



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

April 6, 2021

REPLY TO THE ATTENTION OF:

S-6J

MEMORANDUM

4/6/2021

FROM: Douglas Ballotti, Director
Superfund & Emergency Management Division

X

Douglas Ballotti, Director
Superfund & Emergency Management Division
Signed by: DOUGLAS BALLOTTI

TO: Brigid Lowery
Director, Assessment and Remediation Division,
Office of Superfund Remediation and Technology Innovation

SUBJECT: De-Proposal of the Diamond Shamrock (Painesville Works) Site; Painesville, OH

Introduction

With this memorandum, Region 5 is requesting to withdraw the previous proposal to add the Diamond Shamrock (Painesville Works) Site (Site) to the National Priorities List (NPL). The Site is located in Painesville, Lake County, Ohio, and was proposed for the NPL on May 10, 1993 (pp. 27507 - 27514, Federal Register, Vol. 58, No. 88). However, the Site was never finalized on the NPL due to Potentially Responsible Parties' (PRPs) remediation of this site as an Operable Unit (OU) of the larger Site cleanup addressing other OUs under State law.

The State of Ohio, through the Ohio Environmental Protection Agency (OEPA), concurs with this request as documented in their May 20, 2019, letter to the U.S. Environmental Protection Agency (EPA) (Attachment 1). The cleanup at the Site has been delineated into 22 OUs, with EPA as the Lead Agency for OU #16, which was proposed for the NPL. All other OUs are being addressed by Site PRPs with oversight by OEPA as Lead Agency. The State of Ohio through OEPA has agreed to incorporate OU #16 as additional site work under their existing cleanup authority.

EPA has reviewed all of the documentation supporting this action and is confident that the State of Ohio, through OEPA, will ensure appropriate action and enforcement through their September 27, 1995, Director's Final Findings and Orders and October 4, 2005, Consent Order for the Site, pursuant to the authority vested in the Director of the Ohio EPA under Sections 3734.13, 3734.20, 6111.03, and 3745.01 of the Ohio Revised Code and in accordance with Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

(Attachment 2). This request to withdraw the Site from proposal to the NPL is consistent with deferral of OU #16 oversight to the State of Ohio, supported by the May 20, 2019, letter from OEPA.

Site Background

The Diamond Shamrock Works began operations in 1912, producing mainly caustic soda. The plant also produced chromate compounds, chlorine and chlorinated paraffins, and coke. Diamond Shamrock also accepted and disposed of used spent pickle liquor from nearby steel industries. In October 1931, the plant began production of chromates, including sodium dichromate, potassium dichromate, and chromic acid. Wastes from chromate ore processing were placed in the OU #16 area. The plant closed in 1972. In 1977, the State of Ohio approved a reclamation plan submitted by Diamond Shamrock. In accordance with the plan, Diamond Shamrock would cover one of the waste lakes with a clay cover. In 1982, Diamond Shamrock completed closure of the OU #16 area, but the presence of chromate wastes in the landfill cell made it necessary for continued monitoring, inspection, and reporting for OU #16. The closure was sheet piling along the Grand River and an impermeable clay cap installed over all the waste areas. None of the national Environmental Justice indexes exceed the 80th percentile.

On May 10, 1993, the Site was proposed for the NPL with of a Hazard Ranking System (HRS) score greater than 28.50. The Site had a HRS score of 50. This score reflected the presence of chromium in sediments and surface water adjacent to the Site and the high threat of risk to the environment through the surface water pathway. Mitigation performed after the HRS scoring adequately addressed this threat.

Cleanup History

In 1986, Maxus Energy Corp. bought out Diamond Shamrock Chemical Co. Shortly after, the property was divided into parcels. During demolition of buildings on the production site, polychlorinated biphenyls (PCBs) were discovered in the transformer oils. Oil containing PCBs was recovered, all onsite buildings were demolished, contaminated soil was covered with clay, and the site was graded to drain toward Lake Erie. Contaminants found in surface water and sediment by EPA in 1981 included: hexavalent chromium, mercury, cyanide, ethylbenzene, xylene, and naphthalene.

On April 23, 2002, EPA issued a Unilateral Administrative Order (UAO) to the PRPs to perform removal actions at the Site. In 2003, the PRPs under EPA oversight performed a limited removal action to dispose of material that was on site. In 2005 and 2006, the PRPs upgraded/ repaired the OU #16 clay cap installed in 1982 and improved some of the drainage at and around the Site. This resulted in successful containment, as demonstrated by quarterly Grand River sampling data provided to EPA from September 2005 to the current date. The PRPs also performed a limited removal action during the 2005-06 improvements.

Enforcement History

EPA issued an Administrative Consent Order in 1983 to site PRPs under the authority of Section 3013 of the Resource Conservation and Recovery Act (RCRA) to be sure that monitoring continued in the long term. Since 1983, the PRPs have been submitting quarterly ground- and surface water reports for EPA review and approval through the Superfund program. Following EPA's proposal to add OU #16 to the NPL, the State of Ohio successfully obtained an enforcement order from the PRP group for all of the other Operable Units. OEPA asked that OU #16 not be added to the NPL but that monitoring continue under the previously issued RCRA Order. The RCRA Section 3013 Administrative Consent Order expired in 2013, after 30 years. OEPA performed Preliminary Assessments in March 1984 and September 1987 and a Cooperative Agreement was awarded to OEPA in September 1992 to perform a PRP search. These costs were included with EPA's total Site cost, and payments totaling \$172,446.31 were made by the PRPs to EPA in 2005 and 2006 to comply with the 2002 UAO.

Current Status of Response

EPA consulted with OEPA to establish future long-term monitoring requirements for OU #16, and OEPA is incorporating needed OU #16 Site work under their enforcement authority for other Site work. Cleanup goals have been achieved for OU #16 but have not yet been achieved for all other OUs. Cleanup work at the Site will continue under State oversight. With the Site's (OU #16) de-proposal from the NPL, OEPA becomes the Lead Agency for the entire Site.

Conclusion

Remaining monitoring activities at OU #16 will continue to be performed by the PRPs under the regulatory authority of the State of Ohio. Withdrawal of the proposal to place the Site on the NPL is consistent with the November 12, 2002, EPA Office of Solid Waste and Emergency Response policy memorandum "Guidelines for Withdrawing a Proposal to List a Site on the NPL," and the current Superfund Program Implementation Manual. The State of Ohio, through the OEPA, concurs with Region 5's request as documented in their May 20, 2019, letter to EPA. Because the State will accept responsibility for oversight of remaining PRP work at all Site operable units, Region 5 recommends withdrawing the proposal to add the Diamond Shamrock (Painesville Works) site to the NPL.

Attachments:

1. May 20, 2019, Letter from Ohio EPA to U.S. EPA
2. September 27, 1995, Director's Final Findings and Orders for the Site
3. October 4, 2005, Consent Order
4. Figure 1
5. April 1, 2003, Final Pollution Report for PRP-Funded Removal Action



Mike DeWine, Governor
Jon Husted, Lt. Governor
Laurie A. Stevenson, Director

May 20, 2019

Mr. John Fagiolo
Remedial Project Manager
U.S. EPA Region 5, Superfund &
Emergency Management Division
77 West Jackson Blvd.
Mail Code SR-6J
Chicago, IL 60604

**Re: Diamond Shamrock Painesville
Remediation Response
Project Records
Remedial Response
Lake County
243000230027**

**Subject: Transition of USEPA 1983 ACO (Operable Unit 16) to Ohio EPA
Authority through USEPA De-Proposal - Diamond Shamrock
Painesville Works Site; Painesville, Ohio**

Dear Mr. Fagiolo

This letter confirms our discussions regarding the re-designation of Ohio EPA as the lead agency for Operable Unit 16 (OU 16). U.S. EPA, Superfund & Emergency Management Division (SEMD) has documented the expiration of the Administrative Consent Order (ACO) issued on July 14, 1983 for OU 16 and intends to de-propose OU 16 from the National Priorities List (NPL).

Ohio EPA has established authority for OU 16 under the Directors Final Findings and Orders issued September 27, 1995 and a Consent Order issued October 4, 2005 (collectively "the DFFOs"). Ohio EPA intends to pursue the monitoring and remedy continuation as needed with the PRP for the entirety of OU 16 to ensure a unified, site-wide remedy.

Ohio EPA will notify Glenn Springs and the Painesville PRP Group in writing of Ohio EPA's intent to assume authority of OU 16 under the DFFO's, and request that Glenn Springs consolidate the remaining U.S. EPA ACO obligations into an RI/FS Addendum submittal for OU 16. It is Ohio EPA's understanding that U.S. EPA will begin de-proposal of the Site off the NPL. Please provide notification when the de-proposal process is complete.

If you have any questions in this regard, please contact the Site Coordinator, Ron Shadrach at (330) 963-1146, or the Northeast District Manager, Mark Johnson at (330) 963-1293 with any questions.

Sincerely,



Lisa Shook
Environmental Manager
Division of Environmental Response and Revitalization

ec: John Fagiolo, U.S. EPA R5, Remedial Project Manager, SEMD,
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Mark Johnson, Manager, Ohio EPA, DERR, NEDO
Emily Patchen, Enforcement Coordinator, Ohio EPA, DERR, CO
Regan Williams, Ohio EPA, DERR, NEDO
Ron Shadrach, Ohio EPA, DERR, NEDO

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

The Diamond Shamrock Painesville
Works Site

Chemical Land Holdings, Inc.
717 North Harwood Street
Dallas, TX 75201

Maxus Energy Corporation
717 North Harwood Street
Dallas, TX 75201

Occidental Chemical Corporation
5005 LBJ Freeway
Dallas, TX 75244

Painesville Township Board of Trustees
55 Nye Road
Painesville, OH 44077

Uniroyal Chemical Company, Inc.
Benson Road
Middlebury, CT 06749

Village of Fairport Harbor
220 Third Street
Fairport Harbor, OH 44077

The Painesville PRP Group
P.O. Box 0188
Painesville, Ohio 44077

Respondents

Director's Final
Findings and Orders

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PREAMBLE

It is hereby agreed to by and among the Parties as follows:

I. JURISDICTION

1. These Director's Final Findings and Orders ("Orders") are issued pursuant to the authority vested in the Director of the Ohio EPA under Sections 3734.13, 3734.20, 6111.03, and 3745.01 of the Ohio Revised Code and in accordance with Section 104 of CERCLA. As provided herein, Respondents consent to and agree not to contest Ohio EPA's jurisdiction to issue and enforce these Orders.

II. PARTIES BOUND

2. These Orders shall apply to and be binding upon Respondents and their respective successors and assigns. Upon Respondents' request, these Orders may

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By: Mary Cavin Date 9-27-95

be amended in writing to add as Respondents additional persons consenting to and signing these Orders. Ohio EPA will respond to Respondents' request within a reasonable period of time and Ohio EPA's consent shall not be unreasonably withheld.

3. No change in ownership or corporate status of Respondents including, but not limited to, any transfer of assets or real or personal property shall in any way alter Respondents' obligations under these Orders.

4. Respondents shall provide a copy of these Orders to all Major Contractors, Subcontractors, Laboratories and Consultants retained to perform any portion of the Work performed pursuant to these Orders. Respondents shall ensure that all contractors, subcontractors, laboratories and consultants retained to perform Work pursuant to these Orders comply with the applicable provisions of these Orders.

5. The signatories to these Orders certify that they are fully authorized to execute and legally bind the Party they represent.

III. DEFINITIONS

6. Unless otherwise expressly provided herein, terms used in these Orders or in any appendices shall have the same meaning as used in Chapters 3734 and 6111 of the Ohio Revised Code and Section 101 of CERCLA. Whenever the terms listed below are used in these Orders or in any appendices, attached hereto and incorporated herein, the following definitions shall apply:

a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. § 9601, et seq.

b. "Day" shall mean a calendar day unless expressly stated to be a business day. "Business day" shall mean a day other than a Saturday, Sunday, or Federal or State Holiday. Any period of time in connection with these Orders may be shortened or extended by mutual agreement of the Parties. In computing any period of time under these Orders, where the last day would fall on a Saturday, Sunday, or Federal or State Holiday, the period shall run until the close of the next business day.

c. "Hazardous Substances" shall mean (1) any hazardous waste"

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under Section 3734.01(J) of the Ohio Revised Code; (2) any "solid waste" under Section 3734.01(E) of the Ohio Revised Code; (3) any "industrial waste" under Section 6111.01(C) of the Ohio Revised Code; (4) any "other waste" under Section 6111.01(D) of the Ohio Revised Code; and (5) any "hazardous substance" under Section 101(14) of CERCLA.

d. "Interim Action" is any limited, accelerated response action conducted in a manner consistent with the NCP and Ohio law, taken to prevent, minimize, or mitigate a substantial threat to the public health or safety or to the environment resulting from a release or threat of release of Hazardous Substances. To the extent practicable, the actions taken under an Interim Action should contribute to the efficient performance of any anticipated long-term remedial action with respect to the release concerned.

e. For the purposes of providing a copy of these Orders under paragraph 4, "Major Contractors, Subcontractors, Laboratories and Consultants" shall mean those contractors, subcontractors, laboratories and consultants who engage in environmental investigation required under these Orders involving drilling, sampling, analytical analysis, and oversight of environmental investigation, if the fees for such environmental investigation are reasonably anticipated to exceed \$100,000 in any one calendar year or if Ohio EPA specifically directs that they be provided a copy of these Orders.

f. "NCP" or "National Contingency Plan" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan, codified at 40 C.F.R. Part 300 (1990), as amended.

g. "Ohio EPA" shall mean the Ohio Environmental Protection Agency and its designated representatives.

h. "Paragraph" shall mean a portion of these Orders identified by an Arabic numeral or an upper or lower case letter.

i. "Party" or "Parties" shall mean Respondents and/or the Ohio EPA.

j. "Remedial Investigation and Feasibility Study" ("RI/FS") shall mean those activities to be undertaken to determine the nature and extent of the contamination at the Site caused by the disposal, discharge, or release of Hazardous Substances and those activities to be undertaken pursuant to these

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Orders to develop and evaluate remedial alternatives to address such contamination.

k. "Remedial Investigation and Feasibility Study Work Plan" ("RI/FS Work Plan", or "Work Plan") shall mean the document submitted by Respondents pursuant to Paragraph 12 of these Orders.

l. Subject to Paragraph 2, "Respondents" shall mean The Painesville PRP Group (membership as listed in "Waiver and Agreement" below), Chelmsford Properties, Inc., Chemical Land Holdings Inc., Dartron Corporation, Environmental Brine Services, Inc., Fairport Village Board of Education, Steven W. and Calvina J. Gagat, John Grantham, Hach Excavation and Demolition, Inc., Paul W. and Marlene E. Hach, James Paul Management, Inc., Ralph M. Lederer, Little Seedlings, Maxus Energy Corporation, Occidental Chemical Corporation, Painesville Township Board of Trustees, RDL Properties, Schuster Service Inc., Uniroyal Chemical Company, Inc., the Village of Fairport Harbor.

m. "Section" shall mean a portion of these Orders identified by a Roman numeral except when "Section" is used as a part of a reference to a statutory or regulatory provision.

n. "Site" shall mean the former Diamond Shamrock Painesville Works site, which has also been proposed for the National Priorities List under CERCLA, located part in the Village of Fairport Harbor, part in the city of Painesville, and part in Painesville Township, Lake County, Ohio, in parts of which the release, treatment, storage, and/or disposal of Hazardous Substances, and/or the discharge into waters of the State of Hazardous Substances has occurred, including any other area where such Hazardous Substances may have migrated or threaten to migrate, which is described more particularly on the attached map contained in Appendix C.

o. "Statement of Work" ("SOW") means Ohio EPA's generic statement of work for the implementation of an RI/FS, as set forth in Appendix A to these Orders. The SOW is not specific to this Site, and shall be used as a guiding outline in developing Site-specific work plans.

p. "U.S. EPA" shall mean the United States Environmental Protection Agency, the Regional Administrator for Region V, and their designated

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representatives.

q. "Work" shall mean all RI/FS activities Respondents are required to perform under these Orders.

IV. FINDINGS OF FACT, DETERMINATIONS, AND CONCLUSIONS OF LAW

7. Ohio EPA has determined that all findings of fact, determinations, and conclusions of law necessary for the issuance of these Orders pursuant to Sections 3734.20, 3734.13, 3745.01 and 6111.03 of the Revised Code have been made and are outlined below. By entering into these Orders or by acting (or failing to act) in connection with these Orders and the Work Plan, Respondents do not admit the Findings of Fact, Determinations and Conclusions of Law set forth below, any of the allegations contained in these Orders, any issues of law or fact or any responsibility for the alleged release or threat of release of Hazardous Substances into the environment, and these Findings of Fact, Determinations and Conclusions of Law do not constitute evidence against Respondents. Ohio EPA has determined the following:

a. The Diamond Shamrock Chemicals Company (formerly named Diamond Alkali Company and Diamond Shamrock Corporation, and now Occidental Chemical Corporation as a result of a 1986 stock sale and subsequent merger) (hereinafter referred to as "Diamond Shamrock") began operations at the Painesville Works in Lake County in 1912. The Diamond Shamrock Site (defined in Section III, Definitions) is approximately 1100 acres in size and is described in Appendix C. The Site includes all known areas of manufacturing or other industrial use, areas of waste disposal, and other areas which are or may be contaminated. Diamond Shamrock began shutting down the Painesville Works in 1972, and the last Painesville Works operations ceased in 1977. Between 1912 and 1977, and from 1977 to the present, numerous others conducted activities of various duration at different locations within the Site.

b. Aluminum Smelting and Refining Company, Dartron Company, Diamond Shamrock, Electrode Corporation, Erie Coke and Chemical Company (now Scepter Management Corporation), Glen L. Martin Company (now Martin-Marietta Corporation), LTV Steel Company (including its predecessors, Youngstown Sheet and Tube Company, Jones and Laughlin Steel Corporation and Republic Steel

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Corporation), Nacelle Land and Management Corporation, Pressure Vessel Services of Ohio, Inc. (PVS), Standard Machine & Equipment Company Inc. (SME), U.S. Rubber (now Uniroyal Chemical Co. Inc.) and others produce or produced, conduct or conducted activities involving, a variety of substances and/or materials during their respective operations at the Site, including: sodium hydroxide (caustic soda); hydrochloric acid (muratic acid); chlorinated paraffins (Chlorowax); bicarbonate of soda (baking soda); magnesium oxide; coke; carbon tetrachloride; hydrogen and liquid hydrogen; ammonia; benzene, toluene and related hydrocarbons; calcium carbonate; cement; sal soda; lye; cleaners (soaps); sodium carbonate (Soda Ash); chlorine; sodium bichromate; chromic acid; potassium bichromate; sodium sulfate; vinyl chloride monomer and polyvinyl chloride; pickle liquor; fly ash; secondary metals; and others.

c. Diamond Shamrock's primary production facility was the Soda Ash/Solvay Process Plant, which began operations in 1912. Soda ash was produced using the Solvay Process. The main feedstock for this process was salt extracted using brine solution mining wells (44 over the life of the plant) on and near the Site, coke, and limestone. In addition to soda ash, the Soda Ash Plant produced sodium carbonate, magnesium oxide and sodium bicarbonate (baking soda). In 1915, the Soda Ash Plant began producing sodium hydroxide. The Soda Ash Plant and supporting facilities (including the Power Plant), which together occupied approximately 75 acres, ceased operations in 1976. Many of the Painesville Works buildings were torn down by Standard Machine & Equipment Company (SME), after SME purchased the main production area of the Painesville Works (north of Fairport-Nursery Road) and the area of the former Hydrobasin in 1978. The main plant area was graded, a layer of clay and soil was added, and grass was planted.

d. The wastes from the Soda Ash Plant included ammonia and wastewater containing dissolved and suspended solids including calcium chloride (road salt), sodium chloride and unreacted limestone. The wastewater was generated at a rate of 6 million gallons per day (GPD). Approximately 400 tons/day of solids (calcium, sodium, magnesium carbonate, sulfates, sand, and unreacted limestone) were entrained in this wastewater stream and settled out of solution in basins known as Waste Lakes #1, #2, #3 and #4, all of which are now

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dry. The settling basins were used sequentially, so that creation and use of the next basin began when use of the existing basin was discontinued. The basins were numbered in order of use; Settling Basin #1 was used first and Settling Basin #4 was used last. During the peak production stage of the Painesville Works' operations, clarified water from Settling Basin #4 was discharged into the Grand River at a rate of 6 million GPD under a permit with parameters for dissolved and suspended solids, chlorides and pH. During much of the time that Settling Basin #4 was used, the clarified water was directed to the former Hydrobasin (now also dry) for additional settling before discharge to the Grand River. Beginning in 1966, "pickle liquor" (hydrochloric acid which had been used to remove corrosion from steel), containing iron chloride and sulfate and other metal solids, was sent to the Site by Youngstown Sheet and Tube Company, Jones and Laughlin Steel Corporation, and Republic Steel Corporation (all acquired by or merged into the LTV Steel Company). The pickle liquor was used at a rate of 40,000 GPD to aid in the precipitation of the suspended solids in, and to neutralize, the process wastewater stream (6 million GPD) from the Soda Ash Plant.

e. Diamond Shamrock operated its own Power Plant within the Site throughout the life of the Painesville Works. Materials created by the Power Plant included fly ash and bottom ash, which were deposited in Settling Basins #1, #2, and #3. The noncontact cooling water stream from the Power Plant, generated at a rate of 70-90 million GPD, was routed to the Hydrobasin and, subsequently, to the Grand River.

f. Diamond Shamrock produced coke at the Site for use in its own production processes or for sale to foundries. In 1924 byproduct coke ovens were constructed. The ovens recovered the ammonia, gas and tar distillates which resulted from the coking process. The gas was sold as fuel and for domestic heating. The ammonia was utilized in the Solvay Process at the Soda Ash Plant. The tar distillates were refined into benzene, toluene and other related hydrocarbons for sale to third parties.

g. In 1976, Erie Coke and Chemical Company (now Scepter Management Corporation) purchased the Coke Plant as an ongoing operation from Diamond

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Shamrock, as well as the 40-acre parcel on which the Coke Plant was located. Erie Coke and Chemical continued to operate the Coke Plant until 1982. Erie Coke and Chemical produced approximately 425 tons of coke per day, and used metal oxide filings for air cleanup, which generated metal oxide residue and coke tar decanter sludge (K087) waste. Both the metal oxide filings and K087 waste were stored on the property for greater than 180 days, resulting in a violation of hazardous waste laws by Erie Coke and Chemical. Erie Coke and Chemical was notified in 1984 that the metal oxide filings tested EP Toxic for chromium and that the coke tar decanter sludge was a listed hazardous waste. Wastewater from Erie Coke and Chemical's operations contained ammonia, cyanide, phenols, oil and grease. The wastewater sludge tested EP Toxic for chromium (7.5 mg/L) on February 6, 1984. The EP Toxicity level for chromium at that time was 5 mg/L.

h. Both the metal oxide filings and K087 wastes were left on the 40-acre Coke Plant property by Erie Coke and Chemical when it sold the 40-acre parcel to National GG. National GG purchased the property with the intent of demolishing on-site structures. In late 1987, during National GG's demolition activities, open burning complaints were investigated by the Ohio EPA and Lake County General Health District officials. Open burning on the property was observed by the officials. Also during National GG's demolition activities, a cooling tower containing K087 waste was dismantled and the waste spilled on the ground. Samples taken on February 8, 1988 indicated the presence of K087 constituents in soils. Other on-site soil samples collected on January 4, 1988 indicated heavy metals and up to 5192 ppb naphthalene.

i. The Standard Portland Cement plant was built and operated by Diamond Shamrock from 1925 until 1956. The feedstock at the Cement Plant was lime and calcium carbonate, and the product was cement. The cement was shipped by truck and rail. In April 1980, the Cement Plant was sold "as is" to Aluminum Smelting and Refining Company, Inc., and it has been operated as a secondary scrap metals smelter since that time.

j. The Chlor Alkali Plant was built by Diamond Shamrock in 1929, and operations began in 1930. Chlorine and caustic were manufactured using diaphragm cells (which contained asbestos) rather than the conventional mercury cells (one

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mercury cell was used briefly on an experimental basis only). The feedstock was sodium chloride, which was obtained from brine wells located on and near the Site. Other products from the Chlor Alkali Plant included sodium hydroxide, hydrogen, and hydrochloric and muratic acid. Power to run the electrolytic cells was generated from the onsite Power Plant, and supplemented with electricity from CEI. The major wastewater stream was noncontact cooling water, which was discharged to the Grand River via the former Hydrobasin. The Chlor Alkali Plant ceased operations in 1976, and was sold to SME. SME demolished the Chlor Alkali Plant. The area was graded, a layer of clay and soil was added, and grass was planted.

k. Diamond Shamrock constructed a Carbon Tetrachloride Plant in 1933 and operated it until 1976. Diamond Shamrock also operated a Chlorowax Plant, which produced chlorinated paraffins, from 1944 until 1977 (it was the last of the Diamond Shamrock operations to shut down), and a Hydrochloric Acid (HCl) Plant, from 1930 until 1976. SME demolished these plants, and the areas were graded, a layer of clay and top soil was added, and grass was planted.

l. Diamond Shamrock operated the Chrome Plant south of Fairport Nursery Road from 1931 until 1972. The Chrome Plant produced chromic acid and sodium and potassium bichromates. Waste from the Chrome Plant (Chromium Ore Processing Residue, or "COPR", which contained hazardous levels of hexavalent chromium) was placed on the Chrome Plant property (approximately 750,000 tons). As described below, process wastewater was sent to the Milk of Lime Pond and runoff was directed to the Impounding Basin; both the Milk of Lime Pond and the Impounding Basin were located on Chrome Plant property.

m. Many of the products from the Site were shipped on rail spurs and a rail system owned and operated by the Norfolk & Western Railway Company (formerly the Fairport, Painesville and Eastern Railroad Company), a subsidiary of Norfolk Southern Corporation. This rail system occupied 25 acres, and included a roundhouse, carshop, offices, tower building and maintenance facilities.

n. Diamond Shamrock began using former Settling Basin #1, which was located north of Fairport-Nursery Road and west of the main production area of

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the Painesville Works, in 1912 to settle the solids from the inert wastewater from the Soda Ash Plant. Settling Basin #1 also received fly ash and bottom ash from the onsite Power Plant. Use of Settling Basin #1 was discontinued in 1920, before any of the other plants at the Painesville Works began operations.

o. Former Settling Basin #2, the Chrome Plant and the Chrome Plant's Milk of Lime Pond and Impounding Basin occupy an area of over 100 acres. This area is situated in the central portion of the Site and is bounded to the north by Fairport-Nursery Road and to the south by the Grand River. Following the discontinuation of use of Settling Basin #1, Settling Basin #2 was used to settle the solids from the Soda Ash Plant process wastewater until sometime prior to 1937. Settling Basin #2 also received fly ash and bottom ash from the onsite Power Plant. The Milk of Lime Pond, located at the Chrome Plant, received Chrome Plant process wastewater. This wastewater contained chromium, some of which was in hexavalent form. The waste stream was first treated with sulfur dioxide to reduce any hexavalent chromium to trivalent form, and then reacted with lime to precipitate out the insoluble trivalent chromium. In 1966, the sulfur dioxide was replaced with pickle liquor to aid in the reduction of the hexavalent chromium. Until 1967, the treated waste stream was combined with alkaline lime prior to deposition in the Milk of Lime Pond. From 1967 to 1972, the treated waste stream was co-mingled with process wastewater from the Soda Ash Plant (at Settling Basin #4) to aid in pH control. The Impounding Basin, also located at the Chrome Plant, contained primarily stormwater runoff from the Chrome Plant. In 1978, Diamond Shamrock began closing the Chrome Plant and surrounding area. (including former Settling Pond #2, Milk of Lime Pond and the Impounding Basin) using fly ash and a clay cap. The 750,000 tons of COPR generated at the Chrome Plant was capped; none of the COPR was hauled offsite for disposal. On August 21, 1980, the Ohio EPA granted a Permit to Install to Diamond Shamrock for the disposal of fly ash on top of this area. The fly ash, supplied by CEI, was deposited as a first layer over the COPR (as a barrier to stop any upward capillary action). The fly ash was covered with clay and topsoil, and the area was seeded, as part of an engineered closure. No chromium has been detected wicking up through the closure.

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p. On July 14, 1983, the U.S. EPA entered into an Administrative Consent Order (ACO) with Diamond Shamrock for the capping, fencing and monitoring of the area described in the preceding paragraph (CA No. C80-1857). Surface soil samples collected on October 31, 1979 contained 16,900 ppm total chromium and 14.40 ppm total lead. Monitoring wells were installed on the closed area. The ACO requires sampling of the Grand River, sampling of the monitoring wells, and site inspections. Ground water sampling from 1992 through 1994 indicate significant levels of hexavalent and total chromium in the vicinity of former Settling Basin #2 and the former Impounding Basin area.

q. Diamond Shamrock utilized former Settling Basin #3, located south of Fairport-Nursery Road and on the western edge of the Site, beginning around 1937. Wastes directed to Settling Basin #3 primarily included Solvay Process wastewater from the Soda Ash Plant, with substantially lesser amounts of runoff from the Painesville Works (excluding runoff from the Chrome Plant, which went to the Impounding Basin), Coke Plant wastewater, Chlorowax Plant wastewater, noncontact cooling water from the Power Plant, and Chlor Alkali Plant wastewater. The runoff, Coke Plant wastewater, Chlor Alkali Plant wastewater, and wastewater from the Chlorowax Plant formed a single waste stream that consisted of cooling water, stormwater, trace amounts of asbestos from the chlorine cells, acid wastes and ammonia still wastes. The area of Settling Basin #3 also received fly ash and bottom ash from the onsite Power Plant and from Cleveland Electric Illuminating's off site power plant. For a brief period in the late 1960's and early 1970's (after use of Settling Basin #3 for settling Solvay Process wastewater from the Soda Ash Plant had discontinued) spent pickle liquor from LTV Steel's predecessors was placed on an experimental basis in a pit constructed within former Settling Basin #3 to aid in pH control. Some Chrome Plant wastewater was also placed in former Settling Basin #3 on an experimental basis to aid in pH control and to facilitate precipitation of trivalent chromium from the wastewater. The remains of unidentified drums were found in the area of former Settling Basin #3 by the Ohio EPA and U.S. EPA during a Site visit on June 11, 1993. Diamond Shamrock operated a solid waste refuse dump during some period of the Painesville Works operations in the northeastern portion of former

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Settling Basin #3.

r. On December 31, 1953, Diamond Shamrock leased sixteen acres in the southwest portion of former Settling Basin #3 to the Village of Fairport Harbor. The Village created and operated a municipal waste landfill on the property, which it now owns, from approximately 1968 until approximately 1989. By letter dated January 18, 1995, the Lake County General Health District notified the Village that the dumping of leaves on its property constituted violations of state solid waste rules. In addition, the Village constructed a paved road on its property without authorization of the Director of the Ohio EPA, as required by Ohio Administrative Code Section 3745-27-13.

s. Former Settling Basin #4 was located on the southern portion of the Site and was bounded by the Grand River on the north and east, Elm Street and State Route 2 on the south, and by parcels owned by Painesville Township and the City of Painesville on the west. The area that includes former Settling Basin #4 is approximately 430 acres in size. From sometime after 1937 until 1976, Settling Basin #4 was used to settle the solids from the Soda Ash Plant's Solvay Process wastewater (after use of Settling Basin #3 was discontinued). In addition, some process wastewater from the Chrome Plant, titanium wastes from the Electrode Corporation and spent pickle liquor from LTV Steel (including its predecessors) were deposited within Settling Basin #4. The pickle liquor and titanium wastes were stored in tanks on the southern edge of Settling Basin #4, and were added to Solvay Process wastewater from the Soda Ash Plant for pH control and to aid in the precipitation of suspended solids. This mixture was also used to assist in converting the hexavalent chromium in the wastewater stream from the Chrome Plant into trivalent chromium. The Settling Basin #4 area is dry and partially vegetated, but uncapped, and the area is leaching dissolved solids into the Grand River.

t. The area of the former Hydrobasin lies between former Settling Basins #2 and #3, and is bordered to the north by Fairport-Nursery Road. The former Hydrobasin accepted runoff from the main Painesville Works production areas (except runoff from the Chrome Plant, which was directed to the Impounding Basin), Coke Plant wastewater, HCl and Chlorowax Plant wastewater Chlor Alkali

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Plant wastewater, and decanted wastewater from Settling Basin #4. Following the cessation of Diamond Shamrock's operations, demolition rubble from the various plant buildings was placed in the former Hydrobasin as fill material.

u. The geology of the Site consists of alluvial and lacustrine deposits comprised of sands, silts, clays and gravels. Glacial till underlies these deposits. Bedrock in the area, which lies an average of 20 to 50 feet below the original surface of the land, is shale, and the bedrock is underlain by a massive salt formation. Geology of the area may be conducive to the transport of wastes through groundwater. Area residents in the vicinity of the Site generally utilize public water supplies.

v. The Ohio Water Quality Standard limit for hexavalent chromium in a warm water habitat, such as the Grand River, is 11 ug/l (ppb) (.01 ppm). Exceedances of the Water Quality Standard for hexavalent chromium have continued in the Grand River, even after the capping of the former Settling Basin #2, the Impounding Basin, and the Milk of Lime Pond areas. Water Quality Standard exceedances for total recoverable iron and total dissolved solids have occurred in the portion of the Grand River adjacent to the former Settling Basins.

w. The Ohio EPA performed sediment and fish tissue sampling of the Grand River in the vicinity of the Site during September 1994. Sediments were found to contain levels above upstream levels of arsenic, cadmium, calcium, chromium, copper, lead, zinc, hexavalent chromium, nickel, manganese, vanadium, mercury, 4,4'-DDD, 4,4'-DDT, aluminum, beryllium, cobalt, iron, phenanthrene, fluoranthrene, pyrene, benzo(a)anthracene, bis(2-ethylhexyl)phthalate, chrysene, and total organic carbon. Fish tissue samples were found to contain levels of 4,4'-DDE, Endrin aldehyde, bis(2-ethylhexyl) phthalate, chromium, mercury, PCB-1260, cadmium, Heptachlor epoxide, Di-n butyl phthalate, dieldrin, 4,4'-DDT, 4,4'-DDD, and PCB-1254. Results of fish tissue analyses have been sent to the Ohio Department of Health for interpretation.

x. An oxbow which existed in the Grand River to the south of the Chromium Plant was filled with waste, as was the old river channel, which once meandered through the Settling Basin #3 area.

y. From 1963 until 1970, Diamond Shamrock operated the One Acre

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Landfill for disposal of research wastes from its research laboratories in Fairport, Chardon, Ashtabula and Concord Township. Containers of waste were inventoried and buried by Diamond Shamrock in trenches excavated 15 to 20 feet deep and 8 to 10 feet wide. Wastes include: methyl methacrylate, diisocyanate wastes, hexachlorobutadiene, polymercaptan wastes, orthodichlorobenzene, formaldehyde, cyanuric acid, trichlorophenol, xylene, caustic soda, hexachlorobenzene, pesticides and herbicides, polymercaptan, acetone, heptane, isocyanate, caustic potash, toluene with polymercaptan, chromic acid wastes, and chlorinated xylene wastes.

z. In 1988, Chemical Land Holdings, Inc. (which owns the land on which the One Acre Landfill is located) voluntarily initiated a site stabilization at the One Acre Landfill, with a cover, slurry wall construction and an extraction well collection system. The leachate has been pumped from the extraction wells since 1984, and disposed of when a sufficient volume has accumulated in the wells. The leachate is shipped to a permitted off-site hazardous waste disposal facility. In addition, Chemical Land Holdings voluntarily installed a shoreline stabilization system to protect the One Acre Landfill from erosion of the Lake Erie shoreline. The One Acre Landfill is located approximately fifty feet from the banks of Lake Erie.

aa. Following the end of Diamond Shamrock's operation of the Painesville Works at the Site, various parcels of property within the Site were sold to different entities. Much of the main plant area of the Painesville Works, as well as the area of the former Hydrobasin, was sold to SME, which in turn sold some of the parcels to others for industrial and commercial use. Currently, ownership of different portions of the Site rests with a variety of individuals, partnerships, corporations, and government entities.

bb. In September, 1986, the stock of Diamond Shamrock was sold to an affiliate of Occidental Chemical Corporation ("OCC"). Subsequently, Diamond Shamrock was merged into OCC.

cc. In May, 1993, U.S. EPA proposed placing the Diamond Shamrock Painesville Works Site on the National Priorities List, describing a threat to the drinking water intakes along Lake Erie, and to fisheries, wetlands, and

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sensitive environments in the Grand River and Lake Erie.

dd. On October 1, 1992, the Ohio EPA entered into a Cooperative Agreement with the U.S. EPA to act as lead agency under CERCLA with respect to the Site. In February, 1995, Ohio EPA issued special notice letters with an invitation to participate in negotiations for an administrative consent order to: Ace Lakefront Properties, Aluminum Smelting and Refining Co., Inc., Chelmsford Properties, Inc., Chemical Land Holdings, Dartron Corporation, Electrode Corp., Environmental Brine Services, Inc., Fairport Village Board of Education, Steven W. and Calvina J. Gagat, John Grantham, Hach Excavation and Demolition, Inc., Paul W. and Marlene E. Hach, James Paul Management, Inc., Lake County Commissioners, Lake Underground Storage, Ralph M. Lederer, Little Seedlings, Martin Marietta Corp., Maxus Energy Corporation, Nacelle Land and Mortgage Corporation, National GG Industries, Norfolk & Western Railway Co., Occidental Chemical Corporation, Painesville Township Board of Trustees, Pressure Vessel Service of Ohio, Inc., RDL Properties, Roadway Express, Inc., Scepter Management Corporation, Schuster Service Incorporated, Standard Machine and Equipment, Tanner Industries, Uniroyal Chemical Co., Inc., and the Village of Fairport Harbor. The following persons agreed and are Respondents to this Order: Chelmsford Properties, Inc., Chemical Land Holdings, Dartron Corporation, Environmental Brine Services, Inc., Fairport Village Board of Education, Steven W. and Calvina J. Gagat, Hach Excavation and Demolition, Inc., Paul W. and Marlene E. Hach, James Paul Management, Inc., Little Seedlings, Maxus Energy Corporation, Occidental Chemical Corporation, Painesville Township Board of Trustees, Schuster Service Incorporated, Uniroyal Chemical Co., Inc., and the Village of Fairport Harbor.

ee. Ace Lakefront Properties is the current owner of the parcel of land identified as III on Appendix C. Ace Lakefront Properties is a "person" as defined by ORC 3734.01(G).

ff. Aluminum Smelting & Refining Company (ASR), a recycling facility which produced aluminum ingots, is the current owner and former operator of the parcel identified as IX on Appendix C. ASR submitted surveys which showed elevated levels of chromium on this parcel. ASR is a "person" as defined by ORC

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Section 3734.01(G).

gg. Chelmsford Properties, Inc., is the current owner of the parcel of land identified as VII.B. on Appendix C. Chelmsford Properties, Inc., is a "person" as defined by ORC 3734.01(G).

hh. Chemical Land Holdings Inc. an indirect wholly-owned subsidiary of Maxus Energy Corporation is the current owner and operator of the parcels identified as II, IV, 1, A, C-1, A-6 and A-8 on Appendix C.

ii. Dartron Corporation, a recycler of scrap ferrous and non-ferrous metal, is the current owner of the parcel of land identified as X on Appendix C. This parcel was purchased from Uniroyal, Inc. Diamond Shamrock is not known to have used this parcel for manufacturing or waste disposal. Dartron Corporation is a "person" as defined in ORC Section 3734.01(G).

jj. Electrode Corporation, a wholly-owned subsidiary of ELTECH System Corporation, generated liquid titanium wastes which were disposed in Settling Basin #4. Electrode Corporation is a "person" as defined in ORC Section 3734.01(G).

kk. Environmental Brine Services is the current owner of the parcel of land identified as C-4 on Appendix C. Environmental Brine Services is a "person" as defined by ORC Section 3734.01(G).

ll. Fairport Village Board of Education, a political subdivision of the State of Ohio, accepted as a gift and is the current owner of the parcels of land identified as C-2 and A-1 on Appendix C. Fairport Village Board of Education is a "person" as defined by ORC Section 3734.01(G).

mm. Steven and Calvina Gagat are the current owners of the parcel of land identified as A-3 on Appendix C. Steven and Calvina Gagat are "persons" as defined by ORC Section 3734.01(G).

nn. John Grantham is the current owner of the parcel identified as A-5 on Appendix C. John Grantham is a "person" as defined by ORC Section 3734.01(G).

oo. Hach Excavation & Demolition, Inc., a demolition, clearing and grading business, is the current owner and operator of the parcel of land identified as 3 on Appendix C and is the current operator of the parcel

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identified as 2 on Appendix C. Hach Excavation & Demolition, Inc., is a "person" as defined by ORC Section 3734.01(G).

pp. Paul and Marlene Hach are the current owners of the parcels identified as 2 and 4 on Appendix C. Paul and Marlene Hach are "persons" as defined by ORC Section 3734.01(G).

qq. James Paul Management is a current owner of two parcels of land within the Site, identified as parcels VII D and VII E on Appendix C. James Paul Management is a "person" as defined in ORC Section 3734.01(G).

rr. Lake County Board of Commissioners, a political subdivision of the State of Ohio, is the current owner of the parcel of land identified as V in Appendix C. This land was purchased from Diamond Shamrock Corp. Lake County Board of Commissioners is a "person" as defined by ORC Section 3734.01(G).

ss. Lake Underground Storage Corporation, a buyer, seller, and distributor of liquid petroleum gas products and related activities, is the current owner of the parcel of land identified as D on Appendix C. Lake Underground Storage Corporation operated injection wells in the vicinity of the Settling Basin #4 area. Lake Underground Storage Corporation is a "person" as defined in ORC Section 3734.01(G).

tt. Ralph M. Lederer is the current owner of the parcel identified as VII.F. on Appendix C. Ralph M. Lederer is a "person" as defined by ORC Section 3734.01(G).

uu. Little Seedlings, Inc., a railroad distribution operator, is the current owner of the parcel identified as C-3 on Appendix C, and is the current operator of parcels identified as 4 and C-3 on Appendix C. Little Seedlings, Inc., is a "person" as defined by ORC Section 3734.01(G).

vv. Martin Marietta Corporation, as a successor to the Glen L. Martin Company, operated a vinyl chloride and polyvinyl chloride monomer production facility on the Site, and is the former owner and operator of the parcel of land identified as X on Appendix C. Martin Marietta Corporation is a "person" as defined by ORC Section 3734.01(G).

ww. Maxus Energy Corporation owned the stock of Diamond Shamrock from 1983 to 1986. Maxus Energy Corporation's indirect wholly-owned subsidiary,

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Chemical Land Holdings Inc., is the current owner of the parcels of land identified as II, IV, 1, A, C-1, A-6 and A-8 on Appendix C. Maxus Energy Corporation has operated and maintained a portion of the Site, carried out response activities and has exercised environmental management over portions of the Site. Maxus Energy Corporation has also disposed of, or authorized the disposal of, solid waste on the Site, in violation of Ohio Administrative Code (OAC) Section 3745-27-05(C) and OAC Section 3745-27-01(CC). Statements made by Occidental Chemical Corporation, the successor by merger to Diamond Shamrock, indicate that Maxus Energy Corporation has acted, and continues to act, on behalf of Occidental Chemical Corporation with respect to the Site. Maxus Energy Corporation is a "person" as defined by ORC Section 3745.01(G).

xx. Nacelle Land & Management Corporation, which disposes of oil field brine (by injection into mining wells formerly used by Diamond Shamrock for brine solution mining and converted for deep well injection) received from well sites and licensed haulers, is the current owner of a 484.73-acre parcel of land identified as G-1 on Appendix C. Nacelle Land & Management Corporation is a "person" as defined in ORC Section 3734.01(G).

yy. National GG Industries, which purchased the Coke Plant property from Erie Coke and Chemical Company (now Scepter Management) in 1983, is the former owner and operator of the parcel of land identified as III on Appendix C. National GG in 1986 began demolition of Erie Coke facilities. In 1988, the Ohio EPA requested that all demolition cease, as there was evidence that hazardous waste was being released as a result of the demolition. National GG Industries is a "person" as defined by ORC Section 3734.01(G).

zz. Norfolk & Western Railroad Company, the successor to the Fairport, Painesville, and Eastern Railroad Company (FP&E RR), is the current owner of 25 acres of parcels identified as 1-A and 1-B on Appendix C and has been the operator of the rail system, including a roundhouse (repair yard) and rail spurs, that traverses the Site since at least 1912. Norfolk Southern is a holding company that owns all the common stock of and controls a major freight railroad and motor carrier. Norfolk Southern Corporation is a "person" as defined in ORC Section 3734.01(G).

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aaa. Occidental Chemical Corporation, a subsidiary of Occidental Petroleum Corporation, is the successor by merger to Diamond Shamrock, the former owner/operator of the Painesville Works and surrounding property within the Site. Occidental Chemical Corp. is a "person" as defined by ORC Section 3734.01(G).

bbb. Painesville Township Board of Trustees, a political subdivision of the State of Ohio, is the current owner of the parcel of land identified as E on Appendix C. Painesville Township Board of Trustees previously used the property for a municipal solid waste disposal facility from approximately 1961 to the early 1970s. Painesville Township Board of Trustees is a "person" as defined by ORC Section 3734.01(G).

ccc. Pressure Vessels Services of Ohio, Inc. (PVS), a distributor of chemicals, is the current owner and operator of the parcel of land identified as VIII on Appendix C. PVS negotiated for and obtained the right to dispose of pickle liquor on former Settling Basin #4. PVS is a "person" as defined by ORC Section 3734.01(G).

ddd. RDL Properties, Inc., a partnership, is the current owner of the parcel of land identified as VII.C. on Appendix C. RDL Properties is a "person" as defined by ORC Section 3734.01(G).

eee. Roadway Express, Inc., a trucking/shipment company that became a wholly-owned subsidiary of Roadway Services, Inc. in 1982, is the current owner and former operator of the parcel of land identified as A-2 on Appendix C. Roadway Express, Inc. is "person" as defined by ORC Section 3734.01(G).

fff. Scepter Management Inc., as successor to Erie Coke and Chemical Company, is the former owner and operator of the Coke Plant property identified as III on Appendix C. Scepter Management disposed of, at least, iron oxide filings and coal tar decanter sludge on the Coke Plant property. Scepter Management may also have contributed to the condition of the Coke Plant property as the entity ultimately responsible for the shutdown of the Coke Plant operations and demolition of the Coke Plant structures. Scepter Management is a "person" as defined in ORC Section 3734.01(G).

ggg. Schuster Service, Inc., a towing and repair company located in Fairport Harbor, Ohio, is the current owner and operator of the parcel of land

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identified as VII.G. and VI.A. on Appendix C. Schuster Service, Inc. is a "person" as defined in ORC Section 3734.01(G).

hhh. Standard Machine and Equipment Company (SME), a machine demolition and removal company, is the current owner of the parcels of land identified as B, VI.B. and VI.C. on Appendix C. SME was involved in the demolition, scrapping of metal, and removal of equipment and facilities at the Painesville Works. Standard Machine and Equipment Company is a "person" as defined by ORC Section 3734.01(G).

iii. Tanner Industries, Inc., a distributor of anhydrous ammonia, is the current owner and operator of the parcel of land identified as VII.H. on Appendix C. Tanner Industries, Inc. is a "person" as defined in ORC Section 3734.01(G).

jjj. Uniroyal Chemical Company, Inc., is the successor in interest to the chemical business of Uniroyal, Inc., a former owner of the parcel of land identified as X on Appendix C, which Uniroyal, Inc. purchased from the Glen L. Martin Company (now Martin Marietta Corporation). Uniroyal operated a vinyl chloride monomer and polyvinyl chloride plant on this parcel. Diamond Shamrock is not known to have used this parcel for manufacturing or waste disposal. Uniroyal Chemical Company, Inc., is a "person" as defined by ORC Section 3734.01(G).

kkk. Village of Fairport Harbor, a political subdivision of the State of Ohio, is the current owner of the parcel identified as A-7 on Appendix C. Village of Fairport Harbor previously used the property for a municipal solid waste disposal facility. Respondent Village of Fairport Harbor is a "person" as defined in ORC Section 3734.01(G).

lll. Because of their quantity, concentration, or physical or chemical characteristics, the Director has determined that spent pickle liquor, hexavalent chromium, calcium chloride, ammonia, cadmium, chromium, copper, lead, zinc, nickel, manganese, vanadium, mercury, 4,4'-DDD, 4,4'-DDT, aluminum, arsenic, beryllium, cobalt, iron, phenanthrene, fluoranthrene, pyrene, benzo(a)anthracene, chrysene, 4,4'-DDE, Endrin aldehyde, bis (2-ethylhexyl) phthalate, PCB-1260, Heptachlor epoxide, Di-n butyl phthalate, Dieldrin, and PCB-

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1254, and other contaminants found at the Site are "hazardous wastes" as defined under Section 3734.01(J) of the Ohio Revised Code.

mmm. The Site is a hazardous waste facility, solid waste facility, or other location where hazardous waste was treated, stored, or disposed.

nnn. Conditions at the Site are causing or contributing or threatening to cause or contribute to air or water pollution or soil contamination.

ooo. Spent pickle liquor, hexavalent chromium, calcium chloride, ammonia, cadmium, chromium, copper, lead, zinc, nickel, manganese, vanadium, mercury, 4,4'-DDD, 4,4'-DDT, aluminum, arsenic, beryllium, cobalt, iron, phenanthrene, fluoranthrene, pyrene, benzo(a)anthracene, chrysene, 4,4'-DDE, Endrin aldehyde, bis (2-ethylhexyl) phthalate, PCB-1260, Heptachlor epoxide, Di-n butyl phthalate, dieldrin, and PCB-1254, and other contaminants found at the Site are "industrial wastes" or "other wastes" as defined under Section 6111.01 of the Ohio Revised Code.

ppp. The ground water and surface water at or within the vicinity of the Site are "waters of the state" as defined under Section 6111.01(H) of the Ohio Revised Code.

qqq. The Work required by these Orders will contribute to the prohibition or abatement of the discharge of industrial wastes or other wastes into the waters of the state.

rrr. In issuing these Orders, the Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economical reasonableness of complying with these Orders and evidence relating to conditions calculated to result from compliance with these Orders, and their relation to benefits to the people of the state to be derived from such compliance.

V. GENERAL PROVISIONS

8. Objectives of the Parties

The objective of the Parties in entering into these Orders is to follow a program of sound and feasible scientific, engineering and construction practices to protect public health, safety, and welfare and the environment from

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the disposal, discharge, or release of, Hazardous Substances, at the Site through the development and implementation of an RI/FS Work Plan by Respondents consistent with the NCP. These Orders have been negotiated in good faith and the implementation of these Orders will expedite the investigation of the Site and will avoid prolonged and complex litigation over the RI/FS between the State of Ohio and the Respondents.

9. Commitment of Respondents

Without admission of fact, violation or liability, Respondents shall perform the Work in accordance with these Orders, including but not limited to, the SOW, relevant guidance documents identified in accordance with Paragraph 12.b of these Orders, and all standards, specifications, and schedules set forth in or developed pursuant to these Orders consistent with the objectives set forth in Paragraph 8 and the approved Work Plan. Respondents shall also reimburse Ohio EPA for Response Costs as provided in these Orders.

Ohio EPA acknowledges that:

- (i) Respondents are early settlers;
- (ii) Early settlement is valuable;
- (iii) Other parties who received special notice letters and /or general notice letters have not been involved in negotiating these Orders and have failed to participate cooperatively to date;
- (iv) Respondents intend to pursue contribution and other legal or equitable remedies from other liable non-settling parties as permitted by State or federal law, and Ohio EPA agrees to provide reasonable assistance to the Respondents in those contribution and other claims.

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10. Compliance With Law

a. All activities undertaken by Respondents pursuant to these Orders shall be performed in accordance with the requirements of all applicable federal and state laws and regulations.

b. Respondents shall perform the activities required pursuant to these Orders in a manner which is consistent with the NCP. The Ohio EPA believes

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that activities conducted pursuant to these Orders, if approved by the Ohio EPA, are consistent with the NCP.

c. Where any portion of the Work requires a permit or approval, Respondents shall timely submit applications and take all other actions lawfully required to obtain such permits or approval. These Orders are not, and shall not be construed to be, a permit issued pursuant to any statute or regulation.

VI. PERFORMANCE OF THE WORK BY RESPONDENTS

11. Supervising Contractor

All Work performed pursuant to these Orders shall be under the direction and supervision of a supervising contractor with expertise in hazardous waste site investigation and remediation. Prior to the initiation of the Work, Respondents shall notify Ohio EPA in writing of the name of such supervising contractor and any subcontractor then identified to be used in carrying out the terms of these Orders, identifying those who engage in tasks of environmental investigation required by the RI/FS Work Plan, and further identifying any additional contractors or subcontractors engaged as such subsequent to the initial notification.

12. Remedial Investigation and Feasibility Study

a. Within sixty (60) days after the effective date of these Orders, Respondents shall submit to Ohio EPA a work plan for implementation of the Remedial Investigation and Feasibility Study for the Site. The RI/FS Work Plan shall provide for the determination of the nature and extent of the contamination of the Site caused by the disposal, discharge, or release of Hazardous Substances, and for the development and evaluation of remedial alternatives for the cleanup of the Site. All Work to be undertaken by the Respondents under these Orders, including any additional work in accordance with Section VII, Additional Work, or any Interim Action in accordance with Paragraph 12.f, shall be set forth in writing and incorporated into the RI/FS Work Plan.

b. The RI/FS Work Plan shall be developed in conformance with the SOW and the guidance documents listed in Appendix B to these Orders, attached hereto and incorporated herein unless the Parties mutually agree otherwise. If Ohio EPA or the Respondents determine that any additional or revised guidance

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documents in use by Ohio EPA or U.S. EPA after the effective date of these Orders affect the Work to be performed in implementing the Remedial Investigation and Feasibility Study, the Party discovering the new guidance shall notify the other in writing, and the RI/FS Work Plan and other affected documents shall be modified accordingly. Tasks required under the approved RI/FS Work Plan which have already been materially implemented shall not be required by these Orders to be redone pursuant to any revised or additional guidance documents without the Respondents' consent, which consent shall not be unreasonably withheld. The exception will be guidance documents which materially affect cleanup levels and exist prior to the Ohio EPA issuing the preferred plan.

c. Ohio EPA acknowledges that Respondents and governmental agencies have performed prior investigatory work at the Site, and agrees that Respondents may submit the data so obtained, including quality assurance/quality control information, to Ohio EPA. Ohio EPA agrees to review such data and approve or disapprove the inclusion of such data in the RI/FS.

d. Ohio EPA will review the RI/FS Work Plan pursuant to the procedures set forth in Section XII, Review of Submittals. Upon approval of the RI/FS Work Plan by Ohio EPA, Respondents shall implement the RI/FS Work Plan. Respondents shall submit all plans, reports, or other deliverables required under the approved RI/FS Work Plan, in accordance with the approved schedule, for review and approval pursuant to Section XII, Review of Submittals.

e. Within fourteen (14) days of the effective date of these Orders, Respondents shall meet with the Ohio EPA to discuss the requirements of the RI/FS Work Plan unless otherwise mutually agreed to by the Parties.

f. As of the effective date of these Orders and based on information then known to Ohio EPA, Ohio EPA has determined that no Interim Actions are necessary.

g. This sub paragraph sets forth the exclusive mechanism for requiring an Interim Action. Within thirty (30) days of receipt of written notice from the Ohio EPA that an Interim Action needs to be performed at the Site, Respondents shall indicate in writing their willingness to perform such an Interim Action. If Respondents are willing to perform the Interim Action,

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Respondents shall provide a proposed schedule to the Ohio EPA within ten (10) days, which schedule shall be approved by the Ohio EPA, for submitting an Interim Action work plan for the performance of the Interim Action. Upon approval of the Interim Action work plan by the Ohio EPA pursuant to Section XII, Review of Submittals, Respondents shall implement the work plan in accordance with the schedules contained therein. Respondents' obligation to perform such an Interim Action under these Orders shall arise upon Respondents' written notice indicating their willingness to perform the Interim Action. Respondents acknowledge that the conditional nature of the obligation to perform such an Interim Action represents a pilot project undertaken by the Ohio EPA with the knowledge of U.S. EPA as a result of factors specific to this Site. Respondents further acknowledge that this approach does not establish a precedent for future negotiations or enforcement actions undertaken by the Ohio EPA.

h. The provisions of Section XIII, Dispute Resolution, shall apply to Paragraphs 12.b and 12.f.

13. Within ninety (90) days of the effective date of these Orders, Respondents shall submit to the Ohio EPA for review and comment a health and safety plan developed in conformance with the guidance documents listed in Appendix B.

VII. ADDITIONAL WORK

14. Ohio EPA or Respondents may determine that in addition to the tasks defined in the approved RI/FS Work Plan, additional work may be necessary to accomplish the objectives of these Orders as set forth in Paragraph 8 of these Orders and the SOW. Ohio EPA may require additional work based on conditions and/or events at the Site to the extent such conditions or events were not known by Ohio EPA at the date of approval of the Work Plan. If a determination made by Ohio EPA that additional work (other than confirmatory sampling) is necessary is based solely on analytical data, such data shall be validated in accordance with the guidance documents in Appendix B. In the event that Ohio EPA determines that additional work is required based upon validated data with respect to which Respondents have not had the opportunity to observe and to take split and/or duplicate samples, Respondents may perform confirmatory sampling. The provisions

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of Section XIII, Dispute Resolution, shall apply to this Section VII, Additional Work.

15. Prior to Ohio EPA's issuance of the written certification of completion provided for in Section XXIV on Termination, Ohio EPA may send Respondents written notice that additional work is necessary to achieve the purpose of these Orders, subject to the preceding paragraph. Ohio EPA's written notice shall include an explanation of why such additional work is necessary. Within ten (10) days of receipt of written notice from Ohio EPA, Respondents shall submit a schedule for submittal of an amendment to the RI/FS Work Plan for the performance of the additional work. The amendment to the RI/FS Work Plan shall conform to the standards and requirements set forth in Paragraph 8 and Paragraph 12.b. of these Orders. Upon approval of the amendment to the RI/FS Work Plan by Ohio EPA pursuant to Section XII, Review of Submittals, Respondents shall implement such amendment in accordance with the standards, specifications and schedules contained therein. Without waiving any other provision of these Orders, in the event there is a delay in the time schedules set forth in the RI/FS Work Plan, subsequent schedules may be adjusted accordingly upon agreement of the Parties. Such agreement shall not be unreasonably withheld by Ohio EPA, and such delay shall not be considered a violation of these Orders.

16. In the event that Respondents determine that additional work is necessary to fulfill these Orders, Respondents shall notify Ohio EPA. Ohio EPA may then, at its discretion, take action triggering the obligations of Ohio EPA and Respondents in accordance with this Section.

VIII. SAMPLING AND DATA AVAILABILITY

17. Respondents shall notify Ohio EPA not less than fifteen (15) days in advance of all sample collection activity required by the Work Plan (unless the Site Coordinators mutually agree on a shorter period of time). Upon request, Respondents shall allow split and/or duplicate samples to be taken by Ohio EPA of any samples required by the Work Plan. Ohio EPA shall also have the right to take any additional samples it deems necessary. Upon request, Ohio EPA shall allow Respondents to take split and/or duplicate samples of any samples Ohio EPA takes as part of its oversight of Respondents' implementation of the Work.

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Respondents shall also have the right to take any additional samples they deem necessary. Any such sampling will comply with the requirements of ORC Section 3734.02(H) and OAC 3745-27-13, if applicable. Nothing in this Section shall limit the rights of the Ohio EPA under ORC Chapters 6111 or 3734 nor the rights of any Respondent with respect to Ohio EPA's exercise of any rights under ORC Chapters 6111 or 3734.

18. All raw data generated by or on behalf of Respondents and required by the Work Plan shall be available for inspection by Ohio EPA at Respondents' designated address under Section XI, Progress Reports and Notice. Within seven (7) days of receipt of a request by Ohio EPA, Respondents shall submit to Ohio EPA copies of the results of all sampling and/or tests or other data, including validated raw data and original laboratory reports, generated by or on behalf of Respondents with respect to the Site and/or the implementation of these Orders. Respondents may submit to Ohio EPA any interpretive reports and written explanations concerning the raw data and original laboratory reports. Such interpretive reports and written explanations shall not be submitted in lieu of original laboratory reports and raw data. No amendments to the Work Plan shall be required by Ohio EPA solely on the basis of unvalidated raw data. Should Respondents subsequently discover an error in any report or raw data, Respondents shall promptly notify Ohio EPA of such discovery and provide the correct information.

IX. ACCESS

19. Ohio EPA shall have access to the Site and any other property to which access is required for the implementation of these Orders, to the extent access to the property is controlled by Respondents. Access under these Orders shall be for the purpose of conducting any activity related to these Orders including but not limited to the following:

- a. Monitoring the Work;
- b. Conducting sampling;
- c. Inspecting and copying records, operating logs, ~~contract~~ and/or other documents related to the implementation of these Orders;
- d. Conducting investigations and tests related to the

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implementation of these Orders; and

e. Verifying any data and/or other public information submitted to Ohio EPA.

20. To the extent that any portion of the Site or any other property to which access is required for the implementation of these Orders is owned or controlled by persons other than Respondents, Respondents shall use reasonable best efforts to secure from such persons access for Respondents and the Ohio EPA as necessary to effectuate these Orders. Copies of all access agreements obtained by Respondents shall be provided promptly to Ohio EPA. If any access required to effectuate these Orders is not obtained within thirty (30) days of the effective date of these Orders, or within thirty (30) days of the date Ohio EPA notifies Respondents in writing that additional access beyond that previously secured is necessary, Respondents shall promptly notify the Ohio EPA of the steps Respondents have taken to attempt to obtain access. Upon the request of Ohio EPA, Respondents shall promptly submit in writing a summary of their efforts to obtain access. Ohio EPA may, as it deems appropriate, assist Respondents in obtaining access. Failure by Respondents to gain access despite the exercise of all reasonable best efforts, and any delay resulting therefrom, will not be considered a violation of these Orders.

21. Notwithstanding any provision of these Orders, the State of Ohio retains all of its access rights and authorities, including enforcement authorities related thereto, under any applicable statute or rule. The provisions of Section XIII, Dispute Resolution, shall apply to this Section.

X. DESIGNATED SITE COORDINATORS

22. Within fourteen (14) days of the effective date of these Orders, Respondents shall notify Ohio EPA, in writing, of the name, address and telephone number of their designated Site Coordinator and Alternate Site Coordinator. Within fourteen (14) days of the effective date of these Orders, Ohio EPA shall notify Respondents of the name, address and telephone number of its designated Site Coordinator. Ohio EPA and Respondents reserve the right to change their respective Site Coordinator or Alternate Site Coordinator. Such a change shall be accomplished by notifying the other Party in writing prior to the change,

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unless impracticable.

23. To the maximum extent practicable, except as specifically provided in these Orders, communications between Respondents and Ohio EPA concerning the implementation of these Orders shall be made between the Site Coordinators. Any dispute arising out of these Orders may be addressed informally by the Parties' Site Coordinators (together with each Party's technical personnel, consultants or contractors as may be necessary) until such time as one Party invokes a formal dispute pursuant to Section XIII, Dispute Resolution. Respondents' Site Coordinator shall be reasonably available for communication with Ohio EPA, and Ohio EPA's Site Coordinator shall be reasonably available for communication with Respondents regarding the implementation of these Orders for the duration of these Orders. Each Site Coordinator shall be responsible for assuring that all communications from the other side are appropriately disseminated and processed. In order to facilitate the exchange of information regarding the Site, the Site Coordinators shall meet in person monthly, unless mutually agreed otherwise. Respondents' Site Coordinator or designated Alternate Site Coordinator shall be present on the Site or on call during all hours of Work at the Site.

24. Without limitation of any authority conferred on Ohio EPA by statute or regulation, the Ohio EPA Site Coordinator's authority includes, but is not limited to, the exercise of authority granted by other sections of these Orders in accordance with the applicable provisions of those sections, including the following:

- a. Taking samples and directing, pursuant to an approved Work Plan, the type, quantity and location of samples to be taken by Respondents;
- b. Observing, taking photographs, or otherwise recording information related to the implementation of these Orders, including the use of any mechanical or photographic device;
- c. Directing that specific Work activities stop for a period not to exceed seventy-two (72) hours whenever the Site Coordinator for Ohio EPA determines that those activities at the Site may create or exacerbate a threat to public health or safety, or threaten to cause or contribute to air or water pollution or soil contamination, with an equal extension to the schedule for any

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Work or submittals directly affected by the Work stoppage;

d. Conducting investigations and tests related to the implementation of these Orders;

e. Inspecting and copying records, operating logs, contracts and/or other documents related to the implementation of these Orders in accordance with the requirements of these Orders on document availability; and

f. Assessing for Ohio EPA Respondents' compliance with these Orders.

XI. PROGRESS REPORTS AND NOTICE

25. Unless otherwise directed by Ohio EPA, Respondents shall submit a written progress report to the Ohio EPA by the tenth (10) day of every month except upon mutual agreement of the Site Coordinators during periods of little activity, when progress reports may be submitted quarterly. At a minimum, the progress reports shall:

a. Describe the status of the Work and actions taken toward achieving compliance with the Orders during the reporting period;

b. Describe difficulties encountered during the reporting period and actions taken to rectify any difficulties;

c. Describe activities planned for the next month;

d. Identify changes in key personnel;

e. List target and actual completion dates for each element of activity, including project completion;

f. Provide an explanation for any deviation from any applicable schedules; and

g. Indicate how much contaminated soil was removed and contaminated ground water was pumped and indicate where such contaminated media were disposed of.

26. Progress reports and all other documents required to be submitted pursuant to these Orders shall be sent by certified mail return receipt requested, or equivalent or facsimile transmission with original sent by regular mail, or hand delivery, to the following addresses:

Ohio Environmental Protection Agency
1800 WaterMark Drive
P.O. Box 1049

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Columbus, Ohio 43216-1049
ATTN: Manager, TPSS, DERR
Facsimile: 614/644-3146

Ohio EPA
Northeast District Office
2110 East Aurora Road
Twinsburg, Ohio 44087
ATTN: Site Coordinator, Diamond Shamrock Site, DERR
Facsimile: 216/487-0769

All correspondence to Respondents shall be directed to the following address:

Physical Address
Painesville PRP Group
C/o Chemical Land Holdings, Inc.
Midland Building, Suite 207
10 West Erie Street
Painesville, Ohio 44077
ATTN: Diamond Shamrock Site Coordinator
Facsimile: 216/350-9904
Telephone: 216/350-9901

Mailing Address
Painesville PRP Group
P. O. Box 0188
Painesville Ohio, 44077
ATTN: Diamond Shamrock Site Coordinator

With copies to:

Maxus Energy Corporation
717 North Harwood Street
Dallas, Texas 75201
Attention: General Manager, Environmental Affairs

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XII. REVIEW OF SUBMITTALS

27. Ohio EPA shall review any work plan, report, or other item required to be submitted pursuant to these Orders. The review and approval by Ohio EPA of all submittals required by this Consent Order will include an examination for consistency with the NCP. When any task to be performed pursuant to these Orders is contingent on prior Ohio EPA review and decision, the time for beginning and completing the subsequent task shall be calculated from the completion of Ohio EPA review and decision. Ohio EPA will attempt to review documents on an expedited basis as necessary to avoid delay in the implementation of any measures that may be required in accordance with the Work Plan. In the event modifications or additions to submittals requested by Ohio EPA delay the time schedules set forth in the Work Plan, the schedules may be adjusted accordingly upon agreement of the Parties; such agreement shall not be unreasonably withheld by Ohio EPA, and such delay shall not be considered a violation of these Orders.

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All periods of time for action, decisions, submittals and notices by Respondents and by Ohio EPA shall begin upon receipt of the document which triggers the time period. Whenever a period of time begins upon an exchange of documents, the period begins when the later of the two documents is received. All actions, decisions, submittals and notices by Respondent and by Ohio EPA in connection with these Orders shall be made within a reasonable time, and the Site Coordinators shall notify each other of expected time periods for such actions, decisions, submittals and notices whenever a particular time period is not specified in these Orders or the Work Plan. Upon review and in writing, Ohio EPA may: (a) approve the submission in whole or in part; (b) approve the submission upon specified conditions; (c) require Respondents to modify the submission; (d) disapprove the submission in whole or in part, notifying Respondents of deficiencies; or (e) any combination of the above. In the event Respondents are notified by Ohio EPA that the submission is approved upon conditions or disapproved in whole or in part, or that modifications are required, Ohio EPA shall include a statement in the written notification that it is made pursuant to this paragraph and provide a specification of the deficiencies and an explanation as to why such modifications or additions are necessary (including the technical basis where applicable).

28. In the event of approval or approval upon condition, Respondents shall proceed to take any action required by the submission as approved or conditionally approved by Ohio EPA.

29. In the event that Ohio EPA notifies Respondents of any deficiencies or required modifications, Respondents shall within thirty (30) days of receipt of Ohio EPA's written notice of deficiency (i) remedy the deficiencies specified and submit a revised submission to Ohio EPA for approval or, (ii) to the extent that Respondents contest the existence of any deficiencies including any conditions, requested modifications, changes, additions, and/or deletions specified by the Ohio EPA, Respondents shall initiate the procedures for dispute resolution set forth in Section XIII, Dispute Resolution. If the deficiencies require more than thirty (30) days for the Respondents to respond, the Respondents shall, within fifteen (15) days of receipt of Ohio EPA's notice of

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deficiency, notify Ohio EPA in writing of a reasonable new due date for completion of their response. Ohio EPA shall not unreasonably withhold approval of Respondents' proposed new due date. Respondents' revised submission shall incorporate all of the uncontested conditions, requested modifications, changes, additions, and/or deletions specified by Ohio EPA in its notice of deficiency. Notwithstanding the notice of deficiency, Respondents shall proceed to take any action required by the portion of the submission not affected by Ohio EPA's notice of deficiency.

30. In the event that Ohio EPA disapproves in whole or in part and notifies Respondents of any deficiencies or required modifications following a revised submission, Respondents shall within fourteen (14) days (i) remedy the deficiencies specified and/or incorporate all changes, additions, and/or deletions and submit a revised submission to Ohio EPA, or (ii) to the extent that Respondents contest the existence of any deficiencies and any changes, additions, and/or deletions specified by the Ohio EPA, initiate the procedures for dispute resolution set forth in Section XIII, Dispute Resolution. Respondent shall not initiate Dispute Resolution for a matter which (i) was previously the subject of Dispute Resolution, or (ii) the opportunity to dispute was previously available and where Respondents made no effort to remedy the deficiencies specified by Ohio EPA in the revised submission. Ohio EPA shall not claim as a deficiency any matter previously made the subject of Dispute Resolution to the extent the revised submission reflects the actual resolution of the dispute. If the deficiencies require more than fourteen (14) days for Respondents to respond, the Respondents shall, within seven (7) days of receipt of the notice of deficiency, notify Ohio EPA in writing of a reasonable new date for the completion of the response. Ohio EPA shall not unreasonably withhold approval of Respondents' proposed new due date. Instead of requiring Respondents to cure deficiencies following disapproval of a revised submission, Ohio EPA retains the right to modify the revised submission (provided that such modifications are clearly identified as authored by Ohio EPA, and Respondents may apply the provisions of Section XIII, Dispute Resolution, to such modifications, if not previously disputed), terminate these Orders, perform any additional remediation,

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conduct a complete or partial Remedial Investigation and Feasibility Study, and/or enforce the terms of these Orders.

31. All work plans, reports, or other items required to be submitted to Ohio EPA under these Orders shall, upon approval by Ohio EPA, be deemed to be incorporated in and made an enforceable part of these Orders. In the event that Ohio EPA approves a portion of a work plan, report, or other item, the approved portion shall be deemed to be incorporated in and made an enforceable part of these Orders. Delays in performance of Work covered by these Orders due to the time taken for government review shall not be considered a violation of these Orders or counted toward the running of time limits under these Orders.

XIII. DISPUTE RESOLUTION

32. The Site Coordinators shall, whenever possible, operate by consensus. In the event that there is a dispute about the adequacy of any work plan, report, or other item required to be submitted pursuant to these Orders, the Site Coordinators shall have seven (7) days from the date the dispute arises to reduce their positions to writing. The dispute shall be considered to have arisen when one Party notifies the other Party in writing that it is invoking the dispute resolution procedures of this Section. The written positions of the Site Coordinators shall include the technical rationale supporting the Party's position and shall be immediately exchanged by the Site Coordinators. This seven (7) day period for the exchange of written positions may be extended by mutual agreement of the Parties. Such agreement shall not be unreasonably withheld.

33. Following the exchange of written positions, the Site Coordinators shall have an additional seven (7) days to resolve the dispute. Ohio EPA and Respondents shall have the right to select additional personnel to participate in resolution of the dispute on their own behalf. If Ohio EPA concurs with the position of Respondents, then the Work Plan, report, or other item required to be submitted pursuant to these Orders shall be modified accordingly. If a dispute still exists on an issue involving the approval of the Work Plan, an Interim Action required by Ohio EPA to be performed by Respondents under these Orders, or amendment to the Work Plan (including additional work) totalling over \$175,000.00 required by Ohio EPA to be performed by Respondents under these

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Orders, the Respondents, by notifying the Ohio EPA in writing within five (5) days after the last dispute resolution meeting under this Paragraph, may invoke the provisions of Section XIV, Mediation. The availability of Mediation is limited to disputes as described in this paragraph, and Respondents may invoke Mediation once only for issues regarding approval of the Work Plan, and once only for each required Interim Action or incidence of additional work valued over \$175,000.00. In order to invoke Mediation over the requirement for additional work, Respondents must submit proof of the cost of such work along with their request for Mediation; acceptance of such proof is at Ohio EPA's discretion, which acceptance shall not be unreasonably withheld, and Ohio EPA may require the submittal of additional information before Mediation proceeds.

34. If Ohio EPA does not concur with Respondents, the Ohio EPA Site Coordinator shall notify the Respondents of Ohio EPA's position in writing. Ohio EPA's position shall be based upon and consistent with these Orders, the SOW, and other federal and state laws and regulations. Within seven (7) days of receipt of such notice from Ohio EPA, Respondent may forward a written statement and request for a meeting to the Chief of the Division of Emergency and Remedial Response ("DERR") or his/her designee to resolve the dispute. The designee if needed shall be an Assistant Chief of DERR. If the Respondents do not forward a written statement requesting a meeting within seven (7) days of receipt of Ohio EPA's position, the dispute shall be deemed resolved by Ohio EPA pursuant to the Ohio EPA's written position. If the Respondents request a meeting with the Chief of DERR, then such a meeting shall be held between the Parties as soon as practicable. The meeting shall be limited to concise presentations of their positions by each Party, first by the Respondents followed by the district office staff. The chief or his/her designee shall be free to ask questions or solicit input from either Party. The Chief of DERR shall issue a resolution of the dispute in writing based upon and consistent with these Orders, the SOW, and other appropriate federal and state laws and regulations within seven (7) days of the requested meeting. The pendency of a dispute under this Section shall not affect the time period for completion of the Work, except that upon mutual agreement of the Parties, any time period may be extended as appropriate under

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the circumstances. Such agreement shall not be unreasonably withheld by Ohio EPA. Elements of the Work not affected by the dispute shall be completed in accordance with applicable schedules and timeframes. The opportunity to invoke dispute resolution under this Section shall not be available to Respondents unless otherwise expressly stated with respect to an individual provision of these Orders.

XIV. MEDIATION

36. The Parties agree to be bound by the provisions of this Section and to cooperate with one another to effectuate the purposes of the Mediation. This Mediation is for the exclusive benefit of the Parties to effectuate the purposes stated herein and shall not be deemed to give or imply any legal or equitable right, interest, remedy, benefit or claim to any other entity or person. The Mediation shall not be binding and shall not impede Ohio EPA's authority to enforce these Orders or exercise any other legal authority. The Parties may modify the procedures of this Section by mutual written agreement.

37. The purposes of the Mediation are as follows:

a. to provide a formal, voluntary and non-binding mechanism involving the services of an independent third-party neutral person to expedite free discussion of the issues set forth herein;

b. to freely discuss, without prejudice, any issues related to the approval of the Work Plan, an Interim Action required by Ohio EPA to be performed by Respondents under these Orders, or amendments to the Work Plan (including additional work) totalling over \$175,000.00 required by Ohio EPA to be performed by Respondents under these Orders; and

c. to freely exchange ideas relative to the issues subject to mediation.

38. Within forty-five (45) days of the journalization date of these Orders, Respondents shall provide a list of no fewer than six (6) Mediator candidates to the Ohio EPA, along with resumes, background material, curricula vitae and/or other appropriate information relevant to a Mediator's qualifications as described in this Section. The Mediator candidates shall have experience and/or education relevant to RI/FS-type work. Upon written

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notification from Ohio EPA that one or more of the Mediator candidates has been rejected, prior to the occurrence of any dispute in which Mediation is invoked Ohio EPA may request Respondents to provide additional names of Mediator candidates equal to the number rejected but no more than six (6), and Respondents shall comply with any such request from Ohio EPA within a reasonable period of time not to exceed forty-five (45) days. Respondents may propose a longer period of time if more than one Mediator candidate is involved and Ohio EPA approval will not be unreasonable withheld. In addition, prior to the occurrence of any dispute in which Mediation is invoked, Respondents may propose up to six (6) additional names of Mediator candidates. In the event that the provisions of this Section are invoked by Respondents, the Ohio EPA shall select the Mediator from the list of candidates provided by Respondents, in accordance with Paragraph 41.a., below. The Mediator shall be an independent and impartial individual, experienced in mediation techniques and preferably knowledgeable in the subject matter of the dispute, who shall perform the functions stated as follows in this Section and incidental actions necessary for carrying out these functions:

a. Working with the Parties to establish reasonable procedures necessary to carry out the purposes of this Section, including successfully meeting established deadlines.

b. Gathering and/or disseminating information from the Parties as needed to clarify issues raised during the process of mediation.

c. Meeting with any or all of the Parties or their counsel, or their experts in joint or individual meetings as he or she deems appropriate in order to further mutual understanding of the issues.

d. Facilitating discussions among the Parties in a manner which encourages open and productive sharing of ideas.

e. Taking appropriate measures to discourage counterproductive behaviors such as positioning or posturing.

f. Preparing written meeting agendas and summary notes, upon mutual request of the Parties.

The Mediator may retain an assistant as required to facilitate the Mediation.

39. The Parties and the candidates for Mediator shall immediately

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disclose to each other any circumstances which may cause justifiable doubt as to the independence or impartiality of any individual or firm under consideration. Following the selection, the Parties and the Mediator shall have a continuing duty to disclose to each other immediately any circumstances which may cause justifiable doubt as to the independence or impartiality of the selected Mediator. These same conflict of interest rules shall apply to any assistant retained by the Mediator for this Mediation.

40. Upon selection of the Mediator by Ohio EPA, the Respondents shall enter into a contract which outlines the agreements between the Parties and the Mediator as to fees, schedules, duties, and payments. The Mediation contract shall reflect that Respondents shall bear responsibility for payment of all Mediation costs, except that each Party, except the Ohio EPA, shall bear the costs of their own attorney fees related to the Mediation. The participation of the Ohio EPA and any contractors hired by Ohio EPA in the Mediation is a Response Cost or Oversight Cost which Respondents shall pay to the State as required by Section XVI of these Orders. The costs of Ohio EPA shall be submitted to Respondents and paid by Respondents as set forth in Section XVI. The Mediator shall not be liable for any act or omission in connection with his or her role in the Mediation process.

41. The selection of the Mediator by the Ohio EPA and the Mediation shall be conducted in accordance with the following schedule:

a. Within fifteen (15) days after the date Ohio EPA receives notice from Respondents invoking the provisions of this Section, Ohio EPA shall select a Mediator from the list provided by Respondents and will notify Respondents of the selection in writing.

b. Within thirty (30) days of the date Ohio EPA notifies the Respondents of the name of the Mediator, Respondents will act, as necessary, to obtain the services of the selected Mediator through a Mediation Contract as described in Paragraph 40, above. This time period may be extended upon mutual agreement of the Parties. In the event that Ohio EPA's selection for Mediator is not available, Ohio EPA will select an alternate and Respondents shall have an additional thirty (30) days to obtain the Mediator's services.

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c. The Parties shall have forty-five (45) days from the time the Mediation Contract is entered to resolve the dispute through Mediation. This time period may be extended upon mutual agreement of the Parties. During this time period, documents may be exchanged by the Parties indicating issues upon which consensus has been reached.

42. Upon completion of the Mediation, the Ohio EPA will issue a written document summarizing any consensus reached through the Mediation and resolving the dispute.

43. Mediation sessions will be held in Columbus, Ohio unless otherwise agreed by all Parties.

XV. UNAVOIDABLE DELAYS

44. Respondents shall cause all Work to be performed in accordance with applicable schedules and timeframes unless any such performance is prevented or delayed by an event which constitutes an unavoidable delay. For purposes of these Orders, an "unavoidable delay" shall mean an event beyond the control of Respondents which prevents or delays performance of any obligation required by these Orders and which could not be overcome by due diligence on the part of Respondents. Increased cost of compliance shall not be considered an event beyond the control of Respondents.

45. Respondents shall notify Ohio EPA in writing within fifteen (15) days after Respondents' Site Coordinator or Alternate Site Coordinator have knowledge of the occurrence of an event which Respondents contend is an unavoidable delay. Such written notification shall describe the anticipated length of the delay, the cause or causes of the delay, the measures taken and to be taken by Respondents to minimize the delay, and the timetable under which these measures will be implemented. Respondents shall have the burden of demonstrating that the event constitutes an unavoidable delay.

46. If Ohio EPA does not agree that the delay is an unavoidable delay, Ohio EPA will notify the Respondents in writing. In the event that the delay is not an unavoidable delay, Ohio EPA and Respondents reserve all rights to take any action as described in Section XVII, Reservation of Rights and Contribution Protection. If Ohio EPA agrees that the delay is an unavoidable delay,

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By: Mary Cavin Date 9-27-95

OHIO EPA.
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ENTERED DIRECTOR'S JOURNAL

will notify Respondents in writing of a reasonable extension of time for the performance of the obligations affected by the unavoidable delay. If the extension of time granted is less than the period of the delay itself, Ohio EPA shall explain in writing why the shorter period of time granted is reasonable. The provisions of Section XIII, Dispute Resolution, shall apply to this Section.

XVI. REIMBURSEMENT OF COSTS

47. Ohio EPA has incurred and continues to incur Response Costs in connection with the Site. Respondents shall reimburse Ohio EPA for all Ohio EPA's Response Costs incurred prior to December 31, 1994, which total \$64,051.12.

48. Within forty-five (45) days of the effective date of these Orders, Respondents shall remit a check to the Ohio EPA for the full amount claimed for Response Costs incurred prior to December 31, 1994.

49. With respect to Response Costs incurred after December 31, 1994, Ohio EPA will annually submit to Respondents an itemized statement of its Response Costs for the previous calendar year, including but not limited to, identification of employees and agents, including contractors and subcontractors, and an explanation of the tasks performed and the basis upon which such costs are claimed. Within forty-five (45) days of receipt of such itemized statement, Respondents shall remit payment for all of Ohio EPA's Response Costs for the previous year. Should Respondents contest the accuracy of the Response Costs set forth in an itemized statement, or require additional support for such costs, Respondents may invoke the procedures of Section XIII, Dispute Resolution, within thirty (30) days of receiving the itemized statement. Any Response Costs which the Respondents must pay as a result of dispute resolution shall be paid within thirty (30) days of the resolution of the dispute. In any calendar year, Respondents may request, but not more frequently than quarterly, an estimate of Ohio EPA Response Costs incurred to that date, and Ohio EPA shall provide such estimate, which in no way shall limit any later comprehensive statement of costs for that calendar year.

50. Respondents shall remit payments to Ohio EPA pursuant to this Section as follows:

- a. Payment shall be made by certified check payable to "Treasurer,

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By: Mary Cavin Date 9-27-95

OHIO EPA
SEP 27 95
ENTERED DIRECTOR'S JOURNAL

State of Ohio" and shall be forwarded to Fiscal Officer, Ohio EPA, P.O. Box 1049, 1800 WaterMark Drive, Columbus, Ohio 43216-1049, ATTN: Edith Long or her successor.

b. A copy of the transmittal letter and check shall be sent to the Fiscal Officer, DERR, Ohio EPA, P.O. Box 1049, 1800 WaterMark Drive, Columbus, Ohio 43216-1049.

XVII. RESERVATION OF RIGHTS AND CONTRIBUTION PROTECTION

51. Ohio EPA reserves the right to seek legal and/or equitable relief to enforce the terms and conditions of these Orders, including penalties against Respondents for noncompliance with these Orders. Except as expressly provided herein to the contrary, Respondents reserve any rights they may have to raise any legal or equitable defense in any action brought by Ohio EPA to enforce the terms and conditions of these Orders.

52. Ohio EPA reserves the right to terminate these Orders and/or perform all or any portion of the Work or any other measures in the event that the requirements of these Orders are not wholly complied with within the timeframes required by these Orders.

53. Subject to Section XXIII, Agreement not to Refer, Ohio EPA reserves the right to take any action, including but not limited to any enforcement action, action to recover costs, or action to recover damages for injury to natural resources, pursuant to any available legal authority as a result of past, present, or future violations of state or federal laws or regulations or the common law, and/or as a result of events or conditions arising from, or related to, the Site. Upon termination of these Orders pursuant to Section XXIV, Termination, Respondents shall have resolved their liability to Ohio EPA only for the Work performed pursuant to these Orders.

54. Notwithstanding and other provision of these Orders, Ohio EPA reserves the right to:

(i) issue requests for information to any person potentially responsible who is not a party to this Order, or who is not a beneficiary of contribution protection under this Order ("Non-Settlor") in accordance with CERCLA Section 104(e), the Cooperative Agreement, and/or State law.

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By: Mary Caron Date 9-27-95

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SEP 27 95
ENTERED DIRECTOR'S JOURNAL

(ii) issue notices of potential liability to Non-Settlers;
(iii) secure participation of Non-Settlers by appropriate methods in cooperation with Respondents;

(iv) issue unilateral administrative orders to Non-Settlers to perform work at the Site, whether or not such work is contemplated by the approved Work Plan but ensuring such work does not interfere with efforts of Respondents;

(v) refer Non-Settlers to the Ohio Attorney General, United States Attorney General's office for judicial enforcement;

(vi) seek any other Response Costs from Non-Settlers; and

(vii) take any action against Non-Settlers, including but not limited to any enforcement action, action to recover costs or action to recover damages for injury to natural resources, pursuant to any available legal authority as a result of past, present or future violations of State or federal laws or regulations or the common law, and/or as a result of events or conditions arising from or related to the Site.

55. Notwithstanding (i) the provisions of Paragraph B of the Waiver and Agreement, which waive the Respondents' rights to seek judicial review of these Orders either in law or in equity, and, (ii) any other provisions of these Orders, Respondents reserve the right to challenge Ohio EPA's interpretation of this Consent Order in any action brought by Ohio EPA to enforce the terms and conditions of these Orders. In the event (i) Ohio EPA performs all or any portion of the Work without seeking enforcement against Respondents, and (ii) Ohio EPA seeks reimbursement for such Response Costs, Respondents reserve the right to defend any action brought by Ohio EPA to recover such Response Costs raising the same right to challenge Ohio EPA's interpretation of this Order which Respondents could have raised if Ohio EPA had brought an enforcement action to require Respondents to perform such work.

56. Respondents reserve all rights, claims, demands, and causes of action they have or may have against any and all other persons and entities not parties to these Orders (including any right to contribution or indemnity possessed by Respondents against other parties who may be responsible for actual or threatened

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By: Mary Carver Date 9-27-95

OHIO EPA
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REGISTERED DIRECTOR'S JOURNAL

releases at the Site).

57. To the extent provided by CERCLA and/or applicable state law, and to the extent of compliance with these Orders, during performance of these Orders and upon termination and satisfaction of these Orders, Respondents, including individual members of Respondent Painesville PRP Group, shall be afforded the protection against all claims whatsoever for contribution as described by CERCLA and/or applicable state law for the matters addressed by these Orders. For so long as Respondents are in compliance with the terms of these Orders, Ohio EPA shall not (i) grant contribution protection to other parties for the work performed by the Respondents under these Orders, and (ii) shall not enter into a separate Consent Order with parties other than Respondents that otherwise constitutes a release, covenant not to sue, or other settlement whatsoever of such person(s)' liabilities for the work Respondents performed under these Orders.

58. The Respondents' reservation of rights in this Section XVII covers legal and/or equitable rights, whether or not such rights would be demonstrated as a defense.

XVIII. ACCESS TO INFORMATION

59. Respondents shall provide to Ohio EPA, upon request, copies of all documents and information within their possession or control or that of its contractors or agents relating to events or conditions at the Site relevant to the contamination at the Site, including, but not limited to manifests, reports, correspondence, or other documents or information related to the Work.

60. Respondents may assert a claim that documents or other information submitted to the Ohio EPA pursuant to these Orders is confidential under the provisions of OAC 3745-50-30(A) or R.C. 6111.05(A). If no such claim of confidentiality accompanies the documents or other information when it is submitted to the Ohio EPA, it may be made available to the public without notice to Respondents.

61. Respondents may assert that certain documents or other information are privileged under the attorney-client or any other privilege recognized by state law. If Respondents make such an assertion, they shall provide the Ohio EPA with

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By: Mary Gavin Date 9-27-95

OHIO E.P.A.
SEP 27 95
DIRECTOR'S OFFICE

the following: (1) the title of the document or information; (2) the date of the document or information; (3) the name and title of the author of the document or information; (4) the name and title of each addressee and recipient; (5) a general description of the contents of the document or information; and (6) the privilege being asserted by Respondents. To the extent that Respondents refuse to provide this information to the Ohio EPA on the basis that doing so would in effect waive the privilege being asserted, Respondents shall, at a minimum, inform the Ohio EPA of the existence of any document being withheld and shall inform the Ohio EPA of the privilege being asserted for the document.

62. No claim of confidentiality shall be made with respect to any data, including but not limited to, all sampling, analytical, monitoring, or laboratory or, to the extent required to be submitted by Ohio EPA under these Orders, interpretive reports relevant to contamination at the Site.

63. Respondents shall preserve for the duration of these Orders and for a minimum of five (5) years after their termination, one complete set of all documents and other information within their possession or control, or within the possession or control of their contractors or agents, which are not privileged and which in any material way relate to the Work notwithstanding any document retention policy to the contrary. Respondents may preserve such documents by microfiche, or other electronic or photographic device. At the conclusion of this document retention period, Respondents shall notify Ohio EPA at least sixty (60) days prior to the destruction of these documents or other information; and upon request, shall deliver such documents and other information to Ohio EPA.

64. To the extent not prohibited by statute or regulation, upon request by the Respondents, Ohio EPA shall reasonably provide Respondents access to public documents that relate to the Site or to the Work to be performed under these Orders, including but not limited to any data or other information submitted to Ohio EPA by persons other than Respondents.

XIX. INDEMNITY

65. Respondents agree to indemnify, save, and hold harmless Ohio EPA from any and all claims or causes of action arising from, or related to, events or conditions at the Site. Ohio EPA agrees to provide notice to Respondents within

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By: Mary Caron Date 9-27-95

OHIO E.P.A.
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REGISTERED DIRECTOR'S JOURNAL

thirty (30) days of receipt of any claim which may be the subject of indemnity as provided in this Section, and to cooperate with Respondents in the defense of any such claim or action against the Ohio EPA. Ohio EPA shall not be considered a party to and shall not be held liable under any contract entered into by Respondents in carrying out the activities pursuant to these Orders. Consistent with federal, state and common law, nothing in these Orders shall render Respondents liable to indemnify the State of Ohio for any negligent act or omission of the State of Ohio occurring outside of the State of Ohio's exercise of its discretionary functions. Discretionary functions of the State of Ohio include, but are not limited to, the State of Ohio's review, approval or disapproval of Work performed pursuant to these Orders. Respondents and the State of Ohio will cooperate in the defense of any claim or action against the State of Ohio which may be subject of this indemnity.

XX. OTHER CLAIMS

66. Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action, or demand in law or equity against any person, firm, partnership, or corporation, not subject to these Orders for any liability arising from, or related to, events or conditions at the Site.

XXI. LAND USE AND CONVEYANCE OF TITLE

67. Each Respondent, including for the purposes of this Section individual members of the Respondent Painesville PRP Group, shall use all reasonable efforts to record with the County Recorder's Office for Lake County, Ohio a notice in the deed records with respect to property which is owned by that Respondent and which is known to be part of the Site, at least thirty (30) days prior to any conveyance of any interest in such real property. For the purposes of this paragraph, the geographic boundaries of the Site will be determined as of the time of recording and any Respondent evaluating recording may ask Ohio EPA whether the Respondent's property is then part of the Site. The notice shall reference the existence of these Orders and shall describe any monitoring or containment devices present on the property.

68. Respondents shall use all reasonable efforts to assure that no portion of the Site will be used in any manner which would adversely affect the integrity

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By: Mary Caron Date 9-27-95

OHIO E.P.A.
SEP 27 1995
JOHN J. CLEGG, DIRECTOR

of any known containment or monitoring systems at the Site. To the extent that a Respondent owns or controls real property which is known to comprise the Site, that Respondent shall notify the Ohio EPA by registered mail at least thirty (30) days in advance of any conveyance of any interest in such real property with any known containment or monitoring systems consistent with its obligations under other applicable laws, including securities laws and regulations. Respondents' notice shall include the name and address of the grantee and a description of the provisions made for continued maintenance of any known containment and monitoring systems. In no event shall the conveyance of any interest in the property that includes, or is a portion of, the Site, release or otherwise affect the liability of Respondents to comply with these Orders.

XXII. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

69. The effective date of these Orders shall be the date on which it is entered in the Journal of the Director of the Ohio EPA.

70. These Orders may be modified by mutual agreement of the Parties. Modifications shall be in writing and shall be effective on the date entered in the Journal of the Director of the Ohio EPA.

XXIII. AGREEMENT NOT TO REFER

71. Upon termination of these Orders pursuant to Section XXIV, the Ohio EPA agrees not to refer Respondents for enforcement to the Ohio Attorney General's Office, U.S. EPA, or the United States Attorney General's Office, or take administrative enforcement action against Respondents, for the Work required under these Orders. During the implementation of these Orders, and provided Respondents are in compliance with these Orders, the Ohio EPA agrees not to refer Respondents for enforcement to the Ohio Attorney General's Office, U.S. EPA, or the United States Attorney General's Office, or take administrative enforcement action against Respondents, for the Work required under these Orders.

XXIV. TERMINATION

72. These Orders shall terminate upon Ohio EPA's approval in writing of Respondents' written certification to the Ohio EPA that all Work required to be performed under these Orders, including the payment of Response Costs, has been completed. In the event Ohio EPA does not approve in writing Respondents'

OHIO E.P.A.
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REGISTERED DIRECTOR'S JOURNAL

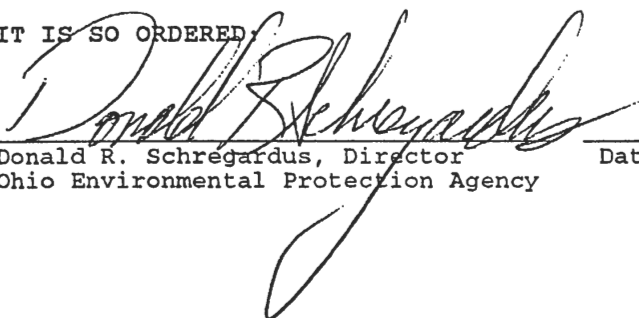
I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Cannon Date 9-27-95

written certification, Respondents may invoke the provisions of Section XIII, Dispute Resolution. The termination of these Orders pursuant to this Section shall not affect the terms and conditions of Section XVII Reservation of Rights and Contribution Protection, Section XVIII Access to Information, Section XIX Indemnity, Section XX Other Claims, Section XXI Land Use and Conveyance of Title and Section XXIII Agreement Not To Refer. Respondents' obligations to perform additional work under Section VII Additional Work, shall terminate in any event no later than (i) the issuance of an administrative or judicial order by the Ohio EPA and/or U.S. EPA requiring Respondents, some of them, and/or any other entity, to perform Remedial Design and Remedial Action (RD/RA) activities at the Site after a remedy has been selected for the Site in accordance with the NCP; or (ii) upon unilateral initiation of Remedial Action (RA) at the Site by the Ohio EPA and/or U.S. EPA after a remedy has been selected for the Site in accordance with the NCP.

In the Matter of the Diamond Shamrock Painesville Works Site:

IT IS SO ORDERED


Donald R. Schregardus, Director
Ohio Environmental Protection Agency

SEP 27 1995

Date

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Carvin Date 9-27-95

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OHIO E.P.A.
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ENTERED DIRECTOR'S JOURNAL

WAIVER AND AGREEMENT

A. In order to resolve disputed claims, without admission of fact, violation, or liability, Respondent agrees that these Findings and Orders are lawful and reasonable, and agrees to perform all actions required by these Orders.

B. Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders and hereby waives any and all rights that it may have to seek judicial review of the issuance, terms and conditions, and service of these Orders either in law or equity.

C. Notwithstanding the limitations herein on Respondent's right to appeal or seek judicial review, the Ohio EPA and Respondent agree that in the event that these Orders are appealed by any other party to the Environmental Board of Review, or any court, Respondent retains the right to intervene and participate in such appeal. In such event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

IT IS SO AGREED:

Respondent Maxus Energy Corporation:

W. Mark Miller

August 29, 1995
Date

W. Mark Miller
Typed or printed name

Vice President Operations and Planning
Title

OHIO ENVIRONMENTAL PROTECTION AGENCY:

Donald R. Schregardus
Donald R. Schregardus, Director

SEP 27 1995
Date

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Carvin Date: 9-27-95

OHIO E.P.A.
SEP 27 95
ENTERED DIRECTOR'S JOURNAL

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IT IS SO AGREED:

Respondent CHEMICAL LAND HOLDINGS, INC.

By: M M Skaggs, Jr.

8-29-95
Date

Merton M. Skaggs, Jr.
Typed or printed name

President
Title

OHIO ENVIRONMENTAL PROTECTION AGENCY:

Donald R. Schregardus
Donald R. Schregardus, Director

SEP 27 1995
Date

OHIO E.P.A.

SEP 27 95

ENTERED DIRECTOR'S JOURNAL

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By: Mary Cavin Date 9-27-95

WAIVER AND AGREEMENT

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C. Notwithstanding the limitations herein on Respondent's right to appeal or seek judicial review, the Ohio EPA and Respondent agree that in the event that these Orders are appealed by any other party to the Environmental Board of Review, or any court, Respondent retains the right to intervene and participate in such appeal. In such event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

IT IS SO AGREED:

Respondent OCCIDENTAL CHEMICAL CORPORATION (as successor to Diamond Shamrock Chemicals Company)

By: J. Alan Mack Date 8/28/95

J. Alan Mack
Typed or printed name

Associate General Counsel
Title

OHIO ENVIRONMENTAL PROTECTION AGENCY:

Donald R. Schregardus
Donald R. Schregardus, Director

SEP 27 1995
Date

I certify this to be a true and accurate copy of the original document as filed in the records of the Ohio Environmental Protection Agency.

By: Thomas Cavin Date 9-27-95

OHIO E.P.A.
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ENTERED DIRECTOR'S JOURNAL

WAIVER AND AGREEMENT

A. In order to resolve disputed claims, without admission of fact, violation, or liability, Respondent agrees that these Findings and Orders are lawful and reasonable, and agrees to perform all actions required by these Orders.

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C. Notwithstanding the limitations herein on Respondent's right to appeal or seek judicial review, the Ohio EPA and Respondent agree that in the event that these Orders are appealed by any other party to the Environmental Board of Review, or any court, Respondent retains the right to intervene and participate in such appeal. In such event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

IT IS SO AGREED:

Respondent: Village of Fairport Harbor

Thomas M. Coffman
Thomas M. Coffman

SEPT. 12, 1995
Date 9-12-95

MAYOR, VILLAGE OF FAIRPORT HARBOR
Title

Linda Sentinek
Linda Sentinek
Notary Public - State of Ohio
My Commission Expires Dec. 12, 1999
(Recorded in Lake County)

Donald R. Schregardus
OHIO ENVIRONMENTAL PROTECTION AGENCY:
Donald R. Schregardus, Director

Date OHIO E.P.A.
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ENTERED DIRECTOR'S JOURNAL
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By: Mary Carvin Date 9-27-95

WAIVER AND AGREEMENT

A. In order to resolve disputed claims, without admission of fact, violation, or liability, Respondent agrees that these Findings and Orders are lawful and reasonable, and agrees to perform all actions required by these Orders.

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C. Notwithstanding the limitations herein on Respondent's right to appeal or seek judicial review, the Ohio EPA and Respondent agree that in the event that these Orders are appealed by any other party to the Environmental Board of Review, or any court, Respondent retains the right to intervene and participate in such appeal. In such event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

IT IS SO AGREED:

Respondent Uniroyal Chemical Company Incxx on its own behalf and as successor to the chemical business of Uniroyal, Inc. with respect to this matter:

Robert J. Mazaika

8/29/95
Date

Robert J. Mazaika

Typed or printed name

President

Title

OHIO ENVIRONMENTAL PROTECTION AGENCY:

Donald R. Schregardus
Donald R. Schregardus, Director

SEP 27 1995

Date

OHIO E.P.A.

SEP 27 95

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By: *Mary Caron* Date 9-27-95

WAIVER AND AGREEMENT

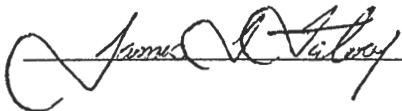
A. In order to resolve disputed claims, without admission of fact, violation, or liability, Respondent agrees that these Findings and Orders are lawful and reasonable, and agrees to perform all actions required by these Orders.

B. Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders and hereby waives any and all rights that it may have to seek judicial review of the issuance, terms and conditions, and service of these Orders either in law or equity.

C. Notwithstanding the limitations herein on Respondent's right to appeal or seek judicial review, the Ohio EPA and Respondent agree that in the event that these Orders are appealed by any other party to the Environmental Board of Review, or any court, Respondent retains the right to intervene and participate in such appeal. In such event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

IT IS SO AGREED:

Respondent Painesville Township Board of Trustees:

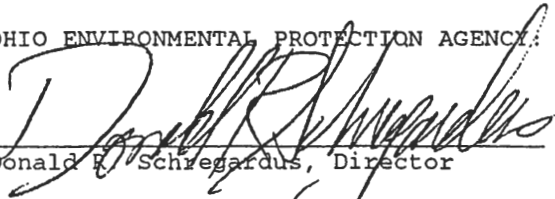


August 28, 1995
_____ Date

James S. Falvey
_____ Typed or printed name

Chairman
_____ Title

OHIO ENVIRONMENTAL PROTECTION AGENCY


Donald R. Schregardus, Director

SEP 27 1995
_____ Date

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Cavin Date 9-27-95

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WAIVER AND AGREEMENT

A. In order to resolve disputed claims, without admission of fact, violation, or liability, Respondent agrees that these Findings and Orders are lawful and reasonable, and agrees to perform all actions required by these Orders.

B. Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders and hereby waives any and all rights that it may have to seek judicial review of the issuance, terms and conditions, and service of these Orders either in law or equity.

C. Notwithstanding the limitations herein on Respondent's right to appeal or seek judicial review, the Ohio EPA and Respondent agree that in the event that these Orders are appealed by any other party to the Environmental Board of Review, or any court, Respondent retains the right to intervene and participate in such appeal. In such event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

IT IS SO AGREED:

Painesville PRP Group (Membership list is Attachment I to this page.)

William C. Hutton

August 30, 1995
Date

William C. Hutton
Typed or printed name

Chairman
Title

OHIO ENVIRONMENTAL PROTECTION AGENCY.

Donald R. Schregardus
Donald R. Schregardus Director

SEP 27 1995

Date

OHIO E.P.A.
SEP 27 95
REGISTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Carver Date 9-27-95

Complete 113 page document on file in Clerk's Office
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

2005 OCT -4 PM 3:02
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

| | | |
|---------------------------------|---|----------------------|
| STATE OF OHIO, | : | CASE NO. 1:02CV0193 |
| | : | |
| Plaintiff, | : | JUDGE NUGENT |
| | : | |
| v. | : | |
| | : | |
| CHEMICAL LAND HOLDINGS, et al., | : | <u>CONSENT ORDER</u> |
| | : | |
| Defendants. | : | |

Plaintiff State of Ohio, by and through its Attorney General, Jim Petro, at the written request of the Director of the Ohio Environmental Protection Agency ("Director"), together with Defendants Tierra Solutions, Inc. (f/k/a Chemical Land Holdings, Inc.), Maxus Energy Corporation, Occidental Chemical Corporation, Painesville Township Board of Trustees, the Village of Fairport Harbor, and The Painesville PRP Group (collectively "Defendants") hereby consent to the entry of this Consent Order.

WHEREAS, the Defendants substantially deny Plaintiff's allegations in the Pending Suit:

WHEREAS, the Parties desire to settle claims the State has brought against the Defendants in this action, including the claims for alleged violations of the Director's Final Findings and Orders for the Diamond Shamrock Painesville Works Site issued September 27, 1995 ("1995 DFFO") (Exhibit 1), in order to avoid the expense and inconvenience of further litigation;

NOW, THEREFORE, without adjudication or admission of any issue of fact or law, except as provided in paragraph 12, Section VI, of this Consent Order, and upon consent of

Plaintiff and Defendants (the "Parties"), it is hereby ORDERED, ADJUDGED and DECREED as follows:

I. DEFINITIONS

1. For purposes of this Consent Order, the terms used herein shall have the same meaning as stated in the Complaint and the 1995 DFFO, except as otherwise defined below.

A. "Claims" means any and all claims, counterclaims, cross claims, third party claims, actions, causes of action, rights, and demands for relief, damages (including punitive damages), losses, liabilities, liens, judgments, penalties, fines, costs, attorneys' fees, consultants' or expert fees, court costs, expenses, interest and any other expenses and compensation whether direct or indirect, known or unknown, foreseen or unforeseen.

B. "Dartron Site," for the purpose of this Consent Order, shall be the property referred to as Parcel 1C5 on the attached map, attached as Exhibit 2, and as described in deeds attached as Exhibit 3, respectively, which is located in Painesville Township, Lake County, Ohio, including all soil and all ground water beneath the soil.

C. "Diamond Shamrock Site" shall refer to the Diamond Shamrock Site as defined in the Complaint and the 1995 DFFO, except that the Diamond Shamrock Site shall no longer include the Dartron Site, as that term is defined above.

D. "Effective Date" is the date this Consent Order is entered by the Court.

E. "Operation and Maintenance" shall mean all activities that ensure and maintain the effectiveness of a Remedial Action as required by an order of the Director of Ohio EPA or this Court or any other court of competent jurisdiction.

F. "Paragraph" shall mean a portion of these Orders identified by an Arabic numeral or an upper or lowercase letter.

- G. "Party" or "Parties" shall mean Defendants and/or the State of Ohio.
- H. "Person" shall have the same meaning as defined in Section 101(21) of CERCLA.
- I. "Remedial Action" means any action, or part thereof, selected by the Ohio EPA that abates or reduces the threat posed by a placement or disposal or threatened disposal of Hazardous Substances, to prevent present or future harm to the public health or welfare or to the environment, and is consistent with applicable local, State and Federal laws and regulations, and the NCP (40 CFR Part 300).
- J. "Remedial Design" means the detailed engineering plans, specifications and construction drawings which are in compliance with NCP (40 CFR Part 300) and sufficient to implement the selected Remedial Action.
- K. "RD/RA" means the Remedial Design and Remedial Action, together.
- M. "Remedial, Preferred Plan and Decision Document Response Costs" shall mean all costs incurred by the State associated with the remedy for the Diamond Shamrock Site or the Dartron Site, as the case may be, including any remedy regarding any contamination that has migrated, is migrating, or will migrate from the relevant Site. Such costs shall include all costs associated with preparing and issuing a preferred plan and decision document, costs associated with the preparation and negotiation of an administrative or judicial RD/RA order, and the costs associated with overseeing, reviewing, approving, and/or verifying remedial work, including Operation and Maintenance, required by any subsequent Director's order or court order, doing the remedial work or otherwise implementing or enforcing any subsequent Director's order or a court order. These costs shall include, without limitation, payroll costs, fringe benefits, contractor costs, travel costs, direct costs, indirect costs, legal and enforcement related costs,

oversight costs, laboratory costs and the costs of reviewing or developing plans, reports, and other items.

N. "RI/FS Response Costs" shall mean all costs incurred by Ohio EPA associated with completion of the Remedial Investigation/Feasibility Study ("RI/FS") for the Diamond Shamrock Site or the Dartron Site, as the case may be. Such costs include, without limitation, Ohio EPA's overseeing, reviewing, approving, and/or verifying the RI/FS and/or any other activities required by this Consent Order or the 1995 DFFO, doing the Work or otherwise implementing or enforcing this Consent Order or the 1995 DFFO. These costs include, without limitation, payroll costs, fringe benefits, contractor costs, travel costs, direct costs, indirect costs, legal and enforcement related costs, laboratory costs and the costs of reviewing or developing plans, reports, and other items.

O. "Section" shall mean a portion of this Consent Order identified by a Roman number except when "Section" is used as a part of a reference to a statutory or regulatory provision.

P. "Statement of Work" ("SOW") means Ohio EPA's generic Statement of Work for the implementation of an RI/FS. The SOW is not specific to the Diamond Shamrock Site or the Dartron Site, and shall be used as a guiding outline in developing site-specific Work Plans.

Q. "State" shall mean the State of Ohio, by and through its Attorney General, and on behalf of Ohio EPA.

R. "The Painesville PRP Group" shall include the following companies, individuals, and municipalities: Tierra Solutions, Inc. (f/k/a Chemical Land Holdings, Inc.), Oakton, Inc. (f/k/a Chelmsford Properties, Inc.), Fairport Harbor Village Board of Education, Steven W. and Calvina J. Gagat, John Grantham, Hach Excavation and Demolition, Inc., Paul W. and Marlene E. Hach, James Paul Management, Inc., Ralph M. Lederer (a/k/a R.M. Lederer Paving, Inc.),

Little Seedlings, Inc., Maxus Energy Corporation, Occidental Chemical Corp., Painesville Township Board of Trustees, RDL Properties, Schuster Service, Inc., Tartan Yachts, Inc. (a/k/a TLH Properties, Ltd.), and the Village of Fairport Harbor. The Painesville PRP Group does not include Defendant Crompton Manufacturing Company, Inc. (f/k/a Uniroyal Chemical Company, Inc.), Third-party Defendant Dartron Corporation, and Defendant Environmental Brine Services, Inc.

II. STATEMENT OF PURPOSE

2. The purpose of this Consent Order is to provide for: (1) the continued implementation of the 1995 DFFO, subject to certain modifications made or confirmed in this Consent Order; (2) the payment of a civil penalty for Defendants' alleged violations of the 1995 DFFO prior to entry of this Consent Order; (3) the requirement to pay stipulated penalties for any future violations of the 1995 DFFO and/or this Consent Order; (4) the release of the Defendants from certain Claims, in consideration of and subject to the State's reservation of rights on other Claims.

III. JURISDICTION

3. The Parties agree that this Court has jurisdiction over them and the subject matter of this Consent Order, and that venue is proper in this Court for the purpose and duration of this Consent Order. The Parties agree that this Consent Order will be governed by federal law and the laws of the State of Ohio. The Complaint states claims upon which relief can be granted.

IV. PARTIES BOUND

4. The provisions of this Consent Order shall apply to and be binding upon the Parties; their respective successors in interest, and assigns, and others to the extent provided by Civil Rule 65(D). The undersigned representative of each Party to this Consent Order certifies

that he or she is fully authorized by the Party or Parties whom she or he represents to enter into the terms and conditions of the Consent Order and to execute and legally bind that Party or Parties to it.

5. No change in ownership or corporate status of Defendants including, but not limited to, any transfer of assets or real or personal property shall in any way alter Defendants' obligations under this Consent Order.

6. Defendants shall provide a copy of this Consent Order to all "major contractors, subcontractors, laboratories and consultants," as defined in Paragraph 6(e) of the 1995 DFFO, retained to perform any portion of the work performed pursuant to this Consent Order.

Defendants shall ensure that all contractors, subcontractors, laboratories and consultants retained to perform work pursuant to this Consent Order comply with the applicable provisions of this Consent Order.

V. IMPLEMENTATION OF 1995 DFFO

7. Defendants shall complete implementation of the RI/FS for the Diamond Shamrock Site, and for the ground water at the Dartron Site, pursuant to the terms and conditions of the 1995 DFFO.

8. Upon the Effective Date of this Consent Order, Defendants are released from their prior obligation under the 1995 DFFO of submitting a baseline human health or ecological risk assessment, Alternatives Array Report and Feasibility Study portion of the RI/FS, as defined in the SOW, for soil at the Dartron Site, or for otherwise concluding the RI/FS with respect to soil at the Dartron Site, since the RI/FS for soil at the Dartron Site will now be completed by Defendant Crompton Manufacturing Company, Inc. ("Crompton"), pursuant to the terms of a separate consent order ("Crompton Consent Order") being entered in this action in conjunction

herewith. In addition, upon the Effective Date of this Consent Order, Defendants are released from any responsibility for paying RI/FS Response Costs incurred by Ohio EPA in connection with the Feasibility Study portion of the RI/FS for soil at the Dartron Site. The Dartron Site, Parcel 1C5, will no longer be a part of what has been designated Operable Unit 17 in the October 2003 FS Work Plan, submitted by Defendants as required by the 1995 DFFO and approved by Ohio EPA.

9. In completing the Feasibility Study portion of the RI/FS for the operable unit designated as ground water Operable Unit 1N ("GWOU1N") in the October 2003 FS Work Plan, which includes Parcel 1C5, the State recognizes that Crompton and the Defendants have separately agreed, among other things, that Crompton will have a private contractual right to review and comment in advance on the Painesville PRP Group's submissions to Ohio EPA in connection with the Feasibility Study for the GWOU1N. To allow time for the exercise of this contractual right, the State agrees that the 1995 DFFO be and hereby are modified to provide as follows:

- a. The Painesville PRP Group shall have forty-five (45) days, rather than thirty (30) days, to respond to OEPA's first round of comments on any initial submission by the Painesville PRP Group in connection with the Feasibility Study for GWOU1N; and
- b. The Painesville PRP Group shall have thirty (30) days, instead of fourteen (14) days, to respond to OEPA's second round of comments.

10. In completing the work required by the 1995 DFFO and this Consent Order, the terms of the 1995 DFFO shall prevail, except as expressly modified in this Consent Order.

VI. REMEDIAL DESIGN/REMEDIAL ACTION

11. The Parties to this Consent Order recognize that the Director of Ohio EPA may issue an order or orders for Remedial Design/Remedial Action (“RD/RA”) for the purpose of performance of a remedy, including Operation and Maintenance and the payment of Remedial, Preferred Plan, and Decision Document Response Costs, for the Diamond Shamrock Site, and for any contamination that has migrated, is migrating, or will migrate from the Diamond Shamrock Site, as well as for the Dartron Site, and for any contamination that has migrated, is migrating, or will migrate from the Dartron Site. In that regard, the Parties agree that, prior to the issuance of any RD/RA order with respect to any portion of the Diamond Shamrock Site, and/or with respect to any contamination that has migrated, is migrating, or will migrate from the Diamond Shamrock Site, the State and the Defendants will meet and confer in good faith concerning the negotiation of a judicial RD/RA consent order(s) concerning the Diamond Shamrock Site and/or with respect to any contamination that has migrated, is migrating, or will migrate from the Diamond Shamrock Site. At Defendants’ request, and upon submittal to the State of a written proposal by Defendants to perform RD/RA work pursuant to Findings and Orders issued by the Director of Ohio EPA, in lieu of a judicial consent order, the State agrees to consider, and confer in good faith upon, such a proposal. Nothing herein prevents Ohio EPA from rejecting such a proposal.

12. Defendants agree that, if the Director of Ohio EPA pursues any RD/RA order, judicial or administrative, against Defendants with respect to the Diamond Shamrock Site and/or with respect to any contamination that has migrated, is migrating, or will migrate from the Diamond Shamrock Site, or seeks payment of any Remedial, Preferred Plan, and Decision Document Response Costs incurred by Ohio EPA in connection with any such order, then:

- a. No Defendant will raise a claim that Defendant Occidental is not a responsible party for purposes of any such RD/RA order or Remedial, Preferred Plan, and Decision Document Response Costs with respect to Parcels 1A1, 1A2, 1A3, 1A4, 1A5, 1A6, 1A7, 1A8, 1A9, 1A10, 1B1, 1B2, 1B3, 1C2, 1C3, 1C4, 2C1, 3B1, 4A1, 4A2, 4A3, 4B1, 4B2, 4B3, 4C1, 5B1, 6B1, 7A1, 7B1, 7B2, 7C1, 7C2, 7C3, 7C4.
- b. No Defendant will raise a claim that Defendant Tierra is not a responsible party for purposes of any such RD/RA order or Remedial, Preferred Plan, and Decision Document Response Costs with respect to Parcels 1B1, 1B2, 1B3, 1C3, 1C4, 2C1, 3A1, 3B1, 4B1, 4C1, 5B1, 6B1, 7A1 and 7B2.
- c. Defendants Maxus and Tierra agree (i) that Defendant Maxus has fully indemnified Defendant Occidental for all liability that Defendant Occidental may have as a responsible party with respect to the Diamond Shamrock Site; and (ii) that Defendants Maxus and Tierra are bound by Defendant Occidental's admission in Paragraph 12(a), above.
- d. The parcel numbers set forth in Paragraph 12(a) and (b), above, are identified on the parcel ownership map attached to this Consent Order (Exhibit 2).

13. In consideration of the admissions made by Defendants in Paragraph 12, above, and the Defendants' agreement to perform the other obligations imposed by this Consent Order and the 1995 DFFO (including, without limitation, the Defendants' agreement in Paragraph 11, above, to meet and confer in good faith concerning the negotiation of an RD/RA consent order(s) concerning the Diamond Shamrock Site and/or with respect to any contamination that has migrated, is migrating, or will migrate from the Diamond Shamrock Site), the State agrees that it

will not pursue Defendants for performance of any RD/RA that may be ordered or pursued by the Director of Ohio EPA with respect to the Dartron Site and, therefore, upon payment of the Civil Penalty and Enforcement Costs required by Sections IX and XI of this Consent Order, Defendants are released from any and all Claims to perform RD/RA at the Dartron Site or to reimburse the State for any Remedial, Preferred Plan, and Decision Document Response Costs incurred with respect to any RD/RA order issued with respect to the Dartron Site.

14. The release set forth in Paragraph 13 above does not extend to Defendants' liability – including, but not limited to, Defendants' liability to perform remedy and to reimburse the State for Remedial, Preferred Plan and Decision Document Response Costs – associated with any portion of the Diamond Shamrock Site, including, but not limited to, Defendants' liability for any contamination that has migrated, is migrating, or will migrate from the Diamond Shamrock Site, and which originated on the Diamond Shamrock Site, to other property, including, but not limited to, the Dartron Site.

15. The admissions made in Paragraph 12, above, are strictly limited to the agreements made with the State herein regarding any RD/RA order the State might pursue against Defendants, and shall not be construed as an admission with respect to any other person or entity not a party to this Consent Order.

16. Defendants reserve their rights to contest and appeal any final agency action, or any judicial or administrative order, that requires a remedy for the Diamond Shamrock Site, and/or for any contamination that has migrated, is migrating, or will migrate from the Diamond Shamrock Site, except that Defendants may not raise a claim or contest or appeal any such action or order on any grounds that conflict with the admissions made in Paragraph 12, above.

17. None of the releases given by the State in this Consent Order shall be construed to prevent, restrict, limit or otherwise diminish or affect in any way any Claim by the State to enforce this Consent Order or to enforce any violations of the 1995 DFFO (as modified herein) that occur on or after the Effective Date. Nor shall any release given by the State in this Consent Order be construed to prevent, restrict, limit or otherwise diminish or affect in any way any Claim by the State (a) to issue or obtain an order to require Defendants to perform any RD/RA, including Operation and Maintenance, at the Diamond Shamrock Site and/or for any contamination that has migrated, is migrating, or will migrate from the Diamond Shamrock Site and which originated at the Diamond Shamrock Site, or (b) to recover any Remedial, Preferred Plan, and Decision Document Response Costs incurred after December 31, 2003, in connection with the Diamond Shamrock Site and/or with any contamination that has migrated, is migrating, or will migrate from the Diamond Shamrock Site, or (c) to recover any RI/FS Response Costs incurred after December 31, 2003, in connection with the Diamond Shamrock Site, with any contamination that has migrated, is migrating, or will migrate from the Diamond Shamrock Site, or with the ground water at the Dartron Site, it being agreed that all such Claims are being expressly reserved by the State.

VII. SATISFACTION OF CIVIL PENALTY CLAIMS FOR THE ALLEGED VIOLATIONS OF THE 1995 DFFO AND CLAIMS FOR RI/FS AND/OR REMEDIAL, PREFERRED PLAN, AND DECISION DOCUMENT RESPONSE COSTS INCURRED PRIOR TO JANUARY 1, 2004

18. Upon the payment of the Civil Penalty and Enforcement Costs required by Sections IX and XI of this Consent Order, the State hereby releases Defendants, including all members of The Painesville PRP Group in their individual capacities, from any and all Claims for RI/FS and/or Remedial, Preferred Plan, and Decision Document Response Costs incurred by the State prior to January 1, 2004 in connection with the Diamond Shamrock Site or the Dartron

Site, and from any and all Claims for alleged violations of the 1995 DFFO occurring prior to the Effective Date of this Consent Order.

VIII. TERMINATION OF CONSENT ORDER

19. This Consent Order shall terminate upon completion of the requirements of the 1995 DFFO, as modified herein; payment of the civil penalty required by Section IX ; payment of any stipulated penalties required by Section X; and payment of the enforcement costs required by Section XI.

20. Notwithstanding Paragraph 19, above, the provisions of Section VI (Remedial Design/Remedial Action), the provisions of Section VII (Satisfaction of Civil Penalty Claims for the Alleged Violations of the 1995 DFFO and Claims for RI/FS and/or Remedial, Preferred Plan, and Decision Response Costs Incurred Prior to January 1, 2004), and the provisions of Section XII (Reservation of Rights), shall survive termination of this Consent Decree and the 1995 DFFO and shall continue to remain in effect.

IX. CIVIL PENALTY

21. Pursuant to Ohio Revised Code ("R.C.") Sections 3734.13(C), 6111.09(A), and 3704.06, Defendants shall pay to the State Forty Six Thousand Five Hundred Dollars (\$46,500.00), which represents a civil penalty, which shall be paid as follows:

- a. Within thirty (30) days of the Effective Date of this Consent Order, Defendants shall deliver a certified check for Thirty-two Thousand, Five Hundred Fifty Dollars (\$32,550.00), which represents a civil penalty, made payable to the order of "Treasurer, State of Ohio," to the address stated in Paragraph 23 below.
- b. In lieu of paying the remaining Thirteen Thousand, Nine Hundred Fifty Dollars (\$13,950.00) in a civil penalty, within thirty (30) days of the Effective Date of this Consent Order, Defendants shall deliver a certified check for the Thirteen Thousand, Nine Hundred Fifty Dollars (\$13,950.00), made payable to "Lake Metro Parks." The purpose of this payment is to fund a supplemental environmentally beneficial project,

specifically within the Lake Metro Parks. If the Defendants do not, within thirty (30) days of the Effective Date this Consent Order, pay this amount to Lake Metro Parks, Defendants shall within thirty-seven (37) days of the Effective Date of this Consent Order pay this amount as the remainder of its civil penalty by delivering a certified check for Thirteen Thousand, Nine Hundred Fifty Dollars (\$13,950.00) payable to the order of "Treasurer, State of Ohio," to the address stated in Paragraph 23 below.

22. This civil penalty is for Defendants' alleged violations of the 1995 DFFO prior to the Effective Date of this Consent Order.

23. The civil penalty payment shall be made by delivering to Plaintiff State of Ohio a certified check in the above amount(s), payable to the order of "Treasurer, State of Ohio" c/o, Amy Laws, Paralegal, or her successor at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400. This penalty shall be deposited into the hazardous waste clean-up fund created by R.C. Section 3734.28. A copy of any checks remitted shall be sent to the Ohio EPA Site Coordinator.

X. STIPULATED PENALTIES

24. In the event that Defendants violate any of the requirements or prohibitions of this Consent Order, including any requirement of the 1995 DFFO as modified herein, Defendants shall pay a stipulated penalty according to the following payment schedules. For each day of each failure to meet a Major Milestone, as defined in the Field Sampling Work Plan, and any approved schedules mutually agreed to by the Parties and any approved revisions to those schedules, and including payment of the civil penalty and enforcement costs pursuant to Sections IX and XI of this Consent Order, up to thirty (30) days – Three Hundred Dollars (\$300.00) per day; from thirty-one (31) days to sixty (60) days – One Thousand Dollars (\$1,000.00) per day; over sixty (60) days – Two Thousand Dollars (\$2,000.00) per day. For each day of each failure to submit Monthly Progress Reports, up to thirty (30) days – One Hundred Dollars (\$100.00) per

day; from thirty-one (31) days to sixty (60) days – Five Hundred Dollars (\$500.00) per day; over sixty (60) days – One Thousand, Two Hundred Dollars (\$1,200.00) per day. For each day of each failure to submit the Final Report, up to thirty (30) days – Five Hundred Dollars (\$500.00) per day; from thirty-one (31) days to sixty (60) days – One Thousand, Five Hundred Dollars (\$1,500.00) per day; over sixty (60) days – Three Thousand Dollars (\$3,000.00) per day.

25. Stipulated penalties shall not begin to accrue for days 1 and 2, as indicated in the above schedules, if the milestone requirement or report submission deadline is met on or before day 3. If a milestone requirement or report submission deadline is not met on or before day 3, the Defendants shall be liable for stipulated penalties for days 1, 2, and 3 in addition to the days thereafter until the milestone requirement or report submission deadline is met.

26. Any payment required to be made under the provisions of Paragraphs 24 and 25 of this Consent Order shall be made by delivering to Plaintiff's counsel at the address in Paragraph 23 a certified check or checks for the appropriate amounts. Payments shall be made within forty-five (45) days from the date of the failure to meet the requirement, and every thirty (30) days thereafter as necessary to comply with the requirements of Paragraph 24, made payable to "Treasurer, State of Ohio." Such payment shall be deposited into the hazardous waste clean-up fund. A copy of any checks remitted shall be sent to the Ohio EPA Site Coordinator.

XI. ENFORCEMENT COSTS

27. Defendants shall pay the enforcement costs of the Ohio Attorney General expended prior to the Effective Date of this Consent Order, totaling Five Thousand Dollars (\$5,000.00), by delivering a certified check in such amount for payment into the State Treasury to the credit of the Attorney General's General Reimbursement account (also known as CAS Fund 106) made payable to the order of "Treasurer, State of Ohio" to Amy Laws, Paralegal, or her

successor, at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400, within fourteen (14) days of the Effective Date of this Consent Order. Any check submitted in compliance with this Section shall be in addition to and separate from any check submitted pursuant to any other Section of this Consent Order. Payment of this \$5,000.00 shall be in full satisfaction of any enforcement costs of the Ohio Attorney General related to Defendants' alleged violations of the 1995 DFFO prior to the Effective Date of this Consent Order.

XII RESERVATION OF RIGHTS

28. Subject to the terms of Sections VI and VII, above, the State reserves the right against Defendants to bring Claims for violations of the 1995 DFFO, as modified herein, occurring after the Effective Date of this Consent Order and to seek further relief from this Court, including, without limitation, preliminary and/or permanent injunctive relief, Claims for damages for injury to natural resources, stipulated penalties for violations of the 1995 DFFO occurring after the Effective Date of this Consent Order, additional enforcement costs occurring after the Effective Date of this Consent Order, and cost recovery for work beyond this Consent Order. Subject to the terms of Sections VI and VII, above, this reservation explicitly includes the State's right to bring Claims to pursue an order implementing a remedy for any contamination at the Diamond Shamrock Site and for any contamination that has migrated, is migrating, or will migrate from the Diamond Shamrock Site, including without limitation an RD/RA order, and to seek recovery of costs for such work. Subject to the terms of Sections VI and VII, above, this Consent Order does not waive any defenses which Defendants may have to the subsequent filing of any such Claims or requests for further relief, except that Defendants shall not assert, plead or raise in any fashion, whether by answer, motion or otherwise, (a) any

defenses that in any way conflict, contradict, or oppose the agreements and admissions regarding liability set forth in Section VI, and (b) any defenses – including but not limited to any defense based on any statute of limitation, laches, or any other principle concerning the timeliness of commencing a civil action, waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses – which are based upon any contention that the Claims, demands, rights or causes of action raised by the State in the subsequent proceeding were or should have been brought in the instant case.

29. Nothing in this Consent Order shall constitute or be construed as a release by the State of any Claim, cause of action, or demand in law or equity against any Person who is not a Party to this Consent Order or a member of The Painesville PRP Group.

30. Nothing herein shall limit the authority of the State to undertake any action against any Person, including Defendants, to eliminate or control conditions that may present a threat to the public health, safety, welfare or environment, and to seek cost reimbursement for any such action.

31. Entering into this Consent Order, the Consent Order itself, or the taking of any action in accordance with it, does not constitute an admission by Defendants of any factual or legal matters or opinions set forth herein, except as provided in Section VI.

32. Subject to the terms of this Order, and except as may be set forth in a separate agreement or agreements, Defendants reserve all rights, Claims, demands and causes of action they have or may have against any and all other Persons not a Party to this Consent Order. Defendants reserve all rights they have under the 1995 DFFO, including, but not limited to, the right to Dispute Resolution and Mediation as defined in the 1995 DFFO.

33. Except as may be set forth in a separate agreement or agreements, nothing in this Consent Order has any effect or constitutes any waiver of any Claims asserted or deemed to be asserted in *Maxus Energy Corporation, et al. v. Ace Lakefront Properties, Inc.*, Case No. 1:00CV 972 (N.D. Ohio).

34. Defendants reserve all rights that they may have against each other under all Federal, State and local laws, except as may be set forth in a separate agreement or agreements.

35. Except as may be set forth in a separate agreement or agreements, Defendants reserve all rights that they may have against the other named Defendants in the Complaint and all other Persons who are not Parties to this Consent Order.

XIII. EXHIBITS

36. All Exhibits to this Consent Order are incorporated by reference into and are an enforceable part of this Consent Order. The following Exhibits are attached to this Consent Order at the time of signing by the Parties: (1) 1995 DFFO, (2) Parcel Ownership Map; and (3) Deeds for the Dartron Site.

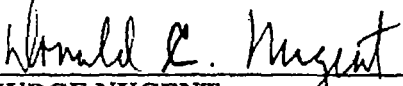
XIV. RETENTION OF JURISDICTION

37. This Consent Order shall be reviewed by Judge Donald C. Nugent for fairness and compliance with the State and Federal laws and regulations. The United States District Court for the Northern District of Ohio, Eastern Division, shall retain jurisdiction of this matter for the purpose of overseeing compliance with this Consent Order. Any and all legal actions to enforce the terms and conditions of this Consent Order shall be brought in the United States District Court for the Northern District of Ohio, Eastern Division.

XIII. COURT COSTS

38. Defendants shall pay court costs as ordered by the Order of Dismissal and Approval of Settlement Agreement entered in this action.

SO ORDERED THIS 4th DAY OF OCTOBER, 2005.

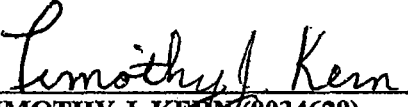


JUDGE NUGENT
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

The parties whose signatures appear below and on the attached signature pages hereby consent to the terms of this Consent Order.

APPROVED BY:

JIM PETRO
ATTORNEY GENERAL OF OHIO



TIMOTHY J. KERN(0034629)
Assistant Attorneys General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3428
Telephone: (614) 466-2766
Facsimile: (614) 644-1926
tkern@ag.state.oh.us

Attorneys for Plaintiff
State of Ohio

The undersigned Defendant hereby consents to the foregoing Consent Order in State of Ohio v. Tierra Solutions, Inc., et al.

Name of Party: Maxus Energy Corporation


Address: 1330 Lake Robbins Drive, Ste. 400
The Woodlands, TX 77380

By: 
Signature of Representative

Alvaro Racero
Name of Representative (Print or Type)

Title: Vice President


Date: August 5, 2005


Signature of Counsel for Defendant

The undersigned Defendant hereby consents to the foregoing Consent Order in State of Ohio v. Tierra Solutions, Inc., et al.

Name of Party: TIERRA SOLUTIONS, INC.

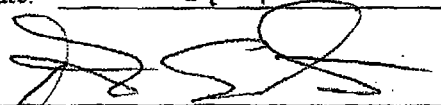
Address: 2 TOWER CENTER BLDG.
EAST BRUNSWICK, NJ
08816

By: 
Signature of Representative

DAVID RABOFF
Name of Representative (Print or Type)

Title: President

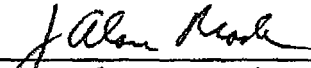
Date: 8/5/05


Signature of Counsel for Defendant

The undersigned Defendant hereby consents to the foregoing Consent Order in State of Ohio v. Tierra Solutions, Inc., et al.


Name of Party: Occidental Chemical Corporation

Address: 5005 LBJ Freeway
Dallas, TX 75244

By: 
Signature of Representative

J. Alan Mack
Name of Representative (Print or Type)

Title: Associate General Counsel


Date: August 24, 2005


Signature of Counsel for Defendant

The undersigned Defendant hereby consents to the foregoing Consent Order in State of Ohio v. Tierra Solutions, Inc., et al.

Name of Party: Painesville PRP Group

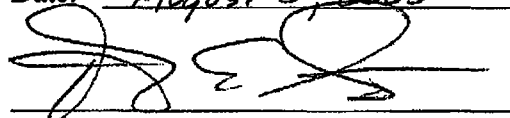
Address: Painesville PRP Group
PO Box 188
1897 Fairport Nursery Road.
Painesville, Ohio 44077

By: 
Signature of Representative

William C. Horton
Name of Representative (Print or Type)

Title: Chairman

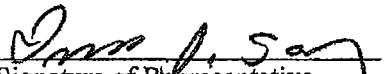
Date: August 8, 2005


Signature of Counsel for Defendant

The undersigned Defendant hereby consents to the foregoing Consent Order in State of Ohio v. Tierra Solutions, Inc., et al.

Name of Party: Village of Fairport Harbor

Address: 220 Third Street
Fairport Harbor, Ohio 44077

By: 
Signature of Representative

Frank J. Sarosy
Name of Representative (Print or Type)

Title: Mayor

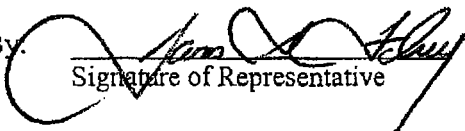
Date: 8/12/05


Signature of Counsel for Defendant

The undersigned Defendant hereby consents to the foregoing Consent Order in State of Ohio v. Tierra Solutions, Inc., et al.

Name of Party: Painesville Township Board of Trustees


Address: Painesville Township Hall
55 Nye Road
Painesville Twp., Ohio 44077

By: 
Signature of Representative

James S. Falvey
Name of Representative (Print or Type)

Title: Board Chair

Date: August 23, 2005


Signature of Counsel for Defendant



O.U. 16

Grand River

Grand River

Sign in

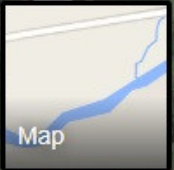


FIGURE 1
DIAMOND SHAMROCK (PAINESVILLE WORKS)
PAINESVILLE, OHIO

**U.S. ENVIRONMENTAL PROTECTION AGENCY
POLLUTION REPORT**

EPA Region 5 Records Ctr.



203329

I. HEADING

DATE: April 1, 2003

SUBJECT: Diamond Shamrock Site, Painesville Township, Lake County, Ohio

FROM: James Augustyn, U.S. EPA OSC, ERB, RS-1, Westlake, Ohio

TO: R. Worley, USEPA OSWER, Washington DC (VIA LAN)
M. Guerrero, USEPA, ERB Chief, Chicago, IL (VIA LAN)
J. El-Zem, USEPA, Chief, RS-1, Grosse Ile, MI (VIA LAN)
W. Messenger, USEPA, ESS, ERB, Chicago, IL (VIA LAN)
G. Narsete, USEPA, ERB, Chicago, IL (VIA LAN)
D. Haidar, USEPA, ERB, Westlake, OH (VIA LAN)
J. De Leon, USEPA, ORC, Chicago, IL (VIA LAN)
D. Wilson, USEPA, Superfund, Chicago, IL (VIA LAN)
M. Hans, USEPA OPA, Chicago, IL (VIA LAN)
S. Hill, USEPA OPA, Chicago, IL (VIA LAN)
B. Bill, USEPA OPA, Chicago, IL (VIA LAN)
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T. Phillips, OEPA, Twinsburg, OH (ter.phillips@epa.state.oh.us)
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Duty Officer, National Response Center, Washington, D.C. (fldr-NRC@comdt.uscg.mil)
B. Mechenbier, Lake County General Health District (Bmechenbier@lcghd.org)

POLREP #: POLREP 16 (FINAL)

Start Date July 8, 2002

II. BACKGROUND

| | |
|---------------------------|---------------------------|
| Site No. | 0522 Operable Unit #2 |
| NPL Status: | Non-NPL |
| Response Authority: | CERCLA |
| State Notification: | Ohio EPA Notified |
| Latitude | 41°45'31" North |
| Longitude: | 81°15'39" West |
| Start Date: | July 8, 2002 |
| Completion Date: | March 11, 2003 |
| CERCLA Incident Category: | PRP Funded Removal Action |

III. SITE INFORMATION

A. Incident Category

CERCLA - PRP Funded Removal Action - Former coke plant

B. Site Description

1. Site Location and background

See POLREP 1

2. Description of Threat

See POLREP 1

IV. RESPONSE INFORMATION

A. Situation

1. Current Situation:

Gross cleaning of the northern outside tank, southern outside tank, the interior rectifying tower, the railcar, the leaking interior tank containing tar material, and the Gas Sphere have been completed. Inspection of pipes located inside the Compressor Building has been completed. Gross clean out of trenches has been completed. Asbestos abatement has been completed. Power washing of trenches has been completed. Backfill of trenches and area around tar pile has been completed. Investigation of a pipe located north of the Process Building has been completed. Investigation of a pipe located west of the driveway entrance has been completed. All confirmation sample results have been received from Lancaster Laboratories and all were below detection limits. Disposal of tar waste has been completed. Disposal of asbestos/tar waste has been completed. Disposal of D008 waste has been completed.

2. Removal Activities to Date: (10/19/02 to 3/11/03)

Monday, October 21, 2002, one 20 cubic yard roll-off box of tar debris left site for Sarnia, Canada.

Tuesday, October 22, 2002, two 20 cubic yard roll-off boxes of tar debris left site for Sarnia, Canada. Total VOC results for the soil surrounding the pipe vault were received and all were below detection limits.

Wednesday, October 23, 2002, two 20 cubic yard roll-off boxes of tar debris left site for Sarnia, Canada.

Thursday, October 24, 2002, two 20 cubic yard roll-off boxes of tar debris left site for Sarnia, Canada.

Friday, October 25, 2002, two 20 cubic yard roll-off boxes of tar debris left site for Sarnia, Canada.

Monday, October 28, 2002, two 20 cubic yard roll-off boxes of tar debris left site for Sarnia, Canada.

Tuesday, October 29, 2002, one 20 cubic yard roll-off box of tar debris left site for Sarnia, Canada. One 20 cubic yard roll-off box of asbestos/tar material left site for Ottawa, Canada.

Wednesday, October 30, 2002, one 20 cubic yard roll-off box of bagged asbestos material left site for Ottawa, Canada. One empty 20 cubic yard roll-off box left site.

Thursday, October 31, 2002, one D008 drum left site for Avon, Ohio. Eighteen drums of tar/asbestos insulation, and two 20 cubic yard roll-off boxes of asbestos/tar material left site for Ottawa, Canada. Five empty gas cylinders and six fire extinguishers were left on the site.

Tuesday, November 5, 2002, Ohio EPA performed a final walkthrough of the site.

Thursday, November 14, 2002, U.S. EPA performed a final walkthrough of the site.

Tuesday, March 11, 2003, OSC Augustyn reviewed and approved the Final Site Report from the PRP's contractor.

3. Enforcement

None.

B. Next Steps

No further action is planned for the Site.

C. Key Issues

None.

V. COST INFORMATION (Estimated as of 3/14/03)

| | |
|--------------|------------------|
| START | \$ 60,000 |
| U.S. EPA* | <u>\$ 6,000</u> |
| TOTAL | \$ 66,000 |

* USEPA costs during the removal portion and excludes site assessment and enforcement negotiation costs

VI. DISPOSITION OF WASTES

Approximately 120 cubic yards of tar material (D018), 1000 cubic yards of tar contaminated debris (D018, D023, D024 and D025), 50 cubic yards of carbon material (D018 and K143), 36,000 gallons of liquid waste (D018), 500 gallons of PCB oil, 2 PCB transformer carcasses, 3 PCB capacitors, 5,800 gallons of sludge (D018, D023, D024 and K145), 3,000 gallons of rinsate water (D018, D023, D024, D038, K143 and K145), 75 cubic yards of solids from the Gas Sphere (D018, D023, D024, and D025), 40 cubic yards of asbestos material, 60 cubic yards of tar/asbestos contaminated debris, 18 drums of tar/asbestos insulation, and 1 drum of lead contaminated oil/water (D008) have been removed from the site.

BENSON / Pyridine

| Date | Medium | Waste Code | Quantity (estimated) | Treatment | Location |
|---------|-----------------------|------------------------------------|---|-----------------|---|
| 7-15-02 | Liquid | D018, D038 | 5,000 gallons | Water Treatment | Perma Fix Dayton, Ohio |
| 7-18-02 | Sludge | K145, D018, D023, D024, D025, D038 | 1,200 gallons | Fuel Blending | Chemtron Avon, Ohio |
| 7-19-02 | Oil | PCB | 500 gallons | Incineration | Safety Kleen Twinsburg, Ohio |
| 7-19-02 | Capacitors/ carcasses | PCB | 2 transformer carcasses 3 capacitors | Recycling | Safety Kleen Twinsburg, Ohio |
| 7-22-02 | Tar | D018 BENCL | 20 cubic yards | Recycling | Kippen Industries Indianapolis, Indiana |
| 7-22-02 | Solid | Asbestos | 30 cubic yards | Landfill | Exit C&D Landfill Waynesburg, Ohio |
| 7-23-02 | Tar | D018 | 20 cubic yards | Recycling | Kippen Industries Indianapolis, Indiana |
| 7-24-02 | Tar | D018 | 20 cubic yards | Recycling | Kippen Industries Indianapolis, Indiana |
| 7-25-02 | Solid | D018, K143 | 25 cubic yards | Recycling | Kippen Industries Indianapolis, Indiana |
| 7-26-02 | Solid | D018, K143 | 25 cubic yards | Recycling | Kippen Industries Indianapolis, Indiana |
| 7-30-02 | Tar | D018 | 20 cubic yards | Recycling | Kippen Industries Indianapolis, Indiana |
| 7-31-02 | Tar | D018 | 20 cubic yards | Recycling | Kippen Industries Indianapolis, Indiana |
| 7-31-02 | Solids | D018, D023, D024, D025 | 20 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 8-1-02 | Tar | D018 | 20 cubic yards | Recycling | Kippen Industries Indianapolis, Indiana |

| Date | Medium | Waste Code | Quantity (estimated) | Treatment | Location |
|-------------|---------------|------------------------------------|-----------------------------|------------------|------------------------------------|
| 8-1-02 | Solids | D018, D023, D024, D025 | 40 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 8-5-02 | Liquid | D018, D038 | 4,100 gallons | Water Treatment | Perma Fix Dayton, Ohio |
| 8-7-02 | Solids | D018, D023, D024, D025 | 20 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 8-8-02 | Solids | D018, D023, D024, D025 | 20 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 8-9-02 | Solids | D018, D023, D024, D025 | 20 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 8-12-02 | Solids | D018, D023, D024, D025 | 20 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 8-13-02 | Solids | D018, D023, D024, D025 | 20 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 8-14-02 | Solids | D018, D023, D024, D025 | 20 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 8-15-02 | Solids | D018, D023, D024, D025 | 20 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 8-21-02 | Liquid | D018, K145 | 2,800 gallons | Fuel Blending | Chemtron Services Avon, Ohio |
| 8-27-02 | Liquid | D018, D023, D024, D038, K143, K145 | 1,800 gallons | Water Treatment | Chemtron Services Avon, Ohio |
| 8-28-02 | Solids | D018, D023, D024, D025 | 25 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 8-28-02 | Liquid | D018, D038 | 800 gallons | Water Treatment | Chemtron Services Avon, Ohio |
| 8-29-02 | Solids | D018, D023, D024, D025 | 25 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 8-30-02 | Solids | D018, D023, D024, D025 | 25 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 8-30-02 | Liquid | D018, D038 | 400 gallons | Water Treatment | Chemtron Services Avon, Ohio |
| 9-6-02 | Solids | D018, D023, D024, D025 | 20 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |

| Date | Medium | Waste Code | Quantity (estimated) | Treatment | Location |
|-------------|---------------|---------------------------|-----------------------------|--------------------|------------------------------------|
| 9-6-02 | Solids | D018, D023, D024, D025 | 20 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 9-9-02 | Solids | D018, D023, D024, D025 | 20 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 9-11-02 | Solids | D018, D023, D024, D025 | 20 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 9-12-02 | Solids | D018, D023, D024, D025 | 40 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 9-13-02 | Solids | D018, D023, D024, D025 | 40 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 9-17-02 | Solids | D018, D023, D024, D025 | 20 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 9-25-02 | Liquid | D018, D038 | 1,700 gallons | Water Treatment | Chemtron Services Avon, Ohio |
| 9-30-02 | Liquid | D018 | 5,600 gallons | Water Treatment | Chemtron Services Avon, Ohio |
| 10-1-02 | Liquid | D018 | 2,800 gallons | Water Treatment | Chemtron Services Avon, Ohio |
| 10-2-02 | Liquid | D018 | 2,800 gallons | Water Treatment | Chemtron Services Avon, Ohio |
| 10-4-02 | Liquid | D018 | 1,800 gallons | Water Treatment | Chemtron Services Avon, Ohio |
| 10-7-02 | Solids | D018, D023, D024, D025 | 20 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 10-08-02 | Solids | D018, D023, D024, D025 | 40 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 10-08-02 | Liquid | D018 | 2,800 gallons | Water Treatment | Chemtron Services Avon, Ohio |
| 10-09-02 | Solids | D018, D023, D024, D025 | 20 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 10-09-02 | Liquid | D018 | 2,800 gallons | Water Treatment | Chemtron Services Avon, Ohio |
| 10-10-02 | Solids | D018, D023, D024, D025 | 40 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |

| Date | Medium | Waste Code | Quantity (estimated) | Treatment | Location |
|-------------|---------------|------------------------|-----------------------------|------------------|------------------------------------|
| 10-11-02 | Solids | D018, D023, D024, D025 | 40 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 10-11-02 | Liquid | D018 | 2,800 gallons | Water Treatment | Chemtron Services Avon, Ohio |
| 10-15-02 | Solids | D018, D023, D024, D025 | 40 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 10-15-02 | Liquid | D018 | 2,800 gallons | Water Treatment | Chemtron Services Avon, Ohio |
| 10-16-02 | Solids | D018, D023, D024, D025 | 40 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 10-16-02 | Liquid | D018 | 1,000 gallons | Water Treatment | Chemtron Services Avon, Ohio |
| 10-17-02 | Solids | D018, D023, D024, D025 | 60 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 10-18-02 | Solids | D018, D023, D024, D025 | 60 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 10-21-02 | Solids | D018, D023, D024, D025 | 20 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 10-22-02 | Solids | D018, D023, D024, D025 | 40 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 10-23-02 | Solids | D018, D023, D024, D025 | 40 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 10-24-02 | Solids | D018, D023, D024, D025 | 40 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 10-25-02 | Solids | D018, D023, D024, D025 | 40 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 10-28-02 | Solids | D018, D023, D024, D025 | 40 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 10-29-02 | Solids | D018, D023, D024, D025 | 40 cubic yards | Landfill | Laidlaw Landfill Sarnia, Canada |
| 10-29-02 | Solids | asbestos/tar | 20 cubic yards | Landfill | BFI Landfill Ottawa, Canada |
| 10-30-02 | Solids | asbestos/tar | 20 cubic yards | Landfill | BFI Landfill Ottawa, Canada |

| Date | Medium | Waste Code | Quantity (estimated) | Treatment | Location |
|-------------|---------------|-------------------|-----------------------------|--------------------|---------------------------------|
| 10-31-02 | Solids | asbestos/tar | 40 cubic yards | Landfill | BFI Landfill Ottawa, Canada |
| 10-31-02 | Solids | asbestos/tar | 18 drums | Landfill | BFI Landfill Ottawa, Canada |
| 10-31-02 | Liquid | D008 | 1 drum | Water Treatment | Chemtron Services Avon, Ohio |