UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II
26 FEDERAL PLAZA
NEW YORK, NEW YORK 10278

SEP 13 1985

CERTIFIED MAIL --
RETURN RECEIPT REQUESTED

Re: Scientific Chemical Processing, Inc., 216 Paterson Plank Road, New Jersey - Administrative Order Pursuant to Section 106 of CERCLA

Dear Sir or Madam:

Enclosed please find a copy of the final version of the administrative Order (on Consent) to be issued by the U.S. Environmental Protection Agency (EPA) Region II pursuant to Section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9606, for the performance of a remedial investigation and feasibility study (RI/FS) at the Scientific Chemical Processing (SCP) site in Carlstadt, New Jersey. No further changes to this document are anticipated.

EPA notified numerous potentially responsible parties (PRPs) in May 1985 that it has documented the release and/or threatened release of hazardous substances at the SCP-Carlstadt facility and that EPA contemplates undertaking an RI/FS, as defined in the National Contingency Plan, 40 C.F.R. Part 300. On June 10, 1985, a meeting was held at the World Trade Center, New York City where representatives of EPA and the State of New Jersey met with many of the above-mentioned PRPs and their counsel to exchange information and discuss a publicly financed versus a privately financed remedial action at the subject facility. Immediately following the meeting, a committee of cooperating generators and/or transporters was formed ("the Committee"). In early July 1985, a proposed draft consent order providing for a voluntary remedial action by cooperating PRPs was sent by EPA to the Committee for its comments.

At a meeting held on July 15, 1985 at EPA Region II offices, representatives of EPA met with the Committee to discuss certain terms of the Order. Since that time, the Committee has distributed to the captioned PRPs an amended proposed Order (dated

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August 13 and participated in a number of informal negotiations with EPA in an effort to reach agreement on the terms of the Order. As a result, a proposed administrative consent Order, which EPA believes sets forth reasonable requirements for conducting an RI/FS under a reasonable time schedule has, in fact, been drafted with input from and in cooperation with the Committee.

We encourage you to agree to join the numerous other companies who have indicated their interest in consenting to the issuance of this Order and in assuming responsibility for the performance of the work pursuant to its provisions. To do so, please have a responsible corporate officer or agent sign the signature page at the end of the enclosed Order and return the Order with the original signature to me NO LATER THAN 5 P.M., SEPTEMBER 23, 1985 at the following address:

Waste and Toxic Substances Branch
Office of Regional Counsel (Rm. 437)
U.S. Environmental Protection Agency - Region II
26 Federal Plaza, New York, New York 10278

Any company whose consent is received by EPA after that time may be too late, as final issuance of the Order is planned for September 25th; therefore, your prompt attention to this matter and use of express mail or courier delivery services are recommended.

Because of the large number of companies expected to sign this Order, it is not practicable to have all companies sign one document. Instead, copies of the Order are being sent to each company listed in the caption of the document. Upon receipt of each company's signature, EPA will compile the signature pages and, upon issuance of the Order, EPA will make available to each consenting company a copy of the Order with all signatures.

Should any company fail to consent in a timely manner to the Order, the name of that company will be deleted from the caption on the first three pages. Similarly, the caption may be altered to reflect any additional participants.

By this letter, EPA is hereby informing you that upon settling with cooperative PRPs, EPA intends to vigorously seek remaining relief, including costs, penalties and treble damages where appropriate from the nonconsenting parties. Specifically, EPA intends to issue a parallel unilateral administrative order to each of the non-consenting PRPs pursuant to Section 106 of CERCLA, 42 U.S.C. §9606. Failure to comply with such an order gives rise to liability for civil penalties of up to $5,000 per day, as well as liability for punitive damages of up to three times the amount of any costs incurred by EPA in the remedial action. Included among these costs would be all response and oversight

costs incurred by EPA with respect to the above-mentioned orders.

Furthermore, in the event it becomes necessary for EPA to institute additional publicly funded response actions at the SCP-Carlstadt facility, EPA will recover all costs incurred in connection with institution of these actions including direct and indirect oversight costs and all incidental enforcement-related expenditures, through a demand for payment, and, if necessary, a collection action pursuant to 42 U.S.C. §9607. Although CERCLA provides for full joint and several liability among all responsible parties, and although all PRPs remain liable for costs incurred by EPA in implementing the remedial provisions of CERCLA, consistent with present EPA enforcement policy, such a demand for payment or collection action could be commenced, initially, solely against the PRPs which refused or otherwise failed to participate in the efforts of the Committee to achieve an environmentally acceptable remedy at the subject facility.

In addition to the assurance that EPA intends to take aggressive enforcement action against the non-settling PRPs, the consenting parties who may have paid more than a reasonable portion of the site remedial costs may look to the equitable remedy of contribution for seeking reimbursement from the non-consenting PRPs. The government's position is that CERCLA provides a right of contribution among jointly responsible parties. This is clear from both the legislative history and the intent of the statute.

By this letter, EPA is further informing you that subsequent to the signing of the consent Order and the issuance of all related unilateral orders, EPA will consider evidence of a PRP's non-involvement at the SCP-Carlstadt facility. If any company is able to demonstrate, to EPA's satisfaction, that it is not a responsible party with respect to the SCP-Carlstadt facility, EPA will withdraw the order as to that party.

Although the time remaining for resolution of whether a publicly or privately funded remedial action will be instituted at the SCP-Carlstadt site is short, EPA believes that an arrangement can be reached among the PRPs which will allow a negotiated settlement of the RI/FS to occur.

If you have any questions, please contact Ms. Kathleen Chojnowski of my staff at (212) 264-2221, or Ms. Janet Feldstein of our Emergency and Remedial Response Division at (212) 264-0613.

Sincerely yours,

Walter E. Mugdan

Walter E. Mugdan
Chief
Superfund Branch
Office of Regional Counsel

Enclosure

cc: Gerry Burke, Esq.
New Jersey Department of
Environmental Protection

WILMINGTON, DE
PM

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U.S. MAIL

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Federal Building
(No. and Street, Apt., Suite, P.O. Box or R.D. No.)

26 Federal Plaza
New York, New York 10007
(City, State, and ZIP Code)

2ERRD-SIC

Janet

SCP - Carlstadt

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E.I. DUPONT DE NEMOURS & CO
ATTN: GENERAL COUNSEL
LEGAL DEPARTMENT
WILMINGTON DE

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Article Number

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6. Signature – Agent

X Sandy Glauden

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PS Form 3811, July 1983 447-845

DOMESTIC RETURN RECEIPT