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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

IN THE MATTER OF: **Operating Industries, Inc. (OII)** **Superfund Site** Monterey Park, California Proceeding under Section 122(g)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9622(g)(4)	U.S. EPA Docket No. 02-11 ADMINISTRATIVE ORDER ON CONSENT

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I. JURISDICTION

1. This Administrative Order on Consent ("Consent Order") is issued pursuant to the authority vested in the President of the United States by Section 122(g)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9622(g)(4), to reach settlements in actions under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607. The authority vested in the President has been delegated to the Administrator of the United States Environmental Protection Agency ("U.S. EPA") by Executive Order 12580, 52 Fed. Reg. 2923 (Jan. 29, 1987), and was further delegated to the Regional Administrators of the U.S. EPA by Delegation No. 14-14-E (issued May 11, 1994, amended by memorandum May 19, 1995). Within U.S. EPA Region IX, this authority has been delegated to the Superfund Division Director by a Regional Order entitled "De Minimis Settlements," dated September 29, 1997. The State has jurisdiction over the matters set forth herein pursuant to the California Hazardous Substance Account Act, California Health and Safety Code Section 25300 et seq. (the "California Hazardous Substance Account Act") and Section 121(f) of CERCLA, 42 U.S.C. § 9621(f). The State has claims against the Respondents, as defined herein, pursuant to CERCLA Section 107(a), 42 U.S.C. § 9607(a).

2. This Consent Order is issued to the persons, corporations, or other entities identified in Appendix A ("Respondents"). Each Respondent agrees to undertake all actions required of it, him, or her by this Consent Order. Each Respondent further consents to and will not contest the U.S. EPA's jurisdiction to issue this Consent Order or to implement or enforce its terms.

3. The U.S. EPA and the Respondents agree that the actions undertaken by the Respondents in accordance with this Consent Order do not constitute an admission of any liability by any Respondent. The Respondents do not admit, and retain the right to controvert in any subsequent proceedings (other than proceedings to implement or enforce this Consent Order), the validity of the Statement of Facts contained in Section V (page 5) or the Determinations contained in Section VI (page 8) of this Consent Order.

II. STATEMENT OF PURPOSE

4. By entering into this Consent Order, the mutual objectives of the Parties are:

a. with respect to the Respondents identified in Appendix B, "Tier I Respondents," as provided in Section XII (Tier I De Minimis Covenants, page 12), and subject to the applicable reservations and conditions of this Consent Order:

(1) to reach a final settlement among the Parties with respect to the Operating Industries, Inc. Superfund Site (the "Site" or the "OII Site") pursuant to Section 122(g) of CERCLA, 42 U.S.C. § 9622(g), that allows these Respondents to make a cash payment, including a premium, to resolve their alleged civil liability under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, for injunctive relief with regard to the Site and for response costs incurred and to be incurred at or in connection with the Site, thereby reducing litigation relating to the Site;

(2) to simplify the remaining administrative and judicial enforcement activities concerning the Site by eliminating a substantial number of parties from further involvement at the Site; and

(3) to obtain settlement with these Respondents for their fair share of response costs incurred and to be incurred at or in connection with the Site by the Hazardous Substance Superfund and by private parties, and to provide for full and complete contribution protection for these Respondents with regard to the Site, pursuant to Sections 113(f)(2) and 122(g)(5) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(g)(5).

b. with respect to the Respondents identified in Appendix C, "Tier II Respondents," as provided in Section XIII (Tier II De Minimis Covenants, page 13), and subject to the applicable reservations and conditions of this Consent Order:

(1) to reach a settlement among the Parties with respect to the Site pursuant to Section 122(g) of CERCLA, 42 U.S.C. § 9622(g), that allows these Respondents to make a cash payment, including a premium, to resolve their alleged civil liability under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, for injunctive relief with regard to the Site and for response costs incurred and to be incurred at or in connection with the Site, subject to certain reservations regarding unknown conditions or information, thereby reducing litigation relating to the Site;

(2) to simplify the remaining administrative and judicial enforcement activities concerning the Site by significantly reducing the further involvement of a substantial number of parties;

(3) to obtain settlement with these Respondents for their fair share of response costs incurred and to be incurred at or in connection with the Site by the Hazardous Substance Superfund and by private parties, and to provide for contribution protection for these Respondents with regard to the Site, subject to certain reservations regarding unknown conditions or information, pursuant to Sections 113(f)(2) and 122(g)(5) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(g)(5).

III. PARTIES BOUND

5. This Consent Order shall apply to and be binding upon the U.S. EPA, upon the State, and upon the Respondents and their heirs, successors and assigns. Any change in ownership, political configuration, or corporate or other legal status of a Respondent, including, but not limited to, any transfer of assets or real or personal property, shall in no way alter such Respondent's responsibilities under this Consent Order. Each signatory to this Consent Order certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Order and to legally bind the party represented by him or her.

IV. DEFINITIONS

6. Unless otherwise expressly provided herein, terms used in this Consent Order that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned

to them in the statute or regulations. Whenever the terms listed below are used in this Consent Order, including the attached appendices, 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. "Consent Order" shall mean this Administrative Order on Consent. This Consent Order shall include all appendices attached hereto, except to the extent of any conflict, in which case this Consent Order shall control over such appendices.

c. "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 Consent Order, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

d. "De micromis" party shall mean any person (i) whose liability with respect to the Site is based solely on CERCLA § 107(a)(3) or (4), 42 U.S.C. § 9607(a)(3) or (4), and (ii) who the U.S. EPA determines arranged for the disposal, treatment, or transport for disposal or treatment, or accepted for transport for disposal or treatment, of less than 2,100 gallons of materials containing hazardous substances, except where the U.S. EPA determines that the hazardous substances contributed by such person are significantly more toxic or of significantly greater hazardous effect than other hazardous substances at the Site.

e. "De minimis" party shall mean any person (i) whose liability with respect to the Site is based solely on CERCLA § 107(a)(3) or (4), 42 U.S.C. § 9607(a)(3) or (4), and (ii) who the U.S. EPA determines arranged for the disposal, treatment, or transport for disposal or treatment, or accepted for transport for disposal or treatment, of less than 110,000 gallons of materials containing hazardous substances, except where the U.S. EPA determines that the hazardous substances contributed by such person are significantly more toxic or of significantly greater hazardous effect than other hazardous substances at the Site.

f. "DTSC" shall mean the California Department of Toxic Substances Control and any predecessor and successor departments or agencies.

g. "Federal Respondents" shall mean those departments, agencies or instrumentalities of the United States Government listed in Appendix D.

h. "Final Certification of Completion" shall mean the later of the following two Certifications of Completion of Remedial Action to be issued for the OII Site: (1) the issuance of the Certificate of Completion as defined in Section XXV of the Third Partial Consent Decree, or (2) the issuance of the Certificate of Completion for the remedy required by the Final ROD.

i. "Final Remedy" shall mean the remedies selected in the Final ROD and the Gas Control and Cover ROD for the OII Site, including any amendments or modifications that have been or may be made to those RODs.

j. "Final ROD" shall mean the Final Record of Decision for the OII Site, signed by the Region IX Superfund Division Director on September 30, 1996.

k. "Gas Control and Cover ROD" shall mean the Record of Decision relating to the Gas Migration Control and Landfill Cover operable unit at the OII Site, signed by the Region IX Deputy Regional Administrator on September 30, 1988, as amended on September 28, 1990.

l. "Hazardous Substance Superfund" shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

m. "Interest" shall mean interest at the rate specified for interest on investments of the Hazardous Substance Superfund established under Subchapter A of Chapter 98 of Title 26 of the U.S. Code, compounded on October 1 of each year, in accordance with CERCLA § 107(a), 42 U.S.C. § 9607(a).

n. "Non-Federal Respondents" shall mean those Respondents listed in Appendix A other than the departments, agencies or instrumentalities of the United States Government listed in Appendix D.

o. "OII Site" or the "Site" shall mean the "facility," as that term is defined at Section 101(9) of CERCLA, 42 U.S.C. § 9601(9), and shall mean the landfill located at 900 Potrero Grande Drive in Monterey Park, California, and all associated areas where contamination emanating from the landfill has come or comes to be located.

p. "Paragraph" shall mean a portion of this Consent Order identified by an arabic numeral.

q. "Parties" shall mean the U.S. EPA, the Respondents, and the State.

r. "RCRA" shall mean the Resource Conservation and Recovery Act, as amended ("RCRA"), 42 U.S.C. § 6901 et seq.

s. "Remedial Action" shall mean those activities taken or to be undertaken to implement the Gas Control and Cover ROD and/or the Final ROD for the OII Site, in accordance with Statements of Work, the final Remedial Designs and Remedial Action Work Plans and other plans approved or to be approved by the U.S. EPA, but shall exclude "operation and maintenance," which shall mean all activities required to maintain the effectiveness of the Final Remedy for the OII Site, as required under any operation and maintenance plans approved or developed by the U.S. EPA.

t. "Respondents" shall mean those persons, corporations, or other entities listed in Appendix A.

u. "Response costs" shall mean all costs of "response" as that term is defined by Section 101(25) of CERCLA, 42 U.S.C. § 9601(25).

v. "Section" shall mean a portion of this Consent Order identified by a roman numeral, except as otherwise used with reference to a section of a statute.

w. "State" shall mean the State of California on behalf of the Department of Toxic Substances Control, the successor entity to the California Department of Health Services, and any successor departments or agencies, and on behalf of the California Hazardous Substance Account and any successor accounts.

x. "Tier I De Minimis Covenants" shall mean the Covenants Not to Sue by the United States in Section XII (Tier I De Minimis Covenants Not to Sue by the United States, page 12).

y. "Tier II De Minimis Covenants" shall mean the Covenants Not to Sue by the United States in Section XIII (Tier II De Minimis Covenants Not to Sue by the United States, page 13).

z. "United States" shall mean the United States of America, its agencies, departments, and instrumentalities.

aa. "U.S. EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies.

V. STATEMENT OF FACTS

7. The Operating Industries, Inc. landfill is a 190-acre facility located at 900 Potrero Grande Drive, Monterey Park, California. The landfill operated from 1948 through 1984. Over the course of its operation, the landfill accepted industrial solid, liquid and hazardous wastes, as well as municipal solid waste. Wastes accepted by the landfill include hazardous substances as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and Sections 25316 and 25317 of the California Health and Safety Code.

8. The Site is located on the southwestern flank of the La Merced hills (also called the Montebello hills). California Highway 60 (Pomona Freeway) runs roughly east-west through the Site, dividing it into a 45-acre North Parcel and a 145-acre South Parcel.

9. The Site was proposed for inclusion on the National Priorities List ("NPL") in October 1984, and was subsequently placed on the NPL in May 1986, in accordance with Section 105(a)(8) of CERCLA, 42 U.S.C. § 9605(a)(8), as set forth at 40 C.F.R. Part 300, Appendix B.

10. The population in proximity to the Site includes the nearby residents of the City of Montebello and the City of Monterey Park, those who travel on the portion of the Pomona Freeway which transects the Site, and workers in the several businesses located on or near the Site.

11. The contaminants found at the Site include a wide variety of metals and organic compounds defined as hazardous substances by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and Sections 25316 and 25317 of the California Health and Safety Code. These contaminants include, but may not be limited to, the list of contaminants attached to and incorporated into this Consent Order as Appendix E.

12. Hazardous substances within the definitions of both Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and Sections 25316 and 25317 of the California Health and Safety Code, have been and threaten to be released into the environment at or from the Site.

13. In response to a release or threatened release of hazardous substances into the environment, the U.S. EPA has undertaken response actions at the Site pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, and will undertake further response actions in the future.

14. In response to a release or a substantial threat of a release of hazardous substances at or from the Site, the U.S. EPA has completed the Remedial Investigation ("RI"), the Feasibility Study ("FS"), the Proposed Plan, and the Final Record of Decision (the "Final ROD") for the Site pursuant to 40 C.F.R. § 300.430.

15. Prior to issuing the Final ROD, the U.S. EPA identified three operable units at the Site: Site Control and Monitoring ("SCM"); Leachate Management ("LM"); and Gas Migration Control and Landfill Cover ("Gas Control and Cover"). The U.S. EPA identified the first two operable units (SCM and LM) to facilitate interim remedial actions at the Site. The SCM and LM operable units were the subject of two interim Records of Decision ("RODs"), which were terminated upon issuance of the superseding Final ROD, as discussed below. The U.S. EPA identified the third operable unit to accelerate the final remedial action for landfill gas control and the landfill cover. The third Record of Decision selects a permanent remedy for this operable unit (the "Gas Control and Cover ROD"); unlike the previous two interim RODs, this ROD continues in effect in conjunction with the Final ROD. On September 30, 1996, the U.S. EPA issued the Final ROD for the OII Site, which selects a permanent remedy for groundwater contamination as well as for the matters previously addressed by the interim SCM and LM RODs. The final remedy for the OII Site (the "Final Remedy") is comprised of the Gas Control and Cover ROD and the Final ROD.

16. In response to a release or threatened release of hazardous substances into the environment, DTSC has undertaken response actions at the Site under Sections 25355 and 25358.3 of the California Health and Safety Code, and will undertake response actions in the future.

17. In performing response actions at or in connection to the Site, the United States and the State have incurred and will continue to incur response costs.

18. The first partial consent decree for the OII Site, captioned United States, et al. v. Chevron Chemical Company, et al., No. CV 88 7196 MRP(Kx), was entered by the Court on May 11, 1989 (the "First Decree"). This decree required performance of the work necessary to implement the first and second interim RODs for the Site (the SCM and LM RODs), and raised funds to pay for this work.

19. A second partial consent decree, captioned United States, et al. v. American Petrofina Exploration Co., et al., No. CV 88 7196 (MRP) Kx, was entered on September 17, 1991 (the "Second Decree"). This decree raised additional funds to pay for the work required by the First Decree.

20. A third partial consent decree, captioned United States, et al. v. Chevron Chemical Company, et al., No. CV 91-6520-JGD (WRx), was entered on March 30, 1992 (the "Third Decree"). The Third Decree required the performance and funding of a major portion of the work required by the Gas Control and Cover ROD; certain elements of the work and aspects of the funding were designated for future agreements or orders.

21. On September 17, 1992, the U.S. EPA issued an Administrative Order on Consent ("AOC 92-18") pursuant to Section 122(g)(4) of CERCLA, 42 U.S.C. § 9622(g)(4), resolving the alleged liability of certain municipalities for arranging for disposal or for transport for disposal of municipal solid waste at the Site.

22. On December 21, 1992, the U.S. EPA entered into an Administrative Settlement ("No. [illegible]-19") with the U.S. Navy pursuant to Section 122(h) of CERCLA, 42 U.S.C. § 9622(h). This settlement, valued at approximately $1.1 million, addressed the same subject matter as the First Decree and the Third Decree.

23. On November 2, 1993, the U.S. EPA issued a unilateral administrative order ("UAO 94-01") pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606, requiring its recipients, who had failed to join earlier settlements, to perform certain response activities at the Site in cooperation with the U.S. EPA and the other persons performing work at the Site.

24. A fourth partial consent decree, captioned United States, et al. v. City of Monterey Park, et al., No. CV 94-8685 WMB (GHKx), was entered on April 4, 1995 (the "Fourth Decree"). This decree resolved the alleged liability of certain municipalities, transporters and the California Department of Transportation for arranging for disposal or for transport for disposal of municipal solid waste at the Site.

25. A fifth partial consent decree, captioned United States, et al. v. IT Corporation, et al., No. CV 96-1959-WMB, was entered on July 10, 1996 (the "Fifth Decree"). This decree addressed the same subject matter as the First Decree and the Third Decree, incorporating new defendants, including all of the recipients of UAO 94-01.

26. On March 7, 1997, the U.S. EPA issued a unilateral administrative order ("UAO 97-02") pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606, requiring its recipients, who had failed to join earlier settlements, to perform certain response activities at the Site in cooperation with the U.S. EPA and the other persons performing work at the Site.

27. A sixth partial consent decree, captioned United States, et al. v. Air Products and Chemicals, Inc., et al., No. CV 97-5440 MRP (Mcx), was entered on September 23, 1997 (the "Sixth Decree"). This decree resolved the liability of GSF Energy, Inc., the former methane recovery operator at the Site, and certain related parties for certain response actions and response costs for the Site.

28. On September 30, 1998, the U.S. EPA issued an Administrative Order on Consent ("AOC 98-13") pursuant to Section 122(g)(4) of CERCLA, 42 U.S.C. § 9622(g)(4), resolving the alleged liability of 327 de minimis parties at the Site.

29. On September 30, 1999, the U.S. EPA issued an Administrative Order on Consent ("AOC 99-09") pursuant to Section 122(g)(4) of CERCLA, 42 U.S.C. § 9622(g)(4), resolving the alleged liability of 76 de minimis parties at the Site.

30. On September 29, 2000, the U.S. EPA issued an Administrative Order on Consent ("AOC 00-09") pursuant to Section 122(g)(4) of CERCLA, 42 U.S.C. § 9622(g)(4), resolving the alleged liability of 22 de minimis parties at the Site.

31. A seventh partial consent decree, captioned United States, et al. v. Operating Industries, Inc., et al., No. CV 00-08794-SVW (Cwx), was entered on October 11, 2000. This decree resolved the liabilities of the owners and operators of the former landfill at the OII Site, provided for institutional controls for the former landfill, and provided for a brownfields developer to construct a landfill cap for the North Parcel of the OII Site and to redevelop that portion of the Site.

32. On September 27, 2001, the U.S. EPA issued an Administrative Order on Consent ("AOC 01-13") pursuant to Section 122(g)(4) of CERCLA, 42 U.S.C. § 9622(g)(4), resolving the alleged liability of 10 de minimis parties at the Site.

33. An eighth partial consent decree, captioned United States, et al. v. Chevron Environmental Management Company, et al., No. CV 01-11162 RSWL (JWJx), was entered on May 28, 2002. This decree addressed the full implementation of the Final Remedy at the OII Site and the long-term operation and maintenance of the remedy implemented pursuant to the Gas Control and Cover ROD which is not addressed by the Third Decree.

34. Each Respondent listed in Appendix A arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of one or more hazardous substance(s) at the Site.

35. Each Respondent listed in Appendix A contributed less than 110,000 gallons of materials containing hazardous substances, the toxic or other hazardous effects of which are not significantly greater than any other hazardous substances at the OII Site. The volume of materials attributed by the U.S. EPA to each Respondent is identified in Appendix A.

36. The U.S. EPA estimates that the total of the response costs incurred and to be incurred at or in connection with the Site by the U.S. EPA Hazardous Substance Superfund, the State of California, and by private parties is approximately $602 million. The payment each Respondent is required to make pursuant to this Consent Order, which is identified for each Respondent in Appendix A, is a minor portion of this total amount.

37. Respondents identified in Appendix A with a "(-)" sign next to their name have been credited with prior settlement payments, reducing the settlement amounts these Respondents are required to pay to join this de minimis settlement. The settlement payment amount reflected in Appendix A for each such Respondent is the amount the Respondent must pay in addition to its, his or her prior payment(s).

VI. DETERMINATIONS

38. Based upon the Findings of Fact set forth above and on the administrative record for this Site, the U.S. EPA has made the following determinations:

a. The OII Site is a "facility" as that term is defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

b. Each Respondent is a "person" as that term is defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

c. Each Respondent is a potentially responsible party within the meaning of Sections 107(a) and 122(g)(1) of CERCLA, 42 U.S.C. §§ 9607(a) and 9622(g)(1).

d. There has been an actual or threatened "release" of a hazardous substance from the Site as that term is defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

e. Response costs were incurred as a result of the actual or threatened "release."

f. Prompt settlement with the Respondents is practicable and in the public interest within the meaning of Section 122(g)(1) of CERCLA, 42 U.S.C. § 9622(g)(1).

g. The allocated share of each Respondent, as assessed by this Consent Order, is only a minor portion of the total response costs for the Site within the meaning of Section 122(g)(1) of CERCLA, 42 U.S.C. § 9622(g)(1).

h. The amount of hazardous substances contributed to the Site by each Respondent and the toxic or other hazardous effects of the hazardous substances contributed to the Site by each Respondent are minimal in comparison to other hazardous substances at the Site within the meaning of Section 122(g)(1)(A) of CERCLA, 42 U.S.C. § 9622(g)(1)(A).

VII. ORDER

39. Based upon the administrative record for the Site and the Statement of Facts and the Determinations set forth above, and in consideration of the promises and covenants set forth herein, it is hereby AGREED AND ORDERED as follows:

VIII. PAYMENT

40. Within thirty (30) days of the effective date of this Consent Order, each Non-Federal Respondent shall pay the amount opposite its, her, or his name in Appendix A to this Consent Order, in accordance with the provisions of this Section.

41. As soon as reasonably practicable after the effective date of this Consent Order, the United States, on behalf of the Federal Respondents, shall pay the total of the amounts opposite the names of the Federal Respondents, in accordance with the provisions of this Section. The Parties to this Consent Order recognize and acknowledge that the payment obligations of the Federal Respondents under this Consent Order can only be paid from appropriated funds legally available for such purpose. Nothing in this Consent Order shall be interpreted or construed as a commitment or requirement that any Federal Respondent obligate or pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable provision of law.

42. The total amount to be paid by each Respondent includes a payment for his, her or its share of: a) past response costs at or in connection with the Site; b) estimated future response costs to be incurred at or in connection with the Site; and c) a premium to cover the risks and uncertainties associated with this settlement, including, but not limited to, the risk that the total amount of response costs incurred or to be incurred at or in connection with implementing the remedies selected in the Gas Control and Cover ROD and the Final ROD for the Site by the U.S. EPA or any private party will exceed the estimate of total response costs upon which each Respondent's payment is based, and, with respect to the Respondents identified in Appendix B, "Respondents Selecting Tier I Covenants," the risk that the remedies selected in the Gas Control and Cover ROD and the Final ROD will not be sufficiently protective of human health and the environment and that additional remedial actions will be necessary.

43. Each Non-Federal Respondent, and the United States on behalf of each Federal Respondent, shall make her, his or its respective payment to the Cash Escrow Account established for the OII Site under the Fifth Decree. Payment shall be made by Electronic Funds Transfer ("EFT" or wire transfer), or by certified or cashier's check. Wire transfers must be directed as follows:

Wells Fargo Bank Minnesota, N.A.
ABA #091000019
Credit to: Corporate Trust Clearing
Account No. 00001038377
For Further Credit to: Consent Decree No. 5 Escrow
Account No. 10751000
Attn: Kimberly A. Vann

44. If a Non-Federal Respondent elects to make his, her or its payment or payments by certified or cashier's check, rather than by EFT, the Respondent shall ensure that his, her, or its check references the OII Site by name, the name and address of the Respondent, and the U.S. EPA docket number for this Order, No. 02-11. Checks must be sent to the following address:

OII Fifth Partial Consent Decree Escrow Account
Account No. 10751000
Wells Fargo Bank, N.A.
Corporate Trust Services
707 Wilshire Boulevard, 17th Floor
Los Angeles, CA 90017
Attn: Kimberly A. Vann

45. Each Respondent shall transmit documentation of her, his or its EFT payment, or, if payment is made by certified or cashier's check, a copy of such check, to the U.S. EPA representative listed below at the same time that the Respondent makes such payment:

Lois E. Green, Case Developer
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street, M/S SFD-7-B
San Francisco, California 94105-3143

46. The funds paid by the Respondents pursuant to this Consent Order shall be used for the purposes and in the amounts determined by the U.S. EPA. The purposes include the following:

a. for costs of work to implement the Final Remedy, including payment of such costs to any party performing such work under any consent decree signed by the U.S. EPA or the State, or under any administrative order issued by the U.S. EPA or the State for performance of such work;

b. for payment to the Cash Escrow Account established under the Third Decree to be used for the purposes set forth in the Third Decree;

c. for reimbursement of the U.S. EPA's future response costs related to the Site;

d. for reimbursement of those U.S. EPA past costs and oversight costs related to the Site which were not paid under the first or Third Partial Consent Decrees;

e. for reimbursement of State future response costs related to the Site;

f. for reimbursement of those State past costs and oversight costs related to the Site which were not paid under the first or Third Partial Consent Decrees;

g. for use toward payment of costs of response for the Site, including payment of such costs: through an escrow account set up under any consent decree signed by the U.S. EPA or the State or under any administrative order issued by the U.S. EPA or the State; through the Hazardous Substance Superfund, the California Hazardous Substance Account, the California Hazardous Waste Control Account, or the successor of any of them; or through a site-specific account within the Hazardous Substance Superfund, the California Hazardous Substance Account, the California Hazardous Waste Control Account, or the successor of any of them.

47. Payment of money by the Respondents into the Cash Escrow Account established under the Fifth Decree is not a fine, penalty or monetary sanction.

IX. FAILURE TO MAKE PAYMENT

48. If any Respondent fails to make a full payment within thirty days of the effective date of this Consent Order, as required by Section VIII (Payment, page 9), that Respondent shall pay Interest on the unpaid balance, commencing on the effective date of this Order and accruing through the date of the payment. In addition, if any Non-Federal Respondent fails to make a timely and full payment, the Respondent shall be subject to civil penalties as provided in Section X (Civil Penalties, Page 11) of this Consent Order. If the full payment required of the Federal Respondents is not made as soon as reasonably practicable, as required by Section VIII (Payment, page 9), the Hazardous Waste Branch Chief of the U.S. EPA Office of Regional Counsel, Region IX, may raise the issue of non-payment to the appropriate U.S. Department of Justice ("U.S. DOJ") Assistant Section Chief for the Environmental Defense Section.

X. CIVIL PENALTIES

49. In addition to any other remedies or sanctions available to the U.S. EPA, any Non-Federal Respondent who fails or refuses to comply with any term or condition of this Consent Order shall be subject to a civil penalty of up to $25,000 per day for each such failure or refusal, pursuant to Sections 109 and 122(l) of CERCLA, 42 U.S.C. §§ 9609 and 9622(l).

XI. CERTIFICATIONS OF EACH RESPONDENT

50. By signing this Consent Order, each Respondent individually certifies that, to the best of its, her, or his knowledge and belief, that it, she, or he:

a. has contributed less than 110,000 gallons of materials containing hazardous substances to the Site; that it, she or he contributed waste of minimal toxic and hazardous effect in comparison to the other waste at the Site; and that it, she, or he did not contribute any hazardous substances that are not listed in Appendix E, "Contaminants List";

b. has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents, or other information relating to its, her, or his potential liability regarding the Site after notification of potential liability or the filing of a suit against it, her, or him regarding the Site; and

c. has fully complied with any and all of the U.S. EPA's requests for information regarding the Site pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e).

XII. TIER I DE MINIMIS COVENANTS NOT TO SUE BY THE UNITED STATES

51. In consideration of the payments that will be made under the terms of this Consent Order by the Non-Federal Respondents identified in Appendix B, "Respondents Selecting Tier I Covenants," and except as specifically provided in Section XV (Reservations of Rights, page 15) of this Consent Order, the United States covenants not to sue or take administrative action against such Respondents pursuant to Sections 106(a) or 107(a) of CERCLA, 42 U.S.C. §§ 9606(a) or 9607(a), and Section 7003 of the Resource Conservation and Recovery Act, as amended ("RCRA"), 42 U.S.C. § 6973, relating to the Site. These covenants not to sue shall take effect with respect to each Non-Federal Respondent identified in Appendix B, "Respondents Selecting Tier I Covenants," upon the receipt of the entire payment required of that Respondent pursuant to Section VIII (Payment, page 9) of this Consent Order. With respect to each Non-Federal Respondent identified in Appendix B, "Respondents Selecting Tier I Covenants," these covenants not to sue are conditioned upon: a) the complete and satisfactory performance by that Respondent of her, his or its obligations under this Consent Order and b) the veracity of the information provided to the U.S. EPA by that Respondent relating to that Respondent's involvement with the OII Site. These covenants not to sue extend only to the Non-Federal Respondents identified in Appendix B, "Respondents Selecting Tier I Covenants," and their successors, and do not extend to any other person.

52. In consideration of the payments that will be made under the terms of this Consent Order by the Federal Respondents identified in Appendix B, "Respondents Selecting Tier I Covenants," and except as specifically provided in Section XV (Reservations of Rights, page 15) of this Consent Order, the United States covenants not to take administrative action against such Respondents pursuant to Sections 106(a) or 107(a) of CERCLA, 42 U.S.C. §§ 9606(a) or 9607(a), and Section 7003 of RCRA, 42 U.S.C. § 6973, relating to the Site. These covenants not to take administrative action shall take effect with respect to each Federal Respondent identified in Appendix B, "Respondents Selecting Tier I Covenants," upon the receipt of the entire payment required of the United States on behalf of that Respondent pursuant to Section VIII (Payment, page 9) of this Consent Order. With respect to each Federal Respondent identified in Appendix B, "Respondents Selecting Tier I Covenants," these covenants not to take administrative action are conditioned upon: a) the complete and satisfactory performance by that Respondent of its obligations under this Consent Order and b) the veracity of the information provided to the U.S. EPA by that Respondent relating to that Respondent's involvement with the OII Site. These covenants not to take administrative action extend only to the Federal Respondents identified in Appendix B, "Respondents Selecting Tier I Covenants," and their successors, and do not extend to any other person.

XIII. TIER II DE MINIMIS COVENANTS NOT TO SUE BY THE UNITED STATES

53. In consideration of the payments that will be made under the terms of this Consent Order by the Non-Federal Respondents identified in Appendix C, "Respondents Selecting Tier II Covenants," and except as specifically provided in Paragraph 55 of this Section and in Section XV (Reservations of Rights, page 15), the United States covenants not to sue or to take administrative action against such Non-Federal Respondents pursuant to Sections 106(a) or 107(a) of CERCLA, 42 U.S.C. §§ 9606(a) or 9607(a), and Section 7003 of RCRA, 42 U.S.C. § 6973, relating to the Site. These covenants not to sue shall take effect with respect to each Non-Federal Respondent identified in Appendix C, "Respondents Selecting Tier II Covenants," upon the receipt of the entire payment required of that Respondent pursuant to Section VIII (Payment, page 9) of this Consent Order. With respect to each Non-Federal Respondent identified in Appendix C, "Respondents Selecting Tier II Covenants," these covenants not to sue are conditioned upon: a) the complete and satisfactory performance by that Respondent of her, his or its obligations under this Consent Order and b) the veracity of the information provided to the U.S. EPA by that Respondent relating to that Respondent's involvement with the OII Site. These covenants not to sue extend only to the Non-Federal Respondents identified in Appendix C, "Respondents Selecting Tier II Covenants," and their successors, and do not extend to any other person.

54. In consideration of the payments that will be made under the terms of this Consent Order by the Federal Respondents identified in Appendix C, "Respondents Selecting Tier II Covenants," and except as specifically provided in Paragraph 55 of this Section and in Section XV (Reservations of Rights, page 15), the United States covenants not to take administrative action against such Federal Respondents pursuant to Sections 106(a) or 107(a) of CERCLA, 42 U.S.C. §§ 9606(a) or 9607(a), and Section 7003 of RCRA, 42 U.S.C. § 6973, relating to the Site. These covenants not to take administrative action shall take effect with respect to each Federal Respondent identified in Appendix C, "Respondents Selecting Tier II Covenants," upon the receipt of the entire payment required of the United States on behalf of that Respondent pursuant to Section VIII (Payment, page 9) of this Consent Order. With respect to each Federal Respondent identified in Appendix C, "Respondents Selecting Tier II Covenants," these covenants not to take administrative action are conditioned upon: a) the complete and satisfactory performance by that Respondent of its obligations under this Consent Order and b) the veracity of the information provided to the U.S. EPA by that Respondent relating to that Respondent's involvement with the OII Site. These covenants not to take administrative action extend only to the Federal Respondents identified in Appendix C, "Respondents Selecting Tier II Covenants," and their successors, and do not extend to any other person.

55. The covenants provided in Paragraphs 53 & 54 of this Section are subject to the following reservations, in addition to the reservations set forth in Section XV (Reservations of Rights, page 15):

a. United States' pre-certification reservations. Notwithstanding any other provision of this Consent Order, the United States reserves, and this Consent Order is without prejudice to, the right to institute proceedings in this action or in a new action against the Non-Federal Respondents identified in Appendix C, "Respondents Selecting Tier II Covenants," or to issue an administrative order seeking to compel any of the Respondents identified in Appendix C, "Respondents Selecting Tier II Covenants," to: (1) perform further response actions relating to the Site or (2) reimburse the United States for additional costs of response if, prior to issuance of the Final Certification of Completion:

(i) conditions at the Site, previously unknown to the U.S. EPA, are discovered, or
(ii) information, previously unknown to the U.S. EPA, is received, in whole or in part,

and these previously unknown conditions or this information, together with any other relevant information, indicate(s) that the Remedial Action is not protective of human health or the environment.

b. United States' post-certification reservations. Notwithstanding any other provision of this Consent Order, the United States reserves, and this Consent Order is without prejudice to, the right to institute proceedings in this action or in a new action against the Non-Federal Respondents identified in Appendix C, "Respondents Selecting Tier II Covenants," or to issue an administrative order seeking to compel any of the Respondents identified in Appendix C, "Respondents Selecting Tier II Covenants," to: (1) perform further response actions relating to the Site or (2) reimburse the United States for additional costs of response if, subsequent to issuance of the Final Certification of Completion:

(i) conditions at the Site, previously unknown to the U.S. EPA, are discovered, or
(ii) information, previously unknown to the U.S. EPA, is received, in whole or in part,

and these previously unknown conditions or this information, together with other relevant information, indicate(s) that the Remedial Action is not protective of human health or the environment.

c. For purposes of Paragraph 55.a, the information and the conditions known to the U.S. EPA shall include only that information and those conditions known to the U.S. EPA as of the date the Final ROD was signed and set forth in the Gas Control and Cover ROD and/or the Final ROD for the Site and the administrative records supporting the Gas Control and Cover ROD and/or the Final ROD. For purposes of Paragraph 55.b, the information and the conditions known to the U.S. EPA shall include only that information and those conditions known to the U.S. EPA as of the date of the Final Certification of Completion and set forth in the Gas Control and Cover ROD and/or the Final ROD, the administrative records supporting the Gas Control and Cover ROD and/or Final ROD, the post-ROD administrative record, and/or in any information received by the U.S. EPA pursuant to the requirements of any Consent Decree, Consent Order or administrative order for the Site prior to issuance of the Final Certification of Completion.

XIV. COVENANTS BY THE STATE OF CALIFORNIA

56. In consideration of the payments that will be made by the Respondents under the terms of this Consent Order, and except as specifically provided in Section XV (Reservations of Rights, page 15) of this Consent Order, the State covenants not to sue or take administrative action against any of the Respondents pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), nor the California Hazardous Substance Account Act, California Health and Safety Code Section 25300 et seq., relating to the Site. These covenants not to sue shall take effect with respect to each Respondent upon the receipt of the entire payment from that Respondent as required by Section VIII (Payment, page 9) of this Consent Order. With respect to each Respondent, these covenants not to sue are conditioned upon the complete and satisfactory performance by that Respondent of his, her or its obligations under this Consent Order. These covenants not to sue extend only to the Respondents and their successors, and do not extend to any other person.

XV. RESERVATIONS OF RIGHTS

57. The covenants by the United States in Section XII (Tier I De Minimis Covenants Not to Sue by the United States, page 12), and Section XIII (Tier II De Minimis Covenants Not to Sue by the United States, page 13), and by the State in Section XIV (Covenants by the State of California, page 14), do not pertain to any matters other than those expressly specified therein. The United States, including the U.S. EPA, and the State of California, including DTSC, reserve, and this Consent Order is without prejudice to, all rights against the Respondents with respect to all other matters, including but not limited to the following:

a. claims based on a failure to make the payments required by Section VIII (Payment, page 9) of this Consent Order;

b. criminal liability;

c. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;

d. liability arising from any future arrangement for disposal or treatment of a hazardous substance, pollutant or contaminant at the Site after the effective date of this Consent Order; or

e. liability arising from the past, present, or future disposal, release or threat of release of a hazardous substance outside of the Site.

In addition, the State of California reserves, and this Consent Order is without prejudice to, all rights against the Respondents with respect to claims by any agency or agent of the State of California other than DTSC, the California Hazardous Substance Account, or any agency or agent of the State of California identified as a Respondent in Appendix A.

58. Nothing in this Consent Order constitutes a covenant not to sue or to take action or otherwise limits the ability of the United States, including the U.S. EPA, or the State of California, including DTSC and the California Hazardous Substance Account, to seek or obtain further relief from any Respondent if information not currently known to the U.S. EPA or the State is discovered which indicates that such Respondent no longer qualifies as a de minimis party at the Site because the Respondent contributed 110,000 gallons or more of materials containing hazardous substances to the Site, or contributed wastes which are significantly more toxic or are of significantly greater hazardous effect than other hazardous substances at the Site.

XVI. COVENANTS NOT TO SUE BY RESPONDENTS

59. In consideration of the United States' covenants not to sue set forth in Section XII (Tier I De Minimis Covenants Not to Sue by the United States, page 12) or Section XIII (Tier II De Minimis Covenants Not to Sue by the United States, page 13), and of the State's covenants not to sue set forth in Section XIV (Covenants by the State of California, page 14), the Respondents covenant not to sue and agree not to assert any claims or causes of action against the United States, the State, the California Hazardous Substance Account, nor their contractors nor employees, with respect to the Site or this Consent Order, including, but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund based on Sections
106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claims arising out of response activities at the Site; and

c. any claim pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Site.

60. Nothing in this Consent Order shall be deemed to constitute preauthorization of a claim within the meaning of Sections 111 or 112 of CERCLA, 42 U.S.C. §§ 9611 and 9612, or 40 C.F.R. § 300.700(d).

61. Each Respondent also covenants not to sue and agrees not to assert any claims or causes of action with respect to the Site or this Consent Order against:

a. any other Respondent; and

b. any person (i) whose liability to the Respondents with respect to the Site is based solely on CERCLA § 107(a)(3) or (4), and (ii) who the U.S. EPA determines arranged for the disposal, treatment, or transport for disposal or treatment, or accepted for transport for disposal or treatment, of less than 2,100 gallons of materials containing hazardous substances (referred to as "de micromis" parties), except where the U.S. EPA has determined that the hazardous substances contributed by such person are significantly more toxic or of significantly greater hazardous effect than other hazardous substances at the Site.

62. Each Respondent reserves, and this Consent Order is without prejudice to, any claims or causes of action with respect to the Site or the Consent Order against any other Respondent who or which fails to make the payments required of it by Section VIII (Payment, page 9) of this Consent Order.

XVII. EFFECT OF SETTLEMENT; CONTRIBUTION PROTECTION

63. Nothing in this Consent Order shall be construed to create any rights in, nor grant any cause of action to, any person not a party to this Consent Order. The United States, the State of California, and the Respondents each reserve any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action which each party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a party hereto, except as provided in Paragraph 61 with respect to "de micromis" parties.

64. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, recovery of response costs, or other relief relating to the Site, the Respondents shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised in the subsequent proceeding were or should have been brought in the instant action; provided, however, that nothing in this Paragraph affects the enforceability of the covenants not to sue by the United States in Section XII (Tier I De Minimis Covenants Not to Sue

by the United States, page 12) or Section XIII (Tier II De Minimis Covenants Not to Sue by the United States, page 13), nor the covenants not to sue by the State of California in Section XIV (Covenants by the State of California, page 14).

65. The Parties agree that the actions undertaken by the Respondents in accordance with this Consent Order do not constitute an admission of any liability for any purpose by any Respondent.

66. The Parties agree that by entering into and carrying out all the terms of this Consent Order, each Respondent is entitled to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(g)(5) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(g)(5), for "matters addressed" in this Consent Order. The "matters addressed" in this Consent Order with respect to Respondents identified in Appendix B, "Respondents Selecting Tier I Covenants," are as follows: all response actions taken by the United States, the State, and private parties, and all response costs incurred and to be incurred by the United States, the State, and private parties, at or in connection with the Site. The "matters addressed" in this Consent Order with respect to the Respondents identified in Appendix C, "Respondents Selecting Tier II Covenants," are as follows: all response actions taken by the United States, the State, and private parties, and all response costs incurred and to be incurred by the United States, the State, and private parties, at or in connection with the Site, subject to the reservations expressed in Paragraphs 55.a and 55.b of Section XIII (Tier II De Minimis Covenants Not to Sue by the United States, page 13).

XVIII. PUBLIC COMMENT

67. This Consent Order shall be subject to a public comment period of not less than thirty (30) days pursuant to Section 122(i) of CERCLA, 42 U.S.C. § 9622(i), and Section 7003(d) of RCRA, 42 U.S.C. § 6973(d). In accordance with Section 122(i)(3) of CERCLA, 42 U.S.C. § 9622(i)(3), the U.S. EPA may withdraw or modify its consent to this Consent Order if comments received disclose facts or considerations which indicate that this Consent Order is inappropriate, improper or inadequate.

XIX. ATTORNEY GENERAL APPROVAL

68. Pursuant to Section 122(g)(4) of CERCLA, 42 U.S.C. § 9622(g)(4), the U.S. EPA must obtain the written approval of the U.S. Attorney General or her or his designee prior to issuing this Consent Order. This Consent Order will not become effective unless and until the U.S. Attorney General issues such approval.

XX. NOTICE OF SETTLEMENT APPROVAL AND EFFECTIVE DATE

69. The effective date of this Consent Order shall be the date upon which the U.S. EPA issues written notice of settlement approval to the Non-Federal Respondents and, on behalf of the Federal Respondents, the Environmental Defense Section of the U.S. Department of Justice, that both of the following have occurred: (1) the public comment period pursuant to Section XVIII (Public Comment, page 17) of this Consent Order has closed and, if any comments are received, that the U.S. EPA has determined that such comments do not require modification of or the U.S. EPA's

withdrawal from this Consent Order; and (2) the U.S. EPA has obtained the written approval of the U.S. Attorney General or her or his designee.

70. In the document providing written notice of settlement approval as described in Paragraph 69, the U.S. EPA shall provide the Respondents with a letter prescribing payment instructions, which shall instruct the Respondents to make payment in accordance with Section VIII (Payment, page 9) of this Consent Order.

XXI. INTEGRATION/APPENDICES

71. This Consent Order and its appendices constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Consent Order. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Consent Order. The Parties agree that Appendices A, B, C and D to this Consent Order, as described below, will be the final documents issued as Appendices A, B, C and D sent to the Respondents on the effective date of this Consent Order. These appendices are attached to and incorporated into this Consent Order; however, in the event of a conflict between this Consent Order and any appendix, this Consent Order shall control:

"Appendix A," entitled "Respondents," is the list of Respondents to this Consent Order, including the amount each Respondent is required to pay.

"Appendix B," entitled "Respondents Selecting Tier I Covenants," is the list of Federal and Non-Federal Respondents who or which have selected Tier I De Minimis Covenants, as defined herein.

"Appendix C," entitled "Respondents Selecting Tier II Covenants," is the list of Federal and Non-Federal Respondents who or which have selected Tier II De Minimis Covenants, as defined herein.

"Appendix D," entitled "Federal Respondents," is the list of Respondents which are departments, agencies or instrumentalities of the United States Government.

"Appendix E," entitled "Contaminants List," is a list of contaminants identified by the U.S. EPA at the OII Site. Hazardous substances other than the substances on this list may have been disposed of at the OII Site.

XXII. AMENDMENTS

72. This Consent Order may be amended by mutual agreement of the U.S. EPA, the State and the Respondents. Any amendment to this Consent Order shall be in writing, signed by the U.S. EPA, the State and the Respondents, and shall have as the effective date the date upon which the U.S. EPA issues written notice to the State and the Respondents that the amendment is effective.

XXIII. COUNTERPARTS

73. This Consent Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one and the same document.

//

Consent and Authorization

~~Nortek Inc~~. BARZILAY, INC.

American Pneumatic, ~~Jensen Industries~~

~~and Monogram Industries~~

BARZILAY, INC., by the
[Respondent]

duly authorized representative named, titled and signed below, hereby consents to this Administrative Order on Consent and agrees to be bound by the terms and conditions thereof, and selects one of the following sets of covenants, as provided in this Administrative Order on Consent:

YOU MUST SELECT ONE OF THE FOLLOWING:

☒ **TIER I DE MINIMIS COVENANTS** ($3.43 per gallon)

☐ **TIER II DE MINIMIS COVENANTS** ($2.95 per gallon)

BY: [signature]

TITLE: SECRETARY

DATED: 9-11-98

Mailing name and address for this Respondent, or for his, her or its agent for service of process:

NAME: MICHAEL SHARON

TITLE: ASSOCIATE GENERAL COUNCEL

ADDRESS: C/O NORTEK, INC.
50 KENNEDY PLAZA
PROVIDENCE, RI 02903

OPTIONAL ENCLOSURES- Please check the appropriate box if you are filing either of the following optional applications:

☒ Application for financial review to qualify for reduced payment (see note on following page)

☐ Application for volume review (see note on following page)

If you submit your signature page on time, and do not file either application, your settlement payment will be reduced by 5%.

Consent and Authorization

Maywood-Bell Ford

Maywood Bell Ford

_____, by the
[Respondent]
duly authorized representative named, titled and signed below, hereby consents to this Administrative Order on Consent and agrees to be bound by the terms and conditions thereof, and selects one of the following sets of covenants, as provided in this Administrative Order on Consent:

YOU MUST SELECT ONE OF THE FOLLOWING:

☑ **TIER I DE MINIMIS COVENANTS** ($3.43 per gallon)

☐ **TIER II DE MINIMIS COVENANTS** ($2.95 per gallon)

BY: _____

Kenneth E. Fait

TITLE: Ex-Pres

DATED: 6/22/98

Mailing name and address for this Respondent, or for his, her or its agent for service of process:

NAME: _____

TITLE: _____

ADDRESS: P.O. Box 1960 . Newport Beach, CA 92658

_____

OPTIONAL ENCLOSURES- Please check the appropriate box if you are filing either of the following optional applications:

☐ Application for financial review to qualify for reduced payment (see note on following page)

☐ Application for volume review (see note on following page)

If you submit your signature page on time, and do not file either application, your settlement payment will be reduced by 5%.

SFUND RECORDS CTR
45467

Consent and Authorization

NTS

Approved Engineering Test Labs and NTS Engineering

NATIONAL TECHNICAL SYSTEMS, by the
[Respondent]
duly authorized representative named, titled and signed below, hereby consents to this Administrative Order on Consent and agrees to be bound by the terms and conditions thereof, and selects one of the following sets of covenants, as provided in this Administrative Order on Consent:

YOU MUST SELECT ONE OF THE FOLLOWING:

☒ **TIER I DE MINIMIS COVENANTS** ($3.43 per gallon)
☐ **TIER II DE MINIMIS COVENANTS** ($2.95 per gallon)

BY: H. LIPCHIK H. Lipchik

TITLE: VICE PRES.

DATED: 6/25/98

Mailing name and address for this Respondent, or for his, her or its agent for service of process:

NAME: H. LIPCHIK

TITLE: VICE PRES.

ADDRESS: 24007 VENTURA BLVD.
CALABASAS CA 91302

OPTIONAL ENCLOSURES- Please check the appropriate box if you are filing either of the following optional applications:

☐ Application for financial review to qualify for reduced payment (see note on following page)

☒ Application for volume review (see note on following page)

If you submit your signature page on time, and do not file either application, your settlement payment will be reduced by 5%.

IT IS SO AGREED AND ORDERED:

California Department of Toxic Substances Control

By: _____ _____

Sayareh Amir
Branch Chief
Southern California Cleanup Operations,
Glendale Office
California Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, California 91201

Date

IT IS SO AGREED AND ORDERED:

U.S. Environmental Protection Agency

By: _____ 9/30/2002
Jane Diamond
Acting Director, Superfund Division
Region IX, U.S. EPA

Date

ADMINISTRATIVE ORDER ON CONSENT
Appendix A

Respondents

The parties listed in the "Current Entity" column are considered Respondents solely with respect to wastes generated by their associated entities listed in the "Original Generator(s)" column. Any liability for wastes generated by any entities not listed in the "Original Generator(s)" column is expressly excluded from this Administrative Order on Consent.

Current Entity	Original Generator(s)	Volume	Settlement Amount
Barzilay, Inc.*	American Pneumatic	7,500	$1,500
Maywood-Bell Ford*	Maywood Bell Ford	11,592	$1,000
National Technical Systems, Inc.	Approved Eng. Test Labs	3,300	$10,753

*Indicates a responsible party with limited ability to pay.

ADMINISTRATIVE ORDER ON CONSENT
Appendix B

Respondents Selecting Tier I Covenants

The parties listed in the "Current Entity" column are considered Respondents solely with respect to wastes generated by their associated entities listed in the "Original Generator(s)" column. Any liability for wastes generated by any entities not listed in the "Original Generator(s)" column is expressly excluded from this Administrative Order on Consent.

Current Entity	Original Generator(s)	Volume	Settlement Amount
Barzilay, Inc.*	American Pneumatic	7,500	$1,500
Maywood-Bell Ford*	Maywood Bell Ford	11,592	$1,000
National Technical Systems, Inc.	Approved Eng. Test Labs	3,300	$10,753

*Indicates a responsible party with limited ability to pay.

ADMINISTRATIVE ORDER ON CONSENT
Appendix C

Respondents Selecting Tier II Covenants

The parties listed in the "Current Entity" column are considered Respondents solely with respect to wastes generated by their associated entities listed in the "Original Generator(s)" column. Any liability for wastes generated by any entities not listed in the "Original Generator(s)" column is expressly excluded from this Administrative Order on Consent.

Current Entity	Original Generator(s)	Volume	Settlement Amount

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ADMINISTRATIVE ORDER ON CONSENT
Appendix D

Federal Respondents

The parties listed in the "Current Entity" column are considered Respondents solely with respect to wastes generated by their associated entities listed in the "Original Generator(s)" column. Any liability for wastes generated by any entities not listed in the "Original Generator(s)" column is expressly excluded from this Administrative Order on Consent.

Current Entity	Original Generator(s)	Volume	Settlement Amount

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ADMINISTRATIVE ORDER ON CONSENT
Appendix E

Contaminants List

Chemical Name
Organic Constituents
1,1,1,2-Tetrachloroethane
1,1,1-Trichloroethane
1,1,2-Trichloroethane
1,1-Dichloroethane
1,1-Dichloroethylene
1,2,4-Trichlorobenzene
1,2-Dibromoethane
1,2-Dichlorobenzene
1,2-Dichloroethane
1,2-Dichloroethylene (Total)
1,2-Dichloroethylene, trans-
1,2-Dichloropropane
1,3-Dichlorobenzene
1,3-Dichloropropene, trans-
1,4-Chlorotoluene
1,4-Dichlorobenzene
1,4-Dioxane
2,4-Dimethylphenol
2-Butanone
2-Hexanone
2-Methylnaphthalene
2-Methylphenol
3,3'-Dichlorobenzidine
4,4'-DDD

4,4'-DDE
4,4'-DDT
4-Methyl-2-pentanone
4-Methylphenol
4-Nitroaniline
Acenaphthene
Acetone
Aldrin
Anthracene
Benzene
Benzo(a)anthracene
Benzo(a)pyrene
Benzo(b)fluoranthene
Benzo(g,h,i)perylene
Benzo(k)fluoranthene
Benzoic acid
Benzyl alcohol
Benzyl chloride
Beta-BHC
BHC, alpha-
BHC, delta-
BHC, gamma- (Lindane)
bis(2-Ethylhexyl)phthalate
Butylbenzylphthalate
Carbazole
Carbon disulfide

Carbon tetrachloride
Chlordane
Chlordane, gamma-
Chlorobenzene
Chloroethane
Chloroform
Chloromethane
Chrysene
cis-1,2-Dichloroethylene
cis-1,3-Dichloropropene
Di-n-butylphthalate
Di-n-octylphthalate
Dibenzofuran
Dibromochloromethane
Dichlorodifluoromethane
Dieldrin
Diethylphthalate
Dimethylphthalate
Endosulfan I
Endosulfan II
Endosulfan sulfate
Endrin
Endrin aldehyde
Ethylbenzene
Fluoranthene
Fluorene

Heptachlor
Heptachlor epoxide
Hexachlorobutadiene
Isophorone
Methoxychlor
Methylene chloride
N-Nitrosodimethylamine
N-Nitrosodiphenylamine
Naphthalene
Pentachlorophenol
Phenanthrene
Phenol
Purgeable organic halogens
Pyrene
Styrene
Tetrachloroethylene
Toluene
Total Organic halogens
Trichloroethylene
Trichlorofluoromethane (Freon 11)
Vinyl actetate
Vinyl chloride
Xylene, m,p,-
Xylene, m-
Xylene, o-
Xylenes, p-
Xylenes, total-

Inorganic Constituents
Aluminum
Ammonia nitrogen (as N)
Antimony
Arsenic
Barium
Beryllium
Cadmium
Calcium
Chloride
Chromium (Total)
Cobalt
Copper
Cyanide
Iron
Lead
Magnesium
Manganese
Mercury
Nickel
Nitrate
Nitrite (as N)
Potassium
Selenium
Silver
Sodium
Sulfate
Sulfide
Thallium
Tin

Vanadium
Zinc