by a responsible corporate officer or a

duly-authorized representative of Respondent. A responsible corporate officer means: (a) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (b) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$35 million (in 1987 dollars when the Consumer Price Index was 345.3), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. A person is a "duly authorized representative" only if: (1) the authorization is made in writing by a person described above; (2) the authorization specifies either an individual or position having responsibility for overall operation of the regulated facility or activity (a duly authorized representative may thus be either a named individual or any individual occupying a named position); and (3) the written authorization is submitted to the Project Coordinator designated by EPA Section XII ("Project Coordinator") of this Consent Order.

5. The certification of the responsible corporate officer required by paragraph 4 above shall be in the following form:

I certify that the information contained in or accompanying this [type of submission] is true, accurate, and complete. As to [the/those identified portion(s)] of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared in accordance with procedures designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, or the immediate supervisor of such person(s), the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature : _____

Name: _____

Title: _____

XIV. DELAY IN PERFORMANCE/STIPULATED PENALTIES

1. Unless there has been a written modification of a compliance date by EPA, or excusable delay as defined below in Section XVI, "FORCE MAJEURE AND EXCUSABLE DELAY," in the event Respondent fails to comply with any requirement set forth in this Consent Order, Respondent shall pay stipulated penalties, as set forth below, upon written demand by EPA. Compliance by Respondent shall include commencement and completion in an acceptable manner and with the specified time schedules in and approved under this Consent Order, of any activity, plan, study, or report required by this Consent Order. Stipulated penalties shall be as follows:

- a. For failure to commence, perform, or complete work as prescribed in this Consent Order: \$1,500 per day for one to seven days or part thereof of delay, and \$3,000 per day for each day of delay, or part thereof, thereafter;
- b. For failure to submit any draft or final Workplans and/or reports as required by this Consent Order: \$1,000 per day for one to seven days or part thereof of delay, and \$3,000 per day for each day of delay, or part thereof, thereafter;
- c. For failure to submit bimonthly progress reports as required by this Consent Order: \$750 per day for one to seven days or part thereof of delay, and \$1,500 per day for each day of delay, or part thereof, thereafter,
- d. For failure to submit other deliverables as required by this Consent Order: \$750 per day for one to seven days or part thereof of delay, and \$1,500 per day for each day of delay, or part thereof, thereafter;
- e. For any failure to comply with the provisions of this Consent Order after receipt of notice of noncompliance by EPA: \$1,000 per day for one to seven days or part thereof of delay, and \$3,000 per day for each day of delay, or part thereof, thereof, in addition to any stipulated penalties imposed for the underlying non-compliance; and
- f. For any failure to comply with this Consent Order not described in subparagraphs a-e, immediately above: \$750 per day for one to seven days or part thereof of delay, and \$1,500 per day for each day of delay, or part thereof, thereafter.

2. All penalties shall begin to accrue on the date that complete performance is due or a violation occurs, and shall continue to accrue through the final day of or correction of the violation. Nothing herein shall prevent the simultaneous accrual of separate stipulated penalties for separate violations of this Consent Order.

3. All penalties owed to EPA under this Section XIV shall be due within forty-five (45) calendar days of receipt of written demand by EPA unless Respondent invokes the dispute resolution procedures under Section XV, below. Such notification shall describe the noncompliance and shall indicate the amount of penalties due. Interest shall begin to accrue on the unpaid balance at the end of the forty-five (45) calendar day period and shall accrue at the United States Tax and Loan Rate.

4. All penalty payments shall be made by certified or cashier's check payable to the Treasurer of the United States of America and shall be remitted to:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III
P.O. Box 360515M
Pittsburgh; Pennsylvania 15251

All payments shall reference the name of the Facility, Respondent's name and address, and the EPA Docket Number of this Order. Copies of the transmittal of payment shall be sent simultaneously to the EPA Project Coordinator and the Regional Hearing Clerk (3RC00), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

5. Respondent may dispute EPA's right to assess stipulated penalties by invoking the dispute resolution procedures below under Section XV, "DISPUTE RESOLUTION." Stipulated penalties shall continue to accrue, but need not be paid, for any alleged noncompliance which is the subject of dispute resolution during the period of such dispute resolution. To the extent that Respondent does not prevail upon resolution of the dispute, Respondent shall remit to EPA within seven (7) calendar days of receipt of such resolution any outstanding penalty payment, including any accrued interest, in the manner described above in Paragraph 4 immediately above. To the extent Respondent prevails upon resolution of the dispute, no penalties shall be payable.

6. Neither the filing of a petition to resolve a dispute nor the payment of penalties shall alter in any way Respondent's obligation to comply with requirements of this Consent Order.

7. The stipulated penalties set forth in this Section XIV

shall not preclude EPA from pursuing any other remedies or sanctions which may be available to EPA by reason of Respondent's failure to comply with any of the requirements of this Consent Order.

XV. DISPUTE RESOLUTION

1. Except as otherwise limited in this Consent Order, if Respondent disagrees, in whole or in part, with any EPA disapproval, modification or other decision or directive made by EPA pursuant to this Consent Order, Respondent shall notify EPA in writing of its objections, and the basis therefor, within fourteen (14) calendar days of receipt of EPA's disapproval, decision or directive. Such notice shall set forth the specific points of the dispute, the position which Respondent asserts should be adopted as consistent with the requirements of this Consent Order, the basis for Respondent's position, and any matters which it considers necessary for EPA's determination. EPA and Respondent shall have an additional fourteen (14) calendar days from the receipt by EPA of the notification of objection, during which time representatives of EPA and Respondent may confer in person or by telephone to resolve any disagreement. If an agreement is reached, the resolution shall be written and signed by an authorized representative of each party. In the event that resolution is not reached within this fourteen (14) calendar day period, EPA will furnish to Respondent, in writing, its decision on the pending dispute. The decision will not be provided by EPA's Project Coordinator.

2. Except as provided in Paragraph 5 of Section XIV ("DELAY IN PERFORMANCE/ STIPULATED PENALTIES"), the existence of a dispute, as defined in this Section XV, and EPA's consideration of matters placed into dispute shall not excuse, toll or suspend any compliance obligation or deadline required pursuant to this Consent Order during the pendency of the dispute resolution process.

3. Notwithstanding any other provisions of this Consent Order, no action or decision by EPA, including, without limitation, decisions of the Regional Administrator, Region III, pursuant to this Consent Order, shall constitute final agency action giving rise to any rights to judicial review prior to EPA's initiation of judicial action to compel Respondent's compliance with this Consent Order.

XVI. FORCE MAJEURE AND EXCUSABLE DELAY

1. Respondent shall perform the requirements of this Consent Order in the manner and within the time limits set forth herein, unless the performance is prevented or delayed by events

which constitute a force majeure. Respondent shall have the burden of proving such a force majeure. A force majeure is defined as any event arising from causes not reasonably foreseeable and beyond the control of Respondent, which cannot be overcome by due diligence and which delays or prevents performance in the manner or by a date required by this Consent Order. Such events do not include increased costs of performance, changed economic circumstances, reasonably foreseeable weather conditions, or failure to obtain federal, state, or local permits. Respondents failure to obtain a requisite permit approval after Respondent has made all reasonable efforts to do so, including the making of a timely and complete application for such permit approval shall be considered a force majeure and Respondents time period to perform the activities affected shall be extended or suspended until the requested permit approval is obtained.

2. Respondent shall notify EPA, in writing, within seven (7) calendar days after it becomes aware of any event which causes or may cause a delay in complying with any requirement of this Consent Order or prevents compliance in the manner required by this Order and any event which Respondent claims constitutes a force majeure. Such notice shall estimate the anticipated length of delay, including necessary demobilization and remobilization, its cause, measures taken or to be taken to prevent or minimize the delay, and an estimated timetable for implementation of these measures. Failure to comply with the notice provision of this Section XVI shall constitute a waiver of Respondent's right to assert a force majeure claim with respect to such event. In addition to the above notification requirements, Respondent further shall undertake all reasonable actions to prevent or to minimize any delay in achieving compliance with any requirement of this Consent Order after it becomes aware of any event which may delay such compliance.

3. If EPA determines that the failure to comply or delay has been or will be caused by circumstances not reasonably foreseeable and beyond the control of Respondent, which cannot be overcome by due diligence, the time for performance of that requirement of this Consent Order may be extended, upon EPA approval, for a period equal to the delay resulting from such circumstances. This shall be accomplished through an amendment to this Consent Order pursuant to Section XXI, "SUBSEQUENT MODIFICATION." Such an extension shall not alter the schedule for performance or completion of any other tasks required by this Consent Order, unless these tasks are also specifically altered by amendment of the Consent Order. In the event that EPA and Respondent cannot agree that any delay or failure has been or will be caused by circumstances not reasonably foreseeable and beyond the control of Respondent, which cannot be overcome by due diligence, or if there is no agreement on the length of the extension, Respondent may invoke the dispute resolution

procedures set forth in Section XV, "DISPUTE RESOLUTION."

XVII. RESERVATION OF RIGHTS

1. EPA expressly reserves all rights and defenses that it may have, including the right both to disapprove of work performed by Respondent pursuant to this Consent Order and to request that Respondent perform tasks in addition to those stated in the Scope(s) of Work, Workplans, and this Consent Order.

2. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including any which may pertain to Respondent's failure to comply with any of the requirements of this Consent Order. This Consent Order shall not be construed as a covenant not to sue, or as a release, waiver or limitation of any rights, remedies, powers and/or authorities, civil or criminal, which EPA has under RCRA, CERCLA, or any other statutory, regulatory or common law authority of the United States.

3. Compliance by Respondent with the terms of this Consent Order shall not relieve Respondent of its obligations to comply with RCRA or any other applicable local, state, or federal laws and regulations.

4. The signing of this Consent Order and Respondent's consent to comply shall not limit or otherwise preclude EPA from taking additional enforcement action pursuant to Section 3008(h) of RCRA, 42 U.S.C. Section 6928(h), should EPA determine that such actions are warranted.

5. This Consent Order is not intended to be, nor shall it be construed as, a permit. This Consent Order does not relieve Respondent of any obligation to obtain and comply with any local, state, or federal permit.

6. EPA reserves the right to perform any portion of the work consented to herein or any additional site characterization, feasibility study, and response/corrective actions it deems necessary to protect public health or welfare or the environment. EPA may exercise its authority under Section 7003 of RCRA, 42 U.S.C. Section 6973, and CERCLA, to undertake removal actions or remedial actions at any time. In any event, EPA reserves its right to seek reimbursement from Respondent for such additional costs incurred by the United States.

7. EPA reserves whatever right it may have under CERCLA or any other law, or equity, to seek to recover from Respondent any costs incurred by EPA in overseeing the implementation of this Consent Order.

XVIII. OTHER CLAIMS

Nothing in this Consent Order shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership, or corporation, or other entity for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Facility.

XIX. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to this Consent Order shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. Respondent shall obtain or require its authorized representatives to obtain all permits and approvals necessary under such laws and regulations.

XX. INDEMNIFICATION OF THE UNITED STATES GOVERNMENT

Respondent agrees to indemnify and save and hold harmless the United States Government, its agencies, departments, agents, and employees, from any and all claims or causes of action arising from or on account of acts or omissions of Respondent or its agents, independent contractors, receivers, trustees, and assigns in carrying out activities required by this Consent Order. This indemnification shall not be construed in any way as affecting or limiting the rights or obligations of Respondent or the United States under their various contracts. The United States shall not be deemed to be a party to any contract entered into by Respondent for the purposes of carrying out any activities required by this Order.

XXI. NOTICE OF NON-LIABILITY OF EPA

EPA shall not be deemed a party to any contract involving Respondent and relating to activities at the Facility and shall not be liable for any claim or cause of action arising from or on account of any act, or the omission of Respondent, its officers, employees, contractors, receivers, trustees, agents or assigns, in carrying out the activities required by this Consent Order.

XXII. SUBSEQUENT MODIFICATION

1. Except as provided in Paragraph 3, below, this Consent Order may only be amended by mutual agreement of EPA and Respondent. Any such amendment shall be in writing, shall be signed by an authorized representative of each party, shall have as its effective date the date on which it is signed by EPA, and shall be incorporated into this Consent Order. Any oral agreement between EPA and Respondent, the purpose of which is to modify this Consent Order to address exigent circumstance, and which is subsequently ratified in writing by EPA and Respondent shall have as its effective date the date of such oral agreement.

2. Any reports, plans, specifications, schedules, other submissions and attachments required by this Consent Order are, upon written approval by EPA, incorporated into this Consent Order. Any noncompliance with such EPA-approved reports, plans, specifications, schedules, and attachments shall be considered a violation of this Consent Order and shall subject Respondent to the stipulated penalty provisions included in Section XIV, "DELAY IN PERFORMANCE/STIPULATED PENALTIES".

3. Minor modifications in the studies, techniques, procedures, design or schedules utilized in carrying out this Consent Order and necessary for the completion of the project, may be made by mutual agreement of the Project Coordinators. Such modifications shall have as an effective date the date on which the letter from the EPA Project Coordinator is signed. In the event EPA's Project Coordinator fails to provide a written letter from EPA of such minor modifications, Respondent may submit its construction of the minor modification to EPA for signature.

4. No informal advice, guidance, suggestions, or comments by EPA regarding reports, plans, specifications, schedules, and any other writing submitted by Respondent shall be construed as relieving Respondent of its obligation to obtain written approval, if and when required by this Consent Order.

XXIII. SEVERABILITY

If any provision or authority of this Consent Order or the application of this Consent Order to any party or circumstances is held by any judicial or administrative authority to be invalid, the application of such provision to other parties or circumstances and the remainder of this Consent Order shall not be affected thereby and shall remain in full force.

XXIV. TERMINATION AND SATISFACTION

The provisions of this Consent Order shall be deemed satisfied upon Respondent's receipt of written notice from EPA that Respondent has demonstrated, to the satisfaction of EPA, that the terms of this Consent Order, including any additional tasks determined by EPA to be required pursuant to this Consent Order, have been satisfactorily completed. This notice shall not, however, terminate Respondent's obligation to comply with any continuing obligations hereunder including, but not limited to, Sections XI ("RECORD PRESERVATION"), XVII ("RESERVATION OF RIGHTS") and XIX ("OTHER APPLICABLE LAWS").

XXV. SURVIVABILITY/PERMIT INTEGRATION

Subsequent to the issuance of this Consent Order, a RCRA permit may be issued to the Facility incorporating the requirements of this Consent Order by reference into the permit. No requirement of this Consent Order shall terminate upon the issuance of a RCRA permit unless such requirement is expressly replaced by a requirement in the permit.

XXVI. ATTORNEYS' FEES

The Respondent shall bear its own costs and attorney's fees.

XXVII. EFFECTIVE DATE

The effective date of this Consent Order shall be the date on which it is signed by EPA. Because this Consent Order was entered with the consent of both parties, Respondent waives its right to request a public hearing pursuant to Section 3008(b) of RCRA, 42 U.S.C. Section 6928(b).

IT IS SO AGREED AND ORDERED:

DATE: 9-25-91 BY: W. T. Wisniewski

EDWIN B. ERICKSON
REGIONAL ADMINISTRATOR
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION III

DATE: 9/19/91 BY: D. Norman Gerlach
Vice President

RESPONDENT

Fulton Financial Realty Company

I hereby certify that the
within is a true and correct copy
of the original Order on Consent
filed in this matter.

S. P. Wald
Attorney for USEPA