SKF USA Inc.

SKF

King of Prussia, PA
USA

Site:
Break: 11.9
Other:

April 26, 1988

5/9/88

Mr. Charles E. Rooks
Assistant Regional Counsel
U. S. Environmental Protection Agency
345 Courtland Street, N.E.
Atlanta, Georgia 30365

Re: Yellow Water Road NPL Site, Baldwin, Florida

Dear Mr. Rooks:

This is a follow-up to our letter of March 4, 1988. Additional investigation determined that SKF may be a generator of a portion of the PCB material sent to the above referenced site. We are, by copy of this letter, notifying Mr. Charles Tisdale of the steering committee of our findings.

Although we will be making further contact with the steering committee as to our involvement, we would appreciate being kept informed of any proceedings regarding this site.

I would appreciate your copying me on any future correspondence since I am the contact person for SKF.

Sincerely,

Bill McGlocklin

CWM/kts
(ROOKS)GC#4

1100 First Avenue
King of Prussia, PA 19406-1352

Telephone: (215) 265-1900
Telex: 685-1030
CABLE: SKAYEF

10774833

SKF Industries, Inc.

Allen G. Belenson
Secretary and General Counsel

4-RIN-501-88

Site:
Break: 11.4
Other:

March 4, 1988

Mr. Charles E. Rooks
Assistant Regional Counsel
U.S. Environmental Protection Agency
345 Courtland Street, N.E.
Atlanta, Georgia 30365

Re: Yellow Water Road NPL Site, Baldwin, Florida

Dear Mr. Rooks:

Your letter to SKF Industries, Inc. of February 19, 1988 addressed to our sales office in Thousand Oaks, California has been referred to me.

While we appreciate your desire to broaden the group of PRP's, we are unable to determine whether we are a PRP with the information currently in hand. Our records do not reveal that our company generated any PCB materials that were transported to the Yellow Water Road site.

SKF has no philosophical aversion to joining other PRP's in entering into a consent order, but before doing so we must have clear and convincing data that demonstrates we have an involvement with the site. We, therefore, hereby make a request under the provisions of the Freedom of Information Act that you furnish us with with any information you may have which establishes that SKF generated PCB materials that were transported to the Yellow Water Road site. After we receive and evaluate these materials, we will get back with you.

Sincerely,

AGB/kts
(EPAYELLOW)GC#4

cc: C. H. Tisdale, Jr., Esquire
King & Spalding
2500 Trust Company Tower
Atlanta, Georgia 30303

10774832

1100 First Avenue, King of Prussia, PA 19406-1352 Telephone: (215) 265-1900 Telex: 685-1030 TWX: 510-660-2660 FAX: 215-265-1457

MAR 0 5 1991

URGENT LEGAL MATTER
CERTIFIED MAIL--RETURN RECEIPT REQUESTED

SKF Industries, Inc.
ATTN: C. William McGlocklin
Corporate Environmental Manager
1100 First Avenue
King of Prussia, PA 19406-1352

Re: Yellow Water Road Superfund Site
Duval County, Florida
Unilateral Order for Remedial Design, Operable Unit One

Dear Mr. McGlockin:

As you have been previously notified, the United States Environmental Protection Agency (EPA) has information indicating that SKF Industries, Inc. is a potentially responsible party (PRP) under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), as amended, with respect to the Yellow Water Road Superfund Site, in Duval County, Florida. Enclosed is a Unilateral Administrative Order issued to the PRPs pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), under which the PRPs are required to perform the Remedial Design for Operable Unit One at the Site.

The remedy for Operable Unit One (soil contamination) was selected in a Record of Decision (ROD) dated September 28, 1990. The remedy selected in this ROD was excavation and solidification/stabilization of soils contaminated with PCBs above 10 ppm. The remedy which will be required for groundwater contamination will be decided in Operable Unit Two.

Following the issuance of the ROD for Operable Unit One, EPA entered into negotiations with representatives of the Yellow Water Road Steering Committee on the terms of an Administrative Order on Consent, which would permit the Steering Committee to perform the remedial design for Operable Unit One. However, agreement was not reached on the terms of a consent order, and consequently, I am issuing the enclosed Unilateral Administrative Order in order to keep the work at this Site moving forward.

Please review the enclosed Order carefully. I direct your attention in particular to Sections XXIV, XXV and XXVI, which address the effective date of the Order, the obligation of the Respondents to give notice of their intention to comply and the right of the Respondents to request a conference.

10774834

EPA has previously determined that use of the special notice procedures and the moratorium provided under Section 122(e) of CERCLA, 42 U.S.C. § 9622(e), would be inappropriate in the Remedial Design negotiations for Operable Unit One, since their use would not facilitate reaching an agreement nor would it expedite the remedial action. This letter constitutes notice under Section 122(a) of CERCLA, 42 U.S.C. § 9622(a), that the Agency has decided not to use the special notice procedures set out in Section 122(e) of CERCLA in the negotiations for the Remedial Design for Operable Unit One. The authority to make this decision was delegated to the Administrator of EPA by Executive Order 12580, dated January 23, 1987, 52 F. Reg. 2923 (January 29, 1987), further delegated to the Regional Administrators by Delegation 14-8-B, and then further delegated to the Director, Waste Management Division, Region IV, by Regional Delegation 8-8-B.

If you have any technical questions relating to this matter, please contact the Remedial Project Manager for this Site, Kristen White (404/347-2643). If you have any legal questions, please direct them to Assistant Regional Counsel Truly Bracken (404/347-1653).

Sincerely,

Donald J. Guinyard
Acting Director, Waste Management Division

Enclosure

Yellow Water Road Site
UA02 — 3/5/91

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IV

30323

IN THE MATTER OF: YELLOW WATER ROAD SITE, Operable Unit One Baldwin, Duval County, Florida	Proceeding Under Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9606(a). EPA DOCKET NO. 91-16-C

UNILATERAL ADMINISTRATIVE ORDER FOR REMEDIAL DESIGN

I. INTRODUCTION AND JURISDICTION

This Unilateral Administrative Order For Remedial Design ("Order") directs the Respondents to develop the Remedial Design ("RD") for the remedy for Operable Unit One at the Yellow Water Road Site ("Site"), described in the Record of Decision ("ROD") dated September 28, 1990. This Order is issued to the Respondents by the United States Environmental Protection Agency ("EPA") under the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9606(a). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2926 (January 29, 1987), and was further delegated to EPA Regional Administrators on September 13, 1987, by EPA Delegation No. 14-14-B, and redelegated to the Director, Waste Management Division on January 5, 1989, by Regional Delegation No. 8-14-A.

II. DEFINITIONS

Unless otherwise expressly provided herein, the terms used in this Order shall have the meaning assigned to them pursuant to CERCLA or the regulations promulgated under CERCLA. Whenever the terms listed below are used in this Order or in the documents attached to this Order or incorporated by reference into this Order, the following definitions shall apply:

A. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq.

B. "Day" shall mean a calendar day unless expressly stated to be a working day. "Working day" shall mean a day other than a Saturday, Sunday, or federal holiday. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the end of the next working day.

C. "EPA" shall mean the United States Environmental Protection Agency.

D. "FDER" shall mean the Florida Department of Environmental Regulation.

E. "Hazardous substance" shall mean any substance meeting the definition provided in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

F. "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, including any amendments thereto.

G. "Paragraph" shall mean a portion of this Order identified by a capital letter.

H. "Parties" shall mean the United States and the Respondents identified in Section IV below.

I. "Pollutant or Contaminant" shall mean any substance defined in Section 101(33) of CERCLA, 42 U.S.C. § 9601(33).

J. "Record of Decision" or "ROD" shall mean the EPA Record of Decision relating to Operable Unit One at the Site, which was signed on September 28, 1990 by the Regional Administrator, EPA Region IV, and all attachments thereto. The ROD is attached to this Order as Appendix 1 and incorporated herein by reference.

K. "Remedial Action" or "RA" shall mean all those activities to be undertaken by the Respondents to implement the final plans and specifications submitted by the Respondents pursuant to the Remedial Design Work Plan approved by EPA.

L. "Remedial Design" or "RD" shall mean all those activities to be undertaken by the Respondents to develop the plans and specifications for the Remedial Action pursuant to the Remedial Design Work Plan developed by Respondents and approved by EPA, including any additional activities required under Sections IX, X and XI below.

M. "Scope of Work or "SOW" shall mean the Scope of Work for implementation of the Remedial Design work at the Site. The SOW

is attached as Appendix 2 to this Order and is incorporated herein by reference.

N. "Section" shall mean a portion of this Order identified by a Roman numeral and including one or more paragraphs.

O. "Site" shall mean the Yellow Water Road Superfund Site, encompassing approximately 14 acres, located off Yellow Water Road (Florida S.R. 217), approximately one mile south of Baldwin in Duval County, Florida, as described in the Findings of Fact and the ROD.

P. "State" shall mean the State of Florida Department of Environmental Regulation (FDER).

Q. "United States" shall mean the United States of America.

R. "Work" shall mean all activities Respondents are required to perform under this Order to implement the ROD, including any additional work required under Sections IX, X, XI, XIV, and XVII.

III. FINDINGS OF FACT

A. The Yellow Water Road Site ("the Site") is located off Yellow Water Road (Florida S.R. 217), approximately one mile south of Baldwin, Duval County, Florida.

B. The Site was used for the storage of transformers, liquids, and other materials contaminated with polychlorinated biphenyls (PCBs).

C. American Electric Company (AEC) took material, including transformers and other PCB-contaminated materials, to the Site from a facility located on Ellis Road in Jacksonville, Florida.

D. Once at the Site, the transformers were torn apart by third parties in order to salvage copper, resulting in the release of PCBs into the environment.

E. The Respondents listed below are customers of AEC and generators of PCBs and PCB-contaminated materials present at the Site.

F. Each of the following Respondents arranged, by contract or agreement or otherwise, for the disposal or treatment, or arranged with a transporter for transport for disposal or treatment, at the Site, of hazardous substances owned or possessed by that Respondent:

1. Agrico Chemical Company
2. Alabama Kraft Company
3. AMAX Chemical Corp. (Consolidated Minerals)
4. American Can Company (Primerica)
5. Amoco Corporation (Nashville Mills)
6. Anchor Hocking Corporation
7. Ashland Enterprises (Eastern Petroleum)
8. Atlantic National Bank
9. Bowater Incorporated
10. CSX Transportation Co.
11. Cargill, Incorporated
12. CertainTeed Corp.
13. Champion International Corp.
14. Citadel Cement Corporation
15. City of Bartow Florida
16. City of Clewiston Florida
17. City of Jacksonville Beach Florida
18. City of Lake Worth Florida
19. City of Leesburg Florida
20. City of Ocala Florida
21. Clay Electric Cooperative
22. Clemson University
23. Connecticut Natural Gas
24. Consolidated Rail Corporation
25. Continental Grain Company
26. Control Laser Corporation
27. Digital Equipment Corp.
28. Dunlop Tire Corporation
29. E.I. Dupont de Nemours and Company
30. Escast Inc.
31. FMC Corporation
32. Fairmont Foundry Co., Inc.
33. Farmland Industries Inc.
34. General Foods USA (Maxwell House)
35. General Motors Corp.
36. Georgia-Pacific Corp.
37. Glades Electric Cooperative Inc.
38. Gold Bond Building Products (National Gypsum)
39. Gold Kist, Inc.
40. Gould Inc.
41. Gulf States Paper Corporation
42. Gulf & Western, Inc. (New Jersey Zinc)
43. H.B. Reese Candy Co. (div. of Hershey Foods Corp.)
44. H.P. Hood Inc.
45. Homer Electric Association, Inc.
46. Honeywell, Inc.
47. Humphrey Products Inc.
48. ITT Corporation
49. ITT Rayonier Inc. (Southern Wood Piedmont Co.)
50. Jacksonville Electric Authority
51. Jeffboat

52. K & G Box Company, Inc.
53. Kaiser Aluminum & Chemical Corp.
54. Kansas State University
55. Kemira Inc. (American Cyanamid)
56. Koch Industries Inc.
57. Kodiak Electric Association Inc.
58. Lee County Electric Association, Inc.
59. Lehigh Portland Cement Company
60. MEPCO/Centralab, Inc.
61. MacMillan Bloedel Inc.
62. Manville-Sales Corporation
63. Martin Marietta
64. McNally Pittsburg Inc.
65. Metro-North Commuter Railroad Company
66. Okefenoke Rural Electric Membership Corp.
67. Orlando Utilitites Commission
68. Owens-Illinois, Inc.
69. Phillips 66 Company
70. SKF Industries, Inc.
71. Savannah Electric & Power Company
72. Sebring Utilities Commission
73. South Carolina Electric and Gas Company
74. State of Florida, Dept. of General Services
75. J.P. Stevens & Co., Inc.
76. Stupp Bros. Bridge & Iron
77. Sugar Cane Growers Cooperative of Florida
78. Suwanee Valley Electric Cooperative, Inc.
79. Swanson-Nunn Electric Company
80. Tampa Electric Company
81. Teledyne Industries Inc.
82. Union Camp Corp.
83. University of Arizona
84. University of South Carolina
85. Unocal Corp. (Union Oil Company of California)
86. Virginia Polytechnic Institute and State University
87. Winn Dixie Stores, Inc.
88. Withlacoochee River Electric Cooperative, Inc.

G. In response to the release and threatened release of PCBs at the Site, EPA conducted an emergency response action between December 1984 and March 1985.

H. The Site was listed on the National Priorities List, as defined in Section 105 of CERCLA, as amended, 42 U.S.C. § 9605, in June 1986.

I. On September 24, 1987, EPA entered into an Administrative Order by Consent with the members of the Yellow Water Road Steering Committee, under which the Steering Committee undertook to perform a Remedial Investigation and Feasibility Study (RI/FS) for the Site.

J. Surface removal activities were conducted by the Yellow Water Road Steering Committee under an Administrative Order by Consent dated April 29, 1988.

K. RI/FS field activities were conducted at the Site between November 1988 and March 1990, and the resulting final RI and FS Reports were submitted to EPA in April and August 1990, respectively.

M. Sampling conducted during the RI revealed residual PCB soil contamination at the Site, at concentrations up to 660 ppm.

N. Sampling conducted during the RI also revealed PCBs in the groundwater at the Site at levels up to 29.4 ppb, exceeding the proposed Maximum Contaminant Level of .5 ppb.

O. The residual soil contamination may contribute to the presence of PCBs in the groundwater.

P. Following submission of the RI and FS Reports, EPA concluded that additional information was needed before a decision could be made on the remedy for groundwater contamination, which was then reserved for further study and later decision as Operable Unit Two.

Q. EPA designated the remedy for soil contamination as Operable Unit One and made the FS Report and the proposed plan for the remedy for Operable Unit One available to the public for comment on August 28, 1990.

R. A public meeting was held by EPA in Baldwin, Florida on September 4, 1990, and the comments received during that meeting and during the 30 day public comment period were addressed by EPA in the Responsiveness Summary in the Record of Decision.

S. The Regional Administrator for Region IV selected a remedy for Operable Unit One in a Record of Decision (ROD) dated September 28, 1990 and attached hereto as Attachment A.

T. The remedy selected for Operable Unit One specifies excavation and solidification/stabilization of soils contaminated with PCBs above 10 ppm.

IV. CONCLUSIONS OF LAW AND DETERMINATIONS

A. The Site is a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

B. Each of the Respondents is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

C. Each of the Respondents is a "liable party," as defined in Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and is subject to this Order under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

D. The contaminants found at the Site, PCBs, are hazardous substances within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

E. The hazardous substances described above have been released into the environment.

F. The past and present migration of these hazardous substances from the Site is an actual "release", and the potential for future migration poses a threat of "release," within the meaning of Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

G. The release and threat of release of hazardous substances from the facility may present an imminent and substantial endangerment to the public health or welfare or the environment.

H. The contamination and resulting endangerment at this Site constitute an indivisible injury.

I. The actions required by this Order are necessary to protect the public health, welfare, and the environment.

V. NOTICE TO THE STATE

By letter dated February 28, 1991, EPA notified the Florida Department of Environmental Regulation that this Order would be issued to the Respondents.

VI. ORDER

Based on the foregoing, the Respondents are hereby ordered, jointly and severally, to comply with the following provisions, including but not limited to all attachments to this Order, all documents incorporated by reference into this Order, and all schedules and deadlines in this Order, attached to this Order, or incorporated by reference into this Order:

VII. PARTIES BOUND

A. This Order applies to and shall be binding upon the Respondents identified in Section III, Paragraph F above, their officers, directors, agents, successors, and assigns. The Respondents are jointly and severally responsible for carrying

out all activities required by this Order. No change in the ownership, corporate or other control of any Respondent shall alter the Respondents' responsibilities under this Order.

B. Respondents shall provide a copy of this Order to any prospective owners or successors before a controlling interest in the Respondents' assets, property rights or stock are transferred. Respondents shall provide a copy of this Order to each contractor, sub-contractor, laboratory, and consultant retained to perform any Work under this Order, within five days after the effective date of this Order, or on the date such services are retained, whichever date occurs later. Respondents shall also provide a copy of this Order to each person representing any Respondents with respect to the Site or the Work and shall condition all contracts entered into hereunder upon performance of the Work in conformity with the terms of this Order. Notwithstanding the terms of any contract, the Respondents are responsible for ensuring that their contractors, subcontractors and agents perform the Work contemplated herein in accordance with this Order.

C. With regard to the activities undertaken pursuant to this Order, each contractor and subcontractor shall be deemed to be related by contract to the Respondents within the meaning of Section 107(b)(3) of CERCLA, 42 U.S.C. § 9607(b)(3).

D. Within thirty (30) days after the effective date of this Order, each Respondent that owns property comprising all or part of the Site shall record a copy or copies of this Order in the appropriate office where land ownership and transfer records are filed or recorded, and shall ensure that the recording of this Order is indexed to the titles of each and every property at the Site so as to provide notice to third parties of the issuance and terms of this Order with respect to those properties. Respondents shall, within forty-five (45) days after the effective date of this Order, send notice of such recording and indexing to EPA.

E. Not later than sixty (60) days prior to any transfer of any interest in any real property included within the Site, Respondents shall submit a true and correct copy of the transfer document(s) to EPA, and shall identify the transferee by name, principal business address and effective date of the transfer.

VIII. WORK TO BE PERFORMED

A. The Respondents shall perform the Remedial Design work for Operable Unit One at the Site, as described in this Consent Order, in the ROD attached hereto as Appendix 1, in the Scope of Work (SOW) attached hereto as Appendix 2, and in any modifications thereto made in accordance with this Consent Order and applicable provisions of law. The ROD, the SOW and all

modifications to the SOW made in accordance with this Consent Order are hereby incorporated herein by reference and made a part of this Consent Order. The work to be performed pursuant to this Consent Order shall be performed in accordance with the terms of this Consent Order, the SOW, modifications to the SOW made in accordance with this Consent Order, and all Work Plans approved by EPA pursuant to this Consent Order.

B. All aspects of the Work to be performed by the Respondents pursuant to this Consent Order shall be under the direction and supervision of a qualified contractor who shall be a qualified professional engineer or geologist with expertise in hazardous site cleanup. Prior to the submission of the plan for the remedial design for Operable Unit One (RD Work Plan), the Respondent shall notify EPA in writing regarding the identity of such engineer or geologist and of any principal contractors to be used in carrying out the terms of this Consent Order and shall obtain EPA's written approval. If the Respondents propose to change the engineer or geologist or any principal contractor, the Respondents shall give written notice to EPA and shall obtain written approval from EPA before the new engineer, geologist or contractor performs any work under this Consent Order.

C. The purpose of the Remedial Design is to design the selected remedy to ensure protection of human health and the environment. The Remedial Design (RD) includes those activities to be undertaken by the Respondents to develop the final plans and specifications, general provisions and special requirements necessary to translate the Record of Decision (ROD) into the remedy to be constructed in the RA phase of work at the Site.

D. The major tasks that Respondents must complete and the deliverables associated with each task to support the RD are described in the SOW, which is incorporated by reference as a part of this Order as if fully set forth herein. EPA approval of a task or deliverable shall not be construed as a guarantee as to the ultimate adequacy of such task or deliverable.

E. Within fourteen (14) days after the effective date of this Order, the Respondents shall commence work on "Task One - Scoping" under the SOW.

F. Within thirty-five (35) calendar days after the effective date of this Order, the Respondents shall submit to EPA the Technical Memorandum required to be submitted for review under Task I of the SOW.

G. Within forty-five (45) calendar days after receipt of EPA's comments on the Technical Memorandum, the Respondents shall submit to EPA a plan for the remedial design for Operable Unit One (RD Work Plan). This RD Work Plan shall be developed in accordance with the National Contingency Plan and the attached SOW. The RD Work Plan shall include a comprehensive

description of the work to be performed. A comprehensive schedule for completion of each major activity required by this Consent Order, including the submission of each deliverable listed in the RD Scope of Work, shall also be included.

H. The Respondents will implement the RD Work Plan approved by EPA. The EPA approved RD Work Plan and any EPA approved amendments will be attached to and incorporated in this Consent Order as Attachment C. The RD will be conducted in accordance with the schedule contained in the RD Work Plan as approved by EPA.

I. Within seven (7) calendar days after the Respondents receive written notice of approval of the RD Work Plan by EPA, the Respondents will commence work on Task 1 of the Work Plan.

J. Deliverables, including reports, plans or other correspondence to be submitted pursuant to this Order, shall be sent by regular certified mail, express mail or overnight delivery to the following addressee or to such other addressees as EPA hereafter may substitute in writing:

Ms. Kristen White
Remedial Project Manager
EPA - Region IV
Waste Management Division
345 Courtland Street, N.E.
Atlanta, Georgia 30365

The number of copies to be submitted to EPA for each deliverable is identified in the SOW attached hereto as Appendix 2.

K. Three copies of each deliverable to be submitted pursuant to this Order shall be sent, by a method of delivery listed in Paragraph J above, to:

Mr. Charles Logan
Florida Department of Environmental Regulation
2600 Blair Stone RD
Tallahassee, FL 32399-2400

L. The Respondents shall cooperate with EPA in providing information to the public regarding the Work. As requested by EPA, Respondents shall participate in the preparation of such information for distribution to the public and in public meetings which may be held or sponsored by EPA to explain activities at or relating to the Site.

IX. ADDITIONAL WORK

A. EPA may determine that other tasks are necessary as part of the RD in addition to the Work identified in this Order

and in attachments to this Order. If EPA determines that additional work is necessary, EPA will notify Respondents and may require Respondents to submit a work plan for additional work. EPA may also require Respondents to modify any plan, design, or other deliverable required by this Order, including any approved modifications. Respondents shall notify EPA of their intent to perform such additional work within seven (7) days after receipt of EPA's request for additional work.

B. Unless otherwise stated by EPA, not later than thirty (30) days after receiving EPA's notice that additional work is required pursuant to this Section, Respondents shall submit a work plan for the additional work ("Additional Work Plan") to EPA for review and approval. The Additional Work Plan shall include a Field Sampling and Analysis Plan and a Health and Safety Plan, and it shall conform to the requirements of Sections VIII and XI, as appropriate. Upon approval by EPA, the Additional Work Plan shall be incorporated into this Order as a requirement of this Order and shall be an enforceable part of this Order as if fully set forth herein. Upon approval of the Additional Work Plan pursuant to the procedures set forth in Section XI, Respondents shall implement the Additional Work Plan according to the standards, specifications, and schedule in the approved Additional Work Plan.

X. ENDANGERMENT AND EMERGENCY RESPONSE

A. In the event of any action or occurrence after the effective date of this Order which causes or threatens a release of a hazardous substance or which may present an immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action to prevent, abate, or minimize such release or endangerment, and shall immediately notify EPA's Project Coordinator (listed in Section XV-B). If the Project Coordinator is unavailable, a message shall be left for the Project Coordinator, and the Alternate Project Coordinator (listed in Section XV-B) shall be immediately notified. If the Alternate Project Coordinator is unavailable, after leaving a message for him or her, the Region IV Emergency Response and Removal Branch shall be immediately notified. Respondents shall take such action in consultation with EPA's Project Coordinator and in accordance with all applicable provisions of this Order, including, but not limited to, the Health and Safety/Contingency Plan developed by the Respondents. In the event that Respondents fail to take appropriate response action, as required by this Section, and EPA takes that action instead, EPA reserves the right to pursue reimbursement of all EPA's costs attributable to the response action that are not inconsistent with the NCP.

B. Nothing in the preceding paragraph shall be deemed to limit any authority of the United States to take, direct, or order any appropriate action necessary to protect human health and the environment or to prevent, abate or minimize an actual or threatened release of hazardous substances on, at or from the Site.

XI. EPA REVIEW OF SUBMISSIONS

A. After review of any plan, report or other item which is required to be submitted for approval pursuant to this Order, EPA shall either: (1) approve the submission; or (2) disapprove the submission, notifying Respondents of deficiencies. If such submission is disapproved, EPA shall either (1) notify the Respondents that EPA will assume the responsibility for modifying the submission to correct the deficiencies; or (2) direct the Respondents to modify the submission to correct the deficiencies.

B. In the event of approval or modification by EPA, Respondents shall proceed to take any action required by the plan, report, or other item, as approved or modified.

C. Upon receipt of a notice of disapproval and directive for modification, Respondents shall, within 30 days or such time as specified by EPA in its notice of disapproval or request for modification, correct the deficiencies and resubmit the plan, report, or other item for approval. Notwithstanding the notice of disapproval, Respondents shall proceed, at the direction of EPA, to take any action required by any nondeficient portion of the submission.

D. If, upon resubmission, the plan, report, or item is not approved, Respondents shall be deemed to be in violation of this Order.

XII. PROGRESS REPORTS

A. In addition to the deliverables set forth in this Order, Respondents shall submit written monthly progress reports to EPA with respect to actions and activities undertaken pursuant to this Order. The progress reports shall be submitted on or before the 5th day of each month following the effective date of this Order. Respondents' obligation to submit progress reports continues until EPA, pursuant to Section XXII, gives Respondents written notice that Respondents have demonstrated, and EPA concurs, that all of the terms of this Order, including any additional tasks which EPA has determined to be necessary, have been completed. In addition, EPA may request periodic briefings by Respondents to discuss the progress of the Work.

B. At a minimum these progress reports shall: (1) describe the actions which have been taken to comply with this Order; (2) include all results of sampling and tests and all other data received by Respondents during the course of the Work; (3) include all plans, reports, deliverables and procedures completed under the Work Plans during the previous month; (4) describe all work planned for the next month; and (5) describe all problems encountered and any anticipated problems, any actual or anticipated delays, and solutions developed and implemented to mitigate or address any actual or anticipated problems or delays.

C. Upon the occurrence of any event during performance of the Work or additional work which, pursuant to Section 103 of CERCLA, requires reporting to the National Response Center, the Respondents shall promptly orally notify the EPA Project Coordinator or in the event of the unavailability of the EPA Project Coordinator, the Alternate EPA Project Coordinator. In the event of the unavailability of the EPA Project Coordinator or Alternate, the Emergency Response and Removal Branch, Region IV, United States Environmental Protection Agency shall be notified. This is in addition to the reporting required by Section 103 of CERCLA. Within ten (10) days of the onset of such an event, the Respondents shall furnish to EPA a written report setting forth the events which occurred and the measures taken, and to be taken, in response thereto. Within thirty (30) days of the conclusion of such an event, the Respondents shall submit a report setting forth all actions taken.

XIII. QUALITY ASSURANCE, SAMPLING AND DATA ANALYSIS

A. Respondents shall use quality assurance, quality control, and chain of custody procedures in accordance with EPA's "Interim Guidelines and Specifications For Preparing Quality Assurance Project Plan" (QAMS-005/80) and the "EPA Region IV, Engineering Support Branch Standard Operating Procedures and Quality Assurance Manual" (U.S. EPA Region IV, Environmental Services Division, April 1, 1986) and subsequent amendments to such guidelines. Prior to the commencement of any monitoring project under this Order, Respondents shall submit for review, modification and/or approval by EPA a Quality Assurance Project Plan ("QAPP") that is consistent with applicable guidelines. Respondents shall assure that EPA personnel or authorized representatives are allowed access to any laboratory utilized by Respondents in implementing this Order.

B. Respondents shall make available to EPA the results of all sampling, tests and other data generated by Respondents with respect to the implementation of this Order, and shall submit these results in monthly progress reports as described in Section XII of this Order.

C. At the request of EPA, Respondents shall allow split or duplicate samples to be taken by EPA, and/or its authorized representatives, of any samples collected by Respondents pursuant to the implementation of this Order. Respondents shall notify EPA not less than fourteen (14) days in advance of any sample collection activity. In addition, EPA shall have the right to take any additional samples that EPA deems necessary.

D. Respondents shall ensure that the laboratory(ies) utilized by Respondents for analyses participates in an EPA quality assurance/quality control program equivalent to that which is followed by EPA and which is consistent with EPA document QAMS-005/80. In addition, EPA may require Respondents to submit data packages equivalent to those generated in the EPA Contract Laboratory Program (CLP) and may require laboratory analysis by Respondents of performance samples (blank and/or spike samples) in sufficient number to determine the capabilities of the laboratory.

E. Notwithstanding any provision of this Order, the United States hereby retains all of its information gathering, inspection and enforcement authorities and rights under CERCLA, the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901 et seq., and any other applicable statutes or regulations.

XIV. COMPLIANCE WITH APPLICABLE LAWS

A. All actions by Respondents pursuant to this Order shall be performed in accordance with the requirements of all applicable laws, as required by CERCLA and the NCP. The United States has determined that the activities contemplated by this Order are consistent with the NCP.

B. Except as provided in Section 121(e) of CERCLA and the NCP, no permit shall be required for any portion of the Work conducted entirely on the Site. Where any portion of the Work requires a federal or state permit or approval under CERCLA and the NCP, Respondents shall submit on a timely basis applications and take all other actions necessary to obtain all such permits or approvals.

C. This Order is not, and shall not be construed to be, a permit issued pursuant to any federal or state statute or regulation.

D. Respondents shall include in all contracts or subcontracts entered into for Work required under this Order provisions stating that such contractors or subcontractors, including their agents and employees, shall perform all activities required by such contracts or subcontracts in compliance with all applicable laws and regulations.

Respondents shall provide a certification to the United States that such provision has been included in its contracts and subcontracts, within fifteen (15) days of final execution of contracts.

XV. PROJECT COORDINATORS

A. Within fourteen (14) days after the effective date of this Order, the Respondents shall designate a Project Coordinator and shall submit the name, address, and telephone number of the Project Coordinator to EPA. The Respondents' Project Coordinator shall be responsible for overseeing the implementation of this Order. If the Respondents wish to change their Project Coordinator, the Respondents shall provide written notice to EPA, five (5) days prior to changing the Project Coordinator, of the name and qualifications of the new Project Coordinator. The Respondents' selection of a project Coordinator shall be subject to EPA approval.

B. All communications, whether written or oral, from the Respondents to EPA shall be directed to EPA's Project Coordinator or, in the event of his or her unavailability, EPA's Alternate Project Coordinator. EPA's Project Coordinator is:

Kristen White
Remedial Project Manager
United States Environmental Protection Agency
345 Courtland Street, NE
Atlanta, Georgia 30365
404-347-2643

EPA's Alternate Project Coordinator is:

Beverly Houston, Chief
North Florida Section
United States Environmental Protection Agency
345 Courtland Street, NE
Atlanta, Georgia 30365
404-347-2643

C. EPA has the unreviewable right to change its Project Coordinator or Alternate Project Coordinator. If EPA changes its Project Coordinator or Alternate Project Coordinator, EPA will inform the Respondents in writing of the name, address, and telephone number of the new Project Coordinator or Alternate Project Coordinator.

D. EPA's Project Coordinator and Alternative Project Coordinator shall have the authority lawfully vested in a Remedial Project Manager (RPM) and On-Scene Coordinator (OSC) by the National Contingency Plan, 40 C.F.R. Part 300. In addition, EPA's Project Coordinator or Alternative Project Coordinator

shall have authority, consistent with the National Contingency Plan, to halt any work required by this Order and to take any necessary response action when he or she determines that conditions at the Site may present an imminent and substantial endangerment to public health or welfare or the environment.

E. The absence of the EPA Project Coordinator from the Site shall not be cause for stoppage or delay of Work.

XVI. SITE ACCESS

At all reasonable times from the effective date of this Order until EPA certifies completion of the Work pursuant to Section XXII of this Order, EPA and its authorized representatives and contractors shall have access to the Site and to any off-Site areas to which access is required to implement this Order, including property subject to or affected by the clean up or where documents required to be prepared or maintained by this Order are located, to the extent access to the property is controlled by or available to the Respondents. Access shall be allowed for the purposes of conducting any activity authorized by or related to this Order, including but not limited to: (1) monitoring the RD work, including any treatability studies to be performed on-site, or any other activities taking place on the property; (2) verifying any data or information submitted to the United States; (3) obtaining samples; (4) evaluating the need for or planning and implementing additional remedial or response actions at or near the Site; and (5) inspecting and copying records, operating logs, contracts, or other documents required to assess the Respondents' compliance with this Consent Order.

XVII. ACCESS TO SITE NOT OWNED BY RESPONDENTS

A. If the Site, an off-Site area that is to be used for access, property where documents required to be prepared or maintained by this Order are located, or other property subject to or affected by the clean up, is controlled or owned in whole or in part by parties other than those bound by this Order, the Respondents will obtain, or use their best efforts to obtain, site access agreements from such parties within thirty (30) days after the effective date of this Order. Such agreements shall provide access for EPA, its contractors and oversight officials, the state and its contractors, and the Respondents or the Respondents' authorized representatives and contractors, and such agreements shall specify that the Respondents are not EPA's agents with respect to liability associated with Site activities. Copies of such agreements shall be provided to EPA prior to the Respondents' initiation of field activities. Respondents' best efforts shall include providing reasonable compensation to property owners.

B. If access agreements are not obtained within the time referenced above, Respondents shall immediately notify EPA in writing of their failure to obtain access. EPA may use its legal authorities to obtain access for the Respondents, may perform those tasks or activities with EPA contractors, or may terminate the Order if Respondents cannot obtain access agreements. If EPA performs those tasks or activities with EPA contractors and does not terminate the Order, Respondents shall perform all other activities not requiring access to the property to which EPA obtained access, and the Respondents shall be liable to EPA for reimbursement of all costs incurred by EPA in performing such activities. Respondents shall integrate the results of any such tasks undertaken by EPA into its reports and deliverables. EPA reserves the right to seek cost recovery for all costs and attorney fees incurred by the United States to obtain access.

C. Notwithstanding any provision of this Order, the United States retains all of its access authorities and rights under CERCLA, RCRA and any other applicable statutes or regulations.

XVIII. ACCESS TO INFORMATION AND DATA/DOCUMENT AVAILABILITY

A. Respondents shall provide to EPA and its authorized representatives, upon request, access to inspect and/or copy all documents and information in their possession and/or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Order, including all files, records, documents, photographs, sampling and analysis records, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information relating to remedial activities and other Work required under the Order.

B. Respondents may assert a claim of business confidentiality covering part or all of the information submitted to EPA pursuant to the terms of this Order under 40 C.F.R. § 2.203, to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7). This claim shall be asserted in the manner described by 40 C.F.R. § 2.203(b) and substantiated by Respondents at the time the assertion is made. Information determined to be confidential by EPA will be given the protection specified in 40 C.F.R. Part 2. If no claim of confidentiality accompanies specific documents or information when it is submitted to EPA, or if EPA has notified the Respondents that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA and 40 C.F.R. § 2.203(b), the public may be given access to such documents or information by EPA or the state without further notice to the Respondents.

C. Respondents shall not assert confidentiality claims with respect to any data related to Site conditions, sampling, or monitoring.

D. Respondents shall maintain for the period during which this Order is in effect, an index of documents that Respondents claim contain privileged information or confidential business information. The index shall contain, for each document, the date, author, addressee, and subject of the document. Upon written request from EPA, Respondents shall submit a copy of the index to EPA.

XIX. RECORD PRESERVATION

A. Respondents shall provide to EPA upon request, copies of all documents and information within their possession and/or control or the control of their contractors or agents relating to activities at the Site or to the implementation of this Order, including but not limited to sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. Respondents shall also make available to EPA for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

B. Until EPA issuance of the Certification of Completion of the Work pursuant to Section XXII and termination of this Order, Respondents shall preserve, and shall instruct their contractors and agents to preserve, all documents, records, and information of whatever kind, nature, or description relating to the performance of the Work.

C. All records and documents in Respondents' possession at any time prior to termination of this Order, that relate in any way to the Site shall be preserved and retained by Respondents for a minimum of 10 years after EPA certification of completion of all requirements under this Order. Respondents shall acquire and retain copies of all documents that relate to the Site and are in the possession of its employees, agents, accountants, contractors, or attorneys. After this ten (10) year period, Respondents shall notify EPA at least ninety (90) days before the documents are scheduled to be destroyed and shall relinquish custody of said records or documents to EPA at no cost, upon request.

D. EPA has the discretion to request that all records and documents be retained for a longer period of time by the Respondents.

XX. DELAY IN PERFORMANCE

A. Any delay in performance of this Order that, in EPA's judgment, is not properly justified by Respondents under the terms of this paragraph shall be considered a violation of this Order. Any delay in performance of this Order shall not affect Respondents' obligations to fully perform all obligations under the terms and conditions of this Order.

B. Respondents shall notify EPA of any delay or anticipated delay in achieving compliance with any requirement of this Order. Such notification shall be made by telephone to EPA's Designated Project Coordinator or if that person is not available, the Section Chief for the North Florida Section of the South Superfund Remedial Branch within 48 hours after Respondents first knew or should have known that an event might cause a delay. Within five (5) business days after notifying EPA by telephone, Respondents shall provide written notification fully describing the nature of the delay, the reasons the delay is beyond the control of Respondents, any defenses under Section 106(b)(1) available to Respondents for failing to comply with any relevant requirements of this Order, and a schedule for implementing the measures that will be taken to mitigate the effect of the delay. Respondents shall adopt all reasonable measures to avoid or minimize any such delay. Increased costs or expenses associated with implementation of the activities called for in this document shall not be considered circumstances beyond the control of Respondents.

XXI. UNITED STATES EPA NOT LIABLE

The United States EPA, by issuance of this Order, assumes no liability for any injuries or damages to persons or property resulting from acts or omissions by Respondents, or their directors, officers, employees, agents, representatives, successors, assigns, contractors, or consultants in carrying out any action or activity pursuant to this Order. The United States EPA shall not be deemed to be a party to any contract entered into by Respondents or their directors, officers, employees, agents, successors, assigns, contractors, or consultants in carrying out any action or activity pursuant to this Order.

XXII. CERTIFICATION OF COMPLETION

Within thirty (30) days after Respondents conclude that all phases of the Work have been fully performed, Respondents shall submit to EPA a written report by a registered professional engineer or geologist registered in the State of Florida certifying that the Work has been completed in full satisfaction of the requirements of this Order. EPA may require the

Respondents to perform any additional activities necessary to complete the Work, or EPA may, based upon present knowledge and the Respondents' certification to EPA, issue written notification to the Respondents that the Work has been completed. EPA's notification shall not limit EPA's right to perform periodic reviews pursuant to Section 121(c) of CERCLA, 42 U.S.C. § 9621(c), or to take or require any action that in the judgment of EPA is appropriate at the Site, in accordance with 42 U.S.C. §§ 9604, 9606, or 9607.

XXIII. ENFORCEMENT AND RESERVATIONS

A. EPA reserves the right to bring an action against Respondents under Section 107 of CERCLA, 42 U.S.C. § 9607, for recovery of any response costs incurred by the United States related to this Order and not previously reimbursed by Respondents. This reservation shall include but not be limited to past costs, indirect costs, the cost of oversight, costs for compiling the cost documentation to support oversight cost demand, as well as accrual of interest, as provided in Section 107(a) of CERCLA.

B. Notwithstanding any other provision of this Order, at any time during the response action, EPA may perform its own studies, complete the response action (or any portion of the response action), as provided in CERCLA and the NCP, and seek reimbursement from Respondents for its costs, or seek any other appropriate relief. In particular, the failure of the Respondents to comply, or the statement of their intent not to comply, with any order or decree requiring the performance of Remedial Action at the Site would constitute grounds for EPA to exercise such rights to perform the Remedial Design and seek reimbursement of its costs and any other appropriate relief.

C. Nothing herein shall preclude EPA from continuing any existing enforcement action or taking any additional enforcement action, including modification of this Order or issuance of additional orders; nor shall anything herein preclude EPA from taking additional remedial or removal action, shall this Order preclude EPA from requiring the Respondents to perform additional activities pursuant to CERCLA, 42 U.S.C. Section 9606(a), et seq. or any other applicable law. Respondents shall be liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for the costs incurred by EPA in any such additional actions.

D. Notwithstanding any provision of this Order, the United States hereby retains all of its information gathering, inspection and enforcement authorities and rights under CERCLA, RCRA and any other applicable statutes and regulations.

E. Under Section 106(b) of CERCLA, 42 U.S.C. § 9606(b), Respondents shall be subject to civil penalties of not more than $25,000 for each day in which a violation of this Order occurs or a failure to comply continues. Failure to comply with this

Order, or any portion hereof, without sufficient cause, may result in liability under Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3), for punitive damages in an amount at least equal to, and not more than, three times the amount of any costs incurred by EPA as a result of such failure to comply.

F. Nothing in this Order 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, subsidiary or corporation for any liability it may have arising out of or relating in any way to the Site.

XXIV. EFFECTIVE DATE AND COMPUTATION OF TIME

This Order shall be effective on March 15, 1991. All times for performance of ordered activities shall be calculated from this effective date. When computing any period of time under this Order, if the last day would fall on a Saturday, Sunday or legal holiday, the period shall run until the next working day.

XXV. NOTICE OF INTENT TO COMPLY

Within seven (7) days after the effective date of this Order, the Respondents shall provide written or oral notice to EPA stating whether they will comply with the terms of this Order. Any oral notice must be confirmed in writing within two (2) days of the giving of such oral notice. If Respondents do not unequivocally commit in the notice to perform the RD, as provided by this Order, they shall be deemed to have violated this Order and to have failed and refused to comply with this Order. The written notice or written confirmation required by this paragraph shall set forth any "sufficient cause" defenses asserted by Respondents under Sections 106(b) and 107(c)(3) of CERCLA, 42 U.S.C. §§ 9606(b) and 9607(c)(3), based on facts that exist on or prior to the effective date of this Order.

XXVI. OPPORTUNITY TO CONFER

A. Prior to the effective date of this Order, the Respondents may make a written or oral request for a conference with EPA Region IV to discuss this Order. If requested, the conference shall occur at EPA, Region IV, 345 Courtland Street, Atlanta, GA 30365. All telephone and written communications regarding a conference should be directed to Truly F. Bracken, Assistant Regional Counsel, at 404-347-1653. The written request for a conference or written confirmation of an oral request may be delivered to EPA by certified mail or by some other means of personal delivery. If the Respondents fail to request a conference prior to the effective date of this Order, the right to request such a conference will be forfeited.

B. The scope of the conference shall be limited to issues involving the implementation of the response actions required by this Order and the extent to which Respondents intend to comply with this Order. This conference is not an evidentiary hearing, and does not constitute a proceeding to challenge this Order. It does not give the Respondents a right to seek review of this Order or to seek resolution of potential liability, and no official stenographic record of the conference will be made. At any conference held pursuant to the Respondents' request, the Respondents may appear in person or by an attorney or other representatives.

XXVII. MODIFICATION

No oral modification of this Order shall be effective. No material modifications shall be made to this Order without written notification to and written approval of EPA. The notification required by this Section shall set forth the nature of and reasons for the requested modification. Modifications that do not materially alter the requirements of this Order, such as minor schedule changes, may be made upon the written approval of EPA. Nothing in this paragraph shall be deemed to alter EPA's authority to supervise and modify this Order.

So Ordered, this 5 day of March, 1991.

BY: _____
Donald J. Guinyard, Acting Director
Waste Management Division
Region IV
U.S. Environmental Protection Agency