

PREET BHARARA  
 United States Attorney for the  
 Southern District of New York  
 By: PIERRE G. ARMAND  
 Assistant United States Attorney  
 86 Chambers Street, 3rd Floor  
 New York, New York 10007  
 Telephone: (212) 637-2804  
 Fax: (212) 637-2730  
 E-mail: pierre.armand@usdoj.gov

**UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK**

----- X	
UNITED STATES OF AMERICA	:
	:
Plaintiff,	:
	:
v.	:
	:
CITY OF NEWBURGH, CITY OF	:
POUGHKEEPSIE, CONNELL LIMITED	:
PARTNERSHIP, INTERNATIONAL	:
BUSINESS MACHINES CORP., NORTHROP	:
GRUMMAN SHIP SYSTEMS, INC.,	:
	:
Defendants.	:
----- X	

No. 08 Civ. 7378 (SCR)

**THIRD MODIFICATION  
 TO CONSENT DECREE**

WHEREAS, on February 3, 2009, this Court entered the Consent Decree in the above-captioned case;

WHEREAS, the Consent Decree provides at paragraph 50.b. that Settling Defendants may seek to add additional parties to the Consent Decree as “Other Settling Parties” (as that term is defined in the Consent Decree) by submitting a request to the United States, along with a statement of the proceeds that such parties have agreed to pay in settlement, as well as relevant evidence that such persons are liable under Section 107 of CERCLA, 42 U.S.C. § 9607;

WHEREAS, on October 29, 2009, the Court entered the First Modification to the Consent Decree which added 58 parties as Other Settling Parties to the Consent Decree;

WHEREAS, on August 11, 2010, the Court entered the Second Modification to the Consent Decree, which changed the signatory for the Settling Defendants and the Other Settling Parties to Gary Justis of Wagstaff and Cartmell;

WHEREAS, Settling Defendants have requested that 27 additional parties be added as Other Settling Parties to the Consent Decree (see Appendix F of the Consent Decree);

WHEREAS, the proposed 27 additional Other Settling Parties have agreed to pay \$276,655 to the United States, which will be paid by the Settling Defendants on behalf of the Other Settling Parties, within ten days after the Court's approval and entry of this modification;

WHEREAS, the proposed additional Other Settling Parties have executed signature pages to the Consent Decree to evidence their agreement to be added to the Consent Decree;

WHEREAS, the Consent Decree as modified provides at paragraph 57.b. that Settling Defendants agree that the Consent Decree may be modified to add additional Other Settling Parties and that Gary Justis of Wagstaff & Cartmell is designated to sign modifications on behalf of all Settling Defendants and Other Settling Parties; and

WHEREAS, the United States and the Settling Defendants agree that the following modification to the Consent Decree constitutes a modification pursuant to paragraph 57.b.;

NOW, THEREFORE, the Consent Decree is hereby modified as follows:

1. Paragraph 5 of the Consent Decree is modified by adding the following subparagraph:

5.e. Within ten days of the entry of the Third Modification to Consent Decree by this Court, Settling Defendants shall pay to EPA \$276,655.00.

2. Paragraph 8 of the Consent Decree is deleted and replaced with the following:

The total amount to be paid by Settling Defendants to the United States pursuant to Paragraph 5, \$12,764,875, shall be deposited into the Consolidated Iron and Metal Superfund Site Special Account within the EPA Hazardous Substances 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.

3. Paragraph 56 of the Consent Decree is modified to add Appendix F, which contains the list of Other Settling Parties added by this Modification.

SO ORDERED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2010.

\_\_\_\_\_  
HON. \_\_\_\_\_  
United States District Judge

THE UNDERSIGNED PARTY enters into this Third Modification to Consent Decree in the matter of United States v. City of Newburgh, et al., relating to the Consolidated Iron and Metal Superfund Site.

**FOR THE UNITED STATES OF AMERICA**

\_\_\_\_\_  
Date

\_\_\_\_\_  
John Cruden  
Acting Assistant Attorney General  
Environment and Natural Resources Division  
U.S. Department of Justice  
Washington, D.C. 20530

Preet Bharara  
United States Attorney for the  
Southern District of New York

\_\_\_\_\_  
Date

\_\_\_\_\_  
By: Pierre G. Armand  
Assistant United States Attorney  
Southern District of New York  
U.S. Department of Justice  
86 Chambers St., 3<sup>rd</sup> Floor  
New York, NY 10007  
Tel No. 212-637-2724  
FAX No. 212-637-2730

9/21/2010  
Date

\_\_\_\_\_  
Walter E. Mugdan, Director  
Emergency and Remedial Response Division  
U.S. Environmental Protection Agency,  
Region 2  
290 Broadway, 19<sup>th</sup> Floor  
New York, New York 10007-1866

THE UNDERSIGNED PARTY enters into this Third Modification to Consent Decree in the matter of United States v. City of Newburgh, et al., relating to the Consolidated Iron and Metal Superfund Site.

FOR SETTLING DEFENDANTS and  
OTHER SETTLING PARTIES

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name (print): Gary Justis

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

Address: \_\_\_\_\_

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: \_\_\_\_\_

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

Address: \_\_\_\_\_

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
ABBOTT & MILLS, INC.

Date: 4-28-2010

\_\_\_\_\_  
Name: Robert M. Abbott

Title: Secretary

Address: 238 Gardnertown Rd

Newburgh NY 12550

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Jeffrey Sculley, Esq.  
Rider, Weiner & Frankel, P.C.  
655 Little Britain Road  
New Windsor, NY 12553

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
CLOVE EXCAVATORS, INC.

Date: 4/12/10

Name: Debra Hogan

Title: President

Address: 1169 Route 216

Poughquag, NY 12570

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Bruce C. Dunn, Sr.  
Rider, Weiner & Frankel, P.C.  
655 Little Britain Rd.  
New Windsor, NY 12553

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
DEVITT'S SUPPLY, INC.

Date: 3-24-10

— U —

Name: John L. Devitt

Title: Pres

Address: 56 DEVITT Circle

New Windsor, N.Y. 12518

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

John L. Devitt  
Devitt's Supply, Inc.  
56 Devitt Circle  
New Windsor, NY 12553



THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
DYNAMIC PLUMBING, HEATING,  
AND AIR CONDITIONING CO., INC.

Date: 3/16/2010

0  
Name: Linda J. Shutts, Pres

Title: Pres.

Address: 1661 Little Britain Rd.

Rock Tavern, NY 12575

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Linda Shutts  
Dynamic Plumbing, Heating, and Air Conditioning Co., Inc.  
1661 Little Britain Rd.  
Rock Tavern, NY 12575

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
EAST PARK AUTO RECYCLING, INC.

Date: 3-10-10

/

Name: John C. Seidler

Title: Vice President

Address: 290 Crum Elbow Road

Hyde Park, New York 12538

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

John C. Seidler  
East Park Auto Recycling, Inc.  
290 Crum Elbow Rd.  
Hyde Park, NY 12538

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
GERSHOW RECYCLING  
CORPORATION

Date: 1/10/10

Name: Kevin G Gershowitz

Title: Vice President

Address: 71 Peconic Avenue, P.O. Box 526  
Medford, NY 11763

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

John V.N. Klein, Esq.  
Meyer, Suozzi, English & Klein, P.C.  
~~425 Broadhollow Rd.~~ 990 Stewart Avenue, Suite 300  
~~Suite 405~~  
~~Melville, NY 11747-9064~~ P.O. Box 9194  
Garden City, NY 11530-9194

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
H.O. PENN MACHINERY CO., INC.

Date: 3/17/10

~~\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_~~

Name: JEFFREY MITCHELL

Title: Executive Vice President

Address: 122 NOXON ROAD

Poughkeepsie, NY 12603

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Jeffrey J. Davidson  
Greenberg Traurig LLP  
2101 L St., N.W.  
Suite 1000  
Washington, D.C. 20037

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
HANSON PIPE & PRECAST, INC.

Date: 3/2/10

Name: John A Gillan

Title: ASST GENERAL COUNSEL

Address: 300 E JOHN CARPENTER FWY  
IRVING TX 75028

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

John A. Gillan  
Asst. General Counsel  
Lehigh Hanson, Inc.  
Legal Dept.  
300 E. John Carpenter Freeway  
Suite 1645  
Irving, TX 75062

3/1/2010

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
HENKELS & MCCOY, INC.

Date: March 26, 2010

\_\_\_\_\_  
Name: DOROTHY J. CLARK  
Title: Manager, Claims & Litigation / Asst Secretary  
Address: Henkels & McCoy, Inc.  
985 Jolly Rd., Blue Bell, PA  
19422

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Dorothy J. Clark  
Manager, Claims & Litigation  
Legal Department  
Henkels & McCoy, Inc.  
985 Jolly Rd., P. O. Box 950  
Blue Bell, PA 19422-0900

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
ISLAND PUMP & TANK CORP.

Date: 12/23/09

Name: FRANK DiAndrea

Title: Secretary

Address: 40 Doyle Ct.  
E. Northport, NY  
11731

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Michael Rubin, Esq.  
Mound Cotton Wollan & Greengrass  
One Battery Park Plaza, 8<sup>th</sup> Floor  
New York, New York 10004  
212-804-4544

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
LOUNSBURY BUILDERS & ERECTORS,  
INC.

Date: 4/7/2010

Name: Jeffrey Lounsbury

Title: President

Address: P.O. Box 220, 2824 Route 17k  
Bullville, NY 10915

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Richard Brickwedde  
One Park Place  
300 S. State St.  
Suite 400  
Syracuse, NY 13202-2060



THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
LUZON OIL CO., INC.

Date: 2/17/10

Name: Robert B. Halpriss

Title: President

Address: P.O. Box 1070

Woodridge, NY 12789

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Bruce Perlmutter, Esq.  
P.O. Box 425  
Woodridge, NY 12789

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
MAGYAR'S SERVICE CENTER

Date: 4 / 19 / 10

Name: Julius V. Magyar

Title: Proprietor

Address: 5465 Route 9W

Newburgh NY 12550

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

George A. Rodenhausen, Esq.  
Rapport, Meyers, Whitbeck, Shaw & Rodenhausen, LLP  
Dooley Square  
35 Main St., Suite 541  
Poughkeepsie, NY 12601

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
METALICO, INC.

Date: March 22, 2010

By:

Name: Arnold S. Graber

Title: Executive Vice President, General  
Counsel and Secretary

Address: 186 North Avenue East  
Cranford, NJ 07016

---

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

James Stewart, Esq.  
Lowenstein Sandler  
65 Livingston Ave.  
Roseland, NJ 07068



THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
MIDAS, INC.

Date: 2/25/10

Name: ART LOPATKA, JR.

Title: CORPORATE COUNSEL

Address: 1300 ARLINGTON HEIGHTS  
ITASCA, IL  
60143

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Art Lopatka  
Corporate Counsel  
Midas International Corporation  
1300 Arlington Heights Rd.  
Itasca, IL 60143

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
NEW YORK STATE DEPARTMENT OF  
TRANSPORTATION

Date: 12/14/09

Name: Wm. A. Howe

Title: Dir. of Contracts

Address: 50 Wolf Rd, Suite 1CM  
Albany, NY 12232

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

New York State Attorney General (Todd D. Ommert, AAG)

120 Broadway

New York, NY 10271

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
PACKAGE PAVEMENT CO., INC.

Date: 11/23/09

\_\_\_\_\_  
Name: Darren Doherty

Title: President

Address: PO Box 408  
Stormville NY 12582

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Ian S. McDonald, Esq.  
Daniels and Porco, LLP  
517 Route 22  
Pawling, NY 12564

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
PEPSI-COLA NEWBURGH BOTTLING  
CO., INC.

Date: May 3, 2010

Name: Joseph T. McDonald, Jr.

Title: Vice President

Address: One Pepsi Way

Newburgh, NY 12550

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Seth D. Jaffe, Esq.  
Foley, Hoag & Eliot LLP  
Seaport World Trade Center West  
155 Seaport Blvd.  
Boston, MA 02210-2600



THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
RIM PLUMBING & HEATING SUPPLY  
INC.

Date: 2/19/2010

Name: Irene Campbell

Title: Sec. / Pres.

Address: 54 TOR Rd.

Wappingers Falls, NY.

12590

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Joseph Saffioti, Esq.  
Saffioti & Anderson  
5031 Route 9W  
Newburgh, NY 12550

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
SHERWOOD POWER EQUIPMENT INC.

Date: 4/23/10

Name: David G. Sherwood, Jr.

Title: President, Sherwood Power Equipment, Inc.

Address: 1775 Rte 300  
Newburgh NY 12550

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Alex Smith  
Isseks & Smith  
6 North St.  
Middletown, NY 10940

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
TOWN OF FISHKILL, NEW YORK

Date: 7/30/09

\_\_\_\_\_  
Name: JOAN PAGONKY

Title: SUPERVISOR

Address: \_\_\_\_\_  
\_\_\_\_\_

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Michael Peters, Esq.  
Stockli Greene Slevin & Peters, LLP  
90 State St.  
Albany, NY 12207

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
TOWN OF MARLBOROUGH, NEW  
YORK

Date: 09/08/12

Name: Alphonso Lanzetta

Title: Supervisor

Address: 1650 R+9W

Milton, NY 12547

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Michael Peters, Esq.  
Stockli Greene Slevin & Peters, LLP  
90 State St.  
Albany, NY 12207

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
UNITED PARCEL SERVICE

Date: 3-4-10

Name: Norman M. Brothers, Jr

Title: Attorney

Address: 55 Glenlake Parkway, NE  
Atlanta, GA 30328-3474

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

C. Max Zymont, Esq.  
Alston & Bird LLP  
One Atlantic Center  
1201 W. Peachtree St.  
Atlanta, GA 30309-3424

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
CAMDEN IRON & METAL INC.

Date: 6/3/10

Name: Joseph Balzano

Title: CEO/President

Address: 1500 S. 6th St.

Camden, NJ 08104

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Gary S. Rovner, Esq.  
Foley & Lardner LLP  
321 N. Clark St.  
Suite 2800  
Chicago, IL 60654-5313

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
LAWRENCE FARMS ORCHARDS INC.

Date: 5/27/10

Name: Thomas M Woz

Title: Tres

Address: 39 Colandrea Rd  
Newburgh NY 12550

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Richard J. Drake, Esq.  
Drake, Loeb, Heller, Kennedy, Gogerty, Gaba & Rodd, PLLC  
555 Hudson Valley Ave., Suite 100  
New Windsor, NY 12553

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. City of Newburgh, *et al.* relating to the Consolidated Iron and Metal Co. Superfund Site.

FOR OTHER SETTLING PARTY  
MRO PUMP & TANK INC.

Date: 5/4/10

Name: Michael Olivea

Title: President

Address: 15 Fisher Ave  
Nanuet NY 10954

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Michael Olivea  
MRO Pump & Tank Inc.  
15 Fisher Ave.  
Nanuet, NY 10128



**APPENDIX F**

**OTHER SETTLING PARTIES ADDED TO CONSENT DECREE  
BY MODIFICATION NUMBER THREE**

Abbott & Mills, Inc.

Camden Iron & Metal, Inc.

Clove Excavators, Inc.

Devitt's Supply, Inc.

Dynamic Plumbing, Heating, and Air Conditioning Co., Inc.

East Park Auto Recycling, Inc.

Gershaw Recycling Corp.

H.O. Penn Machinery, Inc.

Hanson Pipe & Precast, Inc.

Henckels & McCoy, Inc.

Island Pump & Tank Corp.

Lawrence Farms Orchards Inc.

Lounsbury Builders & Erectors, Inc.

Luzon Oil Co., Inc.

MRO Pump & Tank Inc.

Magyar's Service Center

Metalico, Inc.

Michael D. Tamburri Auto Repair & Sales

Midas, Inc.

New York State Department of Transportation

Package Pavement Co., Inc.

Pepsi-Cola Newburgh Bottling Co., Inc.

RIM Plumbing & Heating Supply Inc.

Sherwoods Power Equipment Inc.

Town of Fishkill, New York

Town of Marlborough, New York

United Parcel Service