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

EPA Region 5 Records Ctr.
201866

REPLY TO THE ATTENTION OF

SR-6J

JAN 29 1999

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

U.S. Paint Division of
Grow Group, Inc.
200 Park Avenue
New York, NY 10160

RE: Sauget Area 2 (Site Q) Superfund Site
Cahokia, St. Clair County, Illinois
General Notice of Potential Liability

Dear Sir:

The United States Environmental Protection Agency (U.S. EPA) has documented the release or threatened release of hazardous substances, pollutants, or contaminants into the environment at the above-referenced Site, and is planning to spend public funds to investigate and control these releases. This action will be taken by U.S. EPA pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §9601 et seq. (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986) (SARA), unless U.S. EPA determines that such action will be done properly by a responsible party or parties.

Responsible parties under CERCLA include the current and former owners and operators of the facility, persons who generated the hazardous substances, and persons who were involved in the transport, treatment or disposal of the hazardous substances at the facility. Under Section 107(a) of CERCLA, where U.S. EPA uses public funds towards the cleanup of the hazardous substances, responsible parties are liable for all costs associated with the removal or remedial action and all other necessary costs incurred in cleaning up the facility, including investigation, planning and enforcement costs.

U.S. EPA is currently planning to conduct the following actions at the above-referenced facility:

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1. Develop and implement a site health and safety plan and emergency contingency plan.

2. Implement appropriate site security measures.

3. If site conditions warrant, remove and possibly treat water from the pits in order to conduct investigations and removal activities.

4. Conduct comprehensive site investigation activities, including site sampling and analyses (including TCLP testing), necessary to fully characterize the nature and extent of surface and subsurface contamination at the site, U.S. EPA expects the amount of soil to be removed from the southern pit areas to be approximately 7,000 to 15,000 cubic yards.

5. Secure and characterize all drums and containers at the surface and buried beneath the surface on-site.

6. Exhume, transport and dispose of hazardous substances/hazardous wastes at a U.S. EPA-approved disposal facility.

7. Backfill and stabilize the soil covering of any excavated areas with clean fill.

More complete information concerning upcoming activity is available in Attachment One, the most recent Action Memorandum dated 12/21/98.

By this letter, U.S. EPA notifies you of your potential liability with regard to this matter and encourages you, as a potentially responsible party, to agree to reimburse U.S. EPA for costs incurred to date and to voluntarily perform or finance the response activities which U.S. EPA has determined or will determine are required at the facility. U.S. EPA is willing to discuss with you the entry of an appropriate administrative consent order under which you would perform or finance response activities and reimburse U.S. EPA for its costs. If a consent order cannot be promptly concluded, U.S. EPA may issue a unilateral order under Section 106 of CERCLA, requiring you to perform specified work. Under Sections 106 and 107 of CERCLA, you may be liable for reimbursement of U.S. EPA's costs, for statutory penalties, and for treble damages for noncompliance with such an order.

Due to the conditions described above, U.S. EPA believes that response activities at the Site must be initiated as quickly as possible. Therefore, U.S. EPA does not intend to utilize the special notice procedures available under Section 122(e) of CERCLA.

As a potentially responsible party, you should notify U.S. EPA in writing within fifteen (15) calendar days of receipt of this letter of your willingness to perform or finance the activities described above and to reimburse U.S. EPA for its costs. Included with this letter is a draft Administrative Order on Consent (AOC) (Attachment Two) which you may use to indicate your willingness to participate in these activities. **Your response to this letter and the AOC should be sent to:**

Michael McAteer
U.S. EPA - Region 5
Superfund Remedial Response Branch - SR-6J
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

If U.S. EPA does not receive a timely response, U.S. EPA will assume that you do not wish to negotiate a resolution of potential responsibility in connection with the facility and that you have declined any involvement in performing the response activities.

Your response should indicate the appropriate name, address and telephone number for further contact with you. If you are already involved in discussions with State or local authorities or involved in a lawsuit regarding this facility, you may continue such activities as you see fit. This letter is not intended to advise you or direct you presently to restrict or discontinue any such activities already underway; however, you are advised to report the status of those discussions or actions in you response to this letter and to provide a copy of you response to any other parties involved in those discussions or actions.

If you need further information regarding this letter or wish to discuss your liability with U.S. EPA, you may contact Leslie A. Kirby, Assistant Regional Counsel, at (312)886-7166.

Due to the nature of the problem at this facility and the attendant legal ramifications, U.S. EPA strongly encourages you to submit a written response within the time frame specified herein. We encourage you to give this matter your immediate attention.

Sincerely yours,

Wendy L. Carney, Acting Chief
Emergency Response Branch

Enclosures

cc: Paul Takacs, Illinois Environmental Protection Agency

GENERAL NOTICE LETTER SERVICE LIST

Owner/Operator

Eagle Marine Industries, Inc.
2701 North Geyer Road
St. Louis, MO 63131

Sauget & Co.
c/o Paul Sauget
2700 falling Springs Road
Sauget, IL 62201

Transporter

Browning Ferris Industries, Inc.
Gerald K. Burger, V.P. - Secretary
P.O. Box 3151
Houston, TX 77253

Browning Ferris Industries of St. Louis, Inc.
11506 Bowling Green
Creve Coeur, MO 63141

Generator

Barry Weinmiller Steel Fabrication
Bryan Cripe, Safety & Environmental Administrator
8000 Hall St.
St. Louis, MO 63147

Crown Cork & Seal Co., Inc.
9300 Ashton Road
P.O. Box 6208
Philadelphia, PA 19136

Dennis Chemical Co., Inc.
Aaron Dennis, President
2700 Papin St.
St. Louis, MO 63102-3042

Ethyl Petroleum Additives
Ann Burk, Assistant Counsel
300 South Fourth St.
Richmond, VA 23219-4304

Inmont Corporation
BASF Corporation
8 Campus Drive
Parsippany, NJ 07054

United Technologies Corporation
d/b/a Inmont Corporation
Irving B. Yoskowitz, Counsel
#1 Financial Plaza #2301
Hartford, CT 06103-2601

Solutia, Inc.
Attn: D. Michael Light
10300 Olive Blvd.
P.O. Box 66760
St. Louis, MO 63166-6760

Monsanto Company
R. William Ide III, Counsel
800 North Lindbergh Avenue
St. Louis, MO 63167-0001

U.S. Paint
Division of Grow Group, Inc.
200 Park Avenue
New York, NY 10160

ATTACHMENT ONE

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

DEC 2 1 1998

REPLY TO THE ATTENTION OF

MEMORANDUM

SUBJECT: ACTION MEMORANDUM - Determination of Threat to Public Health, Welfare, or the Environment at the Sauget Area 2 Site (Site Q), Cahokia, St. Clair County, Illinois (Site ID # 05XX)

FROM: Kevin Turner, On-Scene Coordinator M. Metter for K.T.
Emergency Response Branch - Section 2

TO: William E. Muno, Director
Superfund Division

THRU: Richard C. Karl, Chief R. Karl for
Emergency Response Branch

I. PURPOSE

The purpose of this memorandum is to document the determination of an imminent and substantial threat to public health and the environment posed by the presence of approximately 150 to 200 drums present at the surface, with the possibility of additional drums buried beneath the surface, surrounded by soil contaminated with high levels of polychlorinated biphenyls (PCBs) and heavy metals (particularly arsenic, lead, chromium, mercury and cadmium) located in the southeastern corner of the southern third portion of Site Q at the Sauget Area 2 Site (See Attachment 1).

The actions proposed herein will mitigate threats to public health, welfare, and the environment posed by the presence of uncontrolled hazardous wastes substances located in drums and in the soil at the site. Proposed removal actions include the assessment of the chemical hazards at the site, stabilization of the hazardous wastes and substances, off-site disposal of the hazardous wastes and substances, removal of all waste containers, and if needed, the on-site consolidation of remaining low levels of contamination in soils with stabilization and covering of these soils to prevent further movement due to flooding. The deteriorated condition of the abandoned drums, the presence of hazardous substances in surface soils, the unrestricted access to the property, and the evidence and knowledge that the site is frequented by local residents require that this removal be classified as an emergency response. This project will require an estimated 120 on-site working days to complete

The Sauget Area 2 Site is not on the National Priorities List (NPL), however, listing activities are now underway.

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II. SITE CONDITIONS AND BACKGROUND

CERCLIS ID # ILD000605790

A. Physical Location and Description

The subject area of this Action Memorandum is part of the Sauget Area Sites. These sites are located in west-central St. Clair County, Illinois, directly across the Mississippi River from St. Louis, Missouri. (See Attachment 1). The Sauget Sites consist of twelve waste disposal sites and six segments of Dead Creek, which is an intermittent stream flowing in a southerly direction in the eastern portion of the Site area. The waste disposal areas consist of former municipal and industrial waste landfills, surface impoundments or lagoons, surface disposal areas and past excavations thought to be filled or partially filled with unkown industrial wastes. Waste disposal activities in the area apparently began sometime prior to 1940, and continued until approximately 1983. The entire Sauget Site area is divided into Area 1 and Area 2. Sauget Area 2 is made up of five waste disposal areas (Sites O, P, Q, R, and S). Site Q of the Sauget Area 2 Site is an inactive mixed industrial/municipal waste landfill covering approximately 90 acres of land along the east bank of the Mississippi River in west-central St. Clair County, Illinois. This Action Memorandum relates to two former borrow pits located in the southeastern corner of the southern third of Site Q where approximately 150 to 200 drums have been disposed of on the ground surface with the possibility of additional drums buried beneath the surface. The entire landfill is located on the river side of a flood control levee constructed by the U.S. Army Corps of Engineers. Due to its location, the landfill is highly vulnerable to flooding from the adjacent Mississippi River. The most recent flooding occurred in 1977, 1987, 1993 and in 1995. During the 1993 flood the entire site was inundated by Mississippi River flood waters. As a result of flooding and due to the shallow depth to groundwater in this area, the two borrow pits, containing the drums and contaminated soil, are filled with water during various times of the year. The land immediately surrounding the borrow pits is unoccupied. Access to the borrow pits is unrestricted and local residents use the pits for fishing and hunting. The nearest residential areas are approximately 3/4 miles east of the site.

Site Q of Sauget Area 2 is situated within a census tract and block group designated as 100% minority and 100% low income and therefore meets the U.S. EPA Region 5 Environmental Justice Case criteria. However, it should be noted that the census tract and block group for the Site Q area shows a population of only 10 people (1990 Census database).

B. Site Background

Site Q was actively used as a waste disposal area for industrial and municipal wastes between the years 1966 and 1973 and was operated by Sauget & Company. Most of Site Q, including the southern pit areas, is currently owned by Eagle Marine Industries, Inc. of St. Louis, Missouri.

According to aerial photographs of the area, initial activities were noticed in 1955, with a marked increase in activity in 1962. In 1973, landfill operations appeared to have ceased in the northern portion of Site Q but continued in the southern portion. In January of 1975, Illinois EPA inspected the site and indicated disposal activities had ceased. In 1980, Illinois EPA received notice that chemical wastes and drums were uncovered during excavation activities for the railroad spur that cuts across Site Q. It was reported that construction workers became nauseous, but specific worker exposure information was not found. In 1981, the Illinois Attorney General filed suit against Sauget & Company for alleged violations against Illinois EPA regulations. In October of 1981, Illinois EPA sampled seeps along the boundaries of Site Q and results showed high concentrations of organics. In October of 1984, the Illinois EPA conducted inspections in order to determine the scope of proposed cleanup work at the site. As part of an Expanded Site Investigation conducted by Illinois EPA in March of 1987, a monitoring well was installed in the borrow pit area of Site Q (well No. EE-09). A sample collected from this well showed the presence of benzene (1J ppb) (J = estimated value), chlorobenzene (33 ppb) and di-n-octyl phthalate (4J ppb). In June of 1993, as a result of finding buried drums at the northern section of Site Q, a U.S. EPA Field Investigation Team (FIT) contractor collected 33 subsurface soil samples at the site. A total of 63 of 112 organic compounds from the priority pollutant list were detected, including dioxins. As a result of severe flooding on the Mississippi River in the summer of 1993, waste materials including drums were left exposed along the shoreline side of Site Q. Samples collected by U.S. EPA from the exposed wastes indicated elevated levels of semi-volatile organics and polychlorinated biphenyls (PCBs) (total PCBs at 260,000 ppm). Subsequently, a removal action was conducted by U.S. EPA to remove the waste materials and to repair the exposed sections of the fill area. Also as follow-up to the severe flooding of the Mississippi River, the Illinois EPA collected 11 surface soil and waste samples from the borrow pit area in Site Q on November 9 and 10, 1994. These samples showed the presence of elevated levels of metals such as antimony (17,900 ppm), arsenic (216 ppm), cadmium (2,260 ppm), chromium (3,650 ppm), copper (1,630 ppm), lead (195,000 ppm), mercury (4.9 ppm), nickel (371 ppm), selenium (59.9 ppm), silver (28.9 ppm) and cyanide (3.3 ppm). Elevated concentrations of PCBs were also detected at levels as high as 223,000 ppb.

In April of 1997, U.S. EPA conducted a Preliminary Ecological Risk Assessment of the two pit areas located in the southern area of Site Q. The Preliminary Ecological Risk Assessment was

completed by Ecology & Environment, Inc. (E&E) for U.S. EPA to evaluate the risks to the local wildlife from the contamination in this area. During this assessment, U.S. EPA collected soil samples from the pits. These soil samples indicated elevated levels of heavy metals and PCBs (total PCBs at 120 ppm). The Ecological Risk Assessment concluded that the elevated levels of cadmium, chromium, lead, mercury, and PCBs could decrease the species diversity of the area including sensitive species. These threatened species include the endangered Black-Crowned Night Heron. The effects of these contaminants include acute toxicity, reduced growth, inhibited reproduction, and other adverse effects. The metals and PCBs may also bioconcentrate in fish tissue at high levels. Local fishermen who use the Site for fishing and who consume their catch could be exposed to the high levels of metals and PCBs. Further, the risk assessment determined that a definite need exists for further evaluation and concluded that a removal action may be appropriate.

III. THREATS TO PUBLIC HEALTH, WELFARE, OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES

The conditions at Sauget Area 2, Site Q present an imminent and substantial threat to the public health, or welfare, and the environment and meet the criteria for a removal action provided for in the National Contingency Plan (NCP), Section 300.415, Paragraph (b)(2). 40 C.F.R. § 300.415(b)(2)(I), (iii), (iv), and (v), respectively, specifically allows removal actions for:

a) Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants;

Approximately 150 to 200 deteriorating 55-gallon drums with unknown contents are located within the two former borrow pits. The possibility exists for additional drums buried beneath the surface in this same area. These drums are under water at various times during the year. Soil and waste samples collected from the areas surrounding the drum piles show elevated levels of heavy metals and PCBs.

During the April 17, 1997, site visit, a U.S. EPA ecologist evaluated the habitat quality found on the site area. Observations made by the ecologist included the fact that the area is disturbed and the habitat quality is low, but it supports a variety of organisms. The water filled borrow pits have substantial growths of macropytes and algae, as well as amphibians, fish and waterfowl. Local fishermen reported the presence of catfish and buffalo head. Several state-listed birds are likely to utilize the site: Black-Crowned Night Herron, Little Blue Heron, Snowy Egret, Great Egret, and Pied-Billed Grebe. Residences are located approximately 3/4 miles east from the site

area. The site is unsecured and readily accessible due to the lack of any fencing around the southern end of Site Q.

The preliminary Ecological Risk Assessment completed by E&E and dated August 31, 1997, concluded that metals and PCBs that can bioconcentrate in fish tissue were detected at high levels, and therefore, are threats to human health (primarily based on local fishermen who consume their catch). Further, the presence of cadmium, chromium, lead, mercury, and PCBs greater than the severe soil contamination guideline levels may decrease the species richness of the area. Sensitive species on or near the site may be subject to acute toxicity, reduced growth, inhibited reproduction and other adverse effects. Species feeding upon contaminated organisms may bioaccumulate the contaminants and become adversely affected.

Trespassers and animals may contact hazardous materials located on the ground surface. Unauthorized, indiscriminate site access could also result in human exposure to heavy metals and PCBs in the contaminated soil.

b) Hazardous substances, pollutants, or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release;

Approximately 150 to 200 deteriorating 55-gallon drums with unknown contents are located within the former borrow pits on site and there are possibly additional drums buried beneath the surface in this location. The drums are sometimes completely submerged in the pits during high water periods. Evidence of soil contamination within the pit areas suggest that the contents of the drums have been released in part or in whole. Soil and waste samples contained high levels of heavy metals and PCBs.

c) High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate;

Analytical results indicated that surface soils in the area surrounding the drums contained elevated levels of arsenic (216 ppm), cadmium (2,260 ppm), lead (195,000 ppm) and PCBs (223,000 ppb) (See Attachment 2). PCBs and heavy metals in surface soils at the site may migrate primarily as a result of recurring flooding of this area. Similarly, releases of heavy metals in surface soils may result in degradation of the groundwater.

d) Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released;

Contaminants contained within the soil and possibly still contained within the drums are subject to further migration outward from their present location as a result of recurring floods on the adjacent Mississippi River. All of Site Q is situated within the floodplain of the Mississippi River and within the river side of the Corps of Engineers levee.

IV. ENDANGERMENT DETERMINATION

Given the site conditions, the nature of the hazardous substances on site, and the potential exposure pathways described in Sections II and III above, actual or threatened releases of hazardous substances from this site, if not addressed by implementing the response actions selected in this Action Memorandum, may present an imminent and substantial endangerment to public health, or welfare, or the environment.

V. PROPOSED ACTIONS AND ESTIMATED COSTS

The OSC proposes that the following actions be taken to mitigate threats posed by the presence of hazardous substances at the Sauget Area 2 Site (Site Q):

1) Develop and implement a site health and safety plan and emergency contingency plan;

2) Implement appropriate site security measures;

3) If site conditions warrant, remove and possibly treat water from the pits in order to conduct investigation and removal activities;

4) Conduct comprehensive site investigation activities, including site sampling and analyses (including TCLP testing), necessary to fully characterize the nature and extent of surface and subsurface contamination at the site. U.S. EPA expects the amount of soil to be removed from the southern pit areas to be approximately 7,000 to 15,000 cubic yards;

5) Secure and characterize all drums and containers at the surface and buried beneath the surface on-site;

6) Exhume, transport and dispose of hazardous substances/hazardous wastes at a U.S. EPA-approved disposal facility;

7) Backfill and stabilize the soil covering of any excavated areas with clean fill.

All hazardous substances, pollutants, or contaminants removed off site pursuant to this removal action for treatment, storage, and disposal shall be treated, stored, or disposed of at a facility in compliance, as determined by U.S. EPA, with the U.S. EPA Off-Site Rule, 40 CFR § 300.440, 58 Federal Register 49215 (September 22, 1993).

The OSC has initiated consideration for provision of post-removal site control consistent with the provisions of Section 300.415(l) of the NCP. It is anticipated that any post-removal site control will be undertaken by potentially responsible parties (PRPs).

The response actions described in this memorandum directly address the actual or threatened release at the site of a hazardous substance, or of a pollutant, or of a contaminant which may pose

an imminent and substantial endangerment to public health or welfare or to the environment. These response actions do not impose a burden on affected property disproportionate to the extent to which that property contributes to the conditions being addressed. It is anticipated that time-critical removal activities will take approximately 120 on-site working days to complete.

Applicable or Relevant and Appropriate Requirements

All applicable or relevant and appropriate requirements (ARARs) will be complied with to the extent practicable. A letter was sent to Mr. Paul Takacs of the Illinois EPA on October 21, 1998, requesting that he identify State ARARs. Any State ARARs identified in a timely manner will be complied with to the extent practicable.

VI. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN

Continued risk to public health and the environment will result if no action or delayed action ensues.

VII. OUTSTANDING POLICY ISSUES

There are no outstanding policy issues associated with this site.

VIII. ENFORCEMENT

For administrative purposes, information concerning the enforcement strategy for this site is contained in the Enforcement Confidential Addendum.

IX. RECOMMENDATION

This decision document represents the selected removal action for the southern portion of Site Q in Sauget Area 2 developed in accordance with CERCLA as amended, and is not inconsistent with the NCP. This decision is based upon the Administrative Record for the site. Conditions at the site meet the NCP Section 300.415(b)(2) criteria for a removal and I recommend your approval of the proposed removal action. You may indicate your decision by signing below.

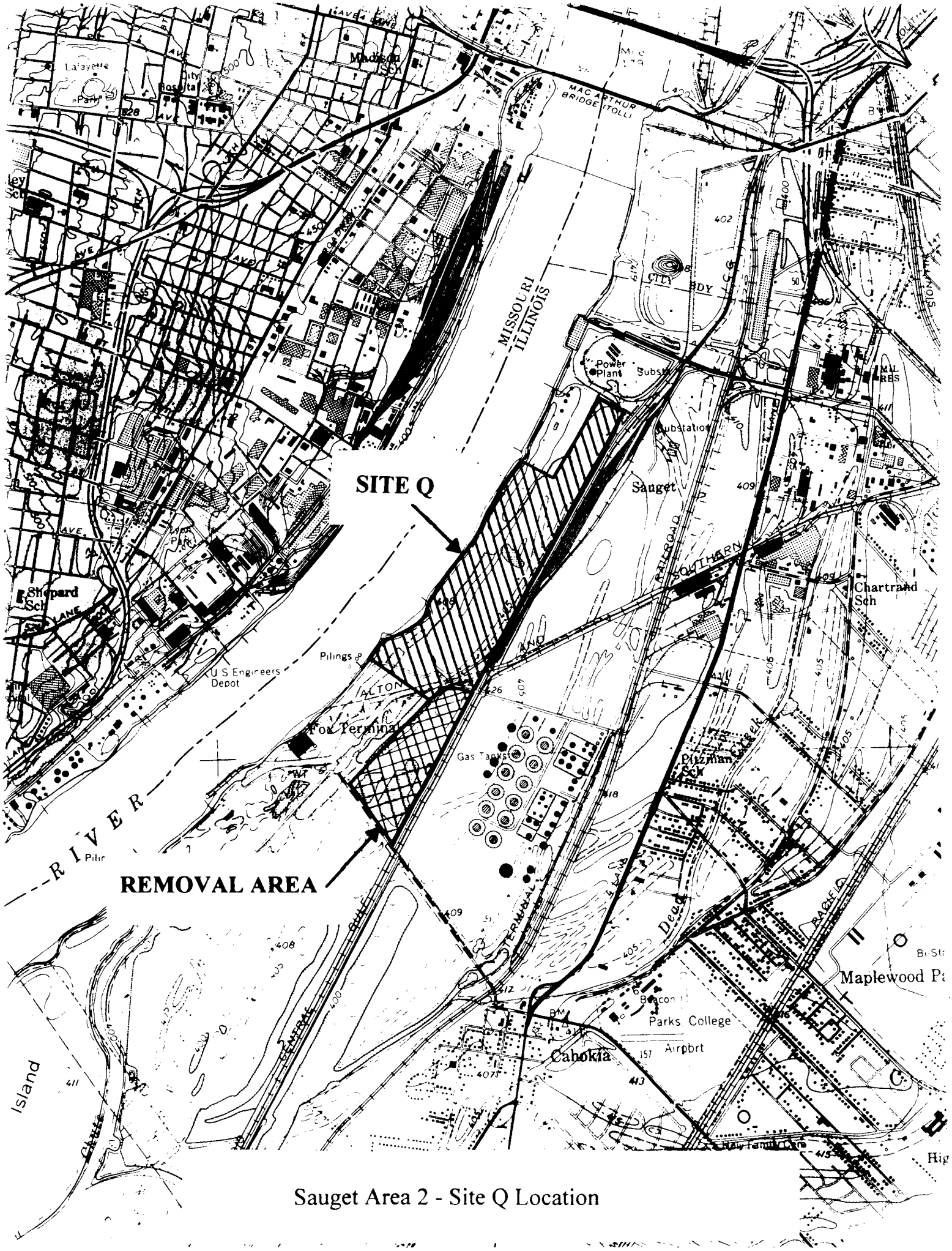
APPROVE: Richard Karl DATE: 12-21-98
Director, Superfund Division

DISAPPROVE: _____ DATE: _____
Director, Superfund Division

cc: K. Mould, U.S. EPA, 5202-G
M. Chezik, U.S. Department of the Interior, **w/o Enf. Addendum**
M. Gade, Illinois EPA, **w/o Enf. Addendum**
P. Takacs, Illinois EPA, **w/o Enf. Addendum**
J. Morgan, Illinois Dept. of Attorney General, **w/o Enf. Addendum**

ATTACHMENT 1

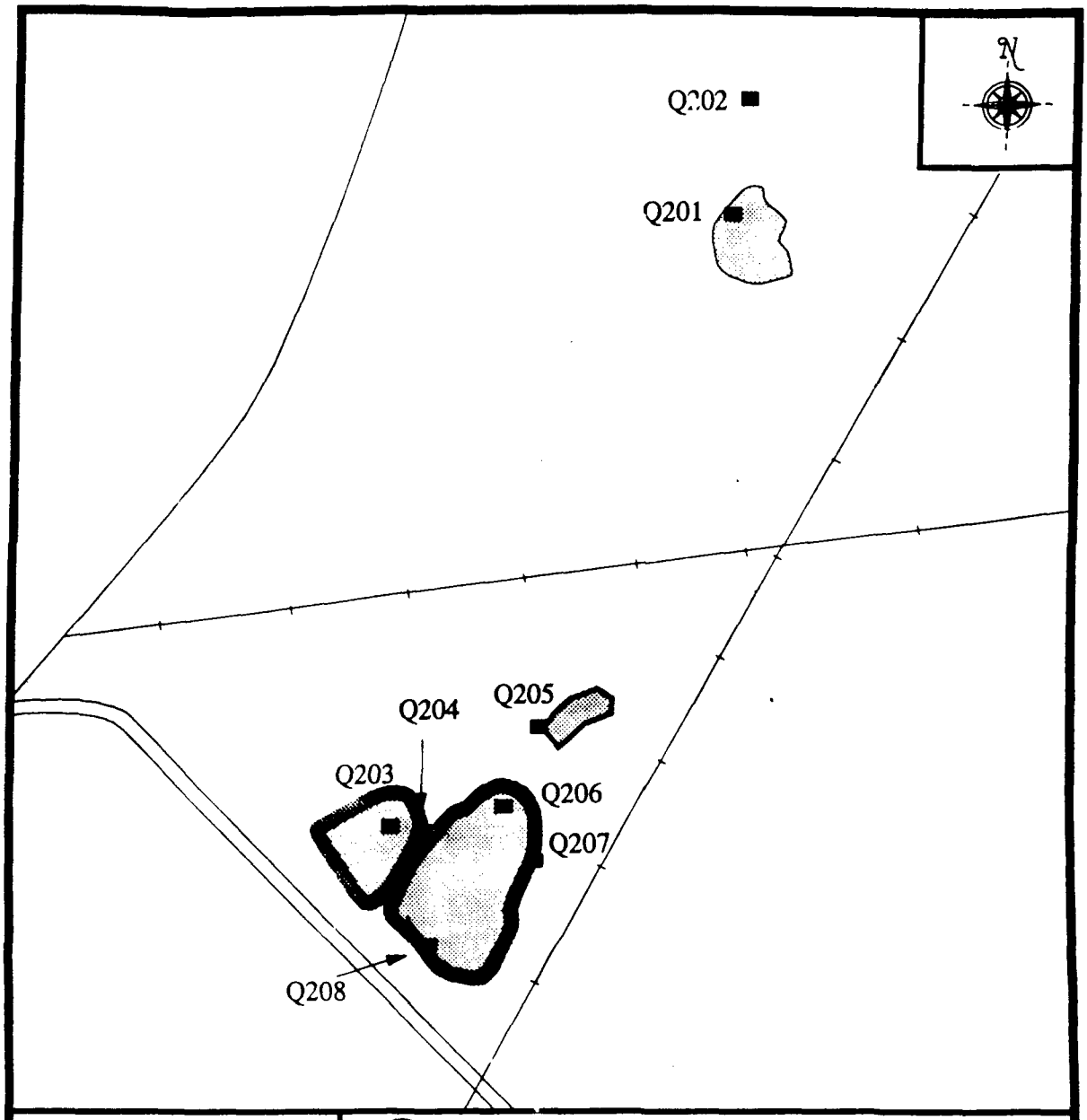
SITE LOCATION MAP
SAUGET AREA 2 - SITE Q
CAHOKIA, ST CLAIR COUNTY, ILLINOIS



Sauget Area 2 - Site Q Location

ATTACHMENT 2

U.S. EPA AND ILLINOIS EPA SAMPLING LOCATIONS
SAUGET AREA 2 - SITE Q
CAHOKIA, ST. CLAIR COUNTY, ILLINOIS

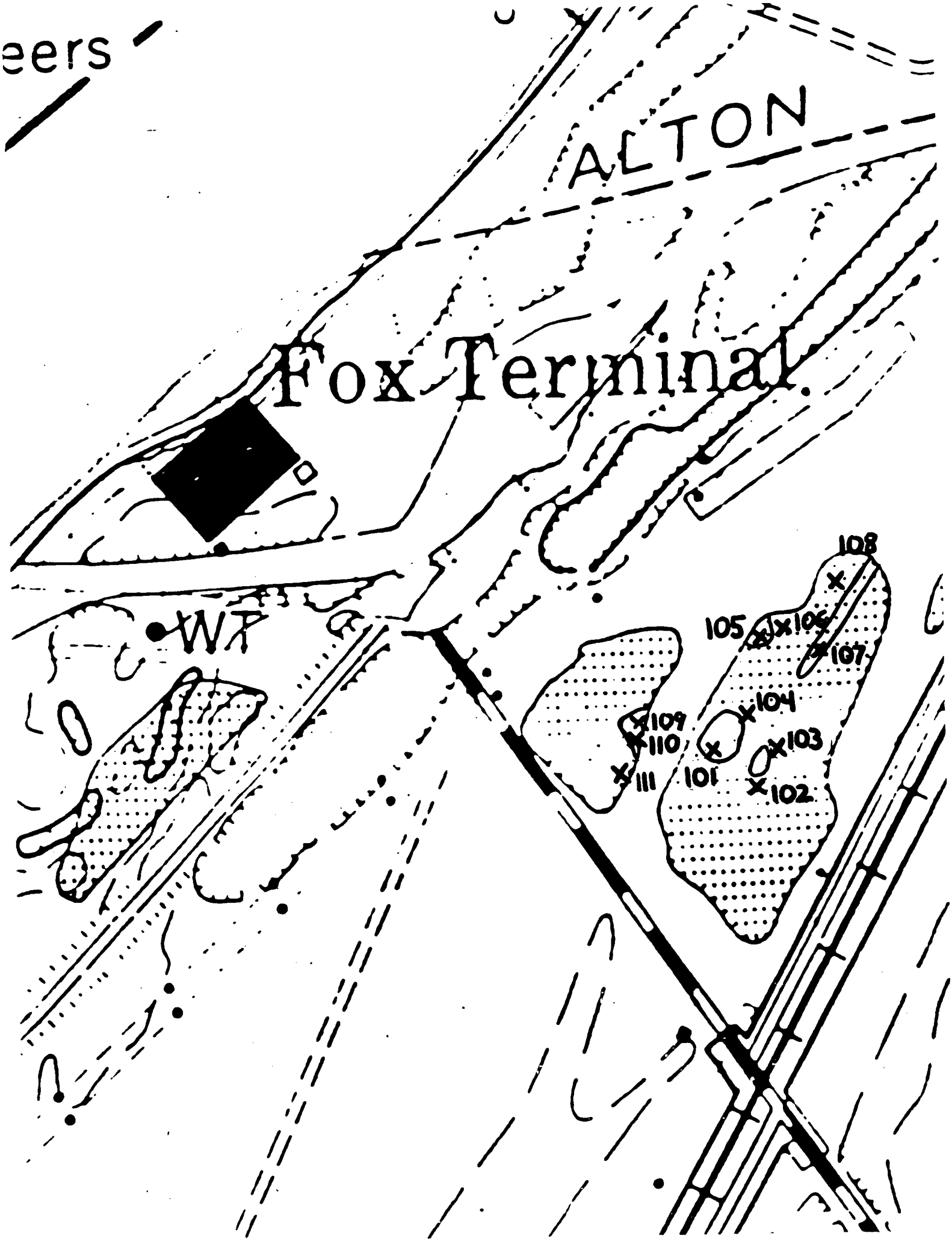


Legend

■ Sample Location

ecology and environment, inc.
Superfund Technical Assessment and Response Team
Region 5
33 North Dearborn Street, Chicago, Illinois 60602

TITLE: Sample Location Map	FIGURE #:
SITE: Sauget Area 2	SCALE: Not to scale
CITY: Sauget STATE: Illinois	TDD: S05-9703-013
SOURCE: Ecology and Environment, Inc.	DATE: 1997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ATTACHMENT ~~4~~ 3

U.S. ENVIRONMENTAL PROTECTION AGENCY
REMOVAL ACTION #2

ADMINISTRATIVE RECORD
FOR
SAUGET AREA 2, SITE Q
CAHOKIA, ST. CLAIR COUNTY, ILLINOIS

ORIGINAL
NOVEMBER 19, 1998

NO.	DATE	AUTHOR	RECIPIENT	TITLE/DESCRIPTION	PAGES
1	07/00/94	Ecology and Environment, Inc.	U.S. EPA	*Removal Action Report* for Sauget Area 2, Site Q	57
2	12/30/94	Takacs, P., IEPA	Rebbe, M., IDPH	Memorandum re: Sauget Sites, Area 1 and Area 2 w/ Attachments	224
3	08/31/97	Ecology and Environment, Inc.	U.S. EPA	*Preliminary Ecological Risk Assessment* for Sauget Area 2, Site Q	68
4	02/00/98	Ecology and Environment, Inc.	U.S. EPA	Sauget Area 2 Data Tables and Maps	50
5	10/15/98	Jones, B., U.S. EPA	McAteer, M., U.S. EPA	Memorandum: Information for Removal Action Memorandum for Sauget Area 2, Site Q	2
6	00/00/00	Turner, K., U.S. EPA	Muno, W., U.S. EPA	*Action Memorandum*: Determination of Threat to Public Health, Welfare, or the Environment at the Sauget Area 2 Site (Site Q) **[PENDING]**	

ATTACHMENT TWO

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:	)	Docket No.
	)	
Sauget Area 2, Site Q	)	ADMINISTRATIVE ORDER BY
Superfund Site	)	CONSENT PURSUANT TO
St. Clair County, Illinois	)	SECTION 106 OF THE
	)	COMPREHENSIVE
	)	ENVIRONMENTAL RESPONSE,
Respondents:	)	COMPENSATION, AND
	)	LIABILITY ACT OF 1980,
	)	as amended, 42 U.S.C.
	)	§ 9606(a)
	)	

I. JURISDICTION AND GENERAL PROVISIONS

This Order is entered voluntarily by the United States Environmental Protection Agency ("U.S. EPA") and the Respondent(s). The Order is issued pursuant to the authority vested in the President of the United States by Sections 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §§ 9606(a), 9607 and 9622. This authority has been delegated to the Administrator of the U.S. EPA by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Regional Administrators by U.S. EPA Delegation Nos. 14-14-A, 14-14-C and 14-14-D, and to the Director, Superfund Division, Region 5, by Regional Delegation Nos. 14-14-A, 14-14-C and 14-14-D.

This Order provides for performance of the removal action and reimbursement of response costs incurred by the United States in connection with property located in the town of Cahokia, Illinois. The property is located in Site Q of the Sauget Area 2 Site which is an inactive mixed industrial/municipal waste landfill covering approximately 90 acres of land along the east bank of the Mississippi River in west-central St. Clair County, Illinois. The removal action to be conducted relates to two former borrow pits located in the southern third of Site Q where approximately 150 to 200 drums have been disposed of on the ground surface with the possibility of additional drums buried beneath the surface (the "Site" or "Site Q"). This Order requires the Respondent(s) to conduct removal actions described herein to abate an imminent and substantial endangerment to the public health, welfare or the environment that may be presented by the actual or threatened release of hazardous substances at or from the Site.

A copy of this Order will also be provided to the State of Illinois, which has been notified of the issuance of this Order pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

Respondent(')(s)(') participation in this Order shall not constitute an admission of liability or of U.S. EPA's findings or determinations contained in this Order except in a proceeding to enforce the terms of this Order. Respondent(s) agree(s) to comply with and be bound by the terms of this Order. Respondent(s) further agree(s) that (it/they) will not contest the basis or validity of this Order or its terms.

II. PARTIES BOUND

This Order applies to and is binding upon U.S. EPA, and upon Respondent(s) and Respondent(')s(') (heirs), receivers, trustees, successors and assigns. Any change in ownership or corporate status of Respondent(s) including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondent(')s(') responsibilities under this Order. Respondents are jointly and severally liable for carrying out all activities required by this Order. Compliance or noncompliance by one or more Respondents with any provision of this Order shall not excuse or justify noncompliance by any other Respondent.

Respondent(s) shall ensure that its (their) contractors, subcontractors, and representatives comply with this Order. Respondent(s) shall be responsible for any noncompliance with this Order.

III. FINDINGS OF FACT

Based on available information, including the Administrative Record in this matter, U.S. EPA hereby finds that:

1. Approximately 150 to 200 deteriorating 55-gallon drums with unknown contents are located within the two former borrow pits. The possibility exists for additional drums buried beneath the surface in this same area. Evidence of soil contamination within the pit areas suggest that the contents of the drums have been released in part or in whole. These drums are under water at various times during the year. Soil and waste samples collected from the areas surrounding the drum piles show elevated levels of heavy metals and PCBs. Samples collected from the borrow pit areas of Site Q showed the presence of elevated levels of metals such as antimony (17,900 ppm), arsenic (216 ppm), cadmium (2,260 ppm), chromium (3,650 ppm), copper (1,630 ppm), lead (195,000 ppm), mercury (4.9 ppm), nickel (371 ppm), selenium

(59.9 ppm), silver (28.9 ppm) and cyanide (3.3 ppm). Elevated concentrations of PCBs were also detected at levels as high as 223,000 ppb.

2. Residences are located approximately 3/4 miles east from the site area. The site is unsecured and readily accessible due to the lack of any fencing around the southern end of Site Q. Unauthorized, indiscriminate site access could result in human exposure to heavy metals and PCBs in the contaminated soil.

3. A preliminary Ecological Risk Assessment completed dated August 31, 1997, concluded that metals and PCBs that can bioconcentrate in fish tissue were detected at high levels, and therefore, are threats to human health. The threat is based primarily on local fishermen who consume their catch. Further, the presence of cadmium, chromium, lead, mercury, and PCBs greater than the severe soil contamination guideline levels may decrease the species richness of the area. Sensitive species on or near the site may be subject to acute toxicity, reduced growth, inhibited reproduction and other adverse effects. The contaminates may bioaccumulate in the species feeding upon contaminated organisms and these organisms may become adversely affected. Trespassers and animals may contact hazardous materials located on the ground surface.

4. Contaminants contained within the soil and possibly still contained within the drums are subject to further migration outward from their present location as a result of recurring floods on the adjacent Mississippi River. All of Site Q is situated within the floodplain of the Mississippi River and within the river side of the Corps of Engineers' levee. Similarly, releases of heavy metals in surface soils may result in degradation of the groundwater.

IV. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth above, and the Administrative Record supporting these removal actions, U.S. EPA has determined that:

1. Site Q is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

2. PCBs, antimony, arsenic, cadmium, chromium, copper, lead, mercury, nickel, selenium, silver and cyanide are "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

3. Each Respondent is a "person" as defined by Section 101(21)of CERCLA, 42 U.S.C. § 9601(21).

4. Respondent Eagle Marine Industries, Inc. is the present "owner(s)" and "operator(s)" of Site Q, as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20). Respondent(s) _____ is (are) either (a) person(s) who at the time of disposal of any hazardous substances owned or operated the _____ Site, or who arranged for disposal or transport for disposal of hazardous substances at Site Q. Each Respondent therefore may be liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

5. The conditions described in the Findings of Fact above constitute an actual or threatened "release" of a hazardous substance from the facility into the "environment" as defined by Sections 101(8) and (22) of CERCLA, 42 U.S.C. §§ 9601(8) and (22).

6. The conditions present at the Site constitute a threat to public health, welfare, or the environment based upon the factors set forth in Section 300.415(b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan, as amended ("NCP"), 40 CFR § 300.415(b)(2). These factors include, but are not limited to, the following:

a) Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants; this factor is present at the Site due to the existence of approximately 150 to 200 deteriorating 55-gallon drums with unknown contents located within the two former borrow pits. The possibility exists for additional drums buried beneath the surface in this same area. These drums are under water at various times during the year. Soil and waste samples collected from the areas surrounding the drum piles show elevated levels of heavy metals and PCBs.

   The preliminary Ecological Risk Assessment completed by E&E and dated August 31, 1997, concluded that metals and PCBs that can bioconcentrate in fish tissue were detected at high levels, and therefore, are threats to human health (primarily based on local fishermen who consume their catch). Further, the presence of cadmium, chromium, lead, mercury, and PCBs greater than the severe soil contamination guideline levels may decrease the species richness of the area. Sensitive species on or near the site may be subject to acute toxicity, reduced growth, inhibited reproduction and other adverse effects. Species feeding upon contaminated organisms may bioaccumulate the contaminants and become adversely affected.

   Trespassers and animals may contact hazardous materials located on the ground surface. Unauthorized, indiscriminate

site access could also result in human exposure to heavy metals and PCBs in the contaminated soil.

b) Hazardous substances, pollutants, or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release; this factor is present at the Site due to the existence of approximately 150 to 200 deteriorating 55-gallon drums with unknown contents are located within the former borrow pits on-site and there are possibly additional drums buried beneath the surface in this location. The drums are sometimes completely submerged in the pits during high water periods. Evidence of soil contamination within the pit areas suggest that the contents of the drums have been released in part or in whole. Soil and waste samples contained high levels of heavy metals and PCBs.

c) High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate; this factor is present at the Site where analytical results from samples collected in November of 1994, indicate that surface soils in the area surrounding the drums contain elevated levels of arsenic (216 ppm), cadmium (2,260 ppm), lead (195,000 ppm) and PCBs (223,000 ppb). PCBs and heavy metals in surface soils at the site may migrate primarily as a result of recurring flooding of this area. Similarly, releases of heavy metals in surface soils may result in degradation of the groundwater.

d) Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released; this factor is present at the Site due to the existence of contaminants contained within the soil and possibly still contained within the drums which are subject to further migration outward from their present location as a result of recurring floods on the adjacent Mississippi River. All of Site Q is situated within the floodplain of the Mississippi River and within the river side of the Corps of Engineers' levee. The most recent flooding of the Mississippi River occurred in 1977, 1987, 1993 and in 1995 resulting in inundations of the site area.

7. The actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

8. The removal actions required by this Order, if properly performed under the terms of this Order, are consistent with the NCP. The removal actions required by this Order are necessary to protect the public health, welfare, or the environment.

V. ORDER

Based upon the foregoing Findings of Fact, Conclusions of Law and Determinations, it is hereby ordered and agreed that Respondent(s) shall comply with the following provisions, including but not limited to all documents attached to or incorporated into this Order, and perform the following actions:

1. Designation of Contractor, Project Coordinator, and On-Scene Coordinator

Respondent(s) shall perform the removal actions required by this Order itself (themselves) or retain (a) contractor(s) to implement the removal actions. Respondent(s) shall notify U.S. EPA of Respondent(')(s)(') qualifications or the name and qualifications of such contractor(s), whichever is applicable, within 5 business days of the effective date of this Order. Respondent(s) shall also notify U.S. EPA of the name and qualifications of any other contractors or subcontractors retained to perform work under this Order at least 5 business days prior to commencement of such work. U.S. EPA retains the right to disapprove of the Respondent(s) or any of the contractors and/or subcontractors retained by the Respondent(s). If U.S. EPA disapproves a selected contractor, Respondent(s) shall retain a different contractor within 2 business days following U.S. EPA's disapproval and shall notify U.S. EPA of that contractor's name and qualifications within 3 business days of U.S. EPA's disapproval.

Within 5 business days after the effective date of this Order, the Respondent(s) shall designate a Project Coordinator who shall be responsible for administration of all the Respondent(')(s)(') actions required by the Order. Respondent(s) shall submit the designated coordinator's name, address, telephone number, and qualifications to U.S. EPA. To the greatest extent possible, the Project Coordinator shall be present on-site or readily available during site work. U.S. EPA retains the right to disapprove of any Project Coordinator named by the Respondent(s). If U.S. EPA disapproves a selected Project Coordinator, Respondent(s) shall retain a different Project Coordinator within 3 business days following U.S. EPA's disapproval and shall notify U.S. EPA of that person's name and qualifications within 4 business days of U.S. EPA's disapproval. Receipt by Respondent(')s(') Project Coordinator of any notice or communication from U.S. EPA relating to this Order shall constitute receipt by (all) Respondent(s).

The U.S. EPA has designated Kevin Turner of the Emergency Response Branch, Region 5, as its On-Scene Coordinator ("OSC"). Respondent(s) shall direct all submissions required by this Order to the OSC at U.S. EPA-Region 5, c/o Crab Orchard National Wildlife Refuge, 8588 Route 148, Marion, IL 62959, by certified or express mail. Respondent(s) shall also send a copy of all submissions to Leslie A. Kirby, Assistant Regional Counsel, 77 West Jackson Boulevard, C-14J, Chicago, Illinois, 60604-3590.

All Respondents are encouraged to make their submissions to U.S. EPA on recycled paper (which includes significant postconsumer waste paper content where possible) and using two-sided copies.

U.S. EPA and Respondent(s) shall have the right, subject to the immediately preceding paragraph, to change their designated OSC or Project Coordinator. U.S. EPA shall notify the Respondent(s), and Respondent(s) shall notify U.S. EPA, as early as possible before such a change is made, but in no case less than 24 hours before such a change. The initial notification may be made orally but it shall be promptly followed by a written notice.

2. Work to Be Performed

Respondent(s) shall perform, at a minimum, the following removal actions:

a) Develop and implement a site health and safety plan and emergency contingency plan;

b) Implement appropriate site security measures;

c) If site conditions warrant, remove and possibly treat water from the pits in order to conduct investigation and removal activities;

d) Conduct comprehensive site investigation activities, including site sampling and analyses (including TCLP testing), necessary to fully characterize the nature and extent of surface and subsurface contamination at the site. U.S. EPA expects the amount of soil to be removed from the southern pit areas to be approximately 7,000 to 15,000 cubic yards;

e) Secure and characterize all drums and containers at the surface and buried beneath the surface on-site;

f) Exhume, transport and dispose of hazardous substances/hazardous wastes at a U.S. EPA-approved disposal facility;

g) Backfill and stabilize the soil covering of any excavated areas with clean fill.

2.1 Work Plan and Implementation

Within 10 business days after the effective date of this Order, the Respondent(s) shall submit to U.S. EPA for approval a draft Work Plan for performing the removal activities set forth above.

The draft Work Plan shall provide a description of, and an expeditious schedule for, the actions required by this Order.

U.S. EPA may approve, disapprove, require revisions to, or modify the draft Work Plan. If U.S. EPA requires revisions, Respondent(s) shall submit a revised draft Work Plan within 7 business days of receipt of U.S. EPA's notification of required revisions. Respondent(s) shall implement the Work Plan as finally approved in writing by U.S. EPA in accordance with the schedule approved by U.S. EPA. Once approved, or approved with modifications, the Work Plan, the schedule, and any subsequent modifications shall be fully enforceable under this Order. Respondent(s) shall notify U.S. EPA at least 48 hours prior to performing any on-site work pursuant to the U.S. EPA approved Work Plan. Respondent(s) shall not commence or undertake any removal actions at the Site without prior U.S. EPA approval.

2.2 Health and Safety Plan

Within 10 business days after the effective date of this Order, the Respondent(s) shall submit for U.S. EPA review and comment a plan that ensures the protection of the public health and safety during performance of on-site work under this Order. This plan shall comply with applicable Occupational Safety and Health Administration ("OSHA") regulations found at 29 CFR Part 1910. If U.S. EPA determines it is appropriate, the plan shall also include contingency planning. Respondents shall incorporate all changes to the plan recommended by U.S. EPA, and implement the plan during the pendency of the removal action.

2.3 Quality Assurance and Sampling

All sampling and analyses performed pursuant to this Order shall conform to U.S. EPA direction, approval, and guidance regarding sampling, quality assurance/quality control ("QA/QC"), data validation, and chain of custody procedures. Respondent(s) shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with U.S. EPA guidance.

Upon request by U.S. EPA, Respondent(s) shall have such a laboratory analyze samples submitted by U.S. EPA for quality assurance monitoring. Respondent(s) shall provide to U.S. EPA the quality assurance/quality control procedures followed by all sampling teams and laboratories performing data collection and/or analysis. Respondent(s) shall also ensure provision of analytical tracking information consistent with OSWER Directive No. 9240.0-2B, "Extending the Tracking of Analytical Services to PRP-Lead Superfund Sites."

Upon request by U.S. EPA, Respondent(s) shall allow U.S. EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by Respondent(s) or its (their) contractors or agents while performing work under this Order. Respondent(s) shall notify U.S. EPA not less than 3 business days in advance of any sample collection activity. U.S. EPA shall

have the right to take any additional samples that it deems necessary.

2.4 Post-Removal Site Control

In accordance with the Work Plan schedule, or as otherwise directed by the OSC, Respondent(s) shall submit a proposal for post-removal site control, consistent with Section 300.415(l) of the NCP, 40 CFR § 300.415(l), and OSWER Directive 9360.2-02. Upon U.S. EPA approval, Respondent(s) shall implement such controls and shall provide U.S. EPA with documentation of all post-removal site control arrangements.

2.5 Reporting

Respondent(s) shall submit a monthly written progress report to U.S. EPA concerning actions undertaken pursuant to this Order, beginning 30 calendar days after the date of U.S. EPA's approval of the Work Plan, until termination of this Order, unless otherwise directed in writing by the OSC. These reports shall describe all significant developments during the preceding period, including the work performed and any problems encountered, analytical data received during the reporting period, and developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

Any Respondent that owns any portion of the Site shall, at least 30 days prior to the conveyance of any interest in real property at the Site, give written notice of this Order to the transferee and written notice of the proposed conveyance to U.S. EPA and the State. The notice to U.S. EPA and the State shall include the name and address of the transferee. The party conveying such an interest shall require that the transferee will provide access as described in Section V.3 (Access to Property and Information).

2.5 Final Report

Within 60 calendar days after completion of all removal actions required under this Order, the Respondent(s) shall submit for U.S. EPA review a final report summarizing the actions taken to comply with this Order. The final report shall conform to the requirements set forth in Section 300.165 of the NCP, 40 CFR § 300.165. The final report shall also include a good faith estimate of total costs incurred in complying with the Order, a listing of quantities and types of materials removed off-site or handled on-site, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destinations of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits).

The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

> Under penalty of law, I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this report, the information submitted is true, accurate, and complete.

3. Access to Property and Information

Respondent(s) shall provide or obtain access to the Site and off-site areas to which access is necessary to implement this Order, and shall provide access to all records and documentation related to the conditions at the Site and the actions conducted pursuant to this Order. Such access shall be provided to U.S. EPA employees, contractors, agents, consultants, designees, representatives, and State of Illinois representatives. These individuals shall be permitted to move freely at the Site and appropriate off-site areas in order to conduct actions which U.S. EPA determines to be necessary. Respondent(s) shall submit to U.S. EPA, upon request, the results of all sampling or tests and all other data generated by Respondent(s) or its (their) contractor(s), or on the Respondent(')s(') behalf during implementation of this Order.

Where work under this Order is to be performed in areas owned by or in possession of someone other than Respondent(s), Respondent(s) shall use its (their) best efforts to obtain all necessary access agreements within 14 calendar days after the effective date of this Order, or as otherwise specified in writing by the OSC. Respondent(s) shall immediately notify U.S. EPA if, after using its (their) best efforts, it is (they are) unable to obtain such agreements. Respondent(s) shall describe in writing its (their) efforts to obtain access. U.S. EPA may then assist Respondent(s) in gaining access, to the extent necessary to effectuate the response actions described herein, using such means as U.S. EPA deems appropriate. Respondent(s) shall reimburse U.S. EPA for all costs and attorneys fees incurred by the United States in obtaining such access.

4. Record Retention, Documentation, Availability of Information

Respondent(s) shall preserve all documents and information, in its (their) possession or the possession of its (their) contractors, subcontractors or representatives, relating to work performed under this Order, or relating to the hazardous substances found on or released from the Site, for six years following completion of the removal actions required by this Order. At the end of this six year period and at least 60 days before any document or information is destroyed, Respondent(s) shall notify U.S. EPA that such documents and information are available to U.S. EPA for inspection, and upon request, shall provide the originals or copies of such documents and information

to U.S. EPA. In addition, Respondent(s) shall provide documents and information retained under this Section at any time before expiration of the six year period at the written request of U.S. EPA. Any information that Respondent(s) is (are) required to provide or maintain pursuant to this Order is not subject to the Paperwork Reduction Act of 1995, 44 U.S.C. §3501 et seq.

5. Off-Site Shipments

All hazardous substances, pollutants or contaminants removed off-site pursuant to this Order for treatment, storage or disposal shall be treated, stored, or disposed of at a facility in compliance, as determined by U.S. EPA, with the U.S. EPA Off-Site Rule, 40 CFR § 300.440, 58 Federal Register 49215 (Sept. 22, 1993).

6. Compliance With Other Laws

Respondent(s) shall perform all actions required pursuant to this Order in accordance with all applicable local, state, and federal laws and regulations except as provided in CERCLA Section 121(e), 42 U.S.C. § 9621(e), and 40 CFR § 300.415(j). In accordance with 40 CFR § 300.415(j), all on-site actions required pursuant to this Order shall, to the extent practicable, as determined by U.S. EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements under federal environmental or state environmental or facility siting laws.

7. Emergency Response and Notification of Releases

If any incident, or change in Site conditions, during the activities conducted pursuant to this Order causes or threatens to cause an additional release of hazardous substances from the Site or an endangerment to the public health, welfare, or the environment, the Respondent(s) shall immediately take all appropriate action to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondent(s) shall also immediately notify the OSC or, in the event of his/her unavailability, shall notify the Regional Duty Officer, Emergency Response Branch, Region 5 at (312) 353-2318, of the incident or Site conditions. If Respondent(s) fail(s) to respond, U.S. EPA may respond to the release or endangerment and reserve the right to recover costs associated with that response.

Respondent(s) shall submit a written report to U.S. EPA within 7 business days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. Respondent(s) shall also comply with any other notification requirements, including those in CERCLA Section 103, 42 U.S.C. § 9603, and Section 304 of the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. § 11004.

VI. AUTHORITY OF THE U.S. EPA ON-SCENE COORDINATOR

The OSC shall be responsible for overseeing the implementation of this Order. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other response action undertaken by U.S. EPA or Respondent(s) at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

VII. REIMBURSEMENT OF COSTS

Respondent(s) shall pay all past response costs and oversight costs of the United States incurred for this response action at the Site that are not inconsistent with the NCP. As soon as practicable after the effective date of this Order, U.S. EPA will send Respondent(s) a bill for "past response costs" at the Site. U.S. EPA's bill will include an Itemized Cost Summary.

"Past response costs" are all costs, including, but not limited to, direct and indirect costs and interest, that the United States, its employees, agents, contractors, consultants, and other authorized representatives incurred and paid with regard to the Site prior to XX.

In addition, U.S. EPA will send Respondent(s) a bill for "oversight costs" on an annual basis. "Oversight costs" are all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing plans, reports and other items pursuant to this AOC.

"Oversight costs" shall also include all costs, including direct and indirect costs, paid by the United States in connection with the Site between **the date through which the U.S. EPA's Itemized Cost Summary for "past response costs" ran** and the effective date of this AOC.

Respondent(s) shall, within 30 calendar days of receipt of a bill, remit a cashier's or certified check for the amount of the bill made payable to the "Hazardous Substance Superfund," to the following address:

U.S. Environmental Protection Agency
Program Accounting & Analysis Section
P.O. Box 70753
Chicago, Illinois 60673

Respondent(s) shall simultaneously transmit a copy of the check to the Director, Superfund Division, U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois, 60604-3590. Payments shall be designated as "Response Costs - Sauget Site Q" and shall reference the payer(')s(') name and address, the U.S. EPA site

identification number **(number)**, and the docket number of this Order.

In the event that any payment is not made within the deadlines described above, Respondent(s) shall pay interest on the unpaid balance. Interest is established at the rate specified in Section 107(a) of CERCLA, 42 U.S.C. § 9607(a). The interest shall begin to accrue on the date of the Respondent's receipt of the bill (or for past response costs, on the effective date of this Order). Interest shall accrue at the rate specified through the date of the payment. Payments of interest made under this paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondent(')(s)(') failure to make timely payments under this Section.

Respondent(s) may dispute all or part of a bill for Oversight costs submitted under this Order, if Respondent(s) allege(s) that U.S. EPA has made an accounting error, or if Respondent(s) allege(s) that a cost item is inconsistent with the NCP.

If any dispute over costs is resolved before payment is due, the amount due will be adjusted as necessary. If the dispute is not resolved before payment is due, Respondent(s) shall pay the full amount of the uncontested costs into the Hazardous Substance Fund as specified above on or before the due date. Within the same time period, Respondent(s) shall pay the full amount of the contested costs into an interest-bearing escrow account. Respondent(s) shall simultaneously transmit a copy of both checks to the OSC. Respondent(s) shall ensure that the prevailing party or parties in the dispute shall receive the amount upon which they prevailed from the escrow funds plus interest within 20 calendar days after the dispute is resolved.

VIII. DISPUTE RESOLUTION

The parties to this Order shall attempt to resolve, expeditiously and informally, any disagreements concerning this Order.

If the Respondent(s) object(s) to any U.S. EPA action taken pursuant to this Order, including billings for response costs, the Respondent(s) shall notify U.S. EPA in writing of its (their) objection(s) within 10 calendar days of such action, unless the objection(s) has (have) been informally resolved. This written notice shall include a statement of the issues in dispute, the relevant facts upon which the dispute is based, all factual data, analysis or opinion supporting Respondent(')s(') position, and all supporting documentation on which such party relies. U.S. EPA shall submit its Statement of Position, including supporting documentation, no later than 10 calendar days after receipt of the written notice of dispute. In the event that these 10-day time periods for exchange of written documents may cause a delay in the work, they shall be shortened upon, and in

accordance with, notice by U.S. EPA. The time periods for exchange of written documents relating to disputes over billings for response costs may be extended at the sole discretion of U.S. EPA.

An administrative record of any dispute under this Section shall be maintained by U.S. EPA. The record shall include the written notification of such dispute, and the Statement of Position served pursuant to the preceding paragraph. Upon review of the administrative record, the Director of the Superfund Division, U.S. EPA Region 5, shall resolve the dispute consistent with the NCP and the terms of this Order.

Respondent(')(s)(') obligations under this Order shall not be tolled by submission of any objection for dispute resolution under this Section. Following resolution of the dispute, as provided by this Section, Respondent(s) shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with U.S. EPA's decision, whichever occurs.

IX. FORCE MAJEURE

Respondent(s) agree(s) to perform all requirements under this Order within the time limits established under this Order, unless the performance is delayed by a force majeure. For purposes of this Order, a force majeure is defined as any event arising from causes beyond the control of Respondent(s) or of any entity controlled by Respondent(s), including but not limited to its (their) contractors and subcontractors, that delays or prevents performance of any obligation under this Order despite Respondent(')(s)(') best efforts to fulfill the obligation. Force majeure does not include financial inability to complete the work or increased cost of performance.

Respondent(s) shall notify U.S. EPA orally within 24 hours after Respondent(s) become aware of any event that Respondent(s) contend(s) constitutes a force majeure, and in writing within 7 calendar days after the event. Such notice shall: identify the event causing the delay or anticipated delay; estimate the anticipated length of delay, including necessary demobilization and re-mobilization; state the measures taken or to be taken to minimize the delay; and estimate the timetable for implementation of the measures. Respondent(s) shall take all reasonable measures to avoid and minimize the delay. Failure to comply with the notice provision of this Section shall be grounds for U.S. EPA to deny Respondent(s) an extension of time for performance. Respondent(s) shall have the burden of demonstrating by a preponderance of the evidence that the event is a force majeure, that the delay is warranted under the circumstances, and that best efforts were exercised to avoid and mitigate the effects of the delay.

If U.S. EPA determines a delay in performance of a requirement under this Order is or was attributable to a force majeure, the time period for performance of that requirement shall be extended as deemed necessary by U.S. EPA. Such an extension shall not alter Respondent(s)(')(s) obligation to perform or complete other tasks required by the Order which are not directly affected by the force majeure.

X. STIPULATED AND STATUTORY PENALTIES

For each day, or portion thereof, that Respondent(s) fail(s) to fully perform any requirement of this Order in accordance with the schedule established pursuant to this Order, Respondent(s) shall be liable as follows:

Deliverable/Activity	Penalty For Days 1-7	Penalty For > 7 Days
Failure to Submit a Draft Workplan (includes Safety Plan) or a Final Removal Report	$2,000/Day	$5,000/Day
Failure to Submit a Revised Workplan or Final Removal Report	$2,000/Day	$5,000/Day
Late Submittal of Progress Reports or Other Miscellaneous Reports/Submittals	$1000/Day	$2,000/Day
Failure to Meet any other Scheduled Deadline in the Order	$1000/Day	$ 2,000/Day

Upon receipt of written demand by U.S. EPA, Respondent(s) shall make payment to U.S. EPA within 20 days and interest shall accrue on late payments in accordance with Section VII of this Order (Reimbursement of Costs).

Even if violations are simultaneous, separate penalties shall accrue for separate violations of this Order. Penalties accrue and are assessed per violation per day. Penalties shall accrue regardless of whether EPA has notified Respondent(s) of a violation or act of noncompliance. The payment of penalties shall not alter in any way Respondent(')(s)(') obligation(s) to complete the performance of the work required under this Order. Stipulated penalties shall accrue, but need not be paid, during any dispute resolution period concerning the particular penalties at issue. If Respondent(s) prevail(s) upon resolution, Respondent(s) shall pay only such penalties as the resolution

requires. In its unreviewable discretion, U.S. EPA may waive its rights to demand all or a portion of the stipulated penalties due under this Section. Such a waiver must be made in writing.

Violation of any provision of this Order may subject Respondent(s) to civil penalties of up to twenty-seven thousand five hundred dollars ($27,500) per violation per day, as provided in Section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1). Respondent(s) may also be subject to punitive damages in an amount up to three times the amount of any cost incurred by the United States as a result of such violation, as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Should Respondent(s) violate this Order or any portion hereof, U.S. EPA may carry out the required actions unilaterally, pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, and/or may seek judicial enforcement of this Order pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606.

XI. RESERVATION OF RIGHTS

Except as specifically provided in this Order, nothing herein shall limit the power and authority of U.S. EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent U.S. EPA from seeking legal or equitable relief to enforce the terms of this Order. U.S. EPA also reserves the right to take any other legal or equitable action as it deems appropriate and necessary, or to require the Respondent(s) in the future to perform additional activities pursuant to CERCLA or any other applicable law.

XII. OTHER CLAIMS

By issuance of this Order, the United States and U.S. EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondent(s). The United States or U.S. EPA shall not be a party or be held out as a party to any contract entered into by the Respondent(s) or its (their) directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out activities pursuant to this Order.

Except as expressly provided in Section XIII (Covenant Not To Sue), nothing in this Order constitutes a satisfaction of or release from any claim or cause of action against the Respondent(s) or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or the common law, including but not limited to any claims of the

United States for costs, damages and interest under Sections 106(a) or 107(a) of CERCLA, 42 U.S.C. §§ 9606(a), 9607(a).

This Order does not constitute a preauthorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2). The Respondent(s) waive(s) any claim to payment under Sections 106(b), 111, and 112 of CERCLA, 42 U.S.C. §§ 9606(b), 9611, and 9612, against the United States or the Hazardous Substance Superfund arising out of any action performed under this Order.

No action or decision by U.S. EPA pursuant to this Order shall give rise to any right to judicial review except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XIII. COVENANT NOT TO SUE

Except as otherwise specifically provided in this Order, upon issuance of the U.S. EPA notice referred to in Section XVII (Notice of Completion), U.S. EPA covenants not to sue Respondent(s) for judicial imposition of damages or civil penalties or to take administrative action against Respondent(s) for any failure to perform removal actions agreed to in this Order except as otherwise reserved herein.

Except as otherwise specifically provided in this Order, in consideration and upon Respondent(')(s)(') payment of the response costs specified in Section VII of this Order, U.S. EPA covenants not to sue or to take administrative action against Respondent(s) under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for recovery of past and oversight costs incurred by the United States in connection with this removal action and this Order. This covenant not to sue shall take effect upon the receipt by U.S. EPA of the payments required by Section VII (Reimbursement of Costs).

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

XIV. CONTRIBUTION PROTECTION

With regard to claims for contribution against Respondent(s) for matters addressed in this Order, the Parties hereto agree that the Respondent(s) is (are) entitled to protection from contribution actions or claims to the extent provided by Section 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4).

Nothing in this Order precludes Parties from asserting any claims, causes of action or demands against any persons not

parties to this Order for indemnification, contribution, or cost recovery.

XV. INDEMNIFICATION

Respondent(s) agree(s) to indemnify, save and hold harmless the United States, its officials, agents, contractors, subcontractors, employees and representatives from any and all claims or causes of action: (A) arising from, or on account of, acts or omissions of Respondent(s) and Respondent(')(s)(') *officers, heirs, directors, employees, agents, contractors,* subcontractors, receivers, trustees, successors or assigns, in carrying out actions pursuant to this Order; and (B) for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between (any one or more of) Respondent(s), and any persons for performance of work on or relating to the Site, including claims on account of construction delays. Nothing in this Order, however, requires indemnification by Respondent(s) for any claim or cause of action against the United States based on negligent action taken solely and directly by U.S. EPA (not including oversight or approval of plans or activities of the Respondent(s)).

XVI. MODIFICATIONS

Modifications to any plan or schedule may be made in writing by the OSC or at the OSC's oral direction. If the OSC makes an oral modification, it will be memorialized in writing within 7 business days; however, the effective date of the modification shall be the date of the OSC's oral direction. Any other requirements of this Order may be modified in writing by mutual agreement of the parties.

If Respondent(s) seek(s) permission to deviate from any approved plan or schedule, Respondent(')s(') Project Coordinator shall submit a written request to U.S. EPA for approval outlining the proposed modification and its basis.

No informal advice, guidance, suggestion, or comment by U.S. EPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondent(s) shall relieve Respondent(s) of its (their) obligations to obtain such formal approval as may be required by this Order, and to comply with all requirements of this Order unless it is formally modified.

XVII. NOTICE OF COMPLETION

When U.S. EPA determines, after U.S. EPA's review of the Final Report, that all work has been fully performed in accordance with this Order, except for certain continuing obligations required by this Order (e.g., record retention, payment of costs), U.S. EPA

will provide written notice to the Respondent(s). If U.S. EPA determines that any removal activities have not been completed in accordance with this Order, U.S. EPA will notify the Respondent(s), provide a list of the deficiencies, and require that Respondent(s) modify the Work Plan if appropriate to correct such deficiencies. The Respondent(s) shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the U.S. EPA notice. Failure to implement the approved modified Work Plan shall be a violation of this Order.

XVIII. SEVERABILITY

If a court issues an order that invalidates any provision of this Order or finds that Respondent(s) has (have) sufficient cause not to comply with one or more provisions of this Order, Respondent(s) shall remain bound to comply with all provisions of this Order not invalidated by the court's order.

XIX. EFFECTIVE DATE

This Order shall be effective upon receipt by Respondent(s) of a copy of this Order signed by the Director, Superfund Division, U.S. EPA Region 5.

IN THE MATTER OF:

Sauget Area 2, Site Q

Cahokia, Illinois

SIGNATORIES

Each undersigned representative of a signatory to this Administrative Order on Consent certifies that he or she is fully authorized to enter into the terms and conditions of this Order and to bind such signatory, its directors, officers, employees, agents, successors and assigns, to this document.

Agreed this _____ day of _____, 1999.

By _____

IT IS SO ORDERED AND AGREED

BY:_____ DATE:_____

William E. Muno, Director
Superfund Division
United States
Environmental Protection Agency
Region 5