



The Commonwealth of Massachusetts
 Executive Office of Health and Human Services
 Department of Mental Health
 25 Staniford Street
 Boston, Massachusetts 02114-2575

ARGEO PAUL CELLUCCI
 Governor

WILLIAM D. O'LEARY
 Secretary

MARYLOU SUDDERS
 Commissioner

Area Code (617)
 727-5500
 TTY 727-9842

June 30, 1998

Madelyn Morris
 Deputy Regional Director
 Department of Environmental Protection
 205 Lowell Street
 Wilmington, MA 01887

*MGL
 Marked-up copy*

Re: Administrative Consent Order - Medfield State Hospital

Dear Madelyn:

Enclosed please find a signed Administrative Consent Order that pertains to Medfield State Hospital. Kindly return a copy to me once the Department of Environmental Protection has signed it.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Michael Porter
 Assistant General Counsel

encl.

cc: Marylou Sudders
 Jennifer Wilcox
 Jeff McCue
 William Corliss

CC: AJZ
 AW
 PGN

*MARK,
 Per Your REQUEST*

KB



In the Matter of)
the Department of Mental Health)

Administrative Consent
Order ACO-NE-98-1009

I. The Parties

1. The Department of Environmental Protection (the "Department" or "DEP") is an agency of the Commonwealth having a principle place of business at One Winter Street, Boston, Massachusetts and a Northeast Regional Office, at 205 Lowell Street, Wilmington Massachusetts. The DEP is responsible for enforcing the state's environmental laws and regulations, including G.L.c. 111, sec. 160, G.L.c. 21G, G.L.c. 21, sec. 26-53, G.L.c. 21E, G.L.c. 111, sec. 142A-142J, G.L.c. 21A, sec. 16, and the regulations promulgated pursuant to these laws.

2. The Department of Mental Health ("DMH") is an agency of the Commonwealth with a principle office at 25 Staniford Street in Boston, Massachussets. The DMH operates the Medfield State Hospital (the "Hospital") located at 45 Hospital Road in Medfield, Massachusetts.

II. Statement of Facts and Law

3. DEP personnel inspected the Hospital on December 2, 1997, December 12, 1997, and January 15, 1998 and determined that it was operating in violation of the state's environmental laws and regulations including G.L.c. 111, sec. 160, G.L.c. 21G, G.L.c. 21, sec. 26-53, G.L.c. 21E, and G.L.c. 111, sec. 142A-142J, and the regulations promulgated pursuant to these statutes.

4. Pursuant to G.L.c. 111, sec. 160, the DEP has promulgated the Drinking Water Regulations, 310 CMR 22.00.

5. The Drinking Water Regulations, 310 CMR 22.02, define a public water system as a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days of the year.

6. The Drinking Water Regulations, 310 CMR 22.02, define a supplier of water as any person who owns or operates a public water system.

7. At the time of the DEP inspections, DMH served water to more than 25 individuals at the Hospital on more than 60 days of the year. At the time of the DEP inspections, DMH operated a public water system as defined in the Drinking Water Regulations, 310 CMR 22.02 and was a supplier of water as defined in the Drinking Water Regulations, 310 CMR 22.02. The source of this water was a tubular wellfield located at the Hospital. At the time of the inspections, there were numerous violations of the Drinking Water Regulations and Guidelines. The Guidelines and Policies for Public Water Systems (the "Guidelines") provide that chemical feeders shall be synchronized to start and stop with the flow of water being treated and that chemical feed rates be proportional to flow. DMH did not operate the Sodium Hydroxide feeders for the public water supply at the Hospital in accordance with the Guidelines. The Guidelines require that all pump stations for public water systems have two pumping units. There was a pump station for the public water system at the Hospital that had only one functioning pump in violation of the Guidelines. The other pump at this pump station had been in a state of disrepair for over one year. In light of these violations, DMH was not operating the public water system at the Hospital in a manner that ensured the delivery of safe drinking water to consumers as required by the Drinking Water Regulations, 310 CMR 22.04(4).

8. On May 1, 1998, after DEP notified DMH of the violations described in Paragraph 7 of this Consent Order, DMH discontinued its water supply operation and began using water from the Town of Medfield's public water supply.

9. The Drinking Water Regulations, 310 CMR 22.25 provides:

No supplier of water may remove a public water source or abandon a public water system source without the prior written approval of the Department. The Department will not approve any such action unless the supplier of water demonstrates to the Department's satisfaction that such action will have no significant adverse impact upon the supplier of water's present and future ability to provide continuous adequate service to consumers under routine and emergency operating conditions including emergencies concerning the contamination of sources of supply, failure of the distribution system and shortage of supply as provided in 310 CMR 22.25.

10. To date, DMH has not demonstrated to DEP that the removal of its tubular wellfield as a public water supply source will have no

significant adverse impact upon its ability to provide a continuous adequate source of water to its consumers. As a result, DEP has not given DMH written approval to remove its groundwater source from use.

11. At the effective date of this Consent Order, DMH has not decided how to come into compliance with the requirements of 310 CMR 22.25. More specifically, DMH has not decided whether to abandon the tubular wellfield or to transfer the wellfield to the Town of Medfield or another public water supplier.

12. Pursuant to the Water Management Act, G.L.c. 21G, the DEP promulgated the Massachusetts Water Resources Management Program Regulations, 310 CMR 36.00 (the "Water Management Regulations").

13. The Water Management Regulations, 310 CMR 36.28(1)(1), provide that all permits to withdraw water issued pursuant to the Water Management Act require the public water supplier to delineate the Zone II of the public water supply within three years.

14. The Water Management Regulations, 310 CMR 36.28(2), require that a holder of a permit issued pursuant to the Water Management Act comply at all times with all conditions of the permit issued by the DEP.

15. Pursuant to the Water Management Act, G.L.c.21G, sec. 11, DEP issued a permit to DMH Water Withdrawal Permit #9P-3-20-175.01 on November 30, 1989 (the "Water Management Permit") for the public water supply well serving the Hospital. Consistent with the Water Management Regulations, the Water Management Permit required DMH to delineate the Zone II of the public water supply well serving the Hospital on or before November 30, 1992.

16. To date, DMH has not delineated the Zone II of the public water supply well serving the Hospital as required by the Water Management Permit, in violation of the Water Management Regulations, 310 CMR 36.28.

17. The Clean Waters Act, G.L.c. 21, sec. 43(2), provides:

No person shall discharge pollutants into waters of the commonwealth, nor construct, install, modify, operate or maintain an outlet for such discharge or any treatment works without a currently valid permit issued by the director. No person shall engage in any other activity that may reasonably be expected to

result directly ~~or indirectly~~ in discharge of pollutants into waters of the commonwealth, nor construct, effect, maintain, modify or use ~~any sewer extension~~ or connection without a currently valid permit issued by the director unless exempted by regulation of the director.

18. Pursuant to the Clean Waters Act, G.L.c. 21, sec. 43(3), the DEP has promulgated the Surface Water Discharge Regulations, 314 CMR 3.00.

19. The Surface Water Discharge Regulations, 314 CMR 3.03(1), provide in part:

No person shall discharge pollutants to surface waters of the Commonwealth without a currently valid permit from the Department pursuant to M.G.L.c. 21, sec. 43 and 314 CMR 3.00, unless exempted in 314 CMR 3.05. No person shall construct, install, modify, operate or maintain an outlet for such discharge or any treatment works required to treat such discharge without having first obtained a discharge permit in accordance with 314 CMR 3.03(1) and written approval from the Department for such activity, unless exempted pursuant to 314 CMR 3.05.

20. Pursuant to the Clean Waters Act, G.L.c. 21, sec. 27(9), DEP has promulgated regulations for the proper operation and maintenance of wastewater treatment facilities, 314 CMR 12.00 (the "Treatment Works Regulations").

21. The Treatment Works Regulations, 314 CMR 12.03(4), provide:

No person shall construct, install, operate or maintain a wastewater treatment facility, a sewer system or any extension thereof or connection thereto without the approval of the Department pursuant to applicable provisions of 314 CMR 3.00, 5.00, 7.00, and 8.00

22. The Treatment Works Regulations, 314 CMR 12.03(11), provide:

Any person operating a sewer system or wastewater treatment facility constructed after January 1, 1940 shall maintain permanent and adequate sets of plans for such facilities. Any person operating such facilities constructed on or before January 1, 1940 shall maintain permanent and adequate sets of plans which were available at the time of adoption of these regulations.

Sewer system plans shall indicate location, size, slope, and type of material of the pipe and appurtenances.

23. The Treatment Works Regulations, 314 CMR 12.02, define treatment works as follows:

Any and all devices, processes, and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off site of the works for the purpose of treatment, storage or disposal.

24. The Treatment Works Regulations, 314 CMR 12.04(8), provide that any person operating treatment works shall maintain the facilities in a manner that will ensure proper operation of the facilities or any portion thereof.

25. The Treatment Works Regulations, 314 CMR 12.04(9), provide that any person operating treatment works shall establish a preventive maintenance program to assure the efficient operation of all facilities and equipment.

26. Material leaving the Hospital from a floor drain and a sink and boiler blow-down flowing from the Hospital power plant results in the discharge of pollutants into the Charles River, a surface water of the Commonwealth, without a permit authorizing the discharge, in violation of the Clean Waters Act, G.L.c. 21, sec. 43(2) and the Surface Water Discharge Regulations, 314 CMR 3.03(1).

27. The floor drain and the pipes carrying material from the floor drain and sink at the Hospital to the Charles River, are treatment works as defined in the Treatment Works Regulations, 314 CMR 12.02.

DMH is operating these treatment works without Department approval in violation of the Treatment Works Regulations, 314 CMR 12.03(4).

28. There is a broken sewer line at the Hospital that overflows into the storm drain system. This broken sewer line is a treatment works as defined in the Treatment Works Regulations, 314 CMR 12.02. By failing to repair this broken sewer line, the DMH is not properly operating and maintaining the treatment works at the Hospital in violation of the Treatment Works Regulations, 314 CMR 12.04(8).

29. Numerous manholes allow stormwater to infiltrate the wastewater collection system at the Hospital. This wastewater collection system is a treatment works as defined in the Treatment Works Regulations, 314 CMR 12.02. By allowing stormwater to infiltrate the wastewater collection system, the DMH is not properly operating and maintaining these treatment works in violation of the Treatment Works Regulations, 314 CMR 12.04(8) and 12.04(9).

30. DMH does not have adequate plans for the sewer system at the Hospital in violation of the Treatment Works Regulations, 314 CMR 12.03(11).

31. DEP is charged with the implementation and enforcement of the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, G.L.c. 21E, and the regulations promulgated thereunder as the Massachusetts Contingency Plan at 310 CMR 40.0000 (the "MCP").

32. The Hospital is a location where there has been a release and/or threat of release of oil and/or hazardous materials. DMH reported to DEP that oil was detected during the removal of an underground storage tank removal on June 15, 1992. As a result, the Hospital was assigned Release Tracking Number ("RTN") 3-4125.

On June 23, 1992, DEP issued DMH a Notice of Responsibility, and on January 15, 1993, listed the Hospital as a Location To Be Investigated ("LTBI") on the Department's 1993 Transition List.

33. The MCP, 310 CMR 40.0610, provides that the owner, operator or other responsible party, potentially responsible party or other person for a LTBI on the Department's 1993 Transition List shall submit to DEP one of the following:

(1) One of the LSP Evaluation Opinions listed in 310 CMR 40.0610(2);

(2) A statement affirming a "no further action" recommendation which was submitted to the Department prior to October 1, 1993 in accordance with 310 CMR 40.0610(4);

(3) A Tier Classification submittal pursuant to 310 CMR 40.0500, and, if applicable, an application for a Tier I Permit pursuant to 310 CMR 40.0700; or

(4) a Response Action Outcome Statement pursuant to 310 CMR 40.1000.

34. The MCP, 310 CMR 40.0610(3), states that for an LTBI listed on the Department's 1993 List between April 15, 1991 and October 1, 1993, the submittal required by 310 CMR 40.0610 shall be made on or before August 2, 1997.

35. To date, DMH has not made the submittal required by the MCP, 310 CMR 40.0610. By not making the required submittal, DMH has violated and is continuing to violate the MCP, 310 CMR 40.0610.

36. There is asbestos in almost every building at the Hospital. In accordance with Executive Order 350, DMH must bring the Hospital into compliance with all environmental laws and regulations including the Clean Air Act, G.L.c. 111, 142A-142J, and the Air Pollution Regulations, 310 CMR 7.00, by July 1, 2000. To date, DMH does not have a plan and schedule for addressing the asbestos problem and achieving compliance with the Clean Air Act and the Air Pollution Regulations by July 1, 2000, as required by Executive Order 350.

III. Disposition and Order

37. For the reasons set forth above, and because DEP and DMH believe that it is in the public interest and their own interests to conserve the considerable resources that litigation of the issues that are the basis of this Consent Order may be expected to consume and pursuant to the authority granted under G.L.c. 21, sec. 26-53, G.L.c. 111, sec. 160, G.L.c. 21G, G.L.c. 111, sec. 142B, G.L.c. 21E, sec. 9 and 10, G.L.c. 21A, sec. 16 and the regulations promulgated thereunder, DEP issues and DMH hereby consents to the terms and conditions of this Consent Order.

38. From the effective date of this Consent Order and thereafter, DMH shall use water supplied by the Town of Medfield's public water supply as a source of water for residents, employees, and visitors to the Hospital.

39. On or before July 1, 1999, DMH shall submit to DEP for its review and approval one of the following:

a. a request to abandon its tubular wellfield that meets the requirements of 310 CMR 22.25 or

b. a plan and a schedule for transferring the tubular wellfield to the Town of Medfield or another public water supplier for use in its public water supply.

In the event that DMH submits a plan and schedule for transferring the tubular wellfield to the Town of Medfield or another public water supplier, DMH shall ensure that the wells are brought into compliance with the Drinking Water Regulations, 310 CMR 22.22, the Water Management Act, G.L.c. 21G and the Water Management Regulations, 310 CMR 36.28, before they are used by the Town of Medfield or any other public water supplier. The plan and schedule as approved by DEP shall be incorporated and made part of this Consent Order, and a violation of the plan and schedule shall be a violation of this Consent Order. Notwithstanding the foregoing, DMH may request an extension on the date for the submission required by this Paragraph, if it can document to the Department that it needs additional time to conclude the negotiations leading to the transfer of the tubular wellfield.

40. On or before December 31, 1998, DMH shall eliminate the discharge from the power plant to the Charles River.

41. On or before December 31, 1998, DMH shall submit to DEP for its review a set of plans of the Hospital's wastewater collection system and stormwater drainage system. These plans shall be prepared by a professional engineer registered in the Commonwealth of Massachusetts.

42. On or before June 30, 1999, DMH shall conduct a comprehensive wastewater system inspection to identify sources of infiltration and inflow. DMH shall also conduct a similar inspection to identify any broken pipes in the Hospital's stormwater and sewer system. On or before June 30, 1999, DMH shall submit to DEP for its review and approval a report detailing the results of this inspection. This report shall include a plan and schedule for eliminating infiltration and inflow, repairing broken pipes in the wastewater and stormwater system, and removing illegal connections to the stormwater and sewer systems by July 1, 2000. This plan and schedule as approved by DEP shall be incorporated and made part of this Consent Order, and a violation of this plan and schedule shall be a violation of this Consent Order.

43. On or before August 31, 1998, DMH shall submit to DEP for its review and approval one of the following:

a. An LSP Evaluation Opinion as specified in the MCP, 310 CMR 40.610(2)(a), 40.0610(2)(b) or 40.0610(2)(d);

b. A statement affirming a "no further action recommendation" in accordance with the MCP, 310 CMR 40.0610(4);

c. Response Action Outcome Statement pursuant to the MCP, 310 CMR 40.1000; or

d. an LSP Evaluation Opinion as specified in the MCP, 40.0610(2)(c) stating that further response actions are necessary and a Tier Classification submittal as required by the MCP, 310 CMR 40.0500, including without limitation, a complete Phase I Report, a complete Numerical ranking scoresheet in accordance with the MCP, 310 CMR 40.1500, and an appropriate Tier I Permit application in accordance with 310 CMR 40.0700 et seq., if required by the MCP.

44. DMH shall take any response actions required to bring the Hospital into compliance with G.L.c. 21E and the MCP.

45. On or before September 30, 1998, DMH shall perform an assessment of asbestos containing material ("ACM") in the occupied buildings at the Hospital and submit to DEP for its review and approval a report that summarizes its findings. The report shall conform to the U.S. E.P.A. Decision Tree for Asbestos Containing Materials which establishes eight response actions classifications based upon ACM condition, friability, access and potential for disturbance. Under the EPA system, areas classified as "Response Action Classification 1" must be isolated, access must be restricted and ACM must be removed as soon as possible. Areas classified as "Response Action Classification 2" require the implementation of an operation and maintenance plan ("O & M Plan"). The potential for disturbance must be reduced and the ACM removed as soon as possible. Response Actions 3 through 5 recommend scheduling removal of ACM when practical and cost effective. Response Actions 3 through 8 recommend implementation of an O & M Plan to monitor changes in ACM condition, friability, access and disturbance potential. EPA also recommends that preventive measures be taken to reduce potential disturbance of ACM.

The report shall include a plan and schedule for addressing ACM in the occupied buildings at the Hospital. The plan and schedule

must provide that any areas requiring EPA Response Action Classifications 1 and/or 2, the ACM shall be removed by a Department of Labor and Industries ("DLI") licensed asbestos removal contractor in compliance with all applicable federal, state and local regulations. The plan and schedule must provide that for all ACM in areas of occupied buildings classified as EPA Response Action Classifications 3 through 8, a written Operations Maintenance Plan shall be implemented and maintained. The plan and schedule shall further provide that if at any time, as a result of periodic inspections, it is determined that an area of an occupied building shall be wholly or partially classified as requiring EPA Response Action 1 or 2, the ABC shall be removed by a DLI licensed asbestos removal contractor in compliance with all applicable federal, state, and local regulations within the time prescribed by the applicable EPA response action classification. The plan and schedule shall also require that all ABC in areas originally identified as requiring EPA Response Action 1 or 2 shall be removed within the time prescribed by the applicable EPA response action classification but in no event later than July 1, 2000. The plan and schedule as approved by DEP shall be incorporated and made part of this Consent Order, and a violation of the plan and schedule as approved by DEP shall be a violation of this Consent Order.

For each asbestos removal project conducted by DMH at the Hospital, DMH shall provide to DEP a copy of a final air clearance sample result and a copy of a signed waste shipment record ("WSR") confirming that the asbestos waste has been disposed of properly.

Final air clearance results and a WSR shall be provided to DEP within 60 days from the date each waste shipment leaves the site.

The O & M Plan required by this Paragraph shall include but not be limited to the following: a. a semiannual inspection and monitoring of all ACM and suspected ACM to identify changes in condition, friability, access, and disturbance potential; b. identification and implementation of preventive measures to reduce potential for ACM disturbance; c. establishment of procedures to be followed when ACM is found to have deteriorated, been damaged or disturbed in such a manner as to warrant an EPA response Action 1 or 2; d. establishment and maintenance of an asbestos abatement prioritization list for all remaining ACM and suspected ACM; and e. identification of a primary point of contact person responsible for oversight of the O & M Plan and for the maintenance and submittal of records to DEP.

46. DMH shall pay to ~~the Commonwealth~~ stipulated penalties for each day of each violation of this Consent Order as follows:

Period of Violation	Penalty Per Day
1st through 30th day	\$100 per day
31st through 90th day	\$200 per day
91st day and thereafter	\$500 per day

Stipulated penalties shall begin to accrue on the day a violation occurs and shall continue to accrue until DMH corrects the violation or completes performance, whichever is applicable. Even if violations are simultaneous, separate penalties shall accrue for each violation of each provision of this Consent Order. The payment of stipulated penalties shall not alter in any way the obligations of DMH to complete performance as required by this Consent Order.

47. All stipulated penalties accruing under this Consent Order shall be paid upon written demand within ten days of the demand. The demand shall set forth the factual basis for the assessment of stipulated penalties. The stipulated penalties set forth herein shall not preclude DEP from electing to pursue alternative remedies or alternative civil or criminal penalties which may be available by reason of DMH's failure to comply with the requirements of this Consent Order. In the event that DEP collects alternative penalties, DMH shall not be required to pay stipulated penalties pursuant to this Consent Order.

48. DMH shall pay all penalties due under this Consent Order by certified check, cashier's check or money order payable to the Commonwealth. DMH shall clearly print the Consent Order No. ACO-NE-98-1009 and its Federal Employer Identification Number on the face of the payment and shall mail it to:

Commonwealth of Massachusetts
Department of Environmental Protection
Commonwealth Master Lockbox
P.O. Box 3584
Boston, MA 02241

and shall deliver a copy of the payment to:

Madelyn Morris
Deputy Regional Director
Bureau of Resource Protection
Department of Environmental Protection
205 Lowell Street
Wilmington, MA 01887

49. In addition to being an Administrative Consent Order, this is also a Notice of Noncompliance pursuant to G.L.c. 21A, sec. 16 and 310 CMR 5.00. DEP and DMH agree that the deadlines set forth in this Consent Order are reasonable. In the event that DMH fails to comply with the provisions of this Consent Order, DEP shall have the right to seek further relief pursuant to G.L.c. 21, sec. 44, G.L.c. 111, sec. 160, G.L.c. 111, sec. 142B, G.L.c. 21E, sec. 9 and 10, G.L.c. 21G, sec. 14, the regulations issued under these statutes and all other applicable laws and regulations.

50. DMH shall be responsible for procuring any federal, state or local permits, licenses and approvals necessary to perform the work required by this Consent Order and agrees to use diligent efforts to obtain all such permits, licenses and approvals in a timely manner.

51. Nothing in this Consent Order shall be construed as, or operate as, barring, diminishing, or in any way affecting any legal or equitable right of DEP to issue any future order with respect to the subject matter covered by this Consent Order, or in any way affecting any other claim, action, suit, cause of action, or demand that DEP may have with respect thereto. Nothing in this Consent Order shall affect any legal or equitable right of DEP to take action in response to events of noncompliance not enumerated in this Consent Order.

52. This Consent Order shall be binding on DMH, and on its officers, employees, agents, successors, assigns, contractors, and consultants. DMH shall not violate this Consent Order and shall not allow or suffer its officers, employees, agents, successors, assigns, contractors, or consultants to violate this Consent Order. A violation of this Consent Order by any of the foregoing shall be a violation by DMH.

53. This Consent Order does not relieve DMH or any other person of the necessity of complying with all applicable federal, state, and local statutes, regulations, codes, by-laws, and ordinances. Failure on the part of DEP to complain of an action or inaction on the part of DMH shall not constitute a waiver by DEP of any rights under this Consent Order, nor shall a waiver by DEP of any provision of this Consent Order be construed as a waiver of any other provision. This Consent Order may be modified only by the written agreement of the parties. DMH may not assign its obligations under this Consent Order.

54. DMH shall allow DEP personnel and its authorized representatives to enter and inspect all Hospital facilities at reasonable times without notice for the purpose of assessing compliance with this Consent Order and all environmental laws and regulations.

55. DMH hereby waives its right to an adjudicatory hearing before DEP, to a tentative decision by DEP on, and to judicial review, rehearing, reargument, and reconsideration by courts of competent jurisdiction of the terms of this Consent Order. DMH also waives any and all of its rights to administrative process or judicial review in connection with this Consent Order.

56. If any term or provision of this Consent Order or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Consent Order, shall not be affected thereby, and each remaining term and provision shall be valid and enforceable to the fullest extent permitted by law.

57. Within one business day after obtaining knowledge that a delay in the performance of an obligation under this Consent Order has occurred or may occur, DMH shall notify DEP in writing of the expected length of the delay or potential delay, the cause of the delay or potential delay, the actions DMH will take to prevent or minimize the delay or potential delay, and the timetable for taking such actions. Failure of DMH to comply with the notice requirements of this Paragraph shall render Paragraph 58 void and of no effect as to the particular incident involved and shall constitute a waiver of DMH's right to request an extension of time for its obligations based on the incident.

58. If the DEP determines that a delay has been caused by an event beyond the reasonable control of DMH, DEP may extend the performance date in question for a period of time equal to the delay caused or contributed to by the event. Events for which DEP may extend performance deadlines include (1) acts of God; (2) acts of war; (3) unanticipated delays due to accidents, strikes, freight embargoes, or other work stoppages; (4) flood, fire, extreme weather conditions or other natural disasters; and (5) delay in obtaining permits and/or approvals from state, local or federal authorities required to comply with the terms and conditions of this Consent Order, provided, however, that DMH demonstrates to the satisfaction of DEP that best efforts were

used to obtain such permits. Actions of DMH's officers, employees, agents, consultants, or contractors shall not be acts beyond the control of DMH. Unanticipated or increased costs or expenses associated with the implementation of the actions required under this Consent Order or changed financial circumstances shall under no circumstances serve as the basis for changes in this Consent Order or extensions of time for the performance of the actions required under this Consent Order and shall not constitute force majeure events.

59. On July 1, October 1, January 2, and April 1, of each year beginning July 1, 1998, DMH shall submit to DEP a quarterly report documenting all work done pursuant to this Consent Order.

60. All submissions required by this Consent Order shall be sent to DEP to the following address until DEP notifies DMH of another address:

Madelyn Morris
Deputy Regional Director
Bureau of Resource Protection
Northeast Regional Office
205 Lowell Street
Wilmington, MA 01887

61. This Consent Order shall be effective on the date that it is signed by DEP.

62. Each undersigned representative hereby certifies that he/she is fully authorized to enter into the terms and conditions of and to execute and legally bind the parties to this Consent Order.

DEPARTMENT OF MENTAL HEALTH

By: Marylou Sudders

Typed Name: Marylou Sudders

Title: Commissioner

Date: June 30, 1998

DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: Madelyn Morris

Typed Name: Madelyn Morris

Title: Deputy Regional Director

Date: July 6, 1998