



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IV**

IN THE MATTER OF:)	
)	
Orlando Gasification Site)	Proceeding under Sections 104,
)	122(a) and 122(d)(3) of the
)	Comprehensive Environmental
)	Response, Compensation
)	and Liability Act of 1980
)	as amended, 42 U.S.C.
)	§§ 9604 and 9622.
Respondent)	
City of Orlando)	EPA Docket No.: CER-04-2004-3756
)	

**ADMINISTRATIVE ORDER BY CONSENT
FOR REMEDIAL INVESTIGATION/FEASIBILITY STUDY**

I. JURISDICTION

FLD 984 169235

This Administrative Order by Consent (Consent Order) is entered into by the United States Environmental Protection Agency (EPA) with Respondent, pursuant to the authority vested in the President of the United States by Sections 104, 122(a) and 122(d)(3) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, 42 U.S.C. §§ 9604, 9622(a) and 9622(d)(3). This authority was delegated by the President to the Administrator of the EPA by Exec. Order No. 12580, dated January 23, 1987, 52 Fed. Reg. 2923 (Jan. 29, 1987), and was further delegated to the Regional Administrator of Region IV EPA and redelegated to the Director, Waste Management Division.

Respondent agrees to undertake all actions required by the terms and conditions of this Consent Order for the conduct and implementation of the Remedial Investigation and Feasibility Study (RI/FS). The Respondent consents to and will not contest EPA jurisdiction regarding this Order.

II. PARTIES BOUND

This Consent Order shall apply to and be binding upon EPA and the Respondent. Respondent is jointly and severally responsible for carrying out all actions required of it by this Consent Order; however, all actions successfully conducted pursuant to the Administrative Order on Consent for RI/FS for the Orlando Gasification Site, Docket No.: CER-04-2003-3527, dated September 30, 2003, which was signed by Atlanta Gas Light Company, Florida Power Corporation, and Peoples Gas System, shall be deemed to satisfy the Respondent's corresponding obligations pursuant to this Consent Order. The signatories to this Consent Order certify that they are authorized to execute and legally bind the parties they represent to this Consent Order.

The Respondent shall provide a copy of this Consent Order to all contractors, subcontractors, laboratories, and consultants which are retained to conduct any work performed under this Consent Order, within fourteen (14) days after the effective date of this Consent Order or the date of retaining their services, whichever is later. Respondent shall condition any such contracts upon satisfactory compliance with this Consent Order. Notwithstanding the terms of any contract, Respondent is responsible for compliance with this Consent Order and for ensuring that its employees, contractors, consultants, subcontractors and agents comply with this Consent Order.

III. DISCLAIMER

By signing this Consent Order and taking actions under this Order, Respondent does not necessarily agree with EPA's Findings of Fact and Conclusions of Law. Furthermore, the participation of the Respondent in this Order shall not be considered an admission of liability and is not admissible in evidence against the Respondent in any judicial or administrative proceeding other than a proceeding by the United States, including EPA, to enforce this Consent Order or a judgment relating to it. Respondent retains its rights to assert claims against other potentially responsible parties at the Site. However, Respondent agrees not to contest the validity or terms and conditions of this Order in any action brought by the United States, including EPA, to enforce its terms.

IV. STATEMENT OF PURPOSE

In entering into this Consent Order, the mutual objectives of EPA and Respondent are: (A) with respect to the Remedial Investigation (RI), to determine fully the nature and extent of the threat to the public health or welfare or the environment caused by the release or threatened release of hazardous substances, pollutants, or contaminants at or from the Site into the environment; and (B) with respect to the Feasibility Study (FS), to develop and evaluate alternatives for remedial action to prevent, mitigate or otherwise respond to the migration or the release or threatened release of hazardous substances, pollutants, or contaminants from the Site; and (C) to recover response and oversight costs incurred by EPA with respect to this Consent Order.

The activities conducted pursuant to this Consent Order will be consistent with the National Contingency Plan (NCP), 40 C.F.R. Part 300, et seq., and will be subject to the express EPA approvals as set forth below.

V. FINDINGS OF FACTS

The following constitutes an outline of the facts upon which this Consent Order is based:

A. The Orlando Gasification Site (Site) is approximately four acres and is located in the 500 and 600 blocks of West Robinson Street, Orlando, Orange County, Florida.

The Site was developed as a manufactured gas plant (MGP) in 1888 and operated until approximately 1960. Operations on Site consisted of the manufacture of water gas and carbureted water gas. By-products of these processes (coal tar, coke, oils, and condensates) were generated on Site and subsequently stored and/or disposed on Site.

Currently, on the Site property there are several buildings, parking areas, repair and maintenance facilities, and associated structures. The area surrounding the Site is comprised of commercial and residential structures due to its close proximity to the business district of Orlando. The Site is bordered to the north by the S&L Railway and industrial property, to the east by commercial property, to the south the FDLE Office Building and by single-unit residential property, to the west by commercial and multi-unit residential property, and to the southwest by Callahan Park. A portion of the former manufactured gas plant is also located on property currently owned by: 1) Barbara L. Simms at 603 and 611 West Robinson Street, Orlando, Florida; 2) Blaine Pierce at 511 West Robinson Street, Orlando, Florida; 3) Robert E. Clark at 505 West Robinson Street, Orlando, Florida; and 4) Flying Tigers Communications, Inc. at 503 West Robinson Street, Orlando, Florida.

B. Respondent is the City of Orlando. Other Respondents, which signed another Consent Order for RI/FS for this Site with EPA (EPA Docket No.: CER-04-2003-3527, Attachment 1) are as follows: 1) Atlanta Gas Light Company, previous owner/operator (successor in interest to the South Atlantic Gas Company); 2) Florida Power Corporation, previous owner/operator (successor in interest to the Florida Public Service Corporation); and 3) Peoples Gas System, current owner.

C. Previous investigations of the Site are as follows: 1) in October 1988, the U.S. Geological Survey in cooperation with the Florida Department of Environmental Regulation performed a Site Investigation; 2) in June 1990, the NUS Corporation, on behalf of EPA, conducted a Phase II Screening Site Inspection; 3) in February 1992, Dynamac Corporation, on behalf of EPA, performed a Site Inspection Prioritization of the Site; 4) in March 1995, Black & Veatch, on behalf of EPA, performed an Expanded Site Inspection (ESI) to identify and characterize contaminants that may be present in the environment as a result of past operational activities conducted at the Site; and 5) in September 2002, Jacques Whitford Company, Inc., on behalf of a group of potentially responsible parties (PRPs), completed an Expanded Site Investigation (ESI-2) to further characterize contamination in the Floridan aquifer.

D. During the performance of the ESI, surface soil, subsurface soil, and groundwater samples from the surficial aquifer, were collected and subsequently analyzed. Inorganic analytes were detected at elevated levels in all surface soil samples, in some subsurface soil samples, and in the surficial aquifer. Inorganic analytes detected at elevated levels include arsenic, barium, calcium, chromium, copper, iron, lead, magnesium, manganese, mercury, nickel, selenium, vanadium, zinc, and cyanide. Elevated levels of extractable organic constituents were detected in all surface soil samples, in some subsurface soil samples, and in two wells in the surficial aquifer. Extractable organic constituents detected at elevated levels in the soil include 2-methylnaphthalene, acenaphthene, acenaphthylene, anthracene, benzo(a)anthracene, benzo(b and/or k)fluoranthene, benzo (ghi)perylene, benzo(a)pyrene, carbazole, chrysene, dibenzofuran, fluoranthene, fluorene, indeno(1,2,3-cd)pyrene, naphthalene, phenanthrene, and pyrene. An extractable organic constituent, 2-methylnaphthalene, was detected at elevated levels in the surficial aquifer. Elevated levels of purgeable organic constituents were detected

in some surface soil samples, in one subsurface soil sample, and in two wells in the surficial aquifer. Purgeable organic constituents detected in surface soil samples include ethyl benzene, methyl ethyl ketone, toluene, and xylenes and in subsurface soil include ethyl benzene and total xylenes. Purgeable organic constituents detected in the surficial aquifer include benzene, ethyl benzene, toluene and xylenes. Elevated levels of pesticides were detected in some soil samples. Pesticides detected at elevated levels include alpha-chlordane and endosulphan. The pesticide alpha-chlordane was detected in one subsurface soil sample.

E. The City of Orlando maintains several drainage wells in the vicinity of the Site. These wells are drilled into the Upper Floridan Aquifer. Drainage wells were first drilled in Orlando in 1904 to alleviate flooding in the southeastern part of the city. Surface water runoff and wastewater was directed to the wells for the purpose of land drainage. By the mid-1940s, approximately 200 drainage wells had been completed within the Upper Floridan Aquifer. No conclusive evidence currently exists that any City of Orlando drainage well was the source of or vehicle for any MGP by-products entering into the Upper Floridan Aquifer.

F. Previous investigations at the Site and well records indicate that an Upper Floridan aquifer drainage well may have been located on the Site. A drainage well inventory, generated by the Florida Department of Air and Water Pollution Control (currently the Florida Department of Environmental Protection) and dated 1970, lists issued permit 110 for a drainage well at 558 Robinson Street and also lists Turner & Gee, Inc. at 611 W. Robinson Street as the owner of record of the well. This Permit (Permit 110) was issued in 1941 to drill a 12-inch diameter well to a depth of 250 feet below land surface to dispose of condensate water. A Well Schedule, dated September 1961 and November 13, 1967, generated by the U.S. Department of Interior, Water Resources Division, describes a well located at 558 West Robinson Street, drilled in 1941 to a depth of 120 feet with a six inch diameter for the drainage of condenser water, and lists Florida Public Service Company as the owner of this well.

G. Based on the elevated concentrations of organic and inorganic contaminants in the soils and the surficial aquifer, the drainage wells connecting directly to the Floridan Aquifer, the potential presence of a drainage well on Site, and the proximity of city supply wells, the potential impacts from the Site to the Floridan Aquifer was of major concern. Therefore, on January 28, 2002, the United States Environmental Protection Agency (EPA) entered into an Administrative Order by Consent (AOC) with Florida Power Corporation, Atlanta Gas Light Company, and Peoples Gas System (ESI-2). That AOC called for an Expanded Site Investigation Phase II (ESI-2) on and near the Site. The ESI-2 work was conducted to investigate soil and groundwater quality in the area of the Site including, primarily, the groundwater quality within the Upper Floridan Aquifer.

H. The results of this study are documented in the September 24, 2002, Expanded Site Investigation (ESI-2) Report prepared for the ESI-2 by Jacques Whitford Company, Inc. The ESI-2 confirmed the results of earlier studies, indicating the presence of MGP-related inorganic and organic

contaminants in the surficial aquifer. In addition, the ESI-2 revealed that Site-related contamination has migrated into the Upper Floridan Aquifer, to depths of up to 280 feet below land surface. Significant visual evidence of contamination, including tar and non-aqueous phase liquids (NAPL), were found in both surficial aquifer and Floridan aquifer soil borings in the vicinity of the MGP Site.

Subsurface soils within the surficial sand unit contain concentrations of mononuclear aromatic hydrocarbons (MAHs), polynuclear aromatic hydrocarbons (PAHs), metals and cyanide. These impacts were identified during the ESI-2 and previous investigations. The most significant MGP-related impacts in the surficial sand unit are located on the north-central portion of the Site. Minimal impacts were observed on the portion of the Site south of West Robinson Street. The horizontal extent of these impacts is not yet fully defined. The vertical extent of these impacts is effectively defined by the top of the underlying Hawthorn Group clays.

MGP by-products were also detected in groundwater from the surficial aquifer. MAH concentrations, notably benzene, exceed regulatory criteria (EPA and State of Florida Primary MCLs) at several monitoring wells within the Surficial aquifer. Based on the data, MAH and PAH concentrations in groundwater appear to be higher and more widespread within the lower surficial aquifer than in the upper surficial aquifer. NAPL is present in two upper surficial monitoring wells (ESI-MW-05 and US-MW-4) within the north-central portion of the Site. The extent of surficial aquifer groundwater impacts is not yet fully defined.

The results of the drilling work conducted for the ESI-2 demonstrate the confining nature of the Hawthorn Group clays. Based on permeability test results, the Hawthorn Group clays display very low hydraulic conductivity relative to the overlying and underlying aquifers. These clays form an effective and competent confining unit that is approximately 150 ft thick in the vicinity of the Site. No visible signs of MGP residuals were apparent within the Hawthorn Group clays, although MGP-like odors were noted at the base of the clay unit.

MAHs, PAHs, arsenic, and cyanide were detected in subsurface soil samples collected from the Ocala Limestone unit (Upper Floridan Aquifer) at ESI-2 boring locations. Concentrations of detected compounds generally decrease with depth. MGP by-products have also been detected in groundwater from the Upper Floridan Aquifer that exceed regulatory criteria (EPA and State of Florida Primary MCLs). Benzene was detected in groundwater samples from all Upper Floridan monitoring and drainage wells sampled during the ESI-2. The horizontal and vertical extent of these soil and groundwater impacts are not fully defined.

MGP-related tar and NAPL were identified primarily in the former production area within the surficial sands and MGP-like odors extend downward to the contact with the Hawthorn Group clays. These materials were also present in the former tar management area, within a concrete box on the south side of West Robinson Street, and at the top of the Ocala Limestone unit (Upper Floridan Aquifer) in well

UF-MW-4. The horizontal extents of the tar impacts observed in the Upper Floridan and the surficial soils are not fully defined.

Based on the confining nature of the Hawthorn Group, it is highly unlikely that any MGP related by-product materials migrated from the surficial sands and surficial aquifer through the Hawthorn Group and into the Ocala Limestone of the Upper Floridan aquifer. The presence of relatively non-weathered tar-NAPL between 200 and 205 ft bls and residual tar blebs and sheens between 205 and 210 ft bls at well UF-MW-4 suggests that MGP by-product materials entered the Ocala Limestone via manmade conveyances, such as the drainage wells.

VI. CONCLUSIONS OF LAW

- A. The Site is a facility within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
- B. The Respondent is a person as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
- C. The Respondent is a responsible party under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).
- D. Contaminants found at the Site as described in Section IV above are hazardous substances within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), or constitute a pollutant or contaminant that may present an imminent and substantial danger to the public health or welfare under Section 104(a)(1) of CERCLA, 42 U.S.C. 9604(a)(1).
- E. The hazardous substances described have been released into the environment and its potential migration pathways constitute both an actual release and threatened release within the meaning of Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

VII. DETERMINATIONS

Based on the Findings of Fact and Conclusions of Law set out above, EPA has determined that:

- A. The actual and/or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health or welfare or the environment.
- B. The actions required by this Consent Order are necessary to protect the public health and/or welfare and/or the environment.

C. In accordance with Section 104(a)(1) of CERCLA, 42 U.S.C. § 9604(a)(1), EPA has determined that the work to be performed pursuant to this Consent Order, if performed according to the terms of this Order, will be done properly and promptly by the Respondent. EPA has also determined that the Respondent is qualified to conduct such work.

VIII. WORK TO BE PERFORMED

All aspects of the Work to be performed by Respondent pursuant to this Consent Order shall be under the direction and supervision of Jacques Whitford Company, Inc., which EPA has approved as the Respondent's contractor for this Site.

If, at any time hereafter, Respondent proposes to change any contractor, Respondent shall give written notice to EPA and shall obtain approval from EPA before the new contractor performs any work under this Consent Order. If Respondent proposes to change its contractor, then the new contractor shall be a qualified professional engineer or geologist with expertise in hazardous site cleanup, the selection of which shall be subject to approval by EPA. Respondent shall submit to EPA in writing the name, title, and qualifications of the new supervising contractor proposed to be used in carrying out the RI/FS to be performed pursuant to this Consent Order. Respondent shall demonstrate that the proposed new contractor has a quality system which complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995), by submitting a copy of the proposed contractor's Quality Management Plan (QMP) or equivalent documentation as determined by EPA. The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)," (EPA/240/B-01/002, March 2001). EPA shall notify the Respondent of its approval or disapproval of the proposed new contractor in writing, within twenty (20) calendar days of its receipt of this submission by the Respondent.

Based on the foregoing, it is hereby AGREED TO AND ORDERED that the following work will be performed:

A. Respondent has submitted to EPA a Remedial Investigation/Feasibility Study (RI/FS) Work Plan, and EPA and Respondent has been working on the finalization of this Work Plan. Within forty-five (45) calendar days of receipt of EPA's comments on Respondent's proposed RI/FS Work Plan, Respondent shall submit to EPA a final RI/FS Work Plan. The RI/FS Work Plan shall be developed and submitted in conjunction with a Sampling and Analysis Plan and a Health and Safety Plan, although each plan may be delivered under separate cover. These plans shall be developed in accordance with the National Contingency Plan and the attached Scope of Work (SOW) (Attachment 2) which is hereby made a part of this Consent Order as if fully set forth herein. The RI/FS Work Plan shall include a comprehensive description of the work to be performed, the media to be investigated (i.e., air, groundwater, surface water, surface and subsurface soils and sediments, etc.), the methodologies to be utilized, and the rationale for the selection of each methodology. A comprehensive

schedule for completion of each major activity required by this Consent Order and including the submission of each deliverable listed in the RI/FS Scope of Work shall also be included. Such schedule shall reflect submittal of the Draft Feasibility Study within 400 calendar days of the effective date of this Consent Order, or such other submittal date as may be approved by EPA.

The Sampling and Analysis Plan (SAP) shall include procedures to ensure that sample collection and analytical activities are conducted in accordance with technically acceptable protocols, including, without limitation, "EPA Guidance for Quality Assurance Project Plans (QA/G-5)" (EPA/600/R-98/018, February 1998), and "EPA Requirements for Quality Assurance Project Plans (QA/R-5)" (EPA 240/B-01/003, March 2001) and that the data generated will meet the Data Quality Objectives (DQOs) established. The SAP provides a mechanism for planning field activities and consists of a Field Sampling and Analysis Plan (FSAP) and a Quality Assurance Project Plan (QAPP).

The FSAP shall define in detail the sampling and data-gathering methods that shall be used on the project. It shall include sample objectives, sample location (horizontal and vertical) and frequency, sampling equipment and procedures, and sample handling and analysis. The QAPP shall describe the project objectives and organization, functional activities, and quality assurance and quality control (QA/QC) protocols that shall be used to achieve the desired DQOs.

A Health and Safety Plan shall be prepared in conformance with the Respondent's health and safety program and OSHA regulations and protocols.

B. EPA will prepare a Community Involvement Plan, in accordance with EPA guidance and the NCP. Respondent shall provide information supporting EPA's community relations programs. When requested by EPA, Respondent also shall provide EPA with the following deliverable:

Technical Assistance Plan: Within 30 days of a request by EPA, Respondent shall provide EPA with a Technical Assistance Plan (TAP) for providing and administering up to \$50,000 of Respondent's funds to be used by a qualified community group to hire independent technical advisors during the Work conducted pursuant to this Consent Order. The TAP shall state that Respondent will provide and administer any additional amounts needed if EPA determines that the selected community group has demonstrated such a need prior to EPA's issuance of the ROD contemplated by this Order. If EPA disapproves of or requires revisions to the TAP, in whole or in part, Respondent shall amend and submit to EPA a revised TAP that is responsive to EPA's comments, within thirty (30) days of receiving EPA's comments.

C. Respondent will perform a Human Health Baseline Risk Assessment and an Ecological Baseline Risk Assessment in accordance with EPA Human Health and Ecological Risk Assessment Guidance for Superfund. The major components of the Baseline Risk Assessments include contaminant identification, exposure assessment, toxicity assessment, and human health and ecological risk characterization. Respondent will prepare the Risk Assessment Reports based on the data collected

during the Site Characterization. Upon completion of the Risk Assessments, Respondent will provide them to EPA for internal review. Respondent will address EPA's comments and provide EPA a final Human Health Baseline Risk Assessment and a final Ecological Baseline Risk Assessment. EPA will place the Risk Assessments in the Administrative Record for the Site. Respondent will assist EPA in responding to all significant comments on the Human Health and Ecological Risk Assessments that are submitted during the formal comment period in the Responsiveness Summary of the Record of Decision for this Site.

D. Respondent will implement the RI/FS Work Plan approved by EPA. The EPA approved RI/FS Work Plan and any EPA approved amendments thereto will be attached to and incorporated in this Consent Order as Attachment 2. The RI/FS will be conducted in accordance with the schedule contained in the RI/FS Work Plan as approved by EPA.

E. Within seven (7) calendar days of the approval of the RI/FS Work Plan by EPA, Respondent will commence work on Task 1 of the RI/FS Work Plan.

F. Respondent shall submit to EPA written monthly progress reports which: (1) describe the actions which have been taken toward achieving compliance with this Consent Order during the previous month; (2) include all results of sampling and tests and all other data received by Respondent during the course of the work; (3) include all plans and procedures completed under the Work Plan during the previous month; (4) describe all actions, data, and plans which are scheduled for the next month, and provide other information relating to the progress of the work as deemed necessary by EPA; and (5) include information regarding percentage of completion, unresolved delays, encountered or anticipated, that may affect the future schedule for implementation of the Scope of Work and/or RI/FS Work Plans, and a description of efforts made to mitigate those delays or anticipated delays. These progress reports are to be submitted to EPA by the fifteenth day of every month following the effective date of this Consent Order.

G. Deliverables, including reports, plans or other correspondence to be submitted pursuant to this Consent Order, shall be sent by regular certified mail, express mail or overnight delivery to the following addresses or to such other addresses as the EPA hereafter may designate in writing:

Joe Alfano, Remedial Project Manager
U.S EPA Region 4
Waste Division, South Site Management Branch
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

The number of copies to be submitted to EPA for each deliverable is identified in the RI/FS Scope of Work.

For informational purposes documents (two copies) shall be sent to:

G. Bret LeRoux
Florida Department of Environmental Protection
Central District
3319 Maguire Boulevard, Suite 232
Orlando, FL 32803-3767

Documents to be submitted to the Respondent's Project Coordinator should be sent to:

Kerry MacPherson
Lead Environmental Specialist
Progress Energy Service Company
410 South Wilmington Street
PEB 4A
Raleigh, North Carolina 27601

H. EPA may determine that other tasks, including remedial investigatory work and/or engineering evaluation, are necessary as part of an RI/FS in addition to EPA-approved tasks and deliverables, including reports, which have been completed pursuant to this Consent Order. The Respondent shall implement any additional tasks which EPA determines are necessary as part of the RI/FS and which are in addition to the tasks detailed in the RI/FS Work Plan. The additional work shall be completed in accordance with the standards, specifications, and schedule determined or approved by EPA.

IX. SUBMISSIONS REQUIRING AGENCY APPROVAL

A. EPA reserves the right to comment on, modify and direct changes for all deliverables. Upon receipt of any plan, report or other item which is required to be submitted for approval pursuant to this Consent Order, EPA shall either: (1) approve the submission; or (2) disapprove the submission, notifying Respondent of deficiencies. If such submission is disapproved, EPA shall either: (1) notify the Respondent that EPA will modify the submission to cure the deficiencies; or (2) direct the Respondent to modify the submission to cure the deficiencies.

B. Upon receipt of a notice of disapproval and notification directing modification of the submission, Respondent shall, within thirty (30) days, cure the deficiencies and resubmit the plan, report, or other item for approval. Notwithstanding the notice of disapproval, Respondent shall proceed to take any action required by any nondeficient portion of the submission.

C. In the event of approval or modification of the submittal by EPA, Respondent shall proceed to take any action required by the plan, report, or other item, as approved or modified.

D. If, upon resubmission, the plan, report, or item is not approved, Respondent shall be deemed to be in violation of this Consent Order and, unless excused by the provisions of Sections XV and XVI, stipulated penalties shall begin to accrue pursuant to Section XVII of this Consent Order. EPA retains the right to seek stipulated or statutory penalties, to require the amendment of the document, to perform additional studies, to conduct a complete RI/FS pursuant to its authority under CERCLA, and to take any other action, including, but not limited to, enforcement action to recover its costs pursuant to its authority under CERCLA.

E. Neither failure of EPA to expressly approve or disapprove of Respondent's deliverables within a specified time period, nor the absence of comments, shall be construed as approval by EPA. Respondent is responsible for preparing and submitting deliverables acceptable to EPA.

F. Respondent shall make presentations at, and participate in, meetings at the request of EPA during the initiation, conduct and completion of the RI/FS. In addition to the discussion of the technical aspects of the RI/FS, topics will include anticipated problems or new issues. Meetings will be scheduled at EPA's discretion.

G. The provisions of this Consent Order shall govern all proceedings regarding the RI/FS work conducted pursuant to this Consent Order. In the event of any inconsistency between this Consent Order and any required deliverable submitted by Respondent, the inconsistency will be resolved in favor of this Consent Order.

X. DESIGNATED PROJECT COORDINATORS

A. EPA and Respondent have each designated a Project Coordinator and an Alternate Project Coordinator for this Site. The "Project Coordinator" for EPA will be the Remedial Project Manager (RPM) or the On-Scene Coordinator (OSC) responsible for this Site. Each Project Coordinator will be responsible for overseeing the implementation of this Consent Order. The EPA Project Coordinator will be EPA's designated representative at the Site. To the maximum extent possible, communications between Respondent and EPA, including all documents, reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Consent Order, will be directed through the Project Coordinators.

B. EPA and Respondent each have the right to change their respective Project Coordinator. Such a change will be accomplished by notifying the other party in writing at least five (5) calendar days prior to the change.

C. The EPA designated Project Coordinator will have the authority vested in an RPM or OSC by the National Contingency Plan, 40 C.F.R. Part 300, as amended. This includes the authority to halt, conduct, or direct any work required by this Consent Order, or any response actions or

portions thereof when he or she determines that conditions may present an immediate risk to public health or welfare or the environment.

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

E. EPA shall arrange for a qualified person to assist in its oversight and review of the conduct of the RI/FS, as required by Section 104(a) of CERCLA, 42 U.S.C. 9604(a). The oversight assistant may observe work and make inquiries in the absence of EPA, but is not authorized to modify the work plan.

XI. QUALITY ASSURANCE, SAMPLING AND DATA ANALYSIS

A. Respondent shall use quality assurance, quality control, and chain of custody procedures in accordance with EPA's "Guidance for Quality Assurance Project Plans," EPA QA/G-5, EPA/600/R-98/018, February 1998 and EPA Region 4's "Environmental Investigations Standard Operating Procedures and Quality Assurance Manual" (November 2001), and subsequent amendments to such guidelines. Prior to the commencement of any monitoring project under this Consent Order, Respondent shall submit for review, modification and/or approval by EPA, a Quality Assurance Project Plan ("QAPP") that is consistent with applicable guidelines. Sampling data generated consistent with the QAPP(s) shall be admissible as evidence, without objection, in any proceeding under Section XV of this Consent Order. Respondent shall assure that EPA personnel or authorized representatives are allowed access to any laboratory utilized by Respondent in implementing this Consent Order.

B. Respondent shall make available to EPA the results of all sampling and/or tests or other validated data generated by Respondent with respect to the implementation of this Consent Order and shall submit these results in monthly progress reports as described in Section VIII.F. of this Consent Order.

C. At the request of EPA, Respondent shall allow split or duplicate samples to be taken by EPA, and/or its authorized representative, of any samples collected by Respondent pursuant to the implementation of this Consent Order. Respondent shall notify EPA not less than fourteen (14) days in advance of any sample collection activity. In addition, EPA shall have the right to collect any additional samples that EPA deems necessary.

D. Respondent shall only use laboratories which have a documented quality system that complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995) and "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002, March 2001) or equivalent documentation as determined by EPA. EPA may consider laboratories accredited under the National Environmental Laboratory Accreditation Program

(NELAP) to meet the quality system requirements. In addition, EPA may require submittal of data packages equivalent to those generated in the EPA Contract Laboratory Program (CLP) and may require laboratory analysis of performance samples (blank and/or spike samples) in sufficient number to determine the capabilities of the laboratory.

E. Notwithstanding any provision of this Consent Order, EPA hereby retains all of its information gathering, inspection and enforcement authorities and rights under CERCLA, RCRA, and any other applicable statute or regulation.

XII. ACCESS

A. From the date of execution of this Consent Order until EPA provides written notice of satisfaction of the terms of the Order, EPA and its authorized representatives and agents shall have access at all times to the Site and any property to which access is required for the implementation of this Consent Order, to the extent access to the property is controlled by or available to Respondent, for the purposes of conducting any activity authorized by or related to this Consent Order, including, but not limited to:

1. Monitoring the RI/FS work or any other activities taking place on the property;
2. Verifying any data or information submitted to the United States;
3. Conducting investigations relating to contamination at or near the Site;
4. Obtaining samples;
5. Evaluating the need for or planning and implementing additional remedial or response actions at or near the Site; and
6. Inspecting and copying records, operating logs, contracts, or other documents required to assess Respondent's compliance with this Consent Order.

B. To the extent that the Site or any other area where work is to be performed under this Consent Order is owned or controlled by persons other than Respondent, Respondent shall secure from such persons access for Respondent, as well as for EPA and authorized representatives or agents of EPA, as necessary to effectuate this Consent Order. Copies of such access agreements will be provided to EPA prior to Respondent's initiation of field activities. If access is not obtained within thirty (30) days of the effective date of this Consent Order, Respondent shall promptly notify the EPA. The United States may thereafter assist Respondent in obtaining access. Respondent shall, in accordance with Section XVIII herein, reimburse the United States for all costs incurred by it in

obtaining access, including but not limited to, attorneys' fees and the amount of just compensation and costs incurred by the United States in obtaining access.

C. Notwithstanding any provision of this Consent Order, EPA retains all of its access authorities and rights under CERCLA, RCRA and any other applicable statute or regulations.

XIII. CONFIDENTIALITY OF SUBMISSIONS

A. Respondent may assert a confidentiality claim, if appropriate, covering part or all of the information requested by this Consent Order pursuant to 40 C.F.R. § 2.203(b). Such an assertion will be adequately substantiated when the assertion is made. Analytical data will not be claimed as confidential by Respondent. Information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is submitted to EPA, it may be made available to the public by EPA without further notice to Respondent.

B. Respondent waives any objection to the admissibility into evidence (without waiving any objection as to weight) of the results of any analyses of sampling conducted by or for them at the Site or of other data gathered pursuant to this Consent Order that has been verified by the quality assurance/quality control procedures established pursuant to Section XI.

XIV. RECORD PRESERVATION

EPA and Respondent agree that each will preserve, during the pendency of this Consent Order and for a minimum of six (6) years after its termination, all records and documents in its possession or in the possession of its divisions, employees, agents, accountants, contractors, or attorneys which relate in any way to the Site, despite any document retention policy to the contrary. After this six year period, Respondent will notify EPA within ninety (90) calendar days prior to the destruction of any such documents. Upon request by EPA, Respondent will make available to EPA such records or copies of any such records. Additionally, if EPA requests that documents be preserved for a longer period of time, Respondent will comply with that request.

XV. DISPUTE RESOLUTION

Any disputes arising under this Consent Order shall be resolved as follows: If the Respondent objects to any EPA notice of disapproval or decision made pursuant to this Consent Order, the Respondent shall notify EPA's Project Coordinator in writing of its objections within 14 calendar days after receipt of the decision. Respondent's written objections shall define the dispute, state the basis of Respondent's objections, and be sent by certified mail, return receipt requested. EPA and the Respondent then have an additional fourteen (14) calendar days to reach agreement. If agreement cannot be reached within fourteen (14) calendar day period, the EPA Waste Management Division

Director shall provide a written statement of the decision and the reasons supporting that decision to Respondent. The Division Director's determination is EPA's final decision. If Respondent does not agree to perform or does not actually perform the task in dispute as determined by EPA's Division Director, EPA reserves the right to conduct the work itself, to seek reimbursement from the Respondent, and/or to seek other appropriate relief. Except as otherwise provided herein, this dispute resolution provision shall not limit the Respondent's right to contest any cause of action brought by EPA in Federal Court to enforce its decision.

Respondent is not relieved of its obligations to perform and conduct any work required by this Consent Order while a matter is pending in dispute resolution.

XVI. FORCE MAJEURE

A. "Force Majeure" is defined for the purposes of the Consent Order as an event arising from causes entirely beyond the control of Respondent and of any entity controlled by Respondent including its contractors and subcontractors, which could not have been overcome by due diligence which delays or prevents the performance of any obligation under this Consent Order. Examples of events which may constitute force majeure events include extraordinary weather events, natural disasters, and national emergencies. Examples of events that are not force majeure events include, but are not limited to, normal inclement weather, increased costs or expenses of the Work to be performed under this Consent Order, the financial difficulty of Respondent to perform such tasks, the failure of Respondent to satisfy its obligation under this Consent Order, acts or omissions not otherwise force majeure attributable to Respondent's contractors or representatives, and the failure of Respondent or Respondent's contractors or representatives to make complete and timely application for any required approval or permit.

B. When circumstances occur which may delay or prevent the completion of any phase of the Work Plan or access to the Site or to any property on which part of the Work Plan is to be performed, whether or not caused by a force majeure event, Respondent shall notify the EPA Project Coordinator orally of the circumstances within forty-eight (48) hours of when Respondent first knew or should have known that the event might cause delay. If the EPA Project Coordinator is unavailable, Respondent shall notify the designated alternate or the Director of the Waste Management Division, EPA Region IV. Within seven (7) calendar days after Respondent first became aware of such circumstances, Respondent shall supply to EPA in writing: (1) the reasons for the delay; (2) the anticipated duration of the delay; (3) all actions taken or to be taken to prevent or minimize the delay; (4) a schedule for implementation of any measures to be taken to mitigate the effect of the delay; and (5) a statement as to whether, in the opinion of the Respondent, such event may cause or contribute to an endangerment to public health, welfare, or the environment. Respondent shall exercise best efforts to avoid or minimize any delay and any effects of a delay. Failure to comply with the above requirements shall preclude Respondent from asserting any claim of force majeure.

C. If EPA agrees that a delay is or was caused by a force majeure event, the time for performance of the obligations under this Consent Order that are directly affected by the force majeure event shall be extended by agreement of the parties, pursuant to Section XXVI, for a period of time not to exceed the actual duration of the delay caused by the force majeure event. An extension of the time for performance of the obligation directly affected by the force majeure event shall not necessarily justify an extension of time for performance of any subsequent obligation.

D. If EPA does not agree that the delay or anticipated delay has been or will be caused by a force majeure event, or does not agree with Respondent on the length of the extension, the issue shall be subject to the dispute resolution procedures set forth in Section XV of the Consent Order. In any such proceedings, to qualify for a force majeure defense, Respondent shall have the burden of proof that the delay or anticipated delay was or will be caused by a force majeure event, that the duration of the delay was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Respondent complied with the requirements of paragraph B of this Section. Should Respondent carry this burden, the delay at issue shall be deemed not to be a violation by Respondent of the affected obligation of the Consent Order.

XVII. STIPULATED PENALTIES

Unless excused under the provisions of Sections XV or XVI, the Respondent shall pay into the Hazardous Substance Superfund administered by EPA, the sums set forth below as stipulated penalties.

Stipulated penalties shall accrue as follows:

A. For each day during which Respondent fails to perform, in accordance with the schedules contained in this Consent Order and in the various plans and reports required under this Consent Order incorporated by reference herein, any of the following activities:

1. for failure to timely submit the RI/FS Work Plan, Sampling and Analysis Plan, draft RI Report, draft Human Health Baseline Risk Assessment, draft Ecological Baseline Risk Assessment, and draft FS Report required under this Consent Order;

2. for failure to timely submit any modifications requested by EPA or its representatives to the RI/FS Work Plan, Sampling and Analysis Plan, draft RI Report, draft Human Health Baseline Risk Assessment, draft Ecological Baseline Risk Assessment, and draft FS Report as required under this Consent Order; and

3. for failure to timely submit payment of oversight and response costs as provided in Section XVIII.

Respondent shall be liable to EPA for stipulated penalties in the following amounts:

<u>Period of Failure to Comply</u>	<u>Penalty Per Violation Per Day</u>
Day 1 - 7	\$500.00
Day 8 - 14	\$1,000.00
Day 15-30	\$2,000.00
Beyond 30 days	\$3,000.00

B. If Respondent fails to submit a monthly progress report by its due date, Respondent shall be liable to EPA for stipulated penalties in the amount of \$500.00 per violation for each day during which Respondent fails to submit and, if necessary, modify monthly reports.

C. Respondent shall be liable to EPA for stipulated penalties in the amount of \$500.00 per violation for each day during which Respondent fails to comply with all other requirements of this Consent Order including, but not limited to, any implementation schedule, payment requirement, notification requirement or completion deadline.

All stipulated penalties begin to accrue on the day the violation occurs or on the day following Respondent's failure to comply with any schedule or deadline or the terms, conditions, or requirements contained in this Consent Order and/or Work Plan. Stipulated penalties shall continue to accrue until Respondent's violation ends or until Respondent complies with the particular schedule or deadline.

Payment of stipulated penalties shall be due and owing within fifteen (15) days from the receipt of a written notice from EPA notifying Respondent that penalties have been assessed. Interest shall accrue on any unpaid amounts, beginning at the end of the fifteen day period, at the rate established by the Department of Treasury under 31 U.S.C. § 3717. Respondent shall pay a handling charge of one percent to be assessed at the end of each 31 day period, and a six percent per annum penalty charge, to be assessed if the penalty is not paid in full within 90 days after it is due. The check and transmitted letter shall identify the Name of the Site, the Site identification number and the title of this Order. A copy of the transmittal letter should be sent simultaneously to the EPA Project Coordinator.

Payment shall be made to:

U. S. Environmental Protection Agency - Region 4
 Superfund Accounting
 P. O. Box 100142
 Atlanta, Georgia 30384
 ATTENTION: (Collection Officer for Superfund)

Respondent may dispute EPA's right to the stated amount of penalties by invoking the Dispute Resolution procedures under Section XV of this Order. Penalties shall accrue but need not be paid during the dispute resolution period. If Respondent does not prevail upon resolution, all penalties shall

be due to EPA within 30 days of resolution of the dispute. If Respondent prevails upon resolution, no penalties shall be paid.

In the event that EPA provides for corrections to be reflected in the next deliverable and does not require resubmission of that deliverable, stipulated penalties for that interim deliverable shall cease to accrue on the date of such decision by EPA.

Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Order.

The stipulated penalties set forth in this Section do not preclude EPA from electing to pursue any other remedies or sanctions which may be available to EPA by reason of the Respondent's failure to comply with any of the requirements of this Consent Order. Such remedies and sanctions may include a suit for statutory penalties up to the amount authorized by law, a federally-funded response action, and a suit for reimbursement of costs incurred by the United States.

XVIII. REIMBURSEMENT OF OVERSIGHT AND RESPONSE COSTS

In accordance with Section 104(a)(1) of CERCLA, as amended, 42 U.S.C. § 9604(a)(1), Respondent shall pay for all response and oversight costs incurred by EPA or its authorized representatives in oversight of Respondent's performance of work under the Consent Order.

At the end of each fiscal year, EPA will submit to Respondent an accounting of all response and oversight costs incurred by the U.S. Government with respect to this Consent Order. Oversight costs shall include all direct and indirect costs of EPA's oversight arrangement for the RI/FS, including, but not limited to, time and travel costs of EPA personnel and associated indirect costs, contractor costs, compliance monitoring, including the collection and analysis of split samples, inspection of RI/FS activities, site visits, interpretation of Consent Order provisions, discussions regarding disputes that may arise as a result of this Consent Order, review and approval or disapproval of reports, the costs of redoing any of Respondent's tasks, and any assessed interest. To the extent practicable, EPA will conduct oversight management consistent with the Agency's May 17, 2000 "Interim Guidance on Implementing the Superfund Reform on PRP Oversight," a copy of which is included as Attachment 3.

EPA's Agency Financial Management System summary data (SCORPIOS Reports) and any other necessary documents, shall serve as the basis for payment demands.

Failure to submit an accounting in one fiscal year does not prevent EPA from submitting an accounting for that year in a subsequent fiscal year. Respondent shall, within thirty (30) calendar days of receipt of each accounting, remit a certified or cashiers check for the amount of those costs made payable to the Orlando Gasification Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred

by EPA to the EPA Hazardous Substance Superfund. Interest shall begin to accrue on the unpaid balance from that date. Checks should specifically reference the identity of the Site and should be sent to:

U. S. Environmental Protection Agency
Region IV
Superfund Accounting
P. O. Box 100142
Atlanta, Georgia 30384
ATTENTION: Collection Officer for Superfund

A copy of the payment shall be forwarded to:

Ms. Paula V. Batchelor, Environmental Protection Specialist
U.S. Environmental Protection Agency
Superfund Enforcement and Information Management Branch
61 Forsyth Street S.W.
Atlanta, GA 30303.

A copy of the transmittal letter should be sent simultaneously to the EPA Project Coordinator.

Respondent agrees to limit any disputes concerning costs to accounting errors and the inclusion of costs outside the scope of this Consent Order or claims that a cost item is inconsistent with the NCP. Respondent shall identify any contested costs and the basis of its objection. All undisputed costs shall be remitted by Respondent in accordance with the schedule set out above. Disputed costs shall be paid by Respondent into an escrow account while the dispute is pending. Respondent bears the burden of establishing an EPA accounting error, the inclusion of costs outside the scope of this Consent Order, and that a cost item is inconsistent with the NCP.

EPA reserves the right to bring an action against the Respondent pursuant to Section 107 of CERCLA to enforce the response and oversight cost reimbursement requirements of this Consent Order and to collect stipulated penalties assessed pursuant to section XVII of this Consent Order.

XIX. RESERVATION OF RIGHTS

Notwithstanding compliance with the terms of this Consent Order, Respondent is not released from liability, if any, for any actions beyond the terms of this Consent Order taken by EPA regarding this Site. EPA reserves the right to take any enforcement action pursuant to CERCLA or any other available legal authority, including the right to seek injunctive relief, monetary penalties, and punitive damages for any violation of law or this Consent Order.

Except as otherwise provided herein, EPA and Respondent expressly reserve all rights and defenses that they may have, including EPA's right both to disapprove of work performed by Respondent and to require that Respondent perform tasks in addition to those detailed in the RI/FS Work Plan, as provided in this Consent Order. In the event that Respondent declines to perform any additional or modified tasks, EPA will have the right to undertake any RI/FS work. In addition, EPA reserves the right to undertake removal actions and/or remedial actions at any time. In either event, EPA reserves the right to seek reimbursement from Respondent thereafter for such costs which are incurred by the United States and Respondent reserves all rights to contest or defend against such claims or actions.

Following satisfaction of the requirements of this Consent Order, Respondent shall have resolved its liability to EPA for the performance of the RI/FS that is the subject of this Order. The Respondent is not released from liability, if any, for any actions taken beyond the terms of this Order regarding removals, other operable units, remedial design/remedial action (RD/RA), or activities arising pursuant to section 121(c) of CERCLA.

XX. COVENANT NOT TO SUE

Except as otherwise specifically provided in this Consent Order, upon issuance of the EPA notice referred to in Section XXVIII, Notice of Completion, EPA covenants not to sue Respondent for judicial imposition of damages or civil penalties or to take administrative action against Respondent for any failure to perform the work agreed to in this Consent Order except as otherwise reserved herein.

Except as otherwise specifically provided in this Consent Order, in consideration and upon Respondent's payment of the future response costs specified in Section XVIII, Reimbursement Of Oversight and Response Costs, EPA covenants not to sue or to take administrative action against Respondent under Section 107(a) of CERCLA for recovery of future response costs incurred by the United States in connection with the work required to be performed by Respondent under this Consent Order. This Covenant not to sue shall take effect upon the receipt of EPA of the payments required by Section XVIII, Reimbursement Of Oversight and Response Costs.

These covenants not to sue are conditioned upon the complete and satisfactory performance by Respondent of its obligations under this Consent Order. These covenants not to sue extend only to the Respondent and do not extend to any other person.

XXI. CONTRIBUTION PROTECTION

With regard to claims for contribution against Respondent for matters addressed in this Consent Order, the Parties hereto agree that the Respondent is entitled to protection from contribution actions or claims to the extent provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §9613(f)(2) and 9622(h)(4). Nothing in this Consent Order precludes the United States or the Respondent from

asserting any claims, causes of action, or demands against any persons not party to this Consent Order for indemnification, contribution, or cost recovery.

XXII. OTHER CLAIMS

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

EPA reserves the right to bring an action against the Respondent pursuant to Section 107 of CERCLA for recovery of all response and oversight costs incurred by the United States related to this Consent Order and not reimbursed by Respondent, as well as any other past and future costs incurred by the United States in connection with response activities conducted pursuant to CERCLA at this site.

This Consent Order does not constitute a preauthorization of funds under Section 113(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2).

In entering into this Consent Order, Respondent waives any right to seek reimbursement under Section 106(b)(2) of CERCLA, 42 U.S.C. § 9606(b)(2), for any past costs associated with this Site, or any costs incurred in complying with this Order.

Respondent shall bear its own costs and attorney fees.

XXIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to this Consent Order will be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations unless an exemption from such requirements is specifically provided in this Consent Order, or made a part of this Consent Order by being incorporated herein at some later date.

XXIV. INDEMNIFICATION OF THE UNITED STATES GOVERNMENT

Respondent agrees to indemnify and save and hold harmless the United States, its agencies, departments, officials, agents, employees, contractors, or representative, from any and all claims or causes of action arising from or on account of acts or omissions of Respondent, its officers, employees, receivers, trustees, agents, or assigns, in carrying out the activities pursuant to this Consent Order. The United States Government or any agency or authorized representative thereof shall not be held to be a party to any contract involving Respondent at or relating to the Site.

XXV. PUBLIC COMMENT

Upon submittal to EPA of the Feasibility Study Final Report, EPA will make both the Remedial Investigation Final Report and the Feasibility Study Final Report and EPA's Proposed Plan available to the public for review and comment for, at a minimum, a thirty (30) day period, pursuant to EPA's Community Involvement Plan and the NCP. Following the public review and comment period, EPA will notify Respondent of the remedial action alternative selected for the Site.

XXVI. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

In consideration of the communications between Respondent and EPA prior to the issuance of this Consent Order concerning its terms, Respondent agrees that there is no need for a settlement conference prior to the effective date of this Consent Order. Therefore, the effective date of this Consent Order will be the date on which it is signed by EPA. This Consent Order may be amended by mutual agreement of EPA and Respondent. Such amendments will be in writing and will have, as the effective date, that date on which such amendments are signed by EPA. EPA Project Coordinators do not have the authority to sign amendments to the Consent Order.

Any reports, plans, specifications, schedules, and attachments required by this Consent Order are, upon approval by EPA, incorporated into this Consent Order. Any noncompliance with such EPA approved reports, plans, specifications, schedules, and attachments will be considered a failure to achieve the requirements of this Consent Order and will subject the Respondent to the provisions included in the "Force Majeure" and "Stipulated Penalties" sections (Sections XVI and XVII) of this Consent Order.

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

XXVII. NOTICE TO THE STATE

EPA has notified the State of Florida regarding the requirements of this Consent Order.

Upon completion of the RI/FS, pursuant to the requirements of Section 104(c)(2) of CERCLA, 42 U.S.C. § 9604(c)(2), EPA will notify the State of Florida before determining the appropriate remedial action to be taken at the Site.

XXVIII. NOTICE OF COMPLETION

When EPA determines, after EPA's execution of the Record of Decision (ROD), that Respondent RI/FS has fully performed all work pursuant to and in accordance with this Consent Order, with the exception of any continuing obligations required by this Consent Order, including but not limited to record retention and payment of all future response costs as defined in Section XVIII, EPA will provide notice to the Respondent. If EPA determines that any RI/FS actions have not been completed in accordance with this Consent Order, EPA will notify Respondent, provide a list of the deficiencies, and require that Respondent modify the Scope of Work if appropriate in order to correct such deficiencies. Deficiencies may include additional field work, which EPA determines is necessary as part of the RI/FS and which are in addition to the tasks detailed in the RI/FS Work Plan. The additional work shall be completed in accordance with the standards, specifications, and schedule determined or approved by EPA. Respondent shall implement the modified and approved Scope of Work and shall submit a modified Final Report in accordance with the EPA notice. Failure by Respondent to implement the approved modified Scope of Work plan shall be a violation of this Consent Order.

XXIX. TERMINATION AND SATISFACTION

This Consent Order shall terminate when the Respondent demonstrates in writing and certifies to the satisfaction of EPA that all activities required under this Consent Order, including any additional work, payment of response and oversight costs, and any stipulated penalties demanded by EPA, have been performed and EPA has approved the certification. This notice shall not, however, terminate Respondent's obligation to comply with Sections XIV, XVIII, and XIX of this Consent Order.

The certification shall be signed by a responsible official representing Respondent. The representative shall make the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate, and complete." For purposes of this Consent Order, a responsible official is a corporate official who is in charge of a principal business function.

RI/FS ADMINISTRATIVE ORDER ON CONSENT
FOR THE ORLANDO GASIFICATION SITE
ORLANDO, FLORIDA

IT IS SO AGREED:

BY: *Daisy W. Lynum*
City of Orlando
Mayor Pro Tem

Date November 12, 2003

RI/FS ADMINISTRATIVE ORDER ON CONSENT
FOR THE ORLANDO GASIFICATION SITE
ORLANDO, FLORIDA

IT IS SO AGREED AND ORDERED:

BY:  3/11/04
Date

Carol Monell, Chief
South Site Management Branch
Waste Management Division
Region 4
U.S. Environmental Protection Agency