

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SL-9874

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UNITED STATES OF AMERICA,
STATE OF NEW YORK,
and DENISE M. SHEEHAN, AS TRUSTEE
OF THE STATE OF NEW YORK
NATURAL RESOURCES,

Plaintiffs,

- against -

Civil Action
No. CV-06-3493

COLTEC INDUSTRIES, INC.;
GOODRICH CORPORATION;
55 MOTOR AVENUE COMPANY LLC;
CUBBIES PROPERTIES, INC.;
JEFRY ROSMARIN;
J. JAY TANENBAUM;
JAN BURMAN;
JEROME LAZARUS;
LIBERTY ASSOCIATES;
WILLIAM HELLER;
KOCH-GLITSCH, LP;
BEAZER EAST, INC.; and
LIBERTY AERO, INC.,

(Garaufis, J.)
(Levy, M.J.)

Defendants.

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CONSENT JUDGMENT

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I. BACKGROUND

WHEREAS, the United States of America ("United States"), on behalf of the Undersecretary of Commerce for Oceans and Atmosphere of the National Oceanic and Atmospheric Administration, and the Secretary of the Interior (collectively, "the Federal Trustees"), has filed a complaint in this matter pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9607, seeking damages for injury to, destruction, or loss of natural resources resulting from the release or threat of release of hazardous substances at or from the Liberty Industrial Finishing Superfund Site ("Site"), in the Village of Farmingdale, Town of Oyster Bay, Nassau County, New York, including the costs of assessing such injury, damage or loss;

WHEREAS the State of New York (the "State") (including Denise M. Sheehan, Commissioner of the New York State Department of Environmental Conservation ("NYSDEC"), as Trustee of the State of New York Natural Resources), has joined in the complaint of the United States, alleging that the defendants are liable to the State under Section 107 of CERCLA, 42 U.S.C. § 9607, for natural resource damages with respect to the Site;

WHEREAS the defendants that have entered into this Consent Judgment ("Settling Defendants") do not admit any liability to the Plaintiffs arising out of the transactions or occurrences alleged in the complaint, and the departments, agencies, and instrumentalities of the United States identified in Appendix B

("Settling Federal Agencies") do not admit any liability arising out of the transactions or occurrences alleged in any claim which has been or could be asserted against them by Settling Defendants with respect to natural resource damages at the Site;

WHEREAS pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, the United States Environmental Protection Agency ("EPA") placed the Site on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on June 10, 1986, 51 Fed. Reg. 21054 (1986);

WHEREAS Settling Defendants have conducted and continue to conduct response actions at the Site pursuant to, inter alia, a Consent Judgment with the United States, on behalf of the Administrator of the EPA, entered in this Court on September 2, 2004 in United States v. Coltec Industries, Inc., et al., CV-04-1308 (Garaufis, J.) ("RD/RA Consent Judgment");

WHEREAS, in response to a release or threat of release of hazardous substances at or from the Site, the Trustees undertook natural resource damage assessment-related activities ("NRDA") pursuant to Section 107 of CERCLA, 42 U.S.C. § 9607, to evaluate the injury, loss, or destruction of natural resources at the Site due to the release of hazardous substances at or from the Site;

WHEREAS the Trustees determined that releases of hazardous substances in the wetlands, surface water, groundwater, sediments, and terrestrial habitats at or near the Site have resulted in

injury to these habitats and that these injuries will continue until response actions carried out pursuant to the Consent Judgment with the Administrator of EPA are complete and/or the habitats recover naturally. Specifically, the Federal Trustees determined that mortality and injury to aquatic receptors, mortality and injury to benthic aquatic invertebrates, and alterations in benthic invertebrate community structure were caused by releases of hazardous substances at or from the Site;

WHEREAS the Trustees described the NRDA and the proposed plan to restore and replace the natural resource services injured by releases of hazardous substances at or from the Site in a Final Damage Assessment and Restoration Plan and Environmental Assessment ("RP/EA"), dated August 30, 2005;

WHEREAS consistent with federal and state law, including the National Environmental Policy Act, 42 U.S.C. § 4321 et seq., and its implementing regulations, 40 C.F.R. Parts 1500-1517, and the guidance for restoration planning found at 43 C.F.R. Part 11, the Federal Trustees published notice of the proposed restoration plan, as embodied in a draft RP/EA, on June 10, 2005, in two local newspapers of general circulation, and provided an opportunity for written comments from the public on the proposed RP/EA;

WHEREAS the decision by the Trustees of the restoration plan to be implemented at the Site is embodied in the Final RP/EA, on which the State has given its concurrence. The Restoration Plan is

to be implemented at the Massapequa Preserve portion of the Site, which is currently owned by the County of Nassau, New York;

WHEREAS based on the information presently available to the Trustees, the Trustees believe that the Restoration Project (as defined below) will be properly and promptly conducted by Settling Defendants if conducted in accordance with the requirements of this Consent Judgment;

WHEREAS the implementation of the Restoration Project (as defined below) is estimated to cost \$173,000;

WHEREAS Settling Defendants have established the Liberty Industrial Finishing Site Natural Resource Damage ("NRD") Trust Account to receive certain settlement and other payments with respect to natural resource damages at or from the Site from Settling Defendants, the Settling Federal Agencies, and third parties. Payments from the Liberty Industrial Finishing Site NRD Trust Account shall only be used to fund the Restoration Project (as defined below) and/or to pay Past and Future Costs (as defined below); and

WHEREAS the Parties recognize, and the Court by entering this Consent Judgment finds, that this Consent Judgment has been negotiated by the Parties in good faith; implementation of this Consent Judgment will expedite the restoration of the natural resources that the United States and the State allege have been injured, destroyed or lost; will avoid prolonged and complicated

litigation between the Parties; and that the Consent Judgment is fair, reasonable, and in the public interest.

NOW, THEREFORE, it is hereby Ordered, Adjudged, and Decreed:

II. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. §§ 9607 and 9613(b). This Court also has personal jurisdiction over Settling Defendants. Solely for purposes of this Consent Judgment, and the underlying complaint, Settling Defendants waive all objections and defenses that they may have to jurisdiction of the Court or to venue in this District and all defenses based on statute of limitations. Settling Defendants shall not challenge the terms of this Consent Judgment or this Court's jurisdiction to enter and enforce this Consent Judgment.

III. PARTIES BOUND

2. This Consent Judgment applies to and is binding upon the United States, the State, and upon Settling Defendants and their heirs, successors and assigns. Any change in ownership or corporate status of a Settling Defendant including, but not limited to, any transfer of assets or real or personal property, shall in no way alter such Settling Defendant's responsibilities under this Consent Judgment.

3. Settling Defendants shall provide a copy of this Consent Judgment to each contractor hired to perform the Restoration

Project required by this Consent Judgment (as defined below) and to each person representing any Settling Defendant with respect to the Restoration Project, and shall condition all contracts entered into hereunder upon performance of the Restoration Project in conformity with the terms of the Consent Judgment. Settling Defendants or their contractors shall provide written notice of the Consent Judgment to all subcontractors hired to perform any portion of the Restoration Project required by the Consent Judgment. Settling Defendants shall nonetheless be responsible for ensuring that their contractors and subcontractors perform the Restoration Project in accordance with this Consent Judgment. With regard to the activities undertaken pursuant to this Consent Judgment, each contractor and subcontractor shall be deemed to be in a contractual relationship with Settling Defendants within the meaning of Section 107(b)(3) of CERCLA, 42 U.S.C. § 9607(b)(3).

IV. DEFINITIONS

4. Unless otherwise expressly provided herein, terms used in this Consent Judgment which are defined in CERCLA or in regulations promulgated pursuant to CERCLA shall have the same meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Consent Judgment, the following definitions shall apply:

"Consent Judgment" shall mean this Consent Judgment, all appendices attached hereto (listed in Section XXI), and any

modifications made pursuant to Section XXII (Modification).

"Date of Lodging" shall mean the date upon which this Consent Judgment is lodged with the Clerk of the Court.

"Day" shall mean a calendar day. In computing any time under this Consent Judgment, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

"DOI" shall mean the United States Department of the Interior and any successor departments or agencies of the United States.

"Effective Date" shall mean the effective date of this Consent Judgment as provided in Section XIX.

"FWS" shall mean the Department of Interior, Fish and Wildlife Service, and any successor departments or agencies of the United States.

"Final Design" shall mean the Final Design for implementation of the Restoration Project, and any modifications made in accordance with this Consent Judgment.

"Future Costs" shall mean the costs that the Federal Trustees incur to provide for, carry out, or support the activities or responsibilities of the Trustees in overseeing implementation of, monitoring, and maintenance of the Restoration Project (as defined below);

"Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund

established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

"National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

"Natural Resources" shall mean "natural resources" as that term is defined in Section 101(16) of CERCLA, 42 U.S.C. § 9601(16).

"Natural Resource Damages" shall mean damages for injury to, destruction of, or loss of natural resources, including the reasonable cost of assessing such damages, as provided in Section 107(a)(4)(C) of CERCLA, 42 U.S.C. 9607(a)(4)(C).

"NOAA" shall mean the National Oceanic and Atmospheric Administration, and any successor departments or agencies of the United States.

"NYSDEC" shall mean the New York State Department of Environmental Conservation and any successor departments or agencies of the State.

"Parties" shall mean the United States, the State of New York, and Settling Defendants.

"Past Costs" shall mean all costs incurred by the Federal

Trustees in assessing the natural resources actually or potentially injured, destroyed, or lost as a result of release of hazardous substances at or from the Site, and in identifying and planning for restoration actions to compensate for such injuries and losses through September 20, 2003. Such costs include administrative costs and other costs or expenses associated with providing for public participation which are incurred incident to, or in support of, the assessment and restoration planning process.

"Plume B" shall mean those hazardous substances and/or pollutants and contaminants, including tetrachloroethylene, released and threatened to be released into groundwater, from a source or sources located entirely or primarily about one-quarter mile north of the 30-acre portion of the Site, and also includes all areas of groundwater where hazardous substances and/or pollutants or contaminants released from that source or sources come to be located, the extent of which, as of 1999, is depicted generally on the map attached as Appendix F, but Plume B does not include that portion of the groundwater plume originating north of the Site which is commingled with hazardous substances and/or pollutants and contaminants released at or from the 30-acre portion of the Site.

"Project Review Group" shall mean a group established under this Consent Judgment consisting of one representative each from NOAA, the DOI/FWS, and NYSDEC.

"Restoration Project" shall mean the Fishladder Construction Project described in Appendix C hereto and implemented in accordance with the Final Design to be developed pursuant to Paragraph 17 of this Consent Judgment and the Conceptual Design Document attached as Appendix D hereto.

"Settling Defendants" shall mean those parties identified in Appendix A, but shall not include the Settling Federal Agencies.

"Settling Federal Agencies" shall mean those departments, agencies, and instrumentalities of the United States identified in Appendix B, which are resolving any claims which have been or could be asserted against them with regard to this Site as provided in this Consent Judgment.

"Site" shall mean the Liberty Industrial Finishing Superfund Site, located in the unincorporated Village of Farmingdale, Town of Oyster Bay, Nassau County, New York, encompassing an area approximately 30 acres in size, which is located at 55 Motor Avenue and designated on the Nassau County tax map as Lots 327 and 329 of Block 518, Section 48, depicted generally on the map attached as Appendix E, as well as those areas where hazardous substances and/or pollutants and contaminants released at or from the 30-acre area have come to be located, but, for purposes of this Consent Judgment, the Site does not include Plume B.

"State Trustee" shall mean the Commissioner of NYSDEC as the State trustee for Natural Resources.

"Trustees" shall mean the designated federal and state officials who may act on behalf of the public as trustees for the Natural Resources at and around the Site, namely NOAA and DOI represented by the Fish and Wildlife Service as the Federal Trustees for Natural Resources at and around the Site, and the Commissioner of NYSDEC as the State trustee for Natural Resources.

V. GENERAL PROVISIONS

5. Objectives of the Parties. The objectives of the Parties in entering into this Consent Judgment are to restore and replace the natural resource alleged to have been injured, destroyed, or lost as a result of release of hazardous substances at or from the Site, design and implement the Restoration Project, and to resolve all of the Natural Resource Damages claims of the United States and the State against Settling Defendants, and the claims of Settling Defendants, including but not limited to contribution claims, that have been or could have been asserted against the United States and among Settling Defendants and the Settling Federal Agencies for Natural Resource Damages with respect to the Site.

6. Commitments by Settling Defendants and Settling Federal Agencies.

a. Settling Defendants shall finance and implement the design and construction of Restoration Project in accordance with this Consent Judgment, the RP/EA, and all work plans and other plans, standards, specifications, and schedules set forth herein or

developed by Settling Defendants and approved by the Trustees pursuant to this Consent Judgment.

b. Settling Defendants shall reimburse the United States for Past and Future Costs as provided in this Consent Judgment.

c. Settling Federal Agencies shall pay a share of the costs of the Restoration Project, Past and Future Costs through periodic contributions to the Liberty Industrial Finishing Site NRD Trust Account, as provided pursuant to Paragraph 26 of this Consent Judgment.

7. Joint and Several Liability. The obligations of Settling Defendants to finance and implement the design and construction of the Restoration Project and to pay amounts owed to the United States and the State pursuant to this Consent Judgment are joint and several. In the event of the insolvency or other failure of any one or more Settling Defendants to implement the requirements of this Consent Judgment, the remaining Settling Defendants shall comply fully with all such requirements.

8. Compliance with Applicable Law.

a. All activities undertaken by Settling Defendants pursuant to this Consent Judgment shall be performed in accordance with the requirements of all applicable federal, state, and local laws and regulations. Settling Defendants must also comply with all applicable or relevant and appropriate requirements of all federal and state environmental laws as set forth in the Final Design.

b. The United States and the State of New York do not, by their consent to this Consent Judgment, warrant or aver in any manner that Settling Defendants' compliance with this Consent Judgment will constitute, or result in, compliance with the requirements of any federal, state, or local laws and regulations that may be applicable to the implementation of any Restoration Project or other activity required by this Consent Judgment.

9. This Consent Judgment is not, and shall not be construed to be, a permit issued pursuant to any federal, state, or local law or regulation.

10. Except as otherwise provided in this Consent Judgment, no action by the Trustees, including, without limitation, their issuance of the RP/EA or the review and approval of any design, plan, report, or other information or action taken by Settling Defendants under this Consent Judgment, shall relieve Settling Defendants of their responsibility for compliance with all terms and requirements of this Consent Judgment.

11. The failure of the Trustees to insist upon strict and prompt performance of any provision of this Consent Judgment shall not operate as a waiver of any requirement of this Consent Judgment or of the Trustees' right to insist on prompt compliance in the future with such provision, and shall not prevent a subsequent action by the Trustees to enforce such a provision.

12. The United States and/or the State may take any and all

legal or administrative actions necessary to enforce the terms of this Consent Judgment.

VI. NATURAL RESOURCE DAMAGES -

PERFORMANCE OF RESTORATION WORK BY SETTLING DEFENDANTS

13. Selection of Supervising Contractor.

a. All aspects of the Restoration Project to be performed by Settling Defendants pursuant to this Section shall be under the direction and supervision of the Supervising Contractor, the selection of which will be subject to disapproval by the Trustees.

b. Within 15 days of the Date of Lodging, Settling Defendants shall notify the Trustees in writing of the name, title, and qualifications of any contractor proposed to be the Supervising Contractor. Settling Defendants' Supervising Contractor, as well as other contractors and subcontractors who engage in the "practice of engineering" at the Site on behalf of Settling Defendants, as the "practice of engineering" is defined at Section 7201 of the New York State Education Law, must comply with all applicable New York State legal requirements regarding the practice of professional engineering within the State of New York, including, but not limited to, all applicable requirements of the New York State Education Law and Articles 15 and 15-A of the Business Corporation Law.

c. If the Trustees disapprove a proposed Supervising Contractor, the Trustees shall notify the Settling Defendants in

writing. Within 30 days of receipt of the Trustees' disapproval of a proposed contractor, Settling Defendants shall submit to the Trustees one or more alternative proposed Supervising Contractor(s). The Trustees will provide written notice of the names of any contractor(s) that they disapprove, and an authorization to proceed with respect to any of the other contractor(s). Settling Defendants may select any contractor from the list that is not disapproved and shall notify the Trustees of the name of the contractor selected within 21 days of the Trustees' authorization to proceed.

d. If the Trustees fail to provide written notice to proceed or disapproval, as provided in this Paragraph, and this failure prevents the Settling Defendants from meeting one or more deadlines in a plan approved by the Trustees pursuant to this Consent Judgment, Settling Work Defendants may seek relief pursuant to Section XI (Force Majeure).

14. Settling Defendants shall satisfy their obligation to restore or replace the equivalent of Natural Resources alleged to have been injured, destroyed, or lost as a result of releases of hazardous substances at or from the Site by implementing the Restoration Project in accordance with the requirements set forth in the Consent Judgment, including the RP/EA attached as Appendix C hereto, the Final Design to be developed pursuant to Paragraph 17 of this Consent Judgment, and the Conceptual Design Document

attached as Appendix D hereto

15. Fishladder Construction Project. Settling Defendants shall undertake the Fishladder Construction Project described in the RP/EA, attached as Appendix C hereto, Final Design to be developed pursuant to Paragraph 17 of this Consent Judgment and the Conceptual Design Document attached as Appendix D hereto.

16. Project Review Group.

a. Not later than 30 days after the Effective Date of this Consent Judgment, a Project Review Group shall be established consisting of one representative each from NOAA, DOI/FWS, and NYSDEC. The Project Review Group shall act on behalf of the Trustees on all matters related to the Restoration Project under the terms of this Consent Judgment, including, but not limited to, the following:

(i) reviewing and approving all design documents and specifications, including performance criteria, for use in implementing and monitoring the Restoration Project;

(ii) overseeing the implementation of such plans, including inspecting the Restoration Project;

(iii) certifying completion of the Restoration Project, as provided in Section VII;

(iv) monitoring the Restoration Project after construction to evaluate its viability and to provide timely identification of problems or conditions to be addressed; and

(v) determining appropriate corrective actions for the Restoration Project to ensure that performance criteria will be met.

b. Not later than 30 days after the Effective Date, Settling Defendants shall designate a liaison to act as the Project Review Group's point of contact with Settling Defendants and to coordinate Settling Defendants' activities in accordance with this Consent Judgment.

17. Final Design.

a. Draft Final Design. Not later than 30 days after the Effective Date, Settling Defendants shall submit to the Project Review Group a detailed draft Final Design for construction of the Restoration Project. The draft Final Design shall:

(i) be consistent with the RP/EA;

(ii) identify any federal, state or local permits required to implement the Restoration Project;

(iii) be consistent with the requirements of any necessary permits; and

(iv) identify a detailed schedule for construction of the Restoration Project, including proposed starting and completion dates.

b. Review of Final Design by the Project Review Group. The following procedures apply to review and development of the Final Design:

(i) After review of the Final Design, the Project Review Group shall: (A) approve, in whole or in part, the submission; (B) approve the submission upon specified conditions; (C) disapprove, in whole or in part, the submission, directing that Settling Defendants modify the submission; or (d) any combination of the above.

(ii) In the event of approval or approval upon conditions, Settling Defendants shall proceed to take any action under the required plan, subject only to their right to invoke the Dispute Resolution procedures set forth in Section XII (Dispute Resolution) with respect to conditions made by the Project Review Group.

(iii) If the Final Design is disapproved in whole or in part, Settling Defendants shall submit a revised Final Design to the Project Review Group that addresses the Project Review Group's comments within 30 days of receipt of notice of such disapproval. Any stipulated penalties applicable to the submission, as provided in Section XIII, shall accrue during the 30-day period but shall not be payable unless the resubmission is disapproved due to a material defect, as provided in subparagraph (vi) of this Paragraph.

(iv) Notwithstanding the receipt of notice of disapproval, Settling Defendants shall proceed, at the direction of the Trustees, to take any action required by any

non-deficient portion of the submission. Implementation of any non-deficient portion of the submission shall not relieve Settling Defendants of any liability for stipulated penalties under Section XIII (Stipulated Penalties).

(v) If the revised Final Design is disapproved in whole or in part, the Project Review Group may again require Settling Defendants to correct the deficiencies, in accordance with the preceding subparagraphs.

(vi) If upon resubmission, the Final Design is disapproved due to a material defect, Settling Defendants shall be deemed to have failed to submit the Final Design timely and adequately unless Settling Defendants invoke the dispute resolution procedures set forth in Section XII (Dispute Resolution) and the Project Review Group's action is overturned pursuant to that Section. The provisions of Section XII (Dispute Resolution) and Section XIII (Stipulated Penalties) shall govern the implementation of the Restoration Project and accrual and payment of any stipulated penalties during Dispute Resolution. If the Project Review Group's disapproval is upheld, stipulated penalties shall accrue from the date on which the initial submission was originally required.

18. Progress Reports. In addition to any other requirement of this Consent Judgment, Settling Defendants shall submit to the

Trustees written monthly progress reports that: (a) describe the actions which have been taken toward achieving compliance with this Consent Judgment during the previous month; (b) describe all actions which are scheduled for the next six weeks of the Restoration Project; (c) include information regarding percentage of completion, unresolved delays encountered or anticipated that may affect the future schedule for implementation of the Restoration Project, and a description of efforts made to mitigate those delays or anticipated delays; (d) include any modifications to the work plans or other schedules that Settling Work Defendants have proposed to the Trustees or that have been approved by the Trustees. Settling Defendants shall submit these progress reports to the Trustees by the tenth day of every month following the lodging of this Consent Judgment until the Trustees certify completion of the Restoration Project pursuant to Section VII (Certification of Completion). If requested by the Trustees, Settling Defendants shall also provide briefings for the Trustees to discuss the progress of the Restoration Project.

19. Settling Defendants shall notify the Trustees of any change in the schedule described in a monthly progress report for the performance of any activity no later than seven days prior to the performance of the activity.

VII. CERTIFICATION OF COMPLETION OF RESTORATION PROJECT

20. Completion of Restoration Project.

_____ a. Notice of Completion. Within 30 days after Settling Defendants conclude that each Restoration Project has been completed, Settling Defendants shall notify the Project Review Group in writing, including a written report by a registered professional stating that the Restoration Project has been completed in full satisfaction of the requirements of this Consent Judgment, including the Final Design.

b. Review and Certification of Completion. The following procedures shall apply to the review and certification of completion:

(i) If, after review of the written report, the Project Review Group determines that any portion of the Restoration Project has not been completed in accordance with this Consent Judgment, the Project Review Group shall notify Settling Defendants of the activities that need to be undertaken.

(ii) Within 60 days of receipt of the Project Review Group's notice, Settling Defendants shall perform the activities that need to be undertaken and shall notify the Project Review Group when they conclude that the activities have been completed.

(iii) If the Project Review Group again determines that the Restoration Project has not been completed in accordance

with this Consent Judgment, it shall notify Settling Defendants of the activities that additionally need to be undertaken.

(iv) Within 30 days of receipt of the Project Review Group's subsequent notice, Settling Defendants shall perform the additional activities that need to be undertaken and notify the Project Review Group when they conclude that the activities have been completed, or dispute the need for such additional activities.

(v) If the Project Review Group concludes, on the basis of the initial or any subsequent request for certification of completion that the Restoration Project has been performed in accordance with this Consent Judgment, the Trustees shall so certify in writing to Settling Defendants. This certification shall constitute the Certification of Completion of the Restoration Project for purposes of this Consent Judgment, including but not limited to, Section XIV (Covenants by Plaintiffs).

VIII. ACCESS

21. Access Agreement. The County of Nassau owns the Massapequa Preserve portion of the Site to which access is needed to implement the Restoration Project pursuant to this Consent Judgment. The County of Nassau hereby agrees to provide access thereto at no charge for Settling Defendants and the Trustees, and

their representatives (including contractors), for the purpose of conducting any activity related to this Consent Judgment, including, but not limited to: (a) implementing the Restoration Project and carrying out operation, monitoring and maintenance thereof; (b) overseeing or monitoring the implementation of the Restoration Project; (c) verifying any data or information submitted to the Trustees; (d) conducting investigations related to implementation of the Restoration Project; (e) obtaining samples; (f) inspecting and copying records, operating logs, contracts or other documents maintained or generated by Settling Defendants or their agents, consistent with Paragraph 23 (Access to Information); and (g) assessing Settling Defendants' compliance with this Consent Judgment.

22. Permits. Settling Defendants shall obtain, at their expense, all permits, rights-of-way, easements, access agreements, and other documents. The County of Nassau, New York, agrees to complete its review of permit applications within 30 days of submission by the Settling Defendants. The County of Nassau, New York, further agrees to provide all County permits necessary to implement the Restoration Project at no charge. NYSDEC's Dam Safety and Environmental Permits offices agree to review and process the respective applications as soon as reasonably practicable and to issue decisions within a reasonable time.

23. Access to Information: Settling Defendants shall provide

to the Trustees, upon request, copies of all documents and information within their possession or control relating to the Restoration Project or the implementation of this Consent Judgment, including, but not limited to, sampling, analyses, chain of custody records, manifests, receipts, reports, correspondence, or other documents or information related to the implementation of the Restoration Project. Settling Defendants shall also make available to the Trustees, for purposes of investigation, information gathering, or testimony, their employees, agents, or representations with knowledge of relevant facts concerning the implementation, condition, or performance of the Restoration Project.

24. Other Access Provisions: Notwithstanding any provision of this Consent Judgment, the United States and the State of New York retain all access authorities and rights, including enforcement authorities related thereto, under CERCLA, the Resource Recovery and Conservation Act, the Clean Water Act, or any other applicable federal or state statute or regulation.

IX. PAYMENT OF PAST AND FUTURE COSTS

25. In the manner set forth in this Paragraph, on the date that is the earlier of (A) within ninety (90) days of the Effective Date, or (B) within five (5) business days of the initial deposit by the United States into the Liberty Industrial Finishing Site NRD Trust Account made pursuant to Paragraph 26(d)(I), Settling

Defendants shall pay a total of \$131,500 to the Trustees to reimburse Past and Future Costs incurred and to be incurred by the Trustees in assessing damages to natural resources at the Site, overseeing and monitoring performance of the Restoration Project, and performance of operation, monitoring and maintenance of the Restoration Project once construction is complete. For each payment: (a) any funds received by the United States after 4:00 p.m. Eastern Standard Time shall be credited on the next business day; and (b) Settling Defendants shall notify the Trustees and DOJ in writing that the payment has been made, in accordance with Section XVIII (Notices and Submissions).

a. As to NOAA's Past Costs, Settling Defendants shall send a check in the amount of \$24,000 payable to "United States Treasury" and delivered to the U.S. Attorney's Office, Eastern District of New York. The check shall reference the full caption and Civil Action number of this action, USAO File No. 2002V04083, DOJ Case Number 90-11-2-1222A-NOAA.

b. As to DOI's Past Costs, Settling Defendants shall send a check in the amount of \$30,000 payable to "United States Treasury" and delivered to the U.S. Attorney's Office, Eastern District of New York. The check shall reference the full caption and Civil Action number of this action, USAO File No. 2002V04083, DOJ Case Number 90-11-2-1222A-DOI.

c. As to the Future Costs, Settling Defendants shall send a

check in the amount of \$77,500.00 payable to "United States Treasury" and delivered to the U.S. Attorney's Office, Eastern District of New York. The check shall reference the full caption and Civil Action number of this action, USAO File No. 2002V04083, DOJ Case Number 90-11-2-1222A-NRD Future Costs." This amount shall be allocated between the Federal Trustees pursuant to mutual agreement.

Notice that payments required by these subparagraphs have been made should also be sent to:

NOAA/NOS/OR&R
Attn: Kathy Salter
SSMC 4, Room 9331
1305 East West Highway
Silver Spring, MD 20910-3281

Jason S. Forman, Esq.
NOAA Office of General Counsel
1315 East West Highway, Room 15107
Silver Spring, MD 20910

Department of Interior
Natural Resource Damage Assessment and Restoration Fund
Attn: Restoration Fund Manager
1849 C Street, N.W.
Washington, DC 20240

26. Payments by Settling Federal Agencies.

a. Settling Federal Agencies shall pay a share of the costs of implementation of the Restoration Project, Past and Future Costs through periodic contribution to the Liberty Industrial Finishing Site NRD Trust Account, as provided in subparagraph (b) hereof.

b. The Settling Federal Agencies shall pay:

(i) 50% of the Net Funding for the Restoration Project,

to the extent that such costs are consistent with this Consent Judgment; and

(ii) 50% of Net Past and Future Costs.

For purposes of this subparagraph, the term "Net" means the actual amounts paid by Settling Defendants for the Restoration Project, Past and Future Costs, less amounts received by the Liberty Industrial Finishing Site NRD Trust Account, from or on account of: (A) any Settling Defendant other than Coltec Industries, Inc. or Goodrich Corporation, or (B) other person, if any, who may settle with or otherwise pay to Settling Defendants and Settling Federal Agencies for the Restoration Project, Past and Future Costs, on account of claims against them for responsibility for the Site pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

c. Funds contributed to the Liberty Industrial Finishing Site NRD Trust Account pursuant to this Consent Judgment may be distributed:

(I) to the Trustees in payment of Past Costs and Future Costs;

(ii) to reimburse any Settling Defendant that advances all or any portion of the Settling Federal Agencies' 50% share of the Net Funding of the Past Costs and Future Costs;

(iii) to contractors, consultants, or the Settling Defendants' Project Coordinator for work on the Restoration Projects; and/or

(iv) to reimburse any Settling Defendant that advances all or

any portion of the Settling Federal Agencies' 50% share of the Net Funding for the Restoration Projects.

d. The Settling Federal Agencies shall make periodic payments into the Liberty Industrial Finishing Site NRD Trust Account, in accordance with the following procedures:

(i) As soon as reasonably practicable after the Effective Date, the United States, on behalf of the Settling Federal Agencies, will pay \$115,000, by deposit into the Liberty Industrial Finishing Site NRD Trust Account,

(ii) After the initial deposit of the Settling Federal Agencies has been applied toward the Settling Federal Agencies' share of "Qualifying Expenditures," the United States, on behalf of the Settling Federal Agencies, will initiate the process to pay, by deposit into the Liberty Industrial Finishing Site NRD Trust Account at the times indicated below, such amounts of money as necessary to fund the Settling Federal Agencies' share of Qualifying Expenditures. The term "Qualifying Expenditures" means those expenditures that have been made for performance of the Restoration Project (including, but not limited to, costs of construction and expenses of Settling Defendants' Project Coordinator and consultants retained to advise and assist their Project Coordinator in carrying out the Restoration Project), to the extent that such expenditures are consistent

with this Consent Judgment, or for reimbursement of Past and Future Costs pursuant to Paragraph 25 of this Consent Judgment, and provided that such costs have actually been disbursed for such purposes. Settling Federal Agencies will make best efforts (A) to review and, if appropriate, approve such expenditures as Qualifying Expenditures within thirty days of receipt of documentation, as set forth in the following subparagraph, enabling Settling Federal Agencies to make such determination; and (B) to deposit such amount into the Liberty Industrial Finishing Site NRD Trust Account as soon as reasonably practicable after such determination.

(iii) On the date that is the earlier of (A) the date of the Certification of Completion of the Restoration Project, or (B) six months after the Effective Date, Settling Defendants shall provide to the Settling Federal Agencies a claim for payment. For the covered period, the claim for payment shall include: (A) an invoice summarizing and stating the total of Qualifying Expenditures through the date of the invoice, and stating the amount of the Settling Federal Agencies' 50% share of the Net Funding of the Restoration Project; (B) copies of the Liberty Industrial Finishing Site NRD Trust Account statements; (C) sufficient documentation to allow verification of the accuracy of the costs and expenses claimed; (D) confirmation from Settling Defendants that such costs and

expenses have actually been disbursed; and (E) a statement by the Project Coordinator, Settling Defendants, and the entity(ies) performing the Restoration Project that such costs and expenses were properly incurred in connection with work performed in compliance with the terms of this Consent Judgment, and are consistent with the NCP.

(iv) If the Certification of Completion of the Restoration Project is issued more than six months after the Effective Date, then Settling Defendants may submit a claim for payment to the Settling Federal Agencies upon issuance of the Certification of Completion of the Restoration Project. Such claim for payment shall include the information specified in the Paragraph 26(d)(iii).

27. The Parties to this Consent Judgment recognize and acknowledge that the payment obligations of the Settling Federal Agencies under this Consent Judgment can only be paid from appropriated funds legally available for such purpose. Nothing in this Consent Judgment shall be interpreted or construed as a commitment or requirement that any Settling Federal Agency obligate or pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable provision of law.

X. INDEMNIFICATION AND INSURANCE

28. The United States, the State of New York, and the County of Nassau do not assume any liability by entering into this Consent

Judgment. Settling Defendants shall indemnify, save, and hold harmless the United States, the State of New York, and the County of Nassau and their officials, agents, employees, contractors, subcontractors, or representatives for or from any and all claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Settling Defendants, their officers, directors, employees, agents, contractors, subcontractors, and any person acting on their behalf or under their control, in carrying out activities pursuant to this Consent Judgment. Further, Settling Defendants agree to pay the United States, the State of New York, and the County of Nassau all costs they incur including, but not limited to, attorneys' fees and other expenses of litigation and settlement arising from, or on account of, claims made against the United States, the State of New York, and the County of Nassau based on negligent or other wrongful or omissions of Settling Defendants, their officers, directors, employees, agents, contractors, subcontractors, and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Consent Judgment. Neither the United States, the State of New York, nor the County of Nassau shall be held out as a party to any contract entered into by or on behalf of Settling Defendants nor shall any such contractor of Settling Defendants be considered an agent of the United States, the State of New York, and the County of Nassau.

29. The United States, the State of New York, and the County of Nassau shall give Settling Defendants prompt notice of any claim for which the United States, the State of New York, or the County of Nassau plans to seek indemnification pursuant to Paragraph 28 and shall consult with Settling Defendants prior to settling such claim.

30. Settling Defendants waive all claims against the United States, the State of New York, and the County of Nassau for damages or reimbursement or for set-off of any payments made or to be made to the United States, the State of New York, or the County of Nassau, arising from or on account of any contract, agreement, or arrangement between Settling Defendants and any person for implementing the Restoration Project, including, but not limited to, claims on account of construction delays. In addition, Settling Defendants shall indemnify, save, and hold harmless the United States, the State of New York, and the County of Nassau with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Settling Defendants and any person for performance of the Restoration Project including, but not limited to, claims on account of construction delays.

31. No later than 15 days before commencing the Restoration Project, Settling Defendants shall secure, and shall maintain until the first anniversary of the Trustees' Certification of Completion

pursuant to Section VII (Certification of Completion of Restoration Project) an extension of the insurance coverage that they are required to secure and maintain pursuant to paragraph 63 of the RD/RA Consent Judgment. This extension of coverage for carrying out the Restoration Project shall name the United States, the State, and the County of Nassau, New York, as additional insureds. In addition, for the duration of this Consent Judgment, Settling Defendants shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Restoration Project on behalf of Settling Defendants in furtherance of this Consent Judgment. Prior to commencement of the Restoration Project under this Consent Judgment, Settling Defendants shall provide to the Project Review Group certificates of such insurance and a copy of policies each year on the anniversary of the Effective Date. If Settling Defendants demonstrate by evidence satisfactory to the Trustees that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser amount, then, with respect to that contractor or subcontractor, Settling Defendants need provide only that portion of the insurance described above which is not maintained by the contractor or subcontractor.

XI. FORCE MAJEURE

32. "Force majeure," for the purposes of this Consent Judgment, is defined as any event arising from causes beyond the control of Settling Defendants, of any entity controlled by Settling Defendants, or of Settling Defendants' contractors, that delays or prevents the performance of any obligation under this Consent Judgment despite Settling Defendants' best efforts to fulfill the obligation, except the obligations to make payments described in Section IX of this Consent Judgment shall not be subject to force majeure. The requirement that Settling Defendants exercise "best efforts to fulfill the obligation" includes using the best efforts to anticipate any potential force majeure and best efforts to address the effects of any potential force majeure (1) as it is occurring and (2) following the potential force majeure, such that the delay is minimized to the greatest extent possible. "Force majeure," does not include financial inability to complete a Restoration Project or a failure to satisfy the requirements of the approved Final Design.

33. If any circumstance occurs or has occurred that may delay the performance of any obligation under this Consent Judgment, whether or not caused by force majeure, Settling Defendants shall orally notify the Trustees within 48 hours of the time that Settling Defendants first knew or should have known that the circumstances might cause a delay. Within 5 days thereafter,

Settling Defendants shall provide in writing to the Trustees a detailed description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay; Settling Defendants' rationale for attributing such a delay to a force majeure if they intend to assert such a claim; and a statement as to whether, in the opinion of Settling Defendants, such circumstances may cause or contribute to an endangerment to public health or the environment. Settling Defendants shall include with any notice all available documentation supporting their claim that the delay was attributable to a force majeure. Failure to comply with the above requirements shall preclude Settling Defendants from asserting any claim of force majeure for that circumstance for the period of time of such failure to comply, and for any additional delay caused by such failure. Settling Defendants shall be deemed to know of any circumstances of which Settling Defendants, any entity controlled by Settling Defendants, or Settling Defendants' contractors knew or should have known.

34. If the Trustees agree that the delay or anticipated delay is attributable to a force majeure, the time for performance of the obligations under this Consent Judgment that are affected by the force majeure will be extended by the Trustees for such time as necessary to complete the obligations. Any extension of the time

for performance of the obligations affected by the force majeure shall not, of itself, extend the time for performance of any other obligation. If the Trustees do not agree that the delay or anticipated delay has been or will be caused by a force majeure, the Trustees will notify Settling Defendants in writing of their decision. If the Trustees agree that the delay is attributable to a force majeure, the Trustees will notify Settling Defendants in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure.

35. If Settling Defendants elect to invoke the dispute resolution procedures set forth in Section XII (Dispute Resolution) regarding the Trustees' notice under the preceding Paragraph, they shall do so no later than 15 days after receipt of that notice. In any such proceeding, Settling Defendants shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by force majeure, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Settling Defendants complied with the requirements of Paragraphs 33 and 34, above. If Settling Defendants carry this burden, the delay at issue shall not be deemed to be a violation by Settling Defendants of the affected obligations of this Consent Judgment.

XII. DISPUTE RESOLUTION

36. Unless otherwise expressly provided for in this Consent Judgment, the dispute resolution procedure of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Judgment. However, the procedures set forth in this Section shall not apply to actions by the United States or the State to enforce obligations of Settling Defendants that have not been disputed in accordance with this Section.

37. Informal Negotiations. Any dispute which arises under or with respect to this Consent Judgment shall, in the first instance, be the subject of informal negotiations between the parties to the dispute. A Party shall send written notice to the other Parties to the dispute outlining the nature of the dispute and requesting informal negotiations to resolve the dispute. The Parties shall endeavor to resolve the dispute through good faith negotiations. The period for informal negotiations shall not exceed 30 days from the date the notice is sent, unless this time period is modified by written agreement of the Parties.

38. Formal Dispute Resolution.

a. In the event that the Parties cannot resolve a dispute by informal negotiations under the preceding Paragraph, then the position advanced by the Trustees shall be considered binding unless, within 30 days after the conclusion of the informal negotiation period, Settling Defendants invoke the formal dispute

resolution procedures of this Section. Settling Defendants shall invoke formal dispute resolution by serving the Trustees, in the manner provided in Section XVIII, with a written Statement of Position on the matter in dispute including, but not limited to, any factual data, analysis, or opinion supporting that position and all supporting documentation relied upon by Settling Defendants.

b. Within 60 days after receipt of Settling Defendants' Statement of Position, the Trustees will serve on Settling Defendants their Statement of Position, including, but not limited to, any factual data, analysis, or opinion supporting that position and all supporting documentation relied upon by the Trustees. Within 15 days after receipt of this Statement of Position, Settling Defendants may submit a Reply.

c. An administrative record of the dispute shall be maintained by the Trustees and shall contain all statements of position, including supporting documentation, submitted pursuant to this Section. Where appropriate, the Trustees may allow submission of supplemental statements of position by the Parties to the dispute.

d. The Trustees will issue a final administrative decision resolving the dispute based on the administrative record described in subparagraph (c) hereof. This decision shall be binding on Settling Defendants, subject only to the right to seek judicial review pursuant to subparagraph (e) hereof.

e. Any administrative decision made by the Trustees pursuant to this Paragraph shall be reviewable by this Court, provided that a motion for judicial review of the decision is filed by Settling Defendants with the Court and served on all Parties within 10 days of receipt of the Trustees' decision. The motion shall include a description of the matter in dispute, the efforts made by the Parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to ensure orderly implementation of this Consent Judgment. The Trustees may file a response to Settling Defendants' motion.

f. In proceedings on any dispute governed by this Paragraph, Settling Defendants shall have the burden of demonstrating that the decision of the Trustees is arbitrary and capricious or otherwise not in accordance with law. Judicial review of the decision of the Trustees shall be on the administrative record compiled pursuant to subparagraph (c) hereof.

39. The invocation of informal or formal dispute resolution procedures pursuant to prior Paragraphs shall not extend, postpone or affect in any way any obligation of Settling Defendants under this Consent Judgment that is not directly in dispute, unless the Trustees agree or the Court rules otherwise. Stipulated penalties with respect to the disputed matter shall continue to accrue but payment shall be stayed pending resolution of the dispute as provided in Paragraphs 44 and 45. Notwithstanding the stay of

payment, stipulated penalties shall accrue from the first day of noncompliance with any applicable provision of this Consent Judgment. In the event that Settling Defendants do not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section XIII (Stipulated Penalties).

XIII. STIPULATED PENALTIES

40. Settling Defendants shall be liable for stipulated penalties in the amounts set forth in Paragraph 41 to the United States and the State of New York for failure to comply with the requirements of this Consent Judgment, unless excused under Section XI (Force Majeure). "Compliance" by Settling Defendants shall include completion of the activities identified in this Consent Judgment or any work plan or other plan approved under this Consent Judgment in accordance with all applicable requirements of law and this Consent Judgment, and within the schedules established by and approved under this Consent Judgment.

41. The following stipulated penalties shall accrue per violation per day for Settling Defendants' failure to perform, comply with or satisfy any obligation under the Consent Judgment:

a. Failure to timely submit a complete draft or revised Final Design, an accurate draft or revised Final Design, or to comply with approved schedules for implementing the Restoration Project under Section VI: \$500 per day for 1st to 15th day, \$1,250 per day for 16th to 30th day, and \$2000 per day for 31st day or more;

b. Failure to submit timely submission, or resubmission, of the name, title and qualifications of the Supervising Contractor, pursuant to Paragraph 13, make the payments specified in Paragraph 25, or submit timely notification of any delay or anticipated delay pursuant to Paragraph 33: \$500 per day for 1st to 15th day, \$750 per day for 16th to 30th day, and \$1000 per day for 31st day or more.

42. If the stipulated penalty is for failure to comply with a provision of the Consent Judgment, other than any payment provisions, the stipulated penalty shall be paid 50% to the United States and 50% to the State. If the stipulated penalty is for failure to comply with a payment provision of the Consent Judgment, the stipulated penalty shall be paid 100% to the intended payee.

43. All penalties shall begin to accrue on the day after Settling Defendants should have performed an obligation under this Consent Judgment, unless otherwise provided herein, and shall continue to accrue through the final day of correction of the noncompliance or completion of the activity even if no notice of such violation is sent to Settling Defendants. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Judgment.

44. All penalties due under this Section shall be due and payable within thirty (30) days of Settling Defendants' receipt of a demand for payment from the United States and/or the State of New York, unless Settling Defendants invoke dispute resolution under

Section XII of this Consent Judgment. If Settling Defendants invoke dispute resolution under Section XII, then stipulated penalties shall be due at the time specified in the following Paragraph. Stipulated penalties shall be paid 50% to the United States and 50% to the State of New York.

45. Penalties shall continue to accrue during Dispute Resolution as provided herein, but need not be paid until the following:

a. If a dispute is resolved through Dispute Resolution, any accrued penalties determined to be owing shall be paid to the Trustee(s) within thirty (30) days of the resolution of such dispute; or

b. In the event a dispute is before the District Court and the Court's decision is appealed by the Settling Defendant to the United States Court of Appeals, Settling Defendant shall pay all accrued penalties into an interest-bearing escrow account within thirty (30) days of receipt of the Court's decision or order to the extent the Trustees prevail or as otherwise in accordance with the Court's decision. Penalties shall be paid into this account as they continue to accrue, at least every ninety (90) days. Within thirty (30) days of receipt of the final appellate court decision, the escrow agent shall pay the balance of the account to the Trustees to the extent that they prevail, as determined by the appellate court.

46. Interest.

a. If Settling Defendants fail to make the payments required by Paragraph 25 of this Consent Judgment at or before the deadline set forth in that Paragraph, in addition to stipulated penalties, Settling Defendants shall pay Interest on the unpaid balance. Interest shall begin to accrue on the 1st day after the due date specified in Paragraph 25 and continue to accrue through the date of payment.

b. Interest on the unpaid balance of stipulated penalties shall be paid according to the following formula:

(i) If the Interest accrues with respect to a stipulated penalty for failure to comply with any provision of the Consent Judgment, other than any payment provision, the Interest shall be paid 50% to the United States and 50% to the State.

(ii) If the Interest accrues with respect to a stipulated penalty for failure to comply with any payment provision of the Consent Judgment, the Interest shall be paid 100% to the intended payee.

47. Payments.

_____a. All payments to the United States under this Section shall be paid by certified check made payable to "United States Treasury" and delivered to the U.S. Attorney's Office, Eastern District of New York, One Pierrepont Plaza, Brooklyn, New York 11201. The

check shall reference the full caption and Civil Action number of this action, USAO File No. 2002 V04083, DOJ Case Number 90-11-2-1222A - Stipulated Penalties."

b. All payments made to the State under this Section shall be paid by certified check made payable to "State of New York" and delivered to the Office of the Attorney General, State of New York, 120 Broadway, New York, New York 10271, Attention: Robert Emmet Hernan, Esq.

c. Settling Defendants shall notify the Trustees and DOJ in writing that the payments have been made, in accordance with Section XVIII (Notices and Submissions).

48. The payment of penalties shall not alter in any way Settling Defendants' obligation to complete performance of the Restoration Project under this Consent Judgment.

49. In the event Settling Defendants fail to pay stipulated penalties when due, the United States and/or the State may institute proceedings to collect such penalties, as well as interest. Such Settling Defendants shall pay Interest on the unpaid balance which shall begin to accrue on the date of demand made pursuant to Paragraph 44.

50. Notwithstanding any other provision of this Section, the United States and the State may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Consent Judgment.

XIV. COVENANTS BY PLAINTIFFS

51. In consideration of the satisfactory performance by Settling Defendants of all of their obligations under this Consent Judgment, and except as specifically provided in Paragraphs 54 through 55 (Reservations of Rights), the United States and the State each hereby covenant not to sue or to take administrative action against Settling Defendants relating to Natural Resource Damages at or from the Site. These covenants not to sue shall take effect upon the issuance of the Certificates of Completion for the Restoration Project by the Trustees (pursuant to Section VII) and the receipt by the Trustees of all payments due pursuant to both Section IX (Payment of Past and Future Costs) and Section XIII (Stipulated Penalties), whichever occurs last. These covenants not to sue are conditioned upon the satisfactory performance by Settling Defendants of their obligations under this Consent Judgment. These covenants not to sue extend only to Settling Defendants and do not extend to any other person.

52. In consideration of the payments that will be made by the Settling Federal Agencies under the terms of the Consent Judgment, and except as specifically provided in Paragraphs 53 and 54 (Reservations of Rights), the United States hereby covenants not to take administrative action, and the State hereby covenants not to sue or take administrative action, against the Settling Federal Agencies relating to Natural Resource Damages at or from the Site.

These covenants not to sue shall take effect upon the issuance of the Certificates of Completion of the Restoration Project by the Trustees (pursuant to Section VII) and the receipt by the Trustees of all payments due pursuant to both Section IX (Payment of Past and Future Costs) and Section XIII (Stipulated Penalties), whichever occurs last. These covenants not to sue are conditioned upon the satisfactory performance by the Settling Federal Agencies of their obligations under this Consent Judgment. This covenant extends only to the Settling Federal Agencies and does not extend to any other person.

XV. RESERVATIONS OF RIGHTS

53. Notwithstanding any other provision of this Consent Judgment, the United States and the State of New York reserve, and this Consent Judgment is without prejudice to, the right to institute civil or administrative proceedings, as applicable, against Settling Defendants in this action or in a new action, and for the United States to issue an administrative order, or for the State to institute civil or administrative proceedings against, the Settling Federal Agencies, seeking recovery of Natural Resource Damages, including costs of damage assessment, under Section 107 of CERCLA, if, subsequent to the entry of this Consent Judgment:

a. conditions at the Site, previously unknown to the United States or the State, are discovered and are found to result in releases of hazardous substances that contribute to injury to,

destruction of, or loss of natural resources; or

b. information previously unknown to the United States or the State is received, and the United States or the State determines that the new information together with other relevant information indicate that releases of hazardous substances at the Site have resulted in injury to, destruction of, or loss of natural resources of a type that was unknown to the United States or the State as of the date of lodging of the Consent Judgment.

54. For purposes of the preceding Paragraph, the information and conditions known to the Trustees shall include only the information and conditions known to the Trustees as of the date of the RP/EA, including the information set forth in, and the administrative record supporting, the RP/EA, and information set forth in, and the administrative record supporting, EPA's Record of Decision (ROD) for the Site.

55. The United States and the State reserve, and this Consent Judgment is without prejudice to, all rights against Settling Defendants, and the Trustees and the State reserve, and this Consent Judgment is without prejudice to, all rights against the Settling Federal Agencies, with respect to all matters not expressly specified in the Covenants by Plaintiffs. Notwithstanding any other provision of this Consent Judgment, the United States and the State of New York reserve, and this Consent Judgment is without prejudice to, all rights against Settling

Defendants and Settling Federal Agencies, with respect to:

a. claims based on a failure by Settling Defendants or the Settling Federal Agencies to meet a requirement of this Consent Judgment;

b. liability arising from any disposal of hazardous substances at the Site by Settling Defendants after the execution of this Consent Judgment by the Settling Defendants;

c. liability for damage for injury to, destruction of, or loss of Natural Resources resulting from any release or threatened release at a location outside of the Site;

d. criminal liability;

e. liability for violations of federal or state law which occur during or after implementation of the Restoration Project; and

f. Any matter not expressly included in the covenant not to sue for Natural Resource Damages set forth in Section XIV (Covenants by Plaintiffs) of this Consent Judgment or arises pursuant to Paragraph 53.

56. Work Takeover. In the event the Trustees determine that Settling Defendants have ceased implementation of any portion of the Restoration Project, are seriously or repeatedly deficient or late in their performance of the Restoration Project, or are implementing the Restoration Project in a manner which may cause an endangerment to human health or the environment, the Trustees may

assume the performance of all or any portion of the Restoration Project as they determine necessary. Settling Defendants may invoke the procedures set forth in Section XII (Dispute Resolution) to dispute the Trustees' determination that takeover of the Restoration Project is warranted under this Paragraph. Costs incurred by the Trustees in performing the Restoration Project pursuant to this Paragraph shall be recoverable by the Trustees.

57. Notwithstanding any other provision of this Consent Judgment, the United States and the State of New York retain all authority and reserve all rights to take any and all response actions authorized by law.

**XVI. COVENANTS BY SETTLING DEFENDANTS
AND SETTLING FEDERAL AGENCIES**

58. Subject to the reservations in Paragraph 60, Settling Defendants hereby covenant not to sue and agree not to assert any claims or causes of action against the United States or the State of New York for any claims arising from or relating to the Restoration Project or any claims arising from or relating to Natural Resource Damages, including, but not limited to the following:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund (established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507) through Sections 107, 111, 112, and 113 of CERCLA, 42 U.S.C. §§ 9607, 9611, 9612, and 9613, or any other provision of law;

b. any claims under Sections 107 or 113 of CERCLA, 42 U.S.C. §§ 9607 or 113, related to Natural Resource Damages or any claim for contribution or reimbursement including those that may arise under state law; or

c. any claims arising out of activities related to the Restoration Project, such as claims based on the Trustees' selection of the Restoration Project, oversight of the Restoration Project, and/or approval of plans for such activities, including any claim under the United States Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, or at state or common law.

Except as provided in Paragraph 67 (claim-splitting defenses), these covenants not to sue shall not apply in the event that the United States or the State brings a cause of action or issues an order pursuant to the reservations of rights set forth in Paragraphs 53 and 55, but only to the extent that Settling Defendants' claims arise from the same damages that the United States or the State is seeking pursuant to the applicable reservation.

59. Covenant by Settling Federal Agencies. Settling Federal Agencies hereby agree not to assert any direct or indirect claim for reimbursement from the Hazardous Substance Superfund (established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507) through CERCLA Sections 106(b)(2), 107, 111, 112, 113 or

any other provision of law with respect to the Site or this Consent Judgment. This covenant does not preclude demand for reimbursement from the Superfund of costs incurred by a Settling Federal Agency in the performance of its duties (other than pursuant to this Consent Judgment) as lead or support agency under the NCP (40 C.F.R. Part 300).

60. Settling Defendants reserve, and this Consent Judgment is without prejudice to:

a. claims against the United States, subject to the provisions of Chapter 171 of Title 28 of the United States Code, for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the United States while acting within the scope of his office or employment under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. However, any such claim shall not include a claim for any damages caused, in whole or in part, by the act or omission of any person, including any contractor, who is not a federal employee as that term is defined in 28 U.S.C. § 2671; nor shall any such claim include a claim based on the Trustees' selection of a Restoration Plan, or the oversight or approval of Settling Defendants' plans or activities. The foregoing applies only to claims which are brought pursuant to any statute other than CERCLA and for which the waiver

of sovereign immunity is found in a statute other than CERCLA;

b. contribution claims against the Settling Federal Agencies in the event any claim is asserted by the United States or the State against Settling Defendants under the authority of or under Section XV (Reservations of Rights), but only to the same extent and for the same matters, transactions, or occurrences as are raised in the claim of the United States or the State against Settling Defendants; and

c. claims, if any, against the United States on account of the failure by Settling Federal Agencies to comply with their obligations under this Consent Judgment.

61. Nothing in this Consent Judgment shall be deemed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

62. Notwithstanding any other provision of this Consent Judgment, this Consent Judgment is without prejudice to all rights of Settling Defendants with respect to all matters other than those expressly specified in the covenants set forth in Paragraph 58 of this Consent Judgment.

XVII. EFFECT OF SETTLEMENT - CONTRIBUTION PROTECTION

63. Nothing in this Consent Judgment shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Judgment. The preceding sentence shall not be construed to waive or nullify any rights that any person not

a signatory to this Consent Judgment may have under applicable law. Each of the Parties expressly reserves any and all rights (including, but not limited to, any right of contribution against third parties), defenses, claims, demands, and causes of action which each Party may have with respect to any matter, transaction, or occurrence relating in any way to Natural Resource Damages against any person not a Party hereto.

64. The Parties agree, and by entering into this Consent Judgment this Court finds, that Settling Defendants and the Settling Federal Agencies are entitled, as of the Effective Date of this Consent Judgment, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), for the Natural Resource Damages claims addressed by this Consent Judgment.

65. Settling Defendants agree that with respect to any suit or claim for contribution brought by them for matters related to this Consent Judgment, they will notify the United States and the State in writing no later than 60 days prior to the initiation of such suit or claim.

66. Settling Defendants agree that with respect to any suit or claim for contribution brought against them for matters related to this Consent Judgment, they will notify the United States and the State in writing within ten days of service of the complaint on them. In addition, Settling Defendants shall notify the United

States and the State within ten days of service or receipt of any Motion for Summary Judgment and within ten days of receipt of any order from a court setting a case for trial.

67. In any subsequent administrative or judicial proceeding initiated by the United States or the State of New York for injunctive relief, recovery of response costs, or other appropriate relief relating to the Site, Settling Defendants shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claim raised by the United States or the State of New York in subsequent proceedings were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the covenants not to sue set forth in Section XIV (Covenants By Plaintiffs).

XVIII. NOTICES AND SUBMISSIONS

68. Whenever, under the terms of this Consent Judgment, written notice is required to be given or a report is required to be sent from one Party to another, unless otherwise noted, it shall be sent to the individuals at the addresses specified below, unless those individuals or their successors provide notice of a change to the other Parties in writing. All notices and submissions shall be considered effective upon receipt, unless otherwise provided. Written notice as specified herein shall constitute complete

satisfaction of any written notice requirement of this Consent Judgment with respect to the United States, the Trustees, the Settling Federal Agencies and Settling Defendants, respectively.

As to the United States:

Chief, Environmental Enforcement Section
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044
Re: DOJ Case No. 90-11-2-1222A

United States Attorney
Eastern District of New York
One Pierrepont Plaza, 14 Floor
Brooklyn, NY 11201
Attention: AUSA Sandra L. Levy
Re: USAO 2002V04083

As to the Federal Trustees:

Jason S. Forman, Esq.
NOAA Office of General Counsel
1315 East West Highway, Room 15107
Silver Spring, MD 20910

Mark Barash, Esq.
U.S. Department of the Interior
Office of the Solicitor
One Gateway Center, Suite 612
Newton Corner, MA 02458

As to the State:

David Keehn, Esq.
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-7010

As to Settling Defendants:

John R. Mayo
Deputy General Counsel
EnPro Industries, Inc.
5605 Carnegie Blvd., Suite 500
Charlotte, NC 28209-4674

Joseph B. Wheatley
Director, EH&S
EnPro Industries, Inc.
5605 Carnegie Blvd., Suite 500
Charlotte, NC 28209-4674

As to the Settling Federal Agencies:

United States Attorney
Eastern District of New York
One Pierrepont Plaza, 14 Floor
Brooklyn, NY 11201
Attention: AUSA Deborah B. Zwany
Re: USAO 1991V01260

XIX. EFFECTIVE DATE

69. The effective date of this Consent Judgment shall be the date on which this Consent Judgment is entered by the Court, except as otherwise provided herein.

XX. RETENTION OF JURISDICTION

70. This Court retains jurisdiction over both the subject matter of this Consent Judgment and Settling Defendants for the duration of performance of the terms and provisions of this Consent Judgment for the purpose of enabling any of the Parties to apply to the Court at any time for any further order, direction, or relief as may be necessary or appropriate for the construction, or modification of this Consent Judgment, or to effectuate or enforce compliance with its terms, or to resolve disputes in accordance with Section XII (Dispute Resolution) hereof.

71. All disputes relating to the enforcement and interpretation of this Consent Judgment shall be determined in

accordance with federal law.

XXI. APPENDICES

72. The following appendices are attached to and incorporated into this Consent Judgment: "Appendix A" is the complete list of Settling Defendants; "Appendix B" is the complete list of Settling Federal Agencies; "Appendix C" is the RP/EA; "Appendix D" is the Conceptual Design Document developed by the Settling Defendants' consultant with input from the Trustees; "Appendix E" is the description and/or map of the Site; "Appendix F" is a general depiction of the extent of Plume B.

XXII. MODIFICATION

73. Any modification that materially alters a Restoration Project or any other requirement of this Consent Judgment must be approved by the Court.

74. Any modification to the Consent Judgment, including the attachments thereto, that does not materially alter a Restoration Project or any other requirement of this Consent Judgment may be authorized by written agreement between the Trustees and Settling Defendants, or in accordance with the dispute resolution process as provided in Section XII (Dispute Resolution).

75. Non-material modifications to the Consent Judgment may be made only by written notification to and written approval of the United States, the State and the Settling Defendants. Such modifications will become effective upon filing with the Court by

the United States and the State. Material modifications to the Consent Judgment may be made only by written notification to and written approval of the United States, the State, Settling Defendant and the Court. Nothing in this Decree shall be deemed to alter the Court's power to enforce, supervise or approve modification of this Consent Judgment.

XXIII. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

76. This Consent Judgment shall be lodged with the Court for a period of not less than thirty (30) days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States and the State reserve the right to withdraw or withhold their consent if the comments regarding the Consent Judgment disclose facts or considerations which indicate that the Consent Judgment is inappropriate, improper, or inadequate. Settling Defendants consent to the entry of this Consent Judgment without further notice.

77. If for any reason the Court should decline to approve this Consent Judgment in the form presented, this agreement is voidable at the sole discretion of any Party and the terms of the agreement may not be used as evidence in any litigation between the Parties.

XXIV. SIGNATORIES/SERVICE

78. Each undersigned representative of a Settling Defendant to this Consent Judgment, the Assistant Attorney General for the

Environment and Natural Resources Division of the Department of Justice or his/her designee, the Commissioner of the New York State Department of Environmental Conservation, and the Nassau County Commissioner of Public Works, certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Judgment and to execute and legally bind such Party to this document.

79. Each Settling Defendant hereby agrees not to oppose entry of this Consent Judgment by this Court or to challenge any provision of this Consent Judgment unless the United States or the State of New York notifies them in writing that it no longer supports entry of the Consent Judgment.

80. Each Settling Defendant shall identify, on the attached signature page, the name, address, and telephone number of an agent who is authorized to accept service of process by mail on their behalf with respect to all matters arising under or relating to this Consent Judgment. Settling Defendants hereby agree to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable rules of this Court, including, but not limited to, service of a summons.

81. This Consent Judgment may be executed in any number of counterparts and, as executed, shall constitute one agreement, binding on all of the Parties hereto, even though all of the

Parties do not sign the original or the same counterpart.

XXV. FINAL JUDGMENT

82. This Consent Judgment and its attached appendices constitute the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Consent Judgment. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those contained expressly in this Consent Judgment.

83. Upon approval and entry of this Consent Judgment by the Court, this Consent Judgment shall constitute a final judgment between and among the United States and Settling Defendants. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

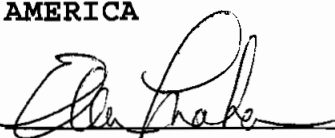
SO ORDERED THIS ____ DAY OF _____ 2006

Honorable Nicholas G. Garaufis
United States District Judge

THE UNDERSIGNED PARTY enters into this Consent Judgment in the matter of United States v. Coltec Industries, Inc., et al., relating to the Liberty Industrial Finishing Superfund Site.

FOR THE UNITED STATES OF AMERICA

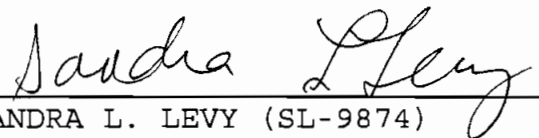
Date: July 12, 2006



ELLEN MAHAN
Deputy Section Chief
Environmental Enforcement Section
Environment and Natural Resources Section
United States Department of Justice
Washington, D.C. 20044-7611

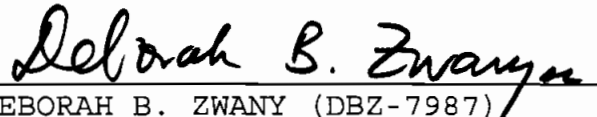
ROSLYNN R. MAUSKOPF
United States Attorney for the
Eastern District of New York
One Pierrepont Plaza, 14th Floor
Brooklyn, NY 11201

Date: July 17, 2006



SANDRA L. LEVY (SL-9874)
Assistant United States Attorney
(718) 254-6014

Date: July 17, 2006

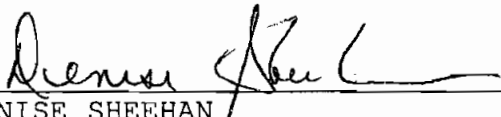


DEBORAH B. ZWANY (DBZ-7987)
Assistant United States Attorney
(718) 254-6010

THE UNDERSIGNED PARTY enters into this Consent Judgment in the matter of United States v. Coltec Industries, Inc., et al., relating to the Liberty Industrial Finishing Superfund Site.

FOR THE STATE OF NEW YORK

Date: 7/11/02



DENISE SHEEHAN
Commissioner
New York State Department of
Environmental Conservation
Albany, New York

ELIOT SPITZER
New York State Attorney General
120 Broadway, 26th Floor
New York, NY 10271-0332

Date: _____

ROBERT EMMET HERNAN
Assistant Attorney General

THE UNDERSIGNED PARTY enters into this Consent Judgment in the matter of United States v. Coltec Industries, Inc., et al., relating to the Liberty Industrial Finishing Superfund Site.

FOR THE STATE OF NEW YORK

Date: _____

DENISE SHEEHAN
Commissioner
New York State Department of
Environmental Conservation
Albany, New York

ELIOT SPITZER
New York State Attorney General
120 Broadway, 26th Floor
New York, NY 10271-0332

Date: 7/13/06


Robert Emmet Hernan
ROBERT EMMET HERNAN
Assistant Attorney General

THE UNDERSIGNED County enters into this Consent Judgment in the matter of United State v. Coltec Industries, Inc., et al., relating to the Liberty Industrial Finishing Superfund Site.

FOR THE COUNTY OF NASSAU, NEW YORK


LORNA B. GOODMAN
Nassau County Attorney
1 West Street
Mineola, NY 11501

Date: 7/7/06


Lorna B. Goodman

THE UNDERSIGNED PARTY enters into this Consent Judgment in the matter of United States v. Coltec Industries, Inc., et al., relating to the Liberty Industrial Finishing Superfund Site

FOR Coltec Industries Inc

Date: 6-16-06 Signature 

Name (print) JOHN R. MAYO

Title Assistant Secretary

Address 5605 Carnegie Blvd.

Charlotte, NC 28209

Agent Authorized to Accept Service on Behalf of Party:

Name (print) John R. Mayo

Title Assistant Secretary

Address 5605 Carnegie Boulevard

Charlotte, NC 28209

Telephone 704-731-1525

* - A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Judgment in the matter of United States v. Coltec Industries, Inc., et al., relating to the Liberty Industrial Finishing Superfund Site.

FOR: Goodrich Corporation

Date: June 8, 2006 Signature *Sally L Geib*

Name (print) Sally L. Geib, Esq
Title Vice President, Associate General Counsel

Address Four Coliseum Centre
2730 West Tyvola
Charlotte, North Carolina 28217

Agent Authorized to Accept Service on Behalf of Party:

Name (print) Heidi B. Goldstein, Esq.
Title Attorney

Address 3900 Key Center
127 Public Square
Cleveland, Ohio 44114
Telephone (216) 566-5559

THE UNDERSIGNED PARTY enters into this Consent Judgment in the matter of United States v. Coltec Industries, Inc., et al., relating to the Liberty Industrial Finishing Superfund Site

FOR 55 Motor Ave Co. LLC.

Date: 6/1/06 Signature Jefry Rosman

Name (print) Jefry Rosman
Title Pres. Cubbies Prop. Inc. Member
Address 1664 Old Country Rd
Plainview, NY, 11803

Agent Authorized to Accept Service on Behalf of Party:

Name (print) Jefry Rosman
Title Same
Address _____

Telephone 516 777-3737

* - A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Judgment in the matter of United States v. Coltec Industries, Inc., et al., relating to the Liberty Industrial Finishing Superfund Site;

FOR Cubbies Prop. IAC,

Date: 6/1/06 Signature Jefry Rosmarin

Name (print) Jefry Rosmarin

Title Pres.

Address 1664 Old Country Rd.,
Plainview, N.Y. 11803

Agent Authorized to Accept Service on Behalf of Party:

Name (print) Jefry Rosmarin

Title (same)

Address (same)

Telephone 516 777-3737

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THE UNDERSIGNED PARTY enters into this Consent Judgment in the matter of United States v. Coltec Industries, Inc., et al., relating to the Liberty Industrial Finishing Superfund Site

FOR Jeffrey Rosmarin

Date: 6/1/06

Signature Jeffrey Rosmarin

Name (print) Jeffrey Rosmarin

Title _____

Address 1664 Old Country Rd.
Plainview, N.Y. 11803

Agent Authorized to Accept Service on Behalf of Party:

Name (print) Jeffrey Rosmarin

Title _____

Address (same)

Telephone 516 777-3737

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THE UNDERSIGNED PARTY enters into this Consent Judgment in the matter of United States v. Coltec Industries, Inc., et al., relating to the Liberty Industrial Finishing Superfund Site.

J. JAY TANENBAUM
FOR J. Jay Tanenbaum *

Date: 6-1-06 Signature J. Jay Tanenbaum

Name (print) J. JAY TANENBAUM

Title _____

Address 301 MILL ROAD

HEWLETT, N.Y. 11557

Agent Authorized to Accept Service on Behalf of Party:

Name (print) J. JAY TANENBAUM

Title _____

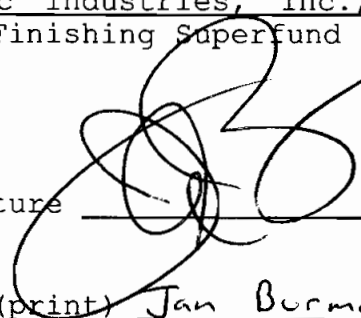
Address SAME

Telephone 516 932 9800

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THE UNDERSIGNED PARTY enters into this Consent Judgment in the matter of United States v. Coltec Industries, Inc., et al., relating to the Liberty Industrial Finishing Superfund Site

FOR Jan Burman *

Date: June 16, 2006 Signature 

Name (print) Jan Burman

Title _____

Address 2545 Hempstead Turnpike
Suite 401
East Meadow, NY 11554

Agent Authorized to Accept Service on Behalf of Party:

Name (print) James Rigano

Title _____


Address Certilman Balin
1393 Veterans Memorial Hwy
Suite 3015
Hempstead, NY 11758

Telephone 631 979 3000

* - A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Judgment in the matter of United States v. Coltec Industries, Inc., et al., relating to the Liberty Industrial Finishing Superfund Site

FOR Jerome Lazarus *

Date: June 16, 2006 Signature 

Name (print) Jerome Lazarus

Title _____

Address 21 Horseshoe Rd.
Old Westbury, NY

Agent Authorized to Accept Service on Behalf of Party:

Name (print) James Rigano

Title _____

Address Certilman Balia

1393 Veteran Memorial Hwy.
Suite 3015

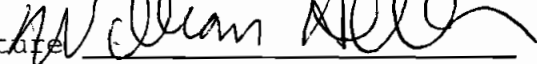
Hempstead NY 11788

Telephone 631 979 3000

* - A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Judgment in the matter of United States v. Coltec Industries, Inc., et al., relating to the Liberty Industrial Finishing Superfund Site

FOR Liberty Associates, a New Jersey Limited Partnership *

Date: 5/30/06 Signature: 

Name (print) William Heller
Title General Partner
Address 161 E. 11TH AVE
ROSELLE N.J.
07203

Agent Authorized to Accept Service on Behalf of Party:

Name (print) Liberty Associates, a New Jersey Limited Partnership
Title William Heller, General Partner
Address 161 E. 11th Avenue
Roselle, NJ 07203
Telephone 908-241-0735

* - A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

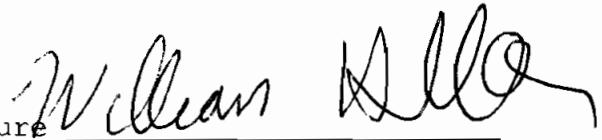
THE UNDERSIGNED PARTY enters into this Consent Judgment in the matter of United States v. Coltec Industries, Inc., et al., relating to the Liberty Industrial Finishing Superfund Site

FOR William Heller *

Date:

5/30/06

Signature



Name (print) William Heller

Title

GENERAL PARTNER

Address

161 E. 11TH AVE
ROSELLE N.J.

07203

Agent Authorized to Accept Service on Behalf of Party:

Name (print) William Heller

Title

General Partner

Address

161 E. 11th Avenue

Roselle, NJ 07203

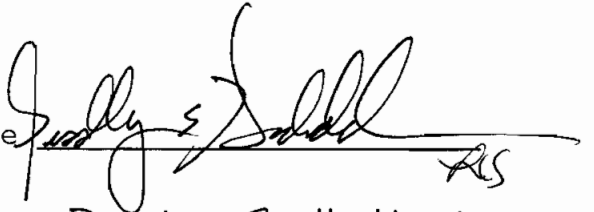
Telephone 908-241-0735

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THE UNDERSIGNED PARTY enters into this Consent Judgment in the matter of United States v. Coltec Industries, Inc., et al., relating to the Liberty Industrial Finishing Superfund Site

FOR Koch-Gwitsch, LP *

Date: June 9, 2006

Signature 

Name (print) Bradley E. Haddock

Title Secretary of KAAP, LLC, its

Address general partner

4111 East 37th Street North

Wichita, KS 67220

Agent Authorized to Accept Service on Behalf of Party:

Name (print) The Corporation Trust Company

Title Registered Agent

Address 1209 Orange Street

Wilmington, DE 19801

(County of New Castle)

Telephone 800-974-0004

* - A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Judgment in the matter of United States v. Coltec Industries, Inc., et al., relating to the Liberty Industrial Finishing Superfund Site

FOR Beazer East Inc *

Date: May 30, 2006

Signature 

Babst, Calland,
Clements & Zomnir, P.C.

Name (print) Mark D. Shepard
Title Attorney for Beazer East Inc.
Address Two Gateway Center, 8th Floor
Pittsburgh, PA 15222

Agent Authorized to Accept Service on Behalf of Party:

Name (print) Jill M. Blundon
Title Vice President, General Counsel
Beazer East, Inc. Address One Oxford Centre, Suite 3000
Pittsburgh, PA 15219

Telephone 412-208-8831

* - A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.